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Grading System Changes Discussed

By Karen Lockman

In an effort to create a dialogue between students and faculty with regard to Michigan’s current grading system, December 2004 graduate Manu Bhardwaj proposed that the Student Senate create a Grade Policy Review Committee. Intrigued by his interest, the Senate brought together ten students to appraise Michigan’s policies with respect to those at other schools.

Last semester, the committee carefully evaluated alternatives and improvements to the cutthroat grade curve. In doing so, they first looked at the relatively unorthodox implementations at some of our peer schools.

The most radical of these is employed at Yale Law School. At Yale, the first semester is graded on a Pass/Fail basis, and the rest are assessed by a system of Honors, Pass, Low Pass and Fail. Reminiscent about his experience with this grading system, Yale Law alumni Dean Caminker remarked, “If you breathed, you pretty much got at least a P. If you didn’t, you might fail. I know of only one friend of mine who was talented enough to straddle that fine line to achieve a LP.”

Berkeley’s Boalt Hall, in theory, employs a similar system to that of Yale, but committee members indicate that their marks translate easily into letter grades much like those at Michigan.

In contrast to the Pass/Fail approach, other schools have implemented assessment systems that allow for finer distinctions among students. At Stanford Law School, for instance, professors grant number grades on a 4.0 scale, with a curve set at 3.4 and increments of .1 distinguishing students’ performance. Students at the University of Chicago Law School receive number grades up to 186, but these numbers have official translations to letter grades.

The committee also evaluated our current system with respect to schools possessing similar grading methods. They discovered that while the median grade point averages 3.3 or higher at most peer schools, Michigan’s curve ranges from 3.13 - 3.25, with an average of 3.19. In addition, the committee indicated that peer institutions rarely impose such a strict curve on second and third year courses.

While Dean Caminker is open to making changes in our current grading methods, he indicates that conflicting goals hinder the selection an optimal system. “The Yale/Boalt systems, for example, reduce anxiety and stress, but they also reduce incentives to perform, impair feedback signaling, and hurt graduate marketability,” he states.

Mike Bretholz, a 2L at Yale, concurs. While he finds that their system “lets you focus on trying to achieve things of substance instead of focusing on class rank,” he thinks “there is a little too much confidence in the student body here that people can coast through and still get a great job without putting in enough effort.”

Caminker states: “The Chicago system does exactly the opposite. One is quickly reminded of Winston Churchill’s famous statement to the House of Commons: ‘No one pretends that democracy is perfect or all-wise. Indeed it has been said that democracy is the worst form of Government, except all those other forms that have been tried from time to time.’”

In an attempt to strike a balance between these conflicting objectives, the committee has brainstormed possible improvements to our current system. While no official decision has been made, committee members 3L Josh Kalb and 2L Bayrex Marti suggested some ideas that have been gaining support within the committee.

First, in order to increase the feedback given to students and lessen the impact of borderline grades, a majority of committee members support a numeric grading scale out of 100 points. Rather than receive a letter grade at the end of the semester, students would earn number grades ranging from 1 to 100. Both Professor Friedman and Professor Kahn were supportive of this idea. While Friedman recognizes that some
Editorial: Three Days Does Not a Study Period Make

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Students - especially upperclassmen with finals early in exam week - were disheartened (to put it mildly) to see what amounted to a study “day” last semester. It was not lost on any law student that classes ended on a Thursday and finals started the following Monday.

The Academic Calendar at the law school is a difficult thing to balance, to say the least. Imagine creating a schedule that accounts for on-campus interviews, Ann Arbor leases that don’t begin until Sept. 1, a University calendar that doesn’t start until after Labor Day, faculty schedules, the ABA requirement of 65 class days per term, and that rule that exams have to finish at least three days before Christmas (especially since Senior Day for the December grads falls on the last exam day, and families have to be able to travel back and forth before the holiday travel season). It is a task that frankly sounds terrifying.

Based on study periods past, it’s obvious that the administration prefers to allot about a 4-5 day study period. For example, winter 2005 semester classes ended on a Thursday, with the first exams falling on the following Wednesday. Most likely, the administration literally ran out of time last fall. As it was, the exam period last semester ended a mere two days before the Christmas holiday, doubtlessly subjecting dazed post-Contracts exam 1Ls to the administrative chaos of Detroit Metropolitan Airport at its worst.

The study period is critical to most students. Less-prepared students use it for desperate cramming; more-prepared students for much-needed rest. End-of-term papers benefit greatly from even a few more hours of work; like works of art, law school papers are never finished, only abandoned.

Scheduling a two-week exam period in which one upperclass student may have several more days of preparation for all of her in-class exams against another less fortunate student is troubling and seems patently unfair. The study period helps even this playing field by giving all students, regardless of their favor in the eyes of the scheduling gods, the opportunity to spend several uninterrupted hours making outlines, doing problem sets, or possibly even showering.

Last semester’s brief study period might have been a scheduling anomaly; something that would only happen every seven years when Labor Day falls as late in September as possible (resulting in the latest possible start of the Fall semester). Taking an admittedly hypersensitive view of fairness, it hardly seems prudent to penalize those unfortunate students who happen to be in school during the wrong year. Nevertheless, in a three-year program (offering only two years of elective courses), every student is bound to be both fortunate and unfortunate in terms of their place in time. Visiting faculty, rare course offerings and the inability to get into seminars happen; all factors play a role in diminishing the quality of the educational experience of law students, and all (generally) cannot be avoided.

Students should have a healthy understanding of the logistical issues involved in the crafting of an academic calendar. However, in our opinion, it’s not unreasonable to mandate a study period that consists of a minimum of two business days. Adding in the weekend, as is custom, permits students to depend on at least four days of preparation time that is uninterrupted by class meetings.

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Berry Speaks About Civil Rights

By Shari Katz

Public servant, scholar, activist, University of Michigan alumna Mary Frances Berry, Chairperson of the U.S Commission on Civil Rights from 1993 until last month, spoke with a small group of students and faculty on Wednesday, February 2, prior to her lecture to the University community later that afternoon. President Eisenhower created the Commission in 1957 to address the burgeoning civil rights movement. Although the Commission initially addressed issues only relating to race, it soon placed national origin and gender on its list. The Commission has not yet officially added sexual orientation to its agenda, because, according to Dr. Berry, “Congress would gut it.” However, Dr. Berry said that the Commission “got away” with addressing those issues under the general “administration of justice” clause that is specified in the Commission’s mission statement.

The Commission’s recent work has included highlighting voting irregularities in Florida and the inadequacies of percentage plans as a replacement for race-conscious affirmative action programs in higher education. While the Commission can hold hearings and issue subpoenas, it lacks enforcement powers that would enable it to apply specific remedies in individual cases. It refers the many complaints it receives to government agencies or private organizations. “It does have the power of the bully pulpit,” said Berry. “It may be a tiny agency, but it has a ‘big megaphone’ when it talks about civil rights issues.”

Berry described a civil rights event that she attended during the Carter administration, commemorating the anniversary of Brown v. Board of Education. It was her first time at the White House, and her nervousness in introducing the President was apparent. In her introduction, she said, “The President intends to discriminate” instead of “demonstrate”, and then in an attempt to fix her mistake, she said, “Oh, that was a Freudian slip.” Berry then contrasted this event—before a standing-room-only crowd, followed by a full reception with a receiving line—with a 1994 ceremony in the White House celebrating the 40th Anniversary of the Civil Rights Act. In contrast to the celebration and camaraderie of the Brown ceremony, Bush stood before a half-empty room, mumbled through a short, awkward speech, and then said, “There’s plenty of food out there, y’all go and eat, but I’ve got to go.” Berry noted that none of the people who should have been there had been invited: the families of the slain civil rights workers James Chaney, Andrew Goodman and Michael Schwerner weren’t present, nor was the Student Nonviolent Coordinating Committee represented.

