1996 Cardozo Life (Spring)

Benjamin N. Cardozo School of Law
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From the Dean

Cause for Optimism

As Cardozo nears its 20th anniversary—in September we begin the celebration—I can happily report that we are prepared to continue our stunning growth as an important center of scholarship. In our more mature years, we are fine-tuning our curriculum, strengthening our clinical programs, and providing more resources to our students than ever before.

I am especially proud that our students and faculty have not lost touch with decency and ethics and respect for the field in keeping with the legacy of Justice Cardozo and the spirit of Yeshiva University. This is particularly heartening since the news media continue to bash just about everyone in the legal profession and critique the practice from fees and sexual bias to cameras in the courtroom. Principles and values are in evidence throughout Cardozo’s classrooms and clinics. As a result, there is a sense of well being and optimism prevalent in the halls, classrooms, library, and offices around campus.

On a day to day basis I witness fine work by our students and the outstanding scholarship and example set by our faculty. I feel especially positive when I read or hear of a Cardozo graduate who has been elected to the bench, makes partner at a major firm, is named an assistant DA, or is enterprising enough to start his or her own firm. These are major accomplishments for a graduate of any law school—but especially so for graduates of one that is not yet 20 years old.

The excitement of practicing law and serving the community is not reserved for our graduates alone. Our students are also involved in the life of the law. They argue cases in the First Department, represent clients as interns in the District Attorney’s office, help to free wrongly incarcerated people through the Innocence Project, and provide pro bono legal services to people with disabilities and the elderly through the Bet Tzedek Clinic. This all buoys my feelings regarding our profession and the new lawyers who are entering it.

In this latest incarnation of Cardozo Life, you will read about some of the activities I’ve mentioned. I hope you will also find evidence of the intellectual inquiry, energy, professional responsibility, as well as some of the fun that we bring to the study of law. I look forward to your comments.
Chicago-Kent Survey Ranks Cardozo Faculty 20th Most Prolific Nationally; Third in New York City

Faculty scholarship is difficult to quantify, but every few years the Chicago-Kent Law Review publishes a survey that endeavors to do just that. The survey ranks the leading law reviews and ranks faculty productivity within the top 20. The first survey was published in 1989, the second in 1990, and the most recent was released in Chicago-Kent Law Review, volume #70, 1995.

Cardozo is listed as the 20th most prolific law school faculty overall and the third most prolific in New York City. Columbia and New York Universities are 8 and 18 respectively. University of Chicago, Yale University, and Cornell University are one, two, and three.

Computations are made on the basis of average number of articles per faculty member published in the 20 leading law journals from 1988 through 1992. "This survey, like others that try to rank an educational institution, are easy to criticize. However, I am proud that our faculty has been recognized for the high level of scholarship in which it is engaged," said Dean Frank J. Macchiarola. "Chicago-Kent also tells us that Cardozo is taking its rightful place in New York City."

Several tables in the survey refer to "in-house" articles, which are defined as those published in the faculty members' affiliated law review. When "in-house" articles are excluded from the computations, Cardozo faculty jump in rank to 15 nationally, against NYU's ranking of 19.

When computing the number of articles and pages published per faculty member in the 10 leading law reviews, Cardozo again ranks second in New York, with a ranking of 17 when excluding "in-house" articles and 19 when including "in-house" articles. NYU ranked 19 and 21 respectively; Columbia ranked 15 and 7. University of Chicago placed first across the board.

Coincidently, as Chicago-Kent's survey was released, Cardozo issued its latest list of current faculty publications. This brochure is available from the Office of Public Affairs.

Dean's Lunch Series Brings Prominent Practitioners to Campus

Jon Henes, a third-year student, had a brainstorm this summer that led to a new and exciting program at Cardozo. Called the Dean's Lunch Series, it allows students to meet with leaders of New York's legal and business communities to discuss the role of the lawyer in different contexts. Guests this year ranged from a prosecutor in the World Trade Center bombing case to the commissioner of a national sports league.

According to Henes, the program, which he developed with Shai Waisman, CSL '96, is modeled on one he experienced as a summer associate.

When they approached Dean Frank J. Macchiarola, he offered to fund the series himself, and gave them access to his rolodex, not an insignificant part of the immediate success of the series.
"These are truly student-driven and organized events. The real reward is when I hear back from the featured guest that they had a great time and want to be invited next year," notes Macchiarella.

The series was launched in November. Guests have included Harvey Miller, head of the bankruptcy department at Weil, Gotshal & Manges; Patrick Fitzgerald, the Assistant United States Attorney who successfully prosecuted Sheik Omar Abdel Rahman and his accomplices in what was known as the World Trade Center Bombing trial; David Stern, commissioner of the National Basketball Association; and Judge John S. Martin, Jr. of the Southern District of New York.

"We know that our efforts help Cardozo gain greater recognition among respected members of the legal profession and allow Cardozo students to engage guests in meaningful discussion," said Waisman.

The first guest this spring was Stephen J. Schulte, Partner, Schulte, Roth & Zabel.

**Professors Fleiner and Stein Visit Cardozo**

Thomas Fleiner, world-renowned expert on federalism, Swiss lawyer, educator, professor, and director of the Institute of Federalism in Fribourg, is visiting Cardozo this semester. He is teaching two classes, Comparative Federalism, with Professor Charles Yablon, and Legal Aspects of Ethnic Conflict—The Case of Yugoslavia. "The situation in Yugoslavia provides the opportunity to be timely; the course will cross disciplines from political science to constitutional law and international law," said Fleiner. "Students will study fundamental issues of the modern state from a new vantage point."

In addition to teaching at the University of Fribourg, Fleiner is currently drafting legislation to create a State Medical Agency to award Swiss medical diplomas that are "Euro-compatible." He also created and directs a program that teaches civil servants to draft legislation. He notes that he has professional interests apart from the law as well. Recently, he successfully lobbied to secure grant money for artists making Swiss language art films.

Fleiner has taught law throughout Europe and in Israel and was the Dean of Faculty at the University of Fribourg. He has law degrees from the Universities of Paris and Zurich. He also has an LL.M. from Yale University. "Teaching at Cardozo is a fantastic challenge for a scholar trained in the European law educational system," he explains. "It gives me the opportunity to teach the Socratic method."

Alex Stein, Senior Lecturer at the Faculty of Law, The Hebrew University, is also teaching two classes: Evidence and Burden of Proof in Civil Litigation. A year ago, he gave a workshop at CSL, The Unbearable Lightness of "Weight," the Refoundation of Evidence. He has taught in England and last year was visiting professor at the University of Miami Law School. He holds a J.D. and LL.M. from The Hebrew University of Jerusalem and a Ph.D. from University of London.

As a member of The Permanent Law Commission for the Review of the Law of Criminal Procedure, a non-political body, Stein helps to revise existing laws and recommend new legislation to the Knesset, a challenge he welcomes. He personally proposed and drafted a statute for maintaining the confidentiality and protecting the originality of video tapes used as evidence in child abuse cases.

Stein is the author of numerous articles in both English and Hebrew and is finishing a book titled *Foundations of Evidence Law*. He explains that, when teaching, he "appreciates the interchange of ideas. Students offer a fresh perspective, while I must be able to clarify and simplify the complex. The discipline contributes positively to my other work."
Hootie and the Blowfish Star as Professors for the Day

Adjunct Professor Michael L. Reinert, CSL’82, is a master of understatement. On November 8, he welcomed 350 students and guests “to a very special session of our class in Contract Drafting and Negotiating in the Music Industry,” then proceeded to present and moderate a panel that included the four band members of the wildly popular Atlantic Records recording artists Hootie and the Blowfish. Also on the panel were Val Azzoli, President, Atlantic Recording Corporation; Evan Lamberg, Senior Vice President, EMI Music Publishing; Rusty Harmon, the band’s manager; and Richard Gusler of Raleigh, NC, the band’s lawyer. Reinert is a Vice President at Polygram Holding.

The band’s multi-platinum album, Cracked Rear View, was playing on the sound system as everyone arrived. However, the panel delved not into the music but into the business and legal efforts that added to the band’s success. Darius Rucker, Dean Felber, Mark Bryan, and Jim “Soni” Sonefeld began playing together in 1986, when they were students at the University of South Carolina. It was their intent almost from the start to keep tight control of their creative output and image, to make decisions together, and to work with friends—from their t-shirt printer to their lawyer.

“Which came first,” queried Reinert, “the need for a manager or a lawyer?”

All agreed that first they needed a manager. They made the decision to bring Harmon on in 1990 as a partner rather than a commissioned manager and decided to structure their company as an overall management corporation. To this day, the income on merchandise, concerts, and record sales is split in a five-way partnership.

Gusler told how he refused twice to take a meeting with the group. “I had done entertainment law in Raleigh and was working then as a criminal trial lawyer. I didn’t have time and I’d gotten really frustrated with musicians. I got a third call when the group was in town with their producer, who said, ‘we’ll pay you for your time just give us 15 minutes’.”

“When they came to my office, they didn’t want to talk about their music, they wanted to talk about business structure and asked really very astute questions.” Gusler, who eventually gave up his criminal law practice completely, has worked with them ever since.

Reinert asked, “Was it ever suggested that what you needed to do is get yourself some sharpshooter New York or LA attorney who can open up doors for you?”

Rucker answered quickly, “Yeah, but we couldn’t work with those people. We have long-term and loyal relationships and we wouldn’t be happy any other way.”

Among the more tangible reasons given for the band’s success was television, which brought their sound to a wide audience. An appearance on David Letterman’s show and then the carefully orchestrated use of the band’s videos on VH1 and their music on certain television shows were credited.

It was Azzoli who left an indelible impression on audience and panelists alike when he addressed the room full of soon-to-be attorneys and left them with the following advice, “Remember to always put the music before the money.”

Shown from left: Val Azzoli, President, Atlantic Recording Corp.; Rusty Harmon, manager; Darius Rucker, lead singer; Jim “Soni” Sonefeld; Mark Bryan; Evan Lamberg, EMI Music; Professor Michael Reinert; Dean Felber; and Richard Gusler, Esq.
Question of Regulating the Internet Provokes Panelists and Audience

Professor Marci Hamilton, director of Cardozo's Intellectual Property Law Program, invoked images of the wild west and anarchy when introducing the subject of regulating the Internet. "We are looking for ways of thinking about this new universe," explained Hamilton.

First Amendment rights, copyright law, and publishing regulations were discussed as panelists hammered away at what "life on-line might look like" and what, if any, regulation there should be. "Regulating the Internet: Should Pornography Have a Free Ride on the Information Superhighway?" was sponsored by the Cardozo Arts & Entertainment Law Journal and CSL's Intellectual Property Law Program. Central to the discussion was the Senate-passed "Communications Decency Act of 1995," known as the Exon Amendment. If passed, it will impose fines of up to $100,000 and jail terms of up to two years for those who "make or make available" on-line pornography. The bill places liability on both the transmitter of the information and the individual service provider who permits such activity.

The issues of child pornography, access to pornography by children, and the use of the Internet for soliciting sex from children have provided the rallying points for those who seek government regulation. Professor Barbara Bennett Woodhouse, Professor of Family Law, University of Pennsylvania Law School, presented sobering commentary regarding child sexual abuse, indicating that some regulation may be in order. Panelists Mike Godwin, Staff Counsel, Electronic Frontier Foundation; Nadine Strossen, President, American Civil Liberties Union; and Richard Kurnit of Frankfurt, Garbus, Klein & Selz, the law firm for Prodigy, agreed that self-regulation was the best regulation.

