It’s a pleasure to present the August edition of our newsletter to friends and graduates of the Remington Center. As always, this edition is packed with news and reflections on our myriad clinical activities.

In the "news" category, we open with an interview with Cecelia Klingele, a Remington Center graduate who will be clerking for United States Supreme Court Justice John Paul Stevens beginning in July of 2008. We also present brief descriptions of the Remington Center's two new clinical projects, the Community Supervision Legal Assistance Project and the Restraining Order Clinic. And we mention some writings of our clinical faculty that are designed to help improve Wisconsin's justice system.

In the "reflections" category, we include thoughtful essays by students in the LAIP project, the Family Court Assistance Project, and the Restorative Justice Project.

We hope that you enjoy the mixture of information, insight, and opinion in this edition of the Remington Center's newsletter. Remember, we’d love to hear from you! If you have responses, comments, or essays of your own, please email Meredith Ross at mjross1@wisc.edu. With your permission, we’d be happy to include them in the next edition.
Remington Center Grad Cecelia Klingele to Clerk on U. S. Supreme Court

By Meredith Ross
Clinical Professor

Beginning in July 2008, Cecelia Klingele, a 2005 UW Law graduate who participated in several of the Remington Center’s clinical projects, will be clerking for United States Supreme Court Justice John Paul Stevens.

Cecelia began law school as a part-time student caring for two young daughters. She quickly moved to a full-time course load, and excelled academically while adding two more daughters to the family. In addition to four young daughters, Cecelia and her husband Brad are the adoptive parents of a son, now an adult, who resides in a supported living environment.

As an LAIP student, Cecelia assisted clients at Taycheedah and Prairie du Chien Correctional Institutions, working under the supervision of Clinical Associate Professor Ken Streit. She also participated in the Criminal Appeals Project, supervised by Clinical Assistant Professor Ken Casey, and in the Prosecution Project as an intern in the Dane County District Attorney’s Office.

During the summer of 2005, after graduating magna cum laude from law school, Cecelia served as a supervising attorney in LAIP, working with six students who assisted inmates at Fox Lake, Oshkosh, and Dodge Correctional Institutions.

Since September 2005, Cecelia has clerked for United States District Judge Barbara Crabb in the Western District of Wisconsin. She will spend the next year clerking for Judge Susan Harrell Black of the Eleventh Circuit Court of Appeals in Jacksonville, Florida, before moving to the D.C. area for her clerkship with Justice Stevens.

In an interview with Remington Center Director Meredith Ross, Cecelia discussed how her experiences at the Remington Center have influenced her view of law and the legal system. She recalled one of her first clients at Taycheedah: "As I walked into the room, the first thing I heard the woman say was, 'Oh, no. Another damn law student!'" Although that experience was humbling, Cecelia
noted that it had a happy ending—LAIP managed to get the woman released from prison.

Nevertheless, one of the lessons that Cecelia took from LAIP was that often "the solutions we can offer are not about law, but about humanity"—that lawyers are counselors as well as advocates, and their tools may not just be legal ones. Cecelia mentioned a Taycheedah client who had been incarcerated for assisting her husband in sexually assaulting children in her neighborhood. The woman had grown up being continually sexually assaulted by her father: in her family, there had been no pajamas, no underwear, and no doors on the bathroom. Cecelia observed that it was no surprise that the client’s marriage replicated this pattern of abuse—"she had no experience outside her own reality." Although there was no legal "happy ending" to the client’s story, Cecelia was able to connect with the woman on a human level, finding her motivated to use prison counseling resources to change her life patterns as much as possible.

From the Prosecution Project, Cecelia took an ethic of professionalism, along with the belief that an effective prosecutor, imbued with common sense, "can do a lot of good for the community." She particularly praised Dane County District Attorney Brian Blanchard and Assistant District Attorney Judy Schwaemle. Cecelia mentioned a difficult sentencing hearing involving a 19-year-old male charged with sexually assaulting a 13-year-old girl. Because the defendant had pled guilty, the facts in the case were undeveloped, and no sexual offender risk assessment had been conducted. From the facts before the court, it was unclear whether the defendant was a person with serious developmental delays, or a sophisticated child predator. In preparing for sentencing, Cecelia wanted to know which he was. After bringing her concerns to ADA Schwaemle, Cecelia got the go-ahead to try-successfully—to convince the judge to order a sexual offender assessment before sentencing. Cecelia greatly appreciated ADA Schwaemle’s willingness to "think outside the box."

