

THE RECORD



THE AFFORDABLE CARE ACT 10 YEARS LATER: HEALTHCARE IS STILL A STRUGGLE.

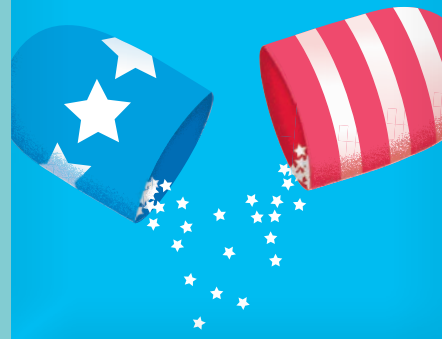
BU LAW FACULTY AND
ALUMNI WEIGH IN ON
THE IMPACT OF THE
LANDMARK REFORM
LEGISLATION.

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Deadly Infections**
How a federal prosec-
utor brought rogue
pharmacists to justice.
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**How Advocacy Can
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An alum in NY
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THE RECORD

The magazine of Boston University School of Law

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THE SOCIOLOGICAL REALITIES OF DATING SHOWS

My days as dean have always been long, but they have become much longer since the start of the COVID-19 pandemic. When I am not working, I often will veg out with my family, read interesting articles, write, play **SCRABBLE** (which I never really played before), and try to clear my mind.

My television choices may come as a surprise to some, but I love reality TV. And, I am very old school. I do not really binge-watch television programs. I tend to watch them when they come on the air.

I watch **REALITY TV**, in particular, as a means of escape



and a way to connect with my husband, my children, and my friends, and, even more so, as an intellectual exercise. Competition shows like **SURVIVOR** and MTV's **THE CHALLENGE** are my favorites. The racial, gender, and other dynamics that shape the alliances that are formed on the shows, as well as the voting patterns among their contestants, over the years, are fascinating.

Since we all have been spending more time at home these days, I thought I would recommend a few other programs that have been at the top of my list lately. I hope they engage and entertain you as they have me these past months.

1 MARRIED AT FIRST SIGHT Really, the least-compelling part of *Married at First Sight* is that these people are willing to marry perfect strangers. Much more interesting is that the hosts not only engage in racial matching but also skin-tone matching in bringing couples together. Despite several years of programming, there has never been a Black-white interracial couple on the show, and the hosts have never matched a dark-skinned Black person with a light-skinned Black person. The couples tend to be either all white or all Black—with very few Asian Americans and Latinx individuals.

individuals would rarely form a good match; yet, these learned matchmakers would place them together as a perfect match. Such pairings make for great television—lots of fights and disagreements—but usually not a good marriage. Each season, the recipe seems the same: one couple that gets along easily, one that has a chance of making it, and all others that are simply doomed. It's a recipe that works. Even hopeless romantics find the perfect couple boring after a while; they are needed to inspire hope for true love, but no one tunes in to watch them. It's the drama of the other couples that brings viewers back for more episodes.

The first time I watched the show, I was surprised to see the expert matchmakers put people with diametrically opposed personality types together. For instance, they would place someone who is clearly a dominant personality type with someone who is an empathetic personality type. The literature tells us such

One show that I have actually binge-watched is *Love Is Blind*—incredibly fascinating for a critical race theorist who happens to love pop culture. The show illustrates how race is a social construction in so many ways. You can see

how people understand and figure out race, even when they cannot "see" it. Watching the question, answer, and dialogue process between the contestants actually showed how one can "see" race, broadly defined, and still discriminate (or not) simply by voice or accent, by knowing where one lives, by learning what music or television they like (in some cases), through any other conceptions of race they may have, and more.

3 LOVE ISLAND I have also binge-watched parts of *Love Island* with my family. The racial and gender dynamics on that program are captivating. Who gets picked and pursued, and who does not—it all falls in line with the research about cross-racial dating and racialized hierarchies of beauty in terms of who is considered beautiful or not across intersectional race and gender lines. And, of course, these shows presume heterosexuality. All the

pairings are men and women. There also is an engaging cultural aspect, as I learn new slang words from across the pond, like "fit," "bev," "do bits," and "innit."

I am fascinated by productions of race, gender, sexuality, class—**IDENTITY IN GENERAL**—even when programs do not view themselves as performing that type of work. I also am mesmerized by popular conceptions of compatibility. It is a topic I have examined in depth in my book, *According to Our Hearts*, and one that continues to intrigue me. People often talk about reality TV as if it is mindless entertainment, but I disagree. Maybe next time you catch one of these shows, you will appreciate it not only for the escape it can provide, but also for what it can tell us about ourselves.

NETFLIX

A Quiet Legal Giant

BU LAW COMMUNITY REMEMBERS CLINICAL PROFESSOR ROBERT BURDICK.

Robert Burdick ('72), who directed the Civil Litigation & Justice Program for more than 40 years, passed away on June 18, 2020, surrounded by his family at his home in Hanover, Mass.

A dedicated teacher, mentor, attorney, and friend, Professor Burdick's work impacted the lives of thousands of people, from his students and colleagues to the many impoverished, mentally ill, and disabled clients he helped to avoid eviction, obtain disability benefits, and keep themselves and their children safe from family violence.

To honor Professor Burdick's memory, *The Record* asked alumni, students, colleagues, and friends to send notes about his role in their lives. The following selection offers a small testament to the enormous impact he had on the BU Law community.



DEAN'S ADVISORY BOARD MEMBER TONY GOMES ('96) ESTABLISHED THE ROBERT G. BURDICK JR. FUND FOR THE CIVIL LITIGATION & JUSTICE PROGRAM. HE INVITES ALUMNI AND FRIENDS TO JOIN HIM IN RECOGNITION OF PROFESSOR BURDICK'S LEGACY. TO GIVE, VISIT BU.EDU/LAWGIVING.

Dean Angela Onwuachi-Willig:

I feel so fortunate to have had the opportunity to get to know Bob over the past two years. His students, colleagues, and members of the broader legal community have been inspired by his steadfast commitment to representing the most vulnerable people among us, which he demonstrated time and again throughout his 40 years leading our Civil Litigation & Justice Program. **Few lawyers have had such impact on people's lives, both through personal representation and through brilliant legal strategy that resulted in key changes in case law.** Rarely does someone's lifework make such a tremendous positive impact on so many lives. He will be sorely missed."

Kaitlyn Sapp ('19), Day Pitney:

It was such an honor working with Professor Burdick in the clinic at BU Law. **He had the perfect balance of giving students the autonomy to handle cases independently while also advising and teaching when needed.** He was always available to discuss not only work but also life in general and wanted to help students figure out what they really wanted in a legal career. Even more importantly, it was clear how much Bob cared about each and every client and wanted to offer his help and support however he could. I can definitely say that working with Bob was a highlight in my law school experience. He will truly be missed."

Kian L. Koh ('18), Microsoft Asia:

"Professor Burdick, thank you for teaching the LLM class on negotiation during the spring of 2018. Your legacy will live on with each and every one of your family members and BU Law members, globally."

Maureen E. McDonagh, Harvard Law School Legal Services Center:

"Deepest condolences on the loss of this great leader. The community of lawyers/advocates will miss him greatly."

Jim Rowan, Northeastern Law Clinics and Lawyers for Affordable Justice:

Bob was a director of Lawyers for Affordable Justice and spent countless hours experimenting with ways that new graduates might help close the justice gap and create sustainable law practices. It was a labor of love indicative of the kind of quiet service that Bob personified. **He was a creative problem solver whose happiness came in service to those who would otherwise go without counsel.** He was a people's lawyer of the truest sense."

VISIT BU.EDU/LAW/BURDICK TO READ THE FULL MEMORIAL AND CONTRIBUTE A MEMORY.

Paul Payer ('13), Cannabis Control Commission:

Bob understood humanity in a way that demanded his presence in legal education. His authenticity challenged us to confront the inequities of poverty and discrimination in our legal system. His mentorship empowered us to believe we can make a change in the lives of individuals engaging that system. **He taught me what this work should be about—people.** Thank you, Bob."

Alana Pearsall ('99), Pearsall Law Firm:

"Professor Burdick was my law school clinic professor for two years. He taught me more than any other professor during my entire educational career. He was kind and brilliant. His impact on generations of students was overwhelming. He is the one and only professor I have always remembered and been grateful for."

MORE NEWS

BALANCING PRIVACY RIGHTS AND PUBLIC HEALTH

BU Law experts Tiffany Li and Andrew Sellars argue privacy should be at the forefront of digital CONTACT-TRACING apps that can help identify and notify people who may have been exposed to COVID-19.

IN A CLASS OF THEIR OWN

Members of the Class of 2023 have accepted the unique challenge of starting law school during a pandemic, but that won't hold them back. These outstanding students have studied music, political science, and psychology; they've worked on political campaigns, taught high school biology, and volunteered with the Peace Corps. They've only just started law school, but we can't wait to see what they'll accomplish next.

SERVING DONORS

As CEO of New England Donor Services, Alexandra Glazier (LAW'96, SPH'97) facilitates ORGAN DONATIONS to 230 hospitals and 14 transplant centers across six states.

Visit BU.EDU/LAW/record to read these stories and more.



BARRIERS THAT BEND BUT DON'T BREAK



AN ANONYMOUS DONOR HAS ESTABLISHED A SCHOLARSHIP IN CLARA BURRILL BRUCE'S NAME THAT SUPPORTS UNDER-REPRESENTED AND FIRST-GENERATION STUDENTS.

BY CORINNE STEINBRENNER

AS WE CELEBRATE THE 100TH ANNIVERSARY OF THE BU LAW REVIEW, WE LOOK BACK AT THE LIFE OF CLARA BURRILL BRUCE, THE FIRST WOMAN AND FIRST AFRICAN AMERICAN ELECTED TO LEAD THE PUBLICATION.

"ALL, HAIL TO THE CONQUEROR! THAT IS THE WAY THIS LADY SHOULD BE ADDRESSED. Not only is she an honor student of first rank, but she has achieved a distinction never conferred on a woman before—she is editor-in-chief of the *Law Review*. Even all this does not sufficiently occupy her for she has a grown family to whose needs she finds time to attend. What a lot they have to live up to!"

