THE TIPPING POINT
FOR CRIMINAL JUSTICE REFORM
From Dean Risa Goluboff

We publish this issue of UVA Lawyer under circumstances none of us could have predicted. COVID-19 continues to bring sweeping changes here and across the world. On top of that are the pandemic’s related global financial consequences, a national reckoning with race following the protests of this past spring and summer, and a polarizing election.

At the Law School, we are rising to these challenges as we have risen to so many over the past two centuries: with resilience, creativity, mutual support and dedication to our mission. In response to COVID-19, we decided to offer about half our classes in hybrid form so that students can attend either in person or online. That shift entailed enormous effort: more technological sophistication and investments, more training for our faculty, more flexibility from our students. Though the course of this pandemic is unpredictable, I could not be prouder of what we have accomplished nor more grateful to the entire Law School community for coming together to get us to this point.

Even as our faculty have dedicated countless hours to adapting their pedagogy, they continue to create new knowledge that they put to work in service of advancing the law. As an engaged institution, we are not only witnesses to the momentous events of the day, but a participant in them. In this issue, you will see what that engagement looks like in an area of the law much in need of it: criminal justice. Our exceptional faculty, students and alumni are (and have been) hard at work understanding and shaping every aspect of the criminal justice system. Studying, teaching, practicing and reforming criminal justice have long been strengths of the Law School. They are strengths that matter now more than ever.

You will also see in these pages new installments in our multiyear engagement with the Law School’s history. Milestones abound this year, making it an important time for us to continue to commemorate pathbreakers and the trails they blazed. As we mark 100 years of coeducation at UVA Law and the passage of the 19th Amendment, we share the stories of the three women who enrolled at the Law School in August 1920. This year also marks the 70th anniversary of Gregory Swanson’s racial integration of the Law School, and the 50th anniversaries of the UVA Law chapter of the Black Law Students Association and the graduation of Elaine Jones, the first Black female student at the Law School.

Their stories remind us how far we have come, and compel us to strive every day to make our institution one in which everyone feels an equal sense of belonging and has an equal opportunity to thrive and succeed.

As always, engaging with the past is a crucial part of envisioning the future. Indeed, we have been busy preparing for that future by welcoming the new faculty and students who will help us create it. This past year, we hired 10 tenure-line faculty. The arrival at the Law School of such a large and illustrious cohort of scholars and teachers is nothing short of transformative. The intellectual life of the Law School is more vibrant than ever, both because of those joining us and because we are establishing new centers and institutional foundations for the scholarly and programmatic strengths already here.

Nothing is more affirming of our future and our mission than welcoming the latest class of UVA lawyers to our community each fall. Appropriate for the celebration of our centennial of coeducation, this year is the first in which we welcome more women than men, as well as more students of color than we’ve had in any class for a decade. As our accomplished and inspiring students begin their legal educations, they invigorate us with joy and excitement and give us immense hope for the future—theirs and ours.
The Tipping Point for Criminal Justice Reform

Alumni Pursue Justice Reforms

The New Recruits

3 Women Who Changed UVA Law

How BALSA Began

Sizing Up the Supreme Court Term

Remembering Justice Ginsburg
“These long traditions of not wanting the military to be used to enforce federal law, or federal constitutional rights. But there’s also been a long tradition of it actually being used.”
—PROFESSOR SAIKRISHNA PRAKASH, on the Insurrection Act (Time)

“The question is not, what Constitution did Washington swear to uphold (so that we may revise our practice to better conform to it). Rather, the question is, given the considerable changes that have occurred since the founders’ time and ours, what is at stake—legally, philosophically, ideologically—in our insisting that our Constitution was also theirs?”
—PROFESSOR CHARLES BAZLIN ’05, discussing the “path argument” that officers upholding the Constitution also commit to originalism (Balkinization)

“People assume that once the two Trump appointees, Gorsuch and Kavanaugh, were seated in the last couple of years that we would now have a pretty safe conservative working majority. Well, that may be true most of the time, but the [June 29] abortion decision reminds you that justices do have independence of judgment.”
—PROFESSOR A. E. DICK HOWARD ’61 (WINS Radio)

“Puzzles serve as a diversion from whatever is bothering you; drugs can do that too, but puzzles are empowering and beneficial to the mind. By completing puzzles, you’re not just filling time, but you’re also making yourself a better person.”
—WILL SHORTZ ’77, New York Times crossword editor (The Examiner)

“I also enjoy speaking with young people about the trajectory of my life, from growing up in the projects of Harlem to attending Harvard and UVA Law and practicing at highly respected firms.”
—JENNIFER BANNER SOBERS ’05, Class Action Rising Star honoree (Law360)

“Workplace teams are similar in many respects to sport teams. In both cases, you need people with different skills if you want to be the best.”
—GLENN CARRINGTON ’80, dean of Norfolk State University School of Business

“Requiring the executive branch to furnish reasons for its decisions is particularly important in the national security space, where there are few other oversight tools.”
—PROFESSOR ASHLEY DEEKS (Lawfare)

“People are becoming more sympathetic and having their eyes opened.”
—PROFESSOR ANNE COUGHLIN, on whether Confederate iconography at courthouses hurts due process rights (The Roanoke Times)

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THE LAW SCHOOL SHIFTED to a hybrid learning environment this fall, offering a mix of in-person and online courses due to the ongoing COVID-19 pandemic. Students who wanted to take a class, or all their classes, online were able to do so. Offering these options required reworking the usual curriculum and school operations.

“This pandemic poses unprecedented challenges in the history of the Law School, and we are working hard to meet the moment,” Dean Rita Coluboff said. “Throughout the summer, our faculty and staff showed incredible creativity and flexibility as they adapted our operations in accordance with public health guidelines, prepared our facilities for a safe and healthy return to classes, and remodeled our curricular schedule to account for a hybrid learning environment.”

The University’s detailed public health plan for the return to Grounds included requiring returning students to be tested for COVID-19 and other protocols and practices for testing, monitoring and quarantining, including a daily symptom reporting app, HOOS Health Check, for students and employees. Face coverings are required within buildings, including the Law School, though teaching larger classrooms. Large tents with lighting have been erected outdoors in Spies Garden to give students and others more room to engage in activities at a safe social distance.

“We are fortunate to have these large spaces, and a temperate climate, to allow us to continue to gather in classes and as a community,” Vice Dean Leslie Kendrick ’06 said. “We [also outlined] new equipment to facilitate online instruction, including plexiglass at podiums, web cameras and multiple monitors.”

The library installed plexiglass to allow two students to study safely at a desk. Approximately 200 hand sanitizer and wipe dispensers stations have been placed throughout the school, toilets were equipped with lids that close, and touchless faucets were installed.

“It takes substantial resources to make all of these changes in preparation for conducting classes in a hybrid format and ensuring a safe return for the community,” said Senior Associate Dean for Administration Stephen Parr. “It has also required a monumental effort by staff, working nonstop throughout the summer, to prepare to reopen the school.”

Though a portion of classes are meeting at the Law School, many employees are working remotely at least some of the time. Meetings, events and counseling sessions are taking place online, and the facility is closed to visitors.

—Mary Wood

students to build camaraderie with classmates, have two classes with their small section this fall instead of just one.

“There’s no doubt this year will feel different, but we are focused on the health and safety of our students, the UVA Law community and the greater community beyond these halls,” Assistant Dean for Student Affairs Sarah Davies ’91 said. “We are counting on students to work together and work with us to ensure the best learning environment possible under the circumstances.”

For courses that take place in person, students sit at least 6 feet apart, sometimes in event spaces such as Caplin Auditorium, Caplin Pavilion and the Purcell Reading Room, as well as the school’s existing larger classrooms. Large tents with lighting have been erected outdoors in Spies Garden to give students and others more room to engage in activities at a safe social distance.

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Maria Monaghan ’17 is clerking for U.S. Supreme Court Justice Samuel Alito during the 2020 term and Avery Rasmussen ’21 has lined up a clerkship with Justice Brett Kavanaugh for the 2023 term. Monaghan joins Daniel Richardson ’18, who is clerking for Justice Stephen Breyer this term as well.

“I think Justice Alito is a brilliant judge, and I’m honored to work for him,” Monaghan said. “I’m also looking forward to learning more about the institution in general and working on cases that are argued by some of the best advocates in the country.”

The Law School is fourth after Yale, Harvard and Stanford in the number of clerks it sends to the Supreme Court. Monaghan wrapped up a two-year clerkship for Judge Ed Carnes of the Eleventh U.S. Circuit Court of Appeals. She also clerked for Judge Amul R. Thapar of the Sixth U.S. Circuit Court of Appeals. Thapar is a lecturer at the Law School.

“Both of my clerkships have been really foundational to who I am as a lawyer,” she said. “Judge Thapar and Judge Carnes have taught me more than I can attempt to express. They’ve both phenomenal writers and dedicated teachers of the craft, and I feel really lucky to have been able to hone my skills in their chambers.”

After law school, Rasmussen first will clerk for Judge J. Harvie Wilkinson III ’72 of the Fourth U.S. Circuit Court of Appeals for the 2021 term and Judge Daloney L. Friedrich of the U.S. District Court for the District of Columbia for the 2022 term.

“I feel so fortunate to have the opportunity to work for three exceptional jurists and mentors,” she said. “I admire each of their approaches to the law, and I have a lot to learn from them. I’m especially looking forward to experiencing all three levels of federal court.”

Rasmussen earned a bachelor’s degree in commerce and political philosophy, policy and law from UVA.

She attributed her clerkship opportunities “to the incredible professors and student community at UVA Law.”

“My mentors on the faculty here have always encouraged my curiosity and pushed me to aim high. And I can’t overstate how grateful I am for my classmates, who are always so supportive of one another,” Rasmussen said.

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Both the Innocence Project Clinic and the Pro Bono Clinic investigated the case over several years. Clinic directors Deirdre Enright ’92 and Jennifer L. Givens and staff attorney Juliet Hatchett ’15, who oversees the Pro Bono Clinic, met Fentress at the Augusta Correctional Center in Craigsville, Virginia, upon his release.

“Obviously, we are exuberant and relieved to have Rojai free, and we are determined to prove his innocence and have him fully exonerated,” Enright said.

A larger party, which also included students and members of Fentress family, celebrated the victory with a socially distanced gathering held in Enright’s yard. A grateful Fentress thanked everyone who worked on his case individually.

The 40-year-old had been convicted of murder and sentenced to 53 years in prison for a 1996 shooting at Midlothian Village Apartments in South Richmond. He was 15 at the time the drug-deal-gone-bad occurred.

Fentress maintained his innocence, declining multiple offers from the prosecutor to reduce his sentence with plea deals. The lowest offer was for five years; 16-year-old Fentress turned it down.

Fentress’ mother testified that he was at home asleep at the time the drug-deal-gone-bad occurred. Another man confessed to the murder in 2014, providing corroborating details. He has subsequently described the events surrounding the murder multiple times, including as recently as last March.

“We are so glad that we can assist University community members we work with every day and whose work is critical to the University’s success,” said Dean Risa Goluboff said during the program’s launch. “Students and faculty at the Law School had been looking for ways to support contract employees, so we are delighted to provide this important assistance.”

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that they hoped to feature a speaker with a “diverse background.” Graduation Committee co-chairs, said in a joint statement all of our goals.”

to do a small part to change that narrative.”

she first became a judge, in 1993.

became the first Black woman appointed to the state Supreme Court.

Law School’s commencement speaker for the Class of 2021 in May.

n 2011, Powell, who also earned her undergraduate degree at UVA,

in the field of litigation, and who shows a keen awareness and
to contribute to the Law School’s
to the Law School’s

at the annual reunion, has been instituted at the Law School. First-year law student

AWARDS

FOUR ALUMNI

ROGER AND MADELEINE

PRIZE IN LAW AND ECONOMICS

To a graduate or graduate who has produced outstanding written work

Judy E. Alston

HERBERT KRAMER/HERBERT BANGEL

COMMUNITY SERVICE AWARD

To the graduate who has contributed the most to the

Eddie Hunter IV

MEMORIAL BOOK AWARD

To a graduate who demonstrates unusual aptitude in courses in the

Hala Alabeshar

ALUMNI MAKE

CLERKSHIP RECORD

A STORY

A RECORD 50 ALUMNI

are clerking during the

2021 court term, building upon last term’s milestone of 104.

Twenty percent of the Class of 2020 are currently serving in judicial clerkships na-
tionwide, tying last year’s high point for a single class. Of 313 J.D. graduates in the
class, 62 are clerking, including 19 in federal appellate circuit courts.

Overall, 40 alumni are clerking in federal appellate circuit courts, also a record.

“UVA Law students have continued their strong interest in clerkships and have been
dedicated in pursuing these opportunities, both while at UVA and after they have grad-
uated,” said Ruth Payne ’02, senior director of clerkships.

“When we think about the contributions that our students have made and the

advances we’ve made in clerkships, we see a clear path forward.

To a graduate who

This new scholarship will ensure that Ms. Jones’ legacy lives on for students now and

in the future, and it will provide support for incoming students dedicated, like her, to pur-

suing careers that promote racial equity,” Dean Risa Goldsby said.

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To a graduate who

TAX PRIZE

EARLE K. SHAWE

LABOR RELATIONS AWARD

To the graduate who

Griffin P. Peeples

in the tax area.

Metcalf Anderson

in the field of labor relations.

Nicholas S. Allen

ALUMNI NAMED INAUGURAL JONES SCHOLARSHIP RECIPIENT

THE ELAINE J. JONES’ 70 SCHOLARSHIP, named in honor of the school's first Black alumna on

the occasion of her 50th reunion, has been instituted at the Law School. First-year law student

Genesis Moore is the inaugural recipient.

A Norfolk native, Jones was the first female president and director-counsel of the NAACP

Legal Defense Fund, from 1993-2004. Jones became one of the first Black women to defend

death row inmates, including as counsel of record in Parmar v. Georgia, a U.S. Supreme

Court case that abolished the death penalty in 37 states.

Jones also worked for two years as special assistant to the secretary of transportation in

the Ford administration. She was the first African American to serve on the Board of

Governors of the American Bar Association. Jones is a recipient of the Thomas Jefferson

Foundation Medal in Law.

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in the future, and it will provide support for incoming students dedicated, like her, to pur-

suing careers that promote racial equity,” Dean Risa Goldsby said.

Moore, of Athens, Georgia, earned a bachelor’s in political science from the University of

Georgia, where she served as vice president of the NAACP chapter and was a member of

Alpha Kappa Alpha Sorority. She also served as a UGA Perspectives board member, working

to form initiatives for the Office of Institutional Diversity. Additionally, Moore was a youth

seminar leader and tutor for high school students.

Moore said she was proud to receive the scholarship from someone she sees as a role model.

“This is a woman who participated in numerous noteworthy cases in the fight for equal-

ity and just treatment in the judicial system and the society at large,” she said of Jones.

“Ms. Jones is also being commissioned and will be displayed at the Law School.

In Genesis Moore 70 has found inspiration in the career of Elaine Jones 70 and looks to

become a civil rights lawyer.

“T"
PROFESSOR ASHLEY DEEKS, a national security law expert and former official with the U.S. State Department, has been named director of the Law School’s new National Security Law Center.

“The center will help support the academic contributions of faculty, while also serving as a hub for professors and working professionals to exchange ideas, as well as create increased opportunities for students interested in national security law.”

“Our affiliated faculty members have impressive backgrounds in national security law and draw from their government and military experiences in their scholarship and teaching,” Deeks said. “I view the center as being a big tent, with room for many different facets of national security.”

Currently the E. James Kelly, Jr.-Class of 1965 Research Professor of Law and a senior fellow at UVA’s Miller Center, Deeks joined the law faculty eight years ago. Before her career in academia, she advised the State Department’s Office of the Legal Adviser and served as the embassy legal adviser to the U.S. Embassy in Baghdad.

Deeks also serves on the boards of editors of the American Journal of International Law and the Journal of National Security Law and Policy. She is a senior fellow at the Lieber Institute for Law and Land Warfare, and a faculty affiliate of the National Security Policy Center at the Frank Batten School of Leadership and Public Policy.

Other key faculty include:

- ADITYA BANZAI, a former attorney-adviser in the Office of Legal Counsel of the U.S. Department of Justice, and a former appellate attorney in both private practice and for the National Security Division of the Department of Justice. He currently serves on the federal Privacy and Civil Liberties Oversight Board.

- KRISTEN EICHENSHIRN, a former special assistant to the legal adviser of the U.S. Department of State, and a former attorney at Covington & Burling in Washington, D.C., where she specialized in appellate litigation and international and national security law, including cybersecurity issues.

- THOMAS NACHBAR, a judge advocate in the U.S. Army Reserve. He has, among other assignments, edited an Army handbook on war crimes in the West Bank and been deployed to Iraq.

- PAUL STEPHAN ’77, a former counselor of international law at the State Department who is currently on leave to serve as special counsel to the general counsel of the U.S. Department of Defense. He has authored numerous books, book chapters and articles, including the recent book “Comparative International Law,” co-authored with other UVA Law professors.

Among the primary goals for the center, Deeks said, are to build increased connections with students and to focus on national security issues in the age of big data.

“Some of the most pressing national security concerns today don’t arise on traditional battlefields,” she said. “I want to make sure students interested in national security law are well-versed in these newer threats.”

Interest in national security law is strong among UVA Law students, Deeks said, in part because many are continuing their education in the field. The U.S. Army Judge Advocate General’s Legal Center and School is just next door to the Law School.

“We have a lot of students who come in with security and intelligence backgrounds,” she said. “Some want to maintain their clearances while they’re here.”

The National Security Law Center is the successor of the Center for National Security Law at UVA. Professor Emeritus John Norton Moore, that center’s long-time director and co-founder, retired in the spring.

—Eric Williamson
Cahn is a leading expert in the field who joined the faculty this year (see p. 47). Her scholarship has focused on trusts and estates, as well as the rights of individuals within families, with gender equity a recurring theme. Professor Gregg Strauss, another renowned family law scholar on the faculty, is also involved in developing the center. Cahn, Strauss and additional faculty members at the Law School and on Grounds will serve as affiliated scholars, and the center will serve as a hub for faculty research, student engagement, and national and international exchange.

Family law faculty are involved in research and policy work that affects the law at all levels, and students will have more opportunities to become involved in those activities. Lectures and symposia on timely issues in family law will flourish as well.

“Families, and the laws that govern families, are critical in explaining so much of contemporary society,” Cahn said. “UVA has very strong family law faculty who are leaders in the field. Their work has been influential in many important legal cases and has helped shape the law.”

One way the center will enhance family law scholarship is by drawing additional affiliated faculty—the “deep bench” Hellman referred to—include Charles Barzun ’05, Josh Bowers, Naomi Cahn, Anne Coughlin, Vice Dean Leslie Kendrick ’06, Richard Re, George Rutherford, Richard Schragger, Micah Schwartzman ’05, Gregg Strauss and Steven Walt.

Kendrick, for example, has examined the philosophical foundations of the First Amendment in recent articles in Philosophy and Public Affairs and Law & Philosophy, while Schwartzman has explored religious liberty, public reason and political liberalism in philosophical journals, law reviews, and recent volumes from Oxford and Cambridge university presses.

Going forward, the center plans to host additional conferences and events, which allows six speakers to present unpublished work in progress. Students may attend these workshops in connection with a seminar offered at the Law School.

---Eric Williamson
WITH MANY STUDENTS LACKING ACCESS TO THE INTERNET OR EVEN COMPUTERS, THE PANDEMIC IS SHOWING EDUCATIONAL GAPS IN A NEW LIGHT. But online learning is merely widening longstanding, severe gaps in school funding and educational opportunities that entrench inequality.

Consider a scene in a Detroit classroom, exposed by a recent lawsuit. A student sits in class with 59 other students because her class has been combined with another that lacks a teacher. Vermic scatter by in a room so cold that she can see her breath. The “teacher” is a uncertified paraprosessional who knows nothing about the science that the class is supposed to cover or the experiments that are needed. Many students in Detroit faced these and other shun-like conditions each day when they were able to attend school.

In this dark situation, the U.S. Court of Appeals for the Sixth Circuit has shined a light that creates an important new pathway for improving educational opportunities. In Gary B. v. Whitmer, the Sixth Circuit [in April] that the school children in Detroit possess a federal, constitutional right to literacy. This right to literacy guarantees that schoolchildren must receive an education that enables them to exercise other fundamental rights and liberties, particularly their right to participate in the political system.

