

DENVER LAW CLINICAL PROGRAMS

CLINICAL REVIEW

UPDATES & ANNOUNCEMENTS FROM THE
UNIVERSITY OF DENVER STURM COLLEGE OF LAW
STUDENT LAW OFFICE

Highlights Include:

Environmental Law Clinic students work to clean up
“Shingle Mountain” in north Denver

Civil Rights Clinic case goes to the Tenth Circuit

Associate Professor Laura Rovner named
Ronald V. Yegge Director of Clinical Programs



Message from the Director



We are delighted to share some recent developments in the University of Denver Sturm College of Law's Clinical Programs.

We began the year by welcoming visiting professors Larry Sanders (Environmental Law Clinic) and Rhonda Brownstein (Civil Litigation Clinic) as well Phillip Bascaino, the 2011-2012 Erik Bluemel International Environmental Law Scholar. Our new Community Economic Development Clinic, under the direction of Professor Patience Crowder and Whiting Clinical Fellow Eric Franklin, opened its doors this fall; our students are already out in the community providing transactional legal services to a wide variety of organizational clients in two of Denver's historically underserved but emerging neighborhoods.

And our nationally-ranked clinical program continues to grow. This year, in keeping with the strategic plan adopted by our faculty, we will be hiring two new

tenure-track faculty members in the clinic. Doing so will create an even greater number of clinical opportunities for our students, especially those in the College of Law's Environmental & Natural Resources Law Program and our newly-created Constitutional Rights & Remedies Program. We're also adding another colleague in our externship program, which provides experiential learning opportunities for more than 350 students each year.

Read on to learn more about the important work our clinic students and faculty do, including saving endangered species, representing victims of domestic violence and developing a new blog in the Criminal Defense Clinic. And don't miss the videos on our website!

Laura Rovner

Ronald V. Yegge Clinical Director and
Associate Professor of Law

Clinic Updates

Environmental Law Clinic

Environmental Law Clinic Announces the 2011-2012 Erik Bluemel International Environmental Law Scholar

The Environmental Law Clinic (ELC) is extremely happy to announce the selection of Phillip Bascaino as the 2011-2012 Erik Bluemel International Environmental Law Scholar. Bascaino is in his third year at the Sturm College of Law and is also pursuing an M.A. in International Development at the Josef Korbel School of International Studies. Bascaino's work in the clinic focuses on the legal and policy issues surrounding Congressional grants of tribal sovereignty under federal environmental laws.

ELC Students work to clean up "Shingle Mountain" in north Denver

Since the spring of 2011, Environmental Law Clinic students have been working with residents in North Denver who are concerned about a growing pile of shingles outside of a "recycling" plant. Known in the community as "Shingle Mountain," the pile is more than just an eyesore, but also a fire hazard and source of asbestos pollution in stormwater runoff.

Clinic students sent a 60-day notice letter regarding Clean Water Act violations to the recycling facility. The attention generated by the clinic's work has contributed to improvements at the site, including cleanup of one of the sites and involvement by the Colorado Department of Public Health and Environment and the Denver Fire Department.

ELC students push the Department of Commerce on protecting the Porbeagle Shark

The Porbeagle Shark, a cousin to the Great White Shark, can grow over 11 feet in length. These fearsome predators are highly intelligent, but due to their slow growth rate and late maturation, they have been devastated in recent years by overfishing. The Porbeagle population has declined approximately 90% from historic levels, particularly in the Northeast Atlantic Ocean. Environmental Law Clinic students are representing WildEarth Guardians on a lawsuit challenging the decision by Commerce Secretary Gary Locke not to protect the shark by listed it as threatened or endangered under the Endangered Species Act.



Assistant Professor Mike Harris (far left), Clinical Fellow Kevin Lynch (front left) and Lecturer Larry Sanders (far right) with ELC students at Bierstadt Lake in Colorado's Rocky Mountain National Park.