This inscription appears in BU Law's 1926 yearbook beside the photo of **CLARA BURRILL BRUCE** ('26). A mother of three in her mid-40s, Bruce was the only African American woman in her class, and her election to chair of the **BOSTON UNIVERSITY LAW REVIEW** was historic: she was the first woman to head the publication at BU and the first African American to become editor-in-chief of a law review anywhere in the country.

Bruce grew up in a Black middle-class family in Washington, D.C., graduating in 1897 from the city's M Street High School, a segregated school known for its rigorous curriculum and exceptional faculty. (Teaching was, at that time, among the few professions available to well-educated African Americans.) After high school, she attended Miner Normal School and then spent a year at Howard University before transferring to Radcliffe College,



CLARA BURRILL BRUCE WITH THE REST OF THE BU LAW REVIEW EDITORIAL BOARD.

where she studied history, education, and philosophy. She left Radcliffe in 1903 without earning her degree in order to marry Roscoe Bruce, whose father, Blanche Bruce, had been the first African American to serve a full six-year term in the US Senate.

Over the next 20 years, Bruce raised three children and supported her Harvard-educated husband in his career as an administrator at the Tuskegee Institute in Alabama and then as assistant superintendent of Black schools for the District of Columbia. In 1923, with her children mostly grown, she pursued her longtime ambition of studying law.

Bruce excelled at BU Law, where she published three articles in the *BU Law Review*, served on the student council, and ranked first among the seven women in her class, in addition to serving as editor-in-chief. She was named the 1926 "class day orator" and graduated cum laude.

"Clara's success in law school was phenomenal," says Lawrence Otis Graham, author of *The Senator and the Socialite*, which chronicles the lives of Senator Blanche Bruce and his descendants. Her hard work is particularly impressive, he notes, because she never expected her accomplishments to lead to a career as a practicing attorney. "She knew

when she started that it was unlikely that would be permitted in the North," Graham says. "The only opportunities available to Black attorneys would have been reserved for men." Rather, she studied law as an intellectual pursuit and in hopes of using her knowledge to benefit the Black community.

In October 1926, Bruce became the third Black woman admitted to the **MASSACHUSETTS BAR**. The next year, she and her husband accepted jobs as managers of the Dunbar Garden Apartments in Harlem, a 500-unit complex built by the Rockefeller family to provide housing for New York's middle-class Black families. After the Rockefellers sold the Dunbar in 1936, the Bruces struggled to find suitable employment in New York, an increasingly segregated city where few African Americans held white-collar jobs.

Despite (or perhaps because of) these setbacks, Bruce was active in politics—she was nominated to the New York State Assembly in 1938 but decided not to run—and continued to pursue her love of writing, submitting essays, articles, and poems for publication. She died in 1949 and is buried in her hometown of Washington, D.C.

Now, as the *BU Law Review* marks its 100th anniversary, an anonymous donor has honored Bruce by establishing a scholarship in her name that will support underrepresented and first-generation students at BU Law.

"Clara Burrill Bruce is at once an inspiring example of perseverance and achievement, and a painful reminder of the barriers that many excellent students faced—and too often still face—in gaining full access to the legal profession," says Dean Angela Onwuachi-Willig. "Having this scholarship in her name will help BU Law keep opening doors for all qualified students, which is a crucial element of our vision for the future."

➔ **To support the Clara Burrill Bruce Scholarship, contact the Development & Alumni Relations office at 617-353-3118 or give at bu.edu/lawgiving.**

BOSTON UNIVERSITY LAW REVIEW



Celebrating 100 volumes of **BU LAW'S FIRST SCHOLARLY PUBLICATION.**



First volume published: **JANUARY 1921**

STATE COURT CITATIONS:

108

FEDERAL DISTRICT COURT CITATIONS:

56



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Founding chair of the undergraduate editorial board: **ROBERT QUIMBY**



Founding chair of the alumni editorial board: **ROLAND H. SHERMAN**



Most cited authors: **CASS SUNSTEIN AND RICHARD POSNER**

US SUPREME COURT CITATIONS:

4

CITATIONS BY OTHER LAW JOURNALS:

41,555

Most cited article: **"THE MIS-CONCEIVED QUEST FOR THE ORIGINAL UNDERSTANDING,"**

by Paul Brest, 60 *BU L. Rev.* 204 (1980)

BUILDING A MORE DIVERSE LEGAL PROFESSION

BY REBECCA DEYER

Dean Onwuachi-Willig is committed to making the legal profession more inclusive, on campus and off.



DEAN ANGELA ONWUACHI-WILLIG HAD ONLY BEEN A TENURE-TRACK PROFESSOR FOR FOUR YEARS WHEN SHE DECIDED TO START A WORKSHOP THAT WOULD HELP OTHER BLACK WOMEN LAW FACULTY ADVANCE IN THEIR CAREERS.

Now in its 14th year, the **LUTIE A. LYTLE BLACK WOMEN LAW FACULTY WORKSHOP & WRITING RETREAT**—named for the first Black woman admitted to the bar in the South (in Tennessee) as well as the bar in Kansas, and the first woman law professor in the United States—has helped its attendees publish more than 38 books, 115 book chapters, and 1,060 articles.

“It’s a beautiful collection of women thinking together about how we can support each other,” says Onwuachi-Willig, an expert on critical race theory, employment discrimination, family law, and cultural sociology whose scholarship and mentorship have been honored twice by the Association of American Law Schools Section on Minority Groups.

It’s also just one example of Onwuachi-Willig’s career-long commitment to increasing diversity in the legal profession. In addition to the Lytle Workshop, her many efforts include increasing internship and work opportunities for students of color and advocating for diploma privilege, which allows law school graduates who meet rigorous academic criteria to become attorneys without taking the bar exam, after passing a traditional moral character and fitness assessment.



ANGELA ONWUACHI-WILLIG, RENOWNED EXPERT IN CRITICAL RACE THEORY, JOINED BU LAW AS DEAN IN 2018.

“Why do we put up a hurdle that we know limits the diversity of our profession? That doesn’t strike me as fair, especially in a profession that’s supposed to be committed to justice.”

“This is her passion, her life’s work,” says **L. SONG RICHARDSON**, dean of the University of California, Irvine School of Law and a Lytle Workshop attendee.

The legal field is one of the least diverse professions in the US. In 2019, 85 percent of attorneys were white

and 64 percent identified as male, according to the ABA National Lawyer Population Survey. One major structural barrier to inclusion is law schools’ proclivity for merit-based aid, which helps boost rankings. BU Law is one of only a few law schools that offer need-based aid.

“LSAT scores track with income,” Onwuachi-Willig says. **“The people least likely to need the money are the most likely to get it.** If I had a billion-dollar endowment, I would make us the first law school that meets the full need of all students.”

In the meantime, she has focused her attention on cultivating a sense of community for students of color and other underrepresented groups on campus. This year, she secured funding from more than a dozen top law firms for BU Law’s **MOSAIC PROGRAM**, which helps bring admitted students of color to campus for networking events. (The 2020 program was held virtually in accordance with COVID-19 precautions.) The additional funding has allowed the law school to more than double the travel stipend available for potential students.

KENNETH S. LEONETTI, co-managing partner of Foley Hoag LLP, which helps fund the Mosaic program, says Onwuachi-Willig has been “a phenomenal leader” on diversity.

“She’s very much at the forefront of thinking about these issues,” he says.

Improved recruiting widens one point of entry into the profession, and reducing reliance on the bar exam opens up another. In 2014, Onwuachi-Willig testified before the Iowa Supreme Court in favor of diploma privilege, arguing that requiring students to take semester- or yearlong classes in certain subjects is more “pedagogically sound” than hoping students retain what they learned about those subjects in short-term courses designed to help them pass the bar exam.

Currently, only one state—Wisconsin—offers diploma privilege for its students, although some states have allowed a form of the privilege because of COVID-19’s disruption to the bar exam.

Onwuachi-Willig supports diploma privilege, premised on rigorous academic requirements, for two reasons: first, she doesn’t believe the bar exam actually determines who is qualified to be an attorney; second, students of color and other underrepresented groups disproportionately fail the exam due to structural racism and socioeconomic disparities. For example, the cost of bar preparation courses is unaffordable for many lower-income students.

“It doesn’t predict who is going to be a good attorney, and, on top of that, it

really limits access,” she says. “Why do we put up a hurdle that we know limits the diversity of our profession? That doesn’t strike me as fair, especially in a profession that’s supposed to be committed to justice.”

Not long into her deanship, Onwuachi-Willig raised the issue of diploma privilege in meetings with the late Massachusetts Supreme Judicial Court Chief Justice **RALPH D. GANTS** and Trial Court Chief Justice **PAULA M. CAREY**. Gants later appointed a committee to study the idea.

The dean traces her dedication to diversity to experiences in her own life, including a high school job with an African American attorney and a suggestion from a college professor that Onwuachi-Willig become an academic.

“I wouldn’t have thought to become a professor otherwise,” she says. “When you benefit from the mentorship and advice of other people, I believe you should pay it forward. Nobody makes it anywhere alone.”



LUTIE A. LYTLE, ONE OF THE FIRST AFRICAN AMERICAN WOMEN IN THE LEGAL PROFESSION, WAS ADMITTED TO THE STATE BAR OF TENNESSEE IN 1897.

KEEPING HIS EYE ON THE BALL

AS CHIEF LEGAL OFFICER FOR THE TAMPA BAY BUCCANEERS, DAN MALASKY ('01) IS FOCUSED ON A SAFE NFL SEASON.

BY MEGHAN LASKA

Four months before the COVID-19 pandemic hit Florida, **DAN MALASKY ('01)**, chief legal officer for the **TAMPA BAY BUCCANEERS**, was thinking about the possibility of a work stoppage. Instead of worrying about a virus, he was preparing scenarios related to a potential labor dispute.

"During the collective bargaining negotiations between the NFL and the **NFL PLAYERS' ASSOCIATION**, I spent a fair amount of time analyzing what would happen should games be lost or a season cancelled. That could impact a number of areas of our business—from sponsorships, concessions, merchandise, and ticket agreements to broadcast revenues and hosting community events," he says.

