2008


Repository Citation
https://scholarship.law.wm.edu/newspapers/21

Copyright © 2008 by the authors. This article is brought to you by the William & Mary Law School Scholarship Repository.
https://scholarship.law.wm.edu/newspapers
Why Torture Does Not Work: a Military Perspective

By Stephen Murray & Elisabeth Murray

Torture does not work. Its costs far outweigh any perceived benefits. Torture is against U.S. law and the Geneva Convention. It tarnishes the reputation of the U.S. and undermines military operations when discovered. It is counter to the good order and discipline of the U.S. military.

At 5:00 p.m. on Oct. 6, three retired generals stressed these key points at a round-table discussion titled “Why Torture Does Not Work: a Military Perspective.”

The round-table discussion was moderated by Professor Linda A. Malone in room 120 at the law school. One of the participants was Major General Paul D. Eaton (retired) who served in the Army and was Commanding General of the command charged with reestablishing Iraqi Security Forces from 2003-2004. To his left sat Brigadier General James P. Cullen (retired) who served in the Army Reserve Judge Advocate General’s Corps and was Chief Judge of the U.S. Army Court of Criminal Appeals. The final participant was Major General Fred E. Haynes (retired), a Marine Corps combat veteran who served in World War II, the Korean War and the Vietnam War.

When asked “Does torture work? And if so, what type of intelligence is gathered?” Major General Haynes spoke of his experiences as a captain in the regiment that captured Mt. Suribachi, Iwo Jima. His experience observing American soldiers making personal connections with Japanese prisoners and gaining valuable intelligence taught him that “humane treatment works.” He believes torture is unnecessary to gain information from the enemy. Even in the face of imminent threat, Haynes argued that torture is not justified and will not work because the enemy will deceive and run out the clock. He stated, “The folks we are dealing with are superhuman thugs who will tell you anything.”

Brigadier General Cullen elaborated by saying that there are two categories of prisoners who face torture. There are those who will say anything to get the torture to stop and individuals who are prepared to be captured and trained to resist interrogation. The latter group is prepared with a false story to delay and misdirect interrogators. Cullen suggested that instead of focusing on finding cases when torture might be appropriate like the often cited ticking time bomb scenario, we should focus our efforts on becoming culturally aware of the enemy and gaining language skills in order to gather intelligence proactively.

The retired generals acknowledged that the type of enemy that we are dealing with today is different from those faced in the past with regard to how the enemy will treat American prisoners of war. Cullen stated, “I am not so naive to think that if we play by the rules that Al Qaeda will also play by the rules.” All three generals stressed that just because our enemy violates the Geneva Convention, it does not give Americans license to treat prisoners in a similar manner. They argued that if America violates the Geneva Convention it might make other countries more likely to violate it in future conflicts. They stressed the importance that the United States set the standard that others must adhere to and claim the moral high ground.

Cullen argued that it is important to remember that winning the trust of the civilian population in a combat zone is critical to victory in a counter-insurgency. “If we torture and degrade prisoners and it becomes known it will cause civilians to turn against us when we need them on our side to win.” He also argued that if civilians fear torture or coercive interrogation they are much less likely to voluntarily provide tips and information. He claimed that by using torture we would be acting as the “recruiting sergeant for our enemy.”

The detainee abuse at Abu Ghraib Prison in Iraq was mentioned several times by the participants. They stressed that the scandal was a significant lack of response to SBA Survey

By Paul Spadafora

In the middle of September, a nondescript survey about the curriculum at Marshall-Wythe found its way into the hanging files of all the 2L’s and 3L’s. Though it may not have been eye-catching, the survey marked the start of a new level of student participation in shaping the school’s curriculum.

Professor Ron Rosenberg, who commissioned the survey, felt the time was right to expand student input on courses: “The students need to be asked. They are the ones who consume the courses, and they know what they like and what they think they need.”

When Rosenberg, who serves as Associate Dean for Academic Affairs, began to plan for this year’s course offerings, he came to a decision to solicit student opinions. And in order to do that, he requested the SBA offer a survey to all 2L and 3L students.

“We do try to keep our ears open for students who are unhappy [with classes, but] this is the first time I remember an actual survey going out,” SBA president Jenny Case (3L) said, “This is the first time we’ve actively solicited feedback from the upperclassmen.”

The survey’s goals were simple: find out what works at Marshall-Wythe, what does not, and find out what students think could improve the curriculum. SBA having administered the surveys three weeks ago, Rosenberg is ready to make some preliminary assessments.

“Students generally seem satisfied. But it’s about improving things, making things more available,” Rosenberg said, “There was usually just a request for one very specific [class] that the student wanted.” One of the issues that appeared on many of the returned surveys was a request for more sections

Continued on Page 11.
Pizza Goes Uneaten at Dean Search Committee Meeting

Staff Editorial

On October 2, 2008, Vice Dean Kades, on behalf of the other members of the Law School Dean Search Committee, hosted a lunch meeting that boasted free pizza and the first, formal opportunity for all students to discuss the recently initiated dean search process with the individuals charged with finding the ideal candidate. This was the students’ opportunity to provide input to a committee composed entirely of faculty, administrators, and alumni, with the exception of one law student, SBA President Jenny Case. We expected, with the prospect of a free lunch and the chance to voice their opinions, room 119 would fill to capacity.

We were surprised, therefore, that no more than about 30 students actually attended the meeting, leaving pizza uneaten and seats unfilled. By our observation, the students that did attend, seemed to be sitting (by coincidence or otherwise) by organization, including SBA representatives and members of the PSF Board. We also noted that among the students present, there were more 1Ls and 3Ls than 2Ls—not entirely remarkable considering the demands of 2L fall.

