August 2, 2012

Annual Report to the Dean

From: Bill Quigley

Re: Loyola Law Clinic – August 1, 2012

The Stuart H. Smith Law Clinic and Center for Social Justice moved into its new building in 2011 and enrolled the highest number of law students ever. There were 94 students in the fall and 85 in the spring not including those in externships, street law, law and poverty, or criminal law courses taught by clinic faculty.

Third year law students handled hundreds of cases for low income people in the greater New Orleans area. When the 2011 academic year opened the clinic had 182 open cases. We opened 157 new cases during the year and closed 239, leaving us with 339 open cases.

Below are summaries of some of the excellent work performed in different sections of the clinic.

Children’s Right Clinic – Ramona Fernandez

The newly created Children’s Rights Clinic at Loyola evolved out the need to address the issues affecting children in our community. During the last three years, the Law Clinic has experienced a growing number of Special Immigrant Juvenile (SIJ) cases. Initially, the Family Law section of the clinic was handling the Special Immigrant Juvenile cases. However, as the number of cases grew the clinic saw that there was a need to create another section of the clinic to address the children’s issues. Students in this clinic work on legal issues such as and Special Immigrant Juvenile cases, Guardian ad Litem, voluntary transfers of custody and intra-family adoptions cases.

Students working on SIJ cases practice in Juvenile or District court, depending on the circumstances of each particular child. Because all SIJ cases require an immigration attorney as well as the services of an interpreter, clinic students in both the Children’s Rights Clinic and the Immigration Clinic have to work closely together in all aspects of the representation until a judgment from the district court is obtained. I also taught Street Law each semester. The purpose of Street Law is to provide legal education to lay persons while also aiding in the professional development of law students. Street Law seeks to provide greater understanding of the law to those outside the legal profession and promote the use of interactive educational methods to develop academic, critical thinking, and civic skills. Law Students, as law teachers to middle and high school students and community members, are an integral part of these efforts.
Community Justice – Davida Finger

Over 2011-12, the Community Justice section has continued to work on both individual and impact/class action civil litigation. This section of the clinic handled a variety of cases in administrative proceedings along with cases in local, state, and federal courts. Approximately 32 new cases were opened this year and students also worked on a number of ongoing cases from the previous academic year.

The Community Justice section accepts referrals from Southeast Louisiana Legal Services (SLLS) housing unit and has become known as a community resource for tenants experiencing landlord-tenant difficulties with cases involving: security deposits, eviction, and Section 8/public housing termination. Every Community Justice student practitioner handled a number of these cases over the past year as the lead attorney and represented their client in court. Over 2011-12, the Community Justice section also represented the Greater New Orleans Fair Housing Action Center (GNOFHAC) on six housing discrimination cases where testing evidence revealed housing providers’ violations of the Fair Housing Act in leasing rental units in the Greater New Orleans area. Student practitioners worked in pairs as the lead attorneys on these cases. With our emphasis on negotiation and settlement, we settled half of the 2011-12 cases without filing suit and retrieved attorney’s fees.

Our focused work on housing matters has enabled student practitioners to develop unique expertise on housing for poor people. Clinic students were the lead drafters of a letter to HANO with recommendations for specific policy changes to yield improved landlord accountability and lessen habitability problems for subsidized units. In another example, the Yale Law School Human Rights clinic met with the Community Justice student practitioners to examine homelessness in New Orleans. Our students explain the root causes of homelessness in our community based on their knowledge of our clients’ experiences with housing.

Our work on impact cases has enabled students to learn about and gain experience with additional substantive and procedural areas of the law. For example, in connection with the Ridgely v. FEMA case and FEMA’s new collection practices initiated in 2011, student practitioners completed significant work on the agency’s revised debt collection practices and served as the lead attorneys on four separate administrative appeals with requests for conciliation and waiver as the agency sought new recoupments following the class action Ridgely settlement. Through their successful work on these individual cases, students participated in calls with FEMA’s general counsel and SLLS public benefits attorneys. Students learned the Freedom of Information Action (FOIA) and drafted three FOIA requests to the agency on issues connected to the agency’s general collection efforts. Students maintained regular contact with FEMA counsel to advocate for their clients. Students also maintained excellent client communication and sifted
through years of FEMA documents in order to draft administrative appeals and various requests on behalf of clients. Students were actively engaged in developing education and advocacy materials for FEMA's most recent waiver procedures in 2011-12 including drafting appeal and waiver templates to assist debtors and advocates in Louisiana and Mississippi through the administrative process. Students also drafted summaries of their clients' stories for use by Clearinghouse Review in a larger advocacy on the subject of FEMA debt collection.

