August 2001 Newsletter

Introduction

Welcome to the third edition of our semiannual newsletter, which is provided to Remington Center graduates and friends.

Our August edition has two goals. First, as befits a late-summer newsletter, we want to provide a snapshot of the varied goings-on in our 2001 summer program. To that end, our clinical faculty have provided brief updates on staff changes, as well as on the summer activities of three of our "in-house" summer clinical projects: the Innocence Project, the Family Law Project, and the Neighborhood Law Project.

For a more direct perspective on the summer experience, LAIP student Michele Perreault has kindly allowed us to publish an excerpt from her weekly journal; and Restorative Justice Project Student Rachel Schneider describes a difficult, and moving, victim-offender conference she participated in during the summer.

Second, we want to update our readers on the fundraising activities of the Friends of the Remington Center Endowment (FORCE), the private non-profit corporation which raises funds to supplement summer stipends for Remington Center students. At the same time, we can give you some exciting news about our successful efforts to increase the University's contribution to student stipends.

We'd love to hear from our readers; comments, questions, suggestions, and editorial contributions are welcome. Please feel free to email Meredith Ross at mjross1@facstaff.wisc.edu; or you can write to:

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We hope you enjoy this edition of the newsletter. It is always a pleasure to let people know how the program is carrying on the tradition begun by Frank Remington over thirty years ago.

Walter J. Dickey
Eevjue-Bascom Professor of Law

Meredith J. Ross
Clinical Professor of Law

Update on Staff Changes
This summer has seen arrivals, departures, and honors for the Remington Center's clinical faculty and staff. Here are a few of them:

Clinical Associate Professor Kate Kruse has taken a one-year leave of absence from the UW Law School. Kate will be a visiting professor at American University's Washington College of Law in Washington, D.C., where she will be directing a criminal litigation clinic. Leslie Shear, formerly a partner in the Madison law firm of Murphy and Desmond, has joined the Remington Center as a Clinical Assistant Professor, and will take over for Kate as Director of the Family Law Project. Leslie's update on FLP appears elsewhere in this newsletter.

Clinical Associate Professor Meg Gaines has been named Director of the Center for Patient Partnerships (formerly the Patient Advocacy Center), a collaborative effort of the UW's schools of law, medicine, nursing, pharmacy, and social work. The CPP's goals include educating professionals on patient-centered care; conducting applied research on patient-centered care models and practices; and helping patients make informed decisions and get the care they need. The CPP is currently housed in the Law School, and maintains administrative ties with the Remington Center. Administrative Specialist Peggy Hacker is now splitting her time half and half between the Remington Center and the CPP.

In July, the Remington Center hired Barb Zahn as a half-time administrative specialist, where she acts as the primary liaison between LAIP and the ever-multiplying institutions of the Department of Corrections.

In September, Clerical Assistant Karen Vellardita will be leaving the Remington Center, where she has provided secretarial and administrative support for the last two years. Karen will be moving to the Wisconsin Department of Corrections, as an assistant in the offender records department.

Also in September, the Remington Center will be conducting an innovative one-year exchange with the State Public Defender's Office. Clinical Associate Professor Paul LaZotte will move over the SPD's appellate office, where he will work full-time litigating criminal appeals. At the same time, Assistant State Public Defender Suzanne Hagopian will move to the Remington Center, where she will take primary administrative, supervisory, and teaching responsibility for the Criminal Appeals Project. We hope that both individuals, and both offices, will be enriched by this exchange.

Program Secretary Diane Collins was honored this spring as a "Classified Employee of the Year." This award is accorded annually to only five employees campus-wide. Chancellor John Wiley presented the award to Diane during a reception at his official residence.

Finally, Clinical Associate Professors John Pray and Keith Findley were recently honored as "Lawyers of the Year" by the Milwaukee Bar Association for their work in the
Wisconsin Innocence Project. John Pray's update on IP appears elsewhere in this newsletter.

**Freedom Comes in Different Forms**

by Michele Perreault,
LAIP Student, FCI-Oxford

6/25/01: Today I had the opportunity to be the bearer of potentially bad news to a client. After reviewing his file, I determined that he had been sentenced to a 15 year mandatory minimum based on a statute, yet he had been fighting via his 2255 and subsequent motions under the theory that he had been wrongfully assessed as a career offender under the guidelines. I decided to bring the USC [United States Code] and the [United States Sentencing] guidelines as well as to write down a bare bones description of his sentence. I also asked him whether he wanted me to explain his sentencing to him and discuss how that might affect the 2255 motion he filed (because he was planning to file an amendment, again focusing on the guidelines). He stated that he wanted to understand his sentence, so I described to him the difference between the two books and went to the pages under which he was sentenced in the USC and under which he thought he was sentenced under the guidelines. We also reviewed his PSI to show that even though it contains a guidelines sentencing section, it also states that his sentence would fall under the statute.

