



The Harvard Law RECORD

35 CENTS

VOLUME 113, No. 2

FRIDAY, SEPTEMBER 14, 2001

HLS grapples with tragedy, pauses to mourn

by Mike Wiser

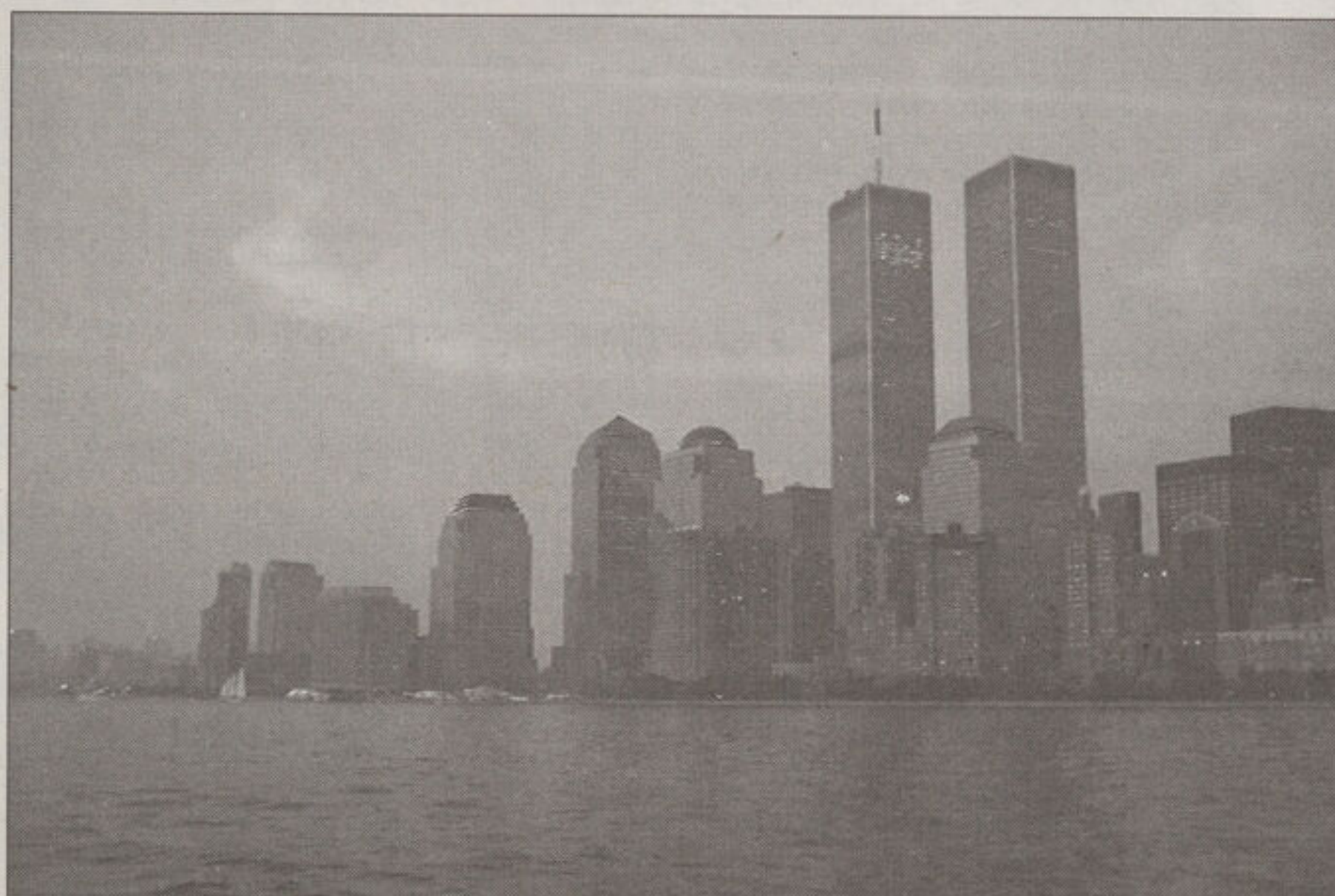
On Tuesday, September 9th at 8:45 a.m. American Airlines Flight 11 plowed into the north tower of the World Trade Center, beginning a hellish day that will be burned into the nation's memory. At Harvard Law School, classes already in progress continued, oblivious to the scenes occurring just 200 miles away. As morning classes ended and word spread, hundreds of students gathered in Harkness Commons to watch in horror as the Twin Towers tumbled to the ground.

By 10:45 a.m., 17 minutes after the north tower collapsed, Dean Robert Clark '72 and J.D. Dean Todd Rakoff '75 had decided to cancel classes and alerted the school by email.

Students, like others around the nation, reacted in their own ways. Some, almost immediately, started delivering announcements to the crowd gathered in the Hark about donating blood. Others just watched the images as they unfolded on the Hark's two large televisions. Within hours, T.J. Duane '02 delivered one-page copies of The Crimson carrying wire stories on the attack and information on how the University was responding.

Many students desperately tried to get in touch with relatives and friends who were in New York or supposed to be traveling at the time. The usual greeting of "hello" was replaced by a grim question, "Is everyone you know alright?" Unfortunately, the answer was often, "I don't know."

Dean Suzanne Richards recalls seeing students frustrated as mobile phone circuits were overwhelmed and students were unable to dial out. As the visible anxiety of students grew, the Dean of Students opened up telephones at her office, the Board of Student Advisors, and the Office for Student Life Counseling for students to use to contact rela-



All photos by Nilufer Shaikh/RECORD

The New York City skyline, above, at peace before Tuesday's tragedy. Below, the flag above Harkness Commons flies at half-mast Wednesday.

tives and friends.

Around 11:45 a.m., 20 minutes after United Airlines reported that Flight 93 had crashed in Pennsylvania, it was announced that a second television screening room had been opened in Hauser Hall and that Prof. Phil Heymann '60 would be speaking about the government's response to terrorism. Students, some hoping to escape from the images on television, followed Heymann into Pound where he discussed ways to prevent terrorism and the options for responding.

Later that evening, President Bush addressed the nation at 8:30 p.m. saying that "thousands of lives were suddenly ended by evil." Half an hour after the president's comments, a group of students gathered in Langdell North for an interfaith prayer service for the victims, their families and the nation.

The shock hadn't dissipated by

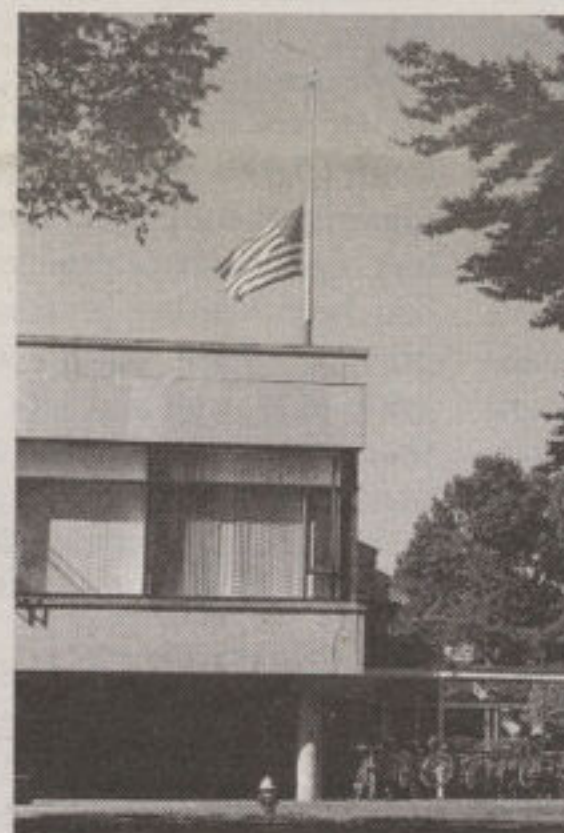
Wednesday when classes resumed. Class discussions were dominated by the attack, the response to it and, of course, the legal implications.

Pulling Together

For many students the only way to deal with a crisis like this is to do something. Some students have concentrated on organizing a blood drive.

"We feel like we can make a difference," Dean Richards said of those involved in organizing a blood drive.

Other students have decided to respond to the suffering that they saw on campus. The HL Central organization has set aside a fund that students can draw on for costs that arise out of dealing with the tragedy. The fund is designed to pick up costs for things like transportation to be with family. HL Central is also considering chartering busses to



New York City to reunite students with friends and relatives in their area. Students can also use the organization's website (www.hlcentral.com) and ride-board to see whether fellow students are traveling to New York and willing to take passengers.

Coping with the Trauma

Like the rest of the country, Harvard Law School was in shock — a shock that has still not worn off.

Mark Byers, the Director of the Office of Student Life Counseling, said that anyone can be affected by the trauma of what happened: students who lost friends or relatives, grew up in New York, worked in the World Trade Center or hoped to, or just watched the images on television.

"I have absolutely no idea how many people [were] affected," Dr. Byers said. "Partly because they don't know yet the extent of the casualties, and partly because people define loss in different ways. I think the first reaction is that if everyone you know is personally safe, then everything is okay. I think it only begins to hit you later that everyone has experienced a loss — a loss of innocence, a loss of hope, a loss of community."

While the school usually does not have to deal with the emotional impact of world events, Richards emphasized that "this seems certainly different than anything we've ever seen."

It may take a while for students to realize the impact of what happened.

"It takes a while for the penny to drop," Byers said. "I think the hidden losses take a while to develop. We're feeling our way along with everyone else."

Both Byers and Richards emphasized that the school has resources to help students deal with the trauma and that they are personally available to help students. In addition to the Office of Student Life Counseling, students can turn to the Dean of Students office and support provided by the University Health Services such as walk in counseling and crisis-management groups.

Please see REACTION, p. 2

CONTENTS

FORUM	2
CAREER GUIDE . . .	C1
NEWS ANALYSIS . .	3

SPECIAL
CAREER GUIDE
PULLOUT
INSIDE

Comfort and affirmation in the Ordinary

by Mark Byers

Director, Office of Student Life
Counseling

Large scale, traumatic events in which we have not been directly involved leave most of us in a nearly dissociated state. That dissociation serves a purpose. We have been saturated with news and repetitive images to the point of virtual victimization, and are overwhelmed with empathy while feeling powerless to participate or help. The sheer size and significance of this terrorist attack threatens to reduce our daily purposes and actions to the absurd. For a community that feels obligated to think a lot, the problem becomes what to think about. At a time when the rule of law is a paramount issue, law may seem nothing but anemic rules, inadequate in the face of so much bloodshed. It is hard to know how to carry on, although we do.

One of the great deprivations we suffer in

extreme events is a rootedness in the ordinary, and our "animal faith" in the significance of our ordinary actions. Yet, the impulse to do one's laundry, or the attempt to read a casebook, are the psyche's ways of keeping equi-

*There is a fine line
between denial and
immersion*

librium. However distracted and unreal those activities feel, "going through the motions" is critical to reaffirm our commitment to stable existence. We walk a fine line between denial and total immersion in tragedy, and the accompanying sense of unreality is the natural price we pay to keep our balance. Many of us will

feel like sleepwalkers in the coming weeks, and the feeling will be wholly normal. No need to fight it — it will wear off of its own accord. Where we can connect with reality, whether by giving blood or comforting a friend who is waiting for news of family, we will.

In time, this law school community will find a way to react and contribute consistent with its values. I don't refer to a bloodless intellectualization of deeply felt divisions. After all, many students have been personally touched by the world's ills and feel passionately about the issues that arise from this event.

For just this reason, each of us may make some contribution to what will surely be an agonizing discussion of an effective and just international response to this tragedy.

All of us in the Office of Student Life Counseling are available to meet with anyone who feels it might be helpful to process the feelings and thoughts that may arise in the coming weeks and months.

Dean Clark no sideshow

Members of the HLS Faculty defend Dean's record

As members of the HLS faculty, we were surprised and disappointed to read Arkadi Gerney's unfair attack on Dean Robert Clark in last week's RECORD. Future lawyers should understand the value of researching and understanding the facts *before* making accusations. In keeping with this ideal, we feel compelled to set the RECORD straight.

First, Mr. Gerney asserts that the faculty voted against a three-tiered grade reform proposal in a "close" vote that was "pushed through" during the School's Celebration of Black Alumni. This is inaccurate. It is not infrequent that a faculty meeting conflicts with another HLS event that demands the attendance of some faculty. In this case the turnout of the faculty for the meeting was unusually high and the vote on this issue was not particularly close. Of the 49 faculty members who attended the regularly scheduled meeting on September 22, 30 voted against the three-tiered grading system. However, this was not the death of grade reform as Mr. Gerney suggests. The faculty ultimately adopted a proposal to make grading more uniform across sections. This new approach will help address concerns about arbitrary grading.

Second, Mr. Gerney contends that the Strategic Plan does not focus on student life matters, but instead primarily addresses campus construction. This is entirely backwards. Not only is a significant portion of the Strategic Plan devoted to transforming the student experience at HLS, many of these "quality of life" proposals have been put into effect this month. This includes the smaller IL sections, the establishment of Law Colleges with corresponding Faculty Leaders, and the assurance that all first-year students will receive mid-semester feedback from their instructors. Conversely, the part of the Strategic Plan that examines campus space needs is perhaps the least developed and most "exploratory" section of the entire Plan. Nevertheless, the Strategic Plan envisions campus construction aimed precisely at addressing such student concerns as new athletic facilities, a student center, improved housing, and better facilities for

student organizations. These building projects, and others like them, are integral to the goal of improving the HLS student experience, an ambition that pervades the Strategic Plan.

Third, Mr. Gerney questions the Law School's commitment to public interest law and seems to argue that loan forgiveness (LIPP) has languished under Dean Clark's tenure. This charge is particularly bizarre since the Dean just recently expanded LIPP by removing income caps, eliminating the parental contribution formula, and rescinding the "law related" requirement for work in the academic, non-profit and public sectors. These changes went into effect on July 1, and we expect many more students and alumni to be eligible for LIPP as a result. This is the second year in a row that the Dean has liberalized the rules for receiving LIPP funding. Furthermore, the Law School's clinical program has grown dramatically under Dean Clark's leadership, including the establishment of the Hale & Dorr Legal Services Center in Jamaica Plain.

