



CLEA
NEWSLETTER

- Upcoming CLEA Events
- Articles on Clinical Teaching
- Social Justice Creative Writing

President’s Message

Welcome to the revamped CLEA Newsletter! For the past year, the CLEA Board has been talking about ways that we can better serve our membership. One theme that emerged from those conversations was the desire to provide a space for discussing various facets of clinical teaching and andragogy and issues of social justice, in order to bring our members information, viewpoints, strategies, and experiences that they wouldn’t otherwise be able to access. This revamp allows us to actualize that desire, as well as to support the work of the CLEA Creative Writing Committee, which is helping clinicians explore their work in poetry, fictional prose, and creative nonfiction through writing workshops at conferences around the country. We hope that you enjoy our new content—please, let us know what you think! Enormous thanks to Margaret Drew, who edited the newsletter until last summer, and to Tanya Asim Cooper, who has taken over those duties now.

The American Bar Association’s Standards Review Committee continues its work on the standards for accreditation of law schools, and CLEA continues its advocacy on behalf of clinicians in that process. Claudia Angelos and Kate Kruse represented CLEA before the Standards



Leigh Goodmark
CLEA President
lgoodmark@ubalt.edu

Review Committee and the Council on Legal Education this summer, ensuring that CLEA had a presence at all of those meetings and engaging members of those bodies on topics including security of position, outcomes measures, bar passage rates, and the requirement that law schools use the LSAT. We expect the Standards Review Committee to take up security of position again in January, and CLEA will be there to represent your views. As commentators declare a crisis in legal education and bewail the impossibility of providing experiential education given the concerns about rising costs, it is more important than ever that clinicians be heard in the standards review process. The size of our membership—more than 1000 clinicians at present—makes us a force to be reckoned with in the legal academy.

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CLEA Executive Committee 2012

- Leigh Goodmark (Baltimore), President
- Kate Kruse (Hamline), Vice-President
- Claudia Angelos (NYU), Treasurer
- Donna H. Lee (CUNY), Secretary
- Ian Weinstein, Immediate Past President

[http://www.cleaweb.org/Default.aspx?
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President’s Message, continued.

But particularly in this case, bigger is always better, so if you have yet to renew your membership, please do!

CLEA’s committees are, as always, hard at work on a variety of projects. The Creative Writing Committee is putting on a series of workshops at regional clinical conferences—look for those opportunities in your part of the country. And the Creative Writing Contest is back! Look for details in an upcoming version of the CLEA newsletter.

CLEA will be filling five Board positions during our elections this December; our Elections Committee is preparing for that vote, which, for the first time, will be conducted electronically. Only current members can vote—another great reason to make sure that your membership is up to date.

Finally, CLEA can now stop sneaking around and drink legally! Yes, CLEA turns 21 this year, and we plan to host a celebration of CLEA’s twenty-one years in Puerto Rico this spring. More details about the CLEA 21st Birthday Party/Awards Ceremony will follow, but please plan to join us to celebrate this milestone and to honor the recipients of CLEA’s awards this year.

As always, thanks for all you do to support CLEA and our community.

CLEA Committee Reports: ABA Advocacy Committee



Kate Kruse
(Hamline)

As most followers of CLEA’s work know all too well, the most recent course of the ABA Council of Legal Education’s revisions to the law school accreditation standards has endured beyond all rational predictions. We provide here a brief update on the status of that process.

The ABA’s Council of Legal Education and Admissions to the Bar is

the agency recognized by the U.S. Department of Education as the national accrediting agency for law schools. ABA accreditation is important as most states require graduation from an accredited law school for bar admission. The Council adopts and enforces its “Standards and Rules of Procedure for Approval of Law Schools;” compliance with these Standards is required for accreditation. Most of us have been aware, more or less, of the sabbatical self-studies and site visits that are required in connection with the sev-

enth-year re-accreditation process for each law school. These visits are an important opportunity for clinicians to influence their schools to bring their clinic and externship programs into line with ABA regulations.



Claudia Angelos
(NYU)

Continued on p. 3



ABA Advocacy Committee Report, continued.

The Department of Education requires that each accrediting agency undertake a periodic “comprehensive review” of its standards, and the ABA does such a review every five years. The last ABA comprehensive review began in the summer of 2008, and with the exception of a provision requiring greater transparency in the reporting of placement data, not a single proposed revision has yet emerged from committee.

The review is stalled in the Council’s Standards Review Committee (SRC), which recommends revisions to the Council. The SRC composition has turned over completely since the comprehensive review began and its 14 current members include nine white men, four white women, and a single man of color. The committee is now taking a “fresh look” at the work of the earlier committee. At the last meeting of the Council, in August, the SRC chair announced that he did not expect to forward any proposals to the Council for at least another year. By which time, of course, the next comprehensive review is due to start.

Several issues of particular interest to CLEA members are up for discussion.

Security of Position for Clinician: The current ABA standards carve out special rules that govern the job status of clinical faculty, found in Standard 405(c). These regulations require that full-time clinical faculty be afforded “a form of security of position reasonably similar to tenure,

and non-compensatory perquisites reasonably similar to those provided to other full-time faculty members.” These special rules are less than ideal because they create a separate—and usually lower—status for clinical professors at many law schools. Furthermore, the Accreditation Committee has seized on language in one of the interpretations to permit accreditation of schools offering substantially less job security to clinicians as long as the school can show that it has policies in place to protect the academic freedom of clinicians. Despite its flaws, the “405(c) status” afforded to clinicians in the accreditation standards has been important over the past couple of decades that it has been in effect, because it has pushed schools to hire and retain clinicians in permanent and relatively secure positions. The comprehensive review of the ABA standards began with a concentrated push by some members of the SRC to eliminate Standard 405(c) along with every standard that referred to tenure or any other kind of security of position. The effort stalled when over 70 law schools rose up in protest to the elimination of tenure. CLEA was part of this major—and largely successful—effort, but the future of 405(c) and other job security standards remain uncertain. The SRC currently has before it two proposed alternatives, one of which would eliminate all references to job security and the other of which would remove all references to tenure and require 405(c) status for all full-time law professors. CLEA con-

tinues to advocate a third alternative: for the ABA to retain 405(c) in roughly its current form (though extended to include legal writing professors) so that the gains that clinical education has seen over the last few decades will not be lost.

Outcome Measures: One of the biggest structural changes to law school accreditation under consideration is a movement toward accrediting law schools based on the learning outcomes they define for their graduates and the extent to which they achieve those outcomes. CLEA has been an early supporter of the growing movement within the legal academy toward learning outcomes, which is consistent with CLEA’s [Best Practices for Legal Education](#) and the “backward design” methods that clinicians use to structure their clinic teaching. The latest drafts coming out of the SRC would require law schools to include certain learning outcomes as mandatory for all law graduates (most of which focus on the skills of legal reasoning and analysis) and include at the discretion of the school any “other lawyering skills needed for competent and ethical participation in the legal profession.” CLEA continues to advocate for the inclusion of a wider range of lawyering skills in the ABA’s list of mandatory learning outcomes, so that law schools will be required to ensure that their graduates are better prepared to practice law.

Professional Skills Instruction: The Current ABA regulations state that

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ABA Advocacy Committee Report, continued.

law schools must require each student to receive “substantial instruction in . . . other professional skills generally regarded as necessary for effective participation in the legal profession.” As schools undergoing accreditation are learning, the ABA means this as a graduation requirement; schools cannot meet this standard merely by showing that most—or even all—of their graduates have chosen to take a skills course. Interim drafts proposed by SRC committees have strengthened the professional skills requirement slightly, requiring that it be met by three credits worth of experiential courses, which may be simulation courses, live client clinics, or field placements meeting additional ABA standards governing externships. CLEA has weighed in on these changes as they have been proposed, trying to push the ABA to strengthen them even further with the special concern that real practice experiences like clinics and externships provide educational experiences that cannot be duplicated in a simulation course.

Externship standards: The current externship standards require heightened standards for field placement programs that award four or more academic credits, including “periodic on site visits or their equivalent by a faculty member” and opportunities for contemporaneous student reflection through a seminar, regularly scheduled tutorials, or other means of guided reflection. Recently-proposed changes would lower the

number of credit hours from four to three, and would change the requirement of periodic site visits to “regular contact between the faculty supervisor or law school administrator and the site supervisor to assure the quality of the student educational experience” and would define “regular contact” as “in person visits and other methods of communication that will assure the quality of the student educational experience.” CLEA is in the process of developing a position in response to this change, through its Externship Committee.

