



Copyright (c) 2000 American Bar Association
Family Law Quarterly

Fall, 2000

34 Fam. L.Q. 531

LENGTH: 9550 words

NEW PERSPECTIVES ON CHILD PROTECTION

BUILDING PEDIATRIC LAW CAREERS: THE UNIVERSITY OF MICHIGAN LAW SCHOOL EXPERIENCE

Melissa Breger, Suellyn Scarnecchia, Frank Vandervort, and Naomi Woloshin *

* Melissa Breger is a Clinical Assistant Professor in the Child Advocacy Law Clinic. Suellyn Scarnecchia is the Associate Dean for Clinical Affairs and Clinical Professor of Law; she taught in the Child Advocacy Law Clinic from 1987-99 and teaches the Interdisciplinary Seminar in Child Abuse and Neglect. Frank Vandervort and Naomi Woloshin are the Child Welfare Law Resource Center Program Managers.

TEXT:

[*531] I. Introduction

When a parent takes a child to a physician who specializes in pediatric medicine, the parent expects that the pediatrician has had the benefit of specialized training in the diagnosis and treatment of children. A child in need of legal representation should, in the same way, benefit from a lawyer's specialized training in the law and practice particular to children. Programs are needed to train pediatric lawyers so that they will be confident in their ability to provide the finest legal representation to their young clients.

Twenty-first century pediatric lawyers will represent children in a variety of settings. Most obviously, lawyers are appointed to represent children in civil child protection matters and in juvenile delinquency cases. Increasingly, attorneys are appointed to represent children in contested divorce, custody, visitation, adoption, and guardianship matters. Some attorneys represent teenage girls in parental-consent-to-abortion waiver hearings. Finally, lawyers who handle education and disability matters often represent children.

What are the special challenges of representing children? From the initial interview through the final disposition of a matter, the pediatric lawyer must apply his or her knowledge of child development to the [*532] attorney-client relationship. For example, the lawyer must assess the sophistication of the child's cognitive and communication skills and must determine what role the child is able to play in guiding the legal representation.

Pediatric lawyering presents special ethical issues. Lawyers are often asked to represent a sibling group with conflicting interests or to represent a child whose wishes seem inconsistent with the best interest of the child. The trial of a child's case presents special issues such as protecting a child witness through special in-court procedures and

cross-examining experts in child psychology. Children's legal issues require both a sophisticated knowledge of an array of statutes and case law and a working knowledge of relevant material from disciplines as diverse as social work and medicine. Major jurisdictional questions are often raised, especially when parties are litigating across state lines. An understanding of international law and immigration issues are increasingly required in representing children. Finally, the constitutional rights of children are different than those of adults and opportunities often arise to argue for the extension of constitutional rights in children's cases.

Specialized training in child development, children's ethical issues, special trial techniques, and relevant domestic and international law is essential to the success of pediatric lawyers. Training is not enough, though, if career opportunities are unavailable. Another important aspect of a pediatric law program is support of law students' and law graduates' pediatric careers. To encourage pediatric careers, job opportunities must be identified and new lawyers must be introduced to the network of private and public law offices which represent children throughout the United States. Finally, practicing pediatric lawyers must be given support through continuing legal education and other resources to maintain their specialized knowledge and skills.

There are several obstacles to training and supporting pediatric lawyers. Children are a relatively new group of clients and law schools have not traditionally provided pediatric training. The required training is particularly challenging to deliver because it is inherently interdisciplinary, requiring faculty and students to look outside of the law school to obtain necessary knowledge. n1 The greatest obstacle to developing the careers of pediatric lawyers is the low pay and low prestige typically afforded children's lawyers. As a result, law students reasonably question the likelihood of developing a successful career in the [*533] field. The number of available jobs is limited and pediatric lawyers can rarely spend significant time or money on training or other educational resources.

n1 Some have argued that a dual degree, for instance in law and social work, should be required for "certification" in this area of practice.

In this article, we describe the various components of the pediatric law career program at the University of Michigan Law School, which provide the requisite specialized knowledge and skills for representation of child clients. Central is the Child Advocacy Law Clinic, described in Part II, which has been training law students in child protection law and practice since 1976. Part III explains how the Interdisciplinary Seminar in Child Abuse and Neglect emphasizes the interdisciplinary nature of pediatric work in a setting that challenges law students to see the practice from the viewpoint of other disciplines. The Bergstrom Summer Child Welfare Law Fellowship, described in Part IV, introduces students to pediatric practice and builds a network of child advocates from throughout the United States. Part V describes the Child Welfare Law Resource Center which carries the knowledge and skills developed in the law school setting to practicing pediatric lawyers and judges in Michigan, providing pediatric lawyers with inexpensive and ready access to specialized continuing legal education. Throughout, we also offer a few stories of careers developing in this field to illustrate why these components are needed. We conclude with hope for the future development of a pediatric law career track in the United States.

II. The Child Advocacy Law Clinic

The University of Michigan Law School Child Advocacy Law Clinic (Clinic), founded in 1976, n2 was one of the first clinics focused on child welfare cases within a law school setting and has served as a model clinic. The Clinic is staffed by between fourteen to twenty-two students, two to three clinical professors and two full-time staff members each semester. In addition, a child psychologist and one or two graduate students in clinical psychology attend weekly class sessions, instruct students on child development and related topics, and consult in group case conferences and with individual students regarding their cases.

n2 For a more detailed description of the Child Advocacy Law Clinic, see Donald N. Duquette, *Developing a Child Advocacy Law Clinic: A Law School Clinical Legal Education Opportunity*, 31 U. MICH. J.L. REFORM

1 (1997).

