



Messenger



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2016 MBA *Pro Bono Publico* Award Winners



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Make Your Voice Heard

Send your articles, editorials, or anecdotes to mflores@milwbar.org. We also have seats available on the *Messenger* Committee. We look forward to hearing from you!



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Charlie Barr, Editor

Welcome to the Era of Fake News. As distinguished from inaccurate reporting (which I hope you never see in these pages) and satire or parody (which you certainly do from time to time), “fake news”

is deliberate fabrication posing as factual account with the intention to deceive. When the term first surfaced in my consciousness, which was recently, my thought was, “Is this really something new?” An interesting article in *Politico Magazine* by Jacob Soll, entitled “The Long and Brutal History of Fake News,”¹ explains that it isn’t. The article, tracing “fake news” through the ages, points out that it has been around since the invention of print, and for centuries before the emergence of mainstream “objective” journalism.

The phenomenon of “fake news” isn’t new; the term is. It is nothing other than propaganda when it targets broadly or defamation when it targets more narrowly. Semantically, I have a problem with the new term. Propaganda and defamation are highly (and negatively) charged terms. “Fake news,” to my ear, doesn’t have nearly the same bite. It puts me in mind of an artificial sweetener. You can almost talk about it as if it isn’t necessarily a bad thing. Come to think of it, don’t a lot of people call artificial sweeteners “fake sugar”? “Fake news,” like a packet of NutraSweet, also connotes that it is easily discernible as fake, which of course it is not by its most ardent consumers. That is precisely the problem. A harmless prank it is not.

Everyone recognizes propaganda and defamation to be dangerous and destructive. Defamation is also against the law, last time I checked. But you don’t see or hear those terms much in public discourse lately. “Fake news,” which now permeates our discourse, is a blander term for these dark arts. Hence, the term itself is dangerous.

It is a term born of the social media age. The *Politico* article concludes that the decline of mainstream news media and the “rise of web-generated news”—trends that are certainly connected—have made “fake news” a “powerful force again.” *Politifact* has dubbed “fake news” its “2016 Lie of the Year.”²

Propaganda and defamation always have been and always will be with us. It seems that communication technology and the consequent evolution of our social habits have just given them a shot in the arm. The antidote? A generous booster of good old-fashioned skepticism.

You sure ‘nuff can believe what you read in the *Messenger*, though. We fact-check the bejesus out of everything. Our electronic stocking-stuffer of a holiday issue is brimming with news and views from the legal community in Milwaukee and beyond.

Judge Carl Ashley reports on the most recent conference to continue the public discussion of the impact of race in Milwaukee’s criminal justice system. Larry Dupuis takes a look at Milwaukee’s sex offender residency ordinance, and the practical and constitutional problems presented by that and similar ordinances throughout the country. Jim Gramling fills us in on the work of the Wisconsin Access to Justice Committee, which he serves as president.

In our “Judicial Profile” series, Susan Hanson shines the spotlight on Judge Michael Dwyer. Judge Ellen Brostrom is the deserving subject of our “Meet Your MBA Board Member” series, courtesy of MBA Executive Director Sarah Martis. We also offer thumbnail bios of the Milwaukee County’s four new circuit judges in 2016.

Jeff Brown, the State Bar’s *Pro Bono* Program Manager, brings us the FAQs on the new Wisconsin Supreme Court rule allowing CLE credit for *pro bono* service. We recognize the MBA’s 2016 *Pro Bono Publico* Award winners and report on the MBA’s *Pro Bono* Cocktail Reception. Our regular “*Pro Bono* Corner” and “Milwaukee Justice Center Update” features round out a full slate of *pro bono* news.

Hoping against hope that you don’t work right through the holidays, we offer some legal-themed entertainment options, as well. Fran Deisinger, our legal cinema expert *extraordinaire*, checks in with his review of *Find Me Guilty*, a Sidney Lumet comedy about a *pro se* mob defendant in a massive criminal conspiracy trial. We add a review of *Trials of the Century*, a new non-fiction work by the father-daughter team of Mark and Aryn Phillips. Finally, Clerk of Circuit Court John Barrett favors us with a retrospective on the one and only Safety Building. Put it on your holiday tour list for your out-of-town guests, because it won’t be here for much longer.

We hope you enjoy this edition of the *Messenger*, and that you’re saving your strength for a 2017 that everyone agrees will be “interesting.” From the boisterous *Messenger* newsroom, we send along our wishes for a peaceful holiday season and a healthy, prosperous New Year.

—C.B.

¹www.politico.com/magazine/story/2016/12/fake-news-history-long-violent-214535 (viewed 12/20/16).

²www.politifact.com/truth-o-meter/article/2016/dec/13/2016-lie-year-fake-news (viewed 12/20/16).

Member News



Kathryn A. Keppel

Gimbel, Reilly, Guerin & Brown announced that **Kathryn A. Keppel** has been elected as a Wisconsin Law Foundation Fellow. The Fellows, selected annually, are recognized in the legal profession for outstanding achievement in professional, public, or private careers, and for devotion to the welfare of their community.



Russell J. Karnes

The firm also announced that **Russell J. Karnes**, a 2010 graduate of Marquette University Law School, has joined the firm.



Matthew Ackmann

Hawks Quindel announced that **Matthew Ackmann** has joined the firm as an associate. He focuses his practice on family law, including divorce, collaborative divorce, child custody and placement, child support, property divisions, property agreements, post-judgment matters, and grandparents' rights.



Michael Hupy and reward recipient

Hupy and Abraham announced that on October 19, 2016, **Michael Hupy** gave the informant in the Laylah Petersen case a cash reward of \$25,000 due to the arrest and conviction of those behind the shooting. The 5-year-old was fatally shot while sitting on her grandfather's lap in

his living room November 6, 2014. As a way to encourage the public to assist with information regarding the shooting, Hupy pledged to give a cash reward to the first person to come forward. "We cannot tolerate a society where small children are killed by bullets coming through the walls and windows of their homes," Hupy stated.



Nelson W. Phillips III

MWH Law Group announced that **Nelson W. Phillips III**, a former Milwaukee County Circuit Court judge, has become a partner in the firm. He represents clients in contract disputes, white collar investigations, general negligence claims, premises liability claims, product liability claims, and intellectual property claims.



Patrice B. Borders

The firm also announced that **Patrice B. Borders** has been promoted to senior counsel. Her practice concentrations are in labor and employment law and government relations.

von Briesen & Roper announced the addition of 14 attorneys from Weiss Berzowski. They are: **Nancy M. Bonniwell, Ann K. Chandler, Adam R. Finkel, Aaron J. Foley, Andrew T. Frost, Daniel B. McDermott, Randy S. Nelson, Richard J. Rakita, David J. Roettgers, John A. Sikora, Robert B. Teuber, Barry R. White, Peter J. White, and Jeffrey T. Wilson.** Weiss Berzowski ceased operations effective November 30, 2016.

Volunteer Spotlight



Odalo Ohiku

Odalo Ohiku is a Marquette University Law School graduate and a sole practitioner with 14 years of practice experience. What drew him to the legal profession was the experience of having a close relative charged with a crime, and the stress and fear that came along with the experience. He wanted to become an attorney to help clients navigate the legal system, which can seem overwhelming and intimidating. His firm concentrates in criminal defense, divorce, family law, school law, general practice, mediation, and arbitration.

"Today there are so many people who feel no one cares about them or what happens with their lives," says Odalo, a member of the 2016 *Pro Bono* Honor Society. "It is important for people to know that someone *does* care and will help them get the assistance they need. Giving something tangible back to the community and eliminating barriers to accessing justice is my priority as an attorney."

In 2015, Odalo started the Second Chance Expungement Clinic, hosted by the Milwaukee Bar Association. The purpose of the clinic is to help eligible people remove criminal convictions from their records free of charge. At the beginning of the clinic, participants can ask questions of a panel comprised of attorneys, judges, parole officers, and community leaders. Participants then sit down one-on-one with a clinic volunteer to prepare their expungement paperwork. Due to the great need for expungement services in the Milwaukee community, Odalo's firm has made Second Chance an annual clinic. The most recent clinic was in September 2016, and the next is scheduled for April 2017.

Last summer, Odalo sponsored a backpack drive, providing free backpacks and school supplies to children in grades K5 through five whose families are unable to get the supplies their children need. Odalo's firm hosted the event at a local church on Milwaukee's north side, providing food and entertainment to get the kids excited about going back to school. The firm has adopted the backpack giveaway as an annual event, next scheduled for August 2017.

Odalo's firm has also conducted "Know Your Rights" seminars at Craig Montessori, Shorewood High School, and the Parklawn YMCA. The purpose of these seminars is to inform students of their legal rights concerning privacy protection, internet safety, and police interactions. The first seminar was hosted by Craig Montessori for students and parents to address personal safety concerns in the wake of the police-involved shootings of Dontre Hamilton in Milwaukee and Michael Brown in Ferguson, Missouri.

