

Stanford *Lawyer*

Anthony Romero '90 has persuaded thousands of people that it's patriotic to join the ACLU.

Who's Un-American?

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Stanford Lawyer
(ISSN 0585-0576)
is published for alumni and friends
of Stanford Law School.

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559 Nathan Abbott Way
Stanford, CA 94305-8610
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Issues of the magazine since
fall 1999 are available online at
www.law.stanford.edu/alumni/lawyer.
Issues from 1966 to the present
are available on microfiche through
William S. Hein & Co., Inc., 1285
Main Street, Buffalo, NY 14209-1987, or
order online at [www.wshein.com/](http://www.wshein.com/Catalog/Gut.asp?TitleNo=400830)
Catalog/Gut.asp?TitleNo=400830

Stanford Lawyer is listed in: Dialog's
Legal Resource Index and Current Law
Index and LegalTrac (1980-94).

Printed on recycled paper



ROBERT MARCH

ON THE DOCKET

Upcoming Law School events*

Battle of the Brains: Mar. 12
A *Jeopardy*-like contest among
faculty and students sponsored
annually by the Stanford Law
Students Association. This year's
master of ceremonies: Ben Stein.

**Bringing Africa to the Forefront:
Contemporary and International
Law and Development in "Africa's
Century": Mar. 12-13**
<http://sjil.stanford.edu/YSS.htm>

**Securing Privacy in the
Internet Age: Mar. 13-14**
[http://cyberlaw.stanford.edu/](http://cyberlaw.stanford.edu/privacysymposium/)
[privacysymposium/](http://cyberlaw.stanford.edu/privacysymposium/)

**Finance, Audit, and Risk Issues for Board
Members: Mar. 24-26**
<http://www.boardfinance.com>

Fiduciary College: May 20-21
<http://www.fiduciarycollege.com>

Directors' College: June 20-22
<http://www.directorscollege.com>

**Best Practices in Marketing Software
and Other Content to the World over
the Internet: June 25**
[http://www.law.stanford.edu/](http://www.law.stanford.edu/programs/academic/1st/)
[programs/academic/1st/](http://www.law.stanford.edu/programs/academic/1st/)

Alumni Weekend 2004: Oct. 21-24

**Advance purchase of tickets or pre-registration
is required for some Law School events. Visit
<http://www.law.stanford.edu> to keep up to
date on programs at Stanford Law School.*

COVER STORY

14 TAKING THE ACLU INTO THE LIMELIGHT

ACLU Director Anthony Romero '90 is hoping to change Americans' attitudes about civil liberties.

FEATURES

20 BROWN, 50 YEARS LATER

Three Stanford Law School professors discuss the legacy of *Brown v. Board of Education* with one of the attorneys who argued the case before the Supreme Court.

26 ALUMNI WEEKEND 2003

It was a time for laughter and learning: nearly a thousand alums came to the Law School last fall to visit with old friends, ask questions of a Supreme Court Justice, and receive insider information on world conflicts.

BRIEFS

- 8 Matt Gonzalez '90 makes a bid for mayor of San Francisco.
- 9 The source of the funding behind a student award is revealed.
- 9 A Stanford Law School professor hits the big time: the *New York Times* acrostic.
- 10 Faculty, alumni, and students make the grade.
- 10 The School's Center for Internet and Society gets involved in an election machine case.
- 11 Students direct the discussion and cook up pizza in two innovative SLS classes.
- 12 REMEMBERING FORMER DEAN JOHN HART ELY Alumni and colleagues remember former Dean John Hart Ely for his big heart and sporting sense of humor.

DEPARTMENTS

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Alumni Weekend 2003 kicked off with the University's roundtable forum, "Power of Influence, Influence of Power," featuring (left to right) Professors Judith Goldstein (Political Science), Mariano-Florentino Cuéllar (Law), David W. Brady (moderator; Political Science and Business), Joseph A. Grundfest '78 (Law), and Stephen H. Schneider (Biological Sciences).

Cover: PHOTO BY STEVE GLADFELTER
This page: PHOTO BY STEVE GLADFELTER



"The amazing thing is not that the copyright system is working, but how quickly it has adapted."



RUSS CURTIS

—PAUL GOLDSTEIN, STELLA W. AND IRA S. LILLICK PROFESSOR OF LAW, IN A NOV. 21 *DAILY JOURNAL* ARTICLE ABOUT HIS APPROACH TO COPYRIGHTING MATERIAL FROM THE INTERNET. THE PROFILE OF GOLDSTEIN DESCRIBED HIM AS A "VISIONARY" AND A "GIANT AMONG SCHOLARS."

"The president seeks an unchecked power to substitute military rule for the rule of law."

—JENNY MARTINEZ, ASSISTANT PROFESSOR OF LAW, ARGUING NOV. 17 BEFORE THE COURT OF APPEALS FOR THE SECOND CIRCUIT THAT THE GOVERNMENT MAY NOT INDEFINITELY DETAIN A CITIZEN AND PROHIBIT HIS MEETING WITH COUNSEL SOLELY BECAUSE THE PRESIDENT HAS DECREED HIM AN ENEMY COMBATANT. MARTINEZ HAD FILED AN AMICUS BRIEF IN SUPPORT OF JOSE PADILLA, WHOM THE GOVERNMENT HAD HELD INCOMMUNICADO SINCE JUNE 2002, AFTER ACCUSING HIM OF PLOTTING TO SET OFF A "DIRTY BOMB." THE COURT RULED IN HER FAVOR.



STEVE GLADFELTER

"Unfortunately, when the energy bill went into conference, bipartisanship went out the window."

—SENATOR JEFF BINGAMAN '68 (D-NEW MEXICO) IN A NEWS RELEASE ISSUED NOV. 21, AFTER HE AND 57 OTHER SENATORS VOTED DOWN A SWEEPING ENERGY POLICY BILL THAT WAS THE PRODUCT OF REPUBLICAN LAWMAKERS IN THE CONFERENCE COMMITTEE. BINGAMAN, THE RANKING MEMBER ON THE SENATE'S ENERGY AND NATURAL RESOURCES COMMITTEE, HAD BACKED AN EARLIER BIPARTISAN SENATE VERSION OF THE LEGISLATION.



OFFICE OF SENATOR BINGAMAN

"The election for President of the Guild on Sept. 19 must be set aside."

—WILLIAM GOULD IV, CHARLES A. BEARDSLEY PROFESSOR OF LAW, EMERITUS, IN HIS SPECIAL REPORT, ISSUED JAN. 5, ON WHETHER THE PRESIDENT OF THE WRITERS GUILD OF AMERICA, WEST, WAS ELIGIBLE TO BE A UNION MEMBER. AS A RESULT OF HIS CONCLUSION, THE GUILD'S PRESIDENT, VICTORIA RISKIN, RESIGNED FROM THE PRESIDENCY OF THE UNION, WHICH REPRESENTS 9,000 HOLLYWOOD WRITERS.



THEODORE H. MOCK

"I am accepting no money."

—LADORIS CORDELL '74 ON HER WEBSITE FOR HER UNCONVENTIONAL CAMPAIGN FOR A SEAT ON THE PALO ALTO CITY COUNCIL. CORDELL, A STANFORD VICE PROVOST AND SPECIAL COUNSELOR TO PRESIDENT JOHN HENNESSY AND A FORMER SUPERIOR COURT JUDGE, WAS ELECTED NOV. 4.



JESSICA BOROWICK, STANFORD DAILY

"Suddenly, overnight, people said, 'Oh, my God, this could be my drinking water.'"

—TED SMITH '72, FOUNDER OF THE NONPROFIT SILICON VALLEY TOXICS COALITION, AS QUOTED IN A NOV. 17 ARTICLE IN THE *NEW YORK TIMES*, EXPLAINING HOW A LEAK AT A SEMICONDUCTOR PLANT IN 1982 HELPED TO CHANGE PEOPLE'S PERCEPTIONS OF HIGH-TECH MANUFACTURING AS CLEAN AND SAFE. HIS WORK HIGHLIGHTING THE DANGERS OF CHIP PRODUCTION LED TO A TRIAL LAST FALL IN WHICH TWO FORMER IBM WORKERS, WHO CLAIM TO HAVE CONTRACTED CANCER FROM THEIR WORK, SUED THE COMPANY FOR DAMAGES.



SCOTT LEWIS/BIZ INK

"You can't make \$2 million a pop and be independent in any meaningful way."

—JOSEPH BANKMAN, RALPH M. PARSONS PROFESSOR OF LAW AND BUSINESS, ON THE OCT. 19 EDITION OF *60 MINUTES*, CRITICIZING ACCOUNTANTS AND LAWYERS WHO PROMOTE QUESTIONABLE OFFSHORE TAX SHELTERS FOR INDIVIDUALS AND CORPORATIONS.



LINLY HARRIS

What Makes SLS Special:

A Top-10 List

BY KATHLEEN M. SULLIVAN

Dean and Richard E. Lang Professor of Law and Stanley Morrison Professor of Law

It isn't easy being dean (see p. 28). But it's been incredibly inspiring, rewarding, and fun. When I finish my term this September, I will miss it greatly. I will especially miss traveling the country to talk with our alumni and friends about the School.

I have tried to keep my speeches fresh, and our students and faculty provide plenty of new material.

But let's face it, there are a few lines I've used a time or two. As I head into decanal twilight, I think back on various Sullivanisms by which I've tried to capture what makes our law school special. Here is an annotated top-10 list.

10. *We may have warm weather, but we don't have hot air.* We have an unpretentious, friendly, collegial, academic culture. We emphasize what is practical and real. We insist on facts. We like our students. We aren't stuffy. We believe that intellectual rigor can coexist with friendliness and civility.

9. *We're a lean mean teaching machine.* Our law school is built around ideas. Unlike other parts of our great university, we don't have labs. We don't have athletic fields. We (sadly) don't have a marching band. But we depend upon your support for the core of our budget, which is instruction. Our faculty really cares about teaching. And we continually expand the ambition and scope of what we teach.

8. *We combine the classic and the cutting-edge in legal education.* Our faculty still write and teach from leading casebooks on torts and evidence, copyright and constitutional law. But we also teach courses about cyberspace and biolaw and new international tribunals. And we use not only casebooks but websites, PowerPoint presentations, and film clips, and case studies based on real cases and real deals.

7. *We teach both law and law-and.* Law professors are a little bit like both priests and theologians, teaching students to perform legal rituals but also standing outside the law, using the tools of the humanities and social sciences to analyze and interpret it. Stanford's law faculty, of whom over a fourth hold PhDs, strikes a unique balance between these professional and interdisciplinary values.

6. *We have a tradition of innovation.* Our law school is fortunate to be part of a great university that has always had a

spirit of entrepreneurship. Silicon Valley got its start here. Stanford folks invent things in their own garages. Our law school too has a spirit of experimentation and flexibility. No idea is too new for us to try.

5. *We've brought the students into the light.* No, this does not refer to religious revelation, but rather to our 2001 renovation of the classrooms and our creation last year of a new bright and open reading room in the Robert Crown Law Library, both of which our students love.

4. *We are the leading law school in California, the nation's most diverse state.* With the largest percentages of students and of faculty of color among our peer law schools, we are leaders in showing that excellence and diversity work hand in hand.

3. *We are the leading American law school on the Pacific Rim.* What was once a great regional law school is now a preeminent national law school. With expanded international course offerings, more faculty with international specialties, and two new LLM programs for foreign lawyers, we aim to be a great international law school as well.

2. *Law is good.* In any society, but especially one that is large and heterogeneous, lawyers are indispensable institutional designers, conflict preventers, and problem solvers in both the public and the private realms.

The wide variety of your legal practice has taught me the many forms of good that lawyers do.

1. *Who could resist a world-class law*

school in paradise? Okay, you saw that one coming. After all, it's on our website, it's spoofed in the school musical, and it's in, well, all of my speeches. But let's face it, it's true! You couldn't resist it, I couldn't, and we're all much the better for it. May Stanford Law School long enjoy its place in the sun.

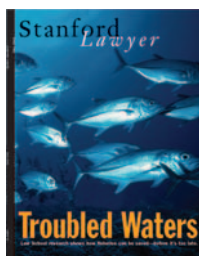


L.A. CICERO

Letters

Something Fishy?

The cover story in the fall 2003 issue, profiling the work of the Stanford Fisheries Policy Project and the project's report on fisheries regulation, which was released one month after the magazine was published, elicited strong responses. Some alumni, who have experience as fisheries regulators and represent the fishing industry, say Professor Buzz Thompson and Lecturer Josh Eagle's research incorrectly faults the regional fisheries councils, which set U.S. fishing quotas. Other graduates, generally environmental law professors and environmental advocates, contend that the research breaks new ground, pinpointing an important problem.



As an alumnus with more than 28 years of experience in fisheries law, I object strongly to both the tone and the content of the fall 2003 edition of *Stanford Lawyer*. The lead story, with its headline ("The Oceans' Buffalos?") and its cover line ("Troubled Waters"), is unnecessarily alarmist, wholly misleading, and fundamentally flawed as a legal matter. While I applaud the scientific work of Barbara Block at Stanford's Hopkins Marine Station, I cannot say the same for the Law School's hastily contrived and poorly documented recommendation that Congress needs to overhaul our nation's primary fisheries law, the Magnuson-Stevens Act, to remove perceived conflicts of interest.

Atlantic bluefin tuna are not overfished because U.S. fishermen serve on the regional fishery management councils. The councils have absolutely no jurisdiction over Atlantic bluefin tuna fishing. Bluefin are overfished because an international tuna commission has been unwilling to enforce scientifically based quotas. Block's research proved that tuna spawn in the western Atlantic and then migrate to the eastern Atlantic and the Mediterranean Sea, where they are taken in numbers that vastly exceed the internationally agreed quotas. The tuna quotas are strictly observed by the U.S. tuna

fleet, but have been largely ignored by the Europeans. I understand that the international commission will take up Block's research at its next meeting. If the commission again fails to control the European fleets, it will represent a failure of international law, not domestic law.

In stark contrast, most U.S. fishery resources under regional fishery management council jurisdiction, with very few exceptions, have been rebuilt and protected for more than 25 years under a cooperative approach that involves fishermen, coastal communities, environmental organizations, and both state and federal scientific experts. To be sure, some fishery stocks have not yet recovered, but most U.S. stocks are either healthy or rebuilding. This is a tribute to those who serve on the councils and those in the state and federal governments who translate council recommendations into enforceable regulations.

JAY S. JOHNSON '68

The writer was the senior fisheries lawyer of the National Oceanic and Atmospheric Administration from 1979 to 2000 and is now in private practice in Washington, D.C., where he specializes in fisheries law.

Thank you for your fall 2003 cover story on the important work being done by the Stanford Fisheries Policy Project. If anything, the article understates the full nature and extent of the problem we face. Most of the world's major commercial fisheries are in serious decline. Many of them, in fact, are hovering on the brink of total collapse—or have already collapsed. Fisheries here in

the Pacific Northwest are no exception, where decision making by the Fisheries Management Council and the National Marine Fisheries Service continues to allow actions that push valuable fisheries toward extinction.

The imperiled state of our national and international fisheries is already wreaking havoc on indigenous communities that have relied on fisheries for thousands of years. But these issues remain largely invisible to the general public. For all of us, the collapse of the world's fisheries threatens an ecological and economic crisis of truly epic proportions in the not-so-distant future. The recent report prepared by the Fisheries Project, and articles like the one that appeared in *Stanford Lawyer*, are precisely the kind of critical academic analysis and exposure necessary. Only if we as a society are willing to engage in an informed discussion of what are admittedly difficult resource allocation issues, and to hold our appointed fisheries managers accountable for their decisions, can we hope to move beyond the irresponsible policies and practices of the past.