Both Godwin and Kurnit emphasized that there are many ways to protect children. First, there is software that limits their access to inappropriate material. Second, on-line operators provide warnings to their subscribers and many, like Prodigy, are screening out so-called "obscene" words. Ultimately, both said they felt that parents are the best way to keep children protected. Woodhouse, however, called for a child-centered strategy that did not place the burden of responsibility on parents to police the Internet for their children. She admonished panelists and audience alike, "We should all protect all children."

Strossen outlined the steps that the ACLU is taking to insure what she termed "cyber liberties."

During a lively question and answer period, it was made clear that no one knows or can predict what "life on line" will be like. Therefore, regulation seems, at best, premature.

*This bill was signed into law by President Clinton on February 8, 1996.
More than 110 students participated in this year’s Cardozo-ABA Negotiation Competition, sponsored by the Kukin Program for Conflict Resolution. Under the direction of Professor Lela Love, the competition establishes Cardozo as a national leader in programs for alternative dispute resolution. Jay Zwerling, CSL ’95, who won the ABA Regional Negotiation Competition and represented Cardozo at the National finals in 1994–95, returned this year as a judge. He is shown conferring with fellow alumnus, William T. Rogers, III, CSL ’92, who participated in the Mediation Clinic while at Cardozo.

Rina Terán, CSL ’96, president of the Latin-American Law Students Association, introduced the panelists at an evening discussion, “Overcoming Hurdles: Race, Gender, and the Legal Profession.” Claudia E. Montoya, Staff Attorney, Criminal Defense Division, The Legal Aid Society; Sandra B. Otero, Assistant Chief, Finance Division, Law Department, Port Authority of NY and NJ; Silvia C. Souto, Associate, Litigation Department, Kaye, Scholer, Fierman, Hays & Handler; Anna Maria Vitek, Senior International Counsel, Avon Products; and Justice Betsy Barrows, Brooklyn Civil Court shared experiences about the impact of race and gender on their careers.

Lehman & Schwarcz Among Campus Visitors


During his tenure, the highly controversial commissioner has reorganized the agency and proposed sweeping reforms to intellectual property laws. He claims that the key to economic growth lays in intellectual property and the high-tech business innovations that we are already seeing in this country and globally.

Steven L. Schwarcz, one of the world’s leading authorities on asset securitization, presented a lecture, “Rethinking a Corporation’s Obligations to Creditors,” sponsored by the Samuel and Ronnie Heyman Center on Corporate Governance. Mr. Schwarcz is a partner in the New York-based law firm of Kaye, Scholer, Fierman, Hays & Handler and chairman of its Structured Finance Practice.
Megan's Law: For and Against

At a symposium to discuss the constitutional issues and legal implications behind NJ's Megan's Law, "The Sex Offender Registration and Notification Act," panelists argued for and against passage of a New York version. The NJ law requires the most dangerous of paroled or released sex offenders to register with local law enforcement authorities. Their names and photos are then made available to the community. New York State Assemblyman Daniel Feldman argued that the law will help reduce multiple occurrences of abuse and stated that, although the law may be imperfect, "it is a struggle for balance: the harm we do to offenders is less than the harm we avert from the victims." Laura Murray, of the New York Civil Liberties Union, found objections to the retroactive aspects of the law and the controversial issue of making offenders' names available to the pub-

Cardozo Students Take Master Class from Legal Stars

As Zoe Caldwell won rave reviews on Broadway for her role as opera legend Maria Callas in Master Class, further downtown, nationally-known legal stars gave riveting performances in another kind of master class—Cardozo's Intensive Trial Advocacy Program. The program took place at the Brookdale Center from January 2-16.

More than 120 third-year students learn trial skills—from opening statements to cross-examinations—when they participate in this annual program held during intersession. Rape, murder, arson, and suicide fuel the hypothetical cases on which they work. On a daily basis they are able to practice direct examinations, interviewing and preparing witnesses, selecting juries, dealing with evidentiary issues, and preparing for bench and jury trials. At every step, they are critiqued by judges and lawyers, who demonstrate trial techniques as well.

This year, among the more than 225 ITAP visiting faculty members were lawyers from the O.J. Simpson defense team, on which Professor Barry Scheck, co-director of ITAP, had a starring role. Carl Douglas and Shawn Snider Chapman came from California and demonstrated voir dire, while Bob Blasier, also of California, showed off the latest in court room
lic as a violation of civil rights. Linda Fairstein, Chief of Sex Crimes, Manhattan DA’s Office, expressed doubt regarding the effectiveness of community notification in an urban setting, but supported registration with the police. She cited several cases where multiple offenses could have been prevented had the law been in effect. Dr. Nathaniel Pallone, Professor of Psychology and Criminology, Rutgers University and Advisor at Avenel Correctional Facility, reported that prisoners released from Avenel, a facility with special programs for sex offenders, have a lower rate of recidivism than those released from other prisons. Donna Lieberman, Director of Reproductive Rights Project, New York Civil Liberties Union, moderated the discussion.

Editors Note: On Monday, January 22, 1996, the Sex Offender Registration Act went into effect in New York State. About 5000 sex offenders who are newly-released, paroled, or on probation will be registered this year.

“Crisis of Confidence in the Bar: Are the Craco Commission Recommendations a Sufficient Solution?” brought lively discussion to Cardozo regarding professional responsibility, ethics, and legal training. One of the panelists was Louis A. Craco, Chair, Committee on the Profession and the Courts, which has offered 36 recommendations aimed at making lawyers in New York State more responsive to their clients. The panel was sponsored by the Jacob Burns Ethics Center and organized by Professor Ellen Yaroshefsky. Other panelists were Hal R. Lieberman, Chief Counsel, First Department Disciplinary Committee; Edward M. Spiro, Chair, Committee on Professional Discipline, NY County Lawyers Association; Professor Mary Daly, Fordham School of Law; and Lise Pearlman, First Presiding Judge, State Bar Court of California.

computer equipment at an informal “brown bag” lunch. Early in the schedule, Professor Ellen Yaroshefsky, co-director of ITAP, invited attendees to discuss special issues facing women litigators. The panelists included Nancy Hollander of New Mexico, past president of the National Association of Criminal Defense Lawyers; Christina Gutierrez, a well-known criminal defense lawyer in Baltimore; Margaret Alverson, a solo practitioner, who previously worked with Barry Slotnick; Marcia Cooke, Assistant US Attorney in Miami; and Harriet Rosen, a specialist in state and federal appeals.

Perhaps one of the most dramatic demonstrations was the one of direct and cross-examinations by Bill Bryson of Anchorage and Dominic Gentile of Las Vegas who together provided 60 minutes of spell-binding courtroom drama. The Jacob Burns Moot Court Room was packed as the two seasoned criminal defense attorneys used carefully chosen words and gestures with their own very different styles to turn the case to their client’s favor.

According to Yaroshefsky, “For the students, ITAP recreates a trial situation where the pressure is on, the hours are long, and the experience is exhilarating.” And, as in any master class, to see and hear the finest in the field and get their critique is a proven method for achieving expertise and excellence.
Three Professors Publish New Books

Monroe Price, always prolific, recently published two books. Rights of Access to the Media, co-edited with CSL visiting professor Andras Sajo, was published in The Netherlands and Television, The Public Sphere, and National Identity was released by Oxford University Press on February 29th. In this book, Price looks at trans-national communications. "It is not exactly a law book, even though it re-assesses the First Amendment in the global world," he said. Price was assisted by a generous grant from the John and Mary Markle Foundation, which encourages innovative thinking about communications and its role in society. "I hope the book will be used in media studies classes around the world," he said.

Richard Weisberg's Vichy Law and the Holocaust in France will be jointly published this spring by Gordon & Breach in the United Kingdom and New York University Press in North America. It was edited by Yehuda Bauer's center at The Hebrew University for a series on anti-Semitism. Weisberg's long main-
tained interest in the relationship between legal and literary narrative was fanned by 13 years of work on this new book. With support from the Rockefeller Foundation, Weisberg will join this summer with a prominent Yale University professor in exploring "Post-Modernist Discourse in the Face of the Holocaust." The Rockefeller grant was awarded for a month-long residency at its Study and Conference Center in Bellagio, Italy. He will collaborate with Geoffrey H. Hartman, Sterling Professor of Comparative Literature at Yale and a former visiting scholar at Cardozo. They will strive to establish "the definition of an ongoing inquiry" on

Weisberg's long main-
become "so debased in Western culture that it is difficult to use it in an ethical and even meaningful way." The two scholars—whose friendship and collegiality dates back some 30 years—"hope to formalize some of their conversations upon further reflection at Bellagio," Weisberg noted.

In June, on the 25th anniversary of the publication of the Pentagon Papers by The New York Times and The Washington Post, the University of California Press will publish David Rudenstine's The Day the Presses Stopped: A History of the Pentagon Papers Case. Publication of the Pentagon Papers probably represented one of the largest unauthorized disclosure of classified documents in the history of the United States and prompted the Nixon administration to sue the Times for a prior restraint. In this bold new account of the landmark legal struggles, Rudenstine asserts that the conflict was far more complicated than has been generally recognized and that the Supreme Court's decision was a resounding vindication of a free press. He also identifies the Pentagon Papers episode as the critical experience leading to the Watergate break-in and, ultimately, Nixon's resignation.

Firmly supporting the newspapers' victory in the case, he argues that the government sued the Times not because it feared political embarrassment or wished to foster a campaign against the press but because it believed the Pentagon Papers contained information potentially harmful to US security and needed time to assess the harm that publication might cause.

Rudenstine thoroughly chronicles the activities of the press, the courts, and the executive branch as they struggled with one of the most important challenges faced by any modern-day democracy. An excerpt from the book detailing the internal debate that took place at the Times prior to publication of the series can be found in this issue of Cardozo Life.

Recently, Rudenstine gave a lecture in Budapest on "Democracy, The Press and National Security: The United States Experience." It was sponsored by The Hungarian Helsinki Committee, the International Helsinki Federation for Human Rights, and the Central European University.

An article by Edward de Grazia on Justice Hackett Souter was published in volume V of Chelsea House Publisher's The Justices of the United States Supreme Court: Their Lives and Major Opinions. Marc Hamilton's "Art Speech," published in the newest issue of the Vanderbilt Law Review, argues against federal funding for art on the ground that it stifles artistic creativity and skews the art market away from works that challenge the status quo. At a forum sponsored by The Practicing Law Institute in New York, Paris Baldacci gave a paper that was subsequently published as "Litigating Succession Rights Cases of Nontraditionally Recognized Families in Rent Controlled/Stabilized Housing in New York State: Some Evidentiary and Procedural Issues." Michel Rosenfeld's recent article, "Restitution, Retribution, Political Justice and the Rule of Law," was one of three by legal scholars in Constellations: An International Journal of Critical and Democratic Theory.

This fall, Prof. Rosenfeld attended the IVth World Congress of the International Association of Constitutional Law in Tokyo, Japan and was elected vice president of the Association for a four-year term. While in Japan, he was the keynote speaker at a symposium on "Japan's Constitutional Challenges" held at Miyazaki International College. His speech was entitled "The Constitution and National Security."

