DUKE LAW MAGAZINE

Summer 2014 | Volume 33 Number 1

The Surveillance State

and the Search for Limits


Dean David F. Levi

Dear Friends,

IN APRIL, I gave the inaugural Judge Lloyd D. George Lecture on the Judicial Process at the UNLV William S. Boyd School of Law. Judge George, the former Chief District Judge for the District of Nevada, has had a distinguished career on the bench, and it was an honor for me to be the first to give this lecture named for him.

I used the occasion to try to "think big" about the legal profession and system of justice more generally. My talk, entitled "The Grand Challenges for the Legal Profession and Judiciary," focused on what I think are the largest problems facing lawyers and judges today. I got the idea from the U.S. National Academies, which a few years ago set for themselves the task of identifying the "grand challenges" in various disciplines within the sciences. I thought it would be interesting to try to do the same for the law. The tentative list I came up with — seven in all — run the gamut from access to justice for the poor and unrepresented and keeping our judiciary independent and neutral to improving the criminal justice system. They are all big, difficult issues, and there are no easy solutions for any of them. But I did humbly suggest some starting points for discussion and action. (You can read an excerpt starting on Page 32.)

One of the most vexing of our challenges is the increasing fragmentation of the legal profession itself; the bench, the academy, and the practicing bar have few opportunities for in-depth discussion. Most lawyers who have been practicing for more than 10 years have very little idea of what goes on in law schools today. Yet every day seems to bring a new proposal from state bars or state supreme courts as to what law schools must teach or young lawyers must do in order to gain entry to the profession (a particular problem for a school like Duke that doesn't draw students from predominantly one state). There is also a disconnect between our judiciary and the academy. I frequently hear judges say that there is nothing in law journals of any interest or importance to them, and academics are often harshly critical of judicial opinions as reflecting partisan motivations or other kinds of bias. A final point of fragmentation is between lawmakers in Washington and state capitals — many of whom are also lawyers — and the rest of the legal profession. In the bar, the judiciary, and the law schools, there is a huge reservoir of knowledge about most of the critical areas of life that are subject to regulation and legislation. Yet we have not found it easy to get this knowledge into the hands of legislators and agencies.

At Duke Law, we are very proud of our close and deep connection with the profession.

So what can be done? At Duke Law, we are very proud of our close and deep connection with the profession. Our alumni are deeply engaged with what's going on here: They come back frequently to speak about their career paths and current issues in the law, serve on our extended faculty and teach practical skills classes during Wintersession, and mentor future lawyers in our many experiential programs. Our Master of Judicial Studies program is opening lines of communication and collaboration between scholars and the bench; the first 14 graduates of this new program, all state, federal, or international judges, received their degrees in May after completing a rigorous course of study and writing a thesis. Our new class of 20 judges just completed their first summer of study and will return next summer. And programs such as Duke in D.C. and the D.C. Summer Institute on Law and Policy are bringing students and faculty to Washington to connect with lawmakers, policymakers, and regulators and address issues of concern to society as a whole, from health care to human trafficking.

We aren't going to fix the problem of a fragmented profession on our own. But with your help, we will continue to be a place where lawyers, judges, scholars, and students can come together and work across the lines of separation towards solutions to this and other "grand challenges" we face.

Thank you for your continued support of Duke Law.

Sincerely,

David F. Levi

David F. Levi
Dean and Professor of Law

Summer 2014
Volume 33 Number 1

DUKE LAW

Duke Law Magazine is published under the auspices of the Office of the Dean, Duke University Law School, 210 Science Drive, Box 90362, Durham, NC 27708

This publication was produced using paper which supports Duke's commitment to sustaining our environment.

FSC www.fsc.org MIX Paper from responsible sources FSC® C005991

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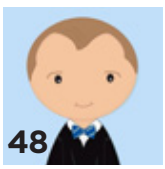
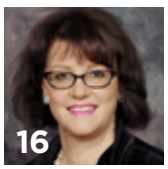




News Briefs

A successful partnership:
The Alaska Law Review begins its fourth decade at Duke

THE JUNE 2014 ISSUE of the *Alaska Law Review* — Vol. 31, No. 1 — includes a critique of exemptions from federal employment regulations given to Alaska Native Corporations and an analysis of the role non-lawyers play on administrative tribunals in the state, both written by members of the Alaska bar. Student contributions focus on Alaska's recidivist laws, legal solutions to air pollution caused by winter wood burning in Fairbanks, and the unpredictability of litigation costs for plaintiffs under the state's Rules of Civil Procedure.

The topics were all suggested by ALR readers — lawyers and judges in the state. Each year, over fall or spring break, all the Duke Law student editors travel to Alaska to meet with them and learn about current legal issues in the state, the only state in the union without a law school. It's a unique tradition for a unique journal published semi-annually at Duke since 1984.

"One of the things that was special for me about the journal was its feeling of practicality. It matters to lawyers and judges in Alaska," said Jennie Morawetz JD/MEM '13, who as a 3L served as editor-in-chief. "When I went on the *Alaska Law Review* trip and met with members of the legal community, it was cool to ask, 'What topics do you find interesting and what is something you would want to read about,' and then to go back and have a student write a note or solicit an article on the topic. And it was great to get direct feedback from readers on previous articles.

"The *Alaska Law Review* is a good, old-fashioned law review that has a close connection to people who are actually practicing," she said.

That connection was a key factor in the Alaska Bar Association's decision, following a review of proposals from other law schools, to keep the journal at Duke, said Executive Director Deborah O'Regan. The June issue is the first published under a new multi-year contract between the organization and the Law School.

"Duke Law students have done consistently outstanding work on the journal and have been extremely responsive to input from our members," she said. "We are delighted that our longstanding partnership with Duke Law School is continuing."

The journal has also recently formed an advisory board made up of lawyers and judges from the state who can offer input to the student editors.

"The Alaska Law Review *is a good, old-fashioned law review that has a close connection to people who are actually practicing."*

— former Editor-in-Chief Jennie Morawetz JD/MEM '13

"When I came to Duke and joined the *Alaska Law Review* after living and working on the East Coast, it gave me a great opportunity to take an in-depth look at state law," said former *ALR* editor Denali Kemppel '02, general counsel of the Arctic Slope Regional Corporation in Anchorage and an advisory board member. "Now, it's comforting to know that some of the more practical articles have been vetted and edited by smart Duke Law students." As a bonus, each new issue of the journal evokes "warm memories of Duke," she said.

During their annual meetings with judges and attorneys from a range of practice areas, students get a sense of the complexity of legal issues they face, many relating to Alaska's natural resources and large Native population, and all made particularly challenging by a lack of precedent, said Jonathan Ross '11, another former editor-in-chief. "Alaska has only been a state for slightly over a half-century, and so the courts routinely encounter issues of first impression," said Ross, who is completing a clerkship with Judge Frank M. Hull of the U.S. Court of Appeals for the Eleventh Circuit. "That's why Alaska's unique legal landscape lends itself well to scholarly comment."

Beyond the opportunity to publish innovative scholarship, *ALR* student editors often find their introduction to the state's small and collegial legal community benefits them in other ways, sometimes even influencing their career paths. For example, several journal editors have gone on to post-graduate clerkships in Alaska. Following her yearlong clerkship with Judge Sharon Gleason of the U.S. District Court for the District of Alaska, Morawetz will clerk for Judge Morgan Christen of the U.S. Court of Appeals for the Ninth Circuit, also in Anchorage.

"On the trip we always have breakfast or lunch with Alaska Supreme Court and Court of Appeals judges, and then have individual meetings with other judges," she said. "By the time I was applying for clerkships, I had met many of the judges I was applying to clerk for."

"Duke Law students have done consistently outstanding work on the journal and have been extremely responsive to input from our members."

— Deborah O'Regan, executive director, Alaska Bar Association

CLASSMATES, EDITORS, HONOR KATBI '13 WITH POSTHUMOUS NOTE PUBLICATION

THE LATEST ISSUE of the *Alaska Law Review* includes Andrew Katbi's note, "Crossing the Line: An Analysis of Problems with Classifying Recidivist Misdemeanor Offenses as Felonies." Katbi '13, who served on the editorial board as a 3L, died in a car accident in March 2013, after completing a draft of the note and, in fact, all of the requirements to receive his JD. Three of his classmates, Graham Cronogue, Matt Triplett, and Adam Faiella, brought the piece to the editors' attention and prepared it for publication.

In a footnote to the article, the editors offered this tribute: "This Note is published in loving memory of Andrew, a committed friend, dedicated student, passionate athlete, and thoughtful advocate who made better the life of every person he touched. In the pages of this journal, in the halls of our school, and in each chapter of our own lives and practices we honor his contributions and cherish his legacy."

Niki Ikahihifo-Bender JD/MA '16, who calls herself a "proud Alaskan," said the presence of the *ALR* at Duke made it stand out from the other law schools she was considering, and she hopes to join the editorial staff next fall. "It was at the top of my list when I ordered journal preferences this spring during the casenote competition," said Ikahihifo-Bender, who represented Duke at the recent Alaska Bar convention and has a summer job in Anchorage with the general counsel of BP. "It would allow me, personally, to stay connected to the legal issues of my state and to directly assist Alaskan attorneys and judges in doing so."

Students' close ties to Alaska have been taken into account in the journal staff selection process in recent years, said Professor Thomas Metzloff, who serves as faculty adviser. "Hosting the journal has helped us attract very strong students," he said. "Our partnership with the Alaska Bar Association has been synergistic."

Under Duke's new agreement with the Alaska Bar Association, the journal will be primarily distributed online. Each issue of *ALR* is freely available and archived on the web with printable and searchable PDFs, and state bar members will receive email notification when new issues are published. They can order print issues with an annual $15 subscription.

Journal editors are also helping to organize an October symposium on issues relating to Arctic exploration and development at the University of Alaska, Anchorage, in cooperation with faculty colleagues there, which will yield articles for a future issue. "It will be our first symposium in Alaska and we're very excited about it," Metzloff said.

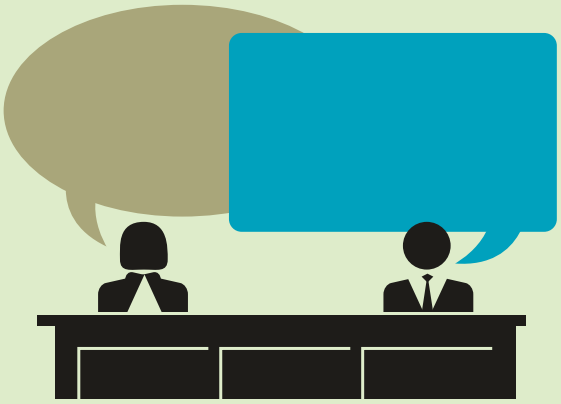
In the June issue, Kristie Beaudoin '14 ends her editor's note with an invitation to Alaska bar members to "contribute to the conversation.

"As always, we are grateful to the Alaska Bar Association and the Alaska legal community for granting us the privilege of publishing the *Alaska Law Review*," she writes, "and we look forward to many more fruitful years of working together."

» Read more at **alr.law.duke.edu**.

"Perhaps if Mr. Putin had negotiated to *buy* Crimea instead of taking it over, Ukraine could have negotiated for both debt relief and multiple years of cheap gas in exchange."

— **Professors Mitu Gulati** and **Joseph Blocher** suggesting that in some situations, the sale of sovereign territory by a debt-ridden nation makes sense, as it apparently did when Russia sold Alaska to the United States for $7.2 million in 1867. (*Financial Times "Alphaville"*)



"For Roberts it is race-consciousness that is racism; for Sotomayor racism is reality and history."

— **Professor Guy-Uriel Charles** on the differing views of Chief Justice John Roberts and Associate Justice Sonia Sotomayor, revealed in their respective opinions in *Michigan v. Coalition to Defend Affirmative Action*. (*Talking Points Memo*)

NOTABLE & QUOTABLE

"If you were asleep as a defense counsel the entire time during the trial, if you were dead during the trial or if you failed to investigate a brain abnormality, you can be found responsible for ineffective assistance of counsel. That's a surprising trio."

— **Professor Nita Farahany '04** on one implication of her research study that found more than 1,500 judicial opinions from 2005 to 2012 in which an appellate judge mentioned neurological or behavioral genetics evidence that had been used as part of a defense in a criminal case. (*Scientific American*)

"WE HAVE TO MOVE AWAY FROM TRYING TO PUT SOMEONE IN PRISON. I KNOW I SOUND LIKE AN APOLOGIST FOR THE BANKING INDUSTRY BUT I DON'T SEE HOW WE DO ANYTHING CONSTRUCTIVE IF WE DON'T MOVE AWAY FROM THAT ATTITUDE."

— **Professor Lawrence Baxter** urging financiers and regulators alike to embrace a well-regulated yet workable system "that is not punitive and is actually mutually beneficial." (*The American Banker*)

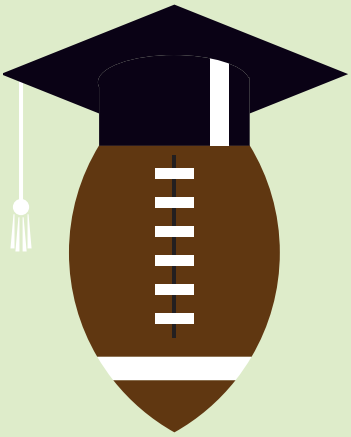
"The entire crisis is a tableau of abdication:

years of privatization and non-regulation followed by panic. It is an emergency, not least because inaction has insured that no one knows enough to say that it is not an emergency."

— **Professor Jedediah Purdy**, a West Virginia native, on the January spill of 7,500 gallons of a chemical used to remove impurities from coal into the Elk River from a tank owned by Freedom Industries. The health effects of the chemical, MCMH, are unknown. (*The New Yorker*)

"No one should die at the hands of the state if racial discrimination played a significant role in that person being charged, convicted or receiving a sentence of death."

— **Professor Donald Beskind LLM '77** arguing before the Supreme Court of North Carolina on April 14 on behalf of Marcus Robinson, a convicted murderer whose death sentence was reduced to life imprisonment under the state's Racial Justice Act, passed in 2009, and then reimposed after the law was repealed. Beskind noted that at trial, the prosecution had deliberately stricken half of the qualified black jurors. (*The New York Times*)



"Make a commitment to athletes as students.

Instead of being one-year renewable awards, athletic scholarships should be guaranteed for the full period of time college athletes are in school (up to six years under this proposal). This would help schools want to ensure the academic success of college athletes even after their playing careers end."

— **Clinical Professor Andrew Foster** and **Lecturing Fellow Jeff Ward '09** citing their commitment to teaching and love of college sports in offering a four-point plan for fixing college athletics. (*News and Observer*)

Wrongful Convictions Clinic

Armstrong receives full pardon

LaMONTE ARMSTRONG, whose conviction in a 1988 Greensboro murder case was called into question by new evidence uncovered by Duke Law's Wrongful Convictions Clinic, was granted a pardon of innocence by North Carolina Gov. Pat McCrory on Dec. 23. He has since been awarded the maximum compensation available to an individual wrongly convicted in the state.

The governor called Armstrong personally to inform him of the pardon, which capped a lengthy review process. The two met earlier in December, along with members of Armstrong's legal team from Duke who represented him through the pardon process: James Coleman Jr., John S. Bradway Professor of the Practice of Law, and Clinical Professor Theresa Newman '88, who co-direct the clinic; Supervising Attorney Jamie Lau '09; and Winston-Salem attorney David Pishko '77.

No physical evidence ever linked Armstrong to the murder of Ernestine Compton. A statement released by the governor's office also noted Armstrong was implicated by an acquaintance who subsequently recanted his testimony.

Armstrong had served more than 16 years of a life sentence before his release on June 29, 2012, when N.C. Superior Court Judge Joseph Turner agreed with defense attorneys and the Guilford County District Attorney's Office that new evidence indicated another individual committed the crime. Turner said that ordering Armstrong's release was the "closest to knowing I'm doing justice, in my career, I will ever experience."

"Despite the remarkable way he was released from prison, there had been no definitive statement from the state that he is innocent," said Newman. "This gives him that. It removes all doubt." She praised the approach the governor, his general counsel, and staff took to the pardon application.

Armstrong said he was proud of his legal team, including the students and alumni who worked on his case for several years. "I feel tremendously blessed. It's as simple as that."

Wettach

CHILDREN'S LAW CLINIC REPORT ON PRIVATE SCHOOLS PLAYS ROLE IN NORTH CAROLINA VOUCHER CASE

A REPORT ISSUED by the Children's Law Clinic played a significant role in the decision of a state Superior Court judge to enjoin North Carolina's new school voucher program on Feb. 21. The report, compiled and written under the direction of Clinical Professor Jane Wettach, offers insight into the types of schools where taxpayer funds would be spent under the voucher program.

The report shows that a large majority of voucher-eligible schools are very small religious schools without certified teachers or adherence to state curricular standards.

Two lawsuits were filed in December challenging the constitutionality of the voucher program under the North Carolina constitution. Lawyers for the plaintiffs used data from the report to argue that using public money to fund private schools does not meet the constitutional standards for using tax money for "public purposes only."

After the Superior Court enjoined the program, the North Carolina Supreme Court set aside the preliminary injunction, so the voucher program is proceeding for the time being. A full hearing on the merits will be held in Superior Court in late August and the case is likely to proceed through the appellate courts over the next several years. The Children's Law Clinic will continue in the role of *amicus curiae* as the case makes its way through the court system.

An extensive survey of private schools in the state generated the data for the report, titled "Characteristics of North Carolina Private Schools." Clinic student Kristi Lundstrom '14 helped design the survey during the fall 2013 semester and student volunteers from Duke Law and the University of North Carolina Law School gathered the data in December and January. Clinic students Susan Walker '14, Nichole Davis '15, and Shamus Hyland '14 assisted Wettach in analyzing the data and creating the report. Along with Aly Rutsch '15, Reggie Cuyler '14, and Benjamin Holt '14, they also observed the preliminary injunction hearing.

"It was an incredible learning experience to be involved in the preparation for the voucher litigation, and to listen to the legal analyses and discussions on strategy," Lundstrom said. "It was also very exciting to see our work being used in a meaningful way at the hearing. It has been an amazingly valuable practical learning experience for me."

Hill Day guest Sen. Robert Menendez, left

Hilary Campbell '14, center, makes a point, with classmates Robby Naoufal and Lindsay Kirton looking on.

Duke in D.C. "Hill Day"

DUKE IN D.C. STUDENTS peppered federal policymakers with questions about their work during a daylong series of meetings in the U.S. Senate Foreign Relations Committee Room on Nov. 12.

Senators Robert Menendez, D-N.J., and Lamar Alexander, R-Tenn., White House Office of Management and Budget General Counsel Geovette Washington '92, and lobbyist Paul Brathwaite '96, a principal with the Podesta Group, were among the 13 "Hill Day" guests to engage in dialogue with the Duke Law students who spent their fall semesters working in various federal offices, agencies, and organizations. These included the Civil Rights Division of the Department of Justice, the Securities and Exchange Commission, the International Trade Commission, and, in the case of 3Ls Robby Naoufal and Mark Sobin, the White House, where they served as interns.

The Hill Day meetings were organized and moderated by the faculty who bring decades of first-hand experience to their leadership of the Duke in D.C. Federal Policymaking course and externship program (pictured above, center, L-R): Senior Lecturing Fellow Jeffrey Peck, of Peck, Madigan, Jones & Stewart, Inc.; Professor Christopher Schroeder; and Sen. Ted Kaufman.

Justice Clarence Thomas shares his journey from the South to the Supreme Court

ASSOCIATE JUSTICE CLARENCE THOMAS invoked the memory of his grandfather multiple times as he told Duke Law students about his journey from the segregated South to the U.S. Supreme Court during a recent visit to Duke Law.

During a wide-ranging "Lives in the Law" interview conducted by Dean David F. Levi on Oct. 21, Thomas said his grandfather influenced his thinking in every respect, including in matters of judicial philosophy. "There was a way he told us to think about things and be honest," said the justice, who was raised by his grandparents after spending his early childhood in an impoverished tenement apartment in Savannah, Ga. "I have met a lot of people in my life. I still think, without any doubt, my grandfather is the greatest single human being I've ever met or read about. And my grandmother is as saintly a human being as I've ever met or read about."

His 1991 nomination to the Supreme Court by President George H. W. Bush "was their victory," Thomas said. "It was because of their hopefulness that I was able to be at Kennebunkport," the location of the Bush summer home where the nomination was announced.

» Read more at **law.duke.edu/justice-clarence-thomas**.

Pictured with Justice Thomas, L-R: Linda Atiase '14, Ndidi Menkiti '14, Deanna Evans '13, and Nichole Davis '15.

Thomas met with several student and faculty groups during his daylong visit to Duke, even conferring, over lunch, with Duke men's basketball coach, Mike Krzyzewski. "We straightened out some theories of motion offense," joked Thomas, a self-described sports fan.

Thomas, who kept the students in the capacity audience laughing through many parts of his Lives in the Law interview, chatted with them informally for more than an hour during a subsequent reception in Star Commons.

2012 grads Bandy and Boyce selected for Supreme Court clerkships

TWO MORE Duke Law graduates are headed for Supreme Court clerkships. Jenn Bandy '12 will clerk for Associate Justice Clarence Thomas during the 2014-2015 term. Sarah Boyce '12 will clerk for former Associate Justice Sandra Day O'Connor during the 2015-2016 term. She will divide her time between assisting O'Connor, who retired from the court in 2006 but remains engaged in judicial service on the United States Courts of Appeals, and serving as a fifth clerk for one of the active justices.


Bandy Boyce

Bandy clerked for Judge William H. Pryor Jr. of the U.S. Court of the Appeals for the Eleventh Circuit in Birmingham, Ala., before joining Kirkland & Ellis in Washington, D.C., where she worked during her 2L summer.

"I felt really lucky," said Bandy. "I've heard nothing but wonderful things about Justice Thomas as a boss, as someone who's really invested in his clerks, and I have extraordinary respect for him as a jurist."

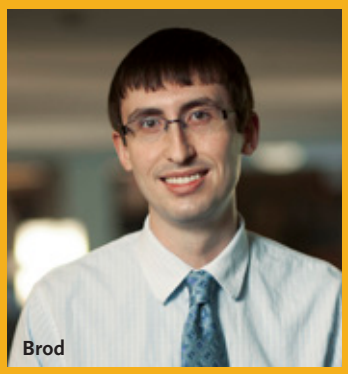
Bandy will be Thomas's third Duke clerk: Allison Jones '07 clerked for him during the 2010-2011 term, and Katie Yarger '08 clerked during the most recent term.

Boyce called her upcoming clerkship with O'Connor "a dream come true."

After clerking for Judge Jeffrey S. Sutton of the U.S. Court of Appeals for the Sixth Circuit, Boyce became a Bristow Fellow in the U.S. Department of Justice, assisting attorneys in the Office of the Solicitor General. Boyce will practice with Gibson, Dunn & Crutcher in Washington before starting her Supreme Court clerkship.

At Duke, Boyce served as editor-in-chief of the *Duke Law Journal*, won the Dean's Cup Moot Court tournament twice, and received the Law School's Advocacy Award.

Bandy served as *DLJ* executive editor, as a guardian ad litem in Durham County, and as a research assistant to Professors Guy-Uriel Charles and Ernest Young. As a 3L, she shared the faculty award for outstanding achievement in the area of constitutional law and civil rights law.


Brod


Bryant

Brod '14 and Bryant '14 receive national honors for scholarship

2014 CLASSMATES and *Duke Law Journal* colleagues Nick Brod and Chris Bryant have each received national honors for their scholarship.

Brod's *DLJ* note, "Rethinking a Reinvigorated Right to Assemble," was selected by Scribes, the American Society of Legal Writers, as the best student-authored law-review article published this year. Bryant's note, "An Untrustworthy Presumption: Replacing the *Moench* Presumption With a Sound Standard for Stock-Drop Litigation," took top honors in the 2013-2014 Louis Jackson National Memorial Student Writing Competition in Labor and Employment Law.

Brod's deep dive into constitutional doctrine pertaining to the First Amendment's Assembly Clause, sparked by the emergence of the "Occupy" movement during his first year of law school, left him convinced that it missed the mark. He examines the text and history of the Assembly Clause in his note, demonstrating that when the Framers wrote it, they sought to protect in-person movements and gatherings in such places as streets and town squares.

The screener who read Brod's article called it the best he had seen submitted in several years, said Seattle University School of Law Professor Mary Bowman, who chairs Scribes' Law-Review Competition Selection Committee. It was one of 73 nominated by student journal editors and screened by members of the legal writing faculty at the Thomas Cooley School of Law.

Both Brod, a *DLJ* executive editor, and the journal, represented by Bryant, the editor-in-chief, received awards on March 27 at the Scribes Dinner at the National Conference of Law Reviews held at Southwestern Law School in Los Angeles.

In his award-winning note, Bryant analyzed the issues in *Fifth Third Bancorp et al. vs. Dudenhoeffer*, a case heard by the Supreme Court in April. The case hinges on the validity of the *Moench* presumption, a principle that has served to protect employee stock plan sponsors who are sued for breach of fiduciary duty after drastic drops in stock value. He concludes that the standard errs to the detriment of employee investors.

"From a public policy perspective, the United States should not adhere to a standard that does not recognize and protect the social policy that undergirds ERISA retirement plans," he writes.

Bryant's note has been published online by the IIT Chicago-Kent College of Law's Institute for Law and the Workplace, which administers the Louis Jackson competition, and he received a $3,000 scholarship.

Hooding 2014

Gao '86 to graduates:
Preserve optimism and idealism, lead by example

XIQING GAO '86 encouraged Duke Law School's 2014 graduates to preserve their optimism, idealism, and passion for their work when he spoke at their hooding ceremony on May 10.

"You have earned this seat through intelligence, diligence, and discipline," said Gao, the former president and chief investment officer of China's sovereign-wealth fund, the China Investment Corporation, and an architect of his country's stock markets and regulatory agency. "You have proven that you have a lot to offer this world. Now you need to prove that you can make a difference, whether that be in the courtroom, classroom, NGO, or office. Lead by example, because anything is possible."

Gao addressed Duke Law School's JD, LLM, and Master in Judicial Studies graduates prior to their hooding in Cameron Indoor Stadium. Two hundred and twelve graduates received the JD degree during Duke's weekend ceremonies, with 22 also earning an LLM degree in international and comparative law, and 13 also receiving a master's degree from another graduate school at Duke University. One student also earned a Master of Global Business Law degree from Sciences Po in Paris, one of Duke Law's partner institutions.

Eighty-five internationally trained lawyers earned LLM degrees, and 12 attorneys received the LLM in Law and Entrepreneurship.

