Transcript of the Oral History Interview with
Frank Askin
January 5, 2001

Hall: Well, actually, that's; in your case it's probably going to be very good focused to the interview but one; before I ask you how you got involved in clinical education. So, tell me a little bit about your background before I saw on your resume that you were a journalist at one point.

Askin: Yeah, well, I was a young political activist in the city of Baltimore in the pre-Civil Rights days starting in 1948 when I was still in high school. And was the radical youth leader in the city of Baltimore for five or six years. Wound up going to New York in 1955 to edit a left-wing youth magazine. And, then with the breakup of the communists movement in this country in 1956, decided I had found a career as a journalist; created a false resume and got myself into the newspaper industry. Finally, I read that back in my FBI files every once in a while. My false resume creating a degree in a background working for newspapers in Baltimore which did not exist when I went to work for the Burgen Record in 1957. Sort of an embarrassing; I had actually thought; I always had thought growing up I'd go to law school. And, frankly, during the McCarthy era, I decided it was a waste of time because I would never be admitted to the Bar. So, I just forgot about law school for a while 'til the 19 . . . you know, McCarthy era faded. I decided I could get into the Bar. So, I started going back to pick up

college credits so I could get enough credits to get into law school. I really didn't have; I had very little college credit. And, so while working as a newspaper reporter in the New Jersey/New York area; started taking courses at City College; nights, weekends, summers 'til I could get into law school which I did in 1963. And, that's my background. Oh, in between actually, I was also; after the Burgen Record fired me in 1961 for trying to organize the newspaper guild I was hired as executive director Democratic Party in Burgen County and did that for two years 'til I started law school in September of 63.

Hall: Frank, I want to ask you cause I think you; you sound like your political activism may have started a good ten years . . .

Askin: Right.

Hall: . . . earlier than a lot of other people who wound up in the same legal field but tell me a little bit about how you got into the left-wing activities in the 40s.

Askin: Oh, yeah. Well, that was; I was inspired by an older brother; he was actually eleven years older than me. He was more like a father than a brother. He was actually a World War II hero. Actually, the first president of the United States

Rangers Veteran's Association, later to become the Green Beret's and he was their first president, but came back after the Wars of Pacifists; started working for a world government organization and in 1948 came back to Baltimore as an organizer for the Henry Wallace Presidential Campaign. And, he got me involved in the young progressives in the Wallace campaign and local left-wing politics and that was the beginnings. Baltimore's a Jim Crow city. I didn't, you know, had never really thought about it much before; suddenly I was thrust into political activity with a lot of young black friends and I discovered that this was a totally segregated city. If we had to go somewhere; go out; go to a restaurant we had to go to the black neighborhoods. It's the only place that would serve us. Wound up playing for the first interracial basketball team in the city of Baltimore, trying to break the Jim Crow city recreation leagues. Before I got into politics mostly I was involved in sports. That was a sports editor; my high school paper. Played a lot of basketball. But, then got deeply involved in, you know, my political world.

Hall: Well, sounds like it ran pretty much on a gut level. I mean, even that they were playing on an interracial basketball team. Did that actually have a successful outcome in terms of . . . ?

Askin: Oh, yeah, ultimately, it broke down; you know, helped break down segregation in the city of Baltimore. Oh yeah.

Hall: So, when you made it to law school in 63?

Askin: September, 63. That's when I started law school.

Hall: Ok. The civil rights movement was obviously getting; was strong; getting stronger.

Askin: Right.

Hall: As part of the backdrop. But, what was; what was your law school experience itself like?

Askin: Well, my law school experience at Ruckers was terrific. It was a progressive law school; very much concerned with social justice. I mean, Arthur Kinoy joined our faculty in my second year as a student. And, I took Civil Liberties with Arthur and he sort of re-inspired my basic commitments to Democratic ideals. And, we had other, you know, very active faculty members. And, Saul Livitzman was

active in Law and World Order, World Peace. Alblum Rosen was involved in anti, you know, segregation, pro affirmation action activities. Ruth Ginsberg who actually taught me the first class I ever sat in cause she and I came to Rutgers the same year; she as a faculty member, and I as a student, taught me Civil Procedure, although Ruth was not an activist. She was probably the least political member of the Rutgers' faculty in those days. Actually, Rutgers transformed her; it's when the women started coming into Rutgers in the late 60s and needed a role model that they made Ruth into a feminist and a feminist scholar.

Hall: Ok, in terms of; so it sounds like you did not have a disconnect to what you were studying and what was of interest to you.

Askin: That's right. I loved law school. Law school was just a joy for me. I loved the work. I loved the faculty. You know, it came easily. I was a newspaper reporter involved in reporting on political world. I was out of; you know, my youth was involved in politics all the time. So, I just loved the whole law school process.

Hall: Now, were there any classes or any areas within your law school training that you particularly gravitated to?

Askin: Oh, yeah, sure. Arthur Kinoy's classes, particularly his Civil Liberties class; the racial justice area; federal courts. I always got along well with Ruth. When I started teaching I really started; Ruth and I were the two, you know, Civil Procedure/Federal Court's teachers on the faculty. I joined the faculty when I graduated. I never left Rutgers. I joined the faculty immediately upon graduation.

Hall: What was your first assignment? Was it going straight into a clinical law or was there something?

Askin: No. There were no clinics at Rutgers then. I was teaching Civil Procedure and Constitutional Law and Labor Law. In 1968, Alblum Rosen asked me to help; or 68 or 69, Alblum Rosen asked me to help set up what he called the Administer to Process Project which was our first clinical program at Rutgers. He had a grant from EEOC working with the New Jersey division on civil rights. It was an administrative law project and our objective was to redesign the programs and policies of the New Jersey division on civil rights to expedite processing, first, of housing discrimination claims. And, we put out a book on what we called, Apartments in White Suburbia. And, how to fight segregated housing in the suburbs. And, then the next year it was on employment discrimination. And, we

set up all kinds of procedures for the New Jersey division on civil rights; put out the two compendiums of the work we had done. And, we; and each; in fact, it was funny cause he had a grant that actually we were paying the law students; two thousand dollars stipend in the program, which the faculty ultimately decided was a bad idea. After two years they demanded that the students could not both get credit and compensation. But, that was really the first of our clinical programs. But, meanwhile, after the riots in Newark in 67 I responded to a call from the local ACLU. They needed lawyers to represent; that would get involved in riot-related cases, both defending defendants, you know, who had been arrested in riot cases and bringing massive law suits against the police. And, I got involved as part of a legal consortium and started doing litigation as a volunteer for the ACLU. I did this in 67, 68, 69; took on a major case against the governor of New Jersey involving the mass search of a black garden apartment development in Plainfield, New Jersey, in the summer of 68 and started getting students to help me with these volunteer cases I was doing for the ACLU, meanwhile teaching myself to practice law. Cause I really had no experience practicing law. Although Morty Davis was a lawyer in Newark then, ultimately one of the founders of Center for the Constitutional Rights and one Morty was a great inspiration and teacher in those days. And, meanwhile Arthur Kinoy was teaching his seminar in advance problems of constitutional law. And, Arthur wasn't around; took a year off September, 1970-71 term and asked me if I would take over his seminar. And, it was a time when, you know, CLEPR was starting, you know, to encourage clinical education. And, I said, well, yeah, but you know,

