

StanfordLawSchool

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Legal Research Paper Series

**Stanford Law School Legal Clinics
2009-2010 Year in Review**

Compiled by

Sarah Wilson, Reference Librarian & Archivist
from emails sent by Lawrence C. Marshall, Professor of Law,
Associate Dean for Clinical Education and David & Stephanie Mills
Director of the Mills Legal Clinic to SLS students, faculty and staff

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2009-2010 Year in Review
Mills Legal Clinic of Stanford Law School
<http://www.law.stanford.edu/program/clinics>

Criminal Defense Clinic / Stanford Three Strikes Project The Stanford Three Strikes Project is the only legal organization in the country devoted to representing individuals serving life imprisonment under California's Three Strikes law.	Page 3
Criminal Prosecution Clinic In this small but hard-working clinic, students prosecute cases at the San Jose Superior Court under the guidance of Santa Clara County prosecutors and faculty supervisors.	Page 5
Cyberlaw Clinic Pioneer an area of law that is largely without precedent, conducting computer- and Internet-related litigation, policy research, and advocacy.	Page 6
Environmental Law Clinic Students provide legal counsel to national, regional, and grassroots nonprofit organizations on a variety of environment issues, with a focus on biodiversity and conserving natural resources.	Page 7
Immigrants' Rights Clinic Students represent immigrants in cases securing rights for survivors of domestic violence or in deportation, and participate in community outreach, public education, or policy advocacy.	Page 10
International Human Rights and Development Clinic Explore international human rights and development work by traveling to Africa, where you will document human rights violations, strategize on human rights initiatives and organize projects with the local legal community.	Page 12
Organizations and Transactions Clinic Students provide corporate governance, contract, transaction, risk management and communications support to established Northern California nonprofit organizations.	Page 13
Social Security Disability Pro Bono Project The SLS Social Security Disability Project (SSDP), the Law School's only in-house pro bono project, gives students the opportunity to work directly with local homeless clients.	Page 15
Stanford Community Law Clinic Students help about 500 low-income clients each year with a wide variety of legal challenges, including landlord-tenant disputes, employment issues, and government benefit claims.	Page 17
Supreme Court Litigation Clinic Students litigate cases before the Supreme Court of the United States working on petitions for review, opposition to petitions, and merits briefs filed with the Justices.	Page 19
Youth and Education Law Project Dedicated to educational rights and reform work, represent both minors and families in special education and school discipline matters.	Page 21
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Note: The date in parenthesis following each entry is the date of Larry Marshall's email.

Criminal Defense Clinic / Stanford Three Strikes Project

Staff:

Michael Romano, Lecturer in Law & Founder, Criminal Defense Clinic

Galit Lipa, Clinical Lecturer & Staff Attorney

Lynda Johnston, Paralegal

- ◆ William Anderson is the seventh clinic client whose life sentence has been reversed in the past year. Mr. Anderson was sentenced in 1996 under the Three Strikes law to life in prison for stealing one dollar in loose change from a parked car. His prior crimes were utterly non-violent burglaries (in one incident he was chased away without stealing anything in another he stole tools from a garage). The same judge who sentenced Mr. Anderson to life 13 years ago reversed himself based on new evidence uncovered by clinic students and ordered Mr. Anderson released immediately. **Ashley Simonson ('10)** and **Kathleen Fox ('10)** wrote the successful habeas corpus brief underlying the judge's order. Prior clinic students **Gabe Pardo ('08)** and **Andrew Bruck ('08)** uncovered the new evidence, which included extensive documentation that Mr. Anderson has suffered from a life-long mental illness. **Amanda Bonn ('09)** and **Matthew Mandelberg ('10)** also helped investigate and brief the case. Upon his release he will move into a full-service housing and rehabilitation program secured by Ashley and Kathleen. (11/9/2009)
- ◆ Kevin Davenport is the eighth clinic client whose life sentence has been reversed in the past year. In 2006, Mr. Davenport was sentenced to life under the Three Strikes law for the petty theft of a used video camera from a family friend. His prior strikes were committed over 15 years ago and were also non-violent property crimes. Based on briefing and investigation conducted by **Cameron Johnson ('09)**, **Clare Reilly ('09)**, **Annie Osburn ('10)**, and **Tiffany Cartwright ('10)**, a judge in Kern County reversed Mr. Davenport's life sentence, ruling that he was denied effective assistance of counsel by his original court-appointed attorney. The court ordered a new sentencing hearing, which was conducted yesterday. **Kathleen Fox ('10)** and **Ashley Simonson ('10)** appeared on behalf of Mr. Davenport at his new sentencing hearing in Superior Court. They introduced new evidence that Mr. Davenport has been diagnosed with a serious mental illness (schizo-affective disorder) and presented expert testimony about the gravity of his condition and positive prognosis with medication. Following an hour-long hearing, including oral argument by Kathleen, the judge re-sentenced Mr. Davenport to 6 years for the crime, with credit for the time Mr. Davenport has already served. (11/17/2009)
- ◆ In 1996, Thomas Martinez was sentenced to life imprisonment for second-degree burglary of a vehicle and petty theft with a prior conviction. Mr. Martinez's two prior strikes were from a guilty plea of two counts of residential burglary in 1993. Neither count involved any act or threat of violence. For these convictions, Mr. Martinez served a single term of two years in state prison. Mr. Martinez has served no other time in prison. Mr. Martinez has a history of mental illness from an early age and has been diagnosed with bipolar disorder and schizoaffective disorder. While in prison, Mr. Martinez has been receiving treatment and has been able to participate in a number of vocational training programs; he has successfully earned certificates in metal fabrication and customer service representation. After an exhaustive factual investigation conducted by **Jodi Wu ('10)** and **Steve Brody ('10)**, the Los Angeles District Attorney agreed that new mitigating information the clinic uncovered (including evidence of Mr. Martinez's history of mental illness) constituted newly discovered evidence entitling Mr. Martinez to habeas corpus relief and a new reduced prison term. Mr. Martinez has served nearly 14 years for this conviction. He is planning to move to Atlanta, Georgia to live with his sister and her family. (12/17/2009)
- ◆ On May 28, **Emily Galvin ('10)** appeared in Los Angeles Superior Court and won the release of her client, Larry South, who had been serving a life sentence under the Three Strikes law for the petty theft of \$29 of plumbing supplies from Home Depot. Along with **Matthew Mandelberg ('11)**, Emily litigated Mr. South's case simultaneously in state and federal court, filing briefs in the Ninth Circuit and leading negotiations with the California Attorney General's Office and Los Angeles District Attorney's Office on Mr. South's behalf. Finally, based on new evidence discovered by Emily and new briefing written by Emily, the state court judge who sentenced Mr. South eleven years ago agreed that the Three Strikes sentence he originally imposed amounted to a miscarriage of justice. He vacated Mr. South's life sentence and ordered him released "forthwith" based on time-served. Mr. South will move into a residential drug treatment and job training program, arranged for by Emily. (6/1/2010)
- ◆ On June 7, **Tyrone Sandoval ('11)** appeared in United States District Court in San Diego for oral argument on behalf of his client, Angel Provencio, who is serving a life sentence under the Three Strikes law for

simple possession of 0.21 grams of methamphetamine. Tyrone will argue that his client's sentence constitutes cruel and unusual punishment and that at trial his client received ineffective assistance of counsel. (6/1/2010)

- ◆ On April 13, **Tina Cheng ('10)** and **Michael Miller ('11)** filed federal habeas corpus pleadings in the Ninth Circuit Court of Appeals on behalf of their client, James Burden, who is serving a life sentence under the Three Strikes law for shoplifting. Tina and Michael argued that their client was improperly permitted to represent himself at his trial and that their client's sentence constitutes cruel and unusual punishment. A ruling is expected this summer. (6/1/2010)
- ◆ On April 26, **Latoya Brisbane ('10)** filed state habeas corpus pleadings in Los Angeles Superior Court on behalf of her client, Curtis Wilkerson, who is serving a life sentence under the Three Strikes law for the petty theft of a pair of socks. The pleadings are based on new evidence discovered by Latoya and former clinic student **Eugene Marder ('10)**. (6/1/2010)
- ◆ On May 14, **Will Ralph ('10)** and **Susannah Karlsson ('11)** filed federal habeas pleadings in the Ninth Circuit on behalf of their client, Tyrone Miles, who is serving a life sentence under the Three Strikes law for writing a fake check. Will and Susannah argued that their client's right to effective assistance of counsel was violated when his trial counsel advised him to turn down a plea agreement that would have resulted in four years in prison. The attorney did not know Mr. Miles was facing a life sentence at the time he advised Mr. Miles to turn down the plea offer. (6/1/2010)
- ◆ The **NAACP Legal Defense Fund** formally retained the clinic as its counsel to advocate for legislative reform of California's Three Strikes law. Clinic students and LDF lawyers will work together to develop and implement a campaign to reform the harshest aspects of California's recidivist sentencing law. (6/1/2010)

Criminal Prosecution Clinic

Staff:

George Fisher, Judge John Crown Professor of Law & Director, Criminal Prosecution Clinic

- ◆ The six students who took part in the Fall 2009 Prosecution Clinic met and mastered the many challenges—legal, practical, ethical, and interpersonal—that confront every front-line urban prosecutor. The sheer mass of cases proved daunting. In just twelve weeks students conducted some twenty-five hearings in felony cases before Superior Court judges in San Jose. Seventeen of these were evidentiary hearings in which students examined prosecution witnesses, cross-examined the defendant or other defense witnesses, and delivered a closing argument. Almost every case called on students to prepare a formal written memo that detailed the facts and legal principles governing the case and laid out the prosecution's claims.

Both the disputed legal questions and the underlying charges ranged across the criminal landscape. The legality of police searches was perhaps the most common concern, but students also faced such unfamiliar questions as the prosecution's privilege to maintain the confidentiality of police informants, the consequence of police destruction of allegedly exculpatory evidence, and the evidence needed to sustain a hate-crime prosecution rooted in a gay-bashing incident. Some cases alleged drug and weapons possession or sales; some alleged robbery or shoplifting; and some alleged serious acts of violence. In one student case a young woman was held prisoner and sexually threatened; in another a man was left unconscious and hospitalized after a severe head beating; in a third an angry neighbor ordered her pit bulls to attack nearby residents.

When handling violent crimes, students faced the vexing challenge of working with witnesses who feared coming to court. One student searched in vain at a homeless encampment for the victim of a vicious attack. Another secured the testimony of a beating victim despite the victim's fears of the defendant's reprisals. One presented the testimony of a robbery victim who came to court in shackles because he was confined for a juvenile offense. And one student presented the testimony of a witness whose story the student had never heard in detail. The witness had refused out of fear to meet with the student, but changed his mind on the day of the hearing and unexpectedly agreed to testify.

Throughout the program students confronted the ethical challenges that set prosecutors apart. Alone among advocates, prosecutors must serve justice rather than an individual or entity. They must disclose all evidence that tends to support their opponents' claims and must reveal any motives their witnesses might have to lie. They must abandon cases in which their evidence is too weak to persuade an objective factfinder. And they must be content to "lose" whenever winning would not serve justice. Hence students learned to suppress the urge to take a lawyerly pride in winning. They learned to take pride instead in the grace they showed in giving useful evidence to their opponents and in asking the court to dismiss a case against them. (8/5/2010)

Cyberlaw Clinic

Staff:

Anthony Falzone, Executive Director of the Fair Use Project

Amanda Smith, Legal Assistant

- ◆ The Fair Use Project had a busy year litigating copyright cases and successfully assisting a variety of clients avoid litigation. On the litigation front, this winter and spring we briefed and argued an appeal to the 10th Circuit Court of Appeals in *Golan v. Holder*, a case challenging a statutory amendment to the Copyright Act as a violation of the First Amendment. The clinic students provided invaluable work on the briefs, scouring First Amendment jurisprudence to formulate and support intricate constitutional arguments. The statute at issue, the URAA, took certain works that had been in the public domain and placed them under copyright protection. We contended, and the District Court agreed, that the URAA violated the First Amendment because it suppresses our clients' rights to continue to use works they exploited when those works were in the public domain. The government appealed the District Court's decision. Following several rounds of briefing and oral argument in May, the 10th Circuit reversed and held the URAA does not violate our clients' First Amendment rights. While we are disappointed with the Court's conclusion, we are gratified that this case and the Court vindicated a larger principle: amendments to the Copyright Act that depart from traditional contours of copyright can be subject to real First Amendment scrutiny. (8/16/2010)
- ◆ This spring we advised a number of clients who faced spurious copyright claims and helped them put an end to litigation threats. We advised a prominent museum threatened by a photographer regarding a piece of art included in the museum's biennial. With our help, the museum refused to remove the artwork from its walls and the matter was resolved without disruption to the museum's exhibition. We advised another client to stand up to an artist who claimed that the client's website infringed his copyrights simply by displaying photographs of the artist's work for the purpose of discussing and appraising the value of the artwork. The artist dropped his claims after the client asserted its fair use rights to the use the work. In another matter, we advised an orchestra whose display of public domain silent films set to live musical performances was threatened by the heirs of a deceased actor who claimed that showing the films violated the actor's rights of publicity. With our help the client put an end to the estate's meritless threats by firmly explaining that the orchestra's display of these films does not implicate or violate publicity rights of the actors appearing in the films. In each of these matters the students took an active role researching the relevant areas of law, participating in client discussions and advising them how to proceed, and drafting letters in response to the threats our clients' faced. (8/16/2010)
- ◆ We continued the work of the Documentary Film Program, representing dozens of filmmakers who use unlicensed clips in their films and making it possible for filmmakers to obtain the insurance coverage necessary to distribute their films. Clinic students took the lead reviewing and deciding which films to accept into the program, as well as reviewing, researching and discussing the substantive fair use issues with the filmmakers. The many films we reviewed included "Sam Cooke: Crossing Over" which premiered on PBS's American Masters in January, and several films showcased at Silverdocs, an internationally renowned film festival for documentaries, including the award-winning "Wo Ai Ni Mommy (I Love You Mommy)" as well as "My So Called Enemy." The number of filmmakers we were able to advise was greatly enhanced by the students' hard work on the films. (8/16/2010)

Environmental Law Clinic

Staff:

Deborah A. Sivas, Luke W. Cole Professor of Environmental Law & Director, Environmental Law Clinic

Alicia Thesing, Clinical Lecturer & Case Writer, Environmental and Natural Resources Law & Policy Program

Robb W. Kapla, Clinical Teaching Fellow

Lynda Johnston, Paralegal

- ◆ The Eagle Mountain landfill case, *Nat'l Parks and Conservation Assn. v. Bureau of Land Management*, which the clinic has been working on since 1997 under the direction of clinic director **Professor Debbie Sivas**, involves the Bureau of Land Management's (BLM) transfer of roughly 3,500 acres of federal public land adjacent to the wilderness areas of Joshua Tree National Park in the Mojave Desert to a private mining company for the purpose of developing a mega-landfill. The landfill was to accept rail-hauled waste from the Los Angeles Basin at the rate of 20,000 tons of garbage per day for up to 117 years (total capacity of 708 millions tons of trash) and would operate nearly around the clock, with its own town for landfill workers. BLM valued the land at \$106 per acre when it transferred it to the private company. The private mining company turned around and sold the development rights to the County of Los Angeles Sanitation District for approximately \$8,800 per acre. The Ninth Circuit held that the appraisal was inadequate—use of the property as a landfill must inform the fair market value evaluation required by law—and that BLM had failed to adequately assess environmental impacts on wildlife and wilderness values at nearby Joshua Tree or to consider a reasonable range of alternatives for other uses of the public lands. In addition to affecting this particular project, the Ninth Circuit decision sets an important precedent on the issue of the scope of environmental reviewed required of federal agencies that are charged with responsibility for managing public lands. **Countless students** worked upon this matter throughout those years, starting with administrative appeals and working through the district and appellate courts. One of those former students is **Alicia Thesing ('00)** who has served as a fellow and supervising attorney in the clinic in recent years. More recently, **Noah Long ('08)** delivered the oral arguments in the case before the Ninth Circuit. (11/11/2009)
- ◆ March started off with a bang when **James Williams ('10)** argued a "comeback case" before the Ninth Circuit Court of Appeal on behalf of the Pit River Tribe and others. The clinic previously had won a major victory for the clients when the Ninth Circuit ruled that federal agencies had to undertake full environmental review and government-to-government consultation before they could lease resources beneath a 10,000-year old Indian sacred site for industrial-scale energy development. When disputes arose over how to interpret and implement the court's ruling, the clinic was back in court briefing the issue. Over the last few academic terms, clinic students **Jared Thompson ('10)**, **Andrew Yaphe ('10)**, **Josh Sheptow ('10)**, **Adam Thomas ('11)**, and **Albert Yang ('11)** drafted our briefs to the district and appellate courts. Given the nature of the dispute, the Ninth Circuit placed the matter on calendar for expedited oral argument in a specially set session. James' preparation for the hearing was assisted by the entire class, but students Adam Thomas and **Kimi Narita ('11)** worked particularly closely with James to prepare for the hearing, and they both accompanied him at the counsel table. In the court's large, ceremonial courtroom in San Francisco, an overflow crowd of Native Americans, many of whom traveled several hours to attend, watched James smoothly field the judges' questions and put the clients' best arguments forward. The consensus of those in attendance was that his performance outshone the presentations of government and industry counsel, who between them had more than sixty years of courtroom experience. (5/18/2010)
- ◆ The excitement continued when clinic students **Wendra Liang ('11)** and **Bruce Ho ('11)** traveled to Bonn, Germany over spring break to give oral presentations and participate in a meeting before the Executive Board of the Clean Development Mechanism, the international body that administers the European "cap and trade" system for greenhouse gas emissions that contribute to global warming. Throughout the winter quarter, Bruce and Wendra worked feverishly on a series of detailed comment letters for various projects seeking offset credits (credit for reducing greenhouse emissions that other polluters can then purchase to offset their own emissions). In particular, they focused on rules that allow new coal-fired power plants in China and India to serve as offsets. Our client, a Germany-based NGO named CDM Watch, is pushing hard for reform of this offset policy and was extremely pleased with the sophisticated arguments put forth by the students in their comment letters. The culmination of this work came during a three-day meeting in Germany where Wendra and Bruce sat beside the client representative and forcefully presented our arguments to the Executive Board, made up of officials from 21 European nations, while many of us back at home watched by live webcast feed. While the students are understandably frustrated by the slow pace

of action at the international level, the experience of seeing it up close and personal was not to be missed. A special thanks goes to **Professor Michael Wara**, who generously offered his time and expertise throughout the project. (5/18/2010)

