

# News & Notes

Northwestern University School of Law

Winter 2004

## Bluhm Legal Clinic Students and Faculty: Recent Successes

inside

*Report from the Clinic Director,  
Significant Cases, Faculty  
Reflections, and Past and  
Present Students' Reflections*

### Steven A. Drizin

Clinical Associate Professor of Law and Assistant Director,  
Bluhm Legal Clinic

**B**luhm Legal Clinic faculty and students recently won an impressive number of cases for clients in juvenile, appellate, political asylum, wrongful conviction, and criminal matters. Director Thomas F. Geraghty '69, clinical assistant professor Cathryn S. Crawford '96, and their students won two juvenile delinquency trials. Students Amanda Fanaroff '05 and Aliza Kaliski '05 record their impressions of one of these victories in an essay on page 7. Clinical fellow Lauren G. Adams '99, along with former clinical assistant professor Angela Coin Vigil '95 and their students, obtained an acquittal on behalf of a juvenile charged with murder in a rare juvenile court jury trial, in which the prosecution petitioned for an Extended Jurisdiction Juvenile proceeding. Adams describes the proceedings of their case on page 5.



Steve Drizin

In the area of political asylum, students led by clinical associate professor Ora Schub and clinical assistant professor Vanessa Melendez Lucas won political asylum for five clients in proceedings before immigration judges and the Bureau of Citizenship and Immigration Services. Two of my students also won an asylum case in April on behalf of a young woman from Zimbabwe. Summaries of these and other political asylum cases handled by the clinic can be found on page 5.

Clinical assistant professor Karen L. Daniel recounts on page 4 how DNA tests helped free two clients. Michael Evans and codefendant Paul Terry were released after serving 27 years in prison when DNA testing obtained by Daniel and her students proved that the genetic material found on the murder victim did not come from

these two men. In another case, Dana Holland, who served 10 years for rape and aggravated assault, was freed when DNA tests excluded him as the source of semen recovered from the rape victim. Daniel also describes how the recantation of key testimony and finding of ineffective assistance of counsel resulted in federal habeas relief for Randy Steidl, who was sentenced to death for the 1987 murders of a couple in Paris, Illinois. Daniel and clinical assistant professor Jane Raley led a team of students in preparing the briefs, and professor Lawrence C. Marshall '85, legal director of the Center on Wrongful Convictions, argued the case in court.

On the same day the court handed down the Steidl decision, Crawford and her students, along with Geraghty, won a not guilty verdict on behalf of Maria Gabriel, Crawford's client of five years, who was charged with the murder of her newborn daughter. Crawford's efforts on Gabriel's behalf helped win this case, which is described on page 3.

In addition to these and other trial victories, two of my students won an appeal of a juvenile's murder conviction and other students helped write amicus briefs on confession issues in Wisconsin and New Jersey appeals. Working with me, students initiated a clemency project for juvenile offenders. We will seek relief in the form of parole, commutation, or pardon on behalf of reformed juvenile offenders before state parole boards and governors.

Finally, Illinois governor Rod Blagojevich signed into law the first statute requiring police officers to electronically record interrogations of suspects in homicide cases. Many Northwestern Law students and faculty contributed to this reform effort, including Beth Colgan '00, who shares her reflections on this historic achievement on page 6.

In my 12 years at the clinic, we have won and lost many cases, but have never experienced such a succession of hard-fought victories. On the occasions when we do lose a case, each loss is treated as an opportunity for self-reflection and a chance to learn from our mistakes. Our success during the last year is a tribute to the dedication of our clinical faculty, the hard work of our staff, and the determination and excellent lawyering of our students. It is truly a team effort.



## Report of the Clinic Director

### Learning From Victory (and From Defeat)

By Thomas F. Geraghty, Professor of Law, Associate Dean of Clinical Education, and Director, Bluhm Legal Clinic

The accounts in this issue of *News & Notes* tell the story of the Bluhm Legal Clinic's involvement in cases that contribute to systemic change while providing students with the opportunity to obtain justice for clients desperately in need of skilled legal representation. These two objectives — education and service that contribute to systemic change — are hallmarks of our clinical program.