I'd like to do it as a clinic. I would like to set up a constitutional litigation clinic; really take them; all the volunteer work I'd been doing for the ACLU and make it part of my academic program. Why should I, you know, I can make that my teaching load or a large piece of it. And, the Dean at the time, Willard Hecko, was very encouraging. Willard had deliberately brought Arthur Kinoy to the law school because he wanted the law school to be involved in, not just teaching of constitutional law but its practice. And, Willard and I and Arthur went to Bill Pincus at CLEPR and we got a grant to set up what was Arthur's seminar as a clinic. And, I hired Bill Bender from the Center for Constitutional Rights as the Administrative Director. And, David Lubell, who was a New York civil rights lawyer, had been assisting Arthur in his seminar, did a little work with us. So, me, David, and Bill started the clinic in 1970. And, when Arthur came back to teaching he didn't want to do a clinic. He didn't want the responsibility of a law office. So, Arthur didn't know. He would just continue his seminar and I would continue to run the clinic. And, since 1970, that's been the major part of my, you know, academic load; running the clinic. And, it was a time when we had, you know, a lot of very socially-conscious students gravitating to Rutgers. A lot of them came out of the civil rights movement in the South. A lot of them came to Rutgers because Arthur Kinoy was at Rutgers. And, so the clinic was, you know, very exciting. Students, you know, loved it. We would, you know, had lots of students enrolled; lots of interesting cases going on. And, that was it. So, in nineteen; starting in 1970 I just set up this as a full-time law office. I got the university to provide us some space in an old building behind the law school.

With the CLEPR money we hired a, you know, a secretary. I was able to pay Bill Bender as the Administrative Director. And, when the CLEPR grant ran out the Dean agreed to, you know, continue it with law school funds.

Hall: Was Pincus enthusiastic about your proposal when you brought it to him?

Askin: You know, that's; I can't remember. Now, I don't remember it that clearly. I mean, I say I guess he was but I don't know. I remember me, Arthur, and Willard Hecko traveling to New York to meet with him and the next thing I knew we had the grant. But, that's about as much as I recall of that particular event.

Hall: Enthusiastic enough, so. Well, tell me; you started with constitutional; as a constitutional clinic. It seemed like there were very few models for any approach.

Askin: Right. There were no; the models were a sort of, you know, legal services kinds of models.

Hall: What made you go into the different direction?

Askin: Because that's what I love doing. I mean, I did it to satisfy my own particular interest. I decided that, you know, I wanted to follow; Arthur became my guru. Arthur was a great constitutional lawyer. Suddenly; I mean, when I went to law school I really thought I would go back into journalism. I wanted to be the Supreme Court, you know, I wanted to be Tony Lewis and cover the Supreme Court for the New York Times. Then the fact; when, you know, when the faculty started talking to me about teaching, I said, I wasn't looking, I really wasn't looking for a job with a law firm or anything. That never interest me in particular. They started talking about teaching. And, I said, well, that sounds like a good; I could do that for a couple of years. And, they had; in fact they took me in 1966 to the meat market or to; it was the AALS; it was joined then. The hiring market was joined with the AALS meeting. And, I interviewed with a few schools. Then we went back and the; my supporters on the faculty said, well, maybe we'll hire you. So, I wound up staying at Rutgers. And, I started teaching and I found it, you know, it was okay. It was a little bit boring. I much liked; preferred my volunteer litigation for the ACLU. That I really enjoyed. And, I said, well, why don't I just merge it. I'll make my advocation my vocation. Instead of the students doing it as volunteers I'll give them academic credit. So, when Arthur, you know, suggested take over the seminar, I said, no, let's do it as a clinic. That's what; to have a real constitutional law office at the law school. That would be a; great fun. In fact, in 1969 I had already filed what became the first police

surveillance suit in the country; a case called Anderson v. Sills. Now, I must say it's absolutely absurd because remember when I was a kid in Baltimore I used to have the FBI following me around. I had FBI agents following me all the time. And, in later years I finally got my FBI files. But, in those days I knew the FBI had files. When I started; when Arthur was teaching Civil Liberties he talked to you about chilling effect. And, I started to think, well, I said, what gave the FBI the right to follow me around and gather information on me? I never violated any laws. I wouldn't do anything illegal. Didn't the first amendment prohibit them from doing that? And, in 1968 I actually taught a civil liberties class and it was a problem class. I gave the students a series of problems and one of the problems was, did police agencies have the right to gather information on public activities of law-abiding citizens because of their political ideology? And, we debated that in class. I got a bunch of students to write memos. And, then I decided to bring a law suit against the state of New Jersey; against the Attorney General, who had actually issued a public memorandum to local police departments asking them to gather information on local political activists. So, I challenged that Attorney General's memorandum as Arthur Sill's case called Anderson v. Sills. And, interestingly enough the daughter of Anderson was just a student of mine this past year. And, we brought suit and I was careful; I carefully picked my forum. I found a very sympathetic chancery judge in Hudson County, New Jersey I knew was big on the first amendment. The same time I was actually writing an article; became my tenure article, called Police Dossiers and Emerging Principles: A First Amendment Adjudication based on the whole notion of chilling effect and why

that violated the free speech of the First Amendment. And, we brought the case and I actually got a wonderful opinion from this chancery judge ordering the state police to burn their files. It violated the First Amendment. And, it created; actually, it created the law of police surveillance because I now had legitimacy. I actually had wonderful opinion that said that now; a year later it was overturned by the state's Supreme Court. It was premature on, unripe, send it back. But, it created the law of police surveillance. And, then, in fact, a year; and, so, that actually; that started that actually the year before I started the clinic but it became the first case in the clinic. And, when the clinic took it over on appeal when I started the clinic, and then the ACLU asked me to bring a similar case against the United States Military Establishment, which became the case of Laird v. Tatum, challenging the army's domestic intelligence program, in the federal district court in Washington. And, that's where I first ran into William Rehnquist, who was my adversary in the; basically in the litigation, but got to the Supreme Court before me with a robe on and cast the decisive vote in the U.S. Supreme Court when we got there. So, Anderson v. Sills and then Laird v. Tatum sort of grew out; the whole concept grew out of my early political experiences as a political activist being followed around by the FBI.. So, I sort of made it a cottage industry to begin suing intelligence agencies. Some of my favorite cases were suits against the FBI for various kinds of investigations. Peyton v. Laprie, Patterson v. FBI. So, a lot of my clinic cases were really challenging this kind of political investigations of poli; investigations of political activists and keeping certain dossiers. And, of course, the interesting thing is that the; in 1990, for a couple of

years, I was special counsel to the House Government Operations Committee in which I had oversight over all the federal intelligent agencies, the FBI, the CIA, the NSA. So, that was a lot of fun.

