



## NORTHWESTERN UNIVERSITY LEGAL CLINIC

### News & Notes

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March 1991

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### INTRODUCTION

This year the Clinic enrolled more students than ever in its casework and classroom components. Student interest in supervised practice is stimulated by the importance of the legal work that the Clinic does and by the variety of casework experience which the Clinic offers. Students in the Clinic work on behalf of children and their families seeking special education benefits, they represent children in Juvenile Court, and counsel and represent foster parents who are not receiving the benefits to which they are entitled from the Department of Children and Family Services. This year, the Clinic has taken an increasing number of domestic relations cases in which there are contested custody issues. The Clinic is also active in the representation of condemned prisoners.

There is also exciting news from the classroom side. The interest in our trial advocacy and lawyering process courses continues to grow. Work on the integration of trial advocacy and evidence continues. In response to student demand, a course in poverty law was taught by Clinic faculty this year for the first time since 1974.

The Clinical Fellows program, supported in large part by alumni donations, has been particularly successful this year. Our two Clinical Fellows, Julie Nice, '86, and Bruce Boyer, '86 have been outstanding casework supervisors and classroom teachers. Bruce taught in the trial practice-lawyering process sequence. Julie organized and taught the poverty law course. After two years as a Clinical Fellow, Julie Nice will join the University of Denver Law School's faculty where she will continue her work in clinical education. I am delighted and gratified that the Clinical Fellows program has played a role in the development of such an outstanding teacher.

As many of you know, the Clinic celebrated its 20th anniversary last spring. The highlight of that celebration was the speech, set forth below, given by Prof. Gary Laser, the founder and first Director of our Legal Clinic. Gary is now Director of the I.I.T. Chicago-Kent Legal Clinic. Gary's contributions to our Clinic, and to clinical education throughout the country, have been significant. He is a thoughtful and dedicated teacher to whom other clinical teachers look for ideas, support and encouragement. Gary's speech at the 20th anniversary celebration was a fascinating account of the origins of the Clinic and of the attitudes and activities of the Clinic's early faculty and students.

Tom Geraghty



**THE NORTHWESTERN LEGAL CLINIC  
20TH ANNIVERSARY CELEBRATION - MAY 4, 1990**

**Address by**

**Prof. GARY S. LASER**

**A. FACING DOWN THE RED SQUAD, THE FBI, AND THE CIA**

One morning in the fall, 1971 semester, I was scheduled to go to gun court on behalf of a new client. The case had recently come into the Clinic, and I planned to request a short continuance. Our client had been charged with unlawful possession of a gun and was unable to make bail. I had a number of things to do in the office, thus, I decided to ask a new senior law student, Richard Kling, to appear on my behalf and request a continuance. Since this was his first court appearance he and I rehearsed his lines and I sent him on his way.

Later that morning Richard entered the courtroom and took a seat in the front row. After a long wait, his case was called. There were about twenty spectators in the courtroom. As Richard Kling approached the bench, everyone else in the spectator section also got up and approached the bench. His client was escorted from the lock-up, and the state's attorney informed the judge that the state wished to add additional charges against the client, including over sixty counts of unlawful possession of firearms, possession of a machine gun, ten armed robberies, an attempted murder against a police officer, and two murders.

After Richard Kling regained consciousness, he had the presence of mind to ask the judge to hold the case until he called his supervisor.

I came to the courthouse and later when I went to interview the client in the Cook County Jail, I was stopped and ushered into a room full of some of the same people who had been in the courtroom when Richard Kling stepped up to the bench. They were from Mayor Daley's Red Squad, the FBI, and the CIA. Our client was considered to be quite a dangerous fellow.

It was truly an incredible experience having to face down the FBI, CIA, and Mayor Daley's Red Squad and tell them that they could not speak to my client unless they granted him full immunity from prosecution. My life flashed before my eyes. I had never been involved in anything like this before. Was I now a disloyal American? Is that what Herbert Hoover and Mayor Daley would think of me? Would both the Red Squad and the FBI now keep a file on me? If I told you that I wasn't terrified, I would be a liar. But I regained my composure and continued the conversation as if this was just an ordinary day in my life as a lawyer.

Providing representation on the case itself was an enormously rewarding experience for me and a number of student interns, including Diane Geraghty, who later became a clinical teacher and, later still, a law Professor at Loyola. I don't have enough time to go into the details of this case; but I can tell you that we achieved a great legal victory when our client walked out of the Menard Detention Center for the criminally insane as a free man within about four years after we began representing him.



## B. FACING DOWN ROCKY MILLER

But going face to face with the Red Squad, the FBI, and the CIA was nothing compared to my confrontation with Rocky Miller, who was the Provost of Northwestern University in 1970. This happened in connection with the famous poster incident in the spring, 1970 semester, about a year before the Richard Kling incident and about a year after we had opened our doors to the public.

Provost Miller had a special robing room in the basement of Thorne Hall next to where the Clinic was located. He used the room twice each year to put on his robe for the professional schools graduation he attended as provost of the University. In the spring of 1970, he walked down the front steps of Thorne Hall and walked through the student work area in the Clinic to get to his robing room. He noticed a series of posters which decorated the walls of the student work area of the Clinic. One or two caught his eye. One was a Maoist poster of a young Chinese adult woman with her fist held high. In the background were some buildings, a number of which appeared to be burning. The caption of the poster read something like "End racial oppression now." (A truly radical thought!!) Another was a Huey Newton poster in which Huey threatened to burn it down if racial oppression was not ended.

Rocky Miller did not like those posters. He called Dean Ritchie, the Dean of the law school, and said that the posters must come down immediately. The next morning when I came to work a call was waiting for me to go to the Dean's Office. When I arrived, the Dean asked me if the posters described by Rocky Miller were indeed on the wall of the Clinic. I said that they were. He said, "Take them down now, without any delay." I responded that I couldn't do that. "Why?" he asked me. I couldn't because of the student governing board. "What is that?" he asked. I thought---"where do I begin?????" I quickly decided that the short explanation would get me in less trouble than the long one ~ by the long one I mean the one that included explaining such ideas as "all power to the people," or "down with hierarchy" or "smash professionalism."

I told him that the student governing board was composed of Northwestern law students who worked in the Clinic and were very active in helping to run the Clinic and that they were selected by the Clinic students as their representatives. I explained that the student governing board, along with the lawyers, governed the manner in which the Clinic operated and they, along with the lawyers, selected the posters which covered the walls of the Clinic, including the posters in question. I concluded by saying that because of the Clinic's governance structure, the posters could not come down unless the student governing board agreed. Dean Ritchie looked me in the eye and told me that he had great confidence in me, and he knew that I would convince the students to take down the posters.

I raced back to the Clinic, and as soon as the students drifted in, I convened a meeting of the student governing board and the lawyers and discussed what to do. The meeting was intense, exhilarating, and lasted a long time. We discussed very personal issues--like my job, and broader ones like academic freedom, free speech, the future of the Clinic, and student power. And we decided that the posters must stay up--as I went back to Dean Ritchie's office later that day to tell him of our decision, I wondered what lay ahead.



Dean Ritchie was not happy about our decision, and he expressed his profound disappointment about the fact that I was unable to convince the students to take the posters down. He was even more displeased when he learned that I, too, thought that the posters should stay up. I wondered whether my job was in jeopardy. We continued to hold meetings with the Clinic students and Clinic lawyers.