**Criminal Defense and Homeless Clinic - Judson Mitchell**

Judson Mitchell supervised our criminal defense clinic in which students handled various felony jury and judge trials. Notable cases in the last year included one in which the defendant was identified by a match from a DNA database. Judson and his students worked with Anna Duggar, Director of the Forensic Chemistry Program on main campus, to analyze the evidence and present a defense. His students also worked successfully with former La. Supreme Court Justice Harry Lemmon to assist a severely brain-damaged woman who was facing imprisonment for a minor violation of sex offender notification laws. Judson continued to run our Homeless Advocacy program, which provided criminal defense representation to over 100 homeless persons in Orleans Municipal Court in the last year, and our Pro Bono program. He began the preparation for our new Litigation and Technology Clinic which will be offered this Fall. As part of this effort, he attended the "Technology In and Beyond the Classroom" conference at the North Carolina Central University School of Law and worked with Prof. Mary Zulack of Columbia and Grainne O'Neal of Harvard Law to design the new course. Judson also acted as a mentor for and served on the board of the Justice and Accountability Center of Louisiana, a non-profit started by alums Adrienne Wheeler and Ameca Reali which is funded by a competitive grant from Echoing Green. Judson also released the newest version of his free and open source case management software, ClinicCases, which is in use at various law schools throughout the country.

**Criminal Defense Section – D. Majeeda Snead**

Professor Snead supervises a criminal defense section of the clinic. Students were assigned several felony cases in Orleans Parish Criminal District Court. Throughout the course of the year students are taught the skills needed to handle their cases from the initial appointment through conclusion. Students learn the art of interviewing clients and witnesses, fact investigation, pretrial and trial strategies and procedures. Although several cases were prepared to go to trial, students having worked on and mooted each aspect of the trial, each of the cases were plead on the day of trial. Specially, a second
degree murder case was reduced to manslaughter, an armed robbery case where the defendant was facing 30 years as a multiple offender was reduced to an attempt armed robbery and the defendant received a 10 year sentence; and a distribution of marijuana was reduced to a misdemeanor possession and the defendant was placed in drug court. Additionally, students wrote and filed a brief in the Fourth Circuit Court of Appeal challenging the excessiveness of a sentence. Unfortunately, I had to argue the case before the Fourth Circuit because argument was not heard until July 11, 2012.

In addition to supervising students in the clinic, Professor Snead also served as the Interim Director of Skills from mid-January until the end of May, 2012. Her duties included finding and coordinating with instructors to teach skills courses, attending or finding someone to attend the skills courses when she was unavailable, and addressing the various concerns of both the skills faculty and students.

Professor Snead was a guest lecturer, discussing mental health issues in criminal trials, in the Criminal Law Seminar taught by Judges Berrigan and Johnson. She is also the law school’s appointee on the Louisiana Public Defender Board. Professor Snead. At the AALS clinic conference she served as a Small Group Facilitator and was a presenter at the CLE of Louisiana Conference in St. Thomas, VI.

