



The Public Interest Advocate

Fall 2010

Students Tackle Housing & Public Benefits Cases in New Poverty Law Clinic *by Kelly O'Bryan*

DePaul's new semester-long Poverty Law Clinic will provide students with the unique opportunity to take on cases involving public benefits and housing issues.

"There's been a great student interest and demand for what's referred to as a traditional poverty law clinic. We are delighted to be able to respond to that demand and start one," says Associate Dean of Clinical Programs Andrea Lyon.

Under the supervision of Professor Anita Maddali, clinic students will learn critical litigation skills, interview and counsel clients, and learn the substantive areas of housing and unemployment benefits law. Professor Maddali, a graduate of Northwestern School of Law, started her career as an Equal Justice Works Fellow at the Northwestern Legal Clinic. Maddali later worked at the Mexican American Legal Defense and Educational Fund, where she litigated cases in the areas of

immigration, education and employment discrimination.

Today, Maddali is excited to lead DePaul's new Poverty Law Clinic. "This has always been an important clinic for a law school," Maddali says. "Especially in this economic downturn, when many more people are in need of free legal services."

The Poverty Law Clinic will be receiving cases from the Legal Assistance Foundation of Metropolitan Chicago (LAF), a nonprofit organization that provides civil legal services to low-income and disadvantaged communities. Students will also work on research projects for the Chicago Coalition for the Homeless, which advocates for public policies to curb homelessness and staffs the only legal aid office in Illinois dedicated solely to serving homeless clients.

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Professor Anita Maddali

Federal Court Declares Prop 8 Unconstitutional *by Liz Lyons*

On August 4, 2010, Chief Judge Vaughn Walker of the Federal District Court for the Northern District of California decided *Perry v. Schwarzenegger*, declaring California's ban on same-sex marriage invalid under the Due Process and Equal Protections clauses of the 14th Amendment to the United States Constitution. California's same-sex marriage ban was instated in November 2008 via voter referendum Proposition 8, which amended the state constitution.

The *Perry* case, brought by two same-sex couples, challenged Proposition 8 ('Prop 8') on federal constitutional grounds. The defendants, all state

government officials sued in their official capacities, declined to defend against the plaintiffs' challenges. In lieu of the original defendants, the proponents of Prop 8 intervened. The city and county of San Francisco also intervened, but on the plaintiffs' side. Thus, the *Perry* case proceeded to a full trial with the two couples and a supportive city and county, pitted against the official proponents of the Prop 8 state constitutional amendment.

The plaintiffs called multiple witnesses to testify to the harm caused by Prop 8, to the animus de-

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Pusateri Scholarship Funds Public Interest Work *by Caroline Manley*



(L-R) Mrs. Lawrence Pusateri, Caroline Manley, Mr. Paul Pusateri

This year, I was the fortunate recipient of the Justice Lawrence X. Pusateri Fellowship. Named for the 1953 DePaul law graduate, who over the course of his career served as a judge, legislator and attorney, the Pusateri Fellowship provides a stipend to one law student each summer to work in public interest law. The fellowship allowed me to move to Washington, D.C., to work with the American Association of Retired Persons (AARP)—the largest membership organization for people over age 50, and a fierce advocate for this population.

I spent my summer at AARP Foundation Litigation on the Health and Long-Term Care team. The AARP Foundation is the nonprofit arm of the AARP, and the litigation teams work on hotly contested legal issues that impact members of the American population who are over 50 years old. Primarily, the attorneys on the litigation teams engage in direct representation of clients and file amicus briefs in high courts across the nation.

The Health and Long-Term Care team works on various issues, including guaranteeing access to affordable prescription drugs, fighting arbitration clauses in nursing home contracts and ensuring that community-based services are available to seniors.

The attorneys at the foundation are extremely knowledgeable of their subject area and very passionate about their work. The cases that the AARP takes on

are often class action suits where the results have an immense impact on the class of plaintiffs.