I think of those days and meetings as exciting, educational and profound.

I then presented the problem to the faculty. Jack Beckstrom, as usual, was helpful as was Thomas Eovaldi, Harry Reese, Jim Rahl and many others.

The faculty made its decision the next day. It said that the posters represented a clear issue of academic freedom and free speech. The Clinic was a classroom, and the posters were materials which were used to educate. Under no circumstances should I be forced to take down the posters. The faculty decision was communicated to Dean Ritchie. And the crisis ended on the third day after it began.

The Dean asked me to come to his office. He stated that he was going to Rocky Miller's office in Evanston to tell him that it was the will of the faculty of the Law School that the posters must stay up. He asked me to help him construct his arguments.

Justice prevailed!

### C. THE CLINIC'S BEGINNINGS

Confrontations with the FBI and the Red Squad, as well as with the Provost of the University, and the Dean of the Law School--how did all of this happen? After all we were simply a fairly small law school clinical education program providing a clinical education experience to our students.

Well, let me tell you how it all began. I was a downtown lawyer working for a firm. My practice consisted of corporate office practice and tax and securities litigation. Like many of my peers in the law school class of 1965, I volunteered some of my time to do poverty law. In my case, I volunteered with the Neighborhood Legal Assistance Center, an organization formed in 1965 to provide poverty law assistance at the Old Town Gardens Apartment complex in the 1400 block of Sedgwick Ave.

Before long I became the Director of the organization, and by 1968 it consisted of over 40 volunteers from large downtown law firms, and two full-time lawyers, one supplied by a grant from the Chicago Legal Aid Bureau and the other a VISTA attorney.

Sometime in the spring of 1968 Jack Beckstrom, who unbeknownst to me was trying to start a clinic at Northwestern, scheduled a public interest law forum at the Law School. I was one of the invited speakers. At the conclusion of my talk, Jack asked if I would be interested in applying for the Directorship of the yet unfunded Northwestern Legal Assistance Clinic. I said "yes," and the process began.



In addition to Jack, I interviewed for the job with Tom Eovaldi, Jim Rahl, Vic Rosenblum, Nat Nathanson, and Henry Kenoe. At one interview I had with Nat, Vic, John, and Henry, I remember spending a good portion of the interview discussing an article I had written on Section 355 of the Internal Revenue Code, because nobody knew anything about poverty law or clinical education, except for Henry Kenoe who had done some work with the Legal Aid Bureau as a young lawyer. At one point, Henry asked me a question about how to handle a detinue case. I knew nothing about detinue and how detinue was practiced in the Cook County courts, but nobody else seemed to know anything about detinue, and the conversation drifted back to familiar subjects such as Section 355 and other matters.

In any event, after I was hired, my first task was to raise my salary. Jack Beckstrom and I developed his idea of "One Stop Shopping." It was an idea that we incorporated into a proposal to the Field Foundation and the Legal Aid Bureau. Our intent was to hook up with the Northwestern University Medical and Dental Clinics so that the clients could get help for their medical, dental, and legal problems in one stop. The problem, however, was that neither the Field Foundation nor the Legal Aid Bureau seemed to have enough money to fund more than a small portion of the cost of a new legal clinic.

As luck would have it, at that time the Ford Foundation had recently set up a new foundation, the Council on Legal Education for Professional Responsibility (CLEPR). Bill Pincus, a Ford Foundation Vice-President, was named the President of CLEPR and continued as President for its entire eleven-year existence. He had a vision of the way law schools ought to educate their students. He believed that it was a national disgrace that law school education did not expose the law students to the terrible problems of the poor or to the institutions which served them, which were also badly in need of reform.

We submitted our one stop shopping proposal to Bill Pincus.

Shortly thereafter, Jack Beckstrom and Dean Ritchie asked me to meet with Bill Pincus in his room at the Palmer House. That was my first meeting with a man who became my good friend and a personal inspiration. All of us in clinical education should be thankful that Bill Pincus was there at the right time and the right place.

Bill introduced himself to me and said that he would fund the NU clinic if we would give the students one hour of credit for participating in the Clinic; if we would handle the cases of real clients; if the supervisors were full-time employees of the Law School; and if the Law School would come up with a 10 percent match in the first year and increasing amounts in future years. He liked our "One Stop Shopping" idea, but he wanted us to handle cases of individuals caught up in the criminal and juvenile justice systems. He offered us a three-year funding cycle at the rate of \$75,000 per year. Thus, the first year the law school would have to come up with \$7,500.

Dean Ritchie congratulated us on getting the Clinic funded, agreed to all of the CLEPR conditions, except that he stated that the Law School could not come up with the local match of \$7,500. He said that he was sorry but that he simply could not spare the money.



Since I had quit my job at the law firm, this was not good news. Once again Jack Beckstrom came to the rescue. He wrote a letter to Dean Ritchie telling him that if need be he would pledge one-third to one-half of his salary to help fund the Clinic. Shortly thereafter, Dean Ritchie called Jack into his office and informed him that he had located a law school fund, the Maurice Sharp Fund, which had been set up some time earlier to fund legal aid clinics. It contained enough money to provide the local match. Thereafter, we also received small grants from Art Young of the Chicago Legal Aid Bureau and from the Field Foundation.

We were on our way. But we needed space. We wanted Wieboldt Hall, but that was unavailable. Jim Thompson, who was on the faculty working with Fred Inbau, suggested the basement of Thorne Hall, which became the original location of the Clinic.

I remember my first trip down there with Jack Beckstrom. We were greeted by the janitors and an army of the largest water bugs I have ever seen. Somehow it all seemed fitting for the endeavor we were about to begin.

I walked back to the Law School and ran into three students, Susan Jordan, Lee Goldstein, and Mark Epstein. My life has never been the same. In short, I was radicalized. The enormous time and effort that they, along with the other nine original student interns, put into the Clinic, first in forming it and then in working in it and helping to run it, made it what it became. And that is what I would like to talk about now.

#### **D. OUR EDUCATIONAL GOALS**

As I mentioned earlier, Bill Pincus, as the president of CLEPR, and our chief funding source, had a political/educational set of goals for clinical legal education. And he wanted his clinical education ideas introduced in every law school in the country. He believed that the existing model of law school education was in need of change, for it made two assumptions, both of which were wrong. The first incorrect assumption, according to Pincus, was that it was not necessary in law school to expose the students to the legal problems of the institutions which affected the poor. The second ill-conceived assumption of contemporary legal educators, identified by Pincus, was that "hands on" experience was not necessary to a good legal education.

He, too, personally believed that legal education ought to address the fact that many of the institutions of society, and in particular those which affect poor people, were badly in need of reform, and that lawyers were best situated to encourage reform. The only way this was likely to happen is if the future lawyers of America were exposed to the problems faced by the poor, and sought solutions to those problems.

Thus, according to Bill Pincus, clinical education included two components. One was the component in which law students were educated about the problems of the poor, and the second was that they were educated in "professional skills training" to provide solutions to those problems.



The Northwestern Legal Clinic took the Bill Pincus notion of what a good clinical education was quite seriously. And because of the times, the '60s, and the beliefs of the lawyers and the students who were most active in the Clinic, the Clinic sought to achieve its own version of Bill Pincus' educational goals.

