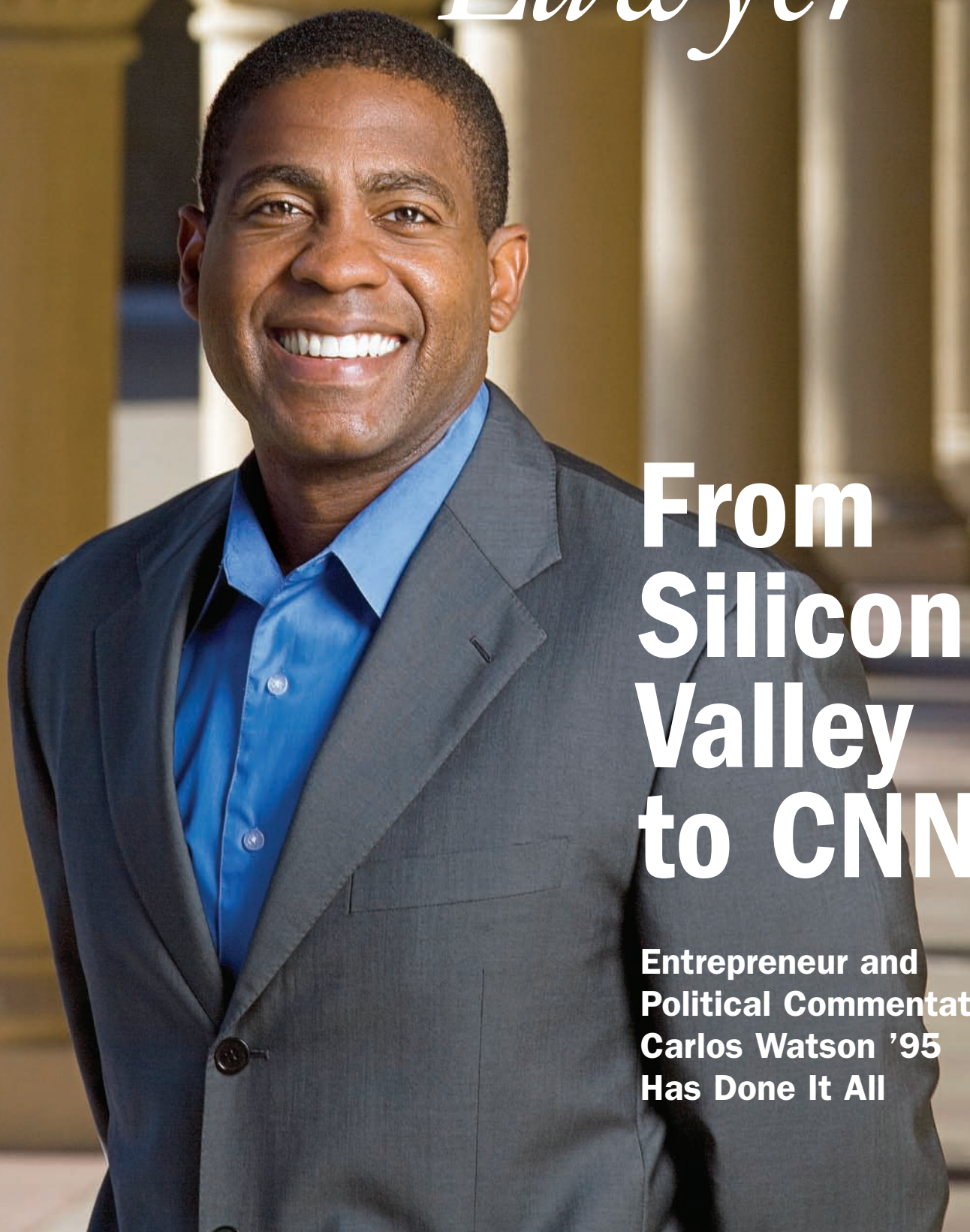


Advancing  
International Criminal Law

Professor Buzz Thompson '76  
A New Path for the Environment

Exposing  
Guantanamo Abuses

# Stanford *Lawyer*



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Valley  
to CNN**

**Entrepreneur and  
Political Commentator  
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**Stanford Lawyer welcomes letters from readers.  
Letters may be edited for length and clarity.**

## Letters

### William Rehnquist '52 Remembered

Although Bill Rehnquist and I did not meet during our undergraduate years at Stanford, we both took an undergraduate course on constitutional law taught by Charles Fairman, who served as mentor to both of us. Bill and I did meet in summer, 1950, in a course on conflict of laws, taught by the renowned Paul Freund, visiting from Harvard. In a letter to me in 2002, Bill remembered Paul Freund's class as one of the best he had at Stanford. Professor Freund also remembered that class; on several occasions he expressed privately and publicly the esteem in which he held both of us as students.

After graduating from law school in 1951, I became the second Stanford graduate to serve as a law clerk at the U.S. Supreme Court, following Warren Christopher in 1949 as a clerk to William O. Douglas. Bill, as a member of the class of 1952 who graduated early, followed me a few months later to serve as law clerk to Robert Jackson. Bill recalled his service as a law clerk in his book, *The Supreme Court*. We were both concerned as to how we would be received by the other law clerks, as we were graduates of a regional West Coast law school that did not enjoy the national reputation Stanford has today. We need not have worried. The clerks enjoyed each other as colleagues and regardless of positions

taken by our justices in individual cases, a mutual respect existed among the clerks that endured for many years thereafter.

My last correspondence with Bill was in late 2003, when I wrote him concerning a memoir I was preparing on Justice Douglas's relations with his law clerks. In responding, Bill offered the following personal anecdote concerning his own relationship with Justice Douglas: "He and Cathy hosted me and Nan at their place on Goose Prairie in the summer of either 1973 or 1974, and were most gracious and hospitable hosts. I do remember asking Bill one evening if I might take one of the books on his shelves to read after I went to bed: He pointed to a shelf and told me to take any book I wanted from it. Surprise! All of them were by his favorite author [Douglas]."

Thus proving that justices—as well as their law clerks—could differ sharply on matters of legal principle while still maintaining warm personal relationships.

MARSHALL SMALL '51 (BA '49)  
*San Francisco*

### No Merit Badge for the Professor

In the fall 2005 issue of *Stanford Lawyer*, Professor Richard Thompson Ford facetiously attributes to himself the condition of starry-eyed idealism. Professor Ford writes that it would be unprincipled decision making for the U.S. Supreme



PHOTO: COURTESY OF MARSHALL SMALL '51 (BA '49)

**A 1952 photo taken of U.S. Supreme Court Justice Robert H. Jackson (center), with his two law clerks, William H. Rehnquist '52 (BA '48, MA '48) (left), and George Niebank.**

Court to distinguish *Boy Scouts of America v. Dale* (overturning a law that forced a private organization to accept members whose principles and practices were contrary to the organization's) from the Solomon Amendment (which withholds discretionary government funding from a university that denies the government on campus access to students for military recruitment purposes).

Professor Ford characterizes *Dale* as "... an incoherent mess ..." "... that protects discrimination on the basis of sexual orientation" (apparently because Chief Justice Rehnquist found the expression of disapproval of homosexual conduct to be within the perimeter of constitutionally protected speech), and believes the Court has trapped itself with *Dale* so that it now will most likely have to declare Solomon unconstitutional. *Dale* found the New Jersey statute violated the Scouts' free speech rights, and Professor Ford concludes that if the Court wishes to maintain integrity and consistency, it must now rule that Solomon does the same to universities.

*Dale* and Solomon are easily and logically distinguishable. In the arena of First Amendment rights, there is a fundamental distinction between membership and access. Because membership normally entails and connotes a much closer allegiance in purpose and philosophy than merely allowing access to a university's students, a law that forces unwanted membership upon a private organization can suppress free speech, while one that financially encourages on-campus access for purposes of recruitment can promote it.

The overturned statute in *Dale* required the private organization to include persons who would oppose and undercut its core principles, a mandate that would weaken or sabotage its ability to persuasively advocate its positions, thus inhibiting its First Amendment rights.

On the other hand, the Solomon Amendment encourages campus access to

serve a legitimate and necessary national defense purpose, while preserving the university's freedom of speech by allowing it to take any position on the recruitment efforts that it wishes. On-campus solicitations to military service are not conscription, they are simply one of many prospective employer entreaties that give the student a choice. The university remains free to disseminate information criticizing the military's "don't ask, don't tell" policy, or to recommend against enlistment. Solomon doesn't punish criticism of the government as the good professor postulates, it encourages the university not to restrict the free speech of military recruiters.

Both *Dale* and the Solomon Amendment protect First Amendment rights. Upholding them both is not only principled, it is the only legally and logically consistent decision. Professor Ford's preferred solution would eliminate both, leading to several counterproductive results.

First, it would lessen the U.S. military's ability to acquire the "best and brightest" to further its obligation to protect Professor Ford and his fellow citizens from "threats foreign and domestic." It would also impose upon private organizations policies repugnant to them, while at the same time censoring debate and suppressing the open exchange of ideas on campus. I'm afraid this sounds a bit more totalitarian than starry-eyed.

WILLIAM LUND (BA '57)  
*Red Bluff, California*

*Editor's note: Judge Lund retired from the Shasta County Superior Court in 1996.*

### Defending the Solomon Amendment

In his fall 2005 *Stanford Lawyer* article regarding the upcoming Supreme Court argument on the Solomon Amendment (*Rumsfeld v. FAIR*, to be argued Dec. 6, 2005), Professor Ford criticizes that amendment and the case of *Boy Scouts of America v. Dale*, but he pro-

vides embarrassingly little analysis. This is unfortunate, especially when you consider that his worst case scenario is likely to result: The Court will both uphold the Solomon Amendment and preserve *Dale*.

The Solomon Amendment requires law schools to treat the military just like any other employer or lose federal funding for the university as a whole. In the *FAIR* case, law schools seek to exclude the military from an employment forum open to just about any employer who shows up, with the only goal being to prevent interested, adult law school students from interviewing for potential careers in the United States military—all the while demanding the regular flow of federal money. These law schools seek the privilege of biting the hand that feeds them without missing a meal.

The *Dale* case has little to do with this issue. *Dale* upheld the right of private groups to choose their members without interference from the government. The plaintiff in *Dale* was a gay activist who sought to become a uniformed leader for Boy Scouts, an organization with traditional values. No prospective employer who visits a law school campus to conduct job interviews seeks to become a constituent "member" or "leader" of the law school "association," or to change the nature of the law school's speech.

There is simply no analogy between inserting a gay Scout leader into the Boy Scout association and a military recruiter who shows up in uniform one day a year to interview adult students who want a job. As for the value of *Dale*, which is billed by Professor Ford as a "confused and dangerous" decision, it would be one of few freedom of association cases he could cite in support of black fraternities, for example. Professor Ford, as a specialist in race issues, should understand that.

Two Stanford Law School alums (at least) have written amicus briefs in support of upholding the Solomon Amendment and in support of a proper interpretation of the *Dale* case. I wrote the



one for the Boy Scouts of America, and Andrew McBride '87 wrote one for the law professors who support the Solomon Amendment.

Those arguments deserve equal time.

CARLA A. KERR '86 (BA '83)

New York, New York

#### Professor Richard Thompson Ford Replies

*The sharp distinction between membership and access on which both Ms. Kerr and Judge Lund rely to distinguish Dale from the FAIR litigation will not do. Were the First Amendment to insulate any association's discriminatory "membership" policies from civil rights laws, it would dramatically limit or invalidate scores of local, state, and federal anti-discrimination protections on which millions of Americans rely.*

*Most obviously, membership is often hard to distinguish from access in practice: Should fitness and sports clubs be free to discriminate because they require pre-paid monthly "membership" rather than charging a per-use fee for "access"? And should government be powerless to prevent invidious discrimination by membership-based civic associations that often effectively control business and professional networking? Thankfully, most courts have answered "no" and have applied a fact-specific test to determine whether an association is sufficiently insular to warrant exemption from antidiscrimination law.*

*Editor's note: There is a widespread misperception about Stanford's policy regarding military recruiting on campus. Stanford neither excludes the military nor interferes with military recruiting on campus. Recruiters meet and interview Stanford law students on campus, and each year some of our graduates take jobs with the JAG Corps. The law school's Office of Career Services does, however, provide affirmative assistance to employers by handling student sign-ups, arranging interviews, and reserving rooms. We withhold these services from any employer who discriminates in hiring based on such characteristics as race, sex, religion, or sexual orientation. The Solomon Amendment com-*

*pels the law school to provide this affirmative assistance to military recruiters, and it strips the rest of the university of all federal funds should we fail to comply. (The law school itself accepts no federal funds other than for student loan support, which is expressly exempted from the Solomon Amendment.)*

#### The First Clinical Prosecution Course

I read with interest and pride the article on clinical education at Stanford Law School which ran in the spring 2005 issue of *Stanford Lawyer*. There are now seven clinics in operation, it noted. [Since then two new clinics have been added, bringing the total to nine.] Of particular interest to me was the Criminal Prosecution Clinic run in conjunction with the Santa Clara County District Attorney's Office. The establishment date of the clinic was given as 1996. There should have been an asterisk after the date.

Thirty-five years ago, during the academic year of 1970–71, the first clinical course in criminal prosecution at Stanford began its existence. Funded by a national grant and given impetus by Professor Herbert Packer, it was hatched during the summer of 1970. The cooperating prosecutorial authority was the San Mateo County District Attorney's Office. This cooperation was largely due to the extraordinary efforts of Bill Keogh '52, assistant dean, and Hon. Wilbur Johnson '54 (BA '51), then chief criminal deputy DA, and later judge. The open-mindedness and courage of Keith Sorenson, then district attorney, contributed in no small measure to the project being able to rise aloft. Although Keith did not particularly believe in such endeavors, he let himself be convinced by Bill and Wilbur to allow his offices to become a training ground for Stanford law students aspiring to acquire skills in the courtroom.

The course was offered as Clinical Seminar in Prosecution, under the professorial tutelage of Professor John Kaplan and run by a newly graduated teaching fellow: yours truly, Adam von

Dioszeghy '70 (BA '64). There were 12 students, mostly in their third year. Instruction began in September, 1970. What further aided this then-extraordinary enterprise was a change in the law and the corresponding rules in California, allowing law students (actually, people educated in the law but not members of the State Bar, nor having passed the State Bar exam) to appear in court in all matters and represent clients under the supervision of a licensed attorney. Thus, our course took off.

At first, it was difficult to convince judges to allow these "legal nobodies" to darken their courtrooms' floors, but thanks to a few forward-looking judges—such as Judge Bob Carey—the students were slowly allowed to make formal appearances. And, surprise of surprises!—most of the time they were better prepared, more courteous and eloquent than some of their "real lawyer" counterparts.

Word spread quickly. Soon no judges felt compelled to reject a request for a "student-counsel" to appear before him (at the time, I believe there were only male judges sitting in San Mateo County).

The seminar was a roaring success. By the end of the spring semester of 1971, all of the students had tried at least one case to conclusion before a judge, and about half of the students tried a case fully to a jury. Thus, these Stanford Law School students made California legal history by becoming the first non-lawyers in the state to accomplish these previously unheard-of feats. Some of these students went on to become great trial lawyers and some even ended up as prosecutors.

That's the reason I think an asterisk should be put by the date of the establishment of the current program. Actually, its proud predecessor is 35 years old.

ADAM VON DIOSZEGHY '70 (BA '64)  
Budapest, Hungary

# Creating a Model Environmental Law Program

BY LARRY KRAMER

Richard E. Lang Professor of Law and Dean

In this issue of the *Lawyer*, we turn a well-deserved spotlight on the law school's environmental program. Stanford has long been a leader in the field of environmental studies, and our program serves as a model for other, newer programs.

The foundation of any program is its faculty, and the environmental program is no exception. Headed by Buzz Thompson JD/MBA '76, whose leadership in the field is widely acknowledged, our environmental group includes professors John Barton '68, Hank Greely, Tom Heller, and Bob Rabin. This past year, we appointed Meg Caldwell '85 as a senior lecturer responsible for teaching, supervising research, and administering the program. Meg is, among other things, chair of the California Coastal Commission and a nationally recognized environmental figure. As accomplished as our environmental faculty is today, we plan to strengthen and enlarge it. One of the ways we will do this is by bringing in teachers from other parts of the university. These include people like David Victor, an expert in energy and the environment and a senior fellow at the Freeman Spogli Institute for International Studies.

Our superb faculty offer students a wonderfully diverse range of courses. In addition to basic survey courses, we teach advanced courses on animal rights, climate change, ocean policy, land use, "free market environmentalism," and more. Add to these a variety of "enrichment" courses that enhance professional skills by teaching such subjects as public policy analysis, negotiation, and working with international institutions. Many of these courses are taught through case studies developed by our faculty. Modeled on the sorts of materials used in business schools, these studies take students deeply into problems while developing the teamwork skills needed to succeed in a real world setting. Stanford makes these case studies freely available on the Internet, and they are used at law schools across the nation.

Faculty and curriculum are the backbone of every academic program, but what makes Stanford special is the breadth of additional opportunities we afford students interested in environmental work. Our Environmental Law Clinic, directed by Deborah Sivas '87, enables students to participate in cutting-edge litigation. The clinic was originally funded by the non-profit public interest group Earthjustice, which fed us cases. We recently brought the clinic back in-house because it is important that we have full control—to choose cases based on pedagogical value, dedicate more time to teaching, and integrate the clinic better with other parts of the university.

Stanford law students have a myriad of other opportunities to work on environmental research. The law school is involved in the Fisheries Policy Project, a joint venture with Stanford's Hopkins Marine Station that brings together faculty and researchers from across the university. Students can work on the *Stanford Environmental Law Journal* or attend the weekly Environmental Workshop and the annual Robert Minge Brown Lecture. They can also become members of the Environmental Law Society (ELS), which sponsors speakers and panels, publishes newsletters, and maintains a network for career development.

