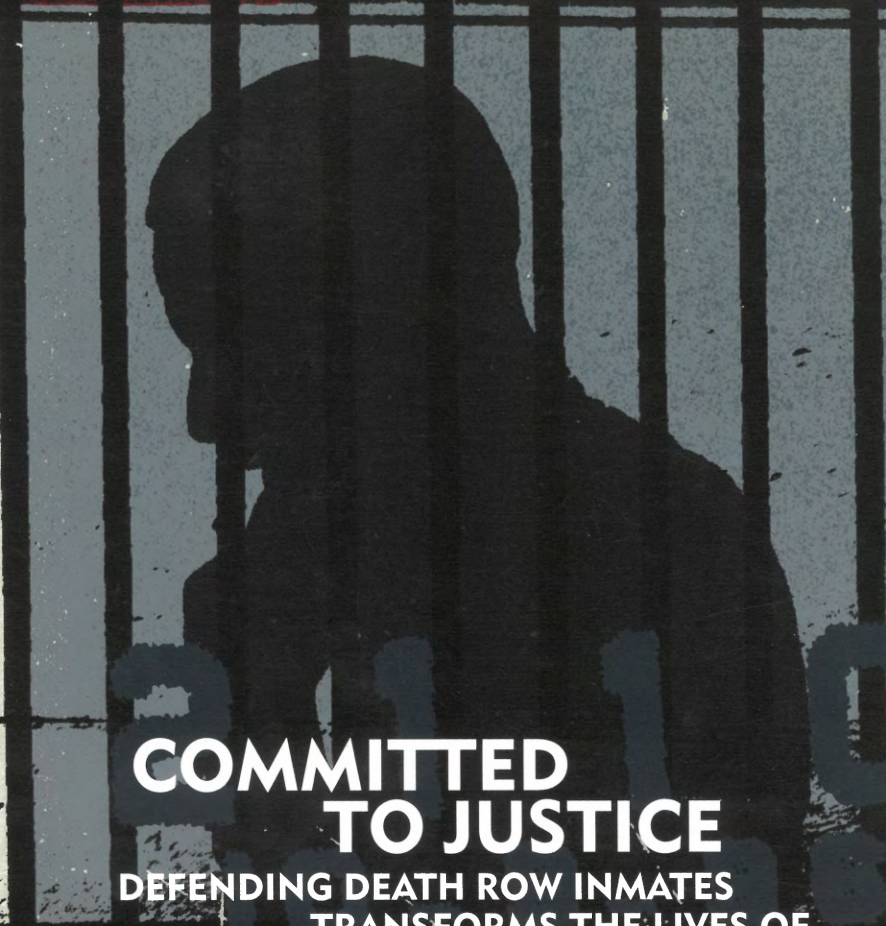


boalt hall

transcript



COMMITTED TO JUSTICE

DEFENDING DEATH ROW INMATES
TRANSFORMS THE LIVES OF
CLINIC STUDENTS

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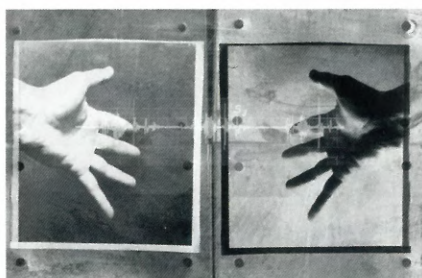
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Dean's Message

A great law school like Boalt Hall is composed of many parts. At its heart lies the faculty. A strong faculty attracts the best students and, of course, even more great scholars. This is why I am so excited about the new professors joining us this fall. All were highly sought after by the nation's best law schools, and convincing them to choose Boalt was a terrific victory. We cannot pay as much as other top-10 schools, and local housing costs present a challenge, but each of these three scholars was attracted by the strength of Boalt Hall and the outstanding research environment made possible by the contributions of alumni and friends. It is a genuine pleasure to introduce them.

Catherine Albiston '93/'01 (Ph.D.) and Jonathan Simon '87/'90 (Ph.D.) return to Boalt to teach in our J.D. and JSP Programs. Albiston, an authority on gender-based discrimination, comes to us from the University of Wisconsin Law School in Madison, where she also held affiliate appointments in the Sociology and Women's Studies Departments. Simon, a criminal justice expert, is a former professor at the University of Miami School of Law and University of Michigan Political Science Department. Goodwin Liu, an education and social welfare law scholar, comes to us after helping to shape government policy at the U.S. Department of Education and focusing on appellate litigation at O'Melveny & Myers.

It is also my distinct pleasure to welcome Kathy Abrams as our new associate dean and to thank the indefatigable Jan Vetter for his three years of service in that slot. You can read about this changing of the guard and our new professors in the Faculty News section.

In addition to our faculty news, I'm also happy to announce that Dave Stewart '86 will be taking the reins of the Boalt Hall Alumni Association this year. Thanks to both Dave and departing president Chuck Shimada '79 for their dedication to fostering our alumni community and improving the lives of Boalt students.

Along with introducing you to the new faces at Boalt, this issue investigates the inner workings of Boalt's Death Penalty Clinic, an amazing union of faculty and students who tirelessly defend the rights of death row inmates. These folks work 24/7; the lights in their offices are always on.

Turning to uncontroversial topics, this issue includes an essay by Franklin Zimring comparing U.S. and European views on the legitimacy of the death penalty; and an essay by Jesse Choper exploring the 9th Circuit's recent ruling regarding the Pledge of Allegiance. We also highlight the lives of George Davis '31 and Paula Boggs '84. A high-profile criminal defense lawyer with a passion for the Bill of Rights, Davis shares details from his legendary career. Boggs, now general counsel for Starbucks, discusses her varied career path—including working on the "Star Wars" missile defense system and completing paratroop jumps.

As always, questions, comments and thoughts are welcome at berringer@law.berkeley.edu. I look forward to seeing you at the All-Alumni Reunion this October.


ROBERT C. BERRING JR. '74

Student Stands Up for Berkeley's Homeless

As an intern at the East Bay Community Law Center (EBCLC), Mark Davey '03 had an easy time identifying with his clients. "A few months ago, I was walking down the street past a kid with a Mohawk who asked, 'Spare some change so I can get a decent haircut?'" says Davey. "It really gave me pause because that had been my line 15 years ago."

At 16 Davey left his home in rural Mississippi and came to Berkeley, where he spent nearly two years living on the streets. Eventually the lifestyle took its toll, and he decided to find a way out. "I cleaned up a few bad habits and was lucky enough to find both work and a place to live that didn't require a huge deposit," says Davey.

After spending a year working in restaurants and at odd jobs, he enrolled in a

literature class at Merritt College in Oakland. "I took classes on and off for around 10 years and finally realized that I had a lot of credits I could transfer," says Davey. He applied to UC Berkeley and was accepted, graduating with a degree in history. He then worked as a paralegal for two years before coming to Boalt Hall—where he quickly signed up as an intern with EBCLC.

With his calm, thoughtful demeanor, it is hard to imagine Davey in his former life on the streets. "Mark is the ideal combination of compassion and professionalism," says Tirien Steinbach '99, EBCLC staff attorney and clinical supervisor. In May Davey received the law school's Brian M. Sax '69 Prize for Excellence in Clinical Advocacy. The award recognizes Davey's contributions to Suitcase Clinic Legal Services (SCLS), an EBCLC project that addresses the legal needs of the local homeless community.

As an intern with SCLS, Davey provided one-on-one legal services at weekly drop-in clinics. "We'd get questions on topics ranging from family law to personal injury—even copyright issues raised by street vendors," says Davey. Clinic volunteers also handle citations for sleeping in public, trespassing or panhandling. "Because those cited are often mystified by

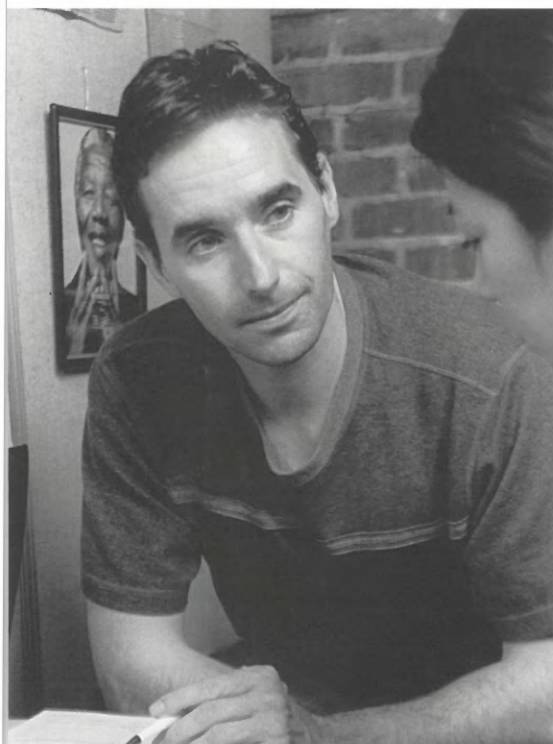
the process and unable to pay the fine attached to these tickets, many don't deal with them," says Davey. This may cause a recipient to receive an additional misdemeanor and a bench warrant, creating greater complications. The clinic works to have citations dismissed before this happens.

Davey also worked on creative policy solutions with SCLS. He is the driving force behind the Vehicular Integration Program, a proposal before the Berkeley City Council that would create designated areas for people living out of their cars. Participants would not be ticketed or towed, helping them to keep what is often their last option for shelter.

"Mark is a brilliant and generous advocate and a creative and fearless problem-solver," says Steinbach. "I can honestly say that the success of Suitcase Clinic Legal Services is in large part because of the work Mark has done for clients, the community and other students."

"When I was living on the street, I used to be amazed at how people could walk past others in need and not see them," says Davey. "Then as I grew older, I found myself doing the same thing. It felt as if a piece of my humanity, the part that cared, was gone."

"I was warned about many things before coming to law school, but no one ever warned me to be careful because I might recover my humanity here. Yet, through the clinical program, that's what happened."



As an intern with the East Bay Community Law Center, Mark Davey '03 provided legal services for the local homeless community at weekly drop-in clinics.

RACING AN EPIDEMIC

Professor Persuades Sri Lankan Government to Reexamine HIV Policies

Visiting Sri Lanka this spring felt like stepping back in time for Professor Laurel Fletcher.

In the country to give a series of public lectures on the role of human rights in access to HIV treatment, Fletcher said current conditions in Sri Lanka reminded her of what the United States faced when

the AIDS epidemic began.

"People don't understand transmission. There's a high degree of stigma attached to the disease: families don't want doctors to list AIDS as the cause of death, people are fired from work,

their homes are burned," says Fletcher, who directs Boalt's International Human Rights Law Clinic.

Sponsored by the Fulbright Commission, the lectures followed Fletcher's work with the AIDSLanka project, in which she and colleagues drafted a legal memorandum to the World Bank and the Sri Lanka Ministry of Health explaining why HIV/AIDS prevention projects need to address treatment. The AIDSLanka project, which advocates for increased treatment in Sri Lanka, is a collaborative effort by students and faculty from the International Human Rights Law Clinic; the Samuelson Law, Technology & Public Policy Clinic; the East Bay Community Law Center; and the AIDS Coalition, a Sri Lankan organization. The next phase of the initiative involves a pilot project at Kandy General Hospital in Kandy, Sri Lanka, that will provide HIV treatment—an effort headed by EBCLC attorney Manel Kappagoda, who joined Fletcher on the trip.

Fletcher's goal was to encourage the Sri Lankan government to move forward on providing treatment. "Unless you provide people with treatment, there's no incentive to come forward and get tested," she says.

The government's biggest concern is how it will afford medical treatment for those infected. "And our message was, 'You can't *not* afford to provide treatment. You can get out ahead of this. Treatment is cheaper than having your country devastated by the epidemic,'" Fletcher says.

Fletcher's message was powerful enough to persuade the government to reexamine its policies. In the wake of her lectures and a meeting with advisers to the president and prime minister, Sri Lankan President Chandrika Bandaranaike Kumaratunga agreed to convene a meeting with lead government agencies and human rights groups to discuss national HIV/AIDS policies. The meeting is an unprecedented gathering in Sri Lanka and could signal a critical change in governmental policy.



This spring Professor Laurel Fletcher gave a series of public lectures on HIV/AIDS treatment in Sri Lanka.



Bryan Stevenson, executive director of the Equal Justice Initiative of Alabama, greets a student following his March talk. Stevenson's lecture, sponsored by the Center for Social Justice, focused on his work litigating on behalf of condemned prisoners.

Alumni Association of Japan Holds Inaugural Meeting

May marked the first meeting of the newly formed Boalt Hall Alumni Association of Japan. Held in Tokyo, the event was attended by many alumni, as well as former Visiting Sho Sato Professors Kahei Rokumoto of Tokyo University, Takao Tanase of Kyoto University and Setsuo Miyazawa of Wasada University. Professor Harry Scheiber, director of Boalt's Sho Sato Program for Japanese and U.S. Law, spoke briefly about new appointments and programs at Boalt.

Professor Yasuhei Taniguchi '63 (LL.M.) of Kyoto University was unanimously elected as the association's first president at the meeting. Taniguchi practices law in Tokyo and is a member of the judiciary panel of the World Trade Organization.



World War II veteran Michel Thomas (left) gives testimony as Michael Ballachey '63, a retired judge of the Alameda County Superior Court, presides over a mock trial held at Boalt in April.

HOLDING COURT

Students Gain Insight into Libel Through Mock Trial

In April attorneys Anthony Glassman '65 and John Bartko '65 squared off in a mock trial that pitted freedom of the press against a person's right to preserve his good reputation. Held at Boalt, the event was based on a defamation case filed by World War II veteran Michel Thomas against the *Los Angeles Times* after it printed a skeptical article about Thomas' life in 2001.

After the complaint was dismissed by a Los Angeles district court and the U.S. Court of Appeals for the 9th Circuit affirmed, Glassman, Thomas' lawyer, approached Professor Emeritus Robert Cole about holding a mock trial.

"The mock trial let Thomas respond and record his side of the story for posterity," says Glassman. "He didn't want the *Times* story to be the last word on his life."

The proceedings were co-sponsored by Boalt Hall and UC Berkeley's Graduate School of Journalism.

The law and journalism schools did not take sides in the case but presented the trial as an educational experience for students. "This was a rare opportunity for students to watch top-notch professional litigators in action," says Cole, who coordinated the event.

Glassman said the *Los Angeles Times* declined to participate, so he invited Bartko, a former classmate, to fill in as the *Times*' attorney. Michael Ballachey '63, a retired judge of the Alameda County Superior Court, presided over the mock trial.

On the stand, Thomas recounted escaping from a concentration camp to join the French Resistance and later working as an official agent of the U.S. Army Counter Intelligence Corps (CIC). Thomas also claims to have discovered a stockpile of documents at a Munich paper mill that included the names of 10 million Nazi party members.

In the article, reporter Roy Rivenburg appeared to imply that Thomas was not an official CIC agent and was not the discoverer of the paper mill cache.

The trial included testimony by Theodore Kraus, a CIC agent who said he served with Thomas, and Robert Wolfe, a National Archives expert on captured German documents who said he was convinced Thomas discovered the cache.

The Supreme Court has held that, to win a defamation suit, public figures must prove a newspaper published an article with "constitutional malice." This standard requires either that the falsity be intentional

or that the article show a "reckless disregard for the truth."

Although there was no verdict, the event included remarks from two expert commentators, UC Berkeley journalism lecturer Bill Turner and Boalt Professor Stephen Barnett. One of the key issues for the commentators was whether implications could be considered defamatory.