The students attend classes in two-hour sessions, three times per week. At the end of the term, they receive seven credits on a pass/fail basis. The classroom sessions include topics such as representing children, [*534] interviewing children, child development, negotiation, mediation, ethics, and a wide array of litigation skills, including an overall trial preparation class. The trial preparation component includes mock hearings, opening and closing statements, direct and cross examination, as well as a full mock jury trial toward the end of the semester. Case conferences are held during class several times throughout the term, allowing students to discuss cases with classmates, faculty, and consulting psychologists. In case conferences, the students analyze thorny psychological issues and ethical dilemmas which often arise in their cases. Readings assigned for each class are derived from texts and articles which cover topics from the fundamentals of trial technique to negotiation strategies and representing child clients. n3

n3 THOMAS A. MAUET, *FUNDAMENTALS OF TRIAL TECHNIQUES* (5th ed. 2000); STEFAN H. KRIEGER ET AL., *ESSENTIAL LAWYERING SKILLS* (1999); JEAN KOH PETERS, *REPRESENTING CHILDREN IN CHILD PROTECTIVE PROCEEDINGS: ETHICAL AND PRACTICAL DIMENSIONS* (1997); ANN HARALAMBIE, *THE CHILD'S ATTORNEY* (1993); ROGER FISHER & WILLIAM URY, *GETTING TO YES* (2d ed. 1991); MICHIGAN CHILD WELFARE LAW RESOURCE CENTER, *CHILD WELFARE LAW SOURCE BOOK* (4th ed. 1999); DONALD N. DUQUETTE, *MICHIGAN CHILD WELFARE LAW* (2000).

The students work in self-selected teams of two, and are assigned four to seven cases per semester. It is the philosophy of the Clinic's faculty to give the student as much control as possible over the cases and to have the student, not the faculty, act as the advocate for the client in every setting, including in court. The students participate in many types of court hearings, which range from preliminary proceedings to full jury and bench trials. The goal is to assign each team at least one case in which the Clinic represents children, one in which it represents parents, and one in which it represents the child welfare agency in Michigan (the Family Independence Agency). Also, there are typically a handful of legislative and court reform projects, impact litigation, amicus curiae briefs, and occasional high-profile cases to be assigned to interested student teams. The Clinic practices in four to six different counties, all within an hour or two drive from Ann Arbor. Students are ideally assigned a variety of cases, in order to have experience with more than one county, each type of case and each faculty member. Every student team is assigned at least one case which will likely result in a trial before the end of the semester. This multifaceted educational approach is intended to prepare students for entry level positions practicing pediatric law.

The story of one of the authors' entrance into such a career, demonstrates why the additional support and programs are needed to supplement the clinical experience.

[*535] My Career Path--Melissa Breger

Desiring to pursue a career in pediatric law, the Child Advocacy Law Clinic was my primary motivation in attending the University of Michigan Law School. It was also the reason for my return to the Law School as a clinical instructor. One of the maxims of the Child Advocacy Clinic is that to be a truly well-rounded advocate, one needs to have vigorously represented all viewpoints. My career has mirrored the Clinic's practice, although not necessarily intentionally. Throughout my life and educational career, I have maintained a deep passion for psychology and child advocacy. My experiences in the Child Advocacy Clinic served as one of the major incentives to specialize in this area of law.

As did many of my law school classmates, I spent my summers earning my law school tuition by working at large law firms. While I rode the bus through some of the most beautiful parts of Chicago, I read the book *There Are No Children Here* n4 about two boys growing up in a much less privileged area of the city. I was deeply touched by this book and found the subject matter more interesting than my

summer work. After arriving one too many mornings at work with tears streaming down my cheeks from the emotion this book evoked, I realized I had come dangerously close to giving up my dreams of working with disadvantaged children. n5

At the time I graduated from law school, a public interest career services office had just begun forming at Michigan Law School. When I approached the office about beginning a career in the public sector (with no real experience or contacts), the career advisors suggested I choose an organization in a city where I hoped to settle and then volunteer while awaiting Bar results. n6 I had also performed a computer search and subsequent mass mailing to all organizations in New York City which included the word "child" in their titles. One prominent attorney in the field, Charles Hollander, n7 who received my resume but did not have an open position, was kind enough to diagram the city's child welfare system and suggest various organizations which might be seeking to employ law graduates.

On a sunny day following my graduation ceremony on the cozy, insulated Law Quad, I set out for New York City. I had secured a volunteer position at a child advocacy group in Manhattan to commence in September, 1994. Within days of my arrival in New York in May, I joined my classmates at Town Hall to prepare for the Bar. As my classmates discussed their summer bonuses, in addition to their paid moving and Bar expenses, I began to reconsider my seemingly idealistic goals. The income [*536] gap between us was especially salient when I could barely afford the iced coffee to keep me going during the Bar review. Perhaps my classmates were correct when they were shocked that I chose to move to this expensive city and work without pay. Yet I sought to reassure myself by asking the question: "Was this not where the greatest need existed?"

In September of 1994, I began my volunteer position, working with children who were voluntarily placed into foster care by their parents due to the parents' infirmities, such as HIV/AIDS, drug addiction, or severe mental illness. There, I passionately represented children prior to and subsequent to court proceedings, as well as inside the courtroom once I was admitted to the Bar. I performed legal research, interviewed clients, families and social workers, and prepared for hearings.

