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### 2007 Annual Report

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CUMBERLAND LEGAL AID CLINIC

2007 ANNUAL REPORT

## PROGRAM OVERVIEW

Established in 1969, the Cumberland Legal Aid Clinic (“Clinic”) is a program of the University of Maine School of Law providing legal services to low-income individuals in Maine. It is staffed by third-year law students specially licensed under the court rules to practice with supervision by the Clinic’s faculty, which is comprised of experienced members of the Maine Bar. The Clinic’s mission is two-fold: educating law students through an intense, high-quality clinical and mentoring experience while providing pro bono legal services to indigent Maine citizens.

The Clinic serves clients with legal matters pending in state, probate and federal courts in Cumberland, York (Alfred, Biddeford and Springvale courts), Androscoggin, and Sagadahoc Counties. In terms of geographic distribution our clients lived every county in Maine. The majority of our clients reside in the following counties: Cumberland (40%); Androscoggin (33%); and York (7%). Significantly smaller numbers reside in other counties, all of which are represented in our caseload. We are able to provide full representation only for clients with matters in Southern Maine courts (York, Cumberland, Androscoggin and Sagadahoc counties), but provide “unbundled” legal services for Prisoner Assistance clients with matters throughout the state. Cases in the Supreme Judicial Court and federal courts may arise anywhere in the state.

The Clinic provided legal assistance to 671 clients during 2007. Family law (not including Protection from Abuse (PFA) matters) represented the largest case type handled by the Clinic last year with 267 matters (33%). This category includes cases in probate and tribal courts as well as in District Court. PFAs represent an additional 29% of our caseload, for a total of 507 family-related cases last year. The family law caseload, however, is quite varied. While the majority of cases in the General Practice Clinic, for example, involve disputes regarding parental rights and responsibilities, child support and divorce, the Clinic has taken on an increasing number of cases involving guardianship, termination of parental rights, *de facto* parents, and grandparents’ visitation.

The Clinic finds its clients through a number of routes. On a daily basis the Clinic receives many calls from individuals seeking legal representation. When a student attorney has an opening in his or her caseload and the client is qualified, we may accept the case. Several cases have been referred to the Clinic from other organizations including KIDS Legal, the Immigrant Legal Advocacy Project, the Abused Women’s Advocacy Project, Gay and Lesbian Advocates and Defenders, and others. We also receive a significant number of referrals from courts, especially the Androscoggin County Probate Court, which has appointed the Clinic as counsel on several complex cases involving parental rights, guardianship and other issues. The United States District Court for the District of Maine referred a *pro se* prisoner for representation in an excessive force jury trial. The Supreme Judicial Court referred two appeals to the Clinic in 2007, and the Maine Volunteer Lawyers Project referred an appeal as well.

A total of forty-three law students enrolled in Clinic courses during 2007. This number represents an increase over prior years due to the Clinic’s expansion with the additional of the Juvenile Justice Clinic. In addition, the Clinic hired five student interns for the summer of 2007. As a result, the Clinic was able to provide much-needed representation to individuals on a year-round basis.

## GENERAL PRACTICE CLINIC

The bulk of the legal services provided through the Clinic are by students enrolled in the General Practice Clinic, which is a six-credit semester-long litigation clinic. Each semester, the General Practice Clinic enrolls twelve to fifteen students, each of whom represent from five to ten individuals in cases in a various areas of the law. In addition to the work on family matters as described above other areas of civil legal services in the General Practice Clinic included Maine Supreme Judicial Court appeals, public benefits, consumer law, employment discrimination, collection defense, administrative appeals, housing, small claims, protection from harassment, wills/estates, powers of attorney, and several other miscellaneous issues. General Practice Clinic students also represented several clients in criminal matters during last year.

### Client Story: Trisha

Trisha was a young mother in a contested Probate Court guardianship matter. Trisha had left the state temporarily, leaving her 6-year old child with Trisha's mother. While Trisha was gone, the grandmother, after misrepresenting to the court that she had no knowledge of Trisha's whereabouts, obtained guardianship of the child. Trisha received no notice of the guardianship proceedings until after the court had entered the order. The court referred Trisha to the Clinic, and her student attorney filed a petition to vacate the guardianship order. After a contested evidentiary hearing, the Court found that Trisha had established by clear and convincing evidence that the grandmother had engaged in fraud. The court vacated the guardianship and ordered the grandmother to return Trisha's child.