Given this rich and diverse program, it comes as no surprise that Stanford law graduates pursue distinguished careers on every side of the environmental debate. Our alumni hold positions in national environmental organizations, the White House, federal and state agencies, major corporations, law firms with strong environmental programs, and the academy.

For all this success, we continue to grow and change. We are taking steps to enlarge our connections to Stanford University's world-class program in environmental studies. The university is preparing to launch an environmental initiative centered on the new Stanford Institute for the Environment (SIE). With Buzz as one of its two codirectors, SIE is a place for lawyers to work with scientists, policy makers, and environmentalists. We are revamping our clinical and research programs to make better use of the university's resources by bringing environmental scientists to work at the law school with our students and faculty. We hope soon to begin offering joint degrees to enrich traditional legal education in this area as well. These will include a joint JD and masters degree in environment and resources (with the School of Earth Sciences), a similar degree in international policy studies (with the Freeman Spogli Institute for International Studies), and yet another in public policy (with the Stanford Institute for Economic Policy Research).

Making all this work will not be easy. But with our faculty and students, and your advice and support, I am confident we can keep Stanford Law School as the nation's most important training ground for lawyers working on environmental issues.



PHOTO: LINDA A. CICERO

## BARBARA OLSHANSKY '85: PUBLIC INTEREST LAWYER OF THE YEAR

Barbara Olshansky '85 won the biggest case of her legal career when the U.S. Supreme Court in 2004 ruled that detainees at the U.S. facility in Guantanamo Bay, Cuba, could challenge their incarceration in federal court. *Rasul v. Bush*, which *The New York Times* hailed as “the most important civil liberties case in half a century,” reined in presidential power in prosecuting the war on terror.

But more than a year later, despite help from hundreds of pro bono lawyers working under Olshansky's oversight, not one habeas corpus petition has been heard in federal court. Having lost on the habeas corpus issue, the U.S. Department of Justice is now arguing that “enemy combatants” simply have no rights to enforce. Worse, the Supreme Court's ruling may be negated as a practical matter if the Graham-Levin amendment, a measure limiting detainees' rights which passed the Senate in late November, becomes law. “I feel like I'm arguing *Rasul* all over again,” said Olshansky, deputy legal director of the Center for Constitutional Rights in New York City.

The *Rasul* ruling thrust Olshansky onto the international stage as the lead lawyer of the defining case in post-September 11 America. It's her first major national security battle in a career that has spanned such specialties as the environment, health care, racial discrimination, and prisoners' rights.

In honor of her work, Olshansky was named 2005 Public Interest Lawyer of the Year by the Stanford Public Interest Law Foundation at a November 9 dinner on Stanford's campus. The two previous winners were Anthony Romero '90, executive director of the American Civil Liberties Union, and Peter Bouckaert '97, a senior emergencies researcher at Human Rights Watch. “The work of people like Barbara Olshansky is ultimately work that holds up a mirror to us and makes us confront ourselves,” said Larry Kramer, Richard E. Lang Professor of Law and Dean. “It's people like Barbara who force us to be our best selves.”

Olshansky grew up in the New York City suburb of Ossining, with dreams of emulating Atticus Finch, the fictional hero of *To Kill a Mockingbird* who defends a black man against an undeserved rape charge. After majoring in intellectual history and political science at the University of Rochester, she came to Stanford Law School, where she helped establish the East Palo Community Law Project to serve low-income residents. Olshansky then clerked for

two years for California Supreme Court Chief Justice Rose Bird, who inspired her to pursue a career helping the less fortunate. “[Rose Bird] believed that the judicial system was for helping people,” Olshansky said. “She made me believe I could make a difference.”

After working in a small plaintiff's-side employment firm in New York, Olshansky joined the Environmental Defense Fund, where she argued cases involving toxic contamination in the workplace and the community. Four years later, she joined the Center for Constitutional Rights, the non-profit legal organization founded in 1966 by famed attorney William Kunstler and others who had represented civil rights demonstrators in the South.

“She's smart, she's well-regarded, and she comes up with lawsuits that go to the heart of the major issues that affect the weak, the poor, and the helpless,” said Franklin Siegel, an adjunct professor at City University of New York School of Law. “This is legal genius; there's no other word for it.”

When Olshansky filed the Guantanamo litigation on behalf of Shafiq Rasul in the U.S. District Court for the District of Columbia, she never imagined the case would make its way to the U.S. Supreme Court. The case was the first major test of whether the

executive branch had exceeded its powers in asserting that Guantanamo Bay was outside the jurisdiction of any court.

Soon after the Supreme Court issued its decision in *Rasul*, CCR, which represents about half of the camp's 500 prisoners, was flooded with calls from private law firms eager to become involved. Since then, Olshansky has worked with more than 500 volunteer attorneys from more than 125 major law firms in filing more than 200 habeas petitions.

Jeff Wu '00 (MBA '01), of Covington & Burling in San Francisco, is one of the many attorneys inspired to provide detainees with legal representation. Wu is helping several retired military officers file amicus briefs in another Guantanamo case, *Hamdan v. Rumsfeld*, to be heard by the Supreme Court in March. The case challenges the president's authority to establish military commissions to try detainees charged with terrorist offenses. “There are some high-profile lawyers with big egos in this group, and she handles them with a very low-key, mellow, non-confrontational approach,” said Wu. “She's good at resolving those conflicts. She simply has the case at heart.”

—David McKay Wilson



Barbara Olshansky '85 speaking at the award dinner

PHOTO: MISHA BRUK



## CITES

“There’s a tendency when something terrible like this happens to look for a place to point the finger, but saying that a website owner . . . has resources and education to stop things like this from happening goes too far.”



PHOTO: LINDA A. CICERO

—JENNIFER GRANICK, lecturer in law and executive director of Stanford Law School’s Center for Internet and Society, as quoted in the *Los Angeles Times*. The November 2 article, “Threats Online: Is There a Duty to Tell?” explored the controversy surrounding a Southern California teenager who boasted in an online message board that he had a gun and planned to start a “terror campaign” before killing himself and two neighbors.

“The real torture debate, therefore, isn’t about whether to throw out the rulebook in the exceptional emergencies. Rather, it’s about what the rulebook says about the ordinary interrogation—about whether you can shoot up Qatani with saline solution to make him urinate on himself, or threaten him with dogs in order to find out whether he ever met Osama bin Laden.”

—DAVID J. LUBAN, The Leah Kaplan Visiting Professor in Human Rights at Stanford Law School, writing in *The Washington Post*. Luban’s November 27 op-ed, “Torture, American-Style,” offered a lengthy critique of the Bush administration’s policy on torture.

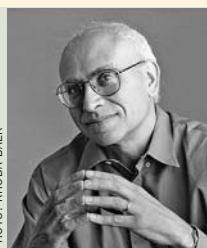


PHOTO: RHODA BAER

“When gainsharing rewards doctors who choose fewer and cheaper treatments, devices and diagnostic tests, quality care for patients is likely to suffer.”



PHOTO: TOM OLIN

—ANDREW J. IMPARATO ’90, president and chief executive officer of the American Association of People with Disabilities, writing in *The New York Times*. Imparato’s November 27 letter to the editor argued that gainsharing programs, in which doctors receive a share of the money that they save the hospital, puts patient care at risk.

“He did the worst thing an elected official can do—he enriched himself through his position and violated the trust of those who put him there.”

—HON. CAROL LAM ’85, U.S. attorney for the Southern District of California, as quoted in *The New York Times*. The November 28 story, “Congressman Resigns After Admitting He Took Bribes,” examined the resignation of Rep. Randy Cunningham, a Republican from San Diego, who admitted to taking bribes from defense contractors while in office. Lam prosecuted the case.



PHOTO: ROBERT MARCH



“All of the law in this area is pretty unsettled. If you’re

engaged in this activity, you’re really making a bet yourself as to what the law is and what authorities will do.”

—DAVID LEVINE, a fellow at Stanford Law School’s Center for Internet and Society, as quoted in the *Los Angeles Times*. The November 27 article, “Poker Website Is a Legal Gamble,” examined the legality of the online poker industry. Despite the fact that the U.S. Department of Justice considers it illegal for U.S. residents to gamble in online poker games, Americans make up a large percentage of the players in the \$2.4 billion industry.

“Given the other things that currently deserve FBI attention—the war on terror, for example—it is difficult to believe there aren’t tasks for highly trained [FBI] agents that are more important than surfing the Internet for low-budget pornography.”

—NANCY LEONG, a third-year student at Stanford Law School, writing in the November 16 issue of *The Denver Post*. Leong’s op-ed, “Anti-Obscenity Squad is a Waste of Time,” criticized U.S. Attorney General Alberto Gonzales’s decision to create an Obscenity Prosecution Task Force and devote 10 FBI agents to investigating adult pornography.



PHOTO: JOE NETO

## SHEILA SPAETH TURNS 100

Sheila Spaeth, the wife of the late dean Carl Spaeth, will celebrate her 100th birthday on February 8. Spaeth is one of the most beloved members of the Stanford Law School community. During the 16 years her husband served as dean, she hosted countless events for both faculty and students at their home on the Stanford campus.



PHOTO: STEVE GLADFELTER



PHOTO: MISHA BRUK

## PROFESSOR FRIEDMAN FETED

A conference and Festschrift in honor of Lawrence M. Friedman was held at Stanford Law School on October 1. Friedman (above left), Marion Rice Kirkwood Professor of Law, was joined at the head table by Professor Morton Horwitz of Harvard Law School. The event brought together faculty from across the country to discuss Friedman's influence on the social history of American law. Copies of 16 papers written for the Festschrift are available on the law school's website.

## PROFESSOR WILLIAMS' 90TH

Howard R. Williams, Robert E. Paradise Professor of Natural Resources Law, Emeritus, celebrated his 90th birthday in September with faculty, staff, and friends. A luncheon and party were held in his honor at the Manning Faculty Lounge. Williams joined the law school faculty in 1963 and retired in 1985.



PHOTO: JUDITH ROMERO

## FORMER ACTING DEAN JOHN R. MCDONOUGH DIES

John R. McDonough, a longtime professor and former acting dean of Stanford Law School, died at his home in Cupertino, California, on November 11. He was 86. McDonough was a member of the Stanford faculty between 1946 and 1969 and worked in a variety of political and administrative roles in local, state, and national government.

"John served as acting dean during a critical period in Stanford's transformation from a regional institution into a law school of national importance," said Larry Kramer, Richard E. Lang Professor of Law and Dean. "His former colleagues and students mourn his loss."

Born in St. Paul, Minnesota, in 1919, McDonough was raised in Seattle and completed his undergraduate degree at the University of Washington. He received an LLB from Columbia University in 1946, where he served as note editor of *Columbia Law Review*. He was an assistant professor at Stanford Law School from 1946 to 1949, cofounding the *Stanford Law Review* in 1948. After practicing with the San Francisco law firm Brobeck, Phleger & Harrison LLP, McDonough returned to Stanford in 1952, serving as professor of law until 1969. He taught courses in the conflict of laws and trade regulation and was acting dean from 1962 to 1964.

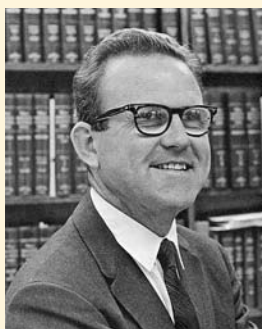
During his career, McDonough took an active interest in improving the law and the

administration of justice. He was a member of the California Law Revision Commission, the American Law Institute, and the Judicial Conference of the Ninth Circuit.

"When I came to the law school in 1953 John was a prominent member of the group of young stars that then-dean Carl Spaeth had enlisted, which also included Keith Mann, Phil Neal, and Gordy Scott," said John Henry Merryman, Nelson Bowman Sweitzer and Marie B. Sweitzer Professor of Law, Emeritus. "John was a powerhouse, with seemingly inexhaustible energy and enthusiasm for the job of building a great law school."

McDonough also participated in politics. He served as cochairman of the Santa Clara County Committee to Re-elect Governor [Edmund G. "Pat"] Brown, and was president of the Palo Alto-Stanford Democratic Council. From 1967 to 1969 he served as an assistant and later associate deputy attorney general of the United States during President Lyndon B. Johnson's administration.

From 1970 until his retirement in 1996, McDonough was a senior partner at the Los Angeles law firm of Ball, Hunt, Hart, Brown & Baerwitz (now known as Carlsmith Ball LLP). During this time he argued two cases before the U.S. Supreme Court. McDonough's wife, Margaret, whom he married in 1944, died in 2001. He is survived by his son John, his daughter Jana, and his brother Daniel.





Stanford Law School celebrated the opening of its new Clinical Center with an October 20 reception attended by faculty, students, staff, and alumni.

The center, located in the basement of the Crown Quadrangle administration building, includes a reception area, interview rooms, conference rooms, glass-walled offices for faculty and fellows, and a large, open area filled with student workstations.

"Although it was controversial at first, having all that glass was about [developing] a sense of intense community," said Lawrence C. Marshall, Professor of Law, David and Stephanie Mills Director of Clinical Education, and Associate Dean for Public Interest and Clinical Education. "We're not holing ourselves into our offices and closing the door; we're wide open and inviting interaction."

The remodeled space is larger than the clinic's previous offices, allowing more students to pursue clinical work. "The commitment that this institution is demonstrating toward building its clinics is just enormous," said Marshall. "It's a dramatic difference from where clinics were a decade ago."

The law school now operates nine clinics, in capital defense, community law, criminal prosecution, cyberlaw, environmental law, immigrants' rights, international community law (in Ghana), Supreme Court litigation, and youth and education law.

Marshall realizes that few Stanford law graduates will pursue the kind of work experienced in much of clinical education. But he wants future lawyers to consider their options when they join firms. "What makes me proudest [is] the student who calls me five years later and says, 'I'm working on this pro bono project that I took on because of my experience in clinics, and I'm really proud of it.'" Marshall said. "That's good stuff." —*Lisa Trei, Stanford University News Service*

## New Clinical Center Opens



PHOTO: LINDA A. CICERO

Third-year law students Darien Shanske (left), James Darrow, and Lauren Kofke with Pamela S. Karlan (second from left), professor and codirector of the Supreme Court Litigation Clinic



PHOTOS: ROBERT MARCH

Lawrence C. Marshall, professor and clinic director (left), Dean Larry Kramer, and Senior Lecturer David Mills



Professor William Koski (PhD '03), director of the Youth and Education Law Clinic (left), and Professor R. Richard Banks



Kathleen M. Sullivan, professor and former dean; Gordon Davidson '74 (BS '70 MS '71), chairman of Fenwick & West; and James Gaither '64, managing director of Sutter Hill Ventures



Gail Block Harris '77 (BA '74), of counsel at Simpson Thacher & Bartlett; and Louis Friedman '86 (BA '83), vice chairman, investment banking at Bear Stearns & Company, Inc.



## STUDENTS PROTEST NAVY JAG RECRUITERS

Military recruiters who came to Stanford Law School on October 3 to recruit students to the Judge Advocate General's Corps. (JAG) were met by a spirited protest attended by students and faculty. Larry Kramer, Richard E. Lang Professor of Law and Dean, spoke at the demonstration, saying that the U.S. military's policy regarding gays is "a barrier to service that makes no more sense than excluding people on the basis of race or gender."

The issue at hand was not whether the military could recruit Stanford students, or even recruit them on campus. Stanford has never barred or interfered with military recruiting. The issue was whether the law school's Office of Career Services is required to provide affirmative assistance to military recruiters by organizing student signups, arranging interview times and places, and the like. To be entitled to such assistance, an employer must first garner a certain level of student interest. In most years, interest in the military, along with many other potential employers, has been too low to meet this threshold. Even employers who meet the threshold, however, are not entitled to these services if they discriminate because of race, gender, sexual orientation, or certain other criteria. The U.S. military's "don't ask, don't tell" policy effectively discriminates against homosexuals.

Because most universities have policies similar to Stanford's, Congress passed the Solomon Amendment in 1997, requiring law schools to assist military recruiters on campus or risk losing federal funding. When Stanford and other law schools chose to forgo the modest federal aid they received (student loan support being exempted), Congress amended the statute in 2001 to expand its penalties. Unless law schools offer the affirmative assistance of their career development offices to military recruiters, federal lawmakers said, the entire university will be stripped of federal funding.

"The military's 'don't ask, don't tell' policy is in contradiction of two principles we cherish at Stanford," said Stanford President John L. Hennessy. "First, we believe that equal respect and treatment are absolutely basic to our life as an intellectual community. Second, we believe that the right to speak freely about one's ideas and one's identity is fundamental to the life of the university."

The constitutionality of the Solomon Amendment is being challenged in court. On December 6 the U.S. Supreme Court heard arguments in *Rumsfeld v. FAIR*. The Court is expected to rule on the case by the end of June. (See Letters, p. 2.)

## REFORMING FEDERAL SENTENCING GUIDELINES

The Stanford Criminal Justice Center and *Stanford Law Review* teamed up last fall to publish a special issue of the journal focused on reforming the federal sentencing guidelines. The subject gained national importance in the wake of the Supreme Court's monumental *United States v. Booker* decision last year that declared the guidelines unconstitutional.

The October 2005 issue of the *Stanford Law Review*, titled "A More Perfect System: Twenty-Five Years of Guidelines Sentencing Reform," was sent to all members of Congress, federal district and appellate court judges, and state and federal sentencing commissions.

The project was spearheaded by Robert Weisberg '79, Edwin E. Huddleson, Jr. Professor of Law and director of the Criminal Justice Center, and Marc Miller, professor at Emory Law School.

"Some of the nation's most eminent legal scholars have translated their expertise into a practical and nonpartisan body of knowledge that Congress can use as it faces this challenge of reconceiving a fair and effective federal sentencing system," said Weisberg.



