Clinical Legal Education Management and Assessment Software

*by Ross Hyams**

Lawyers and Technology

Lawyers are notoriously slow at embracing technology. This is not because of any inherent laziness or fear, but a basic lack of acceptance that digital technology is any way related to the practice of law. After all, law is all about human interaction and practicing law is concerned with communication skills, drafting, negotiating, and advocacy – all intrinsically people-centered abilities which have no connection with the world of computer technology. There is another reason that lawyers, in general, have not incorporated technology in their daily practices. Most lawyers are simply lacking in management training and spend the bulk of their time working *in* the business and not *on* the business. They are so concerned with the day to day running of the practice, meeting deadlines, running files and servicing clients (which is their core business) that they have no time to consider whether they could be improving their management systems, and if so, how.

Despite such reluctance to embrace technology being shown in Australia, the last decade has seen a vast increase in the availability of law firm 'case and time management' software programs in the U.S.A. Software programs such as 'Time Matters', 'Amicus Attorney', 'PerfectLaw' all provide various degrees of front office computer related assistance in running a legal practice. There appears to be an understanding amongst U.S. attorneys that providing such forward-looking technology to their employees is not simply a question of efficiency, but also enables them to attract promising recruits –

"The new generation of lawyers leaving law school has been raised in an era of computers. Soon we will have a generation of law students who have never known a time when the Internet was not available. The level of expectations and reliance of sophisticated approaches to information and technology of these lawyers is very high."[1]

This paper will investigate the current use of technology in law clinics in Australia. It will look at the challenge of integrating case management and assessment technology in clinical teaching

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1 *Dennis Kennedy, 'Creating an Environment in Law Firms Where Artificial Intelligence and Knowledge Management Will Work', http://www.denniskennedy.com/kmai01.htm*

practices and propose some creative ways of creating, integrating and managing such software to enhance not only the way clinics are run, but also how students are taught. It will also make some suggestions and provide an analysis of a comprehensive computer package which would provide a resolution to many of the law office management and student assessment issues facing law school clinics around Australia today.

Live client law clinics at Australian Universities now have the opportunity to embrace legal case management technology and to include it as part of the way clinics are run and how students are taught. Clinicians have fought (and, for the most part, won) the legal education credibility battle, which has been raging since the creation of Springvale Legal Service in 1973.[2] Clinics have now finally become an accepted part of the curriculum in many Australian Universities, especially in Law Faculties established in the last ten years.[3] Their pedagogical aims have been, for the most part, accepted as being sound and they have secured a somewhat begrudging tolerance from even the most entrenched members of law school staff, some of whom have continued to adhere stubbornly to Langdellian teaching methodologies. Having achieved all this, legal clinics' futures are by no means secure. There are many challenges currently facing them and their continued existence will only be achieved by acknowledging these issues and dealing with them with creative and inventive techniques.

Current technology

In this author's view, technology can provide clinical practices with a number of benefits that, for the purposes of analysis, are best divided into two main areas:

1. Case and time management issues that are relevant to all legal practices;

2. Educational and assessment issues that are pertinent to the specific needs of a University based clinical legal education practice.

Case and time management

According to U.S. attorney Elliott Zimmerman, a good computer system should be able to:

- Integrate nearly every piece of information that the office works with and make it instantly available;
- Generate the current caseload, key deadlines and case proceedings at the touch of a button;
- Produce calendar reports showing key dates;
- Furnish a phone directory;
- Create reports providing information from which the firm's caseload can be analyzed.[4]

2 *The Springvale Legal Service (now known as the Springvale Monash Legal Service) first opened its doors as a community legal service on 23 February 1973. Its clinical legal education program commenced in 1975.*

3 *For example, University of Newcastle.*

4 *Elliot Zimmerman: 'What To Look For In Case Management Software' Practical Lawyer, Philadelphia, September 1995, Volume 41, Issue 6, p. 29*

Software that assists the 'front office' aspect of a legal practice described by Zimmerman (as distinct from the trust accounting and budgeting facets of the practice) can have various functions. Basically, these functions can be broken down into the following key areas:

- Client database;
- Calendaring;
- Telephone directory and messaging;
- Document management and text searching;
- Legal research.

Each aspect of these functions can be broken down into 'sub-functions' – individual on-screen tools which can be used to streamline the workings of the legal practice. These will be further expanded upon below.

Educational and assessment issues

Specific to clinical legal education are technological requirements that would assist clinical teachers in their pedagogy. Computer programs can be designed that will help teach students effective time management, good file note technique and basic case management skills. In addition, this technology can help in assessment of students by making clinical assessment more effective, thorough, equitable and 'transparent'. Thus, the educational and assessment functions of such a program can be broken down into these key areas:

- Tracking students' progress over time;
- Reviewing students' files on a regular basis (say, weekly or fortnightly);
- Tracking informal mid semester feedback and preliminary assessment;
- Evaluating court appearances (real or simulated) and other discrete tasks such as court reports, written assignments and community development projects;
- Providing final assessment of students' casework and calculating final marks.

Currently, clinical supervisors in the Law Faculty at Monash University have a detailed set of criteria for assessing students which translates specific skills into percentages – for example, the skill of '*Taking Instructions from Clients*' is broken down into five 'sub-skills':

- Approach to client;
- Fact gathering;
- Interview control;
- Communicating advice;
- Assisting client to decide.

These sub-skills are not assigned individual marks, but the major skill of '*Taking Instructions From Clients*' is assigned a mark of 7.5 out of the total 100. There are five other major skills in the marking criteria, all of which are broken down into numerous sub-skills. These criteria greatly assist clinical supervisors in determining case work marks – but, with the exception of a single marking meeting at the end of each semester in which supervisors compare marks, the reckoning

of how specific marks are provided for each skill and sub-skill is an individual exercise left to each clinical supervisor. The level of importance one supervisor attaches to the sub-skill of 'fact gathering' may differ markedly from that of another supervisor and thus students' marks are not being assigned equally. Subjectivity creeps in and there is no way of establishing uniformity.