Finally, on the issue of women and minority faculty members, Mr. Gerney could not be more misinformed. Under Dean Clark's tenure, more women have

become members of the HLS faculty than in the entire 172 years prior to his appointment. When Dean Clark was appointed, there were only six women on the faculty. Today there are 16. These appointments have included Professors Desan, Gerken, Guinier, Halley, Jolls, Kagan, Ring, Schlanger, Slaughter, Steiker, Warren and White.

Meanwhile, minority representation on the faculty increased substantially during Dean Clark's tenure. Of the current nine minority faculty members, two (one who had been assistant professor and one who had been visiting professor of law from practice) were promoted to a tenured position during the Clark deanship, while four others were newly appointed to the faculty to either tenure track or tenured positions. While more can and should be done in this area, progress is clearly being made.

Professor Mary Ann Glendon
Professor Andrew Kaufman
Professor Daniel Meltzer
Professor Robert Mnookin
Professor Anne-Marie Slaughter
Professor Alvin Warren

Faculty cites numerous advances during Dean's tenure.

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"Congress shall make no law... abridging the freedom of speech, or of the press..."

— First Amendment, U.S. Constitution

REACTION

Continued from page 1

"If groups of students feel that services are needed, please contact us," Byers said. "We remain available. Knock on the door."

Dean Richards has already been dealing with students personally affected by the tragedy. She said that students can also go to her if their friends are dealing with tragedies in their lives, but none had come to her office for those reasons yet.

While the personal counseling is important, Dean Richards said that Harvard's real strength is the support that the law school community can provide to itself.

"I'm hopeful that we will draw together

as a community and that we will support each other as a community," she said.

Richards said that she would carefully monitor the campus to make sure that all students felt welcome. She also said that Harvard Law School was a well educated and open community.

The Dean of Students Office will also be trying to ensure that students feel safe on campus. While Dean Richards has left security arrangements up to the Harvard University Police Department, she said that she hoped students would talk to her if they felt unsafe.

Additional reporting by Meredith McKee.

Cult of capitalism deserves more than Ginn's short shrift

Cliff Ginn ("The Cult of the Free Market," Sept. 7) reads *Indiana Harbor Belt Railroad Co. v. American Cyanamid Co.*, 916 F.2d 1174 (7th Cir. 1990), and is appalled at Judge Posner's defense of negligence liability and his priceless dictum that "the inappropriate use to which land is being put in the Blue Island yard and neighborhood may be ... residential living." Are people outraged that you can be injured by toxic, flammable acrylonitrile and not recover because B was the wrong side of pL? Me, too. But what exactly does this have to do with "the cult of the free market"? Denying the injured party's right to recover because the injurer is important to the economy is perhaps something some law-and-economics scholars might do ... but it's not the mantra of a free-marketeer. Free-marketeers, after all, believe in the sanctity of property, and what greater property is there than one's body? Richard Epstein, definitely one of the high priests of this cult, if cult it is, has been arguing for strict liability on corrective-justice grounds for ages. See Epstein, "A Theory of Strict Liability," 2 J. Legal Stud. 151 (1973), or casebook (6th ed. 1995) at 154. When Posner is taken as the mouthpiece of the "free-market ideology," things have come to a bad pass indeed.

As for the causes of the Great Depression, which Cliff blames on "[l]aissez-faire capitalism," and of its end, which Cliff credits to the New Deal and military programs — this is a bit outside my expertise, but I'm told that the leading article here is Ben S. Bernanke, "The Macroeconomics of the Great Depression: A Comparative Approach," 27 J. Money, Credit, & Banking 1 (1995). Bernanke (along with the mainstream macroeconomics community, hardly a hotbed of conservative sentiment) blames the Depression mainly on monetary shocks — "deflation-induced financial crisis" and, interestingly, the failure of wages to drop to market-clearing levels. Bernanke discusses the French government's response to the Depression — agricultural import restrictions, minimum grain prices, cartelization of industry, and shortening of work weeks, to soften the blow of the Depression. "These measures (comparable to New Deal-era actions in the United

States)," Bernanke reports, "tended to block the downward adjustment of wages and prices" which would have ended the Depression.

So I'm not convinced that the Great Depression was a result of Mammon-worship. But what of this whole "cult" idea? Yes, the free market is a cult — not in the pejorative, dismissive sense, but in the sense of "minority faith." It's a deep-seated, fundamental belief in the sanctity of human liberty. And it imposes a harsh discipline on its adherents. First, it forces us to tolerate our neighbors, who may want to start up clubs excluding gays, paint their houses pink, hire smokers, buy foreign cars or demand a lot of money before letting us live in their apartments. And second, it prevents us from demanding the servitude of our neighbors, who may not particularly want to hire us, rent to us, buy our products or let us onto their property. As Rutherford B. Hayes, whose finger points deep into your soul from the top floor of Langdell, once put it, "The price of liberty is no free lunch."

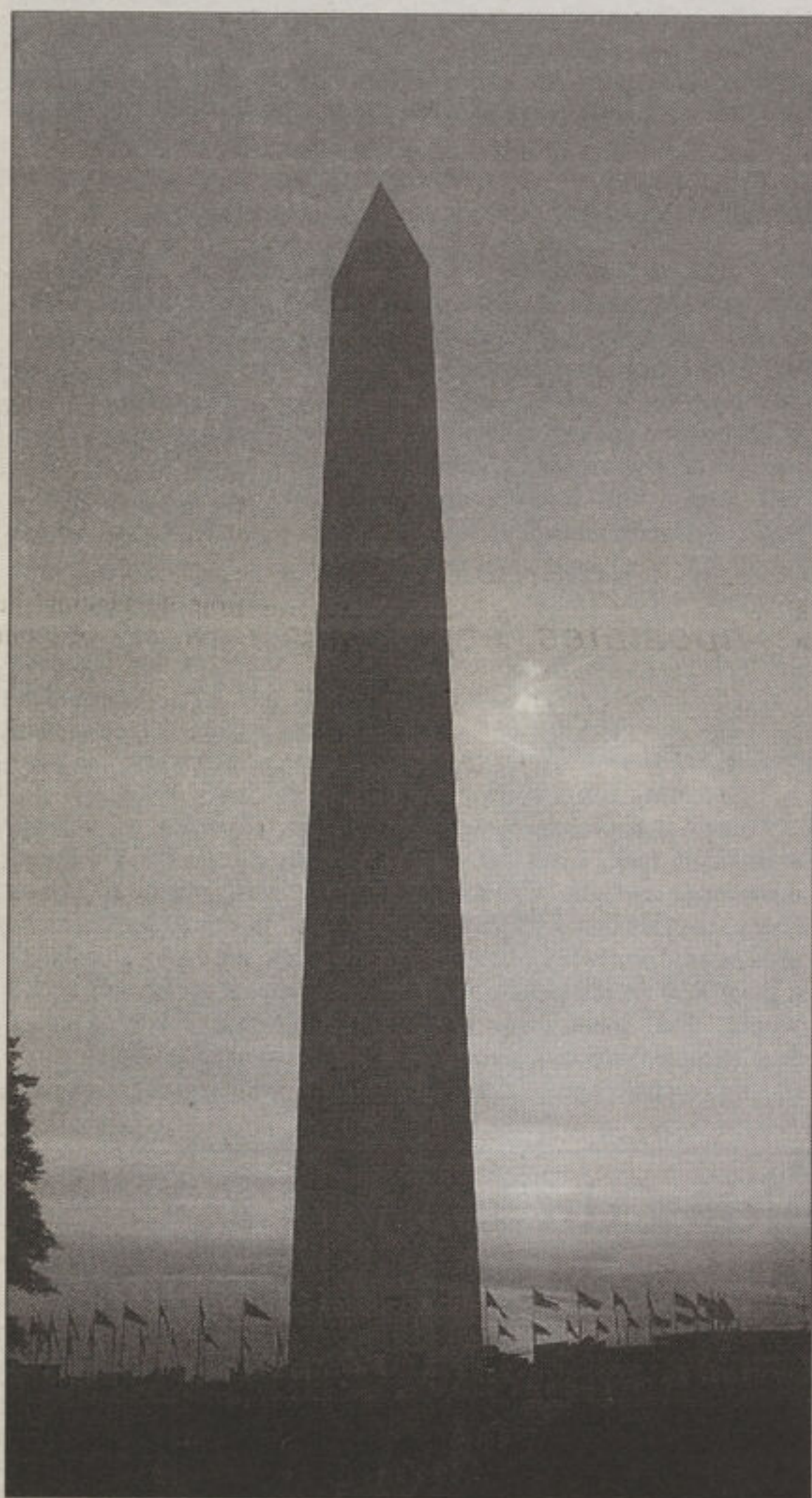
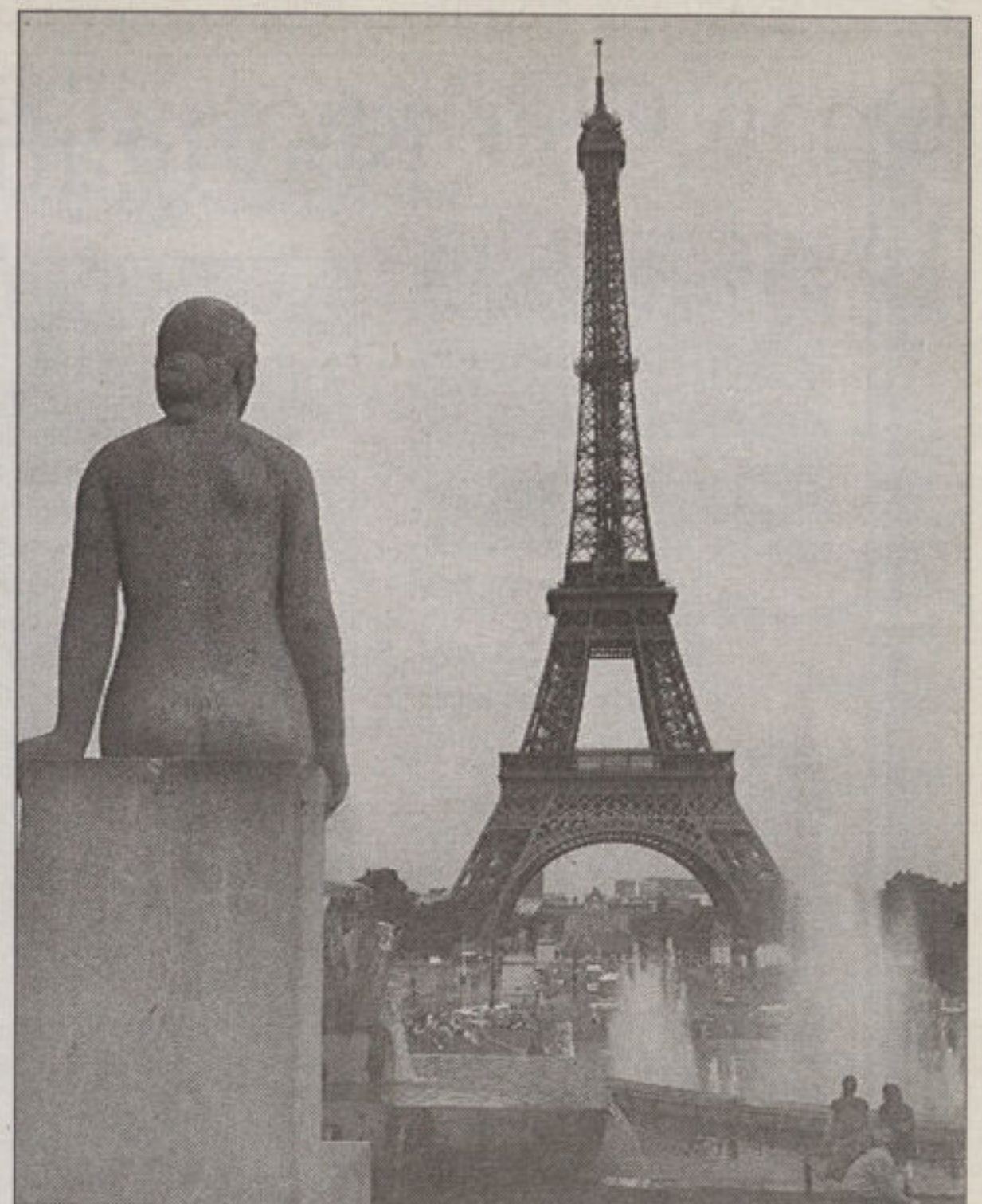
With commandments like these, small wonder our cult doesn't catch on. But beware of arguments that can be reduced to "The policies you advocate are wrong because they're not being followed now, and besides, lots of people don't agree with you." Perhaps, as Cliff tells us, pointing out the many subsidies to favored businesses (including federal drug testing and limited corporate tort liability), the U.S. doesn't really have a free-market economy. Perhaps Ronald Reagan failed to halt the growth of government, and perhaps he even added some programs of his own. Perhaps the beneficiaries weren't seen complaining; who can blame them? (See cato.org for free-market critiques of all of the preceding, as well as of the IMF and World Bank.) Perhaps imperialists the world over, no lovers of freedom, have often seen the opportunity to enslave and massacre their fellow men and steal their property, and have gleefully taken it. And perhaps the free-market banner can be wrongly carried in an unholy cause. All faiths have their apostates, especially the demanding ones. Since when does that make a belief system false?

