

# BC

BOSTON COLLEGE  
LAW SCHOOL MAGAZINE

WINTER 2016  
BC.EDU/BCLAWMAGAZINE

# LAW

SCHOLARSHIP

## Hard Truths

Faculty Books  
Stir Controversy and  
Earn Acclaim

IDEAS

## Damage Control

Can Insurance  
Save Our  
Faltering Planet?

PROFILE

## Tribal Warrior

Alumna Stands  
Her Ground to  
Save Her Heritage

# NO BIZ LIKE SHOWBIZ

They've Counseled Bobby Brown, Advised Gwyneth Paltrow, Handled Rights for John Lennon, Won Emmy Awards, Helped Acquire *Star Wars*, and Much More. BC Law Alumni Have Labored Offscreen as Dealmakers, Litigators, Creators, and Agents to Keep the Magic of Entertainment Alive.

STARRING

Netflix Senior Counsel  
Joel A. Goldberg '92







TRIBAL LAW

MERRI LOPEZ-KEIFER '98  
IS THE ADVOCATE  
FOR THE SAN LUIS  
REY BAND OF MISSION  
INDIANS. **PAGE 32**

Photograph by  
**ROBERT BENSON**



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Netflix Senior Counsel Joel A. Goldberg '92 is proof that a groundbreaking business model and sublime legal advocacy can coexist in the relentlessly innovative world of entertainment law.

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Can insurance save us from ourselves as we continue to think short term, pushing off the inevitable consequences of climate change onto future generations?

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From top, Professor Mary Bilder; Professor Richard Albert; women in combat; Andrea Clavijo '16.

**On the Cover** Netflix Senior Counsel Joel A. Goldberg '92; Photograph by Mark Leibowitz



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# Foremost

## Prepped for Success in the Innovation Age



**Does a day go by** that the word “innovation” isn’t invoked in public discourse? In his January State of the Union address, President Obama spoke of it as one of four basic questions the nation needs to ask about its future: “We as a country have to answer: How do we reignite that spirit of innovation to meet our biggest chal-

lenges?” Computer coding is the new language of choice in elementary schools. Cars are a short distance away from driving themselves. Advances are reported nearly everyday in dynamic “smart” sectors such as medicine, technology, and energy.

So, where does that leave BC Law School? Right where it wants to be.

The White House reports that from 1948-2012 over half of the total increase in US productivity growth came from innovation and technological change. That covers 76 percent of the Law School’s eighty-nine-year history. To study that history is to recognize that BC Law has always been pushing the boundaries, striving for more, newer, better in faculty, student body, curriculum, programs, centers, and national and international reach.

The President’s 2009 “Strategy for American Innovation” understood the essential role that law plays in this innovation economy. “Creating the right policy and regulatory environment is essential to stimulating private-sector investment,” the report said, “whether it is providing patent protection for life-saving drugs, maintaining a free and open internet,

enforcing our antitrust laws, governing the commercial introduction of emerging technologies, or making it easier for startups and rapidly growing firms to raise capital.”

The initiatives in the report require lawyers who can weigh risks and move at the head-swiveling pace required by the accelerating age of innovation. Training them to be quick, nimble, and thrill at the challenge of change has always been BC Law’s *modus operandi*.

For proof, one need look no further than to Netflix Senior Counsel Joel Goldberg ’92 (“No Biz Like Showbiz,” page 24), who, though out of law school for nearly a quarter of a century, is a man of the moment in one of the entertainment industry’s most trailblazing companies. “We’re quite willing to blow up how we do business on a semi-regular basis when we think there’s a better way to do it,” Goldberg says.

He is one of scores of alumni doing much the same thing in their careers based on lessons in innovation learned early on. These pages are full of their stories.

**VICKI SANDERS, Editor**  
vicki.sanders@bc.edu



### CONNECT

Don’t forget to update your information so the Law School and other alumni can reach you. Contact us at [bc.law.alumni@bc.edu](mailto:bc.law.alumni@bc.edu), call 617-552-4378, or visit [www.bc.edu/lawalumni](http://www.bc.edu/lawalumni).

### ALUMNI RESOURCES

**BC Law Magazine** BC Law’s alumni magazine is published twice a year, in January and June. To request a copy of the latest printed edition or share news items, press releases, letters to the editor, class notes, or photos, contact editor Vicki Sanders at [vicki.sanders@bc.edu](mailto:vicki.sanders@bc.edu) or call 617-552-2873.

**Alumni Chapters** Chapters of the Alumni Association meet in locations around the country and beyond to socialize, network, and share memories. To start a chapter, organize an event, or reach fellow alumni, contact Christine Kelly ’97, director of alumni relations, at [christine.kelly.3@bc.edu](mailto:christine.kelly.3@bc.edu) or 617-552-4703.

**Online Community** Alumni services are brought together in one convenient

place. The BC Law Alumni Portal gives you access to BC LawNet, the website where you can look up alumni in an online directory, take advantage of career resources, register for events, submit class notes, update your contact information, and maintain an [@bc.edu](mailto:@bc.edu) forwarding address. Register now at [www.bc.edu/lawnet](http://www.bc.edu/lawnet).

### VOLUNTEER

**Reunion Committee** The most successful reunion celebrations are those that have engaged volunteers on our Reunion Committees. Committees are formed the year before the reunion weekend, and participants can contribute as little as two hours per month. Contact Amanda Angel, director of annual giving, at [amanda.angel@bc.edu](mailto:amanda.angel@bc.edu) or 617-552-8696.

**Ambassadors Program** The Ambassadors Program promotes engagement with and giving to BC Law among alumni at law firms with a large BC Law alumni presence.

Participating firms and volunteer representatives provide perspective on the changing legal industry, mentor and recruit students, and partner with the Office of Advancement to strengthen the alumni community. Contact Amanda Angel, director of annual giving, at [amanda.angel@bc.edu](mailto:amanda.angel@bc.edu) or 617-552-8696.

**Mentoring Program** The 1L Mentor Program matches first-year students with alumni volunteers in the city where they want to practice and in the practice area they are considering. Mentors serve as informal advisors between students’ first- and second-year summers. Contact Christine Kelly ’97, director of alumni relations, at [christine.kelly.3@bc.edu](mailto:christine.kelly.3@bc.edu) or call 617-552-4703.

**Judging Oral Advocacy Competitions** Students participate in four in-house competitions: Negotiations (early autumn), Mock Trial (late autumn), Client Counseling (late winter), and Moot Court (spring). Alumni are needed to judge these competitions. Contact Rosemary Daly at [rosemary.daly@bc.edu](mailto:rosemary.daly@bc.edu) or 617-552-0536.

### SUPPORT/GIVE

**Light the World Campaign** BC Law is conducting an ambitious campaign to raise \$50 million to directly support Law School priorities, notably endowed professorships, scholarships, loan repayment assistance, faculty research, and Law School centers of excellence. The fundraising initiative is part of the University’s \$1.5 billion campaign. Contact Jessica Cashdan, executive director of advancement and associate dean, at [jessica.cashdan@bc.edu](mailto:jessica.cashdan@bc.edu) or call 617-552-3536.

**Named Scholarships** A number of scholars are selected each academic year based on their demonstrated leadership, financial need, academic excellence, or public service achievements, in accordance with donors’ preferences. The Dean’s Scholars Program, established in 2013, awards full-tuition merit scholarships to exceptionally promising students. Contact Jessica Cashdan, executive director of advancement and associate dean, at [jessica.cashdan@bc.edu](mailto:jessica.cashdan@bc.edu) or call 617-552-3536.

**Law School Fund** Gifts to BC Law’s annual fund provide immediate financial support for many of the Law School’s most important needs. It has been used to fund financial aid for students, loan repayment assistance for alumni in public interest positions, and faculty research grants. Contact Amanda Angel, director of annual giving, at [amanda.angel@bc.edu](mailto:amanda.angel@bc.edu) or 617-552-8696.

**Dean’s Council Giving Societies** Members receive invitations to special receptions and events as well as enjoy membership in comparable University-wide giving societies. The Dean’s Council recognizes leadership gifts in societies based on giving levels starting at \$1,500. Contact Amanda Angel, director of annual giving, at [amanda.angel@bc.edu](mailto:amanda.angel@bc.edu) or call 617-552-8696.

**Alumni Association Dues Program** Dues exclusively fund activities and events for alumni. Support the dues program by visiting [www.bc.edu/lawdues](http://www.bc.edu/lawdues) or contact Christine Kelly ’97, director of alumni relations, at [christine.kelly.3@bc.edu](mailto:christine.kelly.3@bc.edu) or 617-552-4703.



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## A Good Vibe

The new magazine looks awesome; the layout really pops. The content has always been great, but I also think Dean Vincent Rougeau's interviews with thought leaders ["Brainstorm"] and his regular column ["Behind the Columns"] have created an energetic vibe.

I really appreciate his outward-facing vision on extending BC Law's global awareness. I've also been impressed by his support for matters such as lawyers' cultural IQ, diversity, alumni affinity groups, civil rights, legal education, and current affairs that have an impact on the practice of law. He's written about all of these issues in the past several years.

For example, after the Law School hosted a panel on lawyers' cultural IQ, he interviewed social work professor emerita Elaine Pinderhughes in the magazine on the topic and later wrote a column about "demography" and BC Law being

"well situated to prosper from diversity." He also interviewed law professor Vlad Perju, director of BC's Clough Center and discussed the importance of comparative study for constitutional democracy and of engaging in interdisciplinary conversations about self-governance. Thus, in just two back-to-back issues, the dean managed to reach out to affinity students, faculty, and alumni.

On the fiftieth anniversary of the Civil Rights Act, the dean discussed the ensuing transformation and redefining of our nation. Last winter he addressed the increased cynicism about and dysfunction within government, and heralded the timing of the exciting partnership between BC Law and the Rappaport Foundation, whose new center at the Law School is focused on better policy making. Most recently, he took on technology and the law vis-à-vis serving both the public and private sectors, as well as improving opportunities to serve the indigent and underserved.

I find our dean's personal touch in building upon these concepts and ideas toward a larger vision of BC Law and its impact, to be not just brilliant, but also meaningful. His very real presence in the

magazine, with its new format, inspires. As an alumna, I am proud of his leadership, and look forward to reading more.

**Ingrid Chiemi Schreffner '95**  
Boston, MA

## Attention-Getting

I thought the Summer 2015 edition of the magazine was outstanding. The articles were very well written, interesting, and varied. Great job.

**Harry Damelin '72**  
Washington, DC

## In the News

*BC Law Magazine* made the news recently when CNN, in its coverage of the Baltimore State's Attorney's actions in the Freddie Gray police brutality case, quoted from the story, "The Imperturbable Marilyn Mosby '05," calling her "the prosecutor who quieted a troubled city."

## For the Record

In "God Bless the Child That's Got Her Own" [Summer 2015], the correct name of the program in which Taisha Sturdivant '16 spent her preliminary year at Brandeis University was the Myra Kraft Transitional Year Program.

## CONTRIBUTORS



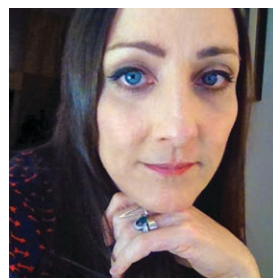
### Maura King Scully

**WRITER** Maura King Scully is an award-winning marketing communications professional and writer based in Greater Boston who wrote "We Are Still Here" about Merri Lopez-Keifer '98 (page 32). Of the story, she says, "Before interviewing Merri, I had never heard of the Luiseño Indians. The article gave me insight into the struggles of Native Americans in California, particularly a tribe that was denied ownership of its ancestral land."



### David G. Delaney '03

**WRITER** David Delaney teaches law at Indiana University and is deputy director of its Center for Applied Cybersecurity Research. A graduate of West Point, he was a US Army Military Police officer whose experiences with female colleagues inspired his article (page 68) about their role in combat. After BC Law, Delaney worked for the US Department of Homeland Security, where he coordinated cybersecurity efforts.



### Kirsten Ulve

**ILLUSTRATOR** Kristen Ulve is a New York City-based illustrator and designer. She is a regular contributor to *Japanese Vogue*, and a keen caricature artist for *Entertainment Weekly*, the *New Yorker*, and *Billboard*, to name a few. "I love making caricatures, especially in a zany cluster," she says of her work on page 30. "It's fun to make seemingly unrelated people interact. The piece becomes a kind of narrative graphic puzzle."



### Mark Leibowitz

**PHOTOGRAPHER** Mark Leibowitz, a graduate of Stanford University, shoots editorially with the likes of *Conde Nast Traveler*, *Glamour*, *Wired*, and *The Hollywood Reporter*. About the Joel Goldberg assignment (page 24): "During the photo setup, Joel and I spoke about his wife, a creative director in the Los Angeles area. It turns out I shot for her years ago and she designed my first portfolios. What a small world."



# Foremost

**“What really ought to terrify us is the very real possibility of our nation turning in on itself, unleashing a torrent of scapegoating and witch hunts that ultimately could destroy everything we have worked to build as a nation.”**

Dean Vincent Rougeau



## We Can't Let Fear Degrade Us

**Respect for human dignity is the antidote to the banal and hateful belittlement of others.** BY DEAN VINCENT ROUGEAU

As I write this column our nation has been engaged in an extraordinary political conversation, the likes of which I have not heard in my lifetime. Candidates for the presidency and many of their supporters have spoken in favor of barring Muslims from entering the country on the basis of their religion. In support of that position, some have cited the internment of Japanese Americans during the Second World War as a successful example of the containment of potential “enemies” in a time of crisis. ¶ Fear is a natural human emotion, and responses to fear can be extreme. Much has happened in recent months to inspire fear in all of us, from terrorist attacks to mass shootings to inexplicable acts of police violence. All of these things have damaged our sense of security and, perhaps, our trust in one another. But upon reflection, we must think carefully about the sources of our fears and about the reality of the dangers we face. Acts of violence notwithstanding, what really ought to terrify us is the

very real possibility of our country turning in on itself, unleashing a torrent of scapegoating and witch hunts that ultimately could destroy everything we have worked to build as a nation.

We are witnessing a moment in history that requires those of us trained as lawyers to draw deeply upon the most honorable traditions of our profession. The marginalized and the despised are those most in need of our assistance and support, and often lawyers are all that stand between them and mob justice. Furthermore, the tradition of Jesuit education that animates Boston College should make it clear to us that much of what we are hearing about Muslims, immigrants, and “others” degrades the foundations of the community we seek to build and serve.

Human beings—regardless of whether they are citizens or strangers—have dignity and rights. That dignity and those rights belong to them notwithstanding their membership in particular ethnic, religious, racial, or social groups. We should not be fooled by clumsy arguments that amount to nothing more than guilt by association or a primitive fear of those who are different.

Times like these can be very dangerous. The philosopher Hannah Arendt reminded us of this when she wrote of the “banality of evil” when describing the years that led to the rise of Nazi Germany and the Second World War. In our times, ideas and policies that would have been broadly rejected a decade ago now draw cheering audiences and serious engagement in the press. As fear consumes us, logic is replaced with misplaced passion and the profane becomes sacred.

As Americans, we have been blessed with a peace and prosperity that few people have ever known. Although we are facing some difficult economic realities and complex security challenges, our political traditions and economic prowess still remain the envy of much of the world. We have no right to this position; it is a privilege, and if we are not careful, we may squander it. Democracy under the rule of law is hard work, but if we are truly committed to human dignity, it is work we must do. Otherwise, we risk creating a society ruled by fear, which, history teaches us, descends quickly into barbarism.



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## CALIFORNIA DREAMIN'

CONGRESSMAN  
**JARED HUFFMAN '90**  
HAS SURVIVED THE  
TRANSITION FROM  
SIX HEADLONG YEARS  
IN THE CALIFORNIA  
ASSEMBLY TO THIRTY-  
SIX GRIDLOCKED  
MONTHS IN THE US  
HOUSE. STILL, HE SAYS,  
THERE'S NEVER A DULL  
MOMENT. **PAGE 14**





US Representative  
Katherine Clark

## Why Gender Shouldn't Matter in Politics

Women leaders take the myth and mystery out of governance.

A panel discussion among some of Massachusetts' most politically astute women was the official kickoff event of the Rapaport Center for Law and Public Policy, which moved to BC Law last spring. This capstone fall event was titled "Breaking Barriers: Gender Politics in Government," and explored ways to increase gender equity in leadership positions.

Elisabeth J. Medvedow, the center's executive director, moderated the panel, which comprised US Representative Katherine Clark, former Governor Jane Swift, and former Lieutenant Governors Kerry Healey and Evelyn Murphy.

It's clear that we need to elect more women, but women are "up against a lot," said Clark, including often biased press coverage. "There's an emphasis on appearance, and less coverage of the substantive work that women do." She also cited online harassment of women and girls, and the internet backlash against anyone who talks out on feminist issues, a response that she labeled a form of harassment.

Swift agreed. It's all about "hair, hemlines, and husbands" with women, she said, adding that if she were a man, she wouldn't have made headlines as governor when she

took a helicopter home from Boston to care for a sick child.

One deterrent for many women thinking of politics is funding political campaigns. Many buy into the myth that women can't raise money. But the facts prove otherwise; women can raise money if they are willing to do so, Swift said. "Nobody will give money unless you ask, and no one will give more than what you ask for."

Murphy observed that fundraising is one of the fundamentals of a campaign and women need to be more sophisticated about how they run things. "Mechanics matter," she noted.

So does having more women writing the checks. "[This] provides access and ability to get their thoughts across," Healey said.

Medvedow asked the panelists what can be done to engage more women in politics. They responded that women need to run for office or ask women to run or make it their business to support women who run. "Until women are in equal numbers [in government], Clark said, "we won't be fulfilling the promise of democracy."

## THE CURIOUS HISTORY OF THE ESTATE TAX REPEAL

Professor James Repetti '80 welcomed tax scholars from ten law schools and the US Treasury Department to BC Law October 9 in celebration of the 100th anniversary of the Estate and Gift Tax. Co-sponsored by the American College of Trust and Estate Counsel Foundation, the conference featured a keynote by Michael Graetz of Columbia Law and three sets of panelists whose papers will be published in the May 2016 issue of *Boston College Law Review*.

Graetz, who has also held positions in the department of the treasury, co-authored *Death by a Thousand Cuts: The Fight Over Taxing Inherited Wealth* upon which he based his talk at the conference.

He traced the history of death taxes from ancient Egypt to the 1990s and the story of how wealth manager Patricia M. Soldano assembled the powerful coalition that brought about the repeal of the estate tax in 2001.

The group created a powerful narrative that

resonated with many hardworking Americans, a strategy that deflected repeal critics' arguments that the tax affected primarily the wealthy, said Graetz. He gave the example of Chester Thigpen, a Mississippi tree farmer who had descended from slaves. Thigpen was recruited by the coalition to testify before Congress that the estate tax was a burden to hardworking family businesses like his. "He was the perfect poster child for the repeal campaign," said Graetz.

Certainly, a number of other factors played a role in the repeal, Graetz added, including the financial backing of many wealthy American families (who remained in the background); the argument that estate taxes amounted to double taxation, which President George W. Bush got behind; and the weak counter-responses of labor and the insurance industry. Today, given the economic and political developments of the last decade, Graetz predicted that there would be no major change to the estate tax's existing status for the foreseeable future.

The central themes addressed by panelists at the conference reflected that belief. They discussed whether it is more desirable to tax the transfer of wealth during life or at death; whether methods other than an estate and gift tax could better address problems of wealth concentration; and how to improve the existing estate and tax system.

Michael Graetz wrote a book about the behind-the-scenes intrigue that led to the law's repeal.





**Imagine If Car or Toy Makers Weren't Liable for Consumer Deaths** "Even if our nation overcomes a seemingly entrenched resistance to gun control, legislative fixes will not be enough to stop the proliferation of unsafe guns in the hands of unstable people. What's missing in the current debate is that the sale and manufacturing of guns is a consumer products problem." Professor Kari Hong in WBUR's "Cognoscenti"



Toronto law professor Ayelet Shachar

## Beneath the Migration Crisis, Cruel Realities

How the rules of exclusion can hurt.

**Globalization has not been kind** to migrants, contrary to what many observers thought at the turn of the 21st century. Indeed, said Clough Center lecturer Ayelet Shachar, "we are very far away" from realizing the expectation that borders would dissolve and new paradigms would emerge for the legal, humanitarian, and economically viable flow of migrants around the world. Instead, she observed, the imposed separation of "strangers" and "members" in societies, which has hindered assimilation for centuries, is "back with a vengeance."

Speaking in November, the Toronto University law professor and director of the Max Planck Institute for the Study of Religious and Ethnic Diversity cited examples of states' regulatory and policy actions that are hurting healthy migration territorially, culturally, and economically.

In America, for instance, the jurisdiction of front-line immigration personnel now extends 100 miles within US borders such that immigrants stepping foot inside the country don't receive due process because they're in a "constitution-free zone," Shachar said. Canada, for its part, is trying to prevent entry into the country altogether. And in Australia, efforts are under way to expand its existing "excision zone" to encompass the entire country.

Making matters worse are exclusionary policies such as those attempted or practiced in The Netherlands and France, among others, Shachar said. These include requiring aspiring newcomers to pass difficult, pre-entry competency exams or banning head or body coverings worn by Muslim women.

Mix economics into the equation, Shachar continued, and the opposite occurs—nations grant exemptions for a select few: the highly skilled or specially talented, such as star athletes and artists.

