

Bill of Particulars

FALL 2004



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FROM THE DEAN



Last year, I became the first graduate in modern times to serve as dean of the Law School. As dean, I am often called upon to put into words what it is that makes the Indiana University School of Law—Bloomington one of the nation's leading public law schools.

In the first place, the Law School is committed to continually improving all that we do, while retaining our tradition of collegiality and a mutually supportive environment.

At the heart of the school are our distinguished faculty members, who are researching and defining the major legal issues of our time in fields as diverse as human rights, information technology, the environment, and international business transactions. Nationally recognized in their disciplines, they also share a deep commitment to teaching and ensuring student success. Our students and faculty learn from one another and build strong relationships that often last well after graduation.

We also benefit from being able to share the resources of a major research university. Our students can enroll in classes at one of our top-ranked sister schools or pursue joint degrees in business, environmental science, journalism, public policy, or telecommunications, or even design individualized joint programs with other schools on the campus. And Bloomington is a uniquely vibrant setting that combines the idyllic virtues of a small town with the intellectual, cultural, and recreational benefits of a university community.

But what really distinguishes the School of Law is the amazing group of people who become first our students, then our alumni. If you return to Bloomington to walk through our halls, you will see a diverse and talented group of men and women socializing, sharing ideas, working in clinics, leading student organizations, or participating on moot court teams.

And when I leave these halls to visit with you in the cities and towns where you live and work, I likewise see a diverse and talented group of men and women who are engaged in every facet of the law and of their communities.

Each year, during Alumni Weekend, we honor a few among our many extraordinary alumni. This year, five distinguished graduates will be inducted into the Academy of Law Alumni Fellows.

Longtime state senator **J. Leslie Duvall**, LLB'49, led the reform of the Indiana criminal code while in office. He is a former chair of the Indiana Utility Regulatory Commission and is of counsel with Lewis & Kappes,

Indianapolis, where he focuses on energy and utility law. **Barbara J. Kelley**, JD'73, currently a partner with Kamlet Shepherd & Reichert, Denver, has had a distinguished career focusing on corporate and banking matters, and was a member of the Christopher Commission, headed by Warren Christopher and appointed by former Los Angeles Mayor Tom Bradley to investigate excessive use of force against minorities. The late **Stephen O. Kinnard**, JD'72, was chief mediator for the 11th Circuit Court of Appeals and a prominent activist on behalf of death row inmates. A tireless supporter of the School of Law who has served on both our Alumni Board and Board of Visitors, **Jacqueline A. Simmons**, JD'79, is vice president and general manager for Reilly Industries Inc., managing all aspects of the business, which boasts \$250 million in global sales and manufacturing facilities on three continents. **Thomas L. Stevens**, JD'55, who specialized in insurance and general corporate law, was chair and CEO of Lord Bissell & Brook, Chicago, when he retired in 1995, having started as an associate with the firm in 1958.

This Alumni Weekend, we will also honor the recipients of the Distinguished Service Award, which recognizes graduates who have distinguished themselves in service to their communities or to the Law School. **Andy Buroker**, JD'89, of Krieg DeVault, has provided exceptional service to the American Heart Association. **Jeff Pankratz**, JD'91, focuses his practice at Venable on affordable housing and community development transactions and is currently on a leave of absence working with an international human rights organization in southern India. **Rapheal Prevot**, JD'84, of the NFL, is being honored for his extraordinary commitment to the Law School, manifested in his service on both the Alumni Board and Board of Visitors and in the internships and mentoring he has provided to countless students and graduates. **Jeff Richardson**, JD'77, of Abbott Laboratories, helped develop and now runs Step Forward, an Abbott program dedicated to providing health services to children affected by HIV/AIDS. **Taylor Segue**, JD'83, of Howard & Howard, Detroit, serves on the board of directors for Fannie Mae and is chair of the board of Orchards Children's Services, Michigan's largest private foster care and adoption agency.

I extend my warmest congratulations to the new fellows and award winners and look forward to seeing them on Oct. 1 & 2 during Alumni Weekend 2004, along with all of our truly extraordinary alumni.

— *Lauren K. Robel, JD'83*
Dean and Val Nolan Professor of Law

Indiana lawyer played key role in drafting Iraq's interim constitution

by Evan Osnos

This lawyer is no diplomat. His previous office was in Valparaiso, Ind., and his pinstripe suits look more at home in tax court than in a compound guarded by men with AK-47s.

But earlier this year, Feisal Istrabadi emerged as the probably pivotal player in the high-stakes drama of fashioning Iraq's interim constitution. He parsed every comma and clause on the most explosive questions of religion, power, and territory that will either tie Iraq together or split it asunder.

"I'm no James Madison," he said wearily in February, after another night of negotiating well past midnight.

As the legal adviser to a top Iraqi politician, Istrabadi has drawn admiration from U.S. and Iraqi officials for his plain-spoken determination to settle the most sensitive debates. When a routine malpractice case nearly pulled him back to the United States last week, Paul Bremer, the U.S. administrator in Iraq, intervened to win a delay, fearing Istrabadi's absence could derail the constitutional talks.

Behind Istrabadi's mission to Iraq is the story of a 41-year-old suburban father of two driven by a divided identity: a man with deep Iraqi roots consumed with reviving the country of his ancestors, and an American increasingly distressed by what he sees as critical U.S. missteps that threaten the chances for delivering democracy to Iraq.

"The United States didn't arrive ready for the job at hand," Istrabadi said. "It came here with a variety of mistaken assumptions. It has paid the price, and the people of Iraq have paid the price for those mistakes."

Those who have watched Istrabadi evolve from a little-known adviser to Iraqi politician Adnan Pachachi to an important voice in the future of the country say his devotion reflects a deep belief that Iraq's future hangs in the balance.

"Above all, he feels that the U.S. should be held to promises it made to the Iraqi people," said Noah Feldman,

a New York University professor who advised the U.S.-led coalition on devising an Iraqi constitution. "He immediately struck me as someone who was very politically and legally sophisticated."

Known officially as the transitional administrative law, Iraq's interim constitution was among the toughest hurdles



(Gary Post-Tribune)

U.N. role for Istrabadi

In August, Feisal Istrabadi was appointed as Iraq's acting permanent representative and ambassador to the United Nations.

to conquer before Iraq could regain sovereignty as planned on July 1. The transitional law is expected to form the basis for a final document in 2005.

Bound by a deadline to finish writing by Feb. 28, Istrabadi and a dozen other core negotiators met for weeks during the winter to thrash out the details.

They sketched out a parliamentary system led by a prime minister and a presidency. The presidency could

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Iraq

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be composed of three to five rotating members to satisfy ethnic and sectarian demands.

They struck fragile compromises on divisive issues, including pledging support for a federal state, which Kurdish leaders have demanded and many Arabs have opposed. In another compromise, they heeded hard-line Muslims' calls that Islam be acknowledged as a source of legislation but have stopped short of recognizing religion as the principal source.

This is not the first time an Istrabadi has helped pen the founding documents of Iraq. Part of a long line of administrators and officials, his paternal grandfather, Mahmoud, was a member of the assembly that wrote Iraq's first constitution in 1925.

Throughout the discussions, Istrabadi emerged as a strong advocate for protections against civil-rights abuses and corruption. He insisted on banning torture for all detainees. He proposed a presidential veto as a safeguard against power-grabbing by the parliament.

And in his boldest push yet, Istrabadi argued that women, who have never had a voice in Iraqi government, should be guaranteed 40 percent of the seats in the first legislature.

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When a military coup overthrew the monarchy in 1958, Feisal Istrabadi's parents immigrated to the United States. He was born in Virginia, but his family returned to live in Iraq for several years, until he was 8. While there, he saw his first searing glimpse of Saddam Hussein's brutality.

"One of my strongest memories of Baghdad was the televised mass public execution by hanging of 13 men — one of whom was 19 years old — predominantly Jews. They broadcast it on the Islamic equivalent of Christmas Eve," he said over tea in his office, surrounded by blast walls and armed guards. "That left a profound impact on all of us who watched it."

The family soon moved back to the United States, where Feisal's Iraqi roots faded deeper into American teenage life. He went to Indiana University for college and law school, lost any hint of a foreign accent, and barely even thought of himself as Iraqi.

That all changed in 1991, when he watched bombs falling on Baghdad and grew increasingly concerned about suffering in the country he had left behind. He went on to spend several years lobbying to loosen sanctions on Iraq.

In 2002, amid the growing prospect of war in Iraq, Istrabadi joined the Future of Iraq project, a U.S. State Department–sponsored effort to draw on Iraq experts and expatriates for help in postwar planning. The group produced hundreds of pages of analysis, but in what has since become famous as a critical failure, the Defense Department shelved the project's conclusions. Among the findings, the project warned that looting and disorder after combat could impede the progress toward reconstruction.

Istrabadi said of the failure to heed the project's conclusions, "It was a horrendous mistake."

As U.S. troops arrived in Baghdad and the city fell into chaos, he felt a pull to return.

"I think that, like other expatriates in that situation, there was some feeling of guilt," said DePaul University professor Cherif Bassiouni, who enlisted Istrabadi into DePaul's International Human Rights Law Center as a senior fellow. "There is a bit of: Here I am in Chicago enjoying the good life, and my people have been suffering, and how can I help?"

Late in April, Istrabadi said goodbye to his wife, two daughters, and small Indiana law practice, and traveled to Baghdad, the first of three long trips to the seething capital.

In a city awash in diplomats, Istrabadi's trial-lawyer style stood out. At his first meeting with one of Bremer's deputies, he asked the official if he had read about the British occupation of Iraq, because the official appeared intent on repeating every mistake they had made.

Little in his style has changed. At his office recently, Istrabadi's mobile phone chirped to life. A member of Bremer's team was on the line with word that one of the major Iraqi parties was stalling on a key feature of the deal.

"Hell ... we've given you a month," Istrabadi said. "For a month, you've been saying we'll have a deal tomorrow."

Evan Osnos is a foreign correspondent for the Chicago Tribune, where a version of this story originally appeared in February.

Terrorism, Technology, and Information Privacy: Finding the Balance

by Fred H. Cate

I want to describe briefly one example of the research that the generosity of alumni supports. Because this is truly a work in progress, I will pose questions rather than attempt any answers, but the questions address a subject that is timely, controversial, important, and, I hope you will agree, interesting. — FHC

Government data mining

The nation is confronted with many examples of vexing questions about how to regulate the government's access to personal information maintained by or in the private sector:

- The Defense Department announced that it was working on "Total Information Awareness" — later renamed "Terrorism Information Awareness" — a research and development program that included technologies to search personally identifiable transaction records and recognize patterns across separate databases for the purpose of combating terrorism.

- The Advanced Research and Development Activity center, based in the National Security Agency, has a project — Novel Intelligence from Massive Data — to develop tools to examine large quantities of data to "[r]eveal new indicators, issues, and/or threats that would not otherwise have been found due to the massiveness of the data."

- Section 201 of the Homeland Security Act, signed into law in November 2002, requires the Department of Homeland Security to "establish and utilize ... data-mining and other advanced analytical tools" to "access, receive, and analyze data" in order to "detect and identify threats of terrorism against the United States."

- Army defense contractor Torch Concepts, with the assistance of the Department of Defense and the Transportation Security Administration, obtains millions of passenger records from JetBlue Airways and Northwest Airlines to study how data profiling can be used to identify high-risk passengers. For many of the passengers, Torch Concepts was able to buy demographic information including data on gender, occupation, income, Social Security Number, home ownership, years at current residence, number of children and adults in the household, and vehicles.

- The TSA has announced that it is in the process of

deploying the second generation of the Computer-Assisted Passenger Prescreening System, which compares airline passenger names with private- and public-sector databases to assess the level of risk a passenger might pose.

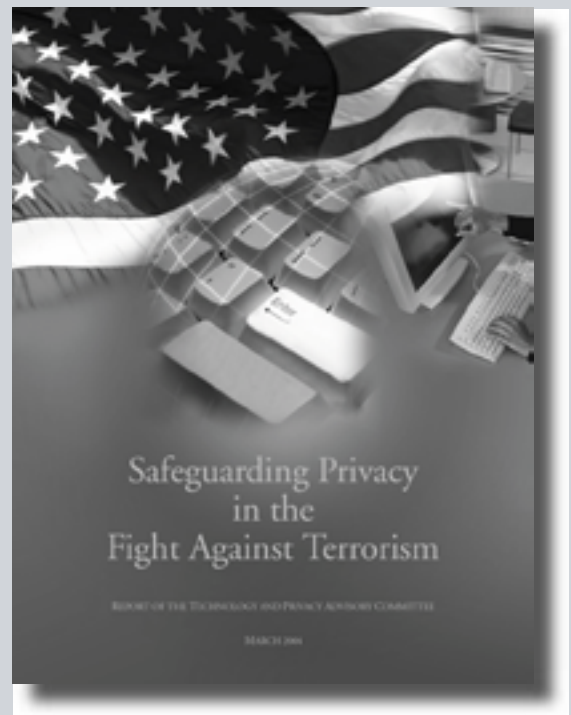
- The USA PATRIOT Act, adopted in the aftermath of the Sept. 11, 2001, terrorist attacks, expands the power of the Treasury Department's Financial Crimes Enforcement Network (FinCEN) to require financial institutions to report suspected money laundering or terrorist activities by their customers. The act also mandates new "Know Your Customer" rules, which require financial institutions to verify the identity of any person seeking to open an account, maintain records of the information used to verify the person's identity, and determine whether the person appears on any list of known or suspected terrorists or terrorist organizations.

- Florida police have created a new database called MATRIX (Multistate Anti-Terrorism Information Exchange)

to link law enforcement records with other government and private-sector databases. The new system is designed to "find patterns and links among people and events faster than ever before." Eight states and the DHS are now participating in MATRIX, which is funded by the Justice Department and the DHS.

All of these and similar government programs present variations on the same question: To what extent should the government be able to conduct sophisticated computerized searches of transactional records and other private sector databases of U.S. citizens and permanent residents in an effort to detect and prevent terrorist attacks, for national security, and for law enforcement purposes?

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Technology Privacy and Advisory Committee

Faced with this difficult and critical question, the federal government did what it often does: appoint a committee. In February 2003, Secretary of Defense Donald Rumsfeld appointed the Technology and Privacy Advisory Committee to advise him on whether anti-terrorist data-mining technologies should be developed, and, if so, what safeguards should be developed to ensure those technologies are used “in accordance with U.S. law and American values related to privacy.” The committee consists of eight members:

- **Newton N. Minow**, chair, is senior counsel to the law firm of Sidley Austin Brown & Wood; he served as chair of the Federal Communications Commission under President Kennedy.
- **Floyd Abrams** is a partner in the New York law firm of Cahill Gordon & Reindel and the William J. Brennan Jr. Visiting Professor of First Amendment Law at the Columbia Graduate School of Journalism.
- **Zoë Baird** is president of the Markle Foundation and previously was senior vice president and general counsel of Aetna and an attorney in the White House and in the Justice Department.
- **Griffin Bell** was managing partner of King & Spalding, a judge on the U.S. Court of Appeals for the 5th Circuit, and attorney general of the United States.
- **Gerhard Casper** is president emeritus of Stanford University and the Peter and Helen Bing Professor in Undergraduate Education at Stanford.
- **William T. Coleman Jr.** is a senior partner and the senior counselor in O’Melveny & Myers; he served as secretary of transportation during the Ford administration.
- **Lloyd N. Cutler** is a founding partner of the law firm of Wilmer Cutler & Pickering; he served as counsel to Presidents Clinton and Carter.
- **John O. Marsh Jr.** is a distinguished professor of law at George Mason University; previously he was a member of Congress, assistant secretary of defense for legislative affairs, counselor to the president, and the longest-serving secretary of the Army.

The eight members read like a *Who’s Who* of government, law, industry, and higher education. Between them, they have earned 10 JDs or doctorates and more than 100 honorary doctorates. They represent all three branches of government, including one federal appellate court judge, one member of Congress, two cabinet secretaries, an attorney general, three White House lawyers (including one

who worked as White House counsel for two presidents), and one chair of the FCC.