While a new, 10-year collective bargaining agreement was reached, the pandemic soon sent Malasky back to scenario planning. The analyses for a possible strike and work stoppage from the virus were similar, except for one big factor: a significant public health risk.

"We shut down our AdventHealth Training Center before Florida's **SAFER AT HOME** order and worked extensively with government and medical leaders to evaluate how best to return to football at the appropriate time. As we looked at the prospect of reopening,

the focus was on ensuring a return in a methodical, phased 'crawl, walk, jog, run' approach that mitigates risk to players, staff, officials, and, of course, our fans," he says. "Extensive modifications have been implemented throughout our training facility and stadium since then, and we were thrilled to welcome Bucs fans back to Raymond James Stadium in October."

When he is not in the midst of a possible labor dispute or pandemic, Malasky is "quarterbacking" the legal, human resources, and facility security teams for the Buccaneers. "This work involves every subject you could take in law school: IP, litigation, immigration, torts, licensing, workers compensation, antitrust, property, construction, corporations, employment, First Amendment—you name it."

He also manages the contracts for just about every aspect of the game—except player agreements. "I wasn't involved in signing **BRADY** or **GRONK**, so my Boston friends cannot hold that

against me," he laughs, "but we will gladly welcome those fans into our Krewe."

It took years of working as a lawyer in other sports to achieve his current position in the NFL.

"It's difficult to break into the sports world, so when I was offered the position of general counsel for **DIRT MOTORSPORTS** a few years out of BU Law, I jumped at the opportunity," he says. "That was one of the best decisions of my life, because it exposed me to the front line of sports and gave me in-house experience as we grew DIRT into the largest sanctioning body for dirt-track auto racing in this country."

From auto racing, Malasky moved to the **US TENNIS ASSOCIATION (USTA)**, where he served as general counsel and managing director of business affairs for the USTA National Campus. As a leader in the organization's professional tennis efforts, he oversaw the legal side of the US Open, the largest annually attended sporting event

worldwide. He also helped facilitate the development of the largest tennis complex in the world in Lake Nona, outside of Orlando, which brought Malasky and his wife and two daughters to Florida, where he concurrently served as chair of the Central Florida Sports Commission (now the Greater Orlando Sports Commission).

In 2018, when a friend who is general counsel for another NFL team told him about the opportunity in Tampa Bay, Malasky was excited to make the leap from an individual sport to a team environment. More specifically, he was looking forward to working in football for the Buccaneers.

"I played football in high school and college and am privileged to work in the sport. Football has the unique ability to bring communities together during challenging times through collaboration and community spirit," he explains. "This is my dream job. I am excited to follow my passion for this sport every day." ■

"This work involves every subject you could take in law school: IP, litigation, immigration, torts, licensing, workers compensation, antitrust, property, construction, corporations, employment, First Amendment—you name it."

DAN MALASKY ('01) IS THE CHIEF LEGAL OFFICER FOR THE TAMPA BAY BUCCANEERS.

KYLE ZEDAKER/TAMPA BAY BUCCANEERS



ASSESSING THE AFFORDABLE CARE ACT



A DECADE AFTER PASSAGE OF THE LANDMARK HEALTHCARE REFORM LEGISLATION, BU LAW FACULTY AND ALUMNI WEIGH IN ON ITS IMPACT.

BY REBECCA BEYER

For more than 10 years, BU Law and School of Public Health Professor **WENDY MARINER** has taught Health Insurance and the Affordable Care Act, a seminar exploring the role public and private insurers play in US health policy. But, during that time, she's never used the same syllabus twice.

No wonder. Since the 2010 passage of the **PATIENT PROTECTION AND AFFORDABLE CARE ACT (ACA)**—President Barack Obama's signature healthcare reform law—the legislation has made multiple trips to the US Supreme Court and survived congressional Republicans' "repeal-and-replace" campaign. In May, in the middle of the global COVID-19 pandemic, President Donald Trump pressed ahead with his argument to overturn the law in the latest Supreme Court case, despite the advice of his own attorney general.

But somehow the beleaguered law remains on the books, continuing to provide health insurance for millions of Americans. As the legislation completes its first—and, if opponents have their way, perhaps only—decade, its successes and failures are more apparent than ever. Much of the law's impact has been positive: more people have more comprehensive health insurance now than did before. But, as increased public support for a national health plan demonstrates, the law has left much to be desired. Healthcare can still be prohibitively expensive, layoffs in the wake of the pandemic revealed the pitfalls of relying on employer-sponsored coverage, and—because of a legal attack from opponents—millions of low-income people remain uninsured in states that have refused to expand their Medicaid programs as the legislation intended.

Yet, according to Mariner and other faculty and alumni working in health law, the ACA withstands the test of time because it provides insurance for millions of additional Americans. When the law was passed in 2010, **46.5 MILLION PEOPLE** were uninsured in the United States; by 2018, that number had dropped to **27.9 MILLION**. Most of that additional coverage came with the ACA-enabled Medicaid expansion available to states, but people also bought individual private plans through ACA-created "exchanges."

"It's a net positive," says Professor **NICOLE HUBERFELD**, who spent five years studying the dynamics of implementation of the law and recently contributed a chapter to a book about how it transformed healthcare in the United States. "Even with all of the implementation issues and political pushback, millions of people have gained health insurance."

Professor **CHRISTOPHER ROBERTSON**, who joined the BU Law faculty in July 2020 and recently published a book on the problem of underinsurance, agrees.

"It moved us toward what every other developed country has, which is universal coverage," he says. "Getting more access to insurance is a huge win."



10 YEARS

“OUR DEPENDENCE ON EMPLOYER-PROVIDED HEALTH INSURANCE IS A SERIOUS PROBLEM IN AN ECONOMIC DOWNTURN. THAT’S ALWAYS BEEN TRUE, BUT IT IS PAINFULLY OBVIOUS NOW.” —WENDY MARINER

A SHIFT IN PERCEPTION

The Affordable Care Act is generally considered the most significant healthcare reform law since the creation of **MEDICARE** and **MEDICAID** under President Lyndon Johnson in 1965. But Mariner says the biggest change the law made was to public perception. Before the ACA, she explains, many people thought of health insurance as a voluntary, commercial product indemnifying the insured from certain, specific losses. Today, more people see insurance as a form of social responsibility.

Mariner attributes that change in part to a provision of the law requiring insurers to cover 10 categories of “essential health benefits,” including preexisting conditions, prescription drug coverage, pregnancy and childbirth, mental health, and preventive services. That provision did more than improve the quality of care, she says.

“In many ways, it is conceptualizing healthcare as a social responsibility that everyone ought to participate in,” Mariner says.

Practically speaking, however, the law changed very little about *how* people are insured. The majority of Americans have long obtained health insurance through their employers, with smaller percentages paying for or receiving coverage through entities like Medicare, Medicaid, or the **US DEPARTMENT OF VETERANS AFFAIRS**. The ACA allows states to expand Medicaid and added a new mechanism for purchasing coverage (the exchanges) but otherwise left that fragmented structure in place.

“All these buckets have their own separate rules for eligibility and benefits and cost sharing of one kind or another,” Mariner says.

Huberfeld, who is also a School of Public Health professor, says the ACA’s failure to address that complexity is one of its “greatest faults.”

“It really just built new scaffolding around an old foundation,” she says. “Because it didn’t create a more coherent and administratively simple system, healthcare remains bewildering to so many regular people.”



UNDER ATTACK

After a contentious path through Congress, in which the ACA was passed by Democrats in the House and Senate without a single vote from across the aisle, at least two lawsuits were filed by the law’s opponents less than an hour after President Obama signed the legislation into law.

When **ANDREA-GALE OKORO** (’18) was an undergraduate intern at the Center for American Progress in 2013, part of her job was to analyze the many lawsuits against the ACA and think about ways to defend the law against them. By that time, the US Supreme Court had already ruled on one of those challenges; it ruled on another in the summer before she started at BU Law. The first ruling, *National Federation of Independent Business v. Sebelius*, upheld the ACA’s so-called individual mandate requiring all Americans to have health insurance but struck the provision requiring Medicaid expansion. In the second ruling, *King v. Burwell*, the justices ruled that tax credits that help offset the cost of private insurance are available to people who buy insurance on either a state-created or federally created exchange.



WENDY MARINER has published more than 100 articles in the legal, medical, and health policy literature on patients and consumers’ rights, healthcare reform, insurance benefits, insurance regulation, public health, AIDS policy, research with human beings, and reproductive rights.



As a student at the University of Arizona, Andrea-Gale Okoro cowrote a paper with Christopher Robertson that examined physician conflicts of interest and whether and how those should be disclosed to patients. **READ ABOUT HER WORK WITH ROBERTSON, EXPERIENCE AT BU LAW, AND CAREER SINCE GRADUATING AT BU.EDU/LAW/OKORO.**

“It’s kind of crazy that by the time I took Constitutional Law—five years after the law’s passage—two of the ACA’s cases had already become seminal cases,” says Okoro, who concentrated in health law at BU and now advises clients on healthcare matters as an associate at McDermott. “I think that speaks to the breadth and impact of the law.”

Other healthcare reform laws have been controversial. Years before he became president, **RONALD REAGAN** famously criticized early proposals for Medicare as “socialized medicine” in a recording for the American Medical Association. But opposition to the ACA—often derisively called “Obamacare”—has been especially vitriolic and driven mostly by politics.

“I’m not a political scientist, but I don’t think the opposition stems so much from the idea of having access to a method of financing healthcare for everyone,” Mariner says. “I think it stems largely from partisanship.”

The *Sebelius* ruling in 2012 put a huge hole in the law’s plan for near-universal coverage (the law never intended to cover everyone; undocumented immigrants are barred from purchasing insurance on the exchanges and excluded from Medicaid coverage). In their 5-4 decision, the justices held that threatening to withhold funding from states that refused to expand their Medicaid programs to include more people was unconstitutional.