Bar Passage: The ABA standards required law schools to simply “maintain a program that prepares its students for admission to the bar.” In an interpretation, the ABA spells out a complicated statistical formula for meeting this standard, under which schools must show either that for the past five years, 75% of its graduates have passed a bar examination or that its students are no more than 15 points below the average pass rate for first-time bar examination takers in relevant jurisdictions. Although this interpretation has only been in effect for a few years, there have been proposals on the table to formalize this interpretation as a rule, to close the window from five years to three years of graduates, and to raise the pass rates from 75% or 15 points below the average rate to 80% or 10 points below. CLEA has weighed in against these proposed changes, citing the negative effects on students of color as well as the distorting influence of

the bar examination on experiential education in the law school curriculum.

The LSAT: ABA standards currently require that all law school applicants take a “valid and reliable admission test” and require law schools to “use the test results in a manner that is consistent with the current guidelines regarding proper use of the test results provided by the agency that developed the test.” In practical effect, this regulation requires the use of the LSAT test, which is flawed both because (1) it is limited in the skills it measures (overemphasizing analytical skills to the detriment of other skills that are important to successful law practice); and (2) it has been shown to produce disproportionately and misleadingly low test scores among some racial and ethnic minority test-takers. Recent drafts before the SRC propose eliminating the admission test requirement. CLEA continues to study what position to take on this complicated issue in the face of competing concerns about the LSAT itself and the ways in which schools may manipulate their use of LSAT scores if the requirement that every applicant take an admissions test were to be eliminated.

**CLEA POSTS
CLINICAL JOB
OPPORTUNITIES
AT**

[http://www.cleaweb.org/Jobs?
pg=1](http://www.cleaweb.org/Jobs?pg=1)



CLEA Report on Book Project: Beyond (Building on) Best Practices Volume

During 2011-2012, the Beyond Best Practices Editorial Board engaged in vigorous debate about what format to use for this project. Rather than a volume of individually authored chapters, as initially envisioned, the volume will follow a format similar to the original Best Practices volume. We are not preparing a complete second edition, however. Rather, the book will address selected topics that would benefit from additional elaboration, or ones in which significant developments have taken place in the time since Best Practices was written.

Drawing on the expertise of editorial board members and volunteers from people who submitted proposals in response to our call for papers, we have formed subcommittees for major topics who are identifying sub-topics that should be included in the volume. So far, significant progress has been made on several topics (mission statements and goals, multiculturalism, administrative issues. . .)

Our timetable is as follows:

- Autumn 2012 Editorial Board

finalizes topics; subcommittees recruit additional members, as needed, to produce section drafts

- Friday, January 4, 2013 at AALS meeting, subcommittees meet for working sessions
- January-August, 2013, Subcommittees work on section drafts
- September, 2013, Working Conference to discuss section drafts

If you are interested in assisting with this effort, please contact Debbie Maranville, maran@uw.edu, or Antoinette Sedillo-Lopez, lopez@law.unm.edu. We are especially seeking volunteers for the following additional topics:

- Delivery of Instruction
 - to identify any topics to be covered in addition to multiculturalism and experiential;
 - clinicians to work on experiential with subcommittee members whose expertise is externships.
- Assessment of Students
- Assessment of Institutional Effectiveness



Lisa Radtke Bliss
(Georgia State)



Carolyn Kaas
(Quinnipiac)



Debbie Maranville
(Univ. Washington)



Antoinette Sedillo-Lopez
(New Mexico)

PDF of full book at [Best Practices for Legal Education](#)



Evelyn Cruz
(Arizona)

2012-2013 memberships and new memberships have been added to the system. You should be able to go to www.cleaweb.org, bring up

CLEA Membership Committee Report

Dear Friends,
The Membership Committee has been working to update the member database on the CLEA website. Most

and update your profile with your most up-to-date information, and confirm the status of your CLEA membership. The system also sent an email to individuals with expired memberships encouraging them to renew their membership. If you received an email telling you that your membership had expired, need help renewing your membership, have

problems logging on, or encounter any other problems or errors with the system, please send Maritza or me an email at mkar-mely@suffolk.edu or evelyn.cruz@asu.edu.



Maritza Karmely
(Suffolk)

See last page of newsletter for details.

CLEA Statement on Law School Clinical Programs Rankings



Margaret Johnson
(Baltimore)



Bob Kuehn & Karen Tokarz
(Washington Univ.—St. Louis)



Perry Moriearty
(Univ. of Minnesota)

The Clinical Legal Education Association (CLEA) issues this statement because the US News & World Report rankings are upon us. Many of those who receive ballots in their capacity as clinical directors or faculty members find this ranking process very uncomfortable. There are a number of problems with the ranking of clinical programs, not the least of which is that it pits us in competition with each other, when we as a group see ourselves on the same team in a shared struggle for social justice, equality, and improved legal education. Second, there are no articulated factors for ranking clinical programs, so to a degree the voting is a bit of a popularity contest. Third, some schools unfairly suffer because they do not have the budget or the support of their administration to produce and mail clinic brochures or to send their clinic faculty to annual conferences.

While we might wish the rankings would disappear or hope for collective action, the USN&WR rankings are likely

here to stay and this year's clinical program ballots are now arriving. So, what can we as faculty who teach clinics do? CLEA, acting on the recommendation of its Rankings Committee (Margaret Johnson, Bob Kuehn, Perry Moriearty, Michael Pinard & Karen Tokarz), urges those ranking clinical programs to focus on key factors such as: 1) the range and quality of clinical curricular offerings available to students; 2) the law school's security of position, academic freedom, and governance rights for faculty who teach clinics; and 3) the extent to which the school has fulfilled the goal of diversity in hiring for clinical positions with long-term security.



Michael Pinard
(Maryland)

CLEA NEWSLETTER — NEW FORMAT & CONTENT

Besides featuring reports on CLEA's advocacy work and announcing clinicians' good news, including promotions, new arrivals, transitions, awards, honors, books and publications, CLEA hopes to highlight shorter articles on clinical teaching and creative writing on social justice topics. To accommodate this new content, the CLEA newsletter will omit news from clinical programs generally as well as news about conferences, presentations and select appointments.

Specifically, CLEA is looking for short articles that more closely resemble what you might read in a bar journal instead of a law review (fewer pages, fewer endnotes). There is no word limit; CLEA wants to see what clinicians are inspired to submit. The topics of course could vary immensely, but rather than a description of a successful clinical endeavor, CLEA is instead looking for more reflective pieces about andragogy—what you tried, what worked (or didn't) and why. Articles about past presentations and hyperlinks to other websites to read more are also welcome.

CLEA is especially eager to read and publish social justice fiction, non-fiction and poetry from our members. As a service to our clinical community, CLEA hopes not only to share interesting and useful information but also to evolve into a venue where clinicians can publish shorter articles that might count towards tenure requirements in schools that recognize broader definitions of "scholarship" for clinicians. **CLEA is now soliciting submissions for our spring edition. Please email submissions in Bluebook citation format, a picture of yourself, any general questions and feedback on the newsletter to the editor, Tanya Asim Cooper at tcooper@law.ua.edu.**

Good News : Moves, Honors & Promotions

Congratulations to **Carly Munson (Stanford)** who has transitioned to Staff Attorney for the Youth and Education Law Project after working for three years as a Fellow with the Project.



Esther Canty-Barnes, Clinical Professor of Law and Director of the Special Education Clinic, has been appointed to the Rutgers Clinical Scholar series, **Rutgers-Newark's** "clinical tenure" track. Esther is a former CLEA board member and recipient of the AALS Clinical Section's Shanara Gilbert award.



Gowri Krishna (Univ. of Michigan) was promoted from Clinical Teaching Fellow to Visiting Clinical Assistant Professor in the Community and Economic Development Clinic.



Rachel Lopez served as a Clinical Teaching Fellow with the Immigrants' Rights/International Human Rights Clinic and the Equal Justice Clinic at the **Seton Hall Law School Center for Social Justice** from 2010-2012. In August 2012, she was promoted to a position as a Visiting Assistant Clinical Professor with the clinics and a Cooperating Attorney with the Center for Constitutional Rights (CCR) in New York City. Professor Lopez is splitting her time between CCR and the Center for Social Justice, where she supervises students who are assisting with CCR litigation.



Kate Kruse has joined the **Hamline University School of Law** faculty as a tenured Professor of Law and Director of Clinics.