The students in attendance, and one in particular, were vocal. The one issue multiple students emphasized was the need for more student involvement in the evaluation and selection of the candidates, a process that occurs, largely out of respect for potential candidates, confidentially. If any other students were to join the committee or serve in the evaluation in other capacities, it would be at the discretion of the W&M Provost who appointed the committee, as well as their policy. According to Dean Kades, any such amendment to the committee’s membership would be very doubtful at this point, though not impossible. Other factors of importance to students included a potential candidate’s ability to work with and develop a rapport with students as well as a candidate’s experience in fundraising and his or her appeal to alumni and the greater academic and legal markets. In the end, committee members present stated that non-academic credentials account for more than half of a candidate’s overall “score” in the evaluation process.

Also discussed was the fact that this year, W&M is one of seven U.S. law schools actively seeking to appoint a new law school dean. This means that W&M is not only hoping to hire the “perfect” candidate as our new dean, but we are also competing with several other schools hoping to do the same. Given our competition, it is likely that idiosyncratic factors may impact a candidate’s interest in W&M, including its location. As Dean Kades honestly put it: “Some will love it, some will hate it.” Ideally, W&M’s reputation will attract the best candidates and result in a successful search effort and the hiring of a dean who satisfies, if not surpasses, the demands and expectations of the University.

Letters to the Editor

Congratulations to ACS, BLSA and the ACLU for cosponsoring a fantastic, timely Student Voting Rights event featuring Judge DeWayne Charleston of Prairie View, Texas, on October 1. Events like this one remind me why I came to law school. Charleston demonstrated his passion for student voting rights by the admirable campaign he led, relying entirely on student votes to get elected. He demonstrates the kind of passion we should all hope to have in those chosen legal professions, whatever they may be.

Charleston’s speech and the welcome student comments that followed should serve as a much-needed reminder that voter disenfranchisement is unfortunately alive and well in 2008. State and local governments, particularly, are disenfranchising students, minorities and ex-felons at alarming rates. It is happening in places like Prairie View, Texas, and Radford, Virginia, and it should not go unnoticed.

As future citizen-lawyers, we have an obligation to spot injustice, educate ourselves, and do something about the issue, whatever our political leanings. This election season, follow Judge Charleston’s lead and help raise awareness about voter disenfranchisement. Call it when you see it. Make an effort to stop the discrimination against students, minorities, ex-felons and other disenfranchised groups.

The right to vote is fundamental. This is one campaign we can all support this fall.

Rob Poggenklaas (2L)

Shockedingly, every law student I know has a lot on their plate. So I’m grateful for the volunteer efforts such students expend when putting together the sometimes informative, often-times humorous articles in The Marshall-Wythe Press.

Especially helpful is the Office of Career Services interview section, while the student “trading cards” idea was a cute one.

Thank you.

Joel Davidson (1L)
Special Education Advocacy Experts Discuss New Class, New Clinic

By Abby Murchison

When Mr. Peter Wright projected a copy of his elementary school transcript on the wall of Room 127 on Oct. 6, W&M law students saw that he had not been a star pupil.

In the scrawling cursive commentary of his teachers, arguing before the Supreme Court and garnering a major legal victory for special education law in Florence County School District Four v. Shannon Carter (1993), Mr. Wright overcame learning disabilities through early, targeted intervention and rigorous study. Now he and his wife Pam, a clinical psychologist, have dedicated their lives to producing similar outcomes for others. Their well-known Wrights authorbooks, manage a website, and tour the country advising parents of children with learning disabilities.

This spring, the Wrights will teach a course in special education law. The duo has also helped Professor Patty Roberts develop a new clinical program, through which students will assist children with special needs and their families in special education matters.

The new course and clinic are instructive for all soon-to-be lawyers, regardless of their chosen specialties, Mr. Wright said. “Within two or three years of graduating from law school, I guarantee that someone—a friend, a neighbor, a family member—will ask your legal advice about special education for their children.” Mr. Wright predicted, “Simply because you have a law degree, people will look to you for guidance.”

Special education law stands on three legs, Mr. Wright suggested. First, it is similar to medical malpractice or wrongful death claims. “You often have battles of expert witnesses arguing over shades of gray about school programming.”

There is also an inevitable “domestic relations” component, Mr. Wright added. When parents and schools are at odds over how to provide for children with learning disabilities, “both sides can feel betrayed by the other, as in a divorce hearing or custody battle,” he said. “Parents may feel angry toward a school official. The anger may turn inwards, into guilt for not doing more sooner. And the school can feel betrayed, like it has bent over backwards to accommodate families who are now suing.”

Special education law stands on a third leg, Mr. Wright continued: federal practice. The Individuals with Disabilities Education Act (IDEA) grants parents the right to request due process hearings, which can be taken up to federal court.

The Wrights emphasized the importance of training parents. Students who take their class or work in the clinic will learn how to equip parents and caregivers with the skills to advocate for their child: to develop a master plan for a child’s special education services, to work with experts, to create program goals and paper trails, and to monitor a child’s progress.

As Mrs. Wright put it, their core message is to “empower the parents to advocate for their children, so the lawyer ultimately becomes irrelevant.”

Kristin Young Departs Tomorrow

Kristin Young, Court Clerk and Legal Skills Assistant, will be leaving after October 17th to become the Community Engagement Coordinator for the City of Charlotte and Mecklenburg County. She will work with Charlotte’s EMS program called MEDIC and with Carolina’s Health Care System. Her efforts will follow in her family’s footsteps in the public safety sector - her father was a firefighter and now her brother serves as one.

Kristin will work in the Public Relations and Media Relations group - focusing on educating the community on the symptoms of sudden cardiac arrest, driving community training in the use of CPR, and placement of Automated External Defibrillators throughout the county. She will assist in raising money through events with national programs such as the American Heart Association. Also, she will be the liaison between MEDIC and the media about certain community programs and other happenings that deal with Carolina’s Health Care System.

Please join the law school community at 1:15 on October 17th for cake in the North Wing, outside the office of Alumni Affairs to wish Kristen farewell.

