

**Transcription of the Oral History Interview with
John Kramer
April 2001**

Johnson: I'm here with John Kramer, professor at Tulane Law School, former dean of Tulane Law School, and with a history before that that I won't even attempt to summarize. So my first question, John, is why do they call you John in New Orleans and Jack in DC?

Kramer: For some reasons of legal education, and I've been on the board of every organization, it's been Jack. It goes back to the Dark Ages.

Johnson: But nobody in here knows you as –

Kramer: No, nobody in here is really involved with legal education.

Johnson: Tell us about your very first exposure to clinical legal education.

Kramer: I was a second year student at Harvard Law School, and I was put on the Harvard Legal Aid Bureau, and I helped women get divorces and support. It was not faculty-supervised but it was a hell of a powerhouse clinic.

Johnson: It was part of the law school in that you got academic credit for it?

Kramer: No, no academic credit. This was Harvard in the old days.

Johnson: So it was strictly volunteer?

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Kramer: Well, yes – no credit, no money, no nothing. But it was honorary, so it added to your résumé.

Johnson: And what was the legal education like at that time?

Kramer: At that time it was strictly lecture with a few seminars thrown in on the side. The only skills training was trial law, which was taken by a very small group of people who liked Professor Keeton. Otherwise there was no training in the courtroom or anything remotely like it. Everything was volunteer activities from moot court to legal aid.

Johnson: So, I guess we can move on from there to take us to your first dealings with one of the other “grey beards” of legal education, that would be Bill Greenhalgh.

Kramer: Well, actually, yeah, Bill – in 1963, I became an assistant U.S. Attorney for the District of Columbia, and Bill was still in charge of my division. He had not yet fully gone over to Georgetown, so I dealt with and met with him. He was famous for calling people who came late to work “Buffalo Butt,” and he’d say, “I see you brought

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the *Washington Star* with you,” which was the evening newspaper. But he was always that way. And I worked reasonably closely with him. In 1964, he was over at Georgetown where I ultimately was associate dean and professor of law and he really had rolling the Prettyman program, including what was first a criminal program, but expanded in ‘65-66 to a civil clinical program.

Johnson: That was the first clinical program at Georgetown?

Kramer: Yeah, that’s the first; yes, serious clinical program. He had some of the best young litigators in the country there in the Criminal Division – and I learned how to litigate by going after them as a prosecutor – Addison and a whole variety of other people, many of whom teach around the country or are themselves criminal lawyers today. It was the only really good program going in 1963-64-65.

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Johnson: So tell us a bit about the first Prettyman program that Greenhalgh started up over at Georgetown.

Kramer: Well, he had some of the best young lawyers in the country, one of whom went on to be I believe the leader of Georgetown’s Criminal Clinic, Addison Bowman, who ultimately retired to life on the beach in Hawaii at a later stage in his life. But Greenhalgh and I shared the same values. We never shared the same means. His idea of getting something accomplished was direct head-on charge, lower your horns and

go. And unfortunately in education that is rarely a successful tactic. So I spent the next twenty-some-odd years of my life following the same ends he met, but trying to tamper or temper his means, to tone them down so we could get enough votes to enact what he and I both wanted.

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Johnson: I can't even imagine the number of people who must be hysterically laughing at the thought of John Kramer as being the more moderate person in his approach to –

Kramer: Let's put it this way, I was more politic. I spent a life in politics. Bill did spend about a week. That is to say he ran in 1969 to be the head of Montgomery County, the county supervisor chair. And it was said that on Day One he had X thousand votes, and each time he spoke he lost another thousand. So by the end he came in dismally. And that was the end of his political career.

Johnson: Could you tell us about the OEO program going back to the early '60s?

Kramer: Well, my interest had always been in public interest type law. In my law school days I had clerked for Thurgood Marshall at the NAACP Inc. Fund, and worked on a lot of the original sit-in cases. I'd had a lot of fun doing that at law school, and I became close actually in England late in the '50s as a Fulbright fellow with Jean and Edgar Cahn, who were really the godparents of legal services. And in my living room in McLean, Virginia, in '63, they finished up their article on "The War on Poverty: The

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Civilian Perspective.” And Edgar became Sargent Shriver’s writing assistant and Jean became his deputy for legal services, and they turned that article into the program.

Johnson: What was the link between the legal services program and clinical education?