This manipulation of rules pertaining to the dispossessed raises a compelling question, Shachar concluded: "What kind of law are we going to practice?"

**Circuit Successes** On the heels of two stunning victories by BC Law students in the Ninth Circuit Court of Appeals last summer came similar results in December in two cases in the First Circuit. Professor Mary Holper and former students in the Immigration Clinic won for their client, who is facing deportation, a remand to the Board of Immigration Appeals for reconsideration of her case. Then, in *United States v. Castro-Vazquez*, argued by Professor Sharon Beckman with help from student researchers, the Court vacated Castro-Vazquez's 78-month sentence and remanded the case for further proceedings.

**Hometown Victor** Law School's demanding schedule didn't stop Jason R. Adams '17 from campaigning for—and winning—re-election in November to an at-large seat on the town council in the burg where he lives, Randolph, Massachusetts. His 2015 platform included improving the school system and increasing the tax base by bringing in new businesses.

**Benchmark** Debra A. Perlin '11 won a 2015-2016 Supreme Court Fellowship. The grant, which recognizes "exceptional individuals," rewarded her for her work as a State Department justice advisor who assesses foreign judicial systems for compliance and briefs judicial delegations on the American justice system, among other duties.

### AROUND THE ACADEMY



**Sharon Post** Chief Judge Post and two colleagues from the Federal Circuit of Appeals in Washington, DC, held a rare special session at BC Law in October, hearing oral arguments in four cases as students and faculty observed. The judges considered a veteran's claim and three cases concerning patent infringement. Afterward, they gave students advice on arguing cases before the court, which included being well prepared and avoiding rhetorical or emotional arguments.



**Professor Kent Greenfield** The Committee Against Institutional Racism (CAIR) invited Greenfield to moderate a panel of six diverse students who discussed their experiences of racism and the tension between First Amendment protections and inclusion on university campuses. The November conversation covered speech's capacity to harm versus the right to free expression and the cumulative impact of micro-aggressive cuts to another's self-worth.



**Dean Vincent Rougeau** In response to the nation's recent efforts to come to terms with racism, Dean Rougeau presented "Fighting Racism by Modeling Inclusion: Reflections of an African American Dean." Much of his scholarship focuses on how multicultural understanding can grow out of thoughtful community integration. His talk was sponsored by BC's Center for Human Rights and International Justice as part of its "Conversations on Race and Racism" series.



**Ilyas Shahin** A book dedication ceremony honored the work of Shahin, who authored *Teknik Araclarla Izleme: Technical Surveillance, Turkish Law, ECHR, and USA Criminal Procedure* while a BC Law visiting scholar. Shahin is a judge in Turkey's Court of Cassation. Paying tribute were Dean Vincent Rougeau, Graduate Legal Education and International Programs Director Susan Simone Kang, Massachusetts Supreme Court Justice Robert Cordy, and Kevin Curtin '88.



**Marilyn Mosby '05** Baltimore State's Attorney Mosby, who is overseeing the Freddie Gray case, impressed professors and students alike during a campus visit in October. "Marilyn was candid, real, personal," said Professor Evangeline Sarda. "She's so appreciative of what BC Law provided her and credits the school with shaping her views and ideas. As a political figure, her authenticity was palpable; and as prosecutors go, she's a way-beyond-the-box thinker."



## In Brief

Madison was “not far removed from folks like Karl Rove and George Stephanopoulos—the crowd that ends up on Sunday morning TV versus someone who might be interested in theoretical notions of the Good.”

Mary Bilder

## A Cautionary Tale About the Notes of James Madison

Bilder unearths provocative truths about the founding father's take on the Constitutional Convention. BY DAVID REICH

▶ Since their publication in 1840, James Madison's notes on the framing of the Constitution have been seen as a reliable, real-time account of the 1787 Constitutional Convention. That will surely change thanks to *Madison's Hand* (Harvard), a groundbreaking new study by Professor Mary Bilder, which reveals for the first time how thoroughly Madison revised the notes between the Convention and his death, in 1836. “Everyone—historians, political scientists, lawyers, judges—has used the revised text as if it were written in the summer of 1787, and the book makes it very difficult to do that from now on,” says Bilder.

Indeed, *Madison's Hand* has garnered considerable attention in academia and the press and won a “book the year” nod from Legal Theory blogger Laurence Solum, for its revelatory thesis.

For her research, Bilder sought out Madison's original manuscript, housed in the Library of Congress. What she found was a document with numerous changes—cross-outs, interpolated sentences, new text added on slips of paper that appear to have been pinned to the original. Comparing the notes with other delegates' accounts, she realized that, while some revisions make the notes more accurate, others blur events to serve the future president's political ends. (Madison wavered over publishing the notes during his political career.)

Many revisions to the notes hide Madison's anger and annoyance with other Convention delegates, emotions that would have jumped off the pages of the unrevised version. Thus, “demagogue,” a term he used liberally, becomes “leading partisan,” and a delegate's cockeyed reasoning becomes “able and close reasoning”

that didn't always, however, “accord with itself.”

Bilder urges special caution when it comes to the notes on Madison's own speeches. Several appear on separate pages, in versions that Madison likely composed in 1789, she says. Some speeches, as revised, make Madison—by then a prominent member of Jefferson's new Republican Party, which championed states' rights—seem less a proponent of a powerful central government than he was at the Convention. In another speech, probably never given, Madison bitterly opposes the slave trade. In fact, while uneasy about slavery, he owned slaves and used slavery for leverage at the Convention, whipping up southern delegates' fears that a new Constitution that empowered small states would also empower abolitionists.

Beyond the distortions introduced by latter-day revisions, the notes narrowly reflect their author's interests. Madison was “not far removed,” says Bilder, “from folks like Karl Rove and George Stephanopoulos—the crowd that ends up on Sunday morning TV versus someone who might be interested in theoretical notions of the Good.” And since political deals most often get done in the legislature, the notes focus on debates about that branch, saying less about the executive and even less about the judiciary.

A final reason to tread carefully when reading the notes is

that Madison was making changes even as he wrote them. Bilder theorizes that he used a set of “rough notes,” taken on the Convention floor, to compose a more coherent and grammatical text, if not an entirely accurate one, during breaks from the Convention. She points to his habit of translating speeches into language that sounded like his own rather than the speakers'. “He thought through problems as he wrote,” she says, “so how he wrote things down is a step removed from how they probably said them.”

*Madison's Hand* is already being noticed by historians—one historian has called it “eye-opening,” while another calls it “the definitive study” of Madison's notes—but it also has implications for law, casting doubt on the idea that the Framers' intent can be divined by 21st century jurists. “If original understandings of the Convention existed, we cannot retrieve them,” as Bilder writes in her concluding chapter. “Indeed, hours after the Convention ended for the day, Madison could no longer recover it precisely for himself.”







Professor Daniel Coquillette

# A Pro-Slavery Bias Revealed

From the depths of Harvard Law's history, Coquillette discovers things triumphant and unsavory. BY DAVID REICH

➤ **"If you want to avoid** the mistakes of the past, you'd better know what the past is," says J. Donald Monan, SJ, University Professor Daniel Coquillette. He's explaining the warts-and-all approach of *The Battlefield of Merit*, the first installment of a planned two-volume history of Harvard Law School. While published by Harvard's own university press, the book, co-written by Coquillette and Bruce Kimball, a historian of education, devotes many pages to the great law school's sins, especially its long entanglement with slavery, which began with its 1817 founding.

Harvard Law was established using money from a family of slave traders and plantation owners. Among them was slaveholder Isaac Royall, whose coat of arms—three bushels of wheat on a shield—later became the official seal of the law school. Since publication of *The Battlefield of Merit*, that seal has become the source of widely covered student protests demanding the offending symbol's removal.

Also, during the law school's first half-decade, Joseph Story, an early dean as well as a US Supreme Court justice, upheld the notorious Fugitive Slave Act in his opinion in *Prigg v. Pennsylvania*.

Harvard Law in its early years was com-

peting not with other law schools but with traditional legal apprenticeship. Under Story, the school offered three things that students couldn't get from apprenticeships, says Coquillette: It taught law from a national perspective, with courses on constitutional law and legal philosophy, subjects rarely covered in apprenticeships; it admitted students based on merit; and it styled itself a training ground for national leaders. "These three ideas are so powerful that they're still the creed of Harvard Law School today," says Coquillette, "as well as the creed of every elite law school in the country."

In striving for national standing, though, Harvard Law recruited nationwide, and for years one-third of the student body came from the South, teeing up intramural debates between southern supporters of slavery and northern abolitionists.

The bitterest debate came in 1854, when Edward Loring, a federal commissioner in Boston and also a Harvard Law lecturer, ruled

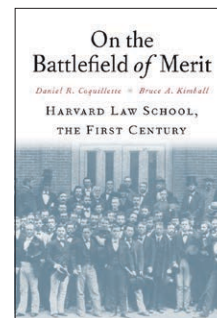
against an escaped slave whose owner was suing for his return. Southern Harvard Law students formed a sort of honor guard, escorting the slave owner to and from the proceedings. At Loring's first class after the ruling, "southern students stood and applauded, and northern students hissed," says Coquillette. "Seeing a man in chains on the streets of Massachusetts, that was too much"—not only for students but also for Harvard's overseers, who let Loring go at the end of the term. Still, the debates over slavery raged, lasting until war came and southern students departed, many to serve the Confederacy as government officials and military officers.

The law school's great post-bellum leader, C.C. Langdell, like his predecessor Story, revolutionized legal education. Langdell introduced case method instruction, replacing old-fashioned treatises and recitations with casebooks and Socratic questioning. Langdell "talked about law as if it were a science," says Coquillette. "He said, 'We can dissect those cases the way you dissect a frog,'" deriving broad principles from a close acquaintance with the facts.

Langdell also made the school more meritocratic, demanding college degrees of applicants and introducing class rankings and written exams. On the other hand, he contravened his own meritocratic principles by refusing

admission to women students—according to his theory, law is "unfit for the feminine mind"—and by casting a wary eye on applicants from Catholic institutions, including Boston College.

Despite a record that includes Langdell's admissions policies and Story's deplorable opinion in *Prigg*, Harvard Law, thanks in part to those two flawed men, has made lasting contributions to legal education, and to American history. Coquillette points to our 2012 presidential election, in which both candidates and the man who swore in the winner had Harvard Law degrees. "I think Joseph Story is laughing in his tomb," muses Coquillette, "and saying, 'I achieved what I set out to achieve.'"



**"Seeing a man in chains on the streets of Massachusetts, that was too much."**

Daniel Coquillette



For additional content, see the digital versions of these stories at [lawmagazine.bc.edu](http://lawmagazine.bc.edu).



## LAW SCHOOL HOSTS NEW SERIES ON POLICY

The Rappaport Center for Law and Public Policy last fall inaugurated an ambitious series of events in its first full season as part of BC Law School. The Distinguished Public Policy Series included:

- ▶ “The Affordable Care Act after *King v. Burwell*” with Professors Dean Hashimoto, Pat McCoy, and Mary Ann Chirba.
- ▶ “Envisioning a Career in Public Service” with former Massachusetts Attorney General Scott Harshbarger and Professor R. Michael Cassidy.
- ▶ “The Impact of Transit on Economic Development in Dudley Square” with state, city, and neighborhood leaders.
- ▶ “Legal Superstars” convened three MacArthur Fellows who are pursuing compelling causes: Marie-Therese Connolly (elder abuse), Margaret Stock (immigration), and Jon Rapping (criminal justice).
- ▶ “Beyond Obamacare,” a panel on access and cost containment, featured representatives from insurance, hospital, community, and government sectors.
- ▶ “Safe and Sound: Challenges of Women Prisoners in Massachusetts” presented authorities in public safety and prisoner and legal services.
- ▶ “Governor’s Legal Counsel: The Best and Most Varied Job in State Government” brought together four lawyers who had served under governors Dukakis, Romney, Patrick, and Baker.

The Rappaport Center for Law and Public Policy at Boston College Law School welcomes readers to attend its forums. To be notified of upcoming programs and events, please send your name and email address to [Rappaport@bc.edu](mailto:Rappaport@bc.edu).

## Greenfield Takes Aim at Delaware

Policy idea gets airing in DC journal.



**Democracy: A Journal of Ideas**, a policy publication of renown in Washington, DC, selected Professor Kent Greenfield to be one of the writers providing sixteen ideas that shape the progressive agenda for 2016. Greenfield's article offers solutions to Delaware's problematic corporate governance law.

Popular among progressives as a place to vet ideas before a policy push—Senator Elizabeth Warren, for example, first proposed her financial consumer protection agency in the pages of *Democracy*—the Winter 2016 issue of the journal also includes among the sixteen writers former Massachusetts gubernatorial candidate Juliette Kayyem, former US State Department policy planning director Anne-Marie Slaughter, and former Obama chief economics advisor Austan Goolsbee.

“Delaware corporate law cares not at all about employees, communities, customers, or other stakeholders, except insofar as shareholders also gain,” writes Greenfield. “If there is a conflict, shareholders must win. Gouging customers for shareholder gain? Fine. Using child labor overseas for shareholder gain? Go for it.

“This legal rule is mistaken on its own terms,” he continues, “but doubly problematic because of the undemocratic nature of Delaware's dominance.”

Greenfield presents two solutions: one, that states assert the right to govern corporations whose primary place of business is within their borders; two, that “corporations of sufficient size to affect national interests be chartered at the national level,” subjecting them to the constraints of democratic pluralism.

## Is Philanthropy Doing Its Best?

BC Law spawns national think tank to push for reform.

**Concerned that current philanthropic** giving structures are not living up to expectations and are in need of reform, Professor Ray Madoff initiated a series of conversations that has led to the formation of a national think tank, the Forum on Philanthropy and the Public Good. Its inaugural event took place last October at the University Club in Washington, DC, where it hosted “The Rise of Donor-Advised Funds: Should Congress Respond?”, the first of many projects that will explore the \$50-billion charitable fund sector.

“People assume that what happens under the umbrella of philanthropy must, by its very nature, be optimally serving the public good,” says Madoff, the forum director, an expert on philanthropy and tax law, and recipient of *Inside Philanthropy's* philanthropy critic of the year award. “But sometimes the rules governing philanthropy do not produce that result.”

The forum, whose genesis was a 2014 conference at BC Law on promoting reform in philanthropy, operates as a time-limited think tank that is bring-

ing together national experts to study philanthropy policy. “By raising the level of sophistication of policy discussions and their timely expression,” states the group’s website, “we believe that the forum will play a useful, non-partisan role in raising, exploring, and resolving issues whose resolution stands to promote the use of philanthropy in pursuit of the public good.”

With the support of organizations such as the Ford Foundation and Carnegie Corporation, Madoff, Adjunct Professor William Bagley, and others are assembling policy makers, scholars, and practitioners to determine if the rules governing the philanthropic sector are appropriate and whether Congress and regulators need to take action. “There has been too little discussion and debate about these fundamental questions surrounding philanthropy,” says Madoff.

The forum’s leading inquiries also include how the law should treat large university endowments and if the current payout rule for private foundations is performing as it should.

Up next for the Forum on Philanthropy and the Public Good is an April conference in conjunction with Stanford University on “Giving in Time: Perpetuity, Limited Life, and the Responsibility of Philanthropy,” in Palo Alto. Also being planned is a conference on why universities have endowments.



**“It is those who can see the promise of peace through the fog of war who change history.”**

US Ambassador Wendy Sherman



Iran negotiator  
Wendy Sherman

## Deep Inside the Iran Nuclear Deal

A consummate negotiator describes the intricacies of getting to yes.

BY JERI ZEDER

➤ **After more than five decades,** the US and Cuba have started to normalize relations. A nuclear deal was reached with Iran last summer, but a deal with North Korea remains elusive. Israel and the Palestinians know the terms of peace, but can't get the deal done. And peace seems impossible as Syria burns.

In each case, why?

Ambassador Wendy Sherman, the chief American negotiator of the Iran Nuclear Deal, sought to answer this question when she was on campus on November 9 as the Rapaport Center for Law and Policy's inaugural Distinguished Lecturer. In her public talk, "Negotiating Change: Where in the World it Works, When it Doesn't, and Why," Sherman

described how the Iran deal was reached and the lessons it offers for other conflicts around the world. The former Under Secretary of State for Political Affairs was on campus for two days teaching classes and meeting with students and faculty.

The conditions that led to the breakthrough with Cuba, she noted, parallel some of the factors that made the Iran deal possible. In both cases, the time was ripe. The leaders of the countries involved were right for the task. Regional politics had changed in ways that supported a path to normalization. And negotiations were kicked off through secret channels that allowed the countries space and time to find shared objectives.

The case of North Korea couldn't be more different, Sherman argued. North Koreans are some of the most isolated people on earth, ruled by a provincial tyrant who leaves them malnourished and poor. In contrast, Iran's people and its leaders are engaged with the world. Many members of Iran's negotiating team were educated in the US and are fluent in English. And Iran's leaders were ready to turn around their country's economy, which had been dev-

astated by years of international sanctions.

The Israelis and Palestinians, Sherman said, simply can't come to an agreement. "No outside country, even the United States, can cajole them into doing so," she said. "As in many places where there is violence, peace may not come until the parties truly believe the alternative to peace is worse."

Sherman's description of the Iranian negotiations showed that making peace is a grueling project. The parties have to believe that peace is preferable to war, and agree to clear, common objectives to get there. In the case of Iran, a breakthrough came when the parties agreed that Iran could have a limited civil nuclear program that would be subject to intrusive and extensive monitoring, but that Iran could never have a nuclear weapon. The parties, which in addition to Iran and the US soon included Britain, China, France, Germany, and Russia, all urgently wanted the deal. They stayed focused, even as Russia, China, and Iran asserted themselves militarily around the world, even as Israel vociferously objected, even as domestic opposition to a deal arose in the US.

The sheer work of diplomacy involved two full years of bilateral, trilateral, and multilateral negotiations; of all-nighters and diplomats sequestered for weeks in hotels; of detailed, multilateral seminars on technically intricate subjects, like uranium enrichment, nuclear reactors, transparency and verification measures, sanctions, and more. The parties never came to trust each other. But they mutually detested the alternatives to a deal, and had the persistence and stamina to get there.

Contrast Syria. War doesn't rage at times of common sense and common cause, Sherman noted, speaking several weeks before the terrorist attacks in Paris that caused added international scrutiny of the civil war-torn country. War is pushing the parties in Syria apart, she said. They are unable, now, to do the hard, hard work of negotiating peace.

"It is those who can see the promise of peace through the fog of war who change history," Sherman concluded. "And that is for me the most compelling story of the Iran negotiation, a story I hope will soon be repeated in our many other confounding challenges."



## Candid

# A Journey of Discovery

Andrea Clavijo '16 seizes opportunity at every turn.

INTERVIEW BY MAURA KING SCULLY

## There were political and economic troubles

when my parents left Venezuela. They came to Charleston, South Carolina, where they both earned doctor of pharmacy degrees, and where I was born. My dad wanted to stay in the United States, my mom wanted to go back. They compromised by moving to South Florida, where there is a large Hispanic community.

## From the age of 10, I knew I wanted to be a journalist.

I chose the University of Florida for its top journalism school. When I took a class on the First Amendment, I was hooked on the idea of combining my love of journalism with the world of media law.

**Fate brought me to BC Law.** I arrived late at a graduate school career fair but saw someone still packing up at the BC Law table. I thought, "I might as well talk to this woman to make the event count." She was Associate Dean Tracey West, and we connected immediately. I decided to apply because I had such a good gut feeling.

**Some people do yoga when they're stressed.** I do student government. At UF, I earned a spot as a student ambassador. Sixty people were chosen out of almost 1,000 applicants. My senior year I was the recruitment chair. My enthusiasm for school spirit and involvement carried over to BC Law. I've held leadership positions with the Law Students Association since my first week here and am currently vice president. I'm also on the executive board of LALSA. I'm proudest of helping launch BC Law's own student ambassador program.

## You have to try a lot of things out to find your path.

Through five law school internships, I explored a range of legal environments. My 1L summer I worked at National Grid, which exposed me to regulatory law—I loved the complex analysis of policy, statutes, and regulations. It was a breakthrough experience. I realized that I should do litigation and regulatory law within the media industry.

"Moot court gave me confidence that I would be a good lawyer one day."

## STUDENT SNAPSHOT

**Provenance** Weston, Florida, affectionately known by locals as "Westonzuela." **Learning** BS in Journalism, minors in French and Leadership, University of Florida. **Languages** Spanish, English. **Competitions** Finalist, Wendell F. Grimes Moot Court Competition; Quarter Finalist, BC Client Counseling Competition; Contestant, National Criminal Procedure Tournament. "Advancing to the Grimes Finals was my proudest accomplishment at law school. Moot court gave me confidence that I would be a good lawyer one day." **What She Gave Up for Lent** Pad thai. "I was spending too much time and money trying to find the perfect pad thai. I was obsessed." She began experimenting with cooking it herself. Now, she says, "I've nailed it."







# In the Field



## POCKET RÉSUMÉ

**Jared Huffman '90** US Representative (D-Calif.) since 2013; served six years in California State Assembly and was senior attorney of the Natural Resources Defense Council. **Smart and Tall** Graduated UC Santa Barbara *magna cum laude*; was NCAA All American volleyball player and member of No. 1-ranked 1987 USA Volleyball Team. **House Committees** Natural Resources and Transportation and Infrastructure **Passion** Protecting the environment.