Although we agreed that students should be exposed to the problems of the poor as well as to solutions to those problems, it was our judgment that the best way for lawyers to assist in providing solutions to the problems of poor people was not for lawyers to handle the individual cases of poor people. Rather, we believed that solving the problems of the poor needed more dramatic and far reaching solutions, such as test case litigation and, more importantly, the contribution of those people who were actually challenging the underlying injustices of American society. In other words, support of the "Movement," became part of the early Clinic's endeavor.

And thus, if we truly believed that the best way for poor people to receive social justice was through the efforts of movement organizations such as the Black Panther party, the Weathermen, the Chicago's Women Liberation Union, the Chicago Gay Alliance, the American Indian movement, Rising Up Angry, and a host of other organizations, then as a Clinic we ought to expose our students to the work of the movement and our role as lawyers should be to provide legal backup to movement organizations. That is precisely what we did. The Clinic represented virtually every movement organization in the City of Chicago and actually served as general counsel for some. Our work for the movement ranged from providing criminal defense representation to preparation of not-for-profit tax returns.

The Clinic was successful, in part, because when it was confronted with the youthful radical/political energy of the '60s, it wasn't frightened by it. In fact the Clinic encouraged it and those of us who were clinical professors believed in the movement ourselves with varying degrees of enthusiasm and intensity; and in any event, no matter what our personal beliefs were, all of us thought that the work we did on behalf of the movement was a valid form of political and educational involvement for a law school clinical education program.

Thus, all of the wonderful and exhilarating student energy of the 1960s was able to find expression in the Northwestern Legal Assistance Clinic. The law school's most politically active students did not have to go elsewhere to do the kind of legal work they thought most meaningful. For example, Lee Goldstein, who became a lawyer in the Clinic after he graduated, was not interested in spending most of his time working on criminal cases on behalf of the Weathermen, Rising Up Angry, the Black Panther Party, or the Disciples. Lee was interested in the counter-culture. And the Clinic supported his interests by encouraging him to set up the Counter-Culture Law Project, in which Lee and Mark Epstein, who also worked as an attorney in the Clinic after he graduated, and several students provided representation to communes and people who were experimenting with new and alternative forms of work and living arrangements.

Additionally, the Clinic was not simply a law clinic which provided representation for the movement, but was also an institution of the movement. What do I mean by that? Well one of the points raised by the cultural/political activists of the 1960s was the need to challenge arbitrary authority and hierarchy. In short, in organizations such as the Clinic power should not be exercised solely by those in traditional positions of leadership, but



should be shared with all of those who work in the organization and decision making should be democratic. This was a variant of "all power to the people," a popular slogan and concept in the 1960s.

The Clinic encouraged that cultural perspective. Thus, students, through the student governing board, which I mentioned earlier, and, to a lesser extent, secretaries truly participated in Clinic governance. The student governing board had real power in the operation of the Clinic. For example, it decided on our artwork which resulted in the poster incident. The student governing board also interviewed all of the students who wished to intern in the Clinic and selected which ones would be offered slots. The Clinic lawyers and students, together, decided on the criteria for selection and the process, although time consuming, worked pretty well. The Clinic published a Clinic newsletter, and students had input in its content.

This was also the time when the modern women's movement began. At that time, women's rap groups had sprung up all over the city. Many of the male lawyers and students in the Clinic were either married to or dating women who were active in the women's movement. Thus, the men in the Clinic started their own men's rap groups for both Clinic lawyers and students. One such men's group met in my apartment on Dayton street on Sunday evenings, and during its existence, was attended by several lawyers and students in the Clinic, as well as others who were not affiliated with the Clinic.

But the Clinic was successful for an even more important reason. Not only did it expose the students to the problems of the poor and to the people and organizations who were seeking the most dramatic social change, and not only did it culturally consider itself to be a counter-culture organization, but the Clinic never lost sight of its role as a law school clinical education program, and, as such, its primary responsibility to provide a well supervised clinical education experience for its students. In short, notwithstanding its politics, the Clinic's lawyers sought to provide the students with the highest level of professional skills training. Clinic lawyers did so by demanding of themselves the highest standard of lawyering that they were capable of achieving, and they gave their students important lawyering assignments and provided them with a closely supervised experience.

Students worked in full partnership with the lawyers, but the lawyers determined the proper standards for all legal work. The Clinic operated under the model which I still use today, that of partner to associate in a large law firm, but the lawyers treated the students with the respect and dignity that they as young and committed professionals deserved. And from the students' standpoint, even though some of us were thirty, or approaching thirty, we could be trusted.

## **E. THE PROJECTS AND CASES**

There are too many fascinating lawyering experiences that occurred during my five years of directing the Northwestern Legal Assistance Clinic to describe them all. But let me mention a few:



### (1) THE COSMIC FROG

Jon Hyman represented a group of Lane Tech High School students who published an unauthorized school newspaper, which they passed out on school property, called the Cosmic Frog. I don't believe there was any obscenity in it, but it was critical of some teachers and some educational programs. The school administration sought to block its distribution. Jon won the case in both District Court and in the Seventh Circuit Court of Appeals. The case established the principle that free speech principles apply to unauthorized high school newspapers.

### (2) THE COUNTER CULTURE LAW PROJECT

Lee Goldstein, along with Mark Epstein, as I mentioned earlier, established the counter culture law project. And Lee later published a book on the laws which affected communal living and working arrangements.

### (3) THE DISCIPLES

Tom Geraghty devoted much of his legal talent to ensuring that young members of the Disciple Street Gang received fair trials.

### (4) THE BIA SIT IN

Tom and I also provided representation to a group of American Indians who had conducted a sit in at the Bureau of Indian Affairs Office in the main post office building. By checking old musty real estate records, we determined that the Offices of the Bureau of Indian Affairs was located in a part of the post office that was a "federal enclave." Thus, the state criminal writ did not run there, and Judge Geneson of Branch 46 dismissed the case. We knew that the U.S. Attorney, Jim Thompson, would not issue a federal indictment. Ironically, we found another reported Illinois case which resulted in a dismissal of state criminal charges by use of the federal enclave theory. And it turned out, the young State's Attorney who had argued that case for the state happened to be the same Judge Geneson who dismissed our case.

### (5) THE INDIANS AT ARGONNE LABS

Let me just mention one more case--the representation of the American Indians when they took over the land and buildings adjacent to Argonne Labs. Our goal was to prevent the National Guard from evicting them. We sued Nixon. The theory was to challenge the 1813 treaty between the Chippewa nation and the U.S. in which the Indians ceded the upper one-third of Illinois and the bottom two-thirds of Wisconsin to the United States government. Our theory was that the treaty terms were unconscionable and that there was a failure of consideration. We also included a count in which we alleged that the Indians were on the land to preserve their hunting and fishing rights. As a matter of fact, there was a small herd of deer on the forest preserve which they had occupied, and they had actually killed one of the deer the night before and had a roast.



I remember going to the Federal District Court of Judge McGarr. Several students and I went to court. The halls were full of a large number of people from the media. I turned to one of my students and said, "There must be an important case on the call today." And there was; much to our surprise it was ours. There is a sad ending to the story. None of our law reform efforts on behalf of the American Indians were able to provide even the slightest impact on the problems of the urban American Indian community. In any event, in the case at hand, the court heard me and then dismissed every one of the counts with the exception of the count dealing with the hunting and fishing rights, which he said intrigued him. We ultimately negotiated a peaceful departure for the American Indians.

