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Legal Clinics and the Better Trained Lawyer, Part II: A Case Study of Accomplishments, Challenges and the Future of Clinical Legal Education

Thomas F. Geraghty*

“... the core of clinical work is existential—it’s about going through a different experience, with the client, shoulder to shoulder, and having some of that experience stay with each student, no matter what career path she or he eventually follows. These types of experiences provide future advocates the chance to examine a side of our justice system they might otherwise never see. That makes them better lawyers and better people.”¹

INTRODUCTION

This Paper is part of an ongoing project to document significant developments in clinical legal education at Northwestern University Pritzker School of Law (Northwestern Law).² It describes many of the Bluhm Legal Clinic’s³ accomplishments and challenges in the first two decades of the twenty-first century. By offering Northwestern Law’s clinical program as a case study, the Paper suggests that each stage in the development of American law school clinical programs closely tracks and is influenced by major social, political and legal changes in society, including industrialization and migration in the early twentieth century, and later the civil rights and social justice movements of the 1960s. Today we are on the cusp of a new era in which recent social and political events have ushered in an intense and important discussion about the past and present role of race and racism in our country, including in our legal institutions.

Clinical legal education began at Northwestern Law during the Progressive Era when Chicago was experiencing the negative impacts of industrialization on the urban poor and when a vast segment of society lacked access to legal representation in civil and criminal

*Class of 1967 James B. Haddad Professor of Law, Director Emeritus, Bluhm Legal Clinic. I would like to thank the editors and staff of the Journal of Law and Social Policy as well as the Clinic’s administrative director, Shericka Pringle-Jackson, for her leadership and friendship over many years. Thanks also to the faculty, staff, students and friends of the Bluhm Legal Clinic whose dedication and friendship have made the Clinic possible. And, of course, thanks are inadequate to my wife Diane, who has been my guiding light in all things.

¹ Rob Owen, *The Last Line of Defense: On the Importance of Death Penalty Litigation*, 3 NW. L. REV. 1, 19 (Fall 2014).

² See Thomas F. Geraghty, *Legal Clinics and the Better Trained Lawyer (Redux): A History of Clinical Education at Northwestern*, 100 NW. L. REV. 231 (2006) (discussing the history of the school’s clinical program from its inception through 2005).

³ The “Bluhm Legal Clinic” includes all school-based client representation and policy advocacy, externships, and simulation-based courses, including trial advocacy, negotiation, mediation, and courses in legal ethics and evidence that make extensive use of simulations.

matters.⁴ In response, Northwestern Law's influential dean, John Henry Wigmore (Dean Wigmore), became a strong advocate for requiring law students to be exposed to the real world of legal practice by providing free legal services to those in need.⁵ As early as 1919, Dean Wigmore entered a formal relationship with United Charities of Chicago, with thirty law students assisting in the legal representation of the agency's social service clients.⁶ Later, Dean Wigmore secured funding to establish three clinics within the law school—each supervised by a law school faculty member, who in turn, supervised a staff attorney.⁷ After Dean Wigmore stepped down as dean in 1929, Northwestern Law's clinical program became a single clinic at the Legal Aid Bureau of United Charities under the leadership of Northwestern Law faculty member, Professor Nellie McNamara (Professor McNamara).⁸ After Professor McNamara's death in 1958, Northwestern Law's only clinical offering was a three credit course entitled "Legal Clinic" in which students interviewed clients at the Legal Aid Bureau.⁹

Northwestern Law's modern clinical legal program began a decade later in 1969. The 1950s and 1960s were a time of upheaval and change in many aspects of American life. Because law was central to issues such as the fight for civil rights and the growth of new areas of public policy, including environmentalism and consumer protection, the ranks of law school clinics swelled as the study of law, for many, became viewed as a vehicle for social change.¹⁰ The newly named "Northwestern Legal Assistance Clinic" was established at the behest of Northwestern Law faculty and students who thought the school should play a more direct role in the provision of legal services for low-income populations and that more emphasis should be given to practical training in the school's curriculum. Northwestern Law's new program of clinical instruction became one of the first clinics to be located "in-house," serving clients on school premises.¹¹ This structural change created the potential for the full integration of clinical legal education into Northwestern Law's curriculum and into the life of the school.

⁴ See MICHAEL WILLRICH, CITY OF COURTS, SOCIALIZING COURTS, SOCIALIZING JUSTICE IN THE PROGRESSIVE ERA 107 (2003).

⁵ William A. Roalfe, *John Henry Wigmore—Scholar and Reformer*, 53 J. L., CRIMINOLOGY, AND POLICE SCI. 277 (1962). Wigmore may have been influenced in his thinking by his colleague, Roscoe Pound, who at the time was a member of the Northwestern Law School faculty and who was a leader in the Progressive movement. See, e.g., Roscoe Pound, *The Causes of Popular Dissatisfaction with the Administration of Justice*, reprinted in J. AM. JUD. SOC. 20 (1927).

⁶ Geraghty, *supra* note 2 at 232.

⁷ 31 Northwestern University Bulletin, School of Law 44, 9 (June 29, 1931).

⁸ Surprisingly, Professor McNamara's long and distinguished service to Northwestern Law has received little attention in Northwestern University publications. She graduated from Northwestern Law School in 1917 and went on to become one of the country's preeminent legal aid lawyers, a pioneer in clinical legal education, and twice president of the Illinois Women's Bar Association. Her work undoubtedly paved the way for future Northwestern clinical programs and for the role of women in the legal profession. See *Nellie McNamara*, MONTANA'S EARLY WOMEN LAWYERS: TRAIL-BLAZING BIG SKY SISTERS-IN-LAW, <https://mtwomenlawyers.org/1910-1919/nellie-macnamara-18> (last visited Nov. 8, 2020).

⁹ See Geraghty, *supra* note 2 at 239.

¹⁰ See Millard H. Rudd, *That Burgeoning Law School Enrollment*, 58 AM. BAR ASSN. J. 146,147 (1972), noting the doubling in law school enrollments between 1961 and 1971 and attributing the new interest in legal education, among other things, to an increase in college graduation statistics, a growing interest in the legal profession among women, and applicants' desire to impact social issues in their legal practice.

¹¹ Geraghty, *supra* note 2 at 240; see also Letter from John H. Beckstrom, Professor of Law Emeritus, Northwestern Univ. Sch. of Law, to author (June 28, 2005) (on file with author).

Northwestern Law's clinical program has greatly expanded, becoming one of the largest law school clinics in the nation. It is housed in a well-appointed space that includes clinic faculty and staff offices, ample clinic student work areas, a small library, and meeting spaces for classes, client interviewing, symposia and public events. Students and faculty have achieved significant successes on behalf of their clients and have contributed to major changes in the law, policy, and practice in areas of criminal justice, juvenile justice, prisoners' rights, special education, and domestic relations law practices.¹²

As Northwestern Law's modern clinical program enters its sixth decade of teaching and service, it faces new challenges and new opportunities. While issues that have concerned clinical legal educators in the past remain chronic challenges, such as the need for stable and sustained support for clinical programs, and the status of clinical faculty in the legal academy; a clinic's role in the promotion of social and racial justice is an important test of clinical legal education. A detailed account of the work performed by clinical faculty and students, as set forth in Part IV, demonstrates the Bluhm Legal Clinic's long history of representing clients and communities who are victims of racial injustice. The Bluhm Legal Clinic's most recent work involving jail and prison conditions in the pandemic, police accountability, and significant reduction in the size of Illinois' juvenile correctional system, suggest that the clinic will continue to impact areas focused on racial and social justice.¹³ Most recently in November 2020, Bluhm Legal Clinic Professor David Shapiro argued in the United States Supreme Court on behalf of a juvenile sentenced to life without parole challenging Mississippi courts' conclusions that a juvenile could be sentenced to life without parole without a finding of incorrigibility.¹⁴

This Paper is divided into four parts. Part I begins with a brief history and overview of the current structure and operation of the Bluhm Legal Clinic's program of instruction. Against this backdrop, Part II discusses some of the ongoing and new issues the Bluhm Legal Clinic faces in its efforts to provide meaningful educational opportunities to students while providing quality service to communities. In particular, the Paper focuses on issues of clinical resource management and development, the status of clinical faculty, and the need for a more strategic and inclusive approach to clinical decision-making. Part III then examines the role of clinical legal education at Northwestern Law in the future, with emphasis on how the Bluhm Legal Clinic can become a potent force and role model in addressing the growing imperative to support and model initiatives that promote social and racial justice. This Part argues that it is impossible for a law school to be truly knowledgeable about racial injustice and inequity without faculty and student representation of clients who are affected by our justice system's historical and current shortcomings. The connection to the real world of practice, through representation of disadvantaged clients, is made possible at Northwestern by its extensive in-house clinic,

¹² See *infra* Part IV Appendix for descriptions of the work of the Bluhm Clinic's centers.

¹³ See, e.g., *Mays v. Dart*, No. 20-1792 (7th Cir. 2020), decided September 8, 2020 (modifying federal district court's order in *Mays v. Dart*, No. 1:20-CV-02134 filed 4/3/20 (suit filed by the Clinic's Roderick & Solange Justice Center and others challenging post COVID-19 conditions in the Cook County Jail). See also *Governor Announces Plan to Transform Illinois Justice System, Illinois to Move from Large Youth Prisons to Small*

Residential Centers, NORTHWESTERN PRITZKER SCHOOL OF LAW, <https://www.law.northwestern.edu/legal-clinic/cfjc> (last visited Nov. 29, 2020) (quoting Professor Julie Biehl, director of the Clinic's Children & Family Justice Center: "White Youth are the minority and Black youth the majority in Illinois prisons today").

¹⁴ *Jones v. Mississippi*, United States Supreme Court, No. 18-1259, argued November 3, 2020.

staffed by experienced, skilled, and dedicated faculty-practitioners. Part IV is an appendix describing the recent work and accomplishments of the Bluhm Legal Clinic's faculty and students.

I. THE BLUHM LEGAL CLINIC TODAY

Over the course of the last century, American clinical legal education has taken many forms, from community-based collaborations to extensive campus-based programming. Law schools use different pedagogies, focus on different substantive topics, and adopt different operational strategies.¹⁵ As is true at many schools, the philosophy and design of Northwestern Law's Bluhm Legal Clinic (Bluhm Clinic) are a result of many factors, including experience, available resources, student and faculty interest, changes in the legal profession, and community need. As clinical legal education at Northwestern Law grew and evolved over the decades, the Clinic ultimately adopted an organizational structure made up of a mix of centers, focused on particular areas of practice, combined with a set of simulation-based courses designed to provide students with training in skills and ethics.¹⁶ The simulation-based courses in trial advocacy, negotiation, and mediation are sequenced so that they prepare students for supervised practice. The integration of simulation-based and real case-based instruction enables students, faculty, and clients to benefit from an educational community that includes expert practitioners and teachers. Thus, clinical faculty who represent clients in actual cases consult with colleagues who specialize in the teaching of trial advocacy, evidence, and ethics. Clinical faculty who teach primarily in the classroom draw upon the professional expertise of clinical faculty who supervise students in the direct representation of clients. The Clinic's model of supervision emphasizes close collaboration between faculty and students allowing students to act as co-counsel. This model ensures the highest level of legal representation and facilitates meaningful feedback based upon the faculty's firsthand observations of student performance.

The Clinic's centers focus on civil and criminal law topics, ranging from investor protection and immigration, wrongful convictions, to international human rights and child advocacy. The richness of curricular offerings allows students to enhance their substantive knowledge and gain practical experience in areas that are of personal and professional interest to them.¹⁷ It also enables a significant proportion of Northwestern students to gain

¹⁵ See Roy Stuckey et al., BEST PRACTICES FOR LEGAL EDUCATION, 121–74 (CLEA 1st Ed. 2007) (identifying best practices for different types of clinical instruction); see also Susan Valdez Carey, *An Essay on the Evolution of Clinical Legal Education and its Impact on Student Trial Practice*, 51 U. KAN. L. REV. 509, 519–22 (describing four models of clinical legal education).

¹⁶ See *infra* Part IV Appendix, providing a detailed list of the Bluhm Legal Clinic centers and examples of their work and accomplishments.

¹⁷ The opportunity for students to acquire skills that prepare them for the practice of law upon graduation aligns with calls for legal educators to offer students greater exposure to experiential learning. See, e.g., WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH W. WEGNER, LLOYD BOND, & LEE S. SHULMAN, EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (“Carnegie Report”) (2007) (recommending a greater emphasis on practical training and the curricular integration of doctrine, skills and ethics).

access to an in-house clinical experience that emphasizes “learning by doing” and delivers instruction by full- and part-time members of the law school faculty.¹⁸

The Bluhm Clinic gives students an opportunity to select among different types of legal practice and advocacy and develop specific skills within those areas of practice. Students enrolled in the Civil Litigation Center, for example, provide legal representation to clients in eviction and mortgage fraud cases,¹⁹ while those enrolled in the Children and Family Justice Center may represent children in immigration proceedings.²⁰ Students in the Bluhm Clinic’s Supreme Court and Appellate Court clinics have the opportunity to develop sophisticated appellate practice skills.²¹ Thus, depending on the center in which a student enrolls, he or she may gain experience in client interviewing, case investigation, forensic analysis, legal research and writing, negotiation, mediation, and oral advocacy.

Some cases taken on by the Bluhm Clinic, such as eviction or delinquency cases, may allow students to experience involvement in a case from start to finish. Other cases and projects involving students may take several years to resolve. Examples of these types of opportunities include work in the Environmental Advocacy Center on behalf of individual clients seeking enforcement of Superfund clean-up sites²² and the Center on Wrongful Convictions’ representation of the wrongfully convicted.²³

In addition to individual client representation, Northwestern Law clinic students may gain extensive experience in public policy and law reform. This work often grows out of the Clinic’s representation of individual clients, during which serious systemic issues become apparent. Northwestern Law students and faculty have played a leadership role in reshaping ethical rules in divorce cases,²⁴ reforming juvenile justice law and practice,²⁵ abolishing the death penalty in Illinois,²⁶ and encouraging the use of restorative practices in schools and other settings.²⁷ Internationally, students have participated on projects to improve prison and exploitive labor conditions and have produced reports for individual and regional bodies on topics including religious and ethnic discrimination, health and human rights, and environmental degradation.²⁸ This work has taken them to other countries, where they observe conditions first-hand and learn how different legal systems are structured and function.

Northwestern Law’s clinical program also includes an extensive externship program, managed by its Center on Externships. The externship program takes advantage of the rich and varied experiences offered to students by Chicago’s vibrant public service community, and enables students to develop strong professional relationships with members of the legal

¹⁸ In the spring semester of 2020, for example, 329 Northwestern students enrolled in client-centered clinics and nearly 500 students participated in the Bluhm Clinic’s trial advocacy, negotiation and mediation courses.

¹⁹ *See infra* Section IV.H.

²⁰ *See id.* at IV.B.

²¹ *See id.* at IV.N.

²² *See id.* at IV.E.

²³ *See id.* at IV.B.

²⁴ *See id.* at IV.H.

²⁵ *See id.* at IV.A.

²⁶ *See id.* at IV.A, IV.J.

²⁷ *See id.* at IV.N.

²⁸ *See id.*

community.²⁹ Placements are closely monitored and supervised by full-time Bluhm Clinic faculty.

II. ISSUES AND CHALLENGES: PAST AND PRESENT

A. Clinic Funding

Funding is an ongoing need and challenge for all programs of higher education, including law school clinics. The need for resources affects the size, type, and scope of clinical programming and potentially threatens the existence of a law school's clinical offerings. For much of its history, Bluhm Clinic, like many clinical programs, depended on law school funding and outside sources of support to pursue its educational and service missions. Dean Wigmore, for example, made fundraising for Northwestern Law's legal aid clinics a priority and was able to establish the nation's first law school endowment for a legal clinic.³⁰ When Northwestern Law's modern day Legal Assistance Clinic was established in 1969, it was funded almost exclusively by external grants from the Ford Foundation-created Council on Legal Education for Professional Responsibility (CLEPR),³¹ the Reginald Heber Smith Fellowship Program (now Equal Justice Works), and contributions from alumni and friends.³²

Beginning in 1974, Northwestern Law assumed significant responsibility for funding the Bluhm Clinic when it agreed to place four members of the clinical faculty on the school's tenure-track, thereby ensuring a measure of programmatic stability. Today, Northwestern Law provides the majority of funding to support clinic operations. Bluhm Clinic is also the beneficiary of a generous endowment from alumnus Neil Bluhm and his family.³³ An annual appeal to the Clinic's approximately 3000 alumni is also an important source of funding.

Significant financial support for Bluhm Clinic also comes from external sources, including law firms. Bluhm Clinic has established relationships with many of Chicago's leading law firms, partly as a result of many clinic alumni's desires to continue work on projects in which they were involved as students, and because law firms see their involvement in clinic cases as opportunities for meaningful pro bono work for their

²⁹ *See id.*

³⁰ *See* 52 Northwestern University Bulletin, The School of Law, 22, 28 (July 21, 1952). The James Nelson and Louise Raymond fund was established at the law school in 1926 with a gift of \$150,000. The fund was to support "a legal clinic for the poor." The Raymond endowment continues to this day to provide support for today's Bluhm Legal Clinic. *See Northwestern University Bulletin: The Criminal Courts Branch of the Legal Aid Clinic of Northwestern University School of Law*, PRITZKER LEGAL RESEARCH COLLECTIONS, <http://plrccollections.org/items/show/458> (last visited July 31, 2020).

³¹ In fact, CLEPR provided seed money to law school clinics throughout the country in part because many law schools were unable or unwilling to do so. *See* J.P. Ogilvy, *Celebrating CLEPR's 40th Anniversary*, 16 CLINICAL L. REV. 1 (2009). At Northwestern, in addition to supporting the work of the Legal Assistance Clinic, CLEPR also funded the school's first full-time director of legal writing and a legal writing section of first year law students.

³² In its early years, The Clinic also received funds from the federal government through Title IX of the Higher Education Act of 1965 and the Legal Aid Bureau.

³³ The Northwestern Legal Assistance Clinic was re-named "The Bluhm Legal Clinic" in 2000 in honor of a gift to the Law School from Neil Bluhm, '62. *See Bluhm Legal Clinic: About the Clinic*, NORTHWESTERN PRITZKER SCHOOL OF LAW, <https://www.law.northwestern.edu/legalclinic/about/> (last visited Nov. 8, 2020).

lawyers. These collaborations provide Bluhm Clinic with the talent and resources of major law firms, especially in cases that require long-term and expensive commitments.³⁴ Additionally, attorneys' fees from civil rights cases brought on behalf of clients freed by the Center on Wrongful Convictions have also been an important source of support for the clinic.