The court held that this right is both “deeply rooted in this Nation’s history and tradition” and “essential to our concept of ordered liberty.” Put simply, our nation simply cannot function without ensuring that children attend schools where they attain literacy. Without literacy, our democracy does not work. Without literacy, our economy shuts down. Without literacy, our freedom is illusory.

The Sixth Circuit’s opinion finally addresses the avenue left open by the U.S. Supreme Court almost 50 years ago in San Antonio Independent School District v. Rodriguez. Although the Supreme Court refused to recognize a federal right to education then, the court noted that the plaintiffs had not alleged that they had been deprived of the education they need to exercise other fundamental rights. The Detroit plaintiffs seized the opportunity to make this allegation in Gary B.

It is difficult to overstate the potential impact of this decision. Equipped with a federal right to education, families and advocates in the Sixth Circuit can proceed to federal court to demand that all children receive their constitutional right to literacy. This frees advocates from litigation in state courts, where the courts have made some inroads in educational inequalities and inadequacies, but too often have been unable to insist that state lawmakers reduce educational opportunity gaps in lasting and significant ways.

More importantly, beyond the Sixth Circuit, Gary B. is a cautionary tale to states and districts around the country. Litigation challenging inadequate public schools is proceeding in federal court not just in Detroit, but also in Rhode Island and Connecticut. State lawmakers routinely disregard educational equity and openly provide greater funding to already-excellent schools for wealthier and more powerful families, while poorer and less-influential families are stuck in schools in which lawmakers would never send their children or grandchildren.

Most states do not provide sufficient funding for children from low-income families to even achieve the modest goal of national average achievement outcomes, with some high-poverty districts falling tens of thousands of dollars below the necessary funding. Race compounds the problem, with nonwhite districts receiving a staggering $23 billion less than white districts, despite serving the same number of students.

We the people must insist that state legislatures and school boards provide effective teachers, sound facilities, course materials and access to technology for all students to engage in our democracy. Citizens also must demand that states and districts close the opportunity gaps that hinder access for poor and minority communities so that all children are equipped to participate in democracy. Our nation’s democratic, economic and societal future depends on it.

Reprinted from The Hill

BY KIMBERLY JENKINS ROBINSON

A CONSTITUTIONAL RIGHT TO EDUCATION FULLFILLS OUR DEMOCRATIC PROCESS

KIMBERLY JENKINS ROBINSON is the Elizabeth D. and Richard A. Morris Professor of Law, a Professor of Education and a Professor of Law, Education and Public Policy at the University of Virginia. She is the editor of “A Federal Right to Education: Fundamental Questions for Our Democracy” and co-editor, with Charles J. Ogletree Jr., of “The Enduring Legacy of Rodriguez: Creating New Pathways to Equal Educational Opportunity.”

I started reading the Law Weekly before I was even admitted, and it was actually one of the big reasons I decided to come to UVA. The paper is so lively, humorous and genuine, I thought that the community must be as well—and I was right! I joined the paper at the beginning of 1L year, and I’ve been editing and writing for it ever since.”

—CHRISTINA LUK ’21 VMU LAW.VIRGINIA.EDU/STRAWITNESS

MORE LAW.VIRGINIA.EDU/STRAWITNESS
LIAH BURNLEY ’15
ATTORNEY
CHURCHWELL WHITE

DESCRIBE YOUR WORK: I represent crime, counties, special districts, local agencies and private businesses. My work focuses on government relations, public policy, regulatory matters, and municipal and special district law. There is never a dull moment. My time is spent handling a variety of matters, including drafting municipal ordinances and public contracts, advising public officials on homelessness, cannabis regulations, public records requests, policing, and employment and labor issues, litigating election contexts, code enforcement actions, and water and land use disputes; and, most recently, helping our clients navigate the COVID-19 pandemic.

WHAT ACTIVITIES DO YOU ENJOY OUTSIDE OF WORK? I love the outdoors and take full advantage of Sacramento’s mild winters and Delta Breeze. If I am not at work, I am probably swimming, skateboarding, hiking, biking or kayaking down the American River. I am also a volleyball enthusiast and play in several recreational leagues.

ARE YOU WHERE YOU EXPECTED TO BE AT THIS STAGE OF YOUR CAREER AND LIFE? When I decided to apply to law school, I hoped one day to be a prosecutor. One of the reasons I chose UVA Law was its Prosecution Clinic, and I’m so glad that I did, because that experience was both deeply rewarding and impactful. I firmly believe that lessons I learned during the clinic continue to guide me in my life as a prosecutor. I can’t say, though, that I anticipated being an AUSA in the Southern District of New York.

WHAT DO YOU LIKE ABOUT YOUR LIFE 10 YEARS AFTER LAW SCHOOL? I’m profoundly thankful to have a job that is not only intellectually stimulating but also driven by a mission of public service. My interactions with victims and their families have been particularly meaningful and serve as a reminder of the importance of achieving justice for those who might otherwise feel unseen. My work is to provide a public service to the community. In fact, I went to UVA Law because of its commitment to public service and programs that support public service attorneys. I appreciate that I have a fulfilling career that is both impactful and intellectually engaging. Most importantly, I am so grateful for my family and friends who are an endless source of love and deep belly laughs.

Celia Cohen ’10
ASSISTANT U.S. ATTORNEY
SOUTHERN DISTRICT OF NEW YORK

Describe your work: My work focuses predominantly on violent and organized crime. I often work on cases from the inception of an investigation all the way through trial. In our office, we are also responsible for handling our own appeals. I’ve had the opportunity to try four cases in my first three years in the office. Most recently, I was part of the trial team that successfully prosecuted leaders of the Luchese crime family for murder, racketeering and other crimes.

What activities do you enjoy outside of work? I love anything that gets me outdoors. My husband and I also enjoy traveling and cooking (and eating!) and we’ve been lucky to combine those interests with our love of the outdoors on some recent hiking trips in Scotland and Argentina.

Are you where you expected to be at this stage of your career and life? When I decided to apply to law school, I anticipated being an AUSA in the Southern District of New York. I’m incredibly lucky to have had great mentors both at UVA and during my career, and their encouragement and advocacy are a big part of how I ended up where I am today.

What do you like about your life 10 years after law school? I’m profoundly thankful to have a job that is not only intellectually stimulating but also driven by a mission of public service. My interactions with victims and their families have been particularly meaningful and serve as a reminder of the importance of achieving justice for those who might otherwise feel unseen. I’m also fortunate to have practiced law—and to continue to practice law—with wonderful colleagues from whom I learn every day.
DESCRIBE YOUR WORK: I specialize in copyright litigation, regulatory and counseling work. I represent a wide range of technology companies, particularly in the software and digital music industries. I joined the firm two years ago after a long stint in the federal government.

WHAT ACTIVITIES DO YOU ENJOY OUTSIDE OF WORK? I have three young children, so I spend much of my free time with them—playing video games with my sons or putting together puzzles with my daughter.

ARE YOU WHERE YOU EXPECTED TO BE AT THIS STAGE OF YOUR CAREER AND LIFE? In life, definitely yes. My wife, Yael Berger, and I started dating before law school and are both Class of 2005. So, it is no great surprise that 15 years later we are married with three wonderful kids, living in the city we met in. In my career, most definitely not. The best advice I can give to young lawyers is to stay flexible in your career. I went from not taking a copyright law class in law school to becoming general counsel of the U.S. Copyright Office—just because I kept myself open to new and interesting opportunities.

WHAT DO YOU LIKE ABOUT YOUR LIFE 15 YEARS AFTER LAW SCHOOL? The early part of my career as a lawyer was so nerve-wracking—looking back, I really did not know what I was doing. Now, 15 years later, I feel like I am hitting my stride. Obviously, there is a lot more to learn, but at least on most days I do not feel like an imposter.

SARANG ‘SY’ DAMLE ’05
PARTNER
LATHAM & WATKINS
WASHINGTON, D.C.

DESCRIBE YOUR WORK: I have the honor of representing several state agencies that perform myriad important functions, including the Department of Insurance, Secretary of State and Commission on Equal Opportunity. Representing such a diverse client base has afforded me the opportunity to appear in both trial and appellate courts, provide advice on complex issues of state and federal law, and work alongside some of the most dedicated, top-shelf attorneys in the state.

WHAT ACTIVITIES DO YOU ENJOY OUTSIDE OF WORK? I have always enjoyed exercising and have created a home gym. I recently added long walks with my family and guide dog, Sadie, which have become the most rewarding part of my day. I am also a voracious reader, and, after a long hiatus, I recently rediscovered the art of reading Braille (though I admit that I still have a preference for audiobooks that I dare not share with my Braille instructor).

ARE YOU WHERE YOU EXPECTED TO BE AT THIS STAGE OF YOUR CAREER AND LIFE? I wish I could give a straightforward answer. But I have learned that expectations, though valuable at times, are shaped by experience and unexpected life events. When I lost my sight at 19, I believed I had lost any opportunity to have a successful career or fulfilling life. I was wrong. It took time and healing, but I eventually discovered that the loss of my sight opened the door to self-discovery and opportunities that I never expected to have. I never expected to graduate from college, and I did as a member of Phi Beta Kappa. I never expected to graduate from law school, and I did on a full scholarship. I never expected to have a loving family and a successful career, and I have both. Perhaps it’s a much more straightforward answer after all—I exceeded my expectations.

WHAT DO YOU LIKE ABOUT YOUR LIFE 25 YEARS AFTER LAW SCHOOL? I have two brilliant and amazing daughters (Mackenzie and Macey), whom I get to coach, teach, make laugh and, at times, embarrass with all the love and respect a proud father can summon.

JEFFREY STUMP ’95
SENIOR ASSISTANT ATTORNEY GENERAL
GEORGIA DEPARTMENT OF LAW
ATLANTA
WILL THIS BE THE YEAR THAT HISTORY WILL RECORD AS THE BEGINNING OF THE END OF DISPARITY IN THE CRIMINAL JUSTICE SYSTEM?

Most of 2020 is behind us now, but the protests set off by the deaths of George Floyd, Breonna Taylor, Ahmaud Arbery and others won’t soon be forgotten.

A broad cross-section of America is saying, “Enough.” A recent poll from The Associated Press and its research partner at the University of Chicago found that nearly all Americans support some level of police reform, including clear standards for use of force and consequences for officers who err.

As events unfolded and protests cropped up across the nation, some asked what the Law School can do to respond—not just in policing, but with all manner of injustice.

Professor Rachel Harmon, who directs the new Center for Criminal Justice at UVA Law, said UVA Law professors are combating problems on multiple fronts.

“From making policing less harmful and pretrial detention less common to improving trials and releasing the innocent, our faculty are on the front lines of criminal justice reform,” Harmon said.

The UVA Law community, which includes alumni focusing on solutions from practice (see p. 38), is working to help correct discrepancies affecting people of color, the poor and others disproportionately impacted by a system that experts say is too often stacked against them.

“This issue is a status report on the work we’re already doing on criminal justice reform, and a reflection on reforms yet to be achieved,” Dean Risa Goluboff said. “One of the Law School’s missions is serving the public, both through enabling and teaching our students, who are positioned to make an impact when they become attorneys, and by supporting the service of our faculty. I am gratified by how many of our faculty are making important contributions at this critical moment.”

THE TIPPING POINT FOR CRIMINAL JUSTICE REFORM

BY ERIC WILLIAMSON

ILLUSTRATIONS BY JON KRAUSE

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African Americans are more likely to be stopped and arrested by police than white people, more likely to be convicted in criminal prosecutions, and more likely to be housed long-term in jails, prisons and other detention facilities.

—The Sentencing Project, 2018 report to the United Nations

If Black and Hispanic people were incarcerated at the same rate as white people, the nation’s inmate population would decline by 40%.

—NAACP

Criminal fines and fees that subsidize government programs hurt the poor disproportionately.

—Legal Aid Justice Center
**Policing**

Governments need to rethink almost every aspect of traditional policing.

**Juveniles**

Most juveniles convicted of crimes do not need to be housed in the juvenile system.

**The Juvenile Justice System** has traditionally been an early stop in the school-to-prison pipeline. How a youth is handled may make the difference between a productive adult and an imprisoned one.

Professor Andrew Block recently rejoined the faculty after serving for five years as director of the Virginia Department of Juvenile Justice. There, he instituted major reforms while in his official role, including reducing the number of youth in state facilities by almost two-thirds, closing two state correctional facilities, and securing legislative support to reinvest savings from those closures into a network of services for children and their families.

“We were able to really transform a lot of the work of the agency,” Block said. “We implemented evidence-based practices and treatment programs across Virginia, and hit all-time lows for numbers of new cases coming into the system, numbers of youth on probation and the numbers of youth in locked facilities.”

He teaches the class Children and the Law, and continues to speak and write about juvenile justice reform.

Block is also currently serving as vice chair of Gov. Ralph Northam’s Commission to Examine Racial Inequity in Virginia Law. In the spring, student research assistants working with him provided commission members with an extensive summary of their research about racial disparities in various aspects of life in Virginia, as well as a set of policy recommendations that will help inform future action to address the disparities. Already, historic racist language in state law has been removed because of the work of the commission.

More recently, Block and his students have been tackling police and criminal justice reform. Block launched the State and Local Government Policy Clinic at the Law School this fall, and students are participating in the next phase of the commission’s work.

Her article “Why Arrest?,” published in 2016 in the Michigan Law Review, argues that arrests are not essential to policing in most cases.

In another work, “Promoting Civil Rights Through Proactive Policing Reform,” published in 2009 in the Stanford Law Review, she advocates for a more aggressive federal enforcement of police departments for civil rights violations—which she says could be achieved through calculated lawsuits and offering “safe harbor” for departments actively pursuing compliance.

Harmon is a leader in the field of police regulation. He teaches the class Children and the Law, and continues to speak and write about juvenile justice reform.

**Juries**

It’s not only possible, but it’s time, to end racial discrimination in jury selection.

**The Jim Crow Jury** was published this year in the Vanderbilt Law Review, Frampton examined how juries often craft their thinking to counter racial bias in the jury system and declared that “relics of the original Jim Crow jury era—non-unanimous juries—should be declared unconstitutional.”

On the latter count, the U.S. Supreme Court agreed. In 2020, the court cited his paper twice in Ramus v. Louisiana, affirming that jury verdicts in criminal trials must be unanimous.

A more recent article, “For Cause: Re-Thinking Racial Exclusion and the American Jury,” which was published this year in the Michigan Law Review, looked at how juries are often crafted to have a certain racial composition by ruling out people “for cause”—for example, they know the accused through a setting that may have created a favorable or unfavorable impression.

“Challenges for cause are racially skewed, in part, because the Supreme Court has insulated the challenge-for-cause process from meaningful review,” he writes. “We need to rethink who is qualified to serve as a juror and how we select them.”

Frampton’s research draws on his background in American studies and his experiences as a public defender in Louisiana. Read more about the professor on p. 55.
INFORMANTS

STATES SHOULD REDUCE OR END THE USE OF JAILHOUSE INFORMANTS.

The use of jailhouse informants, or “snitches,” is common nationwide in the most serious criminal cases, including death penalty cases. Of the 123 death row exonerations to date, 17% involved the use of jailhouse informants, according to Professor Deirdre Enright ’92, who co-directs the Innocence Project at UVA Law. “Prosecutors are allowed to use the defense pretrial hearings to test the reliability of the informant,” Enright said. “We're the defense to offer anything of value to a witness; they would surely face discipline or dismissal by the bar.”

Correcting the problem in Virginia is on the Innocence Project’s policy agenda for the year ahead. The group is working on a bill that would establish a statewide database to track the use of jailhouse informant testimony. Enright, co-director Jennifer Givens and staff attorney Juliet Hatchett ’15 will oversee student efforts in coordination with the New York Innocence Project.

“The U.S. Supreme Court has previously ruled that prosecutors must disclose to the defense discrediting information about state witnesses, including promised benefits and the witness’ criminal history,” said Brianna Miller ’22, student team leader on the project. “The database will provide greater transparency and allow for more prompt disclosure of the relevant information. This information is vital for the accused to be able to raise an adequate defense.”

Enright said an example of a state trying to correct the problem is Illinois, which has recently adopted stringent rules for prosecutors. They must give 30 days’ notice to the court, provide thorough discovery about the encounter that generated the account, be transparent about the inmate’s history of snitching and allow the defense pretrial hearings to test the reliability of the informant. In addition, cautionary jury instructions were adopted about the inherent unreliability of informants.

“Virginia has none of these measures in place, so our policy team’s efforts to draft curative legislation is both long overdue and essential,” Enright said.

Wrongly Convicted

People in Virginia now have a much better shot at overturning their convictions because of the policy efforts of the Innocence Project at UVA Law. As part of sweeping criminal justice reforms signed by Gov. Ralph Northam in April, the threshold for the Virginia Court of Appeals to grant a writ of actual innocence has been lowered in cases not involving biological evidence.

“It’s a new day in Virginia,” said Professor Jennifer Givens, who directs the Innocence Project along with Professor Deirdre Enright ’92. “The changes make the remedy available to more innocent people in Virginia and will lower the current burden of proof, which is incredibly high and nearly impossible to satisfy.”

The Innocence Project’s policy focus began at the beginning of the 2019-20 academic year. The primary team, then comprised of seven students and overseen by staff attorney Juliet Hatchett ’15, the inaugural Jason Flom Justice Fellow, advocated for amendments to the writ of actual innocence law that have now been incorporated.

“This type of work is something we’ve wanted to do for a long time,” Givens said. “Our team brainstormed the types of reforms we should be focusing on for this legislative session. We then worked with the New York Innocence Project and the Mid-Atlantic Innocence Project to establish a legislative agenda and plan, and Juliet and the policy team worked hard to implement that plan.”

The change in the law effectively puts the remedy within reach. As an appeals court considers how a reasonable set of jurors might determine guilt based on the new evidence, the standard now requires relief based on a “preponderance of the evidence,” versus the previous, higher bar of “clear and convincing evidence.”

The law also changed to allow a convicted person who previously plead guilty to petition for a writ. “More than 95% of people plead guilty to a crime, but pleading guilty doesn’t necessarily mean a person isn’t innocent,” Hatchett said.

And the new law allows for more than one writ petition if the first isn’t successful, although significant new evidence must still be introduced each time.

As of the spring, only four people in Virginia had been granted a writ of actual innocence based on nonbiological evidence, Hatchett said. The new law went into effect July 1. Virginia has a separate statute that pertains to the filing of a writ of actual innocence in cases that hinge on biological evidence. For that law, the policy team proposed allowing DNA testing to be performed at private labs. “This will be particularly useful in cases where the Virginia Department of Forensic Sciences does not possess the necessary equipment or expertise,” Hatchett said. The bill passed both the House of Delegates and state Senate unanimously, and the governor signed it into law after suggesting an edit to its language.

Jessica Joyce ’20, team leader for the students working on the project, researched the law in other states and investigated which Virginia legislators might be interested in sponsoring. Sen. John Edwards ’70 sponsored identical language in the House, while Del. Charniele Herring sponsored identical language in the House of Delegates.

“The new writ of actual innocence law demonstrates that Virginia’s legislature is serious about trying to get things right in our state’s criminal justice system,” Joyce said. “The post-conviction DNA testing bill will allow courts to consider more DNA evidence when reviewing the convictions of those who claim innocence. As a bill that was passed unanimously by both the Senate and the House, it is also a wonderful example of how criminal justice reform is a bipartisan issue and how all policymakers can strive toward a more just Virginia, regardless of political affiliation.”

Joyce also deserves credit for pushing to start a policy team, which she first advocated for as a student in the for-credit Innocence Project Clinic, Hatchett said. Students in the yearlong clinic investigate and litigate claims of false conviction in Virginia.

Northam had signaled in advance that he wanted to make major changes to criminal justice in Virginia, including to the writ of actual innocence process.
A paper by Professor Megan Stevenson, “Bail, Jail and Pretrial Misconduct: The Influence of Prosecutors,” authored in 2019 and updated this year, examines bail reform measures under Philadelphia District Attorney Larry Krasner, who is a leader in the progressive prosecution movement. “Dozens of jurisdictions across the country are engaging in bail reform, but there are concerns that reducing monetary incentives will increase pretrial misconduct,” Stevenson and co-author Aurélie Ouss of the University of Pennsylvania write about why they chose to study outcomes in Philadelphia. Krasner’s office no longer requires bail to be set for misdemeanor offenses, for example, although a judge still has the final say. Stevenson found that such discretionary measures have had a positive impact, while not resulting in spikes in crime or significant increases in defendants failing to show up in court.