Additionally, Odalo mentors two Saturdays every month with the Daniel Murphy Scholarship Fund. The goal is to expose high school students to various career paths and opportunities, as well as to develop leadership qualities and fortify their commitment to accomplishing the impossible.

Recognizing the importance of mentorship and the value it had in both his personal life and professional career, Odalo has also taken on the role of a mentor through the State Bar's Diversity Clerkship Program for the past two years, as well as through the Milwaukee Bar Association and the Marquette Evans Scholars Program.

Message From the President



Attorney Andrew J. Wronski, Foley & Lardner



I've been thinking about change quite a bit lately. Some changes we expect. The chill in the air and afternoon sunsets portend a familiar change of season. October brought the lifeblood of freshly-minted associates to my firm. Some changes, maybe, we don't expect. The election comes particularly to mind. (I'll have nothing more to say about that!) I love that pithy saying: "Change is the only constant." It's certainly true.

My house has seen a great deal of change recently. Our family moved to a new community, and I had to find a new go-to bagel place. Marti, my wife (whom many of you know as general counsel of the Brewers), is starting a new business, and our strategically-planned family schedule needed some tweaking. But the biggest change happened when my oldest son left the cozy confines of St. Monica grade school after nine years for Marquette High School. When I asked him how it was going in those first few weeks, his answer was always the same: "Not bad, just different." Different classes. Different kids. Different teachers. Different expectations. None of it bad. All of it different.

Recently, I joined many friends of the MBA to thank Sabrina Nunley for 20 years of friendship and dedicated service, and to wish her good fortune in a new career. As I looked around the room, I was struck by what an extraordinary year of change this has been for the MBA. Jim Temmer, our long-time executive director, left us to join the Better Business Bureau in February. This summer, Britt Wegner, our LRIS guru, said yes to a wonderful opportunity and joined Gimbel, Reilly, Guerin & Brown as its marketing coordinator. Now, Sabrina, too, has decided to heed change's call. Together, Jim, Britt, and Sabrina represent more than 45 years of experience, friendship, and leadership at the MBA. Talk about change!

Changes of this magnitude bring both challenges and opportunities. I'm confident that we have met (and will continue to meet) those challenges and have already begun to capitalize on the opportunities. We have an extraordinarily talented and dedicated staff. Our (no longer so) new executive director, Sarah Martis, brings years of association management experience, tremendous energy, and innovative approaches to our organization. If you haven't yet met Morgan Flores, our new Membership and Marketing Coordinator, you soon will, as she leads a renewed focus on member outreach. Trust me, you will be impressed! Soon, we'll bring more new talent on board to serve our LRIS clients and support our mission. Amid all this change, we are blessed to have the steady hand of Katy Borowski, our director of programs, who knows our history, our programs, and our members so well after many valuable years of service; and Dorothy Protz, our long-time bookkeeper. While by no means easy, these changes will bring new perspectives, novel ideas, and fresh energy. Every organization needs that from time to time. This is our time.

My family loves our new house, and I found a new bagel place (Bruegger's on Brown Deer Road). Marti and I have figured out how to get the boys to school and everywhere else they need to go (and usually on time). When I ask my son about school, he is far more effusive than in those first few weeks. "Not bad" has disappeared from his lexicon. He finds his classes interesting and challenging. He has forged great friendships. He likes and respects his teachers. He understands what is expected of him. Things are no longer "different." He has adapted and

is thriving. From mom and dad's perspective, things are great. (Fingers crossed!) Change has been good for our family.

Change will be good for the MBA, too. If you're not sold on that just yet, that's okay. It's our job to show you, and I'm confident we will. The MBA has always embraced change—our leadership and board rotates every year—in order to meet the needs of our members in a challenging and ever-evolving professional environment. *That* won't ever change. For now, I ask that every member embrace my son's "not bad, just different" perspective. What seems new today will soon become familiar. Together, we'll adapt and thrive. Of course, as soon as we get comfortable, we'll have to do it all over again. After all, change is the only constant!

Let me convey my deepest thanks to each of you for your membership, participation, support, and friendship this past year. I wish all our members a blessed holiday season and a prosperous New Year! We look forward to seeing you at Judge's Night on February 7, 2017!

How to Read the Messenger Online in Five Easy Steps

Step 1

Find a comfy chair. Ensure cup of coffee or tea is in the immediate vicinity. Have backup brewing or steeping just in case. You never know just how enthralled you may become reading such well written material.

Step 2

Open your web browser of choice and go to www.milwbar.org, which should be bookmarked. If it's not, why not?! Just select the star icon at the top right corner to bookmark for quick reference.

Step 3

The MBA home page has loaded and you can see "MBA News." Under that is the current issue of the *Messenger*. Click "Read More."

Step 4

You now have two options. You can download the PDF file (link provided at top) or you can click on the cover of the *Messenger*. If you click on the cover of the *Messenger*, you can use the scroll button on your mouse or just click the up or down arrow on your screen to move between pages seamlessly. There are a few other features on the bottom right, which you can use to manipulate your reading view in several ways (two-page view, etc.). To exit, just hit "esc" on your keyboard.

Step 5

That, my friends, is how you read a quality periodical online. Congratulate yourself by refilling that cup. You've earned it!



Judge Michael Dwyer Promotes Problem-Solving Approach in Family Court

Attorney Susan Hansen, Hansen & Hildebrand

Judge Michael J. Dwyer, presiding judge of the Milwaukee County Circuit Court Family Division, has boundless energy and passion for a myriad of projects and activities. Knowing him can often mean becoming a “volunteer” in one of those many endeavors.

Judge Dwyer once wished he could become an engineer so he could build things. Luckily for the legal profession and the Milwaukee community, he chose to go to law school. He first focused on building his private practice and then on helping to improve the judicial system.

Judge Dwyer graduated from UW–Madison. Before attending law school, he went on a four-month, 10,000-mile hitchhiking trip throughout the western U.S. That sense of adventure continues to this day. Judge Dwyer chose to attend Georgetown University Law Center because he wanted to be in a diverse urban area. After graduation from Georgetown and admission to the Wisconsin bar in 1975, he worked in a general private practice before being elected as a Milwaukee County Circuit Court judge in 1997.

Judge Dwyer has had many judicial influences in his career. These include Judges Michael Malmstadt, who taught him to be himself on the bench; Lee Wells, who modeled humor and empathy; and Richard Sankovitz, who demonstrated a strong work ethic, positive demeanor, and a focus on the broader goals of process and system improvement.

Judge Dwyer has clearly taken to heart the value of work to improve the system. He has always been concerned about families and children in the court system. As he said recently on Fox 6 News, “We know for sure that parental conflict harms children, and that harm is significant and permanent.” Judge Dwyer has used that concern as inspiration to focus on promoting improvements in the Family Division.

With the help of fellow judges, commissioners, lawyers, and other professionals, Judge Dwyer initiated a review and reorganization of the Family Division mediation program, which provides services for parents who have custody or placement disputes. Judge Dwyer was instrumental in forming the Association of Family and Conciliation Courts, Wisconsin Chapter, and was the first chapter president. He was a member of the State Bar Family Law Section Guardian ad Litem Committee that developed the current GAL guidelines. He has presented to judges, commissioners, and lawyers about the important role of GALs as child advocates, and is working with others to elevate the quality of GAL practice.

Judge Dwyer served as a knowledgeable and committed member of the Wisconsin Supreme Court Policy and Planning Advisory Subcommittee (PPAC) that studied limited scope representation (LSR). The committee’s petition to the Supreme Court was approved and ultimately resulted in the LSR rule, Wis. Stat. § 802.045, effective January 1, 2015. Currently, Judge Dwyer is chair of the PPAC LSR–Mediation Subcommittee. This committee researched and analyzed the role of lawyers as mediators in family court, and recently proposed a new rule to the Supreme Court. That proposal would amend the rules of professional responsibility by allowing a lawyer-mediator to draft and file family law documents on behalf of couples who give informed consent, with protections that include the necessity of maintaining neutrality and complying with the ethical duties of competence and diligence.

Judge Dwyer has seen many changes and challenges in family law over the course of his career, including burgeoning numbers of self-represented parties—currently estimated at 80% in Milwaukee County divorce and paternity cases. Driven by his care and concern for families, social justice, and the legal system, he consistently strives to find ways to address the issue and needs of the self-represented. In addition to his PPAC work, Judge Dwyer has written articles and has presented statewide to judges, lawyers, and mediators about this local and national concern.



Off the bench, Judge Dwyer is passionate about his family, biking, basketball, “reading” (recorded books), skiing, and traveling. His goal is transatlantic travel and exploration, and his favorite outing is finding quirky, casual restaurants with great food.

