

Legal Clinic News & Notes

Spring 1998

357 East Chicago Avenue
Chicago, Illinois 60611

312.503.8576
www.law.nwu.edu

Inside

Northwestern professor Larry Marshall calls for a death penalty "moratorium"

5

11

A third-year law student explains what he has learned from his clinical education

14

The Legal Clinic wins on behalf of disabled students in Chicago Public Schools

19

A status report of selected cases in progress at the Legal Clinic

Remarkable Students Do Remarkable Work

by Thomas F. Geraghty

Working with students in the clinical program demonstrates to me how remarkable they are. I take for granted that our students are intelligent—their accomplishments, letters of recommendation, grades, and LSAT scores tell us that before we meet them—but their performance in the clinic allows them to use their talents to produce results. This experience nurtures students' dedication to excellence, thoroughness, and intellectual involvement and encourages them to care about the result. In the clinical program we teach students to perform remarkably by giving them the opportunity to do important work. The rest comes almost naturally.

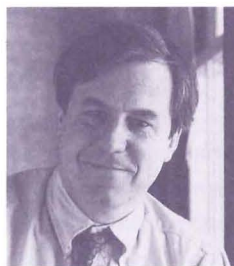
We met Jesse at juvenile court. Smaller than the average 14-year-old, he was wearing dark jeans, expensive Air Jordans, and an oversized Oakland Raiders jacket. His hair was short except for a wispy length that hung down to the middle of his back. The police had found him in a neighborhood just three miles from the law school, selling cocaine for older gang mem-

In the clinical program we teach students to perform remarkably by giving them the opportunity to do important work. The rest comes almost naturally.

bers. The police bought cocaine from him several times over the summer—they were hoping that Jesse might tell them who his suppliers were. Charging Jesse could persuade him to testify against the older children and adults who supplied him—and paid

him more than he could make working at McDonald's. When the police finally did arrest Jesse, he was carrying not only a small quantity of drugs but also a loaded handgun.

Jesse was being held at the Cook County Juvenile Temporary Detention Center to await his trial in juvenile court on four counts of delivery of a controlled substance and one count of possession of a weapon. As the first step in gathering facts



about the case and about Jesse's background, I and the students working with me interviewed Jesse in the detention center's library. His story was fairly typical. He came from a close family—an older brother, a younger brother, and a sister. His mother got up every morning at five to reach her job cleaning offices in Schaumburg.

His father was at home but an alcoholic. Jesse had just flunked the eighth grade. He was absent from school more often than he attended.

The encounter between our students and Jesse represented a first for both. The students had never met a child charged with serious crimes, nor had they been to a juvenile jail. Jesse had never been in jail either. He had never been out of his neighborhood. He had never met lawyers or law students.

The students' task was to use their interviewing and analytical skills to gather all relevant information from Jesse. Their task was also to understand what led Jesse to sell drugs and carry a gun. They needed to understand the differences between their lives and his.

Continued on page 2

Dean's Message

by David E. Van Zandt

The clinical program has always been central to legal education at Northwestern. We have some of the most highly respected educators and programs in the nation.

Through our programs students acquire experience in trial practice as well as skills that they will need as lawyers—such as negotiation, client



social responsibilities.

In addition to representing the unrepresented, our legal clinic challenges the fairness and equity of our legal institutions. The Children and

representation, and client counseling. Students also obtain a deeper understanding of a lawyer's ethical obligations and

Family Justice Center, for example, works to reform our system of juvenile justice.

All of us at the law school are proud to be part of the tradition of public service and public interest that the Legal Clinic represents. In this newsletter we report dozens of examples of the important and necessary work the clinic is undertaking.

We thank all of you for your continued interest and support.

Continued from page 1

The students were surprised to find that they liked Jesse. They began to worry not only about what might happen to him in court during the next few weeks, but also about what might happen to him as he got older if no services were provided to support a change in his lifestyle. The relationship between the students and Jesse was professional and friendly. As they explained to Jesse the technicalities of Fourth Amendment law, they also began to think about where Jesse was likely to find himself. Would he be sent back home? Would he be sent to the juvenile division of the Department of Corrections? What needed to be done to identify appropriate alternatives for Jesse's future? How could those alternatives be put into place? How much intervention in Jesse's life was appropriate for his lawyer to undertake?

When Jesse made his first appearance in juvenile court, detectives from the police department's gang crimes unit arrested him again—this time on a warrant for attempted murder. Jesse had been identified as the shooter in a gang-related incident that left two men wounded. The shooting occurred before Jesse was arrested for possession of drugs and a weapon. Although this case was to be tried in criminal court, the clinic's lawyers and students took on this case too.

Jesse was found guilty of some of the drugs and weapons charges that brought him to juvenile court and was committed to the juvenile division of the Illinois Department of Corrections. In criminal court, after a trial prepared and conducted by a team of clinic lawyers and students, Jesse was found not guilty of the attempted murder charges. After his acquittal, students assigned to the case represented Jesse at his parole hearing at the juvenile division of the Department of Corrections. The students prepared a plan for Jesse's subsequent supervision that was instrumental in securing his release. They have also played a major role in finding a residential school for Jesse. He is now enrolled in the best boys' home in Chicago.

None of this could have been accomplished without the dedication and hard work of the six law students who worked on Jesse's cases for two years.

What did the students get out of this? They saw all aspects of a complicated series of cases, from the initial client interview to the conclusion of a criminal court trial. They learned about juvenile court procedure and criminal procedure as well as about Fourth and Fifth Amendment law. They were frontline investigators who confronted several difficult ethical issues during the course of the representation. They explored the nature of the lawyer-client relationship and how that relationship is both similar to and different from personal relationships. They understood the connections between their skills as interviewers, fact gatherers, researchers, drafters, negotiators, and trial lawyers.

The proof of all of this can be found in Will Rhee's account of his and other students' work on Jesse's behalf (see page 11 in this newsletter). After reading Will's account of the Legal Clinic's relationship with Jesse, I hope you will agree that the clinic's efforts on Jesse's behalf provided students with a splendid educational experience and the opportunity to perform a remarkable service.

Thomas F. Geraghty is associate dean for clinical education and director of the Legal Clinic. He maintains an active caseload, concentrating on criminal juvenile defense, death-penalty appeals, and projects dealing with juvenile court reform and the representation of children.

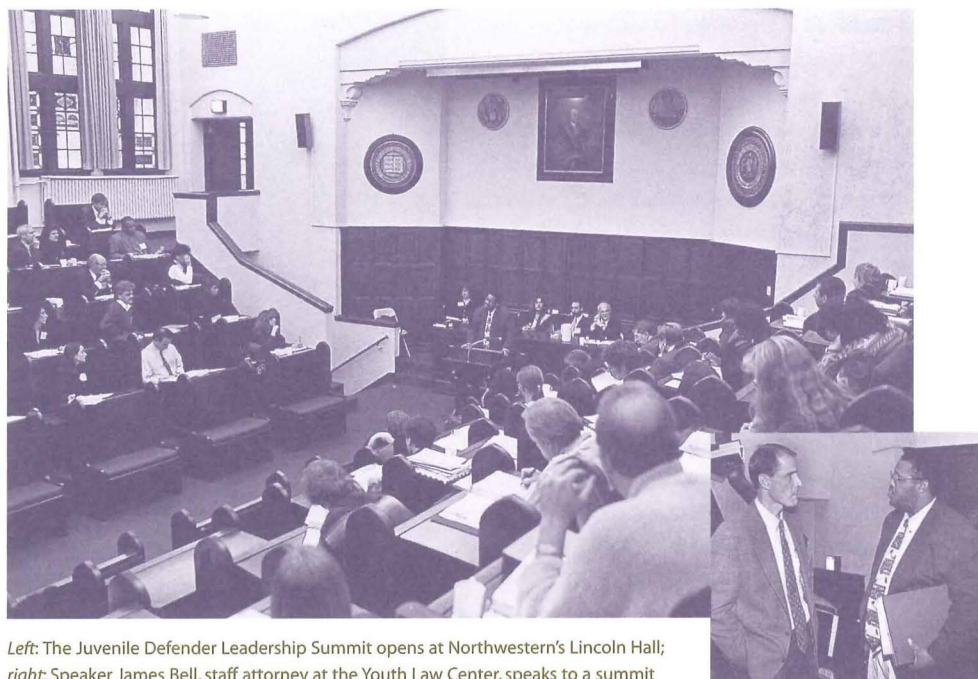
Roundtable Focuses on Juvenile Justice

On September 25 the School of Law hosted a juvenile justice roundtable. The meeting was attended by 300 lawyers, judges, probation officers, legislators, social workers, community service workers, and corrections officials, who met to discuss a new juvenile court act pending in the Illinois legislature. The audience heard from Bart Lubow of the Annie E. Casey Foundation; Cook County state's attorney Richard Devine '67; Betsy Clarke of the Cook County Public Defender's Office; and University of New Mexico professor Barbara Bergman, who helped draft New Mexico's juvenile court act.

