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Fall 2017

The Pillar: Newsletter of the St. Mary's University School of Law Center for Legal and Social Justice

St. Mary's University School of Law

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THE PILLAR



St. Mary's University School of Law Center for Legal and Social Justice

Academic Year 2016-2017 • Fall 2017

LEARNING THE LAW AND SERVING THE COMMUNITY

The past year brought change at the Center for Legal and Social Justice. In recognition of the value of experiential learning, the American Bar Association now requires law students to participate in a minimum of six credit hours of experiential skill-based course work. The Criminal Justice Clinic began offering a one-semester clinic in the Spring 2017 semester. This academic year, all clinics are now offered as a 6 hour, one-semester course. This is good news for those students who, for scheduling reasons, do not have an entire year to devote to the clinical experience. It also paves the way for potentially taking more than one clinic and learning the practice of different areas of law. Some students, with permission of the professor, may also be able to continue on in a clinic for a second, 3-hour semester so as to continue working on cases and still enjoy the one year experience.

LAW CLINIC SPRING 2018 APPLICATION & INFORMATION SESSIONS

St. Mary's Law Clinics are now accepting applications for Spring 2018. Online application on Law School website Clinical page. Apply early – spaces are limited with rolling admission!

Learn more at an Information Session (Law School Outdoor Courtyard – or if raining, in the Raba Foyer):

Wed., Oct. 11, 4:00 - 6:00 p.m.
Thurs. Oct. 12, 12:00 - 2:00 p.m.
Thurs., Oct. 19, 4:00 - 6:00 p.m.

Or attend the PILF/HLSA Meeting, with a Clinic Faculty Panel (Law Library Alumni Room):

Tues., Oct. 17, 12:00 p.m.



CRIMINAL JUSTICE CLINIC

Criminal Justice Clinic students Cassandra Correa and Rob Green argued Motions to Set Aside a Class A charging instrument for Discharge of a Firearm. Cassandra's motion raised a novel argument that discharge of a firearm is proscribed by two provisions: Texas Penal Code § 42.12, a class A misdemeanor, and San Antonio Municipal Ordinance § 21-152, a Class C misdemeanor punishable by fine only. Both provisions contain the same elements. Cassandra argued that the client's prosecution for the alleged discharge of a firearm was proper under the San Antonio ordinance, but not the Texas Penal Code. Her argument hinged on application of "the rule of lenity," which provides if there is any doubt as to which statute to proceed under, the doubt must be resolved in favor of the accused, with the least harsh application. Accordingly, between the Penal Code and the City Ordinance, the latter carried the least harsh punishment. Additionally, Cassandra explained San Antonio is a "Home Rule" city which derives broad powers of self-government

from the Texas Constitution, as long as its laws do not conflict with State laws. The city ordinance in question did not conflict with State law: in fact, in § 42.12 the legislature expressly stated municipalities were authorized to enact ordinances prohibiting discharge of a firearm. Finally, to support her argument that the case should be filed in municipal court, and not county court, Cassandra cited the doctrine of code construction that we must give plain meaning to the legislature's intent. In harmonizing the rule of lenity, San Antonio's constitutional designation as a "Home Rule" city, and Texas Penal Code §42.12's express grant of authority to the city to proscribe discharge of a firearm, the court ruled in favor of the motion to set aside. At the hearing on Cassandra's motion, the State conceded the argument raised in Rob's motion, that the Information was defective because it did not allege with certainty the acts relied upon to show that the defendant acted recklessly. The students prevailed for their client, and both left having successfully argued their litigation.



CRIMINAL JUSTICE CLINIC FRANCISCO LEOS AWARD

Patrick Lamas (*class of Spring '17*), was awarded the Francisco Leos Award for clinic excellence for the Criminal Justice Clinic. Patrick distinguished himself to supervisors, peers and clients for his work ethic and dedication to clinic. Not only did he work tirelessly for his own clients to gain their trust and confidence, but he assisted his peers with their cases.

IMMIGRATION & HUMAN RIGHTS CLINIC

Student Reflection

By: *Alejandra Martinez (class of 2016-2017)*

On October 15, 2016, I volunteered at Karnes County Residential Center for the first time. Karnes is a holding facility for immigrant women and children who are detained by the Department of Homeland Security. Most of the women at Karnes are asylum seekers who have been picked up along the U.S.-Mexico border and have expressed a fear of return to their countries. Most have brought their children and are fleeing from Central America. These women and children are referred to an asylum officer who interviews them to determine whether they have a "credible fear of persecution." If found to have a credible fear, the women are released and have an opportunity to argue their case before an immigration judge. Those who are found not to have a credible fear are ordered removed.

As a volunteer, my task was to prepare women for their "credible fear interview." I knew this would be a difficult task because I had to ask women to tell me, a complete stranger, some of the most horrifying things they experienced in their countries. I recall a woman telling me her story and breaking down into tears as she told it. I remember getting tears in my eyes and trying so hard to hold them back.



This was an opportunity to make a difference in someone's life, and I needed to be strong and think clearly. This motivation kept me going the rest of the day.