Judge Dwyer regrets the politicization of the judiciary in recent years. Though he was not nonpartisan even before the *Siefert* decision, he has seen increasing party politics and polarization among judges. He is concerned about the expense and divisiveness of recent elections.

Judge Dwyer has advice for practicing attorneys, including those who appear before him in family court. Most importantly, attorneys should be prepared. This includes constructive negotiation before coming to court. He recommends listening carefully to clients, other attorneys, and the judge. Attorneys should offer a menu of options to meet the changing expectations of clients, the growing number of self-represented litigants, and the needs and interests of clients as well as their children. Attorneys should keep an open mind and take a problem-solving approach, whether they are engaged in mediation, limited scope representation, collaborative practice, or full representation. Lastly, attorneys should always practice with civility and integrity. For attorneys who are considering a judicial career, he encourages community service and networking across social and political lines.

Judge Dwyer’s overarching goal is to change the culture of family law from adversarial litigation to problem-solving approaches to meet the needs of families, the legal profession, and the courts. His hope is that we can all be part of that change.

Meet Your MBA Board Member: Judge Ellen Brostrom

Sarah J. Martis, CAE, Milwaukee Bar Association Executive Director

Ellen Brostrom, the newest member of the Milwaukee Bar Association Board, presides in Branch 6 of the Milwaukee County Circuit Court. She was elected to the bench in 2009, and re-elected in 2015 for a term that expires in 2021.

In 2006, Judge Brostrom, on loan from her law firm, served as a *pro bono* assistant district attorney with the Milwaukee County District Attorney's Office, where she was responsible for prosecuting misdemeanor cases. Perhaps this experience bolstered her penchant for public service and contributed to her desire for a judicial career.

Judge Brostrom says she enjoys intellectual problems and the opportunity to work through them like puzzles. She became a lawyer to help people solve those types of problems. In her role as judge, she has the opportunity to solve such problems and make a broader difference in the community than she could as an advocate. She also enjoys the position of neutrality that the bench provides.

Judge Brostrom was raised in Madison. She and her husband have lived in various places around the country, but when it came time to choose a place to raise their family, they wanted to come back to Wisconsin to be close to their families. "Milwaukee is a vibrant and beautiful community," says Judge Brostrom. "It's not too big and not too small. We love Milwaukee and find there are many opportunities to make a difference here."

When asked about the MBA, three words came to Judge Brostrom's mind: vital, problem-solving, and collegial. All are words that also apply to the role of a judge—which is perhaps why Judge Brostrom is a



welcome addition to the MBA Board. As a board member, Judge Brostrom hopes to help the MBA achieve its strategic goals of providing high quality educational opportunities to the local legal community, increasing membership and the benefits members receive, and enhancing access to legal services for the indigent.

In response to the (in)famous "What would be your last meal" question, Judge Brostrom's answer rings true to her Wisconsin roots: "My mom's chicken and dumplings, a tossed salad, and my mom's homemade peach pie." Incidentally, Judge Brostrom's mother is Justice Patience Roggensack, Chief Justice of the Wisconsin Supreme Court. Something tells me dumplings and pie aren't all that's cooking in that kitchen when mother and daughter get together.

Judge Brostrom received her undergraduate degree from Boston College in 1989, graduating *summa cum laude*, and received her law degree from the University of California-Los Angeles School of Law in 1995. Prior to joining the court, she was a partner at Reinhart Boerner Van Deuren.

Thanks at 30!

Wisconsin Lawyers Mutual Insurance Company marks 30 rock-solid years in business this year. Our success is thanks to many people—including the consummate professionals who work here. Wisconsin Lawyers Mutual staff members know their stuff and our policyholders. Their experience in the business and commitment to service sets our company apart. *Learn more about Wisconsin Lawyers Mutual coverage and reliability at wilmic.com.*

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Open Sesame: New MBA Door System Enhances Security

You may have noticed that, in the interest of security, the MBA has been keeping doors locked during business hours. Fear not! Both the front and back doors are equipped with doorbells, and you will be granted admission (if you know the password!). Doors will be unlocked when group events are held. Thank you for your understanding, and we look forward to seeing you soon!

P.S.: The password is: "Open the door!"

Mission Statement

Established in 1858, the mission of the Milwaukee Bar Association is to serve the interests of the lawyers, judges and the people of Milwaukee County by working to: promote the professional interests of the local bench and bar; encourage collegiality, public service and professionalism on the part of the lawyers of Southeastern Wisconsin; improve access to justice for those living and working in Milwaukee County; support the courts of Milwaukee County in the administration of justice; and increase public awareness of the crucial role that the law plays in the lives of the people of Milwaukee County.

Oh, Sure, Blame the Media: Book Review

Mark J. Phillips & Aryn Z. Phillips, *Trials of the Century: A Decade-by-Decade Look at Ten of America's Most Sensational Crimes* (Prometheus Books, Amherst, NY 2016) (332 pages)



"Americans love to talk about crime, to read about it, relive it, and revel in it." So concludes the first paragraph of *Trials of the Century*, a whirlwind tour of ten sensational murder trials of the 20th Century by the father-and-daughter team of Mark J. and Aryn Z. Phillips. The father

is an experienced private practitioner and adjunct professor of law in Southern California. He is a certified specialist in estate planning, trust, and probate law who displays his fascination with an entirely different kind of law. His daughter is a graduate student at Harvard's T.H. Chan School of Public Health, where she studies sociology.

The first clause of the title is tongue-in-cheek, since there can be only one "trial of the century." The authors' point is that each of these courtroom dramas was in its turn dubbed the "trial of the century"—each such pronouncement, save one, necessarily coming up short on either historical perspective, prediction of the future, or both, depending on when in the century the trial occurred. The term also reflects the principal theme of the book: the authors characterize "trial of the century" as "an overblown bit of media hype so frequently used to label high-profile murder trials In this country we have a trial of the century regularly once a decade" (Page 13.) More on that theme at the end of this review.

First, and without further ado, an introduction of the ten worthy candidates for Trial of the Century. Some are instantly recognizable as mainstays of American cultural history, while others have largely faded into the mists of time for all but the most devoted students of legal history. The candidates are: (1) the 1907 trial of Harry Thaw for the murder of celebrated architect Stanford White in New York City; (2) the 1913 trial of Jewish factory superintendent Leo Frank for the murder of 13-year-old factory worker Mary Phagan in Atlanta; (3) the 1921 trial of comedy film star Roscoe "Fatty" Arbuckle for the murder of bit-part actress Virginia Rappe in San Francisco; (4) the 1935 trial of German immigrant Bruno Hauptmann for the murder of the Lindbergh baby in New Jersey; (5) the 1944 trial of Canadian playboy Wayne Lonergan for the murder of his estranged wife, socialite Patricia Lonergan, in New York City; (6) the 1954 trial of physician Sam Sheppard for the murder of his wife Marilyn in a suburb of Cleveland; (7) the 1967 trial of Texas drifter Richard Speck for the murders of eight student nurses in Chicago; (8) the 1970 trial of Charles Manson and accomplices for the murders of starlet Sharon Tate and four others in the Los Angeles area; (9) the 1980 trial of elite school headmistress Jean Harris for the murder of cardiologist Herman Tarnower, the "Scarsdale Diet" doctor, in Westchester County, New York; and, inevitably, (10) the 1994-95 trial of O.J. Simpson for the murders of Nicole Brown, his estranged wife, and restaurant waiter Ron Goldman.

Most of these episodes portray alleged crimes of passion, said to arise from marriages on the rocks (Lonergan, Sheppard, Simpson), volatile love triangles (Thaw, Harris), or perverted lust (Frank). In the others, the alleged murderers had no acquaintance or connection with the victims. The Arbuckle case arose from a chance encounter at a hotel party, and the Hauptmann case from kidnapping to extract a ransom from a contemporary hero. The more recent Manson and Speck cases,

easily the most horrifying of these tales, involved random murders, the former in service of a lunatic political agenda, and the latter for no discernible reason at all. Speck trumps Manson for the "most chilling" award, because Speck murdered simply for the sake of murder. As the authors note, "[a] legacy of Speck's horrific night of crime was a newly found acceptance of mass, motiveless murder [N]ever before had Americans experienced the soulless mass slaughter of strangers without reason." (Page 185.)

As a bonus, the authors add an epilogue featuring the 2011 trial of Casey Anthony for the murder of her 2-year-old daughter Caylee in Orlando, Florida—a trial for "a new century." This case, starring a young mother who elevates narcissism to new heights, doesn't fit the mold of any of the 20th Century entries.