## Never a Dull Moment

Where others see obstacles, lawmaker Jared Huffman sees opportunity.

BY MAURA KING SCULLY



Along with most of the country, US Representative Jared Huffman '90 has been frustrated by a Congress mired in conflict. Yet, as one of the 435 members of the House of Representatives, he remains energized by possibilities beyond the seemingly endless gridlock.

"There has always been a strong majority in Congress that agrees on issues like immigration reform, commonsense background checks, and reauthorizing the import/export bank," says Huffman, a Democrat who was elected to the House in 2012 to represent California's second district, which spans from the Golden Gate Bridge north to the Oregon border. "There is no shortage of bipartisan willingness to do this work. The problem is that the current House leadership won't allow hearings or votes on most of these issues, and that's frustrating."

Whether he is focused on what he can accomplish at the federal level, or trying to help those in his district with local issues, Huffman is motivated by a sense of responsibility to serve. "There is never a day where I only do one subject or get bored," he says. "We are constantly moving on an almost endless number of subjects. It's potentially overwhelming but also energizing."

He considers passing a bill though the House two years ago to permanently protect a section of the Mendocino County Coast as part of the Coastal National Monument his proudest moment in Congress. "The bill stalled in the Senate, but President Obama implemented it by executive action and I was invited to the Oval Office for the signing of his executive order," he recalls. "The area is called Point Arena-Stornetta and it became the first land-based addition to the Coastal National Monument, which includes all of the rocks and islands off the coast of California."





## Paths to Success

Alumni find career satisfaction in unusual places.

### 1. Jennifer Borggaard '96

**Career** Based in Prides Crossing, she is senior vice president of Affiliated Managers Group (AMG), a global asset management firm that oversees \$619 billion. **Balancing Act** Supervises the thirty-plus investment boutiques in which AMG has a stake, and balances tax, legal, and accounting considerations to develop incentive structures to drive growth for the individual affiliate firms and for AMG. **Wisdom** "If you are interested in taking on a broader role within your company or stepping outside of a law firm and into a business role, pay close attention to the needs of your clients. Think outside the narrow legal aspects of your role and consider the broad goals of your client or company."

### 2. Marybeth Walsh Chung '99

**Moving On** After eight years as legal counsel with The Kraft Group, owner of

the New England Patriots among other entities, Chung opened her own corporate practice last March in Dover. **Motivation** She was inspired by the solo practitioners who provided great service to The Kraft Group, which then became her firm's first client. **Advice** Reach out to former colleagues and BC Law alumni who have made similar transitions. "The guidance and support I have received from other solo practitioners have been invaluable."

### 3. Craig Coffey '96

**Climb Every Mountain** Co-founder of O2X, based in Hingham, which develops human performance programs for companies and organizes base-to-peak mountain challenge events. **Transitions** After litigating with a large firm and designing estate plans with a boutique insurance firm, he decided that "security and financial rewards are not goals in and of themselves." **Latest Milestone** Qualify-

ing for 2016 Boston Marathon with a time of 3:23.

**Perspective** His colleagues call him "chief anxiety officer," but he's learning that "the linear path isn't always possible or even necessary."

### 4. Sharon Hanson '80

**Follow the Leader** After serving as chief of staff to Ed Davis while he was commissioner of the Boston Police Department, she followed Davis into the private sector and became chief operating officer of his security company. **Confidence** As a young prosecutor in the Middlesex District Attorney's Office, she learned "to trust my decisions and move forward instead of always looking back." **Secure Your Future** In the rapidly growing and changing fields of law enforcement and security, she says, there are many opportunities for those with law degrees.

### 5. James Laughlin '77

**Day Job** Works at investment banking firm Dominick & Dickerman. **Calling** Through his church, he discovered Turkana, a former British outpost in

Kenya. In 2003, he founded Friends of Turkana, which has provided more than \$1 million to support sustainable agriculture. **Parched** Turkana is a desperately dry region with virtually no infrastructure and little food or water. **Hopeful** "It is fascinating to watch as pastoralists try to buck hundreds of years of tradition and deep cultural mores to begin a new tradition of farming—and it is very gratifying to help out."

### 6. Will Sellers '01

**Strategy** A Georgia public affairs consultant, he works with nonprofits like Georgia Organics and the Georgia Hotel and Lodging Association on public policy and strategic initiatives. **Connecting** He helps business leaders and public officials see both sides to ensure legislation is fair and fruitful. **Delivery** Producing high-quality results is critical. "Reaching the desired outcome depends on having the right team, marshaling resources, and developing an engaging message that mobilizes supporters." —MKS

Though he takes the responsibilities of his office quite seriously, Huffman's sense of humor was gamely apparent when he played the straight man in a September 2014 episode of Comedy Central's "The Colbert Report"—part of the "Better Know A District" series. Huffman and host Stephen Colbert discussed the California redwoods, the landmark state law banning shark finning that Huffman co-authored as a state legislator, and California's record drought. When Colbert asked what his position was on *Star Wars*' Han Solo shooting first, Huffman replied, "I'm not a fan of shoot first."

Prior to joining Congress, Huffman served six years in the California State Assembly, where he authored more than sixty pieces of successful legislation and received numerous awards for his legislative leadership. He chaired the Water, Parks, and Wildlife Committee, served on the Budget Committee, and was co-chair of the Legislative Environmental Caucus. In comparing Congress to his state-level office, Huffman says they are like "night and day."

"In California, I was in the majority, passing dozens of new laws," he says. In Congress, he's "getting used to my diluted share of authority in this huge institution. You don't appreciate how big and slow-moving Congress is until you get here."

While Huffman spends weekdays in the Capitol, he is home in Marin most weekends with his wife and two children. He also runs an amateur winemaking operation, counting himself among the "garagistas" in his district. So far, he has mastered a full-bodied syrah and is working on perfecting his zinfandel.

## Doing the Right Thing for Society—and Employees

**McCray Pettway '99** Pettway is settling into the Seattle scene, raving about the local restaurants, and trying to find a time to visit Mount Rainier. Which is not to say that she isn't working long hours in her new position as director of global legal services for Expeditors, a Fortune 500 company that moves goods through a worldwide transportation network across six continents.

"This is a very exciting company," says Pettway. "We're getting food to the table. We're getting medicine to those who need it. We're managing complex supply chains. Customers are always the top priority for any business, but what makes Expeditors so appealing is that there is also a focus on employees as the company's greatest asset."

Pettway found her way to Expeditors after

serving as senior employment and labor counsel for four years at American Water Service Company, which delivers water to 15 million people in the United States and Canada, and seven years as assistant vice president and associate general counsel for employment at BJ's Wholesale Club. She began her career as an associate with Kirkpatrick & Lockhart (now K&L Gates).

"When I started law school, I thought I would be a civil rights attorney," says Pettway, who grew up in Montgomery, Alabama. "But I found out there were other ways to help people."

At BJ's, Pettway discovered her niche. "We were all called team members. I was an executive but I was also a team member," she explains. "Having that perspective allowed me to open the door to fair conversations and forward-facing strategies that benefit both the company and the employees."

She applies those insights to this day. By "treating employees fairly, you get so many more things done because people are at ease," she says. "They can be creative." —MKS



# Global Engagement



## Richard Albert's Worldwide Quest

Professor makes it his mission to strengthen constitutions around the globe. BY JERI ZEDER



### Epiphanies can take many forms.

Richard Albert's epiphany came in the form of a frog.

Albert graduated from his Gloucester High School in Ottawa and entered Yale as a pre-med, sure he'd be a doctor. "Everything was going well, and then second semester I was in bio lab and the assignment was to dissect a frog," he recalls. "I just couldn't stomach it."

Squeamishness set Albert on a new course, and today he is a rising star in the emerging field of comparative constitutional change—the study of how nations change their constitutions. An associate professor with tenure and a 2015-2016 visiting professor at the MacMillan Center for International and Area Studies at Yale University, Albert is a teacher, researcher, and builder of a global community of scholars interested in public law—the relationship between individuals and their governments. He's an untiring convener of conferences and symposia in places like Dublin, Montreal, Istanbul, Nakuru, Wellington, Berlin, Haifa, Brasilia, Rome, and Tokyo that each year grow in popularity and scholarly output.

A potent blend of life experience, mentorship, and hard work brought Albert to this point in his career. After the frog incident in college, Albert thrived in the absorbing class discussions and scholarly writing of his political science courses. His work-study job at Yale's law school exposed him to a potential new future, and soon the pre-med was pre-law and then a first year law student at Yale. Albert became a teaching assistant for his Civil Procedure



professor and mentor Owen Fiss, taught several undergraduate political science courses, and began writing substantial research papers under the supervision of legal lights like Professor Stephen Carter, Akhil Amar, and Drew Days. He received his JD from Yale in 2003, clerked for Chief Justice Beverley McLachlin of the Supreme Court of Canada, got his Bachelor of Civil Law from Oxford in 2007, and his LLM from Harvard in 2008.

Albert was born in Quebec to a Trinidadian father and Haitian mother, who divorced when he and his older sister were little. His mother moved her young family to Haiti for several years, and then returned to Canada. “I think that I was fated to be writing about constitutional change, given where I lived,” Albert says. The political shenanigans that arise out of Quebec’s being governed under, though not a signatory to, Canada’s constitution is a sign that the country has yet to achieve what Albert calls “constitutional peace.”

“I am interested in being involved in Canada, in bringing some peace and reconciliation at some point,” Albert says. He’s published several papers on Canada’s constitution, including the forthcoming “The Theory and Doctrine of Unconstitutional Constitutional Amendment in Canada (*Queen’s Law Journal*),” and “The Difficulty of Constitutional Amendment in Canada,” (*Alberta Law Review*).

Albert’s visits to Haiti—his

mother runs a charitable foundation there—allow him to see firsthand the limits of constitutions. “Haiti is in very big trouble,” he says. “These guys have a constitution, but they are living this way and the institutions of government are just not up to the task.” He continues: “Constitutions are just paper, and you need more than the paper to create a stable country that respects the rule of law.” Democracy is possible, he says, only when values like predictability, transparency, and accountability are codified and enforced. When a constitution says that the people have the right to shelter, but homelessness is rampant, that’s an issue.

“This disjunction between constitutional text and constitutional reality is problematic,” he says. “I want to narrow that gulf.”

Albert wants to help drafters to understand the implications of amending constitutions, including the establishment of rules for amendment. Those rules, he says, are as revealing of a na-

tion’s values as a constitution’s substantive text. In his view, “amendment rules are a window into the soul of a people—they tell us what the designers of the constitution value most.” Increasingly, nations are stipulating that certain aspects of their constitutions are not amendable. “For example,” Albert says, “France will say, ‘Here is how you can amend the constitution: You can amend everything except for the Republican character of the state.’ Or Turkey will say, ‘You can amend everything except for the secular nature of the

state.’ Germany: ‘You can amend everything except for the federal structure of the state and human dignity.’ Interesting.”

He asks: “The United States? Do you know what it made unamendable? The slave trade. The Constitution made the slave trade unamendable until the year 1808.”

Albert credits his many mentors with helping him become the scholar he is today, among them Harvard Law Professor Mark Tushnet. Tushnet calls Albert’s scholarship on the relatively neglected area of formal written rules for amending constitutions “an important contribution to the projects of constitutional design.”

The conferences Albert organizes, Tushnet says, “have helped create and sustain a worldwide community of scholars in the field of comparative constitutional law.” Albert does this work in many ways: co-editing I-CONnect, the blog of the *International Journal of Constitutional Law*, and ConstitutionMaking.org, a virtual community of public law scholars; chairing, until recently, the Younger Comparativists Committee in the American Society of Comparative Law (their first conference abroad will be held in Turkey in 2018); and helping to organize the mega-conferences of the International Society of Public Law. Topics from last year’s conference included “Legal Uncertainties in the Cyber Era” and “Human Rights & Borders in an Uncertain World.” For its inaugural academic symposium, the Association of American Law Schools accepted Albert’s proposal for a day-long program on Constitutional Amendment and Change.

Papers were published in the two best journals in the field.



## GLOBE-TROTTING

### Another Migrant Disgrace

A resettlement crisis in the Caribbean has been largely eclipsed by the migration of refugees in the Middle East, but it is no less cruel for the people being forced by a court order to leave the Dominican Republic for neighboring Haiti, **Rodline Louijeune '17** wrote in the *Boston Haitian Reporter* last July. A summer fellow at the Institute for Justice & Democracy in Haiti, she was among a delegation allowed to observe the “forced exodus” of some of the 250,000 DR residents who were suddenly stripped of citizenship.

### And in Central America

A consortium of Jesuit law schools, including BC Law, established a partnership last year with Jesuit Relief Services/USA, a nongovernmental organization advancing the rights of displaced persons around the world, to raise awareness about the plight of Central American children and families seeking protection in the US. The group’s national director called the partnership “groundbreaking.”

**Beneath the Eiffel Tower** Sajid Shahriar '16 was the first student to participate in the Law School’s inaugural Paris Exchange program at the French law school HEAD. He took classes there while interning at the world headquarters of the multinational corporation Veolia Environment SA, where he worked on international mergers & acquisitions.

**Primer on US Law** Insights into US Law and Practice, a program for international students seeking an overview of the US legal system, entered its fifth year last summer, and for the first time was open not only to participants from Renmin University, but also to students from other universities. Altogether, twenty-three students from Ethiopia, Brazil, India, Chile and a practicing attorney from Ecuador joined the Chinese cohort. The two-week program models a more vibrant and interactive teaching style than is common in many other countries.





**Q+A**

WITH

**Supreme Court  
Associate Justice  
Elena Kagan**

*and* DEAN  
VINCENT ROUGEAU

ABRIDGED AND EDITED  
BY JERI ZEDER

**“Diversity is important because of the picture that the Court presents to the world. A lot of school groups come to the Court and [they] see that there are three women on it and there is an African American and there is a Latina.” —ELENA KAGAN**



This conversation began as a dialog between Dean Vincent Rougeau and Associate Justice Elena Kagan, then opened to questions from the audience gathered at BC Law. A graduate of Harvard Law School, Kagan clerked for Justice Thurgood Marshall, and served as dean of Harvard Law and as US Solicitor General. She famously sprinkles her rigorous, accessible opinions with Spiderman puns, Tommy Tutone lyrics, and Dr. Seuss rhymes.

# The View from On High

Musings about life on the big bench.

**VR:** Two years ago, when Justice Sandra Day O'Connor spoke here, she recounted how difficult it was for her as a woman to find a job in a law firm in the 1950s. Can you compare her experience with your own early career experiences more than thirty years later?

**EK:** Night and day. By the time Justice Sotomayor and I came along, it was just incredibly different. Forty percent of my law school class was women. Law firms were very eager to have us; the same for judges and clerking opportunities. That doesn't mean that the profession doesn't have some structural challenges. But, honestly, talking with Justice O'Connor and Justice Ginsburg is always, for me, a reminder of how easy I had it and a reminder, for me, to be grateful.

**VR:** What are your thoughts about diversity on the Court—and not only diversity in the ways that we usually think about it?

**EK:** Diversity on the Court doesn't much affect the decision-making we do. Every once in a while, there is a case where you can see it divides based on personal experience or background, but I have to say, it is really rare.

But I do think diversity is important because of the picture that the Court presents to the world. A lot of school groups come to the Court, and I think how great it is that all these kids see that there are three women on it and there is an African American and

there is a Latina. Diversity gives people a sense that the Court, which is an important institution of our government, is connected to them in some way.

Geographically, we are an extremely coastal Court. And we come from two or three law schools. That's sort of, in a way, ridiculous.

**VR:** What advice would you offer law students as they launch their careers?

**EK:** Using law school as an opportunity to find out what your real interests are, your real passions are, is an important thing and then going with them, notwithstanding that maybe they are different than other people's.

I think the key to success is to work hard and treat people well, especially the people who are lower in these various hierarchies that we live in. People who treat people well—unexpected benefits come to them down the road.

**Student:** What is your goal when you write a dissent?

**EK:** There are dissents and there are *dissents*. There are dissents like: I disagree but such is life, and there are dissents like, *I disagree*. This is super important. I am going to continue to disagree. I am writing this so people out there—judges, citizens—know that this is going to be a continuing issue, and I'm hoping to convince them to be on my side of it.

**VR:** I'd like you to tell us about your duck hunting experience with Justice Scalia.

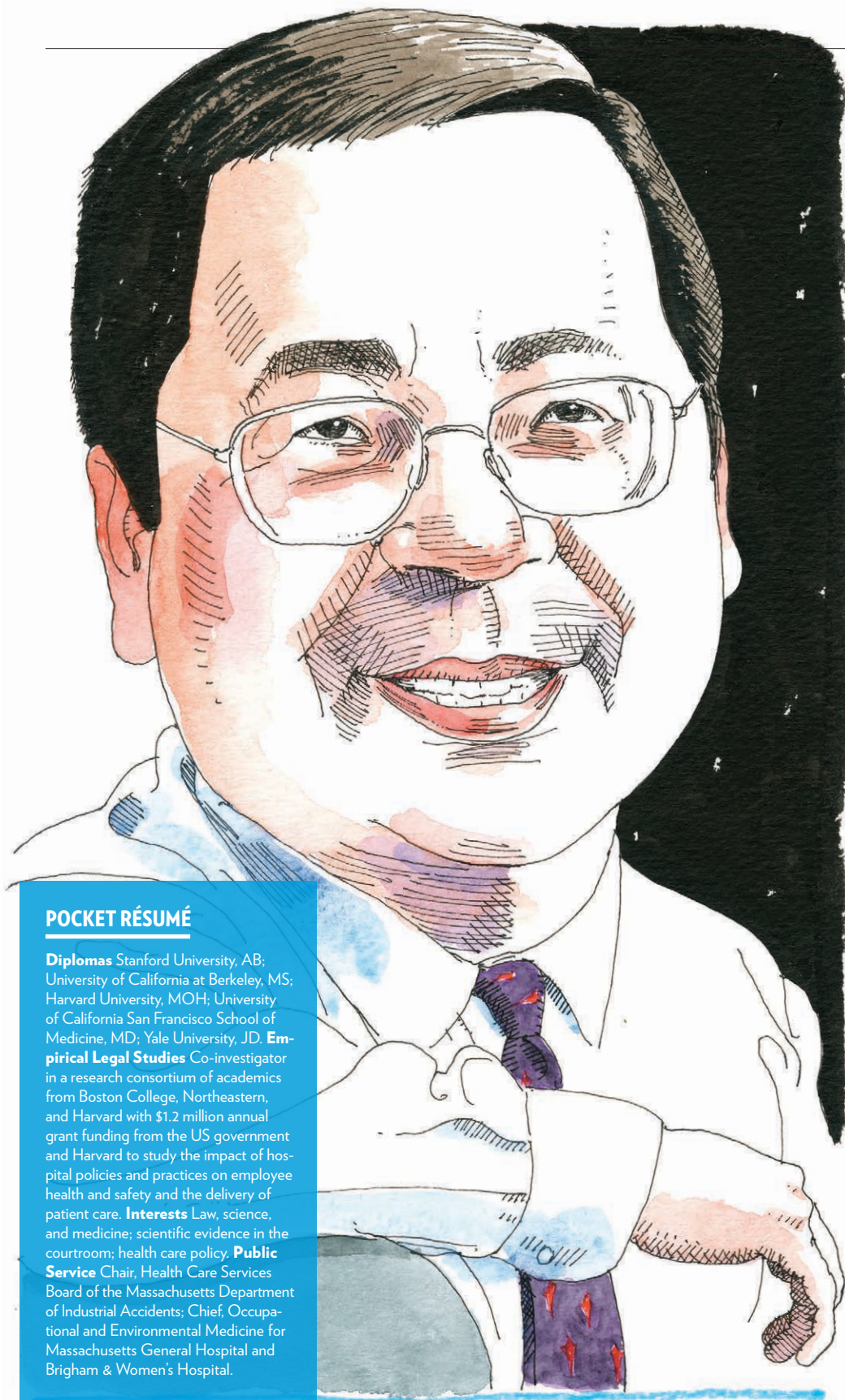
**EK:** [During] the confirmation process, I did courtesy visits with eighty-two senators. People wanted to know my views on gun issues. Nobody can just ask you things like that directly, so they find sort of proxy ways to figure it out. So, senators would ask me, 'Have you ever hunted?' And I would always say, 'No.' And they would say, 'Does anybody in your family hunt?' And I would say, 'No.' 'Do any of your friends hunt?' and I would say, 'No.' And, you know, 'Have you ever touched a gun?' And I would say, 'No.' And this was all going very poorly, really.

So, one day, one of the senators from Idaho starts down this road. And I said, 'You know, Senator, you are exactly right that I did not have an opportunity to participate in these kinds of activities, but it is not like I am hostile to them. In fact, if you were to invite me hunting next week at your ranch, I would love to go.' And this look of abject horror came across his face. And I thought, I probably went too far. So I said, 'You know, Senator, I didn't really mean to invite myself to your ranch, but I'll make you a promise, that if I am lucky enough to be confirmed, I [will] ask Justice Scalia, whom I knew to be a quite avid hunter, to take me hunting.' This was the only promise I made in eighty-two visits.

I was lucky enough to be confirmed and, that summer, I went to Justice Scalia and I told him this story and he thought it was uproarious. He said, 'We're on it! We're doing it!'