- ◆ March was topped off with the filing of an amicus brief on behalf of the Union of Concerned Scientists and several individual academic scientists in the Supreme Court case of *Monsanto v. Geertson*, which was argued on April 27, 2010. Clinic student **Garrett Anderson ('11)** put his scientific background to work in pulling together a truly amazing amount of complex science on the issue of potential impacts associated with genetically modified crops and presenting the information in an intelligible way for the non-scientists on the high court. The effort allowed Garrett to bring his interest in intellectual property and molecular biology to bear on a legal argument related to the potential impacts of introducing genetically modified organisms into the environment—a truly interdisciplinary exercise. As always, Garrett was assisted in this effort by the entire winter quarter Environmental Law Clinic crew, which read his drafts and provided thoughtful feedback and editing. (5/18/2010)
- ◆ In May, **Jacob Hale Russell ('11)** presented testimony to the State Water Resources Control Board in Sacramento on its proposal to more stringently regulate power plant cooling water systems in vulnerable coastal estuaries. Working with a coalition of NGOs, the clinic has been involved for several years in advocating for a more environmentally protective state policy, with students writing and presenting testimony several times since 2005. The proposed policy had evolved over the last five years to carefully balance ecological protection and the need for reliable electricity generation. In April, however, the State Water Board staff proposed a revision to the draft policy, under pressure from the regulated industry and the governor's office, which would have gutted many of its key measures to protect marine resources. Jacob drafted written comments on the proposed revisions and presented oral testimony as part of a panel of conservation groups, arguing that the agency decision-makers should reinsert the deleted protection measures before adopting the policy. In a rare turn of events and a spectacular victory for marine conservation, the Board members rejected most of the staff's proposed changes and adopted a final policy which reinstated the most important environmental protection measures for which the clinic has advocated on behalf of its clients. Several other clinic students helped Jacob prepare for the hearing, including **Kimi Narita ('11)** and **Allen Gleickner ('11)**, who were simultaneously drafting a brief to the California Supreme Court on some of the very same issues. (7/22/2010)
- ◆ On June 3, **Justin Goodwin ('11)** presented argument before the district court in Oakland on a motion for judgment on the pleadings in a case where the clinic's client is challenging the U.S. State Department's failure to conduct appropriate environmental review before certifying the importation of shrimp harvested by foreign fishing fleets in ways that may adversely affect endangered sea turtles. Of particular relevance to this case, shrimp nets frequently ensnare and drown imperiled sea turtles that inhabit the same waters. For this reason, domestic shrimp fishing vessels must use a simple, inexpensive "turtle excluder device" essentially a trap door that allows turtles to escape the net without significantly affecting shrimp catch levels—whenever the vessels are operating in waters, like the Gulf of Mexico, where sea turtles also are present. To address the same problem outside the U.S., Congress has prohibited the importation of foreign shrimp into the lucrative domestic consumer market unless the foreign nation harvesting the shrimp demonstrates that it has a comparable regulatory program for protecting sea turtles. The State Department, however, annually certifies more than a dozen foreign nations for importation without conducting the environmental review required by federal law. The clinic's client sued over this practice, and the State Department raised a number of procedural defenses in a motion for judgment on the pleadings. Justin drafted the clinic's opposition brief and managed to squeeze the court argument in between two final exams. The judge opened the hearing by announcing her strong inclination to grant the motion, and Justin presented a forceful argument why she should not do so. As a result, the court did not rule against our client at the hearing, but instead took the matter under submission and is now considering how to proceed. Several other clinic students helped Justin prep for the argument, including **James Williams ('10)**, who provided pointers based on his own experience arguing before the Ninth Circuit during winter quarter. (7/22/2010)
- ◆ On June 15, **Molly Knobler ('11)** presented oral argument to the district court in Montana in the clinic's effort on behalf of a client to reverse the federal government's decision to "delist" the Northern Rocky Mountain population of the gray wolf under the Endangered Species Act. After being hunted to extinction in the Northern Rockies, gray wolves were reintroduced into Idaho, Montana and Wyoming several years ago, as federal wildlife officials attempted to restore the ecological balance of the region. The reintroduced

wolves have increased to the point that the U.S. Fish and Wildlife Service decided this year to remove federal endangered species protections for part of the population, thereby paving the way for states to resume the annual hunting of wolves. The clinic's client, concerned about the still precarious size of the Greater Yellowstone Area subpopulation, challenged the delisting decision as inconsistent with the statute and unsupported by the record. The issue is a highly charged one on all sides. Protestors advocating for elimination of wolves amassed outside the courthouse before the hearing, as lawyers, clients and reporters inside spilled out of the overflowing courtroom. The judge heard nearly three hours of argument from the conservation groups, the federal government, and the states, and then took the matter under submission. Once again, several clinic students participated in the hearing preparation with Molly, who sacrificed the first few weeks of her summer break to finish up this project. (7/22/2010)

- ◆ **Chessie Thatcher ('11)** and **Alejandro Bras ('11)** spent a part of their spring quarter preparing for and attending an important meeting with the Superintendent of the Gulf of the Farallons National Marine Sanctuary over the management of great white sharks in sanctuary waters -- in the agency's spectacular offices on the beach at the foot of the Golden Gate Bridge. The sanctuary supports one of the largest white shark concentrations in the world and provides important habitat in the life cycle of the white sharks that use the area. Last year, controversy erupted over the efforts of one scientific team to implant tracking tags in white sharks within the sanctuary when the first attempt seriously injured the animal being tagged. After investigating both the applicable law and the event that occurred last year, Chessie and Alejandro sought and obtained a meeting with the Superintendent to discuss our client's concerns and possible legal responses to those concerns. The students led the lengthy meeting with the Superintendent and her DOJ attorney (who flew out from Washington, D.C. to participate), gained valuable information and insight, and continued for the rest of the term working with the client on strategic issues and options. (7/22/2010)

Immigrants' Rights Clinic

Staff:

Jayashri Srikantiah, Associate Professor of Law & Director, Immigrants' Rights Clinic

Jennifer Lee Koh, Clinical Lecturer in Law & Cooley Godward Kronish Clinical Teaching Fellow

Octavio Gonzalez, Paralegal

- ◆ In August, the clinic was victorious in the Ninth Circuit case of *Rodriguez et al. v. Hayes et al.* The suit was originally filed in a federal district court in Los Angeles in May 2007 on behalf of Alejandro Rodriguez, an immigrant from Mexico who was detained more than three years pending completion of his removal proceedings without ever receiving a bond hearing. In the lawsuit, Rodriguez asked for a hearing to determine if his prolonged detention was justified and to represent other similarly situated immigrants in the Central District of California. A district court in California refused to certify the class action. The Ninth Circuit, disagreeing with the government's claims, found that it had clear jurisdiction to allow the lawsuit to go forward as a class action and that a class action would provide a remedy for immigration detainees who are unrepresented. The court explained that without class certification, "many of the putative class members likely would not be able to adjudicate their claimed need of a bond hearing," and that class treatment was "likely necessary to provide the remedy sought." On an average day, the U.S. Department of Homeland Security detains roughly 33,400 non-citizens in federal detention facilities and local jails across the country, resulting in more than a threefold increase in the detention population since just a decade ago. Clinic students **Mark Baller ('08)**, **Kimere Kimball ('08)**, and **Michael Kaufman ('07)** worked on the case. The clinic was co-counsel in the case with the American Civil Liberties Union Immigrants' Rights Project, the American Civil Liberties Union of Southern California, and the law firm of Sidley Austin LLP. (8/24/09)
- ◆ **Vivian Wang ('10)** and **John Harabedian ('10)** prevailed in an immigration court hearing on behalf of Trung Thi Vo, a Vietnamese refugee who faced deportation as a result of two petty theft convictions for collecting recyclable cardboard. During the spring semester, John and Vivian conducted extensive interviews of their client and multiple witnesses, gathered documentary evidence, and conducted legal research to prepare a pre-hearing brief in which they argued that their client's family and community ties far outweighed the minor nature of her past encounters with the law. John and Vivian then prepared their client and witnesses for direct and cross examination, and argued the case in immigration court. After less than an hour in court, the judge indicated that she would grant the requested relief, and the government waived its right to appeal the case. As a result of John and Vivian's efforts, Ms. Vo can now remain in the United States with her husband and six children, and hopes to become a United States citizen in the near future. (10/29/2009)
- ◆ Two IRC clients who are survivors of domestic violence recently have received U visas. (The U visa is available to certain immigrant victims of crime who were helpful to law enforcement investigations or prosecutions.) These clients previously lacked valid immigration status and lived with two kinds of fear: fear of their abusers, and fear of deportation. As a result of the Clinic's efforts, they can now work, receive Social Security numbers, remain united with their U.S. citizen children, and eventually apply for lawful permanent residence and U.S. citizenship. The clients were represented by former IRC students including **Alison Sylvester ('09)**, **Julia Weiland ('09)**, **Ruthie Zemel ('09)**, and **Yara Lomeli-Loibl ('09)**. (10/29/2009)
- ◆ **Stephen Dekovich ('11)** and **Diane Bailey ('11)** represented L., a longtime lawful permanent resident of the United States in removal proceedings because of old, minor criminal convictions. L. is a leader in her community and has been recognized for her civic leadership by Governor Schwarzenegger. Unfortunately, she also endured years of abuse at the hands of her partner, the father of her children. Stephen and Diane sought to fight L.'s removal by arguing that her prior convictions do not constitute aggravated felonies under immigration law. After extensive strategic thinking, legal research, and consultation with their client, Stephen and Diane drafted and filed a complex brief with the immigration court. If Stephen and Diane prevail, their client will be able to stay in the country with her U.S. citizen children and nephew. (5/26/2010)
- ◆ **Orion Danjuma ('10)** and **Jenny Kim ('11)** represented M.A., a man from Fiji who has been defending himself from the Department of Homeland Security's efforts to deport him for the past seven years. M.A., who has lived in the U.S. since he was a boy with his entire family, had a string of minor brushes with the criminal justice system as a young adult. DHS had alleged that M.A. should be classified under the federal immigration laws as an "aggravated felon," a classification that would result in almost certain deportation to Fiji. When Orion and Jenny first met with M.A, he had already litigated portions of his case through the

immigration court, Board of Immigration Appeals, federal district court, and Ninth Circuit Court of Appeals. With M.A.'s case back before the immigration court, Orion and Jenny analyzed Ninth circuit case law on the intersection of immigration and crimes, dove into the client's administrative record, and mapped out a complex strategy for their client's defense. Orion and Jenny represented their client at two immigration court hearings and submitted two rounds of briefing to argue that their client's convictions should not, as a matter of law, result in deportation under the federal immigration laws. At the most recent hearing, the immigration judge indicated that he agreed with many of Orion and Jenny's legal arguments -- legal arguments which, if adopted by the immigration judge, could mean that M.A.'s case would be over. (5/26/2010)

- ◆ **Rachelle Orozco ('11)**'s client, M.J., faces deportation to Mexico due to two misdemeanor convictions for possession of controlled substances, both of which have been expunged by California state courts. Rachelle conducted extensive legal research on the effect of state court expungements for first-time drug offenses on immigration proceedings, as well as the kinds of evidence required for immigration courts to find that non-citizens' California drug convictions can lead to deportation. Based on this and other research, Rachelle developed a litigation strategy for her client. She represented her client in an immigration court hearing, negotiated with opposing counsel, and recently submitted a legal brief to the immigration court arguing that her client's convictions could not lead to his deportation under Ninth Circuit case law. We are still awaiting an outcome on the immigration court's decision. If the immigration judge agrees, then M.J.'s case will end and he will be able to stay in the U.S. with his two U.S. citizen children. Otherwise, based on Rachelle's legal analysis and interviews with M.J., he will have a strong case for arguing that the immigration judge should evaluate his family ties, strong work history, and other changes in his life to allow M.J. to stay in the country. (5/26/2010)
- ◆ **Jenny Kim ('11)** and **Diane Bailey ('11)** collaborated with Bay Area Legal Aid ("Bay Legal") on an advocacy project to address a growing problem facing Bay Legal and other non-profits that work with immigrant survivors of domestic violence. Many of Bay Legal's clients have applied for and received the "U visa," a visa that is available to certain non-citizens who cooperate in the criminal investigation or prosecution of crimes committed against them. Bay Legal sought Diane and Jenny's strategic thinking on how best to respond to the following problem: when immigration attorneys, who have represented U visa applicants, receive subpoenas for their immigration files from criminal defendants in the criminal cases where U visa applicants are the complaining witnesses. After conducting thorough legal research and analysis into California privacy laws, privilege waivers, and federal statutory privacy provisions for U visa applicants, Jenny and Diane wrote a model motion to quash. The model motion has already been relied on by immigration lawyers and under-resourced non-profits around the country who are responding to similar subpoenas. (5/26/2010)
- ◆ **Orion Danjuma ('10)** and **Rachelle Orozco ('11)** collaborated with the New Orleans Center for Racial Justice (CRJ), a workers' rights organization based in New Orleans, Louisiana. CRJ works with many guest workers who came to New Orleans after Hurricane Katrina to assist in the rebuilding effort. Among others, CRJ (a membership organization) includes individuals who came from India and the Middle East to work as skilled laborers. These Indian guest-workers were not paid and subjected to extraordinarily exploitative conditions. As a result of their advocacy, Senator Robert Menendez (D-NJ) decided to introduce a bill to provide immigration protections to individuals who blow the whistle on exploitative working conditions for immigrant workers. Rachelle and Orion worked with CRJ to propose language and provide detailed comments on several drafts of the bill. On April 14, 2010, Senator Menendez introduced the Protect Our Workers from Exploitation and Retaliation Act (POWER Act). If enacted into law, it would provide path-breaking immigration protections for exploited guest workers who courageously report exploitative working conditions despite the threat of employer retaliation. (5/26/2010)
- ◆ Congratulations to the Immigrants' Rights Clinic on its work before the Inter-American Commission on Human Rights. Former Clinic students **Lin Chan ('07)** and **Gloria Borges ('07)** worked on an amicus brief on behalf of the Clinic's client, Human Rights Watch. (8/10/2010)

International Human Rights Clinic

Staff:

Kathleen Kelly, Clinical Lecturer

Dee Smythe, Director of the Law, Race and Gender Research Unit & Senior Lecturer in the Department of Public Law at Cape Town University

- ◆ Last year, in the spirit of IHRC's global, engaged approach, SLS launched an exciting new partnership with the University of Cape Town through which SLS students traveled to the University of Cape Town (UCT) for a quarter to participate in an International Human Rights and Development Clinical Program in collaboration with the Refugee Rights Project and the Law Race and Gender Unit at UCT.
- ◆ At the Refugee Rights Project, **Mikaela Weber ('11)** and **Esther Pun ('10)** worked side by side with one of the preeminent refugee rights organizations in South Africa to serve refugee populations that are arriving in South Africa at increasing rates. Mikaela and Esther assisted with all aspects of the Project, personally representing dozens of clients in their cases for asylum, interviewing each client several times, writing briefs for the court on their behalf, developing legal strategy and representing them in front of the South African Refugee Appeals Board.
- ◆ Students who worked with the Rural Women's Project assisted in making strides on behalf of rural women in South Africa who are engaged in struggles for change by documenting actual and changing social practices for use as evidence of "living law" in litigation and policy debates about customary law and women's land rights. **Matt Haney ('10)**, **Kathryn Blair ('11)** and **Ana Gardea ('11)** worked to develop never before seen research on the history and constitutionality of tribal levies in South Africa. South Africa is seeing a resurgence of claims to chiefly authority. The basis for many of these claims is to be found in key pieces of apartheid and colonial legislation and proclamations of the illegitimate former "homelands." As a result, poor rural people, and women in particular, are struggling to access basic rights of citizenship. To help unravel this web of law and politics, the research of Matt, Kathryn and Ana helped to create a picture of the history of latent "homeland" legislation and precedents that were previously undiscovered due to the opaque nature of colonial and apartheid regulation of the former homelands. **Michael Caesar's ('11)** work on the history of such legislation in the Ciskei region, which culminated with field research in the Eastern Cape, and **Jana Hardy ('11)**, **Karli Baumgardner ('11)**, **Angel Chiang ('11)** and **Sarah Greer's ('11)** research on the historical treatment of customary law in the domestic court system, further bolstered the Law Race and Gender Unit's understanding of the history of traditional authorities in South Africa and provided a basis for challenging improper claims to power at the expense of rural populations. Their research will provide a basis for legal claims and the development of legislation to help rural people gain equal access to justice under the South African Constitution.