Clinical Professor **Penny Venetis** has been awarded **Rutgers School of Law–Newark's** version of clinical tenure on the Rutgers clinical scholar track and has been named the Dickinson R. Debevoise Scholar at Rutgers–Newark. Penny's scholar designation is in the name of Senior United States District Court Judge Dickinson Debevoise, who has been a pillar of the Newark legal community for 60 years and a member of the federal bench since his appointment by President Carter in 1979. Among his 60-plus former law clerks are the current Chief Justice of the New Jersey Supreme Court, Stuart Rabner; the first African American Attorney General of New Jersey, Peter Harvey; and Clinical Professor Penny Venetis. Judge Debevoise has also served on the boards of several public interest legal organizations including the New Jersey Institute for Social Justice and Legal Services of New Jersey. Penny's work in the Rutgers Constitutional Litigation Clinic has been honored by the Clinical Legal Education Association for the best case or project of a clinic in 2008 for her work in [Jama v. Esmor Correctional Services, Inc.](#), successfully challenging abhorrent conditions of detention for immigrant asylum and refugee status seekers and recovering damages for the plaintiffs after a six-week federal jury trial in 2007.



Leigh Goodmark (Baltimore) was promoted to Professor of Law in August 2012.



Tamar Birkhead (pictured on pages 13, 17) (**N. Carolina**) was promoted to Associate Professor of Law (with tenure) on July 1, 2012.

Ty Alper (Berkeley) was recently awarded tenure. Ty is the Associate Director of the Death Penalty Clinic. Before joining Berkeley Law, Ty was a staff attorney at the Southern Center for Human Rights in Atlanta. A former law clerk to Chief Judge Harry T. Edwards on the U.S. Court of Appeals for the D.C. Circuit, he served as senior articles editor of the NYU Law Review. Ty previously served as an E. Barrett Prettyman Fellow at Georgetown University Law Center's Criminal Justice Clinic, where he received an LL.M. in Trial Advocacy. With Death Penalty Clinic Director Elisabeth Semel, Ty has helped to build one of the nation's premier capital clinics. Berkeley Law is thrilled to have such a colleague and delighted the faculty has recognized his exceptional teaching, writing and public service.



Good News : Moves, Honors & Promotions

Maxine Lipeles (Washington Univ.—St. Louis)

has been named as among the *Best Lawyers in America* in the Environmental Law category.



Gregory Germain (Syracuse), Director of the Bankruptcy Clinic, received, on behalf of the Clinic, the President’s Award from the New York State Bar Association for excellence in pro bono service.



Karen Tokarz (Washington Univ.—St. Louis) has been named as among the *Best Lawyers in America* in the Alternative Dispute Resolution category.



Edna Y. Baugh (Rutgers-Newark), Assistant Director for Clinical Administration, received the 2012 President’s Award from the Oranges and Maplewood NAACP for her contributions to promoting diversity, civil rights and social justice and her demonstrated commitment to the ideals of a just nation (April 2012).



Professor **Laura Cohen** and the Smalls Claim Court Project at **Southwestern** Law School was the recipient of a State Bar of California Distinguished Pro Bono Service Award for its impact in 2011, “providing meaningful support to low and middle income citizens accessing the small claims courts.”



Barbara Babb (Baltimore), Director of the Center for Families, Children and the Courts (CFCC) and CFCC’s Truancy Court Program (TCP), has received the Ash Center for Democratic Governance and Innovation “Bright Ideas” designation from the Harvard University John F. Kennedy School of Government. Bright Ideas recognizes and shares innovative government programs and partnerships. The designation is bestowed upon programs that provide creative and effective solutions to widespread problems, such as truancy, especially those that can be considered and adopted by other communities. The TCP is one of 111 government programs selected as demonstrating a creative range of solutions to issues such as urban and rural blight, environmental degradation, and the academic achievement of students.

For further information about CFCC and any of its initiatives, please contact Professor Barbara Babb at 410-837-5661, bbabb@ubalt.edu, or consult CFCC’s website at <http://law.ubalt.edu/centers/cfcc>.



Clinical Professor **Sarah Buel (Arizona)** received an Abely Award from Sanctuary for Families’ Center for Battered Women’s Legal Services for her work with victims of domestic violence at the Ruth V. McGregor Family Protection Clinic at the Diane Halle Center for Family Justice.



Associate Clinical Professor **Marcy Karin (Arizona)** recently received the 2012 Visionary Award from Corporate Voices for Working Families, in recognition of her accomplishments and those of students in the Civil Justice Clinic’s Work-Life Policy Unit. The award is given to partners helping Corporate Voices advance its mission of facilitating research and innovative policies that support working families and strengthen the national economy. Usually given to corporations, foundations and elected officials, this is the first time an academic partner has received this recognition.



Good News: Books & Publications

Prof. **Paula Williams** of the **University of Tennessee's** Business Law Clinic published an article, "Why I Teach" for the Institute of Law Teaching and Learning's *The Law Teacher* (Fall 2011, page 19).



Jon C. Dubin (Rutgers-Newark), SOCIAL SECURITY DISABILITY LAW AND PROCEDURE IN FEDERAL COURT, 2012 ED. (with Carolyn A. Kubitschek) (THOMSONREUTERS/WEST PUBLISHING CO.).

Jon C. Dubin, *Scapegoating Social Security Disability Claimants (and The Judges Who Evaluate Them)*, American Constitution Society, Issue Brief, (2012) (co-authored with Robert Rains).

Jon C. Dubin, *The Labor Market Side of Disability Benefits Policy and Law*, 20 S. CAL. REV. L. & SOC. JUST. 1 (2011).



Annette Appell (Washington Univ.—St. Louis), *Theory & Praxis in Reducing Women's Poverty*, 20 AM. U. J. OF GENDER, SOC. POL'Y & L. 763 (2012) (co-author).



Annette Appell, *Introduction to Access to Justice: Mass Incarceration and Masculinity Through a Black Feminist Lens*, 37 WASH U. J.L. & POL'Y 1 (2012) (co-author).

Annette Appell & Josh Gupta-Kagan (Washington Univ.—St. Louis), *Representing Children at the Intersection of Domestic Violence and Child Protection*, ST. LOUIS B. J. (Fall 2012).



Prof. **Joy Radice** of the **University of Tennessee's** Advocacy Clinic has published three articles in 2012:

Joy Radice, *Administering Justice: Removing Statutory Barriers to Reentry*, 83 U. COLO. L. REV. 715 (2012).

Joy Radice & Kevin Lapp, *A Better Balancing: Reconsidering Pre-Conviction DNA Extraction from Federal Arrestees*, 90 N.C. L. REV. Addendum 157 (2012).

Joy Radice, *Derrick Bell's Community-Based Classroom*, 2 COLUM. J. RACE & L. SPEC. FEAT. 44 (2012).



Dan Hatcher (Baltimore) has two new articles in

print: *Purpose v. Power: Parens Patriae, Federalism, and Agency Self-Interest*, 42 N.M. L. REV.

159 (2012), and *Don't Forget Dad: Addressing Women's Poverty by Rethinking Forced and Outdated Child Support Policies*, 10 AM. U. J. GENDER, SOC. POL'Y & L. 775 (2012).



Robert C. Holmes (Rutgers-Newark), *Is There a Place for Indeterminate Suspension in the New Jersey Attorney Disciplinary System?* 273-DEC N.J. LAW. 51 (2011).

Robert C. Holmes, IMPROVING TOURISM IN NEW JERSEY (REPORT TO THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY 2011).



Mae Quinn (Washington Univ.—St. Louis), *Feminist Legal Realism*, in WOMEN AND LAW (ed. Tracy Thomas 2012).



Anjum Gupta (Rutgers-Newark), *Detrimental Reliance on Detrimental Reliance: The Courts' Conflicting Standards for the Retroactive Application of New Immigration Laws to Past Acts*, RUTGERS L. REV. COMMENTARIES (2011).



Good News: Books & Publications

Wendy Bach (University of Tennessee), *Mobilization and Poverty Law: Searching for Participatory Democracy Amongst the Ashes of the War on Poverty*, VA J. SOC. POL'Y & L. (Fall 2012), forthcoming.



Gwynne Skinner (Willamette)

Roadblocks to Remedies: Recently-Developed Barriers to Relief for Aliens Injured by U.S. Officials, Contrary to the Founders' Intent, 47 U. RICH. L. REV. ___ (2013), forthcoming.
The Nonjusticiability of Palestine: Human Rights Litigation and the (Mis)Application of the Political Question Doctrine, 35(1) HASTINGS INT. AND COMP. L. REV. 99 (Winter 2012).



Lisa V. Martin (Catholic) recently published *What's Love Got to Do with It: Securing Access to Justice for Teens*, 61 CATH. U. L. REV. 457 (2012).



Louise Howells (UDC), Susan D. Bennett (American) & Brenda Bratton Blom (Maryland) have co-authored *COMMUNITY ECONOMIC DEVELOPMENT LAW: A TEXT FOR ENGAGED LEARNING* (Carolina Academic Press 2012).



