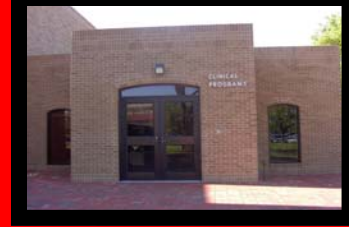


Spring 2004

1802 Hartford Avenue
Lubbock, TX 79409

Texas Tech University
School Of Law

CLINIC NEWS



Texas Tech University School of Law Clinical Programs

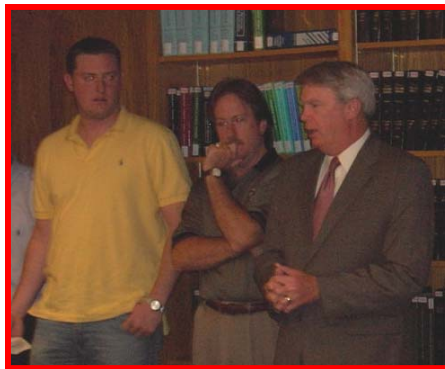
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RECEPTION HONORS CLINICAL PROGRAM STUDENTS

Students participating in the clinic courses during the Spring 2004 semester were recognized at a Student Recognition Reception on Wednesday, April 28th in the clinic conference room. Dean Walter Huffman addressed guests and students by saying a few words of encouragement and appreciation. Students were recognized with a *Certificate of Appreciation* by each clinic director in recognition of exemplary participation as a student member.

A total of 29 students participated in the clinical program courses which include: Tax Clinic, Family Law Counseling Clinic, Civil Clinic, and Criminal Prosecution Clinic. Other student guests also included students participating in the Innocence Project. A total of 14 students participated in the Innocence Project which was led by Professor Tim Floyd and Lena Roberts during the Spring 2004 semester.



CLINICAL PROGRAM BIDS FAREWELL TO PROFESSOR FLOYD

Although we are sad to see Professor Timothy W. Floyd leave Texas Tech University School of Law, we will always remember his many contributions to the law school and to students as well as his personal friendship. Although his accomplishments are many, he will leave his mark on the law school for the key role that he played in the establishment of a well-rounded, quality clinical legal education program at Texas Tech. Professor Floyd has been a tireless advocate and architect for the re-establishment of a clinical program at Texas Tech after it had been absent from the curriculum for too long a period of time. He has been steadfast in his sup-

port of providing experiential learning opportunities for students while promoting service to under represented groups in society and has been a role model for students. Thanks to his extraordinary leadership, a comprehensive clinical education program has become a reality and operating since the Fall semester of 2001 and continues to grow. As a small measure of appreciation for his support of clinical education, Professor Floyd was recognized by the clinic faculty, professional staff, and students with a plaque during the Spring 2004 Student Recognition Reception on April 28th for his vision, leadership, and dedication to the clinical education program.



Tim and Daisy Floyd have been mentors and friends to many at the law school and the community and will truly be missed!



FROM THE DESK OF

Timothy W. Floyd - Family Law Counseling

Seven students—**Laura Burke, Buck Johnson, Robin Perkins, Kat Runnels, Jody Rae Sartin, Kim Ware, and Jud Woodley**—participated in the Family Law Counseling Clinic this semester. In addition to representing clients in family law matters, we once again had the opportunity to participate in a Practicum class in the Marriage and Family Therapy Program in the College of Human Sciences. By observing student therapists working with clients of the Family Therapy Clinic, our law students learned new and valuable skills for listening to and communicating with our legal clinic clients. We also learned from our own clients that there truly is no such thing as a “simple uncontested divorce”!



This is my last semester in the clinics at Texas Tech. I want to thank Elma, Samirah, Larry and Larry for taking a chance, leaving the comfort of old jobs, and coming to join this new venture we started just three years ago. We could not have gotten off to the great start we have without your vision, dedication, flexibility, and good spirits. I also must express my thanks and admiration for our students—those who advocated for the establishment of clinical education at Tech, and those who have partici-

pated in our clinical courses over the past three years. I look forward to hearing of the great things you accomplish in the future.