Criminal Defense Clinic

The Criminal Defense Clinic (CDC), taught by Professors Rosenberg, Walker Sterling and Lasch, continues to provide much-needed representation to indigent adults and youths accused of crimes in county and municipal courts in the greater Denver area. In the courtroom, Denver Law students handle caseloads which include allegations of assault, disorderly conduct, disturbance of the peace, and possession of drug paraphernalia. In the spring 2011 semester, the hard work of the students in preparing their cases for trial paid off: The clinic obtained a dismissal in eight cases through effective pretrial preparation. Six of the eight new CDC students conducted a trial or a contested evidentiary hearing. The students defeated a DUI charge in which the prosecution attempted to prove our client was driving with a blood alcohol content over three times the legal limit; in another case the students obtained a rare court order suppressing evidence due to a Fourth Amendment violation, which resulted in dismissal of the case. Two of the graduating Spring 2011 CDC students went on to coveted positions with the Office of the Colorado State Public Defender. In the fall 2011 semester, the clinic has already participated in two jury trials, and the clinic's docket has an average of a trial a week scheduled throughout the rest of the semester. The students engage in a vigorous motions practice, and have written and will argue challenges on First, Fourth, Fifth, Sixth, and Fourteenth Amendment grounds.

In August 2011, Professors Walker Sterling and Lasch were invited to serve as faculty in a nationally-recognized public defender training program. Bringing the ideas from that training into the classroom here at DU, Walker Sterling and Lasch have continued revision of the CDC syllabus, adding classes aimed at integrating the teaching of skills, substantive knowledge, social justice, and client-centered advocacy.

Professors Walker Sterling (l) and Lasch work with students participating in the Criminal Defense Clinic



The two-week extended orientation instituted in the Spring 2011 semester was repeated in the Fall 2011 semester. In addition to actors from DU's Theatre School, members of the Romero Troupe, a group dedicated to creating social justice through theater, also played the role of the client during the two-week simulation in which students met with their client, and conducted investigation, discovery, and motions practice.

ALUMNI PROFILE

Criminal Defense Clinic

When the wholesale mortgage industry went belly up, then-account executive Liz Upton, JD'11 pursued a long-held dream and applied to law school. She'd planned to go into real estate law, but found the material, well, boring. That left the Indiana native with no idea what sort of law she wanted to pursue.

"I kind of started to panic," Upton recalls. "Everyone else seemed to have things all figured out."

A visit to the career services office helped: The counselor asked Upton which classes she did like, and the answer, to Upton's own surprise, was criminal law and procedure. That summer Upton interned at the Public Defender's office in Arapahoe County, and in the spring of 2011, enrolled in DU's Criminal Defense Clinic (CDC). Representing real clients, the clinic's students delve into every step of the criminal defense process, from investigation to trial.

Like most clinic alumni, Upton says her interactions with clients were especially meaningful. Although the CDC handles mainly Municipal Court cases (as opposed to more serious matters at the County and District Court level) the process is still nerve-wracking for people caught up in it.

"To have the responsibility to guide them through that, to fight for them, and then to see how happy they are when you get a positive outcome—it's really rewarding," says Upton.

Today, Upton, 31, handles hundreds of cases as a Deputy State Public Defender in Jefferson County. She credits the CDC with teaching her the fundamentals of her practice, and giving her the confidence to put them to use.

"Whether it's research, writing motions, voir dire, cross examination—I use those skills every day at work," she says. "There are still times I'm scared to death, but having been through the clinic I can say 'I've done this before, I can do it.'"

—Gary Chandler

Advanced Criminal Defense Clinic

The Advanced Criminal Defense Clinic (ACDC), in which students who have taken the Criminal Defense Clinic continue to work with clients, has been restructured as well. After the success of last semester's extended orientation and revised curriculum, four students sought and were granted admission to the ACDC. As in the past, the ACDC students continue to represent clients in court. This semester, they have other duties as well, expanding their advocacy skills outside the courtroom. Each is charged with designing a non-litigation, community-based project. This semester's projects include designing a Know Your Rights curriculum for youths accused of crimes and their parents, and creating a workshop to teach formerly system-involved women to seal their records. The ACDC students are also charged with designing and teaching, in teams of two, a class for the CDC students.