Jason Parkin (Pace), *Adaptable Due Process*, 160 U. PENN. L. REV. 1309 (2012) (winner of the American Constitution Society's 2012 Richard D. Cudahy Writing Competition on Regulatory and Administrative Law).



Clinical Professor **Penny Venetis's (Rutgers-Newark)** recent publications include: *Making Human Rights Treaty Law Actionable in the United States: The Case for Universal Implementing Legislation*, 63 ALA. L. REV. 97 (2011); *The Broad Jurisprudential Significance of Sosa v. Alvarez-Machain: An Honest Assessment of the Role of Federal Judges and Why International Law Can Be More Effective Than Constitutional Law For Redressing Serious Abuses*, 21 TEMP. POL. & CIV. RTS. L. REV. 41 (2011); and *The Unconstitutionality of Oklahoma's SQ 755 and Other Provisions Like It That Bar State Courts From Considering International Law*, 59 CLEV. ST. L. REV. 189 (2011).



Professor **Kristina Campbell's (UDC)** article, *Humanitarian Aid is Never a Crime? The Politics of Immigration Enforcement and the Provision of Sanctuary* was selected as Immigration Article of the Day (8/2/2012) by the Immigration Prof Blog. Prof. Campbell's article argues that the unprecedented increase in the enforcement of immigration law – on both the border and the interior – and the politics surrounding comprehensive immigration reform has given rise to a renewed need for the provision of sanctuary for undocumented immigrants, and surveys the different forms of action that can constitute sanctuary. Read the full blog post and article at [Immigration Prof Blog](#). Prof. Campbell is the Director of the [Immigration and Human Rights Clinic](#).



Maunica Sthanki's (UDC LL.M. '12) article *(Il)Legal and (In)Humane?: Overcoming Structural Impunity in U.S. Immigration Detention* will appear in the Rutgers Law Review, Spring 2013 issue. The article argues that the U.S. immigration detention system, the largest law enforcement operation in the country, operates with structural impunity resulting in the perpetual abuse of the detained population.

Good News: Books & Publications

Clinical Law Review Editorial Positions

The Clinical Law Review is seeking two new editors and one new editor in chief.

The full announcement is available at

[http://
www.cleaweb.org/
Jobs?
mode=PostView&bmi=
1083197](http://www.cleaweb.org/Jobs?mode=PostView&bmi=1083197)

Please email any questions to Ben Barton at bbarton@utk.edu.

Applications and supporting resumes must be received no later than April 13, 2013.

Rangeley Wallace (American)

has just published the ebook, THINGS

ARE GOING TO SLIDE (Bev Editions 2012). The story takes place in a law clinic in a fictional south Alabama law school and addresses, in part, different clinical methodologies and why teaching clinic is worthwhile (and difficult).



Hugh M. Lee (Alabama),

Director of the Elder Law Clinic, completed final revisions to the 2012-2013 edition of the ALABAMA ELDER LAW hornbook, published by Thomson-West Publishing Company. This constitutes the 5th edition of this 1500-page treatise, which will be released in late Fall.



Michael Vastine (St. Thomas University—Miami)

In the past few months he has published the following four articles:



Emerging Issue Analysis: When, if ever, are non-remunerative drug transfers not aggravated felonies? A review and preview of Moncrieffe v. Holder, LexisNexis, 2012

Emerging Issues 6441 (2012);

Emerging Issue Analysis: Kawashima v. Holder, What Tax Crimes Can Get an Alien Deported? LexisNexis, 2012 *Emerging Issues* 6273 (2012);

All's Well That Ends Well: A Discussion Of Defenses To Charges Of Removability Relating To Florida Drug Offenses, 2006 – Present, Bender's *Immigration Bulletin*, 17-8 Bender's *Immigr. Bull.* 1 (2012); and

Looking on darkness which the blind do see: An analysis of the Sixth Amendment rights of immigrants and the application of Padilla v. Kentucky in the Florida Courts, Bender's *Immigration Bulletin*, 17 Bender's *Immigr. Bull.* 356 (2012).

Wally Mlyniec's (Georgetown) new article,

Developing A Teacher Training Program For New Clinical Teachers, will appear in the Fall issue of the Clinical Law



Review. It is a companion to *Where To Begin? Training New Teachers In The Art Of Clinical Pedagogy* which appeared in the last issue of the Clinical Law Review.

Jeffrey Selbin (Berkeley), Jeanne Charn (Harvard), Anthony Alfieri (Miami) & Stephen Wizner (Yale), *Service Delivery, Resource Allocation, and Access to Justice: Greiner and Pattanayak and the Research Imperative*, 122 YALE L.J. ONLINE 45 (2012), <http://yalelawjournal.org/the-yale-law-journal-pocket-part/scholarship/service-delivery,-resource-allocation,-and-access-to-justice:-greiner-and-pattanayak-and-the-research-imperative/>.



Good News: Books & Publications



Anne Sikes Hornsby (Alabama), *Roadblock to Recovery: How FEMA's Liability*

Insurance Mandate Denies Low-Income Disaster Survivors Essential Transportation Benefits, 96 MARQ. L. REV. _____, (forthcoming).

Lydia Nussbaum's (Baltimore) article, *ADR's Place in Foreclosure: Remediating the Flaws of a Securitized Housing Market*, is forthcoming at 34 CARDOZO L. REV. (2013).



Prof. Brian Krumm of the University of Tennessee's Business Clinic recently published *State Legislative Efforts to Improve Access to Venture Capital*, in Megan M. Carpenter, ed., *EVOLVING ECONOMIES: THE ROLE OF LAW IN ENTREPRENEURSHIP AND INNOVATION* (Edward Elgar Publishing 2012).



Prof. Krumm has also most recently coauthored *THE ENTREPRENEURIAL LAW CLINIC HANDBOOK* (West Publishing 2012), along with **George W. Kuney**, Prof. and Director of the Clayton Center for Entrepreneurial Law at the **University of Tennessee** College of Law.)



The Handbook is designed to bridge the gap between what students learn in the doctrinal law classes such as Contracts, Business Associations, Taxation of Business Organizations, Intellectual Property, Secured Transactions, and Securities Regulation and the integration and application of this knowledge in assisting the entrepreneur or business client in addressing their transactional legal needs. The book is published in e-book format, with the objective as serving as a single source of reference with extensive links to cases, statutes, document exemplars, and other resources for those attempting to resolve and address business related transactional challenges.

Sandy Freund (Rutgers-Newark), *Identity Theft in Tax Cases, in EFFECTIVE REPRESENTATION OF THE TAXPAYER BEFORE THE IRS* (ABA Tax Section 2011).



Robert Kuehn (Washington Univ.—St. Louis), *Clinical Faculty in the Legal Academy: Hiring, Promotion and Retention*, 62 J. OF LEGAL EDUC. 115 (2012) (co-authors).



Professor **Barbara Babb (Baltimore)**, Director of the Center for Families, Children and the Courts (CFCC), has co-authored with Professor **David Wexler (Univ. of Arizona)** *Therapeutic Jurisprudence* for the Springer Encyclopedia of Criminology and Criminal Justice (2012). The article provides an overview of the history, definition, and application of therapeutic jurisprudence in many fields of law, including family law.



CFCC has published the summer edition of its *Unified Family Court Connection* newsletter. The newsletter includes articles about promising practices in family law cases.

Demand is also high for CFCC's *Benchbook on Substance Abuse and Addiction for Family Courts*, published recently. The Benchbook provides information of interest and relevance to family court judges, judicial officers, court staff, and attorneys who are called upon to deal, directly and indirectly, with substance abuse issues on a daily basis. For information about how to order the Benchbook, please consult CFCC's website at: <http://law.ubalt.edu/centers/cfcc/publications>.

Good News: Books & Publications



Prof. **Karla McKanders** of the **University of Tennessee's** Immigration Section of the Advocacy Clinic has two publications forthcoming:

Karla McKanders, *Immigration Enforcement and the Fugitive Slave Acts: Exploring their Similarities*, CATH. L. REV. (forthcoming fall 2012).

Karla McKanders, *Anatomy of an Uprising: Women, Democracy and the Moroccan Feminist Spring*, TEX. J. WOMEN & L. (forthcoming).

Randi Mandelbaum (Rutgers-Newark), *Disparate Outcomes: The Quest for Uniform Treatment of Immigrant Children*, FAMILY COURT REVIEW (forthcoming Fall 2012) (co-authored with Elissa Steglich).



Randi Mandelbaum, *Delicate Balances: Assessing the Needs and Rights of Siblings in Foster Care to Maintain Their Relationships Post-Adoption*, 41 N.M. L. REV. 1 (2011).

