

ANNUAL PORTFOLIO: SUMMERS 2014 and 2015

HO* FELLOWS' RESEARCH

**TITLES & ABSTRACTS SUMMARIZING
RESEARCH FOCUSED ON THE
UNEMPLOYMENT SYSTEM OF THE UNITED STATES**

**Compiled by the Office of the Assistant Dean for Public Service at Cornell
Law School**

November 2015

*** HO (Harold Oaklander) Public Interest Fellowship to Advance Justice and
Public Policy against Persistent Unemployment**

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INTRODUCTION

Readers, especially academics who scanned the Table of Contents on the previous page may be inclined to comment “Looks like a pile of term papers turned in on the last day of class.” Nothing could be further from reality.

To begin with, writing the required Full Report during a period that rivals the average 3 credit course in length was not written in the peace and quiet of the Law School library. Rather, research was taken on and developed during 2 months spent out in the real world, dealing face to face with the victims of a social plague—unemployment. The topic of each 2015 report is summarized in its Abstract; with one exception, titles only of 2014 .Reports are listed. All Fellows’ contact addresses are provided.

As the Memorandum of Understanding (MOU) included in the Appendix on p.13 puts it, Fellows met day-in-and-day-out with the victims of the Unemployment System of the US as they spent their time assisting their host Legal Aid Society attorneys represent these unemployed destitute or discriminated workers. The mostly minority clients who make it to Legal Aid Society offices are among the most seriously impacted by unemployment. The point is that the Fellows’ experiences, unlike what happens in most classrooms stimulate curiosity, encourage questioning, and foster taking on intellectual challenges likely to generate useful research projects. Gratefully, unlike the majority of class term papers the work summarized in the following pages will not end up in a waste paper basket.

All project Abstracts, once mentored to professional grade, will be widely distributed. Authors’ contact information will encourage interested advocates and academics to email requests for full reports. I predict that a number of reports will find socially progressive application, as some have already started to bear fruit. For example, one 2014 Fellow’s research so impressed a potential employer that it triggered an early job offer. A 2015 Research Report, distributed early, attracted the interest of an organizer of seminars for practicing attorneys that address critical unemployment issues.

This Introduction acknowledges a unique Cornell precedent encouraging undergrad students to engage in library research on the Unemployment System of the U.S. I refer to a landmark 2008 School of Industrial and Labor Relations’ 3 credit course: “*The who, what, where, when, and why of unemployment-provoking mass layoffs.*” The organizer of yesterday’s innovative course is today’s ILR Dean, Dr. Kevin Hallock. He edited two volumes, published by Cornell ILR, of the course’s students’ full research reports. It is noteworthy that each of these 2008 reports happens to relate in some way to HO Fellow’s studies included in this 2015 portfolio.

2015 SUMMER

ABSTRACTS OF FELLOWS' FIELD RESEARCH REPORTS

Abstract (Sept. 2015)

**THE IMPLEMENTATION OF THE FEDERAL WORKFORCE
INNOVATION AND OPPORTUNITY ACT IN MARYLAND:**

PROBLEMS AND SOLUTIONS

Maame Esi Austin

The Workforce Innovation and Opportunity Act (WIOA) was reauthorized in 2014 with the goal of streamlining and strengthening the nation's reemployment system which has fallen out of sync with developments in today's emerging industries. Following the financial breakdown and recession of 2009, it became apparent that there was a need for concerted efforts to pair skilled workers with industries that require their services and to offer training to unskilled workers so as to enable such a class of persons to find employment after lay-offs or discharges. In August 2015, unemployment rates reportedly fell to 5.1 percent nationally, representing a seven (7) year low. Despite these gains there is still the need to help unemployed persons find decent work with corresponding pay.. This gap between unemployed or underemployed persons and decent reemployment may be bridged through expanded educational programs and training. The implementation of the WIOA is therefore an important tool to achieve this critical goal.

The WIOA is broader and more far-reaching than the Workforce Investment Act (WIA) it supplements. At its core, the WIOA seeks to provide practical skills to the individual job seeker and to achieve greater collaboration between state and local Workforce Boards in crafting appropriate reemployment programs. The WIOA grants greater flexibility to the Boards in the development of strategies that best suit their peculiar economic climate. The greatest difference between the WIOA and WIA however lies in the WIOA's provisions for especially deprived unemployed persons, e.g. under educated youth, etc.