## Faculty Scholarship



## POCKET RÉSUMÉ

**Diplomas** Stanford University, AB; University of California at Berkeley, MS; Harvard University, MOH; University of California San Francisco School of Medicine, MD; Yale University, JD. **Empirical Legal Studies** Co-investigator in a research consortium of academics from Boston College, Northeastern, and Harvard with \$1.2 million annual grant funding from the US government and Harvard to study the impact of hospital policies and practices on employee health and safety and the delivery of patient care. **Interests** Law, science, and medicine; scientific evidence in the courtroom; health care policy. **Public Service** Chair, Health Care Services Board of the Massachusetts Department of Industrial Accidents; Chief, Occupational and Environmental Medicine for Massachusetts General Hospital and Brigham & Women's Hospital.

## Hashimoto Investigates Opioid Crisis

Lawyer-scientist's research shapes national guidelines on overuse. **BY JERI ZEDER**

**The Idea:** *Opioid overdoses are the leading cause of death among Massachusetts adults—and the rates keep climbing. An early, large scale empirical research study published in 2011 by Professor Dean Hashimoto revealed disturbing news: Of seventeen states, Massachusetts had the highest utilization of prescription opioids, which closely correlated to the state medical board's heavy promotion of opioids for pain treatment.*

**The Story:** Dean Hashimoto, a law professor and physician, is a legal empiricist: The focus of his research is on collecting and analyzing data to shed light on significant health care issues and to develop evidence-based policy reforms. In one of his many public service roles, Hashimoto has been chair, since 1998, of the Health Care Services Board of the Massachusetts Department of Industrial Accidents, the state's workers compensation agency. This position gives him ready access to detailed medical data which, when analyzed, can reveal new trends in health care not only for injured workers but also for health care more generally.

Hashimoto knew that insurers and employers were concerned about the financial costs of the growing impact of longer term opioid treatments on workers compensation claims. So, in 2009, with colleagues Dongchun Wang at the Workers Compensation Research Institute in Cambridge, and Kathryn Mueller from the workers compensation bureau of Colorado's Department of Labor and Employment, Hashimoto combed through 75,000 nonsurgical workers compensation claims from seventeen states for the years 2006 through 2008. "We found marked state-by-state differences in the amount of opioids received by injured workers and the number of workers who continued to receive prescriptions after six months," Hashimoto says. "Our most surprising finding



## The study found that, compared to other states, Massachusetts doctors were prescribing stronger opioids at higher doses and in higher amounts per claim.

was that Massachusetts doctors prescribed an unusually large amount of opioids compared to other states.”

Massachusetts’ poor showing was a departure from its otherwise excellent health care system for injured workers. A 2007 study by Hashimoto showed that the Massachusetts workers compensation system had the best medical treatment and outcomes and the lowest costs in the country. Hashimoto traces these successes to 1991 reforms that established an impartial medical examiner system and medical advisory board, reforms that he had a hand in implementing.

Hashimoto’s 2011 opioid study was among the first to compare the range of opioid treatment patterns across a number of states. It was the first to evaluate 1) the number of prescriptions, number of pills, and frequency of doses for short and longer term treatments; 2) the number of treatments that followed the recommendations of national guidelines; and 3) the association between the promotion of pain recognition and treatment in state statutes and regulations and the high utilization of opioids.

The study found that, compared to other states, Massachusetts doctors were prescribing stronger opioids at higher doses and in higher amounts per claim. Massachusetts also had higher than average numbers of cases with opioids prescribed six months after an injury. Massachusetts doctors, it turned out, were not following the more restrained national treatment guidelines in prescribing opioids. Hashimoto’s study further revealed an association between how strongly state regulators promoted opioid treatments and the dispensing of opioids by physicians.

The rise in opioid prescriptions had come from

a well-meaning place. In the 1990s, the medical profession started responding to calls for reform in the way physicians treated pain. “Part of the movement was centered on encouraging regulators, especially boards of medicine, to more freely allow the dispensing of opioids,” Hashimoto says. As in so many things medical, Massachusetts took the lead.

The results have been devastating. Opioid-related deaths have been climbing in the Commonwealth. There were 684 opioid deaths in the first half of 2015, a 6 percent increase over the same period the previous year. By comparison: In 2013, 967 people died from overdoses, while 371 died from motor vehicle accidents.

**A Key Empirical Finding:** Hashimoto’s 2011 study found that Midwestern states were not experiencing the same level of opioid addiction. They were prescribing opioids in quantities similar to other states, but they had far fewer people who were still taking them six months later. “Looking at those treatment patterns, it appears that it is probably all right in the acute stage to provide a limited amount of opioids, but the key is to be restrained about it and, after two to four weeks, to end it in nearly all cases,” Hashimoto says.

**Policy Impact:** Based on these findings, the workers compensation medical advisory board issued one of the first treatment guidelines in the country addressing the appropriate role of opioid prescriptions for chronic pain, and is about to issue a new guideline on treating acute and subacute pain. Because of the natural, multi-year progression from prescription to addiction to overdose and death, it will take time to see the health impact of these policy changes.

## BC LAW FACULTY ACHIEVEMENTS

**Full Circle** Professor Joan Blum last summer conducted a two-day training program in Sarajevo, Bosnia-Herzegovina, on drafting indictments. She did so on behalf of the US Department of Justice and as part of her ongoing commitment to improving best practices of the region’s judiciary. Blum followed that with “Enriching LRW Faculty Experience Through Global Engagement,” a talk informed by her teaching abroad, presented at the New England Consortium of Legal Writing Professors Conference at Suffolk University.

**The Good Earth** For his thirty years of achievements protecting the environment, Professor Zygmunt J. B. Plater received the Boston Ethical Community’s Humanist of the Year Award in 2015. He was applauded for defending the endangered snail darter before the US Supreme Court, chairing an Alaskan task force after the wreck of the M/V Exxon-Valdez, and consulting on the BP Deepwater Horizon oil spill and on the toxic waste case that was the subject of the book and movie *A Civil Action*.

**A Bigger World** During his term as associate dean, Professor Frank Garcia increased the visibility of BC Law’s global initiatives. Building on his legacy, Professor Patricia McCoy has taken on new responsibilities that include the faculty directorship of the LLM program, a position resembling one she held at the University of Connecticut, and Susan Simone Kang has been promoted to director of Graduate Legal Education and International Programs.

**Promise or Peril?** Professor David Wirth delivered a presentation on international governance in October to a National Academy of Sciences panel investigating gene drives, a kind of turbocharged gene splicing technique that could, for instance, eliminate malarial mosquitoes. Wirth concluded that, with some modest exceptions, there are no multilateral mechanisms to prevent potential adverse effects from field trials of the new technology, which almost inevitably would have consequences outside the country from which gene drive-containing organisms were released.

### NOTABLE FACULTY PUBLICATIONS

**Professor Daniel Kanstroom**, in his ongoing efforts to raise public consciousness of US deportation laws, has co-authored *The New Deportation Delirium: Interdisciplinary Responses* (NYU Press, 2015) with Brinton Lykes of BC’s Lynch School of Education. The writers, both associate directors of the Center for Human Rights and International Justice, were recognized at a book launch in November.

**Professor Mark Brodin**, in his *NYU Review of Law and Social Change* article, “The Slow Demise of Race Preference,” concluded: “The Equal Protection Clause must be returned to its original design—the protection of minorities, not the white majority. Until the Court comes to its senses, any meaningful remedy for America’s long-standing sin of racism will be suspect...”

**Professor Mary Ann Chirba**, the 2015-2016 John C. Ford, S.J. Distinguished Scholar, added to her body of work about the Affordable Care Act with “Experts’ Emerging Issues Analysis: *King v. Burwell*—The Supreme Court Upholds Federal Subsidies for State and Federal Insurance Exchanges,” and the 4th regulatory update for “Health Care Reform: Law and Practice,” both with Alice A. Noble.

**Professor James Repetti** ’80, the William J. Kenealy, S.J. Chair at BC Law and a leading tax authority, is co-author of the Seventh Edition of *Federal Wealth Transfer Taxation*, a popular and widely cited 832-page book that includes over 300 problems designed to help students master material on relevant case law, legislation, regulations, rulings, and other administrative pronouncements.

## Evidence

# Gender Injustice

Authors argue that juvenile girls are victimized by a male-focused system.

Last fall, BC Law clinical professor **Francine Sherman '80** and **Annie Balck '05** authored *Gender Injustice: System-Level Juvenile Justice Reforms for Girls*, the most comprehensive study to date on the subject. Findings from the report, produced in partnership with the National Crittenton Foundation and National Women's Law Center, are depicted in the graphic representation, at right.

**Despite decades of attention**, the proportion of girls in the juvenile justice system has increased and their challenges have remained remarkably consistent, resulting in deeply rooted systemic gender injustice. Girls in the justice system have experienced abuse, violence, adversity, and deprivation across many of the domains of their lives—family, peers, intimate partners, and community. There is also increasing understanding of the sorts of programs helpful to these girls. What is missing is a focus on how systems—and particularly juvenile justice systems—can be redesigned to protect public safety and support the healing and healthy development of girls and young women.

Many of the traditional tools of juvenile justice systems are blunt instruments—formal petitions, court proceedings, detention, and findings of rules violations—rather than individualized approaches, consistent with developmental research and tailored to each girl's social environment, risk level, and needs. As a result, even the most well-intentioned juvenile justice systems tend to push girls further into the system.

Happily, system-level reforms are occurring across the country, approaching youth behavior through a developmental lens and reducing the number of youth who enter and move through the justice system. We need to make the most of this time of reform by intentionally focusing our efforts on girls.

As the report details, by assessing the impact of system decisions on girls throughout the juvenile justice process and modifying many existing juvenile justice reforms to fit the needs of girls, juvenile justice systems can be redesigned to promote healthy relationships, shore up girls' social supports, and give girls agency over their lives.

## SOCIAL CONTEXT

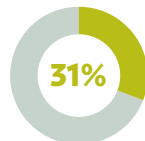
### Conflict and Abuse at Home

# 45%

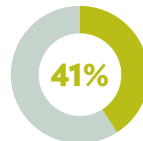
of girls in the juvenile justice system had 5 or more adverse childhood experiences (ACEs)



girls experience sexual abuse at 4.4 times the rate of boys



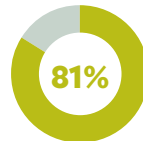
experience  
SEXUAL ABUSE



experience  
FAMILY ABUSE



experience  
EMOTIONAL ABUSE



experience  
FAMILY VIOLENCE

## UNDERSTANDABLE BEHAVIOR

### Linked to Trauma and Social Context



Running Away  
and Homelessness



Fighting  
at Home



Poor Peer  
Relationships



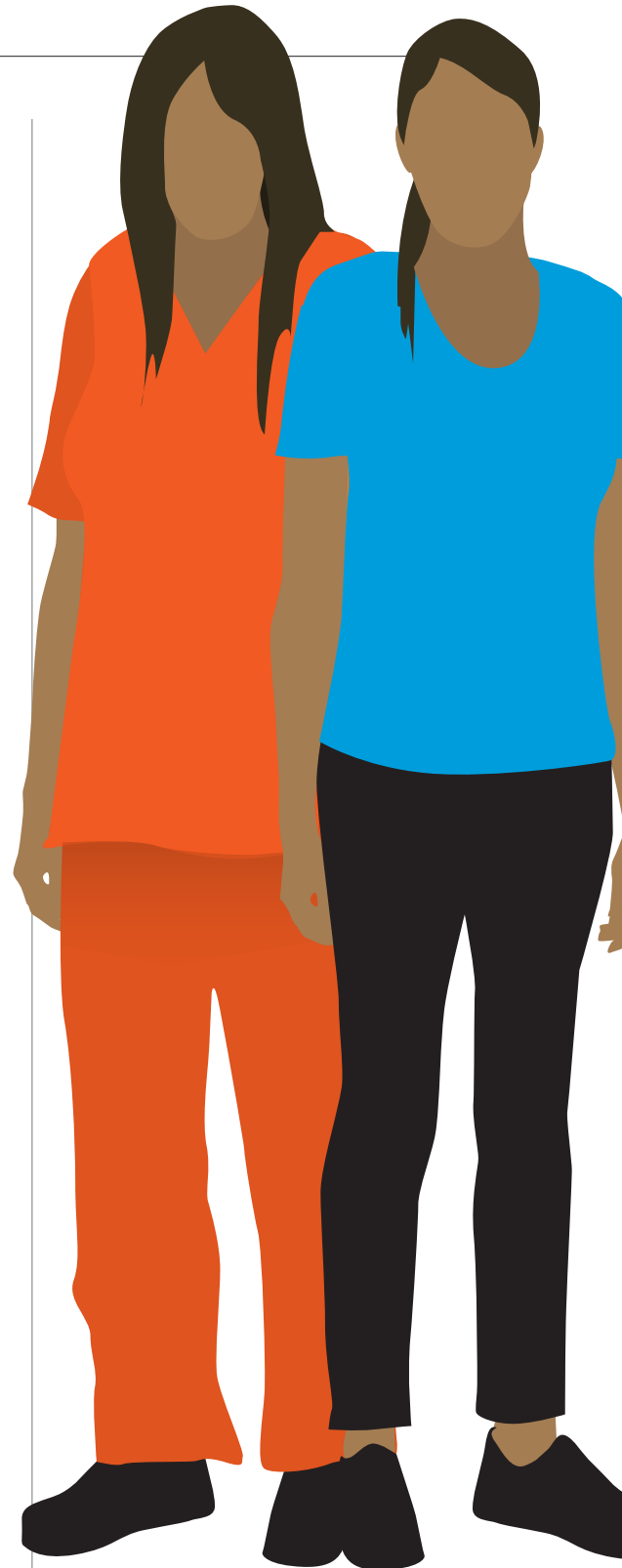
Substance Use



Older/Antisocial  
Partners



School Failure





# PUNISHMENT *vs.* SUPPORT

## CURRENT SYSTEM

### Criminalizing Girls' Understandable Behavior

From 1992-2012/2013:



Girls' share of arrests increased

↑ **45%**



Girls' share of court caseload increased

↑ **40%**



Girls' share of detentions increased

↑ **40%**



Girls' share of post-adjudication placements increased

↑ **42%**

### We Arrest Girls



**76%** of arrests for PROSTITUTION



**35%** of arrests for DISORDERLY CONDUCT



**38%** of arrests for DOMESTIC BATTERY



**40%** of arrests for LIQUOR LAW VIOLATIONS



**29%** of arrests for CURFEW VIOLATIONS



**37%** of arrests for SIMPLE ASSAULT

### We Detain Girls

**37%** of girls' detentions were for STATUS OFFENSES & TECHNICAL VIOLATIONS



**21%** of girls were detained for SIMPLE ASSAULT & PUBLIC ORDER OFFENSES (excluding weapons)



of detained girls across the country disclose being LBQ/GNCT



Black girls are 20% MORE likely to be detained than white girls.

American Indian/Alaska Native girls are 50% MORE likely to be detained.

### We Take Girls to Court



Black girls were almost 3 TIMES as likely as white girls to be referred to court.

American Indian/Alaska Native girls were 1.4 TIMES as likely as white girls to be referred to court.



From 1985-2013 formal court processing for girls increased 32%.

### We Monitor Girls and Remove Them from Their Homes and Communities

**67%** of adjudicated girls are put on court-ordered probation

**19%** of adjudicated girls are placed outside of their homes

**88%** of committed girls who are placed out of home are placed in locked facilities



## A BETTER WAY

### A Developmental Approach

#### 1. Stop Criminalizing Behavior caused by damaging environments that are out of girls' control.

Decriminalize offenses common to girls living in traumatic social contexts.

Train law enforcement to respond supportively to girls in need and avoid arrest.

Use a child welfare—not juvenile justice—approach.

Stop punishing girls for living in chaotic and violent homes by reforming mandatory and pro-arrest domestic violence laws.

Treat sexually exploited girls as victims by decriminalizing “prostitution” for minors and diverting sexually exploited girls from the juvenile justice system.

Prohibit detention of girls for status offenses and eliminate the Valid Court Order (VCO) exception.

Revise school policies to support girls in need, limiting school-based arrests and court referrals.

#### 2. Engage Girls' Families throughout the juvenile justice process.

#### 3. Use Pre-Petition Diversion to provide “off-ramps” from the formal justice system for girls living in traumatic social contexts.

#### 4. Don't Securely Detain Girls for offenses and technical violations that pose no public safety threat and are environmentally driven.

#### 5. Use Trauma-Informed Approaches to improve court culture for girls.

#### 6. Adopt a Strengths-Based, Objective Approach to girls probation services.

#### 7. Use Health Dollars to Fund Evidence-Based Practices and programs for girls and address health needs related to their trauma.

#### 8. Limit Secure Confinement of Girls, which is costly, leads to poor outcomes, and re-traumatizes vulnerable girls.

#### 9. Support Emerging Adulthood for Young Women with justice system histories.



NO BIZ LIKE SHOWBIZ

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By Chad Konecky

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Photographs by  
Mark Leibowitz

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**Netflix Senior  
Counsel Joel A.  
Goldberg '92  
is proof that  
a groundbreaking  
business model  
and sublime legal  
advocacy can  
coexist in the  
risky world  
of showbiz law.**







**A few weeks before the Berlin Wall crumbled almost three decades ago to break up the Cold War, Joel Goldberg grabbed a seat in property law for the first time. Nine jobs and untold pay grades later, the fifty-three-year-old Netflix senior counsel still invokes his old professor, Zygmunt J.B. Plater, every time he wades into a deal. It seems Professor Plater—still teaching at BC Law long after borders and maps were reshaped by German reunification—admonished his students to “always walk the land” in every transaction.**

Unprompted, Goldberg calls Plater’s counsel “excellent advice in all manner of deal-making” and adds that he “couldn’t be happier” having chosen BC. Goldberg’s classroom take-away is especially apt, given that he now works within a wildly innovative corporate culture operating at light speed, which often looks as it leaps, rather than before. Walking the land of the deals he’s doing these days is as much about navigating unmapped territory as it is about building bridges.

“This is the most dynamic company I’ve ever worked for,” says Goldberg, who’s made his living in interactive entertainment, traditional television, and the studio business since coming to LA in 1997. “The priorities of six months ago feel so long ago because the business is evolving and we reorganize so quickly. At other companies, ‘reorganize’ is often a buzzword for getting rid of people. That’s not the case here. We’re in total growth mode. We’re quite willing to blow up how we do business on a semi-regular basis when we think there’s a better way to do it.”

So far, so good.

The world’s leading internet television network and largest video streaming on-demand service, Netflix is challenging convention, confounding traditional media, and expanding more swiftly than Imperial Rome. Already the largest driver of peak downstream internet bandwidth in North America, the network boasts more than 40 million domestic streaming subscriptions, claimed 14 Emmy nominations in 2015, and earned eight such nods for January’s Golden Globe Awards. HBO received

seven Globe nominations. Amazon five.

Internationally, Netflix now operates in a whopping 130 countries, which is double its penetration at the close of 2015, and is available in 21 languages. The entertainment juggernaut began this year serving a streaming—or, “over-the-top” in industry speak—membership of more than 70 million worldwide. Subscribers watched 12 billion hours of Netflix programming in last year’s fourth quarter, a jump of almost 50 percent from 2014. What’s more, an OTT deal with China appears to be in the on-deck circle.

Goldberg’s individual responsibilities are uncommonly broad and fast-paced, even in the context of entertainment law. That, too, is notable given that the business typically runs the gamut. Building and protecting a brand is ground zero. But many entertainment lawyers find themselves toiling within a Venn diagram of common elements. They include intellectual property, contracts, torts, trademarks, copyright, labor, advertising, First and Fourth Amendment constitutional law, bankruptcy, insurance, licensing, advertising, and product placement along with statutory tax and criminal law. Goldberg’s day-to-day can touch all of that, and Netflix’s globe-trotting ambitions mean that no two days are alike, forcing a lot of the lawyering to take place in a no-huddle offense.

He leans heavily upon his diverse résumé to keep pace.

Goldberg’s first half-decade out of law school was split between IP litigation and advertising law before he landed in Califor-

nia as a director of business and legal affairs handling internet and e-commerce activities at Universal Studios. By 2002, he was at CBS Interactive negotiating talent, licensing, distribution, and production agreements until spending two years there as a biz-ops vice president beginning in 2006. He honed his original content development and production acumen, including mobile, via VP posts at MySpace and then in traditional television upon his return to CBS in 2011.

Goldberg came to Netflix in 2013 and handles global content licensing (right-to-air agreements) for foreign television, children’s programming and independent studios, including indie films. Legal nuances gleaned at each of his previous stops come into play almost every day.

“I’m in a very fortunate spot to oversee a broad portfolio of programming, so even going back to my advertising or social media days, all of these issues arise,” he explains. “Even if the bulk of what we’re doing is licensing programming, there are marketing issues that come up—both in what we want to do and what we leave for our suppliers to do. For example, if each of us wants to run a social media campaign around programming, all of these issues around advertising and marketing emerge.

“From the litigation standpoint, every deal involves risk-assessment,” he adds. “And you are so much better at that if you’ve seen how deals have gone bad, where they go bad and where they don’t. Freedom of responsibility is part of the culture at Netflix. If you’re here, you’re considered an expert in what you’re doing and there’s a lot of trust that you will apply that expertise toward the greater context of the overall organizational goals.”