Furthermore, the Monash clinical program has been recently criticized for possessing no external moderation of marks awarded to students for service provision work.[5] Each supervisor is responsible for his/her student's casework mark and there is very little input from other supervisors or staff. If a locum or new supervisor joins the ranks, they are provided with a copy of the assessment criteria and this is their only training in assessment tasks for this subject.

Currently, students who are dissatisfied with their casework result will be provided with a copy of the assessment criteria sheet, duly filled out by their supervisor in order to show the student's strengths and weaknesses and enlighten the student as to how a particular result was reached. However, as the 'sub-skills' are not individually assessed, it is very difficult for the supervisor to explain or justify how a particular portion of the mark was calculated. There is no other supervisor or external moderator who can assist to explain or justify the calculation. If a student wishes to accuse the supervisor of bias or subjectivity in the marking process (or favouritism to another student), there is little a supervisor is able to do to defend his/her position. Clearly, this current situation is untenable, if not positively hazardous, for clinical supervisors. Clinicians are relying on inherent marking skills and the good graces of their students to 'get it right', but there is very little in the way of checks and balances to protect clinical teachers from allegations of an incompetent and inequitable marking regime.

The need for change

An informal examination of clinical teachers in various Australian Universities[6] reveals that computer technology has had very little impact on case and time management at legal clinics. Most (although not all) client databases in University legal clinics are dependent on the 'CLSIS' (Community Legal Service Information System) provided by the Commonwealth Government for the Community Legal Service sector in 2003. Although a quite sophisticated database, CLSIS is still only a client recording system and provides no other beneficial functions. A handful of clinics use Microsoft Outlook or Palm Pilot for calendaring functions – however, it appears that most clinics' 'calendaring' takes place with individual diaries and perhaps an office 'court diary' in which important court and limitation dates are entered. Further, it appears that there are no legal clinics that currently utilize any form of student assessment technology.

A law school cannot possibly give the right message to its students regarding the importance of clinical legal education, or the value to be placed on appropriate client contact, when the students must perform clinical work with outdated technology, or indeed, with no technology at all! The question of appropriate computer resources is all pervading – considering that law clinics usually have a dual objective (that of servicing a needy client-base, and providing innovative legal education

5 *Informal Review of Clinical Legal Education Programmes at Monash University, Professor Hugh Brayne, University of Sunderland, UK, July 2003 (unpublished) p.4*

6 *A series of questions were put to University staff members of clinical programs at Monash University, (Vic), Southern Cross University (NSW), Flinders Law School (S.A), University of Queensland (Qld) and Murdoch University (W.A.) See Appendix A for results.*

to its students), such under-resourcing fails students in both areas. It disables students from doing their job properly if they are unable to access appropriate legal resources required to conduct a file. It undermines their learning experience if the legal clinic is unable to correctly function due to inadequate and out of date systems. It sends a message to the students that the law clinic is merely paying lip service to the ideal of clinical teaching methods.

Thus, for many legal clinics at Australian Universities, adopting a computer based case and time management program would not be a matter of replacing an outmoded system but of integrating this kind of technology for the first time. In this author's opinion, the time is more than ripe – clinical educators are failing each time that a student is released from a semester at a legal clinic without exposing them to the sort of technology that they may be shortly facing in legal practice.

In order to improve the efficiency of clinics' legal practices and resolve some of the dilemmas surrounding the need to regularize assessment procedures, a computer program is required that can seamlessly blend these areas into one package. Further, such a program should also integrate so-called 'back office' functions such as bookkeeping, trust accounting and budgeting. Exploration of the availability of such programs reveals a scarcity – there are many U.S. law firm programs which would satisfy some of the case and time management requirements common to most legal Australian legal practices,[7] but they would all require a significant level of customization in order to be appropriate for the Australian legal environment. There are also many programs that cater for the needs of medical, dental, engineering, architecture and a myriad of other professional practices. Nevertheless, despite research into educational software packages this author has had no success in discovering any software that is purpose made for a clinical teaching environment, whether it is in law, dentistry, medicine or similar professions.

If pre-packaged or existing legal software systems are already available, why the necessity to create a new product? One of the problems with pre-packaged legal software systems is that they do a lot of jobs well, but there is no job they do as well as a tool designed for that purpose.[8] Accordingly, the simplest way to obtain such software is to design and create it in accordance with legal clinics' unique needs. Enter 'CLEMAS' (Clinical Legal Education Management and Assessment Software), a computer program which currently only exists in the mind of this author. However, a modest financial and professional commitment could turn such a program into a reality and become available to legal clinics across Australia within a short space of time.

Introducing CLEMAS – what would it do?

CLEMAS would have two distinct purposes – managing the clinical legal practice and assisting with the assessment of students. The following provides a detailed analysis of these functions –

1. Managing the Clinical Legal Practice

Client database – This is currently being provided by CLSIS to most community legal services around Australia, including legal clinics. It is a relatively sophisticated database program which enables users to perform client conflict searches, enter basic client data, (such as name, address,

7 *Such programs from the U.S.A. include: Amicus Attorney, Juris, Time Matters (5.0), Needles Case Management Software, Lawex Corporation TrialWorks(tm) and ProLaw Software.*

8 *John Lederer: 'Shoeshines, Coffee and Case Management', Law Office Computing, Costa Mesa, Feb/March 1999, Volume 9, Issue 1, pp 10–12*

level of English, place of birth and such like) and includes fields for information regarding the client's legal problem. It enables users to sort client information in various ways and to create tables regarding problem types, client gender and age, level of income, etc. However, this is the extent of its functions.

The CLEMAS database could either replace CLSIS as a comprehensive client database, or be simply designed to add functionality to it. Realistically, as much money and effort has already been expended on the creation of CLSIS, it would be more logical to utilise its current functions. It is proposed that CLSIS could be enhanced. For example, CLSIS currently has the ability to perform conflict searches and to sort matters by client name and matter type This could be enhanced by providing an ability to also perform searches by other means – student I.D, supervisor, date opened/closed, gender, country of birth, and other ways, customisable by the user. Further, this information (which is presently accessible in CLSIS as statistical data and reports)[9] could become downloadable as Word, Excel, HTML format or PDF files so that the data can be manipulated for documents such as Annual Reports and staff meetings.

