

INTEGRATING FICTIONAL NARRATIVES INTO CLINICAL EDUCATION CURRICULA

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Fictional narratives serve several important goals when incorporated into law school clinical program curricula. They are excellent vehicles to help law students appreciate and empathize with the lives of their often-marginalized clients, to understand the impact of laws and policies affecting their clients, and to learn effective story-telling techniques that are often the basis of effective legal advocacy. This article discusses the value of using fictional stories and provides a roadmap for clinical law professors to effectively incorporate sample fictional narratives into their class readings. This article also provides an annotated bibliography of short stories, excerpts from novels, and films that can be used, for example, in criminal justice, immigration, or domestic abuse clinics.

INTRODUCTION

This article advocates that clinical law professors should incorporate fictional narratives into their course readings.¹ In Part I of our article we offer three principal reasons for doing so: (1) helping law students comprehend and empathize with the lives of their often-marginalized clients; (2) understanding the impact of laws and policies, which can serve as a springboard for discussing legal reforms; and (3) teaching effective story-telling techniques that are often the heart of effective advocacy.

Part II provides illustrative examples of fiction that could be incorporated into a variety of clinics. We chose fiction pertinent to three types

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¹ While the scope of this article is limited to fiction, the same goals are achievable, and ideally supplemented, through true account narratives, film, music, or other media.

of clinics: criminal, immigration, and domestic violence. We first discuss *Junk Menagerie*, a fictional, semi-autobiographical short story about the life, arrest, conviction, and incarceration of a woman addicted to heroin. The second fiction, “Los Otros Coyotes,” is set in a “near dystopia” in which undocumented migrants cross a Trump-like “MAGA” wall and are implanted with microchips so ICE can track them. The third story, “Chin,” reflects the abuse of a young Chinese American boy—he is bullied by his classmates and beaten by his domineering father.

We then briefly discuss excerpts from a novel, *Jill's Trials*, involving a law student in a criminal defense clinic who undergoes professional “growth pangs” that will be relatable to many students. Jill becomes overly involved with one of her court-appointed clients, a relationship that raises strategic and ethical issues for Jill and her professor. *Jill's Trials* prompts consideration of the development of professional identity, as this dedicated but inexperienced law student breaches appropriate boundaries between lawyers and clients and learns from her errors in judgment.

Part III contains practical tips for clinical law professors on how to successfully incorporate outsider fiction into their curricula, even if they have no training in literature. An appendix provides additional examples of stories that might be included in the clinical curriculum depending on the subject matter of the clinic.

Although this article is focused on incorporating fictional narratives into clinical courses, other sources can also be employed in clinic courses to achieve similar objectives. A second appendix proposes some relevant films.

I. REASONS TO INCLUDE FICTIONAL NARRATIVES

There are several important reasons why students would benefit if fictional narratives were more widely included in clinical curricula.

A. Empathizing with Clients

Fictional narratives can serve the valuable purpose of helping clinical students better empathize with their clients and understand the challenges that they face.² Realistic fiction includes both fiction by established professional authors and “outsider fiction” written by non-professional, “amateur” authors who have often been marginalized

² See, e.g., Sara R. Benson, *Beyond Protective Orders: Interdisciplinary Domestic Violence Clinics Facilitate Social Change*, 14 CARDOZO J.L. & GENDER 1, 9 (2007) (incorporating fictional narratives into domestic violence clinics allows the students to counter stereotypes about battered women, enhance compassion for clients, and assist students to better convey the narratives of clients in the courtroom); Binny Miller, *Give Them Back Their Lives: Recognizing Client Narrative in Case Theory*, 93 MICH. L. REV. 485, 486 (1994) (stating “clinical theory has long grounded narrative in the actual practice of lawyering.”).

by society.³ In her classic article on the role of fiction in law school clinics, Caroline Grose points out that having students read outsiders' stories is a mechanism to prepare students for interviewing clients whose life experiences are so different than their own that "it won't appear on their radar screen."⁴ She makes the case that:

When we read fiction, we suspend our disbelief. We understand that the people who are acting so differently from how we in these situations would act are fictional characters, so we are able to feel compassion for them. We are able to see their world and hear their stories without rejecting it and them as implausible.⁵

A student who has read realistic fiction in advance of client interviews will not be so ignorant of the client's circumstances, so quick to disbelieve accounts that are often foreign to middle class, more privileged experiences.⁶

Law school clinics regularly serve criminal defendants, immigrants, victims of domestic abuse, tenants, juveniles, and the disabled. The student who is exposed to stories that convey the legal and institutional barriers that constrain their lives will be better able to advocate for these clients. As Mari Matsuda writes:

The imagination of the academic philosopher cannot recreate the experience of life on the bottom.... The technique of imagining oneself black and poor in some hypothetical world is less effective than studying the actual experience of black poverty and listening to those who have done so.⁷

Moreover, we serve diverse populations; stories that center on different experiences develop our students' cross-cultural understanding and communication skills.

³ As defined by Carolyn Grose, the outsider is "someone who does not have access to the channels of power and communication in this society." Carolyn Grose, *A Field Trip to Benetton...and Beyond: Some Thoughts on "Outsider Narrative" in a Law School Clinic*, 4 CLIN. L. REV. 109, 110 n.4 (1997).

⁴ *Id.* at 123.

⁵ *Id.* at 124.

⁶ Grose describes her interactions with a white male heterosexual clinic student, who had no experience with non-biological mothers in lesbian relationships impacting his representation of a lesbian client. *Id.* at 11-12 n.3. Sara Benson advocates interdisciplinary approaches to domestic violence clinics so that student lawyers will better be able to advocate for their clients if they are exposed to narratives from outgroups such as battered women, thus breaking down stereotypes and enabling students to see the world through their client's eyes. Benson, *supra* note 2, at 19-20.

⁷ Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323, 325 (1987).