Steering clear of a silo mentality is praiseworthy, to be sure. But the approach is by no means a cutting-edge business objective across American corporate culture. The difference, says Goldberg, is that at Netflix, cross-disciplinary input and impact aren’t merely encouraged. They’re expected.

“It’s by far the most transparent place I’ve ever worked and it does a tremendous job of sharing information internally, in context,” he explains. “In other words, ‘this is what we’re trying to accomplish’ and each of us has our role within that—marketing,

[Continued on page 30]









## The Other Side of Stardom

**They've counseled Bobby Brown, advised Gwyneth Paltrow, handled rights for John Lennon, brokered mergers, won Emmy Awards, helped Disney acquire *Star Wars*, facilitated the *Harry Potter and the Sorcerer's Stone* soundtrack, worked behind the scenes on *The Tonight Show* and *West Wing*, and much more. Luminaries in their own right, these alumni have labored largely offscreen and in the wings as dealmakers, litigators, creators, and agents to keep the magic of entertainment alive. By Jeri Zeder**

### **BRADFORD AUERBACH '82**

#### **Principal**

**Amherst Partners, San Diego**

Auerbach's involvement in the entertainment industry dates to 1989, when he worked at Walt Disney Home Video and arranged the company's first copyright protection deal. Auerbach spent five years at Hewlett-Packard in strategic business development, negotiating and managing

accounts with Disney, Warner Bros., NBA, Sesame Workshop, Marvel Entertainment, and others. As executive vice president of Epic Rights, a global branding and marketing firm, he established partnerships with intellectual properties, including KISS, Aerosmith, John Lennon, and more. Auerbach founded and currently heads Amherst Partners, a consulting firm with clients ranging from startups to Hewlett-Packard.

### **CHRISTOPHER L. BROWN '98**

#### **Founder and Managing Member**

**Brown & Rosen LLC, Boston**

A BC Law adjunct professor of entertainment law, Brown's entertainment practice focuses on R&B, Gospel, and Pop music artists, including Yolanda Adams, Fred Hammond, Bobby Brown, New Edition, and Day 26. He has negotiated music deals with Sony Music, Universal, Warner Bros., Ron-

dor Music Publishing, RCA, and others, and television deals with BET, VH1, Lifetime, and Oxygen. Brown is counsel for Holly Carter, creator of the reality TV show *Preachers of Los Angeles*, and has represented talent on *Making the Band*, *Love and Hip-Hop* and *R&B Divas*. He negotiated the book deal for Bobby Brown's memoirs, and is Brown's lead counsel in the investigation of the death of his daughter, Bobbi Kristina.



## **GLENN “GG” GULINO ’89**

### **Founder and Owner**

#### **g2 entertainment LLC, New York**

g2 entertainment is Gulino’s celebrity and corporate consulting firm, which he started in 2004 after a decade with the famed talent agency, William Morris. His company handles commercial endorsements, branding, and personal appearance matters for top-name talent like Gwyneth Paltrow, Jean Claude Van Damme, Zac Brown Band, and Elle Macpherson, as well as talent procurement and sponsorship guidance to Fortune 100 companies. As a Vice President at William Morris, Gulino specialized in celebrity marketing, and founded and was Worldwide Head of Licensing and Merchandising. He’s a member of Volunteer Lawyers for the Arts in New York and lives in New York City and Los Angeles.

## **SUSAN KANTROWITZ ’80**

### **Vice President and General Counsel**

#### **WGBH, Boston**

Kantrowitz came to WGBH, a Public Broadcasting affiliate, in 1981 as a project lawyer, where she worked on the first season of *Frontline*, the Peabody, Pulitzer, and Emmy award-winning news documentary series. She oversees the production contracting process for WGBH programs, including *Masterpiece Theatre* and *NOVA*. Her first project, the thirteen-part, award-winning, television documentary series *Vietnam: A Television History* (1983), taught her the value of what lay on the cutting-room floor, and she supervised the establishment of WGBH’s media library, which now includes Open Vault, WGBH’s digitization project. It provides online access to source material, videos, and other content from WGBH’s television and radio shows.

## **JAMES M. KENNEDY ’84**

### **Senior Vice President, Business Strategy and Chief Legal Counsel**

#### **Pixar, Emeryville**

As a member of Pixar’s senior leadership team and chief legal counsel, Kennedy oversees the company’s

legal and business affairs and works closely with his counterparts at Walt Disney Studios. He brings to Pixar more than twenty-five years of experience in entertainment law. He has held executive legal and business affairs positions at the California-based entertainment software company THQ, Inc., at Electronic Arts, Inc., Mindscape, Inc., and at Lucasfilm, Lucas Digital, and LucasArts Entertainment Company. A recognized expert in his field, Kennedy has been a law school lecturer and adjunct professor, and speaks frequently at entertainment industry events.

## **LISA B. MARGOLIS ’78**

### **Senior Vice President, Business & Legal Affairs and Chief Music Counsel, Music Division**

#### **Warner Bros. Pictures, Burbank**

Now in a coveted position in the entertainment law field, Margolis began as a freelance photographer. Her iconic photo of Rod Stewart graces the cover of his 1971 album *Every Picture Tells a Story*, and her work has been published in *Billboard*, *Rolling Stone*, *New York Daily News*, *Creem*, *Crawdaddy*, and *Zoo World*. At Warner Bros, Margolis has brought her legal expertise to projects involving gold and platinum soundtrack albums, including *City of Angels*, *The Bodyguard*, *Singles*, *Space Jam*, *A Walk to Remember*, *The Great Gatsby*, and *Harry Potter and the Sorcerer’s Stone*. She serves on the board of directors for the Mr. Holland’s Opus Foundation.

## **MATT MCGINNIS ’91**

### **Associate General Counsel, Corporate Transactions**

#### **The Walt Disney Company, Burbank**

Disney originally hired McGinnis in 1996 to help develop three new location-based entertainment businesses. Since then, McGinnis has advised on Disney’s acquisitions of Marvel Entertainment and several cable networks, and in the purchases and subsequent sales of its broadcast radio businesses. He has created joint ventures in Russia, India, Bra-

zil, Spain, and Korea for Disney’s television and film businesses, and has acquired multiple game developers and online properties to grow the company’s interactive division. McGinnis currently oversees the legal group that handles acquisitions, joint ventures, divestitures, and financings for Disney corporate and its ESPN, Walt Disney Parks & Resorts, ABC, and Walt Disney Studios divisions.

## **MATHEW S. ROSENGART ’87**

### **Shareholder, Entertainment & Media Litigator**

#### **Greenberg Traurig LLP, Los Angeles**

A former federal prosecutor and law clerk for Justice David Souter on the New Hampshire Supreme Court, Rosengart is a celebrated entertainment law litigator, honored for two years in a row (2014 and 2015) by *Variety Magazine* (a top fifty “game changing” lawyer) and *Hollywood Reporter* (among the industry’s top 100 entertainment lawyers). He has also been recognized as one of California’s Top 100 Trial Lawyers. His recent high-profile, national cases include a multi-million dollar breach-of-contract lawsuit for the former talent managers of actor Julianna Margulies, and his successful defense of an Academy Award-nominated writer/director in a case involving *Margaret*, a film starring Matt Damon, and his representation of plaintiff Sean Penn in a \$10 million defamation lawsuit.

## **KENNETH SAMUEL ’93**

### **Senior Vice President, Program Standards**

#### **NBCUniversal, Universal City**

Throughout his NBCUniversal career, Samuel served in creative, legal, and standards roles and collaborated with the producers of award-winning shows, including *The Voice*, *The Tonight Show*, *Will & Grace*, and *The West Wing*. Samuel took the helm of NBC’s West Coast Program Standards team in 2004, after working in NBC Programming, NBC Enterprises, and NBC International. He was a program executive for the final season of

*Seinfeld* and for many NBC Specials, including the *Golden Globe Awards* and *Emmy Awards*. His standards team is responsible for creating and implementing content policies and guidelines for scripted and unscripted NBC entertainment programs.

## **RHONA SILVERBUSH ’92**

### **Acting and Shakespeare Coach and Lecturer**

#### **New York**

Silverbush, who writes frequently about the theater, is co-author with Sami Plotkin of *Speak the Speech: Shakespeare’s Monologues Illuminated*, praised by Sir Derek Jacobi as “A fabulous book, gloriously packed with information.” Based in New York City, she coaches actors and students preparing for auditions, and offers theater courses and reading groups. Silverbush represented asylum seekers before returning to Shakespeare. “Teaching Shakespeare isn’t as significant as what I did in the law, but I think that there’s a through-line,” she says. “My interest in helping asylum seekers comes from the same place as my desire to understand the human experience, and Shakespeare explained that better than anyone.”

## **PATRIC M. VERRONE ’84**

### **Television Writer, Attorney**

#### **Los Angeles**

A three-time Emmy Award winner, Verrone has written for such legendary television shows as *The Tonight Show Starring Johnny Carson*, *The Larry Sanders Show*, *The Simpsons*, *Pinky and the Brain*, *Rugrats*, and *Futurama*. *Time* magazine named him a finalist in 2008 for the 100 Most Influential People in the World for leading the Writers Guild of America, West, through a 100-day strike that won writers their first contract covering the internet. A frequent commenter on entertainment law, Verrone has testified before the Federal Communications Commission, the US Senate Commerce Committee, and the California state legislature.

*For additional profiles of John Mazzone ’85 and Stephen Wilson ’86, visit [www.lawmagazine.bc.edu](http://www.lawmagazine.bc.edu).*

[Continued from page 26] legal, finance, whatever. With greater context for what the company is trying to achieve, you can understand how your piece fits into that. Then it's your job to work within that framework and ask questions when you need to."

It's hard to argue with the results. Netflix is on a remarkable run. Trading on the NASDAQ Composite Index as NFLX, the company's stock is up 350 percent since 2010. Its original series *House of Cards* hauled in better than \$100 million in sponsored ads in its inaugural season of 2013. Today, more than 60 percent of US households can stream Netflix via their TV, a phenomenon that's eviscerating cable subscriptions nationwide.

### Smartest Guys in the Room

Netflix owes much of its success to innovation and intestinal fortitude. The Los Gatos-based firm has disoriented competitors and would-be advertisers alike with bold and brilliant tactics. Whether creating critically acclaimed (and pricey) original programming or resurrecting a defunct show with a cult-like following (see: *Arrested Development*) or alienating theater owners nationwide with the simultaneous, same-day release of a feature film (*Beasts of No Nation*) on the big screen as well as via subscription streaming service, Netflix has made a habit of upsetting the apple cart.

Recently, the company tried shifting the paradigm again when it signed on to be the platform for the independently produced series *Back Stabber*, whose makers offered the lowest ad rate spot in Netflix history. The show's costs for product placement were calculated at about 1/1000th of the typical cost per viewer, and its producer refused to accept advertising from large corporations in an effort to stimulate localized small businesses.

"We're a very risk-tolerant company, and that [mentality] flows from the top down overall, and from the top down within the legal department," says Goldberg. "It's an incredibly liberating way to work. We look at a big part of our job as risk-assessment and the responsibility to explain that risk to the other folks who are impacted. Netflix looks at risk as something that must be understood and embraced and something you're willing to take on to push the envelope and improve the service."

Both in form and function, Netflix is a disruptive industry force. Goldberg suspects it's kept him from becoming set in his ways.

**The world's leading internet television network and largest video streaming on-demand service, Netflix is challenging convention, confounding traditional media, and expanding more swiftly than Imperial Rome.**

put into a situation where something new has come along and I need to understand it and how it impacts our business. How it impacts the rights flow, how we're dividing things up, how the technology works from a distribution perspective and how content is protected in this new form of distribution—be it mobile or streaming over multiple devices.

"I have to do that internal research," he continues. "I have to reach out to the product people or the engineering people and say, 'OK, treat me like a Luddite, walk me through this, help me understand how this tech works and where it's going to go.' It requires a lot of outside reading and I'm on Wikipedia every time a new acronym comes along. That's the stuff that keeps my spirit young in these very young businesses."

While Netflix's Midas touch and Generation Z ethos don't extend to every venture (the *Back Stabber* release date was pushed back this past fall as its cash-poor producers considered a move to network TV), some of Hollywood's brightest stars have bought into its model, including some A-list standard-bearers.

In his keynote speech at the 2013 Edinburgh International TV Festival, two-time Oscar winner Kevin Spacey proclaimed, "Clearly, the success of the Netflix model ... proves one thing: The audience wants the control. They want the freedom. For kids growing up now, there's no difference watching *Avatar* on an iPad or watching YouTube on a TV or watching *Game of Thrones* on a computer. It's all content. It's all story."

To his credit, Goldberg echoes the sentiment with equal eloquence, and takes it a step further.

"This is a generation that knows it can get what it wants when it wants it, and it gets very frustrated when it can't," he says. "People our age can't always find what they want, so they'll find it when they can, or they'll still click on the TV and flip through the channels. I think that's a behavior that's dying and this next

Despite the fact he graduated college back when desktop computers looked like Samsonite luggage.

"I'm not necessarily a first-adopter or a huge user of new technology," he admits. "What I do love is being



generation—starting very young—is used to picking up something, touching it, finding it, getting it, and watching it over and over again. More so in the kids space than anywhere else, interactivity is in their DNA, so we are pushing to own that audience."

It's an audience that's growing. In a recent survey by IBM subsidiary Clearleap, more than 7 in 10 adults reported they've used a streaming service, while 26 percent of Millennials surveyed had *never* subscribed to pay TV. This singularly plug-and-play demographic is poised to explode, and Netflix knows that kind of volume will require infrastructure. Accordingly, it will feature 31 original scripted series in 2016, nearly doubling its 2015 total of 16. The company also has 10 feature films in various stages of production. Netflix plans to be present in every country by the close of 2016.

One of Goldberg's casual asides offers a case study of the company's free-spirited dynamism.

In preparation for its 2014 service launch





Always on the move, Goldberg conferences in a corridor with paralegal Kim Rocque.

in France, so the story goes, the company took a stab at teaming with a local, French production company to commission a show shot and produced in France, in French. While that script was still in production, the idea gained remarkable momentum.

"We're having success with big, original series in the US, so pretty soon we thought: 'Why not elsewhere?' We went out and signed deals for similar programming in Mexico and Brazil and now we're looking at local markets all around the world. The first of these products to air (Mexico's *Club de Cuervos* chronicling a dysfunctional family that owns a club soccer team) has been incredibly successful."

Almost overnight, Netflix carved out a new division dedicated to creating local, original programs—a group that now rolls up to Goldberg on the legal side. A "what if?" became a huge strategic imperative for the company in the course of a calendar year.

At the end of the day, it is Netflix's multinational proliferation and broad demographic appeal that has traditional media shaking in its boots. This past summer, Disney CEO Bob Iger attributed a dip in ESPN viewership to "the rapidly changing media landscape" and acknowledged that younger viewers were increasingly drawn to streaming content. Within a month of the remark, more than \$50 billion in market capitalization evaporated via declines in the share prices of Disney, AMC, CBS, Comcast, Discovery, Time-Warner, 21st Century Fox, and Viacom stock.

Goldberg is at the vanguard of this Netflix 2.0 blitz. He toils in two mission-critical arenas for the brand: children's programming and foreign television. The former is potentially a golden goose, and sifting through line items in the corporate portfolio suggests as much. The company's largest original content outlay to date was not for big-budget adult serials like *House of Cards* or *Marco Polo*, but rather for

300 hours of new DreamWorks Animation.

The reason? Children's content is more evergreen, targets a profoundly less fragmented audience (*Ibid.*, Bob Iger) and, DreamWorks notwithstanding, is typically cheaper to license.

"If a subscriber has children who watch things on Netflix, we're never going to lose that subscriber; their kids won't let them," says Goldberg. "It's a tremendous retention engine for us. We've been incredibly aggressive in creating a lot of original, new children's properties for Netflix. It doesn't get quite the attention of an *Orange Is The New Black*, but we're working with production companies all over the world—Australia, UK, Canada—to bring new intellectual property in the form of series to premiere on Netflix. In the past, the only outlet for those things would have been linear television."

Since his sixteen-year-old daughter, Julia, isn't watching much animation these days, Goldberg is probably off the hook when he characterizes foreign markets (as opposed to *How to Train Your Dragon 2*) as "the fun part of the business." What's more, it is inside the statutory rabbit warren of international television where Goldberg earns his keep.

"Each country has different legal quirks and requires a fair amount of legal research," he explains. "We work with local counsel to understand what issues we're facing, and we've done enough of these territorial launches that we have a good set of questions to ask. Still, every market presents surprises and challenges. We go in knowing that we're going to face issues that we didn't necessarily contemplate and that we'll deal with them and they won't slow us down."

While that may sound awfully intrepid, perhaps it's a sign that the man and the multinational are actually cut from the same cloth.

"I don't know about that, but in my view, there's nothing more organic than this Netflix experience," Goldberg says. "Within one interface and one product, we have programming across the spectrum. When a viewer ages out of watching their preschool show, we're able to expose them to what might be the next-most appropriate thing and carry them into our tween programming, teen programming, and all the way up to adulthood. Obviously, we haven't been around long enough to completely see that, but we are capturing families by offering them a product that's taking them through their whole life cycle."







# “We are still Here.”

The San Luis Rey Band of Mission Indians may be few in numbers today, but they have in daughter **Merri Lopez-Keifer '98** a legal defender worthy of her heritage.

By Maura King Scully  
Photographs by Robert Benson

**“If you’re hearing me speak, we’ve failed,” says Merri Lopez-Keifer '98.** As chief legal counsel for the San Luis Rey Band of Mission Indians, Lopez-Keifer’s main professional task—and personal mission as a member of the tribe—is to protect and preserve what are known as tribal cultural resources. In other words, land and objects held sacred by a tribe that holds no land, but has deep roots in what is today known as San Diego County. ¶ It is an interesting paradox that Lopez-Keifer is quick to talk about her failures but is unwilling to speak of her successes. Failures come in the form of public outcries and litigation over the desecration of sacred sites, while success is measured by the ability of Lopez-Keifer and others in her tribe—in fact, in most tribes—to head off any kind of public awareness of land they hold sacred. “The tribes like to keep information about sacred places very quiet because if we share where they are, they will be desecrated,” explains Lopez-Keifer. “People will go looking for artifacts. We call them ‘pot hunters,’ because they are looking for our arrowheads, our tools, our ancient pots.” ¶ Lopez-Keifer was drawn into service for the tribe when she graduated from law school. Her aunt suggested that she use her legal skills to aid in the inner-workings of the Tribal Council. “Of course, I said I will,” she recalls. “And since that very first time, my Aunt Carmen, my mother’s eldest sister, shared with me how I could help my ancestors, my tribal peers, and our future generations through my legal education. Well, I was hooked. My parents always taught me that if someone needs your help and you can help them, then you help them. It’s as simple as that.” ¶ The San Luis Rey Band of Mission Indians is one of seven tribes of Native Americans known as Luiseño Indians,

known for their sophisticated social structures and governments as well as their baskets, which are notable for their ingenuity and beauty.

Through a confluence of injustices imposed by settlers and the California and United States governments over the past 300 years, Lopez-Keifer's tribe was left landless. "It's a very tragic history because the Californian Indians were hunted down by Californian settlers. Our tribe's coastal land was valuable for farming and ranching so we ended up with nothing. Not to mention the prize put on Indian heads," says Lopez-Keifer. Prior to European contact, her tribe numbered approximately 10,000; today there are just 600 members.

These days, a new threat to the tribe's heritage is the explosion of land development in California. Though protections are in place at both the state and federal levels to safeguard tribal cultural resources, ensuring that the law is followed is a monumental task. "We have protected certain areas, where we are able to hold conservation easements to protect the land in perpetuity," explains Lopez-Keifer. But, more often, developers wishing to build a new road or project will unearth sacred objects. When they do, the tribes step in, but the legal protections are complex to enforce. "It's my job to make sure that the laws are followed and our ancestors and tribe's history are protected within those laws," she says.

Lopez-Keifer offers Tom-Kav, which translates as "the Gathering Place," as both a legal failure and positive learning experience. "Tom-Kav plays a vital part in the Luiseño Creation Story," she explains. "It teaches about death and explains how we became mortal beings. It was also a very large village where many of our ancestors lived and came together to celebrate. Unfortunately, it's located in an area known as a 'transportation corridor' for the County of San Diego."

Over the past few years, developers have been rumbling through the region to create a community college, more than a thousand homes, and a commercial center. When construction on a main road for the area began in 2011, a large burial site was discovered and Lopez-Keifer's tribe, along with the other Luiseño bands, worked together to try to halt the road's construction. "Even though we failed to stop the road, we developed stronger relationships [among the bands] and built more respectful relationships with many government agencies," she says. "The rest of the



projects are on hold in the US Army Corps of Engineers permitting process. The corps has been in 'consultation' with us and the other Luiseño tribes since 2013. So, technically, we aren't done fighting yet. There's still hope that Tom-Kav may be treated with the dignity and respect it deserves. The corps is our last hope."

In general, a mix of what should and should not happen seems to prevail in these situations. In some cases, tribes are able to "repatriate," or return objects to the ground at the sacred sites,

while in other instances, the objects are either warehoused by the government or illegally destroyed by developers and plunderers. "If our items are not repatriated, then they are curated by the government, put in a box and placed on a shelf to collect dust," she says. When the government does that, Lopez-Keifer fights to get the objects put in the ground as close to their origins as possible. "Curation goes against our spiritual beliefs, and it's my job to make sure they are not treated in such a manner."