Information Courtesy of Professor Patty Roberts
X Marks the Scot

By Robert Bauer

I saw Matt DiMuzio wearing a skirt last weekend.

Maybe I should provide some context. Fresh back from spending my summer in Britain, I convinced Matt and several other friends, none of whom had any Scottish ancestry, to come with me to the 2008 Williamsburg Scottish Festival held at Rockahock Campgrounds about half an hour west of town.

The place was nearly full, and, in a statement sure to haunt me the rest of my days, I was disappointed by the number of men wearing kilts. I was wearing a kilt I’d bought in Edinburgh and Matt had bravely agreed to wear the spare one I had (they were 80% off, so it was like I saved money or something). If you have never worn a kilt before, guys, let me just tell you that William Wallace meant more than Scottish nationalism when he yelled “Freedom!” in the movie. In any case, I was told that I have a “nice swish.”

There was the obligatory ring of booths for each clan that showed you the clan’s tartans, explained the clan’s inglorious history, and solicited donations. There were shops selling Celtic jewelry, tartan scarves, and creepy fur purses with the animal’s head still attached, plus a stage where Celtic rock groups played all day long while we ate haggis and IRN BRU and no one seemed the worse for it, although it’s possible this paper may carry a correction on that in a future issue.

One of the most popular events was the Highland Games. This is basically the “field” portion of track and field, performed by burly men in kilts. The most famous game is “tossing the caber,” which involves hoisting half a telephone pole and trying to hurl it so that it flips. Another involves hurling a lead weight straight up for height, although this strikes me (and hopefully not them) as a good way to pare down the competitors each year. Implicit in all of these games is that the thrower will “crush you…like a worm,” although no one (except for me, over and over again) said it out loud.

If you have any Scottish blood in you, or you just like drinking, bagpipes, and men in kilts throwing sticks, you still have an opportunity to experience it all first-hand at the Richmond Highland Games & Celtic Festival on October 25-26.

Highland Games events include: marching (left, credit: scottish-enchancing-kingdom.com), hammer throw (below left, AP), and log throw (below, credit: johnmacdonald.com)

Moliterno Abroad:

Professor Jim Moliterno: Trains Judges in Kosovo

By Justin Meyer

Professor Jim Moliterno’s evidence class had to have a couple of make-up sessions over the past weeks. But because they know that it was for a good cause, they don’t mind. Moliterno runs the Legal Skills program here on campus—but that’s not all that he does. He just returned from a 10-day trip to Kosovo where he taught one-day courses to judges and prosecutors on judicial ethics. This trip was the second of three (with the third planned in late November), and is the latest in a series of trips abroad that Moliterno has been asked to take.

Sponsored by a grant given by the United States Agency for International Development (USAID), Prof. Moliterno worked with local partners to develop this judicial ethics program. And unlike some attorneys who go overseas for USAID, he doesn’t simply lecture on the American way of doing things. Instead, he brings the Legal Skills mentality to his classes—that it is better to learn by doing. His classes start with a lecture on the basics of the topic. Then, like all good law classes, he explores hypothetical situations. These usually bring about some discussion. Finally, he invites his class to engage in a “real-world” trial of what they just learned with role-play exercises.

The concepts that he brings overseas, such as elimination of ex parte communications, are, for lack of a better term, at times foreign concepts. To help in overcoming the difference in cultural norms and tradition, Moliterno always insists on working with a local partner; he wants someone who can help him tailor his lessons to fit into the local atmosphere. But when he showed a group of judges how to avoid improper communications with the mother of a defendant, there was agreement that in a perfect world, they would all have followed that example. And yet, the idea of simply telling the woman that they could not discuss the case, and getting up to leave, struck them as rude. Getting past these basic cultural differences is one of the biggest challenges that he faces.

This is not Moliterno’s first trip abroad to do legal or educational work. Starting four years ago, he traveled to Georgia, Armenia, Serbia, Thailand and China among other countries. However, this is his first set of trips working with judges, and his first set of trips in front of a classroom. In the past, he has gone to law schools and helped develop legal ethics programs. There, he worked with law school professors—the people who would be implementing the classes, and helped design a curriculum which would instill ethics in the legal profession early on. Some law schools have even gone so far as to implement their own legal skills curricula based on the William & Mary approach.

Most countries that accept these programs have multiple goals. The first is to stem the corruption in the system, which can be significantly higher. The second main reason is to elevate the quality of internal institutions, in preparation for an application to enter the European Union. The U.S. government funds these missions to help build goodwill and also to help stabilize recent hot-spots. Moliterno, on the other hand, gets some different things out of it. He enjoys the travel and the teaching, as well as the challenge of adapting these lessons to other cultures. Finally, he feels that he has a duty to do things that produce good: the citizen-lawyer concept is finding its way well beyond the reaches of Williamsburg.
Opinions

Ask Edith

Dear Edith,

I need some help choosing between men who have responded to my online dating profile. Can you pick one for me? Also, what should I do to be more attractive to potential internet matches?

Candidate A: “Interests: extreme kitten smuggling, riding ski lifts, home surgery, obscene Coca-Cola glutonyy, isms, long walks on the beach.”

Candidate B: “Wow. You look and sound amazing” (that was the entire email)

Candidate C: “I struggle a little with things like interpretive dance, but I digress”

Candidate D: “You like cooking and wine? Do you mix the two? Wine makes great food. Liking new things is something I’m all about.”

Many thanks,

Interested

Don’t say yes to Candidate A; he’s obviously a liar. Why does everyone put that they like long walks on the beach? They’re not enjoyable. After the first ten minutes, your calves burn and your feet are sore. Either the sun is too hot or your heart is too hot. I went out with you or the bugs have come out at night. He’s also guaranteed to get fat from an overdose of Coca-Cola unless he drink diet, in which case he’ll have cancer by the age of 54. I can’t even comment on the interest of “isms”...