Students and faculty members who represent our clients display remarkable teamwork. In addition to the essential components of research, writing, and motion practice, each case described in this issue involved on-going interviews and consultations with clients and required students and faculty to conduct extensive investigations, sometimes with the help of professional investigators.

Faculty observed students as they participated in negotiations over aspects of the proceedings such as scheduling trials and ordering evidence. In each case they had to make strategic decisions about whether to ask for a jury or a bench trial, which witnesses to call, how to conduct direct and cross examinations, and how to present opening statements and closing arguments. At the heart of each planning session students identified the theory of the case and continued to test that theory as trial preparation proceeded.

Most of the cases also involve testimony from expert witnesses, such as DNA experts, psychiatrists, psychologists, pathologists, and neonatologists. Students studied these fields in order to prepare their direct and cross-examinations. They came to understand the practical problems involved in the presentation of expert witnesses, including the use of technology in the courtroom as well as the evidentiary and policy implications of relying on expert testimony in general.

Finally, students and faculty worked together in the trials and hearings in these cases. Students were extensively mooted by faculty and peers so that when they were called upon to perform in the courtroom, they did so with distinction.

Lawyers who try cases know how exhilarating it is to win and how devastating it can be to lose. Winning and losing are both part of lawyering. We focus here on cases in which we have been successful, though we do not mean to imply that we never lose. With each case student-faculty teams discuss the prospect of losing. They consider how



Tom Geraghty

the possibility of a loss may impact current thinking about a case and how it may affect our assessment of the way in which we represented a client. When we lose a case, we conduct extensive reviews with our students about what could have been done differently and what steps can be taken to pursue the objectives of our clients. We also seek the views of lawyers outside the Bluhm Legal Clinic about the quality of our representation.

I hope you share with me the enthusiasm for providing students with the kind of experiences described in this newsletter. I am grateful to our students, faculty, staff, and supporters of the Bluhm Legal Clinic for making possible such meaningful education and service.

A final note: I am sad to report that Marion Cagney, a long-time legal assistant, died earlier this year. It was apparent to all that Marion was devoted to her clinic family. She was the first person in the door in the morning and the last to leave at the end of the day. She was dedicated to serving others and will be missed.

Thanks and farewell to Angela Coin Vigil '95, who left her position as a clinical assistant professor of law this spring to become director of pro bono programs for Baker & McKenzie. Angela's work is described in this newsletter. She was, and continues to be, an inspiration to us all.



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Steven A. Drizin, *Assistant Director*  
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#### Children and Family Justice Center

*CFJC is a holistic children's law center, a clinical teaching program, and a research and policy center engaged with a major urban court, the Juvenile Court of Cook County.*

Bernardine Dohrn, *Director*  
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#### Center for International Human Rights

*CIHR conducts academic and practical work in support of internationally recognized human rights, democracy, and the rule of law.*

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#### Center on Wrongful Convictions

*CWC is dedicated to identifying and rectifying wrongful convictions and other serious miscarriages of justice. The center has three components: representation, research, and public education.*

Lawrence C. Marshall, *Legal Director*  
Rob Warden, *Executive Director*  
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#### Small Business Opportunity Center

*SBOC is a student-based clinical program providing affordable legal assistance to entrepreneurs, start-ups, and not-for-profit organizations.*

Thomas H. Morsch, *Hochberg Family Director*  
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### Federal Habeas Relief for Death Row Inmate

Randy Steidl may soon become the latest innocent former Illinois death row inmate to be exonerated. Steidl was sentenced to death for the 1987 murders of a young couple in Paris, Illinois. A codefendant, Herb Whitlock, was also convicted and received a life sentence. Steidl has always maintained his innocence, and the state's case began to unravel after the trial when both of the state's alleged eyewitnesses recanted their testimony (though they later withdrew their recantations).

The Supreme Court of Illinois affirmed Steidl's murder conviction although, after a new sentencing hearing, his sentence was reduced to life in prison. Steidl's postconviction attorneys, Michael Metnick and Kathryn Saltmarsh, approached the Center on Wrongful Convictions and asked them to file a petition for habeas corpus on Steidl's behalf.

