

Cornell Law School --
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Expanding the Teaching of Legal Ethics Through Pervasive Use of Case Studies and Visitors From Practice and Through the Creation of a New Generation of Electronic Reference Materials

1. Case Studies

Cornell's grant from the W. M. Keck Foundation seeks to expand and improve the teaching of legal ethics throughout the law curriculum by bringing structured discussions with experienced and thoughtful practitioners about pervasive legal ethics problems encountered in the particular area of practice into a large number of required or highly-elected courses. During the current term, for example, civil procedure teachers are cooperating with legal ethics teachers in two-hour programs on discovery abuse; they will be discussing a rich case study and relevant legal ethics materials with civil litigators who struggle daily with the question of interpreting and responding to discovery requests. Another case study discussion is exposing the large class in Trusts and Estates to an intensive discussion of the legal and moral issues of loyalty, confidentiality and conflict of interest in joint representation of a husband and wife in estate planning. Six case studies have been prepared by Professor Roger C. Cramton for use during the current academic year; others are in preparation for use in subsequent years. Teachers in the particular subject matter cooperate in the preparation of the case studies and the manner of their use.

These activities are designed to improve the teaching of professional responsibility along several dimensions: (1) adding to the interest and intellectual challenge of the required professional responsibility course; (2) encouraging faculty members who teach the bulk of the law curriculum to develop a significant ethics perspective in those courses; (3) exciting student interest in legal ethics, and heightening their ethical sensitivity, by demonstrating the contextual and practical significance of the legal and moral aspects of lawyering; and (4) developing materials that can be easily and effectively used by law teachers in basic courses throughout the United States.

2. Visitors From Practice and Colloquia

A related aspect of the Cornell Keck project involves (1) the use of visitors from practice to teach advanced courses and workshops that relate ethics issues to an area of practice: e.g., ethics issues in tax practice; and (2) the mounting of larger scale colloquia involving scholars, judges and lawyers in discussion of cutting-edge problems that also involve serious legal ethics issues. The first of these, dealing with tort, procedural and ethics issues in mass tort settlement class actions, will be made available in published form about November 1 in a special issue of the Cornell Law Review.

3. Taking Advantage of New Technology to Build and Disseminate a Rich Collection of Legal Ethics Materials

Because the foregoing activities are similar to those being discussed by other grant recipients in earlier portions of the Duke conference, especially in Sessions II-IV, we shall devote our report at Durham to a unique aspect of the Cornell Keck program: the preparation and dissemination of electronic material on legal ethics on a state-by-state basis--material that can provide law teachers and practitioners with a comprehensive resource adaptable to their individual needs. The remainder of this paper, our presentation in Durham and the computer disk (CD-ROM) to accompany it will provide information concerning this initiative.

For the past three years the Legal Information Institute of Cornell Law School (LII) has published electronic editions of core materials for important law school courses on diskette. More than simple word processor files these publications have been high-end works comparable to, indeed, surpassing the commercial CD-ROM publications for lawyers in both functionality and quality of editorial enhancement. Early examples included the Administrative Procedure Act of the U.S., the Federal Rules of Civil Procedure, and the U.C.C.

Intended to offer a more powerful alternative to the standard print supplements ("Selected Statutes on ..." used in these and other law school courses, the LII's disk-based materials are designed for installation on a local area network or public workstations in a library, to loaded on individual student or faculty machines, or both. The Folio VIP software bundled with these publications allows student and faculty users to move through core statutes or codes -- entering at any point, following cross-references, checking definitions, moving to official comments (and back) -- all by means of a simple hypertext "point and click". The software also enables full text search. Beyond these "navigation" possibilities, which no print supplement can offer, the software allows print on demand and extraction in the form of text files. More significantly it permits users to add marginal comments, highlight text, create their own hypertext links. As a consequence, the navigation tools are not simply pre-packaged but are available to students and faculty members, enabling more active forms of appropriation and annotation than are possible with print or on-line databases. Indeed, the open architecture of Folio VIP encourages students and faculty to add and link additional notes and documents to the "published" core text, ranging from the course outline and daily notes to downloaded cases.

In parallel with its novel disk publication program Cornell's Legal Information Institute established the first Internet site focused on law. At <http://www.law.cornell.edu/> large numbers of lawyers, law students, public officials, educators, and ordinary citizens have, since 1992, found free access to decisions of the U.S. Supreme Court, the full text of the U.S. Code, a large collection of treaties, and a growing "library" of commentary. These Internet offerings have included but not been limited to the materials the LII has published for law school (and lawyer) use on diskette.

Building on this experience and audience, Cornell's Keck projects include a major initiative focused on the key legal materials on the law of lawyering. The LII disk offerings for 1995-96 include a core collection in this field made possible by Keck support -- a nucleus that will grow in several directions. That same material is now available on the Internet at
<http://www2.law.cornell.edu/folio-pgi/RPC-OVERVIEW?>

The initial collection includes the rules of professional conduct governing lawyers in California, the District of Columbia, Idaho, New York, and Texas -- as well as the ABA Model Rules. All are connected by hypertext links to a topical outline. That outline allows a user to begin with an issue and compare how it is treated in New York and California, say. The outline has also been set up so that a user focusing on a particular jurisdiction (or the Model Rules) can at any point see how the same matter is treated elsewhere. A personal notes file, based on the same topical structure, allows a faculty, student, or lawyer user to add commentary and hypertext links to any portion of the collection.

Moving a step beyond this richly linked structure of primary material with its many possibilities for comparative analysis, Professor Roger C. Cramton has prepared an analytic overview of legal ethics in California that has been converted to hypertext by the LII. Its many citations of statutory and code provisions have been turned into "point and click" pathways to the underlying source.

Both Internet and disk versions of this growing body of legal ethics material have been built with an open and extensible architecture in anticipation that other jurisdictions will be added to the primary law collection and that the analytic overview for California will provide a model that can be adapted

and used by experts on professional responsibility in other states.

This work is now mature enough to be used (and built upon) in law schools and by lawyers located in the jurisdictions covered in the present collection. The distributed character of Internet publication via the World Wide Web allows law schools anywhere in the U.S., indeed anywhere in the world, not only to use but also to add to this core collection.

A CD-ROM containing the full set of current materials along with the software necessary to work with them will be distributed and demonstrated at the November Conference. Our presentation will concentrate on important ways this new technology can add to the effectiveness of faculty and student work on issues of legal ethics and to the connection between that work and the profession. We shall also point out specific ways that the structure we have begun can be extended and enriched by others.