Volunteering at Karnes allowed me to fully understand the importance of legal representation in an immigration matter. Unfortunately, not all the women at Karnes have legal representation or someone to prepare them for their credible fear interviews, which increases the likelihood of a negative decision. It is truly heart-breaking to know that women and children risk their lives fleeing from their countries only to get here and be returned.

This made me realize that more legal representation is needed. People deserve to be heard and to be given a fair opportunity to tell their stories. Although it was my first time volunteering, at the end of the day it was rewarding to know that I made a small change in the lives of several women and children.

IMMIGRATION & HUMAN RIGHTS CLINIC FRANCISCO LEOS AWARD

Alejandra Martinez, J.D. expected May 2018, won the Francisco Leos Award for the Immigration and Human Rights Clinic. Alejandra enthusiastically represented multiple clients in a variety of cases, including U visa, asylum, and Special Immigrant Juvenile cases.

Student Reflection

By: Mary Larakers (IHRC class of 2016-2017)

“Why are you afraid to go back to your country?”

This simple question forms the foundation of an asylum application, but the answer for our client was far from simple. Our client had suffered abuse from an uncle, father, husband, political opposition group, and gang for reasons she could not avoid. After the gang threatened her life and the lives of her children, she fled Honduras and survived harsh discrimination and extreme poverty in Mexico before finally reaching the United States. Two other student attorneys and I were assigned to her asylum case. We drafted a pre-hearing brief describing our client’s persecution based on her political opinion and membership in three particular social groups. We attached over 600 pages of country conditions evidence supporting her claim. Finally, we represented her as she told her story to an immigration judge where the judge found her to be a credible witness. The hours put into this case were both the most intellectually challenging and the most rewarding of the various legal experiences I have had. Each hour we worked helped a mother striving to secure safe futures for her children; it was an honor as much as it was a tremendous responsibility.

MARIANIST GREEN AWARD

The Marianist Green Award recognizes those who have exhibited a commitment to the poor and disenfranchised that surpasses merely meeting their legal needs. The recipients of this award have reached out to the other clinics here at the Center to further help their clients, and have helped spread the mission of social justice among those in the San Antonio area.

RECIPIENT OF MARIANIST GREEN AWARD

(class of 2016-2017)

STEPHANIE ROSE HARLIEN

Her dedication to her clients impressed her peers and professors, earning the Marianist Green Award for Community Spirit and Cooperation at the end of the 2016-2017 academic year for her excellence in clinical studies.



CIVIL JUSTICE CLINIC

Reverse Mortgages: One Widow's Retirement Reaper

By: Courtney Dibrell Graham and Sean Lanagan (class of 2016-2017)

We were not quite sure why the Civil Justice Clinic accepted the case. Foreclosure seemed imminent, and with the holidays rapidly approaching, our options to preserve our client's home were limited. Our client had clearly signed the reverse mortgage loan documents. She needed the money. All she had to do was maintain the property, carry home owner's insurance, and pay her property taxes. In return, she received a cash payment of \$16,000 and a payoff of her existing mortgage.

Unfortunately, a gap in insurance and an election to defer taxes (at the Tax Office's recommendation) triggered a default. Before she knew it, the foreclosure process had commenced. With little explanation, the bank gave our client three choices: immediately repay \$76,000, the amount owed including bank fees and interest; sign over the deed for her house; or face an eviction. Fortunately, her son called the Civil Justice Clinic for advice.

We had to move fast, and we quickly learned the power of the Texas Rules of Civil Procedure. First, opposing counsel failed to provide us with the required 20 days notice, giving us a solid objection to the foreclosure hearing and time to file our own lawsuit. When we pointed out the timing error, opposing counsel agreed to postpone the foreclosure hearing, and later dismissed the foreclosure based on our affirmative lawsuit.

Our reverse mortgage case was a real-life example of how to use the Texas Rules of Civil Procedure to achieve a favorable result for a client. Because of the Civil Justice Clinic's intervention, our client got to spend her 20th Christmas in her home and has time to negotiate a settlement of her reverse mortgage foreclosure.



CIVIL JUSTICE CLINIC FRANCISCO LEOS AWARDS

Courtney Dibrell Graham and **Sean Lanagan** were the recipients of the 2017 Francisco Leos Awards for Clinical Excellence for the Civil Justice Clinic. Courtney and Sean were part of a litigation team in a contested custody case. Their work ethic, work product and professionalism set the standard for excellence in the Civil Justice Clinic.