There were obvious hurdles to overcome by choosing the less-traveled path. Without any money, I was forced to reconcile the desire to work in my chosen field with my need to pay back my student loans, n8 as well as pay my rent and purchase other necessities. After about three months of volunteering, I found the need to seek additional evening work and was employed part-time by a solo practitioner specializing in insurance and criminal defense.

After six months of volunteering, with positive feedback from my superiors and peers, yet no prospects of a permanent job, I had to move aggressively toward my next step. Again, the questions of my classmates haunted me--was I sacrificing my career for my ideals? Still motivated, yet a bit deflated, I secured a job at a child welfare agency in Brooklyn. n9 There, I assisted in building cases for termination of parental rights in the five boroughs of New York City. The idea of representing an agency did not seem foreign to me because of my law school Clinic experience. Yet, I soon recognized potential tensions between representing an agency and representing children. Most often, the goals of each side were congruent, but there were times when they were not. Terminating parental rights was not always best for those children who had little or no hope of being adopted--usually older children, often children of color, and often children with behavioral or emotional difficulties. Yet, sometimes it was the only practical and sensible solution in the eyes of my client (the agency) and the court. In fact, it is precisely these same children who are freed for adoption but who are never adopted, remaining in a legal limbo, whose plight opened my eyes to how the "revolving doors" of Family Court truly operate.

After about a year at the agency, I switched gears and started a staff attorney position in the Family Court Division of a Legal Aid Society in the New York City suburb of Long Island. There, I represented

parents accused of child abuse and neglect, parents accused of not paying child support, and litigants on both sides of domestic violence, custody and paternity [*537] cases. Representing parents was difficult for me at times, but it was familiar to me because of my work with the law school Clinic. I grew to view abusive parents as grown-up versions of abused and neglected children (as are most frequently, delinquent teenagers) and I worked with incredible diligence to represent my clients. After successfully handling several trials, I enjoyed increased confidence as my litigation skills sharpened.

When a staff attorney position opened in New York City at the Legal Aid Society, Juvenile Rights Division, I seized the opportunity. Strikes and a hiring freeze prevented me from joining the staff earlier. In 1996, I started work at the Legal Aid Society in Brooklyn. For the next three years, I represented children in child abuse and neglect, juvenile delinquency, status offense, school suspension, custody, foster care review and termination of parental rights proceedings.

At Legal Aid, I learned a great deal about practicing child advocacy law in New York. With well over one hundred cases and hundreds of children on my caseload at any given time, I was fully immersed in child advocacy from many different angles. I was in court daily and in trial at least weekly, often more. The challenge was at times overwhelming, but always exciting.

Concurrent with this position, I mentored and supervised several law interns during the summer months and supervised law students enrolled in the Juvenile Justice Clinic at New York University Law School during two spring semesters and one fall semester.

Additionally, from the beginning of my career in New York, I became involved in the New York County Lawyers Association, one of the two local bar associations. For five years, I served on the Family Court and Child Welfare Committee. I also served as a family law specialist and consultant for attorneys providing pro bono services at the Association and later served on the Committee on Law-Related Education.

Other activities helped round out my experience representing children. For example, through the New York Civil Rights Coalition I co-taught (with another Legal Aid lawyer in Manhattan's Criminal Defense Division) a weekly course entitled "Unlearning Racial Stereotypes" in a Manhattan high school. I guest lectured about juvenile rights in various Brooklyn and Manhattan middle schools sponsored by the city bar and I also served as a judge for high school students' mock trials.

Ultimately, the circle was completed in that I returned to where it all began: The Child Advocacy Law Clinic at the University of Michigan Law School. When I was asked, "Why?" by the editor of the *Law Quadrangle Notes* (a quarterly newsletter for students, faculty and alumni), I responded "teaching future lawyers holds the most promise for effectively changing this area of the law. . . . There is a tremendous need for well-trained lawyers in child advocacy. It is a field that is desperate for exceptional, enthusiastic attorneys who are dedicated to the public sector."

[*538] It was during my five years of practicing law in Manhattan, Brooklyn, the Bronx, Queens and Long Island, that I observed some of the most talented litigators and child advocates, as well as those who were woefully inadequate. These observations renewed my desire to teach and train new attorneys in a field so often lacking adequate funding and training.

One of the most rewarding aspects of my current position as clinical professor is my role as mentor to current law students. In their never ending quest for the perfect public interest job, students often enter my office frustrated, depressed and dejected. My hope is to have them leave my office with at least a ray of hope that there are possibilities out there, which may not be easily apparent. By advising students about opportunities in child advocacy and other public interest organizations, as well as suggesting job

search strategies, I feel that I am not only helping these individual students, but society at large. These students are highly motivated to help the impoverished, especially children, and thus their contributions can be an incredible boost to all needy clients. I encourage students to keep me abreast of job developments as well as the ups and downs of job searches in a career path often not as well-paved as others.