Karen Daniel, Jane Raley, and Larry Marshall, assisted by their clinic class of 2001–02, filed a habeas petition with the U.S. District Court for the Central District of Illinois in January 2002. The petition alleged three separate instances of ineffective assistance of trial counsel, which precluded the jury from hearing critical exculpatory evidence that would have resulted in Steidl's acquittal.

In August 2002, Marshall argued these points to Judge Michael P. McCuskey. The ensuing opinion was not released until June 2003. However, Judge McCuskey agreed with every point in the petition and found the state court's decisions affirming Steidl's convictions to be "unreasonable." The state has appealed the federal district court's decision, but briefing has been stayed in the 7th Circuit at the suggestion of the parties pending the outcome of discussions between the prosecution and defense.

### Clinic Wins New Trial for Illegally Arrested Juvenile

On June 30, 2003, the Illinois Court of Appeals vacated the murder conviction and 20-year sentence of S. B. and remanded the case to the trial court for an attenuation hearing.

S. B. was 15 years old in April 1995 when three Chicago police officers came to his home at 2:45 a.m., woke him, and transported him to the police station for questioning in connection with a drive-by shooting. His father, who was at the station, was not permitted to be with his son during the interrogation, which lasted for almost 12 hours. At 3 p.m. detectives finally obtained a confession. S. B. signed a statement written out by an assistant state's attorney in which he admitted to being in the car when the shooting was planned and when it occurred.

In vacating S. B.'s conviction, the appellate court ruled that the police did not have probable cause when they arrested S. B. at his home. However, due to the insufficiency of the record, the court

remanded the case to trial court for further proceedings to determine if S. B.'s "confession" was sufficiently attenuated from his illegal arrest to make it admissible. The appellate briefs were written by Lindsay Marshall '02, Stephanie Sawyer '02, and Colleen Ryan '03 under the supervision of Steve Drizin.

### Medical Evidence Casts Doubt on Cause of Infant's Death

In November 1998, Maria Gabriel gave birth unassisted while alone at home. After the delivery, her placenta did not drop. Because she had no phone from which to call for help, she remained in her apartment bleeding for nearly three days. By the time Gabriel's teenage daughter discovered her, Gabriel had lost 50 to 75 percent of her blood and was near death. Her newborn child was dead. Gabriel's daughter wrapped the baby in a towel and placed it in a nearby garbage can. Gabriel was rushed to the hospital, where she underwent emergency surgery.

For the next 36 hours police officers repeatedly questioned Gabriel until they obtained an incriminating statement. Gabriel was charged with first-degree murder based on this statement as well as the conclusion of a resident in the Cook County Medical Examiner's Office that the baby had died of asphyxiation due to homicide.

Cathryn Crawford and Tom Geraghty came to Gabriel's defense. The case focused on the unreliability of her written statement to the police, which was transcribed by an assistant state's attorney in English though Gabriel spoke limited English at the time, and medical testimony concerning cause of death. Forensic pathologists from the Cook County Medical Examiner's Office testified that the baby died from suffocation. However, clinic experts discovered that the histology slides prepared after the autopsy showed that Gabriel's baby died of lung failure caused by the baby's aspiration of meconium while in utero. This is a fairly common occurrence for babies born to mothers who, like Gabriel, are diabetic.

The victory would not have been possible if not for the help of talented experts, including Dr. Tom Harris, a prominent neonatologist who testified about the baby's cause of death at trial; Dr. Mark Thomma, who testified on the effects of blood loss on Gabriel's cognition; and Dr. Shaku Teas, a forensic pathologist who testified regarding cause of death. Dr. Robert Kirschner also assisted the case before his death.

A number of Northwestern Law students also contributed to the success of this case. Among the students who prepared the case for trial during the 2002–03 academic year were Jamenda Briscoe '03, Greta Jacobs '03, Shana Shifrin '03, Carrie Wicker '05, Megan Kratz '04, and Melissa Dickey '04. Also invaluable were the contributions of our staff, including legal assistant Dolores Angeles, who helped maintain regular contact with our client; law clerk Ben Tuohy, who helped serve subpoenas and file documents; and legal assistant Stephanie Gloeckler, who stayed late many evenings preparing court documents. Thanks to their efforts, Gabriel was saved from long-term incarceration and deportation to Guatemala.



