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The Law School's Foster Care Project, led by Professor Emily Buss, unites former foster children, scholars, policy makers, judges, and lawyers in an effort to understand the special problems facing foster youth aging out of the child welfare system. Story by Heidi Mueller, '07, photographs by Lloyd DeGrane.

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"Anti-sorting principles are not anti-religion," writes Professor Adam M. Samaha. "And they do not entail opposition to religion in politics." This article looks at anti-sorting principles as a welcome addition to our continuing search for the proper relationship between religion and political institutions. It is an excerpt from "Endorsement Retires: From Religious Symbols to Anti-sorting Principles" that first appeared in the 2005 Supreme Court Review.

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Message from the Dean

Dear Friends,

I like to think of the Record as providing you with ongoing evidence about the life of your Law School. As you read or leaf through it, you are reminded of the energy that is evident here, and of the many ways in which we educate our students and ourselves. There are debates about national security, classes that range from Elements to seminars in faculty homes to statute-centered learning experiences, clinics that put ideas into action, and much more. The magazine is thus meant for you, and constructed to keep you informed (and pleased, I hope) about what goes on here. Our news is usually of the intellectual kind, but we should also keep an accurate picture of the physical Law School in your mind.

To this end, I want to tell you about three new projects that will transform the Law School and environs. The first is one you have read about in earlier issues of the Record. We are ready to take bids on the revitalization plan for our central tower, which is to say the D’Angelo Law Library’s main home. We hope to succeed with that building as we did with our classroom wing, snatching attractive and functional spaces from the jaws of decline. We will have more pictures and drawings to show you before long, and you will see student-friendly spaces where books were once crammed and the relocation of student services to the Library’s third floor. But you will need to visit the Law School to observe the transformation of our Library from one designed largely as a book warehouse to one where students gather, ideas are exchanged, and wired and wireless connections give access to information. As was the case with our classroom revitalization project, the plan is to take an aging building and to remake it into a first-class facility that attracts students and obviates the need for an entirely new (and more expensive) facility. And when you do visit, I warrant that you will see such quantity and quality of student interaction that you will know that Chicago is, more than ever, the best school for people like us.

Meanwhile, a modest project will appear at our doorstep and an ambitious one to the southwest. The fountain in front of the Law School—scene of skating parties, end-of-exam-period soakings, and the launching of the Centennial Navy—needs to be replaced. The fountain has become a maintenance nightmare and, even with large annual expenditures, is a black hole for most of the year. The current plan, designed and financed by the University, is to create a plaza with a zero-depth reflecting pool. Our hope is that the area will be attractive even when cold weather forces the shutting down of the water element. If all goes well, that construction, and renovation of the surrounding and crumbling walkways, will take place this coming summer.

To the southwest, a very large undergraduate dormitory will soon rise behind Burton-Judson. Workers can already be observed boring in exploratory fashion and readying the place for serious work as early as June. Some 900 undergraduates will become our neighbors. A new dining facility and cafe will service the new residential “houses” as well as the undergraduates now in B-J. The parking lot behind where I sit will vanish. This construction, as well as other projects intended for our side of the Midway, brings concerns but also great opportunities. We must worry about parking, about architecture, and about library crowding if we prove to be a popular destination. On the other hand, there will be new life nearby, and we will no longer be the least bit isolated. Pedestrian traffic and retail development will surely be good for us. Students are attracted to vital urban settings, and what is attractive to students is good for us.

I cannot stop here, because urban and campus planning is not what you or I expect of me, and so I will conclude by recording that another new arrival this summer is our Public Interest Program aimed at students who have completed the first year of study. Beginning this summer, our first year students have been promised a stipend, which can take the form of a forgivable loan, for anyone who works four weeks or more in a qualifying public interest position. I am eager to see how this unfolds—and we have already observed the positive impact on admissions. We plan to ask recipients to report thoughtfully on their summer experiences. In this, as in most things, I will keep you informed.

And so as you read through this Record, and begin to get to know our extraordinary new faculty members as well as programs we have underway, I hope that you can picture the physical facility in which most of our work takes place. If you remember an intimate, collegial atmosphere, then be assured that none of that will disappear. But if you recall some coldness and malfunctioning infrastructure, then be assured that we are well on our way to improving the best Law School that an active and imaginative mind could want.

Paul V. Verona
IMPROVING the TRANSITION to EMANCIPATION

Understanding, and solving, the problems facing foster youth aging out of the system

HEIDI MUELLER, ’07

THE LAW SCHOOL'S FOSTER CARE PROJECT, LED BY PROFESSOR EMILY BUSS, UNITES FORMER FOSTER CHILDREN, SCHOLARS, POLICY MAKERS, JUDGES, AND LAWYERS IN AN EFFORT TO UNDERSTAND THE SPECIAL PROBLEMS FACING FOSTER YOUTH AGING OUT OF THE CHILD WELFARE SYSTEM AND TO IDENTIFY OPPORTUNITIES FOR LEGAL REFORM THAT HELP MAKE A SUCCESSFUL TRANSITION TO INDEPENDENT ADULTHOOD.

For most of us, the transition from childhood dependence to adult independence is a slow one, allowing many years for education, professional experimentation, and emotional growth. Teenagers in foster care enjoy no such luxuries of time and support. Most are foster children one minute then completely on their own the next.

Consider April Curtis, who grew up in the foster care system. April was taken from her home at age three. The places where she would live and the people on whom she would depend for the next fifteen years would be determined by a judge, a lawyer, and a series of social workers, many of whom she rarely saw. As her siblings entered the system, April lost touch with them. When her sister was adopted, she was told that she no longer legally had a sister. As she began the transition to emancipation, April felt unsupported and underprepared for adult life. She knew how to do a load of laundry, but her case worker had not equipped her with the skills or information to find housing or medical care, nor helped her secure important documents like a birth certificate or social security card. The assumption being that April would simply begin working upon emancipation, nobody talked to her about the chance to go to college. When April wanted to voice these concerns to her judge, she had to do so through a lawyer, who had yet another view about what was best for her.

To become the successful adult that she is now, April had to go around the system and fight for herself. She maintained a relationship with her siblings by avoiding the court's involvement. She found a way to college on her own. Without the help of anyone in the system for obtaining financial aid she worked to pay for school and took leave when her money ran out. April now not only fights to keep her family connected, but advocates for other foster care children and their sibling relationships. She is active in efforts to improve access to information and services for foster youth as they transition out, as well as promoting more relevant, longer-term, and supportive case worker involvement in the transition process.

Through the Law School's Foster Care Project, April and other former foster children met with scholars, policy...
makers, judges, and lawyers to discuss the special problems facing foster youth “aging out” of the child welfare system. Led by Emily Buss, Professor of Law and Kanter Director of the Chicago Policy Initiatives, the project works to identify opportunities for legal reform that could make a successful transition to independent adulthood easier for people like April, and possible for the many foster youth who don’t make it under the existing system.

Foster youth face significantly higher risks of homelessness, unemployment, early pregnancy, and jail in early adulthood.

The most comprehensive empirical research on the foster care transition is being conducted at Chapin Hall, a University of Chicago affiliated research institute. Mark Courtney, who directs Chapin Hall and serves on the faculty of the University’s School of Social Service Administration, is a national leader in foster care research. Like other researchers, Courtney has found that foster youth face significantly higher risks than the general population of

April Curtis, a former foster child, is currently working to improve access to information and services.

suffering homelessness, joblessness, early pregnancy, and jail in early adulthood.

But in his most recent research, Professor Courtney has

Researchers meet to discuss the juvenile court’s involvement in the lives of foster children.
also found reason for hope. In states where foster youth remain in the child welfare system until age twenty-one, they do considerably better. In much higher numbers, they stay in school, live in stable and supportive situations, and avoid arrest. It is unclear why continuing foster care involvement makes a difference. One possible explanation lies in the juvenile courts, which continue to review the cases of young adults who remain in the system. Because it appears to be an important and unstudied part of the transition

The Law School's Foster Care Project focuses on the courts' role in overseeing foster youths' transition to adulthood.

process, the Law School's Foster Care Project focuses on the courts' role in overseeing foster youths' transition to adulthood. Professor Buss has already begun an interview study of court personnel working in the Cook County Juvenile Court, and she plans to involve several students in a court observation study beginning this summer.

The end product of the project will be a protocol for reform, authored by Buss and participating students, to show what the project has found from its qualitative research as well as the more traditional legal research students and Professor Buss have undertaken. The protocol will be widely disseminated to judges, legislators, policy makers, and advocates nationwide who can use it to promote reform. The protocol will reflect the considerable consensus that already exists among those pressing for reform, and take positions on the more contentious issues that still divide advocates.

The purpose of the project's recent working conference attended by April and twenty other experts was to identify those areas of consensus, and engage in a serious discussion of some areas of disagreement. One of the primary areas of disagreement concerned the important issue of juvenile court involvement. Another former foster child, David Ambroz, now a lawyer who recently worked on the largest child welfare class action suit in California history, expressed considerable skepticism about the value of ongoing court involvement. "The system needs to stay out of our way and maybe be less involved," he said. April agreed. "We have something to contribute. People need to realize that.

Who made decisions for me? Someone who knew less about what I needed than I did."

Others, including Alfred Perez, who also spent time in foster care as a teenager and is now pursuing his Ph.D. at the University of Chicago's School of Social Services Administration, pointed to correctable flaws in the court process. He described how he was never given an opportunity to go to court, despite his right to do so. Judge Dale Koch, a family court judge in Portland, Oregon who is President Elect of the National Council of Juvenile and Family Court judges, noted the opportunity for judges to act as service coordinators, meeting with foster youth, social workers and guardians ad litem to assess each child's progress. He called for streamlined judicial education and information so that judges are better able to fill this role in the face of a complex system with multiple agency involvement.

In conducting court-based research, one of the primary aims will be to determine whether the sorts of system failures April, Alfred, and David decried are inevitable, or whether the court process could be designed, not to get in the way, but to truly help.
Drawing Religious and Political Boundaries: Constitutional Anti-sorting Principles

Adam M. Samaha
There are two key building blocks in Supreme Court precedent for an anti-sorting principle—a principle that would disfavor the alignment of political with religious boundaries. The first is a case about exclusion. Upon learning that a Santeria church was planned for construction within the City of Hialeah, a series of ordinances was adopted. Part of the Santeria faith calls for animal sacrifice, and the practical effect of the ordinances was to outlaw “ritual” animal sacrifice without threatening kosher butchers. The Court unanimously held the ordinances invalid. Going out of its way to teach the locals a lesson, the majority explained that Santeria is a religion for First Amendment purposes even though the City did not argue otherwise. The opinion opened with the observation that local officials “did not understand, failed to perceive, or chose to ignore the fact that their official actions violated the Nation’s essential commitment to religious freedom.”

Commentators discuss the Santeria case as a matter of free exercise, and it is surely that. Presumably the same result would obtain if the State of Florida or the Federal Government adopted the same rules for animal sacrifice. But in the spirit of economist Charles Tiebout—who pointed out benefits of political jurisdictions responding to and competing for mobile citizen voters—the Court might have told the newcomers to sort themselves into a more-accepting municipality. Or, recognizing that the City of Hialeah could not have guaranteed Santeria space in any other jurisdiction, the Court might have distinguished a hypothetical statewide program that achieved such a guarantee. But nothing in the Court’s decision is so pro-sorting. It does not suggest that a municipality may expel a disfavored religion from its territory as long as another municipality stays open. To the contrary, the opinion—protecting “the Nation’s essential commitment” to religious liberty—indicates opposition to sect-targeted and government-backed efforts to achieve local homogeneity. For federal constitutional purposes, then, religion looks more like race than wealth: localities may more-or-less explicitly zone for homogeneity in the latter but not the former. The Court would blanch at over government efforts to restrict migration of African-Americans to select communities even if 99% of residential property within the region remained open. A different result seems unlikely for denominations like Santeria.

Even so, the Hialeah decision is not entirely anti-sorting. In fact it might be read as pro-sorting but anti-subordination. In the spirit of the Supreme Court’s Caroleti Products decision rather than Tiebout, the Court might have been protecting the interests of non-mainstream religions to sort themselves however they wish. Perhaps Santeria’s victory means that the local political unpopularity of a migrant’s religion, like her race, is not something she should have to worry about while sorting. But even with a useful concept of “minority religion” within a multitude of faiths, this reading is not quite right. The Court’s concern goes beyond empowering minorities to join a locality that prefers to maintain its religious composition.

The point is made by a second and more controversial case. A year after the Hialeah decision, the New York legislature was rebuked for drawing a new public school district at the request of the Satmar Hasidim. The district’s boundaries would have matched the Satmars’ residential enclave in the Village of Kiryas Joel, and the Court balked at officials consciously aligning political institutions with religious geography. This was true even though both the Satmars and the adjacent community were probably grateful for the partition. The former wanted the new district to provide special education services apart from non-Satmar students, who were a source of discomfort and humiliation for their children.

