Civil Liberties Protection in Intelligence: An Interview with Alex Joel

By Tim Harrington

Alex Joel graduated from the University of Michigan Law School in 1987, magna cum laude, and served as a Contributing Editor for the Michigan Law Review. After working in both the JAG corps and in the private sector, Mr. Joel served as the interim Civil Liberties Officer for the Director of National Intelligence from June 2005, and was appointed the first Civil Liberties Protection Officer on December 7, 2005.

Res Gestae: Tell us about the position of Civil Liberties Protection Officer.

Alex Joel: My position was created by the Intelligence Reform and Terrorism Prevention Act of 2004, which Congress enacted following the recommendations of the 9/11 Commission. That statute created the position of Director of National Intelligence (John Negroponte), as well as my position. The reason [Congress] created my position was that they perceived that they were making the intelligence community a better-coordinated, more unified entity, which they believed would give [the intelligence community] greater abilities to intrude upon the privacy and civil liberties of Americans. To counteract those concerns, [Congress] created my position, as well as the Privacy and Civil Liberties Oversight Board, which actually sits in the White House.

Now that's sort of the straight legislative answer to your question, but having been there for a year, I think it is a very valuable thing to have inside the government. It adds to the executive branch's internal system of checks and balances and oversight for conducting intelligence activities. We perform a valuable role, which is to try to get involved early in the policy-formulation process—earlier than other entities might be able to get involved—because we're sitting right there in Office of the Director of National Intelligence. What we try to do is see things at their earliest stages to make sure people are adequately taking into account the privacy and civil liberties implications of what they're doing.

RG: What happens if people don't take into account the privacy and civil liberties implications of what they're doing?

AJ: We are advisory, at least part of our role is advisory.... What you try to do is influence the people you work with and get them to see your perspective and make the changes you're requesting—and so far that's been sufficient for us to influence things in the way we feel is appropriate. There are occasions when an issue might be so elevated that I would say, “You know what, I'm going to have to talk to Director Negroponte about this as I regularly do,” and people know that he is very serious about civil liberties protections. And the last thing we in the intelligence community want is to create more civil liberties storms than already have been created. The way bureaucracies work, that has also been an effective tool.

Director Negroponte has a lot of authority under the statute and also just by virtue of the bully pulpit, for want of a better term (although it's not really a pulpit, since he doesn't go to the public with these classified issues), so he has influence beyond the four corners of the statute. He has been in government a long time and is very experienced in how to get things done in government. Of course, there are some that argue that he still doesn't have enough authority, but from what I have seen, he has plenty.

RG: Can you give a generic example of how you've influenced policy?

CONTINUED on Page 8
Double Booking Problems

A scheduling mix-up allowed two symposia to take place at the Law School on Friday, September 29. The Environmental Law Society (ELS) appears to have claimed the date first for their “The Great Lakes: Reflecting the Landscape of Environmental Law” symposium. Also on the 29th, the Michigan Telecommunications and Technology Law Review (MTTLR) held the first day of their two-day “Patents and Diversity in Innovation” symposium.

In addition to preventing students from attending both events, holding more than one symposium on the same day places a strain on those who provide support for symposia - the audio/video staff for example.

According to Dean Baum, the administration does make an effort to keep more than one symposia from taking place on the same day. They regret the mix-up and will try to prevent similar scheduling conflicts in the future.

Rebecca Eisenberg, faculty organizer for MTTLR, was quick to admit that she was likely to blame in this case. Professor Eisenberg said that she didn’t realize until it was too late that ELS had a symposium scheduled for the 29th.

MTTLR did not receive funding from the Law School in conjunction with this symposium, and it appears that getting approval to hold the event required only a room reservation.

Expecting organizers to be sure to pick a unique date is suspect because of the abundance of calendars in use at the Law School. Making sure that a date is available isn’t just a matter of checking the calendar - it is a matter of checking the correct calendar. Past efforts to enact a single master calendar for Law School use have not been successful.

If the administration is serious about limiting symposia to one a day, it needs to take steps to eliminate this sort of mistake. The burden of preventing scheduling conflicts need not be placed on the symposia organizers, nor should it be assumed that mix-ups will be caught when rooms are reserved. A single, comprehensive calendar might be a start.

Even better, Professor Eisenberg suggested that the administration designate someone to be in charge of preventing same-day symposia scheduling. Some solution must be within reach. We join Dean Baum in hoping that this won’t happen again.
Learning the Dual Degree Tango

By Andrea Hunt

Everyone knows about the dual degree programs in Public Policy and Business Administration, but law students have their choice of fourteen dual degree programs offered in conjunction with other schools at the university. Students can apply for a dual degree program even in their second year of law school, and dual-degree students say they believe that the programs will help them to succeed in whatever field they pursue.