MARY C. WOOD '87

Professor of Law and Director, Environmental and Natural Resources Law Program, University of Oregon Law School (The views are those of the author, not necessarily of the institution where she works.)

As two alumni who are quite familiar with the U.S. fishery management process, particularly in Alaska, we find Dashka Slater's article to be an unbalanced representation of the fishery management council system.

Slater describes the regional councils as conflict of interest-ridden bodies that ignore the best available science when setting fishing quotas, allow wholesale overfishing of marine fish stocks, and are driving the nation's fishery resources to the brink of extinction. She characterizes the U.S. record in fisheries management as "dismal" and suggests, "The U.S. may be doing a worse job managing its fisheries than the world as a whole."

It is perplexing that Slater references a relatively small fishery for king mackerel that is managed by the Gulf Coast coun-



GO TELL IT ON A MOUNTAIN
A Stanford lawyer, dressed in the yellow parka, recently traveled to the foothills of Mt. Everest (in the background) to mark his birthday. Turn to p. 48 if you don't recognize him!

cil as an example of mismanagement, but makes no reference to the successes that the North Pacific Fishery Management Council (NPFMC) has had managing the largest fisheries in the United States. These fisheries produce more than half of the total annual seafood landings in the United States, and their total landings are more than 500 times as large as the king mackerel fishery in the Gulf of Mexico. The NPFMC is widely recognized as one of the most successful fishery management bodies in the world.

The NPFMC routinely follows the advice of its scientists in setting fishing quotas, which are strictly enforced. It employs a comprehensive observer program to monitor catch levels. And it has set aside more than 100,000 square miles of protected areas to preserve sensitive habitat, marine mammals, and sea birds. Under the NPFMC's management, most north Pacific fish stocks are at or near their highest known levels of abundance. None of them are overfished.

The NPFMC is one of the very same management councils that are so maligned in Slater's article. Industry representatives on the NPFMC vote on issues that come before the council, including the establishment of annual fishing quotas. So do representatives of the federal and state agencies that have statutory roles in managing the north Pacific fisheries. And so have the representatives of Alaskan Native communities, academia, and environmental organizations that have been appointed to the council. Despite the purported "conflicts of interest" involved in such a structure, the council has never once, in more than 25 years of operation, adopted a fishing quota that exceeded the recommendations of its scientific advisory bodies.

PAUL MACGREGOR '90

JOE SULLIVAN '90

The writers are partners in the law firm of Mundt MacGregor LLP, a firm that practices fisheries law at its offices in Seattle, Washington, and Kodiak, Alaska.

I was very pleased to read about the fisheries work in the Environmental and Natural Resources Law and Policy Program, as it demonstrates some of the

best aspects of Stanford Law School. It capitalizes on the Law School's tradition of looking beyond the law, not only involving teamwork between legal scholars and Hopkins Marine Station, but also integrating the work of economists, biologists, political scientists, and others at the University.

The project is at the cutting edge of one of the most important and least recognized environmental issues of the day. As pointed out in the article, almost 40 percent of U.S. fisheries are classified as overfished. The government has been able to provide assurance that only about 20 percent of fish stocks under federal management are being fished sustainably. The impact of these troubling statistics can be found in the fishing communities of New England and the West Coast suffering from fisheries that have collapsed due to overfishing. These facts demonstrate why reform of U.S. fisheries management is necessary. I am glad that Stanford Law School is contributing to the discussion.

SLS's fisheries work provides students with a host of engaging learning opportunities. As a student during the infancy of the fisheries program, I took classes that delved into the legal, scientific, and social aspects of fisheries management; litigated against poor fisheries management decisions as part of the environmental clinic; and helped plan a major conference on oceans and environmental law as part of the Environmental Law Society. For those experiences—and more—I owe the program thanks and am glad that they are receiving some of the recognition they are due.

R. JUKE GREGG '00 (BS '94)

The interdisciplinary Stanford Fisheries Policy Project study highlighted a familiar problem in resource management: in too many cases, such as grazing and forestry management, important regulatory decisions have been entrusted to bodies with substantial regulatory community representation. The result is predictable. Inherent conflicts of interest lead to under-regulation and resource degradation.

Stanford Law School is very fortunate

to have Professor Buzz Thompson on the faculty, as it now has the best environmental law program among its peers. The study that Josh Eagle and he produced is an example of first-rate environmental policy research. It nicely marries state-of-the-art scientific research with law and policy analysis and is a model for environmental law and policy research.

DAN TARLOCK '65

Distinguished Professor of Law and Director of the Program in Environmental and Energy Law, Chicago-Kent College of Law

EDITOR'S NOTE

This issue will be my last as editor of *Stanford Lawyer*, as I am off to pursue a long-held interest in political and investigative journalism. My decision to leave was not made lightly. The Law School is an incredible place to work, and the activities of its alumni, faculty, students, and staff provide an abundance of compelling stories. I have tried to capture in print what makes this such an extraordinary institution: a mixture of bold inquiry, academic rigor, good humor, and down-to-earth friendliness.

I have enjoyed the challenge of producing a magazine that would pass muster from such a discriminating group of readers and am glad I had the opportunity to get to know some of you. I look forward to reading future issues of the magazine and continuing to be intrigued, inspired, and amused by the accomplishments of Stanford Law School and its graduates.

**Jonathan Rabinovitz
Editor, *Stanford Lawyer*, 2001–04**

Stanford Lawyer welcomes letters from readers. Letters may be edited for length and clarity. Send submissions to Editor, *Stanford Lawyer*, Stanford Law School, Crown Quadrangle, 559 Nathan Abbott Way, Stanford, CA 94305-8610, or by e-mail to alumni.publications@law.stanford.edu.

Can't Spell Lawyer without One L

Everything you wanted to know about the Class of 2006, but were afraid to ask.

“I couldn't get into this school if I were applying today.”

So remarked a distinguished attorney, who had graduated the Law School a few decades earlier, at a recent Law School function. It's debatable whether that assessment was correct, but one thing is certain: this year's 1Ls faced stiff competition to gain entry into the Class of 2006.

While the academic standards were high, the first-year students traveled very different roads to the Law School. Here's a quick overview of the class using numbers, biographies, and a survey.

MORE THAN ACING THE LSAT

Yes, the mean LSAT for the Class of 2006 was 168 out of 180, but there are better ways to get a sense of what makes this class special. On the first day of the writing and research class, students were asked to write about an unusual skill that they have. Here's who the instructors found was in their classrooms:

A **RESEARCH BIOLOGIST** who knows how to use radio telemetry to tag and track rattlesnakes

A **MORMON MISSIONARY** who is conversant in Catalan

A Democratic **STAFF MEMBER OF THE U.S. SENATE FINANCE COMMITTEE**

A dedicated **BUCKEYE FAN** who knows every version of Ohio State University fight songs

A **NAVY HELICOPTER PILOT** who has flown almost 2,000 hours

A **TAP DANCER** who performed as a youth throughout Southern California

A **NATIVE SPEAKER OF KIKONGO**, one of 200 dialects spoken in the Democratic Republic of Congo


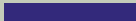







REFLECTING THE NATION'S DIVERSITY





| | |
|------------------|----|
| Men | 92 |
| Women | 79 |
| Minority | 60 |
| African American | 15 |
| Hispanic | 23 |
| Native American | 3 |
| Asian American | 19 |

RISING TO THE TOP

| | |
|------------------|-----|
| Number enrolled: | 171 |
| Number admitted: | 386 |




Number of applicants: 5,139







| My favorite member of the Supreme Court is | | NUMBER OF RESPONSES | RESPONSE PERCENTAGE |
|--|---|---------------------|---------------------|
| Chief Justice William Rehnquist |  | 5 | 4% |
| Justice John Paul Stevens |  | 11 | 9% |
| Justice Sandra Day O'Connor |  | 26 | 20% |
| Justice Antonin Scalia |  | 13 | 10% |
| Justice Anthony Kennedy |  | 25 | 19% |
| Justice David H. Souter |  | 7 | 5% |
| Justice Clarence Thomas |  | 4 | 3% |
| Justice Ruth Bader Ginsburg |  | 23 | 18% |
| Justice Stephen Breyer |  | 15 | 12% |




| I find my first semester classes to be | | NUMBER OF RESPONSES | RESPONSE PERCENTAGE |
|--|---|---------------------|---------------------|
| Very interesting |  | 44 | 32% |
| Interesting |  | 78 | 57% |
| Boring |  | 14 | 10% |
| Very boring |  | 1 | 1% |

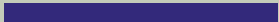


| I own a television. | | NUMBER OF RESPONSES | RESPONSE PERCENTAGE |
|---------------------|---|---------------------|---------------------|
| Yes |  | 97 | 71% |
| No |  | 39 | 29% |

| I have a tattoo. | | NUMBER OF RESPONSES | RESPONSE PERCENTAGE |
|------------------|---|---------------------|---------------------|
| Yes |  | 17 | 12% |
| No |  | 120 | 88% |

| I like snowboarding more than skiing. | | NUMBER OF RESPONSES | RESPONSE PERCENTAGE |
|---------------------------------------|---|---------------------|---------------------|
| True |  | 22 | 16% |
| False |  | 65 | 47% |
| I don't do either |  | 50 | 36% |

| In 10 years I hope to be a | | NUMBER OF RESPONSES | RESPONSE PERCENTAGE |
|----------------------------|---|---------------------|---------------------|
| Prosecutor |  | 11 | 8% |
| Partner in a law firm |  | 32 | 24% |
| Law professor |  | 25 | 18% |
| Public interest lawyer |  | 32 | 24% |
| Business executive |  | 13 | 10% |
| None of the above |  | 23 | 17% |

| I approve of the job John Ashcroft is doing as Attorney General. | | NUMBER OF RESPONSES | RESPONSE PERCENTAGE |
|--|---|---------------------|---------------------|
| Yes |  | 16 | 12% |
| No |  | 107 | 78% |
| No opinion |  | 14 | 10% |

| I approve of the job Janet Reno did as Attorney General. | | NUMBER OF RESPONSES | RESPONSE PERCENTAGE |
|--|---|---------------------|---------------------|
| Yes |  | 74 | 54% |
| No |  | 24 | 18% |
| No opinion |  | 39 | 28% |

LIFE BEFORE LAW SCHOOL

There are 68 colleges/universities represented in the class: Amherst College, Beloit College, BYU, Brown, Bucknell, Cal Tech, Cal State LA, Carleton College, Carnegie Mellon, Case Western, China University, Claremont McKenna, College of William & Mary, Columbia, Cornell, Dartmouth, Duke, Fairfield University, Georgia Tech, Gustavus Adolphus College, Harvard, Haverford, Iowa State, Johns Hopkins, Loyola Marymount, Macalester College, MIT, Middlebury, Morehouse, NYU, Northwestern, Ohio State, Penn State, Pomona College, Princeton, Rice, Saint John's University, Stanford, Swarthmore, Texas A & M, Tulane, US Naval Academy, University of Alabama, University of Arkansas, UC Berkeley, UC Davis, UC Irvine, UCLA, University of Illinois, University of Iowa, University of Maryland, University of Michigan, University of Missouri, University of North Carolina, University of Notre Dame, University of Oklahoma, University of Oregon, University of Pennsylvania, USC, University of Texas, University of Utah, University of Virginia, University of Wisconsin, Wellesley, Wesleyan, Whitman, Williams, Yale.

Undergraduate degrees:
Prior to 2001 56
Undergraduate degree 2001 29
Undergraduate degree 2002 31
Undergraduate degree 2003 55

ADVANCED DEGREES
MA/MS 27
MD 2
MBA 1
PhD 7
TOTAL 37

Briefs

THE GREENING OF SAN FRANCISCO

Law School grad rallies San Francisco's progressives in his race for mayor.

MATT GONZALEZ '90, President of the San Francisco Board of Supervisors, looks a little beat. Like he just got over the flu, which he did, and spent the last month running a whistle-stop-style campaign, which he also did. Gonzalez had hoped to become the first Green Party mayor of a major city, and while he lost that bid, the race was thrillingly close.

A few days after the Dec. 9 election, Gonzalez is seated in a corner of his spacious City Hall office. He rephrases a question—"How does it feel to have 130,000 people vote against you, is that what you want to know?"—without a hint of bitterness. "I'm here," he answers himself. "I'm the president of the board of supervisors."

"My race was about taking a mandate from this candidate [the winner, Democrat Gavin Newsom]." Because Gonzalez garnered so much support, he says, "Newsom's strength is perceived very differently now. Nobody's looking at this guy like he can do whatever he wants, politically."



PHOTO: KARA WOOD DESIGN: MELISSA HUTTON

Gonzalez entered the mayoral race late, just before the deadline in August, and surprised many in the city's political class by making the runoff. His opponent raised nearly \$4 million to Gonzalez's \$500,000, garnered support from national Democratic leaders, and had a year's head start on the campaign.

Still, Gonzalez won 47 percent of the votes, including the majority of those cast on Dec. 9. (Newsom won the race through absentee ballots.) Making personal appearances around the city, Gonzalez rallied San Francisco's progressives and inspired many of the younger, often disaffected, voters to head to the polls on a rainy day.

"I have, since getting into politics, tried to do it differently," Gonzalez says. "People constantly tell me, 'You can't do it like that, Matt. You need to raise a lot of money. You need to be a Democrat.' Those things have not been too much of an obstacle for me."

As a Green Party member and a political opponent of outgoing mayor Willie Brown, Gonzalez was the outsider in the campaign, a position that both helped and hurt his candidacy. Voters who were frustrated with the Brown machine supported him, while others feared that he wouldn't be effective and that his election would hurt the Democratic Party nationally.

Gonzalez's lifestyle is also outside the norm for a major-city politician, though it's not so different from that of many San Franciscans. He shares an apartment in the Western Addition with two roommates, and owns neither a television nor a car. He hangs out



PAOLO VESCEIA

Classmates never saw Matt Gonzalez '90 as a politician, but his close race against Gavin Newsom (background) galvanized a political movement.

with the likes of Jello Biafra, former lead singer for the Dead Kennedys, and beat poet Diane di Prima.

"Matt has a whole different way of looking at politics," says Jane Goldman '90, who campaigned for Gonzalez. "At a party I threw for him, Matt spent a lot of time answering questions. And he really answered the questions. It wasn't the sort of sloganeering you expect to hear from politicians."

"I disagree with Matt on a few things," she adds, "but I'm confident that his position is based on what he believes is best for the city, not a calculation on what would resonate best with the voters. What a cool thing that is."

At the Law School, Gonzalez was an editor of the *Stanford Law Review* and a research assistant to then-Dean Paul Brest on a revision of a constitutional law casebook. He also worked on death penalty cases for the California Appellate Project and for the East Palo Alto Community Law Project. But no one saw him as a future politician. "Of all the people I knew in law school, I thought Matt was the least likely to be willing to tolerate the nonsense that politics involves," says Whitney Leigh '90, a former roommate. "I saw politics as a profession that was filled with backroom deals and phony pandering. It never occurred to me that Matt would be a successful politician."

Gonzalez says he didn't think much about politics as a law student, but

after working as a public defender in San Francisco for nine years, “You become aware of this entity that needs to be reformed, so you want to do something about it.”

He ran for San Francisco district attorney in 1999, opposing the death penalty and maintaining that the office was mismanaged. He lost that race, but in 2000 ran for the board of supervisors in a district election and won. In 2003, the board voted him president.