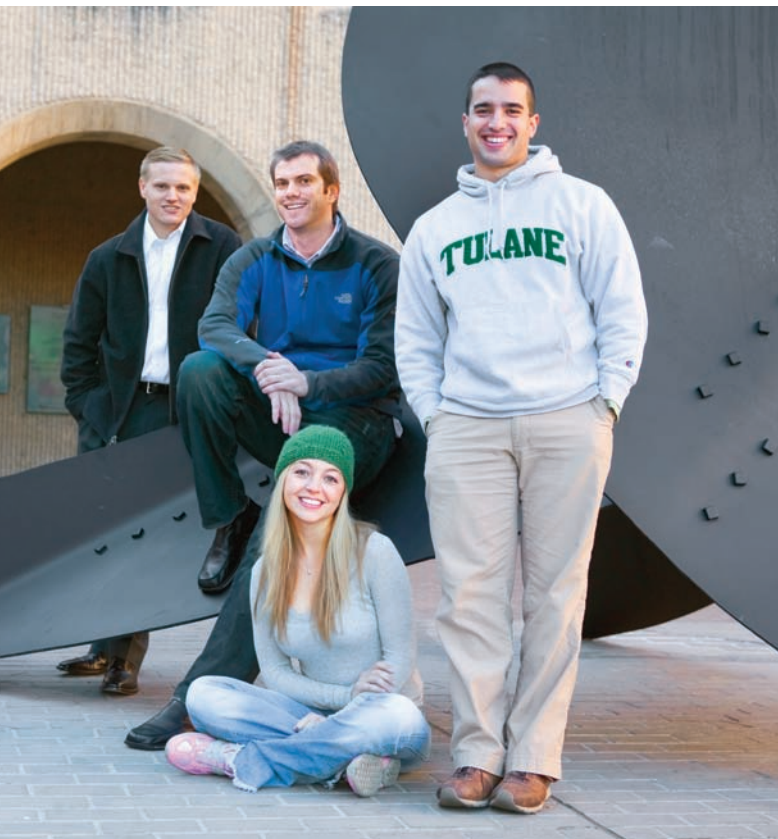
## ANTHONY ROMERO '90 KEYNOTES CONFERENCE



PHOTOS: NOAH BERGER

The seventh annual Shaking the Foundations conference held at Stanford Law School in November brought together more than 300 students, faculty, lawyers, and activists from around the country. The two-day conference for those engaged in

"progressive lawyering" was keyed by Anthony Romero '90 (above), executive director of the American Civil Liberties Union. The cochairs of the conference were second-year law students Salena Copeland and Marc Tafolla Young.



(Left to right) Tulane law students Christian Dallman, Peter Lamb, Ryan Scher (seated), and Marc Zlomek. Elizabeth Burke is not pictured.

## Tulane Law Students Attend Stanford

In the wake of Hurricane Katrina's devastating path through the Gulf Coast last August, Stanford Law School joined law schools from across the country in offering displaced students the opportunity to attend classes during the fall semester.

Five third-year law students from Tulane University School of Law, where Stanford alumnus Lawrence Ponoroff '78 is dean, took up Stanford's offer. The five students—Christian Dallman, Peter Lamb, Ryan Scher, Marc Zlomek, and Elizabeth Burke—attended the fall semester on the Stanford campus and plan to return in the spring semester to Tulane, where they will complete their degrees.

Like most other law schools, Stanford did not charge the students tuition for the fall semester. Instead, the students paid fall tuition to Tulane, helping that university continue to pay faculty and staff while the campus is being rebuilt. (See p. 63 for Dean Ponoroff's description of his ordeal at Tulane.)

PHOTO: STEVE GLADFELTER

## LAW SCHOOL NAMES NEW ASSOCIATE DEAN FOR COMMUNICATIONS



PHOTO: JUDITH ROMERO

**SABRINA JOHNSON** became Stanford Law School's associate dean for communications and public relations in October. Johnson joined Stanford from Amgen Inc., where she served most recently as director of global external communications.

She brings to the law school nearly 20 years of experience in communication management: At Genentech, Inc., she was director of corporate public relations; at Levi Strauss & Co. she was director of European communications in its Brussels office and served in a variety of communications roles at the company's San Francisco headquarters.

"What law schools do has changed enormously over the past decade, and so have our communications needs," said Larry Kramer, Richard E. Lang Professor of Law and Dean. "This is especially true for Stanford Law School, which has an amazingly diverse intellectual program. Having someone with Sabrina's experience will enable us to communicate more effectively who we are and what makes this such a special place."

## LAW SCHOOL NAMES NEW ALUMNI RELATIONS DIRECTOR



PHOTO: JOHN LESCHORS

In September, **CHRISTINA STEMBEL** joined Stanford Law School as director of alumni relations. "We are thrilled that Christina accepted our offer to direct the law school's alumni relations program," said Catherine Nardone, associate dean for external relations. "She brings creativity, program development skills and a fresh approach that will serve our alumni well."

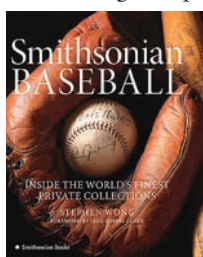
Christina came to the law school from Stanford University's Residential and Dining Enterprises. Prior to joining Stanford in 2003, Stembel was owner of 75ARK, an avant garde hip-hop music label that primarily showcased San Francisco Bay Area-based artists. She has also held operations and senior management positions in the hospitality industry.



## ALUMNI PUBLISH ACCLAIMED BOOKS ON SPORTS

### BASEBALL MEMORABILIA

Stephen Wong '92 is one of the world's leading collectors of baseball memorabilia. He spent the last several years chronicling and photographing the

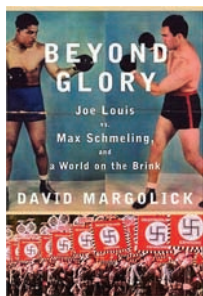


private collections of others, publishing the results of his journey in *Smithsonian Baseball: Inside the World's Finest Private Collections*

(Smithsonian Books/Harper Collins, 2005). "The result is a magnificent album of baseball mementos—by turns, beautiful, peculiar and hilarious," according to an October book review in *Sports Illustrated*. "If there were an MVP award for baseball memorabilia collecting, Stephen Wong would be a lock to win."

### JOE LOUIS V. MAX SCHMELING

Author David Margolick '77 delivered a knockout punch of his own with the publication of his most recent book *Beyond Glory: Joe Louis vs. Max Schmeling, and a World on the Brink*



(Alfred A. Knopf, 2005). According to a December review in *The New York Times*, Margolick "does a wonderful job of recreating an era at the start of

*Beyond Glory*, his chronicle of the 1938 title fight between Joe Louis and Max Schmeling." Margolick, a contributing editor at *Vanity Fair*, is also the author of *Strange Fruit*, which chronicles the life of the song "Strange Fruit" and the singer who popularized it, Billie Holiday.

## MAKING THE GRADE

**KUDOS:** In January, U.S. Supreme Court Justice **Sandra Day O'Connor '52 (BA '50)** served as grand marshal of the 2006 Rose Parade in Pasadena, California. **Amalia D. Kessler (MA '96, PhD '01)**, assistant professor of law, was awarded the Surrency Prize by the American Society for Legal History at its annual conference held in November. The award was given to Kessler for her article, "Enforcing Virtue: Social Norms and Self-Interest in an Eighteenth-Century Merchant Court," in *22 Law and History Review* 71 (Spring 2004). **William Thorne, Jr. '77** was named one of the "First 50" minority attorneys in Utah by the Utah Minority Bar Association, to honor those who overcame obstacles in the legal field. In October, **R. Anthony Reese '95**; **Dan Burk, JSM '94**; and **Lawrence Lessig, C. Wendell and Edith M. Carls Smith Professor of Law**, were named fellows of the World Technology Network. For the second year in a row, **Ann Marie Rosas '07** captured first place at the National Law School Chess Tournament held in October. **Sharon Brown '94** was honored at the Black Women Lawyers Association of Los Angeles annual dinner, held in September, for her year of service as president of the association. A dinner in honor of **W. Richard West, Jr. '71** was held in November by the Red Earth Museum and Gallery in Oklahoma City.

**APPOINTMENTS & ELECTIONS:** In October, Cardinal Health, Inc., a \$65 billion health care company headquartered in Dublin, Ohio, named **Ivan K. Fong '87** as chief legal officer and secretary of the board of directors. **Robert W. René, JD/MBA '83** was named interim chief executive officer of MD Helicopters, Inc., a Mesa, Arizona, manufacturer of military and commercial helicopters. In September, Santa Clara University appointed **David C. Drummond '89** to its board of trustees. **Jonathan Drucker '85** has joined Polo Ralph Lauren Corp. as senior vice president and general counsel. In October, the Redwood City, California, biotechnology firm Threshold Pharmaceuticals, Inc., appointed **Michael Ostrach '76** to the position of chief operating officer and general counsel. **Tonik Barber '81** was named senior vice president, business affairs, and general counsel of VIZ Media, LLC., a San Francisco company that licenses Japanese manga, animation, and entertainment for the U.S. market. In August, the Palo Alto, California, pharmaceutical company Affymax, Inc., appointed **Philip Haworth '93** as vice president of business development.

**THE PRESS ANOINTS:** The *Daily Journal* named eight Stanford Law School faculty and alumni to its September list of the "Top 100 Lawyers in the State" of California—Hon. **Warren Christopher '49**; **Mary Cranston '75 (BA '70)**; **David C. Drummond '89**; Hon. **Ronald George '64**; Hon. **Carol Lam '85**; **Fred von Lohmann '95 (BA '90)**; **Mark A. Lemley (BA '88)**, William H. Neukom Professor of Law; and **Kathleen M. Sullivan**, Stanley Morrison Professor of Law and former dean. In September, the *National Law Journal* ranked Stanford as one of the top 10 law schools from which the 50 largest law firms hire first-year associates. *The Wall Street Journal* named **Penny Pritzker, JD/MBA '84** to its second annual list of "Top 50 Women to Watch" around the globe. **Elena Duarte '92**, **Bonnie Eskenazi '85**, and Professor **Kathleen M. Sullivan** were honored in September as three of the "Top 75 Women Litigators" in California by the *Daily Journal*. In September, *Hispanic Business* magazine ranked Stanford as one of the nation's "Top 10 Law Schools for Hispanics." The *Daily Journal* named **Norman Blears '80** and **Jordan Eth '85** to its list of California's "Top 30 Securities Litigators."



# Alumni Weekend

Saturday's tailgate party (below), held on the lawn outside the law school's Kresge Auditorium, offered a fun time for all. A balloon man entertained children with hats, animals, and other creations; members of the class of 1955 gathered for lunch.

PHOTOS: ROBERT MARCH



Emeritus professor John Henry Merryman led a tour of the outdoor sculptures that adorn Stanford's campus, including Dimitri Hadzi's *Pillars of Hercules III*, a bronze from 1982.

PHOTO: STEVE GLADFELTER

## 2005

David C. Drummond '89 (right), vice president of corporate development and general counsel for Google, Inc., was the keynote speaker at Thursday's Dean's Circle dinner. Brad '55 (BA '53) and Dorothy Jeffries (below) at the Dean's Circle dinner.

PHOTOS: ROBERT MARCH







Hon. Robert Worth '55 (BA '53) (top left) and Bill Abrell '55 (top right) donned a pair of the Stanford caps. Balloons sporting the law school's colors festooned the corridors around Cooley Courtyard.

PHOTOS: STEVE GLADFELTER



Saturday evening's reunion dinners were held in festive tent pavilions on Canfield Courtyard, just across from the law school. The dinner provided an opportunity for alumni, and potential future alumni, to get together. (Left to right) Katrina McIntosh '00 and her baby, Olivia; Shannon Eagan '00; and Maureen Lewis '00.

PHOTOS: ROBERT MARCH



Stanford University's annual alumni celebration, held October 20 to 23, brought more than 650 law school alumni, family, and friends back to the campus for a weekend of fun, learning, and friendship.

The festivities opened with the traditional Dean's Circle dinner, held Thursday evening at the Bechtel Conference Center in Encina Hall. An event to recognize and honor the school's top donors, it boasted a crowd of nearly 200. David C. Drummond '89, vice president of corporate development and general counsel of Google, Inc., and one of the newest members of the Dean's Circle, keynoted the evening.

The fall weather during reunion weekend couldn't have been better—it enabled Friday's alumni luncheon and Saturday's tailgate party to be held outdoors. Adults and children alike enjoyed the barbecue, ice cream, and balloon-blowing clown at the tailgate party. Those who went on to the football game were awarded with a victory as Stanford beat Arizona State by a score of 45 to 35.

It wouldn't be Alumni Weekend without the usual selection of stimulating panel discussions on important, controversial, and topical subjects (see next page). Friday led with the panel "National Security: At What Cost?" followed by an afternoon session, "Controlling the Bench: The Impeachment of Justice Samuel Chase Revisited." Saturday afternoon's panel, "From Despair to Hope? The Reconstruction of New Orleans and Its Effect on U.S. Poverty," attracted a large crowd.

There were numerous opportunities during the gathering for alumni to get reacquainted. Besides the luncheons, there was a special reception for alumni and students of color held on Friday afternoon, followed by an evening reception for all alumni held in the law school's Crocker Garden. For many attendees the highlight of the weekend was the Saturday reunion dinner, when each class got together in its own private tent for an evening of cocktails, dinner, and regaling.



## REBUILDING THE GULF COAST

Hurricane Katrina did more than wreck the Gulf Coast. It also exposed some of the deep social problems that ravage the country on a daily basis. Stanford Law School and Stanford Alumni Association brought together an esteemed panel to discuss these critical issues and to suggest ways that the federal government can help solve them.



Panelist Reuben Jeffery III, JD/MBA '80, chairman of the Commodity Trading Futures Commission and former special assistant to the president



Panelist Josh B. Bolten '80, director of the Office of Management and Budget, Executive Office of the President of the United States (left) with panelist Leon Panetta, former director of the Office of Management and Budget and former White House chief of staff for President Bill Clinton



Moderator Hon. Richard L. Morningstar '70, former U.S. ambassador to the European Union

PHOTOS: ROBERT MARCH

## DEBATING NATIONAL SECURITY



Moderator Carlos Watson '95, CNN political analyst



Panelist Heather MacDonald '85, John M. Olin fellow, Manhattan Institute, and contributing editor at City Journal



Panelist Jenny S. Martinez, assistant professor of law

The September 11, 2001 terrorist attack on the United States changed the balance that exists in this country between upholding civil liberties and ensuring national security. Or did it? Stanford Law School and Stanford Alumni Association assembled a distinguished panel of experts to debate the impact that global terrorism is having on our nation and its laws.

PHOTOS: STEVE GLADFELTER

## IMPEACHING JUSTICE SAMUEL CHASE

Justice Samuel Chase is the only member of the U.S. Supreme Court to be impeached. His trial, held in 1805, raised a number of important issues that are still debated today. What constitutes an impeachable offense? What relationship should the judiciary have with other branches of government? Stanford Law School staged a reenactment of the impeachment trial.



Stanford 3L Mike Kass arguing for the impeachment of Justice Samuel Chase



Stanford 3L Lauren Kofke arguing against the impeachment of Justice Samuel Chase



Jury member Hon. Fern Smith '75 (BA '72), retired judge of the U.S. District Court, Northern District of California

PHOTOS: STEVE GLADFELTER



# From Silicon Valley to CNN



BY ERIC NEE

Carlos Watson '95 cofounded, led, and eventually sold a successful Silicon Valley startup. Now a regular contributor on CNN, he provides political commentary, writes a column, and occasionally hosts his own interview show.

Four years ago, Carlos Watson '95 was at a turning point in his career. After starting and then leading a successful educational counseling company, he sold the business to a subsidiary of The Washington Post Company. At 32, with an undergraduate degree from Harvard College, a law degree from Stanford University, a stint at McKinsey & Company, and now a successful venture under his belt, Watson had plenty of opportunities before him.

Instead of launching another startup, as so many Silicon Valley entrepreneurs are wont to do, or working as an attorney, venture capitalist, or business executive, Watson once again took a risk and set his sights on television. He decided to pursue a wide-ranging interview show, one that would match his eclectic interests with his love of biographies, conversation, and people. It would be similar to *The Charlie Rose Show*.

Fat chance, one might say. After all, what were the odds of being able to land your own national interview show? A million to one? Ten million to one? Most people wouldn't even attempt it.

But Watson isn't easily dissuaded. After all, what were the odds of the son of a Jamaican immigrant—a kid who was kicked out of school while still in kindergarten—graduating with honors from Harvard and Stanford? What were the odds of turning one's passion for working with teens into a successful business that sells for millions of dollars to one of America's premier companies?

But with his usual determination and a healthy dose of optimism, Watson decided he wanted to be on television, and that was that. "I started pitching the show in late 2002. People would say, 'Hey. You're great. But you've never done this before.'" After getting turned down by a number of networks, both Fox and Court TV suggested that he start off as a guest on their existing shows. "So I was a guest. And if you do well the first time they invite you back." Which they did.

### Prime-time Breakthrough

His big break came in the summer of 2003 when CNBC gave him the opportunity to host a prime-time national interview special on Labor Day, a day when there isn't much business news to report because the stock market is closed. "They said, 'If you think you can do a younger, hip-

per, fresher version of *Charlie Rose*, come on.'" Watson put together a show that featured presidential candidate Howard Dean, quarterback Joe Montana, and future *Desperate Housewives* star Eva Longoria.

The show did remarkably well in the ratings, so Watson was invited back to do a second one, which also went well. That prompted CNBC to offer Watson his own interview show. But CNN was also interested, and offered Watson the chance to be a regular contributor on its newscasts. "It was a very tough decision, because I really wanted to do the interview show, but I loved CNN."