Cecelia also praised Brian Blanchard for emphasizing professional integrity and the importance of respecting the dignity of all persons involved in the criminal justice process, including defendants. As an intern, Cecelia "second chaired" a robbery trial with DA Blanchard, and he allowed her to conduct the closing argument. Focusing on contradictions in the defendant’s story, Cecelia put together a cogent and—she believed—effective argument. Afterward, however, she asked DA Blanchard for his feedback. His comment focused on fairness to the defendant: "If you are going to ask rhetorical questions in your closing argument, be careful with your tone. Make sure that you are always speaking respectfully.
about the defendant. Cecelia has never forgotten DA Blanchard’s emphasis on the importance of treating people with dignity at every stage of the criminal process.

Finally, Cecelia notes that her Remington Center experience has been invaluable during her two-year clerkship with Judge Barbara Crabb. About a third of her caseload as a clerk involves suits, often against the Wisconsin prison system, by pro se litigants. Laughing, she observed the usefulness of being familiar with the “alphabet soup” of Department of Corrections acronyms, from ERP to PRC. More globally, Cecelia said that her experience at the Remington Center has sharpened her focus on the question, “How do you write so that people feel heard?” Like LAIP, a court—even a federal district court—is limited in what it can do with and for litigants. Cecelia commented that if the court acknowledges the concerns a litigant may have, even if only to say that the court is powerless to address them, the litigant is more likely to perceive the court’s decision, positive or negative, as fair.

As Cecelia and her family head down the highway toward Jacksonville, the Remington Center sends them off with warmest wishes and great pride.

Seventh Exoneration for the Wisconsin Innocence Project

By Byron Lichstein
Clinical Assistant Professor

In a courtroom in Milwaukee on Friday, June 22nd, police and prosecutors took the unusual step of moving to set aside the 2005 conviction of a man who had been convicted of first-degree sexual assault of a child. The police and prosecutors agreed that the convicted man—a Franciscan monk known as “Brother David”—was actually innocent and wrongly convicted.

Milwaukee County Assistant District Attorney Paul Tiffin and Richard McKee, the lead detective on the case, asked Judge Jeffrey Wagner to vacate the conviction and dismiss all charges against
Brother David Sanders. An investigation completed after Sanders' conviction had proved that another man — also a Franciscan Monk known as "Brother David" — was the actual perpetrator. Judge Wagner vacated Sanders' conviction and ordered his immediate release from prison, where he had served approximately seven months of a 15-year sentence.

In 2004, the victim told the police that he had been raped as a child by a monk known as "Brother David" in Milwaukee, and later in Delaware. Searching for the last name of "Brother David," the police learned that the victim's grandmother had an entry in her address book for a monk named "Brother David Sanders" whom she had known in Milwaukee in the late 1980s. The police showed the victim a photo array containing Sanders' picture, and the victim identified Sanders as the one who had assaulted him.

Sanders maintained that he was innocent, and suggested that a different monk named "Brother David," who had also taught at the Milwaukee school, may have been the culprit. Nonetheless, Sanders was convicted after a jury trial and sentenced to 15 years in prison.

After Sanders was convicted, the Wisconsin State Public Defender, believing that Sanders might be innocent, contacted the Wisconsin Innocence Project about the possibility of handling Sanders' appeal. As the Wisconsin Innocence Project was beginning its investigation, the Milwaukee Police Department and District Attorney's Office discovered new evidence that would lead to Sanders' release.

The victim's grandmother — who had suspicions that the wrong "Brother David" had been convicted — provided police with a letter from a monk named "Brother David Nickerson," dated January 24, 1989, thanking the victim's father for allowing the victim to come to Delaware for a visit. Based on this letter, Detective McKee located and interviewed Nickerson. Nickerson confessed that he, not Sanders, had molested the boy. In response to this new evidence, Assistant District Attorney Tiffin requested a hearing and told the judge that Sanders should be freed because he is actually innocent of the crime for which he was convicted.