Publications by Peter Tillers and other material about him were included in an exhibition this past winter at Harvard Law School. He was described as one of five former Harvard Law School students who "became or are distinguished Evidence teachers" in law schools other than Harvard. Tillers was named vice president of the newly formed New York chapter of the Alexander-von-Humboldt-Stiftung Association of America.

Prof. Baldacci has been named chair of the Pro Se Subcommittee of the Housing Court Committee of the Bar Association of the City of New York, which is developing propos-
Jim Lewis’s retirement from the directorship of the Cardozo Tax Clinic is a bittersweet occasion; we regret that Cardozo students will no longer experience what many considered the highlight of their legal education—walking into the Tax Court with Jim Lewis. We applaud Jim’s directorship of the clinic he founded as an appropriate capstone to his career as a public servant, teacher, practitioner, and leader of the bar.

I hope that those Cardozo students fortunate enough to have worked with him grasped the source of his success as a litigator: intellectual integrity. In a world where too many lawyers think it serves the client’s interest to advance whatever argument emerges from a word processor, Jim would not assert a position unless he believed it had merit. If Jim thought the client owed the tax, Jim told him so; if the client persisted in challenging the tax, the client did so with another lawyer.

The wiser clients told they owed tax understood that Jim was performing a service by saving them futile litigation and costs. Moreover, the clients with bona fide arguments benefitted from Jim’s reputation and integrity: when Jim walked into court, the judge knew Jim believed what he was saying.

All of the contemporary efforts, by rule and sanction, to deter frivolous lawsuits will never substitute for the granite-like honesty of a Jim Lewis.

I hope our tax clinic students grasped another of Jim’s traits: his humility. I often reflected on this quality when watching him counsel the clients of the Cardozo clinic.

Here was one of the giants of the US tax bar, a participant in many of the important tax cases decided by the Supreme Court,* former chairman of the tax section of the American Bar Association, a retired tax partner of one of America’s distinguished law firms, advising the clinic’s clients with the same skill and dedication he brought to cases involving many more dollars and complex issues. The clients never knew that they were receiving for free the services of such distinguished counsel—and Jim would have been mortified had we told them.

Finally, I hope our students perceived his basic humanity manifesting itself, among other ways, with fierce dedication to the interests of the clinic’s clients. Once Jim became convinced a clinic client had a legitimate basis for contesting the IRS’s assessment, that client got the same services as the wealthier and more sophisticated clients Jim represented in private practice. In part, of course, his fierce commitment to the interests of the clinic’s clients reflected his dogged, if understated, professionalism. But, more profoundly, Jim understood that, for the people of modest means who constituted the clinic’s client base, the stakes involved were as (perhaps more) important than the huge sums of his days of private practice.

In short, the most important lessons Jim taught our students were not about tax law, although he surely taught them such lessons also. Nor were these lessons ones that Jim even realized he was teaching. In all these years as director of the clinic, Jim simply displayed, in an unselﬁsh-conscious way, qualities he has exempliﬁed his entire career. In so doing he shared them with all of us.

Prof. Rosenfeld was a panelist on "Pragmatism and Legal Thought" at "The Revival of Pragmatism" conference at the City University of New York Graduate Center.

In February, Prof. Baldacci spoke at Lesbian and Gay Law Day on "Protections for Disabled Persons in Public and Private Housing: Privacy and Reasonable Accommodation."

In February, Prof. Weisberg spoke to first-year students at the Naval Academy in Annapolis at the invitation of Under Secretary of the Navy Richard Danzig. He addressed the ethical aspects of Herman Melville's Billy Budd in support of the Navy's program to combat cheating and sexual harassment. Weisberg indicated that Melville's work, which is about naval law and the ethics of being in the Navy, is one of the most important canons in Law and Literature.

Cardozo professors made their presence felt internationally as well. J. David Bleich participated in "Medicine, Ethics & Jewish Law," an International Congress, organized by the Jewish Community of Copenhagen, where he presented the Jewish viewpoint at two panels: "Prenatal Diagnosis and Pre-implantation Genetics" and "Modern Psychiatric Treatment."

Malvina Halberstam participated in the International Association of Jewish Lawyers and Jurists meeting in Israel; and Prof. Tillores participated in "The First World Conference on New Trends in Criminal Investigation and Evidence" in The Hague. He also gave a lecture, "Discovery and Proof in Legal Cases," at the Institut fuer Rechtspolitik und Rechtsinfomatik of the University of Munich.

On April 29th, Prof. Hamilton, a former clerk to Justice Sandra Day O'Connor, will participate in a tribute to the Justice at NYU Law School. Written tributes will be published later in the Annual Survey of American Law, an NYU journal. She also filed an amicus brief with Professor David Schoenbrod of New York Law School in the Dwight J. Loving v. U.S. case before the Supreme Court, urging the Court to make clearer its views on legislative delegation of decision making authority to the executive branch. Both professors are strong critics of delegation.

Prof. de Grazia is giving a new three-credit course called Freedom and Censorship of Literature, Art, and the Movies. The course material is based on his two books, Girls Lean Back Everywhere and the earlier Banned Films: Movies, Censors and the First Amendment, co-authored with Roger K. Newman, a former Cardozo student. More than 66 third-year students enrolled, closing out the second-year students who wanted to take the course.

Edward Zelinsky gave testimony at the Connecticut Governor's Commission on School Choice in favor of "a package that includes a Connecticut income tax credit to endow the state's poor, working class, and middle class families with part of the educational options currently enjoyed by more affluent families."
An Interview with
Professor Barry Scheck has been at Cardozo since 1978. As Director of Clinical Legal Education, he oversees Cardozo’s clinical and Intensive Trial Advocacy Programs. In 1992, after six years of landmark court decisions setting standards for use of DNA evidence, Scheck and lawyer Peter Neufeld founded the Innocence Project at Cardozo. This clinical program offers students the opportunity to assist wrongly convicted inmates in overturning their convictions through the use of DNA evidence. Nearly two years ago, Scheck and Neufeld joined the O.J. Simpson defense team. After playing a major role in this highly-publicized trial, which found his client not guilty, Scheck returned to the Law School with new insights and lessons to share. He met with Cardozo Life editor Susan Davis for this exclusive interview.

DAVIS: Everybody noticed that you went from double- to single-breasted suits. Was there an incident or a person who urged you to change?

SHECK: I’m fairly ignorant and indifferent on the issue of clothes, but everything becomes transformed when you’re trying a case that millions of people are watching. David Margolick of The New York Times described my suits as ones that would be worn by Nathan Detroit. Then OUT Magazine put me on their list of “straight men confident enough to dress like dandies,” where I didn’t have the worst company in the world: then-Knicks Coach Pat Riley, actor John Malkovich, author Tom Wolfe, actor Daniel Day Lewis, basketball star Dennis Rodman, and the true dandy formerly known as Prince. But O.J. made a strong suggestion that I change suits and he told me to get a haircut. I realized soon enough that it probably makes a lot of sense when litigating on television to dress in a fashion that’s conservative and calls the least amount of attention to yourself.

DAVIS: Speaking of cameras in the courtroom and the numbers of people who are watching, what do you think is optimum in so far as cameras and reporters in the courtroom are concerned?

SHECK: There is a First Amendment right for reporters to be in the courtroom, but not necessarily cameras. The issue of cameras in the courtroom is a complex one, and I have a complex view. At this point I feel that a defendant in a criminal case ought to have the right to move to exclude the cameras—in effect, to have a veto. This does not mean that I’m asking for prohibition.

To make a cogent argument that there be limitations on cameras in the courtroom, you have to answer the question, “what if anything is going to be different when the trial is televised?” Before Simpson, advocates of cameras argued, in part, that cameras did not change the behavior of lawyers, judges, or witnesses. I don’t believe that argument carries much weight anymore. The cameras definitely affected everyone and definitely did affect the proceed-
ings. They also made the public feel very suspicious of the quality of the process because of the nature of the coverage.

With cameras in the courtroom, there is this tendency not simply to cover the whole trial, as it would be covered by Court TV, which does a very good job. Instead, it is often coverage by sound bites, where conflict and drama are emphasized over substance. Tabloids that sensationalize and personalize coverage often set the tone. In effect, bad journalism drives out good. Television producers created a cottage industry of people telling you what to think and commentators who critiqued the trial, when sometimes they hadn't even watched the proceedings that day. The Simpson trial became in many ways a soap opera—more entertainment than education. All the participants in the trial recognized this on a daily basis.

DAVIS: Did you find yourself playing to the camera?

SCHECK: No, you don't find yourself playing to the cameras. But there's an awareness of the cameras and they do change the behavior of the participants, who know that things that are said and seen in court are going to have a ripple effect, from the televised media and the tabloids, back into the court room the next day.

DAVIS: Was there a specific thing that the press did or reported that altered your behavior or the way you handled the case the following day?

SCHECK: Yes, I think that it was evident, for instance, that the judge would react to coverage. One day he would be the "relaxed Ito," who let arguments drag on. The next day he would be the "tough Ito" and that would make headlines. He was in a tough spot.

Lots of judges say, "Oh, I would have run it different-ly, I wouldn't have been like him." And, they're probably right. But no matter how they did it, they would be subject to intense scrutiny and criticism that would affect their behavior. The same can be said about the lawyers. Nobody who is second-guessed at this level can stay unaffected. Both sides continually felt the impact of this level of scrutiny.

Perhaps more disturbing than anything else was the profound effect it had on the witnesses. All the witnesses in our case, just about, had death threats. All the lawyers had death threats. Lots of people were more reluctant to testify in this case because their testimony would be televised. Some simply refused.

I reject the argument that the cameras simply exposed a proceeding that was distasteful in its length and its quality. Much of what upset people about the process was created by the nature and intrusion of the press coverage itself.

DAVIS: There do not seem to be any easy answers to these questions.

SCHECK: No, there are no easy answers because there are also tremendous benefits to having cameras in the courtroom. They helped produce witnesses for both sides that advanced the truth seeking process. There's certainly a First Amendment interest that should be acknowledged and a Sixth Amendment interest. Nevertheless, I believe that because of the potential deleterious effects that cameras in the courtroom can cause, there ought to be a right of veto by a defendant. That's my view.

DAVIS: Speaking of Judge Ito, I had read an article that quoted Arthur Liman as saying, "every judge's school in the country will use this trial as a teaching tool on how a judge should not conduct a trial. This judge totally lost control by failing to keep lawyers from arguing excessively." Do you agree with Liman?

SCHECK: Well, it was Judge Ito's style to be patient and hear all sides to an argument. He was actually well-known and well-liked for that among both prosecutors and defense lawyers in Los Angeles. I don't think that particular style was conducive to this case, in part because of the pressure and scrutiny that comes from a televised trial. I had some serious problems with the way he ran things and wanted him to speed up the proceed-
ings. When Peter Neufeld and I began our work, we were thankful that he extended the court days.

**DAVIS:** When you returned to Cardozo you said that you’d be using the lessons of the trial in the classroom. What do you think were the main lessons that you see incorporating into the classroom?

**SCHECK:** There are many. I commend to everybody’s attention a book by Gerald Uelman that is entitled *Lessons from the O.J. Trial*, which should be out by the end of February. Alan Dershowitz has also written a fine book. In fact, I have discussed with them the possibility of their coming to Cardozo in May depending on their book tour schedules.