But this latest race, for mayor, was a step into an entirely different arena, one in which considerable attention was directed toward two seemingly off-the-point issues: his membership in the Green Party and his physical appearance.

As a Green in the supposedly non-partisan race, Gonzalez galvanized the Democratic machinery in favor of his opponent: Al Gore and Bill Clinton dropped by the city to back Newsom.

And as a young, attractive man running opposite another young, attractive man, Gonzalez endured plenty of gushing about his looks as well as jabs at his longish hair and his rumpled suits. A week before the runoff, the *San Francisco Chronicle* imposed head shots of both men on paper-doll images, then gave each a fashion makeover.

Gonzalez shrugs off the attention paid to his dress. “It was the two young guys thing,” he says. “It brings a certain levity to what is otherwise a serious, mundane process of getting votes.”

—Mandy Erickson

THE LAW SCHOOL'S RHODE AWARD

An unusual gift is established to honor student public interest work.

The \$3,000 that accompanied the Keck Award may not have matched the Nobel Prize, but for a recent Law School graduate, struggling to pass the bar and then begin a career representing indigent children, it was manna from heaven. “Quite honestly, I don’t know what I would have done without it,” remarks Corene Kendrick ’03, a Skadden Fellow working for Children’s Rights Inc. in New York.

Of course, it was a tremendous honor, Kendrick says, to have her peers and members of the faculty select her for the award recognizing her public interest work during law school. But the money meant a lot to her: it helped cover her move to New Jersey and pay for the first and last months’ rent on an apartment—as well as for her dog’s emergency visit to a veterinarian.

The Keck Award was a bit of a misnomer, as it was conceived of—and financed annually—by Professor Deborah Rhode, director of the just-retired Keck Center on Legal Ethics and the Legal Profession. Rhode’s role wasn’t exactly a secret, but it wasn’t well known. (“I didn’t know she was the sole source of funding,” remarks Kendrick.)

But Rhode’s days of quasi-anonymity are over. In December, Rhode, the Ernest W. McFarland Professor of Law, donated \$60,000 to endow the award permanently, and despite her modesty, it will now be known as the Deborah L. Rhode Public Interest Award.

Gifts of this magnitude usually don’t come from law professors. Rhode apparently wiped out her savings account to make the donation, because she believed the Law School needed to honor public interest work the same way it recognizes the highest grade point average and the best advocacy skills. A trophy alone wouldn’t be sufficient: “A monetary award sends a stronger signal,” she says.

Rhode seeks to deflect all attention from herself and to emphasize the extraordinary public interest devotion of the student recipients of the award. “This should be about the students,” she explains. “The students who make time to do public interest work beyond their course work are a very special group.” She brushes aside talk that her gift was a sacrifice, instead casting it as convenient and efficient. “I have the pleasure of knowing that there’s one less thing for the executor to do if I get hit by a truck tomorrow,” she says.



PUZZLING FAME

Lawrence M. Friedman, Marion Rice Kirkwood Professor of Law, reached true celebrity status on September 21 when a quote from his book, *Horizontal Society*, made the puzzle page of the *New York Times* magazine. To spell out the quote (right), all a reader had to do was solve the acrostic.

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MAKING THE GRADE

THE BEST IN THE WEST: The *Daily Journal's* list of the 100 most influential lawyers in California includes three members of the faculty: **Joseph Grundfest '78**, W. A. Franke Professor of Law and Business; **Lawrence Lessig**, Professor of Law and John A. Wilson Distinguished Faculty Scholar; and **Kathleen M. Sullivan**, Dean and Richard E. Lang Professor of Law and Stanley Morrison Professor of Law. Also on the list were alumni **Warren Christopher '49**, **Ronald George '64**, **Beth Jay '75**, **Carlos Moreno '75**, **Richard Pachulski '79**, and **Frederic Woocher '75**.

KUDOS TO STUDENTS: Skadden Public Interest Fellowships were awarded to four SLS students and alums: **Angie Schwartz '04**, who will be working with the National Center for Youth Law; **Trisha Miller '04**, with the national Lawyers' Committee for Civil Rights Under Law; **Jenny Chang '03**, with the ACLU National Immigrant Rights Project; and **Keith Cunningham-Parmeter '02**, with Oregon Legal Center. ♦ **Shirin Sinner '03**, who will be working with the Northern California ACLU, and **Jessica Steinberg '04**, with San Mateo County Legal Aid, were awarded Equal Justice Works Fellowships. ♦ From the Foundation of the State Bar, **Schwartz, Sharon Terman '04**, **Rashida Edmondson '05**, **Sarah Varela '04**, and **Ray Ybarra '05** received merit scholarships.

LAW & GENETICS: The Center for Law and the Biosciences will launch Feb. 27 with the conference "Unnatural Selection: Should California Regulate Pre-implantation Genetic Diagnosis?" Directed by **Henry T. Greely (BA '74)**, C. Wendell and Edith M. Carls Smith Professor of Law, the center will examine how new discoveries in bioscience will change society and how the law may affect those changes.

LESSIG WATCH: In October Professor **Lawrence Lessig** was tapped by *Wired* magazine to write a monthly column—and by judges in the U.S. Court of Appeals for the Ninth Circuit for a citation. Both he and **Mark Lemley**, a visiting professor from UC Berkeley's Boalt Hall, were cited in the court's Oct. 6 opinion in *Brand X Internet Services v. FCC*.

FACULTY TRAVELS: **Robert Weisberg '79**, Edwin E. Huddleson, Jr. Professor of Law, has run four marathons in the last six months, including a 4:03:36 jog in Seattle. ♦ A U.S. District Judge in November ruled in favor of Hawaii's Kamehameha Schools, which were represented by Dean **Kathleen M. Sullivan**, saying that their Hawaiians-only admission policy was justified. ♦ **Joseph Bankman**, Ralph M. Parsons Professor of Law and Business, was a driving force behind new legislation that prohibits California from contracting with companies that establish headquarters abroad to avoid paying state taxes. Then-Gov. Gray Davis (BA '64) signed the bill in October. ♦ **Deborah Hensler**, Judge John W. Ford Professor of Dispute Resolution, delivered the keynote address at the International Conference on Government Reform and the Civil Service System in Taiwan in October. ♦ Assistant Professor **Mariano-Florentino Cuéllar** was elected in January to the board of directors of the ACLU of Northern California.

BUY THIS BOOK: The Law School's Center for Internet and Society has published a book that criticizes rules allowing media consolidation to increase. The book, *Media Ownership and Democracy in the Digital Information Age*, is authored by **Mark Cooper**, research director of the Consumer Federation of America.

DEFENDING DIGITAL FREE SPEECH

A pair of Swarthmore College students had a digital hot potato: thousands of e-mail messages from an electronic voting machine maker indicating that employees had serious doubts about the machines' security. The students, members of the Swarthmore Coalition for the Digital Commons, published the documents on their website in August 2003 and convinced students at other colleges to do the same.

When the manufacturer, Diebold Election Systems, sent threatening letters to students, universities, and Internet service providers, saying publication of the e-mail messages infringed on the company's copyright, the Law School's Center for Internet and Society was called in to help. The CIS argued on behalf of the students in October that Diebold was abusing the Digital Millennium Copyright Act to quash criticism of the company, thereby violating the students' free speech.

The documents spotlight a troubling problem: the electronic voting machines produced by Diebold, one of the leading manufacturers of voting equipment, appeared to be susceptible to tampering. The messages revealed that the system used to count votes was not protected by a password, so someone could change the tally over the telephone. They also indicated that Diebold had donated at least \$195,000 to the Republican Party.

While Diebold withdrew its legal threats in December in a notable victory for CIS lawyers, the students, represented by the CIS and the Electronic Frontier Foundation, are pursuing the case, seeking damages and a ruling stating that publishing the e-mail messages did not violate copyright law. CIS Director **Jennifer Granick** is representing the Swarthmore students, **Nelson Pavlosky** and **Luke Smith**.



Jennifer Granick,
Lecturer and Director
of the Center for
Internet and Society

L.A. CIGERO

CLASS ACTION

The Law School has always fostered unconventional approaches to teaching the law, and last semester was no exception. In one instance, Pamela Karlan, Kenneth and Harle Montgomery Professor of Public Interest Law, welcomed students into her home to discuss recent Supreme Court decisions. And in another, Professor George Fisher, Robert E. Paradise Faculty Scholar and Academic Associate Dean for Research, sponsored students who created their own seminar on legal ethics.

Learning Ethics from Classmates

THE SEMINAR IS 15 MINUTES PAST BREAK TIME, yet none of the law students complains.

“Professors never get away with going over like this,” remarks Professor George Fisher. It’s technically his class, but he has been silent for the previous hour. The evening’s instructor is a student, David Kovick ’04, who also assigned the discussion readings.

This ethics class is not following the usual Socratic approach with a professor questioning students. Instead, a different student leads it every week. Indeed, the idea for the course came from students.

Last spring, Kovick, Catherine Crump ’04, and Dan McConkie ’04 found themselves often talking over ethical dilemmas they faced in their clinical work. These discussions were so useful—and interesting—that they asked Fisher if he would help to organize a student-taught ethics seminar.

On this particular evening, Kovick’s topic is whether negotiations outside of court impose any unique demands on lawyers. “You mean, is it *okay* to lie?” one participant remarks wryly. Another student answers that the lawyer’s first obligation is to his or her own client. Students go back and forth, drawing out guidelines to follow.

But the lesson isn’t so much the rules as the process. “You learn that the answers to your ethical dilemmas don’t just come from books,” Kovick says. “They come from raising the questions with your colleagues.”



Lara Mataac '03, David Kovick '04, Matt Buckley '05, and Jennie Berry '05 discuss ethics in a student-run seminar.

Homemade Pizza and the Supreme Court



Professor Pam Karlan, William Adams '05, and Kalpana Srinivasan '04 prepare to load the pizza into the oven.

TWENTY LAW STUDENTS GATHER around a crackling fire while munching on homemade pizza. It’s a festive gathering, but the conversation is more elevated than the most high-toned dinner party.

The class, “Supreme Court Term,” is meeting as usual at Professor Pam Karlan’s house. The students flip through their well-marked copies of two decisions from the previous Court term—*State Farm v. Campbell* and *Ewing v. California*. “They can throw you in jail for life, but they can’t take all your money,” remarks Melvin Priester ’04, referring to the Court’s decision in *Ewing* to uphold the California law permitting a lifetime sentence for a defendant who had committed a third felony (the theft of some golf clubs), while rejecting \$145 million in punitive damages in *State Farm*.

Karlan responds, elaborating on the nuances of the 8th Amendment’s wording about excessive fines and cruel and unusual punishment. For every session she assigns two decisions that, when juxtaposed, raise deeper questions about the Constitution.

Still, the class is as much about reveling in the law as it is about studying it. “The setting puts people in a different mood about learning,” says Ray Bennett ’04. “It turns discussion of the law into a social activity.”

REMEMBERING DEAN JOHN HART ELY

Alumni and colleagues share memories of a scholar with a generous heart and a wry smile.

JOHN HART ELY, Dean of the Law School from 1982 through 1987, died Oct. 25, 2003, in Miami of cancer. The obituaries that have appeared since then have hailed his contributions to constitutional law and public policy. Yet in his time at Stanford, he left another legacy: a commitment to social justice, diversity, and good humor. For a recounting of his many accomplishments, turn to page 79 in the *In Memoriam* section. But read on to learn how Ely personally touched the lives of students, administrators, and professors while he presided over the Law School.



Then-Dean John Hart Ely, seated, in 1982 with his assistant and associate deans: Victoria Diaz '75, Margo Smith '75, Keith Mann, and Thomas McBride.

KATHLEEN M. SULLIVAN

Dean and Richard E. Lang Professor of Law and Stanley Morrison Professor of Law

Very few legal scholars get to write a classic book and watch a whole generation absorb it. *Democracy and Distrust* is a masterpiece that combines elegant theory, raffish wit, and a heartfelt search to get the role of the Supreme Court in American democracy just right. When I visited with him in Miami a few months before his death, he said, gazing out at his beloved baywater, "I wrote the book I wanted to write." Few scholars are ever so fortunate.

RICK MISCHEL '87

President, The Mischel Company, Los Angeles

My favorite memory of Dean Ely concerned his willingness to poke fun at himself. As Dean of the Law School during my attendance there, Dean Ely never seemed to put himself out of touch or reach of the student body. At our third-year dinner, Dean Ely wore a pith helmet as he was roasted by the students about to graduate. He had a big smile on his face and seemed quite happy to be at the center of the good humor of that evening.

MARGO D. SMITH '75

Prosecuting Attorney and Former Assistant Dean of Students

We posed for this photo [at left] shortly after John hired Tom McBride and me. I recall very little, only that we were told to appear interested and serious. We met to discuss my coming to Stanford Law School as Dean of Students. I was so nervous. His manner was totally disarming, and I was soon charmed out of my nervousness.

The greatness of his stature as a constitutional law scholar was not lost on me. He loved teaching and being in the classroom—even though he was a bit shy. But, away from the classroom, he would relax, put his feet up on that beautiful ornate desk, and giggle at his own jokes.

He was a friend to my family and me. My mother really enjoyed talking with him and soon counted herself as one of his friends. She never called him "Dean," even in the company of others. After greeting him at a reception one evening, she said to him, "John, you're getting fat." Surprisingly, he simply smiled. He started jogging again the next day.

He maintained Stanford Law School's commitment to recruiting minority law students and supported everything we did to achieve that each year. One of his greatest achievements during his tenure was the implementation of the loan forgiveness program for public interest lawyers. It was a privilege to be a part of his administration. I remain honored by the opportunity to work with him and will always treasure those years as a valuable part of my career.

DEBORAH RHODE

Ernest W. McFarland Professor of Law

In the quarter century that I have been at Stanford, the change in the Law School that makes me proudest is its growing commitment to service in the public interest. This commitment is one of the legacies of John Ely's deanship. John was deeply concerned with social justice, in practice as well as principle, and he wanted students to share that concern. Under his leadership, Stanford helped to launch the

East Palo Alto Community Law Project, and the nation's first loan forgiveness program for law graduates who accepted low-wage public interest work. He used his platform as Dean to remind students of the opportunities and obligations that they assumed as professionals, and urged them to find some way to leave the world better than they found it. John certainly did. We mourn his loss and celebrate his life.

MIGUEL A. MÉNDEZ

Adelbert H. Sweet Professor of Law

John had high standards for Stanford. He wanted to make sure we attracted the best scholars and students. He was also concerned about the diversity of students and faculty.

TOM CAMPBELL

Dean of UC Berkeley's Haas School of Business and former Professor of Law, Stanford Law School

He was the leading constitutional law expert of his time, a superb scholar, and an even more superb individual. . . . In addition to his scholarship, he was a patriot.

MARGARET M. RUSSELL '84, JSM '90

Professor, Santa Clara University School of Law, and former Director of Public Interest Programs and Acting Assistant Dean of Students, Stanford Law School

Over the past 20 years, I have had the good fortune of knowing John as a dean, constitutional law professor, employer, colleague, and friend. We first met when I, as one of a handful of law students interested in starting the East Palo Alto Community Law Project, approached the brand-new Dean in 1982 to ask for his support. Beneath his seemingly curmudgeonly exterior, we found a humane and deeply supportive ally who encouraged us to organize the project and to pursue careers in public service. In my third year, I took his constitutional theory seminar and experienced in person the witty, cogent analysis that pervades his writings. In 1986, John created a new staff position, Director of Public Interest Programs, and hired me to (in his words) "figure out ways to encourage students to consider public interest law as part of their post-graduation plans." After John departed Stanford a few years later, we were in touch far less often, but he remained a cherished and respected friend.