The roundtable also included a panel discussion of the pending juvenile justice legislation in Illinois. The discussion, moderated by School of Law professor Larry Marshall, included presentations by state representative Tom Dart and state senator Carl Hawkinson, the sponsors of the legislation; Catherine Ryan, chief of the state's attorney's juvenile court division, Steven Drizin of the Legal Clinic; Michael Mahoney of the John Howard Association; Joanne Perkins, director of the juvenile division of the Illinois Department of Corrections; and state senator Barack Obama.

Participants praised the Illinois bill for emphasizing balanced and restorative justice, a concept that requires children to take responsibility for their actions through community-based service and restitution programs.

In their spring session both houses of the Illinois General Assembly approved the bill. It awaits the governor's signature.



Left: The Juvenile Defender Leadership Summit opens at Northwestern's Lincoln Hall; right: Speaker James Bell, staff attorney at the Youth Law Center, speaks to a summit attendee.

Juvenile Defender Leadership Summit

From October 23 to 26, 1997, the Legal Clinic's Children and Family Justice Center hosted the Juvenile Defender Leadership Summit. The event was cosponsored by the American Bar Association's Juvenile Justice Center, the Juvenile Law Center, and the Youth Law Center. Two hundred lawyers from around the country—including at least one lawyer from each of the 50 states—attended the meeting, which sought to begin a dialogue about how

lawyers who represent children can reinvigorate their work. The summit's objective was to mobilize a national program to improve the quality and availability of defender services for children.

Speakers included Shay Bilchik, administrator of the Justice Department's Office of Juvenile Justice and Delinquency Prevention; James Bell, staff attorney at the Youth Law Center; and Jerome Miller, founder of the National Center on Institutions and Alternatives. Most of the summit was devoted to discussion of such issues as excessive caseloads, new models for representation of children, the trend toward trying more children as adults, and developing new personal and financial resources for representation of children in delinquency proceedings.

The clinic plans to continue to work with the American Bar Association on this valuable project.



Left to right: James Bell, Bernardine Dohrn, Patricia Puritz, Shay Bilchik, and Jerome Miller.

Benefits Appeals for Disabled Children

The Northwestern Children's Law Pro Bono Program has joined Chicago's public interest legal community in an effort to help the thousands of Chicago children being removed from the Supplemental Security Income (SSI) benefits rolls.

Early in 1997, public interest leaders in Chicago met to consider the crisis and craft an aid plan for the families who have valid claims for appeal. The Legal Clinic joined the Legal Assistance Foundation, the Coordinated Advice and Referral Program for Legal Services (CARPLS), the Illinois Pro Bono Center, the Chicago Bar Association, and others to initiate a campaign to recruit volunteer attorneys to represent indigent families requesting assistance with their appeals.

The clinic has contributed to the effort by applying the Children's Law Pro Bono Program model of mentorship, which has been successful in our juvenile delinquency program, to the representation of children in SSI appeals. The clinic created a partnership with the law firm of Baker & McKenzie, which, in exchange for the mentoring services of Northwestern clinic attorneys Angela Coin and Bruce Boyer, offered to represent the children appealing the termination of their benefits. At least 30 cases are underway, with attorneys continuing to be trained in this type of legal advocacy.

The Clinic and Ethiopia

For two months in the summer of 1997, Northwestern hosted Dean Tilahun Teshome of Addis Ababa University School of Law in Ethiopia. During his time here, Dean Tilahun prepared a new criminal law course and made contacts that would support the continuing development of his law school.

In December 1997 John Elson received the distinguished public service award from the Public Interest Law Initiative. Roger Pascal, president of PILI, said the following during a ceremony in Elson's honor.

Each year PILI, through its distinguished public service award, pays tribute to a Chicago lawyer who has made an extraordinary contribution to public interest law. Our selection is Professor John S. Elson, Northwestern University School of Law.

When it comes to effectiveness, courage, and tenacity, John has few peers. Nearly a decade ago John was presented with a client who claimed that her divorce lawyer had exploited her desperate need to secure a divorce and keep her children by forcing her to have sex with him. The Attorney Registration and Disciplinary Commission and the Illinois Appellate Court rebuffed her claims. But more cases involving the same lawyer came out of the woodwork. John persevered through defeats, a lawsuit against him by the lawyer and his law firm, efforts to cut off contributions to his clinic, and torrents of vituperative, angry accusations. Few lawyers would have had the courage, dedication, and tenacity to persevere over those years until the Illinois Supreme Court provided ultimate vindication by suspending that lawyer.

At the end of the summer, Northwestern, in cooperation with the American Bar Association, convened a conference for African law teachers. Attendees included law professors from Ghana, Tanzania, Ethiopia, Kenya, and Uganda. Several Northwestern faculty—including Tom Geraghty, Tom Eovaldi, Clint Francis, and Cynthia Grant Bowman—participated in the workshop.

In fall 1997, as part of the School of Law's continuing effort to support the development of the Addis Ababa University School of Law, associate dean Chris Simoni spent three weeks in Addis Ababa consulting with the law library's staff there. During his visit, Chris took the first steps toward computerization of Ethiopia's law library. He continues to work on establishing Internet connections between Addis Ababa and legal research databases in the United States.

The law school has applied for a grant from the United States Information Agency to support a three-year affiliation with the Addis Ababa University School of Law.

Death Penalty Conference

The first National Conference on Wrongful Convictions and the Death Penalty is scheduled to take place November 13-15, 1998, in Chicago at Northwestern University School of Law. This conference will bring together for the first time 70 people who were wrongly sentenced to death in the United States and later exonerated. Also attending the conference will be lawyers, scientists, investigators, journalists, and activists who worked to secure freedom for these individuals.

For more information on the conference, please contact Jeanine Bell at 312/503-1559 or at jmb1bc@nuls.law.nwu.edu, or visit the conference Web site at www.ncwcdp.com.

Northwestern Professor Marshall Calls for Death Penalty Moratorium

Northwestern University law professor Lawrence C. Marshall gave this testimony before the Human Resources Committee of the Illinois General Assembly on October 16, 1997.

Thank you for giving me this opportunity to speak in support of the resolution calling for a moratorium on capital punishment in Illinois. Through my work at the Northwestern University Legal Clinic, I have been blessed over the past several years to work on three cases that have informed my judgment about the death penalty in this state.

First, I have represented Rolando Cruz since 1990, having taken his case on appeal after a *second* jury decided that they were certain beyond any reasonable doubt that Cruz had killed Jeanine Nicarico and deserved to die for that crime. At one point the Illinois Supreme Court affirmed the conviction. Only through a fortuitous change in court personnel was Cruz ever able to obtain his ultimate vindication. Of course, we now all know that the jury and the court were grossly misled about the



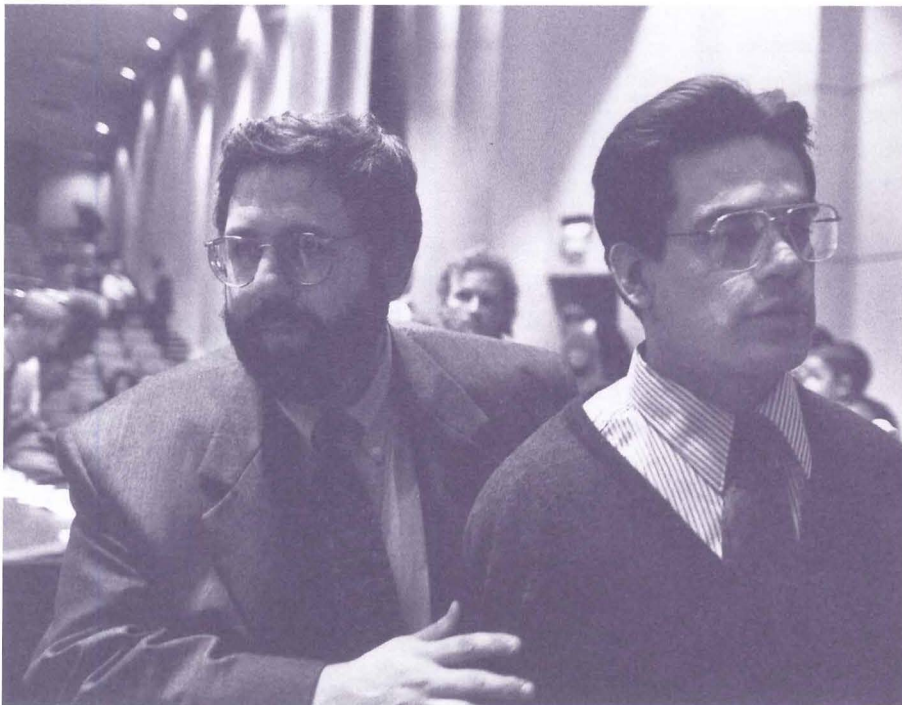
facts of that case, especially by the false claim that Cruz had made a "vision statement" to two detectives. DNA evidence has now excluded Cruz and his codefendant as the person who raped Nicarico and has pointed the finger straight at Brian Dugan, the man who confessed in 1985 to having committed this awful crime alone. And a grand jury has now

indicted seven law enforcement officials, charging them with having committed criminal acts (including perjury) as part of their conspiracy to wrongly convict and execute Rolando Cruz.