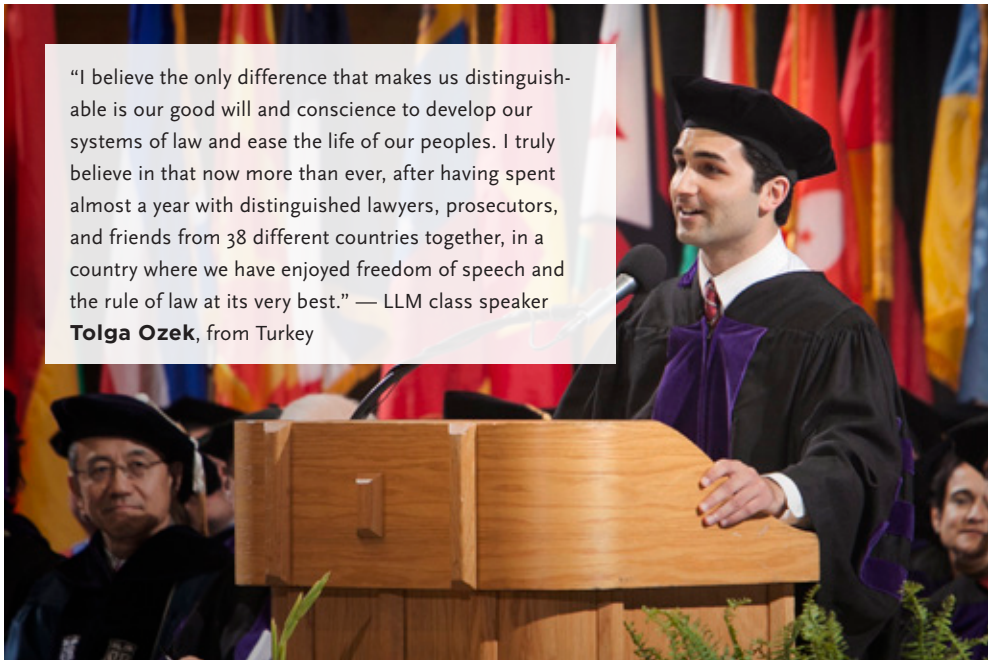
Fourteen distinguished judges from state and federal courts and two foreign jurisdictions earned the Master of Judicial Studies after completing two summers of intensive study at Duke Law and writing scholarly theses, all while maintaining their judicial duties.

One student, Feroz Ali Khader, of Madras, India, was honored, in absentia, for his graduation with the SJD, the highest degree awarded in law.

In his remarks, Gao, a Duke University trustee, shared some of his life experiences in the hope, he said, of encouraging the graduates to transcend barriers regardless of cost. He recalled shouldering a heavy workload as a teenaged railroad construction worker in the mountains of Western China. The "lack of knowledge and information"

(continued, Page 12)

"In my first week at Duke University, a mentor of mine, Professor Erika Buell, said, 'Treat this program like your own entrepreneurial experience, and then treat your life in the same way.' We have learned to invest in ourselves … to be successful."
— Law and Entrepreneurship LLM class speaker **Andrew Walton**



"I believe the only difference that makes us distinguishable is our good will and conscience to develop our systems of law and ease the life of our peoples. I truly believe in that now more than ever, after having spent almost a year with distinguished lawyers, prosecutors, and friends from 38 different countries together, in a country where we have enjoyed freedom of speech and the rule of law at its very best." — LLM class speaker **Tolga Ozek**, from Turkey

"At Duke Law our classmates are our friends, not just our colleagues. … Sharing the last three years with each other made them that much more special."
— JD class speaker **Ruben Henriquez**

"My classmates and I are grateful to Dean Levi and the team he has assembled for conceiving the LLM in Judicial Studies, flawlessly executing the plan, and committing so fully to its success. Duke Law's leadership, vision, and commitment to the judiciary are unparalleled." — Master of Judicial Studies class speaker **Justice Patricia Timmons-Goodson** of the North Carolina Supreme Court (retired)

HOODING *(continued from Page 10)*
made harsh conditions seem almost unbearable, he said.

"I devoured every piece of paper that had any word on it like a hungry man. Together with a few co-workers we started a study group called 'The Communist Laborers' Night School,' with a few old textbooks we brought with us." They learned English — and risked imprisonment, he said — by listening to Voice of America and BBC broadcasts on an old radio.

When he was assigned, three years later, to work in an artillery factory, Gao studied English on the side, eventually being one of 12 out of 200 students to complete a yearlong course. That gained him a recommendation to attend college in Beijing, without having ever been to a high school, he said.

After graduating from both college and law school in Beijing, Gao was sent, in 1982, to a California law firm as an exchange scholar to prepare for a teaching career. "There I realized that my knowledge of law was utterly inadequate to deal with international transactions, which I was supposed to teach back in Beijing," he said of his decision to pursue a JD degree in the U.S. "That started my 'honey decades' with Duke Law, which gave me a full scholarship and fuller education in American law," he said. After his years of hardship, and in spite of facing some prejudice on campus, Gao described Duke Law as a "heaven of learning."

He became "fascinated by the intricacies of the capitalistic financing machines" and, after careful study as a junior associate in a Wall Street firm, and then touring most of the stock exchanges in Europe and Asia, Gao returned to China with the hope of persuading the government to establish a capital market. In spite of considerable skepticism, he was instrumental in opening two stock exchanges in China in 1990, and a regulatory agency two years later.

Having served in leadership positions for years, most recently as head of China's sovereign-wealth fund, Gao said he looks forward to returning, in his retirement, to doing "what I love the most — working with young people every day, teaching and, more importantly, learning."

Describing his life as one of many detours, Gao told the graduates that hardship "may pay in the long run." He advised them to try out the roads less traveled and to embrace differences in views, people, cultures, and ideologies. "They just teach you to be more tolerant and open-minded," he said. "Setting overly high material goals, may keep you from realizing your ideals or keeping your vision," he added.

In his remarks, Dean Levi praised the intelligence, initiative, and accomplishments of the graduates and thanked them for their enthusiastic contributions to and support of the Law School. He noted that the JD graduates began their legal studies just as the overall and legal economies were starting to emerge from near collapse.

"Your career now begins in a time of recovery," he said, adding that they would likely face other periods of economic downturn in the coming decades. "Through it all, you will find that the education you have received here has prepared you to reach your full potential as a lawyer and citizen, to adapt, to learn new fields of knowledge, and to make significant contributions to maintaining the social fabric.

"You have earned the right to join our distinguished body of alumni who practice law and serve the common good all over the world."

A GREAT GRADUATION GIFT

ON MAY 10, Justice Eva Guzman of the Supreme Court of Texas, left, and Autumn Hamit were hooded to mark the completion of their degrees, a Master in Judicial Studies for Guzman and a JD for Hamit. After the ceremony, Guzman surprised Hamit with an invitation to clerk for her in an upcoming term.

"Receiving the clerkship offer in person made my graduation weekend even more special," said Hamit, who will begin clerking for Guzman in September 2015 after a yearlong fellowship in the Office of the Texas Solicitor General.

"The Master of Judicial Studies Program has not only given me a new perspective on judging but has also introduced me to a world-class body of faculty and law students," said Guzman. "My first year in the LLM program, I hired my first Duke clerk. And, I am thrilled to have had the opportunity to extend an offer for 2015-2016 to another outstanding Duke Law student on the day we both graduated! A first, I am sure."

Eight Duke Law students secured clerkships with members of the inaugural class of the Master of Judicial Studies program.

HELFER'S MOOC ON INTERNATIONAL HUMAN RIGHTS A DUKE LAW FIRST

LAURENCE HELFER, the Harry R. Chadwick, Sr. Professor of Law, taught a massive open-access online course — a "MOOC" — on international human rights law during the spring semester, bringing high-level legal instruction to a global audience. More than 18,500 students initially enrolled in the six-week course, which is comprised of video lectures, discussion forums in which students debate cutting-edge human rights issues, weekly quizzes, and a final exam.

The MOOC, titled "International Human Rights Law: Prospects and Challenges," was the first law-related course offered through Duke University's two-year-old partnership with the California based education company Coursera. The MOOC addressed such topics as genocide and humanitarian intervention, the right to life and capital punishment, the right to health and HIV-AIDS, and counterterrorism and human rights.

Helfer, whose expertise includes international law and institutions, international adjudication, and international intellectual property law in addition to human rights, designed the course to appeal to multiple audiences, including nongovernmental organizations, university students, and practicing attorneys.

More than 18,500 students initially enrolled in the six-week course, comprised of video lectures, discussion forums, weekly quizzes, and a final exam.

"I designed the MOOC to introduce the key legal rules and institutions of the international human rights system as well as the achievements and challenges that the system now faces," Helfer said. He believes the global accessibility of the course free of charge was particularly helpful in disseminating information about human rights.

"Human rights are universal," said Helfer, who co-directs the Center for International and Comparative Law and is a senior fellow with Duke's Kenan Institute for Ethics. "They can be a source of empowerment and a tool for advocacy for legal, political, and social change. At the same time, human rights are often violated, sometimes on a widespread scale.

"What I've learned from practicing, teaching, and writing about human rights for the past 20 years is that it's essential to understand how international law protects human rights and how international monitoring mechanisms can be used strategically and selectively to pressure governments to improve their respect for those rights — even if sometimes slowly or imperfectly. This course allowed me to share these insights with a global audience."

Students enrolled in the course by a simple mouse click. As of early May, approximately 9,000 students had watched Helfer's video lectures or joined in the discussion forums, and 4,000 students had been actively engaged with the course materials and weekly tests. No university credit is awarded for enrolling in the MOOC, but students can elect to enroll in a "signature track" which offers a verified certificate that the student has completed the course and its assignments.

LAW SCHOOL LAUNCHES TWO NEW CERTIFICATE PROGRAMS FOR LLM STUDENTS

WITH THE LAUNCH of certificate programs in business law and intellectual property law, Duke Law School now offers international LLM candidates three specialty pathways for their U.S. legal studies.

"Business law and intellectual property law are two of Duke Law's academic strengths. Our new certificate programs offer LLM students the chance to deepen their understanding of these complex and changing fields and better prepare themselves for careers as lawyers or policymakers," said Jennifer D'A. Maher '83, associate dean for international studies.

Certificate programs enable LLM students to further refine their research and career focus by maximizing their exposure to specialized courses and experts in their fields of interest. Students can choose from a variety of courses taught by leading scholars and practitioners as well as interdisciplinary programs across the university. The Law School has awarded a Certificate in Environmental Law for LLM students since 2010.

The new certificates are available to LLM students in the Class of 2015.

» The **Certificate in Business Law** requires completion of 24 credits in law (21 credits are required for the LLM); a substantial research paper in business law or a related field; and a minimum of 12 credits in courses in business law and related fields. Three of the 12 credits may be obtained from courses offered by the Fuqua School of Business.

» The **Certificate in Intellectual Property Law** requires completion of 24 credits in law; a substantial research paper in intellectual property law or a related field; and a minimum of 12 credits in courses in IP law and related fields, including two courses from a core list, with remaining courses from an elective list of IP courses designated by the IP faculty.

» The **Certificate in Environmental Law** requires 24 credits in law; a substantial research paper in environmental law or a related field; and a minimum of 12 credits in courses in environmental law and related fields, including Environmental Law (3 credits) and Readings in Environmental Law (1 credit). Three of the 12 credits may be obtained from courses offered by the Nicholas School of the Environment or the Sanford School of Public Policy.

Professors Stuart Benjamin and Arti Rai co-direct the center

Center for Innovation Policy promotes innovation that spurs long-term economic growth

DUKE LAW'S CENTER FOR INNOVATION POLICY facilitates the identification and implementation of laws and policies that nurture innovation, an important driver of economic growth in developed countries.

Professor Arti Rai, an internationally recognized expert in intellectual property law, administrative law, and health policy, and Professor Stuart Benjamin, a leading scholar of telecommunications law, administrative law, and the First Amendment, bring deep experience in the policy arena to their leadership of the center. They are bringing scholars and practitioners together to address legal and policy issues surrounding the diffusion and commercialization of science and technology in industries, with a focus on three areas: information technology and telecommunications, life sciences, and energy. They also plan to consider cross-cutting issues in innovation policy that are not limited to one industry.

"Most existing academic centers focus on intellectual property, or law and technology beyond intellectual property, but without honing in on a goal," said Rai, the Elvin R. Latty Professor of Law. "For us, the goal is promoting the innovation that spurs long-term economic growth." The center occupies a unique space between purely theoretical scholarship and think tanks that are more oriented to specific short-term issues, she added.

And while the center takes advantage of Duke's significant presence in and close proximity to Washington, it remains independent.

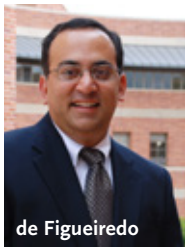
"We have no clients," said Benjamin, the Douglas B. Maggs Professor of Law. "We are trying to think at a higher level of abstraction than typical D.C. think tanks, but still in the real world and with aspirations for influencing policy."

The center has close ties with Duke University's Innovation and Entrepreneurship Initiative, under the leadership of Professor Eric Toone, and with the Center for Entrepreneurship and Innovation at the Fuqua School of Business. It also complements and advances other Duke Law initiatives relating to entrepreneurship and innovation, such as the Law and Entrepreneurship LLM, the dual JD/LLM offering, and the Start-Up Ventures Clinic.

Innovation in the biopharmaceutical sector was the focus of the center's inaugural conference, held Nov. 22 in Washington. Leaders from government, industry, and academia discussed drug development incentives in light of the U.S. Supreme Court's 2013 decision in *Federal Trade Commission v. Actavis*. The conference has inspired several articles, said Rai, including a forthcoming peer-reviewed contribution to *Nature Translational Medicine*, co-authored with Grant Rice '15.

Leading figures from the government, industry, and academia, will address the future of the regulation of broadband networks at the center's next conference, to be held in Washington on Oct. 17. "We want them to look beyond the controversies of the moment and focus instead on the longer-term future of Internet regulation," said Benjamin, who served as the first distinguished scholar at the Federal Communications Commission from 2009 to 2011. The conference, titled "Internet Regulation in 2020," will begin with a keynote address by Vint Cerf, one of the fathers of the Internet who created its key protocols.

Duke Law hosts 2014 conference of International Society for New Institutional Economics


de Figueiredo

MORE THAN 200 international scholars from a range of disciplines convened at Duke Law in late June for the 18th annual conference of the International Society for New Institutional Economics (ISNIE).

The conference brought together economists, legal scholars, organizational theorists, political scientists, and other social scientists from 20 countries. Over three days of panel discussions and keynote addresses, they considered cutting-edge scholarship relating to how institutions and organizations evolve, how they operate, and how they may be optimally designed and supported.

"A well-functioning society depends on well-functioning institutions," said John de Figueiredo, the Edward and Ellen Marie Schwarzman Professor of Law and Professor of Strategy and Economics at the Fuqua School of Business, who chaired the conference program committee as ISNIE president-elect. Institutions and organizations, such as corporations, legislatures, and courts, are key to insuring a society has properly operating markets, he added. "Institutions affect market performance. For example, we need well-functioning courts to support market transactions. If there is not an independent arbiter of disputes that arise in the course of doing business, it will be difficult to enforce a contract. If you cannot enforce a contract, then contracts become less useful and markets have a harder time functioning well."

ISNIE was formed in the mid-1990s, as an interdisciplinary enterprise to facilitate understanding of the institutions of social, political, and commercial life. Founded by Nobel prizewinning economist Ronald Coase and led in its early years by two other Nobel laureates, ISNIE and the scholarly discipline of new institutional economics evolved, de Figueiredo said, with the realization that a deeper understanding of institutions and organization is essential to a full understanding of economics.

"Previously, economics was primarily concerned with markets, whether they were labor markets or product markets," he said. "Economics focused on the mathematical, empirical, and statistical details of the markets." New institutional economics, as a field, emerged from the realization that the discussion of market operation and breakdown needed to be broader, delving into the details of how market transactions were supported, and incorporating the insights from other disciplines. Fundamentally, he said, "institutions and organizations matter."

Two keynote addresses at the June conference reflected the scope of inquiry within the field. One was given by Timur Kuran, Professor of Economics and Political Science and Gorter Family Professor of Islamic Studies at Duke University, who studies how institutions affected the evolution of markets in Islamic countries, tracking them over hundreds of years. The other was given by Robert Gibbons, the Sloan Distinguished Professor of Management at the Massachusetts Institute of Technology, who is one of the leaders in the study of organizational economics, using mathematical modeling in his research.

Scholars from across Duke University participated in the conference, which was co-sponsored by Duke Law School, the Fuqua School, the Department of Economics, the Department of Political Science, and the Social Science Research Institute.

Duke Law Professors Matthew Adler, Mathew McCubbins, and Barak Richman served on the program committee as did Professor Manuel Adelino from the Fuqua School of Business.

Haas '85 '87 chairs Duke Law Board of Visitors

Susanne I. Haas '85 '87 has been named chair of Duke Law School's Board of Visitors (BOV), effective July 1. She succeeds David Ichel '78, who has headed the Law School's alumni advisory group since 2009.

"Susi Haas is a great friend and a devoted supporter of Duke Law School," said Dean David F. Levi. "She has demonstrated a tremendous commitment to the Law School as a volunteer and I know she will help us strengthen our dedicated community of alumni and work together to extend our record of excellence."

Levi added: "I want to thank David Ichel for his outstanding tenure as chair of the BOV. David has been a wonderful leader, helping us to move the Law School forward during a challenging time and providing me and Law School with indispensible advice and support."

Haas is the first woman to lead the BOV as well as the first international graduate in the role. A native of Germany, she came to Duke after obtaining a law degree from Johann-Wolfgang-Goethe University in Frankfurt, Germany. Today, she is the vice president and general counsel of Environmental and Combustion Controls at Honeywell International Inc., where she has worked since 1987.

Haas is a former member of the Law Alumni Association Board of Directors and served as its president in 2004. She is also a regular participant in the Business Law Society's ESQ Career Symposium, has taught classes during the Law School's Wintersession program, and was the keynote speaker at the 2014 International Alumni & Student Dinner. In 2012, Haas received the Law School's International Alumni Award. She is married to Ross Formell '87. One of the couple's two sons is a Duke undergraduate.

"It is an honor to have been asked by Dean Levi to chair this board, which is made up of very impressive, high-achieving, and very caring people who all want the best for the Law School and work tirelessly to support it," Haas said. "I have very big shoes to fill, but I have already been assured of the support of all of my friends on the BOV, and that makes me feel a lot better about succeeding David Ichel, Michael Dockterman ['78], Peter Kahn ['76], and other previous chairs who are such outstanding leaders. I am looking forward to working with the dean and the board to provide as much support, counsel, and encouragement as we can to our Law School, its faculty, staff, graduates, and students. "

"Susi Haas is a great friend and a devoted supporter of Duke Law School. I know she will help us strengthen our dedicated community of alumni and work together to extend our record of excellence." — Dean David F. Levi.

David Ichel '78 has led the BOV since 2009.

The Board of Visitors is a reporting and recommending body to the Law School and university administrations on matters of student development, alumni relations, fundraising, and faculty and academic affairs. Duke Law's volunteer alumni boards are committed to communicating the interests of alumni and friends of the Law School to the dean and staff, representing the Law School in the greater community, and providing leadership for community-building initiatives and other programs that support the school.

Haas said she hopes to encourage more alumni to get involved with the Law School, broadening the base of volunteering and fundraising.

"All of us alumni are who and where we are in part because we went to Duke Law School, and many of us went with the help and support of alumni who came before us," she said. "What better way to perpetuate the good others did for us than to do the same for the students today? Since Duke is a relatively small law school, the number of potential supporters is smaller than that of many other top law schools, so every Duke Law alum can make a much bigger difference than an alum of a larger school."

Ichel, who in April received the Dean's Award, praised the energy demonstrated by the BOV and the entire alumni community during his five years as chair, which he called "palpable."

"It really reflects what separates Duke from most other great law schools," said Ichel, a partner at Simpson Thacher & Bartlett in New York. "While Duke is a newer school, there is a long lasting special bond to Duke among Duke alumni that I believe bodes well for the future of Duke as more and more alumni give back in time and resources."


Bryan Wilson '04 and Dana Vancea '04 introduce their daughter to Professor Sara Sun Beale.


Members of multiple classes gathered at the African American alumni affinity group pre-reception.


Nick Gaede co-chaired the Class of '64 reunion committee.

Reunion 2014

Alumni from classes ending in "4" and "9" enjoyed their return to Duke Law for reunion weekend, April 11-13. The Law Alumni Association honored **Valerie T. Broadie '79**, **Colin W. Brown '74**, **Markus A. Nauheim LLM '96**, and **Nita A. Farahany '04** for their respective career achievements and dedicated service to the Law School. Professor **David L. Lange** received the LAA's A. Kenneth Pye Award for Excellence in Education. Outgoing Board of Visitors Chairman **David W. Ichel '78** was honored with the Dean's Alumni Achievement Award.


Jay Bilas '92, right, was a Saturday morning speaker.

Clockwise from left: Emily Spiegel '14; Sitara Witanachchi (center) '14; Chelsea O'Donnell '14; Clinical Professor Jayne Huckerby; Isabella Bellera '14; Prerna Dhoop LLM '14; Laura Ramirez LLM '14

"These guidelines give governments a clear path for assisting victims, providing a bridge between the protections required under international law and the on-the-ground realities of trafficking victims."

– Clinical Professor Jayne Huckerby

International Human Rights Clinic

Students help U.N. craft principles on redress for human trafficking victims

THE FIRST SIX STUDENTS enrolled in Duke Law's International Human Rights Clinic advocated at the highest international levels to finalize a set of groundbreaking United Nations principles to guide governments in providing redress to human trafficking victims. Three of them travelled to Amman, Jordan, in January for a meeting of regional government representatives, inter-governmental organizations, and local civil society convened by Joy Ngozi Ezeilo, the U.N. special rapporteur on trafficking in persons, especially women and children. In March, after engaging in intensive research and drafting under the guidance of Clinic Director Jayne Huckerby, the clinic students presented their proposals for the principles to Ezeilo at the U.N. headquarters in New York, before finalizing them for the special rapporteur to present to the U.N. Human Rights Council in June.

The students' work in helping to complete a multi-year, multi-stakeholder U.N. initiative marked a successful launch for the clinic, the Law School's ninth in-house clinical program. In translating complex international legal frameworks into operational guidelines to facilitate redress for victims, the students honed a range of professional skills, from legal research, analysis, and writing, to strategic judgment, how to lead effective meetings, negotiation, and persuasive advocacy.

"I learned a great deal about the importance of methodology and process in research and advocacy, compiling and analyzing large amounts of information from different sources and different countries on laws to address trafficking," said Laura Ramirez LLM '14, whose work in the clinic enabled her to secure an internship in the U.N. Office of the High Commissioner for Human Rights in Geneva for the coming fall.

Classmate Prerna Dhoop, who previously studied comparative constitutional law and international human rights law in India, said that she particularly valued the opportunity to contribute to ensuring the implementation of human rights.

"I was especially interested in the effective enforcement of constitutional and human rights protections both domestically and internationally," she said, adding her appreciation for the levels at which she was able to learn and practice. "The entire experience of drafting the principles in a team spearheaded by Professor Huckerby, holding meetings at the U.N., and interacting with senior human rights practitioners was just unbelievable and memorable."

Addressing a complex problem

Huckerby, a prominent human rights lawyer and advocate, has been involved as an expert in the special rapporteur's initiative since it began in 2010, and has presented at regional and global consultations like the one in Jordan. The goal of the "Basic Principles on the Right to an Effective Remedy for Victims of Trafficking in Persons," she said, is to "close the gap" between rights guaranteed on paper in international, regional, and domestic laws on trafficking, and the way victims are actually treated in practice; they are often arrested, detained, and deported as criminals or illegal immigrants rather than treated as human rights victims.

"These guidelines give governments a clear path for assisting victims, providing a bridge between the protections required under international law and the on-the-ground realities of trafficking victims," said Huckerby, who served as a human rights adviser to UN Women (the United Nations Entity for Gender Equality and the Empowerment of Women) prior to joining the Duke Law faculty last year. "This work put our students front and center of a global effort to translate international law into real protections for trafficking victims who rarely receive justice. As a blueprint for how to best guarantee redress for victims, these principles will be used by governments, intergovernmental organizations, and civil society for years to come."

To produce the principles, students had to synthesize and analyze inputs from five regional consultations and two global consultations held by the U.N. in 2013 and 2014, taking into account scores of written submissions from U.N. member states and intergovernmental organizations, including the U.N. High Commissioner for Refugees, as well as existing international human rights law and the international law framework on trafficking in persons. As the principles are designed to apply in a number of different domestic legal systems, students also undertook comparative law research on how countries addressed difficult protection issues, producing guidance on areas such as the rights of victims to temporary or permanent residence, how to calculate compensation for victims, effective bilateral and multilateral arrangements to enforce judgments against perpetrators, and how to address the particular needs of child victims.

Isabella Bellera '14 described the entire process as "empowering," and vital to her development as a practitioner now working in a firm known for its practice in public international law; indeed, her first pro bono case on joining the firm in June involved working on behalf of a trafficking victim to seek redress. "In addition to advancing my international law research skills and learning how to draft carefully and precisely, I learned to analyze and synthesize different viewpoints, finding a principled and sustainable middle ground on issues that are politically contentious and much-debated," she said.

> *"This type of deep involvement in real international issues will always be a defining experience that will guide us throughout our careers."*
>
> — Sitara Witanachchi '14

In addition to their work on the guidelines, the students poured enormous effort into preparing their presentation to Special Rapporteur Ezeilo at the U.N. headquarters in New York in March, honing talking points to succinctly convey complex legal analysis and propose workable solutions on difficult and multi-faceted issues.

And their careful preparation paid off, with Ezeilo commending the efforts of the clinic in her oral presentation to the U.N. Human Rights Council in June and also singling out the clinic for its "invaluable" assistance and "substantive support" in her final April report to the council.

"The special rapporteur applauded the clinic's work by calling us the future leaders in this issue," said Sitara Witanachchi '14. "At that moment, I realized this was the very reason I came to law school. This type of deep involvement in real international issues will always be a defining experience that will guide us throughout our careers."

Chelsea O'Donnell '14 agreed. "The meeting at the U.N. was the culmination of our team's efforts and the most meaningful and memorable experience of my three years at Duke."

Emphasis on careers in human rights advocacy

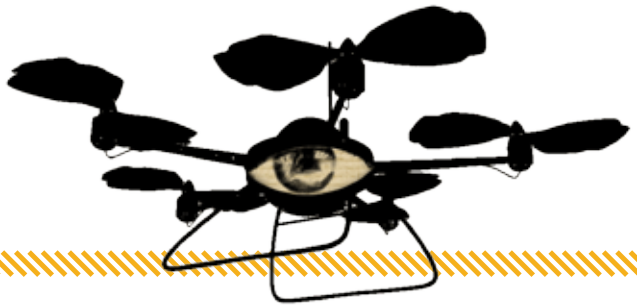
Throughout the semester, Huckerby built in additional opportunities for her students to prepare for careers in human rights law and advocacy at the domestic, regional, and international levels. At the regional consultation in Jordan in January, and again at a one-day workshop in New York in March, she facilitated student-run meetings with policymakers and other practitioners in the institutions (such as the U.N., U.S. Department of State, and domestic and international nongovernmental organizations) and thematic areas her clinic and Advanced International Human Rights Advocacy students had identified as being of interest for their future practice.

"With the support of the Center for International and Comparative Law, the focus has been to enhance students' networking with human rights practitioners either at Duke Law or in the field, in order to learn about new substantive areas of law, as well as to enable our students to better navigate their career trajectories," Huckerby said.

The close interaction with human rights practitioners was a fruitful experience, said Emily Spiegel '14, who served in the Peace Corps and worked in international development prior to attending Duke Law and who has been offered an internship at the U.N.'s Food and Agriculture Organization in Rome for the fall. Spiegel, who also attended the January meeting in Jordan, summed up the benefits of the entire clinic enterprise to future practice.