I hope that I am giving you a flavor of what it was like for us to work in the Clinic; of the excitement, the exhilaration, the daily enjoyment of coming to work and the feeling that we were involved in something very important. Not only from the standpoint of assisting those who were truly at the front line of social change but in providing the highest quality, educational, and professional experience for our law students.

But alas, all good things must come to an end. Although I left the Clinic at the end of 1973, I saw the end coming, as did most of us, as early as 1972. By "the end," I mean a change in emphasis or a change in focus so that exposure to the problems of the poor as an educational goal of the Clinic was reduced in importance, and in its place was a heightened emphasis on skills training.

Why did the end occur? There are a number of reasons one can advance, including: the end of the Vietnam war; the Civil Rights Movement having run its course and becoming more concerned with economic rather than legal issues; the economy turning worse, including the job market for young lawyers. Students became less motivated to spend their time on political issues and instead wanted to learn solid lawyering skills to increase their marketability. The law schools began assuming much of the cost of the clinical education programs and, therefore, were more concerned with skills training than with the politics of poverty.

I came back to Chicago and opened the in-house legal clinic at the Chicago-Kent College of Law in the spring 1976 semester. The first lawyer I hired to assist me was Caroline Cozad Hughes, another one of the outstanding and committed students from the Northwestern Legal Assistance Clinic. Later, her husband, Tim Hughes, another committed student in the Clinic, joined us and both of them remained as clinical professors at Chicago-Kent for a number of years, until they decided to pursue other employment.

The same problems of funding persisted at Chicago-Kent as had existed at Northwestern. The law school was generous, but we needed more money if we were to have an in-house clinic of any substantial size. I was fortunate to obtain an annual Title III grant from the City which equalled \$175,000 per year and required us to provide legal services to senior citizens at various senior citizens locations in the Chicago area. The grant, although important, presented some difficult problems. First, it had a large service component, which meant that certain lawyers hired to administer the grant had no educational responsibility. They simply handled many of the small routine cases that came in through the Kent Clinic. Even more importantly, however, each September all of the lawyers who were funded by the grant wondered if they would have a job for the next academic year because the City was unable to advise us as to whether funding would be



available until the middle of September for grant years that began on October 1st. Further, the Reagan years came along and the funding was slashed. One year we went down to \$135,000 and the next year to \$100,000. It was clear that this was not a stable or an appropriate way to fund clinical legal education.

So here I am, the founder of the most radical and movement oriented legal clinic in the entire country now talking about fees, and the importance of fee generating practice. But that is another speech for another time and another place. Let me just say that when I left Northwestern and knew that it was going to be taken over by Tom Geraghty and Jon Hyman, I was extremely happy, because I knew that they would carry on in the tradition that we had started and take care of my baby. And that is in fact what has happened. And Northwestern, of course, remains one of the leading, if not the leading, clinical programs in the country. And as the founder and father of that program, I look with great pride at what my baby has become as a result of the efforts of Tom Geraghty, Jon Hyman, Diane Geraghty, John Elson, Steve Lubet, and many others.

But movement lawyer or fee generator, I remain committed to the importance of in-house clinical legal education in American law schools for all of our students. And let me tell you as the founder of the Northwestern Clinic and of the Chicago-Kent Clinic what I think the future holds for clinical legal education. I honestly believe that it has not yet reached its promise.

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## **STUDENT REPORT: 1991**

by KAREN BERMAN, '91

Being a part of the Special Education Project of the Northwestern University Legal Clinic for the past two years has broadened my exposure to the laws governing disabilities and education and has affected my life both personally and professionally. On one level, working in the Legal Clinic has improved my basic lawyering skills through researching and writing complaints for special education class actions and taking full responsibility for administrative hearings regarding the rights of disabled individuals to a free and appropriate education.

On a deeper level, the Legal Clinic has enabled me to apply these technical lawyering skills to the real life problems of individuals. For example, I was able to represent Robert, a young boy with behavioral and learning disabilities, who, at the age of thirteen was still unable to read and was not receiving the services he was entitled to under federal law. Today, after representing Robert at a due process hearing, he is now thriving at a school that serves his complex needs. He is finally learning to read.

My work in the Clinic has not only given me the rare opportunity to affect other people's lives, but those very people have enriched my life immeasurably. Each new client teaches me an even more important lesson about the needs of all people and the value of individual dignity.



As my law school career comes to a close, I feel a sense of loss in leaving the Legal Clinic community which is so much a part of my life. We truly have a rare community up in our little section of the Law School, where students and faculty are supportive and excited about the law and are eager to share in each other's successes and disappointments. For all of these reasons, working in the Legal Clinic has been my most rewarding educational and personal endeavor during my three years at Northwestern.

In September I will begin my legal career at Designs for Change, a children's research and advocacy group devoted to pressing for major improvements in urban public schools on behalf of minority, low-income and disabled children. If it were not for the tireless emotional and academic support I received from my supervisors, Laura Miller, Nancy Gibson, and John Elson, as well as the other faculty members in the Clinic, I undoubtedly would not have had the opportunity to start my legal career doing educational reform work. I only hope that my profession will continue to provide me with the same gratification and enrichment that I have experienced the last two years in the Legal Clinic.

## CLINIC FACULTY NEWS

**Cynthia Bowman** served as the Reporter for the Illinois Task Force on Gender Bias in the Courts, which published its Report last July. The Task Force heard repeated testimony at its public hearings about the need for legal services in the field of domestic relations. Responding in some small part to this need, Cynthia has concentrated much of her practice in the Clinic during 1990-91 in this field, supervising her students in seeking orders of protection for abused women, obtaining divorces, and litigating issues concerning child custody and child support, both in domestic relations and juvenile court.

Cynthia has also devoted a good deal of time to public speaking on the issues of domestic relations and of gender bias in the courts, at bar associations, law schools, and to groups of professionals in other fields. In addition, Cynthia teaches a seminar in Feminist Legal Theory at Northwestern.

Finally, Cynthia Bowman's paper "We Don't Want Anybody Anybody Sent: The Death of Patronage Hiring in Chicago," won the American Association of Law Schools 1991 Scholarly Papers Competition. Cynthia presented the paper and was honored for this award at the AALS Annual Meeting in Washington, D.C. in January. The paper will be published in a forthcoming issue of the Northwestern Law Review.

**Bob Burns** continues his important work on integrating our evidence and trial advocacy curricula. In addition to teaching evidence this year, Bob taught a seminar in Health Law and Policy. Bob recently won a \$40,000.00 verdict in an employment discrimination case on behalf of an Afro-American employee of a suburban police department.

Bob taught Evidence in the coordinated trial practice-evidence courses for second year students. He also taught Health Law, using a simulation case method. He is working with Tom Geraghty and with two Illinois judges on the *Illinois Trial Guide*, a five-volume work on trial procedure and evidence in Illinois Courts, and with Steve Lubet on several



volumes for the National Institute for Trial Advocacy for use in an integrated Evidence-Trial Practice-Legal Ethics program for law schools. N.I.T.A has appointed Bob Program Director for its new Expert Witness Program. The Law School named Bob Stanford Clinton Research Professor for the 1991-1992 academic year. Bob made a presentation describing Northwestern's integrated trial advocacy-evidence curriculum at the Northwestern sponsored Conference, "Teaching Trial Advocacy in the 1990's and Beyond," held at the Law School last October.

