August 2003 Newsletter

Welcome to the August, 2003 edition of our newsletter for the Remington Center's graduates and friends. Although the newsletter is planned as a semiannual event, we thought we would squeeze in three of them during 2003, with this somewhat abbreviated edition sandwiched between our February and (upcoming) December editions.

Our newsletter opens with some updates on the Center's students and staff, and on the status of our endowment fund. We then report on activities of three of the Center's clinical projects: the Neighborhood Law Project's efforts to protect the rights of low-income people; the new LAIP "clinical semester"; and the Wisconsin Innocence Project's efforts to improve the accuracy of the criminal justice system.

As always, 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@wisc.edu or you can write to:

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Remington Center News

Comings and Goings

The Remington Center welcomes new clinical faculty and bids a fond farewell to others.

Following his retirement in June from the Office of the State Public Defender, Ken Casey has joined us as director of the Criminal Appeals Project, in which students represent defendants on direct appeal cases appointed by the SPD. Ken graduated from the UW Law School in 1970 and clerked for U.S. District Judge James Doyle. After a few years in private practice, Ken spent the rest of his career working for public service agencies, including the State Bar's Corrections Committee, Legal Action of Wisconsin, and–since 1981–the State Public Defender, where he worked in both the trial and appellate divisions. During this period, Ken occasionally taught students in LAIP and also taught constitutional law at the Law School. In the early 1990s, Ken and Kate Kruse co-created the Criminal Appeals Project at the Remington Center, so his joining the project as director brings him full circle. As our many readers who know Ken will agree,
he brings both legal acumen and a wonderful teaching flair to the Criminal Appeals Project.

**Mike Scott** joins us in September, and will follow in Herman Goldstein's footsteps by researching and teaching in the area of policing. A graduate of the UW (B.A. 1980) and of Harvard Law School (1990), Mike has served in several police departments, as an officer, legal assistant, and chief. He has a longtime interest in research, and served as the Senior Researcher for the Police Executive Research Forum. In 1997, Mike founded the Center for Problem Oriented Policing, Inc., an independent consulting which has provided research, training, and management services to police departments nationwide. Mike brings to the Law School a substantial grant from the National Institute of Justice, which he will use to research, develop, and publish a series of problem-oriented guides for police departments around the country.

**Betsy Abramson** joins the Economic Justice Institute in September, where she will direct an Elder Law Clinic. A 1981 graduate of the UW Law School, Betsy is well known throughout Wisconsin as an expert in the field of elder law, first at the Center for Public Representation, then as the founder and director of the Elder Law Center at the Coalition of Wisconsin Aging Groups; and, since 2001, as a private consultant. With support from the Helen Bader Foundation, the Retirement Research Foundation, and the Law School, Betsy will develop an innovative clinical program in which law and graduate nursing students will work on site at geriatric health care clinics. The students will provide legal information, counseling, and assistance to elderly patients on issues as advance medical directives and financial management tools, guardianships, public and private benefits, and patients' rights. They will also work to educate health care providers on how to identify the legal needs of the elderly and the interrelationship between legal issues and good health care outcomes.

While we welcome new arrivals, we bid farewell to two of our clinical faculty. **Paul LaZotte**, who supervised students in LAIP and the Criminal Appeals Project, joins the State Public Defender this month as an Assistant State Public Defender in the Madison appellate office. Paul has been working at the appellate office for the last two years in an interagency exchange, and so impressed the SPD that they offered him a position. **Amy McDavid** is also leaving us; she and her partner Jim Loter look forward to the birth of a son in September. Like Paul, Amy has been supervising students in LAIP and the Criminal Appeals Project. While working as a clinical instructor at the Remington Center, Amy completed her LLM degree, researching and writing a master's thesis on the plight of unrepresented criminal defendants in Wisconsin.