Alexander "Sasha" Volokh '03
Sept. 11, 2001

Letters to the Editor may be sent via post or email to:

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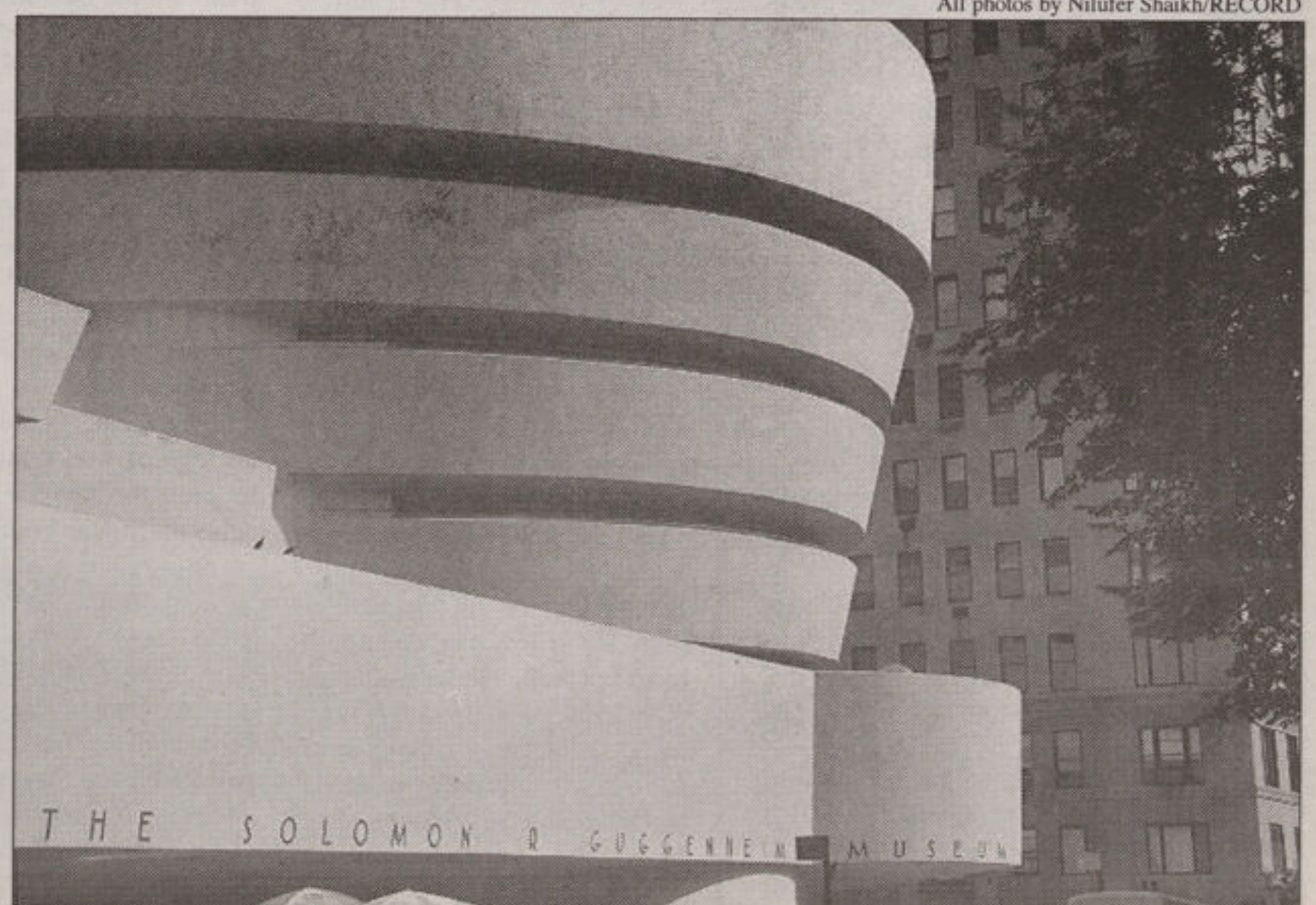


The RECORD Guide to the Career Search

CONTENTS

PRIVATE FIRMS	C2
CLERKSHIPS	C4
PUBLIC INTEREST	C6
GOVERNMENT	C7
LIFE IN BOSTON	C8
LIFE IN CALIFORNIA	C9
LIFE IN D.C.	C9
DRESSING FOR SUCCESS	C10
LIFE IN THE MIDWEST	C11

All photos by Nilufer Shaikh/RECORD



Navigating the firm invasion

■ *The vitals to getting into the private firm of your dreams*

by Marc Weber

Director, Office of Career Services

The suits are coming! The suits are coming! Within a week, a remarkable visual transformation will occur on campus. The Fall Recruitment Program, formally called "OCI" for On Campus Interviewing, is about to begin. Students are dressed for success as they embark on an odyssey to secure summer or post-graduate employment.

Rolling the Dice

Harvard Law School hosts the largest legal recruitment program in the country. Last October, we hosted more than 700 employers, and this year promises to be the same. With receptions and panels supplementing interview schedules, a mere glance at the Career Events Calendar on our web page at www.law.harvard.edu/ocs will satisfy even those students with the highest recruitment energy. Our guidelines maintain that all of our students, given their generally unsurpassed level of achievement and talent, should have an opportunity to interview with employers of their choice in Cambridge. Thus, we use a lottery system to assign interviews to students once the process of signing-up, or "bidding," has occurred. We do not allow employers to pre-screen their candidates for interviews. Rather, a lottery system randomly assigns students to the often-crowded interview schedule. Such a lack of control over your destiny may create an unfamiliar and uncomfortable sensation. If employers did not select you, how do you gauge your chances?

Facts and Figures

Statistics both inform and distort, depending on how you use them. Remember that the number of interviews that students in years past have chosen may reflect decisions that they would not have made in hindsight. In fact, most 3Ls will tell any 2L that they "over-interviewed" last fall. As a reference point, on average, nearly 540 2Ls interviewed with 24 to 26 employers each during the month of October. 3Ls, who are still either sorting out their options or charting a new course altogether, typically interview with nine to ten employers. A growing number of LL.M. students also roam the employer interview schedules each year. We do, however, co-host a separate LL.M. Job Fair in New York City at the end of January to assist both LL.Ms and employers to target one another.

Typically, students will get 70 percent of the interviews they request. The scheduling algorithm attempts to maximize students' top choices, taking care not to conflict with



Nilufer Shaikh/RECORD

Commuters on the Brooklyn Bridge during the summer of 2001.

academic class schedules, which are exported directly by the Registrar's Office into the Career Services system. Does it make sense to sign up for more interviews than you would like to receive? Not particularly. At a certain point, both the firms' and your schedules become full, and you can greatly complicate your life and those of your classmates by overbooking. Try to keep it simple and choose only those employers with whom you would seriously like to interview.

Employer Statistics

The Career Resource Center has a notebook of Recruitment Program statistics that records the number of students that bid on each employer, the number of interviews assigned, the number of callback offers extended and the number of

offers of employment extended. This information is also available on our website. These numbers, at the very least, will provide you with a statistical perspective of the popular employers and how they handle their callback interview process. What the numbers do not reveal, of course, are the factors that contributed to the firms' decisions: how the students interviewed, academic records, levels of achievement, previous experience and so forth. Although current reports have indicated that we are in the midst of an economic slowdown, we have not seen a reduction in the number of employers participating in the on-campus interview program. Thus, your destiny is much more in your control than you might think. It may help to know that virtually all students

who want a summer or post-graduate job succeed. Thus, a B- average does not spell disaster. Nor does failing to receive an offer from your summer job. It absolutely matters who you are and how you conduct yourself during the interviewing process. Hiring Attorneys look for a range of diverse talent and experience. Your ability to articulate your goals and describe your accomplishments has a great deal of impact on their decision to offer you a job.

Selecting Employers

Choosing employers presents a difficult task, even for the most astute and able researcher. Due to the fact that job satisfaction in any profession depends a great deal on the people with whom you work, the pre-employment selection process remains a challenge. A number

of resources exist, however, that can assist you in distinguishing between employers. The callback interview, during which an employer invites you to the office to meet and interview with a number of other attorneys, certainly offers a unique opportunity to assess firm culture and to get at least a sampling of personalities with whom you may later work. Unlike many of the research projects you have mastered in the past, however, researching employers probably necessitates the use of your gut instincts. In order to activate this critical instinct, or internal voice, you need to have engaged in some soul-searching. What are your strengths? What type of work setting do you most enjoy? What kind of work most satisfies you?

Many books, guides and peo-

Finding your field of dreams

by Marc Weber

Director, Office of Career Services

Without becoming too philosophical, as law students, you must regularly examine your motives for joining and staying in the profession. Your reasons for practicing 15 years after graduation are likely to be far different from those when you submitted your law school applications. I can assure you that you will fare well in the job market. I say that with confidence and scores of statistics to support it. Despite this knowledge that you will have ultimate success in the job market, the job search can be a stressful experience.

For the first time in your life, there is no prescribed path to follow on the short-term horizon. The segments of education from kindergarten through the end of law school are discrete, predictable and in some sense easily understood. Now the great adventure

begins. You don't know how long a career may last, what changes it will take, what will be achieved and what will be sacrificed. Simply stated, you don't have all the answers. The responsibility is yours to evaluate the options and reach an informed decision. Although this is new territory, it need not be alien. If you listen to your heart and mind, if you engage in a process of self-evaluation, and if you are willing to concede freely of your mistakes and imperfections, professional success will be considerably easier to achieve.

When you graduated from college, it was relatively easy to pick the top 10 or 15 law schools in the country. There is no such list of employers for practicing lawyers. The good news is that there are many extraordinary employers in cities large and small throughout the country. It would be the height of arrogance to concoct a list of the "best," although some legal

journals purport to do that. No one can decide for you what is the best route. You have to make that decision, be secure with it when it is made, but not reluctant to reappraise it from time to time. There are no grades in life and no Law Review to which to aspire. Instead, you make the assessment of what is important and you must also assess how well you are meeting your own standards.

You, not someone else, will have to decide many of the following tough issues:

- Where do I want to live?
- How hard do I want to work?
- Which comes first — job or family?
- Does my ambition or my ego require a certain level of prominence or prestige?
- Will I feel happier in a small firm, a large one, or does it matter at all?
- What is more important — prestige and income or family and time?

■ How important is community service and serving the less fortunate?

On issues of city, firm size, practice orientation and economics, determine what is important to you and why. Acknowledge that your interests will evolve, conflict and confuse you from time to time — and that they may be entirely different from those of your best friends or from what is "hot" this year. But don't be passive and allow a firm to dictate what should be of interest to you.

This is a very complex time emotionally and psychologically and you should not be concerned if all of this seems both confusing and a bit overwhelming. The good news is that when all is said and done it is difficult to make a mistake.

Welcome back. We are delighted to be here, and on behalf of the Career Services Staff, we look forward to working with you and helping you achieve your field of dreams.

ple can assist you with this absolutely critical self-assessment, without which your career research will feel peculiarly empty and unfulfilling. Engage in active discussion with your friends, family, professors and career service advisers. Take full advantage of the practicing attorneys who present career panels and programs at HLS in the fall. Use the Alumni Resource Network available in our office and the various mentor files offered through the Office of Public Interest Advising. Visit the Office of Student Life Counseling if you feel you would like more expert assistance with your self-assessment. Listen well, ask questions and remember to keep your balance. To assist you through this process, which at times appears overwhelming, please visit our new website at www.law.harvard.edu/ocs. It contains a wealth of information ranging from the logistics of the on-campus interviewing process, to marketing techniques to tips on job preparation and performance. Also consider these additional resources: The HLS Employer Directory; The National Association for Law Placement (NALP) Directory; Lexis; Westlaw; Information.com; law firm web sites, various publications, newspapers and files available in our Career Resource Center; your classmates' past Summer Job Evaluations, also available in our Career Resource Center; The Insider's Guide; and The Vault Reports summary of the "Top 100" American Law Firms (which is also available on our website). None of these sources, however, will tell you how to select employers. Beware of basing your selection on the perceived prestige of various law firms.

Also remember that many legal employers do not participate in our recruitment program, particularly smaller firms, which may not have the resources to make the trip to Cambridge, or even mid-sized, more remote employers who cannot compete for your interest with the bigger, better known firms. Seek such firms out. A good cover letter can achieve a lot, especially if you send it with a resume far enough in advance of Fly-Out Week to be able to schedule your own interviews with these employers.

You are at the beginning of your legal (or non-legal) career, and it is unreasonable to assume that you should know absolutely where you want to land. Gone are the days when your first job out of school is likely one that you will keep for many years. Relax a bit, trust your instincts, and remember that your career path is unique and individually carved by you, not by Vault Reports or *The American Lawyer* surveys, nor by the consensus of your classmates.

The Most Often Asked Question

"How many employers should I include on my list?" If OCS could fabricate a number and then package an "OCS Interviewing Strategy," our jobs would become much easier. However, each one of you is different, with different career goals, different geographical and personal considerations and varying levels of tolerance for interviewing. So, of course, there is no magic number. If you are only applying for interviews with the top 10 firms on the Vault Reports list, you may find yourself with a lot of competition and may want to diversify your list a bit. Alternatively, if you wanted to interview with the top 50 firms in your market, we would suggest you try to whittle your list of employers down to between 15 and 20. And remember, you are

free to apply directly to firms that you could not access through the lottery.

Take Thoughtful Risks

Take thoughtful risks — you have all done so in the past in other aspects of your lives. The safe route is well traveled but may or may not be the best way to find the right job for you. In many respects, law school training prepares you to be able to take risks. Through careful self-assessment, patient listening, honest decision-making, earnest research and effective communication with others, you will naturally take intelligent risks during your job search.

Most importantly, however, you will learn through the job search process to take charge of your own career. Take advantage of the abundant career advising resources at HLS. Remember that one of the advantages of coming to HLS is the generally unsurpassed quality, potential, character and sheer number of your classmates. Over time, they will become your most effective career network. Take time to form friendships, and learn to keep in touch with interesting acquaintances you make throughout your career exploration. Soon the suits will disappear. Campus life will return to normal and you will put the OCI experience behind you. But in the meantime, remember that at no other point in your career will you go about the business of finding a job in quite this way. So relax, listen, ask questions, be yourself and enjoy.

"If" (For Law Students)

If you can keep your head when all about you,
Are losing theirs in every interview,
If you can trust yourself when recruiters doubt you,
But make allowance for their doubting, too;
If you can wait and not be tired by waiting,
And though keen to please, refrain from lies;
Or being rated, don't worship rating,
You'll sound your best, yet be truly wise.

