

learning and adapting long after their time with us on campus has passed. They develop broadly applicable skills in communication, critical thinking, analysis, synthesis and a broad understanding of global history, culture and the arts that is not only useful in itself, but also adds perspective and joy to their lives.

How did your education at UVA Law prepare you for your career?

I owe a great deal to UVA for its role in my professional development. I enjoyed my time in law school—I had wanted to be a lawyer since I was 5 years old and the challenge of my classes only deepened my interest in the law as a tool of social and economic change. I find that as president, just as I did as provost, I use my legal training every day, particularly as it relates to negotiation among parties with seemingly different interests and constructing initiatives that benefit many groups on campus.

After my first year in law school, Professor Stanley Henderson, my Contracts professor, suggested I consider clerking for a judge. He thought I should perhaps apply to work with a Supreme Court justice, which led to my clerkship with the inspirational Justice Thurgood Marshall.

Several years later, after time working in Holland and Washington, D.C., Professor

Ken Abraham called me to convince me to consider the academic world, and my first job as a law professor was at UVA, where my professors supported me while I was on the job market. My first classes were taught in rooms I'd learned in as a student, and my mentors were my former professors.

From there, I've had a series of interesting and challenging jobs, not quite along the path I originally saw. I particularly credit Professors Henderson, Abraham, Richard Merrill and Lillian BeVier for challenging me to expand my focus beyond a conventional law practice so that I could remain open to all sorts of interesting possibilities, especially when they built on each other.

What's a favorite memory from your clerkship with Justice Thurgood Marshall?

I have been fortunate to work with so many of my heroes, including Thurgood Marshall. As the best lawyer of the last century, Marshall taught me a great deal about the law, its effects on ordinary people, and its ability to change society.

The true impact of this extraordinary man was brought home to me not during my clerkship, but at the end of his life.

On a cold day in January 1992, nearly 2,000 people lined the streets of Capitol Hill, waiting to enter the imposing Great Hall of the Supreme Court building. As they filed past the coffin and the official portrait of Justice Marshall, some were silent, but many parents whispered to their children, telling them about Thurgood Marshall, sharing how his work had changed America and their lives, and describing opportunities open to them that he helped to establish and institutionalize. Many left flowers or other items before the portrait. I remember one moment that particularly captured the some-



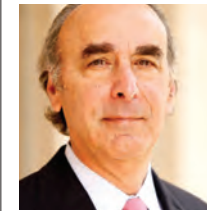
FIRST JOB in academia was as a visiting professor at UVA Law during the 1994-95 school year.

what contradictory feelings of loss and hope that could be seen on the faces during the 12-hour vigil: A mourner left behind a copy of the petitioners' brief in *Brown v. Board of Education* with the following inscription at the top: "We will always remember."

Being president of a university is a demanding job. What do you do to unwind?

I build time into my calendar to exercise regularly—and I encourage students to do that as well. It is a tremendous way to relieve stress, and helps put problems and challenges in perspective. I enjoy needlepoint for the same reason. My husband and I enjoy traveling and often do so with friends; spending time with friends who don't see you as president first is essential to keep perspective. I am also an avid reader. Earlier this year I saw "Bridge of Spies," the Steven Spielberg movie about spying during the Cold War, and then immediately downloaded the book. It's a fascinating story, and, of course, I applaud the American lawyer, James Donovan, who helped orchestrate the exchange of spies on Berlin's Glienicke Bridge. He is the kind of lawyer we should all aspire to be. ▀

FACULTY NEWS



KENNETH S. ABRAHAM published "The Liability Insurer's Duty to Settle Uncertain and Mixed Claims," in *Rutgers Law Review* and "Jefferson's Fire Insurance Policy and Monticello's Reconstruction of Slavery" in *The Green Bag*.



KERRY ABRAMS continues to serve as vice provost for faculty affairs for the University, coordinating faculty recruitment and retention, overseeing the promotion and tenure process, and developing faculty policy University-wide. From April through June 2015, she was a Trinity Term academic visitor at the Centre for Criminology at Oxford University. While resident at Oxford, she presented two working papers, "The Status of State Citizenship" and "The Challenge of Multiparentage." In June, Justice Antonin Scalia quoted Abrams in his plurality opinion in *Kerry v. Din*, a case about

FROM ARGUING BEFORE A U.S. COURT OF APPEALS TO A FELLOWSHIP AT OXFORD, FIND OUT WHAT FACULTY HAVE BEEN UP TO OUTSIDE THE CLASSROOM

whether a U.S. citizen has a right to know why her spouse was denied a visa. Abrams also helped to host, as part of the Immigration Law Program, a symposium on "The Future of Immigration Enforcement" in honor of her colleague, **David Martin**. The *Journal of Law & Politics* published papers from the symposium in the fall. She wrote an introduction to the journal's symposium volume—"Foreword: The Future of Immigration Enforcement: A Tribute to David Martin" (2015)—and also moderated a plenary panel, an edited transcript of which she also published in the journal as "Structured Dialogue on Building a Sustainable, Stable Immigration Enforcement System" (2015). Abrams authored several online publications, including an essay, "No More Blood," which was a contribution to a EUDO CITIZENSHIP Forum debate on whether the widespread legal rule of *ius sanguinis*, through which citizenship is transmitted at birth from parent to child, can still be justified in the contemporary world, as well as two reviews of the work of her family-law colleagues on Jotwell.com, "Making 'Admin' Visible" and "Restructuring Family Law."

In September, she spoke to the Law School community at the Supreme Court Roundup about *Obergefell v. Hodges*, the same-sex marriage decision. In October, she traveled to Montreal for a workshop on "Managing Citizenship, Security and Rights" at the University of Quebec at Montreal. The workshop was the first of several planned as part of a five-year grant from the Social Sciences & Humanities Research Council of Canada as part of its Insights Program to study comparative approaches to marriage migration regulation.



This spring, **BARBARA ARMACOST '89** presented a paper at "Doing Justice Without Doing Harm," a conference sponsored by the Nootbaar Institute at Pepperdine Law School. The paper, "Restorative Justice in America's Prisons: The Scourge of Solitary Confinement," discusses historical, constitutional, legal and moral issues raised by the use of solitary confinement in American prisons. This year she taught a Seminar in Ethical Values on restorative justice,

and the paper was inspired in part by research for that seminar.



In December, **MARGO BAGLEY'S** second report for the Woodrow Wilson International Center for Scholars, "Digital DNA: Synthetic Biology, Intellectual Property Treaties, and The Nagoya Protocol" was released. She also presented the conclusions of the report at a release event at the Wilson Center in Washington, D.C. Her piece, "On Being Human," a review of the documentary "Fire in the Blood," was published in the *Journal of Intellectual Property Law & Practice* in March.

Bagley recently completed two book chapters, which are now with the editors: "Towering Wave or Tempest in a Teapot? Synthetic Biology, Access & Benefit Sharing, and Economic Development," in Susy Frankel and Daniel Gervais, eds., "Intellectual Property and Regulation of the Internet: The Nexus with Human and Economic Development" (Victoria University Press, forthcoming 2016), and "Of Disclosure

'Straws' and Patent System 'Camels': Patents, Innovation, and the Disclosure of Origin Requirement," in Daniel Robinson, Ahmed Abdel-Latif & Pedro Roffe, eds., "Protecting Traditional Knowledge: The WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore" (Routledge Press, forthcoming 2016). In addition to the Wilson Center release event, she gave the following presentations: "New Technologies, Fairness, and Cross-Border Issues," at the National Academies of Sciences, Engineering and Medicine's "Workshop on National and International Intellectual Property Practices and Policies: Assessing the Impact of Political, Economic, and Technological Pressures," Washington, D.C., December; "Show AND Tell: Genetic Resource Disclosure of Origin Requirements and the TRIPS Agreement," at the symposium "Patent Sovereignty and International Law," University of California-Irvine, October; and "Towering Wave or Tempest in a Teapot? Synthetic Biology, Access and Benefit Sharing, and Economic Development," Emory University School of Law, Atlanta,

September, and the University of Richmond School of Law, October.