Finally, **David Connally**, who has acted as our front desk secretary-receptionist for the last two years, is leaving us . . . to attend law school! David will start as a 1L at the UW Law School in a few weeks. We hope to have him back soon on a very limited basis to answer inmate correspondence. And certainly we hope that David will consider enrolling in a Remington Center clinical project in a year or so! In the meantime, we wish him all the best as a new law student.
**Honors**

The **Restorative Justice Project** was honored by Chancellor John Wiley at the 2003 University and Community Partnership Recognition reception. RJP was honored for its participation in the Dane County Deferred Prosecution Victim Offender Conferencing Project. In this project, the Dane County Deferred Prosecution Unit refers cases to RJP that appear to be appropriate for victim offender conferencing, "giving victims of crime an empowering mechanism that often stands in contrast with the typical experience of a crime victim." RJP Director **Pete DeWind** attended the Chancellor's reception to accept this honor.

Remington Center Director **Meredith Ross** was honored by the *Wisconsin Law Journal* as one of ten attorneys recognized as "2003 Leaders in the Law." Meredith was honored for leading the expansion of clinical opportunities at the Remington Center, along with the Law School's expansion of services to low-income clients.

Law Student **Byron Lichstein** is the 2003 recipient of the Catherine Manning Award, which honors an outstanding student in LAIP. Byron started in LAIP in the summer of 2002, as a member of Wendy Paul's small group assigned to work with inmates at Racine Correctional Institution, Racine Youthful Offender Correctional Facility, and Oakhill Correctional Institution. When Wendy left in February to take a job at the State Public Defender's Office, Byron agreed to continue on several cases, including a significant appeal; and he impressed John Pray and Mary Prosser, his new supervising attorneys, with both the quality of his work and his commitment to his clients.

In May, the Dane County Bar's Delivery of Legal Services Committee honored Family Law Project student **Claire Starling** with the Committee's law student award for her extensive involvement in and commitment to *pro bono* legal work. Claire received the award for her tireless work with the Family Law Project, as well as her involvement in other law school organizations committed to *pro bono* and public interest lawyering, such as the Public Interest Law Foundation.

**Ann Roedl** (J.D. 2003) is the 2003 recipient of the Melvin Friedman Memorial Scholarship, which honors a student who has done outstanding work in the Wisconsin Innocence Project. As a 2nd- and 3rd-year law student, Ann was a committed and dogged worker with the Innocence Project. She was reliable, creative, and hard-working. John and Keith note that Ann held together several large cases through sheer determination and persistence.

**The Wisconsin Idea**

In May, Clinical Assistant Professor **Leslie Shear** and Law Student **Laura Sette** spoke to a statewide conference of Family Court Commissioners on issues affecting incarcerated parents. Their presentation included a slide show of prison visiting rooms, to alleviate concerns about the conditions children would encounter while visiting parents in prison.
The Wisconsin Innocence Project, co-directed by Clinical Associate Professors Keith Findley and John Pray, has joined with the Northwestern University School of Law's Family and Justice Center in filing an amicus brief in a case entitled In the Interest of Jerrell J., State v. Jerrell J. The amicus brief argues for greater protections against police interrogation tactics that run the risk of coercing false confessions from juveniles. The case is presently pending in the court of appeals.

In State v. McDowell, 2003 WL 21692650, the Wisconsin Court of Appeals essentially adopted the standard suggested in the Remington Center's amicus brief to govern how certain an attorney must be of a client's intent to commit perjury, before the attorney can breach confidentiality and refrain from assisting the client in presenting testimony. The amicus brief, written by Clinical Associate Professors Keith Findley and John Pray, suggested that "before defense attorneys can refuse to assist a client in testifying, they must know that the client will testify falsely based upon the client's affirmative statement of intent to lie." The McDowell court ruled that, "[s]ubject to certain qualifications and elaboration, we agree."

Update on the Friends of the Remington Center Endowment (FORCE)

Currently, the endowment fund raised by the Friends of the Remington Center Endowment (FORCE) totals over $195,000. FORCE is a private non-profit organization created to raise an endowment fund to help support summer stipends for students enrolled in Remington Center Clinical projects.

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

Advocacy and Community Education:
Neighborhood Law Project Advances
The Rights of Low-Income People

The summer 2003 students in the Neighborhood Law Project assisted numerous low-income clients in Dane County in landlord-tenant, employment, consumer, and public benefits matters. Eight students worked full-time under the supervision of Clinical Assistant Professors Juliet Brodie and Marsha Mansfield to engage in both individual representation/advocacy and community legal education.

