

Georgetown University Law Center  
Georgetown Law Clinical Program Oral Histories  
Interview with Judith Areen by Scott Ellsworth  
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SE: What I would appreciate would be to give me something of a sense of your own personal intellectual history, how you became the clinical instructor provided you didn't have a vision when you were 12 years old that this is what you were going to do and if we can maybe tie that into getting you here to Georgetown and then we'll carry on from there.

JA: I had never realized it before but your question prompts me to realize I probably had made some decisions about clinical education before I came into teaching although I didn't use the terminology. It really goes back to why it is that I decided that I wanted to go into teaching. When I first graduated from law school I was concerned that legal practice too often meant devoting your personal time and energy to furthering the interests of clients who often did not particularly represent the interests in society that I felt needed representation.

SE: And what year did you get out?

JA: I graduated law school in 1969. So for the first several years out I consciously chose not to go into legal practice. I worked and it was very interested in education as an issue and so I spent not quite a year in New York City working in the Bureau of the Budget as a program planner for higher education and the big issue at the time was whether there was going to be open enrollment in City University and who was going to pay for it Rockefeller or Lindsay and got very much caught up in that. I then went to a project in Cambridge, Massachusetts run by a think tank, if you will, staffed by a number of Harvard faculty looking at public school education

and what could be done to increase the control parents have over public school education in large cities.

SE: What think tank was this?

JA: It was called the Center for the Study of Public Policy. At the same time we were working on the possible use of a voucher system, that is where parents are entitled to take the money that would be spent in one public school and switch to another public school or even a private school as a way of giving them consumer power, if you will, in education. Another group with overlapping membership in Cambridge did a book that was published just at that time called *Inequality* in which they documented personal family inequality over the last century in this country and came up with a conclusion that was a little distressing to many of us that education didn't make a difference. You know the great American . . . **[phone interruption]** . . . and it's counter intuitive to hear that because we all know lots of stories where someone from a very poor family manages to go through college and lives a very different lifestyle. Nonetheless, when you look at it on a group basis it remains accurate that family income is a much more significant predictor of your income over a life than the American myth would have it. So a number of us began to look at that point for alternative ways to spend our professional time. We felt focusing strictly on education wouldn't do it. At that point I began to consider teaching in law school; I never thought about it before. I was attracted to it both as a chance to continue to work on issues that interested me but also I suppose carrying with me some sense that law was a way to help disadvantaged groups in society. So with those motivating forces in mind I looked around and ended up picking Georgetown as the place that seemed most interesting to come and arrived here, I first served as an adjunct in the spring of '72 and was put on the full-time faculty in the

fall of 1972. It was a very different Georgetown than we have today. I was the second woman hired in the history of the law school. There were three of us who came with me which was fortunate so I wasn't the only young woman to join the faculty.

SE: And the woman that preceded you is she still around?

JA: Professor Steinbinder is here although retiring at the end of this year. She in fact was in the first class of women to be students at Georgetown and was later hired as the first woman on the faculty. I had been interested in law school in family law issues and so was delighted when the school indicated that was something they wanted me to teach so I was busy that first year teaching family law and getting to know the Washington community. My own feeling was before I started to write which of course as a scholar you are expected to do, I wanted to know a lot more about family law as it actually occurred, and I found myself drawn particularly to issues involving children. I don't recall the exact sequence of events but there is a very active community group still active here in town called FLOC, For Love of Children, and early on they touched base with me and I began to meet people and talk to people and realized that D.C., as is the case in many places, had developed a system for protecting children from parental abuse and neglect that involves taking them to court, declaring the child neglected or abused, putting them in foster care while in theory get the family put back together so they can return home. The reality turned out quite the opposite: most of the kids never go home again. What was explained to me is that while in theory the children are entitled to lawyers in this system there was no money provided by the government to pay for lawyers so these proceedings were going on with basically no representation for the children. There was a small volunteer group, still active, Volunteers for Superior Court, who were for the most part women concerned about these issues

who on their own time chose to come and represent the children. But they couldn't begin to really deal with the case load involved. I saw that very real need in the community it fit very much with an area that I wanted to learn more about and suddenly the fact that Georgetown had an institutional interest in clinical programs it all came together and it seemed clear to me that what we ought to do is start a clinical program dedicated to children's issues with a special focus on children in abuse and neglect and children in need of supervision, the other area we covered. I talked to several people at the school and basically the message I picked up was sounds like a nice idea, we're all for it, the clinics take money and there isn't any extra money in the budget, there never is, if you can do something about fundraising we might be willing to pursue it. So suddenly I had to learn what it meant to fundraise something I hadn't really done before. But I managed to find people who could guide me. We submitted proposals to several foundations and in the end the Meyer Foundation indicated interest and in the end there was a vote to go forward and fund a grant that would help us set up the clinic in this area.