The doors may still revolve for juveniles involved in courts across the nation. Sadly enough, perhaps they always will. But if we have a strong army of trained professionals to help them navigate through the legal system, we may continue the fight for our future and theirs. My experience as a student in the Clinic, especially its interdisciplinary focus, helped to prepare me for this fight.

n4 ALEX KOTLOWITZ, *THERE ARE NO CHILDREN HERE* (1991).

n5 The book also inspired my law school seminar paper entitled *There Are Too Many Children Here* dealing with juvenile justice laws in Chicago, specifically a law regarding a gang "loitering" statute which was overturned this past year by the *U.S. Supreme Court. City of Chicago v. Morales, 119 S. Ct. 1849 (1999)*.

n6 In many states and most public interest jobs involving litigation, law graduates must be admitted to the bar before being hired. This is due to the requirement of appearing in court upon hiring.

n7 Charles Hollander was and still is Deputy General Counsel, Family and Children's Services at the Human Resources Administration in New York City.

n8 Student loan repayment commences six months after graduation. The University of Michigan Law School and many others offer loan forgiveness programs that can help a graduate pursue a public interest career.

n9 New York City has approximately sixty-five voluntary child welfare agencies under the auspices of the Administration for Children's Services.

III. The Interdisciplinary Seminar in Child Abuse and Neglect

An interdisciplinary approach to child protection law has been integral to the Clinic's history. We have, at various times, offered supplemental course work closely focused on interdisciplinary practice to clinic students and others. The most recent offering is the Interdisciplinary Seminar in Child Abuse and Neglect, initially funded through the W.K. Kellogg Families for Kids Initiative. n10 The seminar, offered every-other-fall and taught through the support of the Law School, Department of Psychology and the School of Social Work, is a two-credit course taught by a clinical law faculty member, and by faculty members from the School of Social Work and Department of Psychology. [*539] All three faculty have clinical experience in the field of child protection. The students from law, social work, and psychology are all studying at the graduate level in their field, although two undergraduate psychology students did successfully participate in the Winter 2000 term. The class meets for one, two-hour session per week at the Law School.

n10 For more detail about the seminar, see Suellyn Scarnecchia, *An Interdisciplinary Seminar in Child Abuse and Neglect with a Focus on Child Protection Practice*, 31 *U. MICH. J.L. REFORM* 33 (1997). The Kellogg Initiative promoted structural, organizational, and legal changes in the child welfare system designed to increase permanent homes for abused and neglected children.

The emphasis of the Seminar is on testing the disciplinary conflicts and barriers that arise in child protection practice with the emphasis on practice, not research. Through cases presented on each topic, students are challenged to explore the interdisciplinary connections and barriers in cases involving topics such as termination of parental rights, sexual abuse, physical abuse, and psychological testing. Students participate in simulated hearings and

multi-disciplinary meetings, which illustrate the different roles and ethical obligations of the various disciplines. Interdisciplinary teams of students work together on projects of their choice. At the end of the term, the students present the results of their projects to the class. Student teams have developed manuals for participants in the system, researched topics such as the Indian Child Welfare Act and the use of the best interest standard in child protection cases, and surveyed professionals on a variety of subjects.

Students rate most highly the opportunity to discuss issues with students and faculty from other disciplines. They tend to end the term with a better appreciation of each other's strengths and weaknesses, although it is not uncommon for students to become quite irritated at one another in response to the different goals and ethical obligations of each discipline. Most challenging has been the effort to evaluate the students' interdisciplinary group projects, which are often weakened by the same interdisciplinary tensions experienced in the real world. The course continues in high demand with increasing interest from students of other disciplines, such as nursing and education.

In addition to developing a strong academic program, the faculty wanted to provide a fellowship program to provide students an opportunity to gain work experience in pediatric law practice while still in law school. Further, we wanted this program to be available not just to University of Michigan students, but to students from other law schools as well.

IV. Bergstrom Summer Child Welfare Law Fellowship

The University of Michigan Bergstrom Summer Child Welfare Law Fellowship (Summer Fellowship) began in 1995 with funds from the [*540] W.K. Kellogg Foundation's Families for Kids Initiative. The Summer Fellowship provides intensive training for law students in child welfare law and then matches them with summer placements where they experience firsthand a pediatric law practice.

The Summer Fellowship developed from the desire to improve the quality of legal representation of the parties in the system--children, parents, and the child welfare agencies--and to create a network of competent legal professionals in the field. Often attorneys representing children, parents, and child welfare agencies are well-intended, good hearted, but limited in their knowledge of statutory law and court rules as well as the complex interdisciplinary issues involved in the cases. The combination of a lack of formal child welfare legal training and the low pay associated with representing indigent children and parents creates a lack of professionalism in the field.

The Summer Fellowship program aims to encourage the best and brightest law students to practice in this field and to create and join a network of skilled child welfare legal professionals. The program was designed to serve as a rung on a child welfare law career ladder and as a way to develop mentoring relationships between experienced and new attorneys. A long-term goal is to raise the status of the specialty within the legal profession by increasing the skill and professionalism of a new generation of child welfare lawyers.

For the first three years of the Fellowship (1995-97), the Kellogg Initiative funded stipends of \$ 3,500 for twenty-four fellows, a three day intensive interdisciplinary child welfare legal training at the University of Michigan Law School, and the fellows' expenses for travel, housing, and meals. Fellows were recruited from law schools in the eleven Kellogg sites (Arizona, Kansas, Massachusetts, Michigan (Grand Rapids), Mississippi, Montana, New York City, North Carolina, Ohio, South Carolina, and Washington State) and two from the University of Michigan Law School. After completion of the training, the fellows worked for ten weeks in selected child welfare law offices in the Kellogg sites and in the Child Advocacy Law Clinic.

Students were matched with selected offices in the communities where they attended law school or where they intended to practice after graduation. In this way, the fellows' work augmented the goals of the Initiative, and encouraged mentoring relationships with seasoned practitioners. Because law school placement offices may not have a great deal of information about pediatric law placements, these relationships are essential to finding work in the field.