As I mourn John's death, two memories spring to mind most vividly. The first springs from John's love of travel. In 1990, plaintiff's lawyers in a constitutional war powers case, *Dellums v. Bush*, were trying desperately to find John to request his participation in an amicus brief by leading constitutional law scholars. John's assent was not only critical but also necessary in order to secure certain other scholars' signatures. But John was on a traveling sabbatical and incommunicado. My husband, one of the plaintiff's lawyers,

remembered that I knew John and asked me to track him down. I called him at 6 a.m. in Eastern Europe and woke him up to explain the constitutional emergency. Happily, he agreed to read and join in the brief. (We lost the case.)

The second memory is much more recent. I called John a few weeks before his death, having just heard of his illness. With voice mails and e-mails, I had not had the chance to speak with him directly for several years. John was obviously in extreme pain, but mustered the energy to crack a few jokes and to reconnect. His humor, intellect, and affection were and are great gifts to his family and friends.

MARC ZILVERSMIT '87

Criminal defense lawyer, San Francisco

Dean Ely always made a point to call me by name when he passed me on the quad or around the Law School. It was always a bit startling. As a writer of the yearly parody *Law Revue*, I had perhaps started, and certainly had perpetuated, the image of Dean Ely as so aloof that he could not remember the names of the students, not even (in one scene from "The Power of Law") future Justices Rehnquist and O'Connor. When he announced he would be visiting New York Law School, we joked that he had originally agreed to teach at New York University Law School, but had forgotten its name. I took his "Hello, Marc"s to be less of an attempt to dispel the myth, and more a bit of friendly repartee—a wink to let me know that he knew my name and the jokes I had written at his expense. More than simply a keen legal mind, Dean Ely was always a good sport.

ANDREW MCBRIDE '87

Partner, Wiley & Rein Fielding LLP

John Ely had the kind of broad and inquiring mind that is rare indeed. His love for the law was obvious. I was lucky enough to attend his seminar on international law, during which he opened his home to his students for some very interesting and far-ranging theoretical discussions of the law. His was a mind that was not only talented, but generous in the way that it touched other minds. He was a true scholar in every sense of the word.

NANCY B. RAPOPORT '85

Dean and Professor of Law, University of Houston Law Center

I just remember his first day as dean, when someone (I don't remember who) brandished a sign welcoming him, and a letter from him that I received a few months ago, where he said some very kind things to me. I had thought that he hadn't really known me, but that was clearly not true. He was a true mensch.

Can Anthony Romero
'90 change the way
Americans view civil
liberties?

TAKING THE ACLU INTO THE LIMELIGHT

BY JONATHAN RABINOVITZ



STEVE GLADFELTER

Anthony Romero doesn't exactly blend in as he walks across the Stanford campus, but he feels right at home. He's wearing a black Italian suit, dark tie, and mauve shirt, and his pace is brisk. A Law School employee offers to carry his garment bag, but Romero, the guest of honor, won't have it.

"Let me do that," Romero insists, taking the suitcase, and then he marvels, "This is such a gorgeous campus—I love being here." He studies the throngs of undergraduates on the quad between classes. "They're our future," says Romero. He rattles off a succession of stories about students he has met recently in his efforts as Executive Director of the American Civil Liberties Union to reach out to a younger crowd.

Romero has returned to Stanford this November day to receive the first-ever Stanford Public Interest Lawyer of the Year Award (see p. 32). This is not a prize he would have predicted his winning when he was in his final year of law school and couldn't find work. Back then, he didn't even have a decent suit, and always wore the same pair of cheap rubber sandals and baggy pajama-like pants. His hair was sometimes in a ponytail. He was known for being incredibly nice, not for being ambitious. As a leader of student protests pushing for increased faculty diversity, he wasn't welcome in the offices of top University officials—a far cry from an hour earlier on this particular afternoon, when Stanford President John Hennessy and he discussed the new restrictions being imposed on foreign students. Hennessy later invited Romero, who is gay, to be a featured speaker at the University's Queer Awareness Day.

Romero was named to the ACLU's top job in May 2001, and it was a surprising choice. He was 35 years old. He had never been in the national spotlight. He was an executive at the Ford Foundation with no direct experience in litigating and lobbying on civil liberties. He had actually been rejected for a fellowship at the ACLU earlier in his career. When the previous executive director approached him about the job, Romero says, "I was completely unnerved. I felt like I had been thrown into a pool of water."

Roughly three years after Romero took the helm, no one is voicing any regrets about his selection. Under his guidance, membership in the ACLU has reached a record high of more than 400,000, up from slightly under 300,000 when he started. He has raised unprecedented sums of money, including an \$8 million donation from Peter B. Lewis to fund the ACLU's general operations.

Most important, Romero and the ACLU have galvanized public opinion. The Patriot Act, which makes it easier for law enforcement to spy on citizens and detain noncitizen immigrants, has drawn increasing scrutiny. At the ACLU's urging, more than 240 cities have passed resolutions decrying it. Attorney General John Ashcroft took the unusual step of touring the country last fall to explain why he believes the law is necessary. And the title of a talk at the Law School last October was "Ashcroft Is Not Darth Vader."

Although the ACLU is one in a coalition of groups

attacking the law, Romero is the point man. A Justice Department spokesman accused him of spreading fear and misinformation, and *Details* magazine describes him as the "most hated man in America."

If Romero is uneasy with such attention on the day of his visit to campus, it doesn't show. He's intent on building a civil liberties mass movement, and he's thinking about the speech he will deliver later in the evening. "The key question now is, What do we want our democracy to look like?" he says. "The momentum is against making permanent the powers granted in the Patriot Act." The thousands of new ACLU members are a welcome addition, he says, but there should be thousands and thousands more: "Everyone should be a member."

There is a chapter about Anthony Romero in the book *We Won't Go Back: Making the Case for Affirmative Action* by Georgetown University Law Center Professors Charles R. Lawrence III and Mari J. Matsuda.

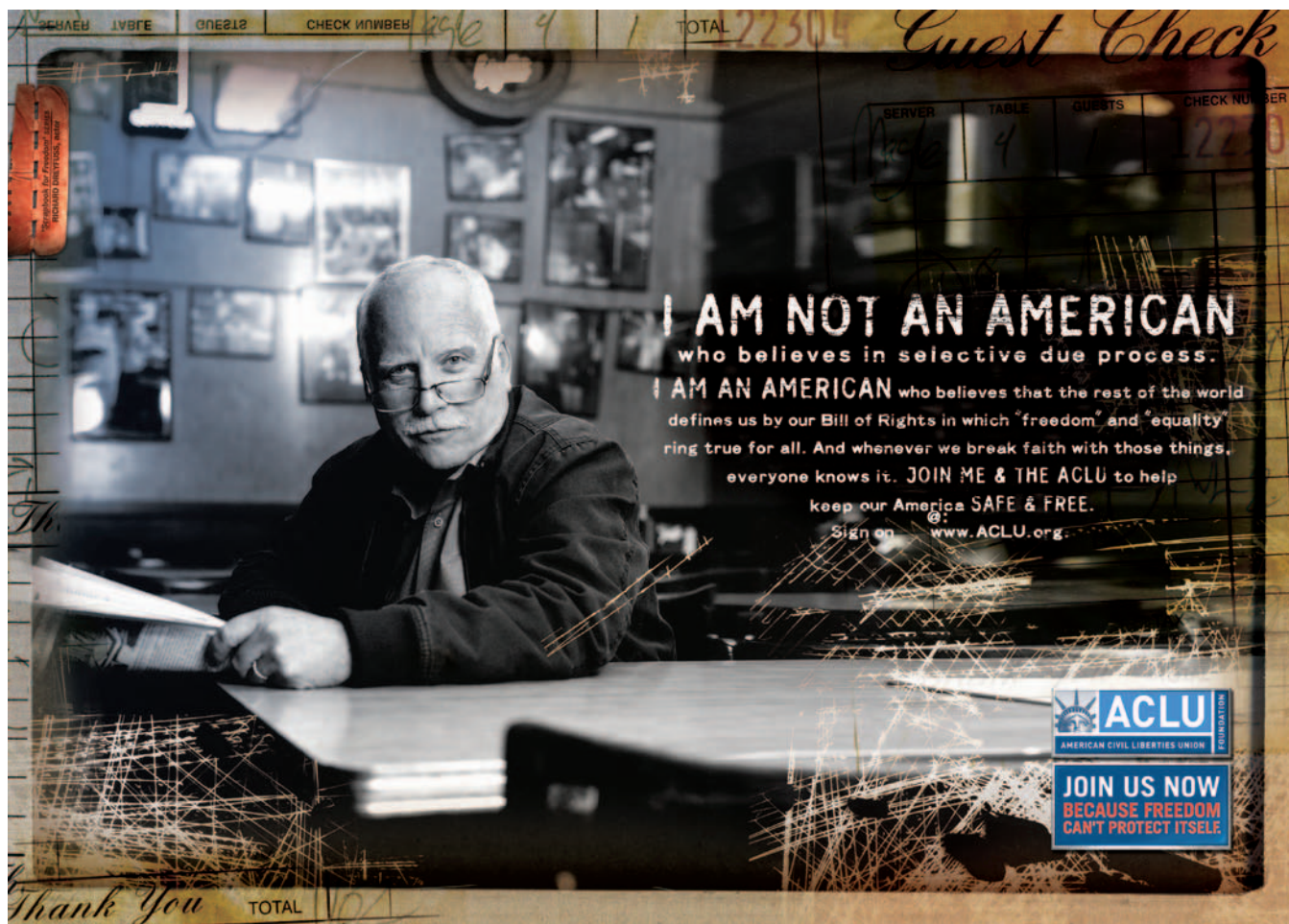
In it, Romero, then the Ford Foundation executive in charge of international human rights and antipoverty programs, is giving a tour of a Manhattan housing court to a group of potential philanthropists. They are impressed by his presentation and knowledge, and wondering about the background of this guide, with the "second-generation Puerto Rican accent."

One woman asks how he reached such a position. "Two words," he answers. "Affirmative action."

Romero grew up in housing projects in the Bronx. His parents were Puerto Rican immigrants. When his father returned from work at night to his neighborhood subway stop, he would call home, and Romero, his younger sister, and his mother would count the seconds until he walked through the door, fearing that he might meet his end in the gunshots echoing outside the windows.

In his speech at Stanford on November 12*, Romero explains that the ticket out for him and his family was a lawyer whom he never met. After 20 years as a janitor and busboy, Romero's father applied for a promotion to be a waiter. When the application was denied, he turned to a union lawyer, who successfully contended that he had been discriminated against because he was Puerto Rican. The new salary allowed the family to move to New Jersey, and Romero thrived at his high school there—he graduated salutatorian. According to the chapter about him, he didn't realize that college was an option, until Ivy League admissions

*A recording of Romero's remarks is available online at <http://www.law.stanford.edu/events/aromero>.



Actor Richard Dreyfuss stars in an ad promoting the ACLU.

officials, driven by the demands of affirmative action, began to recruit him. He graduated from Princeton; then, inspired by the union lawyer, enrolled at Stanford Law School.

Faculty and classmates remember Romero as a rail-thin knot of energy. Ira Glasser, the previous ACLU Executive Director who is renowned for being a fast talker, says, “Anthony is one of the very few people I know who speaks more rapidly than I do.” At the Law School, Romero helped to found the *Stanford Law & Policy Review* and was president of the Stanford Latino Law Students Association.

But what set him apart at Law School was his zest for life, his charm, and his caring. He arranged road trips to the Pacific Northwest, Mexico, and India. When a classmate, Magdalena “Bebe” Revuelta, was hospitalized with chickenpox for several weeks, he visited daily and made sure she received lecture notes. “He was just so incredibly nice,” says Jeanne Merino ’86, Director of the Law School’s First-Year Legal Research and Writing Program. In her class, he challenged other students, but he was “so sweet” that no one ever was ruffled, she says.

Those three years at Stanford were a critical period in

Romero’s life. “This is where I grew up,” he says. He came with deep convictions about social justice, but Stanford is where he says he figured out how to put that passion into action. He spent much time at the East Palo Alto Community Law Project, representing clients and writing a manual on tenants’ rights. He learned that he wasn’t suited for a traditional law practice when Merino assigned Revuelta and him their first moot court case involving a lawsuit by an Indian tribe against the government for building a road through sacred land. Over his objections, Romero and Revuelta were told to argue on behalf of the government. He recalls how, after he made a point in his presentation about the government’s claim, the moot court judge asked whether he really believed that to be the case.

“No, I don’t believe it,” he blurted out, “but I was told I have to argue this side.”

That moment was something of an epiphany for Romero. “It became clear to me right then,” he notes, “that I would never argue a case that made me uncomfortable.”

Still, finding a public interest position straight out of law school was a challenge. Romero had pinned much of his

hopes on winning the ACLU's Marvin M. Karpatkin Fellowship, but he was a runner-up. "I was absolutely crushed," he says. He had loans to pay back, and he despaired about his family's reaction. Revuelta told him to hang in there. His patience paid off: he was awarded a fellowship at the Rockefeller Foundation just before graduation.

From 1990 to 2001, Romero's career flourished. He left Rockefeller and rose through the ranks of the Ford Foundation, distinguishing himself not only as a grant maker but also as an advisor to nonprofits, a manager of people, and a master of back-office systems. Susan V. Berresford, the Ford Foundation president, notes that there are a select few who can make smart, well-informed funding decisions, and there are another select few who can revamp office administration practices. Romero was the rare individual who could do both—and be charming at the same time. "He has it all," she says. "I'm glad that the ACLU was able to see it and hire him."

Romero was executive director for exactly one week when the September 11 attacks occurred.

As the first 747 jet crashed into the World Trade Center towers, he was in Washington, D.C., about to address his first meeting of the organization's biggest donors. A staff member directed him to a television, he saw the mayhem, and quickly took the podium away from another speaker.

Romero's remarks revealed a brilliance and sensitivity under pressure that laid the foundation for the organization's strategy in the coming months. Phil Gutis, an ACLU staff member, says that Romero was immediately aware that this was a seminal moment in the history of civil liberties. But the first thing he mentioned that morning, as he broke the news to the audience, was his concern about friends, family, and the employees at ACLU headquarters, a few blocks from the towers. He acknowledged that the most important thing right then was for people to contact their loved ones, then advised them to make new travel arrangements.

Throughout that day, Romero was under tremendous pressure to deliver rousing remarks warning about potential civil liberties abuses. Instead, he issued a statement that the group "joins the nation today in grieving over the devastating loss of life." He applauded President George W. Bush's remark that "America was targeted for attack because we're the brightest beacon for freedom and opportunity in the world." He pledged to work with the administration "to protect the security and freedom of all people in America." He continued, noting that "one of the greatest symbols of

freedom and democracy in our nation still stands: through the billowing smoke of destruction in lower Manhattan, the Statue of Liberty lifts her torch to freedom." And he finished, "Long may she survive."

The statement carried no sign of how Romero was actually feeling. "I was scared out of my wits," he says. "But I knew that this was about caring for people, and that we had to meet the public where they were, that they needed time to grieve their losses."