Second, I represented Gary Gauger from McHenry County, Illinois, after he was convicted and sentenced to death for the murder of his parents. The entire case against Gauger turned on a supposed confession that he made to police during an interrogation. Like Cruz's vision statement, Gauger's interrogation was never recorded either on audio- or videotape. Nor had he ever signed any confession. Nonetheless, the jury convicted Gauger of first-degree murder. At sentencing, Gauger's incompetent lawyers presented just one-half hour of mitigation testimony, even though Gary Gauger was a much loved organic farmer with no history of violence and a reputation for true goodness.

Gauger's conviction and death sentence were later reversed, and charges against him were dropped. Soon thereafter a federal grand jury indicted two members of the Outlaws Motorcycle Gang for the murder of Gauger's parents. As is now clear, Gary Gauger was not only a victim in that these gang members allegedly murdered his parents while he slept nearby, but he was also a victim of the Illinois criminal justice system, which was prepared to kill him for crimes he did not commit.

Third, I represented one of the Ford Heights Four, Willie Rainge. Rainge—along with Dennis Williams, who was twice sentenced to death—was twice convicted of murdering Larry Lionberg and Carol Schmal in 1978. Although Rainge himself was given a natural life sentence, another one of the Ford Heights Four, Verneal Jimerson, was



Northwestern professor Lawrence C. Marshall with Rolando Cruz.

also sentenced to death for these murders. Thus, like the Cruz case, multiple juries had decided *beyond any reasonable doubt* that the Ford Heights Four were guilty of the crimes and that two of them deserved to die. Yet we now know that the jury could not have been more wrong. It was four other men—who had nothing to do with Williams, Jimerson, Rainge, and Adams—who committed these crimes, and the three of these

.....
Let it be said years from now that

something good came out of these

men's suffering—that because of

what they endured, other innocent

people lived.

true killers who are still alive have now all either been convicted or have pled guilty to the murders. Once again, DNA evidence has exonerated the wrongly

convicted and implicated the true killers. The state's attorney of Cook County has formally apologized for what that office did to the Ford Heights Four, and Governor Edgar has pardoned each of the Ford Heights Four. Evidence has now emerged showing that the police were given information about the true killers within days of the crime in 1978, but the scheme to implicate the Ford Heights Four was already too far along to be halted then. Rather, it took 18 years for these men to be freed.

These three cases—involving five men whom Illinois once sentenced to death—present a challenge to each and every one of us: What are we going to do about the fact that the death penalty in Illinois creates grave risks to wholly innocent people?

Assume that the state purchased a group of automobiles for its fleet and that within several years there were a number of incidents in which that type of automobile lost control and came perilously close to killing innocent bystanders. There can be no doubt that the entire lot of automobiles would be taken out of commission until it could be determined why they are so dangerous and when the problem would be solved. We would not dream of allowing these machines to endanger innocent people for even one moment until we were able to identify and remove the source of the risk.

This is precisely the situation we have with Illinois's death penalty. The machinery is broken and has come perilously close to killing people who are as innocent of the crimes for which they were to die as are you and I. How can we be so callous as to look at this compelling evidence and take no steps to identify

why our capital punishment scheme is so error prone and how we can go about fixing it?

We are not talking about abolition of the death penalty here. We are talking about a moratorium—a time out—so that a commission can study the system and determine what measures would help eliminate, or at least minimize, the risk of killing the innocent.

There are many areas that this commission needs to examine—for example, the problems of

- jury instructions that do not allow the jury to take their lingering doubts about the defendant's guilt into account in assessing whether he should die
- inadequate representation of capital defendants at trial
- inadequate resources for meaningful investigation prior to trial
- racism, which so permeates the question of which murder defendants live and which die
- convictions based entirely on claims about the defendant's unrecorded confessions
- convictions based on unreliable jailhouse “snitch” testimony

These are just a few examples. There can be no doubt that our system would benefit greatly if an independent commission took a hard look at these and other similar issues, so long as we would then take its recommendations seriously.

I will assume that there is some merit in the idea that we show our love for innocent life when we invoke the ultimate punishment against those who take innocent life. But which of the following two statements reflects better our value for innocent life?

- We care so much about innocent life that we are going to continue carrying out the death penalty even though we know there is such real risk of mistakenly executing some innocent people; or
- We care so much about innocent life that we are going to declare a moratorium on executions until we have done all that we can to minimize the risk of executing the innocent.

There cannot be much doubt about the best way to show that we cherish innocent life.

Some people argue that there is nothing wrong with the system at all, and that the cases of Adams, Cobb, Tillis, Burrows, Cruz, Hernandez, Gauger, Lawson, Jimerson, Rainge, Williams, and other condemned prisoners whose

innocence has been established show that the system works and that we do not execute innocent people. Do not be fooled by this claim. These men are not free because the system worked. They are free because of some fortuitous event that led to their exoneration. Rolando Cruz and Alejandro Hernandez would surely be dead or close to death if Brian Dugan had not happened to confess when he did. Dennis Williams and Verneal Jimerson would surely be dead or close to death if some enterprising journalists had not taken the initiative in following the leads that pointed to the true killers. The other defendants mentioned were cleared as a result of similar serendipitous events. We have no idea how many other innocent people who have not been so lucky sit on death row today with execution dates about to draw near.

There is absolutely no basis for taking false comfort in the naive assumption that we have ferreted out all the innocent people who sit on our death rows. These men were all freed as result of the system's *reaction* to some serendipitous event. It is time for the system to do something proactively to examine cases and legal rules to free the other innocent people who sit on death row and to reduce the risk of putting more innocent people there. It is criminal to rely on serendipity when innocent lives are at stake.

None of us can begin to imagine how it feels to be locked in a cage and told that our own state is going to kill us for a crime we did not commit. The men who have already been identified spent more than 75 years collectively in that hell. We owe them something for that. We owe them our respect, and we owe them compensation for what we have done to them. But, even more critically, we have a sacred duty to these men to learn from our mistakes. There can be no greater slap in these men's faces than for us to ignore the lessons of their cases and continue doing more of the same to others now in their shoes.

Please do not pretend that the system works when there is such compelling proof that it does not. Let it be said years from now that something good came out of these men's suffering—that because of what they endured, other innocent people lived. The proposed moratorium can help make that happen, and I urge you to support it.

Lawrence C. Marshall is professor of law at Northwestern University School of Law. As part of his work with the Legal Clinic, he represents criminal defendants in courts of appeal throughout the country and before the U.S. Supreme Court.

Children and Family Justice Center

Communities Address Juvenile Crime Problems

The Children and Family Justice Center (CFJC) has initiated an innovative program designed to mobilize communities to take an active role in preventing juvenile crime. Based on the center's four years of advocacy on behalf of children involved in delinquency proceedings, it became clear that community alternatives to full-scale court adjudication were necessary. Community Panels for Youth (CPY)—a juvenile court diversion program that allows selected juvenile offenders to appear before a panel of neighborhood citizens rather than entering the court system—is such an alternative.

CPY is a collaborative effort between the center, the juvenile division of the Cook County State's Attorney's Office, and several communities in Chicago. Clinical faculty attorney Cheryl Graves is project director and attorney Lisa Copland '97 (see sidebar) is project coordinator. Both are working closely with the state's attorney's office on a two-year CPY pilot program in three selected Chicago neighborhoods.

CPY is based on a model of balanced and restorative justice and has three goals:

Accountability—teaching youth the consequences of delinquent behavior; having them repay the community and the victim through service

Public safety—recognizing communities' and victims' rights to feel safe by responding meaningfully to delinquent acts

Competency—providing youth with the skills they need to lead productive lives

The first CPY pilot project is underway in the Austin community on

Chicago's far west side. Austin was selected because of its wealth of grass-roots community organizations and its highly organized citizenry. Currently, Austin is directing an intensive community effort at preventing youth violence, providing structured activities for youth, and offering job development programs. The effort involves police, juvenile probation officials, citizen leaders, local youth service organizations, and youth from the community.

