ECI

OVERVIEW
ABOUT EARL CARL

The Earl Carl Institute for Legal and Social Policy, Inc. was established in 1992 as a research and writing think tank at Thurgood Marshall School of Law. It is a non-profit, 501(c)(3) corporation.

The Institute was named in honor of Professor Earl Carl, a founding faculty member of the School of Law. Professor Carl stands as a human symbol that people can accomplish whatever they are willing to despite all odds. Professor Carl, who was blind since he was 16 years old, graduated from Fisk University and Yale law school before assuming a teaching position at the Texas Southern University law school, now Thurgood Marshall School of Law. The Earl Carl Institute serves as an advocacy organization which seeks to address issues that affect the disenfranchised. Through research, position papers and other publications, the Institute promotes civil and human rights. The purpose of the Earl Carl Institute is to help solve the legal and social problems facing the urban community through scholarship and advocacy.

Professor Marcia Johnson is the founder of the Earl Carl Institute that she directs. The institute’s mission is to solve urban problems thorough research and advocacy. Professor Johnson has been on the law school faculty at Thurgood Marshall School of Law since 1991. She has served as the school’s interim associate dean in 1998 and interim dean in 1999. A graduate of the University of Florida undergraduate and law schools, Johnson teaches real estate transactions in addition to her responsibilities with the institute.
General Overview

Since its inception in 1946, the Thurgood Marshall School of Law at Texas Southern University, a historically black university, has continuously fulfilled its historical mission to provide its students with a comprehensive and high quality legal education. Its superior legal educators, myriad student organizations, and clinical programs have played key roles in providing students with rich and rewarding educational experiences throughout the years.

The Earl Carl Institute for Legal and Social Policy, Inc. was established in 1992 by Professor Marcia Johnson as a research and writing think tank at the law school. It is a non-profit corporation exempt from taxation pursuant to §501(c)(3), of the Internal Revenue Code.

The Institute was named in honor of Professor Earl Carl, a founding faculty member of the law school. Professor Carl, blind from an early age, graduated from Fisk University before going on to earn his law degree from Yale University Law School. He is a human symbol that people can accomplish whatever they are willing to despite all odds.

The Earl Carl Institute serves as an advocacy organization, which seeks to identify, address and offer solutions to issues that affect traditionally urban and disenfranchised communities. The Institute is specifically designed to provide resources to train Thurgood Marshall students in legal advocacy and enhance their research and writing skills. Through the students’ research, position papers and other publications, the Institute promotes civil and human rights. The Institute’s mission is to help solve the legal and social problems facing the urban community through scholarship and advocacy.

The Institute has grown significantly from its creation as a skills enhancement program for law students to an advocacy organization that trains students in research, writing, leadership, office management, international law in foreign countries and problem solving. It students out-perform their colleagues in bar passage by about 20 percentage points. The Institute’s current overall first time bar pass rate is about 85% as compared to the 56% pass rate for the law school.
Who is Earl Carl?

Dr. Earl Carl was a founding faculty member at what is now known as Thurgood Marshall School of Law. Dr. Carl received his law degree from Yale University. Blind since age 16, his achievements remind us that we are limited only by the barriers we chose not to overcome.

Programs and Special Projects

Research and Writing

The research and writing component of the institute began in 1992. The purpose of the program is twofold. First it was designed to help Thurgood Marshall law students develop and enhance their research and writing skills through hands on research projects. Second, the program sought to have the students work published in law reviews and law journals.

The Institute employs, on average, six students each semester including the summer semester who are assigned to this program. Students are paid $15.00 per hour to perform legal research and trial advocacy.

Proposal to Reduce Recidivism

In 2010 ECI updated its 2003 Position Paper to Reduce Recidivism Rates in Texas. This position paper is part of an ongoing study by ECI and states its official position on education in the prison system and shows the compelling benefits of prison education. ECI continues to study the role of education in the reduction of recidivism rates in Texas and has increased its advocacy through the creation of a pilot academic program, which while accepted by the Windham School District, was rejected by the university. The 2010 update includes current data and statistics, the addition of a distance learning proposal and information gained by conducting interviews with the Windham School District and Rotary Club. The report shows a direct and significant correlation between education and reduced recidivism.

The History of the NAACP in Texas

This division also published the history of the NAACP in Houston in commemoration of the organization’s centennial celebration.

The Texas Legislative Report

This division also published the report of the 82nd legislative session which is designed to provide an urban perspective.

Institute for Trial Advocacy

The Institute for Trial Advocacy (ITA) was established in November 2001 and provides Thurgood Marshall law students an opportunity to gain practical experience by working with clients, lawyers and courts. Sources for cases are generally the Houston Volunteer Lawyers Program, community based organizations and churches. The clients represented through ITA are commonly low-income individuals and families. The ITA currently has two advocacy projects: the Opal Mitchell Lee Property Preservation Project (OMLPPP), the OMLPPP Foreclosure Defense Clinic and Juvenile Justice Project.
Opal Mitchell Lee Property Preservation Project

CI launched the Opal Mitchell Lee Property Preservation Project in September 2007, funded in principal part by the Thurgood Marshall School of Law with a supporting grant from the Texas Access to Justice Foundation. The project was established to address the legal challenges lower income people face in maintaining their real property and enhancing their wealth. The project was named after Opal Mitchell Lee, whose family acquired more than one hundred acres of mineral land in East Texas after the death of great grandfather. Over the years many of her relatives died intestate, leaving title to the land fractured among numerous heirs. As a result of being unable to locate all heirs to share in payment of tax liens, the property was lost in a tax foreclosure sale. The legal issues surrounding Ms. Lee’s loss are widespread within many disenfranchised communities and it is our goal to help reduce property loss of this and other types.