In Candidate B’s case, I suppose there’s something to be said for brevity; but as a law student, you cannot appreciate that. He’s clear and concise, in a way, but doesn’t begin to provide enough evidence to support his claim. I’m not entirely sure the man is reasonable which, as we all know, is the only thing that makes one worthwhile.

Candidate C seems at least like a reasonable fellow. While he digresses, he admits to his digression. He does seem generally overwhelming.

Candidate D: No. Just no.

This is really a toss up. If you’re looking for someone who takes life in stride and continually jokes about everything, Candidate A is your man. If you searching for a man of few words, go with B. If you’re looking for someone who’s self aware, take M and C.

My suggestion: ask all three of them on a date in the same night, in the same restaurant, with strict time constraints. That way, you have shove them away quickly and see them side by side.

Now for some general online dating guidelines:

(1) In your own profile, try not to sound desperate. Obviously, if you’re into online dating, you’re at least a little desperate. Do everything in your power to seem as nonchalant as possible. The mere existence of an online profile means you’re struggling in real-life social interactions. Let’s keep the virtual ones as casual as they can be to save face.

(2) As for this “attractive” thing, you can only be as attractive as your photo. If you’re unattractive, use a very pixilated photo or a photo taken in low light. Virtual attractiveness is all relative really.

(3) My final, and most important, piece of advice: NEVER go on a date with an internet match without adequate supervision from across the restaurant. Make your friends watch the guy’s every move. He may be a sweet man who simply struggles with some sort of social disorder. He also may be a serial killer. If he’s a white male between the ages of 25 and 35, it’s probably the latter.

Hasta la fuego,

Edith

If you have an anonymous question for Edith, log on to her special email account and send your question to marshall.wythe@press@gmail.com

Email: Ask.Edith.Questions @gmail.com
Password: marshallwythe

Student Loans:

Why Massive Debt is Totally Awesome

by Ryan Ruiz

I got an email from my lender a few days ago. Apparently law school costs a lot of money; who knew? The sheer amount of debt alone is concerning, even before considering all the economic issues with failing lenders, which I imagine will probably impact me in some way. I do not really understand it. Regardless, clearly something bad is happening, so at first I was pretty depressed about the whole thing. Every time I bought dinner and drinks, or went to a movie and got drinks, or bought new clothes and drinks, I felt bad about spending more money I did not have.

Then I began to do what people do best: rationalize my own behavior. Having massive debt can be incredibly liberating! Honestly, if you’re $100,000 in debt, does another $5,000 make any difference? Of course not. Thinking in terms of the percentage increase in my debt, the impact of whatever I buy is small, insignificant even. In fact, it is practically free!

With a spring in my step and a song in my heart, I went out to spend the news of guilt-free spending in law school. Seth Doherty (1L), whom I excitedly ran up to in the library, said with obvious joy, “Please stop bothering me in the library.” He went on to ask me to leave, and to inquire as to my lack of pants, but by then I was already gone, looking for more converts. In class the next day I contacted Stephanie Forbes (1L) with geek, which I never do in class normally, and shared the news with her. Stephanie responded by logging off, the universally known gechat symbol for “Yes Ryan, you are absolutely right; this idea is well thought out, cogent, and realistic.”

Still, as the day wore on, it seemed I received quite a few more rolls of the eyes than enthusiastic high-fives, and I began to reconsider the sense of my spending policy. At the Green Leaf, I, not in any way intoxicated, gravely expressed the concept to Kevin Crennan (1L), who, also being of sound and sober mind, agreed completely. “You’re absolutely right!” he artfully slurred, enunciating his point by purposely knocking over his beer. My confidence restored, I bought the next round.
Are Investors Bone Heads?

By Matthew Myer

In our last consideration of the affairs of Wall Street, we stopped at September 18, the day Treasury Secretary Hank Paulson proposed the “bailout.” At that time, we asked where the Federal Reserve (Fed) was getting its financing. Since then, many interesting events have transpired, and we now know that the Fed is only on the hook for $900 billion—the $700 billion for the bailout plan is being financed by the sale of Treasury bonds.

In seeking a theme for tracing them, it seems appropriate to use the title of an October 2 article posted on cnbc.com: “Panicky Investors Making Some Bone-Headed Moves.” One sentence of that article is particularly striking: After stating that investment advisers are counseling their clients against making rash decisions, the article shifts gears saying, “Still, there is no shortage of bone-headed moves that panicky investors are considering—requiring their advisers to make timely interventions.”

Who is who, and what is what? Is it correct to hold that “panic” investors are making “bone-headed moves”? And if we may add bankers and regulators to the same group as investment advisers, is it correct to hold that these “advisers” are making “timely interventions”? Readers must judge for themselves from the following facts:

Friday, September 19
The Securities and Exchange Commission (SEC) banned the short-selling of 799 financial stocks until October 2. In the pseudo-war speak of business, Christopher Cox, the SEC Chairman, was quoted by CNBC as saying that the “Commission [was] committed to using every weapon in its arsenal to combat market manipulation.”

Saturday, September 20
The WallStreetJournal reported that while presenting the rudiments of the Treasury’s bailout plan, Secretary Paulson was asked what would happen if the requisite bill would fail. Paulson replied, “If it doesn’t pass, then Heaven help us all.”

Monday, September 22
The Journal reported a flurry of lobbying activity in Washington, brought about by the proposed bailout bill. The bankers had three “biggies” on their wish list, and were not subtly asking for them:
2. Make foreign-owned banks with “significant operations” in the U.S. eligible for participation in the rescue.
3. Prevent judges from having the power to order mortgage reductions for bankrupt homeowners.

Tuesday, September 23
Berkshire Hathaway, the holding company managed by Warren Buffett, invested $5 billion in Goldman Sachs in return for an (approximate) 7% stake in the firm. Berkshire received preferred stock that is to yield a hefty 10% dividend. In addition, Berkshire also received warrants, exercisable any time in the next five years, to purchase another $5 billion of Goldman common stock at $115/share.