In fact, with a 22% increase in the likelihood that a defendant would be released with no monetary or supervisory conditions, there appeared to be no statistically significant downside. “This provides a unique opportunity to evaluate the primary justification for cash bail: that it provides incentive for released defendants to appear in court,” they state. “We find no evidence that cash bail or pretrial supervision has a deterrent effect on failure-to-appear or pretrial crime.”

Two of Stevenson’s other research papers were cited by the U.S. Court of Appeals for the Fifth Circuit as part of the 2018 decision in O’Donnell v. Harris County, Texas, et al. The court reaffirmed a district court ruling that the county’s bail system for misdemeanor offenses violated due process because it favored those most able to pay.

At UVA, Stevenson teaches Criminal Law as well as courses on evidence-based criminal justice reform and statistics for lawyers. Read more about her work on p. 54.

Like his colleague Megan Stevenson, Professor Josh Bowers understands the many problems with fairness associated with pretrial detention. Bowers is the lead reporter for the Uniform Law Commission’s Pretrial Release and Detention Committee. He also served as a staff attorney for the Bronx Defenders early in his career.

In July, the commission released its model legislation for states under the title The Uniform Pretrial Release and Detention Act, which is meant to guide judicial decision-making. The overriding goal of the proposal is to eliminate wealth-based disparities in pretrial release and to ensure that the liberty of individuals is only restricted, after a rigorous process, to the extent required by a state’s legitimate pretrial interests. The act also compels police, in some circumstances, to use citations instead of arrests.

“Our committee was a bipartisan group of academics, judges and lawyers, including prosecutors and defense attorneys,” Bowers said. “We represented a diverse set of viewpoints, but ultimately came together to produce an innovative template for state-level statutory reform, prioritizing pretrial release and minimizing the degree to which poverty leads to detention.”

Bowers is currently working on the article “What If Nothing Works? On Crime Licenses, Recidivism, and Quality of Life,” which examines what it means to “defund” the police.

In addition to his scholarly work, Bowers was a founding member of the city of Charlottesville’s recently formalized Civilian Review Board, which provides oversight of the Charlottesville Police Department. He is the F. D. G. Ribble Professor of Law.
TEACHING ‘RACE AND CRIMINAL JUSTICE’

WHEN WE CAUGHT UP this summer with Professor Kim Forde-Mazrui, who runs the school’s Center for the Study of Race and Law, he was in the midst of planning a race and gender justice-themed symposium with the Virginia Law Review, scheduled for January, as well as preparing the fall course Race and Criminal Justice, which he first taught in the spring.

The new course prepares lawyers-in-training to understand the disproportionate influence that race has on the criminal justice system.

Forde-Mazrui is co-author of “Racial Justice and Law: Cases and Materials.” He will be teaching the course for the first time with Professor Josh Bowers, an expert in criminal law who served as a public defender early in his career.

Two takeaways (among many) Forde-Mazrui hopes students gain from the course: “Race remains a highly salient matter in the criminal justice system, and judicial doctrines that purport to protect racial equality are tragically inadequate because of flawed decisions by the Supreme Court.”

One thing he himself was surprised to learn in preparing the course is that relatively few conservative scholars have written in the area of criminal justice.

“I want to present a diversity of perspectives to my students, and it’s difficult to find conservative perspectives reflected in published legal scholarship, as opposed to blogs and other brief commentaries,” he said. “I welcome suggestions.”

Bowers, a criminal justice expert with a background in public defense, said he is excited to teach the course with Forde-Mazrui, whose materials he pulled from to teach a one-week version of the course at the University of Münster in Germany.

“Kim is an exceptionally generous and kind colleague, and he has developed a rich set of teaching materials,” Bowers said.

They both said they look forward to the discussions they will lead and have with each other, drawing upon their backgrounds and individual perspectives.

“My primary expertise is race law, Josh’s is criminal justice. That makes us a perfect duo to teach Race and Criminal Justice,” Forde-Mazrui said.

Judging from spring feedback, the course has already had an impact on students.

“I am so grateful I took your class in my last semester of law school, because it has changed the way I am now engaging in this new period for our country,” wrote Sarah Houston ’20 in a thank-you email to Forde-Mazrui.

The new course prepares lawyers-in-training to understand the disproportionate influence that race has on the criminal justice system.

During a visit to Coughlin’s Criminal Investigation class, he had students close their eyes while he donned a black hoodie and sunglasses.

“I’m still the dude sitting here in these fantastic shoes—and a bowtie,” he said. “So why does this change? And I know you had to feel something when you opened your eyes. Those are the narratives that we need to try to change.”

Coughlin’s class that day focused on the U.S. Supreme Court cases Arneson v. City of Lago Vista, about police discretion in arrests for traffic crimes, and Terry v. Ohio, in which the majority said stop-and-frisk practices were legal.

“In both of these areas, there is substantial empirical evidence that race plays a really powerful role in the policing decisions,” Coughlin told the class.

At one point during the session, which is available at youtube.com/uvalaw, Jackson reflected on the pain he will feel when he teaches his young children how to safely encounter police.

“We shouldn’t have to have ‘the talk’ with our children,” he said, then paused for several seconds, holding back tears. At the time, he and his wife had a daughter and were expecting a second child. “At some point life will show her that she’s not viewed the same and I don’t want to prepare her for that at the same time. ... But how do I rob my daughter of her innocence?”

He added, “The world will do it if I don’t.”

Coughlin has also spent significant time working to persuade local law enforcers to bring felony charges against “the torch-burning mob” after the August 2017 white supremacist rally in Charlottesville. She said her efforts to hold individuals accountable for illegal acts, separate from their exercise of free speech, are ongoing. She is also currently involved in an effort with students and a team of lawyers from Covington & Burling to rewrite Virginia’s sexual assault laws, to ensure that prosecutors don’t have to prove “force, threat or intimidation” to meet the legal definition of rape.

Coughlin is the Lewis F. Powell, Jr., Professor of Law.

Kim Forde-Mazrui

Josh Bowers

Professor Anne Coughlin said she has learned much from her students over the years about why diversity in the profession, the bar and the bench “is essential if we are to have any hope of achieving racial justice.”

Coughlin said it’s also critical to bring in diverse voices to teach law students. Over the years in her classes Law and Public Service, and Criminal Investigation, she has hosted U.S. Judge Carlton Reeves ’89, retired Virginia Court of Appeals Judge James W. Benton Jr. ’70 and musician Lester Jackson to offer their perspectives.

“It hurts to put a burden on our Black neighbors to help educate us, and so I am very grateful to those who step up to help us, rather than just give up on us,” Coughlin said.

Jackson is a resident of Charlottesville, who records music as the artist Nathaniel Star.

During a visit to Coughlin’s Criminal Investigation class, he had students close their eyes while he donned a black hoodie and sunglasses.

“I’m still the dude sitting here in these fantastic shoes—and a bowtie,” he said. “So why does this change? And I know you had to feel something when you opened your eyes. Those are the narratives that we need to try to change.”

Coughlin’s class that day focused on the U.S. Supreme Court cases Arneson v. City of Lago Vista, about police discretion in arrests for traffic crimes, and Terry v. Ohio, in which the majority said stop-and-frisk practices were legal.

“In both of these areas, there is substantial empirical evidence that race plays a really powerful role in the policing decisions,” Coughlin told the class.

At one point during the session, which is available at youtube.com/uvalaw, Jackson reflected on the pain he will feel when he teaches his young children how to safely encounter police.

“We shouldn’t have to have ‘the talk’ with our children,” he said, then paused for several seconds, holding back tears. At the time, he and his wife had a daughter and were expecting a second child. “At some point life will show her that she’s not viewed the same and I don’t want to prepare her for that at the same time. ... But how do I rob my daughter of her innocence?”

He added, “The world will do it if I don’t.”

Coughlin has also spent significant time working to persuade local law enforcers to bring felony charges against “the torch-burning mob” after the August 2017 white supremacist rally in Charlottesville. She said her efforts to hold individuals accountable for illegal acts, separate from their exercise of free speech, are ongoing. She is also currently involved in an effort with students and a team of lawyers from Covington & Burling to rewrite Virginia’s sexual assault laws, to ensure that prosecutors don’t have to prove “force, threat or intimidation” to meet the legal definition of rape.

Coughlin is the Lewis F. Powell, Jr., Professor of Law.

Kim Forde-Mazrui

Josh Bowers

Professor Anne Coughlin said she has learned much from her students over the years about why diversity in the profession, the bar and the bench “is essential if we are to have any hope of achieving racial justice.”

Coughlin said it’s also critical to bring in diverse voices to teach law students. Over the years in her classes Law and Public Service, and Criminal Investigation, she has hosted U.S. Judge Carlton Reeves ’89, retired Virginia Court of Appeals Judge James W. Benton Jr. ’70 and musician Lester Jackson to offer their perspectives.

“It hurts to put a burden on our Black neighbors to help educate us, and so I am very grateful to those who step up to help us, rather than just give up on us,” Coughlin said.

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WHEN SOMEONE DIES from a medical mistake or an airplane crash, a team of professionals comes together and looks at all contributing factors, not just the actions of the doctor or the pilot. In these fields, such accidents are known as “sentinel events.”

Professor Barbara Armacost ’89, a former nurse, says the investigation and prosecution of officer-involved shootings should be the same.

Currently, these inquiries focus almost exclusively on the actions of the officer who pulled the trigger—with the public rightly seeking accountability for inappropriate use of force. But she sees a deeper problem with such a narrow focus, as indicated in the title of her paper on the subject: “Police Shootings: Is Accountability the Enemy of Prevention?” published last year in the Ohio State Law Journal.

By only looking at the actions of the officer, or officers, in question, other factors or errors that contributed to the shooting go unaddressed.

“We need to look beyond the limited time-frame embraced by the current legal standard and view police-involved shootings as organizational accidents,” writes Armacost, who is an expert in criminal justice, criminal procedure, torts, and race and law.

Armacost references the tragic death of Tamir Rice to demonstrate how systems-oriented, sentinel event review might be employed to investigate questionable police-involved shootings. In 2014, Officer Timothy Loehmann shot Rice, who was reported to be brandishing a weapon near a recreation center. It turned out that Rice was only 12 years old, and the weapon was a nonlethal airsoft pistol.

Police experts and investigators universally condemned Loehmann’s partner, Officer Frank Garmback, for driving up so close to a reported “active shooter”—rather than stopping, taking cover and waiting for backup, as police best practices would dictate. (Garmback was suspended for 10 days for violating multiple police department policies.)

By contrast, the investigations looking into the lawfulness of the shooting itself treated Loehmann’s position as a given. “That Garmback’s action may have increased the risk that deadly force would be necessary was deemed irrelevant” to the question of whether the shooting was constitutionally allowable, Armacost says.

The shooting was deemed lawful under the circumstances, and both officers were cleared of constitutional error.

Additionally lost in the analysis, says Armacost, is consideration of other errors or systems weaknesses that might have contributed to the shooting, including inaccurate or incomplete information relayed to the officers by the dispatcher, breakdowns in communication, risks posed by realistic-looking but nonlethal guns, and weaknesses in police active-shooter and de-escalation policies.
AN INCREASING NUMBER of people with serious mental illness are ending up in jail due to gaps in mental health services.

Professor Richard Bonnie ’69 and his co-author, Dr. Steven Kenny “Ken” Hoge, have proposed a new legal pathway to divert these people from the criminal process as soon as possible and commit them for mental health treatment.

“The tools now available to respond to these defendants are not serving their needs or the interests of society,” Bonnie said. “Their conditions get worse when they are in jail, and they are eventually released into the community without being connected to treatment.”

In many of the situations, Bonnie said, their arrests were for misdemeanors or non-violent felonies related to the mental illness. Bonnie and Hoge contend that the two traditional legal pathways to treatment in the criminal justice system are useless or counterproductive. One pathway is the insanity defense, but they point out the defense is rarely used except in very serious cases, because it typically leads to long-term commitment to a secure hospital. The second is found incompetent to stand trial.

“A lot of mentally ill defendants are evaluated for competence, but a lot of time and money is spent moving them back and forth between the hospital and the jail, with little benefit to the administration of justice,” Bonnie said. The criminal charges are often resolved by a guilty plea and a short jail term, “but nothing is done to prevent another cycle of relapse and re-arrest.”

The goal, according to their draft proposal, tentatively named “Expedited Diversion to Court-Ordered Treatment,” would be to stabilize the patient enough while in the mental health setting so that he can be discharged into the community, where care would continue to be provided.

Bonnie has spent much of his career working for mental health law reform, including at the intersection of mental health services with the criminal justice system. Among other positions, he chaired a Commission on Mental Health Law Reform at the request of the chief justice of Virginia from 2006-2011 and an Expert Advisory Panel on Mental Health Reform for the Virginia General Assembly from 2016-19.

“We are planning on introducing a major overhaul of the statutes governing mandatory outpatient treatment in the upcoming session of the General Assembly,” Bonnie said of the latest reform efforts.

Bonnie has also advocated on such topics as risk warrants to remove guns from the hands of the mentally unstable, and the necessity of the insanity defense.

He was elected to the National Academy of Medicine in 1991 and has chaired more than a dozen studies for the National Academies on subjects ranging from elder mistreatment to underage drinking. In 2017, he chaired a study on policies needed to address the opioid epidemic in the U.S. More recently, he has been focusing on the implications of advances in knowledge about adolescent development for the justice system.

In addition to being the Harrison Foundation Professor of Medicine and Law at the Law School, he is a professor of both public policy, and psychiatry and neurobehavioral sciences. He also directs the Institute of Law, Psychiatry and Public Policy at UVA.

Hoge, a former director of the ILPPP, is a medical doctor on faculty at the Columbia University College of Physicians and Surgeons. He directs the Columbia-Cornell Forensic Psychiatry Fellowship Program. He was previously professor of psychiatry at the NYU Grossman School of Medicine and director of the Division of Forensic Psychiatry at Bellevue Hospital.

FOR MANY DEFENDANTS WITH SERIOUS MENTAL ILLNESS, PROVIDING COURT-ORDERED MENTAL HEALTH TREATMENT RATHER THAN SENDING THEM TO JAIL OR PRISON WOULD BETTER SERVE SOCIETY.
and social turning point, bringing a flood of changes to cash bail systems and, in our state, reforms to jury selection and the use of peremptory challenges.

But it's still early, and political will is like a pendulum that can easily change its trajectory. The pandemic and racial equality movement has brought dramatic shifts in pretrial jail populations. But any changes in crime rates and an eventual decline in COVID-19 concerns could stall that momentum. Only time will tell.

BIRKEL: I work in Oklahoma. Oklahoma has the highest rate of female incarceration and the second-highest rate of incarceration of all humans of any state. Although I am a proponent of abolishing many of these systems that harm our clients’ lives, there are several initiatives that my office, Still She Rises, and other forces in the state have generated. For example, in 2016, Oklahomans voted to reclassify simple drug possession of any controlled substance as a misdemeanor, rather than a felony. Removing the possibility of prison time and moving in the direction of decriminalization has been crucial to more positive outcomes for our clients’ cases.”

—Maggie Birkel ’18

IN TERMS of criminal justice reforms, what seems to be working?

GRAVES: A number of states are addressing the problem of pretrial detention by legislating bail reforms that end or severely restrict the use of money bail, and that has been an encouraging development. We should not put people in jail simply because they cannot afford to pay a certain amount of money to guarantee that they will attend a future court hearing. Money bail systems perpetuate an endless cycle of poverty and jail time for our low-income citizens while favoring those who are more well off. It is an ineffective and demoralizing function of many courts, and I am glad to see that some states have eliminated it or are working to do so.

“REMOVING THE POSSIBILITY OF PRISON TIME and moving in the direction of decriminalization has been crucial to more positive outcomes for our clients’ cases.”

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HEAPHY: Virginia has taken some positive steps in the direction of reform, but much remains to be done. The General Assembly wisely repealed the law that imposed an automatic suspension of driver’s licenses due to failure to pay court debt. [This effort was spearheaded by numerous UVA Law alumni, working through the Legal Aid Justice Center, as reported in the Spring 2019 issue.] That provision was ineffective and overinclusive, and led to the reincarceration of thousands of Virginians whose licenses were suspended. The next frontier is repealing the mandatory fees, fines and costs that continue to be imposed regardless of ability to pay. These provisions criminalize poverty and should be eliminated.

TAYLOR: In my opinion, the jury is still out, so to speak, on the extent to which various reforms in California have been effective. We’ve known for many years that reform was needed to restore confidence and equity in our criminal justice system. When I served on the California Judicial Council’s Access and Fairness committee almost 20 years ago, we were discussing this same issue—equality in prosecutions and sentencing. Those conversations were met with historical resistance. Today seems to be a political and social turning point, bringing a flood of changes to cash bail systems and, in our state, reforms to jury selection and the use of peremptory challenges. But it’s still early, and political will is like a pendulum that can easily change its trajectory. The pandemic and racial equality movement has brought dramatic shifts in pretrial jail populations. But any changes in crime rates and an eventual decline in COVID-19 concerns could stall that momentum. Only time will tell.

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IS THERE an accomplishment from your work that you would like to mention?

HEAPHY: As a United States attorney, I helped devise and implement Attorney General Eric Holder’s Smart on Crime Initiative, which reduced the use of mandatory minimum charges and encouraged support for prevention and reentry initiatives. That program led to a reduction in the federal prison population with no corresponding increase in crime. After leaving government service, I founded The Fountain Fund, a Charlottesville-based reentry organization that provides low-interest loans to formerly incarcerated men and women.

GRAVES: Prior to joining my firm, I was the executive director of the Mississippi Access to Justice Commission. The commission hosted criminal record expungement legal clinics throughout Mississippi and joined forces with statewide nonprofit organizations that were examining Mississippi’s record expungement laws in order to make it easier for individuals to get their records expunged. I was pleased to be able to work with our legislators to make some rather sweeping changes to the state’s expungement laws, including by helping to enact a statute that increased the number of felony convictions that qualify for expungement and another statute that allows individuals to obtain an expungement if they committed certain crimes before they reached the age of 19. Having a clean criminal record enables individuals to do things like register to vote, obtain employment and federally supported housing, and acquire essential state-sponsored benefits, among other things. It can be life-changing for people who are trying hard to rebuild their lives to better support themselves and their families.

TAYLOR: California Chief Justice Tani Gorre Cantil-Sakauye has led the fight, along with the State Judicial Council on which I serve, to reform our state’s cash bail system. Fortunately, she had the support of Gov. Gavin Newsom and our Legislature.

During this effort, the pandemic struck, causing local county trial courts to reduce jail populations in order to avoid the spread of the virus. Los Angeles County has released over 20% of its jail population. Those released were vetted through a collaborative effort between prosecuting and defense agencies, and then approved by the court. We sought to release those who did not present a significant risk to the public. Given the size of our justice system, we’ve been pleased so far with the approach.

HINEGELEY: A major accomplishment I would mention is assisting in managing the criminal justice system response to the ongoing public health emergency. My office has used a variety of strategies (home electronic incarceration, delayed reporting dates, furloughs, release on bail and modified sentences) to reduce the population of the Albermarle County Regional Jail without compromising public safety. (The superintendent of ACRJ, Col. Martin Kumer, has been a terrific ally in this effort.) The reduction has been significant, bringing the ACRJ population to a level lower than it has been in decades. The population reduction reduces the risks of transmission and provides more space in the jail to effectively manage outbreaks when they do occur.

I also cooperated with the courts when they were closed (except for emergency hearings) to implement innovative innovative hearing procedures that enabled more judicial business to be conducted during closure and reduced the backlog of delayed cases now starting to clog the system.

BIRKEL: Our daily work has changed dramatically during COVID. The county jail has severely limited our access to our clients, who are often in custody for months at a time. Social services have been curtailed or shut down completely. The court has paused trials and various hearings and other court appearances for long stretches of time. All of this and so much more has complicated our ability to provide the best, client-centered representation possible. Despite all of these challenges, I have been incredibly proud of the representation my office has provided during this time. Our court system is far from fully equipped for entirely or even largely remote hearings and court proceedings. As an office we never went fully remote, going into court for appearances over this entire spring and summer. Significantly, we have been present, in person at the courthouse every morning for the daily bond docket and expanded our representation to include all women on that docket.