**Bruce Boyer** directs the Foster Family Legal Services Project, funded by the Legal Services Corporation. Bruce was primarily responsible for obtaining \$65,000.00 grant from the Legal Services Corporation which funds this project. Bruce, and the students assigned to that Project represent persons who are seeking to care for their abused and neglected minor relatives in the foster care system. As a result of his work in this area, Bruce is working on an article on kinship foster care.

**John Elson** has worked together with Nancy Gibson and Laura Miller on the Clinic's Special Education Project in which they supervise over 20 students per semester in providing representation in administrative judicial fora for public school students whose special education needs are not being met. During this, the Project's third year, the Clinic is focusing increasingly on approaches toward providing systemic remedies for school system's more egregious and pervasive abuses of students' rights to appropriate special education services. John was instrumental in obtaining a \$300,000.00 grant from the Department of Education to support this project.

John has also begun a new Clinic litigation project in cooperation with Professor Jack Doppelt of the Medill School of Journalism in which Clinic students will represent members of the media wishing to prepare news stories about court cases that raise matters of public importance, but which have been judicially sealed from public scrutiny.

John's professional activities during the last year have included chairing the Skills Training Committee of the ABA Section of Legal Education and Admissions to the Bar, serving on the planning committees for two American Association of Law Schools' law teacher training workshops, serving on the AALS Professional Development Committee, which plans the teaching conferences and workshops for law teachers, serving on the executive committees of both the AALS Section on Clinical Legal Education and the AALS Section on Teaching Methods and participating in three ABA law school site inspection teams.

**Tom Geraghty** organized a conference entitled "Teaching Trial Advocacy in the '90's and Beyond," which was held at the Law School last October. The conference was sponsored by the National Institute for Trial Advocacy, the Litigation Section of the American Bar Association, and by the Northwestern University School of Law. The conference was attended by 100 trial advocacy teachers from around the country. A symposium based on the work of the conference will be published this Spring in the Notre Dame Law Review. Tom has been appointed to the Accreditation Committee of the



American Association of Law Schools. Together with Bob Burns, Tom is writing chapters of The Illinois Trial Guide, a forthcoming Matthew Bender publication. Tom is Vice-Chairperson of the Chicago Bar Association's Juvenile Law Committee (Cathy Ryan, '72 is the Chairperson of that committee).

**Nancy Gibson** continues to work on the Special Education Project supported by a grant from the U.S. Department of Education. In May, Nancy attended the 11th National Institute On Legal Problems Of Educating The Handicapped, and in October, participated in the Midwest Clinical Teachers' Conference. Nancy and Laura Miller recently addressed a group of approximately 100 educators from the Chicago Public Schools regarding the legal issues involving the suspension and expulsion of students with disabilities. Nancy also spoke at a seminar for child psychiatry interns and evaluation center staff at Children's Memorial Hospital regarding special education law. Nancy served on the review board for a pilot study on foster care review conducted by Illinois Action for Children on behalf of the Edna McConnell Clark Foundation. She continues to be an active member of the Juvenile Law Committee of the Chicago Council of Lawyers.

**Steven Lubet** continues to be responsible for the teaching and management of the Law School's trial advocacy and lawyering process courses. Steve's leadership in this endeavor has resulted in the involvement of Chicago's leading trial lawyers and litigators as teachers in our program. Steve continues to be active with the National Institute for Trial Advocacy, directing a deposition program here at Northwestern, as well as teaching at in-house law firm programs throughout the country. Steve's publications during 1990 include: *Judicial Conduct and Ethics: A Treatise on the Law of Judging*, (with Jeffrey Shaman and James Alfini) The Michie Company, 1990; "The Trial as a Persuasive Story," 14 *American Journal of Trial Advocacy*, 77 (1990); "American Law Schools and Closed Minds," 75 *Cornell Law Review*, 949 (1990); "Advice and Consent: Questions and Answers," 84 *Northwestern University Law Review*, 879 (1990); "Ex Parte Communication: An Issue in Judicial Conduct," 74 *Judicature*, 96 (1990); "Confirmation Ethics: President Reagan's Nominees to the United States Supreme Court," 13 *Harvard Journal of Law and Public Policy*, 229 (1990); and "The 1990 Code of Judicial Conduct: An Overview," (with Jeffrey Shaman and James Alfini), 74 *Judicature*, 21 (1990). Steve also presented the following papers: "Ethical Issues in Assisted Death," at Northwestern University's Program on Ethics in the Professions, 1991; "Litigation in a Different Voice: What (If Anything) Does Feminist Legal Theory Tell Us About Trying Cases?" at the Association of American Law Schools Section on Litigation meeting in Washington, D.C.; and "A University Conception of Advocacy Education," Teaching Trial Advocacy in the 90's a conference sponsored by Northwestern University School of Law, the National Institute for Trial Advocacy, and the Litigation Section of the American Bar Association, 1990.

**Laura Miller** serves on a number of committees which address issues concerning the disabled. These committees include the Attorney General's Disabled Persons Advisory Council, the Network of Schools With Hearing Impaired Programs, the Friends of Special Education, and the Chicago Council of Lawyers Juvenile Law Committee. During the last year, Laura has participated in a number of conferences on special education including the 11th Institute on Legal Problems of Educating the Handicapped, Orlando, Florida, the



AALS National Clinical Teachers Conference, Ann Arbor, Michigan, and the AALS Midwest Clinical Teachers Conference, Madison, Wisconsin. Laura has also lectured in the area of her specialty. These lectures included, Training Lecture on Special Education Law for Chicago Public School employees, and Training Lecture on Special Education Law for Department of Child Psychiatry, Children's Memorial Hospital.

**Julie Nice** supervises students enrolled in Clinical Practice who represent clients in the Juvenile Court system. Last semester, Julie and Bruce Boyer led a seminar designed to give their students an overview of juvenile law and the juvenile court system. Julie's students are representing several grandparents to obtain visitation and custody of their grandchildren who previously were placed in foster care. They have also represented and obtained services for several youths charged with delinquency. In addition to their juvenile work, Julie and her students are handling unemployment and divorce cases and are currently preparing for the federal court jury trial of a civil rights case.

In conjunction with her juvenile law work, Julie served as professor/reporter for the Illinois Judicial Conference's Regional Seminars on Children in the Law and the Associate Judge Seminar on Juvenile Law. Julie also teaches Pre-Trial Litigation and Clinical Trial Advocacy. With Tom Geraghty, Julie developed and taught a course in Law and Poverty during the fall semester of 1990. This course focused on access to legal services, public benefits, housing, and family law. Tom and Julie brought their clinical teaching techniques to the classroom by requiring that the students help plan and facilitate the class sessions and by utilizing simulation exercises as well as guest expert practitioners. Julie has accepted a teaching position for the fall of 1991 at the University of Denver College of Law where she will teach Lawyering Process, Evidence, Civil Procedure, and Poverty Law.

## **SPECIAL EDUCATION PROJECT**

The Special Education Project provides assistance to children with disabilities who are not receiving adequate special education services from the Chicago Board of Education. The Project is staffed by John Elson, Project Director, Nancy Gibson and Laura Miller, Project staff attorneys, and approximately 23 second and third year law students. Students represent clients in both individual and class actions. In addition to representing clients, students participate in a weekly seminar to discuss issues of special education law.