"We got to see the layers involved in drafting international legal instruments — synthesizing and writing, organizing and practicing and presenting," she said. "We learned how to break down a complex legal and advocacy project into manageable steps and the importance of developing and following a process as a team. Because we've done that, and done it at such a high level, we will always be able to draw on this experience in future practice."

> “In the real world of counterterrorism, there is much to be said for the extraordinary insights that one might obtain by seeing the communications from one intelligence target to another.”
>
> — Professor Charles Dunlap Jr.



The Surveillance State

and the Search for Limits

by David Fellerath

IN HIS POST as a fellow in national security law at the Brookings Institution, Wells Bennett '06 is managing editor of *Lawfare*, an influential blog about the law and national security that is widely read by foreign policy experts. On June 6, 2013, the day after it was revealed that the National Security Agency (NSA) had been tracking the phone calls of millions of Americans, Bennett took to the blog to pose a question: "What's the limiting principle here?"

It was not a rhetorical query. Like many Americans, Bennett was taken aback to learn of the previously secret program, which had come to light when former NSA contractor Edward Snowden shared thousands of classified documents with journalists. The initial revelation that phone companies were turning over ordinary citizens' call records to comply with an order of the Foreign Intelligence Surveillance Court (the FISA court or FISC) finding the program legal under Section 215 of the USA Patriot Act stunned many. While the government was not monitoring the content of calls, it was collecting "metadata" that could tell it who was calling whom, and when. »

"We have only the order itself, not the application that underlies it, but we have a hard time imagining the application that could have produced it," Bennett wrote in a *Lawfare* post co-authored with Brookings Senior Fellow Benjamin Wittes.

Even if the government can argue that "the giant ongoing flood of data from the telecommunications companies" met the Section 215 standard of being relevant to an authorized investigation — perhaps of Al Qaeda or another international terrorist network, they wrote — "how is it possible that all calls between, say, a Washington, D.C. restaurant and its fish supplier are 'relevant' even to such a broad investigation?"

Conceding that a massive, catch-all data set might yield information relevant to a national security investigation if algorithmically analyzed, they stated the problem this way: If that constitutes relevance for the purposes of Section 215, "then isn't *all* data relevant to *all* investigations?"

More than a year later, Bennett's question regarding limiting principles is at the heart of a debate over the size and scope of government surveillance that has sharply divided the nation's legal and political institutions — to say nothing of public opinion. The president and Congress have opened multiple inquiries into the NSA program, while at the same time reminding Americans of the need for vigilant monitoring of suspected enemies of the state. Meanwhile, articles based on Snowden's leaks have exposed additional secret programs for monitoring everything from e-mail and text messaging to Web browsing and video chats.

The proliferation of technology in our daily lives enables collection of massive amounts of data about individuals and their activities, information that can be of great use for tracking people and groups who pose a threat. But the tension between Americans' need for national security and their expectation of privacy as a basic right has never been higher.

For the intelligence community, the ability to collect and consolidate large data sets from many different sources offers the promise of disrupting terrorist plots, uncovering weapons transfers, and thwarting cyber-attacks.

"In the real world of counterterrorism, there is much to be said for the extraordinary insights that one might obtain by seeing the communications from one intelligence target to another," says Professor Charles Dunlap Jr., executive director of the Center on Law, Ethics and National Security and the former deputy judge advocate general of the United States Air Force. "A picture can be assembled from many disparate pieces of information in an unprecedented way, and this can be invaluable in tracking down those who want to harm us."

But if such information as the duration of calls and the identification of originating and receiving telephone numbers offers promising information, it also holds potential threats.

Big data sets acquired by mining average Americans' daily use of computers and mobile devices are likely to contain large amounts of non-relevant information, along with information that has legitimate foreign intelligence value — like the fish supplier's phone records. That's unacceptable to civil libertarians and other critics of government overreach, who view the digital harvesting as an excessive violation of privacy and of Fourth Amendment protections. And new tools that enable capture of biometric, genetic, and cognitive data raise even thornier issues for the future.

"9/11 was a horrible event that we don't want repeated, and the battlefield of counterterrorism is intelligence-gathering," says Christopher Schroeder, the Charles S. Murphy Professor of Law and Public Policy Studies and co-director of the Program in Public Law.

But, notes Schroeder, who grappled with the contemporary implications of surveillance and data-gathering as assistant attorney general in the Office of Legal Policy (OLP) in the U.S. Department of Justice from 2009 to 2012, the public debate over the government's surveillance programs is necessary and important.

"One thing the Snowden revelations revealed is that once programs like the one the NSA is running are pulled out into the light of day they are a lot harder to defend," he says.

A legal landscape in disarray

At an April forum on national security moderated by Bennett and co-sponsored by *Duke Magazine* and *Duke Law Magazine*, Schroeder set out the legal landscape under which the NSA metadata collection program operates and which is now under close scrutiny in public and in the courts. While individuals enjoy a "reasonable expectation of privacy" in the content of their calls, he explained, metadata has not been similarly protected since 1979, when the Supreme Court considered information generated by a "pen register" — a device used to log all outgoing calls from a specific phone.

"The Supreme Court said that you or I have no reasonable expectation of privacy with respect to that pen register information and other information of what phones we were calling, essentially because we gave it up when we gave it to the phone company," he said of the Court's ruling in *Smith v. Maryland*. "So under existing Fourth Amendment constitutional law, protections do not extend to non-content data stored by third parties." This "third-party doctrine" encompasses not just metadata that has been the subject of the NSA program, but all comparable information generated by e-mail and social media and anything stored on web pages or on servers maintained by companies like Google or Microsoft.

"That's the legal landscape in which the NSA stands up this massive metadata collection program beginning in the early 2000s," Schroeder told his Duke audience, saying that government lawyers reviewing the program at its inception likely thought the constitutional dimensions of the issue were fairly straightforward and settled.

"Any protections available under current law for privacy interests must be enacted by statute," he says in an interview. "And the last significant piece of federal legislation to address this kind of non-Fourth Amendment protected data was in 1986, the Stored Communications Act," which sets a lower standard, "relevance," for getting court approval to access to non-content metadata.

Now that statute — and the NSA programs — are facing federal court challenges. Late last year, two opposing District Court rulings starkly framed the issues that will almost certainly land before the U.S. Supreme Court — and threw the legal landscape pertaining to government surveillance into disarray.

On Dec. 16, Judge Richard J. Leon of the U.S. District Court for the District of Columbia ruled in favor of plaintiff Larry Klayman T'73 in his challenge to the NSA's bulk telephone metadata collection, taking

> **Records that once would have revealed a few scattered tiles of information about a person now reveal an entire mosaic — a vibrant and constantly updating picture of the person's life."**
>
> — Judge Richard J. Leon, *Klayman v. Obama*

> **There is no evidence that the government has used any of the bulk telephony metadata it collected for any purpose other than investigating and disrupting terrorist attacks."**
>
> — Judge William J. Pauley '77, ACLU v. Clapper

special notice of the scope and duration of the program. "No court has ever recognized a special need sufficient to justify continuous, daily searches of virtually every American citizen without any particularized suspicion," Leon wrote in his decision in *Klayman v. Obama*.

In his examination of advances that facilitate data collection by private and government actors, Leon cited the Supreme Court's 2012 ruling in *U.S. v. Jones*. He observed that the NSA was collecting information that could be eventually be compiled into a detailed profile of an individual's family connections and political, professional, religious, and sexual leanings.

"Records that once would have revealed a few scattered tiles of information about a person now reveal an entire mosaic — a vibrant and constantly updating picture of the person's life," he wrote. "Whereas some may assume that these cultural changes will force people to 'reconcile themselves' to an 'inevitable' 'diminution of privacy that new technology entails,' *Jones*, 132 S. Ct. at 962 (Alito J., concurring), I think it is more likely that these trends have resulted in a *greater* expectation of privacy and a recognition that society views that expectation as reasonable."

On Dec. 28, Judge William J. Pauley '77 of the U.S. District Court for the Southern District of New York declared the NSA's program legal in *ACLU v. Clapper*. "There is no evidence that the government has used any of the bulk telephony metadata it collected for any purpose other than investigating and disrupting terrorist attacks," wrote Pauley, a member of the Duke Law Board of Visitors.

In his opinion, Pauley observed that a bulk database of calls could have helped the NSA fill in missing — and misinterpreted — information after it intercepted calls made by a 9/11 hijacker based, unbeknownst to the agency, in San Diego. That intelligence failure, he wrote, spurred a number of counter-measures that cast a wide net to "find and isolate gossamer contacts among suspected terrorists in an ocean of seemingly disconnected data." He acknowledged the potential for the misuse of metadata, however.

"This blunt tool only works because it collects everything. Such a program, if unchecked, imperils the civil liberties of every citizen," Pauley wrote. Still, his task was only to rule on the legality of the bulk telephone data collection, he added, acknowledging the robust debate on the subject in public, in Congress, and in the executive branch. "[T]he question of whether that program should be conducted is for the other two coordinate branches of Government to decide."

Yet regulation has lagged far beyond our technological capabilities, says Schroeder, who reviewed rules regarding surveillance and data-gathering during his OLP service.

Schroeder believes it's the job of Congress to set limits on what the security and law enforcement agencies can do, but so far, he points out, they have been seemed to favor the appeals to national security interests.

On the record at Duke Law

OCT. 29, 2013

Benjamin Wizner ACLU
Director of ACLU's Speech, Privacy & Technology Project

"Something to Hide: New Technology, Dragnet Surveillance, and the Future of Privacy"

" [H]ow does a democratic government deal with accountability over secret programs? That question is fundamental. If we think that any government activity is legitimately secret, there is going to have to be a way to create an oversight mechanism that doesn't require the public knowing everything and then getting to deal with it through voting in elections. We're going to need to have intelligence committees in Congress that essentially fulfill that oversight function for us. We're going to need to have courts, like the Foreign Intelligence Surveillance Court, that fulfill that oversight function for us.

"What we've seen, and what the Snowden revelations have really laid bare, is that those oversight mechanisms completely failed here. ... First and foremost, they failed because of the amount of information that's classified, and the subject of those top-secret stamps, massively exceeds any legitimate government secrecy interests. ... [W]e have ... a secret court that has effectively functioned as a rubber stamp because it's one-sided. It hears only from the government, ... from national security officials who have one interest. I don't blame them. It's their job to get at this information. It's not their job to make the other side's arguments.

"And in Congress, you have intelligence committees that have been really captured. They are captured by the agencies that they are supposed to be regulating, and they're captured by the companies that fund their campaigns, that stand to gain the most from their appropriations. ... The people on the intelligence committees who are the ones who should be most skeptical of what the national security state is doing are, in fact, the ones who are most captured by what the national security state is doing.

"... I do think that reforms to the FISC are likely to happen and should be supported. I don't think it's a cure-all, but I do think that having someone not on the court in the room (whose job it is to present the argument on the other side), will invariably have an effect, even if it just affects what arguments the government is willing to bring in to that process."

U.S. v. Jones: Moving beyond the beeper

Nearly a year-and-a-half before the word "metadata" had entered common parlance thanks to the Snowden leaks, *U.S. v. Jones* — cited in both the Leon and Pauley rulings — put the constitutionality of high-tech surveillance before the Supreme Court. In their concurring opinions in *Jones*, Schroeder points out, five justices expressed "an active interest" in revisiting the third-party doctrine in light of emerging technology.

Stephen C. Leckar '73, who argued the case on behalf of respondent Antoine Jones, a Washington, D.C. nightclub owner sentenced to life after being convicted on drug trafficking charges, knew early on that the case would be groundbreaking: the key evidence against his client came from four weeks of constant tracking by a GPS device that police installed on his car without a search warrant.

"Coming into it, what struck me as very troublesome about the case was that it seemed most at odds with the Fourth Amendment to say that you could take someone's property and effectively use it to spy on him or her without first making sure that you had the permission of the federal magistrate judge or state judge," says Leckar, a solo practitioner who usually focuses on federal commercial litigation and complex criminal appeals. "The notion of using someone's property to do a dragnet search of every place they've been for any significant period of time was troubling."

In 2010, an appellate court overturned Jones' conviction, holding that his "reasonable expectation of privacy" had been violated by the GPS tracking. The government appealed to the Supreme Court. With the help of Walter Dellinger, the Douglas B. Maggs Professor Emeritus of Law, Leckar briefed and argued the case.

During oral argument, Deputy Solicitor General Michael Dreeben '81 asserted that GPS tracking closely resembled the visual and beeper surveillance that, according to the Court's 1983 ruling in *Knotts v. United States*, does not infringe the Fourth Amendment if the vehicle being followed is traveling on public roads. Chief Justice John

> **When you have the capacity of the government to maximize, at marginal cost, information-gathering in a way that is so fine-grained, then there has got to be some protection. No one expects a government agent to come looking for them in this way without a warrant."**
>
> — Stephen C. Leckar '73

Roberts challenged the government's assertion, and the distinction proved to be key.

"The technology is very different, and you get a lot more information from the GPS surveillance than you do from following a beeper," the chief justice said.

In holding, 5-4, that installing and using a GPS tracking device to extensively monitor the movements of a suspect's car over a protracted period of time constituted a search under the Fourth Amendment and, as such, required a warrant, the Court signaled its willingness to consider how changing technology affects our understanding of a reasonable expectation of privacy; Justice Sonia Sotomayor expressly suggested it might be time to revisit the third-party doctrine. The *Jones* decision also challenged precedent in *Smith v. Maryland*.

"Justice Sotomayor said, in her concurring opinion, that we may be in a different world from when that case was decided," says *Lawfare*'s Bennett.

When the *Jones* decision was announced, Dellinger hailed it as "a signal event in Fourth Amendment history," and it was cheered by a coalition of supporters from across the political spectrum who had weighed in to support Jones' position, including the American Civil Liberties Union, the Constitution Project, the libertarian Cato Institute, gun owners, independent truckers, a coalition of noted privacy scholars, and the Electronic Frontier Foundation. During a talk at Duke Law last October, Snowden's lawyer, the ACLU's Benjamin Wizner, went further, suggesting it "may turn out to be one of the most important Supreme Court cases of the last 50 years," he said. (See On the Record at Duke Law, Page 24.)

Leckar agrees with Justice Sotomayor that it's time to reconsider the third-party doctrine for the digital age.

"When you have the capacity of the government to maximize, at marginal cost, information-gathering in a way that is so fine-grained, then there has got to be some protection," he says. "No one expects a government agent to come looking for them in this way without a warrant. This is the type of abuse of official power that concerned the Framers. If Congress and the executive won't step in, then the courts should."

On the record at Duke Law

FEB. 28, 2013

Judge Reggie B. Walton

U.S. District Court for the District of Columbia and former presiding judge of the U.S. Foreign Intelligence Surveillance Court

Panelist, "Federal Courts and National Security"

CENTER FOR LAW, ETHICS AND NATIONAL SECURITY 20TH SPRING CONFERENCE

"When I saw these statistics that [the Foreign Intelligence Surveillance Court is] approving 99 or whatever percent of the cases that come before us ... I said I know that's not a reflection of my experience, and I've been on the court for seven years. What I told my staff to do when those reports started to come out following the Snowden leak was ... to start to collect our own statistics, because the statistics that you get are statistics from the Justice Department, and those are only applications when a final application is submitted to the court and rejected or approved. That's the only statistic being captured. Well, there are a lot of things that are happening before that occurs. ...

"There's a lot of interchange that takes place between the Justice Department lawyers and our lawyers, and many times those cases don't go any further. That, however, does not count as a rejection. Or, there may be as a result of those discussions significant alterations of what the government is seeking from the court. They may be requesting to target ... seven or eight phone numbers, for example. We may only approve two. But that doesn't count as five rejections.

"... [T]here's another review by the judge based upon input from our lawyers. Again, we may decide that this is a problem case and therefore should not go forward. What the government may do at that point is pull that case and not seek to go forward with a final version. Again, that does not count as a rejection, and the same is true if we modify that application significantly — that doesn't count as a rejection.

"Our [own] statistics show that about 24 percent of the applications submitted to us are either altered in some way [in] a significant manner, substantively, or ... the government does not seek to go forward. So this whole myth about the FISA court being a rubber stamp is just not correct. ... I think we do our job and I think we do it diligently and I'm very proud of my tenure on that court."

On the record at Duke Law

FEB. 28, 2013

Robert S. Litt
General counsel, Office of the Director of National Intelligence

Keynote address

CENTER FOR LAW, ETHICS AND NATIONAL SECURITY 20TH SPRING CONFERENCE

"[C]onsideration of the appropriate role of big data in our democratic society reflects the changing nature of privacy in the information age. Today we all share an enormous amount of personal and sensitive data with private companies and, in many instances, with the entire Internet-connected world. And yet we still want this information to be private for many purposes.

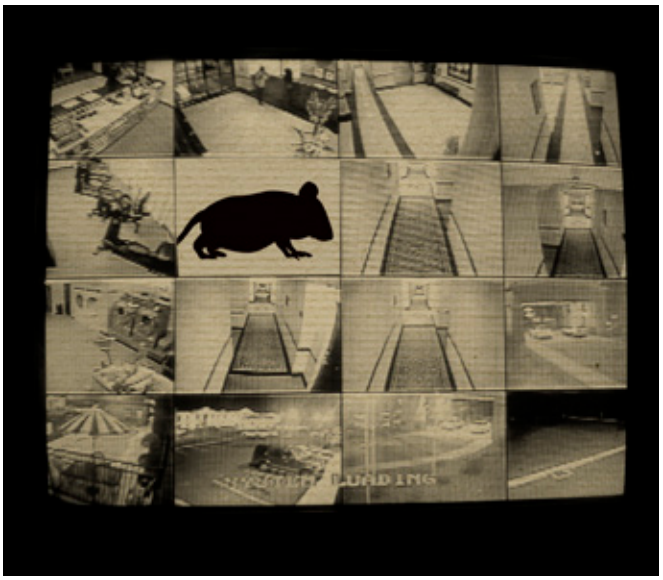
"... If we're concerned about how government can use data, let's craft sensible limits on the way we can use that data, what purposes we can use it for, who can use it — so that we can all be more confident that we're protecting both national security and privacy. At the end of the day, we need to determine whether there's a system of controls and oversight that can be put in place to give us comfort that our intelligence services are using big data appropriately.

"... We can impose strict limits on the purposes for which the data could be used. We could impose limits on the types of analytical tools that could be used against it and how information could be disseminated to others.

"We could set up approval and review processes to ensure that these limits are adhered to, and we could use technological tools of the type that now exist to restrict and monitor access to the data to further enforce the restrictions.

"We could place limits on how long data could be stored in our databases, and we could use the existing compliance and oversight framework to proactively discover mistakes and quickly fix them.

"If this approach sounds familiar, it's because it's exactly what the intelligence community already does. In fact, it's pretty much the approach that we took with respect to the bulk telephone metadata program. ... This regulatory framework goes far beyond the controls that most, if not all, of the private sector has with respect to its use of information. And while the NSA has had well-publicized technical challenges in implementing the bulk telephone metadata program ... these problems were self-identified, self-reported, and self-remedied, thanks to the NSA's robust compliance and oversight system."



The end of safe harbor?

However ambiguous U.S. constitutional protection of personal information may be, Europeans see data privacy as almost sacrosanct. As a result, the Snowden leaks have reverberated across the ocean, raising concerns not just about security and diplomacy, but also the conduct of global commerce.

Recognizing how easily data crosses borders in the course of doing business, European leaders have long sought to ensure that foreign trading partners complied with their high standards for data protection. In 2000, the EU-U.S. Safe Harbor Agreement was ratified to safeguard the security of data traveling from Europe to the United States, where privacy protections are less stringent. And in March, partly in response to revelations about NSA surveillance, the European Parliament voted to implement an even more rigorous set of protections.

Sibylle Gierschmann LLM '99, a partner and data compliance specialist at Taylor Wessing in Munich, says many of her U.S. clients, in particular, already are challenged to comply with European data protection and retention laws.

"We have a 'purpose-limitation principle,' which means you may only hold data for as long as is required for the purpose for which you collected it in the first place," says Gierschmann. "From the outset, you need to tell the data subject why you're collecting the information, and you may not use it for other purposes later on."

Gierschmann will be engaged in forging new rules for data collection and transfer. She fears that Europe could become anti-competitive if it adopts a unilateral and inflexible standard. "It's no use for Europeans to say we are the strictest and we have a regulation with which everyone has to abide," she says. "That's not the way technology works globally. It's not innovative."

For David Hoffman '93, director of security policy and global privacy officer for Intel, the challenges for American companies operating in foreign markets are clear.

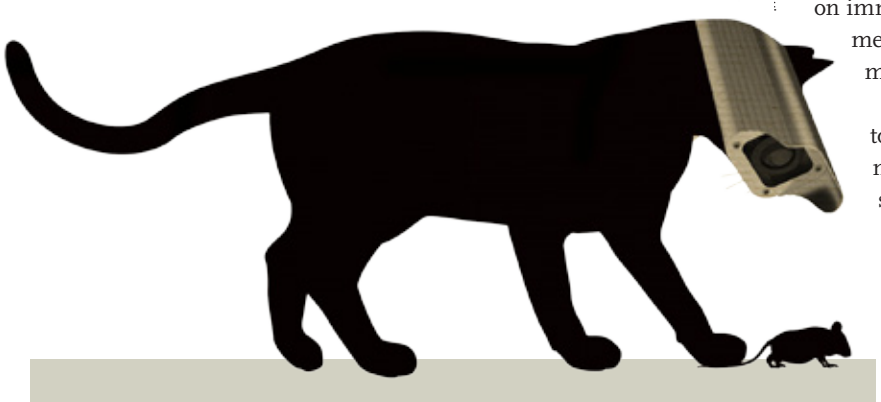
"Our position is that safe harbor is an incredibly important document for trans-Atlantic economic progress," says Hoffman, who manages a team that oversees legal support for privacy and

> **In the EU, "from the outset, you need to tell the data subject why you're collecting the information, and you may not use it for other purposes later on."**
>
> — Sibylle Gierschmann LLM '99

security, compliance activities, and global public policy engagement. "We think it's important for countries and organizations to be having conversations about what the right role is for the protection of personal data. But it's important to keep the structure that we already have in place while we have those discussions."

According to Hoffman, the controversy is actually spurring innovation at Intel, where security is becoming an essential aspect of design at the earliest stages of product development. "If you can include [privacy] early enough, then you truly get privacy by design," he says. "My team works closely with Intel's developers to get privacy included as part of the product statement up front."

Gierschmann characterizes the broader challenge as being to "reach a global understanding of how much privacy we need and how much benefit certain data has." She notes that many valuable applications can function using anonymous data. "A lot of big data applications have nothing to do with personalized data," Gierschmann says, adding that even when big data is being mined for legitimate purposes, risks to the individual should be minimized by using only aggregated data or rendering the data anonymous at the earliest possible stage. She recalls a presentation by NSA officers investigating credit card fraud.



"They argued that without being able to use big data applications, they would not have been able to find these credit card abusers — a crime that's bigger than drug [trafficking]."

Gierschmann attributes Germans' inherent suspicion of government surveillance to the memory of Nazism and the East German Stasi. "That's our historical fear when it comes to massive data collection that might later on be used for purposes not made transparent at the time of collection or that are collected secretly without knowledge of the individual. It's a Big Brother fear."

Surveillance for a brave new world

Gierschmann's reference to George Orwell's Big Brother goes beyond a passing metaphor for Margaret Hu '00, who points out that *1984* has influenced U.S. law, having been cited by the justices in *U.S. v. Jones*.

A scholar whose work lies at the intersection of immigration policy, national security, cybersurveillance, and civil rights, Hu's research interests are informed by a decade of service in the Civil Rights Division of the U.S. Department of Justice that began on Sept. 10, 2001.

Last spring, an *Indiana Law Journal* article she wrote while a visiting assistant professor of law at Duke entitled "Biometric ID Cybersurveillance" garnered unexpected attention from outside of academia, resulting in more than 2,000 downloads from the Duke Law Scholarship Repository.

Examples of these biometric data include digital photos for facial recognition technology, fingerprint and iris scans, and DNA. In themselves, the techniques aren't controversial, but Hu explored how the collection of this data is becoming an inescapable, routine part of our lives, and how government agencies are eager to capture that information for purposes ranging from immigration control to day-to-day law enforcement activities.

Hu, who is now an assistant professor of law at Washington and Lee University, writes that "emerging biometric cybersurveillance technologies, and mass biometric data collection and database screening, are adding an entirely new and unprecedented dimension to day-to-day bureaucratized surveillance."

Immediately after the 9/11 attacks, Hu was assigned to a post-9/11 backlash discrimination task force in the Civil Rights Division and, by 2006, she was elevated to a senior management post that focused on immigration policy. Over time, she observed how the department's counterterrorism and immigration objectives began to merge through data surveillance.

The questions for Hu started with a congressional proposal to modernize the Social Security card. "Why is the government proposing a DNA-based electronic Social Security card," she asks. "And what are the cybersurveillance implications of that proposal?"

The stakes are high, Hu says, because the government's analytical tools, coupled with the huge mass of available data, pose unprecedented threats to our Fourth Amendment protections.

> **Based on the digital identity of who we are, they can seize and search our identity. It's not a search and seizure that we've previously conceptualized. … This is a violation that is just as — if not much more — intrusive than the search and seizure of your diaries."**
>
> — Margaret Hu '00

"Based on the digital identity of who we are, they can seize and search our identity. It's not a search and seizure that we've previously conceptualized. It's not about someone searching your car, your house, or your diaries. This is a violation that is just as — if not much more — intrusive than the search and seizure of your diaries."

A "siege against cognitive liberty"

And as technology begins to erode the divide between mind and body, surveillance is not far behind, says Professor Nita A. Farahany '04, whose recent scholarship has focused on the constitutional issues that arise when machines can reach inside our brains.

Since the Supreme Court's 1966 decision *Schmerber v. California*, which held that involuntarily produced blood samples in a drunk-driving case did not violate the Fourth and Fifth Amendments, courts have held to a mind-body distinction in matters of self-incrimination. But Farahany, who holds a secondary appointment in the Department of Philosophy and directs the Duke Science & Society initiative, says the debate needs to take account of recent breakthroughs in neuroscience.

In a recent article, Farahany describes the use of a brain-based polygraph test in the murder trial of a woman in India. The woman was convicted of killing her fiancé after being fitted with an electrode cap and read a series of questions. A machine analyzed her neural responses to the questions.

"The court placed great weight on the difference that emerged between these sets of measurements," Farahany writes. "The software algorithm that interpreted the EEG signals, it reasoned, effectively divined her answers to the underlying (but technically unasked) questions of guilt that the declarative statements were designed to stir."

In another article, Farahany refers to the coming "siege against cognitive liberty," also the subject of a book she's writing.

"There's something more than mental privacy that's at stake," she says. "It's a liberty interest — a broader interest that includes ideas like freedom of thought, conscience, the right to self-determination, and autonomy. It's about trying to recognize that things people are uncomfortable with [indicate] a kind of intuition that there is a realm of privacy that goes beyond privacy of information."

Far from intentional, the "siege," she suggests, is an inevitable consequence of the era of big data. Yet as threatening to civil liberties as these technologies may turn out to be, she questions whether they will raise any constitutional issues at all.