If you can dream of jobs, and not make jobs your master;
If you can think like a lawyer, and not make that your aim;
If you can meet the firm of Triumph and Disaster
And treat those two partners just the same;
If you can bear the words you've spoken
Twisted by interviewers to make a trap for fools,
Or watch the resume you crafted broken
To fit someone else's rules;

If you can make a heap of all your offers,
And once you've slept on it, risk one with the toss
Of a coin, and start again at the begin-

ning,
and if it's a mistake, write off your loss;
If you can call a headhunter, when your heart and sinew
Have served their turn and are nearly gone,
And so hold on when there is nothing in you
Until the time comes to say at last — "So long!"

If you can work for clients and keep your virtue,
Or lunch with partners — nor lose the common touch,
If inflated egos cannot hurt you,
If all assignments count with you, but none too much;
If you can fill the unforgiving minute
With 60 seconds worth of billing, yet have some fun,
And have a life and love all who share in it,
You'll have fought the odds and won!
— Mark Byers (With apologies to Rudyard Kipling!)

The Office of Student Life Counseling provides counseling services for all law students. The office is open from 9 a.m. to 5 p.m. weekdays. Call 495-2967 for an appointment.

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Negotiating the clerkship maze

by Kristin Davis and
Kirsten Soldberg

A judicial clerkship is an excellent foundation for any type of legal career. A clerkship provides the unique opportunity to work as basically an assistant judge (although purely behind-the-scenes), typically at the beginning of a legal career. Clerks generally serve for a one-year fixed term, although some judges hire clerks for two-year terms. Regardless of the type of court or judge, virtually all judicial clerkships involve an extensive amount of legal research and writing. Therefore, before you apply, you should be certain that you are interested in pursuing a position that consists primarily of these tasks.

Reasons to Clerk

There are many reasons why people choose to clerk. Overall, a judicial clerkship allows you to view and participate in advocacy from the perspective of a judge. Because of the experience, training, and connections clerks gain, a clerkship is a credential valued highly by law firms, public interest organizations, law school faculty recruitment committees, government agencies, corporations and other employers.

Duties

The duties of a judicial clerk vary depending on the judge and the type of court. However, typical tasks include reviewing pleadings and briefs, conducting legal research, writing memoranda and draft opinions, editing, proofreading, providing oral briefings and observing court proceedings. The position also may include administrative duties such as maintaining the chambers' library, assembling documents, and assisting with trials, oral arguments and other court proceedings.

Timing

Most judges conduct their hiring for clerkships approximately two school years in advance. Thus, most law students apply sometime in their second year of law school for clerkships that begin immediately after they graduate. Some law students apply in their third year of law school for clerkships that begin one year after they graduate. (These students plan to spend the year doing a fellowship, working at firm, etc.) Some graduates enter the regular hiring cycle because they want to use a clerkship as a transition from one job to another or as a sabbatical two years later.

Within each regular hiring cycle, the timing for when during the year judges will start accepting applications and arranging interviews changes from year to year. The cycle last year started in early October. This year, the cycle is starting even earlier. For the most current information, please consult our website, our messages to the email listservs we maintain, and the Federal Law Clerk Information System ("FLCIS") (described below).

Not all clerkships are filled through the regular hiring cycle. Some judges prefer to hire only one year in advance so that applicants have more developed records. Some judges develop openings unexpectedly when, for example, a person previously hired becomes ill or has an extreme change in personal circumstances.

Self-Assessment

Before you begin the clerkship application process, you should spend some time thinking about the type of clerkship you would like. Consider factors such as your ultimate career goals (e.g., civil litigation, criminal prosecution or defense, appellate practice, academia) and where you hope to practice eventually. Also consider the differing clerkship experiences in each court and which best fit your personality and interests (e.g., an appellate court involving intensive research and writing versus a trial court involving contact with attorneys and litigants, factual issues, juries and bench proceedings).

You also should think about the type of

Courts

Opportunities to clerk exist at a broad range of state and federal courts. In 2000, HLS graduates served as law clerks in the following courts:

United States Supreme Court	4
United States Court of Appeals	55
United States District Courts	69
Other Federal Courts	4
State Supreme Courts	14
Other State Supreme Courts	3
Other/Foreign Courts	5

person for whom you would like to work, because the working relationship between judge and clerk tends to be close. Research the judges to whom you are thinking of applying. If you do not research judges first, you may be placed in an uncomfortable and awkward position if you ultimately receive an offer from a judge for whom you later decide you do not wish to work. This is particularly true because, unlike most employers, judges frequently require you to act upon an offer quickly — often on the spot or within one or two days.

Try to be flexible and open-minded concerning the judges, types of courts and jurisdictions to which you apply. You initially may feel swept up in the application process and compelled to apply only to highly "prestigious" courts and judges. However, judges with reputations for being respected jurists and dedicated mentors can be found at every level and in every jurisdiction. Additionally, the type of work at one level of court may be more directly relevant to the work you want to do after your clerkship than the type of work at another, more "prestigious" level. Furthermore, being willing to consider a clerkship in cities other than the most popular ones (D.C., New York, Boston, San Francisco, Los Angeles or Chicago), can dramatically improve your chance of getting a good clerkship at any desired level.

Grades

Many clerkship applicants ask for predictions about their chances of getting any clerkship or a certain clerkship based on their grades. We certainly understand this type of request, and we sympathize with the desire for information behind it. Unfortunately, there just is no concrete information to provide to clerkship applicants about grades.

We suggest that you consider grades as only one way to distinguish yourself among other clerkship applicants. If you have all As, for example, your application may get attention based on grades alone. But if you have more average grades, your application may get attention based on the Harvard name, strong recommendations, and/or (for at least one judge) an interest in quilting. If you are interested in clerking, we encourage you to pursue that interest, choose courts and judges carefully based on your best guesses about your chances, and see what happens.

Researching Judges

One of the most difficult steps in the clerkship application process is finalizing a list of judges to whom you wish to apply. You should conduct enough research to eliminate any judges for whom you would not want to work, because in the later interview and offer stages, etiquette dictates that you accept any interview or offer you receive. (Limited exceptions may apply, but only after you have discussed the situation individually with an OCS clerkship advisor.)

Many students ask us for guidance about the number of judges to whom they should apply. Unfortunately, there is no magic number that will guarantee a clerkship. We have encountered students who have applied to fewer than ten judges (based, for example, on a priority to be in a particular small city even without a clerkship) and to as many as 100 judges (based on a priority to get any clerkship, no matter where the clerkship might be).

Anecdotally, many students have fallen in the 50 to 60 range.

Researching Available Positions

Traditionally, the clerkship hiring process — at least during regular cycles — has not included announcements about specific positions. Instead, potential applicants have been expected merely to exercise due diligence in researching whether particular judges hire clerks regularly. Without much information available for applicants to use in their research, judges have been flooded with applications even when they had no available positions.

With the goal of filling this gap of information, clerkship advisors at several law schools (including HLS) have worked in coordination with the Administrative Office of the U.S. Courts to develop a new system through which federal judges can announce available positions. That system is called the Federal Law Clerk Information System, and it is accessible through the website for the federal courts as www.uscourts.gov. It is far from perfect, but potential applicants should use it as much as possible to minimize pointless applications and abide by any judges' unique preferences. Students and graduates interested in off-cycle opportunities may find it especially useful.

Unfortunately, there is not yet a comparable system for state courts, mainly because state courts have no overarching administrative body. However, Vermont Law School publishes the *Guide to State Judicial Clerkship Procedures* every year, which can be helpful. It is available in hard copy in OCS.

Some judges contact us directly to announce specific clerkship openings. We encourage them to list such openings on our website. For now, we are continuing our tradition of distributing by email any announcements we receive about openings. We also are continuing for now to post copies of any announcements about openings on a bulletin board outside OCS.

Application Package

Generally, you apply to each judge individually and your application consists of a cover letter, resume, law school (and sometimes undergraduate) transcript, writing sample and letters of recommendation. The cover letter and letters of recommendation involve some complicated logistics because they should be addressed individually to each judge. The most efficient way to produce this result is to use our database to create a datafile of judges' contact information and then to use the mail merge function to input this data into generic letters. Detailed instructions about this process are provided on our website.

The Interview

The interview is of the utmost importance in the clerkship selection process. Scheduling clerkship interviews can be particularly tricky because many judges hire clerks on a rolling basis, and applicants are expected to pay their own travel expenses. Once you send applications, you should be ready to interview at the convenience of the judge, with potentially as little as 24 hours' notice.

Offers

The rules governing the offer and acceptance of a judicial clerkship differ dramatically from those governing an offer

from a law firm or other legal employer. The main difference is that judges are not as patient as other employers. Some judges will expect a response on the spot. Others may give you more time — but often no more than 24 hours — in which to consider the offer and make your decision. Judges are accustomed to deference and assume that you would not have applied for a clerkship in their chambers if you were not prepared to accept an offer on the spot.

U.S. Supreme Court Clerkships

Practically speaking, a clerkship at another court — almost always a federal circuit court of appeals, but very occasionally a federal district court or state supreme court — is a prerequisite for a clerkship at the Supreme Court. Generally, the justices hire students in their third year of law school (or during their clerkships, depending on the individual justice's timing guidelines) to begin clerking at the Supreme Court following the completion of their lower court clerkships. However, you need not be a current third-year student or clerk to apply. The justices increasingly are considering applicants who have a year or two of practical work experience either before or after their initial clerkships.

The justices' timing guidelines with respect to interviewing and hiring are quite wide-ranging. For the October Term 2003 (or "OT 2003" in Supreme Court lingo), the earliest justices (Scalia and Ginsberg) may secure at least one clerk during December of 2001, whereas the latest justice (Souter) may wait until March of 2003 to complete his hiring. In order not to miss any opportunities, plan to send all your applications at the same time by the end of October or beginning of November, 2001. Then if you develop more information that you think would be relevant to your applications, send it as a supplement. Because of the range in hiring timing, you may have to wait for as long as 18 months with the hope of receiving a favorable response.

Sanity

Please try to maintain your sanity throughout the clerkship application process by remembering that the process is not objective and often can be random and chaotic. Judges do not have a common checklist and ranking system for candidates. While one judge may value law school reputation and grades above all else, another judge, even on the same court, may choose a friend of the family, a fellow quilter or the interviewee with the best demonstrated sense of humor. The second judge even may wind up with a better clerk!

Before you start the process of applying, be willing to accept the possible result that you will not get a clerkship and the reality that such a result is not a reflection on your ability. However, if you are not successful the first time around but you continue to be interested in clerking, do not give up! Off-cycle opportunities often arise, and/or you can re-apply broadly in a later year.

Help from OCS

The Office of Career Services is here to facilitate your search for a judicial clerkship by:

- Providing individual counseling sessions with professional clerkship advisors (who have completed judicial clerkships themselves) and peer advisors (who have secured judicial clerkships for after graduation);
- Providing a variety of formal and informal panel discussions, meetings and other sessions relating to judicial clerkships and the application process;
- Maintaining files on individual judges and courts;
- Distributing announcements to email listservs for each clerkship term about timing guidelines, specific clerkship openings and other useful information.

Please see *CLERKS*, p. C11

Clerking: View from the trenches

by Sarah McGonigle

Reality check: If you haven't applied for clerkships already, you are behind. Sorry, but it's true. I'm not saying it's time to panic. But despite what the HLS clerkship interview tracking site says, Selya, Lynch, Boudin, Reinhardt, Tattle, Garland, Williams, Calabresi, Ginsburg, Cabranes, O'Scannlain, Kozinski and Ebel, are already interviewing and most have hired HLS clerks already for the 2003-2004 term.

I would never disparage the job the clerkship office does in preparing us HLS students for clerkships. But I wish going into my 2L year that I had been a little more savvy about the clerkship process — known the questions to ask and the real, no-holds-barred truth about the process. I wanted some totally straight answers to questions like: where should I look, what are my chances and what is the process really like. Here is what I have observed, having obtained a clerkship and watched dozens of friends seek, win and lose clerkships in district and appellate courts.

First of all, grades: To be blunt, they should be good — at or above the A-minus range to be in contention for "top" clerkships such as those listed above. People at the top of my 1L class (discernibly above the A-minus range) got plenty of calls. For district or so-called "lesser" clerkships, grades around or above a B-plus may suffice. In all, good grades can help you, and not-so-good grades will hurt you, but grades are not everything.

Two factors also in play are age and experience. People that came straight to HLS from college got fewer calls from judges than did students who took time off, in my experience. And the relevance of a student's experience matters, too. If you want a clerkship in the Second Circuit, banking, consulting or accounting experience will help, while the D.C. Circuit typically favors administrative or governmental experience.

Though it may not be surprising that experience plays a role in clerkship decisions, what may be surprising is just how large a role it plays. I know young applicants who failed to get appellate interviews even though they had stellar grades. Of course, some of my friends with very prestigious appellate clerkships are 23 years old, straight out of college. But it also seems clear that some judges won't even consider applicants who didn't do something fabulous with years 22 through 25, before law school. Sorry, but I get paid to tell the truth.

Third, I must stress that interviews matter. If you get an interview, the job is probably yours to lose. But you can lose. Clerkships, unlike law firm jobs, are not won simply because you can successfully refrain from drooling or telling off-color jokes for an hour. Be prepared to analyze anything from *Roe v. Wade* to your senior thesis.

Finally, connections matter — a lot. Judges call other judges, your employers and professors, even those you did not like or use as references; likewise, current clerks call their friends to get the scoop on applicants, though you may not even know that your HLS peer is connected to any clerk. I know people who have been rude in some context wholly unrelated to clerkships — and word has filtered back at least to curious clerks that the applicant is unpleasant. Remember that the opposite is also very true, though: Lukewarm acquaintances in chambers go to bat for people they knew back when. And, in my experience, people around HLS help one another to an amazing degree, even based on tenuous connections.

Also remember that professors can help (or hurt) a lot. For example, the lore around the law school — outside my personal experience, however — is that Tribe writes three letters of recommendation per year for the Supreme Court —

and that a surprising number of those recommended make the cut. Hmmm.

As for process — send your resume and grades out as soon as possible; line up letters of recommendation and writing samples later if you already haven't done so. But please don't take this advice and then blame me when Judge X calls you 20 hours after you put the application in the mailbox, and you have no idea what to tell her. In other words, be prepared before you do anything. You cannot put off actually thinking about where to clerk until the moment of that first call, because your tongue will be

tied, and you may be asked questions like, "How serious are you about this application? Because I'm prepared to offer you a job." Things happen quickly.