Organizations and Transactions Clinic

Staff:

Jay Mitchell, Lecturer in Law & Director, Organizations and Transactions Clinic

Alicia Plerhoples Orrick Herrington & Sutcliffe Clinical Teaching Fellow

Octavio Gonzalez, Paralegal

- ◆ **Darrell Atkinson ('11) and Jordan Bowler ('11)** assisted a coastal San Mateo County agricultural education organization with a land purchase and related conservation easement, drafted a comprehensive set of governance documents, and developed terms for a lease by the client of an adjoining property. The team also advised an East Bay nonprofit that provides energy efficiency and tailored alternative energy solutions to low-income clients. Darrell and Jordan worked closely with the management team in developing a model for program expansion, prepared the related contract documents, and reviewed implications of the model under the client's financing and other contracts. (5/14/2010)
- ◆ **Marin Babb ('10) and Chrissy Brown-Marshall ('11)** represented four nonprofits during the term. They advised a Hollister human services organization regarding a potential merger transaction. Their work including performing due diligence, drafting merger documents and making a presentation to the board. Marin and Chrissy also provided governance advice and prepared organizational documents for an Oakland-based organization serving emancipated foster youth. In addition, the team drafted program contracts for two other nonprofits, a Davis-based agricultural research organization and a Redwood City-based nonprofit that performs home renovations for low-income families. (5/14/2010)
- ◆ **Lisa Carrillo ('11) and Allison Pedrazzi Helfrich ('11)** performed a governance review for the board of a food bank located in a rural county and reworked contract documents central to the client's operations, including volunteer documents and contracts involving distribution of food to hard-to-reach and underserved areas of the county. They also advised the board of a Salinas Valley-based agricultural organization about the feasibility and process for transferring a key program to a separate subsidiary. In addition, Lisa and Allie provided governance advice to a nonprofit that promotes bicycling and alternative forms of transportation in Santa Clara and San Mateo counties. (5/14/2010)
- ◆ **Jonathan Goodwin ('11) and Monica Hernandez ('11)** represented a community development corporation based in Santa Cruz County rethink its small business incubator program for low-income and minority entrepreneurs. The team prepared a suite of contract documents and management tools for the client, including a program participation agreement, a retail lease and several business process maps. Jonathan and Monica also provided comprehensive governance advice and documents to two nonprofits, a Sacramento Valley organization dedicated to enhancing California agriculture through leadership development and a San Jose organization working with at-risk youth and their families. (5/14/2010)
- ◆ **Hayley Hunt ('11) and Jessica Ou ('11)** represented three nonprofits during the quarter. They advised a major operator of farmers' markets in the Bay Area, with the work centering around a complete revamp by the team of the core contractual documents that govern market operations. They also advised the CEO about board election matters. In addition, Hayley and Jessica provided governance advice to, and prepared contract documents for, an Oakland-based organization that works with at-risk high school students, and drafted consulting and speaker engagement agreements for a national charter school organization based in San Francisco. (5/14/2010)
- ◆ **Lisa Silverman ('11) and Greg Young ('11)** provided governance and risk management advice to, and prepared a sublease and various program contracts and other documents for, a Sacramento-area nonprofit engaged in promoting sustainable urban agriculture and food security. Lisa and Greg also provided governance advice and organizational documents for a Palo Alto-based nonprofit focused on providing healthcare services to the homeless, with the work including several meetings with the board of directors. Finally, the team prepared a program contract for a large nonprofit engaged in providing housing and case management services to the homeless in Santa Clara County. (5/14/2010)
- ◆ **Mike Austin ('11) and Jennifer Bunn ('11)** prepared model community garden lease and operating documents for a national organization based in Oakland, drafted governance documents and presented to the board of a San Benito County community foundation, advised a Salinas nonprofit about governance matters and prepared process maps and contract and policy documents relating to a food access program operated by a Sacramento-area agricultural nonprofit. Mike and Jen also provided governance advice and

documents for a Santa Cruz County legal services provider, a project that included several meetings with a board of directors consistently entirely of attorneys. (6/15/2010)

- ◆ **Lisa Bozman ('11) and Tim Shapiro ('11)** represented four clients during the quarter. They drafted a template site agreement for use by a major Bay Area operator of farmers' markets in procuring sites for new markets. The team prepared governance documents and advised a large San Mateo County provider of child care services and education. Lisa and Tim also drafted a residential lease for use by a community services nonprofit that administers the affordable housing program of a Santa Clara County city. Finally, they reviewed governance arrangements and presented to the board of a Santa Cruz County nonprofit that promotes ecologically sustaining agricultural practices. (6/15/2010)
- ◆ **Elissa Gysi ('11) and Oh-Yoon Kim ('10)** provided governance advice, prepared organizational documents and presented to the board of directors of a Palo Alto-based nonprofit that provides shelter and employment to homeless men and women while enabling them to become self-reliant. The team also prepared a suite of contract documents for a major Peninsula-based private foundation, drafted trademark license and warehouse lease agreements for a Salinas Valley agricultural nonprofit and provided extensive governance advice to a large and long-established San Francisco community services organization that offers a range of services to families confronting poverty and homelessness. (6/15/2010)
- ◆ **Matt Gipple ('11) and Rob Lopez ('11)** worked on multiple projects for a community development corporation based in Santa Cruz County, including preparing office lease and consulting agreements, and facilitating a board discussion of a proposal to increase foot traffic to small businesses at the client's retail center. Matt and Rob also represented a Sonoma County local food system nonprofit, with the work including preparation of governance documents and several contracts relating to operating programs. Finally, Matt and Rob prepared a complex license agreement and other materials for a Redwood City-based organization that renovates homes for low-income families. (6/15/2010)
- ◆ **Catherine Morris ('11) and David Ollison ('11)** represented a coastal agricultural education organization in a leasing arrangement for adjoining farm land. The engagement involved their meeting on several occasions with members of the board and drafting a complex lease and license agreement. In addition, Catherine and David provided governance advice and documents, reviewed site lease agreements and presented to the board of a Santa Clara County food system nonprofit, prepared program-related contract documents for a long-established San Jose community services provider and helped advise a Stanislaus County nonprofit about a contract interpretation matter. (6/15/2010)

Social Security Disability Pro Bono Project

Staff:

Lisa Douglass, Director, Social Security Disability Project

Ashley Pickard, Paralegal

- ◆ Last Friday, **Anna Scholin ('11)** successfully represented a client at an Administrative Hearing at the Federal Office of Disability Adjudication and Review in San Jose. Thanks to Anna's efforts, the client, a single mother of two living in East Palo Alto, will now receive ongoing monthly cash benefits for herself and her children, eighteen months of retroactive benefits and Medicare coverage. The client was forced to leave work in 2007, after she suffered multiple dislocations in both knees, leading to three surgeries and causing chronic painful inflammation of the nerves in her back. When she sought help from SSDP, her disability benefits application had been denied twice by Social Security and she had been unable to find legal representation. She is undergoing a fourth surgery this month, which she hopes will bring her closer to her goal of returning to work. In the meantime, she and her children will receive an income and medical coverage, while she battles her medical condition. (9/3/2009)
- ◆ **Ling Lew ('09)** and **Tyler Pool ('09)** appeared at an Administrative Hearing on behalf of a disabled Veteran who was appealing Social Security's denial of her disability benefits. After vigorous argument, the Administrative Law Judge agreed to award benefits on the basis of the numerous declarations Ling and Tyler had prepared and submitted. The client, who, in addition to her military service, had worked for many years as a supervisor at a drugstore, left work after surviving a car accident, her husband's suicide and multiple brain aneurysms within a short period of time. Suffering from severe depression, chronic back pain, and migraine headaches, she became homeless for several years, until she secured a subsidized studio apartment at the Opportunity Center housing facility in Palo Alto. She currently works part-time but is unable to work more than six hours per week, due to her disabling conditions. Thanks to the students' work, she will now receive cash disability benefits and Medi-Cal coverage. (9/3/2009)
- ◆ Earlier in July, **Luke Weiger ('10)** took a brief furlough from his summer associate job to represent another Opportunity Center resident at her Administrative Hearing. Based on the written brief and declarations Luke had prepared along with **Blair "Andy" Stewart ('09)**, the judge awarded the client two years retroactive benefits as well as ongoing benefits. Before becoming disabled, the client had walked a U.S. Postal Service route every day for eighteen years as a mail carrier. She stopped working when she developed a psychotic disorder as well as a pulmonary embolism. She then became homeless and spent a few years sleeping on a night bus that ran between Palo Alto and San Jose. For the past two years she has been living at the Opportunity Center and surviving on Food Stamps and medical care from free clinics. Now she will receive monthly cash benefits and Medi-Cal coverage. (9/3/2009)
- ◆ In May, **Doru Gavril ('11)** and **Brigid Kelly ('11)** were preparing to represent a 45 year-old homeless, uninsured man at a disability hearing. Accepting the students' argument that the client's uncontrolled diabetes and resulting neuropathy combined with his psychiatric disorder rendered him unable to sustain employment, the Administrative Law Judge awarded the client monthly cash benefits as well as retroactive benefits and Medi-Cal coverage. Crucial to the judge's decision was the medical declaration that **Valerie McConnell ('10)** prepared with the client's primary care physician, which the veteran judge said was one of the most thorough and well-prepared declarations he had ever seen. The client is very grateful and relieved that he will now have access to medical specialists, whose care he desperately needs. In addition, the client's mother has helped him use his retroactive benefits to secure housing in a nearby county, ending seven years of homelessness. All of the students' work was supervised by SSDP Director Lisa Douglass. (9/3/2009)
- ◆ **Josh Patashnik ('11)** and **Jacob Hale Russell ('11)** represented a former blues musician and Army veteran who became disabled after suffering 40 minutes of oxygen deprivation due to a cardiac arrest in 2007. An accomplished bassist who had toured internationally with headlining bands, the client became unable to work due to his cognitive deficits and was surviving on food stamps. The client had been denied benefits because of psychological testing that showed only mild to moderate cognitive deficits. The students worked with a neuropsychologist from the VA Medical Center to draft a declaration detailing the client's work-related functional impairments and submitted a brief to the judge making the case for disability. The judge awarded the client monthly cash benefits and 20 months of retroactive payments. (11/12/2009)

- ◆ **Shelton Abramson ('11) and Allen Gleckner ('11)** represented a local man who was homeless for several years before he moved into transitional housing subsidized by a local non-profit. The client had faced challenges throughout his life, due to a developmental disability, but had succeeded in maintaining consistent employment for many years. In his 40's, he developed severe sleep apnea and depression, and began to suffer severe concentration and memory problems. These impairments, combined with his baseline low intellectual functioning, caused him to lose his job and his housing. Through declarations, testimony and argument at the hearing, the students convinced the judge to award the client disability benefits, which will include Medicare coverage, enabling him access treatment for his sleep apnea. (11/12/2009)

- ◆ **Sophia Lin Lakin ('11) and Stephen Dekovich ('11)** represented a young woman who suffers from Bipolar Disorder and severe social anxiety. With the help of disability accommodations she had recently graduated from a local college, after taking about twice the usual number of semesters to do so. However, she was unable to maintain employment because of episodic exacerbation of her mental health symptoms during which she is unable to leave her room for days or weeks at a time. In addition to preparing declarations and submitting a brief, the students put on a skillful and compelling direct examination of the client. The judge praised the students for their trial advocacy skills, and granted benefits to the client. The client, who was previously uninsured, now has Medicare coverage, enabling her to obtain comprehensive mental health treatment that she hopes will allow her to pursue her career goals in the future. (11/12/2009)

- ◆ **Libbey VanPelt ('11) and Amanda Morse ('11)** represented a former financial wire operator who became homeless after a combination of mental illness and worsening chronic physical conditions made her unable to maintain employment. After two administrative denials, the client was entitled to a hearing. Through declarations, testimony and a well-written brief, Libbey and Amanda developed evidence demonstrating that, while none of her impairments on its own was severe enough to entitle her to benefits, the cumulative effect of her mental and physical impairments made her unable to work. The judge ultimately awarded the client monthly benefits, two years of retroactive benefits and Medicare coverage. **David Brook ('10)** also contributed to this case by filing the client's initial disability claim two years ago helping to develop the case strategy. (11/12/2009)

- ◆ **Alex Lampert ('11) and Anna Scholin ('11)** represented a single father and Veteran, who was living in transitional housing with his 13 year-old daughter after several years of homelessness. The client suffers from chronic heart failure and depression, but his case was complicated by a history of substance abuse. The students sifted through complicated medical records and worked with his physicians and psychiatrists and case managers to draft declarations. They drafted a terrific brief and cross-examined two experts at the hearing. The judge awarded ongoing and retroactive benefits to the client, ensuring that he and his daughter will have long-term housing at the Opportunity Center. In addition to these hearing victories, students in the Social Security Disability Project have had great success in securing long-term housing for their chronically homeless and transitionally-housed clients. As a result of student advocacy, 17 SSDP clients have been able to secure permanent housing. (11/12/2009)

Stanford Community Law Clinic

Staff:

Juliet Brodie, Professor of Law & Director, Stanford Community Law Clinic

Danielle Jones, Lecturer in Law

Jessica Steinberg, Clinical Lecturer and Jay M. Spears Clinical Teaching Fellow

Adelina Arroyo, Paralegal

Lupe Buenrostro, Paralegal

- ◆ **Maureen Keffer ('11)** represented a restaurant worker who had been denied overtime payments and meal and rest breaks for the duration of his four-year employment at a San Mateo restaurant. Over the course of two quarters, Maureen pored over the merits of her client's claim, engaged in heated negotiations with recalcitrant restaurant owners, and ultimately advocated forcefully at the Division of Labor Standards Enforcement leading to a very favorable settlement of \$6000. Her client is extremely happy with the result. **David Rabb ('11)** also worked on the investigative phase of the case in the Fall quarter. (3/14/2010)

- ◆ **Joanna Shalleck-Klein ('10)** and **Maureen Keffer ('11)** represented a client in a multi-phased administrative proceeding at the Division of Labor Standards Enforcement; the client worked over 65 hours a week in the kitchen of a Castro Street restaurant in Mountain View, and was systematically and intentionally deprived of his overtime premiums. The employer was an extremely belligerent (and often profane and aggressive) sole proprietor who stonewalled and otherwise obstructed and delayed at every turn. Joanna and Maureen prepared for the hearing extensively: preparing their client to testify, identifying and preparing a corroborative witness, and preparing documentary evidence in support of their client's claim. In the face of truly breathtakingly unprofessional, and often personally offensive, behavior on their opponent's part, they conducted themselves with utmost professionalism throughout the proceedings. The hearing examiner awarded the Clinic's client over \$16,000 in unpaid wages and penalties in a written decision that credited the client's testimony and the clinic's presentation of the case. As is his right, the employer sought de novo review in Superior Court, so the students were prepared to wage battle in this new tribunal, now with discovery and motion practice available. However, they quickly realized that the employer had failed to comply with the statutory requirement that an appealing employer post a bond in the amount of the administrative order to perfect the appeal. Now joined by **Noah Sullivan ('11)**, the students filed a motion to dismiss, with an impressive brief distinguishing the contrary appellate authority and arguing that the judge had discretion under the statute to dismiss the case. The judge did just that when the students appeared before him and has now entered a final judgment in their client's favor for the full amount of the underlying order. (5/14/2010)

- ◆ **Val McConnell ('10)** and **Emily Roberts ('10)** have just entered into a settlement on a wage case in which they represented four workers who went entirely unpaid for their final 3.5 months of employment. The workers, a waiter and three busboys, came to the clinic to report that when the restaurant that employed them closed in December 2009, they had not been paid at all for several months. Relying on the boss' promises that he would come through and that the business would soon thrive, the workers somehow held on. When the manager announced the closing, she handed each worker a stack of paychecks for the unpaid period, but said, in essence, "Don't bother taking them to the bank; they're no good." The workers attempted on their own to reach a deal with the boss, and filed their own administrative wage claims, but then sought legal representation. After investigating the restaurant and learning that it and its principals have several significant debts and liens, the students decided that negotiation was their clients' only hope of recovering. The students contacted the restaurant owner, who operates several other successful Bay Area restaurants, and prevailed upon him to make good on the paychecks. He agreed to a payment plan, and yesterday, Emily and Val received the first checks for their clients. (5/19/2010)

- ◆ **Libbey Van Pelt ('11)** and **Noah Sullivan ('11)** represented a woman who failed to answer her eviction lawsuit because she was incarcerated at the time of service and jail officials refused her the paper she requested to draft some kind of answer. Immediately upon release, she sought legal representation, and, based on her incarceration and her meritorious defense, Libbey and Noah were able quickly to negotiate a favorable outcome with the landlord's lawyer in the shadow of their likely motion to vacate the default judgment. (5/27/2010)