There is, as Martha Nussbaum has advocated, a powerful argument to read fiction as a spur to creating the empathetic awareness as a part of public life and political decision-making.⁸ Susan Keen defines “ambassadorial empathy” as the narrative goal of fiction writers who wish to motivate readers to seek societal change.⁹ Outsider narratives routinely tell stories of poverty, disadvantage, and discrimination. They are written in hopes of increasing awareness of injustice and effecting change.¹⁰

As Marijane Camilleri has written:

Literature offers the reader the opportunity to experience intimately another human being whose perspective may not be familiar. This experience is not relatable or reducible to mere fact which can augment the body of social science data.¹¹

Fiction is, of course, not the only tool to build empathy among clinical law students, but it is a powerful catalyst. “Anyone who cried when Beth died in *Little Women*, or cheered when Harry Potter exacted his revenge on Voldemort, has experienced the transportive power of literary fiction. When we read, we become one with the story’s protagonists, experiencing their thoughts and emotions firsthand.”¹²

Gerald Lopez critiques the typical hierarchical relationship that progressive lawyers have with their clients: coming from privileged socio-economic backgrounds, lawyers typically assume top-down leadership in law reform litigation and advocacy when they know little about their clients’ actual lived experience.¹³ To the extent that young lawyers learn more about their clients’ lives and stories, collaboration is encouraged that can more effectively convey injustice to the trier of fact or decisionmaker.¹⁴

⁸ MARTHA NUSSBAUM, *POETIC JUSTICE: THE LITERARY IMAGINATION AND PUBLIC LIFE* 2-4 (1995). “I defend the literary imagination precisely because it seems to me an essential ingredient of an ethical stance that asks us to concern ourselves with the good of other people whose lives are distant from our own.” *Id.* at xvi.

⁹ Suzanne Keen, *A Theory of Narrative Empathy*, 14 *NARRATIVE* 207, 215 (2006).

¹⁰ See generally Marijane Camilleri, *Lessons in Law from Literature: A Look at the Movement and a Peer at Her Jury*, 39 *CATH. U. L. REV.* 557 (1990).

¹¹ *Id.* at 564.

¹² Jennifer L. Connell, *Reading Cases for Empathy*, 17 *U. ST. THOMAS L.J.* 772, 772-77 (2022).

¹³ GERALD P. LOPEZ, *REBELLIOUS LAWYERING: ONE CHICANO’S VISION OF PROGRESSIVE LAW PRACTICE* 24-26 (1992).

¹⁴ Richard Delgado explains why members of “the Ingroup” should read stories from members of “the Outgroup”:

Racial and class-based isolation prevents the hearing of diverse stories and counterstories. It diminishes the conversation through which we create reality, construct our communal lives. Deliberately exposing oneself to counterstories can avoid that impoverishment

For clinical faculty, the goal of developing empathy can further the objective of encouraging more students to pursue legal and social justice post-graduation—whether in government, public interest law, *pro bono* commitment in private practice, or community action. Students who hear their clients' stories as told to them in interviews may be more likely to continue justice-oriented representation in their professional careers. Realistic fiction, like client interviews, can play a role in providing students the vicarious experience of the impact of unjust laws and prompting them to work for change.

B. Prompting Discussion of Policy Issues

The meatiest fictional stories also raise challenging policy issues pertinent to course subject matter. Policy papers, newspaper articles, and other media all address policy issues pertinent to the scope of law school clinics. However, “law and literature” stories, such as those discussed below, will complement consideration of policy issues by focusing on individuals' experiences and bringing home the consequences of legal policy choices.¹⁵ For example, “Junk Menagerie” raises the question of criminal responsibility for persons addicted to heroin, given the extreme intensity of their craving and the pain of withdrawal. “Los Otros Coyotes” movingly conveys the impact of border control policies that separate children from their parents.

C. Developing Good Narrative Skills

Good story telling techniques are essential to effective advocacy, whether in the courtroom or in public policy debate. As Thomas Mauet and Stephen Easton observe:¹⁶

... and can enable the listener and the teller to build a world richer than either could make alone.

Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411, 2439 (1989).

¹⁵ See, e.g., Phyllis Goldfarb, *Beyond Cut Flowers: Developing a Clinical Perspective on Critical Legal Theory*, 43 HASTINGS L.J. 717, 734 (1992) (literary accounts can inform students in criminal law clinics about important criminal justice policy issues); Richard F. Storrow, *Finding a Home for Migrant Stories: A Plea to Include Fiction Involving Migrant Women in Law and Literature and Immigration Policy Courses*, 33 GEO. IMMIGR. L.J. 39, 42 (2018) (immigrant stories in immigration clinic classes can “spark debate about policy choices and potential reforms.”); Mira Edmonds, *Why We Should Stop Talking About Violent Offenders: Storytelling and Decarceration*, 16 NE. U. L. REV. 51, 111-15 (2023) (modified narratives about so-called “violent” offenders can stimulate sentencing reform and early release from prison).

¹⁶ THOMAS A. MAUET AND STEPHEN D. EASTON, TRIAL TECHNIQUES AND TRIALS, ELEVENTH EDITION 27 (11th ed. 2021). Professors Stephan Krieger and Richard Neumann, Jr. similarly urge legal advocates, whether they're engaging in interviewing, negotiations, or trials, to find “the story in the facts” of the case by engaging in “narrative thinking” that focuses “not only on the verbal and logical but also on the emotional and irrational.” STEFAN H. KRIEGER

Good stories organize, humanize, and dramatize. They have plot, characters, and emotion. They have a narrative structure.... The story uses sensory language; vivid, visceral, and visual images; present tense; pace; and simplicity to give life to the story and dimensions to its characters. The story is told in a way that puts the members of the audience into the picture, engaging their hearts and minds, so that the audience cares about the people and what happens to them. . . . And the story is told efficiently and always moves forward, so that it never stalls or becomes boring.¹⁷

Carolyn Grose writes that the Legal Storytelling Movement “has assumed pride of place as a tool to help students hear and incorporate the voices of ‘outsiders’ as they engage in and practice various lawyering skills”¹⁸ Grose teaches her students that “story construction” is “different from, although clearly related to ‘story telling.’”¹⁹ Binny Miller notes that lawyer and client have complementary roles in constructing the client’s story, and urges a greater role for clients’ voices in making the most persuasive presentation:

