Professor David Goldberger stands outside of the U.S. Supreme Court during one of the two times he traveled with a team of Moritz students to argue before the Court. Goldberger will retire at the end of the 2008-09 school year.

**Former Clinical Director Led Two Classes to the U.S. Supreme Court**

By Natalia Mitsui
Contributing Writer

Professor David Goldberger doesn’t think of retirement as an end to a professional chapter in his life, but rather an opportunity to start pursuing other interests. “My theory on retirement is that it is essentially starting a new career,” he said. “I’m not looking at it as ending one.”

Goldberger began as a part of the Moritz College of Law clinical faculty 29 years ago, in 1980. At the end of the current academic year, he will leave his regular faculty position. He has taught countless law students at Moritz, including leading two classes to the U.S. Supreme Court, and was a long-time director of the College’s clinical programs.

And with his track record in litigation, Goldberger takes with him a hefty reputation. He has worked on four cases that went to the U.S. Supreme Court and has presented oral arguments there twice. While working for the American Civil Liberties Union (ACLU), he was principal counsel in the National Socialist Party v. Skokie case, which upheld the First Amendment rights of a group of Nazis to publicly assemble.

“In America, Nazis are at the margins of society and sometimes the system goes after them without restraint. What distinguishes our society from so many other societies is we protect the underdog, and they have a chance,” he said.

Prior to joining Moritz, Goldberger was legal and legislative director for the ACLU’s Illinois Division and has been drawn to protecting civil liberties, as is evident with his past cases.

“I think it’s really a strong feeling toward defending the underdog. Because whoever the underdogs, good and bad, they need protection,” he said.

At Moritz, he and students have worked for
Clinics Stronger Than Ever After 75 Years
Since 1934, Moritz Clinics Have Offered Students Hands-On Experience

When The Ohio State University College of Law established its first legal clinic 75 years ago this month, it was just the fifth law school in the country to mix a clinical program into its regular curriculum. Since then, the Moritz clinics have blossomed into one of the most comprehensive and successful programs in the nation.

Today, seven regular Clinics, as well as several ad-hoc ones, are offered to second- and third-year students, incorporating real-world experiences with in-class training by tenure-track faculty.

“From an educational point of view, we, to this day, have one of the strongest clinical programs in the country,” said Emeritus Professor and former Dean James Meeks.

In April 1934, the Student Bar Association, the Columbus Family Bureau, and the Columbus Barristers’ Club joined forces to introduce the clinics to the law school. In March 1935, Professor Silas A. Harris became the first director of the clinic. The program’s outreach quickly expanded, and local attorneys, judges, and social service agencies were soon referring cases to the clinic. The Columbus Bar Association and the Columbus Legal Aid Committee assisted with matters that went to litigation. The clinic proved to be such a valuable addition to the curriculum that in 1937 participation in the legal clinic was required for graduation from the College.

During World War II, clinic students actively helped the servicemen and women and their families as fighting continued overseas.

In the mid-1960s the clinic, which traditionally had focused much of its attention on domestic cases, began to work on criminal appeals and habeas corpus matters.

In the early 1970s, under then clinical director Bruce Jacob, the first clinical “courses” were introduced at the College. As a result, the College adopted a unique approach to clinical teaching in law schools: clinic courses were co-taught by a tenure-track faculty member and a staff attorney, who was primarily responsible for supervising students in their handling of live-client caseloads. Students were able to handle cases in court under supervision thanks to the student practice rule approved by the Supreme Court of Ohio in 1972.

That team approach, Dean Meeks said, was a novel one that had a beneficial impact on the program offerings. The same team-teaching approach is in use today.

“It was a very unusual setup as far as clinics were concerned,” he said. “But we began offering a better educational experience than the clearly service-oriented clinical programs.”

The Civil Law Clinic, Criminal Law Clinic, and Juvenile Law Clinic were also started under Jacob’s tenure as director.

Professor David Goldberger became clinic director in 1986 and helped to expand the program in several ways. That expansion and success of the clinical programs can greatly be attributed to the support that the College’s leadership continued to provide the clinics, Goldberger said.

“The law school has felt that the clinics are an important part of the curriculum and has drawn tenure-track and clinical-track faculty to them,” he said.

Far fewer clinics were offered when Goldberger started at Moritz in 1980. But over the years, institutional support and student demand for additional clinics caused the programs to continually grow.