"The odd thing about this case was that there was no contention that any statement in the article was wrong," said Turner. "Most libel cases are about the truth, while this trial was about language and how it was used. I think the trial judge was right to dismiss it. Some courts have held that implications cannot defame, and this suit had little chance of success."

Barnett disagreed with Turner that implications could not be defamatory, but still thought that Rivenburg's article was protected speech.

"Just as the legal system benefits from an adversary approach, so does journalism," Barnett said. "I think Thomas was treated unfairly, but I don't think this can be remedied without the legal standard necessary to protect this genre of journalism being severely undermined. Thomas has to be regarded as a sacrifice on the altar of free speech."



During the Stefan A. Riesenfeld '37 Symposium in February, Jodi Swick '03 (left) and Volinka Reina '04 present the 2003 Board of Editors Award from the *Berkeley Journal of International Law* to keynote speaker Adolfo Aguilar-Zinser, Mexico's ambassador to the United Nations.



Judge Alex Kozinski (center) of the U.S. Court of Appeals for the 9th Circuit and Professor Stephen Barnett speak with students following a question-and-answer session with the judge. The February event was sponsored by the Boalt Hall Federalist Society.

FAIR USE OR FOUL PLAY?

Key Players Debate the Future of Digital Content

In recent years, the proliferation of digital content has become a source of heated debate stretching from Hollywood to Capitol Hill. For consumers, digital technologies offer new and better ways to use media, such as downloading songs from the Internet or using TiVo to track and record favorite TV shows. However for content providers, including the entertainment industry, these activities represent an alarming trend of consumer abuse of copyrighted content. In order to control potential misuse, many content providers have implemented Digital Rights Management (DRM) systems—the technological codes built into CDs, DVDs, personal computers, digital televisions and stereo equipment—in their products. These controversial codes are used to protect copyrights by restricting where and how consumers are able to use products.

To address the issues surrounding DRM systems, the Berkeley Center for Law & Technology held The Law and Technology of Digital Rights Management Conference in February. Participants debated what constitutes fair use of copyrighted works by consumers as DRM technology increasingly interacts with (and at times supersedes) intellectual property, privacy and contract law.

"It is critical that we create a forum for business leaders, activists, government officials and academics to confront the issues raised by DRM," says Professor Pamela Samuelson, the conference organizer. The unprecedented event included

representatives from Microsoft, the Recording Industry Association of America, and the Motion Picture Association of America, as well as fair-use advocates such as Representative Zoe Lofgren (D-California);

Stanford Law School Professor Larry Lessig; and Jerry Berman '67, executive director of the Center for Democracy and Technology.

"We need to respect the rights of the consuming public to have information flow," said Lofgren during the conference's keynote address. "I think this

conference is part of doing that."

To view online transcripts and webcasts of the conference, visit www.law.berkeley.edu/drm.



CELEBRATING ACHIEVEMENT

Alumni Commemorate Colleagues During Citation Award Dinner

At the Citation Award Dinner in May, the Boalt Hall Alumni Association (BHAA) honored its own for breaking barriers, promoting diversity and inspiring the Boalt community. More than 200 alumni gathered to celebrate the achievements of Henry Ramsey Jr. '63, Elizabeth Cabraser '78 and Professor Herma Hill Kay.

Professor Jesse Choper presented Ramsey, the former dean of Howard University School of Law, with his award. "His extraordinary career has been an exemplar of dedicated and distinguished public service," Choper said. In addition to acknowledging support of the many family and friends in the audience, Ramsey also thanked the fraternity house chef he assisted while in law school, whose support came in the form of many free meals.

Kay presented Cabraser's award, paying tribute to her role as "the people's attorney" in many successful class action lawsuits. "Elizabeth's dedicated work as a lawyer and humanitarian has improved the lives of countless individuals," said Kay. "Her integrity and accomplishments make her a national role model and bring great honor to Boalt."

The evening's festivities continued with Kay receiving the first-ever Faculty Lifetime Achievement Award, bestowed by BHAA President Charlene "Chuck" Shimada '79. "I am part of almost an entire generation of Boalt women who might never have had a woman law professor but for Herma Hill Kay," said Shimada. "She taught us the law of sex-based discrimination, and showed by her personal example that women could overcome that discrimination."



In May the Boalt Hall Alumni Association honored Professor Herma Hill Kay (left) with the newly established Faculty Lifetime Achievement Award; and presented Henry Ramsey Jr. '63 and Elizabeth Cabraser '78 with the 2003 Citation Award.

DEFENDING WORKERS' RIGHTS

Recent Grad Advocates for Low-Wage Mexican-Americans

Not many new law graduates would relish finding clients in car washes or on construction sites, but for Victor Rodriguez '03, that's the best way to reach the people who need his help most. As the recipient of a two-year Skadden Fellowship, Rodriguez will litigate wage and hour disputes for low-income Mexican-Americans in Los Angeles County while working for the Mexican American Legal Defense and Educational Fund (MALDEF).

Rodriguez believes this type of litigation is central to improving the quality of life for this struggling community. "Insurance is important, education is important, affordable housing is important, but if you don't have a protected wage and hour base, you can't pay for any of these other things," he says.

Just some of the industries Rodriguez plans to target are restaurants, car washes, agriculture and construction—all of which tend to have more low-wage, potentially exploited workers.

"The vast majority of work I will do involves going to where I think violations happen and talking to workers about their needs," says Rodriguez, a native Southern Californian of Mexican descent. "The reality is, many people don't know their rights or they don't want to put their jobs in jeopardy, so they let their rights be violated."

The Skadden Fellowship Foundation awards 25 fellowships each year so graduating law students and outgoing judicial clerks can provide legal services to indigent clients and those deprived of human or civil rights. Rodriguez developed his project with the help of MALDEF—which sponsored his fellowship and with whom he worked as a summer intern in 2002—to address the "huge, unmet need" in this litigation arena.

2003 GRADUATION

“There are different forms of activism. You could go into public interest law and face the problems head-on. And I know a lot of you are doing that. Or you could go into a firm, try to pay off your debt and pester that firm to do more pro bono work for the poor. ... You know what option I’d like you to choose—join the ongoing movement for economic fairness, for peace and for civil liberties. We could use some reinforcements out here—especially from people as smart, knowledgeable and brilliant as you all are.”

—Barbara Ehrenreich

Guest speaker Barbara Ehrenreich, political essayist and author of *Nickel and Dimed: On (Not) Getting By in America*, shares her views on the current state of the nation with the class of 2003.



An audience member holds a sign of congratulations above a sea of friendly faces as the graduates enter the theatre.



Proud family members and friends surround Jolina Cuaresma '03 following graduation.





Jurisprudence and Social Policy Program student Christopher Jon Jewel '03 (Ph.D.) receives his hood from Professor Lauren Edelman '86.



A classmate adjusts the mortarboard of Kristin Techel '03 before she takes her turn on stage.



Roger Vinayagalingam '03 celebrates with Laura Blair '03.



Austin Ku '03 waits to receive his law degree and join the esteemed ranks of Boalt's alumni.



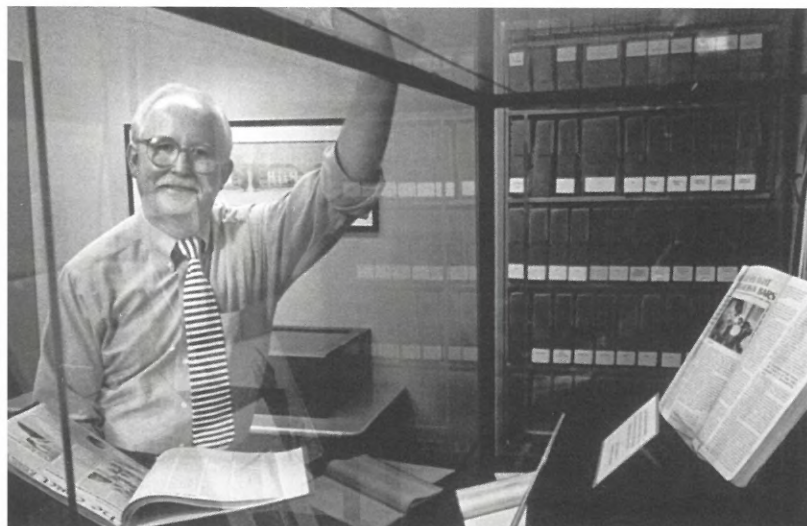
Dean Robert Berring Jr. '74 congratulates Robert Binion '03, who holds his daughter Deirdre.



Kevin Gordon '03, Carlie Ware '03 and Jamaar Boyd '03 (left to right) are excited to begin the ceremonies.



Class of 2003 co-president Nicole Ozer '03 (right) stands ready to deliver her student address beside Jennifer Schlotterbeck '03, winner of the Environmental Law Writing Award.



Archivist William Benemann, head of technical services at the law library, preserves and displays memorabilia from Boalt's history.

MILESTONES AND MEMORIES

Boalt Archives Display Serious and Offbeat Offerings

Long before he ran for U.S. vice president or authored the *Brown v. Board of Education* decision, a young Berkeley law student named Earl Warren '14 danced a two-step at the 1910 sophomore hop. Warren's tasseled dance card and other items from his childhood, Berkeley years and early legal career are some of the many artifacts in the Boalt Hall archives.

William Benemann, head of technical services at the law library, has spent more than five years culling library collections in hopes of developing a center to display historic information about Boalt. His work paid off in October 2002 when he established a display room at the east entrance of the library. "Once I announced the archives," says Benemann, "people started sending literally cartons of stuff."

Rotating displays run the gamut from century-old course catalogs to a first-year-student "face book" whose pages include one of the school's most well-known students, Doonesbury character Joanie Caucus (class of '77). Another display featured "Boalt Imagined: Architectural Drawings of What Is and What Might Have Been," a series of design plans for the law school dating back to the 1950s.

This year Benemann created "The First Three: The Centennial Celebration of the First Berkeley Law Degrees, 1903," which explores the lives of the first graduates of Berkeley's Department of Jurisprudence. "The three men who received those degrees left campus to pursue very different courses in life," says Benemann.

Harry Aaron Hollzer was a judge for the U.S. District Court for Southern California. Motoyuki Negoro, a labor activist in Hawaii, was sent to prison for his part in the 1909 strike against sugarcane plantation owners. And Charles Irving Wright practiced law for 26 years before operating a sports fishing resort in the Florida Keys.

For information about hours and exhibits, call 510-642-8722.

Victim Liaison Shares Experiences Working with Families of Murder Victims

Students who hope to represent clients in capital cases must be ready to tackle many challenges, from endless hours of research and investigative work to navigating a maximum security prison. In addition, those preparing to advocate for death row defendants must face another less obvious but vitally important challenge—communicating with victims' families.

In February Tammy Krause, an associate of the Institute for Justice and Peacebuilding at Eastern Mennonite University, came to Boalt to discuss her work as a victim liaison in death penalty cases. Her talk, "Restorative Justice: Understanding and Working with Victims of Violent Crimes," explored how defense teams can participate in a process that embraces the needs and concerns of both their clients and the victims' families. An expert in the area of restorative justice, Krause has teamed with defense counsel to reach out to victims' families in numerous capital cases, including *U.S. v. Timothy McVeigh*. The talk was sponsored by Boalt's Death Penalty Clinic.

During her spring lecture, Tammy Krause discusses her work with victims' families in death penalty cases.



Faculty News

Faculty Highlights

Mary Louise Frampton and Jeff Selbin Recognized for Collaborative Legal Services Research

Organizations around the country use a variety of models to provide legal assistance to low-income people and communities. But until now, few studies have tested how well these service-delivery methodologies work. East Bay Community Law Center (EBCLC) Executive Director Jeff Selbin and Boalt Hall's Center for Social Justice Director Mary Louise Frampton are out to change this through their Legal Services Delivery Project, an empirical research study that will examine the effectiveness of various models for delivering legal services.

This unique collaboration of scholars, practitioners and students will benefit from the working relationships that EBCLC, the Center for Social Justice and Boalt's Jurisprudence and Social Policy Program have established. Frampton and Selbin believe the project will help the legal services and clinical communities better frame the ongoing dialogue about access to justice and the development of anti-poverty agendas.

Their work has not gone unnoticed. In January the Public Interest Committee of the American Association of Law Schools selected Selbin and Frampton as inaugural co-recipients of the Bellow Scholar Award. Named in memory of clinical pioneer and lifelong social justice advocate Gary Bellow, the award recognizes projects that involve law students and faculty in anti-poverty or access-to-justice work.

"It's an honor to receive this recognition from our peers," says Selbin, "and especially meaningful for me because Gary Bellow was a mentor of mine in law school and a pioneer in the fields of legal services and clinical legal education. I'm also delighted to continue our close partnership with Boalt Hall in general, and Mary Louise Frampton in particular."



Three Professors Receive Prestigious Honors

The Legal Aid Society awarded the annual Mathew O. Tobriner Public Service Award to Professor Angela Harris this year for her commitment to academic diversity and for mentoring the next generation of lawyers. Harris received the award in June during the society's 87th anniversary luncheon.

In May Professor Harry Scheiber was elected a fellow of the American Academy of Arts and Sciences, a distinguished society made up of the world's leading scientists, scholars, artists, businesspeople and public leaders.

Professor Emeritus Philip Selznick's scholarship in sociology, law and society has been described as profoundly influential, illuminating and unsettling. In recognition of his significant and thought-provoking contributions to these fields, the Law and Society Association awarded Selznick the prestigious Harry J. Kalven Jr. Prize in June.

Accolades for IP Faculty Members

Two professors from Boalt's number-one-ranked Law and Technology Program were named to a pair of the *San Francisco Daily Journal's* popular rankings lists. Professor Mark Lemley '91 was chosen for the "top 25 IP lawyers in California" list in March. Two months later, Professor Deirdre Mulligan, director of the Samuelson Law, Technology & Public Policy Clinic, was designated one of the "top 20 lawyers in California under the age of 40."

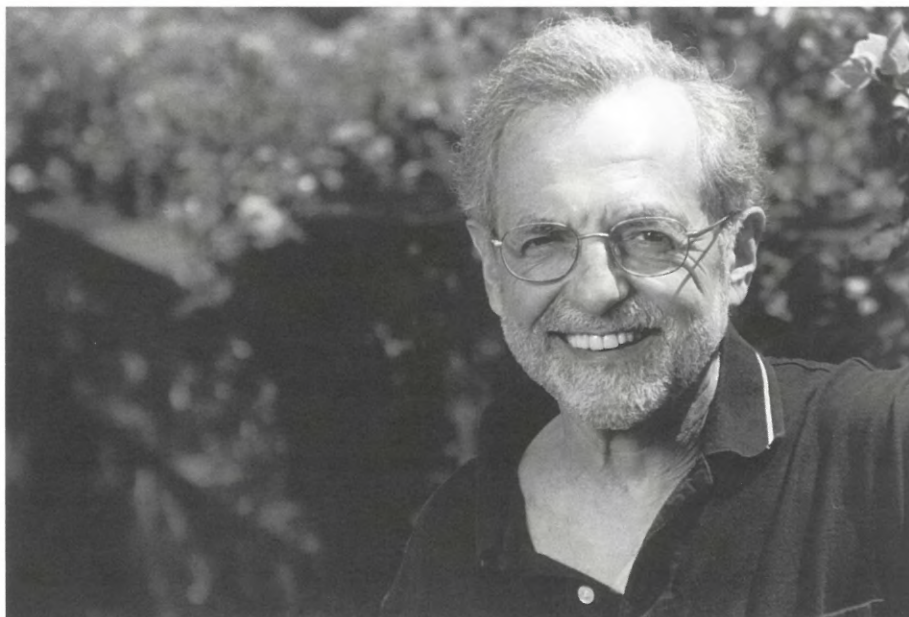
Stephen Barnett's Low Tolerance for Incompetence Leads to Change

Professor Stephen Barnett has a low tolerance for institutional incompetence. As he makes the transition into retirement this fall, Barnett admits that his lively sense of indignation has helped shape his career.