Finally, the ACDC students also act as student editors for the DU Criminal Defense Clinic's new blog, "Actus Reus," which will soon be live. This website will serve as a clearinghouse for information of interest to criminal clinicians and their students on a national level, criminal practitioners on a local level, and DU alumni (including, but not limited to, former students of the Student Law Office and CDC) who are interested in what the CDC is doing. The blog will feature regular pieces by CDC students, as well as pieces from guest contributors. It will also include a centralized repository for briefings of United States Supreme Court and Colorado criminal cases as opinions are handed down. Eventually we hope the website will host case briefings and news from students in other criminal clinics across the country. Among the resources available for criminal clinicians will be a master bibliography with readings commonly used by criminal clinicians across the country, and syllabi posted by clinicians across the country.

experience some diversity in their client work, a student's second client assignment will be a different type of entity or matter from his or her shared representation. Our second round of client assignments will include a designer consignment store, an online music sharing start-up, a nonprofit corporation seeking recognition of tax-exempt status to assist Native Americans combat environment justice issues, a small business development center seeking to work with African immigrants, a nonprofit corporation who works to improve literacy rates in children through writing projects, a sushi chef, a small business consultant, a health care provider, and a microfinance lender. The diverse range of clients includes women and minority small business owners and community-based organizations working to serve underserved communities – and the waiting list continues to grow.

The semester began with an orientation that included guided tours of two Denver's historically underserved but emerging neighborhoods, Five Points and Lincoln Park/La Alma. The tours were conducted by a private developer and a Denver Housing Authority planner, respectively. Both guides provided unique insights into the redevelopment process; topics of conversation ranged from the challenges of small business development to the advantages and disadvantages of transit-oriented development. Afterwards, as we reflected on the tours during dinner at a neighborhood restaurant, we discussed the psychic and geographic definitions of community and our personal connections to particular communities – igniting what will surely be a constant conversation within the CEDC from year to year and client to client. Needless to say, it will be a busy but fun year.

Community Economic Development Clinic

This fall marks the inaugural class of our new Community Economic Development (CEDC). Under the guidance of Professor Patience Crowder and Whiting Clinical Fellow Eric Franklin, ten enthusiastic 2L and 3L students are representing a wide variety of organizational clients: a furniture designer, a video game retailer with multiple locations, an environmental consultant, a nonprofit organization promoting the role of youth advocacy in environmental justice, and a neighborhood association organized to maximize community participation development project.

The CEDC is a year-long transactional clinic. The students are currently working as co-counsel and, in addition to that representation, will soon begin to represent clients without co-counsel. In order to allow the students to

Denver's Five Points neighborhood



Civil Rights Clinic

Civil Rights Clinic case goes to the Tenth Circuit

The Civil Rights Clinic (CRC) represents four federal prisoners in a case challenging their transfer to — and indefinite solitary confinement in — the federal supermax prison. The case asserts that the conditions in the supermax are so “atypical and significant” that people are entitled to notice and an opportunity to be heard before being imprisoned there indefinitely. Supermax prisoners spend 23 hours a day alone in a cell that measures 87 square feet. They never see other people face-to-face unmediated by bars or glass. The only interaction they have is through a steel cell door, or between recreation cages for a few hours each week. Religious practice is severely curtailed and group prayer — which is especially important for our clients, all of whom are Muslim — is completely prohibited. One of our clients lived in these these conditions for thirteen years.

The case, which asserts that the government is violating our clients’ constitutional right to due process, is now before the U.S. Court of Appeals for the Tenth Circuit. Last year, CRC students, Anastasia Ridgeway (3L), Kellie Eastin (3L), John Feeney-Coyle (3L) and Keenan Jones (3L), drafted the appellate brief on behalf of their clients, and the case will be argued later this fall. Special thanks to Professor Hope Metcalf and students Danielle Lang and David Lebowitz of Yale Law School’s Detention and Human Rights Project, which filed an amicus brief supporting our clients.

Civil Rights Clinic Students Represent Man Denied Medical Care in Prison

It’s only October, but three Civil Rights Clinic (CRC) students are already preparing to take depositions. They are representing Matt Mallory in his federal lawsuit against a Colorado prison that denied him adequate medical care, resulting in an extreme incident where his life was put in danger.

