

STANFORD LAW SCHOOL CRIMINAL DEFENSE CLINIC

YEAR IN REVIEW 2021-2022



MillsLegalClinic

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Criminal Defense Clinic



SUZANNE LUBAN AND RON TYLER

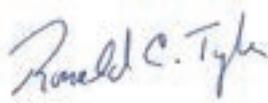
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A WORD FROM RON TYLER AND SUZANNE LUBAN

The past year for the Stanford Criminal Defense Clinic was exciting and fulfilling. We appreciate the support of the Federal Public Defender's Office for the Northern District of California, the San Mateo County Private Defender Program, and the Santa Clara County Public Defender's Office.

The students in the Criminal Defense Clinic managed cases in the Superior Courts of Palo Alto, Redwood City, and South San Francisco, and in the San Francisco Division of the U.S. District Court.

We are grateful that you lent us your cases and expertise, and we look forward to continued collaboration!



Ron Tyler
Director



Suzanne Luban
Associate Director

OUR FALL 2021 AND SPRING 2022 TEAMS

Hannah Subega '23, Paola Mendez '23, and Philip Issa '22	02
Jenny Moroney '23 and Marc Brunton '23	04
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PAOLA MENDEZ '23, HANNAH SUBEGA '23 AND PHILIP ISSA '22

PHOTO BY CHRISTINE BAKER

MOTION TO SUPPRESS GRANTED

Hannah, Paola, and Philip represented a 31-year-old woman who had been cited for possession of heroin and heroin paraphernalia following a traffic stop for driving with expired tags. Though their client was the driver, the officers asked for the passenger's license, checked his criminal record, and interrogated him about whether he had "any dope" on him. The team argued that all of these actions were impermissible detours from the traffic mission. Neither officer ever issued a citation for the expired registration. Fortunately, the prolonged detention was captured on bodycam. At the suppression hearing, Paola cross-examined the officer who had pulled our client over and Hannah delivered the argument, answering some tough questions from the judge. The prosecutor merely argued that the detention wasn't prolonged because the officer's actions were "reasonable." Judge Jeffrey Finigan granted our motion, measuring the officer's detours against the length of time it would have taken him to issue a verbal warning, given that neither officer ever took any steps towards writing a traffic citation. Our client will now be free to focus on achieving sobriety and regaining custody of her 11-year-old son.

EARLY TERMINATION MOTION GRANTED

Hannah, Paola, and Philip worked with AFD Elizabeth Falk to write and argue a motion for early termination of supervised release for a hard-working father. Our client had only four months left on his supervision, and had a substantial violation in 2017, so we expected the motion to be an uphill battle. We knew that a successful argument would require gathering lots of mitigation evidence that spoke directly to our client's reform – particularly after his violation. The team worked closely with our client and our social work intern, Jessica Wright, to understand his story and let it drive their legal writing.

They also learned that our client had graduated from the rigorous Reentry Court program, and they ensured that the one-year supervision reduction was reflected in the record (a clerical oversight had left it out). They gathered letters of support from his family, giving color to their argument that, despite his chaotic past, he has become a truly hard worker and a devoted father. They also discussed how he was recently hired as a union longshoreman at the Port of Oakland. They argued that continued federal supervision was keeping him from gaining the security clearance he needed to start this new job.

Though the government originally opposed the motion, the team's argument regarding the need for a security clearance for the new job carried the day. The government withdrew their opposition, and the motion was heard before Judge Alsup without argument. Philip delivered comments in support of our client and answered the judge's questions about the new job. In the end, Judge Alsup granted our motion, and the team shared a proud moment with our client outside of the courtroom.

A SPECIAL THANK YOU TO...