"One reason I like being a lawyer," says Barnett, "is that if you see something you think is wrong or unjust, you have the means to try to do something about it."

During Barnett's 36-year career on Boalt's faculty, he has become a leading commentator on the California Supreme Court. His analysis goes beyond the content of the court's opinions to monitor its institutional traits—chastising the justices and their staff for delays and wordiness, and dubbing it "The Bureau-court." Since 1996 Barnett has tabulated the average decision time and word count for each justice, and published the results in annual articles in *California Lawyer* magazine.

"I'm pleased that since I began my campaign the court's opinions—though still too long—have shrunk by some 20 percent," says Barnett, "saving



trees, shelf space, dollars and time, not to mention simplifying the law."

After earning undergraduate and law degrees from Harvard University, Barnett clerked for the late Judge Henry J. Friendly of the U.S. Court of Appeals for the 2nd Circuit and the late Justice

William J. Brennan Jr. of the U.S. Supreme Court. He then practiced law for two years in New York and Washington, D.C., before joining the faculty.

Arriving on campus during the late '60s, Barnett remembers "whiffing tear gas and arguing with students every day over whether the legal system was justified," he says.

Barnett has been at Boalt ever since, apart from two years—1977 to 1979—spent as a deputy solicitor general in the U.S. Department of Justice. In that role, he argued eight cases before the Supreme Court and edited and wrote countless briefs.

These days Barnett, who often lectures abroad, supervises the master's program in law at the American University of Armenia in Yerevan, an affiliate of the University of California and Boalt Hall.

"I find the job a fascinating opportunity, not only to help a developing country," says Barnett, "but to build a new law school and university in circumstances that give special meaning to the rule of law."

In retirement Barnett plans to continue with the same activities—except teaching, which he says he will miss. "I also hope to add a second career in appellate litigation," he says.



Students celebrate with Professor Angela Harris as she receives this year's Rutter Award for Teaching Distinction: (left to right) Quyen Ta '03, Daniela Yanai '03, Serena Lin '03, Jee Park '03, Professor Angela Harris, Alegria de la Cruz '03, Marisa Arrona '03, Gabriela Gallegos '03 and Donna Maeda '03.

UNPARALLELED SERVICE

Jan Vetter Returns to Scholarship and Teaching

Professor Jan Vetter is taking a much-deserved sabbatical this fall. He may travel to Arizona, watch some NBA basketball and catch up on his research—but he surely will not be concerned about Boalt's plumbing.

In July Vetter stepped down after three years as associate dean—a difficult, thankless and ultimately vital job colleagues say includes everything from getting bathrooms fixed to dealing with university administrators. Vetter previously held the position for five years under former Dean Jesse Choper. “His record of service is unparalleled and indicates incredible loyalty,” says Dean Robert Berring Jr. “74.

with them individually,” says Vetter. “The classroom can be homogenizing, but the students are really interesting and talented.”

Berring says his departing wingman is beloved for his droll sense of humor, his subtle one-liners, his generosity, and his apparent familiarity with every book ever written. “I’ve always thought of him as the deepest thinker on the faculty,” says Berring, a onetime Vetter student. “When he talks, everyone stops and listens.”

Stepping into the associate dean job is Professor Kathy Abrams, who came to Boalt Hall in 2001 from Cornell University, where she was



After three years, Professor Jan Vetter (left) steps down as associate dean to focus on teaching and research, while Professor Kathy Abrams takes on the role.

Seeking autonomy and the opportunity to pursue his diverse academic interests, Vetter joined the Boalt faculty in 1967, after five years of practicing labor law at a Los Angeles firm. He specializes in civil litigation, has been a visiting professor at Harvard University, and in 1995 became the first faculty member to receive Boalt's annual Rutter Award for Teaching Distinction.

Known for his humility, Vetter characteristically chooses not to talk about his accomplishments, but instead focuses on what he finds most rewarding at Boalt. “I like our students—particularly dealing

director of the Women's Studies Program. She is a leader in the study of feminist jurisprudence and an expert in antidiscrimination and constitutional law. Abrams has written about sexual harassment law, hate crimes, minority vote dilution and employment discrimination.

“I’m really excited that she accepted the position,” says Berring. “Kathy’s one of those people who crackle with energy. She combines real people skills with enormous intellectual firepower. When you do that, as Jan does, people will respect you.”

Undergrad Mentor Charles McClain Is Beloved for Tough Love

Professor Charles McClain Jr. is known to be tough—and liberal with a red pen. As students in Berkeley's undergraduate Legal Studies Program, Jason and Brett Oppenheim recall “a collage of red squiggles and cross-outs, with margins engulfed in comment” on papers McClain reviewed.

Yet it was McClain who encouraged the two brothers to pursue honors theses and then served as their adviser.

“He really cares that you do well,” says Jason, who is also a 2003 Boalt graduate.

This fall McClain received the university's 2003 Award for Distinguished Research Mentoring of Undergraduates. “I’m gratified,” says McClain, “because that’s one of the aspects of teaching I enjoy most.”

McClain, a Boalt lecturer in residence, is vice chair of the law school's Jurisprudence and Social Policy Program. He is also the major coordinator for the Legal Studies Program, an undergraduate program at UC Berkeley that is overseen by Boalt Hall faculty members.

An expert on Asian-Americans and the law, McClain recently appeared in a PBS miniseries on the history of Chinese immigrants in America titled *Ancestors in the Americas*.

IN MEMORY

ESTEEMED CRIMINOLOGIST AND SOCIOLOGIST

Sheldon Messinger WAS A PIONEER IN ACADEMIA

Professor Emeritus Sheldon Messinger viewed many life experiences as “opportunities to do sociology,” says Thomas Blomberg, the Sheldon L. Messinger Professor of Criminology at Florida State University.

“After the 1992 Berkeley-Oakland hills fire, he organized a research project to investigate and improve insurance compensation methods for victims. Later he organized a sophisticated email survey to begin collecting basic epidemiological data about the rare form of leukemia he developed,” Blomberg says.

Messinger, 77, a distinguished scholar in criminology and sociology, died on March 6, 2003, of complications related to lymphoma. He was married for 53 years to Mildred Handler, who passed away in August 2000. He is survived by his sons, Adam and Eli, UC Berkeley graduates in 1978 and 1980, respectively, and by his brother, Jay.

Born in Chicago in 1925, Messinger was a veteran of World War II. He earned his Ph.B. from the University of Chicago in 1947; his B.A., with highest honors, from UCLA in 1951; and his Ph.D. in sociology from UCLA in 1969.

Messinger taught for a short time at Princeton University and spent a year with the Center for Advanced Study in the Behavioral Sciences at Stanford University before coming to Berkeley. In 1961 he was named vice chairman of the newly launched Center for the Study of Law and Society—a position he held for nine years.

“A mainstay of the Center for the Study of Law and Society’s activities, Shelly contributed greatly to the intellectual development of faculty and students,” says Professor Emeritus Philip Selznick. “For him every student was a colleague, and every colleague was a student.”

From 1966 to 1969, Messinger was a book review editor and an associate editor for *Social Problems*, the journal of the Society for the Study of Social Problems.

Messinger became a professor at UC Berkeley’s School of Criminology in 1970. He also served as acting dean and then dean until the school was phased out several years later. He then joined Boalt’s newly formed Jurisprudence and Social Policy (JSP) Program as the Elizabeth Josselyn Boalt Professor of Law. He chaired JSP twice during his 14 years on the faculty. His research and scholarship focused primarily on deviance and social control.

He received numerous professional awards, including the Richard A. McGee Award for Outstanding Contributions to Criminal Justice Research from the American Justice Institute; the Award of Merit from the California Bureau of Criminal Statistics; and the Award for Outstanding Contributions to the Field of Criminology and the Presidents Award from the Western Society of Criminology.

“Shelly had an uncanny knack for making people see their own work in new ways, and in ways that immeasurably improved upon it,” says Professor Malcolm Feeley. “He may go down in academic annals for being one of the few scholars, if not the only one, for whom a collection of essays in his honor went from a hardback to a paperback edition, and then into a revised second edition.” The book is titled *Punishment and Social Control: Essays in Honor of Sheldon L. Messinger*.

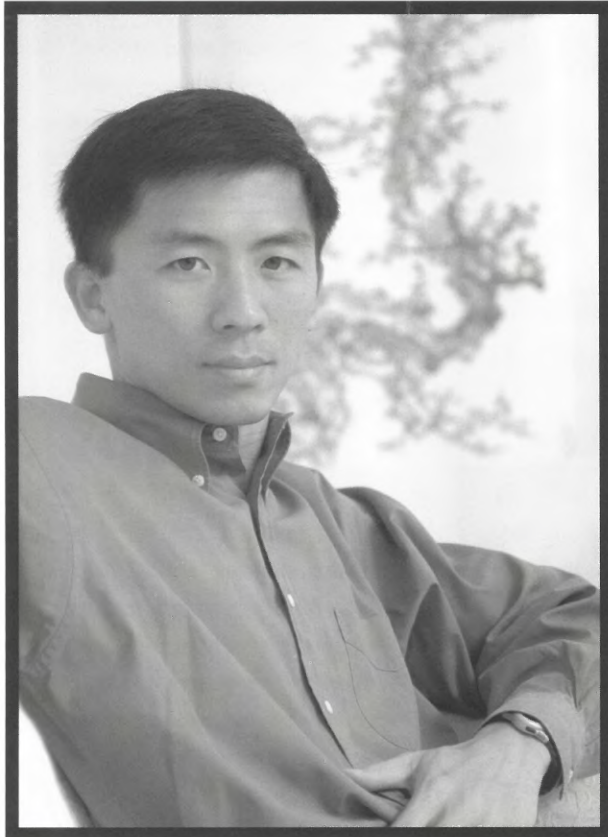
Following his retirement, Messinger remained active in university matters, serving as founding chair of the UC Berkeley Retirement Center’s Policy Board, chair of the UC systemwide emeriti association and the Academic Senate Committee on University-Emeriti Relations; and a principal architect of the Health Care Facilitator Program.

“He had a special and distinctive quality,” says Feeley. “He enriched and advanced the work of three or more generations of scholarship. He was a true pioneer, seeing beyond the particular. Shelly was truly a scholar’s scholar.”



Goodwin Liu

remains focused on enhancing education



Professor Goodwin Liu still recalls a lip-synch contest held at his predominantly white Sacramento high school during the mid-1980s. When students performed a Jackson Five number in blackface, the act didn't raise an eyebrow.

"Nobody even realized that this could be offensive," says Liu, who views the incident as evidence of the importance of diversity in academic settings. "Learning happens when you encounter a viewpoint or experience that is unfamiliar and grapple to reconcile it with what you know."

The diversity of Boalt's student body was one of the aspects that attracted Liu to the law school,

where he joined the faculty this fall. He sees his position as the ideal job.

"Being in a scholarly setting is incredibly exciting, because students always raise questions and bring new ideas," he says. "You're constantly challenged to rethink your ideas. That's why I see teaching as a shared learning experience."

Liu's commitment to enhancing education has influenced his career. After receiving his undergraduate degree from Stanford University in 1991 and studying at Oxford University as a Rhodes Scholar, Liu moved to Washington, D.C. There he worked with former President Clinton's administration to help establish the AmeriCorps program, directing a \$12.5 million

initiative to support community service programs at higher-education institutions.

He earned his law degree from Yale University in 1998 and then joined the U.S. Department of Education as a special assistant to the deputy secretary. Liu gained broad exposure to federal education policy, helping to develop legal and policy guidance on school choice, single-sex schools and the appropriate uses of testing. He also coauthored guidelines for a \$134 million federal initiative to improve low-performing schools.

In addition Liu has been part of the affirmative action debate. In an article published in the *Michigan Law Review*, he sought to debunk what

he views as a common misconception. "So much of the debate is framed through the story of the aggrieved white applicant who loses his place at a prestigious university to a minority candidate with lesser qualifications," Liu explains. "In fact, affirmative action only very slightly diminishes the chance for white applicants to be admitted."

Liu's article was recently cited by Supreme Court Justice Ruth Bader Ginsburg in the landmark *Grutter* case, which upheld the University of Michigan Law School's consideration of race in its admissions policy.

During his time in the capital, Liu had a front row seat for many controversial events. His clerkship with Judge David S. Tatel of the U.S. Court of Appeals for the D.C. Circuit coincided with the independent counsel investigation of former President Clinton's alleged affair with White House intern Monica Lewinsky. Later, while Liu was clerking for Justice Ginsburg, the Supreme Court heard arguments in *Bush v. Gore*.

Most recently Liu was an attorney at the firm O'Melveny & Myers, where he specialized in appellate litigation. The experience gave him insight into "how the business community views its problems, which is often different from how lawyers view them," he says. "Businesses are pragmatic and care not only about what makes sense legally but also about what serves their overall objectives."

Yale Law Professor Harold Koh predicts a distinguished academic career for his former student. "Goodwin has already made a huge mark in the area of education law and the design of public institutions," Koh says. "But what makes him so special is that he has an instinct about people and what makes them tick. That will make him a wonderful teacher and a wonderful leader."

CATHERINE ALBISTON '93/'01 & JONATHAN SIMON '87/'90

Scholars Return to Boalt to Join JSP Program

For David Lieberman, associate dean of the Jurisprudence and Social Policy (JSP) Program, the addition of two new faculty members is an ideal birthday present, of sorts, to commemorate the JSP Program's 25th year.

The icing on the cake is that Catherine Albiston '93/'01 (Ph.D.) and Jonathan Simon '87/'90 (Ph.D.) are JSP Program alumni, who returned to teach in the setting that helped shape their careers in law and social research.

This unique, interdisciplinary program focuses on the analysis of law and policy, and on the practice and teaching of law from the perspectives of the social sciences and humanities. The faculty includes scholars from economics, history, law, philosophy, political science, psychology and sociology.

"The JSP faculty is quite small—there are a dozen of us—so the addition of two professors in the same year is very exciting and a very considerable augmentation to our teaching and scholarly program," says Lieberman.

Championing Workplace Rights

Through her work with the Legal Aid Society of San Francisco in the mid-1990s, Catherine "KT" Albiston began observing firsthand how the law affects the lives of ordinary people. As a Skadden Fellow and then an attorney with the society's Employment Law Center, Albiston litigated some of the first cases under the 1993 Family and Medical Leave Act.

One case involved a man who had lost his job after taking 10 days of medical leave to care for his son, who was dying of AIDS. The man and his family were evicted from their apartment when they could not pay the rent.

"He was really resilient," says Albiston. "He stayed with it, got work and also stuck with the case—but I realized what workers really needed was some assistance *before* they are in that situation." Although her client did receive a settlement from his former employer, it was granted after his son had died.

As for Albiston, she had discovered a social need and was hooked. "I had already thought a lot about the different ways law matters in society," says Albiston, who earned a B.A. in psychology and an M.A. in sociology from Stanford University before coming to Boalt for her law degree.

"Working for the Legal Aid Society showed me how the meaning of rights can depend on your social position and circumstances. Knowing the law is a very powerful tool for negotiation, but that knowledge is not always equally available to workers."