The project’s focus is to help economically disadvantaged communities retain and grow wealth through the prevention of land loss. In the wake of today’s financial crisis with rising foreclosure rates the Earl Carl Institute’s Opal Mitchell Lee Property Preservation Project is poised to be at the forefront in curbing these types of property losses.

The Project provides advocacy and educational services. Through the services of supervising attorneys, student practitioners, volunteer attorneys, and strategic partnerships with Thurgood Marshall School of Law legal clinics, the project provides services that range from counsel and advice on property related issues to in-court representation.

Our primary areas of practice are: complex wills & trusts, clearing title to property, small estate probate, reventing foreclosures; tax redemption cases; property tax exemptions and protest assistance; assistance with delinquent property tax cases, inter vivos transfers, other matters regarding land loss prevention, formation of nonprofits related to community development, deed restriction renewals, amendments and revisions and consumer debt issues.

This project averages 100 new cases each year and closes on average, 70 cases per year. More than 200 clients have been or are being served to date.

Opal Mitchell Lee Property Preservation Project- Foreclosure Defense Clinic

In November 2009, the Texas Access to Justice Foundation awarded the Institute additional funding to enhance the OMLPPP to include foreclosure defense services. The Foreclosure Clinic was established as part of the Opal Mitchell Lee Property Preservation Program through a grant from the Texas Access to Justice Foundation. It operates to specifically address the large number of homeowners in disadvantaged communities whose homes are at risk of foreclosure.

Homeownership is the single greatest asset most Americans own, and their principal source of wealth. Helping individuals in underserved communities maintain such a valuable asset is a high priority for the Foreclosure Clinic. Foreclosures and risks of foreclosures have been increasing in Texas and throughout the country over the past year. In Harris County, Texas alone, there are thousands of foreclosures each month, many of which are home mortgages defaults, and for nonpayment of property taxes.
The Institute’s Foreclosure Defense Clinic provides both advocacy and educational services. Through the services of supervising attorneys, student practitioners, and volunteer attorneys, the project provides services that range from counsel and advice to in-court representation.

The foreclosure clinic serves Harris County and its contiguous counties including Brazoria, Galveston, Chambers, Liberty, Montgomery, Fort Bend, & Waller. Our services are subject to income eligibility requirements. The Opal Mitchell Lee Property Preservation Program was established at Texas Southern University to help economically disadvantaged communities retain and grow wealth through prevention of land loss as a result of failure to plan estates, foreclosures, clouds on title to property or land, and general inheritance issues.

The program is relatively new, however, more than 19 clients have been or are being served to date. We are establishing partnerships with housing organizations in the community to increase program awareness.

**Juvenile Justice Project**

The Institute began the “Juvenile Justice Project” in November of 2009, through a grant from the Texas Bar Foundation, to address the rising number of student ticket cases faced by students accused of school misconduct. The project’s purpose is to provide legal representation to students in Class C Misdemeanor cases pending in Justice and Municipal Courts in Texas.

The project’s primary focus is to reduce the disparate number of cases brought against minority students and thus decrease the student drop-out rate for students receiving disciplinary referrals. According to the Texas A&M Public Policy Research Institute: “The single greatest predictor of future incarceration in the juvenile justice system is a history of disciplinary referrals at school.” More than 80 percent of Texas prison inmates are high school dropouts. One in three juveniles sent to the Texas Youth Commission are school dropouts. African American students - and to a lesser extent - Hispanic students - are significantly overrepresented in discretionary suspensions and disciplinary alternative school referrals for nonviolent offenses. According to statistics released by the Texas Office of Court Administration, in FY 2009, municipal courts alone adjudicated 320, 406 criminal offenses involving children ages 10-16 while the actual juvenile delinquency courts only handled 80,202 adjudications.

With the recent addition of direct legal services, 15 student clients have been or are being served to date.

**Innocence Project**

In March of 2009, the Innocence Project began operating under the Earl Carl Institute for Legal & Social Policy, Inc.’s (ECI’s) Institute for Trial Advocacy. The Innocence Project provides legal services to assistance persons who claim that they were wrongfully convicted of crimes. The innocence project includes two components, the classroom component where students learn the legal theories crucial to innocence defense and the practical component where students work directly with clients, courts, investigators and others to secure exoneration.
The project has received 128 requests for services from the time that it has been part of the Earl Carl Institute. This represents an increase greater than 100%.

Center for Civil and Human Rights

The Center for Civil and Human Rights was established to study issues of major civil and human rights and their significance for the purposes of educating the local and international communities. Through research and writing about these issues, the center develops policy to address the problems identified. Additionally, the Center will focus on ways to alleviate the denial of human rights, poverty, social and economic injustice, and political repression. Other issues to be addressed include ethnic cleansing, blind intolerance and racism, violence, civil war, rape, mass murder, torture and genocide as global man made disasters that threaten the fragile peace and stability of our world today.

The Center for Government Law

The Center for Government Law was established to provide integrated academic and practical skills training in government administration and regulation. Preparing students for the practice of law in the public sector is a primary goal of the Center. The Center works with numerous governmental organizations on the local, state and federal level. The Center also serves as a bridge between government and academia by providing practical experience to students who assist government leaders in advancing research in a multitude of law and public policy arenas.