“It has really flourished,” he said. “Instead of just a small percentage of students being involved we can now offer the clinics to just about anyone who wants them.”

Professor Katherine Hunt Federle
joined the Moritz faculty in 1998 to
found the Justice for Children Clinic. In
1999, the Student Housing Clinic, which
employs law students to work part-time to
assist a clinic staff attorney, was formed.

The clinics also worked on a number
of significant Supreme Court cases during
Goldberger’s tenure. In 1995, Professor
Goldberger and clinic students briefed
and argued McIntire v. Ohio Elections
Commission before the United States
Supreme Court, winning a ruling that the
right to distribute anonymous campaign
leaflets was protected by the Constitution.
In 2005, clinic faculty and students
brought Cutter v. Wilkinson to the Court,
successfully representing prison inmates
who were defending the constitutionality
of a federal statute that protected their
rights to religious freedom.

In 2000 the law school created the
Legislation Clinic. The Clinic allows
students to work for a variety of offices
at the Ohio Statehouse, including
the Legislative Service Commission,
leadership caucuses, and individual
members of the General Assembly, as well
as at other state government offices.

“The clinical programs have never
been seen as adjunct or a second-class
citizen to the core curriculum,” said
Emeritus Professor Gregory Travalio, who
served as the clinical director from 2005
to 2008. “They have always been viewed
as part of the core curriculum, and I think
that has contributed a lot to the program’s
success over the years.”

Professor Steve Huefner, who joined
the College in 2000 as the director of the
Legislation Clinic, assumed leadership of
all the College’s clinical programs after
Travalio’s retirement last year. Huefner
said his goals include continuing to ensure
that the clinics provide the most relevant
and vital educational experience possible,
and to add additional Clinics to the extent
possible.

“We have a great collection of
clinics and superb clinical and tenure
track faculty members leading them,”
Huefner said. “Each and every one of
us will continue working to uphold the
exceptional reputation the clinics have
earned over the past 75 years.”

“It has really flourished.
Instead of just a small
percentage of students
being involved we can
now offer the clinics
to just about anyone who
wants them.”

— Professor David Goldberger
With the various opportunities that are available for the students at The Ohio State University Moritz College of Law, it is matter of finding the right fit. 3L Sarah Gordon found hers at the clinics.

“I’m more drawn to practical experience than other experiences that are available,” she said.

She decided to get a jumpstart by joining one of the two clinics students can participate in during their second year at Moritz. Gordon joined the Mediation Clinic during the fall 2007. “I was drawn to it by my psychology background,” she said. “I found myself enjoying it.”

Before coming to Moritz, Gordon earned her bachelor’s degree in psychology from Baldwin Wallace College and her master’s degree in industrial organizational psychology from the University of Akron. She also worked for a year at a human resources and consulting firm called Barrett & Associates, Inc., in Cuyahoga Falls, Ohio.

During her time with the mediation clinic, Gordon mediated small claims court cases. She also became a certified mediator through clinic weekend training. Using her experience and her certification, Gordon did an independent study over the summer with the Columbus City Prosecutor.

Aside from her law degree, Gordon is also pursuing a certificate in Alternative Dispute Resolution. She is currently taking the Advanced Issues in ADR course, which acts as a capstone class for the certificate.

“It’s a great experience,” she said. “It would be a shame to go through law school here and not do a clinic.”

During the fall semester of her 3L year, Gordon participated in the Justice for Children Clinic. Students in the clinic have the opportunity to represent children in a variety of legal proceedings, including cases involving neglect, delinquency, custody, and termination of parental rights. “I love kids,” she said. “I would eventually love to do that kind of work on a pro bono basis.”

She credits her experience with the Justice for Children Clinic in getting a better sense of how important it is to be organized as an attorney and how to interact with and approach magistrates and judges. Her time with the clinic also raised her appreciation of just how important it is that children have access to the legal system.

Although she will not be pursuing the child law certificate, she has found a way to unite her two interests by being the president of the student organization, Dispute Resolution and Youth.

After graduating from Moritz, Gordon plans to work for Critchfield, Critchfield & Johnston, Ltd., in Wooster, Ohio. The firm is the same one she spent her two law school summers working.