Individual Advocacy
Two areas stand out in the summer 2003 NLP caseload. The students preserved the section 8 vouchers for a number of clients threatened with termination by the local public housing authorities. The section 8 program provides a voucher to low-income families that can be used in any approved private tenancy to subsidize the family's rent (the family never pays more than 30% of its income toward the rent). Given the lack of affordable housing in Dane County, and rents that are often $700-800 per month, a section 8 voucher is among any family's most valuable "assets"; its termination can quickly send a family into homelessness and crisis.

NLP students represented a number of clients in hearings before the public housing authorities to protect a family's voucher. In one hearing, where the recipient was being terminated because she had been unable to afford her portion of the rent, the student showed that the authority itself shared responsibility for the nonpayment of rent because it had incorrectly calculated the tenant's portion. The student successfully argued that the housing authority should exercise its discretion to restore the voucher and recalculate the tenant portion. In another case, a recipient was threatened with termination because she allegedly had an "unauthorized" person (a babysitter) living in her apartment. The student conducted a direct examination of the client before the hearing officer and demonstrated that, in fact, the babysitter had used the client's address without her permission and despite having been warned not to do it. The student persuasively rebutted the housing authority's evidence that the babysitter was living at the apartment, and the voucher was protected.

Section 8 cases provide students with the chance to research the federal law governing the program, conduct fact investigation involving both live witnesses and documentation, and engage in oral advocacy and examinations in an administrative setting. Often their efforts make a huge difference in protecting a low-income family's housing subsidy, and stabilizing their tenancy.

The other area in which NLP students gained expertise was the collection of unpaid wages under state law (Wis. Stat. §109). At any given time, NLP has a number of wage and hour cases open, and supervising attorneys try to give each NLP student a chance to work in this important area. Many -- but by no means all -- NLP clients are undocumented Latino workers, whose fly-by-night employers believe they will not be pursued for unpaid wages. NLP has sued a number of these employers in small claims court (while the amount in controversy is often under $1,000.00, even such an amount makes an enormous difference in the monthly budget of a family existing on under $10 per hour), and has seen many successes. In some cases, a letter announcing representation is sufficient to convince recalcitrant employers that, in fact, they must pay their workers.

NLP's most financially significant wage and hour case is on behalf of seven workers formerly employed by a commercial cleaning company. In total, they are owed over $13,000. That case is scheduled for mediation this summer. In these cases, NLP works closely with the Workers Rights Center, the Department of Workforce Development, and the Dane County District Attorney's Office. NLP is the only resource in our community, however, that files lawsuits on behalf of these workers. Like the section 8 cases, the wage
claims give law students the opportunity to engage in meaningful advocacy on behalf of clients who would otherwise go without representation. In many cases, they also afford the chance to draft pleadings and discovery and to negotiate with employers for fair and reasonable settlements.

**Community Legal Education**

The philosophy of NLP includes the belief that, in addition to providing representation to people who would otherwise go without it, lawyers for the poor have a duty to do whatever they can to empower low-income people to enforce their rights on their own, and to pursue new rights where they have none. To that end, in addition to managing an individual caseload, each NLP student is required to conduct a community legal education seminar on a topic of interest to low-income people in our community. NLP partners with the Dane County Job Center, "headquarters" for many public benefits programs, and performs regular workshops on site. Under the welfare reform act of 1996, recipients of public benefits such as W-2 and Food Stamps, are required to engage in significant programming to earn their benefits (if not actual work activity, then activities designed to get them ready for unsubsidized employment), and NLP workshops count toward their required hours.

This summer, NLP students provided workshops on eviction prevention and security deposit law and on employment discrimination, including discrimination on the basis of criminal records. The evaluations for all of the workshops were extremely positive; recipients appreciated the students' knowledge and enthusiasm. For the students, the workshops were a great chance to practice public speaking skills, to respond to questions, and to experience first-hand a group of low-income people's impressions of and experiences with the law.