The ramifications of the case are unclear, however. The decision did not entail invalidation of the Satmars’ village, for example, even though it was religiously homogenous by any standard. Why not? Dicta indicates that the Court’s worry was that state officials purposefully singled out the Satmars for special treatment in creating the school district but not the village. “State action” was needed to get either one, of course. But the State might have been too conscious of sectarian beneficiaries in dealing with the school district, and failed adequately to assure empathy for similarly situated communities. By contrast, the village’s boundaries were generated by a process facially neutral.

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Professor Samaha will present the First Monday lectures in the fall of 2006: Washington, DC (September 13), New York City (September 14), San Francisco (September 18) and Chicago (October 4).

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with respect to religion. Any group could seek municipal status by that process. If we assume the Satmar village is constitutionally permissible, perhaps the state may facilitate sorting by all groups, as long as it does not purposefully facilitate religious sorting. On the other hand, an anti-subordination principle might re-enter the picture here; it could restrict the benefits of municipal status for religiously monolithic communities to systematic losers in the political process. After all, the Satmars traveled a long way before reaching Kiryas Joel, ultimately seeking village status to escape restrictive zoning ordinances burdening their way of life. The character and dimension of any principles underlying the case are undefined.

One limit to the Court’s opposition to religious sorting should be emphasized here. The attention is on religious cleavages that match political boundaries but not all boundaries will be policed. This is a fair inference from race cases. A majority of the Court has been concerned when officials draw legislative districts to match racial demographics. Yet dissenters in those cases—all of whom voted to invalidate the Satmars’ special school district—indicated that religion is a presumptively valid basis on which to draw legislative districts. The majority did not disagree on the religion point, and nobody contended that such districting needed to relieve religious subordination. Why the free pass on legislative districts?

A simple explanation turns on the different functions served by jurisdictional boundaries. In legislative districting, officials mold the membership of a decision-making body drawn from a given citizenry. Those representatives later assemble and make policy. District lines no doubt affect the legislature’s composition, but homogeneity within districts will not necessarily have a serious impact on influence within the assembly. In drawing state and municipal boundaries, however, the citizenry itself is defined. This is important as long as state and local governments retain significant decision-making authority of their own. And homogeneity within such polities is undeniably connected to influence over what is taught in public schools, who enjoys exemptions from regulation, which books show up in public libraries, who runs the local courts, and so on. Religious anti-sorting principles are aimed at the manufacture of such polities.

**SORTING EXPERIMENTS AND LEGAL CHANGE**

Details aside, the Satmar and Santeria decisions indicate that special government efforts to promote religious homogeneity are sometimes invalid. But can we justify, or at least account for, the precedent? Is there a legitimate constitutional foundation for anti-sorting principles?

Arguments from plain text or original meaning at the founding are unlikely suspects. The First Amendment’s religion clauses were drafted as restraints on “Congress” and, by logical extension, the rest of the federal government. The posture of state and local governments toward religion was an issue for them to resolve. As such, the Federal Constitution of 1791 was at most agnostic about religious sorting. And the explicit promise that Congress would make no law “respecting” an establishment of religion made the document arguably pro-sorting. Whatever else the clause meant when ratified, it indicated restraints on the ability of the federal government to interfere with state religious “establishments.” So a constitutional anti-sorting norm depends on movement since 1791. The importance of the Fourteenth Amendment and subsequent constitutional theory is examined below. However, the argument should begin with government policy predating the Constitution and the dramatic legal change thereafter. This history is sufficiently intriguing that countless scholars have traced and retracted it. But major developments that are crucial from a sorting perspective are not highlighted in contemporary legal scholarship.

The fact is that our country ran an extended experiment with religious sorting policies at the state and local level. These experiments were intimately associated with official religious “establishments,” and they did not survive. This history is commonly seen as a regrettable episode of intolerant deprivations of religious liberty and equality—a misstep to be forgiven in light of a population so much less diverse than today’s. But that homogeneity was partly the result of purposeful official efforts to sculpt religious demographics in the New World. Religious establishments were part of a dynamic migration system. Less-welcoming atmospheres tend to ward off the less-welcome, while attracting the favored class. A religious-sorting perspective on American history emphasizes these dynamics. The British colonies provided havens for Protestants, who had strong incentives to sort themselves out of Europe, and for those who thought the Church of England was corrupt. The colonies were sometimes advertised as such. At the same time, these outposts executed the most severe forms of intolerance against other faiths. Certainly part of the story is
about religious liberty simpliciter. Regulation of religious practices, such as rules limiting who could preach or perform legally recognized marriage ceremonies, were obviously impositions on minorities within a given colony. But such regulation and promotion also were mechanisms that encouraged sorting during periods of mass migration. For a time, some colonies even adopted immigration laws to exclude or deport those of the wrong religion. A Virginia policy excluded Catholics and Puritans; Massachusetts Bay Colony banished Quakers and others. In the latter case, Quakers faced the death penalty for returning to Massachusetts, not simply for their heresy. The Colony preferred conformity, to be sure, but the primary tool seems to have been population control rather than conversion.

These formal exclusions were abandoned before separation from the Crown, but efforts to shape the religious population continued. Several early state governments officially preferred sets of religious beliefs and practices. For example, South Carolina’s 1778 Constitution declared Protestantism the State’s established religion. To achieve incorporated status, religious societies would have to agree that Christianity is the “true religion,” the New Testament is “of divine inspiration,” and there is a “future state of rewards and punishments.” Such provisions were liberal compared to colonial policy, but they still made statements about the religious commitment expected of inhabitants.

More important, some colonies and states taxed people for the specific purpose of funding preferred churches or ministers. Virginia famously ran such a system for a time. Massachusetts, Connecticut, and New Hampshire authorized municipalities to select a minister for tax-and-transfer, thereby further decentralizing without rejecting religious establishments. From a sorting perspective, these programs might be superior to immigration laws. The latter must have been difficult to enforce insofar as religious commitments can be sustained without social visibility—a fact that helps explain severe penalties for return after banishment. A tax, in contrast, can be levied on all or many residents and the proceeds then directed to an identifiable religious organization or figure. In other words, officially preferred beneficiaries were probably easier to identify than disfavored religionists. In addition, financing schemes that allowed people to opt out, or to direct their tax contribution to minority religions, can also facilitate sorting. To choose one of these options is to identify oneself as a dissident.

Adherents to minority religions might well prefer to remain anonymous, and so either conform or go elsewhere. Not all states aimed to be narrowly sectarian enclaves. One could avoid the Congregational influence in New England and the Anglican establishments of some Southern states by settling in Delaware, Pennsylvania, New Jersey, or Rhode Island. They billed themselves as relatively open political societies. The variance in church-state policies offered choices of molto-religious culture. Many people must have made decisions accordingly. Forced to characterize the early American law of religion as anti-liberty or pro-sorting, one could easily favor the latter.

Either way, the formal establishments soon collapsed. Any Anglican establishment was poorly situated to outlive the Revolution. Other schemes failed as well. For instance, South Carolina’s pro-establishment clauses were repealed in 1790. Massachusetts’ system of locally established faiths, which outlasted all the other formal establishments, was abolished in 1833. Buffeted by immigration, additional sources of religious diversity, and competing economic interests, the impulse for religiously closed states softened. Inter-faith animosity was not eliminated, of course. If nothing else, the experience of Catholics in the nineteenth century defeats that claim. And religiously restrictive covenants were used to shape local demographics long after the original establishments were discontinued. Yet the idea of state-orchestrated partition of religious groups seems to have lost legitimacy in relatively short order.

In fact, a sign of the change can be found in a passage of Justice Harlan’s dissent in Plessy v. Ferguson. It put state-mandated religious segregation on a list of shocking hypotheticals that the supporters of racial segregation were challenged to distinguish:

[1] If this statute of Louisiana is consistent with the personal liberty of citizens, why may not the state require the separation in railroad coaches of native and naturalized citizens of the United States, or of Protestants and Roman Catholics? This statement might support only a narrow anti-sorting rule, involving legally coerced segregation by religion. But it’s a start.

**Anti-sorting in theory**

Entrenching every perceived resolution of political conflict is no way to do constitutional law, of course. Anti-sorting principles need arguments to distinguish them from other
trends. As a matter of constitutional text, the critical sources are the state-restraining provisions of the Fourteenth Amendment. But because that text is so underspecified, and because its inspiration was chattel slavery, a religion-oriented anti-sorting norm must be reinforced with a broader or different constitutional theory. This is not the place for a fully articulated sorting theory or an end to the “incorporation” debate. Normative and empirical uncertainties strongly caution against a robust anti-sorting principle, anyway. Yet with a little effort, we can see the structure of the argument. And this structure will further the equally challenging task of grinding out concrete versions of the principle.

There are two promising routes to a constitutional anti-sorting principle. Both rely on implications of the Fourteenth Amendment and Reconstruction. The first route is conventional yet synergistic. The concept of “law respecting an establishment of religion” would be borrowed from the First Amendment and converted into a prohibition on state action by one or more clauses in the Fourteenth. The second route does not directly rely on First Amendment concepts. Instead, the Fourteenth Amendment itself underwrites an anti-sorting norm. Either way, the argument is above and beyond the particularities of establishment clause interpretation. These two lines of the argument can then be joined with modern political theory, concern for consequences, and empirical data.

THE FIRST AND FOURTEENTH AMENDMENTS

The first path depends on certain understandings of both the First and Fourteenth Amendments. The latter explicitly restrains state action in multiple ways that might be relevant: protecting privileges or immunities, guaranteeing liberty with due process, demanding equal protection of the laws; even the grants of national and state citizenship can be relied on. A free-exercise norm, moreover, fits easily within these concepts. There is even Fourteenth Amendment drafting history to that effect. Excluding people or organizations from states or municipalities, such as Hialeah’s attempt to prevent Santería’s immigration, is thus relatively easy to prohibit under the Fourteenth Amendment. The result in the Santería case shielded a sect from a ritual-targeting government prohibition. But for discretionary benefits like a school district for the Satmars, the constitutional problem is harder to see (at least if equal protection norms are satisfied). In some ways the new district promoted religious liberty—perhaps not a system of liberty in which multiple sects thrive and interact, but surely the religious autonomy of the Satmars was served. It is not even clear that the new district would have required substantial additional tax dollars from outsiders who might object. This suggests that more must be done to articulate a non-establishment norm that plausibly can be appropriated by the Fourteenth Amendment. After all, the establishment clause of the First Amendment was a federalism-promoting concession to the states that resists an easy transplant into the Fourteenth.

The best argument on this track is that the American view of religious establishments changed between 1791 and 1868. Perhaps it moved from local option to liberty killer. Even ignoring stare decisis, there is material to support this thesis. However disconnected disestablishment was from the notion of religious liberty at the founding, these ideas were sometimes coupled by the time the Fourteenth Amendment was ratified. In fact, a few state and territorial constitutions even mimicked the federal establishment clause and its “law respecting” language. Thomas Cooley’s 1868 treatise summarized state constitutions in just those terms. It is extremely unlikely that these clauses reflected yet another structural decision to decentralize religious questions to municipalities, and they were certainly not cross-jurisdictional protection for other states. A better explanation lies in the shift away from formal establishments among the original states, along with changing political values in the West. Government was by no means disconnected from religion in the 1800s; part of the allergy to “church”-state connection, moreover, was anti-Catholicism that accompanied new waves of international immigration. But sub-national “establishments” became incompatible with prevailing notions of the proper relationship between government and religion. And we now know that sorting accompanied state and colonial programs regarding religion, we might conclude that government-propelled religious messages are a component of any “establishment” worthy of the name, and we are in any case much closer to placing an anti-sorting norm within the Fourteenth Amendment.

Once the values of deregulated religious liberty and non-establishment are imported, anti-sorting is not only a matter of historical analogy. The principle may be prophylactic, and hence there is a connection with anti-proselytism. Monitoring the conduct of officials within local religious enclaves can be difficult. Without effective monitoring, however, these enclaves can disrupt political choices at the state and national levels. Furthermore, sorting will often be imperfect. This was true even under colonial regimes. Religious faith can be relatively invisible if an individual so chooses, while non-religious reasons plainly affect location decisions. Thus a municipality dominated by one sect might still have non-conformists to deal with. Leaving the
law to such imperfectly sorted religious enclaves can therefore threaten social policy. Nor is the threat restricted to sectarian proselytizing and ostracism. There is likewise reason to worry that imperfectly sorted secular enclaves will disregard constitutional guarantees of religious liberty. And the more generous one is with free exercise rights, the more worried one should be about secular dominance within a political community. As such the sectarian vision of Republic, Missouri in the 1990s was not categorically different from the atheistic aspiration of Liberal, Missouri in the 1880s—a Town more than happy to declare its official opinion that “MAN’S SAVIOR MUST BE MAN ALONE.”