They serve on the boards of an impressive cross section of Fortune 500 companies, including AMAX, Aon Corp., CBS, Chase Manhattan Bank, Chubb Corp., CIGNA Corp., IBM, Pan American, Sara Lee Corp., Foote Cone & Belding, Manpower Inc., PepsiCo., and the Tribune Company.

They are an enviable model of public service, including the chairs of the Carnegie Corp., the Commission on President Debates, the Rand Corp., and PBS — and that is just Mr. Minow. Six of the eight are members of the American Law Institute; three were Supreme Court clerks; and three are name or managing partners of the nation’s 50 largest law firms.

In short, if anyone could figure out the proper balance between privacy and government data mining, these people could. However, they — and certainly I, as their counsel — have found it more difficult than I think any of us would have expected. With hindsight, there seem to be four reasons, all of them related in varying degrees to technological changes.

Technology of data mining

The government has always used personally identifiable data about individual U.S. persons as part of its law enforcement and national security efforts. Current law is already appropriate to address such inquiries (requiring in most cases a warrant or wiretap order before a U.S. person can be the subject of search, seizure, or surveillance).

Dramatic advances in information technology, however, have greatly increased the government’s ability to access data from diverse sources, including commercial databases. New technologies also allow the government to engage in data mining to search vast quantities of data for the purpose of identifying people who meet specific criteria or otherwise present unusual patterns of activities. Such data mining is arguably one 21st-century equivalent of general searches, because its key characteristic is that it involves scrutiny of data about individuals who have done nothing to warrant government suspicion.

The volume of data

Those technologies have also exponentially increased the volume of data available about individuals and greatly reduced the financial and other obstacles to retaining, sharing, and exploiting those data in both the public and

private sector. We leave data trails behind us every day as we make purchases, browse the Internet, travel, commute, make phone calls, send e-mail, go to school, punch time clocks, use electronic keys, watch television, or engage in thousands of other ordinary activities. Digital technologies make those easy to capture — in fact, difficult to avoid capturing — and the high value of that information creates a powerful incentive to do so.

In addition, the government is collecting vast storehouses of information through its everyday activities and through its national security efforts. One of the most immediate challenges facing U.S. anti-terrorist activities is separating out the “signal” of useful information from the “noise” of all of those data. Technological tools are essential to help analyze data and focus human analysts’ attention on critical relationships and patterns of conduct. Their use, however, necessarily raises significant privacy and other civil liberties issues.

New terrorist threats

As the attacks of Sept. 11, 2001, made clear, the United States faces a new and deadly terrorist threat. That threat is qualitatively different from anything the nation has faced before because of the power of terrorists to strike from within, their willingness to sacrifice their own lives in the relentless pursuit of the devastation of our nation, their demonstrated ability to turn technologies into weapons that can cause mass destruction, and their use of advanced information technologies to launch highly coordinated, well-financed, and painstakingly rehearsed attacks against the United States. This combination threatens not only American lives, but our way of life and our ability to defend ourselves.

Inadequacy of the distinctions on which current law is based

Current law is too fractured and outdated to ensure either that the government can access the data it really needs to protect national security and fight crime effectively or that individual privacy is protected in the process. For example, the Supreme Court’s application of its determination that the Fourth Amendment protects only “reasonable” expectation of privacy has yielded uneven and often incomprehensible results. The court has found “reasonable” expectations of privacy in homes, businesses, sealed luggage and packages, and even drums of chemicals, but

Current law is too fractured and outdated to ensure either that the government can access the data it really needs to protect national security and fight crime effectively or that individual privacy is protected in the process.

no “reasonable” expectations of privacy in voice or writing samples, phone numbers, conversations recorded by concealed microphones, and automobile passenger compartments, trunks, and glove boxes.

Most relevant to government projects that could involve accessing data about U.S. persons from commercial databases, the Supreme Court held in 1976 in *United States v. Miller* that there can be no reasonable expectation of privacy in objects or information held by a third party. The case involved bank records, to which, the court noted, “respondent can assert neither ownership nor possession.” Such documents “contain only information voluntarily conveyed to the banks and exposed to their employees in the ordinary course of business,” and therefore the court found that the Fourth Amendment is not implicated when the government sought access to them, “even if the information is revealed on the assumption that it will be used only for a limited purpose and the confidence placed in the third party will not be betrayed.” The Fourth Amendment just doesn’t offer much protection in the data mining context, since all of the data involved are held by a third party.

Moreover, the Supreme Court’s application depends significantly on the nationality of the individual(s) involved, the country in which the search takes place, and whether the motivation for the search is “national security” and “law enforcement.” Statutes designed to help fill some of the constitutional gaps reflect this same approach.

This “line at the border” approach has never been easy to apply. Multiple inquiries into the events of Sept. 11 suggest that it contributed to the government’s inability to detect or prevent those attacks. These distinctions are made even more difficult — if not entirely meaningless — by global information technologies and the nature of the new terrorist threat. The threats are not so easy to divide into home and abroad; government anti-terrorism

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initiatives don't fit neatly into artificial "national security" or "law enforcement" categories; data mining searches don't distinguished very readily between U.S. person data and non-U.S. person data; and global networks like the Internet ignore national borders and greatly reduce the relevance of geography and nationality.

The current political climate is contributing to making the laws applicable to data mining even more fractured. Less than three months after Congress adopted the Homeland Security Act, in which it required the DHS to "establish and utilize ... data-mining and other advanced analytical tools" to "access, receive, and analyze data" in order to "detect and identify threats of terrorism against the United States," it adopted an amendment to the Omnibus Appropriations Act restricting the DOD from developing or deploying data-mining technologies in the war on terrorism. Such inconsistency offers little guidance to government officials or to the public about either how to fight terrorism or how to protect privacy.

The challenge ahead

Updating the law to respond to these new challenges is a daunting, but urgent, challenge. On one side is the risk of failing to identify and deter terrorist attacks. On the other are the civil liberties put at risk by data mining. The original motto of the Total Information Awareness program was *Scientia Est Potentia* — "Knowledge Is Power." Awareness that the government may, without probable cause or other specific authorization, obtain access to myriad

distributed stores of information about an individual is likely to alter his or her behavior.

This is not always a bad outcome. However, knowledge of that power can cause people to change their behavior to be more consistent with a perceived social norm, to mask their behavior, and/or to reduce their activities or participation in society to avoid the surveillance. Vice President Hubert Humphrey observed almost 40 years ago, "We act differently if we believe we are being observed. If we can never be sure whether or not we are being watched and listened to, all our actions will be altered, and our very character will change."

The risk is not only that commercial and social activities are chilled, but that protected rights of expression, protest, association, and political participation are affected as well. In the context of government data monitoring in a democracy, the risk of the power to access data from disparate sources is not merely to information privacy, but to other civil liberties, including freedom of expression, association, and religion.

Benjamin Franklin warned more than two centuries ago, "They that can give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety." This is not merely a theoretical issue. Franklin might well have added that those who would trade liberty for safety all too often achieve neither.

The resolution of the tension between security and liberty is not as easy as Franklin's oft-quoted phrase makes it sound. But it is a tension as old as our country. In fact, it is embodied in our Constitution, which links the commitments to "establish Justice, insure domestic Tranquility, [and] provide for the common defense" with "secure[ing] the Blessings of Liberty."

Alexander Hamilton wrote in Federalist Paper 8 in 1787, exhorting the people of New York to ratify the Constitution, that "[s]afety from external danger is the most powerful director of national conduct. Even the ardent love of liberty will, after a time, give way to its dictates."

Faced with a new and dangerous threat from international terrorism, we too must guard against this natural tendency. "The violent destruction of life and property incident to war, the continual effort and alarm attendant on a state of continual danger," Hamilton warned, "will compel nations the most attached to liberty to resort for repose and security to institutions which have a tendency to destroy their civil and political rights. To be more safe, they at length become willing to run the risk of being less free."



Tyagan Miller

Fred H. Cate

Fred H. Cate is a Distinguished Professor at the Indiana University School of Law—Bloomington and director of the Indiana University Center for Applied Cybersecurity Research. This essay is based on remarks he made on Oct. 17, 2003, at the 21st Century Society Dinner, honoring those who gave \$1,000 or more to the Law School's annual Fund for Excellence.

The advisory committee presented its final report, "Safeguarding Privacy in the Fight Against Terrorism," to Secretary Rumsfeld in May 2004. The report is available online at www.sainc.com/tapac or www.defenselink.mil.

In Defense of Cite-Checking

How counting points in an ellipsis can make a great litigator

by Christian Chadd Taylor

Christian Chadd Taylor, JD'94, was invited to speak at the annual Indiana Law Journal banquet in April. This essay is taken from his remarks. Taylor is a partner at Kirkland & Ellis, Chicago.

The speaker at the law journal banquet is typically a jurist or legal scholar. Not a practitioner, and particularly not one of the electrical engineering/patent ilk. At first I had my doubts that a decade after my term you all should honor me with the assumption that a patent lawyer from Shoals, Ind., (the “Home of the Mighty Jug Rox”) should have by now learned something to share with you. But then I decided that inviting a practitioner to speak to the law journal members has a rational basis, deeply grounded in fact. After all, law journal members will soon be doing something akin to what I do day-by-day.

As a litigator, perhaps I should frame the issue in the formal way we’ve all been taught lawyers should. Here goes.

Issue No. 1: Whether, after a decade of hard labor in the litigation field, it has become apparent that Christian Chadd Taylor committed clear error in — and had no rational basis for — spending so much time in law school publishing volume after volume of the *Indiana Law Journal*. (I have no second or third issue. But we lawyers must number everything.)

When I arrived at the School of Law from engineering school in 1991, I had no idea what a law journal or law review even was. In fact, my understanding of the law journal experience in store for me, and the benefits it would bestow upon my career, was so vacant, I had not even the slightest idea that I already had a historical connection to the *ILJ*.

I went to school not far from here in Shoals, Ind., in Martin County. Like a lot of southern Indiana, Martin County is quite poor and sparsely populated. The school I went to, Shoals, has well under 1,000 students — that’s K–12 — and I graduated in a class of 45. We don’t churn out many law students down there, and, in fact, we don’t have many lawyers at all. But before I arrived at IU, there were two Shoals graduates who went to law school, and they went to IU. As it turns out, they were both *Indiana Law Journal* members. But what’s really remarkable is that

they were both editors in chief of the journal. I had no idea about that until I became editor in chief myself, when Dean Fromm mentioned it to me.

My ignorance about law journals encompassed the important fact that participation in a law school’s “Review” has been viewed throughout the legal community for more than a century as the pinnacle of law student existence. Well, not everyone agrees that it is. And I’m not going to tell you that law journal membership is the be-all and end-all, or is for everyone. But no matter what you or I think, in the legal world, the law journal is still considered a badge of intelligence, scholarship, and excellence. It follows you the remainder of your life. It opens doors. It will always impress.

On the other hand, once you graduate, you will probably never, ever, write a law journal article again. Or edit one, for that matter. And I can personally guarantee you — based upon a highly revealing survey I recently took of the many partners and associates who visit my office — that in 10 years, most of your members will not remember the name of a single article that was published by the *Indiana Law Journal* this year (save possibly their own).

And the vast amount of cite-checking, editing, nearly missed deadlines, and distracted (but nonetheless sometimes stubborn) authors, will, with any luck, be entirely repressed by your journal’s collective mind by 2014.

My point is not that your journal volumes will fail to make a significant contribution. But after graduation, you will be going to work, as lawyers.

And in that role of practitioner, you will not simply be thinking about legal problems. Much of your day will consist instead of managing other attorneys and staff, fielding their concerns, motivating them, focusing them on the best lines of argument, editing their mistakes, training them, and evaluating them. You will also spend a lot of energy with clients, extracting information from them, reassuring them, warning them, balancing what they want you to do with what you know is in their best interests, vetting their concerns — and finding ways to make them pay your fees.



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Sure, you will be making lots of arguments. But you will find that an argument that appeals to a jury's, judge's, or client's common sense will get you further than one based upon a fancy legal point.

You will have to know some law cold, but you will probably find yourself spending as much or more time trying to master the facts that arise from case to case, about which you may have little, if any, expertise, but nevertheless will have to teach to a client, a judge, or jury.

Let me share with you an overview of what it is like being a litigator handling large, complex commercial cases. I view it in three general stages: investigation, preservation, and application.

Out of the box, we spend an extraordinary amount of time trying to understand the facts. The commercial world is a complex arena, and the most critical facts are often buried in the microscopic details of a particular technology, or the nuances of how a highly complicated industry is run, or how a Fortune 100 company went about making the decisions that are now central to the dispute. The facts to wade through, and choose from, are ever more daunting, because in the year 2004 so many of them have been recorded in e-mails and files existing on servers, databases, personal computers, and now hand-held devices.

As a result, we practitioners spend months — indeed often years — fighting about which of that information is discoverable, digging through it to find the best evidence, using that evidence to depose the key players in the dispute, and then fighting about what's allowed to be asked or what should have been answered in those depositions.

And last, we extract the best of the discovery that has been preserved on the record and incorporate it into briefing summary judgment or use it at hearings or at trial — and then fight again with each other over whether a party should be allowed to put on certain subjects, because that party wasn't forthcoming during discovery.

All this work and these fights are generally based not upon esoteric legal principles, but rather upon simple notions of fairness.

It is only interleaved with all this work that a lawyer hits an occasional snag requiring her to become creative in her legal analysis, perhaps spurred on by a nice on-point law journal article that some poor journal member poured weeks or months into.

In short, if there is a substantial connection between journal and the real world of lawyering, it is not the various legal points you are publishing. The law's role is primarily to set the parameters for the lawyer to work within.

There are analogous tasks in other practice areas, whether you are performing the due diligence review and analysis in a corporate transaction, or managing the asset bidding in a bankruptcy.

That might sound like a lot of work that apparently not only has little to do with journal articles, but little to do with any law school class either. Indeed, it's a great deal of very tedious and not always exciting or intellectually stimulating work. Hardly what you see on *The Practice* or on *Law and Order*. I assure you that the next *Law and Order* spin-off will not be *Law and Order: Document Review Unit*.

For fear that I've scared you, let me break from my analysis and tell you something that's really beyond the scope of my subject. But I want you to have at least a flavor of the full story. Sprinkled throughout all the instances of paper cuts, status calls, forms, client-billing issues, and staff issues, there are those moments, moments not justified by sound bites, moments that fuel a passion, often to the point of obsession, about what we, the lawyers, do.

For some it may be the adrenaline of a trial victory. I've felt that too. But just as meaningful for me was when a pro bono client told me that no one had ever been so nice to his family.

"But, Counsel," you say, "passion is hardly the word I think of when I'm trying to figure out the proper blue-book form for pending and unreported cases. Or whether an ellipsis should have four dots, or merely three.

"Or when a few weeks from sending prints I realize half the quotes from the article I thought was reliable, are, at best, paraphrases taken entirely out of context, making me wonder if the article is worth the effort, if I should spin my wheels all night at the journal offices, or if I should just go straight to Nick's."

(I think I recall a few times when I ended up making the latter choice 10 years ago.)

"Counsel," you say, "I understand that I shall forever be deemed an elite member of my law school class. But does my *ILJ* experience have any real meaning beyond status (or perhaps the thrill of hazing 2L cite-checkers)?"

The answer is yes. *ILJ* membership, especially board membership, amounts to working a part-time — and for a few of you, a full-time — job. That job comprises a year's worth of coordination and effort to produce four complex, but high-quality pieces of work, much as six months of due diligence and negotiations result in the final corporate bible, or as a year's worth of discovery might result in a comprehensive trial plan or appellate brief.

And you are doing your job for a client: From a micro point of view, your clients are the various esteemed authors whose works you are editing (or rewriting); and from a broader view, the client is the Law School itself, which relies upon your skills, commitment, and excellence to preserve and enhance its reputation.

Yet, you have been almost entirely unsupervised in your choices for carrying out that task. You make critical decisions to accomplish your commitment. You manage and motivate, and then evaluate teams of people as you do so. And did you not have to suddenly become an expert in some aspect of a field — publishing — that you once knew little about, and quickly excel at it, all under pressure?

