

**Transcription of the Oral History Interview with  
Peter Swords  
June 26<sup>th</sup> 2008**

(2:05)

**CHAPNICK:** So, I know that you were involved with CLEPR, and we'll get to that at some length in a moment, but did you have any relationship with either the National Council on Legal Clinics or the Council on Education in Professional Responsibility, which I understand were predecessors to CLEPR?

**SWORDS:** No, no.

**CHAPNICK:** No. So you entered the scene with CLEPR?

**SWORDS:** With CLEPR.

**CHAPNICK:** And I know that CLEPR was founded in 1968, and William Pincus left the Ford Foundation to become the full-time executive head, is that the point at which you got involved?

**SWORDS:** That's the point that I joined them, right.

**CHAPNICK:** And was that through Bill Pincus himself?

**SWORDS:** It was through Bill Pincus himself. He asked me up to the Ford Foundation to ask whether I knew anybody who would be interested in doing this kind of work and I said, "Boy, I'd be really interested." And I forgot how it all played out but that's  
(3:00) how I got there. And we first opened up offices in a little building right next to the Ford Foundation between, whatever it is, First Avenue and York. And we were there for maybe two or three months then we moved to 280 Park Avenue. And I can remember, we were there long enough, that I remember Ralph Winters came down and talked to us and some other memories of it. That's how it began, Yeah.

**CHAPNICK:** And had you anything to do with clinical legal education or legal education before that?

**SWORDS:** No, I mean, other than having been to law school I hadn't had anything to do with legal education.

**CHAPNICK:** But you knew Bill Pincus? Is that how...

**SWORDS:** I knew Bill Pincus because I'd been interested in, I started a kind of urban, in response to Bobby Kennedy and Martin Luther King being assassinated; actually, Harvey Goldstein and I here, started something called Applied Resources which was like a, to help somehow address that problem the crisis of the time in 1968.

(4:00) And, I think, I met Pincus when he was at the Ford Foundation, asking for money, for Applied Resources, Yeah.

**CHAPNICK:** And when you say 'here' you do mean Columbia Law School? When you said you and Harvey started something here.

**SWORDS:** No, Harvey and I met doing civil rights work in Jackson, Mississippi. And we were roommates and we'd been intimate friends ever since.

**CHAPNICK:** And so where was the Applied Resources?

**SWORDS:** That was in an office downtown somewhere. It was a non-profit, little did I realize that my world of non-profit was about to take off.

**CHAPNICK:** Interesting. So, Pincus, you said how about me and Pincus... and what was your position?

**SWORDS:** (INTERJECTS) Yeah. I was a Program Officer. As I remember, there were maybe three people. It was Pincus, myself, as a program officer, and a woman called Betty Fischer and somebody may have preceded Betty Fischer who was sort of  
(5:00) the administrative assistant and ran the books and did all that kind of stuff. And I was a program officer and my job was to go out and was to read applications, go to law schools, visit law schools, and come back and tell Bill about it and then we would write up recommendations for the Board. So I was, it was standard program officer stuff, and I did that for, I guess, four years, I'm not sure.

**CHAPNICK:** So that was 1968 to 1972?

**SWORDS:** '68 to '72, Yeah.

**CHAPNICK:** And then why did you leave in '72?

**SWORDS:** Well then, in '72, I got very interested; in the course of doing this, I got interested in the economics of legal education, because the whole game was to make sure that the law school picked up the clinical program as part of its own budget or the University did. And there was all sorts of games that were being played to avoid that, and Bill Pincus and I were figuring out ways to assure that. So, that got me very interested in legal education and the relationship between legal education and universities, and particularly the economics. So, Bill, I wanted to do a study of what would later come to be called *The Cost of Legal Education*, I think. So, he made a grant to Columbia and Frank Whaller, who was an Associate Dean at the time, and I did this study, and we worked on it for two or three years, and that's how I came to Columbia.

(6:00)

**CHAPNICK:** So, when you say... Let's actually back up just a little bit. So, describe what the purpose of CLEPR was.

**SWORDS:** The purpose of CLEPR was to seed and grow clinical legal education at American law schools. When we started in 1968 there was only one law school which had a clinical program, and that was the University of Denver, Bob Yegge University. And nothing, nobody; there's something kind of volunteer thing up at Harvard that John Ferren ran. But the only one that was sort of really part of the law school and not an extracurricular activity, like the one at Harvard, was this one at Denver. And the idea was to get clinical education as part of the regular law school curriculum.