"It doesn't seem like the Constitution, as currently written, protects us from intrusions of information," says Farahany, who serves on the Presidential Commission for the Study of Bioethical Issues. "The way it's currently interpreted is that there is no protection against invasion of privacy or intrusion against personal information. Information might just be information and there's nothing personal about it."

The ongoing search for limiting principles

In a January speech, acknowledging public outcry, President Barack Obama promised to enact several modest reforms to the bulk collection of telephone metadata, including requiring the records to remain in private hands, rather than being housed within the NSA, and requiring the NSA to obtain authorization for specific searches, rather than having blanket access. In March, following recommendations for farther-reaching reforms by two expert panels, the president yielded further, announcing that he was sending legislation to Congress to end the program entirely.

Although the details still need to be worked out, Schroeder says it's likely to produce a situation "less objectionable" to the public at large. "It aligns more closely with traditional modes of data inquiry that government agencies have undertaken, where they don't try to amass data themselves but try to seek data that exists in the commercial world for other reasons," he says. "Ideally, it would be retained only for the amount of time phone companies claim it is needed for business purposes."

> **“It is very hard to calibrate, in terms of costs and benefits, the various counterterrorism measures the government is taking or could take. Dialing back on such measures risks being unable to prevent some otherwise preventable act of terrorism.”**
>
> — Professor Christopher Schroeder

In late May the U.S. House of Representatives passed a bill, dubbed the USA Freedom Act, designed to prohibit some forms of bulk collection, among other things by insisting that the government employ specific search terms in seeking phone and other business records from communications companies. Since then, civil liberties groups and government officials have disagreed about the degree to which the House bill would limit NSA data collection. In late June, as this issue of Duke Law Magazine was heading to press, the House passed an amendment to a defense appropriations bill that would, in part, bar the NSA from conducting warrantless searches of Americans’ communications within the data it collects on foreign targets.

At the April forum on national security, Schroeder praised the high standards of integrity under which members of the national security community operate, as well as the challenge of keeping America safe.

“The national security community takes their job seriously,” he said. “It is very hard to calibrate, in terms of costs and benefits, the various counter-terrorism measures the government is taking or could take. Dialing back on such measures risks being unable to prevent some otherwise preventable act of terrorism. Yet when John Kerry, the presidential candidate, suggested that it may be impossible to prevent all such acts, he was pilloried for saying we might have to tolerate some risk of terrorism.”

However productive the recent public conversation has been on the proper calibration between privacy and national security, he says, Snowden’s leaks were illegal. “He ought not to be rewarded for the fact that the conversation we’re having after the disclosures is having some positive effect. That would set a dangerous precedent for everyone else, that people with access to secure information could use their own judgment as to the merits of revealing certain aspects of programs that are instrumental in keeping the rest of us safe.”

Dunlap also is emphatic in saying that Snowden has “grievously harmed” U.S. national security. “He compromised techniques and methodologies that will be extremely costly and difficult to replace.”

Surveillance and the First Amendment

ALTHOUGH MUCH OF THE LITIGATION regarding NSA data collection and surveillance focuses on Fourth Amendment concerns, David Greene ’91 is engaged in a First Amendment federal court challenge to the metadata collection program brought by a Los Angeles church.

The plaintiffs in *First Unitarian Church of Los Angeles v. NSA*, are making a freedom of association argument, says Greene, a staff attorney for the Electronic Frontier Foundation, which has been active in cases related to NSA surveillance since 2006.

“All of our clients in *First Unitarian* are organizations that have an interest in keeping membership lists — and records of people who associate with them on the telephone — confidential from the government,” he says. “Often these are hotlines to give confidential advice, or for people who work in politically sensitive areas where they might not want the government to know they’ve been talking to them. All of these groups should be able to shield their associations from the government.”

Still, a culture of even benign surveillance has a chilling effect, Dunlap says, that can discourage creativity and innovation. “It actually changes the way people think and communicate, in ways that I think will suppress what is really productive about a free society, and that’s the ability to look at the world with a blank slate and come up with new and different ways of thinking.

“I think it’s important for people to have the opportunity to develop their ideas and bounce them off their confidantes — in privacy — before the world knows about them.”

Emerging scholars Greene and Zhang join governing faculty

TWO VERSATILE interdisciplinary scholars will join the governing faculty in July.

Sara Sternberg Greene, whose interests span bankruptcy, commercial law, contracts, tax, poverty, and health law, uses qualitative empirical research to examine the impact of financial laws on low- and moderate-income families.

Taisu Zhang is a scholar of comparative and economic legal history, property law, and Chinese law whose ambitious research agenda includes empirical and theoretical study of property rights in pre-industrial China and Western Europe as well as the operation of the contemporary Chinese judiciary.

"We are very fortunate that both of these talented young scholars chose to come to Duke Law," said Dean David F. Levi. "Sara Greene will add a new perspective and set of skills to a terrific group of business, tax, and empirical scholars and teachers at the law school. Taisu Zhang is well recognized in the United States and in China as one of the foremost scholars of China of his generation. They represent exciting additions to our faculty."

Sara Sternberg Greene: Focusing on issues that matter to working-class families

IN HER SCHOLARSHIP, Greene is broadly concerned with the relationship between law and inequality. One recent article, "The Broken Safety Net: A Study of Earned Income Tax Credit Recipients and a Proposal for Repair," 88 *NYU Law Review* 515 (2013), is based on a novel study of 194 individuals with whom she and other researchers on her team conducted in-depth interviews regarding the EITC, which as an anti-poverty program enjoys bipartisan support in Congress. While she found an overwhelming appreciation for the tax credit among her study subjects, she found its distribution as a lump-sum annual payment during tax refund season left them vulnerable to mid-year "financial shocks," be they unexpected car repairs or dental work.

"People who receive the EITC are working and they are earners," she said. "They avoid programs, like welfare, that carry stigma, so they use credit cards, which are stigma-free. But interest and fees build up quickly on the cards, and by the time these people receive their tax credit they have to use the money to cover credit card interest and fees rather than putting it towards their mobility goals." Study participants routinely spoke of their desire to save money during their interviews, she added.

Greene's suggestion for repair involves a simple change to the distribution scheme. "I propose that the IRS put 20 percent of the individual's Earned Income Tax Credit into an interest-bearing account I call a 'savings and emergency fund' — SAEF — account that is reserved for emergencies. The rest would be distributed as a lump sum. Whenever the recipient experiences these small shocks, they can use that money instead of resorting to credit cards."

Her proposal includes incentives to encourage saving, absent a pressing need for the money. Greene hopes that her proposal can eventually be tested in a pilot program operated through the IRS.

"Sara Greene's in-depth interview-based research on how the earned income tax credit affects the lives of its recipients is path-breaking," said Lawrence Zelenak, the Pamela B. Gann Professor of Law, and a noted expert on tax law and policy. "Her work is exciting both for its use of sophisticated qualitative empirical research methods and for its focus on legal issues of particular importance to working-class families."

Among several bankruptcy-related projects Greene has ongoing, one utilizes data from the comprehensive 2007 Consumer Bankruptcy Project to predict consumer success in emerging from Chapter 13 bankruptcy with a view to identifying ways to improve the system. Her article, co-authored with Laura Tach, on the debt-management strategies of low-income families was recently published in the journal *Social Problems*.

Greene received her BA, *magna cum laude*, in 2002 from Yale University and her JD in 2005 from Yale Law School, where

Taisu Zhang: A multi-faceted, cross-cultural research agenda

A CORE FOCUS of Zhang's research concerns the way cultural norms of kinship and interpersonal hierarchy shaped property in pre-industrial China and England and how those property institutions affected broader trends in global economic history. In particular, he explores the interaction between cultural norms, legal and customary institutions, and economic outcomes.

"In the societies that I study, the law itself was often a less important player than custom in regulating actual economic activity," said Zhang, who has been a visiting assistant professor at Duke Law since 2012.

In "Social Hierarchies and the Formation of Customary Property Law in Pre-Industrial China and England," 62 *American Journal of Comparative Law* 501 (2014), Zhang challenges the common assumption of comparative lawyers and economists that traditional Chinese laws and customs were unduly oppressive toward the poor.

He compares practices surrounding land-pawning and redemption by small landholders in need of quick cash through conditional "*dian*" sales in Qing and Republican China and mortgages in early-modern England. Each society had robust markets for land and agricultural goods, but, he writes, Chinese customs were comparatively more egalitarian, with property institutions often giving significantly greater economic protection to poor debtors than did comparable institutions in early modern England.

English debtors who mortgaged land would generally lose property rights if they failed to redeem their loan within one year, causing land ownership to become highly concentrated, over time, in the hands of a wealthy elite. Chinese customary law, in contrast, allowed debtors unlimited redemption rights.

Why were small landholders in China able to negotiate more desirable property institutions than their English peers? Zhang credits the operation of hierarchical "Confucian" kinship networks that granted social status based on age, while England's meritocratic system conferred high status only on the wealthy.

"The starting point of those negotiations in China was different from the starting point in England," said Zhang. "The age-based social hierarchies operating in most rural communities in China facilitated a distribution of sociopolitical power that was much more egalitarian than did the wealth-based social hierarchy operating in England."

Zhang's body of work on the contemporary Chinese judiciary looks both at the institutional structure and motivation of judges in the Supreme People's Court (SPC) and at the motivations of petitioners with grievances against government officials. He plans to conduct an empirical review of SPC rulings issued from 2003 to 2013 designed to illuminate how cultural or ideological factors might affect judicial behavior. "This would be, to the extent of my knowledge, the first empirical study of SPC decision-making," he said.

"Taisu brings both enormous talent and an enormous range of talent to Duke Law," said Barak Richman, the Edgar P. and Elizabeth C. Bartlett Professor of Law and Professor of Business Administration. "He's a legal historian, a property theorist, an institutional economist, and a China expert — and he's a top-flight scholar in each of those areas."

Raised primarily in Beijing, Zhang majored in history and mathematics at Yale University, where he received his BA *magna cum laude* and Phi Beta Kappa. He received his JD from Yale Law School, where he served as articles editor of the *Yale Law Journal*. He will soon receive his PhD in history from Yale. His dissertation, "Kinship, Property, and Agricultural Capitalism in Pre-Industrial China and England," which he is developing into a book manuscript, has been recognized with a Kathryn T. Preyer Award by the American Society for Legal History and a Yale East Asia Prize Fellowship, among others.

Zhang has taught at Yale, Brown University, and the Peking University Law School, and has been a visiting scholar at Tsinghua University School of Law. He has worked in the Institute of Applied Legal Studies of the Supreme People's Court of China, at the Federal Defenders of New York in Manhattan, and with Davis Polk & Wardwell in New York and Hong Kong.

Zhang said he's found an intellectual home at Duke. "I loved my first year here. I deeply respect my colleagues — they are brilliant scholars and wonderful people. And what really struck me about Duke was how easy it is to cross departmental and disciplinary boundaries. So I always felt pretty happy about being able to stay here if I got the chance."

GREENE *(continued)*

she received the Stephen J. Massey Prize for excellence in advocacy and served as notes editor for the *Yale Law Review* and articles editor for the *Yale Law and Policy Review*. After clerking for Judge Richard Cudahy on the United States Court of Appeals for the Seventh Circuit, Greene focused on housing law matters at the law firm Klein Hornig, in Boston. She received a PhD in social policy and sociology from Harvard University in May.

A former AmeriCorps volunteer, Greene has long had an interest in issues facing economically challenged communities. Working in Yale's Housing and Community Development Clinic caused her to question policy and statutory design and led her to the methodologies she uses in her current research. Her work during graduate school as a research assistant to Sen. Elizabeth Warren, then a Harvard law professor, deepened Greene's interest in bankruptcy.

Duke Law promises to be a good fit for Greene's multi-disciplinary interests, she said. "One of the things that drew me to Duke is that there were so many people doing interesting and different things across disciplines. I wanted to be at a law school, in particular, because in my writing and research, that's my end goal: What should these programs and laws look like? What should the statutes say?"

Dean David F. Levi

A "grand challenge" to the legal system: Criminal justice reform

DEAN DAVID F. LEVI delivered the inaugural Judge Lloyd D. George Lecture on the Judicial Process at the University of Nevada, Las Vegas William S. Boyd School of Law on April 3. In his lecture, "The Grand Challenges for the Legal Profession and Judiciary," Levi listed seven major problems: access to justice for the poor and unrepresented; the cost of justice for everyone, which is also an issue of access; maintaining the independence and neutrality of the judiciary; preserving the jury trial; the criminal justice system; unifying the legal profession; and maintaining a sense of mission and purpose for the legal profession.

In this excerpt Levi, who was the chief U.S. district judge for the Eastern District of California prior to becoming dean in 2007, addresses "the mother of all grand challenges" — the criminal justice system.

"THIS COULD BE BROKEN DOWN into many grand challenges and maybe should be. Our approach to sentencing is in flux; there are a huge number of persons in prison compared to other industrialized countries; we have over 3,000 inmates on death row, the vast majority of whom will die of old age; we are on a path toward legalization of previously illegal drugs, with uncertain consequences; and we have a loss of confidence in the overall fairness of the system. The number of African Americans, particularly men, in prison is hugely disproportionate as compared to other groups and is a very large number, approaching 1 million.

To be fair, this assessment leaves out some of the progress that has been made. One reason that there are so many people in prison is that we are so much more effective at solving crimes than we were in the past. The crime rates for serious crimes, including murder, have gone down steeply from a high in the 1990s.

Moreover, some of the troubling disparities are diminishing. For example, the incarceration rate for African Americans is falling, while the incarceration rate for other groups is rising. In part this represents a reduction in the sentences given for crack cocaine.

But we have many problems, and the list I gave moments ago just scratches the surface.

I have a few somewhat controversial suggestions to make as a very preliminary cut on this challenge.

First, on the matter of **capital punishment**, we have had enough experience since *Furman* to understand that we will never have a reliable, just, and swift application of the death penalty in anything like the numbers that our district attorneys would like. They are out of step with reality and need to stop imposing this terrible cost on the system, on judges and juries, and on society. It is a wrenching experience for jurors to participate in these trials. It is wrong to put them and others, including victim families, through this ordeal when the result is simply to house defendants on a death row for the rest of their natural lives.

Those states that have capital punishment should implement a review of all pending cases, giving authority to the attorney general and governor, or some other body, to reduce the sentence to life without parole.

Notice that I am not taking a position on the rightness or wrongness of the death penalty. I am asking us to deal with the facts as we all know them to be.

Those states that have capital punishment should implement a review of all pending cases, giving authority to the attorney general and governor, or some other body, to reduce the sentence to life without parole. If this were done in California, for example, the state could identify which of its hundreds of death row cases, many of which have been pending for over 20 years, are worth pursuing because the evidence is so overwhelming, there is no question of identity or guilt, the crime was particularly egregious, and there are no significant legal issues. The number should be very small, as in five or 10, and not in the hundreds.

Then, looking forward, no local prosecutor should be permitted to seek the death penalty without prior approval of the state attorney general and the governor, or perhaps of an independent review board.

■ ■ ■

Second, as to **drug legalization**, we can see that it is picking up steam and will probably become the norm, at least for marijuana and perhaps for other illegal drugs as well, such as cocaine and methamphetamine, which are also widely used.

Having spent a good part of my life as a judge and prosecutor putting drug dealers and manufacturers in prison, I will confess that I am sorry to see this. But now it is my turn to face up to reality. Many Americans are using and will use drugs. We have not stopped them despite the harshest penalties and the most aggressive and costly interdiction, investigatory, and prosecution efforts. We have not even driven up the price in any significant way. And we have not changed the culture because many Americans evidently see nothing wrong in drug use.

So why is this phenomenon a challenge for the legal profession? We might say that by definition, if we legalize, then it is off our plate and simply becomes a social or medical problem like alcoholism. It is not that easy unfortunately. First, illegal drugs won't be legal in every sense and context. It will still be illegal to sell drugs to young people. It will still be illegal to grow marijuana on public lands. It will still be illegal to make methamphetamine in unregulated laboratories that use dangerous chemicals. And if we attempt to regulate drugs such as marijuana through taxes or limits on THC content, it is likely that we will continue to see an illegal black market, although, we hope, of lesser size.

[J]udges and the legal profession will be dealing with the problem of drug use for many years to come and we need better tools and understanding to do so.

Moreover, if the experience with alcohol is any guide, there will be a surge of drug use and abuse after legalization. It will be tough to keep legalized drugs out of the

hands of young people. We may also see a surge in other crimes — property, white collar, and violent crimes, not to mention driving under the influence — as a result of the increase in drug use. And so, sorry to say, the decrease we experience in the numbers of prisoners convicted solely of drug offenses will be offset at least in some part by an increase in persons convicted of other crimes, some of which will be related to heavy drug use.

In short, judges and the legal profession will be dealing with the problem of drug use for many years to come and we need better tools and understanding to do so. We will need more resources in drug treatment, and we will need a better flow of information — data — about what kinds of drug treatment work and in what settings.

■ ■ ■

Third, and as an expansion of this last thought, one of the themes of this talk is that there are various grand challenges for which part of the solution is **better use of technology and better mobilization and sharing of knowledge** from one group, like academic researchers, to others, like judges and policymakers. We have a lot of people in prison in this country. With our better understanding of brain science, of what motivates and deters people, we should make some effort to see if we have better and new techniques for deterring crime and rehabilitating prisoners. Our judges should be able to benefit from and use social science techniques in devising sentences and post-release supervision systems that are based on data, experimentation, and evaluation. This is where academic researchers can contribute so much. We also have much better monitoring technology. We can use technology to get people out of prison sooner, but with extensive kinds of technological reporting and monitoring so that public safety is not compromised. We can shift our resources from prison to programs, at least to some degree. With crime rates falling, this is the time to try if we are ever going to.

Our judges should be able to benefit from and use social science techniques in devising sentences and post-release supervision systems that are based on data, experimentation, and evaluation.

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Fourth, we have a **tendency to seek criminal justice solutions** anytime something goes badly wrong. I am thinking particularly of the financial meltdown that occurred in 2008. Our financial system very nearly collapsed, and this was a regulatory and institutional design failure of huge proportions. Most people who seem to understand the system will tell you that the problems have not yet been solved. The main problems are too much leverage, overly generous lending practices, flawed risk assessment by rating agencies and others, executive and employee compensation systems that encouraged excessive risk taking, inadequate government controls and oversight, a housing bubble caused by prolonged monetary policies, and the interdependence of financial institutions through derivatives and other devices that created what is known as systemic risk. In a system as big and with as many transactions as our financial system, there will always be some level of false statement and fraud. And it is not at all hard to believe that as the house of cards began to shake and tumble, deliberate false statements and fraud occurred even at high levels. And these people should be prosecuted. But this is not the guts of the problem, and to think of it mostly as a problem of deliberate criminal wrongdoing and malicious behavior focuses on some of the symptoms without getting at the real illness, which is the result of legal activity and known incentives.

We will have a better criminal justice system if we don't use it for show or political compromise.

Moreover, many of the most prominent criminal actions have been brought against corporations, rather than individuals, and these cases seem unlikely to serve most of the purposes of criminal prosecution such as deterrence, retribution, shame, and incapacitation. Some of these cases are brought against successor corporations for crimes committed by a predecessor — a modern-day bill of attainder. Paying off the government in these situations seems to be the price of doing business levied upon current shareholders and employees for crimes allegedly committed by wrongdoers who are long gone. We will have a better criminal justice system if we don't use it for show or political compromise, particularly a show that obscures deeper and more difficult regulatory or economic issues, or permits individual wrongdoers to shift blame and sanctions to the "corporation," thus avoiding their day of reckoning. There is not much deterrence in this. In short, fix the regulatory issues and prosecute the bad guys. We seem intent on doing neither.

Justice Robert H. Jackson served as chief United States prosecutor at the Nuremberg trials of Nazi war criminals.

H. Jefferson Powell

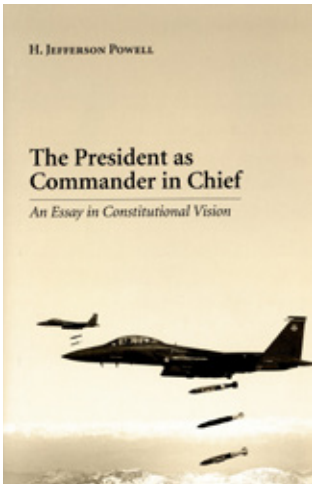
How to advise a president: Lessons from Justice Jackson

PROFESSOR JEFF POWELL'S LATEST BOOK, *The President as Commander in Chief: An Essay in Constitutional Vision*, can be read as a primer on how executive branch lawyers should approach advising their client, the president of the United States. He finds a persuasive approach in Justice Robert Jackson's concurring 1952 opinion in *Youngstown Sheet & Tube v. Sawyer*, also known as The Steel Seizure Case.

The case, which involved the limits to the president's power to seize private property at a time of national emergency, is a staple of first-year Constitutional Law casebooks. But Jackson's 22-page opinion — to which no other justice signed on — is often edited down to present a three-tier formulation for assessing the scope of executive power. That represents a far too narrow reading of the opinion, Powell argues.

"We ought to accept its teaching and its example of how to advise the president, and therefore of how to criticize the advice a president gets or acts on," he says, speaking and writing with approval about the way Jackson advised President Franklin D. Roosevelt, whom he served first as solicitor general and then as attorney general.

Powell knows the task of the executive branch lawyer well. He credits his work in the U.S. Department of Justice through much of the 1990s, as deputy assistant attorney general in the Office of Legal Counsel (OLC) and, in 1996, as principal deputy solicitor general, with sparking his subsequent scholarly immersion in questions of the constitutional law that governs foreign affairs and national security and the role that law plays within the political branches of government. Powell, who returned to the OLC for 10 months in 2011-2012, spoke to *Duke Law Magazine* about his book, which is dedicated to his friend and former DOJ superior, Professor Walter Dellinger.



Duke Law Magazine: What are we missing when we read only the edited Jackson opinion?

JEFF POWELL: In his three-tier topology, Jackson says when you are advising the president, or when the president is trying to think himself about whether he has the power to do something, you look at whether Congress agrees with him, disagrees with him, or hasn't spoken. It's the part that judges tend to use. But if you read it carefully, Jackson presents the three tiers not so much as a judicial test, but as considerations the president might want to take into account, or those advising the president might want to take into account. The opinion is written as much as a reflection by an executive branch lawyer on the task of the president and his or her legal advisers as it is a judicial opinion about justifying the Court's judgment.

I've long taught an essentially unedited version of Jackson's opinion, because I've wanted students to see what he's doing, not just because it's a fuller picture of how he saw the substance of the law, but because it's implicitly an account of how you do law in a different setting than that of a judge. Students get immersed from day one in the judicial perspective. We read appellate opinions, and we often ask them to think as if they were appellate judges. Well, Jackson's opinion is a lesson in a different role — the role of someone who is working within a political branch, who has an allegiance to the law, but who is not acting as a judge. The political setting makes a difference.

Justice Jackson's Youngstown *opinion "is written as much as a reflection by an executive branch lawyer on the task of the president and his or her legal advisers as it is a judicial opinion about justifying the Court's judgment."*

— Professor Jeff Powell

DLM: What are the elements of Justice Jackson's approach that you think executive branch lawyers should follow?

JP: First, there is a fundamental asymmetry between legislative and executive power in this country. The default rule is that ordinarily, what Congress says, governs. And the president's job is to carry out what Congress says. That general rule has less application in the area of foreign affairs, in which the president has very substantial independent authority to act, but even in that domain, if Congress has authority to legislate, its will should prevail in event of a conflict. That's the default rule. So one of the central tasks of the executive branch legal adviser is to maintain and respect, on the part of the executive branch, this fundamental congressional primacy. That can be difficult to do, particularly if you are a political appointee — after all, you got your job because you're on the president's team.

The second principle is that for structural and prudential reasons, the president has the initiative in the formulation and execution of U.S. foreign policy, and foreign policy necessarily includes national security issues. So the executive branch legal adviser also has a duty to preserve robust, independent presidential authority to take action in what the president and her advisers consider to be the national interest. In doing so, the executive branch lawyer is serving the Republic and the law, not just the parochial interests of the president.

If you look at three of the greatest lawyers to hold public office and write significantly about national security and constitutional authority matters — Robert Jackson, William Rehnquist, and Walter Dellinger — all of them agreed that there is a core of exclusive commander-in-chief authority: there are military decisions that only the president may make; that area of exclusive presidential authority is quite circumscribed; and the question of beginning large-scale military operations, which is the issue that gets people the most excited and most worried about, is a matter on which, in principle, Congress has the final word. Of course, Congress can't disable the president from responding to an attack and no Congress would intend to do so, but it should speak for the nation in deciding whether to go to war on our own (war in the sense of military operations that rise above the level of brief and low-intensity conflict). Furthermore, Jackson, Rehnquist, and Dellinger all agreed that when Congress does speak to and circumscribe the scope of military operations, what the president may do is limited to what Congress has authorized.

DLM: You make the point early on that government lawyers shouldn't write Congress or the president "blank checks." You offer the 2002 OLC "torture memos" relating to enhanced interrogation as an example of executive branch lawyers getting things wrong in essentially saying the president has unlimited power — and in not citing *Youngstown*. And you cite one of Chief Justice Rehnquist's opinions, written as OLC head under President Nixon, among other writings, as an example of how to get things right.

JP: The third chapter in the book is a brief *intermezzo* on Rehnquist, who was Jackson's clerk in 1952. I wanted to show that a very big post-Jackson figure, someone whose political perspective, at least on the face of it, was not the same as Jackson's, adopted and then acted on the Jackson vision. In that regard, I discuss Rehnquist's opinion on the legality of the 1970 U.S. military incursion into Cambodia ordered by President Nixon.

Rehnquist found the incursion to be legal, but I'm not terribly concerned about whether you decide that he was right or not, although I happen to think he was. What is far more important is the way he carefully writes the opinion so that you cannot read it as a blank check. He concludes that in this specific situation, given these specific facts, President Nixon had the authority to do this specific thing. Nothing "big ticket" flows from that. I regard that opinion, like some of Jackson's and some of Dellinger's, as paradigms of what the good executive branch lawyer-adviser does. He or she doesn't surrender the flexible, robust presidential authority that I think is part of our system. But she makes it clear that she isn't giving the president a blank check: In the very act of saying, "Yes, this is legally authorized," she is reminding the executive that it matters enormously that the president act within the limits of the law.

Why does that matter? It matters, as Justice Jackson said, because the people who come to high public office are, almost always, inculcated in respect for law. Jackson comments in one of his unpublished judicial opinions that this respect for the law on the part of politicians is part of what makes our system, including the dangerous war powers, work. Because the policymakers don't want to violate the Constitution, because they intend to respect the law, the legal adviser has a critical role in reminding them of the limiting force of the law.

How you describe his or her legal authority influences what the policymaker feels free to do. If the 2002 memos had become canonical, that would have made a very big difference in the terms of the way some policymakers down the road were going to think about their options: it would have eliminated some of their hesitations about questionable decisions — "Well, maybe we can't do it because Congress forbade that." Fortunately, the OLC under President Bush subsequently repudiated the 2002 opinions.