SPECIAL PROJECTS

"OUR STORY"

"Our Story" is a project that chronicles the achievements of African American and Hispanic Texans; particularly those who have graduated from Thurgood Marshall Law School and Texas Southern University. "Our Story" employs various media techniques including an Oral History that records the words and voices of these history makers. The written history will appear in various publications of memorable events and achievement. A photographic production will reflect the men and women who have played important roles in the history of Texas. We will also publish on the worldwide web. We anticipate that all information will be organized by categories including the members of The History of Texas Southern University, The TSU Presidents, Judiciary, Legislators, Trial Advocates, Freedom Fighters, Scientists, Builders, Entertainers and more.
Symposia, Issue Forums, Other Special Projects

The Institute receives numerous requests to produce and/or participate in programs, seminars and workshops throughout the year. The Institute’s goal is to conduct two (2) symposia throughout the year designed to educate the target audience on the subject area, and produce a quality publication memorializing the symposium. Experts will make presentations and provide the participants with research information and data. Additionally, the symposia offer continuing education credits to qualified participants. During the last twelve months, the Institute has conducted various symposia including:

- Immigration Reform: Debunking the Myths
- African American Legislative Caucus, 81st Legislature
- Juvenile Justice: Practical Considerations when Representing Students in School Ticket Cases
- Indigent Defense: Policy and Practice

Prior symposiums include:

1. Voting Rights Act Reauthorization
2. Alito, Supreme Court Nominee
3. The Re-legalization of Segregation
4. Funding Equity for HBCU
5. Wealth Building through homeownership
6. Redesigning Public Education
7. Fair Housing Issues
8. Congressional Black Caucus

In addition to symposia the Institute receives requests from external agencies, legislators and university administration to assist in the production of new programs and initiatives. These projects benefit the university by exploring and creating vehicles to increase enrollment and the urban community by providing information and advocacy.

Examples of these requests include:

1. Texas Urban Academic Initiative
2. History of NAACP in Texas
3. Military Academy
4. Green Power Initiative
5. Youth Summit
6. State of Black Houston
PROPOSED PROJECTS

Real Estate Law Center

The Institute proposes the creation of the Real Estate Law Center to provide comprehensive legal and planning strategies for the development of real estate in urban communities. The center will focus on projects that are strategically geared at addressing in a fundamentally vital resolution of urban problems through a comprehensive planning and development of sustainable urban communities.

An enduring staple of strong communities is housing. An important element of the sustainability of communities is that mixed income and mixed housing product be incorporated into the fabric of the neighborhood. Communities that provide educational, economic, service, infrastructure and housing opportunity tend to be more independent and provide to all their residents a sense of empowerment.

The center's interdisciplinary team anticipates training more than ten students each year who will become professionals in the areas of urban planning, law, services and development. Through collaboration with various private and public entities, the center is also designed to help create jobs in the private sector while also participating in the training of tradesmen and women and persons who will employ their skills in green jobs.

Criminal Justice Center

The Institute proposes the creation of the Criminal Justice Center to foster a fair and accountable justice system through research, analysis, and collaboration. The center will use an interdisciplinary approach to address problems in the criminal justice system that impact the urban community disproportionately. The goals of the center are to (1) foster a collaboration between the School of Law, College of Education and School of Public Affairs to assist graduating students who have prior criminal history with expunging their records, (2) research criminal justice reform issues and recommend more effective policies, and (3) provide students with an opportunity to hone their advocacy skills.
ADMIN
FORMS
Student Name:

Student Address:

Student City, State, Zip Code:

Date of Invoice:

Opal Lee Mitchell
Property Preservation Project

Period this invoice covers:

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Total Due

Student Signature: ____________________________

Supervisor Signature: ____________________________
TEXAS SOUTHERN UNIVERSITY
TITLE III PROGRAM

TIME & EFFORT REPORT
(For Split Salaries & Grant Supported Employees)

Submit this form to Title III
no later than the 5th working day after being paid

(Month and year for which you are being paid)

EMPLOYEE: ________________________________
ACTIVITY: _______________________________
POSITION: ________________________________

Percent of Time (As listed on PA Form): State _____  Non-State _____

Description of work performed

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I certify that the above information is correct

Employee's Signature ___________________________ Supervisor's Signature ___________________________

Activity Coordinator's Signature ___________________________
EARL CARL INSTITUTE FOR LEGAL & SOCIAL POLICY, INC.
INSTITUTE FOR TRIAL ADVOCACY

NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

This Non-Disclosure and Confidentiality Agreement is between the Earl Carl Institute, Institute for Trial Advocacy (hereinafter referred to as "ITA") and __________________________ (a volunteer attorney or student assistant hereinafter referred to as Staff).

In addition to complying with its attorney professional responsibility to keep confidential all client information, it is essential to the success and goodwill of ITA and ITA’s clients to maintain the proprietary nature of its Confidential Information. ITA has taken reasonable steps to maintain the secrecy of its Confidential Information so that this information is not generally known and made known to the public. This effort to maintain the secrecy of its Confidential Information is extremely valuable to ITA and its clients.

THEREFORE, in consideration of service to ITA, and in exchange for access to, and receipt of ITA’s Confidential Information, Staff Member agrees as follows:

1. "Confidential Information" means information disclosed to or known by the undersigned student intern, volunteer attorneys, or a Staff Member as a consequence of or through his or her association or employment with ITA that is not made generally available to the public and is not lawfully obtainable from an independent source. This information relates to but is not limited to, the names, addresses, and other identifying information of ITA’s clients; all documents and other items given or shown to a Staff Member by a client; all information, oral or written, pertaining to the client or the client’s case; all communication with clients; and any discussion by any Staff Member concerning clients. Confidential information also includes all internal methods and business systems developed by ITA for use in its business that are designated as confidential and any information communicated as confidential to any Staff Member by ITA.