Case theory—or theory of the case—can be seen as an explanatory statement linking the “case” to the client’s experience of the world. It serves as a lens for shaping reality, in light of the law, to explain the facts, relationships, and circumstances of the client and other parties in the way that can best achieve the client’s goals. The relevant reality combines the perspectives of the lawyer and the client with an eye toward the ultimate audience—the trier of fact.²⁰

A key story-telling principle is to “show not tell.”²¹ The author largely avoids summary and instead “shows” the story through the characters’ dialogue, interior monologue, gestures, or actions.²² There is a direct tie-in

AND RICHARD K. NEUMANN, JR., *ESSENTIAL LAWYERING SKILLS: INTERVIEWING, COUNSELING, NEGOTIATION, AND PERSUASIVE FACT ANALYSIS* 183 (4th ed. 2011). Professors Anthony G. Amsterdam and Jerome Bruner point out: “Law lives on narratives, for reasons both banal and deep. For one, the law is awash in storytelling.” ANTHONY G. AMSTERDAM AND JEROME BRUNER, *MINDING THE LAW* 110 (2002).

¹⁷ MAUET & EASTON, *supra* note 16, at 25-26.

¹⁸ Carolyn Grose, *Storytelling Across the Curriculum: From Margin to Center, from Clinic to the Classroom*, 7 J. ASS’N LEGAL WRITING DIRS. 37, 39 (2010).

¹⁹ *Id.*

²⁰ Miller, *supra* note 2, at 487.

²¹ KRIEGER & NEUMANN, *supra* note 16, at 184.

²² RENNI BROWNE AND DAVE KING, *SELF-EDITING FOR FICTION WRITERS* 16 (2d ed. 2004). Of course, the “show not tell” principle is not an inviolable rule. There are numerous situations where a narrative summary (telling not showing) may be appropriate, such as

between effective story telling techniques and conveying the harsh impact of government policies. In “Junk Menagerie,” there is graphic depiction of a person addicted to heroin’s desperate craving that impels her narcotics trading, as well as of the unendurable pain she endures from unmedicated withdrawal after she is jailed. In “Los Otros Coyotes,” there is a vivid portrayal of a “great border wall” where boastful slogans are posted and the loudspeaker brays the president’s accomplishment in getting Mexico to pay for his great wall. A young immigrant boy who has been separated from his parents passes into another space where the piped in sound switches to angelic music. The child is injected with a microchip by a nurse who is the bureaucratic arm of this brutal surveillant dystopia. The reader is immediately on the side of this boy and critical of policies that separate families and dehumanize migrants.

II. EXAMPLES OF FICTION TO INCORPORATE

The fiction that we discuss as examples come from a variety of genres—ranging from autobiographical to speculative, but they are based on real-world scenarios. The stories are written by a spectrum of authors—established professional to amateur to prison inmate. They switch from first person to third person and occasionally second person with considerable fluidity, and include considerable differences in tone. Reading and reflecting on these stories should prompt students to consider how they tell their clients’ stories—in court, before an agency, before a legislature, in negotiations, or in other public advocacy.

A. Fiction Focused on Outsider Communities

1. *Junk Menagerie: Drug Abuse*

PEN America, an organization dedicated to free political expression, publishes fiction and essays from prisoners whose writings have won awards either on its website or in annual compilations.²³

Haley Teget’s short story *Junk Menagerie*, which was awarded first prize in fiction in the PEN America 2015 prison writing contest, serves the dual objectives of eliciting empathy for a drug user ensnared by the criminal justice system and providing a factual scenario that raises challenging policy questions.²⁴ It has a tripartite structure that conveys a three-fold message. The story begins with a first-person narrator,

where it condenses repetitive action, describes minor plot developments or actors, or is useful to vary the rhythm or pace of the narrative

²³ *Prison Writing Awards Winners Archive*, PEN AMERICA, <https://pen.org/prison-writing-award-winners-archive/> (last visited Dec. 21, 2024).

²⁴ Haley Teget, *Junk Menagerie*, PEN AMERICA (Nov. 23, 2015), <https://pen.org/junk-menagerie/>.

Charlotte, describing the all-consuming nature of the narrator's heroin addiction and the drug dealing in which she and her boyfriend engage to feed their uncontrollable craving. The second section is a bureaucratic third-person police report on her arrest that eliminates her personal identity. The last part returns to a first-person narrative that portrays her life as a prisoner serving an unexpectantly long sentence with a resulting loss of personal identity.

Haley Teget was herself arrested for drug trafficking at age twenty-two in Boise in 2012 and received a 20-year sentence.²⁵ Charlotte switches to the second person when she explains to us what it is like for her to get heroin—using “you” to involve us the readers, and engage us in understanding her overpowering need:

Going to get a bunch of heroin is an exciting prospect for a heroin addict. I mean, going to get high is a good feeling, but going to get a month's worth of highs is a million times better. It's like when you're starving and someone offers you a few potato chips out of their bag. If you just eat one or two chips, it's only going to make you hungrier, and you'll focus on that certain delicious chip-y taste. Do you even want to go down that road? Most junkies will, but not me. I want the whole bag or it's not worth the effort. I want more than one bag; I want it all, so I go for the box.²⁶

Charlotte and her older boyfriend Matt undertake a bus trip (they go by Greyhound because they are unlikely to be searched on the bus) to secure a supply of heroin for their own use and for distribution. This road trip bears no resemblance to fun, tourist road trips. The couple take along a supply of heroin they calculate is sufficient for the journey, but soon they desperately inject heroin at a rest stop that they thought would last them the whole trip. Charlotte illustrates that for persons addicted to heroin there is no joy in the high. She and her boyfriend are no longer able to have sex and they are afflicted with constipation. For most students, the extent of their constant craving and inability to postpone an injection is a revelation.

The brief second part of the story has an entirely different tone—it is an impersonal, detached replica of a standard police incident report, similar to that issued when Teget was herself arrested. All that matters is the place and date of the arrest, that she is suspected of multiple heroin sales, and that she was given her *Miranda* rights.