Kramer: At that time, none. At that time, next to nothing. I went on to work in 1965 after I was no longer a U.S. Attorney, I was education counsel to Adam Clayton Powell. When we rewrote the poverty law in 1966, I inserted the legal services program as a component of Title II of that law to give it a formal and permanent home. And that’s when all the – starting in ‘65 and ‘66 – all the money went out to the so-called OEO legal services programs, which are the progenitor of the Legal Services Corporation. Again, no connection, but slowly but surely after two years there was a very big burnout in legal services work. You work very long hours, and there’s no pay and no thanks. And it was politically beleaguered at all times. A lot of the early people phased out, and what more natural positions for them than on law school faculties? And they brought with them the desire to serve poor people and the desire to do good, which law school faculties were not very much noted for. And so the original clinics tended to be heavily staffed, if not exclusively staffed, by OEO legal service graduates. So the connection is there. The kinds of cases they did, and their style of learning was there.

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Johnson: So when you were counsel to the House Education Committee, that was when you
0:07:00 slipped in the legal services –

Kramer: Oh, it wasn't a slip. It's just I knew what I was doing and nobody else was quite sure.
But I was looking for a firm legal base so the program had – originally it was put in
there by regulation. And of course the president can regulate if it's within the
authority of the statute, and the statute was pretty broad. But it didn't mention the
word "legal services," and I thought the only way given the political attacks that legal
services could survive is if it had a very strong legal statutory base. And then it did.
And that lasted for eight years.

Johnson: You've told us a little bit, generally, about how many of the old OEO legal services
attorneys wound up quite logically in clinical legal education. How did you make the
switch?

Kramer: Well, I made the switch again through public interest work. I did some private
practice with a firm that did a lot of Supreme Court litigating, but of course I
represented a lot of homosexuals and alleged communists. I did my usual left-wing
0:08:00 litigation. The firm was not overwhelmingly in love with my bringing that in since it
wasn't a paying business, but they more than put up with me. And I didn't put up
with them. Ultimately I got too independent and frisky, and I went to a group that I
had long a relationship with run by Walter Ruether, called the Citizens' Crusade

Against Poverty – this was an outgrowth of my work with Adam Powell – and we set up a program on hunger. And I became the first head of the National Council on Hunger and Malnutrition in the United States, whose major goal was to recreate and beef up all the feeding programs. When I got there – this was in 1969 – the food stamp program was trivial, school lunch was being badly managed and it was mainly focused on upper middle-class white kids, and I, using that with my chairman of the board, a man named Dr. Jean Mayer, who ultimately became president of Tufts, we went around the country and organized to promote food programs. And then for the next really 12 years, although I wasn't always president, I always was in charge of drafting most of the food stamp legislation that was enacted and a good deal of the school lunch, WIC, and other related child-care legislation that went forward – my drafting skills and my connections on the Hill. However, that was not a way to earn a living. I earned a lot of foundation money. Walter Ruether backed me. But by 1971 it was pretty clear that was not going to keep feeding the kiddies. So I was offered a position teaching at Georgetown and went right there. And then the dean at the time, Adrian Fisher, mainly known for his concerns with international law – Butch Fisher – he was an old Frankfurterite. But in 1968, while he was dean, because again of his Hill connections particularly with Hubert Humphery whom he had worked closely with, he was able to slip into the Higher Education Act reauthorization what became known as Title IX, setting up a clinical legal education program in law schools. There had been no legislation directed at law schools. I should point out that in 1965 I was the staff floor manager of the Higher Education Act of 1965, and we had nothing in

there directed at law schools. But in '68, when it came up again, Butch Fisher got the clinical program put in, but no money. And it sat that way for eight years. I came to Georgetown, and he was obviously interested in clinics, and so he had me put in as the head of the clinics committee and from there we began the massive expansion. Georgetown's programs are now the most pervasive and the most expansive of any in the country. And Greenhalgh was the dean who supervised me in doing that. Again, the problem with Greenhalgh was if he had proposed it, it was likely to be voted down. If I proposed it, I could weasel around and get enough votes. In 1974, Butch Fisher fired Greenhalgh, because he couldn't take his style, and he appointed me a year later as that dean – or, no, David McCarthy took over. He appointed me as that dean a year later. Meanwhile, I had been teaching clinics for three years, I had been teaching the Law Students in Court Program with Elliott Milstein at AU and several other people at Georgetown, and I sort of enjoyed that. But my real bent was stand-up regular old traditional teaching in Constitutional Law and Equity and Legislation. I wasn't really cut out to be hundred percent a clinical teacher.