“The real-world experience the clinics provided me benefited me with the work outside of school. The clinics give people a look into the reality of the practice of law. The experience was fantastic. It was my favorite part of law school.” — Sarah Gordon third-year law student
2L White Gains Valuable Experience in Legislation Clinic

Election Contributed to Exciting Work in Ohio Senate

By Natalia Mitsui
Contributing Writer

2L Stephen Maurice White said that he could not have passed up the opportunity to be in the Ohio Statehouse during the hustle and bustle of an election year. White, thanks to his experience in the Legislation Clinic, had the chance to watch the democratic cycle first-hand.

“I chose to do the legislation clinic during the fall of 2008 instead of any other quarter because I wanted to be there during the election,” he said. “I was there for the election and the lame duck period. I got the chance to witness the democratic process work.”

White said that he first took interest in politics as an undergraduate political science and English major at The Ohio State University. That interest grew after enrolling in Professor Huefner’s legislation course as a first-year law student.

Hailing from Cincinnati, White spent his first summer in law school working for Taft, Stettinius, & Hollister LLP. During his time there, he had the opportunity to meet Ohio Senator Bill Seitz, who was a partner at the firm. And last fall, White was assigned by the Legislation Clinic to work for Seitz.

“Professor Huefner and Professor Terri Enns see your strengths and pair you with people of similar interests,” he said. “I worked for Taft and am a moderate Republican, so working for Senator Seitz made sense.”

White experienced the benefit of working for the majority caucus in the Ohio Senate. “Senator Seitz works on important constituent matters in the Senate and I got to work on big issues with him,” he said. “It ended up being a great networking experience. I was able to meet important people all around Columbus.”

White said that his time with the Legislation Clinic cemented the fact that he wants to work in public service at some point in his legal career.

“At law school, we’re here learning about the law. But we’re also learning to be a professional,” he said. “If you want to participate in public service you are going to work for the people and give back to the community.”

White hopes that he will be able to participate in other clinical programs in the future. “It’s a different kind of perspective,” he said. “You get practical experience and how to implement all that you’ve learned in classes. So when you do finally get out there, you’re not thrown to the wolves – so to speak.”

White says he wants to work for a large firm within Ohio after earning his law degree from Moritz and his master’s degree in public policy from Ohio State’s John Glenn School of Public Affairs in 2010.

“I want to stick with Ohio. I was able to build a network through law school and the Legislation Clinic,” he said. “I hope to promote, in my way, the democratic process.”

“I chose to do the legislation clinic during the fall of 2008 instead of any other quarter because I wanted to be there during the election. I was there for the election and the lame duck period. I got the chance to witness the democratic process work.”

— Stephen Maurice White
second-year law student

Moritz Clinic video is online!

Visit moritzlaw.osu.edu/clinic/tour.php for a 10-minute virtual tour of the clinic.
Tour the new Woodside Courtroom and meet all of the clinical faculty, as well as many of the current and recent clinical students as they talk about their clinical experience.
Was surprised, but honored,” Merritt said. “If you trust me to do it,” I told the clinic director, ‘I’ll be happy to do it.’”

Merritt is in her 25th year of teaching and her 14th year at Ohio State. She received her bachelor’s degree from Harvard University and her law degree from Columbia Law School. While in law school, she was managing editor of the law review. That position and other time demands stopped her from participating in a clinic, a loss that Merritt regrets.

“I love learning new things,” she said. “For me, the new position was a gift. I didn’t get to do any courtroom work earlier in my career, and at 50 you can’t exactly go to a firm and ask them to put you on a case.”

The College’s clinical programs have a unique model that combines theory and practice. The clinics are comprised of faculty teams; together they advise the students on both practical and theoretical aspects of their cases. Merritt is teamed with Professor Bob Krivoshey, who lends his longstanding practice experience to the Criminal Defense Clinic.

“With clinics, students get real-world experience and coaching. After you enter the real world no one has time to mentor you. Clinics are set up to offer a lot of guidance by the faculty. Moritz is particularly good at that by having faculty who know a lot about theory, doctrine, and practice.”

Taking a cue from the hands-on style of the clinics, Merritt hopes that the College can bring a small dose of practical experience to 1L students. “The first-year classroom is based entirely on theory and doctrinal instruction,” she said. “That instruction is essential, but students learn theory better when it’s joined with practice. Medical schools have learned that lesson—they now involve first-year students in simulations and patient care.”