The community panels consist of trained adult volunteers selected from a wide array of community organizations, churches, businesses, and service organizations. The volunteers, both men and women, represent a variety of ages, occupations, income levels, and community volunteer experience. Each panel member completed a two-day training program, designed and conducted by Professor Lynn Cohn, an adjunct faculty member of the School of Law and an expert in

School of Law Alumna Helps Implement CFJC Project

Profile: Lisa Copland '97

In fall 1996 I began working with Tom Geraghty in the Legal Clinic. I was a third-year student at Northwestern's law school and decided that I wanted to spend that year being exposed to criminal law, which had always been an interest of mine. Working in the clinic was one of the best decisions I could have made as an aspiring trial attorney. By the end of my third year of law school I had experience conducting client interviews, forming relationships with clients, and arguing before judges.

When Cheryl Graves asked me if I would like to continue working for the clinic after graduation, I jumped at the chance. Since graduating from Northwestern's School of Law, I have been able to represent children in juvenile court. I have also had the opportunity to help establish Community Panels for Youth, the newest project of the Children and Family Justice Center (see adjacent article). As project coordinator I recruit and select members of various Chicago neighborhoods to serve as panelists. These panelists meet with select juveniles and victims to discuss how youths' behavior impact the community as a whole. It has been both a privilege and an honor to help establish this important project.

The opportunity to continue working with the Legal Clinic as an attorney has been very rewarding. I am learning how to be a better attorney from some of the most talented attorneys in public interest law. The transition from student to attorney within the Legal Clinic has been easy because of the respect and trust in my abilities that I have received from the attorneys here.

mediation and dispute resolution. Also, CPY established an advisory board and hired two community liaisons to ensure the participation of the Austin community in the development and implementation of the project.

CPY hearings are conducted weekly at a site in Austin. The state's attorney's office transfers eligible juvenile cases to CPY. To be eligible, offending juveniles must be under 15, live in the designated police district (Austin is in the 15th police district), and have no pending felony convictions. Also, the offense must be a misdemeanor or felony that did not result in serious physical injury to the victim. Juveniles must admit involvement in the offense to be eligible for participation in CPY.

Victims are encouraged to explain to the minor how they were affected by the minor's actions and to voice their concerns. The minor, meanwhile, has the opportunity to explain his actions to the victims. The panel members then meet with each juvenile and his or her parents and talk to them about the juvenile's offense, home life, performance in school, interests, and other areas that may help in rehabilitating the youth. The panel uses this information to determine the appropriate corrective action and aid in the youth's rehabilitation.

The corrective action is expressed in a contract that must be agreed to by both the juvenile and the parents. The contract contains terms and conditions that hold the youth accountable for his actions and address his other individual needs—community service requirements, restitution, participation in special community projects, mandatory tutorials, and youth and mentoring programs. Throughout the terms of the contract (three to six months), one member of the panel

Permanency Project

The Permanency Project, a Children and Family Justice Center project at the juvenile court, has completed its two-year grant from the Cook County board. During those two years the court has made great strides toward the goal of reducing the average time that children spend as wards of the court from four or five years to two years.

The Permanency Project has been integral to the court's adoption of such new procedures as an extended temporary custody hearing, a court family conference held 55 days after the initial

hearing, and the introduction of a staggered call rather than a single 9 a.m. time set for all cases. Pilot implementation of all three procedures has been completed, and the changes are in place courtwide.

The Permanency Project has administered the Child Protection Advisory Work Group and its 22 committees making recommendations to presiding judge Nancy S.

Salyers. The project has also played a major educational role in the Child Protection Division through creation of resource manuals for the use of judges and attorneys, a parent education

manual, and a booklet for children who are wards of the court. The project represented the Child Protection Division in the formation of the Permanency Initiative and administers the court's participation in the Model Court Program of the National Counsel of Juvenile and Family Court Judges.

Peggy Slater, director of the Permanency Project, has left the Children and Family Justice Center to remain in the Child Protection Division. She has assumed the newly created position of director of policy initiatives, in which role she will continue

to work on the project.

A proposal for a second Permanency Project (Permanency Project II) is being presented to the Cook County board. Under that proposal attorneys from the Children and Family Justice Center will ensure adoptive placements for the over 7,000 children with pending cases of termination of parental rights; make recommendations regarding teens exiting court jurisdiction without permanent placement; and develop a plan for improved representation of children and their parents.

monitors the progress of the youth to ensure compliance and to address any other concerns. Minors who fail to fulfill the agreed-upon obligations are referred back to juvenile court.

Although still in its infancy, the CPY project has already demonstrated in the Austin community that the program can provide community members with a vested interest in the success and positive growth of young people in trouble with the law. It also provides community members with skills and experience in communication, mediation, and conflict

resolution. With the assistance of David Reed, the center's research coordinator, an ongoing evaluation of CPY by the community, panel members, victims, youth, parents, and program staff will help fine-tune the program's pilot stages.

By bringing the juvenile's family and community together, the CPY project will provide swift and meaningful responses to delinquent behavior that traditional methods of court adjudication have not provided. CPY's greatest asset is that it draws on the strengths of the community to help stop juvenile crime.

Research Projects

Juvenile Court Computerization

Nearly three years ago the CFJC published a report by David Reed and Bruce Boyer that analyzed the need to revamp the information systems at the juvenile court. After nearly a year of design work the project is expected to be completed by March 1999. The new system will integrate all offices working in the court; institute real-time data sharing with police and DCFS; and, through a recent grant from the U.S. Department of Commerce, enable Internet connections with child welfare service providers, allowing electronic filings and reports. The system, when fully implemented, will profoundly change how users access critical information. The system also could revolutionize some court procedures.

The CFJC report recommended a model for a complete overhaul and integration of the court's information systems. Hon. Donald P. O'Connell, chief judge of the Circuit Court of Cook County, adopted the report's conclusions and appointed Michael McGowan to direct this major improvement effort. Under McGowan's able leadership, a plan has been drafted and a contract signed with Andersen Consulting to create a comprehensive and integrated computerized information system.

Caseload and Diversion Project

A CFJC project—funded by the Woods Fund of Chicago, the Frye Foundation, and the Field Foundation of Illinois—is exploring ways to control the caseload problems of the juvenile court. The CFJC, working with the National Center for Juvenile Justice, recently created an extract of the records of the Clerk of the Court. The extract will allow us to

review the current composition of the caseload and understand how it has changed over the past 15 years. Since the caseload has grown at least sixfold during that period, these data will help us understand how the juvenile justice system has changed to create this flood of cases into the court. We are also making significant progress in our efforts to create a similarly useful file from our database of nearly 20 years of Chicago Police Department Youth Division records.

The project is also evaluating both old and new diversion programs at the juvenile court. We are assessing the effects of the Calendar 99 noncustodial arraignment calendar, a court process in which youth are given informal supervision in return for an admission of guilt. The project is also evaluating the recently initiated Community Panels for Youth (see page 8).

DuPage County Family Court Pilot Project

For the past 18 months CFJC director Bernardine Dohrn has consulted on a pilot project to create a unified family court in DuPage County. This project, unanimously approved by the county's steering committee and the DuPage County Circuit Court, will include cases involving an active divorce and a juvenile (either delinquency or abuse/neglect) or domestic violence petition. David Reed is helping design the process for tracking and evaluating the pilot. The pilot began in January 1998 and will run for two years before a decision is made about adopting the project permanently.



Bernardine Dohrn

The evaluation will track the court's outcomes over the two-year life of the pilot and will also provide important interim measures to be used for fine-tuning the new court's day-to-day operations.

Illinois Juvenile Justice Commission Research Challenge Grants

CFJC staff members are deeply involved with two Illinois Juvenile Justice Commission research projects. CFJC research coordinator David Reed and Robin Bates of the University of Illinois at Chicago, Jane Addams College of Social Work, are coprincipal investigators in a project to explore the differential treatment of girls and boys in the juvenile justice system in downstate Illinois. The study has tracked juvenile cases in five Illinois counties—Franklin, Williamson, and Jackson in far downstate Illinois; Winnebago in the Rockford area; and Chicago “collar county” Kane. (Cook County was excluded from this study but may be the focus of research in the coming year.) Nearly 3,500 cases have been recorded for analysis.

The study includes an analysis of juvenile court proceedings in each county, as well as in-depth interviews with judges, prosecutors, public defenders, probation officers, service providers, police, and the youth and their families. Very preliminary results indicate that girls are brought into the juvenile justice system half as often as boys—a rate far higher than that seen in Cook County. However, once girls are in the juvenile court system there seem to be relatively few gender differences in the kind of cases filed or in the way that the cases are handled by the courts.