## Faculty Reflections

### DNA Tests Free Two in *People v. Michael Evans, People v. Dana Holland*

By Karen L. Daniel, Clinical Assistant Professor

In 1976, then-17-year-old Michael Evans was arrested for a brutal Chicago rape-murder. He and a codefendant, Paul Terry, were convicted and sentenced to life terms based on the testimony of a witness who claimed to have seen them with the victim for five to ten seconds. The witness had not come forward until after a reward was offered and later admitted that she purposely misled the police with false descriptions of the offenders.

The case came to the attention of the Center on Wrongful Convictions (CWC) when prosecutor Thomas Breen, now a prominent defense attorney, confided to Larry Marshall that he harbored doubts about the case. In the fall of 2000, I offered to assist Evans and

Terry in obtaining DNA testing. Working with two students, Joel Palmer '01 and Amanda Fuchs '03, I met with members of Evans' family and concluded that a grave injustice had occurred and recruited pro bono attorney Jeffrey Urdangen to represent Terry.

After finding the relevant evidence, students Annie Jerris '02 and Anne Hunter '02 convinced a judge to order DNA testing over the objections of the Cook County State's Attorney. The results showed that neither Evans nor Terry had raped the victim. In May 2003, Judge Dennis J. Porter of the Cook County Criminal Court vacated their convictions and released them on their own recognizance while prosecutors contemplated whether to retry them. Evans and Terry are now home with their families and are attempting to reacclimate to society after spending more than 25 years in prison. Recently, the State's Attorney of Cook County dismissed charges against them.

The exoneration of a second client, Dana Holland, seemed even more daunting because Holland had been convicted of two separate crimes. In 1993 he was mistakenly identified by a rape victim who initially said that Holland was not her attacker, but later testified that law enforcement authorities convinced her that Holland was the right man. After a robbery victim's property was found in the car where the rape had occurred, Holland was identified by that



(from left) Dana Holland, Karen Daniel, and Michael Evans

victim in a suggestive lineup. Holland wrote to the CWC in 2001 and asked for help in establishing his innocence.

The student team of Jerris and Hunter once again obtained an order for DNA testing by a private DNA lab. The results proved that it was Holland's uncle who had committed the rape even though a Chicago Police Crime Lab analyst concluded in 1995 that there was not enough evidence for DNA testing. The rape charges were dismissed in January 2003, and Holland's prison term was reduced from 118 years to 28 years.

Student John Capone '04 and I then focused on Holland's robbery case and convinced the State's Attorney to agree to a new trial. We formed a trial team that also included Tom Geraghty, Brian Dunn '03, Greg Swygert '03, Steve Heiser '03, and Ashley Brandt '03. The students worked tirelessly to reinvestigate the armed robbery, write numerous pretrial motions, and prepare for trial. Because the trial did not take place until after graduation, Geraghty and I were joined by two CWC summer interns, Erin Smith '05 and Jacquie Johnson '05. At trial, Holland stated his innocence, and his uncle admitted that he and a man other than Holland had robbed the victim. Although the victim still believed that Holland was one of the offenders, Holland was acquitted of all charges. On June 6, 2003, he walked out of Cook County Jail a free man for the first time in more than a decade.

CWC students from five graduating classes contributed to Evans's and Holland's release. The exonerations have brought media attention to the persistent problem of erroneous eyewitness identifications, and we hope that these cases will also serve as a catalyst for appropriate reforms in the Illinois criminal justice system.

*On November 19, 2003, Governor Rod Blagojevich signed into law sweeping reforms of Illinois' criminal justice system. The bill signed by the governor includes reforms in identification procedures employed by police designed to avoid mistaken eyewitness identifications, requires broader disclosure of information regarding government informants, includes provisions mandating broader discovery of police documents, and prohibits defendants with I.Q.'s of less than 75 from being executed. These reforms were suggested by Governor Ryan's Commission on Capital Punishment. The Commission's recommendations were in response to 17 wrongful convictions in death penalty cases and an analysis of the flaws in the system which produced those convictions.*



## Juvenile Client Found Not Guilty of Murder, Avoids Adult Sentence

By Lauren G. Adams, Clinical Fellow

In 2002 police arrested J. D., a 14-year-old boy who admitted to being involved in the robbery of a neighborhood business and shooting of one of the employees. However, J. D. minimized his own culpability by blaming another boy, 14-year-old A. B., for the shooting. J. D. agreed to testify against A. B. and received a sentence of five years with juvenile court probation. J. D. wasn't sent to the Department of Corrections and he didn't face an adult sentence. Instead, he went home.