Believe it or not, the journal experience is the one activity in law school that, as it turns out, bears some resemblance to what you will actually do, day in, day out.

But that's not all. The skills the law journal hones make you a more persuasive and effective lawyer.

For this point, let's just focus upon the most notorious skill that law journal demands: the almost monomaniacal focus on detail. Typos, blue-booking, citations, legal authority. The nuances of hundreds of footnotes per article must be comprehensively considered as if they were each pivotal to the future of humankind as we know it.

As it turns out, the minutiae of form and authority, while perhaps not important enough to save the world, often make the difference between keeping a client or winning a case. Here are a couple of true stories that I've come across:

1. A highly competent legal team submits a 15-page brief to a federal court with dozens of legal propositions. One such proposition states that the law dictates a particular result. The truth was that the law explicitly did *not* require that result. So that one sentence in the brief was, exactly, wrong. It happened because of a typo — the word “not” was accidentally omitted from the statement of law. Opposing counsel didn't even notice, but the court did, and *sua sponte* required the attorneys to submit another brief — one showing why they should not be held in contempt for misleading the court.

2. A nationally recognized patent litigation firm works with an expert witness to draft his report. The report has a typo in it mentioning a term that was only relevant to an aspect of the case this particular expert had no involvement in and could not possibly have used in his analysis. The typo was probably due to a word processing error at the law firm after the expert had looked at what he

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— CHRISTIAN CHADD TAYLOR, JD'94

thought was a final version. Nonetheless, the lawyer in charge of the final-final review missed it. At his deposition, no one lets the expert know what had happened, because he testifies he wrote “every word” of his report. Then at trial, on cross-examination, the expert, who has not been warned by his legal team of the typo, is destroyed. Why? Because it is made apparent to the jury that he could not have written “every word,” and he has no explanation as to how the typo entered the report. His “every word” could not be trusted, and his side lost a jury verdict of around \$10 million.

On a day-to-day basis, court clerks expect to see proper blue-book form. Judges expect every factual and legal principle to be accurately represented. Clients are paying you to make them look competent and trustworthy. And nothing makes you look less competent, and less trustworthy, than an indication that you and your staff are not detail-oriented, that you cannot be trusted to provide the facts and law with integrity.

Whether it's the jury, the judge, the clerk, or the client, you eventually may lose the case, lose the business, or both, if you lose the confidence of any of them. You begin each matter with a reservoir of credibility that you want to preserve. Even — and often especially — minor mistakes cause major depletion of it.

True, good lawyers will consistently win the arguments that are straightforward. But great lawyers know how to make themselves trustworthy, so when that tough situation comes along, their good word is what convinces. At the end of the day, trustworthiness is your most important asset as a lawyer. And my view is that, therefore, law journal participation has a meaningful connection to great lawyering.

At the end of day, the badge of your law school efforts may be law journal. But your passion for your job, combined with your well-honed skills, ensures that your career is marked simply with excellence, quality, and meaning, whatever path you take.

Our Man in Havana



Law alumnus reports on rare glimpse inside Castro's Cuba

by Kostas A. Poulakidas, JD'99

In June 2003, I was given an opportunity by St. Peter's United Church of Christ of Carmel, Ind., to be a part of a licensed church humanitarian group trip to Cuba. The purpose of the visit was to meet with congregations and ecumenical institutions, at the invitation of the Cuban Council of Churches. While Cuba officially became atheist shortly after the 1959 Cuban revolution, more than a decade ago the Cuban government removed references to atheism in the Cuban Constitution and now allows believers to join the Communist Party.

Few Americans have experienced Cuba, as Americans must secure a U.S. Treasury Department license before traveling there. There are no direct flights from the United States to Cuba, and U.S. airlines flying there from third countries are not allowed to book flights to Cuba. Americans able to obtain authorization to visit Cuba must use special charter flights from Miami to Havana.

It is difficult to explain Cuba and its people without understanding its relationship with the United States, as the foreign policies of the two countries toward each other have largely shaped daily life in Cuba. Following the 1963 Cuban missile crisis, the U.S. government implemented foreign policies aimed at changing Cuba's leadership and ideology through economic embargos and diplomatic isolation. Cuba, in terms of national security, presented a real and immediate threat; in terms of the ideological clash between democracy and communism, Cuba brought the Cold War next door.

Twelve years ago the Cold War ended. With it, 11,000 Russian military advisers and \$5 billion in Russian economic subsidies left Cuba — Cuba's 1953 socialist system is now one of only four communist counties in the world. Nevertheless, while Cuba's president, Fidel Castro, remains in power, U.S. policies and perspectives toward Cuba remain the same, leaving Cuba an unknown neighbor to Americans.

Streets of Cuba

As a first-time visitor, I felt a certain degree of apprehension in traveling to a literally forbidden land. I had expectations of an Orwellian state, with military patrols and desolate streets. I wondered if conversations would be overheard and activities monitored — rational assumptions, given that most Americans learn about Cuba from vintage footage of the Bay of Pigs, the Cuban missile crisis, Cuba's relationship with the communist Soviet Union, or news coverage of the ongoing political tensions between the two countries.

It did not take long for assumptions to fade away into curiosity. Arriving in Havana is surreal. Immediately, I noticed the 1950s vintage cars — Studebakers, Fords, Oldsmobiles, Chevys — many in mint condition, driving past buildings that also have not changed since that era. The streets of Havana, like most in Cuba, are old and deteriorated, but full of history. In the morning, they fill

with young students in school uniforms, with older children walking their younger siblings to school. During the day, the streets are busy with people rushing around with work or errands. In the evenings, the cars and trucks are put aside for kids to play and neighbors to catch up on the day's events — no MTV or reality shows here. On more than one occasion when I asked a married couple how they met, they would respond with a story of how they used to play in the streets together.

Old Town Havana is quintessential Cuba and most beautiful at night. Here, the buildings and streets are restored and give a sense of what historic Cuba was like before the embargos — thanks in large part to a grant from the United Nations Economic, Social, and Cultural Organization. There are several marketplaces full of tourists looking for souvenirs and merchants looking for U.S. dollars. The rooftop of the Hotel Ambros Mundos is the perfect spot to overlook Havana, sip on a mojito, enjoy a



cigar, and come to realize why Ernest Hemingway made this hotel his home away from home for several years. As clichéd as it may sound, there always seems to be Cuban music accompanying you through the streets of Cuba.

Realities of Cuba

Our group stayed in a Presbyterian Church in Layano, a poorer area of Havana. The buildings were old, part of a park had become a dump, and many sewers were in disrepair. The irony behind Cuba's 1950s ambiance is the reality that, since the 1963 embargo, it has been virtually impossible for Cubans to get new cars, parts, or construction materials.

As we saw more of the country, we found that the Cubans we met considered themselves poor in relation to American standards but not amongst themselves. Compared to what I have seen in my travels in the Philippines, China, Indonesia, or some American inner cities, living conditions in Cuba could be considered average. We were frequently reminded that health care, housing, and education are guaranteed by the Cuban government. Cubans are proud of the quality of those services. Indeed, many Cubans had difficulty understanding why Americans do

not have the same government-provided services if our country is so rich. Time and time again throughout the trip, we found ourselves evaluating our own lifestyles and how we define quality of life in America.

Frequently we found Cubans who understood more about the United States than we did. Conversations, whether at the churches we visited, with the families we stayed with, or with those met in passing, involved issues such as the growth of religion in Cuba, how churches are supplementing gov-

ernment services, the impact of the U.S. dollar on Cuban society, and the normalization of relations between Cuba and the United States.

Cubans do distinguish between Americans and the U.S. government policies towards Cuba. Many talked about someday having the possibility of visiting the United States and how delighted they are with the rare opportunity to meet and talk with an American. Some of the discussions uncovered a deep fear and insecurity that U.S. economic sanctions would turn into military action against Cuba. When we dismissed these concerns as unfounded, we heard, "But if America bombs countries it doesn't like, why won't it bomb Cuba?" This response left us silent, realizing that our comfortable American perspective is not necessarily widely shared.

Living daily with the effects of foreign policies

U.S. foreign policy has made life hard on Fidel Castro and Cubans. In 1992, the United States made it increasingly difficult for Cubans to get goods from abroad by passing the Torricelli Act, which prohibits foreign subsidiaries of U.S. companies from trading with Cuba and bans ships that have called at Cuban ports from docking afterward at U.S. ports for six months. Ninety percent of the trade banned by the Torricelli Act consists of food, medicine, and medical equipment. In 1996, the Helms-Burton Bill was passed, allowing U.S. investors to take legal action in the U.S. courts against foreign companies using their property in Cuba, preventing executives of those companies from entering the United States, restricting the U.S. president from lifting the embargo until a transitional government is in place in Cuba, and requiring U.S. representatives to international financial organizations to oppose loans to Cuba.

Largely influenced by U.S. foreign policies restricting Cuba's access to U.S. dollars, the Cuban Constitution was amended in 1993 to allow Cubans to carry and use U.S. dollars. This action resulted in three types of Cuban currency: Cuban pesos, convertible Cuban pesos, and U.S. dollars. Self-employment was also legalized, and the following year taxes were applied to dollar incomes and profits. While many Cubans wish there were better trade relations between the two countries so they could buy much-needed refrigerators, cement for home foundations, plumbing fixtures, and simple aspirin and soap, they were also divided as to whether they would be worse



off without their socialist system, like many of their Latin American neighbors who do have trade relations with the United States.

Part of the Cuban government's strategy to get more U.S. dollars has been to establish two types of government-run stores that sell basic goods, groceries, and clothing. One takes only Cuban pesos, while the other takes only U.S. dollars. The discrepancy in quality between the two types of stores is drastic. The Cuban-peso stores have very limited, poor-quality goods, and some resemble garage sales held in concrete rooms. The U.S. dollar stores, by contrast, were very nice by Cuban standards, had a large selection of higher-quality goods, and were always filled with people.

Some say that the disparity between the stores proves that the U.S. dollar equates to better quality goods. Problematic is that while the dollar is American, it is also the currency of international trade, and without it any country is severely handicapped in its ability to provide for its people. The stores left us wondering: If Cuba did have unrestricted access to U.S. dollars, as do many of its Caribbean and Latin neighbors, would there be a need for separate U.S. dollar stores? It also left us wondering how Cubans' daily lives would change if they had access to U.S.



dollars and the ability to buy goods and products.

In the small town of Bolivia, Cuba, an entire sugar manufacturing plant closed, not because of lack of demand for its product or because it was cheaper to manufacture sugar elsewhere, but because the plant could not buy replacement parts. When the plant closed, the jobs that were the backbone of Bolivia ended, which meant families and the Cuban government lost their ability to secure U.S. dollars to buy even the smallest items — plumbing and toilet fixtures, iceboxes, and ceiling tiles.

Downside of the U.S. dollar

While the United States has been restricting trade, travel, and relationships with Cuba, Canada, European nations, and others are investing in Cuba. Foreign trade grows in Cuba, even with the limits placed on foreign investment requiring state-ownership partnerships. Because of Cuba's cash-flow crisis, foreign investors are typically required to pay the Cuban government in foreign or U.S. currency. The Cuban government in turn pays the employees with Cuban pesos and uses the foreign currency to import needed products.

But while the U.S. dollars have provided some with access to better goods, what people are willing to do to attain the U.S. dollar has also been affected. The most disheartening conversation of our trip took place with our guide, Eduardo, as we walked through the city of Cárdenas. As we passed an elementary school yard and received waves and smiles from school teachers, Eduardo explained that many young women who in the United States would be considered professional, educated, and beyond the pale of prostitution are, in Cuba, more and more willing to compromise morality in exchange for the purchasing power of a few U.S. dollars. Twenty dollars equates to what some Cubans make in many months. Plus, Eduardo

added, many naïvely hope that an encounter with an American will result in passage to America. According to him and others we met, prostitution and crime in Cuba increased noticeably when the U.S. dollar was introduced into Cuba's economy. Cubans are seeing the power of the U.S. dollar and its ability to separate the haves from the have-nots. Some blame the ills that the dollar has brought to Cuba on Castro's policies, while others contend that Castro's policies are the inevitable consequence of the United States cutting off Cuba's access to U.S. dollars. Regardless of the economic cause, the effect is having a social consequence. Notably, for three decades, Castro did not have to change his policy prohibiting the use of the U.S. dollar in Cuba; also notable is that crime and prostitution during that period were not as prevalent as they are now.

Opening the door

Momentum for change may be growing in the United States. It is estimated that U.S. businesses lose \$2 billion dollars a year because of the U.S. economic embargo, translating to an estimated 40,000 lost American jobs.

Even in the landlocked Midwest, public support for lifting the embargo is growing where there is interest in agricultural trade with Cuba. Internationally, for 12 consecutive years, the United Nations General Assembly has voted to condemn the U.S. sanctions against Cuba, most recently by a 179-3 vote.

Last year, Congress passed amendments to the Transportation-Treasury Appropriations bill that prevented funding the enforcement of the Cuba travel ban. This action would have brought Cuba an influx of American tourists and dollars. The Senate voted 59-36 to include an amendment eliminating funding for the enforcement of the Cuba travel ban. The House included the same amendment by a 227-188 vote, for the fourth consecutive year. The U.S. Senate Foreign Relations Committee further approved Senate Bill 950, supporting an end to the Cuba travel ban entirely, by a 13-5 vote.

The amendment approved by both houses was dropped in the House-Senate Conference Committee in response to a presidential veto threat if the Cuba travel provision remained. In January 2004, U.S. Treasury





Department restrictions took effect, limiting people-to-people exchanges — the license allowing Americans to join authorized cultural exchange tour groups — leaving humanitarian programs among the few ways for Americans to get to Cuba.

Consequences of politics

It would be naïve to contend that tensions between the two countries have easy solutions or that those tensions are illegitimate. However, regardless of how one feels about Fidel Castro, Cuba's history, or U.S. foreign policy, the overriding difficulty for Cubans is their inability to get the goods that make daily life better. Americans continue to lose economic and trade opportunities, as well as unquantifiable social, cultural, and educational benefits. Leadership and a new perspective are needed in implementing laws and policies that will bring Americans and Cubans together. In bringing the two countries together, maybe the goals of current policies will be achieved, along with the economic and social benefits each country offers the other. And maybe a few more Americans will have the opportunity to gain something possibly more valuable — the simple friendship that comes from helping a neighbor and a perspective of a world they have never seen before.



Kostas A. Poulakidas is a graduate of the Indiana University School of Law—Bloomington (JD'99); the American University School of International Service, Washington, D.C., (MAIA'94); and Ball State University (BS'92). He has traveled to more than 20 countries and has worked internationally in Brussels, Belgium, and in Saipan, Commonwealth of the Northern Marianas.

Photography for "Our Man in Havana" courtesy of Kostas A. Poulakidas

AROUND THE SCHOOL



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Law School marks anniversary of *Brown v. Board*

May 17, 2004, marked the 50th anniversary of the Supreme Court's announcement of its decision in *Brown v. Board of Education of Topeka*. The Law School celebrated this landmark anniversary with a spring-semester series of events that brought together students, alumni, faculty, and visiting scholars to consider the case's context and its consequences.

Among the spring's events were readings by students of essays on the subject "What *Brown v. Board of Education* Means to Me"; screenings of episodes of the noted documentary series *Eyes on the Prize*, which traces the history of the Civil Rights Movement in the United States; and a workshop led by Gary Orfield, a professor at the Harvard School of Education who is the foremost authority on resegregation in the years since the *Brown* decision. In addition, *The Road to Brown*, a film describing the legal strategy that Charles Hamilton Houston and Thurgood Marshall devised to bring *Plessy's* separate-but-equal rule before the Supreme Court, was shown and followed by a discussion, and the Law School co-sponsored a talk by civil rights litigator Alvin Chambliss, who represents the non-settling parties in litigation against the state of Mississippi for its failure to fund historically black universities (Jackson State, Alcorn, and Mississippi Valley) at the same level as other state universities.

Wrapping up the commemorative events this fall, the Law School will host a panel discussion on the international aspects of *Brown v. Board of Education*.

Smith Professorship brings University of Sydney's Shearer to Bloomington

Ivan Shearer, the Challis Professor of International Law at the University of Sydney, visited the Law School this spring as the George P. Smith Distinguished Visiting Professor-Chair.