This case posed a lot of very rich and difficult issues in criminal law and in criminal procedure. In some respects that was obscured by the notoriety of the event and the nature of the coverage. There is the very serious issue of prior acts of battering—whether they have any predictive value in regard to a homicide and to what extent they ought to be admissible in a murder trial, and on what basis. Forensic issues concerning DNA evidence and statistics, cameras in the courtroom, hair and fiber evidence, and mass spectrometry.

The case stimulated a lot of serious discussion about racism and police perjury. The inability to weed out perjurious and racist police officers from a major metropolitan police force like Los Angeles became a major issue in the case. What prosecutors knew about it, or should have known about it, has significance not just for Los Angeles but elsewhere. In Philadelphia there’s been a major scandal of this nature and we’ve had it in New York recently.

**DAVIS:** You have used DNA so successfully in getting innocent people out of jail. In this case it seemed as if DNA’s infallibility was put into question.

**SCHECK:** Well, I don’t really think that. The upshot of the Simpson case is pretty simple. In the words of Dr. Lee, “Right-way; wrong-way.” The attack on the DNA evidence in the Simpson case actually had to do with evidence planting and methods of collecting blood evidence for purposes of DNA testing, which would not be countered by anyone in the field. The Los Angeles Crime Lab was a cesspool of contamination and the prosecution didn’t put on any witnesses to rebut that. What’s coming out of this is a need to re-examine the way evidence gatherers and laboratory personnel do their work.

**DAVIS:** The jury system was sorely taxed during the trial. Do you have any suggestions about ways to avoid lengthy sequestration, especially in very public trials?

**SCHECK:** I think that lengthy sequestration is something to be avoided at all costs. If it has to be done it should be done by authorities who are not associated with the state. I think one of the problems with the Simpson case was that the Los Angeles sheriff’s office was in control of the jury. Both sides in the end became very disturbed by the intimations that somebody had tried to reach the jury through them. It would have been better to have, as had been suggested at the beginning of the trial, people from the civil courts who work on sequestering juries and aren’t associated with law enforcement, which was subject to attack during the Simpson matter.

I think that the jury in this case has been unfairly maligned since the verdict. Anyone who reads the most recent book, *Madame Forewoman*, by the jurors who actually deliberated on the trial, would have to agree that they gave a careful and systematic evaluation of the evidence and understood the scientific and forensic evidence very well.

**DAVIS:** You have said that you believe O.J. is an innocent man wrongfully accused. Do you think that during his civil trial there is going to be new evidence regarding the identity of the murderer?

**SCHECK:** I don’t know if anybody knows that.
Prosecutor Practicum
Melds Theory and Practice

Gary J. Galperin

Each fall, classroom and courtroom converge in the Prosecutor Practicum, an intensive clinical program I have overseen for several years in my dual role as adjunct professor of law and assistant district attorney in New York County. The program allows eight third- or second-year students to intern full-time at the District Attorney's Office and work in the criminal justice system. At the same time, they enroll in the co-requisite Criminal Justice and Society Colloquium, which I teach with Professor Edward de Grazia.

The interns are sworn in as student assistant district attorneys and join the new class of assistant district attorneys in a three-week orientation program of lectures, workshops, courtroom and complaint room observation, and various tours. They visit the New York City Police Department's Communications Division, Fire-
arms and Tactics Section, Manhattan Central Booking, and ride one evening in a patrol car. They also go to either a correctional facility or a secure psychiatric center. Participants receive practical instruction in criminal law, criminal procedure, evidence, and professional responsibility. They are trained also in the civil prosecution of eviction actions against persons whose residential or commercial premises are used for illegal enterprises such as narcotics dealing, prostitution, gambling, and firearms and fireworks trafficking.

After orientation, the interns become a vital part of their assigned bureaus. They assist in the investigation, prosecution, and legal research of felony and misdemeanor cases. This work includes, most notably, "second-seating" a felony jury trial from beginning to end, by sitting in on witness preparation and at counsel's table for all court proceedings.

In recent years, students have second-sat or otherwise assisted in several high-profile cases, including the murders of New York City police officers; the sexual abuse trial of rap performer Tupac Shakur; the slaying of a Park Avenue prince and princess; pre-trial hearings of accused subway bomber Edward Leary; and post-insanity proceedings of East Village psychopath Daniel Rakowitz who killed and dismembered his female roommate.

The Special Projects Bureau is home base for the Practicum. Here, the student assistant district attorneys with supervision handle their own narcotics eviction cases. They gather and review evidence, interview police and civilian witnesses, preparepleadings, respond to motions, and, pursuant to student practice rules, conference and try the cases in civil court. I meet with them weekly using their court cases and research projects to treat factual, legal, and ethical issues confronted by attorneys generally and prosecutors in particular.

This past fall, for the first time, two of the trials were held in front of a jury. The intensity of the student jury trials was exceeded only by the exhilaration of the successful and just verdicts! In one, Adam Kamenstein, CSL '97, spoke of an Upper West Side tenant's broken promises to maintain a clean, safe residence, and proved that her apartment was also home to an illegal narcotics business complete with crack cocaine, marijuana, weapons, drug paraphernalia, and drug money. Whether bench trial or jury trial, the intern acquires hands-on litigation experience as the representative of the District Attorney of New York County and, thus, the people of the State of New York.

The weekly Criminal Justice and Society Colloquium is a critical piece of the semester's work. The readings and discussions explore theoretical and practical components of our justice system including the principles of legality and justice in contemporary and historical penal systems; civil sanctions such as the involuntary commitment of the dangerously mentally ill; and the differentiated roles of police, prosecutors, defense attorneys, judges, and victims.

The Prosecutor Practicum/Colloquium is one setting in which legal education draws so much from the life of the city. As an assistant district attorney, I strive to do justice in each case—sometimes under very difficult and sensitive circumstances in the public eye. As an adjunct professor of law, I seek to share with successive Cardozo students the challenges and rewards of being a trial lawyer, especially in public service, and to instill a sense of pride and commitment in one's work within our noble profession.

I am proud that students have described the internship as an "invaluable" and "memorable" experience, "the best part" or "highlight" of law school, and "realistic" in bridging the gap between legal education and law practice. It may be said that Cardozo and New York, the Prosecutor Practicum and Manhattan District Attorney's Office, are partners. Let us continue the partnership.

GARY J. GALPERIN, CSL '80 and Adjunct Professor of Law, is Assistant District Attorney and Chief of the Special Projects Bureau/Narcotics Eviction Program in the New York County District Attorney's Office.

LEFT: Gary Galperin discusses the finer points of litigation with students in Cardozo's Prosecutor Practicum. Students are Jennifer Bassuk, Laura Ballan, Jessika Hickey, Darrin Behr, Joshua Weiss, Adam Kamenstein and Steven Weiss.
In 1971, *The New York Times* published a series of articles on and text from the “Pentagon Papers,” a massive study prepared by the Pentagon that traced the history of US policy decisions leading to the nation’s participation in the Vietnam War. The 47-volume history, prepared between 1967 and 1969, was immediately stamped “top secret—sensitive,” and only 15 copies were printed.

The material was “leaked” to *Times* reporter Neil Sheehan by Daniel Ellsberg, a defense analyst who had worked on the study. Publication of the material probably represented the single largest unauthorized disclosure of classified documents in the history of the United States, and prompted the Nixon administration to sue the *Times* for a prior restraint. The legal attack unleashed a firestorm of publicity and legal wrangling, and instantly made the Pentagon Papers a very sought after document. Fifteen days after the Nixon administration enjoined the *Times*, a divided Supreme Court freed the *Times* and *The Washington Post*, which had also secured a copy of the documents, to continue publishing the series.

The following account of the internal debate at the *Times* over whether to publish the material is taken from a chapter of Professor David Rudenstine’s *The Day the Presses Stopped: A History of the Pentagon Papers Case* to be published by University of California Press in June, the 25th anniversary of this historic event. The chapter titled “The New York Times Publishes” discusses how the assertive and confident public position the *Times* expressed in court in 1971 and thereafter “belied the turmoil within the paper’s ranks” prior to publication.

David Rudenstine
Professor of Law
Associate Dean of Academic Affairs
Neil Sheehan was uncertain whether The New York Times would publish the top secret Pentagon Papers, assuming he could get his hands on them. He did not know how the newspaper’s managing editor, A.M. Rosenthal, would react, given that he supported the American war effort in Vietnam. He worried that the Times renowned columnist, James Reston, might oppose publication, because he was friendly with many former government officials, especially former Defense Secretary Robert S. McNamara, who would be embarrassed, if not discredited and shamed, by the disclosures. He knew that reporters and editors doubted whether Arthur Ochs Sulzberger, the publisher, would ever permit the newspaper to publish information that might lead to a head-on collision with the government.

A relative newcomer to the Times, Sheehan was also unsure how to determine whether the Times would publish the Pentagon history. He turned first for advice from Robert Phelps, a news editor; in early March 1971. Phelps told him to speak to Max Frankel, the Washington bureau chief, or Reston.

Sheehan next spoke to Times columnist Tom Wicker. Wicker had met Ellsberg in Vietnam in 1966, when Wicker accompanied Vice President Hubert H. Humphrey on a tour of Asian capitals. They had kept up with each other over the years, and Daniel Ellsberg had mentioned the Pentagon Papers to Wicker a few weeks before during a telephone conversation. So when Sheehan asked Wicker what his reaction was to the idea of a secret Pentagon history of the war, Wicker quipped: “Oh, you’re getting this from Dan.” Sheehan’s response was non-committal. Wicker advised Sheehan to speak to Reston, who was widely viewed as the most respected journalist in Washington and in former publisher Arthur Hays Sulzberger’s view “the single most important asset on the newspaper.” If Reston favored publication, it would probably be published; if he opposed it, probably not.

Sheehan met with Reston and told him he had a chance of obtaining a classified, multivolume, secret history of the Vietnam War prepared at the Pentagon while McNamara was defense secretary. He explained it would put Reston’s friend, McNamara, in a critical light. He asked whether the Times would publish the classified material. Reston said he would try to find out. Although Reston seems to have consulted only with Ivan Veit, a close advisor to the publisher, Reston told Sheehan a few days later that he could proceed with the endeavor.

Within a few days Frankel returned to the Washington office and learned of these developments. He then told Sheehan that he could not support the project or discuss it with Rosenthal until he saw some of the classified material.

A few days later, Sheehan gave Frankel documents concerning the Tonkin Gulf incident. Sheehan did not get these documents from Ellsberg. The two were having conversations about the documents during these first few weeks in March, but Ellsberg had not allowed Sheehan to read any of them. It is uncertain who gave these documents to Sheehan, and he has not identified his source. He might have obtained them from someone in Senator Fulbright’s office or from some other public official to whom Ellsberg may have given them. What is more likely is that he obtained the documents from Marcus G. Raskin and Richard J. Barnet of the Institute for Policy Studies.

Frankel and Sheehan examined the Tonkin Gulf documents in Frankel’s office. It did not take Frankel long to be convinced of their authenticity and importance. He then went to New York, taking the documents with him for a discussion with Rosenthal, James Greenfield, the foreign affairs editor, and Seymour Topping, the assistant managing editor. They agreed that the documents seemed genuine and that the secret Pentagon study might constitute a major story. But until Sheehan obtained the study, there was nothing more to be done.