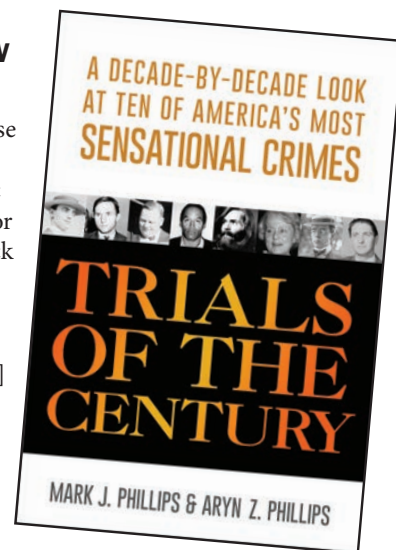
The book is, if not at all moments "riveting" and "mesmerizing" as trumpeted by the advance reviews, an entertaining read. One might observe that this is low-hanging fruit, given the subject matter: crimes (real or alleged) and resulting trials that, in and beyond their respective times, transfixed the entire nation. But the authors at least manage not to transform the sensational into the mundane; the pages turn easily.

The authors faithfully employ the same storytelling formula in every chapter. They begin with a short exposition of the decade of American history in which the trial occurred, touching lightly on the seminal events, social trends, and "mood" of the time. Then they introduce the alleged murderer and the victims (at least the main ones) with accounts of their respective family origins, upbringings, and personal histories leading up to the fateful day, along with capsule biographies of accomplices, collateral victims, and other significant characters. Next comes the story of that day: the events that brought the actors to the time and place of the homicide, the killing itself, and its immediate aftermath. A discussion of the criminal investigation ensues, supplemented in some cases with thumbnail biographies of the investigators. The authors then identify members of the legal teams for the prosecution and defense, as well as the trial judge, including the backgrounds of lead counsel on each side.

The climax of each chapter is the trial itself, described both statistically—in terms of number of days, witnesses, exhibits, and so forth—and, more interestingly, by picking out the dramatic evidentiary moments and crucial successes and failures of advocacy that portended the verdict. In denouement, the authors address the case's appellate or other post-trial history, the lives of the defendant and other main actors after the trial and, briefly and finally, the trial's impact on public opinion and its significance in the social context of its time. Throughout each chapter, the authors take pains to describe in considerable detail the local and national news media coverage of the investigation, resulting criminal proceedings, and aftermath.

The stories are told in a strictly chronological, reportorial style, without adornment but also without pulling punches. Particularly noteworthy is the authors' unblinking description of the crime scenes in graphic detail

continued page 23



CLE Credit for *Pro Bono* Service Arrives January 1

Jeff Brown, Pro Bono Program Manager, State Bar of Wisconsin

A long-awaited rule change will soon make it possible for Wisconsin lawyers to claim CLE credit for providing *pro bono* legal services. Chapter 31 of the Supreme Court Rules requires lawyers in active status with the State Bar of Wisconsin to obtain and report at least 30 hours of continuing legal education credits, including three hours of ethics credits, in each two-year reporting period. The State Bar petitioned the Wisconsin Supreme Court for a rule change to allow *pro bono* service to qualify for CLE credits (Petition 15-05), which the court granted July 21, 2016. As a result, starting January 1, 2017, Wisconsin lawyers will be able to claim one hour of CLE credit for every five hours of *pro bono* work in qualified *pro bono* programs, up to a maximum of six credits per reporting period. A lawyer who provides at least 30 hours of qualifying *pro bono* legal services in a reporting period will be able to claim six hours of CLE credit.

Here are the FAQs on CLE credit for *pro bono* work:

What kind of *pro bono* work qualifies?

Not everything that would be considered *pro bono* work under Supreme Court Rule 6.1 will qualify for CLE credit. Under Rule 31.01(11), *pro bono* legal services are defined as “direct legal services provided without fee or expectation of fee to persons of limited means through a qualified *pro bono* program or pursuant to an appointment by a state or federal court.”

What is a qualified *pro bono* program?

Chapter 31.01(12) describes three types of *pro bono* programs that are prequalified. A program is prequalified if it is: (1) operated by a Wisconsin Trust Account Foundation (WisTAF) grantee, (2) operated by a Wisconsin law school, or (3) operated by a Wisconsin bar association as of July 21, 2016. A program approved by the Board of Bar Examiners can also become a qualified *pro bono* program.

What programs qualify under the WisTAF grantee provision?

The list of WisTAF grantees may change from year to year and is available on WisTAF's website. The following organizations currently receive WisTAF funding:

- **ABC (Advocacy and Benefits Counseling) for Health, Inc.** is a nonprofit public interest law firm serving families throughout Wisconsin regarding legal issues in health care access and financing.
- **AIDS Resource Center of Wisconsin** assists individuals and families living with HIV/AIDS, with the goal of enabling them to live with dignity.
- **Catholic Charities of the Archdiocese of Milwaukee, Inc.** is a nonprofit charitable organization serving over 13,000 families annually, focusing on the adult, family and children, and social ministries programs.
- **Catholic Charities of the Diocese of La Crosse, Inc.** provides services with respect to immigration, emergency support, adoption, financial counseling, domestic abuse, children with disabilities, and ministries, including the HIV/AIDS Ministry Project.
- **Center Against Sexual & Domestic Abuse, Inc. (CASDA)** provides services to individuals hurt by domestic, sexual, or child abuse, as it advocates for a community effort to end violence.
- **Centro Legal por Derechos Humanos** is a nonprofit corporation with the primary purpose of providing legal representation to the poor and those with limited resources, for a reasonable and accessible price, in the Milwaukee area.
- **Community Justice, Inc.** is a nonprofit corporation that provides legal services to Madison-area low-income families and individuals on a sliding-fee scale based on federal poverty guidelines.

- **Disability Rights Wisconsin** defends the rights of people residing in Wisconsin's public and private institutions, and represents individuals under the Americans with Disabilities Act through information and referral, direct legal representation and, in limited situations, class action litigation.
- **Kids Matter Inc.** provides legal services and other advocacy for children in foster and kinship care in the greater Milwaukee area.
- **Legal Action of Wisconsin, Inc.** serves low-income clients regarding family law and domestic violence, housing, public benefits, special education, and economic development.
- **Legal Aid Society of Door County** is a volunteer organization that operates primarily as a screening and referral source to coordinate legal services through local *pro bono* attorneys.
- **Legal Aid Society of Milwaukee** provides family law, public benefits, landlord-tenant, consumer, municipal ordinance defense, and civil rights representation to low-income people in Milwaukee.
- **Portage County Legal Aid Society** is a volunteer organization that addresses the need for *pro bono* civil legal services for indigent persons in Portage County.
- **Wisconsin Judicare, Inc.** provides civil legal services to nearly 3,000 low-income northern Wisconsin residents each year with the help of 400 private attorneys and eight staff attorneys.

Is my bar association's *pro bono* program eligible?

It depends on whether the program is operated by the bar association (staff or volunteers) and whether it was operating on July 21, 2016, when the Wisconsin Supreme Court issued its order. *Pro bono* programs operated by bar associations as of that date were grandfathered as qualified *pro bono* programs. Bar association programs created after that date must seek approval from the Board of Bar Examiners.

Can I claim ethics credit for my *pro bono* work?

No. The rule provides a way for lawyers to earn only general CLE credits.

If I do *pro bono* work before January 1, 2017, will I be able to claim CLE credit for that time?

The rule change authorizing lawyers to claim CLE credit for *pro bono* legal services does not take effect until January 1, 2017, so it is highly unlikely that BBE would allow a lawyer to claim CLE credit for activity that took place prior to the rule change.

Can I use *pro bono* legal services CLE credits to help me obtain reinstatement, readmission, or reactivation of my license?

No. The rule prohibits the use of *pro bono* legal services credit for those purposes.

Where can I find a list of *pro bono* programs that are operated by Wisconsin bar associations?

The official list of such programs is maintained by the Board of Bar Examiners and will be available to attorneys through BBE's CLE reporting system. You can view a list (pdf) of the qualified programs that the State Bar of Wisconsin provided to BBE in September 2016.

How can a program that is not on the list of qualified *pro bono* programs in SCR 31.01(12) become qualified?

The Board of Bar Examiners has authority under SCR 31.01(12)(d) to approve additional programs. Interested organizations should contact the board about the approval process.

Milwaukee County Circuit Court Welcomes Four New Judges in 2016



Honorable Cynthia Davis

Judge Davis, formerly an assistant district attorney, was appointed to Branch 21 by Governor Walker in February. She was a judicial intern for the Honorable Mary M. Kuhnmuench and served as a judicial clerk for Justice David T. Prosser Jr. in the 2006-2007 term of the Wisconsin Supreme Court. Before joining the DA's office in 2011, Judge Davis was a business law associate at Foley & Lardner. Judge Davis has extensive

experience in both criminal and civil law. She earned an undergraduate degree from DePauw University and law degree from Marquette University Law School.