**Lopez-Keifer lives in** Northern California with her husband and three young sons. Though she is about 500 miles from her tribe's center, she heads south at least a half dozen times a year to meet with the Tribal Council, the tribe's governing body, and to see her family. By family, she means pretty much everyone in the tribe. "Growing up, everything centered around the family," she recalls. "But we considered family our aunts, uncles, distant cousins. We usually gathered at the mission [Mission San Luis Rey]. Looking back, I realize now that those were tribal gatherings, but my parents always referred to them as 'family.'"

"We use the word 'cuz' in Native circles," says Lopez-Keifer's older sister, Carrie Lopez, who is a special advisor to the tribe. "It's short for cousin, but you're never really sure who is an actual blood cousin. It means these folks are not just random people, they're part of a tight-knit group."

The youngest of four girls, Lopez-Keifer grew up in a family where the focus was always on "something bigger," says Lopez. Though most of the tribe members are not college educated, the four sisters are all college graduates. Lopez-Keifer, of course, also attended law school. She chose BC because of its strong academic reputation and ranking, and because she wanted to live through the four seasons once in her life. Meanwhile, Carrie Lopez earned a master's in public administration nearby, from the Harvard Kennedy School. Their father, George, who is not Native American, ran a job training organization, and their mother, Linda, was a food services manager for the local school district. They are both retired now and living in the Fallbrook area, where Linda Lopez

serves as a tribal elder. Though their parents were serious about raising their daughters with "a sense of purpose," says Lopez, they also had a playful side. For example, the four girls' names all rhyme: Terri, Carrie, Sherrie, and Merri.

Ultimately, the Lopez parents emphasized service to the tribe as paramount. For Lopez-Keifer, that meant going to work part-time for the tribe as legal counsel while also working full time as an assistant district attorney in San Francisco after graduating from BC Law. "With permission from the district attorney, I had two hats," she recalls. "I was prosecuting cases by day, and at night and on weekends, I was writing up waivers and fee agreements, reviewing documents, and offering advice and guidance for the tribe."

In 2004, six months after she gave birth to her first son, she gave up her position with the DA's office, leaving more time for her work on behalf of the tribe and, ultimately, to open a small part-time solo practice. As her involvement with the tribe's legal affairs grew, Lopez-Keifer developed a reputation as a go-to person for other tribes and government leaders. Last year, Governor Jerry Brown appointed her to the state's Native American Heritage Commission, a nine-member body charged with preserving and ensuring accessibility of sacred sites and burials, the disposition of Native American human remains and burial items, maintaining an inventory of Native American sacred sites located on public lands, and reviewing current administrative and statutory protections related to those sites.

"Merri brings a wealth of knowledge to the commission," says the commission's general counsel, Terrie Robinson. "It's not just the fact

that she's a lawyer, though it's clear that when she questions people, the prosecutor comes out. She is also able to address agencies at a technical level that a lot of people don't have, in addition to the legal background. She is very positive and consensus seeking but very firm about her mission and where she stands. She doesn't compromise but she always smiles."

In 2014, there occurred a turning point for the state's Native American tribes when Assembly Bill 52 passed. The California Environmental Quality Act (CEQA) finally "got some teeth," according to Robinson. The bill requires that lead agencies must now evaluate, just as they do for other historical and archaeological resources under CEQA, a project's potential impact on a tribal cultural resource.

"Merri is a CEQA geek," say Robinson. "She lives this stuff because she does it on behalf of her tribe. Whenever I have technical questions about how to protect the sites on the ground in terms of monitors and grading, she just rolls that stuff off like it's second nature."

**Lopez-Keifer's talent for** explaining complex legal and historical issues is critical to explaining matters of import to her tribe. "You never work in isolation for the tribe," explains Carrie Lopez. "You must translate knowledge for many people to understand and make a collective decision. Ultimately, the Tribal Council makes the decision but they want to hear our advice."

And the tribe isn't the only family to whom Lopez-Keifer has to answer. She feels a tremendous responsibility to ensure that her three sons understand their Native American roots. She, among others, has advocated for changes to the California school curriculum regarding Native American history. She talks to her sons about the complicated relationship between Native Americans and the Catholic church, beginning with the Spanish domination and forced conversions of the 1700s. She and her husband, Mikel Keifer, who is not Native American, send their sons to a summer camp focused on American Indians, so they can learn the language and traditions of their ancestors. They head to Oceanside for their tribe's annual powwow and they sit in the drum circle.

"I tell my kids that this is a living culture," she says. "We're survivors of all of the different governments that have come to this land. If we dwell on the negativity, we'll never get out of it. I tell them, 'We are still here. We still have information to share. We owe our ancestors our respect.'"

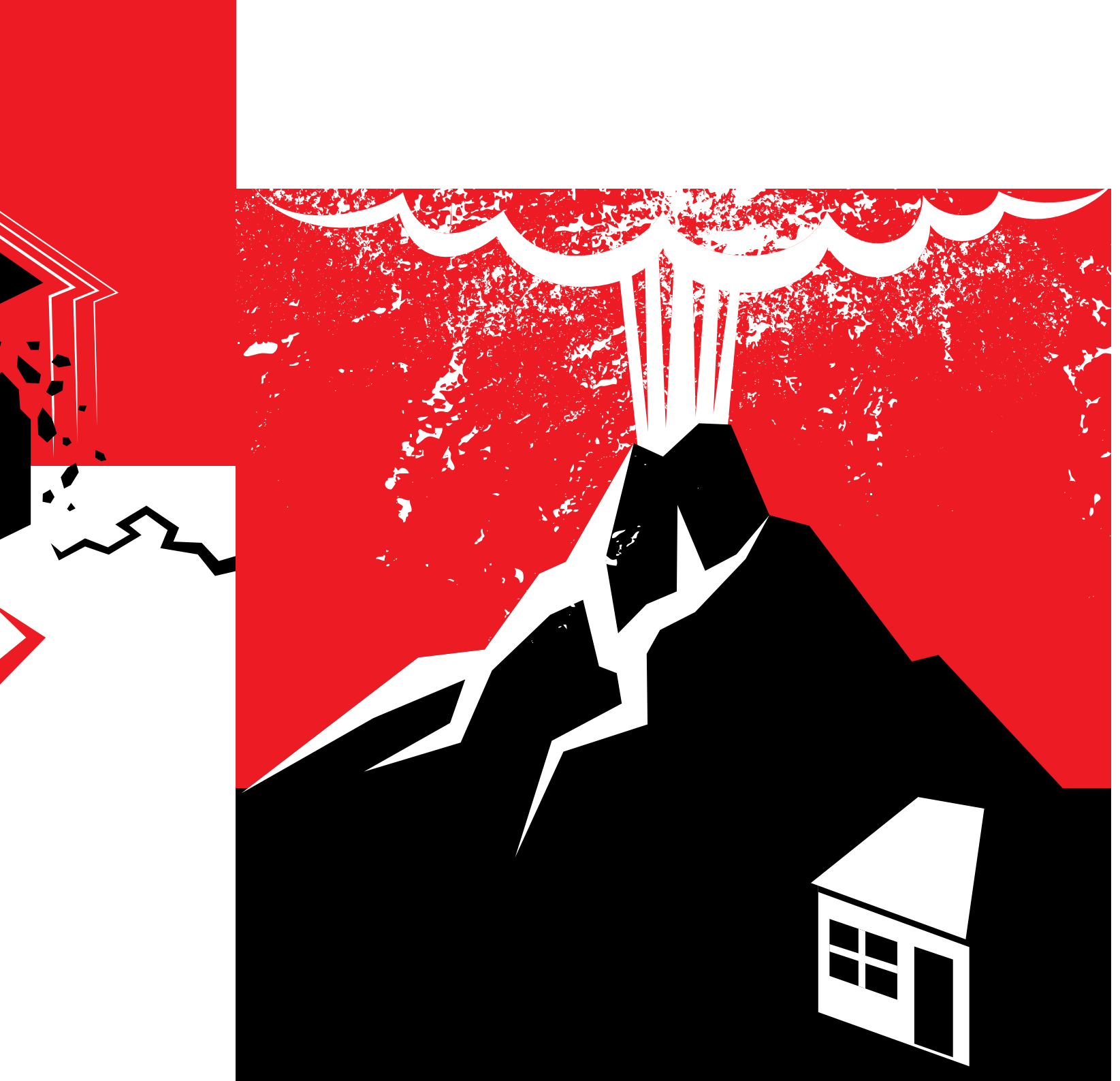
“Merri is very positive and consensus seeking but very firm about her mission and where she stands. She doesn’t compromise but she always smiles.”

—Native American Heritage Commission  
General Counsel **Terrie Robinson**



The  
Tragedy  
of the  
**Horizon**





Can insurance save us from ourselves as we continue to think short term, pushing off the inevitable consequences of climate change onto future generations?

**BY DAVID REICH**

# I

**n the first nine months of 2015 alone**, wildfires in the western United States burned eight million acres of forest land, an area larger than Maryland. Pine bark beetles, once kept in check by frigid alpine winters, denuded mountainsides from Colorado up through British Columbia and the Yukon. California entered its fifth year of drought, forcing strict water rationing on residents and cutting off farmers' access to surface water. Three thousand miles east, in the Gulf of Maine, codfish stocks were failing to recover despite severe catch limits, while lobsters disappeared from the rapidly warming ocean waters off Massachusetts, leading lobstermen to think about new lines of work.

In October, flooding in South Carolina killed nineteen people, washed out bridges, closed more than 300 highways, including interstates, and caused untold damage to property, with cleanup costs alone expected to top \$1 billion. Not even the dead were unaffected, as cemeteries turned into a toxic soup of mud, embalming chemicals, and floating coffins. As former Vice President Albert Gore put it, "Every night on the television news is like a nature hike through the Book of Revelation."

More of the same appears to be coming. Worldwide temperatures made 2015 the hottest year ever. The news shouldn't have come as a surprise because the last fifteen years already included the thirteen hottest recorded. As we keep loading the atmosphere with carbon dioxide, nitrous oxide, methane, CFCs, and other greenhouse gases, temperatures will only continue rising, and storms and droughts will increase in number and intensity, according to climate scientists. "Hot areas are going to get hotter, and wet areas are going to get wetter," says Patrick Parenteau of Vermont Law School, an expert in environmental law, who was speaking at a conference on climate change and insurance law held at Boston College Law School on November 5.

Convened a month before 150 world leaders gathered in Paris for the historic UN Climate Conference, BC Law's event was a portentous occasion.

For one thing, the BC Law School conference brought together some of the best minds in the industry, who zeroed in on a climate-related question that hasn't received much public notice but will likely affect every consumer, homeowner, and business on the planet: How can a 20th century insurance industry handle the 21st

century's natural catastrophes with their soaring costs and the political, economic, legal, and social rivalries they are likely to engender?

For another, the conference advanced the Law School's leadership in insurance law, policy, and scholarship, the result of the establishment several years ago of a Liberty Mutual professorship and funds to encourage scholarship in the field that envisioned BC Law as a key player in the insurance arena. Patricia McCoy, who became the inaugural Liberty Mutual Insurance Professor in 2014, was one of the conference organizers, along with environmental law professors Zygmunt Plater and David Wirth and staffers from the *Boston College Environmental Affairs Law Review*, which will publish the conference papers. (This January, BC Law School co-sponsored, with the American College of Coverage and Extracontractual Counsel, another insurance conference, "The New Face of Insurance Litigation.")

The November conference took on the "two major issues in the climate change area that haven't received enough attention," says McCoy. The first issue is how to pay for losses. Traditionally, of course, private insurers have paid certain types of weather-related claims, but with violent weather increasingly com-

mon, private insurers could break under the strain of unprecedented losses. Can someone else share their burden? Government is the chief, though not quite the only, candidate.

A second issue is whether insurers can get us to act more responsibly, especially in areas where government won't regulate from fear of public backlash. "Whether it's private insurers or federal insurance," McCoy explains, "you have the same concern: property owners who don't make an effort after a first loss to prevent the loss from recurring." Paying for damage from successive storms to a dangerously sited property, she says, "is not a good use of social resources. There may be situations where we can engineer a solution to avoid losses. Or a property may need to revert to its natural state."

McCoy could be thinking of a notorious seaside vacation house in Scituate, Massachusetts, that has suffered storm damage ten or more times, according to a *Boston Globe* article. The owner, described by the *Globe* as "a Florida widow," has received just short of \$1 million in insurance payouts and government grants in the past four decades. In this time, she's expanded the property from a small cottage to a four-bedroom, three-and-one-half-bathroom house, dramatically increasing the value at risk.

Nor is this homeowner all that unusual. In Scituate alone, 150 houses have been designated "severe repetitive loss properties" by FEMA, with the owners of most having received insurance payouts at least four times.

## Who Will Pay?

Because of its potential effect on their profits, insurers have probably been thinking about climate change for longer than any other business sector. According to Carl Hedde, director of risk accumulation at the Princeton, New Jersey-based reinsurer Munich Re America, "Munich started to realize that climate change was starting to impact their business model"





**Traditionally, private insurers have paid certain claims for damage resulting from weather, but with violent weather increasingly common, private insurers could break under the strain of unprecedented claims.**

as far back as 1970. The reinsurer was right to be concerned, too. Measured in constant dollars, property damage caused by violent weather has doubled every decade since the 1980s, which helps explain why Hedde's office employs two meteorologists.

Despite this expertise—or, more likely, because of it—insurers long ago started dropping coverage for weather-related damages. “There’s an interesting question of the extent to which private insurers can profitably underwrite climate change risk,” McCoy explains. “Private insurance is premised on the assumption that bad things happen randomly and are not correlated. The problem is that climate change-related damages are correlated events.” When a sewer backs up, it might damage one house on a given block, for instance, and a loss on that scale is easy to cover. But when a violent storm hits, it can damage every house in a given region, meaning losses that strain the ability to cover.

More than fifty years ago, having paid out epic claims that resulted from flooding of the Mississippi River, insurers began a headlong rush out of the residential flood insurance market. In 1968, private coverage was replaced by the heavily subsidized National Flood Insurance Program (NFIP), an arm of the federal government. But the story hardly ends there.

Since 1992, when Hurricane Andrew led to the insolvency of eleven insurers in Florida and Louisiana, more and more insurers have also refused to cover wind damage to coastal properties. Once again, government has stepped in, this time by forming state high-risk insurance entities such as North Carolina's Coastal Wind Pool, a public-private partnership. Donald Hornstein, a board member of the wind pool and University of North Carolina professor, reports that the risk is borne by private insurers (who have to join the pool if they want to do business in the state), as well as reinsurers, taxpayers, and investors in so-called catastrophe bonds.

Michael Bennett, head of derivatives and structured finance at the World Bank, says the bank has carved out a role for itself as a promoter and, more recently, an issuer of “cat bonds,” which pay in the range of 10 percent interest with a 99 percent chance of recouping principal. Bonds tied to weather in World Bank member countries, many in the developing world, “are extremely attractive to capital markets because

you can use [them] to diversify risk,” Bennett says. “Investors are already full up with Florida and North Carolina hurricane risk.”

A second new product, “parametric insurance,” pays the insured, usually a city or geographical region, based on a trigger event—a storm with a given wind speed, say—rather than a time-consuming damage assessment. The new insurance gets money to governments quickly and helps them put people back on their feet after an emergency, says Anastasia Telesetsky, a University of Idaho professor, who in her talk at the conference discussed a pilot program whereby the Chinese central government writes parametric insurance for the megacity of Shenzhen.

### **Can Insurers Make Us Act More Responsibly?**

Wind tunnel research by the Insurance Institute for Business and Home Safety, a nonprofit corporation funded by the insurance industry, compares the performance of two houses in a hurricane. A house built to code was literally blown to bits, while a house with \$4,000 worth of metal strapping added to the frame survived the ersatz storm undamaged.

Clearly, it’s in insurers’ interest for homeowners to spend the \$4,000. It’s likely in the homeowners’ interest, too, but how many of them will shell out the money? Insurers can lobby for stronger building codes, but it’s a slow and uncertain political process, and it doesn’t affect existing houses. They can also, through careful rewriting of policy language, act as regulators in place of government, getting us to do what we should have been doing in the first place.

Donald Hornstein points out that over the years, quasi-regulatory pressure from insurers has popularized measures like auto seat belts and safety testing of electrical appliances. In the area of climate change, insurers can regulate by incentivizing policyholders to adapt to it—or help reduce it. “Pay-as-you-drive” auto insurance policies offered by a number of companies, for instance, can reduce miles driven by up to 8 percent, according to an analysis in the journal *Science*, lowering both the number of claims and the drivers’ contribution to climate change.

Some private insurers also offer credits to owners of green buildings and drivers of low-emissions cars, based in part on the idea that these customers present less risk than average policyholders. Government insurers can also

tweak their policies to encourage good behavior, says Chad Marzen of Florida State University, who has suggested revisions to federal crop insurance that would support the use of methods, such as growing cover crops, that reduce atmospheric carbon dioxide by storing carbon in the soil. “Only 2.5 percent of farmers now use cover crops,” says Marzen. “If you could get to 10 percent, that would have a huge impact.”

As to climate adaptation, Sean Hecht of UCLA, speaking to the conference by video link, described a recent attempt, supported by both libertarians and environmental groups, to

discourage settlement in flood-prone locations by pricing flood insurance to actuarial risk, such that “buildings at a certain elevation would have dramatically high premiums”—too high for many people to pay. The change was embodied in a federal law, the 2012 Biggert-Waters Act, which provoked a big backlash and was largely undone by a subsequent law, the Homeowner Flood Insurance Affordability Act.

The NFIP has drawn wide criticism for creating moral hazard, by encouraging development in areas where people shouldn’t be living. (After a big flood “homeowners ask



**Insurers can, through careful rewriting of policy language, act as regulators in place of government, getting us to do what we should have been doing in the first place.**



themselves, 'Why rebuild here? Because if we do, we'll get bailed out again,' " says Christopher Serkin, associate dean at Vanderbilt Law School.) According to Hecht, government has a range of options for reducing moral hazard now that Biggert-Waters has been rolled back: Buy out the riskiest properties in flood-prone areas; price premiums to risk but offer means-based subsidies, or discounts to homeowners who take measures to protect their houses from floods, such as raising them on stilts, with the adaptations financed by low-interest loans; drop the NFIP and let homeowners seek coverage in the private market, where, if it were even available, it would be far too costly for many.

Edward Richards, of Louisiana State University, in what he calls "a thought experiment," has proposed a variation on the last of these ideas: replacing the NFIP with a product whose premiums rise substantially each year, as with life insurance policies. "You'd have a schedule of premiums that's a multiple of sea level rise," he says. Eventually insurance costs would reach a point where it would pay to move to higher ground, especially if the new insurance were coupled with a government buyout program for vulnerable coastal properties. And so much the better if the buyout price were to drop year by year.

Richards notes that private flood insurance still exists—for business properties, which don't qualify for the NFIP. After Hurricane Katrina, he reports, skyrocketing insurance premiums started driving businesses out of New Orleans, hollowing out the city's economy. As Richards has written, "Despite the city's rebirth myth, jobs data show a continuing shift to low-wage service jobs during the Katrina recovery.... The city's economy will continue to decline...as it awaits the next catastrophic storm.... At the very least, New Orleans should have had its footprint reduced significantly after Katrina. But social justice concerns kept this off the table. The poor have been carefully put back into the highest risk areas in the city."

New Orleans, like other low-lying regions, faces a grim choice, he says: either an orderly evacuation or mass flight from a future storm that may be even more violent than Katrina. "Property rights evolved in a steady state world," Richard says. "Until we internalize that land is going away, we're not going to make any policy progress."

In addition to serving as an unacknowledged regulator, insurance can also create the conditions for needed government regulation, says Vanderbilt's Serkin. They can do it, Serkin argues, by stiffening the spine of local government.

An article by Serkin examines the effects of municipal insurance policies that fail, as virtually all of them do, to cover liability for "regulatory takings"—that is, reducing the value of a property by enacting regulations that restrict its use. The lack of coverage, Serkin contends, makes governments of smaller towns and cities, which already shy away from risk, very hesitant to regulate developers, no matter how inappropriate the proposed development—in planning, economic, and environmental terms. In Serkin's view, big cities, and not small ones, are making innovative land use policy, partly because larger cities are more likely to self-insure and not have to worry about gaps in their insurance coverage. Serkin expressed the hope that his article might alert private insurers to the need of smaller towns and cities to be insured against regulatory takings lawsuits, and that a few insurers might even jump into the market, thus seizing "a real opportunity" while strengthening the hand of local government. Failing that, he says, government should once again step in, with states providing coverage to municipalities as "a kind of subsidy for local land use and environmental regulations."

For all their ideas, predictions, and solutions, the experts convened at BC Law acknowledged that there is one huge obstacle to action. Panel commentator Cynthia McHale, director of the insurance program at Ceres, a nonprofit advocating sustainability leadership on behalf of institutional investors, lamented what's been called "the tragedy of the horizon"—the widespread human tendency to think short term, ignoring problems such as climate change whose worst harms will be suffered by future generations.

"We have a way to deal with intergenerational cost," suggested Serkin, "and that's debt." Why, he asked, aren't we incurring debt right now to invest in the infrastructure needed to reduce and adapt to climate change?

"The same reason we don't invest in roads and bridges," Edward Richards shot back.

"So it's politics, not policy."

"Right. That's how we got in this trouble in the first place."