On Feb. 2, Shearer gave a public lecture, "In Fear of International Law," looking at current international events where governments have been reluctant to acknowledge the applicability of international law or have failed to justify their positions in relation to international law. During his visit, he also met with student groups, gave guest lectures in classes, and provided consultation on issues relating to international law.

Shearer earned his LLB and LLM from the University of Adelaide, Australia, and his SJD from Northwestern University. Before joining the law faculty at the University of Sydney, Shearer was a law professor at the U.S. Naval War College; the University of New South Wales, where he was also dean; and the University of Adelaide. His scholarship spans a variety of topics relating to international law, including public international law, the law of the sea and maritime boundaries, extradition, and international humanitarian law. For the past three decades, Shearer has served as adviser and consultant to numerous national and international government entities and organizations, including his appointments as member of the United Nations Human Rights Committee; member of the International Institute of Humanitarian Law, San Remo; vice-president of the International Law Association, Australia; member of the Panel of Arbitrators of the Permanent Court of Arbitration, The Hague; and co-rapporteur of the International Law Association's Committee on International Law in National Courts. Shearer is also a captain in the Royal Australian Navy Reserve.

The George P. Smith Distinguished Visiting Professorship-Chair is funded by a generous gift from IU Law alumnus Professor George P. Smith II, JD'64, of the Catholic University of America Law School. Justice Michael Kirby, of the High Court of Australia; Sir David Williams, vice chancellor emeritus of the University of Cambridge; Tzu-Yi Lin, of Taiwan University; and Janet McLean, of the University of Auckland, are among the previous holders of this professorship.

New clinics to focus on mental-health law, entrepreneurship

A new clinical option for students interested in mental-health and disability law will be added to the Law School's curriculum next year. Michael Jenuwine, who has been the associate director of the Law School's Child Advocacy Clinic, will head the new clinic.

Under Jenuwine's supervision, students enrolled in the new clinic will work on cases in which the legal system overlaps with the mental-health system. They might, for example, work on civil commitments, representing family members who are trying to have a mentally ill relative hospitalized in order to receive treatment. Or conversely, they might represent patients who are contesting unnecessary commitments. They will help families with mentally

retarded or mentally ill relatives in jail transfer those inmates to treatment facilities instead, they will work with mentally ill youth involved in juvenile delinquency cases, and they will help set up guardianships.

Jenuwine, who has been doing pro bono work in the area since he came to Bloomington in 2002, says that he expects the clinic to answer a real need in the community.

Among students, as well, interest is high. A number are already working under Jenuwine's supervision doing independent study, and Jenuwine has taught a class on law and mental health. In addition, a new student organization, the Disability Law Society, was recently formed.

Another new clinic will be added to the curriculum this fall, focusing on entrepreneurship. This new offering, sponsored jointly by the School of Law and the Kelley School of Business, is designed to be the capstone experience for students enrolled in the joint JD/MBA or JD/MBA in accounting programs.

The Entrepreneurship Clinic will provide services that relate to starting a business, including assistance with business and financial planning; business organization; licenses and permits; agreements and leases; regulatory and zoning compliance; intellectual property issues; and commercial landlord, supplier, and lender negotiations. Students in the MBA/JD program will work in teams, under the supervision of an experienced businessperson who is also a lawyer, to provide appropriate advice to entrepreneurs who otherwise might not be able to afford it. The goal of this advice is for the businesses to become operational and sustainable.

The Law School will develop a companion course in Entrepreneurship and the Law, which will examine theories of entrepreneurship and will survey the laws affecting business entrepreneurs.

Seed funding for the venture comes from the Lilly Foundation, through a grant intended to address "brain-drain" issues in Indiana.

Collins, Lederman join faculty

The Law School will welcome two new faculty colleagues this fall, in intellectual property and taxation, both of whom will strengthen and broaden our curriculum and joint degrees.

Kevin Collins comes to us from clerkships at the U.S. Court of Appeals for the 2nd Circuit and the U.S. Court of Appeals for the Federal Circuit. He graduated summa cum laude from Yale in 1990 with a double major in mo-

lecular biophysics/biochemistry and architecture. He then earned a master's degree in architecture from Columbia and worked for five years as a project architect and lead designer for Bernard Tschumi Architects before earning his JD at Stanford. Joining professors Yvonne Cripps, Marshall Leaffer, and Fred Cate in providing intellectual property expertise, Collins will help the school develop a new joint degree in law and biotechnology with the Department of Biology.

Last year, Bart Kaufman, a 1965 graduate of the Law School, endowed the William W. Oliver Chair in Taxation. Filling that chair in the coming academic year will be Leandra Lederman, an accomplished scholar and teacher of tax law. Lederman has been on the faculty at George Mason University School of Law since 1998 and had previously taught at Mercer University. She earned her JD in 1990 from New York University School of Law, where she also earned an LLM in taxation. She is the author of three books and more than 20 articles on tax and tax procedure.

Lederman will help coordinate the school's joint JD/MBA in accounting with Professor David Greene, JD'74, who heads the Kelley School of Business graduate program in accounting and serves on the Law School's Board of Visitors. Lederman joins new tax law faculty member Ajay Mehrotra here at the Law School.

Title IX sponsor Bayh leads panel discussion

Former Indiana Sen. Birch Bayh, JD'60, participated in a panel discussion, "Title IX: Outcomes and Opportunities," at the Law School in February. Bayh, who represented the state of Indiana for 18 years (1962–80) in the U.S. Senate, sponsored and co-authored the landmark 1972 legislation.

"Senator Bayh won the gratitude of women across the country for his work to secure passage of Title IX, which prohibits sex discrimination in education programs receiving federal financial assistance, and for his work on the Equal Rights Amendment in Congress," said Professor Julia Lamber, JD'72, whose recent research has focused on Title IX and college athletics and who is working with Bayh on an oral history. "In his activities today, he remains committed to what he calls the 'easy notion of equal opportunity for women.'"

During Bayh's 18 years serving Indiana in the Senate, Bayh authored two amendments to the U.S. Constitution: the 25th Amendment on presidential succession and dis-



Lamber



Birch Bayh, left, with Professor Patrick Baude

ability and the 26th Amendment, which lowered the voting age from 21 to 18 years of age. He also was co-author of the Bayh-Dole Act, which revitalized the nation's patent system, and was chief architect of the Juvenile Justice Act.

Bayh was chair of the Senate Select Committee on Intelligence from 1977 to 1980. Upon leaving the Senate, he served as chair of the National Institute Against Prejudice and Violence from 1984 to 1994. He continues to practice law with the Washington, D.C., firm Venable LLP.

Bayh has said that he sponsored Title IX legislation in the Senate because he wanted to grant the same rights and protection to women that were guaranteed to ethnic minorities in the 1964 Civil Rights Act, after which Title IX was patterned. He has called Title IX "the most important thing that's happened to women."

Bayh was joined on the panel by Lamber, who was IU's dean for women's affairs from 1993 to 1998; Mary Jo Kane, of the University of Minnesota, an internationally recognized scholar who is considered an expert on the passage, implementation, and impact of Title IX; Mitzi Witchger, a gender equity consultant; and Terry Dworkin, JD'75, dean of women's affairs and Jack R. Wentworth Professor of Business Law at IUB.

Global Journal conference addresses theme of globalization and education

Scholars from the United States, France, and Russia convened in Bloomington on April 2 and 3 for the 12th annual conference of the *Indiana Journal of Global Legal Studies*. United by the theme of "Globalization and Education," papers addressed three broad interrelated issues:

Education as a human right, education and the role of states in the global economy, and higher education and transnational flows of specialized knowledge. Conference papers will provide the basis for the symposium issue of the *IJGLS*.

Alumni return as practitioners in residence

Three alumni — Terry Albright, JD'65, Jack Bobo, JD'96, and Jack Kimberling, JD'50 — returned to the Law School in February as practitioners in residence, sharing their experience and expertise with students and faculty.

A civil trial attorney with Baker & Daniels in Indianapolis for more than 35 years, Albright is an arbitrator in large, complex cases and serves on the Panel of Distinguished Neutrals for the CPR Institute for Dispute Resolution. For many years, Albright's name has been synonymous with Indianapolis, state, and national bar association activities. While president of the ISBA (1993–94), he initiated Project PEACE, a peer mediation program aimed at reducing violence in schools. Albright has also been a champion of jury reform through an organization he co-founded, the Citizens Commission for the Future of Indiana Courts. During his visit to the Law School, he met with the Business and Law group and was a guest speaker in related classes.

Jack Bobo is a trade policy adviser on biotechnology for the U.S. State Department and a graduate of the Law School–SPEA joint degree program. Before joining the State Department, Bobo was an attorney at Crowell & Moring in Washington, D.C., where he served in the areas of litigation and environmental practice. He is a member

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www.law.indiana.edu/alumni/directory.index.shtml

of the Microenterprise Program Steering Committee for the National Peace Corps Association and has also taught physical and natural sciences to students in Gabon through the NPCA (1989–91). As project manager for Integrated Computer Engineering in Arlington, Va., he served as an expert adviser to the U.S. President's Information Technology Advisory Committee (1997–2000). While at the Law School, he met with members of the *Indiana Journal of Global Legal Studies*.

John F. Kimberling had just opened his new law practice in Muncie, Ind., when he was recalled to active duty in the Navy during the Korean War. Upon his discharge, Kimberling joined the small Los Angeles law firm of Lillick & McHose, where he became managing partner and star of the firm's litigation section. Kimberling was instrumental in guiding the firm's growth to a general commercial firm with 150 attorneys. In 1986, the firm of Dewey Ballantine Bushby Palmer & Wood recruited Kimberling to head up its litigation unit. A top U.S. litigation specialist, Kimberling is a charter member of the ABA section on litigation. As a visiting practitioner, Kimberling worked with the trial team on honing their trial techniques.

Chicago's Nussbaum gives 2003 Harris Lecture

Martha Nussbaum, the Ernst Freund Distinguished Service Professor of Law and Ethics at the University of Chicago, gave this year's Harris Lecture on Nov. 14. During her lecture, titled "Beyond the Social Contract: Capabilities and Global Justice," she argued for a more humane metrics by which to judge costs and benefits of international action than the economic models usually employed. Her paper will be published in an upcoming issue of the *Indiana Law Journal*.

Nussbaum is a widely published and globally celebrated scholar in law, philosophy, and political science. She is the author of numerous books, including *Cultivating Humanity: A Classical Defense of Reform in Liberal Education* (1997), *Sex and Social Justice* (1998), and *Upheavals of Thought: The Intelligence of Emotions* (2001). At Chicago, Nussbaum holds positions in the philosophy department, law school, and divinity school and is an associate in the classics department and the political science department. She is the founder and coordinator of Chicago's Center for Comparative Constitutionalism and a former chair of the Committee on International Cooperation. For her groundbreaking and prolific scholarship, she has been

awarded 22 honorary degrees from universities and colleges in the United States, Canada, and Europe.

Established in 1946 by a trust from the bequest of India Crago Harris in the name of her husband, Addison C. Harris, the Harris Lecture Series brings prominent scholars to the Law School every year. Past Harris lecturers have included Barbara Babcock, Derrick Bell, Robert Bork, Guido Calabresi, Jules Coleman, Owen Fiss, Frank Michelman, and Lawrence Tribe.

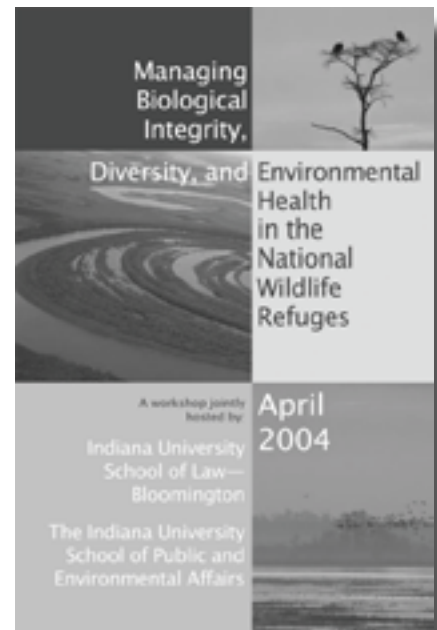
Law and SPEA join forces for interdisciplinary workshop on refuge management

An innovative project hosted by the Law School and IU's School of Public and Environmental Affairs in April brought together experts from law, science, and natural resource management to consider how the refuge system should implement its statutory mandate to maintain biological integrity, diversity, and environmental health.

The workshop, "Managing Biological Integrity, Diversity, and Environmental Health in the National Wildlife Refuges," aimed to find fresh insight into ecosystem management by combining perspectives from disciplines that have traditionally been distinct in the academy but, in fact, often overlap in practice.

Participants included Robert Fischman, from the School of Law; Professor Eric Freyfogle, of the University of Illinois; Professor James Karr, of the University of Washington; Professor Robert Keiter, of the University of Utah; Professor Vicky Meretsky, from SPEA; Professor Reed Noss, of the University of Central Florida; and J. Michael Scott, of the University of Idaho. Natural resource managers from the U.S. Fish and Wildlife Service grounded the discussion in actual case studies.

For participating students enrolled in the joint SPEA-Law degree program, the workshop was the culmination of a semester-long seminar on ecosystem management. Workshop papers will be published in a symposium issue of the *Natural Resources Journal*, the leading interdisciplinary resource-management journal.



New advisory boards created *Environmental Law*

In the past several years, the Law School's environmental law program has grown to include three faculty members (professors John Applegate, A. James Barnes, and Robert Fischman), an expanded curriculum, and several joint degrees. Now, a distinguished group of alumni have agreed to serve as advisers to the program on the first Environmental Program Alumni Advisory Board. The board will work with faculty and students to ensure that the program continues to develop in scope and quality. Board members include James K. Bemis, JD'85; Jack Bobo, JD'96;

Timothy M. Conway, JD'85; Peter H. Dykstra, JD'97; Gerald F. George, JD'69; Nina R. Hatfield, JD'73; Kelly A. Johnson, JD'90; Melina (Maniatis) Kennedy, JD'95; Cynthia A. King, JD'91; John M. Kyle III, JD'79; David J. Lazerwitz, JD'95; Peter M. Racher, JD'86; Jacqueline A. Simmons, JD'79; and W. William Weeks, JD'79.

BLSA Alumni

The inaugural BLSA Alumni Advisory Board met with Dean Lauren Robel, faculty, and students on Nov. 7. The board, with distinguished members from around the country, provides advice, support, and networking for Black Law Student Association students, in addition to

2004 Sherman Minton Moot Court competition



LEFT: The 2004 Moot Court champions are Blaire Henley, left, and Renea Vealey-Hill. Congratulations to the winners and also to the finalists, Amanda Feltman and Kate Menze.



ABOVE: Arguments in the final round of the Sherman Minton Moot Court Competition, sponsored by Bose McKinney & Evans, were held on Feb. 27 in the Law School's Moot Court Room. The panel of judges included a number of distinguished alumni, including Eleanor Cabrere, JD'93; George Patton, JD'87; Judge Michael Kanne, JD'68; and Judge John Tinder, JD'75. The School of Law extends thanks to all alumni who assisted with this year's competition.

working with faculty and the dean. Members of the board include Judge Mitchell Gino Brogdon Sr., JD'86; Eleanor Parker Cabrere, JD'93; Gary Davis, JD'82; Ursula Doyle, JD'97; Brian Edge, JD'98; Stephanie E. Gabay-Smith, JD'87; Augustavia Haydel, JD'85; Manotti Jenkins, JD'96; Jerry Lavaughn Maynard, JD'93; R. Anthony Prather, JD'83; Taylor Segue, JD'83; and Alonzo Weems, JD'95.

Other advisory boards

In addition, advisory boards have been created for the Sherman Minton Moot Court Board and for the Protective Order Project.

Generously serving on the moot court board are: Stephen W. Beard, JD'98; Hamish S. Cohen, JD'01; Krista L. Duncan, JD'96; Heidi G. Goebel, JD'97; Philip J. Gutwein, JD'01; George T. Patton Jr., JD'87; Sarah S. Riordan, JD'93; and Philip P. Simon, JD'87.