Honorable Mike Hanrahan

Governor Walker also appointed Fox, O'Neil & Shannon shareholder Michael Hanrahan to Branch 4 in February. Judge Hanrahan has experience in commercial litigation, employment law, shareholder rights, personal injury, and divorce. He is a graduate of Harvard University and the University of Wisconsin Law School.



Honorable Hannah Dugan

Judge Dugan was elected in April to Branch 31. She practiced law in Milwaukee County for over 28 years and has represented thousands of people in federal, state, and municipal courts. Judge Dugan has accepted civic appointments to the ethics board for Milwaukee County and the City of Milwaukee, and helped to revise their respective ethics codes. In addition, she has served as a Wisconsin Supreme Court

referee, Governor of the State Bar of Wisconsin, and chair of the Wisconsin Judicial Commission. Judge Dugan is a past president of the Milwaukee Bar Association. She earned her bachelor's degree at the University of Wisconsin-Madison, her master's degree from Boston College, and her law degree from the University of Wisconsin.



Honorable Jean Kies

Judge Kies won election in April to Branch 45 of the Milwaukee County Circuit Court. She has practiced law for more than 24 years, representing clients in civil, juvenile, family, and criminal cases with her husband and legal partner, Lewis Wasserman. Judge Kies estimates that she has taken on more than 1,000 civil and 1,000 criminal cases

since law school. She is a graduate of the University of Wisconsin-Madison and Marquette University Law School.

Welcome New MBA Members!

John Atkisson, *Marquette University Law School*

Christopher August, *Wisconsin State Public Defender's Office*

Brandon Brown, *Marquette University Law School*

William Demet, *Marquette University Law School*

Kathryn Finnerty

Debra Flynn-Parrino

Emily Hosseini, *Marquette University Law School*

Zhenlan Hu, *Marquette University Law School*

Shanel Jognson, *Marquette University Law School*

Michael King, *Goldstein Law Group*

Yedidan King, *Marquette University Law School*

Jessica Klein

Rita Knauss, *State Bar of Wisconsin*

Lindsey Kujawa, *Krawczyk, Duginski & Rohr*

April Kutz, *Marquette University Law School*

Anne Lally, *Marquette University Law School*

Emily Loe, *Marquette University Law School*

Tanner Long, *Marquette University Law School*

Yamileh Lopez, *Marquette University Law School*

Matt Mcelray, *Marquette University Law School*

Max McGovern, *Marquette University Law School*

Jehona Osmani, *Marquette University Law School*

Alexander Pendleton, *Marquette University Law School*

Justin Prince, *Moertl, Wilkins & Campbell*

Sergio Quinones, *Marquette University Law School*

Diane Raines, *Marquette University Law School*

Rohit Rangoraran, *Marquette University Law School*

William Ruffing, *Marquette University Law School*

Macavley Rybar, *Marquette University Law School*

Sarah Sargent, *Reinhart Boerner Van Deuren*

Julia Schuster, *Goldstein Law Group*

Gerald Schwartz, *Marquette University Law School*

Samuel Simpson, *Marquette University Law School*

Lauren Stanley, *Beck, Chaet, Bamberger & Polsky*

Kaleb Zelalnski, *Marquette University Law School*

13TH ANNUAL STATE OF THE COURT LUNCHEON



Timothy Teicher and Judge John Seifert ▼



The Milwaukee Bar Association hosted its 13th Annual State of the Court Luncheon on October 27 at the Wisconsin Club. MBA President Andy Wronski opened the proceedings by welcoming over 50 Milwaukee County Circuit Court judges and court commissioners, as well as 235 attorneys. “The MBA, together with the Milwaukee County Circuit Court, sponsors this event to give members of the MBA an opportunity to hear directly from court leaders on issues facing the court and the impact these issues have on the Milwaukee legal community. It allows for dialogue that we hope continues beyond

today’s luncheon,” said Wronski. Chief Judge Maxine Aldridge White followed with an address on the state of the Milwaukee courts and the importance of attorneys in facilitating access to justice for Milwaukee citizens. The luncheon concluded by honoring the 2016 *Pro Bono Publico* Award recipients. (See page 16.)

To all who attended the State of the Court Luncheon, we thank you, and we hope to see you again next year!



MBA President Andy Wronski and Chief Judge Maxine White ▲



Mark Cameli of Reinhart Boerner Van Deuren ▲ accepts the *Pro Bono Publico* award in the individual attorney category.

The Reel Law



Attorney Fran Deisinger, Reinhart Boerner Van Deuren

Find Me Guilty

Directed by Sidney Lumet
2006; 125 minutes

Imagine the challenge of being a *pro se* defendant in a criminal case. Now imagine being that *pro se* defendant in a massive, complex conspiracy case that becomes the longest federal criminal trial in American history.

Find Me Guilty, the great director Sidney Lumet's penultimate film before his death in 2011, is about that defendant, Jackie DeNorscio, who represented himself in a 21-month RICO trial in New Jersey in the late 1980s. Considering that Lumet also directed two of the towering dramas in this series of essays—1957's *12 Angry Men* and 1982's *The Verdict*—you would be excused for assuming that *Find Me Guilty* is also a drama. Instead, it's part comedy and part paean to the "color" of an Italian mob family. These elements come together in the role of DeNorscio as played by actor Vin Diesel, known almost exclusively for his action film tough guy roles. In *Find Me Guilty*, he exploits that audience expectation as baseline that he then plays against completely. While in real life DeNorscio was a typical Jersey mob wiseguy, with all that description entails, the film concentrates on his considerable roguish charm, with which he eventually beguiles the jury. As he explains in his opening statement, he's not a gangster, he's a "gagster."

The other 20 or so defendants, all represented by counsel, aren't so sure about where DeNorscio's antics will take them. They fear that in a conspiracy case, if one goes down, they all go with him. And DeNorscio has another problem: while the other defendants are all "out" during the trial, he's already in prison, early in a 20-year sentence for cocaine trafficking—meaning he goes back to jail every night.

While Diesel plays against type, the other lead actors are more naturally suited to their roles. Ron Silver plays Judge Finestein, tasked with keeping control over the chaotic courtroom. He battles DeNorscio early, but softens to him as the case drags long into a second year.

The mob boss among the defendants, who is most concerned about and antagonistic to DeNorscio's courtroom style, is played with a threatening scowl by Alex Rocco—you'll remember him as Moe Greene in *The Godfather*. And the lead defense counsel is none other than Peter Dinklage, who may have the most persuasive voice and manner in modern film culture.

Every trial lawyer knows that it's the rare trial that doesn't have its comic moments, and no doubt there were many to mine from this marathon case. The film advertises that some of its lines were lifted verbatim from the transcript, and they range from the silly to the raunchy. And there are moments of slapstick, too, such as when one of the defendants, recovering from a heart attack but watching the trial from a hospital bed, falls asleep and rolls off the bed. An exasperated Judge Finestein can do little but admonish the guards to raise the bedrails. But parallel with the laughs, another trend emerges: the prosecution's witnesses are unsympathetic and not always credible. And Jackie gets better at examining them.

The film and trial reach their climax with Jackie's closing argument. Ever the standup guy, he reminds the jury that he's already in prison, and implores them, if they believe anything the prosecution has argued, to "find me guilty" and let the other men—the guys he grew up with and loves—go home to their families. The jury makes a different decision.

Befitting the tone of this movie, Lumet frames it at beginning and end with the music of Louis Prima, music that no conscious human being could listen to without smiling. *Find Me Guilty* is not a film that will linger in the memory like *12 Angry Men* or *The Verdict*, but near the end of his career Sidney Lumet surely had the right to make his last "legal" movie one that made him smile. It's very likely to make you smile, too.





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Greetings of the Season

Happy holidays from all of us here, The MBA wishes you nothing but cheer.

2016's budget has been a real pain So here's to looking at next year and makin' it rain.

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Access to Justice Commission Targets Shortage of Resources in Civil Cases

Honorable Jim Gramling, President, Wisconsin Access to Justice Commission

If I gave you one minute to fill up a blue book page on the Electoral College, and another on the Wisconsin Access to Justice Commission, it might be a tossup which page you'd fill up more. And both might be close to blank. The college is something of a mystery to me, but I'll help you with the ATJC in the paragraphs to follow.

The commission was created in 2009 by Wisconsin Supreme Court Rule 14. The court was responding in part to a 2007 report prepared by the State Bar, "Bridging the Justice Gap: Wisconsin's Unmet Legal Needs." Authored in large part by Milwaukee County Circuit Court Judge Rick Sankovitz, the report documented the extreme lack of civil legal resources for our low-income fellow citizens. The report called for, and the court created, a 17-member body—far smaller and less cumbersome than the 538-member Electoral College—with the mission to "develop and encourage means of expanding access to the civil justice system for unrepresented low income Wisconsin residents." Three Milwaukee attorneys currently serve on the commission: Angela Schultz, Assistant Dean for Public Service at Marquette University Law School; Nick Zales, an attorney in private practice and member of the State Bar's Board of Governors; and myself, a retired municipal court judge.