Calendaring – Currently, it is quite rare for lawyers to use calendaring systems that are more sophisticated than hand-written diaries. Anecdotal evidence points to some use of Personal Digital Assistants, such as Palm Pilots and it appears that Microsoft Outlook is also favoured to some extent. CLEMAS would include a calendaring system that would be customizable for both office wide and personal use. Such a system would have the ability to manipulate diary data so the user could read data not just in dates, but as monthly summaries, by case name, level of urgency, important limitation dates and the like.

The program would have embedded Court time limitations specific to the relevant jurisdiction. Thus, if a note is entered into the calendar relating to the commencement of litigation, CLEMAS would immediately insert the relevant procedural or time limitation dates (such as the last date to enter a defence) into the diary – and also automatically create seven, five or one day reminders prior to the limitation dates, as defined by the user.[10] Similarly, reminders and prompts could be incorporated for clinical assessment tasks such as student file reviews and items of student work being due. The calendaring system would also be able to provide status reports at start up each morning specific to each user, advising number, type and time of appointments during that day and items of work scheduled for the day or not done on previous days which have carried over. This could be customisable for each user and include a task scheduler and 'pop up' on screen reminders (say, one hour or 30 minutes prior to a scheduled meeting) in a bright and different colour to the normal screen background to differentiate it.

Finally, the Coordinator or Manager of the clinic could be provided with 'God' status which would enable him/her to display multiple staff calendars on one screen along with the 'office' calendar for comparisons and to check RDOs, holidays and times available to all staff to hold meetings.[11] This would provide a huge advantage to the efficient running of the clinic.

Telephone directory and messaging – Most lawyers report that their telephone and messaging systems consist of a personal teledex, diary or again a form of Personal Digital Assistant.

9 *CLSIS Training Course for Community Legal Centres' David J Foreman & Associates, Version 3.0, August 2003*

10 *Brent Roper: 'Legal Technology Superstars' Legal Assistant Today, Costa Mesa, May/June 1995, Volume 12, Issue 5, pp 44–50*

11 *Steve Schmidt: 'When Time (really) Matters', Law Office Computing, Costa Mesa, April/May 1999 Volume 9, Issue 2, p. 39*

It is unusual to find an 'office wide' telephone directory and/or messaging program in operation in legal clinics (or indeed in many law firms). It is proposed that CLEMAS would provide both a personal and office wide telephone directory, customisable to each individual staff user. Thus, a catalogue of often used telephone numbers and addresses could be accessed on screen by all participants at the clinic, including students and volunteers. Passworded users of the program (such as staff members) could personalise the catalogue for individual use, which could include contacts in their particular area of expertise and, indeed, their personal telephone list. Of course, the information could be readily transferred into MS Word or other programs for word processing needs, such as mailing lists.

Further, the 'sticky note' system of phone messages could be abandoned. CLEMAS would include instant phone messaging[12] – the receptionist or anyone who happens to receive an incoming call could instantly type telephone memoranda 'on screen' and send it directly as a 'pop up' on recipient's screen (much like an Email). This can even be achieved while the recipient is on another call to advise that a call is waiting and from whom. This phone messaging ability can be integrated with the calendaring system and thus act as a 'to do' list. The program can be modified to place such messages (if unattended to) on users' calendars and continue to roll over daily if not attended to. This would reduce the risk of little slips of paper or sticky notes floating around the office getting lost, or staff/students forgetting to give the memorandum of a telephone message to the appropriate supervisor or staff member.

Document Management – Straightforward access to useable precedents is a key issue for any legal practice. University legal clinics usually have multiple users, including staff, students and a large roster of volunteers and thus appropriate document management is essential for the efficient operation of the clinic. Unfortunately, this is often done in a piece-meal fashion with supervisors relying on personal precedents held on individual stand-alone computers or a folder of paper precedents. Often, reliance is placed on Web based precedents (such as Family Law forms) which can be slow and frustrating to download, often unreliable or impossible to save.

It is suggested that CLEMAS would introduce an entire set of electronic precedents that would be tailored for the clinic's particular jurisdiction. These could be completed on screen in MS Word and saved. Updates and alterations would only be possible by a passworded system administrator, thus limiting the risks of the precedents becoming corrupted. It is envisaged that full text searching across the entire system could also be incorporated. This would mean that users would only have to remember one salient point about the document (such as the form number, or a word that actually appears in the document) to be able to access it – rather than having to find it under a heading which may not meet the user's memory of how that document is named. Once a document is created and saved, the user would have the ability to later find that particular document using various criteria – by matter, client, date, supervisor, student – or even a word or phrase within it. Further, the addition of a scanner could provide an ability to scan printed forms into the system to create writeable precedents. Medical and other expert reports could also be scanned and excerpts from such reports printed as quotations in affidavits or used in briefs to barristers.

Investigation of the needs of clinical teachers revealed that 91% of clinical teachers questioned about this area of functionality stated that electronic precedents would be 'extremely useful' to the

12 Id.

way they operate their clinic. In addition, 75% believed that it would also be extremely useful to be able to scan documents into the system for later use.[13] There is obviously a dire need for clinicians to operate and maintain a thorough and systematic electronic document precedent system, as it impacts very keenly on both the legal practice and the teaching within it.

Once a matter has commenced, there is often the need to produce numerous documents which require repetition of client and other party details such as name, address, court case number, etc – family law matters are an example of this necessity. CLEMAS would be able to create standard letters and envelopes, pleadings, discovery, and other form documents which will automatically merge party information, rendering this boring and unproductive repetition unnecessary.

