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# The simulated client initiative: A portrait of the outsider as teacher

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## preview

1. What is the Simulated Client Initiative (SCI), and what are SCs?
2. Current uses
3. Why would we want to do this?
4. Methodological implications

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# Simulated Client Initiative (SCI): our hypothesis

With proper training and carefully designed assessment procedures, Standardised or Simulated Clients (SCs) can assess important aspects of client interviewing with validity and reliability comparable to assessment by law teachers.

## aims

- develop a practical and cost-effective method to assess the effectiveness of lawyer-client communication which correlates assessment with the degree of client satisfaction & confidence.
- *ie* answer the following questions...
  1. Is our current system of teaching and assessing interviewing skills sufficiently **reliable** and **valid**?
  2. Can the Simulated *Patient* method be translated successfully to the legal domain?
  3. Is the method of Simulated Client training and assessment more reliable, valid and cost-effective than the current system?

# results from Strathclyde University pilot

	Questions	Results
1	Is our current system of teaching and assessing interviewing skills sufficiently 1. reliable? 2. valid?	1.No 2.No
2	Can the Simulated Patient method be translated successfully to the legal domain?	Yes
3	Is the method of Simulated Client training and assessment more 1.reliable, 2.valid 3.cost-effective than the current system?	1.Yes 2.Yes 3.Yes

## discussion...

- We make what the client thinks important in the most salient way for the student: an assessment where most of the grade is given by the client
- We *do not* conclude that all aspects of client interviewing can be assessed by SCs
  - We focus the assessment on aspects we believe can be accurately evaluated by non-lawyers
  - We focus the assessment on initial interview (which has been extended at Northumbria U to an advice-giving interview)
- This has changed the way we enable students, trainees and lawyers to learn interviewing & client-facing ethical behaviour

# current status of SCI

## Current SC initiatives in:

University of Strathclyde Law School	WS (Writers to the Signet) Society, Edinburgh
University of New Hampshire Law School	The Australian National University College of Law
Northumbria University Law School	Kwansei Gakuin University Law School (Osaka)
SRA – Qualifying Lawyer Transfer Scheme	Law Society of Ireland
Hong Kong University Faculty of Law	Adelaide University Law School
The Chinese University of Hong Kong Faculty of Law	National Centre for Skills in Social Care, London
Nottingham Trent University Law School	Next...?



## AHEAD OF THE CURVE

TURNING LAW STUDENTS INTO LAWYERS

*A Study of the Daniel Webster Scholar Honors Program  
at the University of New Hampshire School of Law*



Gerkman, A., Harman, E., Bond, L., Sullivan, .M.(2015). Ahead of the Curve: Turning Law Students into Lawyers. A Study of the Daniel Webster Honors Program



## training of SCs

‘The best way to learn how to do standardized patients is to do it along side of someone who has already done it before. It’s [the] apprenticeship system.’

Wallace, P. (1997) Following the threads of an innovation: the history of standardized patients in medical education, *Caduceus, A Humanities Journal for Medicine and the Health Sciences*, Department of Medical Humanities, Southern Illinois University School of Medicine, 13, 2, 5-28.

## SC training 1: script conference

- read script as group
- discuss their roles
- discuss their feelings, reactions
- clear up ambiguities re role of lawyer
- facilitator uses SC feedback to modify the scenario

## SC training 2: practising the role

There's a need for the SCs to calibrate:

- Body language
- Tone of voice
- Attitudinal swings
- Dealing with the lawyer's open questions...
- Improvising on the lawyer's closed questions...
- Performance analysis on video review: 'What prompted you to say...?' 'How did you feel...?'

And to:

- Be aware of their orientation towards lawyer at first sight
- Respond congruently to the lawyer
- Consult their internal 'invigilator'...

## SC training 3: assessing lawyers

- We discuss the marking system, and form a common understanding of it
- SCs view and mark videos, comparing to ‘standard’
- SCs view each other’s ‘live’ performances and mark them
- Process repeated until everyone has role-played at least once
- Comment on performance
- Marks are collated in the room (suspense factor...)

## after initial training?

- SCs role-play clients with students, real lawyers and other professionals
- SCs are given refresher training on the scenario
- If they are trained on a new scenario they will have the same pattern of training
- They should form a *community of practice* with two core members of staff
  - ideally, admin + academic to:
    - improve practice
    - suggest ways they may be used inside or outside the law school

## summary: what do clients seem to want?

- For many clients, their engagement with the law was not simply about achieving a result.
- Their responses indicated that the process itself was important.
- Empathy and respect were not luxury items: they were fundamental to the service.

## summary: what do clients dislike?

- Inaccessibility
- Lack of communication
- Lack of empathy and understanding
- Lack of respect

## competence in client communication

- Study by Sherr:
- 143 actual 1<sup>st</sup> interviews
  - 24 % trainee solicitors
  - 76% experienced solicitors
    - 70% at least 6 years
    - 23% more than 11 years
- High percentages of ineffective interviews
- Experienced solicitors generally no better than trainee solicitors



Study  
2

## competence in client communication

- 51% **failed to get client agreement** to advice or plan of action
- 76% **failed to confirm with client** the solicitor's understanding of the facts
- 85% **failed to ask before ending whether there was anything else the client wanted to discuss**

Study  
2

## competence in client communication

- Experienced solicitors:
  - Used less legalese
  - Better at “filling in the gaps”
  - Rated their own interview performance higher than did trainee solicitors
- But the clients saw **no difference in performance between trainees and experienced solicitors**

# Study 2

‘Being “client centred,” ... is about paying attention to the practical and emotional needs of the client, not necessarily agreeing with the client’s motives, policy or philosophy and not necessarily doing what the client says they want. The client centred lawyer will listen to the client in order to advise on all options, as well as showing what they think is best for the client’.