Fears persist, moreover, even when sorting is complete. A nightmare scenario is suggested by charges against the Fundamentalist Church of Jesus Christ of Latter Day Saints in Colorado City, Arizona. Members allegedly sorted themselves into relative isolation, minimized access to communications technology, taught theories of racial superiority, subordinated girls to patriarchal domination, banished hundreds of teenage boys to maintain a gender imbalance for polygyny, used government officials to further Church diktats concerning romantic relationships, and diverted tax dollars intended for public schools to Church operations. In fact, “diversion” loses meaning in this context. If critics are correct about Colorado City, local government authority is now an arm of the Church and wielded to achieve religious goals. This fits any plausible definition of religious establishment. Separation of church and state might be a poor slogan for the establishment clause, but church-state integration is certainly not the vision. Anyway, the important argument for anti-sorting principles is that religious homogeneity makes such constitutional violations more likely. And in an interconnected society with a substantial welfare state, “complete exit” of religious groups is more difficult to achieve.

Religious sorting therefore should be most distressing to those who support robust versions of anti-establishment norms. However appealing one might think it to rope off “the government” from religious symbols, religious justifications for public policy, and subsidies benefiting religious institutions, those goals will be harder to obtain if the community is monolithically dedicated to one version of religious faith. All the more so at the local level where the public/private line, often by design, is faintest.

The argument for a principle disfavoring religious sorting is bolstered by an alternative path. Post-Reconstruction ideals of citizenship and nationalism may support it. Kenneth Karst is a leader here. He forged a theoretical connection between race and religion through the concept of equal citizenship. He did so in service of nationalism—some bare minimum of national identity and civic unity in a multicultural country, which stands against exclusionary or polarizing use of race and religion in politics. Race might be more salient in America, but religion is another tool with which politicians and officials can divide the country. Engineering a desired composition of religion within a political boundary is a literal example of this feared partition. And one can reach these conclusions without specifying the best interpretation of the First Amendment.

Yet insofar as racial sorting implicates fears of perpetual subordination, religious sorting is distinct. Perhaps few believe that race is a normatively defensible category for many purposes and all else equal, instead of a social fact or a tool for organizing disadvantaged groups. But religion is another story. It is far more difficult to demonstrate that society would be better off with the extermination of religion as a category. Furthermore, free-exercise values suggest that the Constitution prefers liberated religiosity. The Reconstruction Amendments, in contrast, are tough to read as promoting racial identity for its own sake or even for instrumental purposes. Anti-sorting would get more mileage out of a theory treating religion as constitutionally valued and religious divisions as indissoluble.
The conventional legal logic begins to stretch thin, but perhaps the nationalizing influence of the Civil War's resolution supports a neo-Madisonian theory of religious faction. Madison's now-hackneyed insight was that the collection of interests into a single political institution could facilitate reasoned compromise or at least prevent factional domination. He applied the theory to religious sects in *The Federalist* But he did not touch state and local affairs. While Madison promoted federal constitutional guarantees of religious liberty against the states, he could not achieve it in the Bill of Rights. Yet the point is useful for an anti-sorting principle, because it sees religion as politically powerful rather than habitually subordinated. It recommends integrating multiple denominations within political institutions. And it limits the principle to groups dominating political jurisdictions, not simple geographic clumping. Christopher Eisinger pushes similar arguments, singling out organized religion from other interests. Although critical to healthy societal diversity, he contends, religious groups are often cohesive, impervious to ordinary rational argument, and uncompromising because organized on matters of principle. These characteristics might be accentuated when reinforced with a matching political boundary. Those lines can bolster group loyalty, and the use of government machinery may help solve any remaining collective action problems.

Such theories might leave little for a local government to decide, though. Before we take constitutional law to nationalize the primary school curriculum, it is worth recalling the virtues of decentralized democracy. Aside from the hoped-for benefits of Tiebout sorting, some democrats prefer a measure of decentralized government power because it creates locations for citizen participation. The wish is that people develop public-regarding arguments and interests, rather than simply presenting individual preferences for aggregation. In addition, interaction might produce cross-cultural knowledge and cooperation skills, which could themselves qualify as public goods. Other democrats are not interested in or oppose the goal of molding citizen interests through local politics, yet encourage decentralization for other reasons. Even representative forms of local government can be superior to wholly centralized power. Local officials might be better informed about local values and conditions, and local residents might be better informed about official conduct. If so, public policy can be more efficiently implemented and officials can be better monitored.

Neither theory for decentralized democracy is seriously assisted by religious homogeneity. This is clearer for participatory democrats. Many of them want citizens to confront and understand differences, not eliminate them by political boundaries or social pressure to conform. Representative democrats also have something to fear from religious sorting, even if preference homogeneity has upsides. One problem is group polarization. Given certain conditions, a group of individuals predisposed toward one position will end up supporting more extreme policies after deliberation than would have been predicted by their pre-deliberation preferences. In addition, too few dissenters can lead to no disagreement being voiced at all. And similar imbalances can generate cascades, as subsequent evaluations are skewed by prior political victories. Sometimes these syndromes might happily produce exciting social experiments. On other occasions the results might be disastrous, without a guarantee that the effects will be wholly localized or that participants will learn much from mistakes. Representative democracy might dampen the risks but this seems less likely at the local level. As political boundaries encompass smaller populations, representatives and constituents begin to mirror a single social group. In this sense, secular enclaves are no different from their religious counterparts.

Lastly, social trends might make an anti-sorting norm attractive to many integrationists and nationalists. The country includes undeniably deep cultural divisions and religion plays a part. Few can believe that the United States will fit strong versions of the secularization thesis anytime soon, while empirical work suggests:

- co-religionists are clumped regionally and sometimes locally—at the county level, perhaps to a degree now similar to segregation scores for African Americans;
- foreign immigration trends may be contributing to religious separation, as newcomers sometimes bring shared religious commitments to geographically distinct communities;
- fundamentalist denominations are gaining proportionally to other sects; yet the percentage of the population unaffiliated with any religious institution is substantial, if not growing. Religious segregation scores are worth pausing over. The calculations of Professors Paul W. Rhode and Koleman S. Strumpf suggest that, between 1890 and 1990, the nation became equally segregated at the county level with respect to religions, African Americans, and the foreign born—with
the first score falling slightly, the second falling substantially, and the third recently increasing. A single nationwide number for “religion” is not obviously comparable with that for other social categories. The spatial distribution of many small sects must be aggregated to get a single segregation score. a handful of larger sects predominate in respective regions of the country, and our normative commitments are likely distinct in the religion context. But segregation indices are not the only relevant data point. With year 2000 county-level numbers, we can see that a single denominational family exceeds 50% of claimed adherents in a large number of counties. Although the percentage of residents who are claimed varies significantly across counties, the numbers may understated geographic unevenness in terms of anti-sorting concerns. A county that is relatively “diverse” as a whole might be divided at a more local level. Cook County, Illinois, to take a fairly extreme example, includes over 100 cities, villages, and towns, not to mention dozens more special purpose districts for education, parks, libraries, and so on. Strong anti-sorters might care about each of these divisions.

Some of these trends are untroubling or even thrilling. Anti-sorting is not anti-diversity; indeed it could be quite the opposite. The principle is concerned with how social divisions are institutionalized. When multiple social cleavages are piled upon each other, and then reinforced by coinciding political boundaries, there is cause to fear an overly fractionated country operating more as a confederation of monolithic associations than a nation of people sharing any fundamental commitment.

Likewise, it should be clear that anti-sorting principles are not anti-religion in a strong sense. Dispersing fellow believers is not the objective; the worry is alignment of religious and political borders. A denomination’s geographic concentration is not problematic under the theory unless, for example, it falls within and dominates a single political jurisdiction. Furthermore, religious clumping within a political jurisdiction is not facially problematic if the jurisdiction as a whole is religiously diverse. The theory is concerned with monolithic local democracies, not neighborhoods lacking governmental authority.

Second, the principle does not entail opposition to religion in politics. One can object to the coincidence of government institutions and uniform beliefs about religion without fearing the effects of religiosity on politics. In fact, anti-sorting is compatible with support for religious argument within democratic institutions. Yet it does imply qualms about organized religious factions, which ought to be accounted for by institutional choice and design.

A preference for mixing cannot achieve universal support, of course. Religious separatists dedicated to avoiding communities of sin, secularists convinced that religion is an infectious fraud, and still others will not be satisfied. Anti-sorting principles cannot be any more neutral than, say, basic commitments to liberal democracy. But unmitigated tolerance seems inconceivable for a functioning nation, and anti-sorting is consistent with a liberal goal of relative inclusion.

At the same time, humility is in order. We do not know all that we reasonably might about the system of religious sorting in America. In addition, strong anti-sorting rules are understandably controversial. Nobody should want an even distribution of every identifiable denomination and secular philosophy across every political jurisdiction. A defensible measure of “religious diversity,” moreover, is not readily available. Nor will the work done on race smoothly carryover into the religion context, where the historical, sociological, and normative differences fall somewhere between significant and massive. Tempered measures are in order, especially with respect to constitutional law enforced by courts. For now the judicial focus ought to be on religious homogeneity within political jurisdictions, official action that consciously and effectively promotes or entrenches such sorting, and the sorting risks that accompany other doctrinal choices. Doing this much would be relatively unambitious yet meaningful. Whatever are the appropriate doctrinal implications, an anti-sorting perspective focuses on questions that matter. It pinpoints live social phenomena in a modern, dynamic, and religiously diverse nation. This should be a welcome addition to our continuing search for the proper relationship between religion and political institutions.
A LEGAL FIG LEAF?

Richard Posner and Geoffrey Stone
debate warrants and wiretapping

by Richard Fields, '06

In an ongoing effort to map the balancing of civil liberties and security measures, Posner and Stone met to debate the merits of the National Security Administration's domestic surveillance program.

The event was sponsored by the Law School's chapter of the American Civil Liberties Union.

Classroom II overflowed with students, faculty, and members of the media in anticipation of the afternoon debate between Richard Posner, a judge on the United States Court of Appeals for the Seventh Circuit and a Senior Lecturer at the Law School, and Geoffrey Stone, '71, the Harry Kalven, Jr. Distinguished Service Professor of Law at the Law School. In contention were the merits of the National Security Administration's (NSA) domestic surveillance program. Because the turnout was greater than expected, the Law School's chapter of the American Civil Liberties Union, the debate sponsor, moved the crowd to the auditorium.

With the help of moderator Joseph Margulies, a Lecturer in Law at the Law School and attorney for MacArthur Justice Center, Posner and Stone discussed the legal and policy issues surrounding the NSA program.

Posner did not wish to directly address the legality of the program in order not to be in a position of commenting on a matter that might come before his court, so Stone began by discussing both sides of the debate. The two major challenges to the legality of the NSA program are that it violates the Fourth Amendment's prohibition against unreasonable searches and that it violates the statutory Foreign Intelligence Surveillance Act (FISA). With regard to the Fourth Amendment challenge, Stone noted that there is no clear precedent but that the Keith case (United States v. United States District Court) held that the Fourth Amendment prohibited domestic surveillance without the oversight of a neutral magistrate and that it could easily be extended to prohibit the Bush Administration's NSA program. Responding to this point without directly addressing the legality of the NSA program, Posner cited Illinois v. Lidster, a recent Supreme Court decision. In Lidster, the Court denied a Fourth Amendment challenge against a search at a roadblock designed to gather information about a perplexing hit and run crime. When officers at the roadblock discovered that Lidster was driving drunk, he was arrested and later convicted. Justice Breyer, writing for the majority, upheld the use of the roadblock, arguing that it was minimally intrusive and had significant benefits and, as such, was a constitutional search. Apparently in agreement with the majority's opinion in Lidster, Posner suggested that the decision could be used to support the NSA program against a Fourth Amendment challenge.

Next, addressing the argument that the NSA surveillance violates FISA, Stone stated that FISA was a compromise designed to ease information gathering in foreign locales but also to require that no search be undertaken without probable cause. Stone addressed—and ultimately dismissed—the arguments that the Authorization for Use of Military Force (AUMF) created an exception to FISA. The problem, Stone stated, was that FISA specifically authorizes a departure from its procedures when there is a declaration of war. Following such a declaration, the President is authorized to act outside of FISA for fifteen
days, a period that can be extended by Congress. Since the AUMF cannot be something more than a declaration of war, it makes no sense that the AUMF would authorize a greater departure from FISA than a war declaration.

Stone believed that the stronger argument (that the wiretapping did not violate FISA) is that FISA itself is an unconstitutional restriction on the President’s Article II commander-in-chief authority. Yet Stone rejected this argument, explaining that not a single Supreme Court or Court of Appeals decision in the history of the nation has struck down legislation as an unconstitutional restriction on the commander-in-chief’s authority. Further, Stone noted, Youngstown v. Sawyer, Hamdi v. Rumsfeld, and the Pentagon Papers case stand for a more limited view of commander-in-chief authority.

