

# IN PRACTICE

A NEWSLETTER OF PROGRAMS INTEGRATING THEORY & PRACTICE  
AT THE UNIVERSITY OF MARYLAND SCHOOL OF LAW

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## EX-OFFENDERS CLINIC HOSTS CONFERENCE TO ADDRESS CONVERGING ISSUES

Approximately 200 advocates, service providers, lawyers, policy analysts, social workers, ex-offenders and correctional personnel attended a symposium entitled “A Working Conference on the Collateral Consequences of Criminal Convictions and the Reentry of Ex-Offenders in Maryland” on November 18, 2005. Held at the University of Maryland School of Law, the goals of the conference were to detail the ways that collateral consequences impact formerly incarcerated individuals upon return to their communities as well as facilitate open discussion about the myriad reentry issues in Maryland.

The conference began with a panel that addressed some of the post-release struggles formerly

incarcerated individuals face upon reentry. This panel featured two formerly incarcerated individuals as well as a social worker with vast experience working with prisoners and former prisoners. The issues and struggles raised by these individuals set the agenda for the subsequent panels, as they laid out not only the issues that ex-offenders must frequently confront, but also some of the ways that the legal system imposes post-release hurdles. Later panels discussed ways that civil legal service providers and criminal defense attorneys can work together to address some of the legal issues prior to reentry, ways that prosecutors can work both independently and with defense attorneys on reentry issues, correctional programs that need to be

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## FROM THE DIRECTOR...

In this edition of *In Practice*, we highlight the groundbreaking criminal justice work being done by some of our clinics. With an increase in Maryland’s prison population anticipated over the next decade, the work that we do both for individuals and in law reform is critical to the health and well being of our citizens. These clinics are working to effect changes, one client at a time and one law at a time. The cumulative effect will be to strengthen our system of justice. Many clinics and practitioners across the country are deeply engaged in the work of criminal representation, law reform and policy work. We hope that by sharing our stories, we can deepen our joint commitment to uphold our ethical obligation to be “a public citizen having special responsibility for the quality of justice” (Md. Rules of Professional Responsibility).

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*Comments and Letters should be forwarded to the attention of the Director or Managing Director.*

**Ex-Offenders Clinic**  
**Cont. from p. 1**

implemented broadly to help prepare inmates for reentry and reduce recidivism, and possible avenues for legislative reform. In his keynote address, Professor Anthony Thompson of New York University School of Law emphasized the necessity of collaboration among all communities concerned with reentry issues and suggested ways to put the ideas generated throughout the day into practice.

While Baltimore City has taken a national lead in and has dedicated several entities to the effort of addressing the reentry needs of individuals returning home after a period of incarceration, this conference was unique because it fostered cross-disciplinary discussions. It focused on the ways in which traditionally disparate communities such as correctional personnel and community-based organizations can work together on developing solutions and practices to address the vast number of reentry issues. The conference focused on the need to engage the specific legal hurdles imposed by the wide-ranging and non-individualized collateral consequences of criminal convictions, and helped address the fact that providing services alone cannot address these reentry hurdles. Legal reform is necessary to maximize the services and options available to formerly incarcerated individuals and their families.

The overarching lesson of the conference was the need to engage reentry issues holistically and in ways that look beyond traditional disciplinary divides. Perhaps the most important exchanges took place during the breaks and in the hallways, as individuals from various

disciplines mingled, discussed strategies and promised follow-up conversations. On a broad scale, the attendees recognized that this conference only began a conversation and that more sustained conversations are needed to put some of the generated ideas into practice.

The panelists represented all facets of the communities engaging or attempting to engage reentry issues. They included the Secretary of the Maryland Department of Public Safety and Correctional Services, a former United States Pardon Attorney, the deputy chief of a statewide legal services organization, the executive director of a legal services organization that works extensively with ex-offenders, a deputy public defender, two chief prosecutors, the executive director of the Baltimore City Criminal Justice Coordinating Council, and the project director of the Baltimore City Ex-offender Initiative, which operates under the auspices of the Mayor's Office of Employment Development.