- ◆ **Broggiin Keeton ('11)** and **Jessi Brooks ('11)** represented a family that had fallen behind in rent when their sole breadwinner lost his construction job. Broggiin and Jessi identified a doctrinally fatal flaw in the pleading filed by the landlord's attorney, and filed a motion to dismiss and accompanying brief, which was tentatively

granted by the court. The landlord's attorney expressed his intent to contest the ruling, and the parties began negotiating. Jessi and Brogiin also identified a serious habitability problem with the apartment, which they argued reduced the rental value of the premises. From the position of strength created by their motion and research, Jessi and Brogiin were able to negotiate a payment plan and, ultimately, a renewal of the lease that permits the family to stay in their home. (5/27/2010)

- ◆ **Anna Scholin ('11) and Katrina Eiland ('10)** also represented a family facing eviction, and also successfully attacked the landlord's pleadings, this time with a motion to quash service of the summons. This motion required legal research and drafting of affidavits of the family members about the lack of proper service. The motion was granted, again placing the tenants in a strong bargaining position. In addition to research, drafting, and negotiation skills, this case gave Anna and Katrina a terrific opportunity to engage with the rules of professional conduct in action, as the household was made up of two families. The representation of multiple parties with potentially conflicting interests was challenging for the students, who counseled their clients and were able to secure a settlement on behalf of all of them. (5/27/2010)
- ◆ **Libbey van Pelt ('11) and Brogiin Keeton ('11)** also represented a tenant who faced eviction for nonpayment of rent despite assurances from his landlord that the rent could be paid mid-month when his pension funds arrived. Libbey and Brogiin filed an answer to their client's eviction suit, and propounded discovery, including notices of multiple depositions. Following several rounds of intensive negotiation, Brogiin and Libbey secured a dismissal of the eviction lawsuit and reinstated their client's tenancy in good standing without payment of any fine or penalty. (5/27/2010)
- ◆ **Emily Roberts ('11) and Nancy Hanna ('11)** similarly represented a pair of tenants whose house had considerable uninhabitable conditions. Immediately upon being retained, Emily and Nancy propounded discovery on the landlord, which brought him quickly to the bargaining table. Again, the students were able to negotiate a relocation arrangement that enabled the household's children to finish the school year in place and to make a reasonable transition. (5/27/2010)

Supreme Court Litigation Clinic

Staff:

Pamela Karlan, Kenneth and Harle Montgomery Professor of Public Interest Law & Co-Director, Supreme Court Litigation Clinic

Jeffrey Fisher, Associate Professor of Law & Co-Director, Supreme Court Litigation Clinic

Thomas Goldstein, Lecturer in Law

Amy Howe, Lecturer in Law

Kevin Russell, Lecturer in Law

Joanne Newman, Paralegal

- ◆ The Supreme Court Litigation Clinic was victorious today in the Supreme Court in *Abbott v. Abbott*. The clinic represented Timothy Abbott, a British national who lived in Chile with his wife and ten-year-old son. When the couple separated, a Chilean court awarded primary custody to Mrs. Abbott. But it also subjected this custody to a "ne exeat" rule, which prevented either parent from taking the child out of the country without permission from the other or the court. Ms. Abbott nonetheless took the child to the United States without Mr. Abbott's or the court's permission. Mr. Abbott sued her in federal court, claiming that the Hague Convention on the Civil Aspects of International Child Abduction, to which the United States is a signatory, required her to return the son to Chile. He lost in federal district court and again in the Fifth Circuit. At that point, the clinic got involved in the case. It filed a cert petition on Mr. Abbott's behalf, asking the Court to use this case to clarify the United States' obligations under the Convention. The Supreme Court granted certiorari, heard argument in January, and today rendered a 6-3 decision in Mr. Abbott's favor, holding that the Convention requires United States courts to respect foreign parents' ne exeat rights. Clinic students **David Schwartz ('09)**, **JP Schnapper-Castreras ('09)**, and **Dan Matro ('10)** drafted the cert petition. **Jaqueline de Armas ('11)** assisted last summer with the opening merits brief, and she, **Bryan Henderson ('10)**, and **Elisabeth Oppenheimer ('10)** drafted the reply brief and helped with oral argument preparation. Lecturer **Amy Howe** supervised all of this work and argued the case. (5/17/2010)
- ◆ The Court issued a unanimous decision in favor of the clinic's client in *United States v. O'Brien*, holding that a provision in the U.S. Code mandating a 30-year mandatory minimum sentence for using a machine gun in furtherance of committing certain crimes is an "element" of an aggravated crime that must be proven to a jury beyond a reasonable doubt, instead of a "sentencing factor" for the judge to find by a preponderance of the evidence. Clinic students **Rakesh Kilaru ('10)**, **Vivian Wang ('10)**, and **Connor Williams ('10)**, wrote the brief on the merits, with assistance at its late stages from **Elisabeth Oppenheimer ('10)** and **Keisha Stanford ('10)**. The Court's opinion cites directly to the brief twice (a rare tribute to the brief's force and the fact that it included considerable original research) and recites the brief's arguments at every turn. The students all helped **Professor Jeff Fisher** prepare for oral argument, which he gave in February. (5/24/2010)
- ◆ The Court agreed with the outcome the clinic advocated on behalf of The International Association of Human Rights Agencies as amicus in *Lewis v. City of Chicago*. The Court held that the statutory limitations period for bringing Title VII claims based on an employer's use of a practice that has an allegedly disparate impact runs from any time the employer uses the practice, without regard to when the employer first announced it would implement the practice. Clinic students **Anthony Dick ('10)**, **Jacqueline de Armas ('11)**, and **Vivian Wang ('10)** authored the brief, supervised primarily by instructor **Kevin Russell**. (5/24/2010)
- ◆ The Court granted the clinic's petition for certiorari in *Sossamon v. Texas*. The case presents the issue whether plaintiffs may recover money damages against the state or its officials for violating the federal Religious Land Use and Institutionalized Persons Act, and, if so, whether Congress had the constitutional authority to provide for such damages. Clinic students **Sam Bateman ('10)**, **Beverly Moore ('09)**, and **Anthony Dick ('10)** authored the cert petition. After the petition was filed, **Jacqueline de Armas ('11)** and **Vivian Wang ('10)** assisted with supplemental briefing and a meeting successfully urging the Solicitor General's office to file an amicus brief supporting the cert petition. **Kevin Russell** is the primary supervisor for this case, which the clinic is already briefing on the merits and will be set for oral argument in the fall. (5/24/2010)
- ◆ In *Samantar v. Yousof*. The Clinic's clients are individuals who were tortured by officials of the Barre regime in Somalia or who are the survivors of persons who were killed by the regime. They filed suit in federal district court in Virginia against Mohamed Ali Samantar, the former minister of defense and prime minister

during the Barre years, who now resides in Virginia. They brought the suit under the Alien Tort Statute and the Torture Victim Protection Act of 1991, which each authorize certain kinds of lawsuits in U.S. courts for human rights abuses that occur overseas. Samantar argued that he was entitled to immunity under the Foreign Sovereign Immunities Act (FSIA). Justice Stevens's opinion for the Court held that Samantar does not fall within the protection of the FSIA. (It did not address whether he might have any other immunities or defenses) The case now returns to the Eastern District of Virginia for further proceedings. The students on Team Yousuf were **Samantha Bateman ('10)**, **Shira Pinnas Liu ('10)** and **Tim Tatarka ('10)**. They showed special devotion to the cause working into the holiday break. **Pattie Millett** from Akin Gump delivered the oral argument. (6/1/2010)

- ◆ The clinic represented Billy Joe Magwood, a Vietnam veteran who developed schizophrenia upon returning home from his service, and who killed a local sheriff in the midst of a paranoid delusion. The State of Alabama convicted Magwood of murder and sentenced him to death. After Magwood obtained federal habeas relief from that sentence, the State obtained a new death sentence. Magwood again obtained federal habeas relief, this time on the ground that the circumstances of his crime did not render him eligible for the death penalty under Alabama law. The State appealed, and the Eleventh Circuit reinstated Magwood's death sentence on the procedural ground that Magwood could have, but did not, challenge his death eligibility during the habeas proceeding and, therefore, had defaulted the ability to do so now. The clinic then got involved in the case. It filed a petition for certiorari challenging that procedural ruling, which the Supreme Court granted in the fall. And on Thursday, the Court reversed the Eleventh Circuit by a 5-4 vote (in an Opinion authored by Justice Thomas), holding that Magwood has a right to challenge his death-eligibility with respect to his new death sentence. The case now returns to the Eleventh Circuit, which will look at the merits of the district court's decision that Magwood simply did not commit a capital offense. Clinic student **Jacqueline de Armas ('11)** assisted last summer with the cert petition. Students **Anthony Dick ('10)**, **Keisha Stanford ('10)**, and **Elisabeth Oppenheimer ('10)** did the merits briefing. (6/27/2010)
- ◆ Over the Term, the clinic represented eight clients on the merits and won seven of those cases. In various other cases, the clinic provided successful amicus assistance, persuaded the Court to deny cert on behalf of clients, and persuaded the Court to grant certiorari in a case it will hear next Term. (6/27/2010)

Youth and Education Law Project

Staff:

William Koski, Eric and Nancy Wright Professor of Clinical Education & Director, Youth and Education Law Project

Brenda Shum, Clinical Lecturer in Law

Joanne Newman, Paralegal

- ◆ Negotiating appropriate educational services for a child with learning disabilities: M.N.'s case
M.N. is a twelve year old girl who always found school difficult. She was never able to communicate or speak at the same rate as her peers. M.N. was initially offered speech therapy, but it was discontinued by the school district in spite of her doctor's recommendations. M.N. continued to struggle academically, and was later diagnosed with attention deficit disorder. She was retained in school and her confidence suffered. M.N.'s mother suspected that she had a learning disorder and requested a comprehensive evaluation. The school's evaluations rejected the possibility of a learning disorder. Last fall, M.N.'s mother finally contacted YELP for assistance. YELP students **Katrina Rouse ('09)** and **Julia Van Roo ('09)** investigated the case and filed a complaint with the California Department of Education. The CDE found that the school district had violated the law and ordered an independent evaluation. That assessment confirmed that M.N. suffers from a speech disability, as well as dyslexia. Both significantly interfere with her ability to learn. YELP's legal intern **Allison Helfrich Pedrazi ('11)** worked with the mother to identify an appropriate school placement and to implement an educational plan to address M.N.'s disabilities. In addition, the clinic negotiated additional services to compensate M.N. for the school's failure to provide an appropriate education. After six years of struggling with the school – and a full year of advocacy by YELP students – M.N. will finally begin school this fall with the educational services she needs. (9/21/2009)

- ◆ Fighting to integrate a child with disabilities into a mainstream class: I.M.'s case
When eleven year old I.M. was referred to the clinic, he had been out of school for almost three months. His parents had withdrawn him from school after alleging he had been physically abused by his teacher. The school district was preparing to file truancy charges against the parents. I.M. was caught in the middle. As a student with severe learning disabilities, each day out of school left I.M. further behind. Clinic student **Justin Chapa ('10)** facilitated I.M.'s immediate return to school, then worked diligently to repair a volatile relationship between the family and the school district. The district insisted that I.M. needs a small, segregated classroom with other severely disabled students. The family demanded that I.M. be mainstreamed and threatened to remove him from special education. Every meeting and conversation between the school district and the family threatened to unravel the tenuous truce that kept I.M. in school. Justin reviewed the extensive academic record and researched his client's right to be educated in the least restrictive environment. He proposed a carefully crafted settlement agreement which satisfies the family's desire for I.M. be educated at his neighborhood school with his non-disabled peers. The agreement also incorporates all of the services necessary for I.M. to make measurable progress. I.M. is excited to return to his neighborhood school this fall, and his family is optimistic that he'll continue to grow both academically and socially. (9/21/2009)

- ◆ Advocating for appropriate interventions to keep an "at risk" student in school: T.M.'s case
Fourteen year old T.M. had a rocky start to his freshman year, completely unprepared to face the academic and social challenges of high school. Because of his learning disabilities and ADHD, he has great difficulty focusing on his schoolwork and an inability to control his behavior when frustrated. His mother advocated strenuously on his behalf, but encountered resistance from a school that proved intolerant of T.M.'s behavioral challenges. Their inflexible response to T.M.'s distractibility and impulsivity led to multiple suspensions and the threat of expulsion. T.M.'s mother became increasingly suspicious of the school's response to her son's disabilities. YELP student **Michael Wang ('10)** carefully researched T.M.'s academic and medical records to better understand T.M.'s learning challenges, his behavior triggers and the benefits of positive interventions. He facilitated conversations between the school district, teachers, psychologists, administrators and counselors where he educated them about T.M.'s needs. He managed an aggressive school lawyer by diffusing hostility and building trust between the family and the school. After several charged meetings, the team identified targeted behaviors and more appropriate school responses. The school felt empowered to manage T.M.'s learning needs in a developmentally appropriate manner, and the family felt a renewed sense of confidence in both T.M. and his teachers. T.M.'s grades and behavior improved dramatically over the course of a semester, and he will return to high school this fall with an appropriate education plan and a team committed to his success. (9/21/2009)

- ◆ Advocating to get a high schooler back on track for graduation: R.P.'s case
R.P. is a seventeen year old high school student threatened with expulsion for possession of less than a gram of marijuana on campus. R.P. acknowledged he'd been in possession of marijuana, but adamantly denied the charge that he intended to sell. The school's "zero tolerance" offense jeopardized R.P.'s ability to graduate on time from a comprehensive high school, a goal he'd been on track to achieve prior to this charge. In spite of his success at his alternative school, R.P. remained highly motivated to graduate with his class. YELP student **Justin Chapa ('10)** carefully investigated the underlying facts and interviewed witnesses, and persuaded the district's lawyer that the more serious offense would not be upheld at hearing. R.P. had no history of discipline issues, and worked part-time in addition to attending school. Justin successfully negotiated a stipulated expulsion which reduced the period of the expulsion. As the result of Justin's skillful advocacy, R.P. will return to his comprehensive high school at the end of the year, and will graduate with a high school diploma. (9/21/2009)

- ◆ Getting school support for a student returning from incarceration: L.R.'s case
L.R. is a sixteen year old student with ADHD, executive functioning disabilities and behavioral concerns whose educational issues were complicated by her involvement with the juvenile delinquency system. L.R. was in custody awaiting a probation violation when she was referred to YELP. Her parents asked for help with a number of matters, including L.R.'s return to high school after her release from custody, developing and implementing a behavior support plan to manage L.R.'s inappropriate behaviors, and opening a more meaningful dialogue with school administrators about L.R.'s graduation requirements and long-term educational goals. The family struggled to navigate their way through the public school system, juvenile probation, and county mental health. YELP students **Betsy Wang ('10)** and **Michael Wang ('10)** successfully managed the family's fluid set of priorities, responding quickly to L.R.'s rapidly changing legal situation. Betsy and Michael found themselves managing a strained relationship between the family and the school, as well as challenging power dynamics between a teenager and her parents. They worked closely with the family to identify realistic educational goals for L.R.. Betsy and Michael consulted with the family's private educational advocate. They facilitated a productive meeting between the family and the school, addressing everything from class scheduling to behavior plans. Together, the team identified both short-term and long-term goals to permit L.R. to reach her goals to graduate from high school and attend a four-year university. (9/21/2009)

- ◆ Crafting model legislation: The "commercialism in the classroom" project
In addition to its direct legal services, YELP has the opportunity to develop various projects which provide a platform for students to make meaningful contributions to broader public policy issues. Largely unnoticed by most people, our public schools have become targets for advertisement, marketing and commercial activity by corporation activity by corporations and other commercial entities. While this commercial activity may generate very real financial benefits to cash-strapped schools, the potential negative effects are often unexplored. Working with a research institute at the Arizona State University, YELP students **Shannon Hodge ('10)**, **Zoe Palitz ('10)**, **Linda Rangel ('10)** and **Elizabeth Jansma ('10)** developed a thoughtful policy brief that analyzed both the advantages and disadvantages of several forms of commercialism in the classroom. Based on that brief, the team then developed a complex model regulatory scheme that could be adopted by state legislatures or local school boards to frame their conversation about the issues presented by commercialism in the classroom. YELP is now working with a national organization to disseminate the brief and model policies to guide effective decision-making regarding schools and commercialism. (9/21/2009)