²⁵ Idaho v. Teget, No. 40909, 2014 WL 1311772 (Idaho Ct. App. Apr. 1, 2014). The minimum sentence she was required to serve before eligibility for parole was eight years.

²⁶ Teget, *supra* note 24, at 1.

In the third part of the story, Charlotte is in prison. Although a first-time offender, she has been given a sentence of fifteen to twenty years. Her boyfriend has, to her surprise, received a more lenient sentence. From a middle-class background, Charlotte never imagined herself in prison and feels the shame she has brought upon her mother and her family. But far worse is the pain of withdrawal. As in so many prisons, she has received no medication and she describes the pain of withdrawal, including vomiting and insomnia:

You don't sleep, only hallucinate. And the deeper your withdrawal, the worse your cravings—the number one reason you've never been able to kick in the first place.... All those euphoric highs you experienced in the early days? Welcome to the other side.

Every bodily fluid runs out of you: through your pores, your nose, your eyes, your butt, until you're a Sun-Maid raisin (with stomach spasms). You don't get anything to help your symptoms, nothing for insomnia, the nurse is only there to monitor.²⁷

The story ends with Charlotte not knowing who she really is: "Tell me who I am because I've lost myself and I just don't know."²⁸

Students can consider several policy issues as they read *Junk Menagerie*. First, does it make sense to hold a person with a drug addiction criminally responsible? While the status of being an addict is not punishable,²⁹ addiction is no bar to conviction for possession or sale of drugs. Courts have reasoned that the decision to use heroin initially was voluntary, and that the choice to abstain later might be difficult, but is not impossible.³⁰ One commentator who opposes an insanity defense for opioid addicts contrasts a patient with Parkinson's disease who could not stop shaking though threatened with death if he continued to shake with an epileptic who accidentally kills a motorist when he has an unexpected fit while driving: the epileptic could have chosen not to drive, but the Parkinson's patient could not choose to stop shaking.³¹

²⁷ *Id.* at 13.

²⁸ *Id.* at 17.

²⁹ *Robinson v. California*, 370 U.S. 660, 667 (1962).

³⁰ *United States v. Lyons*, 731 F.2d 243, 245 (5th Cir. 1984) (citing *United States v. Moore*, 486 F.2d 1139, 1183 (D.C. Cir 1973) and *Bailey v. United States*, 386 F.2d 1, 4 (5th Cir. 1967)); see also CAL. PENAL CODE § 29.8 (2017) ("In any criminal proceeding in which a plea of not guilty by reason of insanity is entered, this defense shall not be found by the trier of fact solely on the basis of...an addiction to, or abuse of, intoxicating substances.").

³¹ Stephen J. Morse, *Compelled or Cajoled? The Criminal Responsibility of Opioid Addicts*, AM. INTEREST (Nov. 6, 2018), <https://www.the-american-interest.com/2018/11/06/the-criminal-responsibility-of-opioid-addicts/>.

On the other side, the National Institute on Drug Abuse recognizes addiction as “an intense and, at times, uncontrollable drug craving, along with compulsive drug seeking and use that persist even in the face of devastating consequences.”³²

It has been argued that hardened addicts are substantially unable to conform their conduct to law, and that the law should be reformed consistent with Model Penal Code provisions that adopt such a test for not guilty by reason of insanity—requiring a showing that as a result of a mental disease or defect the defendant lacks “substantial capacity” to “conform his conduct to the requirements of law.”³³ We have asked half of our class to locate textual evidence that a prosecutor could cite to demonstrate that Charlotte and Matt are in control (e.g., bribing taxi drivers, circulating between Portland and Boise to buy cheap and sell at higher prices) while the other half of the class locates textual evidence in which they take their life into their hands by very dangerous methods of injection. Charlotte tells us that she could not stop when she needs a fix even if a policeman were at her side—an illustration that has been used in insanity defense cases.

The text may also open up a debate by clinic students on drug policy. Most students will readily appreciate the concern with drug-related crime and that Charlotte and Matt are distributors who to feed their own habits are selling heroin to others. Other students, however, may perceive the failure of drug laws to date to stem heroin usage, and the injustice of incarcerating addicts without providing methadone. Only about a quarter of prisoners receive any kind of drug treatment while in prison,³⁴ and persons addicted to heroin or fentanyl are at great danger from fatal overdose when released without methadone.³⁵ *Junk Menagerie* could serve as a useful springboard to discuss the advantages and disadvantages of laws criminalizing drug abuse. When representing a client in a drug case, the lawyer often faces the challenge of presenting arguments for sentence mitigation. From the perspective of developing lawyering skills, the text offers an opportunity for students to consider

³² NATIONAL INSTITUTE ON DRUG ABUSE (NIDA), PRINCIPLES OF DRUG ADDICTION TREATMENT FOR CRIMINAL JUSTICE POPULATIONS: A RESEARCH-BASED GUIDE 3 (2018), https://nida.nih.gov/sites/default/files/txcriminaljustice_0.pdf.

³³ 32 MODEL PENAL CODE § 4.01(1) (Am. L. Inst. 1962).

³⁴ Among inmates who met the DSM-IV criteria for drug dependence or abuse, 28% of prisoners and 22% of jail inmates received drug treatment or participated in a program since admission to the current facility. NIDA, *supra* note 32, at 3.

³⁵ The National Institute on Drug Abuse finds that a former inmate’s risk of death within the first two weeks of release due to overdose is more than 12 times that of other individuals. *How Is Opioid Use Disorder Treated in the Criminal Justice System?* NIDA (June 2018), <https://nida.nih.gov/publications/research-reports/medications-to-treat-opioid-addiction/how-opioid-use-disorder-treated-in-criminal-justice-system>.

how Charlotte could be humanized to a court, if the craving she experiences is effectively portrayed.

The assignment of criminal responsibility to persons addicted to heroin because of so-called voluntary decisions to consume also raises the issue that in many instances drug addiction begins when one is a minor. It is arguably inconsistent to ignore the immaturity of adolescent decision-making when recent Supreme Court jurisprudence such as the *Roper/Miller*³⁶ line of cases abjures the death penalty and life imprisonment for juveniles in recognition that adolescents are impulsive and more influenced by frequently troubled home environments.