Part of the lesson here is to have the right level of ambition for the law. The president and policymakers may not follow the lawyer's advice. Indeed, in the end, I think we should want the policymakers to do what they think the Republic needs, and that might mean they do something that the lawyer did not approve. But the policymakers should do so better *understanding* that their lawyers think the action is illegal. The executive branch lawyer's task is not to make the policy decision but to offer responsible advice about the law. She may make mistakes — all of us do — but I think she'll be doing her job right if she follows Robert Jackson's approach.

"George has taught thousands of Duke Law students over his 46 years. And the relationships that he has formed with many of these students have deeply affected both students and professor."

— Dean David F. Levi

Alumni and faculty pay tribute to Christie

THE FIRST THING Daniel T. Blue Jr. '73 noticed about George C. Christie was his young teacher's irrepressible energy.

"George was the bounciest person we had ever seen," Blue told 140 faculty, staff, alumni, and friends who gathered at the Washington Duke Inn to honor Christie on Nov. 3. "He had a rhythm. Once he started making a point, it was like he was reverberating on the blackboard." The professor's vibrations seemed to intensify as he focused a question on a student, said Blue.

Blue went on to take Jurisprudence in his 3L year from Christie, the James B. Duke Professor Emeritus of Law. The two men have maintained a close friendship over the ensuing four decades.

"He was fun and he made studying torts an exciting and uniquely rewarding experience," said Blue, the minority leader of the North Carolina Senate and former chair of the Duke University Board of Trustees. "He was also friendly, which was what made him so special to many of us. He would seek us out."

Christie, who joined the faculty of the Law School in 1967, retired from teaching on Aug. 31, 2013. A group of his former students and friends have endowed a $100,000 scholarship in his honor, Dean David F. Levi announced at the November dinner.

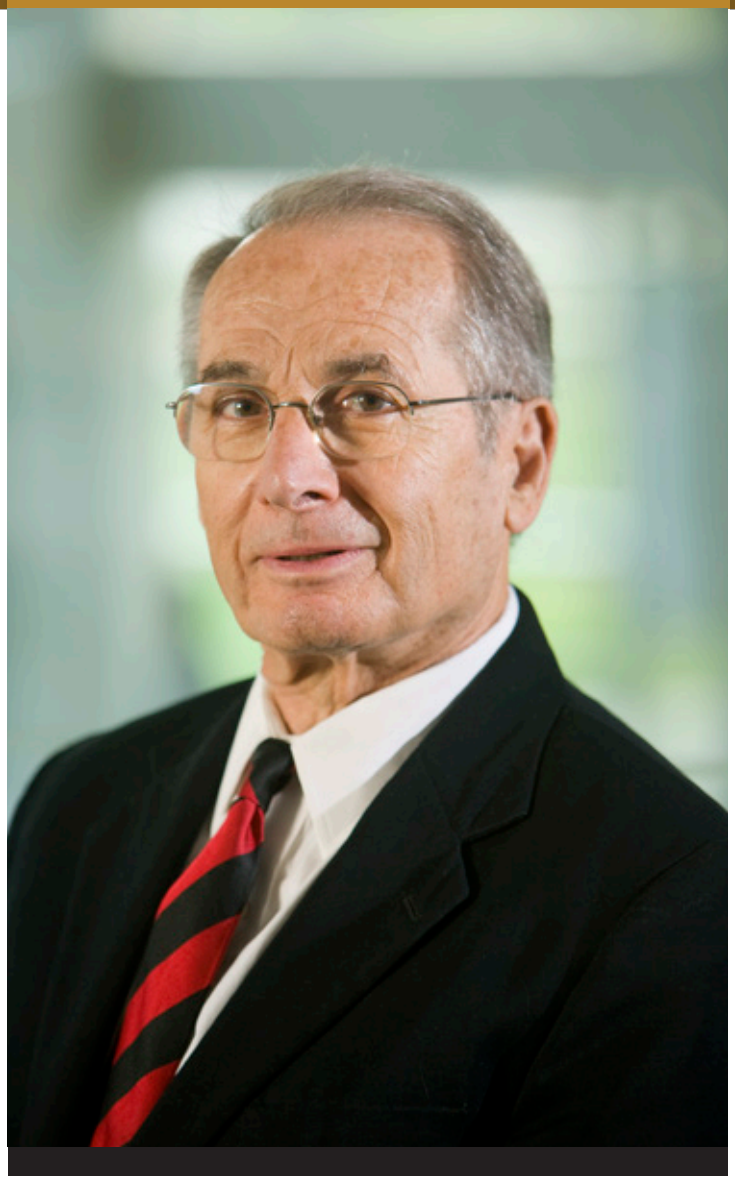
"George has taught thousands of Duke Law students over his 46 years," Levi said. "And the relationships that he has formed with many of these students have deeply affected both students and professor."

Levi relayed anecdotes sent in by alumni, including Mike Villeggiante '12, who recalled how he and his friends had won a bottle of port that Christie had donated to the PILF auction.

"We approached him after class to suggest that he join us for a small gathering to drink the port," Villeggiante wrote in an e-mail. "He responded with something like 'Well, what kind of Greek would I be if I made you pay to drink with me?' and invited the whole class to his home for dinner and port with him and his wife."

N.C. Sen. Floyd B. McKissick Jr. '83 spoke of Christie's kindness during McKissick's hospitalization after a shooting a few years after his Duke graduation.

"He didn't just come there on one occasion, he came there on a number of occasions," McKissick said. "I think it's that character that made him a most amazing professor."



Witness to Change

In an interview, Christie credited his close ties to students to the Law School's small size during his early years at Duke.

"I taught during a period when the faculty was a lot smaller and the curriculum was more limited," he said. "As a result, there were long periods where I must have taught more than half of the graduating class. I try to keep in contact with many of them over the course of their careers. That has given me pleasure."

He has also been gratified, he said, to have witnessed Duke Law's transformation from a regional school into one of national and international renown.

Christie came to Duke after serving in Washington as assistant general counsel for the Near East and South Asia of the U.S. Agency for International Development. Before that, he taught at the University of Minnesota, and had been a Ford Fellow at Harvard Law School and a Fulbright Scholar studying at Cambridge.

He admits that he never planned a long stay at Duke; he hoped to draw on connections to Hubert Humphrey from his time at the University of Minnesota to go back into government. But those hopes were dashed when Humphrey lost the presidential election to Richard Nixon '37. A law school classmate suggested him for a position in the

administration, but Christie answered the question of his political affiliation truthfully — Democrat — "and that put the quits on that," he said.

At Duke, Christie went on to influence the direction of both the Law School and the university. In 1972, he chaired a university-wide committee report that called on administrators to consult the Academic Council on all matters affecting academic affairs before they are implemented or submitted to the Board of Trustees for approval. The provision in the report, which codified that the faculty's voice would be heard in university governance, is still called "the Christie Rule."

"In troubled times, George Christie produced the Magna Carta of Duke, and the university has been stronger for it ever since," Duke President Richard H. Brodhead said in a statement read at Christie's retirement dinner.

A lifelong scholar

An expert in torts and jurisprudence, Christie has written 12 books and more than 60 articles, many of which have been translated into other languages. He is the editor of, among other books, a casebook on jurisprudence originally published in 1973 and now in its third edition, and one on torts first published in 1983 and now in its fourth edition. His monograph *The Notion of an Ideal Audience in Legal Argument* was published in 2000 and published in French in 2005. His previous monograph, *Law, Norms and Authority*, was published in 1982. His most recent monograph is *Philosopher Kings? The Adjudication of Conflicting Human Rights and Social Values*, published by Oxford University Press in 2011.

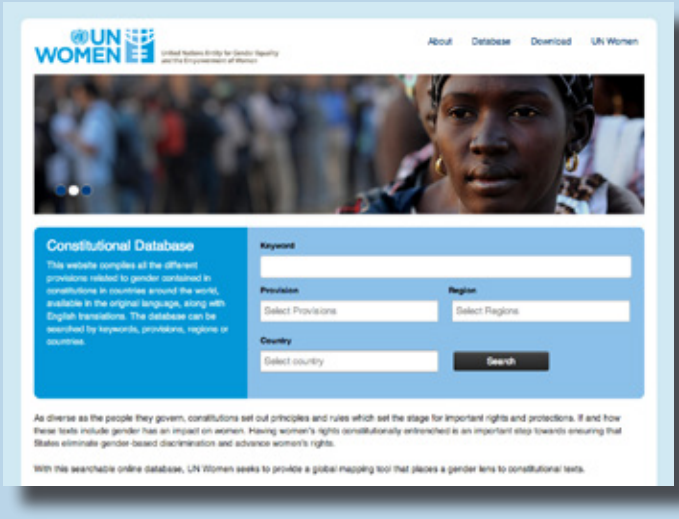
Christie has been a visiting professor at Northwestern University, George Washington University, the University of Michigan, and the University of Florida, as well as universities in New Zealand, South Africa, China, Japan, and Germany. In 2007, he received an honorary degree from the University of Athens; more than 90 years prior, his father had graduated from that institution's law faculty.

At his retirement dinner, several of Christie's colleagues noted his many contributions to the Law School in their remarks, and he was given two gifts on behalf of the faculty. Neil Vidmar, the Russell M. Robinson II Professor of Law, presented Christie, an oenophile, with two bottles of French wine. Assistant Dean for Library Services Melanie Dunshee presented him with a first edition of Henry Sumner Maine's 1861 book, *Ancient Law, Its Connection With the Early History of Society, and Its Relation to Modern Ideas*. The rare book, which Christie has donated to the library, is now part of the Christie Collection, which consists of treatises on jurisprudence and legal philosophy and is intended to promote the scholarly study of legal philosophy. Professor James D. Cox, the Brainerd Currie Professor of Law, chaired the committee that selected the gifts.

Christie said he was surprised and touched by the gifts and tributes, in particular by the scholarship established in his name. "In my own education I was really a scholarship boy," he said. "My dad died when I was 15 years old and he was never particularly well-off anyway. So I've gotten a world-class education owing to the generosity of others."

He maintains an ambitious research agenda in spite of his retirement from teaching and currently is working on a book on the limits of the adjudicatory process. "My life continues to be centered around the university," he said.

»FACULTY NEWS BRIEFS



HUCKERBY PRODUCES, HELPS LAUNCH U.N. DATABASE ON WOMEN'S RIGHTS

CLINICAL PROFESSOR Jayne Huckerby participated in the official launch of the UN Women's Constitutional Database at the headquarters of UN Women Headquarters in New York on Dec. 13. Huckerby produced the content for the database, the first-ever to map women's rights in constitutions worldwide, prior to joining the Duke Law faculty last July.

The database maps women's rights in 195 countries and contains 62 languages. To produce the database, Huckerby reviewed all countries' constitutions to identify their impact on women's rights in areas such as marriage and family life, property and inheritance rights, citizenship, education, and employment.

"Constitutions matter for women," said Huckerby, the founding director of Duke Law's International Human Rights Clinic. "However, efforts to enshrine gender equality in national constitutions regularly fall short. With this new resource, gender equality advocates have an invaluable tool for making constitutions work for women."

SCHROEDER TESTIFIES BEFORE HOUSE JUDICIARY COMMITTEE ON PRESIDENT'S DUTY TO EXECUTE LAWS

PROFESSOR CHRISTOPHER H. SCHROEDER testified before the House Judiciary Committee on Feb. 26 on the president's constitutional duty to execute laws.

Schroeder, the Charles S. Murphy Professor of Law and Public Policy Studies, has deep experience in the executive branch, most recently serving as assistant attorney general for the Office of Legal Policy at the U.S. Department of Justice. He is a scholar of constitutional and environmental law and regulation, and much of his current scholarship and research concentrates on questions of presidential authority.

Stating in his written testimony that "in our constitutional democracy, taking care that the laws are executed faithfully has a number of facets," Schroeder focused on the nature of federal laws and some of the most significant issues that arise in enforcing them in situations where the executive branch does not face a question of the constitutionality of the laws themselves. By demonstrating how laws are executed, he sought to illuminate important aspects of the president's "Take Care" responsibility. His testimony stated, in part, that "because mere legal error is consistent with faithful execution of the laws, I do not believe the avoidance of legal error goes to the heart of the president's obligation.

"Exercising 'considered judgment and conscience' contemplates a good faith and conscientious effort to take actions within the discretionary authority granted by law. So long as the president is taking care to ensure that this is being done, he is discharging his constitutional obligation."

Schroeder returned to the Duke Law faculty in 2012 after nearly three years in the Office of Legal Policy, where he supervised the evaluation of President Obama's nominees to the federal judiciary and provided policy advice to the

attorney general and the White House on a variety of law enforcement and national security issues. He has also served as acting assistant attorney general in the Office of Legal Counsel, a role in which he was responsible for legal advice to the attorney general and the president on a broad range of issues, including separation of powers, other constitutional issues, and matters of statutory interpretation and administrative law. He earlier served as chief counsel to the Senate Judiciary Committee. At Duke Law, Schroeder co-directs the Program in Public Law.

DELLINGER RECEIVES LIFETIME ACHIEVEMENT AWARD FROM *THE AMERICAN LAWYER*

WALTER DELLINGER III, the Douglas B. Maggs Professor Emeritus of Law, received a Lifetime Achievement Award from *The American Lawyer* on Oct. 29 in New York.

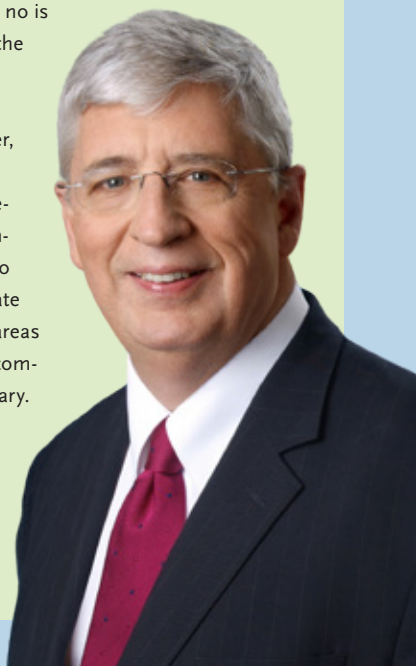
The magazine's Lifetime Achievement Awards are given to "men and women who had distinguished careers at the country's preeminent law firms and legal departments; accomplished practitioners who found the time to help the indigent or take a few years (and a pay cut) to do government service."

Dellinger, a leading Supreme Court advocate, also is a partner and member of the appellate practice group at O'Melveny & Myers in Washington, D.C. In announcing the award in September, *The American Lawyer* cited such accomplishments as Dellinger's leadership of the Office of Legal Counsel and 14-month service as U.S. solicitor general during the Clinton administration; his mentorship of other lawyers, including U.S. Court of Appeals Judge Sri Srinivasan; and his *amicus* brief in the U.S. Supreme Court in *Hollingsworth v. Perry*, the challenge to California's constitutional ban against same-sex marriage.

Asked by the magazine to list his greatest professional achievement, Dellinger cited his public service. "The single thing I'm most proud of is having run the Office of Legal Counsel at the Justice Department for nearly four years without having any serious regrets about the decisions we made. Telling the White House no is never easy, but we did it every time we thought the law made 'no' the right answer."

"Walter's lifetime achievement award is richly deserved," said Professor Christopher Schroeder, who served with Dellinger in the Office of Legal Counsel. "His career spans outstanding achievements in academia, in public service at the highest levels of the federal government, in pro bono work, in work for the organized bar, and in private practice. His accomplishments in any of these areas would be enough to make a successful career; combined they mark a career that is truly extraordinary. Whereever he has been working, he has also been an invaluable mentor to countless people, as well as a trusted adviser and a truly delightful colleague."

Dellinger also was elected to the American Law Institute in October.



DBA HONORS de FONTENAY WITH DISTINGUISHED TEACHING AWARD

PROFESSOR ELISABETH de FONTENAY was honored, in April, with the Duke Bar Association's Distinguished Teaching Award. "'She makes the job look easy, and she does it despite being a young teacher at Duke Law,'" Kristin Bender '16, DBA's academics chair, read from students' nominations of de Fontenay. "'Her classes never feel monotonous, and no two are the same. I always leave her class feeling more knowledgeable than when I entered, and I usually leave in a better mood to boot.'"

de Fontenay, a scholar of corporate law, corporate finance, and financial institutions, joined the Duke Law faculty in 2013 after serving as a Climenko Fellow and Lecturer on Law at Harvard Law School.

As part of her teaching award, de Fontenay received a $10,000 research stipend that will enable her to purchase databases essential to her teaching and scholarship. This support was generously provided by The Class of 1967 Fund.

CHARLES ELECTED TO ALI

GUY-URIEL CHARLES, the Charles S. Rhyne Professor of Law, was elected to membership in the American Law Institute in October. Charles is the founding director of the Center on Law, Race and Politics and a scholar of constitutional law, election law, campaign finance, redistricting, politics, and race. He joined Duke Law's faculty in 2009 and was previously the Russell M. and Elizabeth M. Bennett Professor of Law at the University of Minnesota Law School. On July 1, Charles became the Law School's senior associate dean for faculty and research.

PURDY ARTICLE SELECTED FOR COLLECTION OF INNOVATIVE ENVIRONMENTAL SCHOLARSHIP

AN ARTICLE BY PROFESSOR JEDEDIAH PURDY about the evolving relationship between environmental law and ethics was chosen to be one of three pieces of scholarship featured in the *2014 Environmental Law and Policy Annual Review* (*ELPAR*). The yearly compendium showcases environmental scholarship deemed most innovative by an expert advisory committee, senior staff from the Environmental Law Institute, and law students from Vanderbilt University.

Purdy's article, "Our Place in the World: A New Relationship for Environmental Ethics and Law" 62 *Duke Law Journal* 857-932 (2013), along with the other two articles chosen by *ELPAR*, was the focus of a panel discussion during an April 4 conference on Capitol Hill.

The article addresses a divergence between environmental law and policy-making and environmental ethics, a separation that has manifested and grown over the last 30 years. Purdy is the Robinson O. Everett Professor of Law.

GULATI SERVES AS NORTH AMERICAN EDITOR FOR *CAPITAL MARKETS LAW JOURNAL*

PROFESSOR MITU GULATI is serving as North American regional editor for the new *Capital Markets Law Journal*, an open-source, peer-reviewed online journal published by Oxford University Press. The first journal to focus entirely on capital markets for practitioners and academics, it covers, with an international perspective, all fields within that practice area, such as debt, derivatives, equity, high-yield products, securitization, and repackaging.

A leading scholar in the areas of corporate law, international sovereign debt, critical race theory, employment discrimination, and judicial behavior, Gulati's research interests include the historic evolution of concepts of sovereign immunity and the role that law can play as a symbol.

FARAHANY CO-FOUNDS, EDITS, *THE JOURNAL OF LAW AND THE BIOSCIENCES*

PROFESSOR NITA FARAHANY '04 has co-founded *The Journal of Law and the Biosciences*, the first open-access, peer-reviewed legal journal focused on the advances at the intersection of law and the biosciences. She serves as one of three editors-in-chief, along with co-founders Professor I. Glenn Cohen of Harvard Law School and Professor Hank Greely of Stanford Law School. A joint venture between Duke University, Harvard University Law School, and Stanford University, and published by Oxford University Press, the online journal published its first issue in March.

Farahany, who holds a secondary appointment in the Department of Philosophy, is a leading scholar on the ethical, legal, and social implications of biosciences and emerging technologies, particularly those related to neuroscience and behavioral genetics. She directs the Duke Science & Society initiative and the Duke MA in Bioethics & Science Policy, and is a member of the Presidential Commission for the Study of Bioethical Issues.

»FACULTY NEWS BRIEFS

McALLASTER HONORED BY ABA FOR EXCELLENCE IN PROVISION OF HIV LEGAL SERVICES, ADVOCACY

CLINICAL PROFESSOR Carolyn McAllaster received the American Bar Association's Alexander D. Forger Award for Sustained Excellence in the Provision of HIV Legal Services and Advocacy on Feb. 28. McAllaster, the director of the Duke AIDS Legal Project and advanced AIDS Policy Clinic, was one of five Forger Award recipients at the ABA's biannual HIV/AIDS Law & Practice Conference in Atlanta.

McAllaster, who teaches courses relating to AIDS and the law, founded the AIDS Legal Project in 1996 after training and supervising student volunteers in drafting wills for people living with HIV and AIDS. She also serves as project director of the Southern HIV/AIDS Strategy Initiative (SASI), a broad-based coalition launched in 2011 to advocate for increased federal resources to stop the spread of HIV in the South, where infection and AIDS death rates are high.

The Forger Awards were established in 2012 to honor individuals and organizations for their longtime provision of HIV legal services and other forms of advocacy, said Michael Pates, director of the ABA's Center for Human Rights and AIDS Coordination Project.

"Carolyn has been at it a very long time, and she's done it very well over many trials and tribulations," he said. "We know that she is a leader particularly in the South, where the domestic epidemic is raging strongest."

Pates praised McAllaster's work in addressing stigma faced by people with HIV and AIDS and other cultural factors, as well as legal matters. "The committee was particularly impressed with her efforts to address those legal and somewhat non-legal issues that bear on the epidemic in the South, in particular," he said.

"Carolyn's work over the last 20-plus years has grown from a small pro bono project in which students drafted wills for HIV-positive individuals, to a clinical course offering this population a wide array of services, to policy advocacy on both the state and national levels," said Senior Lecturing Fellow Allison Rice, a supervising attorney in the AIDS Legal Project. "She has gained the attention and respect of the national HIV/AIDS advocacy community because of her intelligence, grace, and ability to keep people with differing interests working toward a common goal."

McAllaster was profiled in the May issue of *North Carolina Lawyer* magazine.

HOROWITZ DELIVERS NATIONAL ENDOWMENT FOR DEMOCRACY'S LIPSET LECTURE

DONALD HOROWITZ, the James B. Duke Professor of Law and Political Science Emeritus, delivered the National Endowment for Democracy's 10th annual Seymour Martin Lipset Lecture on Democracy in the World on Nov. 7 at the Embassy of Canada in Washington, D.C. Horowitz, a renowned scholar of comparative constitutional design and ethnic conflict in divided societies, discussed three persistent and under-studied problems in the attempt to achieve durable ethnic accommodation out of democratic politics in societies severely divided by ethnicity, race, religion, language, or any other form of affiliation tied to birthplace. His lecture, "Ethnic Power Sharing: Three Big Problems," was published in the March 2014 issue of the NED's *Journal of Democracy*.

The Lipset Lecture, which is delivered in both the U.S. and Canada, features speakers who "have made important contributions to our thinking about key issues of democracy through their writings and other accomplishments," according to the NED website.

REICHMAN JOINS INITIATIVE SEEKING TO ACCELERATE DELIVERY OF INTERNATIONAL ENVIRONMENTAL RESEARCH

JEROME H. REICHMAN, the Bunyan S. Womble Professor of Law, has joined a high-level effort to accelerate delivery of international environmental data. As a participant in the Belmont Forum E-Infrastructure and Data Management Knowledge Hub, Reichman, a scholar of intellectual property law, is helping to develop strategy and standards for research data coordination, sharing, and system interoperability across borders, disciplines, institutions, and infrastructures. As a member of the U.S. delegation to the 13-country initiative, Reichman's working group is identifying national and international legal issues that will need to be addressed in order to ensure that data sharing, as contemplated by the Belmont Forum, is enabled and effective.

The Belmont Forum, a group of high-level representatives from major funding agencies across the globe, is the Council of Principals for the International Group of Funding Agencies for Global Change Research (IGFA). The IGFA, in turn, is a forum for national scientific funding agencies to collaborate in addressing the challenges and opportunities of global environmental change. The National Science Foundation funds the U.S. delegation.

SACHS' *ATLANTIC MARINE* BRIEF MAKES *THE GREEN BAG*'S ANNUAL LIST OF BEST LEGAL WRITING

PROFESSOR STEPHEN SACHS' *amicus* brief to the Supreme Court in *Atlantic Marine Construction Co. v. U.S. District Court* was selected, in December, for *The Green Bag*'s list of "Exemplary Legal Writing 2013."

Sachs' brief was honored in the "miscellany" category, along with Chief Justice John Roberts Jr.'s 2012 Year-End Report on the Federal Judiciary, among others. His brief will appear in the publication's forthcoming *2014 Almanac & Reader*, together with 20 other winning pieces. An advisory board of scholars, jurists, journalists, and practitioners selected the honorees for excellence in such categories as opinions, concurrences and dissents, news and editorials, and books.

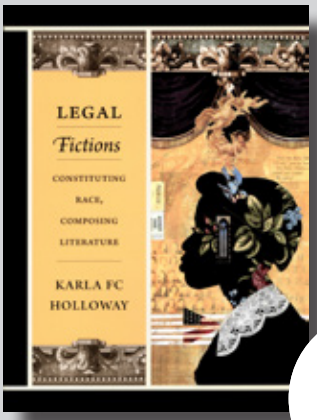
The Green Bag is a quarterly legal journal, featuring what its website calls "short, readable, useful, and sometimes entertaining legal scholarship."

"I always look forward to reading *The Green Bag*'s lists, and I'm very honored to be on one myself," said Sachs. "I had hoped that the brief would be useful to someone, but I never expected it to get this kind of notice."

Sachs is a scholar of civil procedure and conflict of laws who clerked for Roberts during the Court's 2009-10 term. His brief, which was filed in support of neither party, addressed a complex matter of civil procedure involving the enforcement of forum selection clauses in contracts. Sachs argued that both the petitioner, Atlantic Marine Construction Company, and the respondent, J-Crew Management, Inc., were presenting flawed arguments to the Court. "The parties in this case defend two sides of a many-sided circuit split," he wrote. "This brief argues that a third view is correct."

That view was prominently featured during the Oct. 9 oral argument in *Atlantic Marine*, thanks to an unusual order by the justices instructing the parties to address Sachs' brief. Justice Samuel A. Alito Jr. also discussed it in his opinion in the case, issued on Nov. 28 on behalf of a unanimous Court. While he declined to apply Sachs' argument in the case at hand because the parties had not filed the necessary motion, he expressly left open the possibility that it was correct.

Sachs shares *The Green Bag* honor with Jeffrey S. Bucholtz and Daniel S. Epps, of King & Spalding in Washington, D.C. Bucholtz was listed as counsel of record on the brief.



Karla FC Holloway
Legal Fictions
(Duke University Press, 2014)
In her new book, Professor Karla FC Holloway both argues that U.S. racial identity is the creation of U.S. law and demonstrates how black authors of literary fiction have engaged with the law's constructions of race since the era of slavery. Holloway is the James B. Duke Professor of English, Professor of Law, and Professor of Women's Studies at Duke University.

Paul D. Carrington
Anti-Corruption Policy: Can International Actors Play a Constructive Role?
Professor Paul D. Carrington and fellow editor Susan Rose-Ackerman of Yale Law School bring together a diverse group of authors to evaluate various anti-corruption efforts being used by international organizations and consider the need for alternatives. The book concludes with Carrington's proposal for expanding international private law remedies for fighting corruption.

Profiles

Lepper delivered an address on contemporary ethical issues in national security law at the Duke Center on Law, Ethics and National Security's spring 2014 conference on March 1.

Steven Lepper '84

AS HE CONTEMPLATED RETIRING from a 35-year military career, Maj. Gen. Steven Lepper says he "was looking for something that would provide me with a sense of satisfaction and an opportunity to make a difference." He also wanted a job that would draw upon the leadership skills and expertise in international law he honed as an Air Force lawyer serving at the Pentagon and around the world, most recently as deputy judge advocate general.