A. B., on the other hand, was confronted with a much more bleak future. He was charged with attempted armed robbery and first degree murder. The prosecution petitioned the juvenile court to proceed on the latter charge as an Extended Jurisdiction Juvenile (EJJ) proceeding. As a result, A. B. could be given a juvenile sentence as well as an adult sentence of 20 to 60 years.

The EJJ provision is a relatively new and untested provision in the Juvenile Court Act. Prior to trial, the State's Attorney's Office can file a petition to designate the proceedings as EJJ. If the court finds that there is probable cause to believe that the minor committed the offense, there is a rebuttable presumption that the proceedings should be designated as EJJ. The result of such a designation is that the minor, if found delinquent of the charge, receives both a juvenile sentence and an adult sentence. If during the minor's juvenile sentence he is found by a preponderance of the evidence to have committed another offense, the adult sentence automatically executes. The court also can impose the adult sentence for something less than a new offense, such as missing a day of school or staying out past curfew.

Most trials in juvenile court are bench trials. However, in EJJ proceedings a minor is afforded many protections normally reserved for adult cases, including the right to a jury trial. In this case, A. B. elected to have a jury trial and the jury found him not guilty of first degree murder. However, the jury found A. B. guilty of attempted armed robbery, a charge that the state did not designate as EJJ prior to trial.

After the trial, the state invoked a separate EJJ provision and petitioned the court to designate the attempted armed robbery charge as EJJ post-trial. If the state had succeeded, A. B. would have received an adult sentence. We argued to the court that the post-trial EJJ provision was unconstitutional, based in part on the vagueness and ambiguity of the provision. The court agreed that the post-trial EJJ provision was ambiguous and denied the state's post-trial motion.



Lauren Adams

## Clinic Helps Clients Facing Deportation

By Vanessa Melendez Lucas, Clinical Assistant Professor

During the 2002–03 school year, Ora Schub, and I and our students obtained political asylum for three clients facing deportation by the Immigration and Naturalization Service. Steve Drizin and his students also won asylum on behalf of a Zimbabwean woman after a trial in Immigration Court. These cases are summarized below.



Vanessa Melendez Lucas

E.L.L., a Peruvian man, had been brutalized as a child by his family who perceived him to be effeminate, and he was later persecuted by police due to his sexual orientation. In September 2002 he was granted asylum after an interview at the Chicago Asylum Office. Lucas, Schub, and students Melissa James '04 and Michael Rausch '04 prepared E.L.L. for his interview.

C.V.L. came from the Democratic Republic of the Congo having suffered persecution by the government for an imputed political opinion. She had been kidnapped from her home by members of the military, imprisoned, tortured, and raped. In a case tried before immigration court judge Robert D. Vinikoor in October 2002, Lucas, Schub, and Melissa James, along with Shana Shifrin '03 and Celestina Owusu Sanders '03, helped C.V.L. gain asylum.

T. N., a woman from Zimbabwe, feared persecution from the Zimbabwean government because of her political opinions and membership in a persecuted ethnic group. T. N.'s family had been targets of political violence because they were members of the opposition party and black farmers living on land owned and operated by a white farmer. Under Drizin's supervision, Nadia Sarkis '03 and J. D. Rubin '03 obtained asylum for this woman in a case tried in April 2003 before immigration court judge Carlos Cuevas.

A. S. and her family were expelled from Mauritania, their native country, along with tens of thousands of black Mauritians during a government-sanctioned campaign in 1989–90 to drive out members of the Wolof ethnic group. Prior to her expulsion A. S. was raped and her husband was tortured by government agents. They were sent to Senegal where A.S.'s husband and children still live. A. S. arrived in the United States in late 2001 and was denied asylum by the INS. On June 17, 2003, Judge Cuevas granted A. S. political asylum based on her past persecution due to her ethnicity. The work on A. S.'s behalf continues as the student-faculty team led by Lucas tries to reunite A.S. with the family she was forced to leave behind. Students who worked on the case were Melissa James, Celestina Owusu-Sanders, Mariah Christensen '02, Britney Nystrom '02, and Anita Ortiz '04.