2. I acknowledge and agree that ITA has the exclusive right to all Confidential Information as defined above.

3. I acknowledge that all writings, records, manuals, letters, notes, intake forms, notebooks, data, program files, personnel files, case files, lists, books, and any other written or other materials relating to Confidential Information in my custody or possession that have been obtained or prepared in the course of my service with ITA shall be the exclusive property of ITA and shall not be copied and/or removed from the premises of ITA without managerial approval. ITA retains the right to inspect property to ensure compliance with the terms of this agreement.

4. I agree to keep confidential and not make any unauthorized use or disclosure of Earl Carl Institute’s Confidential Information during my service and thereafter for as long as such information remains confidential.
5. Current and former staff may reveal confidential information to other current staff of ITA as necessary to perform their jobs.

6. **Waiver.** No waiver by either party to this Agreement of any right to enforce any term or condition of this Agreement, or of any breach hereof, shall be deemed a waiver of such right in the future or of any other right or remedy available under this agreement.

7. **Severability.** If any provision of this Agreement is determined to be invalid or unenforceable, the remaining provisions of the Agreement will remain unaffected and in force.

*I have read and understand this agreement, any questions regarding this agreement have been answered to my satisfaction. I agree to comply with this agreement as a condition of employment with the organization.*

DATED this _________ day of ____________________, 20____.

**STAFF MEMBER:**

________________________________
Signature of Staff Member
DEVELOPING A LEGAL RESEARCH STRATEGY

Presented by DeCarious Spearman
Director Law Library
October 19, 2009

Develop a Strategy That Works for You

- The strategy set out below will not fulfill everyone's needs
- If you have already developed a successful research strategy review this for improvement
Think About Your Research

- Always take time before beginning your research to think about what you are being asked.
- Consider due dates, available time, work product expected, cost, time, and resource limitations.
- Do you have all the information you need to get started?
- Clarify and break complex issues into manageable parts.
- Reevaluate as you go.

Organize First

- Know what your client – your professor or supervising attorney – wants!
  - What did the professor/attorney ask for?
  - Gather sufficient background information
  - Look at
    - Articles, Books
    - Cases, Hornbooks
    - Journals, Statistics
    - Studies, Surveys
Determine the Relevant Facts

- Identify and analyze the significant facts
  - Use the TARP Rule
    - T - Thing, place or subject matter
    - A - Cause of action or ground of defense
    - R - Relief Sought
    - P - Parties involved in the problem

Generate a Research Vocabulary

- Get an overview of the subject
- Learn basic principles and legal vocabulary
- Think of terms and phrases that might be applied to your topic and issues
- Come up with as many synonyms, antonyms, broader, narrower and related terms as possible
- Use law dictionaries and legal thesauri (located at the Circulation Desk)
  - Black's Law Dictionary
Determine the Issues

- Determine the legal issues to be researched
  - Classify problem into general subject area
  - Begin to narrow question
  - Identify legal elements (relief sought, required procedure, legal theories)
    - What is the RELIEF being sought?
    - What is the PROCEDURE required?
    - What are the LEGAL THEORIES?

- Get an overview
- Create an outline

Choose a Jurisdiction

- Location of dispute – Jurisdiction
  - Federal or State law
    - If Federal, what District or Circuit?
    - If State, what regional reporters and digest?
  - Criminal or Civil law?
  - Substantive or Procedural law?
    - If Substantive, what subtopic?
Always Ask?

- What do I know?
  - What pre-existing knowledge am I bringing to the table?
- Concentrate on facts, not area of law
- Secondary sources will lead you from facts to legal authority

Examine the Subject

- Your strategy depends on your familiarity with general subject and specific topics, i.e. What Do I Know?
- Think
- If your knowledge is limited
  - Consult Secondary Sources
    - Legal encyclopedias
    - Study guides (CALI)
    - Nutshells and
    - Hornbooks
What You Know Determines Where You Start!

- Step 1. I understand the area of law
  - Skip to step 4
  - If clueless – go to Step 2
- Step 2. I’m clueless – get background information
- Step 3. I need to expand my understanding
- Step 4. I understand the area of law and need evidence to support my argument

Step 2: When You’re Clueless—get Background Information

- Start your research with Secondary Authorities
  - Secondary Sources
    - Are materials about the law (as opposed to primary sources that is the law)
    - Will lead you to primary
    - Will help you interpret primary
    - Will give you background in unfamiliar areas, including jargon & terms
    - Someone else has already done the work - why reinvent the wheel? Ask an expert
Step 2: When You’re Clueless
get Background Information

- Nutshells, hornbooks, study guides (CALI), or legal encyclopedias are useful if you’re Clueless – totally unfamiliar with the subject
  - *Advantage:* you'll quickly gain a basic understanding of the area of law, and you can then move on to more detailed sources
  - Use for Background Jargon
  - These sources explain the law – THEY ARE NOT THE LAW

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Step 2: When You’re Clueless
Get Background Information

- **Nutshells**
  - Search [ALEX](#), the Online Catalog, by key word.
    - Include "nutshell" in your search (e.g., "bankruptcy nutshell")

- **Hornbooks**
- **Study guides**
- **Legal encyclopedias**
Using Secondary Sources

- Look for an Index
- Look for a Table Of Contents
- Using either or both, find potentially relevant sections in main volume(s)
- Update
  - pocket parts
  - supplements or both

Step 3: If you Need to Expand Your Understanding

- Treatises
- Law review articles or
- A.L.R. Annotations
  - Are useful once you have basic familiarity with the subject.
  - Increase your understanding and provide citations to relevant cases, statutes, and regulations.
Step 4: I Know the Law, I Need to Support my Arguments

- Seek Primary Authority
  - Case Law
  - Statutes
  - Court or Administrative Decisions
  - Regulations
  - Legislative Sources (be careful some are not primary authority)

Step 4: Look for Case Law

- **Mandatory Authority**: A lower court in a jurisdiction must follow the rule decided by a higher court in the same jurisdiction. Only decisions from the same jurisdiction are binding or mandatory authority on a lower court.