Some of the others matters handled by General Practice Clinic students in 2007 included:

- \* Two Clinic students represented a former pretrial detainee in an excessive force case at the three-day civil jury trial in federal district court. The plaintiff alleged that he was subjected to excessive force during his detention in a county jail. The two students conducted each and every aspect of the trial including pretrial motions, jury selection, opening statements, witness examinations, arguing evidentiary issues and closing argument.
- \* The Clinic represented a woman whose ex-husband "retired" from the Navy at the age of 39 to go back to school. Represented by a private attorney, the husband filed a motion with the court to eliminate his child support and spousal support obligations to the client and her daughter, both of whom have significant health problems. After a contested hearing, the Court denied the husband's motion and ordered him to continue to pay child and spousal support at the previously-set levels.
- \* The Clinic assisted a pre-trial detainee being held at a county jail who was denied access to Catholic religious services, despite the fact that inmates of other denominations were permitted access to religious services. Through a judicial settlement conference with a Superior Court justice, the Clinic was able to negotiate an interim agreement to provide the client with such services while the case is ongoing.
- \* The Clinic represented the appellant in *L'Heureux v. Michaud*, 2007 ME 149, in which the Supreme Judicial Court vacated a protection from abuse order that had been

the latest in a series of court disputes between the parties regarding the custody of their daughter. The Law Court ruled that the District Court had not followed the statute when he entered the protection order against the Clinic's client.

\* Two Clinic students began representing two students in the University of Maine System who were sued in federal district court by fifteen major recording labels for alleged illegal file-sharing. The Clinic students filed a motion to dismiss the complaint, attracting nationwide (indeed, worldwide) media interest in the Clinic's work.

## PRISONER ASSISTANCE CLINIC

In January 2003, the Clinic started the Prisoner Assistance Clinic, which was funded for its first three years by a discretionary grant from the Maine Bar Foundation and to a lesser extent through a contract with the Maine Department of Corrections. The origins of the Prisoner Assistance Clinic stem from the funding restrictions imposed in mid-1990s by the Legal Services Corporation which precluded Pine Tree Legal Assistance from providing any civil legal services to prisoners. However, prisoners have family, custody, consumer, and other civil legal matters, many arising from the circumstances of their incarceration. The Justice Action Group, the Maine Bar Foundation, and others identified this as a gap in access to justice and concluded that providing services through the Clinic would be a cost-efficient way to close this gap.

Prisoner Assistance Clinic law students go to the Maine Correctional Center in Windham every week to meet with prisoners with a wide range of civil legal problems. More than 60% of the matters involve family law, such as parental rights and child support. Many prisoners have consumer-related questions, particularly in the area of bankruptcy. Other matters range from tax to housing to probate to personal injury defense.

In the final quarter of 2007 alone, students had 109 visits with prisoners at MCC-Windham, and 178 phone contacts and dozens of mail contacts with prisoners in other facilities. This is a three-credit clinical course with an emphasis on interviewing, counseling and providing unbundled legal services. The program is popular with students, corrections staff and prisoners alike.

### **Client Story: Janine**

Janine was working as a waitress in a restaurant when she was arrested and sentenced to the Maine Correctional Center. However, her employer refused to release her final paycheck to cover the hours she had worked up until her arrest. With the help of a Prisoner Assistance Clinic student, Janine filed a complaint with the State of Maine Department of Labor's Wage and Hour division and eventually received all of the pay that she was owed.

Prisoner Assistance Clinic clients are particularly appreciative of the help provided by the student attorneys. We receive many positive comments from our former clients including:

- \* "Things were explained to me so I could understand. Just all around great help."
- \* "My student attorney listened to me and didn't seem to mind that I was incarcerated; there was no condescension. I appreciate that immensely."
- \* "Thank you so much for your time and patience with me through this. I am

forever grateful.”

\* “I was listened to. The student attorney prepared for court based upon the outcome *I* wanted, not on her opinions. I at no time felt like I was being judged or looked down upon. The process was explained to me so I knew and was comfortable with the mediation.”

\* “Your service is one of the only places people in my situation can turn for real help, not just lip service. So I think I can speak for everyone I know who has used your clinic. Thank you and please keep helping us. Your service really means everything.”

In May 2007, Associate Clinical Professor Jim Burke, who developed the Prisoner Assistance Clinic and continues to oversee it, gave a presentation on the Prisoner Assistance Clinic (“Inside the Walls, Outside the Box: The Cumberland Legal Aid Clinic in Maine’s Prison System”) at the American Association of Law School’s Annual Conference on Clinical Legal Education in New Orleans, the largest gathering to date of law school clinical faculty.