Criminal Defense – Stephen Singer

The primary focus of this clinic section is on indigent people charged with serious felony criminal offenses primarily in Orleans Criminal District Court and occasionally in surrounding parishes. In the past, clinic students have also handled appeals including oral arguments in the Louisiana intermediate appellate courts as well as the Louisiana Supreme Court. Clinic students have also handled particularly serious juvenile cases, usually homicides, in the Orleans Juvenile Court. Clinic students in this section are given direct and primary responsibility for handling all aspects of the representation including all communications with clients, including meeting with clients in jail, case investigation including locating and interviewing witnesses, as well as all court appearances from bail hearings through evidentiary motions hearings as well as felony jury and bench trials. Students handle on average three to six cases during the course of the year depending on the seriousness and complexity of the case and the length of time it takes to resolve the case as well as their involvement in other “special litigation” projects. Depending on the size and complexity of the case, some are handled by one student alone working with the supervising professor, while others are assigned to teams of students working in pairs. Students are usually assigned a mix of solo and team assignments so that they experience both sole responsibility for an entire case as well as having to work in a team setting with another student attorney. Students are
also required to assist on each other’s cases in order to conduct investigation including interviewing witnesses and taking witness statements, photographing and documenting crime scenes, and the like.

**Family Law Section – Cheryl Buchert**

The Family Law Section supervised by Clinical Professor Cheryl P. Buchert had eleven student practitioners in the Fall 2011 semester and nine in the Spring 2012 semester. The section had a case load of 64 cases during the 2011 - 2012 school year. We closed 48 cases and still have 16 cases that are currently open for the new Fall 2012 clinic students to continue working on. The type of cases this past school year included: custody, child support, divorce, attorney for the child, attorney for an interdict, curator, and Special Immigration Juvenile Status custody. We also prepared Last Will and Testaments, Powers of Attorney, Medical directives, and Living Wills for veterans in our newly established Veterans Outreach Program designed to assist our veterans in family law matters. We practiced in two different parishes and courts: Orleans Parish Civil District Court (CDC) and the 24th Judicial District Court for the Parish of Jefferson. We had a total of 46 court appearances, 14 in the Fall and 32 in the Spring. The student practitioners interviewed and counseled clients, prepared and filed pleadings in court including memos of law, conducted legal research, negotiated with opposing attorneys, and appeared in court for hearings and trials to argue before judges and examine and cross-examine witnesses. Class time included professor lectures, case rounds, and guest speakers, including a custody evaluator and mediator, diversity and cross-cultural lawyer expert, custody litigator, a private investigator, and former clinic students.

Our class also volunteered at the CDC Self-Help desk on Fridays in the Fall 2011 and Spring 2012 school terms with their clinical professor to assist indigent litigants that do not have attorneys.

The hi-light of the year was that our section founded and presented the Veterans Know Your Family Law Rights Nights with Student Practitioner, Sarah Mejias. The events were held on January 18, 2012 and February 29, 2012. The Family Law Clinic students answered questions about family law issues and drafted Wills and Powers of Attorney for Veterans.

**Immigration Section: Hiroko Kusuda**

The Immigration Section clinic students appeared before the New Orleans and Oakdale Immigration Courts, U.S. Citizenship and Immigration Services and U.S. Immigration
and Customs Enforcement, drafted pleadings, including motions and briefs, and filed appeals with the Board of Immigration Appeals and petitions for review with federal Circuit Court of Appeals. During this period, Professor Kusuda and her students made 44 court appearances and CIS interviews and conducted 76 in-person consultations. The Section also visited detained clients at Oakdale Federal Detention Center in Oakdale and South Louisiana Correctional Center in Basile, Louisiana.

During this period, the Section had between 55 and 70 cases involving people who are victims of serious crimes and human trafficking, fled from persecution, survivors of torture, unaccompanied children, lawful permanent residents with criminal convictions, and long-term U.S. residents.

The Section conducted the monthly Know Your Rights legal orientation program at Tensas Parish Detention Center, located in Waterproof which is a hour and a half hours away from New Orleans. The Section clinic students participated at least once in a semester and interviewed the immigrant detainees along with other volunteers. In this period, the Section conducted twelve “Know Your Rights” legal orientation programs, and provided general information and individual interviews to 475 detainees. The Section has received 5 to 10 phone calls daily from individuals and family and friends of individuals facing immigration problems during this period. We also offered mentoring to over a dozen local private and non-profit immigration bar members. During the fall 2011 and spring 2012, the Section had four undergraduate interns and one college graduate intern. There are six law student interns and one undergraduate intern working at the Section this summer.