The Commission serves different roles, depending on the administration. Sometimes it acts as ‘critic and goad,’ while at other times it acts like a ‘lapdog instead of watchdog.’ Independence is sometimes respected by the administration, and sometimes it is not. The most serious breaches have come under the Republican administrations, which Berry finds ironic considering that Dwight Eisenhower set up the Commission. Reagan’s policy was that the Commission was a nuisance because it was a watchdog, and he sought to get rid of it. True activists and make it a mouthpiece for the administration. Berry explained that using the imprimatur of Civil Rights behind your head while you attack civil rights will make some people think what you’re saying is okay. She quipped, “Today the Civil Rights Commission announced that affirmative action is wrong...” Reagan fired her for her refusal to comply with the administration’s platform, and Berry sued and won reinstatement.

Berry said that ceremonies continued to fall flat through George H.W. Bush, but that under Clinton the commemorations were non-stop, multi-colored, multi-racial, and celebratory. Some civil rights activists went to the White House so often under Clinton that they became jaded and would say, “What, have we got to go there again?” to which Berry would reply, “Enjoy it, because we may not be back.”

Under George W. Bush, the White House attitude toward all things civil rights has swung hard right. “Many people think that the latest turn to the right by the Commission has made it irrelevant. But, I think that we’re just in another stage...it’s not that we’re not going to have any positive change towards civil rights,” she said. According to Dr. Berry, we should expect the current administration to attack Affirmative Action, emphatically support the No Child Left Behind Act, and to say that “the reason Latinos and African Americans don’t perform is because of our culture—that we have bad culture.”

Berry said that one of the principal arguments as to why the current government is so resistant to reparations is that all of the ex-slaves are dead. She finds this argument acceptable, noting that in the late 19th century, activists fought through every possible channel for compensation both in the form of direct reparations payments and veteran’s benefits for black Civil War soldiers. “So it can’t just be that if they were alive, then they would have given it to them. This has been the same answer for a hundred years! If they had indeed been given pensions/reparations when they asked for them, it would have settled the problem.” She also pointed out that while reparations opponents allege that African Americans are asking for money for ‘every black person alive today,’ the reparations activists of the 19th century compiled a thorough list of the names of former slaves, and tracing their actual descendants is not as difficult a task as opponents imply.

By Shari Katz
LSSS Update: The Winter of Our Content

By Jay Surdukowski

The second semester is the better of the two. Whatever social season we have at the Law School is in high gear this semester—Juan Tienda, and Butch Carpenter are just around the corner. The contribution of the Law School Senate to the packed months of dinners and dances and bar nights is hefty. Here’s what we have going on:

Bar Month
This is my personal favorite of all our events, next to perhaps only the Prom. Upwards of 350 law students at a time come out of the cold literally and socially for four nights over four weeks. The first night was at Rick’s. FDR once said, “all that is in me goes back to the Hudson.” For many at the Law School, that phrase could be changed to reference Rick’s. Love it or hate it, Rick’s is the biggest draw, and this was true again a few weeks ago when about 400 of us filled the place. Leopold’s was also packed to the rafters. The venues for the rest of Bar Month are Oz on Feb. 10 and BW3 on Feb. 17.

The Prom
The biggest event of the school year is the Law School Winter formal, affectionately known as the “Prom,” set for April 1. We hope to build on the overwhelming turnout for our Pie event with faculty and their families has inspired us to try another event where students and faculty can come together to enjoy each other’s company. What about a Barbeque in the Quad or Burns Park? Let us know what you think about this idea. Isaak Murshak and Aaron O’Donnell have been behind this project.

Term of Arts
The LSSS is supporting an art show of law student work. Term of Arts (ToA) is an annual event to try Michigan Law School (perhaps, to any law school). Sixty-three law students have come together to put on an art show, about 25 of them have contributed works, and the balance are helping curate the exhibition. The show consists of around 60 works in media as diverse as oil paintings, etchings, dry points, photographs, and even a puppy Afghan (a crochet piece). ToA is an opportunity to showcase the humanity of the Law School, as well as a chance to build community amongst students who are involved in the arts. ToA is a LSSS “presidential” initiative in collaboration with Student Funded Fellowships and the Entertainment and Media Arts Law Students Association. It is also supported by Dean Johnson and Dean Sarosi, the Director of the Office of Public Service. A number of the works have been donated by the artists to be auctioned by SFF. Keep an eye out for word about opening festivities on Feb. 19.

Fix It Forum Follow-Up
On Monday Jan. 31 the LSSS had an innovative chance to weigh-in on facilities issues with the administration. Outlets? An extra microwave in the snack bar? Tampons? Cruddy student lounge? Wireless? We’ve made our concerns known, now it’s time to rank them in order of student need.

Constitutional Amendments
Doug Sanders is working with the Constitution Committee on a couple of amendments to the law student constitution. Major cleaning up of our charter has not happened in some years. Be in touch with him if you have strong opinions on this issue.

New Website
Thanks to LSSS Technology Commissioner Ming Shui, the LSSS has finally joined the 21st century with a website which will be announced very soon. My favorite part: the photo galleries. Look for memories here from all your favorite LSSS events. We also have up-to-date copies of our major policies and faculty-student committee contacts, as well as an e-mail roster of your senators.

Grade Policy Committee
The LSSS Committee studying the Michigan grading system is continuing its work this semester by clarifying the arguments for and against moves to a different system.

Elections
LSSS will elect new officers and members on March 30. I encourage people from all walks of Law School life to consider making a run. Last year’s elections were somewhat contentious; three candidates ran for president, and four for VP. Eight people ran for three 2L seats. We hope the momentum will continue, an election is a healthy thing for the Law School’s social and political life. All the candidates last year brought valuable ideas to the table, and this LSSS has tried to run with many of them. The election helps set the contours of what we want the next year look like in student social life and politics. Be thinking.

2L Jay Surdukowski is the President of the Law School Student Senate. E-mail Jay at darko@umich.edu.
The Importance of Being Krier: Part Two

By Ali H. Shah

Professor James Krier is the Earl Warren Delano Professor of Law. He graduated from the University of Wisconsin Law School in 1966 with highest honors, and clerked with the Hon. Roger J. Traynor, Chief Justice of the Supreme Court of California. He was previously a law professor at both UCLA and Stanford prior to coming to UMLS in 1983. This is part two of a two-part interview; Look for part one in the Jan 25, 2005 issue of Res Gestae.

RG: Back to teaching evaluations. I understand Professor Mathias Reimann doesn’t hand them out, he says they’re a bit of a farce, that the school doesn’t pay attention to them. He accepts private comments but doesn’t do the formal evaluations.

JK: I wouldn’t say they’re a farce, surely not for untenured faculty. As to us tenured types, I can’t speak for Mathias but only for myself. When I get my evaluations, I look at a couple of things. First, they are like my report card. I look at overall evaluation of the course and overall evaluation of the professor. That’s kind of fun, at least you hope it’s fun. Then I always read the comments on the back. Those can be fun too, because it shows how much individual perceptions can vary as a function of the eye of the beholder. I read the back of one evaluation and it says “Krier doesn’t know anyone’s name,” which, by the way, is not utterly accurate. I do know some students’ names, and then the next one says “I appreciate that he calls on students by name.” Then you’ll read one that says “he picks on students,” then the next one says “he’s very good and gentle with students,” and you just think “what’s going on here?” There is another twist. I have had more than a few evaluations that say “He was mean to a couple of students,” but never one that said “He was mean to me.” Frankly, I think I get to know pretty quickly whom I’m dealing with. So if I am dealing with Tom and have sized him up as a tough guy who likes a bit of intellectual battle and I proceed accordingly, but Nick or Susan sees this and thinks “Wow, is he mean?” because Nick or Susan puts himself or herself in Tom’s shoes, but the fact is that Tom is in Tom’s shoes and he thinks the whole business is a kick! Nick and Susan should ask themselves whether I interact with them the way I interact with Tom.