So, this commission—which meets four times a year and not every four years like the E.C.—does exactly what? As you might guess, there is a lot to do in this field. There are three focus areas. First is increasing the number of lawyers performing *pro bono* work. Many lawyers perform much good volunteer work now, but more are needed. Therefore, we strongly supported the State Bar's initiative to change the Supreme Court's rules to allow attorneys to claim CLE credit for *pro bono* work. Beginning January 1, 2017, attorneys will be able to claim up to six credits in each two-year reporting period by performing five hours of qualified work for each credit. And we created the *Pro Bono* Honor Society, which recognizes attorneys who perform at least 50 hours of community service per year. From a beginning class of 120 in 2013, it grew to 407 in 2015. MBA members who are also members of the society were honored in a ceremony that took place October 27.

A second area of focus is self-represented litigants. Spend some time in Room 400 of the courthouse if you're unaware of this problem. To

provide a resource that reaches *pro se* parties in every corner of the state, we developed wi.freelegalanswers.org (formerly wilegaladvice.org). This website allows low-income residents to pose legal questions online and have them answered by attorneys. It has been a huge success. In its first year of operation, we have over 70 attorneys signed up and have fielded questions from 62 counties. As the service grows, we will need more attorneys. You can go to the website and easily sign up, and the system captures the number of your volunteer hours, which will come in handy when you start earning CLE credits on January 1. We also pursued change to SCR 60.04(1)(hm) to clarify the ability of trial judges to ensure that self-represented litigants have a fair opportunity to present their cases. We view this as an important aid to the full presentation of facts for the multitude of parties proceeding in court on their own.

Our third area of effort centers on improving the capacity of the state's legal aid providers. Organizations such as Legal Action of Wisconsin, the Legal Aid Society of Milwaukee, and Disability Rights Wisconsin have experienced shrinking revenues over the past several years, which in turn has reduced the number of people they can represent. We joined the successful effort to get the Legislature to include \$1 million in the current state budget for victims of domestic violence. We successfully petitioned the Supreme Court to amend the class action rule to require that at least 50% of any residual funds in class action awards and settlements be made available for civil legal aid. And we are participating in a Legislative Council study committee that, we hope, will result in substantial sums being directed to civil legal aid in the next biennial budget.

The commission's work has been done on an extremely slim budget and with the expert help of Jeff Brown of the State Bar. Volunteers are needed to serve on our committees, so if you are looking for a worthwhile organization to join, let Jeff know at jbrown@wisbar.org. Our most recent commission meeting took place in Madison December 16, just three days before the Electoral College met to elect a president. While both meetings had their share of scrutiny and drama, no one called for abolition of the Access to Justice Commission.

Milwaukee Justice Center Update

Welcome Rob Randolph

The Milwaukee Justice Center is pleased to welcome Rob Randolph to the team. A lifelong Milwaukeean, Rob joins the MJC as part of Public Allies' AmeriCorps Ally Program. The ally program prepares young people to be community leaders by placing them in nonprofit apprenticeships and rigorous leadership training. "I was drawn to the program after hearing from current and former allies about their experience," Rob explains. "I'm looking forward to personal growth and an opportunity to learn about the legal system." Rob will be involved with all facets of the MJC, especially the Mobile Legal Clinic as we expand its services in 2017.

Outside of work, Rob is very involved in the arts. He runs his own photography business and plays piano in church every week. Undoubtedly, Rob will prove to be a great asset to the MJC, and we all look forward to working with him. Next time you are in the clinic, be sure to say hello!

Toy Donations

'Tis the season of giving and the MJC is seeking donations to help restock our children's area.

The children's area, introduced in 2015, is located in the MJC waiting room, and provides toys, books, and games for our clients' children while their parents receive legal services. Many of our clients do not have access to child care and must bring their children to the courthouse, so the children's area gets a lot of use. Unfortunately, the high volume of use means that the toys and books in the children's area wear out, break, and get lost.

We are seeking donations of books and toys appropriate for children ranging in age from toddlers to elementary school. We appreciate your generosity in helping us provide this service to our clients.



The Pro Bono Corner is a regular feature spotlighting organizations throughout the Milwaukee area that need pro bono attorneys. More organizations looking for attorney volunteers are listed in the MBA's "Pro Bono Opportunities Guide," at www.milwbar.org.

Legal Action Leads Collaborative Focus on Eviction Under Pro Bono Innovation Grant

Legal Action of Wisconsin has received a *Pro Bono* Innovation Grant from the Legal Services Corporation to establish a lawyer-for-the-day *pro bono* project representing tenants facing eviction. This project seeks to reduce housing instability for low-income Milwaukee County families, especially those with children. Attorneys can provide *pro bono* assistance through the project's advice and brief service sessions, or can represent clients in small claims court on a limited-scope basis. Experienced housing law attorneys will serve

Volunteer Lawyers Project | Legal Action of Wisconsin, Inc.

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www.vlp.legalaction.org

as on-site mentors. This project is a collaboration of Legal Action of Wisconsin, the Milwaukee Justice Center, Marquette Volunteer Legal Clinic, the Legal Aid Society of Milwaukee, Community Advocates, and Quarles & Brady. If you are interested in participating, please contact the Volunteer Lawyers Project at Legal Action of Wisconsin.

MBA Fetes 2016 Pro Bono Publico Award Winners

The MBA honored winners of the 2016 *Pro Bono Publico* Awards at its State of the Court Luncheon on October 27, which was attended by over 50 Milwaukee County Circuit Court judges and court commissioners, as well as 235 attorneys. Award recipients are:

Individual attorney: Mark A. Cameli. Mark is a shareholder and co-chair of Reinhart Boerner Van Deuren's Litigation Practice and chair of the firm's White Collar Litigation and Corporate Compliance Team. He also serves as chair of the Diversity Committee and co-chair of the *Pro Bono* Committee at the firm. In addition, he has performed *pro bono* work with the U.S. Attorney's Project Safe Neighborhood Selection Committee, which he assists in awarding federal grants for gun violence prevention and anti-gang programs. He was recently named a "Leader in the Law" by the *Wisconsin Law Journal*.

Law student: Nicholas Sulpizio. Nicholas is currently a Marquette University Law School student and member of the *Pro Bono* Honor Society at the school. Under the supervision of a licensed attorney, he has accumulated 140 hours of *pro bono* work over the course of two

years. Nicholas made *pro bono* work a routine and an integral part of his path to professional practice.

Organization: O'Neil, Cannon, Hollman, DeJong & Laing. The firm provides attorneys who dispense legal advice and referrals through the Marquette Volunteer Legal Clinic at the Milwaukee Justice Center (MJC). The firm's commitment to offering high quality legal assistance through the MJC has helped hundreds of citizens across the city and has vastly improved access to justice in Milwaukee.

Eight years ago, the MBA established the *Pro Bono Publico* Awards to recognize members of the legal community whose outstanding efforts and generous commitments of time and talent make a difference not only for the individuals served, but also for the justice system as a whole. The *Pro Bono Publico* Award recipients personify the qualities of selflessness, commitment to a greater purpose, and determination to provide quality legal counsel. As Marquette law student Sulpizio remarked when explaining the impact of his *pro bono* work, "No classroom or textbook can provide that kind of interactive, meaningful experience."

2016 Pro Bono Cocktail Reception Rocks

The perfect excuse to enjoy a cocktail and network with colleagues, and it honors a good cause to boot! The 2016 edition of the *Pro Bono* Cocktail Reception took place during National *Pro Bono* Week on October 27, 2016 at the Milwaukee Bar Association. The MBA's 2015 *Pro Bono* Honor Society members were awarded certificates for their commitment to *pro bono* work and diligence in providing

Milwaukee citizens with increased access to justice. A brief presentation by Judge Paul Van Grunsven stressed the importance of *pro bono* work, the personal and professional rewards it entails, and how to schedule the time for it while juggling a busy legal practice. In addition to students and attorneys, various members of the judiciary and bar leadership attended.



(L-R) Andrea Johmmiak, Arusa Kabani, ▲ Yamileh Lopez

(L-R) U.S. Magistrate Judge David Jones, Judge Cynthia Davis, Judge Richard Sankowitz, Judge Laura Gramling Perez



(L-R) Amy Wochos and ▲ Valerie Vidal



(L-R) Judge Gwendolyn ▲ Connolly and Judge Michael Hanrahan

City Sex Offender Ordinance Drives People to Homelessness

Attorney Larry Dupuis, Legal Director, ACLU of Wisconsin Foundation

With winter upon us, social service agencies and churches will step up their efforts to find shelter for homeless people in Milwaukee. While they will succeed in helping many of these disadvantaged people, one group will remain almost impossible to house. Milwaukee Ordinance § 106-51 prohibits many people who have been convicted of sex offenses from living almost anywhere in the City of Milwaukee. The ordinance forbids “designated offenders” from living within 2,000 feet of any school, licensed daycare center, park, recreational trail, playground, or “any other place designated by the city as a place where children are known to congregate.” A public notice and map issued by the city identified only 55 addresses in the entire city located outside of forbidden zones.¹ Of course, many of those addresses are already occupied. And landlords owning vacant rental units at those addresses may choose not to rent to sex offenders, even if they may lawfully do so.