Foundation funding has enabled the Bluhm Clinic to launch and sustain educational and service programming. In 1991, Bluhm Clinic received a grant from the Chicago-based John D. and Catherine T. MacArthur Foundation to establish the clinic's first center, the Children and Family Justice Center. Over the years, the MacArthur Foundation has continued to award significant grants to support the legal and policy work of the Children and Family Justice Center. Other foundations have similarly supported the Bluhm Clinic's Center on Wrongful Convictions and Environmental Law Center, and the Clinic's Solange and Roderick MacArthur Justice Center is supported by the Solange and Roderick MacArthur Justice Foundation.³⁵

Despite the Bluhm Clinic's success in securing financial resources for its educational and service programming, it has struggled with how best to sustain itself and respond to new instructional needs and social justice concerns. Steady and generous law school budgetary support for clinical faculty has been critical in enabling Northwestern Law to attract and retain talented faculty, who make a long-term commitment to advancing the School's educational objectives. At the same time, the Bluhm Clinic has taken advantage of funding opportunities offered by foundations and individual donors to meet student demand for experiential learning in areas that advance social justice as important issues emerge. In order to keep its practice relevant, the Bluhm Clinic has taken advantage of opportunities to support its initiatives on behalf of children, its practice, and policy activities in support of criminal justice reform, environmental protection, international human rights, and immigration reform. The challenge is how to merge past accomplishments and expertise with emerging social justice themes, and how to be flexible and agile in response to new challenges.

A recurring issue raised by these dual sources of funding—internal and external—is whether and in what manner to sustain an ongoing presence in externally-supported work after the original funding comes to an end. Foundations sometimes make funding available contingent on a commitment by grantees to continue the projects that they underwrite. That expectation further complicates the issue of a clinical program's ongoing relationship with faculty and staff, whose salaries have been supported by external funding. The natural desire of the institution, faculty, and students, is to maintain what has been a mutually beneficial relationship with members of the Northwestern Law community. Decisions about whether to assume responsibility for the salaries of faculty and staff who were

³⁴ In order to strengthen the relationships between the Clinic and the nation's leading lawyers and law firms, in 2015 the Clinic established a Clinic Advisory Board composed of law school graduates who participated in the Law School's clinical program when they were students at Northwestern. The Advisory Board has acted as a sounding board for clinic programming, as well as providing leadership in fundraising for the clinic.

³⁵ Other foundations and organizations that have played an instrumental role in supporting the Clinic include the Harle and Kenneth Montgomery Foundation, the Joyce Foundation, the Field Foundation, the Public Welfare Foundation, the Chicago Community Trust and the Illinois Lawyers' Trust Fund.

originally hired on “soft” or non-recurring grant funding, however, places financial strain on institutional funding and raises concerns about the size of a school’s clinical faculty.³⁶

Recently, the size and budget of the Bluhm Clinic has been a matter of discussion among Northwestern Law’s faculty and administration. In 2018, when a new Dean was appointed to Northwestern Law, the school was in the midst of a financial crisis requiring cuts to the school’s budget.³⁷ In response, the school closed the Bluhm Clinic’s Center on the Death Penalty, terminating its director, and did not renew an assistant clinical professor’s contract. Clinical faculty resignations further reduced the size of Northwestern Law’s clinical program, particularly those programs within the Bluhm Clinic that specialized in criminal defense. Since then, however, Northwestern Law has hired a new Bluhm Legal Clinic director, Robin Walker Sterling, and added post-graduate fellows.³⁸

Given recent budgetary constraints at Northwestern Law and elsewhere, coupled with the inevitability that the COVID-19 pandemic will seriously impact the finances of higher learning institutions,³⁹ it seems apparent that legal education is entering an era in which schools must operate with smaller budgets. Non-tenured clinical faculty are most negatively affected during this time of diminishing resources. Moving forward, law school leaders must consider whether more focus should be placed on securing endowment funds for general operating support of clinical programming and should expend less energy on seeking grant funds to support new projects, unless those funds are budget-relieving. This must be an inclusive effort, engaging all stakeholders in the conversation about competing needs of the Law School.

B. The Status of Clinical Faculty

The status of clinical faculty has been an ongoing issue in American legal education. With the expansion of clinical programs, and the steady increase in the number of clinical faculty at American law schools, came a debate about the employment conditions for this cohort.⁴⁰ With their growing numbers and value to law school curricula, clinical faculty sought job security akin to the job security afforded to non-clinical faculty, as well as a role in the governance of their law schools.⁴¹

³⁶ These concerns include the percentage of a law school’s budget allocated to clinical programming and potential unease over the impact of large student participation in experiential courses at the expense of enrollments in doctrinal courses.

³⁷ See Karen Sloan, *Northwestern Law Dean Cites Law School’s “Difficult Time” As Reason for Faculty Cuts*, (Nov. 5, 2018), <https://www.law.com/2018/11/05/northwestern-law-dean-cites-schools-difficult-time-as-reason-for-faculty-cuts/>.

³⁸ See *Northwestern Pritzker School of Law Names New Director of the Bluhm Legal Clinic*, (Mar. 16, 2020), news.law.northwestern.edu/northwestern/northwestern-pritzker-school-of-law-names-new-director-of-the-bluhm-legal-clinic/.

³⁹ See Gabriel Kuris, *The Impact of the Coronavirus on Legal Education*, U.S. NEWS, (Aug. 24, 2020) [usnews.com/blogs/law-admissions-lowdown/article/the-impact-of-the-coronavirus-on-legal-education](https://www.usnews.com/blogs/law-admissions-lowdown/article/the-impact-of-the-coronavirus-on-legal-education); see also *Legal Education in the Time of COVID-19*, AM. ASSN. OF L. SCH., aals.org/covid19/.

⁴⁰ The literature on this subject is extensive. See, e.g., David A. Santacroce, Bryan L. Adamson, Calvin G.C. Pang, Bradford Colbert, Kathy Hessler, *The Status of Clinical Faculty in the Legal Academy*, 36 J. OF THE LEGAL PROF. 353 (2012).

⁴¹ This history has been documented in many articles, debates on the floor of the ABA House of Delegates, deliberations by the ABA’s Section on Legal Education and Admission to the Bar, and data collected by The Center for the Study of Applied Legal Education (CSCALE). Arguments in favor of extending similar conditions of employment to clinical teachers included those based on fairness, the value of clinic faculty contributions to legal education and to our justice system, and the protection of academic freedom enjoyed

These issues have been a long-standing source of tension and fluctuating policies at Northwestern Law. In 1973, Northwestern Law adopted a new set of promotion and tenure standards that applied to all faculty.⁴² Pursuant to these standards, four clinical faculty were placed on the tenure track and later granted tenure. During the years following adoption of Northwestern Law's 1973 promotion and tenure standards, the size of the Clinic's faculty grew substantially. New personnel were hired, while some tenure-track clinical faculty transitioned from case supervision to teach skills-based and core law school courses. These changes left two tenured faculty members to supervise a growing number of students on cases. To fill the need for student supervision on cases and on new projects, the Bluhm Clinic sought grants to meet teaching and substantive programmatic goals. Most of those new Bluhm Clinic faculty were hired with contracts of limited duration dependent on the availability of grant funds. This led to a two-tiered Bluhm Clinic faculty structure, with the majority of clinical faculty employed with short-term contracts.

In 1998, Northwestern Law made a significant change in its faculty and promotion standards.⁴³ The new standards prioritized scholarship as the principal criterion for the granting of faculty tenure. Excellence in teaching would be considered only when a candidate demonstrated excellence in scholarship. Although the amended rules "reserved" the question of promotion and tenure for clinical faculty, their practical effect was to eliminate the possibility of tenure for the vast majority of Northwestern Law's clinical faculty.

A year later, in 1999, Northwestern Law again amended its promotion and tenure standards to address the status of its non-tenure track clinical faculty.⁴⁴ The new standards awarded the title of "clinical professor" to non-tenured Bluhm Legal Clinic faculty, but explicitly stated that the appointments would not exceed one year.⁴⁵ A decade later, another revision permitted non-tenure track faculty to be appointed to continuing positions at the "discretion of the Law School."⁴⁶ These continuing appointments, however, could be terminated for any reason with one year's notice.⁴⁷

by tenure track law professors. Arguments against according conditions of employment similar to those enjoyed by tenure track professors included lack of resources, alleged dilution of the scholarly mission of law school faculty, and the notion that each institution had the sole right and responsibility to determine the best course with respect to the treatment of non-tenure track faculty. *See* Peter A. Joy & Robert Kuehn, *The Evolution of ABA Standards for Clinical Faculty*, 75 TENN. L. REV. 183 (2008).

⁴² Statement of Standards and Procedures for Promotion and Tenure of Faculty Members (on file with the author). Interestingly, these standards ranked the criteria for promotion and tenure in the following order: (1) Effectiveness in Teaching; (2) Contributions to Development and Improvement of the Law and its Institutions and Procedures; (3) Excellence in Advocacy (applicable to clinical teachers); (4) Direct Contributions to the Law School and to the Legal Profession and Community; and (5) Performance of Duties. These Standards were revised in 1983 and 1985. Revisions on file with the author. Included in the revised rules applicable to clinicians were requirements that faculty members be interviewed by the ad hoc committees, that the committees interview judges before whom the clinician had appeared and lawyers with whom the clinician had interacted, and that committee members visit classes and interview the clinicians' students.

⁴³ *See* Law School Promotion and Tenure Standards and Procedures (on file with the author).

⁴⁴ *See* Standards for the Northwestern University School of Law Non-Tenure Track Clinical Appointments in the Bluhm Legal Clinic (on file with the author).

⁴⁵ *Id.*

⁴⁶ *See* Standards on Continuing Appointments (on file with the author).

⁴⁷ *Id.*

As Northwestern Law effectively moved to preserve its options regarding employment security for its clinical faculty, the American Bar Association (ABA), the accrediting body for United States law schools, moved in the opposite direction. In 1996, the ABA amended Standard 405C to require law schools to provide “security of position reasonably similar to tenure” for clinical faculty.⁴⁸ This Standard became an issue during the ABA’s 2006 periodic process to reaccredit Northwestern Law, when the ABA found that the school relied upon too many “fixed, short-term appointments” in its clinic. As a result, the ABA Sabbatical Site Inspection Report required Northwestern Law to “report back” on the steps it planned to take in response to the ABA finding. In response, Northwestern Law and Northwestern University retained counsel to contest the legitimacy of the ABA’s determination. The ABA eventually backed down, ruling that as long as clinical instructors at Northwestern Law were protected by the doctrine of academic freedom, Northwestern Law, and, indeed other law schools, had complete discretion to decide what conditions of employment they would provide for such educators.⁴⁹ Not only was this disappointing to Northwestern Law’s clinical faculty, but the law school’s and the university’s actions resulted in a considerable blow to the reputation and national ranking of Northwestern Law’s clinical program.⁵⁰

Despite the ABA’s decision to maintain the Law School’s accreditation, Northwestern clinical faculty continued to press for improved conditions of employment, particularly for long-term contracts and voting rights. In 2012, when Daniel Rodriguez became Dean of Northwestern (Dean Rodriguez), he worked with members of the clinical faculty to develop new standards for the hiring, promotion, and retention of clinical faculty. Dean Rodriguez, then President of the Association of American Law Schools (AALS), was familiar with the lengthy struggle of clinicians to gain status, and thought clinicians deserved recognition for what they achieved and contributed to legal education. Although the resulting draft standards, “Proposed Rules Governing the Appointment, Promotion, and Retention of Bluhm Legal Clinic Faculty,” initially covered all clinical faculty, including legal writing instructors and others who taught skills courses. These standards were re-drafted in 2014 before their adoption to apply only to clinicians in the Bluhm Clinic.⁵¹

⁴⁸ See ABA Standard 405 C, providing that “[A] law school shall afford to full-time faculty members a form of security of position reasonably similar to tenure, and on-compensatory perquisites reasonably similar to those provided other full-time faculty members. A law school may require these faculty members to meet standards and obligations reasonably similar to those required of other full-time faculty members. However, this Standard does not preclude a limited number of fixed, short term appointments in a clinical program predominately staffed by full-time faculty members, or in an experimental program of limited duration.” For a summary of the complicated history of Standard 405 C, see CLINICAL LEGAL EDUCATION ASSOCIATION, *Clinical Legal Education Association’s (clea) Historical Background on Clinical Faculty Standards*, <https://www.cleaweb.org/Resources/Documents/CL%20EA%20History%20of%20405c%20Comments%20to%20ABA%20Stds%20Review.pdf> (last visited Nov. 29, 2020).

⁴⁹ See Joy & Kuehn, *supra* note 41, at 12.

⁵⁰ One could argue that the reputational “hit” resulting from Northwestern Law’s position on the meaning and implementation of Standard 405 C was unjustified. Rather than focusing on the issue of conditions of employment, the ABA should have focused on the quality of education and service provided by the Clinic.

⁵¹ The draft submitted to Northwestern Law’s faculty, “Standards and Procedures for Hiring, Promotion, and Retention of Clinical Faculty,” stated specifically that “The provisions in the following Standards shall apply to clinical faculty in the Bluhm Legal Clinic (hereinafter, “Clinical Faculty”). The Proposed Rules were supported by data drawn from CSCALE, the repository of information concerning the conditions of employment of law school clinicians throughout the country. See cscaweb.org (supporting materials on

An important feature of the 2014 Standards was the procedure for promotion and retention of clinical faculty. The 2014 Standards detailed criteria for hiring, retention and a step-by-step approach to promotion, which began with a two-year appointment as clinical assistant professor. Promotions to the rank of associate clinical professor for a three-year term would be made thereafter by the Dean, in consultation with the Associate Dean for Clinical Education. Promotions to full clinical professor, who would be accorded five-year presumptively renewable terms, would be made after a candidate had served six-years as a clinical teacher, upon the recommendation of a committee consisting of three clinical faculty members. Under the 2014 Standards, the Dean also had discretion to make lateral clinical appointments.⁵²

Included in the 2014 Standards was a provision on clinical faculty voting rights for Bluhm Clinic faculty. This provision, which gave Bluhm Clinic faculty the right to vote on all matters *except* the hiring, promotion, and retention of tenure track faculty, has proved much more controversial than the effort to secure some measure of job security and academic freedom for clinical faculty. Some members of the tenured faculty opposed the 2014 Standards' voting rights provision, arguing that the clinicians in the Bluhm Clinic should not have a vote on matters that might affect doctrinal faculty interests such as teaching loads, curricular design, and research support.

Ultimately, the "Participation in Faculty Governance" provision of the 2014 Standards included language that prohibited clinical faculty from voting on any motion to increase their involvement in the appointment, promotion, retention, or tenure of tenured or non-tenure track faculty or on any motion to rescind or modify the five-year sunset provision in the standards.⁵³ In addition, the section provides that "[a]t the expiration of this five year period, the Dean must, at the first duly constituted meeting of the tenure-line faculty following the date of expiration, alert the tenure-line faculty of the expiration of the five year period," and at a subsequent faculty meeting, any tenure-line faculty member may move to reconsider the voting rights of clinical faculty.⁵⁴

As of the publication date of this Paper, the issue of voting rights for non-tenure track faculty members of the law school remains under consideration by Northwestern Law's tenure track faculty.

C. Strategic Decision-Making

Over much of the Bluhm Clinic's history, individual faculty and student interest, opportunistic funding opportunities, and perceived community need, have dictated how the clinic has viewed and pursued its mission. When the modern clinic was founded in 1969, for example, it was a full-service legal aid clinic, representing clients in a wide range of cases including family law matters, property disputes, public benefits, consumer issues,

file with author). There was considerable dissatisfaction among other non-tenure line faculty regarding the limitation of the Standards to only Bluhm Legal Clinic faculty. Legal writing instructors, lecturers, and professors of practice were excluded. The thinking behind this was to take the issue one step at a time because of the number of non-tenure track residential faculty. This number had increased substantially, the rationale for this expansion being to increase the number of relevant course offerings and to provide course relief for the tenure-line faculty in order to conduct research.

⁵² See Standards and Procedures for Hiring, Promotion, and Retention of Clinical Faculty, Approved by the Faculty, April 23, 2014 (on file with the author).

⁵³ *Id.*

⁵⁴ *Id.*

and civil rights. Over time, this traditional “poverty law” model gave way to a focus on juvenile and criminal justice-related issues, largely driven by growing faculty interest, experience and expertise in these areas of practice. Later, student concern played a significant role in the diversification of Bluhm Clinic work into areas such as small business planning, immigration and environmental advocacy.

The Bluhm Clinic’s work, more fully described in the Part IV Appendix to this Paper, has increased Northwestern Law’s visibility and reputation in the community, garnered significant external financial support, and increased the number of students enrolled in the Bluhm Clinic. These decisions on clinic programming have been the product of meeting immediate educational and programmatic needs as opposed to long-term strategic planning. In the future, a routine and inclusive process should be developed to address such questions as whether the Bluhm Clinic should continue existing programming or regularly reevaluate its mission in light of the evolving needs of its students and communities. Does the work of the Bluhm Clinic continue to be relevant to the needs of the communities that have endured decades of inequitable treatment, and that have been most recently highlighted in the aftermath of the killing of George Floyd? Is the work of the Bluhm Clinic responsive to the devastation caused by the COVID-19 pandemic? Should the Bluhm Clinic respond to these crises by increasing its focus on representation of clients in juvenile and criminal cases? Should the Bluhm Clinic create a general poverty law center that will provide high quality legal representation to clients who are unemployed and facing a range of problems including eviction, bankruptcy, food insecurity, and the need for public aid benefits?⁵⁵ Implementing new programs that respond to the needs of clients adversely impacted by current events would be consistent with the Bluhm Clinic’s history of responding to society’s most critical needs.

The importance of student involvement in the direct representation of clients supervised by in-house clinical faculty has long been a centerpiece of the Bluhm Clinic’s programming because of the opportunities it provides for students to establish relationships with clients and develop and practice representational skills. Direct representation is also a laboratory for the discovery of systemic issues that can be addressed at the policy level. However, maintaining a substantial focus on individual representation of clients is not without its challenges. Faculty responsibility for the management of cases and supervision of students is time-consuming and stressful. The unpredictability involved in the representation of clients makes it difficult for faculty to engage in scholarship and in other professional activities. The challenge is to recognize and balance (1) the instructional and service benefits of providing quality supervision to students and (2) effective representation for clients, with the value of our clinical faculty’s engagement in scholarship and policy work.

Related to the need to establish attentive processes for instructional and programmatic priorities is the need for the Bluhm Clinic to improve the ability to explain its work and accomplishments to a broad set of constituents, including tenured colleagues, administrators, alumni, prospective students, and the general public. Throughout its history, the Bluhm Clinic has been called upon to account for itself educationally and

⁵⁵ The Clinical Legal Education Association and the Clinical Section of the Association of American Law Schools recently held a virtual conference that addressed many of these issues. *See, AALS/CLEA Virtual Conference Program Final*, (July 21–23, 2020), dropbox.com/s/oti2t4qkj50dco5/AALSCLEA%FINAL?207.2.2020.pdf?di=0.

financially. The questions asked typically include whether the Bluhm Clinic is effectively providing the kind of instruction needed to prepare students to practice in current and future legal environments. The Bluhm Clinic has attempted to communicate information about its work through its newsletters, reports, conferences, and the extensive publications of its faculty by engaging with mainstream and social media. To date, however, the Bluhm Clinic has not been able to capture all that it is doing and convey the totality of this information to the Northwestern community, alumni, and friends. In part, this is because there has been so much to communicate. Collecting and disseminating the information is more than a full-time job.