Legal Research – It is proposed that CLEMAS could be linked to on-line publications such as the Lawyers' Practice Manual. The relevant web-site reference, or reference to the relevant chapter of the paper edition of the Lawyers Practice Manual (or similar) could be activated or flagged when a particular legal subject matter is entered as the legal 'problem' in the client database. This would allow for greater student self-directed learning. Further, the program would provide the facility to link directly into other Web legal resources (such as Austlii). This could be customizable for both personal use (that is, a list of 'favourite' or most often used sites) and office wide general legal sites which may be of assistance to students and volunteers. It is envisaged that this would be possible without the necessity of moving out of the CLEMAS 'shell' into an Internet site – it would be directly accessible from any of the CLEMAS functions, such as the database or the calendar and also from non-CLEMAS programs such as MS Word.

When research is carried out on a file, it often disappears when that file is no longer active. That is, it is often a file specific line of investigation into a particular legal area, the results of which are often physically placed on the file and filed away when the matter is closed. In this way, the research is 'lost'. It is very frustrating when a similar matter arises weeks or even months later and the supervisor can no longer remember the outcome of the research, the name of the file or the student who handled it! CLEMAS would resolve this issue by enabling research memoranda and opinion letters on any particular file to be placed in an electronic 'Library'[14]. Legal memoranda, written by students, supervisors, other solicitors or Counsel could be scanned into the system and added to the electronic library under customizable headings and be readily accessible when people are working on similar matters and wish to have the benefit of previous research. Of course, once a research document is created and saved, the user would have the ability to later find that particular document using virtually any criteria such as matter name, client name, date, supervisor, student, words or phrases within it.

2. Student Assessment Functions

Tracking Students' Progress and Reviewing Files – Many clinical teachers rely on their memories and infrequent note taking to keep track of their students' progress over the course of the semester. This is haphazard and exposes clinicians to accusations of ineffectiveness in marking. CLEMAS would not only provide a model for systematic on going assessing of students, but (more

13 *Ibid Note 9.*

14 *This concept is derived from the U.S. Amicus Attorney program as described in 'Welcome to Amicus Attorney: The World's Most Widely Used Practice Management Software' http://www.amicusattorney.com*

importantly in this author's opinion) would provide demonstrable evidence of systematic marking techniques. At its simplest would be the provision of a dedicated screen with fields for supervisors' notes and student feedback. Every time a discussion about casework and/or academic progress is held between supervisor and student, this screen could be completed and saved, providing a history of that particular student's progress through the course. Prompts could be automatically generated or manually inserted through the calendaring system to remind supervisors to create regular (weekly, fortnightly, etc) entries.

Again, it is apparent that there is a glaring need for such a straightforward marking tool. Inquiries of clinical teachers indicated that 80% believed such a function would be 'very useful or extremely useful' in their clinical teaching.[15]

Supervisors run clinical client in-take 'sessions' on different days of the week and thus often find it difficult to find a time to discuss their students with other members of their teaching team. This can lead to feelings of isolation and lacks the benefit of colleagues' opinions and observations of students' work.This remoteness can also expose clinical teachers to accusations of bias or prejudice against a disgruntled student. CLEMAS would go some way to resolving this problem by allowing supervisors on-screen access to all other supervisors' notes and student feedback for comparison.

Examples of students' written work could be also scanned into the program and attached to the each student's individual assessment page. This would permit the supervisor to be quite specific in his/her discussion with the students about their written work and allow examples of progress (or lack of it) to be displayed on-screen to the student during feedback sessions. It would also enable other supervisors to observe examples of written work (both good and poor) to compare their own students against.

The comments regarding students' progress and feedback could be linked on screen with notes regarding the files they are operating. The program would automatically provide students' files in alphabetical order or another array, (such as file number or date opened) as customized by the supervisor. Fields would provide space for an ongoing description of the progress of the file. Each file could be scrolled through while the progress and feedback fields remain on the screen. This information would be saved as the semester progressed, so that any clinical supervisor can always check how many files a student is running, what the substantive issues are, what position each file is at and how the student is progressing academically. This information would be extremely useful when it becomes necessary to finalise casework marks at the end of the semester, as it would provide a 'snapshot' of each student's workload and progress at each time such data was entered throughout the semester.

If supervisors found it constructive, preliminary marks or grades could be entered on these feedback screens. An assessment table could be generated that can be viewed as a chart, table or a graph so that the students' progress could be easily evaluated in an ongoing manner throughout the semester. Supervisors would also be able to compare these ongoing marks against other students (both current and past) with the ability to create comparative tables or charts. This would give supervisors valuable insights into the students' learning patterns.

Mid Semester Review / Assessment – It is a feature of many clinics that supervisors will afford an opportunity to students to participate in a formal feedback and discussion session at the halfway

15 Ibid Note 9.

point of the semester. This assessment often consists of a 'spot check' of files, to make sure files are neat, readable, in order and that file notes are up to date. It may include a discussion of each student's personal diary system for file management and is usually also an opportunity for the students to give feedback about how they feel about the course – seminars, tutorials, supervision at the clinic and the like. Most supervisors require students to complete their own 'self-assessment' sheet prior to the discussion to identify their own strengths and weaknesses and provide a starting point for discussion in which they embark on a self critique of their own process. Supervisors usually make informal notes of these discussions and retain the 'self assessment' sheets as part of their later marking. The review is a very important aspect of the marking process as it gives the students a valuable insight into their progress and offers them detailed instruction regarding how they can improve their performance in the subject.

When calculating students' final assessment at the end of the semester, supervisors often look to the mid semester review to provide a benchmarking process as to whether the feedback given to the student was accepted and areas requiring improvement were worked upon. As such, detailed and explicit notes are required for the help of the student and the security of the supervisor! It is this author's opinion that such an important portion of the marking of the course needs to be treated more methodically by supervisors and that CLEMAS could be of assistance in this area. At the outset, supervisors must actually remember to carry out the review at the midpoint of the semester – CLEMAS could easily resolve this by automatically calculating the date for mid semester assessment at the commencement of each semester and inserting an appropriate reminder on that date in the calendaring system. A dedicated review screen could be provided with a reminder checklist to ensure that all areas of discussion are covered with all students – thus providing the uniformity that is currently lacking in these feedback conferences. Again, fields for supervisors' notes and student feedback would be provided. To avoid the problems of assessing in isolation, supervisors would be able to read each other's comments and add theirs on screen, based on their experiences with supervising and observing each other's students.