Hall: And, they must have loved that.

Askin: Yeah, that was a ball.

Hall: Let me ask you a question. In almost whatever detail you like to, walk me through a couple of cases of either favorite cases or cases that made a difference, but also as you do it, focus some on the role that your students played in handling those cases.

Askin: Ok. Ok. Well, let me talk about the first police profiling case in the country. Case #2 when my; on the clinic docket was a case called Lewis v. Coupler. We called it the case of the long-haired travelers. It was against the New Jersey State Police for conducting a pattern and practice of stopping and searching long-haired travelers on the New Jersey highways. Brought that in 1970. The students loved it. Most of my students were long-haired hippies anyway. And, it was great fun.

And, what happened, the ACLU would come to me; local ACLU and say, we get all these complaints from these hippies. They're being stopped and searched. What'll we do? What'll we do? Stop them, most of the time they don't find anything on them and we could sue for damages. Who's going to give damages to anybody for, you know, a police stop? And, I said, well, you know there's been some recent warrant court decisions about enjoining. You know, these kinds of patterns of unconstitutional, governmental behavior. Of course, most of them were sort of the structural injunction cases, prisons, mental health institutions. It was a case; there was a case out of Baltimore called; fourth circuit case called Langford v. Galston, which it enjoined the Baltimore Police Department from searching black neighborhood in Baltimore looking for some alleged murderer. And, why don't we bring a pattern and practice suit in federal court against the New Jersey State Police? And, we filed; the students spent, you know, the first half of the semester drafting a complaint; gathering; doing interviews of the complaining witnesses; putting together what was basically a class action; charging the state police with this pattern and practice of unconstitutional police behavior. We filed the suit and the government immediately, you know, we filed a motion for preliminary junction. The government filed a motion; the state filed a motion to dismiss. The students then worked on putting the brief together and opposition to the motion to dismiss. Now, in my clinics students have never stood up in court. They do everything except speak in court. In fact, once upon a time, we actually applied under the New Jersey third-year practice; wrote to the New Jersey Supreme Court and the court said they didn't want students practicing

Constitutional Law. They turned; the other clinics at Rutgers got permission under the third-year practice. But, they never gave us permission to do it. But, the students did everything else except stand up in court and argue. And so, they would put everything together and we started with a hearing in December of 1970. We got into court for the first time; we filed our complaint around the middle of October or early November. And, we had an old troglodyte federal judge on the bench. And, he says, how many witnesses you going to have? I said, well, Your Honor, depends on how many witnesses it takes to prove a pattern and practice to you. You know, start bringing your witnesses. We got through three witnesses. Well, I've heard enough. I don't think I have any jurisdiction. I'm throwing you out of court. You're dismissed. I'm dismissing the complaint. We went to the third circuit; year later, third circuit reversed. Meanwhile, the students of course had, you know, helped prepared this appeal brief. I went and argued it. Got a wonderful opinion from the third circuit endorsing everything we had argued. Then, if we could prove our allegations, then we were entitled to an injunction from a federal court to make the state police, supervisory injunction, making the state police change their training methods; requiring them to; police to keep records; to sanction unconstitutional behavior by state troopers, etc. We were entitled to an injunction. We went back to another trial. Trial started, I guess, it was; well, now it's about a year later; about December of 71. So, it's about a year later. Again, the students getting ready. We had; you know, we put on about a hundred witnesses. They students had to get; prepare all the witnesses. We mean; what we'd done some discovery

to get as much of the police log and files as we could. And, we started a new preliminary injunction hearing in December of 71. The students would go to class; would go to court with me when they could, if they weren't in other classes. I always had one or two students with me; couldn't take everybody every day. We had a hearing that lasted almost six months; not every day in court. We would do two, three days and the judge would say, well, I'm taking off; come back in two weeks; do a couple others dates here. Finally, it got to be; then we took off for Christmas and it was, you know, a day here, a day there. Took six months before we finally finished that and completed the record. And, meanwhile we're preparing; students are preparing for post findings and fact conclusions of law. And, then there's a very bizarre course of events in this case. First thing that happened is that the trial judge; this is the judge who actually had been very hostile at the beginning; had thrown us out the first time. But, sort of by the end, was almost friendly. We thought maybe we had a shot with him. We didn't know. But, before he ever decided the case he died. I get a notice from the court clerk the case has been reassigned to a judge down in Camden, New Jersey, which is 90 miles away. I don't want to go to Camden and try to do; I know what's going to happen. We filed a writ of mandamus. That was the next big project for my students. We filed a writ of mandamus; the third circuit to re-transfer it to Newark. A year later; took about a year; I get a two to one vote, without opinion, denying the writ. I then get a notice to come to Camden to meet with Judge Kitchen. Took a few of my students with me. And, we're sitting with Judge Kitchen. And, the Camden Court House and the Attorney General is there. And,

he says, what am I going to do with this case? And, well, You Honor, you can decide it on the record. We have a full record. You read the record. You'll decide it. Attorney General: Oh, no, no, Judge, you got to retry the whole case. I can't let; we can't decide on the record. You got to listen to the witnesses. And, Judge Kitchen turns to him; he said, this case killed Judge Shaw; not going to kill me. Believe it or not, Judge Kitchen died two weeks later. He dropped dead of a heart attack. Case gets reassigned to Judge Mitchell Cone in Camden. It sits there for a year and then Mitch Cone is sick and retires from the bench. Case gets reassigned to Newark. This is now; we are now in 1976. It's five years after, you know, or six years after we started. But, now the U.S. Supreme Court has changed. William Rehnquist is now on the court; it's not the Berger Court. In 1976; well, 19; in 75, the third circuit approved a, what I; we, called a Lewis Injunction out of Philadelphia. Judge Fullam in Philadelphia enjoined the Philadelphia police department in a case called Goode v. Rizzo from stopping and harassing black citizens on the streets of Philadelphia without cause. Third Circuit affirmed it on the basis of their earlier decision in our case. And, the rest is history. Goes to the Supreme Court and Rehnquist writes a decision reversing; saying federal courts have no business supervising local police departments. Comity is the main notion. Comity precludes federal courts from intervening and overseeing local police departments. We wound up back in the third circuit in 1977. Cert says well, five years ago we told the plaintiffs if they could prove what they alleged they were entitled to an injunction. And, they've done it. They proved everything they said. But, unfortunately the U.S. Supreme Court has

changed the law in the meantime. And, our hands were tied. And, that was the end of the first police profiling case in the country. I still have, you know, I have seven years of students who worked on that case, who all; they come back every once in a while and talk about; gee, is that racial, you know, police profile back in the news again. We could have put a stop to it a quarter of a century ago if not for Rehnquist. So, there we are; everything all of us knew again; we keep; what goes around, comes around. And, we're still fighting police profiling.

