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Professor Mort Cohen: An Advocate Professor's Journey

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THEORY TO PRACTICE

Professor Mort Cohen An Advocate Professor's Journey

Professor Mort Cohen has taught at GGU Law for 30 years. In addition to teaching, Cohen has taken on pro bono cases as an advocate, most recently in service of the elderly and mentally ill. In 2012, in addition to teaching, Cohen successfully represented two individuals and the California Association of Mental Health Patients Rights Advocates in K.G. Et al v. Meredith as a Marin County Public Guardian. In an unprecedented, unanimous decision, a three-judge panel in The California Court of Appeal, First District stated that patients could not be treated with mind-altering drugs without their informed

consent. It further stated that the County of Marin denied such people due process by failing to give them adequate notice, counsel, and a hearing before finding them disabled and rendering them incapable of exercising rights of decisional autonomy (their right to make their own medical decisions). In 2012, he was presented with two Attorney of the Year awards, one from California Advocates for Nursing Home Reform and one from the California Association of Mental Health Patients Rights Advocates. Recently, Professor Cohen generously took some time to discuss his professional journey and passion.

How did you come into public interest work?

I grew up in the Crown Heights neighborhood of Brooklyn. My father was a truant officer and we were a very liberal family. When I graduated from law school, I first worked with a dreadful law firm, but made a very quick escape to the Federal Trade Commission, and then the Department of Justice, Antitrust Division. Raised with a strict commitment to social justice, I began volunteering with the Harlem Chapter of the Congress of Racial Equality (Harlem CORE) while working with the FTC. I was the only white guy at Harlem CORE and spent my time representing people at demonstrations.

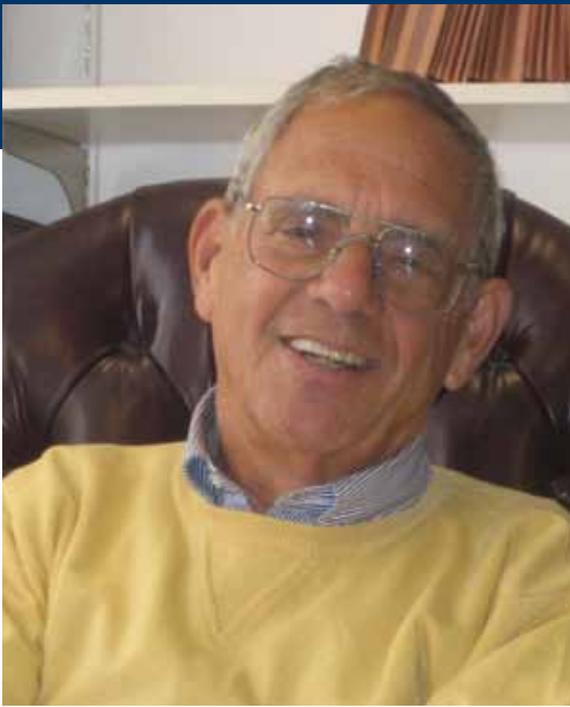
In 1966, the DOJ sent me out to California. Now Associate US Supreme Court Justice Stephen Breyer was also working in Antitrust at the time, and he wanted to sue the Los Angeles Realty Board—at the time an entirely white institution—for conspiring to prevent blacks from obtaining access to housing and multiple listing services. Justice Breyer and I handled that litigation together and initially the FBI was tasked with handling the investigation. When the FBI told me they couldn't believe the nice folks on the realty board could ever discriminate, I was forced to manage the investigation myself, and hired a group of assistants, many of whom were black. We

found records of discriminatory practice and in the end we obtained a consent decree.

In 1968, I was transferred back to the New York office, after I'd grown tired of antitrust litigation and joined the Neighborhood Law Offices in New York. I also worked at the Legal Aid Society where I initiated processes for using law students in live cases—including minor criminal defenses and welfare department hearings—and convinced appellate courts to certify law students. After handling innumerable cases there, I became a teaching fellow at Harvard.

How did you get involved with prison conditions litigation?

While at Harvard, beginning in 1971, I became one of the lawyers in the litigation arising out of the Attica Prison Riot. By the mid-1970s, I had worked on Attica and Wounded Knee, and had moved to the ACLU in San Francisco. At the same time, I began hearing reports of the misuse of drugs on mentally ill inmates. In 1978, I filed two lawsuits against the county jails. The guards often cooperated with me because they didn't like the conditions either. I won both lawsuits, and brought another lawsuit in San Bruno. The first two resulted in consent decrees, and another resulted in the building of a new jail.



“I really enjoy taking on the windmills of society.”

I knew about prison conditions long before Attica. I came from a part of Brooklyn that had had many interactions with law enforcement. And my dad would come home with lots of interesting stories. When I left the DOJ and worked with Legal Aid and Harlem CORE, a lot of my work pertained to prison conditions because if you were a poverty lawyer, crime was always an aspect. At Attica, many of the inmates came out of Brooklyn, where many of them had spent time in a jail known as the Tombs. Everyone knew that the conditions of these jails were terrible. The people in these institutions did not just lack representation; they were mistreated and had no voice. Because they were very difficult to work with or reach they were often ignored. That fact gives them something in common with the mentally ill.

Now you serve as an advocate for the elderly and mentally ill. Why?

I really enjoy taking on the windmills of society. This work is tough. And it's challenging to handle class action cases involving the elderly and mentally ill while also teaching a full course load. But it's very rewarding work.

Does your pro bono work help you prepare students for practice? If so, how?

It does. I am able to persuade judges to visit my classroom. I have brought students to court. And there is no question that my pro bono work helps lift the learning curve and

keeps the attention of my students. My pro bono work allows me to better understand every course I teach in both a theoretical and practical context, and that helps students.

You started performing pro bono while still in law school. How do we instill a passion for public service in young people today?

At Legal Aid, I worked with lots of students and had a particular bent. While I wanted to inspire students to work on behalf of the poor, most eventually went into other fields. I learned that my job is not to opine on students. I have strong opinions, but when I enter the classroom I have to cleanse myself of the tendency to express them and remain with statements on the law.

We have to find out what the students want. We can't force feed them on the issues that we care about. Some students will not be persuaded. But I think that many people get into this profession because they feel some anguish about deprivation. Understanding this can help us persuade more students. I tell aspiring prosecutors that they should learn about defense work in order to become good prosecutors.

After thirty years of teaching at GGU, what can you say makes our school unique?

It's 2:30 in the afternoon and I am here. This conversation happening right now would not happen anywhere else. The collegiality and congeniality we experience at Golden Gate is extraordinarily unusual. Golden Gate supports a humane faculty in terms of approaches to themselves and their students. This is a pleasant, friendly place to work.

If you could be anything other than an attorney or law professor, what would you be?

I don't really have any frustrations. I really like what I do. At one point, I was asked to be a magistrate and turned it down because I wanted to be an advocate. I wouldn't be a professional fisherman. I would do lots of things but would still want to be an advocate. ///

Professor Cohen was interviewed by Leeor Neta, Director of Public Interest, Law Career Services.