Sanders is the 14th Wisconsin prisoner known to have been exonerated since the late 1980's. He is the 7th Wisconsin Innocence Project client to be freed. Although the details of Sanders'
Clinical Faculty Scholarship Seeks to Improve Justice System

By Meredith Ross
Clinical Professor

The Remington Center’s clinical faculty devote a great deal of efforts to improving the quality of the justice system through the education of law students and work on individual clients' cases. But they also manage to find time to research and write about systemic issues. This past winter and spring, several of the Remington Center’s clinical faculty have published studies and articles that strive to improve Wisconsin's criminal justice system.

During the summer of 2006, on behalf of the Effective Justice Strategies Subcommittee of the Wisconsin Court System’s Planning and Policy Advisory Committee (PPAC), Clinical Associate Professor Ben Kempinen visited seven Wisconsin counties to research and report on innovative criminal justice initiatives. His report, entitled "Criminal Justice Innovations in Wisconsin: A Preliminary Report," has been distributed to more than eighty judges, prosecutors, defense attorneys, and other criminal justice actors in Wisconsin. It is available on the Wisconsin Supreme Court’s web site at: http://www.wicourts.gov/about/organization/programs/alternatives.htm.

Remington Center clinical faculty members also wrote three articles that appeared in the Winter-Spring 2007 edition of the Wisconsin Defender, a periodical published by the Wisconsin State Public Defender’s Office. They include:

*"Sentence Adjustment Petitions: An Update," by Clinical Instructor William Rosales
*"Lock Them Up Wisconsin," by Clinical Associate Professor Ken Streit; and
*"National Eyewitness Identification Litigation Network," by Clinical Professor Keith Findley.


The Wisconsin Criminal Justice Study Commission has published

wrongful conviction are not yet clear, his case appears to fit the nationwide pattern of wrongful convictions based on eyewitness mis-identification.
an article in the May 2007 edition of the Wisconsin Lawyer entitled "Study Suggests Causes of and Ways to Prevent False Confessions" (May 2007 Wisconsin Lawyer at p.6). Professor Walter Dickey, Professor Michael Smith, and Clinical Professor Keith Findley are members of the Commission. Clinical Assistant Professor Byron Lichstein is a staff attorney for the Commission, and drafted the article on behalf of the Committee.

Finally, Clinical Professors Keith Findley and Meredith Ross have published the following articles in the Clinical Law Review describing the history and goals of the Remington Center's clinical projects:

* "The Pedagogy of Innocence: Reflections on the Role of Innocence Projects in Clinical Legal Education," by Keith Findley, 13 Clinical Law Rev. 231 (2006); and


The Community Supervision Legal Assistance Project (CSLAP)

By Judith Olingy
Clinical Professor

This fall, the Remington Center is starting an exciting new clinic: the Community Supervision Legal Assistance Project (CSLAP). Supervised by Clinical Professor Judy Olingy, CSLAP students will provide a wide range of legal assistance to Dane County individuals who are being supervised on probation, parole, or extended supervision by the Wisconsin Department of Corrections’ Division of Community Corrections.

Students will work in collaboration with their clients to develop and implement creative solutions to their problems...

The clinic will emphasize an interdisciplinary approach to legal representation, and provide assistance to clients with a wide variety of re-entry, issues including housing, employment, public assistance benefits, reinstatement of driver's licenses, resolution of outstanding forfeitures and fines, and family law matters. Students will work in collaboration with their clients to develop and implement creative solutions to their problems, with the ultimate goal of...
assisting clients to successfully complete their community supervision. Students also will work in close cooperation with DOC probation officers.

Nine students are enrolled for the 2007 fall semester for 20 hours per week. They will follow up in the spring semester with at least two clinical credits. In the future, CSLAP students also will take on revocation cases assigned through the Wisconsin State Public Defender.

The Family Court Assistance Project's Restraining Order Clinic

By Matt Gillhouse
Clinical Instructor

The Family Court Assistance Project (FCAP), in collaboration with Domestic Abuse Intervention Services (DAIS) and the Wisconsin Coalition Against Domestic Violence (WCADV), has developed a Restraining Order Clinic for Dane County residents. In the clinic, law students help individuals through the process of seeking restraining orders against harassment, domestic abuse, child abuse, or other kinds of risk. The students help individuals decide whether and which restraining order to seek. They also help draft the petition, explain the filing process, and help petitioners prepare for the upcoming injunction hearing.

