
BORN FIGHTING

CLINICAL EDUCATION AT THE UNIVERSITY OF CONNECTICUT SCHOOL OF LAW

By
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UCONN
SCHOOL OF LAW

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This short book is based on materials in the UConn School of Law - Thomas J. Meskill Law Library Archives, which is another way of saying that it could not have been written without the expertise and dedication of Lea Wallenius. Not only did she locate the materials bearing on the law school's clinic, but throughout the process of research and writing she was a source of interpretive ideas and a fact-checker extraordinaire. Were it not for her ferocious modesty, her name would be on the title page. Many thanks also to Jeanne Leblanc for her sage editorial advice, her sharp-eyed copy editing and for shepherding the book through publication.





1800 ASYLUM AVE

FROM 1964-1984, THE UNIVERSITY OF CONNECTICUT
SCHOOL OF LAW OCCUPIED THE BUILDING AT
1800 ASYLUM AVENUE IN WEST HARTFORD, CONNECTICUT.
*(University of Connecticut Photographic Laboratory, Office of
Public Information, Storrs, CT)*

The law school of the University of Connecticut moved from a stately mansion at 39 Woodland Street in Hartford to more modern quarters at 1800 Asylum Avenue in West Hartford in 1964. A move was overdue. The school had grown substantially since its founding in 1921 as the Hartford College of Law and especially since its incorporation in 1943 into the University of Connecticut. From a humble start as a night school educating lawyers for the city's insurance companies, it had grown into an accredited and respectable institution. The move to West Hartford came just two years after Homer Babbidge, Jr. assumed the presidency of the university in Storrs. It was a happy confluence of events. Substantial changes in legal education were coming, and it would take leadership and vision to bring the university and its fledgling law school into the new age.

Babbidge—whom Howard Sacks remembered as “young, enterprising, affable—set out to make the slow-moving “cow-college” into a major research institution. Babbidge chose the law school as a “flagship” part of the institutional upgrade. In 1967 he appointed Sacks as dean and charged him with putting the school on the national map. Sacks, brought with him an expertise in clinical education—he had served as the director of the National Council on Legal Clinics—and believed that adding practical lawyering experience to traditional academic offerings would enhance the school’s reputation. UConn Law’s legal clinic received formal approval from the faculty in 1968 and began operations in the fall of 1969 under the direction of Professor Joseph Harbaugh. It was a pioneering venture and a propitious beginning.

The scene was set for a bright future, starting with a nationwide resurgence of interest in clinical legal education. Legal clinics appeared in the United States late in the 19th century in reaction to the shift away from the traditional apprenticeship system of legal training and toward classroom education. Theoretical reasoning and formal doctrine as pioneered by C.C. Langdell at Harvard Law School assumed a new primacy and the Socratic method of instruction became dominant. What was missing in the new system was the actual experience of lawyering: of dealing with clients first hand, of trying cases, of being in direct touch with the issues and problems facing real people. These things legal clinics promised to offer, but the problem was that the clinics looked too much like the old apprenticeship system—precisely what Langdell’s “legal science” was designed to eliminate. For most of the early 20th century, clinical education was non-existent in most law schools and on the defensive in the few where it did exist.

Fortunately for the new clinic at the UConn School of Law, the 1960s saw a national resurgence in the legal clinic movement. The civil rights movement and the national war on poverty during the



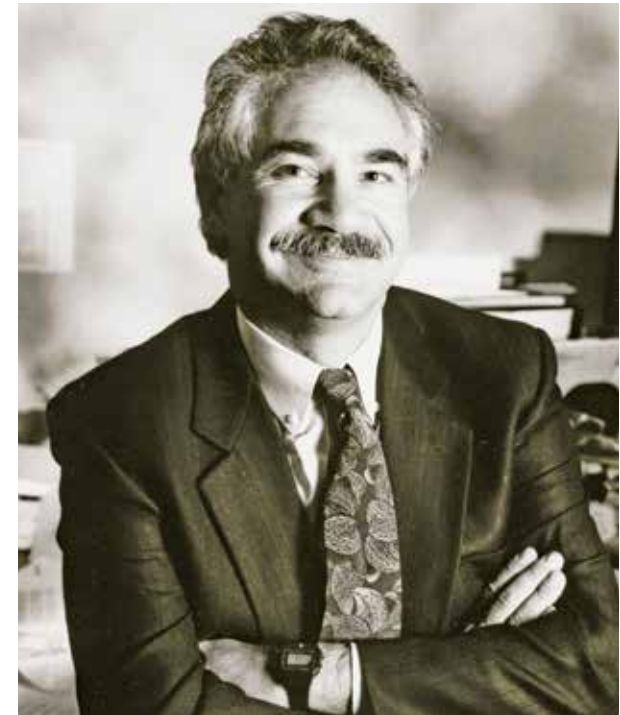
JOSEPH HARBAUGH, FOUNDER OF THE
CLINIC PROGRAM AT UCONN LAW
(*Legal Realist*, November 21, 1969,
Thomas J. Meskill Law Library)

Kennedy and Johnson presidencies gave a new relevance to the pragmatic, bottom-up, community-oriented lawyering offered by the clinics. Money for clinical programs became available through Ford Foundation grants. National organizations such as the American Association of Law Schools and the American Bar Association grudgingly modified their opposition. Sacks, as an associate professor at Northwestern University, had been on the cutting edge of this resurgence. As UConn Law dean and as a member of the board of the Council on Legal Education for Professional Responsibility, Sacks was instrumental in procuring grants for the clinic. Harbaugh, a Prettyman Fellow in Trial Advocacy in the LLM program at Georgetown University, also came to the law school with a passion for clinical legal education, with on-the-ground experience, and with invaluable networking connections to the national movement.

With money he sought out and received from the Ford Foundation, Harbaugh was able to hire three recent law school graduates as interns: Elliott Milstein from UConn Law, Paul Rice from West Virginia University College of Law and Lou Parley from George Washington Law. It was a young team fresh out of law school, but there was energy, enthusiasm, and a vision. And it helped that the new clinic could build on a foundation established when the school was located at 39 Woodland Street. There were no in-house clinical courses during those days, to be sure. But hands-on teaching, practical learning, and a close working relationship with local courts and local problems were all natural steps in the direction of a formal clinical program.

More directly relevant to the clinic's successful launch was the Student Board of Public Defenders and Legal Assistants, conceptualized and organized in the spring of 1964 by Paul S. Sherbacow. The organization's initial purpose was to "provide assistance to lawyers representing criminal defendants, and to afford students an opportunity to observe the practical operation of the law." In acknowledging the overlapping goals, Professor Donald Weckstein noted that "it may well be that there are some activities that should be continued or initiated by the Student Defender Project even after the establishment of the legal clinic program."