Over the next few days, Romero studied how his predecessor, Glasser, had handled the bombing in Oklahoma City, and it confirmed his sense that the ACLU had to gather information first, before it mobilized for action. Polemics had to be avoided at all costs, he says. One day as Romero was on a conference call with staff members discussing the Patriot Act proposal, he heard Attorney General Ashcroft testifying before Congress about the need for expanded wiretapping authority—and challenging the patriotism of those who did not support such a measure. "That's when I said, 'Go! Now we kick into action,'" Romero says. "I actually kicked someone off the telephone to talk to a *New York Times* reporter. I remember with surgical clarity that moment as the opening salvo."

In the ensuing weeks, he reached out to a host of foreign embassies, offering to work with them to discover the identities of the hundred Middle Eastern people whom the government had detained. He helped to form a coalition of more than a hundred groups that ranged the political spectrum. He focused the organization on fact gathering. And he developed what would become the theme of the ACLU's campaign in the coming years: that security and freedom go hand-in-hand, that the ACLU did not oppose the entire Patriot Act but wanted only to remove the provisions that permitted the government to spy on citizens without good cause.

The ACLU has displayed its lobbying muscle in Washington over the past few decades. As a national organization, with affiliates in every state, it also has been influential in shaping public opinion. But since September 11, 2001, Romero has raised the organization's game to a new level.

In the previous decades, the ACLU had grown into a big national organization. Romero began to fine-tune it so that the different units pulled together. He created a new department which was responsible for supporting the affiliates: the 53 state and regional chapters, which receive some money from the national organization but are independent entities. Romero worked with these affiliates to develop a new financing formula so that the smallest would be able to receive additional money and bring in visiting attorneys on yearlong fellowships. And he began holding regular weekly teleconference meetings so that the different branches could coordinate their actions.

At the same time, Romero saw to it that the national organization stepped up its effort to energize and empower the individual members. The group began holding teach-ins on the Patriot Act around the country. It encouraged cities to pass resolutions opposing the law. It began holding ACLU forums at colleges with hip-hop performers and comedians. And it held a very different sort of national membership conference in Washington, D.C., last summer, which drew a large crowd of young people. Staff members noticed a difference when they walked into the hotel conference room and saw a huge ACLU banner and two giant television screens behind the stage: a few years earlier there would have been only a small placard.

Communications at the ACLU have entered the 21st century. E-mail news alerts go out to subscribers several times a day. When a crisis arises, the organization calls members and patches them through to their representatives in Congress. Romero is already thinking about developing programming for television and radio. When ACLU President Nadine Strossen was about to testify on Capitol Hill shortly after September 11, Romero made sure that a camera crew was rushed over there.

Romero is determined to raise the ACLU's public profile. He hired a new communications director, Emily Tynes, who revamped the department, redesigned the ACLU logo, and made sure it now appears on all the releases and publications in the ACLU family. Together they hired a new advertising agency and launched a \$4 million advertising campaign—the organization's largest ever. These magazine ads and television commercials are stylish and edgy (one critic compared them to a Gap ad), featuring such celebrities as actor Al Pacino, rock singer Michael Stipe, and Kristin Davis of *Sex and the City*.

The ads show how the ACLU continues to cultivate its connection with artists and entertainers, but Romero has also opened doors to less traditional allies. One radio ad was done jointly with the American Conservative Union; under Romero's watch, the organization has hired as a consultant former congressman Bob Barr and has worked closely with former House Majority Leader Dick Armey, two Republicans who share the group's criticisms of the Patriot Act while disagreeing with its positions on abortion and gay rights. And at the membership conference in D.C. last summer, Romero brought in FBI director Robert Mueller (Stanford Law School's 2002 Ralston Lecturer) to speak.

While organizing these events, campaigns, and back-office changes, Romero is taking calls from reporters. He's giving speeches. He's updating the organization's pension plan. And he's trying to build a larger and stronger ACLU by developing relationships with donors. "He has raised boatloads of money," says Glasser, who himself was a gifted

fundraiser. "Anthony could have just rested on his laurels, but he went out there aggressively and raised money like we were going to go under; that creates confidence on a whole host of levels."

Glasser adds that the phenomenal increase in fundraising and membership—annual new membership has broken the previous record high for each of the three years that Romero has been in office—can't be attributed solely to increased public concern in the wake of the September 11 attacks. Romero's successes in these areas have "led to a permanent change in the institution," Glasser says.

Aryeh Neier, another former director of the ACLU and now president of the Open Society Institute, says that Romero's admirable performance has been "somewhat startling. He had spent his career prior to ACLU in foundation positions. Most foundations are risk averse, and they are not used to taking the lead on controversial public issues—and doing so in the limelight.

"Far from being overwhelmed by the role he had to play in the weeks following September 11, he has responded to it in a superb manner: he articulates policy positions marvelously and marshals resources effectively."

The effect of Romero's work has been a gradual yet significant shift in the political landscape over the last three years on civil liberties issues. Unlike the 1988 presidential election, in which George H.W. Bush scored points by accusing his opponent of being a "card-carrying member of the ACLU," such an attack today would likely backfire.

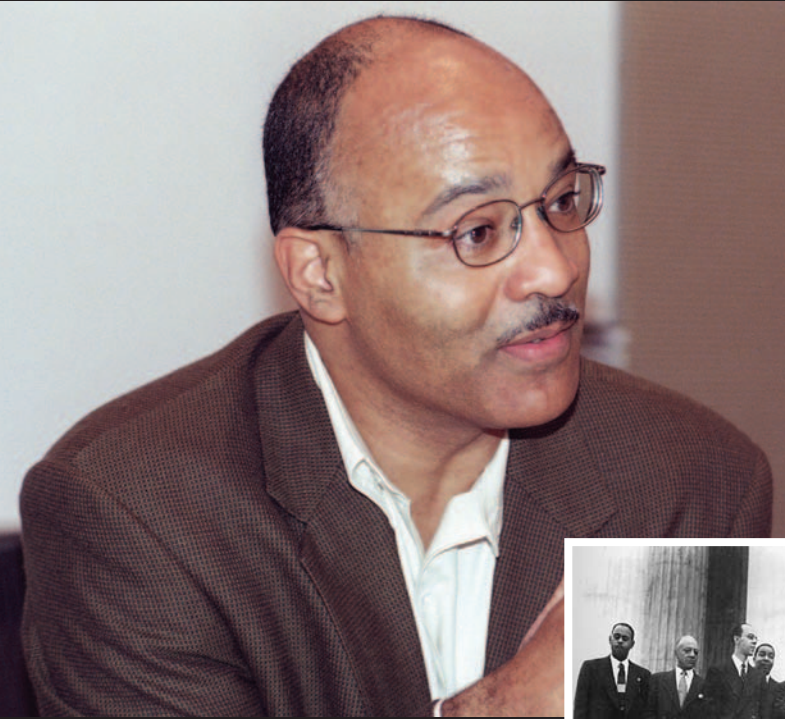
Civil liberties are becoming a mainstream issue, not just a cause for the fringe. Former Speaker of the House Newt

Gingrich, for example, ran an op-ed in the *San Francisco Chronicle* calling for a reexamination of the Patriot Act, and a bipartisan group of senators is pushing a bill that narrows certain parts of the 2001 law. When the President urged Congress to extend some portions of the act that sunset in 2005, including a provision that allows the government to subpoena private records, some top Republicans immediately rejected the idea. "I'd say he's about a year early," Senator Charles Grassley, Republican of Iowa, told the *New York Times*. "If I were running for president, I wouldn't have brought it up now."

In a telephone interview, Romero mentions that he is looking out at the Statue of Liberty from his office. He says that he makes sure not to take the view for granted.

It is 11 a.m. on a cold winter day in January, and he has had a typical morning. Before leaving *continued on page 80*

Brown v. Board of Education



50 Years Later

**“We conclude that, in the field of public education, the doctrine of
‘separate but equal’ has no place.”**

—Chief Justice Earl Warren, in the unanimous decision issued May 17, 1954

A lawyer who helped argue the landmark case weighs its meaning
with three Stanford Law School professors.



his year’s 50th anniversary of
Brown v. Board of Education
demands reflection. The

Supreme Court’s landmark decision struck down racial segregation in public schools and marked a turning point in the assault on Jim Crow apartheid.

Jack Greenberg, then a young assistant counsel at the NAACP Legal Defense and Educational Fund (LDF), was one of a half-dozen lawyers who argued before the Supreme Court in the five consolidated cases now known as *Brown*. He later succeeded Thurgood Marshall as LDF’s director-counsel and now serves as a professor at Columbia Law School. A pivotal player in the civil rights movement, Greenberg wrote a personal history of the LDF, *Crusaders in the Courts: How a Dedicated Band of Lawyers Fought for the Civil Rights Revolution*, which was first published in 1994 and is being reissued this year with additional material.

In December 2003, Greenberg spoke at a Stanford Law School event sponsored by the School’s chapter of the American Constitution Society. Before his talk, *Stanford Lawyer* organized a roundtable with Greenberg and three Stanford Law School faculty members: R. Richard Banks (BA/MA ’87), Associate Professor of Law, a leading scholar on racial discrimination, criminal justice, and affirmative action; Pamela Karlan, Kenneth and Harle Montgomery Professor of Public Interest Law, one of the nation’s foremost constitutional litigators, who also began her legal career at LDF; and William Koski (PhD ’03), Associate Professor of Law, a practicing lawyer and education policy scholar who runs the Law School’s education law clinic.

Rick Banks: One of the criticisms of *Brown* is that it catalyzed the resistance. Sometimes I wonder what would have happened had the state not appealed—had there not been a *Brown* at all.

Jack Greenberg: American politics, with regard to race, was a frozen sea. It was under the control of the Eastlands and Talmadges and Bilbos and Russells [powerful Dixiecrat senators]. Nothing was going to change them or dislodge them from power. Blacks couldn’t vote.

CLOCKWISE FROM TOP LEFT:
SLS Professors R.
Richard Banks, Pamela
Karlan, and William
Koski; and Columbia
Law Professor Jack
Greenberg.

(PHOTOS: STEVE GLADFELTER)

CENTER:
Members of the
plaintiffs’ legal team
in the *Brown* cases:
John Scott, James
Nabrit, Spottswood
Robinson, Frank
Reeves, Jack
Greenberg, Thurgood
Marshall, Louis
Redding, Simpson
Tate, and George
Hayes. (LDF)

The metaphor I use is that *Brown* was like an icebreaker. It broke all that up. In retrospect, *Brown* wasn't a school case; it was a case that transformed the politics of America.

Pam Karlan: What's interesting is the legal team's decision to pursue such a change with schools cases, rather than voting rights litigation, or housing or employment cases.

Greenberg: Well, civil rights lawyers had been bringing successful voting cases since *Guinn v. United States* [238 U.S. 347 (1915)]. Still nobody was voting.

There were the restrictive covenant cases. But they didn't integrate any housing at all—and still haven't.

Integrating housing or employment or public accommodations raised issues under the state action doctrine. In those areas, there's no state action of any meaningful consequence. There was no way of really getting at the employment, housing, public accommodations, or voting that made a difference.

Bill Koski: Yet one of the enduring effects of the case is the idea that once a state undertakes to provide education, it has to do so on an equal basis. As a result, many of us think that there's something special—something unique—about education as a state function, that it should be provided equally to all folks. And what, I wonder, is the remedy...

Greenberg: Apart from desegregation?

Koski: Right. Because as the remedy was developed in the desegregation cases, it became harder and harder to integrate—to create racial balance in the schools. In the North and the West, there was white flight and residential segregation.

So the legacy of *Brown* became, at least in many of those cases, one of providing equality of educational resources.

It was making sure that the inner-city schools were as well resourced as the suburban ones . . . or providing some sort of remedial education for kids who had suffered under a segregated regime—remedies along the lines of *Milliken II* [*Milliken v. Bradley*, 433 U.S. 267 (1977)]. Even today, the litigation we see around school finance—even in cases about kids with disabilities—is much more about ensuring equal or adequate resources.

Are we taking this in the right direction by looking at resource equality, or should we be thinking about racial balance and integration?

Greenberg: You can only go where you can go. People are going down the route of the school equalization cases because the integration cases have run into the *Milliken I* [*Milliken v. Bradley*, 418 U.S. 717 (1974)] barrier and the *Dowell* [*Board of Education v. Dowell*, 498 U.S. 237 (1991)] barrier. States are now doing something about equalizing preschool. Okay, that's good. Maybe that's the best you can expect. [Former New Jersey Governor] Jim Florio took education reform seriously and he got run out of town.

Nobody ever went broke betting on the generosity of the American people.

Karlan: Still, anybody who says that *Brown* hasn't made a difference can't possibly ever have been south of the Mason-Dixon line. I remember the first time I went down as an intern for LDF to Birmingham, Alabama, which was in 1981. I was there to work on a case with a cooperating lawyer, Demetrius Newton, who had lived in an area that was called Dynamite Hill because there had been so many bombings.

After I had been there about four or five days he said, "Why is it you keep drinking out of that hose over there?" In the building there was a regular water fountain, and then there was this hose with a bucket and the water was always dripping. I said, "Well, I figured the water fountain wasn't working, and that's why you had this other thing in the building." He began to laugh. He said, "That's just a relic from when there were separate water fountains—nobody drinks out of that thing anymore."

It had never occurred to me when I was in that building that people who started elementary school when I had wouldn't have seen any desegregation until fifth grade. Yet by the time I went there, it had changed in some fundamental ways. Now, as a result of voting rights litigation we did at LDF—and which I continue to do today as a cooperating attorney—Alabama has more black elected officials than virtually any other state.

Banks: I didn't live through the *Brown* era, but I have heard many stories from my relatives that attest to quite a remarkable pace of change. I mean, most of my family came north from the segregated South, from Alabama and from Georgia. And mostly they came north because of terrorist-type activities in the South. They lived under a set of conditions that are almost unimaginable today.

The great irony, though, is that many people have now moved back to the South because they found conditions in the South to be more amenable than conditions in such cities as Cleveland, Detroit, and Baltimore. It is quite a remarkable change.

Karlan: That's not the only irony. Much of the *Brown*-era litigation was an appeal to federal courts, and now we see much of the real action in state courts instead.

Greenberg: But what is this real action? There have been about 40 cases in the state courts about the right to a decent public education and about 20 victories. But the prayer for relief has now been scaled back from "equality" in education to "adequate" education.

Koski: It's interesting you call that a scaling back because some view the change as ramping up: requiring a high level of adequacy for all kids, as opposed to what California now guarantees, which is bare minimal equality.

Greenberg: I guess it depends on what you mean by adequacy. The New York appellate division says adequacy means you have to be able to read at an eighth-grade level. Maybe in some places adequacy can be more. Integration isn't the only remedy. Look at *Jenkins* [*Missouri v. Jenkins*, 515 U.S. 70 (1995)] in Kansas City: \$2 billion was put in there, and by any measure of educational attainment, nothing changed. Look what happened in *Milliken*. It was certainly many tens of millions spent and nothing changed. If you don't have the same educational standards for everybody and people going to school together, spending money alone doesn't make a lot of difference.

Karlan: Voting rights litigation is starting to present the same conundrum as the education cases following *Brown*. We're now finding ourselves trying to defend the cases that we won in the 1980s, in the same way that school desegregation decrees were defended. A lot of what we are spending our time doing is saying to courts essentially, "Look, we want you to just clear out a little more space so we can negotiate this politically, because our clients are very politically savvy and they've got representation in the state legislature." What we want the courts to do now is, in some sense, to give us the room to do that kind of negotiating.

Today's litigation under the Voting Rights Act is raising this challenge: Has politics matured and become sufficiently fluid that some of the remedies that we won in 1965 or in 1982 need to be rethought? There's a natural resistance to giving up any gains you already have. How do you make the appropriate trade-offs?