“Medicaid expansion is the most important feature of the ACA in terms of getting vulnerable populations that have long experienced uninsurance to be in a place where they could access insurance,” says Huberfeld, who has written extensively about the role of federalism in healthcare programs, including Medicaid. (In a dissent to the majority opinion in the 2012 case, the late US Supreme Court Justice Ruth Bader Ginsburg cited Huberfeld’s work to make the point that expanding Medicaid coverage was permissible.)

In her research, Huberfeld points out that hundreds of studies have shown the positive effects of Medicaid expansion. In addition to the obvious benefits for the insured, those effects include reduced health disparities, fewer rural hospital closures, and improved financial stability for individuals, health-

care providers, and even state budgets. Nevertheless, 10 years after the law’s passage, only 39 states and the District of Columbia have expanded Medicaid, meaning whether low-income Americans qualify for free health insurance depends largely on where in the country they live.

“It is unconscionable to allow zip codes to dictate whether millions of people have basic access to healthcare,” Huberfeld says. “That gap was not meant to exist.”

IN CASE OF EMERGENCY

The dangers of that gap became even more clear in the wake of the pandemic. When employers began laying off millions of Americans as the economic and public health effects of the **COVID-19** virus took hold, people who had health insurance through their job but lived in states with limited Medicaid coverage were left without protection, just when they needed it most.

“Our dependence on employer-provided health insurance is a serious problem in an economic downturn,” Mariner says. “That’s always been true, but it is painfully obvious now.”

Huberfeld agrees.



CHRISTOPHER ROBERTSON is an expert in health law, institutional design, and decisionmaking. His wide-ranging work includes torts, bioethics, professional responsibility, conflicts of interest, criminal justice, evidence, the First Amendment, racial disparities, and corruption.





“[THE ACA] REALLY JUST BUILT NEW SCAFFOLDING AROUND AN OLD FOUNDATION. BECAUSE IT DIDN'T CREATE A MORE COHERENT AND ADMINISTRATIVELY SIMPLE SYSTEM, HEALTHCARE REMAINS BEWILDERING TO SO MANY REGULAR PEOPLE.” —NICOLE HUBERFELD

A LASTING LEGACY

One perhaps unintended positive consequence of the decade-long assault on the Affordable Care Act is that people are more informed about healthcare than ever before. The law—and its successes and failures—has been the subject of countless debates, town hall meetings, grassroots campaigns, and presidential candidate platforms. In other words, efforts to eliminate the law—or improve upon it or replace it with something more progressive—have only further entrenched it in the public's consciousness. That, in turn, has led to “robust public engagement,” including ACA-enabled Medicaid expansion by ballot initiatives in Maine, Utah, Idaho, and Nebraska, according to Huberfeld.

“If we didn't have this fighting about the ACA all the time, I think people would have forgotten about it,” she says. **“Instead, it's been this constant reminder that there's this law that could be doing things for people. People wanted what they couldn't have.”**

Meanwhile, the majority of the public is clamoring for even more. Since the 2016 Democratic presidential primary campaign, when Senator **BERNIE SANDERS** made his case for “Medicare-for-All,” a majority of Americans have favored some sort of national health insurance plan.

That's a change Mariner has seen reflected in her class on the ACA. Each semester, she says, most students come in believing the United States should find a way to provide healthcare, free of charge, to all its people.

Then, she challenges them.

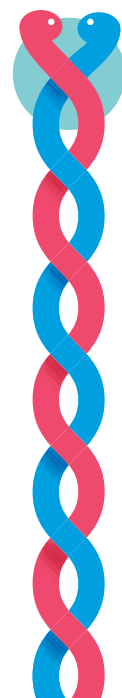
“I say, ‘Okay, you want to cover this? How are you going to do it? Give me your design, your payment structure. Who are you contracting with? How do you write the contracts?’” she says. “They are often frustrated, always grappling with a problem that's real.”

By the end of the term, she adds, they have “sympathy for the devil.”

“I see their eyes open very wide. It forces them to really recognize how hard it is, and yet how important.”



NICOLE HUBERFELD co-authored the third edition of *Public Health Law* (with Mariner) and co-authored the first new casebook on healthcare law in a generation, *The Law of American Health Care*, with Kevin Outterson, professor of law and executive director of CARB-X.



“The novel coronavirus is making it very clear that nonexpansion states are missing a huge tool in the toolbox for dealing with a public health emergency,” she says. “Their response cannot be nearly as complete because they just don't have the same safety net. A lot of people will need to seek Medicaid enrollment, and it isn't going to be there.”

In his 2019 book, *Exposed: Why Our Health Insurance Is Incomplete and What Can Be Done About It*, Robertson explores cost exposure in the US healthcare system. More recently, he points out that the pandemic laid bare some of the absurdities of health plans' coverage limitations and so-called **“COST-SHARING”** methods (including deductibles, copays, and coinsurance). Congress made COVID-19 testing free, and some insurers voluntarily agreed to cover the full costs of treatment, but “what if you go in for COVID-19 testing and instead they tell you that you have pneumonia?” Robertson asks, noting that treatment for pneumonia can cost thousands of dollars even for people with insurance. “If it's true for coronavirus, it should be true for pneumonia and other diseases. Leaving people with cost exposure makes no sense.”

But Robertson says the pandemic also highlighted at least one positive aspect of the ACA. Because of the essential benefits covered under ACA plans, newly insured people have had more opportunities to interact with their doctors during routine visits for preventive or other care. The relationships formed during such visits are especially important when public health is at risk.

“One of the things the ACA has tried to do is help people get reliable and consistent access to care, so they don't just have to show up at the emergency room,” Robertson says. “In the time of coronavirus, what we really want if someone starts to sneeze or cough is for them to call their physician and talk it through. That really requires having a standing relationship with the healthcare system, and the ACA promotes those sorts of relationships.”

TAINTED DRUGS AND DEADLY INFECTIONS



HOW A FEDERAL PROSECUTOR BROUGHT ROGUE PHARMACISTS TO JUSTICE.

BY JUNE BELL



deally, AMANDA MASSELAM STRACHAN's mind would be blissfully empty during her Saturday morning hot yoga classes. But it rarely is. While moving through poses, she is balancing phrases for closing arguments, weighing one against another. The overarching argument needs to be sound, but even the right words and phrases are crucial.

"When you're trying to persuade a jury that your view of the case is the right one, it's great if you can talk about it in really simple, straightforward ways," she says. "People don't like to be sold to. I think the worst thing you can do is come across as inauthentic."

Authenticity is a Strachan hallmark, colleagues say, though her quest for plain-spokenness is regularly challenged by the complexity of her work. As chief of the **HEALTHCARE FRAUD UNIT** for the US Attorney's Office in Boston, Strachan (98) oversees criminal healthcare fraud enforcement in Massachusetts.

She supervises 15 prosecutors who probe criminal wrongdoing by individuals—such as healthcare providers who fraudulently bill **MEDICARE** and hospice nurses suspected of stealing patients' morphine—and fraudulent activity by healthcare corporations and pharmaceutical companies.



AMANDA MASSELAM STRACHAN IS CHIEF OF THE HEALTHCARE FRAUD UNIT IN THE US ATTORNEY'S OFFICE FOR THE DISTRICT OF MASSACHUSETTS.



The **NEW ENGLAND COMPOUNDING CENTER** fungal meningitis outbreak became one of the worst public health disasters in US history, with nearly 800

people sickened and more than 100 dead. Strachan and her team spent two years investigating the outbreak and bringing those responsible to trial.

"WHEN YOU'RE TRYING TO PERSUADE A JURY THAT YOUR VIEW OF THE CASE IS THE RIGHT ONE, IT'S GREAT IF YOU CAN TALK ABOUT IT IN REALLY SIMPLE, STRAIGHTFORWARD WAYS. PEOPLE DON'T LIKE TO BE SOLD TO. I THINK THE WORST THING YOU CAN DO IS COME ACROSS AS INAUTHENTIC." —AMANDA MASSELAM STRACHAN

Strachan, whose work is rarely high-profile, found herself taking a star turn after scores of patients around the country became seriously ill with fungal meningitis in 2012. All had received injections of what was supposed to be a sterile steroid to relieve back and joint pain. The Centers for Disease Control and Prevention tracked the tainted drug to the **NEW ENGLAND COMPOUNDING CENTER** (NECC) in Framingham, Mass.

Investigators from the US Food and Drug Administration found that the compounding pharmacy's "clean room" was contaminated with bacteria and mold, and the staff had falsified records and used expired ingredients. Nearly 800 patients across 20 states who had received injections became sick, and of those, more than 100 died. The healthcare crisis prompted the passage of the **DRUG QUALITY AND SECURITY ACT** in 2013 to impose tighter controls over compounding pharmacies.

During her two-year investigation, Strachan traveled the country to interview patients debilitated by fungal meningitis. "The awareness of the suffering of the victims throughout the investigation had a profound effect on me," she says. "It was a case of a lifetime. It changed me forever."

'COMPLETELY SPUN OUT OF CONTROL'

The US Attorney's Office in 2014 indicted 14 former NECC employees, alleging criminal intent by knowingly producing contaminated and otherwise substandard drugs. "They were only interested in getting as much drug out as quickly as possible," Strachan says, "and they were financially rewarded for it until the place completely spun out of control." Six employees were charged with racketeering, which for two defendants included 25 counts of second-degree murder in seven states as predicate racketeering actions under the Racketeer Influenced and Corrupt Organizations (RICO) Act.

Strachan and her team immersed themselves in compounding pharmacy law, the exacting standards for clean rooms, regulatory issues, and the excruciating symptoms of fungal contamination. They combed more than 10 million pages of evidence and more than 1.2 million emails generated to and from the NECC's owners and employees, as well as victims' medical records.

Strachan and co-counsel **GEORGE VARGHESE** obtained convictions for every defendant except one through four guilty pleas and four federal trials. The first and most closely watched was a two-and-a-half-month marathon in 2017 against NECC's former owner and head pharmacist, **BARRY CADDEN**. He was convicted of 57 counts of racketeering, racketeering conspiracy, and other crimes. But in a bizarre twist, the jury incorrectly

completed the verdict form: rather than tick “guilty” or “not guilty” for 25 racketeering acts of second-degree murder, the jurors instead listed their tallies. The judge interpreted the divided votes as acquittals.