- AFD **Elizabeth Falk** for her mentorship and confidence in us throughout the quarter, and for mooted Philip's appearance on the early termination motion.
- PDP attorney **Gaby Guraiib** for advocating to Judge Greenberg to let us argue the 1538.5 motion after the DA offered dismissal, and for securing the best plea deal possible for our client on her felony matter.
- Gaby and our other two PDP mentors – **Scott Sherman** and **Soo-Ryun Kwon** – for their guidance on our cases, and for the wisdom they shared in navigating the court system.
- Santa Clara County public defender **Carlie Ware** for providing the clinic students with helpful training on objections in preparation for our suppression hearing.
- Our federal **client's family members**, for contributing support letters, providing crucial mitigation information, and honoring our client's achievements and rehabilitation.
- Our social work intern **Jessica Wright**, for her invaluable support with holistic representation on each of our cases, and her zealous commitment to helping others. She will go on to do great things!
- Dr. **Kathy Ho**, for sharing her expertise in social work and mental health, and for her contributions to our mission of holistic representation.
- **Erika Madriz**, our legal assistant, for her tremendous support throughout the quarter.
- Our clinic peers, **Marc Brunton** and **Jenny Moroney**, for serving as our support team after the completion of their cases. They provided crucial logistical support, offered helpful assistance the day of the suppression hearing, and delivered excellent performances as cops and prosecutors during moots.
- Professor **Ron Tyler** and **Suzanne Luban**, for their devotion to the clinic, to our clients, and to the pursuit of revolutionizing what it means to be a great public defender.



MARC BRUNTON '23, JENNY MORONEY '23 AND LOUIS

PHOTO BY CHRISTINE BAKER

EARLY TERMINATION MOTION GRANTED

Jenny and Marc represented a client with six months remaining on her probation term. When we joined, she had already paid back full restitution for the offense and completed all court-mandated community service hours. From our initial contact, it was clear that our client was exceptional. Under the guidance of Chief AFPD Candis Mitchell and Professor Ron Tyler, the team drafted a motion for early termination.

Our client's original sentence was for three years of probation. During this time, she successfully secured a new job (which she excelled in), attended therapy for her addiction, and reformed her bonds with her family. She was planning a move to Nevada, so she could be closer to her sister and nephew and begin school to attain a graduate degree in counseling.

This motion presented an opportunity to close the chapter on a darker part of her life and pursue her new life goals uninhibited. Before the hearing, the probation office and the government informed us that they did not oppose the motion. Instead of presenting arguments, we thus had the opportunity to speak with Judge Chhabria, where he congratulated our client for her success and officially granted our motion.

It was an honor to work with our client this quarter. Her conviction could have been an anchor that tethered her to rock bottom. Instead, she persevered and took probation as the opportunity to forge a path towards a life that she could view with pride. We were thankful for the opportunity to work for her and were inspired by her perseverance to emerge as the person she always knew she could be.

MOTION TO SUPPRESS AND SPEEDY TRIAL MOTION LEAD TO DISMISSAL

Jenny and Marc represented a client charged with possession of drugs and related paraphernalia after Daly City police embarked on a fishing expedition, under the guise of investigating expired car registration. Under the guidance of Suzanne Luban, their first line of attack was a 1538 motion highlighting the prolonged detention as well as the lack of valid consent to searches and the lack of any basis to search our client's person. They also launched into a deeper investigation of the incident, as no body worn camera footage existed to supplement the police report (though the Daly City police have since been equipped with body worn cameras).

Though the Fourth Amendment issues were robust on their own, the team also decided to file a Serna motion asserting federal and state violations of our client's right to a speedy trial. The client had gone sixteen months without counsel between the filing of charges and arraignment. The court had continued the arraignment four times, citing the pandemic as justification. Drawing from the knowledge of fellow defenders, the team crafted a motion paired with court orders and judicial grids demonstrating that the courts remained operational throughout the pandemic and thus there was no valid excuse for the lengthy delay.

After filing the speedy trial motion, the team made clear to the district attorney's office that they would not be amenable to their unjustified request for a call off. Their office had negligently failed to timely subpoena the main officer in the case, despite our numerous requests to have him available. If the prosecutor had requested a continuance, we would have objected under *People v. Brown*, as there was no good cause for such an oversight. No surprise then that the district attorney decided to dismiss the case!

A SPECIAL THANK YOU TO...

- **Candis Mitchell**, Chief Assistant Federal Public Defender, for providing guidance throughout the drafting of the brief and for trusting us with our client's representation.
- Our mentors from the PDP, **Esther Aguayo** and **Mitri Hanania**, for their support and insight throughout the quarter, and to Esther for recommending a speedy trial motion.
- **Oliver Kroll**, Deputy Public Defender from SFPDO for sharing excellent speedy trial briefs to assist in our drafting.
- **Huma Ali**, the fabulous MSW intern on our team, for leading the charge in holistic representation and paving the way to success both in and out of the courts.
- **Ron** and **Suzanne** for investing so heavily in our cases, the clinic, and us.
- **Our clients** for the privilege of representing and getting to know them over this quarter.