While in prison last fall, Mr. Mallory was prescribed a high dosage of ibuprofen for back pain. While taking this medication, Mr. Mallory began to vomit blood. He asked for medical

help several times, but his requests were ignored. He continued to throw up blood for several days until he was unable to get up in his cell. Shortly afterward, he collapsed and had a seizure. Mr. Mallory was immediately rushed to a hospital off prison grounds. He spent three weeks in the hospital, had three surgeries, lost over thirty pounds and has permanent scarring and difficulty digesting food. Even after his return from the hospital, the Colorado prison system did not follow the hospital order’s to provide medications and rehabilitation as needed.

Under the supervision of Visiting Professor Brittany Glidden, students in the CRC last year filed a complaint in federal district court asserting that the prison’s failure to provide Mr. Mallory adequate medical care violated his right under the Eighth Amendment to be free from cruel and unusual punishment. The students representing Mr. Mallory successfully overcame the State’s motion to dismiss the complaint, and discovery on the case began over the summer. Current CRC students Anna Alman (3L), Joclynn Townsend (2L) and Jim Swihart (3L) are now taking depositions of defendants and witnesses in the case, and will be engaging in federal motions practice later this year.

Civil Litigation Clinic

Students in the Civil Litigation Clinic represent people in desperate need of legal representation who have no other lawyers — victims of domestic violence, tenants in low-income housing who are facing eviction or the loss of their government subsidies, and low-wage immigrant workers who are being mistreated by unscrupulous employers. In addition to these three main focus areas, students represent plaintiffs in employment discrimination cases (including major federal litigation brought with the EEOC and private attorneys) and engage in community projects designed to have a strategic impact.

This semester, the students have already won a string of victories on behalf of their clients. In one case, students Dominique Layton (3L) and Bill Gisi (3L) represent Keith S. in a challenge to his denial of subsidized housing. Keith lost his job last year, which led to his eviction from his apartment and homelessness. During a brutally cold winter living on the streets, Keith suffered from frostbite, which resulted in the amputation of both his legs. Despite his homelessness and disability, his application for government-subsidized housing was denied because of a debt to his former landlord. Through creative and zealous advocacy, Layton and Gisi were able to win Keith’s admission into a large, sunny, and wheelchair-accessible subsidized apartment.

Other student teams have worked on such diverse matters as filing a federal anti-discrimination complaint on behalf of a woman who was fired after fourteen years with her employer, and securing a protection order for an eight-month pregnant woman who was attacked by her boyfriend. And students continue to file lawsuits and work with members of the community to fight rampant wage theft, where employers refuse to pay wages due to the working poor.



CRC students work together to hone their skills in the law school’s Hoffman Trial Practice Room.

Faculty Highlights & Announcements

Assistant Professor Patience Crowder

Community Economic Development Clinic

"Transactional Clinics' Impact on Social Justice," Panelist, 10th Annual Transactional Clinicians Conference, Chicago, Ill. (April 16, 2011).

"At SEA (Sympathy, Empathy, and Apathy): Teaching Students to Distinguish Between and Strategically Select Modes of Communication," co-presented with Profs. Robin Walker Sterling and Christopher Lasch, Association of American Law Schools Conference on Clinical Legal Education, Seattle, Wash. (June 16, 2011).

"Connecting Sustainable Development and Social Justice in the Post-Metropolis: Observations from the Law Faculty of the University of Denver Sturm College of Law," co-presented with Professors Tom Romero, William Shutkin and Annecoos Wiersema as part of the University of Denver Marsico Scholar Program at the Urbanization, Nature and Socio- Transactional Clinics' Impact on Social Justice, Panelist, 10th Annual Transactional Clinicians Conference, Chicago, Ill. (April 16, 2011).

"Politics: A North-South Debate," workshop, Denver, Colo. (April 6, 2011).

<http://www.lawweekonline.com/2011/08/dus-first-community-economic-development-class-tours-denver-neighborhoods/#.TkmMaseUhMM.email>

Assistant Professor Michael Harris

Environmental Law Clinic

"Welcome to Shingle Mountain, Colorado," High Country News Blog (May 11, 2011).