Indeed, Daisy and I would love to hear from you. You can reach her at Mercer University Walter F. George School of Law in Macon, Georgia. I'll be a visiting Professor at Georgia State University College of Law next Fall; among my responsibilities will be consulting with them as they begin a new clinical program. And if you're ever traveling in the Southeast, please come see us!



FROM THE DESK OF

Larry R. Spain, Director - Civil Clinic

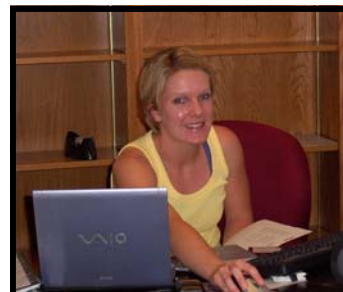
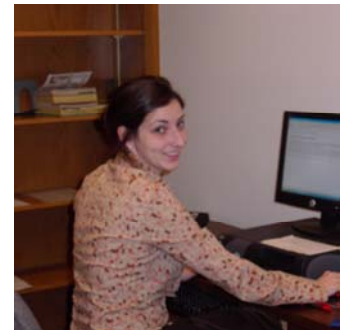
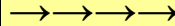
The following students participated in the Civil Clinic during the spring semester: **Chris Bullajian, Ashley Ellis, Amanda Harris, Marilee Hazel, Ganesha Martin, Erin Odle, Katherine Warren and Lynette Wilson.** In addition to being responsible for handling individual cases assigned to them in the Clinic, each of the students also conducted new client intake through Legal Aid of NorthWest Texas and worked with practitioners in the offices of Legal Aid of NorthWest Texas and the Civil Division of the Lubbock County Criminal District Attorney, providing them with an exposure to a wider range of civil cases than otherwise would have been possible through the in-house clinic. For example, **Lynette Wilson** and **Ashley Ellis** conducted hearings involving termination of parental rights and child protection cases; **Marilee Hazel** worked on a case on appeal from a forcible detainer action in Justice of the Peace Court where a jurisdictional issue was raised involving an oral contract to purchase and anticipatory breach of contract; **Ganesha Martin, Erin Odle** and **Amanda Harris** worked on contested custody cases; and **Katherine Warren** worked on regulations for Lubbock County restricting operation of sexually-oriented businesses.

Within the Clinic, students handled social security disability claims; divorces; probate matters; advised prisoners on § 1983 claims; and consumer claims. **Chris Bullajian** conducted a hearing before an Administrative Law Judge on remand from an adverse decision on a social security disability claim after reversal by the Appeals Council on an appeal filed by a prior Clinic student. A decision is pending. **Amanda Harris** conducted a final divorce hearing for a client which was filed during the fall semester. **Lynette Wilson** and **Marilee Hazel** each drafted wills for clients.

Over the course of the semester, a total of 17 new cases were opened within the Clinic; 10 existing cases were completed and closed; and a total of 26 cases remain pending and will be carried over to the fall semester.



Not included in the picture above is Ganesha Martin



FROM THE DESK OF

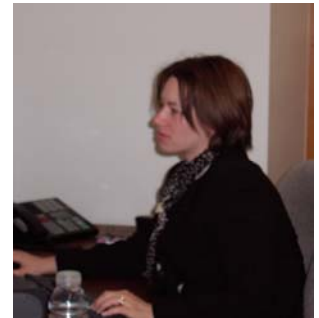
Marilyn E. Phelan - Low Income Tax Clinic

We have eight (8) energetic students this semester helping low income taxpayers in their controversies with the Internal Revenue Service. Our students have been successful in obtaining a refund for one taxpayer in the amount of \$2,992.00. Our students



were successful, after filing a petition with the Tax Court, in obtaining an agreement from the IRS that our client is not liable for the alleged tax deficiency. Our students have filed offers in compromise for several of our clients and have submitted innocent spouse claims for others, as well as filing requests for Collection Due Process in two cases. This semester the students were able to get the IRS to accept Offers in Compromise in two cases saving the taxpayers a total of \$15,700.00. They are representing low income taxpayers with respect

to the IRS' disallowance of earned income credits claimed by these taxpayers. The clinic has been beneficial both for low income taxpayers, who are obtaining free representation with regard to their tax problems, and for our students, who are obtaining valuable practical experience in representing taxpayers before the IRS.