III. THE WAY FORWARD

The goal of ending racial inequality has always been implicit in the work of the Bluhm Clinic. Given the Bluhm Clinic's location in Chicago—and Chicago's large and diverse population, widespread poverty, and long history of racial discrimination in housing, education and health care—an overwhelming number of clinic clients have been people of color. Racism is most overt in Chicago's criminal and juvenile justice systems,⁵⁶ where much of the Bluhm Clinic's legal practice has taken place. Racial inequality has infected police and prosecutorial practices, and influenced bail, jury selection and sentencing decisions.⁵⁷ Law students entering a Cook County courtroom cannot help but be struck by the fact that the overwhelming number of defendants are Black or Brown.⁵⁸ What they may not reflect upon is that the majority of legal practitioners in the system, including Bluhm Clinic faculty and students, are white.⁵⁹

Recent events, including the murder of George Floyd and the rising crescendo of voices, especially those of young people, demanding an end to racism, mean that the role of race in all aspects of society, including legal education, must be examined with intentionality and purpose. What is the role of a program of clinical instruction in advancing the goal of an affirmatively anti-racist legal system and society? Some guidance on that question is beginning to emerge; Northwestern Law students have prepared a document suggesting needed changes in law school policies, including changes that impact the operation of the law school and clinic.⁶⁰ These include hiring more faculty of color and providing more support for Black and Brown faculty members. In addition, the Bluhm Clinic itself must do a better job of attracting students of color and using its influence as teachers and lawyers to raise and discuss the role of race and racism in the clinic's work.

⁵⁶ See e.g., NICOLE GONZALES VAN CLEVE, CROOK COUNTY, RACISM AND INJUSTICE IN AMERICA'S LARGEST CRIMINAL COURT (2016); see also Steven Bogira, COURTROOM 302: A YEAR BEHIND THE SCENES IN AN AMERICAN CRIMINAL COURTHOUSE, (2006); Daniel Coyne, *A Report on Chicago's Felony Courts (Chicago Appleseed Fund for Justice Project, December 2007)*, IIT Chicago Kent C. L., https://scholarship.kentlaw.iit.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1188&context=fac_schol.

⁵⁷ See Loyola Center For Criminal Justice, Research, Policy And Practice, 2019, luc.edu/ccj/; see also Cook County, IL, JOHN D. & CATHERINE T. MACARTHUR FOUNDATION SAFETY & JUSTICE CHALLENGE, [safetyandjusticechallenge.org/challenge_site/cook county](http://safetyandjusticechallenge.org/challenge_site/cook%20county); see generally *Racial Disparity*, THE SENTENCING PROJECT, sentencingproject.org/issues/racial-disparity/.

⁵⁸ See *supra*, note 57, at 20.

⁵⁹ *Id.*

⁶⁰ See #Nlawindifference, <https://twitter.com/hashtag/nlawindifference>.

AALS created a website sharing anti-racism resources that can be used by Northwestern Law and the Bluhm Clinic in fashioning an antiracist agenda.⁶¹

Northwestern Law clinical faculty can identify cases in which they can raise effective legal arguments on behalf of clients who are the victims of racist policies and practices. While doing so, they can collaborate with their research faculty colleagues. In the current environment, in which the fairness of almost all justice-related institutions is being challenged, opportunities for shared initiatives around race and equal access abound. For example, environmental degradation and pollution disproportionately affect communities of color. The COVID-19 pandemic, which has devastated Black and Brown communities, has brought to light the need for comprehensive legal services focused on employment, housing, and access to mental health services.

The challenges that have long existed and have become apparent to many just in the first few months of 2020 provide opportunities for fruitful faculty-wide collaborations. The Bluhm Clinic is in an excellent position to utilize its many contacts and allies to seek out community partnerships, utilizing the experience of those impacted by racial injustice to guide case selection and policy agenda. Involving students in this process will create high impact learning opportunities that students can carry with them into the legal profession.

The twin goals of clinical education—education and service—require solid financial and institutional support in order to be fully realized. Over the last fifty years, the Bluhm Clinic has worked to achieve both goals, responding to students' changing educational needs and the challenges and opportunities tied to funding. The Bluhm Clinic has attempted to respond to emerging social justice issues to provide students with relevant clinical experiences and remain on the cutting edge of service and legal reform. The challenges of creating an antiracist agenda and responding to the COVID-19 pandemic are now before us. The material in the Part IV Appendix that follows provides information about what the Bluhm Clinic has done in response to the emerging issues of the last twenty years. Work undertaken during that time creates a platform for important future work with students and communities. Just as Dean Wigmore created Northwestern Law's first clinical program over 100 years ago in response to the injustices that he witnessed in Chicago's immigrant communities, the modern Bluhm Clinic is now responding with initiatives that include addressing crises in juvenile and adult corrections, policing, the impact of pollution on Black and Brown communities, and housing.

The Bluhm Clinic is a community of faculty, students, and staff dedicated to teaching, learning, and service. It began and continues to respond to the need to prepare lawyers for practice. Its programs encourage students to become knowledgeable about, and responsive to, the needs of marginalized and underserved members of our society. With the support of the University, Northwestern Law, alumni, and friends, the Bluhm Clinic has been privileged to pursue its twin missions of education and service. The Bluhm Clinic's achievements have created a solid foundation upon which to build a future that will depend on planning, collaboration, remaining vigilant to the needs of students and community, and financial support. This case study demonstrates that the Bluhm Clinic has succeeded and fallen short in aspects of all of these areas. This is to be expected of a

⁶¹ See *Law Deans Antiracist Clearinghouse Project*, THE ASSN OF AM. L. SCH., http://www.aals.org/antiracist-clearinghouse/?utm_source=informz&utm_campaign_AALS (last visited Nov. 24, 2020).

program that was created to address difficult challenges. The time is ripe for a response to the challenges of today's rapidly changing world.

IV. APPENDIX: THE WORK OF THE BLUHM LEGAL CLINIC'S CENTERS

Organizing the Bluhm Clinic by centers has allowed for identification of practice and teaching specialties and organizing practice groups around these specialties. Because of this organizational structure, each center is able to seek financial support for their initiatives.⁶² This section of the Paper describes the work of the Bluhm Clinic's centers—the Children & Family Justice Center, the Center on Wrongful Convictions, the Center on Wrongful Convictions of Youth, the Environmental Advocacy Center, the Pritzker Center for Entrepreneurship, the Roderick & Solange MacArthur Justice Center, the Center on Civil Litigation, the Center for International Human Rights, the Center for Capital Defense, the Center for Criminal Defense, the Frederick Bartlit Center for Trial Advocacy, the Center for Negotiation and Mediation, and the Center for Externships.

A. *The Children and Family Justice Center*

The Children & Family Justice Center (CFJC), founded in 1992, was among a growing number of Children's Law clinics.⁶³ Since its founding, the CFJC has pursued its twin goals of educating law students in the practice of children's law and collaborating with other law school clinics and organizations devoted to the protection and advancement of the rights of children and families, particularly those of communities of color. The CFJC has also had a long-standing commitment to the representation of undocumented children in immigration proceedings, an especially important area of specialty in recent years.

The CFJC founder and long-time CFJC director, Professor Bernardine Dohrn (Professor Dohrn), retired in 2009. Professor Julie Biehl (Professor Biehl) succeeded Professor Dohrn. Under Professor Biehl's leadership, the CFJC continued its representation of children and young adults in Cook County's juvenile and criminal courts as well as its policy-focused work, including initiatives designed to minimize harsh disposition and sentences imposed by juvenile and criminal courts. Examples of the CFJC's work in this area includes projects focused on removal of children from the Illinois sex offender registry and seeking expungement of their juvenile court records.⁶⁴ The CFJC also advocated for a significant reduction in the number of children held in Illinois' juvenile correctional facilities and the closing of Illinois' juvenile correctional facilities.⁶⁵ Because

⁶² For a discussion of fundraising efforts at the Bluhm Legal Clinic, *see supra* Section II.A.

⁶³ *See* Diane Geraghty, "What Began as a Cause Has Become a Profession: Reflections On The Role Of Loyola's Civitas Childlaw Center In The Development of Children's Law As A Legal Specialty," 29 CHILD. LEGAL RTS. J. 1 (2009) (noting that "by 1979 over ninety law schools provided some type of experiential learning opportunities in the area of juvenile law.").

⁶⁴ *See generally* Stephanie Kollmann, *Illinois Sex Offenses and Sex Offender Registration Task Force Testimony: Lessons Learned from Juvenile Registry Reform*, ILL. SEX OFFENSES AND SEX OFFENDER REGISTRATION TASK

FORCE (Sept. 27, 2017), <https://www.law.northwestern.edu/legalclinic/cfjc/documents/kollmann%20SOOBTE520testimony%2009272017.pdf> (last accessed May 13, 2020).

⁶⁵ For a comprehensive description of CFJC's projects, *see* Children and Family Justice Center, *What We Do*, BLUHM LEGAL CLINIC (2020), <http://www.law.northwestern.edu/legalclinic/cfjc/projects/> (last accessed May 13, 2020).

of its effectiveness in advocating for juvenile justice reform, in 2013, the CFJC received the prestigious John D. and Catherine T. MacArthur Foundation Award for Creative and Effective Institutions,⁶⁶ recognizing the CFJC's leadership in children's advocacy and providing a substantial cash contribution to the CFJC's endowment.

CFJC's most recent work has focused on reducing the population of the Illinois Department of Juvenile Justice, the state-wide correctional system for juveniles. The CFJC, in cooperation with other organizations including the John Howard association and the Illinois Juvenile Justice Initiative, have closed many of Illinois' juvenile correctional facilities, diverting resources to community-based interventions.⁶⁷ As of 2019, CFJC, in collaboration with others,⁶⁸ achieved a reduction of the IDJJ's inmate population from 2174 in 1999 to under 200 as of May 2020.⁶⁹ The reduction in Illinois' juvenile correctional system population is just the most recent accomplishment of CFJC.

During its twenty-five years, CFJC has focused on other significant children's rights issues, particularly involving extreme sentencing of youth. This work flowed from the CFJC's early representation of youth charged with serious crimes who were transferred to criminal court for trial as adults. For example, CFJC played a role in bringing attention to the injustice of the juvenile death penalty.⁷⁰ CFJC was among many children's rights and other organizations that urged the United States Supreme Court to consider international standards, including the United Nations Convention of the Rights of the Child, arguing that the juvenile death penalty was unconstitutional.⁷¹ CFJC continued this work on extreme sentencing, joining children's advocates around the country who pushed for the abolition of life without parole for juveniles,⁷² and sentences which, although not termed mandatory life, were the equivalent.⁷³ In Illinois, the CFJC played a leading role in identifying juveniles serving sentences of life without parole and in organizing and securing representation for them in the resentencing hearings required by the United States Supreme Court's holding in *Miller v. Alabama*.⁷⁴

CFJC also played a lead role in Illinois trial and appellate courts in cases involving youth sentenced to terms of years that were the equivalent of life without parole.⁷⁵ The

⁶⁶ *MacArthur Awards for Creative & Effective Institutions*, Children and Family Justice Center, MACARTHUR FOUND. (2013), <https://www.macfound.org/maceirecipients/67/>.

⁶⁷ *See Governor Announces Plan to Transform Illinois Juvenile Justice System, Illinois to Move From Large Youth Prisons to Small Residential Centers*, CFJC, (July 31, 2020), <https://www.law.northwestern.edu/legalclinic/cfjc/>.

⁶⁸ Including the leadership of the Illinois Department of Juvenile Justice (IDJJ).

⁶⁹ 2019 ANN. REP., ILL. DEP'T OF JUV. JUST. 3 (2019), <http://www.ilga.gov/reports/ReportsSubmitted/806RSGAEmail1729RSGAAttachIDJJ%20Annual%20Report%202019.pdf> (last accessed May 13, 2020).

⁷⁰ *See Clinic Joins International Community in Call to End Juvenile Death Penalty in the United States*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall 2004 at 5.

⁷¹ *Id.*

⁷² *See generally Miller v. Alabama*, 132 S. Ct. 2455 (2012).

⁷³ *See People v. Buffer*, 137 N.E. 2d 763 (2019) (holding that a 50-year sentence imposed on a juvenile is a de-facto life sentence that violates the 8th Amendment and that a 40 year sentence is the maximum that can be imposed on a juvenile by Illinois courts: "In determining when a juvenile defendant's prison term is to be considered de-facto life without parole we draw the line at 40 years. *Id.*, p. 10.).

⁷⁴ *See generally Miller, supra* note 73. *Miller* was held to apply retroactively in *Montgomery v. Louisiana*, 136 S. Ct. 718 (2016), *as revised* (Jan. 27, 2016).

⁷⁵ *See, e.g., Buffer, supra* at note 74; *see also People v. Anderson*, 2020 IL App (1st), 172583-U, No. 1-17-2583, 5/29/2020 (May 29, 2020) (holding that a 60 year sentence to be served at 50% constitutes a de-facto life sentence and must be set aside).

CFJC's role in representing youth in post-*Miller* re-sentencing cases brought to light what term of years constitutes an impermissible de-facto life sentence.⁷⁶ The re-sentencing hearings in these cases presented complex issues for trial and appellate courts to decide regarding adolescents' criminal culpability. The hearings included the presentation of evidence concerning the nature of the crimes and the background and the psycho-social makeup of the defendants, based frequently on a combination of lay and expert testimony, and testimony from victims. These hearings frequently involved presentation of evidence regarding adolescent brain development.⁷⁷ Families of the victims testified about the impact of the loss of their loved ones. Clinical faculty and students represented clients at their re-sentencing hearings,⁷⁸ providing clients with access to representation that included extensive investigation, research, and interdisciplinary resources. Students helped develop mitigation packets and conducted direct and cross examinations of witnesses.

The Clinic's work on *Miller* re-sentencing cases also caused reexamination of the question of whether juveniles should ever be tried as adults in criminal courts. Although attempts to challenge the constitutionality of Illinois' law permitting the criminal prosecution of juveniles as adults have so far been unsuccessful,⁷⁹ the modern-day debate about whether juveniles should ever be tried as adults is experiencing new life, including the suggestion by the Supreme Court of Illinois that the Illinois legislature reconsider the practice of trying juveniles as adults and imposing stiff sentences.⁸⁰ The CFJC was at the forefront of this movement, filing amicus briefs in a number of cases challenging the trial of juveniles in criminal court.

CFJC was a member of a coalition that supported changing the age of youth convicted of felonies eligible for parole to twenty-one. In 2016, in response to the Supreme Court of Illinois' urging in *Patterson*, and the urging of CFJC advocates and others, the Illinois General Assembly passed legislation rolling back automatic transfer to include only sixteen and seventeen-year-olds charged with murder, aggravated criminal assault, or aggravated battery with a firearm.⁸¹ An additional measure to address extreme sentencing for youth came when the Illinois legislature amended the Illinois Code of Corrections to make youth convicted of felonies before the age of twenty-one eligible for parole after serving ten years of their sentences.⁸²

⁷⁶ See, e.g., Erik Eckholm, *A Murderer at 14, Then a Lifer, Now a Man Pondering the Future*, N.Y. TIMES (Apr. 10, 2015) (describing the case of Adolfo Miller, one of the first Miller re-sentencing cases in the country).

⁷⁷ See *Research Network on Early Experience & Brain Development*, MACARTHUR FOUND., <https://www.macfound.org/networks/research-network-on-early-experience-brain-develop/>.

⁷⁸ See *Center for Capital Defense*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall 2017 at 16, (describing the Clinic's work on the case of Wayne Antusas).

⁷⁹ See *People v. Patterson*, 25 N.E.3d 526, 553 (Ill. 2014) (rejecting claims that the Illinois' juvenile automatic transfer law was unconstitutional but stating, "We do however, share the concern expressed in both the Supreme Court's recent case law and in the dissent in this case over the absence of any judicial discretion in Illinois's automatic transfer provisions. While modern research has recognized the effect that the unique qualities of youth may have on juveniles' judgment and actions ... the automatic transfer provision does not. Indeed, the mandatory nature of that statute denies this reality. Accordingly, we strongly urge the General Assembly to review the automatic transfer provision based on the current scientific and sociological evidence indicating a need for the exercise of judicial discretion in determining the appropriate setting for the proceedings in juvenile cases.").

⁸⁰ *Id.*

⁸¹ 705 ILCS 405/5-130 (1) (a) (Jan. 1, 2016).

⁸² 730 ILCS 5/5-4.5-115 (2019).

CFJC challenged other laws and practices affecting youth in the criminal justice system that result in harsh consequences for youth. For example, many of the cases handled by CFJC faculty and students involved young people charged with weapons-related offenses. These cases provide insight into the factors that lead to gun possession by youth as well as the challenges faced by communities in which guns seem readily available to young people caught up in individual or gang-related disputes. In response to community safety concerns, police, prosecutors, academics, and community members have proposed solutions ranging from harsher sentences for those arrested for possession of weapons, or for using a weapon during the perpetration of a crime, to violence prevention and community-based programming for youth.⁸³

In particular, CFJC focused on the effect of “gun enhancements” on youth facing criminal prosecution for murder, aggravated criminal sexual assault, and aggravated battery with a firearm.⁸⁴ As the result of its experience representing youth facing extreme sentences under these sentencing enhancements, the CFJC joined the debate about the most just and effective approach to the problem of gun violence, arguing that extreme sentencing was not the solution.⁸⁵ In representing these clients, students witnessed the effects of mandatory minimum sentences on young people and their families. This exposure to the lives and experiences of clients has provided students with an educational experience that will be helpful to them during their careers, as they participate either directly or indirectly in debates about juvenile and criminal justice policy.

Children in the juvenile and criminal justice systems are not by any means the only children whose human rights are threatened and who face harsh consequences from the American justice system. CFJC has also focused on the plight of children who find themselves subject to deportation. The CFJC’s work in this important area has focused on young children who are trafficked into the United States and who face removal to countries and communities and families that may not welcome them back. It may even be life-threatening for them to return home. Faculty and students provide young clients with representation that includes investigation into the circumstances of their arrival in the United States as well as the conditions and environment they would face if they were to return home. Most recently, the CFJC’s immigration work has focused on the representation of children and families detained at the United States-Mexico border. In January 2020, a team of faculty and students visited the border to provide legal help to these refugees in distress.

⁸³ See, e.g., OJJDP National Youth Violence Prevention Update, 2010-2016, ojjdp.ojp.gov/sites/g/files/xyckuh176/files/pubs/250083; see also Urban Health Institute, Best Practices for the Prevention of Youth Homicide and Severe Youth Violence (2010), urbanhealth.jhu.edu/-pdfs/media/best-practices/violence_prevention.pdf.

⁸⁴ See 730 ILCS 5/5-8-1 (Jan. 1, 2020), for provisions of the Illinois Criminal Code that impose mandatory enhancement for crimes committed with a firearm. Thanks to the work of CFJC advocates and others, the General Assembly amended these provisions in order to give sentencing judges the discretion not to impose mandatory gun enhancements in cases involving juveniles transferred to criminal court. See 730 ILCS 5/5-4.5-105 (a) (1)-(9), setting forth standards to guide judges in determining whether to impose such enhancements.

⁸⁵ See *Building a Safe Chicago: Calling for a Comprehensive Plan*, BLUHM LEGAL CLINIC: CHILD AND FAMILY JUST. CTR. (Nov. 3, 2016), <http://www.law.northwestern.edu/legalclinic/cfjc/documents/Building%20a%20Safe%20Chicago%20Report.pdf> (last accessed May 13, 2020).