Hall: Right. I got to switch . . .

Askin: Ok.

Hall: . . . tapes here. Also, the educational aspect of this, some people I've talked to who went the route of much smaller cases, or in some cases, no cases at all, just do simulations, one of the criticisms or concerns, actually, more accurately, about your approaches, some of these cases do take years, years, years, years and years and how does that affect the experience of the students?

Askin: Yeah, that's the; yeah, Meltsner and Shrag talk about that in their book. In fact, I

use their critique. I did a conference at Rutgers in April on A Social Justice Mission of Clinical Education and in my opening remarks I contrast what I do with Shrag and Meltsner feel. And, I think they have some legitimate criticisms. I do what I do because this is what I enjoy doing. I can see there are some drawbacks to it. I think in the end it's very worthwhile for the students. I mean, basically, I feel I'm a role model for students. They are leaning, I think, to; how to do this kind of complex public interest litigation. And, even though they may only see a piece of the case; some of our cases can have five, six, seven years' worth of students working on it and those who come in in the middle have to, you know, catch up pretty quickly. But, that's true if they go to a law firm they do that anyway. They get in to a piece of a case; they come into the middle of it; not all that unusual in the practice of law. And, what we do, I think, all of the various kinds of activities they're involved in, whether it's discovery or drafting the complaint, preparing a complaint, preparing summary judgment motions; and, that's probably the biggest thing we do, I think, is preparing summary judgement motions. It takes a huge amount of our time because most of our cases wind up at summary judgment. And, we either win them at summary judgment on the other side of appeals or we lose at summary judgment; we're appealing. And, doing; really preparing a case and making it right; right for summary judgment, win or lose, and then going to an appellant court with the proper record, I think is an extraordinarily important kind of experience for the students. And, I think probably the biggest thing they learn; how to really prepare a case that you can take, even on to appeal and win, what seems like was a very difficult issue, trying

to create new law. Cause usually that's what we're doing. We don't have any law. We make up the laws as we go along. I always like to say, you know, your other classes you look at the law as it is and ask why and we look at the law as it never was and ask why not? And, the students enjoy that. They enjoy trying to be part of this social change process. Sometimes we succeed, sometimes we don't. But, I think they get a good experience out of it. And, as I say, I acknowledge there are some weaknesses in it. But, I think there's also a lot of learning that goes on in the process.

Hall: Typically, how many cases are you taking on at any one time?

Askin: Three or four. In myself. The clinic will have seven or eight going depending on how many students we have enrolled at the time. Whether there are two or three of us. For many years there was always three of us, almost always, in the clinic. We're sort of back, mostly to two in recent years. Back in the 70s we'd always have 25 to 30 students in the clinic. Then it'd drop off; maybe have only 14, 16. So, if that's all we have, we usually be back to two. This spring, actually; so, John Hyman would drop in and out, usually depending upon his interest and, you know, how heavy the workload was in the clinic. What we had going on. So, John tried; so, John stopped really doing big cases. John would do much more manageable cases. Right now he does a lot of civil rights mediation, when he's

coming back in the spring, he'll do a lot of civil rights mediation. But, I still tend to do big cases that go on for quite a few years. If I go on sabbatical that can be a problem. We have to figure out what to do with it while I'm gone. I try to put it in a position where it's going to be on appeal; where we won't get a decision for six months. And, then I can come back and pick up on it again if it's possible. But, that can sometimes be a problem.

Hall: Well, let's go back to some of the cases? You mentioned surveillance and profiling. What are some other ones that you thought were particularly memorable or illuminating?

Askin: Ok. Well, I've done a lot of what I call turf lawyering for, you know, community organizations. And, that's included both door-to-door canvassing by the, you know, the environmental movement and of course, what I've done the last ten years is basically, moved away from federal courts into the state courts and the state constitution. And, I do most of my litigation now under the state constitution in the state courts. And, my big cases lately; well, first the shopping mall litigation. I started shop; the prune yard; bringing prune yard to New Jersey. I brought my first case in 1983. It took to 1995 to get it to the New Jersey Supreme Court and win it and finally establish it under the New Jersey Constitution there was a right of free speech at shopping malls. And, then I did a

second round of it dealing with the regulations by the malls and just won another decision from the New Jersey Supreme Court this past year about insurance requirements. They can't make you get a million dollar insurance policy in order to give out leaflets. So, I've actually; I've had, since 1983, 'til this past summer, I've almost always had one shopping mall case on the docket under the state constitution. You know, we've make a lot of wonderful law; free speech law in New Jersey as a result. And, now what I'm doing, I'm now taking the shopping mall cases and moving into private residential communities; governance rules in these; now ubiquitous community associations; property owners associations. I've already won the first case in New Jersey dealing with free speech as a right of reply not a general of free speech but a right of reply in a residential high-rise building. And, now I've just filed; my students and I have just filed a massive suit against a huge New Jersey community called Twin Rivers with 10,000 homes and 30,000 residents. Probably the largest private community in the state dealing with all kinds of issues of democratic governance in the community under the state constitution. For example, in this community, there's not one person, one vote, or one unit, one vote, you vote by the value of your property. And, there are four apartment houses in this community and the landlord votes for all the apartments. So, we're even questioning, you know, the voting structure in this community, as well as a lot of other issues. So, that's being since, let's say, 1983, this question of what is private property in New Jersey and how it's governed by the state constitution has been a major issue for the clinic. We've made, you know, making a lot of law under New Jersey constitution. So, that's been

certainly a major area. And, then a couple; another area we got into, starting about six years ago; I do a lot for the ACLU. First of all, we have to have sponsors for our cases. I have no litigation budget. So, I need a sponsor that pays all the costs of litigation, from filing fees, discovery, travel, etc. So, a lot of it is from the New Jersey, ACLU. Sometimes; we've even done it for the Legal Women Voters or the NAACP. But, the predominant sponsor has been the New Jersey ACLU. And, we suddenly; we took on a bunch of cases dealing with contempt citations against payers of parking tickets who were so angry they wrote comments on their tickets when they sent their check in. They'd write things on the check from highway robbery to, you know, stick it up your ass. And, magistrates would get offended. The court clerk would show them and the magistrate would get offended and some of the them to come to a; you know, why they shouldn't be held in contempt. I did the first one of these cases. The students really and they enjoyed this case and we won. We got it dismissed. The magistrate himself dismissed it when I brought the case to him. The next one; I got so annoyed; magistrate had done this and the way they, you know, they think they're God, these local magistrates. I actually had my students work on preparing an action in lieu of prerogative writ. And, we went to Superior Court and got an order to show cause against the magistrate; why a writ a mandamus should not issue to prevent him from proceeding with the contempt hearing. I said, you know, it's unsettling even to have to go to a hearing. These people shouldn't be forced to come to court and answer these things; it just be stopped. And, I confess, it was getting; it was a little bit of forum shopping. It would

happen to be in a county where a former student was the assignment judge. And, I figured a lieu of prerogative would probably go to the assignment judge, which it did. And, she signed the writ. And, I immediately get a call from the magistrate announcing he was dropping the; or actually he called the judge; oh, I'll drop the; I'll drop the contempt charge. So, that was settled very quickly. But, then what we did; then I took my students; we prepared a memorandum to the State Supreme Court and sent them a whole memorandum and affidavit listing up five or six of these instances where magistrates had abused their power in this way. Explain why this was a terrible infringement on free speech and ask the court to issue a directive that magistrates could not hold people in contempt for verbal, you know, abuse that fell short of an actual threat in their writings or oral or written communications to the court. And, a month later the State Supreme Court issued such a directive. So, you know, so, we took that issue from, first, defending it in court, then going to developing an idea of how to stop the proceeding and then getting the State Supreme Court to issue a directive.

