

News & Updates
from Denver Law's
Clinical Programs

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Clinical Review

Highlights Include

ELC Students Make an Impact Locally, Nationally and Internationally

Criminal Defense Clinic Launches Summer Session to Respond to Need
for Public Defenders

New Faculty & Fellows

Message from the Director



Here at Denver Law, we are especially excited for the coming year as we gear up to celebrate the 110th anniversary of our clinical program, and to honor Professor Howard Rosenberg, who is retiring after forty years of teaching in the clinic. We are thrilled that NYU Professor Bryan Stevenson, founder and director of the Equal Justice Initiative, has agreed to keynote the event, which will take place on April 11-12, 2014. For more information about the celebration, please visit the [anniversary website](#).

We're also pleased to share some recent clinic experiences and successes such as the tremendous work the Environmental Law Clinic (ELC) continues to accomplish on behalf of its clients locally, nationally, and internationally. On the local level, the ELC negotiated a very favorable settlement of a citizen suit enforcement action under the Clean Air Act on behalf of a community in North Denver that was being polluted by a coal-fired power plant. Nationally, one of our students argued an appeal before the U.S. Court of Appeals for the D.C. Circuit in an action challenging EPA's failure to strengthen the national ambient air quality standard for carbon monoxide. And internationally, ELC students petitioned the Commission on Environmental Cooperation (a body formed under the NAFTA regime) asserting that the Canadian government was failing to enforce its own environmental laws regarding fish farms, resulting in declining wild salmon runs in British Columbia.

On other fronts, in a tribute to *Gideon v. Wainwright*, the Criminal Defense Clinic kicked off a special summer clinic by enrolling fourteen students in an intensive summer training session. During the first part of the session, the students were exposed to all facets of the criminal defense process through their work on a simulated case. Following their completion of the simulation, the students represented indigent clients charged with a variety of misdemeanor violations.

Finally, I'd like to introduce you to three new members of the clinic: Civil Rights Assistant Professor Lindsey Webb; Civil Rights Fellow Lauren Fontana; and, Community Economic Development Whiting Fellow Jack Wroldsen. We look forward to working with them as part of another vibrant year in our clinical programs.

– Ronald V. Yegge Clinical Director and Associate Professor Laura Rovner

15th

The 2013-2014 U.S. News & World law school rankings were released in April and Denver Law's Clinical Program ranked 15th. This is the third consecutive year in which the clinical programs have ranked among the nation's top 20."

Environmental Law Clinic

ELC Students Make an Impact Locally, Nationally and Internationally

The students and faculty of the Environmental Law Clinic (ELC) have been quite busy recently, scoring a number of victories for public health and the environment. Several generations of ELC students took on issues close to home, helping to protect public health in north Denver by holding the local coal-fired power plant accountable for its pollution and impact on the community. Recently, ELC students Nick Lopez, 3L, and Shannon Love, 3L, traveled to Washington, D.C. to challenge the Environmental Protection Agency over its failure to set a national standard for carbon monoxide that protects vulnerable populations such as pregnant women and children. And last month, the clinic received word that a petition former students helped to prepare and submit under the North American Free Trade Agreement had been accepted, so that the Canadian government will now be required to respond to concerns that industrial salmon farms in British Columbia are harming wild salmon runs in the Frazier River.

Protecting Public Health by Fighting Power Plant Pollution

For the past 4 years, ELC students have worked with Assistant Professors Kevin Lynch and Mike Harris on a citizen suit enforcement action under the Clean Air Act involving Xcel Energy's coal-fired power plant in north Denver. Last April, the clinic **reached a settlement agreement** in that case on behalf of the client, WildEarth Guardians.

The four generations of clinic students gained valuable federal court litigation experience over the life of this case, shepherding the case from the initial filing, through complex discovery, multiple rounds of extensive briefing, several oral arguments, and on to trial prep. The settlement was reached when the case was 2 weeks out from trial, so the students did not have the opportunity to present their openings and closings or to examine witnesses. However, the settlement was a tremendous win for our clients because of the benefits for the most impacted communities.



ELC students and faculty visit community leaders to discuss the clinic's environmental justice work in Denver.

Settlement Benefits: As part of the Settlement, Xcel Energy has agreed to provide \$447,000 to Groundwork Denver, a third-party nonprofit organization dedicated to bringing about the sustained improvement of the physical environment through community-based partnerships and action.

