

Systemic Change Efforts by UW Clinical Faculty

1977: Clinical Professor Ben Kempinen helped to develop Wisconsin's sentence credit statute (Wis. Stat. § 973.155), and collaborated with the Wisconsin Department of Corrections (DOC) to administratively apply the statute to defendants already in custody.

1980s-present: Professor David Schultz has served for many years on the Wisconsin Judicial Council, and serves as the reporter on a committee of the Council that has developed the Wisconsin Criminal Jury Instructions.

1980s: Professor Walter Dickey, now Faculty Director of the Remington Center, drafted administrative rules for the DOC, and served as head of the DOC for four years.

1983: Professors Dickey and Kempinen helped to revise Wisconsin's statutes governing "good time statutes; and, in collaboration with the DOC, consulted with each correctional resident to help them decide whether or not to "opt in" to the new law.

1998-2007: Clinical Professor Ben Kempinen helped to modify Wisconsin's rules of professional responsibility to address how to deal with unrepresented litigants in both criminal and civil cases.

2001: clinical faculty in the Wisconsin Innocence Project (WIP) helped draft and enact a new state law that requires Wisconsin's law enforcement agencies to preserve biological evidence after conviction, and provides prisoners a right to prompt postconviction DNA testing in cases in which favorable test results would create a reasonable probability of a different outcome in the case. *See* Wis. Stat. §§ 165.75(3)(g), 165.81(3), 757.54(2)(b), 968.205(2), 974.07, and 978.08(2).

2003-2005: WIP worked with the Wisconsin Assembly's Judiciary Committee to create a Task Force on Criminal Justice Reforms. The task force produced landmark legislation enacted in 2005, including:

- a requirement that every law enforcement agency in Wisconsin adopt written policies governing the way it conducts eyewitness identification procedures, which must be designed to minimize the risk of eyewitness error (*see* Wis. Stat. § 175.50); and
- a requirement that custodial interrogations in all juvenile cases and in adult felony cases must be electronically recorded. *See* Wis. Stat. §§ 938.195, 938.31, 968.073, and 972.115. This reform has been widely recognized as the most important step to guard against false confessions, while also producing powerful evidence against guilty defendants.

2004-2007: Clinical Professors Ken Streit and Ben Kempinen served on the Wisconsin Ethics Committee in connection with a complete revision of Wisconsin Rules of Professional Conduct for Attorneys.

2006: WIP worked with the Wisconsin Department of Justice to draft the Attorney General's Model Policies on Eyewitness Identification and Model Policies on Electronic Recording of Custodial Interrogations. WIP also helped the Wisconsin Department of Justice develop and present training to law enforcement officers throughout the state on the Department's new policies and procedures on eyewitness identifications.

2006: Clinical Professor Ben Kempinen prepared a report for the Chief Justice of the Wisconsin Supreme Court describing local innovations in select Wisconsin communities as part of an effort to obtain grant funding for local innovations throughout Wisconsin.

2006-2008: WIP partnered with the Wisconsin Department of Justice, the State Bar of Wisconsin, Marquette Law School, and the University of Wisconsin Law School to create, staff, and participate in the Wisconsin Criminal Justice Study Commission. The Commission brought together police, prosecutors, defense attorneys, judges, academics, victims, and community leaders to study the causes of wrongful convictions and to recommend reforms to prevent such injustices. Clinical Associate Professor Byron Lichstein served as staff attorney for the Commission. The Commission's work has resulted in important and widely disseminated policy papers on reports on the backlog in the DNA sections of the Wisconsin State Crime Laboratories (supporting legislation that increased resources for the laboratories) and the problem of false confessions.

2007: Clinical Associate Professor Mary Prosser testified before the Assembly Committee on Elections and Constitutional Law regarding a bill to allow felons to vote after their release from prison.

2007-2010: Students in the Hayes Police-Prosecution Internship program worked with police to develop responses to the problems of sexual assault on the UW campus.

2007-present: Clinical Professor Meredith Ross has worked with a committee of the Wisconsin Judicial Council to revise the Wisconsin statutes governing presentence investigation reports.

2008: Clinical Professor Ben Kempinen helped resolve issues regarding the potential unauthorized practice of law in connection with a local nonprofit that provides bilingual help to non-English speaking criminal defendants in Dane County.

2008: Clinical Professor Ben Kempinen helped create a state-wide work group of Criminal Justice Coordinating Council Coordinators.

