

A decade of being a law firm like no other

By M.A. STAPLETON
Law Bulletin staff writer

In a nondescript office to the east of the University of Chicago Law School auditorium sits the MacArthur Justice Center.

But for 10 years, the center has been doing work that is anything but unassuming. Its legal work in the areas of criminal justice and human rights has resulted in precedent-setting cases on both the state and federal levels.

Even though the nonprofit public-interest law firm has gained recognition for its work in criminal rights, it continues to do its work with only a full-time staff of three: two staff attorneys and an administrative assistant.

Legal Director Locke E. Bowman III said the organization's work must be speaking for itself.

"We must be doing a good job because we're having to say 'no' an awful lot," Bowman said.

Staff attorney Kathleen M. Banar said the rewards of working at the center are plentiful.

"The ability to receive prisoners' correspondence on legal issues and having the luxury to spot a legal problem or injustice is very rewarding. You can ask, 'Is there someone else who is helping this person,' and if the answer is no, we'll try to do it to the best of our ability."

The center will celebrate its 10th anniversary Dec. 11 at a reception at Jenner & Block. The featured speaker will be defense lawyer David Bruck, who represented Susan Smith, the South Carolina woman who convicted of killing her two children and sentenced to life in prison.

The center's \$300,000 annual budget is funded by the J. Roderick MacArthur Foundation in Niles, Ill.

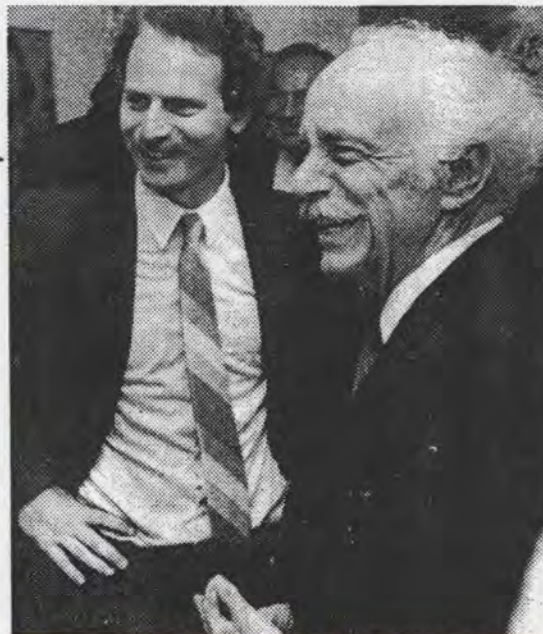
The foundation, with assets totaling \$30 million, makes grants to organizations to further the causes of civil liberties, human rights and freedom of expression. In addition to the MacArthur Justice Center, it funds the Death Penalty Information Center in Washington, D.C., and Article 19 in London, which fights censorship around the world.

John R. MacArthur, president and publisher of Harper's Magazine, who sits on the center's board of directors, said funding the work of the MacArthur Justice Center is an important part of the foundation's mission.

"Fighting the death penalty and fighting obvious injustices in the legal system seems to me to be part of my civic duty," MacArthur said.

"Big foundations need to take risks. Even though there is little going on like what we're doing, it hardly seems to me risky or radical. It seems to me that what we're doing is civic-minded. We're discharging our civic obligation."

The public-interest law firm concentrates its



J. Roderick MacArthur (right), shortly before his death in 1984, received the Roger Baldwin Award from the ACLU of Illinois in recognition of his support of civil liberties and human rights. Pictured with him is David Bradford, counsel and director of the MacArthur Justice Center.

work in four specific areas within the fields of criminal justice and human rights. The work tends to be appellate in nature but "habeas corpus is also in the mixture," Bowman said.

The first specific area involves the death penalty and habeas corpus petitions. Bowman describes the work as "an important part of our mission since its inception."

In 1985, the center filed a suit in federal court contending that Dickey Gaines, who had been sentenced to death for an armed robbery and double murder, had an ineffective defense counsel and that unreliable evidence was used at trial.

The conviction was overturned and remanded for a new trial, where Gaines was convicted of being an accomplice but was not sentenced to death. *Gaines v. Thieret*, 665 F.Supp. 1342.

In another case, the center filed a federal suit questioning the constitutionality of execution by lethal injection in Illinois. The center presented evidence that Charles Walker's execution in 1990 might have been torturous because it took longer than the prescribed protocol. *Silagy v. Thompson*, 1991 WL 18418 (N.D. Ill. Feb. 7, 1991).