She is scheduled to speak at Loyola Law School, Los Angeles on “Digital DNA: The Nagoya Protocol, Intellectual Property Treaties, and Synthetic Biology.”

Finally, she continued her role as an expert technical advisor to the

government of Mozambique at the World Intellectual Property General Assemblies (October), the Standing Committee on Trademarks (November) and the Intergovernmental Committee on Intellectual Property, Genetic Resources, Traditional Knowledge, and

Folklore (February) sessions in Geneva, Switzerland. She also delivered the Hardy Cross Dillard Chair Lecture, “Thou Shalt Not Steal: The Morality of Limits on Pharmaceutical Patents,” at the University of Virginia School of Law.



RICHARD BONNIE '69 was invited to deliver a major lecture at the Annual Meeting of the American Psychiatric Association in

Atlanta in May. His lecture is titled “The Sudden Collapse of Marijuana Prohibition: What Next?” At the meeting, he will be awarded a Special Presidential Commendation for his contributions to the field of law and psychiatry.

Bonnie continued to play an active role in public debate about gun policy, working

with a team of scientific colleagues from Duke University and Columbia University. They published an article in the Journal of the American Medical Association on the relationship between firearms and suicide, and also submitted invited testimony to the Senate Judiciary Committee in February on the likely effects of proposals to restore gun rights to individuals with histories of involuntary hospitalization and to veterans who have been found to be unable to manage their financial affairs. He also spoke on this topic at UVA's Medical Center Hour on Oct. 7.

Bonnie co-authored companion articles published in Psychological Science and the Temple Law Review on the policy implications of recent neuroscience research indicating that some characteristics of brain development in adolescents, particularly risk-taking and impulsivity in conditions of social arousal, continue into young adulthood. He also made presentations on juvenile justice reform at a symposium on neuroscience and the law at Fordham Law School in February and to the American Psychiatric Association Annual Meeting.

At the request of Virginia Sen. Creigh Deeds, Bonnie is chairing an expert advisory body to prepare options for the General Assembly's panel studying “mental health services for the 21st century” and charged with reporting recommendations in December 2017. The study was initiated in

the wake of a tragic episode in November 2013 in which Deeds' son attempted to kill him, and then committed suicide. Bonnie previously chaired the Virginia Supreme Court's Commission on Mental Health Law Reform from 2006-11.

He presented “Coping with Service System Failures: The Case of Psychiatric Emergencies” at a program on “Introducing Change in the Delivery of Care” sponsored by the John W. Glynn, Jr. Law & Business Program on Nov. 20. Bonnie was co-author of a study published in the New England Journal of Medicine in March showing that use of an extended release form of a drug that blocks the effects of opioids reduced the risk of relapse in a population of addicts under criminal justice supervision.

Finally, Bonnie made a presentation at a death penalty symposium at Washington and Lee School of Law, “Mental Illness, Severe Emotional Distress and the Death Penalty: Reflections on the Case of Joe Giarratano.” Bonnie represented Giarratano from 1980-83. His death sentence was commuted by Gov. Doug Wilder in 1991.



Four students from the Law School's Appellate Litigation Clinic, led by **STEPHEN BRAGA**, argued two

appeals before the U.S. Court of Appeals for the Fourth Circuit in Richmond on Jan. 28, with two students jointly presenting each appeal. The clinic also reprised last year's trip to the Sixth Circuit in Cincinnati, returning to the court March 17-18 for back-to-back days of appellate arguments involving three more students handling two separate cases. On March 22, the clinic returned to the Fourth Circuit in Richmond for a single appellate argument by a student in a prisoner's rights case. The final case of the year will be argued at the Fourth Circuit in May.

By the end of the semester, all 12 students in the clinic will have presented an oral argument to a federal circuit court of appeals.



DARRYL BROWN '90 was a visiting scholar at the University of Münster, Germany, in March, and at the University of Toronto and Osgood Hall law schools in April. Also in April, he presented a paper at the Midwest Political Science Association conference in Chicago. His book “Free Market Criminal Justice: How Democracy and Laissez Faire Undermine the Rule of Law” was published by Oxford University Press in January.



JON CANNON '95 response piece—“Toward a Theory of Change”—was published by the Harvard Law Review Forum in March. His book “Environment in the Balance” was selected for a panel of the Virginia Festival of the Book, titled “Environmental Thought: Resources, Law and Politics,” on March 18. In April, he commented on “Struggling for Air” by Ricky Revesz and Jack Lienke at Resources for the Future. He also traveled to Williams College in April to give a lecture on “Environment in the Balance.” He continues his work, with others, on a meta-study on elements of successful nongovernmental conservation efforts.



A documentary movie that **GEORGE COHEN** appears in made its debut at the South by Southwest Film Festival on March 13. The film, “Starving the Beast,” “examines the ongoing power struggle on college campuses across the nation as political and market-oriented forces push to disrupt and reform America's public universities. The film documents a

philosophical shift that seeks to reframe public higher education as a ‘value proposition’ to be borne by the beneficiary of a college degree rather than as a ‘public good’ for society.”

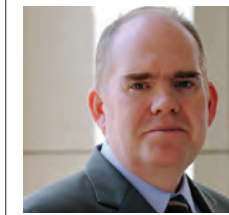


ASHLEY DEEKS had two articles published between February and May: “Confronting and Adapting: Intelligence Agencies and International Law” in the Virginia Law Review and “Intelligence Communities, Peer Constraints, and the Law” in the Harvard National Security Journal. She also published a symposium piece in the University of Chicago Law Review, titled “Checks and Balances from Abroad.” She continued to serve on the State Department's Advisory Committee on International Law and recently served as a discussant on transnational data issues. She spoke in February about cyber issues in international law at a University of Texas Law School conference, “The Frontiers of Cybersecurity Policy and Law.” In March she spoke on the legal basis for the use of force in Syria, at a JAG School event for senior military lawyers. She also moderated a panel in March at the American Society of

International Law's Annual Meeting, on the topic of international law and intelligence.



In a span of five days in March, **JOHN DUFFY** argued *TC Heartland v. Kraft* (on behalf of TC Heartland) before the U.S. Court of Appeals for the Federal Circuit, in a case that could dramatically affect venue choices in patent infringement litigation; participated in the “Private Law and Intellectual Property” conference at Harvard Law School; spoke at an American Bar Association conference on administrative law; testified before the U.S. House Judiciary Committee, on the topic “The Chevron Doctrine: Constitutional and Statutory Questions in Judicial Deference to Agencies”; and spoke on a panel with two Federal Circuit judges at George Mason University about the role of that court in the federal court system.



In April, **MICHAEL DORAN** presented a paper, “The Puzzle of Non-Qualified Retirement Pay,” at the University of Colorado Law School as

part of its tax policy colloquium, and at the University of Pennsylvania Law School as part of its tax policy colloquium. In June, he will present another paper, “Revisiting the Tax Cap on Manager Compensation,” at Columbia Law School as part of its Summer Tax Policy Workshop.