Jonathan Hyman (Rutgers-Newark), *The Roots of Impasse in the Mind of the Mediator*, in DEFINITIVE CREATIVE IMPASSE-BREAKING TECHNIQUES IN MEDIATION (Molly Klapper, Ed., 2011).



Leigh Goodmark's (pictured on pages 1, 7) **(Baltimore)** new article, *Clinical Cognitive Dissonance: The Values and Goals of Domestic Violence Clinics, the Legal System, and the Students Caught in the Middle*, appears in 20 BROOK. J. L. & POL'Y 301 (2012).

Penn State Law Professor **Shoba Sivaprasad Wadhia** and Director of the **Center for Immigrants' Rights** has published "**Immigration Relief for Victims of Abuse and Domestic Violence**," a toolkit to help practitioners in representing immigrant victims of domestic abuse.



Tamar Birkhead (Univ. of N. Carolina) has recently published:

[CHILDREN, PARENTS AND THE LAW: PUBLIC AND PRIVATE AUTHORITY IN THE HOME, SCHOOLS, AND JUVENILE COURTS](#) (with L. Harris & L. Teitelbaum) (Aspen 3d ed. 2012);

[The Challenges of Defending Juveniles in Delinquency Court](#), in AN UNFULFILLED PROMISE : JUVENILE JUSTICE IN AMERICA 88–104 (Cathryn Crawford ed., 2012); [Delinquent by Reason of Poverty](#), 38 WASH. U. J.L. & POL'Y 53–107 (2012) (invited symposium contribution);

Op-Ed, [The Age of the Child](#), JUVENILE JUSTICE INFORMATION EXCHANGE, Sept. 3, 2012;

Op-Ed, [Sentencing Youth as Adults Harms Us All](#), JUVENILE JUSTICE INFORMATION EXCHANGE, Aug. 27, 2012;

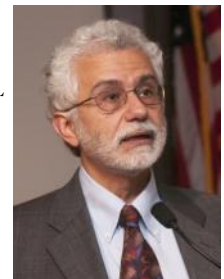
Op-Ed., [Delinquent by Reason of Poverty](#), JUVENILE JUSTICE INFORMATION EXCHANGE, Aug. 20, 2012;

Op-Ed., [Shameful Treatment of Children in Meridian, Miss., is Not Only Example of School-to-Prison Pipeline](#), JUVENILE JUSTICE INFORMATION EXCHANGE, Aug. 13, 2012;

Guest Editor, [The Development of Juvenile Delinquency](#), LAWS OPEN ACCESS JOURNAL (forthcoming 2013).



Peter Joy, *Why Lawyers Should Assess Lawyers' Ethics: A Review of Adrian Evans*, ASSESSING LAWYERS' ETHICS: A PRACTITIONER'S GUIDE, 16 LEGAL ETHICS (forthcoming).



Peter Joy, *Client or Prospective Client: What's the Difference?*, 27 ABA CRIMINAL JUSTICE (forthcoming).

Jennifer Rosen Valverde (Rutgers-Newark), *Integrating Educational Advocacy Into Child Welfare Practice: Working Models*, 20 AM. U. J. GENDER, SOC. POL'Y & L. 201 (2011) (symposium issue) (with Cara Chambers, Megan Blamble Dho & Regina Schaefer).



Good News: New Faculty



Parag Khandhar (Baltimore) is the new fellow in the Community Development Clinic. Parag has extensive community development experience, and previously worked with the Asian Pacific American Legal Resource Center and the National Coalition for Asian Pacific American

the Community Development Clinic.

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Lisa Geis (UDC) joins the Took Crowell Institute for At-Risk Youth of the Juvenile and Special Education Law Clinic as an LL.M. candidate.



Elizabeth Keyes has joined **Univ. of Baltimore's** Law faculty to direct the Immigrant Rights Clinic. She and teaching fellow Sabrina Balamwala have redesigned the one-semester clinic to allow students to work on a broad range of immigration cases as well as engaging in systemic policy advocacy.



Clara Long joined **Stanford** Law School in 2012 as a Clinical Teaching Fellow in the



International Human Rights and Conflict Resolution clinic. She has extensive human rights experience in Brazil, Venezuela, Burundi and the United States, including litigation in the Inter-American system. She is the co-producer of *Border Stories*, an award-winning documentary about experiences on both sides of the U.S.-Mexico border. Clara graduated with honors from Harvard Law School and holds masters degrees from the London School of Economics in Environment and Development and from Stanford's Graduate Program in Journalism.



Ron Tyler joins **Stanford** Law School's Mills Legal Clinic as Associate Professor of Law and Director of the Criminal Defense Clinic after a 22 yearlong career as an assistant federal public defender with the Office of the Federal Public Defender for

the Northern District of California. A dedicated defense attorney and nationally recognized expert, he has litigated at trial and appellate courts covering the full gamut of federal criminal cases. A founding member of the faculty of the Federal Trial Skills Academy and a faculty member of the Office of Defender Services Training Branch, he teaches regularly at seminars for criminal defense attorneys, investigators, and paralegals.

Ron received his BS in computer science and engineering from the Massachusetts Institute of Technology in 1981 and had a brief career in high tech before changing his focus to public interest advocacy. He began law school as a Tony Patiño Fellow at Hastings College of the Law and earned his JD from UC Berkeley School of Law in 1989. After law school, he clerked for U.S. District Court Judge Marilyn Hall Patel.

Adrienne A. Jones (UDC) joins the HIV-AIDS Legal Clinic as a new LL.M. candidate.

Bradford Voegeli (UDC) joins the Community Development Law Clinic as a new LL.M. candidate.

Emily Torstveit Ngara (UDC) joins the Immigration and Human Rights Clinic as a new LL.M. candidate.

Michelle Sonu recently joined **Stanford**

Law School's Mills Legal Clinic as a Staff Attorney in the Organizations and Transactions Clinic. Before coming to SLS, Michelle practiced at Cooley LLP in Palo Alto, California for over ten years. While there, she focused primarily on mergers and acquisitions as well as general corporate law and securities transactions for companies and investors in the technology and life sciences industries. She also worked as a staff attorney at IBM's global headquarters in Armonk, New York. Michelle received her JD from Harvard Law School in 1999, where she served as a technical editor of the *Harvard Journal of Law and Technology*. She earned her SB in Biology from the Massachusetts Institute of Technology in 1996.



Good News: New Clinical Faculty

Susanna Greenberg joins **Univ. of Pennsylvania** as a clinical supervisor and lecturer co-teaching in Penn's Civil Practice Clinic. Susanna is a 2007 *magna cum laude* graduate of New York University School of Law where she was a member of the Order of the Coif and a Florence Allen scholar. She obtained a bachelor's degree in Ethics, Politics and Economics from Yale in 2001. Prior to law school, Susanna was a member of Teach for America and taught fifth graders in a District of Columbia public elementary school. She later taught English as a Second Language to students in the third through seventh grades in a DC charter school. While in law school, Susanna was a summer associate at Cravath in New York and after graduation she joined the Ballard Spahr law firm in Philadelphia. She has a broad range of civil litigation experience in business, antitrust, and consumer finance matters and she has handled many pro bono matters while in private practice. Susanna is a board member of the Independence Charter School and a board member and corporate secretary of Young Involved Philadelphia.



Kara Finck (Univ. of Pennsylvania) is a practice associate professor directing Penn's Interdisciplinary Child Advocacy Clinic. She received a bachelor of arts degree from Columbia College in 1996 where she graduated *cum laude* with Departmental Honors in Political Science and was a Harry S. Truman National Scholar. Kara graduated from Columbia University School of Law in 2001 where she was a Harlan Fiske Stone Scholar and the Executive Articles Editor of the *Columbia Law Review*. After graduation, Kara clerked for U.S. District Court Judge Reginald Lindsay in Boston and then was awarded a Skadden Fellowship to work at The Door's Legal Services Center in New York where she represented children in foster care who were approaching discharge from the child welfare system.



From 2004 until joining the Penn Law faculty earlier this year, Kara has been an attorney at The Bronx Defenders where she most recently served as managing attorney of their Family Defense Practice. She managed multi-million dollar city contracts and private grants to her agency, supervised more than 30 attorneys, social workers, and parent advocates, and directed a unit that served approximately 1,000 clients per year. She also developed a comprehensive training program for new lawyers focusing on interdisciplinary Family Court practice and collaboration between civil and criminal attorneys. While directing the Family Defense Practice, Kara was also an adjunct professor of law at Fordham University School of Law where she co-taught a seminar at the Law School and the School of Social Work on interdisciplinary responses to child abuse and neglect.