When you start getting calls, make sure to schedule interviews as close together as possible and be prepared for anything. I know someone who had a series of interviews set up and one judge said he'd make her an offer, provided that she would accept it. She said she couldn't accept until she had fulfilled her obligation to interview with others, so the judge refused to extend the offer. Aside from such unre-

Connections matter — a lot.



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The Road Less Taken

by Alexa Shabecoff

Director, OPIA

Like everyone else, we at the Office of Public Interest Advising (OPIA) have found it hard to focus on much beyond the tragic events of this week. However, we do have some strongly held beliefs about the importance of helping our students and alums find the right career paths. So we have tried to take the time to re-look at what we have written in the past and make sure we are addressing what we think are some of the issues that the student body here faces.

At OPIA, we believe that practicing law is about more than making a living or representing clients competently and ethically. We believe that what makes law a profession, rather than simply an occupation, is a fundamental commitment to an equitable and fair legal system. A just system should be made accessible to both rich and poor, to those holding political power and to those profoundly marginalized; it should consider both those issues embraced and those rejected by the majority. We also believe that different jobs satisfy different people depending on their unique values, personalities and work styles. We have found that no matter what your ideals are, if you are not in the right job, you will not be happy.

These beliefs imbue our work at OPIA with a deep sense of mission. These ideals make it extremely gratifying to work with those of you who will be the public interest leaders of your generation, as well as those of you who will apply your public service ethos to making a difference by doing *pro bono* work in the private sector. We strive to help you articulate and pursue a professional sense of self that will enable you to achieve a confluence between your professional and personal lives. Most importantly, we hope that we can help you find the kind of work you will find both enjoyable and fulfilling.

We know that some of you have come here with a good idea of what you want to do with your law degree. But, after thousands of conversations with HLS students, we have realized that many of you may have ended up in law school because you lack a strong sense of what you want to do for a living. Having left college without specific training, and knowing that further education is highly valued, you find comfort in a place that will not only give you more time to prepare for the "real world" but will also give you skills that can be applied in numerous settings.

Yet, despite the many doors that a law degree from HLS is supposed to open, many start to see only one option: going into large law firms. There are some reasons that many of you start to narrow your vision of what you can do with a law degree:

- huge debt loads which make you wonder if you can afford to live on anything less than what the big firms pay;
- the somewhat more challenging nature of pursuing other paths, including but not limited to the public market;
- the pressure of watching



Nilifur Shaikh/RECORD

your classmates gravitate to big firms; and

- the added pressure of family or the expectations of others.

All of these factors can create a sense of conflict about the type of work you want to pursue with your law degree. Caught up in the "fall insanity" at HLS, some of you do not manage to find the time to reflect about whether you should go to a small firm, a business, a plaintiff's firm, government work or the nonprofit sector. We urge you to think about your aspirations more carefully and find a job you love.

Clarify a Vision Behind Your Work

Take time to reflect thoughtfully on what you want to achieve professionally. One alum shared this advice: "Think first about what you like to do — not just what you're good at, what you think you should do, or what's the path of least resistance." Most people who love their work have found jobs involving issues about which they feel passionate, as opposed to work at which they may excel but dislike. In discovering what it is that you really want to do, recognize that your interests do not always coincide with your talents. To find work that suits you uniquely, you need to confront questions regarding what you love to do and what really matters to you in your work. Below we share some of the issues you might want to think about while deciding what you want to do this summer and with your law degree when you graduate.

Decide: Whose Life is This Anyway?

As you begin to think about what direction you want your career to take, be sure to make your own values and passions your touchstones. Avoid being swayed by other people's expectations of you. For example, if your family expects you to save the world through large law reform cases — as mine did way back when I was in law school — but you'd rather work with one client at a time, follow your own preferences. This can be especially hard for those who go to top tier law schools because often we have grown accustomed to judging our achievements in terms of traditional measures of success such as high grades, big salary and public praise. Until you are able to focus on what you want and what you truly consider important, your efforts at finding meaningful work will most likely be thwarted.

Evaluate Your Ambitions and Values

You alone can decide what will make you happy. Figure out what you find important and satisfying:

- What have you liked and disliked from your prior life experiences?
- What issues do you like to read about?
- What volunteer work do you gravitate towards?
- What academic subjects excite you?

Sort out what motivates you and stimulates you. Be careful to distinguish between what you truly care about and what you believe is marketable; they may not overlap. Allowing yourself to be swayed by the latter without considering the former may result in making an expedient, but unsatisfying, career decision.

Evaluate the Nature of the Work and Work Environment That Fits You

Happy lawyers tell us that in addition to working on issues that engage them, the nature of the work and the workplace setting may be critical to finding the right fit. Drawing upon your prior work, volunteer and academic experiences, think about some of the following questions:

- Do you love to research and write?
- Do you enjoy frequent contact with people? Must it be with clients or are colleagues enough?
- Are you happier juggling multiple short-term projects or spending large quantities of time digging into a few long-term assignments?
- Do you embrace responsibility and autonomy or do you prefer close oversight and a gradual increase in responsibility?
- Do you need to see the immediate results of your work, or are you satisfied with the potential for eventual large impact?
- Do you seek formal training, or will you be satisfied by on-the-job training combined with some supervision and/or mentoring?
- Do you want a formal organized atmosphere, or are you happier with a casual, non-hierarchical setting?
- How important is it for the office you work in to have a great deal of resources at its disposal?
- Do you have strong needs for political/ideological compatibility?
- Do you need to have some political activism in your job?

Learn About What Lawyers Do

Law school provides you with an unparalleled opportunity to explore different options within (and even outside) the legal profession. If you are interested in pursuing any type of public interest or government work, you can start by picking up a copy of our *Public Interest Job Search Guide* and brainstorming with our attorney advisers and our visiting Wasserstein Fellows. Our attorney advisers are career counselors with backgrounds in a variety of public service legal careers. Our Visiting Wasserstein Fellows can share insights about the public interest positions they have held. To get a flavor of practice settings without even leaving your dorm room or apartment, you can read narratives we have collected from alumni/ae in our *Public Interest Job Search Guide*, in both editions of *Alumni/ae in Action* and in

Outstanding Lawyers in Action, a compilation of narratives written by our Wasserstein Fellows.

You can read about specific fields by picking up one of our specialty guides or printing it from our website: www.law.harvard.edu/Students/opia. You can attend panels like the World of Law series and hear from public interest lawyers about what their work entails, what they like and dislike about their jobs, and how you can pursue similar work if you are interested. You can talk to the hundreds of alumni/ae doing public service work who have agreed to serve as mentors to students and who will often be delighted to talk to you about their work. You can also talk to the faculty in our Faculty Public Interest Directory who have agreed to advise students in their area of expertise.

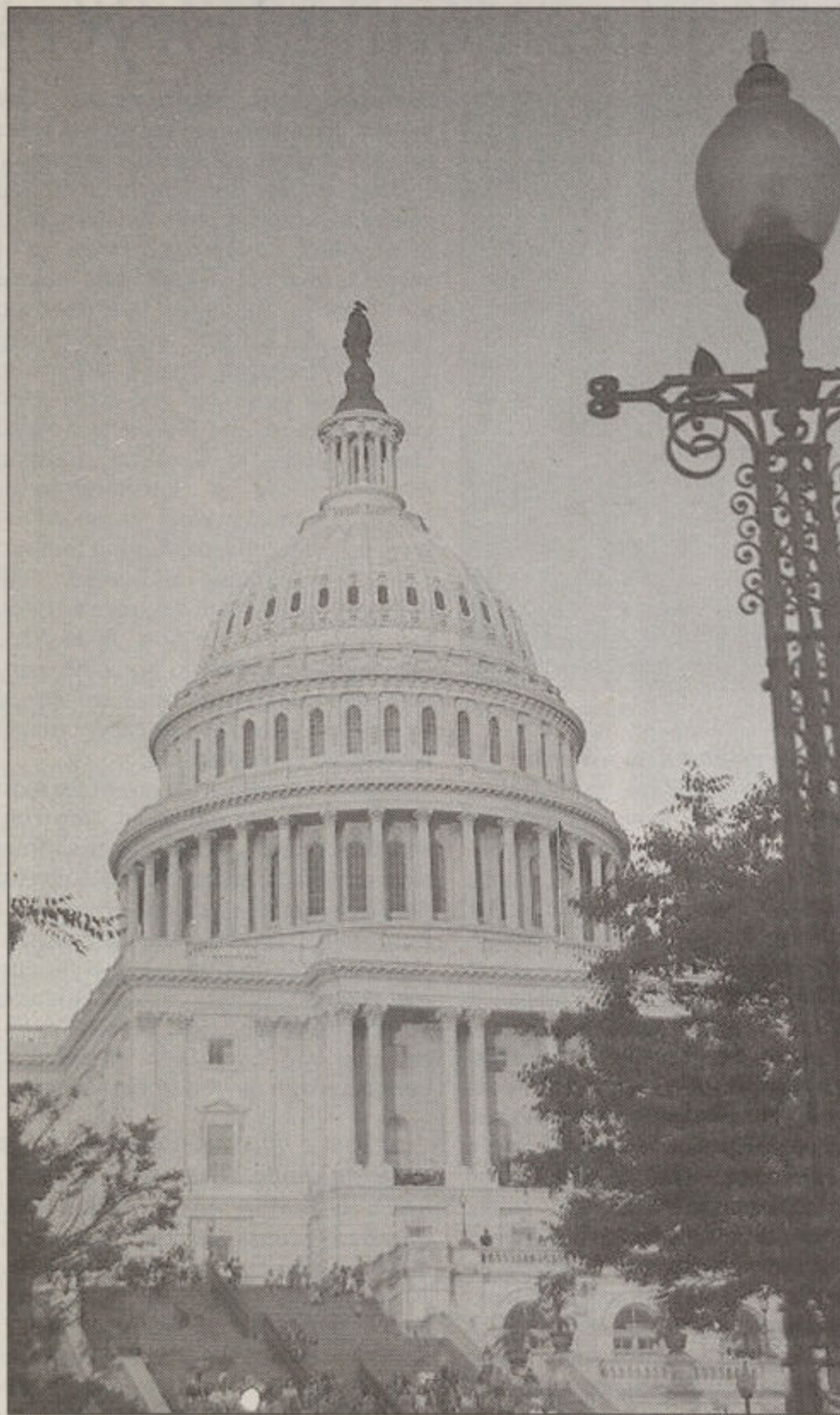
Create a Game Plan

Try out the kind of work that seems appealing to you. You will never again have such a great opportunity to experiment, so seize it! Naturally, the summers offer the biggest chunk of time for sampling different jobs. But do not underestimate the value of work done through a student group, a volunteer job off-campus, or, especially, a clinical placement, to help you discover what you enjoy in the practice of law. Working for a professor on issues that interest you can help you learn more about those issues. And if you already have a very good sense of what you want to do when you graduate, law school affords you the chance to confirm or reevaluate your expectations, to build a track record that will make you an attractive candidate for the jobs you choose to pursue, and to make contacts in your chosen field.

Figure Out What Money Means to Your Job Choice

Determine how much money you need to afford the quality of life that makes you happy. Different people need different kinds of amenities in order to be satisfied. Most public interest lawyers aren't "poor." Early in our careers, we manage to pay the rent, afford a suitable wardrobe, and have money left over for dinner and a movie. Later in life, most of us manage mortgages on nice homes and can afford new cars. We can provide a high quality of life for our children, giving them ballet and karate lessons, and taking them on the occasional exotic vacation. Almost every public interest lawyer will tell you that any financial trade-off they made was well worth it. Whether you will be one of the people who can be a public interest lawyer (or even a lawyer at a small private law firm that does not pay as much as the big firms) and live well depends on your own financial situa-

Please see OPIA, p. C11



Nilifur Shaikh/RECORD

Splitting with the DOJ casts new light on lush firm life

by Clare Connors

Setting aside the political partisanship and recent electoral history, the day Attorney General John Ashcroft hosted the annual summer DOJ intern event, college undergraduates, law clerks and other professional degree candidates from divisions as varied as Commercial Litigation, Computer Crimes, Environmental and Natural Resources, the FBI and INS thronged into the inner halls of Main Justice, filling every fold-up chair in the Grand Hall. It was the first and only time the DOJ interns of 2001 had gathered together en masse, and the ethnic and cultural diversity was at least as rich as the opportunities they were each pursuing in federal government. AG Ashcroft spoke for a few minutes; he expressed his thanks for the work we had done and ended with a passionate, if well-worn, plug for a career in public service. He responded to questions, and then disappeared behind the cathedral of blue velvet curtains separating his high-level world from that of the next generation.

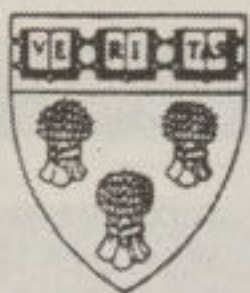
For those of us who had split our summers with private-sector firms, the contrast was pronounced. There was no fanfare, no exquisitely catered food or drink. The agenda was not sprinkled with an enticing array of name-branded goodies, and the cost of admission was the hectic entrance through the usual security checkpoints.

Ah ... government. As someone who had worked in city government for three years before entering law school, I had developed a strong belief in the ability of government to undertake important and crucial tasks. For me, the DOJ Summer Honors program was a no-brainer option, and I was eager to experience the junction of law and public service.

My clerkship reaffirmed my perception of

government. The training and experience gained as a government employee are unique products of the trial-by-fire atmosphere and the particular type of mentorship offered in the public sector. The brief encounter with my fellow colleagues in the Hall of Justice made me even more excited about the prospects of public service. One could not help but feel empowered by the faces and chatter filling up the room — interesting, idealistic and very bright people, each of whom had forgone the cherries of the market and each of whom aimed to fulfill their governmental roles with intelligence and zeal.