The symposium was sponsored by the University of Maryland School of Law and the Re-Entry of Ex-Offenders Clinic, and co-sponsored by the American Bar Association's Criminal Justice Section, the Open Society Institute-Baltimore, the Maryland Legal Aid Bureau and the Public Justice Center.

*Michael Pinard, JD, is an Assistant Professor of Law and joined the University of Maryland after many years as a public defender. He is Instructor of the Re-Entry of Ex-Offenders Clinic and has written extensively about the difficulties of ex-offenders trying to re-enter society.*

# EASING THE TRANSITION FROM INCARCERATION TO COMMUNITY: THE LAW & SOCIAL WORK SERVICES PROGRAM

The Law & Social Work Services Program at the University of Maryland School of Law provides social work services to clients receiving pro-bono legal services through the Law School's Clinical Law Program. Established in 1988 as one of the first programs of its kind in the United States, social work graduate student interns work with law school student attorneys to provide assistance to clients under the supervision of a licensed clinical social worker. The collaboration between future social workers and future attorneys provides a truly interdisciplinary learning environment and offers integrated services for Clinic clients who often seek help with a combination of legal and social work-related issues.

Over the past several years, a large number of referrals to the Program have been Clinic clients who are involved with the criminal justice system and seek assistance at different times during the criminal process, from arrest to post-release. For example, work with clients seeking drug treatment in lieu of incarceration requires students to visit jails, perform assessments, link clients to appropriate services and report to the adjudicating court. Other cases may require identification of mitigating factors for a modification or re-sentencing hearing. In addition, clients may require assistance managing the emotional and lifestyle consequences of conviction and incarceration for crimes they proved they did not commit.

During 2004 and 2005, the Law & Social Work Services Program

worked closely with the Re-Entry of Ex-Offenders Clinic, which responds to requests for assistance from prisoners within six months of release. Clients that are referred to the Program often need assistance preparing for release and are having issues adjusting to the prospect of freedom after substantial periods of



incarceration. Each client is represented by a student attorney and student social worker, who work together with the client on identified issues. Every semester, the cases are reviewed during a combined meeting of both groups of students for the purposes of learning about issues facing ex-offenders and brainstorming solutions to common problems. Discussions often include issues of collateral consequences, obtaining social service benefits, medical attention for physical and psychiatric problems, employment issues, housing and the psychological effects of incarceration. Post-release support and case

management is provided as well, depending upon the needs of the client.

In their work with ex-offenders, students in the Law and & Social Work Services Program have seen the advantage of having tangible resources and a plan of action available upon the release of the ex-offender. Kerra Trusty, a social work intern, states "In my experience as a social work intern with the Clinical Law Program, I have been exposed to various barriers which hinder persons from attaining self-sufficiency after incarceration. It is my hope that all clients receive adequate services (inclusive of access to resources and community linkages/support and fair legal representation) in order to foster their transition from prison to independent living. Through this unique program, clients are exposed to professionals in training who can assist them with these various challenges."

*Rebecca Bowman-Rivas, MSW, LCSW-C, is Coordinator of the Law & Social Work Services Program. She came to the School of Law after several years at the Maryland Office of the Public Defender, where she did mitigation and sentencing advocacy work in misdemeanor, felony and capital cases.*

## ACCESS TO JUSTICE CLINIC BEGINS PAMPHLET DISTRIBUTION



*Pictured from left to right: Jen Gillespie ('06), Greg Binstock ('06), Lynnette Espy ('06), Dana Boston ('06), Rommel Loria ('06) and Professor Doug Colbert.*

At the University of Maryland School of Law, Professor Doug Colbert and his Access to Justice Clinic students are taking a radical approach in their efforts to secure equal representation for detainees in the pretrial release system – a pamphlet entitled "Law Students Guide to Maryland's Pretrial Release System: Things You Should Know." Professor Colbert and his students held a press conference at the law school to announce the pamphlet on November 2, 2005.