<http://www.hcn.org/greenjustice/blog/welcome-to-shingle-mountain-colorado>

"Xcel won't have to pay penalty, judge says," Pueblo Chieftain (August 2, 2011).

http://www.chieftain.com/business/local/xcel-won-t-have-to-pay-penalty-judge-says/article_cb6123a2-bcaf-11e0-b330-001cc4c03286.html

The U.S. Fish and Wildlife Service has proposed to list the Philippine cockatoo and the yellow-crested cockatoo (including all four subspecies) as "endangered" and the white cockatoo as "threatened" due to a variety of threats, primarily the illegal collection of the birds for global trade. In January 2008, the Friends of Animals, represented by the Environmental Law Clinic at the University of Denver Sturm College of Law peti-

tioned the Service requesting 14 species be protected under the Endangered Species Act (August 9, 2011).

<http://www.globalanimal.org/2011/08/22/cockatoos-to-be-protected/48137/>

Assistant Professor Christopher Lasch

Criminal Defense Clinic

Professor Christopher Lasch succeeded in overturning a death sentence in one of his death penalty cases from Kentucky. A state court judge overturned John Mills' death sentence based on evidence received in state post-conviction proceedings, which were lawyered by Professor Lasch and his wife, Elizabeth Stovall. The judge vacated Mills' death sentence based on the ineffectiveness of Mills' trial counsel, who called a single witness at mitigation — Mills' sister. She testified for a mere three minutes. Based on the evidence presented in post-conviction proceedings, at which Lasch and Stovall called 16 mitigation witnesses, the court found trial counsel's mitigation investigation "perfunctory at best" and held there was "an abundance of mitigating evidence available to trial counsel" that was not presented (August 22, 2011).

"At SEA (Sympathy, Empathy, and Apathy): Teaching Students to Distinguish Between and Strategically Select Modes of Communication," co-presented with Profs. Robin Walker Sterling and Patience Crowder, Association of American Law Schools Conference on Clinical Legal Education, Seattle, Wash. (June 16, 2011).

"Jury Instructions: The Second Closing Argument," a CLE for the Colorado Criminal Defense Bar, University of Denver Sturm College of Law (July 15, 2011).

Professor Christopher Lasch and Robin Walker Sterling served as faculty members for the Southern Public Defender Training Center's (SPDTC) annual training conference. Faculty members for the SPDTC are experienced professors and practitioners who are or have been public defenders and participate by invitation only. The SPDTC annual training conference aims to teach students the "heartset, mindset, and soulset" of a public defender, concentrating on teaching skills in a setting that reinforces professional values and ethics. Lasch facilitated small-group workshops with other faculty and gave students feedback as they learned advocacy skills in the context of a simulated case, Atlanta, GA. (August 2011).

Clinical Fellow Kevin Lynch

Environmental Law Clinic

"When Staying Discovery Stays Justice: Analyzing Motions to Stay Discovery When a Motion to Dismiss Is Pending," 47 WAKE FOREST L. REV. ____ (forthcoming 2011).

**Ronald V. Yegge Director of Clinical Programs &
Associate Professor Laura Rovner**
Civil Rights Clinic

Appointed as Ronald V. Yegge Director of Clinical Programs. Professor Rovner served with distinction as interim director on two occasions and in numerous other service positions at the law school, and has been deeply involved in developing and implementing the school's Strategic Plan (June 2011).

"The Civil Rights Crisis in the Federal System Post 9/11 — Conditions of Confinement," Brooklyn College, New York (Oct. 13, 2011).

"A Five-Lesson Framework for Reaping Dividends from Spontaneous Classroom Controversy," Co-presenter, Institute for Law Teaching and Learning, New York Law School (June 2, 2011).

"Content and Context: Use of Narrative Theory in the Initial Client Interview," Plenary presenter, Association of American Law Schools Conference on Clinical Legal Education, Seattle, Wash. (June 15, 2011).

"Solitary confinement comes to Capitol Hill," Solitary Watch (April 6, 2011).
<http://solitarywatch.com/2011/04/11/solitary-confinement-comes-to-capitol-hill/>

"Supermax inmate suing to lessen solitary confinement," Denver Post (April 29, 2011).
http://www.denverpost.com/search/ci_17954968

"Inmate's lawsuit reveals details, life at Supermax," Denver Post.com (May 1, 2011).
<http://us.cisionpoint.com/GetFilePassThrough.aspx?locator=NewsItemDetail-2AD65F7BF0-19A87ED->