On March 13, 1971, thirty-eight-year-old James C. Goodale, a vice president and general counsel of the Times, attended the annual Gridiron Club dinner in Washington as Max Frankel’s guest. Goodale had previously worked at the New York law firm of Lord Day & Lord but began working for the Times when its legal work increased to a point that it needed an inside attorney.

During the evening Frankel confided to Goodale that his bureau had obtained some highly classified documents concerning the Vietnam War. Frankel said nothing more and sought no advice. When Goodale returned to New York, however, he looked into the Times’s legal liability if it published classified material.

Goodale focused on two provisions of the federal espionage laws. Section 794(a) criminalized the disclosure of information “relating to the national defense” to a foreign government, when the disclosure was done with the intent of injuring the United States or giving an advantage to a foreign government. Goodale thought this statute punished “old-fashioned espionage”—the unauthorized disclosure of defense information to a foreign enemy—and thus irrelevant to the Times’s possible publication of classified material.

Goodale was less certain about the Times’s legal liability under Section 793(e). That provision prohibited a
person who had “unauthorized possession” of information “relating to the national defense” from communicating it to a person unauthorized to receive it, provided that the person believed the disclosure could injure the United States. Since the Times was not authorized to possess top secret government documents, at least as that term was used in the statute, the Times might be liable under that particular espionage provision.

Goodale thought that the phrase “relating to national defense” might provide an out for the Times. Because the phrase was vague, a court might construe it narrowly so that it did not encompass the documents possessed by the Times. Goodale was unable to assess this issue, however, since he had neither seen the documents nor received a detailed description of them.

Goodale had a second reaction to Section 793(e). Judicial decisions had established that fundamental due process required that criminal statutes be written with clarity and precision so that a person could determine what conduct was legal and what was proscribed. Goodale thought that the phrase “relating to national defense” was perhaps so vague that it did not satisfy constitutional requirements. Although a court may avoid declaring a statute unconstitutional by giving it a definite meaning, Goodale did not think that a court would give Section 793(e) a definite meaning by construing it to refer only to government documents classified confidential, secret, or top secret. Too much government information that bore little or no relationship to the national defense was classified to permit such a construction. Thus, Goodale thought that a court might declare the statute void and unenforceable because it was impermissibly vague rather than give it an unsatisfactory narrow interpretation.

After several discussions, Ellsberg agreed to make the papers available to Sheehan. On Friday, March 19, Sheehan and his wife, Susan, a writer, travelled to Cambridge, Massachusetts, and checked into the Treadway Motor Inn as Mr. and Mrs. Thompson. As previously arranged, Sheehan met with Ellsberg, who took him to an apartment in Cambridge. Ellsberg allowed Sheehan to read the Pentagon Papers, the Joint Chiefs of Staff report on the Tonkin Gulf incident, and early drafts of some historical studies that ultimately became part of the Pentagon Papers. He withheld from Sheehan the four volumes that traced the diplomatic history of the war from 1964 to 1968, so as to minimize any criticism that he had jeopardized peace discussions, and the footnotes, out of fear that they might compromise U.S. intelligence interests.

The understanding between Ellsberg and Sheehan remains unclear to this day. What seems likely is that Ellsberg gave Sheehan permission to read the classified material and to make notes on what he read. He did not give Sheehan permission to copy or to duplicate the documents in any way. Sheehan accepted these terms, and Ellsberg gave Sheehan a key to the apartment so he could come and go as he pleased over the weekend.

Ellsberg must have realized he was taking a risk by leaving Sheehan unmonitored with thousands of pages of newsworthy, top secret documents. Sheehan was an able news reporter who had already publicly called for a war crimes investigation. Sheehan might well look upon the secret history not only as evidence of war crimes but as the spark that might prompt an official war crimes inquiry. Indeed, the whole situation suggested that Ellsberg wanted and expected Sheehan to do precisely what he told him not to do: photocopy the documents.

Ellsberg wanted the documents out and the Times was the best option he had for making them public. But Ellsberg did not want to give Sheehan the documents, because lawyers had told him he ran the risk of going to prison if he gave the documents to the press. Thus, Ellsberg may have decided that the best way to reduce his risk of criminal prosecution was not to give Sheehan the documents, but to place him in a situation in which he could do precisely what Ellsberg told him not to do.

Once alone with the documents, Sheehan apparently swiftly proceeded to photocopy the documents. William Kovach, the Times’s Boston correspondent, helped make the arrangements, and the job was completed by the end of the weekend.

Although Sheehan has not offered a public explanation for his actions, he was likely motivated by several considerations. As did Ellsberg, Sheehan believed that the disclosure of the secret Pentagon history might well shorten the war and force a war crimes investigation. Sheehan was unsatisfied with his reporting assignments, and his prospects at the Times seemed limited. Getting

"Sheehan met with Reston and told him he had a chance of obtaining a classified, multivolume, secret history of the Vietnam War..."
his hands on McNamara's secret Vietnam history may have been a way of resuscitating his reporting career and his chances of becoming a Times editor. It would also give him a crack at winning a Pulitzer Prize.

Sheehan and Ellsberg stayed in touch with each other during the next several weeks. Apparently Sheehan never told Ellsberg he had photocopied the documents, and Ellsberg never told Sheehan—at least in so many words—that he could do so. What they said to each other is not known, but the conversations served to keep each somewhat informed of the other's actions. Ellsberg, who was still hoping to orchestrate the disclosure of the Pentagon Papers, wanted to stay abreast of Sheehan's activities. Sheehan, worried that Ellsberg might give the papers to another reporter, wanted to stay informed of Ellsberg's movements.

Upon his return to Washington, Sheehan immediately set to work trying to make sense of the disorganized and voluminous documents. After a few weeks, it was clear he needed assistance. Greenfield sent Gerald Gold, one of his assistants, to help Sheehan digest the documents and plan the news reports. Gold arrived in Washington on April 5 and registered at the Jefferson Hotel on Sixteenth Street in Washington, just a few blocks from the White House. For the next two weeks, he and Sheehan poured over the unorganized material, which included an array of documents: military reports, texts of cables, historical analyses, and memoranda.

The fact that Sheehan had obtained the top secret documents and that he and Gold were studying them in Washington was itself a guarded secret within the Times. Indeed, it is uncertain whether anyone apart from Rosenthal, Frankel, Greenfield, Reston, and Wicker was aware of these developments.

While Gold and Sheehan worked their way through the documents in Washington, managing editor Rosenthal was wrestling with the idea of publishing the Pentagon's secret history. Rosenthal was the most politically conservative editor at the newspaper by the spring of 1971. He was not against the war, and he hated the idea of publishing top secret information that would bolster opponents of the war whom he did not respect. But the more he learned about the secret history, the more convinced he became that it was not only newsworthy but of great significance, because he thought it proved—through government documents themselves—that successive administrations had misled the public and the Congress on Vietnam policy.

Rosenthal, however, had two initial worries. First, was the material genuine? Did it really come from the government? He often inquired how Frankel, Sheehan, and Gold could be certain that the documents were not fabricated. They reassured him that they were familiar with the events covered and were acquainted with many of the government figures who participated in the key decisions and wrote some of the documents. They told Rosenthal that the documents had the unmistakable ring of authenticity about them.

Second, Rosenthal worried that publication of the material might gravely weaken privacy in the government. To answer the question of whether government officials would write candid reports if the Times published such a massive leak, Rosenthal and Greenfield, one of Rosenthal's closest allies, canvassed nearly four dozen books written by former government officials during the Kennedy and Johnson years. The Times editors posed one question: To what degree did these former officials disclose classified information in their books? They concluded that former government officials often disclosed classified information, and that the proposed Times publication would not measurably aggravate the problem of governmental confidentiality.

"...it would put Reston's friend, McNamara, in a critical light."
Sheehan and Gold had studied the documents carefully, those gathered agreed, based on Sheehan’s report, that the papers established that the US government had systematically deceived the American people during several administrations about the purpose of American involvement in South Vietnam, the risks of involvement, and the likely duration, destruction, and costs of the war. They agreed that, to the extent that the documents proved these points, they warranted publication.

The second issue was how the Times should present this secret history. A distinction was made between the Times writing a history of the war using the secret study as a source and the Times featuring as its report the government’s history of U.S. involvement in South Vietnam. It was agreed that what was significant and special about the study was that it constituted the thinking of government officials about why and how the United States was involved in Vietnam and that the focus of the Times report should be presentation of the government’s documenting history.

At Frankel’s request, James Goodale attended the meeting. Goodale explained that it was possible the Nixon administration would sue the Times for a prior restraint. He felt “instinctively” that “a judge would sign a temporary restraining order...simply because he would be afraid, as would any normal person, of the unknown,” having had an enormous amount of material “dumped in his lap with ‘top secret’ marked on it.” He stated that the chances of a prior restraint action would be significantly increased if the Times published the material over several days, or if word of the planned reports leaked out prior to publication. He urged those present to keep the project’s existence confidential even within the Times.

Arthur Ochs Sulzberger had unexpectedly become the Times publisher at the age of thirty-seven—the youngest chief executive that the paper had ever had—when his brother-in-law, Orvil Dryfoos, suddenly died after being publisher for a brief two years. Because it was not expected that Sulzberger would occupy the powerful publisher’s post, he had been in no way prepared for the job.

Sulzberger, as described by Gay Talese, “was a friend-ly, unostentatious, young man who had curly, dark hair, smoked a pipe, wore Paul Stuart suits, and always said hello to whoever was in the elevator.” But as friendly and approachable as he was, Sulzberger did not inspire confidence or trust in the news department. As Harrison Salisbury, the memoirist of the Sulzberger family, has written: by 1971, Sulzberger “had been running the New York Times for eight years but he was still thought of by his associates as young, relatively untested, something of an uncertain factor.” David Halberstam reached a similar conclusion in his study The Powers That Be: “There was a general feeling in the newsroom...that he was a pleasant well-meaning young man whose main preoccupation was with the business side and making money.” Sulzberger was liked but not seen as a source of strength and leadership within the newspaper.

It was only after the meeting in Reston’s office that Sulzberger learned the newspaper had the Pentagon Papers and was preparing them for publication. Reston himself may have informed Sulzberger of the project, and then by telephone. It is also not known what the publisher’s very first reaction was to the project.

What is certain, however, is that once Sulzberger’s advisers—Harding Bancroft, an executive vice president, Ivan Veit, a senior vice president, and Sidney Gruson, the publisher’s assistant—learned of the project, they warned Sulzberger that publication of the classified material might create serious legal problems. Bancroft also telephoned Louis M. Loeb, a senior partner at Lord Day & Lord who had been giving the Times legal advice since 1929, and told him of the development. Loeb was furious that the Times would even consider publishing the top secret report. He thought it out of character—perhaps irresponsible—for the Times to publish classified material that might endanger national security. Bancroft almost certainly informed Sulzberger of Loeb’s reaction.