If students were required to complete 'self-assessment' sheets prior to the meeting, these could be scanned into the system and linked to the on-screen comments, the student retaining the original. If a provisional mark is given, it can be entered on screen and comparative charts and tables generated between current students and/or students from previous semesters. In this way, supervisors can note any trends in the marking process within the current semester – for example, a particular supervisor giving consistently higher or lower marks to his/her students. It may also be useful to observe trends which develop over time – for example, supervisors may wish to determine if their own marking is getting harsher or more generous.

Written Reports and Assignments – In addition to casework, clinical students are usually required to submit at least one piece of written work which provides some reflection on their clinical experiences. It usually relates to an issue of substantive law, the application of law or the operation of legal processes and is often linked with issues that arise in the day-to-day work of the clinic. Again, assessment of this work is most often the responsibility of the student's particular supervisor. Sometimes, supervisors share the marking or will 'second mark' each other's students' papers to provide some consistency in the assessment process. Again this is an area of assessment which would benefit from CLEMAS technology. Assessment data could be entered into established on screen assessment tables setting out uniform assessment criteria. Similar to the mid semester review screens, fields could be provided for supervisors' notes and for comments by other

supervisors if they also read the student's work. Comparisons of comments made and marks given could be accessed by all supervisors, rendering the marking consistent and transparent across the students. The program would save all screens created in an archive so that they can be retrieved later by the supervisors (with appropriate passwords and level of access) for use when explaining marks to disgruntled (or delighted) students or when writing references or other memoranda. Marking trends could be observed with ease and provide clinical teachers with an instant overview of students' learning patterns.

Final Assessment – As many clinical courses comprise diverse elements,[16] final calculation of students' assessments can be a complex and frustrating task for the Chief Examiner of the course. The straightforward ability to enter assessment data into established tables for each supervisor's students would streamline the process markedly. Again, a dedicated screen could be established for this purpose which may be accessed by all supervisors, but have the safeguard that they could only enter and alter their own students' marks. Clinical supervisors who were questioned by the author about this issue were resoundingly positive to such a simple innovation with 81% stating they would find this addition to their practice 'very useful or extremely useful.'[17]

The diverse marks for each element of the course could be entered into a spreadsheet which then converts the mark to a percentage, and then calculates a final mark and grade. If the marking regime alters or a particular student is subject to a special regime, the tables would be alterable by a system administrator to take the changes into account. Fields could be created for comments from both the student's supervisors and other staff members who were involved in the marking of the students. Comparative charts and tables would, of course, also be able to be generated. Most importantly, the data from these screens could also be archived and saved so that a student's mark (and most importantly, how it was calculated) can be accessed quickly and easily if it becomes necessary to do so at a later date.

Accessibility and Security

Because a clinic usually has a large and diverse number of users, differing levels of access would have to be available to ensure security of data. CLEMAS would have two categories of sensitive data:

1. Client information – This includes clients' individual details such as name, address, telephone and fax numbers, as well as personal information given by clients as part of the solicitor/client relationship.
2. Student information – details of students' progress, comments made about them by supervisors, and their marks and grades.

Obviously, the system would have to have built-in access levels which would only provide access to the above data for certain categories of people. It is suggested that the system would encompass four levels of access which could be made available to the various categories of users, as set out in the following table:

16 *The 'Professional Practice' course at Monash University Faculty of Law comprises of a minimum of three separately marked elements – casework, community development task group and assignment. However, if students choose court appearances instead of a written assignment, this adds an additional three discrete marks into the final assessment calculation.*

17 *Ibid Note 9.*

FUNCTION	LEVELS OF ACCESS			
	Students and Volunteers (Level 1)	Staff and Supervisors (Level 2)	Director (Level 3)	System Administrator (Level 4)
Client database	Enter data and view records only. Print information	Access Level 1 + ability to close files	Access Level 2.	Access Level 3 + ability to add and delete users and records
Calendaring functions	Add new calendar dates to Legal Service diary. View dates and reports.	Access Level 1 + ability to create diary reminders, delete entries and use personal customisable diary.	Access Level 2 + ability to view all personal diaries.	Access Level 3 + ability to alter configuration of calendaring system
Statistics and reports	View and print local reports.	Access Level 1 + view and print Australia wide reports of other Legal Services and clinics.	Access Level 2.	Access Level 3 + ability to send Legal Service report to NPC
Trust account information	Add information for own files only, for local file use. View information for all other files.	Access Level 1 + access information for all files (read only)	Access Level 2 + ability to add, delete and alter all financial information for all files.	Access Level 3 + ability to alter configuration of trust account information system.
Telephone directory	View and print office telephone directory. Use phone messaging system.	Access Level 1 + create, view and print personal telephone directory.	Access Level 2 + ability to alter, add or delete information to/from telephone directories.	Access Level 3 + ability to alter configuration of telephone directory system
Document management	Access Precedents. Access full text searching across student and volunteer sub-directories. Access direct links to downloadable Web docs	Access Level 1 + create and save standard letters and other form documents. Access scanning of forms to create precedents	Access Level 2.	Access Level 3 + ability to alter configuration of document management system
Legal research	Link directly into office Web resources. Access research memoranda and opinion office database 'Library', using various criteria (dates, user, alphabetical, etc).	Access Level 1 + ability to create and customize personal list of on-line resources.	Access Level 2 + ability to link to personal and all staff lists of on-line resources.	Access Level 3.