Merritt, the John Deaver Drinko-Baker & Hostetler Chair in Law, brings wide-ranging experiences to the program. From 2000-05, she served as the director of Ohio State’s John Glenn Institute for Public Service and Public Policy. She is also a courtesy professor of Sociology, courtesy professor of Public Affairs, and associate faculty member in

“With clinics, students get real-world experience and coaching. After you enter the real world no one has time to mentor you. Clinics are set up to offer a lot of guidance by the faculty. Moritz is particularly good at that by having faculty who know a lot about theory, doctrine, and practice”

— Prof. Deborah Merritt
Women’s Studies at Ohio State.

Professor Merritt has been honored as both an Ohio State University Distinguished Lecturer (1999) and as a University Distinguished Scholar (2002), awards conferred on the university’s most outstanding researchers. In March 2009, Merritt was honored with the University-wide Alumni Award for Distinguished Teaching. In December 2008, she joined Moritz Associate Professor Ric Simmons, who also teaches in the clinic, to publish a text that offers a new pedagogy for teaching the basic evidence course.

She said that she is enjoying the opportunity to work with the clinical faculty, and the camaraderie that goes along with the group. “The faculty are a great group of people,” she said. “There is a common thread to the work we’re doing and lots of opportunity for exchange and debate.”

Merritt is grateful for the advice she has received from her clinical colleagues. “The other faculty members are willing to explain how they teach their clinical classes. I sat in on (Professor Krivoshey’s) trial practice class, which I never got to take in law school,” she said.

Merritt says that she likes how the clinics feel like little law firms. “It’s interesting to work with students in a colleague-team way,” she said. “All of the students have insights into the cases. We all know something that contributes to each case.”

Join fellow Ohio State University Moritz College of Law clinic alumni for an OSU BASEBALL GAME AND COCKTAIL RECEPTION

OSU vs. Michigan
1 p.m., Saturday, May 2
Bill Davis Stadium
560 Borror Drive
Columbus, Ohio 43210
Cocktail reception to follow.

Please RSVP to tarzwell.1@osu.edu

The Moritz College of Law Clinical Program Faculty

Civil Law Clinic
Professor David A. Goldberger
Clinical Professor Elizabeth Cooke

Prosecution Clinic
Associate Professor Ric Simmons
Clinical Professor Robert Krivoshey

Criminal Defense Clinic
Professor Deborah Jones Merritt
Clinical Professor Robert Krivoshey

Justice for Children Clinic
Professor Katherine Hunt Federle, Director
Associate Clinical Professor Angela Lloyd

Mediation Clinic
Professor Sarah Cole
Professor Joseph P. Stulberg

Legislation Clinic
Associate Professor Steven Huefner, Director
Professor Douglas A. Berman
Professor James J. Brudney
Clinical Professor Terri L. Enns

Moritz College of Law Clinical Program Faculty
nine years on Cutter v. Wilkinson, a case involving the right of pagan prison inmates to practice their religion. In 2005, clinic faculty and students brought Cutter to the U.S. Supreme Court, successfully representing prison inmates who were defending the constitutionality of a federal statute that protected their right to religious exercise. Goldberger said that clinic students continue to work on the case, and he will remain on the case into retirement. He acknowledged that the case has gone on so long that he will be the second attorney involved with the case who has entered retirement.

“The attorney general on the other side retired, but he still works on the case from home,” he said. “I am still principal counsel for the case and will continue to be into retirement.”

In 1995, Professor Goldberger and clinic students briefed and argued McIntire v. Ohio Elections Commission, in which the Court ruled that the right to distribute anonymous campaign leaflets was protected by the First Amendment.

Goldberger described arguing before the Supreme Court as “really exciting,” but said that he is a worrier by nature, and worried greatly about the argument each of the times he argued. “My wife said I would only be happy if they stood up and clapped,” he said with a laugh. “They don’t do that.”

Goldberger received his bachelor’s and law degree from the University of Chicago. Professor Robert Krivoshey, who has worked with Goldberger for 21 years in the clinics and met him as a graduate student at the University of Chicago, said he is sad to see Goldberger retire.

“He was my buddy,” Krivoshey said. “I eat lunch with him almost every day. He was the one who ultimately convinced me to take the job to work here.”

A Chicago native, Goldberger moved to Columbus when Moritz offered him a place on the faculty. “OSU offered me a fabulous teaching opportunity,” he said. “A lot of people thought I would miss practice too much. But this place has been good to me, so I just settled in.”