Both Posner and Stone spoke at length about the wisdom of the NSA surveillance program. Noting how easy it is to get a traditional warrant, Posner went on to describe how much easier it is to get a FISA warrant. Given the incredibly low bar for issuance, Posner implied that there was a minimal-to-noneexistent value to such warrants. Further, Posner stated that warrants offer the executive branch a ‘legal fig leaf’ shielding it from direct accountability. If the executive branch can pass the blame along to the court that authorized the warrant, it avoids paying the price for its actions. In response, Professor Stone argued that warrants prevent the executive branch from running amok. The warrant requirement itself prevents agents of the executive branch from seeking clearly illegal searches and otherwise keeps actors honest. Stone also disagreed with Posner’s view that warrants prevent accountability, noting that the lack of warrants for NSA wiretapping kept the program completely secret and free from public review.

Stone carried this argument further, noting that the reason people should be upset with the Bush administration is that they do not trust the government to save and use information obtained during warrantless NSA surveillance only for issues of national security. Although Posner argued that any information obtained in such a way could only be used for national security purposes, even if that meant turning a blind eye child pornography or a planned murder, Stone said that he does not trust the government to look away. Further, Posner argued that the NSA program does not substantially threaten privacy as the biggest threats to privacy are issues of physical privacy, such as searches that interfere with freedom of movement and action, while informational privacy is often traded for other, more important benefits.

Both Stone and Posner attempted to evaluate the NSA surveillance program using cost-benefit analysis. The

Posner: “Warrants offer the executive branch a ‘legal fig leaf’ shielding it from direct accountability.”

problem for Stone was that the potential benefit of preventing a terrorist attack will always be a huge number: when tens of thousands of lives are at stake, almost any restriction on civil liberties will appear efficient and appropriate. Posner agreed that the scale of potential terror attacks drastically alters the cost-benefit analysis, but argued that the scale of potential disaster from a successful terrorist attack is enough to greatly relax traditional restrictions on executive power. Posner also argued that civil libertarians should fear another successful terrorist attack on the scale of September 11 more, because such an attack could severely diminish civil liberties permanently. Seeing no end to the slippery slope given the skewed nature of cost-benefit analysis regarding catastrophic events, Stone dismissed Posner’s suggestion by stating that there is no place to sensibly draw a line of liberties to relinquish.

To listen to this debate online, visit: http://webcast-law.uchicago.edu/2006/winter/debatestoneposner.mp3. For more information about additional audio programs you can listen to online or download, visit www.law.uchicago.edu/podcastInstructions.html

Richard Posner is a judge on the United States Court of Appeals for the Seventh Circuit and a Senior Lecturer at the Law School. His most recent book is Preventing Surprise Attacks: Intelligence Reform in the Wake of 9/11. Geoffrey Stone, ’71, is the Harry Kalven, Jr. Distinguished Service Professor of Law at the Law School. His most recent book is Perilous Times: Free Speech in Wartime from the Sedition Act of 1798 to the War on Terrorism.
Blogging and Podcasting: Emerging technologies expand legal discourse

Long known as a place where people who love ideas come to work, to study, and to discuss, the Law School is becoming known for its innovative use of new and emerging technologies.

BLOGGING

The Law School has launched two new blogs. The first of these is the Faculty Blog, which allows alumni and other interested readers from all over the world to participate in discussions started by faculty members. It can be found at uchicagolaw.typepad.com.

“As a faculty, we always have been relatively active in unconventional channels,” explains Professor Douglas Lichtman. “We write newspaper editorials, appear on radio and television, and in other ways try to connect our intellectual efforts back to more on-the-ground audiences and mediums. The blog has fit well as a natural extension of those other efforts.”

Started in October of last year, the Faculty Blog is unique among such sites because it is the only web log of a collective faculty officially sanctioned by a school. Faculty members may begin dialogs on any law-related topic without the formal preparation necessary for an article for a legal journal. Alumni, students, and other readers may then post responses.

“I have run into alumni and even strangers who are fans and avid readers,” notes Dean Saul Levmore. “I suspect that more people have read some of our ideas on this blog than in all the law reviews put together. That is scary but possibly true.”

Such currency is the strongest characteristic of the Faculty Blog. The faculty and their ideas are available to those who haven’t been to the school itself in years. Interested readers can contemplate Supreme Court decisions and NSA surveillance any time of day, practically anywhere, on their computers or PDAs.

In fact, regular review of the blog neatly reflects its subjects. From Hurricane Katrina to Google to consulting foreign law, well-constructed arguments appear daily. “The blog posters and many commentators bring an excellent, but nonpedantic intellectual curiosity to the topics of exchange,” said Kimball Corson, ’71. “While foolishness is jumped on aggressively by many, there is a sort of open, free-wheeling, let’s-think-about-this tenor to the blog that is very refreshing, unpretentious, and very, very Chicago.” The exchanges lead to an assortment of benefits for the faculty, the alumni, and other readers. Professors can throw out ideas they are considering for legal articles and other writings and see which ones get enthusiastic responses. They can also post arguments and ask for commentary from educated, interested readers that can ultimately help them construct stronger, more incisive articles.

Professors can also bring up topics they simply find interesting, subjects that they would like to discuss, but which they do not have the time to expand into a journal article. Before the inception of sites like the Faculty Blog, attorneys around the country communicated their ideas exclusively through review journals. While the professors may not choose to write full-fledged articles about some of their selected topics, others reading the blog, including alumni and current students, may choose to take up those subjects for formal inquiry themselves.

“My guess is that there would have been some clucking had we rolled out a more traditional blog,” explains Professor Lichtman. “But the blog as is really reflects our institution. We talk about substance, and we try to do it with some detail and nuance, but we see substance in everything around us rather than just traditional legal topics—and that combination has been very well received. It’s an exciting and still-evolving project for us.”

The second blog focuses on global law issues. Current LLM students are the main posters, but LLM alums and JDs with international experience and interest are encouraged to participate. It can be found at chicagoglobal.typepad.com.

“I do think that new media present opportunities for scholarship and especially for the dissemination of ideas,” Levmore added. “And that’s our business after all. I like the idea of using new media as they become available. I think
our blog is pitched at a pretty good level. It is of interest to colleagues but also to alumni and students. It reminds me of lunchtime conversation at the Law School, and that’s the idea.”

PODCASTING

Twenty-first century additions to the Law School do not stop with the blogs. Podcasts, the distribution of audio files for listening on mobile devices or personal computers, make lectures and special events available to listeners around the world. From Justice Breyer’s description of a day in the life of a Supreme Court Justice to Douglas Baird’s discussion on the nature of the firm, a wide variety of talks and discussions are available for download. Information about how to access these files can be found at www.law.uchicago.edu/podcastinstructions.html or through the link on the Faculty Blog.

Students are especially excited about the podcasts, as many of them are recordings of special lectures which not all students have the opportunity to attend. “What makes podcasts especially enjoyable to me—compared to radio or other traditional media—is that it offers the listener unadulterated access to the speaker’s presentation,” said Cory Hojka, ’07. “Unlike radio, there’s no need to reduce the content to a few minutes of soundbites. As a result, one has the otherwise rare opportunity to enjoy these speakers discussing their interesting views on topics as they were originally presented.”

Because of the podcasts’ popularity, the Law School is working on having videotapes of older lectures and series digitized and turned into videocasts that can also be downloaded. This will make an enormous amount of scholarly material available for research and reflection to anyone, anywhere. These resources will continue to expand as technology advances, helping educate, provoke, improve, and nurture the law community.

AVAILABLE PODCASTS INCLUDE:

- Professor Douglas Baird’s presentation of a Chicago’s Best Ideas lecture entitled “Coase’s Journey.”
- Professor Emily Buss’s presentation of a Chicago’s Best Ideas lecture entitled “Turning Best Ideas into Practice, Chicago’s Policy Initiative on Foster Care.”
- Attorney General Alberto Gonzales’s presentation of “Foreign Law and Constitutional Interpretation.”
- Professor Bernard Harcourt’s presentation of a Chicago’s Best Ideas lecture entitled “Language of the Gun: A Semiotic for Law & Social Science.”
- Dean Saul Levmore’s presentation of a Chicago’s Best Ideas lecture entitled “The Wisdom of Groups and the Use of Experts.”
- Professor Douglas Lichtman and Professor Randy Picker on Grokster.
- Professor Martha Nussbaum’s presentation of a Chicago’s Best Ideas lecture entitled “The Roots of Respect: Roger Williams and Religious Fairness.”

ACCESSING THESE NEW MEDIA:

Podcasts are audio files that can be listened to while you are online, or they can be downloaded and listened to on a personal audio device such as an mp3 player or an ipod. Detailed instructions on how to listen to podcasts can be found at: http://www.law.uchicago.edu/podcastinstructions.html

Blogging refers to posting news, comments, articles, thoughts, or whatever else on a web log-a website with software that makes updating the site simple and easy. To check out the Law School’s blogs simply type http://uchicagolaw.typepad.com to locate the Faculty Blog, or http://chicagoglobal.typepad.com to locate the Chicago Global into your internet browser. We hope you will join the on line conversation.
Haircuts, Scotch, and Poker

CLF Auction breaks records, new ground

It may seem that our students need a lesson in economics when you hear the record-breaking prices paid at the Ninth Annual Chicago Law Foundation (CLF) Auction. Target practice, $1,100? Dinner, $2,100? An evening sipping Scotch, $2,200? You might change your mind once you learn that the winning bidders will sample single-malts at Professor Douglas Baird’s home, practice their marksmanship in the shooting range in the basement of the federal building with Professor Al Alschuler and U.S. District Court Judge James Zagel, and have dinner prepared by Chef Baird at the home of Professor Bernard Meltzer, ’37, in the company of Professor David Currie.

CLF raised more than $35,000 at its annual fundraising auction on January 19. One of the most popular and anticipated Law School activities of the year, the auction drew hundreds of students, faculty, staff, and friends to bid on 170 items ranging from the useful to the unique to the downright comical. “The auction is an amazing and fun community activity,” said CLF board member Heidi Mueller, ’07. “It’s great to see students come together in support of their peers and their philanthropic endeavors.” The funds raised will provide grants to approximately fifteen second- and third-year students while they work for public interest organizations and government agencies this summer. “For over twenty years, CLF has tried to raise awareness for public interest work,” said CLF President Lara Rios, ’06. “I’m really proud that we’ve been able to encourage and support more students to embark on public interest careers. Nonprofit organizations, public defender offices, and our government need smart, talented, young lawyers.”

This year’s auction raised more funding than any previous year and also received a record number of donated items. CLF is very grateful to all of the students, faculty and staff members, businesses, law firms, and alumni who supported them by participating.

Some of the 170 items auctioned at the event this year included:

• Lessons provided by fellow students on knitting, cooking, art, poker, playing the guitar, flying an airplane, ice skating, fire-eating, conversational Chinese, tennis, and the correct way to wear a Hawaiian shirt in the middle of a Chicago winter.

• Law School perks including a parking pass in the Law School lot, a reserved study carrel in the library, free Plum Cafe coffee for a year, and front-of-the-line privileges for student lunch events on campus.

• Evenings of jazz with Professor Todd Henderson, ’98; indie rock with Professor Adam Cox; poker with Dean Richard Badger, ’66; a game of Clue in the chambers of the Honorable Rebecca Pallmeyer, ’79; and a night at Bar Review including a round of drinks, late night munchies, and a designated driver.

Eric Wald, ’08, revels in the glory of a winning bid—he and five friends will dine with Professors Douglas Baird, David Currie, and Bernard Meltzer, ’37, at Professor Meltzer’s home this spring.

Auctioneer, chef, and professor Douglas Baird takes a bid as Meghna Subramanian, ’07, spots a competitor.

Sarith Smith, ’07, wonders what exactly Euler Bropleh, ’08, is up to back there.
CLF officers Lara Rios, '06, and Amir Sheth, '06, make last-minute preparations.

Norbert Nq’ethe, '07, and Professor Todd Henderson, '98, discuss the opportunity costs of bidding on different professors, and the irrational exuberance of various student bidders.

Andrew Brinkman, '07, gives Gus Hurwitz, '07, an $850 haircut.

Most creative auction prize goes to Justin "Gus" Hurwitz, '07, who auctioned off his hair. Hurwitz agreed to cut at least ten inches if students donated a minimum of $300 and to cut additional inches if donations exceeded that amount. After more than forty students, faculty, and staff pooled nearly $850, Hurwitz—whose hair used to fall to his waist—cut seventeen inches. The student who made the largest donation, Andrew Brinkman, '07, wielded the scissors.