By 1969, when the Legal Clinic began operations, the Student Board of Public Defenders had already involved dozens of students in local community projects and had established close ties with leading legal figures in the state. Harbaugh recalled that many of the students on the board enrolled in his clinic classes, and Harbaugh himself maintained a close working relationship with the board, especially with Elliott Milstein. As chairman of the board, Milstein worked closely with Harbaugh, who was its faculty advisor. Milstein graduated in the spring of 1969, and the two, along with Milstein's wife, Bonnie, spent that summer planning and preparing for the



ELLIOTT MILSTEIN '69
(*Graduate Report, Fall 1999,*
Thomas J. Meskill Law Library)

opening of the clinic that fall. Milstein remembers, "We didn't yet know what clinical education was to be, but we were able to experiment. We learned from the board that working as externs for lawyers and legal service organizations did not provide the education that we needed and so creating an in-house model was what we set out to do." Milstein's role in the fledgling program was the beginning of what would become a distinguished career in clinical education, including a law school deanship and a position of national leadership in the clinic movement.

Student involvement in the work of the Student Board of Public Defenders created a tradition of idealism and commitment that helped sustain the clinic during its formative period. Harbaugh was the perfect person to tap into this tradition. Recalling these early years, he paid tribute to his students, who were motivated by the idealism of the civil rights and anti-war movements and who came to law school “with a mission on their mind and vision in their eyes.” Harbaugh shared this mission and he saw the “exciting rebirth” of the legal clinic movement as an opportunity to empower students by training them to be trial lawyers who would champion civil liberty and equal justice before the law. Litigating for justice was what he studied to do as a Prettyman Fellow, and it was what he did with distinction for three years as chief public defender for the Connecticut circuit courts. It was also what he did when he decided in 1970 that the clinic should defend the “radicals” who opposed the Vietnam War. That decision brought his clinic to the brink of extinction—and led to one of its most enduring accomplishments.

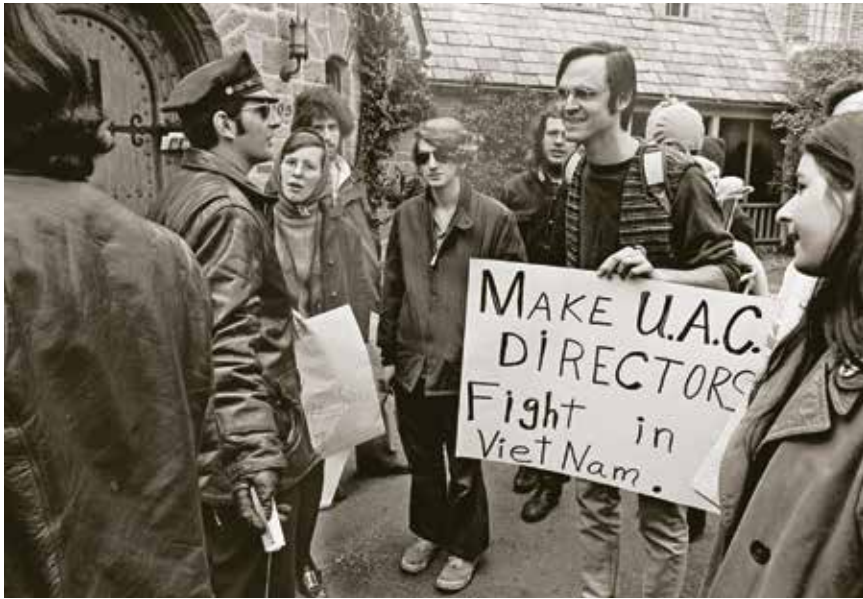
Involvement in the high-profile defense of anti-war protesters was the clinic’s defining issue from its founding until the mid-1970s, but there were other factors that shaped its development during these formative years. One factor was the rift in the law school faculty over Sacks’ efforts to upgrade the institution. Traditionalists on the faculty liked the school the way it was and feared that curriculum changes and other innovations would detract from the school’s main mission to train students in Connecticut law. Powerful voices among the law school alumni agreed. In 1968, after Sacks had been dean for only a year, Connecticut Superior Court Judge Douglass Brownell Wright, who was also an adjunct professor at the law school, wrote an urgent letter to President Babbidge, warning him and the university Board of Trustees, “the law school faculty are in complete revolt.”

Thus it was that Sacks, the clinic’s champion to the outside world, was already at odds with a segment of his own faculty when the



JUDGE DOUGLASS BROWNELL WRIGHT '37 RECEIVES THE
DISTINGUISHED ALUMNUS AWARD IN 1972
FROM, LEFT TO RIGHT, HUGH KEEFE '67, ROBERT TAYLOR '55
AND WILLIAM RUSH '59.
(Courtesy of *The Hartford Courant*.)

anti-war protest movement hit the law school. No one took a poll, but evidence strongly suggests that many of the old-timers who were opposed to the dean’s modernization plans were also at odds with those of their colleagues who were outspoken in their opposition to the Vietnam War—and especially those who joined the hippie generation to make the point. It is not hard to imagine what a dedicated teacher like Ed Stephenson thought when he found out that one new faculty member was using Charles Reich’s countercultural best-seller *The Greening of America* as the only text



PROTESTERS PICKET UNITED AIRCRAFT EXECUTIVE'S HOME, MARCH 22, 1970.
(Courtesy of *The Hartford Courant*,
photograph by Al Ferreira)

Despite the moderate tone of the protest, to many on the outside (and some on the inside) it appeared that the school had lost its bearings. Governor Thomas Meskill was among the powerful alumni demanding that Sacks take corrective action. Babbidge, who was also under pressure to quell the radical student rebellion on his own campus, relayed the same message. Sacks was in a bind, having written less than 10 years earlier a pamphlet entitled, “Defending the Unpopular Client,” which argued that one of the important features of clinical education was to champion unpopular causes.

Such was the lay of the land when Harbaugh decided that social justice and good clinical legal education required him to involve the clinic in the defense of the anti-war protesters. The first case arose in April 1970 when protesters attempted to storm the stockholders meeting of United Aircraft Corporation in East Hartford, and were later denied a permit by city officials to assemble in Bushnell Park for further protest. Clinic interns Lou Parley and Elliott Milstein joined Bruce Mayor of the American Civil Liberties Union to persuade federal district court Judge T. Emmet Claire to order the city to grant the permit. Activist Abbie Hoffman capped the Bushnell protest with a rabble-rousing speech to the 2,000 protesters, convincing many people that clinic personnel should not have got involved at all.

Then came the two notorious “flag cases,” one involving the Viet Cong flag, which implicated the Connecticut anti-communist statute passed in 1919, making it a crime to fly a red flag. The second involved a Connecticut statute, originally passed in 1899 and amended several times afterward, that imposed criminal sanctions against anyone who desecrated the American flag. Both cases touched a sensitive political chord for citizens of Connecticut whose sons were overseas fighting in the Vietnam War.