With nearly 300 applicants a year for twenty-four positions, we selected fellows based upon their experience with

children and their dedication [*541] to pursuing careers in child welfare law. Many of the fellows had extensive backgrounds in social work, psychology, and education. Their varied experience with children included work in residential treatment centers, tutoring, and serving as foster parents and camp counselors. Several fellows had participated in Teach for America after graduation from college; one had served as a state legislator in Montana.

We selected child welfare law offices in the Kellogg sites that provided quality legal services to children, parents, and agencies involved in child abuse and neglect. An attorney in each office had to agree to supervise a fellow. Placements included private law offices, nonprofit child welfare law offices, legal departments for child welfare agencies, Court Appointed Special Advocate Offices, legal service offices, and defender agencies with governmental contracts to represent parents accused of abuse or neglect. Some fellows spent their summer clerking for juvenile court judges and one Yakima Nation children's court tribal judge.

After the Kellogg funding ended, the program continued at a reduced level with funds provided by private donors. The fellowship was renamed the Bergstrom Summer Child Welfare Law Program. n11 While the number of applicants has reduced dramatically since only six stipends are offered, the quality of the applicants has remained high and we train at least sixteen fellows each summer. Some fellows receive funding from public interest offices or student organizations in their own law schools; while others are willing to work for free to pursue a pediatric law career. So far each class has exceeded our expectations for success.

n11 Henry A. Bergstrom was a 1935 graduate of the University of Michigan Law School. The trustees of the Bergstrom Fund, including Mr. Bergstrom's son, endowed the Summer Fellowship to honor his memory. The Fund endowed the cost of the annual training (training, travel, housing, and meals for 16 fellows) and two stipends a year for University of Michigan law students. A separate grant from the James and Lynelle Holden Fund supports an additional four stipends of \$ 3,500 each. Two of the Holden stipends are reserved for University of Michigan law students and two have been used to support fellows from Mississippi and South Carolina in an effort to continue the work of the Kellogg Initiative in those states.

A. The Fellowship Training

The training provides a broad overview of child welfare law through a participatory, interdisciplinary design. The training is conducted by faculty from the University of Michigan Child Advocacy Law Clinic and outside experts. On the first day, we provide a federal statutory overview, and outline the state child welfare legal systems. A panel of speakers who have been involved in the system as foster children, foster [*542] parents, and parents accused of abuse or neglect follow this discussion. The personal experiences and perspectives the panelists share confront the fellows with the complexity and humanity of the people the system is set up to serve, and the positive as well as the negative impact the system can have.

In the afternoon of the first day, we introduce the fellows to a case scenario that they will work with for the next two days. The case begins with the report of abuse, and then goes through disposition and child placement decisions. Facts unfold at each stage of the legal proceeding. Lectures by experts in child sexual abuse, child development, and drug abuse while parenting, provide interdisciplinary information relating to factual developments at each stage of the case scenario.

Fellows are divided into small, working groups. At each stage, a group is charged with representing a different party, either the children, the parents, or the child welfare agency and is asked to make legal recommendations and judgments on behalf of its client. A full group discussion follows the small group meetings during which each group makes its recommendations, explains the reasoning behind the recommendation and identifies other information that would be helpful to have. This discussion is lead by the expert lecturer and clinical law faculty, thereby modeling the interdisciplinary nature of the work. A courtroom demonstration by clinical faculty attempting to qualify the sexual abuse presenter as an expert witness follows the discussion of this issue.

During the morning of the third and final day of the training, the fellows participate in a moot court exercise, based on the facts of the case scenario used earlier in the training. The fellows argue to a mock jury of their peers. Clinical faculty sit as judge and provide informative, positive feedback.

The training ends with an informal child welfare career path panel discussion. Four or five seasoned child welfare professionals discuss their careers, which include clinical teaching, working as a staff attorney in a child welfare office, serving as executive director of a child welfare office, and incorporating child welfare and family law in a private practice. One other highly praised and inspirational aspect of the training is a dinner with the local juvenile court judge who talks about her path to the bench.

B. Impact of the Fellowship

Two years ago, we surveyed all of the former summer fellows to find out if they were working, volunteering, or still interested in the field. Approximately 37 percent of the fellows responded. Approximately [*543] 85 percent stated that they were still interested in children's law, but only approximately 10 percent were involved in full-time pediatric practice. Many of the fellows not engaged in children's law cited as reasons the lack of available jobs, and low pay for those that exist, especially in light of their student loan debt. Not surprisingly, more work is required to develop and implement strategies to bridge the gap from the summer fellowship to a viable career track in the field. The following profiles of two former fellows, who have bridged the gap in the first years of their legal careers, illustrate the challenges and opportunities as well as the depth of motivation required to pursue a career in the field.

1. BARBARA KABAN

Barbara Kaban was a member of the 1996 fellowship class, after her first year at Boston College Law School. She entered law school after a successful business career to become a child advocate. Barbara spent her fellowship summer working at the Children's Law Center of Massachusetts assisting in direct client representation in delinquency, educational advocacy, and child in need of services matters. After law school graduation, she returned to work at the Children's Law Center as a Soros Justice Fellow. In addition to handling an active case load of twenty to thirty juvenile delinquency cases, six post-disposition delinquency cases, two special education cases, and one care and protection case, she has published articles on police interrogation procedures with children and post-dispositional advocacy in the Massachusetts delinquency system. Barbara has raised issues of first impression concerning the right to bail for juveniles awaiting extension of commitment hearings after the age of majority. Barbara finds work in the juvenile justice system challenging and stimulating, but finds the inability to promote systemic change when working with "one child at a time" frustrating. Consequently, she will integrate policy work and possible class action litigation into her job description as she moves on to the next step in her career as deputy director of the Children's Law Center of Massachusetts.