New NLP students are starting in the fall, and they will continue on with their predecessors' work in both individual advocacy and community legal education. For more information about NLP, visit [http://www.law.wisc.edu/fjr/neighborhood/index.htm](http://www.law.wisc.edu/fjr/neighborhood/index.htm) or call Juliet Brodie at 262-4013.

**Students Now Have an Opportunity to Enroll in an LAIP "Clinical Semester"**

This fall, for the first time, the Remington Center is offering an intensive clinical semester open to second- and third-year law students. Six students applied for the course, and three students have enrolled so far. The students will be taking 13 credits of clinical work, along with a two-credit seminar titled Legal Practice and Professional Identity, for a total of 15 credits for the semester. Given the full-time commitment, students will be taking no other law school courses during the semester. Our hope is that the clinical semester will give students an "immersion" learning experience like that of our summer LAIP students.
The clinical semester students will be representing clients at the federal prison at Oxford, Wisconsin, assisting their clients with a wide variety of problems. These generally center around the validity of federal convictions and sentences under the complex federal sentencing guidelines. Other client problems typically involve resolving outstanding criminal matters from other jurisdictions, some family law matters, return of property, release hearings before the INS (we have number of clients who speak only Spanish), and U.S. Parole Commission hearings. The emphasis will be on trying to find creative, thoughtful and exacting ways to answer clients' questions and find solutions to their problems.

The weekly seminar component will explore the legal practice issues that arise out of the students' experiences with their clients and cases. Specific topics will include examining the historical role of the American lawyer and legal education; comparing the role and nature of lawyers in different societies; becoming and being a member of a professional community; examining professional judgment; and identifying the most important skills, knowledge, and values for lawyers. A central inquiry will be whether and how students can create a law practice for themselves that is successful and meaningful.

**The Wisconsin Innocence Project is Involved in Criminal Justice Reform**

The Remington Center's Wisconsin Innocence Project has been working to improve the functioning and reliability of the criminal justice system. As we reported in our February newsletter, Clinical Associate Professor Keith Findley participated in January as a member of a team from Wisconsin in the American Judicature Society's National Conference on Preventing the Conviction of Innocent Persons. Other members of the Wisconsin team included Judge Fred Fleishauer of Stevens Point, Dane County Deputy District Attorney Judy Schwaemle, Madison Police Captain Cheri Maples, and Madison Crime Lab Director Jerry Geurts.

The Wisconsin team identified three initial goals for improving Wisconsin's criminal justice system. First, the team established a goal of creating model eyewitness identification procedures in the Madison Police Department, which can then be expanded to other police departments. The Department will employ the latest learning from psychological studies on methods to reduce the risk of misidentification (including double-blind and sequential lineup and photo array procedures). Madison police received initial training on the new procedures this spring, and the Department has now drafted new policies and procedures to implement them.

Second, the team established a goal of heightening awareness in the criminal justice system, particularly among judges and prosecutors, of the risks and causes of wrongful convictions. To this end, the team put together a half-day program at the annual judicial training conference in May in Green Bay, featuring Professor Larry Marshall of the Northwestern University School of Law's Center on Wrongful Convictions; Professor Gary Wells of Iowa State University on eyewitness identification reform; and a panel, including the Remington Center's Keith Findley; along with Christopher Ochoa, who spent 12 years in prison in Texas before being exonerated by DNA, with the assistance of
the Wisconsin Innocence Project; Jeanette Popp, the mother of the victim in Ochoa's case; and Dane County Deputy District Attorney Judy Schwaemle.

Third, the team set a goal of creating a Criminal Justice Study Commission to more broadly study the causes of error in the criminal justice system, and to recommend best-practice reforms to improve that system. This goal coincides with plans being promoted by the State Bar's Criminal Law Section (again with support and input from the Remington Center) to create such a statewide commission, Sponsored jointly by the Criminal Law Section and the state's two law schools, the commission would invite participation from all interest groups and would consider such problem areas as eyewitness identification procedures, false confessions, use of jailhouse informant testimony, police investigation practices, the role of the prosecutor and defense counsel, forensic science, race, among others. Efforts to create the commission are ongoing.