The first case originated in November 1970, when clinic lawyer Steven St. Clair defended two anti-war protesters who waved the

in his required criminal law course. Some old eyebrows must surely have been raised when they heard that another young faculty member jumped on his desk in his stocking feet to make a point to his class or when another professor showed up at a faculty meeting to tender his resignation with his wife in tow, both dressed in matching tie-dye shirts. The faculty minutes don't tell us what he said.

Tensions came to a head in the spring of 1970 when law students protested the shootings at Kent State by demanding that classes be canceled and grades be put on pass/fail. Neither demand was met, although one day was set aside for panel discussions of the issues.



ABBIE HOFFMAN ADDRESSES A RALLY IN BUSHNELL PARK IN HARTFORD, ORGANIZED BY THE ANTI-AIRCRAFT CONSPIRACY, ON APRIL 14, 1970.
(*Courtesy of United Press International*)

Viet Cong flag during President Nixon's visit to Hartford to support Meskill's campaign for governor. St. Clair asked that the 1919 statute be declared unconstitutional on First Amendment grounds. St. Clair and the clinic students won the first round when federal district Judge M. Joseph Blumenfeld granted a restraining order against the enforcement of the statute until the constitutional question could be settled.

Then, in November 1971, while the outcome of that case was pending, the clinic undertook the defense of a person who challenged the Connecticut flag desecration statute of 1919. Given the pervasive

commercialization of the American flag today, it is hard to imagine the passionate emotions aroused by this case. But the case occurred 18 years before the Supreme Court held in *Johnson v. Texas* that flag-burning was a form of symbolic speech worthy of First Amendment protection. The constitutional law governing the statute was therefore unsettled, and the clinic's case was made even more controversial by the tactics devised by William Breetz and others to bring the case to court. Breetz was hired in 1970 to develop and head the civil legal clinic, and he wasn't afraid of a good fight. His strategy, devised along with St. Clair and students from the clinic, was to cut up an American flag, stitch it into a vest, and threaten to wear the vest as an act of protest. St. Clair contacted state prosecutors in five judicial districts in Connecticut, asking them for permission to wear it as an act of protest. Only one prosecutor, Richard Heffernan from West Hartford, took the bait, denying the request (in writing no less) saying if "you wear your vest in my town, God damn it, I'll lock you up."

No one ever showed up to protest, but the question remained as to whether the mere denial had a chilling effect on the free speech provision of the First Amendment. A three-judge federal panel, in response to arguments by St. Clair, Harbaugh, and Breetz, ruled 2-1 that the town's official refusal to permit people wearing the vest to come into its jurisdiction violated the First Amendment's guarantee of free speech (even though no person chose to exercise that right). The decision was appealed to the Second Circuit Court of Appeals, which affirmed the decision of the three-judge panel. It was never taken to the U.S. Supreme Court, but the outcome of the "damn vest case," as the prosecutor came to call it, stood as another victory for the clinic and for the First Amendment.

The governor, his "political friends," and many citizens of Connecticut who were outraged by the clinic's activities did not wait for these cases to work their way to a resolution before registering



GOVERNOR THOMAS JOSEPH MESKILL '56,
CIRCA 1973
(*Thomas J. Dodd Research Center*)

their disapproval. Harford City Corporate Counsel John M. Fitzgerald brought the message home to Meskill in early February 1971. Citing the Bushnell Park decision (in which Fitzgerald had been a defendant) and the two flag cases, Fitzgerald demanded that the governor review the clinic's activities. Noting that 85 percent of the clinic's funds were public, he questioned whether the state should fund activities that "attack the validity of state statutes."

Meskill answered the question in his budget message to the state legislature in February 1971 by threatening to cut funding entirely for the operation of the clinic—and by scolding clinic lawyers for "subsidizing attacks on our institutions and our government." This threat resonated not just at the law school but also at the university's main campus in Storrs, where Babbidge realized that his own funding might soon be at stake. He called Sacks and urged him to appease the governor and rein in Harbaugh as the first step toward saving the clinic from elimination. In response to mounting political and economic pressure, the administration called for a four-year audit of the clinic's books, threatened to deprive the clinic of its use of state-owned automobiles, and even restricted promotions for the clinic's staff.

Harbaugh never forgot Meskill's harsh words and the governor himself may one day have regretted saying them. But in 1971, Meskill probably spoke for a majority of the people in the state—and assuredly for those whose sons were fighting and dying in the jungles of Vietnam. Meskill would later temper his opposition to the clinic and reestablish friendly relations with his alma mater, but in 1970-71 the message was out there: the clinic was on the firing line and the law school would have to change course or change its dean—or both.

Harbaugh probably did not anticipate the vitriolic nature of the attack on the clinic, but he must have known the high political stakes involved in taking on the protest cases. Without a doubt he was aware of the existing divisions among his faculty colleagues over the plans to modernize the law school. Involving the clinic in the cases clearly would complicate Sacks' job, as he simultaneously struggled to make peace with alumni and secure funding from the legislature. It was abundantly clear, too, that controversy would embarrass Babbidge, who was already under fire for being soft on radicals and who, as a result, would have to come down hard on the law school and its already beleaguered dean. That is indeed what happened.

So why, given the high stakes, did Harbaugh plunge his young clinic into the quagmire? It was not because the protesters could not get other lawyers to represent them. Clearly it was not because the clinic needed business, because students were already involved in a wide range of community causes that were important socially and educationally. Neither had anyone pressured Harbaugh to take on the cases and, indeed, it is a good guess that he was warned about the dangers of taking them.

Imputing motives to those acting nearly 50 years ago is risky. But one thing we do know is that the young director of the clinic liked nothing better than a good fight. As he explained to a reporter from the *Legal Realist* (the law school's student-run paper), he had an adversarial disposition. "I enjoy contention," he said. "Law is the art of competition." Harbaugh was a litigator by preference and learned the techniques of infighting as Connecticut's chief public defender. More importantly he believed that the duty of lawyers was to work for social justice, and he believed that litigation was the way to do so. Where others saw radical protest simply as chaos or perhaps social pathology, he saw an opportunity to strike a blow for social reform. Above all, he believed that taking on important First Amendment cases provided a rare teaching opportunity, a chance to demonstrate first-hand how lawyers might—and ought to—do battle for justice. That lawyers had an ethical and moral obligation to serve the community was a standing principle of his fledgling clinic.

Before the clinic could stand for anything, however, it had to survive the storm. How it could do so was the question. Both flag cases served to vindicate basic First Amendment rights, an accomplishment of which Connecticut citizens, in cooler moments, might have been proud. More than that, the clinic's participation in those cases provided a unique educational experience for students. This had been Harbaugh's position all along. He was later vindicated when the American Bar Association Committee on Ethics and Professional



HOWARD R. SACKS, WHO SERVED AS DEAN OF THE LAW SCHOOL FROM 1967 TO 1972 AND AS A PROFESSOR OF LAW UNTIL 1987
(*Thomas J. Meskill Law Library*)

Responsibility issued an opinion in 1972 wholeheartedly endorsing his decision to take on the cases. "Acceptance of such controversial clients and cases by legal aid clinics," the opinion stated, "is in line with the highest aspirations of the bar to make legal services available to all." The ABA's endorsement proved to be a national precedent, establishing the right of clinics to be free from outside political pressure.