2. KRISTEN KIMMEL

Kristen Kimmel attended law school to become a child advocate. She was a member of the first summer fellowship class in 1995. At the time, she had just completed her second year at the University of Michigan Law School where she had started a children's rights organization and participated in the Child Advocacy Law Clinic. She worked during the summer at Lawyers for Children (LFC) in New York City, representing [*544] neglected and abused children placed voluntarily in foster care.

Five years later, Kristen is still working there. She feels very lucky to have figured out early what she wanted to do and is thrilled to be earning a living doing what she loves to do--helping children. For the first two years after law school, she received a Skadden Fellowship to represent children in foster care, abuse, neglect, custody, visitation, and termination of parental rights cases. The Skadden Fellowship paid her salary and the \$ 12,000 she owes a year in student loans. This year, her work is supported by a NAPIL Fellowship. Kristen hopes to have a staff position at LFC by September 2000. She will be able to afford to work there because of a newly strengthened loan forgiveness program for

University of Michigan Law School graduates working in the public interest. At LFC, Kristen handles ninety cases on the court docket and a file cabinet full of cases heard by the court on a review basis. She works together with a social worker as a team on each case.

Although often disheartened by the lack of quality she sees in participants' performance in the child welfare legal system, Kristen remains motivated to work on behalf of her child clients because of her belief that she will continue to make an enormous difference in their lives. It is precisely this lack of professional excellence in the system that we have attempted to address through a continuing education program focused on child welfare law.

V. The Michigan Child Welfare Law Resource Center

The Michigan Child Welfare Law Resource Center (Resource Center) was established as part of the Law School's larger program of educational development and support across the pediatric law career span. The Resource Center has two main objectives. First, it provides continuing education for attorneys practicing child welfare law throughout the state of Michigan with the goal of increasing the sophistication and status of those lawyers. Second, it strives to be a model program of its kind for the purpose of replication in other jurisdictions.

By undertaking these two main objectives, it was hoped that the Resource Center could begin to change the culture of child welfare law practice. Over time, numerous structural inhibitors of sound legal practice within child welfare law have been identified. n12 Thus, this subspecialty [*545] of the legal profession has been too often characterized by a lack of even basic understanding of the relevant law, a dearth of inter-disciplinary knowledge and less than thorough preparation. Because of the unique culture of child welfare practice, attorneys are permitted to represent clients they have never met, n13 to represent clients with little or no preparation, and to provide little in the way of advocacy.

n12 For example, high caseloads, low pay, and lack of interdisciplinary knowledge have been identified as barriers to the provision of quality legal representation to individuals and agencies in the child welfare system.

n13 As an example of the extent of this culture, in 1994 the Michigan legislature enacted a statute that required the attorney appointed to represent a child in a child protective proceeding to actually see and, if possible, interview the client during the pendency of the case. In practice, these cases may be in the court system for years and consist of dozens of hearings yet all too often the attorneys representing the children never saw or spoke with their clients.

Initially funded by the W.K. Kellogg Families for Kids Initiative, the Resource Center is currently funded by a grant from the James and Lynelle Holden Fund. The Center hopes to continue work through a combination of grant funding and the revenue generated through training contracts and the sale of publications.

The Resource Center's mission is "to improve the legal system's handling of child-related cases through professional development." The Resource Center has established a set of core values to focus its efforts on the achievement of its mission. These are:

1. A strong commitment to the well-being of children;
2. High standards of professionalism and professional practice by those individuals who work with and on behalf of children;
3. Systems that function efficiently, are committed to making decisions which serve the best interests of children, and which make those decisions in a timely fashion.

After establishing its mission and its core values, the Resource Center has been able to begin implementing activities to meet its mission.

The Resource Center is actively involved in efforts to provide continuing education across the state of Michigan.

To meet this mission the Resource Center has engaged in a series of related activities. The core activity of the Resource Center is its effort to provide ongoing training. Shortly after the Resource Center's establishment, it began working on plans to conduct a three-day training for child welfare attorneys and judges. The goal of the training was both tactical and strategic. Tactically, it was hoped that a group of approximately 150 attorneys and judges would directly benefit from enhanced substantive knowledge. Strategically, it was envisioned that by identifying local leaders in the field, we could enhance the prestige of the practice and create localized "experts" in child welfare law who could set the tone [*546] for higher standards of practice as well as mentor less experienced attorneys.

To implement this training program, each county's juvenile court judge was asked to nominate two attorneys whom the judge considered leading local practitioners of child welfare law. This created a pool of approximately 160 possible trainees. Each of these individuals was then invited to attend the training for a nominal fee. Several additional slots were filled with judges from around the state. The training was held at the University of Michigan Law School just before the Memorial Day weekend. This was timed to permit a one-day overlap with the Summer Fellowship training, allowing law students to mix with and learn from seasoned professionals. In this way, the students' sense of career possibilities in child welfare law would be enhanced. The trainees attended a series of lectures on topics of both legal and interdisciplinary relevance. The lectures were complimented by skills building workshops during which trainees were asked to work in small groups with a facilitator to apply the knowledge obtained in the lecture to a case scenario drawn from a real and complex child welfare case. Judges and lawyers provided positive feedback on these sessions, stating that they rarely had an opportunity to discuss their work with others outside of the context of actual cases. Specific topics of lectures and work groups included child sexual abuse, drug abuse and parenting, discovery, and ethical considerations in representing children.