"The idea had been in the works for nearly a year," Hurwitz explained. "It was jokingly suggested during a Friday afternoon Wine Mess shortly after the previous year's CLF auction. The idea went from joke to serious consideration after Professor Helmholz joined the conversation. He said that he thought it was a good idea—and when your Property professor suggests that auctioning something is a good idea, you listen. Ultimately, a model was adopted for the auction that was able to extract donations from many low-valuing buyers, who determined how much hair was cut, while preserving the marginal incentive for high-valuing buyers to compete for the highest bid, which won the right to cut the hair. This auction goes to show that, at Chicago, we can find a market for anything. It's worth noting that several people asked me if they could bid for me to not cut my hair. Maybe next year."
Language of the Gun: Youth, Crime, and Public Policy
Aaron Simowitz, '06

It is impossible to say what type of scholar Bernard E. Harcourt is. He is Professor of Law and Faculty Director of Academic Affairs at the University of Chicago Law School. He is best known for his detailed econometric critique of the "broken windows theory"—the notion that an atmosphere of disorder created by graffiti, loitering, and prostitution encourages more violent crime. Harcourt has argued that this is in fact an illusion created by our desire for orderliness—an illusion that masks the deeper effects of surveillance and that goes unrecognized by the policy-makers who have championed it, such as former New York City mayor Rudolph Giuliani and his first police chief, William Bratton. At the same time, Harcourt is part ethnographer. He has explored the socio-cultural aspects of such legal issues as firearm registration, urban redevelopment, and gay and lesbian rights. Finally, a deep appreciation and enthusiasm for law and philosophy infuses his work. His students will tell you, some with admiration, others with frustration, that you are as likely to read multiple-regression analyses as you are Michel Foucault in Harcourt’s classes.

Harcourt’s latest book, Language of the Gun: Youth, Crime, and Public Policy (Chicago 2006), neatly reflects these various facets. He interviewed thirty inmates of the Catalina Mountain School, a juvenile detention facility outside Tucson, Arizona housing minors who had repeatedly run afoul of the law. The interviews began simply: Harcourt placed three full-color photographs of handguns in front of the youths and asked them what they thought. As it turns out, at-risk youths know their guns and have a lot to say about them.

Language of the Gun has striking ethnographic elements. It permits the Catalina Mountain youths to speak in their own voices. In this sense, it has a kinship with Philippe Bourgois’ work in the Puerto Rican barrio, In Search of Respect, which you both praise and critique in your book. You describe, for instance, how gun carrying is not just about self-defense, but about aggressive, preemptive protection—about avoiding “getting dogged,” “punked,” or “jumped.” These subtleties can be lost in the statistical analyses that seem to dominate public discourse. Where does ethnographic work fit in the public policy debate?

It’s true that ethnographic methods have taken a back seat to econometric studies in legal and public policy debates today. The reason is that ethnographic interpretations tend to be perceived as overly subjective—as too easily influenced by the preconceived ideas of the researcher. It’s precisely to challenge this tendency that I wrote the book. The method I develop, which combines in-depth interviews and a free-associational method with quantitative analyses, seeks to render the interpretation of qualitative data more measured and objective. But beyond that, I’m convinced there’s a false dichotomy between qualitative and quantitative research methods. There is today an illusion about the objectivity of econometric modeling. In the book, I spend a lot of time discussing how to interpret the Catalina interviews. I try to demonstrate that all empirical approaches and their corresponding methods—whether multiple regression, survey questions, or qualitative interviews—are based on specific assumptions about human behavior. They each adopt a discrete theory of human action. They each rest on a subjective belief that we act rationally and deliberately, or that we follow scripts unconsciously, or that we are determined by larger structural forces. My central point in the book is that we need to lay out our subjective choices about human action—I call these “ethical choices”—and defend them when we offer interpretations of our data, regardless of whether the data are quantitative or qualitative. In this sense, presenting ethnographic detail is no more subjective than interpreting a multiple-regression analysis.

Language of the Gun is also a statistical work. You hand coded your interviews with the youths to find the distinctive meanings that the youths associate with guns, such as protection, danger, attraction, power, commodity, recreation, and jail. You then use correspondence analysis, a statistical technique that measures the connections between these different meanings and how they match up with the youths’ backgrounds. Why did you choose this somewhat unusual method? What advantage does it have over more familiar approaches?

I decided to use correspondence analysis precisely because it is the most rigorous and effective method to visually represent the statistical relationships between “social meaning” variables—here, between the meanings of guns for the Catalina youths. This book is a study of the symbolic dimensions of the gun as object. It’s a semiotic of the
gun—an attempt to capture, in a more measured way, the meanings of the gun in order to draw legal and public policy implications. It represents an effort to get serious about social meanings—a concept that has received a lot of attention, especially in the law and social norms movement born here at the University of Chicago in the early work of Larry Lessig, Dan Kahan, Tracey Meares, and Eric Posner. Correspondence analysis is a method used in Europe and Japan, and it’s perfectly suited to the task because it allows the researcher to visually graph how meanings relate to each other in different social contexts. Pierre Bourdieu pioneered the method in his fascinating research on the social dimensions of taste and the academy. Using it here allowed me to map on two dimensions the symbolic realm of guns for the Catalina youths. That’s the best way to begin to decipher the complex world of social meaning.

Through correspondence analysis, you find that the meanings associated with guns group into three “clusters” that you call “registers of gun talk.” In the first, youths talk about guns as “dangerous yet attractive, necessary for aggressive, preemptive protection.” In the second, they talk about selling guns or trading them for drugs and favors. In the third, guns are for hunting, target practice, and recreation. These clusters, you show, are closely linked with actual gun carrying and gang status. For example, youths in the action/protection cluster are more likely to carry a gun, be a gang member, and deal drugs. What in these findings surprised you? How should public policy reflect these distinctive approaches to guns?

You’re getting at the most important contribution of the book: the effort to develop legal and public policy interventions that are specifically tailored to the different registers that the youths deploy. In other words, the attempt to think about these Catalina youths through the lens of language, rather than race, ethnicity, education, family background, or prior criminal history. The central insight here is that language reflects something important about how we think, reason, and act. Youths who talk about guns as a commodity, for instance, are more likely to be pursuing their goals in an instrumental way and, as a result, may be more amenable to rational choice interventions. In contrast, youths who talk about guns only in terms of aggressive, preemptive protection are less likely to be amenable to deterrence approaches. To these youths, guns are a life or death proposition filled with desire and attraction for the guns. Increasing the cost of carrying a gun will have little effect on them. With regard to these youths, a more promising avenue may be to develop practice-based approaches that will provide them with different scripts for how to resolve conflict, refocus their desires, and spend their time. In this sense, the larger theoretical contribution is that the language youths use to talk about guns can tell us something important about the way they think, desire, and act—which in turn can inform the kind of legal and policy interventions that might be most effective.

You have often been critical in your scholarship of approaches to crime policy that rely too heavily on deterrence. In Language of the Gun, you criticize your colleague Steven Levitt for just such an error. However, your work with the Catalina youths is permeated with the deterrent effect of punitive gun laws. One youth states that, in a gunfight, “I just froze up, and I was just ‘Oh man, please, God, please don’t make me use this. I don’t want to go to prison, really,’” and then explained that he no longer carried a gun because he feared the adult justice system. How did your experience with the Catalina youths affect your opinion of deterrent gun policy?

You have to realize that for every youth who said “guns carry too much time” there were others who explicitly resisted the idea. I spoke with one youth, in fact, who told me that “I never think the police are gonna catch me... I know they’ll catch me sooner or later, but I don’t think that ‘tonight, I’m gonna get caught.’ Or I shouldn’t have this gun because I think I might get caught. Because I just think that’s kind of like jinxing myself.” He didn’t want to think about the cost of crime because the very thought might jinx him. As a result, it’s crucial to avoid taking an all or nothing approach to deterrence. Instead, it’s important to figure out which of the youths might be amenable to deterrence-based strategies and which will be immune. Again, it is in their language that we can begin to decipher this question. The key, though, is to take a more nuanced approach that acknowledges the possible role of deterrence in some, but not all cases. The larger project is to tailor the legal and policy interventions to each individual youth using the medium of the language of the gun.
Remedies for Reform

Improving Medicaid services for Illinois children

Imagine you are the loving parent of two wonderful children. One of them gets sick. You call the pediatrician to make an appointment. During your office visit, the doctor reminds you of preventive measures to assure the best health for your offspring: immunizations, eye exams, hearing tests, and regular well-child checkups, among others. You schedule your child’s next checkup before you leave the office. You are comfortable knowing that, should there be a crisis—even in the middle of the night—you can call your pediatrician’s office for help.

It is a different story when your second child becomes ill. You call eight local pediatricians. Not one will see your child. You’re resourceful so you check with referral agencies, hotlines, and any other source you can think of. You call twenty more doctors, some as far as thirty miles away. None will see your child. You end up holding your sick child in your arms for hours at a clinic or emergency room, hoping you won’t be told that the staff doctors are too busy and you’ll have to return tomorrow. You have no assurance that this same nightmare won’t occur the next time your child needs medical attention. Worse, you know there’s no physician you can call in an emergency.

Same parent, two stories. The difference is that the first child is your natural child, covered by your family’s private medical insurance. The second child is a foster or an adopted child whose medical treatment is provided through Medicaid.

For years, many pediatricians in private practice in Cook County refused to see children covered by Medicaid. Some would, but their appointments were severely rationed. Obtaining an appointment with a pediatric specialist was nearly impossible. Most of the nearly 600,000 Medicaid-eligible children in Cook County—entitled by federal law to equal access to all forms of medical care, including preventive care under Medicaid’s Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program—received very little of that care. (see sidebar)

Cohen and Chizewer

In 2000, Fred Cohen, ‘90, a principal at Goldberg Kohn in Chicago, set out to change the situation. He was spurred by a request for pro bono services received relating to a suit filed in 1992 by public-interest groups challenging the way Medicaid services were provided to children in Cook County. “This was not just a matter of equitable enforcement of a law,” Cohen said. “The pediatricians had a pretty good reason for providing so few services to children on Medicaid [since] reimbursement rates were so low—less than half of what private insurance pays. Pediatricians actually lost money every time they saw a child on Medicaid. To make things worse, Medicaid paid very slowly and created plenty of other administrative hassles for doctors. At the same time, there were mountains of evidence describing the long-term harm to children of not receiving adequate care for even the most basic things like their teeth, their eyesight, and their hearing. Not only can the denial of such care create larger and more complicated medical problems later (which the Medicaid system is even less able to handle)
there's also a terrible cycle in which preventable health conditions can injure these kids—school performance, their social relationships, and their lives at home, and that can spiral into all sorts of later problems for the kids and, ultimately, for society."

David Chizewer, '91, who is also a principal at Goldberg Kohn, joined the litigation team for this case in 2003. "I knew Fred at the Law School and we had become friends here at the firm, but we hadn't had a chance to really work together before this," Chizewer said. Chizewer's interest in this case sprung from his concern for disadvantaged children. He is a founding board member and vice president of the Chicago Charter School Foundation, which runs the largest charter school in Illinois, serving over 5600 students at nine

"There's a terrible cycle in which preventable health conditions can injure these kids."

Chicago campuses. Roughly eighty percent of these students are Medicaid-eligible. Chizewer is also a founding member of the Illinois Network of Charter Schools, has served on the board of directors and the executive committee of a scholarship fund supporting economically disadvantaged children attending private high schools, and he was one of the original directors of College Bound, which helps economically disadvantaged students attend private and public colleges and universities.

When Chizewer signed on to Cohen's project, neither of them imagined how much they would be working together in the years to come. Combined, the two of them have committed nearly three thousand billable hours to this case. Goldberg Kohn's total investment stands at over 9500 hours.

THE SUIT

The state of Illinois administers and sets policy for Medicaid through the Illinois Department of Public Aid, or IDPA. The 1992 suit resulted in a stay to permit IDPA to improve children's access to services, but by 1999 it was apparent that satisfactory progress would not be made and the stay was lifted. Cohen and the other attorneys working on the case would have to persuade a federal judge that Illinois had not provided true equal access to Medicaid services, as required by law, to "assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area." Four years of discovery, motion practice, and trial preparation followed. "We were asking a federal judge to order the Illinois legislature to spend more money in Cook County," Chizewer recalled. "We didn't want any holes in our case."

Over the course of four weeks in the courtroom of Judge Joan H. Lefkow in May 2004, Cohen, Chizewer, and the other attorneys presented testimony from seven pediatricians, six Medicaid recipients, several medical administrators, and experts in statistical analysis. In August Lefkow ruled in their favor in a 102-page decision, concluding: "[T]he plaintiffs have met their burden of establishing that the defendants

Evidence presented at trial by Fred Cohen and David Chizewer demonstrated large gaps between children's Medicaid rights and the actual services those children received in Cook County. Among them are the following:

All of the children should have received a screening test to evaluate the level of lead in their blood between the ages of 11 months and 23 months; 77.9 percent did not.

Medicaid-enrolled children are more likely than young children not on Medicaid to have elevated blood lead levels.

All of the children should have received a hearing exam between 47 months and 59 months of age; 93.6 percent did not.

67% received fewer than the three required diphtheria/tetanus vaccinations. 57% received no MMR (measles mumps rubella) immunization.