Harbaugh took this message to the public in a series of op-eds that appeared in several prominent Connecticut newspapers. In one *Hartford Courant* piece, he criticized the systemic harassment of the clinic. Speaking at a Connecticut Civil Liberties Union event, he reminded his audience that the clinic's defining purpose was "to

educate lawyers to take the responsibility of defending the poor, the unpopular clients.” He noted also that the controversial cases were only a small part of what the clinic did, and that most of its cases directly benefitted communities in the Hartford area. Reinforcing Harbaugh, a *Hartford Times* article reminded readers that the clinic had sued to enforce state statutes more often than it had attacked them.

Sacks made some of the same points in his detailed report to Babbidge and the Board of Trustees in February 1971. Putting the operation of the clinic in context, Sacks again emphasized the constitutional and educational significance of the civil rights cases litigated by the clinic. He also reminded critics that the clinic had always maintained cordial relationships with the state’s legal profession and the Connecticut Bar Association. The dean concluded his report on a conciliatory note, pointing out that the law school had put in place a set of guidelines to ensure that future cases would be chosen for maximum educational value—thus placating the governor without surrendering the clinic’s commitment to maintaining its independence from outside influence.

Convenient departures also relieved political pressure on the clinic. Realizing that he had become personally identified with the controversy, Harbaugh decided that leaving would be best for the future of the program. He submitted his resignation in 1971, although he continued to defend the clinic. Harbaugh’s colleague Bill Breetz, whom many considered the guiding force behind the American flag case (*Thoms v. Richard Heffernan*), left the clinic to take a job with a public interest law firm in Hartford and took the controversial case with him. Sacks knew he would be in the middle of a “whirlpool” when he originally permitted Breetz to go forward with this case, and he was right. The axe fell when the dean was invited to lunch with Babbidge and Provost Ed Gant, and before the hors d’oeuvres appeared, was asked politely, “What would you think about

resigning?” Sacks had been instrumental in establishing the legal clinic, and had been one of its chief defenders in its time of troubles. No doubt he would have preferred to stay on and finish the job, but he also realized that he had become a political liability. Good man that he was, Sacks fell on his sword. After resigning his deanship he continued to teach at the law school until 1987.

The purgation was complete. The final act of atonement came when the full law faculty issued its report of clinic activities. The report was an objective critique of areas that could be improved—increased faculty supervision, a reduced case-load for clinic interns, and a more prudent selection of cases being high on the list. The report concluded that what most distinguished the program was student motivation.

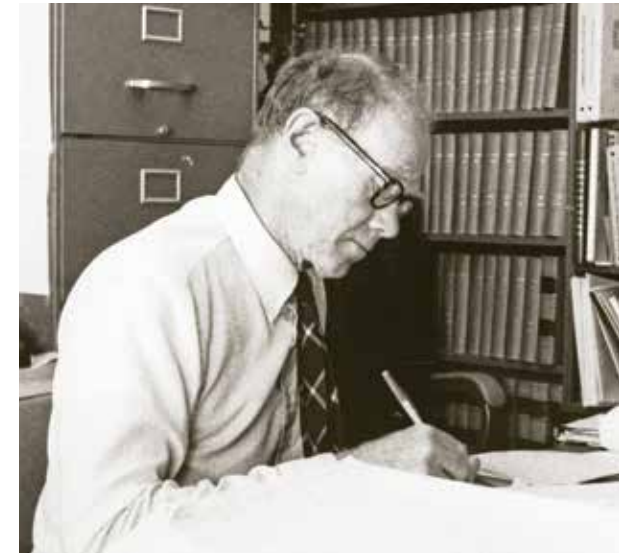
Student comments said it all. Almost every student praised the practical experience he or she had gained. Among other things, they learned how to deal directly with clients; they grappled with the techniques of litigation; and they mastered substantive law as they navigated the complexities of the Connecticut criminal code. In short, the clinic taught students how to practice law, not just theorize about it. As one student aptly put it in a 1973 survey about the clinic, “A significant part of the experience in the clinic is the sense of ‘hands-on’ experience; diagnosis and treatment as opposed to autopsy in most other courses.” Or along the same lines: “Theory is fine but it alone will not help you from making an idiot of yourself the first time you go to court.” Harbaugh would have resonated to one student’s recollection: “The clinic tends to make one aware of human beings, not just abstract legal problems. It nurtures one’s social consciousness, so that the pursuit of dollars alone does not become the sole criterion of the manner in which one practices law.” Many students thought the strongest feature of the program was Harbaugh himself. One student responding to the survey summed it up when he said that Harbaugh was “both a teacher and a mentor and he changed my life.”

If confronted with all this praise, Harbaugh would almost certainly have replied that the defining character of the clinic was the idealism and enthusiasm of its students.

Opposition to the clinic subsided as Harbaugh and others explained the virtues of clinical education to the public and Sacks carried the message to the Board of Trustees. Reconciliation with Meskill took longer. In 1974 he decided not to seek reelection and President Nixon, in one of his final acts in office, nominated him to the U.S. Court of Appeals for the Second Circuit. Twenty-one UConn Law professors signed a letter opposing the nomination and Sacks testified against it before Congress, citing Meskill's conflict with the clinic, among other things. The nomination stalled, but the next year President Ford nominated Meskill again, and this time the Senate confirmed him. In time, the faculty and other foes of Meskill were won over. In 1982, the student-run *Connecticut Law Review* honored him with its annual award. In 2010, three years after his death, the UConn Law library was named for him.

What remained a problem in the mid-1970s, however, was a serious economic recession that took a toll on law school enrollment across the country. UConn's legal clinic was hit especially hard. The financial crisis was temporarily averted when the Board of Trustees agreed to increase student fees at the law school and when the general economy improved. Clinic enrollment, however, remained dangerously low. There also remained a number of unresolved issues regarding the clinic's personnel policy, its organizational structure, and its relationship to the academic faculty.

On the plus side was the astute leadership of Acting Dean Francis Cady, whom his colleagues remembered as an inspiring teacher and a "quintessential professional." Cady kept the clinic afloat during the 1970s; he also introduced one of the first legislative clinics and judicial clerkship clinics in the country. It helped morale, too, that



FRANCIS C. CADY, ACTING DEAN FROM
1972 TO 1974 AND PROFESSOR OF LAW
FROM 1947 TO 1980
(*Thomas J. Meskill Law Library*)

clinic staff attorney David Golub won eight felony trials in a row in the Hartford Superior Court. Most importantly for the future, the fundamental principles established during the formative years were firmly in place: a commitment to independence from outside political pressure; a willingness to take on controversial cases; and finally, a tradition of community service that was started by the Student Board of Public Defenders and continued unabated during the transitional 70s. Also in place was the basic proposition that doctrinal learning should be supplemented by hands-on experience. Foundational principles were essential, but it was equally important that those principles were imparted by inspiring teachers like Harbaugh, Milstein, and Breetz, among others.