Summer intern Tara Stearns, a second-year student at Georgetown Law, reflects on her experience:

“I didn’t have much of a background in health law before coming to AARP, so the summer was a great educational experience for me. But, perhaps more important than the legal education, was seeing the impact of AARP’s litigation. It showed me that public interest attorneys can make a real difference in people’s lives and inspired me to continue along a public interest path.”

The legal interns worked on many different projects, including legal research and drafting amicus briefs. However, the attorneys also planned fun events for the interns.

Erin Roohan, Georgetown Law student and employee benefits team intern, says, “You can tell AARP Foundation really wants their interns to have a great summer experience. I got the chance to do substantive work, met great people, and went on my first sailing trip.”

The interns also had the opportunity to attend a Nationals game, visit the Supreme Court and march with AARP in the Washington, D.C. Pride Parade.

The Pusateri Fellowship helped me to cover my travel and living expenses, and allowed me to make many great connections in Washington, D.C. The generosity of the Pusateri family, and all of the funders for students interested in public interest law, allows students to learn about interesting areas of law, while providing legal service organizations with extra help to serve vulnerable communities.



Manley at the American Association of Retired Persons office in Washington, D.C.

All 10 spots in the Poverty Law Clinic are filled for the fall 2010 semester. Interested students should apply for spring 2011.

Poverty Law Clinic

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Alex Campbell, a third-year DePaul law student, looks forward to participating in the clinic. “As soon as I learned that DePaul would be offering a poverty law clinic this fall, I knew that it was the perfect fit,” said Campbell. “It is a chance to use the skills I’ve learned in previous classes and jobs to help real people with real legal issues.”

With a \$1 million endowment announced in May

2010, DePaul is continuing to expand its clinical legal programs. The Poverty Law Clinic, along with the other nine clinics, gives DePaul students essential hands-on experience and teaches them practical skills outside of the formal classroom setting.

“One thing clinics teach is that the facts don’t come in three paragraphs at the beginning of the brief. They’re out on the street and you have to go get them,” says Professor Lyon.

Alumni Profile: Sue Gamm *by Nickole Miller*

Sue Gamm ('76) is the former Chief Specialized Services Officer of the Chicago Public Schools (CPS) and Division Director of the U.S. Department of Education's Office for Civil Rights (OCR). She currently works as an independent educational consultant, traveling the country conducting systematic reviews of special education programs for school districts and providing advice on related matters. Ms. Gamm sat down with law student Nickole Miller ('12) to talk about her experiences since graduating from DePaul.

What made you decide to study law?

In 1972, I was working with the National Lawyers Guild (NLG) in Chicago, which I became involved in through friends at the People's Law Office. Through the NLG office we organized community education projects, anti-war protests, and started our own newspaper called "Up Against the Bench." I decided to go to law school to become a better organizer and advocate.

How have those skills helped you in your career?

My career path has been rather nontraditional. After law school my first job was at the Child Advocate Association where I worked with hospitals and social service agencies in the area of child abuse and neglect. Afterwards, I worked for many years with OCR and CPS in Chicago, where I worked to improve the school district's special education services. For the last six years I have been doing my own private consulting work with organizations and school districts to provide better support for students with disabilities and those with academic and behavioral difficulties. Even though I am not a "traditional"

lawyer, my JD has been invaluable. A JD gives you an advantage regardless of your ultimate career choice because you are able to think like a lawyer, communicate with other lawyers, and the degree gives you instant credibility.

Do you have any favorite memories from your time at DePaul?

In 1973, DePaul was an exciting place to be. It was one of the first years with a significant population of women at the law school. At the time there were no classes focusing on my interest, youth and the law, so I arranged an independent study. I ended up writing a paper on the topic, which I later presented to the Illinois State Board of Education's General Council. Eventually the Constitutional Rights Foundation of Chicago transferred my work into a booklet called "Youth and the Law: Rights and Responsibilities."