Watson went with CNN. It proved to be a wise choice. During the last two years, Watson has appeared regularly as a political commentator on CNN, often five times a week or more. He helped cover the presidential debates and was co-anchor of the network's 2004 election night coverage alongside veterans Wolf Blitzer, Larry King, and Jeff Greenfield.

He also has a widely read column on CNN.com that gives him the opportunity to write about a broad range of issues. (See p. 20 for excerpts from his column "The Inside Edge with Carlos Watson.") Because he lives in California and regularly travels around the country, Watson often picks subjects unfamiliar to Washington insiders. "I was one of the first to write about the role political blogs would play in the presidential election; I was also the first national columnist to write about Barack Obama," Watson said. His columns often draw nearly a million readers.

On CNN, Watson has also hosted two airings of his own prime-time interview show, *Off Topic with Carlos Watson*, featuring a diverse lineup of stars including basketball great Shaquille O'Neal, U.S. Senator Barrack Obama (D-Ill.), California Governor Arnold Schwarzenegger, and super-model Heidi Klum. Watson's goal is to offer viewers the unexpected. "Everyone knows that Heidi Klum is sexy. But what they don't know is that she runs a \$100 million business with operations around the globe. She's a serious entrepreneur."

"A lot of people get a shot at TV. But it doesn't work out. They are boring, inarticulate, or haven't done their homework," said CNN anchor Wolf Blitzer. "Carlos was a natural. He always does his homework. He's easy to work



with and has a good sense of humor. He has a great smile, and he comes across well on TV.”

“Carlos is destined to be a television star, if that is what he wants,” said Princell Hair, a senior executive at CNN.

“He is telegenic, charismatic, smart as heck, and a natural in the business. I have rarely seen someone with such ease in front of the camera and the ability to connect with people in the way he does.”

Watson was a novice when it came to television, but he had already worked in both politics and media, as a campaign manager and as a newspaper reporter. He published more than 70 articles in *The Miami Herald* and the *Detroit Free Press* during summer breaks from college. While studying politics at Harvard, Watson also worked for former Miami mayor Xavier Suarez, retired U.S. senator Bob Graham, and former Democratic National Committee chairman Ronald Brown. After Harvard, he served as chief of staff and campaign manager to Florida Representative Daryl Jones, managed Bill Clinton’s 1992 election day effort in crucial Miami-Dade County, and wrote political policy papers.

“He’s not only incredibly smart and motivated, but he’s an extremely nice person who is genuinely interested in other people,” said classmate Phoebe Yang ’95, vice president for business strategy and digital media at Discovery Communications Inc. “He has the ability to ask tough and substantive questions of people without them feeling attacked. It’s why he is able to get interviews that even seasoned reporters can’t get.”

### Inauspicious Beginnings

For all of Watson’s current success, it wasn’t always obvious that he would do so well. Quite the opposite. “My mom always likes to joke that anyone who saw my first 10 years would not have predicted my last 10—except for a mother,” said Watson. His problems started the first day of kindergarten. “The teacher would ask a question like, ‘What’s 2 plus 2?’ And I would answer, ‘Yellow.’” He knew that the answer was 4. Thanks to his older sister, he could add when he was 3, which was one of the reasons he didn’t like to give a straight answer to what he thought was a dumb question. He was bored. So bored and disruptive that he got kicked out of kindergarten a dozen or more times. “Eventually my parents

had that conversation with the principal that went something like, ‘Guess what. We need your kid to go elsewhere.’”

So Rose and Carlos Watson senior had to find another school for their youngster. “It’s to my parents’ credit that



PHOTO: CABLE NEWS NETWORK (CNN)

(Left to right) Cable News Network anchor Wolf Blitzer, senior analyst Jeff Greenfield, and political analyst Carlos Watson discussing the 2004 presidential debates during CNN’s coverage of the second presidential debate held at Washington University in St. Louis.

they didn’t completely give up and lose confidence in me,” Watson said. But the Watsons believed strongly in education. Both had earned graduate degrees, and Watson’s maternal grandmother and grandfather both graduated from college. So did all six of his grandmother’s siblings—quite an accomplishment for any family, and certainly noteworthy for African Americans raised in Mississippi in the early 1900s.

Rose Watson worked first as a teacher and then as an administrator in charge of international students and services at Florida International University. Watson’s Jamaica-born father came to the United States as a teenager in the 1950s. He became a sociology professor at Florida International University in Miami. These were good jobs, but they didn’t pay enough to support a family, so both often worked second and even third jobs teaching in community colleges and evening high school programs.

### In an Academic Groove

Around fifth grade Watson’s academic career began to turn around. And in seventh grade he received a scholarship to attend one of Miami’s oldest and most elite private schools, Ransom Everglades School. He was a top student academi-



cally, elected class president three years running and student body president his senior year. Watson excelled in athletics as well, quarterbacking the varsity football team, starting on the basketball team, and competing in track. He was an editor of the school newspaper, and worked summer jobs at grocery stores and law firms to help pay for his schooling.

Still, when it came time to think about college, Watson was not sure where he should apply. "There was no doubt I was going to college because that was expected in my family," Watson said. But he credits Ransom's college counselor with convincing him that he could be admitted to any college in the country. "Even though I knew that other kids at Ransom had gotten into these colleges and that I was one of the top students in my class, to hear her say it was significant, and it gave me confidence."

That's how the kid who had gotten kicked out of kindergarten and had been labeled by one teacher as possibly developmentally delayed found himself applying and being admitted to Harvard, Princeton, Stanford, and Brown. Watson chose Harvard.

At Harvard, Watson was like a kid in a candy store. "I remember looking at the course catalog and thinking, 'I get to choose only 32 classes over my four years!' There were 32 classes I wanted to take that first semester." He took graduate-level courses at Harvard Business School, Harvard Graduate School of Education, and the John F. Kennedy School of Government. Watson eventually focused his interest to major in government, which allowed him to study with noted political scholar Martin Kilson. "He made me an intellectual optimist," said Watson. "He made me not only believe that things could be better, but he actually showed us how things had already gotten better and how they could keep getting better."

After graduating from Harvard with honors, Watson worked for a year and a half as chief of staff for Florida representative Daryl Jones. "It was an opportunity for me to learn a lot about the legislative process and about campaigns," said Watson. As much as he enjoyed politics, Watson decided to apply to law school after being strongly encouraged to by his father. "My dad was worried that I wasn't going to attend graduate school," Watson said. "After a lot of soul searching, because it wasn't obvious to me that it was the right thing to do, I ended up applying to law school."

### Ideas Taking Shape at SLS

Watson saw a legal education and a law degree as a path to other careers. "Daryl, my boss at the time, was a lawyer, Bob Graham was a lawyer, and Ron Brown was a lawyer," said Watson. "That deepened my hunger for a law school that wasn't overly traditional." That was one of the reasons he chose Stanford.

"I liked the fact that Stanford didn't feel predictable and straitlaced," Watson explained. Law students were counseling clients at community clinics, working for public interest organizations, and interning with venture capitalists. "The students seemed like they were making things happen. I liked Stanford's entrepreneurialism."

It could almost be said that Stanford helped bring out Watson's inner entrepreneur. "I started several businesses while I was at law school," Watson said. At the time Snapple was becoming a popular drink, so Watson rented five vending machines, struck a deal with a Snapple distributor, and installed Snapple beverage vending machines at Stanford and at nearby Menlo College. "I was a rookie, but it was a good experience. I made just enough money to buy dessert for my girlfriend and me at Max's Opera Café," he joked.

A second venture was a student calendar business that Watson created with Ira Ehrenpreis JD/MBA '95. The two created a poster-like calendar with paid advertising around the perimeter and gave them to Stanford students. "It was a way to get entrenched in the Stanford community, meet interesting people, and have fun doing something together," said Ehrenpreis, now a partner at the venture capital firm Technology Partners in Palo Alto.

### A Passion Turns into a Business

Watson is the kind of person who enjoys whatever he happens to be doing at the time. But even for him, some kinds of work are more rewarding than others. That was certainly true at Achieva, the company he co-founded to provide college counseling to high school students. "I think this was a way of giving back to the community while pursuing his dream of creating a business," said Ehrenpreis.

Watson's passion for working with teens began at Harvard. For two and a half years Watson volunteered as a counselor in the Inner City Outreach Program tutoring elementary school children in Dorchester, Massachusetts. During his sophomore year, Watson also became a student teacher at Boston English High School. "The very first day I was at Boston English I couldn't get control of the kids," Watson remembered. "So like any new teacher I desperately looked to find something that would captivate them. I realized that most of them came from families where no one had gone to college, so I started talking to them about college and working with them on their applications."

"I wasn't just helping kids go from 12th grade to freshman year, but in some ways I was helping them go from childhood to adulthood. They had to think about questions like, What do I want to become? Where do I want to live? What do I want to study? What kind of friends do I want to make? There is something really powerful about being there when the kids are going through this process. It was a won-

# THE INSIDE EDGE WITH CARLOS WATSON

Carlos Watson pens an occasional column for CNN.com, titled “The Inside Edge with Carlos Watson.” From his perch in Silicon Valley, Watson weighs in on everything from California Governor Arnold Schwarzenegger’s political future to the impact of Hurricane Katrina on American politics. Below are excerpts from several of his columns.

## “The Rise of the Online Citizen”

March 22, 2004

For years, conservatives have successfully used talk radio to excite their base, raise new issues, target opponents and raise money. After years in the wilderness, liberals may have finally found an answer. Not the new liberal talk radio network, but blogs—formally known as web logs. The online discussion groups have become the liberal version of conservative talk radio.

The Democratic presidential primary took Internet blogs from a politico-techie niche to powerful political status. Today, liberals are regularly using blogs like Daily Kos, Talking Points Memo and others to motivate their base, raise political issues and, ultimately, help determine races.

## “Feel Lucky? Google IPO Could Be a Boon for Bush”

April 28, 2004

It may sound strange, but a company in the bluest of blue states may play a big role in helping to return President Bush to office this fall.

Google, the highly successful Internet company in California, is planning an initial public offering (IPO) of its shares on the stock market soon. If successful, Google is expected to raise billions of dollars and make its founders, officers and investors Internet-boom rich.

From a political perspective, a successful Google IPO is likely to signal the return to prosperity for the Silicon Valley after four hard years of recession.

And the revival of the Silicon Valley would likely lead to a resurgence in the California economy as a whole.

For President Bush, greater job growth and consumer confidence in the nation’s most populous state (where the unemployment numbers have been worse than national averages) could transform national employment rates and form an optimistic consensus around his argument that the economy is strong and growing.

So while much attention is being focused on the April job growth report, this spring keep your political eye on Google’s IPO.

## “Nuclear Blackberry?”

June 19, 2005

A truly profound debate about American safety and security is flying far below the public radar.

At issue is whether the United States should change its decades-old nuclear policy and pursue a new class of “small nuclear weapons” that could be the size of Blackberries.

Congress has taken up the debate this spring in response to the Bush administration’s request for \$4 million dollars to research a new kind of nuclear weapon that would be both smaller in size and explosiveness.

In a \$2.6 trillion dollar annual federal budget, the proposed \$4 million is not a lot of money. But the concept is a big one.

Indeed, despite some efforts to downplay its import, the debate over whether to research small nuclear weapons (some of which are called “bunker busters”) could be a tipping point in U.S. nuclear policy.

## “Supreme Surprises?”

July 22, 2005

In an era in which wealthy people ([Justice John] Roberts, by the way, has a net worth of \$3.8 million) with access to better health care, better nutrition and an overall higher standard of living, are increasing their life expectancies, what may one day be most memorable about Roberts, if he is confirmed [to the Supreme Court], is that he may be the first 50-year term justice.

Potentially, he could serve twice as long as retiring Justice Sandra Day O’Connor [52]. Roberts is 50 years old, and if fate, luck and his health allow it, it is conceivable that he could serve on the bench for a half century.

Significantly, if Americans grasped that reality, would they look at him (or any candidate) differently? And would the example of Roberts and other long-serving justices one day lead to a constitutional amendment to limit the life tenures of federal judges?

This baby boomer’s tenure may one day raise some fundamental questions about the judiciary.



derful thing to see.”

Watson underwent a similar life-changing experience years later. In the summer of 1996, Watson was on vacation in Brazil with two of his sisters. At the time Watson was working at the management consulting firm McKinsey & Company. He was having a good time at McKinsey—advising CEOs of major banks and technology companies, traveling to Europe, and making lots of money. But when talk turned to what each of them wanted to do with their lives, Watson realized his passion lay elsewhere. That’s when he hit on the idea of starting a business that provided college counseling to teens.

So without much hesitation, Watson set about doing just that. He enlisted his sister, Carolyn Watson, who at the time was a manager for an academic-enrichment program in Washington, D.C., and one of his best friends from Harvard, Jeff Livingston, who was an investment banker in New York City for Merrill Lynch. All three of them quit their jobs to start Achieva.

“My dad was understandably a bit panicked. Not only had I left a high-paying job at a top firm, but I had talked my sister into quitting her job as well,” Watson said.

Achieva began by selling college counseling services to individual parents and schools. The company’s tutors worked

academic and testing counseling to students in grades 6 through 12; began supplementing its own tutors with online counseling tools, books, and teacher workshops; and began selling its services to entire school districts. “Instead of selling contract deals one kid at a time, we could sign six- and seven-figure deals, which is what we did,” said Watson.

“One of the things he did effectively as CEO was that he sought out the advice of lots of people. He was committed to learning,” said Issac J. Vaughn, a partner at Wilson Sonsini Goodrich & Rosati in Palo Alto. Vaughn served as outside counsel for Achieva. “You have to be able to bring in people around you that could execute. And he did that.”

By 2001, just five years after Achieva was founded, the company was counseling nearly 100,000 students in 20 states. It had contracts with school districts in San Francisco; Washington, D.C.; Chicago; Miami; and New York. At the end of 2001, an agreement had been reached to sell Achieva to Kaplan, Inc., one of the nation’s leading providers of educational and career services. Watson spent the first part of 2002 helping Achieva make the transition from an independent company to being a part of Kaplan. Once that was done he took time off to travel and reflect before embarking on his latest career as a television commentator and host.

So what’s next for the multitasking Watson? “These first three years in TV have been an incredible learning experience for me, and I feel like I have gotten my feet wet. I am having the time of my life, and I love my work. I plan to stay in this industry for some time.” And when he is not in a CNN studio or researching his next piece, he is always up for a good pickup game of basketball. Even in the course of his travels he usually finds a local game to join. “I play at YMCAs all over the country. I play overseas, in Iceland, Zimbabwe, France, Brazil—you name it. I love to play.”

What does Watson plan to do after television? He isn’t talking, but don’t be surprised if his next act is on the political stage. After all, he has the sort of biography, smarts, and personality that voters love and political parties drool over. “It’s a career that is well suited to his talents,” said Laurene Powell Jobs, one of the initial investors in Achieva. “He has a great policy

mind, and he’s very charismatic. Honestly, I hope he does go into politics. We need people like him.” ■



PHOTO: COURTESY OF CNN

Carlos Watson interviews California Governor Arnold Schwarzenegger in January 2005 for his show *Off Topic with Carlos Watson*.

with students one-on-one or in small groups. Achieva’s growth took off after it expanded its market to provide



A large, moss-covered tree stands in a field of dry grass and fallen leaves. The tree's branches are thick and gnarled, with a dense network of smaller branches extending upwards. The ground is covered in a mix of green grass and brown, fallen leaves. In the background, there are more trees and a hilly landscape under a cloudy sky.

# Forging a New Path for the Environment

**As codirector of the Stanford Institute for the Environment, law professor Buzz Thompson, JD/MBA '76 (BA '72) brings together lawyers, biologists, geophysicists, economists, and other experts from around the university to solve some of the world's most pressing environmental problems.**

**BY THERESA JOHNSTON**

**PHOTO BY SAUL BROMBERGER AND SANDRA HOOVER**







During the 1977–78 U.S. Supreme Court term, Barton H. “Buzz” Thompson, Jr. clerked for Chief Justice William H. Rehnquist ’52 (BA/MA ’48). Once a month, Thompson sat down with his fellow law clerks to divvy up the workload. This was the year of the famous *Bakke* affirmative action ruling, and the other fledgling lawyers in the room were eager to work on the case. Thompson, JD/MBA ’76 (BA ’72) was the exception. He had his eye on *TVA v. Hill*, an explosive lawsuit pitting supporters of the snail darter, a tiny endangered fish, against builders of a nearly complete \$80 million dam on the Little Tennessee River.

There were other significant environmental cases on the High Court’s docket that term. One dealt with provisions of the new Clean Water Act; another related to the construction of nuclear power plants. Thompson raised his hand for every one. “I really wasn’t interested in the *Bakke* decision,” he says now, sitting in his Stanford office. “I wanted to draft the environmental and resources decisions. And I got to work on all of them.”

Since joining the Stanford Law School faculty in 1986 and serving as vice dean from 2000 to 2004, Thompson has shared his enthusiasm for environmental and natural resources law with hundreds of students through his popular courses on property, water law, and natural resources policy. At the same time, he’s worked hard to beef up the law school’s environmental program. Environmental course offerings at the law school have increased threefold from a decade ago, when Thompson was named the Robert E. Paradise Professor of Natural Resources Law. Students are learning more through case studies and practicing what they’ve learned in the thriving Environmental Law Clinic that Thompson helped found.

As Larry Kramer, Richard E. Lang Professor of Law and Dean, puts it, “If Stanford is one of the three schools that can plausibly claim to have the best environmental law program in the country, that’s because of Buzz. Period.”

Now Stanford President John Hennessy has asked the affable law professor to step beyond Crown Quad to codirect an even more ambitious environmental project—the multimillion-dollar interdisciplinary research center known as the Stanford Institute for the Environment (SIE). Modeled after the university’s massive Bio-X program, which brings physicians, scientists, and engineers together under one roof to solve problems in the life sciences, SIE

aims to consolidate and enhance the university’s many existing environmental programs and attract new scholars conducting cutting-edge research in the field.