Additionally, “Junk Menagerie” raises “the boyfriend problem.” As Phyllis Goldfarb has observed, female first-time offenders have suffered penalties substantially disproportionate to their individual involvement in drug activity.³⁷ A man who may have a much greater role in a drug conspiracy may secure a lighter sentence because he has more significant information to trade in plea bargaining versus his partner who may have had more minor involvement.³⁸

2. *Los Otros Coyotes: The Pain of Family Separation*

Students in immigration clinics will be familiar with President Trump’s family separation policy objective of “zero tolerance” that separated 5,000 children from their parents at the U.S-Mexico border during his first term in office.³⁹ Apart from the cruelty of separation, there was no adequate tracking device to enable eventual reunification. Even after the policy was reversed as a result of public outcry and judicial intervention in the summer of June 2018, the aftermath has continued in the form of devastating psychological damage and a protracted search to reunify all the separated families.⁴⁰

³⁶ *Roper v. Simmons*, 543 U.S. 551, 568 (2005) (invalidating the death penalty for individuals under age 18 when they commit crimes); *Miller v. Alabama*, 567 U.S. 460, 466, 480 (2012) (invalidating mandatory life imprisonment for individuals under age 18 when they commit crimes).

³⁷ Phyllis Goldfarb, *Counting the Drug War’s Female Casualties*, 6 J. GENDER RACE & JUST. 277, 294 (2002); see also Mark Maurer, *The Changing Racial Dynamics of Women’s Incarceration*, THE SENTENCING PROJECT (Oct. 15, 2013), <https://www.sentencingproject.org/publications/the-changing-racial-dynamics-of-womens-incarceration/>.

³⁸ See Marlyn Harrell, *Serving Time for Falling in Love: How the War on Drugs Operates to the Detriment of Women of Circumstance in Poor Urban Communities of Color*, 11 GEO. J.L. & MOD. CRIT. RACE PERSP. 139, 140 (2019); Holly Jeanine Boux and Courtenay W. Daum, *Stuck between a Rock and a Meth Cooking Husband: What Breaking Bad’s Skyler White Teaches Us about How the War on Drugs and Public Antipathy Constrain Women of Circumstance’s Choices*, 45 N.M. L. REV. 567, 574 (2015).

³⁹ Piper French, *Left Apart*, N.Y. INTELLIGENCER, Feb. 27, 2024.

⁴⁰ Ted Hesson & Nathan Layne, *Trump Refuses to Rule Out New Migrant Family Separations, but Allies Are Wary*, REUTERS (Nov. 27, 2023), <https://www.reuters.com/world/us/trump-refuses-rule-out-new-migrant-family-separations-allies-are-wary-2023-11-27/>.

“Los Otros Coyotes” is a readily imaginable dystopian story that is set in the near future, that closely echoes Trump policies.⁴¹ Daniel Olivas describes two youngsters separated from their parents, with 30 minutes to say good-bye, at the Mexican border. The 10-year-old protagonist Rogelio and his teenage sister Marisol pass through a border with murals depicting the life of a megalomaniac president. The loudspeaker plays “I will build a great wall—and nobody builds walls better than me.” Like the other migrants, Rogelio passes to a nurse who examines his dog tag and then with soothing angelic music playing, injects him with a microchip—like those today implanted in pets.

Arriving in Los Angeles, the children are luckier than most because they move in with their loving Aunt Isabel who does all she can to be warm and welcoming. Although their home and schooling approach “near normal,” Marisol and her cousin have joined the group “Los Otros Coyotes” which operates a reverse Underground Railroad. Rogelio begs to be reunited with his mother and father. Rightly or wrongly, Marisol takes her brother to Vivaparú, the leader of Los Otros Coyotes.

In contrast to the harsh sounds at the border, Vivaparú, who is non-binary, speaks to the child in a gentle voice. The name that they have taken is the Spanish equivalent of Vick’s VapoRub that Rogelio’s mother applied when he was ill. Vivaparú explains to the child that Homeland Security uses microchips to track young immigrants so that the government can direct them to jobs that need filing when they grow up.

To enable Rogelio to return home, the microchip will be removed from Rogelio’s body and implanted in a cat. Rogelio is placed with other returning migrants in “the belly of the beast,” the luggage compartment of a large black bus. The story ends in tension and heartbreak when the bus jerks to a stop. Flashlights aim at the children in the bottom of the bus and a woman screams “Oh, my God!” In the best dystopian narrative tradition, the reader longs to know what happens next, but is not told.

This is a moving narrative which illustrates some of the benefits of realistic fiction in clinical classes. The microchip tracking device is far more invasive than the requirement imposed on some migrants that they wear ankle bracelets, and has the added evil of being covertly installed—a violation of Nuremberg principles requiring informed consent.⁴² Because the story is focalized on a small child, it movingly portrays his distress at being separated from his own parents—although he has the relative good fortune of being placed with a caring aunt and situated in a good school. Good lawyering skills can be developed by

⁴¹ Daniel Olivas, *Los Otros Coyotes*, in *HOW TO DATE A FLYING MEXICAN: NEW AND COLLECTED STORIES* 163-83 (2022).

⁴² See *The Doctors Trial: The Medical Case of the Subsequent Nuremberg Proceedings*, HOLOCAUST ENCYCLOPEDIA, <https://encyclopedia.ushmm.org/content/en/article/the-doctors-trial-the-medical-case-of-the-subsequent-nuremberg-proceedings> (last visited Dec. 21, 2024).

close attention to the way in which Rogelio's pain is described and how his longing for his parents cannot be assuaged despite the kindness he receives with from his aunt's welcome.

As is typical in the dystopian genre, his teen-age sister assumes a responsibility way beyond her years. Students can discuss whether Marisol and Vivaparú made the right ethical choice in allowing Rogelio to hazard a return to his parents when he was safe, though unhappy, in his aunt's home.