Hall: Frank, let me ask you a question. I doubt you have a formal unit on forum shopping but it sounds like that's one of the lessons that someone would learn from being around you. There is a lot of real life lawyering.

Askin: Absolutely.

Hall: Tell me about what kinds of things you think get communicated in your classes to your students?

Askin: Well, I always tell them that picking a forum is 90% of litigation. I happen to be very lucky litigating in New Jersey in the New Jersey Courts. Cause New Jersey still has this division between law and chancery in which, in almost every county, there is one general chancery judge. So, if you can pick your county, you can usually pick your judge. And, usually I'm doing equitable; I'm doing it; usually seeking injunctions. That's most of my litigation; is in joining. So, I have my favorite judges and I try to, you know, find; when I get a case I try to; you know, I get an idea; for example, my new condominium; the property owner's association case, I've been dealing with this what they call a; there's a group of home owners who belong to various condominiums and POAs around the state. They have their own association fighting their, you know, their big association; their, prior, you know, individual associations. And, a lot of them had cases they would talk about and I particularly liked one because it happened to be in Mercer County where I loved the chancery judge and I knew he would like this kind of case. So, I delib; ok, I'm going to take the one in Mercer County. We'll going to go to Judge Perello cause it's going to be fun litigating this before Perello cause he's going to like this case. And, he's; you know, I don't know, I'm going to win,

we're going to lose. It's a hard case. but he'll find it interesting and he'll pay a lot of attention to it and he'll take it seriously. And, I teach my students very, I mean, the rules of ethics I guess that you're not supposed to forum shop but that's, you know, 80% of, 90% of litigation; finding the right forum. That's why I stopped going to the federal courts. The judges were so hostile in Newark or in Philadelphia; the third circuit. And, I love litigating in the New Jersey courts, particularly in the chancery division. And, I love the New Jersey Supreme Court. It's a terrific court. Even the new court appointed by Whitman is continuing the traditions of Willin's court. And, it's just a; it's a bright, interested, sophisticated court, interested in constitutional issues and I'd much rather litigate, even if it's federal issue, I'd rather litigate them in the State Supreme Court than in the third circuit. But, no, I make no bones about; with my students; that's the most important piece of strategy is who's; well, who's your decision-maker? Absolutely.

Hall: What other kinds of lessons come up in; are your students startled when you say something like that to them? Are do they just take it as a . . .

Askin: I don't think so. They're interested. Maybe a little surprised. I don't think they're startled. They're pretty sophisticated. But, I also explain something else to them which there is no substitute for. We can have the best and most

sympathetic judge in the world but we; our cases are tough cases and they don't want to be reversed. You got to give them a record that they feel comfortable with. You can't rely on them; just go, Judge, this is an injustice. I need relief. Forget about it. They're not going to give you the time of day. You got to have a record and you got to present it right. And, that's; the other thing I like about, you know, some of these chancery judges, they're very good judges. They make you create a good record. I like a judge that's tough, is hard and really insist that you produce; you really produce a record. And, we; that's what I'm saying, we work so hard on summary judgment papers.

Hall: Yeah, I want to follow up on that. When you're working with your students on those papers what's the whole process in terms of getting to prepare the case?

Askin: Well, the process is look, we got to put together a set of papers. We got to, first of all, find out, figure are we ready to go for summary judgment? Are the facts settled? You got to go through all of our discovery; through the depositions, interrogatories; what are the facts we have to prove; how are we going to prove them? We'll lay out the various, you know, issues of material fact which we think are essential. We got to fill in all the A, B, C, D, E, F, Gs about how we're going to demonstrate each of these facts. And, meanwhile we're writing a brief that lays out the law but we just can't, you know, the law's got to be based on

what the facts show in the record. And, this interrelationship between the law and the facts and putting together the documents which are going to satisfy the judge that even if it's a sympathetic judge, he or she has enough to feel confident and then, at least, there's a pretty good shot they won't get reversed. I find it interesting. I run into my trial judges every once in a while. They always love these cases. They're interesting cases. Particularly, the chancery judges; half the time they're doing probate things and they love when these complicated constitutional cases come by. And, after you go through a hearing they go, what's ever happened to that other case of ours? They have the personal commitment to it.

Hall: Tell me, in terms of; I'm blanking out. I'm going to step back. In terms of, you know, what the students do; by the time they are done; what would you say are some of the biggest differences that have developed in your students from the time they end your clinic from when they came in?

Askin: I think the biggest thing they learn is this relationship of law and fact and how important facts are. And, how you have to tie it to the law and how you have to be; how you become an advocate; how you advocate ideas. And, even in the brief writing, I mean, it's over and over again, rewriting and rewriting briefs. What's the point you're trying to make? Remember, you're writing this to a reader. This

reader is a judge but you've got to give a story and you've got to give it in such a way that it's convincing. You know, you've got to lay out the law in a convincing way and you've got to show that the facts of our case support the legal arguments you're making. And, that it's a very intricate and difficult process. And, first, you've got to go out and get the facts. You've got to use the discovery mechanisms. We use interrogatories. We use, you know, the depositions; production of documents, requests for admissions. I'm always surprised lawyers don't use requests for admissions more. We use requests for admissions all the time before, you know, we finish with our summary judgment motions. And, so it's basically, it's the use of the tools of procedure to find your facts and prove your case and basically get ready for summary judgment. That's where most of our cases go.

Hall: One question that has come up in virtually all of these interviews and the response has run the full spectrum from, these programs should really be about being a tool, either of social justice or training new lawyers to promote social justice causes, to various sort of neutral, no, it's really about the teaching of skills. Where do you weigh in in that spectrum?

Askin: Well, I think whatever you're doing, you're teaching skills and I would rather do it in meaningful cases. First of all, pedagogically, I think that it excites the

students. And, they put out work much harder when they have a commitment to the cause. I mean, that's why when students come in we give them our docket. We try to, you know, we say, what cases would you prefer to work on? And, usually if we have eight or nine cases they put their preferences. Then we divide up our students; hopefully that they work on those cases they would prefer to work on. I don't want to assign students cases that don't excite them. And, if we take on; if we're thinking of taking on new cases we get the students debate them and decide should we take this? Is this something we should devote our resources to? How many people would be interested in doing this? One of the most interesting debates I ever had with my students was back in the 1970s in which; oh, well, we got a request. I don't know if you know the name Phillip Zimbardo?