Interdisciplinary work has always been a hallmark of CFJC. Teams involved in representation of clients and policy formation include lawyers, psychologists, psychiatrists, medical doctors, and sociologists. As a consequence, Bluhm Clinic students work with professionals from other disciplines and learn to understand and to marshal concepts and evidence provided by experts in other fields. One of CFJC's early projects requiring interdisciplinary input was professionalizing and reorganizing the Cook County Juvenile Court's clinical evaluation department, which was then utilized to provide psychological and psychiatric assessments of children, particularly assessments of fitness to stand trial. This division of the Juvenile Court also conducted assessments to provide information to the juvenile court judges who presided over discretionary transfer hearings and made decisions regarding post-trial plans for children who had been adjudicated as delinquent. The CFJC's Clinical Evaluation Services Initiative (CESI) was responsible for creating a state-of-the-art assessment arm of the Cook County Juvenile Court.⁸⁶

Holistic representation of clients has been another hallmark of the CFJC. In the representation of children, it is not enough to focus on the legal and factual issues involved in a particular case. Lawyers representing children and youth should have detailed social and medical histories of their clients. Advocacy must be conducted outside the courtroom to secure educational resources, mental health treatment (where needed), and employment. Since social workers are trained and adept at providing the "non-legal" advocacy that is essential to good outcomes, shortly after its founding, the CFJC secured funding to hire a full-time social worker.⁸⁷ The CFJC now has two social workers shared with other clinic centers. Master of Social Work students from schools in Chicago have augmented the Bluhm Clinic's social work "department." Work of social workers within the Bluhm Clinic originally conceptualized and implemented by CFJC has benefitted the Clinic as a whole. CFJC's social workers have assisted with the re-entry of clients exonerated by the Center on Wrongful Convictions and with prisoners represented by the MacArthur Justice Center who have endured unspeakable treatment while incarcerated. Social workers have also assisted clients experiencing eviction and have provided support for the CFJC's work on behalf of undocumented children.

B. The Center on Wrongful Convictions

No account of the recent work of the Center on Wrongful Convictions (CWC) should begin without an acknowledgement of the devastating losses of Professor Jane Raley (Professor Raley), who passed away from cancer in 2015, and Professor Karen Daniel (Professor Daniel), who passed away in 2019. Professors Raley and Daniel left behind grieving families, colleagues, students, friends, and scores of grateful clients. The Bluhm

⁸⁶ See *Justice for Children: the "leastwise of the land,"* CHILDREN & FAMILY JUSTICE CENTER, FOURTH YEAR REPORT, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Spring 1997, at 21 (reporting that the Clinic and the University of Chicago Department of Psychiatry received a \$1.1 million dollar grant from the John D. and Catherine T. MacArthur Foundation to lead a re-design of the clinical assessment services at the Cook County Juvenile Court). Julie Biehl was named director of the Clinical Evaluation Services Initiative (CESI). See also Barbara Kahn, *Joint Initiative Produces Research on Juvenile Court*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Summer 2000, at 9 (describing CESI's progress); *Clinical Services and Evaluation Initiative*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall 2002, at 13 (describing progress to date).

⁸⁷ See *Social Workers to Train with Law Students*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Spring 1995, at 7 (noting that a clinical social worker joined the Children & Family Justice Center in 1993).

Clinic community will forever remember and be thankful to them as colleagues and friends, as will the community of lawyers, students, clients, and advocates around the county who shared and were supported by their commitment to justice.

The CWC played a significant role in criminal justice reform by identifying leading causes of wrongful convictions.⁸⁸ These issues include false confessions obtained by abusive and deceptive interrogation techniques,⁸⁹ reliance upon jail house snitch testimony,⁹⁰ unreliable forensic evidence,⁹¹ unreliable eyewitness testimony,⁹² and failure of the prosecution to disclose favorable evidence.⁹³ The CWC has, with others, successfully advocated for changes in the law to eliminate such causes of wrongful convictions.⁹⁴ Perhaps the most significant of these changes was the requirement of videotaping police investigations.⁹⁵

⁸⁸ See generally Karen Daniel, *Introduction, Symposium on Center on Wrongful Convictions*, 105 J. CRIM. L. & CRIMINOLOGY, 753 (2015) (describing the influence of the work of the Center on Wrongful Convictions on criminal justice reforms aimed at preventing wrongful convictions).

⁸⁹ An early false confession case handled by the CWC was that of Leroy Orange who was tortured by Area 2 Detectives including John Burge. Orange was pardoned in 1999 by then Governor Ryan. CWC client Ronald Kitchen was also coerced to make a false confession by Chicago Police Detectives working under John Burge. Kitchen was exonerated in 2009. Case summaries of the Orange and Kitchen cases can be found on the CWC's website at Center on Wrongful Convictions (CWC), *Meet Our Freed and Exonerated Clients*, BLUHM LEGAL CLINIC,

<http://www.law.northwestern.edu/legalclinic/wrongfulconvictions/exonerations/> (last visited May 13, 2020) [hereinafter CWC Exonerated Clients]. Cases such as these led to the pioneering work of the CWC's faculty and students on supporting reforms designed to prevent abusive police practices and false confessions. See, e.g., Steven A. Drizin, & Beth A. Colgan, *Let the Cameras Roll: Mandatory Videotaping of Interrogations Is the Solution to Illinois' Problem of False Confessions*, 32 LOY. U. CHI. L. J. 337 (2001).

⁹⁰ See 725 Ill. Comp. Stat. ILCS 5/115-21 (2019) (governing the testimony of informants in Illinois criminal cases); see also John O'Connor, *Illinois has adopted the nation's toughest test for snitch testimony*, CHI. TRIB. (Dec. 8, 2018), <https://www.chicagotribune.com/politics/ct-illinois-snitch-testimony-20181208-story.html>.

⁹¹ See Center on Wrongful Convictions, *Kristine Bunch: Convicted of murder by arson—but the fire was accidental*, BLUHM LEGAL CLINIC, <http://www.law.northwestern.edu/legalclinic/wrongfulconvictions/exonerations/in/kristine-bunch.html> (last visited May 13, 2020); see generally *Bunch v. State*, 964 N.E. 2d 274 (Ill. App. Ct. 2012) (granting post-conviction relief on ground of faulty arson investigation).

⁹² Illinois adopted procedures for conducting lineups and spread sheet show-ups. See 725 Ill. Comp. Stat. ILCS 5/107A-.01, 107A-2 (2015); see Kaitlyn Murphy, *Guilty at First Sight, Legislation to Prevent the Misidentification of Innocent Persons in Illinois*, 53 VAL. U. L. REV. 723 (2019).

⁹³ Many of the cases described on the CWC's website, including those of Ronald Kitchen and Jason Strong, involve *Brady* claims. See *supra* note 62; *Brady v. Maryland*, 383 U.S. 83 (1963) (requiring the prosecution to produce evidence favorable to the accused).

⁹⁴ See 725 Ill. Comp. Stat. 5/ILCS 103-2.1(b) (2017) (requiring videotaping of confessions and creating a presumption of non-admissibility if required procedures are not followed); see also Dan Hinkel, *Quinn signs bill expanding recording of police interrogations*, CHI. TRIB. (Sept. 26, 2013), <https://www.chicagotribune.com/news/ct-met-ct-met-videotaped-interrogations-law-20130827-story.html>. For recent condemnation of deceptive interrogation techniques, see *People v. Sanchez*, 2018 IL App (1st) 143899, 103 N.E.3d 529; (Ill. App. Ct. 2018); see also Mari Cohen & Jeanne Kuang, *Illinois Panel Breaks New Ground in Condemning Police Deception*, INJUSTICE WATCH (Apr. 13, 2018), <https://www.injusticewatch.org/news/2018/illinois-appellate-court-breaks-new-ground-in-condemning-police-deception/> (referencing the *Sanchez* opinion).

⁹⁵ See *supra* notes 57–61.

From 2006 to 2020, the CWC exonerated twenty-eight clients,⁹⁶ building upon the work of Professors Larry Marshall and Rob Warden who founded the CWC in 1998 after organizing a conference entitled “Wrongful Convictions and the Death Penalty.”⁹⁷ Because of its successes, the CWC now receives more than 300 requests for representation each month and manages over sixty cases at any one time. These cases are at various stages, ranging from investigation, research, filed petitions for post-conviction appeals, to habeas relief. Faculty, staff, and students aim to select cases where innocence can be demonstrated by re-investigation as well as by DNA testing.

The impact of CWC’s work goes beyond the obvious and most important benefit to the CWC’s clients—recognition of their innocence and freedom from continued unjust incarceration—by contributing significantly to criminal justice reform and the creation of a vibrant national network of advocates working on behalf of the wrongfully convicted. The CWC played a leading role in establishing the Innocence Network, whose members meet annually and share information about their cases and the legal issues they face.⁹⁸ The CWC was also instrumental in founding the National Registry of Exonerations, which documents all available information about wrongful convictions.⁹⁹ Even after Governor George Ryan’s decision to vacate the death sentences of everyone on death row in Illinois because thirteen of them were actually innocent,¹⁰⁰ the CWC, along with many long-standing opponents of the death penalty, continued to publicize their work, establishing that wrongful convictions were far from uncommon in Illinois.¹⁰¹

Professor Rob Warden (Professor Warden), a distinguished journalist, became the CWC’s executive director.¹⁰² Under his direction, the CWC continued to flourish.

⁹⁶ See CWC Exonerated Clients, *supra* note 57 for link to list of exonerees and their case histories. These case histories contain detailed information about the legal and factual issues in the cases, trial and post-trial proceedings, reported decisions. The case histories included in the CWC’s web site tell the story of the impact of wrongful convictions on those who experienced them as well as the hard work of the faculty and students who represented them.

⁹⁷ The three-day conference held at Northwestern Law brought together over 1000 students, lawyers, professors, and death penalty opponents and included a “march of survivors” of individuals released from death row; the conference generating significant media attention and press. See, e.g., Don Terry, *Survivors Make the Case Against Death Row*, N.Y. TIMES (Nov. 16, 1998), <https://www.nytimes.com/1998/11/16/us/survivors-make-the-case-against-death-row.html>.

⁹⁸ The Innocence Network “is an affiliation of organizations dedicated to providing pro bono legal and investigative services to individuals seeking to prove innocence of crimes for which they have been convicted, working to redress the causes of wrongful convictions, and supporting the exonerated after they are freed.” THE INNOCENCE NETWORK, <https://innocencenetwork.org/> (last accessed May 13, 2020).

⁹⁹ The National Registry of Exonerations collects and disseminates information and research about all known exonerations in the United States. See THE NAT. REGISTRY OF EXONERATIONS, law.umich/special/exonerations/pages/about.aspx (last accessed May 13, 2020).

¹⁰⁰ Jodi Wilgoren, *Citing Issues of Fairness, Governor Clears Out Death Row in Illinois*, N.Y. TIMES (Jan. 12, 2013), <https://www.nytimes.com/2003/01/12/us/citing-issue-of-fairness-governor-clears-out-death-row-in-illinois.html>.

¹⁰¹ *Id.*

¹⁰² Rob Warden became the CWC’s director after Professor Marshall left Northwestern to teach at Stanford where he is the head of Stanford’s newly established in-house clinic. Rob Warden began his career in journalism with the City News Bureau. He then became the editor of the Chicago Lawyer, an influential publication in Chicago legal circles that focused on many important issues such as the qualifications, selection, and performance of state and federal judges and wrongful convictions. Warden’s early work first alerted Chicago’s legal community to the fact and the causes of wrongful convictions. See, e.g., Robert

Professor Warden organized an advisory board for the CWC that included leading lawyers from Chicago's major law firms,¹⁰³ which facilitated the work of the CWC by providing advice and support when the CWC faced pressure resulting from the CWC's advocacy in controversial cases that often challenged the conduct of police and prosecutors. The board also provided both cash and in-kind contributions to CWC. Indeed, many of Chicago's leading trial lawyers on the board volunteered the time and resources of their law firms to try high profile and difficult cases. Such collaborations included the defense of Juan Rivera, who was wrongfully convicted of murder and sexual assault in Lake County, Illinois.¹⁰⁴ CWC advisory board members, Thomas Sullivan and Terri Mascherin, volunteered to be lead counsel, supporting Northwestern Law clinical professors Jane Raley and Jeffrey Urdangen in that case. And advisory board member Ronald Safer, then managing partner of Chicago law firm Schiff Hardin, led the CWC trial team's successful defense of Julie Rea Harper, a multi-week jury trial that took place in downstate Clinton County, Illinois in 2006.¹⁰⁵ This in-kind support provided by CWC Advisory Board members and cooperating law firms has never been quantified in dollars, but likely amounts to millions of dollars in attorney time and costs for investigations and expert witnesses. These two trials alone involved extensive pre-filing investigation, drafting of post-conviction petitions, post-conviction evidentiary hearings, and months-long jury trials, all requiring thousands of hours of attorney time.

When Professor Warden retired¹⁰⁶ as Executive Director of the CWC in 2015, Professors Raley and Daniel became its co-executive directors. Upon Professor Raley's death, Professor Daniel became the CWC's executive director. Under Professor Daniel's leadership, the CWC continued as a leader in securing exonerations and in promoting reforms to minimize the risks of wrongful convictions. Professor Daniel organized and led yearly conferences at Northwestern Law highlighting recent developments in the law and new approaches to the analysis and presentation of forensic and scientific evidence.

Warden & Margaret Roberts, *Will We Execute an Innocent Man? The Dennis Williams Case*, CHI. LAWYER (July 1982). See generally DAVID PROTESS & ROB WARDEN, *A PROMISE OF JUSTICE: THE EIGHTEEN YEAR FIGHT TO SAVE FOUR INNOCENT MEN* (Hyperion Books 1998). Rob's scholarly contributions were also significant contributions to the movement to document and to rectify wrongful convictions. See, e.g., ROB WARDEN & STEVEN A. DRIZIN, *TRUE STORIES OF FALSE CONVICTIONS* (Northwestern University Press 2009).

¹⁰³ Original members of the CWC's Advisory Board included leaders of Chicago's legal community including Terri Mascherin, Jenner & Block, Kimball Anderson and Dan Webb, Winston & Strawn, Tom Sullivan, Jenner & Block, Ronald Safer, then with Schiff Hardin, and Stuart Chanen, then with Katten Muchin.

¹⁰⁴ See Center on Wrongful Convictions, *Juan Rivera: Juan Rivera freed after more than 19 years behind bars for a crime it had long been obvious he could not have committed*, BLUHM LEGAL CLINIC, <http://www.law.northwestern.edu/legalclinic/wrongfulconvictions/exonerations/il/juan-rivera.html> (last visited May 13, 2020).

¹⁰⁵ See Center on Wrongful Convictions, *Julie Rae: The tragedy of her son's murder was compounded by her wrongful conviction*, BLUHM LEGAL CLINIC, <https://www.law.northwestern.edu/legalclinic/wrongfulconvictions/exonerations/il/julie-rea.html> (last visited May 13, 2020); see also *Other Exonerations in Murder Cases with Child Victims*, THE NAT'L REGISTRY OF EXONERATIONS (June 2012), <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3278> (last accessed May 13, 2020). Julie Rea Harper was granted a certificate of innocence in 2008. *Id.*

¹⁰⁶ Upon Rob Warden's retirement, he was honored by colleagues in a symposium sponsored by Northwestern's Journal of Law & Criminology. See, Karen L. Daniel, *Symposium on the Center on Wrongful Convictions: Foreward*, 105 J. CRIM. L. & CRIMINOLOGY, 753 (2015).

Professor Daniel supported the creation and ongoing work of conviction integrity units in the Office of the State's Attorney of Cook County and in prosecutors' offices around the country.¹⁰⁷ This significant accomplishment highlighted the importance of collaborations between the defense bar and prosecutors as a means of identifying and studying the causes of wrongful convictions.¹⁰⁸ Finally, and most importantly, Professor Daniel continued to secure exonerations at an impressive pace. During her career with the CWC, Professor Daniel obtained twenty exonerations.¹⁰⁹

Upon Professor Daniel's retirement in 2018, Professors Steven Drizin (Professor Drizin) and Laura Nirider (Professor Nirider) were appointed as co-directors of the CWC. Professors Drizin and Nirider came to their positions with distinguished careers as clinical teachers and leaders in litigation and the study of youth wrongful convictions as a result of false confessions.¹¹⁰ Upon assuming their positions, the CWC merged with the Bluhm Clinic's Center on Wrongful Convictions of Youth.

The need for the work of the CWC continues. Wrongful convictions continue to be discovered at an alarming rate, suggesting that much more work needs to be done to provide justice to the wrongfully convicted and keep the focus on such causes to prevent future injustices. A recent report of the National Registry of Exonerations lists Illinois as the national leader of exonerations in 2020.¹¹¹ While this is commendable, it is also a cautionary tale, suggesting the need for continued vigilance. In order to ensure that the causes of wrongful convictions are eliminated—false confessions, failure of prosecutors to disclose favorable evidence, unreliable forensic evidence, ineffective assistance of counsel, and prosecutorial misconduct—the representation of clients who have meritorious claims of innocence must continue.

¹⁰⁷ Topics have included, "Wrongful Convictions Symposium, Hot Topics in Criminal Justice" (3/10/2017), "Criminal Litigation in the Age of Information" (10/19/2017), "Women's Project Wrongful Convictions Symposium" (3/16/2018), "Blood Spatter Evidence with Pamela Collof" (9/20/2018). Information contained in CWC files on file with CWC Administrator, Sara Sommervold.

¹⁰⁸ See Conviction Integrity Conference, *J. CRIM. & CRIMINOLOGY* (Oct. 29, 2014) (co-sponsored by Northwestern's Center on Wrongful Convictions), https://scholarlycommons.law.northwestern.edu/jclc_symposium/Conviction_Integrity_Conference/ (last accessed May 13, 2020). Presenters included Karen Daniel and Cook County State's Attorney Anita Alvarez. Participants included prosecutors from around the country who had established or were considering establishing conviction integrity units.

¹⁰⁹ See Sarah Mansur, *Retiring NU professor looks at life after exoneration clinic*, *CHI. DAILY L. BULL.* (May 3, 2019), <https://www.chicagolawbulletin.com/q-a-with-karen-daniel-of-northwestern-s-center-on-wrongful-conviction-20190503> (last accessed May 12, 2020). As I write this article, news has reached me that the Eighth Circuit just affirmed the grant of habeas relief in *Jimmerson v. Payne*, No. 18-3174 (8th Cir. 2020), a case in which Karen and her co-counsel, Clinical Assistant Professor Andrea Lewis, established that prosecutors lost or destroyed key evidence that could have been material to the defendant's guilt or innocence. There will undoubtedly be more clients who will benefit from Karen's work even though, tragically, she is no longer with us.

¹¹⁰ See Laura H. Nirider, *NW. PRITZKER SCH. L.* (2020), <http://www.law.northwestern.edu/faculty/profiles/LauraHNirider/> (last accessed May 12, 2020); Steve A. Drizin, *NW. PRITZKER SCH. OF L.* (2020), <http://www.law.northwestern.edu/faculty/profiles/StevenDrizin/> (last accessed May 12, 2020).

¹¹¹ See ANN. REP., NAT. REGISTRY OF EXONERATIONS (Mar. 31, 2020), law.umich.edu/special/exonerations/Documents/Exonerations_in_2019.pdf; see also Matt Masterson, *Report: Illinois Again Leads Nation in Exonerations*, *WTTW NEWS* (Mar. 31, 2020), <https://news.wttw.com/2020/03/31/report-illinois-again-leads-nation-exonerations> (last accessed May 12, 2020).