Any words of wisdom for future DePaul Law Graduates?

Remember that your job does not have to be a means to an end. You can and you should thrive on the content of your work. Ask yourself, "What makes me excited?" You should try to get what you can out of your classes, but also try to figure out what you are passionate about. Participate in law clinics, independent studies and internships that interest you. If there are none, do not be afraid to go out and develop your own opportunities.



Ask yourself, "What makes me excited?" You should try to get what you can out of your classes, but also try to figure out what you are passionate about.

-Sue Gamm ('76)

CPIL Welcomes New PBCSI Director *by Chastidy Burns*

Cheryl Price, the new director of the Pro Bono & Community Service Initiative (PBCSI), has a wealth of experience and motivation to offer law students.

A 2000 graduate of Loyola University Chicago School of Law, Price took part in the Civitas ChildLaw program, which she says prepared her well for a future in public interest law. The classes in her program collaborated with social work students to analyze issues and try to develop solutions.

This was helpful, according to Price because "a lot of legal aid work entails working collaboratively with other disciplines."

Price's work history has allowed her to gain an understanding of multiple facets of the legal profession. Her first job out of law school was as a clerk at the Federal Court of Appeals for the 3rd Circuit in Pennsylvania.

Prior to joining the College of Law, Price worked in corporate litigation at Schiff Hardin in Chicago. She later joined a small firm where she practiced education law, representing school administrators in cases involving special education, residency, school discipline and First Amendment issues.

In addition to her experience in the legal field, Price was a social worker with Lutheran Social Services of Illinois and a full-time lay volunteer for Passionist Lay Missioners working at a homeless shelter in Rogers Park.

For students who have a passion for public interest work, Price advises, "Try to go out and get as much experience as possible in the public interest sector to learn what areas



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Perry v. Schwarzenegger



Judge Vaughn Walker
(credit Robert Galbraith, Reuters)

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pictured by the Prop 8 proponents' media campaign, and to debunk the child protection arguments consistently raised by gay rights opponents.

The plaintiffs argued, and Judge Walker determined, that Prop 8 should be subjected to strict judicial scrutiny, because it revoked the plaintiffs' fundamental right to marry under the Due

Process clause. However, he concluded that the proposition failed to satisfy even the rational basis requirements of the plaintiffs' Equal Protection claim, holding that the intervening defendants had failed to provide even a debatable question of a legitimate government interest advanced by Proposition 8.

The Alliance Defense Fund, an organization that frequently represents opponents of

same-sex marriage, responded to the ruling on its website:

"This is a dangerous decision that could ultimately threaten your religious freedom But . . . the battle is far from over. ADF and our allies will appeal the *Perry* case—all the way to the U.S. Supreme Court, if necessary"

The other side of the LGBT-rights debate is equally aware that this is not the end of the battle over Prop 8.

Scott Schoettes, an attorney with the Lambda Legal Defense and Education Fund in Chicago, explains, "Lambda Legal certainly appreciates the clear and detailed analysis in this decision, which will frame the case as it moves forward. The Court's thorough review of both sides' evidence vindicates the rights

of LGBT people not only to marry based on love and commitment, as heterosexuals do, but to be treated equally and fairly by their government. ... [T]his decision undoubtedly will help more people see that anti-gay discrimination in marriage is destructive and unjustifiable."

The *Perry* decision, if it reaches the Supreme Court, could have implications ranging from a California-specific ruling to a ruling that affects the whole country. It is not at all clear how the Supreme Court would rule.

Judge Walker did a number of things to safeguard his ruling on appeal: he painstakingly evaluated each of the plaintiffs' and intervening defendant's arguments, as well as the factual assertions and the credibility of each witness. Given that findings of fact and credibility are accorded significant deference on appeal, it is unlikely that these detailed determinations will be disturbed by the 9th Circuit or the Supreme Court.