Wednesday, September 24
Buffet has often said he looks for durable competitive advantage as an investment criterion, and Goldman, before changing its status to a bank holding company on Sunday, September 21, was the best-positioned investment bank on Wall Street. However, it is unclear to what extent, if any, Buffett’s move may have been solicited—both by Goldman, and, more significantly, by the government. While testifying on Capitol Hill, Fed Chairman Ben Bernanke pointed out that Buffett had urged Congress to pass the bailout plan. Also, Paulson, before becoming Treasury Secretary, had been a chief executive of Goldman. Thursday, September 25
Secretary Paulson, in the midst of a day of intense negotiation over the bailout bill, was reported by the Journal as getting down on one knee and interrupting “a small gathering of Democratic leaders at the White House with a plea for them not to say anything that might blow up the troubled deal.”

Friday, September 26
The Federal Deposit Insurance Corporation (FDIC) seized the assets of Washington Mutual (Wamu) bank, and made arrangements to sell it to J.P. Morgan Chase. It was the largest bank failure in U.S. history.

Monday, September 29
Democrats and Republicans reached an agreement on the bill over the weekend, and brought it up for a vote in the House, which rejected it. The Dow Industrials fell 777 points, the biggest one-day loss in history, to close at 10,365. CNBC, in their article “Dow Falls 800 as Market Reels From House Vote,” quoted several analysts and traders as saying things like, “This is panic and ... fear amok,” “We were all in shock,” and “You have to say it but 10000 [sic] seems like a nice, round number that we may need to get to before we get people actually willing to buy some stocks.”

Thursday, October 2
The SEC extended the short-selling ban, which, by then, had been expanded to include 950 stocks. In addition, California Governor Arnold Schwarzenegger sent a letter to Secretary Paulson saying that the state may need to loan $7 billion from the U.S. Treasury to remain solvent. Separately, the Senate approved a revised bailout bill, which included at least two wins for lobbyists: provisions for foreign bank participation and “reaffirmation” of the SEC’s power to suspend fair-value accounting. In “Momentum Gathers to Ease Mark-to-Market Accounting Rule,” the Journal reported that “[f]inancial-industry lobbyists’ work on the financial-markets bill has given them another opportunity to press their case through allies in Congress, many of whom are big recipients of campaign money from the industry. More than 60 lawmakers—all but five of whom voted against the bill Monday—wrote to the SEC Wednesday, urging the regulator to immediately suspend the mark-to-market rule.”

Continued on Page 7.
The Economic Downturn, The Legal Job Market, & You

By Jon Puvak

Presumably each law student at W&M has heard something (or at least overheard a snippet of CNN as you passed the TV in the library) about the current mortgage-backed securities crisis. Experts and news reporters provide detailed analyses of the situation and friends offer various opinions, but *The Marshall-Wythe Press* discussed the situation with Associate Dean Rob Kaplan to obtain his thoughts regarding how the current economic crisis may affect our job market. Specifically, we asked questions concerning any comparable historical economic downturns and their impact on the hiring of young lawyers and whether any current change in hiring had been noticed by OCS.

During his career at W&M, which began in 1986, Kaplan has experienced numerous “ebbs and flows and tsunamis,” in the financial market, with the economic downturn of the early 1990s being the most comparable to the current situation. Kaplan recalls that there were a few years in the 1990s where the legal job market slowed down. However, changes in the legal job market tend to lag behind the changes in the economy due to the time gap between the effect on the clients and the subsequent effect on law firms.

Although the current downturn is still in the early stages, Kaplan has become aware of an impact on the hiring process at W&M and at other law schools. He noted no significant change in the number of recruiters visiting campus, but the recruiters tend to be coming with fewer positions to fill. This has resulted in some 3Ls returning to campus this fall without offers from their summer employers. “It’s a cliché, but it’s a ‘buyer’s market’ in which employers have ratcheted up their expectations,” Kaplan said. During the past few years, employers were willing to overlook some (common) blunders displayed by students during the hiring process, but now, however, there is no margin for error in the quality of resumes, application materials, interviewing skills, and academic performance/credentials. Remaining positive about the legal job market, Kaplan stated, “If I were able to get one message out to students,” that would be, “Focus on what [they] can control.” As referred to above, some of the controllable factors are well written and thoroughly edited application materials, continued development and enhancement of interviewing skills, and detailed knowledge of specific practice areas. With respect to practice areas, instead of acknowledging an interest in broad subjects like litigation or international law, consider being more specific and asking, “What kind of litigation? What kind of international law?” Keep in mind that different practice areas move up and down with changes in the economy. Currently, bankruptcy attorneys have plenty of work to do and Kaplan has not noticed any softening in public sector hiring at the federal, state, or local levels. On the other hand, the need for corporate structured finance attorneys has decreased right now. Kaplan concluded that students have the ultimate control over their long term career decisions: Stay positive even if the first offer or position does not land you directly in your dream job.

*Photo credit: thesituationist.wordpress.com*

*From Page 6.* Ruling is no accident. Bankers were clamoring for the SEC to issue guidance or suspend the rules by the quarter end when banks would be forced to admit their losses.”

Friday, October 3

The House voted on the revised bill. However, from the time of the vote to the end of the day, the Dow fell 450 points, closing down 157 points at 10,325.

Monday, October 6

The Dow fell another 369 points (though up from a 700-point decline earlier in the day), to close at 9,955.

With facts like these, it is at least legitimate to question the disposition that investors are making “bone-headed” moves. The nation’s financial advisers, traders, bankers, and regulators are—daily—making interventions in the market which materially alter the foreseeability of investment risk. And furthermore, whether these interventions have been timely, or even beneficial, remains to be seen.
Food

It Is So Ordered

by Katharine Kruk
Food Critic

I have a confession. Until recently, I had never been to a Trader Joe’s. I consider myself quite the gourmet and so when friends bantered on about the grocery store (“It’s more than a grocery store!”) I hid my shameful secret.