A second study—a joint project with the American Bar Association—explores juveniles' access to counsel in Cook

County. Patricia Puritz (ABA juvenile justice committee) and Steven Drizin (CFJC) are coprincipal investigators, and David Reed (CFJC) is a member of the core research team. Because the practice in Cook County is to appoint counsel for all juveniles at the first court hearing, the research has focused on when the juveniles actually have contact with their lawyers.

Clinical Evaluation and Services Initiative

The Clinic Evaluation and Services Initiative (CESI) is a joint project of the Children and Family Justice Center, the Department of Psychiatry at the University of Chicago, and the Juvenile Justice and Child Protection Department of the Circuit Court of Cook County. Beginning in February 1996, in response to the request of chief judge Donald P. O'Connell, CESI conducted a preliminary review of the system providing mental health and clinical services information to the Cook County Juvenile Court. In January 1997 CESI received a three-year grant from the John D. and Catherine T. MacArthur Foundation to build on the project's initial work and to design and implement comprehensive reforms of the juvenile court clinical services system.

CESI's goal is to establish an efficient and effective clinical services system that is responsive to the needs of the juvenile court and its constituents. To ensure that its reforms achieve this goal, CESI staff is soliciting information and ideas from a range of participants in juvenile court, including judges, lawyers, guardians ad litem, DCFS staff, private agency workers, probation officers, Department of Clinical Services staff, private providers

such as psychologists and other mental health workers, and the children and families who are the subject of court proceedings.

CESI ultimately intends that its reform of the current clinical services system will provide juvenile court

judges and practitioners with consistent, high-quality clinical services information useful in resolving issues before the court. CESI also intends to provide appropriate, effective clinical services to the parents and youth themselves who are before the court.

Defending Jesse: From Arrest to Acquittal

by Will Rhee '98

As a law student working in the Legal Clinic, I have been fortunate to represent a client from his arrest to his ultimate acquittal a year later. Without question I have learned more about litigation, trial preparation, criminal procedure, criminal law, and legal ethics from this case than from any other experience in law school. Yet what I will always treasure most from this case and my clinical experience is the personal insight and understanding I have gained from defending young men like Jesse Hernandez,¹ whom earlier I would have dismissed as just another gangbanger, drug dealer, or delinquent.

Jesse stood accused of attempted first-degree murder. Two victims and two eyewitnesses positively identified Jesse and an adult codefendant as the two assailants who had shot a gang chieftain and his subordinate one hot Friday evening in August 1996. Because of the seriousness of his offense, Jesse, after a hearing in juvenile court, was transferred to criminal court, where he was prosecuted as an adult.

After a bench trial in January 1998, Jesse was found not guilty of all charges and released from imprisonment for the first time in over a year. This was not the product of brilliant obfuscation or sly courtroom tactics but rather hard work and a steadfast belief in his innocence. There isn't enough space to tell the full story of Jesse's trial; of the many dedicated law students who worked so diligently to free Jesse; and of my supervising attorneys—paragons of professionalism, competence, and ethical conduct as well as consummate teachers.² Instead, I will focus on the story of Jesse and his diminutive gang colleagues from the Satan Disciples and the education I received from these high school dropouts. During my sometimes friendly, sometimes

Continued on page 12

Continued from page 11

terrifying contact with them, for the first time I came to know drug dealers and gangbangers not in the abstract, but as real, individual human beings.

"I Wanna Make a Change"

I came to law school extremely intolerant of crime. Before I knew Jesse and his friends, I would have applauded his transfer to criminal court as a "get tough" solution that would put another teenage superpredator safely behind bars for decades. After getting to know Jesse and his friends, I understand that such measures are not solutions but politically expedient, futile delusions. I'm still intolerant of criminality—I plan to become a criminal prosecutor after law school—but now I recognize why so many young people are attracted to gangs and drugs. I understand the formidable environmental and peer pressures on young men to join gangs in many neighborhoods.

To some "shorties"—junior foot soldiers—the gang was their only real family. The gang cared for them and gave them a sense of belonging. To others, gang membership was a form of life insurance—shorties joined to survive, avoid the constant hazing of fellow gang members, or receive protection from rival gangs. The older, more experienced gang leaders—"chiefs" like the one Jesse had been accused of shooting—exploited the shorties. The chiefs mistakenly believed that the shorties' youth would help them escape prosecution or serious sentences.

All of the shorties were eventually caught for one offense or another. Sometimes I would ask about one of them and would be told, "Oh, he's locked up." The gang members would say this with the same nonchalance a person might use to describe a colleague who had taken a sick day from work.

According to the shorties I spoke with, one could either leave the gang or advance in the ranks through ruthlessness and guile. Shorties who wanted to get out of the gang either simply tried to avoid their fellow gangbangers or were "violated"—a formal renouncement of gang affiliation that involves getting beat up by the largest, most fearsome gang members. Ambitious shorties would wind up dead, locked up, or graduate to higher leadership. "Graduate" was a particularly apt term. In the language of the gangs, a trip to the juvenile Department of Corrections was called, grotesquely, "getting your bachelor's," while a trip to adult prison was called "getting your master's." Those fortunate enough to matriculate to the federal penitentiary received their "PhD." Criminal experience and punishment earned as much respect in the gang world as degrees do in the academic world.

In many ways the gang resembled a Dark Ages medieval order. Members observed a bastardized, unholy form of chivalry. Their organization had a clear chain of command, complete with titles and responsibility. They maintained a perverse sense of honor based more on machismo than valor. Disrespect was punishable by death. Graffiti, tattoos, hand gestures, colors, even the angle of a baseball cap or the fold of a high-top sneaker held precise meaning for them. People were killed over these ridiculous appurtenances. Gangs marked and guarded their territorial boundaries as zealously as a jungle cat.

Perhaps most sobering was the aura of tragedy I observed in the little gangsters I knew. Like Hamlet, they were angst-ridden yet enamored by what they saw as their tragic destiny. Many were painfully aware that their lifestyle would eventually lead to death or incarceration. They grieved over their friends who were brutally, senselessly killed. Nevertheless, they would not change their lifestyle. I remember a hip-hop song—"I Wanna Make a Change"—that came out when I became acquainted with the Satan Disciples. The song is about a man caught in the circle of gang violence who wants to get out but cannot. The young gangsters loved the song, blasted it on their stereos, knew the words by heart and sang along. Curious, I asked a few of these young men if they understood what the song meant. To my surprise, they did.

Of all my experiences with these shorties, one in particular stands out in my memory. One warm summer evening I was standing on a street corner talking to shorties in Jesse's neighborhood when three undercover police cars came roaring down the street. Undercover officers erupted out of the car and immediately ordered everyone but me against the wall to be rudely and unceremoniously searched. Although I have the highest respect for law enforcement officials, I wondered why they treated me differently. Maybe it was because I was neither Chicano nor African American; maybe it was because I was holding a yellow pad and a pen. For whatever reason, the police ignored me as if I were not even there. Several minutes later, the police cars sped away, and the shorties stooped to the ground to pick up the contents of their pockets and their clothes, which had been carelessly intermingled and strewn all over the street.

Tragedy and Triumph

I later learned that one of the shorties standing on the street that night actually committed the crime for which Jesse had been falsely accused. Jorge was Jesse's longtime friend.

Although he never actually confessed, all of the circumstantial evidence implied that he had committed the crime. Since Jorge was still a juvenile, we had to obtain permission from his legal guardian—his aunt—Alice, before we could talk to him. I drove to Alice's house, introduced myself, and asked her if she could accompany me to our offices to discuss a legal matter with her nephew.

On the way Alice thanked me for coming and said she "thought God had sent me." Exceptionally open and candid, she told me that one of her sons had been shot and killed two years before. She adopted Jorge because Jorge's mother, a drug addict, forfeited her parental rights when the juvenile court learned that she allowed Jorge's 14-year-old sister to work as a prostitute. Alice told me that although Jorge had had his share of problems with the law, he had recently been doing very well and had even received a glowing, unsolicited letter of recommendation from a judge praising Jorge's rehabilitation progress.

I led her into the room where Angela Coin, my supervising attorney, explained to Alice why we needed to speak with her. After hours of discussion between Alice, Angela, and Jorge, Alice eventually emerged from a quiet room, her arm on Jorge's shoulder, saying "we're going to do the right thing." But, despite a subpoena, Jorge failed to show up in court, and the judge issued a warrant for his arrest. Last I heard, Jorge was still at large.

While Jorge's tragic life remained that way, Jesse was about to experience a tragedy that would lead to triumph. Jesse had an older brother, Antonio, who had avoided joining a gang or getting into trouble. Antonio was a highly motivated high school student who worked part-time in a local pizzeria and hoped to go to college. He was extremely reliable and had been indispensable in helping us acquire information for Jesse's case. I remember talking to him at his house one evening about Jesse's case. The next day, Antonio was shot in the head in a drive-by shooting. He died a few days later. The death of his older brother deeply affected Jesse. Because of security risks, he could not even attend Antonio's funeral.