And alumni who have offered their time and talents to support the Protective Order Project are: Dominic W. Glover, JD'97; Holly (Ashburn) Harvey, JD'97; Deborah D. Kubley, JD'93; Tammy (Babcock) Minger, JD'88; Amy (Huffman) Oliver, JD'92; and Frederick A. Turner, JD'93.



Tyagan Miller

Baude and CNN bureau chief address War on Terror

Professor Patrick Baude

In a March 29 talk on “Terrorism and the Judiciary,” Professor Patrick Baude predicted that the U.S. Supreme Court was headed toward a bad decision on the constitutional rights of “enemy combatants” being held without charge as part of the War on Terror. Baude argued that the court is unlikely to clarify the centrality of the president’s role in making war-time decisions about the prisoners’ rights, and that equivocation on the subject tends to foster complacency and a lack of accountability. Baude’s talk was part of a lecture series initiated last year by 2L Amy Cohen and the Student Law Association as a forum for students to learn about the faculty’s current research. Other speakers in the series have included professors Fred Aman, Stephen Conrad, Aviva Orenstein, David Snyder, Jeff Stake, and Elisabeth Zoller.

Offering a different perspective on the fight against terror, Rebecca MacKinnon, CNN’s Tokyo bureau chief, gave a presentation at the Law School on March 29 on “The Role of Japan in the War on Terrorism.” Joining her for a roundtable discussion were Professor Joseph Hoffmann and IU faculty from political science, history, and East Asian studies. MacKinnon covered Japan’s responses to the terrorist attacks of Sept. 11 for CNN. In October and November of 2001, she spent nearly two months in Peshawar, Pakistan, near Afghanistan’s border, covering developments leading up to the fall of the Taliban.

ANNOUNCING

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Fischman

Fischman invited to FSU as distinguished lecturer

This year, Professor **Robert Fischman** will be a Distinguished Lecturer in Environmental Law at Florida State University Law School. The Distinguished Lecturer spends two or three days in residence, delivers a main address to the FSU community, a workshop to the faculty at lunch, and guest lectures in classes. Past Distinguished Lecturers in Environmental Law include Joseph Sax, Dan Tarlock, Richard Lazarus, Bill Rodgers, and Buzz Thompson.

Fischman's article "The National Wildlife Refuge System and the Hallmarks of Modern Organic Legislation" has been selected for inclusion in volume 35 of the *Land Use and Environmental Law Review*, which reprints the 10 best articles of the past year, as selected by panels of academic readers. Last year, Fischman's article "A Lesson for Conservation from Pollution Control Law: Cooperative Federalism for Recovery Under the Endangered Species Act" was deemed one of the year's top 30.



Hoffmann

Commission chaired by Hoffmann releases death penalty recommendations

On May 3, Massachusetts Gov. Mitt Romney unveiled a report by the Governor's Council on Capital Punishment, outlining 10 recommendations for creation of a "nearly foolproof" capital punishment system.

Speaking to the *New York Times*, Professor Joseph L. Hoffmann, who co-chaired the commission, said that, taken together, the safeguards the report seeks to institute make it "virtually inconceivable" that an innocent person could be put to death. "I don't have any question in my mind that we accomplished what the governor wanted us to do," he said.

At the heart of the commission's report are recommendations that the death penalty be applied only to a narrow list of cases and that each case include scientific evidence, such as DNA, fingerprints, or footprints.

The report recommends that the death penalty be sought only for the "worst of the worst" murders and stipulates that the legal standard for a guilty finding in death penalty cases be raised from "beyond a reasonable doubt" to "no doubt" about the defendant's guilt.

Hoffmann was also involved in creation of Illinois's Fundamental Justice Amendment, death penalty reform legislation that became law on Jan. 1 of this year.



Bell

Bell, Johnsen promoted, awarded tenure

The Law School is pleased to announce that professors Jeannine Bell and Dawn Johnsen have been granted tenure and promoted to the rank of full professor through a vote of the Indiana University Board of Trustees.

With an academic background in government and law, Bell brings to the classroom the perspectives of both disciplines. A member of the law faculty since 1999, she is also an adjunct professor of political science. Her courses include Criminal Process and seminars on the First Amendment and in Law and Society. She is the author of *Policing Hatred: Law Enforcement, Civil Rights, and Hate Crimes* (New York University Press 2002) and is a co-author of *Gaining Access: A Practical and Theoretical Guide for Qualitative Researchers*.

Johnsen joined the faculty in 1998, following a distinguished career in Washington, D.C. After five years as legal director of NARAL, she was a deputy assistant attorney general and then the acting assistant attorney general for the Office of Legal Counsel, where she advised the attorney general, the White House counsel, and the general counsels of all the executive departments and agencies. Her courses include Constitutional Law, the First Amendment, and a seminar in the Separation of Powers. Johnsen has testified before Congress, is a frequent speaker at national conferences, and has appeared on many national television and radio news programs. She recently joined the national board of the American Constitution Society.

This spring, Johnsen was the recipient of the Indiana University Trustees' Teaching Award.



Johnsen

Zoller argues at The Hague

Professor Elisabeth Zoller was part of a team representing the U.S. government before the International Court of Justice at The Hague. On Dec. 16, Zoller delivered two of the arguments — on jurisdiction and admissibility, and on reparation — in the case concerning Avena and other Mexican nationals (*Mexico v. United States of America*). The court was asked to consider alleged violations of Articles 5 and 36 of the Vienna Convention on Consular Relations of April 24, 1963, with respect to 54 Mexican nationals who were sentenced to death in the United States. The court's ruling, delivered on March 31, concurred with Zoller's arguments in declining to order any remedy.

Professor Craig Bradley advised the Mexican government in this case.



Zoller

Top Shelf: Recent books by IU law faculty

Academic books

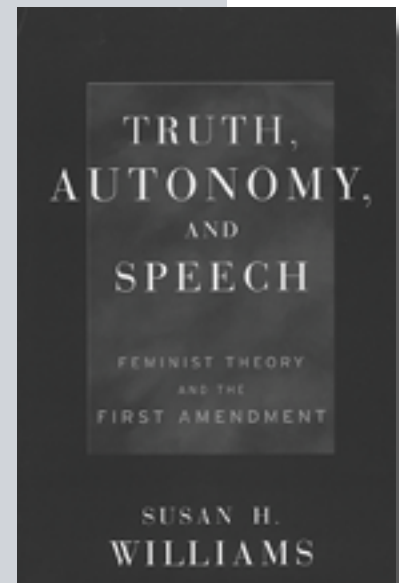
- Alfred Aman: *The Democracy Deficit: Taming Globalization Through Law Reform* (NYU Press, forthcoming 2004)
- Jeannine Bell: *Gaining Access to Research Sites: A Practical and Theoretical Guide for Qualitative Researchers* (Alta Mira Press 2003) (with Feldman and Berger)
- Kevin Brown: *Race, Law, and Education in a Post-Desegregation Era* (Carolina Academic Press, forthcoming 2004)
- David Fidler: *Biosecurity: Germs, Power, and Law in the Global Age* (Stanford University Press, forthcoming 2004) (co-authored with Lawrence O. Gostin and Barry Kellman)
- David Fidler: *SARS, Governance, and the Globalization of Disease* (Palgrave Macmillan 2004, forthcoming June)
- Robert Fischman: *The National Wildlife System: Coordinating a Conservation System Through Law* (Island Press 2003)
- Susan H. Williams: *Truth, Autonomy, and Speech: Feminist Theory and the First Amendment* (NYU Press 2004)
- Fred Cate: *Financial Privacy, Consumer Prosperity, and the Public Good: Maintaining the Balance* (AEI-Brookings Joint Center for Regulatory Studies Related Paper 2003) (with Litan, Staten, and Wallison)
- David Fidler: *Legal Review of the General Agreement on Trade in Services (GATS) from a Health Policy Perspective* (World Health Organization 2004) (with Carlos Correa and Obijifor Aginam)
- Sarah Jane Hughes, *Report on the Check Clearing for the 21st Century Act* (Study Committee on Articles 3 and 4 and Check Truncation for the Permanent Editorial Board for the Uniform Commercial Code 2003)

Teaching texts

- Daniel Conkle: *Constitutional Law: The Religion Clauses* (Foundation Press 2003)
- J. William Hicks: *International Dimensions of United States Securities Laws* (West 2004) (forthcoming)
- J. Alexander Tanford: *The Pretrial Process* (Lexis 2003)

New editions

- J. William Hicks: updates to *Civil Liabilities, Exempted Transactions, and Limited Offerings* treatises.
- Joseph Hoffmann: *Comprehensive Criminal Procedure* (2d ed. 2004, forthcoming)
- Marshall Leaffer: *Copyright Law* (6th edition 2003) (with Joyce, Jaszi, and Ochoa)
- Marshall Leaffer: *Understanding Copyright Law* (4th edition 2004)
- J. Alexander Tanford: *Indiana Trial Evidence* (5th edition 2003)



Edited collections

- John Applegate: *The International Library of Essays in Environmental Law: Environmental Risk* (Ashgate Publishing 2004)
- Michael Grossberg: *American Political Life and the Historical Imagination* (University of Notre Dame Press 2003) (with Wendy Gamber and Hendrik Hartog).

Studies

- Fred Cate: *The Impact of Credit Reporting Under the Fair Credit Reporting Act: The Risk of New Restrictions and State Regulation* (Financial Services Coordinating Council 2003) (with Staten)

Breaking news

Lee Hamilton, JD'56, will present the Neal-Marshall Public Policy Lecture at IU Bloomington on Oct. 13. The lecture is jointly sponsored by the School of Public and Environmental Affairs and the Neal-Marshall Alumni Association. Hamilton's talk, "Reflections on the 9/11 Commission Findings," will take place at 3 p.m. in the Whittenberger Auditorium of the Indiana Memorial Union. The event is free and open to the public. After his talk, Hamilton will answer questions from the audience.

Before 1960

Jeanne Seidel Miller, LLB'48, of New Haven, Ind., has been selected as the winner of the 50-Year Award given by the Fellows of the Indiana Bar Foundation.

Jack N. Van Stone, LLB'54, was recently honored by the Evansville Bar Association for 50 years of legal practice.

Shirley S. Abrahamson, JD'56, chief justice of the Wisconsin Supreme Court, is president-elect of the Conference of Chief Justices, a national organization that represents the top judicial officers of the 50 states and the U.S. territories. She continues to serve on the board of directors of the National Center for State Courts.

Last fall, Judge **Allen Sharp**, JD'57, celebrated 30 years of active service as a member of the federal trial judiciary. Sharp is chief judge of the U.S. District Court in South Bend.

1960s

Lee W. Dabagia, JD'62, has been elected vice president of the LaPorte County Bar Association. He is a senior partner with Sweeney Dabagia Donaghue, Michigan City, Ind.

Clyde Compton, LLB'65, a partner in Hodges & Davis, Merrillville, Ind., is president-elect of the Indiana State Bar Association.

1970s

Richard D. Robinson, JD'71, is chair of the executive committee at Barrett & McNagny, Fort Wayne, Ind.

Francina A. Dlouhy, JD'77, a partner with Baker & Daniels, Indianapolis, has been named to the firm's management committee.

Sue Shadley, JD'77, has been selected as the winner of the Indiana State Bar Association's Women in the Law Committee's 2003 Achievement Award. In addition, in 2000, the Purdue University School of Agriculture named Shadley a Distinguished Agricultural Alumnus. Shadley specializes in environmental law at Plews Shadley Racher & Braun, where she is a partner.

Wayne D. Boberg, JD'78, has been elected to serve on the board of trustees for the Chicago Symphony Orchestra. Boberg and his wife, Nancy Messel Boberg, have been active patrons of the Chicago Symphony Orchestra for 18 years. Boberg is a capital partner and executive committee member of Winston & Strawn, Chicago's oldest corporate law firm. The Bobergs divide their time between Chicago, Long Beach, Ind., and Hobe Sound, Fla.

T. Edward Page, JD'78, was elected president of the Lake County (Ind.) Bar Association. Page is an attorney with the law firm of Cohen & Thiros, Merrillville, Ind.

The Rochester (Ind.) Chamber of Commerce presented its 2004 Community Service Award to **Ted A. Waggoner**, JD'78, a partner in the Rochester law firm of Peterson & Waggoner. Waggoner was recently named chair of the Fellows of the Indiana State Bar Association.

Donald E. Baier, JD'79, has been elected president of the Posey County (Ind.) Bar Association. Baier is a judge on the Posey County Superior Court in Mount Vernon, Ind.

David B. Millard, JD'79, received the 2003 Cy Smith

Hamilton plays key role in 9/11 investigations

Former Indiana congressman **Lee Hamilton**, JD'56, is serving as vice chair of the National Commission on Terrorist Attacks upon the United States, an independent, bipartisan commission created by congressional legislation and the signature of President George W. Bush in late 2002 to prepare a full and complete account of the circumstances surrounding the Sept. 11, 2001, terrorist attacks, including preparedness for and the immediate response to the attacks. The commission is also mandated to provide recommendations designed to guard against future attacks.

Hamilton, who was the U.S. representative to Congress from Indiana's 9th District from 1965 to 1999, is now the director of the Woodrow Wilson International Center for Scholars in Washington, D.C., and director of the Center on Congress at Indiana University.

Hamilton is the author of a primer, *How Congress Works and Why You Should Care* (Indiana University Press 2004), in which he explains why that much-maligned institution is in fact our nation's most genuinely democratic and argues that popular contempt notwithstanding, it in fact works pretty well, most of the time.



Chalarak named ambassador to Portugal

Pensak Chalarak, LLM'75, has been named ambassador to Portugal for the Kingdom of Thailand. He previously served as the Thai ambassador to Oman and Burma, and at The Hague, as well as with the earliest diplomatic mission from Thailand to Hanoi, Vietnam, after the war.

Puckett represents prison commander

Neal A. Puckett, JD'84, practices as a military criminal defense attorney and is currently representing Brigadier General Janis Karpinski, the U.S. commander in Iraq formerly responsible for overseeing the prison system there. Among other recent clients was Lt. Col. Allen West, whom he defended against accusations of misconduct in connection with the interrogation of an Iraqi detainee.

A former lieutenant colonel in the Marine Corps, Puckett worked as military trial judge and director of the Law Center in Okinawa, Japan. Before being appointed judge, Puckett distinguished himself as a prosecutor and defense attorney, representing more than 320 clients and litigating 30 jury trials. He was a member of the prosecution team for national security cases involving allegations of espionage at U.S. embassies in Moscow and Vienna.

Puckett has an LLM from the University of San Diego School of Law and a master's in national security and strategic studies from the U.S. Naval War College.

Spirit of Entrepreneurship Award from the Venture Club of Indiana at its December meeting. Millard is chair of the entrepreneurial services group for Barnes & Thornburg, Indianapolis.

Linda Runkle, JD'79, has been named assistant commissioner for the Indiana Department of Environmental Management. She had previously represented the city of Bloomington for 23 years, including 17 years as corporation counsel.

1980s

Robert T. Miller, JD'80, of Bloomington, Ind., has been elected president of the Monroe County Bar Association.

Alan Becker, JD'81, a partner in Bose McKinney & Evans, Indianapolis, since 1987, has been appointed by Indiana Gov. Joe Kernan to the Indiana Corporate Law Survey Commission. The 14-member commission makes recommendations to the Indiana General Assembly concerning amendments to Indiana laws governing corporations and partnerships.

Gary L. Davis, JD'82, has been awarded the distinction of Accredited Airport Executive by the American Association of Airport Executives. Employed by the Aviation Department of the Port Authority of New York and New Jersey since 1994, Davis manages aeronautical, terminal, landside, security, communications, and customer service functions for the Newark Liberty International Airport.

James W. Kayden, JD'82, has been elected president of the Association of Patent Law Firms. Kayden is founding partner of Thomas Kayden Horstemeyer & Risley, Atlanta.

Holly Hart McKiernan, JD'83, has been appointed vice president and general counsel for Lumina Foundation for Education, Indianapolis, a private foundation dedicated to expanding access to and success in education beyond high school.