2009-present: Clinical Associate Professor Mary Prosser is in the midst of a large, interdisciplinary study of the prosecution and consequences of prosecution of young persons convicted of consensual teenage sexual intercourse or sexual contact (statutory rape). This 10-county study is attempting to determine what factors affect prosecutorial, dispositional, and revocation decisions as well as whether the traditional risk instruments used to assess sex offenders are accurate for this group.

2010: Remington Center clinical faculty worked to have Wisconsin adopt ABA MRPC 3.8(g) and (h) concerning a prosecutor's duty to correct a wrongful conviction (Wisconsin was the first state to adopt this ABA rule).

2010: Clinical Professor Ken Streit and Milwaukee County District Attorney John Chisholm co-authored an article in *Wisconsin Lawyer* that reviewed current sentencing practices and suggested substantial changes to Wisconsin's sentencing statutes.

2010: Clinical Associate Professor Leslie Shear co-authored an article surveying the social science research on the risks and benefits of children's contact with their incarcerated parents, and recommending best practices for these difficult situations.

2009: Clinical Professor Keith Findley testified before the U.S. Senate Judiciary Committee, ("Strengthening Our Criminal Justice System: Extending the Innocence Protection Act,") Washington, D.C., about extension and revision of federal grant programs to fund postconviction DNA testing.

2011: Clinical Professor Michele LaVigne, who has written in the past on the situation of deaf people in the legal system, co-authored an article, aimed at lawyers and judges, that looks more closely at the situation of defendants (especially juveniles) who have less obvious communication disorders.

2010: Clinical Professor Ken Streit is currently working with actors in Milwaukee County's criminal justice system to implement a federal grant that uses an evidence-based approach to improve community supervision.

2010: Clinical Assistant Professor Sarah Orr testified in favor of a proposal to cap the interest rate for "licensed lenders" (payday and auto title) at 36% (some compromise protections enacted which limited the total payday debt a consumer could have outstanding, limited loan rollovers, and required lenders to consider a person's income in determining how much s/he could borrow).

2010-present: Clinical Professor Marsha Mansfield serves as Secretary and Chair of the Research & Resource Development Committee of the Access to Justice Commission, appointed by the Wisconsin Supreme Court to increase access to justice for Wisconsin's underserved populations.

2010-2011: Clinical Assistant Professor Mitch developed a court approved form that allows families at risk of homelessness to stay eviction actions while they are waiting to receive emergency assistance benefits. The form includes instructions and is now available state wide.

2011: Clinical Professor Keith Findley and students with the Wisconsin Innocence Project have worked with a group of bipartisan legislators to draft and introduce a bill that is designed to streamline and improve the procedures for awarding compensation to wrongly convicted individuals, increase the statutory amounts for such compensation, and provide systems for

supporting exonerees upon release that include housing, medical care, education, counseling, and employment assistance.

2011: Clinical Professor Marsha Mansfield served on the Joint Legislative Council's Special Committee On Review Of Spousal Maintenance Awards In Divorce Proceedings.

2011: Clinical Professor Marsha Mansfield testified against AB 54, relating to equalizing physical placement in family disputes.

2011: Clinical Assistant Professor Mitch testified against SB 107, regarding proposed changes to rental housing laws that seek to eliminate local government regulation of rental housing practices.

2011: Clinical Assistant Professor Mitch successfully obtained a Court of Appeals decision finding that "a reasonable attorney fee" should include a reasonable market rate for work done by attorneys and law students or law clerks (330 Wis. 2d 497, 2009 AP 2344).

2011: Clinical Assistant Professor Mitch worked with a coalition of workers and worker's rights organizations to highlight the issue of wage theft in the community. They met and worked with the District Attorney's office to coordinate limited resources and a referral process for prosecution of the worst wage thieves.

2011: Clinical Assistant Professor Sarah Orr testified in favor of a proposal to require 3d-party debt collectors to comply with the special statutory pleadings requirements that debt collectors must follow (failed).

2011: Clinical Assistant Professor Sarah Orr testified against a bill that included the factors a court must consider in awarding attorneys fees in fee-shifting cases (such as consumer law, employment law, landlord/tenant and others).

Over the years, UW clinical faculty and students have written numerous amicus curiae briefs in important cases that have had a significant effect on Wisconsin law in areas such as sentence credit, sentence calculation, postconviction procedure, and wrongful convictions.