Hall: Yeah, sure.

Askin: Ok. Phillip Zimbardo was one of the prominent social scientist in the country. I had used Zimbardo as sort of an expert in another unrelated case. I think it was my chilling-effect case. When I did Tatum v. Laird in U.S. Supreme Court, I had set up a whole; what I call the social science task force on chilling-effect. They did sort of a; we did; they did a report which became an appendix to our brief in the Supreme Court; a report from the social scientist on the phenomenon of chill. That it's a real phenomenon. Because in the Court of Appeals the dissenting

judge had said it's bullshit. There's no such thing as chilling-effect. So, I wanted to sort of get that out of the way. So, Phil Zimbardo had worked with me on that issue. Then, he came to me; or wrote to me because he was in Stanford. I think, at the time. He had somehow or other got involved with a prisoner in New Jersey, in state prison, who'd been convicted of murder. It was a rape-murder. And, he had; somehow gotten involved but he was convinced; it was a confession. He was convinced the confession was coerced. And, he asked if we would take this over on appeal and try to get the confession thrown out and the conviction reversed. It was the seventies. I had a lot of very strong feminists students in the clinic. And, we sent a group of students down to Trenton State Prison to interview the defendant. And, especially the women, came back and they were convinced he was guilty. And, they did not want to represent him. And, we had a knockdown drag-out battle in the clinic. And, it pretty much fell along gender lines. The guys said, well, we, everybody's got a right. We're just being lawyers. You've got a right to defense. He's got a; it's a good issue. We think legally he's probably right. It was coerced. We could get this reversed. And, the women students were adamant. They did not want to take or to devote our resources to this rape mur, rapist-murderer who they were convinced he was. Almost split us; split the clinic apart. We finally took a vote; should we take the case? And, enough of the men were, I guess; not should we take the case but to sort of concede if it's going to offend the other women that much maybe we'd better not do it. The vote was not to take on the case. It was the most divisive issue I've ever confronted in the clinic.

Hall: What about the caliber of the students and the work they did?

Askin: Mixed. Generally speaking, we have a very high caliber of student in our clinic. The weaker students tend to shy away cause they know the work is hard. It has a reputation for being tough. We're very demanding. We deal with tough issues. You know, they got to produce. And, generally speaking, the caliber of the students is quite high. On occasion we get some weak students. And, it's a problem. The weak students tend to flounder and it's a problem for the litigation. It's a problem for the students. You struggle with it.

Hall: How do you struggle with all that?

Askin: Well, they write and rewrite and rewrite and rewrite and depending upon the level of whatever court we're in I may have to take over, you know, the brief or the section of the brief and totally rewrite it at some point. Certainly, if I'm in the U.S. Supreme Court I do it. If I'm in the New Jersey Supreme Court I would do it. If I'm in a trial court I'll probably; ultimate, you know, if it's a brief on summary judgement I'll accept something less than perfection. I'd like to have as

much of the student work in the final product as possible. I don't like to re-do it and, you know, sort of leave them out of the process. I like them to have that feeling of accomplishment. But, there is; there does come a time when it's such an important issue and we're in a particularly high-level court and the student work is poor; occasionally, it happens, that I'll wind up just letting, you know, 72 hours straight rewriting the brief before I submit it.

Hall: That's an interesting point because the states are hard. I've heard some people say they take smaller cases just to avoid

Askin: It's a problem. Yeah, it's a problem.

Hall: What about terms of communication style? You've got sort of two different things. You say you want to make the case work. On the other hand, you're trying to sort of bring a young law student . . .

Askin: Right.

Hall: . . . along. How do you balance those two in your communication?

Askin: Well, it's hard. I think I'm fairly gentle. I have a colleague who has a lot; occasionally has trouble with the students. She is so demanding and so tough and they feel that she is being super-critical. I tend to be a lot softer. It will come a point where I will, I guess, you know, take it over more quickly than she will. She'll demand a fifteenth rewrite. I may not. And, I don't know which is the better source. I've always been accused; my wife always accuses me of being too easy on my children. They need more discipline. I'm not that strong a disciplinarian I guess. I; but, I've been fortunate. Generally speaking, I have a very high caliber student. Sometimes, they're absolutely wonderful. You get this student who just does such superb work and you hardly have to touch and it feels so good. And, a great majority of my students aren't quite that good but they're good. And, it's only the occasional, you know, I'll have one, maybe two, in a semester, who we have real problems with.

Hall: Frank, sounds like you were lucky at Rucker's to avoid some of the problems that cropped up in other programs. Doesn't sound like you had a big status problem or if you did I didn't gather that from when you first were talking about it. Were you tenure tract right from the beginning and were?

Askin: Yeah. Yeah, I remember I came in; there was no such thing as, you know, it was just faculty. 1966, I was hired. I was assistant professor. In 1969 I became an associate professor. Now, I had already; now; some; there was some; and then I, you know, I started the clinic in 70 just before I actually did not have tenure yet. And, there were members of my faculty, what we used to call the elites faction, who thought I was too much of the activist and the advocate rather than the scholar and that was part of the debate that used to go on at Rutgers at the time. But, I was fortunate that Rutgers had this commitment to social justice and the majority of the faculty was very supportive and I just; it was always a very nurturing institution. Ruth Ginsberg was always very supportive.

Hall: Was she involved as a clinician herself, at Rutgers?

Askin: No. Although what happened; when the women's rights; see; and the dates now get a little fuzzy. Ruth was only; was really; stayed at Rutgers till 1970. By 1968 women started coming in in big numbers. And, as I said before, they started gravitating; they needed a role model. There were only two women on the faculty. And, they tended to gravitate towards Ruth who was a Civil Procedure scholar. But, they even started; they started the women's law forum. And, they

needed a faculty advisor. And, these were feminists, older feminists women in the main; second-career women. And, they really began to, you know, they started pushing Ruth. It was about this time she was also getting ready to leave Rutgers and she was on leave for a couple years; first at Harvard, then at Columbia. But, she would still be the advisor to the women's law forum at Rutgers. And, then the women's lib; now, then, as a result of this thing she started; she; sort of moving her scholarship from Civil Procedure into feminists, you know, doctoring and that's when she suddenly set up this project to the ALCU; the ACLU women's right project. At the same time we were setting up a women's rights litigation clinic at Rutgers. This is around 1972, I guess. And, Ruth really had one foot out of the law school but she sort of worked with Nadine Talb who was setting up the women's rights litigation clinic while Ruth was setting up the women's rights project to the ACLU. And, so they would work together. So, Ruth did work with Nadine Talb on some of the early cases in our women's rights litigation clinic. But, other than that, Ruth was not involved with the clinical programs at Rutgers. Just sort of consulting and on the periphery because of her work with the ACLU.