This report seeks to examine these differences while focusing on the particular challenges that could impact the implementation of the WIOA provisions in Maryland. Solutions will be suggested

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2015 SUMMER HOST: Maryland Legal Aid Bureau

Abstract (Sept. 2015)**EX-OFFENDERS' BARRIERS TO EMPLOYMENT:
ADVOCATES' USE OF RESTRICTION WALKAROUND &
POLICY INITIATIVES****Elana Dahlager**

This summer, along with the Oaklander fellowship, I also worked as an Americorps fellow. My work in this capacity was focused on helping people overcome barriers to employment. This work necessarily overlapped greatly with the work I was doing for the Oaklander fellowship; these barriers to employment also effect unemployment prevention measures and how people can utilize services like workforce centers and other job seeking assistance measures. The main barrier to unemployment that clients seeking our services this summer had to overcome was a criminal record. A variety of issues related to child support also served as significant barriers to employment for the population of people that legal services organizations serve; people who are low-income, and in the Ithaca office, primarily non-White. These two issues were often both present; child support payments often continue to toll while someone is incarcerated, which means that a non-custodial parent can come out of prison owing thousands of dollars (or more) in child support. This can have a devastating effect on employment, in a variety of ways.

Another population that experiences difficult barriers to employment is the population of people who have past convictions for sex offenses. These past convictions serve to limit employment in the same ways as other criminal histories might, but also limit a person's ability to use the internet, for example, or to be in some public spaces. This means that a person's access to job seeking measures is also severely limited.

This paper will focus on some of the issues that people with criminal convictions, and especially those with convictions for sex offenses, face in seeking employment. It will discuss measures implemented in some jurisdictions to prevent employment discrimination, and advocacy work being done both on a policy and on a direct services level to help people overcome barriers to employment.

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2015 SUMMER HOST: Tompkins/Tioga Neighborhood Legal Services

Abstract (Sept. 2015)

COMMON ISSUES IN ACCESSING UNEMPLOYMENT INSURANCE

BENEFITS IN NEW YORK STATE

Yana Izrailov

This paper chronicles the experience of a legal practitioner serving low-income clients in the unemployment insurance benefits system. Specifically, this paper researches common issues claimants face in applying for or receiving unemployment insurance benefits. This paper will address issues in filing a claim, issues with determining credibility at hearings, and finally issues that arise at Department of Labor Rapid Response Events, in order to try and ascertain why such a low number of the unemployed population in New York receive unemployment benefits. Unfortunately, the low number of claimants receiving unemployment benefits seems to be a result of the inconsistent nature of administrative law. This research highlights the necessity of an advocate or representative for claimants at hearings to raise legal issues that administrative law judges overlook or ignore.

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2015 SUMMER HOST: Queens Legal Services

Abstract (Sept. 2015)**THE CURRENT ONE-STOP SYSTEM 'OHIO MEANS JOBS',
IS IT EFFECTIVE IN HELPING THE UNEMPLOYED AND
UNDEREMPLOYED?****Omar Khan**

With the passing of the Workforce Innovation and Opportunity Act, changes will be implemented in the One-Stop system across the nation starting July 1, 2015, and continuing into further years. With these changes comes a significant opportunity to assess and improve the functioning of One-Stops. The central question of this study is, "How does the Ohio Means Jobs System function and what improvements can be made, in light of WIOA, to increase its effectiveness in its goal of connecting employers and employees?"

The method of study involved visiting individual Ohio Means Jobs centers across northeast Ohio, speaking with staff and individual jobseekers utilizing the centers. In addition, it involved researching the web-pages of the Ohio Means Jobs system. The results were that the Ohio Means Jobs system falls short of the standards set by WIOA in helping the unemployed and underemployed. Its branding, particularly on its websites, leads to confusion due to poorly designed web-pages. Large amounts of information is missing from web-pages, and going from one center's webpage to another's is jarring. Non-English speakers do not receive adequate translation services, often having to call far in advance to reserve a translator. Finally, office organization can be haphazard and serve to further confuse individuals, often leading to long delays.