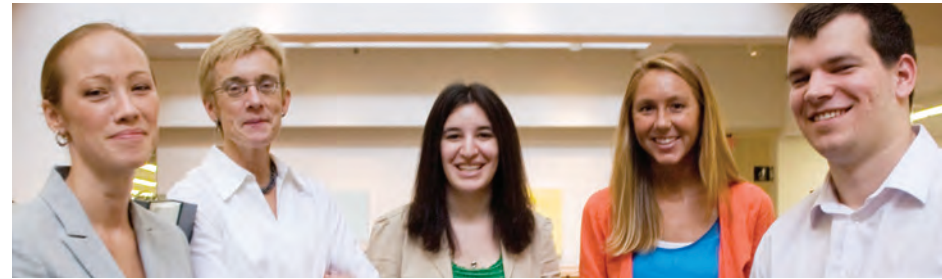


KIMBERLY KESSLER FERZAN gave her chair lecture, “If What I Do Is Right, How Can You Make It Wrong?” in February. She co-authored, with University of Michigan law professor Peter Westen, “How to Think (Like a Lawyer) About Rape Law.” She is working on “Rethinking Crime and Culpability,” a book under contract with Cambridge University Press that she is co-authoring with University of San Diego law professor Larry Alexander.

She taught “Advanced Criminal Law: From Theory to Practice” at Harvard Law School over the January term, and attended an American Law Institute meeting in March on the sexual assault consent formulation for a proposed revision to the Model Penal Code.

She traveled to Oslo, Norway, in March to serve on the dissertation committee of a philosophy Ph.D. at the University of Oslo, and

COUGHLIN COMES FULL CIRCLE ON MOLLY PITCHER



IN DECEMBER, Secretary of Defense Ash Carter announced that the military would, for the first time, allow women to serve in all combat roles for which they qualified, removing the final official barrier for women's service in units such as the Navy SEALs, the Army Special Forces and the Marine Corps infantry.

Professor Anne Coughlin, who, as the leader of the Molly Pitcher Project at UVA Law, helped create the legal framework for the federal discrimination suit that was filed against the combat exclusion policy in 2012, described Carter's announcement as “a very long time coming.”

“Women have been in combat theaters, but they haven't yet done the full range of jobs,” she said in an interview with KCRW in Los Angeles. “In the work that they have done, though, they've shown that they have the strength, the courage, the smarts, the shrewdness and so

forth to perform at whatever tasks they've been given.”

She noted, however, that, going forward, it would be important for the military to establish clear, neutral guidelines to test both men and women, and then follow them in their deployments.

The Molly Pitcher Project was formed by Coughlin and four students (above, with Coughlin, 2013 graduates Helen O'Beirne, Ariel Linet, Rebecca Cohn and Kyle Malinak) at UVA Law School in 2011 with the goal of laying the groundwork to file a lawsuit against the gender exclusion policy. The law firm Covington and Burling took on the case and filed the federal lawsuit in May 2012, with Army Col. Ellen Haring and Army Reserve Command Sgt. Maj. Jane P. Baldwin as the plaintiffs. The case was still pending when, in 2013, then-Defense Secretary Leon Panetta gave his order to lift the exclusion policy.

Coughlin expressed optimism that rigid ideas about roles for women were shifting, especially in the younger generation.

“Women, like men, should be able to choose to invest their personal capital and to decide what kinds of jobs they want to compete for,” she said. “And if they develop those personal resources—the skills, the strength—then they are entitled to get those jobs.”

Coughlin noted that the next step toward equality is to challenge the male-only selective service registration.

“The objective has been to insist that women, like men, have equal opportunities, but also equal obligations,” she said. “If there comes a time when there's a national emergency and we have to institute the draft, the idea is that women are equally fit and capable to fight if they meet the standards.”

—Andrew Martin

presented a paper on consent in rape law at the April 29-30 conference “Theorizing Consent: Educational and Legal Perspectives on Campus Rape,” at the University of Texas, Austin.



BRANDON GARRETT and **Kerry Abrams** published “DNA and Distrust” in *Notre Dame Law Review*. Garrett published “Constitutional Law and the Law of Evidence” in *Cornell Law Review* and “The Corporate Criminal as Scapegoat” in the *Virginia Law Review*, which is currently being translated into French for the *Revue Internationale de Droit Économique*. A translation of a 2015 *Virginia Law Review* piece, “Confession Contamination Revisited,” is forthcoming in the *Taiwan Law Review*. Garrett has just signed a contract with Harvard University Press to write “The Triumph of Mercy,” a book examining the causes of the decline in death sentences in the U.S. and the implications for the future of criminal justice more broadly.

He spoke about two of his books at the Miller Center’s American Forum on Dec. 10, and the conversation, “The Dysfunction of American Justice,” aired on PBS stations in late January. At the JAG

School on Feb. 2, he presented research on the law and science of eyewitness memory at the Intermediate Trial Advocacy Course. He spoke at a conference at Washington and Lee University School of Law on Feb. 5, where he presented “The Constitutional Regulation of Forensic Evidence” for a symposium issue of the *Washington and Lee Law Review*. Garrett moderated a Feb. 17 presentation by U.S. Attorney Andrew Boutros on food safety and customs prosecutions and a panel on corporate compliance at the *Virginia Journal of Criminal Law’s* annual symposium Feb. 18. He presented chapters from his book-in-progress examining the decline in death sentences at the Florida State University College of Law on Feb. 24. Garrett participated in an Administrative Conference of the United States forum that focused on regulatory capture on March 3, along with U.S. Sens. Sheldon Whitehouse ’82, Mike Lee and Elizabeth Warren. On March 4, he presented a paper for a symposium issue at a conference at the West Virginia School of Law. Co-authored with Greg Mitchell, the paper included surveys of lawyer and lay perceptions of forensic evidence. Also in March, he participated in a Kalamazoo Conversation on “Prisons at the Core of Criminal Justice Reform” at the French Embassy, an event co-sponsored by The Atlantic.

He delivered two keynote addresses and participated in a conference on March 18 in Tokyo on “Death Row Exonerations and DNA Testing,” and on March 20 in Osaka, Japan, on “The Past, Present, and Future of Innocence Efforts in Japan.” Both speeches will be translated and published in Japan. In April, he will teach an Osher Lifelong Learning Institute class in Charlottesville on corporate crime.

Garrett is the Law School’s principal investigator for the Center for Statistics and Applications in Forensic Evidence, funded by the U.S. Commerce Department’s National Institute of Standards and Technology. This fall, the center launched the Forensics Forum blog, which features news, judicial rulings and research on forensics. In March, Garrett, Dan Murrie and Sharon Kelley of the Institute of Law, Psychiatry and Public Policy presented work made possible by C-SAFE, on psychology of forensic evidence, at a symposium at the annual American Psychology and Law Society Conference.

On Oct. 31, Garrett provided written testimony in support of the Police and Criminal Discovery Reform Amendment Act of 2015, before the D.C. Counsel Committee on the Judiciary.

He will be publishing two short pieces this spring: “The Myth of the Presumption of Innocence,” *Texas Law Review Online* and

“The Metamorphosis of Corporate Criminal Prosecution,” *Virginia Law Review Online*.

His recent op-eds include: “Firm Lines: Justice Scalia’s Criminal Justice Legacy,” in *The Crime Report*, Feb. 16; “The Year Banks Finally Paid” in *Slate*, Jan. 12; “Can a Lawyer Oppose a Client’s Plea to Live?,” *ACS Blog* and *Huffington Post*, Dec. 1; “Florida’s Outlier Hanging Judges,” *ACS Blog*, Nov. 9; “Virginia’s Vanishing Death Penalty,” *Slate*, Oct. 30; “It Takes a Plan (To End ‘Too Big to Jail’),” *Huffington Post* and *CLS Blue Sky Blog*, Oct. 14-15; “Serving Life for a Lie,” *Huffington Post*, Oct. 9; “Who Bites the Bullet,” *ACS Blog* and *Forensics Forum*, Oct. 6; and “Coerced Confessions and Jailhouse Snitches: Why the Death Penalty Is So Flawed,” *The Conversation*, Aug. 5.