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Johnson: What clinic did you teach in?

Kramer: Well, I taught Law Students in Court. I wrote a massive volume of papers on how to litigate and win for landlord and tenant cases, a lot of consumer cases, sort of the basic – no – no family law. But everything but family law that OEO legal services would do.

Johnson: So, I guess at that point in time in clinics they looked more like a legal services office?

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Kramer: They were baby legal services offices. They did a lot of family law the way that it was just a function of there weren't enough legal services lawyers out there, and the ones that had retired were mainly in law school teaching, training other young kids to go into that business as I did from '70 to '73. Then, in '74, they finally put the act in place. There is a great irony there. I never really believed in the act the way they did. The theory of the Legal Services Act as opposed to OEO, was that it would take legal – it would create a corporation which would have independent status, and therefore be free from politics. Now, you may – “free from politics” are words that have no meaning in Washington, DC. And of course the history, including even today, of the next 27 years was a joke. They were better off as OEO than they were as the corporation. One of the things that Luther McDougall was involved in was there was a provision in the original act that let governors veto projects going to their states, and of course they hated legal services because legal services would sue them. So they would veto and occasionally the head of OEO could override if he had political clout. I think it was Rumsfeld ultimately overrode Ronald Reagan's veto of California Rural Legal Assistance – or maybe it was Frank Carlucci. But that's the same Bush gang today. He was head of the Department of Defense after that like Rumsfeld. They were in charge of Legal Services in '69 and '70, and they overrode Reagan's veto, but that was a constant issue. The one thing the '74 act did was take the power away

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from the governors. But then who had the power? Congress. And who has dismembered legal services and imposed limitations on us far more effectively than Ronald Reagan? The Congress of the United States. And it is now hamstrung by the Congress.

Johnson: I know you were instrumental in working on Title IX funding for clinical legal education, so I'd like you to fill us in on that and how that all came about.

Kramer: Well, OEO legal services had money. And so did the corporation. I had a moral objection, and it was very personal at that point, to taking any money from them and giving it to legal education. I felt that was needed for poor people's work and legal education would be paying the salaries of people whose other responsibilities might not be fully serving poor people. So we needed a source of money. The law schools – this was at the start of a major fight over the status of clinical legal education. In the early '70s nobody gave a damn. It was a little pimple. Nobody was bothered by it. But by the end of the '70s, it was no longer a pimple, and it was a threat to the regular teachers – a threat because it was more popular with the students, a threat because it made the students active instead of passive and therefore it was quite attractive as a learning mechanism, a threat because the clinicians seemed to be having a good time – some of them too much so. I can recall we had a small scandal at Georgetown. Greenhalgh made sure that the clinical clinic was not in the building, but the Criminal Clinic with the rest of the school. They were off in some dive

somewhere, and basically it was a sex and dope situation where the students and the professors mixed it up, and that wasn't very helpful. There were other faculty who disapproved – that is to say they were jealous they weren't involved in the same kind of antics. And so, slowly but surely, particularly at the main universities, the big ones – Georgetown was not in that status at that time – they turned a cold shoulder on legal – clinical education. Harvard fought with Gary Bellow in the late '70s. Yale never appreciated Steve Wizner in the late '70s. Columbia tried a little, but not much.

0:16:00 NYU was nowhere to be found quite yet. It came up much later as did – well, Georgetown started it. Georgetown put a lot of money into it, but it didn't enhance Georgetown's status among the best schools. It certainly made students anxious to go to Georgetown, and there were two separate sort of value systems at work there. That led to a fight over the funding for Title IV. Now, remember, Title IX had been in the law since '68 with no money. In 1976, in December at the annual meeting of the AALS in Houston, Ken Pye called me in. I had just been named associate dean at Georgetown, and he knew that I was a Hill lobbyist on behalf of good causes. And he said, "I would like you to run the lobby for the AALS and, if you will, the ABA, and to try to get this funded." So I went to a friend of Georgetown's who had a nefarious career – almost as nefarious as Adam Clayton Powell, but I was used to that – named Dan Flood, who subsequently went to jail for taking money from lobbyists. But he