MICHAEL SHELDON, DIRECTOR
OF THE CRIMINAL CLINIC,
1976 TO 1991
(Thomas J. Meskill Law Library)



JAMES STARK, DIRECTOR OF THE CIVIL
CLINIC, 1979 TO 1992, AND DIRECTOR
OF THE MEDIATION CLINIC SINCE 1994
(Thomas J. Meskill Law Library)

The revitalization of the clinic began in earnest with the appointment of two such teachers to lead separate divisions of the Legal Clinic: Michael Sheldon in 1976 as the head of the criminal clinic, and James Stark in 1979 as the head of the civil clinic. On the criminal side there was much restorative work to be done and Sheldon welcomed the challenge. About the only thing the clinic had, he recalled, was its name, address, and phone number. There was also the problem of yellow legal pads. There were none. Sheldon approached Al Maule, the assistant to the dean for fiscal affairs, and asked for yellow pads. Unfazed by the urgency of Sheldon's demand, Maule took off the top pages of his own pad and handed them to Sheldon, who replied: "Al, that's one yellow pad. I have 14 students in my clinic, and there's me too, and I have a staff attorney." Conceding Sheldon's point, Maule promised to have the pads within three weeks. Sheldon jotted the time-frame down on his hand. When Maule asked, "Why are you

doing that?" Sheldon responded, "Because I don't have any yellow pads!" The pads arrived and Sheldon's clinic got to work.

The reenergized criminal clinic drew on Sheldon's training as a trial lawyer in the Prettyman Fellowship Program at Georgetown Law, and no less on his charismatic personality—"utterly inspirational" one of his colleagues recollected. Sheldon's standards may have seemed impossibly high; "good enough for government work is not in Michael Sheldon's lexicon," one of his colleagues remarked. Working with clients whose freedom was on the line was a key part of Sheldon's program. The other was mastering the substantive law necessary to defend them in court. Facing off against U.S. attorneys and state prosecutors could be daunting, but Sheldon remembers that his students, with no prior trial experience, could "look people in the eye, and take them on as necessary, on or above their level."

One case that put clinic students to the test was an immigration court deportation proceeding. The defendant was Bruno Kaminskas, a 75-year-old bicycle repairman living in Hartford who was charged with having belonged to the Lithuanian Home Guard, a Waffen SS unit that murdered several hundred men, women, and children during World War II. Whether the clinic should take on such a high profile and possibly explosive case after the flag cases was the threshold question. Sheldon approached Dean Phillip Blumberg with the issue and was given his strong backing. The fact that eight of Sheldon's class of 14 were Jewish was also a sensitive issue. In presenting the case to his students, Sheldon reminded them that no one else in the state was willing to defend Kaminskas. In the blind vote that followed, all 14 students voted to take on the case, though eight declined to work on it personally, some Jewish and some not.

Sheldon promised Blumberg that the case would be "of significant educational value" for his students. And so it was. First, there was

the question of Kaminskas' mental competence to stand trial. In addition, it had been 37 years since the crimes he was accused of committing, which raised questions related to evidence and the statute of limitations. To address the allegations that Kaminskas was personally involved in the shootings, the students reminded the court that the Waffen SS was notorious for killing those who refused to follow orders. Student arguments on these legal issues resulted in an abatement of the case. The case was adjourned indefinitely when the court ruled that Kaminskas was unfit to stand trial. He was not deported, and resided in Connecticut until his death in 1988.

The Kaminskas case helped revive the reputation of the legal clinic. It was also a memorable moment for those students who participated in the case, among whom were Bill Curry, who would later run for governor; Tom Ritter, future speaker of the Connecticut House of Representatives; and Christine Keller and Douglas Lavine, both of whom went on to serve on the Connecticut Appellate Court. Sheldon left the clinic in 1991 to become a Superior Court judge. Seeing his former students in court remains one of his greatest pleasures.

While Sheldon was rebuilding the criminal clinic, James Stark was doing the same on the civil side. Stark came to UConn Law in 1979 from the Washington College of Law at American University. He had been hired there by former UConn Law clinic intern Elliott Milstein, who then recommended him for the clinic opening at UConn. As with the criminal clinic, there was work to be done. The existing clinic handled general legal matters such as divorce and benefits cases for low-income residents, but its mission was much less defined than that of the criminal clinic, meaning that there was ample room for growth and innovative thinking. Stark was given carte blanche to chart a new course.

Sheldon's efforts were devoted entirely to trial litigation, whereas Stark focused on the varied aspects of legal practice. Clinical education



TODD FERNOW '83, LEGAL CLINIC STAFF ATTORNEY, 1983 TO 1987, AND DIRECTOR OF THE CRIMINAL LAW CLINIC SINCE 1991
(*Thomas J. Meskill Law Library*)

was, in his words, “a very big tent” covering many different kinds of programs—transactional, litigation-oriented, individual advocacy, and group-oriented policy work. Over the next decade, the Civil Litigation Clinic, under Stark's direction, offered challenging and rich educational experiences in a wide range of cases. Clinic students represented parents of disabled children in disputes with school districts under the new Education for All Handicapped Children Act, and later took on disability rights, housing discrimination and employment discrimination cases. Stark also secured outside grants that supported an expansion of clinical offerings, including a new mental health law clinic, which in 1994 became the Disability Law Clinic.

In addition to developing these innovative programs, Stark and Sheldon hired and mentored two new clinic faculty members, both



TIMOTHY EVERETT '84, CLINICAL
PROFESSOR OF LAW SINCE 1987
(*Thomas J. Dodd Research Center*)

UConn Law graduates: Todd Fernow in 1983 and Timothy Everett in 1987. After working with Sheldon on several pending appeals, Fernow assumed the responsibility of handling both trial division and appellate division cases. Everett was hired to work in both the trial and appellate clinics, and taught courses in both programs with Sheldon and Fernow. Both Everett and Fernow agreed that working with Sheldon was a “momentous” experience. Ultimately Fernow took exclusive charge of the trial division, while Everett directed the clinic’s appellate division.

Following Sheldon, Fernow discovered a “ferce ownership of identity” in the work of criminal defense litigation. Not only did he have a passion for litigating, but he also had a gift for teaching. Of the several hundred students he has taught, half have gone on to practice

criminal law, with many pursuing successful careers in Connecticut as defense attorneys and prosecutors. Fernow recalls attendance at Connecticut Defense Lawyers Association meetings as an experience “like old home week.”