Since that initial statewide training, the Resource Center has conducted or participated in many training seminars. These have varied in length and topic depending on the needs of the local community. Topics have included new legislation, both state and federal, the content and application of current law, procedural matters such as motion practice, and interdisciplinary issues inherent in child welfare work.

In early 1998 the Resource Center surveyed approximately 800 lawyers who handle child welfare cases in an effort to tailor its activities to meet the needs of practitioners. Approximately 250 individuals responded to the survey. That survey produced four important findings. First, there is a great hunger on the part of practitioners for training about handling child welfare cases. Second, practitioners have a very difficult time leaving busy practices and busy lives to attend training sessions that require them to travel. Therefore, for training to be effective, practitioners need to have the training in their local communities. Third, practitioners would be most willing and able to attend training if it were provided in relatively short segments. In the survey, respondents were given the option of a three-day, two-day, or one-day training [*547] session. Fully 10 percent of the respondents wrote in that they preferred half-day training sessions, not a single respondent checked the three-day box, and few were willing to attend if the training went into a second day. Finally, the survey respondents made clear that they wanted practical information that would prove immediately helpful to their day-to-day practice. They were singularly uninterested in attending training that was policy oriented or that contained information unrelated to handling individual child welfare cases. Their interest was in information about trial practice strategy, changes in relevant statutes, and court rules and case law developments. There was a lesser but significant interest in interdisciplinary issues, particularly where and how to obtain substance abuse treatment, child development and how it relates to a child's ability to direct his or her legal representation, measures necessary to meet the needs of developmentally delayed clients, information about mental health diagnoses and treatments, and how to handle cases involving domestic violence.

The Resource Center has partnered with entities such as the Children's Law Section of the State Bar of Michigan (CLS), the State Court Administrator's Office and the state's child welfare agency to provide training that meets the expressed needs of the child welfare bar. These have included a series of one-half day programs that utilize a lecture format to present, explain and provide discussion of new legislation, court rules, and case law developments. Additionally, the Resource Center has developed a series of day long seminars utilizing a case scenario to: (1) highlight particular child welfare issues (e.g., rules regarding notification of noncustodial parents and the workings of the Indian

Child Welfare Act); (2) illustrate how new legislation applies and how to develop effective strategies for handling cases given the new law; and (3) as a vehicle for discussing new case law developments. Working with the CLS, the Resource Center has been actively involved in developing a series of ninety-minute lunch time lectures held in Wayne County, the state's most populous county and which has the largest family court system. These presentations are specifically designed to meet the needs of practitioners by taking the information to them in a format that is readily accessible and of immediate use in their practices. Each session has been videotaped and any member of the CLS may borrow the videotapes.

A. Publications

Publications are a second area of concentration for the Resource Center. We have developed and collaborated in a series of publications designed to meet the needs of child welfare law practitioners.

[*548] 1. SOURCE BOOK

The Resource Center's premier publication is the *Michigan Child Welfare Law Source Book (Source Book)*. The *Source Book* is a compilation of Michigan's relevant statutes and related materials. It includes the Child Protection Law, the Juvenile Code, the Indian Child Welfare Act, the Foster Care and Adoption Services Act, the Guardianship provisions of the Probate Code, the Children's Ombudsman's Act, the relevant Court Rules, the pertinent jury instructions and the Michigan Rules of Evidence. The *Source Book* locates these essential materials in one accessible 250-page book that can easily be carried in a briefcase. Because of rapid changes in the law, the *Source Book* has been regularly updated.

2. QUARTERLY JOURNAL

In partnership with the CLS, the Resource Center edits and publishes the *Michigan Child Welfare Law Journal*, a quarterly publication of practice related articles. Each issue of the *Journal* is focused on a different topic and contains articles written from different perspectives. Recent topics have included the Indian Child Welfare Act, the impact of domestic violence on child welfare practice and child development. The articles in the child development issue included titles such as "Applying the Realities of Child Development to Legal Representation: A Quick Reference for Lawyers and Judges;" "Developmentally Appropriate Child Interviewing: A Discussion with Professor Debra Poole;" "Fetal Alcohol Syndrome: A Brief Overview." The *Journal* has proven to be a very effective outlet for informing practitioners about protocols developed by the state for handling various child welfare issues. For example, the *Journal* recently conducted an interview of a primary author of the state's *Forensic Interviewing Protocol* (detailing for the reader how to obtain copies free of charge) and reprinted the *Batterer Intervention Standards for the State of Michigan*.

The *Journal* has a periodic series called "Point/Counterpoint" in which we juxtapose competing views on a particular issue. For example, the recent domestic violence issue contained articles from differing perspectives on how Michigan law addresses the difficult problems presented when children are exposed to interpersonal violence between their parents or caretakers. Thus, "Point-Domestic Violence and Children: Protecting Children in Violent Homes," authored by one of the state's leading child advocates, argued the need for an aggressive protective services stance in handling such cases while "Counterpoint-Culture Clash: Battered Women and Child Protection" was written by [*549] a leading advocate for battered women in the state and suggested an approach that would permit the battering victim more autonomy in decision-making.