WHAT MORE would you like to see change?

TAYLOR: Equity in arrests and prosecutions across cultural and socioeconomic lines has always been essential to building trust in any justice system. In any society, this is always a challenge. I’d like to see more studies followed by meaningful efforts to give every person a reason to believe that justice is blind. I know that most people I’ve worked with, including judicial officers and our justice partners, strive for this. We constantly reflect on how we can be more fair, and in my past two decades on this court, I have created training on implicit bias. I think California is well-positioned to bring about that change. All three branches of our government have made reform a priority.

BIRKEL: I would like to see the decriminalization or at least reduction from felony level to misdemeanor level for numerous charges. As a prison abolitionist, I would like to see the elimination of the prison and criminal legal system. In the meantime, as a public defender, I fight every day, side by side with my clients against a system that seeks to tear apart families and tear down individuals.

HINEGELEY: I would like to see criminal justice reform legislation pass the General Assembly. I am one of the founding members of the Virginia Progressive Prosecutors for Justice, an organization that advocates for criminal justice reform. We are 12 elected commonwealth’s attorneys, and collectively we represent 43% of the population of Virginia. We exist to develop proposals for criminal justice reform and drafting criminal justice reform legislation, and we speak out to legislators and the community on criminal justice reform. Our voices are being heard in debates that will shape the future of Virginia’s criminal justice system.

HEAPHY: I am terribly disappointed in the leadership at the Department of Justice in this administration, which has withdrawn from Smart on Crime and politicized the department. This trend shows that elections matter and have consequences for criminal justice policy. Conversely, the Virginia General Assembly has taken some positive steps in the direction of reform and seems poised to consider and enact more fundamental changes to improve the quality of justice in Virginia. The Fountain Fund is calling attention to fees/fines issue and helping generate data that we hope will inform policy efforts going forward.

GRAVES: There is a lot that needs to change. As with most things, it starts with an awareness that we can no longer operate under the current criminal justice system and that reform is needed. The murders of George Floyd, Bresnna Taylor, Ahmaud Arbery and many others before them have highlighted the need for reform and awakened the nation’s consciousness to just how bad things are and can be if we fail to make the types of changes that will literally save lives—Black and otherwise. As pro bono counsel at my firm, I am constantly looking for ways that we can mobilize our attorneys to help, and we are currently considering several projects that would more directly position our attorneys into criminal justice work. None of these changes will happen overnight. They require a sustained commitment. They also require a willingness to work with returning citizens and families of incarcerated and formerly incarcerated individuals to help identify the changes that will have the biggest impact.

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—Tiffany Graves ’06

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—Tiffany Graves ’06
THE FACTS OF THE CASE pointed to a likely constitutional violation. In 2013 a white Mississippi police officer, Nick McClendon, pulled over a Black man, Clarence Jamison, and conducted an almost two-hour traffic stop. Jamison was driving a recently purchased Mercedes-Benz with temporary tags that the officer claimed were folded (Jamison provided evidence that they were not). McClendon allegedly badgered him to search the car, despite background checks that failed to turn up a criminal history on Jamison. The officer added a false pretext, claiming cocaine had been reported in the vehicle. Upon the fifth request to search, the driver capitulated. The officer dismantled the car, reportedly causing thousands of dollars’ worth of damage. The search, augmented with a drug-sniffing dog, failed to produce any hidden drugs.

Despite the unreasonableness of the search and apparent profiling, U.S. Judge Carlton Reeves ’89 of the U.S. District Court of the Southern District of Mississippi ruled Aug. 4 in the officer’s favor in Jamison v. McClendon, because of how the courts apply qualified immunity, while questioning the doctrine.

Reeves pointed out in his opinion that immunity is different than exoneration, and listed cases in which police were believed to have abused their power, and yet were protected from accountability.

“Our courts have shielded a police officer who shot a child while the officer was attempting to shoot the family dog; prison guards who forced a prisoner to sleep in cells ‘covered in feces’ for days; police officers who stole over $225,000 worth of property; a deputy who body-slammed a woman after she simply ignored [the deputy’s] command and walked away; an officer who seriously burned a woman after detonating a ‘flashbang’ device in the bedroom where she was sleeping; an officer who deployed a dog against a suspect who ‘claim[ed] that he surrendered by raising his hands in the air’; and an officer who shot an unarmed woman eight times after she threw a knife and glass at a police dog that was attacking her brother.”

The doctrine of qualified immunity, the U.S. Supreme Court has held, protects police officers when sued for alleged constitutional violations arising from performing their jobs. In acknowledging the uncertainty inherent to policing, the court has set a high bar for an officer to be sued: Not only must he violate a plaintiff’s constitutional rights, but those rights must be “clearly established” under existing law at the time of the incident.

“Unless the courts have previously held that very similar police misconduct violated the Constitution, the officers will be shielded from liability, even though they violated the plaintiff’s rights,” said Professor Thomas Frampton, a criminal law expert who studies racial disparity in criminal justice. “And, in practice, rarely are two cases so similar that plaintiffs can surmount this hurdle.”

Frampton said Reeves was trying to get the Supreme Court’s attention.

“There is a growing national debate about police misconduct, and the doctrine of qualified immunity has critics on both the left and the right,” said Professor Thomas Frampton, a criminal law expert who studies racial disparity in criminal justice. “And, in practice, rarely are two cases so similar that plaintiffs can surmount this hurdle.”

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“A JUDGE’S CALL TO END QUALIFIED IMMUNITY

The judge’s opinion received extensive press coverage. “While I did not expect the opinion to receive the attention it has, I am not surprised in light of the national conversation on policing that we are having,” Reeves told UVA Lawyer in late September.

—Eric Williamson

—Professor Thomas Frampton

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IN ACKNOWLEDGING THE UNCERTAINTY INHERENT TO POLICING, THE SUPREME COURT HAS SET A HIGH BAR FOR AN OFFICER TO BE SUED.
MEET THE NEXT GROUP OF EXEMPLARY PROFESSORS JOINING UVA LAW

BY ERIC WILLIAMSON

The dean added that the Law School is not finished: “We intend to build on this momentum. As we continue to bring outstanding scholars to UVA, we are especially committed to expanding the diversity of our faculty.”

Goluboff noted that hiring talented faculty always comes with the possibility that they will move on to leadership positions. Since 2012, six faculty members have become deans of top law schools: A. Benjamin Spencer (William & Mary), Dayna Bowen Matthew ’87 (George Washington), Kerry Abrams (Duke), M. Elizabeth Magill ’95 (Stanford, now executive vice president and provost at UVA), Jennifer Mnookin (UCLA) and Goluboff.

Virginia will likely continue to produce leaders in higher education and the legal academy, so the need to refresh the school’s talent pool will continue, Goluboff said.

AS NEWS TRICKLED OUT ON SOCIAL MEDIA this spring, academics were quick to recognize that something special was happening at UVA Law:

Ten professors committed to joining the faculty this fall and in 2021, representing the Law School’s single biggest investment in scholarly talent in one year, and a culmination of years of recruitment efforts.

Those joining the faculty this year include both new and more established scholars: Lawrence B. Solum from Georgetown, Naomi R. Cahn from George Washington, Kristen Eichensehr and Richard Re from UCLA, Cathy Hwang from Utah, Megan T. Stevenson from George Mason and Thomas Frampton, who was a Clemenko Fellow at Harvard.

In addition, Mitu Gulati and Kimberly D. Krawiec of Duke, and David Law of the University of Hong Kong will join the faculty in 2021-22.

Each, as Dean Risa Goluboff puts it, is a “rock star” in his or her respective areas of study.

“Together, they reflect and enhance the exceptional intellectual community that has long been a hallmark of the Law School,” Goluboff said. “They range widely across subject areas, disciplines and approaches. They are award-winning teachers, serious scholars, and engaged and influential public intellectuals.”
LAWRENCE B. SOLUM, a legal theorist whose ideas about how to interpret the Constitution and the purpose of law have influenced scholars worldwide, joins UVA Law from the Georgetown University Law Center. “He is quite simply one of the country’s preeminent legal and constitutional theorists,” Goluboff observed.

Solum’s four-decade academic career, which includes having taught as a visiting professor at the Law School last fall, has been largely focused on constitutional theory, procedure and philosophy of law. He is the author of numerous books and treatises, and has published more than 80 articles in law reviews and philosophy journals. A former editor of the Harvard Law Review, he currently edits and publishes his influential Legal Theory Blog to introduce new concepts by his colleagues working in the field, and to serve as a resource for law students and others.

Solum is an originalist, seeking to divine the meaning of the language in the Constitution as it was understood at the time of its creation, more than 200 years ago. Integral to his personal approach is “the idea that originalists should employ all of the resources of linguistics and the philosophy of language in order to rigorously investigate what the constitutional text means,” he said. In 2017, he testified before Congress in accordance with his views as Chair of the confirmation process for U.S. Supreme Court nominee Neil Gorsuch.

But what makes Solum different than many of his originalist peers is that he’s not a conservative, nor does he believe that the originalism school of thought always translates as contrary to a progressive judiciary. His research has found that originalism sometimes leads to liberal and progressive outcomes, as he reveals in his article “Surprising Originalism.”

Despite looking to the past, Solum has been ahead of his time in much of his research.

In the early 1990s, he wrote the first article to predict the widespread application of artificial intelligence for numerous legal functions traditionally performed by human lawyers, titled “Legal Personhood for Artificial Intelligence.” He noted that, today, the creation of work product by AI is a common occurrence, and that the European Union has devised a legal framework to recognize it, as he predicted.

Solum also co-authored an article in the 2000s, “An Economic Analysis of Domain Name Policy” (with Karl M. Manheim), that influenced the Internet Corporation for Assigned Names and Numbers, or ICANN, to expand its set of top-level domain names and introduce an auction scheme for allocation.

In addition to researching and commenting on specific aspects of the law, Solum has an overarching view of the function that law should serve, which he calls “virtue jurisprudence.” It’s based on the teachings of Aristotle and is informed by the moral philosophers Philippa Foot, who is famous for having created the “trolley problem” (a thought experiment in which one must choose between intentionally killing one person to save a group of other people, or failing to intervene and letting the group die).

“When we are thinking about what the law should be, we should think hard about the effect of law on character,” Solum said. “We should create the conditions in which human beings can acquire the virtues—the human excellences, and the capacity that enables them to flourish—to live the best possible life they can.”

Solum said teaching is a joyful way to share theories like these, as well as his accumulated knowledge and insights, while also allowing him to learn new things based on his interactions with students.

“Even after 35 years, I still prepare for several hours for each class I teach, and I learn new things almost every time from almost every class,” he said.

Solum earned his J.D. from Harvard Law School and his B.A. in philosophy from the University of California, Los Angeles. He clerked for Judge William A. Norris of the U.S. Court of Appeals for the Ninth Circuit. He also worked at the law firm Cravath, Swaine, and Moore in New York before academia.

Solum is the William L. Matheson and Robert M. Morgenthau Distinguished Professor of Law and the Douglas D. Drysdale Research Professor of Law. He is an affiliated faculty member of the school’s new Center for Law & Philosophy (see p. 17).

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—Lawrence B. Solum

RECRUITS

FALL 2020

“Until recently, family law has been an area of law that has been dominated by men. But in recent years, there has been a shift towards more gender-neutral legal frameworks, and this has been reflected in the work of many of the law students who have been recruited by UVA Law.”

—NAOMI R. CAHN, National Law Journal 2020 Distinguished Professor of Law and Gender and Family Law Center Director

She has also written important works on feminist jurisprudence, reproductive technology and other topics. She is currently working on her latest co-authored book, tentatively titled “Shafted: The Fate of Women in a Winsor-Take-All World,” to be published by Simon and Schuster. Co-authored book, tentatively titled “Shafted: The Fate of Women in a Winsor-Take-All World,” to be published by Simon and Schuster.

“Postmortem Life On-Line”

FALL 2020

“Contemporary Family Law”

She is active in the public conversation. Having penned more than 100 law review articles and book chapters, she is a frequent voice in the mainstream media too. She is a senior contributor to Forbes through its Leadership Channel, the family law section co-editor-at-large for Jorwell and an author of several books for the mass market. Her co-authored book “Red Families vs. Blue Families: Legal Polarization and The Creation of Culture” explores how the partisan political divide is reflected in differing patterns in family life and sexual values.

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“Contemporary Family Law”

Having penned more than 100 law review articles and book chapters, she is a frequent voice in the mainstream media too. She is a senior contributor to Forbes through its Leadership Channel, the family law section co-editor-at-large for Jorwell and an author of several books for the mass market. Her co-authored book “Red Families vs. Blue Families: Legal Polarization and The Creation of Culture” explores how the partisan political divide is reflected in differing patterns in family life and sexual values.

“She’s really a stuck with a choral with people making an impact outside the legal field,” she said.
Kimberly D. Krawiec, a leading expert in corporate law and markets, will join UVA Law from Duke University School of Law in the fall of 2021.

Krawiec’s interests span a variety of fields, including the empirical analysis of contract disputes, the organization of contractual form by professional service firms, corporate compliance systems, insider trading, derivatives hedging practices and “rogue” trading.

But she has garnered the most attention for exploring how nontraditional markets become legitimized, as well as the potential merits of illegal and taboo ones. Krawiec has referred to her as “a major contemporary voice on mainstream and trade within forbidden or contested markets.”

Prior to joining academia, Krawiec was a member of the commodity and derivatives group at the New York office of Sullivan & Cromwell. That experience set her on a path of scholarship.

Among her early articles was one titled “More Than Just New Financial Bingo: Risk-based Approaches to Understanding Derivatives,” published in the Journal of Corporation Law, where she helped explain the area of investment, which is now commonly accepted. She said insurance is another.

In the United States, for instance, kidney donations are legal, but kidney sales are still prohibited. Meanwhile, other high-risk ways of making money are legal, as she explores in her co-authored paper “If We Play Football Players, Why Not kidney Donors?” published in Regulation in 2013.

“What I try to do is analyze the objections to these markets,” Krawiec said. “There are fewer health risks in kidney donation than professional football.”

Kimberly D. Krawiec

Northwestern, where she received the 1999-2000 Robert Childs Award for Teaching Excellence.

Krawiec has served as a commentator for the Central European and Eurasian Law Initiative of the American Bar Association and on the faculty of the National Association of Securities Dealers Institute for Professional Development at the Wharton School of Business. She earned her J.D. from Georgetown University and her B.A. from North Carolina State University.

A Nobel Prize for his research into the practical aspects of matching buyers and sellers, and Michael Rees, who designed the first prototype of a paired kidney donation matching system in 2000. Rees’ Global Kidney Exchange facilitates matches across borders, most often with Americans paying providers from developing nations, a concept that Krawiec acknowledges is not without controversy. She co-authored with Rees the article “Reverse Transplant Tourism,” published in 2014 in Law & Contemporary Problems.

“Acceptance is coming, but it’s slow,” she said.

Professor Julia Mahoney, whose scholarship has also focused on markets, said Krawiec’s work is important to many larger conversations.

“Their scholarship spans corporate law, market design and regulation, contracts, and the ethics of market and non-market allocation of goods and services, and her work has both influenced and expanded debates in all these areas,” Mahoney said.

Krawiec, who visited at UVA Law in 2004, has taught both large lecture classes and smaller ones, including recent favorites Taboo Trades and Forbidden Markets, and Advanced Contracts. In the latter, “I take some of the concepts from the first-year Contracts and put them in a modern setting: What’s a gift? If someone promises to give a kidney, what do you do if they renege? Each year the course presents different contract issues we will need to think through,” she has also taught at Harvard, the University of North Carolina and the University of Edinburgh, has served as the template for sovereign debt restructurings in numerous countries.

It is hubris to say that our obscure academic writings influenced the success or failure of any of these deals, but it is nice to pretend that that is the case,” Gulati said.

But Goluboff noted that such comments understate Gulati’s true influence: “Mitu Gulati is one of the absolute leading people in the world on sovereign debt and has had a huge impact on the real world.”

COVID-19 has kept him busy in terms of his research on sovereign debt matters. The pandemic has hit the finances of many countries harder than almost any period in recent history, except perhaps the Latin American debt crisis of the 1980s, he said.

“And it may turn out to be worse; maybe as bad as the Great Depression of the 1930s,” he added. “Unfortunately, we have no coherent basics of how contracts work, or fail in, has been influenced by former UVA Law Dean Robert Scott, who is now at Columbia Law School, and their joint collaboration with Stephen Choi of the New York University School of Law. Gulati’s interest in the flaws in the traditional assumptions underlying much of modern contract theory began around the time he was teaching at UVA, when creditors began asking the newly reformed Iraqi government to honor the commitments of the overthrown Saddam Hussein.

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“Like all of us, he was always a significant point. This shows both his brilliance and his generosity,” Paul Stephan ’77

“Mitu Gulati has a uniquely wide and rich range of interests and scholarship. He always co-authors, and he always makes a significant impact. This shows both his brilliance and his generosity.”

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“Ultimately there was a political compromise in Iraq,” he said. “It did not go down the path of a legal solution that could help other countries.”

Despite years of studying how to handle the debt of deposed leaders, “our attempts to find a solution to the problem of despotic leaders who overburden their people with debt have failed miserably,” he said. But while there may not be a one-size-fits-all solution to how to handle their debts, his work has made a difference. His writings with Buchheit have been relevant in the recent sovereign debt restructuring of Ecuador, Uruguay and Barbados.

“Mitu Gulati has a uniquely wide and rich range of interests and scholarship,” said Professor Paul Stephan ’77, an expert in international law. “He always co-authors, and he always makes a significant impact. This shows both his brilliance and his generosity. He also is one of the nicest people on the planet.”

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National security law expert KRISTEN EICHENSEHR brings her profound observations and experience in the field to the Law School as a tenured professor, after previously serving as an assistant professor of law at the University of California, Los Angeles.

Before her academic career, Eichensehr served as a special assistant at the U.S. State Department’s Office of the Legal Adviser in the Obama administration. She also practiced at Covington & Burling in Washington, D.C., where she specialized in appellate litigation, international and national security law, and cybersecurity issues.

She writes and teaches about cybersecurity, foreign relations and separation of powers issues. “Her expertise experience with national security law issues, and her especially deep knowledge of and important interventions into questions of cybersecurity, will add so much to what is already an area of major strength for the Law School,” Goluboff said.

A graduate of Yale Law School, Eichensehr clerked for Justices Sandra Day O’Connor and Sonia Sotomayor at the U.S. Supreme Court, and for Judge Merrick B. Garland of the U.S. Court of Appeals for the D.C. Circuit.

Eichensehr’s traditional strength in national security law was a draw for her, she said. In addition, she was “impressed with the workshop culture and with the focus on the students. It seems like a school that really cares a lot about the student experience and teaching.”

She has published in numerous law journals and won the 2018 Mike Lewis Prize for National Security Law Scholarship for her article “Courts, Congress, and the Conduct of Foreign Relations.” Although conducting foreign relations has traditionally been understood as an executive power, the article explores instances in which Congress and the courts engage in foreign relations, and proposes a framework to assess the constitutionality of such actions.

A more recent paper, “The Law and Politics of Cyberattack Attributions,” forthcoming in the UCLA Law Review, argues that when governments accuse each other of conducting cyberattacks, international law should require that they provide evidence to support their accusations.

“Although politics may largely determine whether attributions are made public, this

As an outsider, he was able to ask questions of the Japanese justices that would have been viewed as “wilfully impertinent” from a native, he said.

Law’s first book, “The Japanese Supreme Court and Judicial Review,” was published in Japanese by Gendaijibunsha. His works have also been translated into Chinese and Romanian. In addition to his solo authorship, Law has found success in collaboration. Over time, his co-authorship with Professor Milla Versteeg, a comparative constitutional scholar, has resulted in five papers, including “The Declining Influence of the United States Constitution.” The article demonstrates that the Constitution isn’t a model for other nations in the same way that it had been in the past.

Law and Versteeg originally planned a trio of articles. Sketched out on restaurant napkins while Versteeg was a student at Oxford University, the all of their papers on constitutionalism became reality.

Law has also served as a U.N. consultant on legal and political reform in Yemen and provided training sponsored by the U.S. State Department to Burmese lawmakers on constitutional reform. Prior to entering academia, he practiced law with Munger, Tolles & Owen in Los Angeles and clerked for Judge Stephen Reinhardt of the U.S. Court of Appeals for the Ninth Circuit.