Distributed to pretrial detention centers across the State of Maryland, the pamphlet fulfills a wish of Professor Colbert's students to provide access to justice for defendants who are in the initial stages of the trial process. It attempts to fill a glaring gap in the state system, which does not provide counsel to lower income defendants when they appear before a court commissioner at most bail

review hearings. Consequently, indigent defendants are left to speak for themselves. A 2004 Maryland Court of Appeals ruling unanimously found statements from an unrepresented and non-Mirandized defendant admissible at trial, regardless of whether the statements were or were not in the defendant's favor (*Fenner v. State*, 381 Md. 1 (2004)).

The pamphlet had been in the planning stages since the fall semester of 2004. In their remarks at the press conference, students Dana Boston ('06) and Rommel Loria ('06) spoke of their surprise at finding out that defendants were not automatically provided with counsel. "When clients are represented in the early stages [of the trial process], it does make a difference," Mr. Boston said. Defense attorney Warren A. Brown lauded the efforts of the students. "We are concerned about the protection of the individual," he stated. He also pointed

out that many detainees will, if they don't make bail, plead guilty to get out of jail, even though they are not guilty of the crime. According to Professor Colbert, the long-term goal behind the pamphlet is to ensure that indigent defendants' right to counsel extends to the bail stage and "to require the State to provide a lawyer when an accused first appears before a District Court commissioner and bail review judge."

During the drafting process, the students consulted with Mary Ann Saar, Secretary of the Maryland Department of Public Safety and Correctional Services. They have also received overwhelming support from the Honorable Ben C. Clyburn, Chief Judge of the District Court of Baltimore City, and Patricia C. Jessamy, State's Attorney for Baltimore City.

The pamphlet is currently in use in all Maryland detention centers and has been translated into Spanish.

# ADDRESSING COLLATERAL CONSEQUENCES OF NON-CITIZENS: THE SMALL FIRM: IMMIGRATION CLINIC

The new Small Firm Practice: Immigration Clinic has established a project to inform immigrants and their criminal defense attorneys of the often draconian consequences that non-citizens face if they are convicted of crimes – even seemingly minor ones. Any non-citizen in the United States, including a lawful permanent resident ("green card" holder), can be deported and forbidden to return to the U.S. if convicted of any of a growing list of crimes. Many criminal defense practitioners are aware of this generally, but are unaware of the extent to which non-citizens suffer disproportionate punishment for their crimes. An individual can be deported from the United States and not allowed to return for convictions as minor as a Probation Before Judgment for shoplifting or simple assault, with a one-year suspended sentence. Thus, an individual who has lived for 30 years in the United States with a green card, whose entire family is in the U.S., who has no other criminal record and who receives no jail time, can be permanently banished from the country, regardless of any hardship that might be suffered by them or their families. Unfortunately, the immigration law regarding convictions such as this is complex, and few criminal defense practitioners have the time to master its subtleties in the midst of their busy practices.

Maureen Sweeney, the instructor of the Small Firm Practice: Immigration Clinic, has been working with Alan Drew and other members of the Maryland Office of the Public Defender, as well as law students Katherine Grubbs ('06) and Jennifer Deines ('07), to develop a tool for

criminal defense attorneys to use to be able to quickly ascertain the likely immigration consequences of a criminal plea or conviction and advise their clients competently. The group has developed a chart that analyzes specific criminal charges under Maryland state law and advises practitioners of the likely immigration consequences of a conviction under that section, as well as strategies to avoid disproportionate consequences. The idea, says Sweeney, is to educate practitioners to help immigrants avoid problems with the immigration law before they occur. "As an immigration attorney, I got frustrated being unable to help people who came to see me after they'd already been convicted or pled guilty to a problematic offense. Our hope is to provide a tool and to educate those who can make the most difference – criminal defense attorneys."

The chart has received an enthusiastic response from practitioners. Sweeney and Drew presented the chart, along with an overview of the issues and analysis of criminal cases involving non-citizens, to the September meeting of the Maryland Association of Criminal Defense Attorneys, and Sweeney has given several presentations to incoming public defenders in the course of their introductory training.