Groundwork Denver will use the funds to complete energy efficiency projects for 142 homes in the north Denver neighborhoods of Globeville, Elyria, and Swansea, and install solar panels on one or more public buildings in the neighborhoods. Additional funds also will be used to support the development of the 5.5 acre Platte Farm Open Space, a community natural area, including solar powered lighting on picnic shelters and along paths.

It is anticipated the projects will eliminate more than 3,000 tons of carbon dioxide emissions and save or produce nearly a megawatt-hour of electricity. The energy efficiency projects will save families nearly \$200 annually while solar panel installation will generate more than \$3,400 every year in savings.

Leading the Fight to Protect Vulnerable Communities Nationwide

On September 26, 2013, ELC student attorneys Nick Lopez and Shannon Love traveled to our nation's capital to put the pressure on EPA for failing to strengthen the national ambient air quality standard for carbon monoxide. In front of a sizeable audience including government attorneys, local law students, and client representatives, Mr. Lopez presented oral argument to a panel of judges on the D.C. Circuit Court of Appeals. Facing tough questioning from the panel, Mr. Lopez pressed the **argument that EPA failed to adequately explain** why it ignored epidemiological evidence showing that lower levels of carbon monoxide have negative impacts on vulnerable populations such as pregnant women and children, particularly in poor, urban, and minority communities across the country. Following the argument, one of the judges and several of the government lawyers complimented Mr. Lopez on his poise and delivery of a complicated argument. The clinic is now awaiting a ruling from the court, expected sometime in the next several months.

Utilizing International Law to Preserve Wild Salmon in British Columbia

For years the declining wild salmon runs in the Frazier River of British Columbia, Canada, have caused concern among fishermen, scientists, First Nations, and environmental advocates. Mounting evidence points to the growing use of industrial fish farming methods at the mouth of the Frazier River as contributing to the precipitous declines in wild salmon runs. Open water fish farms concentrate pollution, disease, and parasites along the channels where juvenile salmon swim out to sea after being born far upriver. Clinic students worked with the Center for Biological Diversity to prepare and submit a petition to the Commission on Environmental Cooperation (a body formed under the NAFTA regime), arguing that the Canadian government was failing to enforce its own environmental laws such as the Fisheries Act and its requirement that fish farms do not harmfully alter, disrupt, or destroy fish habitat. On September 12, 2013, the Commission ruled that the Canadian government would be required to respond to these arguments.



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Criminal Defense Clinic

Criminal Defense Clinic Launches Summer Session to Respond to Need for Public Defenders

The Criminal Defense Clinic (CDC), taught by Assistant Professors Robin Walker Sterling and Christopher Lasch, serves the Denver community by offering *pro bono* representation to clients who would otherwise be without counsel. The CDC's juvenile and adult clients are charged with misdemeanors and ordinance violations in the greater Denver area's county and municipal courts. The CDC accepts court appointments from several municipal courts and effectively serves as the public defender for these courts, representing persons deemed indigent and unable to afford a lawyer. The CDC also represents clients who do not meet the income guidelines to qualify for a public defender but who nonetheless cannot realistically afford representation. Since our last newsletter, CDC students have appeared as counsel for clients in seven municipal courts and four county courts spread across the greater Denver metropolitan area. Many CDC graduates have gone on to become public defenders in the Colorado state public defender system.

In the summer of 2013, the CDC offered a fitting fiftieth-anniversary tribute to the Supreme Court's decision in *Gideon v. Wainwright* holding that the Sixth Amendment guarantee of counsel in criminal cases applies to the states. Responding to the need for more Colorado public defenders occasioned by legislation that created 50-60 new staff attorney positions in the state public defender office, the CDC offered a summer session to give access to the clinical experience to students who may be future defenders. Fourteen students enrolled in the intensive summer session, enduring a three-week training orientation and then jumping in to represent clients who would otherwise have gone without a lawyer. The three-week orientation was even more rigorous than the two-week extended orientation that has been a feature of the CDC starting with the Spring 2011 semester. Students worked a simulated case through various stages of the pretrial process, including bail arguments, discovery arguments, hearings on motions *in limine*, a suppression hearing and a sentencing hearing, while learning the rules of criminal procedure, professional conduct, and evidence. Out of court, as part of the simulated case, students also conducted client meetings, witness interviews, a physical evidence viewing, a crime scene visit, and negotiations with a prosecutor.