Lepper found what he was looking for with the American Bar Association's Rule of Law Initiative (ROLI), an international development program that works with partners in almost 60 nations to build sustainable institutions for the delivery of justice, human rights protection, and economic development. The position is a natural fit for Lepper, who has been engaged at the forefront of some of the military's most significant legal developments over the last four decades, including the integration of lawyers into humanitarian aid missions, the evolution of law as a front-line tool of war, and the repeal of the law banning homosexuals from serving openly.

"It's been a smooth transition for me," says Lepper in March, just a few weeks into civilian life. "I've worked in a number of rule of law initiatives from the United States government's perspective over the years and now, in the private sector, the ultimate objectives are the same."

An international focus comes naturally to Lepper, whose mother was Austrian and whose father's Air Force career took the family around the world, to such places as Libya, Taiwan, and England, where Lepper was born and went to high school — and where he met his wife, Kathy, who was also raised in the service. Lepper returned to England in his second JAG Corps assignment out of law school, and decided to make "representing the United States government abroad and representing the Air Force abroad" the focus of his legal career.

He started by getting an LLM in international and comparative law at Georgetown through an Air Force program. "That set up a series of assignments that gave me more and more depth and breadth in the international law area," Lepper says. He soon became chief of operations law within the International and Operations Law Division at the Pentagon, a position that involved him in the development of policy and practice regarding international humanitarian law that is foundational to Air Force operational practice as well as other aspects of deploying U.S. forces in combat or peacetime.

Before long, he was promoted to deputy legal counsel for the chairman of the Joint Chiefs of Staff. Working first for Gen. Colin Powell and then Gen. John Shalikashvili, Lepper spent two years helping the U.S. address major global issues and crises.

"It gave me a great foundation in how the United States views and practices international law," he says. "I learned a lot about international law at the Department of Defense level, at the inter-agency level working with national security staff and with the State Department, and with the White House on such things as developing the Rwanda and Yugoslavia war crimes tribunals, negotiating agreements with the United Nations, and helping in the law of war development process with the International Committee of the Red Cross in Geneva. I was then able to go overseas and build on that foundation."

As a freshly minted lieutenant colonel, Lepper became the senior U.S. military attorney in Turkey, with responsibilities that included oversight of the U.S. humanitarian relief operation for the Kurdistan region of Iraq following the first Gulf War. Obtaining a master's degree in strategic studies at the National War College after that positioned Lepper, by then a colonel, for senior leadership within the Air Force. At that point, he received a yearlong appointment to the military trial bench.

"Presiding over trials around the country deepened my understanding of military justice and criminal law and proved very helpful in subsequent positions," says Lepper.

The first of those was service as executive officer to the Air Force judge advocate general, a post that engaged Lepper with JAG Corps members around the world. He was then recruited to lead the newly formed Executive Issues Team, which he describes as "the crisis communications team" of the Air Force.

Three weeks before the 9/11 attacks, Lepper left the Defense Department to become the senior U.S. military attorney in Japan, which put him on the front line of negotiations with the Japanese government over the Status of Forces Agreement that has underpinned America's military presence in the country since World War II. Next, after being based in Hawaii for two years as the senior Air Force lawyer in the Pacific, he headed back to the Pentagon to assume command of the Air Force Legal Operations Agency, which oversees "legal assets" that do not fall under the purview of operational commanders, such as civil litigation, complex criminal litigation, and criminal defense. During his tenure there, he helped substantially reorganize the JAG Corps to make it the professional organization it is today.

In 2006, the Air Force promoted Lepper to the rank of brigadier general, and he became general counsel to Air Mobility Command, which he calls "the world's largest airline," running all of the tankers, airlift assets, and air medical evacuation missions throughout the world. Lepper integrated lawyers into the emergency command center that controls global mobility operations by the minute, and on the contingency response teams that deploy first to stricken areas. One of the first missions to benefit from the initiative was the response to the 2010 earthquake in Haiti.

"It's been really satisfying to act as an ambassador of sorts for the United States military."

"I sent a lawyer in on the first team that went to Haiti," Lepper says. "That lawyer was able to develop relationships with the local authorities and with the U.S. embassy, and it resulted in the airlift of more than 800 orphans to the United States to join prospective adoptive parents. It was a remarkable effort."

Later in 2010, Lepper, as a major general, became deputy judge advocate general of the Air Force, succeeding Professor Charles Dunlap, now the executive director of Duke Law's Center on Law, Ethics and National Security. Lepper was promptly appointed to the "Don't Ask, Don't Tell" review team charged with assessing the military's readiness for a repeal of the law banning gays from serving openly. He credits the "remarkable" process of the review team that ultimately recommended the repeal to the president, the secretary of defense, and the chairman of the Joint Chiefs of Staff, with helping him forge relationships across the branches of the military and with groups of people he might not otherwise have met. He calls the outcome of that work equally remarkable.

"There has been very little controversy surrounding the repeals of both Don't Ask, Don't Tell and the Defense of Marriage Act in the military," he says, admitting that many people on the team were pessimistic about being able to achieve the grassroots support needed to make any meaningful change when they began their work.

"But as we spoke to military members around the world, we came to understand that while there may have been a cultural resistance to having gays serve openly when we were young officers, we now have a new generation who don't consider this an issue," he says. Along with the general counsel for the Department of the Navy, Lepper led a committee that studied the legal and regulatory implications of repeal so that policies and procedures that had "grown up" around the ban on homosexual service — such as those addressing dependents, privileges, and entitlements — could be changed quickly.

Lepper says he has found enormous satisfaction in serving as a lawyer in uniform, representing the United States among allies, friends, and adversaries. Attending Duke at a time when many universities didn't welcome the military on campus, he and other active-duty law students were "curiosities," he recalls, but he enjoyed helping educate his classmates on what an Air Force officer does and what he would be doing after graduation.

"We formed lifelong friendships," says Lepper, who attended his 30th reunion in April. "And through my Air Force career, I've developed friendships with a lot of friends around the world as well — colleagues and former adversaries. It's been really satisfying to act as an ambassador of sorts for the United States military."

Geovette Washington '92

GEOVETTE WASHINGTON describes public service as "kind of like the family business." Raised in rural Georgia by two public school teachers, Washington's father became a county commissioner in his retirement, and eventually chaired the commission. "He emphasized the importance of public service as a cornerstone of citizenship," she wrote last year in an essay for the website of the U.S. Department of Commerce, where she was then deputy general counsel. "He taught me the importance of service to one's community and the duty and responsibility service requires."

Now general counsel and senior policy adviser for the White House Office of Management and Budget (OMB) and a member, by presidential appointment, of the Council of the Administrative Conference of the United States, it's fair to say that Washington took her father's lessons to heart, having made public service the cornerstone of her career. "I can't imagine what my career would have been like without it," she says.

Having developed "the bug" for life in the nation's capital during an undergraduate internship with Sen. Sam Nunn, Washington returned there after law school to clerk for a U.S. District Court judge. At the end of her clerkship, she got a job offer from the assistant attorney general for the Office of Legal Counsel in the U.S. Department of Justice, who happened to be her former Constitutional Law professor and law school mentor, Walter Dellinger. Working in the office that directly advises the president and executive branch — and with Professors

Washington's father "emphasized the importance of public service as a cornerstone of citizenship."

Christopher Schroeder and H. Jefferson Powell in addition to Dellinger — offered Washington an enduring lesson in the way government works, she says.

"It gave me an understanding of the process for coming to a decision on what the government's position should be on any given matter," she says. "The excellent career attorneys in OLC taught me what it means to be part of the government policymaking process." Those lessons and the high-level, high-volume writing experience the job entailed, were extremely helpful during her years in private practice as a litigator and partner at Baach Robinson & Lewis. They were essential when she returned to public service as deputy general counsel of the Commerce Department in 2010.

"When I came back to the Commerce Department, it was really important that I understood how the decision process worked and how important it is to be inclusive and transparent," she says. "I learned that at the Office of Legal Counsel."

Addressing the broad agenda of the Commerce Department, which includes such diverse agencies as the U.S. Patent and Trademark Office, the National Weather Service, and the Bureau of Industry and Security, engaged Washington with both

Washington spoke about her work to members of the Law School's Duke in D.C. class during their daylong trip to Capitol Hill last October. (See Page 7.)

legal issues and day-to-day management of a department of more than 250 lawyers. "It was a lot of fun and excellent preparation for my current job," she says. "The ability to juggle a lot of different programs, problems, and issues without pulling all of your hair out is an important skill set around here."

The range of tasks she has addressed since joining the OMB last June has offered Washington a fresh perspective on how all the parts of the executive branch fit together and how critical it is for the president's policy goals to be woven through different departments in ways that advance his agenda, she says. Her OMB legal department of 12 — including Deputy General Counsel John Simpkins '99 — helps interpret and enforce budget laws and ensures the right authorities are in place to allow the president to implement his desired policies.

In a January interview shortly after President Barack Obama delivered his State of the Union address in which he announced several initiatives involving executive action, Washington said her office is important in reviewing all executive orders the president issues both for form and legality and coordinates the inter-agency process. "So if he issues more executive orders, we will be extremely busy," she says. The OMB general counsel also reviews and clears all constitutional comments from the Department of Justice, among many other matters.

Having entered private practice in 1996, Washington says she anticipated returning to the public sector as a member of the Gore administration. Instead, she found herself immersed in the recount and litigation that followed the 2000 presidential election. "It was the only case I have ever seen from start to finish in less than a month," she recalls. "We went to trial and through a couple of appellate rounds in the course of four to six weeks. It was unheard of, the stakes were tremendously high, and it was a great experience. I wish we had won, but all of those things make you stronger."

She loved both her law firm colleagues and the clients she served in private practice, in any event, she says: "I got to work with a broad group of clients engaged with really interesting issues. I'm a people person, so the ability to help them solve their problems was really good for me." Even as a law firm partner, though, she aimed to recruit lawyers from the public sector. "I knew they had a range of skills that they were unlikely to have developed in private practice," she says. "Young government lawyers are given a tremendous amount of responsibility."

Washington has remained very close to her undergraduate alma mater, Wesleyan College in Macon, Ga., where she encourages young women to consider careers in government and in law. She has remained similarly close to Duke Law, to faculty (and former colleagues) such as Dellinger, Powell, Schroeder, and Professor James Coleman, and to her classmates. On the day of her interview with *Duke Law Magazine,* she had spoken at the investiture of classmate Todd Hughes '92 as a judge of the U.S. Court of Appeals for the Federal Circuit. (See Page 55.)

As she told the Law School's Duke in D.C. interns during their fall-semester day of meetings on Capitol Hill, Washington wants all young lawyers to consider entering government service.

"Whether you are in career jobs, which are very important, or in political jobs, you as a government lawyer will be introduced to a world of problems and processes that will completely mold and shape you and will be a good foundation moving forward," she says.

While at Duke to start the Master of Judicial Studies program, Willett met with some summer-starting 1Ls who are pursuing dual degrees.

Justice Don Willett @JusticeWillett · Jun 11

None of these @DukeLaw joint-degree whippersnappers was even born when I started 25 yrs ago.

Classes of '92 & '17!

Don Willett JD/MA '92

JUSTICE DON WILLETT WAS APPOINTED to the Supreme Court of Texas in 2005 and has won two statewide elections since then. Apart from three years in private practice with Haynes and Boone following a clerkship on the U.S. Court of Appeals for the Fifth Circuit, he has been engaged in the public sector throughout his career: as director of research and special projects for then-Gov. George W. Bush; as domestic policy and special projects adviser on the Bush-Cheney 2000 Presidential Campaign and Transition Team; as special assistant to President Bush in the White House; as deputy assistant attorney general for legal policy at the U.S. Department of Justice; and as deputy Texas attorney general.

"I've worn a lot of legal hats, but this one fits best," says Willett of being an appellate judge.

Having gained a reputation for elegantly written judicial opinions, Willett has garnered considerable notice of late for his engaging presence on Twitter (@JusticeWillett). He proved equally eloquent in an online interview with *Duke Law Magazine*, an excerpt of which follows.

Duke Law Magazine: **What did you learn from your mother, who you have called "heroic"?**

Don Willett: I grew up in a doublewide trailer in a tiny Texas farm town of 32 people (so small our town square had only three sides), and was raised by a widowed mother who never finished high school and who worked multiple jobs as a waitress to support my sister and me. I never knew any lawyers, much less imagined one day serving as a justice on the Texas Supreme Court.

The night before I joined the Court in 2005, I found a website that estimates the number of miles that people walk daily in different occupations. I did the quick math and learned that in my mom's 55 years of waitressing, she had walked roughly from the earth to the moon — a quarter million miles, the equivalent of circling the border of Texas 75 times. And every step she took brought a grateful son one step closer to the indescribable honor of serving her and 26 million other Texans on the Supreme Court.

Now 83, my mom embodies virtues like grit, tenacity, and fortitude, and her sacrifices instilled in me a devotion to public service, in pouring myself out for others as she did for me. And I hope to instill that ethic of service and civic-spiritedness in my three young children.

DLM: **At what point did you decide to become a lawyer?**

DW: The *idea* of being a lawyer was doubtless born when my dad died intestate at age 40. Dying without a will makes life very complicated, and I saw first-hand the law's power to impact lives. My grief-stricken mom had to make some monumental decisions, decisions that degree by degree set the trajectory of our family. At age 6, I didn't understand what lawyers did, but it was obvious that they were uniquely positioned to exert a profound impact on society.

My triple major at Baylor was economics, finance, and public administration. I have pretty varied intellectual interests, and I'm acutely aware of the potency of educational attainment and how knowledge can boost not only *your* life chances, but those of your family's future generations. Bottom line: I just really enjoy learning and broadening my intellectual horizons.

That's a big reason why I chose the dual-degree program at Duke (JD/MA in political science), to expand my worldview and become better-read and better-rounded. And it's why I've returned to Duke for my master of judicial studies, to scratch an insatiable itch for deeper and more varied knowledge. Next: maybe a PhD or SJD, but my wife insists I'll probably have to wait until our young kiddos are out of college.

***DLM:* Tell me about your time at Duke Law.**
DW: I really thrived at Duke. We had a *very* tight-knit class with tremendous camaraderie, and the MA part of my studies gave me nice balance — the chance to be on a different part of campus, around different people, and studying different things. Plus, Duke is such a gorgeous place. And it was the mountaintop basketball-wise: three straight title games and back-to-back championships!

Hands-down the most fateful influence was Professor Tom Metzloff. He taught my Civil Procedure class, and I was fortunate to work with him the summer after my 1L year. We researched and wrote some articles on alternative dispute resolution (a niche I later incorporated into my law-firm practice), and I helped him with other projects throughout my 2L and 3L years. His daughter Emily, then in elementary school, was my star witness in my trial advocacy class. Professor Metzloff took a keen interest in me and in my development, and we've stayed in close touch ever since.

***DLM:* What did you like best about your time in the executive branch?**
DW: In terms of fun, it was surreal to enjoy performances from the president's box at the Kennedy Center, watch Fourth of July fireworks at the White House, and cheer t-ball games on the South Lawn as Bob Costas did the play-by-play and cabinet secretaries coached the teams.

Willett was one of three jurists to judge Duke's Hardt Cup final round on April 9.

In terms of work, I was privileged to work on high-stakes matters, both at the White House and at the Justice Department. At the White House, I handled religious-liberty issues and wrote the first two executive orders of the new administration. At DOJ, I was deputy in the Office of Legal Policy, the epicenter for the president's judicial selection and confirmation efforts. So I interviewed, vetted, and helped confirm federal judges, and also supervised numerous cutting-edge civil and criminal justice initiatives — for example, writing an executive order to expedite U.S. citizenship for active-duty immigrant service members and helping craft the landmark PROTECT Act of 2003 to protect children from abduction and exploitation.

September 11, 2001, was obviously the low point. It's simply impossible to overstate the horror of that day.

***DLM:* What do you enjoy most about your current service as a justice on the Texas Supreme Court?**
DW: I revere the law. It's a majestic thing, and when the people of Texas confer the title "justice" on someone, they place in human hands that profound majesty, something that impacts the life of every single Texan.

The judiciary is the most elegant branch of government, and I believe that judging — safeguarding our liberties and deciding disputes peaceably, with wisdom and even-handedness — is a noble enterprise. I agree with President Sam Houston that "an able, honest, and enlightened judiciary should be the first object of every people."

***DLM:* How do you describe your judicial philosophy?**
DW: The paramount quality people should want in a judge is surpassing fidelity to the rule of law. The business of judging is about fulfilling a sober and sworn legal duty, not gratifying a personal political agenda.

I have a decidedly modest view of my role and the judiciary's place in our constitutional architecture. The judiciary is emphatically a legal institution, not a political or cultural one. That is, judges must act judicially by adjudicating, not politically by legislating. We must be impartial referees, not ideological combatants or philosophical crusaders seeking to indulge a personal agenda, either liberal or conservative.

***DLM:* Why have you decided to return to Duke Law to pursue your master of judicial studies?**
DW: I want to be an exemplary jurist. I think I'm metabolically hard-wired for the cloistered life of appellate judging, for what Justice Holmes called "the secret joy of isolated thought." Being a judge is rewarding beyond measure, and I'd love to remain on the Court for a generation.

Put simply, I want to leave a legacy of rich judicial scholarship — a goal that requires me to bring as much incisiveness and intellectual discipline to my work as I can muster.

I'm confident the master of judicial studies program, including the privilege of marinating in the company of bright classmates who have different views and approaches, will elevate my own judicial performance. If there are ways I can improve the quality of my work, understand my role better, and perform my duties better, I want to embrace them. But even if I approach cases in largely the same way, I want that approach to be the product of rigorous examination, not rote repetition.

***DLM:* You have gained considerable notice for your tweeting and have about 6,000 followers. What's the approach of @JusticeWillett?**
DW: For someone who has to run for re-election in a state of 26 million people, it's political malpractice not to engage voters via social media. As with anything, though, judges must be judicious and self-censor before hitting "tweet."

One cardinal rule: I don't throw partisan sharp elbows or discuss issues that could appear before the Court. I never give my two cents on hot-button legal controversies or pending cases. I just strive to keep things witty and engaging — sometimes even informative.

Morgan Abbott '16

A VISIT TO AN ORPHANAGE during a high school trip to Kenya in 2007 opened up a world of possibility for Morgan Abbott '16, and even shaped the direction of her future law study.

"I walked into the doors of the New Life Homes when I was 17 and it contradicted every single notion I'd ever had in my mind of what aid in the developing world looks like," Abbott says. "It far surpasses most children's facilities I've seen in the United States." Abbott was impressed by the care the children received at the children's home, one of a network run by New Life Home Trust, a Christian nongovernmental organization — and by the aid workers' success in securing safe and loving adoptive homes within Kenya for most of the children by age 3. Still, she saw room for improvement.

"They had children spread out over multiple homes in different parts of Kenya with a very limited team of social workers and attorneys trying to handle all the paperwork, yet none of the records were electronic," she says.

This led to delays while files were mailed or couriered from place to place, which also raised the possibility of records being lost.

In 2009, as a sophomore minoring in entrepreneurship at the University of North Carolina at Chapel Hill, Abbott founded a nonprofit, Carolina for Amani, to bring New Life Homes into the digital age. Securing a social entrepreneurship grant from the university, she spent each of her undergraduate summers in Kenya, digitizing and archiving files going back to 1989. During the school year she raised funds through grants and private donations to expand the organization and enlisted cadres of student volunteers to join her in Kenya. Her work quickly paid off.

"Just having everything easily accessible sped up the adoption process significantly," she says. "Our goal was always to help the children get into families quickly, yet safely."

She also savors the intangible and sentimental benefits of the work.

"We're preserving memories these children wouldn't be able to have otherwise," Abbott says. "We're scanning documents like children's birth certificates, photos of them when they're three days old — things that I'm so thankful my parents kept for me."

Abbott led the organization until her 2012 graduation and remains on its board. She is gratified to have built a sustainable organization that sends more than a dozen student volunteers to Kenya each summer.

"It's still entirely student-run. They're rocking and rolling without me," she says.

Following her graduation, Abbott spent a year in Gulu, Uganda, where she worked with International Justice Mission, a nonprofit human rights organization, on land disputes on behalf of widows and orphans displaced by regional conflicts.

"Sometimes I'm sitting in class and something will pop into my mind and I think, I wouldn't have been able to relate to this if it wasn't for my experience in East Africa. And I'm eternally grateful for that."

"It was a new field office and I love being in a start-up culture, so it was an exciting opportunity," says Abbott. "It was kind of my chance to go and have a grand adventure." It was one that led her away, however, from a career in international development.

"If you read my law school application to Duke, which I submitted right after I moved to Uganda, it said, 'I want to spend my life saving the babies of East Africa,'" Abbott says. "But I realized that my brilliant co-workers were better equipped to do that work than I could ever be, simply because they belong to the community and they understand it in a way I never could. But I learned that I want to be doing for my community in Raleigh, where I grew up, what my Ugandan co-workers are doing for theirs."

Now aiming for a legal career in her hometown, Abbott jokes that having led her nonprofit, "I've hired 40 people but I had never been interviewed for a job," until she was on her 1L summer job hunt. She is dividing her summer between work as a government relations intern at the Conservation Trust for North Carolina as a Stanback fellow, and as a summer associate at Smith Anderson in Raleigh. And she continues to help children as a guardian ad litem in Alamance County, N.C.

"I'm really blessed and fortunate that I was able, at such a young age, to have these experiences that led to where I am," she says. "Sometimes I'm sitting in class and something will pop into my mind and I think, I wouldn't have been able to relate to this if it wasn't for my experience in East Africa. And I'm eternally grateful for that."

Alumni Notes

This section reflects notifications received by Feb 1, 2014.

BOV indicates membership on Duke Law School's Board of Visitors.

1961

Llewelyn Pritchard, a partner at Helsell Fetterman in Seattle, was honored, last August, with a Lifetime Achievement Award from the American Bar Association's General Practice, Solo and Small Firm Division. Llew, who specializes in family law, estate planning and not-for-profit law, has served in multiple leadership positions with local bar and civic groups, and is a leader within the ABA in Washington State.

1964

L. Clifford Craig, of counsel at Taft Stettinius & Hollister in Cincinnati, has been recognized as an "Ohio Super Lawyer 2014" in the field of business litigation.

1965

Donald Mewhort Jr., of counsel at Shumaker, Loop & Kendrick in Toledo, has been recognized by *The Best Lawyers in America 2014* (*Best Lawyers 2014*) in the fields of employment law — management and labor law — management.

Robert Sink, a partner at Robinson, Bradshaw & Hinson in Charlotte, was recently honored with the Mecklenburg Bar Foundation's Ayscue Professionalism Award, in recognition of his exemplary professionalism and outstanding service to the Mecklenburg County Bar.

1966

Jerold Fink, a partner at Taft, Stettinius & Hollister in Cincinnati, has been recognized by *Best Lawyers 2014* in the field of employee benefits (ERISA) law.

1968

Stuart Pierson has joined Morvillo, a boutique white-collar litigation law firm, as counsel in the firm's Washington, D.C. office. Stuart most recently headed Troutman Sanders' white-collar defense and government investigations practice.

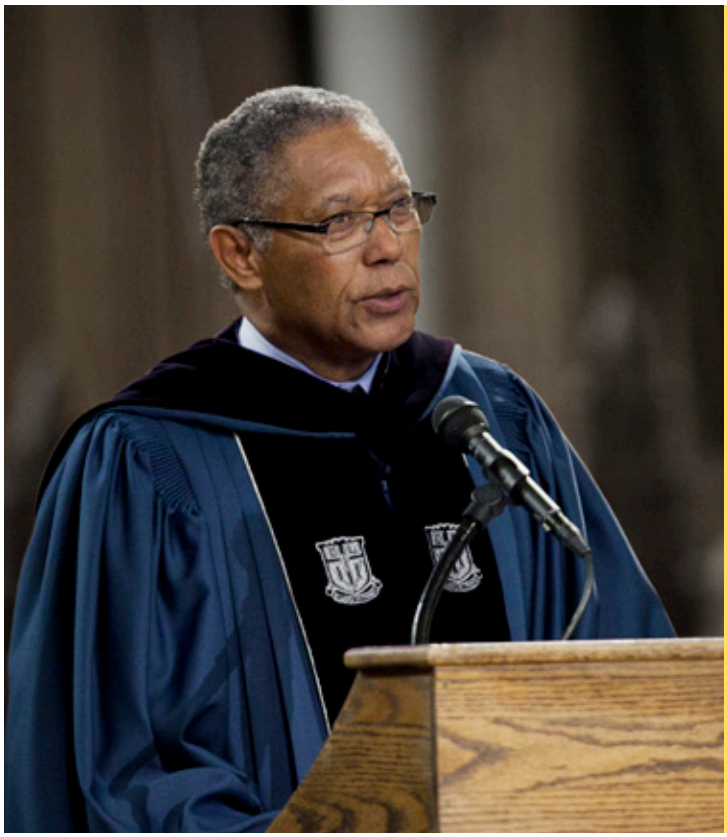
1969

Charles Becton received Elon Law School's 2013 Leadership in the Law Award on Sept. 18. The award recognizes lawyers who make outstanding contributions to the profession and to society. Becton, who is serving as interim chancellor at Elizabeth City State University, was honored for his leadership, teaching, commitment to fighting injustice, and focus on expanding and improving educational opportunities for young people in North Carolina and nationally.

Richard Horning has been named counsel in the corporate and securities group at Reed Smith in Palo Alto, Calif.

1970

Winston Nagan, the Samuel T. Dell Research Scholar Professor of Law at the University of Florida's Levin College of Law, has been elected chairman of the board of the World Academy of Art and Science. The organization of 730 individual fellows from diverse cultures, nationalities, and intellectual disciplines seeks to address global issues related to the social consequences and policy implications of knowledge, according to its website.



NORTH CAROLINA SEN. **Daniel T. Blue Jr. '73**, a former chair of the Duke Board of Trustees, received the University Medal, Duke's highest honor for distinguished service, at the 2013 Founders' Day ceremony on Oct 4. Blue, who represents the state's 14th Senate District and became minority leader in March, also delivered the main address at the event held in Duke Chapel that also celebrated 50 years of undergraduate integration at Duke.

Blue lauded the courage of the university's first five African American students, who knew they faced some hostility on campus. "But they knew that their presence here carried the hopes and aspirations of the black maids, janitors, cooks, and service people at Duke, and black people here in Durham and across this country, for better opportunities for themselves and their own children. They knew the heavy burden riding on their shoulders," he said.

Although the university could have and should have integrated earlier, he said, once it did so, "Duke recognized its past mistakes, corrected its course, and then led with great vigor and tenacity. He urged the university and those in his audience to continue to fight injustice.

"While we stand here and celebrate the progress we have made, our accomplishments as an institution, and the brave souls who made it possible, we must interpret the historical significance of these and act on what is happening currently in our community, our state, our nation informed by the lessons we've learned," he said. "There are always forces to compete with and undo what we have done."

1971

James Fox has been recognized by *Best Lawyers 2014* in the field of bet-the-company litigation, including commercial, antitrust, banking and finance, intellectual property, and securities. He practices with Bell Davis & Pitt in Winston-Salem, N.C.