The clinic recently received funding from the Open Society Institute to support the work of the clinic, further develop the chart, to keep it updated, and to implement a program of continuing legal education programs around the state to train the criminal defense bar about this crucial issue for immigrant clients.



*Maureen Sweeney, JD, is the clinical instructor for the Small Firm Practice: Immigration Clinic. Prior to coming to the Clinic, she practiced in a variety of settings, including with a legal services office for migrant and seasonal farm workers and a local non-profit provider of immigration legal services, where she specialized in asylum and domestic violence related cases.*

## FOCUS ON : ACCESS TO JUSTICE LEGAL THEORY & PRACTICE CLINIC

In most Maryland counties, indigent defendants are unrepresented by counsel when they first appear before a judicial officer at the early bail stage. Without lawyers, many people spend lengthy periods in pretrial detention waiting for a trial that is unlikely to occur. In addition to the liberty interest at stake, Maryland's highest court recently ruled that bail statements made by an unrepresented and non-Mirandized defendant are admissible at trial, adding to the significance of counsel's presence at the bail proceeding. For the past seven years, Access to Justice clinical law students have been working to fill this gap in representation and bring attention to overlooked and neglected right to counsel issues.

Each semester, students use their lawyer skills to represent individual defendants at bail hearings throughout

the state. Students' client representation provides not only a first-hand understanding of overcrowding in local jails, but also offers insight into the connection between money bail and pretrial incarceration. These experiences enable students to engage in a variety of law reform endeavors intended to extend *Gideon's* guarantee of counsel to the bail stage.

The student attorneys' current work includes dissemination of an information pamphlet created to inform unrepresented detainees what they should and should not say when they appear before a judicial officer. The pamphlets are distributed in local jails throughout the state of Maryland, and also have been translated into Spanish. In addition, student efforts have concentrated on legislative reform that succeeded in obtaining

funding for the Baltimore City public defender officer to represent indigents at bail hearings. They also succeeded in gaining an administrative rules change that requires judicial officers to provide a 10% cash alternative for bail bond amounts of \$2,500 and less.

This semester's students are engaged in an exciting and potentially groundbreaking litigation effort to guarantee counsel at the initial appearance where bail is first determined. Following their well-prepared presentation to an outside law firm, the students persuaded the firm to collaborate with clinic students in considering class action litigation on behalf of indigent defendants. Students also are exploring whether prosecutors, not police, should have the primary authority for filing criminal charges. Each year prosecutors reject about one in three police-charged arrests. The Charging Project provides students with the opportunity to respond to the roughly 30,000 people who are processed and fingerprinted for crimes ultimately deemed "legally insufficient." Finally, students are seeking to expand the use of *habeas* proceedings to challenge excessive bail conditions. Specific attention is given to incarcerated individuals held for non-support matters who remain in jail without counsel for weeks and often months because of arrearages.

Developing a legal theory and practice clinical program that focuses on individual representation and systemic reform has enabled students to appreciate their ethical duty of representation. Access to Justice continues to be a challenging and rewarding learning experience for students and teacher alike.



*Doug Colbert, JD, has written extensively about indigents' right to counsel, bail reform, affirmative action and politically sensitive trials. He regularly contributes opinion articles and engages in public education about many criminal justice issues.*

## BEZDEK RECEIVES UNIVERSITY AWARD

Barbara Bezdek, Associate Professor of Law, says of her career as a lawyer, "Lawyers are tremendously privileged to be decision-makers in public and private life. I believe it is our duty to use this advantage to work toward a just society." She practices this philosophy not only with her work within the Law School clinical community, but also through her work with the Faith Fund, Inc. as chairperson and founder. It is for this work that she was honored by the University of Maryland, Baltimore, with the Founder's Day "Public Servant of the Year" Award on October 20, 2005.