During this period, the Section represented clients from Burma, Honduras, Mexico, India, Cuba, El Salvador, Eritrea, Ethiopia, Peru, Haiti, United Kingdom, Vietnam, Guatemala, Japan, Jordan, Republic of Congo, Kyrgyzstan, and Germany. The clinic students worked in the following types of cases: U and T visas, Voluntary Departure, Asylum, Withholding of Removal, UN Convention Against Torture, Special Immigrant Juvenile Status, Cuban Refugee Adjustment Act, Adjustment of Status, Cancellation of Removal, Motion to Reconsider and Reopen, Removal of Condition on Lawful Permanent Resident Status, Prosecutorial Discretion, Post- Conviction Relief. The Section also filed a petition for review with the Fifth Circuit and the Ninth Circuit Court of Appeals for its clients seeking asylum, withholding of removal and relief under the UN Convention Against Torture.

The Section successes include: obtaining T visas for labor trafficking victims, U visas for victims of domestic violence, Special Immigrant Juvenile status for unaccompanied minors, and approval of removal of conditions on lawful permanent resident status, winning a motion to suppress evidence for a worker who was arrested by ICE at a large-scale worksite raid and for a victim of Border Patrol abuse.
Professor Kusuda served on the conference planning committees for AILA Annual Conference and AILA Midsouth Fall Conference. She made presentations at AILA Annual Conference in Nashville, Federal Bar Association Immigration Conference in Memphis, Jesuit Social Research Institute Detention Conference, AILA Midsouth Fall Conference in Memphis, ABA Mid-Year Conference. She also presented “FGM and US Immigration Law” for Tulane Law School Human Rights Society, and “Immigration Law and Family” at Tulane University Department of Social Work, Joint Brown Bag Session on Motion to Suppress with New Orleans Worker Center for Racial Justice,” and served as a panelist in “Career in Immigration Law,” an event hosted by Loyola College of Law Career Service Office.

The Section participated in the community program in Hattiesburg, Mississippi and made presentation on immigration reliefs for crime victims along with Hattiesburg Police Department and other community based organizations. Professor Kusuda volunteered as a pro bono immigration attorney for Loyola Law Clinic Family Law Section’s “Veterans' Family Law Day” and she and her clinic student participated in the “Citizenship Day,” an event sponsored by Catholic Charities of Baton Rouge on April 21, 2012. Professor Kusuda was invited to the Community Roundtable Meeting hosted by USICE Public Advocate’s Office in May 2011. She and clinic students also participated in two AILA-EOIR liaison meetings and hosted two AILA-ICE liaison meetings.

In September, 2011, Professor Kusuda visited Port-au-Prince, a capital of Haiti, with the staff of the Center for Constitutional Rights to investigate human rights practices in the country, especially the treatment of the people who had been deported from the U.S... The team interviewed the deportees at a local jail, representatives of USAID, DOS, IOM, and local non-profit organizations, and the deportees whom Loyola Law Clinic had interviewed at a Louisiana detention center in December 2010. After this trip, the team submitted an updated report to Inter-American Commission on Human Rights urging them to halt further deportations of Haitians. In October, 2011, Professor Kusuda was invited by Servicio Jesuita para Migrantes Centroamerica in El Progreso, Honduras, to participate in a meeting of JRS representatives from Mexico and Central American countries. During the meeting JRS representatives of each country made presentations on the hardship and persecution that migrants face in their country and their efforts to help them.

Prosecution Bill Quigley

There were 8 clinic students in the Orleans Parish District Attorney’s Office and 7 in the Jefferson Parish District Attorney’s Office in the Fall 2011 semester. In the Spring of 2012, there were 8 students in each office. One student wrote: “Clinic was truly the
most interesting, engaging and rewarding experience of my entire law school career. Prior to clinic I felt like law school was one sided: Professors teach; students listen. But clinic allows students to see what it is really like to be a lawyer.” Another wrote: “I was never impressed by Loyola’s quality of the education, career services or organization, but the clinic program has changed my outlook on the school. If I knew someone who was applying to Loyola I would tell them to do it for the clinic program alone.”