David Stryker, JD'83, has been appointed senior vice president and general counsel of the chemical company BASF Corp. Stryker joins BASF after 10 years with Siemens Corp., New York, where he had held the positions most recently of associate general counsel and corporate compliance officer. He had previously been a partner in the Chicago and New York offices of Kirkland & Ellis.

Donald J. Vogel, JD'85, has joined the labor and employment group in the Chicago office of Scopelitis Garvin Light & Hanson. Vogel had previously been a

(continued on page 30)



Vogel

Judge steps down after lifetime of service

by Katy Murphy

It was the end of the day. Monroe Circuit Court Judge Viola Taliaferro returned to her office, hung up her robe, and absently smoothed her hair.

It had been one of those days, she said as she sat behind her desk, her eyes tired and distant.

Softly, she spoke about a mother who had been sobbing uncontrollably during a hearing. Fearing the woman would say something she would later regret, Taliaferro scheduled another hearing — she wanted to give the mother a chance to clear her mind, she said.

Nearly every day in court since she was appointed magistrate in 1989 and then judge in 1995, Taliaferro has faced what she calls “people in crisis.”

But the 75-year-old judge, who has made her mark on juvenile policy both statewide and nation-

ally, is retiring at the end of this year. In November, someone else will be chosen to occupy her enormously weighty and often taxing position — one that demands every ounce of her 46 years of experience as a teacher, a social worker, an attorney, and a judge.

“I think it will be very difficult to replace her as a juvenile judge,” said Phyllis Emerick, a deputy public defender who frequents Taliaferro’s courtroom.

The walls of Taliaferro’s spacious office are home for awards too numerous to count: Bloom-

ington’s Woman of the Year, 2000; Academy of Law Alumni Fellows, 2000; and the Book of Golden Deeds Award, 2001; among many others.

When asked what qualities she hoped to see in her successor, Taliaferro responded, simply, “I just hope that whoever gets this job will listen carefully.”

Upon more thought, she added one more hope: that he or she will “judge without being judgmental.”

Tough and demanding at times, tender and

soothing at others, Taliaferro has struck a balance that often resonates with the families and children who come before her — even under the most difficult of circumstances, said her longtime court reporter, Kathy Pointer.

“I guess she tries to teach us a lesson,” said Daniel Grubb, 14, as he waited outside her courtroom for a hearing to assess his progress in a rehabilitative program for juvenile offenders.

“She don’t want to see anybody in there twice,” he added. “First time I went in there, she told me that.”

Grubb’s mother, Penny, believes Taliaferro is a strong role model for children. “She makes them know you can be seriously in trouble for things,” she said. “Then again, she’s very understanding, too.”

Taliaferro was a high school teacher and administrator in Baltimore before she earned her law degree from Indiana University School of Law—Bloomington in 1977.

Those in her courtroom are well aware that a teacher — not just a judge — is sitting behind the bench.

“She has astute observation powers,” said Bret Raper, the deputy prosecutor who handles juvenile delinquency cases. “She picks up on all the communications, whether they’re verbal or not.”

Raper laughed as he described the judge’s typical reaction when she suspects someone’s story is less than truthful.

“They know they’re had; they know they’re busted,” he said.

Taliaferro has been known to assign novels, such as J.D. Salinger’s *Catcher in the Rye*, as part of a child’s probation order. When the children return to court, she asks how the book applied to their lives — and then quizzes them on the plot to make sure they read it.

While she has a reputation as a no-nonsense judge, Taliaferro is also known for her fair and respectful treatment of the children and families, whatever their background or social standing.



Taliaferro

But Taliaferro makes tough decisions daily, ones that sometimes result in the termination of parental rights or the placement of a teenager in a detention facility.

"I would be the first to say I haven't agreed with all the decisions she's made — she knows that — but I don't disagree with her a lot," Emerick said.

"She's a great lady," she added, smiling. "I don't think she minds me disagreeing with her in the courtroom."

In addition to cases involving juvenile delinquency, abuse and neglect, mental health, paternity, and estates, Taliaferro handles adoptions — a source of joy in a courtroom too often filled with sorrows.

A table topped with photos and notes from children she has placed with adoptive families sits in her office.

"Thank you for all your work to help children," reads a handwritten message pasted on a framed photo collage.

The judge says she also finds joy in expunging the records of former juvenile delinquents who have decided to make positive changes in their lives.

"Overall, I tend to focus on the problems that are difficult to handle, to the exclusion of all the wonderful things people have done with their lives," she said.

Like most judges, Taliaferro's work isn't over each day when she leaves the courtroom. Known for her wit and eloquence, she is frequently asked to speak at local functions.

But with her hectic schedule, she rarely has the chance to prepare for the speeches, which her staff like to tease her about.

Taliaferro serves on at least 23 boards, committees, association, and councils that address local, statewide, and national juvenile justice and family issues.

Pointer doesn't know how her boss does it all. "It never seems like she gets tired," she said. "I wish I had her energy."

Next year, the seemingly untiring woman will

finally get a break — one that her husband, George, says is long deserved.

"I've never known a person, in all my 77 years of living, who gave more to their occupation, in terms of preparation and feeling for children whose lives she has something to do with," he said.

Still, the idea of not going to work every day makes Taliaferro a little anxious.

"I am wondering what my first week will be like after retirement," she said. "How will I order my life?"

She spoke of traveling abroad. Of visiting her four grown daughters and seven grandchildren. Of channeling her efforts toward a major national juvenile justice issue.

But she'll miss the long days. And the children.

"It's been a very, very interesting experience, one that has been filled with a lot of joy and a lot of sorrow," she said, slowly.

"I think some of them will be delighted that I'm gone," she added, her eyes brightening. "They won't have to listen to me lecture to them any more."

Katy Murphy is a reporter for the Bloomington Herald-Times, where this article originally appeared on Feb. 8, 2004.

Taliaferro named Judge of the Year

On June 6, Judge Viola Taliaferro, whose tenure on the Monroe County Circuit Court — ending this year with her retirement — has been marked by her special compassion and advocacy for children, received the National Judge of the Year award given by CASA (Court Appointed Special Advocates) at their annual conference in Washington, D.C.

Kruzan and Robling move to City Hall

Last November, Law School graduate and former Indiana House majority leader **Mark Kruzan**, JD'85, was elected mayor of Bloomington. Kruzan announced that fellow graduate **Kevin Robling**,



Kruzan

JD'97, would be part of his new team when he took office in January. As corporation counsel, Robling now heads up the city of Bloomington's legal department. He had previously served as the Law School's dean of admissions with tremendous success, recruiting the most highly credentialed classes in the history of the school.

In February, Kruzan received the Welsh-Bowen Distinguished Public Office Award given by Hoosiers for Higher Education, a statewide organization of more than 10,000 alumni, students, and friends of Indiana University who are dedicated to promoting higher education in the state.

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at the University of Iowa.

Kent A. Jeffirs, JD'92, who practices law in Crown Point, Ind., is president-elect of the Lake County Bar Association.

Sarah Riordan, JD'93, has been promoted to partner at Bose McKinney & Evans, Indianapolis.

Jeffrey K. Sinkovics, JD'93, a deputy prosecuting attorney in the Miami County (Ind.) Prosecutor's Office, has been elected president of the Miami County Bar Association.

Thomas M. Thompson, JD'93, is secretary-treasurer of the Fayette County Bar Association.

Thomas E. Deer, JD'94, is rejoining Locke Reynolds as chair of the labor and employment group.

David J. Jurkiewicz, JD'94, a lawyer with Bose McKinney & Evans, Indianapolis, has been named program chair of the Indianapolis Bar Association commercial and bankruptcy section.

Calvert S. Miller, JD'94, has been named partner at Miller Carson Boxberger & Murphy, Fort Wayne, Ind.

Julie A. Rosenwinkel, JD'94, an attorney with Krieg DeVault in the firm's Hammond, Ind., office, has been elected secretary of the Lake County Bar Association.

Terry M. Brennan, JD'95, has been elected partner at Baker & Hostetler, Cleveland. A member of the firm's litigation group, he focuses his practice in the areas of complex business litigation and corporate criminal matters.

(continued on page 34)

Alumni

(continued from page 27)

partner with Michael Best & Friedrich, Chicago, and is currently secretary-treasurer of the Transportation Lawyers Association.

Robert S. Wynne, JD'85, has been named to the management committee for Baker & Daniels, Indianapolis, where he is a partner.

Daniel J. Lueders, JD'86, has been named to lead the litigation practice group at Woodard Emhardt Moriarty McNett & Henry, Indianapolis.

D. Albert Daspin, JD'87, has launched a new firm, Daspin & Aument, in Chicago.

MaryJane Lapointe, JD'87, has joined McMains Foster & Morse, Indianapolis.

1990s

Michael Wayne Padgett, JD'91, has been named partner at Bingham McHale, Indianapolis.

Last September, **Jeff Pankratz**, JD'91, began a year-long leave of absence from the law firm of Venable LLP to work in southern India with the International Justice Mission, an international human rights organization. Pankratz is a winner of the Law School's 2004 Distinguished Alumni Service Award.

Charlotte F. Westerhaus, JD'91, is assistant to the president and director of the Office of Affirmative Action

Rammelt hits Google in trademark case

David Rammelt, JD'90, is representing a Michigan-based decorating company, American Blind and Wallpaper Factory, in a lawsuit against the Internet search engine Google, in what is potentially a groundbreaking case in the nascent area of online advertising law. The suit alleges that Google violates American Blind's trademark by listing fee-paying competitors when users run searches on the terms in the company's name. Rammelt is a partner in the Chicago office of the New York-based firm of Kelley Drye & Warren.

Sullivan celebrates 10 years on bench

by Bryan Babb

Justice Frank Sullivan Jr., JD'82, his family, and many of his former, current, and future law clerks and their spouses gathered in Chicago for a weekend to celebrate a decade of service on the bench. Former Indiana Gov. (now U.S. Sen.) Evan Bayh appointed Sullivan to the Indiana Supreme Court on Nov. 1, 1993.

Since taking the oath as Indiana's 102nd Supreme Court justice, Sullivan has authored more than 300 majority opinions dealing with a wide range of issues, including administrative, commercial, corporate, criminal, environmental, educational, family, real estate, tax, and tort law. U.S. District Judge David Hamilton, who formerly served with Sullivan in private practice and in the Bayh administration, was quick to praise him. "Nobody works harder than Frank Sullivan or thinks a problem through more carefully," said Hamilton. "His opinions offer clear and thoughtful guidance to the bench and bar."

In addition to this extensive body of appellate work, Sullivan has also devoted a significant portion of his personal and professional life during the last 10 years to the pursuit of public service at the highest levels in the state of Indiana. "Frank Sullivan is one of the most devoted public servants I know," said Bayh. "Even more, he is an individual of integrity and courage. He is a credit to the legal profession, the state of Indiana, and Indiana University."

Sullivan chairs the high court's Judicial Technology and Automation Committee, which has undertaken to equip every Indiana trial court with a 21st-century case management system and to connect individual court case management systems with each other and with users of court information.

He has also been an active participant in bench, bar, and legal education activities and a frequent speaker on the work of Indiana

juvenile courts in dealing with delinquent, abused, and neglected children. Judge Viola Taliaferro, JD'77, who deals daily with at-risk children and their families as judge of the Monroe County Circuit Court, says, "One of Justice Sullivan's greatest attributes is his belief



Sullivan congratulates Lakshmi Hasanadka, JD'03.

in the right of each person to be accorded respect regardless of what others may perceive as 'differences.' Justice Sullivan has a particular concern about the well-being of children and their families. His work on the Juvenile Justice Improvement Committee was enormously helpful to the committee members, who benefited from his keen insight into the problems faced by families in crisis and his thoughtful solutions."

Much of Sullivan's time and energy in the last 10 years has been focused on maintaining and advancing the national reputation of the School of Law. He was one of several prominent alumni chosen to participate in the mock court martial of Gen. George Armstrong

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Law School faculty, staff visit alumni in Asia

Hoffmann, Davis visit Korea

During the Law School's fall break last October, Professor Joseph Hoffmann and Dean of International Programs Lesley Davis traveled to South Korea to meet with alumni and to visit Korean universities and other sites of importance in the Korean legal world. At Korea University, Seoul National University, Transnational Law and Business University, the Korean Bar Association, and the Supreme Court, Hoffmann gave lectures on the death penalty, the jury system, and federalism. Hoffmann and Davis also visited Ewha Womans University, where they met with Professor Un-Jong Pak, a leading scholar on bioethics and adviser to many of our LLM students who come to us from Ewha.



Lisa Farnsworth sightsees in China with Nancy Gao, a student at China University of Politics and Law, longtime IU Law partner.

On Sunday, Oct. 19, there was a Law School alumni reception at the Daeryeodo restaurant in downtown Seoul. More than 25 JD, LLM, and SJD alumni attended, one coming from as far away as Busan in the southeast region of the country. A great time was had by all as School of Law graduates re-connected with each other and with Joe Hoffmann, one of their favorite professors. Other highlights of

the trip included a visit and lunch with Kum-Sil Kang, the first woman Minister of Justice in Korea's history; meeting Seoul National University Assistant Professor Kuk Cho, a well-known Korean dissident; visiting the Supreme Court and seeing some high-profile trials in session at the Seoul District Court; a lively roundtable discussion at the Korean Bar Association, and visiting the leading law firm in Korea, Kim & Chang.

Such a busy visit to Korea, including meetings with some of the most important figures in Korean legal society, would not have been possible without the tireless efforts of journalist Soo Hyung Lee, LLM'03; Jaewan Moon, LLM'00, SJD'02, professor of constitutional law at Dankook University; Sookun Song, MCL'99, chair of the IUB Law Korean Alumni Club; SangWoo Park, LLM'01, manager of the alumni club; Hee-Jin Cho, MCL'00, senior prosecutor at the ministry of justice; and many other wonderful alumni and friends. The Law School is looking forward to working closely with the Korean Alumni Club to help interview prospective students and scholars interested in coming to the Law School. Korean Alumni Club members will continue to share with prospective students and scholars their impressions of and experiences at the Law School and in Bloomington.

Professors meet Thai alumni, attend conference in Burma

In November, professors David Williams and Susan Williams and Dean Lauren Robel visited Bangkok, where about 100 School of Law alumni live and work. With the help of Poom Moolsilpa, currently an SJD student here and a faculty member at Assumption University in Bangkok, they were able to meet with law school deans and many government officials. The week was capped by an alumni reception. The Law School is very proud of our Thai alumni, who hold important positions in the judiciary, the government, and the academy, as well as in law firms in Bangkok.

David and Susan Williams then traveled north

with IU Law doctoral students Andrew Lian, Tun Myint, and Mukhit Yeleuov to attend a conference with Burmese citizens who are working on drafting a constitution in anticipation of a free Burma. Both David and Susan presented well-received talks.

Davis reports on tour of China, Taiwan

From May 6 through May 26, Professor Aviva Orenstein, Director of Graduate Legal Studies Lisa Farnsworth, and I made a very rewarding and enjoyable visit to alumni and partner institutions in Taiwan, Hong Kong, and China.

More than 25 alumni of the Graduate Legal Studies Program attended an IU School of Law alumni reception in Taipei. We met with IU alumni working for most of Taiwan's major corporations, law firms, and national universities. With the kind assistance of many of our alumni, including Bruce Liao, SJD'03, of National Chengchi University, and Tony Wang, SJD'97, of Shih-Hsin University, we had productive visits with Soochow University, National Chengchi University, National Taiwan University, National Taipei University, Fu-Jen Catholic University, and Shih-Hsin University. We also had the chance to meet the minister of justice, Ding-Nan Chen, and the president of the Judicial Yuan, Yueh-Sheng Weng, in the company of Senator Charlie Lu. Warm-hearted hospitality of too many law school alumni to mention here and excellent food were always in abundance in Taipei!

IU established an exchange program with the University of Hong Kong in 2002, and this year we will send our first group of three JD students to Hong Kong for a semester. We had a chance to visit the beautiful campus of UHK during a stopover in Hong Kong.