(7:00)

**CHAPNICK:** And were law schools wildly enthusiastic about this idea?

**SWORDS:** They were, I would say they were wildly enthusiastic about the money but wildly *resistant* about the idea, at least the traditional law school people who were resistant they thought clinical education was kind of a fluffy thing; it wasn't really academically rigorous and all of that. There was a lot of prejudice against it in the early days. But they were delighted to get the money as you probably know. CLEPR got \$10 million from the Ford Foundation in 1968 to spend over a ten year period, one million a year. And in those days, that was quite a lot of money. So we were going around and making the grants for \$40,000, \$50,000, multi-year grants and the like, and that was a big, you know they were all salivating about it, including here at Columbia.

(8:00)

**CHAPNICK:** So talk a little bit about what you wanted in exchange for the grants. What did you ask of the law schools, to do, in order to get the money?

**SWORDS:** Well, we asked them to set-up. We wanted the law schools to set up a clinical program, which would matriculate students and the students would get law school credit for it, and we wanted the law school to hire a professor who would teach  
(9:00) clinical education, who would teach at the law school in the clinical settings.

**CHAPNICK:** And did the professor have to be a full-time professor?

**SWORDS:** No, the professor did not have to be a full-time professor and I would say it was a, my guess is, I'm sort of out of it now, but you might know better than I do, even to this day there's this whole question of the differential status between an academic law school professor and the clinical law school professor. And in the early days it was great resistance to make clinical professors, giving them, having them get academic tenure. And then they worked out solutions, such as we have here, which you know more about than I do. But there was a lot of resistance to

it, and the clinical professors were very much of a second class, they were very much second-class citizens.

**CHAPNICK:** A lot of meat in that. Let's go back to what you were expecting. Were you expecting the students to be learning in a different way than they traditionally were?

(10:00)

**SWORDS:** Yeah, we expected the students to actually practice law, to actually interview clients, go into court, and file motions; I mean, do what lawyers do.

**CHAPNICK:** And what was the thought behind that? Why were you and Pincus and other people so high on the notion of clinical legal education?

**SWORDS:** Well, Pincus was high on it because he thought that, Pincus had this kind of Jewish notion of it's only real if you're out there; he used to wave his big hands around and talk in rather earthy terms about *real* learning. And he had a kind of, he was sort of skeptical about academic learning. He'd been to night law school and he thought that you really could only learn to be a lawyer by doing it. That was his notion and my notion was somewhat different. My notion was that I had

been to Mississippi, and had had a transforming experience, and I thought it would be, most of these early clinical programs were in and I think many of them still are taking care of poor people. So there were almost an extension of the poverty program, which you'll remember in '68 was still going on. So I thought it was a good idea to get people that would otherwise be corporate lawyers and give them the experience working for real, you know, working for poor people, and people that really needed help. But, that was, so Pincus, mine was more of an attitudinal. Pincus really saw it as an educational part of an educational theory that the only way you really learn was through doing. —Kind of a John Dewey kind of thing.

**CHAPNICK:** So the two of you go to law school Deans and law school faculty and you say, 'You can only learn by doing and poor people's law is real law and its important law.' And they said, 'Oh, yeah man, you're right.' (LAUGHS).

**SWORDS:** Pretty much. I mean, we announced that we had this money and the law schools came to us. They would file applications with us. And then we would go out to the law schools and we'd be feted by the dean. I remember going to Stanford and being feted by Bailis Manning. Did you ever know Bailis Manning?

**CHAPNICK:** No.

**SWORDS:** He was a real character and unbelievably charming guy. I had a memorable dinner with him and, but that was the standard. We wouldn't talk about theory so much. I mean, everybody would agree, and I was really a lot younger I was very much a program officer, I wasn't a policy maker. And Pincus was a lot older, you know everybody was extremely deferential to us, they would not; I don't think they'd share with us what they really thought about it.

**CHAPNICK:** Yeah, but this is interesting to me because I read a few things, you know, in the past and also preparing for this chat, and you know the things that I read were that you know faculty and deans hated it because it was trade school.

**SWORDS:** Right.

(13:00)

**CHAPNICK:** And working for the poor was low status not remunerative, repetitious and boring. And so, that sounds at odds with what you're saying you were hearing from them.