In October, **MICHAEL GILBERT** moderated a panel discussion at the *Journal of Law & Politics* symposium on judicial elections. In December, Gilbert’s paper, “Insincere Rules,” was published in the *Virginia Law Review*. His paper “The Coordination Fallacy,” co-authored with Brian Barnes ’16 and prepared for a symposium at Florida State University, will be published this spring in that school’s

law review.

In March, Gilbert presented “Aggregate Corruption,” a paper he co-authored with Emily Reeder ’17, at a symposium on election law at the University of Kentucky College of Law. In April, Gilbert participated in a symposium on campaign finance reform at Seton Hall University.

Gilbert continues to work with Robert Cooter from the University of California, Berkeley, on a book on public law and economics. He is also writing a paper titled “Entrenchment,” which examines the relationship between constitutional amendments and legal change.



RISA GOLUBOFF attended a number of events this spring related to the release of her book “Vagrant Nation: Police Power, Constitutional Change, and the Making of the 1960s”: a panel at the Law School with comments on the book by Yale law professor John Witt, University of California-Santa Barbara history professor Laura Kalman and **Anne Coughlin**, moderated by **G. Edward White** and organized by **Cynthia Nicoletti**; TEDxUVA; the Virginia Festival of the Book; the Jefferson Society (at UVA); and two events at the Miller Center: an appearance on “American

Forum” and a talk in their Great Issues series. She is also the keynote speaker at the ACLU of Virginia annual meeting. In May, she will be on a panel on the Reconstruction Amendments at the Second Circuit Judicial Conference.



RACHEL HARMON presented her draft paper, “Why Arrest?” to the Constitutional Law Workshop at the University of Chicago. In the paper, Harmon challenges the long-held assumption that arrests are critical to most law enforcement goals and proposes methods for reducing arrests.

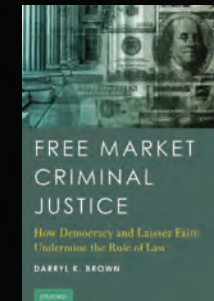
One innovative proposal Harmon makes in the arrest paper is for officers to use evidence-based, risk assessment tools in making street arrest decisions. After reading her work, a criminal justice nonprofit, Impact Justice, has started a project to create and test such tools in police departments. Harmon is advising the project.

Harmon was recently elected to the American Law Institute. She has also been appointed associate reporter for the institute’s new project *Principles of the Law, Police Investigations*. She serves on the National Research Council’s Committee on Proactive Policing.

BOOKSHELF

NEW BOOKS FROM FACULTY

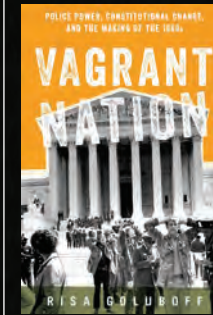
Free Market Criminal Justice



DARRYL BROWN
Oxford University Press

In his book, Brown argues that the criminal justice system in the United States is unique because of Americans’ faith in democratic processes and free markets, with that faith ruling much of the logic behind the system.

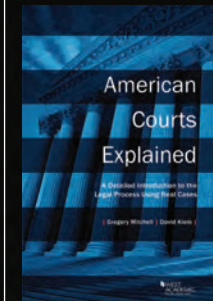
Vagrant Nation: Police Power, Constitutional Change and the Making of the 1960s



RISA GOLUBOFF
Oxford University Press

Goluboff explores the power police once had to jail large populations of people, often without any real evidence of a crime being committed, and how and why vagrancy laws that had been on the books for hundreds of years rapidly collapsed in the span of two decades.

American Courts Explained



GREG MITCHELL
West Academic Publishing

With co-author UVA politics professor David Klein, Mitchell takes readers on an easy-to-understand tour of the American court system, from small claims to the U.S. Supreme Court, using two illustrative cases to provide much of the context.

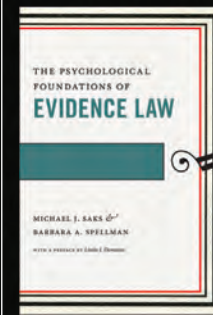
The Rise of Corporate Religious Liberty



MICAH SCHWARTZMAN
Oxford University Press

This collection of essays, co-edited with Chad Flanders of Saint Louis University School of Law and Zoë Robinson of DePaul College of Law, examines the evolution of corporate claims to religious freedom. The book dissects cases such as *Burwell v. Hobby Lobby Stores*, and anticipates *Zubik v. Burwell*, heard by the U.S. Supreme Court in April.

The Psychological Foundations of Evidence Law



BARBARA A. SPELLMAN
New York University Press

In her book, written with Arizona State University professor Michael J. Saks, Spellman looks at how evidence is presented. She finds the way juries, judges and other decision-makers think about evidence doesn’t always match up with what those who craft rules of evidence assume they will think.

Law in American History, Volume II: From Reconstruction Through the 1920s



G. EDWARD WHITE
Oxford University Press

White weighs in on foundational historical legal issues with the second tome in his three-part series, which examines the beginnings of America’s transition to the modern era.

GOLUBOFF

VAGRANT NATION

THE RISE OF CORPORATE RELIGIOUS LIBERTY

Schwartzman
Flanders
Robinson

MICHAEL J. SAKS
& BARBARA A. SPELLMAN

THE PSYCHOLOGICAL FOUNDATIONS OF EVIDENCE LAW

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LIVERMORE'S ENVIRONMENTAL SCHOLARSHIP HONORED

PROFESSOR Michael Livermore's co-authored article, "Rethinking Health-Based Environmental Standards," was recently named one of the best environmental law articles published during the 2014-15 academic year. Originally published in the NYU Law Review with New York University law professor Richard L. Revesz, the article will appear in condensed form in the 2016 Environmental Law and Policy Annual Review, a joint project

of the Environmental Law Reporter and Vanderbilt Law School. A conference bringing together the featured authors and commenters took place April 1 in Washington, D.C.

The article argues that, contrary to the most common conclusions drawn from an important U.S. Supreme Court case, *Whitman v. American Trucking Associations Inc.*, cost-blind regulations are not always better for the environment.

"When conducted in a balanced and neutral fashion," Livermore said in a recent interview, "cost-benefit analysis often favors strong environmental protection, especially when next-generation regulatory tools—like pollution markets—are used to reduce emissions. This piece shows that even in an area where cost considerations are broadly believed to favor industry, cost-benefit analysis would actually result in more environmentally protective standards."

Livermore and Revesz previously co-wrote a book on the subject, "Retaking Rationality: How Cost-Benefit Analysis Can Better Protect the Environment and Our Health."

Livermore joined the faculty as an associate professor of law in 2013. Prior to his time at UVA, he was the founding executive director of the Institute for Policy Integrity at New York University School of Law, a think tank dedicated to improving the quality of government decision-making through advocacy and scholarship in the areas of administrative law, cost-benefit analysis and regulation.