In China, we were graciously hosted by our long-time partner university, China University of Politics and Law in Beijing. We had a chance to reunite with alumni and meet prospective students at our well-attended alumni reception. Wei Xiao Jun, formerly a visiting scholar at IU who is now working for the

Bureau of Narcotics Control, even stopped by. It was especially nice to see three of the CUPL faculty members who have received their LLM degrees from IU in the past few years, Qi Jun (2000), Zhang Qing (2001), and Zhang Meichang (2003). Also joining us for our visit was LLM alumna Li Qian, MCL'00, who came to Beijing from Shanghai, where she is a founding partner of the Shu Jin Law Firm, to spend the week with us. The IU School of Law alumni reception was the first organized IU alumni reception that we know of to be held in China — hats off to Lin Yao, LLM'02, for starting what we hope will be an enduring trend!

Professor Gene Shreve also visited Beijing in May, where he taught for two weeks in the Law Summer Training Program for law professors and legal professionals at China University of Politics and Law. Shreve taught a condensed course on American legal philosophy and still had a few days to troll the antique markets of Beijing, with bargaining and translation help from CUPL student Nancy Gao.

— *Lesley Davis*
Dean of International Programs



Li Qian, right, joined Lesley Davis, left, Professor Aviva Orenstein, and Professor Lisa Farnsworth in Beijing.

Alumni

(continued from page 30)

F. Aaron Negangard, JD'95, of Lawrenceburg, Ind., has been elected president of the Dearborn-Ohio County Bar Association.

Gerry Williams, JD'95, has joined the Atlanta office of Lord Bissell & Brook, where he is of counsel in the firm's corporate and securities practice groups.

Christopher M. Goff, JD'96, of Mills Northrop & Goff, Huntington, Ind., has been elected vice president of the Huntington County Bar Association.

Dawn A. Noble, JD'96, is working on an LLM at Trinity College in Dublin, Ireland.

Susannah M. Hall-Justice, JD'97, partner in Justice Law Offices, Lafayette, Ind., has been elected to the boards of the Indiana Trial Lawyers Association, the Legal Aid Corporation of Tippecanoe County, and the New Lawyers Division of the Association of Trial Lawyers of America.

Stefan J. Poling, JD'97, an associate with Rollo & Harter, Huntington, Ind., has been elected secretary-trea-

Sullivan

(continued from page 31)

Custer, staged in the fall of 1998. In 2000, he accepted an invitation from the assistant division commander, 1st Infantry Division, Fort Riley, Kansas, to discuss the Custer trial with active-duty U.S. Army military officers.

Sullivan has also mentored numerous School of Law graduates who have served as his law clerks. Recalling his time in chambers with Sullivan, Stephen Beard, JD'98, an attorney practicing in Chicago, said, "(When I was) a new lawyer right out of school, clerking for Justice Sullivan proved to be an invaluable experience. More than an opportunity to hone my skills under the guidance of a very capable and experienced jurist, a clerkship with Justice Sullivan was an opportunity to be taught by example. In his approach to his vocation and his community, he set a benchmark of professionalism, service, and integrity against which I have come to judge my own career."

Sullivan has a national reputation as well for encouraging minority law students to seek judicial clerkships. He is the American Bar Association Judicial Division's liaison to the ABA's Commission on Racial and Ethnic Diversity in the Profession. He is also serving his fourth term as co-chair of the commission and division's joint Judicial Clerkship Program. The Indiana State Bar Association recently honored him with the Rabb Emison Award for his demonstrated commitment to promoting diversity and equality in the legal profession.

Sullivan graduated cum laude in 1972 from Dartmouth College. From 1974 to 1979, before attending law school, he served on the staff of former U.S. Rep. John Brademas (D-Ind.), ultimately assuming the position of staff director. In 2002, Sullivan honored his former boss and longtime New York University president by delivering Ball State University's Stephen J. Sr. & Beatrice Brademas Memorial Lecture, named for Brademas's parents.

Sullivan graduated magna cum laude from the School of Law in 1982. After graduation, he worked as an attorney with the Indianapolis law firm of Barnes & Thornburg. Then-Gov. Bayh appointed him Indiana's state budget director in 1989, a position he held until 1992, when Bayh named him executive assistant for fiscal policy. As state budget director, Sullivan oversaw a biennial budget of approximately \$20 billion.

In 2001, Sullivan earned an LLM from the University of Virginia School of Law. His Virginia classmates, a nationwide cross section of appellate judges, chose him to receive the Bergin Award for Selflessness in Judicial Education at graduation.

Sullivan is married to Cheryl G. Sullivan, who recently took a leave of absence from her position as vice chancellor for external affairs at Indiana University-Purdue University Indianapolis to serve as secretary of the Indiana Family and Social Services Administration, the state government's largest agency. They are the parents of three sons. An avid runner, Sullivan competed in the 2003 Boston Marathon.

John Bessler, JD'91, is the author of two new books: *Kiss of Death: America's Love Affair with the Death Penalty* (Northeastern University Press 2003) and *Legacy of Violence: Lynch Mobs and Executions in Minnesota* (University of Minnesota Press 2003). Bessler is a partner at the law firm of Kelly & Berens in Minneapolis.

sure of the Huntington County Bar Association.

Arthur J. Usher, JD'97, was promoted to partner at Woodard Emhardt Moriarty McNett & Henry, Indianapolis.

Sean T. Devenney, JD'98, has joined Drewry Simmons Pitts & Vornehm, Indianapolis.



Fredrick D. Payne,

JD'98, is managing attorney of the Indiana office of Wessels & Pautsch.

Lewis Popoff, JD'98, has joined the Ann Arbor office of Miller Canfield Paddock & Stone as an associate in its business and

Popoff

finance group, specializing in mergers and acquisitions, corporate finance, venture capital, and general corporate matters.

John P. Ryan, JD'98, has been named a shareholder in Hall Render Killian Heath & Lyman, Indianapolis.

Lynne Elise Ellis, JD'99, of French Lick, Ind., has been elected president of the Orange County Bar Association.

After two years as a law clerk, **Damon R. Leichy**, JD'99, returned to Barnes & Thornburg, South Bend, Ind., as a member of the litigation department. His practice focuses on mediation, trial work, and appeals.

2000s

Stephanie Bisselberg, JD'00, and her husband, Scott, are the parents of Ethan Henry, born on Nov. 25, 2002. After three-and-a-half years in the labor and employment department of Taft Stettinius & Hollister, Cincinnati, Bisselberg accepted the position of assistant labor counsel for

AK Steel Corp. on March 15.

Joel R. Elliott, JD'00, has been appointed deputy chief of staff for Indiana Lt. Gov. Kathy Davis. He was previously senior manager for the U.S. Chamber of Commerce in Washington, D.C., and had also served as legislative director for Indiana Rep. Baron Hill and as legislative assistant to Sen. Evan Bayh.

Dinsmore & Shohl has hired **Samuel J. Arena**, JD'01, to practice in the corporate department of the firm's Cincinnati office. He will focus his practice on real estate law, with an emphasis on real estate financing and retail leasing.

David J. Bayt, BA'97, JD'01, has joined the law firm of Sommer Barnard Ackerson, Indianapolis, as an associate. He is a member of the business workouts and bankruptcy law practice group.

Michael J. Hulka, JD'01, has joined the litigation department at Barnes & Thornburg, Indianapolis.

Puzio serves with JAG corps

Michael Puzio, JD'99, is a judge advocate with the U.S. Army. He wrote last fall from Camp Doha, Kuwait, where he was serving as chief of operational and international law for the Coalition Forces Land Command. "The legal issues are interesting and diverse," he wrote. "Some of my duties include assisting with the repatriation of looted Iraqi historical artifacts, working with coalition members to address fiscal and logistical support through cross-servicing agreements, interpreting Kuwaiti law, teaching the military operational rules of engagement, and reviewing law of war investigations.

"As you may imagine, the quality of life at Camp Doha is rather limited. ... This assignment has some advantages, not the least of which is that I am finally getting to read some of the 800-plus-page Victorian novels that I have long wanted to read. Having read a few of Charles

Dickens's novels, including *Our Mutual Friend*, and a couple of Wilkie Collins's and Alexandre Dumas' novels, I have returned to Mr. Dickens and am now reading *Nicholas Nickleby*."



Mother-daughter firms flourish

After publishing an article about IU law alumnae Ann and Kathleen DeLaney's mother-daughter law firm, we were delighted to hear from **Linda Clark Dague**, JD'82, and **Mary Louise Dague Buck**, JD'95, who opened their own mother-daughter firm, Dague & Buck, in Muncie, Ind., three years ago.

Meanwhile, DeLaney & DeLaney have expanded to include four attorneys, all of whom are graduates of the IU School of Law—Bloomington. **Michele Lofthouse**, JD'03, joins **Ann DeLaney**, JD'77, **Kathleen DeLaney**, JD'95, and **Carla Garino**, JD'98, at the Indianapolis law firm.

Katherine J. Noel, JD'01, who practices law in Kokomo, Ind., is president of the Howard County Bar Association.

Jasna (Brblic) Dolgov, JD'01, has joined the law firm of Godfrey & Kahn, Milwaukee.

Jennifer A. Strickland, JD'01, has joined Zeigler Cohen & Koch, Indianapolis.

Kelly A. Powis, JD'02, is the recipient of a Pro Bono Service Award given by the Northern District of Illinois federal court for her representation of an organization providing rehabilitative services to the mentally ill. Powis is an associate at Gardner Carton & Douglas, Chicago.

Johnny Pryor, JD'02, is an assistant prosecuting attorney for Clark County in Springfield, Ohio. He practices civil law and represents various agencies, departments, elected officials, and townships within Clark County. This fall, he will teach Literature and the Law in the English department at Wittenberg University. He also coaches Wittenberg's mock trial team.

Marisol Sanchez, JD'02, an associate at Bose McKinney & Evans, Indianapolis, has been named to the board of directors for Fiesta Indianapolis, the largest annual Hispanic festival in the state of Indiana. Sanchez has also been chosen as a moderator for the Indiana State Bar Association's Latino Affairs Committee.

Aaron M. Silver, JD/MBA'02, has joined the Detroit-based law firm Honigman Miller Schwartz and Cohn, where he concentrates his practice in the bankruptcy, reorganization, and commercial department.

Jenifer J. Baumann, JD'03, has been named senior assistant bursar, manager of client services, in the Indiana University Office of the Bursar.

Vivek Boray, JD'03, is an LLM candidate in the School of Oriental and African Studies at the University of London, specializing in commercial and corporate law.

Yolanda D. Edwards, JD'03, has joined the energy, telecommunications, transportation, and utilities department of Barnes & Thornburg, Indianapolis.

Byong-Han Yu, LLM'03, of Seoul, works for the Korean Ministry of Culture and Tourism as director of the Korean Language Policy Division.

Brett M. Haworth, JD'03, has joined Stevens & Associates in Indianapolis.

Jennifer M. Herrmann, JD'03, and **Nicholas Levi**, JD'03, have been named associates at Kightlinger & Gray, Indianapolis. Both focus on all phases of insurance defense.

Brandon Judkins, JD'03, is a new associate on the litigation team at Baker & Daniels, Indianapolis.

Derek W. Kaczmarek, JD/MBA'03, and his wife, Katrina Kaczmarek, became parents to McKinley Nicole Kaczmarek on Sept. 4, 2003. Derek is an associate with Kahn Dees Donovan & Kahn, Evansville, Ind.

Teresa Melton, JD'03, joined the labor and employment law team at Baker & Daniels, Indianapolis.

Samuel F. Miller, JD'03, has joined Stites & Harbison, Nashville, Tenn., where he will focus on intellectual property litigation.

Jane E. Rueger, JD'03, is an associate at Dewey Ballantine, Washington, D.C., in their energy practice group.

Shannon M. Shaw, JD'03, has joined the labor and employment law department of Barnes & Thornburg, Indianapolis.

The North Carolina Journal of International Law and Commercial Regulation has published the thesis of **Young-Gyoo Shim**, LLM'03.

Emily D. Smith, JD'03, has joined Hill Fulwider McDowell Funk & Matthews, Indianapolis.

Kipling C. White, JD'03, has joined Stuart & Branigin, Lafayette, Ind., as an associate.

Jennifer Prime, JD'04, has accepted a fellowship/staff attorney position with the Institute for Public Representation at the Georgetown Law Center. Upon completion of the program, she will receive an LLM in advocacy.



Melton

IN MEMORIAM

Roush: Public servant, environmental advocate ... and UFO investigator

Former Congressman J. Edward Roush, a 1949 graduate of the Law School, died on March 26. Indiana Supreme Court Justice Frank E. Sullivan Jr., JD'82, delivered the eulogy, from which the following remembrances are excerpted.

Can you imagine the only member of Congress ever to convene a symposium on Unidentified Flying Objects? Can you imagine a man who so loved his college that he was willing to deal with its faculty and student problems for 50 years as a member of its governing board? Can you imagine a man whose abiding legislative passions were at the same time the most sophisticated technology and the most pristine natural environment? Can you imagine a politician noted for his modesty?

We need not imagine such a man, for we knew such a man — a man who also was as fine a model of a lawyer in public service as there could be, and a man who loved his wife and children and grandchildren and great-grandchildren from the bottom of his heart.

Roush's public career began when he was elected student-body president at Huntington College. Immediately after graduating in 1942, he joined the Army and rose to the rank of captain. An article by Geoff Paddock that appeared in *Traces*, the magazine of the Indiana Historical Society, tells of Roush's harrowing experience during the Battle of the Bulge, where he nearly lost his feet to frostbite.

Back from World War II a decorated veteran, Roush enrolled in law school. In 1948, while still a student in Bloomington, he was elected state representative — from Huntington. It would be the first of 12 campaigns for public office. He retired with a pretty good lifetime record — he was 10 and 2.

Roush was elected county prosecutor in 1954 and 5th District congressman in 1958. The 1960 election remains to this day an epic in the annals of the U.S. House. The election returns were so tight that the House did not seat either Roush or his Republican opponent, George Chambers, until Roush was declared the winner in June, more than seven months after election day. Roush and Chambers were probably the only two people in America who thought the 2000 presidential recount in Florida was efficient.

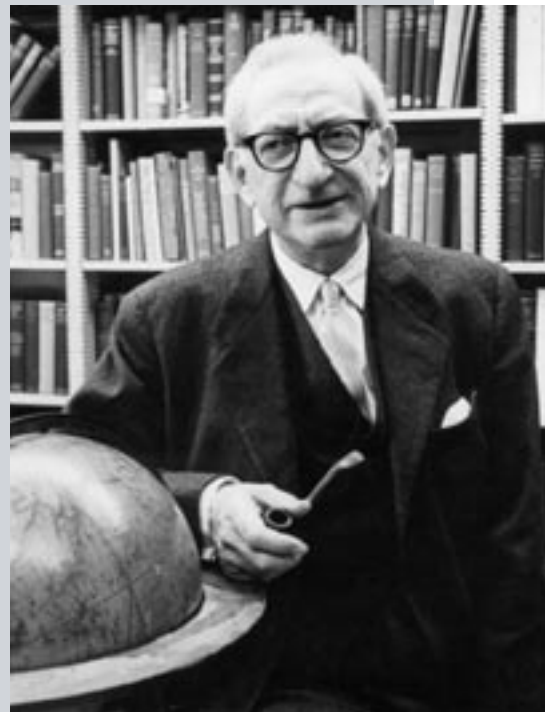
The 1968 election was another donnybrook. Federal

judges redrew Indiana's congressional boundaries, with the consequence that Roush was removed from the 5th District he had represented for a decade and placed in the heavily Republican 4th District against an incumbent Republican, Congressman Ross Adair. In the end, Roush fell a few votes short. He shrugged off his first loss in eight campaigns philosophically, saying he had been placed by the voters on "involuntary sabbatical."

Two years later, the tables were turned. Adair was defeated, and Roush was back in the U.S. House. After two more wins, Roush suffered his second and last loss — to

Wanted: Memories of Professor Jerome Hall

Former research assistants of Professor Jerome Hall, or others who were deeply influenced by him, are invited to contact Dean Lauren Robel at (812) 855-8885 or lrobel@indiana.edu to aid in the preparation of a presentation about Hall. This presentation will be made in conjunction with the annual Hall Lecture.



