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Connecting the Dots: New Course Puts Law in Perspective

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New Course Puts Law in Perspective

Connecting the dots

Across a conference table, the mayor and his corporation counsel face an angry young mother. "This is what our children should have been wearing the day of the spill," she says, holding up a picture of an industrial worker in a moon suit. "This is level-A gear. ... Our children are not safe in that school with the ongoing operations at that plant."

A deadly chemical. A major employer. Growing pressure to invoke a potentially unconstitutional law.

When the corporation counsel advises his boss that "it's very likely you're going to be faced with a dilemma," he's not kidding.

In this video, the "actors" never do resolve the dilemma. That's left up to the first-year students in UB Law's new Perspectives class, which is designed to introduce the law as a dynamic whole rather than a collection of abstract subtopics. It's an intensive and wide-ranging course that helps students to see the interrelationships among other first-year classes and to glean a variety of insights, theoretical and pragmatic, into subjects as diverse as navigating administrative law and representing groups in class actions.

Along the way, students are challenged to think not only like lawyers, but like practitioners with some real-world experience under their belts.

"The idea behind the Perspectives course was to set up problems the way lawyers face them in real life," explains UB Provost and former Law School Dean Thomas E. Headrick. "Problems don't come in neat little packages built around the traditional course structure. You don't just get a contract problem — you may get a contract problem with litigation issues and constitutional issues. ... The idea was to create a sense of the reality of law practice in the first year."

The ambitious course, officially known as Perspectives on the Lawyering Process and the Legal
Profession, is a critical component of UB Law's New Curriculum. Beginning this year, all first-year students are required to spend two semesters in it, participating in a range of activities that serve as something of an analytical umbrella.

"It was an opportunity to explore all the different subjects and pull it all together at once," says Nancy A. Santarelli, one of the first to take the course.

Perspectives does that through a combination of discussions, readings and exercises that involve a variety of legal areas, from property to procedure. But the course goes beyond teaching legal principles — it requires students to play a much more active role than is typical in large first-year classes by working together in small groups to gather facts, analyze issues, reach consensus and present the results. In one segment, the class is divided up into a dozen nine-judge appellate panels to decide a case. In another, students take part in a legislative hearing.

While it exposes students to a wealth of legal specifics, Perspectives leaves it to other courses to drill in the details. Its purpose is to stimulate a deeper level of thinking that students can apply to the remainder of their legal education. Attendance is mandatory and sign-in sheets are typical, even for out-of-class meetings, but grading is on a pass/fail basis, reflecting in part an effort to encourage participation rather than competition.

"Other classes are narrowly focused," says Rebecca A. Monck, Class of '99. "In this one, there's an opportunity to work with other students. Because there are no right or wrong answers, the best possible choice is what we're after."

Before attending the first session of Perspectives, students are asked to read "A Civil Action," Jonathan Harr's 1995 book about a decade-long legal battle over drinking well contamination in Woburn, Mass. The critically acclaimed book, which is also being used in the first-year Civil Procedure course, tells the sort of David and Goliath story that has long inspired young law students. But it is also a chastening tale about the limitations of litigation.

When they arrive in class, students take on an environmental issue of their own. The object is to get them thinking about the range of legal responses available to address a complex problem, as well as about alternative responses. It is also to get them thinking about the role of lawyers. After reading a sheaf of journal articles and book excerpts on issues such as legal ethics and the adversarial process, the class splits into groups of 15 or so. Each one plays the role of a community-group steering committee in a town divided over a recent chemical spill near an elementary school. Some residents want to close the plant where the accident occurred, while others support the company, afraid they may lose their jobs. In their role as community representatives — not necessarily lawyers — the students are to make recommendations.

Before doing so, they view a videotaped series of meetings between the hypothetical
town's mayor and its corporation counsel, between the company's attorney and a company executive, and between those parties and a community group leader. "What we want them to see is an example of how lawyers for different entities deal with their clients, and how representatives of community groups work or react with the two different organizations," explains Professor Robert S. Berger.

Students get to be the fly on the wall as the mayor and his counsel discuss the legal, public-interest and political considerations at stake. They can gauge the caution with which words are chosen when the community leader reveals to them a history of dumping at the plant. They can see the frustration in the plant manager's expression as he describes his company's pollution-control investment and his concern about a shut-down order. They can hear the lawyers on both sides give advice on how to frame the possibility of legal action.

"You get to see something you normally would not see," says Ross S. Howarthy, a first-year student.