In any event, I read the comments and I try to change when I think a point is well taken and not when I think not. Plus to some degree, let’s face it, I’m hopeless, but that’s life and students have to learn that as well. Sometimes I would love to anonymously evaluate each of them in the terms they anonymously evaluate me, but I don’t know how such a thing is possible without a lot of trouble. Some of them wouldn’t want to see what I say. I would say that evaluations, because they are anonymous, can be extraordinarily unfair. A student might say “Krier is a racist and a sexist, a fascist. I hate him.” Fine, but let’s talk about it! If you aren’t willing to stand up and defend it, don’t say it. Because the administration does read these things, even as to tenured faculty. At least, mine are read, maybe just because I am such a bad guy. I know because after grades are turned in, never till then, we receive our evaluations, so I turn in my grades and three weeks pass and I haven’t received my evaluations, so I ask where are they and I am told the associate dean has them.

The things are read. Mine, anyway. Probably the administration is checking to see how many say that I’m a politically incorrect person.

RG: How many say that?

JK: Lately, not many. I do have problems with political correctness so I tend to butt up against it a lot. I would say the biggest reason people give me trouble about political correctness is my view that political correctness as presently practiced is about the worst thing to come down the pike in a long time. Apparently, that’s also not politically correct. Goodbye to the first amendment. It’s not politically correct to say that the program of political correctness has reached levels that are stupid.

This is not to say that I am never insensitive, or that, as fast as my mind is — and I think, however shallow it is, at least it’s quick — my mouth doesn’t sometimes beat my mind to the punch. I work on controlling that, and not just to keep out of trouble. I’m a teacher, I want to be effective, and I don’t want to alienate people for reasons that haven’t to do with the merits, and race and gender and religion and politics don’t have to do with the merits. The problem is, I think the PC thing has led some people to always be looking for inappropriate things, whether they are there or not. Read Roth’s book, The Human Stain. Or consider: In contracts the other day I was talking about my time at Arnold & Porter, a law firm in Washington, D.C. When I was there it was a great little place – now it’s a law factory – with lots of character and lots of characters. I was telling a story about the law firm that centered on its

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having this big black Caddy limo used to haul clients and lawyers about, and a driver named Henry Ford, a large and powerful man. Henry, as it happened, was a black man, past tense because he surely must have passed away by now, and that lent itself to a nice sort of way of telling the story, having to do with a big black limo and a big black driver. You could feel tension in the room as soon as I said that. "He said black. He said big black. He said big black driver. Krier thinks all chauffeurs are black men. Big black men. Krier thinks all black men are big," and so on. Now, did it matter that Henry was big or that he was black? It did not, other than for its literary resonance, if that's the way to say it. But literary resonance matters, at least to me. Was I insensitive? Maybe, given the times. But maybe, given the times, my audience was too sensitive. Or maybe not. I was maybe imagining the whole thing. I can tell you this. The Arnold in Arnold & Porter was Thurman Arnold, one of the great characters of the law in the last century, not that our students have heard of him because we give them nothing of our culture except maybe bits of the high culture. Thurman defended Playboy Magazine against obscenity charges in the Vermont Supreme Court. He won. In oral argument he said, "So this magazine shows unclothed women in attractive poses. So what? Do we want to go back to the time," he said, "when the sight of a woman's ankle caused a man's heart to start racing?"

By the way, since it's inauguration time, he had a view on John Kennedy's famous line, "Ask not what your country can do for you, ask what you can do for your country." Thurman said one thing in reply. He said "Why?"

When I sat in Omri's class he sometimes would call students by the wrong name, even though he had a seating chart with pictures right in front of him. The students thought it was funny. Omri thought it was funny. I thought it was funny. It was funny. So in property last term I called on a student, I called him Mr. X, but he was Mr. Y. But it wasn't funny. Another one of those hushes fell over the room, because both Mr. X and Mr. Y are African Americans. I apologized to them afterwards, and neither thought a thing of it. But the students were thinking, "Oh, my God, all African Americans look the same to him." And I plead guilty, because I am guilty of something more inclusive. All male students look pretty much the same to me, so do all women students, until I get to know the class better. Maybe it's my reading glasses, or maybe it's just the way things are. I don't know.

RG: Going back to political correctness, what's an example you can think of that would qualify as "stupid"?

JK: You were in my property class, right? One of my favorites was, you remember, talking about finders and where people would find things? I often tell this in classes. I talk about how a homeowner's sentiment changes if he invites me to his house and I find ten bucks on the road in front of his house when I park and ask him if it's his and he says no and I keep it, and he thinks that's cool, Krier's a lucky guy. But then what if I find it on the edge of his property? On the walkway to his house? On his porch? Inside in the entryway? On the floor in his living room? Buried in the couch in the living room, behind the cushions where I have been hunting for money? In his bedroom! In his underwear drawer! The point is to see how our attitudes about what is ours change, even when we know the thing found isn't ours, as it is found in increasingly private spaces. And sometimes when I am doing the bit I am doing it with a woman student, not a male, so then I say lingerie drawer. A woman took exception to this once and complained to the administration. Her view was not that it was wrong to talk about underwear, but it was wrong_breach_ to say "underwear" in the case of men but "lingerie" in the case of women. I should use the same word for both. Now, what if I referred to a man's lingerie drawer? That's courting trouble in about eight ways. And, sorry, but I was socialized in such a way that a gentleman doesn't talk in public about women's "underwear", doesn't use that word. The funny thing is when I had this out with the administration, and it wasn't that big a deal, whatever dean it was I was talking to wanted to know why I was talking about underwear in the first place! I think underwear was important if not crucial to my story. But we have this silliness. Talk about socks right there against our feet and it's ok. But talk about some other item of clothing next to some other part of our body and it's inappropriate or bad taste or something.

So I wish Thurman Arnold were here to explain for me. I know he'd defend me in much the terms he defended Playboy. And he'd think the whole business was stupid and maybe even a little dangerous. But everybody is so sensitive now, so very sensitive. Maybe this is why students say "like" so much, another one of my big gripes. Maybe they have been socialized to say "like" as a pausing mechanism during which they quickly examine what they're saying to make sure they're not saying something politically incorrect. If so, that's another cost of PC.

I don't want all the spontaneity in life to be lost for fear of a slip of the tongue. Again, read The Human Stain. And I must say, I fear that to some degree it's because of people like me, big, aggressive, crude, awful, bad-minded people, that we even have all this PC stuff. It's enough to make me want to shoot myself, and in public yet. That's probably offensive, too, in this year of our Lord PC.

RG: Has it taken the fun out of teaching for you?

JK: No, it's made me more imaginative. So I have to work to find other ways to have fun. Great! Basically, I think teaching is wonderful fun as long as the students will relax and play, feeling safe with me, knowing I mean them well, not ill, even if there are some rough spots because that's part of being demanding. Learning that if I say something they regard as offensive they can talk to me about it without fear - as long as they understand that if I disagree I am going to argue with them. Argument, discus-
RG: Word has it that your property class fall semester made you soften up.

JK: Soften up in what way?

RG: They made your teaching style less aggressive with students in class.

JK: Oh, I don’t know, I change from time to time. I don’t even know how they know I’m aggressive. To them aggressive is I ask a question, and they respond to me, and then I say, “Why do you think that?” And that’s aggressive. My younger son says to me, “Why are you being so mean, Dad?” “Well,” I say, “I just asked you a question. What’s mean about that?” I just have a “way”. Some like it, some don’t, I keep trying to fine tune it so that more like it and fewer don’t, but I will never achieve perfection. Plus I like to provoke a little, it keeps students’ attention. I try to be sensitive to whom I’m interacting with, as I said earlier. I try to learn. I’m not Mr. Rogers, who was great, but who wants a world of just Mr. Rogerses? Besides, on balance things are ok. I gather that for every student who thinks my personality sucks, at least a bunch of other students think it’s great. That’s good returns, a good ratio. I’m proud of it, but not satisfied with it. Some people like Mr. Rogers, some people like The Rock. You know, that guy that hosted SNL when Andrew [WK] was on.

RG: Speaking of Andrew, would you want to switch places with him for a little while and experience his lifestyle?

