In this issue of the alumni magazine, we feature the study of criminal law at the University of Minnesota Law School. Criminal law has always captured the attention of people throughout the nation. Indeed, over the past few decades, America has adopted a CNN mentality that compels people to watch criminal trials as they unfold. Recent trials involving individuals as disparate as Michael Jackson and Dennis Kozlowski received continuous national attention. Since the terrorist attacks of September 11, law enforcement is receiving greater scrutiny with renewed calls for greater use of police power by some and complaints by others that such use is a violation of constitutional rights. Many of our most popular movies and television dramas continue to depict courtroom and crime scenes, and the enduring and seemingly endless versions of *Law & Order* sit atop the Nielsen ratings. Criminal law is, and always has been, one of the most important areas in legal education.

The Law School has a rich tradition of devoting resources to the development of criminal legal education and has continued this trend in recent years. I think everyone would agree that a three-hour criminal law course could not begin to cover everything related to “criminal law” today. This is why the Law School offers a variety of courses to our students, ranging from criminal law and criminal procedure to specialty classes emphasizing domestic violence, social justice, race, gender, poverty, legal ethics, and many other relevant topics. At the University of Minnesota, we also believe that law students should develop skills that lawyers need to practice criminal law. This includes such skills as negotiation, interviewing, and trial practice. Indeed, several of our clinics help prepare students for careers in criminal law.

This magazine showcases the richness of our criminal law faculty and programs. We also profile several important alumni who are making a difference in the field of criminal law.

Finally, we reveal the new name for the alumni magazine—Perspectives. Our new name goes along with our new vision and bold new look. The University of Minnesota is a top public urban law school. As a public law school that is part of a larger research university, we are committed to serving the Bench, the Bar, and the greater community. As an urban law school, we have a comparative advantage in integrating the practice of law into the daily teachings of law.

I hope that you enjoy reading about what we are doing at the Law School in this issue. We look forward to seeing you at our upcoming events.
Features

Law School’s Leadership Helps Put Brakes on Drunk Driving
BY SCOTT RUSSELL

Proportionality Principles in the American System of Criminal Justice
BY PROFESSOR RICHARD S. FRASE

Changing Evidentiary Standards in Domestic Violence Prosecutions:
The Minnesota Supreme Court Responds to Crawford v. Washington
BY PROFESSOR BEVERLY BALOS
Departments

**FACULTY PERSPECTIVE**

FIRST PERSON: Estate Planning in the First Millennium: A Path to Salvation
BY PROFESSOR MARY LOUISE FELLOWS
Faculty Profile: Joan S. Howland

**AT THE LAW SCHOOL**

*Minnesota Law Review* Celebration
Commencement 2005

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At the University of Minnesota Law School, we are dedicated to recruiting and retaining one of the most productive and influential law faculties in the country. During the past ten years, we have added dozens of members to the faculty, including some of the nation’s top legal minds in the areas of criminal law, environmental law, intellectual property, and law and economics. In this issue, we include information about our faculty, including a synopsis of their most recent work, a profile of Associate Dean Joan Howland, summaries of our recent lectures, tributes to Professors Donald Marshall and Andy Schoettle, who retired last year, our recurring First Person piece featuring Professor Mary Louise Fellows, a summary of recent groundbreaking research conducted by Professor Susan Wolf, a memorial to Adjunct Professor Bill Kampf, and a schedule for the faculty works-in-progress for the fall semester.
Faculty R&D

The following is a partial list of the many accomplishments and activities of the Law School’s faculty.

March 1, 2005 through September 30, 2005

STEPHEN F. BEFORT

Professor Befort has been busy with a number of projects relating to labor and employment law. Since last Spring, he has published the following articles and book reviews: “A Reprise of a Classic: Gorman & Finkin’s Basic Text on Labor Law: Unionization and Collective Bargaining,” in the University of Pennsylvania Journal of Labor and Employment Law; “The Labor and Employment Law Decisions of the Supreme Court’s 2003–04 Term,” in the American Bar Association’s GP Solo Magazine, and “What has Changed in Federal Discrimination Law?” in the Upper Midwest Employment Law Handbook. He also has completed work on the following materials that are about to be published: a 2005 Supplement to his Employment Law and Practice book published by West Group, a law review article entitled “When Quitting is Fitting: The Need for a Reformulated Sexual Harassment/Constructive Discharge Standard in the Wake of Pennsylvania State Police v. Suders,” which will be published in the Ohio State Law Journal (with Sarah A. Gorajski), and a book chapter entitled “The Story of Sutton v. United Air Lines, Inc.: Narrowing the Reach of the Americans with Disabilities Act,” which will be published by Foundation Press in Employment Discrimination Stories. Professor Befort recently made presentations at conferences sponsored by the Federal Mediation and Conciliation Services, the International Society for Labor and Social Security Law, and the Labor Arbitration Institute.

BRIAN BIX


DAN L. BURK

Professor Burk has spent the past several months engaged in intellectual exchange with scholars across the European Union. In May, Professor Burk was hosted at Oxford University by the Oxford Intellectual Property Research Centre, where he spoke on “A Comparative Contemplation of Patentability Decisions.” During the same visit, he spoke at the Oxford Internet Institute on “An Information Ownership Approach to Spyware.” In June, he spoke on “Autonomy and Morality in DRM Anticircumvention Law” at the Third Annual European Conference on Computing Into Philosophy, held at Midårsalen University in Västerås, Sweden. Professor Burk spent the first two weeks of July in Germany lecturing on “Technical Protections for Authors” at the Munich Intellectual Property Center at the Max-Planck Institute for Intellectual Property, Competition, and Tax Law. During the latter part of July he traveled to the Netherlands to speak first on “Ethical Approaches to Robotic Data Gathering” at the Sixth International Conference on Computer Ethics: Philosophical Enquiries, at the University of Twente; then to speak on “Feminism and Dualism in Intellectual Property,” at the 14th Biennial Meeting of the Society for Philosophy and Technology, at the Technical University of Delft. Professor Burk’s scholarship continues to appear in a variety of peer review and law review journals. His article on “Legal and

THE JOHN DEWEY LECTURE IN THE PHILOSOPHY OF LAW

On September 29, 2005, Professor Joseph Raz gave the annual John Dewey Lecture in the Philosophy of Law. The title of his lecture was “The Problem of Authority.” Professor Raz is Professor of the Philosophy of Law and Fellow and Tutor in Law at Balliol College at Oxford University, and Professor of Law at Columbia University. He has made major contributions to jurisprudence, political philosophy, ethics, and practical reason, and he is one of the most distinguished moral and political philosophers of our time. Professor Raz has written numerous books including Engaging Reason (2000), Practical Reasons and Norms (1999), and Ethics in the Public Domain (1995). His book The Morality of Freedom (1986) won the W.J.M. Mackenzie Book Prize from the Political Studies Association of the United Kingdom, as well as the Elaine and David Spitz Book Prize from the Conference for the Study of Political Thought in New York. Professor Raz earned his Magister Juris summa cum laude from the Hebrew University of Jerusalem in 1963 and his Ph.D. from Oxford University in 1967.

The John Dewey Lectureship is named in honor of John Dewey (1859–952), American philosopher, educator, and scholar. A proponent of legal realism, Dewey’s philosophy of pragmatism related his conception of a moral life to a variety of contemporary social, economic, and political issues. Dewey spent one year as a professor of philosophy at the University of Minnesota (1888–89). The John Dewey Lectureship is funded by a grant from the John Dewey Foundation and is sponsored by the University of Minnesota Law School to provide a forum for significant scholarly contributions to the development of jurisprudence.
THE ROGER F. NOREEN CHAIR REAPPOINTMENT LECTURE

On October 11, 2005, Joan S. Howland was reappointed to the Roger F. Noreen Chair in Law. She also serves as the Associate Dean for Information and Technology and is recognized for her work in law and technology, American Indian law, legal research, and law librarianship. She was appointed to the Roger F. Noreen Chair in 1996. Associate Dean Howland received a B.S. from the University of California at Davis, an M.A. in History from the University of Texas, Austin, and an M.L.S. in Library Science from California State University. She earned her J.D. degree from the University of Santa Clara Law School and her M.B.A. degree from the Carlson School of Management at the University of Minnesota. In 2002, she completed the Academic Leadership Program at the Harvard University Institute for Higher Education.

The Roger F. Noreen Chair in Law was established by a generous gift from Law School alumnus Roger F. Noreen, Class of 1948. Mr. Noreen’s gift continues a long-standing commitment to Law School excellence. He was a member of the Law School Board of Visitors and the Law Alumni Association Board of Directors, and served as the 1975 National Chairman of the Partners in Excellence Campaign. At the Law School commencement ceremony in 1992, Mr. Noreen received the Regents’ Outstanding Achievement Award, which is the highest award the University of Minnesota bestows on its alumni. Mr. Noreen spent a number of years in private practice and was a Minnesota State Representative before joining the West Publishing Company, where he served as Vice President in charge of the Law School Division. In addition to his generosity in establishing the Roger F. Noreen Chair in Law, Mr. Noreen and his wife endowed the Roger and Violet Noreen Scholarship for law students.

DALE CARPENTER

Professor Carpenter has published “Lawrence Past,” in The Future of Gay Rights in America, edited by H.N. Hirsch (forthcoming), and “Bad Arguments Against Gay Marriage,” in Florida Coastal Law Review (forthcoming 2005). Professor Carpenter is currently writing a book entitled Sex, Lies, and the Law: The Story of Lawrence v. Texas, which will be published by W.W. Norton in early 2007. Professor Carpenter spoke at a conference on gay marriage at the University of Georgia, and has debated the subject in Houston at both the University of Houston Law Center and the South Texas College of Law. He also debated Professor Michael Paulsen on the constitutionality of the Solomon Amendment, which denies federal funds to universities that bar military recruiters, before a packed audience in the Law School’s Lockhart Hall.

BRADLEY G. CLARY

Professor Clary finished a one-year term as President of the Association of Legal Writing Directors at the end of July 2005, after presiding at the organization’s tenth anniversary conference. In June, he was on the faculty of the Association of American Law Schools workshop for full-time legal writing professors. He continues to serve on the Communication Skills Committee of the American Bar Association Section of Legal Education, and is a principal contributor to the second edition of the ABA Sourcebook on Legal Writing Programs which is expected to go to press this fall. He is currently serving another term on the governing council of the Minnesota State Bar Association Appellate Practice Section. Professor Clary and Sharon Reich Paulsen this past summer completed an updated edition of CiteStation, an interactive electronic product for teaching citation practice published by Thomson/West. Professor Clary, Sharon Reich Paulsen, and Michael Vanselow are also preparing the second edition of their Successful First Depositions text, due in November to Thomson/West for publication.

LAURA COOPER

Professor Cooper presented an Invited Address at the Annual Meeting of the National Academy of Arbitrators in May in Chicago. Her paper discussed the historical development of procedure in labor arbitration. The paper will be published by the Bureau of National Affairs in the Academy’s Proceedings. At the same conference, she also co-chaired a workshop on the intersection of work and family life. The second edition of her book, Workplace ADR Simulations and Teacher’s Guide, co-authored with Carolyn Chalmers, was published in September by West. The book offers roleplaying exercises for arbitration and mediation of union and non-union employment disputes. Professor Cooper recently completed four years as Chair of the Labor Law Group, an international non-profit association of scholars that authors textbooks in labor and employment law. She remains on the Group’s Executive Committee, which also serves as the Group’s editorial board.

ALLAN ERBSEN

Professor Erbsen recently completed an article entitled “From ‘Predominance’ to ‘Resolvability’: A New Approach to Regulating Class Actions,” which will be pub-
lished this Fall in the *Vanderbilt Law Review*. He presented the “Predominance” article at the peer-reviewed Stanford/Yale Junior Faculty Forum at Stanford Law School. Professor Erbsen also recently wrote a chapter of a book: “The Substance and Illusion of Lex Sportiva, in *The Court of Arbitration for Sport—1988–2004*, edited by Rob Siekmann et al., (forthcoming 2005). His current research focuses on interstate federalism, and in particular on how the Constitution constrains the power of legislatures and courts in one state to regulate actors or activities in other states.

MARY LOUISE FELLOWS

Professor Fellows recently was a commentator on a panel on Perpetual Trusts at the Trust Law in the 21st Century Conference at Benjamin N. Cardozo Law School. She also presented a paper, *Æthelgifu’s Will: A Quest for Orderliness*, at the Workshop at The University of Minnesota’s Center for Medieval Studies and another, *Æthelgifu’s Will—What’s Beowulf Got to Do with It?*, at the 40th Meeting of the International Congress on Medieval Studies. She is completing her work on her Ph.D. in English at the University of Minnesota this fall semester and both papers are chapters in her dissertation, *Æthelgifu’s Will as Spiritual Practice*.

RICHARD S. FRASE

Professor Frase’s article, “State Sentencing Guidelines: Diversity, Consensus, and Unresolved Policy Issues,” was published in the *Columbia Law Review*. Another article, “The Impact of Contextual Factors on the Decision to Imprison in Large Urban Jurisdictions: A Multilevel Analysis,” co-authored with Robert R. Weidner and Jennifer S. Schultz, was published in *Crime and Delinquency*. He also has articles on punishment purposes, the Minnesota Sentencing Guidelines, and the Warren Court’s criminal law decisions forthcoming in the *Stanford Law Review*, the *Federal Sentencing Reporter*, and *The Ohio State Journal of Criminal Law*. Professor Frase is working on several comparative criminal procedure projects, and is writing a book on proportionality principles in American law, to be co-authored with Provost E. Thomas Sullivan. In September 2005, Professor Frase participated in a meeting of the American Law Institute Members Consultative Group for the project to revise the Model Penal Code sentencing and corrections provisions. He also made a presentation to the Minnesota Sentencing Guidelines Commission, tracing the history and evolution of the Guidelines since they were first proposed in the mid-1970s, and comparing Minnesota’s approach with guidelines that have been adopted in other states and in the federal system.

DANIEL GIFFORD

The June Issue of the *Antitrust Law Journal* carried an article, “Rhetoric and Reality in the Merger Standards of the United States, Canada, and the European Union,” written by Professor Gifford and his co-author, Humphrey Institute Professor Robert Kudrle. As its title indicates, the authors examined the law in these three jurisdictions and attempted to pierce the rhetoric to determine the actual policies that were being pursued. He and Professor Kudrle are now doing initial work on a manuscript that will examine price discrimination as an issue in the laws of the United States and the European Union. Professor Gifford spent the summer working on a book-length manuscript dealing with labor-law reform, which is now nearing completion. In November, he will...


JULIUS E. DAVIS CHAIR IN LAW RECEPTION

A reception was held on Monday, September 19, 2005 at the Minneapolis Club to honor Professor Brett McDonnell. Provost E. Thomas Sullivan has been appointed the permanent holder of the Julius E. Davis Chair, and Professor McDonnell will share the professorship with him for the 2005–2006 academic year.

The first chair in the Law School was established in 1980 in memory of Julius E. Davis, a well-known Twin Cities lawyer and civic leader. Although the Chair will be held on a permanent basis by Provost Sullivan, it will also continue to rotate among the faculty on an annual basis. Each academic year, a faculty member is chosen to hold the Chair in recognition of excellence in teaching, research, and scholarship.

left to right
Daniel Gifford,
Jill Elaine Hasday,
Kristin Hickman

ABOVE: Provost Sullivan, Stephen Davis, and Angelyn Davis.
TOP: Past recipients of the Julius E. Davis Chair with Babe Davis.

Faculty R&D

JILL ELAINE HASDAY

Professor Hasday recently published, or will soon publish, three articles: “Intimacy and Economic Exchange,” Harvard Law Review (forthcoming Dec. 2005); “The Canon of Family Law,” Stanford Law Review (2004); “Mitigation and the Americans with Disabilities Act,” Michigan Law Review (2004). She gave a lecture on September 16 entitled “Equal Protection” for Constitution Day at the University of Minnesota Law School. This fall, Professor Hasday is organizing a Public Law Workshop at the University of Minnesota Law School. This workshop brings nationally recognized scholars to Minnesota to present their current research on public law topics, such as constitutional law, administrative law, antidiscrimination law, criminal law, environmental law, and family law. She also appeared on Odyssey, a nationally-syndicated Chicago Public Radio program, to discuss the Social Meanings of Disability.

KRISTIN HICKMAN

Professor Hickman has been and is actively involved in a number of projects in the tax and administrative law areas. Professor Hickman’s article, “The Need for Mead: Rejecting Tax Exceptionalism in Judicial Defeance,” will be published as the lead article in the June 2006 issue of the Minnesota Law Review. Professor Hickman also organized a tax policy conference on state tax incentives for economic development that drew participants and attendees from across the country as well as the Twin Cities. The conference highlighted the case of Cuno v. DaimlerChrysler in which the Sixth Circuit invalidated an Ohio investment tax credit provision as an impermissible, discriminatory interference with interstate commerce in violation of the “dormant commerce clause” of the United States Constitution but upheld a local property tax exemption against a similar challenge. Shortly before the conference, the United States Supreme Court agreed to consider issues raised by the Cuno case. Essays from the tax policy conference will be published later this year in the Georgetown Journal of Law & Public Policy. Professor Hickman will contribute an essay to that series and, as organizer of the conference, will co-author the forward with Sarah Bunce. Professor Hickman is currently doing research on a project concerning the justiciability of pre-enforcement challenges to Treasury regulations and will present the results of that effort in March 2006 as part of the faculty workshop series at the University of San Diego Law School.

JOAN S. HOWLAND

Professor Howland recently presented a paper entitled “A Wife’s Home Should be her Castle Too: The Transformation of a Woman’s Right to Control Property During the Gilded Age” at the 9th Annual Conference on Cultural and Historic Preservation. In addition, Professor Howland recently presented a paper on the information needs of indigenous populations at a symposium sponsored by the National Library of Argentina. She also delivered one of the keynote speeches at the Institute of Museum and Library Services program “Serving Diverse Communities: Staffing, Organization Climate, Services, and Collections.” Professor Howland’s article “Expressing Our Values Through Our Actions” appeared in a book published in 2005, The Spirit of Law Librarianship. Her paper “Time to Hold ‘em or Fold ‘em?: American Indian Gambling and the Explosion of Internet Gambling” appeared in the published proceedings of the 2005 Sovereignty Symposium, sponsored by the Oklahoma Supreme Court. She continues to serve as a member of the American Bar Association Section on legal Education and Admission to the Bar Accreditation Committee, and as a member of the Association of American Law Schools Committee on Curriculum and Research.

BRADLEY C. KARKKAINEN

Professor Karkkainen published the following articles and book chapters: “Panarchy and Adaptive Change: Around the Loop and Back Again,” in the Minnesota Journal of Law, Science and Technology (forth-
Robert Levy

John H. Matheson
Professor Matheson will be teaching at Bucerius Law School, the first private law school in Germany, this fall. He will teach a course on Comparative Corporate Governance.

Brett McDonnell
Professor McDonnell visited at the University of California, Hastings College of the Law in the fall of 2004 and the University of San Diego School of Law in the spring of 2005, and has now happily returned to Minnesota. He was appointed the 2005 Julius E. Davis Professor of Law. Professor McDonnell recently published several papers: “Is There a Text in this Class: The Conflict Between Textualism and Antitrust,” a joint work with Dan Farber published in the Journal of Contemporary Legal Issues; “Two Cheers for Corporate Law Federalism” in the Journal of Corporation Law; “Corporate Constituency Statutes and Employee Governance” in the William Mitchell Law Review, and “SOx Appeals,” part of a Michigan State DCL Law Review Symposium on the Sarbanes-Oxley Act. He also has forthcoming articles on shareholder bylaws and on the conduct of officers and directors following Sarbanes-Oxley. Professor McDonnell has made a variety of presentations. He presented the forthcoming paper on shareholder bylaws to the Law and Society Association annual meeting in Las Vegas in June 2005 and to faculty workshops at Hastings and San Diego in the fall of 2004. He presented a paper entitled “Delaware, Federalism, and the Expertise-Bias Tradeoff” to the Berkeley Law and Economics seminar in October 2004, a Duke Law School workshop in February 2005, the USC Center for Law, Economics, and Organization workshop in April 2005, and the Canadian Law and Economics Association (CLEA) annual meeting in Toronto in September 2005. At the CLEA meeting Professor McDonnell also presented a paper entitled “Employees v. Shareholders in Economics and Civic Republicanism,” which paper he also presented at the Sloan Program for the Study of Business in Society Retreat in June 2005 and the Midwestern Law and Eco-

Business, Complex Litigation, and Trial Practice. He is a nationally recognized authority on antitrust law and complex litigation, having authored or co-authored 8 books and more than 30 articles and essays on antitrust. Provost Sullivan graduated magna cum laude from Indiana University School of Law in 1973, where he served as Articles Editor of the Indiana Law Review. He then served as a law clerk to a federal district judge in Miami, Florida; was a trial attorney in the Criminal Division of the United States Department of Justice in Washington, D.C. (Attorney General’s Honors Program); and was a senior associate at Donovan, Leisure, Newton, and Irvine’s Washington, D.C. office. He began his teaching career in 1979 at the University of Missouri, Columbia.

Professor McDonnell joined the law faculty in 2000. He teaches and writes in the areas of business associations, corporate finance, law and economics, securities regulations, mergers and acquisitions, contracts, and legislation. In 1985, he received his B.A. in economics and political science magna cum laude from Williams College, and became a member of Phi Beta Kappa. He earned a Herschel Smith Fellowship for two years of study at Cambridge University and received his M.Phil. in Economics from Emmanuel College, Cambridge University in 1987. Professor McDonnell completed his Ph.D. in Economics at Stanford University in 1995, and received his J.D. from the Boalt Hall School of Law, University of California at Berkeley, in 1997. He clerked for The Honorable Alex Kozinski of the United States Court of Appeals for the Ninth Circuit from 1997 to 1998. He then practiced as an associate at Howard, Rice, Nemorovski, Canady, Falk & Rabkin in San Francisco, where he concentrated on general corporate counseling and public offerings and acquisitions.
Retirements

THEY TAUGHT US...

Donald G. Marshall retired at the end of the 2004–2005 academic year. Professor Marshall is an outstanding teacher as well as an expert on torts and evidence. He taught evidence, torts, products liability, medical malpractice, insurance, and media law. Professor Marshall was selected as Teacher of the Year in 1971 and 1979. He was also honored with the Stanley V. Kinyon Teaching and Counseling Award in 1983, 1989, 1991, and 1995. In 1995, he was appointed as the first Law Alumni Distinguished Teacher. Professor Marshall earned a B.A. degree from Williams College and an LL.B. degree from Yale University, where he was Note and Comment Editor of the Yale Law Journal. After receiving his LL.B. degree, Professor Marshall clerked for Justice Haydn Proctor of the New Jersey Supreme Court. From 1961 to 1967, he was an associate and then partner of the law firm of Lowenstein and Spicer in Newark, New Jersey. Professor Marshall joined the Law School faculty in 1967. He has been a consultant to the New Jersey Corporation Law Revision Commission and to the Minnesota Association of Juvenile Court Judges. In the former capacity, he drafted much of the New Jersey Business Corporation Act; in the latter, he authored the Rules of Procedure and Official Forms for Minnesota Probate-Juvenile Courts. Professor Marshall is a member of the Minnesota and New Jersey Bar Associations. Professor Marshall influenced many law students during his years at the University of Minnesota and will be greatly missed by students, faculty, and staff at the Law School. We wish him all the best in his retirement.

MARY RUMSEY


DAVID STRAS

Professor Stras is active on several projects relating to the Supreme Court of the United States. Professor Stras’ coauthored article “Retaining Life Tenure: The Case for a Golden Parachute,” written with Ryan W. Scott, will be published as the lead article in the February 2006 issue of the Washington University Law Quarterly. In addition, he has written a short biography of Justice Clarence Thomas, co-authored with Professor Jim Chen, that will appear in the Yale Biographical Dictionary of American Law (Roger K. Newman ed., forthcoming 2005). Professor Stras presented his paper, “Supreme Court Justices and the Incentives Approach to Retirement,” at the Minnesota Law Review symposium on October 21, 2005. This essay will be published in the May 2006 issue of the Minnesota Law Review. As a co-organizer of the symposium, he will co-author the foreword to the symposium issue with Karla Vehrs, Class of 2006. Professor Stras has also been active in the local and national community. This summer, the St. Paul Pioneer Press published two op-eds written by Professor Stras, entitled “Justice O’Connor Retires with Dignity” and “Hail to the Chief.” The Minneapolis Star-Tribune also published an op-ed entitled “Give Court Doors a Nudge,” which argued that the Supreme Court should consider increasing its caseload. In addition, he appeared three times this summer on MPR’s Midmorning program with Kerri Miller to discuss the retirement of Justice O’Connor, the death of Chief Justice Rehnquist, and the nomination of John Roberts to be Chief Justice. Professor Stras was interviewed on a number of other radio and television programs to discuss the nomination and confirmation process of the Supreme Court. Finally, on September 11, 2005, Professor Stras was a panelist for the North American Securities Administrators Association on the topic of precaution and the Courts.

E. THOMAS SULLIVAN

Tom Sullivan published an op-ed in the Baltimore Sun in September entitled “Judicial activism, from the left or right, undercut the rule of law.” In June, he gave the keynote speech at the ABA Section of Legal Education’s Law School Development Conference in Jackson Hole, Wyoming. In October, he spoke at the University of California, Irvine at a conference on recruiting international graduate students and issues in United States immigration policy. During August, Sullivan taught several classes on procedure in the American Law program to new LL.M. students. His recent article, “The Supreme Court and Private Law: The Vanishing Importance of Securities and Antitrust,” in the Emory Law Journal (2004) was selected for reprinting in the Corporate Practice Commentator. He continues to serve as Provost of the University of Minnesota.

MICHAEL TONRY

Since last reporting on his activities in these pages, Michael Tonry has resigned from his positions as professor of law and public policy and director of the Institute of Criminology in the University of Cambridge and returned full-time to Minnesota. In September, 2004, he gave the annual Eva Saville lecture of the Insti-
He also traveled to Helena, Montana, to present a lecture on criminal justice in Indian country at the Federal Practice CLE, sponsored by the Federal Bar Association of Montana. During the fall semester, Professor Washburn presented a lecture on “American Indian Tribes and the United States Constitution” to the entering class of LL.M. students at the Law School and then prepared a short essay on the subject as a contribution to the University’s celebration of Constitution Day in early September.

In September, Professor Washburn also traveled to Helena, Montana, to present a lecture on criminal justice in Indian country at the Federal Practice CLE, sponsored by the Federal Bar Association of Montana. During the fall semester, Professor Washburn presented various papers to the law faculties at the Universities of Arizona, Colorado and North Dakota. Professor Washburn was invited back for a return engagement at the United States Senate to testify about a court decision that undermined the regulatory authority of the National Indian Gaming Commission, the independent federal regulatory agency for which Professor Washburn once served as General Counsel. Professor Washburn has been working to get many

...THEY INSPIRED US.

Ferdinand P. Schoettle retired at the end of the 2004–2005 academic year. Professor Schoettle is a nationally recognized scholar of federal and state tax law and policy. He joined the Law School faculty in 1967, and taught numerous courses over the past several decades, including state and local taxation, federal taxation, law and public policy, and economics for lawyers. Professor Schoettle received his A.B. from Princeton University. He received his LL.B. degree with high honors and his M.A. and Ph.D. degrees in economics from Harvard University. During law school, he was an Editor of the Harvard Law Review. After graduating from law school, Professor Schoettle clerked for Judge Learned Hand of the United States Court of Appeals for the Second Circuit. He then worked for the United States Treasury Department in the Office of Tax Legislation Counsel, and for Senator Joseph Clark. From 1963 to 1966, Professor Schoettle practiced law at Morgan, Lewis & Bockius in Philadelphia. He has been a Guest Scholar at the Brookings Institution, a Visiting Professor at Uppsala University in Sweden, and a visiting scholar at Harvard University. During law school, he was an Editor of the Harvard Law Review. After graduating from law school, Professor Schoettle clerked for Judge Learned Hand of the United States Court of Appeals for the Second Circuit. He then worked for the United States Treasury Department in the Office of Tax Legislation Counsel, and for Senator Joseph Clark. From 1963 to 1966, Professor Schoettle practiced law at Morgan, Lewis & Bockius in Philadelphia. He has been a Guest Scholar at the Brookings Institution, a Visiting Professor at Uppsala University in Sweden, and a visiting scholar at Harvard Law School. Professor Schoettle is a member of the Tax Economists Forum, the American Law Institute, and the National Economics Club. He has been Chairman of the American Bar Association Taxes and Revenue Committee, consultant to the United States Comptroller General on state income taxation of multijurisdictional corporations, Special Counsel to the United States Senate Select Committee on Equal Educational Opportunity, and Special Counsel to the Subcommittee on Intergovernmental Relations. Professor Schoettle’s contributions have been invaluable to the Law School and we wish him well.
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of his ideas into print. In April, his article
entitled, “The Federal Criminal Justice
System in Indian Country and the Legacy
of Colonialism,” appeared in The Federal
Lawyer, the magazine of the Federal Bar
Association. The piece was a prelude to
two forthcoming works: an article
styled, “American Indians, Crime and the
Law” which will be appearing in the
Michigan Law Review in February of
2006, and “Federal Criminal Law and
Tribal Self-Determination” appearing in
the North Carolina Law Review in March of
2006. Professor Washburn will also
contribute an essay on tribal
determination to the Connecticut Law
Review. In addition to pursuing his own
research agenda, Professor Washburn has
contributed to the forthcoming 2005 edi-
tion of the Felix S. Cohen Handbook of
American Indian Law, the leading Indian
law treatise, and has been invited to join
the six-member Executive Board of Edi-
tors of the book.