Professor Gregory Travalio, who has known Goldberger for over 25 years, had the task of taking the reigns of clinical programs director after Goldberger left the administrative position for a regular faculty one. “It was a little daunting,” Travalio said. “As clinic director, Professor Goldberger did more to build the size, reputation, and quality of the clinical programs at Moritz than anyone ever had.”

“We certainly will miss David. We have a very capable leader in Steve, and I am sure that the clinic will continue to prosper. But, to a large degree, David is the embodiment of the clinic. We will miss his experience, thoughtfulness, and commitment to clinical education,” he said.

Goldberger was director of clinical programs at Moritz from 1987 until 2004. During Goldberger’s time as director of clinical programs, the Student Housing Legal Clinic and the Justice for Children Clinic were started. The Mediation Clinic, which started in 1983, was also expanded during the time he was director.

“Being part of the administration is something that has to be done, but it’s not particularly something I wanted to spend my life doing,” Goldberger said. “I would rather be in the classroom, and in the trenches. I’m very proud when I start to see the kids get really excited about a course. Teaching at Moritz has been a great privilege.”

—Igor David Goldberger
“One of the benefits of the clinical experience is that when students engage in the actual practice of law, they face challenges that they would not otherwise face in law school — and frequently challenges that they never expected.”

Civil Law Clinic

Variety of Cases Challenge Students

Sixteen depositions kept civil law clinic students quite busy last fall. Students prepared for and took seven depositions in a complicated construction-law dispute and a landlord/tenant case. Civil Law Clinic students also prepared clients and witnesses and defended nine separate depositions in the cases mentioned above plus in a wrongful death case. Sixteen depositions is a record number of depositions in any one semester for the civil clinic, and the cases provided excellent learning opportunities. Because the construction law case is set for trial in April, the students enrolled in the class spring semester are working with the transcripts their fellow students created. New associate attorneys often get to participate in depositions, so deposition experience is a marketable skill for students to develop.

Clinic students Rachel Covey and Erin Holms successfully settled a difficult case on behalf of homeowners who had been sued by a contractor hired to perform repairs following a devastating fire in their home. The contractor walked off the job after failing the framing inspection, yet demanded payment in full through the second draw on the construction loan. The homeowners felt that the work performed by the contractor was incomplete and argued much of the work performed by the contractor had to be corrected. The parties disagreed as to what tasks were complete and over the value of the services performed. The clinic accepted the case at the time of the final pretrial and obtained a short extension of the trial date to allow limited discovery. Covey and Holms organized boxes of evidence and sifted through piles of disputed bills to arrive at a negotiation strategy and effectively counsel the clients. The students worked closely with insurance representatives to locate unrecovered funds. The case settled shortly before the new trial date following the deposition of the contractor’s accounts manager.

Also in the fall of 2008, two consent judgments were finalized in the case of State of Ohio v. Campus Dimensions, Inc. and OSU La Bamba, Inc. In the case, the civil law clinic served as special counsel to the attorney general of Ohio. The case involved a solicitation distributed on OSU’s campus offering free food to students at the OSU La Bamba location. The fliers failed to mention that in order to obtain the “free” burrito, the college students had to fill out an application for a Discover credit card. The suit alleged that the solicitation violated the Ohio Consumer Sales Practices Act. Payments received by the Ohio attorney general from the marketing company, Campus Dimensions, Inc., and the restaurant, OSU La Bamba, Inc., pursuant to the terms of the consent judgments will be directed to a nonprofit organization dedicated to the improvement of financial literacy in Ohio. A separate lawsuit remains pending against Discover Financial Services, Inc. for its roll in this solicitation.

Criminal Defense Clinic

Students Representing Defendants Charged with a Variety of Misdemeanors

Fourteen students are enrolled in the Criminal Defense Clinic this spring semester, which Professor Bob Krivoshey said is a slightly scaled back class that allows him to spend more time with each student.

“It provides me with more opportunities to work with each person individually,” he said. Professor Deborah Merritt, who joined the clinic for the first time this semester, is also providing fresh and invaluable legal advice to the class, Krivoshey said. Merritt also recently received the University-wide 2009 Alumni Award for Distinguished Teaching.