He earned his J.D. from Harvard Law School, where he served as executive editor of the Harvard Law Review. He earned a Ph.D. in political science at Stanford University (where he also earned his master’s in political science and bachelor’s in public policy) while concurrently attending the University of Oxford as a Clarendon Scholar and obtaining a graduate degree in European and Comparative Law. He is a former Fulbright Scholar and has held fellowships from the National Science Foundation and the Council on Foreign Relations. He has also served on the National Science Foundation’s Committee of Visitors.

A native of Canada, Law currently holds the title of Sir FR. Pao Chair in Public Law at the University of Hong Kong. He said he looks forward to interacting with both, J.D. and graduate students. “I’ve heard nothing but superlatives about the student body at UVA,” Law said. “UVA has an affirmative commitment to educating students from all around the world, for all the right reasons.”

DARWIN, Law, a highly respected scholar of public law who has authored high-profile work on courts and constitutions, will join the Law School from the University of Hong Kong in the fall of 2021.

Goluboff heralded Law as “a world expert on comparative constitutional law and the law of East Asia.”

Law’s scholarly interests include comparative law, law and social science, law and religion, and political and constitutional theory. Initially, he had planned to take leave for a year or two to found a school of cyber and constitutional law, but he’s not afraid to use qualitative methods wherever possible, but he’s not afraid to use qualitative methods when raw data is harder to come by.

“I really love to do fieldwork. It’s a thrill to play detective.”

—David S. Law

full professor of law. “Turns out that there is a lot you can do in Asia,” he said of his research, which has spanned numerous countries.

Law is known for using quantitative research when-ever possible, but he’s not afraid to use qualitative methods through field research when raw data is harder to come by. “You have to pick the right tool for the job,” he said.

That was the case with his 2009 Texas Law Review article “The Anatomy of a Conservative Court: Judicial Review in Japan,” which looks at why the Japanese Supreme Court hardly ever strikes down laws. (The answer, in short: The government consistently chooses conservative chief justices close to retirement age who wield considerable power over the judiciary.)

He earned his J.D. from the University of Toronto, where he started in 2008—his first position as a

Article argues that when cyberattacks are publicly attributed to states, such attributions should be governed by legal standards.” She writes. “Instead of blocking the development of evidentiary standards for attribution, as the United States, France, the Netherlands, and the United Kingdom are currently doing, states should establish an international law requirement that public attributions must include sufficient evidence to enable cross-checking or corroboration of the accusations.”

Eichensehr said she is excited to work more closely with a number of colleagues whom she already knows and admires, including faculty members Ashley Deeks, who was also a legal adviser at the State Department when Eichensehr served, and Paul Stephan, who has served as a counselor on international law at the State Department and is currently serving as special counsel to the general counsel of the U.S. Department of Defense.

“I’m delighted that Kristen is joining our faculty.” Deeks said. “Kristen has established herself as a trenchant observer of the increasingly complicated and quickly changing ecosystem of cyber operations. She takes a nuanced and sophisticated view of how the players in that ecosystem interact, and her fine understanding of the political economy and law of cyberspace makes her work a must-read for both scholars and practitioners in this field. Our

COURTS AND CONSTITUTIONS EXPERT

students will be lucky to be able to learn from her.

Like Deeks and Stephan, Eichensehr is affiliated with the Law School’s new National Security Law Center (see p. 15). She is a term member of the Hoover Institution. She is a member of the editorial board of the national security blog Just Security.

At Yale, Eichensehr served as executive editor of the Yale Law Journal and articles editor of the Yale Journal of International Law. She is a Martha Lubin Karsh and Bruce A. Karsh Bicentennial Professor of Law.

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FEDERAL AND CRIMINAL COMMENTATOR

He teaches Federal Courts and Advanced Topics in Federal Courts, and expects to teach Criminal Procedure in the future. “UVA has a great reputation in both of those areas,” he said. “I don’t think there’s any school in the country that has as renowned a bench as UVA in the field of fed courts.”

At UCLA, Re served a faculty co-director of PULSE, the Program on Understanding Law, Science and Evidence. (UCLA Law Dean Jennifer Mnookin, a former UVA Law faculty member, founded the program.) Among the issues he has studied under the aegis of PULSE has been the use of artificial intelligence in judicial decision-making.

Re has won awards on both the academic and teaching sides, and his work has been recognized at the U.S. Supreme Court. In 2016, his article “Narrowing Supreme Court Precedent from Below” won the American Association of Law School’s award for best paper on federal courts by a (then) untenured professor.

“Whereas most people think lower courts have to strictly follow the best reading of Supreme Court precedent, I suggested that’s not actually normatively desirable or descriptively what happens in many cases,” he said. “Rather, the lower court creatively read Supreme Court precedent to have a narrower application than you would think from the best reading of the opinion, and that may have good effects in many cases.”

Re’s subsequent research garnered attention in 2018 as part of an amicus brief he wrote for the Supreme Court case Hughes v. United States. During oral argument for the case, the justices discussed the brief. At issue was the “Marks rule,” or the idea that, in the absence of a majority court opinion, the narrower opinion concurs in the judgment is controlling. In 2017, Re was selected as Professor of the Year at UCLA by the graduating class. He said being an engaged teacher is integral to being a successful academic.

“Getting a thrill out of teaching and being a part of people’s careers, before they really launch their careers fully,” he said. “And it’s incredible how much I learn from the students and from their questions.”

In addition to publishing in top law journals, Re is also a member of PrawfsBlog and maintains his own blog, Re’s Judicata. He earned a bachelor’s in social studies from Harvard University and an M.Phil. in political thought and intellectual history from the University of Cambridge. He knows two of his new colleagues from his previous education. He attended law school at Yale with Professor Quinn Curtis, and Professor Frederick Schauer was his undergraduate thesis adviser at Harvard.

Schauer, he said, has had “a wonderful influence on my career,” including in shaping his thoughts on jurisprudence.

Re is the Joel B. Pisruess Research Professor of Law, and an affiliated faculty member of the school’s Center for Criminal Justice and the Center for Law & Philosophy (see p. 17).

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—Richard M. Re

THE DEALS EXPERT

CATHY HWANG is a “rising star” who has already become an important voice in business law, Goluboff noted. Hwang, whose work merges theory with real-world practice, most recently served as an associate law professor at the University of Utah. She joined UVA as a tenured professor.

Two of her articles, “Deal Momentum” and “Unbundled Bargains: Multi-Agreement Deal-making in Complex Mergers and Acquisitions,” have been recognized as top 10 corporate and securities articles of the year in Corporate Practice Commentator polls of academics in 2018 and 2017, respectively. She won the College of Law’s Early Career Faculty Award in 2018.

Hwang is a graduate of the University of Chicago Law School and Pomona College, where she majored in economics and international relations. After law school, Hwang worked for three years as an associate for Skadden, Arps, Slate, Meagher & Flom in New York City, focusing on mergers and acquisitions. She served as a fellow at Stanford Law School’s Rock Center for Corporate Governance before joining the Utah faculty in 2016. At the Law School she teaches Mergers and Acquisitions, Corporations and Deals. “I think of myself as bridging the gap between traditional contract theory and what is happening in the real world,” she said. “I interview deal lawyers—people who are on the front lines of creating deals—and ask them why they do things in a particular way or why it is that they design contracts in the way that they do. I try to see if that matches up with our theoretical understanding of why and how people engage in contract drafting.”

In “Deal Momentum,” which was selected for the Stanford/ Yale/Harvard Junior Faculty Forum, she talked to parties to non competedary agreements in M&A deals. She found that the parties set up these small preliminary deals much closer to the time they enter into a real contract than theorists believed, and argues they are more like signposts that a deal is about to occur than a real contract.

In “Unbundled Bargains,” Hwang revisited her time as an associate, when she worked extensively on ancillary agree- ments as part of working on a merger. She found that merger parties use the agreements to streamline the contract drafting process. Smaller issues can be tackled by associates, she said, and contracts that require more expertise can be addressed by a specialist.

Professor Quinn Curtis, vice chair of the Law School’s Appointments Committee and also an expert in the school’s John W. Glynn Jr., Law & Business Program, said in a short time Hwang “has established herself as a prolific scholar of contracts.”

“Her knowledge of merger agreements, drawn from practice and interviews with practitioners, provides a unique and important perspective,” Curtis said. “She’ll be a great addition to our business law faculty.”

Hwang said she is motivated to teach on a faculty where many contracts luminaries have taught. Virginia’s tradition of nurturing women for positions of leadership was also a draw.

“One of the things I was most excited about was just being able to learn from [Dean Risa Goluboff and Vice Dean Leslie Kendrick ’06], and to be part of whatever is in the water here.”

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MEGAN T. STEVENSON, an economist and legal scholar whose research has informed the field of criminal law and policy, comes to the Law School from George Mason University. “Her scholarship is both rigorous and accessible, and it offers real purchase on real-world problems,” Goluboff said. “Criminal justice is an area of major strength for the Law School, and we are delighted that Megan’s perspective will add yet more depth and breadth.”

Stevenson’s insights on bail and pretrial detention have been influential, including in the federal courts. “I got interested in bail because it seemed so problematic in so many ways,” said Stevenson, who joined the school as an associate professor of law. Two of her research papers were cited by the U.S. Court of Appeals for the Fifth Circuit as part of the 2018 decision in D’Oench’s Herrin County, Texas, et al. The court reaffirmed a district court ruling that the county’s bail system for misdemeanor offenses violated due process because it favored those most able to pay.

Stevenson said it was a coincidence that she had been studying the problems in that county—the third largest in the U.S.—shortly before the Fifth Circuit weighed in, and that she was happy her research helped make a difference. “Condemning it both because it violates equal protection, in many ways,” said Stevenson, “and because it discriminates against wealth, but also because it violates due process, because you’re having your liberty taken away from you on the basis of a one-minute Mickey Mouse hearing. If the judge sets bail at a level you can’t afford, this one-minute hearing is effectively a pretrial detention order.”

“The Downstream Consequence of Misdemeanor Pretrial Detention,” co-authored with Paul Heaton and Sandra Mayson, was how the paper referenced. It found that “detaining people pretrial results in a large likelihood that people will plead guilty.” Stevenson said. That inducement is a recipe for widespread adjudication error, the paper contends.

“I share what I think is so fascinating about statistical analysis, but in a way that’s not too technical.”

—Megan T. Stevenson & Organization. The research focused on a different locality—one in Philadelphia. “We examined her focus to Philadelphia in ‘Bail, Jails and Pretrial Misconduct: The Injustices of Prosecutors,’” co-authored with Aurelie Oss. The paper examines bail reform measures under District Attorney Larry Krasner, who is a leader in the progressive prosecution movement. Krasner’s office no longer requires bail to be set for misdemeanor offenses, for example, although a judge still has the final say. Stevenson found that such discretionary measures have had a positive impact, while not resulting in spikes in crime or significant increases in defendants failing to show up in court (see p. 5).

At UVA, Stevenson teaches Criminal Law as well as courses on evidence-based criminal justice reform and law and economics.

In teaching law and economics, “I share what I think is so fascinating about it, but in a way that’s not too technical,” she said.

Before joining George Mason’s Antonin Scalia Law School, where she taught Law & Economics and Criminal Law, Stevenson was a fellow at the Quattrone Center for the Fair Administration of Justice at the University of Pennsylvania Law School. At UVA, she is an affiliate of the Center for Criminal Justice and the John M. Olin Program in Law and Economics.

Her research has been funded by the National Science Foundation, the Russell Sage Foundation, and the Laura and John Arnold Foundation.

THOMAS FRAMPTON, a former public defender who focuses on criminal law and constitutional procedure, began his work as an associate professor of law at UVA this summer.

Frampton was previously a Climenko Fellow and lecturer at Harvard Law School who split his time between Harvard, where he taught legal research and writing, and pro bono practice in Louisiana.

"Thomas Frampton's integration of his ground-level view of the criminal justice system with doctrinal sophistication makes his scholarship relevant not only to other scholars, but also to lawyers and judges," Goluboff said.

He began his career with the Orleans Public Defenders after graduating from the University of California, Berkeley School of Law in 2012, and following a pair of clerkships. In addition, he holds bachelors' and master's degrees in American studies from Yale University.

Frampton’s recent scholarship is highly focused on the “carereal state,” which refers to mass incarceration in contemporary America, particularly in light of discrepancies based on race and social position. “One of the essential challenges in the study and teaching of criminal law today is to grapple with the extraordinary expansion of the carceral state in this country over the past few decades,” Frampton said. “Certainly having a little bit of time in practice has reinforced and enriched that perspective, and I hope that I am able to bring some of that experience into the classroom.”

His paper “The Jim Crow Jury,” which was published in the Vanderbilt Law Review in 2018, has recently gained traction in light of the recent U.S. Supreme Court case Ramos v. Louisiana. The court cited his paper twice in affirming that jury verdicts in criminal trials must be unanimous, something that not all states required. Frampton’s paper had previously been cited in a number of amicus briefs before the court in that case.

“The Jim Crow jury never fell,” he writes in the paper’s abstract, referring to the way juries have been stacked against African Americans from after the Civil War to today.


As a public defender, Frampton witnessed numerous problems related to race and justice, including jury fairness, firsthand. He was a trial attorney who also assisted on “special litigation” when his fellow attorneys encountered unusual problems, often when clients were involved in the justice system.

Frampton is teaching first-year students Criminal Law and Criminal Adjudication, and is a faculty affiliate of the school’s Center for Criminal Justice. He said he looks forward to serving as a mentor to students who may be considering criminal law. “It’s a pretty extraordinary way to cut your teeth as a young lawyer,” he said of public defense work. “There is a huge and pressing need to go into that arena.”

He also looks forward to developing his scholarship with the feedback of colleagues he admires, and in some cases has cited, including Professors Josh Bowers, Darryl Brown ’90, Anne Coughlin and Kim Foote-Mazrui. Bowers, who worked with the Bronx Defenders early in his career, said Frampton adds novel academic insight, informed by practice, as well as an enthusiasm to which students will respond. “I am extremely excited for Thomas Frampton to join UVA Law,” Bowers said. “Frampton’s jury scholarship is genuinely groundbreaking and valuable. He demonstrates that problems of racial exclusion extend well beyond the use of preemptive measures. The scholarship is academically rigorous, original and refreshingly informed by practice. He has already shifted how I think about my own teaching and writing.”

“Moreover, he is clearly a generous colleague and an effective and creative educator. I am confident he will be an absolute hit with students.”

After law school, Frampton clerked for Judge Jack B. Weinstein of the U.S. District Court for the Eastern District of New York and Judge Diane B. Wood of the U.S. Court of Appeals for the Seventh Circuit. He was a member of the California Law Review and editor of the Berkeley Journal of Employment and Labor Law. He won the highest graduation honors for scholarship and advocacy, and for academic writing.

“Frampton’s jury scholarship is genuinely groundbreaking and valuable. … He has already shifted how I think about my own teaching and writing.”

—Josh Bowers
The decision to admit women to study at the University of Virginia School of Law had nothing to do with administrators’ belief in equality. Instead, their hand was forced by intense social pressure, which reached an apex after women became enfranchised in 1920.

But after the Law School accepted Elizabeth Tompkins, Rose May Davis and Catherine Lipop as students, Virginia Law and its dean were forced to recognize that women could hold their own alongside their male peers, and at times even surpass them. This was at odds with a belief held by many that women weren’t naturally as qualified as men to perform the lawyer’s role. The dichotomy was reflected in Dean William Minor Lile’s comments over the course of the women’s time at the Law School.

“The most important change in the organization of the Law School has been the admission of women for the first time in its history,” Lile stated in his Jan 1, 1920, annual report to UVA President Edwin A. Alderman. “The President is familiar with the circumstances which brought about this radical departure from the traditional policies of the University, as well as with the conditions under which these new and strange beings are admitted to the different departments, so I do not rehearse them here. The result is that three women are registered in the Law School this session, two as regular students and candidates for graduation, and one as a special student. Perhaps they are entitled to be immortalized by naming them in this report.”

The circumstances to which Lile referred involved, at least in part, a persuasive letter from activist Mary-Cooke Branch Munford, the first woman to sit on the Board of Visitors at William & Mary. (She was among those who were instrumental in that school opening its doors to women in 1918, and became a member of the UVA Board of Visitors in 1926.) According to Board of Visitors minutes, the all-male board put the letter in the middle of the conference table to pause and contemplate.

Women soon were allowed into the Law School under new rules, which varied slightly from the other University professional schools and master’s programs. Women had to be white and at least 22 years old, or 23 if a “Special Student” (meaning not degree-seeking), and be able to fulfill all the requirements expected of the men.

In fact, the requirements were more stringent than those for male law students. An undergraduate degree was preferred for women applicants but at least two years of college work was required—in order to demonstrate they were serious students.

Tompkins had received her master’s in history from Columbia University in New York, and Davis her bachelor’s from Trinity College in Norfolk. Lipop, the special student, was already serving as the law librarian.
The dean’s report was positive about the women’s first semester. They were excelling grade-wise, and “there has been no perceptible protest against the presence of these three on the part of the male students,” the dean reported. He added, “I made occasion, at the very beginning, to appeal in their behalf to the chivalry of the young gentlemen of the several classes, and the response has been all that could be desired.”

Tompkins’ letters home to her father, a wealthy owner of a grain brokerage who had encouraged her to pursue law, cast some doubt on that chivalry. She longed to be able to engage too much with the men socially, lest they perceive her as having opened behind fraternity doors. She also feared engaging too much with her peers, but felt shut out; those discussions most often happened behind fraternity doors. She longed to be able to say croaked) magnanimously dictated by ourselves.”

What was unfolding, then, was a social experiment in the eyes of Lile and others—undertaken reluctantly. How did the women ultimately fare, and what did they go on to do? It’s worth noting that law students during the time period did not graduate. Often they attended as much school as they felt they needed to advance their goals, and to this day, a law degree is not required to practice in Virginia.

Dave painted from life at the university where she later taught, before joining the legal department of E.I. du Pont du Nemours (now known simply as DuPont). Lipog, as the special student with more limited goals, no doubt utilized her legal education as law librarian, a role she held from 1912 to 1946. She was an early organizer of the library’s growing collection (once in the hands of faculty), having instituted the first card catalog. In 1925 she therefore, that the clamor for the admission of women to the Law School, so vociferous two years ago, was largely

The Latin phrase means “a voice and nothing more.” Yet it was clear in the dean’s subsequent comments and actions that some prejudices he may have harbored about women in the field could be dashed by examples of competency. In her third year at UVA, Tompkins invited attorney Mabel
In March, Dean Ria Goluboff and Vice Dean Leslie Kendrick ’06, the hosts of the UVA Law pod- cast “Common Law,” spoke with feminist legal theorist and criminal law expert Prof-essor Anne Coughlin about teaching the law of sexual assault—a conversation that was prefaced with Coughlin’s research on how law schools changed with the admis-sion of women. The second season of the podcast focused on the theme of “When Law Changed the World.” The following is an excerpt.

COUGHLIN: So women start seeking admission to the bar in the late 19th century. And it is around that time, of course, that we see the emergence of the law schools. So women are both seeking admission to the bar and then admis-sion to law school at sort of roughly the same time. The numbers are quite small in the beginning. And in-stitutional leaders express hostility to the presence of women in law, generally, and then in law schools, more particularly.

GOLUBOFF: And what was it that led to that hostility? Why did they think women shouldn’t be part of law schools or part of the bar?

COUGHLIN: So there are lots of reasons for excluding women from higher education. And these arguments range from the notion that women’s health will be destroyed if they study, that women are not smart, that they lack the intellectual capacity for higher education, that women are, by nature, des-tined to be in the home, not in the public sphere. Those arguments, of course, are made in connection with legal education. But more specifically, the idea was that women couldn’t be lawyers, because if they had to enter into the spaces be distracting to men, that their clothing was noisy, that their clothing would be rustling, their clothing would be distracting, that women would distract the men from doing their jobs, and also the fear that the schools would have to somehow change their curriculum in some way in order to accommodate the presence of women.

GOLUBOFF: I’ve read some of the dean of UVA Law School at the time, some of his speaking and writing about this. And one of the concerns that comes out really strongly is the fear of silliness, that you had to have serious women. And so it was that the women would distract both because they were women, and their femininity would distract, but also that they wouldn’t really be serious students.