Todd Berger (Syracuse) has joined its faculty as Assistant Professor and Director of the Criminal Defense Clinic. The Criminal Defense Clinic is Syracuse's oldest clinic. Prior to joining the College of Law, Prof. Berger was the Founding Managing Attorney of the Federal Prisoner Reentry Project at Rutgers School of Law – Camden. Prof. Berger has also worked as an Assistant Public Defender in Philadelphia, and as a Lecturer in Law at the University of Pennsylvania School of Law's Criminal Defense Clinic.



Jim Sonne joined the Mills Legal Clinic of **Stanford** Law School as Director of the Religious Liberty Clinic, the only one of its kind in the country. Jim is an experienced teacher and practitioner, with expertise in law and religion issues—particularly in the workplace. He previously served as an associate professor of law at Ave Maria School of Law, as a labor and employment lawyer for McGuire Woods LLP, and as an appellate lawyer for Horvitz & Levy LLP. Jim received his BA with honors from Duke University and his JD with honors from Harvard Law School. He is a former law clerk to Judge Edith Brown Clement of the U.S. Court of Appeals for the Fifth Circuit.



Good News: New Clinical Faculty, cont'd

Cindy Dahl (Univ. of Pennsylvania) is a practice associate professor directing Penn's Detkin Intellectual Property and Technology Legal Clinic. This is our newest clinic and will be up and running in the spring semester. The Detkin Clinic will prepare students for the realities of modern legal and business practices surrounding the commercialization of innovation and will have a close collaborative relationship with Penn's Center for Technology and Transfer. Cindy received a bachelor's degree in Philosophy from Yale in 1991 and a law degree from Stanford Law School in 1998. While at Stanford, Cindy was on the Stanford Law and Policy Review and received recognition for her trial advocacy achievements.



Prior to coming to Penn, Cindy was Senior IP counsel at TruePosition, Inc., a large, international wireless location company in Berwyn, Pennsylvania, where she grew the company's extensive patent portfolio and counseled the company's research and business units on IP and technology law issues. She won TruePosition's Leadership Award twice and was actively involved in diverse aspects of the corporation's IP business, from drafting and negotiating intellectual property agreements to managing litigation and advocating on behalf of the company to international standards entities. Before joining TruePosition, Cindy was a litigation associate at Holland and Hart in Denver and at Pennie and Edmonds in New York, where she litigated patent and trademark cases. She also served as the pro bono director of Volunteer Lawyers for the Arts in New York, an organization designed to assist clients with arts-related legal problems. Cindy also has Washington, D.C. experience as a legislative correspondent for Senator Bill Bradley, as a lobbying associate at Gold and Liebengood, and as a research assistant at The Washington Post. She also assisted Nina Totenberg at National Public Radio with Supreme Court and Congressional coverage.

2013 CREATIVE WRITING CONTEST

CLEA is thrilled to announce the official opening of the 2013 Creative Writing Competition! Detailed contest rules are posted on the CLEA website at <http://www.cleaweb.org/events?eventId=576305&EventViewMode=EventDetails>, but be sure to note the following: Contest submissions will be accepted between November 1, 2012 and February 1, 2013. Winners will be announced on or about April 1, 2013. Entrants may submit in any (or all) of four categories: Poetry; Fiction; Creative non-fiction; and/or Short Form. Entries should have a law or social justice component or theme. Winners will receive gift prizes, their work will be published in the CLEA newsletter and on the CLEA website, and they will have the opportunity to share their work in San Juan.

In addition to the competition, CLEA is looking to create and implement strategies for the collection, narrative development, and dissemination of stories of, by, and for populations underserved by the justice system; to foster a broad range of disciplined writing projects; to promote diverse educational practices; and to directly give voice to underserved client populations. Any ideas about how to best pursue these goals are welcome. Contact any of the Creative Writing Committee members: Nancy Cook nlcook@umn.edu; Leigh Goodmark lgoodmark@ubalt.edu; Maritza Karmely mkarmely@suffolk.edu; or Liz Solar esolar@law.harvard.edu.

Taking the Time to Make Juvenile Court Work

Written by

Tamar Birckhead



A couple of weeks ago, I was in juvenile delinquency court and as often happens, a particular case got me think-

ing – and rethinking – about the system as a whole.

A 14 year-old, whom I will call Sarah, was charged with misdemeanor assault. She had hit another girl at the foster care facility where the two were living. Sarah readily admitted to the charge, and the judge then moved to disposition, similar to sentencing in adult court. A counselor reported that Sarah was receiving therapy and doing well in a class at the mediation center on “conflict coaching.” Her probation officer recommended that she remain on court supervision under the same terms.

The judge, however, wasn’t satisfied. “I’m concerned,” she said to Sarah sternly. “This is the third or fourth adjudication for assault in the past two years. What is changing to help you get in charge of your emotions?”

Sarah stood and looked down at her hands. “I don’t know.” The court-

room was silent.

“Your Honor,” her public defender began, standing with his client. “Sarah has experienced significant trauma. She is struggling with serious issues that are deep-seeded. This is not to excuse her behavior, but to explain that she is receiving therapy and making improvements.”

As the hearing continued, I learned that Sarah’s father had never been a presence in her life and that her mother had died several years earlier. She had been in residential group settings ever since.

“Why do you become angry?” the judge asked the girl. Sarah spoke haltingly. “When I see other people with mothers and fathers, I get upset,” she whispered. Tears ran down her cheeks.

“Thank you for sharing that,” the judge told her softly. “We want you to find the right way to handle your anger so we can get you the help you deserve. You need to let other people in and not to push them out.”

Sarah’s lawyer put his arm around her shoulder. Her probation officer handed her a tissue. The judge announced that she was accepting the probation officer’s recommendations and that Sarah would remain on the same conditions of probation that had been imposed months earlier. A review date was set for the next month.

As the hearing concluded, the judge spoke once more. “Sarah,” she said, “nobody’s giving up on you.” Then the judge asked to meet with the girl

in the corridor.

The court officer announced a brief recess, and when Sarah returned ten minutes later, she was no longer crying. As she joined her lawyer and caregivers, the judge called after her, “Don’t forget what I said. I will see you again soon.” Sarah turned toward the judge and smiled.

I don’t know what words were exchanged between the judge and Sarah outside the courtroom, but I felt that I had just witnessed something special. A teenager had accepted responsibility for her actions, and the adults around her had responded with the right balance of solemnity and empathy. Sarah left knowing that her behavior was unacceptable and needed to change but that she wasn’t alone.

Although the hearing took place in an urban district court with a crowded docket, the judge devoted nearly 45 minutes of careful consideration to the matter. Sarah’s defense lawyer had been well-prepared and spoke effectively. Her caregivers were present and committed to their work. Sarah had an opportunity to speak and be heard.

Given my years in delinquency court, I knew that there would be further bumps along the road for her, but today, at least, Sarah’s experience in the juvenile justice system was a positive one. The difficult question is whether this scenario can be replicated for other children.

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Taking the Time to Make Juvenile Court Work, cont'd.

Like many juveniles, Sarah is caught up in both dependency and delinquency courts, and while these systems are not – and never will be – perfect, she is seemingly being helped. At 14, it is unlikely that she will ever be formally adopted into a family, but it's possible that she can gain the life skills needed to become a productive member of the community.

Through practicing, teaching, and writing in this area, I have found that it's easy to focus on everything that is wrong with juvenile court – and there is, admittedly, a lot in that category. Perhaps if we try harder to identify what is right about the system – or at least instances in which

cases go particularly well – we can more effectively find models that work.

The principle lesson learned from Sarah's case is the necessity of having an adequate block of time for each disposition. In my experience, at least 30 minutes is the minimum amount needed for a judge to gain a sense of a child, to hear from her caregivers, and to forge a connection. Will this be challenging for busy juvenile courts with limited personnel and budgetary constraints? Yes, of course, it will. Is it worth it? One needs only to glimpse Sarah's smile as she left the courtroom to know the answer.

Tamar R. Birckhead is an Associate Professor of Law at the University of North Carolina at Chapel Hill where she teaches the Juvenile Justice Clinic, the criminal lawyering process, and juvenile courts and delinquency.

Besides blogging for the Huffington Post, Tamar does quite a bit of clinic-inspired writing for her [blog on juvenile justice issues](#).

This article was originally published by the [Juvenile Justice Information Exchange](#) and is available at <http://jjie.org/taking-time-make-juvenile-court-work/93642>.

Tamar can be reached at tbirckhe@email.unc.edu.



Written by C. Benjie Louis

At the Clinical conference in May 2012, I was a co-presenter at a concurrent session with four other clinicians on the subject of teaching fact investigation.¹ I talked about an exercise that I give my students based on a movie called "Rashomon," a ground-breaking Japanese film of the

1950s that tells the story of two crimes from the perspective of four people.² What triggered my use of the film was my need to explore the shifting nature of truth³ and lying with my classes. When I first started teaching, I was taken aback when I heard students say that one of their biggest fears was having a client who lied. I wondered, maybe naively, how they could have this fear when they had never had a client interview, taken a deposition, or gone to trial. I also thought they were way too young to be so cynical. There is a popular legal adage that "all clients lie." Upon further reflection, I wondered about what their perception of "lying" meant.