Hall: Comparing your situation with situation with the other national situation what do you think about some of the turning points along the way from clinical education being sort of on the margins to be playing more established role?

Askin: It's almost hard for me to really reconstruct. I mean, I've been so deeply involved in it; in 1970 and clinics, you know, began taking on more and more of a major part of life at Rutgers. It was the women's rights litigation, then we had a prisoner rights clinic and then we even set up a labor law clinic for a while with a grant from the federal government. And, so we were really in the forefront there and I never was terribly; for some reason or another, I was never terribly active in the clinical section. And, I also; I think; I think I know why. In fact, Rutgers clinicians have, in the past, not been terribly active and I think it's because we had such a nurturing home base, we didn't need this national support group. There were clinicians at law schools around the country who were isolated from their own faculties. They felt lonely. They felt, you know, oppressed. We were always such a; we were so welcomed at Rutgers and we had a critical mass. I don't think we really needed that kind of outside support as much as other clinicians did. So, I sort of never got terribly, deeply involved in the, you know, the national clinical movement. Nor did most of our other clinicians at Rutgers.

Hall: What about the intellectual development? Were there any people that you would say had some influence on you guys just in terms of models or ideas they had about how . . .

Askin: Well, certainly, Tony Amsterdam had a major influence. You certainly looked at Tony as a guide. Gary Bellow; those are certainly the two; and Arthur Kinoy. I mean, Arthur Kinoy was our local guru and while Arthur was never directly involved in the clinic he was always, you know, on the sidelines; would always work

Hall: If I could ask about him; his name was mentioned earlier.

Askin: Yeah.

Hall: What would you say his impact was on the clinical program?

Askin: Well, Arthur was inspirational. Arthur was an inspiration to the students. You know, at Rutgers we had lots of socially active, socially conscious students. They, you know, his seminars were; they called it a seminar; he usually had 45, 50 students in his seminars; in advance problems of constitutional litigation. So, Arthur was always an inspiration for us. Every once in a while he'd have a case in the U.S. Supreme Court. Sometimes; occasionally, he did it through our clinic, sometimes he just did it through the center for constitutional rights. But, Power v.

McCormack; a lot of that was done actually in the clinic. The brief was written in the clinic by clinic students with Arthur and Bill Bender. And, the U.S. v. U.S. District Court, I think Arthur did mostly through the clinic; process students in his own seminar; well, usually, it was a lot of crossover between students in the clinic and students in Arthur's seminars. They were all from the same students. So, but, he was; Arthur was clearly an inspiration for everything we did. And, you know, there was a close connection between the development of clinical education at Rutgers and our minority student program. They really developed hand-in-hand. In 1967 we set up the minority student program, the first class coming in in September of 68 in which we set aside, basically, twenty-five percent of the student body for the minority students. And, then when the minority students started coming in in droves, they said the curriculum was not responsive to their needs and they wanted an expansion of clinical education. So, the two worked hand-in-hand. The minority students really became; plus the, you know, the activists, white students, you know, coming out of the South, who approved more and more clinical programs.

Hall: Given the newness of a large number of minorities coming into a law school at that point, was there anything about the clinical model that was more effective or more welcoming to a non-white kid?

Askin: Yeah, I think, particularly, our urban legal clinic. They tend to more to gravitate to the urban legal clinic which is more on the model of the legal services program. And, it was sort of, I think, the white activists who were meant, you know, dominated the country's litigation clinic. But, the minority students tended to dominate in the urban legal clinic; dealing with landlord tenant problems, consumer problems, things like that.

Hall: Is this one of those questions. If I misread, then I'll sound like I'm hallucinating. Did you write a book on self-representation?

Askin: No.

Hall: You did not? Ok. Have you written any books? Which books have you written?

Askin: Yeah. My book is a memoir.

Hall: Yours is a memoir.

Askin: It's called Defending Rights of Life and Long Politics and it, you know, half the book are the cases that I've done in the clinic; including the fights with the FBI, the army, the long-haired travelers; shopping malls.

Hall: Um-hum. Beyond the actual rulings; I mean, you may mention obviously the profiling still lives on; some of the other issues that you took on in your major cases, can you look at them now and say things are happening demonstratively differently now from when you first took on the cases?

Askin: Oh, yeah, well, sure, first of all, we were involved in most of the affirmative action litigation in the country at some level or another. We filed; we at least filed the amicus briefs. We filed amicus briefs, usually on behalf of the university, in all those cases. Rutgers' faculty had a huge debate about what to do with our minority student program. And, we actually filed a 200-page brief with the faculty defending the continuation of the minority student program. This was all done by clinic students. And, faculty, after a deadlock; for the faculty first vote deadlocked 19 to 19 whether to change the program or not. And, then we had another faculty meeting two weeks later in which what we did, we expanded the program from 25% to 30% of the student body but added what were called disadvantaged white applicants. So, it was no longer strictly racial. But, it also

expanded the program to 30% of the student body. And, so, and that program actually lasted until last year when we made some modifications of the; of our admissions policy to change it into a sort of a; a sort of unitary admissions system under some pressure from the Department of Education. But, we were always involved in the years in affirmative action litigation. And, as a matter of fact, we handled the case which has resulted in probably the most pro-affirmative action opinion in the federal reports. Case out of the third circuit in 1971 called Porcelli v. Titus in which we represented the Newark school board in defending the affirmative action program for supervisory personnel, on the basis that a predominately black school system needed black supervisors as role models for students. And; cause the school board had set aside its supervisory promotion list in order to hire more black principals, vice principals, etc. And, we won that in the third circuit. It's probably the most pro affirmative action decision you can find on the; in the book; the federal reports and of course when the third circuit decided Taxman a couple years ago; of course they never mentioned Porcelli v. Titus. They totally reject the notion of role models as a, you know, a basis for affirmative action in a; for minority students. And, it always reminded me of Robin Williams in Dead Poets Society. He said, open your books to chapter 2, rip it out, no good any more. They just ripped Porcelli v. Titus right out of the books. In fact, I have another similar situation. One of my favorite cases is a case decided in the third circuit in 1976 called Peyton v. Laprie in which my client was a fifteen-year-old high school student, who was investigated by the FBI because of a letter she wrote to the socialist worker's party for a homework assignment.