## Past and Present Students' Reflections

### Videotaping of Interrogations Becomes a Reality

By Beth Colgan '00

Illinois governor Rod Blagojevich recently signed into law a bill requiring police to videotape all interrogations in homicide cases. The fact that the bill made it to the governor's desk is in no small part due to the tireless efforts of many lawyers, journalists, and other criminal justice advocates. While at Northwestern, I had an opportunity to witness a passionate debate between those who support such legislation, and the police and prosecutors who oppose it.

During the 1999–2000 school year, Steve Drizin, Kate Shank '01, and I investigated what turned out to be countless examples of questionable interrogations and false confessions in Illinois. We found an alarming pattern of confessions that were later proven or found likely to be false as the result of evidence uncovered after the interrogation. Unfortunately, the suspects' innocence was rarely uncovered prior to conviction, and as a result, innocent men spent years in prison. The stories we uncovered often involved the state's most vulnerable citizens, whether due to mental disability or age. The youngest suspect was 7 years old.

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Although the facts of each case were unique, the circumstances surrounding the problematic interrogations were alarmingly similar. It was often questionable whether the suspect was read or understood his Miranda warnings. The duration of the interrogations was exceptionally long. In some cases, information supplied to the suspects by the interrogators, which subsequently ended up in the confession, was incorrect. For one teenager it was that inaccuracy in the statement that eventually led to his release from prison. The most egregious cases, those occurring in Chicago's infamous Area Two Precinct, involved the beating and torturing of suspects.

The Ryan Harris case, in which two boys, 7 and 8 years old, falsely confessed to the murder of an 11-year-old Chicago girl after being subjected to police interrogation, led to increased scrutiny of police interrogations in Illinois. A legislative commission was formed to review the problem. We provided much of the

information upon which the commission relied. This investigation showed that the reputation of police and prosecutors were tarnished by these cases.

It is fitting that in pushing for this legislation, the attorneys and students of the Bluhm Legal Clinic were at the forefront of progressive change in the criminal justice arena. It is a perfect example of one of the most important lessons that the clinic offers to its students: that through collaboration, dedication, and patience, an idea that seems impossible may someday be achieved.

*Beth Colgan is now a litigation associate at Perkins Coie, LLP, a Seattle-based litigation firm. She is the co-author, along with Steve Drizin, of "Let the Cameras Roll: Mandatory Videotaping of Interrogation is the Solution to Illinois' Problem of False Confessions" published in the Winter 2001 issue of the Loyola University Chicago Law Review.*



## A Case of Mistaken Identity

By Amanda Fanaroff '05 and Aliza Kaliski '05

J.T. is a mild-mannered, soft-spoken, 17-year-old African American male who regularly attends high school and will graduate next June. After school, J.T. frequently visited his friends to play video games at the Chicago Housing Authority high-rise at 2822 S. Calumet. J.T. used to live in this building, but he and his family moved out in an early phase of the Chicago Housing Authority's relocation program. This program ultimately forced all of the residents at 2822 S. Calumet to relocate; the building has since been demolished.

Last September, J.T. had what he described as a typical afternoon. He went to McDonald's after school and then went to play video games at a friend's apartment at 2822 S. Calumet. However, that evening J.T. experienced an unusual encounter with the Chicago Police. As he prepared to leave the building, three or four police officers approached him outside of his friend's apartment. The officers ordered him onto the ground, asking him where the gun was.

The police subsequently arrested J.T. and charged him with aggravated assault of a police officer and aggravated unlawful use of a weapon. He was identified by a Chicago sergeant who claimed that he saw J.T. with a Tec-9 weapon on three occasions and that J.T. pointed the weapon at him. In his police reports, the sergeant described his assailant as an African-American male about six feet tall, wearing a white T-shirt, dark shorts, and white gym shoes. On the evening in question, J.T., who stands at five feet ten inches, was wearing a white T-shirt with black writing across his chest, dark shorts, and brown Timberland boots.