COUGHLIN: Yes, I think there was a concern that on someone who, by nature or otherwise wasn’t neces-sarily well-suited to the job, and who wasn’t going to stick with the job?

KENDRICK: How did this change? How did schools like UVA decide to admit women?

COUGHLIN: So I think, again—as this is really interesting. Women per-sisted. They kept knock-ing on the door. And they gradually made inroads in various places. As they were admitted, they proved themselves. They proved that they did have the intel-llectual capacity for the job. Also they performed really well in schools.

GOLUBOFF: So when they joined and they succeeded in those ways, how did students react? How did faculty react? Once they were in the buildings, what did it look like?

COUGHLIN: It’s very hard to know exactly what the story is, because the women’s accounts were that they were welcomed and that they got support from male colleagues. One worries, though, that some of these accounts were not entirely truthful, that the women were trying to be strategic, were trying to put a brave face on it. At the same time, there certainly are plenty of accounts from women that suggest that their presence was greeted with hostility... Harvard didn’t admit women until 1950. And the story goes that every year [the dean] would invite women to dinner at his home and then ask them why they were there and how did they feel about taking a seat that should have been oc- cupied by a man. So when you couple those kinds of anecdotes with what one imagines must have been a somewhat chilly climate, it’s a mixed picture.

Continued from previous page of the Law School, her name deserves spe-cial mention here,” he wrote. “Her powers of acquisition and appreciation of legal principles were fully equal to those of the men in the front rank of the graduation class.”

Later that year, as Tompkins struggled in her first job after law school at Duke, Duke & Gentry in Charlottesville, the dean acknowledged in a supportive letter “the ancient prejudice against women as legal practitioners,” offered to meet with her and suggested that she try opening her own office. “I predict that in spite of her legal ability, however, it will not be long before she deserts the profession of the law and takes up that of wife & mother—rolling a baby carriage instead of wrangling in court—a much more suitable and seemly occupation for a woman,” he wrote as part of his reflections on 1929’s graduating class.

Though her path was challenging, Tompkins persevered. She practiced law for 54 years in Richmond. She specialized primarily in real estate law and estate planning, first with H. Carter Redd (an 1892 UVA Law graduate) and, later, with Carter L. Reifs. She also served as commissioner of accounts for Hanover County and commissioner in chancery for circuit courts in Hanover and Richmond.

A member of the University of Richmond Board of Trust- ees from 1941-71, she received an honorary doctorate of laws from that school. In addition, she was a member of Phi Beta Kappa, an honorary scholarship fraternity, and Tau Kappa Alpha, an honorary forensics society; helped start the Phi Delta Delta legal fraternity of women at the University of Richmond; and was a president of both the Westhampton College Alumnae Association and the Richmond Branch of the American As-sociation of University Women.

Dubbed “the dean” of women lawyers in private practice by the Virginia State Bar in 1969, she retired in 1979, two years pri-er to her death at 83 due to a car accident. She never married.

“She was a man who, by nature or otherwise wasn’t neces-sarily well-suited to the job, and who wasn’t going to stick with the job?”

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Special Collections Librarian Randall Flaherty provided the underlying research for this report.
WHEN MARGARET POLES SPENCER ’72 AND BOBBY VASSAR ’72 entered law school at UVA in 1969, they were two of 13 Black students in their class of 340, and among 18 in the entire school.

“My first day of class at UVA was the first time I’d ever been in a classroom with a white student,” Vassar said. “It was new and something that was not familiar, and had its challenges.”

When Spencer and Vassar began their studies, UVA had not yet fully admitted women to study as undergraduates. While they were in law school, Elaine Jones became the school’s first Black female graduate in 1970. The
first Black male student, Gregory Swanson, was admitted in 1950.)

the summer before he started law school at UVA. The Council on Legal Education Opportunity Inc. was founded in 1968 to expand opportunities for minority and low-income students to attend law school, and still operates today.

I was selected to participate in the CLEO Program at UVA, along with 30–some other students. And so that gave UVA and me a chance to check each other out. I had actually accepted an offer at Rutgers. But then, toward the end of the program, UVA told me I’d been accepted.

When you came to UVA, you walked into a mostly white school for the first time. What was that like?

VASSAR: There were people who engaged. And there was interchange. And there were those who weren’t engaged. We still had segregated country clubs like Farming
town, where students had activities that of course—not that I would and [be a part of them], even if I had wanted to, those are things that you can’t be a part of. At Norfolk State, for example, there was an open exchange. There was another effort to recruit me into things like fraternities or clubs or organizations, societies, or things like that—there were choices. There was a feeling of being similar to or like others and a matter of feeling a part of the context in a way that was definitely not there at UVA. Not because somebody was standing at the door saying, you need not apply. But there was not a welcome mat that I could feel. And if I had a notion, it would be that I was a Black woman than a Black student.

There was certainly not that sense of belonging and welcoming in society at large. So UVA was consistent with that. So Vassar gave me that, and I think because I had a full-time job. I was a secretary in the undergraduate Environmental Sciences on campus, the Law School, and go over to the [department], and I would type.

I understood there would be challenges that I realized a lot of students didn’t have. There were trying times in terms of fi-
nances. The Law School was not supporting us fi-
cial with individuals, postgraduate scholar-
ships or loans, or supporting BALSA.

But we were determined to do what we needed to do. Did you face instances of discrimination beyond that?

VASSAR: One of the things we endeav-
or Lawrence, I would come back to the dorm—and I had a room by myself, because the white student who was my roommate obviously left—

the school play. And it kind of stuck, with people

out, when I took a drafting class, that I was

architect, after I read “The Fountainhead”

social worker, I could have a more significant

helping a student, a sorority sister, study for

sociology major in undergrad, at Howard

spending. The Law School

did have some personal racism

experience. It was like what I’d imag-

ine it would be like being suddenly dropped

down in a foreign country and not having

any real background or information about how things work or operate. As I say, the CLEO Program gave us a little bit. But the problem is, it was isolated because the only
time I would go to pride month in the

city, Richmond, or go over to the 

Environmental Sciences on campus. I would leave the

campus. I would leave the

University.

I was a Black woman than a Black student.

Virginia. Yes, we were discriminated against.

Charlottesville, Virginia, at the University of

Fall 2020 UVA Law

How did the idea to form a BALSA chapter come about?

VASSAR: When you’re in this context of feeling alone and separated, you want to have some sense of recogni-
mation would give. And yes, you
could start your own community and come up with and create it.

We were aware of BALSA—Black American Law Students Association—chap-
ters at other universities. And so we began talking among ourselves about establishing a chapter at UVA.

SPENCER: We were trying to increase the numbers, obviously, of Black students. But the Law School wanted to hire a Black professor. So I think we wanted a unified approach, an advocacy position, as a group.

How did the student body and faculty react to the formation of BALSA?

SPENCER: I think there were varied re-

sponses. I do not remember open hostility.

Those that were supportive were quietly and respectfully supportive. But I think it was very new to the Law School.

And there were some who felt: We’ll get them there. They’re trying to do this. There are no qualified students. There are no qualified professors there, which is some-

thing you hear now. We just can’t find them. We’re doing the best we can. We’ll get there eventually. Which is the same response I think our efforts had, as I say, shined a light of discrimination.

Margaret Poles Spencer ’72

How do you think the first Black male student, Gregory Swanson, was admitted in 1950.)

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thing you hear now. We just can’t find them. We’re doing the best we can. We’ll get there eventually. Which is the same response I
think women had in getting admitted to undergrad as freshmen.

**VASSAR:** I could be wrong, but I don’t know that we were unique. But even though we were an organization registered through the school, we got no level of support, any funding or anything of that nature, from the school. It may have not been something that the University did. But if they did do it, they didn’t do it for us.

**How did you help with recruiting other Black students?**

**VASSAR:** Well, by interaction. I knew people, for example at Norfolk State, like Raymond Jackson [’73, now a U.S. judge]. He and I were good friends. And I knew that he would be someone that would do well at UVA.

A number of the students in our class were Black students who had been attending majority white schools. And there was some concern on our part that the University would see that as a more fruitful ground to recruit from because these would be people that they would expect to be more acclimated to how to operate in a majority white context. I think they saw us as more rabble-rousers who had the traditional Black college background. That was our notion anyway.

**SPENCER:** We came up with a list of about 50 professors we wanted the Law School to actively recruit. And we wanted them to retain them after they recruited them. Most of the people on our list weren’t even contacted by the Law School.

**VASSAR:** We learned that because we contacted all 50 before putting their names forward to ask them the simple question of, would they consider a position on the faculty or at least teaching a class at UVA. And as Margaret said, I don’t remember if any were contacted, but if so only a few, by the Law School.

We decided to call a press conference. And we prepared letters to federal civil rights offices such as the Civil Rights Division in the Department of Education, the Civil Rights Division in the Department of Justice, the Equal Employment Opportunity Commission and also state civil rights enforcement entities. There were eight total that we wrote.

I knew we got several media representatives, including a TV station that came. And we presented our findings and our developments, including a TV station that came. And we presented our findings and our developments. We had a report of what activities we’d gone through. And we issued as a part of our press package.

And then we had people making statements. Margaret was our historian. She did the presentation of what efforts we had undertaken. And as a result of that press conference, the then-dean, Monrad Paulsen, attended, in the sense of standing in the background.

And we held the press conference at Clark Hall, and I signed the letters to the civil rights offices, and we provided copies [to the media].

**What happened after the press conference?**

**VASSAR:** There was a professor who was teaching one course at the University at the time, Larry Gibson, from Baltimore. We learned from him that he’d suddenly been called by Dean Paulsen to meet with him the next day.

**SPENCER:** The offer was made for him to start in the fall. Gibson accepted it because, as he told us, it was an offer he could not refuse. And he was literally commuting from Maryland. He had already taught one class at the University of Virginia. Yet they did not contact him until after our press conference. I think our efforts had, as I say, shined a light of wisdom on discrimination.

**VASSAR:** And so clearly our efforts had succeeded in getting the University’s attention. And they quickly were able to address the issue, at least to that extent. But that was exactly the kind of thing that we saw BALSA as a vehicle for, as an organizational vehicle to accomplish our mutual goals as a student group. There were a good number of students generally, our fellow white students, who were in the hall at the time of the press conference. It certainly made it clear that we were a force to be reckoned with, relative to our ability to put together a campaign, document and support it, and pull it off in an effective manner.

**SPENCER:** It made me feel that at least we had accomplished a small step in the right direction. We felt that, but for our advocacy, but for the work we had engaged in to convince the Law School that this was wrong, Gibson would not have been hired. We opened their eyes to the value of diversity.

**What lessons from your time in BALSA did you apply to your career?**

**SPENCER:** I think we understood that we just had to be persistent and we had to persevere. We were determined to make an impact on the numbers of Black students at the Law School. And we were determined to make certain that the University understood the importance of having Black faculty.

**VASSAR:** In terms, again, of at least supporting the concept of preparation and documentation and the kinds of things that a law training and background would emphasize. I think we put it to good work.

And in the context of networking, which was another sense of belonging and being a part of something that was happening across the country during the time when that was a big deal with civil rights movements and anti-war protests and the whole student protest scene. Having that kind of organizational foundation was a more effective way of going about it than trying to rely on individual charisma or pressures or other ways. Plus another big factor in our contextual framework for BALSA was that we needed to be a support and perhaps a leadership group for the other Black students on the campus in the undergraduate program. Because at the time, there were about 90 other Black students on the campus from the under-
THE U.S. SUPREME COURT expanded religious and LGBTQ rights, narrowed presidential power and affirmed abortion rights during its most recent term, which ended July 9.

UVA LAW RESIDENT FACULTY WERE CITED IN 20 CASES: Professors Caleb Nelson with six; Ann Woolhandler with four; John Harrison and G. Edward White with two each; and Aditya Bamzai, John Duffy, John C. Jeffries Jr. ’73, Solomon Prakash, Frederick Schauer, and UVA President Jim Ryan ’92 with one each. The professors had multiple books or articles: Nelson with six, and White and Woolhandler with two each. UVA professor Paul Halliday, who holds a joint appointment at the Law School, and visiting professor Nitz Dubzinski were also cited.

ATLANTIC RICHFIELD CO. v. CHRISTIAN
Federal and State Environmental
Remedy Conflicts

“IF ENVIRONMENTAL groups or landowners can use state law to force EPA to go above and beyond, the question was: Can industry do the reverse and use state law to prevent EPA from going above and beyond? And I think the clear answer came from the Supreme Court on that one, it’s a one-way ratchet. An EPA CERCLA [Comprehensive Environmen
tal Response, Compensation, and Liability Act, known as Superfund] remedy sets the floor, and state law can’t weaken that.” —CALE JAFFE ’01, quoted in Law360

DEPARTMENT OF HOMELAND SECURITY v. REGENTS OF THE UNIVERSITY OF CALIFORNIA
Effectiveness of the Defended Action for Childhood Arrivals Program

“The court’s decision is a narrow procedural victory for the approximately 500,000 beneficiaries of the [DACA] program. The majority held that, while the Trump administration has the power to terminate the program, the administration’s stated reasons for doing so were inadequate. Specifically, the court said that the president and the executive director of the [Department of Homeland Security] failed to consider whether the [memorandum to end DACA] undermined the legal authority of the agency to act.” —KEVIN COKE

BOSTOCK v. CLAYTON COUNTY
Title VII of the Civil Rights Act and LGBTQ Rights

“The ruling is a very big deal. The expressive value is huge, as the court has made clear that LGBTQ rights are civil rights for purposes of Title VII. The decision represents a significant cultural shift in public attitude, and clearly the worth and rights of LGBTQ people. Its significance is underscored by the fact that the opinion was authored by Justice [Neil] Gorsuch and joined by [Chief] Justice [John] Roberts, whose conservative voting record on the Court is well known.” —FREDERICK SCHAEFER

JUNE MEDICAL SERVICES LLC v. RUSSO
Abortion Rights

“CHIEF JUSTICE [JOHN] ROBERTS’ opinion is important because it is one of the very few opinions the Supreme Court’s history in which the doctrine of stare decisis alluded a justice to reconsider a decision he, or she thought was wrongly decided. That is exactly what stare decisis requires. But recent references by the Supreme Court in stare decisis decisions follow anotherclear pattern, that of following an earlier decision they believe to be correct on the merits, thus making references to stare decisis almost superfluous. Here we have a justice recognizing that stare decisis, if taken seriously, means following decisions one believes to be incorrect. Rarely does this happen, and even more rarely is the effect as clear as it was for the chief justice in this case.” —ANNE COUHLIN, in a Q&A with UVA Today

KELLY v. U.S.
Political Corruption and Criminal Law

“The court held that the decision to lose the case the election campaign of Gov. Chris Christie did not meet the requirements of the federal statute because it was not a ‘false or fraudulent act’ in furtherance of corruption. At the same time, Justice [Elena] Kagan [writing the unanimous opinion] emphasized that the conduct was both ‘corrupt’ and ‘an abuse of power.’ This use highlights the limited federal criminal statutes in constraining the corruption of state officials. In addition, and perhaps most importantly, the court underscored that political corruption involves more than a violation of criminal law. This last point is perhaps in tension with the campaign finance holdings of the current court in which the ‘corruption’ that is sufficient to justify restrictions on giving and spending in connection with elections is defined very narrowly.” —DEBORAH JILLMAN

OUR LADY OF GUADALUPE SCHOOL v. MORRISSEY-BERRY
Religious School Employment

“I THINK THIS DECISION raises the line pretty much where the lower courts had drawn it before Montana-Tabor. The lower court cases were all cases where the law teacher taught religion was a key variable. I don’t think the court will expand this to cases where those who teach only secular subjects are ministers, even if they are expected to be role models. … This decision also explicitly grounds the ministerial exception in the ‘general principle of church autonomy’ with respect to ‘matters of faith and doctrine and closely related matters of internal government.’ I think that was implicit in the prior cases, but this one clearly states it.” —DOUGLAS JAYCOCK co-authored an amicus brief in the companion case St. James School v. Bialy

BOSTOCK v. CLAYTON COUNTY
Title VII of the Civil Rights Act and LGBTQ Rights

“IN CONCLUDING that the director of the CFPB must serve at the president’s pleasure, the court seemingly chose instead to preserve the constitutional framework established in [Citizens United v. FEC] and categorical exemption ‘corrupt’ and ‘an abuse of power.’ This use highlights the limited federal criminal statutes in constraining the corruption of state officials. In addition, and perhaps most importantly, the court underscored that political corruption involves more than a violation of criminal law. This last point is perhaps in tension with the campaign finance holdings of the current court in which the ‘corruption’ that is sufficient to justify restrictions on giving and spending in connection with elections is defined very narrowly.” —DEBORAH JILLMAN

LITTLE LADIES OF THE POOR SAINTS PETER AND PAUL HOME v. PENNSYLVANIA
Religious Liberty and Contraceptive Coverage

“The Supreme Court upheld religious and moral exemptions that the Trump administration in 2019 sought to remove for-profit and nonprofit organizations that object to contraceptive coverage mandates. Under the Affordable Care Act… in this case, the government struck a new regulatory balance by taking a somewhat broader approach to the issue of conscience, balancing the interests of women with the competing interests of employers and religious institutions.” —TOBY HEYTENS ’00

TRUMP v. VANICE
Presidential Immunity From Subpoenas

“The court’s rejection of absol
tute immunity marks a turning
point in the potential for state
officials to use doctrines like the
ministerial exception in the case
of the president, if they decide to
grant it in any case.” —JOSEPH SKYER ’19

SEILA LAW LLC v. CONSUMER FINANCIAL PROTECTION BUREAU
Separation of Powers

“WONCING that the director of the CFPB must serve at the president’s pleasure, the court seemingly chose instead to preserve the constitutional framework established in [Citizens United v. FEC] and categorical exemption ‘corrupt’ and ‘an abuse of power.’ This use highlights the limited federal criminal statutes in constraining the corruption of state officials. In addition, and perhaps most importantly, the court underscored that political corruption involves more than a violation of criminal law. This last point is perhaps in tension with the campaign finance holdings of the current court in which the ‘corruption’ that is sufficient to justify restrictions on giving and spending in connection with elections is defined very narrowly.” —DEBORAH JILLMAN

The full page can be viewed at: https://www.law.uva.edu/news/atlantic-richfield-co-v-christian-federal-state-environmental-remedy-conflicts.html
Remember Ginsburg

Faculty and alumni, including former clerks, shared memories and honored the impact of U.S. Supreme Court Justice Ruth Bader Ginsburg after she died Sept. 18.

Ginsburg was the second woman to serve on the Supreme Court, and known as a feminist icon and pathbreaking lawyer and jurist even before she was nominated to serve on the high court in 1993 by President Bill Clinton.

FACULTY NEWS

Behind the Scholarship: Can the U.S. Declare Chapter 11?

“I consulted with all of my recommenders, and they were unanimous about two things: RBG would not postpone the interview and there’s no way she would mention the decision,” Heytens recalled. “They were right about the first but not the second. Practically the first words out of her mouth were whether I had ‘read our recent decision: That was my first lesson that it was hard to predict what she would do.”

Heytens said he marveled at how one of the physically smallest people he’d ever met “who was unfailingly kind to me was also one of the most terrifying.”

He added, “I think it was probably how much I admired her, how absurdly smart she was, and how committed to getting it right.”

During Ginsburg’s visit to the University to accept the Thomas Jefferson Foundation Medal in Law in 1997, Professor Anne Coughlin hosted the justice in Coughlin’s Feminist Jurisprudence class, in which students had already spent hours discussing the equal protection revolution Ginsburg launched as a young litigator for the American Civil Liberties Union.

“Ruth Bader Ginsburg was one of the most influential legal theorists and litigators, as well as jurists of the century,” Coughlin said. “She launched a movement that changed everything,” so “we were beyond excited to meet her.”

Coughlin recalled that the Q&A session after an initial talk by Ginsburg was “electrifying.”

“It was then that Justice Ginsburg came alive, and we saw not only her brilliance, but felt her unfailing commitment to achieving social justice for women and men,” she said.

Former Ginsburg clerk Joseph Palmore ’98, now co-chair of the Appellate and Supreme Court practice group at Morrison & Foerster, shared a story on LinkedIn that showed how the justice lived up to her values outside of the courtroom as well.

Having learned that Palmore and his wife needed child care for their 1-year-old, Ginsburg asked to tour the daycare facilities at the Georgetown University Law Center with her clerk while she was at the school for a planned speech.