Skills and Externs – Christine Cerniglia

In May 2012, Christine Cerniglia joined the clinic faculty to teach and supervise the new Office of Skills and Experiential Learning. In the brief time she has been with the clinic she has reviewed the existing program, recruited new teachers, worked to make more offerings interactive, and made numerous substantive and administrative changes to the program. Changes include: developing two types of skills classes – Lecture Series and Practicum series; standardizing credits for skills; adopting local rules to clarify rules and expectations for students and faculty; eliminating the old categories and focusing more on skill development; and separating academic courses and skills on transcripts. Many more changes are coming but we are excited about having Christine with us. Christine will also be the faculty person in charge of teaching the externship program. She is looking into expansion of the program both in terms of placements and to cover summer sessions.

Workplace Justice and Externs – Luz Molina

Prof. Molina supervised both clinic students and externs during the 2011-2012 academic year. This was her last year supervising extern students which, in light of some restructuring, will be henceforth supervised by the new clinic professor, Christine Cerniglia. Externs were placed in various agencies including Federal Court, Eastern District, the Federal Fifth Circuit, the United States Attorney’s Office, the State of Louisiana Fifth Circuit, the Juvenile Justice Project, and the Advocacy Center. Requirements included a regular class component, reflection papers through periodic journals, as well as class presentations.

Law Student Practitioners were supervised in a labor and employment law practice which included lectures in the areas of wage and hour law, discrimination under Title VII and the Immigration and Nationality Act, labor liens, collections and bankruptcy. These areas reflect the nature of the litigation assigned to student practitioners. She continued to supervise the weekly Wage Claim Clinic for immigrant and low wage workers, which also served to teach interviewing and counseling to student practitioners, in addition to
serving as a volunteer opportunity for bilingual community members, service learning opportunity for undergraduate students at Loyola and pro bono work for law students from Tulane Law School.

The Wage Claim Clinic rendered service to 510 workers, wrote 71 demand letters, demanded $451,000 in unpaid wages and yielded 49 cases for litigation by the Workplace Project. As noted in the previous year’s report, the Workplace Justice Project operates on the premise that social change is possible for immigrant and low wage workers who suffer abuse at the hands of their employers, through an integrated approach that seeks to educate workers and the community regarding rights available to workers, litigate their related claims, and shape and promote appropriate changes in the law and culture which address such abuse.

The Project has continued to seek funding to continue this work, and was successfully awarded a three year grant in the amount of $450,000 from Baptist Community Ministries, $22,000 from the Greater New Orleans Foundation (previous one ended December 2011 and the new one ends December 2012), $35,000 from the Louisiana Bar Foundation (previous ended June 2012 and the new one ends June 2013) and $50,000 from the Foundation for Louisiana (ends December 2012). As a result, the Project will be able to hire a full time Wage Claim Clinic Administrator and a full time Policy Advocate for a period longer than one year. This will allow a more ample educational component to be offered to student practitioners in this section, including training in advocacy and cultural competency.

Professor Molina has continued her work with the Louisiana Bar Association through the Access to Justice Committee and the Access to Justice Policy Committee, serving as the co-chair of the Access to Justice Committee. She has been reappointed by the current Bar President for the year 2012-2013. Additionally, she again represented the Louisiana Bar Association at the Justice Conference held in October 2011 in Baton Rouge, LA. She is currently a member of the Employment Law Task Force managed by the Access to Justice Section of the Bar Association and participates in a variety of efforts promoting administrative and/or legislative efforts to codify language access rules/laws affecting the courts. In this regard she participated in a collaborative effort on a Language Access chapter for the Gillis Long Pro Bono Desk Manual. She was also invited to make a presentation on Special Immigrant Juveniles to the “Together We Can” Conference of social workers in the fall of 2011, and has participated in other educational outreach efforts on behalf of the Wage Claim Clinic, the use of interpreters. As was noted in the previous report, she was appointed in the spring of 2011 to the committee for the AALS 2012 Clinical Conference and served in that capacity until the conclusion of the conference, which was held in Los Angeles, CA in May 2012. Last, she was elected chair of the board of UNITY for the Homeless and will serve in that
capacity for the next year, possibly two. She obtained further training in clinical teaching through the Georgetown Summer Institute, which she attended June 2012.