Everett’s experience as a student in the law school clinic also made him a champion of clinical education. After graduation he taught at the University of Bridgeport Law School (now Quinnipiac University School of Law) and practiced environmental and land-use law—this while continuing to write briefs for criminal defendants in his free time. Upon returning to the law school as a faculty member in 1987, he enjoyed “three glorious years co-teaching with Mike Sheldon and Todd Fernow.” Everett said he “loved seeing people disagree with one another about the law, but [with] a common purpose.” His goal was for the clinic to produce briefs that “glowed in the dark” so as to persuade the court that there had been an error that needed to be remedied. Everett, Fernow, and their students did in fact write briefs that were widely recognized for their persuasiveness, literacy and command of substantive law.

Fernow and Everett also led the criminal clinic at UConn to a series of impressive accomplishments on both the appellate and trial sides. Two particularly important cases at the appellate level were *State v. Hammond* and *State v. Williams*. The former was the first DNA case presented to the Connecticut Supreme Court; the latter, primarily supervised by Fernow, was a seminal case on prosecutorial misconduct. *State v. Williams* established the legal standard governing improper summations by prosecutors in Connecticut. On the trial side of the clinic, Fernow remembers *Shockley v. Lopes* as one of the clinic’s biggest cases, and one of his most memorable victories. In *Shockley*, the clinic mounted a successful defense based on ineffective assistance of counsel, one of the first such cases in Connecticut. In addition to aiding Sheldon and Fernow on the *Williams* and *Shockley* cases, Everett managed cases that reshaped Connecticut law. One



PAUL CHILL '85, CLINICAL PROFESSOR OF LAW SINCE 1988; FOUNDER AND CO-DIRECTOR, DISABILITY LAW CLINIC, 1994; DIRECTOR, CIVIL APPELLATE LITIGATION CLINIC, 2002; ASSOCIATE DEAN FOR CLINICAL AND EXPERIENTIAL EDUCATION SINCE 2013
(Thomas J. Meskill Law Library)



JON BAUER, RICHARD D. TULISANO '69 SCHOLAR IN HUMAN RIGHTS, CLINICAL PROFESSOR OF LAW SINCE 1988; DIRECTOR, CIVIL CLINIC, 1994-2002; FOUNDER AND DIRECTOR, ASYLUM AND HUMAN RIGHTS CLINIC, 1998; FOUNDER, IMMIGRATION DETENTION AND DACA CLINIC, 2018
(Thomas J. Meskill Law Library)

such case was *Phillips v. Warden*, in which the Connecticut Supreme Court ruled that the defendant's attorney, who himself had been convicted of murder, had created a conflict of interest that entitled the defendant to relief due to ineffective assistance of counsel.

Stark's appointment of Paul Chill, another graduate of UConn Law, and Jon Bauer in 1988 launched a new period in the expansion of the civil clinic. Both men went on to supervise various new programs, including those dealing with child protection, civil rights, disability, mental health law, and mediation. One important case for the clinic, perhaps the most important case in Chill's career, was *Pamela B. v.*

Ment, which catalyzed structural reform of the state's juvenile court system, and also prompted legislation to ensure that parents receive a prompt hearing when the state Department of Children and Families removes a child from their home. Chill was appointed as the first associate dean for clinical and experiential education in 2013, which gave him a platform to further expand the law school's clinical offerings.

In 1994, after a stint as associate dean for academic affairs under Dean Hugh Macgill, Stark founded the mediation clinic, which trains students to mediate disputes in a wide variety of Connecticut courts and agencies. Stark's pioneering work on mediation has won him and the school a national reputation. Collectively, Stark, Fernow, Everett, Chill, and Bauer introduced students to a broad range of lawyering skills in both theory and practice and fostered habits of planning, acting and reflecting that would shape their professional lives. Their collective efforts charted the development of the clinic until the present day.

The clinics' maturation in the 1980s and '90s was impressive, but there remained unsolved problems related to funding, equal pay and the professional status of clinic personnel as compared to traditional academic faculty. In addressing these problems, the clinics benefitted from a new surge of national support for the clinic movement. Especially important was the MacCrate report published by the American Bar Association in 1992. Harbaugh was on the report's task force and remembers it as a seminal moment in clinical education that legitimized the clinic movement. The report harshly criticized the lack of practical preparation for law students and the overemphasis on doctrinal learning. While the report was opposed at certain elite law schools, it bolstered the clinicians at UConn in their effort to solve the problems relating to funding and status. The status issue has yet to be fully resolved, but at present, in the absence of tenure, clinicians are eligible for presumptively renewable long-term contracts. While



MARTHA STONE, DIRECTOR OF THE
CENTER FOR CHILDREN'S ADVOCACY
SINCE 1997
(*UConn School of Law*)

clinical faculty do not vote on tenure decisions, they do participate in all other aspects of faculty governance, including the important process of hiring new faculty.

Because clinical education is labor-intensive, funding continued to be a pressing problem. Compounding this problem has been the fact that funding has historically come in substantial part from outside grants, making it vulnerable to changing political circumstances. In the mid-1990s for example, the elimination of a major federal grant program, as well as a threatened diminution of state grant funding, prompted Macgill to develop more cost-efficient ways of funding clinic programs. This strategy inspired externships and partnerships with organizations such as Martha Stone's Center for Children's Advocacy and William Breetz's Connecticut Urban Legal Initiative. Macgill also sought new grant opportunities and raised money to endow new full-time clinic positions. The payoff came in 1999 with the creation of the William R. Davis Clinical Teaching Fellowship and a low-income taxpayer clinic founded by Diana Leyden. The fellowship not only augmented clinical faculty, but also provided a training ground for new clinicians, many of whom have gone on to teach at other law schools.



WILLIAM BREETZ, DIRECTOR OF THE CONNECTICUT URBAN
LEGAL INITIATIVE FROM 1997 TO 2011, WITH CLINIC STAFF
AND STUDENTS IN FRONT OF THE COLONIAL THEATRE
IN HARTFORD, SITE OF A COMMUNITY DEVELOPMENT
SUPPORTED BY THE CLINIC. FRONT ROW, FROM LEFT:
BARBARA McGRATH '83, GABRIEL ROSENBERG '84,
ELIZABETH M. WISENMAN '04, A. CASTA-KAUTEIL '04.
BACK ROW: BAMBI ROBERTS, KEYIA NICOLE BANKS, PETER
J. MURPHY '03, BREETZ, RICHARD J. TWILLEY '04
(*Graduate Report, Spring 2002, Thomas J. Meskill Law Library*)

In recent years the civil clinic has engendered more than a dozen new programs, among them the Tax, Asylum and Human Rights, and Intellectual Property and Entrepreneurship Law clinics. The Intellectual Property clinic, initially directed by Hillary Greene, is unique in that it was created by the Connecticut legislature as part of an economic development bill. Designed to assist Connecticut's small inventors and business entrepreneurs, the clinic aimed to create

jobs and boost the state's economy. Unlike the early clinics, the Intellectual Property Clinic emphasizes transactional work rather than litigation, helping clients procure patents and trademarks from the U.S. Patent and Trademark Office. The UConn Intellectual Property and Entrepreneurship Law Clinic was one of six clinics nationwide originally selected by the patent office to participate in a pilot program (now permanent) that enables clinic students to practice before the office under faculty supervision.