A few days later, at Sulzberger’s request, Loeb and two assistants met with Sulzberger, Reston, Bancroft, Goodale, Rosenthal, Greenfield, and Topping at the Times. Loeb made clear that he strenuously opposed the Times disclosing top secret information. He advised that publication would violate the criminal espionage statutes as well as the executive order creating the classification system. He warned that the government would criminally charge the Times and its officials, that...
it would gain a conviction, and that some Times personnel would be imprisoned. Loeb also said that he considered the proposed publication unpatriotic and outside the Times’s tradition. He urged the newspaper officials to return the documents to the government. If they were unwilling to return them immediately, Loeb said they must inform the government that the newspaper possessed the material and then comply with the government’s directives.

Goodale disagreed with Loeb. He did not share Loeb’s view that the Times would betray its own tradition if it published the classified history. Rather, Goodale thought the Times would betray itself if it refused to publish the material. Goodale also claimed that he thought it was far from certain whether the proposed publication of the classified information would violate any aspect of the federal espionage law. Under these circumstances, and because he generally believed that obstacles to publication could usually be circumvented, Goodale urged publication. In doing so Goodale conceded that the administration might sue the Times for an injunction, but stated he did not think this possibility should bar the Times from going ahead with plans.

Although it may have been apparent only to Goodale, Loeb’s analysis of the Times’s potential legal liability had its shortcomings. Whether publication of the classified material would violate the espionage laws was an unsettled legal question. Even if a court concluded that publication of classified material violated one aspect or another of the espionage laws, it would be a serious legal ques-

tion whether the espionage laws violated the constitutional guarantees for a free press. As for Loeb’s point that publication would violate the executive order that established the classification system—that was totally irrelevant to the Times, since the executive order did not impose penalties on persons outside the executive branch.

Sulzberger had serious doubts about the project. He thought the classified material was less significant than his editors did. He disliked the idea of publishing the text of top secret government documents. He was scared by Loeb’s advice that he might go to prison if the Times published the Pentagon history. Accordingly, he told Rosenthal that he was withholding approval to publish the material, that he was retaining that authority for himself in this project, and that he wanted to see all the material slated for publication before he would consider granting final approval.

Rosenthal remained committed to the project. He thought that the point made by the Pentagon Papers—that successive administrations had misled the Congress and the public about American involvement in Vietnam and the war—was of overwhelming significance and that the Times had to publish. Rosenthal also saw the disclosure of the study as an extraordinary opportunity for the Times and himself. Rosenthal did take seriously Loeb’s warning that he might go to prison for violating the espionage laws, but he was confident that the editors and reporters would edit the documents so no information damaging to the national security was disclosed. Under all the circumstances, Rosenthal was determined to go forward and risk imprisonment.

Rosenthal worried about Sulzberger’s reaction to the project. To assure that the project went along smoothly and to minimize the possibility that Sulzberger would ultimately withhold his approval, Rosenthal decided to supervise the project more directly than he might have otherwise, and he placed Greenfield in direct charge. He ordered the reporters to prepare the material for publication in New York.

Loeb’s dire warnings also heightened Rosenthal’s eagerness to keep the project confidential. He worried that the FBI might learn that the Times had the documents and that it might try to seize them. He also was concerned that if other news organizations learned of the project, they might manage to obtain their own copy of the Pentagon history and somehow publish before the Times did, and Rosenthal did not want to get scooped. To protect the project’s confidentiality, Rosenthal first located it in out-of-the-way offices within the Times’s Forty-third Street headquarters in the hope it would go unnoticed. But he quickly concluded that tighter security was required. He directed an assistant, Peter Millones, to identify adequate hotel space in which to hide the project. Millones rented some rooms in the Hilton Hotel. Rosenthal gave the project a code name—Project X—and ordered everyone associated with the project to keep its existence confidential. He directed the reporters not to contact any of the authors of the Pentagon Papers study or any of the participants
in the government decisions that led to the U.S. military involvement in Vietnam. He ordered the reporters he had brought from out of town to assist on the project to report only to the Hilton, to keep their presence in New York a secret, and not to appear at the Times's offices on Forty-third Street. He hired security guards to watch the hotel rooms twenty-four hours a day and routinely had the telephones and hotel rooms checked for listening devices.

The meeting with Loeb triggered a series of debates within the Times that lasted several weeks. Top officials who had been informed about the project argued over whether the newspaper should publish the material at all. Rosenthal, who was supported by Reston, Frankel, Wicker, Greenfield, and Goodale, strongly favored publication. They believed the classified history constituted groundbreaking news.

The major opponent to publication within the Times was Executive Vice-President Harding Bancroft. Bancroft had served with the Office of Price Administration, then as counsel to the Lend-Lease Mission in North Africa, and finally as a lieutenant in the Navy during World War II. Following the war he served in the State Department, assigned to the Bureau of United Nations Affairs and then as deputy United States representative to the United Nations Collective Measures Committee, a panel concerned with peace and security. In 1953 he left the foreign service to work as legal counsel for the International Labor Office, a UN affiliate with its headquarters in Geneva. Bancroft joined the Times in 1956 as assistant secretary and associate counsel. He was promoted to secretary the next year and then became executive vice president in 1963.

Bancroft shared Loeb's perspective that it was out of character for the Times to publish this classified material. What that meant to Bancroft—or to Loeb for that matter—was not at all clear. The Times certainly published classified material on a regular basis. Indeed, as the Times was to claim during the subsequent litigation over the Pentagon Papers, the publication of classified material was the lifeblood of meaningful reporting, at least with regard to diplomatic and military affairs. Perhaps Bancroft was disturbed by the dimension of the security leak or that the leaked material was relevant to a war that still engaged over 150,000 American soldiers. Like Loeb, Bancroft also worried about the economic and political consequences that might befall the newspaper if it published the material, especially since the government had substantial power over the newspaper's television stations. He accepted Loeb's legal advice that publication would constitute a felony and that the government would prosecute the newspaper and those individuals responsible. He urged that the newspaper terminate the project.

Apart from the threshold issue of whether the Times should publish the information at all, Times officials had to contend with three other significant matters affecting publication. First, they were concerned that the Times not publish material that would injure current military plans or undermine intelligence interests. Rosenthal had several individuals read through the material time and again with an eye towards identifying such information. As they studied the documents, they concluded that the classified material contained little information that would threaten current military or intelligence interests if disclosed. As a result Times officials withheld very little information from the public, and no one can remember precisely what this information was, precisely why it was withheld, or how much there was of it, but it is unlikely that it was much.

Second, Times officials had to decide whether to publish the material in one installment or several. Goodale wanted all the material published in one day, an approach that would eliminate the possibility that the administration would seek a prior restraint against the

"...those gathered agreed that the papers established that the United States government had systematically deceived the American people..."
If the Times was going to disclose a secret government history of a war that was tearing the nation apart, Rosenthal thought it had better anticipate sharp and demanding questions about the accuracy of its report. He wanted the government documents published so readers could decide for themselves whether the Times fairly presented the government's history.

Bancroft, John Oakes, the editor of the editorial page, and Lester Markel, former editor of the Sunday edition, disagreed with Rosenthal. They made several arguments: publication of the documents themselves would undermine government confidentiality; the Times could gain whatever support it needed to guard against charges of distortion by selectively quoting from the documents; and publication of the documents would cause the administration to sue for a prior restraint.

Sulzberger had a second meeting with the Lord Day & Lord attorneys on May 12. This time Loeb was joined by Herbert Brownell, Eisenhower's former Attorney General, an influential member of the Republican Party, and the senior partner at the firm. Sulzberger asked Gruson, Bancroft, and Goodale to join him; he invited no one from the news department to the meeting.

The substance of the attorneys' advice had not changed. Brownell repeated Loeb's warning that Times officials would violate the espionage laws if they published the classified material. Loeb emphasized, as he had in the April meeting, that publication would violate the executive order establishing the classification system. He claimed that the publisher's father, Arthur Hays Sulzberger, would not have published the material. Neither Loeb nor Brownell raised the possibility that the administration might seek a prior restraint against the Times, and the issue was not discussed.

Goodale answered Loeb and Brownell's arguments. He contended that the Times's publication plans would not violate the espionage laws or the classification rules. He recited the arguments that had persuaded him in March when he first researched the question of legal liability. Goodale also urged Loeb and Brownell to examine the classified material themselves so that they too could become convinced that this was historical material that did not threaten current national security interests. But they refused. Brownell insisted that reading the papers might itself be a crime and impose upon them an obligation to inform the government that the Times had the papers.

After hearing all the arguments, Sulzberger adjourned the meeting without disclosing what he thought.

Tension at the Times increased toward the end of May. It was nerve wracking enough that basic questions—whether to publish the story or not and whether to publish the documents or not—remained unresolved. But the slow pace at which the Times was reading the material for publication convinced many that another news organization would scoop it. This was certainly a worry of Rosenthal and Frankel: "We were just tormented by the notion that somebody else would dribble this stuff," Sanford Ungar has quoted Frankel as confessing. Sheehan was also anxious. He knew that Ellsberg was driven to make the papers public and that he was still trying to persuade prominent public officials to release them.

As much as Rosenthal remained staunchly in favor of publication, he became increasingly worried that publication might gravely harm the Times. As he reflected years later, the material in question was "not just history...The government didn't consider this just history. The government considered it confidential secrets. They were marked 'secret', 'top secret'...and [it was] kind of terrifying in a sense to look at it in the middle of a war." Rosenthal had the terrifying vision of President Nixon gathering former Presidents Truman, Eisenhower, and Johnson together on television to denounce the Times for jeopardizing the national secu-

"Loeb...considered the proposed publication unpatriotic and outside the Times's tradition."

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avoid a prior restraint action. He was also upset that Loeb, Brownell, and Bancroft might have persuaded Sulzberger to end the project. Indeed, the fact that Sulzberger had not as yet closed the door on this horrendous possibility made Goodale feel that the publisher undervalued his legal advice. By the time Goodale took a week off following the birth of his daughter he believed that Brownell and Loeb had finally persuaded Sulzberger to cancel the project. If this happened he decided that he would quit.

The struggle over the project also affected the reporters working on it—and by now they included Hedrick Smith, E. W. Kenworthy, and Fox Butterfield, in addition to Sheehan. They had heard that Brownell and Loeb vigorously opposed publication, and as they logged long hours polishing the copy, they feared that Sulzberger would decide against publication.

In late May, Rosenthal wheeled a large shopping cart into Sulzberger’s office. The cart was filled with Sheehan’s latest copy, and a set of documents that had been edited for publication. This was the first time Sulzberger saw the classified documents or the draft news articles. After he read Sheehan’s copy and discussed it with Bancroft and Gruson, his serious doubts about the project became firmer. As Salisbury has recounted, Sulzberger thought Sheehan’s copy was confusing and “hardly sensational,” and he could not see allocating as much space to the project as Rosenthal wanted. Sulzberger even began to think that perhaps “it didn’t have to be published after all.”

imposing a six-page daily limit for the series because he was disappointed with the strength of the story and the quality of the copy. He emphasized to his editor that he was still exerting ultimate control over the project: “I want to remind you that I haven’t yet given permission for this story. I must see every word of the copy.” Sulzberger also told Rosenthal that he remained undecided about the publication of the text of government documents.

Why Sulzberger so resisted publishing the text of government documents was unclear. Publishing the documents did not pose any more of a threat to national security than publishing the information they contained. But Sulzberger may have been concerned that publishing the actual text of government cables might annoy foreign governments, result in substantial criticism of the Times, and alienate a portion of the Times’s readership. Sulzberger may also have feared that publishing the documents would goad the Nixon administration into seeking a prior restraint or initiating a criminal prosecution, and he was hoping to avoid a legal confrontation with the government. Whatever the reason, Sulzberger remained troubled at the idea of publishing the documents.