## **FOSTER FAMILY LEGAL SERVICES PROJECT**

The great majority of the Project's clients, in accordance with the Projects' stated purposes, have been relatives of children whose parents have been unable to care for them. The Project has handled a variety of types of matters, including guardianship issues, placement issues, licensing issues, and service issues.

We have filed a number of petitions on behalf of persons who were appointed as private guardians of their minor relatives by the Juvenile Court, seeking to have DCFS made legal guardian. These cases inevitably involve situations where persons have been compelled to become private guardians and thereby deprived of the support -- benefits and services --



which DCFS routinely offers to relative foster parents. To date, the Project has filed approximately six such petitions, all of which have been successful in securing both the requested change in guardianship and continued placement of the children involved with our clients. We expect to file several more such requests this term.

In a number of cases, the Project has also represented relatives who are trying to secure placement of their minor relatives who are already under the legal guardianship of DCFS, but who are living elsewhere. In two cases, we have filed petitions in Juvenile Court seeking to have DCFS move children from foster homes, where children were living with non-relatives, to the homes of our clients. Both cases led to negotiated settlements in which we were able to reunite children with their family members.

In another case, we represented the grandmother of three children in a situation where conflict between the mother and the grandmother made a placement change impossible. In that case, we filed a petition seeking to establish a regular visitation program between the children and their grandmother. Part way through a contested hearing, we were able to reach an agreement which secured part of the relief sought.

We have also represented two clients who have sought unsuccessfully to secure the placement of relatives in care of unrelated foster parents. One client abandoned his efforts and left the state after approximately eight months, and efforts on behalf of another client are continuing.

One of the more common problems faced by our clients is that they become caretakers for their grandchildren, nieces or nephews through informal arrangements that do not involve the Juvenile Court and leave them without the means to help care for the child. In such cases, natural parents are frequently guilty of neglect and the cases therefore belong in Juvenile Court; however, DCFS is reluctant to bring the case before the Juvenile Court because the children are not yet in crisis. We have assisted several such persons in bringing their cases through the Juvenile Court and securing appropriate guardianship orders in accordance with the client's particular needs.

With regard to cases already under the supervision of DCFS, we have also represented approximately five foster parents who have sought to contest apparently ill-considered placement changes or threatened placement changes. Clients who have been threatened by DCFS with removal of the children in their care include both relatives and non-relatives. The reasons offered for many such threatened removals (such as the convenience of the caseworker or a personal conflict between the foster parent and the caseworker) in many cases do not seem to warrant disruption of an existing stable placement. In all cases but one, we have succeeded in preventing DCFS from carrying out threatened placement changes prior to an appeal. In one case, DCFS was allowed over objection to split up a sibling group and move two of four brothers into another foster home; a hearing in this case is still pending.

Several of our clients have had problems in securing foster care payments from DCFS. Two such matters have been resolved through petitions to the Juvenile court. In one case, DCFS discontinued foster payments to a grandmother in violation of both its own procedures and an outstanding court order. After filing both an emergency petition for relief and a contempt petition, we successfully negotiated a settlement which secured all of



the relief sought. In another case, DCFS diagnosed two children as having special needs, but refused to provide additional compensation to the foster parent to meet the costs of those needs, in accordance with its own regulations. This matter was resolved after we secured an appropriate direction from the presiding Juvenile Court Judge. In addition, we have submitted or are in the process of preparing complaints for outstanding back foster payments to the Court of Claims on behalf of three clients.

## **JUVENILE ADVOCACY PROJECT**

The Lawyers Trust Fund of Illinois provides partial funding for the Legal Clinic's Juvenile Advocacy Project, headed by Julie Nice. The Juvenile Advocacy Project's lawyers and students represent children and their families in Juvenile Court in custody and delinquency matters. Students involved in this Project meet regularly among themselves and with the student and faculty staffs of the Clinic's child related projects, to discuss matters of common concern.

## **SELECTED CLINIC CASES**

### **Child Custody**

Cynthia Bowman and student Christine Provost litigated the issue whether a parent deprived of custody by order of juvenile court could subsequently apply to domestic relations court for a change of custody. Our client, the father of a child who had suffered severe abuse at the hands of his ex-wife's second husband, was defending against a suit for change of custody in domestic relations court, despite the fact that the child was still a ward of the juvenile court. Nonetheless, it took an extended legal battle ultimately to obtain an order from the juvenile court enjoining the mother from proceeding with her suit to change custody in domestic relations court; and the quasi-jurisdictional legal issues involved appear still to be live ones.

### **Civil Rights**

Bob Burns litigated two related civil rights cases in the federal district court this past year. *Pressley v. Haeger* ("Pressley I") was originally a Section 1981 case filed by the first black police officer hired by the Village of Wheeling. (In fact, he was the first black employee the Village had hired in its eighty years of existence.) The complaint charged racial harassment by the chief of police and by fellow officers and other forms of disparate treatment. After the Supreme Court held that Section 1981 forbids only discrimination in the contract formation process and does not reach "post-formation" discrimination, the case had to be pled as a Section 1983/Equal Protection claim. With Cynthia Bowman's help, we withstood motions to dismiss the amended complaint. Approximately eight years after filing and almost five years after the filing of the final pretrial order, the case went to trial before a jury in January. After a two-week trial and three days of deliberation, the jury awarded the Plaintiff \$40,000 in damages for the emotional harm he suffered. Post-trial motions and petitions for attorneys' fees are pending.



"Pressley II" was a First Amendment claim filed last year against Wheeling's chief of police. The police chief, the defendant in "Pressley I, had ordered the plaintiff, Officer Pressley, not to discuss the subject matter of his initial lawsuit with the press. Pressley II addressed the free-speech rights of public employees in general, and police officers in particular, on matters of public concern in which they had individual interests. The district court issued two preliminary injunctions, one against the chief's oral order and a second against the regulations on which the chief relied, which allowed Pressley access to the press. The claim for a permanent injunction and the claim for damages are pending.

### **Death Penalty**

Tom Geraghty and Ian Ayres recently convinced a circuit court judge to vacate a death sentence in a post-conviction proceeding. The death sentence was vacated because our client's lawyer at trial failed to present any evidence in mitigation at the sentencing hearing. A new sentencing hearing is scheduled to take place in April.

In another death penalty case, students and faculty are preparing a post-conviction petition that will allege that our client was the victim of police torture at the Area 2 police station in Chicago. The petition will also allege that our client's trial counsel was incompetent because he did not file a motion to suppress our client's statements, nor did he present any evidence in mitigation at the death sentencing hearing.

Professor Larry Marshall and Clinic faculty and students are working on the direct appeal of a third death penalty case. The cooperation of Clinic faculty, non-Clinic faculty, and students on these death cases has been a wonderful phenomenon. We hope to see other such joint undertakings in the future.

### **Foster Care**

In April of 1990, together with the office of the Public Guardian, our office prepared for and conducted a hearing on our request for a preliminary injunction in the class action *Reid v. DCFS*. This suit has sought to redress various pervasive practices of the Department of Children and Family Services which have had the effect of discriminating against relatives seeking to care for their related children in foster care, and thereby disrupting efforts to keep abused and neglected children housed with their extended families. Following a four-day hearing in April 1990, the Chief Judge of the Juvenile Court awarded a preliminary injunction which has since been used with great effect in representing numerous individual clients who are related to children in foster care. The class action suit is ongoing, and continuing settlement discussions hold out the prospect of an agreed resolution implementing significant systematic reforms to the foster care system. Stephanie Stathos ('90), Jon Bernstein ('91), Robin Norman ('91), Susan Wiles ('91), and Carolyn Palk ('92) have all contributed to our efforts on this case.