## JUVENILE JUSTICE CLINIC

The Juvenile Justice Clinic, launched in the fall 2006, enrolls up to five law students each semester, who work under the supervision of Associate Clinical Professor Christopher Northrop and who have the opportunity to work with troubled youth on a number of levels. As a result of the new program juvenile law, including handling civil matters on behalf of children and teens, represents an increasing percentage of the Clinic’s overall caseload. The Juvenile Justice Clinic provided services to a total of 127 clients through the Juvenile Justice Clinic in 2007. This includes 22 participants in the Juvenile Drug Treatment Court program, 72 teens and young adults through the Street Law Project, and 40 children in the Maine Juvenile Court (some of whom we also worked with in Juvenile Drug Treatment Court).

### Individual Representation

The primary focus of the Juvenile Justice Clinic caseload is the direct representation of juveniles with pending delinquency matters in state courts. Student attorneys appear in Juvenile Court each week and represent juveniles in the various proceedings that may arise, such as arraignments, detention hearings, plea negotiations and trials. In 2007 the Juvenile Justice Clinic provided full representation to 40 children who were facing charges ranging from school yard assaults to aggravated trafficking in scheduled drugs.

In their work on behalf of their juvenile clients, student attorneys work closely with social service agencies, legal aid providers, schools, and other community representatives to develop and implement personalized, holistic and targeted programs for each juvenile client. Such programs are designed to ensure that the juveniles avoid incarceration and recidivism and get back on track to finishing their education and developing important life skills to ensure continued success. Accordingly, important components may include treatment for underlying substance abuse or mental health problems, an appropriate educational program, suitable housing and other services for the client, and in many instances, his or her family.

### **Client Story: Kevin**

When we met Kevin several months ago, despite being very bright, he was failing most of his high school classes. He was facing a number of pending charges including shoplifting and aggravated criminal mischief. Kevin was also having significant problems at home. After extended negotiations with the prosecutor, Kevin's student attorney convinced the State that a combination of counseling, community service and victim-offender mediation was a viable alternative to locking him up. The State gave the Clinic six months to develop and execute this program. Kevin participated successfully in the mediation program and, to our client's great surprise, wound up enjoying his community service at the YMCA. When Kevin returned to court this fall he was passing all of his classes, doing well at home and continuing his work at the YMCA, even though his community service obligation had been met by the end of the summer. The State dismissed Kevin's felony and all but one of his other charges. Kevin was placed on six months probation.

One of the Clinic's most significant projects is the students' work with Maine Juvenile Drug Treatment Court (JDTC), a therapeutic, collaborative approach to adolescents with serious substance abuse and delinquency issues. Each semester, one student is responsible for representing all juveniles participating in the JDTC in Biddeford District Court and assisting in policy development on a county-wide and a state-wide basis through the Clinic's involvement with the Maine JDTC project. In 2007, the Clinic worked with 22 juveniles in the Biddeford JDTC. During that time, eight juveniles successfully graduated from the program and only two juveniles were terminated from the program (another juvenile voluntarily withdrew from the program), a remarkable success rate.

### **Client Story: Jason**

We began representing Jason during the summer of 2007. Jason had a felony drug charge and many misdemeanor charges pending. His sophomore year in high school was an academic disaster, and his only extracurricular activities appeared to be getting high and getting into trouble. Jason's student attorney worked out an arrangement to enroll him in the JDTC. Jason, and his family, responded immediately to the drug court model. This year he is an honor roll student, working a part-time job, and playing varsity basketball for his high school team. He is on track to graduate from the JDTC in 2008.

### Street Law Project

Juvenile Justice Clinic students launched a Street Law Project at the Preble Street Teen Center in January 2007, which has become another important component of the Juvenile Justice Clinic's work. Each week Clinic students, in collaboration with attorneys from KIDS Legal, hold a drop-in clinic at the Teen Center and provide legal information and advice to homeless and at-risk teens and young adults on a wide range of legal matters, particularly in the areas of landlord/housing, family law (including custody, support, child protection, and extended family involvement) and criminal law. In 2007, Juvenile Justice Clinic students provided such assistance to 72 teens and young adults. Some of these individuals were identified as needing

full representation, and Juvenile Justice Clinic students have provided such assistance to a small number of individuals with legal issues involving housing, protection from abuse or harassment, a dispute with the Secretary of State regarding a driver's license, and a civil violation for a writing a bad check.