The extended orientation is designed not only to educate students

quickly in the ins and outs of pretrial process, but also to integrate the three Carnegie Report-modeled apprenticeships (ethics and professional values; cognitive learning; and skills). The orientation also introduces students to the teaching methodology of the clinic in which students learn, plan for action, perform, and benefit from post-performance feedback. By integrating the teaching of evidence into the three-week orientation and summer session, the CDC was able to offer a unique clinical experience to students just completing their first year of law school.

The summer session students quickly hit the ground running and undertook representation of clients in cases involving charges of assault, theft, drug or drug paraphernalia possession, criminal mischief, disorderly conduct, and a variety of other alleged violations. The students provided excellent advocacy at every stage, from getting cases dismissed shortly after arraignment due to thorough investigation and exonerating witness statements, to providing comprehensive, client-centered sentencing advocacy that judges cited as the reason for not sentencing the client to jail time. Getting clients out of jail and getting charges dismissed were the order of the day. By September, two teams of students had gone to trial, one in a domestic violence case that unfortunately resulted in a conviction, and the other in a drug paraphernalia case. While a case involving a maximum fine of \$100 may seem insignificant, our client was facing years of imprisonment if convicted, as it would have been a parole violation. Armed with the tools they learned during the summer session, two CDC students cross-examined the police officer witnesses in the case, exposed the inconsistencies in their testimony, and after the jury returned from a mere 15 minutes of deliberation, heard the defender's two sweetest words: Not guilty.

Each semester, the vast majority of CDC students will represent a client in a contested trial or evidentiary hearing. The students also engage in a vigorous motions practice, and most will draft motions on First, Fourth, Fifth, Sixth, and Fourteenth Amendment grounds. The students also litigate different kinds of cases: trial-level cases, including both adults and juveniles accused of crime; and cases on appeal, including a case on behalf of a homeless man challenging a high-profile and notorious anticamping ordinance. Students also write petitions to seal their clients' records upon dismissal. After the extended orientation, the students pick up their cases and continue to meet for the seminar component of the class twice a week. They also meet with their professors in individual and team supervisions. The

seminar and the casework complement each other, as the seminar is designed to track the progress of the students' cases throughout the semester. The CDC aims to steep students in criminal defense practice and in the Colorado criminal defense community. Regular guest lecturers include the training director for the Colorado Public Defender's Office and the executive director of the Alternate Defense Counsel, the two largest criminal defense organizations in the state.

The CDC continues to take on second-semester students in the CDC II—students who have completed the clinic and want to continue

to represent clients, and to work on their trial skills in an actual courtroom setting under close supervision. More than half of the spring 2013 class, and half of the summer 2013 class, applied to continue in CDC II.

Learning lawyering skills such as interviewing, counseling, investigation, motions practice or negotiation in context produces a constant dialogue concerning important questions of professional values and professional responsibility. The CDC students work extremely hard, and are better lawyers for it in the end.



CDC students Nicola Winter (l) and Jerrico Perez after their first court appearance in Golden, Colo.

New Faculty & Fellows



Assistant Professor Lindsey Webb
Civil Rights Clinic

B.A., Wesleyan University
J.D., Stanford Law School
LL.M., Georgetown University Law Center

Lindsey Webb graduated from Wesleyan University and Stanford Law School. She also spent two years as a Prettyman Fellow in the Criminal Justice Clinic at Georgetown Law School in Washington, D.C., where she earned her LL.M. in Advocacy.

After graduation from law school, Webb worked as a Deputy State Public Defender in the Colorado State Public Defender's Office. In this capacity, she represented people accused of misdemeanors and felonies, in addition to children accused of crimes in juvenile court. She also worked as an attorney in the appellate division of the Public Defender's Office, where she handled direct appeals of felony convictions. At Georgetown Law School, Webb

supervised law students enrolled in the Criminal Justice Clinic in their representation of persons accused of misdemeanors in the District of Columbia, and taught weekly classes on trial advocacy skills. Prior to joining the Civil Rights Clinic, Webb served as Denver Law's director of Public Interest and also as a lecturer, teaching Evidence and Advanced Trial Advocacy, in addition to serving on the faculty of the Legal Externship and Public Interest Practicum programs.



Clinical Fellow Lauren Fontana
Civil Rights Clinic

B.S., University of Michigan
J.D., Ohio State University

Lauren Fontana is the Civil Rights Clinic Fellow. Fontana graduated from The Ohio State University Moritz College of Law, *magna cum laude*, as a Public Service Fellow with Dean's Highest Honors, and received her bachelor's degree in Computer Science in Engineering from the University of Michigan. After law school, Fontana clerked for Justice Nancy Rice at the Colorado Supreme Court and Judge Algenon L. Marbley in the United States District Court for the Southern District of Ohio. She then spent three years as an associate attorney at the Denver civil rights law firm of Killmer, Lane & Newman, LLP. Her practice at KLN focused on law enforcement misconduct, employment discrimination, and representation of five detainees held at the Guantanamo Bay prison.