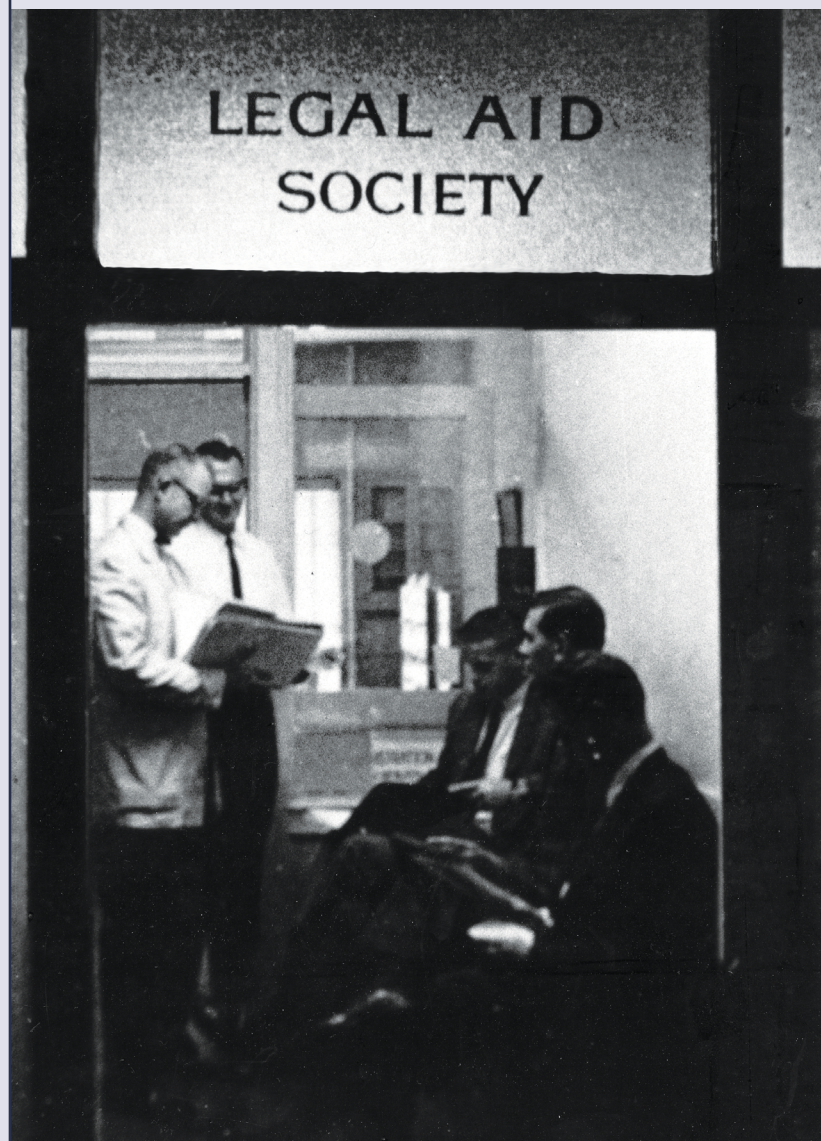
"Inmate-sues-after-28-years-in-solitary," Columbus Dispatch (May 1, 2011).
http://www.dispatch.com/live/content/national_world/stories/2011/05/01/inmate-sues-after-28-years-in-solitary.html?sid=101

Assistant Professor Robin Walker Sterling
Criminal Defense Clinic

"Counseling Children and Youth in Times of Crisis: Tips to Achieve Success and Avoid Pitfalls," co-presented in a national teleconference call co-sponsored by the American Bar Association Section of Litigation Children's Rights Litigation Committee (March 8, 2011).

"The Negative Effects of Juvenile Detention Juvenile Delinquency Practice: Translating Current Research into Convincing Advocacy," co-sponsored by the Colorado Juvenile Defender Coalition, Colorado Springs, Colo. (March 10, 2011).

"At SEA (Sympathy, Empathy, and Apathy): Teaching Students to Distinguish Between and Strategically Select Modes of Communication," co-presented with Profs. Christopher Lasch and Patience Crowder at the Association of American Law Schools Conference on Clinical Legal Education, Seattle, Wash. (June 16, 2011).



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CIVIL RIGHTS CLINIC

COMMUNITY ECONOMIC DEVELOPMENT CLINIC

CRIMINAL DEFENSE CLINIC

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