- ◆ Going to trial for a child whose disabilities were ignored by her school district: N.O.'s case
Many, if not most, civil legal disputes are not resolved with a simple win or loss. For example, the Youth and Education Law Project just completed an important and complicated case which took almost a full year to resolve. N.O. is an eight year old student with a severe mixed and receptive language impairment. At the age of seven, N.O. had no meaningful language -- she could barely speak, read, or write, relying instead on gestures and grunts to express herself. Because language is so fundamental to learning, N.O. struggled to acquire even the most basic skills. She failed kindergarten, and after three years of school she had yet to learn simple concepts many children master in pre-school. Instead of referring her for an assessment to identify an underlying disability, the school attributed her difficulties to shyness, her young age, and her status as an English language learner. Her disabilities should have been identified and treated during her first year of school. Instead, she fell through the cracks for three years. When N.O.'s volunteer tutor notified the family that she might have a more serious disability, the district ignored these concerns and failed to follow through on the family's request for an assessment. The family was forced to pursue an independent

evaluation, which confirmed N.O. suffers from a severe language disorder. The failure to offer special education during this critical stage of learning left her uniquely vulnerable and required intensive remediation. The family therefore enrolled N.O. in a private school program for students with severe learning disabilities and language disorders, where she thrived and began learning for the first time. Because her family is indigent, the private school offered a generous level of financial support to cover the cost of her tuition. The family was referred to YELP to investigate N.O.'s right to an appropriate placement and services. The school district refused to reimburse the family for N.O.'s tuition, denying that they should have recognized N.O. was a student with disabilities. Instead, they insisted that N.O. demonstrated an ability to pass from grade to grade and might not qualify for special education services. YELP students **Elizabeth Jansma ('10)** and **Linda Rangel ('10)** conducted exhaustive research, studying N.O.'s disability, the family's legal rights, and the school's obligation to identify N.O. as a student in need of a referral for assessment. They counseled and advised their clients about complicated and nuanced legal issues which arose throughout the case. They interpreted assessments and test results. They filed a forty-page complaint requesting compensatory education in the form of private school placement for the three-year denial of an appropriate education. They represented the family in a highly contentious -- and ultimately unsuccessful -- mediation session with the school district. They submitted and argued complicated pre-hearing motions. They spent hours interviewing and preparing family members, teachers, tutors and expert witnesses for hearing. They staffed ethical and legal issues with supervisors and mooted arguments and witness examinations with their classmates. And they objected strenuously as the school district successfully requested continuance after continuance, pushing the hearing from winter to spring and increasing the stress on the family. Elizabeth's presentation at hearing was nothing short of an outstanding professional accomplishment. She demonstrated the highest level of advocacy, presenting a moving opening statement and guiding two expert witnesses through extremely technical testimony. In addition to her skillful presentation of evidence and argument, Elizabeth managed the family's anxiety, an unpredictable administrative law judge, and an aggressive opposing counsel with impressive calm throughout a highly unpredictable proceeding. After five and a half days of hearing, YELP submitted written closing arguments in June and received an order in July. The hearing officer found that N.O. has a language impairment that qualifies her for special education and related services. She also ruled in the family's favor on a number of legal issues. Even so, she held that the school had no reason to suspect that N.O. was disabled during each of the three years she was a student in the district. The hearing officer conceded that by winter of her last year in the school district, N.O.'s teacher should have referred her for a special education evaluation and that the failure to do so denied her an appropriate education. Furthermore, the school's failure to meet its legal timeframes for assessment and its failure to provide the parents written notice of their rights further denied N.O. an appropriate education. These violations delayed the identification of her disability, and required some form of compensation. Because of the private school's generous scholarship, the family only paid \$2,500 of the \$33,000 annual tuition. Although the hearing officer rejected the family's request that the school be reimbursed the full tuition and limited the remedy to the family's out-of-pocket expenses, compensatory speech services. Disappointingly, she declined to award prospective placement at the private school for an additional year. (9/21/2009)

- ◆ D.W. was born addicted to cocaine. Eighteen years later, a high school in Texas gave him a diploma, even though his math and reading skills were at the third grade level, he passed none of the requisite high school courses, and did not possess significant life skills such as vocational skills, the ability to live independently, and the ability to manage money. As an elementary student, D.W. had been identified as needing special education in his California school district due to his significant verbal and academic delays, but the district never assessed his cognitive abilities to determine whether he had a developmental disability. Unfortunately, once D.W. left high school and sought supportive living and vocational services from the Regional Center system in California under the state's Lanterman Act, D.W. was twice denied such services because he had never been identified as having a developmental disability. The Youth & Education Law Project (YELP) then stepped in to represent D.W. in an appeal to the California Office of Administrative Hearings to overturn the denial of services. **Allie Pedrazzi-Helfrich ('11)** worked with D.W. in analyzing his extensive medical, psychological, and academic records to make the case that he had been, since birth, developmentally disabled. YELP also worked with a psychiatrist, education specialist, and a clinical psychologist to secure up-to-date assessments and diagnoses that demonstrated D.W.'s disability. Armed with the new assessments and a careful analysis of D.W.'s record and the law, YELP represented D.W. in an "informal hearing" before the Regional Center and persuaded Regional Center staff that D.W. was legally entitled to adult developmental disability services. We are pleased to report that D.W. began receiving such services just a few weeks ago and is already beginning to develop basic job and daily living skills. (10/28/2009)

- ◆ The agreement with the Berkeley Unified School District allows YELP's client, who had been recommended for expulsion, to complete his senior year of high school and receive a diploma from Berkeley High while fulfilling his credits through Independent Study. Over the recent months, the Berkeley High School campus has witnessed a number of race-related attacks and harassment. School officials and security had been notified of the problem on several occasions but had not taken effective action to keep the students safe. This failure to act culminated in an unfortunate incident. After receiving a phone call from a young friend, crying for help during a racially motivated attack, YELP's client and two other students entered a fight on school grounds. Outnumbered and afraid for the young friend's safety, the client grabbed the steering wheel locking device from his car. Although he was immediately thrown to the ground upon entering the fight and in no way used the device as a weapon, he was recommended for expulsion for possession of a "lethal weapon" and "attempting to cause great bodily injury." Through intensive witness interviews and investigation and collaboration with a local advocacy group, YELP students **Lance Alarcon ('11)** and **Cara Gray ('11)** uncovered the hostile environment in the school and the administration's failure to maintain the safety of all of its students. During pre-hearing negotiations, the school district recognized that its failure to intervene in the escalating racial tension led to the fight and was therefore willing to settle the client's case. The client received a stipulated suspended expulsion, and must remain out of trouble until the end of the school year. If this is done successfully, he will receive a Berkeley High Diploma and his record will be expunged. Meanwhile, YELP continues to work with the advocacy organization in its efforts to ensure a safe and secure campus for all Berkeley High students. The students were supervised by YELP Director, Prof. Bill Koski, by Lecturer and Clinical Teaching Fellow Brenda Shum, with the able assistance of paralegal Joanne Newman. This was a difficult case and the resolution has the potential for improving the life of the client and all students in the District. (5/10/2010)

- ◆ Getting a High Schooler with Severe Anxiety Disorder Back Into School J.V. is a high school student with agoraphobia, depressive anxiety, generalized anxiety and bipolar disorder whose primary issue is school (and other social setting) avoidance. In fact, J.V. had been unable to attend school for five months due to the severity of his agoraphobia and anxiety issues. Despite having knowledge of this issue, J.V.'s school was doing little to assist J.V., notwithstanding its legal obligations to do so under the Individuals with Disabilities Act (IDEA). **Aaron Nissen ('11)** and **Allysun Atwater ('11)** counseled J.V. and his family, and reviewed volumes of special education, cumulative education, and mental health documents and reports. Additionally, Allysun and Aaron interviewed school officials and mental health professionals in preparation for J.V.'s Individualized Education Plan (IEP) meeting. Their investigation revealed that through a combination of miscommunication, inattention, and misplaced efforts, J.V.'s disability was being mis-categorized and treated as a truancy and drug issue. Allysun and Aaron were instrumental in negotiating a transitional support plan for J.V. that addressed ways to help him overcome his anxiety about attending school, placed J.V. in a therapeutic classroom setting with in-school mental health support, and alerted his mental health providers of the family's needs and of the severity of J.V.'s mental health issues. Aaron and Allysun were also able to help secure additional wraparound mental health support for J.V. through the county mental health agency. J.V. is now attending school again with the appropriate mental health supports in place. (5/17/2010)

- ◆ Negotiating an Appropriate Placement in a Non-Public School for a Second Grader with Autism Spectrum Disorder When J.C., a six-year old nonverbal boy with severe autism, first came to YELP, the school had placed him in a general education kindergarten classroom without any autism-specific interventions or staff-support trained in autism. Although he had been in the special education system for the past three years, he hadn't received any early intervention and did not have an expressive communication system in place. Because he could not communicate his needs, his violent interactions with school staff were escalating dramatically. J.C. had recently lost two teeth after an incident where he bit a staff member. J.C.'s mom knew that her son could communicate and learn with proper supports, but the school district was uncooperative and she could not afford to place him in a private autism program. The Youth & Education Law Project (YELP) then stepped in to represent J.C.'s right to a free and appropriate education under the Individuals with Disabilities Education Act. **Scott Coleman ('11)** and **Maggie McKinley ('10)** advocated on J.C.'s behalf with the school district to obtain proper services and, if needed, a proper placement in a county educational program or a private school, paid for by the district. After an observation session of J.C. in his general education classroom, YELP met for a number of hours with district and school personnel, successfully convincing them that J.C.'s behavioral problems were due to his inability to communicate and that the school and district were ill-equipped to properly approach autism-specific communication needs. We are pleased to report that J.C. began his first day in an autism specific private school program this during the last weeks of the Winter Quarter. J.C.'s

new teachers are convinced that they can teach him to communicate. J.C., his mom, and the YELP team could not be happier. (5/17/2010)

- ◆ Stopping an Illegal, Involuntary Transfer of a High School Student YELP students **Jenna Sheldon-Sherman ('11)** and **Luke Weiger ('10)** represented fifteen-year-old, A.F., in reenrolling in high school after being denied admission for over 2 months. Fifteen-year-old A.F. transferred to the Sequoia High School District in October 2009. A mere three weeks after he began, there were two melees involving a large number of students; one child was badly injured. A.F. was alleged to have been involved in the altercations, although there is no evidence of his participation. A.F. was never formally suspended or expelled for these incidents. Instead, the high school principal encouraged A.F. to “voluntarily” transfer to an alternative high school in the District. A few weeks after A.F. enrolled at the alternative school, the principal informed him that he could no longer attend; as a fifteen-year-old, A.F. was not yet old enough to meet the school's 16-18 year-old age requirement. A.F. was again transferred. This time he was placed in an independent study program where he was given three hours of instruction per week and was told to complete packets of homework on his own. When A.F. tried to reenroll at his previous high school, he was denied access absent his agreement to sign a behavior contract. Because A.F. refused to sign a contract stating that he had done anything wrong, he remained enrolled in independent study. A.F.'s mother came to YELP concerned that A.F. was receiving an insufficient education and was falling so far behind that he would not be able to graduate in four years with his class. She requested YELP's help in reenrolling A.F. in his original, comprehensive high school. After meetings and telephone conversations with the Superintendent's office, the District Director of Alternative Education, the high school principal, and the District's attorney, Jenna and Luke negotiated a behavior contract that was acceptable to both A.F. and the school. They accompanied A.F. and his mother to sign the contract and also met with his school counselor to reenroll A.F. in classes and to set a plan for him to make up missing units. A.F. was re-enrolled in his high school and doing well as of the last report from him and his family. (5/17/2010)
- ◆ Fighting for a Third Grader's Right to Due Process and an Appropriate Education M.E. is a 3rd grade student with attention difficulties that often lead to inappropriately physical behavior in school. When his mother came to the clinic for assistance, M.E. was out of school on his second suspension of the year (for a playful but overly physical altercation with another student), pending a possible expulsion. M.E.'s mother believed that school personnel had labeled M.E. as a troublemaker, and were singling him out for disciplinary action. YELP students **Allysun Atwater ('11)** and **Aaron Nissen ('11)** counseled M.E.'s mother about her priorities for M.E.'s education relative to school placement options, and generated a plan for reintegrating M.E. at his original school site. They represented M.E. and his mother at the disciplinary hearing pending M.E.'s return to school, where they convinced the district and school representatives to: a) apologize for their due process failures (which cost M.E. several days of school); b) reassure M.E.'s mother of their commitment to M.E.'s education and recognition of his disability; c) administer a behavioral assessment of M.E.'s problematic behavior in order to generate positive interventions for school personnel; and d) create a plan (including assignment to a new class) for M.E.'s successful return to school. Since then, M.E. has been enjoying his new class and the school is in the process of completing the behavioral assessment. (5/17/2010)
- ◆ Helping a High Schooler Get Back on Track Seventeen-year-old Y.J. is an 11th grade special education student attending high school in the San Lorenzo District. In November 2009, she was suspended from high school. Although Y.J. has a learning disability and an individualized education plan, the District found that her behavior was not a manifestation of her disability and initiated expulsion proceedings against her. Pending her expulsion hearing, Y.J. was placed in an alternative education program including four hours per week of individualized instruction. The District's proposed post-expulsion placement was a continuation school that Y.J. did not want to attend due to educational and safety concerns. YELP students **Jenna Sheldon-Sherman ('11)** and **Luke Weiger ('10)** then began representing Y.J. in her expulsion and special education matters. After conversations with the District's attorney and Director of Student Support Services, Jenna and Luke were able to negotiate a suspended expulsion with the District that included an option to remain in the alternative education program, with an additional two hours of instruction per week. Jenna and Luke next confronted Y.J.'s special education needs. Although Y.J. is enrolled in the 11th grade, she is severely credit-deficient and in jeopardy of not completing high school. She is also lacking direction for future career goals and opportunities. To help meet Y.J.'s education and future career-related needs, Jenna and Luke accompanied Y.J. to an individualized education plan (IEP) meeting where they clarified her high-school completion goals and discussed transition services. Y.J. will now have the option of enrolling in career-related classes that will provide her with the opportunity to accumulate additional credit

towards graduation and the chance to get hands-on experience with a possible future vocation. Y.J., her mother, and her educators note that Y.J. is presently making more educational progress than she has in years. (5/17/2010)

- ◆ Implementing a Class-Action Consent Decree and Bringing a School District Toward Compliance with its Legal Obligations to Children with Disabilities **Jeff Peterson ('11)** and **Jenna Sheldon-Sherman ('11)** worked with YELP director, **Professor Bill Koski**, to bring the fourteen-year-old *Emma C. v. Eastin* litigation closer to final resolution. YELP is lead counsel in this class action lawsuit filed against the Ravenswood City School District and the California Department of Education to reform the District's delivery of special education services for children with disabilities. In January, Jeff and Jenna prepared Plaintiffs' statement for a status conference held before Judge Henderson of the Northern District of California. In this statement, Plaintiffs requested the Court to order the parties to meet and confer to set a final deadline for compliance with the consent decree, interim benchmarks to measure progress, and graduated interventions and sanctions for failure to meet those benchmarks. At the status conference, all parties agreed to Plaintiffs' request, and the Court subsequently ordered the parties to meet and confer. Following the status conference, Jeff and Jenna drafted Plaintiffs' proposed timeline for bringing the District into full compliance with the consent decree. Their work this quarter has helped to bring the successful resolution of *Emma C.* within sight. (5/17/2010)
- ◆ Congratulations to the students, faculty and staff of the YELP on all the work that went into the filing today (on behalf of their clients) of a landmark lawsuit involving California's method of funding public education. Many students worked on this matter, including **Janine Wetzel ('11)**, **Aaron Nissen ('11)**, **Luke Weiger ('10)**, **Maggie McKinley ('10)**, **Jenna Sheldon-Sherman ('11)**, **Stephanie Ahmad ('11)**, and **Adanna Love ('11)**. [See May 20, 2010 *Stanford Report* article, "Stanford law clinic fights to fix California school funding."] (5/20/2010)
- ◆ **Adanna Love ('11)** and **Stephanie Ahmad ('11)** represented a seventh-grade student, T.F., in expulsion proceedings after she was found in possession of a small amount of marijuana. T.F.'s school initiated expulsion proceedings, which would have removed T.F. from the only school she has attended since kindergarten. The clinic students argued that removing T.F. from this environment would be potentially catastrophic for her, given her struggle to succeed academically thus far. Once the clinic became involved the school began to back down, and changed the expulsion proceedings to a mandatory mediation meeting. At the mediation, the students preserved T.F.'s right to present evidence at a future hearing, and successfully argued that T.F. should return to school immediately. Even though the principal of the school recommended that T.F. be placed on independent study (and removed from the school), the administrative panel decided that T.F. should return to school the following week. Adanna and Stephanie subsequently met with the Principal and T.F. to sign her behavior contract, which incorporated all of the terms requested by the clinic, many of which offer services to T.F. that will support her future academic success. T.F. is now back in school, completing the remainder of her seventh grade year. (5/28/2010)
- ◆ **Stephanie Ahmad ('11)** and **Sean Hassan ('11)** represented a 10th grade student, L.A., in an expulsion matter. L.A. punched another student at the behest of his older brother. Despite the fact that L.A. had no prior disciplinary incident on his record, the school and school district took an extremely harsh stance, recommending that he be expelled for hitting the other student. An average student, L.A. aspires to go to college, and the expulsion, with an accompanying placement in an alternative community school until 2011, would have more than likely taken L.A. off the college track. Moreover, L.A.'s father was deeply concerned that a placement in an alternative school for an extended period of time would expose L.A. to negative influences. L.A.'s father wanted to avoid this, given that he spent nearly 4 years in state prison and that L.A.'s grandfather died in prison after serving 31 years of a life sentence. In his words, he "wanted to break the cycle, starting with his kids." The clinic students successfully negotiated a stipulated suspended expulsion with the District which allows L.A. to transfer to a school of his choice within the school District beginning this upcoming Fall. They also negotiated the opportunity for L.A. to attend summer school in the District. L.A. will complete this semester at the alternative community school and the students are continuing to advise the family so that L.A. doesn't fall behind on the credits he needs to enroll in a four-year university upon graduation. (5/28/2010)

CLINIC INFORMATION SHEET

Name of Clinic: Community Law Clinic (Fall 2009, Spring 2010)

Director: Juliet Brodie

Contact information: jmbrodie@law.stanford.edu; (650) 475-0560

Brief Description of Clinic (With areas of law students practice and an example of a type of case students can expect to work on during the quarter):

The CLC is the closest thing to a general legal services office among Stanford's clinical offerings. Based in East Palo Alto, the CLC provides students with the opportunity to provide direct legal services to low-income residents, while thinking critically about the role of lawyers and lawyering in solving the problems of America's so-called "working poor."