The Restraining Order Clinic offers additional services to victims of domestic violence seeking domestic abuse restraining orders. Students provide support to victims by appearing at hearings as "member service representatives." Eligible students also represent victims at their injunction hearings, appearing as student attorneys under the supervision of clinical faculty.

"The clinic not only provided legal information, it allowed the participants the opportunity to tell their story, a crucial component to the clinic."

The clinic offers important learning opportunities to law students. By helping petitioners through the restraining order process, students develop strong interviewing skills while exposing themselves to myriad client conflicts. As one student noted: "The clinic not only provided legal information, it allowed the participants the opportunity to tell their story, a crucial component to the clinic."
Quite often, a number of different types of petitions may apply to a given situation, so students learn to consider the different legal remedies available and discuss their different impacts with the petitioner. By helping draft petitions, students learn to quickly draw out and organize relevant facts for the petitioner.

In contested cases, students learn how to effectively prepare a petitioner/witness for trial by explaining the court process, describing commonly-asked questions, and discussing courtroom behavior. Students further develop their client-relation skills by providing emotional support to victims during their hearings, while also learning the importance of setting boundaries. When representing victims, students learn how to present a case in a formal courtroom setting, conduct direct-and cross-examination, and respond to the dynamics of the court hearing.

Along the way, students develop a deeper understanding of the dynamics of domestic violence and the difficulties victims encounter when trying to protect themselves and their loved ones from further abuse. Most students in the program enjoy the opportunity to play a role in helping victims achieve empowerment. As one student put it, the clinic is "personally rewarding because seeking a restraining order is often the first step a battered victim takes in asserting that they want to end the violence in their life."

The services students provide play an important role in providing access to courts for needy individuals. For most petitioners, the student's assistance will mean more efficient filing and hearing preparation. Petitioners will know where to go to complete the necessary steps for proper filing and service, and will understand how to effectively present their story in the petition and at trial. Not only does this alleviate tensions in an anxiety-ridden situation, but it improves the petitioners' chances of overcoming procedural barriers to obtain the protection they seek.

For victims of domestic violence, these services can make a big difference. One of the greatest barriers victims face at injunction hearings is the power dynamics of their relationship with the abuser. At the hearing, a victim must "confront" the abuser - the person who has used fear to maintain power and control in the relationship. When students provide preparation, support, and even representation at the hearing, the power dynamic becomes a smaller barrier, and a victim can better focus on effective case presentation. Students who have participated in the Restraining Order Clinic appreciate the opportunity to use their legal education to protect the local community members who need it most.

Editor's Note:
Matt Gillhouse participated in the Family Court Assistance Project as a UW Law student. He earned his J.D. in May, 2007, and has worked during the summer of 2007 a supervising attorney in FCAP.
More often than not, my meet-
ings with LAIP clients would begin
or end when the client handed me
case citations, neatly hand-written
on notebook paper. When I would
begin to diligently copy them onto
my legal pad, the client would tell
me that I could keep the paper—it
was an extra copy made just for
me. This surprised me the first
few times it happened, since I
thought that I was sup-
posed to be the expert,
but after thinking it over
for a few minutes, it
made perfect sense.
After all, I do something
similar when I go to the
doctor.

Whenever I am sick
and whatever my ail-
ment, I usually tell the doctor that
I learned such-and-such about my
illness on the Internet, that my
friend had the same symptoms
and was treated with X-drug, but
that the doctor should put me on
Y-drug because commercial I’ve
seen on television persuaded me.
I can never help but feel a little
annoyed, suspicious, and even
short-changed when the doctor
tells me I have something other
than what the Internet diagnosed,
and that he is going to prescribe a
drug I’ve never seen on a commer-
cial.

Should my doctor put any stock
in my amateur diagnosis? If so,
how much? If not, should he at
least pretend to consider my naïve
medical conclusions? No doubt
he’s the medical expert and I am
not. On the other hand, I want to
help find the solution to what is
bothering me, because I know I
care more about my own health
than the doctor does. How is a
lawyer supposed to act when faced
with an analogous situation?