DAVID WEISSBRODT
Professor Weissbrodt received notification
in July 2005 that he has been named a
Regents Professor by the University of
Minnesota Board of Regents. The
Regents Professorship was established in
1965. It is the highest recognition given
by the University to a member of its fac-
ulty for outstanding academic distinction
in scholarly or artistic work, teaching, or
contributions to the public good. There
are only 20 Regents Professors and Weiss-
brodt is the first law professor to be
selected as a Regents Professor. Professor
Weissbrodt has completed work on a
study relating to the rights of noncitizens
in international law, for publication by the
University of Minnesota. Further, the Human
Rights Quarterly has accepted for publica-
tion a related article on the rights of state-
less persons. Professor Weissbrodt also co-
authored an article entitled “Extraordinary
Rendition: A Human Rights Analysis,”
which has been accepted by the Harvard
Human Rights Journal. In addition, Pro-
fessor Weissbrodt taught a seminar at the
University of Ulster and a three-week
human rights seminar for Masters students
at the University of Oxford where he has
been named a Visiting Fellow.

SUSAN M. WOLF
Professor Wolf received a grant from the
National Institutes of Health (NIH) to
lead a two-year national project on “Man-
aging Incidental Findings in Human Sub-
jects Research.” Co-Investigators are Pro-
fessors Jeffrey Kahn and Frances Lawrenz
from the University of Minnesota and
Professor Charles Nelson from Children’s
Hospital, Boston. The award of $587,559
will fund empirical and normative work
based at the University’s Consortium on
Law and Values in Health, Environment &
the Life Sciences, which Professor Wolf
chairs. A national working group will
meet periodically to analyze data and
develop consensus recommendations. Pro-
fessor Wolf collaborated with colleagues
on two other Consortium grant proposals
pending. Professor Wolf published four
articles: “Are We Making Progress in the
Debate Over Racial and Ethnic Cate-
ories in Biomedical Research?” in Nature
Genetics; “Assessing Physician Compliance
with the Rules for Euthanasia and Assisted
Suicide” in Archives of Internal Medicine;
“Bioethics Matures: The Field Faces the
Future” (with Jeffrey Kahn) in the Hast-
ings Center Report; and “Death and Dying
in America: Schiavo’s Implications” in
Minnesota Medicine. She has been working
on further articles, including with Dr.
Judy Illes (Stanford University) and others
on incidental findings in research and
with Professor Mildred Cho (Stanford)
on bias in research results to
human subjects. Professor Wolf is also
editing a symposium for the Journal of
Law, Medicine & Ethics on “The Responsi-
ble Use of Racial and Ethnic Categories
in Biomedical Research,” growing out of
a Consortium conference. The Consor-
tium will sponsor ten events this year,
including a lecture series on the societal
implications of developments in neuro-
science, a lunch series on energy and the
environment, a conference on the law and
ethics of protecting the food supply from
bioterrorism, and a symposium on analyz-
ing and regulating the risks of new bio-
medical technologies. The Consortium
continues to publish the Minnesota Journal
of Law, Science & Technology; Professor Wolf
serves as Executive Editor. The Joint
Degree Program in Law, Health & the
Life Sciences, which Professor Wolf directs, has 26 students this year. The Program is coproducing the Deinard Memorial Lecture on Law & Medicine this spring featuring Professor David Kaye (Arizona State Law School) on scientific evidence in the courtroom. Professor Wolf’s recent lectures have included the Lilianna Sauter Lecture at the New York Academy of Medicine.

JUDITH T. YOUNGER
Professor Younger spent part of the summer in Europe, specifically in London, Luxembourg, and Paris. Among the highlights of the trip were informal reunions with several graduates of the LL.M. program and dinners and discussions with them and their law, and other, partners. She is back, teaching Wills and Trusts this semester, and hard at work on two on-going projects in Family Law and Property.

AFFILIATED FACULTY
EUGENE BORGIDA

On September 22, 2005, affiliated faculty member Eugene Borgida, Professor of Psychology and Law in the Department of Psychology, was inducted into the Academy of Distinguished Teachers. He was one of sixteen Horace T. Morse—U of M Alumni Association Award Winners from past years to receive this honor.

Professor Cynthia Williams,
University of Illinois College of Law
Engage, Embed, and Embellish: Theory versus Practice in the Corporate Social Responsibility Movement

Professor J.B. Ruhl,
Florida State University College of Law
The Effects of Wetland Mitigation Banking on People

Professor Heidi Kitkrosser,
Visiting Professor, University of Minnesota Law School
Secrecy and Separated Powers: Executive Privilege Revisited

Professor Francesco Parisi,
George Mason School of Law
The Hidden Bias of the Vienna Convention on the International Law of Treaties

Professor Claire Hill,
Visiting Professor of Law University of Minnesota Law School
What The New Economics of Identity Has to Say to Legal Scholarship

Professor John Yoo,
Professor of Law, University of California at Berkeley School of Law (Boalt Hall)
Rational War and Constitutional Design

On September 22, 2005, affiliated faculty member Eugene Borgida, Professor of Psychology and Law in the Department of Psychology, was inducted into the Academy of Distinguished Teachers. He was one of sixteen Horace T. Morse—U of M Alumni Association Award Winners from past years to receive this honor.
MEMORIAL TO ADJUNCT PROFESSOR BILL KAMPF, CLASS OF 1967

BY MAURY LANDSMAN

Bill Kampf was a force of nature. Everybody who knew him will tell you that. Bill was born in New York in 1943, and even after 40 years in Minnesota, he was still a quintessential New Yorker. I am sure he never really understood “Minnesota nice.” He was direct and unsparing in both his love and his criticism. He loved combat and the courtroom was the perfect place for him. He always said that if he had become a doctor, he would have spent his life in the emergency room, and for him, bankruptcy practice was the legal ER.

Bill wanted his students to have a passion for the law. He wanted them to understand the distress of those forced into bankruptcy by medical bills, by lost jobs, by divorce. When we practiced together in the mid 1980s we represented the first round of family farmers trying to navigate through Chapter 11 bankruptcy to save farms that had been in their families for generations. In our conference room in downtown St. Paul, huge men in overalls would break down in tears at the thought of losing their way of life. Unlike others, Bill would never put his fees at the top of the creditors list; he would always say, “We can wait if it will help them to save their farm.”

Bill was my friend, and I feel like I lost a brother when he died so unexpectedly. You can read about his accomplishments in the articles that appeared after his death. Those do not do him justice. Until his memorial service, the full enormity of Bill’s life, all of his interests and accomplishments were never together in one place for us. Those of us who knew and loved him will miss his intelligence, his love of the law, his passion for justice, his passion for music, his passion for the little guy, his devotion to his family, friends and community. We will miss his bear hugs, his love of the outdoors, his wit and his lectures; we will miss his ability to listen and understand us; we will miss his knowledge and his impatience with us when we could not keep up; we will miss his emails and phone calls that made a Hemingway sentence seem verbose. We will miss his brightness and the way he could fill a room. We will miss his great and good heart.

TIMOTHY R. JOHNSON

Professor Johnson has published two recent articles (with Jason M. Roberts, University of Minnesota) on the Supreme Court nomination and confirmation processes. The first article, in the Journal of Politics (August 2004) explores how presidents can wield political capital to secure confirmation for their chosen nominees. The second, published in Congress and the Presidency (Spring 2005), examines how presidents can overcome ideological constraints that the Senate may impose on presidents as they seek to make their mark on the High Court. Additionally, Professor Johnson has published an article in Law and Society Review (June 2005, with James F. Spriggs, U.C. Davis and Paul J. Wahlbeck, George Washington University) on strategies justices employ during the Supreme Court’s conference discussions. Finally, Johnson has a forthcoming article (with Spriggs and Wahlbeck) in the American Political Science Review, which demonstrates that the quality of oral argumentation before the U.S. Supreme Court affects the choices justices make. Professor Johnson is engaged in three new research projects. The first examines the dynamics of the Court’s agenda setting process. This project examines why the Court continues to follow the Rule of 4. The second project focuses on how justices begin to build coalitions with one another during oral arguments. Finally, he is beginning to explore the evolution and establishment of stare decisis in the U.S. judiciary from the early 19th century to the present day.

JANE E. KIRTLEY


The University of Minnesota Law School was one of the first law schools to offer a Master of Laws (LL.M.) program (in 1890).
Learning Communities grant and the Northwest Minnesota INFOCON consortium’s Enhancing Education Through Technology grant from the Minnesota Department of Education. This August Dr. McLeod returned to Illinois to continue helping the Chicago Public Schools with its Principals Technology Leadership Institute. In September CASTLE unveiled a new web resource for K-12 educators, www.SchoolDataTutorials.org. In October CASTLE and the American Institutes for Research will release the Principals Technology Leadership Assessment the nation’s first psychometrically-validated assessment of K-12 building-level leaders’ technology inclinations and activities. Recent publications include Data-Driven Teachers and Technology Tools for Data-Driven Teachers, two white papers for Microsoft, and School Technology Leadership: Theory to Practice, an article in Academic Exchange Quarterly. Dr. McLeod continues to teach the College of Education and Human Development school law course for preservice principals and superintendents and is creating a 1-credit school law course for the College’s preservice teachers.

DAVID E. WILKINS
Professor Wilkins is the Gordon Russell Visiting Professor in the Native American Studies Program at Dartmouth for the fall term of 2005–2006. In June, he taught a two-week course at Wake Forest University titled “American Indian Sovereignty in Interdisciplinary Perspective.” The course included Wake Forest students and tribal members from across the state. He is completing the revisions for his textbook American Indian Politics and the American Political System, originally published in 2002. The new edition is due for release in early summer 2006. He has also reached agreement with the University of Oklahoma press which will publish an important legal memorandum written by the noted federal Indian law expert, Felix S. Cohen, in the 1930s. Wilkins will write an introduction and annotate the work. He is also continuing his research for a book tentatively titled Documents of Indigenous Political Development: 1500s to 1933 that will most likely be published by Oxford University Press. Wilkins co-authored a short article with a graduate student, Heidi Stark, titled “Indian Voters: Awakening A Sovereign Capacity,” that was published in The Unfinished Agenda of the Selma-Montgomery Voting Rights March, edited by Dara N. Byrnes (John Wiley & Sons, 2005). And he wrote an essay titled “Forging a Political, Educational, and Cultural Agenda for Indian Country: Common Sense Recommendations Gleaned from Deloria’s Prose,” that will be published in an edited volume by Daniel R. Wildcat and Steve Pavlik, titled Destroying Dogma: Vine Deloria’s Legacy on Intellectual America (Fulcrum Publishing Co., 2005). He was a panelist on a roundtable titled “The Metaphysics of Modern Existence: A Twenty-Five-Year Retrospective,” at the 47th Annual Meeting of the Western Social Science Association, held in Albuquerque, NM, April 13–16, 2005. He delivered a dinner talk titled “Federal Indian Law & Policy: Walking Into the 21st Century,” at a conference Walking on Common Ground: Pathways to Equal Justice 2005 National Gathering for Tribal-Federal-State Court Relations, organized by the U.S. Department of Justice’s Bureau of Justice Programs and Fox Valley Technical College. The conference was held at the Oneida Nation’s Radisson Hotel, Green Bay, WI, July 27–29, 2005. He also served on a planning committee titled the “Treaty Exhibit Project” that is a project of the National Museum of the American Indian, Washington, DC. He conducted a half-day workshop at the North Carolina Commission of Indian Affairs in Raleigh, NC on June 23, 2005 devoted to the examination of tribal sovereignty and state-recognition of Indian tribes. He also delivered a keynote address titled “The Red Lake Tragedy: The Rights, Responsibilities, and Reasoning of Native Youth,” at the 33rd Annual Symposium on the American Indian, held at Northeastern State University, Tahlequah, OK, April 14, 2005.

SCOTT McLEOD
Dr. McLeod continues his directorship of the UCEA Center for The Advanced Study of Technology Leadership in Education (CASTLE). Other continuing projects include a grant to study the data-driven decision-making readiness of Minnesota educators and evaluations of the Rochester Public Schools’ federal Smaller
Estate Planning in the First Millennium: A Path to Salvation

BY MARY LOUISE FELLOWS,
EVERETT FRASER PROFESSOR OF LAW

The law intersects with many other specialties and the Law School has long recognized that perspectives from disciplines other than the law are essential when teaching our students. The Law School is affiliated with many other departments and colleges within the University of Minnesota which allows us to offer a wide range of courses and opportunities targeted to specific individual interests.

This article briefly describes Professor Mary Louise Fellows’ dissertation, “Æthelgifu’s Will As Spiritual Practice,” which was recently submitted in partial satisfaction of the requirements for a Ph.D. in English from the University of Minnesota. This is one example of interdisciplinary work that is occurring at the University of Minnesota Law School.
ne day in 1939 T. E. Sherwood-Hale led James Fairhurst to an outbuilding on land at Alderley in Cheshire, England. There Fairhurst found himself inspecting a collection of rare muniments and knew immediately that finally he had found the lost antiquarian books and papers of Lord John Selden (1584–1654). Fairhurst had surmised that Selden’s collection had come into the hands of Selden’s executor, the Chief Justice of the King’s Bench, Matthew Hale (1609–76), which explains why Fairhurst had made his way to Alderley—Hale’s birthplace—to meet with the members of the Hale family who had continued to live there. It was not until November 1942, with the help of academic experts, that Fairhurst came to recognize the importance of one of the many antiquarian documents that the Hale family had tucked away.

Sometime between 985 and about 1000 a scribe had written 66 lines of Anglo-Saxon minuscule on a sheet of parchment measuring 560 x 350 mm. The document’s first words—“Æthelgifu cyth hire cwidel”—establish it as Æthelgifu’s testament. The will, with more than 4,000 words, is the longest known of Æthelgifu’s Old English will.

The absence of historical evidence about Æthelgifu encouraged me to adopt an analytical framework that looks to the lived experience of late tenth-century Anglo Saxons as gleaned from late tenth-century art, music, and literature. My approach shows how her will embodies late tenth-century aesthetics and the attitudes and belief systems that undergird those aesthetics and transforms chance archival preservation into an opportunity to portray a community from the standpoint of one of its members and the artifact she left behind.

With the distance of a thousand years and with economic history as a foil, I map a world view based on salvation history.

My study of late tenth-century religious prose, poetry, and sculpture dislodges Æthelgifu’s will from the predominant view of Anglo-Saxonists that it operates exclusively in the economic realm and demonstrates how Æthelgifu’s will bears a closer resemblance to a spiritual practice than to an economic convention. An investigation of late tenth-century crucifixion drawings representing Christ’s will from the cross shows how Anglo-Saxons used Christ’s will as a model and recovers the relationship Æthelgifu’s property and disposition of her property had to her faith and her religious practices. I also consider sacred music in England’s late tenth-century monastic reform movement. I extend the analysis of Christian iconography and reveal another spiritual aspect of Æthelgifu’s will. The analysis substantiates the proposition that Æthelgifu’s will, with its many references to the singing of masses and psalms, transforms her property into music devoted to eternal life for her and her late husband. Late tenth-century Anglo-Saxon society’s aspiration for orderliness, which it associates with goodness and salvation, and its aversion to disorderliness, which it associates with evil and the Fall, uncovers yet another aspect of the spiritual dimension of Æthelgifu’s will.

My examination of Æthelgifu’s will also extends beyond religious art, music, and literature, and instead focuses on the set of cultural beliefs and practices that the will and the epic poem Beowulf share. Beowulf permits a study of the Anglo-Saxon understanding of treasure as a tool for the creation of memory and as a challenge to death itself, which in turn demonstrates that Æthelgifu used her will to represent herself as a worthy Christian widow deserving of her community’s respect over the generations and also of salvation through her community’s prayers.
Joan S. Howland is a renaissance woman. Before becoming a University of Minnesota Law School professor in 1992, she earned graduate degrees in history, library science and, of course, the law. Since then, she's also added an MBA from the Carlson School of Management at the University.

“My father told me he would support me as long as I stayed in school,” she said. He didn’t have to. Howland’s intellectual pursuits have always had practical applications. A fourth generation Californian, she worked at several prestigious law schools (including Stanford, Harvard, and the University of California at Berkeley) earlier in her career. As a member of the University of Minnesota Law School faculty since 1992, she directs the University of Minnesota Law Library, serves as Associate Dean for Information and Technology, and is a productive legal scholar. She also teaches “American Indian Legal History,” and “Law in Cyberspace.”

In 2005 Howland was reappointed as the Roger F. Noreen Chair of Law. In her recent reappointment lecture, Howland explored censorship and banned books in a speech entitled, “Bibliocide: Banned in Boston, Burned in Berkeley: Silenced Authors and the Freedom of Expression.”

“What motivates me is working at an excellent law school that’s productive and collegial,” Howland said. “I respect and truly enjoy my fellow faculty members. I’ve worked for incredible deans here. The University of Minnesota has a great legacy, and it’s becoming an increasingly exceptional law school.”

The intellectual curiosity of the school’s students also stimulates Howland. That’s one reason she continues to serve as Chair of the Admissions Committee. She wants to help attract the best, brightest, and most diverse student body to our great law school. “The students here are engaged, critical thinkers,” she said.

Although her responsibilities are extremely varied, directing the Law Library remains central to Howland’s position. In 2004, the Law Library acquired its millionth volume, The Papers of Clarence Darrow. It is one of only a handful of such institutions to have more than 1,000,000 items in its collection. The Library is highly regarded for its rich and deep resources, including its world renowned rare book collection.

“It’s the finest academic legal library in the country,” said Edward Adams, a member of the law school faculty and a frequent user of the law library. “The customer service is incredible.”

Adams recalls requesting an “obscure, difficult to find” paper pertaining to nanotechnology that he wasn’t sure anyone could track down. Within hours, one of the library’s reference librarians had fulfilled his request.

“Joan Howland is one of those rare individuals who people work hard for out of respect,” Adams added. “It’s hard to be liked and also get stuff done, but Joan does it.”

In addition to her other scholarly pursuits, Howland is an expert on equine law. In 1998, she co-authored the book The Law of American Thoroughbred Racing for Scholars, Practitioners, and Participants. Sketches of famous race horses adorn the walls of her office and, in part, remind her of childhood.

Her grandfather bred world class thoroughbreds and quarter horses. Even as a small child, Howland spent an inordinate amount of time at the race-track. At age eight, she was tested at ninth grade level in math. “That’s because she’s been handicapping since she was five years old,” her mother quipped to her teachers.

By Todd Melby. Melby is a Minneapolis-based freelance writer and independent radio producer.
Are We Making Progress in the Debate Over Racial and Ethnic Categories in Biomedical Research?

BY SUSAN M. WOLF, J.D.
Faegre & Benson Professor of Law; Professor of Medicine;
Chair, Consortium on Law and Values in Health, Environment & the Life Sciences

Debate over the proper use of racial and ethnic categories in biomedical research has raged in recent years. With the Human Genome Project showing that human beings are over 99.9% alike genetically, exhibiting more genetic variation within supposed “races” than between them, many have come to doubt that scientific utility of such categories. Yet federal edicts such as Directive 15 from the Office of Management and Budget (OMB) mandate the continued use of such categories in research. Moreover, researchers studying health disparities argue that data collection using racial and ethnic categories is necessary to determine whether conditions and care vary by race and ethnicity. Epidemiologists, too, defend the use of racial and ethnic categories to understand contributors to disease such as the stress of experiencing racial prejudice and reduced access to care because of bias.

To make progress in this debate, the University of Minnesota’s Consortium on Law and Values in Health, Environment & the Life Sciences with the University’s Center for Bioethics convened a conference on April 18 to consider “Proposals for the Responsible Use of Racial and Ethnic Categories in Biomedical Research: Where Do We Go From Here?” The conference was co-sponsored by the Office of Minority Health and Multicultural Affairs at the Minnesota Department of Health. In addition to comparing proposals, conferees discussed the role of communities participating in research in determining the proper role of racial and ethnic categories and debated legal constraints on the categories that can be used.

The University of Minnesota was a natural home for this conference, as University Professor Jay Cohn, M.D., was lead investigator and inventor on a patent for BiDil (combining isosorbide dinitrate and hydralazine), which could soon become the first drug approved by the Food and Drug Administration (FDA) for patients of a particular racial or ethnic group, in this case African-American patients with heart failure. Substantial controversy surrounds the drug and the FDA’s action. Beyond that, researchers at any major university must meet federal research requirements, while addressing the concerns of research participants and generating solid data. Yet using OMB Directive 15 categories may violate community expectations and generate data sorted by categories with questionable scientific validity.

Professor Troy Duster, Ph.D., of New York University and the University of California, Berkeley began with historical perspective. He argued that while scientists and physicians can easily see that their fields were affected by social forces in the past (e.g., slavery compromising mid-19th century science and eugenics compromising early 20th century science), it is harder to recognize social forces at work now. Duster suggested that huge research investments in biotechnology and the development of pharmaceuticals shape contemporary biomedical science and its approach to race and ethnicity. Yet Duster advocated not rejecting entirely the use of race in biomedical research, but asking under what conditions to use race and how to report the data. The danger is that if researchers use conventional racial categories and then find a genetic difference, they may “reinvigorate 19th century ideas of racial differences.”

Professor Charles Rotimi, Ph.D., of the National Human Genome Center at Howard University went further in his rejection of race as a category in biomedical research. He argued that current data on genomic variation do not support the existence of races. Racial categories arbitrarily segment more continuous human variation and ignore relevant variables. Skin color is “not a good representation of what is actually relevant in…genetic studies,” including ancestral history, geographical location, and environmental factors.

He suggested that ethnicity was a more appropriate term, capturing culture, language, religion, and lifestyle. While racial categories wrongly suggest that different groups have unique genetic characteristics, ethnicity admits group fluidity and overlap, facilitating the study of subtle group differences in gene frequencies.

Professor Mildred Cho, Ph.D., of Stanford University conceded that some studies might appropriately use racial or ethnic categories as a proxy for exposure to certain social interactions. However, using those categories to define populations genetically is likely to be inaccurate. She urged care in defining population groups; if a
Faculty Perspective

Dr. Margaret Winker, M.D., Deputy Professor Bhopal suggested that the goal should be to reduce health disparities by geographical location, it should be described that way rather than by race. Care in study design and interpretation means that if researchers “find differences between populations…unexplained by factors other than the population membership, …that doesn’t necessarily mean that those differences are genetic or racial.”

Professor Raj Bhopal, M.D., M.P.H., of Edinburgh University urged the importance of racial and ethnic categories in epidemiology and public health. Conceding that these categories have not functioned well as epidemiological variables, he argued that “we should improve them.” Indeed, given health inequalities around the globe, “it’s irresponsible not to use these concepts….It’s irresponsible not to tell the world what’s going on.” He pointed to studies of smoking and of coronary heart disease to show the importance of analysis by race and ethnicity. Professor Bhopal suggested that the goal should be to reduce health disparities by racial or ethnic group, while avoiding racism and ethnocentrism. “There is no reason why the white population should be the norm. In my view, the population with the best health should be the norm.”

Dr. Margaret Winker, M.D., Deputy Editor of JAMA, argued that “the use of race as a proxy is inhibiting scientists from…identifying the real environmental and genetic causes of disease….Race or ethnicity should not be used as an explanatory variable when the underlying constructs can and should be measured directly.” She described efforts by JAMA to encourage authors using racial categories to clarify the relevance of race and how race was ascertained (preferably by self-designation), to articulate the rationale when race is used as a proxy, and to measure directly variables such as socioeconomic status.

Professor Morris Foster, Ph.D., of the University of Oklahoma argued for the importance of analyzing health practices at the community level. Community variation “can be glossed over by aggregative racial and ethnicity categories.” Yet “[s]ome local practices that may contribute to health status and outcomes cross racial and ethnic categories.” Professor Foster noted that community members themselves may be concerned that larger categories of race or ethnicity will be used against them and may fail to capture important aspects of their lives relevant to health status. At the same time, community members may be aware of the significance of racial and ethnic categories in showing health disparities and claiming resources.

Professor Dorothy Roberts, J.D., of Northwestern University analyzed the legality of using racial and ethnic categories in research. She acknowledged a number of requirements and incentives to use racial categories in research, including OMB Directive 15, the NIH Revitalization Act of 1993, and rules from the Food and Drug Administration. However, she also suggested a role for law in constraining the use of such categories, in order to disapprove a biological definition of race but further research on health disparities. Under the U.S. Constitution, for example, race is a suspect category and courts carefully scrutinize its use by federal and state government. Applying this approach to biomedical research would require that any use of racial categories further a compelling state interest and be narrowly tailored to accomplish that goal.

Finally, Professor Gregg Bloche, M.D., J.D., of Georgetown University and Professor Cohn of the University of Minnesota discussed the desirability of developing race-specific therapeutics, such as BiDil. Professor Bloche said that considering race in prescribing medication may be useful pending more precise identification of predictors of therapeutic efficacy. However, he illuminated the market and regulatory incentives that have driven the emergence of this race-specific drug. By obtaining a patent for a race-specific use of a drug already patented, the company delayed by 13 years market entry by competing generic drugs. Yet research has not established “that adding [BiDil] to conventional treatment yields greater benefits for blacks than for other racial or ethnic groups.” Further, once a drug is patented and approved for a race-specific use, the pharmaceutical company has little incentive to do further research to pinpoint the relevant genetic, physiological, or environmental variations producing differential response by racial or ethnic group, as pinpointing those variations may risk shrinking the market for the drug. Public funding for such research may be needed. Professor Cohn countered with the history of BiDil. Once data showed lesser response to standard therapy with drugs to inhibit the rennin-angiotensin system among those heart failure patients identifying themselves as African-American, he reanalyzed trial data and found a striking benefit among those individuals from the drug combination in BiDil that increases nitrous oxide activity. Ideally, all groups would then have been studied in a confirmatory trial, but the apparent response difference between those identifying as African-American and those identifying as white would have mandated separate randomization and funding constraints limited the study to the group thought most likely to benefit. The study was “dramatically positive, and I would like to see people…get the benefit of the drug in the real world.” Bloche agreed that those who could benefit should receive either BiDil or the cheaper, generic form of the drug combination. Cohn and Bloche also agreed that more federal funding for drug research and less dependence on pharmaceutical companies would be a step forward.

This conference found areas of unexpected agreement as well as continued disagreement, in an effort to make progress. The full symposium will appear in the Journal of Law, Medicine & Ethics. The conference video is at <www.lifesci.consortium.umn.edu/categories.php?s=2>.

Acknowledgments

This meeting was funded by the Consortium on Law and Values in Health, Environment & the Life Sciences and the Law School at the University of Minnesota. Professor Jeffrey Kahn, Ph.D., M.P.H., assisted extensively in the planning and execution of the conference. Jaime Hoffman provided research assistance for the conference and Larina Brown for this paper.

LOCKHART DINNER

C. Paul Jones, Class of 1950, and his daughter, Sara Jones, Class of 1988 (the Law School’s Director of Alumni Relations & Annual Giving).

Suzanne Efron and Stan Efron, Class of 1953.

Curtis Roy, Class of 1950, and Babe Davis.

Sally Friedell and Gerald Friedell, Class of 1951.


FEATURES  This issue of the alumni magazine is devoted to criminal law and showcasing one of the best criminal law programs in the country. Think tanks such as the Institute on Crime and Public Policy are needed to focus on the constantly evolving issues of law, crime, and justice around the world. The Features section contains pieces about the newly created Institute and the work of Professors Michael Tonry, Richard Frase, Barry Feld, Kevin Reitz, and Steve Simon. It also contains faculty essays by Professors Frase and Beverly Balos.
New Institute Brings Energy and Focus to Crime and Punishment

By Scott Russell

The Law School’s achievements in criminal law research, already strong, are about to take a huge leap forward. Professor Michael Tonry, an internationally known scholar and research entrepreneur, is launching the Institute on Crime and Public Policy, an effort to bring together the best thinking on sentencing and punishment. The Institute will fund independent research, help attract top speakers, faculty and students and create an institutional focus for criminal law projects.

Consider the following.

Professor Kevin Reitz is in the middle of the single biggest American criminal law reform initiative of the last 20 years—one that will shape state penal codes for decades to come. He is analyzing sentencing systems around the country to develop model legislation that is fair, deterrent and capable of reigning in soaring prison costs.

Professor Barry Feld is analyzing data from 40,000 Minnesota juvenile court cases to determine whether the law mandating legal representation for children in juvenile court, a law he helped pass, has made a difference. It is one of three major research projects now on his desk.

Professor Richard Frase has tracked Minnesota’s pioneering sentencing guidelines system since its 1980 launch. He has probed politically tough questions, such as why the state has incarcerated blacks at much higher rates than whites and what role, if any, the guidelines play in such disparities.

Dean Alex M. Johnson, Jr. said criminal law faculty members are poring over data, studying the legal system’s real world operations and seeking ways to make them work better. The research produces first-rate scholarship, inspiring better teaching and benefiting the state and nation by shaping public policy.

A number of criminal justice leading lights have graced the Law School’s halls over the years: Maynard Pirsig, Monrad Paulsen and Yale Kamisar to name a few. Dean Johnson said the current criminal law faculty has continued and improved upon that tradition.

With Professors Tonry, Reitz, Frase, Feld and others, “we have a strong group of scholars who get involved with the details—do the research and produce the numbers and examine the data—and it is a better law school and a better profession as a result,” he said.

“We with the Institute, Minnesota is poised to be at the very top of American law schools in its criminal justice programming. We’ll offer our students not only the academic and the theoretical, but also teach what the law does in practice, and the impact it has on real people and real lives.”

Birth of an Institute

Professor Tonry has been the Sonosky Professor of Law at the University of Minnesota since 1990, but for the past six years he spent most of his time at the University of Cambridge, United Kingdom as a Professor of Law and Public Policy and Director of the Institute of Criminology.

He is a prolific writer and has a long history of getting big things done. He ran the Cambridge Institute of Criminology, raised money for its new building and grew the staff from 30 to 65. He raised $52 million to launch the MacArthur Foundation/U.S. Department of Justice research on human development and the causes of crime still underway in Chicago. Over a period of 30 years, he has raised more than $6 million to support Crime and Justice—A Review of Research, which is widely regarded as the world’s pre-eminent criminal justice scholarly journal with 32 volumes in print and more in the works.

Professor Michael Tonry was recently elected president of the 3000-member American Society of Criminology Association for the year 2006–2007, taking office as president-elect in November 2005 and becoming president in November 2006. Professor Tonry is the first lawyer to be elected the multidisciplinary group’s president in 40 years.
The Law School’s Institute on Crime and Public Policy is a work in progress, he said. It will bridge two worlds. While its exact activities have not been detailed, it will do intellectually serious and honest research and already has a clear agenda.