SIE serves as the interdisciplinary catalyst for Stanford’s larger, campus-wide Environmental Initiative, led by Thompson, his fellow SIE director, Jeffrey Koseff, professor of civil and environmental engineering, and School of Earth Sciences dean Pamela Matson. With both a lawyer and an engineer directing its efforts, SIE is well positioned to encourage the collaboration critical to addressing today’s complex environmental issues.

Plans are under way for the \$110 million environment and energy building that will house about 40 faculty and 200 graduate students—from marine biologists and petroleum experts to conservation lawyers, geophysicists, and sanitation engineers. In the meantime, Thompson and his colleagues are overseeing an innovative interdisciplinary research grant program, conducting searches for new endowed professorships, and arranging strategic partnerships with some of the biggest names in environmental science.

As Hennessy told Stanford’s Faculty Senate in April 2004, “Some of our most daunting challenges are environmental ones. . . . Today, over 1 billion people lack access to clean drinking water, and over 2 billion lack access to suitable sewage treatment systems. At the same time, we are literally changing the face of the planet. Human activities are driving the extinction of species at faster rates than we have ever seen. The world population is expected to grow by several billion people over the next half century, and energy demands are likely to grow even faster. . . . In recent years, we started asking ourselves: Given the university’s great research and education programs, how can Stanford most effectively contribute to addressing these complex problems?”

While Stanford has a long and productive history of environmental scholarship—from biology and earth sciences to environmental engineering, economic environmental policy, and environmental law—the university has lacked the infrastructure to encourage their interplay and growth. SIE is playing a major role in helping interweave and develop environmental scholarship. “This is an enormous undertaking,” Hennessy acknowledged. “But if we are to learn how to live on this planet in an environmentally sustainable way, if we are to leave something to be proud of for our ‘children’s children’s children,’ we must begin.”

Environmental course offerings at the law school have increased threefold from a decade ago.



# Stanford legal scholars are beginning to work much more closely with scientists and engineers.

## Water Wonder

When he was growing up in west Los Angeles in the 1960s, Thompson wasn't particularly attuned to environmental problems. True, he spent a lot of time hanging out at the beach, and he enjoyed sailing. But like most suburban kids, he said, "I grew up appreciating creature comforts. I had no idea where my water was coming from." As a Stanford undergraduate, Thompson chose to major in economics. Later, when he enrolled in Stanford Law School's JD/MBA program, he thought he'd probably become a tax attorney.

The turning point came during his second year of law school, when Thompson signed up for a course in water law given by Professor Charles J. Meyers, who would become dean of Stanford Law School from 1976 to 1981. "I figured water law was probably a course on admiralty law or something of that nature, where you studied things that floated on the water," Thompson recalled, laughing. "Well, it turned out to be something totally different. As taught by Charlie, it was the most interesting subject I had ever studied."

Thompson loved water law because it was concerned with a complex, interconnected resource that generated high political tensions, especially in California. It was also an area where a young lawyer could make a difference. Above all, Thompson appreciated its interdisciplinary nature: "You clearly had to understand the politics. You had to think about how you could use economics to improve allocation. You had to understand history—because the history of an area and water resources are intimately linked. And then of course you had to understand hydrology and all of the various sciences surrounding it."

After his Supreme Court clerkship, Thompson worked on a variety of cases as a litigator for O'Melveny & Myers in Los Angeles, including securities and tax matters. Yet there was something about the environment and natural resources that kept drawing him back. For a while he taught water law as a lecturer at UCLA. Then, in 1986, Thompson joined the Stanford faculty and started a new course on natural resource development, using the oil industry as a model.

Since that time, Thompson, working closely with other law school faculty and staff, has made it his mission to modernize the way environmental law is taught. One innovation, in 1997, was the establishment of Stanford's popular Environmental Law Clinic, which gives eight to 10 students each semester hands-on experience providing free legal counsel to real clients, from national organizations like the

Sierra Club to grassroots local groups like Voices of the Wetlands and the Coastal Alliance on Power Expansion.

Teaching methods have changed as well. Instead of reading only appellate opinions, today's environmental law students—about 10 percent of the class—delve into real-life case studies, just as MBA students do over at the Graduate School of Business. And just like real lawyers, they are expected to master complex interdisciplinary subjects quickly.

One of Thompson's favorite environmental case studies involves the Delhi Sands flower-loving fly, an endangered insect that held up construction of a Southern California hospital in the late 1990s. The assignment: If you had been an assistant solicitor to the Department of the Interior, how would you have advised the Fish and Wildlife Service to deal with this? "Students have to become experts on the biology of the fly before they can talk about this particular case study, and that means they have to read about numbers," Thompson said. "Ninety percent of law school students are numberphobes. They hate anything that looks like math. But if you're going to be an environmental lawyer, you have to be reasonably comfortable reading scientific studies."

Now that Thompson has stepped beyond the law school to build the interdisciplinary Stanford Institute for the Environment, his daily presence on Crown Quad is missed. Yet his boss, Dean Kramer, is convinced that Thompson's historic appointment (he's the first law professor tapped to codirect one of the university's key interdisciplinary programs) will reap rewards for both the school and the planet. Second- and third-year law students, in particular, are flocking to interdisciplinary classes supported by SIE. And Stanford legal scholars are beginning to work much more closely with scientists and engineers who need help translating their good ideas into significant law and policy changes.

"As we try to attract students and faculty who are interested in the environment, our ability to partner with SIE and connect them to the university's resources in environmental studies is going to be a huge attraction," Kramer predicted. "Of course, we lose some of Buzz's time, which is unfortunate for the school. As conversations with dozens of alumni have made clear, Buzz is one of our great teachers, and the time he is away with the institute means less time for teaching. In the long run, though, this will benefit students—and just about everyone else. The potential returns of this work to the law school, to the university, and to the world, are genuinely great."

# Preserving the Bay Checkerspot Butterfly

WITH ITS SHADY OAK THICKETS, profuse wildflowers, and protected golden grasslands, Stanford's Jasper Ridge Biological Preserve would seem to be a perfect habitat for all manner of endangered species. But looks can be deceiving, according to Carol Boggs, consulting professor in the Program in Human Biology and director of the university's Center for Conservation Biology.

Forty years ago, red and black Bay checkerspot butterflies fluttered all over the preserve. Since then, nearby development and changes in the naturally occurring flow of springs have wreaked havoc on the insect and the delicate California native plants on which its caterpillars feed. Today, not a single Bay checkerspot survives on Stanford lands.

That really bothers Boggs and famed population biologist and Stanford professor Paul Ehrlich, who made a career out of studying the dainty insect at Jasper Ridge back in the 1960s. So last year they asked the Stanford Institute for the Environment for a \$150,000 grant to study whether it is feasible to bring a colony of the rare butterflies back to the Stanford foothills. Led by Ehrlich and assisted by coprincipal investigator law professor Buzz Thompson, the two-year research project aims to better understand the checkerspot's history of extinction from Stanford lands, its preferred habitat, and the biological elements that are important to its long-term survival. Since Bay checkerspots are a federally listed endangered species, the researchers also want to know more about any regulatory pitfalls they might encounter along the way.

To accomplish all of those varied tasks requires a diverse team of scientists and scholars—the kind of interdisciplinary cooperation that the Stanford Institute for the Environment was created to foster. American history professor Richard White and doctoral student Jon Christensen are hunting for old photographs and field notes that may yield clues about the butterfly's former range and the impact of land use history on the butterfly.

The Carnegie Institution of Washington's Department of Global Ecology director Chris Field, geological sciences professor Scott Fendorf, doctoral student Tim Bonebrake, and Boggs have been adding different concentrations of magnesium sulfate to experimental soil plots adjacent to Jasper Ridge and seeding them with native grasses upon which the checkerspot larvae feed, to see if they can chemically re-create the rare serpentine soil-based habitat that Jasper Ridge natives require. Boggs and Bonebrake are hoping to gather samples of DNA from a fairly stable Bay checkerspot population in the hills south of San Jose, to see whether their genetic makeup is close to that of the extinct Stanford population, making them good potential colonists.

For law professor and coprincipal investigator Buzz Thompson, the project is less about biology and more about bureaucracy. Are there federal funds available for reintroduction projects on private land? Will Stanford be allowed to develop its foothill lands in the future if there is an endangered species on the land? If Stanford scientists want to capture and mark the butterflies, or take snippets of their DNA, would there be any regulatory barriers and constraints at the federal, state, and local level? What impact would there be on neighboring property owners if the endangered butterflies flutter over to adjoining property? From the law and policy perspective, "it's a neat project," Thompson said. With any luck, the checkerspots will like it, too.—TJ



Bay checkerspot butterfly

PHOTOS: PAUL EHRLICH



Bay checkerspot butterfly larva



## Ambitious Agenda

Keeping up with Thompson as he darts around campus can be a challenge. Although he maintains an office at the law school, Thompson spends most of his time working out of an inconspicuous portable SIE office building tucked behind Encina Hall, or at various sites across campus—meeting colleagues, potential donors, and job applicants. Groundbreaking for the new, 166,000-square-foot environment and energy building is expected to start in June on the science and engineering quad. If all goes according to plan, Thompson and his staff will be able to move to their new home by December 2007.

In the meantime, there's a long to-do list. Already, SIE has 250 Stanford faculty on its mailing list and has held meetings with some 25 student organizations, ranging from the Greens at Stanford to the Graduate School of Business Energy Club. Joint searches are under way for new professorships in environmental anthropology, climatology, resource economics, renewable energy, and global water supply and sanitation. There also are several major academic conferences planned, including one titled "The End of Oil," and another dealing with congressional reauthorization of the Farm Bill.

On the teaching side, Thompson and codirector Koseff now have responsibility for the Aldo Leopold Leadership Program, which trains 20 early- to mid-career scientists each year to testify before policymakers and communicate more effectively with journalists. They're hoping to expand Stanford's existing Interdisciplinary Graduate Program in Environment and Resources so that more students can earn master's degrees in environmental science along with their degrees in law, business, or medicine.

They're also developing a new IEarth undergraduate course series, to be modeled after the IHUM classes that introduce Stanford students to the humanities. "The idea," Koseff told his colleagues at the Faculty Senate recently, "is to create a suite of really exciting interdisciplinary courses that provide a basic introduction to the environment. Ultimately, we would love it if this was a requirement for all Stanford undergrads."

On the research side, SIE administers a popular Venture Projects Fund that offers two-year, \$75,000 grants for interdisciplinary projects conducted by teams of professors and students who have never worked together before. (See sidebars on pages 26 and 29 for descriptions of two of the projects.) As of last November, SIE had received 39 proposals from 87 faculty members representing 29 university departments, from chemistry and geophysics to music and pediatrics.

In one study, epidemiologists and microbiologists from the School of Medicine are working with civil and

environmental engineers, as well as external partners at the University of Dhaka in Bangladesh, to devise a monitoring system for detecting cholera and dysentery in coastal waters. Similarly, Carol Boggs, director of Stanford's Center for Conservation Biology, is leading an interdisciplinary effort to see whether the endangered Bay checkerspot butterfly can be returned to its former habitat in the Stanford foothills.

Still another project, launched by graduate student Claire Tomkins with the help of management science and engineering professor Thomas Weber and environmental fluid mechanics expert David Freyberg, examines the economic incentives that drive various stakeholders in California's complex water market. "That's not an unusual starting point, by the way," Koseff observed in a recent joint interview with Thompson at the SIE office near Encina Hall. "Students are incredible catalysts for bringing faculty together because they recognize a problem. They don't see the disciplinary boundaries. They say, 'I need this knowledge.' Next thing you know, all these faculty are talking to each other; next thing they're working together. It's the pollination effect; I love that."

Perhaps the most ambitious undertakings at SIE are four strategic collaborations it has formed with outside organizations to devise practical solutions to environmental problems. Among the goals: generating sustainable solutions to global hunger, promoting the next generation of climate change solutions in California, developing energy-efficiency technologies and policies in California, and financing conservation on private lands. A fifth proposed initiative, called the Center for Ocean Solutions, would team scientists from Stanford's main campus and Hopkins Marine Station, the Monterey Bay Aquarium, the Monterey Bay Aquarium Research Institute, and other institutions to address critical marine problems like over-fishing and coastal pollution.

"I'm still coming to grips with how to describe the sheer size and importance of each of these collaborations," Thompson said, paging excitedly through a PowerPoint presentation he uses to describe SIE to alumni. "Take the one on conservation finance. There you have Stanford faculty ranging from biologists to economists to law professors, together with The Nature Conservancy and the World Wildlife Fund, looking at the development of 21st-century conservation tools worldwide. Initially we're going to be working in California, but we're going on to China and Eastern Africa, too. Each of these collaborations takes a grand theme and the interdisciplinary resources of Stanford, and combines them with the decision makers who are actually going to be utilizing what we're doing. This in itself is amazing when I think about what we're trying to achieve."

### Cross-Pollination

One student already reaping the benefits of Thompson's interdisciplinary work is Peter Morgan, a third-year law student who grew up near New York City. Before coming to Stanford, Morgan ran a Nature Conservancy office on Martha's Vineyard. As he negotiated habitat preservation deals with local private property owners, he found he was constantly on the phone with attorneys. "I'd been thinking about just getting a master's in environmental management," he said, sitting under a brilliant fall sky in the courtyard near the Law Café. "But talking with those lawyers, I realized that law was where the greatest potential lay for environmental protection." Today, thanks to Stanford's Interdisciplinary Graduate Program in Environment and Resources, Morgan is working toward a joint JD and master's in conservation biology—the first Stanford student to do so.

For Morgan, one of the best parts of the interdisciplinary program is the weekly environmental seminar, which brings in speakers on a variety of environmental topics. After each lecture he and his classmates gather to discuss what they've heard. "That's been interesting," he said, "because we each bring a different strength to the table. Some have a background in biology, some in urban planning, some in economics." The techie students have taught Morgan a lot about how to read and understand scientific papers. In turn, he's opened their eyes to potential pitfalls in the regulatory process. "Often they'll say, 'Okay, we need a policy change.' And then I play devil's advocate and ask, 'At what level do you want change? Are you talking state, federal, or local government? Who's going to pay for it?'" They also talk about ways scientists might design their research to better anticipate the questions of policy makers. "Often scientists will say, 'Here's a problem,'" Morgan observed. "Yet the way they've structured their research doesn't lend itself to a clear solution."

Environmental Law Clinic director Deborah Sivas '87 said she, too, has benefited from interdisciplinary contacts she's made through SIE. Recently, a nonprofit group asked Sivas if her students might work to promote a statewide ban on lead shot, which has been implicated in the poisoning deaths of several endangered California condors. "I suppose I could have found an expert [on condor biology] if I had searched the entire Stanford website," Sivas said, "but all I had to do was tap into someone I had actually got-

ten to know through the institute." That expert was Page Chamberlain, a professor of geological and environmental sciences whose studies on the condor may prove invaluable as the lobbying effort picks up steam.

Eventually, Sivas would like to expand the Environmental Law Clinic so interested students can enroll from any discipline. It's an idea that Meg Caldwell '85, director of the law school's Environmental and Natural Resources Law and Policy Program, heartily endorses. She met beach pollution expert Alexandria Boehm, assistant professor of civil and environmental engineering, at an SIE function two years ago. Today, Caldwell, Boehm, Sivas, and Rebecca Martone, a PhD student from Stanford's Hopkins Marine Station, are coteaching a class on California coastal issues. While the course is cross-listed with the schools of law, engineering, and earth sciences, it has attracted an even greater range of disciplines among those enrolled, including journalism and medicine. Even traditional environmental law courses are going interdisciplinary.

"Over the last couple of years," Caldwell said, "we have been actively advertising our classes across campus and inviting students from other disciplines to take our classes, so now we're seeing much more immigration from other disciplines. I hope this trend continues." The payoff, she said, is that "Stanford environmental law students are leaving more prepared to do what they're going to be expected to do when they get out of here."

For some law students and faculty, interacting extensively with scientists and scholars beyond Crown Quad may feel a bit odd at first. Launching SIE has been a challenge for Thompson, too—hustling across campus from meeting to meeting, trying to break down the disciplinary silos into which universities have historically organized themselves, hiring a new generation of interdisciplinary faculty, and immersing himself in the jargon of conservation biologists, civil engineers, business school professors, and geophysicists.

But if Thompson had to do things over again, he'd still raise his hand for the job in a heartbeat. "Once I'm not spending so much time on the administrative side of SIE, I'll be going to all the law school faculty meetings and lunches and everything of that nature," he promised. "But I view my world as the whole university, not just the law school. Yes, it's harder living in an interdisciplinary world than it is living in a purely disciplinary world. But it's a lot more exciting and productive." ■

Even traditional environmental law courses are going interdisciplinary.



# Encouraging Land Use Conservation

GRETCHEN DAILY (BS '86, MS '87, PhD '92) AND MEG CALDWELL '85 are both talented Stanford faculty members who care about many of the same things. Daily is a professor of biological sciences who specializes in biodiversity conservation. Caldwell, director of the Environmental and Natural Resources Law and Policy Program, is a land use expert who chairs the California Coastal Commission. So when they first sat down to talk about their research interests over a cup of coffee, following a get-together hosted by the Stanford Institute for the Environment (SIE), they were startled to realize how little they knew about each other's work.

"I didn't have as firm of a grasp as I would have liked about Gretchen's research," Caldwell recalled, "and neither did she really appreciate how my work naturally intersects with hers."

That's all in the past now, thanks to a \$150,000 grant for a joint study funded by SIE's Venture Projects Fund. Working with their graduate students, Caldwell and Daily are putting their heads together to come up with innovative strategies to encourage conservation activities on private lands in Hawaii and Costa Rica. As a first step, they've written a soon-to-be published paper that will educate conservation biologists across the country about the legal tools they can use in the fight to protect endangered habitats.