—Andrew Martin

Harmon has an article forthcoming in a journal symposium issue on teaching criminal procedure—"Reconsidering Criminal Procedure: Teaching the Law of the Police," 60 St. Louis University Law Journal (2016). The essay argues for supplementing the law school curriculum with classes on the law governing the police, rather than expecting criminal procedure courses to address policing adequately. The essay is based on

a class Harmon teaches at UVA, and she is now developing a casebook for others who would like to teach law students about the legal regulation of the police.



Last semester, **ANDREW HAYASHI** presented a paper called "The Effects of Refund Anticipation Loans on Tax Filing and Compliance" at the National Tax Association Annual Meeting. He also presented that paper at the University of

Toronto in March. He contributed the Virginia entry for the Lincoln Institute's "Significant Features of the Property Tax" online database, which will be published in revised form in May.



DEBORAH HELLMAN gave a public lecture

honoring the life and work of political philosopher Alan Wertheimer at the University of Vermont on Oct. 13.

In January she spoke at the Jurisprudence Section of the Association of American Law Schools meeting, another event honoring the work of Wertheimer. She discussed Wertheimer's work on coercion and its relevance to constitutional spending power jurisprudence.

This spring she gave a paper at a conference at Oxford University focusing on disparate impact discrimination. She will also be participating in an event sponsored by the University of Pennsylvania Law School on campaign finance law.



A. E. DICK HOWARD '61 lectured widely in recent months, on topics ranging from the Supreme Court to state constitutions to Magna Carta. At the National Constitution Center in Philadelphia, he keynoted the center's annual Bill of Rights Day celebration. While in Philadelphia, he spoke on state constitutions in the Revolutionary era at a gala dinner of the board of directors of the Museum of the American Revolution. In Washington, Howard was a marquee speaker at the American Inns of Court's meeting

celebrating the 35th anniversary of the founding of that organization.

Magna Carta's 800th anniversary furnished the occasion for a number of lectures. At Brooklyn Law School, Howard keynoted that school's Constitution Day event, "From Runnymede to Philadelphia to Cyberspace: The Enduring Legacy of Magna Carta." The Virginia Historical Society's Banner Lecture series had Howard speaking on "Magna Carta: 800 Years since Runnymede." At Chapel Hill, Howard keynoted a symposium on Magna Carta. The proceedings of that symposium will be published in a forthcoming issue of the North Carolina Law Review. He gave yet more lectures on aspects of Magna Carta's origins and contemporary legacy at the University of Richmond, Hampden-Sydney College, a dinner of the Virginia chapter of the American Board of Trial Advocates, and the Society of the Four Arts, in Palm Beach, Florida.

When the newly elected Rhodes Scholars gathered in Washington before their departure for Oxford, Howard talked with them about "The Changing Face of the Supreme Court." In Palm Beach, he offered observations on the legacy of James Madison at a dinner for Friends of Montpelier. Howard also made remarks at a reception for Law School alumni in Miami.



LESLIE KENDRICK '06 wrote a review of Seana Shiffrin's book, "Speech Matters," which appeared in the Harvard Law Review in February. In January, Kendrick spoke on the topic of free speech on campus at the inaugural Higher Education Forum at the Harvard Graduate School of Education. The forum brought together a cross-disciplinary group of young scholars from various elite institutions to consider major issues facing higher education today. Also in January, Kendrick became chair of the Torts and Compensation Systems section of the American Association of Law Schools. In March, she appeared at a First Amendment conference at Columbia Law School. In April, she participated in a panel at Brandeis University to commemorate the 100th anniversary of Brandeis' appointment to the Supreme Court.



DOUGLAS LAYCOCK gave the Roscoe Pound Lecture at the

University of Nebraska Law School in March, delivering a speech titled "How the Supreme Court Protects the Free Exercise of Religion." In October, he spoke at the Law School at a Lambda Law Alliance event on "After *Obergefell*: What's Next for the LGBTQ Movement?" In January, he spoke on religious liberty to a group of Harvard law students and the staff of the Becket Fund for Religious Liberty, in Washington, D.C. In February, he spoke on "Freedom of Religious Expression" in the Philosophy Department at the University of Texas at Austin.

In the current term of the Supreme Court, he filed amicus briefs in support of the consumer in *Spokeo Inc. v. Robins*, on standing to seek statutory minimum damages; in support of the petitioners in *Stormans, Inc. v. Wiesman*, on the scope of federal protection under the Free Exercise Clause; and in support of the government in *Zubik v. Burwell*, the challenge by religious nonprofits to the requirement that their secular insurers provide contraceptive coverage separately from the employer's insurance plan. He is also on the brief for the university in *Fischer v. University of Texas*, the affirmative action case, and on the cert petition for the school district in *Douglas County School District v. Taxpayers for Public Education*, a challenge to a state Blaine Amendment.

He recently published "The Campaign Against Religious Liberty," in Micah Schwartzman, et al., eds., "The Rise of Corporate Religious Liberty" (Oxford University Press, 2016); "Religious Liberty Is a Secular Liberal Value," in Stephen V. Monsma & Stanley W. Carlson-Thies, eds., "Free to Serve: Protecting the Religious Freedom of Faith-Based Organizations" (Brazos Press 2015); and the 2015 Supplement to his casebook, "Modern American Remedies." Laycock's article "Religious Liberty for Politically Active Groups: A Response to NeJaime and Siegal" was published in March in volume 125 of Yale Law Journal Forum.



This spring, **MICHAEL LIVERMORE** presented a paper, "Sociopolitical Feedbacks and Climate Damages" (with Peter Howard and Trevor Turner), at several conferences, including the Society for Benefit-Cost Analysis annual conference in Washington, D.C., and the Society for Environmental Law and Economics annual conference in Austin, Texas. That piece examines the potential for climate-related damages to interfere with the ability of societies to undertake future emissions reductions

efforts, creating a positive climate-society feedback loop that can exacerbate long-term climate damages.

Livermore also presented his work on computational analysis of legal texts with collaborator Daniel Rockmore (Dartmouth University) at an event in March on "Computational Law," hosted by the Santa Fe Institute, a nongovernmental organization that facilitates the spread of ideas across traditional disciplinary boundaries.

In December his piece "Political Parties and Presidential Oversight" was published in the Alabama Law Review. This summer, Livermore will present results from a text analysis of more than three million public comments received by U.S. federal agencies at a conference on "Political Economy and Public Law," to be held at Cornell Law School.



DAVID A. MARTIN was given a lifetime achievement award for Excellence in International Migration Scholarship at the annual banquet of the Center for Migration Studies in New York City on Oct. 28. (The center publishes the scholarly journal *International Migration Review*, among many other

activities.) The award presentation featured videos describing Martin's contributions, including one from his casebook co-author, Professor Hiroshi Motomura of UCLA, and one from former Secretary of Homeland Security Janet Napolitano '83, who had been Martin's student and later became his boss when he served as principal deputy general counsel at the Department of Homeland Security. Martin was also the keynote speaker at that day's CMS academic symposium. He drew from the celebrated movie "The Imitation Game," about breaking Nazi codes in World War II, certain lessons that can apply to evaluate and optimize refugee protection in today's world. The talk was titled "Immigration's Enigma Principle: Protection and Paradox."

In August, Martin was a featured speaker at the Charlemont Forum in western Massachusetts. The forum's theme for its summer series was "Immigration: Proud Past, Troubled Present." Martin's presentation was followed by a panel discussion on political challenges and possible solutions. In November, Washington and Lee University hosted a conference on "The Ethics of Immigration," featuring philosopher Joseph Carens as the keynote speaker. Martin participated in a panel addressing current U.S. immigration policy. Later that month Martin spoke on similar themes for one session of a course titled "Legal and Moral Dimensions of Public Policy," at UVA's Batten School of Public Policy.