For example, the Law School offers dual degree programs in Law and Modern Middle Eastern & North African Studies, and Law and World Politics. Who knew? Thirteen of the formal programs offer a JD and master’s, but there is also a JD/PhD in Law & Economics. Furthermore, if none of the formalized dual degree programs fit your needs, you can pursue an “ad hoc” program instead.

Worried that it’s too late to enter a dual degree program? Fear not, 1Ls and 2Ls: it’s not too late to apply for the non-law half of the programs (except the Law & Economics joint degree, which requires students to apply concurrently with their law school application). However, the ship probably has already sailed if you are a 2L who has accepted an offer to work at a firm next summer. If the firm wants you to return in 2008, but you want to stay in grad school forever, you’ll be in a sticky wicket, since the dual degree programs all add an extra two semesters.

If you decide to pursue a dual degree, re-familiarize yourself with your old friend the bubble sheet: you’ll most likely have to take a standardized test, like the GRE. Those looking to business school don’t need bubble sheets—the GMAT is a standardized test administered by computers that gets harder as you take it—so it’s a trade-off. And don’t move your personal statement to the Recycle Bin just yet. Admissions processes for other programs are independent from Law School admissions. Yes, that means more work. However, the application process is made a tad easier for debt-saddled students: you won’t have to pay another application fee for the formalized programs. I’m sure you can find another good use for that $60. If not, stick it in the Res Gestae’s Pendaflex.

Tim Thomas, a 2L, is pursuing a master’s in Public Policy at Harvard University’s Kennedy School of Government. Unlike the typical law/public policy dual-degree student, Thomas chose to complete his first year in the public policy program before beginning law school, so that he could graduate with his law school class and participate in OCI. He is taking law classes this semester, and will spend the next semester at Harvard. He will then complete his 3L year and graduate in May 2008 from Michigan and June 2008 from Harvard.

Thomas chose the Kennedy School of Government in part because of its international focus. He states that the school’s student body consists of about 40% international students, and that many students worked for the UN, World Bank, or CIA before pursuing an MPP. And after graduation, students relocate not just in Washington, D.C., but in London, Brussels, Tokyo, and Hong Kong.

Thomas sees the dual degree as a selling point. “There are a lot of people getting JDs and MBAs, and a dual degree makes you stand out, especially from a different school,” he states. While he admits that learning about econometrics is hard, he acknowledges that “if you can use that, it can help you become a better lawyer.”

Having completed one year of law school, JD/MBA student Sonya Mays will spend this academic year at Michigan’s own Ross School of Business. She describes the student bodies at the two schools as “fundamentally different” and says, “What I miss most about law school are the people. Law students seem to be much more socially aware and active.” However, she admits that she does love the social/networking component of the Business School, and prefers the “endless” networking events to reading thirty pages of dense legal prose.

Mays observes that the law and business programs are taught differently. While she misses the “intellectual vigor that flows from analyzing social issues through the legal framework,” in law school, she enjoys the “practical based, concrete learning” that takes place in the business school. She adds, “Everything that I have learned so far in business school is directly applicable to whatever I decide to do in the future,” in contrast to the “cerebral and inapplicable” topics discussed in some law school classes.

After graduation, “my future lies in investment banking,” Mays confidently asserts. She says that her law degree will make her a better banker, and that overall, the JD/MBA program is “the best of both worlds” for her.

Andrea Hunt is a 2L and currently enrolled only at the Law School. Questions about this article may be sent to rg@umich.edu.

For more information on dual degree programs, contact Director of Student Affairs Christine Gregory: csgreg@umich.edu, or law.dual.degrees@umich.edu.
Little Boxes, All The Same: How To Distinguish Between Law Firms

Submitted By The Office of Career Services

Students often find it difficult to distinguish one employer from another. To try and tease out differences, you will need to gather more information, and the questions below may help you do so. Some of these areas of inquiry will be of interest to you, others will not. Try to focus on those that will reveal answers that may make you more satisfied in your job choice. Note that some questions should not be asked until after you have received an offer of employment.

1. If you are interested in a specific practice area, how is that practice area different from other employers with a similar practice? Is that practice area developing, remaining strong, or diminishing?

2. Do you understand the advantages and disadvantages of choosing between satellite offices and main offices?

3. Do you know the distinctions, advantages, and disadvantages in choosing between spin-offs of large firms and small or mid-sized firms generally?

4. What is the associate work assignment process? Whether you clerk for the employer for a summer or whether you join after law school, will you be assigned to a particular partner or will you receive work from a variety of partners? Is there someone to monitor your workload? If you have a preferred area of practice, will you be able to work in that area?