SE: I'm surprised that you were given such a green light at the period. Is your sense that, literally, that I'm looking at the founding fathers of this school. I'm trying to imagine you as a young woman professor coming in this still little bit controversial area of clinics and saying we ought to do one like this, then they said great if you can raise the money.

JA: I won't overstate the green light. It may have been that in my growing enthusiasm for this project I heard more receptivity than existed. Perhaps more accurate way to put it would be that the response of the institution, and it's hard to know who speaks for the institution, was not to give a green light from their standpoint they thought they had established the red light by

saying we'll be interested if you fund it assuming it would not be possible to fund. So it wasn't much of a green light from the standpoint of the institution.

SE: And who did you have to go through to get approval for seeking funding?

JA: Basically it was cleared through the Dean's office and the institutional grant office on the main campus. And, as I said, the reason I think there wasn't much hesitation about that is people were not particularly optimistic that it would happen and on the other hand if it did from the standpoint of administrators some additional funding sounds good. And so we were fortunate, we were able to obtain funds. I realized that litigation was not my strength, I didn't have experience at that point and so to put it together the key thing would be to hire someone who came in with experience in litigation and could really do the supervision part of the program and I could worry about the theoretical academic standpoint. And I then made the best decision I've ever made I'm persuaded in my professional life because I picked Wally Mlyniec. So if nothing else came out of this period I may have had a greater affect on the future of clinical education than any of us realized at the time. And it was simply a process of announcing the position. There were several candidates. It was clear to me from the beginning that Wally was a real find, someone with great talent, enthusiasm for the project and as we talked ideas that I found very compatible with my own about how best to educate students.

SE: At what point do you remember you got the check from the Meyer Foundation or when is the first year that the clinic begins?

JA: I have a nice little plaque our first year the first students gave me. The first Juvenile Justice Clinic.

SE: It was '73, '74.

JA: So we got it right away.

SE: And how.

JA: It was my first year that we both came up with the funding and hired Wally because we were in operation that following fall.

SE: Do you remember how much money they—

JA: The initial grant, I don't, I can probably dig back through records but I'm—

SE: That's okay. Do you know why that appealed to that why this idea appealed to that foundation?

JA: I grew up in South Bend, Indiana, it sounds roundabout but it's a direct answer. The congressman at the time, John Brademus, who is now the president of New York University, was my congressman and the summer before I went to law school I happened to meet at Cornell, my college, a colleague of his Marc Raskin who put us in touch with each other and I worked for him as a summer intern and we—

SE: Marcus Raskin with IPS?

JA: Yes. We have stayed friends since. He was on the board and was my contact and I'm sure his presence on the board made a difference because traditionally they have funded art projects that is their interest, at least at that time they had not done much in the way of social welfare.

SE: Was there any problem in getting, my terminology is a little impaired, in getting students to be able to practice in the juvenile justice system in the District, was that covered by –

JA: It was covered by the practice rule that was already in place so that was one issue we didn't have to work on.

SE: Were the judges a little shocked I mean was the system over there shocked all of a sudden they had this new infusion of counsel representing children?

JA: I wouldn't say shocked and obviously there is a period of accommodating on both sides but my intuition is that the judges found it helpful in some respects to have lawyers come in who knew something about this area and the big problem is that the lawyers who at the time were being paid, that's incorrect, were not being paid, were being drafted, that is lawyers for the parents, didn't want to be there, weren't being paid, didn't want to spend time and knew very little about this quite specialized area of the law. So from the standpoint of the judges it's not a very good situation to have lawyers who are dragged in not knowing the system. The volunteers who had already been there had developed good relationships with the judges and we attempted as we came into build on that. We were not after all there doing something potentially controversial in terms of the systems, we weren't defending criminal defendants with an idea that somehow more violent people would be released on the street. We were there to look after the interests of children and that somehow is a more appealing, if you will, posture to come into the court system. Now I don't want to say that all judges were happy and I think their feeling that they would have to go through more education somehow for these students and supervisors was there. But there were not major clashes from the beginning.

SE: You had mentioned particularly your experience with the think tanks up at Harvard and how some depressing data about class in America certainly affected your thinking. I'm curious, is feminist thought involved at all with your decision to go into this area of family law, does that play a role at this time as well or not?

JA: It's a good question. Let me give the most accurate answer to that: at the time it did not. You have to understand when I went to law school there were

SE: Which was where?