Although Medicaid allows for six doctor visits for health screenings in the first eleven months of life, 43% had no screenings at all and 61% had two or fewer such visits. Just 8% received all six examinations.
have violated their rights by failing to provide them with equal access to medical services. Plaintiffs simply do not have access to medical services which is equal to that of privately insured children.” Lefkow also held that Illinois had failed to establish programs and practices to assure that all EPSDT services were available to all Medicaid-enrolled children on a timely basis.

The decision made for a banner headline in the Chicago Tribune. Similar suits have been brought in several states, and other states have revised their Medicaid policies relating to pediatric care to bring them more into line with Lefkow’s ruling.

**REMEDIES**

Courtroom victory had to be turned into practical action by hammering out an agreement regarding remedies. Although the state had relied on counsel from its Attorney General’s office to argue its court case, it retained Skadden Arps to handle the subsequent negotiation, which lasted nearly a year. A consent decree that took effect on the first day of 2006 included the following provisions:

- An increase of nearly 100% in Medicaid reimbursement rates for pediatric medical and dental care
- Increased funding of qualified inner-city clinics
- Bonuses for pediatricians who act as a medical “home” for Medicaid children and assure that those children receive regular, consistent well-child care
- Better communication with recipients about their entitlements and an improved referral system for those seeking care

Illinois is also required by the consent decree to prepare regular reports on its progress in implementing the agreed-upon changes and on the actual impacts those changes have had on service to the Medicaid-eligible children. Cohen and Chizewer monitor the state’s actions and they are also preparing further action. Cohen said, “The case established that, across the board, IDPA wasn’t doing enough to get care to these children. But the consent decree focused primarily on preventive care, which is just one step along a path. We’re committed to working with the state to make sure that it complies with the full consent decree and that we reach the end of that path.” Better access to care from specialists is the next step.

As a direct result of their work on this case, they have taken on a new project: a whistleblower action against one of the State’s largest Medicaid HMOs, alleging illegal discrimination against Medicaid recipients on the basis of their health status. Initially, both the Illinois Attorney General and the U.S. Attorney declined to take up that case, but Cohen and Chizewer’s expertise encouraged them to take a second look, and now they’re joining with Goldberg Kohn in bringing the suit.

There’s a bit of additional good news for Goldberg Kohn in the fact that federal law permits reimbursement of the expenses the firm incurred in securing the rights of children under Medicaid. “The firm has been great [throughout] the entire case,” Chizewer said. “There never was a question about the amount of resources we could devote—and our ability to recover our fees never entered the analysis at any time. We thought these children were not receiving the care that was promised to them by the Medicaid Act and our goal was to rectify that situation. Luckily, it wasn’t until after the case was decided that we learned that practically the entire medical community of Illinois thought we didn’t have that proverbial snowball’s chance of prevailing.”

Cohen added, “It turns out to be a great win-win for everyone, including Illinois taxpayers, because six hundred thousand healthier children—more than a million children, really, since these reforms will go into effect statewide—is a huge plus for the state in the long run.”
Books by Alumni


Robert B. Shapiro
October 5, 2005
As a student at the College, Shapiro was a wrestling champion and played on the football team coached by Amos Alonzo Stagg. Upon graduation from the Law School, Shapiro specialized in labor relations. After WWII, he received a degree in mechanical engineering and held several leadership positions in the printing business. He loved to travel and experience the cultures of the world. He established the May and Ben Shapiro Loan Fund at the Law School.

William B. Graham
January 24, 2006
Graham graduated from the University of Chicago College in 1932 and continued on to the Law School, graduating in 1936. He joined Baxter International, a medical device and pharmaceutical company, in 1945 as a vice president and manager, and later served as CEO of the company from 1953-1980 and senior chairman from 1985-96. Graham was a board member of the Chicago Lyric Opera for more than forty years. In addition, Graham served as a University of Chicago life trustee since 1981 and supported many areas of the University. In 1980, he established the William B. Graham Professorship Chair at the Law School, a position that is currently held by Dean Saul Lebmore. Graham was also instrumental in expanding the University’s continuing studies program, which is now named the William B. and Catherine V. Graham School of General Studies in their honor.

Edwin F. Zukowski
January 1, 2006
Zukowski was the founder and senior partner of Zukowski, Roget, Flood and Mc Ardle Law Firm, from which he retired in 1980. Edwin was a member of the Illinois State Bar Association and honored in 1986 at an ISBA Senior Counselor.

Joel L. Alexander
August 23, 2005
A WWII Army veteran, Alexander worked for Spiegel Inc. and the Chicago Metallic Corporation before going into business as a metal broker, retiring in 1980.

Maurice Rosenfield
October 30, 2005
Rosenfield graduated from the University of Chicago College in 1936 and continued on to the Law School. In 1941, Rosenfield wrote an important article, “The Contemporary Function of the Class Suit,” that paved the way for class action lawsuits. In 1964, Rosenfield represented Lenny Bruce before the Illinois Appellate Court, winning the controversial comedian an acquittal on obscenity charges. In addition to his legal practice, Rosenfield produced movies (Bang the Drum Slowly starring Robert DeNiro) and Broadway plays (Barnum, Singing in the Rain and a revival of The Glass Menagerie). He was the founding partner and general manager of WAIT 820AM in Chicago in the 1960s and 1970s. His son Andy is a 1978 graduate of the Law School, a University Trustee and a Senior Lecturer in Law at the Law School.

1944
Sol Appelbaum
September 14, 2005
Appelbaum was President of Allied Glove Corp. in Skokie, IL, a company founded by his father during WWI. The company manufactures and supplies gloves and safety gear to a variety of industries.

1948
Mollie A. Kealy
March 5, 2006
Kealy served as a Wisconsin State Public Defender and social worker for Native Americans at the Ethan Allen School for Boys for decades. Her dedication to issues of social justice led her from 1960s peace marches in Washington, DC, to demonstrations at the 1968 Democratic Convention in Chicago, to the movement to ban nuclear testing. She was also active in the 1970s in Milwaukee in redeveloping the East Side from an abandoned freeway corridor to a now flourishing residential and business complex.

1952
Harry Golter
February 8, 2006
Golter served in the administration of Illinois Governor Adlai Stevenson and became a partner at Overton Marx and Schwartz which later merged with Wildman, Harold Allen & Dixon. A liberal political activist, he supported many causes and was the lead ACLU attorney in Briscoe vs. Kasper, the first successful voter fraud case brought against the Richard J. Daley administration. Later in his career, he specialized in real estate law.

1933
David Krichiver
January 2006
Krichiver practiced law in Chicago from 1933 until 1995, and was a long time resident of Highland Park, IL. He was a member of the Illinois State Bar Association, the Trial Lawyers Association, the Matrimonial Lawyers Association, and the Decalogue Society.

1935
Truman Gibson, Jr.
December 23, 2005
Gibson graduated from the University of Chicago College in 1932, and the Law School in 1935. In 1940, Gibson became a civilian aide to Secretary of War Henry Stimson, investigating issues related to the African American troops during WWII. In 1946, Gibson was appointed to President Truman’s Advisory Committee on Universal Military Training, greatly influencing Truman’s landmark decision to desegregate the military. In 1947, Gibson became the first African American to be honored with the Medal of Merit Award for Civilians. After helping Joe Louis with tax problems, Gibson took on the role of director and secretary of Joe Louis Enterprises and entered the world of professional boxing as a manager and promoter.

1940
Daniel C. Smith
September 25, 2005
Smith moved to Tacoma, WA, in 1950 to join the Weyerhaeuser law department, where he served for twenty-five years. In 1975, he moved to Chicago to become general counsel and VP of FMC Corporation. After retirement from FMC he moved back to Tacoma and founded the firm of Smith Alling Lane.

1952
Judge Robert W. Malmquist
October 22, 2005
Judge Malmquist served in the U.S. Army Air Corps during WWII prior to attending the Law School. He served as a family court judge in Morris, IL for twenty-one years, and then formed the firm of Malmquist and Malmquist with his son. As a child he participated in the Boy Scouts, and as an adult served as a committee chairman and Scout Master. He was also an active leader of the Morris (IL) Rotary Club, Grundy County (IL) Bar Association, and the Morris Country Club.
1958
Richard Hemstad
December 12, 2005
Hemstad moved to Seattle after law school and worked in the public, private and academic sectors. He was proud of his service as legal counsel to former governor Dan Evans during the late 1960s and early 1970s, when he shaped the administration policies that helped integrate labor unions, police and fire departments and the state prison system. Hemstad was elected to the Washington State Senate in 1980 for one four-year term. He worked for twelve years on the Washington Utilities and Transportation Commission until his retirement in February 2005.

1959
Professor William C. Jones
September 16, 2005
Jones received his L.M from the law school in 1959, followed by a J.S.D degree in 1961. He was the Charles F. Nagel Professor Emeritus of International & Comparative Law at Washington University School of Law. He worked in the area of Chinese and comparative law for more than thirty-five years.

1961
William P. McCulloch
February 2006
For many years, McCulloch worked as a lawyer at the International Bank for Reconstruction & Development, now known as the World Bank, renovating slum housing in southeast Asia. In the late 1970s while on leave from the World Bank, McCulloch was involved in aiding tenants in the redevelopment of the McLean Gardens apartment complex as a mixed income housing community in northwest Washington, DC.

1968
Roger W. Johnson
May 21, 2005
Johnson had practiced law in Seattle since 1969, providing a broad range of legal services to families and businesses. He enjoyed sailing, fly fishing, wood working, hiking, and kayaking.

1979
Judy Hartmann
December 30, 2005
Hartmann was the first woman in Oregon to have her maiden name legally restored in a time when married women could not legally use their maiden names without a judge's approval. After graduating from Stanford University, where she met her husband Jere Webb, '69, she received her doctorate from the University of Chicago and taught at the college level. Discontent with teaching, she decided to return to the University of Chicago for her JD and MBA. She practiced law for several years, and then joined Hewlett-Packard in their corporate training department. For the past ten years, she had been actively involved in breast cancer research fundraising and clinical trials.

John A. Mennite
February 21, 2006
Mennite had his own criminal defense practice in Woodbury, NJ. From 1981–98, he served as an assistant Gloucester County, NJ prosecutor. He was an accomplished jazz pianist, performing at weddings, clubs and bar mitzvahs throughout the Delaware Valley.

1990
Shawn M. Bentley
September 29, 2005
Bentley became corporate counsel to Time Warner AOL in 2002 and served as vice president for intellectual property and global public policy. For nearly ten years, he worked with Senator Orrin G. Hatch (R-Utah) as chief intellectual property counsel on the Senate Judiciary Committee. He played a key role in crafting the Technology, Education and Copyright Harmonization (TEACH) Act of 2001, which gave accredited nonprofit educational institutions the right to freely use copyrighted works in distance education, and the Satellite Home Viewer Improvement Act, which allowed satellite companies to offer local broadcast channels.
Class Notes Section – REDACTED

for issues of privacy
The Law School’s Most-Sighted Author

Dick Badger, ’68, the son of a traveling salesman, lived in a half-dozen places as he was growing up. Once he settled down, he really settled down—he’s been at the Law School, with only a two-year break for military service and a smidgen of time at a Chicago law firm, since he arrived in 1965. Generations of students are glad he decided to stay put.

How he has stayed in one place without gathering any moss remains a mystery. Not only has Badger brought  a distinctive zest, warmth, and wit to a wide range of administrative responsibilities, his extracurricular activities have delighted millions of people in Chicago and beyond.

After returning from service as an army captain in Vietnam in 1971, Badger worked for a time with Norval Morris. Dean Phil Neal then asked him to take over the career services department, and not long after that he added dean of students and then director of admissions to his duties. “In those days,” Badger recalled, “the Law School’s administrative functions were pretty thinly staffed. As a result, I became the point of contact with the Law School’s administration for a lot of students.” Students remember him fondly. When interviewing Law School alumni, this reporter was often asked “Please give my regards to Dick Badger.”

Badger is currently Assistant Dean for the LL.M. program. He has led that program’s growth from twenty-five students in 1995 to fifty students today. In addition to being a member of the LL.M. admissions committee, he describes himself as “a kind of social chair,” responsible for ensuring that these overseas students enjoy a positive experience while they’re in a city far from home. Among other things, he invites them all to his home for Thanksgiving each year and—of course—he takes them to a White Sox game.

Ah, Badger and the White Sox. He attends about thirty White Sox games each year, and to each one he brings about twenty-five signs he has created to comment on the game’s events. The Law School’s faculty is famously prolific. Badger’s writings are much shorter, but they have been read by, literally, millions. The signs he makes are witty—FRANK ON A ROLL to celebrate a Frank Thomas hitting streak; GOOD EYE PODS to acknowledge a walk earned by Scott Podsednik. Fans, television crew, and even the print media take notice. The Chicago Tribune featured Badger and his signs in a recent article.