In order to assess an employer’s corporate culture:

1. Does the employer provide good training and mentoring? More specifically, does it provide attorneys with information about the culture? Does the employer give attorneys challenging work assignments that will enable them to grow and develop professionally? Does the employer provide development guidelines for associates at each level of practice? Does it have a formal continuing legal education program? Is there a formal mentorship program? Do the attorneys think the employer provides good training and mentoring?

2. Does the employer have a well developed attorney evaluation process? For instance, does it have a formal, regular, meaningful evaluation process that encourages learning, constructive criticism, and feedback? Or will you have to rely on receiving feedback informally? Attorneys frequently specify lack of constructive feedback as a reason for leaving an employer.

3. Does the employer have a commitment to the promotion of attorneys, or is it assumed that most attorneys won’t stay around to get a promotion and/or make partner? What criteria does the employer use in evaluating associates? Does it provide incentives to retain attorneys, such as merit bonuses or a special “longevity” bonus for attorneys who stay with the employer after a certain period of time?

4. Along the same lines, what is the level of associate responsibility? Most employers claim they provide their associates with early responsibility. Ask associates how much responsibility they have on cases and transactions.

5. Billable hours: What are the firm’s billable hour expectations? How do those expectations compare with other firms? Is billable hour credit given for pro bono work or time spent in continuing legal education or associate development?

6. What is the length of the typical work day?

7. Compensation, monetary and otherwise: Make sure to look beyond the summer and first-year associate salaries. Does the employer offer compensation competitive with other employers at all associate levels? What other expenses are paid for, such as the cost of a bar review course or the cost of relocating to a new city? Are bar dues paid by the employer?

8. Openness and information sharing: Does the employer share information with associates and summer associates? Does it share its business plan with associates? As a summer associate, were questions answered openly and honestly?

9. What does the employer do to encourage diversity?

10. What is the atmosphere? Is it formal? For instance, do the lawyers wear suits? Do they wear their jackets in the hall to go from one office to another? Is the atmosphere collegial? Do people speak to each other in the hall? How is the support staff treated? Do you get a sense that the lawyers work well together, or are they competing against one another? Does the employer’s culture support and encourage teamwork?

11. What is the quality of life? At one large New York firm, attorneys identified the following items as important to their job satisfaction:

- Sabbatical programs
- Parental leave policies
- Backup child care
- Flexible work schedules
- Special banking services
- Corporate credit card programs
- Confidential employee assistance programs
- Domestic partner medical benefits
- Casual summer and Friday dress codes
Harvard Law Changes First-Year Curriculum
Caminker Calls HLS “Late to the Party”

By Ishai Mooreville

Two weeks ago, the Harvard Law School (HLS) faculty unanimously adopted sweeping changes to the first-year curriculum, adding three required courses, and reducing the time spent on traditional subjects.

First year students will now be required to take classes in “Legislation and Regulation,” “Comparative and International Law,” and “Problems and Theories.” To make room for these classes, less time will be spent on the traditional first-year subjects: Torts, Contracts, Criminal Law, Civil Procedure, and Property. (Constitutional Law is generally a second-year course at HLS.) These changes will be implemented gradually over the next three years.

“This marks a major step forward in our efforts to develop a law school curriculum for the 21st century,” said HLS Dean Elena Kagan in a press release. “Over 100 years ago, Harvard Law School invented the basic law school curriculum, and we are now making the most significant revisions to it since that time.”

Evan Caminker, dean of Michigan Law School, welcomed Harvard’s changes but did not see them as revolutionary.

“It’s a good thing for law schools to periodically change their curriculums,” he said. “[But] Harvard is late to the party. It’s not pioneering any changes.”

Michigan Law School has required all students to take a course in Transnational Law since 2001. Additionally, it also offers upper-class electives in Administrative Law and Legislation.

Caminker also noted that the school at one time considered adding a first-year class in statutory and regulatory interpretation, but a faculty committee ultimately decided against it. Instead these topics have been incorporated into the Legal Practice curriculum.

According to HLS, the purpose of the change is to better prepare law students for practice in the current legal environment.

“We believe these changes will better prepare our students to think about and practice in a legal world in which regulations and statutes play an equal or more important role in the creation and elaboration of law as do court decisions; in which transactions and interactions among parties are increasingly global in nature; and in which economic, cultural and technological changes call upon the best lawyers to become skilled in system design, problem solving and creative approaches to issues,” said Professor Martha Minow, who chaired the revision process, in a released statement.

Regardless of Harvard’s changes, Professor and Associate Dean for Academic Affairs Kyle Logue thinks the current first-year Michigan Law curriculum works just fine.