Back in New York, I did just fine without Trader Joe’s. But in Williamsburg, where grocery options run thin (no offense Ukrop’s, but you’re no Dean & DeLuca) I decided it would be worth checking Trader Joe’s out.

I made a point of going at an off-hour so I could soak in the surroundings. Unfortunately, Trader Joe’s is a monument to the worst elements of suburbia. The obligatory Williamsburg octogenarians slowly put their glasses on to read frozen Vegetable Tempura labels, utterly unaware of those around them. Trim housewives scurried about in inappropriate, youthful Juicy Couture terry-cloth gym suits blocking the already narrow aisles such that the entire store came to a standstill. The layout and self-absorbed clientele were difficult to deal with. The food on the other hand was excellent. The selection of cheeses at Trader Joe’s easily beats (both in price and selection) the competition at Ukrop’s, Farm Fresh and the Wine Seller (a favorite cheese haunt of mine). I was especially impressed with the fourteen different varieties of Iox that Trader Joe’s had to offer and the vast selection of Asian and Indian prepared foods (their frozen garlic naan is not to be missed).

As I was a Trader Joe’s rookie, I went expecting more fresh produce and upscale raw cooking ingredients. The best items I purchased were the premade meals, hors d’oeuvres and side dishes. I highly recommend the Trader Joe’s garlic french fries. They were easy to make, cheap and very, very tasty. Another highlight is the Sushi selection. There were fifteen different packages to choose from, none more expensive than $3.99. So, get out of the house fifteen minutes early and buy your Sushi at Trader Joe’s instead of Java City.

In the words of my younger sister, who as a child had a painfully mundane palate and would never eat what she ordered, “it wasn’t what I expected” - but Trader Joe’s was an interesting store. If you’re looking for unusual produce or high end ingredients, your best bet is still driving up to the Woodbridge Wegmans (an hour and a half drive very well spent). But, I will definitely be back to Trader Joe’s when I have a hankering for gravy or the next time I’m in a hurry and need a great pre-made meal.

Kristin’s Pumpkin Cookies

1/3 cup butter 1 tsp. nutmeg
4 tsp. baking powder 1 tsp. vanilla
1 1/3 cups sugar 1 tsp. cinnamon
1 tsp. salt 1 tsp. lemon juice
2 eggs, well beaten 1 cup raisins (optional)
1/4 tsp. ginger 2 1/2 cups sifted flour
1 cup canned pumpkin 1/2 cup raisins (optional)

Cream butter and sugar thoroughly; add eggs, pumpkin, vanilla, and lemon juice. Stir in sifted dry ingredients, add raisins and nuts (if desired), mix well. Form batter into teaspoon sized balls and place onto a greased baking sheet. Mix sugar and cinnamon and shake over top and add festive sprinkles. Bake for 15 minutes at 400 degrees.

Demeola’s Meat Balls

1 lb. ground beef
1 egg
1 1/2 cups shredded parmesan
2 cloves garlic
Italian parsley
1/4 cup of Italian-style bread crumbs
2 handfuls of French Bread
Pinch of salt
Pinch of pepper
Tablespoon of garlic powder
Canola oil for frying

Finely chop parsley. Cut garlic into thin slices. Soak bread in water then squeeze water out. Crack egg into mix. Mix all together and roll into balls. Heat canola oil in pan and fry until crispy on the outside.

Do you have any favorite recipes you would like to contribute? Cooking tips, food reviews, and drink recommendations would also all be appreciated.

Please send them to marshall. wythe.press@gmail.com.

PUMPKIN RECIPE BOOK

ALL PUMPKIN ALOE

PUMPKIN ALOE
Ask OCS: Government Jobs, Choosing a Firm, Handwritten Notes

Q. I am a 2L interested in working for the government next summer. How should I begin my search?

A. We would first recommend making an appointment with one of the deans in the Office of Career Services to discuss whether you are interested in state, local or federal government work, which government agencies you are targeting, and other details that will help focus your job search. During that meeting, the dean with whom you meet will provide information on the many resources that are available and the best approach to take depending on your focus. For example, the University of Arizona produces a Handbook on Government Honors and Internship Programs which is available to students on line as well as in hard copy in the Office of Career Services library. This publication contains a wealth of information on both internship and post graduate opportunities within the federal government.

There are also several “Lunch with Lawyers” programs throughout the year that feature alumni and others who work in a variety of government agencies. These programs not only provide valuable insight into the application process for specific agencies, but also give you the opportunity to make contact with someone within the organization. For example coming up in the second half of October, there will be two programs that feature government agencies: Careers in the State Department (October 17) and Careers in the CIA (October 20).

Q. I am attempting to choose between two very similar firms. What can I do to better distinguish them from one another?

A. The best way to gain inside information about a firm is to speak with someone that currently works there or has worked there in the recent past. It’s very difficult to get a grasp of the corporate culture of an organization by reading their Web site. Web sites are designed to market the firm, so getting in depth information about the “warts” of the organization can be difficult. Sometimes it helps to review articles in various legal magazines and newspapers (Legal Times, American Lawyer, etc.), but there’s nothing like speaking with someone that has practiced in the firm. William & Mary Law alumni can be a great resource as are 3L students who have worked at the firm as a summer associate.

Be sure to craft some good open-ended questions to ask them...questions that will elicit the information you are seeking while remaining discreet. OCS can assist you both with finding the right person to speak with and coming up with some probing questions.

Q. I prefer to send handwritten thank you notes. Is that a good thing? Is typing notes better? Does it really make a difference?

A. When sending notes via regular mail, we recommend sending word processed thank you letters on resume quality paper since they tend to look more professional. Hand written notes can sometimes be more difficult to read depending on the handwriting, and finding the right note card can sometimes be problematic. If the employer will be making a decision quickly, however, we recommend sending an email message as a thank you to ensure that it is received before hiring decisions are made.