These additional course options offered hands-on legal training to an increasing number of UConn Law students. As these students went on to assume leading roles in Connecticut's legal community, it became clear even to skeptics that the clinic program had become a major feature of effective legal education at UConn Law. Increasingly tempered has been the traditional view of clinical education as subsidiary to doctrinal learning because it dealt only with practical lawyering. But in fact, the clinics at the law school have always been committed to teaching both law and the practice of law. Clinic students are exposed to the best theoretical scholarship about lawyering itself. UConn clinical faculty past and present have made notable contributions to this body of theoretical scholarship.

Explicit recognition of the important symbiotic relationship between legal doctrine and the practice of law came when the regular faculty, with the encouragement of Macgill, chose to forego raises in 1992 to help close the gap in the pay scale between themselves and clinical faculty. The rest of the faculty also showed their support for the clinical programs when they made the crucial decision in 2012 to require a clinical experience or field placement for all students. Only 14 other schools in the country had such a requirement at the time. This new requirement necessitated the continued expansion of clinic offerings. Students presently have a choice of more than fifteen programs, including in-house programs, field placements, and partnerships, all inspired by the diverse interests of faculty and



JEAN-MARIE TUETE, THE FIRST CLIENT OF THE ASYLUM AND HUMAN RIGHTS CLINIC AT UCONN LAW, WAS GRANTED ASYLUM IN THE UNITED STATES AFTER A CLINIC STUDENT HELPED HIM DESCRIBE THE DETENTION AND TORTURE HE FLED IN CAMEROON.
(Graduate Report, Fall 2002, Thomas J. Meskill Law Library)

students. In recent years, the law school has added clinics in animal law, veterans' benefits and elder law, along with new opportunities in field placements.

Martha Stone's Center for Children's Advocacy and Jon Bauer's Asylum and Human Rights Clinic might be taken to represent modern experiential learning at the law school. Stone was a supervising attorney in the criminal clinic at the law school before entering the Prettyman program at Georgetown. Following a successful career with the ACLU, she founded the Center for Children's Advocacy in 1997—located above the campus boiler room

no less, and operating on a shoestring budget. Although designed as a partnership with the law school rather than as an in-house clinical program, the Center for Children's Advocacy is now an effective supplement to standard clinic offerings. Today, 20 attorneys work for the center. Although it does not have the same status or funding as a clinic, the center has become a unique and important feature of clinical education, one deeply embedded in issues affecting the youth of Connecticut. A signal victory for the center was the litigation surrounding the landmark case *Sheff v. O'Neill* that pioneered the movement for educational equality in Connecticut public schools. Stone's center remains a magnet attracting students to public interest law.

Since joining the faculty, Jon Bauer has gained recognition for his pioneering work in the development and leadership of the Human Rights and Asylum Clinic. Responding directly to anti-immigrant sentiment after the 9/11 terror attacks, the new clinic represents asylum seekers in the United States who risk deportation to places where they face possible persecution or torture. A key educational feature of these asylum cases is that students handle every aspect of a case, from the first client interview to the final hearing. One recent example of such a case involved a woman who had been imprisoned and tortured by the government of the Democratic Republic of Congo after her ex-husband was accused of being involved in an assassination plot against the country's president. The clinic's victory in the U.S. Court of Appeals for the Second Circuit established a new legal definition for persecution based on perceived political opinion, a precedent still widely cited. Since the clinic's inception in 2002, it has represented 144 asylum seekers and succeeded in 134 of those cases. All told, counting family members, the clinic has helped more than 200 people receive grants of asylum or similar forms of relief.

In the spirit of the Asylum Clinic, Bauer and Anna Cabot, who was then the William R. Davis Clinical Teaching Fellow, developed a project in 2018 focusing on legal assistance for young immigrants

in danger of losing their protected status under the Deferred Action for Childhood Arrivals policy, or DACA. This innovative project combined all the most important features of clinical education: It presented questions of substantive law; it brought justice and representation to those who otherwise would not have access to it; and it put students in direct contact with clients whose lives were at risk. Mastering both doctrine and procedure was required. No less important, as one student eloquently attested, was the experience of extending due process to those who need assistance—and “walking alongside them in their fight for justice.”

Such student idealism has sustained the clinic from the beginning, but so too has the vision and the fighting spirit of the founders and those who have followed in their footsteps. It has been an uphill struggle. Indeed, when the clinic opened in 1969, clinical education was not accepted as an essential feature of legal education, either nationally or locally. Now it is, and experiential learning is required of every UConn Law graduate. Gone also is the bright line that once separated the academic and clinical faculty—and doctrinal and practical learning. All this is to say that innovation and growth have been conspicuous features of the clinic from its inception. From the outset, too, there has been a unique élan and camaraderie among clinic teachers and students—the product of inspired teaching and student enthusiasm—arising, one must think, from a shared passion for bringing justice to those who need it most.

CHRONOLOGY OF UNIVERSITY OF CONNECTICUT SCHOOL OF LAW CLINICS



CRIMINAL TRIAL CLINIC FACULTY AND STUDENTS. FRONT ROW: DONNA HOUMERE '90, DANA SHAW '90, LAURA GORDON '90 AND CHRISTINE PERRA '90. BACK ROW: MICHAEL SHELDON, BERNARD GARBUTT '90, PATRICIA SLOAN '90, BETSY BRANTLINGER '90, ELIZABETH BRANTLINGER '90, DONNA GESUALDI '90, PAMELA MITCHELL '90, TODD FERNOW AND TIMOTHY EVERETT.

(Res Secundae Volume 2 (1990). Thomas J. Meskill Law Library)

Over the years at the UConn School of Law, these categories have merged and separated. Clinics have started up, ceased, and changed their names or methods of instruction, as the list below notes. In some cases, programs involving internships, which would be defined today as field placements under ABA standards, were initially labeled clinics. While the lines between them have not always been clear, the shared mission of these programs has always been to provide students with legal training and provide the community with legal services. Clinics today engage students in community service and public interest advocacy by serving the legal needs of low-income people, other underrepresented individuals, nonprofit organizations, and government entities.

In the fall of 1927, just six years after its founding, the Hartford College of Law introduced practical lawyering into its program by offering students the chance to work with the Hartford Legal Aid Department. Just over 20 years later, the law school became the University of Connecticut School of Law, and 20 years after that it introduced its first formal clinic to connect real world lawyering to the theories that law students learn in doctrinal classes. As learning through experience became a component of legal education, the American Bar Association changed curriculum requirements so that today students must have at least six credit hours of experiential courses. The courses may be simulations, law clinics or field placements.