This is not to say that all good and exciting work gets done by public servants. However, life in a private firm and the life of one pursuing the aims of the United States government differ in substantial ways. For example, the word "green" in the private sector invokes comforting notions of extinguishing one's law school debt, and of having the wherewithal to choose and create a lifestyle of one's own. In the public sector, "green" is used more frequently to describe the recently admitted-to-practice trial attorney doing her third trial proceeding in her first three months as a prosecutor. Both experiences offer the opportunity to interact and work with smart, dedicated people and the skills that come with being a professional in the service of clients are to some extent transferable between the public and private sectors. Inevitably, the grounds for comparison devolve into a question so personal that the existing roadmaps prove inadequate. One can only know by doing, and splitting the summer allowed me to move the decision-making process from the rational consideration of pros and cons to a truly gut feeling about what, at this time in my life, would be the best road to travel.



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Despite slowdown, Boston welcomes young lawyers

by Brion Bickerton

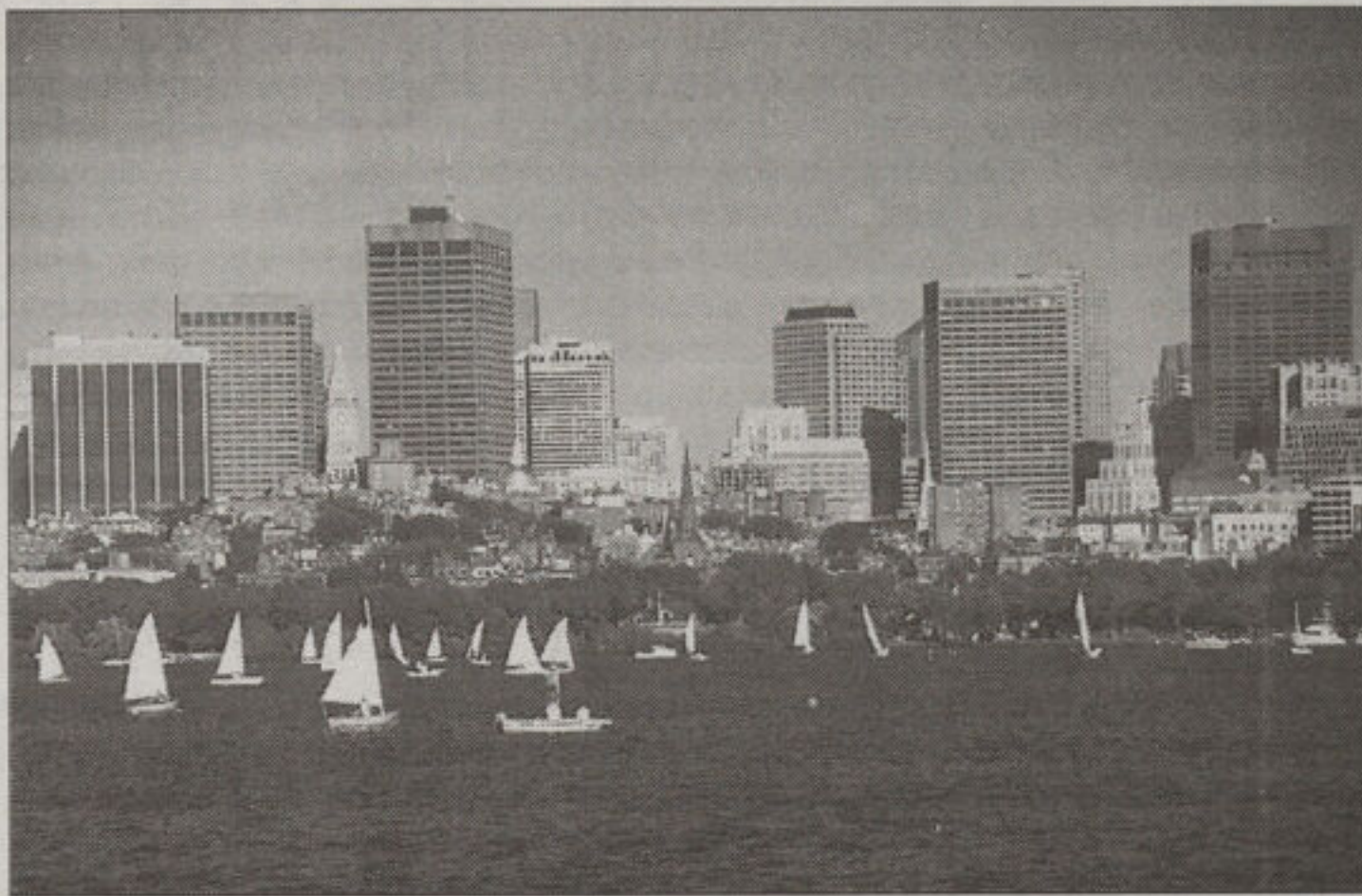
Why stay in Boston? Although the high-tech boom has ended, Boston remains endowed with a wonderfully diverse industry base. With strengths in software, Internet, telecommunications, biotechnology, biomedical, venture capital, investment management, mutual fund, health care, defense and education industries, Boston is a balanced economic market.

But what about the future? Will Boston provide opportunity five years from now when your career begins to take off?

A Washington, D.C., think tank — the Progressive Policy Institute — recently ranked the 50 states by their progress toward becoming "new economy" centers. Such places are where ideas, technology and innovation will be key factors in determining the success of a region's economy in the global market. Massachusetts was rated best in the region for having taken the lead in moving to this "new economy." Massachusetts recently climbed into the No. 1 spot for biotechnology hubs in the country.

The strength of the economy had an obvious impact on the Boston legal market. Hiring at law firms boomed until the beginning of 1991. Since then, the firms have slammed the brakes on and backed off of hiring.

The most immediate impact is on the market for lateral hires — few firms are looking for experienced attorneys. Firms will be reducing their hiring numbers for entry-level positions and summer hires. While offers for permanent employment were made to a very high percentage rate of summer associates this summer (usually in the 90 percent range), the number of aggregate offers is in most instances measurably lower from prior years. However the current expectation is that the downturn in the Boston market will



Nilifur Shaikh/RECORD

be relatively short-lived and that the diversity of the industry base will blunt the full impact of the nationwide slowdown. The strength of the biotech and life-science industries is testimony to that diversity. If you can establish a toehold in the Boston market, long term professional growth potential should be excellent.

Last year, salaries took a quantum leap at the major Boston firms. Base salaries at the top 10 firms range between \$125,00 and \$145,000. This year, first-year base salaries stayed frozen at most firms and will probably not see much movement for one to two years.

This salary freeze is being felt at most of the top firms throughout the country.

Third-year attorneys in Boston are now earning base salaries of \$150,000 in addition to bonus possibilities. Taking into account the New York cost of living adjustments, Boston has all but closed the compensation gap with New York. Partner compensation at the top firms has escalated to the point that a number of

the top Boston firms rank within the top 40 U.S. law firms in profitability. Another significant move forward for some Boston firms has been the expansion of their New York and branch offices. This year, however, little further expansion in these offices is expected.

The opportunities for young lawyers to move into high-flying tech companies with the prospect of significant income gains and of talking a business role in the company has abruptly stopped. The in-house market, however, continues to hire in the face of a slow economy, and a good number of associates from the top Boston firms will continue to secure highly attractive positions in a company environment. Boston has strengths in many practice areas, but attorneys looking to launch a career in certain fields will find fewer opportunities. These areas include entertainment, admiralty, capital markets (such as commodities or derivatives) and international law. Certain other areas of practice, like envi-

ronmental, bank regulatory and bank finance, have stagnated for several years and do not show signs of rejuvenation.

However, law firm options in Boston continue to expand. With the strength of its economy, Boston has drawn a lot of attention from out-of-state firms looking to secure a foothold. Florida-based Holland & Knight and Greenberg Traurig developed branch offices in Boston two years ago and show good growth rates, as did Philadelphia-based Duane, Morris & Hecksher. Existing branch offices of Pittsburgh-based Kirkpatrick & Lockhart expanded by merging with a mid-size Boston firm and Chicago powerhouse McDermott, Will & Emery made some key partner hires, increasing its size to almost 100 lawyers. Defying the trend to go big, other partners from established firms have opened up new law firms with the expectation of developing niche practices.

Boston continues to be one of the most attractive cities to call home. New construction projects along the waterfront have created the prospect of such diverse developments as a new arts center and a European-style housing community. When the "Big Dig" project puts the current elevated roadway under city streets in less than three years, Boston's infrastructure will have been upgraded to keep pace with the rest of the economy.

BRION A. BICKERTON is the founding partner of Bickerton & Gordon LLC, which specializes in the placement of lawyers in Boston and New England. He formerly practiced in the London and Boston offices of a major Boston law firm and can be reached at 617-371-2929 or bbickerton@bickertongordon.com. Bickerton & Gordon hosts a website, which provides updates about the Boston legal market and its opportunities (see www.BickertonGordon.com).

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California markets are changing — and not for the better

by Randy Beckwith

Law firm hiring, like the economy, is cyclical. We have seen ups and downs over the past 20 years, and following explosive growth in the late 1990s, we are, once again, in a downswing.

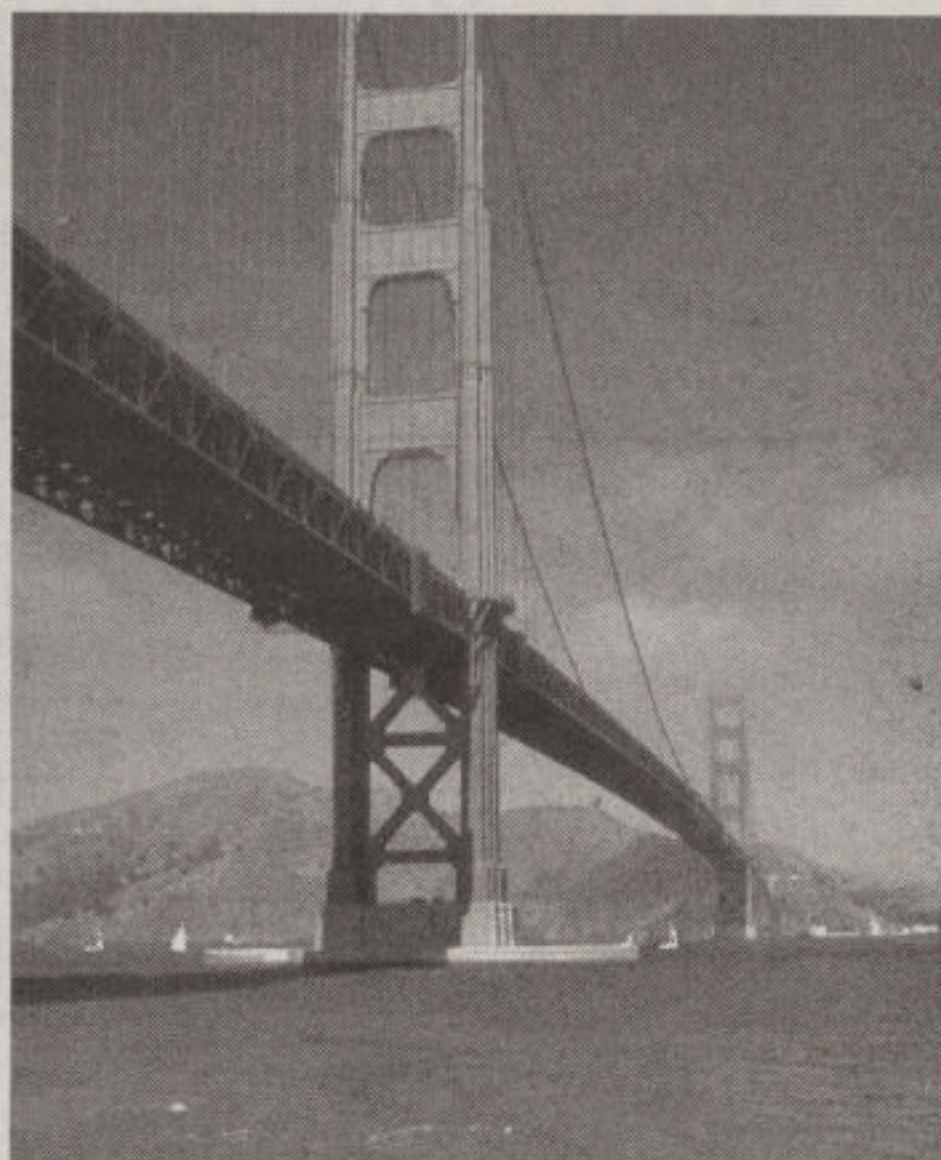
Dramatic law firm growth began in the exuberant 1980s, with the expansion in the size and number of offices of California-based firms. Moreover, many national firms from New York City, Washington, D.C. and the Midwest opened California branch offices, a large number in Los Angeles, to share in the state's economic boom. Law firms hired both new and lateral associates, as well as partners, at previously unheard of levels.

This seemingly unending upward trajectory came to an abrupt halt in the early '90s, when the economy went into a very severe slump — a slump that was longer and deeper in Southern California than elsewhere. There was a concomitant decline in law firm hiring, considerable "downsizing" within the associate ranks and "rightsizing" at the partnership levels. Some mid-sized and smaller firms completely dissolved and unprofitable branch offices closed.

Today, there is marked slowing in the hiring of transactional lawyers at all levels of seniority, and actual layoffs and downsizing are in process. Northern California is the hardest hit because it expanded most dramatically over the past few years, primarily in the Silicon Valley high technology and biotech markets. Nonetheless, the news is not all gloom and doom, as law firms continue to hire for their summer associate programs, make permanent offers to summer associates of 2001 and hire new graduates with an eye towards improving economic conditions.

The sheer size of today's legal market is enormous. There are over 136,000 active attorneys in California; the State Bar's recent demographic study shows that 45 percent of them practice in the Los Angeles area and 30 percent in the Bay Area. The state's five largest legal markets, in descending order, are as follows: Los Angeles County; San Francisco Bay Area, including Silicon Valley; Orange County; San Diego; and Sacramento.

Over the past 20 years, the law-firm model evolved from a professional collegial club to a business entity; the emphasis now is definitely on the bottom line. Whereas "gentlemen" lawyers of old did not disclose



Nilifur Shaikh/RECORD

revenues, profits or compensation, today that information is regularly disbursed in legal publications and via numerous Internet web sites. Indeed, almost immediately upon the decision by Northern California law firms to begin layoffs, that news was transmitted nationwide.