“I felt like we’d been robbed,” Strachan says. “I knew that there were some jurors who were with us. You sit in front of a jury for 10 weeks, and you know when they are with you. But you’re powerless in this situation. I felt like the victims didn’t get the benefit of a unanimous jury verdict on the murders.”

COMMITMENT AND COMPASSION

Varghese, who worked with Strachan for seven years at the US Attorney’s Office, says she blends a fierce commitment to justice with deep compassion for victims. Those traits were embodied in the totems she tucked in the lectern before closing arguments: a **CAPTAIN AMERICA** action figure from one of her sons and a small ornamental cardinal, the favorite bird of Effie Shaw, a North Carolina victim.

Strachan impressed juries by deftly weaving victims’ heartbreaking stories into a compelling narrative and “translating” microbiology and pharmacology for a lay audience, he says. The trials were the culmination of months of research and investigation, which for Strachan included “the incredibly painstaking work” of matching CDC data with records from state departments of public health to identify victims, says Varghese, a partner in **WILMERHALE**’s Boston office.

The NECC crimes received extensive media coverage. TV host and commentator **JOHN OLIVER** devoted an episode of his show to NECC and the lack of oversight of compounding pharmacies. So did CNBC’s true-crime series *American Greed*. A book about the scandal, *Kill Shot*, will be published in February 2021.

Despite the prominence of the investigation, the publicity had no effect on Strachan’s down-to-earth demeanor, says **MIRANDA HOOKER**, a former colleague and longtime friend. “She is an incredibly



Still on the front lines of the law and healthcare, Strachan is busy today keeping tabs on coronavirus-related fraud investigations, including counterfeit protective equipment and price gouging.



genuine, capable lawyer and just incredibly kind and competent—and a ferocious advocate,” says Hooker, a partner at Troutman Pepper in Boston.

Before working at the US Attorney’s Office, Hooker and Strachan were colleagues at Hale & Dorr (now WilmerHale). Strachan joined after law school, attracted by Hale & Dorr’s strong white-collar defense practice. In 2007, after the birth of the first of her three boys, she moved to the US Attorney’s Office to gain a different perspective.

COUNTERFEIT MASKS AND FAKE ADS

Recently, Strachan has been tapped to oversee investigations into coronavirus-related price gouging, financial and healthcare fraud, phony antiviral products, and counterfeit medical-grade masks. She is also a frequent panelist at compliance forums, sharing insights on enforcement trends and best practices.

She credits her background in defense and prosecution with helping her strike the right balance between enforcing the law and respecting pharmaceutical companies’ drive to innovate. “When you’re looking at corporate wrongdoing in this sector, you have to remember, maybe you find evidence of a crime here, but what else does this company do?” she says. “What drugs does this company make that are important to keep on the market? How many jobs would be lost if we bring charges against this company? With the discretion that we have as prosecutors, it’s very important that it be wielded carefully.” ■

A CURIOUS RABBIT TRAIL

PROFESSOR KEVIN OUTTERSON’S RESEARCH ON FREE SPEECH LED HIM TO STUDY COMPOUNDING PHARMACY REGULATIONS.

BY JUNE BELL

KEVIN OUTTERSON never planned to become an expert on businesses that craft custom prescriptions. “I did not come out of law school thinking, ‘I really want to understand compounding pharmacies,’” the BU Law professor says.

But when he followed what he called “a curious rabbit trail” from a 2002 Supreme Court decision to a 2012 public health crisis involving a compounding pharmacy, he found strong connections between free speech, state and federal regulatory law, and legislation.

His research initially “was curiosity-driven, and then a crisis erupted—just like some people spend 25 years studying novel coronaviruses in obscurity and suddenly they’re on **CNN**,” he says. “It wasn’t quite like that, but the same basic story.”

Outterson’s deep dive into a relatively arcane topic became unexpectedly germane in 2012, when a national meningitis outbreak was traced to mold-contaminated injectable steroids made in a Framingham, Mass., compounding pharmacy. Dirty conditions at the **NEW ENGLAND COMPOUNDING CENTER** (NECC) caused nearly 800 patients to contract meningitis. More than 100 died.

The professor, who studies pharmaceutical innovation and is executive director of the antibiotics accelerator **CARB-X**, headquartered at BU Law, wrote two articles for the *New England Journal of Medicine* probing regulatory failures by federal agencies and states. During the 2012 crisis, he was appointed to the Massachusetts Governor’s Special Commission on Compounding Pharmacies and quoted in the *New York Times*.

Long before the meningitis outbreak, Outterson wanted to understand how *Thompson v. Western States Medical Center* affected drug companies’ ability to advertise their medications. The court struck down on First Amendment grounds a law that barred compounding pharmacies from advertising, weakening any regulatory authority the **FDA** could have exerted over them, and, by implication, giving all drug companies more latitude to market their drugs. States are tasked with regulating compounding pharmacies, but those that operated like large-scale manufacturers,



selling to clinics and hospitals around the country—as the NECC did—escaped FDA oversight.

“If the Supreme Court had gone another way on this commercial speech case, maybe the NECC would have been only a local compounding pharmacy, not a national one,” Outterson says. “Sometimes cases on topics that you think don’t relate at all to what you’re thinking about—a commercial speech case—actually undermine the key regulation, which led to this deadly situation being possible.”

The 2013 Drug Quality and Security Act, passed in response to the meningitis outbreak, sought to tighten controls on compounding pharmacies, but Outterson was disappointed that its stringent measures were watered down to be merely optional. “If you have all these people dying as a regulatory failure, you don’t make the regulatory solution voluntary,” he says.

His takeaway: staying open and curious will help you draw unlikely connections. “You’d be surprised by how serendipitous events tie things together in your career,” he says. “I encourage students to not only take the classes they really want but also a couple classes that are based on wild interests. You can’t plan your life and career with precision. You have to leave some room for wonder. You might be surprised by what you find.” ■



READ MORE ABOUT CARB-X INITIATIVES AND PROJECTS AT **CARB-X.ORG**.

HOW ADVOCACY CAN EASE AN EPIDEMIC

BY
MEGHAN
LASKA

IN THE NEW YORK CITY HEALTH DEPARTMENT, AN ALUM OVERSEES PUBLIC POLICY RELATED TO HIV. →



ADRIAN GUZMAN ('11) STANDS IN FRONT OF THE AIDS MEMORIAL IN NYC, WHICH HONORS THOSE AFFECTED BY THE DISEASE AND ACTIVISTS AND CAREGIVERS WHO HAVE LOBBIED FOR RESEARCH AND FOUGHT DISCRIMINATION.

PHOTO BY CHRIS SORESENSEN

WHEN

ADRIAN GUZMAN'S ('11) TEAM AT THE BUREAU OF HIV IN THE NEW YORK CITY HEALTH DEPARTMENT RELEASED GUIDANCE ON SAFER SEX DURING THE COVID-19 PANDEMIC, HE DID NOT EXPECT MUCH OF A RESPONSE.

As the bureau's director of policy and external affairs, his goal was to acknowledge that sex and sexuality are important parts of people's lives and to accurately respond to questions from the community on how to have safer sex and avoid spreading the virus. Since then, the guidelines have been featured on *Jimmy Kimmel Live* and *Saturday Night Live* and covered in media outlets like the Voice of America and the *New York Times*.

"I'm proud that this important information reached so many people and provided a much-needed moment of levity. This is the perfect example of how we approach our HIV-related work at the Health Department. We prioritize **SCIENCE** over **STIGMA** and empower people to take control of their sex lives," says Guzman, noting that the Bureau of HIV's focus expanded to include COVID-19 during the pandemic.

He sees parallels between the COVID-19 pandemic and the early days of the HIV epidemic. "In both cases, the federal government failed to appropriately respond, allowing politics to interfere with protecting the public's health," he says. "We lost thousands of New Yorkers to AIDS due to willful inaction by the government, and we have worked hard to regain trust from the community. Activists demanding change, accountability, and a seat at the table are the reason we've made such progress toward ending the HIV epidemic."

Guzman became interested in the intersection of public health and the law in college. "At the time," he explains, "there was considerable political support for teaching **ABSTINENCE-ONLY** sex education, despite robust evidence showing that this approach does not dissuade or even delay young people from being sexually active or reduce sexual risk behaviors. It was mind-boggling to me that many elected officials and policymakers were so dismissive of scientific evidence."



THE **SILENCE=DEATH** PROJECT WAS FOUNDED IN 1987 TO RAISE AWARENESS OF THE AIDS CRISIS, AND TO PROVIDE MUTUAL SUPPORT.

As a student in the Master of Public Health program at **COLUMBIA UNIVERSITY**, he interned at the **HIV LAW PROJECT** and discovered a passion for HIV policy and advocacy. "I'd always been fascinated by state regulation of sex and sexuality, and I knew that any attempt to shift the culture toward one of greater equity and fairness would have to be based in both public health and the law, so law school was the logical next step."

"PREVENTING NEW HIV INFECTIONS AND IMPROVING THE HEALTH AND WELL-BEING OF PEOPLE WITH HIV ISN'T JUST ABOUT TESTING, PREVENTION, AND TREATMENT SERVICES—IT'S ALSO ABOUT ENSURING THAT OUR LAWS AND POLICIES FACILITATE EQUITABLE DELIVERY OF THESE SERVICES ABSENT STIGMA AND DISCRIMINATION."

← **ADRIAN GUZMAN**

After graduating from BU Law, Guzman joined the **CENTER FOR HIV LAW & POLICY**, a national organization that works to modernize state HIV criminalization laws and sentence enhancements, as well as improve access to comprehensive, medically accurate sexual and reproductive healthcare for minors in state custody settings.

Now, with the Bureau of HIV at the New York City Health Department, he has helped establish public policy advocacy as a vital component of the city's strategy to end the local HIV epidemic. "Preventing new HIV infections and improving the health and well-being of people with HIV isn't just about testing, prevention, and treatment services—it's also about ensuring that our laws and policies facilitate equitable delivery of these services absent stigma and discrimination," he says.