Clinic students can both resonate with the agony of Rogelio's separation and evaluate the consequences of the Los Otros Coyotes group's mission. While the coyote takes an immigrant's money, often in an act of extortion, to lead his or her countrymen across the border to the U.S., there is no question that the "other coyotes" in the story are compassionate and well-intended. Yet the journey back to Mexico is just as fraught and, in fact, it appears that the bus has been apprehended and the occupants will be detained.

There is no easy, happy outcome to the policy of family separation, nor is it limited to the forced separation imposed in 2018. The broader policy conundrum is that an individual parent or teenager will cross the border for a better future leaving other family members behind. Those who enter the U.S. and those left behind are forced to decide whether the journey is worth the enormous personal toll of leaving loved ones behind.

3. *Chin: Immigrant Domestic Abuse*

In domestic abuse clinics, students engage in client-centered legal representation as they focus on obtaining protective orders and otherwise representing their clients. It is a practice that prioritizes empathetic understanding, sensitivity to an individual's or families' particular circumstances and cultural background, and flexible problem-solving. "Chin" is a text that can help inform clinical students how they can better relate to their clients in a cross-cultural context and develop a more nuanced approach in addressing domestic crises.

"Chin," a short story by the well-known author Gish Jen,⁴³ addresses domestic abuse in quite a novel way. The first-person narrator who identifies as White ("Vanilla") tells of the repeated beating experienced by a Chinese American boy next door. The story illustrates the consequences of cross-ethnicity generalizations—a common problem of engaging in misleading, prejudicial, or ignorant stereotyping.

It is easy for the narrator and his family to spy or eavesdrop on the Chin family because their adjacent apartment is a kind of goldfish bowl; their daily routines present a kind of reality TV show for the narrator's

⁴³ Gish Jen, *Chin*, in *Who's Irish* 105-113 (1999).

spectator family. The narrator's family—where it seems that academics are an afterthought—watches as the son does his equations or gets beat up by his father. In effect, the Chins are surveilled as if in a panopticon.

The Chin boy, who tellingly lacks a first name that would give him an individual identity apart from that of his parents, gets beat up by his peers as well as at home. The narrator feels guilty because he “should’ve kept my eyes on the TV where they belonged, instead of watching stuff I couldn’t turn off,” but rationalizes that he was a good guy who at least did not chase young Chin onto the roof.

One evening the narrator's family watches while Chin's sister protests a beating by their father, and is in turn abused by the father. She and her mother pack a suitcase and begin to leave the house, but end up turning back. The narrator's father, a fireman, considers intervening, but in fact does not come to their rescue. The narrator's family is stunned to see the situation return to “normal” as the father makes tea for Chin and then they return to the blackboard to do equations.

This is a useful story to teach in domestic relations clinics, as well as in immigration clinics. The boy is bullied at home and bullied in the community by his peers. Chin is an outsider to the other kids—who think that he can elude their chase because he has “monkey feet.” Racism, ignorance and stereotyping play a role. The narrator's father wonders if Chin is part of a “gang.” And at home, Chin's father, a doctor in China and here a taxi driver, is obsessed with improving the boy's performance in math and science—unfortunately, a metal garden stake is his tool.

The story can elicit discussion on the extent to which Chin's abuse is affected by his immigrant background. Among the evils of the “model minority myth”⁴⁴ is the pressure that it exerts for success and the assumption that Asian children will excel in math and science regardless of the child's proclivities and background. In another sense, the parental abuse is relatable to the pressures, disappointments, and anxieties that lead parents to abuse children independent of any particular social status. For Jen, as in other immigrant “abuse” fiction, the father's difficulties in assimilation lead to assertion of what Jonathan Freedman has called a “violent masculinism.”⁴⁵

The young White third person narrator is technically “omniscient” but in fact deeply ignorant. However often they are observed, the members of the neighbor Chin family remain strangers and the narrator's family is astonished to see that after a violent confrontation they return to the blackboard. The story is a way to instill in students the dangers of evaluating other families based on our own self-centered myopic views.

⁴⁴ See Joshua Freedman, *Transgressions of a Model Minority*, 23 SHOFAR 66, 69 (2005).

⁴⁵ *Id.* at 96.

It appears that notwithstanding the abuse there is a fragile harmony and sustained purpose to the Chin family.

B. Jill's Trials: Strategic and Ethical Dilemmas in a Clinic Setting

Peter Meyers has written a novel published by Brandylane Publications in 2025 called *Jill's Trials*. The questions that this novel raise include strategic and ethical dilemmas relevant to law school clinics.

In this novel, a student in a criminal defense clinic becomes overly involved with her court-appointed client. Talented but troubled, Jill is unwittingly duped into helping him in his criminal activities. Jill's personal involvement with her client was obviously improper, and she did not disclose it to her supervising professor. Rule 1.7(b)(4) of the District of Columbia Rules of Professional Conduct prohibits conflict of interest; such relations may impede a lawyer's ability to offer dispassionate professional advice. What should Jill do when she finds out that her client is threatening to have his accuser murdered? The District of Columbia Rules of Professional Conduct state that a lawyer "may" inform the legal authorities of a client's plan to commit such a crime, but the lawyer is not ethically required to do so.⁴⁶ The rule reads "may" not "shall," resulting in an obvious dilemma.

What action should her supervisor, an experienced criminal law professor, take when he learns of the improper relationship and the improper things that Jill has done to assist her client? If he reports her to the dean as he ought, it will extinguish a promising legal career. If he fails to report her, he violates his duty as her supervisor and, if discovered, seriously jeopardizes his own career as a law professor.

Because it is set in a clinical program, this novel addresses topics that clinicians and students may find familiar. Clinicians, for example, will recognize a controversy over whether to give tenure to an outspoken clinical law professor. Many clinical law students will identify with the tough decisions that Jill needs to make regarding her future employment. Can she overcome nervousness to become an effective advocate in the courtroom? Saddled with debt, should she "sell her soul" by joining a big law firm?