I explained the situation 3 or 4 times, until I finally saw it sink in. My client was quiet for a few moments, and he said, "So under this statute, I really will have to be here 15 years." I told him that barring some unforeseen change, that seemed to be the case. Again, he was quiet for a few moments. Then he turned to me and asked if I could pass along a message to my supervisor, Judy. I told him it depended on what the message was. He said that he wanted to thank her for sending me to finally clear this up for him. He was thankful that he finally got the straight story from someone. I was taken aback. I had just told him that he had another 10 years at least to spend in the federal prison system, and he was thanking me. He talked for some time about how his attorney kept adding and subtracting possible points from the PSI, telling my client that unless he pled guilty, he was looking at possible life behind bars. This seemed to be the first time he grasped that for him, appealing points assessments was not going to help.

This incident brought back to me what I hope to do as an attorney: combine communication with technical skills. Sure, it took me quite some time to actually figure out what had transpired in this case, but it was important to get it right and then find some way to explain it to my client. And when it was obvious that he didn't understand it, I didn't give up, and instead tried to frame it another way. Who knows if two weeks from now he will have forgotten my explanation (which is why I wrote it down for him), but for now I felt like I did him a service, albeit not the one that sets him free from prison. But perhaps he can get some freedom from the confusion and anger of feeling wronged without any relief (i.e., repeatedly rejected by the courts for what he considered to be a
reasoned argument). When we were walking out of the prison today, the guard asked us his usual, "So, you set any guys free today?" Usually I tell him I've got them packed into my backpack. Today I just smiled at him. Freedom comes in different forms.

**Update on the Wisconsin Innocence Project**

by John Pray

The last six months have been a very exciting period for the Wisconsin Innocence Project. The year 2001 began with the Project's first exoneration, which occurred in the case of Chris Ochoa, who was released from a Texas prison after serving 12 years for a murder/rape that DNA tests proved he did not commit. The DNA tests also confirmed the identity of the true killer, who had confessed to the crime.

The Ochoa case brought national and international attention to the Innocence Project. The Project's work on the Ochoa case and others has been featured in numerous print articles, and has been the subject of television pieces telecast on Good Morning America, The Today Show, The Early Show, Nightline, the Sally Jesse Raphael Show, the BBC, Dutch National Television, and others.

As a result of the publicity, the Project has been deluged with letters from prisoners from all over the country (and world). It has been extremely challenging trying to keep up with the mail, but the Project has added able support staff and volunteers to keep up with the correspondence and case screening.

This summer, for the first time, the Innocence Project has had full-time students working exclusively on innocence cases. The group includes seven new students, who will continue in the Project for the entire school year, and one student who continued from last year's class. The students are supervised collectively by Keith Findley, Wendy Paul, and myself. Since the students are working full-time during the summer, they have been able to conduct intensive investigation throughout Wisconsin, as well as ongoing investigations in other states including Tennessee, Missouri, Minnesota, and Michigan.

This year, the Project has worked closely with Northwestern University's Center on Wrongful Convictions, co-sponsoring a conference in Michigan this spring on eyewitness identification. The two schools have also worked together in an intensive investigation of the case of Maurice Carter, who has been in a Michigan prisoner for the last 25 years. The Project will present Mr. Carter's case in a Michigan court within the next few months.

The Project has also worked extensively with the Wisconsin State Bar Association in drafting new legislation that will help prisoners establish their innocence. The Wisconsin legislature has recently passed a bill, now awaiting the governor's signature, which would require preservation of DNA evidence that could prove one's innocence, and would allow for the testing of such evidence without cost to the inmate. The legislation also gives
defendants the right to present newly discovered evidence (both DNA and other types of evidence) after the currently existing one-year time limit.

With support from law students and the community, the Wisconsin Innocence Project continues to grow. As we do so, we hope not only to exonerate the wrongly convicted, but also to improve the criminal justice system in ways that can prevent wrongful convictions in the future.

**Update on the Neighborhood Law Project**

by Juliet Brodie

The Neighborhood Law Project (NLP) has been running strong this summer, its sixth year of operation. Five NLP students have been working full-time this summer, providing a wide range of legal services to residents of three low-income neighborhoods in Madison.

The NLP summer students do about 15 hours per week of on-site intake work in neighborhood centers, where they work collaboratively with other service providers such as social workers, housing specialists, employment workers, and others. Clients are seen on a walk-in basis, and present legal issues in many areas, including family law, housing, employment, and consumer/credit. As of the end of July, NLP had 51 open files, across these topics and more.