“We have not dramatically changed the first-year curriculum in a long time, and the reason is that we (the faculty) have been of the view that the first-year courses work well as they are,” he said. “This is not to say we may not at some point change our minds.”

Harvard’s law curriculum, based largely on case-review and the Socratic method, was developed in the 1870s and has been emulated by the vast majority of American law schools.

The Legislation and Regulation course will focus on teaching students about the legislative process, statutory interpretation, and general regulative tools and strategies. The International Law requirement may be filled by taking one of three new courses: Public International Law, International Economic Law, or Comparative Law. The Problems and Theories course will take place during a mandatory January term in between the first and second semester of the first year, and will focus on complex problem solving requiring creativity and teamwork.

Other top law schools have already modified the traditional law school curriculum to fit their own needs. Yale Law School does not require a course in Property; NYU Law requires a course called the “Administrative and Regulatory State” in the first year, and the University of Chicago Law School requires a first-year course in “Elements of the Law” which focuses on law in relation to philosophy, economics and politics. Georgetown Law offers a complete alternative curriculum to one section of first-year students each year, with courses in “Bargain, Exchange and Liability,” “Democracy and Coercion” and “Government Processes,” among others.

Some take Dean Caminker’s view—that Harvard Law’s curriculum changes are not so new.

“Other law schools have already been changing their first-year offerings,” University of Texas Law Professor and popular blogger Brian Leiter told the Harvard Crimson. “Michigan added transnational law and Penn added administrative or regulatory law. This is a case where Harvard is actually catching up.” (Penn’s administrative law course is an elective option for first-year students.)

It is not yet clear how Harvard’s change will affect other law schools’ curricular offerings. But it seems unlikely that Michigan Law’s curriculum will be overhauled anytime soon.

“Of course, we don’t generally make our curricular decisions based on what other law schools do, but rather on what we think makes sense for our students,” said Logue.

Ishai Mooreville is a 1L.
Bar Night at Conor O’Neil’s
Thursday, October 19, 2006
Photos by Leslie Stierman

Milk and Cookies . . . and Singing
The Headnotes perform outside the Snack Bar in Hutchins Hall, Sunday, October 22, 2006.
Photos by Vivian Shen
Michigan Civil Rights Initiative: 
What Will We Do to Make Good on 
The Promise of a Diverse Democracy?

On Election Day, Michigan voters must answer this question when they vote on Proposal 2, the Michigan Civil Rights Initiative (MCRI), which, far from protecting civil rights, would undermine those of minorities and women by banning affirmative action programs in Michigan.

In his October 4 Res Gestae op-ed, “MCRI and Affirmative Action,” Roger Clegg applauds the Sixth Circuit Court of Appeals decision to allow Proposal 2 to stay on the ballot despite the fact that the MCRI petition gatherers misled Michigan voters to obtain the requisite signatures for qualification.

Michigan voters support diversity. The most recent poll numbers show growing opposition to Proposal 2. In an “up or down” vote, most Americans support affirmative action and equal opportunity programs aimed at achieving diversity. But MCRI led Michigan voters to believe that they were signing a petition in support of affirmative action, not to ban it. Proposal 2 will, in one fell swoop, ban affirmative action programs in state contracting, education, and employment. It would prevent Michigan from correcting inequities that are stifling the state’s economic growth.

Affirmative action has never been about preferential treatment. It has never been about throwing out merit and replacing it with race. In current affirmative action plans, race is not the deciding factor for whether or not to accept a prospective student, or whether to hire a prospective employee. Race is just one of many factors at play.

The Supreme Court has held that diversity is a compelling governmental interest in several decisions, most recently in 2003 in Grutter v. Bollinger. Opponents claim that engineering diversity for governmental or societal purposes is discriminatory.

However, in order to achieve broad diversity goals, some social engineering must occur. Minorities and women have historically been the groups shut out of universities and boardrooms. Affirmative action opponents too often forget (or ignore) the fact that discrimination against minorities and women is why the situation needs to be addressed in the first place.

To right it, we must consider race and gender along with all the other relevant factors.

In everyday life, there are measurable differences between the average circumstances of racial minorities and those of white people. Socioeconomic status is just not a good proxy for race when we consider how often racial and gender bias negatively impact the prospects of women and minorities. We need to be honest about this fact because affirmative action opponents want to exploit the nation’s desire for a “color-blind” society, knowing full well that neither racial or gender equality has been achieved.

As retired U.S. Supreme Court Justice Sandra Day O’Connor said about her twenty-five-year deadline for the continued use of affirmative action in universities, it is “a hope more than a certainty.”