### Policy Development Projects

Juvenile Justice Clinic students work on policy initiatives as well as providing direct representation to individuals. Such work offers students the opportunity to contribute to initiatives with far-reaching impact. For example, the Disproportionate Minority Contact ("DMC") policy project is a collaboration between the Juvenile Justice Clinic, Maine's Juvenile Justice Advisory Group and Muskie School of Public Service. The DMC project, which tracks and analyzes data regarding the presence of minorities in the juvenile justice system, is mandated by the federal government's Office of Juvenile Justice and Delinquency Prevention. The Juvenile Justice Clinic recently started an innovative new policy project, working with the Town of Sanford to implement an innovative Collaborative Problem Solving program on a town-wide basis.

### DOMESTIC VIOLENCE PROJECT

All students enrolled in the Clinic courses are required to participate in the Domestic Violence Initiative, through which students attend at least one or two days of the protection from abuse (PFA) docket calls in Lewiston District Court, and represent any victims there who need representation. The Clinic's work in this program is highly valued by the courts as the PFA proceedings are often highly contentious and emotional. With the assistance of counsel, most cases can be settled without a trial. In 2007, the Clinic represented 238 clients in PFA cases. Clinic student attorneys work closely with court advocates from the Abused Women's Advocacy Project (AWAP), a non-profit organization based in Lewiston-Auburn, to ensure that every client receives, not only legal representation in her protection order case, but also the necessary support and resources to escape violence. In addition, every Clinic student receives training, not only on the legal remedies available to victims of domestic violence, but also the dynamics of domestic violence. The Clinic also secured a victory in a Protection from Abuse case before the Maine Supreme Judicial Court, which upheld a final order entered after a contested hearing in which the client was represented by a student attorney as part of the Clinic's Domestic Violence Project in Lewiston District Court.

#### **Client Story: Melissa**

Danny began abusing Melissa shortly after the two began dating, quickly escalating from verbal abuse to physical abuse. On one occasion he went into her apartment when she was not home and damaged her clothing, cut the cords on all of the appliances, and flooded the bathroom (which damaged not only her apartment but also the neighbor's apartment). At the end of this rampage, he left a bouquet of flowers for Melissa. Melissa sought and received a temporary protection order. In the interim before the date for a hearing for the final protection order, Danny threatened to hurt Melissa's son in order to coerce her into his vehicle. When she complied, he took her to a secluded area and raped her. She escaped on foot after a car pulled up behind their vehicle. On the day of the final hearing, Melissa's student attorney attempted to negotiate a settlement



with Danny to avoid a trial. However, Danny refused to agree to the entry of an order because he did not want to be precluded from having access to the social club of which both Danny and Melissa were members. The student attorney proceeded with the trial and obtained a comprehensive final protection order for Melissa, including protection for Melissa's son and a judgment for \$1200 for the property damage caused to her apartment building.

The feedback we received last year from our clients in the Domestic Violence project underscores the important role of the student attorneys. Comments from clients included:

- \* "They really helped me understand the legal matters and explained my options as well. I feel the process ran smoothly with their mediation."
- \* "My student attorney was very professional. She made me feel very assured and was very informative."
- \* "Your services were such a relief to guide through the legal system and help people with the appropriate end result."
- \* "The student attorney's patience and understanding helped to make this stressful day a bit easier. I'm extremely happy that CLAC provides this kind of help."

### OTHER WORK BY CLINIC STUDENTS

In 2007, the Law School provided a wide range of additional opportunities for students to explore and deepen their understanding of the issues facing their clients and to enhance the services provided to clients. These included:

- \* Juvenile Justice Clinic student Courtney Beer attended the Robert M. Cover Public Interest Law Retreat in New Hampshire.
- \* The Law School sent two Clinic students to the American Bar Association's Conference on Children and the Law at Harvard University. Both students remarked that they found the conference to be informative and furthered their interest in pursuing family law from a public interest law perspective.
- \* One of the two students, Mara Hunter, did an independent study project through the Clinic, supervised by Professor Christopher Northrop, in which she worked with the Justice for Children Task Force, chaired by Chief Justice Saufley, which is charged with revamping Maine's child welfare systems. Mara served on a subcommittee and drafted proposed standards for court-appointed parent attorneys.
- \* A General Practice Clinic student, Andrea Lunn, conducted an informational session on Aging and Legal Issues at the Portland Veterans Center. She met with veterans ranging in age from 30 to 60 and provided an overview of the basic purposes of wills, powers of attorney, HIPAA Disclosure and Reliance forms, general health care power of attorney forms and living wills, as well as information on seeking legal assistance to obtain such documents.
- \* Prisoner Assistance Clinic students created a brochure for new prisoners at the

Maine Correctional Center explaining how to access services through the Prisoner Assistance Clinic.