As Caldwell explained, "The two primary disciplines, conservation biology and land use law and policy, have a lot to offer each other. But there is very little in the literature for conservation biologists to understand the tools available on the land use side. Our ultimate goal is to generate new approaches that use the best of both disciplines."

One particularly promising legal tool is transferable development rights, or TDRs. Say a rancher has land near the Kona coast, zoned for one house per 20 acres, that shelters a rich assortment of plant and animal species. Just down the road, there's a more populated area zoned for five buildings per acre. Using TDRs, the rancher can sell his development rights to the property owners in the second, more populated "receiving zone." The buyers of the TDRs can then subdivide their land and build at a higher density than would be allowed normally under existing zoning laws. Meanwhile, the rancher receives economic value from his land without having to develop it.

"Up in Tahoe they've been using a TDR system to protect highly erosive land from further development," Caldwell said, "but oddly enough, most biologists still aren't familiar with the idea." Ultimately, she'd like to see more cross-pollination going on between law and other disciplines on a regular basis. That way, future lawyers will have a much greater understanding of the science behind their clients' cases. And scientists will have a much better idea of how to engage and problem solve with large landowners and their attorneys.—TJ



PHOTO: MISHA BRUK

Meg Caldwell, director of the Environmental and Natural Resources Law and Policy Program

# Seeking More Goodly Creatures

BY HANK GREELY, DEANE F. AND KATE EDELMAN JOHNSON PROFESSOR OF LAW

*Genetic and reproductive technologies may allow us to create “enhanced” children—with mental aptitudes and personal qualities improved beyond what would otherwise be expected. Concerns about such a “brave new world” have already begun, but is that world imminent? And if parents could choose traits for their children, would this be a bad thing? Many people think it would be, but before society decides to regulate genetic enhancement, we need to understand how it differs from other forms of enhancement, both traditional and new, and decide if those differences are important enough to justify regulation.*

*O, wonder! How many goodly creatures  
are there here?*

*How beauteous mankind is.*

*O brave new world,*

*That has such creatures in’t.*

—*The Tempest*, Act 5, Scene 1

In *The Tempest*, Shakespeare coined the phrase “brave new world” as an expression of delight pulled from Miranda the first time she sees more than two people. Aldous Huxley’s 1932 novel, *Brave New World*, used the phrase ironically, implying that the alphas and the epsilons, the freemartins and the controllers of his dystopia are not “goodly creatures.” Today, “brave new world” has become a cliché to be attached to any new genetic or reproductive technology. But is the cliché fair? Are these advances leading us to Miranda’s brave new world or to Huxley’s frightening and contemptible new world? Or is this new world new at all?

We have been fascinated by speculation about how genetic and reproductive technologies might allow parents (or others) to “enhance” children before they are born—to improve them beyond their expected abilities or, perhaps, beyond humanity’s normal range. But where does science fiction end and plausibility begin? What are the real possibilities for such prenatal genetic enhancements, what are its limits, what are its problems? And just how worried should we be? This article will not answer these questions, but it does try to clarify the issues they raise.

## Methods

We could try to enhance our children’s genes in two different ways. The first approach

would be to select children to be born based on which variants of genes, called *alleles*, they carry. The second would be keep the children we randomly beget but then to select new alleles for them. The first method is currently available through a range of methods of pre-natal genetic selection; the second might be possible in the future through gene therapy.

In one sense, genetic enhancement through selecting children based on their alleles, or their likely alleles, is very old news. The characteristics of your mate affect the characteristics of your offspring. But, as all parents learn, predicting these effects is far from perfect. Although in their alleles our children are exact 50/50 mixes of their parents, in their traits they are a far more complicated product, combining their parents’ old genes in new and unique ways. Picking an excellent mate may give you genetically “enhanced” children—or it may not.

Prenatal genetic testing can give you more knowledge by doing direct genetic tests on the particular combination of parental alleles found in the egg and sperm that combined, implanted, and developed into a fetus. This process has been available clinically for more than 30 years; with each passing year it can be used to test for more genetic traits. It relies on obtaining a sample of cells from the fetus. Currently, these cells are obtained either through amniocentesis, which draws off some fluid from the amniotic sac, or through chorionic villi sampling (CVS), which snips off a bit of the developing placenta. Both CVS and amniocentesis involve invasive procedures, and each has risks and costs. The biggest risk is miscarriage; both procedures roughly double the odds of a miscarriage from about 1 per-



cent to around 2 percent. And both procedures are expensive, costing more than \$1,000.

The fetal cells, however they are obtained, can then be tested, both for chromosomal abnormalities such as the three copies of chromosome 21 in Down syndrome and for alleles associated with genetic diseases such as cystic fibrosis, Tay Sachs disease, sickle cell anemia, beta thalassemia, Huntington's disease, and several hundred others. The same cells can also be tested for genetic variations associated with non-disease traits such as sex.

Medicine can now offer an earlier way of selecting children based on their alleles—pre-implantation genetic diagnosis (PGD), an offshoot of in vitro fertilization. PGD starts the same as any in vitro fertilization attempt: a woman is given drugs to hyperstimulate her ovaries, thus ripening far more than the usual one egg per cycle. The ripened eggs are then harvested and each one is fertilized by sperm. The resulting embryos—usually 10 to 15 in number—are nourished for three to five days, after which some of them will be implanted in the mother's womb to try to start a pregnancy. But between the fertilization and the implantation comes PGD. During the third day of development, the embryo is a little ball of about eight loosely connected cells, enclosed in a clear jelly called the zona pellucida. Embryologists manipulate these embryos under microscopes and pluck out one cell from each embryo. Those cells are then tested for chromosomal abnormalities and genetic characteristics. This “amputation” of one cell of an early embryo sounds as if it could lead to babies missing large parts of their bodies, but the experience of more than a thousand PGD births covering 15 years shows that the remaining seven-celled embryo, if implanted, has roughly the same chance of becoming a healthy baby as it would have with all eight of its cells.

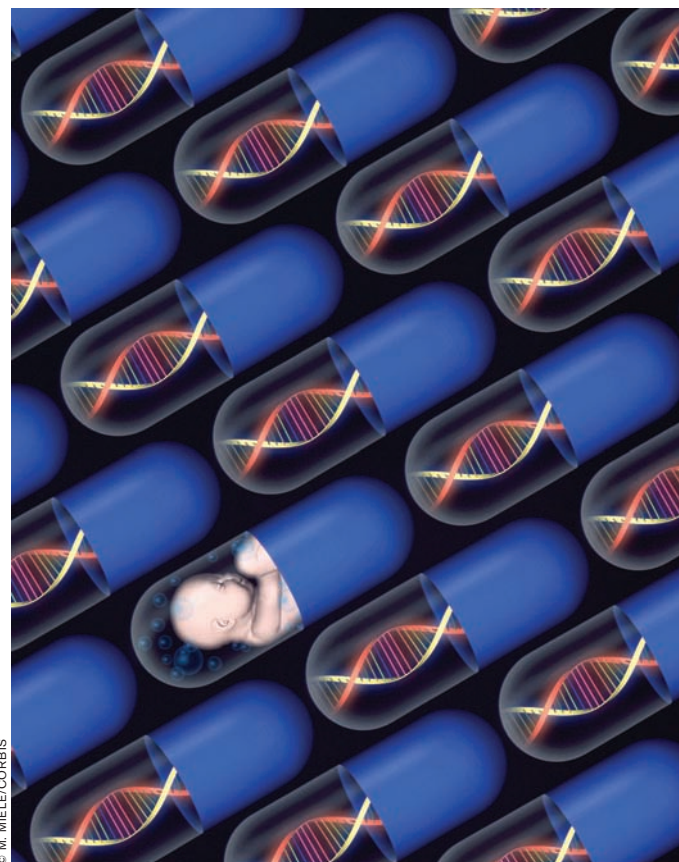
Preimplantation genetic diagnosis is valuable because it gives parents more information for choosing which embryos to implant. In most attempts at in vitro fertilization, only two or three embryos will be implanted, based on how good they look under the microscope—a test that predicts, weakly, which embryos will implant successfully, thrive, and become healthy babies. With PGD, the clinic and the parents can decide which embryos to implant based on more information—

information about both the chromosomes and the genetic variations. PGD can be and has been used negatively, to avoid implanting embryos with chromosomal abnormalities or genetic variations that would lead to serious diseases or death. But, like prenatal genetic diagnosis, it could also be used affirmatively, to choose to implant embryos with particular genetic traits.

Selecting babies based on their alleles is thus already a possibility. What about selecting alleles for existing babies? This approach requires some form of what is called gene therapy, adding a different allele to an existing genome. So, parents with a child—or a fetus, embryo, or egg and sperm—with alleles that produce dark hair might replace them with alleles for light hair. One could replace the alleles later in childhood or even in adulthood, but many traits of interest develop very early; one could not, for example, switch an adult's alleles from those that produce tall people to those that produce short people and expect much change. The new alleles would usually be inserted into an early embryo, a fertilized egg, or even into the eggs and sperm that will be combined to try to make a child. This kind of early-stage gene replacement could use other alleles of standard human genes, but it need not be so limited. One could imagine adding non-human genes or even artificial genes to give the resulting child traits that are beyond the human norm.

### Limits

These methods make genetic enhancement either possible or at the edge of possible today, but each



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method has problems. Prenatal testing can reveal a fetus's alleles and hence its genetic traits but offers parents few choices. They can prepare for the birth of a child with those genetic traits, or they can abort the pregnancy. Few parents will approach an abortion lightly. Aborting a fetus that would inevitably have a severe genetic disease is a difficult decision for many people; aborting a fetus because it does not carry "above-average genes," in the hope that there will be another pregnancy with a fetus with better genes, is likely to be rare. And it is only a hope; the random combination of egg and sperm in the next pregnancy could easily produce a fetus with the same or worse genetic variations.

PGD avoids the drastic step of abortion. The "average" or "below-average" embryos are not aborted; they are never implanted. On the other hand, unlike pregnancies initiated the old-fashioned way, PGD requires the use of in vitro fertilization. This assisted form of reproduction requires uncomfortable and somewhat risky egg donation procedures, has a relatively low success rate, and costs a lot of money—and comes with none of the compensating advantages of sex.

PGD does give the parents more control over a fetus's genetic makeup than does the random combination of sexual intercourse, but it is still only some control. Getting a child with the combination of "enhanced" genetic variations the parents want will not be easy. First, the parents themselves will have to carry those variations; parents with only dark-hair genes will not give birth to a blond child. Second, the parents will have to be lucky. Of the, let's say, 15 embryos created by one cycle of in vitro fertilization, at least one will have to carry all the right variations.

If the parents care about only one trait, and it is controlled by only one gene, that may not be difficult. Few traits, though, are so straightforward. Let's say their perfect baby needs a set of eight specific alleles, four from each parent, and the chance is about 50 percent that any of the embryos will get the "right" allele from a parent. The chance that all eight alleles will be "right" is one in 256—steep odds when only 15 embryos would be a good result from even a very productive in vitro fertilization cycle. And, of course, some of the embryos with those eight perfect alleles may have other chromosomal or genetic problems.

How many IVF cycles would the parents be willing to go through to get their perfect baby?

Instead of relying on chance to bring together the right combination of alleles, parents might try to use gene therapy to put the proper "enhancing" alleles into their offspring. But a problem exists: gene therapy has been tried for the treatment of serious genetic diseases for more than 15 years with very little success. A handful of people have been helped or even cured by the insertion of new copies of functioning alleles into their cells. Unhappily, the single greatest success in gene therapy—the curing of 11 children with severe immune deficiency—has been linked to the development of leukemia in at least two of them. And the efforts at gene therapy thus far have only tried to replace nonfunctioning alleles with new, working copies. No one has yet tried to take out one version of genes, such as those for light hair, and replace them with others. Nor does anyone know what damage might be inadvertently done to children by inserting or deleting alleles into sperm, eggs, or embryos. Great advances will be necessary before gene therapy could responsibly be used to try to enhance a future child's abilities.

The impediments discussed so far have been problems of the methods used to select or create genetically enhanced offspring, but there is another, more fundamental difficulty: we know almost nothing about the genetics of "enhanced" traits. Understandably, human genetics has focused on genetic disease. We know little or nothing about the genetics of such clearly inherited traits as skin color, hair color and type, eye color and shape, or height. We know the gene associated with red hair and freckled skin only because it is also associated with a heightened risk of melanoma, a dangerous skin cancer. Science can today help you select your child's blood type, if you care, but not her eye color. And what we do know even about these cosmetic traits is not encouraging. We know they are not simple; children do not inherit skin color from their parents in the way Mendel's peas had either white or yellow flowers. The only thing clear about the inheritance of these traits is that it is affected by more than one gene.

Still, it seems likely that within a few years, the genetic determinants of many cosmetic traits will be understood, traits that are easily defined, relatively unaffected by environment, and fairly common. But, although parents may care some-



what about body shape, gray hair, or male-pattern baldness, they are likely to care much more about other traits: intelligence, personality, and musical or athletic ability, among others. These traits are hard to define, dramatically affected by environment, and, in their most valuable forms, often rare. We know that some of these traits have some connections to genes; how many genes, how strong a connection, and how strongly determined by the interaction of genes with environment are all unknown. We know, for example, something about the genetics of some kinds of subnormal intelligence; we know almost nothing about alleles involved in normal or above-normal intelligence. And, at this point, it is not clear how much we ever will know. The genetic links that may exist may be so obscured by pervasive environmental interactions or depend on so many dozens or hundreds of genes as to be forever beyond our grasp. Humans, after all, do not make good laboratory animals, and those human traits we care about most we probably cannot usefully model in mice.

Some degree of prenatal genetic enhancement will undoubtedly be possible. How safely, effectively, and significantly babies will prove to be genetically enhanceable very much remains to be seen.

### Problems

Now forget, for the moment, everything you just read about the serious limits of genetic enhancement. Assume that parents *could* choose enhanced traits for their children: high intelligence, beauty, coordination, perfect pitch, or whatever else their hearts desired. Would this be a bad thing? Many people think so, but for a wide range of reasons. Consider seven possible objections.

First, such enhancement might not be safe. Parents, drawn by the prospect of perfect children, could use techniques that caused unforeseen—perhaps unforeseeable—damage to their children and their children's children. More insidiously, genetic combinations that produced a desired goal, such as excellent mathematical ability, might also be tied in unexpected ways to disease or disability. Preliminary work with non-human animals can only go so far in assuring us of the safety of these methods in humans.

Second, such enhancement could be coercive. One could fear outright coercion—a government requiring, for example, that all children be blond, blue-eyed, and tall. But coercion can be more

subtle. Parents could feel coerced by competition; if all the other parents are choosing to give their children genetic advantages, they may feel they have no choice, even though the end result of parents “enhancing” their children would give no child a comparative advantage. And, from the child's perspective, all such choices are, in a sense, coercive. Decisions are being made about the traits of these not-yet-existent children without seeking their consent.

Third, enhancement could reduce human genetic diversity. If all parents used enhancement techniques and they all made similar choices, we could become a human monoculture, as vulnerable as the potatoes in the Irish potato famine. Or, if not dangerous, boring—too many people who looked, talked, and thought the same could take all the spice from the world. Of course, this worry assumes both that most of the world's 6.3 billion people will be able to use, and will want to use, genetic enhancement and that they will all make similar choices. Both seem unlikely.

This answer to the third problem raises a fourth. If genetic enhancement were, in practice, limited to the rich, or to those in rich countries, it could be profoundly unfair. Limited access to the benefits of enhancement could make a mockery of the ideal of equal opportunity, particularly as these genetic advantages might be passed on from one generation to the next, creating what one writer has called a “genobility” and locking humanity permanently into a bitter struggle between the genetic “haves” and “have nots.” This justice-based concern is particularly associated with the political left.

The fifth argument is one made about the use of performance-enhancing drugs in sports. Genetic enhancement, in sports and more broadly, might be “cheating.” Its use could undermine the integrity of the game of life, harming those who were not enhanced, devaluing the accomplishments of those who were enhanced, and diminishing the entire effort. Of course, this depends on viewing life as a game, one with rules that enhancement would violate.

The sixth argument focuses on the parents and particularly on the relationship between the parents and their children. This view holds that, because parents will be able to choose some of the genetic traits of their children, they will see their children as products, not as gifts and not as fully

independent persons. This concern is generally associated with the political right. It was voiced perhaps more powerfully by Michael Sandel, a member of the President's Council on Bioethics, in a 2004 article in *Atlantic Monthly*.

The final argument against genetic enhancement comes in two "alleles," one religious and one secular. This is the claim that genetic enhancement is against God's will or is unnatural. It is particularly associated with fears not just of selecting the "best" alleles of human genes but of adding non-human or even artificial genes to humans. Some on both left and right, who agree on little else, unite in this argument. But although the argument has great visceral power, it also has a serious weakness. Almost everything man has done, at least since the invention of agriculture, can be viewed either as against God's will or as unnatural. A principled line between permissible human actions and impermissible ones is hard to draw.

Different people find different arguments more or less convincing. And each argument could gain or lose strength based on the setting. The safety argument is less powerful if the Food and Drug Administration plays a strong role in approving enhancements; the justice argument is lessened if, for example, genetic enhancements are provided in equal amounts to all parents who desire them. But all seven of the objections to prenatal genetic enhancement require answering another question: What makes this form of enhancement different from those we currently use and approve?

### **Just How New Is This World?**

It is rarely remembered today that Huxley's brave new world relied very little on genes. Its alphas were given extra oxygen in their artificial wombs; its deltas and epsilons received less oxygen but were given brain-deadening alcohol. The mandatory child care taught each classification of children according to their assigned place in the world—and taught them to love their place. Instruction was relentless; taped voices in their pillows continued their "enhancement" through their nightly sleep.