Fact Investigation in Film

In fact investigation, which essentially starts during an initial client interview, gathering information from sources adverse to the client's interest is part of the process. One of the struggles students face is absorbing information from different sources and jumping to conclusions when a piece of information, be it a document or witness statement, contradicts any part of what the client told them in the initial interview. Is the client lying because he omits a piece of information at the initial interview that shows up two weeks later in medical records?

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Fact Investigation in Film, cont'd.

When I lecture on fact investigation, I emphasize to students that an essential lawyering skill is the ability to filter information and figure out how it strengthens or weakens their case. I want them to understand, among other things, that facts are nuanced and it is important to manage assumptions that can be made during fact investigation, thereby leading to jumping to conclusions that something they learn is either damaging to the case or not useful.

The way I reinforce these goals is to show the movie “Rashomon”.⁴ In this movie, a man and his wife are travelling through a forest when they encounter a man, a self-described “bandit.” The undisputed fact of this encounter is that the man dies; how he dies is one of the subjects of this movie. Also, the wife is raped. A woodcutter is a witness to these crimes. Four people “testify” before an unseen trier of fact and recount their eyewitness account of what led to the man’s death and the rape of his wife.

I have the students watch the movie after I give a lecture on fact investigation, which includes an overview of the various theories of a case—legal, factual, persuasive⁵ and mechanisms used in formal and informal discovery to investigate facts (FOIA, depositions, witness interviewing, etc.). Before they watch the movie, I tell them about the subject matter⁶ and I give them some instructions on what I want them to consider as they are watching it, including the following: (i) pick one

character as a client; (ii) explain why you picked the character— what makes your “client” the most credible and the other three stories less credible; (iii) what kind of investigative plan would you create to get more information to support the factual theory of your client;⁷ (iv) if you refer to the cultural context in which this story takes place, would it affect your investigative plan in any way?

The answers to these questions must be written in a two to four page reflection paper. I ask the students to only think about a factual theory in order to focus them on the fluidity of facts.

Why I use “Rashomon” is because I want to take students outside of their comfort zone by showing them something that may be unfamiliar to them— a tale of four witnesses to two crimes told by people in another culture, another time period, and another language. Each eyewitness account contains consistent facts and inconsistent facts among each person’s “testimony.” The non-verbal expressions of each witness, which could be perceived as overacting by 21st century standards, allows students to ruminate over what actions of the characters are part of assessing credibility.⁸ Also, the movie is an illustration that clients may be different from the student because of age, gender, race, etc. Another lesson is that we, as human beings, can view a situation through our own lens based on our culture, experience, age, etc. Therefore, this is something that we,

as advocates, must maneuver.

The movie is not “fun” and the seriousness of the subject matter mirrors the seriousness we should have in representing a client. I think the timing of when I show the movie, at mid-semester when most students have started the fact investigation phase of their cases and when they are growing weary in the semester, also helps reinforce my goals.

In their papers, the students are able to present a fairly adequate investigative plan that includes visiting the crime scene, questioning parties to understand the background of each eyewitness, and examining the body (or getting a forensics report). It has been interesting to read about how they determine the motive of each person as they assess credibility. For example, one of the characters is a woodcutter, an “objective” third party whom a majority of students have chosen as the most credible, although he may have stolen an expensive dagger.

The most striking part of the exercise has been tying the viewing of the movie to cultural competence. I noticed in some papers that students were making assumptions about the characters and Japanese culture. There are broad assumptions that the murdered man was a samurai simply because he carried a sword, that the wife was too hysterical to remember that she was raped;⁹

Continued on p. 20

Fact Investigation in Film, cont'd.

that someone who takes care of an abandoned baby (the woodcutter) is “good” and cannot be capable of theft. The papers have given me the opportunity to weave in a discussion on cultural competence in subsequent classes and how, as advocates, we need to challenge our assumptions about the information we get during the building of a case. Should someone assume that a rape victim is not a good historian when it comes to relating the facts of a trauma? If our client shows a tendency to laugh inappropriately (the bandit), is this evidence of guilt, nerves, or mental instability? Taking a question outside of the scope of the movie—if we see a sworn statement that recounts events that contradict what our client has told us, should we conclude that the client must be lying? These are some follow-up questions I have posed in class discussions, and sometimes in individual case reviews; the movie has provided a good context for discussing assumptions.

What do my students think about the exercise? I have had mostly positive reactions to it. Among other things, I have noticed, after viewing the movie, that students focus more on details in their own cases, analyze information that they receive in greater depth, attempt to manage their assumptions about the source of the information, and adjust their legal arguments as facts change throughout the course of building a case with more facility. In addition, in the second half of the semester I am able to reference the movie, and sometimes students do as well, when we discuss credibility and attention to the details in a document or a potential witness’ statements.

Notes

¹ Association of American Law Schools, Conference on Clinical Legal Education in Los Angeles, CA: Teaching Investigation/ Investigating Teaching: Ideas on Developing Persuasive Fact Analysis Techniques for Law Students (May 2, 2012).

² RASHOMON (Minoura Jingo 2008).

³ David Simon Sokolow, *From Kurosawa to (Duncan) Kennedy: The Lessons of Rashomon for Current Legal Education*, 1991 WIS. L. REV. 969 (1991).

⁴ At a clinical conference a few years ago, I attended a session on using film as a pedagogical tool. Also, in the teacher’s manual to CLINICAL LEGAL EDUCATION, David Chavkin talks about several movies that he uses in his class, including Rashomon as a means to spearhead discussion on fact investigation.

⁵ Paul J. Zwier, Anthony Bocchino, FACT INVESTIGATION: A PRACTICAL GUIDE TO INTERVIEWING, COUNSELING, AND CASE THEORY DEVELOPMENT 50–53 (NITA 2000).

⁶ While not graphic, I tell the students about the murder and rape so that they can opt out of watching the film and read the short story on which the movie is based—*In a Grove*, by Ryūnosuke Akutagawa.

⁷ The students are allowed to use 21st Century devices.

⁸ I also assign a short reading on assessing the credibility of witnesses.

⁹ A few papers have questioned whether she was raped. I attribute this to the translation in the subtitles, which unearths another potential barrier in hearing her story and colors her credibility.

C. Benjie Louis is an Assistant Clinical Professor of Law and Director of the Introduction to Litigation Clinic at Albany Law School. Benjie specializes in legal issues affecting low-income individuals. Benjie previously served as a staff attorney with Legal Services of the Hudson Valley and Chemung County Neighborhood Legal Services.

Benjie can be reached at bloui@albanylaw.edu.

Selected Social Justice Poetry by Kevin Barry



Background note from Kevin:

“Side”

This piece consists of three short vignettes about conversations I had with people who changed my life: an asylum client I represented pro bono, a woman I met en route to DC, and a family member.

The unifying theme in this piece is love—

that which we give and receive as professionals, as friends, and as family members.

SIDE

You, Africa, and family. Three.
Two, guava, and a mango tree.
Shaking hands with your men—Swahili slang,
“Niaje.”
Rushing home after soccer, your mother waiting with
tea.

Then the call—they found your dad’s car. He didn’t
come back.

The headline—they found your brother’s hat. He
didn’t come back.

Then they came for your mother, and she came back.
Paralyzed—she died two months after that.

And still you smile and tell me, “Jah bless you.”
But I was blessed that first day that I met you.
If I’ve seen further, if I’ve seen beyond,
Then it was your shoulders that I was standing on,
when you said—

*Come to my side of the fence, the far side of the porch,
God’s side of the stars.*

*And smile, because you never imagined,
That to love and to listen would ever take you this far.*

*Or maybe that’s it, all you did was imagine it,
But pinch yourself, kid, ‘cause here you are.
It’s our fence, our porch, our stars, our side,
There love comes—these ways of the heart.*

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SIDE, continued.

You sat next to me on a bus to DC,
 We'd never met, but that all changed.
 When you asked what I was reading,
 "A story about a boy"—I asked you your name.

And I explained, I couldn't bring myself to finish my
 book,
 It had become for me a kind old friend.
 You said, "But old friends never really leave us—
 They just recede until we meet them again."

Like that little picture book, the one you got from
 your dad,
 The one you hid from Chairman Mao, the only one
 that you had,
 Where pages without words recalled chapters of
 shame,
 And pastel pictures of birds listened silently to your
 pain.