She returned to Boalt to pursue her interest in law, social change and social inequality. After graduating in 2001, she became an assistant professor of law at the University of Wisconsin Law School in Madison, with affiliate appointments in sociology and women's studies.

As a professor with the JSP Program, Albiston is continuing her research investigating how institutionalized assumptions about work, gender and disability can influence people's decisions regarding their workplace rights. This project analyzes how workers have informally negotiated family and medical leave rights without legal assistance.

"Many assume that enacting new laws will solve workplace problems," says Albiston, "but deeply entrenched norms and practices regarding work can make workplace rights difficult to realize."

Another one of her projects, funded by the American Bar Foundation, creates a much-needed current map of the changing landscape of U.S. public interest organizations.

"Public interest law has expanded to include environmental and consumer-rights organizations, as well as more conservative organizations, in addition to the civil rights and poverty-oriented organizations of the '60s and '70s," says Albiston. "It's interesting to document the diversity of this form of law practice because I think it is often stereotyped as legal aid and nothing else."

"KT works centrally in some of the most important areas of law-and-society scholarship—specifically in the area of women, gender and the family," says Lieberman. "She strengthens JSP's scholarly concentration in these vital areas of study. In addition her public-law experience will benefit many Boalt students outside the JSP Program."



From Prison to Passion

As a student at UC Berkeley in the 1980s, Jonathan Simon had two experiences that focused his professional life on criminal law and the issue of imprisonment.

Participating in numerous anti-nuclear-weapons and anti-apartheid demonstrations as an undergraduate, Simon found himself—on more than one occasion—behind bars at the Santa Rita jail, affectionately referred to as “UC Santa Rita” by Simon and his activist classmates.

Despite the humor, Simon’s sobering jail time left him with questions he still ponders.

“There’s nothing like being inside prison, even as a short-term guest,” says Simon. “Incarceration struck me as a totally interesting phenomenon. Putting aside why people would want to do that to other people, or whether they have the right to, just that sociological moment was fascinating to me.”

As a student in the JSP Program, Simon was able to meet, and attend a seminar with, French philosopher Michel Foucault, whose 1975 book

Discipline and Punish questioned the paradoxical centrality of prisons to societies that celebrate freedom.

“Foucault unleashed a huge tidal wave of ideas in my life that I have been dealing with ever since,” says Simon.

These issues are as relevant today as they were when Simon was a student. Back in 1980, there were 24,000 prisoners in California; now there are more than 160,000. “I’ve become interested in the fact that the institution of imprisonment—which seems so anomalous to a civilized society—is actually growing,” says Simon.

With recent publications—such as his current book project *Governing Through Crime: Criminal Law and the Transformation of American Governance* and the chapter “Embracing Risk,” published in *Embracing Risk: The Culture of Insurance and Responsibility*—Simon brings to Boalt his extensive scholarship in the area of crime in society, as well as his research in the area of insurance and the culture of risk in America.

Before coming to Boalt this fall, Simon was a professor at the University of Miami School of Law for 10 years and an assistant professor in the Political Science Department at the University of Michigan for two years.

“Jonathan joins Franklin Zimring, Malcolm Feeley and Robert MacCoun to create a new critical mass in criminal justice studies,” says Lieberman, “both for JSP and for the law school’s J.D. Program.

“What’s so striking about Jonathan is how he works in areas that are much studied—such as contemporary trends in punishment, policing and crime control—where so much has already been said and repeated; yet he always brings new light and excitement to these well-researched topics.”

PROTECTING SHAREHOLDERS

Stephen Choi

explores how business law intersects with real life

When Professor Stephen Choi teaches Corporations, he doesn't just march up to the podium and lecture. Choi wants his students to see the law the way he does—as living and dynamic, rather than as static, unyielding rules. To that end, he creates a hypothetical fledgling business, complete with real-world problems for his students to solve. As the course progresses, the business grows into a large corporation facing complex problems that students analyze and solve using applicable laws.

Mark Altman '04, one of Choi's former students, says navigating the problems of an invented corporation was a refreshing change from traditional lectures. He recalls negotiating an employment contract between a company representative and Dr. Iceshavings, a soda inventor. This style of interactive teaching, says Altman, ensured that students worked with each other and understood the legal concepts. "It gave us a chance to discuss our successes and correct our mistakes—and was very effective," he says.

Choi, an energetic teacher and a prolific researcher and writer, seems a natural fit for academia, although as an undergraduate his initial plan was to be a doctor, not a university professor. That career plan was derailed during his junior year at Harvard University, when he enrolled in the course Justice.

"The class opened my eyes. Up until then, I thought of the law as rules that needed to be memorized," says Choi. "This course taught me that the law encompasses policy, social norms and a sense of fairness in how people desire to interact with one another. The class brought the law alive."

Realizing he wanted to focus on business law, Choi scrambled to change his major to economics.

He remained at Harvard for graduate school, where he earned joint degrees: a J.D. along with a Ph.D. in economics. Afterward he joined the consulting firm McKinsey & Company in New York as an associate in order to gain a "ground-level glimpse" of how business was conducted within corporations. The experience helped focus Choi's research interests on the theoretical and empirical analysis of corporations and capital markets.

After two years teaching at the University of Chicago Law School, Choi came to Boalt Hall in 1998. Although Chicago has a great academic environment, Choi says, Boalt Hall offers greater intellectual freedom, more collegiality and better weather.

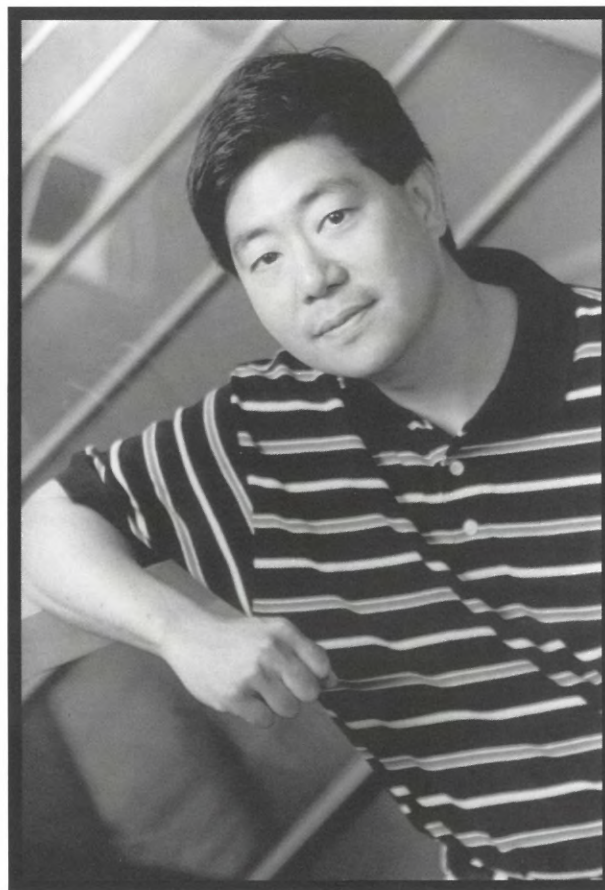
"I have never met anyone with as much energy as Steve," says Professor Jesse Fried, who attended Harvard with Choi. "He is able to get done in one academic year what it would take most people two or three years to accomplish. He's deeply invested in his research."

Choi says his work continually intersects with real life. "Much of people's livelihoods—their jobs, their investments—are caught up in the financial markets," he says.

Choi's research focuses on how to protect investors through regulation, which he says is often imperfect, or market-based protections. He recently coauthored "Behavior

Economics and the SEC," a paper for the *Stanford Law Review* that examines investor behavior and how it suffers from biases, such as overconfidence. Another article, "How to Fix Wall Street: A Voucher Financial Proposal for Securities Intermediaries," published this year in the *Yale Law Journal*, explores conflict of interest problems among Wall Street analysts.

Choi considers the protection of investors to be vitally important. "These are big problems: how to keep our savings safe and how capital markets can help companies create jobs and business, despite the ups and downs," he says. "A lot of people's happiness depends on this."



Elisabeth Semel

takes on a national issue

It takes chutzpah to decide you are going to be a prima ballerina when you are only “five foot one-ish,” but that’s something Elisabeth Semel has never lacked. Says the founding director of Boalt’s Death Penalty Clinic: “In my late teens, I finally realized I wasn’t ever going to be Margot Fonteyn’s successor. My parents heaved a sigh of relief when I decided to go to college.”

Semel may be petite, but she is a giant of the American defense bar. Named one of California’s 100 Best Lawyers by the *San Francisco Daily Journal* in 2002, she is also an avid San Francisco Giants fan, a cat lover and a true believer in clinical legal education.

There is a reason the Death Penalty Clinic, like Boalt’s other clinics, is swamped with applicants, according to Semel. “The students absolutely clamor for the experience,” she says. “It makes their legal education real. But it also—and I emphasize this to them—makes responsibility real.”

Taking responsibility for a client is why most students come to law school, says Semel, and a clinic lets them do this in a setting where they are supervised and guided. “I think it is an integral part of a good legal education,” she says.

Semel pushes her students as much as she pushes herself. “She is one of the hardest-working professors I’ve known,” says former clinic student Chhaya Malik ’03. “I belonged to a student group with an office near Lis. We sometimes worked until 11:00 or 12:00 at night, and Lis was always there, still working.”

Semel grew up passionate about justice and the law. “It’s genetic and familial,” she says. “I was raised in a family where social conscience and civil rights were what my parents practiced.” Semel’s late father was a labor negotiator; her



mother, a longtime civil rights activist, now heads the ecumenical organization United Religions.

When Semel wasn’t busy getting tear-gassed at Vietnam War protests, she was studying at Bard College, where she earned her undergraduate degree in 1972. She then received her law degree from UC Davis School of Law in 1975.

“I knew when I went to law school that I wanted to be a public defender,” she says, “and when I was hired at \$12,000 a year, I was in fat city.”

After working as a public defender, she practiced for many years with criminal defense attorney Steven Feldman in San Diego. “Lis is a brilliant, committed woman,” says Feldman. “She has devoted her whole life to fighting for the underclass and working for justice.”

In 1997 Semel made a career change and moved to Washington, D.C., to head the ABA

Death Penalty Representation Project and persuade law firms to work on capital cases. For the next four years, as one colleague put it, Semel begged, cajoled and guilt-tripped corporate firms to take the cases pro bono. She also started teaching a death penalty seminar at Georgetown University Law Center in 1998.

“When we were thinking of establishing a death penalty clinic here, Lis was one of the very first people I called,” says Professor Charles Weisselberg, director of Boalt’s Center for Clinical Education, who has known Semel since 1985.

“She has done tons of murder trials, and her dedication to her clients and her willingness to go the extra mile for them is legendary.” He adds, “In terms of finding somebody who would inspire the students and model the practice of law for them, there is no one better.”

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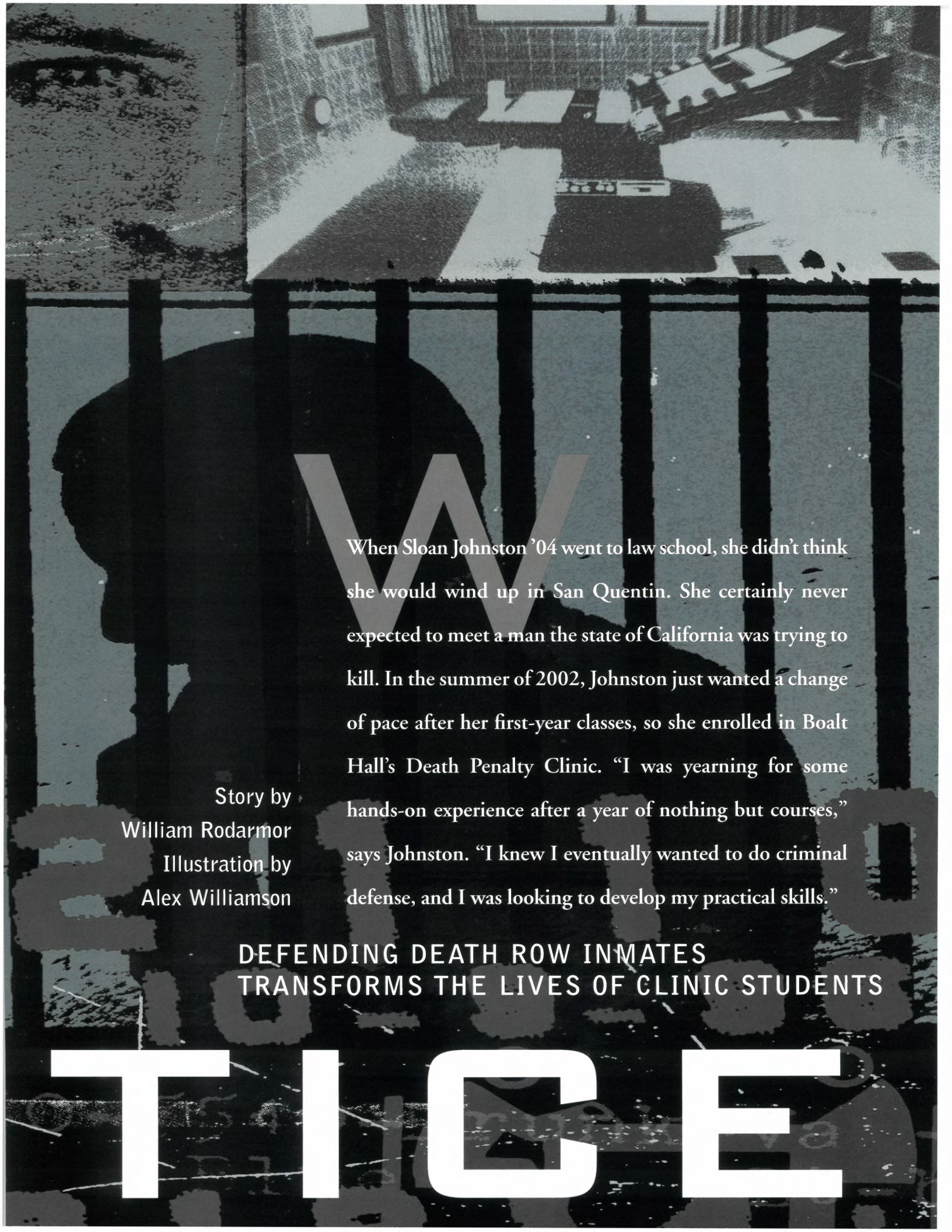
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When Sloan Johnston '04 went to law school, she didn't think she would wind up in San Quentin. She certainly never expected to meet a man the state of California was trying to kill. In the summer of 2002, Johnston just wanted a change of pace after her first-year classes, so she enrolled in Boalt Hall's Death Penalty Clinic. "I was yearning for some hands-on experience after a year of nothing but courses," says Johnston. "I knew I eventually wanted to do criminal defense, and I was looking to develop my practical skills."

Story by
William Rodarmor
Illustration by
Alex Williamson

DEFENDING DEATH ROW INMATES
TRANSFORMS THE LIVES OF CLINIC STUDENTS

T I C E

committed to JUSTICE

Johnston's skills now include navigating San Quentin's locking sally ports, remembering not to wear denim or metal when visiting a prison, and being able to sit down and talk easily with a man condemned to death.

And Johnston is still learning. Even after she and Professor Elisabeth Semel, the clinic's director, had made half a dozen trips to the little brick outbuilding at San Quentin where legal visits are held, Johnston had never been inside the main compound. So she signed up for a tour of the prison.

"We saw the main line, the yard, a

dining hall, one of the tiers and the execution chamber," she says. "It was the first time I ever saw up close what my client goes back to—the cell where he spends 23 hours a day. It was a horrifying and emotionally difficult experience."