Affirmative action is not just about leveling the playing field with respect to minorities; women benefit from affirmative action programs as well. Even though women are represented in the workforce in great numbers, they are far less likely to break through the glass ceiling and are often paid less for doing the same job a man does.

In the face of overwhelming evidence of racial and gender inequality, affirmative action opponents would have you believe that affirmative action gives minorities and women an advantage over whites, and white males in particular. Clegg says that “as America becomes increasingly multiracial and multiethnic, it becomes increasingly divisive and unworkable to pick winners and losers on the basis of color. Guaranteeing a predetermined amount of diversity doesn’t justify discrimination.”

“We winners and losers”? Ensuring that minorities and women have the same opportunity to compete is not picking winners and losers. Affirmative action is a set of practices that help to widen the pool to include minorities and women. The only guarantee it provides is the opportunity to compete.

Affirmative action is not the perfect answer to our nation’s struggles with equal opportunity. It is just one tool at our disposal to right grievous wrongs and balance the scales.

Submitted by Ellen Buchman and Anjali Thakur on behalf of the Leadership Conference on Civil Rights. Comments about this article may be sent to rg@umich.edu.

The RG is committed to presenting a balanced portrait of hotly contested issues.

AJ: There are occasions where people come up with a plan that is not intended to violate the law or do anything unconstitutional, but we'll see the unintended consequences of something they might have put into a strategy or approach and point it out. And usually if we ask if that's really what they mean, they'll say no; that they didn't want to go that way, and if it's going to create issues, how do they adjust?

One thing to remember is that although my office is new, the idea of protecting civil liberties as we go about collecting intelligence is old. In the Offices of General Counsel and the Offices of the Inspector General, and generally in the training of intelligence personnel, there is a lot of focus on this issue of how to protect civil liberties as we do our jobs. I work closely with the Offices of General Counsel and Offices of Inspector General. Of course, what we bring to the table is an exclusive focus on this issue. And we have ways of talking to people like you—law schools and the advocacy community—to get their insights and ideas and understand what it is they're worried about, so we can bring that to bear on the internal process.

RG: Were you influential in hiring Tim Edgar, formerly of the ACLU?

AJ: Yes, Tim Edgar is the former national security lawyer and lobbyist for the ACLU, and he's been an excellent addition to the office. He's my deputy for Civil Liberties, and he's done exactly what we were hoping he would do, which is to bring into our office that perspective and that whole way of looking at the programs and activities of the U.S. government. That perspective is hard for a U.S. government employee to internalize, because we always think we're pure of heart, whereas someone from the outside civil liberties community doesn't always assume good intent and so is looking for problems or any potential dark places that a federal government program might go.

RG: Do you feel isolated at all in the intelligence community? Is there resentment from the other agencies or do you feel like you get cooperation?

AJ: There is a lot of cooperation. One of the main things I had to do at the very earliest stage was to gain the trust of other members of the intelligence community, so you've put your finger on the first challenge that I faced in my role. It's a new office, and the intelligence community is typically a closed society, so other members of the community weren't sure what this new entity was. It sounded like it would be someone that was going to get them in trouble, bring them up for investigation, holding press conferences excoriating x, y, or z. I felt that was not the way for my position to be effective. I tried to make clear that I understand the commitment that all members of the intelligence community have to privacy and civil liberties—we all take an oath to support and defend the Constitution. [At this point, Mr. Joel removed a copy of the Constitution from his shirt pocket.] I carry this not because I read it regularly (although sometimes I will look at it), but because it's a ritual for me. It's a physical reminder. Every morning I put it in my pocket and think to myself, “Okay, this is what we're here to do.” And while I haven't met everyone in the intelligence community, those I have met share that commitment to the Constitution. The real question is how you do that.

RG: A cynical view of your office might be that it is a part of the Bush administration’s ploy to concentrate more power in the executive branch by making it look like there are checks and balances, but that it actually cuts Congress and the Judiciary out. Do you think the other checks and balances designed to protect civil liberties are working?

AJ: Well, let me start by first clarifying that my position was not a Bush administration creation. It was an act of Congress, so I was not a political appointee but rather selected by the director of National Intelligence. To what extent the system of other checks and balances is functioning is a very important question that we do worry about. It is our position (the DNI) that we do need to have a functioning constitutional system of checks and balances, and I believe the President believes that too.

People certainly disagree about how to go about allowing the checks and balances to work while at the same time maintaining secrecy of sensitive programs. People would draw the line differently, is really all I can say about that. Congressional oversight is very important, and the Congressional oversight committees play an essential role as the external check. It's part of the larger problem of allowing transparency but at the same time keeping secrets. I don't know that this administration has found the right balance or not—I don't know if prior administrations have found the right balance or not. It's an ongoing challenge for the intelligence community.