The second area in which the center

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concentrates its efforts is the adequacy of legal representation and the right to counsel for people without legal representation.

"Nationally, that's a crisis," Bowman said. "In addition to the problem in delays, there are innumerable cases of inadequate defenses for poor people."

The third focus is on limiting the use of incarceration as a deterrent to crime.

Lastly, Bowman says, the center works on matters fitting into a category he describes as "other" — the cases that other legal organizations are not handling, but that must somehow be addressed.

"The idea of the Justice Center is that there may be some other case or issue that someone else is not interested in pursuing," Bowman said.

Recent cases falling under that rubric include excessive delays in appellate cases and litigating the legality of physician participation in Illinois executions.

In September 1993 the center filed petitions on behalf of three indigent Illinois prisoners challenging the constitutionality of excessive delays in appealing their convictions and sentences.

Evidentiary hearings for the case, *U.S. ex rel Marvin Green v. Howard Peters*, No. 93 C 7300, were held in late September and early October before U.S. District Judge Milton I. Shadur. Bowman said he expects a finding soon.

Cases aren't even "cases" at the MacArthur Justice Center. They're "projects" and the center typically handles between six and eight at one time, Bowman said.

The next project the center plans to undertake will be seeking clemency for 55 prisoners over

55, who are routinely denied parole.

The prisoners, all of whom have good-to-excellent behavior records, have all been in prison "substantially longer" than the prisoners sentenced after them due to changes in sentencing and parole guidelines, Bowman said.

"The chances that they'll ever commit another offense is substantially reduced," he said. "It's a great injustice in our prison system."

Bowman said the center plans to file the clemency petitions in February, in time to be considered for the spring 1996 clemency docket.

Bowman and Banar are assisted by David J. Bradford, a partner at Jenner & Block who is counsel director of the center. Bradford also is vice president of the businesses owned by the MacArthur family, notably the Bradford Exchange, the collector plate manufacturer, and Hammacher Schlemmer & Co., the exotic retailer.

The MacArthur Justice Center has been located at the University of Chicago Law School since 1993, after it moved from offices in Niles. The arrangement has been symbiotic for both, Bowman said.

"This location has been outstandingly rewarding and beneficial," Bowman said.

Each semester, about eight students from the Mandel Legal Aid Clinic work at the center and help prepare cases. In addition, Bowman, Banar and Bradford team-teach a seminar for the law school on U.S. Supreme Court cases involving the death penalty and habeas corpus matters.

Looking ahead, what does the next 10 years look like for the MacArthur Justice Center?

"We're going to do more of what we do now and do it better," Bowman said. "We've accomplished a lot and I would hope to continue to define our presence in those particular areas as well as be open to the 'other' category."

The MacArthur Justice Center

The MacArthur Justice Center, a non-profit public interest law firm, was founded in 1985 to fight for human rights and social justice through litigation. The center concentrates on cases that raise constitutional or significant issues in the field of criminal justice.

Each year the MacArthur Justice Center spends nearly \$300,000 to provide free legal representation for imprisoned defendants facing execution or lengthy incarceration. The center frequently utilizes social science research in its efforts.

The center's attorneys have initiated a nationally-significant challenge to jury instructions in death penalty cases; have filed a class action suit in federal court which could result in speedy appeals for indigent prisoners in Illinois, and have won cases that released two men from death row.

In 1993, the MacArthur Justice Center affiliated with the University of Chicago Law School and moved its offices from Niles, Ill., to the university's campus in the Hyde Park neighborhood of Chicago.

The MacArthur Justice Center is funded by the J. Roderick MacArthur Foundation of Niles. Gregoire MacArthur, Solange MacArthur, M.D., and John R. "Rick" MacArthur are the board of directors. Gregoire MacArthur is a journalist and independent film and television producer. Dr. Solange MacArthur is a surgeon and academician. Rick MacArthur is a journalist and the publisher of Harper's Magazine. Their father, J. Roderick MacArthur was also a philanthropist and a successful businessman. He died in 1984.

J. Roderick was the son of the John D. MacArthur who died in 1978 and left a fortune of about \$1.5 billion to the Chicago-based John D. & Catherine T. MacArthur Foundation. J. Roderick MacArthur was a trustee of the larger MacArthur foundation until his death. There is no other connection between the two MacArthur foundations.