Professor Geraghty and his students at the Bluhm Legal Clinic defended J.T. in the Cook County Juvenile Court. After reading through the police reports and visiting the 2822 S. Calumet building, the students questioned the reliability of the sergeant's identification of J.T. as the offender.

Our first task in the J.T. case was to acquaint ourselves with the file. Having both worked as paralegals for civil law firms, we were eager to get involved in our first criminal case. We were especially intrigued by our new roles as detectives. We carefully combed through the police reports and court transcripts, and studied the photographs of the crime scene and weapon to piece together the events of that September evening.

Once we understood the intricacies of J.T.'s case, we helped Professor Geraghty prepare for the direct examinations of J.T., another Chicago police officer, and a fingerprint expert who testified that J.T.'s fingerprints were not found on the weapon recovered. We also assisted Professor Geraghty in obtaining mug shots of J.T. for use at trial. The first time we felt useful in the case was when Professor Geraghty invited us to join him in preparing J.T. to take the stand. During these preparation sessions, Professor Geraghty allowed us to ask J.T. questions and make suggestions as to what he should ask J.T.

during the direct examination. We suggested that Professor Geraghty ask J.T. more detailed questions about his alibi. Ultimately, this brainstorming session helped J.T. give concrete testimony on the trial record about his alibi. In the course of examining witnesses on the stand, Professor Geraghty would come to us at the defense table to see if we had any questions to add, making us feel like "real" lawyers!

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**" We carefully combed through the police reports and court transcripts, and studied the photographs of the crime scene and weapon to piece together the events of that September evening."**

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Our final assignment in the J.T. case was to draft the closing argument that Professor Geraghty would deliver. We put together a "top 10" list of how the evidence and testimony in J.T.'s case left reasonable doubt as to his guilt. This list emphasized the unreliability of the sergeant's identification, J.T.'s solid alibi, and the fact that neither the sergeant's description nor the fingerprints found on the weapon matched J.T. We prepared a large poster to display our "top 10" list to the court. We also prepared large posters detailing each item on the list to guide the court in its reasoning. Although we worried that the posters would distract or confuse the judge, he seemed to appreciate our efforts because he focused his attention on the bulleted arguments throughout Professor Geraghty's closing argument.

The judge decided that there was reasonable doubt over the sergeant's identification of J.T. as the offender, which resulted in a not guilty verdict. We were ecstatic and felt proud to be a part of a Bluhm Legal Clinic victory. Although the only words J.T. spoke after the verdict were, "Thanks," we could tell that he was also ecstatic because he smiled for the first time since we met him.

*Aliza Kaliski and Amanda Fanaroff worked in the Bluhm Legal Clinic during the summer of 2003. They continue their work in the clinic with Tom Geraghty.*

## Joe Margulies, Counsel for Guantánamo Detainees, Addresses Clinic Reunion Brunch

The Second Annual Clinic Reunion Brunch was held at the Law School on October 25, 2003. The featured speaker was Joe Margulies '88, who described his work as counsel for Guantánamo Bay detainees in the Supreme Court of United States. Joe, along with other leading civil rights lawyers, filed a federal law suit challenging the Government's power to detain these prisoners indefinitely without providing them access to counsel or to a judicial forum. The D.C. Court of Appeals held that the Government is free to act without legal restriction because these



*Joe Margulies*

prisoners enjoy no enforceable rights so long as they have not set foot within the "ultimate sovereignty" of the United States. Joe described his involvement in this case, the intriguing legal and human rights issues involved, and what he had discovered about the conditions of confinement at the Guantánamo Bay facility. He compared the Guantánamo Bay phenomenon to other, now regretted, decisions to deny due process to detainees, most particularly to the detention of Japanese citizens during World War II. Shortly after Joe's presentation, the Supreme Court of the United States granted Joe's petition for a writ of certiorari on the question of whether United States courts lack jurisdiction to consider challenges to the legality of the detention of foreign nationals captured abroad in connection with hostilities and incarcerated at the Guantánamo Bay Naval Base, Cuba.

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Bluhm Legal Clinic

News & Notes

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