RG: What made you decide to leave private practice and go for the government in the first place? Was it 9/11?

AJ: Yeah, it was 9/11. Growing up, I had always thought I would go into public service. After graduating from Michigan Law School in 1987, I started off as an Army JAG for four years, because I had a college ROTC commitment and had gotten an educational delay to go to law school. I did trial work there, but I didn't want to have a career in the Army, so I went to a private firm to do litigation. Once there, I realized that wasn't trial work at all, but I stayed and did technology work for a while until I went in-house at Marriott to be their privacy and e-commerce lawyer.

When 9/11 happened, I thought to myself, this is the time to get into public service. I called up a college classmate of mine who was in the Office of General Counsel at the CIA, and asked him where he thought I should go with this urge I had to serve the country, and he suggested the CIA, which I hadn't even thought about at that point. I looked around at the DOJ, etc., but ultimately

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decided that if I was going to do this I was going to go whole hog, so I went to the CIA. The CIA was a great place to work. It's very flexible, but you still have to realize that you are working at a federal agency— but it's a very cool federal agency. You do very interesting things as a lawyer there. When the DNI was created by that statute, I was detailed over to help set up this position because of my privacy background and civil liberties stuff I was doing over at the CIA.

RG: Hypothetically, if you saw a grave civil liberties issue as a result of a proposed program and you brought it to Director Negroponte and he didn't seem responsive, where would you go from there? Would you just swallow it and move on?

AJ: I would first try to be as effective as I could by working through the normal mechanisms I use, including talking to Director Negroponte. It would not end there. I would continue to try to change his mind if he decided not to go on with my advice. I would use the internal network of civil liberties folks inside the executive branch, such as the Privacy and Civil Liberties Oversight Board, the privacy officers and civil liberties officers at DHS and DOJ (these are all fairly new positions, and the FBI is thinking of creating a similar position in their Office of General Counsel). So there is a network of us, and we would try to figure out how to address this issue within the system. But if ultimately I felt that it was such a grave issue and we were going down a path I couldn't live with, I would resign.

RG: Is there always a way to work out what we on the outside have presented as an impasse between civil liberties on the one hand and intelligence gathering on the other?

AJ: I don't know that there's always a way, but I can tell you my approach. We have to try to find that way. People talk about a balance between national security and civil liberties. The concept is that if you weigh down on one side, the other side necessarily goes up. And we are clearly putting more weight on the national security side since 9/11. But that doesn't mean that you have to give up civil liberties. It means that you have to do different things to keep the scale balanced. And I think there is a lot you can do. That's a big part of my job—finding out what we can do to keep that scale balanced.

One example that's been talked about in the news media is privacy-enhancing anonymization technology. Because agencies are sharing more data, it could become less private. But we can share data while still maintaining privacy. By anonymizing data, only the matches of relevance and importance will be disclosed to the analyst. That's an example of doing more on one side of the scale while also doing more on the other side. Now, that can't be done for everything. Sometime something will come along where I just have to say this is absolutely black and white—you can't do this program. Who knows? I haven't had to say that yet.

There are no easy answers to these complex questions. It's not just going to be technology. It's also going to be policy, procedure, training, and oversight. Ultimately it's going to be about building and supporting and maintaining an infrastructure that provides those protections. People are always looking for that silver-bullet answer, and I've always said that there is no silverbullet for all of these questions, but there are silver BBs.

Tim Harrington is a 3L. Comments about this article may be sent to rg@umich.edu.
Take It From Me:

Five Lip Balms Put To The Test

By Bria LaSalle

The cold, sarcastic months of the Michigan winter hold many surprises for the uninitiated, most of them involving the myriad ways one’s body turns toward mutiny under extremely cold, dry conditions. Ushered in by the bitter winds of the Ann Arbor winter is the annual winter-long game of Prevent the Chap. The winning strategy is simple: The best offense is a good defense. One of the critical weapons in a cold-weather war is quality lip balm; I set out to survey a variety of balms to determine which would best complement a well-stocked winter arsenal.

It is with no small sense of accomplishment that I present myself as a qualified source for determining the best lip balm. I am a product junkie. I love all things relating to skin care, hair care, and cosmetics—a dirty (but glossy!) little hobby that never seemed prudent to mention during OCI. I may be preternaturally skeptical about the claims made by retailers of virtually every other kind of consumer good, but if something promises to laminate my hair or infuse my skin with advanced collagen, I’m in.

Clearly, it wasn’t much of a hardship to track down and purchase several varieties of balm in order to determine which one reigned supreme. Like many who grew up in winter climates, I’m overly familiar with the ubiquitous ChapStick; I wanted to discover other possibilities. My criteria were twofold.