For students in the Death Penalty Clinic, going to San Quentin is an experience they will not get from reading *Palsgraf v. Long Island Railroad Co.* And that's the whole idea.

"We attract students who are politically opposed to the death penalty and see this as a life work," says Semel, a veteran criminal defense lawyer who became the clinic's

"It was the first time I ever saw up
close what my client goes back to—
the cell where he spends 23
hours a day. It was a horrifying
and emotionally difficult experience."

founding director in 2001. “But we also draw students who may not know where they stand on the death penalty and see the clinic as a way to address the question for themselves.” Those students know they are probably never going to work in capital litigation,” says Semel—then adds with a sly grin, “or so they think.”

Semel makes it clear that the students’ political beliefs are less important than their performance. “This is a law office, and our goal is to represent clients effectively,” she says. “Political opinions are very much secondary to what we do, and they don’t define it.”

way. Second, the death penalty is critically situated in the South. More than 80 percent of executions have occurred in the South, and you can’t ignore that.”

And finally, she says, one of the most egregious facts about the death penalty is the lack of qualified lawyers. “People on Alabama’s death row have no right to a state-appointed lawyer in post-conviction review,” she says. “Execution without representation is a reality. So taking an Alabama case was a priority. A clinic that is going to have a mission of service as well as a pedagogical mission has to be responsive to that need.”

Professor Charles Weisselberg, who heads

charges for its tickets. So the clinic’s faculty members do a lot of fundraising, and they watch their budgets. “We fly cheap,” Semel says, “and we’re always asking, ‘How many students can we cram into a motel room? How many faculty members?’” The payoff comes in the trenches.

“The people in the clinic are incredible,” says Johnston. “For eight people to be able to go off to Alabama, work 14 hours a day, and still like each other is pretty amazing.”

Making Powerful Connections

When students head out to conduct interviews, they are closely supervised, in



Responding to a National Need

When the Death Penalty Clinic was established, it was assumed the clinic would focus on cases with a Northern California link. After all, San Quentin sits just across the bay from Berkeley, and local connections make investigations easier. So why is the clinic engaged in a pro bono case in Alabama?

“First, we’re dealing with a national issue, and we’re a national law school,” Semel says. “We can’t address this in an isolated, artificial

Boalt’s Center for Clinical Education and teaches with Semel in the clinic, says taking both California and out-of-state cases gives students “a perspective on the criminal justice system they can’t get any other way. I think it’s been enormously successful as a teaching device—as well as in providing first-rate legal service to people who wouldn’t otherwise have it.”

Still, Alabama is 2,300 miles from California, and even Southwest Airlines

both California and Alabama. “The room for error in the field is zero,” says Semel. “There has to be a certain amount of control over a student asking a question, because you never know whether the first interview will be your only one—although the goal is to have follow-up interviews, of course.”

The clinic students face a double challenge: adapting to a new environment and putting people at ease so they will talk freely. Many students need to scale walls of

committed to JUSTICE

race, gender and background to make contact with the people they are trying to reach.

Daniel Olmos '04 and Jennifer Schlotterbeck '03, for example, learned how to blend into rural Alabama. A year ago, the students were jouncing around back roads in a rented car conducting field interviews.

Olmos wanted people connected to the case to talk to him, so he made a special effort to be approachable. "I cleaned myself up before I went there," he says. At the clinic's urging, he trimmed his long hair and shaved off his goatee. He also dressed neatly, but not so formally as to be intimidating: in khakis and a button-down shirt or a sweater.

Schlotterbeck did the same. "Before I left California, I went out and bought some skirts with hems below my knees," she says. "I figured that people in rural Alabama would expect to see women in skirts, not pants."

When the students knocked on doors, they were unfailingly polite, and they listened for as long as people felt like talking—an amazing five hours, in one case. "People get comfortable with you," says Olmos, "and they start letting out a side of themselves that doesn't come out at first glance or in the first conversation."

What emerges from those conversations can be powerful.

For Victor Rodriguez '03, an early

"The first moment you talk to a person whose life is centrally affected by what you're doing makes it all real. It's the oxygen that keeps you running for the next nine months."

morning flight to Los Angeles one week before Christmas felt endless. He was accompanying Semel and some other students for a meeting with a California prisoner's family.

Rodriguez was nervous, he says. "I mean, what if the family said, 'Who's this snotty kid from the law school coming to meet us? What's his stake in the outcome of our son's case? He's only been on the case for a matter of months; what could he possibly have to offer?'"

A great deal, apparently, because the family greeted all the students with open arms. "They were very happy, and very thankful and hopeful, because we had their family member's best interests at heart," he

Matching Roles to Talents

When giving assignments to their students, Semel and Weisselberg try to figure what will help clients most. Some students mainly do research and write, while others spend time in the field—in California or Alabama, sometimes both. And a select few actually meet the clients on death row.

Research and writing may be the most conventional aspects of clinic work, but the bar for these tasks is set higher than usual. "I don't think students who come to us have had the kind of supervised writing experience that we give them," says Weisselberg. "When they write a brief with

"Working late, coming down to the wire, knowing your brief is actually going to the Supreme Court. ... You feel really good about why you are writing it, and what its possibilities are." When the brief came back from the printer, Ray was surprised to see how small such a potent document was. "It was just a neat little booklet, about five by eight inches and 25 or 30 pages long. But holding it in my hand was a pretty heady moment."

Building a Relationship of Trust

Semel is extremely careful when choosing the students who will meet the clinic's death row



says. "I came away feeling completely blown away by the sense of trust and confidence they had in the work we were doing."

Times like those make the weeks and months of hard clinic work worthwhile, says Rodriguez. "It's one thing to read a file or discuss theory with your professors, but the first moment you talk to a person whose life is centrally affected by what you're doing makes it all real," he says. "It's the oxygen that keeps you running for the next nine months."

us, it can go through 15 or 20 drafts."

Writing was a natural for Sarah Ray '03, who came to law school after five years of dealing with writers and reading scripts in Hollywood. One of the clinic's first students, Ray worked with Weisselberg on a U.S. Supreme Court reply brief in a group of Texas cases that raised the issue of the right to counsel in clemency proceedings.

Ray says working on the brief was the high point in her law school career.

clients, weighing what the encounter will mean on both sides.

"With rare exceptions, clients who have been convicted and sentenced to death have lived lives of deprivation, abandonment, poverty and transience," she says. "And sadly, for many, that transience recurs in the lack of a relationship with their trial and appellate counsel."

Which leads to a paradox. Semel and Weisselberg make a commitment to stand

committed to JUSTICE

by their clients for the duration of the case, but they ask the clients to develop a relationship with one or two students each semester. “They know the students will be there for only a year or 18 months,” says Semel. “That’s really difficult. It’s a lot to ask of the clients.”

For death row visits, Semel picks students who have some life experience, are compassionate and know how to listen. “Listening is huge,” she says. “Students have to be willing to sit in a room with us and the client for four hours and listen. Students who can do that are an enormous asset, because they may pick up on something that we totally miss.”

While Semel is both a teacher and a litigator, she is quick to stress that her first loyalty is always to her client. “The client isn’t there to be observed by the students. He’s not a case study; he’s not a lesson,” she says. “If I were to funnel in a series of students over the semester, it would be an insult to the client and to the attorney-client relationship.

“It would teach absolutely nothing except the contrary of what we want to convey to the students, which is: The core relationship in any case is what you have with your client. And that’s a relationship of trust that is built, not one that happens by magic.”

“The core relationship in any case is what you have with your client. And that’s a relationship of trust that is built, not one that happens by magic.”

Changing the Future

For students, there is a big risk in getting involved with the Death Penalty Clinic. First, it takes over their lives, then it transforms them.

In a torts or contracts class, you can choose not to do a reading assignment, says Rodriguez, but the clinic does not afford you that luxury. “There are things that *must* be done, and they take priority over everything else,” he says. “I have yet to meet professors or students as committed to the work they do. They’re willing to sacrifice things they’re doing outside the clinic in order to make sure their work is absolutely

top-notch. Working with them makes you aware of why you came to law school in the first place.”

“I’m Mexican-American,” says Olmos, “and I say half-kiddingly that I’m obsessed with the way race intersects with the criminal justice system. I’ve always known I wanted to do public interest and civil rights law, but I didn’t know until I worked with the Death Penalty Clinic that I would do it within the criminal justice system.” He adds, “You’re not going to realize the depth of the emotion you’re going to feel, working on something like this.”

“I’m graduating with a certificate in

environmental law,” says Schlotterbeck, “but working at the clinic changed the course of my career. One thing I learned about myself in law school is the work I do has to involve risk—meaning there has to be something at stake I care about.”

“I’ve always thought of myself as a politically engaged person,” says Johnston. “But before I started working with the clinic, my understanding of the death penalty issue was really shallow. The clinic definitely feels like the most urgent and compelling work I’ve done at Boalt.”

“And I think it will be difficult for me to leave this work now that I’ve started it.”

CREATING A CLINIC

The Death Penalty Clinic is the latest addition to Boalt’s Center for Clinical Education, which includes the International Human Rights Law Clinic and the Samuelson Law, Technology & Public Policy Clinic.

Professor Charles Weisselberg wanted to establish a criminal law clinic when he became the center’s director in 1998. The opportunity came two years later when Nick McKeown and Peter Davies, two Silicon Valley entrepreneurs, provided the initial funding for the clinic. “In the spring of 2001, we hired Elisabeth Semel to direct the clinic,” says Weisselberg, “and she started that July.”

Under the supervision of Semel and Weisselberg, clinic students learn how to conduct a capital case investigation, work with clients, interview witnesses, draft pleadings and prepare for hearings. They

also take a weekly seminar that covers substantive capital punishment law, habeas corpus practice and procedure, and litigation techniques, such as investigating, interviewing, and developing mitigation evidence. Because the litigation is so complex, students are required to enroll for at least two semesters.

The clinic mainly represents prisoners in capital post-conviction proceedings. Semel and Weisselberg are currently counsel for two death row inmates, one in California, and one in Alabama. Under the professors’ direction, students are working on a direct appeal and the habeas investigation in the California case; and on post-conviction proceedings in the Alabama case.

In the last year, the clinic was counsel in several Texas cases that raised the question of whether people sentenced to death are

entitled to lawyers in clemency proceedings and proceedings to determine if they are competent to be executed.

The clinic scored an early success in the case of Thomas Miller-El, who had been convicted of capital murder and sentenced to death in Texas in 1986. Thanks in part to two of the clinic’s *amicus* briefs, the U.S. Supreme Court ruled in early 2003 that Miller-El’s claim that prosecutors showed racial discrimination in their peremptory challenges during jury selection should be heard.

Jim Marcus, Miller-El’s attorney, had approached the clinic for assistance. “This was Thomas’ last chance,” he says, “and I really needed help in trying to draw the Supreme Court’s attention to this case.”

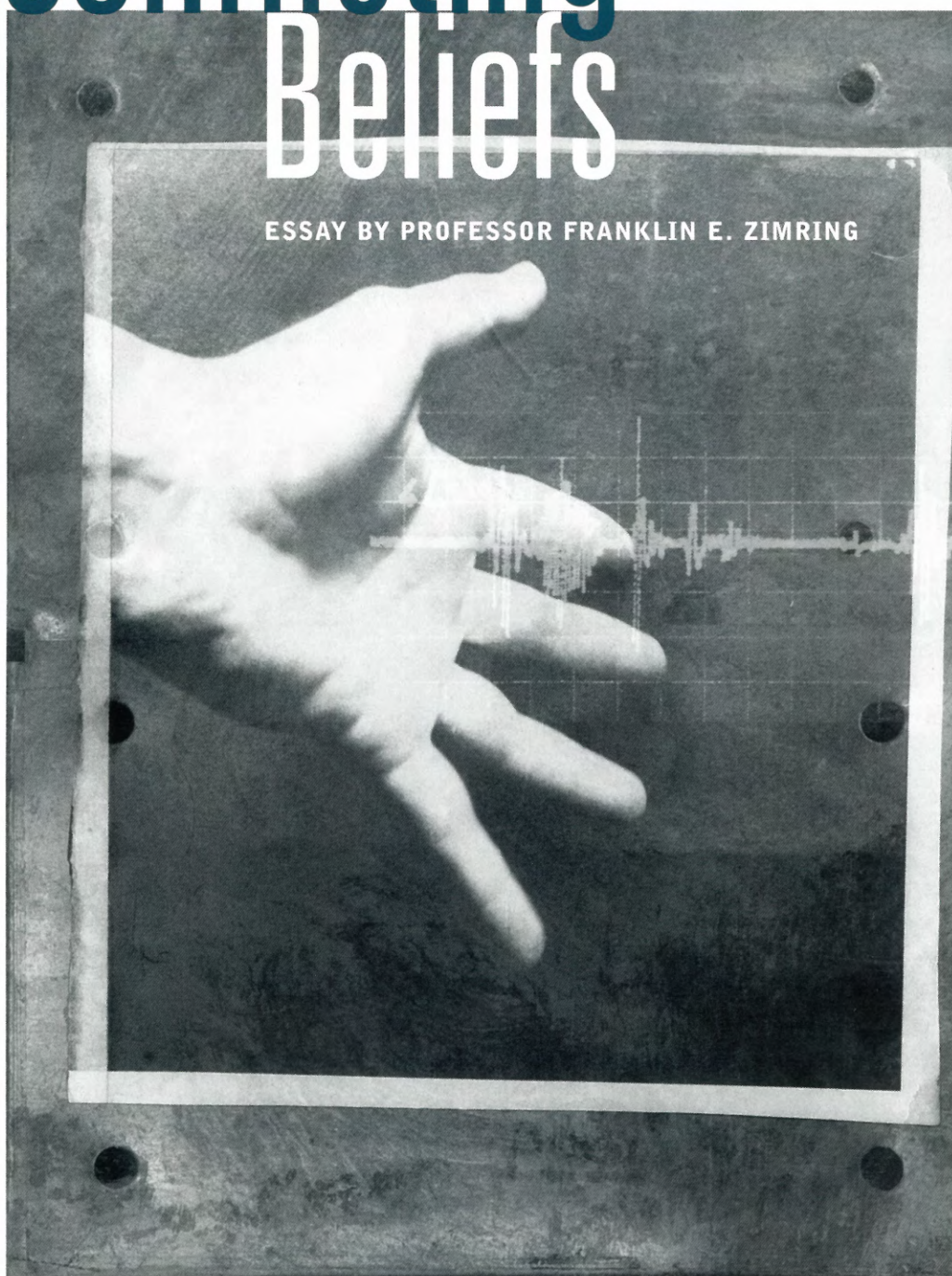
“Without the clinic’s intervention, it’s questionable whether we would have even had a stay of execution.”

Conflicting Beliefs

ESSAY BY PROFESSOR FRANKLIN E. ZIMRING

A stunning demonstration of the great gulf that has opened between the United States and other Western nations on the death penalty occurred in March 2002, as the U.S. Justice Department was deciding to seek the death penalty in its prosecution of a French national of Moroccan descent named Zacarias Moussaoui. The American government had alleged that Moussaoui was to have been “the twentieth hijacker” on September 11, 2001. This conspirator was prevented from filling out the five-person team on United Airlines flight 73 that crashed in Pennsylvania only because he was confined in jail for visa violations. The U.S. government wished to treat this defendant as fully accountable for the program of mass destruction. It sought both a death penalty and the cooperation of the French government in making its case against Moussaoui.