The Faith Fund, Inc. is a community development loan fund that serves the people and communities of the Baltimore region by offering loans,

technical assistance and innovative products and services that build wealth and create opportunities. In operation since 2003, the Fund has made loans to a number of organizations such as The Sylvan Beach Foundation (operates small businesses as a means of job training for disadvantaged youth) and the Episcopal Housing Corporation (renovates neglected housing stock and promotes homeownership). The organization includes representatives from all faiths, as well as members of the Baltimore Regional Partnership. The Faith Fund received a \$200,000 grant from the U.S. Department of the Treasury in 2003 and raised the rest of its start-up money from religious groups, local foundations, and individuals, notes Bezdek. She adds that as of July 2005, it had lending capital of \$3.5

million and had loaned approximately \$3.1 million to not-for-profit organizations.

Professor Bezdek teaches the theory and practice of community development at the law school in various ways. She teaches a Legal Theory and Practice seminar on Community Development, as well as a clinic on Community Development. For the 2005-2006 academic year, she is teaching the Economic, Housing and Community Development Clinic. Students in these courses assist clients in low-income communities by developing legal strategies that support the community's own revitalization objectives. She has also published extensively on the law of public benefits and community development.

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## PÉREZ SELECTED FOR INAUGURAL FELLOWSHIP

Thomas Pérez, Law School Assistant Professor at the University of Maryland School of Law and President of the Montgomery County Council, was selected as an inaugural member in the Aspen-Rodell Fellowship in Public Leadership. Established by the Aspen Institute in Washington, D.C., the Fellowship will bring together 24 of America's young top elected officials to facilitate discussions of broad issues such as true democratic governance and effective public service.

The fellows were selected during an eight-month search process that involved over 1,400 business, political, and civic leaders. Professor Pérez joins a distinguished group of fellows that include seven members of Congress, two lieutenant governors (including Michael Steele, along with Pérez the only Marylanders chosen), two state treasurers, two secretaries

of state, an attorney general, a mayor, a city council member, a county council president, and seven state legislators. The 24-month program consists of three weekend-long seminars in the United States and two overseas trips to study emerging issues important to the development of American foreign and trade policy.

Even though balancing an academic career, a political career and a family is quite challenging, Professor Pérez was drawn to politics by a desire to help build community and ensure that everybody has a chance to share in the American dream. As the son of immigrants from the Dominican Republic, he learned from his parents the importance of giving back and using his skills to help others. When asked about his commitment to public service, Pérez responded, "I believe that public service is a wonderful way to tackle some of our most vexing

challenges, whether access to health care, equal educational opportunity, affordable housing, environmental protection, or economic development. The variety of issues that I deal with is exciting, and really broadens my horizons." In addition, he feels that his work at the law school in the intersection of health care and civil rights makes him a better, more informed member of the county council, and he believes the converse is true as well. "There is a wonderful synergy in my academic and professional worlds. I love both my jobs, and feel like in both, I am tackling important legal, policy and community challenges."

Professor Pérez teaches the Civil Rights: Access to Healthcare for Vulnerable Populations Clinic, a class on Public Interest Advocacy and a Civil Rights and Access to Healthcare Seminar.

## A FINAL WORD....

Congratulations to Brooke Courtney ('06) Beck Fineman ('06) and Min Kho ('06), who have been selected as finalists in the student writing competition for the Third World Conference on Nonsmokers' Rights. As students in Professor Kathleen Dachille's Tobacco Clinic, they will present their papers and compete in a question-and-answer session for a \$5,000 Grand Prize on April 1-2, 2006 at the George Washington University School of Law in Washington, D.C. All of the clinic faculty and staff wish them the best of luck!

Shakeya Currie ('07) and Josh Goldberg ('06), students in Professor Michael Pinard's Re-Entry of Ex-Offenders Clinic, participated in the Martin Luther King Day of Self Help and Service, held at St. Francis Academy Community Center on Monday, January 16, 2006. They were two of more than 80 volunteers who attended to assist job seekers in resume writing, interviewing and counseling. Under the supervision of E. Clinton Bamberger Jr., Professor Emeritus at the School of Law, the students answered questions posed to them by attendees about expungement of criminal records.

The Maryland Chapter of the Federal Bar Association has recently given its Annual Public Service Award to the Appellate and Post-Conviction Advocacy Clinic for its continuing work on the Walter Arvinger case, as well as other client cases. Congratulations to all!

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