The Clinic's practice is in three areas: (1) housing (eviction defense and Section 8 termination), (2) wage and hour and related workers' rights, and (3) criminal record expungement. The practice areas are selected and designed to lie at the intersection where the community's unmet legal needs and students' learning needs correspond; the cases enable students to engage in a wide-range of conventional lawyering activities (interviewing, counseling, negotiation, fact investigation, legal research...), while also working on the very pressing problems of Stanford's low-income neighbors. Students are responsible for their cases from intake through disposition, which can be reached through negotiation or adversarial proceeding at an administrative agency or in court. Students also have the chance to participate in outreach or policy-level projects, such as representing the clinic on a state or regional committee on a substantive issue, doing community education workshops at sites around the Peninsula, and/or legislative research and advocacy.

In the clinic seminar and in regular supervision, students are encouraged to interrogate the effectiveness of the legal system at delivering "justice" for their clients and to explore creative ways that legal knowledge can be deployed to attack the social problems attendant to low wages, substandard and unstable housing, and other features of low-income life in Silicon Valley.

How frequently a student will engage in the following types of work during a quarter:

	Never	Rarely	Sometimes	Frequently
Client Contact / Client Counseling				X
Case Selection			X	
Administrative or Regulatory				X

	Never	Rarely	Sometimes	Frequently
Advocacy				
Policy or Legislative Advocacy			X	
In-court Trial or Pre-Trial Advocacy			X	
Appellate Brief Writing	X			
Other (non-appellate) Legal Research and Writing (memos, briefs, motions)				X
Drafting Contracts or Policies		X		
Fact Investigation				X
Negotiation or Mediation				X
Work with Outside Counsel / Co-counsel	X			
Mooting Other Students' Cases				X
Public Education or Outreach				X
Other:				

Number of students typically assigned to each case: 1-2

Number of cases students typically work on per quarter: 3-5 (plus community education and/or outreach project)

Is work in this clinic typically regular or periodic: The work is regular, but varies between very active work (e.g., hearing preparation and hearings) and less active work (e.g., fact investigation and client counseling).

Names/contact information of prior clinic students:

(Some) Current Advanced Students

Larisa Bowman	lbowman@stanford.edu
Rachel Marshall	rachel.marshall@stanford.edu
Joanna Shalleck-Klein	jsklein@stanford.edu
Michael Smith	smithmh@stanford.edu
Elizabeth McCrillis	eamccr@stanford.edu
Peter Bach-y-Rita	peter.bachyrita@gmail.com

Others

Kelly Lowenberg	kellyl@stanford.edu
Mark Finucane	finucane@stanford.edu
Katie Eichner	kate.eichner@gmail.com
Evan Peña	eapena@stanford.edu

CLINIC INFORMATION SHEET

Name of Clinic: Criminal Defense Clinic (Winter 2010, Spring 2010)

Instructors: Mike Romano, Galit Lipa

Contact information: mromano@stanford.edu; glipa@law.stanford.edu

Brief Description of Clinic (With areas of law students practice and an example of a type of case students can expect to work on during the quarter):

The Criminal Defense Clinic is the only legal organization in the country devoted to representing individuals facing life imprisonment under California's Three Strikes law, which was enacted by voter-approved initiative in 1994. The Clinic represents defendants who have committed minor, non-violent, offenses yet face a life term under the recidivist sentencing law. We represent individuals at every stage of the criminal process: at trial, on appeal, and in state and federal post-conviction habeas corpus proceedings. Current clients include inmates serving life sentences for stealing one dollar in loose change from a parked car; for simple possession of less than a gram of narcotics; and for writing bad checks.

Starting in the Winter 2010 quarter, the Clinic will also address public policy issues raised by the Three Strikes law. This work will include legislative and fiscal analysis, political strategy, empirical studies and scholarship, and media relations. The initial goal of the Clinic's public policy work will be to evaluate various reform proposals and strategic options, including initiative campaigns, legislative action in the state assembly, and impact litigation. We will also work with a number of outside organizations committed to criminal justice public policy, including both defendant-oriented advocacy groups and prosecutor's offices throughout the state. We strongly encourage students of all political persuasions to apply to participate in the Clinic.

In terms of the Clinic's case work, Clinic students work in teams of two and take primary responsibility for all aspects of the Clinic's litigation. Students are responsible for managing relationships with Clinic clients, including visiting clients in prison; students also conduct factual investigations in the field throughout California, research case law and draft court pleadings, and argue cases in open court. Much of the Clinic's work involves novel and complex appellate and post-conviction constitutional litigation. Clinic attorneys supervise student work and meet weekly with each student team.

The Clinic also includes a seminar component, which covers instruction on research and writing skills, investigation techniques, and advanced doctrinal analysis of state and federal criminal law. The seminar also involves presentations from guest speakers, including public policy advocates, outside counsel, and experts in forensic psychology.

In the course of a quarter, each student team is expected to complete at least one major written project. That project depends on the timing and posture of each case but is typically a legal brief for filing in state or federal court.

The Clinic was founded in 2006 by Michael Romano and Larry Marshall. One of the aspirations of the Clinic is to adopt clinical pedagogy, litigation strategies, and policy reform developed in the context of capital and innocence programs and engineered by Professor Marshall and apply them to the Clinic's cases under the Three Strikes law.

The Clinic is supervised and instructed by Michael Romano, who maintains a small criminal defense and civil rights practice in San Francisco, and Galit Lipa, a former public defender in California and Washington DC.

How frequently a student will engage in the following types of work during a quarter:

	Never	Rarely	Sometimes	Frequently
Client Contact / Client Counseling				X
Case Selection			X	
Administrative or Regulatory Advocacy			X	
Policy or Legislative Advocacy				X
In-court Trial or Pre-Trial Advocacy			X	
Appellate Brief Writing				X
Other (non-appellate) Legal Research and Writing (memos, briefs, motions)				X
Drafting Contracts or Policies	X			
Fact Investigation				X
Negotiation or Mediation			X	
Work with Outside Counsel / Co-counsel			X	
Mooting Other Students' Cases			X	
Public Education or Outreach				X
Other:				

Number of students typically assigned to each case: 2

Number of cases students typically work on per quarter: 1-2

Is work in this clinic typically regular or periodic: Constant work flow with higher intensity around filing deadlines.

Names/contact information of prior clinic students:

Elisabeth Oppenheimer, eoppenhe@stanford.edu
 Ashley Simonsen, ashley.simonsen@gmail.com
 Nicholas Xenakis, nxenakis@gmail.com

CLINIC INFORMATION SHEET

Name of Clinic: Prosecution Clinic (Fall 2009)

Director: Faculty Co-Director George Fisher
Field Co-Directors Martha Donohoe, Tiyen Lin, Judith Sklar

Contact information: George Fisher: fisherg@stanford.edu / (650) 723-2578

Brief Description of Clinic (with areas of law students practice and an example of a type of case students can expect to work on during the quarter):

Clinic students prosecute cases at the San Jose Superior Court under the guidance of Santa Clara County prosecutors. They formulate case strategy, identify and interview witnesses, and advocate before the court at evidentiary motions or preliminary hearings. The cases, almost always felonies, include drug offenses, thefts, burglaries, assaults, and a range of less common crimes. Police witnesses are most common, though students sometimes offer testimony from crime victims. When defendants testify or offer other witnesses, they face cross-examination by clinic students.

Students will spend three full days a week in the D.A.'s office. All six students must spend all day on Tuesdays and Fridays on site. Each student must also choose a third on-site day when the student will work closely with the student's on-site supervisor. The six students need not all choose the same third day, but each student must pick a day that remains constant through the term.

There generally will be two class sessions each week – a three-hour on-campus class and a lunchtime seminar in the DA's office. At the beginning of the term, classes focus on skills training, including direct and cross-examination, admission of physical evidence, and argument. Toward the end of the term, the focus shifts to an examination and critique of the local mechanisms of criminal justice. Topics include the impact of race, gender, and class on the quality of justice; the institutional strengths and weaknesses of the actors in the system; and the ethical issues that confront prosecutors and defense lawyers.

Students typically tour the Santa Clara County jail and crime lab, San Quentin Prison, and the Chaderjian Youth Correctional Facility in Stockton and have the option to spend an evening on a police ride-along.

Students will earn twelve credits.

How frequently a student will engage in the following types of work during a quarter:

	Never	Rarely	Sometimes	Frequently
Client Contact / Client Counseling	X			
Case Selection	X			
Administrative or Regulatory Advocacy	X			
Policy or Legislative Advocacy	X			
In-court Trial or Pre-Trial Advocacy				X
Appellate Brief Writing		X		
Other (non-appellate) Legal Research and Writing (memos, briefs, motions)				X
Drafting Contracts or Policies	X			
Fact Investigation				X
Negotiation or Mediation		X		
Work with Outside Counsel / Co-counsel	X			
Mooting Other Students' Cases				X
Public Education or Outreach	X			
Other:				

Number of students typically assigned to each case: One.

Number of cases students typically work on per quarter: About five.

Is work in this clinic typically regular or periodic: Regular, but with fast and slow patches.

Names/contact information of prior clinic students:

Michelle Enchill: menchill@stanford.edu

Rohith Srinivas: rohith@stanford.edu

CLINIC INFORMATION SHEET

Name of Clinic: Environmental Law Clinic (Fall 2009, Winter 2010)

Director: Deborah Sivas

Contact information: dsivas@stanford.edu, 723-0325

Brief Description of Clinic (With areas of law students practice and an example of a type of case students can expect to work on during the quarter):

The ELC affords students the opportunity to obtain hands-on experience representing non-profit organizational clients on a variety of natural resource issues, including coastal and marine resource protection, indigenous species and habitat protection, public lands and fresh water resource protection, and global warming/climate change matters. The ELC's clients range from small community-based organizations working on local sustainability issues to larger regional and national organizations attempting to effect policy change at the state and federal level through litigation, administrative rulemaking, and legislation.

During the course of the quarter, students may participate in a variety of lawyering activities, including client intake, factual and legal investigation of new matters, client counseling on legal strategies, preparation of policy papers, crafting of legislative proposals, development of expert testimony, drafting of comment letters, administrative petitions, court pleadings, and trial briefs, and presentation of oral argument before administrative bodies and state and federal courts.

How frequently a student will engage in the following types of work during a quarter:

	Never	Rarely	Sometimes	Frequently
Client Contact / Client Counseling			X	
Case Selection			X	
Administrative or Regulatory Advocacy			X	
Policy or Legislative Advocacy			X	
In-court Trial or Pre-Trial Advocacy				X
Appellate Brief Writing				X
Other (non-appellate) Legal Research and Writing (briefs, motions)				X
Other writing (correspondence, memos, status reports)			X	
Drafting Contracts or Policies		X		

	Never	Rarely	Sometimes	Frequently
Fact Investigation			X	
Negotiation or Mediation			X	
Work with Outside Counsel / Co-counsel				X
Mooting Other Students' Cases			X	
Public Education or Outreach	X (except press releases			
Other:				

Number of students typically assigned to each case: 2

Number of cases students typically work on per quarter: 1-2

Is work in this clinic typically regular or periodic: Depends on project; we try to make it flow regularly over the course of the quarter, but sometimes can be heavier than others.

Names/contact information of prior clinic students:

Ellen Medlin	emedlin@stanford.edu
Nina Robertson	ninar@stanford.edu
Jared Thompson	jaredt@stanford.edu
James Williams	jrwillia@stanford.edu

CLINIC INFORMATION SHEET

Name of Clinic: Immigrants' Rights Clinic (Winter 2010, Spring 2010)

Director: Jayashri Srikantiah

Contact information: jsrikantiah@law.stanford.edu

Brief Description of Clinic (With areas of law students practice and an example of a type of case students can expect to work on during the quarter):

All students work in pairs on two projects. The first project involves the direct representation of individual indigent immigrants in deportation proceedings or domestic violence immigration cases. Students assume primary responsibility for all aspects of case work during the quarter, including fact development, legal argument, witness preparation, oral argument, and case strategy. The second project allows students to gain exposure to immigrants' rights advocacy work. These projects typically involve multidisciplinary advocacy on behalf of an immigrants' rights organization—students do media work, public education, legislative or local advocacy, and/or impact litigation. Students interested in more in-depth exposure to advocacy work may enroll in the clinic for a second quarter as advanced students.

How frequently a student will engage in the following types of work during a quarter:

	Never	Rarely	Sometimes	Frequently
Client Contact / Client Counseling				X
Case Selection		X		
Administrative or Regulatory Advocacy				X
Policy or Legislative Advocacy				X
In-court Trial or Pre-Trial Advocacy				X
Appellate Brief Writing			X	
Other (non-appellate) Legal Research and Writing (memos, briefs, motions)				X
Drafting Contracts or Policies		X		
Fact Investigation				X
Negotiation or Mediation				X
Work with Outside Counsel / Co-counsel			X	
Mooting Other Students' Cases				X
Public Education or Outreach				X
Local Advocacy (at city/county level)			X	

Number of students typically assigned to each case: 2

Number of cases students typically work on per quarter: 2

Is work in this clinic typically regular or periodic: Regular

Names/contact information of prior clinic students:

Brian Goldman brian.p.goldman@gmail.com

Laura Hurtado: lhurtado@stanford.edu

John Harabedian: johnharabedian@gmail.com

Michelle Parris: mparris@gmail.com

CLINIC INFORMATION SHEET

Name of Clinic: Organizations and Transactions Clinic (Winter 2010, Spring 2010)

Director: Jay A. Mitchell

Contact information: SLS Room B09 / 650-724-0014 / jmitchell@law.stanford.edu

Brief Description of Clinic (with areas of law students practice and an example of a type of case students can expect to work on during the quarter):

O&T provides students with opportunities to engage in public interest lawyering through business and transactional work for local nonprofit organizations and selected small businesses. Clients vary widely by size, policy area and business model. The work focuses on corporate governance, contracts, collaborations and communications. Students do targeted legal reviews, advise on governance and transactional matters and prepare a wide range of board, contract, transaction planning and execution, template and management tool materials. Students have primary responsibility for client work.

O&T also includes a weekly seminar. The seminar curriculum includes reading, writing and discussion about governance and transaction planning/execution considerations relevant to a sophisticated corporate law practice.

The clinic is designed to give students opportunities to develop analytical, editorial, planning and counseling skills in the context of both client projects and classwork.

How frequently a student will engage in the following types of work during a quarter:

	Never	Rarely	Sometimes	Frequently
Client Contact / Client Counseling				X
Case Selection			X	
Administrative or Regulatory Advocacy		X		
Policy or Legislative Advocacy	X			
In-court Trial or Pre-Trial Advocacy	X			
Appellate Brief Writing	X			
Other (non-appellate) Legal Research and Writing (memos, briefs, motions)				X
Drafting Contracts or Policies				X
Fact Investigation				X
Negotiation or Mediation			X	

Work with Outside Counsel / Co-counsel			X	
Mooting Other Students' Cases			X	
Public Education or Outreach		X		
Other:				

Number of students typically assigned to each case: two

Number of cases students typically work on per quarter: 2 – 3 clients, often with multiple discrete projects for each client

Is work in this clinic typically regular or periodic: regular

Names/contact information of prior clinic students:

Winter 2009:

Blair Albom	albom@stanford.edu
Ben Alden	ben.alden@stanford.edu
Yina Dong	yingdong@stanford.edu
Joe Gorman	ejgorman@stanford.edu
Ashley Hannibrink	ashleyh2@stanford.edu
James David Lee	leejames@stanford.edu
Ryan Loneman	loneman@stanford.edu
Jaime Lucido	jlucido@stanford.edu
Kevin Scout	khscott@stanford.edu
Mamei Sun	msun@stanford.edu
Allison Woo	alliwoo@stanford.edu
Laura Zapiain	lzapiain@stanford.edu

Autumn 2008 and Winter 2008 (partial):

Daniel Bernstein	dberns4@stanford.edu
Brent Harris	brent.harris@stanford.edu
Sara Lewis	sjlewis@stanford.edu
Beverly Moore	bcmoore@stanford.edu
Julie Nudel	jnudel27@gmail.com
Clare Reilly	creilly@stanford.edu
Juliana Tutt	jtutt@stanford.edu
Michael Wang	michael.wang@stanford.edu
Shawna-Gay White	sgwhite@stanford.edu

Contact Data for Orrick Herrington & Sutcliffe Clinical Teaching Fellow:

Alicia Plerhoples	aplerhoples@law.stanford.edu
	650-724-6344
	Room B03

CLINIC INFORMATION SHEET

Name of Clinic: Supreme Court Litigation Clinic (Fall 2009, Spring 2010)

Director(s): Pam Karlan and Jeff Fisher

Contact information: Pam: Room 321 (3d floor); 725-4851; karlan@stanford.edu
 Jeff: Room B01 (clinic space); 724-7081; jlfisher@law.stanford.edu

Brief Description of Clinic (With areas of law students practice and an example of a type of case students can expect to work on during the quarter):

Unlike clinics that concentrate on one substantive area of the law, the Supreme Court clinic focuses on the wide range of legal issues decided by the nation's highest court. In the past several terms, the clinic has represented a wide variety of clients, such as: workers raising claims under federal anti-discrimination laws, the Civil Service Reform Act, and the Fair Labor Standards Act; criminal defendants with a wide variety of constitutional claims under the Fourth, Fifth, Sixth, and Eighth Amendments; Members of Congress; and various public interest and trade associations, ranging from the California Medical Association, to the National School Boards Association, to the National Women's Law Center. The clinic, as of March 2009, has presented oral arguments on behalf of parties in more than two dozen cases on the merits. It also has frequently represented parties seeking to obtain or defeat Supreme Court review, as well as amici curiae in a wide variety of cases.