One of the main characteristics of NLP work, as opposed to other Remington Center clinics, is the immersion into the context of the clients' environment. For many students, NLP is their first prolonged exposure to a low-income neighborhood and its challenges. Students are forced to view their clients' legal problems in light of the larger social and community forces that shape their lives, such as the employment market, the education provided to their children, and the ever-present priority of enhancing neighborhood safety in the face of the drug trade and other threats. A legal issue, such as child support enforcement or eviction, has to be analyzed in light of all the other demands on a client's money, time, and energy. This, plus learning the law in a number of different pertinent areas, gives quite an education over the 13-week summer term.

NLP gives students a great opportunity to learn disciplined lawyering skills—such as research, client-centered interviewing and counseling, drafting, and negotiation—in the context of learning about the persistent challenges that face low-income people. It's remarkable how many aspects of the lives of these clients are involved some how with the legal system.

NLP students will reduce their time to 12 hours a week for the fall term. For some, it may be hard to cut back on the time they spend out in the community. Becoming a part of a neighborhood's network and your clients' lives is very compelling stuff, especially to students who have been pretty much trapped in a classroom for the preceding year!
Update on the Family Law Project

by Leslie Shear

In its first summer as a full-time clinical program, the Family Law Project has been able to offer four full-time students a variety of experiences in meeting the needs of inmates with family law issues.

Each student was responsible for between six and nine cases involving a variety of family law issues, including contested and uncontested divorces; establishment and enforcement of physical placement and other contact with children; child support modification; reopening of a divorce judgment to contest a paternity determination; and establishing paternity of a non-marital child.

In addition to representing individual clients, the students provided valuable assistance to inmates by continuing with the FLP's pro se pilot project at Oshkosh Correctional Institution. In the pilot project, which began during the 2000-2001 school year, FLP students developed pro se packets, including forms and instructions, in several areas of family law, including divorce, visitation, establishing paternity, and child support. During the summer, the students disseminated the pro se materials, along with supplemental legal and practical information, to approximately one hundred inmates who had been on the FLP waiting list for up to nine months. The summer students have also revised and updated these pro se packets, and have identified a number of areas they would like to address by creating additional pro se forms and instructions, such as reopening paternity judgments and enforcement/ modification of physical placement rights.

Finally, as the fall semester begins, the students and I will be evaluating the success of the pro se pilot project, as well as determining the methods they will employ to provide pro se assistance to incarcerated persons in the future.

A Victim-Offender Conference

by Rachel Schneider, Restorative Justice Project student

I am a law student participating in both LAIP and the Restorative Justice Project (RJP) this summer at the Remington Center. I recently had the opportunity to assist Pete DeWind, Director of RJP, with facilitating a victim – offender conference in one of the Wisconsin prisons between a sexual assault victim and her rapist.

The offense had taken place a number of years prior to the conference. By the time I began working on the case, Pete and a former student had already been preparing for the conference for over a year. They had met separately with both the offender and the victim, prison officials, and support persons. When the case was transferred to me, I
introduced myself to those involved and updated them on the status of the conference. Soon after a date was set for the conference, I met with the victim during a therapy session with her counselor, who was to be her support person during the conference. I then met with the offender and a psychologist at the prison, who was to be one of his support people.

Once the date for the conference was set, things moved rapidly and both parties seemed determined to go through with it, regardless of some last-minute issues that needed to be resolved, including whether and how the conference would be videotaped, who would see the video, and what kinds of questions were going to be asked and answered.

The victim was mainly interested in finding out for herself whether or not the offender had changed for the better during his time in prison. She wanted to know what he had learned and how he planned to prevent himself from offending again. Her interest in a conference with her offender came about primarily because the offender was soon to be released on parole and return to the same community as the victim. This is illustrative of one of the more practical benefits of a conference, which is facilitating the initial contact between the victim and offender. The victim worried about what it would be like to "run into him" on the street or at the mall after all the years that had passed. She wanted to determine for herself whether or not the offender was still a threat to her, her family, or the community.

The offender agreed to meet for a number of reasons. He wanted to express his remorse and assure the victim that he was no longer a threat. He believed that the victim deserved to meet with him and to have her questions answered. He agreed with the victim's suggestion that either of them could ask any questions during the meeting, but that they both reserved the right to decline to answer all or part of any question asked. His only reluctance to meet was due to fear that the victim would not believe him, or that she would think the conference went badly and would take that back to the community or to the media, making his transition back into the community more difficult. His desire to participate in a conference, however, overcame that hesitation. He had undergone years of sexual offender treatment programming while in prison. He and his treatment supervisors felt that meeting with one of his victims would be an invaluable experience in terms of his treatment. I do not know for sure whether this was an intended benefit of the conference for the offender. However, in speaking with the offender and his treatment supervisors after the conference, we learned that meeting face-to-face with his actual victim had a profound impact on him.