Have a question for OCS? Send it to marshall.wythe.press@gmail.com.

GRADUATING?
Check out the entirely online, most technologically advanced MBE preparation program.

adaptiBar
be prepared

- Accessible from ANY Internet-based computer.
- Uses only previous bar exam questions.
- Adjusts presentation of questions based on your strengths and weaknesses.
- Calculates your optimal timing in each subject.
- Allows you to compare your performance to other students.
- Is accessible from your cell phone at adaptiBar.mobi.
- Allows you to email our staff on both technical AND substantive questions.
- 105% money-back guarantee.

Try AdaptiBar for free at www.stryAdaptiBar.com
Enroll online at www.adaptiBar.com or call us at 877.466.1250

For a limited time, AdaptiBar is yours for only $345. Use promo code WS345 when enrolling to receive the $50 discount.
San Diego County Public Defender’s Office

By Emily Uhre

Funding from the Public Service Fund (PSF) allowed me to accept an internship with the San Diego County Public Defender’s Office this past summer. After I received the job offer, I found a house two blocks away from the beach and drove out to California. I was assigned with another intern to a group of three attorneys who worked for the Central Misdemeanor Unit. The attorneys rotated on a seven-week schedule which included two weeks of arraignment—one in the courthouse and one in the jail, one week in domestic violence court, and two weeks of trial.

During the arraignment weeks the other intern and I switched between counseling clients and standing at the podium and entering pleas in front of a judge. I also was able to counsel those individuals who were in court because they had not fulfilled a term of their probation. I represented the individuals in front of the judge and explained why the judge should give them more time to finish probation or modify it to better fit their needs.

The most challenging task I was assigned was during trial rotation arguing a suppression motion. The motion basically worked like a mini trial. It was my job to conduct direct examination, cross examination, and present a closing argument. The direct examination went as I expected, but I quickly found that cross examining an officer who had been a policeman for seventeen years could be more difficult. I am grateful that I had the opportunity to begin my courtroom practice as a summer intern.

I couldn’t have asked for a better summer experience—every day I encountered something new and something that reinforced that I want to have a public service job after I graduate.

Citizen Lawyers, Community Servants: PSF Summers

Virginia Poverty Law Center

By Julia Bishop

Thanks to the Public Service Fund, I was able to spend my summer as an intern at the Virginia Poverty Law Center. VPLC advocates on the behalf of low-income Virginians. The office consists of attorneys and lobbyists, and although I concentrated my efforts on consumer law, housing law, and health law, VPLC also focuses on family law, domestic violence law, elder law, and public benefits law.

I spent much of my efforts this summer tackling predatory lending practices in Virginia. The unfortunate reality is that the vast majority of those falling victim to predatory lenders are Virginia’s low-income residents. VPLC is working extremely hard by advocating for more consumer friendly legislation to protect borrowers from predatory practices. When last in session, the General Assembly amended Virginia’s Payday Loan Act, and these amendments will go into effect in January of next year.

With the amendments, the State Corporations Commission, which is responsible for overseeing payday lenders, proposed new regulations for payday lenders based on the amendments. I had the opportunity to attend a hearing at the SCC in which attorneys and lobbyists commented on the proposed regulations. It is important that the regulations adopted by the SCC accurately reflect the amendments, so I spent much time pouring through the Act to ensure the SCC’s regulations did just that.

I spent a lot of time researching Truth in Lending

Continued on Page 11.

Attorney General of New Jersey

By Sean Marotta

If Law & Order were anything like real criminal law, it would go something like this:

3:00 p.m. Supreme Court Trial Part 23.

And the picture would be of a bunch of attorneys sitting around, waiting. We would stay on this picture until the end of the show. Because if there is one thing that I learned from my summer at the United States Attorney’s Office for the District of New Jersey, it is that there is a lot of waiting in the law.

But when I wasn’t waiting, I had a fantastic, substantive experience in federal criminal law. Our office had ten attorneys. And then one went out on maternity leave. And then another moved to Vermont. That left eight attorneys to do the work of ten, but also put the interns in the front line of a small-but-busy criminal practice.

There was, for instance, my last week when my internship coordinator walked in and said, “I need to fix this brief. My first draft is terrible, but I don’t have any time to work on it.”

So I became the principal drafter of a brief to exclude the defense’s fire investigator in a maritime arson case. The report was, in fact, excluded, and the case pled out as a result.

Or there was the crack sentencing guideline response I wrote that became the model for the office responding to a particular argument from the Public Defender’s office.

And along the way, between the memos and the research and the watching court proceedings, I picked up a new appreciation for the federal prosecutors and agents that prosecute and investigate a whole host of federal criminal laws. I learned that building a criminal case isn’t done just from the law books, but in the field through a whole lot of digging and a whole lot of work. And that, perhaps, was the most important lesson I got from my summer. Oh, and to always bring a something to do if I was planning to go to a court proceeding.

U.S. Attorney’s Office of Tampa, Florida

By Paul Karasick

This summer I was in Tampa, FL working for the U.S. Attorney’s Office for the Middle District of Florida, Criminal Division.

I chose this job over other jobs because I had no idea what the federal criminal system was like and wanted to see if I was pigeonholing myself by focusing my attention strictly on the state criminal system.

I contributed to society this summer by commuting two hours a day, doing my small part to cement demand for gas despite extreme gas prices. With more pride, the work I did this summer contributed to crime-busting in big and small cases, including big-time drug and firearm prosecutions, extortion prosecutions, white-collar fraud prosecutions, and possibly some things I’m not allowed to talk about.