JK: Oh my goodness gracious, no. And there’s Mr. Rogers for you. No, I wouldn’t want Andrew’s life style. He works like a dog. The year his first big label album, “I Get Wet,” came out, he was on the road every day for a year doing 220 concerts. And there’s not just the concerts. There’s interviews, and he spends up to eight hours after concerts talking with his fans. He doesn’t just doautographs, no way. Instead fans line up and ask for his autograph and he asks them to sit down and talk and he engages them, looks them right in the eye. Right then only they exist. I’ve watched it. It’s amazing. Each fan has every bit of his attention, for five minutes, ten minutes, and then he writes something based on what he’s learned about the fan, draws a picture, whatever. His fans love him! There they are, a couple of hundred after a show, huddled outside in the cold or the damp because the club has closed and they can’t all fit on Andrew’s tour bus, and they all wait in line, patient and happy as can be, for hours to have a few minutes with this man – my son! – and they don’t complain, they just hang out and have a good time and make new friends, and when it’s their turn they’re happy, but they were happy to wait, too.

RG: The conception of the rock and roll lifestyle is sex, drugs, rock ‘n roll. True enough for Andrew?

JK: It’s sex, drugs, rock ‘n roll, and my poor son only does the rock ‘n roll part. He’s as steadfast as Mother Theresa. He didn’t even used to eat meat or dairy products, he was a vegan. Now he does eat some meat and dairy products, he’ll have a drink occasionally, he’s tried a little of this and a little of that. But he never fools around with women, he has a steady girlfriend, he’s the most considerate person I’ve ever known, to the extent that you just feel like a sinner when you’re around him. He tends to be obsessive about things. When he started to work out, he started to look like Mr. Rock or The Rock or whatever himself. He doesn’t really have the time to do all that right now. He lives a healthy, hardworking happy life, and he appreciates every minute of it and knows he’s just absolutely lucky.

RG: That steadfastness must come from his mom.

JK: His mom is a saint. I did that for her, you know. She’s regarded by all who know both of us as a saint not just because she is who she is but also because I am who I am. Knowing me, people say “Wow, is she ever a saint. I mean, like, wow, have you met her husband?” If I were Mr. Rogers she’d just be another nice person. Thanks to me, she’s a saint.

So to Andrew, he got some things from me, but his character he got from his mother. But how would you like to be Andrew’s siblings? You’d like it, I guarantee you, but my point is that Andrew is only one of my children, one of four, and each deserves top billing. Sure, that’s a proud father talking, blessed by these four wonderful human beings, smart, considerate, modest, hardworking, appreciative but it’s true, they are amazing. Andrew doesn’t want all the billing, or even the top billing. I have two daughters from my first marriage, both mothers – I have five grandchildren and yet I still look like a kid, or at least act like one. My daughters were raised mostly by their mother, but Wendy has a very close relationship with them and has had for over thirty years, and she has had an extraordinarily positive impact on them, not only but maybe particularly in helping them grow as mothers because my wife is, I am inclined to think, one of the best mothers in the world, a real pro. My girls call us a lot. I answer the phone. They say, “Hi, Dad. Is Wendy there?” It’s not easy being Wendy’s husband, but I manage.

Anyway, my daughters are cool. The oldest is an anthropologist, studied at Harvard, got a great teaching job at a great university. Wearyed of it after several years, especially given that she had a husband and two children and the husband worked in another city because that’s where his job was, so they had two households, two kids at that time, two jobs, lots of travel, arranging, and so on, and finally she said enough already, at least for a time, so now they are all together. So, her gig gone, what does she do? She and a friend write a play that runs in New York City at the famous Cherry Street Theater in the Village. It just closed. Pretty cool says I. My younger daughter is a veterinarian, married to a veterinary surgeon, two great
Cures Found for Wintertime Blues

By Shannon Griffin

Ever wonder why our second semester is called Winter Semester? For one simple reason: winter in Ann Arbor lasts until May. That’s right folks, in case you hadn’t heard, plan on wearing your UGGS and coats well into what other states call spring. As a summer starter, I am extraordinarily affected by the cold and chilling weather. It is hard for me to maintain energy and get out of bed every morning to attend property (see, Professor Simpson, it has nothing to do with you). The dark days and brisk nights are hardly an invitation to leave your cozy room and venture off into the undergraduate-infested law library. I prefer to hibernate in my apartment drinking hot chocolate. I am not the only student who feels down and out in this dreadful weather. Here’s some advice from our faculty and peers to help keep us focused until the singing birds of spring come to rescue us from our misery.

1. Don’t drink away your blues. Despite the fact that alcohol warms your body and makes you feel all tingly inside, don’t overdo it. Dean Baum tells us to take care of our bodies, "get regular rest and exercise. Don’t choose heavy drinking as a way to relax or to get away. It will only make you feel worse." Perhaps. But law school bar nights have only increased this semester. Hmm.

2. Don’t let law school be the only thing in your life. If you don’t take the winter blues to remind me that law school sucks. If it was the only thing in my life I would gladly be the next in line at the Pearly Gates. During this season we must remember to do things we enjoy: read novels (no, law school texts don’t count), watch television (no extra credit for Law and Order), dine on Main Street, or drink. Wait. No. See Number 1.

3. Try to do more things related to lawyering. Dean Baum says that we should try to do more things related to the law, such as “attending job panels and discussions where lawyers talk about what they do.” I suppose this could be helpful in reminding us why we are doing what we do. The light at the end of the tunnel so-to-speak. Or you can just drink.

4. Get some sun. No, really. I am not talking about fakin’ and bakin’. I am saying that when there is sun outside, even though it is blistering cold, put your mittens and long underwear on and enjoy it. It does wonders for the soul.

All kidding aside, Seasonal Depression is a serious thing. If you feel that you are depressed or are feeling down more than normal, please contact either Dean Baum or Dean Johnson. Also, CAPS is an on-campus counseling service that is free for students. Drop by their office at anytime. It is located at 3100 Michigan Union. Furthermore, on March 22-23 there will be a “Depression on College Campuses” conference where you can learn more about depression, its symptoms and ways to help. It is free for students to attend. You can get more information at http://www.med.umich.edu/depression/college_2005.htm. And remember, as 2L Trish Rich reminds us, “the cold and snow will pass soon enough - for now, it’s important to put in a sprint finish and have a strong semester.”

SALDF: The Price is Right

By Jana Kraschnewksi

SALDF, come on down, you’re the next contestant on the Price is Right!” Okay, in all seriousness, SALDF (Student Animal Legal Defense Fund) isn’t exactly a contestant on the classic game show starring Bob Barker and his lovely assistants—but there could be more of a connection here than you might first suspect. On Tuesday, January 25th, the one-year-old organization met in Hutchins Hall over Big Ten burritos and chips.

In a lot of ways, the SALDF is just like a lot of other student associations. They hold bake sales, do letter-writing campaigns, and have an executive board. However, a bake sale might soon become akin to mere peanuts for this group. Because, you see, they’re workin’ to get their hands on some of Bob Barker’s money.

Remember the Price is Right, a gameshow featuring overly-excited coeds and retirees who guess at the prices of different products and try their hands at games of chance like Plinko and Hi Lo. At the end of each show, Bob Barker, the host (who returns for an unprecedented 34th season this year), spiritedly reminds his audience to spay or neuter their pets. As it turns out, Mr. Barker hasn’t just been saying that for kicks all these years—he is backing up his words with dollars. As a display of his passion for animals, he has donated million-dollar grants to top law schools, encouraging students to make a difference in animal rights jurisprudence. He’s already given money to Harvard and a few others, and now it’s Michigan’s chance to vie for the funding opportunity.

The SALDF group is currently brainstorming about different ways to persuade the 81-year-old vegetarian to endow UM similarly. If you have any ideas, or interest in becoming involved, please check out the SALDF bulletin board by the snack bar.
MLS Crowns its First Mr. Wolverine

By Erick Ong

It was a night for the men of the University of Michigan Law School to showcase their talents and other... traits. The show was sponsored by the Latino Law Students Association (LLSA) and directed by Amanda Garcia and Alicia Jimenez. The proceeds from the show benefitted the Project Comunidad Fellowship, which encourages students to participate in community programs and public service. Dean Zearfoss was on the mic as the 18 men from our esteemed Law School strutted their way onto stage to the resounding applause of the crowd gathered at Mendelssohn Theater.