JA: Yale. There were virtually no women teaching anywhere. The one woman then on the Yale faculty, Ellen Peters, who went on to become and may still be a chief judge of the Connecticut system, taught commercial law and I remember one of the faculty explaining to me that when she first came she taught I think constitutional law at one point and it didn't go well and so the notion was women couldn't teach quote policy courses they had to teach narrow technical courses. Family law at Yale was viewed as a policy course and taught by men. Joe Goldstein, Jay Katz were my professors. And indeed it was viewed as one of the more challenging policy courses or theoretical courses. Most of the officers at the law journal took family law because it was considered intellectually interesting, it was not viewed in short as a women's subject. Now in retrospect as I look back on this 15 years later so many of the women who had come into teaching in these intervening 15 years have gone into family law so it raises the issue is it becoming quote a woman's ghetto in academia. For me, as I said, given the timing I never had that view now I look at it and my own feeling is hopefully we're post women's movement enough that it means women can choose to do simply because they are interested and

there may well be a gender bias in selection but I find that an affirmative selection so I think it's fine.

SE: Can you paint a broad picture for me in terms of how the clinic itself has evolved in the last 15 years? I'm curious as well as to whether I can't remember the specifics in the Ruff Report or the Barnheiser or any of those I don't if they play a role in the evolution of the clinic as well I would like to hear about that.

JA: I don't have all my dates sorted out but let me give you my impressions as I think back on it. Your question about how much of a green light was certainly more insightful than my readings at the time because the real test with the faculty came not over the issue of doing the clinic the notion prevailed if it was being paid for sort of why not because we have this general commitment to clinical education, but it turned on the issue of how many hours of credit that students be given for this work. And I was very distressed over the early years as some members of the faculty particularly members of the clinical faculty made very clear that they thought juvenile applied not to our clients but to the nature of the issues presented. We were termed, to my dismay, the "kiddie clinic" and it translated for a number of years into fewer hours being granted to the students who took this clinic, all out of proportion to comparable work it seemed both to Wally and me. I'm pleased to say that over time has for the most part disappeared but not entirely. I mean, there is no doubt family law and juvenile law therefore as an aspect of it has always occupied a less prestigious place in the legal profession. I don't know if you've seen the book that was done by an ABA Foundation project a study of the Chicago bar, I've still got it, it's sitting here, it's a classic, it was published about six years ago. Oh, he's at Northwestern, I'll think of his name in a moment and give you a cite, an interesting book. And they basically

surveyed lawyers and judges and private parties to do a sociologist's look at the legal profession and what was high status and what was low status. High status, antitrust, securities, bottom of the list ambulance chasing personal injury litigation and just above personal injury, family law. Now that's a pretty accurate reflection of what the traditional sociology of those who practice family law has been. It has been considered less difficult. Now is that because there is always been less money involved and so it hasn't been litigated to the point of complexity of antitrust law and securities law. It's a loop what's cause and what's effect. And there is no doubt that often the people who ended up doing family law in the past were people who weren't quote smart enough or able enough to get into a large firm and do corporate practice.

SE: And presumably there is considerably less monetary benefits in doing family law than—

JA: That's right. So is it lower prestige because there is less money, is it lower prestige because it's less difficult, is it less difficult because there has been less money to make it more complicated? It's hard to sort out. There is a tendency, therefore, not just in the sociology in the profession but in the sociology of academic life to place it as less significant, less difficult, if you will. Now it's interesting we haven't really done that with tort law which is the counterpart of personal injury litigation. So it's more than just the sociology of the profession at work. There is no doubt that the critical writing on family law has not been as sophisticated as it's been in a number of other basic fields. It's changing but it's behind and so that contributes to a general atmosphere. Colleagues say oh family law you know it's social work, doesn't have anything to do with law with theories we can get our teeth into.

SE: Did that also provide more pressure onto you I mean there is the assumption that it's not that important that you should be doing more because you can just juggle this ball with one hand and be writing 12 books and doing nine million other things with your other.

JA: That was, yes, clearly a personal problem during those early years and that is exactly right because I had made the decision that I was here as a member of the tenure track faculty and I enjoyed teaching my classes as well as doing the clinic. For me doing both is an ideal situation but there is no doubt the time commitment of a clinic is different than the time commitment of teaching a course, so I was short of time. Fortunately, I wasn't married, I had no children, and so I did my writing on weekends and it got done. But I wouldn't wish that situation on anyone else and I couldn't do it right now that I have a family and indeed '78 or '77 I went into the Carter administration.

SE: In what capacity?

JA: I was the Office of Management and Budget. I was not doing family matters and initially to look at the relationship between the legal offices in various departments and agencies to the Department of Justice. I was part of the reorganization, and then became counsel to the task force they set up in regulatory reform and also was the substantive person on the energy mobilization board. So by the time it was done I had both seen the agencies and spent the last year dealing between the White House and the Congress on major legislation, a terrific experience in the government but it was basically administrative law, if you will, and general government experience

SE: And how long was that?