First, nothing in pots: squeezy tubes or twisty sticks only. Second, the ideal lip balm must have some form of sunscreen in it. Lips may not seem like the most likely candidates for sunburn, but it happens—more easily than you think—and the effects are most unpleasant.

The contenders were (in order tested): Kiehl’s Lip Balm, Aveda Lip Saver, Burt’s Bee’s Lifeguard’s Choice, Jack Black Intense Lip Therapy, and Mario Badescu Lip Wax.

Kiehl’s Lip Balm
There seems to be a strong cult following for the entire Kiehl’s line, and I’m not entirely sure why. Some of the products are great (I don’t know how I ever blew my hair dry before discovering their Creme with Silk Groom), but the rest have always seemed very pedestrian to me. It doesn’t help that the nearest place to buy Kiehl’s products locally is in the right-hand side of Bivouac. The people who work there are rude and clueless, and most of the inventory seems utterly useless to all but those who are just plain tired of only sort of overpaying for crappy T-shirts at Urban Outfitters.

The balm itself did little to dispel any of these judgments. First, it smells exactly like Play-Doh. Yikes. While I generally find slanted applicator tips to be a nice feature, this one is small and ineffective. The balm’s consistency is slippery and gooey—within ten minutes of applying it the first time, I felt like I should check a mirror to make sure it wasn’t running all over my face. It’s a bit glossier on initial application than I would probably choose if I were a guy. After a few days, I wasn’t convinced there was any value in long-term use. It wears off quickly; I found myself both reapplying often throughout the day (in spite of the Play-Doh smell), and waking up to extremely dry lips when I used it before bed.

Rating: 2 out of 10
Kiehl’s Lip Balm (SPF 15, squeezy tube) retails for $7.50 at Bivouac and online at www.kiehls.com.

Aveda Lip Saver
I wanted to like the balm from Aveda. I’ve always been a big fan of Aveda products, particularly because everything they make smells heavenly but in a gentle, non-invasive way. The cinnamon leaf, clove, and anise oils do not disappoint here; I almost want to eat it.

I was surprised at how stiff the product was in its tube. I felt like I was practically pulling my lips off the first few times I swiped it on. I carried the tube around in my pocket for several hours one day before applying, and the consistency was definitely improved. Even still, it was less than an hour before I felt like I needed more. The nighttime staying power is essentially nil. Ultimately, I knew this was not my favorite lip balm when I lost it for two weeks and didn’t care.

Rating: 3 out of 10

Burt’s Bees Lifeguard’s Choice
When I picked up a tube of Lifeguard’s Choice at CVS, I was looking forward to trying a balm that was both friendly on the wallet and backed by a strong reputation. Overall, I was not disappointed. Like the Burt’s Bees classic beeswax balm, Lifeguard’s Choice has a nice, light, minty smell and feels smooth but light on the lips. It’s neither sticky nor shiny, and has nice staying power at night. For daytime, however, I found I needed to reapply any time I ate or drank, as it is easily shed on the rim of a glass or with the wipe of a napkin. That doesn’t bother me much, and I would have declared this the winner of my testing... until the tubes of Jack Black and Mario Badescu balms came in the mail.

Rating: 6 out of 10
Burt’s Bees Lifeguard’s Choice (SPF 15) retails for $2.70 at CVS, Kroger, and online at www.burtsbees.com.

Jack Black Intense Therapy Lip Balm
I really wanted to try Prada’s balm, as I have heard nothing but rave reviews about it. Unfortunately, it’s ridiculously expensive and nearly impossible to track down; when both Saks and Neiman Marcus told me they were “hoping for November” distribution dates, I reluctantly decided to bag it. When I

CONTINUED on Next Page
CONTINUED from Previous Page

found Jack Black Intense Therapy, the pursuit of the elusive Prada balm seemed like a distant memory.

This is the best lip balm I've ever used, hands down. When you first apply it, there's a hearty minty smell and flavor, but I didn't find it overpowering and appreciated the way it subtly receded over the following few minutes. Think of this part as a quick little breath mint for your lips. The texture is plush without being goopy, and stays nicely put. When it finally wears away, it leaves behind soft, moisturized lips that aren't the slightest bit chapped or peeling. It's not at all glossy, but wore well over lipstick. As a final bonus, it carries an SPF of 25, as opposed to the usual IS, which makes it a nice choice for legitimate outdoor adventure as well as day-to-day library jockeying. I don't know of anyplace local that sells it, but the shipping cost is well worth the excellence.