C LINICAL PROGRAM CLASS 2016-2017

CIVIL JUSTICE CLINIC



**CRIMINAL JUSTICE
CLINIC**



**IMMIGRATION &
HUMAN RIGHTS
CLINIC**



PRO BONO PROGRAM

By: Gregory Zlotnick, Staff Attorney and Pro Bono Program Supervisor

In the past year, the School of Law has undertaken several efforts to strengthen its community outreach and enhance the service opportunities available to students. Under staff and student leadership, these programs have catalyzed student involvement in volunteer legal services by expanding access to justice in South Texas and beyond. From September 1, 2016 until August 31, 2017, St. Mary's University School of Law students recorded approximately **4,998.75** *pro bono* and public service hours, separate and apart from hours worked in clinical programs or externships. *This is a 36% increase in recorded pro bono and public service hours from 2015-2016.*

Tangible benefits to the community and meaningful professional experience and development for St. Mary's law students have resulted from this in-creased student engagement. Moreover, the overwhelming majority of these hours were dedicated to legal causes, demonstrating the student body's commitment to developing into the bar's servant leaders of the future. Even before licensure, St. Mary's

students are already making *pro bono* a part of their practice.

This synopsis highlights several projects, developed and implemented in the past year, which have advanced *pro bono* legal services for poor Texans and worked to increase access to justice.

PEER COURT PROGRAM



Through its Pro Bono Program, the School of Law, in collaboration with the San Antonio Municipal Court and San Antonio Independent School District's Lanier High School, has created a Peer Court Program. Based upon a teen court model, this emerging program engaged law students as coaches for high school students who have taken the responsibility of determining the consequences classmates face for a range of infractions. High school advocates develop critical thinking and public speaking skills as they prepare opening and closing statements and witness examinations. High

school jurors have deliberated thoughtfully and carefully, selecting consequences for their peers' actions that seek not simply to punish their classmates, but rather, to restore them to the school community.

It is believed to be the first teen court program in Texas that engages a school of law in the administration of its program. Despite having minimal precedent, law student engagement in the program's first year was extremely high, training at least 24 law students as coaches. 33 high school students volunteered with the program, which heard 18 cases in the course of several months. 10 cases were referrals from campus police that almost certainly would have otherwise resulted in a juvenile criminal record. In no small part due to the efforts of energetic St. Mary's law students and dedicated Lanier High School students, this program has begun to change the culture of school discipline at a school located in one of San Antonio's most economically-distressed ZIP codes. Students are being redirected towards the classroom instead of the school-to-prison pipeline.

Continue on next page —>

The program has continued into its second year, with law students taking an increased leadership role in its operations, establishing a registered student organization dedicated to juvenile justice, and planning an expansion of the mentorship role that accompanies such close engagement with high school students.

TEXAS LEGAL ANSWERS IN THE CLASSROOM

In July 2017, the State Bar of Texas' Hannah Allison and Briana Stone presented before nine students enrolled in Public Interest Lawyering, a one-credit experiential learning course designed to expose law students to the many ways in which they can become involved in public interest work during their career. Following their

presentation, students broke into teams, researching and drafting responses to four actual questions taken from TexasLegalAnswers.com, the State Bar's new online portal for *pro bono* legal advice. Responding to questions in a variety of practice areas, this real-life exercise made real to students the various ways in which they will be able to undertake *pro bono* legal work.

RESPONSE TO CHANGING IMMIGRATION LAWS

Following the change in the presidential administration and subsequent change in immigration regulations and enforcement practices, students, staff, and faculty have actively engaged with community members to address the fear and uncertainty of the past several months. Students have

formed a new student organization, the Immigration Law Students Association, to convene students interested in this important field, promoting *pro bono* opportunities, and organizing an advocacy campaign.

The Pro Bono Program partnered with RAICES and American Gateways to promote *pro bono* student engagement with a series of DACA renewal and citizenship/naturalization clinics, held throughout South Texas over the past several months.

The preceding is but a snapshot of the school's holistic commitment to extending access to justice to underserved populations, largely as coordinated through the office dedicated to these aims, the Center for Legal and Social Justice.



St. Mary University Law Students volunteering at a Wills Clinic. (Class of 2016-2017)

EXTERNSHIP PROGRAM

The 2016-2017 academic year was a year full of progress for the previously named Practice Credit Program. The new name is one example of the ways our program has grown in size, concept, and curriculum. We welcomed five new placements including two judicial district chambers, the San Antonio City Attorney's Office, the Texas Health and Human Service Commission, and the Federal Aviation Administration. In response to the American Bar Association lifting its ban on receiving compensation and credit last August, the St. Mary's law faculty followed suit with a new policy change that allows Externship students to earn compensation directly from employers or third parties. This opens the door for Externship students to reap the benefits of our curriculum and earn scholarship, fellowship, grant, or award money for their work with non-profits and government agencies that serve the public interest.



Extern Student Reflection

By: Elexyz Baez (Fall 2016)

My time at Catholic Charities was an unforgettable experience. I feel like I was truly able to feel what it would be like to be an immigration attorney. The hands on experience I received completely changed my views on immigration and what I thought immigration attorneys did for a living. The people I worked with were very helpful and inspired me to work hard and become better every day. Being able to work at Catholic Charities helped me decide that I want to be an immigration lawyer after law school.

POPCORN TUESDAY takes place in the new Law Commons in the law library. It's a new venture that gives Pro Bono, Externship and the Office of Career Services a chance to meet students and answer questions during the 12pm-1pm lunch hour.

THE CENTER FOR LEGAL AND SOCIAL JUSTICE (2016-2018)

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