3. MONTHLY NEWSLETTER

The Resource Center publishes a four page monthly newsletter entitled *Michigan Children's Law Update (The Update)*. *The Update* is rooted in the responses to the survey described above. It contains summaries of relevant cases decided by the appellate courts, statutory changes, court rule changes, as well as practice tips for understanding these developments in context and for utilizing them in daily practice. When space permits, *The Update* features the

"Interdisciplinary Update," a brief review of research in allied fields of importance to child welfare attorneys, or a "Question of the Month" segment in which *The Update's* author briefly discusses an interesting question that has been presented via the technical assistance portion of the Resource Center's program. *The Update* presents highly relevant information in a format that the practitioner can read in a matter of minutes.

4. INTERNET WEBSITE

The Resource Center maintains an Internet websiteⁿ¹⁴ to provide substantive assistance to practitioners and to advertise our products. The web site contains several groupings of information the Resource Center staff thinks will assist attorneys working in the child welfare field. For example, the website contains a Research Bank, an indexed listing of cases related to Michigan child welfare law, back issues of *The Update*, and a Job Bank listing child welfare law career opportunities from around the country.

n14 <<http://www.law.umich.edu/childlaw>>.

5. COLLABORATION ON SPECIAL PUBLICATIONS

The Resource Center has lent its staff's expertise to several collaborative publications. Most recently, the Children's Charter of the Courts of Michigan, a nonprofit organization that works closely with the court system on a number of projects such as developing and supporting Court Appointed Special Advocate programs, updated its book *Guidelines for Achieving Permanency in Child Protection Proceedings (Guidelines)*. Originally published in the late 1980s, *Guidelines*, which provided an outline for each party to a child protective proceeding to prepare for each hearing, had grown outdated. The Resource Center's staff collaborated with representatives from the Children's Charter, the [*550] Michigan Judicial Institute, the Family Independence Agency, and local courts to rewrite *Guidelines*.

Likewise, a member of the Resource Center's staff was part of the Advisory Committee for the *Child Protective Proceedings Benchbook (Benchbook)*, published in 1999 by the Michigan Judicial Institute. *Benchbook* is distributed to family court judges around the state and provides a detailed summary of the law on a vast array of child welfare related issues.

The Resource Center is currently planning several other projects to be completed over the next year. Among these are an annotated version of the Michigan Child Welfare Law Source Book and detailed practice manuals for attorneys representing the child, the parents, and the state agency in Michigan, which will contain supplemental articles that will inform the practice of child welfare law in the state.

B. Technical Assistance

The Resource Center maintains a program to provide technical assistance to attorneys, judges, and social workers who have questions about how the law or practice impacts individual cases. The Technical Assistance program is an effort to reduce practitioners' sense of isolation and to increase their technical acuity by providing ready access to experienced consultants who keep current with the latest developments in the field. For example, a judge recently called the Resource Center from the bench during a break in a hearing to inquire whether there were any cases interpreting the provision of Michigan's Child Protection Law that exempts the denial of medical treatment based upon religious beliefs from the definition of child neglect. n15

n15 See MCLA § 722.634.

Technical Assistance has also included more in-depth work on individual requests such as strategizing with a practitioner about an individual case, reviewing drafts of appellate briefs, providing feedback to their authors regarding their content, and acting as a sounding board for the development of novel legal arguments. The Resource Center

provided technical assistance to the Office of Children's Ombudsman in developing various aspects of its policy and practice.

The Resource Center has also done extensive research and drafted detailed memos for courts regarding procedural requirements. For example, it recently conducted extensive research and advised the Wayne County Family Court on procedures that should be instituted to ensure that fathers who are absent from their children's lives are properly notified of child protective proceedings.

[*551] On a systemic level, the Resource Center has consulted with practitioners, state agency representatives, and legislatures in several other states that are interested in opening similar Resource Centers. We believe that the development of such resource centers is one means by which the culture of child welfare practice will be enhanced in the coming years.

VI. Future Developments

What next? At the University of Michigan Law School, we have discussed many more ways to build a clear and smooth pediatric law career path for law students and graduates. We have been involved in similar discussions on a state and national level. Here are some possibilities:

1. Develop model pediatric law offices. Through grant funding, create and study model offices. Are there better ways to deliver pediatric law services? Is an interdisciplinary practice possible and productive?
2. Study what funding mechanisms might allow pediatric lawyers to make a livable wage and to spend sufficient time in the profession to develop needed expertise and experience? How can current funding for pediatric legal services be changed or enhanced?
3. Study the viability and potential costs/benefits of certifying pediatric law as a specialty. Assuming certification is both viable and beneficial, develop certification standards, and procedures and advocate for their adoption.
4. Increase job search assistance to law students and graduates in the area of pediatric law. The Job Bank included in our own web-page is a small step in this direction, but much more can and should be done to gather and disseminate information about pediatric career opportunities as they become available.

The University of Michigan Law School's curriculum for the development of child welfare practitioners has evolved over the last quarter century into an integrated program for the preparation and support of attorneys, judges, and social welfare professionals across the career span. While we have chosen to emphasize child abuse and neglect law and practice in our programs, pediatric lawyers could be trained through the lens of juvenile delinquency cases or other cases which involve direct representation of children. We offer our program only as an example, [*552] and want to acknowledge the many law faculty, judges, lawyers, legislators, and funders throughout the United States who are wrestling, like us, with the challenges of building meaningful and productive pediatric law careers. We hope that more law schools will join in this exciting career development work by offering law students opportunities for classroom, research, clinical, and pro bono work in the pediatric law field. We also hope that our work will be replicated and expanded upon in jurisdictions across the country. Doing so holds great potential to help children and their families.