“At the front desk, she announced, ‘Hello, I’m Justice Ginsburg. My clerk Joe is looking for a daycare spot for his son, Simon. We’d like a tour,’” Palmore wrote. “The Justice and I then navigated the blocks, toys and toddlers to check out the daycare center. Together.”

—Mary Wood

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Former Ginsburg clerk Joseph Palmore ’98, now co-chair of the Appellate and Supreme Court practice group at Morrison & Foerster, shared a story on LinkedIn that showed how the justice lived up to her values outside of the courtroom as well.

Having learned that Palmore and his wife needed child care for their 1-year-old, Ginsburg asked to tour the daycare facilities at the Georgetown University Law Center with her clerk while she was at the school for a planned speech.

“At the front desk, she announced, ‘Hello, I’m Justice Ginsburg. My clerk Joe is looking for a daycare spot for his son, Simon. We’d like a tour,’” Palmore wrote. “The Justice and I then navigated the blocks, toys and toddlers to check out the daycare center. Together.”

—Mary Wood
The United States maintains a massive debt load—currently about $23 trillion—and nobody knows if or when it might lead to an existential crisis for the country.

Professors EDMUND W. KITCH and JULIA MAHONEY assert in a new paper that restructuring that debt, like a business in trouble, would be wise to be prepared.

No matter how the numbers are arrived at, the country is facing insurmountable debt, the result could be runaway inflation, the professors say. They reference what happened in Argentina, which experienced a 353.8% annual inflation rate in 2019 while simultaneously attempting to renegotiate its indebtedness.

But is U.S. debt restructuring constitutional? Despite some conventional thinking to the contrary, Kitch and Mahoney say that because the Constitution doesn’t express prohibit it, such a move is indeed possible.

“Nothing in the Constitution as originally ratified fords debt restructuring,” they write.

Some interpret the 14th Amendment’s Public Debt Clause as a blanket prohibition on the federal government’s failing to make its debt payments. But while the clause affirms the validity of U.S. debt, “failing to pay a debt in full and on time is not at all the same thing as questioning the debt’s validity; they write.

The professors acknowledge that the U.S. has a strong legal history of upholding property and contract rights, which could serve as barriers to any restructuring deal. But they also point to precedent. Even though the public has largely forgotten, the U.S. has structured its debt treaties under Alexander Hamilton’s debt repayment scheme in the 1790s, and later, at the start of the New Deal, when the U.S. abandoned the gold standard.

The professors suggest that a liquidity fund that the secretary of the treasury could access would be the most feasible way to enable the government to perform its most important function while pursuing a restructuring of its obligations.

“The long existence of the Exchange Stabilization Fund shows that that the idea that the Secretary of the Treasury needs access to discretion to address unexpected events is well-accepted;” they write.

Nevertheless, they aren’t betting against the U.S. economy, they say. They just think it might be wise to be prepared.

—Eric Williamson
In autumn, KEVIN COPE received a contract from Ohio University Press to co-edit a new volume titled Not Waving, But Drowning: Comparative Immigration Law: "The volume will feature chapters by over 70 leading scholars from around the world. It will likely be the first comprehensive, book-length monograph on the subject when it is published in spring 2022. In September, COPE presented his co-authored work on COVID-19-related liberty restrictions at online workshops at the Georgetown University Law Center and George Mason University, and in April, he discussed the research on NPR’s "All Things Considered" and China Radio International’s "World Today." In May, FORE ’11 received the Legal Writing Institute’s inaugural Emerging Scholar Award for his 2020 article on lawyers’ use of probabilistic language when advising clients. Fore also continued to publish a biweekly column devoted to legal writing in Virginia Law Review. Gilbey’s new book, "Making Work"--an expansion of his forthcoming book "The Future of Work"--is published by Harvard University Press in fall 2021. He also presented a paper on "The Future of Work" at a conference in New York City in November. In December, he gave a talk at the European Legal Writing Group’s annual meeting on "The Future of Work."
As states across the country struggle with significant budget shortfalls due to the coronavirus pandemic, a coalition of tax scholars has come together to provide policy recommendations to help ease the crisis. Professors ANDREW HAYASHI and NAOMI CAHN have joined the effort, called Project SAFE (State Action in Fiscal Emergencies). “This is no ordinary recession,” said Mason, the Edwin S. Cohen Distinguished Professor of Law and Taxation. “Government at all levels will have to work together to weather the crisis.” In the early days of the pandemic, the federal government provided aid to states and localities, including the Families First Coronavirus Response Act, which temporarily increased the federal share of Medicaid expenditures. The Coronavirus Aid, Relief, and Economic Security (CARES) Act, reimburses states for half of the states’ share of unemployment benefits through December, plus another $100 billion to states and locals, but places significant restrictions on state and local governments’ use of that money.

The quickest solution to the state fiscal crisis in the short term is for Congress to step up and provide more direct aid,” said Daniel Hemel, a law professor and Edward S. Cohen Distinguished Professor of Law and Economic Security, or CARES Act, reimburses states for half of the states’ share of unemployment benefits through December, plus another $100 billion to states and locals, but places significant restrictions on state and local governments’ use of that money.

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Professor CYNTHIA NICOLETTI has been named a recipient of the UVA Student Council Distinguished Teaching Award.

The award is given annually to recognize a teacher who makes a positive and lasting impact on the University by developing relationships with students through the creation of an engaging and challenging classroom atmosphere. Eleven recipients of the award are chosen by a selection committee composed of undergraduate students who consider both quantity and quality of nominating arguments has been instrumental in helping me grow as a scholar,” the student wrote. “We had the opportunity to work closely with her, which helped us improve our critical thinking skills and develop our research abilities. Professor Nicoletti’s teaching style is engaging and dynamic, and she always provides constructive feedback to help us improve. She is a great mentor and has been an inspiration to me, and I believe she is well-deserved of this award.”

A student nominator in Nicoletti’s course Global Legal History, co-taught with Doak Nance and Kevin Bales, noted that the course was tailored to us as individuals, which made it critically helpful in improving our understanding of the subject matter. “The classroom discussion was always centered around the students’ experiences and perspectives, which made it easier to relate to the material. Professor Nicoletti’s teaching style is always dynamic and engaging, and she always makes sure that everyone understands the concepts. She is a great mentor and has been an inspiration to me, and I believe she is well-deserved of this award.”

Professor DOUGLAS LUCERNO published “The Problem of Digital Bias in the Pool of Appellate Court Opinionists” in the Journal of Empirical Legal Studies. That piece used advanced text analysis tools to investigate whether the standard social science approach to researching judicial decision-making could generate misleading conclusions about the role of judges’ ideology in affecting case outcomes. The research for that piece was carried out over five years with co-investigators David Rockman and Keith Carlson of the University of Virginia's School of Law.


In May, MICHAEL LUCERNO published “The Problem of Digital Bias in the Pool of Appellate Court Opinionists” in the Journal of Empirical Legal Studies. That piece used advanced text analysis tools to investigate whether the standard social science approach to researching judicial decision-making could generate misleading conclusions about the role of judges’ ideology in affecting case outcomes. The research for that piece was carried out over five years with co-investigators David Rockman and Keith Carlson of the University of Virginia's School of Law.


The authors set out a series of recommendations for future administrations interested in restoring cost-benefit analysis to its prior regulatory role in decision-making. They advocated for the development of a new approach to cost-benefit analysis that takes into account the full range of social and economic costs and benefits of policies, including the costs and benefits to individuals and communities who are typically not captured in traditional cost-benefit analyses.

In addition to these recommendations, the authors suggested that the government should consider creating a new agency or task force to conduct cost-benefit analysis for all regulatory actions. This new agency would be responsible for ensuring that cost-benefit analysis is conducted in a transparent and accountable manner, and that the results of these analyses are accessible to the public.

The authors also called for new research and data collection to better understand the costs and benefits of regulatory actions. They recommended that the government should develop new ways of collecting and analyzing data on the impacts of regulatory actions, and that these data should be made available to the public.

In conclusion, the authors argued that cost-benefit analysis is a crucial tool for ensuring that regulatory actions are effective and efficient. They encouraged policymakers to consider adopting the recommendations set out in this paper, and to work towards creating a new approach to cost-benefit analysis that takes into account the full range of social and economic costs and benefits of policies.

ROBINSON, as an African American female law professor, has made significant contributions to the field of law and justice. Her research focuses on issues such as the role of technology in the legal system, the impact of race and gender on legal outcomes, and the importance of diversity in the legal profession.

Robinson’s work has been widely recognized. In 2019, she was awarded the American Bar Association’s “Law Student of the Year” award. In 2020, she was named to the “100 Change Agents” list by the American Bar Association. She has also been honored with the “Outstanding Young African American Woman in Law” award by the National Bar Association.

Robinson’s commitment to diversity and inclusion is reflected in her teaching. She has been a leader in promoting diversity and inclusion in the legal profession and has been instrumental in creating opportunities for underrepresented groups in the legal field.

Robinson’s impact extends beyond the academic setting. She has been active in a variety of advocacy efforts, including working to increase access to legal services for low-income individuals and to promote the role of technology in the legal system.

Robinson’s dedication to diversity, inclusion, and access to justice has made her a respected figure in the legal profession. Her work continues to inspire and motivate others to join her in working towards a more just and equitable legal system.

The authors of this paper make the following recommendations for future administrations interested in restoring cost-benefit analysis to its prior regulatory role in decision-making:

1. Develop a new approach to cost-benefit analysis that takes into account the full range of social and economic costs and benefits of policies, including the costs and benefits to individuals and communities who are typically not captured in traditional cost-benefit analyses.

2. Create a new agency or task force to conduct cost-benefit analysis for all regulatory actions. This new agency would be responsible for ensuring that cost-benefit analysis is conducted in a transparent and accountable manner, and that the results of these analyses are accessible to the public.

3. Encourage policymakers to consider adopting the recommendations set out in this paper, and to work towards creating a new approach to cost-benefit analysis that takes into account the full range of social and economic costs and benefits of policies.

4. Develop new ways of collecting and analyzing data on the impacts of regulatory actions, and ensure that these data are made available to the public.

The authors of this paper believe that cost-benefit analysis is a crucial tool for ensuring that regulatory actions are effective and efficient. They encourage policymakers to consider adopting the recommendations set out in this paper, and to work towards creating a new approach to cost-benefit analysis that takes into account the full range of social and economic costs and benefits of policies.
FACULTY

The British Academy is comprised of more than 1,400 academicians, who are elected from the United Kingdom and around the world based on their outstanding contributions to the humanities and social sciences. Corresponding fellows are scholars of distinction who reside outside of the U.K. and have “attained high international standing in any of the branches of study which is the object of the Academy to promote.”

Schauer is said to have honored to receive the award, which is a rare distinction among Americans, both in law and in other fields. Fewer than 10 American legal scholars are fellows, a group that includes Guido Calabresi and Richard Posner. Schauer was the only American elected in 2020.

“The U.S. has been a big part of my academic life for over 40 years, in terms of visiting appointments at both Oxford and Cambridge, lectures over the years at many U.K. universities, and publications of some of my books and articles,” he said. “I am truly flattered by this unexpected and unusual honor.”

New members are named at the conclusion of the lengthy selection process culminating at the Annual General Meeting of Fellows, held each July. Schauer is a David and Mary Harrison Distinguished Professor and the Franklin D. Roosevelt Professor of Law, and is among the most recognizable names in the legal academy. His expertise has been demonstrated in hundreds of books, book chapters, articles, essays, classes and personal appearances. Among his other accolades, he is a fellow of the American Academy of Arts and Sciences, a recipient of a Guggenheim Fellowship, and has been among the most recognized names in the legal education community. He was serving in his reserve capacity as an assistant professor teaching national security law at the John F. Kennedy Ad- viser General’s Legal Center and Schools in Charleston.


In the spring, GEORGE WILLIAMSON published two articles: “Statutes of Limitations Clauses Forgotten, Forgiven, or Forgone?” and “Dis- crimination and the Rise of Multicultural Political Correctness.” He has also published an article on the specter of “The Legal Debate about Educa- tion as a Federal Right” in Democracy.

In the fall, RICHARD SCHAUER will participate in five virtual events addressing federalism in a time of pandemic, including one sponsored by the UVA Miller Center and another sponsored by the Duke Center for Firearms Law. He has also participated in a virtual conference on “Sovereign Localities,” sponsored by the Duke Center for Firearms Law. He also conducted several editorials, with MICHAEL SCHWARTZ, in the-project of church and state under the Trump administration. These appeared in The New York Times, The Washington Post and The Atlantic. He also wrote, “What is ‘Government Speech’? The Case of Confederate Monuments” was published in the Kentucky Law Journal as part of a symposium on Confederate iconography. And his article ”Religious Anti-Discrimination and the First Amendment,” co-authored with Jonathan Z. Lee, appeared in the Minnesota Law Review.

SHIN ’10

Professor CRISTAL SHIN stepped down as director of the Program in Law and Public Service to direct a new clinic.

The clinic, which starts this spring and has yet to be formally named, will focus on holistic juvenile defense.

“I am excited to return to clinical teaching and my poverty lawyering roots,” Shin said. “I had always hoped to return to the practice of law at some point, so when I had the opportunity to design a new in-house clinic, I gladly accepted.”

The Law School currently offers 20 clinics. Separately from the Child Advocacy Clinic, Shin’s clinic will represent clients on school- or community- referred juvenile delinquency matters in juvenile and domestic relations courts. The clinic will represent indigent youth on delinquency matters as well as collateral special education and school discipline matters, she said. “By having one clinic provide holistic representation in courts and in schools, we can provide critical representation to clients and increase the likelihood of their future success because a favorable disposition in one system may lead to a better outcome in the other system.”

Shin noted that students with disabilities in Virginia are suspended at three times the rate of their nondisabled peers and are disproportionately more likely to be referred to law enforcement by schools.

DEANN OLIVER said she was pleased that Shin will be able to expand her teaching efforts as part of a larger plan to enhance the school’s in-house clinics and public service support more generally (see p. 10). Since Shin joined the school and began leading the Program in Law and Public Service, she implemented an enhanced curriculum centered on social justice and building practical skills, redesigned the first-year Law & Public Service course to include more practical elements, helped launch the Shaping Justice conference, created a peer mentoring component to supplement the faculty mentoring program, increased alumni engagement and giving, and started monthly “Lunch & Learn” meetings with inspiring public interest practitioners.

“Over the past three years, Crystal has built a robust community around the program and nurtured our network of alumni,” Golobef said. “We’re so pleased she can take on this new role that will enhance curricular offerings for students interested in public service, as well as serve as a critical resource in the community.”

As an attorney with the Legal Aid Justice Center from 2010 to 2019, Shin served as an adjoint lecturer at UVA Law and supervised students who represented clients through the Child Advocacy Clinic. She first joined LACJ as UVA Law’s 2010 Powell Fellow, representing indigent children and families on special education, school discipline, juvenile justice and immigration cases while working with the Juvenile Children Program.

—Mike Fox

SCHAUER NAMED FELLOW OF THE BRITISH ACADEMY

Professor FREDDERICK SCHAUER was elected a corresponding fellow of the British Academy in July in recognition of his distinguished contributions to academic thought.

Schauer is a world-renowned expert in the areas of constitutional law, evidence, legal reasoning, freedom of speech, and jurisprudence and the philosophy of law.
VERDIER, VERSTEEG’S RESEARCH CITED BY SUPREME COURT OF CANADA IN LANDMARK CASE

A paper by Professors Pierre-Hugues Verdier and Mila Versteeg was cited by the Supreme Court of Canada in a precedent-setting ruling that holds Canadian companies accountable for human rights abuses.


The professors published “International Law in National Legal Systems: An Empirical Investigation” in the American Journal of International Law in 2013. In it, they found that “in virtually all states, [customary international law] rules are in principle directly applicable without legislative implementation.”

The court cited this finding in support of its decision to confirm that customary international law forms part of Canadian law. The court went on to provide a domestic legal remedy for violations of human rights protected by international norms.

Prosecutors and human rights advocates have long attempted to hold U.S. and foreign corporations accountable in U.S. courts for human rights violations overseas under the Alien Tort Statute. In recent decisions, however, the U.S. Supreme Court has all but eliminated this recourse.

Versteeg is the Martha Lubin Karsh and Bruce A. Karsh Bicentennial Professor of Law; co-director of the Human Rights Program and the Center for International & Comparative Law at UVA Law; and a senior fellow at the Miller Center.

Verdier is the John A. Ewald Jr. Research Professor of Law and director of the Graduate Studies Program at UVA Law.

—Eric Williamson

Maga T. Stevenson gave a talk on bail reform to the U.S. Commission on Civil Rights. Her research on risk assessment was discussed in The Economist, The Intercept and Law.com. She launched a new online work shop called “Virtual Law & Economics” with Professor Albert Chao at the University of Michigan and Daniel Sokol at the University of Florida. She gave talks at the “Law, Business, and Accounting Colloquium” at the University of California, Berkeley; and at the Endogenous Rules Workshop at Claremont Graduate University. She also participated in the Neighborhood Criminal Law Roundtable at the University of Maryland.

PAUL STEPHAN took up his appointment as special counsel to the general counsel of the U.S. Department of Defense and is now leave from the Law School for a year. In October, he will take part in a virtual conference organized by the European Journal of International Law on “The Restatement (Fourth) of the Foreign Relations Law of the United States.” His faculty workshop at the University of Miami Law School, originally scheduled for last March, was moved to this fall. The book of essays he edited, “The Restatement and Beyond: The Past, Present, and Future of U.S. Foreign Relations Law,” was published by Oxford University Press. He is working on a book, provisionally titled “The Crisis in International Law: System Shocks, National Populism, and the Battle for the World Economy.”

PIERRE-HUGUES VERDIER’s recent book, “Global Banks on Trial: U.S. Prosecutions and the Remolding of International Finance,” was featured in an online book panel organized by the American Society of International Law’s International Economic Law Interest Group. An article he co-wrote with PAUL STEPHAN, “International Human Rights and Multinational Corporations: An FCPA Approach,” will appear in the Boston University Law Review in 2021. He continues to work with MILA VERSTEEG on a project on the role of international law in national legal systems, as part of which they are preparing an article co-written with JENNY GIPF that will trace the historical evolution of the relevant doctrines worldwide using quantitative and qualitative methods.

Verdier is also teaching a new course, International Trade and Investment.
CARRINGTON COLEMAN

Judge Leonard Braman '52, who served for 45 years as a trial judge on the Superior Court for the District of Columbia, died June 1, 2003, at the age of 90. He was survived by his son, Thomas A. Braman.

According to a friend, Tom, who served as a law clerk for Justice John Paul Stevens from 1980 to 1981, Justice Stevens was always impressed by Braman's wit and dry sense of humor. "He was a man of great dignity and a keen sense of humor," Tom said.

Braman was born in Philadelphia on April 24, 1913, and graduated from Trinity College in 1934. He then went on to Harvard Law School, where he served as an editor of the Harvard Law Review.

After law school, Braman joined the law firm of Shearman & Sterling, where he practiced for 30 years. He was later named partner in charge of the firm's Washington, D.C., office.

In 1958, Braman was appointed to the Superior Court for the District of Columbia by President Dwight D. Eisenhower. He served on the bench until his retirement in 1993.

During his tenure on the bench, Braman was known for his fairness and his ability to handle complex cases. He was also respected for his commitment to ensuring that all members of society were treated equally under the law.

Braman was a long-time supporter of the National Association for the Advancement of Colored People (NAACP) and was involved in many charitable organizations.

He is survived by his wife, Frances, whom he married in 1936, and their two children, Tom and Susan. He also leaves a sister, Margaret, and a brother, John.

Braman's funeral service will be held at 11 a.m. on Monday, June 2, at the National Cathedral in Washington, D.C. Burial will follow at Arlington National Cemetery.
of engineers in the conduct of daily life. He was named one of the Virginia House of Delegates, serving from 1979 through 1980, representing all of Albemarle County for 21 years. Bill has obtained legislative victories for the families of individuals with cognitive and developmental disabilities, including his son, John. With his wife, Carol, he is physically and functionally independent and lives with his birth family on a small farm that he and Carol purchased in 2005. His practice is focused on estate planning and elder law, including long-term care planning and disability planning.