Much of Guzman's work focuses on protecting the **AFFORDABLE CARE ACT** (ACA), which the Centers for Disease Control and Prevention describe as "one of the most important pieces of legislation in the fight against HIV/AIDS in our history." The ACA mandates coverage of essential health benefits and prohibits discrimination against people with preexisting conditions, such as HIV.

Guzman is also working to protect **MEDICAID** and **MEDICARE** coverage for this population. He notes that Medicaid covers more than 40 percent of people with HIV who are in care, and Medicare covers approximately a quarter of people diagnosed with HIV, with the majority of beneficiaries with HIV dually eligible for both programs.

Public comments and position statements have been powerful tools in this effort. For example, Guzman worked with the New York State Department of Health on amendments to the state health code allowing providers to administer HIV prevention and treatment services to minors without parental or guardian consent.

"It was exciting to see this work from beginning to end, from preparing surveillance data on new HIV diagnoses and viral load suppression among young people to soliciting community and provider feedback on what was and wasn't working on the ground, and finally assessing the current legislative and regulatory landscape to propose the necessary amendments," he says.

After the regulatory victory, his focus moved to promoting the new policy. "This work is only effective if young people most affected by HIV—particularly young Black and Latino gay and bisexual men and other men who have sex with men—are aware of their right to access these services without involving their parents. Their physicians, nurses, social workers, teachers, and health educators need to know this information as well."

Guzman is also advocating for New York to take a leadership role in the movement to **DECRIMINALIZE** consensual sex work. "Studies show that repressive policing practices linked to sex work criminalization are associated with increased risk of HIV and sexually transmitted infections, sexual or physical violence from clients or intimate partners, and condomless sex," he says. "An increasing number of city and state elected officials are coming out in support of full—or at least partial—decriminalization of sex work in the state, and I'm determined to help move this along."

Keeping in touch with community groups, he provides "snapshots" of current HIV-related litigation, legislation, regulations, and other policies, and helps them develop policy positions and strategies so they can advocate for themselves and their clients.

While battling the HIV epidemic is an ongoing fight, Guzman says there is good news. Last year, the New York City Health Department announced that the annual number of new HIV diagnoses reported in New York City in 2018 fell below 2,000 for the first time since HIV reporting began in 2001. Declines in new diagnoses from 2017 to 2018 were seen among men and women, all major racial and ethnic groups, residents of all boroughs, and nearly all age groups and HIV-transmission risk groups.

"These are important milestones, but until we see equitable progress among people with HIV from all walks of life, **we must do more to fight the institutional racism, xenophobia, sexism, homophobia, transphobia, and other forms of stigma that put people at greater risk of HIV and put care and treatment further out of reach,**" he says.

"To do this, we must have laws and policies in place that facilitate this and that prevent the rolling back of our hard-won gains. I'm grateful to be a part of this important work." ■

KEEPING OUR COMMUNITY STRONG

Social, educational, and leadership events typically punctuate the calendar year for the BU Law community. The events the school was able to hold in early 2020—the Shapiro Lecture, PIP Gala, and Public Service Award celebration—are evidence of that. The question is now, how do we deepen our connections and community if we're unable to gather in person?

Amidst the challenges of the COVID-19 pandemic, alumni came together to learn, mentor, advise, and reconnect with each other virtually. From March to June 2020, more than 500 alumni attended over 25 virtual

events, including **PANELS** for students, **EDUCATIONAL WEBINARS**, **HAPPY HOURS**, **"EMPOWER HOURS,"** **COMMUNITY GATHERINGS**, **TOWN HALLS**, and **ALUMNI LEADERSHIP MEETINGS**. These conversations allowed us to build a stronger, more connected community. BU Law will continue these efforts, and we aim to provide more opportunities for alumni to engage with the school and each other in interesting and meaningful ways. If you have any suggestions for how to stay connected or are interested in hosting an event, please contact lawalum@bu.edu.



SEE A FULL LIST OF UPCOMING EVENTS AT BU.EDU/LAW/EVENTS-CALENDAR.

1

Professors **SARAH SHERMAN-STOKES** and Danielle Citron (not pictured) joined **JAIME SANTOS** and the rest of the *Strict Scrutiny* podcast team for a live recording at WBUR's CitySpace stage.

2

Dean **ONWUACHI-WILLIG** and others celebrated the 29th Annual Public Interest Project Gala.

3

Alumni and admitted students gathered in Washington, D.C., to celebrate **HOPE OLDS** ('98) (center), principal deputy chief of the Human Rights and Special Prosecutions Section within the Department of Justice, recipient of the 2020 DC Public Service Award.



1



2



3

PHOTOS 1, 2, 5, AND 6 BY LENA OTALORA (CGS'18, COM'20); PHOTO 3 BY JAY MALLIN; PHOTO 4 BY SARAH HEBERT.

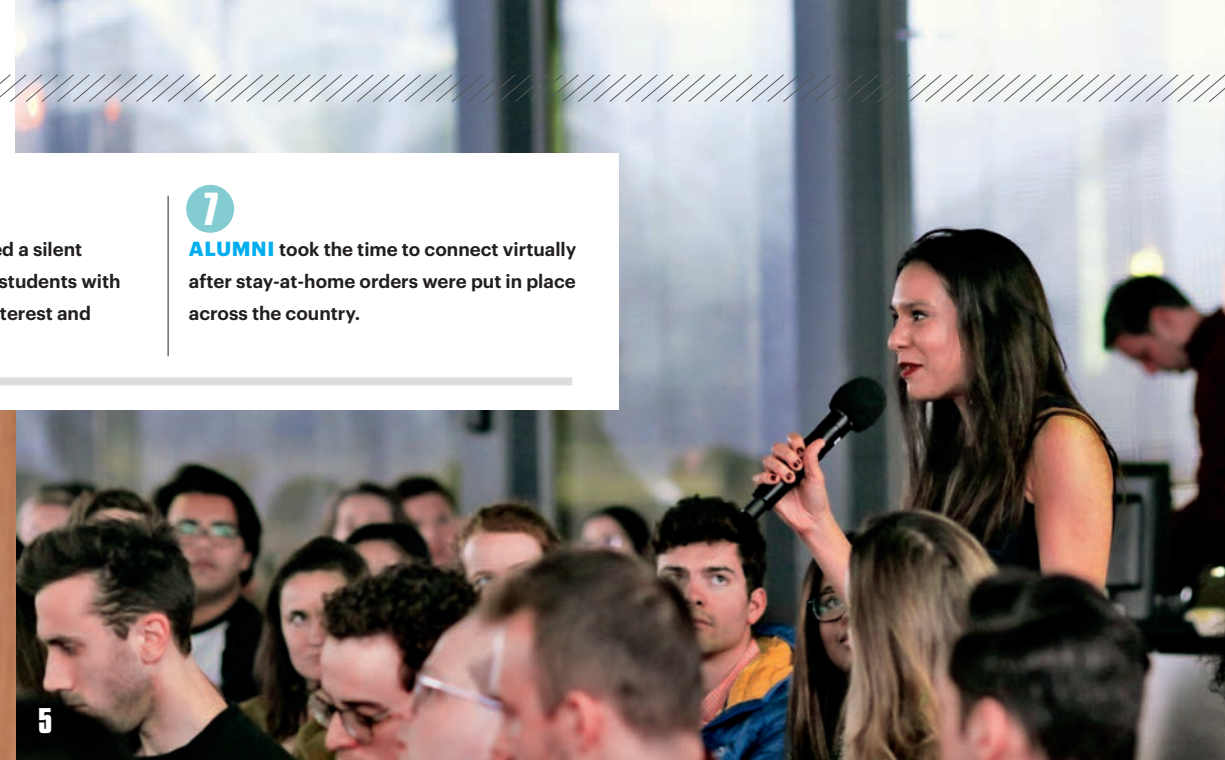
ON- AND OFFLINE

4 Students negotiated a business transaction between two companies as part of the **LAWYERING LAB**, a weeklong transactional law clinic.

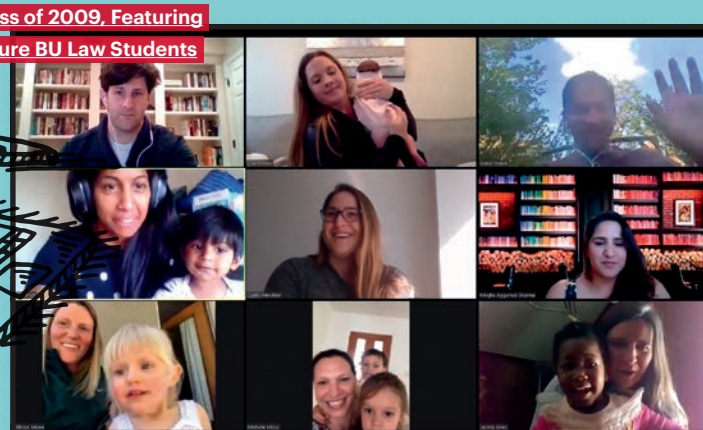
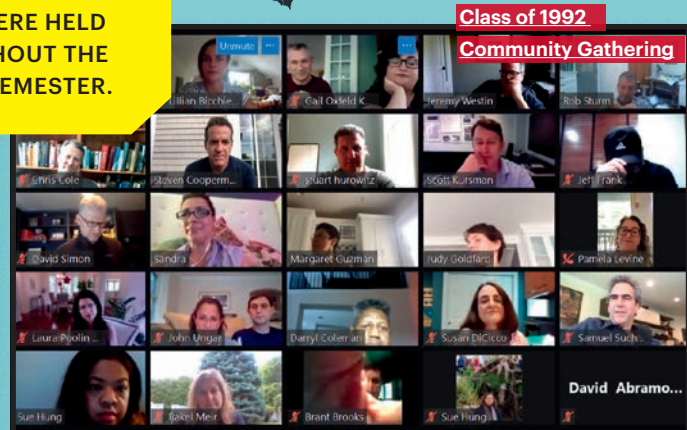
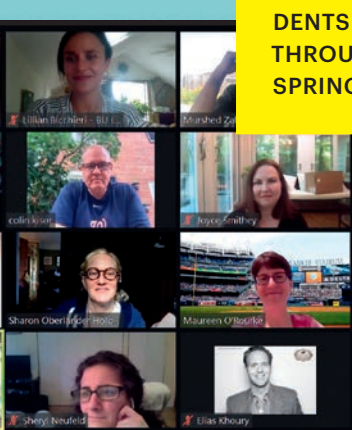
5 **STUDENTS** participated in a Q&A after the live *Strict Scrutiny* recording.