“The Institute has a clear premise that U.S. crime control policy has been fundamentally misconceived for a very long time—wasteful of money, wasteful of human lives, and not effective in altering offenders’ behavior,” Tonry said. “The bread and butter issue is going to be to get sentencing and punishment straightened out.” As one example, he points to the trend towards mandatory minimum sentences and three-strikes-and-you’re-out legislation. Society doesn’t benefit from holding “some doddering old guy,” he said. In fact, it ends up picking up significant costs unnecessarily.

As it now stands, the Institute will:

• Have an annual budget of $400,000–$500,000, employing three or four early to mid-career social science post-doctorate students and/or new lawyers to do research.
• Host conferences.
• Create a formal framework to promote collaborative research, both within the Law School and with sociologists, criminologists, psychologists and others in related fields.
• Hold executive sessions, high-level strategy and management training sessions for heads of federal and state agencies, academics and policy makers.

The Institute’s first-year goals include starting an executive session, which brings together leaders in all areas of the criminology community.

Consider the results from executive sessions on sentencing and corrections sponsored by the U.S. Department of Justice that Professor Tonry led at the Law School in the late 1990s. The group included heads of state prison systems, probation and parole directors, criminologists, law professors, a legislator and others. It met twice a year for three years, with each participant committing to intellectual inquiry and writing a discussion paper.

Participant Jeremy Travis, then head of National Institute of Justice (NIJ), called it “a life changing experience.” It started when Tonry asked him for his discussion paper. He initially tried to beg off, noting that NIJ had funded the program, but Professor Tonry pressed. Shortly after, Attorney General Janet Reno asked Travis what the country was doing about the surge of inmates leaving prison. He fumbled for an answer, and Reno told him to get back to her in two weeks.

Reno’s question became the center of Travis’ discussion paper, “But they all come back: Rethinking prisoner reentry.” Travis, now president of John Jay College of Criminal Justice, spent the next five years working to improve the ways ex-offenders reconnect with society. He recently published a book with the same title.

“It is not a stretch to say that the very robust national conversation on prisoner reentry can be tied back to the fertile environment of the executive session and the catalytic question by Janet Reno,” he said.

From the Corn Belt, an international reach

The Institute has already held two conferences. One, held in May, drew participants from 12 countries to discuss differing approaches to rising crime. From 1970–1995, crime rates tripled in every Western country. Globalization and economic changes affected each country, yet the United States and The Netherlands became vastly more punitive, while Finland
reduced its imprisonment rate by two-thirds and most other countries kept their prison rates flat.

“Why is that? What is it about countries that made them respond to similar set of stimuli in very different ways?” Professor Tonry asked. (The answers to these questions will be published in book form by the University of Chicago press.)

The newly hired Professor Reitz said the Institute would make the Law School an exciting place to be. “There are many of us who know a great deal about American criminal justice policy, but a truly ambitious, intellectual center has to be international in its scope,” Reitz said. “I expect it to be a vibrant crossroads of international thinking on policy issues that every government in the world grapples with—in criminal law, in sentencing and policing.”

Professor Frase has taught in France and Germany, and in addition to his Minnesota sentencing studies he has done comparative law research. One area of interest is the European use of “day fines” as a sentencing alternative for property crimes. A day fine is based on a person’s daily net income, he said. A less serious crime such as shoplifting might carry a 10-day fine, while a more serious crime such as a garage burglary might carry a 30-day fine. “Day fines are calibrated both to the seriousness of your crime and your means,” he said, scaling the punitive bite to a person’s ability to pay.

While the Institute promises an international reach, Professor Tonry sees a big advantage to its heartland location. New York and Washington generate most of the high-profile crime policy research. However, 95 percent of the people in prison are in state prisons elsewhere in the country. “There could be a real advantage, a credibility gain, to being closer to the real world of practice,” he said.

Locating at the University of Minnesota had another big upside. It has professors, such as Reitz, Frase and Feld, doing empirical research and data analysis, uncommon in law schools. “There are only two or three other law professors in the entire country doing work like them,” he said.

**Parsing the sentencing**

Professors Tonry, Reitz and Frase all share a passion for sentencing studies. Professor Reitz had taught at the University of Colorado since 1988 and in 2001 became an American Law Institute (ALI) reporter, taking on the pivotal role in rewriting the ALI’s Model Penal Code. He said a number of things attracted him here.

Minnesota has one of the strongest criminal law programs in the country, he said. Further, Minnesota’s sentencing guidelines system is significantly influencing his sentencing proposals. He has worked with Minnesota criminal justice community for 15 years—including sentencing commission members, judges, prosecutors and defense lawyers. “I have more good friends in Minnesota than in any place that I have never lived,” he quipped.

The Model Penal Code is a unified statement of criminal law and sentencing rules recommended for all states. Professor Reitz compared overhauling the Code’s sentencing recommendations to writing an eight-volume book, but harder. “You literally work with hundreds if not thousands of people,” he said. “You are not an individual author. You are interacting with knowledgeable people throughout the legal community, in the mental health field, in criminology, and in political science.”

Professor Reitz has investigated various sentencing systems and compared prison growth rates. Among his findings, states with parole boards tend to have faster prison growth than states that have abolished them, such as Minnesota. “That is an important empirical finding, because most people believe exactly the opposite,” Professor Reitz said. “Most people believe that a parole board lets people out early, that it works towards leniency.”

Roughly two-thirds of all states have parole boards, Professor Reitz said. He does not know why they have faster prison growth, but speculates politics plays a role. Governors appoint parole board members; they may decide to hold prisoners longer to avoid the political fall-out from an early-release prisoner who reoffends.
Barbara Tombs, executive director of the Minnesota Sentencing Guidelines Commission, said the parole board issue is reemerging in the state. “I think oftentimes the legislature will pass sentences that are very long. Then, when we start to face the fiscal reality of the sentences, they look for a mechanism to reduce our prison population,” Tombs said. “I see the battle coming up again possibly in the next year or so. I would rely very heavily on Professors Reitz’s and Frase’s experience…to make legislators understand that might not be the best direction.”

Written in the 1960s, the present Model Penal Code has had little impact on current sentencing debates, Professor Reitz said. It made rehabilitation the overarching goal of punishment, an assumption long out of favor.

“The mistake we made in the 1950s and 1960s was that we were too optimistic in thinking that just about anyone who was convicted of a crime could be changed for the better, and we knew how to do that,” he said. “It turns out that rehabilitation is a harder project than we thought.”

Professor Reitz said he hopes the updated Code will promote rehabilitation, but based on solid research about what programs actually work. “These judgments end up not being simply empirical judgments, they are also moral judgments, about how hard you try, knowing that you will succeed only in the minority of cases,” he said. “I try to make sure that, before people start disagreeing on moral issues of this kind, they at least look at the best knowledge and research we have, so that the facts give some basis for discussion.”

Guiding the guidelines
Professor Frase has followed, monitored, and number-cruncher Minnesota’s sentencing guidelines system since 1980, when Minnesota became the first state in the nation to adopt them. He arrived at the law school three years earlier and came with an empirical research background, stemming from his undergraduate days. “I was a social psychology major, and that was very heavily data oriented,” he said. Guidelines give judges sentence ranges for specific crimes, but also allow them to depart based on circumstances. Professor Frase analyzed when judges departed from the recommendations, looking for trends and where the guidelines might need changes.

One of Professor Frase’s most significant contributions came in the area of racial disparities research, he said. On the surface, the data suggested that Minnesota’s sentencing system had serious bias. A 1991 study said that Minnesota incarcerated black offenders at 19 times the rate of white offenders, the highest ratio in the nation.

“In New York State, when they were deciding against sentencing guidelines, they specifically pointed to the racial disparity in prison rates in Minnesota,” Professor Frase said. “They said, ‘that is why we don’t want to have sentencing guidelines.’”

Professor Frase’s research suggests it is not a sentencing problem, but a problem that starts earlier in the criminal justice cycle. “The same huge disparities appear at the point of arrest and then follow through the system,” he said. “So if blacks are 20 times more likely to be arrested per capita, it is not surprising they end up 20 times as likely to be in prison.”

Professor Reitz’s research shows guidelines vary state to state, and not all states use them. The federal government uses its own system and it has created backlash, making non-guideline states skeptical about adopting them.

“The federal guidelines have helped drive federal prison populations up at a very fast rate,” he said. “The federal
Professor Feld said the Institute would bring new energy to the Law School and give his juvenile justice research more visibility.

A mid-1980s scholarly conundrum spurred one of his current projects, he said. He was writing an article on how often juveniles waive their Miranda rights. The standard for waiving Miranda rights is the same standard used for right-to-counsel waivers, “knowing, intelligent, voluntary under the totality of the circumstances,” he said. He wanted to add a footnote about how often kids waive the right to counsel in juvenile proceedings. “I discovered that we didn’t know anything,” he recalled.

After years of research covering a half a dozen states, he found that most kids waived the right to counsel. “That included Minnesota, where half the kids in the juvenile justice system never saw a lawyer, including a third of the kids who were removed from their homes and a quarter of the kids who were placed in training schools,” he said.

That research triggered state and federal law changes. In 1995, Minnesota mandated counsel for juveniles. John Stuart, administrator of the Minnesota State Public Defender’s office, said Professor Feld’s work had a big influence.

“Barry was one of the first and smartest people in the country to realize that juvenile court was being transformed from an informal, benevolent, child-helping sort of an institution to one of the front lines in the political battles around crime control,” Stuart said.

Professor Feld is doing a before-and-after study to find out whether the juvenile court system followed the law and if it improved the quality of justice. He has data for every child who went through a Minnesota juvenile court in 1994 (the year before the law changed) and in 1999, along with their prior records going back a couple of years. “We are talking about data sets with well over 20,000 cases in each one,” he said.

He has two other major investigations underway. Violent crime committed by girls has increased in the past decade, he said. He belongs to a study group researching whether the increase stems from changes in girls’ behavior or changes in how the juvenile justice system treats girls’ behavioral problems.

He also is reviewing juvenile interrogations, what techniques police use and the responses they elicit. Minnesota is one of two states that requires police to tape record criminal defendant interrogations, including juveniles, he said. “I have obtained 66 case files of police interro-

Conclusions and Implications

Professor Feld said his research renews his enthusiasm to teach. “I know, for example, that the way I will teach police interrogation, both in criminal procedure and juvenile justice, will be informed in very different ways than it was even last year because of my research.”

Research also has direct benefits for students. Professor Feld said his research renews his enthusiasm to teach. “I know, for example, that the way I will teach police interrogation, both in criminal procedure and juvenile justice, will be informed in very different ways than it was even last year because of my research.”

Professor Reitz said he challenges his students to read empirical studies on drug treatment programs or evaluations of prevention programs for juvenile offenders. “It is not the kind of reading you typically do in a law school classroom, but students find very quickly that this is important to the work they do as lawyers, policy makers or members of the community,” he said.

Dean Johnson said there is a growing emphasis on teaching the next generation of lawyers about the importance of empirical research. “There are jokes about lawyers being afraid of statistics and math and empirical work,” he said. “If you want to be a first-rate lawyer, and you are going to have a first-rate law school, you have to address and be able to engage in empirical research.” Such scholarship animates and sharpens students’ persuasive skills, he said. “They are not talking supposition. They are not speculating. They have documentation and proof.”

Scott Russell is a freelance writer and full-time reporter, covering Minneapolis city government for Skyway News and Southwest Journal.
You might not have noticed, but your Minnesota motor vehicle title has a tear-off postcard to mail to the State when you sell your car. To some, it’s an odd appendage. To Professor Steve Simon, it’s a drunk driving prevention device.

A clinical professor and DWI researcher for 25 years, Simon founded the DWI Task Force in 1982 and continues as its volunteer director. The law school received federal funds to operate the Task Force when federal funding was available for state DWI task forces during the late 80s and early 90s. Currently the Task Force members and Professor Simon volunteer their time. The Law School provides a meeting site, some administrative support and a portion of Professor Simon’s research assistant’s time. Professor Simon shares his own DWI research and his knowledge of empirical DWI research from around the world with the Task Force, which includes 15–20 police officers, prosecutors, probation officers, judges and drivers license administrators, and a broader e-mail list. The Task Force identifies problems with Minnesota’s DWI laws or enforcement practices that need to be “fixed.” It also identifies new laws and enforcement practices that it believes will improve DWI apprehension, prosecution, adjudication and treatment. It then works with the legislature, law enforcement and the courts to get the “fixes” or improvements adopted. The postcard is one tangible example of its work.

Separate from the new Institute on Crime and Public Policy, the DWI Task Force’s work is critically important. More than one third of all Minnesota’s alcohol-related crash deaths involve repeat DWI offenders, Simon said. That means the system has had its hands on them before. “So the question is, what can we do to keep them from coming back?” he asked.

A decade ago, the Task Force found that 35 percent of repeat DWI offenders were rearrested driving cars registered to someone other than themselves or their spouse. Interviews with DWI offenders revealed the system they used to avoid detection by officers doing routine license plate checks. The chronic offenders would buy cheap used cars with recently renewed license tabs, telling the seller they would transfer the title. They would leave the car in the seller’s name, remaining invisible to vehicle registration files, repeating the process as needed.

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Law School’s Leadership Helps Put Brakes on Drunk Driving

BY SCOTT RUSSELL

A clinical professor and DWI researcher for 25 years, Simon founded the DWI Task Force in 1982 and continues as its volunteer director. The law school received federal funds to operate the Task Force when federal funding was available for state DWI task forces during the late 80s and early 90s. Currently the Task Force members and Professor Simon volunteer their time. The Law School provides a meeting site, some administrative support and a portion of Professor Simon’s research assistant’s time. Professor Simon shares his own DWI research and his knowledge of empirical DWI research from around the world with the Task Force, which includes 15–20 police officers, prosecutors, probation officers, judges and drivers license administrators, and a broader e-mail list. The Task Force identifies problems with Minnesota’s DWI laws or enforcement practices that need to be “fixed.” It also identifies new laws and enforcement practices that it believes will improve DWI apprehension, prosecution, adjudication and treatment. It then works with the legislature, law enforcement and the courts to get the “fixes” or improvements adopted. The postcard is one tangible example of its work.

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Research at hand, Professor Simon, representing the Task Force, successfully worked with the legislature to get it to adopt a change in the state’s vehicle registration laws to include the title transfer postcard notification to the state. At the time of the sale a private person selling their vehicle detaches and mails the card, alerting the state to the sale. The sold vehicle’s registration file is “flagged,” and the new owner then has 10 days to request a title transfer of the vehicle into their name. If they don’t, the state revokes the registration, a red flag for officers checking plates. This “tear off post card” discourages repeat DWI offenders from driving because it is less likely that they can do so with anonymity.

Hennepin County Attorney Amy Klobuchar credits Simon, the Task Force and its research with helping pass legislation creating the crime of felony DWI (four or more offenses in 10 years), extending chronic offenders’ probation period and pressing for speedier DWI adjudication, which reduces recidivism.

“Sometimes it doesn’t seem like research affects everyday lives,” Klobuchar said. “This was very useful to us.”

Currently, a major focus of the Task Force is encouraging officers to request a Breathalyzer rather than a blood or urine alcohol test. Its research found a significant number of officers preferred using a blood or urine test; it spared them a courtroom grilling, putting a lab tech on the hot seat instead. However, because of the complicated process involved in handling, analyzing and transmitting the results of blood or urine test to the officer who must then submit the results to the state, a blood or urine test takes one to two months longer to process compared to a breath test. This is substantial because the state, acting through the arresting officer can revoke the DWI offender’s driver’s license at the time of the breath failure, which is within hours of the impaired driving and subsequent arrest. Because of the longer processing time for a blood or urine sample, the driver’s license of a DWI offender who takes a blood or urine test is typically not revoked for seven or eight weeks. Professor Simon’s research shows that a delayed license revocation increases DWI recidivism.

The Task Force brings practitioners together to analyze DWI laws and current research and discuss what does and doesn’t work, Simon said.

“Then we go to the legislature, we go to the courts, we go to law enforcement and say: ‘You should make this change,’” he said. “This is what universities should be doing, serving as a catalyst for the combination of research, community outreach and societal change.” Simon says that “in small and big ways, the Law School has made the roads a little safer for Minnesota drivers by getting out of our ivory tower and working with criminal justice professionals and policy makers.”

Scott Russell is a freelance writer and full-time reporter, covering Minneapolis city government for Skyway News and Southwest Journal.

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N
otwithstanding recent pronouncements and narrow rulings of the U.S. Supreme Court, proportionality principles are well established in the Court’s Eighth Amendment jurisprudence, and are implicit in many other areas of American criminal justice, both in constitutional and in non-constitutional law doctrines. This essay surveys the many ways in which proportionality principles have been applied in criminal cases, and argues that these principles deserve broader recognition and application.

In the recent three-strikes case, *Ewing v. California*, two justices declared that the Eighth Amendment imposes no proportionality limits on criminal sentences. Three other justices were willing to recognize only a very narrow proportionality principle which, to judge by the facts and result in *Ewing*, affords almost no protection against extremely severe prison sentences. (In *Ewing*, the Court refused to invalidate a sentence of twenty-five-years-to-life given to a repeat property offender convicted of shoplifting three golf clubs.)

As this essay will demonstrate, there is nothing novel about federal constitutional proportionality review, and no reason why the Court should not explicitly endorse such review. There is even more reason to recognize proportionality principles when state courts interpret state constitutional provisions, and when courts and legislators deal with issues of non-constitutional law, since these decisions confront fewer issues of federalism and democratic legitimacy. The widespread use of proportionality principles in American law reflects the deep moral and philosophical roots of these principles. The variety of ways in which these principles have been formulated also shows that they can be adapted to many different legal contexts.
A major impediment to broader recognition of these principles is semantic—proportionality principles are often applied but rarely labeled as such. Even in areas of the law, such as sentencing, in which proportionality is explicitly invoked, the concept is often defined narrowly in terms of retributive or other fault-based criteria, or is not defined at all. However, if we look at the substance of legal doctrines we can see that there are several non-retributive proportionality principles which have been applied—not only to sentencing issues but also in other areas of criminal justice. Moreover, concepts akin to retributive proportionality can be found outside of the sentencing context. These retributive and non-retributive principles take a variety of forms, and serve a variety of functions, depending on the context, but they have one thing in common—they all help courts and legislators decide when a given public or private measure is excessive.

But, excessive compared to what? Proportionality analysis requires a normative framework. Retributive proportionality compares a penalty or civil remedy to the actor's degree of fault or blameworthiness—in particular, the harm which the actor has caused or threatened, and the actor's culpability as measured by his intent, motives, capacity to choose, and where multiple actors are involved, the importance of his role in the activity. Although pure retributivists view blameworthiness as the sole evaluative criterion, most penalty schemes take a hybrid approach known as limiting retributivism (or modified just deserts), in which retributive proportionality principles set outer limits—and especially, upper (maximum) limits—on sanction severity. In criminal justice, retributive proportionality limits govern who may be held criminally liable (only those who are sufficiently blameworthy), and how severely they may be punished (not more than they deserve). In this essay these two limiting retributive (“LR”) proportionality limits will be referred to as LR liability principles, and LR severity principles.

Two other widely-employed proportionality principles define excessiveness not in terms of fault or blame, but in relation to the pursuit of practical purposes such as crime control or the prevention of police illegality. These two principles, which have been central features of utilitarian philosophy since the 18th Century (and of Just War principles long before that) recognize that a measure can be excessive in two distinct ways: 1) the measure can be unnecessarily severe relative to effective, less costly and burdensome means of achieving the same purposes; and 2) the measure can be excessive relative to those purposes—the costs or burdens imposed by the measure may exceed the likely benefits. In this essay, these two concepts will be referred to as “alternative-means” proportionality and “ends-benefits” proportionality (or “means” and “ends” proportionality, for short).

The retributive and utilitarian proportionality principles summarized above have each been used in a variety of ways, and American legal doctrines often incorporate more than one of the principles. Depending on the context, a proportionality principle can be applied in categoric fashion (as a rule), on a case-by-case basis (as a standard), in a hybrid approach located anywhere along the rules-standards continuum or in combinations, with both rule- and standard-like elements. Courts may use stricter or looser formulations of any of these principles,
again depending on the context. As illustrated by the two limiting retributive principles summarized above, proportionality analysis (whether retributive or utilitarian) can be applied to the question of whether a measure is permitted at all, as well as the question of whether the measure is excessive in scope, intensity, or duration. A finding of disproportionality is usually viewed as problematic per se, but in some areas of the law it merely plays an evidentiary role, for instance, implying the existence of an impermissible government purpose. Finally, proportionality analysis can benefit a wide variety of litigants. In criminal justice and many other contexts, the proportionality principles cited above have usually been used by courts to protect citizens from excessive government measures. But utilitarian proportionality principles have also been used to deny citizens’ rights or protective procedures, or to balance other competing rights or interests. In these contexts, a finding of disproportionality favors the government, or one citizen over another (or, in some non-criminal contexts, one government entity over another).

In all of these contexts, proportionality principles have proven to be highly adaptable and useful analytic tools when courts and other policy makers are called upon to decide whether a governmental or private measure is excessive. These principles would be even more useful if their ubiquity, variable forms, and common features were more widely recognized, and the principles were more clearly defined. This would permit borrowing of useful formulations developed in other legal contexts, and would encourage more frequent, more precise, and more consistent application of these principles.

The remainder of this essay will briefly survey the many examples of retributive and utilitarian proportionality principles which have been employed in American criminal law, sentencing, and criminal procedure. The emphasis will be on constitutional doctrines, but some examples from non-constitutional law will also be cited.

I. Criminal Law: Limitations on Criminal Liability

Several federal constitutional limitations on state and federal criminal laws embody one or more of the proportionality principles described above. LR liability principles (no liability without sufficient blame) underlie constitutional prohibitions on “status” crimes (“being an addict”) and punishment without fair notice that the conduct would be punished (vague criminal laws, certain crimes of omission, ex post facto laws, and other retroactive extensions of liability).7

The Supreme Court has also invalidated criminal laws which do not appropriately serve important state interests. When such laws burden First Amendment or other fundamental rights, or target racial minorities or other suspect classes, the Court’s “strict scrutiny” review imposes both alternative-means and ends-benefits proportionality limitations: such laws must serve a compelling state interest (a categoric, ends proportionality rule), and must be narrowly tailored to achieve the asserted interest (a case-specific, means proportionality standard).8 Similarly, under “intermediate scrutiny,” such as that applied to gender-based classifications, the state’s interests must be “important,” and the means used must be “substantially related” to the achievement of those interests. Even under the Court’s normal, highly deferential review standard, requiring only a “rational basis” between the state’s interest and the means chosen, the Court has several times struck down laws by finding that the asserted state interest was not a legitimate basis for criminal prohibition9 (a categoric, ends proportionality rule).

Proportionality principles are also applied by courts seeking to decide whether a nominally non-criminal, regulatory measure is sufficiently punitive to trigger the substantive Due Process ban on punishment without compliance with criminal procedure safeguards. The Supreme Court has held that such procedural safeguards are required whenever there is a legislative intent to inflict punishment, and that such intent can be inferred, inter alia, if a measure is disproportionate to all legitimate administrative and regulatory goals.10 It appears that the Court is using a means disproportionality test (the measure is more severe than necessary to achieve the asserted non-punitive (regulatory) goal). However, the concern here is not with disproportionality itself, but rather with the inferred punitive intent—disproportionality serves an evidentiary function.

Numerous non-constitutional limitations on criminal liability reflect one or more proportionality principles. Prohibitions on strict liability11 reflect LR liability principles. Traditional use-of-force defenses incorporate both means and ends proportionality principles, and a violation of either principle results in denial of a complete defense. In the law of self defense, for example, alternative-means proportionality requires that defensive force not be unnecessarily harmful—you can’t kill to avoid being killed if the threat could also be avoided by non-deadly means. Ends-benefits proportionality in self defense requires that the defensive force must not be excessive relative to the threatened harm—you can’t kill an attacker to avoid receiving a minor battery, even if killing is the only effective available means of prevention.12

II. Sentencing and Quasi-criminal Penalties: Limitations on Sanction Severity

The Supreme Court has explicitly or implicitly recognized several proportionality principles when reviewing criminal and other sanctions for excessiveness. The Court has stated that the death penalty “is excessive and unconstitutional if it (1) makes no measurable contribution to acceptable goals of punishment and hence is nothing more than the purposeless and needless imposition of pain and suffering; or (2) is grossly out of proportion to the severity of the crime.”13 In practice the second standard focuses almost entirely on retributive factors, consistent with the LR
severity principle. The first standard might only stand for the minimum constitutional requirement of a rational basis for state action. In the United States, this would not usually be thought of as a question of proportionality, although it is in Europe. Alternatively, the first standard could implicitly incorporate a means proportionality concept. On this view, which finds some support in the Court’s cases, the death penalty is excessive relative to the next-most-severe penalty (life with or without parole) if death adds no measurable deterrent or other social benefits beyond those achieved by a life sentence.

Proportionality principles have been applied but poorly defined in the Court’s prison-duration cases. A three-factor test announced in Solem v. Helm, and still at least loosely applied by a majority of the Court, directs courts to first compare the sentence to the gravity of the offense, and then to compare sentences imposed for other crimes in the same jurisdiction, and for the same crime in other jurisdictions. The Solem Court’s analysis of the first factor clearly incorporated LR severity principles, and those principles, as well as means and ends proportionality, may be implicit in the second and third factors. But the Court needs to more clearly explain what kinds of proportionality those two factors measure, and how. Alternatively, state courts, applying state constitutions, should develop their own review standards, as some have already done. Illinois courts, for example, have developed standards for reviewing lengthy prison terms which more clearly reflect LR severity and ends proportionality principles.

The Supreme Court has been much more willing to recognize proportionality limits on quasi-criminal sanctions imposed via punitive damage awards and forfeitures of property used in crime. Under the Due Process Clause, punitive damages are subject to LR severity limits, and possibly also means proportionality review. Forfeitures, which have been evaluated under the Eighth Amendment Excessive Fines Clause, are subject to LR severity limits and possibly also both means and ends proportionality limits.

Proportionality has often been explicitly invoked in non-constitutional sentencing law and policy. As noted above, some writers have viewed retribution as the primary or sole criterion in sentencing, while others (and most practitioners) have endorsed the LR severity principle, recognizing upper and occasionally lower retributive limits on sentence severity. Within these limits, crime-control and other non-retributive sentencing purposes are applied, along with a means proportionality principle known as “parsimony” — a preference for the least severe sanction that will adequately serve all of those purposes.

Apart from the LR theory, ends as well as means proportionality have long been seen as essential features of non-retributive sentencing policies. Classic utilitarian philosophers and some court opinions view punishment as itself an evil (costly, and usually harmful to the offender); it should therefore be used efficiently and as sparingly as possible (means proportionality). Utilitarians also see great value in maintaining at least rough proportionality between sentence severity and the harms caused or threatened by the offense (ends proportionality). Proportionally-graded penalties help to match punishment costs with crime control benefits, reinforce social norms of offense severity (which guide behavior even when detection and punishment rates are low, as is often the case), and give offenders an incentive to choose a less harmful form of crime. Finally, to the extent that LR-severity, means, and ends proportionality principles all reflect widely-held values, respecting these principles in sentencing helps to maintain public respect and support for the criminal law and the criminal justice system.

III. Criminal Procedure: Limitations on Police Powers, Rights, and Remedies

Many rules of constitutional and nonconstitutional criminal procedure reflect alternative-means and/or ends-benefits proportionality principles. Fourth Amendment standards defining “unreasonable” searches and seizures give the police fewer powers to investigate minor crimes or pursue less important regulatory goals (ends proportionality).

These standards also sometimes take into account the availability of less intrusive measures to achieve the government’s purposes, and/or require a showing that the measures used were necessary (means proportionality).

The Eighth Amendment Excessive Bail Clause has been interpreted to prohibit bail set at an amount higher than necessary to reasonably assure the appearance of the accused at trial (means proportionality). Similarly, non-constitutional pretrial release laws often define a range of increasingly restrictive release conditions, and direct courts to choose the least restrictive option which will reasonably assure appearance and public safety.

In several cases the Supreme Court has invalidated rules or practices which placed a substantial burden on the defendant’s exercise of constitutionally-protected trial rights. In one case the Court noted that the state interests cited in support of the burdens could be satisfied in other, less burdensome ways—a means proportionality argument. In other cases the Court has seemed to invoke ends proportionality—the state’s interests are not of sufficient weight to justify the substantial burden on important rights.

Sometimes the government seeks to forcibly administer powerful medications to defendants, to render them competent to stand trial or to make them easier to manage in
jail or prison. The Supreme Court has placed both means and ends proportionality limits on these practices; the charged offense must be serious, the medication must be medically appropriate and effective, and there must be no less intrusive means of administering the drugs or of achieving the desired effects.  

Ends proportionality analysis has often been invoked to limit the scope of the exclusionary rules which enforce Fourth and Fifth Amendment rights; the Court concludes that the cost of excluding additional evidence outweighs the likely additional enforcement benefits. In this context, a finding of disproportionality favors the government, not the citizen.

Sixth Amendment rights to appointed counsel and jury trial have been limited to non-petty offenses, a categoric ends proportionality rule based on the assumption that in minor cases the costs and administrative burdens of these safeguards outweigh the benefits (here again, a finding of disproportionality favors the government). By the same reasoning, nonconstitutional criminal procedure codes often grant fewer procedural safeguards in less serious cases (thereby “making the procedure fit the crime”).

Conclusion

Despite the Supreme Court’s narrow endorsement of proportionality review in recent cases involving lengthy prison terms, the use of explicit and implicit proportionality principles is widespread in American criminal justice. Retributive proportionality principles recognize that it is fundamentally unfair to punish a person more severely than he or she deserves. Nonretributive means and ends proportionality principles likewise reflect important, widely-shared moral and practical values—efficiency, narrow tailoring of intrusive measures, matching of costs and burdens with expected benefits, and affirmation of the relative seriousness of crimes. In a number of contexts, one or more of these retributive and non-retributive proportionality principles has been deemed of sufficient importance to be given constitutional stature. Proportionality analysis will be even more useful and widespread in the future if courts and scholars recognize the many ways in which these principles have been applied.