---

*David Reich is the author of a novel, The Anti-racism Trainings. His personal essay on violent crime in Mexico appears in the December 2015 issue of the literary journal Gargoyle.*





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# ESQUIRE



## GENERATIONS

MICHAEL E. MONE '67  
RIGHT, AND SON MICHAEL  
E. MONE JR. '96.



## Class Notes



We gladly publish alumni news and photos. Send submissions to **BC Law Magazine**, 885 Centre St., Newton, MA 02459-1163, or email to [vicki.sanders@bc.edu](mailto:vicki.sanders@bc.edu). Due to space considerations, alumni news regarding inclusion in *Super Lawyers Magazine* and *The Best Lawyers in America* will be published on BC Law's LawNet.

58

**Lawrence A. Ruttman** announces *The Right Pitch*, a musical by

Larry Jay Tish, Lee Goodwin, and Erin Murray Quinlan based on Ruttman's book, *American Jews and America's Game: Voices of a Growing Legacy in Baseball*. For more information, visit [www.right-pitchmusical.com](http://www.right-pitchmusical.com).

68

**John Michael Callahan** is the author of *Lethal Force and the Objectively Reasonable Officer* published by Looseleaf Law Publications in August. The book is an extensive

guide to lethal force case law, training methods, and officer survival tips. During his forty-four years in law enforcement, thirty of them in the FBI, Callahan was chief division counsel in two FBI field offices and taught Constitutional Criminal Procedure at the FBI Academy in Quantico, VA.

**Arthur G. Wiener** is the founder of the Wiener Museum of Decorative Arts in Fort Lauderdale, FL. He is the owner of United Management Corporation in Brooklyn, NY.

77

**Michael J. Puzo** was elected chair of the Board of Directors of

Boston Lyric Opera. He is a partner at Boston-based Hemenway & Barnes LLP, where he concentrates on trust and estate matters, and managing director at Hemenway Trust Company in Salem, NH.

**Glenn M. Wong** is an emeritus professor in the Mark H. McCormack Department of Sport Management in the Isenberg School of Management at the University of Massachusetts, Amherst, where he has been a faculty member since 1979.

79

**Duane J. Deskins** is first assistant prosecuting attorney, chief

prosecutor in the Juvenile Division, and director of Juvenile Crime Prevention in the Cuyahoga County (OH) Prosecutor's Office. He retired in 2013 after thirty years as a federal prosecutor in Boston, Los Angeles, CA; Chicago, IL; and Cleveland, OH.

**Lauren Stiller Rikleen** was named to the 2015 list of "Influencers in Aging" by PBS's *Next Avenue*. She is president of the Rikleen Institute for Strategic Leadership, and a visiting scholar at the Boston College Center for Work and Family.

**Howard S. Rosenblum** is a partner in the corporate finance and securities practice group at Boston-based Choate, Hall & Stewart LLP. He was previously a partner in the Baltimore, MD, office of DLA Piper LLP.

80

**Robert E. Bostrom** is the recipient of the General Counsel of

the Year Award presented by the International Law Office and the Association of Corporate Counsel. He is senior vice president, general counsel, and corporate secretary at Abercrombie and Fitch, headquartered in New Albany, OH.

**Sharon L. Hanson** is an attorney and COO at Edward Davis LLC, a full security and management consulting firm in Boston. She was previously chief of staff for the Boston Police Department.

**John N. Montalbano** was elected president of the Middlesex County (CT) Bar Association. He practices personal injury and workers compensation law at Montalbano Law LLC and is of counsel at Raczka & Raczka, both in Middletown, CT. He and his wife, Valerie, and their



daughter, Christiana, live in Rocky Hill, CT, where he is active in his parish, St. Elizabeth Seton, as a lector and Eucharistic minister.

81

**David E. Jose**, a partner at Plews Shadley

Racher & Braun LLP in Indianapolis, IN, is the recipient of the 2015 Indiana State Bar Association Community Service Award. He serves on the board of directors of the Indiana Recycling Coalition, Phoenix Theatre, and Tangram; is legal counsel to the Kurt Vonnegut Memorial Library; and is a member of the Indianapolis Advisory Board for Back on My Feet, a national organization that uses running to help change the lives of the homeless.

**Conchita Franco Serri** is co-author with Doña María Luisa Caballero Franco, her 93-year-old mother, of *Josefa Marquesa del Pumar*, a genealogical/historical book published by Santa Clara Press in 2015. Serri is an ombuds at Pomona College in Claremont, CA, and convener of Pinging-Tea, a performance art discussion and conflict resolution forum.

**C. Joseph Greaves'** novel, *Tom &*

### ARTHUR G. WIENER '68

**Avocation** Collecting world-class ceramics, glass, and fossils. **Why Start the Wiener Museum of Decorative Arts?** To leave a legacy for future generations and because he ran out of space in his house (and elsewhere) to keep the objects. **Accolade** Invited to exhibit at the April 2016 Smithsonian Craft Show. **First Collection** Seashells. **Favorite Fossil** The predecessor to the alligator. **Famous Names in the Museum** Glass: Lalique, Chihuly, Morris. Ceramics: Tinworth, Cliff, Barlow.

# Class Notes



## ALEXANDER C. TANG '84

**Favorite Gig** "Wherever I'm playing at the moment, whether an open mic in a bar, a concert at the Kennedy Center, or the Opera House orchestra pit for *The Lion King* national tour." **Late Bloomer** Didn't start formal piano lessons until he was almost thirteen. **My Last Summer Vacation** Accompanied the Gay Men's Chorus of Washington, DC, on a concert tour of Cuba, one of the first cultural delegations since the United States and Cuba re-established diplomatic relations. **Tour's Crescendo** Meeting Raul Castro's daughter, Mariela Castro, a prominent advocate for LGBT rights. **All in the Family** He and his husband, also a lawyer, live in a townhouse they restored in DC's Kalorama-Embassy Row neighborhood.

*Lucky (and George & Cokey Flo)*, was selected by the *Wall Street Journal* as one of the Best Books of 2015. It's a fictionalized recounting of the 1936 courtroom drama that played out between gangster Lucky Luciano and special prosecutor Tom Dewey.

**Joan Zorza** is a recipient of the 20/20 Vision Award presented by the American Bar Association Commission on Domestic and Sexual Violence. Retired as the founding editor of the *Domestic Violence Report* and the *Sexual Assault Report* published by the Civic Research Institute, she has worked to end violence against women and children for over forty years, and continues in this capacity as an honorary board member of End Violence Against Women International.

**82 Paul J. Ayoub** was elected chair of the National Board of Directors of the American Lebanese Syrian Associated Charities, the fundraising and awareness organization of St. Jude Children's Research Hospital. He is a real estate partner at Boston-based Nutter McClennen

& Fish LLP and a member of the firm's land use, permitting, and development and commercial finance practice groups.

**Thomas P. Dale** is executive vice president and general counsel of Rolls-Royce North America, headquartered in Chantilly, VA, and also serves as secretary to the Rolls-Royce North America Holdings Board of Directors and its Government Security Committee. He was previously in private practice with firms in Boston, Philadelphia, PA, and New York, NY.

**John A. Herbers** was appointed chair of the Board of Directors of the Catholic Community Foundation in Milwaukee, WI. He is a partner in the trusts and estates practice and a member of the litigation, tax, and business law practice groups in the Milwaukee office of Reinhart Boerner Van Deuren.

**83 Cynthia A. Clark** retired from the practice of law in 2001. She and her husband spend part of every year traveling internationally and volunteering as advocates for those whose voices are repressed by harsh governments. When home in Boston, they work as literacy volunteers with first and second graders in a Boston public school.

**Hon. George H. Foster Jr.** was appointed to the Arizona Commission on Judicial Performance Review in June. He is a judge on the Superior Court of Arizona in Maricopa County, and a member of the Arizona Commission on Judicial Conduct.

**84 John J. Aromando** has been named Litigation Practice Group Chair at Pierce Atwood LLC. He has been with the firm since 1993 and defends businesses and individuals in complex litigation.

**Eedy Nicholson** has retired after more than thirty-years as deputy regional counsel with the Massachusetts Department of Children and Families.

**Alexander C. Tang** is an attorney in the Federal Trade Commission's Office of the General Counsel in Washington, DC. Outside of the office, he maintains a busy and wide-ranging career as a professional pianist, conductor, arranger, and coach.

**85 Steven N. Berk**, founder and managing partner of Berk Law PLLC in Washington, DC, was nominated by President Barack Obama to serve on the Superior Court of the District of Columbia.

**Marguerite M. Dorn**, founder of MMDorn Consulting in Wellesley, MA, is the author of *On-Ramp: EveryMom's Guide to Going Back to Work* published by Glow Books in 2015.

**Hon. Robert J. Gilson** was appointed to the Appellate Division of the Superior Court of New Jersey in July.

**88 Nelson K. Ahn** is a senior partner at Lee & Ko in Seoul, South Korea, and focuses his practice on representing Korean and foreign businesses in a broad range of cross-border transactions.

**Kathleen E. McGrath** was named a 2015 "Hero of the Fortune 500" for her leadership of the pro bono program in the legal department of Liberty Mutual Insurance in Boston, where she is senior corporate counsel. An advocate for low income people in housing and domestic violence matters for more than twenty-five years, she is chair of the Supreme Judicial Court Standing



Committee on Pro Bono Legal Services, and serves on the boards of the Volunteer Lawyers Project and the Lawyers Clearinghouse.

**Jay Shim** is a senior partner and head of the international tax planning and transactions practice at Lee & Ko in Seoul, South Korea.

**89 Mark A. Spitz** announces the opening of Spitz Legal Counsel LLC in Denver, CO, where he represents small and medium-size businesses in general corporate governance, business formations, contracts, financing, and related corporate matters. He is also an adjunct professor at the University of Denver Sturm College of Law.

**93 Hon. Gerald L. Harmon** was nominated by Governor Dannel P. Malloy and confirmed by the

Judiciary Committee as an interim judge on the Connecticut Superior Court. He was previously in private practice as the principal of the Law Offices of Gerald L. Harmon in Meriden, CT.

**Hon. Elizabeth Hoskins Dow** was appointed by the Illinois Supreme Court as an associate judge of the Twelfth Judicial Circuit Court in Will County, IL. She was previously a partner in the Joliet, IL, office of Bailey & Glasser LLP.

**Sharon A. Hwang** received the 2015 Sandra R. Otaka Leadership Award presented by the Asian American Bar Association of Greater Chicago. The award is named for Judge Otaka, the first Asian-American to be elected a Cook County judge. Hwang is a shareholder at McAndrews Held & Malloy where she focuses her practice on patent litigation and intellectual property counseling.

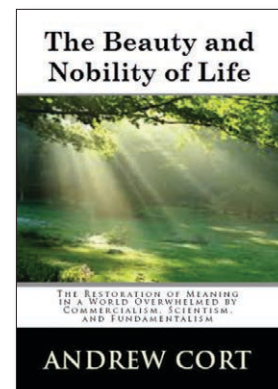
**Richard D. Lara** was appointed by Governor Rick Scott to the Third Appellate District Court Judicial Nominating Commission. He is the managing partner of Mase Lara PA in Miami, FL, and focuses on complex civil and commercial litigation.

**94 Edward J. Carbone**, managing partner in the Tampa, FL, office of Roig Lawyers, was appointed to the Editorial Review Board of the *Journal of Healthcare Risk Management*. In September, he presented at the 7th Annual FUNDamentals: Lawyers at the Bedside: The Intersection of Legal and Medical Ethics program hosted by the Florida Bar Continuing Legal Education Committee and the Health Law Section.

**94 Elaine S. Ventola** is a senior consultant at Naomi Beard and Associates in Boston and focuses her practice on career transitioning consulting in the New England legal market.

**95 Andrew M. Cort**, teacher, lecturer, attorney, doctor of chiropractic, and interfaith minister, has written twelve books on religion and spirituality, philosophy, nonfiction, and health. His website is [www.spirituality-and-religion.com](http://www.spirituality-and-religion.com).

**Ingrid C. Schroffner**, assistant general counsel in the Massachusetts Executive Office of Health and Human Services (EOHHS), presented "Addressing Unintended Bias: An Introduction to Cultural Humility" to the diversity officers of EOHHS agencies. She was the guest speaker for a program on "Ensuring Inclusivity: Learning Ways to Address Unconscious Bias" in legal and law school education contexts at



## ANDREW CORT '95

**Passion** Writing. **Subject Matter** His books explore the inner symbolic meaning of the great stories in the Greek myths, the Bible, and the Qur'an. **Goal** To promote spiritual wisdom, religious tolerance, and peace. **Last Book** *The Beauty and Nobility of Life: The Restoration of Meaning in a World Overwhelmed by Commercialism, Scientism, and Fundamentalism*. **Why an Interfaith Minister?**

"I was raised Jewish, married a Protestant minister, and for the last five years my daughter has been dating a wonderful Muslim boy who escaped here from Afghanistan, so I really had no choice."



### The High Bar

Five alumni were sworn into the US Supreme Court on December 9 (from left): Christopher Updike '06, Robert Charbonneau '92, Diana Steel '00, John Glovsky '69, and Jonathan Moll '84. Alumni were accompanied by (center) Brigida Benitez '93 and Dean Vincent Rougeau.

### ALUMNI ASSOCIATION NOTICE

On November 4, 2016, the Law School will hold its annual Assembly Meeting as part of Reunion Weekend. Elections for 2017 Alumni Board members will be held during the Assembly Meeting. Anyone who has volunteered for BC Law between June 2015 and November 2016 is eligible to vote. Please visit [www.bc.edu/lawalumni](http://www.bc.edu/lawalumni) for all association notices. Contact Christine Kelly, director of alumni relations, at [christine.kelly.3@bc.edu](mailto:christine.kelly.3@bc.edu) for more information about the election and details about nominating a graduate for a board position.

# ClassNotes



## MATTHEW A. AUFMAN '99

**Serendipity** Responded to an ad in *Lawyer's Weekly* for a position at Welch Foods in 2004 and got the job. **Historic Fact** The Concord grape was first cultivated in Concord, MA, in the 1850s. **Did You Know?** Welch's was founded in 1869 and has been owned by a co-op of grape growers since 1956. **What Is That Like?** "Our growers' perspective on the business isn't quarter to quarter, it's generation to generation. And they expect you to look them in the eye, shake their hand, and give them common-sense advice in plain English." **A GC Can't Live Without...** Good judgment. **Most Loyal Consumer of Welch's Juices** His thirteen-year-old daughter.

a retreat for the faculty of Western New England University School of Law in Springfield, MA.

**96 Craig J. Coffey** is a co-founder of O2X, an organization that develops human performance programs for companies and organizes summit challenge events.

**James A. Meszaros** is an associate in the Roseland, NJ, office of Starr, Gern, Davison & Rubin PC and practices in the areas of personal injury and medical malpractice law. He is

a master in the Brennan Vanderbilt American Inn of Court, and a life member of the Million Dollar Advocates Forum.

**97 Robert Kim**, who is deputy assistant secretary for strategic operations and outreach for the US Department of Education's Office for Civil Rights, co-authored *Education and the Law, 4th Edition* (West Academic Publishing, 2015). It addresses legal and public policy issues and controversies affecting K-12 as well as higher education.

**Brian J. O'Rourke Jr.** is counsel in the Boston office of Verrill Dana LLP, where he is a member of the construction law and litigation and trial practice groups. He was previously a partner at McCarter & English LLP. He also serves as an adjunct instructor at Worcester Polytechnic Institute, teaches a contract documents class at Boston Architectural College, and has written numerous articles on construction law.

**David W. Penczar** is principal deputy legal counsel in the Office of the Chairman of the Joint Chiefs of Staff at the Pentagon in Washington, DC.

**98 Merri K. Lopez-Keifer** was appointed to the California Native American Heritage Commission.

She is founder of the Law Office of Merri Lopez-Keifer in Martinez, CA, and chief legal counsel for the San Luis Rey Band of Mission Indians.

**Kimberly A. Lowe** was named president of the Hennepin County (MN) Bar Association for 2015–2016. A partner in the Minneapolis, MN, office of Fredrikson & Byron LLP, she is also chair of the firm's nonprofit organizations practice group and co-chair of the start-up and rapid growth enterprises practice group.

**David M. Shamberger** is a partner in the Boston office of Murphy & King PC and a member of the firm's corporate and real estate practice group. He was previously a partner at Boston-based Sherin and Lodgen LLP.

**99 Lisa Amatangel** is an associate in the Portland, OR, office of Cosgrave Vergeer Kester LLP and focuses her practice in the area of complex tort litigation.

**Matthew A. Aufman** was promoted from senior corporate counsel to general counsel and vice president of legal at Welch Foods in Concord, MA.

**Marybeth Walsh Chung** announces the opening of Chung Law LLC in Dover, MA, and focuses her practice on corporate and securities matters for private companies and individuals. She was previously in-house

## IN MEMORIAM

Allan Bruce '49  
William Gabovitch '49  
Thomas J. Kelly '49  
Frederick F. Martin '49  
Ralph R. Bagley '50  
Edward T. Harris '51  
John F. McBurney '51  
Robert J. Schiller '51  
James F. Meehan '54

Paul C. Hill '56  
Hon. John A. Tierney '56  
Robert M. Laprade '58  
Francis B. Bryson '59  
John F. Driscoll '59  
Philip T. Breen '60  
Hon. William A. McCarthy '60  
Edward J. Roder '61  
Denis G. Regan '62

Clyde R. Coolidge '63  
James R. Kelly '63  
Michael B. Spitz '63  
Paul J. McNamara '65  
Matthew J. McDonnell '66  
Robert W. Welch '66  
Philip P. Berestecki '69  
John F. Canty '70  
Arthur J. Pitts '71

David L. Harrigan '73  
Rev. Sharon Hornberger Brown '78  
James David Bruno '78  
Calixto Cedric Valle '80  
Joyce W. Scudder '84  
Nancy M. Becker-Sargent '85  
Sandra S. Landau '85  
Vincent R. Patrone '85  
Margaret M. O'Brien '90



legal counsel for The Kraft Group in Foxborough, MA.

**McCray S. Pettway** is the director of Global Legal Services at Expeditors International of Washington in Seattle, WA, where she practices in the areas of ERISA and employee benefits, labor and employment, litigation, and privacy and data security law.

**Sandra M. Rodriguez-Diaz** was appointed to the New York City Tax Appeals Tribunal as an Administrative Law Judge in December. Previously, she ran her own law firm, S.M.R.D. Estate Planning Law Group PLLC. She holds an LLM in Taxation from the NYU School of Law in addition to her BC Law JD.

**01 Will Sellers** was recognized by the Food Well Alliance as an “Opportunity Maker” for his work with Georgia Organics, the Turner Environmental Law Clinic at Emory Law School, and other local food organizations in obtaining passage of the progressive Urban Agriculture Zoning Ordinance in the City of Atlanta, GA. He currently works with the Georgia Hotel and Lodging Association in Atlanta as a lobbyist.

**02 Earl S. Adams Jr.**, of counsel in the Baltimore, MD, and Washington, DC, offices of DLA Piper, was named a member of the Board of Visitors of Bowie State University in Bowie, MD.

**Mehtap Cevher Conti** is a partner in the New York, NY, office of Vedder Price, where she was previously of counsel. A member of the firm’s global transportation finance group, she focuses her practice on asset finance, in particular on aircraft and other equipment.

**06 Jungeun Janet Han** is an associate in the corporate practice group at Lee & KO in Seoul, South Korea. She focuses her practice on corporate, mergers and acquisitions, and foreign investment law.

**Benjamin J. Voce-Gardner** is an associate in the New York, NY, office of Zuckerman Spaeder LLP. He was previously an officer in the Appellate Government Division of the US Navy Judge Advocate General’s Corps.

**08 Branden D. Brooks** is a child advocacy attorney at Voices for Children in St. Louis, MO.

**Jessica L. Lambert** is counsel in the wealth management group at Boston-based Choate, Hall & Stewart LLP. She focuses her practice on estate planning, trusts and estates administration, and related tax and fiduciary issues for individual clients.

**Debbie Satyal** is a partner in the West Palm Beach, FL, office of Busch White Norton LLP and a member of the firm’s litigation practice group. She is Nepalese and has provided immigration assistance to her Nepalese community in Florida following the 2015 Nepal earthquake.

**09 Heejin Yi** is an associate in the Seoul, South Korea, office of MetLife Insurance Company. She was previously a corporate associate at Lee & Ko in Seoul.

**10 Peter C. Obersheimer** participated for his fourth year in the 100-mile bicycle ride for the Best Buddies Hyannis Port Challenge with the support of Murphy & King PC, where he is a business and commercial litigation associate in the firm’s

Boston office. He was previously an associate in the New York, NY, office of Phillips Lytle LLP.

**11 Francis J. Bingham** is an associate in the Boston office of Littler Mendelson PC and focuses his practice on employment law.

**Natalie K. Prosin** is manager of the Animals, Law, and Religion Project at Harvard Law School. She was previously the executive director of the Nonhuman Rights Project.

**Carla A. Reeves** is an associate in the Boston office of Burns & Levinson LLP and concentrates her practice on employment and general business litigation.

**13 Christina Fish** is a partner in the community relations practice of O’Neill and Associates in Boston. She was previously an associate in the construction and public contracts practice group of Hinckley Allen in Boston.