\* Two Juvenile Justice Clinic students attended the National Juvenile Defender Leadership Summit in Portland, Oregon. They were the only two law students to attend this invitation-only premier national conference for juvenile defenders.

## CLINIC SEMINARS

All students participating in Clinic courses during the school year participate in weekly seminars. Every other week the students meet in small groups with a faculty supervisor to hold “case rounds,” in which students present and discuss specific problems, challenges and questions that have arisen in their cases. Other weeks the seminars cover substantive legal issues, information on topics related to Clinic work, guest speakers and the like. During 2007 the seminars topics included: the dynamics of family violence; case theory; discovery; special education; client interviewing and counseling; Guardians *ad Litem*; forensic psychology; the impact of family law litigation on children; juvenile defense strategies; and criminal procedure. Our guest speakers included Hon. Thomas Delahanty (Maine Superior Court); Hon. Joyce Wheeler (Maine Superior Court); Hon. J. David Kennedy; (Maine District Court); Family Law Magistrate Susan Oram; Juliet Holmes-Smith, Esq. of Pine Tree Legal Assistance; M. Thomasine Burke, Esq. & Susan Wiggin, LCSW of Kids First; Sara Meerse, Esq. of Pine Tree Legal Assistance; and the Director of the Maine Forensic Service, Dr. Ann LeBlanc.

In addition to this coursework, each student is required to write a memorandum describing and analyzing a specific client counseling opportunity that they had during the course of the semester. Such memoranda require students to consider and reflect on the attorney-client relationship, the ethical obligations of attorneys, the dimensions and characteristics of client decision-making, and similar issues.

## CLINIC STAFFING

All student work is supervised by members of the Clinic faculty. **Deirdre M. Smith** serves as Director and supervises students in the General Practice Clinic. **E. James Burke**, who had been a part-time Visiting Clinical Professor for more than two years, joined the Law School faculty in May 2005 as an Associate Clinical Professor. He has continued his work overseeing the Prisoner Assistance Clinic and the summer intern program and supervising General Practice Clinic students. The Clinic initially hired **Christopher M. Northrop** as Visiting Clinical Professor in 2006. Chris, a nationally-recognized advocate for the rights of juveniles, oversaw the launch of the Juvenile Justice Clinic, supervised students in the General Practice Clinic, and supervised the Domestic Violence Project during the summer of 2007. In August 2007 the Law School appointed Christopher Northrop as an Associate Clinical Professor. **Tina Schneider** joined the Clinic faculty in 2006 as an Adjunct Clinical Professor overseeing the Domestic Violence Project and continued this work during the spring and fall semesters in 2007.

The Clinic continues to have a committed and hard working staff. **Karen Murphy** continues as our indispensable Administrative Manager. After more than five years of wonderful service as our administrative assistant, **Samantha Philbrick** has left the Clinic. We were fortunate to find **Patricia Olinger** to replace her. Several students (both work-study employees and volunteers) also serve as valuable members of the team.

## LAUNCHING PUBLIC INTEREST CAREERS

One measure of the program's success is our students' career choices after they graduate. Our May 2007 graduates include: a solo practitioner in Maine practicing primarily in the area of juvenile defense; a Superior Court clerk who plans to practice juvenile defense upon the completion of her clerkship this summer; two staff attorneys at Pine Tree Legal Assistance, one specializing in family law and the other working in the KIDS Legal project; and the Racial Justice Project Coordinator for the ACLU of North Carolina. A number of our recent graduates tell us that, as a result of their experiences working in the Clinic, they have decided to become rostered guardians *ad litem* and/or take court-appointed work in the areas of child protection, juvenile defense, and criminal defense. Other graduates have signed on with the Maine Volunteer Lawyers Project to accept *pro bono* cases.

## FUNDING SOURCES

In 2007 approximately half of the funding for the Clinic's programs came from external sources. The largest single source of such external funds is the **Maine Civil Legal Services Fund**. Another significant source is the **Maine Bar Foundation**, with the **Campaign for Justice** and the **Muskie Fund for Legal Services** also providing critical support for the Clinic's work.

In 2006, the Clinic was awarded a challenge grant from the **Sam L. Cohen Foundation** to secure funding for the launch (and first two years) of the Juvenile Justice Clinic. Fortunately, we were able to meet the challenge amount by the start of 2007 with support from the Simmons Foundation, the Betterment Fund, the Class of 1981 Reunion Gift, the proceeds from the auction of the estate of the late Honorable Edward T. Gignoux, and several individual donations.

For more information about the Cumberland Legal Aid Clinic, please contact:

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