There was substantial sentiment for cooperation with American anti-terrorist efforts in France after the events of September 11. The French government had suspended its usual reserve and independence from American concerns after the suicide attacks; French President Jacques Chirac was the first foreign head of state to visit Washington with pledges of support in September 2001, and observers were quick to note that France had become “one of the staunchest public supporters of President Bush’s ‘war on terrorism.’” Both President Chirac and the Prime Minister, Lionel Jospin, had pledged French “diplomatic, intelligence, and military support for a lengthy campaign to identify and destroy



"Zimring, one of America's leading criminologists, has managed to rise above the cacophony to write a thought-provoking and genuinely original book which deserves to become a classic." —*The Economist*



extreme Islamic groups around the world" (Lichfield 2001). "'We are all Americans,' French newspapers and politicians proclaimed in the aftermath of the attacks on New York and Washington" (Marlowe 2001).

Yet the concert of action that joined the French and American governments in the war on terror did not survive the American decision to seek the death penalty for Moussaoui's role in the September 11 conspiracy. In late March 2002, the French Justice Ministry wrote Attorney General John Ashcroft "reminding him that longstanding agreements between the two governments allowed France to end cooperation in cases in which a French defendant held in the United States faced the death penalty," and the French Justice Minister reported that she had asked Mr. Ashcroft "to assure that Moussaoui could benefit from a fair trial and that capital punishment not be sought against him" (Shenon and Lewis 2002). The day after this exchange was reported, the U.S. Justice Department nonetheless announced that it would seek the death penalty, and the French Ministry of Justice subsequently withdrew its cooperation in producing data on the defendant or his associations that could be used in a capital trial.

This essay is excerpted from *The Contradictions of American Capital Punishment* (Oxford University Press Inc.), chapter three, pages 42-46. © 2003. Printed by permission. For more information about the book, visit www.oup-usa.org.

Three aspects of this conflict make it an excellent opportunity to observe the enormity of the perceptual differences on the death penalty that separate the United States from its European peers. First, the absence of French-U.S. cooperation on this very important prosecution had substantial practical importance. This was at that time the only case lodged against a direct participant in the worst mass killing in U.S. history, and it was reported that “a decision by the French to withhold evidence could be a blow to prosecutors since French intelligence agencies are reported to maintain a voluminous file on Moussaoui and his ties to Al-Qaeda and other militant Muslim groups” (Shenon and Lewis 2002). A Justice Department spokesman acknowledged, “[W]e’d obviously like to maintain access to it” (ibid.). There was every incentive on both sides to avoid a direct clash on the death penalty in a case of such importance, but it happened nevertheless. Why?

A second intriguing feature of this conflict was the air of disbelief it produced among some American observers that fundamental differences about state capital punishment could run that deep between other developed nations and the United States. After blaming the French decision on that nation’s “typical arrogance,” an editorial in the *Boston Herald* reasoned, “France abolished capital punishment in 1981. Evidently something permissible for France in 1980 is an abomination for America only 22 years later. Abominations, however, are not created that fast” (“When Death Is Appropriate” 2002). It might well seem to

When closely examined, the decision of each government flows from the contrasting premises about the nature of capital punishment with the same inevitability we find in Greek tragedy.

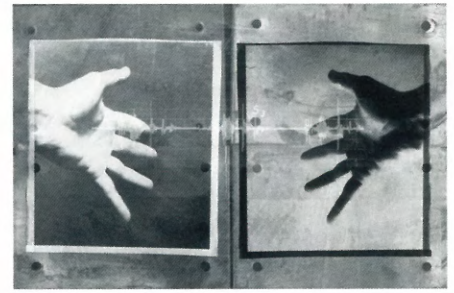
observers that fundamental differences in questions about death as a penalty should stem from longer gestation periods.

But when closely examined, the decision of each government in this affair flows from the contrasting premises about the nature of capital punishment with the same inevitability we find in Greek tragedy. The Attorney General of the United States regarded the nation’s choice in the Moussaoui matter as an appropriate criminal sanction for participation in an offense of unprecedented mass destruction. ...

Under these circumstances the Attorney General defended the decision to seek a death penalty by announcing the United States remains “committed not only to carrying out justice in this case, but also to ensuring that the rights of the victims are fully protected” (Ashcroft 2002).

The premises from which the Attorney General concluded that a death sentence is appropriate in the Moussaoui case begin with the assumption that whether execution should be permitted as a punishment is essentially a matter of criminal justice policy. The death penalty is to John Ashcroft one of a number of potential punishments available for criminal offenders, and the choice of punishments should be influenced by the harms inflicted by the crime and the culpability of the particular defendant. If these premises are correct, the decision to seek the death penalty seems natural, if not inevitable.

The French government’s response to the prospect of a death penalty in this case addressed none of the elements that Attorney General Ashcroft put forward. Instead, the French Minister of Justice reclassifies the question to be considered as whether a civilized government could ever use the death penalty, and from this premise concludes that the French government cannot cooperate in producing evidence “if it can be used to back the case for the death sentence” (“France to Limit Legal Links...” 2002). The French Foreign Minister Hubert Vedrine said that his nation remained “in solidarity with the United States in their



fight against terrorism,” but that France must ensure that any evidence it provides “would not be used as the basis to request the death penalty, a conviction, or a sentence of that kind” (ibid.). The death penalty could not be justified in this case because the death penalty could never be justified.

The Great Divide

What is evident in the Moussaoui dispute with France now just as clearly divides the United States from all of Western Europe on the use of execution as a criminal sanction. It is not that the two sides differ on the answers to a common question; instead, there is a fundamental difference of opinion on what the key questions are that should determine whether governments should be allowed to kill citizens intentionally as a criminal punishment. In the United States, capital punishment is regarded as a question of criminal justice policy, to be decided by the same levels of government and in much the same way as other issues about the proper punishments of criminals. As a concession to the seriousness of executions, there are some special rules imposed by the federal Supreme Court since the 1970s, but in all other respects the policy ideal is that state governments should choose whether and for which offenders death should be available as a criminal punishment.

While the death penalty is an option that governments are free to choose or reject in this American account, the modern European view is adamant that no civilized state should be permitted the power to

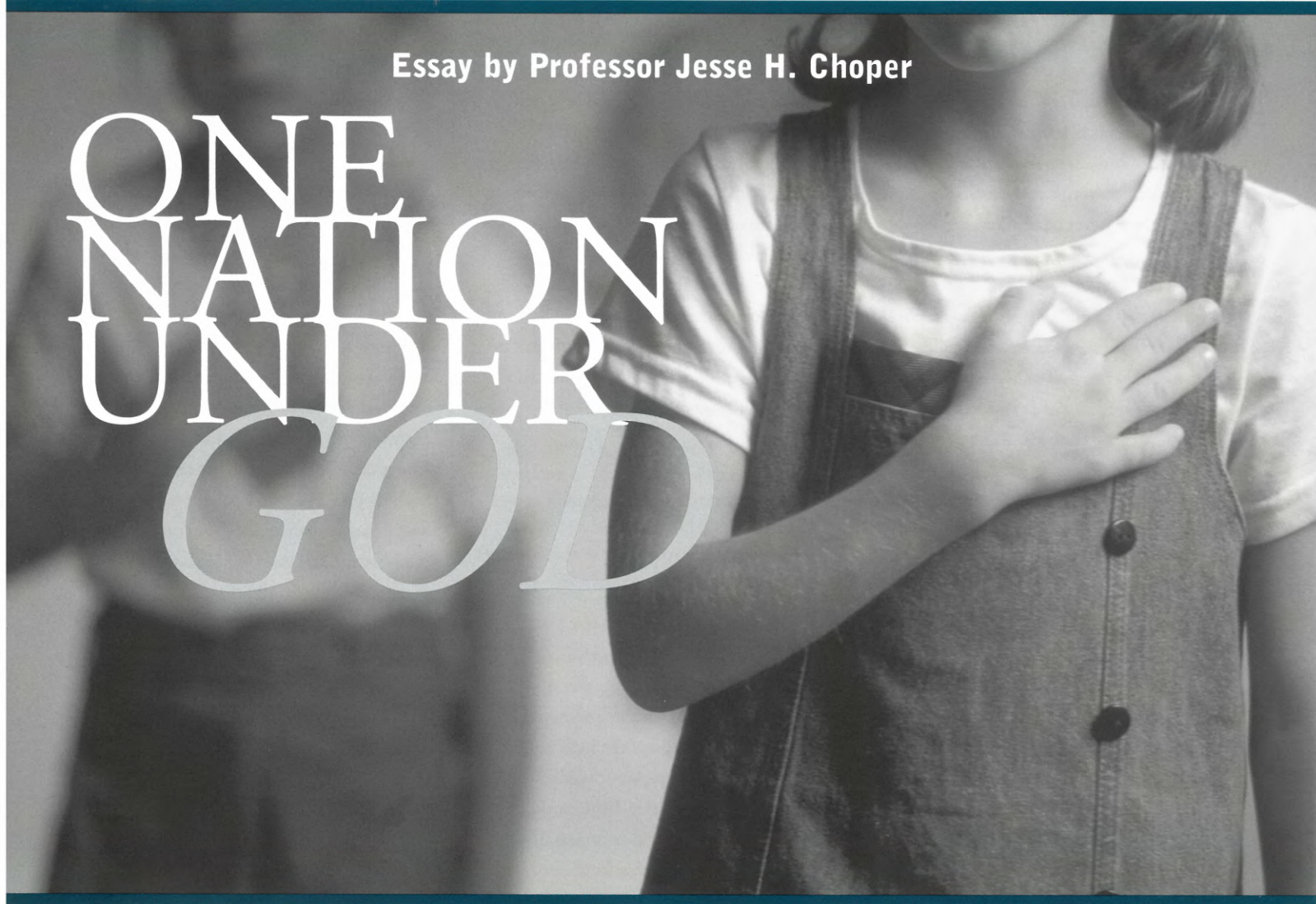
employ execution as a criminal punishment. In the European rhetoric, the absence of a death penalty is a defining political matter, a question of the proper constitution of a modern state, not a criminal justice policy choice. For France, cooperating in the execution of a criminal offender is as unthinkable as cooperating with other practices beyond the pale of Western civilization, such as slavery or cannibalism. Typical of the arguments one confronts in the modern Council of Europe literature is Andrei Sakarov’s critique:

The state in the person of its officials arrogates to itself the right to perform the most terrible and irreparable act—the taking of life. Such a state cannot expect any improvement in the country’s moral climate. (Pristavkin 1999, p. 129)

This appeal to execution-free penal codes as a basic constitutional requirement for a civilized state performs a number of rhetorical functions for the international abolitionist. Seeking out the high ground of limits on government power renders all the traditional death penalty disputes about what terrible crimes and criminals deserve, about deterrence, about risks of error and fairness in administration, as literally beside the point. As soon as the human rights/limited government premise is accepted, the policy conclusion is automatic. There are no contingencies, no balancing of costs and benefits, and no reasons to consult public sentiments about crime as soon as the major premise of the human rights/limited government argument is accepted.

For this reason, once the limited government argument is conceded a place in the capital punishment controversy, it automatically achieves a status of priority. The contestants must first determine whether the claims for this constitutional argument are justified. If so, the debate begins and ends with the human rights/limited government claim. Only if that claim is rejected can the traditional topics for debate concerning the death penalty be given any serious consideration. This preemptive quality to the human rights/limited government perspective explains why many of the European activists who accept the human rights claim talk of nothing else. They do not have to. All the traditional controversies about capital punishment lose their legitimacy when a preemptive human rights strike succeeds.

The preemptive potential of human rights and limited government claims is one powerful reason why supporters of capital punishment would be tempted to ignore entirely the discourse about limited government and the right to life when considering capital punishment. Attorney General Ashcroft does not want to shift the terms of debate to the proper limits of government, and so he ignores the question. It is thus not a great surprise to discover that the whole of the political dimension of capital punishment as an extreme state power over citizens is simply ignored in the United States. The question of whether executions violate a human right recognized by international authorities (or any other human rights standard) is almost never debated in the United States.



Essay by Professor Jesse H. Choper

ONE NATION UNDER GOD

IS THE PLEDGE OF ALLEGIANCE CONSTITUTIONAL?

In 1942 Congress officially recognized the Pledge of Allegiance, which was first published in 1892 in association with the national public school celebration of Columbus Day. In June 2002, the U.S. Court of Appeals for the 9th Circuit, by a 2-to-1 vote in *Newdow v. United States Congress*, invalidated a northeastern California school district's policy of having a teacher-led recitation of the Pledge of Allegiance. The court held the Pledge, which includes the words "under God" added by a 1954 congressional statute, violated the Establishment Clause of the First Amendment, which provides that "Congress shall make no law respecting an establishment of religion."

This ruling, a victory for an elementary school child's atheist father, who had brought the case, became the subject of enormous public controversy. President George W. Bush said that the court's decision was "ridiculous." Senate Majority Leader Thomas A. Daschle described it as "just nuts." House Majority Whip Tom DeLay called it "sad" and "absurd." Senator Robert Byrd labeled the judges "stupid." The Senate unanimously approved a resolution in support of the Pledge. Members of the House of Representatives gathered on the front steps of the Capitol to recite the Pledge en masse. After the 9th

Circuit rejected a petition to review the decision *en banc* the following February, the panel stood by its holding but issued a revised opinion.

Over the years, the U.S. Supreme Court has used several "tests" to assess government action under the Establishment Clause. In its original June 2002 opinion, the 9th Circuit found the Pledge invalid under the two major guides—the purpose and effect test articulated in *Lemon v. Kurtzman* (1971) and the "endorsement" test advocated by Justice Sandra Day O'Connor. In its revised opinion, the panel decided the case under a variant of *Lemon*, focusing on

the coercive effects of a religious practice in a public school setting. In my view, the 9th Circuit reached a perfectly plausible, indeed persuasive, result under all three approaches.

Although the *Lemon* test has been roundly criticized, it has been dominant for three decades. Simply stated, under *Lemon*, government conduct violates the Establishment Clause if its purpose *or* its effect is to advance religion. In *Newdow*, the 9th Circuit found that the Pledge failed both parts of this rule.

As for *purpose*, the government conceded what the 1954 act's legislative history makes plain: Congress added the words "under God," at the height of the Cold War and McCarthyism, to reaffirm the core difference between American society and "atheistic communism." As President Eisenhower explained during the act's signing ceremony, daily recitation of the Pledge was intended to proclaim "the dedication of our Nation and our people to the Almighty."

The government nevertheless argued in *Newdow* that the Pledge *as a whole* had a secular purpose because it was primarily a patriotic observance, not a religious one. The 9th Circuit's rejection of this argument is strongly supported by the Supreme Court's reasoning in *Wallace v. Jaffree* (1985). *Wallace* involved an Alabama statute that originally mandated a daily minute of silence in schools for "meditation." The Alabama legislature then amended the law to read, for "meditation or voluntary prayer." The Supreme Court found that the amended statute violated the Establishment



Clause, emphasizing that the legislature's sole motive in changing the statute was to add a reference to prayer. Similarly the 9th Circuit stressed that, although the Pledge was not unconstitutional across the board, inclusion of the words "under God" had been added to advance religion and thus made it unconstitutional.

The second part of the *Lemon* test, whether the *effect* of government action is to advance religion, has been given especially sensitive treatment in the public school context. In a number of cases, the Supreme Court has recognized that schoolchildren are especially impressionable and subject to the "coercive" effect of peer group pressures to conform, and that this influence is strongest in matters of social convention. As Justice Felix Frankfurter once observed, in public schools the "law of imitation operates, and nonconformity is not an outstanding characteristic of children."