It turns out that Jill's clinical experience—notwithstanding her disastrous involvement with a client—is on balance highly positive. She makes the decision to become a public defender after she successfully represents a woman accused of prostitution; she finds a way to avoid conviction and help her client try to turn her life around. Following this experience, Jill increasingly considers her role as defense counsel: she determines that it is not only to defend the client but also to help victims

⁴⁶ D.C. RULES OF PROF'L CONDUCT R. 1.6.

of abuse and/or addiction find the help they need, if they are willing to seek it. The lawyer's professional obligation is limited to the scope of the engagement, and he or she is not a social worker. But should a lawyer helping clients who have been oppressed by social and institutional barriers see her role more broadly? We think this is an important topic to debate in clinical law seminars.

Jill, like many students, struggles with parents, loneliness, debts, uncertainty over career path, and anxiety about her in-court performance. Relatability should hopefully engage law student readers to also seriously engage with the ethical questions presented. Moreover, this fictional tale also demonstrates the power of narrative not only to advocate for clients, but to help shape law students' professional identity of how they see and present themselves to others.

III. PRACTICAL TIPS FOR INCORPORATING FICTION IN SYLLABI

Below we explain why no literary training is needed to include narrative fiction in law school clinics and offer suggestions on how to locate other relevant texts or excerpts from novels.

A. *No Literary Background Is Needed*

It is easy to include a fictional component in the clinical syllabus without any background in literature. The clinical law professor (even one who has never taken a class in literature) is not giving a lecture which attempts to duplicate an English Department analysis of fiction applying literary theory. The goal is quite different—to come up with discussion questions to ask students' their responses to the texts. Some general prompts might include: What story-telling devices employed by the author did you find effective or ineffective? How and why were the protagonists depicted as they were? What were their challenges and back stories? As readers, what were your emotions/outrage/concerns? What policy issues were raised? Do any reforms come to mind? What are the practical difficulties in meeting challenges or implementing reforms? What successful storytelling techniques did the author employ that you can use in advocating for your clients?

We want to give students a vicarious understanding of the experiences of the characters and their legal/social predicaments. We want to stimulate a discussion of the policy issues raised and the need for reform. Additionally, we want to invite students to consider what they found effective or ineffective in the story's narrative technique—the building of character, the arc of the plot, and the description of physical setting. Outsider fiction is generally accessible and straightforward. These authors often seek to communicate their pain, protest oppression,

and spur reform; their purpose is to tell a story and send a message in the clearest possible terms. Students can discuss how the techniques employed by these authors can be successfully incorporated into good legal advocacy for clients.

While we believe that law professors in clinical courses can themselves lead these discussions of fictional narratives, another possibility is to invite to the class as a guest lecturer a professor who teaches literature at the university. This cross-fertilization of law and a literature professor could be a stimulating addition to the regular classroom discussion.

B. Sources for Texts

Most of us will only find the space in our syllabi to devote a class or two to fiction. Short stories thus are extremely practical. We don't need to locate a large number of relevant texts—three or four is about the limit, of course depending on the length of a clinical seminar class. In Appendix A, we include a list of examples of outsider stories that would be suitable in a clinic course involving a variety of areas—criminal defense, domestic abuse, and immigration as a starting point.

Our choices focus on the experience of marginalized communities. Consistent with the goals of Critical Theory, the stories focus our attention on those who are oppressed by racism, stigmatized by atypical lifestyles, or discriminated against on account of gender or ethnicity. As Richard Delgado writes:

Ideology—the received wisdom—makes current social arrangements seem fair and natural. Those in power sleep well at night—their conduct does not seem to them like oppression. The cure is storytelling (or as I shall sometimes call it, counterstorytelling).⁴⁷

For Delgado, “the most effective counterstories must invite the reader to suspend judgment, listen for their point or message, and then decide what measure of proof they contain.”⁴⁸

Professors can decide for themselves whether they wish to focus on outsider fiction such as Pen Archive stories or on well-known published authors, whether to supplement with true narrative accounts, and whether to incorporate relevant film.

The leading literary magazines offer fertile ground, especially as their archives enable search by topic and categories. For example, a professor teaching an immigration clinic can readily locate in *The New Yorker* archives stories by immigrant authors such as Edwidge Danticat,

⁴⁷ Richard Delgado, *supra* note 14, 2412-14.

⁴⁸ *Id.* at 2415.

Christina Henriquez, and Chimanda Adichie.⁴⁹ These stories offer a moving first-hand look at the abuse women immigrants face, obstacles to asylum, and color discrimination. Another source of stories is to inquire of professors teaching relevant courses in your college's English departments what fiction they might recommend.

Films—documentary, Hollywood, or animé—or video games, can also complement discussion of texts. In Appendix B, we provide a list of films appropriate for a variety of law school clinics.

CONCLUSION

Including fiction as a component of the syllabus provides clinical law students with the opportunity to better understand their clients' backgrounds and decisions—why they committed a crime and what might mitigate their sentence; why they left their country of origin and how they may gain admission or avoid deportation; how they have been abused as a result of gender status. Students who are moved by these stories are more likely to question oppressive institutional policies. And a student who closely reads a well-told story learns an important lesson: good storytelling is an invaluable skill to successful legal advocacy.

One approach is to invite to the class a professor who teaches literature at the university. But absent a guest lecturer, there should be no hesitation in discussing stories though one is a clinical professor who has never taken a class in literature.

⁴⁹ Chimanda Adichie, *The American Embassy*, in *THE THING AROUND YOUR NECK* 80-87 (2009); Edwidge Danticat, *Without Inspection*, in *EVERYTHING INSIDE* 115-27 (2019); Christina Henriquez, *Everything is Far From Here*, *THE NEW YORKER* (July 17, 2017), <https://www.newyorker.com/magazine/2017/07/24/everything-is-far-from-here>.

APPENDIX A

RECOMMENDED FICTIONAL NARRATIVES WITH ANNOTATIONS

Immigration Clinics:

LAN SAMANTHA CHANG, *The Unforgetting*, in *HUNGER: A NOVELLA AND STORIES* 134-53 (1998) (immigrant professor struggles as he fights for tenure; consequences for family).

LAILA HALABY, *Fire and Sand*, in *WEST OF THE JORDAN* (2003) (father's occupational disappointment, control over daughter's sexuality).