0:17:00 was head of the Appropriations Committee. What better person? And he had some friends at Georgetown, people he liked, so I went to him and then indirectly to Neal Smith, who was head of the Appropriations Subcommittee over HEW. And Neal was

from Iowa, and his legislative assistants had been friends of mine, one of whom actually was Michael Kelly, who went on to become dean at Maryland, then major proponent of clinical legal education. So they put a little bit of money in the 1977 appropriation, and that money was then put out – no, actually since it was the spring of ‘77, it would have been the ‘78 appropriation – and that money was finally made available in June of ‘78 to be distributed to the law schools. We put together a committee on which I served to vote on the first grants. Of course I didn’t vote for Georgetown – I couldn’t do that – and I don’t think Georgetown got any money. In fact, it didn’t for the first three to four years – I wouldn’t do it again – although Georgetown was very deserving. And we started the grant program going, and it went very well. The Office of Education funded an unusual bunch of people, but they had no problem giving out the money, and of course it flourished for the next 11 years.

0:18:00 Johnson: Do you remember who some of the law schools were that got the first grants?

Kramer: No, I really don’t, because we tried to be as distributional as possible. CLEPR was that way and we wanted to keep it up. The CLEPR money had gone by about then. Then, in 1979, it was time to rewrite the Higher Education Act. So, we had to reauthorize and rewrite, if you will, or reauthorize anyway, Title IX. And I rewrote it. Now I was working for the AALS. And the AALS you have to understand has always been the domain of the senior professors who were interested in scholarship, not in teaching. It’s the scholarly organization of the legal education. And some of them,

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led by Paul Carrington then dean at Duke, were very troubled by providing money for legal education, but only for clinics. They found that inappropriate, and they went to Millard Rudd, who was head of the AALS, and complained. They complained about my activities promoting clinical legal education with nothing for the scholarly folks. And so to provide some peace, I redrafted Title IX to provide some money. I threw it in the list of things you could do with the money for research, but I was thinking of sociological research that would support cases. Well, the grant language was circulated at a conference held in Key Biscayne in the fall of 1979 and the other side went berserk. Now, I didn't have to deal with carrying them. I had to deal with the clinicians. "What do you mean giving our scarce money away to scholars? They don't do anything to help people!" – and they went after me with a club. The upshot was they felt the AALS wasn't trustworthy, which it wasn't at the time, so they went to the ABA, whose leaders were there at the same conference, and asked the ABA to form a special clinical legal education committee, keeping me off of it, and try to take charge of the whole Title IX reauthorization. Well they did, but they never got me to undo the draft I had. I had sources on the Hill that totally accepted it and they weren't going to listen to them. So I got it in, but we never really spent any money on research. But that was a – I was in the middle. You had to satisfy the scholars. You had to satisfy the clinicians. Nobody was ever happy, the clinicians – the clinicians have never been really happy. They have never gotten, in most institutions, I would say 90 percent of the institutions; the love and affection they think they are entitled to.

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They have – they have titles of professor. They have status – although that was a

major fight in '81, '82, and '83. But they are still not happy because they are not beloved. The people whom everybody looks up to is the great gray-hairs of the institution. They do not look kindly upon clinics. And if you try it, they get very excited. I can recall Guido Calabresi saying to me – this is before he became a judge – “Yeah, law school doesn’t need clinics to be any good.” And if you want to put it that way, they don’t. But the students need it to be good lawyers! Even though he doesn’t need it. It is just a different vision of what law school is all about. If you want to train lawyers, I think it would be useful to try that instead of training scholars.

Johnson: Well, do you think that the federal funding through Title IX in the late '70s, as you’ve just described for us, was a major influence in the expansion of clinical education?

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Kramer: Yeah, because CLEPR had money, but nothing like this. We ended up with 10 million dollars a year, or close to it, in the last few years – maybe a little shy of that sometimes. But whatever the amount of money is, it was really double what was available out there in terms of foundation grants. And because it had matching components, law schools – although very limited matching, the law schools were drawn in. That was my intent. They put up whatever it was in the beginning, 20 percent, then it became 50. But meanwhile they were hooked. And once you get a program like that in place with student demand, there’s no way you can easily get rid of it. You are going to face a hailstorm. So finally when the program was phased out in 1996, most everybody kept their clinic.

Johnson: Sort of like the roach motel? They can get in, but they can't get out.