After Antonio's death, Jesse underwent an uncanny metamorphosis. He became like Antonio. Physically, he grew taller and darker, and his face literally transformed to resemble Antonio's. What had been a little boy developed into a young man before my eyes. Although his physical metamorphosis may have been a coincidence of puberty, his change of character was unmistakable. Jesse demonstrated newfound maturity. When I first met Jesse, he tended to be passive and essentially agreed with anything I suggested. Now, however, Jesse began to take

initiative, make proactive suggestions, and show concern about his long-term future. All of the students and faculty involved in Jesse's case agreed that Antonio's tragedy had managed somehow to influence Jesse for the better. After Jesse's acquittal, he finally made a decision he had postponed too long. Before the trial, whenever we asked him if he intended to stay in the Satan Disciples, Jesse said that he didn't know. After the trial, Jesse decided to leave the gang. He concluded that "all it has brought me is trouble and jail."

Today, more than ever before, there is a nationwide movement to get tough on juveniles accused of serious crimes. Although prosecuting juveniles as adults may be good politics, policy makers and voters might be hesitant to support unsophisticated policies if they actually got to know individual children, like Jesse, accused of serious crimes. That is the greatest benefit of clinical legal education: It provides perspective and experience. We could all benefit from the perspective and experience of representing the indigent and marginalized clients of legal clinics and other legal assistance programs.

Postscript: "They really help."

While I was going over this article with Jesse, I asked him if there was anything he wanted to add. Jesse answered, "Just that I feel that the law students in the Legal Clinic really try to help people out—not just when they're locked up. They also help them straighten out their life. I used to think that lawyers are mostly in it for the money, but not these folks. They really help."

We have managed to place Jesse in Chicago's Mercy Boys Home, a nationally acclaimed home for young men run by the Catholic Church. We could not have hoped for a better result for him.

Will Rhee is a third-year student at Northwestern University School of Law. Next year he will clerk for Judge Sam J. Ervin III of the U.S. Court of Appeals. Will then plans to become a criminal prosecutor.

¹ All names, except those of clinic students and faculty, have been changed to protect anonymity.

² My supervising attorneys were and continue to be Professor Thomas F. Geraghty, associate dean of clinical education, and Angela M. Coin, director of the Community Law Clinic. The remarkable law students who assisted Tom and Angela included Bil Barnes, Jaime Barrigan, Dao Bernardi-Boyle, Robert Conrad, Kathy Glennon, J.C. Lore, Melissa Luttrell, Maria Minor, John O'Brien, Zach Silverstein, Chris Skey, John Whitney, and any others I may have thoughtlessly forgotten. I'd take this "dream team" over Johnny Cochran, F. Lee Bailey, or Gerry Spence any day.

A Victory for Students with Disabilities in the Chicago Public Schools

by Bruce Boyer

On February 19 the Legal Clinic won a landmark victory on behalf of the more than 50,000 Chicago Public School children with disabilities. In a strongly worded decision, Federal District Judge Robert W. Gettleman found the Illinois State Board of Education (ISBE) liable for the illegal segregation of Chicago Public School students with disabilities.

The class action lawsuit, *Corey H. v. Chicago Board of Education and Illinois State Board of Education*, was initiated in 1992 by the Legal Clinic's Special Education Project, which had extensive experience in representing, advising, and training parents of students with disabilities. The suit was brought by former clinic faculty Laura Miller Eligator and Nancy Gibson, working with Northwestern alumna Sharon Weitzman Soltman '83 and Designs for Change, a Chicago-based educational research and reform organization.

The *Corey H.* lawsuit is the most comprehensive and far-reaching effort to date to hold states accountable for the requirements of the federal Individuals with Disabilities Education Act. Federal law since 1975 has required school districts to maintain a full "continuum" of placement options for students with disabilities. One of the act's central mandates requires school districts to ensure that students with disabilities are educated in the "least restrictive environment" (LRE) appropriate for each individual's needs. The lawsuit charged that the defendants supported practices, such as separate classrooms and schools and private placements, that unnecessarily separated students with disabilities from their nondisabled peers and did not give students the support necessary to succeed in the regular instructional program.

The plaintiff class was represented during the four-day trial in October by Soltman and by clinic faculty John Elson and Bruce Boyer. They presented evidence that Chicago students with disabilities for years have been unnecessarily educated in separate classrooms and schools and often are bused far from their homes. For example, Chicago perennially places more than three-quarters of students with mild cognitive disabilities in restrictive settings, but education experts say that up to 90 percent of all such children can be educated in regular classroom settings with appropriate supports.

In ruling against the ISBE, Judge Gettleman agreed with the plaintiffs' contention that the ISBE—as the state agency charged

with implementing the requirements of federal law—must play an active role in guaranteeing that local school districts meet the federal LRE mandate. Judge Gettleman found that contrary to federal law, Chicago's students with disabilities "languished in an atmosphere of separate and unequal education for children with emotional, mental, and behavioral disabilities" and that the "Chicago Public Schools have been and continue to be saddled with archaic notions of educating children with disabilities in restrictive placements determined more by the categories of their disabilities than by their individual needs." Judge Gettleman said that the "ISBE has not only failed to meet its statutory responsibility to ensure compliance with federal law but has in certain respects impeded compliance by what appears to be a disregard for its duties."

Citing the language of the landmark decision in *Brown v. Board of Education*, Judge Gettleman concluded: "As the Supreme Court ordered in connection with racial integration, the state should act 'with all deliberate speed' to correct the segregation that afflicts disabled children in Chicago." His opinion directs the ISBE to craft a remedial plan to redress the long-standing violations of federal law in the Chicago Public Schools, including monitoring and correcting Chicago compliance problems, ensuring that teachers and administrators are properly trained to educate students in the least restrictive environment, and ensuring that state funding formulas and teacher certification requirements support the LRE mandate.

The decision against the ISBE followed the court's approval in January 1998 of a comprehensive settlement between the plaintiffs and the second defendant, the Chicago Board of Education (CBE). As a result of this settlement, major remedial efforts in fact have been under way for several months. Under the settlement with the plaintiffs, the CBE has committed approximately \$24 million to a comprehensive, school-based effort to retrain teachers to meet the needs of disabled students in the least restrictive environment. Individual schools over three years will develop and implement LRE-related programs tailored to the needs of their populations of children with disabilities. The Chicago Public Schools will allocate approximately \$3 million a year for each of the next eight years to support school-level training, planning, and hiring of additional staff.

The settlement with the CBE and the decision against the ISBE together represent major steps forward in the clinic's effort to meet the needs of disabled students in the Chicago Public Schools.

East Meets West: Exchanging Ideas on Juvenile Justice

by Angela M. Coin

This fall, as a guest of the United States Agency for International Development and the University of Alaska, I gave the keynote speech at a forum on juvenile justice in Yhuzno, Sakhalin Island, in the Russian Far East. The purpose of my visit was to describe the system of juvenile justice in the United States and to exchange ideas about the new directions both systems could take to improve the way children and families are treated.

I found many similarities between the American and Russian juvenile justice systems. As I identified the weak points of the Russian system, I saw similar problems with ours. Our mutual problems include a shortage of treatment and rehabilitative options for sentencing, an overcrowded court system, and a limited amount of training and mentorship programs available for the judges and attorneys who work with children in the juvenile justice system.

Sakhalin and its Russian neighbors have a thriving community of child advocates and progressive models of juvenile justice. While in Sakhalin I interviewed judges, prosecutors, administrators, social workers, and teachers. My conversations with them alerted me to the successes of their juvenile justice system, which is deftly withstanding the pressures that threaten to overwhelm it. Rather than emphasize punishment or deterrence, the Soviet criminal justice system continues to place a priority on the rehabilitation of children—a fundamental notion underlying the system throughout its history. The Russian system treats children's cases as the most significant in the criminal justice system.

Juvenile justice advocates in the United States and Russia share many of the same ideas about the ways society should respond to the delinquent acts of its youth. Both countries believe it is essential to recognize the causes and consequences of a child's involvement in the justice system. To respond to this concern, Sakhalin and other regions in the Russian Far East have implemented a system of "special schools." Children under 14 accused of delinquent offenses are brought before an administrative commission—a committee of government workers and other professionals. The commission is responsible for resolving the problem caused by the delinquent act—perhaps requiring restitution to the victim or a public apology. In the most severe cases—where a child lacks the discipline expected of one his

age—he is sent to a residential "special school," where the children farm, study, and participate in recreational activities. The commission reports that, since 1991, 90 percent of the Sakhalin school's former students have not committed further offenses within three years of leaving the institution.