This past year Badger furthered his claim to most-sighted status by appearing in the feature film Proof, starring Gwyneth Paltrow and Anthony Hopkins, which was filmed in Hyde Park. Sure, he was just an extra (in the memorial-service scene in Rockefeller Chapel, should you wish to look), but his performance was widely hailed as “amazingly lifelike.”

The theatrical bug bit Badger years ago. Beginning in 1979 he wrote the book and lyrics for ten musical shows performed at annual meetings of the Law School Admissions Council (which nonetheless placed him on its board of trustees). He’s composed screenplays that are just waiting for a visionary producer to see their blockbuster potential (one of them, Louie Louie, uses that famous song to explain the political history of the United States from 1968 to 2000).

But Badger’s most endearing quality is surely his utter devotion to the Law School. What else could explain his willingness to offer his face as a target for students’ cream pies?—G.D.
UBS Legal Leader

The 1998 merger of the Union Bank of Switzerland and the Swiss Bank Corporation formed the international financial-services giant now known as UBS. In 2000, UBS merged with PaineWebber to create the world's largest wealth management firm for private clients. There have been other mergers and acquisitions at UBS since then, but some observers say that one of the company's best moves was made in 2001 when it hired Peter Kurer, LLM '76, to head its legal department. Kurer, who holds the title Group General Counsel, is also one of the ten members of the group executive board that directs UBS strategy and operations.

Before UBS hired him, Kurer was known as one of Europe's top merger and acquisition specialists, working from the Zurich-based firm, Homburger Rechtsanwälte, that he co-founded in 1991 with seven other attorneys. In 1996 he advised Ciba-Geigy during what was then the largest corporate merger ever, the combination with Sandoz that resulted in the new company, Novartis. Later, he advised Zurich Insurance on its merger with the financial-services arm of London-based B.A.T. Industries, which created a company with $40 billion in revenues. He was named Business Lawyer of the Year for Switzerland by Chambers Global: The World's Leading Lawyers.

"I loved M&A work," Kurer said. "It's extremely challenging to get such complex legal things done in a relatively short time and it calls on other skills, too, like the ability to negotiate and bring home the deal. And you meet all sorts of interesting people." His business acumen and people skills earned him seats on the boards of directors of eight companies, including European arms of Kraft Foods, Holcim, Unisys (Switzerland), and Rothschilds. Kurer has also contributed chapters to books that include International Mergers and Acquisitions and International Corporate Procedure.

Now he faces different challenges at UBS. The company has well over one and a half trillion US dollars in assets under management, over $38 billion in revenues, and over 69,000 employees in fifty countries. The legal staff he leads is among the fifty largest in the world. "Of course, we must achieve compliance with a vast number of regulatory requirements around the world and maintain the highest ethical standards," he said, "and then there are also the many responsibilities and regulatory requirements of being a leading financial institution in today's world, which include detecting terrorist financing networks and blocking money laundering." He credits his time at the Law School for helping him master new and different challenges. "Education in Europe is quite demanding and rigorous," he said. "I attended some tough schools, but the University of Chicago Law School ranks at the top in terms of the quality of the education I received."

While at the Law School, Kurer also studied in the political science department toward a dissertation he wrote about the United States Congress. His affection for the United States, and particularly for Chicago, has always been great. "Chicago," he reflected, "seems to me to be the most truly American city." Now that he serves on the Law School's Visiting Committee, Kurer gets to regularly renew his appreciation for both the Law School and its environs. "I'm always pleased to see how wonderfully the Law School is meeting the challenge of producing great lawyers," he said. "The growth of the LLM program is very satisfying to me." —G.D.

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David Kalow has taken several trips to China, including one for the Intel Venture Capital CEO Summit, where he ran a panel on IP strategy. David also taught a course at Seton Hall Law School. David's son, Jacob, is in his junior year as an undergraduate at the University of Chicago. Daughter, Maggie, is in Harvard Medical School. Younger son, Ben, has a few more years at home. David's wife, Janet, works at his IP law firm as director of marketing. In his spare time David practices karate.

Irv Geslewitz is "still plugging away at Much Shelist, doing labor and employment law." His daughter, Michelle, is a sophomore at McGill University in Montreal, majoring in Far East studies. Irv's middle daughter, Julie, is in her senior year at New Trier, and aspires to be an artist. His youngest, Wendy, is in sixth grade and will be having her bar mitzvah this year. Irv's wife, Sharon, works for a not-for-profit organization that helps anorexia and bulimia victims from relapsing. Irv, who was my running partner when I lived in Glenview, reports: "I still run, though not with the maniacal zeal we used to, down to twice a week, five miles per run, but still try to keep a good clip, as I decline into senescence."

Karen Austin still practices in Dallas, but she and her husband, Ken, have land in Western Colorado, where they plan to build a house in a few years. Their daughter, Kira, is a junior at Rice and starting the discernment process for Episcopal seminary. Their son, Kiley, was recruited as a runner by Chicago for next year, but decided on the University of Pennsylvania, where he will run cross-country and track.

Rich Lirtzman and his wife, Gay, are enjoying their recent status as empty nesters. "We have been spending quite a bit of time in Mexico, golfing, fishing, eating fresh fish, and becoming tequila aficionados. While in Colorado we spend..."
Public Service at the Highest levels

The career of Daniel Levin, '81, is distinguished by contributions at the highest levels of government. He has served as deputy legal advisor to the National Security Council under Brent Scowcroft and Colin Powell and legal advisor under Stephen Hadley, as chief of staff to FBI director Robert Mueller and to Attorney General William Barr, and as acting head of the Office of Legal Counsel in the Justice Department.

Even before he arrived at the Law School Levin demonstrated an interest in public issues. He took a semester off from Harvard to work for the Senate Subcommittee on Investigations and he worked for six months after graduation in the office of columnist Jack Anderson.

At the Law School, where he graduated first in his class, he hewed to his priorities, choosing participation in a clinic over the enticements of Law Review. "The Law Review said that you couldn’t do both Law Review and a clinic," he said. "I really wanted to do clinical work."

Then, when the Street Law program came to the Law School for the first time, he and classmate Sean Hanifin, '81, were among the first to sign up. "Sean and I taught at a school for physically disabled youngsters," he recounted. "That, and the clinic, were the best times I had at law school and the times I think I learned the most—although I also had some tremendous teachers like Geoffrey Stone, '71, and David Currie."

He returned to the Law School to teach at the Mandel Clinic during the 1989-1990 school year: "I wanted to try to help give more students the same great experience I had there," he said. By then he had worked for Powell and had also served in the environmental crimes section of the Justice Department.

When Barr was appointed Deputy Attorney General in 1991, Levin joined his staff. "Bill wanted to have someone with some knowledge of national security issues, and I was very fortunate that he picked me," Levin said. "It’s a sign of how times have changed that back then I was just about the only person on the Deputy’s staff really concentrating on national security issues—and I was also involved in environmental matters and civil litigation."

In 1993, Levin joined Hale and Dorr (today he is Counsel at Wilmer Cutler Pickering Hale and Dorr LLP), but ten eventful years in government still lay ahead of him. He left the firm in 1995 to become an Assistant U.S. Attorney in Los Angeles. "It was a job I had always wanted to do," he said. "It was in many ways the most enjoyable work I’ve ever done." He prosecuted racketeering cases, worked with a task force that included the FBI and the Los Angeles police and sheriff’s departments, and handled several lengthy trials, including the first federal death penalty case in Los Angeles in over thirty years.

In 2001 he served on the Department of Justice transition team for the new Bush administration, expecting to return to Los Angeles when he finished that task. But Attorney General John Ashcroft ’67, asked him to stay and work on national security issues and when Mueller became FBI Director on September 4, 2001, he asked Levin to come to the FBI to serve as chief of staff. Levin’s first day at the FBI was September 11. Of course, he soon took on major responsibilities relating to terrorism. In 2003, Attorney General Ashcroft brought him to the Department of Justice to coordinate the administration’s response to the National Commission on Terrorist Attacks on the United States—better known as the 9/11 Commission.

In 2004, President Bush appointed him Acting Assistant Attorney General for the Office of Legal Counsel (OLC) following the departure of former Law School faculty member Jack Goldsmith as head of that office. OLC fulfills a vital role, serving in effect as outside counsel for all the agencies of the executive branch and as general counsel for the Justice Department itself. It reviews all proposed orders of the Attorney General and all regulations requiring the Attorney General’s approval. Previous OLC heads include William Rehnquist and Antonin Scalia.

"OLC was an amazing place to be," Levin recalled. "It’s a small office filled with very brilliant, extremely talented people and I was very fortunate to have a chance to work there." It was also, according to news reports that Levin declines to discuss, a focal point of controversy because Goldsmith refused to endorse the memorandum, created within OLC in 2002 but only leaked to the media in 2004, that became known as the "torture memo," in which very wide latitude was given to government interrogators to inflict physical pain and psychological distress.

Levin inherited the controversy over that memo. On December 30, 2004 (after what Newsweek described as "a fierce behind-the-scenes bureaucratic fight"), a memorandum he authored was posted at the OLC web site, officially replacing the 2002 memorandum and endorsing as the definition of torture used in congressional anti-torture laws a definition considerably less permissive than the one in the 2002 memo.

In February 2005 Levin became legal adviser to National Security Advisor Stephen Hadley, a position he held until joining Wilmer Hale in October. He said this time he expects to stay put awhile. "At least, as long as they’ll have me," said Levin, whose attentions will remain focused on his practice there. That doesn’t mean, though, that there will be no significant changes forthcoming in his life: this fall he’ll be getting married, to Nichole Chen.—G.D.
Miami Merlin

For centuries, many of the most able minds of Western civilization sought to discover the fabled philosopher’s stone that could transform ordinary substances into gold. Emilio Alvarez-Farre, ’86, did study philosophy in Greece and as a graduate student at Princeton, but it is his study of law that has endowed him with transformative powers.

A partner in the Miami office of White & Case, where he has worked since graduation, Alvarez-Farre has served clients in almost every country of Central and South America. His work has often had transformative effects, whether by advancing the privatization of government-held industries, by introducing North American strategies into business dealings, or through cementing the legitimacy of major changes in transactional law.

He didn’t come to the law until five years after graduating from Stanford. Two years into his studies at Princeton, he decided that the career prospects for doctors of philosophy were not to his liking, so he began preparing for a different profession—classical pianist. After investing years of eight-hour days in practice, he became as he said, “a good pianist, but not a great one—not good enough to make a real living at it, at least.”

So, figuring that practicing law would reward his predispositions for close textual scrutiny and rigorous analysis—and that the University of Chicago Law School was the place where those qualities would be most highly valued—he applied and was accepted. “It was everything I expected and then more,” he recalled. “We were challenged, but in a respectful way that increased my commitment to becoming the best lawyer I could.”

One of his first international projects after arriving at White & Case was to help the government of Argentina sell its state-owned oil company to private investors in one of the largest initial public offerings ever. Things went so well that Argentina engaged the Miami White & Case team for several other privatizations, and soon other governments came calling. He helped Panama privatize its telephone company, Chile sell its water company, and Venezuela sell its national steel company.

“Privatization is interesting and intense work,” he said. “Not only are there complex transactional issues to be sorted out, but many other concerns and interests are at stake—for instance, workers are worried about losing their jobs, and that adds an important political dimension to the government’s deliberations.”

As the sweeping transfer of major economic entities from government control into private hands began to wind down, Alvarez-Farre helped spearhead a new business practice in Latin America—the application of North American leveraged buyout strategies to Latin American companies. As an advisor to financiers that included Bankers Trust and Banque Paribas, he helped bring such transactions to successful conclusions in Mexico, Argentina, and elsewhere. He is consistently ranked in the prestigious Chambers Global and Chambers USA, and was listed in the 2006 edition of The Best Lawyers in America.

Most recently he has focused a lot of his attention on the fate of the Mexican company, Corporacion Durango, the largest paper company in Latin America. His efforts have not only stabilized the company after its 2002 default on over $800 million in loans; they have also helped affirm the legitimacy of a major Mexican law created to modernize bankruptcy proceedings.

“At first we pursued this as a typical U.S.-style consensual restructuring, but then the client decided to avail itself of the Mexican law,” Alvarez-Farre said. “We were able to make it work. The old Mexican law was pretty much a black hole and we were able to demonstrate that this new one could produce results satisfactory to all stakeholders.”

The terms of the restructuring were approved by a Mexican district court and in ancillary proceedings in a United States bankruptcy court. The United States court enjoined creditors from attacking Durango’s restructuring in the United States. Although smaller reorganizations had been completed under the new law, it had not been tested in such a large transaction. “We created the precedent,” Alvarez-Farre said.

In addition to the transformations Alvarez-Farre has helped accomplish in privatization, leveraged buyouts, and bankruptcy law, a fourth is underway, one for which he can take at least some of the credit. The balance of power in serving Latin American companies is shifting away from its traditional centers in New York and moving toward Miami, where legal skills like Alvarez-Farre’s flourish in an Hispanic culture. “If you choose to,” he said, “you can transact business here without speaking a word of English. I’ve heard Miami referred to many times by my clients and others as the real capital of Latin America.”