I learned in Criminal Procedure
that there is no one correct theory
of representation that an attorney
should adhere to. The
attorney can be the hired
gun, doing only what the
client dictates. At the
other end of the spec-
trum, the attorney can
ignore the client’s sug-
gestions and follow his or
her own judgment of
what is best for the
client.

I remember thinking in class
that neither of these two extremes
would be a very good way to prac-
tice law. Part of me thinks that I
should not let the client dictate
how I conduct my legal research,
because I may be led down a path
to a dead end. I could also get
this "tunnel vision" that professors
warn about, by researching only
what the client identifies as his
problem and his potential solu-
tions. Lastly, I do not want to be
bogged down with reading cases
that have no bearing on my
client's case.

On the other hand, nobody
knows the case facts of the case.
better than the client. The cases he has provided to me may be very relevant, or at least offer insight into how he sees the issues in his case. Even if the case is not relevant to the client’s situation, there may be some value in explaining why it is not.

Thinking back to my doctor scenario, it is important to me that the doctor at least listen to what I have to say; and if he disagrees, I feel better when he explains why, and appreciate the extra time and patience involved. When my doctor explains why the medication that helped my friend overcome similar symptoms is wrong for me, I know the doctor listened to me in the first place, and I ultimately place more trust in him.

I think there is value in treating clients similar to how I want the doctor treating me. Throughout my time in LAIP, I rarely if never read my client's suggested reading lists cover to cover. When I start practicing and am paid for my time, this would become a real impossibility, not to mention a dis-service to a paying client. But I can certainly read the overview or skim the cases to see if they have any relevance to my client’s situation. If there is, I have a good head start to my research. If a case is not relevant, or if it is not applicable because it has been overturned, is not mandatory authority, is based on laws that have changed since the decision, or is based on clearly distinguishable facts, then I haven’t wasted much time. I can at least report back to the client by letting him know that I did listen to what he had to say and followed up on his suggestions.

I am guessing that most of my future clients won’t come to me with a list of cases, neatly handwritten on notebook paper, but they will likely bring questions and suggestions like those I bring to the doctor. My very first clients with LAIP taught me that patience, listening skills, and a little extra time can go a very long way toward establishing rewarding relationships with clients.

Representation: Per se better than Pro se?

By Sara Monson
Second Year Law Student

"Mr. Smith, are there any questions you would like to ask the Petitioner?" It is striking how many pro se litigants are either dumbfounded or mistaken when a court commissioner or judge asks them that question. In the major-
ity of hearings I observed during my experience with the Family Court Assistance Project (FCAP), the unrepresented parties did not seem to understand a seemingly simple concept of courtroom procedure. What we student attorneys learn so quickly can be a strange and foreign process to pro se litigants.

When it comes to cross-examination, many parties ask the commissioner what they are supposed to do, and nearly all attempt to testify. The commissioner typically cuts them off as they begin to tell their story or contradict the testimony of the other party. The commissioner repeatedly explains the rules: "This is not the time for narration. This is your chance to question Mrs. Smith." I saw how confusing and frustrating the hearing process can be for those who are in court without a lawyer.

As a student attorney, I have had the opportunity to observe family court hearings involving both represented and unrepresented litigants. Pro se litigants seem to create predicaments. In a temporary order hearing in which two adept attorneys represented both parties, the process was smooth, apparently by the book. The parties remained calm and collected. The attorneys answered questions from their clients, of which there were few. The commissioner hardly spoke.

By contrast, in a similar hearing involving pro se litigants, the parties were amok with emotion. The commissioner refereed, mediated, explained. The petitioner cried and complained while the respondent questioned every process, frankly confused about what he was even doing there.

Perhaps it is our poorest citizens who must rely on the courts the most. Hiring a mediator, arbitrator, or attorney to reach agreement is hardly an option for them. For these parties, the judges become government-subsidized mediators. In the courtroom, procedural rules technically bind the judge, but he or she is also required to see justice served. This presents a quandary. A judge can go only so far in explaining the law, often leaving litigants in the dark and with mediocre remedies or none at all. In contrast, if attorneys represent both parties, the court's job seems a great deal easier.

Experience and education have taught lawyers the intrinsic rules of court decorum and procedure. Lawyers have the confidence to speak clearly and persuasively. For them, it is second nature to come to court prepared. Years of schooling and life experience have taught attorneys the importance of listening to judges' questions and instructions. They know that speaking out of turn, dressing inappropriately, or being disrespectful can do more than reflect badly upon manners-they may affect the outcome of clients' cases. Many unrepresented litigants are not so fortunate.