Another major change is the increase of lawyer — most notably partner — mobility. Attorneys no longer spend an entire career in one firm. When offered higher compensation, more managerial responsibility or a chance to head up a practice area, many partners have shifted firms. Furthermore, "merger mania" is upon us. Over the past few years, a number of out-of-state firms have come into California, each by acquiring several local partners with very profitable practices, or entire smaller to mid-sized firms. A large number of law firms, national, regional and local, either are actively considering or have been involved in merger discussions with other firms. The trend seems to indicate that many of even the most highly regarded small to medium firms are having difficulty competing with the larger firms on associate compensation and in provid-

ing clients with a full array of legal services. The consequence of this consolidation is that students have more limited choices when they are considering law firm practice.

Many times associates follow partner(s) to their new firms. However, the majority of associates move on their own for varying reasons. It is increasingly rare that an attorney's first job is his/her only job. Thus, in considering your first job the question is less "Is this the right job?" and more "Will this firm give me the training and experience to enhance my marketability for my next position?"

Another reality is that, after the tremendous increases in associate salaries and bonuses over the past two years, compensation is flat. Many firms have notified their associates that there will not be bonuses this year and that base salaries are frozen. In addition, firms are employing other cost-cutting measures such as asking new associates to defer their start dates, and have been offering unpaid leaves of absence. To date, there have been no salary reductions.

With the changes in the economy, especially the decline of dot-com and emerging-growth companies, the "hot" practice areas have shifted since last year. Litigation heads the list of most opportunities. Intellectual property remains very strong from patent prosecution to "soft IP" areas such as copyright, trademark, licensing, Internet, piracy and privacy. Next on the list are real estate/land use, followed by labor and employment. There still are some corporate positions available, but primarily for mid-to-senior level associates. Not surprisingly in this economic cycle, bankruptcy is heating up. "Warm" practice areas include international, environmental, tax, trusts and estates. "Cool" areas are healthcare, banking, and government contracts. And for those of you with "stars in your eyes": Although Los Angeles is the entertainment capital, it is virtually impossible for a new graduate to break into that industry unless you know someone!

In this tight legal market, firms are giving closer scrutiny to grades and performance evaluations. Current hiring programs appear to be tailored to reflect a more conservative, long-term approach.

RANDY BECKWITH is a partner with Seltzer Fontaine Beckwith, Legal Search Consultants in Los Angeles. She can be reached at rbeckwith@sfb-search.com or www.sfbsearch.com.

Burning the midnight oil in the nation's capital

by David Coe

Summertime and the living is easy. Although Gershwin's lyrics ring true for most (if not all) law students throughout our nation, they are particularly appropriate for those who spent the halcyon days of summer 2001 in our nation's capital. From Georgetown to Adams Morgan, Capitol Hill to Alexandria, Dupont Circle to Bethesda, the Washington, D.C. area offers something for everyone.

Although Washington is renowned for the museums, government buildings and monuments that call it home, much of what makes the area (including the adjoining Maryland and Virginia suburbs) remarkable stems not from the walls of white marble but from the underlying energy of the city and its people. Perhaps a function of Washingtonians' infectious fascination with politics, the large number of university students in and around the district, or the strange blend of cultures representing every corner of the globe, this energy is as present on a warm summer evening on the waterfront in Georgetown as in the gilt-laden halls of Congress. One senses it in the increasing number of "new American" restaurants that populate the city (although no one is exactly sure what "new American" means), the revitalization of downtown along and near Pennsylvania Avenue, and even in the meat markets of Dupont Circle and Adams Morgan where the young, beautiful and inebriated come to play.

Yet as many have discovered and many more have lamented, Washington can be an expensive city frequently requiring one to — gasp — work. Fortunately for aspiring lawyers, the government agencies, private firms and corporations of the D.C. area employ the second largest number of

lawyers in the nation, second only to that overworked behemoth to the north — New York City. Practicing virtually every type of law imaginable including some only found in Washington, these employers offer a sophisticated practice while maintaining a collegial atmosphere.

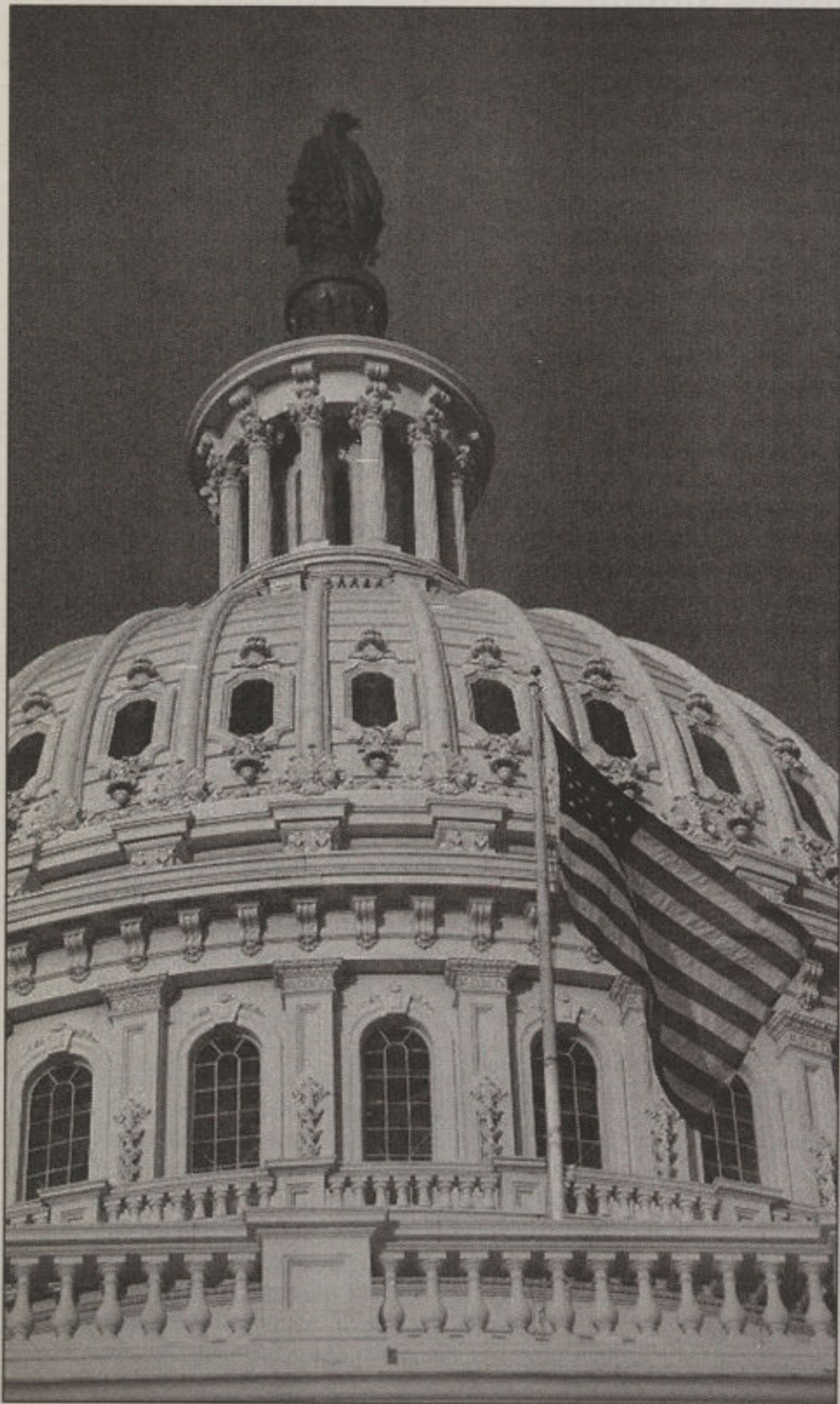
Of course, all work and no play makes Jack a dull boy (and probably an accountant), and Washington is anything but dull. For the sporting among us, miles of bicycle paths surround the city (including one that runs alongside the banks of the Potomac River leading ultimately to Mount Vernon), golf courses can be found within and without the district, and the world's largest jogging path, sometimes known as the National

Mall, lies in the center of it all. In addition, both the mountains of West Virginia and the beaches of Delaware are a relatively short drive away.

For those more culturally inclined or who object to running in 90-plus degree temperatures, there are a seemingly endless host of concerts, plays, readings and exhibitions. Two of my favorite memories of the summer are of taking a picnic supper to see The Gypsy Kings perform at Wolf Trap (an amphitheater in Northern Virginia) and of watching "A Streetcar Named Desire" on the big screen on the Mall with 10,000 happy people many of whom imitated Brando relentlessly (and badly). Also, while it may be cheesy to mention, nothing quite compares to seeing fireworks explode over the Washington Monument on the Fourth of July.

Though many of us will burn the midnight oil in our careers, rare moments of free time will present themselves. When they do, I hope to be in a place where life is seen (and lived) as if it is more than mere survival. Washington, D.C. is such a place.

Washington is anything but dull.



Getting suited up for interviewing

by Dyanne Vilen

"What should I wear?" is the question on many minds during interview season. There used to be strict rules for dressing (suits were the norm not the exception, "casual" meant a sport coat with a tie for men and a pantsuit for women, and white pants were never worn past Labor Day, to name a few). But career dressing has become quite complicated. In the last couple of years, the high tech world redefined our career uniform by trading the suit for a pair of khakis.

We are starting to see a shift in corporate culture, causing the "dressing" pendulum to swing back to more traditional ideals. Some law firms that had adopted business casual dress codes are finding it necessary to rebuild their suit wardrobes.

If you are buying your first suit or shopping for a new one for interviews, here are some basic tips to help in your search:

1. Keep it simple. Don't get hung up on

too many details. The more classic the garment, the longer it will stay in style.

2. Select styles that look good on you instead of what is most in style.

3. Look at buying career clothing as an *investment*. A well-constructed suit (made of fine fabric) should be a staple in your wardrobe for at least five to ten years.

4. Fit is paramount! You can spend \$300 to \$3,000 for a suit, but if it does not fit, you have wasted your money. Men should get measured when

they are shopping for a suit. There are several styles and options to accommodate different body types. Check out suit-separate programs that allow you to buy the jacket and pant in whatever size

you need. Fit is just as important for women. It is necessary to try on several styles and sizes because each designer/manufacture fits differently. Make sure to buy what looks and feels best (and not which number size sounds the best.)

5. Buy all year round fabrics. Look for wool or wool blends. These fabrics are lightweight. They breathe well, travel well, wrinkle very little and will unwrinkle quite easily.

6. Dry clean your suits only once or twice a season. The chemicals used are very harsh, causing fabric to shine over time. One recommendation is to fill a bathroom with steam from a hot shower. Hang the suit in the room allowing the steam to

release particles in the fabric. This helps to refresh the suit.

7. Taking proper care of your suit will help ensure longer wearability.

Tips for Men

- Dark suits are the most versatile. Best color: blue or gray. (Black can be perceived as flashy.)
- Stay with solid, minimal pattern, or subtle striped suits. If you are looking to get by with only one suit—choose a solid color.
- Stick with 2 or 3 button suits. Double breasted suits are making a comeback but a simpler style is best.
- Shirts should be adequately pressed. The whites and blues are the easiest. It is not necessary to wear solid shirts, however patterns should be subtle. Choose a collar style that flatters the face. Comfort is also important.
- Ties should be conservative not loud or showy. The goal is to look put together not distracting.
- Match your belt to your shoes. Black or brown shoes/belts can be worn with blue or gray. Make sure shoes are nicely maintained and not scuffed.
- Wear a dark dress sock that matches the color of the suit.

Tips for Women

- Women have a few more options. Best suit colors: black, blue or grey. Choose suits without "bells or whistles" (big buttons, contrasting trims or decorative lapels).
- Years ago, women only wore skirt suits for interviewing. Pantsuits are quite acceptable. However, if the firm is more conservative, opt for wearing a skirt. Skirts should not be any shorter than two to two and one-half inches above the knee.
- There are several appropriate underpinnings for a suit: cotton shirting (whites and blues are easiest), silk blouses (choose solids or soft patterns) or fine-gauge sweaters (look for silk, viscose, rayon or cotton knits that have a luster or a high polish to the weave.) Stay away from T-shirts. They are too casual for an interview.
- Accessories should be worn as small accents, not as statement pieces. Keep jewelry simple.
- Hosiery should be worn. Choose a nude or soft beige color. Stay away from tights — too casual. Sheer black can sometimes look dramatic. It is the dressiest of options.
- Wear shoes that look professional and that are easy to walk in. Bring a pair of nylons with you shopping to see how the shoe will really feel. Black and brown shoes are the easiest of choices.
- Condense your belongings into one bag for the interview. It is easier to shake hands with only a briefcase than juggling a handbag as well.

Your goal during an interview is to look appropriate and polished. Once you get the job, you can take the cue from lawyers at the firm as to how relaxed the dress code really is. It is then that your clothing can show the real "you."

Dianne Vilen is a retail coordinator for Freedberg of Boston. Freedberg is a suit and career sportswear manufacturer for stores like Nordstroms and many small specialty stores. For further questions, please call 617-357-8600 or email retail.freedberg@qwestisp.net. Freedberg welcomes shoppers at their South End warehouse located at 112 Shawmut Ave., 5th floor, Boston.

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Fit is paramount.*

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Life is good in the heartland

by Kristy Kirkpatrick

When asked about my summer work experience, the first question most people ask is, "Why Kansas City?" I grew up in California, went to school and worked in Washington, D.C., and now live in Boston — to most of my acquaintances, Kansas City seemed like an eclectic choice. My decision wasn't completely arbitrary, as I have family there that I looked forward to seeing over the summer. But my original plan was to spend just a few months in the Heartland, and later look to one of the coasts for permanent employment. But after just one summer there, I am convinced that the Midwest has the best of both worlds — an exciting, ever-expanding legal market with a small-town feel.

I worked for Blackwell, Sanders, Peper Martin, a fairly large firm that has offices in many major Midwestern cities, as well as offices in D.C. and London. The firm has equally strong corporate and litigation departments, and its clients range from large international corporations to local school districts. The diversity of clients is due in part to the very nature of Kansas City's central location, as many large national companies prefer to work with a centrally located law firm. Many of the attorneys I worked with travel extensively as part of their job, but many do not. The firm allows attorneys to choose practice areas and work levels that fit in with their interests and talents. Additionally, the firm has a strong pro bono practice, and actively encourages its attorneys to get involved in

public service projects.