FOOTNOTES

This essay draws from several of Professor Frase’s recent articles, and from research for a book exploring proportionality principles in many fields of American law, to be co-authored with Provost E. Thomas Sullivan.


2. Ewing v. California, 538 U.S. 11, 31 (2003) (Justice Scalia concurring); id. at 32 (Justice Thomas concurring).

3. Id. at 23–24, 30 (opinion of Justice O’Connor, joined by Chief Justice Rehnquist and Justice Kennedy). See also Harmelin v. Michigan, 501 U.S. 957 (1991) (upholding sentence of life without parole imposed on a first-time offender convicted of drug possession).


5. Frase, Excessive Prison Sentences, supra note 1, at 627; Sullivan, supra note 1, at 415.


11. See, e.g., Model Penal Code, Sec. 2.02(1) (requiring at least negligence); id., Sec.2.04(3) (recognizing limited mistake of law defense); Frase, Warren Court, supra note 7 (discussing Supreme Court cases reading intent requirements into federal criminal statutes).


14. See Emiliou, supra note 1, at 23-26; Sullivan, supra note 1, at 417.


17. Id. at 602–3, 607–9.

18. See Frase, Limiting Retributivism, supra note 4, at 90–104.


At about 3:00 A.M. on November 24, 2002, the Minneapolis Police Department received a 911 hang-up call originating from the apartment shared by David Wright and his girlfriend, R.R. When R.R.'s sister tried to dial 911, Wright pulled the phone from the wall and smashed it. After he left R.R. called 911. When police officers arrived at the apartment around 3:45 A.M. they saw that R.R. was crying and shaking uncontrollably. She was having difficulty breathing. R.R.'s sister also was crying. R.R.'s sister told the officers she was scared to death and believed Wright would return to shoot her. During the 911 call and subsequent conversations with the police officers, R.R. and her sister told the following story: Wright and R.R. argued. He said “I'll show you” and retrieved a gun from his backpack and

Changing Evidentiary Standards in Domestic Violence Prosecutions: The Minnesota Supreme Court Responds to Crawford v. Washington

BEVERLY BALOS
CLINICAL PROFESSOR OF LAW
pointed it at R.R.’s sister. R.R. believed the gun was loaded as he subsequently pointed the gun at R.R. and said “little girl, shut your mouth.” After he pointed it back at R.R.’s sister, Wright left with keys to the apartment leaving R.R. to worry that he would return.

The state charged and convicted Wright of two counts of felony assault and one count of being a prohibited person in possession of a firearm. Neither R.R. nor her sister appeared at the trial to testify. Until 2004, a court would have analyzed the question of whether to admit into evidence R.R.’s and her sister’s statements at Wright’s trial by determining whether the declarant was unavailable and whether the statements the prosecutor sought to have admitted were reliable. “Where the evidence falls within a firmly rooted hearsay exception” courts have found sufficient reliability to admit the evidence without violating the defendant’s right to confrontation. On March 8, 2004 in its decision of Crawford v. Washington, the United States Supreme Court substantially changed the analysis of the admissibility of out-of-court statements. Under Crawford, the Sixth Amendment right of confrontation takes precedence in determining the admissibility of hearsay. The Court decided that the admission against the accused of testimonial out-of-court statements violates the confrontation clause unless (1) the declarant is unavailable as a witness and (2) the defendant had a previous opportunity to cross-examine the witness. The Crawford requirements only apply to those statements that are testimonial, but the Court did not provide a comprehensive definition of testimonial. Rather the Court provided some examples of testimonial hearsay, which included ex parte testimony at a preliminary proceeding, statements taken by police officers in the course of interrogations, and statements that would lead an objective witness reasonably to believe that the statement would be available for use at a later trial.

This shift in the standard for the admission of hearsay evidence has a significant effect on the prosecution of domestic assault cases, because victim/witnesses often do not appear at trial, leaving prosecutors to depend on hearsay statements to prove their cases. The Crawford decision has the potential to undermine years of law reform efforts by advocates and public policy makers who have worked to make the criminal justice system more responsive to domestic violence cases by promoting prosecutorial policies and practices that hold abusers accountable for their actions and foster the safety of victims. The serious consequences for prosecuting domestic violence cases emerged almost immediately after the Crawford decision. According to one scholar, not long after the Supreme Court announced its decision, half of the domestic violence cases set for trial in Dallas County, Texas, were dismissed due to evidentiary problems. A survey of prosecutors’ offices in California, Oregon, and Washington found that 63 percent of those that replied indicated that Crawford made it more likely that prosecutors would drop domestic violence charges when victim/witnesses recant or refuse to cooperate. In this same survey, 65 percent reported that domestic violence victims are less safe than they were prior to the Crawford decision.

Without the ability to call the police officer as a witness to relate the domestic violence victim's excited utterances explaining what happened during the assault, prosecutors will likely either have to call a victim to testify against her abuser, even though she rightfully may be fearful about testifying, or dismiss the case. With exceptional access to their victims, abusers are in a unique position to intimidate their victims and their families. If courts treat as testimonial and therefore inadmissible domestic violence victims' 911 calls and excited statements to the police arriving at the scene, defendants will be able to get their cases dismissed by simply intimidating their victims into their not testifying if they can do so undetected.

The reasons victims of intimate partner violence choose not to participate in the prosecution of their abusers are manifold. Reasons include past failures of the criminal justice system, financial dependence on the abuser, fear of adverse custody determinations, and confusion over her responsibility in the violence. Clearly, however, many domestic violence victims recant or fail to appear because they fear their abusers. “Many victims who become witnesses in criminal cases against their abusers are subject to threats, retaliation, and intimidation to coerce their noncooperation with prosecutors.” Often the victim is in more danger when she chooses to leave the relationship or when she participates in the criminal prosecution. Given that it is beyond the scope of the criminal justice system to meaningfully mitigate most of these collateral consequences of a victim’s participation, including guaranteeing a victim’s safety should she testify or appear at trial, communities throughout the United States have instead focused on how to effectively prosecute this crime without the participation of the victim/witness.

Whether a victim has experienced a single incident of intimate partner violence or has been subjected to years of violence and intimidation, the unique relationship she shares with her abuser makes her particularly vulnerable to him, and greatly complicates her involvement in any prosecution. Whether a victim has experienced a single incident of intimate partner violence or has been subjected to years of violence and intimidation, the unique relationship she shares with her abuser makes her particularly vulnerable to him, and greatly complicates her involvement in any prosecution.
a perpetrator accountable and a victim’s self-identified safety concerns may arise.

On behalf of the University of Minnesota Law Clinics, I represented the Minnesota Coalition for Battered Women, who along with the Battered Women’s Justice Project, filed an *amici curiae* brief with the Minnesota Supreme Court in the *Wright* case to bring the perspective of advocates and victims of domestic violence before the court. The *amici* supported the position of the respondent, the Hennepin County Attorney’s Office, by arguing that both the 911 statements and the statements to the police officers when they initially arrived at the scene were not testimonial.

In August of 2005, the Minnesota Supreme Court decided the *Wright* case. It held that R.R.’s and her sister’s statements to the 911 operator and to police officers were not testimonial. It determined that while courts need to evaluate statements made during a 911 call on a case-by-case basis, it doubted that in the “face of immediate danger a caller is contemplating how her statements might later be used at a trial.” In the *Wright* case, the court found that given the demeanor of the victims/witnesses, the closeness in time to the violent assault, and the nature of the exchange between the victims and the 911 operator, the statements made were nontestimonial, did not violate the defendant’s right to confrontation, and were therefore admissible. With respect to the statements made to the police officers at the scene, the court again looked at the context within which the statements were made. It looked at the emotional state of the victims/witnesses, the level of formality of the conversation, and the purposes of the exchanges between the officers and the witnesses. In analyzing these factors, the court concluded that the victims/witnesses’ statements to the police on the scene were not testimonial. Finally, referring to the *amici curiae* brief, the court recognized the particular difficulties of prosecuting domestic violence cases, because of the frequency of intimidation of the victim by the abuser. The court provided guidance to the trial courts by suggesting that a forfeiture by wrongdoing analysis may be appropriate in domestic assault cases when the defendant seeks to exclude out-of-court statements on the basis that the statement is testimonial.

Domestic violence continues to be a widespread problem in Minnesota and throughout the United States. Nationally, estimates range from 960,000 incidents of violence against a current or former spouse, boyfriend, or girlfriend per year to three million women who are annually physically abused by their husband or boyfriend. The first criminal justice policies and statutes specifically addressing domestic violence developed in the early 1980s. Prosecution units throughout the United States, however, experienced great difficulty prosecuting domestic violence cases because of the especially high rate of recantation among victim/witnesses. One national survey of prosecutors revealed that nearly half of the prosecutors reported that they had nonparticipating victims in at least 41 percent of their domestic violence cases. Prosecutorial practices have evolved to address this obstacle and more effectively hold abusers accountable for their assaultive behavior. The decision in *Wright* acknowledges the importance of the defendant’s right of confrontation while at the same time recognizing the need for the criminal justice system to respond adequately to domestic violence cases. While granting the primacy of the constitutional right of confrontation, the court is aware that domestic violence cases have unique characteristics that require a nuanced analysis in order to continue society’s progress toward accountability for abusers and safety for victims.

**FOOTNOTES**

* Some of the material in this article is taken from the *Amici Curiae* Brief of the Minnesota Coalition for Battered Women and the Battered Women’s Justice Project co-written with Carolyn Ham and filed in the case of State v. Wright in the Minnesota Supreme Court.

1. Wright, supra note 1, citing Crawford, supra note 4.


3. Id. at 66.


5. Wright, supra note 1.


7. Id. at 750.

8. Id.

9. If defendants intimidate victims into not testifying and the state proves the wrongful conduct, the intent to procure the witness’s unavailability and that the wrongful conduct actually did result in the witness’s unavailability, defendants risk a court ruling that their intimidation amounts to a forfeiture by wrongdoing. Forfeiture by wrongdoing is the ability of the court to admit evidence after the state has shown that the defendant forfeited his right to confront a witness by securing the witness’s unavailability. See Wright, supra note 1.

10. Naomi R. Cahn & Lisa G. Lerman, *Prosecuting Woman Abuse, in Woman Battering: Policy Responses 102* (1991) In the Wright case, a victim advocate told the trial court that R.R. did not appear at trial because she was concerned for her safety and the safety of her sister. She told the victim advocate that Wright had been telephoning her from jail and told her that “if she doesn’t do what he wants someone will come over to her house and do something to her.” See Wright, supra note 1.

11. Wright, supra note 1.

12. See id.


AT THE LAW SCHOOL Through the amazing work of our faculty and staff, and our diverse and academically astute student body, the Law School is advancing the field of law. We are committed to upholding our tradition of excellence through progressive instruction and influential scholarship. During the year, we encourage discussion and investigation into legal principles and the context in which they develop. We hope you will take the time to attend some of the upcoming Law School events scheduled for this year. Some of the activities and events that have already occurred include Commencement 2005, the Minnesota Law Review Banquet, and the State Tax Symposium. This section includes an in-depth piece on the University of Minnesota law journals, new directions for the Career and Professional Development Center, the announcement of a generous gift from Robins, Kaplan, Miller & Ciresi, a brief synopsis of Constitution Day, and details about the Law Library’s recent award.
U NIVERSITY OF MINNESOTA alumnus Walter F. Mondale, Class of 1956, was the keynote speaker at the Minnesota Law Review’s 2005 banquet, held at the Hyatt Regency in downtown Minneapolis. In addition to serving as an annual celebration for the successful publication of a volume, this year’s banquet provided a forum for the first annual Minnesota Law Review Distinguished Alumni Awards, which were sponsored by Gray, Plant, Mooty, Mooty & Bennett. Awards were presented to the Honorable William C. Canby, Jr. (Class of 1956) of the U.S. Court of Appeals for the 9th Circuit; Stanley Efron (Class of 1956) of the U.S. Court of Appeals for the 9th Circuit; Stanley Efron (Class of 1953) of Henson & Efron; Professor Joyce A. Hughes (Class of 1965) of Northwestern University School of Law; Richard G. Lareau (Class of 1952) of Oppenheimer, Wolff & Donnelly; and the Honorable Walter F. Mondale of Dorsey & Whitney. The awards were presented before 225 Law Review board and staff members, faculty, administration, alumni, attorneys, and friends. Distinguished Alumni Awards will continue to be a tradition of the annual banquet. Nominations for next year’s banquet, to be held on April 6, 2006, can be made via the Law Review’s website: http://www.law.umn.edu/lawreview/index.html.

The banquet also celebrated the 50th anniversary of Volume 39. Volume 39 proudly claims keynote speaker Walter F. Mondale as its own. Mondale spoke eloquently about his experience at the Law School, and the role of its graduates in advancing civil rights, liberties, and political participation. Ten members of Volume 39’s staff and editorial board were present to reunite and commemorate the proud history of the Minnesota Law Review.

Finally, the Volumes 35 and 36 Endowed Writing Awards were presented by Richard Lareau to Andrew Davis, Matthew Krueger, David Leishman, and Shaw Scott for their outstanding article contributions to the 89th Volume of the Minnesota Law Review. The Leonard, Street & Deinard endowed writing awards were presented by Volume 88 Editor-in-Chief Alyn Bedford to Angela Behrens, Daniel Moore, and Laura Young for their exceptional published student scholarship.


By Nico Kieves (Class of 2006), along with help from Matt Krueger (Class of 2006), Ryan Mitke (Class of 2005), and Ryan Stai (Class of 2005).

Robins Kaplan Miller & Ciresi endows two new distinguished research fellowships

TWIN CITIES-BASED ROBINS, KAPLAN, Miller & Ciresi law firm is contributing $1,000,000 to create and endow two Solly Robins Distinguished Research Fellowships at the University of Minnesota Law School, the first fellowships of their kind for the Law School.

The gift is made to honor Solly Robins, a founder of Robins, Kaplan, Miller & Ciresi. Solly Robins was recognized nationally as one of America’s finest trial lawyers, who tried precedent-setting cases in the areas of negligence, products liability, and medical malpractice. He was the recipient of the Minnesota Trial Lawyers Association’s Lifetime Achievement Award. He earned his B.A. in 1934 from the University of Minnesota, and graduated in 1936 from the Law School. Solly Robins was born in 1913, of Latvian and Russian immigrant parents, and died in 1999.

Creation of the Solly Robins Distinguished Research Fellowships represents a significant milestone that will invigorate and set an exciting new standard for scholarly achievement by recognizing exceptional research and scholarship occurring after tenure has been attained. No limitation is imposed upon subject matter, thus enabling selection of faculty members who are in the forefront of developing areas in law. The Solly Robins Distinguished Research Fellowships will be awarded for either a two- or three-year period at the discretion of the dean of the Law School.

“These fellowships are a tribute to the founding partner of the law firm and one of the finest trial lawyers in the nation’s history. Solly fully understood and embraced the principle that the purpose of law is to serve all Americans regardless of position or power. It is an honor for the firm to recognize our founder and one of the great lawyers to come out of the University of Minnesota Law School,” said Michael V. Ciresi, Class of 1971.

Robins, Kaplan, Miller & Ciresi supports the Law School in numerous ways, including partner Elliot Kaplan’s chairmanship of the recently concluded capital campaign. Past major gifts from the firm include an endowed professorship, and a $1.5 million gift designated for a building addition, public interest programming and legal clinics.
New Directions for the Law School’s Career & Professional Development

THIS FALL INTRODUCED SOME important changes to the Law School’s career development services. As of August, the official name of the office, which provides guidance, direction and advice to our students and alumni in the area of career development was changed from the Career Services Office to the Career and Professional Development Center (CPDC). In addition to more accurately reflecting the wide range of services provided by the hardworking CPDC staff, the name change formally acknowledges the Center’s role as a resource for professional development training and advice for the school and legal community at large.

Along with the name change have come some important changes in staffing. Susan Gainen and Steve Marchese are now Co-Directors of the CPDC, a change that acknowledges the team effort each of these directors makes to the goals of the office. Marchese and Gainen have planned many programs to assist students and alumni in their career searches, and will continue to provide direct services, as well. Both Gainen and Marchese continue to increase the list of employers and contacts available to our students, both inside and outside of Minnesota. In addition, Dana Bartocci, who is Special Assistant to Dean Johnson and has served as part-time Career Advisor since last December, will continue to be an important part of the office, offering her expertise, guidance, and energy to students and employers. Finally, on August 29, 2005, the Center welcomed Vic Massaglia as a full-time Career Advisor. Massaglia was formerly Associate Director for Learning and Development at the Center for Business Excellence at the University of St. Thomas and a Career Coach at the College of Business at St. Thomas. He has an M.A. in human resource development from the University of St. Thomas and brings more than 20 years of human resources, career counseling and professional development experience to the CPDC. Massaglia will focus primarily on working with students, as well as developing CPDC programming. His arrival is an exciting development which, in light of his background, understanding of career development, energy and good nature, should add greatly to the services offered by the CPDC.

Starting this spring, the CPDC will formally introduce new programming designed to assist students in making the transition to their new roles in the legal profession. Alumni will play a major role in these programs. Please contact Steve Marchese or Susan Gainen at 612-625-1866 if you have questions or would like to assist.

RACE FOR JUSTICE

April 17, 2005, was the perfect spring day for the Law School’s Third Annual 5K Race for Justice. Nearly 500 participants helped raise more than $10,500 to support public interest law at the Law School. The proceeds will help University of Minnesota graduates in low-paid public interest jobs make ends meet through the Loan Repayment Assistance Program (LRAP) of Minnesota.

Many thanks to our generous sponsors, donors, volunteers, and race participants from the University of Minnesota Law School community and beyond.

We hope you’ll join the annual tradition on Sunday, April 9, 2006, for our Fourth Annual Race for Justice. Teams are already forming, so talk to your friends, co-workers, and classmates now!
### Wednesday, November 2, 2005

**Professor Michael Gazzaniga, PhD**  
(Dartmouth College) presented “The Ethical Brain.” Professor Gazzaniga is the David T. McLaughlin Distinguished University Professor and Director of the Center for Cognitive Neuroscience at Dartmouth College. His lecture explained that neuroscience can either help or hinder how we should think about everyday ethical issues that range from when we should confer moral status on embryos to holding people responsible for their actions.  

The goal of his lecture was for participants to:

- Understand the neuroscientific findings that underlie moral and ethical behavior.  
- Explain how neuroscience contributes to our understanding of everyday ethical issues.

### Wednesday, December 7, 2005

**Professor Owen Jones, JD**  
(Vanderbilt University) will present “The Implications of Behavioral Biology for Law: Evolutionary Perspectives.” Professor Jones holds a dual appointment in Law and Biological Sciences at Vanderbilt University. He specializes in issues at the intersection of law and human behavioral biology. In this lecture, Professor Jones will argue that many long-held understandings about where behavior comes from are rapidly obsolescing as a consequence of developments in the various fields constituting behavioral biology. By helping to refine understandings of behavior’s causes, behavioral biology can help to improve law’s effectiveness and efficiency.

Following this lecture, participants should be able to:

- Discuss issues in neuroethics that arise from neurologic findings and social pressures in children and adolescents.  
- Understand the scientific findings that underlie neuroethical issues in children and adolescents.

### Wednesday, March 1, 2006

**Professor Martha Farah, PhD**  
(University of Pennsylvania) will present “Developmental Neuroethics: Neuroscience, Childhood and Society.” Professor Farah is Professor of Psychology and Director of the Center for Cognitive Neuroscience at the University of Pennsylvania. Her work spans many topics within cognitive neuroscience, including visual perception, attention, mental imagery, semantic memory, reading, prefrontal function, and most recently, neuroethics. She will argue that advances in the study of brain development, along with the growing demands that society places on children and adolescents, present us with a host of neuroethical issues.

Following this lecture, participants should be able to:

- Understand findings in behavioral biology that are relevant to law.  
- Describe how law can be made more effective through a biological understanding of human behavior.

All lectures are free and open to the public. Registration is required if you are attending for CLE, CME, or CNE. Parking is available in the East River Road Garage on Delaware Street behind Coffman Union. For more information call 612-625-0055, e-mail lawvalue@umn.edu, or visit <www.lifesci.consortium.umn.edu>. Maps may be found at <onestop.umn.edu/Maps/index.html>
LUNCH SERIES ON THE SOCIETAL IMPLICATIONS OF THE LIFE SCIENCES

The Consortium on Law and Values in Health, Environment & the Life Sciences (<www.lifesci.consortium.umn.edu>) and the Joint Degree Program in Law, Health & the Life Sciences (<www.jointdegree.umn.edu>) are pleased to announce their 2005–06 Lunch Series, focusing on “Energy and the Environment: Science, Ethics & Policy.” CLE credit will be requested for each lecture.

Thursday, November 10, 2005
12:15–1:30pm, Saint Paul Student Center, Theater

DONALD A. BROWN, Esq. (Pennsylvania Consortium for Interdisciplinary Environmental Policy) presented “An Ethical Framework for Analyzing Global Warming.” Mr. Brown is currently Director of the Pennsylvania Consortium for Interdisciplinary Environmental Policy and Senior Counsel for Sustainable Development for the Pennsylvania Department of Environmental Protection. His lecture identified the major ethical questions raised by climate change policy making and explained why express ethical reflection on climate change policy options urgently needs to be integrated into the scientific and economic matters that are currently framing climate change debate.

The goal of his lecture was for participants to:

• Discuss ethical questions raised by climate change policy.
• Explain how these questions have been addressed in existing policy and literature.
• Propose and analyze legal and policy responses to new climate change findings.

Tuesday, February 7, 2006
12:15–1:30pm, Coffman Memorial Union, Mississippi Room

PROFESSOR RICHARD B. HOWARTH, PhD (Dartmouth College) will present “Climate Change and Intergenerational Fairness—Reconciling Ethics and Economics.” Professor Howarth is Professor of Environmental Studies at Dartmouth College. He is an environmental economist who studies issues of energy use, climate change, and ecological conservation. His lecture will explore and seek to resolve the tensions that exist between moral theories emphasizing the importance of stabilizing the Earth’s climate to protect the rights or interests of future generations and economic models that imply that comparatively little weight is attached to the benefits of climate change mitigation to future generations.

Following this lecture, participants should be able to:

• Understand the contrasting points of view on how best to mitigate climate change.
• Propose environmentally friendly solutions for industry energy use.

Tuesday, April 11, 2006
12:15–1:30pm, Coffman Memorial Union, Mississippi Room

RICHARD L. SANDOR, PhD, (Chicago Climate Exchange) will present “The Convergence of Environmental and Capital Markets.” Dr. Sandor is Chairman and Chief Executive Officer of Chicago Climate Exchange, Inc., a self-regulatory exchange that administers a voluntary greenhouse gas reduction and trading program for North America. Most recently, he has designed revolutionary market mechanisms for market-based environmental protection programs. In his lecture, he will discuss the development of market-based mechanisms to address global climate changes, with special emphasis on emissions trading.

Following this lecture, participants should be able to:

• Understand current industry perspectives on the intersection of energy and the environment.
• Propose environmentally friendly solutions for industry energy use.

All lectures are free and open to the public. To reserve a lunch, please register no later than one week before each event by calling 612-625-0055 or e-mailing lawvalue@umn.edu. Registration is required if you are attending for CLE. St. Paul Student Center parking is available in the Gortner Ramp on Gortner Avenue, across Buford Avenue from the Student Center. Coffman Union parking is available in the East River Road Garage on Delaware Street behind the Union. Maps may be found at <onestop.umn.edu/Maps/index.html>. For more information call 612-625-0055, e-mail lawvalue@umn.edu, or visit <www.lifesci.consortium.umn.edu>.
The Toughest Job You’ll Ever Do For Free

Growth, change, and constant excellence are the order of the day at the Law School’s journals

BY LESLIE A. WATSON

Law Review, Depending

on whom you ask, that phrase prompts very different responses. For the general public, it may provoke a blank stare. For a second-year staff member who just spent 42 of the last 48 hours cite-checking in the dunter regions of the library, it may elicit a shuddering sigh. Meanwhile, for lawyers who never worked on a journal, the phrase conjures up classmates who devoted themselves to law review in their spare time, as if law school weren’t already hard enough.

For the Law School, the pages of its law journals reflect the entire institution’s prestige and academic excellence. The Law School is one of the few schools in the country to publish both student and faculty-edited law journals, all of which have achieved notable prominence. Its flagship journal, the Minnesota Law Review, approaches its 90th year as one of the leading law journals in the country. In recent decades, the Law School has broadened the avenues for legal scholarship by introducing specialty law journals that feature wide-ranging perspectives and cutting-edge topics. This new generation of journals welcomes diverse voices to the academic conversation and reflects the ever-increasing complexity of the profession.

Thanks to these specialty journals, more students now have a chance to gain the skills that a traditional law review experience offers. “Yeah, like abbreviating case names according to the Bluebook,” a cynic may mutter. But this common misperception of law review as an extended exercise in editing misses the point by a country mile—including the value of the painstaking editing itself.

Law journals provide students with valuable practical training and pave the way for lifelong scholarship. Besides cite-checking the work of professional scholars, second-year staff members write their own articles, which undergo exhaustive review by the journal’s note and comment editors. In essence, staff members run the very editorial gauntlet that they will someday oversee as third-year student editors. Given the intensity of the writing and editing requirements, students who serve on journals simply can’t avoid becoming better writers and critical thinkers.

Sarah L. Brew, Class of 1990, was a staff member and primary editor of Law and Inequality. Now a partner with Greene Espel in Minneapolis, she concentrates on medical products liability. “My journal experience was very positive,” she recalls. “It emphasized for me that there is a role for scholarly writing throughout my career, which I have found both beneficial and a nice change of pace from my regular practice.” Since graduating, Brew has continued to publish in scholarly and practice-oriented publications.

According to Jim Poradek, Class of 1998, working on a journal can be an invaluable dry run at life in a typical law firm, with its frequent demand that lawyers work under pressure to meet difficult deadlines. Poradek was the editor-in-chief of the Minnesota Law Review during law school and now practices intellectual property litigation with Faegre & Benson. “Law review teaches you that working as a team, under those conditions, can be really fulfilling,” he says, “which is something that the best and most successful law firms absolutely know and understand.”
Both Brew and Poradek agree that law review articles can be an indispensable practical tool in their own right, especially in emerging areas of the law. “Many practitioners use law review materials all the time, especially when they are dealing with a practical, yet novel, issue in litigation.” Poradek says, “Surprisingly, they frequently look to student articles, because students tend to write about the more quotidian issues that are nonetheless novel.”

Finally, student-run law journals create a critical forum for academic debate, while providing the intense labor required to shepherd scholarly works into coherent, publishable form. According to Associate Dean Jim Chen, who is involved in some capacity with most of the Law School’s journals, students are uniquely equipped for the job of editing legal scholars. “Many legal authorities, and in particular legislators, do not have law degrees, but they are the givers and makers of law,” he points out. “What we need to do in our discipline, in a way that many other disciplines do not, is to communicate our message to the educated but perhaps non-expert public at large. What better group to do that than law students?” Chen also admires the tenacity of student editors. “Student editors are relentless in a way that professional editors rarely are,” he says, “both in tracking down sources and making sure that a source really says what you said it does.”

The Law School is fortunate to be able to provide these many benefits through its superior collection of law journals. While each of the journals has a unique history and a distinct scholarly flavor, they share a core mission of carving out a coherent field of academic debate at the evolving intersection of law and society. In so doing, they contribute immeasurably to the intellectual life of the school and the greater legal community.

**MINNESOTA LAW REVIEW**

Founded in 1917, the Minnesota Law Review enjoys a prominent position among the nation’s law reviews. In the world of legal periodicals, one measure of prestige is a publication’s frequency of citation. On Washington & Lee University’s 2004 list of most-cited legal periodicals, MLR placed 17th in the country.

As might be expected from an institution with so many years of tradition, MLR runs a tight ship, with time-tested systems to manage the prodigious task of publishing its six issues every year. But as this year’s editor-in-chief, Matt Krueger, points out, MLR has had to adapt to the demands of evolving technology, especially in its efforts to deal with the escalating volume of submissions. With the help of the Internet, submitting an article has become a simple, cost-free procedure, and prospective authors now broadcast their articles to multiple law reviews at once. By September 2005, MLR had received over 1,700 articles for consideration for the upcoming year; of those, it will publish around 20.

Prompted by the demands of reviewing this mountain of material, MLR’s editorial board successfully lobbied the faculty to increase the publication’s total staff and board to a record 73 members.

Krueger also sees the Internet forcing subtler changes in the field of legal scholarship. “Many top professors are pouring their hearts out on blogs every couple of days,” he points out. The result is a fresh and ongoing legal dialogue, in marked contrast to the timetable for a typical law review article. “The articles we receive in spring of ‘05 may not hit the newsstands until the spring of ‘06, and were probably written in the fall of ‘04,” he says. “That counsels that the nature of the law review article should be less time sensitive.”

But Krueger is quick to refute any suggestion that the law review is becoming less relevant in this age of broadband and blogs. If anything, the opposite is true. “In general, we are so saturated with information these days, much of it mediocre, that there’s a real need for credible voices,” says Krueger. “People may go to legal blogs for the quick fix on the latest case, but the profession also needs resources that are more deliberative and more rigorous analytically. The process that we go through, checking every citation against hard copy sources, lends incredible integrity to the work. In this age of fractionalized and overwhelming information sources, people are going to continue to want to know what the Minnesota Law Review says.”

Krueger is particularly enthusiastic about the symposium MLR hosted, sponsored by Lindquist & Vennum, on October 21, 2005, entitled “The Future of the Supreme Court: Institutional Reform and Beyond.” With a panel of high-powered scholars, the symposium achieved a broad-reaching examination of the Court, from its cert. petition review procedures to the impact of its increasingly long-lived justices. MLR will publish materials related to the symposium in issue 5, due out in May 2006.