6 This year's **PIP GALA** featured a silent auction to support grants for students with summer positions in public interest and nonprofit organizations.

7 **ALUMNI** took the time to connect virtually after stay-at-home orders were put in place across the country.



VIRTUAL HAPPY HOURS, COMMUNITY GATHERINGS, WEBINARS, AND NETWORKING EVENTS FOR INCOMING STUDENTS WERE HELD THROUGHOUT THE SPRING SEMESTER.



CLASS NOTES



If you would like to submit an update for *The Record*, please visit BU.EDU/LAW/CLASS-NOTES.

JURIS DOCTOR (JD) PROGRAM

1969

ERNEST D. BUFF was recognized for excellence in law by *Marquis Who's Who* and named a Top Attorney of the Year for 2020 by the International Association of Top Professionals for his outstanding leadership abilities and commitment to the legal profession.

1977

MARIA C. GREEN, retired senior vice president and general counsel of Ingersoll-Rand, was appointed to the board of directors of Littelfuse Inc.

1982

DONNA THIEL joined the litigation and regulatory practice and healthcare sector of DLA Piper as a partner in Washington, D.C.

1983

LORI CARON SILVEIRA was named executive director of the board of directors of the Rhode Island Turnpike and Bridge Authority.

1984

WILLIAM M. JOSEPH (LLM in Taxation '89) was recognized among *Georgia Trend* magazine's 2019 Legal Elite.

MICHAEL KAPLOWITZ has been named a deputy commissioner of the Department of Environmental Facilities of Westchester County, N.Y.

1986

HON. CURTIS J. FARBER was reappointed to the New York Criminal Court by New York City Mayor Bill de Blasio.

WILLIAM R. MOORMAN JR. joined Murphy & King as a shareholder.

1987

SUSAN DAVIS was named partner at Nelson Mullins. She practices in the area of commercial real estate law.

.....
KENNETH LENCH joined the Public Company Accounting Oversight Board as general counsel.

1988

KAREN L. LING has been appointed to the board of directors of TherapeuticsMD.

1989

GARY DOMORACKI joined Oppenheimer & Co. as the Boston office branch manager and managing director of investments.

DEBBIE HORWITZ, a director and former cochair of the real estate group at Goulston & Storrs, has been named a Real Estate/Construction Law Trailblazer by the *National Law Journal*. Horwitz is known nationally for her deep experience developing high-profile mixed-use multi-family and retail projects—often solving what are first-of-their-kind challenges for both buyers and sellers.

PETER S. LAWRENCE was named president and chief executive officer of Cardurion Pharmaceuticals.

KENNETH MENDELSON is a senior managing director at Guidepost Solutions.

1991

FAITH K. BRUINS joined Buchalter as a real estate shareholder.

NATHANIEL DALTON was named to the board of directors of iCAD, a global medical technology leader providing innovative cancer detection and therapy solutions.

SUSIE GLICK GILFIX joined software crowd-testing firm Applause as general counsel.

HON. JOHN T. HECHT has been reappointed to the New York Criminal Court by New York City Mayor Bill de Blasio.

GLENN POLLNER joined WilmerHale as partner in the firm's New York City office.

1992

GERALD A. REYNOLDS was named chief counsel for the United States Department of Transportation's Federal Railroad Administration.

1993

.....
MARIE BENEDICT published her latest novel, *Lady Clementine*, about the life of Clementine Churchill, Winston Churchill's wife.

MICHAEL W. MCTIGUE JR. joined Cozen O'Connor to cochair its national class actions practice group.

1994

CARYN MCDOWELL has been appointed chief legal & administrative officer and corporate secretary at Cortexyme, a biopharmaceutical company developing treatments for Alzheimer's and other degenerative diseases.

PETER STEWART joined Squire Patton's London office after spending more than two years at Clyde & Co. Stewart represents oil companies, governments, and related entities in upstream oil and gas development matters, including advising on exploration and production agreements and long-term gas supply arrangements.

1995

MARC KENNY joined Squire Patton Boggs as a partner in the Los Angeles, Calif., office.

SONA PANCHOLY has been named president of Meritas, a global alliance of independent law firms.

1996

PATRICK DOWNES joined Schiff Hardin as a partner.

.....
SHIRIN PHILIPP, general counsel at Lesley University, was named a 2020 In-House Leader in the Law by *Mass Lawyers Weekly*.

1997

JOY M. NAPIER-JOYCE was recently featured as a Band 1 attorney in the *Chambers USA 2020* guide, a publication ranking the leading lawyers and law firms across the US. Napier-Joyce is a principal in the Baltimore office of Jackson Lewis PC. She also leads the firm's employee benefits practice group and counsels clients in a broad range of benefit matters, including general compliance and administration of qualified retirement plans under ERISA and the Internal Revenue Code.

DANA GOLDSMITH NEEDLEMAN has been appointed to Tribune Publishing's board of directors.

SILVIO TAVARES joined the board of directors of CSG Systems International.

2000

ITAI NEVO has been named chair of DLA Piper's corporate & securities practice group.

2001

LISA GELLER is head of intellectual property at Frequency Therapeutics.

2005

KATE FULTON joined the Federal Housing Finance Agency as chief operating officer.

.....
HON. RANTIDEVA SINGH has been appointed to the New York Federal Plaza Immigration Court.

JUDGE ADVOCATE LT. COL. HANNA YANG was named JAG of the Year in the Air Reserve Component category.

2008

DONALD WAACK, a financial services lawyer who counsels global banks and other financial services clients on regulatory, transactional, and enforcement matters, has joined Morgan Lewis as a partner in Washington, D.C.

2009

ERIC P. CARNEVALE has been elevated to partner at Lando & Anastasi.

ALBERT J. CARROLL was made a partner at Morris James LLP.

MATTHEW S. COTE became a partner at Sherin and Lodgen.

MAGGIE SCHROEDTER was named a partner at Higgs Fletcher & Mack.

2010

LING KONG joined the New York office of Goulston & Storrs as a director in the firm's corporate group.

DANIEL H. PARK was promoted to principal at Berman Fink Van Horn in Atlanta, Ga.

2011

JAMESON RICE, a transportation lawyer practicing primarily in the areas of road, rail, and intermodal transportation, and unmanned aircraft systems (drones), was named a partner at Holland & Knight.

2012

TIMOTHY HATFIELD, who has particular expertise in health fraud and abuse, insurance regulation, and Medicare/Medicaid reimbursement, was promoted to partner at Stoel Rives.

.....
MEREDITH PAIGE SHIH was named by Boston Mayor Marty Walsh to the Boston Community Ombudsman Oversight Panel, a five-member panel that reviews appeals made with the Boston Police over internal investigations cases.

ALEKSEY SHTIVELMAN was promoted to partner at Shutts & Bowen.

2013

CHRISTINE HAN has been sworn into the board of governors of the National Asian Pacific American Bar Association.

2016

LIZ NAGLE joined Hinckley Allen from Nixon Peabody, where she was a litigation associate in the complex commercial disputes group.

2017

BIANCA EDDY has joined Faegre Baker Daniels as an associate.

2018

RYAN D. CLASS joined Carlton Fields as an associate in Hartford, Conn. He is a member of the firm's mass tort and product liability practice.

KUHU PARASRAMPURIA joined the business litigation practice of Morris James.



If you would like to submit an update for *The Record*, please visit BU.EDU/LAW/CLASS-NOTES.

2019

BENJAMIN P. NIMPHIE joined Warner Norcross + Judd LLP.

LLM IN AMERICAN LAW

2010

ELAINE CALL was promoted to associate general counsel for privacy at Facebook.

MARIA JOSE URIBE SAIEG started a new position at Kredito in Santiago, Chile.

2012

MARIA SLOBODCHIKOVA (JD'16) started a new position as a dispute resolution associate at Freshfields Bruckhaus Deringer.

2014

AMBAR MACEO-ROSSI was appointed chair of the Young Lawyers Sub-Committee of the Massachusetts Association of Criminal Defense Lawyers.

2015

LUCIE LONCLE-DUDA was elected the deputy mayor of Le Chesnay-Rocquencourt in France.

YAN TU started a new position as senior patent counsel at Merck Holdings Co. in China.

2016

DIANA MAZLOUM was promoted to associate at Dentons in Montreal.

CECILIA CURIEL PIÑA was promoted to partner at Solcargio.

2018

KHALID B. BIN MOAMMAR started a new position as legal consultant at the Center of Legal Studies & Research in Riyadh, Saudi Arabia.

LLM IN BANKING & FINANCIAL LAW

1999

MICHAEL P. REED joined WSFS Bank, the primary subsidiary of WSFS Financial Corp., as executive vice president and chief risk officer.

2010

RICHARD MAGRANN-WELLS, a veteran of the banking and financial services technology industries, has joined Certifi- cal as chief operating officer.

2013

ALŽBETA KÁLNOVÁ started a new position as assistant vice president of market risk at Commerzbank AG.

2019

BRUCE MWAULUKA is an attorney with the Nature Conservancy, the world's largest conservation NGO. The role involves managing risk and providing legal support to the Europe and Africa teams.

2020

SINA KOKOT is working in capital markets as a law firm associate in Frankfurt, Germany.

LLM IN TAXATION

2002

FELICE GRAY-KEMP was appointed the global general counsel of Cyient, a leading provider of technology services and solutions.

TODD MCGEE was reelected as city council president in Holyoke, Mass.

2006

JOHN D. RUSSELL has been named chair of the AP&S corporate department.