These shortcomings can be corrected to meet the WIOA standards. Designing a consistent and simple website layout across all Ohio Means Jobs centers furthers the common identifiers required by WIOA and allows individuals to easily access information about job centers near them. Providing greater access to translation services by having sufficient translators to meet demand on-call would significantly assist non-English speakers in using the Ohio Means Jobs centers. Reorganizing the layout of centers, and increasing staffing even by a small amount, could greatly reduce delays in waiting across the activities of the center.

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2015 SUMMER HOST: Legal Aid Society of Cleveland

Abstract (Sept. 2015)

THE PSYCHOLOGICAL EFFECTS OF UNEMPLOYMENT:
AN OVERVIEW FOR LEGAL AID WORK

Jessica Lam

Since the Great Depression, researchers have increasingly focused on unemployment as a threat to mental health. Due to the loss of social contact, reduction in self-esteem, and changes in societal identities and roles, the non-pecuniary effect of unemployment is often much larger than the effect from the associated loss of income. In addition, the effects of unemployment can vary depending on demographics – gender, race, social class, education level – or situational factors – current levels of unemployment in the area, family structure, degree of social support. This paper seeks to foster better understanding of the psychological effects of unemployment and, through that understanding, improve advocacy for low-income and unemployed clients. Part I provides an overview of the literature regarding unemployment and mental well-being, Part II introduces basic social psychology concepts, and Part III synthesizes and applies this information to my experiences at the Legal Assistance of Western New York.

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2015 SUMMER HOST Tompkins/Tioga County Legal Services

Abstract (Sept. 2015)**NANNIES, MAIDS AND AT-HOME CARE WORKERS, WHY DOES****U.S. LEGAL & POLITICAL REALITY SETS A SEPERATE EXISTANCE FOR THEM?****D. Julian Veintimilla**

Domestic workers are individuals who perform services that are of a household nature and which are generally performed in or near the private home of the employer. Examples of domestic worker positions include nannies, maids, and at-home health care workers. While few would question the essential nature of these jobs functions, American legal and political reality has carved out a separate existence for domestic workers within the realm of employment law compared to workers in other professional spheres. A number of some of the most impactful pieces of legislation affecting workers, including the Occupational Health and Safety Act and the Fair Labor Standards Act, do not include domestic workers within the protections that they offer to the vast majority of workers in the United States. One area within the field of employment law that affects many workers in a profound way is the Federal-State Unemployment Insurance Program, which provides unemployment benefits to eligible workers who become unemployed through no fault of their own. Though domestic workers have officially gained access to unemployment insurance eligibility though amendments to the Federal Unemployment Tax Act, there are still loopholes within current employment law that in some cases prevent domestic workers from collecting unemployment benefits. This report examines historical developments and trends to understand the background in which modern employment law was both formed and modified. These findings are used to explain the reasons why domestic workers are often treated differently compared to other employees in terms of having access to certain rights and protections from current employment law. The report also looks specifically at the historical developments regarding domestic workers obtaining access to unemployment insurance, and uses resources on this subject to analyze the interaction of the law with the reality of domestic workers seeking to acquire unemployment benefits. Finally, the report concludes with the finding that historical precedent does exist for reforming unemployment insurance system so as to allow for an expansion of the pool of applicants who can successfully maintain eligibility for unemployment benefits. Thus, those looking to ensure that domestic workers obtain full access to unemployment insurance could look to this precedent as a model for how to advocate on behalf of domestic workers going forward.

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2015 SUMMER HOST: Greater Boston Legal Services

SECTION II

2015 SUMMER - SPECIAL DOL FIELD RESEARCH PROJECT**Abstract (Sept. 2015)****RAPID RESPONSE TEAMS AS MANDATED BY THE ECONOMIC
DISLOCATION ACT (EDWAA) - A CROSS-STATE COMPARISON
BETWEEN NEW YORK, MASSACHUSETTS, AND WISCONSIN****Elana M. Dahlager & Jessica K. Lam***

The Economic Dislocation and Worker Adjustment and Assistance (EDWAA) Act and the Worker Adjustment and Retraining Notification (WARN) Act are two laws that relate directly to Rapid Response. WARN requires companies with 100 or more workers to provide at least 60 days' notice of a plant closing or mass layoff. EDWAA requires each state to establish a state-level Dislocated Worker Unit with a Rapid Response team. Thus, the two acts overlap: when a company gives a WARN notice, EDWAA requires states to initiate rapid response activities.