FUNCTION	LEVELS OF ACCESS			
	Students and Volunteers (Level 1)	Staff and Supervisors (Level 2)	Director (Level 3)	System Administrator (Level 4)
External accessibility	Ability to gain access to calendaring functions, telephone directory and document management only.	Ability to gain access to all of the above functions by remote access (except client database).	Access Level 2 + ability to gain access to client database by remote access.	Access Level 3 + ability to alter configuration of external accessibility by limiting or adding functions.
Assessment functions	None.	Ability to access all assessment functions.	Access Level 2.	Access Level 3 + ability to alter configuration of assessment functions

Limiting access to certain categories of workers is also a protection device when something goes awry. For example, in the above table student access to the calendaring functions is limited to adding calendar entries to the office calendar – students would not have the ability to delete a calendar entry. This is deliberate. Without this limitation, if an important court date is missed, an errant student might be able to get into the system and delete a calendar item to 'prove' it was never entered in the first place.[18]

Further, in order to monitor usage and to detect any abuses of the system or attempted incursions into disallowed areas of access, you could have a 'secret' file which is only known about and only accessed by senior management or the system administrator. This can detail all computer activity on each file and thus be like an audit trail.[19]

External Accessibility

The issue of remote access may be a philosophical 'leap of faith' for many lawyers and clinical teachers. In this author's opinion, it is a fundamental issue of fully embracing the possibilities of legal computer software. It is also essential that clinical teachers understand and embrace the technology if they are to attempt to equip students with relevant the skills they will need in technologically advanced legal practices. Richard Hugo-Hamman, Managing Director of Midware (a software firm) states:

"*I expect practice management software will develop to a single interface both in-office and via remote access, through a constant web interface for Internet, intranets and extranets, with practice management data being published and recorded in web view. The interface of the native practice management software will become redundant – it will be part of the firm's own intranet.*"[20]

18 *Paul Bernstein: 'How Secure is your Case Management Software?' Trial, Washington, November 1996, Volume 32, Issue 11, pp. 84–85*

19 *Ibid.*

20 *Krathyn White, 'Practice made easy', Lawyers Weekly, Issue 144, 23 May 2003, pp. 14–15 at 14.*

One of the vast advantages of a system such as CLEMAS would be the ability to link in to the program via a remote computer. Because clinical supervisors often work from a variety of locations (home, the clinic, the law school or clinical outreach services), being able to remotely access letters, precedents, student assessments and such like would be extremely convenient. As one American attorney puts it:

"*Two words: remote computing. Do you want to shovel your car out after a snowstorm or do you want to stay home and telecommute by modem? Do you want to have to cart around boxes of documents or do you want to carry scanned images of all those documents on one CD-ROM? Do you want a case management program that shows you what you need to get done, gives you information you really need and also puts that information on a Palm device for you?*"[21]

Accordingly, for CLEMAS to be truly functional it must have the ability to provide secure access to any of its functions by remote access. This would enable authorised users to get information from – or put information into – CLEMAS, from anywhere with any e-mail enabled device (laptop, mobile phone, etc), or through a Personal Digital Assistant such as a Palm Pilot.

The question of remote access affects the entire architecture of the system and would have to be considered before other significant changes are made. Arguments as to whether students should have access to this function go both ways –

- Students should be able to use it because it is the type of technology that they will be expected to be familiar with in practice. If clinicians are serious about their educational role, then students need to be trained with up-to-date skills which will make them more employable.
- Further, students are currently enabled and encouraged to work from home by letting them Email work to their supervisors. This is just increasing their ability to work more effectively off-site.
- However, remote access always comes with issues of data security. The more people accessing data remotely, the more chance there is of someone hacking into it. It creates an unnecessary level of risk. Students can work collaboratively with their supervisors from home or other off-site location by Email whilst the supervisor has remote access capabilities.

On balance, if clinicians can be comfortable about the minimal possibilities of hacking or data corruption that may result from remote access, students should be provided with limited remote access. This would mean providing them no access to the client database or student assessment functions. It would nonetheless mean access to calendaring, document management, legal resources and telephone directory functions.

In accordance with the access levels set out above, remote access to the client database could be limited to managerial staff only (coordinator/director) in order to further minimise any possibility of computer hacking.

21 Dennis Kennedy, 'A Prudent Approach to Legal Technology Spending in a Slowing Economy', http://www.denniskennedy.com/prudent.htm

Development, Maintenance and Training – Funding issues

One of the oldest and most persistent concerns of most Australian legal clinicians is the constant battle of resources. Academics often complain that they are continually being asked to do more with less. Nowhere is it more keenly felt than in the law clinic. It is not limited to issues like computers and Information Technology, but is felt down to the level of being able to simply purchase enough envelopes with which to write to clients in order to advise them of the progress of their matter. Time and time again, legal clinicians have called upon law schools (and their Deans) to adequately support their own clinical programs. The Pearce Report[22] stated that a "*modern and properly funded law school should be able to develop clinical legal education as a significant dimension of its undergraduate legal education.*"[23]

Use of appropriate technology comes with the basic premise that it must be properly resourced. A once-off payment to purchase software is of no merit unless there is an ongoing financial commitment to train staff and students and to provide continued technical assistance. Technology is only going to be useful if all staff is actually using it. Not only does there need to be a financial commitment, but an ideological commitment to properly train all staff in software on an ongoing basis – "*Basic training will get the staff acquainted with the layout of the system...Advanced training is necessary to continue the progress into more sophisticated areas and to keep the system 'fine-tuned'*".[24]

Furthermore, students cannot be expected to receive any educational benefit from using case management software when they are unable to be adequately trained, due to supervisors' lack of commitment to the software or understanding of it.

Developing and maintaining a system such as CLEMAS is going to be an expensive operation. All legal clinics work with tight budgets and will not necessarily have the funding to maintain such a program and adequately train staff to use it. The question which must be tackled is – where will the funding come from?

It is unlikely that any future Commonwealth Government, from either side of the political spectrum, is going to change the current policy requiring Universities to raise successively higher proportions of their income. This means that law clinics are going to be put under increasing financial pressure. However, law clinicians may have a number of financial options for developing and maintaining such a software system, some of which are more feasible than others.