C. Center for Wrongful Convictions of Youth

In 2009, Professor Drizin founded the Bluhm Clinic's Center on Wrongful Convictions of Youth (CWCY).¹¹² Professor Nirider later joined CWCY, which has since merged into the CWC. CWCY was established to address issues unique to the representation of youth in serious criminal cases. Many of CFJC's first juvenile cases were serious felony cases that the state sought to transfer to criminal court. A significant number involved clients who lacked the capacity to form criminal intent and were not competent to stand trial.

Many of these cases rested on statements made by youth while in police custody. Some of the Clinic's young clients reported that their statements were coerced, not necessarily physically, but almost always by an interrogation process involving lengthy periods of time isolated in custody, separation from families and friendly adults, and deceptive techniques involving psychological pressure that the prosecution often contended was permissible and encouraged by leading experts in police interrogation techniques.¹¹³ In addition, clients often reported that what they said to police investigators and prosecutors was not accurately recorded in police reports or in the statements signed or acknowledged by clients. Even when verbatim transcripts of statements were made by police, our clients alleged that those statements were the products of lengthy interrogations in response to leading questions and "fact feeding." As work in this area evolved, it also became increasingly clear that many youth could not understand and knowingly waive Miranda rights.¹¹⁴

The best known case handled by the CWCY was that of Brendan Dassey, who is a subject of the Netflix series, "Making a Murderer."¹¹⁵ The series chronicled Dassey's case from his arrest in 2005, when he was sixteen, to the present, and focused on the need to re-examine deceptive interrogation techniques, including the "Reid Technique,"¹¹⁶ which

¹¹² Professor Drizin's work in this area began with his representation of children in Cook County's juvenile and criminal courts as a staff attorney in the Clinic's Children & Family Justice Center (CFJC). *Hardaway v. Young*, 302 F.3d 757 (7th Cir. 2002), t) (Tried by Clinic faculty and students in the Criminal Division of the Circuit Court of Cook County, the case raised questions about the voluntariness of statements made by minors. The Seventh Circuit affirmed *Hardaway's* conviction, but the court expressed reservations about the admissibility of statements made by uncounseled minors); In *A.M. v. Butler*, 360 F. 3d 3rd 787 (77th7 Cir. 2004), decided two years after *Hardaway*, the Seventh Circuit held that a statement made by young client of the clinic was inadmissible. *Hardaway* and *Miller* illustrate the Clinic's early efforts to seek reform by raising important and novel issues in the trial court and preserving those issues for appeal.

¹¹³ See FRED E. INBAU, ET AL., CRIM. INTERROGATION AND CONFESSIONS (Jones & Bartlett Learning, 5th ed. 2011). In the "Ryan Harris" case, two boys, ages seven and eight, were charged with murder and rape based upon their alleged confessions to police interrogators. They were exonerated when DNA analysis of semen found on the victim's underwear pointed to the true perpetrator and confirmed that their confessions were falsely procured by an experienced Chicago police detective. For a full account of this case, see Phoebe Mogharei, *Untrue Confessions*, CHI. MAG. (Jan. 16, 2019), <http://www.chicagomag.com/Chicago-Magazine/January-2019/From-the-Vault-Untrue-Confessions/> (last accessed May 12, 2020).

¹¹⁴ *Wrongful Convictions of Youth*, BLUHM LEGAL CLINIC (2020), <http://www.law.northwestern.edu/legalclinic/wrongfulconvictionsofyouth/> (last accessed May 13, 2020).

¹¹⁵ MAKING A MURDERER, (Netflix production Dec. 18, 2015-Oct. 19, 2018).

¹¹⁶ See INBAU, *supra* note 115. Faculty of the CWCY, including Steve Drizin, Laura Nirider, and Joshua Tepfer challenged the "Reid Technique", an interrogation technique advocated by the firm of John Reid & Associates that encouraged the use of psychological pressure and the use of trickery and deceit. Professors Drizin and Nirider made presentations to organizations such as the International Chiefs of Police and conducted trainings for police officers highlighting the dangers of utilizing the Reid Technique when

often produces false confessions, especially when youth are interrogated by professional interrogators.

The CWCY began representing Dassey in 2008, when Dassey's attorneys in Wisconsin contacted Professor Drizin because of Professor Drizin's nationally recognized expertise in causes and effects of children's false confessions before police and prosecutors.¹¹⁷ With local counsel, CWCY, including Professor Nirider, represented Dassey at a post-conviction hearing in Manitowoc, Wisconsin.¹¹⁸ After failing to secure relief at the trial court level, the CWCY continued to represent Dassey through his appeals in Wisconsin and in the Federal Courts.¹¹⁹ Ultimately, the case brought to light issues involving interrogation techniques that pose a grave danger of producing false confessions.

In another significant case, the CWCY represented Lee Arthur Hester, who at fourteen-years-old was convicted in Cook County of sexually assaulting and murdering his elementary school teacher. Hester, who, at the time of his arrest and trial, possessed the mental capacity of an eleven-year-old, was convicted by a Cook County Jury in 1961. In 1968, The Illinois Supreme Court affirmed his conviction,¹²⁰ in a decision frequently relied upon by Illinois courts in support of the proposition that uncounseled statements by mentally impaired children can be admissible in evidence and relied upon to sustain convictions.¹²¹

This Illinois Supreme Court opinion raised a number of red flags that signaled the likelihood of a wrongful conviction based upon a false confession. For example, Hester was fourteen at the time of his arrest, was reported to possess the mental capacity of an eleven-year-old, and was interrogated for twelve and a half hours before making a court-reported confession. Further, leading questions posed by his interrogators prompted his confession, and he testified at his trial that he was threatened and physically abused by police investigators. There was also substantial evidence that the police took steps to keep his mother away from him during the investigation. And, finally, he had no lawyer present during his interrogation. The Illinois Supreme Court's opinion detailing these facts told a

interrogating youth. The CWCY also collaborated with Robert Milan, former First Assistant State's Attorney of Cook County, to highlight the dangers of unbridled use of the "Reid Technique."

For a description of this work, see Joshua Tepfeler, Craig M. Cooley & Tara Thompson, *Convenient Scapegoats: Juvenile Confessions and Exculpatory DNA in Cook County, IL*, Northwestern Scholarly Commons (2012), WORKING PAPERS, 221, <https://scholarlycommons.law.northwestern.edu/facultyworkingpapers/221>; see also Megan Crane, Laura Nirider, & Steven A. Drizin, *The Truth About Juvenile False Confessions*, 16 AM. BAR ASS'N.: INSIGHTS IN L. & SOC'Y (Winter 2016), https://www.americanbar.org/content/dam/aba/images/public_education/insights/Juvenile_confessions.pdf (last accessed May 13, 2020); Laura Nirider, Joshua Tepfeler & Steven Drizin, *Combating Contamination in Confession Cases*, 79 U. CHI. L. REV. 837 (2012) (reviewing BRANDON L. GARRETT, *CONVICTING THE INNOCENT: WHERE CRIMINAL PROSECUTIONS GO WRONG* (Harv. Univ. Press 2011) (book review)).

¹¹⁷ See e.g., ROB WARDEN & STEVEN A. DRIZIN, *TRUE STORIES OF FALSE CONFESSIONS* (Northwestern Univ. Press 2009); Steven A. Drizin & Richard A. Leo, *The Problem of False Confessions in the Post-DNA World*, 82 N.C. L. REV. 891 (2008).

¹¹⁸ *Brendan Dassey v. Michael Dittman*, 201 F.Supp. 3d 963 (E.D. Wi. 2016), *aff'd* 860 F.3d 933 (7th Cir. 2017), *reh'g en banc granted and rev'd on other grounds*, 877 F.3d 297 (7th Cir. 2017), *cert. denied* *Dassey v. Dittmann*, 138 S. Ct. 2677 (2018).

¹¹⁹ The Governor of Wisconsin denied Dassey's clemency petition. A detailed history of the Dassey case to date can be found on the CWYC's web site at <https://www.law.northwestern.edu/legalclinic/wrongfulconvictionsyouth/>.

¹²⁰ *People v. Lee Arthur Hester*, 39 Ill. 2d 489 (Ill. 1968).

¹²¹ See, e.g., *People v. Henderson*, 404 N.E 2d 392, 400 (Ill. App. Ct. 1980).

story that was all too familiar to lawyers representing children charged with serious crimes based upon statements to police. As a result, the CWCY decided to look into the case to determine exactly how the conviction was obtained and whether any of the abusive practices that produced false confessions from other children represented by the CFJC and CWCY were present in Hester's case.¹²²

After receiving Hester's permission to re-investigate the case, the CWCY spoke with his trial and appellate defense attorney, fellow grade school students, and teachers who knew him as a fourteen-year-old. The CWCY also searched military and mental health records of an alternate suspect. The CWCY's ten year investigation revealed that Hester's conviction was based upon a coerced confession and faulty forensic evidence, and that the state's investigation subsequent to Hester's arrest in 1961 failed to credit the evidence of the probable perpetrator of the crime, a janitor in the school who had a documented history of violent and bizarre behavior, particularly toward women.¹²³ After CWCY's ten year investigation of the case—and with assistance of additional pro-bono counsel, former U.S. Attorney Patrick Fitzgerald and his colleagues at Skadden, Arps, Slate, Meagher & Flom LLP—the State's Attorney of Cook County agreed to vacate Hester's conviction in 2019.¹²⁴ Hester's certificate of innocence was granted in January of 2020 by Judge Leroy Martin Jr.¹²⁵ His exoneration is now the oldest wrongful conviction case documented in the National Registry of Exonerations.¹²⁶

D. Environmental Advocacy Center

The Environmental Advocacy Center (EAC) was established in 2012 to provide students with more in-depth exposure to environmental law. EAC began as a collaboration between Chicago's Environmental Law and Policy Center (ELPC) and the Bluhm Legal Clinic, led by Professor Nancy Loeb (Professor Loeb), then-President of ELPC's Board of Directors. Initially, Northwestern Law students worked under the supervision of both Professor Loeb, staff attorneys, and other ELPC personnel. After a year of operation, the EAC took on its own cases and added a fellow to the program funded by the Kenneth and Harle Montgomery Foundation, which continues to fund a "Montgomery Fellow" to assist Professor Loeb and her students.¹²⁷ The EAC's first year of operation in cooperation with the ELPC established the EAC within the Clinic and allowed the ELC to establish priorities and to assess the feasibility of future projects.

During the EAC's first year of operation it was asked to represent the citizens of DePue, Illinois, located on Lake DePue, which was polluted with zinc, lead, arsenic, cadmium and chromium from a smelting plant previously owned by Viacom/CBS and

¹²² For a detailed history of the Hester case, placing the case in historical, social, and legal context, see Steven A. Drizin, *The Lee Arthur Hester Case and the Unfinished Business of the United States Supreme Court to Protect Juveniles During Police Investigations*, 5 NW. J. L. & SOC. POL'Y 358, 358-401 (2011).

¹²³ *Id.* Pleadings on file with the author.

¹²⁴ Order vacating conviction on file with the author.

¹²⁵ Certificate of Innocence on file with the author.

¹²⁶ See Lee Arthur Hester, NAT'L REGISTRY OF EXONERATIONS (2020), <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=5586> (last accessed May 13, 2020).

¹²⁷ The Kenneth & Harle Montgomery Foundation has been very generous to the Clinic. It has funded projects including bail reform, juvenile justice reform, and environmental advocacy. In 2019, the Foundation donated funds to the Clinic to support litigation expenses. The Foundation received the first Dean's Partner award in 2015, with Walter Bell, JD '71 accepting the award. See law.alumni.northwestern.edu/s/1479/04-law/law/index2.aspx?sid=467.

Exxon Mobil; now, it is a Superfund site. In representing the citizens of DePue, Professor Loeb and her students collaborated with Northwestern's Department of Civil and Environmental Engineering, Department of Chemistry, and the Medill School of Journalism's Integrated Market Communication program. Students at Northwestern's Department of Chemistry examined sediment drawn from the lake, analyzed it, and created a website for the people of DePue.¹²⁸ This interdisciplinary effort provided Bluhm Clinic students with the opportunity to work with leading environmental scientists and enabled the Bluhm Clinic to expand its collaborations with other schools within the University, a long-held goal of Northwestern Law.

In another case, EAC worked on behalf of residents of the Southeast Side of Chicago to mitigate effects of the storage of Petcoke, a solid material resembling coal derived from oil refining in their community. The dust from piles of Petcoke is a pollutant and dangerous lung irritant. Working with the Southeast Side Coalition to ban Petcoke, EAC faculty, including Professor Loeb, Professor Debbie Chizewer,¹²⁹ and students, urged the City of Chicago to eliminate this dangerous health hazard. The EAC's representation and support of the Southeast Side Coalition to ban Petcoke facilitated the passage of a Chicago city ordinance banning new Petcoke operations in Chicago and requiring all Petcoke operations be removed or covered.¹³⁰

The EAC's work in banning new Petcoke storage in Chicago's Southeast side led to additional projects in collaboration with those same residents, in cooperation with the University of Chicago's Abrams Environmental Law Clinic and the National Resources Defense Council. This collaboration focused on remediating the effects of lead contamination of soil and drinking water in the West Calumet Housing Complex, which was built on the site of a former United States Steel lead smelting site. The effort raised the profile of environmental issues affecting communities located near industrial sites and resulted in an agreement between the EPA and the Department of Housing and Urban Development to improve conditions of federally funded housing projects located near Superfund sites.¹³¹

Most recently, the EAC represented farmers whose groundwater was threatened by the mining of silicon adjacent to their farms.¹³² The EAC has also extended its reach to the international arena, working on various projects in collaboration with the World Wildlife Fund.¹³³

E. The Pritzker Center for Entrepreneurship

Professor Thomas Morsch (Professor Morsch) founded the Pritzker Center for Entrepreneurship, what was then known as the Small Business Opportunity Center (SBOC)

¹²⁸ CLEANUP DEPUE, www.cleanupdepue.org (last accessed May 13, 2020) (video link); *see also Projects: Hazardous Waste Cleanup- DePue, Illinois, Environmental Advocacy Center*, BLUHM LEGAL CLINIC, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), 2012, at 6.

¹²⁹ Chizewer served as Montgomery Foundation Environmental Law Fellow and President of the Board of Directors of the Shriver Center for Poverty Law.

¹³⁰ *See Environmental Advocacy Center*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall 2016, at 15.

¹³¹ *See Environmental Advocacy Center*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall 2017, at 15; *Environmental Advocacy Center*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall 2018, at 21.

¹³² *See Expanding Environmental Justice Efforts*, NW L. REP., Spring 2017 at 24.

¹³³ *Id*; *see also Center Tackles Environmental Threats Across the State*, NW L. REP., Fall, 2014, at 24.

in 1998.¹³⁴ Professor Morsch, a long-time stalwart of Chicago's public interest law community and a partner at Sidley & Austin, LLC, specialized in First Amendment litigation and created the program seeking to broaden the mission and appeal of the Bluhm Clinic to the increasing number of students who were interested in transactional work and entrepreneurship. The SBOC was one of the first law clinics in the country that focused on hands-on training for these law and business students.

Students and faculty at SBOC engaged in work that included advising clients about incorporation, trademark registration, copyright protection, zoning requirements, and commercial licenses.¹³⁵ Four years after founding SBOC, Professor Morsch reported that almost half of SBOC's students were seeking joint law MBA degrees from the Law School and Northwestern's Kellogg School of Management.¹³⁶

SBOC continued to grow. In 2001, SBOC added a staff attorney, Caitlin Cameron, to assist with the Center's expanding programs and increased student demand. SBOC also received funding from the Kaufman Center for Entrepreneurial Leadership.¹³⁷ In 2005, Northwestern Law hired Professors Esther Barron (Professor Barron) and Stephen Reed (Professor Reed), both of whom came to SBOC with substantial practice experience in business and transactional law.¹³⁸ Together, Professors Morsch, Barron, and Reed broadened SBOC's practice and programming by collaborating with the Kellogg School of Management, thereby expanding the scope of its course offerings, as it increasingly focused on entrepreneurship, changing its name to the Center for Entrepreneurship.

The Center for Entrepreneurship took a leadership role in establishing the National Transactional LawMeet, a national law student competition, that continues to attract students from over sixty law schools.¹³⁹ And, the Center for Entrepreneurship established an important annual conference series, the Small Business Opportunity Conference, which continues to meet every year, drawing standing-room-only crowds.¹⁴⁰

When Northwestern Law received the generous \$100,000,000 gift from the Pritzker family,¹⁴¹ included in the gift were funds to support the work of the Center for

¹³⁴ See *Dean's Message*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Spring 1999, at 2 ("Our recently completed Strategic Plan calls for Northwestern to expand and broaden our clinical program. We have taken significant steps in this direction by establishing the Small Business Opportunity Clinic and the International Center for Human Rights"); see also *Law & Entrepreneurship*, NW L. REP., Spring 2014, at 18.

¹³⁵ See *Leadership in Education, Justice, and Legal Reform*, LAW SCH. BROCHURE (Spring 2001) (on file with the author).

¹³⁶ *Small Business Opportunity Center Seen as Model Transactional Law Program*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall 2002, at 6.

¹³⁷ See *Small Business Opportunity Center Adds Clients*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Winter, 2002, at 5; *Entrepreneurs Find Legal Expertise at Bluhm Legal Clinic's Small Business Opportunity Center*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Spring 2005, at 1.

¹³⁸ See *Bluhm Legal Clinic Welcomes New Faculty*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall 2005, at 2.

¹³⁹ See *Transactional Lawyering Team Take Top Honors at Regional Meet*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Winter 2014, at 27.

¹⁴⁰ See *5th Annual Small Business Opportunity Conference*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Spring/Summer 2010, at 5; *7th Annual Entrepreneurship Law Conference*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Winter 2012, at 11; *J.B. Pritzker Delivers Keynote at Annual Entrepreneurship Law Conference*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Winter 2014, at 29.

¹⁴¹ See *The Pritzker Gift "in Motion,"* NW PRITZKER SCH. L., <http://www.law.northwestern.edu/campaign/pritzkers/>; Entrepreneurship Community, NW PRITZKER SCH. L., <http://www.law.northwestern.edu/research->

Entrepreneurship. The Entrepreneurship Center was then renamed the Pritzker Center for Entrepreneurship.¹⁴²

F. Roderick & Solange MacArthur Justice Center

The Roderick & Solange MacArthur Justice Center (RSMJC), established with funding from the Roderick MacArthur Foundation, joined the Bluhm Clinic in 2006.¹⁴³ RSMJC is an independently funded justice-reform organization that includes several Clinic faculty members. RSMJC faculty supervise Northwestern Law students on a variety of cases, including civil rights litigation and prison reform litigation.

The founder of RSMJC, Roderick MacArthur, a long-time Chicago public interest advocate was the son of John D. and Catherine T. MacArthur, who founded the John D. and Catherine T. MacArthur Foundation. Roderick's son Rick, a Chicago native and publisher of Harper's Magazine, was instrumental in supporting RSMJC and its fruitful collaboration with the Bluhm Clinic.¹⁴⁴

RSMJC joined forces with the Bluhm Clinic in 2006 because of the close affinity between the work being done by the Bluhm Clinic and RSMJC on criminal justice reform. When RSMJC joined the Clinic, it consisted of two lawyers, Locke Bowman, who was the Director of RSMJC, Joseph Margulies,¹⁴⁵ and two support staff. All personnel costs were borne by RSMJC. Since 2006, RSMJC has expanded within the Bluhm Clinic to four clinical faculty, who supervise students on cases involving criminal justice and prison reform,¹⁴⁶ and four support staff. RSMJC also has branch offices in St. Louis, Washington, D.C., and Oxford Mississippi,¹⁴⁷ comprising a national organization of public interest lawyers who work on criminal justice reform. The presence of RSMJC has been of immense benefit to students and faculty of the Bluhm Clinic, enabling Northwestern Law students to participate in justice reform projects throughout the country.