Today, we humans already work hard to enhance our children. Before their birth, we eat well, down prenatal vitamins, avoid alcohol and tobacco, and get regular prenatal medical care. But our enhancing efforts really kick in after

birth. We childproof our homes; we read *Green Eggs and Ham* until we have memorized it for life; and we generally encourage our children to grow into responsible, loving, and moral adults. Some of us make children who can barely talk attend fancy private schools, take golf lessons, or play the violin. All these actions are efforts to enhance them beyond what they would otherwise be. And our actions are not limited to our children. As adults, we "enhance" ourselves with cosmetic surgery, caffeine, and fancy gyms. In the near future, drugs and implants may further increase our normal abilities in many ways.

Is prenatal genetic enhancement meaningfully different from other, accepted forms of enhancement? One can argue that it is more permanent, but other enhancing interventions may have permanent effects, too. Prenatal care can have permanent consequences; teaching a foreign language to a child may have consequences that can neither be reversed nor duplicated by teaching her as an adult. And, if gene therapy ever becomes possible, at least some genetic effects might be reversed by replacing alleles. One can also argue that prenatal genetic enhancement will have longer-lasting effects because it will be passed down from generation to generation. But humans long ago carefully constructed a mechanism to pass down advantages from generation to generation; we call it a family. Some families have few advantages to pass on; others pass on, with greater or lesser success, personalities, education, money, and even high political office.

Prenatal genetic enhancement is different from other forms of enhancement, but then each form of enhancement is different from all the others. Before we decide whether and how to regulate prenatal genetic enhancement, we need to decide not just how it differs from other forms of enhancement, traditional and new, but how, and if, those differences are important enough to justify regulation. Miranda's excited outburst to her father about the brave new world is well known. Less well remembered is Prospero's response: "Tis new to thee." ■



# International Criminal Law: A Conversation with Professor Jenny S. Martinez

*Before joining the Stanford faculty, Assistant Professor of Law Jenny S. Martinez worked at the U.N. International Criminal Tribunal for the Former Yugoslavia, the Hague, as an associate legal officer in the chambers of Judge Patricia Wald. Martinez later represented “dirty bomber” suspect Jose Padilla before the U.S. Supreme Court in Rumsfeld v. Padilla. Recently, she and Allison Marston Danner ’97, associate professor of law at Vanderbilt University Law School, coauthored an article titled “Guilty Associations: Joint Criminal Enterprise, Command Responsibility, and the Development of International Criminal Law,” 93 California Law Review (2005). Stanford Lawyer Editor Eric Nee sat down with Martinez to discuss the article and her views on international criminal law.*

**W**hy has international criminal law become such a controversial subject in recent years? The roots go back to the period right after World War II when a number of countries set about creating human rights norms and institutions to enforce them. The Nuremberg tribunals are the most famous example. There were also the Tokyo trials of Japanese war criminals. Although some criticized these trials as victor’s justice, they were also widely praised for dealing with the crimes through a legal mechanism, and by doing so bringing attention to the value of the rule of law. After World War II you also had the drafting of foundational international human rights instruments, like the Universal Declaration of Human Rights and the 1949 Geneva Convention. But then we entered into the Cold War, which caused a lag in the creation of permanent institutions to enforce those human rights norms.

With the end of the Cold War there was suddenly room in international law for the creation of stronger institutions to enforce these norms. This resulted in the creation of two ad hoc criminal tribunals, the International Criminal Tribunal for the former Yugoslavia (ICTY) in 1993, and the International Criminal Tribunal for Rwanda (ICTR) in 1994. Both were created by the U.N. Security Council. They were the first international criminal courts since Nuremberg. At the same time, you saw in the 1990s the transition to democratic regimes in Eastern Europe, growing democratization in Latin America, and the end of apartheid in South Africa. These countries all began grappling with domestic mechanisms for dealing with past crimes. This set the stage for a

permanent international criminal court (ICC).

The ICC has had a troubled history. China, Russia, Japan, India, and the United States have all refused to ratify it. There are huge gaps in terms of who’s signed on to the ICC, but it is nevertheless remarkable. It received the necessary number of ratifications to enter into force, and currently has 100 ratifications. Most of the European countries have signed on, and a lot of countries in the developing world have signed on. A lot depends on how the ICC does in its first few cases. It will gain legitimacy if it’s seen as a neutral body that’s arbitrating fairly between different sides in a particular conflict—not just taking on the rebels or not just taking on the government, but finding the criminals on both sides. It also has to select countries where there have been wide-scale atrocities that rise to the level of international importance, instead of picking on a few minor violations by a politically unpopular government. If the ICC can build its credibility over the next 20 or 30 years, then more countries will sign on.

**Will new tribunals dedicated to particular conflicts continue to be created outside of the ICC?**

It’s interesting that the U.S. did not prevent the Security Council from referring the situation in Darfur to the ICC. Since the U.S. has footed so much of the bill for the ICTY and ICTR over the years, I think it recognizes the efficiency in having a permanent court, rather than reinventing the whole thing from scratch every time.

You will also, I think, see the continued cre-

ation of hybrid international courts that have some personnel from the country that is affected, and some international personnel. The Special Court for Sierra Leone, for example, has judges and prosecutors from Sierra Leone and from other countries. Even with the ICC in existence, there are advantages to these hybrid courts. Because these courts operate in the countries where the crimes occurred, they involve a greater number of people from those countries in positions of authority, and the public has easier access to the trials. That gives the courts greater legitimacy and helps strengthen local legal institutions.

sumption of innocence, the right to have their guilt proven beyond a reasonable doubt, and the right to present their side of the case. Judges or prosecutors who have worked in criminal law domestically come with this perspective.

A second body of law that has influenced international criminal law is international human rights law. Some judges at international criminal courts have no criminal law background. They come from a human rights background where they may have worked for an NGO or for U.N. agencies that are related to human rights. They may have engaged in fact-finding or the investigation of human rights violations.

Finally, you have people who come from a transitional justice background. This is a term that became popular in the 1990s to refer to countries that were moving from oppressive regimes to modern liberal democratic states, everything from the former states of Eastern Europe, to military dictatorships in Latin America, to South Africa. Within the rubric of transitional justice are things like truth commissions, as well as criminal prosecutions and civil reparations regimes in domestic systems.

What we have ended up with are people coming from these three different backgrounds, bringing with them different ideas about the role of law in protecting human rights. For example, criminal law is concerned with protecting the defendant's rights and with individual guilt. International human rights law, on the other hand, is very victim focused. It doesn't matter who was on the death squad. What it's interested in is how many victims there were and what happened to them. It is interested in the state's responsibility, not individual criminal responsibility. So in contrast to the rule of lenity of criminal law, where you're going to construe prohibitions narrowly so that you're not catching people unawares as defendants, in human rights law the corresponding interpretative canon is to interpret human rights more expansively to protect the rights of individuals. In international criminal law you can see the confluence of these different strands. Sometimes they move together in a positive direction, and other times there is a tension.

**What are some of the problems with the way that international criminal law is being applied?** There are two liability doctrines that appear in basi-



THE THIRD OF MAY, 1808 BY FRANCISCO JOSÉ DE GOYA Y LUCIENTES  
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**What are the origins of international criminal law?** International criminal law grows directly out of international humanitarian law, the laws of war. It was international humanitarian law that was ostensibly being enforced at Nuremberg and that forms the basis for most of the substantive crimes that are prosecuted in the current international criminal tribunals. There are three other distinct fields of law that have had an influence on current international criminal law—international human rights law, domestic criminal law, and the transitional justice movement.

The easiest influence to explain is domestic criminal law. These are criminal courts, so they borrow heavily from domestic criminal legal systems. The outlook of criminal law in most domestic legal systems, particularly in liberal democratic nations, is concerned with the rights of the defendant. Under international human rights law defendants have the right to a pre-



cally every international criminal case today, joint criminal enterprise and command responsibility. The reason is that these crimes are committed by groups, not by individuals. When the crime is the ethnic cleansing of a region—like the town of Srebrenica in Bosnia where 7,000 civilians were tied up and shot to death—it takes hundreds of people to execute that.

So the question is, How do you calibrate responsibility among those hundreds or thousands of perpetrators for what happened? Command responsibility is one doctrine that allows you to do that. The doctrine evolved in the post–World War II prosecutions at Nuremberg and Tokyo. It said that any military commander was responsible for the actions of his subordinates. This included responsibility not only for direct things that the commander had ordered—go shoot those civilians—but also for the failure to take the necessary steps to prevent or punish crimes committed by his subordinates. Over time the doctrine has been expanded to include not only military officials, but also civilian leaders when they exercise a comparable level of control over their subordinates.

The most famous and controversial command responsibility case from World War II is the *Yamashita* case, which eventually ended up before the U.S. Supreme Court, which upheld the conviction by the military tribunal. The dissenters in the Supreme Court in the *Yamashita* case argued that this Japanese general had basically been found guilty on a strict liability theory. In other words, you were the commander, crimes were committed by your troops, ergo you're guilty of the crimes and you're going to be executed for it, which was what happened to him.

**What's the problem with strict liability?** The idea that you can get life imprisonment, or even be executed, when the prosecutor hasn't proved that you individually had done anything culpable, just that you happened to be the commander, is problematic in terms of the basic criminal paradigm of individual responsibility. If you veer too much toward strict liability, you'll undermine the credibility and integrity of the proceedings. There was some danger of that in the Blaskic case before the Yugoslav tribunal. Blaskic was a Croatian general accused of being responsible for crimes committed by troops ostensibly under his command in central Bosnia. The trial chamber judgment didn't clearly

find proof that Blaskic had any knowledge of what was going on or that he did have effective control. He was found guilty anyway. But the Blaskic decision was overturned on appeal, and the latest appellate judgments have reined in the command responsibility doctrine and made clear that it's not a strict liability standard—that there does have to be more culpability by the defendant.

**What about joint criminal enterprises?** Joint criminal enterprise doctrine deals with the same problem as command responsibility, the collective nature of the crime. Joint criminal enterprise doesn't appear explicitly in the statute of the ICTY. The court created it in the first decision before the ICTY, extracting from some of the post–World War II cases the idea that individuals who together participated in a set of crimes would each be liable for all the crimes perpetrated by the collective. This doctrine has some of the same problems that command responsibility has. Under this doctrine, one soldier in Bosnia who participated in killing people in one village could conceivably be responsible not only for the three people he shot in the village, but also for the 20,000 or 30,000 people who were killed all over the country during the whole scope of the war. A joint criminal enterprise can include commanders, but it can also include the lowest foot soldier who knowingly participated in some of the crimes.

Joint criminal enterprise (JCE), in part, began to be used in response to the contraction of command responsibility. That's why you've now got commanders being prosecuted under the JCE theory, because command responsibility is a more rigorous standard and JCE is still loosey-goosey. My coauthor and I went back and looked at the post–World War II cases and found that although there was some support for limited JCE liability, the cases didn't support the incredibly expansive doctrine that it has now become. We don't suggest that JCE doctrine should be abandoned altogether, but rather that it ought to be reined in.

**Do you expect the court to address these problems?** Yes. It's an evolutionary process. There are swerves and detours and backsliding, but in the long run there's progress, particularly as international criminal law becomes its own field. So yes, I'm optimistic about the overall direction in which the tribunals and the ICC are moving. ■

# Promoting Pro Bono

BY DEBORAH L. RHODE, ERNEST W. MCFARLAND PROFESSOR OF LAW

*The United States aspires to provide “equal justice under law.” But in practice the nation often falls far short. One way to narrow the gap is to encourage more pro bono work, argues Deborah L. Rhode. In her new book, Pro Bono in Principle and in Practice (Stanford University Press, 2005), Rhode explores why so many lawyers fail to make significant pro bono contributions and suggests strategies to increase participation.*

Few issues are more central to the American public and more peripheral to legal education than access to justice. Equal justice under law is an ideal exalted in law schools’ commencement rhetoric and marginalized in their curricula. Pro bono service is embraced in principle but widely ignored in practice.

The gap between professional ideals and educational priorities emerged clearly in my recent survey of some 3,000 graduates of six law schools with different pro bono policies: the University of Chicago Law School, Fordham Law School, Northwestern University School of Law, the University of Pennsylvania Law School, Tulane University Law School, and Yale Law School. One goal of the study was to determine what legal education was doing, or should be doing, to make future practitioners aware of the public’s unmet legal needs and the profession’s duty to respond.

The survey’s findings speak for themselves. Only 1 percent of the sample reported that pro bono issues received coverage in orientation programs or professional responsibility courses. Only 3 percent of graduates observed visible faculty support for pro bono service, or felt that their schools provided adequate clinical opportunities for public interest work.

## Token Requirements

Other national surveys reflect similar inadequacies. According to the most recent data from the Association of American Law Schools (AALS), only one-fifth of law schools require pro bono service of students, and many of the hourly commitments required are modest: 20 to 30 hours spread over three years. About half of all schools provide formal administrative support for voluntary programs. However, according to adminis-

trators of such programs surveyed by the AALS Commission on Pro Bono and Public Service Opportunities, only about one-quarter to one-third of the students at their schools participated, and average time commitments were quite limited. Some student involvement was at token levels and seemed intended primarily as resume padding.

Accordingly, the commission concluded that the majority of students graduated without pro bono legal work as part of their educational experience. Although some schools have recently strengthened their pro bono programs, no evidence suggests that voluntary student involvement rates have changed dramatically. Most schools remain a considerable distance from meeting the AALS commission recommendation that every institution “make available to all students at least once during their law school careers a well-supervised law-related pro bono opportunity and either require the students’ participation or find ways to attract the great majority of students to volunteer.”

Quantitative information on faculty pro bono service is unavailable, but the AALS commission findings suggest room for improvement here as well. Few schools require contributions by faculty, fewer still impose substantial or specific levels, and none specify sanctions for noncompliance. In the AALS commission survey, only half of administrators agreed that “many” faculty at their schools were providing “good role models to the students by engaging in uncompensated pro bono service themselves.” Those administrators often added that many faculty were not.

Yet improving pro bono programs does not appear to be a priority at most schools. About two-thirds of deans responding to the AALS commission survey expressed satisfaction with the level of pro bono participation by students and faculty at their law schools. Given the limited



number of students involved at most institutions and the inadequate role of faculty, so much satisfaction is itself unsatisfying.

### Educational Value

We can and must do better. During the formative stages of their professional identity, future lawyers need to develop the skills and values that will sustain commitments to public service. Moreover, pro bono placements have independent educational value. Like other forms of experiential learning, participation in public service helps bridge the gap between theory and practice and enriches understanding of how law relates to life. This involvement can provide valuable skills training as well as experience in working with and for individuals from diverse racial, ethnic, and socio-economic backgrounds. Such work may also offer practical benefits such as career information, contacts, and job references. Aid to clients of limited means exposes both students and faculty to the urgency of unmet needs and to the capacities and constraints of law in addressing social problems. Positive experiences may, in turn, encourage more graduates to pressure potential employers for significant pro bono opportunities.

For law schools, pro bono programs can prove beneficial in several respects apart from their educational value for students. Successful projects contribute to law school efforts in recruitment, public relations, and development. Individual faculty can profit as well from community contacts, and from opportunities to enrich their research and teaching. The absence of well-supported pro bono programs represents a missed opportunity for both the profession and the public.

### Increase Accountability

How, then, can we make access to justice and pro bono service a higher educational priority? One strategy is to increase law school accountability. Although ABA accreditation standards require schools to provide appropriate pro bono service opportunities for students and to encourage service by faculty, many institutions neither keep nor disclose specific information concerning participation rates. Such information, or compliance with minimum standards, could be required as part of the accreditation process, or as a condition for AALS membership. Schools that meet best practice standards could also be given recognition

in publications of the AALS and ABA, as well as in national rankings.

Such practices could include adequate pro bono policies and resources, and integration of materials on access to justice and public service responsibilities in the core curriculum. Law school placement offices could also require legal employers to provide more information about their own pro bono programs and participation rates.

In an academic universe increasingly driven by competitive rankings and economic constraints, it is all too easy for legal educators to lose sight of their broader social mission. One of their most crucial functions is to force focus on the way that the law functions, or fails to function, for the have-nots. America prides itself on a commitment to the rule of law, but prices it out of reach for the vast majority of citizens. Our Constitution guarantees "effective assistance of counsel" in criminal cases, but what can satisfy that standard is a national disgrace. Court-appointed lawyers for the poor are not required to have any experience or expertise in criminal defense; they do not even have to be awake. Convictions have been upheld for cases in which attorneys were dozing, drunk, on drugs, or parking their cars during key parts of the prosecution's case.

In civil matters, the law is least available to those who need it most. Bar estimates consistently find that more than four-fifths of the legal needs of the poor remain unmet. In principle, America is deeply committed to individual rights. In practice, few of its residents can afford to enforce them.

It is a shameful irony that the nation with the world's highest concentration of lawyers has one of the least adequate systems of legal aid for the poor. It is more shameful still that the problems occupy so little attention in the legal academy's curricular and research agendas. If we want a world in which equal justice is more than a commencement platitude, law schools must do more to match aspirational principles with educational priorities. ■

Deborah L. Rhode

### PRO BONO in PRINCIPLE and in PRACTICE

*Public Service  
and the Professions*

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# The Same Old Song

BY LAWRENCE LESSIG

C. Wendell and Edith M. Carlsmith Professor of Law

**T**he Free Culture Movement (FCM) turned 1 last April. Started by students at Swarthmore College, the group has established 10 chapters at universities around the country. They're working to raise awareness about the harm to creativity and spread of knowledge caused by the ever-increasing duration and scope of copyright protection. While the group took its name from the title of my book (pirates!), the movement has nothing to do with me. But I am, of course, a supporter. And as FCM's birthday approached, I wanted to celebrate in a way that taught the lessons of the movement.

I convinced my staff at Creative Commons that we should ask some of the leaders of the free world—people at the Electronic Frontier Foundation, folks at Public Knowledge, Mitch Kapor, Richard Stallman, Brian Behlendorf, and others—to make a recording of “Happy Birthday to You” as a gift to FCM. Our plan: Post the recording on the Web and ask for contributions to the FCM.