Students continue to spend much of their time representing Central Ohio defendants charged with misdemeanors such as theft and solicitation, Krivoshey said. The cases — more often than not — are credibility battles involving defendants with several prior convictions for similar behavior.

But Krivoshey mentioned two cases that were of particular interest. The first involves a babysitter who was charged with disorderly conduct and obstructing official business outside of a Columbus-area movie theatre. Students are in the process of collecting evidence in order to represent the suspect, who denies any wrongdoing, Krivoshey said.

Another case involved obstruction and falsification charges filed against a man who was soon expected to begin boot
Man were dismissed and the defendant enrolled in the service.

Mediation Clinic

Mediators Bring Peace to Columbus

In a city of nearly 750,000, disputes abound. The frequent traffic in the Columbus courts reflects this fact. Each semester, students in Moritz’s Mediation Clinic help ease the court’s burden by serving as mediators. During a mediation session, these trained mediators conduct a process that encourages the disputants to express their perspectives, examine interests, and create an agreement that, many times, goes beyond the narrow remedies available to them in court. These disputes include landlord/tenant issues, monetary claims, property damage, and other neighborhood problems. This year, students are mediating cases at the Franklin County Municipal Court and the Columbus City Attorney’s Office Prosecution Resources Unit Mediation Program. During the fall semester of 2008, Moritz students mediated more than 100 cases and settled more than 60 percent of them.

Members of Moritz’s dispute resolution faculty have also been busy. In addition to writing and speaking on dispute resolution issues, a number of faculty are also working on national committees and international projects. For over a year, Professor Chris Fairman has served as an official observer to the Drafting Committee on a Collaborative Law Act. This committee is part of the National Conference of Commissioners on Uniform State Laws, which is responsible for drafting a model collaborative law act. Professors Joseph Stulberg and Ellen Deason taught courses on mediation and arbitration at the Universidad de Deusto in Bilbao, Spain, in March 2008. This was the continuation of a partnership among selected American and Western European law schools, made possible through the Fund for the Improvement of Postsecondary Education. Finally, Professor Nancy Rogers, the nation’s leading expert in mediation, returned to Moritz following her service as Ohio’s attorney general.

Legislation Clinic

Election Year Brings New Experiences

Now in its ninth year, the Legislation Clinic remains a vibrant and essential part of the College’s clinical offerings. From its inception, the clinic has developed relationships with a variety of state government offices, thereby offering participating students a range of opportunities to employ their developing legal skills in the service of Ohio government. These offices have traditionally included all four of the caucus leadership offices at the General Assembly, the Legislative Service Commission, the Joint Committee on Agency Rule Review, and various individual legislators’ offices, as well as several executive branch departments.

Primarily because of the 2008 election, this year most of the caucus leadership offices around the Ohio Statehouse have undergone substantial staff changes. As a result, to a greater extent than in any previous year the Legislation Clinic has had to develop new relationships with the key staff members and legislative leaders with whom Legislation Clinic students are placed. In particular, since the beginning of the 2008-09 academic year, the Ohio Senate Democratic Caucus, the Ohio House Democratic Caucus, and the Ohio House Republican Caucus have all hired a new legal counsel for their caucuses. Meanwhile, the Ohio House Democratic Caucus and the Ohio House Republican Caucus have each undergone major changes in leadership personnel, as in January the House shifted from a Republican majority to a Democratic majority. But in this regard the clinic is functioning in just the way that it was designed, providing additional sources of support to a term-limited legislature that experiences frequent turnovers in both legislators and their staff. New and old staff alike remain enthusiastic about the types of contributions that Moritz law students are making to the legislative process through their participation in the clinic.

With the appointment last spring of Professor Huefner (who continues to serve as the Legislation Clinic director) to the position of director of clinical programs at Moritz, it has become even more important to the Legislation Clinic that other Moritz faculty are excited to spend a semester team-teaching the clinic with Clinical Professor Terri Enns. This semester, Professor Jim Brudney is teaching and supervising Legislation Clinic students for the third time, and Professor Doug Berman has also taught the Legislation Clinic on multiple occasions. Professor Enns continues her unflagging dedication to serving the students and those offices in which Clinic students are placed.

Almost 200 students have now participated in the Legislation Clinic. Today these clinic alums are drawing upon their experiences in a variety of settings, from staff positions in the Ohio legislature and other Ohio government offices, to federal agencies in Washington, D.C., to New York law firms, to public relations firms in Columbus. On several occasions former Clinic participants have returned to Drinko Hall to talk about their career paths with current clinic students. The
Legislation Clinic welcomes reports and updates from its former students about their current activities.