In September, as dramatic coverage of the flow of Syrian refugees to Europe dominated the news, C-SPAN invited Martin to appear on its Washington Journal program. He and host Paul Orgel held a lengthy live conversation about U.S. law and policy on the resettlement of refugees, and he then responded to callers' questions. Martin also participated in a panel in October at the Darden School, along with Chair of the UVA Department of Politics David Leblang, discussing the refugee crisis in Europe. He refined and amplified the themes of that talk in an opinion essay that was published by *Fortune* magazine online in December, titled "What Angela Merkel's New Refugee Policy Misses." It recommended that Germany and the European Union convert as much as possible to a quota resettlement process, moving screened refugees directly from the countries neighboring Syria to their European destination, along with expanded funding for assistance in the first-asylum camps.

Martin's essay was included in the background readings for a multinational conference on "Europe and Migration: How Can the Flows Be Managed?" hosted by the Ditchley

Foundation in England in February. Martin joined about 40 scholars, government officials and nongovernmental organization representatives there over three days of intensive conversations on the challenging and high-stakes dilemmas Europe faces.



RUTH MASON was a speaker on the Participation Exemptions panel at the annual International Fiscal Association Congress in Basel. She also published (with University of Pennsylvania law professor Michael Knoll) “How the Massachusetts Supreme Judicial Court Should Apply *Wynne*” in *State Tax Notes*. Mason presented her article, “Citizenship Taxation,” forthcoming in the *Southern California Law Review*, at the University of Zurich, the Max Planck Institute for Tax Law and Public Finance in Munich, Oxford University, the University of British Columbia, the University of Notre Dame London Global Gateway, and the University of Connecticut and Duke University law schools.



GREGORY MITCHELL and co-authors published a paper titled “Balancing Fairness and Efficiency: The Impact of Identity-Blind and Identity-Conscious Accountability on Applicant Screening” in *PLOS ONE*. In March, Mitchell was a presenter at the New York University Employment Law Workshop for Federal Judges, discussing evidentiary and social science issues that can arise in employment cases.

This spring West Academic published Mitchell’s book “American Courts Explained: A Detailed Introduction to the Legal Process Using Real Cases,” co-authored with Professor David Klein of the UVA Woodrow Wilson Department of Politics. The book takes readers on a guided tour of the American legal system by following two real cases, one involving criminal law and the other involving civil law, from filing through appeal. Beginning with the events giving rise to the cases, it follows the cases as they wind their way through state and federal courts, from initiation through pre-trial motions, trials and appeals, to final resolution—one of them at the U.S. Supreme Court. With concrete

illustrations drawn from these and other cases, the book elucidates the laws, structures, activities and actors who together make up the legal system. Unlike some introductory books, “American Courts Explained” gives ample attention to the details of the legal process, which are crucial to understanding how American courts function and why they function as they do. The book provides broad but sufficiently detailed coverage of the American legal process that it can serve as the main text in an undergraduate course on American courts, and it offers a good introduction to American courts for incoming law students and the general public.



JOHN MONAHAN and two colleagues submitted an empirical article, “Gender, Risk Assessment, and Sanctioning: The Cost of Treating Women Like Men,” for publication in a peer-reviewed journal. In the fall, Monahan gave a lecture at the University of Cincinnati College of Law and in the spring he gave an address to the American Psychiatric Association in Atlanta.

Moore participated in a panel discussion on “Legal



JOHN NORTON MOORE has been busily working and teaching, particularly in oceans law and national security law. The 40th annual conference of the Center for Oceans Law and Policy, which Moore directs, will take place June 27-28 at the U.N. headquarters in New York. The conference, “Legal Order in the World’s Oceans: U.N. Convention on the Law of the Sea,” will be held in cooperation with the Division for Ocean Affairs and the Law of the Sea in the Office of Legal Affairs of the United Nations. Papers from this conference, which Moore will co-edit, will be published by Martinus Nijhoff in 2017. The volume of papers from the 38th annual conference, “Challenges of the Changing Arctic: Continental Shelf, Navigation and Fisheries” (forthcoming this spring), is co-edited by Moore, Myron Nordquist and Ronán Long. The volume of papers from the 39th annual conference, “International Marine Economy: Law and Policy,” co-edited by Moore and Nordquist, is also forthcoming in 2016.

Moore participated in a panel discussion on “Legal Issues and Concerns” at the Fifth Annual

South China Sea Conference, sponsored by the Center for Strategic and International Studies in Washington, D.C., last July. More than 400 policymakers, experts, media and members of the public attended the event, with hundreds more tuning in online. He also presented a briefing on maritime law issues for the State Department last April.

Moore delivered the Fifth Shabtai Rosenne Memorial Lecture at the U.N. headquarters in November, on the U.N. Convention on the Law of the Sea. In December, Moore discussed deep seabed mining during the panel “Natural Resources and Biodiversity beyond National Jurisdiction” at a conference sponsored by the International Law Institute and the Georgetown University Law Center, “Natural Resources and the Law of the Sea.”

The 21st session of the Rhodes Academy of Oceans Law and Policy, which is organized by the Center for Oceans Law and Policy, will take place this summer in Rhodes, Greece. Moore will teach four classes at the academy. Moore and Robert F. Turner were invited, along with five Law School students, to join in the second National Security Crisis Law Invitational sponsored by the Georgetown University Law Center in March 2015. UVA Law was assigned to represent the Department of Justice during a large-scale

simulation dealing with national security law issues.



THOMAS NACHBAR hosted the American Red Cross/UVA Law International Humanitarian Law Workshop on Feb. 27. Thirty-five students attended, coming from all over the region (one as far away as the University of Texas), and the workshop featured instructors from the American Red Cross, the Judge Advocate General’s Legal Center and School, and UVA. Nachbar taught the session on the relationship between international human rights law and the law of armed conflict.

The same groups will team up for a workshop for policymakers in late May.



DANIEL ORTIZ gave a lecture, “De-/Reteritorializing Administrative Law,” at Maastricht University on Feb. 26, and he spoke on “*Elonis v. United States*: The Difficulties Posed by Social Media” at a symposium on “Social Media and the Law,” sponsored by the Virginia Journal of Social Policy & the Law and the Virginia

HEYTENS EARNS ALL-UNIVERSITY TEACHING AWARD

THE UNIVERSITY of Virginia recently recognized the dedication of Professor Toby Heytens ’00 with an All-University Teaching Award. “It’s an incredible honor,” Heytens said. “My biggest role models and heroes when I was growing up were all teachers, so I’m deeply touched to be receiving this award.”

Heytens, a former attorney with the U.S. Solicitor General’s Office, “has emerged as one of the very best teachers at the law school,” Vice Dean George Geis said. “He has an extraordinary quality of mind and is able to share novel insights with his students.”

Reedy Swanson ’16 first met Heytens as a UVA undergraduate participating in Virginia Mock Trial. (Heytens has long been the coach of the team, which consistently performs well in national competitions.)

“His effectiveness as a teacher derives from his meticulous planning of each

minute of each lesson (quite literally), his unparalleled ability to make legalese accessible to first-year undergraduates, and his dedication to personalized attention,” Swanson said in his nomination letter. “I cannot count the number of times we met at his house, at Starbucks, or in my Lawn room to go over a speech or examination line by line, together, with him explaining the underlying theory behind every

minute change. How he manages to dedicate this much time to our program and still publish in the nation’s top law journals and earn student feedback among the best in the faculty is beyond me.” Lide Paterno ’15 said Heytens’ humility is his most inspiring trait. “To describe him as possessing one of the brightest

legal minds in the country is no exaggeration—and yet, one would never know from him that he has already achieved that of which all other attorneys dream,” Paterno wrote in



his nomination. “He never boasts—rather, he modestly dedicates himself to strengthening the student experience and the field, even beyond the classroom and beyond the Law School.”