Working miracles with financial capital is one thing; creating a whole “new world” capital is quite another. He just might have discovered that philosopher’s stone, after all.—G.D.
Eid Appointed to Colorado Supreme Court

Allison Eid ‘91, was sworn in as a justice of the Colorado Supreme Court on March 13, 2006. Before the appointment, Eid served as the state’s solicitor general, an associate professor of law at the University of Colorado at Boulder, a clerk for U.S. Supreme Court Justice Clarence Thomas, and a clerk for Judge Jerry E. Smith of the U.S. Court of Appeals for the Fifth Circuit in Houston. Eid was appointed by Governor Bill Owens to succeed the Honorable Rebecca Love Kourlis.

Justice Thomas, when introducing her to the Court at the swearing-in ceremony, praised Eid’s intelligence, honesty, humility, and skill at working with others. “Her performance was simply outstanding,” said Thomas when speaking about Eid’s work as his clerk in 1993 and 1994. Governor Owens added that he believes the state will benefit from Eid’s experience as Thomas’s clerk and that she is both intelligent and ethical, and has the humility “essential for any public servant.”

Several state leaders and guests, including Eid’s husband, Troy Eid, ‘91, and their two children, Alex and Emily, attended the ceremony in the court’s chambers.—L.H.

Allison Eid

The near-tears moment came when she spoke about her mother, Janney Hertwell, who stood along the side wall. Eid said that her sister was raised by her mother—Eid’s father disappeared when she was ten. Her mother’s eyes glistened, too, as Eid talked about how they made it on the tight pay of odd jobs around eastern Washington.

“‘She raised two daughters by herself,’” Eid said. “‘Having two children of my own now, I have had just a glimpse of what a monumental task that was—one she accomplished with grace, good humor, and determination.’ Eid is the ninety-fifth person to serve as a Colorado Supreme Court justice, replacing Rebecca Love Kourlis—who resigned in January.”

“Between 1993 and 1994, Allison clerked for US Supreme Court Justice Clarence Thomas, and a year before that, she clerked for Judge Jerry E. Smith, a Ronald Reagan-picked Republican who sat on the Fifth Circuit US Court of Appeals. Recently in Colorado, she served as the chief legal officer for Attorney General John Suthers, also a Republican. She has published papers about, and she speaks regularly on, an issue near and dear to many Republicans—tort reform.”

(Note: Can you tell she’s a U of Califn?). Her husband (our beloved Troy) also used to be Owens’ chief legal counsel. He is currently running for a seat on the University of Colorado Board of Regents. (Can you say “Power Couple”?)

“…And in addition to working as the solicitor general for the state, Allison has served as a law professor at the University of Colorado Law School since 1998. The school’s dean, David Gretch, said she was popular with students and always seemed to have someone in her office whose career she was trying to help advance. ‘She’s never seems to turn down a student looking for help,’ he said. It’s not that she’s not busy, either. She’s got a challenge with two little kids and her husband with a high-powered job. She’s a mom and a professional.”

On behalf of the entire Class of 99, we congratulate Allison. As for Troy, he confidentially reported that being married to a Supreme Court Justice is not without its challenges (According to Troy, its always like “Will you pass the peas, your honor?” “May it please the court, let’s see what’s on ESPN”—not to mention being threatened with sanctions for leaving his socks on the floor).

Also on the bench is Valarie Turner, who is a judge in Cook County, IL. Any more judges that we have left out?

The reunion materials do a pretty good job of listing where most people are in terms of jobs and careers, so we won’t dwell on that too much in this column.

I will note one pertinent change: Kurt Heyman announced the opening of his new firm, Proctor Heyman, in Wilmington, DE—they are a full service firm in corporate and commercial matters. Kurt can be reached at kgheyman@proctorheyman.com.

I had a lovely chat with Raya Behnia, who asked that I point out that she is not actually a bowling diplomat. Here is what she is really up to: “I thought I would write finally to contribute to the class correspondent’s note. You can list people knew that I have had a great last few months. I left my position as Assistant General Counsel at SPX Corporation at the end of August 2006 and then went to Iran for a month and then Paris for a month. I had a great (and, not unexpectedly) different time in each place. I have been enjoying time off since I got back at the end of October, but have kept busy by taking classes, teaching at the Law School, and serving on the board of a theatre company here in Chicago. I just signed up to do the thirty-nine mile Aven Walk for Breast
For Better Schools

A Chicago Board of Education meeting provides an exceptional opportunity to observe citizens' passion over issues that will determine their children's futures. From instructional methods to school closings, security practices to facilities improvements, everyone has an opinion. For the past eighteen months, Lisa Scruggs, '98, has been in the middle of the hubbub and nothing could please her more. Scruggs, a partner at Jenner & Block, is serving for two years as senior policy advisor to the CEO of the Chicago Public Schools, Arne Duncan.

Scruggs provides legal and policy advice in a unique executive loan program. Her portfolio includes some of the thorniest matters of education policy and practice. She tackles school financing, standards and procedures for creating new schools such as charter schools, and the implementation of federal "No Child Left Behind" legislation, among other things. School financing alone draws her into the thickets of pension reform, capital planning, and legislative and constitutional questions related to Illinois' property tax-driven funding methods. Beyond that, as she said, "There are always matters that aren't exactly included in your job description." This usually involves listening to many impassioned people and funneling their input into the system for consideration. "There's a joke around here," she said: "Someone's ticked off? Where's Lisa?"

Scruggs is well prepared for the demands of her position. She earned a Masters' in education policy from the University of Chicago in 1994 and, during her time at the Law School, she remained very active in matters pertaining to education. She also helped found the Young Women's Leadership Charter School and she is a director of Business and Professional People for the Public Interest, the formidable public interest law and policy center whose education project was led for many years by Jeanne Nowaczewski, '84.

At the Law School, she won the Beale Prize for Legal Research and Writing, as well as the Ann Watson Barber Outstanding Service Award, and she was an editor of Roundtable. Nonetheless, she says with a chuckle, "I'm sure some people thought of me mostly as a troublemaker. I'm passionate about diversity of all types, especially intellectual diversity, and I don't mind speaking up for a good cause." She clerked for Judge Ann C. Williams at the United States District Court for the Northern District of Illinois and the United States Court of Appeals for the Seventh Circuit, who is, according to Scruggs "an incredible legal mind and also an incredible person."

Asked what sustains her through the challenges and stresses of her novel assignment, Scruggs cited the support from Jenner & Block and mentors like David J. Bradford, '76, the vital importance of the task, the passion of the stakeholders, and the intellectual challenge of blending policy-level thinking with feet-on-the-ground administrative and political realities. Then she said, "There's something I've learned about professionalism from the great people I've worked with: there's no time for letting your shoulders sag when things get tough and there's no time for popping champagne corks when things go well. You do your job as well as you can and you get on to the next thing. There's always a next thing." And then she adds, "My twins, Maya and Jacob, who were born last year—it's their future I'm fighting for now." —G.D.
Mosier Joins Athletics Hall of Fame

"To the University of Chicago, he's like Babe Ruth, Ty Cobb, and Lou Gehrig all rolled into one," boasted Lester Munson, '67, when speaking about Mark Mosier, '04, a new inductee into the University's Athletics Hall of Fame.

Munson served as master of ceremonies on October 14, 2005, when Mosier and six other honorees were invited to join the University of Chicago Athletics Hall of Fame. A dominant presence both on and off the baseball diamond, Mosier is the definition of the scholar-athlete.

As an undergraduate, he led the Maroons baseball team to two of its best seasons ever while collecting seven University records, leading the NCAA Division III in four categories, and receiving honors as an All-American and Academic All-American.

"He was probably the greatest baseball player in University of Chicago history. His home run and RBI stats are amazing. I'm sure pitchers for other teams in our conference dreaded watching him walk up to the plate," said Munson.

After receiving his A.B. in economics in 1997, Mosier was drafted by the San Francisco Giants and spent two years on their minor league team before returning to Chicago to attend the Law School, where he was a comments editor for the Law Review. Upon graduation, he clerked for the Honorable Deanell R. Tacha on the 10th U.S. Circuit Court of Appeals in Lawrence, Kansas, before he landed a clerkship with sports fanatic and Chief Justice of the Supreme Court, William H. Rehnquist. This term, Mosier is a clerk for Supreme Court Chief Justice John Roberts.—L.H.

Steve Klass, the University of Chicago's vice president and dean of students, and Mark Mosier at the Hall of Fame induction ceremony

Todd, who is studying in Providence, RI, at Brown University. Sheila also revealed that Joe Ceithaml has recently moved back to Chicago to work at Skadden (apparently Joe is only half as adventurous as Sheila, since he only moved halfway across the country).

Mark Mosier, Monitoring of John Hughes wrote in to say that even the birth of his and wife Amy's second son, Ryan McCaskill, this December, will not prevent him from "keeping a close eye on Mark Mosier" who is clerking with John in the Supreme Court.

News-bearer, Mysterious: Priya Laroia, who wrote in only to say that Kelly James is expecting a baby this February. Priya would reveal no further details about her location, occupation, or recent news. I suspect the Witness Protection program, but maybe I've just been watching too much "Law & Order."

Thick Long-Island Accent, Soon to Develop A: Liz Glazer, who will begin this fall as an Associate Professor of Law at Hofstra University on Long Island, NY. Liz waves goodbye to the world of billables this June, and is excited to begin planning for her classes and having the time to write.

Travelling Light, Not So Much Anymore: Andrew Fleming reports that Natalia Simoj, born on November 13, 2005, is an exciting addition to what I think I can fairly call his and wife Cicely's "brood." I think that when a family has three or more children, one can describe the group of children as a "brood." When you get to six or more, then you become the "Partridge Family.” Regardless, I have seen pictures of Andrew's kids, and "adorable" is probably the most accurate way to describe them as a group.

Parents, Proud: Rick Hess and wife, Rochelle, on account of beautiful Olivia, born this January. I saw the proud dad myself when I was in Houston a few weeks ago, and he is quite excited about this newest development.

Press Release, Subject of: Noah Graubart, who joined Fish & Richardson, P.C. in Atlanta, GA, this January.

Reverend, or Nearly So: Lee Hamilton, who gave the blessing before dinner at Patrick Sheldon's wedding. Apparently, Justin Sayl and Richard Schwartz told the MC that Lee was a recent divinity school graduate and would be a perfect choice for the blessing.

According to Marcus Fruchter, no one at the wedding could figure out why Patrick's law school friends were laughing uncontrollably during the newly minted Reverend's benediction.

Seattle, Soon to Be Sleepless In: Steve Glasgow, who wrote in from Seattle to report that he and wife, Laura, are expecting their second child this February.

Self-Promotion, Shameless: Your own class correspondent, who will soon bid a bittersweet farewell to Goldberg, Kohn, in order to clerk for Judge Kocoras on the Northern District of Illinois this fall.

Congratulations to all: Thanks to those of you who took the time to drop me a line and report on your classmates. I love getting your updates. Keep 'em coming! Your Faithful Secretary, Maureen

LLM 2004

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The LLM family is still growing, according to the reports, and many meetings have been arranged around the world.

Shintaro Hirato & Akiko, Minako Wakahayashi, Koji Torumi, Shintaro Takai, Mugi Sekido & Yuko, and Naoki Shibuya had a Japanese LLM Reunion in Tokyo. Probably starting to get ready for Fabio's visit. From the pictures, you can see how little Komugi has grown! After spending some time in Amazon, Rio, and US dunes, Minako & Koji returned to Tokyo and started working.

S P R I N G  2 0 0 6 • T H E U N I V E R S I T Y O F C H I C A G O L A W S C H O O L
After forty-four years of service to the University of Chicago Law School, Professor David Currie concluded his final Federal Jurisdiction class amid a standing ovation. To express their thanks, his students threw a party to express their appreciation for his many contributions over the years. Festivities included a cake, with an excerpt from Article III reproduced in marzipan; a wizards' hat for the wise professor; and a special gift, "We Begin on Page Three—Marbury Against Madison". Collected Poems in Honor & Appreciation of David P. Currie, composed by current and former students, grateful for this special scholar, educator, mentor, and friend.

**CURRIE LIMERICK NO. 1331**
**BY RICHARD GABBERT, '04, AND SAMUEL Bray, '05**
There was a wise prof in Hyde Park,
Who called *Hunter's Lessee* a lark:
Questions mysterious,
Drew answers delirious,
And students left class in the dark.

**MOTTLEY CRUEL**
**BY MONTGOMERY KOSMA, '97**
Mottley filed a complaint—one well pleaded—
To enforce passes the railroad had deeded
Though a taking implicit
The Court said, "Dismiss it!"
For a Federal question was needed.

*Louisville & N. R. Co. v. Mottley*, 211 U.S. 149 (1908)
Times change but some things stay the same.
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