**MINNESOTA JOURNAL OF LAW, SCIENCE & TECHNOLOGY**

The Minnesota Journal of Law, Science & Technology (MJLST) is the school’s youngest scholarly journal, having debuted in December 2004. MJLST continues and expands upon the work of Minnesota Intellectual Property Review, an online, student-edited journal founded in 2000. Publishing two issues per year, MJLST is a peer-reviewed, multidisciplinary journal that focuses on policy and ethical issues at the intersection of law, science, and technology. Unlike any of the Law School’s other student-edited journals or its predecessor, MJLST has a dual masthead – one of students, the other of faculty. The faculty board reflects MJLST’s multidisciplinary nature, and it includes representatives from the Law School, the School of Medicine, the School of
Public Health, the College of Biological Sciences, and the Humphrey Institute. While maintaining its editorial independence, MJLST provides a publication venue for the Consortium of Law and Values in Health, Environment & the Life Sciences. The Consortium is a collective of University programs that supports work on the legal, ethical, and policy implications of problems in health, the environment, and the life sciences.

“MJLST has a much broader scope than the Intellectual Property Review did, and it includes media communications, intellectual property, biotech, and science,” says MJLST student editor-in-chief, Sarah Bunce. With recent articles on subjects as diverse as voice-over Internet protocol and chloroplast engineering in plants, the journal takes a broad, holistic view of its mission, according to Jin Chen, faculty editor-in-chief. Bunce says that she is excited about leading MJLST during this period of evolution, as it seeks to reach a greater audience and to delve into the limitless number of topics under the umbrella of law, science, and technology. She believes that the expanded focus will result in a much more dynamic publication.

The journal also hopes to reach a greater audience within the legal community through features like its Recent Developments section. Often written by practicing lawyers, Recent Developments articles provide a five to ten-page highlight of a significant case or trend in each of the journal’s primary focus areas. “One goal of Recent Developments is to make the journal more accessible to the practicing lawyer, both for readers and for those who aspire to contribute,” Bunce explains. She says that while MJLST remains a legal journal at heart, it will also someday include regular, substantive contributions from non-lawyers, consistent with its multidisciplinary nature.

JOURNAL OF INTERNATIONAL LAW

This year, the Journal of Global Trade is being remade as the Journal of International Law (JIL). Under the guidance of Professor Robert E. Hudec, the Journal of Global Trade concentrated on the study of economic policy and international trade law. Building on that foundation, the Journal of International Law will broaden its focus to include all things international, including comparative law.

As co-editor-in-chief Kelly Laudon observes, JIL’s expansion recognizes the rapidly blurring lines between global trade and other areas of international law, such as human rights and intellectual property. “These different fields are becoming increasingly connected as the interaction among countries and people increases globally, and as we trade more and more on the global market,” Laudon explains. “Because of these developments, we realized that an expanded focus on international law would be appropriate, and even necessary.”

In this year’s volume, JIL will feature Law School faculty who specialize in international law, showcasing the Law School’s breadth of legal research and scholarship in the field. Laudon says that drawing on faculty scholars during this first year of transition will give the journal some breathing room as it plots its future direction. In subsequent issues, the journal will publish articles by other leading scholars doing innovative work in multiple areas of international law.

The journal has 25 staff members and 18 editors, and publishes six student articles per year. Laudon thinks that the journal’s expanded focus will prove especially attractive to students as they choose topics for their own articles. “The University of Minnesota attracts many international students and people with international interests,” she says, “and the JIL will provide a much broader forum for people to explore those interests and to research the merits of things that interest them on a more scholarly level.”

From a personal perspective, Laudon appreciates the flexibility and opportunity for change that a smaller, newer journal affords. “With a more traditional publication that’s steeped in history, you may not always have the option of trying things that are new and innovative,” she points out. She also values being part of JIL’s niche community. “In terms of where people have lived, their experiences abroad, and the languages they speak,” says Laudon, “the journal has a very diverse and interesting group of students.”

LAW AND INEQUALITY: A JOURNAL OF THEORY AND PRACTICE

Founded in 1981, the school’s longest-running specialty journal is Law and Inequality: A Journal of Theory and Practice. Now approaching its 25th anniversary, the journal remains committed to its mission of exploring the nexus between law and inequality, and the ways in which law can both perpetuate and remedy systemic exploitation and discrimination. Originally published as a feminist journal, Law and Inequality’s focus has gradually expanded to include inequality in many forms, from environmental justice to economic disadvantage to criminal law. According to editor-in-chief Jenny Gassman-Pines, the journal consciously pushes the boundaries of both the legal profession and legal academia in terms of the questions it asks and the areas of law it examines. As its name implies, one of Law and Inequality’s goals is to forge a meaningful connection between theory and practice, and so it routinely draws from a wide range of authors, including scholars, students, practitioners, and activists.

Law and Inequality’s commitment to diversity resonates with prospective students, and its existence can influence their decision to attend the Law School. “There are students who came to this school because of this journal, and because they knew that it was going to be a place that valued a diversity of background and diversity of ideas,” says Gassman-Pines. “If [the Law School] can attract students from different backgrounds by virtue of the journal, then that only adds to the profession.”

Unlike most law journals, Law and Inequality selects its 25 staff members without regard to grades. Instead, members are chosen based on their written petition, a personal interview, and a written statement about their commitment to eliminating inequality. Gassman-Pines says that this process is important because of Law and Inequality’s specific ideological focus. “We want people on the journal who really value
the work that we’re doing, as opposed to students who just generally want journal experience.”

During the upcoming year, Gassman-Pines is looking forward to working with Professor Chen, who recently became the journal’s new faculty advisor. “Professor Chen is very tapped into the other journals across the country, and he has great ideas about where the journals should be going,” she says. During her tenure as editor-in-chief, Gassman-Pines plans to work on increasing the journal’s readership, and on developing future events and symposia to enhance its visibility.

No article about law school journals would be complete without a footnote or two of its own. Perhaps one of the most amazing, yet little-recognized, qualities of the Law School’s journals is that they consistently produce such a wealth of scholarship from such cramped physical quarters. The Minnesota Journal of Law, Science & Technology has the dubious distinction of “worst office space,” occupying a room that is best described as a closet. Kelly Laudon of the Journal of International Law thinks that the strength of her journal’s tight-knit community may actually be impaired by the limitations of its space. “Our office is also very small, and it simply cannot physically accommodate the journal meeting and interacting as a group,” she says. On cite-checking weekends, the journal’s 25 staff members must work long hours in a room designed for less than half that number. “The smell of Cheetos can get a little overpowering,” Laudon says wryly.

Even the Minnesota Law Review, which enjoys the largest offices of any of the journals, is feeling the pinch. “One of my headaches right now is trying to find enough office or carrel space for our members, especially since we have increased our staff,” says Matt Krueger. “The Law School tries to reserve enough carrel space for 1Ls, but the result is that many people on law review, who are sometimes the busiest people in law school, aren’t guaranteed any personal space in the building.”

Leslie A. Watson is a freelance writer and a 1999 graduate of the Law School. She can be found online at www.thebusypen.com.

Constitution Day

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

The University of Minnesota Law School, on behalf of the entire University of Minnesota system, presented a program on Friday, September 16, commemorating the United States Constitution. The United States Constitution is not only the basic law of the United States, it has also inspired politicians, philosophers, and ordinary people around the world. Scholars have devoted intense attention to the Constitution, its interpretation by the Supreme Court of the United States, and its impact on the people of the United States. Although the Constitution and its interpretation are most intensely studied at law schools, faculty members throughout the University of Minnesota system engage in scholarship on all aspects of the Constitution and constitutional law. For its part, the Law School serves as a focus for the University of Minnesota system’s examination of the Constitution and its social understanding among ordinary people throughout the United States.

The centerpiece of Constitution Day 2005 was a two-hour presentation at the Law School by members of the Law School faculty on recent and forthcoming Supreme Court controversies and on the nomination of Judge John Roberts to serve as the next Chief Justice of the United States. The Law School’s presentation was called “In Order to Form a More Perfect Union: Constitution Day 2005.”

Streaming video delivered over the World Wide Web connected the East Bank, the Saint Paul campus, and the coordinate UMN campuses in Crookston, Duluth, Morris, and Rochester with this event.

True to its standing as one of the twenty finest law schools in America, the University of Minnesota Law School has boasted a strong tradition in constitutional law and in scholarship on constitutional issues. In addition to publishing journals related to constitutional law, the Law School has created a peer-reviewed journal on constitutional law. Its constitutional law scholars rank among the nation’s most productive and insightful. The Law School is home to numerous events related to constitutional law, ranging from “In Order To Form a More Perfect Union” to the Minnesota Law Review’s 2005 symposium on institutional reform of the Supreme Court, Professor Jill Hasday’s public law workshop, Professor Kristin Hickman’s conference on state tax incentives for economic development, and “With All Deliberate Speed: Brown II and Desegregation’s Children,” the Law School’s conference commemorating the 50th anniversary of the second Supreme Court decision styled Brown v. Board of Education.

The Law School has also created a Web site offering materials and interactive lessons that focus on the Constitution and constitutional law. To access these materials, go to www.law.umn.edu/constitutionallaw/conday2005.html.
University of Minnesota Law Library receives prestigious award

The Staff of the University of Minnesota Law Library

Row 1: Bonnie Johnson, Katherine Hedin, Suzanne Thorpe, Joan Howland, Connie Lenz, Michael Hannon, Mila Rush

Row 2: Cathy Heltemes, Mary Rumsey, Cu Nguyen, Tae Macke, Gene Danilenko, Timothy Fay, Vic Garces, Elvira Embser-Herbert

Row 3: Brian Lake, Claire Stuckey, Craig Olson, George Jackson, Edward Gale

several of the University of Minnesota’s constitutional law experts, including Professors Dale Carpenter, Guy-Uriel Charles, Miranda McGowan, and David McGowan. The papers of the Faegre & Benson Symposium were published in the *Minnesota Law Review* (May 2005).

The Papers of Clarence Darrow, acquired by the University of Minnesota Law Library as its millionth volume, were formally presented on October 22 by Associate Dean Joan Howland and University of Minnesota Regent Frank Berman. The papers are the world’s premier collection of this eminent jurist’s public and personal records. The heart of the archive consists of more than 300 letters written by Darrow to his family and friends. The richness and diversity of Darrow’s life are reflected in the depth and breadth of this collection, which also includes letters written to Darrow by Woodrow Wilson, Helen Keller, Sinclair Lewis, and Franklin D. Roosevelt.

The kick-off event for “March to a Million” was a “Love the Library” Ice Cream Social for students and faculty on Valentine’s Day in 2004. This was followed by “Bat a Million for Minnesota”—a festive celebration of the Law Library’s upcoming millionth volume and the opening of the Twins’ baseball season. Events such as a weekly exhibit of students’ donations for the millionth volume—titles such as *Aliens Ate My Homework* and *I Wonder Why My Body Needs Sleep*—were a vital part of the “March to a Million” campaign. The centerpiece of the campaign—the life and career of Clarence Darrow—was highlighted in many ways, including an extensive exhibit on Darrow and a very popular “Clarence Darrow Quote of the Day” featured in the Fredrikson & Byron Lobby of the Law Library.

The “March to a Million” celebration provided the opportunity to acknowledge that the University of Minnesota Law Library’s collection stands among the strongest collections in the country. In addition, the campaign highlighted the many services the Library provides to its constituencies, including faculty, students, attorneys, and the general public. Most importantly, “March to a Million” was planned to provide the Library several opportunities to acknowledge the exceptional support of the Law School administration, faculty, students, and alumni.

In Memoriam Tribute  

Fatima Velagic

Law School accounts specialist Fatima Velagic passed away this summer after being diagnosed with liver cancer in May. Velagic, who was an attorney in Bosnia, started working at the Law School’s finance office six years ago. Velagic’s friends and coworkers started a fund to raise money to help support her and her two sons—Vernes Velagic, a sophomore at the University, and Veldan Velagic, a senior in high school—raising over $10,000 for the Fatima Velagic Trust at a July 20 benefit that included an auction with items donated by faculty members, staff members and students. She is remembered and missed by everyone at the Law School.
COMMENCEMENT 2005

J.D. Class of 2005

LEFT: The Honorable Norm Coleman, United States Senator for Minnesota, delivered the 2005 Commencement Address. Pictured left to right: Regent Frank Berman, Provost and Dean Emeritus E. Thomas Sullivan, Senator Norm Coleman, Associate Dean Meredith McQuaid, Associate Dean Joan Howland.

LEFT: Debra Wallace with her son, Nicholas W. Wallace; CENTER: Joost van Hout, Abdi Abdulahi, and Nadege Reyhn; RIGHT: Professor Jean Gerval (Stanley V. Kinyon Clinic Teaching Award recipient), Dean Alex M. Johnson, Jr. and Professor Donald Marshall (Stanley V. Kinyon Teacher of the Year recipient)
Aaron Knott delivered the 2005 J.D. Class Graduation Address.

LEFT TO RIGHT: Ryan W. Scott, recipient of the Most Promising Lawyer Award and the William B. Lockhart Award for Excellence in Scholarship, Leadership, and Service; Aaron Knott, J.D. Graduation Address; Matthew C. Helland, Soloist; Nicholas L. Wallace, Law Council Representative presenting the Student Awards; Sara K. Sommarstrom, recipient of the Excellence in Public Service Award; and Muzikayise Motsa, LL.M. Graduation Address.

CENTER: Sasithron Sarutiangkul, Man Zhang, Aimei Xi, Deger Boden, and Silvia Ontaneda; RIGHT: Members of the J.D. Class of 2005.
On October 7, 2005, the University of Minnesota Law School joined the Tax Subcommittee and Minneapolis Lawyers Chapter of the Federalist Society for Law and Public Policy Studies in co-hosting a tax policy conference on state tax incentives for economic development. Organized by Professor Kristin Hickman with assistance from Associate Dean Jim Chen and Professor Myron Orfield, the conference highlighted issues raised by the case of Cuno v. Daimler-Chrysler Inc., in which the Sixth Circuit invalidated the state’s granting of an investment tax credit as violating the “dormant commerce clause” of the United States Constitution but upheld a local property tax exemption against a similar challenge. Most states, including Minnesota, utilize tax incentives, credits, or exemptions to attract businesses and jobs; and litigation alleging claims similar to those raised in the Cuno case is pending in Minnesota and elsewhere. Meanwhile, Congress is considering the Economic Development Act of 2005, which would expressly allow states to continue granting development-oriented tax incentives to businesses. Shortly before the conference, the United States Supreme Court granted certiorari in the Cuno case. A distinguished group of leading scholars from across the United States—Peter Enrich, Walter Hellerstein, Edward Zelinsky, Brannon Denning, Kirk Stark, Peter Fisher, and James Rogers—joined local experts Arthur Rolnick of the Minneapolis Federal Reserve Bank and Joel Michael of the Minnesota House Research Department, along with Kevin Thompson of the Council On State Taxation, to discuss Cuno and its implications, including the proposed federal legislation. The conference utilized the Law School’s new webcasting capacity to broadcast the event live to viewers all over the country. Essays from the tax policy conference will be published next year in the Georgetown Journal of Law & Public Policy.
Thank you to all our 2005 Race for Justice sponsors
STUDENT PERSPECTIVE  Our law students comprise a wide range of cultural, professional and educational backgrounds and are distinguished by their talent, creativity and commitment to humanity. Their varied backgrounds and interests encourage the development of ideas and provide a rich foundation for the study of law at the University of Minnesota. You will learn more about this interesting group of people in the following pages through profiles of members of the Class of 2006, a brief summary of the Human Rights Center’s Fellowship Programs, a spotlight on the Leonard Street and Deinard Foundation Scholarship, a brief summary of The Federalist Society student organization; and student scholarship pieces.
In depth look at three members of the Class of 2006

BY LESLIE A. WATSON

MATT KRUEGER

LIKE MANY THIRD-YEAR LAW students, Matt Krueger worries about finding a job after he finishes school. With an eye-catching resume, including a current stint as editor-in-chief of the Minnesota Law Review, his anxiety seems a bit unfounded at first glance.

But Krueger’s anxiety has nothing to do with his employability, and he is uninterested in exploiting his degree for maximum prestige or financial gain. Instead, Krueger is concerned about building a career that somehow benefits others, without impairing his deep commitment to his community, family, and faith. “My wife would say that I agonize over it a lot, and it’s a constant dialogue,” he says. “I know that at end of the day, I want to do work that I find meaningful.” For this thoughtful, contemplative man, that sensibility seems less a youthfully idealistic cliché than a solemn promise.

In high school, Krueger experienced a dawning realization of the stark contrast between his suburban Milwaukee upbringing and the lives of disadvantaged people. After his first year of college, he volunteered for a program that serves families in need in the Chicago area. “The differences that the kids faced, and the home lives they had, really shocked me,” he recalls, “and it raised within me a strong sense of stewardship.” Shortly after that, he abandoned a business major and switched to political science, with a focus on the interplay between law and public policy.

After graduation, Krueger worked for Call to Renewal, a national, faith-based anti-poverty organization, and then as a legislative aide for Wisconsin Senator Alberta Darling. He arrived at law school torn between wanting to serve people in need directly, and working as their advocate in some policy-related capacity. Not surprisingly, Krueger was drawn to the intricacies of the law, and he now envisions a career interacting with public law. He is also intrigued by faith-based initiatives and the constitutional and policy challenges they present. “As someone who has a passion for seeing the church minister to these communities, and yet has some sophistication working with government entities, I could maybe become a bridge between those two camps,” says Krueger. “I’m not sure what it would look like yet, but that would be a very exciting role to play.”

Krueger is acutely aware of the pressure that law school can exert on his brand of idealism, and he knows that a challenging career can strain close connections to family and community. “It’s a battle that I’m continuing to fight,” he admits. So far, Krueger is pleased with his career-related choices. He had a rewarding summer clerkship at Covington & Burling, and views the chance to serve as editor-in-chief as a great opportunity. But he worries about the cumulative impact of the small decisions he must make to accommodate his demanding schedule.

Still, Krueger remains hopeful that he will forge a fulfilling career that still allows him to inhabit his own life. “If nothing else, the skills that I’ve gained in everything that I’ve been involved in so far throughout law school have been phenomenal,” he says. As for this next busy year, his goal is simple: “To finish the year with my marriage intact,” he laughs.

DIVYA RAMAN

EVER SINCE CANADIAN DIVYA Raman was 17, the question has not been whether she should practice law, but when she could start.

Her enthusiasm surprised her family, who expected to see her in a white lab coat, rather than something blue and double-breasted. “My dad is a computer engineer, and my sister went to medical school and now does research in public health, and so it was a given that I would do something computer or science-related,” she says. But in the 12th grade, in the midst of physics and calculus classes, Raman took a vocational aptitude test that confirmed what she had long suspected: science was not her calling. Instead, the test suggested a strong aptitude for law, with business a close second. Then and there, Raman began planning a career in corporate law.

Since that revelatory moment, Raman has remained fixed on that goal. She raced through her undergraduate program at the University of Ottawa in just two years, completing a double major in Philosophy and English. (Because the Canadian school system includes a 13th year of high school, an undergraduate degree typically takes three years.) “It wasn’t a time when I was unsure about what I wanted to do,” says Raman mildly.

 Barely pausing for breath, she immediately started law school and has been speeding through her coursework, taking extra classes in the summer. The result? Raman will finish law school a semester early, and will take the bar exam this February. Having accepted
an offer from Briggs & Morgan P.A., she will become a full-fledged, practicing attorney at the advanced age of 22. Somehow, she has also found time to practice her commitment to pro bono work by volunteering for various programs and co-teaching a Street Law class at an alternative school in south Minneapolis.

Given her single-mindedness, it’s no surprise that Raman has experienced few doubts about her decision. “I briefly considered going to cooking school before I started law school, to the Cordon Bleu in Ottawa,” she recalls. She was drawn by the school’s French style of cooking, with its emphasis on method and precision. “But I realized that I didn’t want to work as a chef because it’s too high stress,” says the future lawyer with a laugh.

Raman’s gift for making a plan and seeing it through has served her well, but it can sometimes interfere with simple pleasures. On vacations, she likes to follow a detailed daily schedule, to the occasional disgruntlement of her companions. “And it happens on vacations that I never get to sleep in because I always want to see the sunrise,” she admits. “It’s the one thing that I don’t get to do in my usual life because, although I’m up at that time, I’m not just sitting to watch the sunrise.”

With a busy career beckoning, Raman’s opportunities for sleeping in or watching sunrises may be limited for a while. But for someone who has accomplished so much, so quickly, it’s not hard to believe that if she makes either one a priority, it will happen. All she needs is a plan.

PAYTON WILLIAMS

PAYTON WILLIAMS CAME TO law school already knowing a thing or two about performing under pressure. As a defensive back in the NFL, Williams experienced performance expectations that few other careers ever demand.

He played for the Indianapolis Colts and the Pittsburgh Steelers from 2000 to 2002, and then briefly in Canada, before giving up football for good because of the mounting physical toll. Fortunately, Williams had no shortage of career alternatives, thanks to his history of academic achievement. He attended Fresno State University on a football scholarship, but he was a “student-athlete” in the fullest sense. “I encountered a few raised eyebrows when I had night classes and had to miss a practice, or had a lab that was in afternoon, since you were supposed to keep your afternoons free,” he recalls. “The coaching staff doesn’t mean to react like that, but the bottom line is that their livelihood depends on winning football games, and your not being around does not help them win football games.” Williams transcended that subtle resistance and was named an Academic All-American during his senior year, much to the delight of FSU’s administration.

After retiring from football, he returned to Fresno and took a position with Child Protective Services as a social worker. There he encountered wrenching instances of abuse, neglect, and families gone horribly awry. For him, the work underscored the need to take a neutral, balanced approach when becoming professionally involved in other people’s lives. “The fact is, at that level, as workers, you can go above and beyond the call of duty to bring a family back together; you can go above and beyond the call of duty to keep that family apart,” he says. “The ability to stay neutral and do the right thing within state law was really crucial.”

At his wife’s urging, Williams eventually revisited his aspiration to attend law school. He has been busy since he arrived in Minnesota, serving on Law and Inequality, participating in the Black Law Students Association, and welcoming his second child. He’s quick to chalk up his success at managing these demands to his incredibly supportive wife. “She’s a saint,” he says gratefully.

This year, Williams is serving as the president of BLSA, and he looks forward to working on initiatives to improve channels of access for African-Americans interested in legal careers. He sees many obstacles to achieving diversity goals, from the astronomical cost of a legal education to the limited availability of part-time programs. He also thinks that if law firms are serious about promoting diversity, they should take a cue from their corporate counterparts and develop recruiting programs that target high-achieving high school and college students, and incorporate them into the firm’s culture long before they ever interview for a career position. While he is cautiously optimistic about the future, he thinks it will be another generation before the profession achieves widespread diversity.

As for his personal career prospects, Williams takes a characteristically level-headed view. “Honestly, I haven’t been in the practice of law yet, so I can’t say how I’m going to react,” he says. “But I’d like to think that with my background and the high intensity jobs that I’ve had, I’ll be able to handle it.”

Leslie A. Watson is a freelance writer and a 1999 graduate of the Law School. She can be found online at www.thebusypen.com.
University of Minnesota Human Rights Center Offers Two Fellowship Programs

**UPPER MIDWEST INTERNATIONAL HUMAN RIGHTS FELLOWSHIP PROGRAM**

The Upper Midwest International Human Rights Fellowship Program encourages residents of the Upper Midwest—including students, teachers, lawyers, health professionals, community leaders, and others—to undertake practical experiences/internships in human rights organizations, locally, nationally, and internationally.

The Fellowship Program is designed to promote human rights by providing practical training in the varied aspects of human rights work worldwide. The fellowship placement provides both training for the individual and assistance to the host organization, as well as fosters links between communities in the Upper Midwest and human rights organizations around the world.

Participants return with a stronger commitment to a lifetime of work in human rights and contribute to bringing human rights concerns home to communities in the Upper Midwest.

Over the past 16 years, the Human Rights Center has sponsored 300 interns and fellows to work with human rights organizations in more than 70 countries and awards approximately 25 fellowship grants each year.

Great Lakes Regional Task Force to foster economic recovery for mothers and their children who survived the 1994 genocide. David Johnson (Class of 2006) worked with the United Nations High Commissioner for Refugees Regional Office for the United States and the Caribbean in Washington, D.C. Jennifer Johnson (Class of 2006) worked with Ms. Barbara Frey, Human Rights Program Director at the Human Rights Program of the University of Minnesota Institute for Global Studies; and traveled to Belfast and London to research notions of self-defense in international law, thereby assisting Ms. Frey’s work on a report to the U.N. Sub-Commission on the Promotion and Protection of Human Rights. Mara Michaletz (Class of 2006) spent her summer in Atlanta, Georgia, working with the Voting Rights Project, helping American Indians in North and South Dakota secure a real voice in local, state, and national elections.

George Fordam Wara (Class of 2003) is working with the International Leadership Institute to protect the rights of street children in Kenya.

Not only have these Fellows made a significant contribution to the human rights organizations for which they worked, but their experiences will also better prepare them to address human rights issues in their home communities. The Human Rights Center would like to thank the Otto Bremer Foundation, the Mansfield Foundation, the Laura J. Musser Fund, Samuel D. Heins, Allen and Linda Sacks, Chacké and Stephen Scallen, Bill Tilton, and other individual donors for their generous support of the Upper Midwest Fellowship Program. For further information about previous years’ Fellows, please visit: http://www1.umn.edu/humanrts/center/uppermidwest/index.html

**INTERNATIONAL HUBERT H. HUMPHREY FELLOWSHIP PROGRAM**

The International Hubert H. Humphrey Fellowship Program was initiated in 1978 to honor the late Senator and Vice President Hubert H. Humphrey and his life-long commitment to international cooperation and public service. The program brings accomplished mid-career professionals from designated developing nations and emerging democracies to the United States for a year of professional development and related academic study and cultural exchange. This people-to-people approach to international understanding provides a basis for lasting ties between U.S. citizens and their professional counterparts in other countries and strengthens the global exchange of knowledge and experience that is essential to a sustainable world.
Student Organization Spotlight

The Federalist Society

The Federalist Society Continues to Foster Debate at the Law School

The Federalist Society, a national coalition of conservative and libertarian lawyers, law students, and law professors, seeks to promote intellectual diversity in the legal academy. To this end, the society produces a number of publications, and sponsors lectures and debates around the country on the most important legal issues. The society also provides a network through which conservatives and libertarians can share ideas and opportunities in the legal profession.

The local student chapter at the Law School had a successful last year, hosting provocative lectures and debates. Attendance at Federalist Society events ranged from 20–275 persons, and often included members of the Law School faculty.

Phyllis Schlafly, who spoke last year to a packed audience in room 50, kicked off our fall events in a lecture entitled: “The Supremacists: Responding to Judicial Activism.” A major opponent of the Equal Rights Amendment in the 1970s and 1980s, Ms. Schlafly, now 80, responded to very good student questions with skill and grace.

Another highlight from last year was a panel “Islamic Law and Democracy: Promise or Peril,” featuring David Forte, Professor of Law at Cleveland State University and advisor to both the Bush Administration and the Vatican, The Law School’s own adjunct Professor Abdi Sheikhosman was also a panelist. The provocative event was attended by students from across the University campus.

The Federalist Society’s speaker lineup included lectures from Judge Michael McConnnell, United States Court of Appeals for the Tenth Circuit, on “Disestablishment of Religion at the Founding,” and Robert P. George of Princeton University, whose speech was entitled “The Clash of Orthodoxies: Liberalism, Religion & Public Reason.” Both spoke to capacity audiences. Their presentations were co-sponsored by the MacLaurin Institute.

The student chapter also scored a major coup when it hosted Dana Berliner of the Institute for Justice, plaintiffs’ counsel of record in the landmark eminent domain case Kelo v. New London, for a debate on the meaning of “public use” under the Takings Clause of the Fifth Amendment. The event, held two days after oral arguments, also featured local attorney John Baker, of Greene Espel, PLLP, who provided a spirited defense of a municipality’s right to use eminent domain for purposes of private economic development. Needless to say, the debate will continue on this important and hot-button issue.

For more information on the student chapter of the Federalist Society, contact chapter president Jason Adkins at adki0018@umn.edu. The society also has a Twin Cities Lawyers’ Division for practicing attorneys. Contact Kimberly Crockett at kimberlycrockett@mchsi.com for more information on the Division’s activities.

By Jason Adkins, Class of 2006.
In 2001 a second and complementary fund was conceived to support the Leonard, Street and Deinard Foundation Scholarship. It provides three $10,000 scholarships per year, to a first-, second-, and third-year student. The Leonard, Street and Deinard Foundation contributes, and the Law School expends, the full amount every year. Selection considerations include, but are not limited to, students with demonstrated leadership qualities, students of color, and students who wish to practice law in Minnesota.

“...The Leonard, Street and Deinard Foundation Scholarship plugged me in to the Minneapolis legal community which gave me a head start in ultimately finding a summer job. Leonard, Street and Deinard forms a close, ongoing relationship with its Scholars that begins before the first day of law school and continues through commencement. The generous financial assistance of the Scholarship was also a major factor in my decision to attend the University of Minnesota Law School. In essence, the Scholarship helps the Minneapolis area recruit law students and retain their talent in the Twin Cities legal community upon graduation.”

—John R. Brennan, Class of 2007
China’s Economic and Political Clout Grows in Latin America at the Expense of U.S. Interests

BY JUAN VEGA, CLASS OF 2006

Imagine a situation where China invades Taiwan and the United States moves to protect Taiwan. China would call on President Chavez of Venezuela and others to impose a Latin American oil embargo on the United States. They would comply. Latin American countries may eventually be economically attached to China and may not be able to defy China. Indeed, changing public opinion might make it easier for these countries to comply with such a request. In a recent international poll, communist China is viewed more favorably than the United States. (http://pewglobal.org).

The current and future administrations, as well as members of Congress, must see the big picture—national security implications regarding the supply of regional oil. As China increases and solidifies economic ties to the region and secures oil, minerals, and other commodities, it gains economic and political influence at the expense of U.S. interests. If Chinese economic power surpasses that of the United States, Latin American countries may no longer feel the need to cooperate with U.S. initiatives in trade, human rights, antinarcotics, environmental safeguards, and U.S. national security. If the United States does not counter China’s activities, China may eventually form economic satellite countries in Latin America, that would have no choice but to side with China in the event of a conflict with the United States. Recent trends in the region suggest a foundation for such a scenario.