The video owes its air of authenticity in no small part to its cast. The mayor is played by Anthony M. Masiello, the mayor of Buffalo. His counsel is Terrence M. Connors, a UB Law Class of '71 member who is among Masiello's closest real-life confidants. The plant manager is Thomas L. Jennings, Occidental Chemical Corp.'s vice president for environmental affairs. And the lawyer advising him is Alice J. Kryzan, a Buffalo attorney who has represented municipalities and corporations on environmental and historic preservation issues. Wendy Irvine, UB Law lecturer, and Diane Heminway, a Niagara County woman, both appear as local environmental activists.

After the video, the students meet to plot a course of action. Faculty members sit in, but it's up to the students to hash it out and produce a report. "You learn a lot about group dynamics," says Howarthy. "You have some people who want to be 'Mr. Friendly' and you have other people who want to sue everybody."

Professor Dianne Avery says some students were uncomfortable with classmates who were particularly aggressive in advancing their viewpoints, but she adds that such experiences are important. "Part of what the profession is about is learning how to deal in groups — to get your ideas across and deal with people who are trying to dominate," she says.

Professor Martha T. McCluskey agrees. "One of the problems of the traditional first-year curriculum has often been that it keeps students in passive roles," she notes. "Hopefully for some students this will allow them to tap back into the skills and strengths that they come into law school with but that they may have left aside in their other courses."

Other segments of the Perspectives course follow the same general pattern of hypothetical cases, readings and small-group exercises. "We now have a uniform base of these problems and these readings," notes Berger.

The segments take up a variety of different subjects and themes. One, for example, explores the process of legal change by focusing on a case involving a foundry worker who dies at 44 after long-term exposure to silica dust. Students see a simulated interview with the worker's widow. Then they break up into five "law firms" and "legal departments" representing unions, industry groups, insurers and the state occupational safety agency. Each group in turn is divided into five smaller "practice groups" responsible for researching a specific area of the relevant law, such as...
as workers’ compensation or criminal law provisions that apply to workplace injuries.

The five larger groups then participate in a legislative hearing, each representing its client’s position on the options for addressing the problem of silicosis.

Again, there’s an air of realism to the proceeding, which is chaired by former State Sen. John B. Sheffer II, now a UB Law senior fellow and UB’s interim vice president for public service and urban affairs.

“The simulation directly involved seeing how policy is made in our society,” says Sheffer. “Before the New Curriculum, the focus was more on case decisions and judicial process. This course allows students to get a handle on the process that spawns the laws they will deal with on a regular basis. ... Students become enthused at an early stage about their education, and collaborate with others, just as the professors are collaborating on the course themselves.”

Actually, a small army of professors — George Kannar and Alfred S. Konefsky, as well as Avery, Berger and McCluskey — are heavily involved in the first-semester portion. “The point is to give students a more general overview of lawyering and the legal process,” Konefsky says.

“We are introducing ideas, concepts and ways of thinking that cut across the courses in year one.”

During the second semester, Perspectives is led by R. Nils Olsen, vice dean for academic affairs, and professors Frank Munger and Peter R. Pitegoff. “Ethical dilemmas involving personal, political and sociological issues are the subjects of the exercises,” says Pitegoff.

“We’ll also emphasize writing, building on the Research and Writing program in UB’s New Curriculum,” adds Munger.

Throughout the course, other faculty and local practitioners “parachute in” to contribute to discussions and take part in simulations.

Professor David M. Engel and Associate Professor Charles E. Carr, for example, played legislators on Sheffer’s panel during the silicosis hearing.

“The best parts were when they brought in the actual people and when we did mock interviews,” recalls Howarth. “I think it would be great if more of the alumni could get involved and do this kind of thing.”

One appearance that still stands out for Howarth and other students was the one by Diane Heminway. In addition to participating in one of the videotaped simulated interviews, Heminway spoke to the class after the students presented their recommendations for community action.

Heminway’s two children were among the pupils evacuated from a Middleport, N.Y., elementary school in 1984 after 40 gallons of methyl isocyanate spilled at a nearby pesticide plant. For many in the community, the implications of the incident hit full force just 18 days later, when a release of the same chemical killed thousands in Bhopal, India.

“They kept her for an hour and a half after the class, just talking to her,” Berger remembers. “It was a real opportunity to make sure that they focused in from the client perspective and the role of people who are going to be served by lawyers, rather than just being in the role of attorneys.”

In their recommendations, many of the student groups had emphasized compromise and alternatives to litigation. After hearing Heminway, some began having second thoughts. “Some of the students took it hard, like, ‘Wow, we were way too easy,’ ” Howarth says.

He doesn’t particularly agree — but he’s still thinking about it.