Of course, as Creative Commons is built upon respecting creative rights, we wanted to do this by the book. And you wouldn't think that would be too hard.

But that's probably because you're not a lawyer. For “Happy Birthday to You” is under copyright until 2030. No joke. That means we needed permission to make available a recording of the song—as you would, too, if you posted a video of your kid's first birthday on the Web. At first, we thought we could secure that permission by getting a mechanical license—a right established by the Copyright Act of 1909 to make it easier for music labels to produce records. It's a routine process controlled by the Harry Fox Agency, a rights clearinghouse. The license would cost us 8.5 cents a download, which was fine.

If that's the price, that's the price.

But then a lawyer at Creative Commons worried that we would need a public performance license as well, something required by the World Intellectual Property Organization and recommended by the American Society of Composers, Authors, and Publishers (ASCAP).

So we contacted Warner/Chappell Music, the company that manages the copyright to “Happy Birthday to You.”

For \$800 per year, they said we could make our recording available on the Web. We agreed and waited patiently for the license. But two weeks later, Warner changed its mind and refused us a performance license—without any explanation. All we could do was get a mechanical license and hope that ASCAP wouldn't notice.

Then things got really nuts. I wanted to offer the recording under a Creative Commons license so that podcasters and Web radio stations could stream the song without having to pay us. My staff revolted. If people thought they had the right to remix our recording, they fretted, we would be encouraging copyright infringement. Only if we sternly warned our fellow commoners that they weren't free to remix “Happy Birthday to You” would my staff let me use a Creative Commons license. So we prepared a mean-looking Web page, warning people of the rights they don't have to a song, while we waited for the mechanical license. FCM's birthday had come and gone, but the lawyers were still at work.

The world is obsessed with the Grokster case and the rights concerning Internet file-sharing. But it's time we recognize that other copyright questions will prove more important to how creativity on the Net develops. In a world where podcasts and GarageBand have enlarged the opportunities for people to create and share their work, should we really have rules that require a lawyer to sit by a person's side? Should a system built for record companies at the turn of the 20th century remain unchanged when technology means that anyone can become a record company? How can a creator using digital tools easily obey the law?

I'm pretty sure I know what the lawyers think. But laws should reflect views of the reasonable, not the lawyerly. And if Congress really wants the Net to conform to its laws, it needs to pass legislation that makes sense of the Net. The existing system is just workfare for lawyers. It begs to be disobeyed, and disobeyed it is. Digital creativity is theft, because the rules governing such creativity are insane. Who but the staff at Creative Commons would go through all this trouble just to record “Happy Birthday to You” for friends?

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(A version of this essay first appeared in the July 2005 issue of *Wired*.)



## In Memoriam from page 88

**Morris Hyman '53 (BA '51)** of Fremont, Calif., died of cancer on October 17, 2005. A World War II veteran, Morris received both a Purple Heart and a Silver Star for his bravery on a reconnaissance mission behind enemy lines. Upon his return to California, Morris attended Stanford University under the G.I. bill, where he earned both his undergraduate and law degree in four years. While at Stanford, he supported his family by working night shifts at the post office and cleaning out stables. After graduation, he moved to Fremont where he worked for the firm, Quaresma and Rhodes. In 1964, in the process of establishing his own private practice, he became a founder of Fremont Bank; four years later, when he saw the bank was struggling, Morris left his private practice to become president of the bank. His commitment to the town of Fremont was evident not only in his career, but also in his dedication to a number of civic organizations and his many contributions to the city's college and hospital. According to his son Alan, Morris was a man of diverse interests who launched a new hobby every six months, though his love of golf remained constant throughout his life. He is survived by his wife, Alvirda; sisters, Dorothy and Clara; daughter, Hattie; sons, Alan and Howard; and five grandchildren.

**J. Anthony Giacomini '56** of Klamath Falls, Ore., died June 1, 2005, of pulmonary fibrosis. Due to a spinal injury at birth, Anthony was severely disabled and confined to a wheelchair most of his life. However, he always strove for excellence and never let his physical limitations prevent him from achieving his goals. He had been a member of the Oregon and California bars since 1956. He started his private civil practice on April 1, 1957, in Klamath Falls where he represented farmers, ranchers, small and large businesses, retirees, wage earners, and low-income clients. Beginning in 1985 he wrote a monthly column for *Seniors Magazine*, which formed the background of his book *Money is Thicker than Blood*. Anthony is survived by his wife, Sydney; daughter and son-in law, Elena and Kenneth Cooper; and grandchildren, Chase and Kenzie Cooper.

**Ernest Day Carman '56 (MA '47)** of Newport Beach, Calif., passed away on the Fourth

of July. After attending Stanford Law School for four quarters, he transferred to the University of San Francisco to finish his law degree. A trial lawyer, Ernest practiced law for 48 years in both San Jose and Newport Beach, Calif. A man who led a rich and varied life, Ernest served in the Pacific Theater during World War II and was a United Nations courier, a former CIA agent, a one-time pilot, a big band swing dancer, and a passionate enthusiast of the arts. Ernest is survived by his wife, Deborah; daughters, Christiane and Dayna; son, Eric; and six grandchildren.

**Carl Zerbe '71** of Carmel, Calif., died on December 13, 2005, three weeks short of his 60th birthday. As a child, Carl was a victim of polio, which left him with permanent physical disabilities. Despite this setback, his determined optimism inspired family and friends and allowed him to accomplish anything to which he set his mind. An Eagle Scout and Phi Beta Kappa graduate from DePauw University, Carl graduated from Stanford Law School, becoming a founding partner of the firm Zerbe, Buck, Lewis and Mallet. In 1992 he retired after being diagnosed with post-polio syndrome. During his retirement Carl remained active, promoting his musician friends by establishing a production company, kokomomusic.com, adding to his collection of vintage guitars, and participating in a number of charitable organizations in Monterey and Carmel. Carl is survived by his wife, Audrey; twin sons, Adam and Lindley; sister, Carolyn; and dog, Truman II.

### FACULTY:

**John R. McDonough**, a longtime professor and former acting dean of Stanford Law School, died on November 11, 2005. See obituary p. 8.

### Correction

We are happy to report that **Harmon Scoville '50** is alive and well. His death was erroneously reported in the fall 2005 issue of *Stanford Lawyer*. Please accept our sincere apology for the incorrect reporting.

# In Memoriam

## ALUMNI:

**Ralph W. Allen '34 (BA '31)** of Seattle, Wash., passed away on September 17, 2005. After graduating from Stanford as an undergraduate in 1931, Ralph went on to attend Stanford Law School until he transferred to the University of Washington, where he received his degree in 1935. Pursuing a wide range of activities, Ralph arranged Seattle Brewing and Malting Company's purchase of the original Rainier ball field; he raised hops, grapes, and cattle; and he represented AVM Corp. and Rockwell Manufacturing Co., placing voting machines in California, Oregon, and Washington. He was involved in the creation of the Washington State Horse Breeder's Association and he raised thoroughbred racing horses with his father on Whidbey Island. Ralph is survived by his wife, Charlotte; daughter, Mandy; and granddaughters, Heather and Kristin.

**Robert Noall "Bob" Blewett '39 (BA '36)** of Stockton, Calif., passed away December 22, 2005. After receiving his undergraduate degree from Stanford, he continued on to graduate from Stanford Law School in the Order of the Coif. In the same year, having been admitted to the California Bar Association, he entered into law practice with his father Stephen N. Blewett. An active member of many organizations including the Stockton Rotary, the Stockton Scottish Rite Royal Arch Masons, Ben Ali Shrine, and Yosemite Club, he also served as trustee for a number of scholarships and for the Haggin Museum. After 59 years of practicing law, Bob retired from his firm, Blewett & Allen, Inc. in 1998. He is survived by his wife, Virginia; daughter, Carolyn; grandchildren, Christine and Catherine; and one great-grandson.

**Charles "Chick" S. Franich '40 (BA '37)** of Watsonville, Calif., died January 7, 2006 at the age of 90. After attending Stanford as both an undergraduate and law student, he joined the FBI, serving throughout World War II. Eventually, he returned to Watsonville to handle the legal affairs for the family business. In 1957, he was appointed to the Municipal Court in Watsonville, and in 1961, he was appointed to the Superior Court in Santa Cruz where he served until his retirement in 1977. Chick is survived by his son, Charles; daughters, Mary and Ann; and seven grandchildren.

**John B. O'Donnell '41 (BA '38)** of San Francisco, Calif., died on October 6, 2005, after battling myelodysplastic syndrome and cancer.

After graduating from law school, John practiced with the firm of Littler & Coakley. In 1942 he enlisted in the U.S. Army, serving with the Counter-Intelligence Corps in Europe. He received a field commission in 1944 and was part of U.S. Occupation Forces in Bavaria in 1945. Moving back to San Francisco in 1946, he returned to private law practice. In 1973 he was appointed as a San Francisco Superior Court commissioner, serving as a probate commissioner, hearing officer at the Youth Guidance Center, psychiatric hearing officer for the court, and temporary judge during his years with the court. He was also a 50-year member of the Olympic Club, a devoted 40-year member of the Family Club, and an active member of its Literacy Group. He is survived by his wife, Jean; daughters, Kathleen, Susan, and Michele; grandchildren; and great-grandchildren.

**Daniel M. Cameron '42 (BA '39)** of Sacramento, Calif., passed away on April 17, 2005, at the age of 87. For the past 60 years, Daniel practiced law in Sacramento. For much of this time he worked as partner in his own private offices, specializing in estate planning and probate. Daniel was a member of the Washington Masonic Lodge #20, as well as the All Saints Memorial Episcopal Church. He is survived by his wife, Helen; daughter, Diane; sons, Robert and David; five grandchildren, and two great-grandchildren.

**Leo Milich '48 (BA '47)** of Carmel, Calif., died on August 24, 2005, ending a long battle with Alzheimer's disease. Leo was buried in the Arlington National Cemetery in Arlington, Va. A World War II veteran who received numerous awards, including the esteemed Purple Heart, Milich returned from his post to enroll in Stanford Law School. After graduation, he worked in a private firm before serving as city attorney in Oakdale and Riverbank, Calif. Involved in his community, Leo also stayed active physically, swimming an entire mile on his 80th birthday. He is survived by wife, Nell; sister, Zoe; daughter, Marilyn; sons, Michael and Richard; and seven grandchildren.

**James T. Morton '48 (BA '41)** of Burlingame, Calif., died June 24, 2005, at age 86. Having graduated from Stanford with a bachelor's degree in economics, Morton spent one quarter at Stanford Law School and then transferred to the University of San Francisco to finish his law degree. A partner in the San Mateo firm of Wilson, Jones, Morton & Lynch until retirement, James also served as the first town counsel for Portola Valley, Calif., a position which he held for more than three decades, until a stroke in 1996. In addition to devoting himself to his city, his church,

and his family, James dedicated himself to causes such as the education of Native Americans, Catholic Social Services, and underprivileged youth. James is survived by his sisters, Mary and Ann.

**Winslow L. Christian '49 (BA '47)** of Camp-tonville, Calif., died on November 15, 2005, at the age of 79. A man of diverse professional interests, he began his career as a deputy attorney general of Sierra County after graduation from law school. He served as state health and welfare secretary under Governor Pat Brown from 1963 to 1964 and was appointed by Brown to the Court of Appeal in San Francisco in 1966. Taking a leave of absence from the court in 1971, he became the first executive director of the National Center for State Courts, a research unit and advocate of court reform. He later served as director of litigation for the Bank of America and retired from that position in 1992 to work as a private arbitrator. Most recently, the Idaho native was working in a state program for retired judges to temporarily fill court vacancies throughout California. He is survived by his daughters, Sidonie and Megan; and son, Jason.

**Carmel "Cappy" Martin, Jr. '49** of Monterey, Calif., died after a brief illness on September 2 of last year. Cappy served as an officer in United States Army during World War II, eventually returning from the Pacific Theater to attend Stanford Law School. He then practiced law at the Monterey firm, Hudson, Martin, Ferrante & Street until June 2005. Active in a number of community organizations, he served as a president of the Monterey Rotary Club, Exalted Ruler of the Monterey Elks Club, and participated as a member of the Monterey city council. Cappy is survived by his wife, Elizabeth; daughters, Maren, Julia, Elizabeth, and Katie; sons, Chris, Sam, and William; eight grandchildren; and two great-grandchildren.

**Clark M. Palmer '50 (BA '48)** of Novato, Calif., died on November 6, 2005, at the age of 80. Attending Stanford briefly as an undergraduate, Clark left to join the Army during World War II. He returned to finish his bachelor's degree and to earn his degree from the law school. As a private practice lawyer, Clark is most remembered for his work in leading the 1960 incorporation of the city of Novato as the city's first attorney, a post which he held until his resignation in 1979. Also active in other community organizations, Clark served as founding president of the Novato Rotary Club in 1954. He is survived by his wife, Joyce; two sons, Bruce and Wayne; grandchildren; and great-grandchildren.

continued on page 87



**IN PORTLAND (right):** Professor Norman Spaulding '97 presented "The Rehnquist Court and Beyond: What's Next for the Supreme Court and the Constitution?" at Stanford Day in Portland, sharing his views on the future of the High Court with Stanford alumni and friends. PHOTO: BRIAN FOULKES



**SWEARING-IN (below):** Stanford Law School graduates (left to right) Toji Calabro '05 and Azadeh Gowharrizi '05 prepare to be sworn in at the December 5 ceremony for alumni who passed the California Bar in July.

PHOTO: ROBERT MARCH



**AT STANFORD (below):** At the 2005 swearing-in ceremony, Professor Robert Weisberg '79 (left), who moved for the new lawyers' admission to the federal court, posed with (left to right) Hon. Susan Y. Illston '73 of the U.S. District Court for the Northern District of California, who administered the federal oath; Hon. Elizabeth A. Grimes '80 of the Superior Court of California for the County of Los Angeles who administered the state oath; and Dean Larry Kramer.

PHOTO: ROBERT MARCH



**AT STANFORD (above):** Janet Lee '90, Warren Loui '80, Hon. Carol Lam '85, Kyle Kawakami '86, and Ivan Fong '87 (left to right) met with students and alumni at a career panel and networking reception hosted by the Asian Pacific American Alumni Association during Alumni Weekend 2005.

PHOTO: ROBERT MARCH



**IN DC (right):** The Stanford Law Society of Washington, D.C., and the Stanford Public Interest Program hosted a reception at Latham & Watkins in downtown D.C. (Near right photo, from left) Brent Johnson '03, Jamon Bollock '02, Rita Bosworth '04, and Elena Saxonhouse '04 mingle. (Far right photo, from left) David Hayes '78 catches up with Edward Hayes, Jr. '72.

PHOTOS: REBECCA MEEUSEN



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## UPCOMING EVENTS AT STANFORD LAW SCHOOL

### **The New Frontier in Workers' Rights**

*March 4, 9:00 a.m. to 4:00 p.m.*

Stanford Law School's spring public interest symposium will bring together leading faculty and legal practitioners from across the country to reflect on the future of labor and employment law. Anna Burger, chair of the Change to Win Foundation, will deliver the keynote speech. The symposium is state bar approved for five hours of MCLE credit. To register, visit <http://publicinterestlaw.stanford.edu/2006symposium/registration.html>. For more information, contact the Public Interest Program at [publicinterest@law.stanford.edu](mailto:publicinterest@law.stanford.edu).

### **SPILF's Annual Bid for Justice Auction**

*March 4, 6:00 p.m., silent auction;  
and 8:00 p.m., live auction*

The Stanford Public Interest Law Foundation (SPILF) auction enables the organization to provide stipends for students who volunteer at public interest jobs during the summer and award grants to nonprofit organizations engaged in public interest projects. For more information contact co-chairs Melissa Magner,

[mmagner@stanford.edu](mailto:mmagner@stanford.edu); or Pete Schermerhorn, [pscherme@stanford.edu](mailto:pscherme@stanford.edu).

### **Stanford Conference on Neuroscience and Lie Detection**

*March 10, 8:00 a.m. to 5:00 p.m.*

A one-day conference exploring the impact of neuroscience's increasing ability to monitor the operations of the brain, and the application of these advances in the field of lie detection. The morning session will examine the scientific plausibility of reliable lie detection through neuroscientific methods, discussing different methods and assessing their likely success. The afternoon session will assume that at least one of those methods is established as reliable and will then explore what social and legal ramifications will follow. Sponsored by the Center for Law and the Biosciences. For more information contact [tgertridge@law.stanford.edu](mailto:tgertridge@law.stanford.edu).

### **Cultural Environmentalism at 10**

*March 11, 1:00 p.m. to 5:15 p.m.;  
and March 12, 8:30 a.m. to 1:00 p.m.*

A symposium exploring the development and expansion of the metaphor of "cultur-

al environmentalism" over the course of 10 busy years for intellectual property law. Four scholars will present original papers on the topic and a dozen intellectual property experts will comment and expand on their works. Sponsored by the Center for Internet and Society. To register visit <http://cyberlaw.stanford.edu/conferences/cultural/register.shtml>. For more information contact Lauren Gelman, [gelman@stanford.edu](mailto:gelman@stanford.edu).

### **Looking Backward, Looking Forward: The Legacy of Chief Justice Rehnquist and Justice O'Connor**

*March 17, 8:00 a.m. to 6:00 p.m.;  
and March 18, 8:00 a.m. to 2:00 p.m.*

The 2006 Stanford Law Review symposium will explore the ways in which Justices O'Connor '52 and Rehnquist '52 left their marks on the Supreme Court and how the High Court may evolve in the coming years. The symposium will include panels on federalism, the Fourteenth Amendment, economic interests and personal liberties, and judicial philosophy. For more information contact Michelle Skinner, [miskinner@stanford.edu](mailto:miskinner@stanford.edu).