On Thursday afternoon, June 10, Sulzberger read a new lead and a summary of Sheehan’s story that was slated for the Sunday paper. It had been worked and reworked by Sheehan and Frankel, and it was better than the earlier version

"Whether publication of the classified material would violate the espionage laws was an unsettled legal question.”

During the next few days Sulzberger changed his mind. Several considerations apparently made the difference. Although Sulzberger did not share Rosenthal’s enthusiasm, he decided it was important for the public to have access to the classified study. Sulzberger was influenced by Reston, who urged publication. He was also concerned by the morale problems he expected he would face in the news department if he terminated the project after letting it proceed so far.

When Sulzberger returned the material to Rosenthal some days later, he gave his approval. He told Rosenthal that he supported a ten-part series to run on ten consecutive days. He also set June 13 as the publication date for the first installment, the day just before he was to leave for London. Sulzberger also told Rosenthal that he was
documents to Gruson, who later pursued the question with Rosenthal. Rosenthal promised that he would consider the publisher’s preferences and discuss them with Frankel.

Rosenthal and Frankel met at Greenfield’s home late that evening. Rosenthal pressed his two colleagues to justify the publication of the documents. He pressed the publisher’s point of view as if it were his own. Publishing the documents would increase the cost of the project because of the extra newsprint, would enhance the likelihood that the government would seek a prior restraint, would bore the readers, and would disproportionately dramatize the importance of the story. Frankel and Greenfield gave the answers that they had found persuasive all along: the charge of deliberate, long-term deception by the government—by presidents and cabinet members—was so central to the story that the Times had to publish the supporting evidence so readers could judge for themselves whether the reports were reliable. The discussion went on for hours and the three colleagues did not part until about 3:30 in the morning.

At 9:30 the next morning, Rosenthal and Frankel met with Gruson at the Times. Gruson wanted to know what they had decided before they met with Sulzberger. Rosenthal recounted the night’s discussion and reported, “[I] had come out more firm than when I went in. I’m absolutely sure. No documents, I say, no story.” Gruson met with Sulzberger and told him that his top editors were strongly united in favor of publishing the continuing to impose a six-page daily limit, but that, while he was out of the country, Bancroft and Gruson would examine the documents and the text “to make sure there were no military secrets.”

Rosenthal was eating lunch with Greenfield at a delicatessen on Forty-seventh Street on Saturday about half past one when the cashier told Rosenthal that his office had called and asked that he return immediately. The two men rushed to the Times. They did not know what could be so urgent. Perhaps the Nixon administration had learned of their publication plans and had telephoned the Times seeking information about the publication or, worse, threatening legal action. Or perhaps the publisher had changed his mind, even though the presses would begin to roll into action within four and a half hours. When Rosenthal arrived at the news department, he was handed a copy of Reston’s column that was to appear in Sunday’s paper. The column’s headline was “The McNamara Papers,” and the first few sentences informed the reader that the Pentagon’s history was being published that day. Rosenthal was told that Reston had dictated the column from his mountain retreat at Fiery Run, Virginia, over the telephone to the Times’s dictation bank twenty minutes earlier.

Rosenthal was aghast. Reston knew of the security precautions the Times had taken to keep the publication project a secret. He knew of the broad concern that the Nixon administration might learn of the project prior to publication and that it was not out of the question that the FBI might raid the Times offices. And yet Reston had used the ordinary telephone to dictate a column. Rosenthal was beside himself with frustration and confusion. But what Rosenthal did not then know would likely have shocked him even more. Reston apparently thought so little of the need to keep the project confidential that he had told McNamara that the Times had the papers and it was about to publish them.

Rosenthal’s anxiety increased. He wanted the afternoon to pass, the presses to roll, and the first installment of the Pentagon Papers to hit the street. The minutes ticked by. He waited. Nothing else happened. Finally the presses began. At 6:16 PM, the first papers came up to the city room. The story was out.

"...Rosenthal was determined to go forward and risk imprisonment."
During the summer of 1995, Cardozo School of Law sponsored its second Uri and Caroline Bauer Israel Program. Twenty-six American law students, including nine from Cardozo, enrolled in the Bauer Program to study comparative American and Israeli law at The Hebrew University in Jerusalem.

Most of the Cardozo students, and several non-Cardozo students, also pursued internships in offices ranging from the Office of the Legal Adviser to the Foreign Ministry to private law firms in Jerusalem. Dean Ellen Cherrick of CSL helped arrange many of the internships.

Students took three two-credit courses over a four-week period: The Arab-Israeli Conflict, taught by Professor Yehuda Blum of The Hebrew University; Comparative Legal Systems, which I taught; and Comparative U.S.-Israeli Business Law, taught by Professor Zohar Goshen of The Hebrew University.

In Comparative Legal Systems, the students and I learned together the fabulous complexity of the Israeli legal system. For example, matters of personal law—marriage, divorce, legitimacy, adoption, and charitable bequests—are governed by the law of the religion of the parties. Why? The Turks transported to Palestine the Millet system, which had long been used in the Ottoman Empire. The Millet system provided that each confessional group used its own law to govern personal and communal matters. The British Mandate preserved the Millet system, with some minor changes. Then Israel preserved the laws of the British Mandate, unless changed by act of the Knesset, which never changed the Millet system. Israel has thus inherited the Millet system from the Ottoman Empire!

Highlights of the summer included field-trips to legal institutions in Jerusalem. There was a guided tour of the new Supreme Court building, where students met with a clerk to one of the Justices to discuss various aspects of Supreme Court practice. On a tour of the Knesset, students met separately with members of the Knesset Benny Begin and Dedi Zucker to consider political aspects of the peace process. David Kornbluth of the Office of the Legal Adviser to the Foreign Ministry met with students in the dramatic setting of the Situation Room and gave them insight on the legal aspects of the peace treaty negotiations with Jor-
At the Bank of Israel, an assistant to the Director enlightened them with information on foreign currency transactions, foreign investment, interest rates, and the effect of Russian immigration on the economy. Students also visited the law office of Yehuda Raveh, the largest law firm in Jerusalem, to learn about professional opportunities for young American lawyers in Israel.

A highlight of the summer was a reception and dinner for students and faculty in the Bauer program and YU and CSL alumni held in the Maiersdorf Faculty Club of The Hebrew University. President Lamm attended the dinner, as did the Dean of the Hebrew University’s Faculty of Law Berahayahu Lifshitz.

The Bauer Program is part of an effort to broaden knowledge of Israel and its legal system among law students in the United States, to make work opportunities in Israel available to CSL students who plan on making aliyah, and to forge closer professional bonds between CSL faculty and the law faculty of The Hebrew University and other Israeli law schools.

In furtherance of these goals, CSL has intensified its practice of inviting Israeli professors to Cardozo. Most recently, Professor Gabi Motzkin, Chair of the German Department of The Hebrew University, visited for a semester, and taught courses on the Arab-Israeli peace process and comparative law and religion. Last spring, Professor Goshen taught a three-week mini-course, an introduction to law and economics, and Professor Uriel Procaccia taught a mini-course this Fall on the economics of property law. Professor Alex Stein is currently teaching an introductory evidence course. These visits enrich the CSL curriculum and help forge lasting professional bonds.

Next summer, CSL will join forces with Tulane Law School, which has run a program at The Hebrew University for 11 years. This joint effort promises to strengthen CSL’s presence in Israel.

The Bauer Program had an enormously successful second summer. Students were exposed to a range of exciting people, institutions, and ways of life. In one case, a student who was Palestinian-American interned in a law firm in East Jerusalem. He was a marvelous spokesman for the multiplicity of voices and concerns that usually gets distorted and compacted into “the Palestinian position.” He also gained intimate and invaluable insights into the people and land of Israel.

The program benefited Israel as well, since many students—Jews and non-Jews alike—came to appreciate the complexity and gravity of the political issues facing Israel, the extraordinary dynamism of the Israeli economy, and the vital pluralism of Israeli society and culture.

For more information about The Uri and Caroline Bauer Israel Program at The Hebrew University, contact Associate Dean Ellen Cherrick at (212) 790-0374.
Public Interest Summer Stipend Program Enriched by Auction

The 4th Annual Goods and Services Auction raised in excess of $15,000 for the Cardozo Public Interest Summer Stipend Program. Among the celebrity auctioneers were Dean Macchiarola and Professors Barry Scheck and Jim Lewis. Many alumni donated items and participated in the bidding. The highest bid of the night was $1,300 for tickets to a Knicks game with Professor Scheck.

Alumni Mentors Share Experiences with Students

“You will never regret it,” agreed the alumni in speaking about their post-graduate clerkships at a mentoring panel. This fall, they shared their personal experiences with current CSL students and offered advice on how to secure the most desirable positions and what to look for in a judge.

They all concurred that if one is fortunate enough to have a challenging and personable judge, one will get first-rate legal experience and a lifelong mentor. Panelists Alan Wold, CSL ’92, Donna Costa, CSL ’87, Marj Brown CSL ’94, Ken Michaels CSL ’93, David Kitz CSL ’92, and Edward Jewett, CSL ’92, clerked in different courts, each with its own style and area of law.

Jewett, who clerked in the Court of Appeals, offered a description of his experience that summarized clerkships. “They allow one to revel in idealism, like a first-year law student. The court is a haven of reason—of democracy and stare decisis.”

Over 30 alumni participate in Cardozo’s Mentoring
Program. They "give something back" when they provide useful advice to students about their futures as lawyers. In November mentors met students with whom they had been matched according to practice area, undergraduate institution, or prior career. Alumni represented the areas of Bankruptcy/Debtor-Creditor; Criminal Law; Employment Law; Entertainment/Sports Law; Intellectual Property; Litigation; Negligence/Personal Injury; Public Interest; Real Estate; and Taxation.

Students had an opportunity to meet with practicing attorneys again in February at an Alumni Roundtable practice area information session.

New Alumni Affairs Director Named

Joan Ehrlich-White, CSL '87, former co-chair of the Alumni Association, was named Director of Alumni Affairs this fall. In 1994-95, she was program administrator for Cardozo's Intensive Trial Advocacy Program. She also coordinated the trial advocacy teams, a job that she did again this year.

After graduating from Cardozo, where she participated in the Criminal Law Clinic and was a semi-finalist in the Eastern Region of the National Trial Competition team, Ehrlich-White went to work for the Legal Aid Society. Until January 1994, she was a staff attorney in the Bronx Criminal Defense Division of that organization.

"We are so pleased that Joan has filled this vital position," said Associate Dean Ellen Cherrick. "She brings enthusiasm for the School and broad knowledge of Cardozo alums at a time when our 20th anniversary presents an opportunity to expand and solidify alumni activities."

ClassActions

Keep your classmates posted by sending your personal and professional news. Photos are always welcome.
Mail to: Alumni Affairs, Cardozo School of Law, 55 Fifth Avenue, New York, NY 10003. Fax: 212-790-0232

Name _______________________________ Class ________________

Home address __________________________________________

Business address _________________________________________

Phone (day) ___________________________ (evening) ______________

Fax _______________________________ E-mail address ______________

Serve as a Resource

We need your help. If you would like to be a mentor, alumni ambassador, or help us place current students and graduates, please let us know. Mail the requested information to Dean Ellen Cherrick at the above address or call 212-790-0358.