Of course, when the Voting Rights Act was passed, there were no trade-offs to be made. Either the black community was to be given straightforward power by giving black voters districts in which they were in the majority or they were going to get nothing. Now it's much more complicated.

Banks: The question I think we're raising in a lot of ways is where to go from here. Litigation has to be combined with other advocacy strategies. Pam, you're suggesting that maybe one approach is to use litigation and other advocacy strategies to make room for politics to work. That's interesting, because that issue is raised in the criminal context as well. There are a number of people who argue that maybe we should rethink some of the old criminal procedure rulings and create room for politics to work now that we do have many more black office holders and minorities who are in politically powerful positions. So it seems like that view is emerging from a number of different areas.

Koski: You read, certainly since about 1990, a lot of the social research on the efficacy of litigation, and it's very easy to trash litigation as a strategy for reform because the bar often gets set pretty high. You have a goal with litigation of desegregating all the schools so that black and white kids will be going to school together. But I think we have to look more subtly at the role of litigation as one of the many advocacy tools available to us and think more subtly about the places where litigation can serve as a catalyst. Litigation can serve as cover for others to do the things that they otherwise would want to; litigation can be educational.

Banks: That's a great point. Litigation is clearly most useful in combination with other approaches, and it can catalyze social movements. It can be very effective in that way.

What I wonder about is the extent to which litigation actually educates people in the sense not merely of bringing the situation to light, but also altering their values in some way. That's the claim made about *Brown*.

Karlan: It's interesting, because a couple of months ago I saw Fred Gray, who was the local lawyer for Martin Luther King in Montgomery. He was asked about the effect of *Brown*, and he explained, "We don't view it as a schools case." He moved to Alabama in the summer of 1954 to start practicing law, and he said *Brown* made a difference to his thinking about what would be possible for his clients.

Audience member: But don't some scholars contend that the civil rights movement came to rely too heavily on litigation as a means for change because of its success with *Brown*?

Greenberg: If anything it was to the contrary. The sit-in demonstrators—they didn't want anything to do with the lawyers. They went to jail. They wanted to stay in jail. So

there was no litigation. The people who went off on the Freedom Rides, they never talked to a lawyer before they did that. Martin Luther King called me in to represent him—this was after a long spell of getting into a lot of trouble. So I think that's not true at all.

I think it was a salutary development that the lawyers essentially created situations in which people could act and accomplish something. Once the movement got going, the movement was dominant.

Karlan: Do you think the meaning of *Brown* has been hijacked? Everybody uses *Brown*.

Greenberg: When you see a Supreme Court decision upholding school vouchers in Cleveland [*Zelman v. Simmons-Harris*, 536 U.S. 639 (2002)], all the editorials said, "This is a new *Brown v. the Board of Education*."

Karlan: Here's one of the places where I see the misuse of *Brown*, and it just drives me crazy: We were at the Supreme Court defending majority black congressional districts. The conservative members of the Court say, "You can't deliberately take race into account in drawing congressional districts because *Brown* tells us that race consciousness is evil." Conservatives will say the meaning of *Brown* is "No affirmative action or no race-conscious redistricting."

Of course, ***Brown* wasn't just about de jure segregation. It was about the hearts and minds of students and their having opportunities later in life that are as broad as anyone else's.** Minority voters need to have an equal opportunity to elect candidates who represent their interests. To paraphrase my old boss Justice Blackmun in *Bakke* [*Regents v. Bakke*, 438 U.S. 265 (1978)], sometimes to get beyond race we have to take race into account.

Koski: One person might say *Brown* is about an anti-caste rationale: we do not want to subordinate any group. Another person, like me, might say, no, it's about education and the centrality of education to American citizenship. It's a bit of a Rorschach depending on who's reading it and who's applying it.

Karlan: Jack, when you argued *Brown*, did you have any idea how long it would take to get black students into all-white southern schools?

Greenberg: We had some conception. Look at what had happened with all the university cases. If you sued the University of Maryland in Baltimore, they said that it didn't apply to the University of Maryland in Annapolis. State authorities took the position that the judgment applied only to the particular plaintiff and the particular defendant in the case. So you just had to keep suing them. But I don't think anybody anticipated that the South would engage in what came to be called "massive resistance" or that there would be a campaign to "impeach Earl Warren" or that states would pass statutes to outlaw the NAACP or to disbar civil rights lawyers. Nobody anticipated that.

Karlan: One of the things that I've been thinking about, especially because of the University of Michigan Law School affirmative action case last year [*Grutter v. Bollinger*, 123 S.Ct. 2325 (2003)], is the value of racial integration in elite institutions like law schools.

Banks: In the university context, it is startling how important test scores have become and the extent to which people see admission as an individual entitlement. And I hear echoes of this, maybe unfairly, in Thurgood Marshall's response at the oral argument in *Brown*: Let the dumb black kids go to school with the dumb white kids and the smart white kids go with the smart black kids. How do we determine this in a society where test scores are correlated with socioeconomic status and socioeconomic status is correlated with race?

Greenberg: Well, back then I don't think testing was as prominent as it is now.

Karlan: In the amicus brief we drafted for the Association of American Law Schools in *Grutter*, we use a striking fact from your recent article about affirmative action: for two or three consecutive years at Columbia Law School, the person who graduated first in the class had been let in off the wait list.

Greenberg: And I know a person who was admitted on the last day before classes began who later clerked at the Supreme Court.

Karlan: I found that striking because it was such a powerful illustration of two things: we've become so bound up in our admissions decisions by test scores, but so much of what we do as lawyers is not captured by those scores.

Koski: The tests aren't even intended to measure many of those skills.

Karlan: So much of where we are post-*Brown* is captured by two Nick Lemann books, *The Promised Land: The Great Black Migration and How It Changed America* and his history of the SAT, *The Big Test: The Secret History of the American Meritocracy*.

At the time of the Great Migration, blacks who moved north could hope that hard work in blue-collar jobs would provide economic mobility. Today, though, higher education is the route to the middle class, and standardized tests are the gateway to higher education. The testocracy makes so many of our problems seem intractable. Did the problems seem as intractable to you when you started working on these things as they sometimes seem to me?

Greenberg: People are attributing to us a sort of cosmic thinking that just wasn't there. We simply thought it wasn't right to segregate kids; that's all. But we saw what happened in university cases. The first one was won in 1935, actually in the state court, then in 1939 in the Supreme Court, and 1948 in the Supreme Court, and 1950 in the Supreme Court, and still in 1962 you had the James Meredith case [*Meredith v. Fair*, 305 F.2d 343 (5th Cir. 1962)].

The schools cases were not brought in anticipation that they would revolutionize the country. But they had a potential for doing more than, let's say, the housing or the public accommodations or the employment cases. So we went with them, (A) as a matter of principle, and (B) in kind of a patient way thinking little by little they would make a difference.

Karlan: Is the main function of integration to break up concentrated pockets of poverty, or is it something about racial integration that's transformative?

Koski: One might view integration, I suppose, as creating tolerance that we all have to live together, cutting across cultures and races. Equalizing resources is never going to touch that.

But if the goal of integration is to improve educational opportunities for all by tying the fortunes of white kids or wealthy kids with those of either minority or poor kids, then we have to think about whether we can accomplish that through improving the resources of those schools alone. Or are the politics such that we actually have to mix the kids together?

Greenberg: I think you have to mix the kids together.

Banks: What would lawyers at the time have said if presented with the possibility that wiping away de jure segregation would leave much segregation in its place because of resi-

dential patterns, jurisdictional boundaries, funding, and race and class being conflated?

Greenberg: I don't think we really thought ahead to all that. For example, at the beginning, litigators didn't foresee the barrier *Milliken* would create to desegregating metropolitan areas by reassigning students between urban and suburban schools.

Karlan: I guess so much of litigation is the art of the possible given the courts you have.

Greenberg: Well, that was the whole story of the sit-in litigation, from the beginning to end. We argued that the refusal to serve somebody a hamburger at a lunch counter was state action: a claim that the store owners wouldn't even own the lunch counter, except to the extent that the state creates property rights in the first place. And that's right, but the Supreme Court was not going to go down that line.

Banks: So much of this discussion is about what's possible: what courts will buy, and which arguments seem feasible, and whether there's a constitutional hook. But if we put that to the side, was there a feeling among many people that the evil was de jure segregation, was it that you were seeking racial integration, was it that you were seeking socioeconomic integration that would coincide with racial integration?

Greenberg: You ask me that not as a lawyer.

Banks: Not as a lawyer.

Greenberg: I just thought it was wrong that people should be separated because of their race, no matter what it was caused by, whether social factors or economic factors.

But I'm a lawyer. And what a lawyer gets a handle on is what the law does about it. I'm dealing with essentially what's possible. And that gets me back to *Brown*. I think *Brown* took the segregation issue and put it into the field of politics, where everything is possible.

Louis Trager (ltrager@comcast.net), a legal and communications-policy writer and editor in the East Bay, assisted in adapting the roundtable transcript for publication.

Alumni

The Three Rs: Return, Remember, Reconnect

Weekend

2003



STEVE GLADFELTER



STEVE CASTILLO

**Graduates, old and new, celebrated timeless friendships—
and the vibrant school that brought them together.**

1) Jackie Brown '75 makes new friends at the Reception for Alumni and Students of Color, while 2) members of the Class of '93 share a laugh over a yearbook: from left, Craig Martin, David Middler, Andy Komaroff, and Torrey Olins. 3) Alums enjoy good food and better company; 4) Sydney Shirriff, daughter of Ken Shirriff and Kathryn Barnard '88 (BA '84), shows off her balloon hat; 5) Vivien Lin and Michael Kross '83 savor the moment as 6) Mercedes Salomon '98 visits with other alums. 7) Professors Richard Ford (BA '88) and Joe Grundfest '78 present Dean Kathleen M. Sullivan with flowers.

3
STEVE CASTILLO4
STEVE GLADFELTER5
STEVE CASTILLO6
STEVE GLADFELTER7
STEVE GLADFELTER

Alumni Weekend 2003, with its talks by Justice Anthony Kennedy (BA '58) and Riley Bechtel, JD/MBA '79, was another high-powered gathering of the generations. Nearly a thousand graduates of the Law School came from all corners of the globe, partaking in their alma mater's vibrant scrutiny of current crises while celebrating past times and future ventures.

What made the Oct. 16–19 reunion so remarkable was the personal gestures and intimate conversations that are a Stanford hallmark. Hank Barry '83, for instance, opened his Palo Alto home to classmates for a Sunday brunch. Barbara Babcock, Judge John Crown Professor of Law, swapped stories about juries with a dozen alumni in one of the afternoon sessions of *Classes Without Quizzes*. Justice Kennedy and Bechtel remained after their respective presentations (see pp. 29 and 30) to catch up with old friends.

And where else but at Stanford would a discussion about North Korea (see p. 31) prompt a comment about the nation's nuclear capabilities from an audience member who was none other than former Central Intelligence Agency Director James Woolsey (BA '63). He was on campus to mark his undergraduate reunion.

It was the fifth and final Alumni Weekend over which Kathleen M. Sullivan would preside as Dean. A day before the reunion began, she had announced that, at the close of her five-year term as Dean in fall 2004, she would return to the faculty to establish a new constitutional law center at Stanford. Sadness over her leaving office was overcome not only by the celebration of all she had accomplished in her term, but also by the excitement over her new endeavor.

Still, the Dean's announcement led to an outpouring of affection. At the opening event, the Dean's Circle Dinner on Thursday night, her remarks were interrupted when Professors Richard Ford (BA '88) and Joseph Grundfest '78 surprised her with a bouquet of flowers, sparking a standing ovation. The next day, among nearly 200 people at the Law School's largest-ever reception for alumni and students of color, Sandra Herrera '05 told Sullivan that she would miss having her as Dean, but Sullivan offered only good news: "I'll always be at your parties."

Walking into the reunion dinners on Saturday evening, guests felt as if they had entered one of Jay Gatsby's celebrations. The white pavilions shimmered under a starlit sky; Japanese lanterns glowed warmly over a red-carpeted boardwalk. And the voices of Fleet Street, a Stanford a capella group, wafted through the gathering. "The alumni were especially spirited this year," remarked Michael Bernstein, a Fleet Street member. "We had more requests for 'Dirty Golden Bear' than the aggregate sum of many years past."

It's Not Easy Being Dean

Kathleen M. Sullivan was everywhere, presiding over a symphony of events in the final Alumni Weekend of her term.



STEVE CASTILLO

8



STEVE GLADFELTER

1



STEVE GLADFELTER

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STEVE CASTILLO

7



STEVE GLADFELTER



STEVE GLADFELTER

3



STEVE CASTILLO

6



STEVE GLADFELTER

5



STEVE GLADFELTER

4

As Stanford Law School searches for its next dean to succeed Kathleen M. Sullivan this fall, auditions for physical stamina might well be appropriate. Sullivan's schedule at Alumni Weekend 2003 spanned 21 separate events, 18 different venues, and 5 costume changes. From the Dean's Circle Dinner

Thursday evening through Friday's Volunteer Leadership Summit, outdoor luncheon, Korea panel, Reception for Alumni and Students of Color, through all 10 class reunion dinners, Sullivan tried to reach out to every one of the nearly 1,000 alumni in attendance. "This weekend is a great joy and the high-

light of our year," she said, pausing for breath between tents in the lantern glow of the Saturday evening celebrations. "I could not possibly do it without the help of the world's most devoted, professional, and omniscient staff."

(1) Sullivan moves from table to table at the luncheon in the Law School's Canfield Courtyard. There's no time to eat as (2) she's off to introduce the panel about Korea. (3) An hour later she speaks to alumni at the Reception for Alumni

and Students of Color, (4) including Fred Alvarez '75, then on to another event that goes late into the night. Up early the next day to breakfast with guests, (5) the Dean (next to Professor Lawrence Lessig) prepares for the constitutional law panel with Justice Anthony Kennedy. Then there's

the tailgate party, the football game, and the dinners. (6) With the Class of '68, she chats with Kristen Finney '96 (BA '92) and her father, John Finney '68. (7) On her stop to visit with the '78 alumni, Larry Ponoroff shares some strongly held views. (8) The evening ends with hugs for Sheila Spaeth and Kitty Lee '53.



STEVE GLADFELTER (4)

A Homecoming with a Supreme View

Justice Anthony Kennedy shared constitutional thoughts with alumni and students.

Among the Supreme Court Justices, Anthony Kennedy (BA '58) is one of the least likely to have attained celebrity status. A down-home and soft-spoken Sacramento native, he eschews the limelight and reportedly is so unrecognizable that tourists have asked him to take their picture on the grand steps of the Court's building.

Indeed, when Kennedy agreed to participate in an Alumni Weekend event, he was happy to share the stage with three other panel members. Yet for the standing-room only crowd in Memorial Auditorium on Oct. 18, the star attraction was Kennedy, who had returned to the Farm for his 45-year undergraduate reunion.

The event, "We the People 2003," was a wide-ranging discussion of the Constitution, and Kennedy's observations were both personal—he expressed his admiration for the late Justice Thurgood Marshall, whom he called a "prophet," and quipped that Justice David Souter still writes his decisions with a No. 2 pencil—and analytically historical.

"Federalism was the unique contribution of the Framers to political theory," he said, noting that it involved more than the idea that freedom is best preserved by balancing power between federal and state governments. "Federalism had an ethical and a moral imperative," he explained. "It was wrong for you as a person, for you as a free citizen, to delegate so much authority over your life to a remote central power that you were no longer in control of your own destiny."