• The social conditions in Latin America are deteriorating. Labor groups, indigenous groups, and unions constantly demonstrate and force presidents to resign. There is an increase in the number of left-leaning leaders, such as Chavez in Venezuela and Lula in Brazil. These leaders are eager to find an alternative to dealing with the United States and they foment anti-American sentiment.

Juan Vega graduated from Virginia Tech in 1994 and earned an M.B.A. from the University of Florida in 2002. He worked in the electronic-security industry for nine years, focusing on Latin America and the Caribbean. He provided consulting services to police departments, militaries, seaports, and airports. In the late 1970s, he and his family escaped communist Nicaragua and relocated to Arlington, Virginia. In the summer of 2005, Mr. Vega worked as a Legal Intern on the Committee on International Relations at the U.S. House of Representatives.

He presented his Note to staff attorneys from various committees and subcommittees, including the Energy and Commerce Committee. He also met with policy analysts at various think tanks, such as the Heritage Foundation and Atlas Economic Research Foundation. For further information please contact Mr. Vega at vega0026@umn.edu. For a reprint of the article, please contact the Minnesota Journal of International Law at mjigt@umn.edu.

• China is stealthily using its economic strength to further its world-wide interests. For example, it is forcing Latin American countries to not recognize Taiwan by threatening to invest elsewhere.

• China is creating military alliances in the region by hosting joint military exercises with the Venezuelan military and the militaries of other countries. As Latin American military leaders travel to China, young military officers are forming bonds and relationships with their Chinese counterparts. Furthermore, China has established a presence in the Panama Canal and it now controls both major ports—ports through which U.S. nuclear submarines and oil tankers pass. Chinese military personnel and communication experts have moved into the Cuban base from where the former Soviet Union intercepted U.S. military communication.

• China is the number two consumer of oil in the world and it is driving up its price. It is making deals with politicians and securing oil for itself in Venezuela, Ecuador, and Mexico. These are not just long-term purchasing contracts, but actual joint partnerships with local governments and companies for the extraction, distribution, and transportation of oil. China is funding and building the necessary infrastructure (railroads, highways, and bridges) to secure oil and other commodities.

• China’s record on human rights is deplorable but the world continues to give it a free pass. This is evidenced by France and other European countries wanting to lift the ban on selling certain high-technology weapons to China. It would be a most hideous outrage if the United States was to commit the same human rights atrocities on its citizens and also impose unreasonable journalistic restrictions. On the international front, China has created roadblocks in the United Nations with regards to Sudan and Iran because it has lucrative natural gas and oil deals with those countries. China does not care about human rights at home nor will it care about them in Latin America.

The United States can counter China’s growing influence in the region by having a free-trade hemisphere. When I wrote my Note in the fall of 2004, the Free Trade Area of the Americas (“FTAAs”) did not have momentum and I recommended shelving it until three policies were implemented. Now that there is more momentum and that there will be too much political damage to delay it, the United States must implement these three recommendations or else the FTAA will fail.
and with it, the chance to counter China’s influence. The United States should:

1) Establish country-specific consultative committees.
These consultative committees would comprise citizens of the United States and each Latin American country. Members would analyze each sector of that particular country’s economy, share information with other country groups, and implement social policies that address potential stumbling blocks that create short-term pains. By addressing issues such as worker retraining, transportation, short-term housing/displacement benefits, and others, they can reduce the occurrence of disruptive violent demonstration and strikes that lead to the wavering of Latin American politicians.

2) Develop Latin American Infrastructure
The United States should do this, not necessarily out of goodness of its heart, but for selfish reasons. China, for example, seeks agricultural goods from Brazil and Argentina and copper from Chile. In furtherance of this goal, it will build a railroad from Brazil to the Pacific coast of Chile. In the process, it will create jobs, trading posts, and communities and bring telecommunications, electricity, and drinking water. The railroad will create the necessary infrastructure to allow Brazilians, Argentines, and Chileans in these remote regions to help themselves grow, prosper, and escape poverty. China will bring economic opportunity to the region in its quest to secure oil and other goods.

3) Agricultural subsidies
The United States cannot protect its sugar growers, its textile industry, and other industries while demanding free trade. Latin American leaders have already expressed their disdain under the same breath as praising China. The United States is resolute about maintaining agricultural subsidies off the FTAA negotiating table, insisting that it be addressed through the World Trade Organization Agriculture Agreement (“Agreement”). If members of Congress see the big picture, they would realize that there is more at stake than trade.

A closer examination of the Agreement is in order. The WTO legal framework is extremely beneficial only to developed countries. Although the goal of the Agreement is to liberalize agricultural trade, the Agreement has enabled developed countries to maintain trade-distorting subsidies and import restrictions. For example, one characteristic of the Agreement is that it converts non-tariff barriers to tariffs, while prohibiting further non-tariff barriers. Developed countries evaded these objectives by setting of tariff equivalents for non-tariff barriers at an excessively high level. In essence, they created tariff equivalents with higher levels of protection than under the old system of quotas and variable import levies.

Another way that the Agreement benefits agricultural producers in developed countries is by allowing them to pick and choose which tariffs to reduce. Naturally, developed countries made large tariff reductions on items that were not produced domestically. Developed countries were also able to use the Agreement’s special safeguard provision. This allowed them to impose additional duties in the event of an import surge or of particularly low prices compared with 1986–88 levels. The developed countries would then set the trigger prices far above this average. This safeguard provision, though, is not available to most developing countries. It is available only to those countries that historically engaged in “tariffication” (those that converted all their non-tariff barriers to tariffs).

The Agreement does not prohibit the use of export subsidies in the agricultural sector. Developed countries are able to use export subsidies to their advantage over developing countries because developed countries have historically subsidized agricultural production, whereas developing countries have historically needed to tax the agricultural sector. In fact, only twenty-five out of 135 countries have the right to subsidize exports. With regards to domestic subsidies, the Agreement requires countries to reduce them. The Agreement requires countries to reduce domestic subsidies based on an Aggregate Measure of Support (AMS), but the Agreement also exempts many of the subsidies traditionally utilized by developed countries.

The Farm Bill (Pub. L. 107–171), which provides certain subsidies, introduces counter-cyclical payments. These payments are controversial because the United States claims that counter-cyclical payments fall under the “green box” exemption since the money is not linked to what the farmers grow, nor to how much they grow. Critics argue that counter-cyclical payments should not be exempt because they are indeed linked to production because counter-cyclical payments affect the fair price that farmers should be able to obtain. The WTO legal framework, within which the United States wants to negotiate, clearly provides the United States with an unfair competitive advantage which Latin American countries recognize. If the United States insists on installing the Agreement as the legal framework for the FTAA, key players such as Brazil and Argentina will not join the FTAA and ultimately the FTAA will not be formed.

The refusal of the United States to open its markets to Latin American agricultural products is the major stumbling block to the creation of the FTAA and it brings Latin America closer to China. China has to feed 1.5 billion people and is eager to buy what Latin America has to sell, especially oil. There is a rise of leftist, anti-American presidents in Latin America who have vowed to nationalize the petroleum industry. China is securing for itself regional oil, which the United States desperately needs. The current administration and members of Congress cannot afford to not connect the dots.

Thus far, analysts and scholars have failed to connect these dots and appear to be oblivious to this potentially volatile situation. In April of 2005 the House Subcommittee on the Western Hemisphere held a hearing entitled China’s Influence in the Western Hemisphere. None of the panelists noted these critical points. The Congressional Research Service did not mention these points in its May 2005 publication entitled China-US Relations: Current Issues and Implications for US Policy. The United States-China Economic and Security Review Commission did not address these points in its yearly report to Congress.

Constant squabbles on Capitol Hill about protecting U.S. sugar growers is further evidence that politicians do not realize the magnitude of this potentially devastating scenario.

When the stakes are this high—China developing economic satellite countries in Latin America—the situation must be addressed at the national security level. The WTO Agreement on Agriculture and the Farm Bill should be revisited with national security implications in mind.

FOOTNOTES
1. Available at http://www.wto.org/english/tratop_e/agric_e/agric_e.htm
Minnesota Rails-to-Trails on the Line in State v. Hess

BY KARLA VEHRS, CLASS OF 2006

In 1898, Thomas and Harriet Walker, along with W.T. and Clotilde Joyce, granted a tract of land to be used as a “right-of-way” for a new railroad through part of northern Minnesota. The corridor remained active until 1985, when its owner discontinued service on the route. In 1991, the State of Minnesota acquired title to the corridor and opened the Paul Bunyan State Trail. As a recreational trail, the land is now used primarily for hiking, cycling, in-line skating, and snowmobiling.

In 1998, two landowners with property abutting the strip of land began to block the trail, intending to build a private driveway along the former rail line. The DNR intervened in 2002, suing against the two property owners and obtaining a temporary injunction. Two years later, the Minnesota Supreme Court issued its decision on the matter in State v. Hess, finding that the deed granted a fee simple determinable and that a state property statute had thus extinguished the private property owners’ interest in the corridor. While perhaps laudable for trail enthusiasts, the court’s reasoning and outcome create a dilemma for future disputes. Courts may now be forced either to follow the mistaken Hess reasoning or to conform to the necessary original intent of grantors, creating the possibility that individuals will be deprived of the real property that should lawfully belong to them. As a result, the State of Minnesota should consider revisiting Hess and use it to begin an examination of the legal issues presented by old railroad deeds and the unique public and private interests inherent to them today.

I. Background
A. A Brief History of Railroads in the United States

From the mid-nineteenth through the early twentieth centuries, railroads in the United States grew and developed rapidly. In 1830, there were only twenty-three miles of railway in the United States, but by 1916 that number had grown to 254,000 miles. As the industrial era blossomed and the nation’s border pushed westward, railroads provided affordable and efficient access to places not reachable by waterway. Railroad companies acquired much of their land at first through congressional grants of private condemnation authority, purchased other tracts from private landowners, and won much of the remainder from holdout property owners through “formal condemnation proceedings.” The result was a haphazard set of conveyances and interests with a wide variety of granting language and intentions, covering 272,000 miles of rail lines by the peak of the railroad boom in 1920.

B. General Principles for Interpreting Railroad Deeds

Disputes about the nature and scope of the property interests acquired by railroads arise today in rails-to-trails cases, utility easement challenges, and other quiet titles actions in which surrounding landowners seek a determination that they are the rightful titleholders to such lands. The types of land interests and rights established through railroad deeds range from fee simple absolute to easements. Courts have most commonly found railroads’ land interests to consist of either a fee simple determinable or an easement, which often appear very similar when a purpose is specified for a land conveyance. “A determinable fee is a fee-simple estate to a person and his heirs, with a qualification annexed providing that it must terminate whenever the qualification is at an end.” An easement, on the other hand, “is a right to make use of the land of another for some definite and limited purpose or purposes.”

Two main reasons exist for the difficulties that courts face in deciding what type of property interest a deed conveyed to railroads. First, state laws supply the substantive standards that courts must use in interpreting railroad conveyances or any other property law issues. Because state laws vary greatly, the result has been widespread “diversity of treatment of such cases.” Second, due to the nature and speed with which many thousands of miles of railroad rights-of-way were pieced together, such deeds often differ significantly in their choice of language and detail. The most important universal principle for interpreting deeds, however, dictates that courts first “look to the deed to ascertain and give effect to the intention of the parties to the instrument.” Because courts must necessarily interpret the intent of old deeds that relied upon the contemporaneous state of the law, “settled rules of construction should have more weight than a court’s conjecture as to the intent of the parties.”

Karla Vehrs graduated from the University of Wisconsin-Madison in 2002 with a B.A. in German and International Relations. Following undergraduate, she spent a year in Bonn, Germany as a fellow of UW-Madison, taking coursework in Russian and Political Science. In her second year of law school, Ms. Vehrs volunteered as an intern for Minnesota Advocates for Human Rights, where she successfully represented a family of six from Kenya, enabling them to avoid deportation on technical grounds. In the summer of 2005, Ms. Vehrs was a summer associate with the Minneapolis law firm of Lindquist & Vennum, where she plans to return after she graduates next spring. As a 3L, Ms. Vehrs is serving as Symposium Editor of the Minnesota Law Review, for which she recently planned the journal’s 2005 symposium, “The Future of the Supreme Court: Institutional Reform and Beyond.” Ms. Vehrs can be contacted at vehr0002@umn.edu; reprints of the article are available by contacting the Minnesota Law Review at mnlawrev@umn.edu.
C. Minnesota Cases Interpreting Railroad Conveyances

Four main Minnesota cases addressed right-of-way conveyances to railroad companies prior to Hess. First, Chambers v. Great Northern Power Co., decided in 1907, held that “[t]he language employed clearly imports that a mere easement was granted for so long a time as the land should be occupied and used for the purpose of operating a railroad.” The Minnesota Supreme Court then decided Norton v. Duluth Transfer Railway Co. in 1915, which held that the deed created an easement and noted factors such as “so long as” in the granting clause, the width of the strip, the purpose for the grant, and the absence of “forever” in the habendum clause. The third case, Chicago Great Western Railroad Co. v. Zahner, decided in 1920, held that “[w]ithin the principle of our holdings there was no intent to grant a fee, but an intent to grant a railroad right-of-way easement, which would revert upon abandonment.” The final case, State by Washington Wildlife Preservation, Inc. v. State, avoided the question altogether and held that, regardless of what interests were created in the railroad, the original language was broad enough to allow for application of the so-called shifting public uses doctrine: “[i]n the guise of the right-of-way as a recreational trail is consistent with the purpose for which the easement was originally acquired, public travel, and it imposes no additional burden on the servient estates.”

II. Holding of State v. Hess

The Minnesota Supreme Court in State v. Hess analyzed whether the 1898 deed from the Walkers and Joycees to the railroad company created a fee simple determinable or an easement. Because no Minnesota case has established a uniform summary of the principles with which to evaluate disputes concerning old railroad conveyances, the court undertook an examination of several elements within and without the 1898 deed. The court ultimately reached the conclusion that the railroad, and thus the DNR, received a fee simple determinable to the corridor, and that the failure of the abutting landowners to record their possibility of reverter in the property resulted in that interest being extinguished under the Marketable Title Act.

III. The Court Misconstrued the Original Parties’ Intent

However willing landowners may or may not have been at the end of the nineteenth century to grant a fee simple determinable for a railroad right-of-way, it remains imperative that courts evaluate each deed individually to discern the original parties’ intent. Nevertheless, an examination of various deed elements mentioned in Norton and Zahner as compared with their treatment in Hess reveals that the supposed intent of the original grantors in Hess cannot be easily reconciled with the intent afforded to similarly situated grantors in Norton and Zahner. Regardless of whether one believes that Norton and Zahner were decided correctly, their precedent is of undeniable value in forming a clearer picture of how the law of railroad deeds was understood in that time period. In addition, analysis of various unique elements of the Hess deed as compared with treatment of those subjects in contemporaneous property treatises points to the conclusion that the original grantors most likely intended to create an easement.

Though claiming to be consistent with precedent, the Minnesota Supreme Court’s examination of the deed, the surrounding circumstances, and relevant case law reveal a clear policy preference in favor of the trail. The court analyzed elements of the deed capable of interpretation as a fee simple determinable and distinguished them from similar analysis in precedent cases by discounting the precedent as incomplete and uninformed. In addition, the court adopted a myopic view of external circumstances to determine that the parties intended to create a fee simple determinable rather than an easement. A closer look at precedent, the language of the deed, and the surrounding facts reveals that the court misinterpreted the original intent of the 1898 deed and arrived at the wrong legal conclusion. While this outcome may have served an important public interest in saving the Paul Bunyan State Trail, the court’s deviation from settled law is troubling and will likely have the unforeseen effect of encouraging greater property dispute litigation, while at the same time leaving the State’s courts with few answers to the problems presented in such cases. By examining the parties’ original intent but reaching different conclusions on nearly all factors than contemporaneous cases or property law doctrines would instruct, the court created a legal void. It did not overrule Norton and Zahner, yet strayed too far from such case law to afford lower courts any sound notion of how to interpret similar deeds in the future.

IV. Consequences of the Court’s Interpretation

While the Minnesota Supreme Court succeeded in holding the Paul Bunyan State Trail together in State v. Hess, the long-term effect of its analysis will be to send a message to the state’s landowners and courts that deed interpretation need not rely on settled law, and that the outcome of a case may well depend on the public policy preferences of a given judge. This will do little to prevent countless landowners from retrieving the old deeds relevant to their lands and challenging the state’s purported ownership of rail-trails. By working so hard to distinguish the elements in Hess from past precedent, the only principle likely to be of use in future cases is the well-established rule of interpretation that “[t]o determine the nature of the conveyance at issue, we look to the deed to ascertain and give effect to the intention of the parties to the instrument.” The results may range from unforeseeable litigation costs for the state at best, to a mandated and prohibitively expensive compensation regime for abutting landowners at worst. Indeed, the overwhelming cost of reimbursing landowners would likely shut down the trails permanently.

Conclusion

State v. Hess succeeded in holding the Paul Bunyan State Trail together for now, drawing significant praise from many corners of the press and public. However, to the extent the Minnesota Supreme Court hoped to save the Paul Bunyan State Trail and shield the State’s recreational trails from similar attacks in the future, its analysis and reasoning may actually disserve the public policy it seeks to protect. The court’s decision will likely have the unforeseen effect of encouraging greater property dispute litigation, while at the same time leaving the State’s courts with few answers to the problems presented in such cases. By examining the parties’ original intent but reaching different conclusions on nearly all factors than contemporaneous cases or property law doctrines would instruct, the court created a legal void. It did not overrule Norton and Zahner, yet strayed too far from such case law to afford lower courts any sound notion of how to interpret similar deeds in the future.

A more desirable approach would have been the presentation of a principled set of guidelines with which to evaluate future rails-to-trails cases or, alternatively, an honest acknowledgement of a public policy preference. At this time, though, it is vital to the future of Minnesota’s trail system that the State’s legislature take up the issue and examine creative solutions for such cases. As the nation’s leader in rails-trails, Minnesota is now at an opportune juncture to pave the way for unique responses to the growing cost of rails-to-trails litigation.

As our standard of living grows ever more comfortable and individuals are increasingly able to choose greater recreation time over more work, the demand for scenic and historic trails will only continue to increase. "[G]eneration Xers have certain expectations...to have a large
amount of free time. They don’t want to be workaholics... And what do they want to do with that free time? They’re going to spend it at the YMCA. They’re going to spend it on the bike paths.” At the same time, however, old deeds and claims to title will continue to be brought forward and into the courts, inevitably necessitating a more principled approach to adjudicating competing interests. Consequently, Minnesota and other states should consider this big picture and search for innovative alternatives that reconcile legitimate public and private interests in former railroad rights-of-way.

FOOTNOTES
1. Thomas Walker was born in 1840 in Ohio and came to Minnesota in 1862. State v. Hess, 684 N.W.2d 414, 417 n.1 (Minn. 2004). Walker purchased vast acres of pinelands and later opened lumber mills in various locations including Crookston, Minnesota. Id. Throughout his life, Walker kept a valuable art collection, which later formed the beginnings of the well-known Walker Art Center in Minneapolis. Id.
5. Jonathan Roos, City Views Super-Y as Major Draw, Des Moines Reg., May 15, 2000, at 1B.
Perspectives FALL 2005

ALUMNI PERSPECTIVE Alumni involvement is a hallmark of a great law school, and the Law School’s graduates are our greatest resource. Our alumni play a vital role in the success of the Law School by providing support that makes it possible for us to offer a diversity of valuable programs and services, and by serving as role models and leaders for the current generation of students. Our graduates have blazed paths of excellence in a wide variety of areas including law, public policy, and business. We strive to connect alumni with each other and the Law School through intellectual and social events, reunions, and volunteer activities. In this issue, you will find a piece about our new partnership with the University of Minnesota Alumni Association; profiles of distinguished alumni; memorials to several notable alumni who have passed away; and the customary Class Notes section. A calendar is included on the back of the magazine to inform you of upcoming events at the Law School.

ABOVE: Alumni and friends enjoy the Golden Gophers’ Homecoming victory on September 24, 2005 with Dean Alex M. Johnson, Jr.
Alumni Perspective

Distinguished Alumni Profiles

JANET ERICKSON
CLASS OF 1995

After graduating from the University of Minnesota Law School in 1995, Janet Erickson worked for a Minneapolis firm specializing in Indian legal affairs. It seemed like a natural fit.

As a member of the Sisseton-Wahpeton Sioux tribe in South Dakota, Erickson had insight into many of the challenges facing Indian Country. And she was passionate about improving the lives of people.

In private practice, Erickson could help individual tribes, but she couldn’t impact government policy toward the 3.1 million people who are members of American Indian or native Alaskan tribes. That’s why Erickson felt the pull of the Beltway. “I knew I wanted to come to Washington, D.C.,” she said.

In 1999, Erickson was appointed as Democratic staff counsel with the U.S. Senate Indian Affairs Committee. “This is where it all starts,” she said. “What happens in Washington, D.C. affects all of Indian country. We need someone here who understands the cultural impact of drafting Federal laws.”

Senator Bryon Dorgan (D-North Dakota) serves as the ranking Democrat on the committee. In her role as legal counsel, Erickson writes statements and policy briefs for Dorgan. She also drafts legislation and reviews court cases, including U.S. Supreme Court decisions, involving laws that outline the government’s relationship with the 563 federally recognized tribes.

For the past several decades, tribes have more successfully exercised their sovereignty to the benefit of their members and the surrounding communities. This needs to continue, she said.

One important matter that Erickson works on is criminal justice in Indian country. “We are looking at ways to enhance tribal jurisdiction” in criminal matters, Erickson said. That may include more tribal authority in regards to homeland security and laws involving violence against women.

Ask Erickson what she plans to do next and she erupts in laughter. “I have no idea,” she said. “That’s the big question. I enjoy my job, but I don’t see myself in D.C. long-term.”

The Sisseton-Wahpeton Sioux have tried to woo her back to the Lake Traverse reservation in northeast South Dakota. Erickson is committed to going home to work for the Sisseton-Wahpeton Sioux Tribe, but not necessarily as an attorney. She’s confident that there are other ways to make a contribution to her tribe and Indian country.

Although the occupation isn’t clear, Erickson is confident the road will someday lead home. “I’ve always said I’d return to South Dakota,” Erickson said.

SUSAN GAERTNER
CLASS OF 1980

In college, it didn’t appear Susan Gaertner’s career would become intertwined with science. The only undergraduate class she completed in the area was called “Physics for Poets.”

However, in 1989, while working as an assistant county attorney in St. Paul, Minnesota, she became the first lawyer in the state to present DNA evidence to a jury. The data pinpointed the identity of a suspect in the rape and strangulation of a 17-year-old murder victim and resulted in a conviction.

Five years later, she was elected Ramsey County Attorney. Today, she’s a nationally recognized legal expert on DNA evidence, having co-authored the National District Attorneys Association (NDAA) policy statement on the subject. “It’s an area where you have to keep learning every day,” she said.

In 2001, Gaertner ordered a comprehensive review of past convictions—a total of 116 cases—in which DNA evidence could determine guilt or innocence. One man who had been convicted of rape was exonerated as a result of the DNA project.

“There is no justice if an innocent person is behind bars,” Gaertner said. “It’s just as important to convict the right person as it is to get a conviction. DNA is a unique check on the system.”
As the county’s top prosecutor, Gaertner initiated a prosecution unit that focuses on domestic assaults where children are present. A partnership with the St. Paul City Attorney’s Office, the unit handles all domestic abuse cases—from misdemeanors to felonies. With this cross-jurisdictional approach, cases are now three times more likely to result in a felony conviction, according to a university study.

Gaertner also started a truancy program that intervenes with students after as few as three unexcused absences. By prodding teenagers (and sometimes younger kids) to attend school, graduation rates increase and future crime rates may drop as a result.

“Only rarely does one find a social intervention as effective as [this one],” wrote a University of Minnesota researcher in 2002.

Gaertner, a 1980 graduate of the University of Minnesota Law School, had two jobs before becoming a prosecutor. She clerked for Eighth Circuit Court of Appeals Judge Gerald W. Heaney, Class of 1941, and worked as a defense attorney for the Mauzy Law Firm in Minneapolis. By 1984, she had signed on with the Ramsey County Attorney’s Office, promising her boss she would stay at least two years in the position.

Twenty-one years later, Gaertner is still there. “It’s very ironic,” she said, laughing. “At the time, I couldn’t imagine being in any job for more than a couple of years.”

Gaertner stayed because she loves the work. “As a prosecutor, there are so many opportunities to accomplish justice,” she said. “If I can in some small way vindicate a victim who has been harmed or make a neighborhood safer, that’s a good feeling.”

TOM HEFFELFINGER
CLASS OF 1975

Prosecuting Drug
Dealers and white-collar criminals has always been a part of the job description of a U.S. Attorney. But since the attacks on New York City and Washington, D.C., the office’s responsibility has broadened.

“9/11 changed the job fundamentally,” said Tom Heffelfinger, the U.S. Attorney for Minnesota. “It added a component of prevention that’s much greater than before.”

Heffelfinger takes that new responsibility seriously. During a bicycle ride near his Eden Prairie, Minnesota home, he pedaled through an open gate at Flying Cloud Airport, a small facility. At no point was he stopped or questioned for security purposes. The experience underscored in his mind the need for heightened security at all airfields, regardless of size. “Anti-terrorism efforts are a new top priority,” he said.

Heffelfinger was appointed to the position in August 2001. He served as U.S. Attorney for Minnesota from 1991–1993. (U.S. Attorneys serve at the pleasure of presidents; Heffelfinger is a Republican.) He also served as an assistant prosecutor in Hennepin County, Minnesota from 1976–1982 and Assistant U.S. Attorney from 1982–1988. Together these two positions, plus 10 years in private practice, prepared him for his current position.

“It’s been central to my ability to be a U.S. Attorney,” Heffelfinger said. “I come at it from the perspective of a trial attorney. I enjoy [trial work] and have tremendous respect for those who do it on both sides.”

Administrative duties prevent him from trying many cases these days. However, Heffelfinger was able to squeeze in one low-profile arson prosecution since his most recent appointment. The downside: After a long day in court, he found employees queuing up with questions for him.

As a prosecutor, Heffelfinger admits to a “fairly aggressive style” and isn’t shy about advocating tough sentences for those convicted of crimes.

“I believe in accountability,” he said. “Very rarely do we prosecute drug users [in federal court]. We prosecute dealers who have made conscious choices to break the law.”

But Heffelfinger also understands that arrests and convictions alone won’t solve America’s crime problem. That’s why his office has helped coordinate the creation of a new medical clinic for victims of child abuse, domestic violence and sexual assault in Bemidji, Minnesota.

“We hope this will be a model for tribal and rural communities nationally, including Minnesota,” he said. Heffelfinger doesn’t expect the center to reduce crime in the area for at least another generation. But the investment is needed. “We’re never going to solve crime by simply locking people up. It’s not enough.”

C. PAUL JONES
CLASS OF 1950

During his lengthy legal career, C. Paul Jones worked as a prosecutor in the offices of the Hennepin County Attorney and the U.S. Attorney. But Jones is best known for establishing the Minnesota Public Defender’s office in 1965.

Perhaps it’s no surprise then that he arrived at a coffee shop interview brandishing a brochure from the Criminal Justice Institute, a group he co-founded 40 years ago, that provides educational seminars to all the major players in the criminal justice system—prosecutors, police, judges and defense attorneys.

“It’s unusual in this country for prosecutors and defenders to get together,” Jones said. “What we’ve tried to do is ask [the question], ‘How do we improve criminal justice in the interest of the public?’”

A native North Dakotan, Jones studied business and boxed as an undergraduate at the University of Minnesota. He soon retired from the ring, choosing to channel his competitiveness into
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alumni perspective

C. Paul Jones

criminal law. “I loved the courtroom,” he said.

After a stint with a Duluth, Minnesota firm after law school, Jones spent most of the 1950s serving as a public prosecutor at the county and federal level. (He also found time to earn a master’s degree in 1955 from St. Paul College of Law, which later became William Mitchell College of Law.) He returned to private practice in 1959 and became a partner at a Minneapolis firm in 1961.

Two years later, the U.S. Supreme Court ruled in Gideon v. Wainwright that indigent defendants are entitled to free legal counsel. States hustled to comply with the decision. Minnesota created a state public defender’s office to offer those defendants who could not afford a lawyer free legal aid. Jones took charge of the tiny office, housed in the basement of the University of Minnesota Law School in 1965.

“There were very few appeals by defendants before the PD system was set up,” Jones said.

Jones served as Minnesota Public Defender for 25 years, securing an increasing amount of support from the Legislature to represent prisoners. That funding, which Jones described as “adequate,” helped the office to fight for reduced sentences and occasionally, overturn convictions.

Among attorneys, the office became known as a place that hired women in era when sex discrimination was commonplace. The female lawyers that worked there became known as “the Jones girls” and from 1967—1973 included future Minnesota Supreme Court Justice Rosalie Wahl as well as other future Minnesota trial and appellate judges.

“I have a very high regard for C. Paul Jones,” said Wahl. “He is a quiet, unassuming man. He is one of the giants that people don’t know about.”

Wahl and many other women in the office were allowed to work part-time, flexible schedules, a concept that was decades ahead of its time. Asked about his liberal hiring practices, Jones was matter-of-fact. “The talent was there,” he said.

Jones, 78, still teaches criminal law, criminal procedure, and constitutional law at William Mitchell, but his advice to aspiring attorneys remains based in the practical.


Ron Meshbesher

Class of 1957

All evidence seemed to point to a guilty verdict. Federal agents had nabbed Ron Meshbesher’s client with $200,000 in ransom money in connection with the 1974 kidnapping of a Minnesota banker’s wife. The defendant claimed a Chicago gangster named “Big Mike” coerced him into committing the crime.

“Big Mike” never testified at trial and no one really knows if he exists. Meshbesher told the jury his client had acted under mental duress. When the “not guilty” verdicts were announced, the defendant’s wife fainted. “I think it’s fair to say I was surprised,” Meshbesher said.