☐ I am interested in being a mentor to law school students in my area of specialization.
☐ I would like to be an alumni ambassador. I will meet or speak by phone with applicants to Cardozo from my undergraduate college or current home town.
☐ I know of a job opening for a ___ year law student/graduate attorney.

Name _______________________________ Cardozo class ___________ Undergrad College ___________

Address ___________________________________________ Phone ____________________________

Area of specialization __________________________________________

Job available at ______________
1979

Larry Dub, who practices law in Jerusalem, has been retained to pursue the release of Jonathan Pollard before the US Justice Department.

Edmund Dominic Pitaro is an attorney in the Planned Gifts Department of UJA/Federation. Sidney Rosen was named a Partner in Sedgwick, Detert, Moran & Arnold, where he practices in the areas of insurance and reinsurance coverage litigation and environmental claims.

1980

Steven S. Goldenberg joined the firm of Greenbaum, Rowe, Smith, Ravin & Davis in Woodbridge, NJ as a lobbyist, practicing in the area of governmental affairs. He is a registered New Jersey legislative agent and is involved in privatization initiatives at the state, county, and local levels on behalf of several national and international corporations.


1981

Charles De La Fuente is the editor of The Record in Troy, NY. Jared Eisenstat is a Partner with Rice & Rothenberg in Long Beach, CA. Jerry M. Neumann is a Vice President/Senior Trust Officer with Smith Barney Private Trust Company in New York City.

Avery Steinberg and his wife, Rebecca, announce the birth of their fifth child, Akiva.

1982

Jay Kalish and his wife, Judith, announce the birth of Keren Nechama. Deborah L. Pico announces the arrival of her daughter, Merissa Beth, from Hefei City, China. Deborah is a Partner in Myers & Pico in Fair Lawn, NJ.

1983

George Gilbert is now an associate with Solovay Marshall & Eillen. Previously he had his own practice in entertainment law and represented independent record companies, music publishers, and others in the film, radio/TV, and music industries.

Lori Levinson joined the firm of Cain, Hibbard, Myers and Cook, one of Berkshire County’s (MA) largest law firms. Gary Mazart has been appointed Chair of the New Jersey State Bar Association’s Elder Law Section for 1995–96. The section reviews and comments on issues of special concern to the elderly and disseminates timely information on legal topics.

1984

Lynn Peters Adler, who lives in Phoenix, AZ, has published a book, Centenarians: The Bonus Years. She is also the founder of the Arizona Centenarian Program, which recognizes and honors those who have passed their 100th birthday.

George N. Cohen and Lesley Germaine announce the birth of their second child, Emma Jane, on October 18, 1995. Esther M. (Micky) Morgenstern was elected a Judge of the Civil Court of the City of New York.

Donna K. Pesin, who practices in the areas of medical malpractice, product liability, and litigation in Toledo, OH, moderated a panel discussing legal issues for women.

1985


1986

Mara Asya Blatt is in her second year as a solo practitioner in El Paso, TX. She welcomes calls from anyone visiting the area. Kim Kressel Ephrat and her husband Ze’ev announce the birth of their fourth child, Noah Ezra.

Jay A. Ganzman was named a Partner at Smith, Stratton, Wise, Heher & Brennan, where he represents health care-related organizations and medical group practices.

Andrew M. Gold is a Partner with Bogatin Berchenko & Corman in San Francisco, CA. The firm specializes in arts and entertainment, intellectual property, labor and employment law, and commercial litigation. If you are on the “Left Coast,” feel free to call him. Leonard A. Golub is Senior Vice President of Joseph Stevens & Company, L.P. in New York City. David A. Kirsch is sole proprietor of the Madison Square Club, a private training facility in New York City. He is also the author of several articles on fitness and nutrition.

Jeffrey I.D. Lewis, who joined Patterson, Belknap in 1993 and was named Partner earlier this year, has a broad-based intellectual property litigation practice, primarily focused on pharmaceutical, chemical, and biotechnology patents. Debra J. Pasvoll-Donoghue is Deputy Public
Administrator in the San Mateo County District Attorney's Office in Redwood City, CA. Philip Evan Rosenberg is a Partner at Sherrin & Glasel in Albany, NY, where he represents tax exempt organizations and practices in the areas of health law, labor law, and pension/employee benefits. Robert M. Tils is a Partner at Moritt Hock & Hamroff in Hempstead, NY, practicing in the areas of litigation, commercial law, and bankruptcy/debtor-creditor law.

1987

Donna Costa has left Cleary, Gottlieb, Steen & Hamilton to take a position as General Counsel and Director at Mitsubishi Chemical America in White Plains, NY. Joseph A. Grob left the Legal Aid Society in 1995 and is working as Court Attorney for Judge Esther M. (Mickey) Morgenstern, CSL '84. He and his wife, Rhea Tunk, CSL '88, welcomed their second child, Emma Alexa, in October 1995. Peter Alan Weinmann entered the graduate program in criminal justice at Harvard University's John F. Kennedy School of Government. He will spend 18 months working towards a masters degree in public administration with a concentration in criminal justice. He was been a prosecutor in the Erie County (NY) District Attorney's Office. His e-mail address is weinman@ksgl.harvard.edu.

1988

Jay R. Butterman was profiled in New York's Daily News regarding his love of wine and wine collecting. Andrew Farber is Vice President of Business Affairs of Live Entertainment of Canada Inc.) in Toronto, a theatrical production company with theaters in Toronto, Vancouver, Chicago, and a 1,800 seat musical playhouse that will open on 42nd Street in 1997. Amy B. Levy was elected an alternate to the Southbury, CT Board of Finance. Miriam Stern is the Editor of the newly renamed Entertainment, Arts & Sports Law Journal, a publication of The New York State Bar Association.

1989

Michael J. Wildes, who was named Partner at Wildes & Weinberg, was profiled in the Spring 1995 Barrister Magazine, a publication of the American Bar Association. Barry L. Ritholtz, an attorney for the Greenwich Village nightclub, The Bitter End, wrote a letter published in NYPress in which he argued for the vital role Bleeker Street has played in the discovery and development of new talent.

1990

Richard A. Cohen is using his LL.M. in taxation as a financial consultant with Smith Barney in Florham Park, NJ. Rina M. Goodman, an attorney in the Metropolitan Washington D.C. office of Speiser, Krause, Madole & Lear in Rosslyn, VA, works in the areas of products liability, maritime, personal injury and aviation disaster wrongful death claims. She co-authored The Government Contractor Defense for a 1993 convention of The Association of Trial Lawyers of America. Naomi Skolnick Kaszovitz and her husband, David, announce the birth of

More than 110 Criminal Law Clinic alumni attended an inaugural reunion in mid-February. Initiated by Wayne Greenwald, CSL '79, the cocktail reception drew members of all 17 graduating classes to the Bess Cutler Gallery in Soho. Dean Macchiara and clinical faculty members Barry Scheck, Ellen Yaroshefsky, Louise Hochberg, and Jonathan Oberman, plus staff members Liz Vaca, Lillian Ramos, and Elena Aviles attended, as did former clinical professors Larry Vogelman and Mira Gur-Arie and staff member Terri Panetta. Vogelman came from New Hampshire, where he is Deputy Director of the Public Defender's office. Members of the Class of '85 are, from left: Ian Heller, Art Weiner, Michael Raskin, Jeri (Bittermann) Karpen, Robbie Summers, and Brian Zimmerman.
their third child, Yosef Menachem (Joshua Marc), Helaine E. Rosenblum-Sanders and her husband, Harvey, have opened their own law firm, Sanders & Sanders, in Amherst, NY practicing in the areas of labor and employment, immigration, and family care law.

1991
Neeva Brenner Kleiman and her husband, Gabe, welcome their daughter, Jordan Hannah, born in April 1995. Sallie B. Kraus has joined General Reinsurance Corporation of Hartford, CT in its Environmental and Toxic Tort Unit. Myron Joel Laub is Director of Swiss Bank Corporation in New York City. Cang Li, a Partner in Lin & Li in New York City, was elected Vice Chairman of US-China Lawyers' Society, an organization headquartered in New York with branches nationwide and in China. Leslie E. Payson is Vice President and Counsel at Lehman Brothers in New York City. Minerva R. Petruzzi reports that she is the first female attorney born in Colombia, S.A. licensed to practice in three states. She was of counsel to the defense team during the eight-month trial involving Pablo Escobar and co-defendant, "La Quica." Robert E. Schneider is General Manager/General Counsel of The Theatre Guild, which produces legitimate theatrical productions on Broadway and national tours.

1992
Josh Blackman, editor of The Internet Lawyer, has a new web site featuring a list of selected articles, law-related online newsletters, and an up-to-date listing of law-related Internet conferences (http://www.internetlawyer.com). Adam J. Brauer is now an associate producer with Warner Brothers Television in New York City. Matthew J. Fortnow is an associate in the office of M. William Krasilovsky, practicing entertainment and copyright law. He is co-author of the recently published 7th Edition of This Business of Music, the “Bible” of the music industry. Heidi Lynn Handler was accepted on early decision to Jefferson Medical College in Philadelphia. Asher Labendz has joined The Center for Alternative Sentencing and Employment Services in Kew Gardens, NY.

Mark your Calendars

1981, '86 & '91 Class Reunions
Bridgewaters at South Street Seaport
May 30, 1996

1993
Ted Curtis has relocated to Boca Raton, FL. The publication he edits has been renamed The Sports Executive Report.

1994
Kevin Cohen is the president and founder of the Card Club, which will send greeting cards to friends and associates on any occasion that needs remembering! Michael Raskas and his wife, Karen, announce the birth of their son, Sammy.

1995
Dierdre Burke has relocated to Ashfield, MA, where she was named an assistant district attorney for the Northwestern District. Linda Lourie is working in Geneva as a consultant in the industrial property division of the World Intellectual Property Organization, an agency of the United Nations. Neil Torczyner won first prize in the Nathan Burkan Memorial Competition for his essay, "That's Our Type—An Argument Against Copyright Protection for Digitized Typeface." The competition is sponsored annually by the American Society of Composers, Authors and Publishers (ASCAP).

IN MEMORIAM
Adrienne Assail, CSL '83

More than 50 Cardozo alumni, who practice in the areas of intellectual property and entertainment law, attended a breakfast in October. They met with Professor Marci Hamilton and other faculty members who teach in these areas. Hamilton spoke about the new Intellectual Property Law Program at Cardozo and commented on her then-upcoming speech, "Libraries and the Internet," for presentation at the Kennedy School of Government at Harvard University. A directory of Cardozo alumni in the practice areas was distributed.
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MARCH 19
Panel on South Africa:
The Legal Impact of Change

MARCH 25
Conference:
The Jurisprudence of Ratings
Senator Joseph Lieberman, Keynote Address

APRIL 23
Panel on Domestic Violence
Cardozo Women’s Law Journal

APRIL 24
BALLSA Reunion Dinner

APRIL 28
Reception in Washington, DC
for Alumni and US Supreme Court Admittees

APRIL 29
US Supreme Court Admission Ceremony and Reception

MAY 30

JUNE 9
Benjamin N. Cardozo School of Law Commencement