The crowd broke into rousing applause when Dean Kathleen M. Sullivan, the panel moderator, mentioned Kennedy's opinion for the Court in *Lawrence v. Texas*, which declares that the right to privacy bars the state from treating sexual intimacy between consenting adults—even if they're the same gender—as a crime. Kennedy, in keeping with the practice of Supreme Court Justices to avoid public discussion of their rulings, spoke only broadly about the challenge of honoring precedent and the law while making room for the law to evolve. He remarked: "When you take your oath to uphold the Constitution, are

you going to say this person must continue to suffer because we're not ready as an institution? That's the tension."

Two days later, Kennedy spoke on campus again, this time for an audience of Stanford Law students. He told them that he listened to opera while reading cases and that he judged a case's complexity by whether it was a "one opera" or "two opera" review. A student asked which was his hardest case. "We don't take them unless they're hard," he responded. "The hardest one is the one I'm working on."

According to one report last year, only 5 percent of Americans were even aware that he was on the Court. But he received a standing ovation when his session with the students ended. And a few weeks later, when a survey of 1Ls (see p. 7) asked them to pick their favorite Justice, Kennedy was among the tops.



The "We the People 2003" panel comprised Pamela Karlan, Kenneth and Harle Montgomery Professor of Public Interest Law; Justice Anthony Kennedy (BA '58); Kathleen M. Sullivan, Dean and Richard E. Lang Professor of Law and Stanley Morrison Professor of Law; Lawrence Lessig, Professor of Law and John A. Wilson Distinguished Faculty Scholar; and Jack Rakove, Coe Professor of History and American Studies.

Making Connections, Looking Ahead

Multidisciplinary talks and panels probed the role of the United States in world conflicts.

ULTIMATELY, THE SUCCESS of Iraq might turn on whether the infrastructure of the Middle Eastern nation—ravaged by decades of neglect and post-conflict looting—can be quickly rebuilt. Riley Bechtel, JD/MBA '79, Chairman and CEO of Bechtel Group, Inc., spoke on its Iraq mission at the Oct. 16 Dean's Circle Dinner.

The U.S. government, through the U.S. Agency for International Development (USAID), in April awarded a Bechtel subsidiary a contract to help restore Iraq's infrastructure. This includes work on schools, fire stations, hospitals, water supplies, sewage systems, airports, railways, bridges, and power plants.

Bechtel told alumni that the company has since achieved some major milestones, such as the repair of more than 1,200 schools in time for the first day of classes, the reopening of the Um Qasr port (which had been blocked by silt and wrecks and was essentially without power), and the return to pre-conflict electrical generating levels, all by October 2003. He noted that Bechtel was employing more than 30,000 Iraqi craftsmen through 100 Iraqi subcontractors.

But Bechtel added that daunting challenges remained. The power sector was "an unbelievable mess," he said, noting that Iraq had been "power starved" in the years before the war and that raising Iraq's electrical system to Western standards would be difficult given peak furnace-season demands and transmission system issues.

The contract has subjected the company to criticism, but Bechtel pointed out that USAID Administrator Andrew Natsios had explained publicly that Bechtel won the contract in competition against half a dozen competitors because of better experience, a superior team, and a low price.

"Forget the *New York Times* trying to get you to believe that there is some element of political influence in the award or that the Iraqis don't want us there," Bechtel said. "We won the job entirely on the merits, and we are seeing appreciation on the faces of the Iraqi schoolchildren and their teachers as they return to school. We feel this is a noble assignment."

Iraq: Riley Bechtel, JD/MBA '79; Korea (left to right): Allen Weiner '89, Mi-Hyung Kim '89, Bernard S. Black '82, Gi-Wook Shin, Scott D. Sagan; Rwanda: Mariano-Florentino Cuéllar.



STEVE GLADFELTER



L.A. CICERO

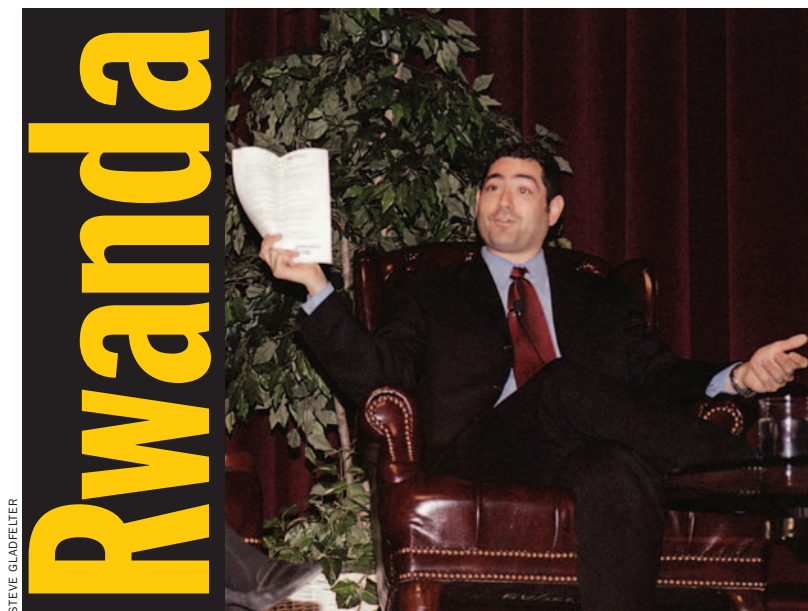
NEARLY ONE MILLION PEOPLE in Rwanda were slaughtered during four months of 1994. Mariano-Florentino Cuéllar, Assistant Professor of Law, calls it a “100-day killing spree with a speed never seen before.”

It’s difficult not to use the word “genocide” to describe what happened, but Cuéllar suggests that at a critical juncture, United States policy makers carefully avoided using the term. And on Oct. 17, in an Alumni Weekend 2003 panel, “The Power of Influence, the Influence of Power,” Cuéllar explained that their choice of terminology had tremendous implications for the Rwandans—and the rule of law.

Cuéllar held up a recently declassified document from an interagency discussion group including Defense and State Department lawyers. It was prepared in May 1994, at the very beginning of the slaughter, and it suggests that officials were well aware of the situation. One of the issues was whether to support a United Nations proposal for an international investigation of “possible violations of the genocide convention.”

Cuéllar read the response from the higher-echelon officials: “Be careful. Legal at State was worried about this yesterday—Genocide finding could commit USG [United States government] to actually ‘do something.’” Clearly, he added, officials thought that intervening in Africa was not going to be politically popular at home.

For the rule of law to have an effect internationally, “We cannot just look at governments’ actions,” Cuéllar explains. “We have to look at ourselves and what makes our government want to act.”



NO ONE ELSEWHERE IN THE WORLD wants to see North Korea wielding an arsenal of nuclear weapons. Why, then, is the United States having so much difficulty leading a response to the Korean nuclear crisis?

That was a major issue raised by Allen Weiner ’89, Warren Christopher Professor of the Practice of International Law and Diplomacy, who moderated the panel “It’s a MAD, Mad World: Prospects for Security, Diplomacy, and Peace on the Korean Peninsula” at Alumni Weekend 2003. He opened the discussion by noting that the Bush administration had not clearly communicated its aims: “Is the United States intent on a regime change or on putting the nuclear genie back in the bottle?”

That question has caused the longstanding U.S.-South Korean alliance to be the “rockiest” it has ever been, explained

panelist Mi-Hyung Kim ’89, Executive Vice President of the Kumho Group/Asiana Airlines and an outside adviser to South Korean President Roh Moo Hyun. “South Koreans believe they have the most to lose in the event the North Korean issue does not get resolved peacefully,” she said. If preemptive U.S. policy leads North Korea to attack, “thousands of South Koreans will die.”

Another panelist, Bernard S. Black ’82, George E. Osborne Professor of Law, who has served as an economic policy advisor to the South Korean government, added that the economic prospects of a regime change are terrifying to South Koreans. South Korea would be faced with a migration of hundreds of thousands of people from the north, which is in the grip of a famine.

“South Korea would have to devote 30 percent of its GDP”—or receive roughly \$1 trillion in foreign aid—“to bring North Korea up to its standard of living, and that’s not sustainable,” Black said. “This is a hard problem; South Koreans don’t know what to do, and neither do I.”



Breaking Another Barrier

A new alumni group underscores the growing clout of Latino lawyers.

The room was crowded with legal heavyweights. A recent president of the San Francisco Bar Association introduced a California Supreme Court Justice to a young associate at a top Silicon Valley firm. The Fresno City Attorney chatted with two members of the Stanford Law School faculty. Across the

room, a plaintiffs' lawyer, who had just received an award valued at \$125 million, greeted the Executive Director of the ACLU.

It was the Stanford Law School Latino Alumni Association's inaugural event, and roughly 100 graduates, students, faculty, and friends turned out for the Nov. 12 on-campus reception. The gathering was a great party, but more

importantly, it marked the beginning of a new chapter in Latinos' relationship with the Law School: the struggle to gain entry into the School has evolved into an effort to give back to it.

"This is about a partnership—between us and this wonderful Law School," Fred Alvarez '75 (BA '72), a partner at Wilson, Sonsini, Goodrich & Rosati and former president of the San Francisco Bar Association, told the crowd. "The partnership is founded on mutual needs: the Law School needs us, and we need the Law School. The credential is only as good as this law school is good."

IN THE PUBLIC INTEREST

More than 200 alumni, faculty, students, and representatives of the legal community gathered on the evening of Nov. 12 for a dinner in honor of the School's first Public Interest Lawyer of the Year: Anthony Romero '90, the Executive Director of the American Civil Liberties Union.

As he accepted the award, Romero reflected on the significance of public interest advocacy and told the story of

a public interest lawyer whose work changed the course of Romero's own life (see p. 14).

The now-annual Public Interest Lawyer award is the brainchild of SLS graduates Mark Chavez '79 and Susan Cleveland '97, and Stanford Public Interest Law Foundation students led by Raymond Bennett '04. The evening also honored Karen Chapman '79, one of the founders of SPILE.

The association is the first of a series of Stanford Law School minority alumni associations to launch: groups for African American, Asian-Pacific Islander, and Native American alumni are forming and will hold inaugural events in the coming year.

At the event, California Supreme Court Justice Carlos Moreno '75 recounted playing in the Stanford Law School mariachi band of the mid-1970s, La Rondalla. Other alumni reflected on how the Stanford Latino Law Students Association (SLLSA—pronounced "salsa") had provided them with a wonderfully supportive community while they were at the School.

The formation of the Latino Alumni Association represents a remarkable shift. Only four decades ago, Latinos were rarely found in law school classes. This changed in the early 1970s, when the School made a concerted effort to recruit minority students. The watershed was the late '70s, and classes of that era are a pillar of the new group. Today, Latino students comprise 13 percent of Stanford Law School's Class of 2006. Indeed, a younger generation of alumni spearheaded the association's formation, and this augurs well for its future. Already they have scheduled another meeting for this spring, in conjunction with a Cinco de Mayo celebration—at which, it is rumored, La Rondalla plans a reunion performance.

"We want to celebrate the community of those of us who were here, are here, and will be here," Alvarez, the association's first Chair, said in his talk at the November event. Justice Moreno added: "I've always been proud of my connection with Stanford and don't feel I've ever done enough to repay it."



STEVE GLADFELTER

Left to right: Fresno City Attorney Hilda Cantu Montoy '76, Wilson Sonsini partner Fred Alvarez '75 (BA '72), and California Supreme Court Justice Carlos Moreno '75.



STEVE GLADFELTER

Dean Kathleen M. Sullivan presents Anthony Romero '90, Executive Director of the ACLU, with the School's inaugural Public Interest Lawyer of the Year award.

In Memoriam

ALUMNI

Ray J. Coleman '30 (BA '28) of San Marcos, Calif., died on May 19, 2003, at the age of 96.

Leo T. Englert '42 of Incline Village, Nev., died on August 23, 2003, at the age of 87.

Stuart Kadison '48 of Los Angeles, Calif., died October 22, 2003, at the age of 79. A former Herman Phleger Visiting Professor of Law at Stanford University, he served as president of the Los Angeles Bar Association and was also a governor of the State Bar of California as well as a former partner of Sidley Austin Brown & Wood. His involvement with Stanford also included his role on the executive committee of the Friends of the Stanford Law Library. His dedication to the community extended beyond the legal field, as president of the Friends of the Huntington Library from 1983 to 1985 and a trustee of the Santa Barbara Museum of Art. He is survived by his wife, Carita; daughter, Dana; son, Brian; and brother, Ellis.

William W. Saunders '48 (BA '42) of Honolulu, Hawaii, died November 2, 2003, at the age of 82. He was not only an active lawyer but an accomplished businessman as well, having a role in founding National Golf Courses Inc. and as cofounder and charter president of the National Association of Public Courses (now the National Golf Course Owners Association). His leadership also included being president of the Oahu Country Club and in-house counsel, officer, and director of Hotel Corp. of the Pacific (now Aston Hotels and Resorts). He is survived by his wife, Trudy; son, William Jr.; daughters, Diana Gail and Elizabeth Anne; and six grandchildren.

Robert W. Elliott '49 (BA '43) of Ross, Calif., died on August 18, 2003, at the age of 81. After receiving his bachelor's degree from Stanford, he served with the United States Navy for three and a half years. He returned to Stanford for his law degree following his service and married Barbara Lowe in 1949. An active member of the Marin County community, he practiced law there for 40 years, as well as serving as attorney for the Marin Municipal Water District and as town attorney for two cities in the county. He married Joan Wonder Rice following the passing of his first wife in 1987. In addition to his wife, he is survived by daughters, Ann Grube and Sarah Finkstaedt; sons, Douglas and Bruce; and 14 grandchildren.

Stanton M. Levy '49 of Fresno, Calif., died on August 30, 2003, at the age of 81. After graduating from Stanford, he worked for three years in the Fresno County district attorney's office before starting his private practice, which he continued until last year. He also served as a state inheritance tax appraiser. He is survived by his wife, Patricia Romano Levy; three children; and two grandchildren.

William C. Stover '49 (BA '46) of Fort Collins, Colo., died October 26, 2003, at the age of 83. He served in the Army during World War II, holding ranks from private to first lieutenant. He practiced law in Fort Collins for more than 40 years, and his strong commitment to the legal field included serving as president of the Larimer County Bar Association, chairman of the Colorado Bar Association Ethics Committee, and chairman of the association's Real Estate Committee. He is survived by his wife, Frances; daughters, Susan and Barbara; son, William; stepdaughter, Karen; and six grandchildren, three step-grandchildren, and one great-grandchild.

James D. Loeb '52 of Ojai, Calif., died October 19, 2003, at the age of 76. An undergraduate alumnus of Princeton University, he was known for his larger-than-life character and his dedication to his family and to his community. He served on the Ojai City Council from 1968 to 1996, including four terms as mayor. His extensive community involvement also included ten years on the board of the Ventura County Medical Resource Foundation, raising funds for the county's public hospital. He served a term as president of the Ventura County Bar Association and was the recipient of the Ben E. Nordman Public Service Award in 1996. He is survived by his wife, Dorothy; children, Ellen, Jeffrey, and Susan; four grandchildren; and sister, Nancy Zuraw.

Keith G. Wadsworth '54 of Los Altos Hills, Calif., died September 3, 2003, at the age of 76.