**SWORDS:** Yeah, well we were hearing, I don't remember what we were hearing. I mean, there were two kinds of levels of information that I was getting. One was when I went to the law schools and interviewed the people and then we're taken out to dinner. And you can imagine that I heard nothing controversial, there was tremendous enthusiasm as one might expect and no discussion about educational theory just, 'Oh, this is great. We're going to do it, it's terrific.' And then I would get information from, after I'd been in it for awhile and got to be friends with these people that we hired as clinical professors, I'd hear stories about how they were being treated and what the standard faculty thought about clinical education. So that, but that was not part of the official relationship, that was kind of an off the books or off the record relationship that I would, that I developed with the people, the friends I made and of course people are very friendly to you when you have a lot of money to give out.

(14:00)

**CHAPNICK:** So, let's talk about the stories that you were hearing when you were actually. Well, let me back up just a second. So part of your job was to get the get the proposals and award the grant. Was also part of your job and Pincus's job to get reports from the schools to oversee and to evaluate?

**SWORDS:** Yeah, yeah. I mean, part of the job, the first part of the job was to make sure that they, that before we made a grant that they were going to do what we wanted

them to do. There were a lot of games being played. And they would want the grant they would pretend it was the clinical program, but really what it was, was a sociological fact gallery the kind of thing that Maury Rosenberg used to do, and or it had to do with they were doing research in this particular area and they thought they could get some clinical money and it was, there were, cat and mouse games that we were playing. And so, the first thing was to make sure that the grant didn't, you know, when we flushed out all that stuff, and then the grant was for genuine clinical education.

**CHAPNICK:** So you made sure that the document there was a written contract.

**SWORDS:** Yeah, it was a, there was a, a grant would be made. They would send in an application and I don't really, I mean it's been a long time ago, but ultimately we would make a grant. And I think we would say, you know, in accordance with your application, proposal, so that in effect it was a contract that they were agreeing to do what they said, 'We'll give you the money if you do what you say you're going to do in your contract.' And I believe that they would send in applications and we'd say 'No, we don't like this.' So it would go back and then we would, they would send in another application and we'd wait until they got it right and then we'd make the grant.

**CHAPNICK:** And then, that you'd give them the money and you would go back in and inspect to see what they were doing?

**SWORDS:** Then we, yeah, then we would go back in and we would watch them spend the money and we would, I mean, they would file reports, they would file written reports, and we would make sure that they were spending the money on the things that they said they were going to spend the money on, and not on something else. We would, Bill Pincus had a very, *very* strict idea about overhead; he didn't want his money to be taken by the University as overhead, or by the law school just so; he wanted all the money spent on clinical education. So we would; there was a  
(17:00) lot of kind of budgetary oversight or financial statement of oversight; that's how I got very interested in the whole financing legal education question.

**CHAPNICK:** Was there also quality oversight, like whether they were professors who were really teaching whether the students were really having a...

**SWORDS:** (INTERJECTS) Yeah, yeah. There was but not as, that's much harder to do, because that's, you know, a qualitative assessment and you couldn't tell things from financial statements. And unless they're falsifying their financial statements

while 'X' amount of people do that, law schools *don't* do that. But in terms of, we would get some quality idea by looking at the professor and seeing sort of whether the professor was the kind of person that was likely to be kept by the school, whether it just was a, 'Let's get the \$50,000 and play with it for awhile then let it go.' So, but in terms of actually going out and sitting in on interviews and sitting in on stuff like that. I don't think we did much of that.

(18:00)

**CHAPNICK:** So a couple of people in documents that I've read refer to you as Pincus's enforcer. What do they mean by that?

**SWORDS:** I guess I never thought of myself as an enforcer. (LAUGHS) I'm glad that and the end of the light, this late in life, that I finally have the blinding period of self-realization, that I'm an "enforcer." I mean I would, I would, you know, follow up on the budget stuff and I think that was it pretty much. It was really a money game; I mean really, that's how I got so interested in law school finances because I was very involved in how the money was being spent.

**CHAPNICK:** And would you delay or withhold funding if you were unhappy?

(19:00)

**SWORDS:** I would ask, well yeah, I think we would write letters and say, “Looks to me like you’re not...” Well yeah, I think so. But it wasn’t, I mean, that’s funny to hear that they thought of me as an enforcer, I can’t wait to tell my wife. But I don’t remember it being a very; I remember it that we were tough, and Pincus was very tough, Pincus was very, *very* tough. And I was his lieutenant doing his bidding and, but I don’t remember it being a real; I do remember it being, now that you think of that, being slightly adversarial. But not, not you know, not heavily so.