The Governor of each State designates a Dislocated Worker Unit (DWU) to provide overall administration and management of the program, including the regional Rapid Response Teams (RRTs). Services include sending a RRT to the site of a mass layoff; retraining and educational services to help workers qualify for other jobs; readjustment services, including counseling, outreach, and job search services; and needs related payments for dislocated workers in training who have exhausted their unemployment insurance benefits. Advance notice of a major layoff and initiation of rapid response services allows workers to begin training and job searching before the layoff occurs, thereby (theoretically) reducing the time spent in unemployment. Rapid Response also helps the company to “quickly maximize public and private resources to minimize the disruptions on companies, affected workers, and communities that are associated with job loss.”

Because DWUs and RRTs are state-run, there are bound to be differences in services, funding, and training between the various states. Given that we are unable to visit or accompany the Southern Tier Region RRT, Elana and I have decided to co-author a comparison of the RRTs in New York, Massachusetts, and Wisconsin. It is our hope that this report will contribute to the understanding of RRTs and the role they play in unemployment and reemployment.

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2015 SUMMER HOST: Tompkins/Tioga Neighborhood Legal Services

SECTION III

2014-SUMMER - RESEARCH PROJECT TITLES ONLY

ANTHONY BUSCARINO

“Policy Regarding U.I. Benefits For Part-Timers In New York State”

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FIELD HOST: Tompkins/Tioga Neighborhood Legal Services, Ithaca

KEITH FORBES

“U.I. On-Line and How It Is Changing The Law”

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FIELD HOST: Greater Boston Legal Services

ALEXANDER GUTIERREZ

“Structural Limitations: A Study Of Inherent Strengths & Weaknesses of Onondaga County, N.Y. Dept. Of Labor”

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FIELD HOST: Hiscock Legal Aid Society, Syracuse

TESS KEPPLER

“Common Problems with the I.U. Benefits System in NYC Re: Computerization & Voice Automation”

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FIELD HOST: Volunteers of Legal Service, NYC)

BRETT PAILET

“How to Successfully Argue: The Most Common Reemployment Assistance Claims in Florida”

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FIELD HOST: Legal Services of Greater Miami)

MARGARET TOOHEY

“Shared Work Ohio: What to Expect and the Way Things Should Be: A Comparative Analyses of States”

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FIELD HOST: Legal Aid Society of Cleveland)

SECTION IV

Special DOL Field Activity Abstract (Summer2014)**A COMPARATIVE ANALYSIS OF WORK-SHARING PROGRAMS
IN OTHER STATES AND RECOMMENDATIONS FOR SUCCESS
IN OHIO: WHAT TO EXPECT AND
THE WAY THINGS SHOULD BE****Margaret Toohey**

Research Question: What are the Best Practices that Ohio should adopt if it wishes its work sharing program to be widely used, favorably perceived, and most importantly effective at limiting layoffs, lowering unemployment, and preserving the skills of highly-trained workers?

On July 11, 2013, Ohio became the 26th state to adopt a work sharing type program. Ohio's program, called "Shared Work Ohio", was authorized by House Bill 37 but has not yet been implemented. Over the past year, it has not been a priority because another Bill, establishing online work-search requirements for unemployment compensation claimants, has taken precedence.

It is in the state's best interest to get work-sharing up and running as soon as possible. The state has been awarded \$3,714,908 of federal funding to implement and promote the program and may also be reimbursed 93 percent for any benefits paid through its program through 2015. After 2015, employers will be charged for benefits paid through the program just as they are charged for benefits paid through the regular unemployment compensation program. Ohio's limited window of opportunity to encourage employers to participate in work-sharing "risk free," therefore, is about to expire. But there are still many compelling reasons why an employer should want to participate in the program, and in order for the program to be successful these reasons must be clearly communicated to eligible employers. Many other policy matters, such as ease of filing claims and flexibility to modify plans, can also be critical to the success (or failure) of such programs.