In FCAP, law students help pro se litigants prepare their cases in
Dane County family court. Although we cannot be their advocates, students participating in FCAP can assist unrepresented parties by doing more than telling them where, what, and when to file. Most pro se litigants benefit substantially when someone explains the process in detail, with greater specificity than one might think is necessary. As individuals who are familiar with legal processes, we take for granted the easy access we have to a multi-layered system. We are unlikely to find ourselves struck dumb and unable to make our case when a judge keeps telling us that our "evidence" is hearsay. By explaining the court processes, in detail, to pro se litigants, we can better prepare them to represent themselves in court.

Thus far, my experience with FCAP has reaffirmed what I knew of the value of education and experience. However, the fact that I often perceived the high value of education and experience via its absence should speak volumes. If the purpose of law and procedure is to create order and protection for the individuals involved, we have to ask ourselves whether the rules we have are working. How can family law serve the interests of families if mothers and fathers cannot even access the system?

At a minimum, attorneys are useful because they know the rules and their myriad of resources give them access to the justice system. Programs such as FCAP work to help those without resources overcome barriers within the legal system. I hope that our work makes the family law system more accessible, because only then can it work in the way it was intended—to serve the interests of all families, and not just families who can afford attorneys.

How can family law serve the interests of families if mother and fathers cannot even access the system?

Restorative Justice

By Katherine Plominski
Third Year Law Student

Last semester, while working in the Remington Center's Restorative Justice Project, I received an unusual phone call. The woman on the phone said, "You are probably going to think that I am crazy, but I want to meet the man that helped kill my daughter. Can you help me do that?"

I told "Karen" that she was not crazy and that she had called the right place. I could literally hear her relief on the telephone. It was
obvious that Karen’s family and friends thought she was crazy for wanting to meet the young man who helped murder her only daughter. After all, this young man heard Karen’s disabled, twenty-one year old daughter screaming for help in the next room, and did nothing. While he was not the individual who actually strangled Karen’s daughter, he assisted the killer in disposing of her body. He also never contacted the authorities, and as a result Karen came across her own daughter’s body stuffed in the trunk of a car days later.

Many times, Victim Offender Conferences (VOCs) require preparation for months or even years, which often takes the form of frequent contact with the victim, the offender, and prison staff. For a couple of reasons, however, this case was unique.

First, the young man was scheduled to be released from a juvenile correctional institution in less than one month. This meant that Karen and the offender would have to meet outside the confines of a secured corrections facility. The situation presented a potential challenge because many times victims leave a VOC with an additional sense of security knowing that they get to return home, while the offender remains in the confined setting. Second, Karen did not want the VOC to take place during or after the month of November. November marked her daughter’s birthday as well as the two-year anniversary of the murder. This meant that we had only two months to prepare for a potential VOC.

It was apparent that she came to the meeting with a purpose. She wanted to have questions answered about the murder, she wanted the offender to show remorse for what he did, and she wanted to encourage him to live a better life.

After several in-person meetings with both Karen and the offender, Project Director Pete DeWind and I felt that the parties were ready to meet. On the day of the meeting, Pete and I first met Karen at a local restaurant. During that final preparation session, Karen appeared very anxious and had a difficult time speaking about her daughter's death. However, once her actual meeting with the offender began, Karen showed new strength. It was apparent that she came to the meeting with a purpose. She wanted to have questions answered about the murder, she wanted the offender to show remorse for what he did, and she wanted to encourage him to live a better life.

Among the items that Karen brought to the meeting was a DVD about her daughter. It was composed of a series of childhood photos and newspaper articles. The DVD was set to a beautiful song written by a friend entitled, "Letter from Heaven." By the end of the five-minute DVD, the young
man was inconsolable with tears. In fact, he was so emotional that he could hardly speak. It turns out that after an entire trial and two years in a juvenile institution, the offender still knew very little about the life he had helped hide away in the trunk of a car.

It is no secret that everyone heals differently. Karen’s capacity for forgiveness is awe-inspiring. She maintains faith in the goodness of people, including the young man who helped hide her daughter’s body.