ROGER CAIN '23 AND BRETT PARKER '22

PHOTO BY CHRISTINE BAKER

BRETT PARKER '22 AND ROGER CAIN '23

SPRING 2022

SUPPRESSION DENIED BUT JUDICIAL DIVERSION GRANTED

Brett and Roger represented a young man charged with possession of brass knuckles. A Burlingame police officer pulled our client over for speeding, yet immediately began asking if there was anything illegal in his car. The officer then sought permission to search the car, and made our client wait on the curb for a second officer to arrive to facilitate the search.

Under Suzanne Luban's supervision, the team filed a motion to suppress. Their legal strategy was primarily based on *United States v. Rodriguez*, a 2015 Supreme Court case that prohibits police officers from prolonging traffic stops and transforming them into general crime investigations. Additionally, the team argued that our client did not give valid consent for the officer to search the car.

After getting their feet wet in court by successfully arguing for a continuance, they filed their opening brief. While waiting for the prosecution's opposition, they investigated the case further by visiting the scene, visiting the Burlingame police station to view the evidence, and filing a Public Records Act request about the lead officer's conduct. In writing that records request, they learned that California law had changed after the unjust killing of George Floyd. The team wrote a memo for future clinic participants that lays out how to write expansive records requests to uncover police misconduct. They also wrote and filed a detailed reply brief eviscerating the prosecution's opposing brief.

Ultimately, despite the safeguard of issuing our own subpoena, the prosecution's main witness failed to appear at the suppression hearing, and it was continued into the summer. Ever dedicated, Brett and Roger returned to court mid-summer. At the hearing, despite a laser-focused cross-examination of the officer by Roger and persuasive argument by Brett, the judge denied the motion. Luckily, the team had already prepared a detailed mitigation packet. They argued successfully at the pretrial conference and the court granted judicial diversion. We are confident that our client will complete community service and his record will remain clear of any criminal convictions. Brett and Roger enjoyed connecting with their client and providing their most vigorous representation.

A SPECIAL THANK YOU TO...

- Our mentors from the PDP, **Esther Aguayo** and **Mitri Hanania**, for their support throughout the quarter.
- A special thank you to **Mitri** for presenting to the entire CDC on diversion and mitigation.
- **Jacquelyn Quach**, the defense team's MSW student, for leading the charge in holistic representation and paving the way to success both in and out of the courts.
- **Ron** and **Suzanne** for investing so heavily in our cases, the clinic, and us.
- **Our client** for the privilege of representing and getting to know him over this quarter.



ZOE PACKMAN '22 AND BRIANA ROBERSON '23

PHOTO BY CHRISTINE BAKER

BRIANA ROBERSON '23 AND ZOE PACKMAN '22

SPRING 2022

SUPPRESSION MOTION FILED AND CASE DISMISSED

Briana and Zoe represented a client on a misdemeanor charge for possession of a switchblade (Penal Code section 21510) in Santa Clara County. A San Jose police officer stopped our client in August 2020. The officer claimed that our client's car had tinted windows in violation of California Vehicle Code 26708. During the traffic stop, the officer searched our client's car without a warrant or consent. He found the alleged switchblade during this stop.

The team filed a motion to suppress and set a 1538.5 hearing to argue that the officer found the evidence during an illegal search. After reviewing the police report and body camera footage, the team concluded that the officer violated our client's Fourth Amendment rights in three ways: First, the officer did not explain why he thought the windows were illegally—as opposed to legally—tinted. During the traffic stop, he never once looked at our client's car windows. They were rolled down and out of sight for the entirety of the stop. Second, the officer used the stop as a general crime investigation, rather than ever investigating the supposed traffic violation. Third, the officer searched the car without probable cause.

The prosecutor called Bri and Zoe at 5 p.m. on the day her opposition brief was due to inform them that she would not be opposing the motion. When they appeared in court for the scheduled hearing, the prosecutor asked Judge Panteha Saban to dismiss the case in the interest of justice. Judge Saban granted the motion.

A SPECIAL THANK YOU TO...