An attempt could be made to justify this increase in expenses (in a subject already considered by the law school to be expensive) by arguments to faculty managers based on the quality of legal education being provided to the students. The arguments (all fairly hackneyed and used now over many years) go something like this: Skills teaching at Australian law schools are now an accepted part of most curricula. The clinical environment is fertile for the teaching of both 'hands-on' practical legal skills, as well as legal ethics. This sort of legal education cannot be replicated by traditional lecture methodology, small group teaching or simulation exercises, all of which are interesting and useful methods of teaching, but pale by comparison with the immediacy of live-client interaction. Further, a technologically advanced law clinic provides the 'bells and whistles' that attract students to apply to that particular law school, rather than the competitor that cannot

22 *D. Pearce et al (1987) Australia Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission, Australian Government Publishing Service.*

23 *Ibid, para 2.184*

24 *Stacey Hunt: 'Ten Tips for implementing a Case Management System', Legal Assistant Today, Costa Mesa, Nov/Dec 1997, Volume 15, Issue 2, p.62*

offer a clinic. The clinic also breaks down the ivory tower syndrome that alienates law schools and Universities from the general population.

These are all acceptable and persuasive arguments, but they have been employed for a number of years and have lost their currency in today's tense budgetary climate. Faculty finance managers are interested in delivering state-of-the-art quality legal education (as are all personnel who are employed in a law school), but they have difficult financial decisions to make based on competing requirements. Claims based on the notion of 'improved quality of education' just aren't enough.

Accordingly, legal clinics which intend to survive and remain relevant in their teaching need to look outside of the University budget for additional financial support. The obvious place to start is in the private legal sector. There is increasing social and Governmental pressure being exerted on private firms to supply more *pro bono* work to the community. Legal services and law clinics have not yet fully drawn on this important source of assistance in a methodical way. Law firms have a preference for high profile public interest work which is going to enhance their reputation and standing, and inevitably bring in more paid work. Unfortunately the sort of caseload which is the majority of work at legal clinics is not going to provide that level of 'sexiness'. Why should a law firm provide many hours of free service in order to resolve a complicated motor vehicle accident when they can have their name constantly in the newspapers by battling against environmental despoilers in the style of Erin Brokovich? The narrow concept of *pro bono* held by many private firms needs to be altered. *Pro bono* work does not have to be casework – law school clinicians have enough demands on them without having to desperately search for an attractive matter that might entice a private firm to get involved in the work of the clinic. Law firms need to be convinced that genuine *pro bono* assistance can be provided in other ways that would be more beneficial to the continued operation of the clinic. Accordingly, a private law firm could 'sponsor' the introduction of CLEMAS into the law clinic. A law firm could be approached to subsidize the development and maintenance of the program, or to provide funding for a certain amount of staff training sessions. For the firm, this commitment is relatively inexpensive. Such a sponsorship would be readily acknowledged in publications of the clinic (such as the Annual Report), on the clinic's Website and even by an announcement advertising the sponsorship on the desktop display of the system itself, so that every time a student or volunteer logs on, they will notification of how the clinic came by it.

It might be better to approach the introduction of CLEMAS in a piecemeal fashion, rather than as a grand project. If work is commenced on the student assessment aspect of the system first (which, in some ways, is the most urgent) then relatively small amounts of funding can be used to initiate the project – that is, build the skeleton of the 'house' first and furnish the rooms later. The structure to house the student assessment aspects could be constructed and then the other parts of the program could be integrated later when further funding becomes available. The student assessment feature is also probably the most straightforward of the entire program and thus a good place to start as a 'pilot', as it would require a relatively modest amount of funding to initiate. In this way, discrete aspects of the program could be sponsored by different firms or other outside funding bodies (such as charitable trusts). Accordingly, it might be better to approach the introduction of this technology from an 'evolutionary' not a 'revolutionary' outlook. By raising reasonable amounts of funds for separate aspects of the project and adding them on to the current system in a progressive fashion more may be achieved than by holding onto an expectation that such a large project can be initiated all at once.

Sufficient training of staff, students and volunteers will be the means to the success of a system such as CLEMAS. It must be used (and used correctly) by key staff members such as supervisors and managerial staff in order for all staff members to become comfortable and confident in its usage. Training will be a large initial expense. However, the funding involved in ongoing staff training would only result in a modest increase to the clinic's training budget in subsequent years after the instigation of the program. Again, securing the commitment of a law firm to financially subsidise staff IT training would be a way to overcome law schools' concerns about the costs involved. Such a subsidy would be a very small pro bono commitment for most legal firms.

Conclusion

Law school clinics cannot afford to make assumptions about their assured place in law school curricula. Clinicians still fight the credibility battle in law schools throughout Australia every day. A great deal of time and energy is spent justifying clinics' existence, in terms of both community service and pedagogical aims. Because this struggle for credibility is ongoing, clinicians must always keep abreast of changes to the law, developments in technology and changing requirements in the teaching environment.

No legal clinic can be in a position where it is seen by students, other faculty staff or funding bodies, as being 'behind the times' in its supervisors' understanding, or teaching, of legal skills. Such a perception threatens clinics often stated '*raison d'être*'. Because of the hands-on nature of legal clinics, teaching staff usually work closely with small numbers of students and thus assessment of them must always be above reproach. It must be disinterested, thorough, unbiased and systematic. Above all, it must be transparent. The Clinical Legal Education Management and Assessment Software described in this paper would assist in solving many of the legal office administration and assessment issues currently being confronted by law school clinics.

