

*Interim Report*

From a young age, I have been fascinated and profoundly disturbed by the institution of capital punishment. Growing up in India, I closely followed the research of the National Law University of Delhi, Death Penalty Clinic, and was shocked by what I learnt – 74% of death row inmates were from economically vulnerable backgrounds, and several were represented by amicus curiae rather than lawyers. Facts like these, pushed me to learn about the death penalty at the global level by following its usage in countries like Singapore, and legal developments in the United States through cases like *Coker v. Georgia*, *McClesky v. Kemp*, *Kennedy v. Louisiana*, *Roper v. Simmons* etc. For all these reasons, when I realised I would be working at the Louisiana Capital Assistance Centre (LCAC) for the Summer of 2018, I was excited. I knew it would be an opportunity to develop an intimate understanding of the criminal justice system, play a role in providing quality capital defence to indigent clients and contribute to a broader fight against the death penalty itself.

Before I discuss my experience thus far, it is important that I formally introduce the LCAC. The Louisiana Capital Assistance Centre (LCAC) is a non-profit 501(c)(3) organization that has provided legal representation to poor people charged with capital crimes in Louisiana for over twenty years. Committed to excellence in capital defence, the LCAC emphasizes client-centred representation, constantly seeks to develop new and innovative advocacy strategies, and pursues systematic litigation related to issues such as racism in the criminal justice system and lack of funding for adequate representation. In addition to providing trial level representation, the LCAC also pursues individual legal issues and projects that are designed to have a broader impact on capital litigation. These include discrimination in jury selection, racial discrimination in charging practises and defendants with serious mental illness.



*Standing outside 636 Baronne St. – the home of the LCAC*

When I first arrived at the LCAC, I was surprised by how much attention to detail was required. Perhaps I should have known that a law office needs to be as meticulous and precise as possible, but never the less, it was something of a shock. My first few days were a whirlwind of new information for I had to quickly learn how to use Casemap and Basecamp (software used to organize investigations), a fax machine, file naming rubrics and more. The amount of information that the LCAC processes on a daily basis is truly mind boggling and therefore the system of documenting that information must be rigorous and thorough. Shortly after our introductory training, all the interns were assigned to case teams. These teams consisted of 1-2 attorneys, 1-2 investigators and 1-2 legal interns and we were all assigned duties. All my tasks broadly fall under two categories – trial level work and penalty phase work. Capital cases are divided into two phases. The first phase is the trial phase, during which the court will decide whether or not the defendant is guilty of the charges brought against them. The second phase is the penalty phase, during which the court will determine the appropriate sentence to be delivered, should the jury return with a guilty verdict. All of my trial phase tasks, are aimed at preparing the client for trial. I have scrutinized crime scene photos, evidence logs, crime lab reports, witness statements, social media information and more. I also am a part of all the team meetings and trial preparation discussions. During these sessions we go through all the evidence we have, and try to identify how each piece will impact the jury. We also try to predict prosecution strategies and how to best counter them. All of my tasks pertaining to a potential penalty phase, are largely investigative in nature. During this phase, attorneys are permitted to present mitigating evidence to show why the

defendant should not receive the death penalty. In order to do so, the LCAC must go far beyond the immediate facts of the case. They must examine the lives of the defendant and their family for it is crucial to understand where they came from, what they have been through and what circumstances shaped their lives. An investigation of a capital defendant's life almost always reveals a history of some type of trauma, and thus investigators are constantly on the lookout for signs of intellectual disability, mental illness, childhood trauma, substance abuse, past criminal activity etc. For instance, in order to develop a robust understanding of a client's intellectual disabilities, investigators (myself included) go through the client's educational records with a fine tooth comb. In order to document childhood abuse, we look through medical records and even absence from school and put together a timeline. While this investigative work can seem dull, the results may convince a jury to spare a defendant's life. In this capacity, I have gone through a variety of documents and records, to piece together several elements of the client's life. I have requested records from different organizations that our clients interacted with, collected legal records from various courthouses throughout Louisiana and spoken in person with one of our clients. This investigative work will ultimately inform penalty phase strategy, should the need arise.