In June 1990, Margaret Rice ('91) and Bruce Boyer succeeded in securing an order directing DCFS to move two foster children from the home of a non-relative into the home of their grandmother.



In November 1990, Maureen Terjak ('91) succeeded in securing an order reuniting our client, Mary T., with her granddaughter, who had been in a non-relative foster home for approximately a year.

The Foster Care Project has handled various cases in which we have succeeded in securing the assistance of DCFS for clients caring for their abused or neglected minor relatives. We have also prevented DCFS from removing children from the homes of their relative foster parents in other cases.

### **Habeas Corpus**

Cynthia Bowman succeeded in obtaining a writ of habeas corpus and release of our client pending review, in a criminal case which has been making its way through the state and federal courts in Illinois for the last 15 years. This case, *Hanrahan v. Thieret*, involves a constitutional challenge to a murder conviction which was based at least in part upon the pre-trial statement of a non-testifying co-defendant. Judge Milton Shadur, of the United States District Court for the Northern District of Illinois, held that admission of these statements at our client's trial was unconstitutional and that the error was not harmless, a conclusion which is currently the subject of the State's appeal to the Seventh Circuit. Pending that review, however, Judge Shadur ordered that Mr. Hanrahan be released. When the Seventh Circuit stayed the order of release, Cynthia applied to Circuit Justice John Paul Stevens, who reversed the Seventh Circuit, resulting in what was apparently the first time a prisoner had ever been released directly from Dixon Correctional Institute by order of the United States Supreme Court.

### **Juvenile**

Marjorie E.: We participated in a day and a half hearing before Chief Judge Hamilton at Juvenile Court on behalf of this client in order to allow her to keep her 7-year-old foster son, Marco M., for whom she has cared since he was an infant. Judge Hamilton granted our joint motion with the Office of Public Guardian and ordered the Department of Children and Family Services (DCFS) to consent to our client's adoption of her foster son. We then filed a petition for adoption and obtained a final order allowing her to adopt Marco. We convinced DCFS to provide financial adoption assistance including payment for counseling for Marco. (Student: Jim Bonebrake)

Alberta G.: We represented this client in a hearing with the Department of Children and Family Services to defend allegations based on which DCFS threatened to revoke her foster care license. Client has cared for 16 foster children over the last 22 years. Her current foster children, who were all allowed to remain in her care, include Ethel T. - age 13, Juan G. - age 10, Mark W. - age 9, Arnell E. - age 9, Cameron R. - age 7, and David M. - age 7. DCFS finally agreed not to continue with license revocation proceedings. (Student: Steve Bernstein)

Barbara H.: We represented a grandmother and obtained visitation of her grandchild for whom she had been one of the primary caretakers before the child was removed from the parents' home. (Student: Amy Zimmerman)



Genoa K.: We are representing a grandmother to obtain placement of her grandchildren in her home. Her two young grandsons were removed from their parents' home and placed in foster care while Genoa K. was living in Tennessee. Genoa returned to Chicago so that she could care for her grandchildren, but DCFS refused to approve placement of her grandchildren with her. We filed a petition for placement of her grandchildren with Genoa. After a lengthy hearing during which our petition was contested by the attorney for DCFS, the Assistant State's Attorney, and the Public Guardian, the juvenile court judge ordered that the grandchildren be placed with our client. (Students: Eric Shih, Craig Adas)

Ed & Judy K.: We are representing these parents to defend a neglect petition and to obtain appropriate counseling services for this family. (Student: Eric Shih)

Bernice M.: We are representing this grandparent to obtain visitation and placement of her grandchildren who are currently in foster care placement. The Juvenile Court ordered that Bernice be granted generous visitation with her grandchildren so that she may establish a bond with them. (Student: Terry Horwitz)

Martha B.: We represented this 16-year-old who was charged with possession of cocaine and violation of curfew. She did not know until she was arrested that one of the other passengers in the car was carrying drugs. We negotiated with the probation office and the state's attorney's office to have all the charges against her dismissed. (Students: Tom Cox, Steve Bernstein)

Marlon B.: We represented this 15-year-old and obtained dismissal of the petition charging that Marlon possessed a stolen vehicle. Also, Marlon is currently awaiting trial on charges of assault. We expect to try this case in April. (Student: Terry Horwitz)

Marlon D.: This 15-year-old client was charged with possession of a stolen vehicle. The client's objective was to be able to return to Louisiana to live with his father. He accepted one year supervision without any requirement of reporting to a probation officer and with permission to leave the state. (Student: Jim Bonebrake)

David I.: This 15-year-old client was charged with possession of marijuana on school premises. We represented him at the screening. The probation officer and assistant state's attorney agreed not to file the delinquency petition on the condition that David complete the five-week drug abuse prevention program. David successfully completed that program. (Students: Jim Bonebrake, Lori Wohlgemuth)

Dwayne J.: This 15-year-old client was charged with sexual assault of a younger male relative. We obtained therapeutic services for Dwayne and expect the charges against him to be dismissed in May. (Student: Shari Hyman)

Michael J.: This 17-year-old client was charged with assault. We negotiated a 3-month supervision period which Michael successfully completed, resulting in the dismissal of the petition against him. (Students: Reenie Terjak, Tonda Mott)



Andre L.: This 15-year-old client was charged with sexual assault of his 6-year-old stepcousin. Andre received two years probation but was picked up by the police because he was repeatedly running away from home and refusing to return home. We convinced the judge to release Andre from detention and he was placed in a DCFS shelter. We arranged for DCFS to pay for placement at a specialized residential treatment program for juvenile sex offenders in Minnesota. We obtained approval of the interstate compact required by both DCFS and the Probation Department. Andre is currently placed in the residential treatment program. (Students: Brad Graveline, Kathy Erickson, Tom Cox, Shari Hyman)

Ronald P.: We represented this 15-year-old who was charged with disorderly conduct for allegedly pulling a fire alarm at school. The state's attorney wanted Ronald to plead to the charge and accept probation. Instead, we prepared for trial and convinced the assistant state's attorney to dismiss the charges on the day of trial. (Students: Jim Bonebrake, Steve Bernstein, Lori Wohlgemuth)

Class Action Against DCFS and DMH: We focused much of our effort last school year on a recurring problem in juvenile law: that the Department of Children and Family Services (DCFS) has a practice of placing and leaving troubled children in Department of Mental Health (DMH) hospitals, even though these children do not require hospitalization. In effect, DCFS uses DMH hospitals as a dumping ground for these children, who may require some treatment but who do not belong in mental institutions and who have a right to placement and treatment in the least restrictive setting.

We prepared a class action complaint against DCFS and DMH alleging violations of the due process clause of the Illinois Constitution, the Illinois Mental Health Code and the Department of Children and Family Services Act. We then contacted DCFS and DMH directly, hoping to obtain relief while the Departments were in the process of allocating their fiscal resources. We negotiated immediate procedures for obtaining the cooperation of both Departments as problems with particular children arose. We also participated in the formation of a joint DMH/DCFS task force which is developing comprehensive guidelines for revisions in the juvenile mental health service system. We monitored the treatment of and advocated on behalf of institutionalized juveniles, who received increased attention by the institutional staff as a result of our repeated visits. (Students: Craig Adas, Jim Bonebrake, Brad Graveline, Tonda Mott, Lori Wohlgemuth)

### **Lawyer Mal-Practice**

John Elson's principal litigation over the last year has involved state and federal court lawsuits against a divorce lawyer who used his fiduciary relationship to take sexual and financial advantage of his female clients.