And, we got a wonderful opinion from the third circuit in that case on the free speech opinion about; the FBI had violated her first amendments rights. In fact, Laurie Peyton, my client, I twice took to Washington to testify on behalf of the privacy act when the privacy act was under consideration by Congress. And, so our case helped lead to the privacy act. But, ten years later I did almost an identical case called Patterson v. FBI. My client being, when he started was a precocious eleven-year-old who was writing a history of an encyclopedia of all of the world and wrote to all the governments of the world, including all the communists governments. And, the FBI came to his house; who's this person writing to the communist governments; of the communists governments? And, I finally represented Todd when he was now sixteen. And, I always called that case son of Laurie Peyton. But, now we not only have the first amendment we have the privacy act in our support. And, we lost that case unanimously in the third circuit, never mentioned Peyton v. Laprie. I did a petition for rehearing. How come you never even mentioned it in your opinion? And, of course you get a one-line rehearing denied. So, things change. Yes, things have greatly changed. Certainly, affirmative action law has totally been transformed. But, I do all this now; that's why I moved to do everything under the state constitution. In fact, I am getting ready; my next big case, I think, will be a suit dealing with the; the 2000 census, in which I plan to sue state, the New Jersey redistricting commissions, to require them to use adjusted census data in the redistricting of New Jersey's legislative districts and congressional districts. But, I plan, basically, probably exclusively, to rely; to go under the state constitution, which is

a much stronger equal protection standard than the federal constitution. I think I can win this case under the state constitution. I'll never win it under the federal constitution.

Hall: Obviously, the federal courts have changed. What about your students? They must have been fire-breathers in the beginning. What are they like now?

Askin: Yeah. They're milder. They're not the, you know, it used to be in the earlier days these were all guild students; the lawyers guild students. Now, I still get a, you know, a pretty self-selective group of committed students who are more sort of ACLU than guild; not quite the same radical fervor or commitment, but a commitment to; to democratic values. So, it's not quite the same radicalism, but in general my students tend to sort of be basically, you know, progressive. Although, I must tell you I occasionally get some right-wing federalist students in. They find it; sometimes they're very smart federalist students. And, I've had some exceedingly good students who are actually part of the federalists society. In fact, one of them; this is a very interesting story. While he was in the clinic he worked on a case dealing with access of non-residents to public parks. We won a big victory in New Jersey that; a local park had said only; you have to be a resident to use the park. Of course, the only way they knew somebody was a non-resident was the color of their skin since it was a suburb of the city of Patterson.

Otherwise, how would they know if a person's a resident or not; just no black person lived in that town. So, he worked on that case in the clinic, which we won. And, then, he's actually from Connecticut. He went back to Connecticut and he has been running now for four years, a case against the city of Greenwich. In fact, the New York Times have written several stories about his case because they didn't want to let him jog through their beach-front property. So, he took everything he had learned in our case and now has been applying; he's now, I think, in the Connecticut Supreme Court with his case. But, he was actually a federalist student at Rutgers.

Hall: Frank, when you take everything, whether it's like cases won or experiences passed on to students, what would you consider to be the greatest successes of your time at Rutgers?

Askin: My greatest success is the cadre of public interest lawyers I've created. A lot of them work for public interest agencies but more of them in private practice who do a lot of public interest cases; sometimes pro bono, sometimes fee-generating cases. Two of my students have established an extraordinarily successful private practice in which all they do is represent plaintiffs in employment discrimination cases and they get multi-million dollar verdicts all the time. In fact, they just gave me a forty thousand dollar contribution to our Canoe Davis fellowship fund.

They have Canoe Davis fellows at the law school, named for Arthur Canoe and Morris Davis. And, so, I think the number of public interest lawyers I've helped to train, that's my greatest pride in what we've accomplished.

Hall: If I were to try to ask you to comment on that in terms of just the whole national clinical legal education movement, would you say that's the same biggest success or would you point to something else?

Askin: I think so. I think what we've done is helped create a vigorous public interest bar in this country. And, I think, I mean, you know, you think back to the early, you know, the late 50s, early 60s, there were a handful of what you call public interest civil rights lawyers. They were few and far between. We now have a flourishing public interest law movement in this country. And, I think that has been extraordinarily important protection for American democracy. Because as bad as things get we; there's always still; we have this; the bar is playing a very positive role, I think in making sure things don't get too bad in protecting individual rights and, you know, even conservatives now have to admit that free speech is an important value. And, they don't particularly like affirmative action but they like to talk about equality and equal protection. Course, they think mostly it's for white people that they want equal protection. But, there is; we; I think we've helped change; because we've changed the complexion of the bar, we've changed

the commitment of the bar in this country, in particular because there is such a; I think, a vigorous and aggressive public interest law movement. And, I think that's a; that's the biggest thing we can really be happy about and take credit for.

Hall: One last question from me and then I'll turn it over to Sandy who often has some other backup questions. Looking ahead to the future what do you see as the biggest issues facing the clinical movement?

Askin: I'd let my colleague, John Dubin, respond. He looks to the future. I'm not sure I can answer that. You know, obviously, resources are a continuing problem. Now that the, you know, now that the clinical education is fairly well established, now these, you know, new issues about status of clinicians and we even have it at Rutgers, as supportive as Rutgers has been of clinical education in general, while my clinicians feel that, you know, we have two, you know, we have some people like me who are regular faculty, who teach; who like to teach in clinics and we have a bunch of clinicians who are on contract status and their status, their role, their respect among their colleagues or are they to be accepted as real parts of the teaching institution. These are major issues. They always; the clinicians, I think, always feel they're; they still feel they're second-class citizens and it's a problem. So, the whole status of clinical education, I think, is still an issue as to exactly where it fits into the legal academy. And, I don't know what the answer to that

ultimately is going to be. It's always the question of resources and, I mean, our faculties now; it's a little bit, I suppose, of a backlash. I mean, we have, you know, like 16, 18 people, which is almost half of our or say, 40% of our teaching faculty, who spend all or part of their time teaching in clinics. Now, a lot of the other faculty, the academic, so-called academic faculty, they're a little concerned. Well, maybe they ought to be more resource for them, cause we're an institution that is very short on resources. We're a state institution. Our budget gets worse and worse every year; our budget situation. The library is totally under-funded. There's never enough money for scholarships for students or for faculty research assistants. So, the question of resources is a major concern and some of the faculty say, gee, this clinical education's expensive. We pour a lot of money into it. Should we be spending so much money on clinical education? So, these are continuing problems even in a place like Rutgers. But, I guess, especially in a place like Rutgers where we have, you know, donated so much of our resources to clinical education.

Hall: Listen, do you have? Actually, the last question I ask everybody is, what have I missed? Is there anything you think should be a part of people's thinking about clinical education? Or about your story?

Askin: I'm sure I'll think of something at two o'clock in the morning. But, for me it's

been, you know, for me it's been just a wonderful, wonderful experience. I mean, I never thought I was going to spend my life as a law teacher and I found a career that's, you know, just been so rewarding that I never want to retire. People say, you going to retire. I say, why would I retire? If I retired I would continue to do the same things I do now; as a volunteer. In fact, my one child; I have one child that went to law school and he always told me, he says, Dad, you know, you've ruined it for everybody else. You've got the only good job in the law. You pick your own clients. You pick your own cases. You do what you want to do. You have lots of fun. You train students. You've got a great job. And, I said, you're right.

Hall: Frank, thank you so much.