Kramer: Yeah, I mean, once you get your foot in the door they can't throw you out. And I think that has proven correct now. Now, we had to keep going at it, because that money wasn't enough, and there wasn't enough money. So the next thing to do was
0:23:00 to try to impose "if you can't do it through the spending power, you can do it through the regulatory power." And the regulatory power was, back in the late '70s, culminating in a conference in Vanderbilt in '78. There were some standards for clinical legal education that were agreed upon by a committee that included Redlich and McCarthy, and that I served on as back-up on.

Johnson: Is this standards for – who are we talking about now?

Kramer: It's a red volume. It's standards for –

Johnson: Is it ABA standards?

Kramer: Yes. But there were standards for clinics that were not formally yet adopted by the ABA. But then the ABA got into the standards business in a heavy way. And in 1981 to 1983, through my experience at Georgetown, where I was still clinical dean, we developed first an attempt to go for tenure for clinicians – and Georgetown was then a very traditional law school. It is no longer. But then it was no great fan of clinics.

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And led by Bob Pitofsky, former FTC commissioner and later dean, they just said no to tenure. But they were sympathetic enough to let me devise a bastard form of tenure, that is to say long-term contracts, that were constantly renewable and couldn't be taken away unless you could be discharged for cause, which is what tenure is all about. And ultimately in a fight at the AALS in 1982, and in the ABA in '83, that was adopted as the standard that law schools wanted to aspire to, long-term contracts that have the smell and the legal status of tenure even if not directly tenure. And that was the real foot in the door for clinicians, because then every ABA team that went out to inspect would have to see if you had a clinic and if you had clinicians, would they be given that kind of status. But the big question still was if you had a clinic.

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Now the money kept going out through the '80s and more and more schools had clinics. But it wasn't until 1996 in the meeting in Portland, Maine of the ABA Council on Legal Education, on which I sat from 1994 to 2000, that we first put in a requirement that every school have one live kind of clinic. And the ABA itself adopted that in the summer of 1996, and that has been a club to beat the schools with for the last few years, although how effectively it is enforced I no longer am aware – I don't think as effectively as it might be.

But now you had to have not only clinicians with status but a clinic, and then at the same time the other part of the clinical movement, because the concept of clinics, as far as I'm concerned, only has one meaning: live-client clinics. But there are at least two other "clinical" situations that have had some devotees. One is externships – and

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I know you are familiar with them – I think that is a fraud that is taking the students' money so they can work for somebody else under his or her supervision and not costing the law school anything and the student pays the law school money for getting credits for that. There are some schools like GW that live and thrive on those. All schools have a few, and those are a major threat to clinics, because they're so cheap compared to live-client clinics. The second is, of course, skills training or simulation that is more efficient. You can control the case flow. There is no ethical problems involved and it's not human. But you can control the case flow and you can – it is more efficient probably than live-client clinics, and it is certainly less expensive. In 1987 the ABA put on a conference in New Mexico on skills training, and from that developed the McCrate Commission headed by Bob McCrate, former head of the ABA, that from 1989 to 1992 developed a report on skills training and what you needed to know as a lawyer, what the skills were that clinics could give you, and we published it in 1992. It was sent for three or four years to every faculty member in the country, most of whom put it in the circular file. And I was a draftsman, not a major, but a significant minor draftsman of that, including an attempt to cost out what it would be like to have universal clinical education for everybody, not just for one clinic a school. And of course the cost was far too high, and that's not likely to happen in the foreseeable or even not foreseeable future, because of cost. But a lot of students now get training not through clinics (live-client), not through simulation – although there's much more simulation post-McCrate, – not through externships, but because they work. And the trouble with that is that the pace of that is so great that

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there is very little chance for the crucial feedback that you get from clinical legal education. There is nobody there with you stepping back and saying, “Well, what were your alternatives? What else could you have done?” And because it is in big firms that this occurs, you don’t have any client contact which is the essence of the live-client clinical situation. So the human aspects are taken out. But I think today clinical legal education, now that it has got its head in the door you can’t kick it out. I don’t think it is going to take – sweep – legal education. It is there and it’s going to have to hang on. I doubt that it is going to get much, much bigger in the foreseeable future because the cost of legal education is so God-awful.

Johnson: I guess now would be a good time to thank you, John, for my job since I got one of those – since I was hired on here at Tulane under one of those Title IX grants, and it was a one-year contract and 20 years later I’m still here. So, thank you, John.