- **The Mills Legal Clinic** for allowing us to represent our client and seek justice.
- Our extended team from the Santa Clara County Public Defender's Office, **Avanindar Singh** and **Polina Beckerson**, whose thoughtful assistance and contributions largely factored in the dismissal.
- Our mentors from the PDP, **Marsanne Weese** and **Gabriela Guraiib**, for their insight and resourcefulness.
- Our defense team's MSW student, **Huma Ali**, whose holistic considerations improved how we served our client.
- Professor **Ron Tyler** and **Suzanne Luban**, whose attention to detail and astute wisdom challenged us to be the best defenders we could be.
- **Our client** for the opportunity to fight for him.



IAN SARGENT '23 AND JOSEPH ROWLEY '23

PHOTO BY CHRISTINE BAKER

IAN SARGENT '23 AND JOSEPH ROWLEY '23

SPRING 2022

SUPPRESSION DENIED BUT JUDICIAL DIVERSION GRANTED

On a cold morning, the police ordered Ian and Joseph's client out of a legally parked car. She was resting in this car while waiting for work. Several police officers, operating without reasonable suspicion, repeatedly violated our client's Fourth Amendment rights. This led them to find a pipe and an illegal credit card in the car, allegedly belonging to our client.

The team filed a motion to suppress, countered the District Attorney's meager opposition brief, and prepared for the hearing in South San Francisco. At the hearing, Ian and Joseph cross-examined both officers and demonstrated that they lacked reasonable suspicion that illegal activity was occurring in the car. The team also showed that the officers unconstitutionally prolonged our client's detention. In spite of their strong efforts, the judge denied the motion outright, with little consideration—a blow to both our client and to justice.

Ian and Joseph quickly shifted their strategy and worked to achieve judicial diversion. Together with our client, they crafted a treatment plan. At the pre-trial conference, despite vigorous pushback from the district attorney, the judge granted diversion.

A SPECIAL THANK YOU TO...

- **Our client** for allowing us to represent her through a difficult process with disheartening twists and turns.
- Our mentors at the Private Defender Program in San Mateo County, **Scott Sherman** and **Lana Kreidie**, who provided us with helpful advice whenever we hit a wall.
- We also want to thank PDP attorneys **Shaneil Sharma** and **Alex Cavanaugh** who, last minute, helped us to figure out how to navigate a successful diversion.
- We also thank our investigator **Gurpreet Gill** who seemingly did the impossible and without whom we could not have gotten diversion.
- Additionally, we would like to thank **Jess Wright**, our Social Work Collaborative MSW student. Jess was always there to offer resources for our client or to hear one of our last-minute theories.
- Finally, we would like to thank **Ron** and **Suzanne** for their tremendous and outstanding guidance and support.

ABOUT THE CRIMINAL DEFENSE CLINIC

Students in the Criminal Defense Clinic become immersed in the world of indigent defense. Each student represents members of our community accused of crimes in the courts of Santa Clara and San Mateo Counties. Our state misdemeanor cases encompass a wide range of charges, such as drug use and possession, resisting arrest, and theft. Other state case assignments include working for people's pretrial release. Some quarters, our docket also includes federal cases in the Northern District of California.

Clinic students are their clients' primary legal representatives in and out of court. Under the close supervision of Professor Ronald Tyler and Lecturer Suzanne Luban, students undertake investigation, interview witnesses, engage in plea negotiations, draft motions, conduct evidentiary hearings, and make other court appearances. Persuasive writing with rigorous faculty edits is a major component of the clinic.

The Criminal Defense Clinic is an intensive, fast-paced, and demanding program of education and practical skills, taught through introductory training and ongoing workshops and skills practicums. The Clinic also addresses broader systemic issues such as implicit bias, immigration consequences, economic disparities, and addiction.

The goal of the Clinic is to train students how to conduct a criminal case while engaging in thoughtful reflection and providing holistic representation. The Clinic's broader goal is to provide lawyering skills and habits of mind transferrable to any student's chosen field of practice. While the work is often challenging and sometimes heartbreaking, it offers students a unique opportunity to put their skills, intellect, and compassion to use by serving people in a moment of great need. The emotional challenges of the Clinic's work are addressed through an integrated self-care curriculum.

For more information please visit: <http://law.stanford.edu/criminal-defense-clinic>

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