But quality of life is arguably the most compelling reason to consider a legal career in the Midwest. The vast majority of attorneys in my firm work normal business hours, and most had significant outside interests, including service organizations and extracurricular sports. The firm prided itself on its family-friendly policies; maternity leave was generous and it was not uncommon for attorneys to leave work early to attend a child's soccer game or dance recital. The firm sponsored many events that encouraged attorneys to get to know each other and their families in a social context. Perhaps the best part of

working at this firm was knowing that the lawyers not only worked well together; they genuinely liked each other and enjoyed socializing together after the workday was done.

While my experience so far is limited to firm life, the Midwest is also an excellent place to do public interest work. I know law students who've had great experiences working at the U.S. Attorney's Office and non-profit groups in Kansas City. Many of the attorneys at my firm were involved in politics before entering private practice, and several have left to become state and federal judges.

In the end, perhaps the best endorsement I can give is this: I've spoken to numerous law students who also spent their summers in the Midwest, in places as diverse as Indianapolis, Chicago, Omaha and Idaho. Without exception, all had incredibly positive experiences and plan to return in the future to pursue their legal careers there, myself included.

Lawyers in the Midwest genuinely liked each other and enjoyed socializing together.

OPIA

Continued from page C6

tion. Fortunately, as many of you know, HLS' loan forgiveness program, the Low Income Protection Plan (LIPP), was dramatically improved and now is better able to provide those with high debt the opportunity to take a relatively lower-paying public service job.

If you have high educational debt, don't just assume that you cannot afford to make choices about the jobs you pursue upon graduation. Come to the panel that OPIA co-sponsors with the Financial Aid Office on LIPP and HLS postgraduate public service fellowships. Go to Lisa Dealy in the Financial Aid Office and find out how LIPP will work for you. Find out how much your monthly loan payments will be if you work in a particular field, and figure out whether you can live, according to your own needs, with what is leftover. If you don't have debt, decide whether you will be happy with the lifestyle you will have on a public interest salary or whether you need more.

Consider How you Define Success and Happiness

Ultimately we all need to take a long hard look at how each of us defines success and happiness. Rather than thinking of power in terms of paycheck or employer name recognition, many of us will choose to conceive of it as the ability to effect social change or to help individual clients protect their rights and dignity. We pick our jobs because we know that we will look forward to going to work. By shifting our focus away from the perceived expectations of others, we become free to pursue our own values, personalities and passions. For many of us, this proves a difficult thing to do. But try it: take a look at what it is that you truly want to do. By doing so, you can redefine success in terms of finding a career that will be fulfilling. Hopefully, you will join the many alums who call and write to us at OPIA, marveling at the joy they find in their work.

CLERKS

Continued from page C4

If you would like to be added to one or more of our email distribution lists about clerkships, please contact Kirsten Solberg at ksolberg@law.harvard.edu and be sure to specify the term in which you have interest.

Our goal is to make the clerkship application process as smooth and painless as possible. Please contact us with any questions or concerns you have. Good luck!

Information about judicial clerkships is now on the Office of Career Services' website at www.law.harvard.edu/ocs. Excerpts from the website are provided here, but please refer to the website for more details about each point. Kristen Davis can be reached at kmdavis@law.harvard.edu or by calling (617) 495-1628. Kirsten Solberg can be reached at ksolberg@law.harvard.edu.

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CAREER GUIDE

Friday, September 21, 2001, 3:45 pm
Langdell South Classroom
"Restructuring the Global Corporation"
Bruce Wasserstein, JD/MBA '70

Mr. Wasserstein, a widely respected leader in corporate mergers and acquisitions and merchant banking, will discuss legal issues facing global business. A member of the Dean's Advisory Board, Mr. Wasserstein has worked on many transactions including the Dean Witter/Morgan Stanley merger, UBS's acquisition of Paine Webber, Wal-Mart's acquisition of Asda, and the Time Warner/America Online merger, among many others. In addition, he has played a formative role in the development of companies including Mabelline, Imax, American Lawyer, and law.com. Please join us for this very special event. For more details, please call 617-495-4906 or write to mlvictor@law.harvard.edu.

NEWS ANALYSIS

Special Ops and U.S. Counter-Terrorism Policy

by Michele Malvesti

When an incident of international terrorism occurs against the citizens, facilities or interests of the United States, American decision makers have recourse to five broad instruments of counter-terrorism response: political and diplomatic measures; economic sanctions; overt military strikes; covert operations; and law enforcement action. These five offensive methods of response are not mutually exclusive; they overlap in many areas and U.S. decision makers often opt for a combination of measures. However, law enforcement action — the investigation, apprehension, trial, and conviction of terrorists — is the standard approach used by the United States government today in response to anti-U.S. acts of international terrorism.

This criminal justice approach to countering terrorism has had numerous successes through the years. For instance, in 1993 following a concerted investigative effort, U.S. authorities uncovered a terrorist plot to bomb major landmarks in the New York City area and assassinate prominent officials. They arrested Sheikh Omar Abdel Rahman (also known as the "Blind Sheikh") and nine co-conspirators in the plot that included attacks on the United Nations building, the Lincoln and Holland Tunnels, and the FBI's New York field office. Rahman and his fellow defendants were convicted and sentenced to terms ranging from 25 years to life imprisonment.

Law enforcement action also led authorities in the Philippines to uncover a terrorist plot to bomb U.S. airliners in 1995. In addition to prevention, this particular case also achieved accountability: One of the plotters was Ramzi Yousef, the mastermind behind the 1993 World Trade Center bombing. FBI agents later arrested Yousef in Pakistan. Other notable arrests and convictions include the Abu Nidal Organization (ANO) terrorist Mohammed Ali Rezaq for the 1985 hijacking of Egypt Air 648, during which the terrorists shot two Israelis and three American passengers in the head; the Japanese Red Army terrorist Tsutomu Shirogaki for the 1986 attack on the U.S. embassy in Jakarta; Libyan intelligence agent Abdel Basset Ali Megrahi, for the 1988 destruction of Pan Am 103; and the recent conviction of

four followers of terrorist financier Usama Bin Ladin for the 1998 bombings of the U.S. embassies in Kenya and Tanzania.

Despite such successes, critics of the criminal justice approach question the overall utility of law enforcement action in combating terrorism. For instance, they assert government prosecutors are hamstrung by stringent evidentiary criteria that limit the introduction of specific incriminating information that would compromise sensitive intelligence sources and methods. More important, they argue that those convicted are often low-level operatives while the masterminds behind the terrorist operations generally escape unscathed. And they have a point: Bin Ladin and other senior terrorist ringleaders remain at large.

If the apprehension and prosecution of terrorists is to remain at the center of U.S. counter-terrorism strategy, the United States should act to strengthen and improve this core response, which it is doing on various fronts. The success of the criminal justice approach, for instance, draws heavily on diplomatic engagement. The United States is working to establish or affirm extradition treaties with allies, win support for additional Legal Attaché offices and form cooperative measures to bolster host-nation counter-terrorist forces and capabilities. Its success also depends on U.S. interagency cooperation, especially with the intelligence community, to fill knowledge gaps, exchange ideas and provide timely terrorist threat information, such as warning. Toward this end, a more formalized working relationship between the FBI and the agencies of the intelligence community has developed over the past several years. The continued effectiveness of the criminal justice model also is linked with its ability to disrupt terrorist organizations financially. Accordingly, greater cooperation with financial institutions, both domestic and worldwide, that hold or transfer funds used by terrorists should be a goal.

While these measures in support of law enforcement action are key in the fight against terrorism, the United States also should employ an additional offensive mechanism with greater frequency to bolster criminal justice as a method of counter-terrorism: special operations.

The U.S. Special Operations Command (SOCOM) has as one of its 10 specified activities the function of counter-terrorism. According to a General Accounting Office (GAO) report, SOCOM has the task of applying "highly specialized capabilities to preempt or resolve terrorist incidents abroad, including (1) hostage rescue, (2) recovery of sensitive material from terrorist organizations and (3) direct

action against the terrorist infrastructure." The GAO document further defines direct actions as "short duration strikes and other small-scale offensive actions to (1) seize, destroy, or inflict damage on a specified target or (2) destroy, capture, or recover designated person-

nel or material." Accordingly, special operations offer myriad response options to American decision makers and are effective counter-terrorist tools in their own right. However, U.S. counter-terrorism officials should employ special operations more often — particularly in light of their direct action mission to capture designated personnel — as a critical adjunct to conventional law enforcement action to further facilitate the apprehension and prosecution of terrorists.

During the 1985 Achille Lauro hijacking, the Palestine Liberation Front terrorists, after failing to compel the release of imprisoned comrades from Israeli jails and subsequently killing a U.S. citizen, surrendered in exchange for safe passage from Egyptian authorities. The United States, however, decided to intercept the plane carrying the terrorists, force a diversion to Sigonella airbase in Italy and, using special operations forces, seize the plane and apprehend the terrorists. Due to both Italian intransigence and lack of political will, a standoff between U.S.

commandos and Italian soldiers at Sigonella thwarted the mission.

Despite its ultimate failure, the mission was well conceived and reflected a synthesis of the two faces of terrorism: The United States activated a highly trained special military unit to counter the terrorist threat, reflecting terrorism's threat to national security, and directed that unit to apprehend the terrorists with the ultimate goal of facilitating their arrest and prosecution, thus highlighting the criminal nature of the anti-U.S. attack.

Today, U.S. counter-terrorism policy offers increased prospects for the successful intersection of the criminal justice approach and the "power" approach of special operations. Presidential Decision Directive 39 (PDD-39), which sets out U.S. counter-terrorism policy, notes: "If we do not receive adequate cooperation from a state that harbors a terrorist whose extradition we are seeking, we shall take appropriate measures to induce cooperation. Return of suspects by force may be effected without the cooperation of the host government ..." Although FBI agents and their law enforcement counterparts in the State Department have achieved success in this mission, the counter-terrorist units of the U.S. special operations community have specialized capabilities, training and equipment that may allow them to operate more effectively than law enforcement agents in the non-permissive, threatening environments in which terrorists often seek refuge.

While actual cases of the use of U.S. counter-terrorist units often remain shrouded in secrecy, U.S. decision makers should employ special mission military units with greater frequency to apprehend anti-U.S. terrorists abroad. Although this action would leave the criminal justice approach at the core of U.S. counter-terrorism strategy, which no doubt would irritate critics of such an approach, it would bring the United States closer to nabbing the masterminds behind anti-U.S. attacks, increasing the efficacy of its core counter-terrorism response.

Michele Malvesti is a former terrorism analyst with the Department of Defense and a current Ph.D. candidate at the Fletcher School. This article was reported in The Fletcher Ledger (www.fletcherledger.com) on Sept. 10, 2001.

While the measures in support of law enforcement action are key in the fight against terrorists, the United States also should employ special operations.

Resources for HLS Students and Affiliates

Counseling and Crisis Management: Students should contact the following resources:

- The Office of Student Life Counseling in Pound 309 (495-2967)
- The Law School Health Services in Pound 12 (495-4414)
- The University Health Services in Holyoke Center (day: 495-2042, night: 495-5711)
- Life Raft is a group which provides support for those in the Harvard community who have suffered losses (495-2042).
- The United Ministry at Harvard & Radcliffe (495-5529).

Emergency financial assistance for travel and other needs: Please contact www.hlcentral.com.

Blood donations:

- The local chapter of the American Red Cross asks those willing to donate blood to wait until Monday, and then call (800)468-3543 for information.
- Or, you could call the office nearest

you:

Boston: (617)315-0700
Framingham: (508)875-5275
Melrose: (781)665-1351
Peabody: (781)531-2280
Quincy: (617)770-2600
Waltham: (781)642-7000

Monetary Donations:

- The Sept. 11 FUND has been established in New York for victim relief. Send donations in care of the United Way of New York City, 2 Park Ave., New York, NY 10016. (212)251-4035.
- The New York Police & Fire Widows & Childrens Benefit Fund was founded in 1985. Its address: Box 3713, Grand Central Station, New York, NY, 10163.
- Combined Jewish Philanthropies of Greater Boston has established a special fund for victims of terrorism both here and in Israel. You can send a check earmarked for that fund to CJP, 125 High St., Boston, Mass., 02110.
- The Salvation Army is accepting checks earmarked for the Salvation Army Response Attack on America

fund. The address: 147 Berkeley St., Boston, 02116. Donations can also be made by credit card — call (617)542-5420, extension 417 — and on the Internet (www.salvationarmy-ma.org).

- To give to the Red Cross Disaster Relief Fund, call (800)435-7669; Spanish speakers may call 800-257-7575. Or, donors may make contributions directly at Citizens Bank or FleetBank.
- Customers of Stop and Shop stores can make contributions to families of victims at the register or at customer-service windows via the chain's just-established American Heroes Fund. All the money will go directly to aid, and Stop and Shop will match up to \$1 million in customer donations.

Other donations:

- The Salvation Army in Massachusetts is collecting the following items requested by its New York affiliate: bottled water; canned meats; peanut butter and jelly; and adult clothing (particularly jeans, shirts, underwear and

socks; new, sized and marked) for use by emergency personnel.

- Currently, the Massachusetts Emergency Management Agency is discouraging callers to its emergency response line (800-293-4031) from going to New York to donate their services, saying that it is keeping a list of names and numbers but prefers to wait for a specific request from New York. The Massachusetts Medical Society is also maintaining a list of volunteers while awaiting further word from the crash scenes. Health professionals seeking more information can consult www.massmed.org. A Boston Fire Department spokesman said it also is awaiting a request for the sort of specialized help it would provide. The Red Cross survives on the help of volunteers, but spokeswoman Mary Thang said that only those already trained as disaster volunteers would be able to help immediately.

Information provided by the Boston Globe, the Office of Student Life Counseling and HL Central.



Worried that he may have missed an important case in his research, Norbert is reluctant to turn in his legal writing assignment.

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