CURRENT CLINICS AND FIELD PLACEMENT COURSES

Dates in parentheses refer to the year in which that clinic or field placement course was first offered. Only full-time faculty are included, except for clinics and field placement courses taught solely by adjunct faculty, as well as current adjunct faculty. The list was compiled in January 2020. We apologize if we have neglected to include anyone, and express our gratitude to the many, many other people who have contributed to teaching and supervising students in the clinics over the years.

IN-HOUSE CLINICS

Animal Law Clinic (2018)

- Faculty: Jessica Rubin

Asylum & Human Rights Clinic (2002)

- Current Faculty: Jon Bauer, Valeria Gomez
- Former Faculty: Elizabeth McCormick, Michelle Caldera, Margaret Martin, Miriam Marton, Anna Cabot

Criminal Clinic (1970), Criminal Trial & Criminal Appellate Divisions (1980)

- Current Faculty: Todd Fernow with Morgan Rueckert, Timothy Everett with Adele Paterson
- Former Faculty: Joe Harbaugh, Elliott Milstein, Paul Rice, Anna Durbin, David Golub, Marjorie Gelb, Ruth Philips Martha Stone, Michael Sheldon, Richard Reeve, David Herrmann, Robert Holzberg, Jerrold Barnett, Richard Emanuel, Alexander Schwartz, Brian Kornbrath,

Intellectual Property and Entrepreneurship Law Clinic (2007)

- Current Faculty: Diane Covello, Kathleen Lombardi
- Former Faculty: Hillary Greene, Donald Ghostlaw, John Tomich, Lily Neff, Robert Smith, Bruce Jacoby, Linda Gebauer, Steven McHugh, Joseph DiGirolamo, Susan Pocciari, Geoffrey Dellenbaugh, Michael Blake

Mediation Clinic (1994)

- Current Faculty: James Stark and Paul Chill with Matthew Horowitz

Tax Clinic (1999)

- Current Faculty: Lisa Perkins
- Former Faculty: Diana Leyden

PARTNERSHIP CLINICS

Child Advocacy Clinic (1997)

- Partnership with Center for Children's Advocacy
- Faculty: Martha Stone, Jay Sicklick, Stacey Violante Cote

Elder Law Clinic (2015)

- Partnership with Greater Hartford Legal Aid
- Current Faculty: Michael Darby
 - Former Faculty: Sharon Pope

Environmental Law Clinic (2004)

- Partnership with Connecticut Fund for the Environment / Save the Sound
- Faculty: Roger Reynolds

Transactional Clinic (1997)

- Partnership with Connecticut Urban Legal Initiative
- Current Faculty: Barbara McGrath
 - Former Faculty: William Breetz, David Blackwell, Ben Bare, Lee Tiernan, J. Douglas Corning, Donald Ghostlaw, John Tomich

United States Attorney's Clinic (2013)

- Partnership with U.S. Department of Justice
- Current Faculty: Ndidi Moses, Anastasia King, Natalie Elicker, Michael Gustafson

Veterans Benefits Advocacy Clinic (2018)

- Partnership with Connecticut Veterans Legal Center
- Faculty: Cinthia Johnson, Mark Myers

FIELD PLACEMENT COURSES AND PROGRAMS

Center for Energy & Environmental Law Field Placement (2010)

- Current Faculty: Joseph MacDougald
- Former Faculty: Lynn Fountain

Individual Field Placement Program

- Current Faculty: Jennifer Mailly, Timothy Fisher
- Former Faculty: Marcia Glickman

Legislative Field Placement (1974)

- Current Faculty: Cornelius O’Leary, Carl Schiessl
- Former Faculty: Colin Tait, Shirley Bysiewicz

Semester in DC Program (2009)

- Faculty: Richard Parker, Jennifer Mailly

Semester in NYC Program (2019)

- Faculty: Jennifer Mailly

State’s Attorney’s Field Placement (2007)

Partnership with Connecticut Division of Criminal Justice, Office of Chief State’s Attorney

- Current Faculty: Michael Gailor, Paul Narducci
- Previous Faculty: James Turcotte

PREVIOUS CLINICS AND FIELD PLACEMENT COURSES

Before 2014, ABA accrediting regulations did not specifically define or differentiate between “clinics” and “field placements.” Thus some of the “clinics” listed below would today be categorized as field placements. The essential difference between a clinic and a field placement is that in a clinic, students’ legal work is supervised by a full- or part-time faculty member, whereas in a field placement, the student is supervised by a lawyer or other appropriate professional who is not a faculty member but with whose employing agency or organization the student has been placed.

Legal Clinics I and II (1969)

- Faculty: Joseph Harbaugh

Civil Legal Clinic (1970), Civil Litigation Clinic (1984), Civil Rights Clinic (1988)

- Faculty: William Breetz, Steven St. Clair, Lou Parley, Judith Solomon, Eliot Nerenburg, James Stark, Deborah Freeman, Matthew Horowitz, Philip Tegeler, Jon Bauer, Tanina Rostain, Anne Goldstein, Paul Chill

Business Clinic (1970)

- Faculty: Lester B. Snyder, Leopold H. Greif

Judicial Clerkship Clinic (1975)

- Faculty: Francis Cady, Lewis Kurlantzick, Louis Parley, Shirley Bysiewicz, Howard Sacks

Administrative Clerkship Clinic (1975)

- Faculty: Colin Tait, Lou Parley, Elliott Prescott

House Counsel Workshop (1976)

- Faculty: Nicholas Wolfson

Law-Related Education Clinic (1977)

- Faculty: Richard Kay, Wendy Susco

Mental Health Law Clinic (1978)

- Faculty: Judith Lerner, Robert Holzberg, Marcia Winn, Paul Chill

Labor Relations Clinic (1981)

- Faculty: Howard Sacks, Eileen Silverstein, Wendy Susco

Womens' Law Clinic (1984)

- Faculty: Eileen Silverstein, Ruth Pulda

Disability Law Clinic (1990)

- Faculty: Paul Chill, Hollace Brooks

Health Law Clinic (1990)

- Faculty: Joseph M. ("Jay") Healey

Poverty Law Clinic (1994)

Partnership with Connecticut Legal Services

- Faculty: Jon Bauer, Debi Witkin, Royal Stark

Employment Discrimination Clinic (1998)

- Faculty: Deborah Calloway, Anne Goldstein, Jon Bauer

Civil Appellate Litigation Clinic (2004)

- Faculty: Paul Chill, Carolyn Grose

LGBT Civil Rights Clinic (2004)

- Faculty: Jamie Mills

Human Rights & International Law Clinic (2008, 2018)

- Faculty: Laura Dickinson, Mark Janis, Noah Novogrodsky, Richard Wilson, Molly Land

Energy & Environmental Law Practice Clinic (2010)

- Faculty: Alan Kosloff

Criminal Appellate Prosecution Clinic (2015)

Partnership with Connecticut Division of Criminal Justice, Office of Chief State's Attorney

- Faculty: Harry Weller

Immigration Detention and DACA Clinic (2018)

- Faculty: Jon Bauer, Anna Cabot

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