It has been clear since *West Virginia State Board of Education v. Barnette* (1943) that no child may be *compelled* to recite the Pledge because, the Supreme Court reasoned, that would require affirmation of a belief, in violation of the First Amendment freedom of speech. However, even when the recitation is voluntary, students may not feel at liberty to make a genuine choice. When teachers lead the Pledge and the vast majority of students participate, most youngsters find it easier to go along than to remain silent or leave the room. Following the attacks of September 11, students may feel a special reluctance to shun this quintessential patriotic exercise, even if its words conflict with their religious precepts.

The Supreme Court has recently recognized this dynamic in *Lee v. Weisman* (1992), striking down a middle school's decision to include an invocation and a benediction by a member of the clergy at its

graduation. The Court found that students were, in effect, required either to participate in the ceremony, at least by standing silently, or to register an overt protest by leaving, and that these were unacceptable options.

The 9th Circuit rested its amended judgment in *Newdow* on this approach, noting that the Pledge is a normative exercise setting forth ideals American society holds for the nation. Schoolchildren generally look to teachers and classmates for guidance about such cultural values. The recitation of the Pledge may, therefore, cause students to believe that, in order to comply with school norms, they should hold certain religious beliefs.

In its more recent decisions, the Supreme Court has relied on another approach, the endorsement test championed by Justice O'Connor. While this standard has not fully supplanted *Lemon*, it appears to have the support of five of the present justices, probably made clearest in *Capitol Square Review and Advisory Board v. Pinette* (1995). Under this test, courts must consider whether a reasonable observer would perceive the challenged government action as an endorsement of religion, sending a message to nonadherents that they are outsiders rather than full members of the political community.

As the 9th Circuit recognized, there is a strong argument that the Pledge violates the Establishment Clause under the endorsement test as well as *Lemon*. This is true, not in spite of, but rather because of, the Pledge's primarily patriotic intent. As an affirmation of citizenship, the Pledge defines

As amended in 1954, the Pledge refers to a particular belief, monotheism, that many people—not only atheists, but members of religions such as Buddhism—do not share. This official reference to a single God may well strike nonbelievers as an act of exclusion.

membership in the political community. As amended in 1954, the Pledge refers to a particular belief, monotheism, that many people—not only atheists, but members of religions such as Buddhism—do not share. This official reference to a single God may well strike nonbelievers as an act of exclusion.

The ample grounding in Supreme Court precedent for its result has not spared *Newdow* a tumultuous reception. After the uproar over the initial June decision, the 9th Circuit considered a petition to review the case *en banc*. Had a majority of the 24 active judges granted the petition, 11 judges chosen at random would have heard the case.

It was difficult to predict at the time whether the 9th Circuit would grant *en banc* review. Some of the judges may have welcomed the chance to reconsider this controversial ruling, holding an act of Congress unconstitutional by a 2-to-1 vote. Other judges may have disfavored *en banc* review, not only because it would be burdensome and time-consuming, but also because of the strong likelihood that *Newdow* would end up in the Supreme Court. The ultimate vote was close, the court denying the petition for *en banc* review, but nine of the judges felt the need to announce their dissent.

Newdow's future may be easier to forecast. Both the Supreme Court's past dicta and the views of its current members strongly suggest that they will grant review (most likely in October) and—unless they rule that the father-plaintiff has no standing in light of the child's mother's disagreement

with his lawsuit—ultimately reverse the 9th Circuit. There are two possible routes the Court might take without seriously disturbing its general approach to the Establishment Clause. Both were put forth by justices much more inclined to find a high wall of separation between church and state than the current Court has been.

The first suggestion comes from a footnote in Justice Hugo L. Black's near unanimous opinion for the Court in *Engel v. Vitale* (1962), which invalidated teacher-led prayer in public schools. Justice Black distinguished practices such as prayer and Bible reading, which were “unquestioned religious exercises,” from “patriotic occasions” that “contain references to the Deity.” While not specifically mentioning the Pledge, this reasoning could readily be extended to apply to it.

Justice William J. Brennan Jr. employed a more explicit rationale for upholding the Pledge in *Lynch v. Donnelly* (1984) in his dissent from the Court's holding that a city could include a nativity scene in its annual Christmas display. Justice Brennan's opinion, written for the Court's four most separationist justices (only one of whom—Justice John P. Stevens—remains), distinguished public display of a crèche from use of “In God We Trust” as our national motto and “under God” in the Pledge of Allegiance. These phrases, Justice Brennan argued, have lost religious significance through “rote repetition.” Rather than being religious acts, he characterized them as “a form of ceremonial deism,” which might be viewed as part of

what some national observers have labeled our “civil religion.”

The core notion, expressed by both Justices Black and Brennan, is that the phrase “under God” in the Pledge is not sufficiently serious or significant to rise to the level of a constitutional violation. Under one or another version of this idea, I greatly doubt that *Newdow* will survive Supreme Court review.

Still, I think that the 9th Circuit's result is the correct one, although I believe that the Court's Establishment Clause tests are flawed. Instead, I favor an interpretation that I first proposed 40 years ago. Under this approach, government action violates the Establishment Clause when its purpose is to aid religion *and* its effect meaningfully endangers religious liberty. The key differences in my test from the *Lemon* test are that purpose and effect must *both* be present, and the effect must be a meaningful one.

Because my suggested standard is fairly rigorous, it would not invalidate all passing references to religion in public life. Nevertheless, it would be satisfied here. In adding “under God” to the Pledge of Allegiance, Congress was unquestionably motivated by a religious purpose. To dismiss the phrase as trivial or ceremonial overlooks the special compulsive influences that exist in the context of public schools, which tend to induce schoolchildren to recite the Pledge, thus meaningfully endangering their religious liberty.

Special thanks to Katherine Florey '04 for her assistance in preparing this essay.

Legal maverick George Davis '31 makes his mark on America's justice system

Trailblazing DEFENDER

STORY BY KATE CALLEN

After George T. Davis graduated from Boalt Hall in 1931 and set out on what would be a legendary career, he met Henry Goldman, a veteran San Francisco political leader. Goldman sized up the 24-year-old lawyer and asked a simple question: What is the definition of law?

As Davis began quoting Blackstone and reciting statutes he had memorized at Boalt, Goldman shook his head and answered, "Do you want to know the definition of law? You remember this: Which way does the wind blow?"

More than a half-century later, in a 1986 interview, Davis recalled, "I thought, Jesus, he's insulting me. ... But I will tell you now: everything I've ever done in my life, whether it had to do with the law or not, has wound up as fitting that definition: Which way does the wind blow?"

The wind has blown Davis lasting fame as a criminal defense attorney whose landmark work on due process and death penalty cases has transformed American jurisprudence. And just as significantly, the wind has blown Davis the devotion of legions of prominent fans, from former Philippines President Corazon Aquino (Davis represented her husband, Benigno) and former Pakistan Prime Minister Benazir Bhutto (her father, Zulfikar Ali, was a Davis client) to Gerald Uelmen and Johnnie Cochran of the O.J. Simpson defense team.

"George is one of the most creative lawyers I know," says Uelmen, a professor of law at Santa Clara University. "He's been around so long that many of the

criminal defense lawyers practicing today forget how much of our ideas and routines originated with George. He's a great role model."

In an era when criminal lawyering ranks relatively low in public opinion polls, Davis, one of the most accomplished criminal lawyers in U.S. history, is revered. When he turned 96 on May 29, birthday greetings from around the world flowed into the Hawaii home he shares with his wife, Ginger.

"George is loved by so many people because he enjoys people," says Ginger Davis. "He is never judgmental. He is never critical. George doesn't care what people do for a living, because he's most interested in the psychological aspects of their personalities."

Oversized personalities have loomed large in Davis' career. High-profile clients have included Alfried Krupp, a German munitions scion who was convicted of war crimes at the Nuremberg trials, 1960s rock star Sly Stone—Davis still treasures a photo taken of the two of them—and disgraced televangelist Jim Bakker.

Ironically, the two cases for which Davis is best known—*Mooney v. Holohan* and *Chessman v. California*—are cases he lost in the courtroom but won in the political arena. An even greater irony is that the



"GEORGE IS ONE OF THE MOST CREATIVE LAWYERS I KNOW. HE'S BEEN AROUND SO LONG THAT MANY OF THE CRIMINAL DEFENSE LAWYERS PRACTICING TODAY FORGET HOW MUCH OF OUR IDEAS AND ROUTINES ORIGINATED WITH GEORGE."

Mooney case, which Davis accepted in 1934 when he was just 27, hinged on a 1916 bombing he had personally witnessed as a newsboy on a San Francisco street corner.

PASSION FOR CLEMENCY When a bomb exploded on Market Street, killing 10 and injuring 40, the 9-year-old Davis ran to the site and saw several men (who turned out to be law enforcement officials) removing rubble (which turned out to be evidence). Labor activist Tom Mooney, an anarchist despised by civic leaders, was quickly charged with setting the bomb and, based on perjured evidence, was convicted and imprisoned.

But the winds of worldwide public opinion blew in Mooney's direction over the ensuing 17 years, and when his supporters launched an appeal, they approached Davis to lead the defense. By means of legal ingenuity, astute political strategy and personal tenacity—a formula that became the Davis signature—he scored two victories.

The first was a 1937 U.S. Supreme Court ruling that Davis later described as "a landmark decision for the right of a defendant to go into the federal courts on a claim of due process." The second was a 1939 pardon of Mooney by Culbert Olson in Olson's first official act as the governor of California.

"*Mooney* is such a cornerstone case," says Professor Charles Weisselberg, director of Boalt's Center for Clinical Education, "and when you study it, you realize what an enormous impact George has had on the American justice system."

"I had taught the case for years, but I didn't know until I came to Berkeley that George was a Boalt graduate," Weisselberg adds. "I was surprised and gratified when George contacted me a few years ago to express interest in one of our Death Penalty Clinic cases dealing with the clemency process, because he has worked so hard on clemency issues, and he knows better than anyone the importance that clemency has."

Davis' passion for clemency has its roots in an incident that occurred just before he entered law school. The only child of a Greek-born father and a German-born mother, Davis was an outstanding student, a star athlete and a gifted musician who worked his way through law school as a professional drummer. During a gig



on a cruise ship, he spoke insolently to the captain and landed in the brig for 10 days.

"I was absolutely filled with hatred towards the captain," he later recalled, "and it's always gone through my mind ... that when people are confined, and especially if they think wrongly confined, you've just made criminals out of them instead of cur[ing] them."

Fresh out of law school, Davis began practicing on the prosecution side of criminal law; he interviewed with the District Attorney of Alameda County, Earl Warren '14, before joining the San Francisco District Attorney's Office. Davis quickly developed a gift for connecting with juries, and he just as quickly leapt across the aisle to the defense table.

FROM POETRY TO SODIUM PENTOTHAL "I became ashamed of myself," Davis said later, "when I realized that I was getting people convicted who, if I had been representing them on the other side, probably never would have been convicted."

Too many defendants were tried on evidence obtained through brutal police tactics he calls "the Law of the Rubber Hose," and too many were prematurely convicted in the court of public opinion. In the end, Davis chose to be a defender because "I wanted to help people and that's where I could help people the most."

Like most renowned trial lawyers, Davis developed a repertoire of dramatic ploys. In 1934 sympathetic jurors acquitted Lillian Barendt, who gunned down her abusive lover, after hearing Davis' closing argument based on an Oliver Goldsmith poem: "When lovely woman stoops to folly, / And learns too late that men betray..."

Fourteen years later, when Air Force Sergeant Kenneth Long was

Nazi Spy Says He Gave Hirt Cash For U. S. Trip

Continued from Page One



PROSECUTOR AIDE EXAMINES EVIDENCE
Lawrence George F. Davis, assistant
attorney general, holds photos which
were identified as those of Staff Sergeant

Francis B. Baisley, who was
executed in 1957 for the murder of
a Marine. Davis is seen here in
1957, examining evidence in the
case of Staff Sergeant Baisley.

DAVIS:
of the i

tried for murdering his unfaithful wife, Davis had Long injected with sodium pentothal. Under the influence of the so-called "truth serum," Long remembered what the real killer looked like, and when Davis entered an audiotape of Long's story as evidence, the jury returned a "not guilty" verdict.

The 1948 Long trial coincided with another of Davis' lifelong penchants: backing an underdog political candidate who goes on to win. That year Davis was the campaign manager for Harry Truman's presidential campaign. Nearly 30 years later, Davis was an early backer of the White House bid of Georgia Governor Jimmy Carter. He also was instrumental in the campaigns of six San Francisco mayors, from George Christopher to Art Agnos.

But the political leader with whom Davis was most closely and poignantly linked was former California Governor Pat Brown, an ally who became a foe in the notorious capital case of Caryl Chessman.

The Chessman saga stretched out over 12 years and eight stays of execution. In 1948 Chessman was convicted of a series of robberies and rapes. No murders had been committed, but because Chessman had forced his victims to move around at gunpoint, he was tried for the then-capital crime of "kidnapping for the purpose of robbery." When the court stenographer died before producing a complete trial transcript, the judge and prosecutor colluded on a phony transcript, and Chessman was convicted and sentenced to die.

As with the Mooney case, the Chessman case sparked a global furor, especially after Chessman published two best-selling memoirs from death row. And as with Mooney, Davis took the case but refused to charge a fee, collecting only reimbursement for expenses. As Davis said later, "[When] a client pays you a substantial fee, ... the lawyer-client relationship ... becomes a master and servant relationship, with the person who paid you the fee assuming the role of master, and you being thought of in the role of servant."

As Chessman's appeals ran out, Brown, normally an opponent of capital punishment, suddenly refused to grant clemency. Fifteen minutes before Chessman's execution, Davis persuaded Federal Judge Louis Goodman to issue a 30-minute stay. But when Goodman's secretary phoned San Quentin, she misdialed the

"I BECAME ASHAMED OF MYSELF WHEN I REALIZED THAT I WAS GETTING PEOPLE CONVICTED WHO, IF I HAD BEEN REPRESENTING THEM ON THE OTHER SIDE, PROBABLY NEVER WOULD HAVE BEEN CONVICTED."

number. By the time she redialed and reached the warden, the pellets had dropped in the gas chamber.

Davis was devastated by the execution, but he later wrote to the secretary and assured her that she bore no responsibility for Chessman's fate. He continued to fight what he has termed the "legal murder" of capital punishment. And he had a small but significant triumph: Chessman was the last person in California put to death for a crime that was not murder.

DESTINED FOR GREATNESS One thread that runs through Davis' extraordinary career is his lifelong commitment to the Bill of Rights. Whether fighting to uphold the rights of criminal defendants under the Fourth through Seventh Amendments or the rights of pornographers under the First Amendment, Davis was, as he put it, "always ... thinking in terms of the big issues, and in terms of the change of the law that had to take place. ... I felt that it was kind of my destiny to have something to do with this."

Suzette Standing, who was Davis' legal secretary and paralegal from 1974 through the early 1980s, recalls asking him why he defended pornographers. "I said, 'George, what's redeeming about that?' and he said, 'Suzette, you cannot tell people what to look at, because that is tantamount to telling them what to think.'"

Since leaving San Francisco, a city he served in a variety of pro bono roles, including a 26-year stint on the prestigious War Memorial Commission, Davis has become a beloved Hawaii resident and was honored in 1995 with a state Senate proclamation. He's had to give up polo playing, but he still works out, and he keeps abreast of world events by reading *The New York Times* each day (and emailing friends when he spots articles of interest).

"George has gone into retirement and come out again at least three times," says Standing. "He has a beautiful way of looking at things, and he's such a wonderful character. He's Socrates, and he's Puck."