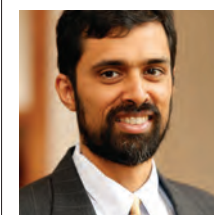
Past recipients of the award include Professors Greg Mitchell, Michael Collins and Risa Goluboff, among others.

—Mary Wood

Journal of Law & Technology. He also spoke at a conference at Stanford Law School on Jan. 30 called “The Supreme Court at Mid-Term,” and participated at a conference hosted by the Law School Admissions Council on Jan. 22 and 23 on the future of law school admissions.

In the Supreme Court Litigation Clinic, he and his students filed cert petitions in *Stackhouse v. Colorado*, a courtroom closing case, and *Kramer v. United States*, a technical habeas case. The clinic also filed cert replies in *Mueller*,

a case about whether a divorce court can take into account at all one spouse’s future social security benefits when dividing common property; *Stackhouse v. Colorado*; and *Kramer v. United States*. The clinic filed a merits-stage amicus in *Merrill Lynch v. Manning*, which concerns whether a state court can hear certain state-law claims related to securities.



SAIKRISHNA PRAKASH is working on an article for the *Supreme Court Review* on *Zivotofsky v. Kerry*, an article for *Michigan Law Review* called “Reconstructing Foreign Affairs Federalism” (with Ryan Baasch), and an article on *Arizona State Legislature v. Arizona Independent Redistricting Commission* for the

Harvard Journal of Law and Public Policy (with John Yoo). He’ll also be making presentations at Drake Law School, William & Mary, and the University of San Diego.



MILDRED ROBINSON joined a group of scholars, practitioners and advocates in a daylong conference Nov. 3 at the American Enterprise

Institute in Washington, D.C., to reflect on what *Brown v. Board II* means for K-12 education today. Three panels discussed the decision’s legal implications, demographic changes in schools since 1955, and how innovation and entrepreneurialism have affected the education system. Robinson participated on the panel that addressed legal implications, “*Brown v. Board II* 60 Years Later: Successes, Challenges, and Next Steps,” providing an overview of significant legal events as well as a glimpse into the reactions of a few

of the many and varied people upon whose lives the decision had and continues to have an impact.



ROBERT SAYLER continues to lecture on Grounds and elsewhere about effective oral presentation—to financial analysts and other administrators, as well as to graduate students. He also spoke at James Madison University to the Virginia Chapter of the Society of Research Administrators.



FREDERICK SCHAUER presented a paper on “Calibrating Legal Judgments” (co-authored with **Barbara A. Spellman**) at Duke University School of Law in November. He gave a lecture on “Philosophical Foundations of Freedom of Expression” in December at University Pompeu Fabra (Barcelona), at Goethe University (Frankfurt) in December, at the University of Genoa in February, and at the Human Rights Foundation’s Oslo Freedom Forum in May.

He lectured on “The Defeasibility of Legal Rules” at Goethe University (Frankfurt) in

December, at Queen Mary University of London in February and at Cambridge University in March. He also lectured on legal theory and legal reasoning at a master course on legal theory at the University of Genoa in February; on “Legal Fictions” at Oxford University in March; and on “Statistical Discrimination” at the University of Girona (Spain) in March.

He presented a paper on analogical reasoning (co-authored with **Barbara A. Spellman**) at the University of Chicago Law School in May. The paper will be published in the *University of Chicago Law Review* as part of a symposium on methods of legal research.

A Spanish translation of his book “The Force of Law” was published as “Fuerza de Ley” in December by Palestra Editores (Lima, Peru).

He published “Is Law a Technical Language?” (the Nathaniel Nathanson Memorial Lecture) in *San Diego Law Review*, “Testing the Marketplace of Ideas” (with Daniel E. Ho) in the *New York University Law Review*, “Twining on Llewellyn and Legal Realism” in “Law’s Ethical, Global, and Theoretical Contexts” (Cambridge University Press), “Lessons from the Free Speech Clause” in “The Rise of Corporate Religious Liberty” (Oxford University Press), and “On the Relationship between Legal and Ordinary Language” in “Speaking of Language and Law”

(Oxford University Press).



This past year, **RICHARD SCHRAGGER** was a visiting professor at the University of Tel Aviv Bachmann

Faculty of Law, where he co-taught the course *Advanced Topics in U.S. Constitutional Law: Race and Religion*, with **Risa Goluboff**. His article, co-authored with **Micah Schwartzman**, “Some Realism About Corporate Rights,” was recently published in an Oxford volume (edited by Schwartzman, Chad Flanders and Zoë

Robinson), “The Rise of Corporate Religious Liberty.” His forthcoming book, “City Power,” published by Oxford University Press, will come out next year. He presented a chapter of the book at the Haifa University Faculty of Law in December.



MICAH SCHRAGGER '05 published “The Rise of Corporate Religious Liberty” (Oxford University Press), co-edited with

Chad Flanders and Zoë Robinson. In the same volume, he published “Some Realism about Corporate Rights,” co-authored with **Richard Schragger**. In January, Schwartzman presented “Morality, Ontology, and Corporate Rights,” co-authored with **Steven Walt**, at the conference “Human Rights and the Rights of Non-Humans,” at the College of Law and Business in Ramat Gan, Israel. Earlier in the year, he presented “When Do Religious Accommodations Burden Others?” (with **Richard Schragger** and Nelson Tebbe) at a conference on “The Conscience Wars” at Cardozo Law School and at the Annual Law and Religion Roundtable at Georgetown Law. He is currently working on articles about religious exemptions and the role of religious convictions in legal and political decisions.



In January, **BARBARA SPELLMAN** and Michael J. Saks published the book “The Psychological Foundations of Evidence Law” (NYU Press). She also wrote the chapter “Psychologists in Law Schools” (with Jennifer K. Robbennolt in “Career Paths in Psychology: Where Your Degree Can Take You” (3rd ed.) (R. J. Sternberg,

ed., *American Psychological Association Books*, forthcoming 2016.) She is also one of several co-authors of the paper “Promoting an Open Research Culture” in *Science*, on how to increase transparency and reproducibility in science.

Spellman published an editorial, “A Short (Personal) Future History of Revolution 2.0,” in *Perspectives on Psychological Science*, on the history of trying to improve psychological science, and a research article, “Counterfactuals, Control, and Causation: Why Knowledgeable People Get Blamed More,” (with Elizabeth Gilbert, Elizabeth Tenney and Christopher R. Holland) in *Personality and Social Psychology Bulletin*. She also published a book review of “The Sense of Style” by Steven Pinker in *Perspectives on Psychological Science*.

Spellman recently became a member of the board of directors of the Charlottesville Police Foundation.



A. BENJAMIN SPENCER was commissioned as a first lieutenant in the U.S. Army Judge Advocate General’s Corps, Reserve Component. This spring he is on sabbatical while he completes four months of active duty training in preparation for his

service. Upon completion of his training, Spencer will provide legal support to the U.S. Central Command at McDill Air Force Base in Tampa, Florida.



PAUL STEPHAN '77 presented a paper at Georgetown University Law Center titled “Comparative International Law, Foreign Relations Law and Fragmentation: Can the Center Hold?” He will be presenting the second tentative draft of the “Restatement (Fourth) of the Foreign Relations Law of the United States” to the annual meeting of the American Law Institute in May. At the end of April, he is attending a meeting hosted by the Republic of Korea on issues relating to the law of the sea.