The show started with an athletically-themed number performed by the 18 contestants doing push-ups, twirling around, throwing a basketball or pacing back-and-forth. Each contestant was introduced individually by Dean Zearfoss, who imbued her usual witty banter and remarks. The judges for the event were Professors Pottow, Friedman, Evans, Beny and Dean Johnson.

Following the individual introductions was the "Dress Like a Professor" event. Some of the represented professors included Professors Becker, Halberstam, Khanna, Reimann, Pritchard and Dean Croley. Our judges were not spared from being mocked either as two contestants dressed as Professor Friedman and one as Professor Pottow. Popular professors to be caricatured included Professor Clark whom three students tried to imitate and Professor Ed Cooper whom two students impersonated, including his trademark morning cup of tea ritual.

The most successful professor caricatures included 1L Adam Rubinski’s portrayal of Professor Krier, with his well-tailored suit, cigarette and distinctive facial hair, and 1L Tim Caballero’s impersonation of Professor Ellen Katz with her signature hair do and wearing heels.

Each law school class then performed a skit. The 1Ls were first and used their professor costumes and personalities for this skit. The theme for the 1L skit was based on American Idol where Professors Krier, Katz and Friedman were the judges analogous to Simon Cowell, Paula Abdul and Randy Jackson.

The singing contestants were the "professors" of the Law School. First up was "Professor Cooper" who unsuccessfully tried to perform a Bryan Adam’s song, at the end of which "Professor Krier" called "crap" and said his son (Andrew WK) could sing better. The next was "Professor Khanna," whom the judges initially thought was a law school student. His performance was able to swoon over Paula "Professor Katz." Last to sing was "Professor Clark" who was equally as bad as Cooper. The three judges then broke off into their own singing and dancing routine, led by Tim Caballero’s "Professor Katz," and were later joined in by the other three "professors."

The 2Ls as the “Law Quad Boys” performed a rousing rendition of The Backstreet Boys’ song "You Are My Fire" and wore the white suits and clothing showcased by the boy band in the music video. The 2L skit ended with each Law Quad boy handing a rose to a member of the audience.

The 3Ls, not to be outdone by the junior classes, opted to do a skit based on "Westlaw TV" with Aaron Lewis on the mic describing the programs available on this channel. The shows included Summer Associate with a Trump-esque person donning a teddy bear as a toupee, Real World Hutchins and 3L Eye for the 1L Guy with the catchy phrase, "Don’t bring you’re ‘A’ game to a P/F dance."

During the "Firm Wear Contest", the contestants donned their best attire and were accompanied by the ladies of our Law School. 3L Chaya Mandelbaum stood out from the crowd as he was accompanied by not one, but two ladies. Each male contestant presented a rose (or two) to his escort(s) through some usually clever maneuvers, including a reversal of roles when Nadine Gartner led the dance and presented the rose to 3L contestant Jason Moff.

The five finalists for Mr. Wolverine were: Robert Harmon, Jr., Tim Caballero, Adam Dubinski, Chaya Mandelbaum and Jason Moff.

Each of the finalists were asked to answer one question from the judges. The first question went to Harmon, who was asked by Professor Beny "If you were a law or body of law, what would you be and why?" Harmon's response was "Re: statement of Contracts 69." Nice. Professor Pottow asked Jason Moff, the ever-lurking questions in all of minds (equal to such musings as "great taste" or "less-filling"), "Law... Jude Law." Excellent.

The time came to award the titles of Mr. Congeniality and Mr. Photogenic. The title of Mr. Congeniality went to 3L Sam Ehrman, while 1L Adam Dubinski captured Mr. Photogenic.

Then, the moment that the crowd was waiting for all night, the crowning of the First Annual Mr. Wolverine. In a competition such as this, there really are no losers. Each contestant did a tremendous job of preparing and making a fool, er... I mean entertaining the law school community. But in this event we needed to decide which Wolverine reigned supreme over the other Wolverines and the honor went to... Adam Dubinski! Congratulations Adam, may your reign be a prosperous and benevolent one.

For a photo gallery of this event, please see page 11.
"Madness" Accurately Describes 2L Midway Program

The office of Development and Alumni relations sponsored a "Midway Madness" party for fall-starting 2Ls on Jan. 26 in the Michigan Union Ballroom. 2L attendees enjoyed free food, took away pirate freebies, and will never forget the clown and mime performances.

Photos courtesy of Heather Hudson.
See How They Crowned “Mr. Wolverine”

Photos courtesy of Diana Geseking.
Laptop Tips to Keep the Blue Screen Away

By Ming Shui

Law students rely on their computers for just about everything: notes, exams, the occasional game or IM in class, and the occasional internet porn binge. However, not many law students know how to take care of their computer's health. Your computer is potentially plagued by security holes, viruses, ad/spyware. So how do you protect yourself from such horrors? You can either run crying to Phil the Computer Guy or read this article.

These recommendations only apply to Windows users. Mac users don’t generally run into these problems, although using Firefox and a virus scanner is still recommended if you’re using Internet Explorer (IE) for Macintosh. Linux users can take care of themselves.

First and foremost, make sure you have the latest security updates from Microsoft. These can be obtained from Microsoft’s website. This is the ONLY time that I’ll recommend using IE. Start up IE and click on the “Tools” menu. In the tools menu you’ll find “Windows Update” and click on that. Choose the “express update” option. If you’ve been taking care of your computer, you’ll have nothing to install. That is good. It means that your computer is protected from all known Windows exploits. You should also allow your computer to install updates automatically. Go to the start menu > Control Panel > System > Automatic Updates tab and choose the automatic option. Doing this keeps your computer continuously protected as Microsoft discovers new security loopholes in its software.

Now that your computer is safe from problems in Microsoft’s coding of its operating system, we turn to protecting your computer from user created threats – viruses. Most computers come with a trial version of virus protection software. The trial is usually only good for 90 days.

Your computer is potentially plagued by security holes, viruses, ad/spyware.

So how do you protect yourself from such horrors?

You can either run crying to Phil the Computer Guy or read this article.

After that, you no longer get updates for the software. That means that you are not protected from new viruses. Luckily, the university provides free virus scanning software to all its students. Go to: http://virusbusters.itcs.umich.edu/downloads/ and download the version of McAfee that corresponds to your operating system. Install the program and run a full system scan. If it finds a virus, let the software take care of it.

Finally, you should protect yourself from getting adware/spyware. Most of these programs aren’t so much damaging as they are annoying. Adware generally pops up ads as you’re on the internet. Spyware generally works in conjunction with adware to popup ads based on your internet usage habits. Both can slow your computer to a crawl as the programs take up system resources making it seem like a computer virus has infected the system.

There are several types of very persistent spyware programs out there and getting rid of those is more complicated than I can detail in this article, but for the garden variety of spyware, I recommend using two free programs available for anyone to use. The first is Spybot: Search and Destroy available at: http://security.kolla.de.

Firefox is an open source browser that is free for anybody to use. Get it at: http://www.getfirefox.com. Firefox will import your favorites and settings from IE so you don’t have to redo everything. In addition, Firefox allows you to use tabbed browsing, has a popup blocker, is very customizable through extensions and skins, and is all around safer to run than IE.

The second is Ad-Aware, available at: http://www.lavasoftusa.com. Download the personal edition. Lavasoft charges for other editions and the additional features aren’t really worth the price. Install and run both programs. You will likely receive notification that you have a myriad of tracking cookies and other potential privacy threats. For the most part, you can ignore tracking cookies, choosing to keep or delete as you see fit. If the scan reveals other problems, let the program try and clean those up for you. You should run these programs at least once a week if you use the internet heaviey.

Now that your computer is finally cleaned of viruses and spyware and protected from new malicious programs entering the system, there is one final thing you can do to protect yourself while using the internet. It is unfortunate, but most spyware and viruses enter the system through security holes in IE. Surfing to porn sites are the most common, but certainly not the only method of infection. You’ve protected yourself from known security holes when you ran Windows update, but there can be unknown or unpatched exploits out there. Therefore instead of using IE, use Firefox.
Trail of Dead's Lastest Effort is Worlds Apart from Source Tags & Codes

By Steven Boender

ew releases rode stronger waves of anticipation than the latest record by ... And You Will Know Us by the Trail of Dead, Worlds Apart. Pushed back to a late January release date because Interscope's management deemed their pre-Christmas release schedule full, the record finally came out (or "dropped," as we industry people say) last week to less fanfare than one might expect, given the high praise from both scribe and layman for their previous release, Source Tags & Codes.