**André M. Gregori** is the general manager of Octane Lending in New York, NY, a point of sales finance and insurance company focusing on the recreational market, and the founder of Cheggin, a social app for sports fans.

**Frank D. Murray** is an assistant US attorney in the US Attorney’s Office for the Middle District of Florida.

**Brett D. Walker** is the author of “...And the Party Never Ends” in *The Strong Gray Line: War-time Reflections from the West Point Class of 2004* published by Rowman & Littlefield in October. He is an assistant district attorney in the Suffolk County (MA) District Attorney’s Office, was promoted to major by the US Army in October, and is an infantry officer serving in an international affairs position for the Massachusetts National Guard.



## DEBBIE SATYAL '08

**Birthplace** Kathmandu, Nepal, forty miles from the epicenter of the 2015 Nepal earthquake.

**First Legal Job** Catholic Charities in Florida, where she provided immigration assistance to Haitian nationals after the 2010 Haiti earthquake.

**Helpful Experiential Training** BC Law’s Immigration and Asylum clinic and externship.

**Quote** “As the only Nepalese lawyer in Florida, it’s awesome to have an opportunity, in such a tragic time, to give back in a meaningful way. I treasure my experiences from BC Law, as they provided the foundation of service and knowledge for me to offer the Florida Nepalese community.”

David Simas '95,  
director of the White  
House Office of  
Political Strategy  
and Outreach.



## Political Insider Talks Elections

David Simas '95 keynotes Alumni Assembly.

➤ **Bringing with him colorful anecdotes** about working to get President Obama elected and sizing up the current electorate, David Simas '95, director of the White House Office of Political Strategy and Outreach, gave an animated keynote at the Alumni Assembly's November 6 meeting. The event was part of a packed day of activities that included an Alumni Board meeting and the election of new officers.

Simas has relished the task of polling and researching voters during the presidential campaigns, finding it an essential means of understanding what he called "a demographic transformation in the US that is unprecedented." Together with the cultural shifts that have occurred because of economic dislocation—resulting in some of the pushback against immigrants and the "silo-ing" of certain populations during the lead-up to the current election season—the nation needs good lawyers more than ever.

"We have a responsibility, given our training and commitment to service, to bridge that divide," Simas said. "If there's ever a time to engage...in civic life, it is now."

In his introduction of Simas, outgoing Alumni Board President Kevin

Curtin '88 anticipated Simas' call to action, saying that when asked to serve, the BC Law community responds in the affirmative. "We say, yes, I will serve. That's what we do, that's who we are," Curtin noted.

The assembly meeting was among the last official events of Curtin's presidency. Earlier in the day, the Alumni Board convened to elect new officers and conduct other business. Tom Burton '96 became the new president.

"My vision is to help BC Law to realize its full potential," Burton said of his new role. "I hope to do that by engaging more of our alumni through Law Day and the recognition of our many successes, through BC LawNet and fortifying our national network of prominent alumni who want to help our students and alumni thrive,

and through connecting alumni with the school's groundbreaking Center for Experiential Learning. My hope is that we can continue to make the BC Law community an even more robust center for growth, accomplishment, and service to our broader communities."

Those who moved up in executive rank are Earl Adams '02 to President-Elect, Ingrid Schrockner '95 to Vice President, Mark Warner '89 to Secretary, and Steve Riden '99 to Treasurer. New board members and their specializations are Lurleen Gannon '02 (Student Programs), Robert Raskopf '76 (Career Services), and Edward Hanley '86 and Philip Privitera '95 (Reunions and Classes co-chairs). Outgoing board members are Margie Palladino '85, Barbara Cusumano '08, and Kelly Reardon '09.





## MARY DALY CURTIN

**1935-2015** Together with her late husband, John “Jack” Curtin Jr. ’57, Curtin established the John J. and Mary Daly Curtin Center for Public Interest Law at BC Law, and funded stipends that continue to enable graduates to pursue careers that benefit others.

A native of Brighton, graduate of Regis College, certified art therapist, and community activist, Curtin was beloved by many for her service to others.

“When we were young, Mom would take us with her to the Wellesley Council on Aging head-

quarters where we would organize meal packages for the less-fortunate elderly in town,” remembered her son Joseph P. Curtin ’90. “But, she never had us just drop off the meals. Mom insisted that we go into the home, put the food away, and engage in conversation to gauge if the person had other needs. If so, Mom always returned to fulfill the need.”

Her legacy remains very much alive at BC Law, thanks not only to her generosity but also to her gift of family—her sons Joe and Kevin J. Curtin ’88, past president of the Alumni Association, maintain their parents’ close ties to the Law School.

“Mary and Jack were deeply committed to social justice,” said Kevin Curtin. “This is why the creation of the Curtin Center was so important to them. They each did all they could do, for as long as they could do it, to carry the fight. They always encouraged others to contribute in any way they could. They loved especially those angels among us who have made the daily struggle for social justice the labor of their entire lives.”



## JAMES MALLEY, SJ

**1921-2015** Father Malley was a graduate of Dartmouth College and Harvard Law School and a Navy veteran of WWII and the Korean War. A lawyer turned priest as a member of the Society of Jesus, he spent five years serving the poor in a São Salvador slum—all before beginning his eighteen-year career at BC Law as a student counselor, assistant dean, and adjunct professor.

In his remarks at a service in Father Malley’s honor Reunion Weekend 2015, Professor Daniel

Coquillette said he was glad during his years as dean to have had Father Malley by his side. “In every crisis at the school, and we had some bad ones, I would turn to Jim,” Coquillette said. “Every student, faculty member, and staff in the school was a special concern to Jim. He knew who needed help and he knew how help should come.”

The words of former dean Aviam Soifer were read by Professor Judith McMorrow. Recalling Father’s gift for storytelling, Soifer wrote, “Who else could have twinkled so delightfully as he told of being banned briefly from taking confessions in northern Brazil because he had learned Portuguese street language so well that he was shocking some of the older congregants with his language in the process?”

From his home in California, Professor Emeritus John Flackett also sent a tribute. “Father Jim Malley was one of the finest human beings I have ever known,” he said. “Just being with him lightened my life. ...He was a light of conscience to us all.”

## INTELLIGENCER

**Lawyers for Affordable Justice** Boston College and the law schools at Boston and Northeastern universities this January launched an American Bar Association-funded “lawyer incubator” program to train graduates in the fundamentals of solo practice and to provide legal services to the underserved. One of the first such ventures in the nation developed and run collaboratively by three law schools is headquartered in Boston’s Kenmore

Square. Twelve graduates from the participating law schools will be selected annually for the two-year program. Faculty and alumni will mentor them as they assist clients with immigration, employment, small business, and landlord/tenant issues. BC Law’s first participants are Hanford Chiu ’15, Justin Brogden ’13, and Linda Neary ’84. A primary goal of the ABA’s Catalyst grant is to use new technology to lower costs while still delivering the

highest quality legal services, says BC Law Professor Paul Tremblay, “and we’re going to take advantage of that.”

**BC in DC** Under the directorship of veteran Washingtonian Christine Leonard ’01, students are now able to get a taste of what it’s like to practice in the nation’s capital. The new experiential learning externship got under way last fall, allowing select students a one-semester immersion in the workings of

Washington. Participants pick from existing opportunities or craft their own placements in diverse subject areas. A weekly seminar complements their work. One student’s observations are typical of those in the BC in DC program. “It was exciting to make connections between what we were discussing in class, what my agency was doing, and what I saw in the news,” says Lauren Robbins, who trained in the Consumer Financial Protection Bureau.

**All Aboard** Dean Vincent Rougeau and eleven graduates of the Law School have assumed roles on the Boston Bar Association’s governing board. In addition to Council Secretary Jonathan M. Albano ’82, alumni on the council are: Peggy Brown ’79, Paul Cushing ’91, Michael Fee ’84, Megan Gates ’94, Margaret Hinkle ’77, Christopher Morrison ’01, Kevin O’Connor ’89, Karen O’Toole ’90, Jeff Pyle ’00, and David Rosenblatt ’82.

## Click

## REUNION WEEKEND 2015

**Reunion was a memorable success.**

Some 570 guests took part in activities as members of the classes ending in 0 or 5 traveled between campus and downtown Boston November 5-7 for bar reviews, panel discussions, cocktail receptions, campus tours, and dinners.

New this year was a Congressional Reception held on Thursday evening and hosted by Morgan Lewis. Special guests were Senator Edward Markey '72 and Representatives Michael Capuano '77, Jared Huffman '90, and Stephen Lynch '91.

Saturday highlights included panels on the death penalty, shareholder value, family and the workplace, and confronting inequality, the last sponsored by the Black Alumni Network (BAN). Dean's Council donors were honored at a cocktail reception at the Ritz-Carlton, where BAN's annual meeting and the class reunion dinners were also held. (See page 48 for more on the Alumni Assembly and Board Meeting.)

In addition to the huge attendance numbers, reunion giving totaled more than \$1.2 million. Leading all classes in cash contributions was the Class of 1975 with \$322,947. The Honor Roll of reunion donors will be published in the Summer 2016 issue of *BC Law Magazine*.









# Light the World



## The Domino Effect of a Teacher's Generosity

\$1 million and counting—the remarkable story of the power of many.

➤ **The story of the Ingrid Hillinger Fund for Public Service** is the story of the BC Law community. It started as an idea that grew out of Professor Hillinger's love for her students and her deep involvement in their lives. It transformed, with the help of many, into a million dollar fund that today enables BC Law students to realize their public service aspirations. It is the story of determination and commitment. It captures the best of what our community can accomplish when we join forces.

To date, an impressive number—338 alumni and friends—have made outright gifts or pledges, ranging from \$20 to \$100,000. The vast majority of gifts are for under \$1,000, which proves how broad participation can transform one person's dedication into something much larger and more powerful. For one-third of the donors to this fund, the initia-

tive inspired their very first gift to BC Law.

When the fund reached its million-dollar mark in September 2015, donors received a heartfelt message from Professor Hillinger. "A million thank-you's," she wrote. "No words can possibly express my gratitude to each and every one of you for helping me to realize my dream—a fund that will give students of Boston College Law School the opportunity to serve the public interest regardless of their financial resources."

To date, the fund has supported six public service scholars. Among them was Alena Chaps '16. The stipend allowed the San Francisco native to work in the juvenile division of that city's Public Defender's Office last summer where she shadowed public defenders, did legal research and writing, and worked on motions to reduce felonies to misdemeanors.

Chaps' experience in California was valuable

for another reason as well. "I would like to be a public defender and I wanted to build relationships in California," she says. Indeed, it set her up for an externship this semester in the Contra Costa County Office of the Public Defender.

The Hillinger fund expands the number of BC Law students receiving summer stipends and complements money raised by PILF (the Public Interest Law Foundation), whose primary source of revenue is an annual auction.

With its compelling mission and immediate impact, the Hillinger fundraising project caught the attention of hundreds of alumni, bringing them closer to BC Law.

One of them was Amy Parker '13. "During my final year as a student, I volunteered for the undesirable role of selecting PILF stipend recipients. Having to deny several deserving

students funding solely based on lack of resources produced in me an exasperation that has lingered," she says.

"Last year, when my family was looking for a worthy cause, I was determined to

support PILF stipends and, fortunately, I learned of Ingrid's fund from the Advancement Office. After hearing directly from Ingrid how passionate she is about her fund and the students that it will benefit, it was an easy decision to join her and the many others she has inspired to reach an ambitious fundraising goal together."

Shannon Johnson '15, who spent last summer at the Los Angeles Center for Law and Justice, thanks to the Hillinger Fund, is deeply grateful for the opportunity.

"So many awesome things happened," she says. "It was really meaningful." She was mentored by a prominent immigration attorney; did community work, particularly with children who had crossed the border; and built relationships with clients.

"When I think about the widespread benefits that BC Law is experiencing from the *Light the World* campaign," says Dean Vincent Rougeau, "I am reminded of the remarkable impact that each of us can have when we join forces. This fund is a perfect example of what our community can achieve."

Professor Ingrid Hillinger, center, with public service scholars Alena Chaps '16, left, and Shannon Johnson '15.



BOSTON COLLEGE  
**LIGHT·the·WORLD**  
A CAMPAIGN FOR BOSTON COLLEGE LAW SCHOOL

**With the *Light the World* Campaign entering its final stretch**, BC Law is experiencing enormous success. The Law School soared past its \$50 million goal a year ahead of schedule, and recently surpassed \$60 million. Most importantly, the campaign has positioned BC Law for remarkable achievements, having added four endowed, named professorships; enhanced its generous need-based and merit aid to ensure that a legal education is accessible to talented students from all backgrounds; and expanded the amount and types of funding for those pursuing public service careers. *Light the World* will draw to a close on May 31, 2016, after which we look forward to celebrating the broad participation of our many generous alumni, parents, and friends.

## CAMPAIGN DONORS\*\*

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## You're Invited!

*Join your classmates and colleagues at BC Law's biggest celebrations of 2016.*

### LAW DAY / MAY 3

RECEPTION, DINNER & AWARDS CEREMONY

BOSTON HARBOR HOTEL

5:30 P.M.: RECEPTION

7 P.M.: AWARDS CEREMONY

Honors outstanding individuals for their courage and commitment to the ideals of BC Law School. Proceeds support the Law School Fund for student scholarships.

To view a list of award recipients and secure your seat at this event, visit [bc.edu/lawday](http://bc.edu/lawday).

### 2016 REUNION & ALUMNI WEEKEND / NOVEMBER 4 & 5

FOR ALUMNI WHO GRADUATED IN CLASSES WITH YEARS ENDING IN 1 OR 6.

Join us for this weekend-long celebration of social, academic, and networking events on campus and at the Ritz-Carlton in Boston.

To join your Reunion Class Committee, contact Patrick Carpenter at [patrick.carpenter.2@bc.edu](mailto:patrick.carpenter.2@bc.edu). To learn more about the weekend events, contact BC Law's Alumni Association at 617-552-4378 or [bc.law.alumni@bc.edu](mailto:bc.law.alumni@bc.edu).





# GIVING 2014-2015 REPORT

A HEARTFELT THANK YOU TO ALL THE ALUMNI AND FRIENDS OF BOSTON COLLEGE LAW SCHOOL FOR YOUR GENEROUS SUPPORT.



The Report on Giving recognizes all donors who made a gift to Boston College Law School during the fiscal year spanning June 1, 2014 to May 31, 2015.

Considerable care has gone into the preparation of the Report on Giving.

Each donor is very important to us and every effort has been made to achieve accuracy. If we have omitted or incorrectly recorded a name, we sincerely apologize and ask that you contact Amanda Angel, director of annual giving, at 617-552-8696 or [amanda.angel@bc.edu](mailto:amanda.angel@bc.edu).

ILLUSTRATION BY MARC ROSENTHAL



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The Dean's Council recognizes the generosity of the many alumni and friends of Boston College Law School who make leadership gifts of \$1,500 or more (\$1,000 for alumni who graduated within the last five years) for any purpose in each fiscal year.

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Richard M. Sandman •  
Marilyn D. Stempler •  
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Maureen A. Varley •  
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Fred D. Weinstein  
Lynn G. Weissberg •  
Judy Willis •  
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Norah M. Wylie ••

#### 1980

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Edward F. Donnelly •  
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Lawrence E. Fleder •  
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Carol A. Gross •  
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Ann Kendall •  
James H. Lerner ••  
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Robert C. Mendelson ••  
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Susan L. Repetti •  
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Dion C. Wilson •

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David E. Jose

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Francis Matthew Lynch ••  
James P. Maxwell •  
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Joseph E. Mitchell  
Elizabeth R. Moynihan  
George W. Mykulak ••  
Harry O'Mealia ••  
Ann L. Palmieri •  
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Sherman H. Starr  
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Robert M. Wolf ••  
Diane Young-Spitzer •

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Michael John Bevilacqua ••  
Kevin Michael Carome ••  
Jeffrey A. Clopeck •  
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Barbara B. Foster •

Ellen Frank •  
Virginia Warren Fruhan •  
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Edward A. Giedgowd  
Edith Adina Goldman •  
Robert L. Goodale •  
Kevin T. Grady •  
Andrew Clark Griesinger •  
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Janet Lynn Hoffman ••  
Sharon Ann Kroupa •  
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Robert Paul Snell •  
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Christopher Wayne Zadina

#### 1983

William R. Baldiga •

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Pamela Downing Brake ••  
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The BC Law Ambassadors Program promotes giving to Boston College Law School among alumni working at law firms with a large BC Law alumni presence. Since its launch in 2005, the Ambassadors Program has grown to include 13 participating firms. For more information about the Ambassadors Program or to learn how your firm can join, please contact Amanda Angel at amanda.angel@bc.edu or at 617-552-8696.

**WE ARE PROUD TO ANNOUNCE THE HIGHEST PARTICIPATION AND TOTAL GIVING ACHIEVEMENTS FOR FY15:**

#### Participation

*Gold:* Jones Day ..... **83%**  
*Silver:* Mirick O'Connell ..... **79%**  
*Bronze:* Goulston & Storrs ..... **67%**

#### Total Giving

*Gold:* Holland & Knight ..... **\$25,800**  
*Silver:* Choate Hall & Stewart ..... **\$25,450**  
*Bronze:* Goulston & Storrs ..... **\$19,126**



*“My years at BC Law led me to a holistic professional perspective, so much so that even though I have not practiced traditional law in 25 years, I nevertheless use the lessons I learned at BC Law every day.”*

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Ivelisse J. Berio LeBeau •  
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Joseph P. Curtin •  
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Tony Tiu Yeh •

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Krista D'Aloia Busnach •  
Erin Theresa Cashman  
Kathleen C. Corkins •

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Hallahan •  
Maureen E. Curran •  
Paul G. Cushing  
Daniel J. Driscoll •  
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Charles Fayerweather •  
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Stephen V. Falanga  
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Jill W. Goldberg •  
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Michael G. Donovan •  
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*“I am indebted to the school, especially for the instruction, clinical training, and collegial and collaborative environment. I give to BC Law so current students can enjoy a similarly positive experience.”*

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 Thomas James Murphy •  
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 Laura M. Twomey •  
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*“BC Law has been good to my family, spurring us on to legal service that resulted in personal fulfillment and integrity-based legal practice. What could be better than giving back with the hope that the tremendous legacy will continue to flourish with new BC lawyers for generations.”*

Deirdre O'Connor Quinn '90

*“BC Law is special because of the professors, classmates, and alumni I met along the way. I realize this welcoming community is self-perpetuating and I give so that the next generation of BC Law students can have a similar experience.”*

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## It's About Time

**A gender-equal military can engender citizen leadership.** BY DAVID DELANEY '03

Secretary of Defense Ashton Carter has determined that combat positions will be open to women beginning this January. It is the right decision for the armed services and the nation. It is also a courageous one because it rejects a Marine Corps recommendation that infantry and force-reconnaissance units remain male-only. Navy Secretary Ray Mabus publicly rejected the Marines' position and set the stage for Secretary Carter's decision. The secretaries' actions are worth studying and praising at law schools to develop leaders and promote social justice. ¶ As the propriety and challenges of the momentous change are debated, I encourage a focus on citizenship and gender equality. Regarding the former, I think of George Washington's 1775 letter to the New York legislature: "When we assumed the Soldier, we did not lay aside the Citizen." Washington offered this as assurance that he would return to civilian life after the Revolutionary War. I suggest two contemporary meanings of this poetic statement. ¶ The first is that military leaders must view their stations as temporary, incomplete departures from civilian life. Service members are charged to approach their responsibilities on behalf

of a nation, not just a branch of service, military unit, political party, or ideology. This can be daunting. Individuals and organizations operate with and develop biases and flaws; however, great leadership enabled the Army, Navy, and Air Force to recommend that women serve in infantry, special forces, and other combat positions.

The second is that the opportunities of citizenship must be available to all. To exclude women from combat roles is to deny them the opportunity to give full expression to their understanding of citizenship. It also limits their opportunity to be role models, and perhaps even tomorrow's citizen-soldier-stateswomen par excellence.

Regarding gender equality, I think immediately of a former student. She volunteered to serve fellow veterans through a disability clinic. A discussion with veterans in another public service program quickly revealed that one's era of service, combat status, and gender create a pernicious hierarchy. It occurred to me that my great professional mentors—former judges, a US Senator, a dean—provided better examples of character, leadership, justice, and public service. They all happen to have served in combat positions. There are no equivalent female role models for my student to emulate, but they should abound for the next generation.

My student's experience demonstrates how organizational values and culture shape personal views. West Point and the Army Military Police Corps exposed me to (comparatively) extraordinary gender diversity during my military service. My classmates, commander, machine-gunners, and patrol officers were women. Photos of female generals dating to the 1970s hang in the Military Police museum for all to regard. Female Military Police soldiers have seen combat since 1983 in Grenada and earned awards for combat valor since Panama in 1989. In recent months three women graduated from the Army's Ranger School. Two are West Point graduates; one of these is a Military Police officer. I feel a deep kinship with these comrades-in-arms particularly because West Point and the Military Police Corps have enabled it in me. The best academic and professional institutions will do the same.

Law schools already seek diverse faculty and student populations to create ideal learning environments. Teaching leadership throughout the curriculum can further improve a law school's culture. It would be particularly fitting for BC Law to invite Secretary Carter or Mabus to campus to recognize that their leadership embodies the highest ideals of the legal profession: to work toward a more just society.

*David Delaney '03, who teaches at Indiana University's Maurer School of Law, was the founding president of the BC Law School Veterans Association.*



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