The Russian system assigns only the most experienced judges to juvenile cases. I interviewed one of these judges. She singled out the United States's creation of a juvenile court system as a progressive way to address juvenile crime. She also explained, however, that in the unified Russian court system—which accommodates both adults and children—children's cases are handled with much greater diligence than adult cases. They are also based on the notion that corrective behavior does not necessarily require a deprivation of freedom—made evident by the small number of Russian children who are sent to labor camps or prison under their criminal system. Russian judges retain the option to impose the appropriate length of sentence and cannot impose a sentence of greater than 10 years to any child under the age of 16.

The greatest differences between the American and Russian systems became evident when I spoke with the chief prosecutor of Sakhalin. She explained how traditions from the Soviet criminal justice system have endured. The Russian criminal justice system contains elements that could not exist in the American legal system. As in the United States, prosecutors in juvenile cases are the voice of the victim and the community. A Russian prosecutor, however, is also responsible for protecting the children in the criminal system. He or she must gather all the evidence both for and against the child and bring every relevant fact about the child's life before the court for the sentencing.

In addition to recommending to the court how best to serve the child's interests, the prosecutor also is required to ensure that the sentence or aftercare plan is carried out by the parents, police, community, or relevant agency. A defense attorney's only responsibility is to be sure that the exculpatory evidence that has been collected by special juvenile inspectors is, through the nonadversarial examination of witnesses, thoroughly considered by the court.

I left Sakhalin Island with a sense that, across land and oceans, we fight similar fights, overcome similar obstacles, strive for similar goals, and value the same national treasures—our nations' children.

Angela Coin is an instructor in the Legal Clinic and the director of the Community Law Clinic.

Faculty News

Cynthia Grant Bowman continues to write primarily in the area of law and women and has several articles forthcoming: "Should the Law Regulate the Public Harassment of Women?" in the journal *Perspectives on Social Problems*; a bibliographical essay on women and the legal profession in a forthcoming bibliography on feminist jurisprudence, *Women and the Law*; and an article about the influence of feminist legal theory on the legal profession in a *Fordham Law Review* symposium.

Cynthia served as chair of the Society of American Law Teachers (SALT) Conference on Affirmative Action, held at the City



University of New York Law School in April 1997. She also made a presentation on the use of clinical teaching methods in professional responsibility courses to a panel at the SALT teach-

ing conference on Reconceiving Legal Pedagogy: Diversity in the Classroom, Clinic, Theory, and Practice, held in September 1997 at American University in Washington, D.C.

Cynthia continues to be active as a spokesperson to the media. In February 1997 she appeared on the A&E television network's program *Investigative Reports* discussing same-sex marriages. In May 1997 she discussed the Kelly Flynn case (the adultery court martial of the first woman B-52 pilot) on *Chicago Tonight* on WTTW-TV (PBS). In April 1997 the *Chicago Tribune* published her opinion editorial, "Keep Third-Party Malpractice Suits against Therapists Out of Court."

In 1997 Cynthia also drafted and filed two amicus curiae briefs in the Illinois Supreme Court on behalf of nonprofit organizations. Both briefs concerned the legal treatment of claims arising out of allegations of childhood sexual abuse based upon recovered memories. The first, in *M.E.H. and D.M.H. v. L.H. and G.H.*, was on behalf of the Illinois Coalition Against Sexual Assault. The second, in *Doe v. McKay*, was on behalf of 15 nonprofit organizations concerned with the legal treatment of survivors of childhood sexual abuse and the liability of the therapists and counselors who treat them.

This fall **Bruce Boyer** continues to work on behalf of clients in juvenile court, focusing on children who have been neglect or abuse victims. These clients, who range in age from several months to 18 years, have presented a broad range of challenging problems and issues.

In addition to his work on behalf of individual clients, Bruce has also been actively involved in several class actions. One of these cases, *Corey H. v. The Chicago and State Boards of Education*, is discussed in more detail on page 14. In another ongoing class action, *Willingham v. DCFS*, brought in June of 1996, Bruce filed suit against the Department of Children and Family Services, charging the agency with mismanaging the Social Security benefits it receives on behalf of some 2,000 disabled children in foster care. The suit has been certified as a class action, and with help from clinic attorney Derrick Ford and law students Alycia Broz and Siobhan McCambridge, Bruce is now in the midst of pretrial discovery.

Bruce has also been actively involved with a coalition of Illinois organizations providing representation to children who

are at risk of losing Social Security Disability benefits in the wake of the 1996 welfare reform legislation (see page 4). The clinic's recent involvement with children's SSI cases represents part of a broad-based effort to meet a critical demand for legal services to needy families at risk of losing essential financial support.

Last year **Bob Burns** won the Robert Childress Award for teaching excellence;



this year students voted him Outstanding Professor of a Small Class for his teaching in the legal ethics workshops that are coordinated with Trial Advocacy and

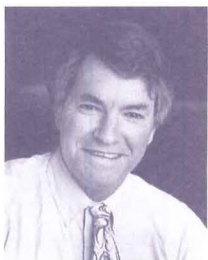
Evidence. Bob published an article in the *Georgia Law Review* on the nature of the American trial and its importance to our political culture. In spring 1997 he was invited to a conference on legal ethics teaching at the College of William and Mary School of Law, where he was one of the principal speakers. An expanded version of his remarks will soon be published by the *William and Mary Law Review* under the title "The Purposes of Legal Ethics and the Primacy of Practice."

Angela Coin recently returned from an international exchange with juvenile justice specialists on Sakhalin Island in the Russian Far East. She gave the keynote presentation at a forum on developing new ideas and laws to deal with juvenile delinquency (see article on previous page).

Steven Drizin has become increasingly involved in analyzing and commenting upon pending juvenile justice legislation. Last September Steve helped organize a one-day roundtable at Northwestern: "Juvenile Justice Reform in Illinois" (see page 3). Over 300 people attended the conference, which featured nationally and locally renowned juvenile justice experts.

In October Steve was a featured panelist at the Juvenile Defender Leadership Summit, which also was held at Northwestern. This first-ever summit brought together juvenile defense attorneys from all 50 states to brainstorm about pressing juvenile justice issues. Steve organized and moderated a panel titled "Balanced and Restorative Juvenile Justice: Developing a Defense Perspective."

John Elson was an invited speaker at a symposium on "Teaching Professionalism: The Role of Clinical Education" held in October 1997 at the University of Tennessee College of Law in Knoxville.



His talk, titled "Why and How the Practicing Bar Must Rescue American Legal Education from the Misguided Priorities of Legal Academia," was published by the

University of Tennessee Law Review (64 U. Tenn L.R. 1137 [1997]).

John and his clinic students are co-representing clients of the Legal Assistance Foundation of Chicago whose cases present issues warranting more complex fact investigation or legal research. John and his students are also working on the cases of clients who have been taken advantage of by their divorce attorneys. In one such case,

the Illinois Appellate Court established a new standard of accountability for attorneys accused of coercing their clients into sexual relationships. In December 1997, John received the Distinguished Public Service Award from the Public Interest Law Initiative, which honored John's work primarily on behalf of women whose attorneys have taken advantage of them sexually (see sidebar on page 4). Elson addressed about 110 attendees at the Chicago Club luncheon, where he remarked, "We need to develop a legal culture that looks upon lawyers who are willing to challenge other lawyers' exploitive practices as representative of the highest ideals of the profession rather than as turncoats or troublemakers." PILI provides fellows and interns to 45 public interest agencies in Chicago and receives support from more than 30 law firms.

In another case, which was won in the Circuit Court but is now on appeal, John intervened personally to defend the constitutionality of new legislation. The legislation, which he had testified and lobbied for and helped draft, safeguards divorce clients from a variety of exploitive attorney fee practices.

Derrick Ford has continued his work in the areas of special education and delinquency. This semester his students are working on immigration cases involving juveniles from such countries as Sri Lanka, Mali, and Honduras who are facing deportation. Derrick also has begun a project with the Cook County Department of Corrections to help improve educational services, especially those focusing on special education for pretrial detainees. This summer two students who are

working with Derrick and Steven Drizin will be arguing before the Seventh Circuit on behalf of a 17-year-old Laotian refugee.

Tom Geraghty was a team leader at the National Institute for Trial Advocacy's national session last summer. He is mid-west regional director of that organization. This year a record 120 lawyers attended NITA's midwest regional session.

Tom continues to supervise students on criminal and juvenile cases. In January 1998 Tom directed a five-day program titled "Training the Child Advocate," hosted by the School of Law. Tom, along with Steven Drizin, wrote the introduction to a symposium on juvenile justice titled "Justice for Children: How Do We Get There?" (*J. Crim. L. & Criminology* 88, forthcoming, 1998). Another article by Tom and Steven Drizin, titled "The Debate over the Future of Juvenile Courts: Can We Reach Consensus?" will appear in that same issue.