Rating: 10 out of 10

Mario Badescu Lip Wax

Mario Badescu is one of my very favorite skincare lines, so I was eager to try their Lip Wax. According to the press portion of the Mario Badescu website, it has been much ballyhooed by Jessica and Ashlee Simpson, who “won’t sing without it.” I can't really speak to that, as I have realized that hearing me sing is much like having me steal your silverware—you'd live, but you'd feel violated.

The texture of the Lip Wax is much like that of the Jack Black Intense Therapy. In many ways, it’s the non-minty, twisty-stick version of the same. There’s not much in the way of a discernible smell or taste, though the blackberry extract and rose hips lend enough of both to cover up any vitamin E yuckiness. After the first few uses, I thought I would say that the Lip Wax is interchangeable with the Intense Therapy. Then I put it in my pocket. I’m sorry to report that the consistency of the Lip Wax just doesn’t hold up to the gentle warming that happens in a pocket; it became runny and slippery, much to my dismay. In fact, when it's too warm, it looks more like lip gloss than balm. Personally, I can point to several dozen varieties of gloss I prefer, and want my lip balm to act like a lip balm, but your mileage may vary depending on your preferences.

Rating: 8 out of 10
Mario Badescu Lip Wax (SPF 15, twisty stick)retails for $7.00 at www.mariobadescu.com.

Whether you indulge in the goodness that is the Jack Black Intense Therapy or not, it’s worth finding something in the lip balm market that fits your needs, and then outfitting your pockets, backpack, and every room in your house with a tube. Take it from me, your face will thank you.

Bria LaSalle is the Executive Editor of Res Gestae and has lots of extra lip balm lying around. Comments or questions on this review may be sent to blasalle@umich.edu.

Caminker “Hottest” Dean In The Nation

By Austin Rice-Stitt

Michigan Law School Dean Evan Caminker fortified his reputation as America’s “hottest” law school dean this month by winning the male division of the prestigious “Law School Dean Hotties Contest” sponsored by AbovetheLaw.com. Dean Caminker entered this year’s contest as the clear frontrunner and cruised to an easy victory, garnering 32% of the votes in the seven-dean field.

Testimonials posted on the site make it clear that Caminker’s “smoking hotness” is appreciated by both women and men alike. “The Caminkster is a hottie — no doubt about it!”, gushed one poster, while another, who claims to get dizzy in Caminker’s presence, labeled him “a god.” Another poster assured readers that Caminker “has the gay vote.”

Caminker took the news of his ascension to the throne of dean hotness in stride and was quick to share the credit for his success: “It was a team effort,” Caminker insisted. “Everyone gave 110% and wouldn’t quit.”

While Dean Caminker’s presence here might make it easy to overlook hotness on the part of other UM Law deans, Associate Dean for Academic Affairs Steven Croley could not be ignored. Dean Croley, noted for his resemblance to Tom Cruise, finished 4th in this year’s voting, securing 10% of the votes cast. Croley fans praised his ability to showcase his “pretty-boy appeal” one day and his “irresistible masculinity” the next.

A hearty congratulations is in order for both Dean Caminker and Dean Croley. Without these two in town, Ann Arbor winters would be that much colder.
WLSA presents

Trivial Pursuit Tournament
7:00 pm
Thursday, October 26
Leopold Brothers

Proceeds from the tournament go to pay for sexual assault evidence collection kits for survivors of rape.

Are you interested in a clinic?

Wednesday, October 25, 2006
12:15-1:00 p.m.
Room 120 Hutchins Hall

Clinical faculty and students will be available to answer your questions.

Pizza and refreshments will be provided. Don’t miss out!

For more information, contact the Office of Clinical Programs at 764-4533.

Careers in International Health and Humanitarian Relief

Tuesday, October 24
5:00-7:00 p.m.
Michigan Union Pendleton Room

The Michigan Journal of Race & Law & The Black Law Student Alliance invite you to

Ghosts of Alabama:
The Prosecution of Bobby Frank Cherry for the Bombing of the Sixteenth Street Baptist Church

Please join us as we show Spike Lee’s documentary “Four Little Girls,” a documentary that pays tribute to 4 little girls who died in the racially motivated bombing of a church in 1963 in Birmingham, Alabama. Learn about the 16th Street Baptist Church bombing and its importance in the Civil Rights Movement in the 1950s and 1960s.

Then, stay for Professor Donald Cochran’s presentation on his experiences trying Bobby Frank for these murders, followed by a brief Q&A session. Donald Cochran is an Associate Professor of Law at the Cumberland School of Law and is also the author of an upcoming article in the Michigan Journal of Race and Law recounting his experience in the Cherry trial.

This Tuesday, Oct. 24 @ 5pm in 150HH
Food will be served!