Source Tags & Codes was a masterpiece in every sense of the word, and will probably go down in the annals of history as, pound for pound, one of the strongest records to see the light of day in the aughts. From start to finish there was nothing extraneous, nothing excessive, and nothing phoned-in – there was nary a flyover track to be found. Thus, expectations were high for Worlds Apart, though even the most avid of the Trail of Dead street team members would have to admit that no one could rightfully expect that band to top Source Tags & Codes. Those same die-harders would expect, however, more than Worlds Apart offers.

First and foremost, Words Apart is by no means a failure. Several tracks rise above the standards set by fellow kind-of-angry-white-dude-rock bands. I mean, the album is still better than 99% of what passes as rock these days, particularly on major labels. However, after repeated listens, you can't help but feel that something is being forced.

The first five minutes indicate nothing of the mediocrity to come. A short piano-and-strings buildup starts the record, followed by a woman's scream that starts out heavily reverbed (so as to sound distant) and gradually gets un-reverbed to the point that you think she's in the room with you, which is creepy and effective. Almost immediately the first real song kicks in, the quiet/loud/quiet "Will You Smile Again", which is one of the aforementioned standout tracks. As the song ended I started feeling like this was going to be another heavy-rotation iPod selection. Then the title track began and I realized that my hopes were too high.

First of all, Trail of Dead has always excelled at lyrical abstractions. On "Worlds Apart" (the song, not the album), co-front man (though not so "co" anymore – more on that later) Conrad Keely tries to sing more directly and has a hard time pulling it off. It's as if he got really into Bright Eyes and is doing his Conor "the world is f***ed and I'm the only one who knows it" Oberst The problem is that such emotive sociopolitical commentary is fully acceptable to Oberst Audience of barely post-pubescent neophyte indie rockers who see him as their Bob Dylan. But Trail of Dead's audience is a bit more world-weary, a bit wiser, and a bit more discerning.

So it's completely unnecessary that this song rage against the "c"ts on MTV with cars and cubs and rings and s*t." I mean, does Keely really think that anyone who buys this record doesn't already realize that popular music-related culture is completely f**ked already? I think not. It's not so much the un-originality of the sentiment that bothers me as much as how well-worn that territory is. Oooh, MTV sucks, I've only heard that on about 5,000 other records. It's almost as bad as Eminem's recent and ridiculously late addressing of his fear of Triumph the Insult Comic Dog on his latest album. The rest of the album has its ups and downs, sprinkled with completely superfluous stringed segues, silly non-sequiturs from a female narrator, and other fingerprints of textbook overindulgence.

I'm running out of space here so I'll move on to another notable aspect of the album – the lack of shared vocal duties. Until now, the band has been fairly egalitarian, with vocal duties shared between Keely, drummer Jason Reece, and now-departed bassist Neil Busch. While Keely sang on most of the tracks, the few appearances by Reece and Busch gave the albums a bit more variety. On Worlds Apart, it's almost all Keely, and he just doesn't have the charisma or vocal chops to keep things interesting over the course of a whole album. It just doesn't sound like the same band anymore.

I'll say it again; Worlds Apart is not a bad album. It's still better than the output of most bands of their ilk, and I can only assume that Trail of Dead's live show continues to be a ridiculous display of energy and passion (though smashing instruments is played out, I'll admit). Maybe they're trying to take things in a new direction toward string-fueled prog rock. Maybe this shift was out of necessity after the unmatchable perfection of Source Tags & Codes. Maybe the band wants Conrad Keely to develop into a full-time front man. Whatever the motivations, Worlds Apart at the very least lacks the consistency of their last two records. They probably won't ever top Source Tags & Codes, but I truly hope they can top this one.
Examining A Culture of Stubbornness

By Matt Nolan

Sunday, January 30th saw Iraq hold free elections in the face of worldwide doubt of their ability to do so. During the fall of 2004, former President Jimmy Carter went so far as to say he did not believe Iraq would ever have free elections, and many in the Democratic Party pointed to escalating violence and deteriorating conditions in Iraq as proof that the nation was not ready for democracy.

In one collective effort, however, the Iraqi people rose up last weekend and defiantly raised their fingers to the world, by holding an election with a turnout higher than that in the United States. This, in the face of ongoing suicide bombings (in the double digits just that day), terror attacks and countless threats.

One report cited a 90-year-old woman being taken in a wheelbarrow to the polling station. "We are defeating the terrorists as we are coming here," a voter named Saad said, proudly displaying his ink-stained finger." (cnn.com) The elections came off more successfully than anyone could have imagined.

Well, anyone other than President Bush, that is. Bush has been saying for months that the Iraqi people want to vote; that they deserve self-determination; and that they would rise up and show the world that terror cannot win in the face of freedom. When EXACTLY THAT happened this past week, many Democrats here at home were left either a) quiet (President Carter refused comment), or b) questioning whether their constant demonizing and doubting of the Iraq War was justified.

One columnist in the Chicago Sun-Times noted, "If it turns out that Bush was right all along, this is going to require some serious penance." (suntimes.com) This columnist is a Democrat who has voted against Bush twice, but his mere mention of the possibility that the hard-left may not be right on this one sparked a fury of responses, so much so that he wrote a follow-up column the next day responding to them.

"You are an idiot" was his primary response from readers, which led him to wonder, "What's so shocking about second thoughts?" (suntimes.com) Despite my political differences with the writer, he's hit the nail on the head with America's current political culture, which is the heart of what I'm trying to get at here - an unwillingness to admit intellectual defeat even when it's obvious.

The amendment to the U.S. Constitution to ban gay marriage is not going to happen. Ever. And for good reasons - it's a policy decision that was meant to be left in the hands of legislators and elected representatives, rather than to be carved in stone in our founding framework. Liberals don't like it because of the policy behind it, and many on the right don't like it because it unnecessarily tampers with the Constitution. President Bush still hasn't given up on this conservative pipe-dream, however, and will likely just let it fade away into obscurity rather than publicly say, "you know what? I was wrong on that one."

In daily arguments, few liberals or conservatives that I know like to concede points to the opposition; whether in the face of logic, public opinion or vast amounts of law and precedent, we don't like to cede the positions we've entrenched ourselves with. Why? Because we'd lose face socially, that's why. It's individual and personal.

Honestly: if a President Gore had invaded Iraq to secure any weapons of mass destruction that may have been there, found there were none, but then had proceeded to help the Iraqis secure free elections, do you think Democrats would still be decrying him as imperial, elitist and a fascist pig? (things I've seen and heard about Bush). Would Republicans be rejoicing about Iraqis voting? Unfortunately, no - they'd probably be doing what Democrats are doing now, swallowing hard and finding new lines of attack on the war.

None of us knows what's going on in Iraq, but we all know 1) that a dictator who murdered his people is gone, 2) that Iraqis are voting and on the path to freedom, and 3) that the policy of the United States has been laid out as securing liberty for all on earth who seek it. Ambitious? Yes. My argument here, though, is that if a Democrat had declared the same, you'd see the reactions of the parties flip-flop on this one, more or less.

There is nothing inherently Republican about the war; in fact, it's meant a huge increase in federal spending, on foreign aid, and a blow-up of the deficit, all things that typically have made conservatives run faster than Braxton Edwards. Because a Republican pushed it, however, the right has loved it.

The same could be said of the No Child Left Behind Act. NCLB was the largest expansion of the Department of Education since it was created, yet Republicans heralded it as a huge victory. Mind you, the same Republicans who not five years earlier had been calling for the ABOLISHMENT of the DOE.