Paterson, Alan and Moorhead, R. and Sherr, A. (2003) What clients know: client perspectives and legal competence. *International Journal of the Legal Profession*, 10 (1). pp. 5-35, 12.

See also Felstiner, W.L.F., Pettit, B. (2002) Paternalism, power and respect in lawyer-client relations, in Sanders, J., Hamilton, V.L., eds, *Handbook of Justice Research in Law*, Kluwer Academic Publishers, New York, 135-154.

# SCs: people as co-producers, co-designers

The SC approach challenges:

1. Curriculum methods
2. Ethics of the client encounter
3. The cognitive poverty of conventional law school assessment
4. Law school as a self-regarding, monolithic construct
5. Law school categories of employment
6. The curricular isolation of clinic within law schools
7. Hollowed-out skills rhetoric
8. Conventional forms of regulation by regulatory bodies
9. The role of regulator, as encourager of innovation & radical reform...?
10. Disciplinary boundaries – what about a SC Unit that's interdisciplinary?
11. Local jurisdictional practices: how might such a project work *globally*?

# Methodological categories of analysis:

## Level 1: comparisons within the heuristic

Debra Nestel, Diana Tabak, Tanya Tierney, Carine Layat-Burn, Anja Robb, Susan Clark, Tracy Morrison, Norma Jones, Rachel Ellis, Cathy Smith, Nancy McNaughton, Kerry Knickle, Jenny Higham and Roger Kneebone. Key challenges in simulated patient programs: An international comparative case study. *BMC Medical Education* 2011 **11**:69.

### Results

Although programs shared challenges in SP methodology they also experienced differences. Key challenges common to programs included systematic quality assurance and the opportunity for research. There were differences in the terminology used to describe SPs, in their recruitment and training. Other differences reflected local conditions and demands in organisational structure, funding relationships with the host institution and national trends, especially in assessments.

# Methodological categories of analysis: Level 2: comparators of culture within and around the heuristic

Axtell, S., Avery, M., and Westra, B. (2010). Incorporating Cultural Competence Content Into Graduate Nursing Curricula Through Community – University Collaboration. *Journal of Transcultural Nursing*, 21(2), 183-191.

Aeder, L., Altshuler, L., Kachur, E., Barrett, S., Hilfer, A., Koepfer, S., Schaeffer, H. and Shelov, S. (2007). The “Culture OSCE” – Introducing a Formative Assessment into a Postgraduate Program. *Education for Health*, 20(1), 11.

<http://www.educationforhealth.net/text.asp?2007/20/1/11/101637>

Altshuler, L. and Kachur, E. (2001). A Culture OSCE: Teaching Residents to Bridge Different Worlds. *Academic Medicine*, 76(5), 514.

<http://transculturalcare.net/standardized-patients-simulation-and-cultural-competence/>

# Methodological categories of analysis:

## Level 2: comparators of culture within and around the heuristic

Wilson Chow, Michael Ng (2015). Legal education without the law – lay clients as teachers and assessors in communication skills. *International Journal of the Legal Profession*, 22, 1, 103-25.

Our analysis confirms the reliability and validity of using standardized clients as assessors of interviewing skills. It also reveals the necessity of modification of the original design of standardized client program, particularly in relation to the assessment aspect of it, according to specific cultural and commercial needs in an Asian business city like Hong Kong.

## Methodological categories of analysis: Level 3: comparators of values, cultures and identity within and around the heuristic

Carr, A.J. Higginson, I.J. (2001). Are quality of life measures patient centred? *British Medical Journal*, June 2, 1357.

Chevannes, M. (2002). Issues in educating health professionals to meet the diverse needs of patients and other service users from ethnic minority groups. *Journal of Advanced Nursing*, 39, 3, 290-98.



## more information...

1. Websites: these slides @ <http://paulmaharg.com>
2. Barton, K., Cunningham, C.D., Jones, G.T., Maharg, P. (2006). Valuing what clients think: standardized clients and the assessment of communicative competence. *Clinical Law Review*, 13, 1, 1-65.
3. Maharg, P. (2007). *Transforming Legal Education: Learning and Teaching the Law in the Early Twenty-first Century*. Aldershot, Ashgate Publishing, chapter 2, 64-67.
4. Garvey, J.B. (2010). New Hampshire's performance-based variant of the Bar Examination, [http://www.ncbex.org/uploads/user\\_docrepos/790210\\_Garvey.pdf](http://www.ncbex.org/uploads/user_docrepos/790210_Garvey.pdf)
5. Barton, K., Garvey, J.B., Maharg (2013). 'You are here': learning law, practice and professionalism in the academy. In Bankowski, Z., Maharg, P. del Mar, M., editors, *The Arts and the Legal Academy. Beyond Text in Legal Education*, vol 1. Aldershot, Ashgate Publishing.



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