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All George Davis quotes were taken from "San Francisco Trial Lawyer: In Defense of Due Process, 1930s to 1990s," an oral history conducted in 1986 and 1987 by Carole Hicke, Regional Oral History Office, The Bancroft Library, UC Berkeley, 1993.

PAULA BOGGS PIONEERS A PREMIUM BLEND FOR LIFE

B R E W I N G



S U C C E S S

HURTLING THROUGH THE sky on her first paratroop jump, it didn't occur to Paula Boggs '84 that 1,200 feet off the ground was a rather odd place for someone afraid of heights.

In fact, becoming an Army skydiver turned out to be the inspiration of a lifetime. Though Boggs was apprehensive leading up to that first jump, once her name was called, she threw trepidation to the wind.

But then Boggs has never let a little thing like fear define her. In fact, she has spent her life defining and redefining herself. From U.S. Army Airborne to Boalt Hall, U.S. Attorney's Office to Dell Computer, Department of Defense to Starbucks, Boggs has always defied labels.

In her current incarnation as general counsel for the world's top coffee shop, Boggs seems right at home in her expansive Seattle office. On her credenza sit pictures of

herself with three former presidents: Ronald Reagan, then-Vice President George H. W. Bush and Bill Clinton.

"We're a bipartisan office here," quips Boggs, breaking into a chuckle that has become legendary among those who know her.

"She has the most distinctive laugh in the world," says attorney Tom Bohan, who worked for Boggs at Dell. "You'd hear that laugh, and you'd wait for her to slap her thigh at the end of it."

BLAZING TRAILS

When friends and colleagues describe Boggs, they talk in contrasts: nose-to-the-grindstone but fun-loving; intellectual but athletic; analytical



S T O R Y B Y B E T H T A Y L O R
P H O T O S B Y J I M B L O C K



but humorous; authoritative but gracious.

"She is as tough as nails but as gentle as a dove," says Bohan, now Dell's legal director for worldwide operations. "She's a very courageous leader, but when you get to know her, you see how compassionate she is."

In Boggs' early days at Dell, some employees who did not know her well were a bit intimidated by her military bearing. Word of this got passed along to Boggs.

"This was completely out of left field for her," recalls Bohan. "She is not aware of her tremendous presence. She does not see herself in this way."

Asked about her multifaceted character, Boggs just shrugs: "To me, it's just me. I guess I'm just a walking advertisement for diversity."

And an inspiration as well. Boggs was Dell's first African-American vice president, and is currently one of two African-American women serving as general counsel of a Fortune 500 company.

"That not only has special meaning for me but inspires a sense of responsibility," she says. "I know how unusual it was for me as a young lawyer to see someone like me at [age] 44, and to say that person has done it—and I can too. Not only in the African-American community, but for all people of color and for women, to see that achievement is helpful."

Boggs has been blazing trails her whole life. With a mother who was a schoolteacher and administrator for the Department of Defense, she grew up in a military environment and joined the Army ROTC in high school.

"ROTC had opened its doors to women only a few years earlier," notes Boggs, "so there was a sense of pioneering."

A WINNING COMBINATION

Those who know Boggs are not surprised by her success.

"You could just see that she was the whole package—unusual and different," recalls

Craig Kobayashi '84, a classmate and an attorney with the Seattle firm Cairncross & Hempelmann. Kobayashi and Boggs have remained friends through the years. "She was very positive, funny and engaging—one of those people who are perfect, but really nice, so you'd like to get to know them."

Ninth Circuit Court of Appeals Judge William Fletcher, who taught Boggs property law at Boalt, has similar memories. "I knew that she was somebody special," he says. "What I remember about her are two things: that extreme intelligence and that very bright energy."

It has proven to be a winning combination. With her ROTC scholarship, Boggs headed for Johns Hopkins University, where she received her undergraduate degree in international studies in 1981. She also founded the women's cross-country team—at a school that only began accepting women in 1970 and was still a traditionally male bastion when it came to sports.

Boggs served as a regular officer for the U.S. Army from 1981 to 1988, spending those years earning her law degree at Boalt and working at the Pentagon on projects like the "Star Wars" missile defense system. During her last year in the Army, she worked at the White House for Bill Lytton, then-deputy special counselor to Reagan, on the Iran-Contra legal task force.

"I think the world of Paula," says Lytton, now general counsel for Tyco International Ltd. "She's going to continue to make her mark. She's worked hard to get where she is, and I'm really proud to call her my friend."

Asked what impressed him most about Boggs, Lytton had trouble pinning it down.

"First, that she jumped out of airplanes. Physically she's not overpowering, yet there is iron and steel in that small package," he says.

"If you're in a tough spot, Paula is someone you'd like to have with you, whether it's jumping out of an airplane or jumping into a difficult legal issue."

SEATTLE-BOUND

When Boggs was finishing up her Army duties, Lytton told her she was born to be a U.S. attorney general.

"I said, 'That's real interesting, but I'm moving to Seattle,'" she laughs, explaining that she had fallen in love with Seattle during a 1984 road trip with friends from Berkeley.

"It was love at first sight for me. When the car crested Beacon Hill and the whole



city lay before me, that's what did it," she says. "Seattle was the first and, in fact, the only city I've ever chosen, unencumbered by parental, school or job decisions."

So Boggs vowed to return to the Emerald City when she finished her Army stint. And return she did—as assistant U.S. attorney in the western district of Washington state, a post she held from 1988 to 1994. Then she was staff director of the Advisory Board on the Investigative Capability of the Department of Defense. The group's daunting task was preparing a 500-page report on the Navy's Tailhook scandal. Needless to say, scrutiny from all sides was intense.

In 1995 Boggs went to work as a trial attorney, specializing in corporate civil

litigation, for Seattle's oldest law firm, Preston Gates & Ellis (PGE). PGE had tried to recruit Boggs years earlier, when she opted instead to become an assistant U.S. attorney. When Fred Tausend finally talked her into joining his firm, she was an instant hit, in the office and courtroom.

"Paula is more fun to work with than almost anyone," says Tausend. "She's enthusiastic, has a terrific sense of humor, and she's just a joy to have on any team."

He remembers a grueling case in which PGE represented a technology start-up against an aerospace firm. Boggs was in the courtroom for just four days of the lengthy trial. After the jury awarded PGE's client a \$38 million verdict, the law firm hired a company to interview the jurors.

as general counsel, executive vice president and secretary for Starbucks, where she runs a 68-person legal department.

"I've admired this company from afar for many years," she says. "It has always had a reputation as being a great place to work and having a very strong, socially aware conscience."

Plus she loves the coffee. At Starbucks you can't walk more than a few yards without encountering a java station.

OVERCOMING OBSTACLES

But it's taken more than caffeine to catapult Boggs' career so far so fast. She credits many role models, including her mother, who passed along her gusto for taking risks. She also learned from mom that: "At the end of the day, the only limits you have are those you place on yourself."

And she learned some valuable lessons while she was at it.

"The experience taught me how to manage and overcome fear," she explains. "It's okay to be afraid. You just have to learn to overcome it."

Overcoming obstacles of any sort, for the larger community as well as herself, is Boggs' forte. She has put her considerable talents to work for an assortment of groups. Boggs is currently a director of the American Corporate Counsel Association and serves on boards ranging from the Johns Hopkins University board of trustees to the Seattle Art Museum. She chaired the American Bar Association Standing Committee on Constitution and Bylaws and served as vice chair of the Washington State Equal Justice Coalition.

"He said, 'You're about to enter the military as an officer and a female, so you need every advantage.' He thought there would be no better advantage than to be airborne-qualified, because everyone respects you. So that's what I did."

"Of the seven lawyers who were in the courtroom, Paula was hands-down the jury's favorite," recalls Tausend. "She was dynamic and devastating."

Nevertheless the experience convinced Boggs that her heart did not lie in trial work. She set her sights on becoming a corporate general counsel, and soon began moving in that direction. In 1997 she accepted a job as vice president and senior deputy general counsel for Dell Computer in Texas. The tech firm quadrupled in size while she was there.

"Being at Dell for five-plus years was an amazing experience in so many ways," she says. "All the challenges and opportunities that flow from being part of an organization growing that rapidly were part of my daily life."

But Boggs jumped at the chance to return to her adopted hometown of Seattle last year

From her late father, she inherited an insatiable curiosity. Nathaniel Boggs Jr. was the first student to earn a Ph.D. in biology at Howard University, and he went on to serve as teacher or dean at several historically black colleges. Boggs endowed the Nathaniel Boggs Jr., Ph.D., Memorial Fellowship at Johns Hopkins. The fellowship helps science students who have graduated from traditionally black colleges pursue higher degrees.

There have been many other mentors along the way, including the Army officer who advised her to become a paratrooper.

"He said, 'You're about to enter the military as an officer and a female, so you need every advantage,'" recalls Boggs. "He thought there would be no better advantage than to be airborne-qualified, because everyone respects you. So that's what I did."

Though she typically puts in a 60-hour work week, Boggs tries hard to balance her career and civic obligations with an equally full personal life. She lives in Sammamish, a town with breathtaking views of the Cascade Mountains just east of Seattle. She shares her property with her life partner, three horses, two yellow labs and two cats. In addition to riding, the athletic Boggs hikes, cycles, works out and goes running two or three days a week.

Boggs' talents have landed her an array of honors over the years, from the Presidential Service Badge in 1988 to Boalt's Recent Alumna of the Year Award in 1998.

Boggs' career path has certainly been unorthodox, but that's just the way she likes it.

"Each job has been a building block," she says. "When I look back, I wouldn't have done it any other way."

Class Notes

Submit and read Class Notes online at www.law.berkeley.edu/classnotes.

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Spencer Williams retired as a U.S. District judge in March 2002. In addition to spending 30 years on the bench, Spencer served as county counsel for Santa Clara County and in former Governor Ronald Reagan's California cabinet as secretary of human relations. Highlights of Spencer's distinguished career include presiding over one of the nation's first multi-state class actions, participating in groundbreaking decisions in the field of antitrust, and founding the Federal Judges Association.

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The California Alumni Association named **William Bagley** the 2002 Alumnus of the Year for his public service as a state legislator and UC Regent. The highest honor given by the association, the award is presented to an alumnus who has achieved distinction through contribution to UC Berkeley's international, national, state or community welfare.

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Ernest Stent reports he retired in January 2002 after four decades of practicing law "in one capacity or another." Ernest reports he is currently "working on memoirs, trying to learn to speak Spanish and cooking." He adds, "In March I spent a most delightful day with classmates **Jim Kempenich** and **George Marchand**."

Ronald Zumbun received a 2002 *California Lawyer* Attorneys of the Year Award in Appellate Law for his work defending a nonprofit agency's right to build artificial reefs off the coast of Newport Beach.

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U.S. District Judge **Thelton Henderson** appeared in a documentary about black federal judges that aired on San Francisco's PBS station in February. The program, *On Their Shoulders We Stand*, was directed by Abby Ginzberg, a filmmaker and former attorney who sits on Boalt's Center for Social Justice advisory council. Ginzberg is producing another documentary tentatively titled *No Place in Civilized Society: The Life and Times of Thelton Henderson*, focusing on Thelton's 20 year career.

Richard Hicks announces the publication of his second novel, *The Alpha Wolf Conspiracy*, a courtroom drama inspired by a case he worked on as a young lawyer in San Francisco. His first novel, a legal satire titled *Slender Fantasies*, was awarded honorable mention in the mainstream fiction category of the *Writer's Digest* 2001 National Self-Published Book Awards.

Brian Shannon is semi-retired and has two children, Michael (21), who attends Bowdoin College; and Laura (19), who is entering Massachusetts College of Liberal Arts in North Adams. Brian writes, "I never finished law school. After the political

activity of 1961-62, I returned to Boalt Hall in 1964, only to drop out again after the Free Speech Movement. I stayed in the socialist movement until 1977, when I opened a design/phototypesetting business in New York City. I sold it in 1990.

"I got married in 1981. Lisa and I moved to the Berkshires in Massachusetts and I worked in graphic design until last spring. Lisa will continue as a teacher for a few more years. I am enjoying working on my memoirs. Some of you may hear from me."

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40TH REUNION
OCTOBER 18, 2003

Garry Graham sends the following update: "Best wishes to my Boalt classmates. I still miss the mind and advice of my best pal **Bill Segal**, whom we lost four years ago. A brief catch-up: I retired several years ago from a very satisfying legal career as a San Francisco plaintiffs' maritime personal injury trial lawyer. My partner and I had offices in Spain and Scotland. I retired just in time, as the San Francisco maritime industry has been going south for years and is now almost kaput.

"To see what's up at my club, 19 Broadway, please visit www.19broadway.com. Mose Allison plays there when he visits the Bay Area and his show is spell-binding. All Boalt alumni get a special offer of first drink free, second drink double price. With the aging of our class,

Boalt Hall Transcript
University of California, Berkeley
School of Law
303 Boalt Hall
Berkeley, CA 94720-7200

Boalt Calendar

October 2

Los Angeles Alumni Luncheon
Speaker: Dean Robert C. Berring Jr. '74
"The Revolution in Legal Research"

October 3

Santa Barbara Alumni Luncheon
Speaker: Dean Robert C. Berring Jr. '74
"The Revolution in Legal Research"

October 4

Class of '49
Los Angeles Reunion Dinner

October 17

Leadership Reception at the
Chancellor's Home
(By invitation)

October 18

All-Alumni Reunion

October 22

Distinguished Service Award Dinner
Honoring: Judge Randall R. Rader
U.S. Court of Appeals for the
Federal Circuit
Contact Berkeley Center for Law &
Technology
510-643-6960

October 29

San Diego Alumni Luncheon
Speaker: Dean Robert C. Berring Jr. '74
"The Revolution in Legal Research"

October 30

Orange County Alumni Luncheon
Speaker: Dean Robert C. Berring Jr. '74
"The Revolution in Legal Research"

November 1

First-Year Career Symposium
Contact Career Services
510-642-4567

November 6

Scholarship Luncheon
(By invitation)

November 13

San Francisco Alumni Breakfast
Speaker: Dean Robert C. Berring Jr. '74
"Ricci's Paradox: Dealing with the Chinese
Legal System"

Mario G. Olmos '71 Law and Cultural
Diversity Memorial Lecture
Speaker: Elaine Jones
President and Director-Counsel, NAACP
Legal Defense and Educational Fund
"Free Public Quality Education"
Contact Center for Social Justice
510-642-6969

November 14

Rekindling the Spirit of *Brown v. Board of
Education: A Call-to-Action Symposium*
Contact Center for Social Justice
510-642-6969

November 20

Silicon Valley Alumni Luncheon
Speaker: Professor Jesse Choper
"A Momentous Year for the Supreme Court"

December 4

Fourth Annual Advanced Patent Law
Institute
San Jose
Contact Berkeley Center for Law &
Technology
510-643-6960

December 5

California State Bar
Admission Ceremony

2004

February 6

Brennan Center Thomas M. Jorde
Symposium
Speaker: Professor Geoffrey R. Stone
University of Chicago Law School
"Free Speech in Wartime"
Contact Dean's Office
510-642-6483

March

Telecommunications Conference
Contact Berkeley Center for Law &
Technology
510-643-6960

April 7

Kadish Lecture
Speaker: Professor John Gardner
University of Oxford
Contact Kadish Center for Morality, Law,
and Public Affairs
510-642-3627

Visit our website at www.law.berkeley.edu/alumni/calendar for additional event listings and to register for events.

More information is available from Alumni Relations at 510-642-2591 and, unless otherwise noted, events take place at Boalt Hall.