- **Persuasive Authority**: Decisions from courts in other jurisdictions are not binding and do not have to be followed. This is called persuasive authority.
Seeking Primary Authority

- Look for Mandatory Authority first. If no luck, find Persuasive Authority.
- Looking for CASES
  - Start with a Digest (be as specific as possible)
  - Looking for a federal supreme court case → Supreme Court Digest
  - Looking for federal case → Federal Digest
  - Looking for a state case → use that states digest
    - If you want a Texas case → Texas digest
    - If there is no case in your state, use a Regional Digest to find persuasive authority
- Find an applicable TOPIC and Key Number in the Digest system, look for Primary Authority. If none, check for Persuasive Authority.
- Looking for a STATUTE
  - Texas Statute → Vernon’s
- Looking for ADMINISTRATIVE REGULATIONS
  - Federal Regulation → CFR, Federal Register
  - Texas Regulations → Texas Administrative Code, Texas Register
- Looking for LEGISLATIVE HISTORY
  - Federal → USCCAN, CIS Index and Microfiche.
  - Texas – Good luck (not readily available)

Step 4: Look for Statutory Authority

- Identify any controlling statutes (never assume the absence of relevant legislation!)
- Identify any case law that may construe relevant statutes
- Remember that secondary sources may help you identify controlling statutes
Step 4: If You Are Seeking Expert Advice?

- *Comprehensive loose-leaf services* are useful if you're already an expert in the subject and are ready to seek specific citations relevant to your narrow issue.
  - *Advantage:* vast, comprehensive and well-organized commentary and citations to primary authority.

Keep Track Of Your Research

- Always take notes on your sources as you go
- Get all available bibliographic information (author, title, publisher, dates, call numbers/URL's, case names, cites, year and court information)
- Write down all related terms and descriptors for your facts and issues
Take Good Notes

- When recording, better too much than not enough. You should include:
  - Parties Names
  - Citation (Ex. 55 S.W.2d 92)
  - Year of Case
  - Court (Ct of Appeals)
  - State

Know Your Resources

- Get in the habit of evaluating as you go.
- Be aware of:
  - Scope
  - Currency and
  - Coverage
- Ask your Librarian for recommendations
Why Should You Care about Legal Research?

MALPRACTICE
- Research Competency is a requirement
- *Smith v. Lewis*, 530 P.2d 589 (Cal. 1976)
- Court upheld $100,000 damage award against an attorney due to mistakes that could have been avoided with careful research.

DISBARMENT
- Disciplinary action is often taken by State Bar Associations for errors directly traceable to poor research skills.

Seek Personal Assistance When Available

- **Take advantage of Lexis and Westlaw Customer Service.** They can help you formulate a search or determine if the kind of information you seek is actually available.
- 1-800-Westlaw or 1-800-45Lexis
- **Sign off if your search is not going well** and get help from the Library or Customer Service.
- **LoisLaw** is free all year round for any purpose
Step 5: Update & Verify Authority

- Update your cases, statutes and rules to be sure you have the latest authority
- Verify what you found is still good law
- Identify new developments
- Update
  - Pocket parts
  - Supplements
  - Citators

Searching on the Web

- The Web is not a database. It does not guarantee the information will remain
- You will improve your chances of success if you first identify a source -- whether by title (United States Code) or by type of document (federal statutes)
- Then consider whether, and where, it exists on the Web
- Print the page -- you will need the paper trail
It is Time to Stop:

- The commentary is becoming repetitive
- You have already read the same point from a number of sources
- You notice that the same articles and cases keep appearing
- You are familiar with the issues
- You have checked and updated all the resources available to you.
- This is the last step. Have any cases been decided recently or any new legislation been passed (or introduced) which might necessitate a revision of your ideas?

If You Get Stuck

- If you get stuck, take a break, or move on to something else for a while
- There may not be "an answer" to your question
- Much of lawyering concerns cases of first impression, so sometimes what you are looking for simply does not exist
If You Get Stuck

- Remember much of the law is found in more than one source.
- Always consider alternatives.
- An online source may not work where a print will and vice-versa.

A Few Good Research Tips

- Research separable questions separately (if you have more than one issue, research them individually)
- Double check your work in all sources to be sure you have not missed anything
- Keep a good record of your research. List what you found and where you found it.
Questions
Questions for Further Research

1. Identify and gather best practices used in similar programs.

   • Higher Learning Commission
   
   • Sam Houston State University Distance Learning website
     http://distance.shsu.edu/bestprac.html

Questions to ask when following up with different programs
  
  • Q. How is the program structured?
  • Q. Do you provide instruction in real time?
  • Q. How do you handle questions, exam taking?
  • Q. How costly is it for prisons and schools?
  