Over the summer Tom organized a conference of African law teachers and continues to work with the American Bar Association's African Law Initiative to support the Addis Ababa University School of Law in Ethiopia (see page 4).

Cheryl Graves was selected to chair the board of directors of the Girl's Best Friend Foundation, which funds innovative and strategic programming and research initiatives benefiting girls in Illinois. She continues to coordinate Girl Talk, a weekly program for girls incarcerated at the Cook County Temporary Detention Center (JTDC) that provides gender-specific programming on a wide range of issues.

This year Cheryl is working with a number of community-based youth organizations to expand Street Law, a law-related education program, into new venues. Northwestern students currently

participate in a joint program at the JTDC with Loyola University Chicago law students to teach incarcerated youth about basic legal issues related to the juvenile justice system. A broader project involving law students, attorneys, and peer educators is in the works; the project will facilitate Street Law sessions in schools, community centers, and libraries throughout the city.

Although the recent birth of their five children was overshadowed by the Iowa septuplets, the new quintts are certainly keeping **Steve Lubet** and Linda Lipton on their toes. They are thought to be the oldest parents of quintuplets in North America—"one for every decade," joked Steve.

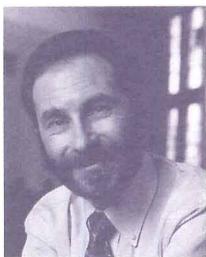
Students, however, need not worry that the demands of middle-aged fatherhood might diminish Steve's attention to the law school. The trial advocacy program is bigger and more successful than ever. In fact, last year was somewhat of a milestone, as enrollment in the basic trial advocacy course was, for the first time, larger than the entire student body of the law school.

Many of you know about Steve's alternate career as a journalist, so you may have already heard that he was just appointed interim humor editor of *News and Notes* and the *National Enquirer*. What you may not know is that Steve was also offered the same position at the *Northwestern University Law Review*, though he turned it down to accept the *Enquirer's*

offer. "It was a tough choice," said Steve. "The *Law Review* offered more money, but the *Enquirer* was the greater challenge. I just didn't think I could top the tradition of satire already perfected at the *Law Review*."

Larry Marshall and his students continue to work in the area of criminal defense, although they also represent several plaintiffs in civil rights actions growing out of wrongful arrests and imprisonment. Last spring Larry's clinic group drafted a bill entitling convicted prisoners to DNA testing when that new technology may prove the prisoner's innocence. Thanks to enormous effort by Greg O'Reilly of the Cook County Public Defender's Office and the bill's sponsors (Sen. Ed Petka and Rep. Peter Roskam), the bill passed both houses, and Governor Edgar signed it into law last summer. Larry's clinic group is now representing a number of inmates who are seeking testing pursuant to the new measure.

Larry has been speaking throughout the state on the issues of wrongful convictions and the death penalty (see his testimony on page 5). Together with a large group of volunteers, Larry and the Legal Clinic are now working on a planned November 1998 National Conference on Wrongful Convictions and the Death Penalty. This conference hopes to bring together most of the 70 individuals who have been found innocent after having been sentenced to death as well as the lawyers, experts, and activists who work in this area.



Status Report: Selected Clinic Cases

Juvenile Delinquency

Carl A.'s case was brought to the attention of clinic attorney Cheryl Graves in April 1997 by the Prison Action Committee (PAC), a nonprofit organization that advocates the rights of prisoners in Illinois. Carl's mother had contacted PAC during her quest to find help obtaining her son's release from the Illinois Youth Facility (IYC) in Joliet. The IYC Joliet is a maximum security facility for juvenile offenders. In 1992 Carl was charged with possession of a stolen motor vehicle, for which the recommended period of incarceration is eight months. However, Carl had been incarcerated for almost five years and was not scheduled for release until November 1998.

Upon meeting Carl and investigating his background and the circumstances of his extended incarceration, it became clear that Carl had serious emotional, behavioral, and educational needs. However, the prison system had done little to address Carl's needs other than to extend his time and place him in increasingly restrictive facilities. Clinic students Mike Hammel and Donyelle Grey logged numerous hours meeting with Carl, his family, prison officials, DCFS caseworkers, counselors, and others in an attempt to assess Carl's needs and decide upon an appropriate plan of action. Carl's response was so positive that he was able to be moved from a restricted unit at Joliet to the "honors" section of the facility.

By September, there was consensus on a comprehensive aftercare plan for Carl's "early" release and successful reintegration into the community. Because of the plan developed by the Legal Clinic, prison officials were willing to move Carl's parole date forward. Following a grueling parole hearing, Carl was released on October 16—in time for his 18th birthday. The clinic continues to work with Carl to advocate his interests as he adjusts to a life of freedom.

Domestic Violence

Students working in the Family Violence Relief Project under the supervision of clinic attorney Zelda Harris confront the issue of domestic violence in a variety of settings. Two case studies illustrate the point.

In summer 1996 we represented **Tess,*** who sought a divorce from her husband, Albert. The case took place in domestic relations court. Tess had repeatedly been seriously abused by Albert, and the abuse was witnessed many times by their son, Donald. During the course of the litigation, Donald almost became a victim of his father's attempts to harm Tess. One evening Albert tried to set the family home on fire while Tess and Donald were inside. Albert was charged, incarcerated, and released pending his trial in felony criminal court. Albert had trouble with the law in other ways, too. He had been arrested several times for violating an order of protection that specifically prohibited Albert from harassing, stalking, assaulting, or communicating with Tess. He also had refused to pay child support.

Only after a year and a half of court-imposed delays, referrals to mediation, and assessment and appointment of an attorney and guardian ad litem for the child did the judge decide that Tess was entitled to full custody of Donald and could leave the state with him. Albert's visitation rights were reserved pending the results of a psychiatric evaluation. The court's decision was based in large part on the attorney's and guardian ad litem's recommendations, not on Tess's credibility. The court's response suggests that victims of domestic violence are not to be believed or, through court-imposed mediation, can bargain their way out of an abusive relationship.

Although Tess was pleased that she could finally leave the state, she and her child were devastated by the process. By failing to act in a timely fashion, the court had effectively risked both Donald's and her safety.

Kathy and Bob were married and had a six-month-old daughter named Sally. Kathy called the police to inform them that Bob had molested Sally. After a hearing, in which the court determined that Kathy could not protect Sally from future harm by Bob, the juvenile court took custody of Sally. Bob had also physically abused and threatened Kathy. The juvenile court, however, refused to return Sally to Kathy's custody. Unlike in Tess's case, the juvenile court readily believed that Kathy was a victim of domestic

Continued on page 20

*The names of the parties have been changed to protect the privacy of the persons involved.

Continued from page 19

violence. But the court viewed Kathy's "victim" status as a reason not to entrust her with Sally's well-being. The juvenile court response was unfair to Kathy and Sally because it held Kathy responsible for Bob's conduct and removed Sally from her primary care-provider. After four years, the juvenile court terminated Kathy's parental rights to Sally, claiming that Kathy was unfit to parent because she had failed to protect Sally from Bob. Like the domestic relations court, the juvenile court—to Sally's ultimate detriment—held the mother responsible for the father's abusive conduct.

Criminal Defense

People v. Dino Titone

In July 1997 Judge Earl Strayhorn annulled the conviction of Dino Titone based on evidence that Titone was tried and convicted by a corrupt judge, Thomas Maloney, who is now serving a sentence in federal prison. Judge Strayhorn's ruling was prompted by the evidence presented by the Legal Clinic that Judge Maloney attempted to extort money from Titone's family to secure a not guilty finding, and by additional evidence developed by the federal government regarding the extent of Judge Maloney's corrupt activities in other cases. This evidence has resulted in the reversal of at least one other conviction presided over by Judge Maloney. Dino Titone is scheduled to be retried in early 1998.

In his ruling, Judge Strayhorn spoke eloquently. "I cannot truly articulate the pain that I have borne in listening to the horrible things that went on in this case in what is supposed to be a courtroom of law and justice," he said. "And no amount of procrastination on my part, no amount of reluctance on my part, can wipe out the fact that under the circumstances that have been presented here what went on in that courtroom ... was not justice. And that Dino Titone did not receive the kind of a fair, impartial trial before a fair, unbiased, impartial judge that his constitutional right as a citizen required.

"I am going to reconsider my prior denial of Titone's motion that this ... entire corrupt process be wiped off the books, and that he be given an opportunity to have his case heard in a courtroom not tainted and besmirched with a corrupt judge and a corrupt defense attorney, but that he be given the kind of a trial that our Constitution promises to every citizen charged with a violation of criminal laws of this state or of the United States. And I'll write an opinion to that effect."