RSMJC focuses on civil litigation in support of a variety of criminal justice reform initiatives. RSMJC has advocated for police reform in Chicago by advising the parties on a recent consent decree entered by the federal court regarding police discipline.¹⁴⁸ RSMJC has a project that litigates on behalf of prisoners in solitary confinement, the goal of which is to abolish solitary confinement in federal and state prisons.¹⁴⁹ Bail reform was another

faculty/entrepreneurship/community/ (last accessed May 12, 2020) (describing the Entrepreneurship Center's Community Partners).

¹⁴² Peter Kotecki, Northwestern receives \$100 million from Pritzker family, renames School of Law, DAILY NW (Oct. 15, 2015), <https://dailynorthwestern.com/2015/10/22/campus/northwestern-receives-100-million-from-pritzker-family-renames-school-of-law/> (last accessed May 12, 2020).

¹⁴³ *MacArthur Justice Center Moving to Northwestern's Bluhm Legal Clinic*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Spring 2006, at 1.

¹⁴⁴ *See generally*, RODERICK & SOLANGE MACARTHUR JUST. CTR. (2020), www.macarthurjustice.org (last accessed May 12, 2020).

¹⁴⁵ *Id.*

¹⁴⁶ This has all been at no cost to the Bluhm Legal Clinic.

¹⁴⁷ *Our Story*, RODERICK & SOLANGE MACARTHUR JUST. CTR. (2020), <https://www.macarthurjustice.org/our-story/> (last accessed May 12, 2020).

¹⁴⁸ *See Consent Decree*, Illinois v. City of Chicago, No. 17-cv-6260 at ¶ 711, 2019 WL 398703 ¶ 687 (N.D. Ill. Jan. 31, 2019), <http://chicagopoliceconsentdecree.org/wp-content/uploads/2019/02/FINAL-CONSENT-DECREE-SIGNED-BY-JUDGE-DOW.pdf> (last accessed May 12, 2020).

¹⁴⁹ *Solitary Confinement*, RODERICK & SOLANGE MACARTHUR JUST. CTR. (2020), <https://www.macarthurjustice.org/issue/rights-of-the-incarcerated/solitary-confinement/> (last accessed May 12, 2020). For a leading article on this subject was recently published by David Shapiro, Director of

issue taken on by RSMJC, resulting in a settlement that pushed bail reform forward in Cook County.¹⁵⁰

Most recently, RSMJC collaborated with Uptown People’s Law Center and the law firm Loevy & Loevy to file civil rights lawsuits against the Cook County Jail and the Illinois Department of Corrections to reduce the inmate population of Illinois prisons and jails in response to the COVID-19 pandemic. These lawsuits, which were prepared and filed by Clinic faculty and students working in collaboration with other prison reform advocates under the difficult working conditions imposed by the pandemic, brought needed attention to the problem of exposure of inmates to COVID-19.¹⁵¹ Students at the Bluhm Legal Clinic were on the front lines, conducting necessary investigations and helping prepare filings, responsive pleadings, and discovery requests.

RSMJC has partnered with other Clinics in the representation of several wrongfully convicted clients in their civil suits against the City of Chicago and Cook County. Several of these cases have resulted in multi-million dollar settlements. The attorney’s fees from these cases, amounting to over \$15,000,000 to date, have been deposited in Northwestern Law accounts for the benefit of the Bluhm Clinic’s various programs.

G. Center for Civil Litigation

Civil practice has been deeply rooted in the Bluhm Clinic from its beginning, when the clinic was founded as an arm of Legal Aid Chicago, then United Charities Legal Aid.¹⁵² At the time of its founding, and for years afterward, the Bluhm Clinic enjoyed a “walk-in” business, in which students and faculty would be allocated “duty days” to interview prospective clients who had learned of the Clinic through legal aid offices or social services agencies with whom the Clinic collaborated.¹⁵³ This “walk-in” business provided students with meaningful interviewing experience as well as a good sense of gaps in the provision of legal services to those in need. As such, Bluhm Clinic faculty and students in the early 1970s represented clients in domestic relations cases, housing cases, prisoners’ rights

Appellate Litigation of RSMJC and Clinical Professor of Law, Northwestern Pritzker School of Law, *see* David Shapiro, *Solitary Confinement in the Young Republic*, 133 HARV. L. REV. 542 (2019).

¹⁵⁰ *Cash Bail*, RODERICK & SOLANGE MACARTHUR JUST. CTR. (2020),

<https://www.macarthurjustice.org/issue/punishment-of-poverty/cash-bail/> (last accessed May 12, 2020).

¹⁵¹ *See generally* Money v. Pritzker, 20-CV-2093, 2020 WL 1820660 (N.D. Ill. Apr. 10, 2020); Mays v. Dart, 20 C 2134, 2020 WL 1812381 (N.D. Ill. Apr. 9, 2020). Case updates are available at *Mays v. Dart*, RODERICK & SOLANGE MACARTHUR JUST. CTR. (2020), <https://www.macarthurjustice.org/case/mays-v-dart/> (last accessed May 12, 2020).

¹⁵² For an interesting summary of activities of the clinic in its very early days, *see* Gary S. Laser, *Keynote Address, Northwestern Legal Clinic 20th Anniversary Celebration, May 4, 1990*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Mar. 1991, at 2.

¹⁵³ *See generally* NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall 1976. That first issue of News & Notes contains detailed statistics regarding case intake including number of interviews conducted, number of cases accepted, all organized by type of case. In 1972, the Clinic students and faculty interviewed 307 clients. The numbers increased each year. During the first half of 1976, the Clinic interviewed 602 clients. The 1976 issue of News & Notes contained the following statement: “All potential clients who come to the Clinic are interviewed by a student who then reviews the case with his/her supervising attorney. If a case is not accepted, the student and attorney meet to discuss a meaningful referral plan.” *Id.* at 3. The largest proportion of cases accepted were “divorce” cases. *Id.*

cases,¹⁵⁴ criminal and ordinance violation cases,¹⁵⁵ right to counsel cases,¹⁵⁶ and social security disability hearings.¹⁵⁷

Beginning in the early 1980s, the Clinic established a presence in communities, working in Englewood,¹⁵⁸ Uptown,¹⁵⁹ and West Town on both civil and criminal cases.¹⁶⁰ For a brief period of time, the Clinic had an office in the Northwestern Settlement located west of Northwestern Law in Noble Square.¹⁶¹ Early on, the Clinic had a project that involved representation of clients in small claims matters in the Circuit Court of Cook County, and Professor Tom Eovaldi headed a project that focused on the representation of clients in consumer fraud cases.¹⁶²

¹⁵⁴Sarah Wolff, JD '78, now a member of the Bluhm Legal Clinic's Advisory Board, describes her experience as a student representing women at the Dwight Correctional Center accused of "riot" who were placed in solitary confinement as a result. Sarah and Clinic faculty represented these women in their disciplinary hearings. Sarah observed: "...I do think that there is something wrong with a system that keeps you double bunked in a room 10 feet by 10 feet, while for the first few days in segregation you wear the same clothes on your back you were teargassed and confined. And there is something wrong with a system that brings you three meals a day, all of them cold, until the day comes when state representatives tour the prison and suddenly the food is hot and there is steak for dinner. And there is something wrong when you only get out of your cell for recreation time for one hour a week. *Id.* at 14-15.

¹⁵⁵ Then student Jerry Atencio reported that he interviewed two young men charged with violating a then Chicago ordinance that made it a violation to wear clothing of the opposite sex with the intent to conceal one's sex. *Id.* This case was tried at the Chicago Avenue police court by Daniel Swartzman, JD '79, and Wendy Meltzer, JD '79. The clinic did not win at trial or at the Illinois Appellate Court. The Illinois Supreme Court reversed the conviction. *See generally* *City of Chicago v. Wilson*, 357 N.E.2d 1337 (Ill. App. 1st Dist. 1976), *rev'd*, 389 N.E.2d 522 (Ill. 1978).

¹⁵⁶ *See* *Smith v. Illinois*, 390 U.S. 129 (1968) (argued in the United States Supreme Court by John Elson. Holding that misdemeanants not sentenced to jail have no right to counsel).

¹⁵⁷ *See generally* NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), 1976; NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), 1977; NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), 1980.

¹⁵⁸ The Clinic represented the then young members of the Black Disciples at an outreach center at 59th & Halsted in Chicago. (Documents on file with the author).

¹⁵⁹ *See generally* NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Spring 1987, at 6. The newsletter provides a description of the Clinic's early affiliation with the Uptown People's Law Center. Students traveled to the UPLC to interview and to represent clients under the supervision of Tom Johnson. Leslie Jones was also a member of the Clinic's faculty at that time. *See also* *Community Law Clinic and Cases*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Spring 1988, at 13-14.

¹⁶⁰ The Clinic established a neighborhood law office in the Northwestern Settlement in Noble Square in 2002 headed by Angela Daker (JD '87) and Angela (Coin) Vigil (JD '87). *See, Neighborhood Justice Models*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Winter 2002, at 4; *Alumni Profile: Angela Daker*, NEWS & NOTES (Bluhm Legal Clinic, Chi.), Spring 2007, at 6 (describing experiences working in the Westtown office); *see also* *Serving a Neighborhood Takes Ties Within Community*, NEWS & NOTES (Bluhm Legal Clinic, Chi.), Spring 1997, at 27 (describing the work of Angela (Coin) Vigil, reprinted from the Chicago Daily Law Bulletin. Coin reported that, "About 40 percent of the clinic's resources are devoted to dealing with general services to the neighborhood which includes providing legal advice and referrals in matters like Social Security benefits, guardianships, welfare, immigration, and divorce."); *see also* *Community Law Service at the Community Law Clinic*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Summer 2000, at 12 (noting that, "the location of the CLC has allowed law students to be involved in some non-traditional forms of advocacy to help neighborhood families with legal problems. For example, students have assisted clients in mediation for first-time non-violent offenses.").

¹⁶¹ *See* NORTHWESTERN SETTLEMENT, <https://northwesternsettlement.org> (last visited Aug. 29, 2020).

¹⁶² For a thorough reporting of cases statistics, *see generally* NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), 1976, at 3-6.

The Bluhm Clinic was very fortunate to have Professor John Elson (Professor Elson) as a leader of the clinic's work in civil litigation. Professor Elson, who began his career at the Mandel Legal Aid Clinic at the University of Chicago School of Law, joined the Bluhm Clinic in 1974. A specialist in education law, Professor Elson developed the theory of "educational malpractice,"¹⁶³ hoping to utilize that theory to improve the quality of education in Chicago's public schools. This led to a focus on improving the special education programs of Chicago Public Schools by representing children and families in administrative hearings challenging denials of benefits. He was joined in this project by Professor Laura Miller (Professor Miller).¹⁶⁴ Ultimately, Professors Elson and Miller's project was successful in providing much needed services to students in special education, and it enabled law students to represent clients in administrative hearings. These cases also brought in fees to support further Clinic efforts to improve access to special education services. The experience of working on individual special education cases led Professor Elson and Northwestern Law graduate Sharon Weitzman Soltman (Juris Doctor 1983) of Designs for Change, to identify systemic shortcomings in the provision of special education services to Chicago Public School students. This led them to file a class action lawsuit against Chicago Public Schools challenging the sufficiency of its special education programs.¹⁶⁵

Professor Elson continued the Clinic's civil litigation work, alongside his work on special education, in the areas of reform of Cook County's matrimonial bar,¹⁶⁶ representation of victims of mortgage fraud,¹⁶⁷ and defense of Chicago Housing Authority (CHA) evictions.¹⁶⁸ The cases involving mortgage fraud and CHA evictions were taken on

¹⁶³ See John Elson, *A Common Law Remedy for Educational Harms Caused by Incompetent Teaching*, 73 NW L. REV. 641 (1978).

¹⁶⁴ See NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Winter, 1989, at 11, 14-16 (describing the Clinic's then Special Education Project). This project was funded by the U.S. Department of Education and by the Legal Services Corporation. *Id.* It was essentially self-supporting through grants and attorney's fees. The Project received a \$300,000 grant from the U.S. Department of Education in 1991. See NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Mar. 1991, at 13.

¹⁶⁵ NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Spring, 1994, at 17 (noting that the Clinic had filed *Corey H. v. Chicago Board of Education* along with Designs for Change, a Chicago-based school reform organization. This case was litigated for years by John Elson. It achieved significant reforms in the Chicago Board of Education's treatment of students with special needs. It also brought significant attorney's fees to the Clinic). See *Special Education/Rights of Disabled Children*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Spring 1995, at 24; See also Bruce Boyer, *A Victory for Students with Disabilities in the Chicago Public Schools*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Spring 1998, at 14; *Corey H. v. Bd. of Educ.*, 534 F.3d 683 (2008). A review of this court's docket entry documents a more than 25-year litigation history. For an accessible summary of the issues involved, see Elizabeth Duffrin, *Who is Corey H.*, CHI. REP. (2005), <https://www.chicagoreporter.com/who-corey-h/> (last accessed August 29 May 12, 2020).

¹⁶⁶ See NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Spring 1994, at 19; see also *In Re: Richard Anthony Rinella*, 677 N.E. 2d 909 (Ill. S. Ct. 1997) (finding that suspension from legal practice was warranted for sexual relations with clients). John Elson represented the victims in these matters as part of his initiative to reform Chicago's divorce bar. Elson's project also investigated unethical fee practices engaged in by members of Chicago's matrimonial bar.

¹⁶⁷ *Civil Litigation Clinic Students Assist Victims of Mortgage Fraud*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Winter 2008, at 1.

¹⁶⁸ *Civil Litigation Center*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall 2016, at 13-14 (describing work of faculty and students in the representation of CHA residents); see also *Civil Litigation Center*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall 2018, at 19-20 (describing work done by students and

in cooperation with the Legal Assistance Foundation of Chicago (now, Legal Aid Chicago) and with co-counsel and Bluhm Legal Clinic faculty, Professor Laurie Mikva (Professor Mikva), a member of the Board of Directors of the Legal Services Corporation. This collaboration with Legal Aid Chicago brought the Clinic back to its roots as an outpost of federally funded legal services programs that existed in Chicago when the modern Clinic was founded. The Clinic's civil litigation work also provided Clinic students with exposure to a wide range of civil legal aid issues falling into the category of "poverty law."

In addition to the continuing leadership on civil litigation matters provided by Professor Elson, Professor J. Samuel Tenenbaum (Professor Tenenbaum) established an Investor Protection Program (IPC) within the Center for Civil Litigation.¹⁶⁹ The IPC focused on the representation of clients, particularly the vulnerable and elderly, victimized by unethical stockbrokers and money managers.¹⁷⁰ This project has resulted in the recovery of substantial funds for the program's clients. Students have represented these clients in FINRA arbitration hearings and in civil lawsuits. Under Professor Tenenbaum's leadership, the Civil Litigation Center also continued work in the mortgage fraud arena through its representation of clients in a class action lawsuit against a lender who engaged in predatory practices in one of Chicago's low-income neighborhoods.¹⁷¹

H. Center for International Human Rights

Northwestern Law's Center for International Human Rights (CIHR) was established in 1998,¹⁷² led by Professor Douglas Cassel (Professor Cassel),¹⁷³ who brought extensive experience in international human rights, specifically in the role of the International Criminal Court, international terrorism,¹⁷⁴ United States death penalty laws, truth commissions, economic rights, NATO's humanitarian intervention, and political asylum cases.¹⁷⁵ National Public Radio regularly aired Professor Cassel's commentaries.¹⁷⁶ Professor Cassel also established the CIHR's graduate program in international human

faculty collaboration with the Legal Assistance Foundation of Chicago, Cabrini Green Legal Aid, and Lawyers for Better Housing).

¹⁶⁹ See *Litigation and Investor Protection*, BLUHM LEGAL CLINIC, <https://www.law.northwestern.edu/legalclinic/investorprotection/aboutus/> (last accessed May 12, 2020).

¹⁷⁰ See *Investor Protection Center Assists Small Investors*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall 2005, at 4.

¹⁷¹ See *Northwestern Legal Clinic & Reverend Robin Hood Partner to Represent Mortgage Fraud Victims*, NORTHWESTERN NOW (Jan. 22, 2019), <https://news.northwestern.edu/stories2019/01/northwesternlegalclinic-and-reverend-robin-hood-partner-to-represent-mortgage-fraud-victims/> (last accessed May 12, 2020).

¹⁷² See *Dean's Message*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Spring, 1999, at 2, 10 (stating that the Center for International Human Rights was Established in 1999).

¹⁷³ Prof. Cassel came to Northwestern from the DePaul University School of Law where he directed that law school's program on international human rights. He had previously served as a consultant to the United Nations, the Organization of American States, and the United States Department of State. *Id.* at 2.

¹⁷⁴ Professor Cassel provided advice and helped to organize representation of Guantanamo prisoners. See *Cassel Hails Ruling in Favor of Detainees' Rights*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall 2004, at 1.

¹⁷⁵ See CLINIC BROCHURE, (Bluhm Legal Clinic, Chi., Ill.), 2001 (on file with author).

¹⁷⁶ See *Center for International Human Rights Focuses on Responses to September 11*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall 2002, at 7 (noting the CIHR's involvement in the transformation of the then existing International Court of Justice and a CIHR conference entitled, "Human Rights and the Rule of War: New Roles for the World Court?").

rights; its first students included judges and human rights lawyers from Indonesia.¹⁷⁷ As the CIHR grew, it identified six areas of work: human rights in Latin America, asylum for refugees, justice reform in South America, corporate social responsibility, free trade and human rights, and international transitional justice.¹⁷⁸

Professors Bridget Arimond (Professor Arimond) and Stephen Sawyer (Professor Sawyer) assisted Professor Cassel throughout his tenure at Northwestern. Professor Arimond advocated on behalf of CIHR's clients and developed CIHR's graduate program, working to attract leading human rights advocates from around the world. Professor Sawyer focused on providing one-on-one supervision of graduate students' writing projects and teaching classroom components of CIHR's curriculum.

In 2006, Northwestern Law hired David Scheffer (Professor Scheffer) to lead the CIHR, who was Ambassador to the international criminal courts in the Clinton Administration. With the hiring of Professor Scheffer,¹⁷⁹ CIHR began to focus on the work of the International Criminal Court (ICC), which Professor Scheffer had a hand in establishing as Ambassador during President Clinton's administration.¹⁸⁰ Professor Scheffer held yearly conferences reporting on the work of the ICC and on developments in international criminal law.¹⁸¹ Professor Scheffer published widely¹⁸² on the subject of ICC and international criminal law,¹⁸³ and established an effective mechanism for monitoring the work of the Cambodia Tribunal.¹⁸⁴

Under Professor Scheffer's leadership, the CIHR's clinical offerings expanded. CIHR clinics were led by Professors Arimond and Sandra Babcock (Professor Babcock). These clinical offerings were augmented by the work of Professor Sawyer, who taught human rights-related courses and seminars and who led the CIHR's successful effort to obtain consultative status¹⁸⁵ with the United Nations (UN), enabling the CIHR faculty and students to participate in the deliberations of UN bodies on significant human rights issues.¹⁸⁶

Professors Arimond and Babcock led the CIHR's clinical initiatives to provide students with a variety of opportunities to work abroad in support of human rights.