Vivian Chaya Hannawalt '55 of San Francisco, Calif., died October 21, 2003, at the age of 72 of cancer. An undergraduate alumna of the University of Chicago, she later went on to earn a master's degree in public administration and was one of the few women to graduate from Stanford Law School and pass the bar in the 1950s. She worked as an in-house attorney for BART for 11 years and was remembered for the way she addressed complex issues and earned respect from all those around her. She was also actively involved in the community as a devoted

library volunteer and self-published a few books about her family. She is survived by her husband, Willis; children, Nina, James, and Rachel; and brother, Dudley Chaya.

Dan E. Hedin '56 of San Diego, Calif., died September 15, 2003, at the age of 78. An undergraduate alumnus of Duke University, he was raised in Mexico and served in World War II as well as the Korean War, in which he achieved the rank of captain in the Navy Reserve. He joined Higgs, Fletcher & Mack one year after graduating from law school and rose to managing partner over his four-decade legal career. He was also a member of the American College of Trial Attorneys and the American Board of Trial Advocates. Even after formally retiring in 1991, he continued serving in an administrative capacity with Higgs, Fletcher & Mack. He is survived by his wife, Nancy; daughter, Kirsten; and four grandchildren.

Paul L. Freese '57 of Los Angeles, Calif., died October 11, 2003, at the age of 74. He was a managing partner at Kindel & Anderson and served as lead counsel for a group of family members in the Howard Hughes estate litigation. His son, Paul, credits him with inspiring him to help the dispossessed and question the politics that brought them there. He is survived by his wife, Mary, and son, Paul.

Andrew J. Krappman, Jr. '58 (BA '54) of Alhambra, Calif., died September 9, 2003, at the age of 70. A former Navy lieutenant, he was a successful attorney and businessman known for his integrity, generosity, and humor. His career accomplishments included his position as executive vice president and corporate counselor of the O.K. Earl Corporation. He is survived by his nine children and eleven grandchildren.

Paul G. Bower '63 of Pacific Palisades, Calif., died December 31, 2003, at the age of 70. A distinguished litigation partner in the Los Angeles office of Gibson, Dunn & Crutcher, he served in the Department of Justice in Washington, D.C., from 1967 to 1969 and on the staff of the National Advisory Commission on Civil Disorders. He was also a special assistant in the Department of Justice under Attorney General Ramsey Clark and president of the Legal Aid Foundation of Los Angeles. A dedicated outdoorsman and environmentalist, he was on the board of directors of the Sierra Club Legal Defense Fund, now Earthjustice, and participated in several double century bike rides, riding 200

miles in a single day. He is survived by his wife, Elreen; daughters, Stephanie, Julianne, and Aimee; granddaughters, Sylvie and Simone; and sisters, Judith Henning and Miriam Goulding.

Gerald Z. Marer '63 of Palo Alto, Calif., died September 30, 2003, at the age of 66 of intestinal cancer. Former president of the California Academy of Appellate Lawyers, he was remembered for achieving great success in his field despite battling multiple sclerosis for most of his life. In 1976, he gained national recognition for his role in the Tinsley desegregation suit against the state of California and ten school districts, eventually winning a settlement allowing students from East Palo Alto's schools to attend schools in more affluent communities. He was chairman of the board of directors of the Sixth District Appellate Project and also lectured on appellate law for the Continuing Education of the Bar. He is survived by his brother, Alan; daughters, Laura and Beth; and grandchildren, Jason and Lauren.

LeRoy A. Broun IV '69 (BA '55) of Boise, Idaho, died July 21, 2003, at the age of 69. He was an avid photographer for the *Stanford Daily* during his undergraduate years, and served in the Air Force flying B-52s. Following legal practice in Fremont, Calif., he retrained in computer programming and worked for IBM for 12 years. He is survived by his former wife, Margaret Dalglish; daughters, Elizabeth Newbrough and Kimberly Maxey; son, Patrick; five grandchildren; and a brother.

FACULTY and STAFF

John Hart Ely of Coconut Grove, Fla., former Stanford Law School Dean and influential constitutional law scholar, died October 25, 2003, at the age of 64 of cancer.

Ely served as the School's ninth dean from 1982 to 1987. During his tenure, he enhanced the diversity of the Law School's student body and faculty and developed clinical learning programs. He also worked with Tom McBride (see obituary following), then associate dean for administration, in creating a loan assistance program for students who choose public interest employment.

Ely was best known for his first of three books, *Democracy and Distrust: A Theory of Judicial Review*, which was published in 1980. The book, which won an Order of the Coif prize, discussed key problems in constitutional law and

the role of the U.S. Supreme Court. It is the most frequently cited legal book published since 1978, according to the *Journal of Legal Studies*, and its popularity has made Ely the fourth most frequently cited legal scholar in history.

Ely was a liberal Democrat, but he took a middle-of-the-road position regarding interpretation of the Constitution in *Democracy and Distrust*. He argued that the Supreme Court's primary concern was to guarantee that U.S. democracy remain open and fair. He rejected the idea that the Constitution should be interpreted merely from its text and its history, maintaining that the document's language was open-ended. But he also dismissed the argument that judges might infer moral values from the Constitution. This position drew criticism from both ends of the political spectrum: conservatives complained that his interpretation allows judges to impose their ideas over voters' wishes, while liberals argued that it fails to protect what they believed were fundamental rights, including the right to privacy.

In a similar vein, Ely supported abortion rights but believed that the 1973 *Roe v. Wade* decision was not based on constitutional law. He criticized the decision in a 1973 article in the *Yale Law Journal*, saying that it was "frightening," given that the decision could not be inferred from the Constitution's language.

In his book, Ely was especially concerned about minority access to the political process, emphasizing voting rights, anti-discrimination laws, and free speech.

Ely wrote two more books, *War and Responsibility* (1993) and *On Constitutional Ground* (1996), as well as dozens of articles in which he discussed such explosive issues as abortion, flag desecration, and affirmative action.

Born in New York, Ely graduated from Princeton University in 1960 and earned his degree from Yale Law School in 1963. As a law student, he spent a summer working for a Washington, D.C., law firm, Arnold, Fortas & Porter, where he assisted Abe Fortas, who would later become a Supreme Court Justice, in *Gideon v. Wainwright*. Ely drafted a brief on behalf of Clarence Gideon, a drifter from Florida who had broken into a poolroom and was tried and convicted without an attorney. The brief eventually provided the basis for a 1963 Supreme Court decision that the government should provide legal representation for people who are accused of crimes and cannot afford to hire lawyers.

After graduation, Ely served on the Warren Commission, which investigated President John F. Kennedy's assassination and concluded that

Lee Harvey Oswald was the only shooter. When he finished clerking for Chief Justice Earl Warren, Ely attended the London School of Economics as a Fulbright scholar.

Ely then moved to San Diego to work as a criminal defense attorney, and in 1968 joined Yale's law school faculty. In 1973, he accepted a teaching position at Harvard, leaving academia for a year in 1975 to serve as general counsel of the Department of Transportation, and in 1982 moved to Stanford to become dean.

During Ely's deanship, the Law School grew significantly more diverse: the number of entering female students rose from 55 to 78 and entering minorities from 19 to 38. Professors Miguel Méndez and Deborah Rhode, among others, were awarded tenure, and former professor Charles Lawrence was hired. Opportunities for students interested in public service also expanded: during Ely's tenure, the School received a \$300,000 endowment for loans to students working in summer public internships.

After Ely finished his deanship, he continued to teach at the Law School, but in 1996 he left for Florida to join the faculty of the University of Miami School of Law, where he taught a course on the shooting of President Kennedy. When the U.S. bombing of Yugoslavia started in 1999, Ely helped then Congressman and Law School professor Tom Campbell try to ensure that the United States would never again go to war without the approval of Congress. In 2003, Ely received an honorary doctorate from Yale University for excellence in constitutional scholarship. He remained on the University of Miami faculty until his death.

Ely's life interests transcended the law. He liked to jog through the Stanford campus, play the piano, and compose nonsensical vaudeville tunes. He moved to Miami in part to pursue his love of scuba diving.

Ely is survived by his wife of one year, Circuit Court Judge Gisela Cardonne Ely; two sons, Robert and John; and two granddaughters. [See also p. 12.]

Thomas McBride of Portland, Ore., former Associate Dean for Administration at the Law School, died October 31, 2003, at the age of 74 of a cerebral hemorrhage. He was a Watergate prosecutor and the first inspector general of the Department of Agriculture.

McBride served as Associate Dean from 1982 to 1989, during which time he implemented a loan repayment assistance program for public interest law students.

A native of Elgin, Ill., McBride earned his

bachelor's degree from New York University in 1952 and a law degree from Columbia in 1956. He later moved to Washington, D.C., to work as a trial lawyer for the Organized Crime Task Force established by Attorney General Robert Kennedy. After Kennedy was assassinated, McBride joined the Peace Corps as country director of the Dominican Republic and Panama and then as deputy director for Latin America. He held several high-level government and nonprofit positions in Washington, D.C., and in 1973 was appointed associate prosecutor in the Watergate prosecutor's office. McBride led a task force investigating campaign contributions and the selling of ambassadorships. He was responsible for accepting guilty pleas from such officials as New York Yankees owner George Steinbrenner and Maurice Stans, the chief fundraiser for Nixon's reelection campaign.

In 1973, McBride was at home eating dinner when he heard on the television that President Richard M. Nixon had abolished the special Watergate prosecutor's office in a move known as the Saturday Night Massacre. He raced to the office to rescue important files he feared would be destroyed. After Watergate, McBride was appointed as the first Inspector General for the Department of Agriculture and then at the Department of Labor and was considered the "dean" of the federal inspector generals, testifying numerous times before Congress.

During his time at Stanford, McBride served on the President's Commission on Organized Crime and the California Council on Mental Health. He left the Law School to head Stanford's Department of Environmental Health and Safety after the Loma Prieta earthquake of 1989.

In 1992, McBride moved back to Washington, D.C., to join his wife, Catherine Milton, who was heading the Commission on National and Community Service and then AmeriCorps. During that period, he worked as a special counselor at the Department of Energy on the cleanup and closing of nuclear weapons sites. In 1997, he became special assistant to the president of Save the Children and traveled worldwide to help improve the sponsorship program.

In 2002, McBride and Milton moved to Portland. It was in that city's Laurelhurst Park that McBride suffered a fall which led to the hemorrhage. He had planned to attend, the day after the fall, a Washington, D.C., event observing the 30th anniversary of the Saturday Night Massacre.

Besides his wife, McBride is survived by four children, Elizabeth, John, Raphael, and Luke; a sister, Nancy; and a brother, Donald.

continued from page 19 his apartment in the Chelsea neighborhood of Manhattan, he spoke in confidence with a senior government official about the new airport screenings that were to start nationwide that day. After hanging up the phone, he said goodbye to his partner, whose name he asks be kept private to protect him from the spotlight, and took the subway to the ACLU building. He then had a meeting with the ACLU's direct mail firm and spoke with members of the U.S. Commission on Civil Rights about his testifying about the Patriot Act at a hearing later in the spring. He did some brainstorming with staff about new media projects. At the end of the day he's scheduled to meet for dinner with the composer Philip Glass, whose work Romero loves. He is hoping that Glass might be willing to participate in some new ACLU media projects.

The work is endless, and Romero says he never stops thinking about it. His classmate and friend Revuelta recalls talking with Romero just before he accepted the job and his saying that his one reservation was that his life would become so public. "He doesn't want it or need it," she says, adding that he was willing to do it only because he believed so strongly in the ACLU's mission.

Of course, the celebrity factor isn't all negative. Not only is he dining with Glass, but he also mentions doing a fireside chat with actor Tim Robbins and chatting with hip-hop producer Russell Simmons. But Romero isn't starstruck. "They're just human beings like everyone else," he says. Indeed, Romero's ability to connect with his fellow human beings is legendary. Another classmate, Wendy Pulling, describes how Romero charmed both her elderly aunt at a formal Thanksgiving and a poor fisherman the two met while traveling in India. The fisherman was so taken with Romero that he invited them to his hut for dinner and to meet

his wife and children.

Romero laughs when reminded of the incident. "Sometimes I become aware of whom I'm interacting with and think what an incredible privilege this job is and how lucky I am to be meeting these leaders of politics, finance, and entertainment," he says. "Then I realize that what everyone is looking for is to be treated as a human being, whose aspirations matter.

"You have to be an extrovert to be in this job, and I've always loved people. Being at the ACLU allows me to build on these people skills for a good cause."

Of course, it can get a bit tiring. Romero recently shaved his beard after being beset with suggestions about how it should be styled. And there are moments when Romero just wants to escape. A few days earlier he had gone to a movie with his partner and his partner's mother and sister. Romero says he was dressed informally—black leather jacket and jeans. He was at the concession stand buying popcorn, when a man next to him remarked, "I know you, aren't you Anthony Romero?"

Romero says that he may have winced momentarily, as he waited to hear what the man had to say. He admits that for a second or two he just didn't want to be bothered. But that wouldn't do. "I realized that I represent an organization and a cause, and that this guy had an issue," Romero says. With the popcorn and drinks in his hands, Romero listened and then explained the ACLU's position. He apparently provided a satisfactory enough explanation, as the man was ready to go catch the opening credits.

But before they could part, Romero says he got in two final questions. "Hey, are you a member?" Romero asked. And when the guy said no, Romero chided him. "Why not? It's easy." Romero gave the stranger instructions on how to do it over the Internet, before going back into the theater to watch *Jude Law*.



JOINING THE BAR Some 50 recent graduates of Stanford Law School who passed the California Bar in July attended the School's annual Swearing-In Ceremony for graduates on Dec 4. Standing with hands raised (*left to right*): Thomas Butler '03, Gladys Limon '03, Larisa Meisenheimer '03, Katherine Kim '03, Laura Chavkin '03, Ethan Roberts '03, Brent Irvin '03, Nick Subias '03 (*back row*). **BELOW LEFT** (*left to right*): Larisa Meisenheimer '03, Brent Irvin '03, Katherine Kim '03. **BELOW RIGHT**: Raising her right hand, Hon. Christina A. Snyder '72 of the United States District Court for the Central District of California administers the federal oath.



LEFT: Judge Alden Danner '65 of the Superior Court of California, County of Santa Clara, administers the state oath. **BELOW**: The new lawyers, with Dean Kathleen M. Sullivan, (*front, left*); Judge Danner (*front, second from left*); Professor Robert Weisberg '79 (*front, second from right*), who moved their admission to federal court; and U.S. District Judge Christina A. Snyder '72 (*front, third from right*), who granted it.



WELCOME TO THE LAW SCHOOL The Stanford Law Societies of San Francisco and of Silicon Valley joined the Law School in welcoming the Class of 2006 at a Sept. 29 reception. It was one of three receptions for new SLS students last fall.

BELOW: Mitchell Zimmerman '79, a partner at Fenwick & West, talks with 1L students Suzanna Brickman (*middle*) and Lucy Popkin (*right*).



ABOVE: First-year students mix it up with the Dean. Students are (*clockwise from Dean*): Aron Goetzl, Aravinda Seshadri (*in background*), Rob Rodriguez, Nolan Reichl, Josh Kaul, and Julia Lipez. **RIGHT**: 1L students (*left to right*): Nolan Reichl, Josh Kaul, Julia Lipez.



ABOVE: Michael Telleen '72 (*left*), a partner at Carr, McClellan, Ingersoll, Thompson & Horn, P.C., visits with Russell Hansen JD/MBA '79, a partner at Gibson, Dunn & Crutcher LLP, at the 1L reception.



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Richard Diebenkorn, *Untitled (Seated Woman with Hand to Mouth)*,
1964, oil on canvas, 56 x 46 3/4 inches, Collection of Jill and John
['63] Freidenrich © The Estate of Richard Diebenkorn