*Standing outside the Supreme Court of Louisiana after collecting records*

In addition to case work, I have also been working on a research project that is studying the Louisiana Board of Pardons and Parole. The Board of Pardons and Parole serves the dual role of managing both the pardon and the parole process. The Board of Pardons is responsible for conducting pardon hearings and submitting recommendation of clemency to the governor who then either grants or denies the recommendation. My research seeks to understand how

the pardon and parole process works, how the board has made decisions over the past few years, and how different governors have responded to the recommendations that were made. While this research project is still underway (updates in my final report), I certainly understand why it is important. Sometimes, a defendant's best path forward will include accepting a plea deal. A plea deal in a capital case, may be life in prison without parole or a long prison sentence with a remote chance of parole. Just the thought of a guaranteed prison sentence, with little to no chance of parole, is enough to make a defendant reject a deal, even in a scenario in which going to trial will likely lead to a worse outcome. This research provides a realistic picture of what a prison sentence functionally means. It is additional information that can offer a defendant (and any incarcerated person for that matter) data about their likelihood of receiving parole, pardon or sentence commutation, what the process is like, what behavior they would have to display while in prison etc. At the very least, a better understanding of the pardon process will allow clients to make informed decisions when they consider plea deals.



*The moments before a brown bag presentation*

By working at the LCAC, I feel like I have become a part of the extended Louisiana criminal defense community. Like the LCAC, there are other organizations such as the Capital Appeals Project, the Innocence Project New Orleans, the Promise of Justice Initiative etc. that are working on different criminal justice issues. Every Wednesday, the LCAC hosts, what we call, “brown bag” presentations. This is an opportunity for all the members of different law offices to get together, share a meal and listen to a speaker give a presentation about their work. These presentations have been my greatest learning moments, as the audience gets to explore some element of the criminal justice system via the experience of the presenter. One presentation discussed taking a case to the Supreme Court of the United States and it was informed by the experiences the attorney had when he worked on a Supreme Court case. Another presentation was given by Calvin Duncan, a man who was wrongfully convicted murder and spent 28 years incarcerated at the Louisiana State Penitentiary at Angola (commonly referred to as just Angola). Calvin talked about his story, his work while he was in prison and his work after he was released. And our most recent brown bag presentation, was about Juvenile Life without Parole. The speaker spoke about the various landmark cases (*Miller v. Alabama*, *Graham v. Florida* and *Montgomery v. Louisiana*) that changed sentencing in cases that were formerly eligible for juvenile life without parole. Apart from their eye opening, educational value, these sessions have also allowed me to meet diverse people who all share a deep interest in tackling injustice within the criminal justice system in some shape or form. It is heartening to know that there are so many young

likeminded people, who are all eager to commit themselves to this type of work in the next few years.

Looking back at the experiences I have had thus far, I am fully aware of how fortunate I am. I am incredibly lucky to be working at an organization that allows me to engage with areas that I have felt strongly about for a long time. I am surrounded by brilliant people who are extremely knowledgeable and passionate about their work. I am always encouraged to run into an attorney's office to ask them about any legal topic that I have questions about, a luxury I have taken full advantage of. Additionally, several of the attorneys at the LCAC have a public defense background, and through their stories I have caught a glimpse of the public defender situation in the United States. Providing quality legal representation to so many defendants who don't have access to other legal resources is certainly a daunting task, and without a doubt, public defenders have to battle countless physical, monetary and emotional challenges to get the job done. And despite all the hurdles they face, they are able to derive value from their work. I have frequently asked the attorneys how they deal with the emotional stress of defending someone who may indeed be guilty of a gruesome crime. To this question, I have received a variety of inspirational answers. Some have said, that they always try to find something redeeming in their client and that quality, however minor it may be, pushes them onwards. Others have said that simply fighting against a system with so many demonstrable flaws outweighs individual instances of doubt. And all of them say, plain and simple, that as a society, we shouldn't be executing people. I believe I resonate with all of these answers, and I have slowly started to formulate my own thoughts about how I view this work. All of the things I have learnt, have only galvanized my interest in criminal justice reform and capital defense. I hope to learn as much as I can in my remaining time with the LCAC and do my part to help it fulfill its mission of providing quality legal representation to indigent capital defendants.