Christina Henriquez, *Everything is Far From Here*, *NEW YORKER*, July 24, 2017, at 52 (family separation).

Gish Jen, *No More Maybe*, *NEW YORKER*, Mar. 19, 2018, at 76 (inter-ethnic race animosity).

Mohja Kahf, *Spiced Chicken Queen of Mickaweauquah*, Iowa, in *DINARZAD' CHILDREN: AN ANTHOLOGY OF CONTEMPORARY ARAB AMERICAN FICTION* 137 (Pauline Kaldas & Khaled Mattawa, eds., 2004) (Muslim immigrant turns tables on her abuser).

ACHY OBEJAS, *WE CAME ALL THE WAY FROM CUBA SO YOU COULD DRESS LIKE THIS?* (1994) (father cannot come to terms with daughter's gender nonconformity).

Domestic Abuse Clinics:

SANDRA CISNEROS, *WOMAN HOLLERING CREEK AND OTHER STORIES* (1991) (crossing into Texas, new bride battles abuse).

SANDRA CISNEROS, *THE HOUSE ON MANGO STREET* (1983) (vignettes of *ventaneras*—confined women who see their world through a window).

CHINELO OKPARANTA, *Shelter*, in *HAPPINESS, LIKE WATER: STORIES* 109-21 (2013) (through a young girl's eyes, efforts that her mother makes to find them a safe place).

Bharati Mukerjee, *A Father*, in *DARKNESS* (Penguin Books Canada Ltd. 1985) (a father's response to daughter's pregnancy).

Criminal Justice Clinics:

JOYCE CAROL OATES, *Tetanus*, in *GIVE ME YOUR HEART: TALES OF MYSTERY AND SUSPENSE* (2012) (a young boy is taken into police custody).

Prison Writing Awards Winners Archive, PEN AMERICA, <https://pen.org/prison-writing-award-winners-archive/> (last visited Nov. 27, 2024):

- Lynne Agnew, *Sabrina*, May 10, 2011 (prison neglect of person addicted to heroin).
- Jason Cockburn, *Labels Break Me*, Nov. 23, 2015 (a small boy's dreams destroyed by drugs).
- Rick Matzke, *In a Nut's Cell*, June 25, 2009 (a lonely old man gets ready for release from prison).
- Anna Vanderford, *Double Time/Borrowed Time/Time's Up*, Aug. 6, 2018 (a young girl's involvement in the prison system—from drugs to maximum security).
- John Cephas Young, *My Penal Vacation*, Aug. 6, 2018 (no plan, no help for the returning citizen after release).

James Baldwin, *Sonny's Blues*, in *THE JAZZ FICTION ANTHOLOGY* 17-48 (Ed Sascha Feinstein & David Rife, eds., 2009) (two brothers reconnect; the elder finally listens to his brother's blues as he hears his brother's struggle with heroin addiction).

MADISON SMARTT BELL, *Customs of the Country*, in *BARKING MAN AND OTHER STORIES* 38–57 (1990) (termination of parental rights for a mother who has battled drug addiction).

APPENDIX B
RECOMMENDED FILMS WITH ANNOTATIONS

Criminal Justice Clinics:

SHAWSHANK REDEMPTION (Warner Brothers 1994) (prison conditions, parole, post-release).

MY COUSIN VINNY (Twentieth Century FOX 1992) (comedy-drama murder trial with novice defense attorney).

IF BEALE STREET COULD TALK (Annapurna Pictures 2019) (police dishonesty, racist administration of criminal justice).

AMERICAN HISTORY X (New Line Cinema 1998) (neo-Nazis in prison).

HATE U GIVE (Twentieth Century FOX 2018) (police brutality).

SHOT CALLER (Saban Films 2017) (navigating prison).

CHICAGO (Miramax 2002) (great musical addresses favoritism in prisons, celebrity justice, skillful tap-dance lawyering).

Black Mirror, White Bear (Feb. 18, 2013) (Season 2, Episode 2) (Netflix TV Series 2011-2023) (sadistic repetitive punishments imposed).

SLEEPERS (Warner Brothers 1996) (abuse of juveniles in detention).

Immigration Clinics:

GREEN CARD (Touchstone Pictures 1990) (Frenchman tries to show his marriage is bona fide).

MISMA LUNA OR UNDER THE SAME MOON (FOX Searchlight Pictures 2007) (young child crosses the border to reunite with his mother).

SLEEP DEALERS (Maya Entertainment 2008) (dystopian film where Mexican would-be emigrants are implanted with cables allowing them to control robots in the US to do work in the US).

AMERICAN IMMIGRANT-A SHORT FILM (Shady Mawajdeh 2021) (manipulation of Palestinian immigrant).

A BETTER LIFE (Summit Entertainment 2011) (man seeking better life for his son struggles, criminal involvement).

BIENVENIDOS A LOS ANGELES (Flying Fish Pictures 2023) (deportation).

Superstore, Employee Appreciation Day (Season 4, Episode 22) (May 16, 2019) (NBC TV Series 2015-2021) (ICE round up of “collaterals” for deportation).

Orange is New Black, Minority Deport (July 26, 2019) (Season 7, Episode 5) (Netflix TV Series 2013-2019) (deportation).

Brooklyn Nine-Nine, Admiral Peralta (Season 2, Episode 18) (March 8, 2015) (FOX TV Series 2013-2021) (undocumented individual is witness in a high-profile case).

AMERICAN TAIL (Universal Pictures 2023) (animated story of family who emigrates from Russia to the United States).

MIGRANT (anime) (Universal Pictures 2023) (family of ducks leaves safety of New England pond).

Domestic Abuse Clinics:

PROMISING YOUNG WOMAN (Focus Features 2020) (rape and revenge).

SLEEPING WITH THE ENEMY (Twentieth Century Studios 1991) (controlling male).

WAITRESS (Searchlight Pictures 2007) (spousal abuse).

THE FIRE THAT TOOK HER (MTV Documentary Films 2022) (woman doused by her boyfriend—will her testimony be believed?).

Maid (Netflix TV Series 2021) (young mother escapes an abusive relationship and struggles to provide for herself and her daughter).