Appendix A

RESULTS OF SURVEY

Universities which responsed:

1. Monash University (Victoria)
2. Southern Cross University (New South Wales)
3. Flinders Law School (South Australia)
4. University of Queensland (Queensland)
5. Murdoch University (Western Australia)

1. Besides CLSIS, do you currently use any other form of file or office management software? If so, which one?

• Outlook

2. Do you use a Personal Digital Assistance, such as a Palm Pilot? If so, which one?

• Hand-Written Diary

• Palm Pilot

1. No use at all
2. Somewhat useful
3. Useful
4. Very useful
5. Extremely useful

CLIENT DATABASE

	Level of Usefulness				
Function	1	2	3	4	5
Conflict searches	8.3%	8.3%	0	8.3%	75%
Production of statistical data regarding clients such as charts and graphs	8.3%	16.6%	8.3%	33.3%	33.3%
File note capability i.e. storing file notes in the database itself	18.2%	0	9.1%	18.2%	54.5%
Ability to sort matters by client name, matter type, student I.D, supervisor, date opened/closed, gender, country of birth, etc	8.3%	0	8.3%	25%	58.3%

CALENDARING

	Level of Usefulness				
Function	1	2	3	4	5
Embedded Court time limitations – i.e. diarizes time limits automatically in computer based diary system	9%	0	0	27%	64%
Task scheduler and "pop up" reminders	9%	9%	9%	36%	36%
Create 7,5,1 etc day automatic reminders	8.3%	8.3%	41.5%	8.3%	33.2%
Customized reminders and prompts for clinical assessment tasks – file reviews, mid semester assessment, etc	9%	0	18%	36%	36%
Ability to compare diaries of staff "on screen" to find meeting dates, etc.	9%	18%	18%	27%	27%

TELEPHONE DIRECTORY AND MESSAGING

	Level of Usefulness				
Function	1	2	3	4	5
Phone messaging ability which acts as a "to do" list – placed on your calendar and rolls over to the next day if not attended to.	0	9%	18%	36%	36%
On screen telephone timer to time calls	27%	36%	9%	9%	18%
Customizable personal and office wide telephone directory	9%	18%	27%	27%	18%
Instant Phone messaging – memo typed "on screen" and sent directly as a "pop up" on recipient's screen.	0	36%	27%	9%	27%

DOCUMENT MANAGEMENT

Level of Usefulness

Function	1	2	3	4	5
Electronic precedents	0	0	8.3%	0	91.7%
Full text searching across entire system	0	10%	30%	20%	40%
Ability to scan printed forms to create writeable precedents	0	0	0	25%	75%
Ability to create standard letters & envelopes, pleadings, discovery, and other form documents which will automatically merge party information	0	0	16.6%	25%	58.4%
Ability to look up documents using various criteria – by matter, client, date, supervisor, student etc	9%	0	0	36%	54%

LEGAL RESEARCH

Level of Usefulness

Function	1	2	3	4	5
Ability to link directly into customizable Web resources, both personal and office wide	0	0	18%	45%	36%
Research memoranda and opinion letters on one file available in an electronic "Library" when you are working on other matters.	0	18%	9%	27%	45%

TRACKING STUDENTS' PROGRESS

Level of Usefulness

Function	1	2	3	4	5
Provide fields for supervisors' notes and student feedback	0	9%	9%	9%	72%
Scan in examples of student work and attach to student assessment page	0	9%	36%	18%	36%
Create ongoing assessment table that can be viewed as a chart or graph	0	20%	10%	20%	50%
Compare ongoing mark against other students with ability to create comparative tables/charts	0	18%	18%	27%	36%
Prompts and reminders for supervisors to create regular weekly, monthly, etc entries through calendaring system	9%	9%	18%	36%	27%

FILE REVIEWS

	Level of Usefulness				
Function	1	2	3	4	5
Provide fields for supervisors' notes and student feedback	9%	0	0	45%	45%
Ability to access all other supervisors' notes and student feedback for comparison	9%	18%	18%	27%	27%
Customisable prompts and reminders for supervisors to hold weekly, fortnightly, etc reviews through calendaring system	9%	18%	36%	9%	27%

MID SEMESTER REVIEW / ASSESSMENT

	Level of Usefulness				
Function	1	2	3	4	5
Reminder checklist to ensure all areas of discussion are covered with all students	0	9%	9%	54%	27%
Provide fields for supervisors' notes and student feedback	0	0	9%	36%	54%
Ability to access all other supervisors' notes and student feedback for comparison	9%	9%	18%	36%	27%
Customizable prompts and reminders for supervisors to hold mid semester reviews/assessment through calendaring system	0	27%	18%	27%	27%
Ability for comment fields by other supervisors	0	0	54%	27%	18%

COURT APPEARANCES/REPORTS

	Level of Usefulness				
Function	1	2	3	4	5
Enter court appearance assessment data into established tables for supervisors' own students	18%	27%	0	9%	45%
Provide fields for supervisors' comments on court appearances and student feedback	18%	18%	18%	18%	27%
Able to create comparative tables/charts of assessment of students' court appearances	18%	45%	9%	9%	18%

STUDENT ASSIGNMENTS/REPORTS

	Level of Usefulness				
Function	1	2	3	4	5
Enter assessment data into established tables for supervisors' own students	18%	0	18%	0	63%
Provide fields for supervisors' notes	18%	0	9%	9%	63%
Able to access all other supervisors' data in a "read only" format	18%	9%	27%	9%	36%
Ability for comment fields by other supervisors	20%	10%	20%	10%	40%
Able to create comparative tables/charts of students' assignment marks	16.6%	25%	25%	8.3%	25%
Ability to compare current students against past students' assignment marks using various criteria semester, year, alphabetical, etc by way of tables/charts	18%	18%	18%	18%	27%

PROVISIONAL AND FINAL ASSESSMENTS

	Level of Usefulness				
Function	1	2	3	4	5
Enter assessment data into established tables for supervisors' own students	0	0	18%	27%	54%
Provide fields for supervisors' notes	0	0	10%	40%	50%
Able to access all other supervisors' data in a "read only" format	9%	0	18%	36%	36%
Ability for comment fields by other supervisors	0	18%	27%	18%	36%
Able to create comparative tables/charts of students' assessments	0	18%	18%	36%	27%
Ability to compare current students against past students' assessments using various criteria semester, year, alphabetical, etc by way of tables/charts	9%	18%	18%	36%	18%

ACCESSIBILITY

	Level of Usefulness				
Function	1	2	3	4	5
Ability to gain access to any of the above functions by remote access to a home desktop or notebook computer.	18%	0	9%	27%	45%
Ability to gain access to any of the above functions through a Personal Digital Assistant such as a Palm Pilot.	45%	9%	9%	9%	27%