1972

Cym Lowell's novel, *Jasper's War*, has been published by Rosemary Beach Press. Cym, a tax partner at McDermott Will & Emery in Houston, is donating all proceeds from the thriller to Operation Next Chapter to help provide voice activated computers for wounded veterans.

Cary Moomjian, president of CAM OilServ Advisers in Plano, Texas, has opened a second office in Las Vegas. The firm provides consulting, advisory, expert witness, dispute resolution, mediation, and related services to the oil service industry, oil and gas companies, and law firms. Cary also serves as a docent at the Neon Museum in Las Vegas.

Jeffrey Portnoy, chair of the litigation department at Cades Schutte in Honolulu, has been appointed by Gov. Neil Abercrombie to the University of Hawaii Board of Regents. Jeffrey is a former president of the Hawaii State Bar Association, and recently completed a three-year term as Hawaii's representative to the Ninth Circuit Court of Appeals Advisory Board.

Dan Stewart has joined Patton Boggs in Dallas as counsel. He practices with the firm's bankruptcy and restructuring and financing groups. Dan previously was a partner at Vinson & Elkins in Dallas, where he founded the firm's restructuring and reorganization practice in 1999.

Joshua Treem, a partner at Brown Goldstein & Levy in Baltimore, has been recognized by *Best Lawyers 2014* in the fields of non-white-collar criminal defense and white-collar criminal defense.

David Thomas' two-volume treatise, *History of American Land Law*, has been published by Vandeplas Publishing (2013). David is the Rex E. Lee Endowed Chair and Professor of Law Emeritus at Brigham Young University's J. Reuben Clark Law School, where he taught from 1974 to 2012.

Laurence Tucker, managing attorney and member of Armstrong Teasdale's litigation practice group in Kansas City, has been elected to serve a three-year term on the firm's executive committee. He has also been appointed by the Missouri Supreme Court to a two-year term on the state's Joint Commission on Women in the Profession.

NOTABLE & QUOTABLE

'75

"From now on, I shall expect to be addressed as 'Your Orchidness.'"

— **Judge Allyson Duncan '75** of the U.S. Court of Appeals for the Fourth Circuit, who raises orchids, in a note to her colleagues last January, after a hybrid cattleya orchid bearing the official name "Rhyncholaeliocattleya The Honorable Allyson Duncan" was accepted by the International Registrar of Orchids at the Royal Horticultural Society. (*Walter Magazine*)

1973

Charles Holton, a partner at Womble Carlyle Sandridge & Rice in Research Triangle Park, was honored by the national Legal Services Corporation board of directors for his volunteer work with Legal Aid of North Carolina (LANC) during an event held at Duke on Oct. 1. Charles, who chairs the LANC board of directors, was recognized as a pro bono leader in the area of fair housing for low-income clients in central North Carolina. Last August, he also received the N.C. Bar Association's William L. Thorpe Pro Bono Attorney Award. Fluent in Spanish, Charles sponsors an annual clinic to provide legal assistance to the Latino community in the Triangle. He teaches Arbitration and coaches the Willem Vis Moot Arbitration Competition team at Duke Law.

Kenneth Starling has graduated from the University of Cambridge with the Master of Laws degree, specializing in international and European law. He has been appointed adjunct professor at Georgetown University Law Center, where he taught the Advanced Antitrust Seminar in EU Competition Law in the spring 2014 semester.

1974

E. Duncan Getchell Jr., former Virginia solicitor general, has returned as partner and senior litigator to the Richmond office of McGuireWoods, where he previously worked for 33 years and once chaired the firm's appellate practice group. While serving as solicitor general from 2010 to 2013, Duncan presented arguments on behalf of the commonwealth 13 times before the U.S. Court of Appeals for the Fourth Circuit and twice in cases before the U.S. Supreme Court.

Roger Ferland, a retired partner and former head of the environmental and natural resources law group at Quarles & Brady in Phoenix, has been recognized by *Chambers USA 2013* in the environmental area, including water rights, and by *Best Lawyers 2014* in the fields of environmental law and environmental litigation.

Fred Fulton, a partner in the Dallas office of Thompson & Knight, has been recognized in *Best Lawyers 2014* in the area of corporate law.

1975

Ronald H. Hoevet, a founding partner of Hoevet, Boise & Olson, has been recognized as Portland, Ore.'s "Criminal Defense: White-Collar Lawyer of the Year" by *Best Lawyers 2014*. The publication also selected Ron for inclusion in the practice areas of bet-the-company litigation; criminal defense: non-white-collar; and criminal defense: white-collar.

John Keller, a partner at Vorys Sater Seymour and Pease in Columbus, Ohio, has been recognized as a "Ohio Super Lawyer 2014" in the area of energy law.

1978

James T. R. Jones, professor of law at the Louis D. Brandeis School of Law at the University of Louisville, was featured, last October, in the American Bar Association Commission on Disability Rights' *Lawyer Spotlight*, which highlights attorneys with disabilities who are assets to the profession. James, who shared his struggle with bipolar disorder in his 2011 memoir, *A Hidden Madness,* writes and speaks extensively about the stigma and misperceptions that surround mental illness. Last November, he received the Dave Nee Foundation's David S. Stoner Uncommon Counselor Award for his mental health advocacy efforts. The foundation fights depression and suicide among law students and lawyers.

Samuel Mason has joined ENVIRON, an international environmental, health, safety, and sustainability consultancy, as its first general counsel. Based in Philadelphia, Sam handles ENVIRON's legal needs and provides counsel to the firm's board of directors and global management committee. He was previously a partner at Drinker Biddle & Reath.

Kenneth Vesledahl joined Holland & Knight in Dallas July 2013, as a partner. He advises financial institutions, capital companies, and business credit divisions in connection with their lending transactions. He was previously a partner at Patton Boggs.

1979

Randall Trautwein has been recognized by *Best Lawyers 2014* as the Charleston (W.Va.) Construction Lawyer of the Year. He is a partner at Lamp Bartram Levy Trautwein & Perry in Huntington.

1980

Eric Holshouser, a shareholder with Fowler White Boggs in Jacksonville, has been elected president of the Leadership Board of the Northeast Florida Region of the American Lung Association of the Southeast, Inc. Eric also serves on the association's executive committee and sits on its board of directors.

Justin Klimko, a partner in the Detroit office of Butzel Long, has been recognized by *Best Lawyers 2014* in the field of corporate law.

Fred Ungerman, a partner at Taft Stettinius & Hollister in Dayton, Ohio, has been recognized by *Best Lawyers 2014* in the fields of employment law – individuals; employment law – management; labor law – management; labor law – union; and litigation – labor & employment.

1981

John Coleman, a partner at Burr and Forman in Birmingham, Ala., has for the fifth consecutive year been selected by *Human Resources Executive* magazine and *Lawdragon* for inclusion in their list of "The Nation's Most Powerful Employment Attorneys — Top 100." He is the only Alabama attorney ever to receive this honor. A member of the College of Labor and Employment Lawyers, John has been selected for inclusion in *The Best Lawyers in America* for 20 consecutive years.

Patrick Fazzone announces the formation of the Washington, D.C.-based law firm of Montgomery, Fazzone & Taylor. Pat counsels U.S.- and overseas-based clients doing business in the United States and internationally.

Irene Keyse-Walker, a partner at Tucker Ellis in Cleveland, has been recognized in *Best Lawyers 2014* in the fields of appellate practice, bet-the-company litigation, and commercial litigation. She also received the 2013 Excellence in Advocacy Award from the Ohio Association of Civil Trial Attorneys.

Bill Richardson, a general partner with HMS Hawaii Management, has joined the Board of Trustees of the University of Hawaii Foundation. The foundation is charged with raising private donations to support university projects and needs.

1982

Sharon Fountain, a partner at Thompson & Knight in Dallas, has been recognized in *Best Lawyers 2014* in the fields of employee benefits law (ERISA) and tax law, and by *Texas Super Lawyers 2013* for ERISA law.

Donald Lampe has joined Morrison & Foerster in Washington, D.C., as a partner in the financial services group. Don represents banks, finance companies, insurance companies, and other financial service providers on a variety of financial services and bank regulatory matters. Don previously led the financial services regulatory and compliance practice at Dykema and the regulatory compliance and consumer credit practice team at Womble, Carlyle, Sandridge & Rice.

Diane "Dee" Wallis was inducted into the North Carolina Bar Association's General Practice Hall of Fame during the association's annual meeting last June. Dee is a partner in the Wallis Law Firm in Raleigh where she represents small businesses and families, with an emphasis on elder law, real estate, and business contracts. She is president of the N.C. Association of Women Attorneys.

1983

Christopher Kerr, a litigator at Jeffrey Freedman Attorneys in Buffalo, N.Y., has been named a "2013 Super Lawyer."

Toshio Nakao, a partner at Taft, Stettinius & Hollister in Cincinnati, has been recognized by *Best Lawyers 2014* in the fields of international trade and finance law.

Carlos Peña retired, last September, from Pepperidge Farm, Inc., after serving for 11 years as the company's chief counsel. He received the Pepperidge Farm National Sales Team's Hall of Fame award, becoming only the second non-sales employee to receive the award. Carlos now teaches Business Law at Norwalk Community College (Conn.) and has started a consulting business.

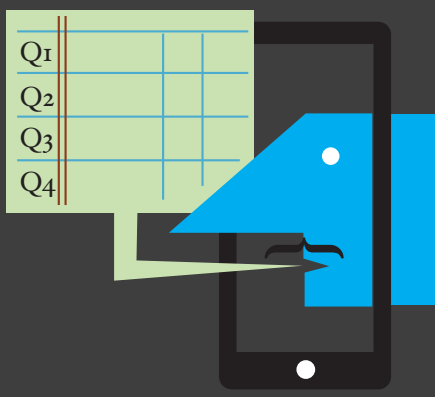
NOTABLE & QUOTABLE

'78

"Although First Amendment values are enormously important to our society, there are other values that are also important. One of the most fundamental notions in a system that believes in the rule of law is that courts are entitled to every person's evidence."

— First Amendment scholar **Rodney Smolla '78** on reporter James Risen's refusal to name a source and testify under subpoena against a former CIA officer. (*The New York Times*)

NOTABLE & QUOTABLE '87



"Substitute a 28-year-old ... and have Nick be the Cyrano to the 28-year-old, and we would have been funded at a crazy price. That much I believe."

— Angel investor **Dan Scheinman '87**, who focuses on funding startups led by "older" entrepreneurs, on persistent ageism in Silicon Valley. The entrepreneur in question is in his 40s. (*The New Republic*)

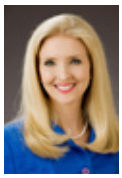
Jeffrey Schloemer, a partner at Taft, Stettinius & Hollister in Cincinnati, has been recognized by *Best Lawyers 2014* in the fields of banking and finance law and corporate law.

1984

Cynthia Rerucha, a partner at Shumaker, Loop & Kendrick in Toledo, has been recognized by *Best Lawyers 2014* in the field of real estate law.

Peter Verniero was honored, last November, by Crime Stoppers of Hunterdon County, N.J. for his devotion to the county and to the Crime Stoppers program. Peter is a member at Sills Cummis & Gross in Newark, where he chairs the firm's corporate internal investigations and appellate practice groups. He has served in senior positions within the executive and judicial branches of New Jersey state government, including as attorney general, as an associate justice of the New Jersey Supreme Court, and as chief counsel and chief of staff to former Gov. Christine Todd Whitman.

1985



Janet Ward Black, principal of Ward Black Law in Greensboro, received the Thurgood Marshall Award at the June 2013 convention of North Carolina Advocates for Justice in recognition of her commitment to protecting the rights of all North Carolinians. She also has been named Greensboro's "2014 Lawyer of the Year for Personal Injury Litigation – Plaintiffs" by *Best Lawyers* and *U.S. News & World Report*.

Dana McKee, a partner at Brown Goldstein & Levy in Baltimore, has been recognized by *Best Lawyers 2014* in the field of family law.

Sonja Steptoe began serving as the U.S. Census Bureau's associate director for communications in May 2013. She previously was the deputy director of public affairs at the U.S. Department of Commerce. BOV

1986

Xiqing Gao was appointed, in July 2013, to the International Advisory Board of the Russian Direct Investment Fund. In January Gao retired from his position as president and chief investment officer of China's sovereign-wealth fund, the China Investment Corporation, which he had led since 2007. A member of the Duke University Board of Trustees, Gao addressed Duke Law's 2014 graduates at their hooding ceremony on May 10. (Read more on Page 10.)

1987

Robert Harrington, a partner at Robinson Bradshaw & Hinson, was honored at the Thurgood Marshall College Fund's 10th Annual Charlotte Awards of Excellence celebration last October. Rob, who served as president of the Mecklenburg County Bar Association in 2012-2013, currently serves on the boards of directors of Legal Aid of North Carolina and the Federal Defenders of Western North Carolina, Inc. BOV

Jonathan Shapiro has been named by *Best Lawyers 2014* as Portland, Maine's "Lawyer of the Year" for employment law — management. He is the managing partner of the New England office of Fisher & Phillips, a national labor and employment law firm representing employers.

1988

Kodwo Ghartey-Tagoe was honored at the Thurgood Marshall College Fund's 10th Annual Charlotte Awards of Excellence celebration last October. Kodwo is chief regulatory counsel at Duke Energy Corp., where he also chairs the office of general counsel's diversity committee. BOV

Michael Scharf is serving as interim dean of Case Western Reserve University School of Law where he is the John Deaver Drinko — Baker and Hostetler Professor of Law and directs the Frederick K. Cox International Law Center. Michael recently published his 16th book, *Customary International Law in Times of Fundamental Change: Recognizing Grotian Moments* (Cambridge University Press, 2013).

1989

Carla Cancio-Bello runs Cuban Cuisine UK, an online Miami-inspired grocery, catering to markets outside the United States. She also shares recipes on her blog, Margarita's Cuban Cuisine, at http://margaritascubancuisine.blogspot.co.uk/. Carla spoke at the BlogHer Food '14 conference in Miami about the "Flavors of Miami" on May 17.

Elizabeth Michael has relocated her law practice from Melbourne, Australia, to the suburb of Brighton. She focuses her practice on commercial law, property, and wills and estates, and has been accredited as a property law specialist through the Law Institute of Victoria Australia Accreditation Scheme.

William Mureiko, a partner at Thompson & Knight in Dallas, has been recognized by *Best Lawyers 2014* in the field of trusts and estates and by *Texas Super Lawyers 2013* for estate planning and probate.

Lindsey Willis Stravitz has left the practice of law and teaches Paralegal Studies as an adjunct assistant professor at the University of Richmond.

1990

Donald Nielsen has been recognized by *Best Lawyers 2014* in the field of environmental law, including environmental litigation and land use and zoning litigation. He practices with Bell Davis & Pitt in Winston-Salem, N.C.

1991

Mark Claypool, a shareholder and vice chair of the bankruptcy and creditors' rights department at Knox Mclaughlin Gornall & Sennett in Erie, Pa., and vice chair of its bankruptcy and creditors' rights department, was named a "2013 Super Lawyer," a designation he also received in 2011 and 2012. Mark teaches courses on bankruptcy law at Gannon University, where he is an adjunct professor.

Therence Pickett was elected to the University of North Carolina Board of Governors by the members of the N.C. Senate in March 2013. Therence is vice president, general counsel, and secretary of Volvo Group North America, LLC/Mack Trucks, Inc., in Greensboro.

Michael Tooley, a partner at Ice Miller in Indianapolis, has been recognized by *Chambers USA* in the labor and employment practice area. He was also recognized by *Best Lawyers 2014* in the area of employment law — management, and by *Indiana Super Lawyers 2013* in the area of employment and labor. In his practice, Michael primarily acts as general employment counselor and advocate for employers regarding their workforces inside and outside Indiana.

1992

Mark Patterson, general counsel for the Army & Air Force Exchange Service (Exchange) in Dallas, received the 2013 David Weaver award for the Best Legal Government/Non-Profit Legal Office from the General Counsel Forum, a Texas-based professional association of general and in-house counsel. The award recognizes overall success in business development, finance and credit law, employment law, and compliance programs. Exchange is an agency of the U.S. Department of Defense.

Joel Poppen has been named vice president of legal affairs, general counsel, and corporate secretary of Micron Technology, Inc. in Boise, Idaho. Joel is responsible for Micron's legal, intellectual property, ethics and compliance, and government affairs functions. He has served in various leadership positions since joining Micron in 1995, most recently as deputy general counsel.

Geovette Washington was appointed general counsel for the White House Office of Management and Budget in June 2013. She previously served as deputy counsel at the U.S. Department of Commerce from 2010 to 2013. She has also been appointed by President Barack Obama as a government official member of the Council of the Administrative Office of the United States. (Read profile, Page 46.)

Diego M. Radzinsch / *The National Law Journal*

Todd Hughes '92 assumed his duties as a judge on the U.S. Court of Appeals for the Federal Circuit on Sept. 30, after being nominated by President Barack Obama and confirmed by unanimous Senate vote. Having worked in the commercial litigation branch of the Civil Division of the U.S. Department of Justice since 1999, first as assistant director and since 2007 as deputy director, he specialized in the kinds of issues that come before the Federal Circuit, such as international trade, government contracts, patents, trademarks, and police and veterans' benefits. Hughes, who clerked for Judge Robert Krupansky of the U.S. Court of Appeals for the Sixth Circuit, served as a DOJ trial attorney from 1994 to 1999. Hughes is the first openly gay federal appellate judge.

1993

Richard Strulson has joined Nature's Sunshine Products, Inc., in Lehi, Utah, as executive vice president, general counsel, and chief compliance officer. Most recently he was senior vice president, chief privacy officer, and counsel of Herbalife.

1994

Susan Abbott, a partner at Goodwin Proctor in Boston in the trusts and estate planning practice and chair of the firm's exempt organization group, received *Massachusetts Lawyers Weekly's* 2013 "Top Women of Law Award." Susan's practice focuses on serving the needs of nonprofit organizations. She was instrumental in the launch of One Fund Boston, a nonprofit organization benefitting the victims of the Boston Marathon bombing.

Scott Berg, a partner in the Phoenix office of Quarles & Brady, has been recognized by *Best Lawyers 2014* in the field of banking and finance law.

NOTABLE & QUOTABLE

'92

"If you worked at the student newspaper, they could pay you whatever they wanted. How can we say that players should be treated 'like any other student'? They're not treated *as well* as any other student."

— **Jay Bilas '92**, ESPN basketball analyst and of counsel at Moore & Van Allen in Charlotte, expressing one aspect of his support for payments to NCAA players. (*The New Republic*)

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Hara Jacobs, a partner at Ballard Spahr in Philadelphia, has been named one of the "Top 250 Women in IP" and a 2013 "IP Star" in Pennsylvania by *Managing Intellectual Property* magazine.

Caroline Verbruggen has been appointed as a judge of the Tribunal of the First Instance in Brussels, Belgium. She most recently practiced with DLA Piper in Brussels.

1995

Cristina Arumi has joined the national tax practice of Ernst & Young in Washington, D.C., as a principal in the real estate group, where she focuses on transactions. Cristina previously led the global tax practice at Hogan Lovells.

Alexander Cizek and his wife, Barbara, welcomed daughter Ilvy Katharina on Sept. 17, 2013. Alexander launched the firm Cizek IP in 2013 in Vienna, Austria. He formerly managed the IT/IP group at DLA Piper Weiss-Tessbach in Vienna.

Michelle Dye Neumann has joined Schaefer Halleen in Minneapolis as a senior attorney. She specializes in employment law and litigation, representing employees.

Teresa Pearson, a bankruptcy partner at Miller Nash in Portland, was the subject of a cover feature in *Super Lawyers Magazine/Oregon 2013*. Teresa is one of 10 certified business bankruptcy lawyers in Oregon, and has been recognized as an "Oregon Super Lawyer" and one of the "Top 25 Women Lawyers" every year since 2009, as well as a "Top 50 Lawyer" since 2010.

Robert Teutsch Jr. has been named managing director, regulatory and commercial transactions, for Fed Ex Corporation, located in Dallas. He previously served as lead counsel for Fed Ex, based in Memphis.

Cynthia Johnson Walden, leader of the trademark and copyright practice group at Fish & Richardson in Boston, has received gold and silver band designations in Massachusetts and the United States, respectively, by *World Trademark Review* for both enforcement/litigation and prosecution/strategy.

1997

Diana Semel Allen has joined ChannelAdviser, a Morrisville, N.C.-based provider of cloud-based e-commerce solutions, as vice president and general counsel. She previously was associate general counsel, assistant secretary, and compliance director for Cree, Inc.

John Barlament, a partner in the Milwaukee office of Quarles & Brady, has been recognized by *Best Lawyers 2014* in the field of employee benefits (ERISA) law.

Teri Baxter has joined the faculty of the University of Tennessee College of Law as a professor of law, after 11 years at Saint Louis University School of Law. She teaches in the commercial and constitutional law areas.

Jeremy Rosen, a partner at Horvitz & Levy in Encino, Calif., received a 2013 pro bono award from Public Counsel. The award recognizes his work in establishing a partnership between Stephen S. Wise Temple and Public Counsel to help low income public school children with special needs receive appropriate levels of support and assistance from their schools. Jeremy is an appellate litigation specialist with expertise in the First Amendment, California's anti-SLAPP statute, the law of defamation, the application of the litigation privilege, and challenges to arbitration awards.

Rob Wrzosek was named president of the mortgage lending businesses of Centerline Holding Company, a subsidiary of Hunt Companies, Inc., in December. He is based in New York. Previously, Rob served on the board of directors of Walker & Dunlop, a commercial real estate finance company, and held senior leadership positions in the agency lending and tax credit syndication businesses of Credit Suisse Securities (USA).

1998

Derek Apanovitch and his wife, Rebecca, welcomed identical twin girls, Ashlyn Rose and Brynleigh Catherine, on May 15, 2013. They join big sister Aubrey Anna.

Joseph Beach has been elected partner at Cadwalader, Wickersham & Taft in Charlotte where he represents investment banks, asset managers, commercial paper conduits, and fund managers in secured financings, CLOs and CDOs, and other asset-backed securitizations.

Hector Ibarra, an associated professional with Parker Poe Adams & Bernstein in Charlotte, graduated, last July, from the Arts & Science Council's Cultural Leadership Training (CLT) Program. The CLT Program is designed to identify emerging leaders and help them develop into productive volunteers and board candidates for cultural organizations in the Charlotte community.

Thad Jenks has joined the trial litigation firm Weinstein Tippetts & Little in Houston as senior counsel. He previously practiced at Vinson & Elkins and Harrison, Bettis, both in Houston.

Carrie Printz is the co-owner and a managing director of David Carrie LLC, a global legal search firm based in New York City.

Barry Rothberg, a litigation shareholder at Greenberg Traurig in Miami, has joined the Board of Directors, Miami and Broward Chapter, of the American Jewish Committee (AJC). The nonprofit AJC's mission is to enhance the wellbeing of Israel and the Jewish people and to advance human rights and democratic values worldwide. As a board member, Barry provides guidance on policy issues and programs, assists with fundraising, and meets with decision-makers in relevant policy fields.

Bobby Sharma has been promoted to senior vice president, global basketball & strategic initiatives at IMG, an international sports, media, and entertainment company based in New York.

1999

Donna Cochener was promoted to partner at Davis Wright Tremaine in Seattle, effective Jan. 1, 2013. On Feb. 4, 2013, she and her husband, Chris Metcalfe, welcomed a second son, Ewan, who joins his older brother, Liam.

David Dummer has been named counsel at Sidley Austin in Dallas, where he focuses on the representation of companies and boards of directors in business litigation and internal investigations.

David Harrison has joined Mayer Brown in Ho Chi Minh City, Vietnam, as consultant. His practice focuses on international cross-border mergers and acquisitions and on banking and finance.

Julie Riewe has been named co-chief of the Division of Enforcement's Asset Management Unit of the U.S. Securities and Exchange Commission, having served as deputy chief since May 2012. The national, specialized unit focuses on misconduct by investment advisers, investment companies, and private funds.

John L. S. Simpkins joined the White House Office of Management and Budget in 2013 as deputy general counsel. He previously was an assistant professor of law at the Charleston School of Law, where he also served as director of diversity initiatives and as a law fellow on comparative constitutional law.

2000

Janet Hutchinson has joined the University of Richmond School of Law as associate dean for career development. Janet was previously assistant dean for career services at Emory University School of Law.

Laura Kelley, her husband, John, and their son, Charlie, welcomed twin boys, Arthur Allen and Henry Morgan, on March 22, 2013. Laura is a shareholder at Myers, Bigel, Sibley and Sajovec in Raleigh.

Melissa Marler joined Maynard, Cooper & Gale in Huntsville, Ala., as of counsel in January. She specializes in commercial litigation and appellate law.

Dustin Rawlins, a litigation partner at Tucker Ellis in Cleveland, has been recognized as a "2014 Ohio Super Lawyer". Dustin defends companies in cases involving product liability, business tort, breach of warranty, consumer fraud, and commercial disputes, with a focus on the defense of medical device companies.

Sarah Schott has been promoted to executive officer, vice president, and chief compliance officer at Northwestern Mutual. Based in Milwaukee, Sarah heads the company's compliance/best practices department.

Joshua Stokes has been elected partner at Crowell & Moring, where he is a member of the antitrust group and resident in the firm's Los Angeles office. His practice focuses on antitrust litigation, counseling, and complex commercial litigation.

Will Walker has joined Winstead, in Charlotte, as a shareholder. He represents financial institutions in connection with various domestic and cross-border syndicated loan transactions for both public and private companies. Will was previously a partner at Mayer Brown.

Mechelle Zarou, a partner at Shumaker, Loop & Kendrick in Toledo, has been recognized by *Best Lawyers 2014* in the field of immigration law.

2001

Nicolle Snyder Bagnell received the 2013 "Fast Tracker Award" from the *Pittsburgh Business Times* in recognition of her work in the energy industry, which includes establishing the correct way to calculate royalties and account for the costs of natural gas processing. Nicolle is the head of the national and international oil and gas practice at Reed Smith.

Rodney Bullard, vice president of community affairs and executive director of the Chick-fil-A Foundation, has been honored as a 2013 "40 Under 40" by both the *Atlanta Business Chronicle* and the University of Georgia Alumni Association, in recognition of his leadership and community service.

Stuart Russell, a partner at Wilson, Helms & Cartledge in Winston-Salem, was elected, last August, to a three-year term on the North Carolina Bar Association (NCBA) Board of Governors. He graduated from the NCBA Leadership Academy in 2012, and is former president of the Forsyth County Bar Association Young Lawyers Division, where he remains on the board.

Peter Tomasi, a partner specializing in environmental permitting and litigation at Quarles & Brady in Phoenix, has been recognized by *Chambers USA 2013* in the areas of natural resources and environment, and by *Best Lawyers 2014* in the field of environmental law.

2002

Corey Ciocchetti and his wife, Jillian, welcomed a daughter, Sophia Grace, on Nov. 10, 2013.

Kelly Donohue has joined Wilkinson Barker Knauer in Washington, D.C., as counsel. She focuses primarily on advising clients in the media and digital content arenas on regulatory, transactional, intellectual property, and enforcement matters. Kelly previously worked, for seven years, in supervisory and staff positions at the Federal Communications Commission, most recently as special counsel in the Office of the Chief of the Enforcement Bureau.