A trio of wins followed that victory in 1975 that catapulted him to the top ranks of criminal defense attorneys in the state if not the nation. The trials had Meshbesher defending an NHL hockey player accused of gashing another player’s eye with his stick, a businessman who allegedly starved his horses during a harsh winter and a man charged with murder at a notorious Minneapolis bar.

“It was a great year for me,” he said. “They were all front page stories and they all ended in acquittals.”

When a visitor points out that the trial of the hockey player ended in a hung jury, Meshbesher is quick with a comeback. “Nobody ever went to jail on a hung jury,” he said.

Meshbesher is one of those rare people who always knew what he wanted to do in life. An uncle, Si Meshbesher, was a successful (and wealthy) attorney. So young Ron decided that’s what he wanted as well. As a Minneapolis teenager, he watched trials after school and during summer breaks. In college, he enrolled in a four-year law program that allowed him to begin taking legal classes in his junior year.

In those days, students were assigned seats in alphabetical order at the Law School. Meshbesher was wedged between Harry McLaughlin and Walter Mondale, who were good friends. However, with Meshbesher in the middle, they found it difficult to converse. One day, Mondale asked Meshbesher if he would be willing to switch seats; Meshbesher obliged.

Decades later, after McLaughlin was appointed to the federal judiciary, Meshbesher argued a case in his courtroom. He asked permission to approach the bench and whispered, “Do you realize that if I wouldn’t have
After law school, Meshbesher learned the art of criminal trial work in the Hennepin County Attorney’s Office. During his three and a half years as a prosecutor, he seldom sought plea bargains, preferring to try 45 felony jury trials (yes, he remembers the exact number).

“I became known as a tough prosecutor,” he said. “One of the reasons I wouldn’t plea bargain [often] is because I wanted to try cases.”

Today, Meshbesher is president of a Minneapolis firm (Meshbesher & Spence) that focuses on both criminal and civil cases. Although Meshbesher is best known for his criminal defense work in the Congdon murder trial, Piper kidnapping case and Bicek bombing trial, he was also one of five attorneys who secured a $300 million settlement for women who suffered injuries from the Dalkon Shield birth control device.

Still, it’s clear his passion is criminal defense. One part of Meshbesher argues about the importance of fair trials in a free society.

“The presumption of innocence is a lofty principle, but in reality, it’s a fiction,” he said. “Most people who talk about it don’t really believe it. If they read an article in the newspaper about someone accused of a crime, they automatically assume the person is guilty.”

And yet, there’s another, showy side to the man who continues to practice law after 48 years in the business. If he ever writes a book, Meshbesher says he already has the perfect title: “Not Guilty Ain’t Innocent.”

By Todd Melby. Melby is a Minneapolis-based freelance writer and independent radio producer.

**Partnership with UMAA**

THE LAW SCHOOL IS EXCITED TO ANNOUNCE THAT THAT THE LAW Alumni Association (LAA) Board of Directors recently approved a new, beneficial partnership with the University of Minnesota Alumni Association (UMAA). As in the past, the Law School’s office of Alumni Relations will continue to plan, implement, and provide the alumni programs, events, benefits, and services to which you are accustomed (and more). In addition, the UMAA will now provide support and services to the Law School to enhance our abilities to serve our graduates’ needs and interests.

As the Law School and the University of Minnesota enter a new, exciting era of strategic evolution, it is a particularly good time for this arrangement with the UMAA. The Law School, one of the jewels in the crown of the University of Minnesota, has many opportunities to take its reputation, leadership, and service to its alumni to a higher level of excellence. The Board believes this is one of those opportunities.

In fact, the timing is ideal because the UMAA’s new Board President for 2005–2006 is former Law School Dean Robert Stein, who received both his undergraduate and law degrees from the University of Minnesota. Another of our graduates, Bruce Mooty, currently serves as a Vice-President of the UMAA Board as an at-large member. Additionally, under the new partnership, the Law School’s Alumni Board will designate one of its members to serve as a voting member of the UMAA Board. Thus, we will have several outstanding advocates for the Law School as this partnership begins.

As a result of these changes, the Law School no longer will solicit dues for membership in the LAA. All alumni who have paid dues for the LAA this past fiscal year as well as all alumni who have made a tax-deductible donation to the Law School during that timeframe will receive a complimentary two-year membership in the UMAA and its new UMAA Law Alumni Society. All other alumni may choose to join the UMAA and the Law Alumni Society as well. All members of the UMAA will have access to the UMAA’s programs, events, discounts, and benefits in addition to those provided directly by the Law School to all alumni.

Alumni of the Law School will receive more detailed information regarding the new opportunities this beneficial partnership offers. Any questions may be directed to Sara Jones, Director of Alumni Relations and Annual Giving for the Law School (sjj@umn.edu or 612.626.1888). The Law School Alumni Relations Office and the UMAA look forward to doing more for you!
Class Notes

Send us your news

Tell us about the important things that happen in your life! We welcome submissions for inclusion in the Class Notes section of the Law Alumni News. Submit your news through our Web site at: www.law.umn.edu/alumni/submit.html

You can also send your update to Scotty Mann via e-mail at smann@umn.edu, regular mail at N160 Walter F. Mondale Hall, 229 19th Avenue South, Minneapolis, MN 55455, or fax at (612) 626-2002. We need your submissions by March 1, 2006 for inclusion in the next issue.

Thank you for keeping in touch!

1936
Myer Shark is still actively practicing, representing utility customers; in March he was featured in a KSTP Channel 5 report on his battle with Excel Energy (you can see and hear at: http://www.kstp.com/article/stories/s6756.html).

1941
Judge Gerald Heaney was nominated in May 2005 for the Duluth Hall of Fame for his contributions to the University of Minnesota Duluth, the Humphrey Institute for Public Affairs, and the Seaway Port Authority.

1954
William Buhler was elected chair of the Southwestern Area Workforce Development Board in Truth or Consequences, NM.

1955
Philip Oltfelt received the Douglas K. Andahl Public Career Achievement Award. He spent his entire career in the public sector, including as Assistant Minnesota Attorney General, where he worked for the Natural Resources Division.

1965
Rolf Nelson was unanimously elected Chair of the Exam Committee of the National Elder Law Foundation in May 2005. Nelson is one of just over 300 Certified Elder Law Attorneys in the U.S.; he became Minnesota's first Elder Law Specialist in 1997. Nelson's firm, Estate Crafters®, is based in Brooklyn Center, MN. Nelson is active in the Brooklyn Park Rotary Club and served ten years in the Minnesota legislature. He and his wife Phoebe live in Brooklyn Center.

1968
Robert Hennessey was selected to be included in the 2006 edition of The Best Lawyers in America; Mr. Hennessey has appeared in the publication for more than ten years running. A partner at Lindquist & Vennum PLLP, he handles a wide variety of litigation matters for both individuals and corporations, including suits in the areas of antitrust, contract, energy, insurance, minority shareholder rights, negligence, patents, reinsurance, securities and white-collar defense.

1970
Judge Raymond Erickson was selected to be the new Chief Magistrate Judge for the Minnesota Federal District Court, effective September 21, 2005. He was first appointed in 1992, and serves in Duluth.

1974
Mark Wilson was elected to a first term on the Minnesota Community Foundation Board of Directors. He is President of Weisman Enterprises II, Inc.

1975
Judge Michael Kirk, of the Seventh Judicial District, headlined the July 5th Star Tribune article, “Rocori case on docket of well-admired district judge;” Judge Kirk presided over a Stearns County case involving a shooting at Rocori High School in Cold Spring on Sept. 24, 2003.

1976
John Goetz, a partner at Schwebel, Goetz & Seiben, P.A., was chosen as one of Minnesota’s Top 40 personal injury lawyers.

1977
Lisa Runquist’s first book, The ABC’s of Nonprofits, was published by the American Bar Association in April 2005. The proud parent of two standard poodles that compete in agility, she continues to practice law in Los Angeles at the firm of Runquist & Zybach LLP.

1977
Tom Newcomb is teaching at Tiffin University in Tiffin, Ohio. He has a rambling old (circa 1830) farmhouse, 23 acres, and a neighbor’s herd of cattle out back. He is proud of his very cool new John Deere.

1977
Peter Riley, a partner at Schwebel, Goetz & Seiben, P.A., was chosen as one of Minnesota’s Top 40 personal injury lawyers for the fifth straight year and his $12 million recovery on behalf of a 16-year old client was one of “The Top Personal Injury Recoveries of the Year” in Minnesota Law & Politics magazine. Riley was also elected to the Board of Directors of the Brain Injury Association of Minnesota, the only non-profit organization in Minnesota devoted solely to serving the needs of the 94,000 Minnesotans who live with disabilities due to brain injury.

1977
Rebecca Egge Moos was elected Chief Executive Officer of Bassford Remele in Minneapolis. She represents health care professionals, hospitals, and clinics in medical malpractice and board matters and local and national insurers and corporations in complex commercial claims.

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OUTSTANDING ACHIEVEMENT AWARD RECIPIENT
WILLIAM R. PEARCE

William R. Pearce (Class of 1952) recently received the University of Minnesota’s highest recognition—the University of Minnesota Outstanding Achievement Award. Pearce is also a dedicated member of the Hubert H. Humphrey Institute of Public Affairs Advisory Council and was nominated for the award jointly by the Law School and the Humphrey Institute.

In 1952, he took a position in the Law Department of Cargill, Inc., moving to the Public Affairs Department in 1957 and becoming Vice President for Public Affairs in 1963. President Richard Nixon appointed Pearce in 1971 as Deputy Special Representative for Trade Negotiations in the Executive Office of the President of the United States with the rank of Ambassador, a position in which he served until 1974. Most significantly, Pearce engineered the Trade Reform Act of 1974, which directed U.S. negotiators to trade off concessions from the U.S. in the industrial sector in exchange for concessions to the U.S. in the agricultural sector.

Following this service to his country, Pearce rejoined Cargill, became Senior Vice President for Corporate Affairs in 1986, and subsequently served on the corporate board of directors and as President of the Cargill Foundation. Pearce retired from Cargill in 1993, and charted a new course for himself and, again, for the economic landscape. As President and Chief Executive Officer of IDS Mutual Group from 1993–1999 he helped guide Minneapolis-based financial giant IDS through consolidation with American Express Financial Services.

The Law School is proud to point to William Pearce as an outstanding alumnus and exemplar of the responsible use of legal expertise, ethical business leadership and political power, and is deeply appreciative of his advocacy and generous financial support.

1979
Gregory Bulinski was elected chief operating officer of Bassford Remele.
Gregory Dose joined the firm of Goldstine, Skrodzki, Russian, Nemec and Hoff, Ltd. in Burr Ridge, Illinois as a partner. He practices in the areas of land use, municipal, and eminent domain law. He was selected as a 2005 Illinois Super Lawyer by Law & Politics.

1980
Joseph Finley was voted managing partner of Leonard Street & Deinard.
Karen Finseth is Assistant Vice President of U.S. Bank in Duluth.

1981
Thomas Boman is the vice president of finance in the St. Louis office of Advantage Capital Partners, a venture capital firm based in New Orleans. Tom recently completed his fifth year as an adjunct instructor in the LLM in Tax Program at the Law School at Washington University in St. Louis, where he teaches partnership taxation. His article on avoiding penalties for late filing of partnership tax returns appeared in the July 2004 issue of The Tax Adviser, a publication of the American Institute of Certified Public Accountants.

Ann Hunteuds received the Graven Award in recognition of her contributions to the profession and her public service work. The David Graven Public Service Award is presented annually to the lawyer who best exemplifies the high standards of the profession in combination with a commitment to public or community service. Hunteuds has been recognized as one of the “Best Lawyers in America,” and she is currently chair of the Labor and Employment Law Practice Group at Briggs and Morgan.

Gregory Madsen joined Kennedy & Graven, Chartered, where he specializes in education law.

1983
Joan Bibelhausen accepted a position as Executive Director of Lawyers Concerned for Lawyers, a non-profit 501(c)(3) organization founded in 1976 to help those affected by alcohol, drug abuse and other addictions; depression and other mental illnesses; stress and other life-related problems; and any condition which negatively affects the quality of one's life at work or at home.

Mary Vasaly, a partner with Maslon Edelman Borman & Brand, has been named president-elect of Minnesota Women Lawyers. She also received the Ramsey County Bar Association Pro Bono Award for her service with the Children’s Law Center of Minnesota and became a Fellow of the American Bar Foundation, an honor limited to no more than the top one-third of one percent of attorneys in each state. Vasaly has taught legal writing at the Law School and teaches appellate practice at the University of St. Thomas Law School.

1984
Marie Skinner joined Kennedy & Graven, Chartered. She frequently presents at training seminars for school districts and professional organizations on such subjects as sexual harassment, data privacy, and other school and employment topics.

1985
Nancy Erbe’s article “The Global Popularity and Promise of Facilitative ADR” was published in the fall edition of the Temple International and Comparative Law Journal and her book, Holding These Truths: Empowerment and Recognition in Action (an interactive case study curriculum for multicultural dispute resolution) is available at amazon.com.

1987
President George W. Bush intends to nominate Benson Whitney to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Norway. Whitney currently serves...
as President of Argus Management, LTD and as Chief Executive Officer for Whitney Management Company.

1989
Bassford Remele elected Kevin Hickey its chief financial officer.

Doug Lahammer has been elected as a fellow in the American College of Mortgage Attorneys.

Julie Ritz-Schlaifer and her husband David welcomed Miles Cole Schlaifer on November 30, 2004; Miles joins his big brother Leo Jacob Schlaifer.

Barry Rosenzweig opened a second office in Roseville for Century Title, Inc., of which he is President.

1990
Joan Humes received the MSBA's Public Attorney Award of Excellence. Humes, an Assistant United States Attorney, serves on the Law Alumni Association Board of Directors.

Tracy Kochendorfer has formed a solo practice in Minneapolis, TK Law, PLC, focusing on serving the needs of lenders in commercial loan transactions. She was formerly a partner with Rider Bennett, LLP.

Greg Perleberg, a member of Maslon Edelman Borman & Brand's Intellectual Property and Technology Services Group, joined the editorial advisory board of ALM’s Law Technology News.

Henry Van Dellen was appointed senior vice president of the Minneapolis office of Aon Consulting, a leading provider of risk management services, insurance and reinsurance brokerage, human capital and management consulting, and specialty insurance underwriting.

1991
Mohammed Khaled Asfour has become the Managing Partner of Ali Sharif Zu’bi & Sharif Ali Zu’bi, Jordan’s largest law firm.

Chad Baruch was elected Chair-Elect of the Consumer Law Section of the State Bar of Texas. He is Assistant Principal of Yavneh Academy of Dallas, and maintains a part-time law practice.

Duane Hagerty has joined the Transactional Department and Real Estate Practice of the Chicago office of Wildman Harrold as Of Counsel. Hagerty was formerly a partner with the Des Moines, Iowa firm Brown, Winick, Graves, Gross, Baskerville & Schoenebaum, P.L.C.

Chris Larus was named a partner of Fulbright & Jaworski; he practices in the firm’s Minneapolis office.

1992
Tona Dove resigned her partnership at Levander, Gillen & Miller, P.A. to start Paideia Academy, a charter school that opened in Apple Valley this fall. She is currently acting as School Board Chair and Startup Coordinator.

Jennifer Reedstrom Bishop, a principal at Gray Plant Mooty, was elected to the firm’s Board of Directors; she will serve as Secretary.

1993
Michael Lafeber was elected shareholder at Briggs and Morgan, P.A. He practices in the firm’s Intellectual Property Section. Lafeber is a member of the planning committee for the Minnesota State Bar Association’s Annual Midwest Intellectual Property Institute, a past member of the board of directors of the Minnesota Defense Lawyers Association, and past chairperson of that organization’s New Lawyers Committee.

Father Jim Mason is a Catholic priest in the Diocese of Sioux Falls, covering the eastern half of South Dakota.

Daniel Vande Loo left this world on July 8, 2005 after a courageous struggle against cancer. He is survived by his beloved wife Tracy and daughter Addie.

1994
Ben Mulcahy was chosen one the country’s leading attorneys by The National Law Journal; the publication named him to its annual “40 Under 40” list of leading lawyers under the age of 40. As a founding member of the Sheppard, Mullin, Richter & Hampton advertising practice group and a partner in the firm’s entertainment and media practice, Mulcahy represents studios in television and movie development, production, finance and distribution.

Margaret A. Thickens has joined the Duluth law firm of Andresen & Butterworth, P.A. as an Associate Attorney. Prior to joining the firm Ms. Thickens worked as in-house counsel for the Home and Building Control business unit of Honeywell, Inc. in Minneapolis. Ms. Thickens will practice in the areas of Real Estate, Corporate and Business Law, Estate Planning and Probate.

1995
DeAnne Dulas is a name partner in the Eagan firm of Strandemo, Sheridan & Dulas, P.A. Her practice focuses on family law issues; she also practices in the areas of residential and commercial real estate and small business law.

1996
Nathan Bjerke became a partner at Bowman and Brooke LLP in Minneapolis.

Richard Erstad was named General Counsel and Secretary of BUCA, Inc., a publicly traded company that owns and operates 107 restaurants under the names Buca di Beppo and Vinny’s of Boston.

Thomas Finan works for the House Committee on Homeland Security in Washington, D.C., as Counsel/Coordinator of the Subcommittee on Intelligence, Information Sharing, and Terrorism Risk Assessment. Previously, he litigated civil matters for the FBI’s Office of General Counsel in Washington, D.C.

Brian Johnsrud was named a partner at Morgan Lewis & Bockius. He practices employment law in the firm of Andresen & Butterworth, P.A. as an Associate Attorney. Prior to joining the firm Ms. Thickens worked as in-house counsel for the Home and Building Control business unit of Honeywell, Inc. in Minneapolis. Ms. Thickens will practice in the areas of Real Estate, Corporate and Business Law, Estate Planning and Probate.

1997
John S. Pillsbury Class of 1940


Pillsbury was the great-grandnephew of 1870s Governor John S. Pillsbury. He ran for governor himself in 1966. He served on the boards of such organizations as Twin Cities Public Television, the Community Chest (the predecessor of the United Way), the University of Minnesota Foundation, the Minnesota Orchestra, Dunwoody Institute, and Orono Schools.

Pillsbury served on both the Law Alumni Association Board of Directors and on the Law School’s Board of Visitors and was a generous supporter of the University and the Law School; he and his wife of 68 years, Katharine Clark Pillsbury, provided substantial funding for the Centennial Professorship in Law, held since 1990 by Professor Barry Feld.

He is survived by his wife Katharine; sons John S. Pillsbury III, Donaldson Pillsbury, Dr. L. Harrison Pillsbury, and daughter, Katharine Jose; a sister, Ella Crosby and a brother, George Pillsbury.

We at the Law School are proud to count John S. Pillsbury as one of our graduates.
In Memoriam Tribute

Patrick J. O’Connor
Class of 1945

Patrick J. O’Connor, Sr., prominent graduate of the Law School, died of heart failure on May 8, 2005 at the age of 85. He was born in Eden Valley, MN and graduated from Creighton University in 1942 and the Law School in 1945. He began his legal career with the Fowler Youngquist firm in Minneapolis. In 1956, he founded the law firm of O’Connor & Green. He eventually moved his practice to Washington, D.C. where he opened the nationally recognized law firm of O’Connor & Hannan. He served as the Treasurer and on the board of directors of the Democratic National Committee and was a former Chair of the Democratic House and Senate Finance Council, the only non-member of the U.S. House and Senate to fill that position. He was a member of the Carter-Mondale Presidential Committee; a Director of the Mondale-Ferraro Committee; a Finance Committee member of the Dukakis-Bentsen Presidential Committee; a member of the Clinton-Gore National Finance Committee; and a general counselor to the 1999-2000 Gore campaign. He remained active in Minnesota politics to the day he died. Mr. O’Connor also had served as a former Director of the Kennedy Center for the Performing Arts; Director of the Washington Symphony; member of the Board of Visitors for the Law School and the Law Alumni Association Board of Directors; member of the Minneapolis Chamber of Commerce; and a long-standing member of the American Bar Association. Both Mr. O’Connor and his law firm generously supported the Law School and other University departments, and he served on the Law School’s Cabinet during Campaign Minnesota.

He was preceded in death by his wife Patricia Duffy O’Connor. He is survived by his second wife Evelyn O’Connor; sons Patrick O’Connor, Jr. and James Duffy O’Connor; two stepsons; and eight grandchildren.

Mr. O’Connor made an unforgettable mark on this world and he will be remembered at the Law School for years to come.

The Twin Cities Lawyers Group elected Seema R. Shah its first Executive Director. The Twin Cities Lawyers Group is a collaboration of major Twin Cities law firms and corporations dedicated to identifying, recruiting, advancing and retaining lawyers of color in the Twin Cities’ legal community. Prior to joining the Twin Cities Lawyers Group, Shah was a Trade-mark Counsel for General Mills, Inc.

Thomas Trachsel became a shareholder at Felhaber, Larson, Fenlon and Vogt, P.A. in the Twin Cities. He practices labor law.

Laura Walvoord was elected as partner to Maslon Edelman Borman & Brand, LLP. She is a member of the firm’s litigation group, practicing complex commercial litigation and other business matters.

1997

Jill Brown is the managing director of Wolpoff & Abramson, LLP’s new Minnesota office (in Minnetonka). Wolpoff & Abramson, LLP is one of the nation’s largest and most prestigious creditor’s rights firms dedicated to the collection of consumer debt; its main office is located in Rockville, Maryland and it has fifteen regional offices.

Ryan Burt became a shareholder at Halleland Lewis Hill & Johnson in Minneapolis; he practices in insurance legal matters and handles compliance and public policy issues for the health and long-term care industries.

1998

Mike Booher joined Barker, Wilson, Reynolds and Burke, a litigation boutique firm in Rapid City, South Dakota. Previously Booher worked for Husch & Eppenberger in St. Louis, MO and then spent three years at the Rapid City Attorney’s Office.

Laura Ferster joined Jackson Lewis LLP as an associate representing management exclusively in workplace law and related litigation.

Christopher Kopka now resides in Denver, Colorado.

Chris Rausch joined the General Mills Law Department as Corporate and Securities Counsel, where he practices primarily in the areas of securities regulation, finance and corporate governance.

Amy Seidel, of Faegre & Benson LLP, received an Outstanding Volunteer Award from Milestone Growth Fund.

1999

Barak Babcock is an in-house employment litigator with Fedex in Memphis, TN.

Stacy Lynn Bettison has taken a hiatus from practicing law; in May 2005, she left her law practice to explore other ways to be a passionate advocate. Bettison is currently the Director of Communications and Development for the Landscape Plant Development Center, a national, nonprofit research institute that develops plants and trees that are tolerant of biological and environmental stresses. Art classes and entrepreneurial pursuits also occupy her time, as do her two-year old daughter, Nina, and her world-traveling litigator husband, Stephen Saffran, Class of 1997. Stacy was named a “Rising Star” by Minnesota Law and Politics.

Vija Brookshire, an associate with Messerli & Kramer in Minneapolis, was recognized by Minnesota Law and Politics as among Who’s Who in Family Law and as a Rising Star for 2005.

Patrik Drescher is an associate with Ropes & Gray in Washington, D.C. He focuses on commercial matters.

Emily Rome has joined the Minneapolis firm of Maslon Edelman Borman & Brand, LLP as a litigation associate.

Rebecca Simoni is a member of the Banking, Bankruptcy, and Business Restructuring practice group at von Briesen & Roper, S.C. in Milwaukee, WI. She is currently serving a three-year term on the Milwaukee Bar Association Bench/Bar Bankruptcy Committee.

2000

David Bateson is Director of the Mentor Externship Program at the University of St. Thomas School of Law. He previously practiced at Rider Bennett LLP.

1st

The University of Minnesota Law School was the first library in the country to allow 24/7 access to law students (in 1965).
Tiffany Brown joined the Minneapolis office of Meagher & Geer PLLP.

2001

Ruby Hou Alexander has joined Perkins Coie’s Seattle office focusing on corporate governance and transactions. She will work with a team of 170 business lawyers working from 10 offices across the country.

Robert Bell left the U.S. Securities and Exchange Commission in Washington, DC and is now practicing securities law in the New York office of Clifford Chance US LLP.

Thomas Cobb joined the University of Washington Law School faculty in 2004 to teach in the Basic Legal Skills program. Before joining the faculty, Professor Cobb clerked for Justice Susan M. Leeson of the Oregon Supreme Court and practiced civil and criminal appellate law in the Appellate Division at the Oregon Department of Justice. He worked at Sprenger & Lang, PLLC (a Minnesota law firm specializing in class action civil rights cases), the Federal Public Defender, Minnesota Advocates for Human Rights, and the University of Minnesota Human Rights Center. His research interests include legal rhetoric, statutory interpretation, jurisprudence, criminal law, Indian law, and conflicts of law.

David Harold Day died April 19, 2005, after a courageous eight-year battle with an illness at age 33. After law school, he moved to Immokalee, Florida to begin his career as a lawyer, and later returned to Minnesota and Southern Minnesota Legal Services to represent low income people struggling with legal troubles.

Julianne Emerson joined the law firm of Newby, Lingren & Westermann Ltd. in Cloquet, MN. Prior to this, Emerson practiced with the law firm of Mahoney & Emerson Ltd. in Wayzata, in the areas of business and corporate law, specializing in civil litigation and appellate practice in both state and federal court; other areas of practice include personal injury, DWI defense and general practice.

Daniel Yabut has worked as an attorney with the Illinois State Treasurer’s Office since 2003. Also an actor, he recently starred in Door Shakespeare Festival’s “The Comedy of Errors,” and in September made his feature film debut co-starring as Roy, Bow Wow’s loud-mouthed rival, in the ‘70s rollerskating comedy “Roll Bounce” by Fox Searchlight Pictures.

2002

Christopher Dahlberg, president of Dahlberg Law Office, P.A. of Duluth, Minnesota is redeploying home from Iraq. Dahlberg, a captain in the 407th Civil Affairs Battalion out of Arden Hills, has been serving as Team Chief on the 3rd Infantry Division’s (3ID) Governorate Support Team-Economics. Working out of the U.S. Embassy in Baghdad, Dahlberg was responsible for the coordination and development of economic development initiatives within the 3ID’s area of operation. Dahlberg Law Office is a general practice firm with an emphasis in business law, family law, wills and trusts. Dahlberg, a trained Mandarin Chinese linguist from the military’s Defense Language Institute, is married to Catherine Dahlberg (Wei Zifeng), a native of Nanjing, China who is a trained interpreter/translator from the Monterey Institute of International Studies. Dahlberg plans to expand his practice into assisting Minnesota businesses wishing to enter the Chinese market.

Marshall Lichte accepted a position as the Major Gifts Director for the Northern Star Council of the Boy Scouts of America in St. Paul.

Adam Morris accepted a clerkship for Judge H. Emory Widener, Jr., of the U.S. Court of Appeals for the 4th Circuit.

Tuft & Arnold, PLLC, in Maplewood, MN, named Scott Rodman as an associate. He was a clerk for Hennepin County District Judge Cara Lee Neville and an attorney editor for Thomson West Publishing.

Tony Scalfani is Deputy General Counsel for the New Mexico Corrections Department in Santa Fe, New Mexico.

2003

Rebecca Hasse practices with Allina Hospitals and Clinics in Minneapolis.

Rachel Hughey coached the Law School’s Intellectual Property Moot Court team to victory at the Northeast Regional Competition. She is an associate at Merchant & Gould in Minneapolis.

Nell Keenan loves her new job in the Las Vegas District Attorney’s office. According to Keenan, another MN grad, Byron Thomas, ‘01 is in Las Vegas at a private bankruptcy firm, which she says is kind of fun.

Krisann Kleiback Lee and Joe Lee were married on May 7, 2005.

Nicole Morris was elected Vice President of the Minnesota Association of Black Lawyers. She is an attorney with Robins, Kaplan, Miller & Ciresi.

Erica Weston practices at the University of Colorado’s Office of University Counsel in Denver.

2004

Alyn Bedford joined Faegre & Benson in Minneapolis.

Rjay Brunkow was named relationship manager for Wells Fargo Native American Business Services in the Midwest. Brunkow, an enrolled member of the Turtle Mountain Chippewa Tribe, will lead Wells Fargo’s work on behalf of tribal nations throughout Minnesota, Wisconsin, Michigan, Iowa, North Dakota, South Dakota, and Nebraska.

Intesar Elder accepted a position with Comerica Incorporated in Detroit, MI.

Jenny Norenberg is an associate with Matushek, Nilles & Sinars, LLC in Chicago, IL. She concentrates her practice on product liability, toxic torts, and occupational injury claims.

Joe Walters
Class of 1947

Distinguished alum Joe Walters passed away on May 11, 2005 at the age of 85. He was born in Youngstown, Ohio, and raised in Wisconsin. After serving as an Army sergeant on the front lines in the Pacific during World War II, he earned a bachelor’s degree in 1946 and his law degree in 1947, both at the University of Minnesota.

Mr. Walters is remembered as a tough litigator, practicing alone for several years and then becoming a partner in the O’Connor & Hannon firm. He also served as the attorney for the Hubert Humphrey family. Known for taking difficult cases, in 1986 Mr. Walters was involved in the ownership squabbles of the Minnesota Vikings, representing the founding families, which wanted to retain control of the team. He also represented the government of El Salvador in the late 1980s despite protests from groups that objected to that government’s activities during El Salvador’s Civil War.

He is survived by his son, Bill Walters, daughters Susan Holmes and Ann Walters, five grandchildren, and two great-grandchildren.

Along with his family, Mr. Walters established The Walters Family Scholarship Fund to support Law School students with financial need. Mr. Walters’ passing evoked tributes from many individuals who had worked alongside him over the years; he will be missed by the Law School and greater Minnesota legal community.
In Memoriam Tribute

The Honorable Harry H. MacLaughlin
Class of 1956
On May 3, 2005, Judge Harry H. MacLaughlin, beloved alumnus of the Law School, passed away from complications from pneumonia. He was 78 years old.