¹⁷⁷ *Id.*

¹⁷⁸ See *Center for International Human Rights Focuses on Four Areas*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Winter 2002, at 6-8.

¹⁷⁹ See *Former War Crimes Ambassador Joins Center for International Human Rights as New Director*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall 2006, at 1.

¹⁸⁰ See *Justice for Cambodia*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Winter 2014, at 10-11.

¹⁸¹ Professor Scheffer continues to lead the CIHR's annual conferences on atrocity crimes. See generally David Scheffer, *Atrocity Crimes Litigation During 2009*, 8 NW. J. INT'L HUM. RTS. 1 (2010).

¹⁸² See DAVID SCHEFFER, *ALL THE MISSING SOULS* (Princeton University Press, 2012).

¹⁸³ *Id.*

¹⁸⁴ CAMBODIA TRIBUNAL MONITOR, <http://www.cambodiatribunal.org/> (last accessed May 13, 2020) (describing the work of the CIHR's Cambodia Tribunal Monitor).

¹⁸⁵ Hillary Hurd Anyaso, *Northwestern Law Center Awarded Special Consultative Status Within U.N. Counsel*, NORTHWESTERN NOW (Sept. 28, 2012), <https://news.northwestern.edu/stories/2012/09/northwestern-law-center-awarded-special-status-with-un-council/>. As noted in this Article, Professor Stephen Sawyer led this successful effort on behalf of the students and faculty of the CIHR. See also *Center for International Human Rights Granted Special U.N. Consultative Status*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Winter 2014, at 28.

¹⁸⁶ See *Course Details: Clinic: International Human Rights Advocacy*, NW. PRITZKER SCHOOL OF LAW (2020), <http://www.law.northwestern.edu/academics/curricular-offerings/coursecatalog/details.cfm?CourseID=627> (last accessed May 13, 2020).

Professor Arimond's work included diverse projects addressing LGBTQ rights, immigrant rights, and environmental justice in Ethiopia.¹⁸⁷ Professor Babcock built upon the Clinic's existing relationships with the Paralegal Advisory Service in Malawi,¹⁸⁸ in her ongoing effort with students to help prisoners in Malawi gain access to courts to resolve their cases and to obtain their release from custody.¹⁸⁹ Professor Babcock also supervised students working on the cases of condemned prisoners in Malawi.¹⁹⁰

Health and human rights is also an important focus of the CIHR. Under the leadership of Professor Juliet Sorensen (Professor Sorensen), and in collaboration with Northwestern's Feinberg School of Medicine, students and faculty have worked in Mali, Botswana, Nigeria, and Lebanon to address the intersection between law and public health policy. CIHR projects in health and human rights have included the study of measures needed to contain and treat tuberculosis and an international conference on the working conditions in Botswana's mining industry. The University-wide Access to Health Project¹⁹¹ initiated by Professor Sorensen and colleagues at the Feinberg School of Medicine has brought together leaders in public health, law, and international human rights.

Expansion of the CIHR's global reach was realized in part through its LLM program in Human Rights, created by Professor Cassel, and expanded by Professor Arimond. The LLM program has attracted talented young human rights advocates from around the world. It has provided them with comprehensive training in human rights law and facilitated the CIHR's contacts with human rights organizations abroad. So far, over 200 human rights advocates have enrolled and graduated, and many have since taken on important assignments for governments, UN bodies, and NGOs.¹⁹² The program is relatively small, enrolling six to ten students per year in the post graduate program and three to five students per year in the joint JD/LLM program, which permits JD students to enroll in a four-year human rights track, with the fourth year of law school costing half the tuition. Under Professor Arimond's leadership, the program, although small, flourished, with positive results evident from the career paths and accomplishments of its graduates. The list of CIHR LLM graduates includes the senior child protection officer for UNICEF in Nepal, a staff member of Greenpeace, the legal adviser to the UN Human Rights Council-Mandated Commission of Inquiry in South Sudan, and the human rights officer for a USAID contractor in Myanmar.

I. Center for Capital Defense

Professor Lawrence Marshall (Professor Marshall) was the co-founder of the Center on Wrongful Convictions whose path-breaking work on wrongful convictions at first

¹⁸⁷ See CIHR annual newsletters on file with the author.

¹⁸⁸ See *School of Law Namati Innovations in Legal Empowerment*, PARALEGAL ADVISORY SERVICE INSTITUTE (MALAWI), <https://namati.org/network/organization/paralegal-advisory-service-institute/> (last accessed August 29, 2020).

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ See *Access to Health*, BLUHM LEGAL CLINIC INTERNATIONAL HUMAN RIGHTS, law.northwestern.edu/legalclinic/humanrights/projects/access-to-health.

¹⁹² See *International Human Rights*, BLUHM LEGAL CLINIC, <https://www.law.northwestern.edu/legalclinic/humanrights/>.

focused on Illinois' condemned prisoners.¹⁹³ Prior to the 1998 National Conference on Wrongful Convictions,¹⁹⁴ the Bluhm Clinic was appointed to represent four condemned prisoners on Illinois' death row: Leroy Orange,¹⁹⁵ Ronald Kitchen,¹⁹⁶ Scotty Lee Kinkead,¹⁹⁷ and Dino Titone.¹⁹⁸ Representing these four condemned clients, as well as the clients represented by Professor Marshall, provided the Bluhm Clinic's faculty and students with a continuing interest in the application of the death penalty in Illinois and around the country.

The Bluhm Clinic's continuing involvement in death penalty cases led to the hiring of Professor Rob Owen (Professor Owen), one of the nation's leading death penalty practitioners who directed the University of Texas' death penalty clinic.¹⁹⁹ Professor Owen visited the Bluhm Clinic in 2012, supervising students on Texas death penalty cases and teaching a course on the death penalty. He joined the Bluhm Clinic's faculty full-time in 2014²⁰⁰ when he established the Bluhm Clinic's Center for Capital Defense.²⁰¹

During its five years of existence, the Bluhm Clinic's Center for Capital Defense provided students the opportunity to represent condemned prisoners and to experience the impact and challenges of capital defense after Illinois abolished its death penalty. This took Bluhm Clinic faculty and students to the "death belt"²⁰² to meet with clients on death row and to participate in hearings in Texas' state courts and federal courts to in which federal habeas petitions were filed. This important area of practice was eliminated from the Bluhm Clinic's programming when the Center for Death Penalty Defense closed due to a Northwestern Law budget shortfall, despite the fact that the death penalty remains a

¹⁹³ See generally *Illinois Death Penalty*, BLUHM LEGAL CLINIC, <https://www.law.northwestern.edu/legalclinic/wrongfulconvictions/exonerations/deathpenalty/>; for Anthony Porter, see <http://www.law.northwestern.edu/legalclinic/wrongfulconvictions/exonerations/pages/case/detail.aspx?caseid=3533>; for Rolando Cruz, see www.law.northwestern.edu/legalclinic/wrongfulconvictions/il/rolando-cruz.html.

¹⁹⁴ See Don Terry, *Survivors Make the Case Against Death Row*, N.Y. Times (Nov. 16, 1998), <https://www.nytimes.com/1998/11/16/us/survivors-make-the-case-against-death-row.html/>; Laura Laurie Aucoin, *Righting Wrongful Convictions*, NW. ALUMNI MAG. (1999), <https://www.northwestern.edu/magazine/northwestern/spring99/convictions.htm>.

¹⁹⁵ See Center on Wrongful Convictions, *Leroy Orange*, BLUHM LEGAL CLINIC CENTER ON WRONGFUL CONVICTIONS, <http://www.law.northwestern.edu/legalclinic/wrongfulconvictions/exonerations/il/leroy-orange.html> (last visited May 13, 2020).

¹⁹⁶ See *Ronald Kitchen: Burge victim Ronald Kitchen Latest Illinois Death Row Exoneree*, BLUHM LEGAL CLINIC CENTER ON WRONGFUL CONVICTIONS, <http://www.law.northwestern.edu/legalclinic/wrongfulconvictions/exonerations/il/ronald-kitchen.html> (last visited May 13, 2020).

¹⁹⁷ *People v. Kinkead*, 660 N.E. 2d 852 (Ill. S. Ct. 1995).

¹⁹⁸ *People v. Titone*, 600 N.E.2d 1160 (Ill. S. Ct. 1992).

¹⁹⁹ See *Professor Rob Owen and Team of Students Defend Death Row Inmates*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Winter 2012, at 8.

²⁰⁰ See *Clinic Faculty*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Winter 2014, at 31.

²⁰¹ See *Center for Capital Defense*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall 2018, at 23.

²⁰² Steven Bright, former director of the Southern Center for Human Rights, applied the term "death belt" to the southeastern states of the U.S., where "90 % of executions occur. See *Fight for Life in the Death Belt*, NYC FILM prisonpolicy.org/blog/2006/10/03/deathbelt/.

significant human rights issue for our country's criminal justice system, one which Northwestern Law should continue to confront.²⁰³

J. The Center for Criminal Defense

The Center for Criminal Defense was founded in 2003 when Professor Jeffrey Urdangen (Professor Urdangen) joined the Clinic's faculty,²⁰⁴ bringing his years of experience as a private criminal defense practitioner in both state and federal courts to the Bluhm Clinic. Professor Urdangen was active in the defense of condemned prisoners and helped with wrongful conviction and death penalty cases prior to the creation of the Center on Wrongful Convictions. Professor Marshall recruited Professor Urdangen to the Clinic to increase its capacity to try the serious and complex criminal cases the Bluhm Clinic was handling—cases that were taken on by faculty in the CWC, the CJFC, the MacArthur Justice Center, and the CWCY. The objective of the Center for Criminal Defense under Professor Urdangen's leadership was to provide students with exposure to the challenges and rewards of criminal defense practice, representing clients who faced serious charges both at trial and at sentencing.²⁰⁵

Professor Urdangen's criminal trial experience made him a valuable collaborator with other Bluhm Clinic centers, particularly with the Center on Wrongful Convictions. He participated with CWC faculty and students in the defenses of Julie Rae Harper,²⁰⁶ Alan Beaman,²⁰⁷ and Juan Rivera,²⁰⁸ which were three of the CWC's most challenging and important cases. He routinely provided expert advice to faculty and students representing clients in Cook County's juvenile and criminal courts. His practical knowledge of the practices, procedures, and personalities of key players in the Cook County and federal courts was invaluable to the work of the Clinic's faculty and students.

The Center for Criminal Defense closed in 2018 when Professor Urdangen retired. His departure from the Bluhm Clinic diminished the Clinic's ability to provide hands-on trial training in criminal defense for which the clinic has come to be known, as well as the Bluhm Clinic's presence in Cook County's criminal courts. The knowledge gained about criminal justice in Cook County through the Bluhm Clinic's criminal defense practice had enabled clinic faculty and students to be in the forefront of criminal justice reform in Cook County.

²⁰³ Four executions were carried out in the U.S. in July 2020. *See Upcoming Executions*, DEATH PENALTY INFO. CTR, <https://last updated on August 2, 2020, deathpenaltyinfor.org/executions/upcoming-executions> (last visited Aug. 2, 2020).

²⁰⁴ *See Featured Center, Center for Criminal Defense Offering Students Invaluable Experience*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Winter 2012, at 4.

²⁰⁵ *Id.*

²⁰⁶ *See Meet Our Freed and Exonerated Clients*, BLUHM LEGAL CLINIC CENTER ON WRONGFUL CONVICTIONS, <http://www.law.northwestern.edu/legalclinic/wrongfulconvictions/exonerations/> (last visited May 13, 2020).

²⁰⁷ *Id.*

²⁰⁸ *Id.*

*K. Bartlit Center for Trial Advocacy & Center for Advocacy and Professionalism*²⁰⁹

The origins of the Bluhm Legal Clinic's outstanding trial advocacy program, now housed in the Bluhm Clinic's Bartlit Center, can be found in the alliance established in 1977 between members of the Bluhm Clinic's faculty and the National Institute for Trial Advocacy (NITA), which was founded in 1972 by a national group of leading trial lawyers, trial judges, bar associations, and trial lawyer associations.²¹⁰ The lawyers, judges, and academics who founded NITA were responding in part to a criticism by Chief Justice Warren Burger and other national leaders of the bench and bar who believed that the quality of representation provided by lawyers in the nation's trial courts was substandard and that law schools were not providing sufficient training in practical skills including trial advocacy.²¹¹ Organizers of NITA were enthusiastic about providing training for newly minted legal services lawyers who were just beginning to staff the many federally funded legal services offices around the country.²¹² Public defender offices were also expanding to respond to the Supreme Court's mandates regarding the right to counsel.²¹³ These leaders of the bar and bench long believed, independently of Justice Burger's pronouncements, that effective and competent legal services—especially representation in the courtroom—were not sufficiently available to the public, including middle- and low-income persons who could not afford the high cost of legal services.

The views of those who founded NITA were consistent with those of the Council on Legal Education for Professional Responsibility (CLEPR),²¹⁴ which, in the early 1970s, provided seed money to support the creation of legal clinics in the nation's law schools. Members of Northwestern Law's clinical faculty, who were then supported by CLEPR's grants to Northwestern Law, attended the first national sessions of NITA held at the University of Colorado in 1972 and 1973. Northwestern attendees at those early NITA sessions included Professors John Hyman, John Elson, Diane Geraghty, and this Paper's author, as well as other clinicians from around the country. Also attending and teaching in those early NITA sessions were distinguished trial lawyers from Chicago, including Robert Hanley, Fred Bartlit, Frank Cicero, Prentice Marshall, Kenneth Broun, Judge R. Eugene Pincham, Judge Earl Strayhorn, and Warren Wolfson. Lecturers and teachers at those early national sessions of NITA included Irving Younger, James McElhaney, Judge Robert Keeton, and Professor James Jeans.

²⁰⁹ The Bartlit Center for Trial Advocacy was founded in 1999 with a gift to Northwestern Law from Bartlit Beck LLP in honor of Fred Bartlit, a renowned trial lawyer and litigator, who began as a partner at Kirkland & Ellis LLP, and then founded Bartlit Beck, a leading litigation firm in Chicago.

²¹⁰ For a short history of NITA, see <http://www.nita.org/about-us>.

²¹¹ See Warren E. Burger, *Some Further Reflections on the Problem of Adequacy of Trial Counsel*, 49 FORDHAM L. REV. 1, 5 (1980) (referencing Report of the Trial Advocacy Task Force, appended to the A.B.A. Section of Judicial Administration, 96 A.B.A. Rep. 402-4 (1971)).

²¹² See LEGAL SERVS. CORP., <https://www.setting-forth-the-history-of-l.s.c.-and-its-predecessor,-o.e.o.-legal-servs.-,isc.gov/about/-/1-/sc/-/who-we-are-/history>, setting forth the history of L.S.C. and its predecessor, O.E.O. Legal Services. Edgar Kahn & Jean Kahn, *The War on Poverty: A Civilian Perspective*, 78 YALE L. J. 1349 (1964).

²¹³ See, *Gideon v. Wainwright*, 372 U.S. 335 (1963); *In re: Gault*, 387 U.S. 1 (1968); *Argersinger v. Hamlin*, 407 U.S. 25 (1972); *Strickland, v. Washington*, 466 U.S. 668 (1984).

²¹⁴ See J.P. (Sandy) Ogilvie, *Celebrating CLEPR's 40th Anniversary: The Early Development of the Clinical Education and Legal Ethics Instruction in U.S. Law Schools*, 16 CLINICAL L. REV. 1 (2009).

The lessons imparted at the first NITA sessions in Boulder made their way back to Chicago and to Northwestern. Professor Robert Hanley, a partner at Jenner & Block LLP, had long been teaching a trial advocacy course at Northwestern Law, as had Professor Jon Waltz. Their classes were taught on weekends and originally relied heavily on lectures. The NITA “learning by doing” teaching methodology they came to utilize in these courses was revolutionary and attracted increasing numbers of students to Northwestern Law’s trial advocacy courses.

In 1973, members of Northwestern Law’s clinical faculty established a NITA-style trial advocacy course for students enrolled in the Bluhm Clinic, independent of the trial advocacy courses that had previously been taught at the law school.²¹⁵ The NITA-style trial advocacy course was taught by faculty who attended national NITA sessions who were convinced that the NITA method of instruction was the most effective way to provide training in trial advocacy skills for students who sought to become litigators or who were representing clinic clients under the newly enacted Illinois student practice rule.²¹⁶ Participation in the Bluhm Clinic’s NITA-style trial advocacy course became a prerequisite, (along with Civil Procedure and Evidence) to enrollment in Clinical Practice, the four-credit course involving students in the supervised representation of clients.²¹⁷

As the Bluhm Clinic’s trial advocacy course developed, it was essential that it contain a component devoted to legal ethics.²¹⁸ Soon, the Bluhm Clinic’s trial advocacy course became open to all Northwestern Law students, not just those enrolled in the clinic under the leadership of Professor Steven Lubet in his “Program on Advocacy and

²¹⁵ See Legal Clinic NEWS & NOTES (Northwestern Legal Assistance Clinic, Chi., Ill.), 1977, at 3 (announcing new clinical course sequence including Counseling and Negotiation and Clinical Trial Advocacy); see also, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), 1980 at pp. at .1-3 (explaining the Clinic’s course sequence that included Counseling, Negotiation, and Litigation as well as Clinical Trial Advocacy. This issue of the newsletter noted that Professor Lubet (and others) taught clinical trial advocacy (2) and that Professor Robert Burns had joined the Legal Clinic after working for the Legal Assistance Foundation of Chicago (4)).

²¹⁶ Ill. ILCS Sup. Ct. Rule 711.

²¹⁷ See Clinic course descriptions, *infra*, note 219.

²¹⁸ See NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Spring, 1987, at 3 (“Those of us who have taught the large ethics course believe that many of the ethical issues covered in that course, especially as they relate to attorney client relationships and to litigation, could be best taught in the context of a trial advocacy course in which students act in the role of attorneys engaged in litigation and trial. To that end, we have added a structured discussion to each class session while improving the simulated learning by doing part of the course through the use of smaller groups and more efficient ways of providing student feedback. The quality of feedback has also been enhanced by the Clinic’s purchase of state-of-the-art video equipment.”).

Professionalism.”²¹⁹ Bluhm Clinic Professor Robert Burns developed a simulation-based evidence course utilizing a NITA case file.²²⁰

Resulting from the Bluhm Clinic’s experience in using NITA teaching methodology and contact with NITA leadership, NITA established its first regional CLE program for trial advocacy training at Northwestern Law in 1977. This benefitted Northwestern Law’s trial advocacy and litigation curriculum because it brought leading trial lawyers and litigators to Northwestern Law to teach and learn. Many of Northwestern Law’s past and current trial advocacy instructors are graduates of the Midwest Regional. The “Midwest Regional” program of NITA continued at Northwestern Law for twenty-five years,²²¹ when it moved to Loyola University of Chicago, due to Northwestern Law and NITA’s inability to agree on the use of the school’s facilities for the program, and the sentiment among Northwestern Law’s administration that Northwestern Law should run (and profit from) its own post-graduate trial advocacy program, independent of NITA.