If the politicians of today, and the politicians of our generation, are going to find solutions to problems as massive as worldwide terror, out of control health care costs, an insolvent social security system and the other 50 problems we won't see until they are upon us, then we MUST be more willing to focus on the results and less on the positions we've crafted in order to engage the debate. None of us knows the answers until we flesh out all of the options and discuss them, and even then there will be honest disagreement; all I'm asking, though, is that the disagreement be honest.

Continued on Page 18
Please Call on Me: I am Surfing the Internet in Class and Must be Stopped

By Mike Murphy

Let's get honest, people. Me first. I am coming to grips with the reality that I cannot see beyond the top of my laptop. I'm a second-year student with five classes - a seminar that is open and participatory and four other courses allegedly taught by Socratic method.

The real issue is that every time I'm distracted by Instant Messenger gossip, reading an interesting e-mail from a desperate (and extremely friendly, apparently) housewife in my area or the latest state-sponsored news commentary, I'm missing out on a lecture by one of the foremost experts in the legal field.

Further, I'm paying incredible sums I do not yet have for this learning opportunity: While the Tecmo Super Bowl game on my laptop is free, law school costs about a hundred bucks per hour of class.

As a compromise solution I could leave my wireless card at home and uninstall my way out of Spider Solitaire's evil web. I would still find some sort of way to continue to distract myself, though. (Say, for example, writing this dumb column).

My only real concern is to whom I would turn to announce that the class I'm in is "sooo boring". I'd tell the person next to me but that guy's usually too busy playing Party Poker (as he is right now) to notice anything else. But hey! He appears to be winning. So we've got that going for us, which is nice.

Mike Murphy is is a 2L and the Editor-in-Chief of Res Gestae. He has a 35-1102 record in medium difficulty Spider Solitaire. E-mail Mike at murphym@umich.edu.
**Sander's Speech Provokes Comments**

Submitted By
Aaron Marr Page

CLA Law Prof. Rick Sander brought his increasingly tsunami-esque "A Systemic Analysis of Affirmative Action in American Law Schools" to Michigan Monday, Jan. 24. Sander's stats-heavy paper has been discussed and thoroughly workshopped in literally dozens of academic and media fora throughout the last six months. Nonetheless, I'd hazard a guess that, despite all the law-prof geniality on display Monday afternoon, this may have been his most poignant—and pointed—audience to date.

In brief, Sander's argument is:

1. Race-conscious admissions at top-tier schools definitely creates a dramatic black/white "credentials gap" in entering LSAT scores; 2. top-tier employment of race-conscious admissions robs second-tier schools of credentials-matched black applicants, so that second-tier schools have to employ race-conscious admissions, which robs third-tier schools, and so on down the line; 3. this LSAT gap results in an even more dramatic, borderline shocking GPA gap; 4. the GPA gap somehow—and here's the crux—"results" in a graduated bar-passage gap, that is not too severe at top-tier schools, but is increasingly severe at each lower tier, to the point that some 60% of black law students at bottom-tier law schools (most of whom have invested the same tens of thousands in their legal education as everybody else) aren't passing the bar within five years—and perhaps never.

Sander (himself "a political liberal with solid civil rights credentials," according to his UCLA colleague Eugene Volokh) presents a moral claim quite distinct from the anti-affirmative action claims we are accustomed to hearing (e.g. "I didn't get into Michigan, I only got into UCLA"). The claim he presents is the indignity and injustice of law school investment sans return, suffered by thousands of blacks within all tiers of law schools, but especially those situated toward the bottom. Blame is laid on the top-tier doorstep. Essentially, Sander asserts that schools in this category bemoan what would happen to them absent their Affirmative Action policies, but lack awareness of the havoc that their policies wreak on minorities in the "lower-tiers." And, arguably, it focuses most of all on Michigan, the school that successfully defended affirmative action, not just before the Supreme Court, but through numerous and extensive social science projects.

It may be that Michigan now bears a unique responsibility regarding Affirmative Action. Thankfully, the University is taking it's responsibility seriously. Emeritus Professor and A.A. guru David Chambers claims he has shoved his fiction-writing career in the closet since last May in order to devote himself to a rebuttal that will appear in the Stanford Law Review a few months after Sander's article. It is vital that Michigan students—especially those who lent their support through briefs and petitions—take this new challenge equally seriously.

For my part, I hope that Michigan students will read Sander's paper (available at http://www1.law.ucla.edu/~sander/Documents/Sander%20FINAL.pdf) and start thinking about Sander's most surprising finding: that a black student's place on a school's GPA curve is significantly more predictive of bar passage than is an LSAT score. Imagine (a cynical hypothetical) that law schools select students on a perfect LSAT continuum: the top 100 to Yale, the next 200 to [er...not going there], and so on down the line. The surprise is that three years at these schools shifts some variable or variables to the degree that bottom-curvers at more selective schools do much worse on the bar than top-curvers at less selective schools.

Much of the Q&A Monday afternoon was spent trying to come to grips with this finding. It's so counter-intuitive that some concluded that there must not be a causation element between findings 3 and 4 above all; that Sander must be putting his own anti-preferences gloss on some other factor. Others however, including Professor Chambers himself, acknowledged a certain dispirited familiarity with the phenomenon; they referred to studies on highly competitive curved grading—how it often triggers paralyzing cultural stereotypes of inferiority in black students at moments of high pressure, (such as exam time), and how in the aggregate, holding a low position on the GPA curve can inculcate low intellectual self-confidence and self-esteem, and spiral future exam performance down the drain.

Sander's EZ Solution to this perverse effect is to abandon race-conscious admissions—essentially slotting black students into lower-tiered schools where their "credentials" are more typical. But understood comprehensively, the perverse effect on bar passage Sander details is not solely caused, if "caused" at all, by his LSAT-based "credential gap." Indeed, perhaps the most obvious alternative culprit is the highly competitive, silently judgmental, and strictly curved academic—and social—environment at the law school itself.

Michigan should be especially rigorous in considering the new problem Sander has identified—and especially wary about quickly accepting spoon-fed, perhaps politically-motivated solutions. It also means that Michigan should be willing to spend extra effort and take extra risk to search for the truth behind Sander's causation theory, and to search for more palatable solutions.

Here's one possibility: Honors/Pass/Fail grading. The H/P/F system still allows SCOTUS-bound super-achievers to distinguish themselves with lots of honors, but lumps the A- to C+ crowd...
Ruminations on a Freezing February

Submitted By Daniel Martinez

I love February in Ann Arbor. It's actually cold enough to be dry. Exams are over and people are relaxed. 1Ls are getting their fall grades, finally realizing that most won't get a well-paid summer job, and slowly mutating into indifferent 2Ls. 2Ls with job offers have already spent half of their future summer earnings on a trip to some disease-infested tropical country during the winter break. The other half of the money will eventually meet it's demise at Rick's and other upscale Ann Arbor bars. Those 2Ls without jobs can also be found at Rick's, drowning their unemployment sorrows in cheap beer and bad music. I don't know what 3Ls do because I haven't seen one on campus yet.

As a kid I dreamed of becoming an airline pilot. Well, initially I wanted to be an astronaut, but around the age of five I realized that airplane pilots meet more women on the job.

Now, I am really glad I didn't become an astronaut. Did you hear about the recent food shortage on the space station? Imagine two guys, an American and a Russian, locked up in a big tin can without food. They had to go on a diet until NASA launched some lunches. The American astronaut lost 30 pounds, the Russian guy lost a whopping 170 pounds, and the Alien gained 170.

Being an airplane pilot is a completely different game than being a lawyer. You travel the world, wear a sexy uniform, make a lot of money, and are the first one to know when your plane goes down. Seriously, airplane pilots have it made compared to lawyers. Pilots know their work schedules in advance. Pilots are covered by union contracts and can retire early. Plus, hijackers are nicer than most law firm partners. It's also much easier to get a job as an airplane pilot. Last time I visited our Career Services Office, they told me that with my GPA, I'll get a job when pigs fly. Well, when that time comes airplane pilots will be bringing home a lot more bacon than lawyers.

The only problem with being a pilot is that it requires actually getting up when your alarm goes off—every day. You see, planes try to fly on schedule (you'd never guess this by flying out of Detroit on American) and sometimes those flights leave very early. Sleep is very important to me, so I need a job where I don't have to go to work very early. What could be better for me than a law firm job? In fact, most mornings I probably wouldn't have to go to work at all, since I will still be in my office from the night before.