And you assigned each a name, and made them
 promise not to die,
 'Cause you lost too many friends when you were
 forced to fly.
 You lay your head on dad's stomach that swallowed
 too much pride,
 As your mother feigned little coughs to disguise her
 cries.

And I turned to you and asked, "Where's that little
 book now?"
 And you closed your grown-up eyes, shrugged your
 shoulders and smiled.
 And you remembered that little girl from another
 time,
 And she gave me her book, when you gave me this
 rhyme, you said—

*Come to my side of the fence, the far side of the porch,
 God's side of the stars.
 And smile, because you never imagined,
 That to love and to listen would ever take you this far.*

*Or maybe that's it, all you did was imagine it,
 But pinch yourself, kid, 'cause here you are.
 It's our fence, our porch, our stars, our side,
 There love comes—these ways of the heart.*

You looked different without your hair kissing the
 small of your back,
 A white room, morphine glowed amber in a clear
 plastic sack.
 A park ranger out west—dressings replaced your
 pack,
 A twenty-six-year-old smile on a facade showing
 cracks.

And I asked, "When you get out of here, what do you
 want to be?"
 You looked surprised—you knew you wouldn't, but
 you lied to me.
 You said, "I like nature, I want to be with the trees,"
 Then you told me you were a fighter; I hugged you
 and agreed.

Well, cousin, there's something going on with me,
 Every six months an MD's reading my cytologies.
 So I've stopped trying to be something, and started trying
 to just be,
 But if this being doesn't work out, how 'bout you show
 me those trees?

*Come to my side of the fence, the far side of the porch,
 God's side of the stars.
 And smile, because you never imagined,
 That to love and to listen would ever take you this far.*

*Or maybe that's it, all you did was imagine it,
 But pinch yourself, kid, 'cause here you are.
 It's our fence, our porch, our stars, our side,
 There love comes—these ways of the heart.*

Selected Social Justice Poetry by Kevin Barry, cont'd.

REDEMPTION SONG

Mr. President,

Dad smiled of my portrait of a friend in sixth grade,
Brown shaded his arms and black outlined the fade.
I blushed red with pride, but never ventured a guess,
Why my friend's skin was "burnt sienna," mine was
labeled "flesh."

I've got roots in land that rotted out with famine,
And 2 million fam that up and left without planning,
And 1 million more, too sick to leave,
Died with mouths stained green, bellies full with
weeds.

We were the cargo of coffin ships, buried before we
reached shore.
We were the "terrible beauty," born premature.
We were the poor and the tired, couldn't breathe free
'cause of TB,
But depicted as simian on the pages of *Harper's
Weekly*.

Hunched backs, protruding brows, knuckles dragging
the ground,
Yanks swore up and down, wishin' that we'd all
drowned.
We were the mudsill of cities that didn't want us
around,
'Cause we got drunk, got in fights and filled the jails
downtown.

They put up signs saying "N.I.N.A.," so we didn't
apply,
And when we wrote home, we lied, so our folks
wouldn't cry.
It's kinda' hard to get to church, when you can't even
get by,
Doing jobs that got you killed or made you wanna'
die.

But when John L. toed the mark, that was us,
And on the 17th of March, that was us.
It was the pride in our lives, that kept our eyes on the
prize,
We went from serving apple pies to being upper crust.

Background note from Kevin:

"Redemption Song"

The title of this piece is taken
from a Bob Marley song, but
the content is original.

This piece draws parallels
between the injustices faced
by the Irish who emigrated to
the US after the Great
Famine, and those faced by
enslaved Africans and African
-Americans.

In it, I touch on issues of
white privilege and President
Obama's election.

From drunken jigs and ghetto dwellers to bigwigs
with wine cellars,
Public enemies to Kennedys, police from good fellas.
But we distinguished our bootstraps, from where the
blacks was at,
Then took the wage of our whiteness and we didn't
look back.

At you, with roots in land that were severed by slave
traders,
Betrayed by your own for booze, guns, and rolling
papers.
As Africa wept oceans for its daughters and sons,
And King Cotton bloodied your backs, bore bastards,
and callused thumbs.

You were the cargo of slaveships, and were chained
like dogs.
Branded like cattle and later hanged by mobs.
You were the caged birds singing in trees where
strange fruit grows,
Depicted in black-face, grinning in minstrel shows.

Apes to phrenology, Ham to theology,
That tenuously justified a qualified equality.
A boon to the economy, but doomed without
autonomy—
The 13th amendment was a 12-year anomaly.

The freedom that reigned, watered fields of disdain,
'Cause even when you broke the chain, your mask
remained.
And Sam Tilden's loss was Jim Crow's gain,
With three-fifths of a man under a free man's name.

We put up signs saying "Colored" at the back of the
store,
So you moved north to cities, moving parts for the
war.
Then we moved out of cities we didn't like anymore,
So we could redline the ghettos, keep 'em black and
poor.

But when Louis toed the mark, that was you.
And when Martin led the march, that was you.
And when November 4 arrived, my man of five
blushed with pride,
Took my ballot and picked a side, and that was you.

And brown shaded my president, black graced the
stage,
Blue went the babies, and red was old age.
My son colored the future, and you guided his hand,
And this picture's gonna' look different—yes, Mr.
President,

We can.

Kevin M. Barry is an Associate Professor of Law and teaches in the Civil Clinic at Quinnipiac University School of Law. Besides researching and writing in the areas of disability rights, employment discrimination, the death penalty and clinical pedagogy, Kevin has written and performed spoken word poetry for about eight years. Kevin was the winner of Providence's Grand Slam in 2006, and he has competed with Providence's spoken word team at several national poetry slams.

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What is CLEA?

Most clinical teachers are members of the AALS Clinical Legal Education Section. But in 1992, several clinicians realized that there were important activities that could not be performed by AALS Section members, at least not without the cumbersome approval process of the AALS Executive Committee. CLEA was formed as a separate organization to permit clinical legal educators to act swiftly and independently, and to open membership to persons who were not eligible to join the Section. CLEA does not compete with the AALS Section but augments it, and CLEA continues to urge clinical teachers to belong to both entities.

CLEA is currently engaged in activities such as:

Advocating for excellence in legal education with the ABA Council on Legal Education and its committees (such as the Standards Review Committee). Indeed, this advocacy has become one of CLEA's primary endeavors – whether supporting job security and governance rights for clinical and other skills teachers or seeking ABA support for curriculum reform. CLEA advocacy has made a difference. It has never been more important than it is now, when ABA support for our work preparing students for the practice of law is at risk of erosion.

CLEA supports individual schools and clinicians facing political interference or threats to academic freedom of clinics.

CLEA works with AALS and NYU to publish the peer reviewed Clinical Law Review (which comes free with a CLEA membership).

CLEA sponsors the bi-annual New Clinical Teachers conference and co-sponsors numerous other conferences.

CLEA authors amicus briefs on topics important to legal education.

CLEA commissioned the writing and publishing of the 2007 book, Best Practices for Legal Education (Roy Stuckey et al), which, along with the Carnegie Report, "Educating Lawyers," is prompting a major re-evaluation of legal education.

CLEA sponsors awards for students, clinical teachers, and for clinical programs.

Upcoming CLEA Events at <http://www.cleaweb.org/events>.

- [CLEA Workshop— Writing for Justice on November 8-9, 2012 at the Midwest Regional Clinical Conference](#). Pre-register by November 1, 2012.
- CLEA Board Elections will occur this December online for current members.
- CLEA co-sponsored [Applied Legal Storytelling Conference in London, England](#) on July 22-24, 2013. Proposals due by December 14, 2012.
- CLEA turns 21! Celebrate CLEA's birthday this spring. Details are forthcoming.
- CLEA posts other clinical events and conferences on the Events tab of the CLEA website. Please let us know if you have an event you would like posted.
- Please e-mail us your feedback on the newsletter and send your submissions for the next to Tanya Asim Cooper.



Advocating for clinical legal education as fundamental to a lawyer's education.

CLEA Membership

To confirm whether or not your membership is current, please sign into the website using your email address on record and the temporary password "CLEA2012" (unless you changed it after AALS clinical conference last spring).

To renew on line please log on to <http://www.cleaweb.org/member-application> and follow the online directions. If you wish to rejoin by mail please log on to <http://www.cleaweb.org/about-membership> and download the appropriate membership form.

CLEA membership is not limited to full time teachers at AALS member schools; it is open to externship site supervisors, adjunct faculty and other persons interested in clinical legal education. CLEA embraces in house, externship, and hybrid clinical programs.

For any questions contact: Evelyn Cruz at 480-727-9272 or Maritza Karmely at (617) 573-8100, or send an email to membership@cleaweb.org.



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