The vast bulk of the work involves legal research and writing and students always work in teams. Students prepare cert. petitions, oppositions to cert. petitions, briefs and other filings, participate in moots for oral arguments, meet with Court personnel and reporters, and get a real feel for how the High Court operates. They also help to determine which cases the clinic will take and prepare case analyses for SCOTUSBlog.

How frequently a student will engage in the following types of work during a quarter:

	Never	Rarely	Sometimes	Frequently
Client Contact / Client Counseling		X (counseling)		X (contact)
Case Selection			X	
Administrative or Regulatory Advocacy	X			
Policy or Legislative Advocacy	X			
In-court Trial or Pre-Trial Advocacy	X			
Appellate Brief Writing				X

Other (non-appellate) Legal Research and Writing (memos, briefs, motions)			X	
Drafting Contracts or Policies	X			
Fact Investigation			X	
Negotiation or Mediation	X			
Work with Outside Counsel / Co-counsel				X
Mooting Other Students' Cases	X			
Public Education or Outreach			X	
Other: Mooting Clinic instructors and outside counsel; Travel to Washington to observe the Court				X

Number of students typically assigned to each case: three

Number of cases students typically work on per quarter: three

Is work in this clinic typically regular or periodic: The work of the clinic varies over the course of the quarter quite dramatically, although particular deadlines are known well in advance.

Names/contact information of prior clinic students:

Dan Matro, 2L : dmatro@stanford.edu
Martine Cicconi, 2L : martinec@stanford.edu
Tiffany Cartwright, 2L: tcartwri@stanford.edu
Brian Goldman, 2L : bgoldman@stanford.edu

Tiffany, Martine, and Brian have each done another clinic in addition to the Supreme Court Litigation Clinic and so might be particularly informative. Dan was also our summer student and has spent two quarters in the Clinic. But feel free to ask any of the folks who've participated during their time here at SLS.

MillsLegalClinic

Stanford Law School

CLINIC INFORMATION SHEET

Name of Clinic: Education Advocacy Clinic (Youth & Education Law Project)
Winter 2010, Spring 2010

Director: Bill Koski

Fellow: Brenda Shum

Contact Information: Bill: bkoski@stanford.edu; 650-724-3718
Brenda: bshum@stanford.edu; 650-725-8582

Brief Description of Clinic (with areas of law students practice and an example of a type of case students can expect to work on during the quarter):

The mission of YELP is to provide a first-rate clinical experience for Stanford Law Students and to advocate for equality of educational opportunity for disadvantaged children, their families, and their communities. YELP pursues that mission by providing direct legal services to children and youth, by litigating complex school reform cases, and by engaging in policy research and advocacy.

On the individual level, YELP represents children and youth with disabilities who are seeking to secure appropriate educational services and children and youth who are involved in school discipline proceedings. These cases provide law students with the opportunity to work directly with clients, witnesses, and expert consultants; to participate in negotiations/mediations; and to exercise trial skills in administrative hearings. YELP also engages in policy advocacy through policy analysis and briefing on broad issues such as the system for delivering mental health services to children; testimony before legislative bodies, including the California Senate's Education Committee or local school boards, and working with coalitions to push for legislative reform. Finally, YELP always has on its docket one or more complex school reform cases that seek to systemically reform the practices of a local school district or the California Department of Education.

How frequently a student will engage in the following types of work during a quarter:

	Never	Rarely	Sometimes	Frequently
Client Contact / Client Counseling				X
Case Selection				X
Administrative or Regulatory				X

	Never	Rarely	Sometimes	Frequently
Advocacy				
Policy or Legislative Advocacy			X	
In-court Trial or Pre-Trial Advocacy			X	
Appellate Brief Writing		X		
Other (non-appellate) Legal Research and Writing (memos, briefs, motions)				X
Drafting Contracts or Policies		X		
Fact Investigation				X
Negotiation or Mediation				X
Work with Outside Counsel / Co-counsel			X	
Mooting Other Students' Cases				X
Public Education or Outreach			X	
Other:				

Number of students typically assigned to each case: 2

Number of cases students typically work on per quarter: 2-3

Is work in this clinic typically regular or periodic: The work is “regular” in that there is always work that can be done, but there are periods of very active work (e.g., hearing preparation and hearings) and less active work (e.g., fact investigation and client counseling).



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For the Defense

Law students help three-strikes clients gain relief from harsh sentencing.

WHEN SCHOLARLY

training meets real-life lawyering, the stakes can feel awfully big. Which is exactly how it is for the instructors and students of Stanford Law School's Criminal Defense Clinic.

The clinic represents clients who face lengthy or life prison sentences under California's three strikes law, even though their crimes were so arguably minor that their convictions seem unreasonably harsh. The merit of the law, which imposes sentences of 25 years to life following conviction for any third felony when the first two were "serious" or violent, is therefore an implied issue. But the guiding factor for the clinic is how the statute was applied to the various clients.

For instructors Michael Romano, JD '03, a practicing defense attorney, and Galit Lipa, a former public defender, that presents a nuanced challenge. Their involvement as supervisors is essential because students are not yet lawyers, but the core legal research, factual investigation and advocacy, including court appearances, are the heart of the class work.

"Teaching and representing a client at the same time is a balance," explains Lipa. "How much do you let the student struggle when the client needs something done? How much do you let the students fail so that they can learn?"

Success has been much more of a theme than failure. Lipa joined Romano on the project in the summer of 2007, shortly after the clinic got under way with co-founders Romano and Professor Lawrence Marshall. As of early December, Lipa and Romano had supervised cases in which six clients with life sentences were released and two more were resentenced to much shorter terms. In cooperation with non-Stanford attorneys, the clinic also helped with the original sentencing hearings for another three cases, each resulting in far less than the possible life sentence. Six more cases have not reached the end of legal maneuvering.



Galit Lipa (right)

Linda A. Cicero



Michael Romano

Linda A. Cicero

"One of the ways that you teach people is that you give them a lot of responsibility, and we do," says Romano. "And we feel comfortable doing that because they are great." The students are sensitive to the responsibility, but also motivated by it. "I had no idea how much a law student could do, and it has been both frightening and empowering," says Emily Galvin, a third-year law student. Well, more frightening or more

empowering? "That depends on how my case turns out," she replies.

The clinic's work has gotten some media attention, plus criticism from Mike Reynolds, the citizen who helped draft the state's three strikes law following the murder of his daughter. Reynolds summarizes the work of the clinic as "naïve." He sees its efforts as undermining an effective law by spotlighting atypical prosecutions and convictions, creating a perception of unfairness. The clinic's intentions aside, asserts Reynolds, the law's opponents have made a point of publicizing misleading cases.

Romano's response is that the clinic's main interest is on the practical training provided to students through the defense work. He also notes that the Law School's apolitical mission is reflected in other projects, such as the Criminal Prosecution Clinic that works with the Santa Clara County District Attorney's office.

Lipa and Romano's students think Reynolds is wrong about unjust convictions being overblown as a problem. "We get contacted about hundreds more cases than we can take," says Kathleen Fox, another third-year student, "and many are meritorious."

The longest a clinic client has been out of prison is about a year. "They're all doing great at this point," says Lipa. "They're clean and sober, they've reconnected with their families, a lot of them have gotten really good jobs. So far, so good."

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May 17, 2010

Arguing Three Strikes

By EMILY BAZELON

One day last fall, Norman Williams sat drinking hot chocolate with his lawyer, Michael Romano, at a Peet's coffee in Palo Alto, Calif. At an outdoor table, Williams began to talk about how he'd gone from serving a life sentence at Folsom State Prison to sitting there in the sun. "After being shut down for so many years. I didn't believe it," he said of the judge's decision to release him in April 2009.

Williams, who is 46, was a homeless drug addict in 1997 when he was convicted of petty theft, for stealing a floor jack from a tow truck. It was the last step on his path to serving life. In 1982, Williams burglarized an apartment that was being fumigated: he was hapless enough to be robbed at gunpoint on his way out, and later he helped the police recover the stolen property. In 1992, he stole two hand drills and some other tools from an art studio attached to a house; the owner confronted him, and he dropped everything and fled. Still, for the theft of the floor jack, Williams was sentenced to life in prison under California's repeat-offender law: three strikes and you're out.

In 2000, three years after Williams went to prison, Steve Cooley became the district attorney for Los Angeles County. Cooley is a Republican career prosecutor, but he campaigned against the excesses of three strikes. "Fix it or lose it," he says of the law. In 2005, Cooley ordered a review of cases, to identify three-strikes inmates who had not committed violent crimes and whose life sentences a judge might deem worthy of second looks. His staff came up with a list of more than 60 names, including Norman Williams's.

Romano saw Cooley's list as an opportunity. After working as a criminal-defense lawyer at a San Francisco firm, he started a clinic at Stanford Law School in 2006 to appeal the life sentences of some three-strikes convicts. In search of clients at the outset, Romano and his students wrote to Williams at Folsom about the possibility of appealing his conviction. Most prisoners quickly follow up when the clinic offers free legal help. But Williams didn't write back. At Peet's, Williams said he'd been too nervous. "I didn't want to use the wrong words," he said.

"You were lucky you were at Folsom," Romano said. "It's only a couple of hours' drive from here. So we decided to come up and see you."

"Yeah, if not, I'd still be there, staring at the walls," Williams said. "Never had visitors before you came. I didn't know what the visiting room looked like."

IN 1994, the three-strikes ballot measure in California passed with 72 percent of the vote, after the

searing murder of 12-year-old Polly Klaas, who was kidnapped from her slumber party and murdered while her mother slept down the hall. When the killer turned out to be a violent offender recently granted parole, support surged for the three-strikes ballot initiative, which promised to keep “career criminals who rape women, molest children and commit murder behind bars where they belong.”

The complete text of the bill swept far more broadly. Under California’s version of three strikes, first and second strikes must be either violent or serious. These include crimes like murder, attempted murder, rape, child molestation and armed robbery. But in California, “serious” is a term of art that can also include crimes like Norman Williams’s nonconfrontational burglaries. And after a second-strike conviction for such an offense, almost any infraction beyond jaywalking can trigger a third strike and the life sentence that goes with it. One of Romano’s clients was sentenced to life for stealing a dollar in change from the coin box of a parked car.

California’s repeat-offender law is unique in this stringency. Twenty-five other states have passed three-strikes laws, but only California punishes minor crimes with the penalty of a life sentence. About 3,700 prisoners in the state are serving life for a third strike that was neither violent nor serious, according to the legal definition. That’s more than 40 percent of the total third-strike population of about 8,500. Technically, these offenders are eligible for parole after 20 years, but at the moment, the state parole board rarely releases any prisoner early.

In 2004, reformers put an initiative on the ballot, Proposition 66, that would have reduced the number of people going to prison for life by removing nonviolent property and drug offenses from the list of three-strikes crimes. Gov. [Arnold Schwarzenegger](#) attacked the ballot measure. He credited three strikes for a major drop in crime — to the frustration of most experts, who point out that California’s dip began in 1991, well before three strikes passed, and ended in 2000. “The great weight of empirical studies discounts the role of three strikes in reducing crime,” states a 2004 report signed by six criminal-law professors, including Franklin Zimring at U.C. Berkeley. Still, Prop 66 fell short, with 47 percent of the vote.

Now California is in the midst of fiscal calamity. Supreme Court Justice Anthony Kennedy, who had been a judge in California, recently bemoaned state sentencing and spending on prisons. In an address at [Pepperdine University](#), he said that “the three-strikes law sponsor is the correctional officers’ union, and that is sick!” And yet Schwarzenegger has vowed not to touch the law. [Meg Whitman](#) and Jerry Brown, the leading Republican and Democratic contenders to succeed him in November, are just as unbending.

IF THERE’S A WAY to reform three strikes, it may follow Norman Williams’s route out of prison. Michael Romano, who is 38, got his client released without opposition from the L.A. district attorney by forging a working relationship with Cooley’s office. The 63-year-old Republican prosecutor seems an unlikely ally for a young defense lawyer. He joined the D.A.’s office straight out of law school. His office notched more death sentences last year than the state of Texas, and his lunchmates include

Pete Wilson, the former governor who signed three strikes into law. Yet despite his conservative bona fides, Cooley shares the conviction that some number of third-strike offenders like Norman Williams don't belong in prison for life.

After three strikes became law, Cooley watched one of his colleagues in the D.A.'s office prosecute Gregory Taylor, a homeless man who at dawn one morning in 1997 went to a church where he'd often gotten meals and pried open the door to its food pantry. The priest later testified on his behalf. Taylor's first crime was a purse-snatching; his second was attempting to steal a wallet. He didn't hurt anyone. Taylor was sentenced to life. "It was almost one-upmanship, almost a game — bye-bye for life," Cooley says, remembering the attitude in the office.

Three years later, Cooley ran for D.A. on a platform of restrained three-strikes enforcement, calling the law "a necessary weapon, one that must be used with precision and not in a scatter-gun fashion." In office, he turned his critique into policy. The L.A. district attorney's office no longer seeks life sentences for offenders like Norman Williams or Gregory Taylor. The presumption is that prosecutors ask for a life sentence only if a third-strike crime is violent or serious. Petty thieves and most drug offenders are presumed to merit a double sentence, the penalty for a second strike, unless their previous record includes a hard-core crime like murder, armed robbery, sexual assault or possession of large quantities of drugs. During Cooley's first year in office, three-strikes convictions in Los Angeles County triggering life sentences dropped 39 percent. No other prosecutor's office in California has a written policy like Cooley's, though a couple of D.A.'s informally exercise similar discretion.

It's a mistake, though, to cast Cooley as a full-tilt reformer. He opposed Prop 66 for ignoring a defendant's criminal history. Instead, in 2006, he offered up his own bill, which tracked his policy as D.A., taking minor drug crimes and petty theft off the list of three-strikes offenses unless one of the first two strikes involved a crime that Cooley considers hard-core. For staking out even this middle ground, Cooley became prosecutor non grata among his fellow D.A.'s. No district attorney, not even the most liberal, supported his bill, and it died in Senate committee.

Cooley could once again pay a price for his three-strikes record. This spring, he announced his candidacy for California attorney general. His Republican rivals have hammered him for his moderate stance. "He's acting as an enabler for habitual offenders," State Senator Tom Harman told me. "I think that's wrong. I want to put them in prison." The race has developed into a litmus test: for 15 years, no serious candidate for major statewide office has dared to criticize three strikes. If Cooley makes it through his party's primary on June 8 — and especially if he goes on to win in November — the law will no longer seem untouchable. If he loses, three strikes will be all the more difficult to dislodge.

MICHAEL ROMANO has another, complementary strategy for changing the law. He has won victories for 13 three-strikes lifers in two years, 5 of them with the help of Cooley's office, and he sees that small number of victories as making a case for larger reform. (He was on a panel I moderated at

Yale Law School last month.) While that may sound far-fetched, the tactic has worked before. Romano's boss, Lawrence Marshall, helped prove the innocence of 13 death-row inmates in Illinois in the late 1990s. His work set in motion a reassessment of the death penalty. A result was a statewide moratorium on executions that has held for a decade. "The hardest step is to get people's attention," says Marshall, associate dean for clinical education at Stanford. "And you can only get it with sympathetic cases."

Romano started thinking about three strikes when he clerked for Judge Richard Tallman on the U.S. Court of Appeals for the Ninth Circuit in 2004. One afternoon, Romano watched his boss and two other judges quickly dispense with routine matters. One of them was a three-strikes appeal. "This guy, Willie Joseph, was doing life for aiding and abetting a \$5 sale of crack cocaine," Romano remembers. Legally speaking, his case for release was so weak that it took the judges "less than a few minutes" to reject the appeal.

And yet Willie Joseph's life sentence was effectively the same as the punishment imposed on the most vicious killers in California. While 694 convicted murderers sit on the state's death row, only 13 have been executed since the Supreme Court allowed for reinstatement of the death penalty in 1976. The 3,700 nonviolent, nonserious three-strikers serving life in California outnumber the 3,263 death-row inmates nationwide.