"Students saved clients an estimated \$16,000.00 with Offers in Compromise being accepted by the Internal Revenue Service"



"This clinic is also an excellent learning tool for law studentsI think all law students should be required as part of their degree plan to participate in some sort of clinical experience, whatever field they may be interested in."

Tax Clinic Student

FROM THE DESK OF

Larry Cunningham - Criminal Prosecution Clinic



This semester, six students completed the Criminal Prosecution Clinic: Sarah Adams, Janelle Humphrey, Amy Olivas, Josh Reno, Jerry Varney, and David White. David, Josh, and Amy worked in the County Court Division of the Lubbock Criminal District Attorney's Office. Jerry Varney and Sarah Adams worked in the Juvenile Division. Janelle Humphrey worked in the Civil Division.

The clinic began with the ever-popular "Boot Camp," in which the clinic students learned the basics of Texas procedure, prosecution ethics, interviewing, and trial advocacy. Throughout the semester, they honed their skills in these and other areas. Their trial advocacy training culminated in a full jury trial in District Court. Class discussions involved criminology, policing, community prosecution, dealing with "special witnesses," and use of advanced law enforcement techniques to build complex cases. Professor Wes Cochran spoke about his recent experience as a grand juror in

Lubbock. The course culminated in visits to the Lubbock jail and to a penitentiary in Lamesa.

The Spring 2004 semester marks the final term of the Criminal Prosecution Clinic at Texas Tech. Created and first taught by Professor Tim Floyd, the clinic has placed 8 students per semester at the Lubbock Criminal District Attorney's Office as well as the offices of prosecutors in surrounding counties. In the Fall, the clinic will shift focus—180 degrees—and will represent criminal defendants. The new clinic, named the "Texas Tech Criminal Justice Clinic," will be headed by Prof. Cunningham and will provide direct representation to people charged with felonies, misdemeanors, and juvenile offenses in Lubbock and perhaps some of the surrounding counties. We are grateful for the support of the area prosecutors, and look forward to working with them in future semesters through the Externship Program.



**Tech Law Students sent
to Prison see story
on Page 8.**

HONORS AND AWARDS

Pro Bono Awards:

Professor Larry R. Spain, Professor Tim Floyd, and Clinical Program Office Manager, Elma Moreno, were honored with Certificates of Appreciation at the Pro Bono Awards luncheon sponsored by the Lubbock County Bar Association and Legal Aid of Northwest Texas on Friday, February 20th, at the Lubbock Club. Professors Spain and Floyd were recognized for their tremendous efforts of providing pro bono legal representation to low-income clients in civil matters and for their contribution and dedication to the pro bono clinics. Both were honored with a Certificate of Ap-

preciation for accepting two or more cases and attending two or more pro bono clinics. Other faculty honored included Dean Susan Fortney for serving on Advisory Committee and Professor Wes Cochran for attending two or more clinics. Law Student Katherine Everett (former Civil Clinic student) was recognized with the Volunteer Law Student Award.

Elma Moreno was recognized for her continued contribution as a clinic volunteer and as member of the Pro Bono Advisory Committee. Several clinic students were also recognized with Certificates of Appreciation for their assis-

tance at the pro bono legal clinics. All Spring and Fall 2003 Civil and Family Law Clinic students were recognized for having attended two or more pro bono clinics during 2003.

YWCA Women of Excellence Awards:

As a result of Dean Huffman's nomination to the YWCA, Professor Marilyn E. Phelan and Elma Moreno were honored by the YWCA on February 26th as *Women of Excellence*. Professor Phelan was honored in the Education category and Elma was honored in the Government category.