The conference lasted approximately three hours, with two roughly half-hour breaks. Both the victim and offender were understandably nervous and very emotional. The first half of the conference consisted mainly of the victim asking questions and the offender answering them. She asked him what he planned to do upon release, what he would do to prevent himself from reoffending, and what he had learned in treatment. She also asked questions more specific to herself and his victimization of her, such as why he chose to rape her and whether she was still in danger.
Altogether, the offender was fairly quiet during the conference. His role was much more passive than the victim's. He only asked a few questions. I felt that the climax of the meeting came when the victim asked the offender what he was going to take from meeting with her. He answered that until seeing the pain on her face, on his actual victim's face, he had not realized the extent of harm that his actions had caused. For him, the experience reinforced his determination to never cause that kind of harm again. He apologized. She felt that the apology was sincere.

For me, personally, assisting with the conference was a surprisingly emotional experience and actually much more encouraging than I had expected. When a crime occurs, the world typically becomes dark and painful for both the victim and offender. LAIP fulfills the very important function of assisting inmates with valid legal issues that deserve to be resolved. However, by its nature, LAIP is an offender-centered environment. The Restorative Justice Project enhances the Remington Center by assisting an inmate on a much more personal level, while at the same time assisting the victim and maybe even the community in a way that the legal system cannot.

I have always believed that our criminal justice system can be somewhat inadequate in terms of its subjective and arbitrary nature. Victims have often been left to feel like nothing more than a "piece of evidence" while a case is being processed. Further, the majority of the public is largely uninformed about the reality of sentencing, so victims are often outraged when the offender is released earlier than they anticipated. These two factors only add to the victim's lack of a sense of control caused by the crime in the first place. Neither the criminal justice system nor LAIP can do much regarding the connection between the victim(s) and the offender(s).

The Restorative Justice Project offers one way to compensate for this deficiency. A meeting between the victim and offender is one step in giving some control back to the victim. The victim may use a conference to voice concerns he or she was unable to voice in court or to express feelings of forgiveness, pain or anger. No one else is involved; no attorneys, no judges, not the Parole Commission or the Department of Corrections. The goal of the conference is whatever the victim and offender want it to be.

A successful victim – offender conference can only be defined by what the victim and offender take from it. In this case, I think they took from the conference a sense of closure, a sense of relief, and maybe a sense of hope.

**Update on FORCE Fundraising and Student Stipends**

by Walter Dickey & Meredith Ross

As many of you know, the Friends of the Remington Center Endowment (FORCE), a private nonprofit charitable corporation, was created in the summer of 2000 to ameliorate the financial situation of the Center's summer students. By that time, tuition increases had so severely eaten away at the summer stipends provided by the Law School, that our students were ending up netting less than $700 for their three-month summer experience.
We were concerned that law students would simply be unable to afford to spend a summer in a clinical experience such as LAIP. We believed that those who had been enrolled in LAIP and other Remington Center projects while they were in law school would want to donate, in order to make sure that today's students could have the same experience they had.

We are pleased to report that our friends and graduates have stepped up to the mark. To date, over $132,000 has been donated and pledged to FORCE.

The success of our fundraising program is significant in two ways. First, and most obviously, the endowment funds will allow us to supplement the stipends provided by the Law School to summer students at the Remington Center. We anticipate that, starting in the summer of 2002, all students will receive a supplemental stipend from FORCE.

Second, and perhaps less obviously, the success of the fundraising project helped to convince UW Vice Chancellor John Torphy to greatly increase campus support for our summer students. This spring, Chancellor Torphy agreed to appoint all 55 of our "in-house" summer clinical students as half-time Project Assistants. As PAs, the students receive about the same amount of "salary" has they have in past summers (in 2001, about $2,300). But unlike past summer students, all the PAs receive a complete remission of their 8-credit summer tuition. In 2001 (once fees were subtracted), this amounted to a savings of about $1,500 for in-state students and $4,600 for out-of-state students. Our 2001 students thus doubled, at a minimum, their "net" summer stipend; and this savings will increase in value each year as summer tuition increases.

Vice Chancellor Torphy agreed to authorize the PA appointments—which, since they carry tuition remissions, amount to a significant financial contribution by the UW—for several reasons. First, he appreciated the Remington Center's contributions to the education of law students--in particular, the immersion experience provided by the full-time summer program. Second, Dean Ken Davis articulated a strong commitment to continued funding by the Law School for the Center's summer clinical students. Third, and perhaps most importantly, the FORCE fundraising effort demonstrated to Vice Chancellor Torphy that the University's financial contributions to summer students were being matched by private support. In short, support from the Law School, from the UW campus, and from our friends and graduates will make the summer clinical experience financially viable for law students in the future.

We thank all those who have donated so generously, and note that FORCE is still happy to accept donations and pledges from those interested in giving. If you would like to make a tax-deductible donation to FORCE, please send a check or money order to:

Friends of the Remington Center Endowment
975 Bascom Mall
Madison, WI 53706

All donations will go directly to support stipends for our future summer students.