In 2016, William has been named one of the Virginia Bar Association’s Fellows, a recognition awarded to attorneys who have made outstanding contributions to the practice of law in Virginia. He is also the author of articles and presentations on a number of disability issues. In addition to his volunteer service with ACB, he is a member of the Board of Visitors for Embry-Riddle Aeronautical University, the Board of Directors for the Commonwealth Law Center, the Board of Directors for the Virginia Bar Association’s Commission on Lawyer Assistance Programs, the Board of Directors for the Virginia Foundation for the Arts and Humanities, and the Board of Directors for the Commonwealth Law Center.

In 2017, William was honored by the Virginia Bar Association with its highest honor, the Virginia Bar Association’s Medal of Honor. This award is given to attorneys who have made outstanding contributions to the practice of law in Virginia. He is also the author of articles and presentations on a number of disability issues. In addition to his volunteer service with ACB, he is a member of the Board of Visitors for Embry-Riddle Aeronautical University, the Board of Directors for the Commonwealth Law Center, the Board of Directors for the Virginia Bar Association’s Commission on Lawyer Assistance Programs, the Board of Directors for the Virginia Foundation for the Arts and Humanities, and the Board of Directors for the Commonwealth Law Center.

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In 2024, William was honored by the Virginia Bar Association with its highest honor, the Virginia Bar Association’s Medal of Honor. This award is given to attorneys who have made outstanding contributions to the practice of law in Virginia. He is also the author of articles and presentations on a number of disability issues. In addition to his volunteer service with ACB, he is a member of the Board of Visitors for Embry-Riddle Aeronautical University, the Board of Directors for the Commonwealth Law Center, the Board of Directors for the Virginia Bar Association’s Commission on Lawyer Assistance Programs, the Board of Directors for the Virginia Foundation for the Arts and Humanities, and the Board of Directors for the Commonwealth Law Center.

In 2025, William was honored by the Virginia Bar Association with its highest honor, the Virginia Bar Association’s Medal of Honor. This award is given to attorneys who have made outstanding contributions to the practice of law in Virginia. He is also the author of articles and presentations on a number of disability issues. In addition to his volunteer service with ACB, he is a member of the Board of Visitors for Embry-Riddle Aeronautical University, the Board of Directors for the Commonwealth Law Center, the Board of Directors for the Virginia Bar Association’s Commission on Lawyer Assistance Programs, the Board of Directors for the Virginia Foundation for the Arts and Humanities, and the Board of Directors for the Commonwealth Law Center.
McGovern was co-author of two published books, “Successful Litigation Techniques” and “The Preparation of a Product Liability Case,” and two books in progress, “Toxic Substances Litigation” and “Alternative Dispute Resolution.”

McGovern was serving as one of three special masters assisting with the thousands of federal lawsuits filed by cities and states against opioid manufacturers and others. McGovern was also a visiting professor at the University of California, Hastings College of the Law.

A member of the Duke Law faculty since 1997, McGovern combined teaching with the practice of ADR and work as a court-appointed special master in almost 100 cases, including those arising from DDT toxic exposure in Alabama, asbestos contamination, the Dalkon Shield contraceptive, intrauterine device, silicone breast implants, Rhode Island’s Starnex, and the 9/11 Victim Compensation Fund and BP oil spill in the Gulf of Mexico.

“Long before it was fashionable, well before ADR was a permanent fixture in law school education, he predicted that mediation, arbitration, administrative claims programs like the 9/11 Victim Compensation Fund and BP oil spill fund, and other forms of alternative dispute resolution would become mainstream pillars of our American legal system,” said Kevin Feinberg, who served as special master of the 9/11 Victim Compensation Fund, in an interview with Duke Law School.

An American Law Institute Institute fellow for more than 15 years, he had served on the Members Consultative Group for Restatement of the Law, the American Law Institute’s project. He had also served as a consultant to the U.N. Compensation Commission established after the Persian Gulf War, designing the dispute resolution process for over 2.3 million claims involving over $28 billion in compensation.


He worked at Vinson & Elkins in Houston before starting his career at the University of South Carolina College of Law in 1975. McGovern earned his J.D. from Yale University in 1967 and served in the U.S. Marine Corps, rising to the rank of captain.

He is survived by his wife, Kay; four children and four grandchildren.

Mike Fox

virgina@lawschoolmatters.org

#100CHANGEAGENTS
GЛЕЕНО '80, WILKINSON '87 RECRUITED IN FLYNCE CASE

Retired Judge John Gleeson ’80 and veteran trial lawyer Beth Wilkinson ’87 played high-profile roles in assisting a judge overseeing the case of former National Security Adviser Michael Flynn.

Flynn’s guilty plea in 2017 to lying to the FBI about his conversations with the Russian ambassador to the United States during the transition period after Donald Trump won the 2016 election. Flynn twice pleaded guilty to a criminal charge of making false statements but later sought to withdraw his guilty plea. The Justice Department in May agreed with Flynn that it should drop his prosecution.

U.S. District Judge Emmet Sullivan appointed Gleeson to advise him on the DOJ’s request. Gleeson’s 73-page brief, released in June, criticized the DOJ for the Washington Football Team’s culture and allegations of workplace misconduct. “Flynn case was rec- tified to an originalist textualist view they’re likely to rule in certain ways, whereas if someone has a view that the Constitution invites more expansive role for judges then they’re likely to rule a different way,” he told The National Law Journal.

Griffith previously served as chief legal counsel for the U.S. Senate from 1995-99 under the U.S. District Court for the Eastern District of New York from 1994-2016. He was an assistant U.S. attorney for the Eastern District of New York from 1989-1994, where he was noted for his prosecution of Mafia cases, most notably Gambino crime boss John Gotti.

Wilkinson, a member of the American Law Institute, began her legal career as a commissioned officer in the U.S. Army Judge Advocate General’s Corps, and she has served as an assistant U.S. attorney in New York City. She successfully argued for the execution of Oklahoma City bomber Timothy McVeigh, and in 2012 was hired as outside counsel by the Federal Trade Commission to lead an antitrust investigation into Google. In July, Wilkinson was hired to conduct an independent review of the Washington Football Team’s culture and alleviation of workplace misconduct. –Mike Fox

1981

CARM COVANS’ film “OPEKA” won the Golden Palm Award at the 2020 Beverly Hills Film Festival. The film chronicles Pedro Opeka—a priest helping some of the poorest people in the world. The son of a bricklayer, Opeka convinced families living in Madagas- car’s largest landfills to build their own homes. An untouched by the issues raised by his illnesses and its treatments as she carefully researched accessibility for rebel leaders and transportation in her family said. “While illness did not limit her travel, the tiny puppy named Hansel who grew into a very large dog did, for years. The dog did, for some years. The dog did, for years. She was the basis for new friendships, and she became the center of choice for friends and neighbors.” She had a special interest in the popular culture and decorative arts of the 1930s, a result of her childhood in small town Ohio and long family and vacations spending trips to the national parks. Her home reflected those interests and memories, and a gathering spot for friends and neighbors who provided support and encouragement. The dog was survived by her family and their families.

1984

IRWIN SHUR was named a 2020 Super Lawyer in Massachusetts. He practices at Valensi Rose.

1985

SUSAN ESCHENBACH ’84 was named to the 2020 list of Virginia Super Lawyers.

Thomas B. Griffith ’85 retirees from D.C. Circuit

Thomas B. Griffith ’85 retired Sept. 1 after serving 15 years as a judge on the U.S. Court of Appeals for the District of Columbia Circuit. He announced his retire- ments in March.

President George W. Bush first nominated Griffith in 2004 and was confirmed by the U.S. Senate in June 2005.

Two of his opinions tackled the judiciary and the presidency. Griffith wrote the panel’s majority opinion holding that the U.S. House Judiciary Committee could not enforce a subpoena upon President Donald Trump’s former White House Counsel. He also sided with an opinion denning former National Security Adviser Michael Flynn’s bid to compel a District Court judge to dismiss a criminal case against him.

“In cases that attract public attention, it is common for partisans and politicians to frame their commentary in a way that reduces the judiciary’s role to one of determining which is a partisan lens is harmful to the republic. “The judiciary’s role is seen as a cover for the judge’s real reason for the party affiliation is likely what’s driving the court’s analysis,” Griffith wrote in a concurrence in the Flynn case. “The party af- filiations of the President who appoints a judge be- comes an explanation for the judge’s real reason for the disposition, and the legal reasoning employed is seen as a cover for the exercise of raw political power.”

After formally step- ping down, he continued to warn that seeing the judiciary through a pur- tisan lens is harmful to the republic.

“Griffith is committed to an originalist textualist view they’re likely to rule in certain ways, whereas if someone has a view that the Constitution invites more expansive role for judges then they’re likely to rule a different way,” he told The National Law Journal. “I don’t think it’s fair to describe those necessarily as partisan affiliations.”

Griffith’s other notable opinions on the D.C. Circuit included Davis v. Federal Election Commission, which rejected a First Amendment challenge to the Bipartisan Campaign Reform Act’s disclosure limits for self-financed candidates; FSH v. Pharmaceutical Industries Co. v. U.S., which affirmed dismissal of a defamation suit against the United States by owners of a Sudanese pharma- ceutical plant; and Abigail Alliance for Better Access to Developmental Drugs v. von Eschenbach, which found that there is no constitutional right to experimental drugs.

He also joined the majority opinion in Parker v. District of Columbia, striking down the District’s handgun ban on Second Amendment grounds, which was later affirmed by the U.S. Supreme Court. “I set aside an entire week to work on the case,” he told the Journal. In 2011, Griffith was included on The New Republic’s list of Washington’s most powerful, but least famous, people. He spoke at the “The Future of Originalism: Conflicts and Controversies” symposium at the Law School in 2011.

Griffith graduated from Smith Anderson in 1984. He also joined the majority opinion in Parker v. District of Columbia, striking down the District’s handgun ban on Second Amendment grounds, which was later affirmed by the U.S. Supreme Court. “I set aside an entire week to work on the case,” he told the Journal. In 2011, Griffith was included on The New Republic’s list of Washington’s most powerful, but least famous, people. He spoke at the “The Future of Originalism: Conflicts and Controversies” symposium at the Law School in 2011. Griffith previously served as chief legal counsel for the U.S. Senate from 1995-99 under the U.S. District Court for the Eastern District of New York from 1994-2016. He was an assistant U.S. attorney for the Eastern District of New York from 1989-1994, where he was noted for his prosecution of Mafia cases, most notably Gambino crime boss John Gotti.

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Virginia Gov. Ralph Northam appointed GRACE E. O'NEIL to the four-year term on the Virginia Military Institute Board of Visitors. O'Neil was nominated from VMI in 1981.
1987

CHAS M. ‘WOODY’ FOWLER JR. was recognized in 2020 Chambers USA for litigation; general commercial (eminent practitioners); Fowler practices with William Hillman in Greensboro, N.C.

1988

Randy Striegl was named in 2020 in Chambers USA for banking law.

1990


Disability Rights

Disability Rights South Carolina named Randal Dong ‘70 legal director in July.

Disability Rights South Carolina (formerly the Protection and Advocacy for People With Disabilities) is an independent, statewide nonprofit based in Columbia, South Carolina, that protects and advances the legal rights of people with disabilities.

The job was personally important to me because as a man with cerebral palsy, I have experienced many of the hardships that people with disabilities suffer daily, such as physical barriers to access, inadequate accommodations for disabilities, overreaching limitations on health care coverage, and the everyday indignities arising from outdated attitudes toward disability.” Dong told UVA Law. In 2011, Gov. Nikki Haley appointed Dong to the volunteer board of directors. He served as chairman of the grievance committee and board secretary during his eight-year term.

“Fortunately, my disability did not adversely affect my access to a successful legal career,” he added. “Now I have been afforded a special opportunity to use my legal training and experience to help people with disabilities throughout South Carolina.”

Dong previously worked, since 2006, as staff counsel for the Public Service Commission of South Carolina, advising commissioners on utility regulations. He was also a partner at Simpson & Dong, handling class-action litigation, financial services and consumer protection law.

DAVID C. KEESLER

DAVID C. KEESLER -- named to the 2020 list of Virginia Super Lawyers. Hanover resident with Jenkins, Stross & Ellin at Phoebus.

CATHY S. KEATING

CATHY S. KEATING was named executive officer of the University of Florida Health Management Board.

WILLIAM S. SWINSON

WILLIAM S. SWINSON joined Paul Weiss, Rifkind, Wharton & Garrison, the firm's department in Washington, D.C. With decades of experience leading complex commercial litigation and arbitrations, Swinson is also known for his arbitration expertise on both the plaintiff and defendant sides. Of the dozens of federal antitrust actions in which he has been involved, most have to do with merger issues, as well as in workshops in academic succession and bar exam preparation.

1986

The Connecticut Supreme Court Historical Society awarded the first annual Christopher "Kit" Coller Prize to DOROTHY HANCOCK GERBER, professor of law at the University of Northern Colorado. Noted for her leadership in Connecticut state law, the prize is awarded to historians, legal scholars, political scientists or others who have addressed, in several publications, American legal and constitutional history with Connecticut connections. Gerber, who presented the Gerber, has authored numerous journal articles and newspaper opinion pieces, in addition to her scholarly books on the U.S. Supreme Court and the Connecticut constitutional history. Earlier in her career, Gerber was named an associate professor at George Mason University's Antonin Scalia Law School.

When Alexander changed jobs to Elon University’s law school, the university’s policy required her to go through the tenure process again—albeit on an accelerated schedule. “The process was officially completed in February, and I’m elated,” Alexander wrote in her letters of acceptance. “I look at some kind of old age record for receiving tenure this second time around. Then COVID came. With a week’s notice, I worked a 10-week spring term course entirely remotely. It was the very definition of teaching in the time of martial dog new tricks.” And by the time Joby and Caroline moved to Greensboro, N.C., Springs sailors have two adult daughters, Amelia and Caroline.

ROBERT J. TOMASSO, a partner of Baech Blackwell St. Louis office, has been elected president of the board of governors of the Bar Association of Metropolitan St. Louis. Tomasso, a partner in the firm’s labor and employment group, also chairs BAMSL’s Bench and Bar Conference Planning Committee.
The nonprofit Pennsylvania 30 Day Fund, co-launched by JEFF BARTOS ’97, has been working to aid small businesses as they await federal funding to counter COVID-19’s economic impact. PA 30 Day Fund does not need money to be repaid.

Bartos himself was forced to temporarily furlough employees from his Philadelphia-area real-estate development company’s headquarters at The Navy Yard in Philadelphia. Mark Group’s global energy efficiency business from the $3 to $1 million.

Many people are confused by the process for athletes— and sometimes their coaches and families— the NCAA’s vice president and about 40% female-run.

We want them all to survive.”

About 70 volunteers are helping out, many being friends of my work,” he said. As a parent, he said, “I have a huge passion for athletes and sometimes their coaches and families.”

The funds have come from donors—private individuals and corporate sponsors, as they await federal funding to counter COVID-19’s impact.

Jeffery Bartos ’97, has been working to aid small businesses as they await federal funding to counter COVID-19’s impact.

In August of 2019, STEWART W. BEANON joined as vice president and deputy general counsel.

Jennifer A. Beanon was appointed chief communications officer, Theresa Win.

BEANON joined Verizon as general counsel in the Class of 2023 during orientation in August.

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Jennifer C. Everett ’08 and Aryan Moniri ’08 have played crucial roles in major international securities cases, including overseeing third-party discovery in Brazil’s largest oil company Petrobras’ $3 billion litigation. Everett and Moniri’s military service of more than 6 years has been named one of the American Bar Foundation’s 2019 Pro Bono Stars. Everett was selected as the 2019 National Pro Bono Honoree by the American Bar Association’s Pro Bono Committee, and Moniri was recognized as one of the 1% of lawyers who practice in all 50 states and the world.

Jennifer C. Everett ’08

Aryan Moniri ’08

JENNIFER C. EVERETT ’08

Jennifer C. Everett is one of four former Harvard law students who have been named among the top competition attorneys for 2020. Everett is a partner in Hogan Lovells’ Washington, D.C. office and focuses her practice on complex civil matters, including employment, class actions, and antitrust matters. Everett is recognized as one of the nation’s leading antitrust lawyers and has been named a “Leading Lawyer” by Chambers USA 2020. Everett was recognized as a Leading Lawyer by Chambers USA 2020. Everett was also selected as an Up and Coming Lawyer in 2018 by the National Bar Journal.

ARYAN MONIRI ’08

Aryan Moniri is a top cybersecurity and privacy attorney for advising health care giant Cardinal Health Inc. on data security issues. Moniri has been named as a “Recognized Lawyer” by Chambers USA 2020. Moniri was also selected as a “Recognized Lawyer” by Chambers USA 2020, and he was named an Up and Coming Lawyer in 2018 by the National Bar Journal.

Six alumnae were among Law360’s Rising Stars for 2020, a list of attorneys under age 40 whose legal accomplishments “transcend their age.” Honorees were selected based on their career accomplishments in their respective disciplines.

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MATT HAMPDEN joined CBS in 2018 as a financial advisor. Rappaport operates his wealth management practice out of Austin, Texas, and helps clients throughout the country manage their wealth and develop their financial plan, often after a notable life event. His clients include lottery jackpot winners, trustees and trust beneficiaries, individuals who have come into inheritances and business owners who have sold their companies.

JASON A. ROGERS is a partner in the civil litigation and utilities practice group in Washington, D.C. Davis Polk’s litigation department, anticipated UVA as an undergraduate, majored in psychology and management, and has been a part of the firm’s litigation practice since her admission to the bar in 2011. Her previous role was as an attorney, insurance carriers, and commercial clients in multiple jurisdictions, including New York, Pennsylvania, North Carolina, and Arkansas.

KENDALL BURCHARD is a partner in the firm’s environmental law practice, representing individuals and institutional clients in multiple industries, including financial services, real estate, insurance, pharmaceuticals and real estate development. In addition, he also has a legislative portfolio related to relief measures.

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"Neck of the Woods," the debut poetry collection by Amy Woolard ’08, "is a hero—quest deep inside the mythos of the American South, wandering through childhood stories in which a lone girl must alone save herself," according to her publisher.

The writing was heavily inspired by the loss of a close friend of Woolard’s to suicide. Part elegy, part survivor’s testimony, “Neck of the Woods” was published her publisher.

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IN MEMORIAM

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IN MEMORIAM
Tell us about your work at the Local Initiatives Support Corp.

I run a big nonprofit development finance company. And my job is to help us use capital and technical assistance to fight poverty and to catalyze opportunity. That’s really the job.

What are some ways LISC has closed the opportunity gap?

LISC has provided financing for about 420,000 units of affordable housing. LISC has also financed the building of thousands of child care centers, charter schools and recreation centers in low-wealth communities all across the country.

And then LISC has provided consulting services, and money, and technical assistance to small-business owners, particularly small-business owners who are people of color, or women, or working in rural areas.

Last year alone, we invested $1.8 billion in community development projects all over the country.

How is the group helping entrepreneurs in light of COVID-19?

In this period, when businesses are really facing existential threat because of the pandemic and the recession, we’ve raised almost $100 million for grants to small businesses. Since March, we have been raising and deploying that money. And it’s really small grants to the tune of $5,000, $10,000, up to $25,000, with which businesses are paying utilities, paying for supplies, paying vendors, paying rent.

In addition to that, we’ve been making what are known as PPP loans—paycheck protection loans—that are forgivable loans to businesses. We’ve made about 50 million in loans that businesses can use to pay the wages of employees and those loans will be forgiven as long as they use the proceeds in the correct way.

And then the last piece is, we’ve been providing grant dollars to build and sustain an ecosystem around the businesses.

What are some things you learned from your state and federal government service?

In government, you have to make a lot of different parts work together in order to get stuff done. That’s the thing at LISC. When we go into a community trying to help become an agent of opportunity, we have to figure out how to work with local governments, philanthropic sources, the corporate sector, the community sector and residents in order to get projects done.

And so there’s this notion of being the conductor of an orchestra and my job is to help us make music.

You have the last word. What do you want to say?

We’re in an incredible moment of opportunity for the country right now. And that moment of opportunity is to rededicate ourselves to this concept that people who don’t look like me, people who don’t have my faith, people who don’t live in my same ZIP code, people who don’t share my gender, still and unquestionably and always share my humanity, right?

And the question is what all of us can do to really, really make advancements in that space.

I find that incredibly, incredibly inviting. And so that’s the work to be done, my friend.
Grand Reunions

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FOR THE CLASSES OF:
AND THE Lile Law Society
ALL ALUMNI ARE WELCOME.

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WITH ALUMNI AT A
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