**Prosecution Clinic**

*Learning Through Tough Decisions*

One of the benefits of the clinical experience is that when students engage in the actual practice of law, they face challenges that they would not otherwise face in law school — and frequently challenges that they never expected. Students must work with victims and witnesses from a variety of different cultural, economic, and educational backgrounds, and sometimes it is challenging to get the victims to trust the students, who are representatives of the state.

At other times, students struggle to determine what standard to apply when dealing with individuals from different backgrounds. In the fall semester 2008, the Prosecution Clinic had a series of cases in which the defendant was charged with endangering the welfare of a child. The Ohio Revised Code states that a defendant is guilty of this crime if he or she “create[s] a substantial risk to the health or safety of the child.” But what constitutes a “substantial risk?” In one case a single mother left her 8-year-old daughter alone for 15 minutes during the night to do an errand; the neighbor saw the mother leaving and called the police. In another case, a single mother drank so heavily the night before that she passed out and remained unconscious late into the morning; her 2-year-old child woke up and was wandering around the apartment unsupervised. The police were summoned because the family dog, perhaps in an attempt to rouse the mother, was barking incessantly. Was either parent guilty of creating a substantial risk to the health or safety of her child? Whose standard do prosecutors impose when they determine what a “substantial risk” is? Do they apply a different standard for single parents?

One student noted that neither situation would create any risk at all if there were two parents in the household. Through it all, students must also remember that they are not trying to determine whether someone is a good or a bad parent, but applying a much higher standard — whether the parent has committed a crime.

In these cases, it helps that the students in the clinic themselves — like all students at Moritz — come from a variety of different backgrounds. During class discussion of these cases, it’s easy to see how students’ perspectives on the crimes (i.e., their interpretation of the term “substantial risk”) vary based on their own family experiences. Being exposed to these different opinions in the classroom helps students to develop a broader perspective when evaluating their own cases, and thus makes them wiser when they exercise discretion on their own cases.

**Justice For Children Clinic**

*Fighting for Children’s Rights*

Attend any morning of juvenile court and you will hear at least one parent admit to a judge that their child was truant because they, the parent, kept him home to babysit for a younger sibling. In June 2007, A.E. had a complaint in truancy filed against her. The complaint, in violation of the statutory provisions, but like all other truancy complaints in Franklin County, charged only A.E. The prosecutor’s office made no allegation as to any degree of culpability by A.E.’s guardian.

The Justice for Children Clinic was appointed to represent A.E. On the basis that the statute also requires that prosecutors file charges against the truant’s parent, the student intern drafted and filed a motion to dismiss the complaint as insufficient.

The judge in the case agreed with A.E.’s reading of the statute and dismissed the complaint against her. The prosecutor’s office appealed and the case went to the 10th District Court of Appeals. While the appeal was pending, the Franklin County Prosecutor’s office began filing complaints against both children and their parent or guardian.

Then, in fall 2008, the 10th District upheld the dismissal on procedural grounds unrelated to the substantive question of law of whether the statute requires charging both the child and the parent. Subsequently, the practice at the prosecutor’s office returned to “normal” and truancy filings were only made against the child who wasn’t in attendance at school.

In the same fall of 2008, the clinic picked up seven new truancy cases and the students challenged all of the complaints. The prosecutor’s office again vehemently opposed any motion to dismiss and asserted that it has the discretion to file against the child alone. Presently, *In re: S.V.* is awaiting decision. Regardless of the outcome, the case will be appealed.

Since 2004, the truancy cases have provided clinic students with much more than an opportunity to interpret Ohio’s juvenile truancy statutes. While each truancy case is one of statutory interpretation, it is — even more — a case about fundamental fairness for kids. The legislature specifically amended the truancy statute in 2000 in recognition of the fact that some parents fail in their responsibility to send their children to school and to ensure that parents are equally accountable for ensuring their children attend school. Yet, despite the statutory change, Franklin County never charges parents. Thus, by arguing — and hopefully winning — the statutory interpretation argument, clinic students are giving school children the public voice to say, “No more sole responsibility; apply the law as the legislature intended and protect the youth the legislature intended to protect — those whose parents fail them in schooling.”