### **Special Education**

Chris C.: Senior law students Maria Patrizio and Ian Schwartz represented an 11 year old boy with multiple disabilities including speech and language impairments, learning disabilities and emotional problems. Although a speech pathologist had recommended that



Chris receive 2 1/2 hours of speech therapy per week, the extent of the school's speech services to him was to have a speech pathologist consult with his classroom teacher for 10 minutes every month. Before contacting the Clinic for assistance, Chris' mother had used the family's entire savings, a lump sum disability settlement, to enroll Chris in a private school. Chris was making significant improvements academically and socially, but the family could not afford to keep him at the school. Maria and Ian were able to negotiate an agreement with the Board of Education which allowed Chris to remain at his school with the Board paying his prospective tuition.

Robert O.: Karen Berman and Gregory Ranslam represented a 13-year-old boy who has both learning and emotional disabilities. During the 6 years he attended Chicago Public Schools, Robert had been in three different placements including a room for children with behavior disorders where he did not receive any help with his learning disabilities. Robert was not progressing academically and his emotional problems were worsening. Karen and Greg successfully negotiated with the Board of Education to provide a placement for Robert at a school specializing in educating children with learning and emotional disabilities. The two law students represented Robert at an administrative hearing in which the Board of Education was ordered to reimburse Robert's parents approximately \$16,000 which they had been compelled to spend in private school tuition when the school district failed to provide an appropriate public education.

Roderick M.: Glenn Jones and Matthew Sitzler represented this 15-year-old boy who has a learning disability. Although he was only reading at a sixth grade level, he was placed in a regular junior high school English class reading seventeenth century English literature. Because Roderick had met his high school math requirement he was not enrolled in any math classes despite the fact that his math computational skills were at the kindergarten level. Matt and Glenn prepared for an administrative hearing but the case settled on the day of the hearing when the Board agreed to provide a full day learning disability program for our client.

Nathaniel D.: Christine Kirchner and Ernest Greer represent a nine year-old boy who has a diagnosis of psychosis. When he was seven years old he was raped by another student at the residential facility he had been placed in by the Board of Education. He subsequently required psychiatric hospitalization. He now attends another residential school which is only partially funded by the Board of Education. We are currently determining what rights his mother has with regard to reimbursement from the Board of Education for the expenses she has incurred in educating Nathaniel and whether Ms. D. can recover the amount of her insurance benefits that have been exhausted in paying for her son's education.

Steven H.: Christine Kirchner and Jonathan Rosenblum represent a 9 year-old boy who has been diagnosed as having "autistic like" syndrome. The Board had diagnosed Steven as emotionally disturbed and wanted to put him in a self-contained classroom for emotionally disturbed students. The students were able to successfully negotiate with the Board to provide Steven with a program for pervasively development disordered children in which Steven will receive help with his language problems and therapy to deal with emotional problems. Christine is currently negotiating with the Board to ensure that Steven is placed in a particular public school. If the negotiations do not succeed, we may request an administrative hearing to resolve the placement issue.



Ricky H.: Ernest Greer represents a 15-year-old boy who has been diagnosed as emotionally disturbed and severely conduct disordered. Ricky had been expelled from two residential placements and had been in an "interim" day placement for over a year while the Board of Education looked for another placement for him. While in his interim placement, Ricky was arrested and pled guilty to a theft charge. Because it was his 16th arrest, the Judge was planning to send him to the Department of Corrections. Ernest testified at Ricky's dispositional hearing and convinced the judge to allow Ricky to go to a secure residential treatment placement in Colorado instead of the Department of Corrections.

Clarence J. v. The Chicago Board of Education, (N.D. Ill. 1989). Project students filed a suit in federal court under the Education of the Handicapped Act and the Rehabilitation Act on behalf of Clarence J., a 5-year-old mentally handicapped boy. Clarence was being completely denied any education by the Chicago Board of Education on the grounds that he is a carrier of hepatitis b, a virus which is transmitted in a manner similar to AIDS. Project students Jonathan Jennings and Peter O'Brien negotiated a settlement with the Board, and Clarence is now attending a public school in Chicago.

Calvin G. v. The Chicago Board of Education, (N.D. Ill. 1990).

In 1988 and 1989, we received several calls from parents of deaf children complaining that their children were not receiving speech therapy. In the course of representing these children in individual actions, we discovered an unwritten but effectively communicated policy in the Chicago Public Schools that speech therapy was not to be offered to deaf students. We filed a complaint with the federal Office for Civil Rights alleging discrimination against deaf children. OCR's investigation confirmed the existence of the discriminatory policy and found that, as a result of the policy, fewer than four percent of the deaf students attending Chicago Public Schools were receiving speech therapy, even though a majority of deaf students require this service. Although the Chicago Board of Education assured OCR that the discriminatory policy would be discontinued, deaf students continued to be routinely denied speech therapy. In June 1990, we filed an action on behalf of all present and future deaf students in the Chicago Public Schools, alleging violations of the Education of the Handicapped Act, the Rehabilitation Act, and the Fourteenth Amendment. Students Mike Warner, Peter O'Brien, and Laurie Elkin are handling the case.

In the Matter of Joe R. (Level One Due Process Hearing 1990).

Project students Michael Sears and Brenda Spilker represented Joe R. and his mother in an administrative action against the Chicago Board of Education. Joe is a bright 11-year-old boy who, because of severe learning disabilities and speech\language problems, was performing five years below grade level. The Board of Education refused to provide him with the speech and language therapy and increased learning disability services that he needed. After extensive testimony from experts at Children's Memorial Hospital who supported Joe's need for increased services, the hearing officer ordered the Chicago Board of Education to provide all of the services requested by Joe and his mother.

In the Matter of Hyatt B. (Level One Due Process Hearing 1989).

Hyatt is a severely mentally handicapped boy who attends a special school. His mother is a single parent who works at two jobs to support herself and her son. Ms. B. came to us



because the school bus which picked up Hyatt in the morning was frequently as much as an hour late and sometimes failed to come at all. As a result, Hyatt missed many hours of school and Ms. B. was often late to work waiting with Hyatt for the bus or taking him to school. Cindy Threet and Peter O'Brien represented Hyatt and his mother at an administrative hearing. The hearing officer ordered the Chicago Board of Education to provide reliable bus service or, if reliable bus service could not be guaranteed, a private car service. She further ordered the Board to provide Hyatt with private tutoring to compensate him for the school time which he missed.

Karen Berman, Tom Meyers and Matthew Sitzler have all worked on the issue of the Board of Education's failure to provide educational services to chronically ill children who are homebound or hospitalized because of their recurring illnesses. The Board of Education fails to provide or provides inadequate educational services to those children while they are out of school. Karen and Tom drafted an administrative complaint which we filed with the Office for Civil Rights. After an investigation, the Office for Civil Rights found that the Board had violated federal law in its failure to educate chronically ill children who are homebound or hospitalized. In settlement, the Board agreed to revamp its program for delivery of educational services to chronically ill students. The new program is expected to be announced in February. After we study the Board's new plan we will decide what further steps to take in this matter.