David Hawkins, a partner at Vinson & Elkins in Washington, was inducted, last June, as the 126th president of the Bar Association of the District of Columbia. David's principal areas of practice are condemnation and land use litigation, white-collar criminal and civil litigation, and other commercial litigation.

Derek Meilman has been promoted to partner at Hogan Lovells in New York. He represents clients on corporate and securities law matters, with a particular emphasis on domestic and cross-border mergers and acquisitions and private equity transactions.

Marjorie Menza has been promoted to pro bono counsel at Debevoise & Plimpton in New York, where she previously was a litigation associate.

Amy Richardson has joined Ellis & Winters in Raleigh, where she specializes in complex civil litigation, criminal defense, governmental enforcement actions, and regulatory litigation. She previously was a partner at Wiltshire & Grannis in Washington, D.C.

Maria Villegas Otero is a consultant for the World Bank, based in Washington, D.C.

2003

Tia Barnes and her husband, Arkell, welcomed their daughter, Rachel Mary, on Dec. 12, 2013. She joins older sister Isabel. Tia is assistant dean for academic affairs at Duke Law School.

Karla McKanders has been granted tenure on the faculty of law at the University of Tennessee, where her research and teaching focus on civil rights, immigration, and asylum law and policy.

Heather Ward has been promoted to counsel in the litigation department at Davis Polk & Wardwell in New York. She represents clients in a wide variety of complex civil and criminal litigation matters.

2004

David Almeling has been admitted to partnership at O'Melveny & Myers in San Francisco. He represents technology companies in intellectual property litigation, with a focus on patent and trade secret litigation.

Krista Barnes is senior compliance attorney, privacy compliance, at the University of Texas M.D. Anderson Cancer Center in Houston. She previously practiced in the health group at King & Spalding.

Sarah Bell, an associate with Pryor Cashman in New York, has been named a "New York Rising Star" for general litigation. Sarah's practice focuses on complex commercial litigation, particularly that involving contract disputes.

James Bowers was named dean of admission at Shimer College in Chicago on May 1, 2013.

Joseph Gagnon has been appointed prosecuting attorney for Clinton County, Mo., by Gov. Jay Nixon. Joe has operated his own practice in Lathrop since 2008 and also served as city attorney for Lathrop and Trimble, Mo.

Dimitri Herbosch, together with three partners, has launched the Latin American Growth Fund, a Luxembourg-based fund investing in private equity funds in Brazil, Chile, Colombia, and Peru, with a focus on fast-growing enterprises that are active in the macro-economic themes that drive those economies.

Kristoffer Leftwich has been named partner at Sidley Austin in Dallas, where his practice focuses on intellectual property litigation.

Peter Smith is an associate in the commercial litigation practice group of Pepper Hamilton, resident in the firm's Philadelphia office. He concentrates his practice on white-collar defense, corporate investigations, and corporate compliance in a variety of industries.

Andrew Tripp has been named general counsel to N.C. Sen. Phil Berger, the president pro tempore of the North Carolina General Assembly. Andrew previously was counsel to the N.C. Senate Rules Committee.

Bryan Wilson and **Minodora Dana Vancea** welcomed their daughter, Lily Joan Wilson, on Nov. 15, 2013. She joins her big sister, Mara. Bryan has been elected to partnership at Williams & Connolly in Washington, D.C., where he litigates complex civil and criminal matters.

2005

Chris Baird has been promoted to partner at Perkins Coie in Seattle, where he is a member of the firm's environment, energy & resources practice. He represents clients in significant litigation and private dispute resolution proceedings, primarily involving environmental issues and environmental counseling.

Mike Cashin has been promoted to partner at Womble Carlyle Sandridge & Rice in Winston-Salem. Mike concentrates his practice on all areas of federal and state tax matters.

John Curry has been named vice president and general counsel of Mountain Real Estate Capital in Charlotte.

Matthew Durham has been promoted to partner at Payne & Fears in Las Vegas. Matt's practice concentrates on employment and business litigation matters.

NOTABLE & QUOTABLE

'07

33⅓

"The only reason why a 33⅓ percent contract is even acceptable is because either boxers don't know better, they don't understand what they're signing, or this is just an opportunity for them and they don't have any other options."

— **Venroy July '07**, who balances corporate practice at Hogan Lovells in Baltimore with a pro boxing career — and the goal of winning the world cruiserweight title — on why he decided to launch a third career as a boxing promoter. (*Boxing Scene*)

David Fuhr joined the Criminal Division of the U.S. Department of Justice in March 2013 as a trial attorney. He prosecutes bribery cases under the Foreign Corrupt Practices Act. David previously was at Debevoise & Plimpton in New York.

Cory Kampfer and his wife, Gina Spotz Kampfer, welcomed their son, Andrew Robert, on Aug. 17, 2013. Cory is general counsel at OnDeck Capital in New York.

Jeremy Reckmeyer has been elected partner at Andrews Kurth in New York. Jeremy's practice focuses on corporate restructurings.

Chris Rogers has been elevated to partner at Haynes and Boone in Dallas, where he is a member of the firm's litigation practice group. His practice focuses on controversies involving government criminal enforcement and related civil litigation.

2006

David Barker has been elected partner at Snell & Wilmer in Phoenix, where he is an intellectual property litigator with experience in patent, trademark, and copyright infringement, unfair competition, false advertising, trade secret, and trademark opposition and cancellation cases.

Kristin Ely Blazewicz joined Green Mountain Coffee Roasters, Inc. in Burlington, Vt., as corporate counsel in January 2013. She was previously an associate at Gibson, Dunn & Crutcher in San Francisco. On June 1, 2013, Kristin and her husband, Julian, welcomed their second son, Maxwell David.

Oleg Cross, founding shareholder of Cross Prescott Trial Lawyers in San Diego, was selected by *Super Lawyers* for inclusion in the 2013 edition.

Lauren DeSantis-Then has been named a shareholder in Polsinelli in Washington, D.C., where she focuses her practice on government investigations, business litigation, health care, and government contracts. She has been recognized as a *DC Super Lawyers* "Rising Star" for government investigations.

Le-Binh Hoang joined the Swiss law firm of id est avocats last August. His practice focuses on intellectual property, data protection law, and related commercial aspects.

Glenn "Bo" Ketner has joined Moore & Van Allen in Charlotte as an associate. He represents clients at the trial and appellate levels in a wide variety of complex matters. Bo previously was with K&L Gates in Charlotte.

Chris Kocher and his wife, Lauren, welcomed their daughter, Arabella Brooke, on Dec. 8, 2013.

William Miller is vice president and assistant general counsel at Goldman Sachs & Co.

Michelle Poulos Stasny married Jackson James Stasny on Jan. 20, 2012. Michelle is an attorney with the Securities and Exchange Commission's Division of Corporate Finance.

Corey Then was named deputy associate counsel at the White House in March 2013.

Megan Walsh has made partner at Greene Espel in Minneapolis, where she represents and advises private and public sector clients, with a focus on federal securities litigation

2007

Rebecca Bodony has joined Activyst LLC as legal counsel. Activyst is a company that sells athletic bags and apparel and donates a percentage of the proceeds to fund female sports programs in developing countries.

Nathan Chapman joined the University of Georgia law faculty in the fall of 2013 as an assistant professor. He teaches Law & Ethics of Lawyering, Law & Religion, and Georgia Practice. Nathan previously taught at Stanford Law School, where he served as the executive director of the Constitutional Law Center. Nathan focuses his scholarship on constitutional law, with an emphasis on the relationship of structure and procedural rights, and the First Amendment. He also writes on theology and law.

Ben Mitchell has been named operations counsel for GE Capital in Stamford, Conn.

2008

Katie Meek Almar and **Mauricio Almar** welcomed a son, Lucas William, born on Nov. 26, 2013.

Jonas Anderson and his wife, Rachel, welcomed a son, Calvin, born on Dec. 6, 2013. He joins siblings Ramsey and Felicity.

Libby Magee Coles has been appointed by the North Carolina House of Representatives to chair the newly-created N.C. Human Trafficking Commission. Libby is the founder, executive director and managing attorney of Durham-based JusticeMatters, a nonprofit organization that provides legal services to low-income clients.

Coraline Damien has joined Lartigue-Tournois Associes in Paris as an associate. Her practice focuses on mergers and acquisitions and corporate law.

Jessica Eaglin has been named counsel at the Brennan Center for Justice at New York University School of Law, where she researches and writes on the overreliance on incarceration in the U.S. Jessica previously was a visiting assistant professor at California Western School of Law where she taught federal sentencing law and civil rights law.

Brandon Neal, senior counsel in the law department at Wells Fargo Bank in Charlotte, has been elected to the statewide board of directors of the North Carolina Center for Nonprofits. He also serves on the board of directors at Charlotte's Bechtler Museum of Modern Art. Brandon was recently named as one of the "7 to Watch" in a *Charlotte Observer* feature on young community leaders. In November, Brandon and his wife, Kerbie, welcomed a daughter, Kennedy Marie.

Jonathan Pahl and **Jessica Pahl '09** welcomed a daughter, Rebecca Claire, born on Jan. 5, 2014.

Aisha Gayle Turner has been named managing director of corporate and foundation relations for Teach for America. She married Shalaby Turner on April 13, 2013 in Austin, Texas. Classmate **Kristina Johnson** was a bridesmaid and classmates **Ranjan Emani**, **Jennifer Avery**, **Lauren Phillips**, **Muriel Korol**, **Lily North**, **Ambrea Watts**, and **Sohair Aguirre** attended.

Lawrence Reed Watson has been named executive director at the Property & Environment Research Center (PERC) in Bozeman, Mont. He also continues to direct PERC's Enviropreneur Institute.

2009

Virginia Snider Carter has joined Ward and Smith in Wilmington, N.C., where she practices in the areas of estate planning and estate administration. She also represents clients in long-term care planning and guardianship matters.

Adam Cooper has joined William Morris Endeavor Entertainment, a talent agency located in Beverly Hills, Calif., as a business affairs executive. He was previously an associate in the entertainment, sports and media practice at O'Melveny & Myers in Century City.

Xin Dai is studying for the JSD degree at the University of Chicago Law School, where he is also a lecturer in law, teaching Chinese for Lawyers and Chinese for Business Lawyers. He was previously an associate in the Asia corporate practice group at Shearman & Sterling in Hong Kong. Xin also teaches at the Ocean University of China School of Law and Political Science in Qingdao.

Adam Doverspike has joined Gable Gotwals in Tulsa, where his practice focuses on energy regulation, complex civil litigation, and appellate matters. He is president of the Tulsa Lawyers Chapter of the Federalist Society.

Daniel Emejulu is a research analyst for the World Economic Forum, located in Geneva, Switzerland.

Jessica Pahl and **Jonathan Pahl '08** welcomed a daughter, Rebecca Claire, born on Jan. 5, 2014.

Jessi Rivera joined Universal Weather and Aviation Services in Houston last September as senior corporate attorney. She was previously an associate at Haynes and Boone.

2010

Morgan Clemons is an attorney in the non-depository financial institutions section of the Georgia Department of Banking and Finance in Atlanta. In May 2012 she received a Gold Medal Award for consistently high performance and contributions to the department's mission, vision, and goals.

Virginia Fitt has joined GlaxoSmithKline as counsel with the U.S. pharmaceuticals legal operations team in Research Triangle Park, N.C. She was formerly an associate with Gibson, Dunn & Crutcher in Orange County, Calif.

Emily Kennedy has completed her clerkship with Supreme Court Associate Justice Samuel Alito Jr., and is now an associate with Jones Day in Washington, D.C. Her practice focuses on appellate advocacy and critical motions.

Keith Lucas is, along with his twin brother, Kenny, the creator, executive producer, lead writer, and a voice actor for the show "Lucas Bros. Moving Co.," which debuted in January on Fox Network as part of its late-Saturday-night collection of 15-minute animated series.

Matthew Moore has joined Maynard, Cooper & Gale in Huntsville, Ala., as an associate in the corporate, securities, and tax practice group.

Kazuhide Ohya has moved from Japan to Hanoi, Vietnam, where he is an associate at Nishimura & Asahi.

Adam Pechtel is a captain in the U.S. Marine Corps, stationed in Kailua, Hawaii.

Risa Weaver-Enion married **Rhead Enion** on Aug. 11, 2013 in Malibu, Calif. They have relocated from Los Angeles to Washington, D.C.

Brandon White has joined the U.S. Department of Treasury as an analyst in the Office of Terrorism and Financial Intelligence. He was previously an associate with King & Spalding in Atlanta.

2011

Charles Boudry has joined the Geneva office of the law firm Lalive, where he specializes in domestic and international dispute resolution, both litigation and arbitration, with a focus on disputes arising out of commercial and investment contracts, asset recovery and insolvency proceedings, and civil liability disputes.

Carolyn Cottingham married Simon Jeremy Welch Perry on April 27, 2013 in the Palace of Westminster, London, U.K. They reside in New York.

Ari Cuenin has completed clerkships with Judge **Gerald B. Tjoflat '57** on the Eleventh Circuit Court of Appeals and Judge Lee Rosenthal of the U.S. District Court for the Southern District of Texas, and is now a litigation associate at Baker Botts in Dallas.

Abigail Faulkner Jones recently joined Babst Calland's Pittsburgh office as an associate in the environmental services group. She assists clients on a wide variety of environmental matters.

Rebecca Friedman married Ian Holljes on Feb. 8, 2014, in Miami. She is the tour manager of Delta Rae, a Durham-based Americana rock band which Ian co-founded.

Madison Jones has joined Gibson Dunn & Crutcher in Dallas, as an associate. She is a member of the firm's corporate department and practices in the capital markets and mergers and acquisitions practice groups. She previously was an associate at Haynes and Boone.

Shelley Kahn and **Jameson Rohrer '13** were married in Berkeley, Calif., on Sept. 7, 2013. They live in Pittsburgh.

Tania Khosla LLM '10 (center) married Kabir Taneja on Jan. 18 in New Delhi, India. They live in Bhubaneshwar, Orissa, India. Several of Tania's classmates attended the wedding.

Paola Ledesma opened Ledesma Immigration Law Office in Lubbock, Texas, in July 2013.

Robert McGuire is a corporate associate at Paul Weiss Rifkind Wharton & Garrison in New York.

Bridget McNamee has joined the board of directors of Voices for Children of Tampa Bay, a nonprofit organization dedicated to financial support of the local guardian ad litem program. Bridget is an associate at Gray Robinson in Tampa, where she practices commercial litigation with a concentration on banking and finance.

Guillermo Perrone has been named general counsel of the online travel service, Despegar.com. He is based in Buenos Aires.

Michael Sias was recently promoted to director of corporate development and legal at ESO Solutions in Austin, Texas. Michael's role includes legal strategy, business development, and sales operations for the software company.

Shirley 'Lanta' Wang has joined the corporate practice of Waller Landsden Dortch & Davis in Nashville.

Jasmine Wynton has joined the new lawyers group at Jones Day in Dallas, as an associate.

2012

Richard Andrews has joined Tuggle Duggins in Greensboro, N.C., as a litigation associate after completing a clerkship with Judge William L. Osteen Jr., chief U.S. district judge for the Middle District of North Carolina.

Lucy Chang is working as an attorney for the Board of Governors of the Federal Reserve System in Washington, D.C.

Nicolas De Clercq joined Shearman & Sterling's project finance group in London as an associate.

Hiroko Jimbo has been named an associate at Hishimura & Asahi in Tokyo.

Fernanda de Queiroz has joined Vieira Rezende Advogados in Sao Paulo, Brazil, as a senior associate. Her practice involves mergers and acquisitions and securities.

Gabriela Perez Sierra has joined Ritch Mueller in Mexico City as an associate. He previously was a foreign associate at Cleary Gottlieb in New York.

Tyson Shaw is assistant general counsel, Federal Bureau of Prisons, Office of General Counsel, Employment Law and Ethics Branch, in Washington, D.C.

Nels Vulin has joined Bullivant Houser Bailey in Portland, Ore., where he practices in the business law group.

2013

Michael Benson co-authored, with Hannah Demeritt and Allison Rice, "Do No Harm: The Importance of Safeguarding the Confidentiality of HIV-Positive Clients," published in the fall 2013 issue of the *North Carolina State Bar Journal*.

Johanna Kelley has founded and is executive director of the D.E.A.R. Foundation, which stands for Development, Empowerment, Action and Relief. The foundation, which held its official launch event Dec. 10 in Durham, is dedicated to protecting immigrant rights and promoting social justice through legal empowerment programs and educational activities in Wake, Durham, Orange, and Alamance counties.

Jameson Rohrer and **Shelley Kahn '11** were married in Berkeley, Calif., on Sept. 7, 2013. They live in Pittsburgh.

Emma Smiley has been sworn in as a Clifton W. Everett Sr. Community Lawyer Fellow in the Rockingham office of Legal Aid of North Carolina. She is spending a year providing a full range of legal services to low-income residents in Richmond County.

In Memoriam

Class of '36
Mary Louise Maxwell Barr
Sept. 3, 2013

Class of '48
John O. McCoy
July 27, 2013

Edward Louis Meadows
Feb. 19, 2014

Class of '51
George B. Thommason
Aug. 23, 2013

Charles L. Villanueva Sr.
July 14, 2013

Class of '52
Charles S. Smith
Feb. 11, 2014

Class of '53
Robert Carl Hubbard
July 25, 2013

George Lee Hudspeth
Dec. 19, 2013

Calvin E. Smith
Nov. 28, 2013

Class of '54
Marshall G. Currin Jr.
July 26, 2013

John Wallace Maxwell
June 11, 2013

Class of '60
Newton C. Taylor
March 13, 2014

Class of '62
Phillip K. Sotel
Oct. 6, 2013

Class of '63
Gibson L. Smith
Sept. 6, 2013

Class of '64
Lee Edward Knott Jr.
July 1, 2013

Class of '65
Emil C. "Mark" Marquardt Jr.
Aug. 17, 2013

Class of '66
Russell Jackson Hawke Jr.
Nov. 4, 2013

Edward S. Rickards Jr.
Feb. 5, 2014

Class of '68
Christine Keller
June 21, 2013

Class of '72
Thomas J. Azar
February 4, 2014

Class of '73
Roy Richard Robertson Jr.
Oct. 20, 2013

Class of '75
Cheryl P. Smith
Sept. 9, 2013

Class of '76
Eric Peter Hansen
June 8, 2013

Marvin Schiller
Aug. 18, 2013

Class of '78
Thomas "TJ" Johnson
Dec. 30, 2013

Class of '79
Steven K. Robison
Oct. 7, 2013

William Lewis Thompson Jr.
Dec. 14, 2013

Class of '85
Carolyn V. Kent
Oct. 26, 2013

Class of '00
Mayotta "Maysie" Holbrook Anderson
July 13, 2013

Class of '07
William Love Candler III
Dec. 13, 2013

This list reflects information received by the Duke Law Alumni and Development Office by March 15, 2014.

»Thank you

A small sample of the hundreds of significant gifts made to the Law School this year include those made by:

PROFESSOR BILL REPPY AND JULIANN TENNEY '79

Professor William Reppy Jr. and Juliann Tenney have recently made Duke Law the beneficiary of a $1 million charitable remainder unitrust, or CRUT, which also gives them a quarterly income for life. The gift reflects a desire to use their resources effectively and in a way that shows their appreciation for the good fortune they have enjoyed as members of the Duke community, said Tenney, who now oversees all institutional research compliance and HIPAA privacy matters at the University of North Carolina at Chapel Hill, her undergraduate alma mater. "I had a wonderful job, wonderful students, and wonderful colleagues over more than 40 years at Duke," said Reppy.

JOHN '69 AND RITA CANNING

With their recent gift to Duke Law, John '69 and Rita Canning are giving students who have faced early challenges a chance to go to law school. They have pledged $1 million to Duke Law School – to be paid in $100,000 installments over 10 years – to fund need-based scholarships, fellowships, and other forms of financial support to help deserving students and recent graduates reach their potential and realize their goals. And a generous bequest will ensure the program will continue beyond their lives.

THE CLASSES OF 1964 AND 1969

Alumni in the classes of 1964 and 1969 have launched an endowed scholarship in honor of the man who recruited them to Duke Law, **Dean Elvin "Jack" Latty**. As of early June, donors had committed more than $200,000 to the Elvin R. Latty Endowed Scholarship, which was established to mark the graduates' 50th and 45th reunion years, respectively. All alumni and friends are welcome to support the fund named for a man known to have "nurtured, developed, launched, and encouraged" many successful lawyers, in the words of Nick Gaede '64.

OUR ANNUAL FUND SUPPORTERS

Donors who have provided outright gifts and new pledges of $25,000 or more in support of the Annual Fund in FY14 (between July 1, 2013 and June 15, 2014) include Richard '66 and Laura Allen; Colin Brown '74; Reginald '78 and Linda Clark; Robert Dickey III '97 and Diane McKay; Paul '94 and Wendy Genender; Dennis and Deborah Glass P'14; Kathleen Hamm '88; William '64 and Irma Hirsch; Eric Hiser '89 and Anne Stone; Terence '79 and Kathryn Hynes; Michael '86 and Katharina Immordino; Stephen Labaton '86; Gary Lynch '75; James Robert Moxley III '85 and Ann Moxley; Allen '89 and Amy Nelson; Paul Pantano '80 and Cheryl Keamy; Shami '97 and Lori Patel; Estate of Philip Sotel '62; Matthew '94 and Elizabeth '94 Quigley; and Thomas '74 and Tyla Winland.

THE FORD FOUNDATION AND THE ELTON JOHN AIDS FOUNDATION

The Ford Foundation is continuing to support the policy work of the Southern HIV/AIDS Strategy Initiative (SASI) within Duke's AIDS Legal Project and AIDS Policy Clinic, which are led by Clinical Professor Carolyn McAllaster. A recent $200,000 grant, which builds on previous grants totaling $350,000, facilitates SASI's ongoing advocacy aimed at expanding the National HIV/AIDS Strategy (NHAS) to focus on the HIV epidemic in the Southeastern United States, including a June meeting at the White House on HIV in the South and the successful implementation of federal grants designed to reduce HIV-related morbidity, mortality, and related health disparities among racial and ethnic minorities, as well as other new initiatives.

The AIDS Legal Project also received a $100,000 grant from the Elton John AIDS Foundation to support the clinic's work with the Harvard Law School Center for Health Law and Policy Innovation, the Southern AIDS Coalition, and the HIV Prevention Justice Alliance on issues relating to health care access and advocacy for persons living with HIV in nine Southern states.

DUKE / *forward*

to all of our alumni and friends for your support of the Duke Forward campaign.

Our campaign progress — **We are here** 73% — **GOAL: $85M**

(as of 6/16/2014) **$62,171,695** raised (by 6/30/2017)

Every gift counts.

STEP UP *to the* CHALLENGE.
Help us
RAISE *the* BAR
on ANNUAL FUND GIVING.

The Duke Law Raise the Bar Challenge seeks to increase the number of leadership Annual Fund donors of $1,000 or more in the 2015 fiscal year (July 1, 2014 – June 30, 2015). If we collectively reach our donor goal, a $150,000 grant will be provided to the Law School by a generous group of alumni!

Our Challenge donors know that the Annual Fund supports everything we do at Duke Law. And they know participation matters. That's why they are asking you to help raise the bar on Annual Fund giving.

Will you step up to this challenge with a gift of $1,000 or more? You'll be supporting:

STUDENTS like Shifali Baliga '14 and Celia Glass '14, winners of the 2014 Dean's Cup. Baliga, a repeat winner, will clerk for Judge Andre Davis of the 4th Circuit U.S. Court of Appeals after graduation. Glass, who won the Hardt Cup in 2012, will clerk for Judge Anthony Scirica of the 3rd Circuit. Both women served as editors of *Duke Law Journal*. Their skills in advocacy and scholarship are shared by many outstanding members of our student body.

FACULTY like Laurence R. Helfer, the Harry S. Chadwick, Sr. Professor of Law, an expert in the areas of international law and institutions, international adjudication, human rights, and international intellectual property law and policy. Helfer has served as an expert adviser to the U.S. Department of State on LGBT human rights and has also testified before the U.N. Human Rights Council.

PROGRAMS like the Center for Innovation Policy which addresses fundamental issues of law and policy affecting innovation. Led by Stuart M. Benjamin, the Douglas B. Maggs Professor of Law, and Arti K. Rai, the Elvin R. Latty Professor of Law, the center brings a scholarly focus to cross-cutting policies relevant to innovation generally and to sector-specific areas such as the life sciences, information and communications technology, and energy-related technology.

DUKE LAW

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CHALLENGE

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Lifelong Learning

SHE WAS THE PRESIDENT of Claremont McKenna College for 14 years and the dean of Duke Law School for 11. But during the spring 2014 semester, Pam Gann returned to her roots — as a student.

Having stepped down from her presidency last June, Gann '73, whose legal specialty is tax law, came back to Duke for a sabbatical — and to prepare for the next stage of her academic life as Professor of Legal Studies and Kravis Leadership Institute Senior Fellow at Claremont McKenna. She audited four courses: International Trade Law, taught by Professor Rachel Brewster; Foreign Relations Law (above), taught by Professor Ernie Young; Philanthropy, Voluntarism and Not-For-Profit Law, taught by Professor Joel Fleishman at the Sanford School of Public Policy (and cross-listed at Duke Law); and International Law, taught by Professor Joseph Greico in the Department of Political Science.

"I used a significant part of my sabbatical to prepare for the courses I will be teaching next year, which will include What do Universities Do?: Public Policy and Leadership in Higher Education and Philanthropy, Voluntarism, and Not-for-Profits: Law, Public Policy, and Leadership, both of which are highly interdisciplinary and include a significant discussion of leadership issues," said Gann. "The third course is International Law, so the courses by Professor Young, Brewster, and Greico are very helpful — as Laurence Helfer also has been." Gann also took Helfer's massive open online course, or MOOC, on international human rights that he offered through Duke University and Coursera. (Read more, Page 13.)

"I had not taken a MOOC course previously, so I wanted to be a 'student,'" said Gann. "I enjoyed the experience and learned a lot about how a course addresses several thousands of students."

Gann's return meant that four deans were in residence at Duke Law during the spring semester. Paul Carrington (1979-1988), Katharine T. Bartlett (2000-2007), and David F. Levi (2007-present) completed the quartet.

D.C. Summer Institute on Law and Policy 2014

TWO-WEEK COURSES

Evening courses highlight hot topics in the national dialogue such as the constitutionality of affirmative action in higher education and state bans on same-sex marriage, national security law, international human rights advocacy, and law and economics.

SESSION ONE:
July 7-17, 2014

SESSION TWO:
July 21-31, 2014

PROFESSIONAL DEVELOPMENT

The Institute also offers two courses intended as professional growth opportunities for lawyers and other practitioners working in Washington.

Shifting Gears: Practical Advice for Career Transitions or Reentering the Workforce Successfully

Friday, July 18 | 1:00-5:00 p.m.

With conversations on how law practice has changed in the last 5-10 years; cutting-edge opportunities; new areas of practice; how to identify one's passion; and strategies for gaining skills or marketing existing skills

Essential Business for Lawyers

Friday, August 1 | 8:30 a.m.-5:30 p.m.

Featuring lessons on accounting and finance, strategy and risk analysis, negotiation, and more

Photo: Architect of the Capitol

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Duke Law Magazine
Duke University School of Law
210 Science Drive
Box 90389
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