The Northwestern Law administration decision to part ways with NITA was short-sighted. The decision ignored the value of the contributions to Northwestern Law that NITA had made and could continue to make. NITA had developed a national community of trial lawyers, judges, and legal organizations, which Northwestern Law, on its own, could not replicate. At the time NITA and Northwestern Law parted ways, the Midwest Regional program was attracting over 100 lawyers from around the country, and, each year, 50 leading trial lawyers and litigators served as the program’s faculty.

Thanks to Professor Lubet, Northwestern Law’s trial advocacy program has grown and flourished. The Bartlit Center has continued to attract leading trial lawyers and judges to teach trial advocacy at Northwestern Law, and has encouraged and supported the participation of students in the Bartlit Center’s trial teams. These teams have done spectacularly well in national competitions over the years.²²² The Bartlit Center has also

²¹⁹ NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Spring 1989, at 9 (Announcing the Program on Advocacy and Professionalism: “The Courses served by the Program combine training in the art of advocacy with an appreciation and understanding of the principles that underlie the system of adversary justice and individual representation. Taught principally using the simulation method, each course stresses the development of particular competencies in the context of the lawyer’s various responsibilities to client court, adversary, and the public. The simulation method allows issues of legal ethics to be addressed in the context of actual lawyering tasks. Similarly, the programmatic concept of advocacy and professionalism ensures an approach to skills training that transcends technique.”). See *Evidence and ethics integrated with trial advocacy sets Northwestern’s trial strategy program apart*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall 2005, at 1 (describing the development of the Clinic’s trial advocacy, ethics, and evidence courses). See also Robert P. Burns, *Teaching the Basic Ethics Class Through Simulation: The Northwestern Program on Advocacy and Professionalism*, 58 L. & CONTEMP. L. & C. PROBLEMS 37, 38 (1996).

²²⁰ NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Spring 1989, at 2.

²²¹ In 1989 the author reported that the 13th annual session of the Midwest regional session of the National Institute for Trial Advocacy had just been held at Northwestern. NEWS & NOTES (Bluhm Legal Clinic, Chi. Ill.), Winter, 1989, at 9.

²²² See *Northwestern Succeeds at National Trial Competition*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Spring, 1993, at 5; see also *Northwestern’s Bartlit Team Wins National Championship*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Winter, 2012, at 11; *Two Bartlit Center Teams Win*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Winter, 2014, at 27; *Bartlit Center Team Wins Regional AAJ Student Trial Advocacy Competition*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall, 2016, at 14; *Bartlit Center Wins National Trial Competition*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall, 2017, at 9; *Bartlit Center Trial Advocacy Season Off to Strong Start*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall, 2018, at 6. In 1993, the Law School also won the prestigious Emil Gumpert Award from

contributed its talented staff and their energy to Northwestern Law's graduate students by forming a section of its trial advocacy course tailored to the needs of international students.²²³

L. Center on Negotiation and Mediation

Northwestern Law's negotiation and mediation program was established in the late 1960s by Professor Stephen Goldberg (Professor Goldberg),²²⁴ who was a leading figure in labor law and labor negotiations. Professor Goldberg came to Northwestern Law from Harvard, where he taught in Harvard's Program on Negotiation. He brought to Northwestern Law the materials on negotiation developed by Fisher & Ury and utilized the simulation-based teaching of negotiation that he helped develop at Harvard. He engaged experienced practitioners and clinical faculty in teaching negotiation, providing important training to our clinical faculty and enabling small group instruction.

One of his students was current Professor Lynn Cohn (Professor Cohn) who later took the leadership role in creating the Bluhm Legal Clinic's Center on Negotiation and Mediation.²²⁵ Under Professor Cohn's leadership, the Center expanded its faculty to include Professors Daniel Gandert, Alyson Carrel,²²⁶ Annie Buth,²²⁷ and Len Riskin.²²⁸ The Center also recruited adjunct instructors who offer basic and advanced courses in negotiation, mediation, and restorative justice.²²⁹ Some of these courses are taught in collaboration with Northwestern's Kellogg School of Management.²³⁰ The Center for Negotiation and Mediation is responsible for the supervision of student teams that successfully participate in national competitions.²³¹

Recently, the Center on Negotiation and Mediation has focused on a restorative justice program, funded by the Bauer Foundation, which is led by alumnus Kent Lawrence (NU '69).²³² The Restorative Justice program includes classroom instruction along with a

the American College of Trial Lawyers for Excellence in Teaching Trial Advocacy, which included a \$25,000 grant to Northwestern Law.

²²³ See *International LLM Students Learn Trial Advocacy Skills*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Winter, 2008, at 6.

²²⁴ See *Stephen B. Goldberg, Faculty & Research*, NORTHWESTERN PRITZKER SCHOOL OF LAW (Aug. 28, 2020, 5:17 PM), <https://www.law.northwestern.edu/faculty/profiles/StephenGoldberg/>.

²²⁵ See *No Argument Here: Students, academic community recognize the value of the Bluhm Legal Clinic's Program on Negotiation and Mediation*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall, 2008, at 1.

²²⁶ See NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Winter, 2014, at 31.

²²⁷ Annie Buth is the M.R. Bauer Foundation Clinical Fellow in Dispute Resolution, teaching the Center's Restorative Justice Practicum. NW L. RPTR, Fall, 2015, at 16.

²²⁸ See *Leonard L. Riskin, Faculty & Research*, NORTHWESTERN PRITZKER SCHOOL OF LAW (Aug. 28, 2020, 5:26 PM), <https://www.law.northwestern.edu/faculty/profiles/LeonardRiskin/>.

²²⁹ See *Restorative Justice, Practicum: New Practicum offering provides an alternative view to the traditional legal system—and law school classes*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall, 2016, at 8.

²³⁰ See *Students Receive Theoretical and Practical Training in Negotiation and Mediation*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall, 2005, at 5.

²³¹ See, e.g., *Negotiation Team Wins ABA National Competition*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall, 2016, at 13.

²³² See *Teaching of Restorative Justice as a Means of Dispute Resolution*, NW L. RPTR., Fall, 2014, at 25; Investing in the Center on Negotiation and Mediation, reporting that the Center had received a grant of \$865,000 from the M.R. Bauer Foundation. *Id.* at 21

practicum that exposes students to restorative justice work on the ground.²³³ The Restorative Justice program dovetails with the various community-based programs supported by CFJC, given its historical involvement in the restorative justice movement.²³⁴

The Center on Negotiation and Mediation also developed an international component, led by adjunct professor Paul Chadha (Professor Chadha). Professor Chadha provided instruction in negotiation and mediation to law students and faculty in Ethiopia, working with the Dean and faculty of Haramaya University Law School in eastern Ethiopia. Ethiopia is a very challenging environment in which to teach; civil unrest caused by ethnic and political conflicts led to a lack of security.²³⁵ Professor Chadha continues to provide teaching expertise to Haramaya's law school despite these daunting challenges.

M. Appellate Advocacy Center & Supreme Court Clinic

Professor Sarah Schrup (Professor Schrup) established the Appellate Advocacy Center in 2006. Following the establishment of the Appellate Advocacy Center, Professor Schrup helped to establish the Bluhm Legal Clinic's Supreme Court Clinic. The Appellate Advocacy Center focuses on supervising students on cases in the United States Court of Appeals for the Seventh Circuit. Professor Schrup's work with students on brief writing and presentation of oral arguments in the Seventh Circuit enabled students to be in the forefront of appellate litigation—an experience unlikely during their first years of practice.

The Bluhm Legal Clinic's Supreme Court Clinic was also established in 2006 with Professor Schrup as director, in collaboration with Sidley & Austin, LLP, led by the head of the Sidley's Supreme Court practice, Carter Phillips (Class of 1977).²³⁶ Northwestern Law established the Supreme Court Clinic at a time when other leading law schools, including Stanford, Harvard, and Yale, were also establishing Supreme Court Clinics. The Supreme Court Clinic focuses on the preparation of petitions for certiorari and briefs in cooperation with Sidley's pro-bono Supreme Court practice. The Supreme Court Clinic has also provided opportunities for lawyers representing clients before the Supreme Court to moot their arguments before the Law School's faculty and other distinguished Supreme Court practitioners.

In the Supreme Court Clinic, students are involved in research for case selection and strategic decision making on cases. They help prepare for certiorari and moot courts, draft briefs, and conduct research on a variety of important and controversial issues of law. In the classroom component of the program, students receive instruction on Supreme Court procedure, writing, advocacy, effective presentation of issues to the Court, and oral presentation. Several sitting justices in the United States Supreme Court have guest-lectured in the clinic, and the clinic sponsors several additional notable guest speakers, such as the Solicitor General of the United States, well-known Supreme Court legal

²³³ *Id.* at 25.

²³⁴ See *Center on Negotiation and Mediation*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall, 2017, at 18 (describing Symposium co-sponsored with Northwestern's Journal of Law & Social Policy, "Healing our Justice System: Restorative Justice and the Law").

²³⁵ See *Virtual Learning: A New Take on Negotiation and Mediation*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Winter, 2014, at p. 28, (describing a new interactive negotiation course taught in collaboration with students and faculty at American University, Stanford, and the University of Virginia).

²³⁶ See *New Clinic Program Involves Students in Supreme Court Advocacy*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Fall, 2006, at 3.

correspondents, and the Clerk of the Supreme Court. Finally, students typically have the opportunity to attend oral arguments in Washington, D.C. twice per year.²³⁷

²³⁷ Some significant cases handled by the Federal Appellate and Supreme Court clinics include: *Gall v. United States*, 552 U.S. 38 (2007) (holding that a court of appeals may not presume that a sentence falling outside the Sentencing Guidelines range is unreasonable); *United States v. Simpson*, 479 F.3d 492 (7th Cir. 2007) (reversal and remand for new trial based on prosecutorial misconduct and admission of erroneous Rule 404(b) evidence); *United States v. Millet*, 510 F.3d 668 (7th Cir. 2007) (partial remand for resentencing after petition for rehearing); *United States v. Thornton*, 539 F.3d 741 (7th Cir. 2008) (acquittal on bank robbery and firearms charges based on government’s and district court’s erroneous interpretation of the federal bank robbery statute); *Mejia v. Cook County*, 650 F.3d 631 (7th Cir. 2011) (reversal and remand for new trial because the district court misapprehended the standard applicable to Rule 59 motions by requiring a plaintiff to demonstrate that trial “testimony [was] such that reasonable persons could not believe it, because it contradict[ed] indisputable physical facts or laws” in order to win a new trial, rather than applying a traditional “miscarriage of justice” or “shocks the conscience” standard); *United States v. Griffin*, 684 F.3d 691 (7th Cir. 2012) (acquittal on felon-in-possession charge on the basis of the government’s failure to prove the defendant’s intent to possess firearms); *Robers v. United States*, 572 U.S. 639 (2014) (successfully petitioned Court to resolve the question whether a defendant—who has fraudulently obtained a loan and thus owes restitution for the loan under 18 U.S.C. § 3663A(b)(1)(B)—returns “any part” of the loan money by giving the lenders the collateral that secures the money); *People v. Oduwole*, N.E.2d 316 (Ill. App. Ct. 5th Dist. 2013) (acquittal on charge of attempting to make a terrorist threat for failure to produce sufficient evidence of a substantial step towards committing the crime; also raising First Amendment challenges to the underlying conviction on the basis that an attempted threat requires communication) (Named best exculpation of 2013 by Slate.com); *Luevano v. Wal-Mart*, 722 F.3d 1014 (7th Cir. 2013) (reversal and remand for further proceedings following erroneous dismissal of a pro se plaintiff’s facially adequate employment discrimination complaint); *Kingsley v. Hendrickson*, 576 U.S. 389 (2015) (successfully petitioned Court to resolve the question whether the requirements of a 42 U.S.C. § 1983 excessive force claim brought by a plaintiff who was a pretrial detainee at the time of the incident are satisfied by a showing that the state actor deliberately used force against the pretrial detainee and the use of force was objectively unreasonable); *Smith v. Dart*, 803 F.3d 304 (7th Cir. 2015) (reversal and remand for further proceedings on erroneously dismissed pretrial detainee condition-of-confinement claims); *United States v. Musgraves*, 831 F.3d 454 (7th Cir. 2016) (obtained acquittal on appeal on three of client’s five counts of conviction based on insufficient evidence); *McDonald v. Adamson*, 840 F.3d 343 (7th Cir. 2016) (secured reversal and remand in prisoner civil rights case under § 1983 for deprivations of right to practice Muslim faith based on district court’s erroneous dismissal on res judicata grounds); *Dean v. United States*, 137 S. Ct. 1170 (2017) (unanimous reversal for client who claimed that district courts make take into account mandatory consecutive sentences under § 924(c) in determining the sentence for the underlying predicate crimes); *Walker v. Price*, 900 F.3d 933 (7th Cir. 2018) (reversal and remand for new trial, finding the district court had abused its discretion in failing to appoint a lawyer for prisoner civil rights plaintiff as his case reached the trial stage); *Greyer v. Illinois Department of Corrections*, 933 F.3d 871 (7th Cir. 2019) (reversal of district court’s dismissal of prisoner civil rights complaints for “fraud on the court” due to the prisoners’ failure to fully disclose prior litigation history on court-provided form; found that the district court “rested its conclusion that the plaintiffs committed fraud on flawed factual findings and an overly broad view of what constitutes a material omission”); *United States v. Hopper*, 934 F.3d 740 (7th Cir. 2019) (reversal for resentencing based on district court’s plain error in calculating drug amounts due to double counting); *United States v. Davis*, 139 S. Ct. 2319 (2019) (reversal, finding unconstitutionally vague the term “crimes of violence” in 18 U.S.C. § 924(c)); *United States v. Haymond*, 139 S. Ct. 2369 (2019) (reversal, finding a statute that sent a defendant back to prison because he violated terms of his supervised release abridged the constitutional right to trial by jury); *United States v. Rehaif v. United States*, 139 S. Ct. 2191 (2019) (reversal, finding that the government must prove that the defendant knew he possessed a firearm and that he belonged to the category of persons barred from possessing a firearm); *Cochise Consultancy, Inc. v. United States ex rel. Hunt*, 139 S. Ct. 1507 (2019) (affirmance (9-0), interpreting the more-expansive statute of limitations provision in the False Claims Act applies to whistleblower lawsuits even where the United States declines to intervene); *Kahler v. Kansas*, 140 S. Ct. 1021 (2020) (pending,

By offering both appellate advocacy and Supreme Court clinics, the Bluhm Clinic provided comprehensive programming in appellate litigation, and enabled students to sharpen their writing and oral advocacy skills. The presence of these two programs within the Bluhm Legal Clinic also benefitted lawyers and students working in other centers by providing support for appellate representation undertaken by students and faculty in those centers.

N. Center for Externships

Northwestern Law introduced externships shortly after the modern legal clinic was formed in 1969. At that time, externships were limited to placement with federal district court judges and public interest organizations. The Law School had strict control over externships to ensure students were supervised by well-qualified judges and practitioners.²³⁸ The Law School's early rules covering externships required a submission of a proposal by students to Northwestern Law's Clinical Education Committee, a law school faculty supervisor, the identification of a committed and able supervisor in the outside agency, and a classroom component taught by a member of the law school's faculty.²³⁹ When the externship program was established, faculty questioned whether the school should allow externships since it had a faculty-supervised in-house clinic. In response to such questions, Northwestern Law permitted externships in practice areas not offered by the in-house clinic—particularly, in prosecutor's offices including the United States Attorney's Office (one of the most popular and sought after externship placements) and the State's Attorney of Cook County.

Externship rules were relaxed in following years, when it became apparent that students would benefit from additional opportunities. Accordingly, during the late 1990s, Northwestern Law developed a comprehensive program to make a wider variety of externships available. The term "externship" was replaced by the term "practicum" to denote the program's emphasis on combining in-house supervision (a significant classroom component) and placement in carefully monitored off-site placements. The classroom components of the practicum were taught by Professor Cynthia Wilson (Director of the Center for Externships), Professor Len Rubinowitz, and others.

With the creation of the Center for Externships, Northwestern Law expanded opportunities to participate for course credit in agencies such as the United States Attorney's Office, State's Attorney of Cook County, Law Offices of the Cook County Public Defender, ACLU, Better Government Association, and Illinois Attorney General.

counsel of record and arguing counsel in case deciding whether states who abolish the insanity defense violate the Constitution).

²³⁸ See *Important Notice*, NEWS & NOTES (Bluhm Legal Clinic, Chi., Ill.), Aug. 1980, at 15-19. This notice was a five-page document detailing the requirements for externships. The basic premise was that externships were not favored if the Legal Clinic could provide an equivalent experience: "Students should be forewarned and advised that both the CEC [Clinical Education Committee] and the Faculty, because of the history as to the quality and educational value of outside programs, are not inclined to look favorably on these proposals, particularly if the student could participate in the Law School's own clinical law office."

Id.

²³⁹ *Id.*

Northwestern Law also permits students to participate in placements outside of Chicago and abroad.²⁴⁰ ABA rules set minimum standards for the supervision of such programs.²⁴¹

Students enrolled in a practicum work twelve to fifteen hours per week during the school year and at least eighteen hours a week during the summer in an approved externship. Northwestern Law's location in a large city means that students may choose from a large variety of excellent opportunities. Such opportunities include federal and state government agencies, federal and state judicial chambers, non-profits, and corporate general counsel offices. Depending on the setting, externship work may involve researching and drafting opinions or briefs, interviewing clients, appearing in court, participating in negotiations, or drafting policy documents.

The Center for Externships now offers an Intensive Semester Practicum, where students may work with attorneys at a government or non-profit agency anywhere in the United States. Students work for the agency full time and for an entire semester. They participate in-person or remotely in an accompanying course with a supervising faculty member, using a syllabus that is individually designed for their particular placement. Students earn a total of twelve credits for this practicum: three graded credits for the class and nine ungraded credits for the externship experience.

CONCLUSION

The goal of this Appendix is to document the work of the Bluhm Legal Clinic for Northwestern Law's faculty, students, and alumni, as well as the national and international community of legal educators and clinical teachers. This record of activities not only summarizes what has been accomplished over the last several decades, but also suggests how the work of Northwestern's clinical program may develop in the future. A central theme that emerges from this Paper is that clinical education at Northwestern Law and elsewhere is continually shaped by the emerging events and enduring challenges of the day. As such, the Bluhm Clinic is a legal laboratory, continually searching for new ways to better prepare students for the practice of law while at the same time marshalling the resources, talent, and commitment of the Northwestern community to forge enduring connections among legal training, legal practice, and social justice.

²⁴⁰ See STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCH. 304 (AM. BAR ASS'N 2020) (setting forth requirements for experiential courses and imposing stringent standards for selection, monitoring, classroom components, and ensuring the educational benefits of such placements). The standard also requires that the student experience include lawyer-client experiences. The standard was recently amended to allow credit to be awarded to students who receive pay in a field placement. Northwestern has so far elected not to permit students in its externships to receive payment for their work. Northwestern has adopted Rules for Practicum courses consistent with ABA standards. See *Bluhm Legal Clinic Center for Externships*, NW PRITZKER SCH. OF L. (Aug. 28, 2020, 6:19 PM), law.northwestern.edu/legalclinic/externships/.

²⁴¹ See STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCH. 303(b)(1) (AM. BAR ASS'N 2020) ("ABA Standard 303 (b)(1): A law school shall provide substantial opportunities for students for law students for law clinics and field placements.").