Kramer: Yeah, I mean, Tulane is an example. I don’t think this faculty would willingly have approved you unless you had the money. And indeed, historically, when we added
0:29:00 clinics under me I had to pledge that there would be some outside money there. I never fulfilled the pledge in a lot of instances, but the faculty was too afraid to come back after me on that.

Johnson: You sort of blurred over the McCrate Task Force. Can you go back and tell us in a little more detail about how that came to be, a what you think came out of that?

Kramer: Roy Stuckey was looking – from South Carolina, a professor who was then on the ABA Council – which I was not at that time – was looking for a way to revitalize the ABA’s attraction to legal education. And I think he saw that breaking it down analytically to its component parts of the various skills was a very attractive way to do that. And that was coupled with a major document that Anthony Amsterdam, who was the presiding genius then at Penn, now at – well, first at Penn, then at Stanford, and now at NYU – had developed describing the skills, which is about a hundred-

0:30:00 page document, all the different aspects of those skills you should acquire, which is sort of a road map of legal education without substance or content. It is the skills you learn, what is it that you do with the substance as a lawyer. And the members of the bar were very attracted by that because it did give law schools a sort of content mission. You know, we don’t really require – there were major fights in the ‘70s over requiring students to take certain courses. Indiana required insurance, which was insanity. South Carolina required a whole line of things. This was the old line of the bar members: “Those kids – when I was young I went through snow to the school and we took Mortgages. Everybody ought to take Mortgage” – which is nonsense. But we got prescriptive too. Everybody ought to learn these 10 skills. Toward the end of the report, it became obvious through my costing work that this was insane. The law

0:31:00 schools would reject this in a second. So the major change in the report was not suggested by me, but – Bob McCrate was deft – was to talk about it as a continuum. In other words, you didn’t have to have all these law school skills the day you graduated from law school, but you should acquire them early on. So there was CLE.

That was very important in your first years at the bar. And CLE had a supplement and training and the law firm had to supplement what the law school gave you. And of course that spread the cost among other institutions and made it much easier to swallow. Nonetheless, there was a lot of rejection by deans of the McCrate report, led by a man who is now the dean at OSU. He said, and he made some sense, “Look I want to spend my money on legal writing. I want to hire six people to intensively do legal writing with my students. If I spend the money there, I don’t have money for negotiation or mediation or trial advocacy in quite the same way, or for interviewing or for fact investigation, which are some of the skills you had to learn. And therefore I can’t afford it. How are you going to tell me I have to put all my money in all these things rather than concentrate on three or four?” And the deans backlashed that way. And so there really is no requirement that you have a course for everybody in all of these skills. You really ought to offer the skills but, you know, you can offer them to 10 students and not do a 100 or a 150. So there is no requirement that there be trial ad for everybody or that there be – well, writing, yes, but not investigation or interviewing, not mediation and negotiations. They have swept the country and it is the market demand that now triggers that. Not any regulatory demand.

0:32:00 Johnson: John, I’d like you to take a step back. You have given us this great walk-through of history of key events. What do you think in the big picture is the most significant contribution of clinical legal education?

Kramer: Oh, I don't have any doubt about it, I think law school – listen I went there – was boring. What saved me was having two children and a wife and a whole other life. There is no way you cannot be bored. Now in New Orleans there's a lot of ways you cannot be bored, but in other places where I would not want to live, I would not want to definitely go to law school. The only way you can stimulate yourself is if you are an active doer. And it is nice to write a research paper, but that is lonely work, and law is sometimes lonely – but far more frequently group-oriented, which is part of the pleasure. Doctors also operate in groups. Now, they see you and consult with you individually, but they do a lot of group work and group learning. And lawyers need to do more of that, or we do more of it as lawyers – we just don't do it at all in law school. People don't collaborate on things. They do if they're in a clinic. And you don't know what the real world is like. The real world is not like some case with some abstract facts you've got . You're put in a situation where you don't know what the facts are. You have to extract them yourself. And that is the most valuable kind of learning past the active, involved learning, and that transforms law school. I feel sorry for the students who want to but don't have the opportunity to have a clinic, because I think they are cheated of their real education.

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Johnson: You think it has had any impact beyond the walls of the clinic on legal education?