Continued on Page 11.
Haynes suggested that “if there is any ambiguity concerning treatment of detainees, someone is going to violate the law.” Eaton also highlighted a correlation between the Abu Ghraib scandal and an increase in insurgent attacks, suggesting that harsh treatment of prisoners during an insurgency will lead to an increase in violence against U.S. Armed Forces. Eaton also stated that many Iraqi soldiers surrendered during the initial invasion in Operation Iraqi Freedom because they believed they would be treated well by the U.S. military. He argued that a reputation for torture and inhumane treatment of prisoners by the U.S. military would likely lead opposing soldiers in future conflicts to fight to the death rather than surrender.

All of the participants met with all of the presidential candidates during the primaries. During each of these meetings, they stressed three goals for the next President. The first is to close the detainee camp at Naval Station Guantanamo Bay in Cuba and move the detainees to high security prisons in the United States. The second is to end extraordinary renditions and to stop sending prisoners to countries that torture. The third is to eliminate any secret CIA prisons in foreign countries. Presidential candidates, John McCain and Barack Obama have both stated that they are against the use of torture.

"The round-table discussion was co-sponsored by the William & Mary Human Rights and National Security Law Program and Human Rights First. The discussion will be continued on Oct. 27 at 7:00 p.m. in room 120 with the topic: What Does Torture Mean for our National Security and American Values?"

From Page 10.

VPLC

Act issues involved with a title loan case. A car title lender was blatantly fleecing our client. All of the work I did at VPLC was rewarding, but there was nothing like being able to associate a name with a case and to know that my work product was assisting an actual person was particularly gratifying.

My summer with VPLC was a rewarding and eye-opening experience, and I would certainly recommend to any law student at William & Mary interested in sophisticated public service and policy related work to seek a position with VPLC.

USAO system) numerous times, but I was struck with how (relatively) unfazed most people seemed to be in the face of federal criminal charges. I was pleasantly surprised to find most of the attorneys I worked with were not humorless, perfectly polished robot-attorneys in black suits, but were awesome human beings with personalities, who enjoyed what they did and were dedicated to their jobs and the cause of justice.

My job was better than your job because the weird social tension between interns in the library faction and interns in the computer lab faction probably prepared me better for the real world than firm softball games or whatever.

Clip & Save Marshall-Wythe Trading Cards! Collect them all!!!

This Week: IM Superstars

Dan Redding (3L)
From: Manassas, VA
IM sports played? softball, soccer, football, volleyball, basketball, floor hockey
IM championships? A-league men’s football, co-rec soccer...I have a drawer dedicated solely to IM championship t-shirts
Prior sports? Club lacrosse at UVA and currently at W&M
Honors? Won state championship in lacrosse while at Bishop Ireton High School
Etc.? A source of great inspiration to me, who drives me to excel during my late nights at the gym, is Kenny the janitor, who lauds me with such comments as “Hey Dan, play to win.” on a daily basis.
The Last Page

T&A—Tusk and Ass

By Bishop Garrison
& Elyse Zimmermann

Elyse: So I love SNL, and I think that Tina Fey’s impression is hilarious, but I think that after the VP debate they just took it too far. They made fun of her in a way that was degrading and for people who didn’t watch the debate, and just YouTubed the skit, they are going to base their impression on Tina Fey, not Palin. The media has freedom, and with that comes responsibility. They are not living up to it here.

Bishop: Okay, for starters, in no way, shape, or form is SNL the “media”. If you are basing who you vote for on what the people who created “Wayne’s World” and “The Lady’s Man” think about politics, then you are an idiot. That is not to say there are no idiots in the voting process; it is just that no one is at a disadvantage on either side. Besides, Jason Sudeikis kept it legitimate: arrogant to a degree, condescending to another, and referred to himself in the third person constantly. I would add, on a personal level, that we would be better off if Tina Fey was the VP Candidate. She has led 30 Rock to Emmys. Palin wasted money on a bridge that never got built and then tried to say she was against it the entire time.

Sarah Palin and Tina Fey. AP Photo

Elyse: SLN is in every sense “the media,” just as much as Jon Stewart and Stephen Colbert are. I do not think that people should be getting their news from them, but that is what our country does. The fact is, unfortunately, that people do get their “news” or at least commentary from SNL; otherwise why is it so important for every politician to make an appearance on that show during election season (Hillary, Obama and McCain all have been on within the past six months). Why else would the extra 200 old people votes needed to win Florida had Daryl Hammond not donned about “lockboxes” for social security in every debate parody in 2000. A lot of Americans are stupid and get confused. People this month are not making fun of Palin, they are making fun of Tina Fey’s Palin. It casts a cloud over every Palin appearance, and while the parody was within reason in her first two skits, Palin was just fine in the VP debate and the parody did not reflect that at all.

Bishop: Personally, I think you folks in the GOP have bigger things to worry about than the “fake” media. You should really focus in on the fact that Palin really is not qualified for the position, regardless of how ridiculous Tina Fey might make her seem in comedic sketches.

Elyse: You are right. Our VP pick is not qualified. But our presidential pick is, which is more than y’all can claim.

Clip & Save Marshall-Wythe Trading Cards! Collect them all!!!!
This Week: IM Superstars

Rachel Jones (2L)

From? Annandale, VA - the best place ever.
IM Sports Played?: volleyball, softball, football
IM Championships? Never been on a winning team.
Prior Sports Played?: Started playing sports in Kindergarten. I was five. And a stud.
Honors? I have all my track medals on a teddy bear. He wears them. It’s cute.
Etc.? I have never been injured. I drink milk.

Todd Berman (2L)

From? Long Island, NY
IM Sports Played?: softball, football, volleyball
IM Championships? B-league men’s football, and innertube water polo at Brandeis
Prior Sports Played?: Pee wee soccer and little league. Swimming starting in 7th grade (year-round starting in 10th grade). Captained my college swim team.
Honors? I made an all-american consideration cut in high school, but I’m not sure if my coach ever sent in the form.
Etc.? I like saving puppies from fires. Yes, I am a hero.