  • California Department of Corrections partnered with Coastline Community College.

    o Coastline Community College
      
      • Emailed Coastline Community College’s Distance Education Department.
      
      • Spoke with Rachelle Lopez at Coastline Community College. She stated that the distance education offered to prison inmates is the same that is offered to regular students. The semester is 16 weeks long and they have the same deadlines. They have proctors within the prisons to administer exams and then the exams are mailed to the college. She stated the half of the course is by “correspondence” and the other half is through “course videos”. The “correspondence” is like a student handbook that has notes and powerpoints and instructs students on where to find material on line for the course. The “course videos” are part owned and part leased. They provide the prisons with a broadcasting schedule but it is up to the prison to decide how they want to disseminate the information. Also, if the inmate would like to correspond with the professor they do so through letter writing.
      
      • Rachelle stated that if we needed more information we should contact Vincent Rodriquez who is the Dean of Coastline Community College and was cited in the report we used in the pilot.
- California Department of Corrections
  - Spoke with Dennis Butcher who is the principal over curriculum at the California Department of Corrections. He named a few community colleges that are offering distance education to the prisons. They are Coastline Community College, Palo Verde, Lassen Community College, and Patton College. He also suggested I call Ohio University because they have a distance education program for incarcerated individuals. He stated that Coastline would be the best one to contact and also provided me with an overview of their program and recommended I speak with Rachelle Lopez at Coastline Community College.
  - The program is administered in a cooperative manner. The inmates enroll in school and the prison provides proctors for exams. The instruction is given via dvd’s and it is up to each prison to decide how to disseminate the information. For example, some prisons have a closed circuit television system where the dvd is played on a certain channel at certain times, or they may reserve a classroom or library in which to play the dvd.

- Milwaukee Area Technical College in Wisconsin
  - Emailed Distance Learning department of Milwaukee Area Technical College
  - Will try and follow up with Rick Busalacchi who was cited in a report used for our proposal.

**Will call tomorrow (Friday-7/10):**

- Ohio University-Independent and Distance Learning
  - College Program for the Incarcerated
  - 1-800-444-2910, 740-593-2910
- Texas Cooperative Extension
  - Jo Lynn Jennings 281-855-5600
  - Harris County Inmate Distance Education Program
  - Teaching health, parenting, and financial skills to women prisoners since 2001.

2. Identify, and where necessary, help expand the capacity of the eLearning program at Texas Southern University.
• Spoke with the Distance Learning Department at the Texas A&M University Health Science Center and spoke with Rick Lox the Audio Visual production specialist. Below is the information from our call.
• There are many types of video conferencing equipment brands (Tandberg, Tandberg 990, Polycom, Centra, etc). At SRPH they use Tandberg, it is pretty expensive (20-25k) but also has a wide capacity.
• Tandberg has software that allows you to log into the codec and make changes from your desk top.
• If you get a control system Crestron or AMX, it will allow you to log into the equipment from your desk top and turn on equipment, troubleshoot, and fix issues. He recommended Crestron.
• Tandberg also has software that gives you a virtual remote from your desktop.
• Tandberg offers TMS (Tandberg Management Systems), which allows you to schedule and monitor connections from your desktop.
• Each codec allows you to connect to 3 additional sites.
• Network connections are very important. T1 line. Bandwidth 768 kbps
• We will also need projectors, projector screen, camera, and microphone.
• He suggested a few different technology options.
  • Tandberg Units:
  • Video Conference Provider- CCS- Ben Pickrel is a real good guy and will give you different video conferencing options.
  • Centra Saba: Virtual Class Room- Works very well
    ○ [http://ttvn2.tamu.edu/home/webconfhelp.php#ta](http://ttvn2.tamu.edu/home/webconfhelp.php#ta)
  • Polycom:
  • Video Conferencing Website: Low bandwidth
3. Examine closely the New Mexico employs distance learning in state prisons programs.
   - New Mexico: Emailed Pete Sandoval
   - Pete recommended I contact Elizabeth Solano. I called her and left a message.
   - Will try and follow up with Jeff Wilson, who is listed in one the reports we cited in the proposal.

4. Determine the best admission guidelines and policies for prisoners.
   - Research the prison education programs that already exist and find out how do the prisoners have access to standardized exams such as the THEA, ACT, and SAT exams? Find out how their programs are structured in general.
     - Tarleton State University-Hughes Unit & Mountain Vw Unit-Gatesville, TX
     - U of H Clearlake-Ramsey Unit-Rosharon, TX
     - Sam Houston State University-Wynne Unit-Huntsville, TX
Conducting Statistical Research in Government
E-Resources
Taciana Williams, Associate Director Law Library
Fall 2009