A *Milwaukee Neighborhood News Service* story last winter reported that 713 sex offenders on probation, parole, or extended supervision lived in Milwaukee.² While not all people convicted of sex offenses are covered by the ordinance, any offender whose victim was a child or who is designated a “special bulletin offender” by the Wisconsin Department of Corrections is covered. Anyone who has been convicted of more than one sex offense or who has been civilly committed under Chapter 980,³ the sexually violent person law, is automatically a special bulletin offender. Wis. Stat. § 301.46(2m)(am). In addition, the Department of Corrections may designate any person who has committed a sex offense a special bulletin offender if the department determines the special bulletin notification “is necessary to protect the public.” Wis. Stat. § 301.46(2m)(a). Thus, many of the 700 or so people on supervision for sex offenses in Milwaukee will, in fact, be barred from living in practically any residence in the city. And that number does not include people who have completed the sentences imposed for their crimes and thus are no longer under formal supervision; such people on the state’s sex offender registry remain subject to the city’s ordinance. Moreover, any person who committed a sexually violent offense or *any* crime against a child while living anywhere other than the City of Milwaukee may not live anywhere in Milwaukee. Milw. Ord. § 106-51(5).

Milwaukee’s ordinance is not unique. Indeed, it was adopted in response to similar ordinances in surrounding suburbs that had the effect of driving many offenders from those communities into the city seeking someplace to live. As noted in a *New York Times* editorial last September, public fear of sexual predators lurking in the shadows “waiting to snatch a vulnerable child” has “led to a wave of laws around the country restricting where people convicted of sex offenses may live.”⁴ Unfortunately, as the *Times* editorial went on to observe, “there is not a single piece of evidence that these laws actually” protect children from sexual abuse. That is in part because most sex offenses are committed by family members, friends, or acquaintances of victims in the victims’ homes, rather than by the scary but largely mythical strangers luring children with candy outside the playground gates.

Until recently, legal challenges to sex offender residency restrictions have largely failed. For example, the Eighth Circuit rejected a challenge to a statewide residency law, concluding that it did not violate the Due Process Clause, was not retroactive punishment in violation of the *Ex Post Facto* Clause, and did not impermissibly interfere with the constitutional right to travel. *Doe v. Miller*, 405 F.3d 700 (8th Cir. 2005). The Wisconsin Court of Appeals similarly rejected a constitutional challenge to enforcement of

a local residency restriction three years ago. *City of South Milwaukee v. Kester*, 2013 WI App 50, 347 Wis. 2d 334, 830 N.W.2d 710, *review denied*, 2013 WI 87, 350 Wis. 2d 729, 838 N.W.2d 636.

Nonetheless, courts have begun to recognize the punitive effects of these laws and the tenuous connection between them and their purported aim of protecting vulnerable children. The Supreme Court of California held, in *In re Taylor*, 60 Cal. 4th 1019, 184 Cal.Rptr. 3d 682, 343 P.3d 867 (2015), that blanket enforcement of a 2,000-foot sex-offender residency restriction was unconstitutionally arbitrary and oppressive as applied to parolees in San Diego, where 97% of otherwise available housing units fell within exclusion zones. The court concluded that the law could not survive rational basis review, because it “imposed harsh and severe restrictions and disabilities on the affected parolees’ liberty and privacy rights, . . . while producing conditions that hamper, rather than foster, efforts to monitor, supervise, and rehabilitate these persons.” 343 P.3d at 879.

The Sixth Circuit struck down Michigan’s Sex Offender Registration and Notification Act (SORA), as applied to persons who were convicted of sex offenses prior to its enactment, as a violation of the *Ex Post Facto* Clause of the United States Constitution. *Does # 1-5 v. Snyder*, 834 F.3d 696 (6th Cir. 2016). Although the decision invalidated several aspects of Michigan’s SORA adopted in 2006 and 2011, it particularly emphasized the onerous effects of the residency and loitering exclusion zones and their similarity to the traditional punishment of banishment. *Id.* at 701-702. Like the California Supreme Court, the Sixth Circuit pointed to

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Pro bono attorneys needed to help Milwaukee kids stay in school!

The Student Expulsion Prevention Program (StEPP) is a pilot project established through a grant to the Wisconsin State Public Defender’s Office (SPD) to address the need for quality legal representation for children in Milwaukee Public Schools (MPS) facing expulsion. The SPD does not have jurisdiction to represent children in expulsion cases. By participating in StEPP you can prevent children from losing their right to an education, assure due process and fairness in disciplinary hearings, reduce the disproportionate impact these cases have on low-income children and children of color, gain valuable legal experience and earn FREE CLE credits.

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The Safety Building: Rich History, Doubtful Future

John Barrett, Milwaukee County Circuit Court Clerk

The Milwaukee County Safety Building is in the forefront of discussions about a new county criminal courthouse. The Safety Building has been with us a long time. It was under construction in 1928, the same year that the nation's first all-woman jury was seated in Milwaukee County.¹

The Safety Building was designed by Albert Randolph Ross of New York, the same architect who designed the Milwaukee County Courthouse. The two were built simultaneously. The exterior of the Safety Building is "faced with Indiana limestone and is adorned with art deco structures of majestic eagles and vines." At each of the entrances is a word representing a value of law enforcement: safety, justice, and equity.² Today the Safety Building is connected by skywalks to the Police Administration Building, Milwaukee County Courthouse, and the Criminal Justice Facility.

The six-story, steel-framed building, erected at an estimated cost of \$3 million,³ was a joint effort of the county and the city. Half of the building was to house the central police station, city courts, and jails, while the other housed the county sheriff and the county jail. The two halves were built under separate contracts with separate funding, and finished at different times. The cornerstone for the city's portion of the Safety Building was laid on August 31, 1928. The county celebration marking the cornerstone was held on January 29, 1929. The remnants of this duality remain to this day and are evident when selecting one side or the other for an elevator.

The Safety Building currently houses the District Attorney, the Sheriff, and the Clerk of Circuit Court (Criminal Division). It is the home of Justice Point, Wisconsin Community Services, and the deputy sheriff's union offices. It also features criminal exhibit vaults, file rooms with rickety floors, and court coordinator offices. The Sheriff Wolke Gymnasium is the only place in the courthouse system where courtroom advocates and witnesses can take it out physically on judges in an intense game of 5-on-5 basketball. In less competitive moments, judges and others ride the stationery bikes, use free weights, run on the track, and practice yoga. The gym has also been the site of countless flu shots.

The Safety Building is home to the county's traffic court. Its walls have heard many a tale about why motor vehicles act so unpredictably.

The Safety Building has hosted much of Milwaukee County's history. It was the site of Milwaukee's most infamous case: the Jeffrey Dahmer trial, Judge Laurence Gram presiding. It was also the venue for the trials of former Green Bay Packer Mark Chmura and notorious killer Walter Ellis.

The Safety Building requires much repair and significant modernization if it is to remain in operation. The recent Phase I Courthouse Complex Study concluded that "[a]fter spending the \$125 million to \$150 million that might be required to renovate the building, the County would still have a very makeshift office building, which was originally designed in 1929 for entirely different functions."⁴ The difficulty is particularly acute with respect to almost 37,000 square feet of former jail space. The jail space is no longer used and would be extremely expensive to remodel.

Serious health-related concerns, as well as functional and security issues, dog the Safety Building—ironically, considering its name. The Phase I study report details issues related to "asbestos; structural issues; poor air and water quality due to mechanical, electrical, and plumbing inadequacies; pest issues; and various code conditions."⁵

The most recent proposal advocates for a new criminal courthouse to be built on the footprint of the Safety Building. The courthouse would have modern design specifications, which would eliminate the dangerous practice of bringing shackled prisoners through the same hallways used by juries, attorneys, and the general public. Moving the criminal courts to the new building would allow the family court commissioners to move to the former criminal courtrooms on the fifth and sixth floors of the courthouse, thereby providing them much more up-to-date facilities.

The Safety Building's days as a useful courthouse have passed. A complete overhaul of the building would cost a fortune and fail to address critical safety issues facing the Milwaukee County Courthouse complex. A new criminal courthouse on the Safety Building's footprint would have 26 modern courtrooms, would add needed safety features, and would be a welcome addition to the courthouse complex.