**CHAPNICK:** So did you, this leads pretty well into my next question, how did you see your role and your influence on CLEPR as a whole?

(20:00)

**SWORDS:** I don’t think I had, my role was simply to be a good program officer and do the work that I was assigned to do. I don’t think I had any influence on CLEPR because I think that Bill Pincus had a very, *very* clear and focused idea of what he wanted and he was not intellectually curious. He was not; he would not be interested in alternative ways of thinking about it. So, that was clear to me early on in the game, so I just did my job and met a lot of nice people and found it interesting. I don’t think I had any influence. The Board also, we had a phenomenal board in the early days, Whitney North Seymour, Orison Marden,

(21:00) just wonderful people, Howard Sacks, Max Kempner, who I got to know and like and it was one of the real pleasures of working for CLEPR was meeting those wonderful lawyers, and I don't think some of them; I think may have had ideas about how clinical education should go, but I don't think they had any influence either. I mean they would have, I don't think, I can't remember a grant that we recommended even coming close to being turned down. So I mean Pincus really ran the show. And later on I think we'll talk about whether it was a success or not, and I will say it was a phenomenal success. And I think the reason why is because he was so tough. So clearly focused.

**CHAPNICK:** Can you think of examples of how he was tough and focused...specific...?

(22:00)

**SWORDS:** Just that he would, not really except that he knew what he was after, and he was watching the money ball, and he was making sure that they were not using his money to do something other than clinical education. He was deeply suspicious of them. That they were going to, I mean there was a, I mean, I don't remember, I said a minute ago that I don't remember being an adversarial relationship and I was thinking more about my relationship with my friends who were running these programs, the people that I got to know and like. But I do, however, have a strong, *strong* recollection of Pincus seeing it as very much of an adversarial relationship, with the university and with the law school. And if we didn't watch

them carefully they were going to take the money and do with it what they want.

(23:00) I mean, I learned very, *very* early on that the whole game with foundations is they want you to do one thing, you want to do another thing and you and I have been playing this all of our life. I mean I've been on the other side most of my life, but I got that I learned that and Pincus knew that because he'd been on, he'd been at the Ford Foundation since the get go in 1951. So, to that extent there was a kind of adversarial sense about it.

**CHAPNICK:** Did Pincus get into the content of the clinics or, he was just, as long as the money went to clinical education he was happy?

**SWORDS:** Yeah, he was happy. He was not interested. See, I was more so, he had, Pincus would be completely happy if it was a middle-class clinic taking care of middle-class people. Just so long as there was *real* lawyers work going on. He didn't have an ideology, I was, he wasn't caught up in the sixties. I was much younger, I was caught up, I'd just come back from doing civil rights work in Mississippi; I was caught up in the ideology of it. He was not. He had been, in fact, this is a  
(24:00) fascinating story, the details of which I don't know, but he had been a program officer when they were making grants to New Haven for what they called the Grey Area Program, which was literally the prototype of the war against poverty. The office, the OEO stuff grew out of that stuff in New Haven. I think it was

called the Grey Area Program, and Edgar Cahn was, and his wife, were running this stuff up there, poverty stuff. And Pincus, somehow Edgar Cahn and his wife, whose name I can't remember, Jean, yeah, did something that Pincus didn't like. I mean this is pre-1968 right? This is literally '65, '64 when all that stuff was beginning and Pincus was furious at them, absolutely furious, he never forgave them. I forgot what it was that they did but he was, he was, there was definitely a part of him which didn't go along with the program, the program of the war against poverty. He thought that was all kind of foolish to some extent.

(25:00) He was not an ideological thinker, sympathizer, and when it came to the Cahns he was, he was quite distressed with them.

**CHAPNICK:** And so later when it came to clinical legal education this played out in his being more concerned about the methodology than about the content.

**SWORDS:** Yes, about the law teaching, and not about the ideology and not about learning about poor people or learning how to talk to poor people. He wasn't interested in that.