Whiting Clinical Fellow Jack Wroldsen
Community Economic Development Clinic

B.A., University of Arizona
M.Ed., University of Arizona
J.D., Duke University

Jack Wroldsen is the Whiting Clinical Fellow in the Community Economic Development Clinic. Jack's scholarship focuses on laws that affect entrepreneurship. His recent articles analyze the securities laws that govern crowd-funding investment, which is an innovative way for entrepreneurs to raise capital from the general public via the Internet. Previously, Jack was in-house counsel to a software company serving the healthcare industry. He also practiced transactional law in the Denver offices of two law firms, representing non-profit organizations, start-up ventures, public companies, and private equity firms.

Faculty Highlights

Publications

Christopher Lasch

"Redressability in State Postconviction Proceedings for Ineffective Crimmigration Counsel," *63 DePaul L. Rev.* ____ (forthcoming 2014).

"Rendition Resistance," *92 N.C. L. Rev.* ____ (forthcoming 2013).

Kevin Lynch

"The Lock-In Effect of Preliminary Injunctions," *66 Florida Law Review* ____ (forthcoming 2014).

Robin Walker Sterling

"In Contempt," *99 Iowa Law Review* ____ (forthcoming 2014).

"On Surviving Legal De-Education: An Allegory for a Renaissance in Legal Education," *91 University of Denver Law Review* ____ (forthcoming 2013).

"Fundamental Unfairness: In re Gault and the Road Not Taken," *72 Maryland Law Review* 607 (April 2013).

Lindsey Webb

"The Procedural Due Process Rights of the Stigmatized Prisoner," *15 U. Pa. J. Const. L.* 1055 (2013).

Presentations & Conferences

Christopher Lasch

Co-Presenter (with D. Christopher Dearborn and Robin Walker Sterling), "Using Student Role Models to Establish Aspirational Professional Identity Goals and Develop Self-Evaluation Criteria," at Association of American Law Schools 2013 Conference on Clinical Legal Education, San Juan, Puerto Rico (May 1, 2013).

Panelist, "Beyond Padilla," Symposium, Navigating the Complexities of Our Melting Pot: How Immigration Affects Legal Representation, University of Tennessee, Knoxville, Tenn. (April 12, 2013).

Media

Christopher Lasch

Blog post, Crlmmigration, on how the Massachusetts High Court continues to "part ways" with the U.S. Supreme Court re: retroactive application of *Padilla v. Kentucky*. (September 16, 2013). (<http://crlmmigration.com/2013/09/16/mass-high-court-breathes-new-life-into-padilla-in-commonwealth-v-sylvain.aspx>).

Laura Rovner

Interview, "Law Blog," *The Wall Street Journal*, about the essay written by Professors Rovner and Patti Alleva suggesting that law school teachers could enrich courses by analyzing classroom controversy instead of avoiding it (July 3, 2013). (<http://blogs.wsj.com/law/2013/07/03/the-upside-to-controversy/>).

Civil Rights Clinic

"Appeals court to weigh how much is too much solitary confinement," *The Colorado Independent*, (www.coloradoindependent.com/144083/denver-judge-to-weigh-how-much-is-too-much-solitary-confinement).