In addition, by finding Prop 8 unconstitutional even under the lowest rationality review rather than subjecting it to strict scrutiny, Judge Walker ensured that many of his legal conclusions would be irrelevant to the outcome.

Although the *Perry* decision is being appealed, it is still cause for celebration among the Chicago LGBT community.

"Judge Walker's decision reaffirms the Constitution's commitment to provide equal protection under the laws for all Americans. How committed and loving relationships could ever be viewed as a threat to our society is beyond me," says DePaul Outlaws president Jason Santos. "I'm extremely happy that the civil rights issue of my time is making progress and look forward to the day when future law students read this case, amazed this was ever an issue."

The myths about marriage that Santos refers to are not likely to be overturned. Judge Walker's detailed findings will likely be enshrined in legal history even if his analysis does not hold up on appeal.



Plaintiffs from *Perry v. Schwarzenegger*
(credit Paul Chinn, San Francisco Chronicle)

"Judge Walker's decision reaffirms the Constitution's commitment to provide equal protection under the laws for all Americans. How committed and loving relationships could ever be viewed as a threat to our society is beyond me."

Jason Santos
President, DePaul Outlaws

A Modicum of Justice *by Amanda Graham*

On June 28, a jury found former Chicago Police Commander Jon Burge guilty on all counts of perjury and obstruction of justice. This verdict comes three decades after the first allegations that Burge was using torture to extract false confessions from suspects in Area 2.

Torture tactics included sleep and food deprivation, mock executions, suffocation, cattle-prod electrocution, Russian roulette, and beatings. Unfortunately, Burge was not on trial for torture—the statute of limitations had expired. Instead, he was convicted of lying under oath about his knowledge of police torture taking place.

While the number of victims of torture under Burge's command has surpassed 100, the jury heard from only five survivors. It never heard evidence of the torture investigation that led to Burge's firing in 1993, or the \$20 million city settlement with four former death row inmates. However, the jury still found the case against Burge sufficient to convict him of lying about the torture.

Outside of the courthouse, community members and Burge torture survivors were present for the verdict. Ronald Kitchen, who spent 21 years in prison, 13 on death row, says that nothing can replace that time. "I done lost 21 years of my son's life. I don't get that back."

Kitchen has just filed suit in federal court, naming Burge and three of his officers, as well as Mayor Richard M. Daley, as defendants. Mayor Daley had ample information that abuse was occurring in Area 2 prior to Kitchen's arrest, but did nothing to intervene.

Kitchen was clear about his intentions. "Let it be known that it's not about the money. It's about making those who were supervising and overseeing the city of Chicago take notice."

But for many taxpayers, it is about the money, and they're ready to stop paying for Burge's legal defense fees. An estimated \$20 million of city funds has been spent on defense attorneys for Burge in his civil and criminal cases.

Joey Mogul, an adjunct professor at DePaul's Civil Rights Clinic, attorney at the People's Law Office, and counsel for several Burge torture survivors, says, "The vast majority of torture survivors have not received the financial compensation or psychological services they so richly deserve after they were tortured, abused and coerced to give statements that were then used to wrongfully convict them. Now, the statute of limitations has expired and they can no longer sue to be compensated for the torture they endured. The city should be using the money it is spending to defend Burge to provide reparations to the torture survivors who cannot sue."

In effort to stop similar abuse in the future, the Illinois Coalition Against Torture (ICAT) has been working with representative Danny Davis to pass H.R. 5688, which criminalizes torture by law enforcement officials with no statute of limitations.

"The vast majority of torture survivors have not received the financial compensation or psychological services they so richly deserve after they were tortured, abused and coerced to give statements that were then used to wrongfully convict them."

Joey Mogul



Joey Mogul, attorney at the People's Law Office and adjunct professor at DePaul's Civil Rights Clinic

New PBSCI Director

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of law resonate with you the most."