By working with three-strikers, Romano is trying to highlight the plight of criminals he sees as more pathetic than heinous. "I think about explaining to my kids what I do, and I see no moral ambiguity," Romano says about his work. Capital defendants, of course, deserve representation, he explains. "But there are other lives to be saved, of people who haven't done horrible things, who haven't actually hurt anyone."

In practical terms, Romano points out, the difference between being convicted of capital murder and a small-time third strike is this: a murderer is entitled to a far greater share of legal resources. California spends at least \$300,000 on the defense side of a capital murder trial. The courts give extra scrutiny to each capital appeal that comes before them. And it's only in death-penalty cases that the state pays lawyers to file a writ of [habeas corpus](#), the route to challenging a conviction once direct appeal has been exhausted.

A three-strikes case, by contrast, is just one more file in the stack on a public defender's desk and a judge's docket. Romano has a client whose appellate lawyer cut and pasted into her brief for him the more serious criminal history of another man — incorrectly telling the judges that her client was far more violent when he actually was.

In court, Romano and his students don't simply argue that their clients are minor offenders who don't deserve to spend the rest of their lives in prison. That route to release is mostly blocked by the Supreme Court's twin rulings on three strikes. In 2003, the justices voted 5-4 to reject the argument that three strikes violates the Eighth Amendment's protection against cruel-and-unusual punishment.

Because of criminal histories, the high court let stand the life sentences for Leandro Andrade, convicted of a third strike when he shoplifted videotapes from two Kmart's, and Gary Ewing, who walked out of a store with three golf clubs in a leg of his pants.

But the California Supreme Court has left open a different route to appeal. In 1998, the court told trial judges who were weighing a bid for leniency at sentencing after a three-strikes conviction that they could consider whether a defendant's "background, character and prospects" place him outside the "spirit" of three strikes.

Romano argues that, as in capital cases, his clients deserve to ask for lesser sentences based on "mitigating evidence" — often of child abuse, mental illness or mental retardation. Romano's students track down clients' old files, ask about their childhoods and pry confirmation out of family members. From Norman Williams's juvenile files and probation reports, Romano's students pieced together a story of unbroken woe. The 8th of 12 children, Williams grew up with a mother who was a binge drinker. She pimped out Williams and his brothers to men she knew. A social worker wrote, "These men paid the boys money to perform anal intercourse on the boys and they . . . gave the money to their mother for wine." As an adult, Williams became a cocaine addict and lived on the streets of Long Beach.

Romano's students laid out this mitigating evidence, which hadn't been introduced at trial, in a 56-page habeas brief before the state court in Long Beach last year. They got back a one-sentence order denying their claim.

Frustrated, Romano took the habeas petition to one of Cooley's deputies, Brentford Ferreira. Would he agree that after 12 years in prison, Williams had done enough time? Would he say so to the judge?

Ferreira, a 24-year veteran prosecutor, fired back with questions of his own. "I said, O.K., what you've really shown me is that all this guy knows how to do is steal," he remembers. "So why should I let him out? What are you going to do for him?" Romano knew that Ferreira was right. If just one of his clients got out and hurt someone the whole project would look menacing rather than crusading. Defense lawyers don't usually act like social workers, but it was vital for Romano and his students to come up with a plan and a home for Williams, from the moment he walked out of Folsom.

Romano's efforts to help Williams succeed on the outside led him to Eileen Richardson. Once the C.E.O. of Napster, she now runs a \$500,000 program, the Downtown Streets Team, which contracts with the city of Palo Alto and local nonprofits to provide janitorial services. The work is done by former offenders and homeless people. Richardson pays them in rent subsidies and Safeway and Wal-Mart gift cards. They attend a weekly support meeting and wear different colored T-shirts as they move up a "ladder of success."

With Richardson's promise to give Williams a try, Romano persuaded Ferreira to go with him to see the judge in Long Beach. The prosecutor's support made the difference: Williams was resentenced to time served. Shortly after he left Folsom a year ago, he started on the Streets Team mopping and

waxing the floors of a local shelter. Richardson says Williams hasn't missed a day of work since.

IF STEVE COOLEY wins the Republican primary for attorney general, on almost every issue — most visibly the death penalty — he'll run to the right of his probable Democratic opponent, the San Francisco district attorney Kamala Harris. But on three strikes, Cooley will run to Harris's left. (She didn't support his 2006 proposal, though she is one of the prosecutors who, on a case-by-case basis, refrains from seeking a life sentence for some nonviolent three-strikers.) It's a reminder of how far the prosecution of Gregory Taylor, the homeless man who broke into the church, has taken Cooley from the expected comfort zone of a prosecutor.

Cooley is couching his support for amending three strikes statewide more carefully during campaign season. "Any changes to the three-strikes law will have to be in the context of overall prison reform," he told me in March. At the same time, Romano and Families to Amend California's Three Strikes, the group that fought for Proposition 66, are increasingly interested in using Cooley's Los Angeles policy as the basis for a new statewide reform effort in 2012, because it suggests a way to reserve life sentences for the three-strikers who have committed crimes of violence.

Between 2001 and 2008, the Los Angeles D.A.'s office automatically sought life sentences for about 5,400 repeat offenders whose third strike was violent or serious. The office also screened 13,900 cases in which the third strike crime was neither violent nor serious, to find out whether the defendant had a past record of hard-core crimes. During these years, prosecutors asked for life in only 25 percent of these cases. The other 75 percent are the nonviolent three-strikers whom the law could safely be amended to spare, Romano argues. "Those are the folks who shouldn't be doing life," he says. If Cooley becomes attorney general, he'd have more clout to put behind a 2012 reform initiative, if he chose to.

Norman Williams will soon move into his own apartment in Palo Alto. None of the other clients for whom the Stanford clinic has won release have gotten in trouble. And Romano and his students recently started representing Gregory Taylor, who is still serving life in San Luis Obispo prison.

he's out In an online video, Norman Williams talks about being released from prison after being sentenced to life. nytimes.com/magazine

Emily Bazelon, a contributing writer, is a senior editor at Slate and the Truman Capote law-and-media fellow at Yale Law School.

[law-2010] Message from Mike Romano and Larry Marshall re New York Times Story

1 message

Lawrence Marshall <lmarshall@law.stanford.edu>

Fri, May 21, 2010 at 9:46 PM

To: law-2011 <law-2011@lists.stanford.edu>, law-2012@lists.stanford.edu, law-2010 <law-2010@lists.stanford.edu>, law-adjuncts@lists.stanford.edu, law-faculty@lists.stanford.edu, law-staff@list.stanford.edu

Greetings,

Many of you have seen the article from the New York Times Magazine, which will be published this weekend but was posted online today, about the Three Strikes law and the work of the Criminal Defense Clinic. We are very proud of the work that the clinic's students have done on behalf of so many clients and are pleased that stories like this hold the potential for stimulating systemic reform. The story highlights the saga of one of the Clinic's many clients in a manner that is quite compelling.

At the same time, though, both of us (Mike Romano and Larry Marshall) are disappointed that the story did not focus far more on the central role and extraordinary work of the clinic's students, who are the primary litigators in our cases and deserve immense credit for their tireless work and accomplishments. When the Times reporter first contacted Stanford about writing this story last summer, we arranged for her to meet with many students, and faculty members, including Supervising Attorney Galit Lipa, who has supervised the students in many of the cases at issue. Indeed, the reporter followed students in court when they secured the release of a client and was with the students as they celebrated their victory. She also interviewed several alumni who had worked in the Clinic. When the Times photographer came to campus, great emphasis was placed on the most extraordinary part of the story: the role that our students play in these cases and the ways in which this work is a core part of their professional education.

For reasons we do not yet understand the Time story gives very short shrift to these central elements. The problem with that is not simply that many individuals who have earned the right to recognition were ignored. Rather, the core concern is that the article fails to capture the essence of the program--that we put *students* in the lead and use cases as vehicles for teaching students a wide array of lessons about the lawyering process. Let there be no misunderstanding. That always has been and continues to be the primary purpose of the clinical program. We show the students the power they have to effect change and to provide extraordinary representation to those in need of quality lawyering.

When we launched this clinic four years ago, people said that the Three Strikes issue was a lost cause. They said that in light of recent Supreme Court decisions our cases were unwinnable. We could not be prouder of our students who, through persistence, idealism, hard work, and creativity, have combed through records, tracked down witnesses, drafted pleadings, argued cases and accomplished the impossible. Our students have been responsible for winning the freedom of almost a dozen people sentenced to life for petty crimes.

We plan to write a letter to the NY Times editor to re-emphasize that it is our students who are jarring the system awake and throwing a wrench in the machinery of ordinary injustice, and how honored and inspired we are to work with them.

Best,

Mike Romano and Larry Marshall

Stanford Report, May 20, 2010

Stanford law clinic fights to fix California school funding

In a lawsuit filed Thursday, lawyers from Stanford's Mills Legal Clinic and other organizations representing students, parents and schools are trying to force lawmakers to change how schools are funded.

BY ADAM GORLICK

California schools have long suffered under what many say is an outdated and broken funding system. Teachers are laid off, afterschool and summer programs evaporate, and courses designed to help both the most talented and at-risk students are scrapped.

But mandated standards remain. In order to graduate from high school, students must pass state-designed tests that demand certain levels of knowledge and skill that are often missing among students whose schools have been hardest hit.

The gap between school financing and educational expectation is too wide, and Stanford Law School's [Mills Legal Clinic](#) is part of a legal battle to fix the disparity.

In a lawsuit filed Thursday in Alameda County Superior Court, lawyers from the clinic and other organizations representing students, parents and schools are attempting to force lawmakers to change how schools are funded.

The plaintiffs say the current system is built on a complicated web of outdated formulas, assumptions and rules that date to the 1970s. The problems have rendered the system unconstitutional because it essentially denies students equal access to education, they say.

"California's education finance system is dysfunctional," said [William Koski](#), director of the clinic's [Youth and Education Law Project](#). "It doesn't provide school districts with the funds they need to ensure children are succeeding."

While educational standards have risen, performance and resources have not. The result is a list of embarrassments: California schools rank 49th nationally in student-teacher ratios, 49th in providing students access to computers, 47th in fourth-grade reading proficiency and 46th in eighth-grade math skills.

The state spends about \$8,000 a year to educate one student, about \$2,100 less than the national average. But just meeting the national per-pupil expenditure won't necessarily guarantee California students a better education, Koski said.

The lawsuit filed Thursday doesn't demand money. Instead, it asks a judge to force lawmakers to figure out exactly how much it costs to ensure that students have an equal opportunity and the resources they need to meet the state's own testing requirements.

"We believe this is an appropriate role for the courts to play," Koski said. "We're not asking a judge to legislate. The resolution will come in the political arena. But forcing the legislature to do something will break the gridlock on these issues in Sacramento."

woodleywonderworks via Flickr/Creative Commons



California spends about \$8,000 a year to educate one student, about \$2,100 less than the national average.

L.A. Cicero file photo



William Koski, director of the Mills Legal Clinic's Youth and Education Law Project.

Neither Stanford nor the Law School are directly involved with the lawsuit. But it's a natural fit for the Mills Legal Clinic, which selects cases based on their educational value.

The clinic's program exposes students to the spectrum of services lawyers provide their clients – from interviewing and counseling to writing briefs and delivering oral arguments. The clinic also instills a sense of community service in law students, encouraging them to use their professional skills in the service of society.

The Youth and Education Law Project gives law students the chance to work with children and families fighting for access to equal educational opportunities. The project represents clients in special education and school discipline matters, community outreach and education, school reform lawsuits, policy research and legal advocacy.

The project, along with the Bingham McCutchen law firm and its partner [William Abrams](#), a consulting professor at Stanford, is representing the kindergarten through 12th-grade students and families involved in the lawsuit filed Thursday. Other plaintiffs include school superintendents and school districts throughout the state, as well as the California School Boards Association, the Association of California School Administrators and the California Congress of Parents, Teachers and Students.

The case is *Robles-Wong, et al. v. State of California*.

An International Organ of @OASNews Finds US Deportation Policy Violates Human Rights of Children & Families

BY DETENTION WATCH NETWORK



An Urgent Need for Immigration Reform in the United States

Washington DC, August 4, 2010

The Inter-American Commission on Human Rights, an autonomous organ of the Organization of American States, made public on August 02, 2010, its [groundbreaking decision in the case Wayne Smith and Hugo Armendariz et al, v. United States](#). The Commission found that U.S. deportation policy violates fundamental human rights because it fails to consider evidence concerning the adverse impact of the destruction of families, the best interest of the children of deportees, and other humanitarian concerns.

Mr. Wayne Smith and Mr. Hugo Armendariz, lawful permanent residents of the United States for 25 and 35 years respectively, were deported from the United States for non-violent criminal offenses that had occurred many years prior. They

were deported without any opportunity to present evidence of their rehabilitation, their family situation, and the equities in their favor. The refusal to consider this evidence led to substantive violations of the rights of their U.S. citizen family members to establish a family. The United States government also violated the special protections that should be accorded to children who are affected by deportation proceedings.

The Center for Justice and International Law (CEJIL), the law firm of Gibbs Houston Pauw, and the Center for Global Justice at Seattle University School of Law, legal representatives in the case, call upon the U.S. government to repeal its policy of mandatory deportation and provide comprehensive immigration legislation that protects human rights. "Under the current immigration regime, in many cases judges have no choice but to order deportation. This is the case in spite of the atrocious effects deportation has on the U.S. citizen family and children. This broken system offers judges no opportunity to keep families together", said, Vivana Krsticevic, CEJIL's Executive Director.

In this significant decision, the IACHR determined that when a decision-making process involves the potential separation of a family, there must be a hearing in which the judge accepts evidence and applies a "balancing test", whereby the destruction of family life may be justified only where there is a more compelling need to protect the public order. The Commission found that "a balancing test is the only mechanism to reach a fair decision between the competing individual human rights and the needs asserted by the State." According to the decision, the U.S. should allow Wayne Smith and Hugo Armendariz to return to the U.S. to be reunited with their families, and they should be given an opportunity to have their day in court – something that they were denied under the current U.S. deportation policy.

"This decision makes clear that there is an urgent need for immigration reform," said Robert Pauw, lead attorney in the case. "New legislation should prioritize the best interests of U.S. citizen children and the unification of families. Deportation should be reserved for those individuals who present a real danger to our society."

CEJIL believes that the United States' compliance with its international human rights obligations is critically important for the U.S., its citizens and residents, and the world. Even in strong democracies with longstanding commitment to the rule of law, human rights treaties serve to safeguard fundamental rights. All Americans benefit when the U.S. commits to upholding certain basic standards of human dignity, and then takes concrete steps to meet these obligations.

[Download the PDF](#) of the report of the Inter-American Commission on Human Rights on *Wayne Smith and Hugo Armendariz et al, v. United States*.

Judge Orders Man Freed in a Three-Strikes Case

By REBECCA CATHCART
Published: August 16, 2010

LOS ANGELES — A judge here ordered the release Monday of Gregory Taylor, who was serving a near life sentence under the state's three-strikes law for trying to break into a soup kitchen 13 years ago.



[Enlarge This Image](#)

Pool photo by Anne Cusack
Gregory Taylor, with Stanford law school students Gabriel Martinez and Reiko Rogozen, during a hearing in Los Angeles Superior Court Monday.

The case has been widely cited by those pushing to change the law, including civil rights activists and the Los Angeles district attorney, as an example of the kind of heavy-handed sentencing it can lead to.

Judge Peter Espinoza of Superior Court, who ordered the release, said convictions under the three-strikes law — which calls for heavy sentences for a third conviction — had often brought “disproportionate” sentences and “resulted in if not unintended, then at least unanticipated, consequences.”

Several of Mr. Taylor's relatives attended his hearing Monday afternoon.

Mr. Taylor, 48, is one of 14 California inmates who have been resentenced since students working on the Three Strikes Project at the Criminal Defense Clinic at Stanford Law School began reviewing cases in 2007, said Michael Romano, a law professor who helped found the clinic.

Gov. [Pete Wilson](#) signed the law in 1994. Twenty-four states have similar laws, according to the Sentencing Project, a national defense advocacy group.

In 1997, Mr. Taylor was homeless and sleeping at a church in downtown Los Angeles. One night, he tried to pry open the doors of the soup kitchen there because he was hungry, he told the police at the time. Judge James Dunn sentenced him to 25 years to life under the three-strikes law. In 1984 and 1985, Mr. Taylor had committed two robberies to support his crack cocaine and heroin addictions. He had no weapons during those robberies, and nobody was injured, according to case records.

Law students are reviewing about 20 more three-strikes cases, said Reiko Rogozen, a student who worked on the Taylor case. The cases are chosen based on letters from inmates, or are selected from a list presented by District Attorney Steve Cooley of Los Angeles as some of the harshest sentences under the law. Mr. Cooley often spoke of Mr. Taylor's case in his 2000 campaign for district attorney against [Gil Garcetti](#), who supported the law.

“Some have come off that list because we know Cooley may be sympathetic to those,” said Gabriel Martinez, who worked on Mr. Taylor's case. “We want to start influencing case law and hopefully the overall policy so it no longer gives life sentences for nonviolent offenses.”

On Monday, Mr. Taylor's relatives erupted in applause after Judge Espinoza ordered that he be released for time served. Ms. Rogozen put a hand on Mr. Taylor's shoulder. He nodded and said quietly, “Thank you for giving me another chance.”

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