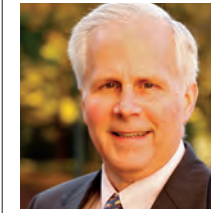
In November, **PIERRE-HUGUES VERDIER** welcomed participants from multiple countries to UVA Law for the 2015 Sokol Colloquium on Private International Law, “Comparative International Law.” Also in November, several contributions to last year’s colloquium were published in a special issue of the *American Journal of*

International Law, for which Verdier co-wrote an introduction with **Paul Stephan** and **Mila Versteeg**, as well as Anthea Roberts of Columbia Law School. Verdier and Versteeg also contributed an article to the special issue, presenting findings from their ongoing study of the reception of international law in national legal systems around the world. In December, Verdier was a featured speaker at a workshop on empirical research in international law at the Lauterpacht Centre for International Law at the University of Cambridge, supported by the British Academy for the Humanities and Social Sciences. Verdier continues work on a book-length project on the recent wave of civil and criminal enforcement actions against international banks. He presented a draft chapter in December at a conference at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg, Germany.



J.H. (RIP) VERKERKE spoke Feb. 19 at the American Bar Association’s Deans Workshop in San Francisco. The panel was about creative uses of technology in law teaching. He discussed his experiences since fall 2012 with the flipped

classroom model, web-based student response systems and peer instruction.



ANDREW VOLLMER '78 will publish the article “SEC Revanchism and the Expansion of Primary Liability Under Section 17(a) and Rule 10b-5,” this year in the *Virginia Law & Business Review*. In 2015, he published “Computer Hacking and Securities Fraud” in *Securities Regulation and Law Reporter* and “Four Ways to Improve SEC Enforcement,” in *Securities Regulation Law Journal*. After he joined the faculty in 2014, he published the articles “Need for Narrower Subpoenas in SEC Investigations,” in *New York Law Journal* and “A Chance to Rein in Securities Class Actions,” in *The Wall Street Journal*.



In June 2015, **G. EDWARD WHITE** presented a paper, “The Emergence of Contemporary Legal Thought: Origins and Consequences,” at a conference at Harvard Law School. The proceedings of the conference will be published in a book, “Contemporary

Legal Thought,” to appear from Cambridge University Press in 2016.

The second volume of his projected trilogy, “Law in American History,” was published by Oxford University Press in March. It covers the years from Reconstruction through the 1920s. The first volume, “Law in American History: From the Colonial Years Through the Civil War,” appeared in 2012, and the final volume, “Law in American History: 1930-2000” is projected to be published in 2020.

On March 8 he delivered the Contextual Lecture at the Dulwich Picture Gallery in London. The Contextual Lecture series consists of yearly scholarly lectures organized around particular themes. The topic of his lecture was “Liber- ties and the American Constitutional Experience.”

On March 10, he presented a paper co-authored with **Kenneth S. Abraham**, “The Transformation of the Civil Trial and the Emergence of American Tort Law,” at the Institute for Advanced Legal Study at University College, London.



ETHAN YALE published an article titled “Anti-Basis” in the *North Carolina Law Review*. He is traveling in May (as he did in May 2015) to Sydney, Australia, to teach U.S. International Tax at the University of Sydney Law School. He also gave a presentation to the U.S. Tax Court Judicial Conference in May 2015 on statutory construction in tax cases.

NICOLETTI'S LEGAL HISTORY OF SECESSION RECOGNIZED

ASSOCIATE PROFESSOR Cynthia Nicoletti recently earned a William Nelson Cromwell Foundation Research Fellowship for her work on the legal history of secession.

The \$5,000 award, presented at the American Society for Legal History’s conference Oct. 31, supports research and writing in legal history. Nicoletti is wrapping up a book manuscript, “The Fragility of Union: Secession in the Aftermath



of the American Civil War, 1865-1869.”

Nicoletti’s book explores whether the Civil War really resolved the question of secession’s constitutionality.

“This question pitted the force of law against military might,” she said. “The North’s military victory established that the Union would survive, but Americans still wrestled with the legal arguments that supported the secession of the Confederate states from the Union in 1860-61.”

By examining the potential prosecution of Confederate presi-

dent Jefferson Davis for treason after the Civil War, Nicoletti tells a story of how Americans struggled with the idea that brute force was used to settle a legal question.

“The broader American public, as well as Davis’ prosecutors, understood that his defense would implicate secession: his lawyers would argue that the secession of Mississippi—Davis’ home state—in 1861 had severed his allegiance to the United States,” she said. “Thenceforth, Davis was a non-citizen, incapable of betraying a duty of loyalty to the United States. Largely because his case raised such a fundamental—and potentially explosive—legal question, Davis was never tried.”

Fellow legal historian Professor Risa Goluboff said Nicoletti’s approach to the Civil War “represents the best kind of interdisciplinary scholarship.”

“The Cromwell Fellowships are intended to support rising stars in legal history, and Cynthia clearly belongs in that category,” Goluboff said. “Her careful archival work is rich with such fresh and surprising insights, and her book will be a major contribution to the history of the Civil War, the Constitution and the country.”

—Mary Wood



“I AM DEEPLY GRATEFUL TO THE ACADEMY, AND TO THE LAW SCHOOL FOR HAVING PROVIDED AN UNFAILINGLY SUPPORTIVE SCHOLARLY ENVIRONMENT.”

—PROFESSOR JOHN MONAHAN

MONAHAN ELECTED TO ACADEMY OF ARTS AND SCIENCES

PROFESSOR JOHN MONAHAN, a psychologist and expert in risk assessment, has been elected a fellow of the American Academy of Arts and Sciences.

The academy, which announced its 2016 fellows April 20, is an honorary society founded in 1780 that recognizes achievement in the natural sciences, social sciences, law, arts and humanities. Its more than 4,600 fellows convene to address global challenges.

Monahan teaches and writes about risk assessment in the contexts of civil commitment, criminal sentencing, terrorism, use of behavioral science evidence in courts, and about other issues in criminology and mental health law. At the Law School, he serves as the John S. Shannon Distinguished Professor of Law and the Joel B. Piassick Research Professor of Law. He also has courtesy appointments in the Department of Psychiatry and Neurobehavioral Sciences, and in the Department of Psychology.

“Being elected a fellow of the American Academy of Arts and Sciences is a capstone honor. I am deeply grateful to the academy, and to the Law School for having provided an unfailingly supportive scholarly environment,” Monahan said.

Monahan is an existing member of the National Academy of

Medicine and a former fellow of the John Simon Guggenheim Foundation. He has directed two large research projects for the John D. and Catherine T. MacArthur Foundation in the area of mental health law, authored or edited 17 books and has written more than 250 articles and chapters. His book, “Social Science in Law: Cases and Materials,” co-authored with Professor Emeritus Larry Walker, is entering its ninth edition and has been translated into Chinese. Monahan’s work has been cited frequently by courts, including the California Supreme Court in the landmark *Tarasoff v. Regents*, and the U.S. Supreme Court in *Barefoot v. Estelle*, in which he was referred to as “the leading thinker” on the issue of violence risk assessment.

Six other UVA Law professors are academy fellows: Kenneth S. Abraham, John C. Jeffries, Jr., Douglas Laycock, Paul G. Mahoney, Frederick Schauer and G. Edward White.

Former UVA Law Vice Dean Elizabeth Magill ’95, now dean of Stanford Law School, was also named among the 2016 class. The new class will be inducted at a ceremony Oct. 8 in Cambridge, Massachusetts.

—Eric Williamson

VitA

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