Professor Jerome Hall

Arnold Feldman (1926–2003)

J. Arnold Feldman, BA'50, LLB'53, died on Dec. 8, 2003. Feldman's long career with the federal government began in the Labor Department's Office of Equal Opportunity. In 1995 he retired as chief of civil rights compliance of the Small Business Administration.

His work on behalf of civil rights, however, was never limited to what he did nine to five. In a 2001 article in the *Columbia* (Md.) *Flier*, Feldman recalled a lifetime of activism. As an IU student on the G.I. Bill, he was involved in a movement to cancel the contracts of barbers who refused to cut the hair of black customers in the Memorial Union and, aiming to integrate Bloomington's restaurants, he organized a 3,000-student sit-down strike on the day of a Homecoming football game.

While in law school, he helped draft the Indiana School Desegregation Act. After graduating, he became a labor organizer and educator for the International Ladies Garment Workers Union. Early in his career with the federal government, he worked on the Fair Housing Act and Title VI of the historic Civil Rights Act of 1964, and throughout his life he was affiliated with organizations devoted to eradicating injustice in the communities where he lived.

Feldman is survived by his wife, artist and printmaker Aline (Winetraub) Feldman, BS'51.

Dan Quayle, in 1976. Rep. Mark Souder has described Roush as "an example of how you can still be friends with an opponent," and I think this was true of Roush's relationship with the man who defeated him. I know that he would take visitors to Huntington to the vice presidential museum. After Roush's death, Quayle saluted his "character ... of decency, compassion, and integrity."

Several themes work their way through Roush's public career. Perhaps a good place to start is with his commitment to racial justice. Part of the reason Tom Brokaw calls Roush's generation "our greatest generation" is because it fought, at great sacrifice, the racial and religious intolerance of Nazi Germany. When Roush returned home, he fought racial intolerance where he found it here. As a member of the state legislature in 1949, he cast his vote in favor of the successful effort to desegregate Indiana's public schools. As a member of Congress, he cast his vote in favor of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the other great civil rights legislation. Roush stood with Martin Luther King Jr. on the steps of the Lincoln Memorial on Aug. 28, 1963, and shared King's

dream expressed on that occasion.

Science and technology interested Roush greatly. A charter member of the U.S. House's Science and Astronautics Committee, he was a great champion of space exploration. And he strongly advocated investment in basic scientific research as a central predicate for economic development. But if you rummage around the Internet today, you will find his name linked with science in another way: an association with UFOs! The story is roughly this: In the 1960s, reports of unidentified flying objects were rampant, and the military was not supplying the American public with adequate information. Congressman Roush called upon Congress to take over the investigation. This is not to say that he believed in flying saucers; he said that he was an agnostic with respect to UFOs, but he wanted to get to the bottom of the riddle through the use of the scientific process. His call ultimately led to his convening a symposium of leading scientists on the subject. Not everyone took this as seriously as he did. At one point, a newspaper ran a short story that began, "If you are a flying saucer, tremble. Rep. J. Edward Roush has just called for a Congressional investigation."

In 2003, the INDIANA ALUMNI MAGAZINE surveyed the achievements of its faculty and alumni to answer the question, "How has IU changed the world in which we live?" It listed 30 such ways; Roush's critical role in establishing 911 as the nation's uniform, easy-to-remember emergency telephone number ranked 11th. Dr. O'Callaghan's 2002 article, "Ed Roush, Father of 911," tells the inspiring story of his overcoming opposition from the nation's then-principal telephone company, AT&T, which cited technological problems, and from police and fire officials, who feared losing control over their own seven-digit emergency numbers. On March 1, 1968, Huntington became the first city on the Bell system to adopt 911. Today, 911 is, by federal law, the single nationwide emergency number for both landline and wireless telephones.

It seems a little paradoxical that someone so interested in technology would also be such a stalwart defender of the natural environment. Ed Roush was an environmentalist before there was an environmental movement. Paddock's article tells of his support for legislation to stop sewage runoff into rivers, streams, and lakes and measures to prevent factories from spewing toxins into the air. But Roush was a conservationist as much as an environmentalist. He was cited by President Lyndon Johnson as one of the key congressional sponsors of the legislation creating the Indiana Dunes National Lakeshore, controversial at

the time but now regarded as one of the world's great natural treasures.

Oh, how he loved the lakes and rivers of northeast Indiana! Could there be anything more appropriate than a J. Edward Roush Lake?

Roush was a man of his convictions, often eschewing political expediency in his votes on civil rights, federal aid programs, and environmental protection. The same could be said of his opposition to and votes against the war in Vietnam. Here too he placed principle above political gain.

Like many in public life, Roush had an extended family. When the only African American ever to serve on the West Virginia Supreme Court, Justice Franklin Cleckley, JD'65, spoke in Indiana several years ago, he told of his debt to Congressman Roush, for whom he had worked as a college intern. This theme of Roush as mentor is one to which many can relate. Countless young men and women date their first exposure to politics and public service to opportunities provided by Roush.

The theme of education in Roush's career is dominated by his commitment to Huntington College, whose board of trustees he served on for five decades; he even served a six-month term as interim president. But in addition to his extraordinary record with regard to education, there was much, much more. As a member of Congress, he voted for the Elementary and Secondary Education Act, the Higher Education Act, and other national initiatives to improve schools for American children and make it possible for them to afford to go to college. Purdue University and the Indiana University School of Law—Bloomington both honored him for his significant contributions to education.

We mourn with the Roush family the passing of J. Edward Roush, a lawyer in public service who worked for education and equal opportunities; who pursued the mysteries and potential of science; who fought to preserve land, rivers, lakes, and beaches; who campaigned hard but decently; who mentored and was an inspiring role model to so many young men and women. A man of principle who cast his vote in Congress with courage and conviction. A family man who loved and served his God. A public man who left us with this admonition: "If future generations are to remember us more with gratitude than with sorrow, we must achieve more than just the miracles of technology. We must also leave them with a glimpse of the world as God really made it, not just as it looked when we got through with it."

Roush's son, Joel, captured many of his father's values — the environmental, teaching, family, public service — all in one well-turned phrase when he told the *Indianapolis Star*, "He taught everybody to fish — his sons, his daughters, his grandkids. He worked at them all to make sure they were registered to vote and that they fished." Isn't that just the way Roush would want to be remembered?

NLRB attorney Stewart fought for workers' rights

William Rufus Stewart, JD'59, an attorney at the National Labor Relations Board for more than three decades, died on Feb. 16 in Washington, D.C. Stewart was a member of the Law School's Academy of Law Alumni Fellows.

Stewart, the first African American to serve as chief counsel at the NLRB, was the recipient of the highest honor that the federal government gives a career civil servant, the President's Award for Distinguished Federal Service, which he received just after his 1997 retirement. President Bill Clinton said at the time that Stewart was "instrumental in winning national labor law cases that have had a major impact on American workers, such as protecting the rights of blind workers and preserving the ability of workers to vote by mail in union elections." Stewart was the first NLRB employee to receive this award.

Stewart had a 40-year career of government service, including his 34 years with the NLRB. He began his career working as an attorney for the Atomic Energy Commission. He joined the NLRB in 1963 as a legal assistant on the staff of former Chair McCulloch, after having been employed for four years as an attorney at the Atomic Energy Commission. In 1967, he became president of the NLRB Professional Association. He left the agency in 1968 for one year to be manager for labor relations and equal opportunity at Simmonds Precision Products Inc., in Tarrytown, N.Y. Upon his return in 1969 to the NLRB, Stewart was detailed to the Appellate Court Branch to help reduce its backlog of cases. In 1970, he was elected again to be president of the NLRB Professional Association.

In 1971, Stewart transferred to the Appellate Court Branch of the Division of Enforcement Litigation, Office of the General Counsel, and was promoted to a supervisory position in 1976. He was promoted again in 1978 to the position of deputy assistant general counsel (managing supervisor), a position he held until being selected as



Stewart

Chair Gould's chief counsel in 1994. In the course of his career, he received numerous commendation awards.

A native of Terre Haute, Ind., Stewart was awarded a BA degree, majoring in government, from Indiana University in 1954. He graduated with high honors and was elected to Phi Beta Kappa. He worked 40 hours a week at the home of the university president during his freshman and sophomore years, and 32 hours a week at the home of a university department chair during his junior and senior years.

During college, Stewart also took four years of reserve officer training and was commissioned a second lieutenant in the U.S. Army upon graduating. He started law school in the fall of 1954 on a full scholarship, but was called to active duty in October 1955. After completing the Army Officer Basic Course in February 1956 at Fort Knox, Ky.,

he was assigned to the 3rd Armored Division, which was transferred to Germany in May 1956. In January 1956, Stewart was selected to be the courts and boards officer and assistant adjutant of a combat command of more than 5,000 men. After 18 months of active duty, he was promoted to first lieutenant.

In the fall of 1957, Stewart returned to Indiana University Law School, and he was granted a JD with distinction in 1959. During law school, he was invited to join the staff of the *Indiana Law Journal* and was selected to be a note editor. He also was elected to the Order of the Coif.

In a statement, former Chair William B. Gould IV, professor emeritus of law at Stanford and former chair of the NLRB said:

"My association with Bill Stewart began when we both commenced service at the NLRB in 1963 after his stint with the Atomic Energy Commission in Washington, D.C. He was a tower of strength, expertise, and wisdom, for me, the NLRB, and the United States government. I never had a better or more loyal friend. A lawyer par excellence who set the highest standards at the NLRB and in the legal community, Bill was a role model and inspiration to me and innumerable others. He was the first and only African American ever to be appointed to the rank of chief counsel at the NLRB, serving with me from 1994 to 1997. Bill Stewart best exemplified public service as a high and noble calling. But, even more important, he gave of himself unqualifiedly to those in distress and in need of help until the very end of his days."

Frank McCloskey (1939–2003)

Frank McCloskey, JD'71, three-term mayor of Bloomington and six-term U.S. Representative from Indiana's 8th Congressional District, died on Nov. 2, 2003, after a battle with cancer. He was 64. First elected mayor in 1971, McCloskey was remembered for his humanity and generosity, as well as his political skills. In later years, McCloskey became an outspoken advocate for ending the war in the Balkans, devoting considerable time to human rights issues in Bosnia.

As a member of the House Armed Services and Foreign Affairs committee, McCloskey had been one of the first in Congress to call for air strikes against Serbian positions in Bosnia-Herzegovina in order to prevent hostilities from spilling over into Croatia, Kosovo, Macedonia, and other provinces.

A native of Philadelphia, McCloskey joined the Air Force after high school. He was a reporter for the *Indianapolis Star*, the Bloomington *Herald-Telephone*, and the City News Bureau in Chicago before graduating from Indiana University in 1968. He was elected mayor of Bloomington in 1972, a year after he graduated from the Law School, and served for 10 years.

In 2002, he was named director of Kosovo programs for the National Democratic Institute for International Affairs, where he was teaching leaders how to govern democratically.

Recounting the Years, a political documentary directed by political consultant Chris Sautter, is about McCloskey's political career, and includes interviews with McCloskey, Lee Hamilton, JD'56, and others.

Jim Foss, JD'96, remembered as family man and fighter

James M. Foss, of Chicago, died on Dec. 11, 2003, after a long, courageous battle with brain cancer.

On May 17, 2000, one day before his 29th birthday and with his wife nine months' pregnant, Jim underwent brain surgery and was diagnosed with an aggressive cancer. The doctors advised Jim and his wife, Charlene Renee, that the normal life expectancy was no more than nine months. Jim, as he had done all his life, turned his prognosis into a personal challenge and vowed to beat the odds.

Beat the odds he did. His son, Christian Magnus, was born on June 9, 2000. Using Tour de France champion and cancer survivor Lance Armstrong as his inspiration, Jim endured intense chemotherapy and radiation treatments for the next 18 months, all the while caring for his

infant son during the day while Charlene was at work. “He loved taking Christian in his stroller to the parks or to the bookstore,” said his wife, Charlene. “They grew so close that first year and a half.”

Jim and Charlene were blessed with a second child, Tyrus Graham, in June 2002. Jim cherished every day spent with his wife and two wonderful sons, who added additional purpose to his fight.

Six weeks before the birth of their second child, the family learned that Jim’s cancer had evolved into a highly aggressive brain tumor. During the next 18 months of Jim’s life, he endured three more brain surgeries, five different chemotherapy treatments, and a second round of radiation. He also bravely participated in two clinical trials at Duke Brain Tumor Center.

Born in Seattle and later graduating from high school in Marietta, Ga., Jim excelled both academically and athletically. He graduated with honors from the University of Michigan in 1993, majoring in political science and economics. During his days in Ann Arbor, he wrote for the *Michigan Daily* and was named Intramural Athlete of the Year.

After graduating, Jim attended Indiana University School of Law—Bloomington, where he met his wife, Charlene (Fisher) Foss, JD’97, wrote for the law journal, participated in moot court, was again honored for athletic excellence (as a graduate student), and graduated with honors in 1996. During his summers, Jim served the public interest working at the Northwestern University Law Clinic as well as with the state’s attorney’s office.

In 1996, Jim joined the law firm of Winston & Strawn, where he worked in commercial litigation. Jim served on the recent Microsoft antitrust litigation and did a “terrific job,” according to Bruce R. Braun, partner at the firm’s Chicago office. Jim also found time to work on several pro bono matters, including successfully defending a 13-year-old accused of murder and working on a high-profile school expulsion case. Braun described Jim’s death as a “horrible loss.”

Any description of Jim must include his passion for sports and competition. His second home was a gym or football field, whether playing pick-up games or coaching youth at the local Boys’ Club or YMCA. He thrived on competition and gamesmanship, traits that manifested themselves during more difficult times as well.

While Jim’s life was much too short, he lived four times longer than estimated when he was first diagnosed. As in many other facets of his life, Jim beat the odds.

Jim is survived by his wife, Charlene, and sons Christian and Tyrus. Other survivors include his parents, his brother, and his parents-in-law.

— Rob Pike, JD’96; Bob Dold, JD’96; and Bill Hopkins

Longtime law librarian remembered for innovation

Betty Virginia LeBus, longtime law librarian at the School of Law, died on Aug. 24, 2003, in Bloomington. Born in Bremerton, Wash., LeBus attended the University of Washington, where she received a BS in 1947, an LLB in 1948, and a BA in library science in 1949. She was one of the first graduates of the university’s prestigious Law Librarianship Program. Following her graduation, LeBus was admitted to the bar in the state of Washington, and she served as assistant librarian at the University of Washington from 1948 to 1950. In 1950, when she accepted the position of instructor of law and law librarian at Indiana University, she became the only woman then on the law faculty. In addition to being the administrator of the Law Library, she taught Legal Bibliography to all law students.

LeBus at work in the Law Library



She was instrumental in the planning of the law building completed in 1956 and served as the Law School's project manager throughout the construction of the facility.

In 1957, LeBus was granted tenure, and in 1977, she was promoted to full professor of law, becoming the first woman in the Law School to receive tenure and to hold professorial rank. During her time as law librarian, the IU Law Library collection grew from 57,000 volumes to 194,000 volumes, and the staff grew from two to nine full-time employees and more than 30 student assistants. In 1977, the Law Library was one of the first in the country to introduce the faculty and students to computerized legal research.

After 28 years, LeBus resigned her position at Indiana University and returned to Seattle to be with her elderly mother. She ended her career as a law librarian at the University of Miami School of Law. Upon her retirement, she returned to Bloomington.

LeBus was a pioneer in law librarianship and served the university and many organizations in countless ways. The essence of her service, however, is reflected not just in the formal achievements that appear in the records and statistics of an organization, but in the impact she had on the hundreds of former students and colleagues who continue to remember her with affection and esteem.

In memoriam

David Earl Baker, JD'70 (Jan. 23)

James A. Ball, LLB'47 (Dec. 5, 2003)

William M. Bloom, LLB'42 (Jan. 13)

Art Kalleres, JD'66 (Nov. 30, 2003)

William Moran, LLB'60 (April 12, 2003)

Scott Niemann, JD'80 (March 30)

Zane E. Stohler, LLB'50 (Jan. 21)



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Source: *IU Law—Bloomington Bill of Particulars, Fall 2004*

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