From 1945 to 1946, he served in the U.S. Navy. He received his bachelor’s degree in business administration in 1949 from the University of Minnesota and his law degree in 1956. After law school he practiced with the firm of Larson, Loewinger, Lindquist, Freeman & Fraser. In 1957, he and Walter Mondale established the firm of MacLaughlin & Mondale; in 1960 it became the firm of MacLaughlin & Harstad. He continued with the practice until 1970 when he was appointed as an associate justice to the Minnesota Supreme Court. In 1977, he was appointed to the federal bench for the District of Minnesota, becoming the only judge to have served on both the Minnesota Supreme Court and the United States Federal District Court; he later served as Chief Judge for the district during 1992 before assuming senior status in October 1992. Judge MacLaughlin taught as a lecturer at the Law School for many years, and he also served on both the Law Alumni Association Board of Directors and on the Law School’s Board of Visitors. In 1995 the Regents presented Judge MacLaughlin with the Outstanding Achievement Award of the University of Minnesota for serving with distinction and honor in his field.

Judge MacLaughlin is survived by his wife, Mary, and sons, David, Class of 1990, and Doug.

Judge Harry MacLaughlin was a remarkable individual who significantly influenced the Minnesota legal community. He will be missed.

CORRECTIONS

SPRING 2005

In the Spring 2005 issue of the Law Alumni News, we failed to acknowledge that Associate Dean Jim Chen was appointed to the Julius E. Davis Chair in Law in 2000. Dean Chen was honored to hold the Julius E. Davis Chair and we deeply regret the omission.

Katherine Hedin, Curator of Rare Books, with the Darrow family. L. To R.: Kenneth Chase, Judith Lyon, The Rev. William Darrow Lyon, Katherine Hedin, Professor Donald Simonson, Judith Besser, Marsha Simonson. William Lyon (Palmyra, VA) and Judith Besser (Homewood, IL) are great grandchildren of Darrow, the children of Darrow’s granddaughter, Jessie Darrow Lyon. Kenneth Chase (Aiken, SC) is a great grandchild of Darrow, the son of Darrow’s granddaughter, Blanche Darrow Chase. Donald Simonson (Albuquerque) is a stepson of Darrow’s granddaughter, Mary Darrow Simonson.

FALL 2005

In the Fall 2004 issue of the Law Alumni News, we were delighted to include a picture of members of the Clarence Darrow family who were able to attend the Faegre & Benson Symposium: Law, Information, and Freedom of Expression and The Celebration of the Law Library’s Millionth Volume: The Papers of Clarence Darrow on October 22, 2004. We regret that we incorrectly identified a member of the Darrow family. The following is the original picture and the corrected caption.

Dennis Puzz left his practice at Best & Flanagan on September 2nd. Starting September 19th, he will be the new Executive Director of the Yurok Tribe in California.

Bryan Smith works at the Minneapolis office of Littler Mendelson. He recently co-authored an article with Professor Stephen Befort, Class of 1974, that was featured in The Labor Lawyer.

Eva (Mannoia) Weiler joined the law firm of Shook, Hardy & Bacon in Orange County, California and will work in the area of product liability defense. She married Brandon Weiler, IT ’01, on March 26, 2005.

Amelia Wilson accepted an associate position with Davidson & Schiller, an immigration firm in Chicago, IL. 2005

Nathan Nelson is the 2005 recipient of the Federal Bar Association’s Judge Edward J. Devitt Award. Each year, the Minnesota Chapter of the Federal Bar Association sponsors an award for an outstanding third year law student who best exemplifies excellence in courses and activities related to trial work and Federal practice.
In Memoriam

CLASS OF 1933
Paul Hamerston
Stuart, Florida
May 20, 2005

CLASS OF 1937
Frank Graham, Sr.
Saint Paul, Minnesota
March 2004

CLASS OF 1939
George Korbel
Moorhead, Minnesota
6/06/2005

CLASS OF 1940
Virginia Ritt Fabian
Oakland, California
August 13, 2005

CLASS OF 1940
Joseph Gitis
Edina, Minnesota
September 2005

CLASS OF 1940
John S. Pillsbury Jr.
Wayzata, Minnesota
March 28, 2005

CLASS OF 1943
Arthur F. Gillen
White Bear Lake, Minnesota
July 15, 2005

CLASS OF 1945
Patrick J. O’Connor
Minneapolis, Minnesota
May 8, 2005

CLASS OF 1947
G. Jean Berman
Minneapolis, Minnesota
April 23, 2005

CLASS OF 1947
Joe Walters
Minneapolis, Minnesota
May 11, 2005

CLASS OF 1948
James L. Wanvig
San Francisco, CA
April 12, 2004

CLASS OF 1948
Daniel D. Wozniak
Saint Paul, Minnesota
August 18, 2005

CLASS OF 1949
James E. Crowley
Slayton, Minnesota
December 9, 2004

CLASS OF 1952
Loren M. Barta
Apple Valley, Minnesota
May 3, 2005

CLASS OF 1953
Phillip Schwab
Santa Ana, California
August 28, 2005

CLASS OF 1954
J. Earl Cudd
Edina, Minnesota
April 20, 2005

CLASS OF 1956
Harry H. MacLaughlin
Pompano Beach, Florida
May 3, 2005

CLASS OF 1956
James A. Smith
Falcon Heights, Minnesota
April 2, 2005

CLASS OF 1959
Eugene Keating
Bayport, Minnesota
April 6, 2005

CLASS OF 1962
Ernest “Ernie” Gellhorn
Washington, D.C.
May 7, 2005

CLASS OF 1967
William Kampf
Saint Paul, Minnesota
September 16, 2005

CLASS OF 1967
William V. Lahr
Minneapolis, Minnesota
October 4, 2004

CLASS OF 1969
Howard Groves
Burnsville, Minnesota
June 29, 2005

CLASS OF 1972
Rick Enga
Edina, Minnesota
September 8, 2005

CLASS OF 1988
William A. Blodgett
Duluth, Minnesota
September 27, 2004

CLASS OF 1993
Daniel J. Vande Loo
Green Bay, Wisconsin
July 8, 2005

CLASS OF 1995
Maureen B. Cavanaugh
Natural Bridge, Virginia
April 4, 2005

CLASS OF 2001
David Harold Day
Randolph, Minnesota
April 19, 2005

As of October 31, 2005
Alex M. Johnson, Jr.
Dean
(612) 625-4841
alexjohn@umn.edu

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Anita Cole
Program Associate, Alumni Relations & Annual Giving
(612) 626-5363
anitac@umn.edu
Dear Friends,

Thank you for your continuing support of the University of Minnesota Law School. It is with great pleasure that I present you with the 2004–2005 Annual Report.

The Law School continues to rise in national prominence. In 2005, we enrolled the strongest class ever at the Law School. When the academic profile of our students advances, the value of a University of Minnesota Law School degree increases for all our graduates. Recruitment of renowned faculty has surpassed our expectations as we added five tenured and tenure-track and two clinical and library faculty members to our ranks this year. I am happy to report that our entire faculty maintains a high profile, writing and lecturing extensively on leading academic and public policy issues around the country and the world.

We have been sustained this past year by crucial financial support from alumni and friends. As I have said many times over the last three years, our state subsidy has decreased significantly and the Law School depends almost entirely on tuition and private giving for support. I urge you to help us provide our students with a quality legal education by contributing to the Law School in the coming year at a level that is meaningful and comfortable for you.

You will notice that we are for the first time combining the Annual Report and the Law School magazine. This is both an experiment and a means of conserving financial resources in a time of budget cuts. The money saved in printing and extra postage costs for our Annual Report will be used on essential academic programs. We hope you will find this new format informative and convenient.

Again, I extend my sincere thanks to you for your support. You have helped make the University of Minnesota a truly excellent law school.

With sincere gratitude,

Alex M. Johnson, Jr.
Dean and William S. Pattee Professor of Law
FY05

Sources of Philanthropic Dollars (cash):

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alumni and Friends (Individuals)</td>
<td>$865,904</td>
<td>40%</td>
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<tr>
<td>Law Firms</td>
<td>$596,536</td>
<td>27%</td>
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<tr>
<td>Private Foundations &amp; Organizations</td>
<td>$475,927</td>
<td>22%</td>
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<tr>
<td>Corporations/Corporate Foundations</td>
<td>$243,500</td>
<td>11%</td>
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Expenditures from Philanthropic Dollars ($5,405,488):

<table>
<thead>
<tr>
<th>Expenditure</th>
<th>Amount</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Academic Program &amp; Faculty Funds</td>
<td>$2,724,585</td>
<td>50%</td>
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<tr>
<td>Scholarships &amp; Academic Awards</td>
<td>$1,254,286</td>
<td>23%</td>
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<td>Research Initiatives</td>
<td>$1,040,937</td>
<td>19%</td>
</tr>
<tr>
<td>Facilities, Marketing, Contingency</td>
<td>$385,680</td>
<td>7%</td>
</tr>
</tbody>
</table>
Dear Partners in Excellence,

I am pleased and honored to report that the Law School received 2,956 gifts totaling $2,636,082 between July 1, 2004 and June 30, 2005. Cash donations accounted for $2,181,867, while $454,215 came in the form of new pledged and deferred gift commitments. Thirty percent of alumni supported the Law School.

It is also exciting to note these FY05 highlights:

• The Partners in Excellence Annual Fund Drive surpassed its goal, topping a half-million dollars for the first time; 1,934 donors (20% over FY04) contributed $508,164 (23% over FY04) for operating support.

• The Donald G. Marshall Scholarship was created by alumni, colleagues and friends on the occasion of Professor Marshall’s retirement. He is a major influence in the lives of countless graduates who cite him as the absolute exemplar of challenging, inspiring and principled teaching. Commitments honoring his extraordinary gifts and dedication now approach the quarter-million dollar mark.

• Eight endowed funds eligible for the President’s Scholarship Match were created by generous lead gifts from four law firms and five individuals. Additional gifts were designated to these funds by alumni and friends for a total of $627,438 to support scholarships.

• The Law School’s endowment increased 7% over FY04, to a market value of $82,987,586.

Your investment in the Law School advances a rigorous curriculum and world-class teaching, a remarkable range of public interest work, a legal clinical program of unmatched depth, exceptional writing and moot court programs, important scholarly and applied research—and vital scholarship support. On behalf of students, faculty and alumni, thank you for your indispensable role in providing superb legal education at the University of Minnesota!

Warmest regards,

R. Hugh Magill, Class of 1985
Senior Vice President, The Northern Trust Company
Endowed Chairs, Professorships and Fellowships

The University of Minnesota requires a gift endowment level of $2,000,000 to establish a named academic Chair; $1,000,000 to create a Professorship; and $500,000 to name a Distinguished Research Fellowship. The extraordinary caliber of teaching and scholarly achievement enabled by endowment of the following academic positions brings great honor to the Law School. We are privileged, in turn, to recognize the individuals and organizations whose names they bear.

### The Russell M. and Elizabeth M. Bennett Chair in Excellence
**Donor:** The University of Minnesota Foundation  
**Holder:** Associate Professor Guy-Uriel E. Charles

### The Benjamin N. Berger Chair in Criminal Law
**Donor:** Benjamin N. and Mildred Berger  
**Holder:** Professor Richard S. Frase

### The Briggs and Morgan Professorship in Law
**Donor:** Briggs and Morgan  
**Holder:** Professor Michael Stokes Paulsen

### The Howard E. Buhse Professorship in Finance Law
**Donor:** Howard E. Buhse  
**Holder:** Professor Edward S. Adams

### The Centennial Professorship in Law
**Donors:** Law School Alumni  
**Holder:** Professor Barry C. Feld

### The Julius E. Davis Chair in Law
**Donors:** Friends of Julius E. Davis  
**Holders:** University Provost and Law School  
Dean Emeritus E. Thomas Sullivan  
Associate Professor Brett McDonnell

### The Dorsey & Whitney Professorship in Law
**Donor:** The Dorsey & Whitney Foundation  
**Holder:** Professor Fionnuala Ní Aoláin

### The Faegre & Benson Professorship in Law
**Donor:** Faegre & Benson  
**Holder:** Professor Susan M. Wolf

### The John K. and Elsie Lampert Fesler Fellowship
**Donors:** David and Elizabeth Fesler  
Elsie Lampert Fesler  
**Holder:** Associate Professor Dale Carpenter

### The Henry J. Fletcher Professorship in Law
**Donor:** The Miriam Fletcher Bennett Family  
**Holder:** Professor Bradley C. Karkkainen

### The Everett Fraser Chair in Law
**Donor:** James H. Binger  
**Holder:** Professor Mary Louise Fellows

### The Fredrikson & Byron Professorship in Law
**Donor:** Fredrikson & Byron Foundation  
**Holder:** Regents Professor David Weissbrodt

### The Gray, Plant, Mooty, Mooty & Bennett Professorship in Law
**Donor:** Gray, Plant, Mooty, Mooty & Bennett Foundation  
**Holder:** Professor Stephen F. Befort

### The Curtis Bradbury Kellar Chair in Law
**Donor:** Curtis B. Kellar  
**Holder:** Professor Ann M. Burkhardt

### The James L. Krusemark Chair in Law
**Donor:** Estate of Lucille Dondore  
**Holder:** Professor Jim Chen

### The Earl R. Larson Chair in Civil Rights and Civil Liberties Law
**Donor:** The Honorable Earl R. Larson

### The James Annenberg Levee Chair in Criminal Procedure
**Donor:** James A. Levee  
**Holder:** Professor Kevin R. Reitz

### The J. Stewart and Mario Thomas McClendon Professorship in Law and Alternative Dispute Resolution
**Donor:** J. Stewart and Mario Thomas McClendon  
**Holder:** Professor Laura J. Cooper
The Roger F. Noreen Chair in Law  
**Donor:** Roger F. Noreen  
**Holder:** Associate Dean Joan S. Howland

The Oppenheimer Wolff & Donnelly Professorship in Law  
**Donor:** Oppenheimer Wolff & Donnelly  
**Holder:** Professor Dan L. Burk

The Vance K. Opperman Research Scholar  
**Donor:** Vance K. Opperman  
**Holder:** Associate Professor Gregg Polsky

The Vaughan G. Papke Clinical Professorship in Law  
**Donors:** Vaughan and Eleonore Papke  
**Holder:** Professor Bradley G. Clary

The William S. Pattee Chair in Law  
**Donors:** Pattee and Flavis Evenson  
Isabel and Vincent Fryer  
​  
**Holder:** Dean Alex M. Johnson, Jr.

The S. Walter Richey Professorship in Corporate Law  
**Donor:** The Lee and Rose Warner Foundation/Donald G. McNeely

The Robins, Kaplan, Miller & Ciresi Professorship in Law  
**Donor:** Robins, Kaplan, Miller & Ciresi  
**Holder:** Professor Daniel J. Gifford

The Harlan Albert Rogers Professorship in Law  
**Donor:** Annabel R. Cornelison

The Marvin J. Sonosky Chair in Law  
**Donors:** Marvin and Shirley Sonosky  
**Holder:** Professor Michael Tonry

The Melvin C. Steen and Corporate Donors Professorship in Law  
**Donors:** The Sherman Fairchild Foundation  
Cargill Foundation  
3M Company Foundation and its employees  
Northwestern National Life Insurance  
West Publishing Company and its employees  
**Holder:** Professor John H. Matheson

Frederick W. Thomas Professorship for the Interdisciplinary Study of Law and Language  
**Donors:** O’Connor & Hannan  
Friends of Frederick W. Thomas  
**Holder:** Professor Brian Bix

The William L. Prosser Professorship in Law  
**Donors:** Best & Flanagan  
Doherty, Rumble & Butler  
Felhaber, Larson, Fenlon & Vogt  
Henson & Efron  
Kaplan, Strangis and Kaplan  
Moore, Costello & Hart  
O’Neill, Burke, O’Neill, Leonard & O’Brien  
Winthrop & Weinstine  
**Holder:** Professor Ruth L. Okediji

The Irving Younger Professorship in Law  
**Donors:** Family, Friends and Colleagues of Irving Younger  
**Holder:** Professor Oren Gross

The Maynard E. Pirsig Chair in Law  
**Donor:** Louise H. Saunders
Scholarships, Academic Awards and Special Assistance Funds

Each of the following funds created by generous alumni and friends is of immeasurable value in helping the Law School attract and retain outstanding students.

Joseph S. Almas Memorial Scholarship
Hugh H. Barber Memorial Scholarship
Roger Barrett Scholarship
William J. Baudler Memorial Scholarship
Lee Bearmon Award in Legal Ethics and Professional Responsibility
Russell M. Bennett Scholarship
Erling Berg Memorial Scholarship
Lorraine O. Berman Memorial Scholarship
Steven M. Block Memorial Award
Earl C. Borgeson Library Scholarship
Walter D. Boutell Memorial Scholarship
Harlow E. and Jeanne K. Bowes Scholarship
Caroline Brede Scholarship
Briggs and Morgan Scholarship
Montreville J. Brown Memorial Scholarship
Charles E. Carlsen Memorial Scholarship
Wilbur H. Cherry Memorial Scholarship
Theodore Christianson, Jr. Memorial Scholarship
Melvin S. Cohen Scholarship
Mary Jeanne Coyne Scholarship
Thomas P. Cranna Memorial Scholarship
Norris Darrell Scholarship
Roger L. Dell Scholarship
Deloitte & Touche Tax Law Scholarship
Homer B. Dibell Scholarship
James E. Dorsey Scholarship
Everett A. Drake Scholarship
Lucy W. Elmendorf Scholarship
Endowment for Excellence Scholarship
Faegre & Benson Scholarship

Sherman Fairchild Foundation Minority Law Student Fund
David Forman Memorial Scholarship
Fredrikson & Byron Scholarship
Harold M. Fredrikson Memorial Scholarship (Founder, Fredrikson & Byron, P.A.)
Edward T. Fride and Patricia A. Fride Scholarship
Charles and Lillian Gay Scholarship
Sidney P. Gislason Scholarship
Peter F. Greiner Memorial Scholarship
Halleland, Lewis, Nilan, Sipkins & Johnson Scholarship
Gerald and Eleanor Heaney Scholarship
Henson & Efron, P.A. Scholarship
Marshall W. Houts Memorial Scholarship
The Eric W. Ingvaldson Scholarship
Curtis L. Jensen Scholarship
Patricia A. Johnson Scholarship
C. Paul Jones, Helen F. Jones, Katie & Sara Jones Scholarship
The Elliot and Eloise Kaplan Scholarship
Sidney J. Kaplan Award
Sidney J. Kaplan Legal Scholarship
James L. Krusemark & Lucille Dondore Family Scholarship
John Kukowske Memorial Scholarship
Dorothy O. Lareau Legal Writing Award
Richard G. Lareau Diversity Scholarship
Law Class of 1924 Memorial Scholarship
Law Faculty Scholarship
Law Review Memorial Award
Law School Endowment Scholarship
The Russell Lederman Memorial Scholarship
Leonard, Street & Deinard Award
Leonard, Street & Deinard Foundation Scholarship
Leonard, Street & Deinard Scholarship
Avis and Russell Lindquist Scholarship
The Leonard E. Lindquist Scholarship
William B. Lockhart Scholarship
Mackall, Crounse & Moore Scholarship
George E. MacKinnon Scholarship
William M. Mahlum Family Scholarship
Donald G. Marshall Scholarship
The Albert & Anne Mansfield Foundation Summer Fellowship Program
Ralph M. McCareins Memorial Award
Kevin D. McCary Memorial Scholarship
Michael McHale Memorial Scholarship
Gale R. Mellum Scholarship
Merchant & Gould Scholarship
Simon Meshbesher Memorial Scholarship
Andrew E. Miner Scholarship
MIPLA Scholarships for Intellectual Property
Howard W. Mithun Scholarship
Thomas O. Moe Scholarship
The John W. Mooty Scholars Fund
Edmund Morris Morgan Scholarship
Colonel Charles M. and Elizabeth S. Munnecke Scholarship
Weed Munro Scholarship
Edward L. Murphy, Jr. Scholarship
Charles Elihu Nadler Award
Ronald J. Nemer Law Scholarship
Roger and Violet Noreen Scholarship
James E. O’Brien Scholarship
William R. and Barbara A. Pearce Family Scholarship
Lloyd R. Peterson & Evelyn Peterson Scholarship
Arthur T. Pfefer Memorial Scholarship
Harold J. Richardson Scholarship
Rider, Bennett, Egan & Arundel Founders Scholarship
The Millard H. and Barbara Daily Ruud Scholarship
Frank G. Sasse Scholarship
Irving Shapiro Fund to Assist Law School Students
Kenneth and Lillian Smith Scholarship
A. W. Spellacy Memorial Scholarship
Melvin C. Steen Scholarship
Robert A. Stein Scholarship
The Mary and McCants Stewart Minority Scholarship
Royal A. Stone Memorial Scholarship
Robert Kincade Stuart and Anna Maude Stuart Scholarship
Faith Thompson Scholarship
Graham MacFarlane Torrance Memorial Scholarship
Walter J. Trogner Scholarship
William Reynolds Vance Scholarship
The Walters Family Scholarship
Judge Betty W. Washburn Scholarship
David K. and Mary G. Wendel Scholarship
Kent Wennerstrom Memorial Award
The Brig. Gen. Rodger D. Young and Dorothy L. Young Scholarship
Gustav E. & Jeannette Zwick Scholarship

Michael P. Sullivan, Jr., Class of 1996, Gray Plant Mooty

“I’m extremely grateful to the University of Minnesota Law School. Besides receiving a great education, which has afforded me a challenging and satisfying career, the Law School introduced me to an incredible group of people, including my wife, Rachna, who I met on the first day of orientation.”
Faculty and Program Support

Donor-supported faculty and program funds advance excellence in teaching, expand learning opportunities for students and faculty, promote scholarly research and stimulate fresh thinking through activities including distinguished visitors programming.

William Anderson Memorial Annuity Trust Fund
Caroline Brede Law Library Fund
Ronald E. Budd Memorial Fund
Curtis L. Carlson Fund for Swedish Exchange Students
Philip C. Carruthers Public Interest Law Clinic
Robert J. Christianson Faculty Fund
John Dewey Lectureship in the Philosophy of Law
Excellence in Teaching Fund
Faegre & Benson Lecture Series on Law, Health & the Life Sciences
John K. & Elsie Lampert Fellowship
Maynard B. Hasselquist International and Comparative Business Law Fund
Maynard B. Hasselquist Memorial Faculty and Education Fund
Horatio E. Kellar Distinguished Visitors Program Fund
Stanley V. Kinyon Endowment Fund
Robert M. Kommerstad Center for Business Law and Entrepreneurship
The Law Alumni Distinguished Teacher Award
Leon Liddell Law Library Fund including:
   Edward and Genevieve Bade Library Fund
   Caroline Brede Library Fund
   Maynard and Harriet Pirsig Library Fund
   Arlette M. Soderberg Library Fund
Leonard, Street & Deinard Wireless Network
Ronald M. Mankoff Federal Taxation Clinic
Vance K. Opperman Endowment for Excellence
Vance K. Opperman Research Scholar Award
William L. Prosser Endowment Fund
Robins, Kaplan, Miller & Ciresi Civil Litigation Clinic
Robins, Kaplan, Miller & Ciresi Public Service Program
Melvin C. Steen Faculty Fund
Wargo-Workman Audio/Visual Fund
Wells Fargo Law Alumni Mentorship Endowment
West Group Legal Art Collection
Earl Davis Woolery Law Library Fund
Zimmerman Reed Family Law Faculty Fund
Partners in Excellence Honor Roll
Leadership Lifetime Giving

The University of Minnesota Law School gratefully honors its benefactors, whose extraordinary vision and generosity have elevated the quality of legal education and scope of service to society provided by the Law School. Their vital support has enhanced immeasurably the stature of the Law School and its ability to remain a leading force in legal education.

These donors are recognized with deepest appreciation for outright, pledged and deferred giving of $10,000 or more, cumulatively, to the Law School.

$2,000,000 OR MORE
William Anderson Memorial Annuity Trust
James H. Binger
Eileen H. Buckley
Edna McConnell Clark Foundation
Lucille K. Dondore
Robins, Kaplan, Miller & Ciresi

$1,000,000–$1,999,999
Mr. and Mrs. Benjamin N. Berger
Otto Bremer Foundation
Dorsey & Whitney
Mr. and Mrs. Pattee Evenson
Sherman Fairchild Foundation
Mr. and Mrs. Vincent Fryer
Curtis B. Kellar
Robert M. and Lila M. Kommerstad
The Kresge Foundation
James Annenberg Levee/Polly Annenberg Levee
Charitable Trust
John W. Mooty Foundation Trust
John and Jane Mooty
Bruce W. Mooty
Gray, Plant, Mooty, Mooty & Bennett
Charles Stewart Mott Foundation
Vance K. Opperman
Louise H. Saunders
Irving S. Shapiro
Kenneth R. Smith
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The Joyce Foundation
Lavina Rose Lesser
J. Stewart and Mary T. (Mario) McClendon
The McKnight Foundation
Roger F. Noreen
Oppenheimer Wolff & Donnelly
Mr. and Mrs. Marvin J. Sonosky
West Group

$250,000–$499,999
Mr. and Mrs. Russell H. Bennett
Edward H. Borkon
Howard E. Buhse
Michael V. and Ann C. Ciresi
Annabel R. Cornelison
Mr. and Mrs. Julius E. Davis
Everett A. and Ruth D. Drake
The Ford Foundation
Charles R. and Lilian R. Gay
Elliot S. Kaplan
Earl R. Larson and Cecill C. Larson
Leonard, Street & Deinard
Lindquist & Venum
Catherine A. Ludden
The Albert & Anne Mansfield Foundation
William J. McGinnis
Donald G. McNeely/Lee and Rose Warner Foundation
Northwest Area Foundation
Open Society Institute
Vaughan G. Papke
The Pew Charitable Trusts
Frederick L. Thorson
West Publishing Company

$100,000–$249,999
Russell M. Bennett II
Sanford Berman

Jeanne K. Bowes
Cargill Incorporated
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Curtis L. Carlson
Mr. and Mrs. A. W. Clausen
Dain Rauscher Foundation
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David S. Doty
Mathilde R. Elliott
Lucy W. Elmendorf
Exxon Educational Foundation
John K. and Elsie Lampert Fesler
Cassius E. Gates
Keith T. Harstad
Patricia A. Johnson
Kaplan, Strangis & Kaplan
Stephen F. and Mary D. Keating
W. M. Keck Foundation
David A. and Barbara G. Koch
Paul W. and Helene R. Lohmann
Donald M. Mankoff
Dennis M. Mathisen and Gail Mathisen
Merchant & Gould
Walter F. and Joan Adams Mondale
Charles M. and Elizabeth S. Munnecke
Emily Abbott Nordfeldt
Northwest Airlines
O’Connor & Hannan
Evelyn M. Peterson
John S. Pillsbury, Jr.
Maynard E. Pirsig
Shaler Adams Foundation
Smith Richardson Foundation
Street Law, Inc.
E. Thomas and Susan Sullivan
“Remembering the generous financial assistance that made Law School possible for me, makes it all the more important to help provide for a new generation of University of Minnesota students.”

Stephen Befort, Class of 1974, University of Minnesota Law School
Partners in Excellence Honor Roll Leadership Lifetime Giving

C. Paul and Helen Jones
Harvey F. Kaplan
Sheldon Kaplan
David Karan
Thomas R. King
Mr. and Mrs. Victor H. Kramer
James W. Krause
John Kukowske
Richard H. Kyle
Lexis Document Services
Librasoft
Greer E. and Mary M. Lockhart
William M. Mahlum
John and Judy Matheson
George T. McDermott/
McDermott Private Foundation
Daniel W. McDonald
The Michael McHale Memorial Scholarship Fund
Gale R. Mellum
Peter A. Michalski
The Miller & Chevalier Charitable Foundation
The Minneapolis Foundation
Minnesota Intellectual Property Law Association
Mitakuye Oyasin (All My Relations Fund)
Thomas J. Moore
Edward L. Murphy, Jr.
Joseph T. O’Neill
Gregg and Laverne Orwoll
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Patrick J. Roche
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Harry A. Sieben
Robert J. Tennenbaum
John B. Winston
Thomas L. Yaeger
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Mitchell W. Kiffe
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Joseph A. Nilan
Counselor
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Associate
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Karen J. Garvin
Lucinda L. Huska-Claeys
Joseph A. Nilan
Counselor
Lois J. Lang
Terry A. Lynner
James L. Myott
Mary R. Watson
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<table>
<thead>
<tr>
<th>Class of 1981</th>
<th>Lockhart Barristers Circle</th>
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<tbody>
<tr>
<td></td>
<td>James J. Bender</td>
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<td>Ronald J. Schutz</td>
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<td>Bradley A. Forrest</td>
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<td>Jeannine L. Lee</td>
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<td>Joseph M. Barbeau</td>
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<td>Patricia A. Beithon</td>
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Partners in Excellence Honor Roll Giving by Source

Associate
Gregory J. Anderson
Caesar A. Tabet
Heather S. Woodson

Fellow
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Wade T. Anderson
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Susan R. Stockdale  
Daniel R. Wilson  
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Sachin J. Darji  
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David E. Flotten  
Andrew M. Friedman  
Margaret C. Galvin  
Joseph C. Hohenstein  
Keith N. Jackson  
Jenneane L. Jansen  
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John J. Oxley  
Andrew W. Lawrence  
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**Fellow**  
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DeAnne L. Dulas  
Pamela Siege Chandler  
John J. Moore  
Joseph P. Rogers  
Kevin David Schlender  
Kevin R. Hofstetter  
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**Associate**  
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**Fellow**  
Cynthia P. Arends  
**Fellow**  
Davi E. Axelson  

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Advocate
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Julie L. Brotzler
Meghan Cooper
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John O. C. Moss
Jessica Servais
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Sandra Yue

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Advocate
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Jared Hager
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Debra Frimerman
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Eric Joseph Gottwald
Jigang Jin
Jonathan D. Krieger
Yaohui Lou
Nigel Henry Mendez
Patricia Perez

Nadege N. Reyhn
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John Stern
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### UPCOMING EVENTS

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This is not an exhaustive list of the events occurring at the Law School. For a complete listing, refer to: [http://www.law.umn.edu/events/index.html](http://www.law.umn.edu/events/index.html). Alumni can also contact Sara Jones at (612) 626-1888 or sjj@umn.edu for additional information.