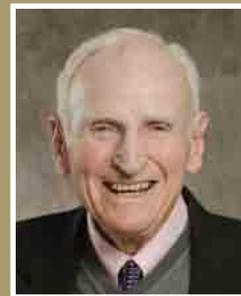
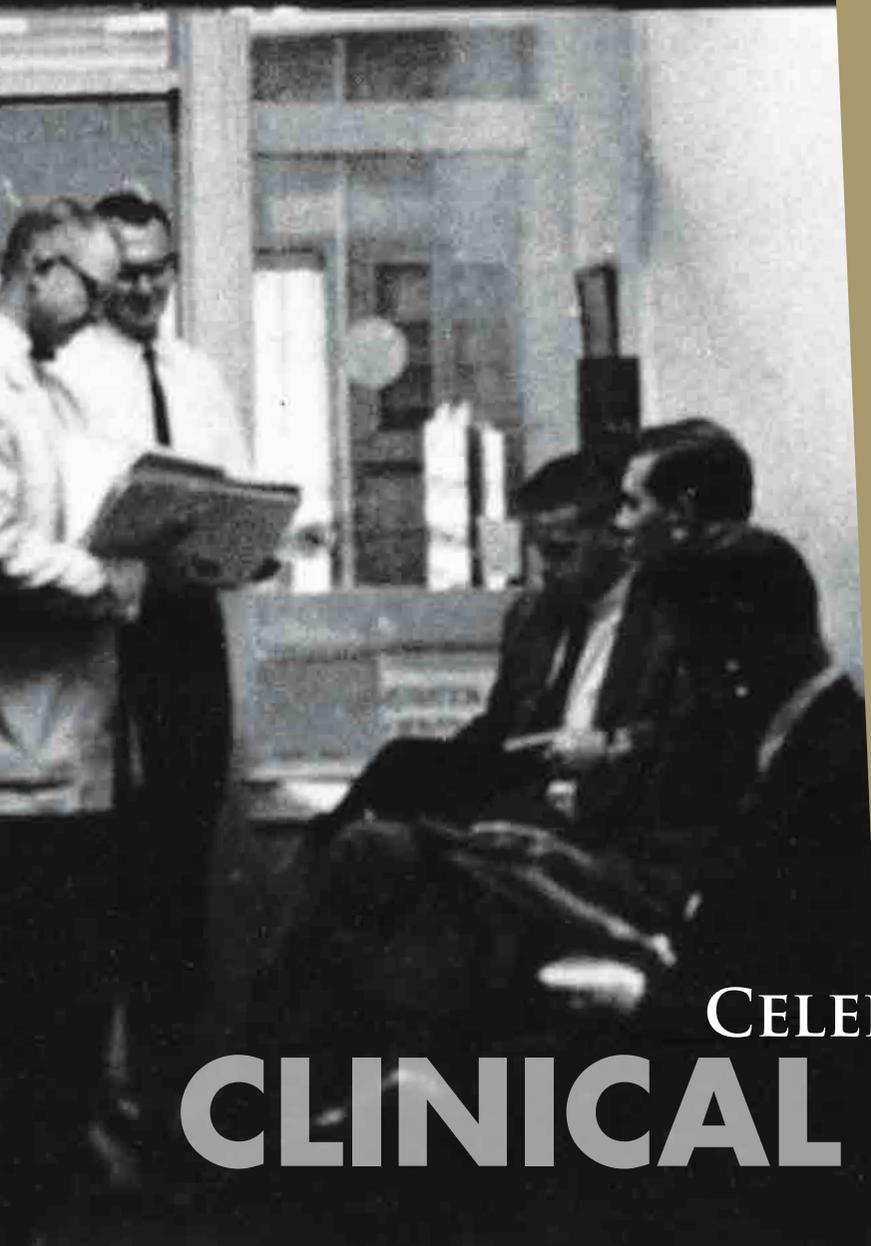
"The grate outdoors," *The Colorado Independent*, (www.coloradoindependent.com/144033/the-grate-outdoors).



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**PROFESSOR
HOWARD ROSENBERG**



**KEYNOTE SPEAKER
NYU LAW PROFESSOR
BRYAN STEVENSON**

Join us April 11-12, 2014 to celebrate Denver Law's top-ranked clinical programs and to honor a legend in clinical legal education, Professor Howard Rosenberg, on the occasion of his retirement. The event's keynoter will be NYU Law Professor Bryan Stevenson, founder and director of the Equal Justice Initiative.

CELEBRATE Professor Rosenberg's remarkable contributions to clinical education and the greater Denver legal community.

RECONNECT with current and former clinical faculty and classmates.

ENGAGE as MacArthur Foundation Fellow and Professor Bryan Stevenson discusses major legal challenges eliminating excessive and unfair sentencing, exonerating innocent prisoners on death row, and aiding children prosecuted as adults. In 2012, Professor Stevenson received the longest standing ovation in the history of TED talks at the conclusion of his presentation, "We Need to Talk about an Injustice."

Please share your stories! We would love to hear about the experiences you had as a student, faculty member or administrator in the clinic. Simply go to www.law.du.edu/forms/alumni/clinicmemories.

If you would like to assist with outreach to your classmates or make a donation in support of the clinical program, please contact Laura Dean at 303-871-6122 or ldean@law.du.edu.

For more info and updates visit www.law.du.edu/events.

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