JA: I went in '77 and did not come back until my first child was born. I literally worked until the day before he was born.

SE: And what year was that?

JA: 1980. He was born May 9, 1980. I was actually back that spring but I was still finishing up. Once I had children felt I didn't have that extra time so I have not been back to the clinic and then I had a second baby not because I don't want to and I still plan to do it but the extra time that enabled me to juggle it before is now devoted to my own family.

SE: So you are the founding mother so to speak of the clinic and your direct experience goes until '78 and then you join the administration. Let me try this one. Can you characterize the students that you had during those first six years in any special way, can you contrast the type of student who came to the Juvenile Justice Clinic as opposed to those who went to Criminal Law or any of the other clinics and you may not be able to do that.

JA: I don't feel particularly able to do it because I have less of a sense of the sociology of the criminal clinic. Wally will be able to do that for you. What I would say is that during that period of time and I think it's still true that a number of the students who did the clinic were students who took family law from me as second year students and to the extent they developed an interest in these areas. One of the things I was doing academically while I worked in the clinic was making room for these issues in family law. As I started teaching it in '72 most of the case books focused only on what I call the adult issues, divorce, marriage. Very little attention was paid to children if there was any it was adoption, almost no one did child abuse and neglect. One of the things I was doing at this time therefore was producing a new case book because I felt in

the classroom these issues should be taken up and what was different about my casebook is that half of it is devoted to parent child issues and a substantial part of that child neglect and abuse issues. I'm pleased to say since then other books that have come in the field have picked it up a bit more so but it meant students were introduced to these issues to the extent that they took family law in their second year and as they expressed interest I would make a point of talking about the clinic as something they might want to consider.

SE: Presumably, the Meyer Foundation funding ran out during those first five years at some point.

JA: Yes, and we also received interim grants from LEAA at one point, they were interested in doing some work in this area but it was never as much as the Meyer grant. We, fortunately, were here at a time when the institutional commitment to clinical education was strongly supported by the Dean who was willing to the extent the budget could manage it to begin to take over long term these projects.

SE: And who is Dean at this point?

JA: McCarthy. It was then called INSPIRE it's now IPR, now they had Ford money, we had the Meyer money it was true of their grant as well. Basically, the foundation funded but the condition and the deans always had to sign off on this was at the end of the grant there is no promise it will be renewed and if it is not that the institution would make a commitment to carry on the program and so that moral commitment if you will was out there to several funding sources and so as grants lapsed then the issue came up. I would say major factor in the smooth transition we made basically the only cost that the school needed to pick up was Wally and by

then anyone in the institution who didn't already know it had joined celebrating my fortuitous decision in hiring him and I think that more than anything made it clear that this certainly was a person and therefore a program that the school wanted to continue.

SE: Okay. Was the clinic ever in danger before you joined OMB? Was the clinic ever in danger of going down?

JA: Our future was not certain during that time. We had to struggle. We didn't get to the clear funding crisis and we managed to get the decisions made. But the risk was always there.

SE: Okay. This is fabulous. I think you've covered most all the issues I can think of at least at the moment that I want to go over. Anything we haven't discussed? I know you're quite busy.

JA: Well one other thing I might mention that seems to me you might want to touch in the history, it's true not only for our clinic but for others but particularly true for ours, the law was not thought through and it was not accessible to lawyers. It was basically this volunteer group doing what they could but it wasn't very systematic so one of the early things we did was to develop a manual that has gone through several reincarnations and I think is still being published by the local bar that was basically this is what the law in the area is and these are the kinds of things as a lawyer you ought to do. I mean it was a subject matter criminal lawyers knew nothing about no one knew anything about. So we had to sort of make the law accessible not just to our students but we decided therefore to . . . so that's one of the things the important contributions I think this clinic has made.

SE: Okay. Can you expand on that? Has it made any other contributions to the university, to the clinical programs—

JA: Well my tenure piece, if you will, was on this area. It came out in '75 '76 and certainly well cited and I think used generally in the country. So in that sense my academic work was taking some of the knowledge gained in the clinic and translated into more general attention and academic awareness of the issues in child neglect and abuse. And Wally and I still have that kind of interaction. An interesting case will come along, he'll send it to me and in turn the academic part of it goes back as I talk about new theories and issues that sometimes can be put into practice by the clinic. So there has always been a real exchange between the real case load, if you will, and the human situations of clients and the theory which is just now really developed.

SE: Have students made any contribution to how the clinic itself has evolved either subject wise or in organization or—

JA: Absolutely but so much of the first few years were just getting on our feet. I won't have the sense of it that Wally will. It's evolved I know and all the improvements since I haven't been a part of it.