She also stresses the importance of not becoming overwhelmed by law school debt.

As PBSCI director, Price conducts outreach within the law school community to promote pro bono work to students and alumni. She acts as a liaison to outside organizations to place students in good pro bono positions and connect them to community service work.

Price says the most challenging aspect of her job is keeping track of small organizational details when planning events, while the most rewarding aspect is learning

about the various service opportunities and helping interested students connect with those opportunities.

"I am very committed to public interest work and to service to the poor. This job offered a chance to do that," she says.

PBSCI student coordinator Chastidy Burns says, "Cheryl is a pleasure to work with and DePaul is lucky to have her!"

When asked how she's adjusting to the new job, Cheryl says, "I'm excited to be here, I feel like it's going really well! There are great organizations out there doing really good work."

Public Interest Faculty Profile *by Talitha Hazelton*



Susan Bandes

Distinguished Research Professor of Law

Can you briefly describe your work history?

When I graduated law school, teaching was the last thing on my mind, because I wanted to change things. My first job was at the State Appellate Defender's Chicago office. I then transitioned to the Illinois American Civil Liberties Union (ACLU) to do civil law, litigation and legislative work.

Talk about the distinction between criminal and civil work.

One of my frustrations at the Appellate Defender's Office was that it wasn't policy-oriented work. There was satisfaction in representing clients at an individual level, but you lose a lot. The ACLU's impact litigation allows a win to strike down laws, affecting multiple people. I also did public education, traveling across the state to talk to ACLU member groups and explain the law to a broad range of audiences.

What brought you to DePaul and ultimately to teaching?

I was working with a lot of DePaul students at the ACLU, which turned me onto teaching. I had been practicing for eight years, and felt that I had something useful to tell people. Legal practice lets you do cutting-edge work, but then the case ends.

Teaching allows you to continue thinking about those issues after the case.

What would you say is the most challenging aspect of your job?

Keeping the classroom a safe and open place for robust discussion while also letting people know that you come from a certain set of experiences and have a certain set of values. Most professors have a set of experiences that have shaped how they view the way the law works. You don't do anybody a favor pretending otherwise.

What advice do you have for students interested in public interest law?

Students need to be vigilant in seeking out public interest opportunities. Volunteer to demonstrate your commitment to public interest work. The more opportunities you can find, the more you can demonstrate what you love and the more seriously people will take you.

I first met Professor Bandes when we worked together on the Freedom of Information Act, along with Erwin Chemerinsky. I was immediately impressed with her intelligence and dedication to the cause of justice. Throughout her career, she has worked energetically to protect civil rights and liberties, making us proud to have her on the DePaul faculty.

—Professor Jeffrey Shaman

The American Constitution Society (ACS) is proud to have Professor Bandes as one of our faculty advisors. Her commitment to progressive ideals is a source of inspiration, and her legal scholarship demonstrates that there are many ways to serve the public outside the courtroom.

—David Porter, President, ACS DePaul Chapter

As a progressive female law student, it's often hard to find mentors and role models with similar values. Professor Bandes always facilitated a supportive classroom environment that was never hostile to any student's ideas. Law school would be a better place for people like me if there were more professors like her.

—Jenny Grobelski ('09)

Across the Border: A Summer in Chiapas, Mexico *by Sahiry Rodriguez*

"I thought Mexico was supposed to be hot!" This was what my housemate and I kept telling each other this summer during our stay in Chiapas, Mexico. The mountainous town of San Cristobal de las Casas was cold and rainy, and I wore a light winter jacket almost every day. However, when we visited the city of Tuxtla, just an hour away, it was hot like an oven. The unpredictable weather was just one of the many surprises I encountered while exploring the "land of the Zapatistas."

I went to San Cristobal to participate in DePaul's

Chiapas Human Rights Practicum. I stayed as a summer intern at the Fray Bartolome de las Casas Human Rights Center, or "the Frayba," a nonprofit organization that works with indigenous and Zapatista communities throughout the state of Chiapas.