2009

AARON JOHNSON joined the Downey Brand estate planning and taxation practices in Sacramento, Calif.

2011

REBECCA MACGREGOR joined Bowditch & Dewey LLP as a partner.

IN MEMORIAM

Lee G. Ambler ('60)
David E. Babson ('73,'75)
Robert B. Berkelhammer ('74)
James M. Connellan ('56)
George T. Costes ('50)
Robert A. Crouse ('62)
Francis J. Farrell ('82)
Thomas F. Fay ('65)
Richard L. Ferris ('79)
Joseph H. Fisher ('67)
James Foss Jr. (CAS'61, LAW'62)
Melvin Foster (Questrom'51, LAW'71)
Peter G. Foulkes ('78)
Cosmo J. Giacchetto (DGE'49, LAW'50)
Herbert E. Ginn ('51)
Andrew A. Glickson ('75)
Jane W. Gumble ('81)
Martin F. Harrity ('62)
Walter E. Huskins Jr. ('68)
Richard S. Kelley ('49)

George A. Kessler (LAW'53, DGE'53)
Leonard O. Kirschner ('68)
Raymond R. Kushinsky ('58)
Michael J. Lack ('69)
Steven T. Ladoulis (DGE'51, LAW'54)
John J. Lane Jr. ('70)
Michael A. Laurano (Questrom'65, LAW'68)
Jeongmin "Rose" Lee (LLM'20)
Roger B. Leland ('88)
Herbert Lemelman ('57)
Nicholas E. Lontakis ('58)
James B. Loughran ('33,'42)
Michael G. McCarthy ('79)
Thomas P. McKeon ('63)
John D. McLellan Jr. ('55)
Elwynn J. Miller ('63)
Irving E. Miller ('51)
Charles S. Mitchell ('68)
Paul M. Murphy ('59)
Gilbert F. Myers ('60)
John J. Narkiewicz ('57)
William A. Park (Questrom'30,'33, LAW'35,'48)
Charles Patsourakos (CAS'51, LAW'53)
Gerald J. Pouliot ('61)
David M. Prolman ('64)
Richard T. Reed ('52)
Morris N. Robinson ('70,'71)
Joseph F. Rodgers ('66)
Mortimer A. Rogers ('54)
Paul R. Salvage ('66)
Larry L. Simms ('73)
Myer R. Singer (Questrom'60, LAW'63)
Peter Sorgi ('50,'65)
Edward P. Sowa Jr. ('69)
John A. Spector ('56)
Richard D. Stapleton ('62)
Eliot G. Striar ('65)
Mortimer A. Sullivan Jr. ('54)
James A. True (DGE'50, LAW'53)
Robert R. Waldo ('67)
John H. Williams Jr. ('57)
Holly L. Wiseman ('79)



This list reflects community members who passed between December 1, 2019, and May 31, 2020.

SNAPSHOT

June 10, 2020

AMIDST AN OTHERWISE EMPTY CAMPUS, A PRIDE FLAG FLIES ON THE DAHOD FAMILY ALUMNI CENTER ON A BRIGHT SUMMER DAY.

IN JUNE, BU LAW FACULTY AND ALUMNI PARTICIPATED IN A WEBINAR MARKING THE FIVE-YEAR ANNIVERSARY OF THE LANDMARK OBERGEFELL V. HODGES SUPREME COURT DECISION.

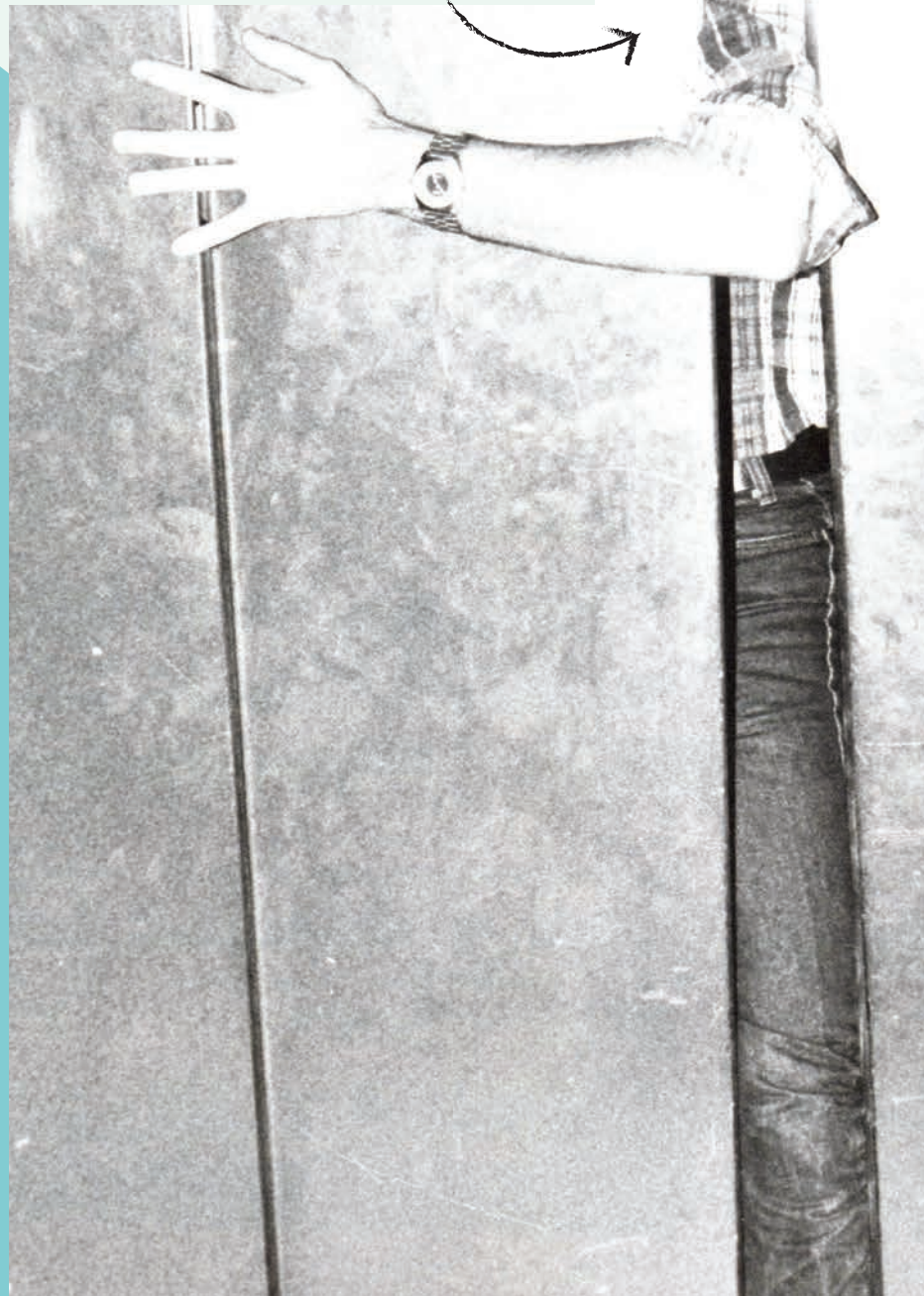
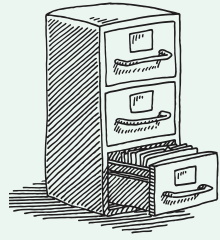


LISTEN AT BU.EDU/ALUMNI/MARRIAGE-EQUALITY.



PHOTO BY JACKIE RICCIARDI FOR BOSTON UNIVERSITY

FROM THE ARCHIVES



1980

FEELING NOSTALGIC FOR BU LAW?

How about after seeing this photo?

But don't fret! The elevators in the law tower are certainly more efficient today than in **1980**, when the BU Law yearbook published this photo. At the time, the six famously **SLUGGISH ELEVATORS** in the law tower shuttled students between classrooms on the first five floors as well as faculty and administrators to higher levels. The new configuration of classrooms between the tower and Redstone building has improved traffic, but the more things change, the more they stay the same: **"RUSH HOUR"** can still be heard around the tower as an excuse for being late to class or a meeting...



GET INVOLVED!

In November 2019, the Development & Alumni Relations office launched the **BU LAW CLASS AGENT PROGRAM** to build a stronger alumni network and promote deeper connections among classmates. We thank our first class agent, **MICHAEL CHINITZ**, whose strong relationships with classmates and personalized, meaningful outreach brought together many members of the Class of 1988. Because of his efforts, his classmates are forging new types of connections with BU Law.

"I was in the Class of 1988: a large class that had dispersed across the country after graduation. The class agent program increased the sense of spirit within the BU Law community quickly and with lots of fun and excitement along the way. **As part of this program, I arranged**

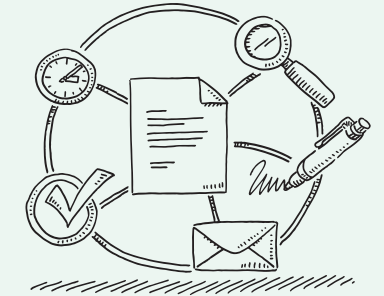


a pre-COVID-19 group dinner, two virtual class happy hours, started a Facebook group that is still growing, and had many interactions via text and social media. The program has generated interest from alumni in other classes and in regions outside of Boston. It's a great initiative, and I'm proud to be one of its founders."

- Michael Chinitz ('88),
Founder, Chinitz Law LLC

As the program grows, class agents will be tasked with reengaging their peers through social and educational gatherings that broaden and bolster the **BU LAW ALUMNI COMMUNITY**.

KEEP IN TOUCH.



Learn the many ways to stay connected with BU Law and its alumni at bu.edu/law/stay-connected.



Email lawalum@bu.edu to receive *The Record Monthly*, our newsletter for alumni.



To submit a class note, please visit bu.edu/law/class-notes.



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Interested in serving as a class agent? Contact lawalum@bu.edu for more information.



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TAINED DRUGS



AND DEADLY INFECTIONS

PAGE 15

*How federal prosecutor
AMANDA MASSELAM STRACHAN ('98)
brought rogue pharmacists to justice.*