TTU Recognitions:

Professor Marilyn E. Phelan was recognized and honored by Texas Tech University with the **Outstanding Researcher Award** and the **Outstanding Book Award**.

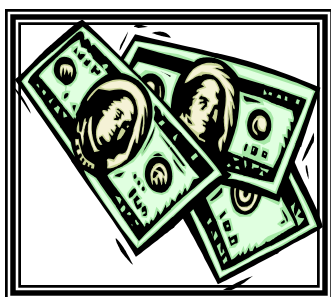


OVER TWO MILLION DOLLARS BROUGHT BACK INTO THE COMMUNITY

The Coalition of Community Assistance Volunteers (a partnership of the LITC) and staff from the Internal Revenue Service trained an estimated 75 volunteers in early January to assist with volunteer income tax preparation throughout the community. Several sites were established throughout the community and operated during the tax filing season. As a result of the efforts of these volunteers, including several law school students and undergraduate students, a total of 2,855 returns were completed and approximately \$2,564,792.00 were returned to families within the community. An appreciation luncheon was hosted by American State Bank on April 30th at which time all volunteers present were honored with a Certificate of Appreciation.



INTERNAL REVENUE SERVICE AWARDS TAX GRANT



Low-Income Tax Clinic Receives \$75,000 Award

The Internal Revenue Service has awarded \$7.5 million in matching grants to Low income Tax Payer Clinics (LITCs). A total of 135 clinics will be funded in 2004. The Texas Tech University School of Law Low-Income Taxpayer Clinic is one of the grant recipients.

The TTU LITC is in its fourth year of operation. The clinic provides

representation to low income taxpayers who may not be able to afford a tax professional when they have tax disputes with the IRS or are trying to comply with tax laws. The clinic also informs taxpayers for whom English is a second language or who have limited English proficiency of their tax rights and responsibilities.

An average of eight (8) students are enrolled in the LITC every semester. The director of the Low Income Taxpayer Clinic is Professor Marilyn E. Phelan who assumed the responsibilities as director when Donald Williams resigned in June 2003 to continue his private practice.

RECENT CASES OF INTEREST

Professor Larry Cunningham defended a couple, pro bono, who were charged with felony criminal mischief in Floyd County. Prof. Cunningham won a motion to dismiss the indictment. Prof. Cunningham submitted written evidence to the grand jury, urging the jurors not to re-indict his clients. On April 14th, the grand jury declined to re-indict the case.



David White and Josh Reno both prosecuted DWI jury trials to verdict. Amy Olivas assisted with the prosecution of a capital murder case. Jerry Varney and Sarah Adams litigated dozens of juvenile detention hearings, many involving serious felonies. Janelle Humphrey tried mental commitment proceedings and drafted documents in civil cases. (Criminal Prosecution Clinic)

Dusti Welch represented a client in a case that had been ongoing since 2002. Client had been denied the earned income credit for her dependent for 2001 and 2002 tax years. Dusti prepared and filed a petition in Tax Court in early February. A letter was received from the Internal Revenue Services wherein the United States Tax Court stipulated that client did not have a deficiency. As a result, client received a refund of nearly \$3,000.00. Unfortunately, client has received another letter from the IRS denying her the earned income credit for 2003. A new student will pursue this tax issue during the summer session. (Tax Clinic)

Brent Sykora successfully completed a case wherein the Internal Revenue Service accepted the Offer in Compromise submitted by a prior student during the Fall 2003 semester. Brent followed up with the clients and obtained and submitted all required information to the Internal Revenue Service, as well as monitored and advised the taxpayers with regard to their property liens. The Internal Revenue Service accepted the Offer in Compromise saving the taxpayers a little over \$10,000.00. (Tax Clinic)



TECH LAW STUDENTS SENT TO PRISON!