I was very impressed by the artistic abilities of the indigenous communities we visited. Almost every community had at least one mural. Art seems to have a powerful role in this place. Even offices we

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Summer in Chiapas

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went to for meetings had either murals or posters of murals charged with political messages and depictions of their daily lives and struggles.

Although I went to Chiapas as a law student, living in San Cristobal and volunteering at the Frayba brought out the sociologist in me. Once again, I was able to see the effects that capitalism continues to have on remote communities. I was given a glimpse of why so many Mexicans, especially indigenous people, leave their land to come work in the United States. They are losing their jobs and land to Canadian and American-based multinational corporations; hence, the move across the border is simply a pursuit of the dignified life they once had.

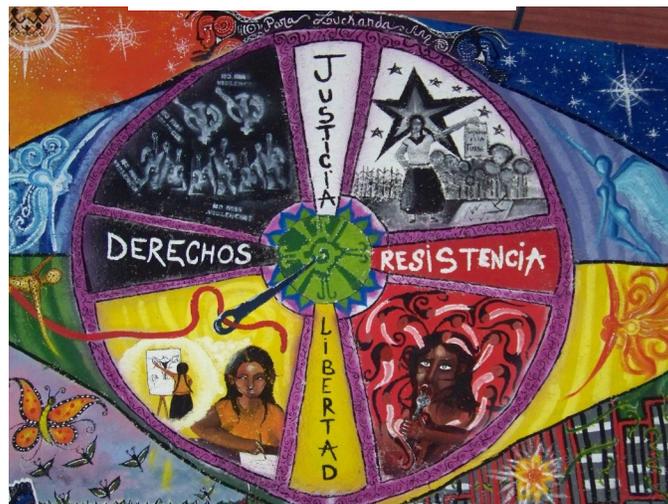
Over 200 years ago, the Chinese military strategist Sun Tzu said, “Kill one, terrorize thousands.”

The indigenous people of Chiapas understand this saying. Many of them have seen family members or *compañeros* tortured, beaten or killed in order to intimidate their communities into selling their land to build roads for tourists to have a faster trip to their destinations.

When we met with members of a community called Mitziton, they denounced the violence, saying, “We are tired of the injustices and crimes against us, and our community says *ya basta*—that’s enough!”

Although these communities are still struggling, they are doing so as a people, staying united and trying to find a solution that benefits them all. They recognize that they cannot win the struggle alone. As one representative from an organization called Otros Mundos said to me, “We do what we can here to make things better, but you need to figure out what works for you in the states to join in the fight.”

This sense of responsibility for one another gave me hope that, even though they are struggling, these communities will not stop until they get justice.



Jolom Mayaetik, a cooperative of women weavers from Los Altos of Chiapas



Chiapas Human Rights Practicum 2010 Participants

Save the date ~ November 4, 2010!

Center for Public Interest Law 5th Annual Vincentian Public Interest Law Symposium:

Back to Basics: Bringing Human Rights to Legal Aid

Time: 9:00 am - 3:00 pm

Location: DePaul Center, 1 E. Jackson Boulevard, Room 8005.

This symposium will explore the use of human rights norms in legal services. Recently, Maryland Legal Aid Bureau (MLAB) recently adopted a human rights framework for their legal aid services. Members of MLAB will discuss that process and facilitate workshops on how local organizations can adopt similar a framework. The symposium will bring together community organizers, lawyers, professors, and activists who are working on human rights and examine how human rights norms can be integrated into our missions.

PLEASE CONSIDER DONATING TO THE CENTER FOR PUBLIC INTEREST LAW

Checks can be made payable to DePaul University College of Law; please indicate on the check that your donation should go toward CPIL and mail to: Shaye Loughlin, 25 E. Jackson, Chicago, Illinois 60604-2219. Thank you for your continued support!

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