- Goals
  - Develop strategies for conducting statistical resources
  - Identify government e-resources
- Strategizing Statistical Research
  - Identify the topic for which statistics needed and/or
  - Identify governmental agency who would likely publish statistics
  - Locate agency's website
  - Locate statistics
- Topics: Government Statistics
  - Criminal Justice
  - Demographic, Population & Housing
  - Economics
  - Education
  - Environment & Energy
  - Gender
  - Government & Political Science
  - Health & Vital Statistics
  - Industry & Agriculture
  - International Governments
  - Polling & Public Opinion
  - Telecommunications
  - Transportation
- Sources of Statistics
  - Federal Government Agencies
    - Will also lead to International statistics
  - State Government Agencies (including county & local)
- FedStats
  - http://www.fedstats.gov/
- Criminal Justice
- Demographics, Population & Housing
  - http://www.census.gov/
- Education
  - http://www2.edtrust.org/edtrust/Product+Catalog/sheets+tools
- Health & Vital Statistics
  - http://www.cdc.gov/nchs/
• International Statistics
• Texas Factbook
• TRAIL
  o http://www2.tsl.state.tx.us/apps/lrs/agencies/
• Criminal Justice
  o http://www.tdcj.state.tx.us/
• Education
  o http://www.tea.state.tx.us/
• Health & Vital Statistics
  o http://www.hhsc.state.tx.us/index.shtml
• ALEX
  o http://library.tsulaw.edu
• Review: Developing Strategy
  o Identify the topic for which statistics needed
  o Identify governmental agency who would likely publish statistics
  o Locate agency’s website
  o Locate statistics
• Resources
  o American University Library, Statistical Information Guide,
  o University of Texas at Austin Tarlton Law Library, Texas Resources,
EARL CARL INSTITUTE
SAMPLE OUTLINE
NOTE: ALL ECI RESEARCHERS ARE TO USE THIS FORMAT IN
PREPARING YOUR RESEARCH OUTLINES.

Grimshaw v. Ford Motor Co.
A Case for Criminal Law Intervention

Note: This outline was prepared by one of professor Connie Fain's students. Notice how your reader gets a clear picture of where you plan to go with your research. You also have a guide in pursuing your research and maintaining focus.

I. INTRODUCTION

A. Issue: The issue is whether the states and the federal government should consider criminal law intervention in products liability/strict liability cases wherein certain cost benefit analysis decisions by manufacturers result in wrongful death or severe Physical injuries.

B. Amplification of the Issue: Throughout the history of our torts system of law, intentional and reckless disregard for consumer safety has been addressed by our compensatory and punitive damage mechanisms. However, as punitive damage awards have steadily increased, this tendency has been met with substantial criticism and legislative changes which have either eliminated punitive damages or made them more difficult to obtain. Critics of high damage awards have accused juries of wildly inflating punitive damage awards merely because corporations balanced other factors against public safety and based on their cost benefit analysis, certain increments of safety were discarded or eliminated in the final product.

C. Thesis Statement The strict liability theory of modern products liability law explicitly addresses the loss distribution problems that arise when an injury is caused by a defective product marketed by an “innocent” manufacturer, since liability is imposed even though the manufacturer has exercised due care. But the principles of strict liability are ill-equipped to deal with the Problems at the other end of the culpability scale where death or a serious Personal injury results when a manufacturer markets its products after intentional or reckless disregard for consumer safety. Society needs strong legal tools that will help expose this type of gross misconduct and punish manufacturers, or individuals under their employ, who are responsible for the major decisions which flagrantly disregard consumer safety. As potential injurers, all manufacturers must be deterred from acting with similar disregard for public welfare. Punitive damages is one of the needed tools, but it still falls short of the desired level of deterrence. Possible criminal law intervention could be the deterrent which sends the appropriate signal to all potential injurers.
D. Areas To Be Addressed: This paper will include, (1) a discussion of how products liability torts law and its mechanisms for compensating for damages, including wrongful death and serious personal injuries, (2) how manufacturers perceive deterrence signals sent to them by society, (3) cost benefit analysis’ as a component to the possible disregard of consumer safety, (4) highlights of the Grimshaw v. Ford Motor Co., 11 9 Cal. App. 3d 757 case. (5) a discussion of criminal law related to wrongful deaths and Personal injuries, (6) a projected application of criminal law in products liability cases which result in wrongful death or serious personal injury.

II. PRODUCTS LIABILITY IN WRONGFUL DEATH AND SERIOUS PERSONAL INJURIES

A. Manufacturers have powerful controls over the means for discovering, correcting, or eliminating product hazards.

B. The general public assumes that these controls are exercised in the normal course of events in the manufacture of consumer products.

C. Our Products liability torts system created strict liability as a mechanism to compensate the injured consumer and protect the “innocent” manufacturer who exercised due care in the production of his Product.

D. Damages

1. Compensatory damages are calculated to compensate the injured party(s) for costs, past and future, generated by the injury.

2. Punitive damages are assessed where it is determined that the manufacturer could have done more to prevent the hazard in his product and serves as a warning to other manufacturers that society is aware of their controls in making products safer for consumers.

III. DETERRENCE SIGNALS AND THEIR AFFECT ON MANUFACTURERS

A. Potential injurers (manufacturers) must be given incentives to exercise their controls to produce safe products.

B. In our torts system, the major incentives appear as a signal to potential injurers in the form of damage awards.

C. The potential injurers’ actions depend on the degree to which the injurer receives. (perceives and understands) the signal sent.

D. The size of the signal sent to potential injurers is also dependent on such factors as the expected consumer outrage, behavior of prosecutors and of liability determiners.
IV. COST BENEFIT ANALYSIS AND CONSUMER SAFETY

A. The cost benefit analysis is key in determining
   1. Whether products can be manufactured profitably.
   2. The number and type of consumer safety controls which will be used in the
type of design of the product.

B. Cost benefit analysis begins to identify potential injurers as the risks for consumer
safety begin to grow.

C. Cost benefit analysis is a very complex procedure that, when calculating for consumer
safety, demands due care in its accuracy.

D. The ultimate responsibility for utilizing the information resulting from a cost benefit
analysis is that of the decisionmakers.