**CHAPNICK:** So how did it come to pass? Because my understanding is most clinics, in fact, are about representing poor people whether it's in civil or criminal or juvenile or

adults, if Pincus wasn't making that an important part of the grant requirements, how did that develop?

**SWORDS:** That's a very good question. I think that, I think it goes back to the idea of legal  
(26:00) aid and lawyers doing pro bono work in the sort of legal aid area. And the fact that at Harvard as an extracurricular program there had been this clinical work in the legal aid area that it was sort of considered almost a given, that lawyers were, remember it was the Council on Legal Education for Professional Responsibility and part of the professional responsibility notion, I think did go back to taking, your obligation to take care of poor people. And, and that, number one; number two the fact that the volunteer clinical programs had been in that area I think was influential, the fact that the OEO was big then and there were clinical stuff  
(27:00) going on all over the place, and they were looking for, you know, they were looking for person power to help do that. And I think, you know I mean I hate to say it but, there may have been a 'you can practice on the poor but you can't practice on the rich' idea. That certainly was never articulated but, I, that's a very good question I'd love to... it just seemed so obvious then that that was the way to go. There wasn't, environmental law was hardly around then, it was, and you know gender law wasn't around so it was pretty much...

**CHAPNICK:** So, now I'm going to ask you the question you knew I was going to ask you, which is, do you think CLEPR was successful in its mission?

**SWORDS:** I think CLEPR, I don't know. I sometimes wonder whether CLEPR was, is more of a story about legal education or more of a story about philanthropy. I'm  
(28:00) inclined to think it's more of a story about philanthropy. I think it's one of the most successful philanthropic programs in the history of philanthropy. It has to get an 'A+'. Every law school in the country now has a clinical program, virtually every law school. All the major law schools have them, all the battles of whether it's fluff or not have been won. I mean, clinical education is now deeply rooted in. If somebody had asked me in 1968 or 1969 or 1970 that this was going to happen, I would have been deeply skeptical, that it was because of this resistance that we've talked about. That was overcome. And it is, I think, I don't know many programs in philanthropy which have been so unqualifiedly  
(29:00) successful as the CLEPR program was. And I, and it's for the reasons I've already alluded to. Pincus had a very clear focus; he knew exactly what he wanted to do. He'd been around the world, the philanthropy world, for a long time; he knew what to watch out for and you know he kept everybody's nose to the grindstone. And he was clever in multi-year grants and then a follow-up grant and making sure that good people were put on the faculty that would be hard, you know. He was very clever, he knew what he wanted to do. And it worked.

**CHAPNICK:** Can you think of an emblematic story about how he put that into practice?

**SWORDS:** Uh, I can't... it's just I mean, I really think it had to do with the use of the multi-year grant and the use of the follow-up grant, and the kind of enforcement stuff that we were talking about on the budget, financial stuff. And I think, I kind of, and I never thought about it then, I think he was real clever in seeing that, I mean

(30:00) I can remember that there were, Yale was an early one that would, Steve Weisner, and he's still there right? And there was another guy and it, and so Bill I think, sort of realized that these are the kind of guys that once they get on the faculty, they're not going to want to, they're not going to be let go. And they'll get in there and fight the battle. And well they got, Michael Melsner, was the one that we had here at Columbia, he, and I mean, he was a quality guy right, he didn't stay the way, well who does stay forever. Now we've got Barbra Schatz she's the best. But I think, I think, I wish if at the time I was interested in this ideological and I had no idea that I would become somebody who studied non-profits and

(31:00) thought about philanthropy. If I'd known that then, I would have thought, I would have observed more closely, because it's seen. And it really is, I mean looking at the end product, it is an absolute knock-down success. And then, and in going back to the beginning when there was only one program, and you know there was about one hundred-seventy law schools, there still are maybe more, to

see that in a ten year period, does this and now today, whatever it is thirty years later, they're all, it's amazing, amazing philanthropic story. I don't know, I suppose it's an interesting legal education story too because it did add something quite new to the mix, of there wasn't anything like that when I went to law school. So, but in some ways I think the more important story is the philanthropy story.

(32:00)

**CHAPNICK:** I think you've answered my questions, is there anything I haven't asked you that you want to be asked so that you can address it?

**SWORDS:** No, no.

**CHAPNICK:** Well then I think we're done. The only other thing I meant to ask you before we got started was if you had any photos or printed materials or anything...

**SWORDS:** No, I'm totally disorganized.

(32:35)