Kramer: It is hard to measure. There have been some studies that suggest that hiring partners look for clinical education, particularly if they ever had any, because they think that is

going to be a better person to work in their law firm. I don't really know, because I do think if you go to a firm which does a lot of mediation or does a lot of negotiation, they are going to have to train you as well. They may not have time and they may do it helter-skelter, but they will have to add on to whatever you had in law school. It is a continuum. If clinics went away, would that be devastating? Yes, it really would be to the meaning of legal education – not only that, but also to the values of legal education, because, yes, there is this strong skill component and active learning. But that's very selfish. That's narcissistic. How do I get in every way better and better? The real value in clinical legal education is you are doing something for somebody else, which most lawyers do not do, at least certainly not for free. And it is that kind of training that the clinics give you that you can get nowhere else in legal education or indeed in most graduate education.

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Johnson: What do you think the future holds for clinics and clinical legal education?

Kramer: I think they are here to stay. I just – again, with the cost of legal education as ferocious as it is, I just don't see a flowering of more and more and more, because there are no significant outside sources of money. Yes, Soros poured some money around the edges, but there is no more federal funding. Ford is not interested – Ford does things and moves on. There is no more CLEPR. There aren't very many outside institutions that will come along and do it. I think one of the hopes is that as time goes on the students who graduate, even though they may go into helping poor people

for awhile, end up helping some rich people and then have enough money to donate to the law schools specifically for clinical legal education. But that's not happened yet at Tulane. It's happened at some schools, in some universities. The downtown firms extenuate their sense of guilt by contributing, like Ropes and Gray at Harvard, by giving huge sums to clinical legal education. That is sort of their charitable contribution. Not here – this is not a charitable city.

Johnson: Why don't I turn the tables and ask you if there is anything that we haven't talked
0:37:00 about that you'd like to tell for the oral history project?

Kramer: Well, the one thing that always troubles me, and, you know, you are in part a victim of it, but not really because you've been here so long and established yourself, is the classism of legal education, in which the brilliant publishers get the most money, the most research assistants, the most kudos, and everybody else feels less good about themselves. But the trouble is when the people on top try to make you feel less good about yourself, that maybe that you are not a great publisher and aren't getting all that money. Okay, that's legitimate. But not when they snooch you. And the snobbery and the classism of legal education is very, very strong and most adversely affects
0:38:00 clinicians. That's why status and relatively equal pay are very important matters for clinicians, so they feel good about themselves, because otherwise in this cutthroat world you will feel miserable, the way sometimes mid-level faculty do who are never going anywhere. And I think that is very unfortunate. Why should this be an

unpleasant profession like a lot of other professions? This one shouldn't be, and the clinicians take the brunt of that.

Johnson: Can you stop for a second? John, I'd like you to keep the tape rolling and bring us up to date in terms of your history in clinical legal education.

Kramer: Well, always my drive has been to provide more legal services for poor people and obviously not through my own body but through mechanisms that I can develop to do that. And actually not understanding the full history and knowing that in 1913 and 14, this had already existed, although immediately died. In 1986, in my first interview as a dean of Tulane, I said I wanted to turn the students' eyes away from Poydras Street and more toward the jail cells. And I got a lot of flak from the major partners at the major law firms. But what I meant was I wanted to make them do what I then proposed to the faculty: mandatory community service. That had not been for 70 or 80 years a requirement at any law school. And finally, in the fall of '86, I got the faculty to vote it through. It was tough. There were lots of ways to derail it. One of them said, "Well, the faculty ought to have to do that," which would be guaranteed that the selfish faculty would vote that nobody had to do it. And I derailed that. We got it approved to go into effect in 1987. Since that time, I noticed this week that Harvard announced formally that it was going to do it. Every significant school in the country – but the majors are all doing it – Columbia, Penn, Harvard, Stanford – they are all doing mandatory community service following,

basically, our model. Now our model was very de minimis at first, and it still is. I only could require 20 hours of such work because there weren't enough opportunities in New Orleans, structured opportunities, to do it. Harvard's requiring 40. I think Penn requires 80, Columbia 40 – and we may someday go higher. But it has become a major wave of activity in almost every law school. The students vote for it and the faculties are implementing it. And once Harvard does it, everybody will do it. So I know I've made that much of a change in legal education. The other thing I have always focused on, besides all the clinics and public interest, was the ability of poor people to go to law school. As I said, I was on the floor in 1965 when we passed the first higher education act that contained loans and grants for kids to go to school and then to apply to their legal education.

0:41:00

Transcription of audio taken from video -- By: Mia Faber