But I digress; back to February in Ann Arbor. It's below zero outside, slightly above zero inside, and the flying pigs are huddling together on the trees. And what could be more invigorating than awakening to a blaring 150-decibels at 6:45 AM on a Saturday morning? I have one of those radio alarm clocks with more unmarked buttons and knobs than a UFO cockpit. Have you ever thought you turned off your alarm after a Rick's kind of night, only to find out the next morning that you cranked up the volume to the max instead?

Trying to shut off my alarm clock is about as easy as plugging in your computer in Room 150. There are seven small black buttons in a row and one larger snooze button. In order to fulfill what shutting it off requires, I have to stumble in the complete darkness, pressing one of the seven small buttons (I never remember which one), while simultaneously pressing the snooze button—rank up the volume to the max instead?

I remember reading something in my Con Law class about cruel and unusual punishment. I'm convinced that my alarm clock violates some of my constitutional rights. This will make a classic topic for a Law Review note; I can already envision the title 'The Case Against Alarm Clocks Revisited: Learned Hand's handling of the second hand.' I'm sure that Ave Maria Law Review published several articles on this topic in their last issue, but I'll narrow the scope so that it won't be preempted. No one will ever read it of course, but it's probably for the best, as it is certain to be replete with grammatical errors, misspellings, and Justice Thomas' quotes.

I'm thinking about throwing out the alarm clock and buying myself a Michigan rooster. Does anyone know how they work? Do I need to defrost it first?

Daniel Martinez is a 2L. Please send comments about this piece to rg@umich.edu.
professors may have a harder time adapting to such a change. He feels that "a move towards a denser system would be a good thing and would make some of the jumps between grades less painful."

Also, to bring Michigan’s curve in line with those of our peers and reduce some undue anxiety and stress, the committee may recommend increasing our grade curve to a 3.3 or its numerical equivalent. In June of last year, Duke Law School made this same change, and it seems rational to do this here so that Michigan can stay competitive in the national market.

Furthermore, the committee may request a reevaluation of the school’s recent adoption of the mandatory grade curve for second and third year classes.

While these solutions seem to address certain issues, Kahn notes, "The fact is, students react to changes in the grading system." He observed that as the grading system has transformed at Michigan over the years, "students no longer regard Bs or B-’s as good grades.” Now, greater competition centers around the grades B+ and above.

Jennifer Soble, a 3L at Yale, noted a similar phenomenon at her school. While she, herself, generally supports the Yale system, she explained: "A few people feel that, because there is no meaningful way to evaluate students based on grades, recommendations have become much more significant. Thus, the lack of grades creates an environment in which students rush the podium more than they would ordinarily, and spend more time angling to impress their professors.” These observations suggest that the committee may be focused on the wrong problem. While the committee’s recommendations take a step in the right direction, perhaps student and employer needs will be better addressed with a more comprehensive approach.

"Law schools have a long way to go to change their teaching practices and assessment methods to reflect the ways in which students successfully learn individually and collaboratively,” asserts 2L Jenna Goldenberg. "My problem isn’t with how many A’s, B’s, passes or fails are handed out, but rather with what we do to earn them."

2L Nada Abu-Isa agrees. "There is something unnerving about having your entire grade contingent on one exam. I think it ends up causing an unnecessary amount of back-loaded stress which could actually end up hurting those who are on top of their game the entire semester.” She continues, "It would be helpful to have something in the books before the final. Maybe midterms aren’t such a bad idea.”

While Professor Friedman was surprised with the suggestion that students wanted more feedback throughout the semester, he supported the idea. Friedman currently requires his Evidence students to take three quizzes throughout the semester, in addition to the final exam. He feels it creates an incentive for students to stay on top of their work throughout the semester, and also provides them with valuable feedback.

The committee will compose their official proposal to the administration this semester. If you have suggestions on how to improve our current assessment system, or would like to get involved with this process, email Josh Kalb at joshkal@umich.edu.

Aaron Marr Page is a 2L. Please send comments about this article to rg@umich.edu.

In his 5th State of the Union speech, President Bush detailed the financial problems of the Social Security system, listed some of the suggestions for reform that have come up in the past by both Republicans and Democrats, and then noted, “all options are on the table.” While only time will tell whether his rhetoric matches his position and desire to find the best solution to the problem, it is this kind of mindset that we must approach these problems with if we are to prosper in the 21st century and beyond. Iraqis want their freedom and it’s marching – just admit that one’s good and fight another fight, ok?

Matt Nolan is the Executive Editor of Res Gestae. E-mail Matt at mjlolan@umich.edu.
Question on the Quad: What’s your favorite fashion trend of the last ten years?

"That’s pretty easy. Collars up on the shirts. Game over."
Joe Lake, 2L

"Pirate bandana."
Ming Shui, 2L

"That is a very, very long time. Hyper-colored T-shirts. There was this hot girl in middle school who wore them. There were always handprints somewhere on her body. Her name was Nicole."
Matt Pryor, 3L

"Big Abercrombie flannels that you wore extra large."
Chris Nielsens, 3L

My kids are my role models, and I mean that in a dead serious way. My wife is not. I just couldn’t handle that. I could never measure up to her. And if I did, then she wouldn’t be a saint. My flaws are my favor to her.

RG: Still, regarding Andrew, one last thing. His first album had a hit song called “Party Hard.” That song has some meaning for you, doesn’t it?

JK: Sure, but more important for him and for his fans. “Party” for Andrew has nothing to do with booze and whatever else. Party is about life. Life is a party if you make it that. If you’re alive then right there you’re lucky, so take advantage of it. Work hard, play hard, be passionate, be optimistic, make things happen, be intense, stoke the energy, listen, express, connect, concentrate, because life, like all parties, is too short. So Party Hard. That’s the message throughout all of his music. You have to do things with utter energy and commitment and seriousness, whether they’re fun things or tough things, it’s part of the party. Never confuse being sober – in the sense of somber, stiff, starchy – with being serious, because sober isn’t fun but being serious can be, can be the best kind of fun, living, learning, loving, and all the while just being amazed at the wonder of it all. That’s what it’s about. Do it. Do it hard.

And I’ll tell you, he does.

Is There a Professor You Want to See Us Interview? Let us Know!
rg@umich.edu
MAKE US GO AWAY!
The NEW, EXTENDED DEADLINE for submissions to the SFF AUCTION is

THIS FRIDAY, FEBRUARY 11

The SFF will be outside 100HH from 8:30AM to 3PM Mon-Wed of this week (2/7-2/9) looking for YOUR donations. We aren't leaving until you've ponied up, so protect yourself from harassment in the halls by submitting an item ASAP!

Remember that you can submit almost anything imaginable, and it doesn't need to cost you anything but a little time and/or creativity.

There's no excuse for not donating. So do it now. Or we'll be hitting you up for donations at Bar Night, when your judgment is impaired, and that won't be pretty.

The University of Michigan APALSA Chapter Is Pleased To Present:

"For Your Consideration"
APALSA Tsunami Relief Movie Marathon
Benefitting AmeriCares

February 16-18, 2005, 6:00pm Hutchins 150

Tickets sales will begin February 9 in Hutchins hall 11:00am-2pm

Tickets: $5 per movie or $10 3-day pass

Concessions will be sold - including White Castle for the final night

All Proceeds Will Go To AmeriCares (www.americares.org)

Send Your Student Organization Announcements to
rg@umich.edu

APALSA Presents . . .

ORIGINS SPRING FESTIVAL:
A celebration of Asian dancing, music, clothing and crafts!

March 10, 2005
at the Pendleton Room of the Michigan Union

Tickets on sale February 21st in front of 100HH during lunchtime.
Get yours early --This show WILL sell out!

The American Constitution Society for Law & Policy presents University of Chicago Law Professor

Geoffrey Stone

speaking on "Free Speech in Wartime: From the Sedition Act to the Patriot Act."

Monday, February 21, 2005
12:15PM - 150 HH

Pizza will be served.