V. HIGHLIGHTS OF GRIMSHAW v. FORD MOTOR CO.

A. Background and facts of the case

B. Key evidence Presented
   1. Ford Motor Company tests on the safety of the fuel tank design Prior to
      marketing.
   2. Ford Motor Company considered different options to reduce the risks involving
gasoline leakage and found them to be technically feasible.
   3. Cost benefit analysis were developed to determine the feasibility of design
      change.

C. Even in the face of growing evidence of the deficiency of its fuel tank design, the Ford
Motor Company did not change the design of the Pinto gas tank until six years after the
car was introduced.

D. Ford did not issue recall notices to correct the defect in the Pinto gas tanks until eight
years after the car had been designed and tested, and over two years after Ford had
changed the gas tank design.

E. At least 32 deaths resulted from fires associated with the Pinto.

F. In Ford Motor Company’s appeal to the California Appeals Court, the trial court’s
judgment and the order denying Ford’s motion for judgment notwithstanding the verdict
on the issue of punitive damages were affirmed.
G. In 1979, in a landmark legal test, Ford was indicted and charged with violating the State of Indiana’s reckless homicide statute, Section 35-42-1-5 because of its actions regarding the design, manufacture and sale of the Pinto, following the deaths of three young women in a fiery collision involving their 1973 Pinto.

VI. CRIMINAL LAW IMPLEMENTATION IN WRONGFUL DEATHS AND SERIOUS PERSONAL INJURIES

A. States and the federal government are in the position to pass legislation which can establish reckless homicide statutes, negligent homicide statutes, and possibly other variations of homicide statutes whereby decision makers who are found to have consciously decided to sacrifice human life for private profit could be punished according to the criminal law.

B. Although early common law doctrines held that a corporation was incapable of the criminal intent required because it had no mind, modern criminal law has introduced “public welfare” crimes which do not require criminal intent.

C. Modern criminal law has also made it possible that even when intent is required, the intent of the corporation’s agent(s) might be imputed to the corporation.

D. The biggest problem with the use of criminal sanctions in the area of product safety is in identifying those personally responsible for the misconduct, especially in the decentralized manufacturing process.

VII. APPLICATION OF CRIMINAL LAW AS A DETERRENT IN PRODUCTS LIABILITY CASES

A. Weaknesses/disadvantages when personal criminal wrongdoing cannot be shown:

   1. The best that can be expected would be corporate fines, but these measures might be unfair to the innocent shareholders.

   2. The effectiveness of such fines can also be questioned in light of corporation law which often permits insurance or reimbursement of corporate officials.

B. Advantages when criminal wrongdoing can be shown:

   1. Imprisonment of those responsible could serve as a strong deterrent to decision makers in other manufacturing companies, or concomitantly, could serve as a strong incentive to exercise controls in favor of consumer safety considerations.

   2. Perhaps the most significant aspect of the use of criminal law in product safety cases would be the attention and publicity generated by the “criminal” stigma, which could be devastating to the public image of any manufacturer.
VIII. CONCLUSION: CONSUMERS WILL BENEFIT BY THE IMPLEMENTATION OF CRIMINAL LAW IN PRODUCTS LIABILITY CASES

This section will include a discussion of how criminal law intervention in products liability cases will benefit consumers, and will also speculate on how this will benefit manufacturers as well by the enhancement of their public image.

IX. AUTHORITIES INTENDED TO BE CITED


Write a position paper to

- Organize and outline your viewpoint on an issue
- Formally inform others of your position as a foundation to build resolution to difficult problems
- Present a unique, though biased, solution or a unique approach to solving a problem
- Frame the discussion in order to define the "playing field." This can put you in an advantageous position with those who may not be so well prepared as regards the issues behind their positions
- Establish your credibility Here you are demonstrating that you have a command of the issues and the research behind them, and can present them clearly
- Let your passion be demonstrated in the force of your argument rather than in the use of emotional terms
- Guide you in being consistent in maintaining your position in negotiation

The better prepared you are the more disadvantaged are your opponents and more likely they will defer to you

Guidelines:

- Format should be consistent with guidelines determined by the sponsoring organization or committee
- Include topic, date, purpose, etc, and should readily identify you as the author
- If the paper represents a group, organization, committee, do not write in the first person (not I, my, mine, etc. but rather we, our, etc.)
- Limit yourself to two pages following the format established by previous successful position papers
Research:

- Develop supporting evidence for both sides including factual knowledge, statistical evidence, authoritative testimony
- Identify the issues and prejudices keeping in mind your audience
  List these as appropriate and anticipate counterclaims
- Assume familiarity with basic concepts but define unfamiliar terms/concepts or state meanings that define your point of departure
- Refer to those who agree with your position to assist you in developing your argument
- Familiarize yourself with those who disagree with you to prepare your defense.
  Summarize their argument and evidence, then refute

Introduction:

Consider your audience:
start with a topic sentence or two that attracts attention and summarizes the issue
Inform the reader of your point of view

Development:

Focus on three main points to develop
Each topic is developed with

- a general statement of the position
- an elaboration that references documents and source data
- past experiences and authoritative testimony
- conclusion restating the position

Establish flow from paragraph to paragraph

- Keep your voice active
- Quote sources to establish authority
- Stay focused on your point of view throughout the essay
- Focus on logical arguments
- Don't lapse into summary in the development--wait for the conclusion

Conclusion

- Summarize, then conclude, your argument
• Refer to the first paragraph/opening statements as well as the main points
  o does the conclusion restate the main ideas?
  o reflect the succession and importance of the arguments
  o logically conclude their development?

Share a draft with others

to better develop the paper and ensure that your argument is clear

Revise, spell-check, and succeed in building your case.

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