BY: PROFESSOR LARRY CUNNINGHAM

This semester, six Texas Tech law students were sent to prison ... for a day! The students of the Criminal Prosecution Clinic visited the Smith Unit of the Texas Department of Criminal Justice, Institutional Division, on April 20, 2004. Warden Anderson and Major Odom gave a two-hour tour to the students and Prof. Cunningham. The Smith Unit has both medium- and high-security housing. Inmates in medium-security work twelve-hour days, which begin at 2:30 a.m. (One student, who shall remain anonymous, remarked, "2:30? That's when my days usually end!") Inmates work in laundry, food service, and grounds maintenance. Inmates in the administrative segregation unit spend 23 hours a day in their one-man cells.



Earlier in the day, the clinic had visited the Lubbock County Jail, an older facility located near the courthouse. The students later contrasted the newer, state penitentiary, which had more up-to-date security facilities. At both facilities, the students were impressed by the professionalism of the jailers and guards.

INNOCENCE PROJECT GETS UNDERWAY

The newest clinical program at Tech Law is the Innocence Project. Working with 2003 grad Lena Roberts and Tim Floyd, this semester we had 14 students who investigated claims by Texas inmates that they have are actually innocent of the crimes for which they have been convicted. Fortunately, Lena will continue to volunteer her time to coordinate this program, and Professor Angela Laughlin will assume the role of faculty supervisor beginning in the Fall.

The fourteen students who participated in the Innocence Project and included in the picture to the right (with the exception of four not pictured) are: Matthew Aiken, Amanda Speer, Angie Marth, Joel Cook, Cory Crenshaw, Danny Simmons, Christopher Greer, Brandi Grissom, Nancy Harlan, Holland Sergeant, Kristi Ward, Laura Wood, Levi Spriggs, and David Shipman



WORDS FROM OUR STUDENTS

"I think that the clinic is an excellent experience for students. For most it is the first time they have ever communicated with an actual client, and it is an experience that cannot be replicated in the classroom. The Tax Clinic is operated in a manner that needs no improvementThe clinical experience I had was one that I feel was the best experience of my entire law school experience."

Tax Clinic Student

"Professor Spain, Elma Moreno, and Samirah Barona all help this civil clinic run smoothly. Their help and expertise was invaluable for me as a clinic student, and is surely going to help any future civil clinic student. Thanks again."

-Chris Bullajian
Civil Clinic

"The Tax Clinic is a great resource for the people who do come to us. The students that I have worked with this semester have been genuinely concerned for their clients, and done everything possible to help them resolve their tax problems.....As far as my personal experience within the clinic, it has been great. Professor Phelan is a great resource and I have learned more from her this semester than probably in any other class....."

Tax Clinic Student

"I couldn't imagine graduating without participating in something like the clinic. The experience helped me "put together" alot of things I learned in my first two years."

-Jerry Varney

Criminal Prosecution
Clinic

SNAP SHOT CORNER



WHERE ARE THEY NOW??????

Justin Gilbert (Dec. '03) is an Associate at Gilbert & Gilbert, P.C. (Civil Clinic - Fall '03)



Courtney Gilbert (Tremain) (Dec. '03) is an Assistant District Attorney in Brazoria County. (Family Law Counseling Clinic - Fall '03)



Greta Cantwell (Dec. '03) moved to San Antonio where she took the bar exam and is awaiting her results and seeking employment. (Tax Clinic - Fall '03)



Danny Razo (May '03) is a Staff Attorney with the Diocesan Migrant & Refugee Services, Inc. trial unit in El Paso. He helps people who are in removal proceedings. (Tax Clinic - Summer '02).



FACULTY AND STAFF

Timothy W. Floyd
Family Law Counseling Clinic

Larry R. Spain
Civil Clinic

Marilyn E. Phelan
Low Income Taxpayer Clinic

Larry Cunningham
Criminal Prosecution Clinic

Elma Moreno
Office Manager/Legal Assistant

Samirah Barona
Legal Secretary



CONGRATULATIONS 2004 GRADUATES!

GOOD LUCK WITH THE BAR EXAM!!!