In this study, I highlight these policy matters through a comparative analysis of work-sharing programs in two states: Rhode Island and Washington. I then propose Best Practices that Ohio should adopt if it wishes its program to be widely used, favorably perceived, and most importantly effective at limiting layoffs, lowering unemployment, and preserving the skills of highly-trained workers. Like Rhode Island, the state should aggressively market, competently answer questions about, and proactively pursue potential participants in its work sharing program. And like Washington, the state should strive to maximize administrative efficiency by maintaining an expedient turnaround time, both for initial approval and for subsequent modifications; ensuring an automated and efficient process for filing weekly claims; and allowing liberal modification of approved plans.

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2014 SUMMER HOST: Legal Aid Society of Cleveland)

APPENDIX**MEMORANDUM OF UNDERSTANDING (MOU), Jan. 2014**

between Cornell Law School Dean Stuart Schwab and Dr. Harold Oaklander, signed in perpetuity (condensed + updated below to deal only with Fellow activity called for in 2016)

1. **Fund Name:** The Harold Oaklander Public Interest Fellowship to Advance Justice and Public Policy Against Persistent Unemployment

2. Number of Annual Summer Grants: Up to 8, potentially more

4. Fellowship Term: Eight weeks between mid-May and mid-August.

5. Fellowship Placements: The Office of Public Service will secure agreements with a number of non-profit legal aid organizations who will agree to host student fellows (hereafter referred to as “Hosts” and “Fellows”). The Hosts will be selected based on their work representing low-income individuals with unemployment-related legal issues. Host examples include, but are not limited to, The National Employment Law Project (NELP); Tompkins/Tioga Neighborhood Legal Services; Monroe County Legal Assistance; the Worker Justice Center of N.Y., et al

Issue examples include, but are not limited to: unfair denial of unemployment insurance benefits; discriminatory layoff; denial by state of application for a Work Sharing Program requested by an employer or employees; bias against hiring the unemployed.

6. Fellowship Details:

A. Throughout the 8 weeks in the field, Fellows will assist Host attorneys with legal work relating to the unemployment issues briefly mentioned above by: conducting research, legal writing, client counseling, and related activities.

B. Upon cooperative agreement initiated by the legal aid Host with the neighboring Department of Labor (DOL) One-Stop Job Center, Fellows will end their first week of field work with a one-day orientation at the One-Stop Job Center. Ideally, a representative from the Host legal aid office will attend as well.

C. In addition, Fellows will be available throughout the summer to participate in special DOL events, exposing themselves, one day at a time, to peak experiences, face-to-face with the unemployment systems primary actors. These events are frequent, depending on the particular One-Stop and the local economy, often come without warning. For example:

- 1) A lay-off is announced and the DOL dispatches a Rapid Response team of specialists to the plant or office to be impacted by a mass dismissal. The Fellow is invited to shadow the team on their first day, meeting with employer and workers slated to be laid off. The fellow will gather data as the event

progresses, so as to enable a report for later delivery, ideally including an opinion on the event's potential unanticipated consequences;

2) To attend and report on one of the One-Stop's weekly meetings at which the newly-unemployed are introduced to the services available, and are invited to raise questions;

3) To visit a local employer to interview, and report on how a significant workforce redundancy problem was solved to the benefit of both employer and threatened employees. This employer applied to the DOL and was approved to use the upgraded Federal Work Sharing Program. Thus, a layoff was avoided and unemployment was prevented thanks to an uncommon application of social entrepreneurship.

D. During the course of the summer, Fellows will develop their major written report on an unemployment-related topic of their choosing. This 15 to 20 page "primary report" will be inspired and influenced by the legal service work they do, or by one particular special event their state DOL invited them to participate in. In addition to the above report, fellows are requested to assemble a 4 to 5 page "event report" on each of the other special events.

E. Fellows' semi-final field research reports will be presented (orally and on paper) at a public debriefing dinner meeting held early in the following fall semester at Cornell Law School.