¹Marv Balousek, *Wisconsin Historic Courthouses* (Badger Books LLC 1998).

²Joseph J. Korom, Jr., *Look Up Milwaukee* (Franklin Publishers 1979).

³"Remember When" Collection, Milwaukee Public Library.

⁴Final Report, Phase I Courthouse Complex Study.

⁵*Id.*



The Impact of Race in Our Criminal Justice System: The Conversation Continues

Honorable Carl Ashley, Milwaukee County Circuit Court

On October 14, 2016, key stakeholders in Milwaukee County's criminal justice system met at the MATC Cooley Auditorium to continue our conversation about the impact of race in that system. This is the third time in as many years that the criminal justice system—judges, court commissioners, prosecutors, the defense bar (both public and private), and other system partners—have gathered to examine the intersection of race and the criminal justice system. The conferences are the product of a collaborative team of professionals in Milwaukee County, including judges, district attorneys, public defenders, and an expert facilitator, with support from staff and members of the Milwaukee Community Justice Council's Executive Committee.

Chief Judge Maxine White of the state's First Judicial District (Milwaukee County) gave the welcome address. She acknowledged the importance of our conference, the difficult nature of our discussions, and her appreciation for everyone's participation.

This year's conference was divided into two parts: a plenary session in the morning and small group discussions in the afternoon. In the morning session, we heard from four nationally recognized speakers who provided profound insight and perspective about the impact of race in our criminal justice system. Additionally, the speakers discussed opportunities for system changes and, as importantly, how we as individuals can contribute to change.

Our four panel members included:

- John T. Chisholm, Milwaukee County District Attorney, who has been recognized nationally for innovation.
- Adam J. Foss, a former assistant district attorney in the Juvenile Division of the Suffolk County District Attorney's Office in Boston, and a fierce advocate for criminal justice reform and the role of the prosecutor in ending mass incarceration.
- Glenn E. Martin, the founder of JustLeadershipUSA (JLUSA), an organization dedicated to cutting the U.S. correctional population in half by 2030. JLUSA empowers people most affected by incarceration to drive policy reform. Glenn is a national leader and criminal justice reform advocate who spent six years in New York State prisons.
- Jeff Robinson, director of the Center for Justice, which houses the ACLU's work on criminal justice and reform issues. He has participated in all three of our annual programs.

In the afternoon, we broke into small work groups. Paula Penebaker, president and CEO of the YWCA Southeast Wisconsin, and Martha Barry, racial justice director of that organization, provided facilitators for the breakout sessions and also facilitated two of the six sessions themselves. The smaller multidisciplinary groups allowed for a deeper look at the complex issues presented. The conference had 373 attendees in the morning session and 193 in the afternoon.

As the moderator for the morning program, I pointed out we have very dedicated and fair-minded attorneys, commissioners, judges, and other criminal justice partners who come to work every day to support a fair and equitable system; and yet, we should also agree that we have disparities in that system.

The purpose of the conference was not to accuse anyone of being a racist or to establish that anyone purposely promotes disparate outcomes in our system, but rather that we can become more informed about the way our decisions and actions perpetuate disparate outcomes. And although these disparities are not limited to our criminal justice system, it is important for each of us to understand we have the ability to correct some of these outcomes in that system.

The conference was well received by the participants, with evaluations reflecting an overall rating of "very good." Participants described the speakers as "inspirational," "amazing," and "thought provoking." We received many helpful suggestions for our next conference, such as adding additional system partners, having a larger law enforcement presence, having more victim input, and providing a more critical look at all our system partners' impact on the system. An overwhelming majority of the evaluations asked that the discussions be continued.

There is no question that there is a place in prisons and jails for those who pose a threat to our public safety, and as necessary for punishment and deterrence, but we also must recognize that the vast majority of those incarcerated will be released. We should ensure we are using our limited resources to support strategies proven to reduce recidivism, promote better outcomes, and still support public safety. At a more fundamental level, how we treat people can make a difference for victims, defendants, families, and our community. Every time we interact with someone in the criminal justice system, we have an opportunity to leave an impression—and often a profound one—which further promotes hopelessness and lack of self-esteem, or which is uplifting and inspiring.

Let's be clear: these discussions are not easy to have, nor should we take for granted having these historic opportunities. October 14 was a good day; let the discussions continue.

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Unauthorized Filming at New York-Presbyterian Hospital Results in \$2.2 Million Settlement

Attorney Jeremy Shapiro-Barr, Health Sciences Law Group

A recently publicized HIPAA breach at New York-Presbyterian Hospital involved unauthorized filming by a television film crew from ABC's "NY Med," a medical documentary series, of two patients at the hospital—one of whom was dying at the time of filming and has since passed away. In investigating this incident, the Office of Civil Rights (OCR), part of the U.S. Department of Health and Human Services, found that the hospital violated the HIPAA Privacy and Security Rules by allowing the TV crew to film the two patients without their authorization, and by allowing the crew "virtually unfettered access to its health care facility."

Aside from imposing a \$2.2 million fine and two-year corrective action plan as part of a settlement with the hospital, the incident gave OCR occasion to publish a new FAQ on the topic of health care providers' interactions with media personnel in a HIPAA-compliant manner. In the FAQ, OCR has made clear that health care providers may not allow the filming of patients without authorization, and that *ad hoc* measures geared at hiding the identity of patients (such as blurring or pixelation) do not cure such unauthorized filming. If filming is to occur in a treatment area, health care providers must ensure that authorizations are secured from all patients whose personal health information (PHI) may be accessible in any manner (whether in written, electronic, oral, or other visual or audio form) in that area—a requirement that is likely to be impracticable in most cases, especially in a high-activity area such as an emergency room.

What does this mean for real-life dramas like "NY Med"? It may mean that the previously unfettered access that media personnel have enjoyed will take a backseat to patient privacy. It is important to recognize, however, that a health care provider's approach to ensuring patient privacy must be more involved than posting a "No Filming Allowed" sign. As mentioned in the corrective action plan for New York-Presbyterian, a robust set of policies and procedures, staff training (and retraining, as appropriate), and a system of imposing sanctions against staff who do not follow the policies and procedures are all critical

Sex Offender Ordinance continued from p. 17

studies showing that:

"laws such as SORA actually *increase* the risk of recidivism, probably because they exacerbate risk factors for recidivism by making it hard for registrants to get and keep a job, find housing, and reintegrate into their communities. Tellingly, nothing the parties have pointed to in the record suggests that the residential restrictions have any beneficial effect on recidivism rates."

Id. at 704-705. The Sixth Circuit's decision joins the earlier decisions of several state high courts that have found that retroactive application of residency restrictions to sex offenders violates state or federal *ex post facto* principles. *See, e.g., Commonwealth v. Baker*, 295 S.W.3d 437 (Ky. 2009), *cert. denied*, 559 U.S. 992 (2010); *State v. Pollard*, 908 N.E.2d 1145 (Ind. 2009).

Sexual offenses undeniably warrant punishment, and judges in Wisconsin have the tools to sentence those who sexually offend to long terms of imprisonment and extended supervision. But judges cannot impose the additional punishment of homelessness without violating core principles of due process and proportionality. Nor should a municipality be permitted to impose such a punishment in the guise

of protecting safety, particularly where the measures adopted are likely to increase rather than decrease the risk.

components of HIPAA compliance related to interacting with the media. Health care providers with HIPAA compliance programs that fall short in any of these respects should make appropriate changes.

An absolute prohibition on sharing PHI with the media may be unduly restrictive, and the FAQ helpfully outlines several exceptions to the general prohibition. In situations where media may assist a health care provider in locating family of an incapacitated patient, the health care provider may, without authorization, disclose to media certain limited information (such as location and general condition of the patient) if, in the provider's professional judgment, doing so would be in the patient's best interest. A provider may also disclose information about the location and general condition of a patient in its facility to media personnel who ask for that patient by name, provided the patient has not objected to being included in the facility's directory. Additionally, sharing PHI with a film crew hired by the provider to create training videos in support of the provider's health care operations is permissible without authorization if the provider enters into a "business associate agreement" with the film crew, in which the crew agrees to use such PHI only for the limited purposes of its engagement, safeguard the PHI, and return or destroy all the PHI once its work is completed.

A view of the "NY Med" breach in the broader scheme of OCR enforcement activity confirms that HIPAA-regulated entities are now under more scrutiny than ever before. While incidents may be brought to OCR's attention through complaints (as in the case of "NY Med"), OCR may also investigate HIPAA compliance on its own initiative—the recently-launched phase 2 of OCR's audit program being a prime example. A thorough examination of how an entity protects the privacy and security of information as it is shared—through filming, mobile devices, portals, and other means—will go a long way toward ensuring HIPAA compliance.

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of protecting safety, particularly where the measures adopted are likely to increase rather than decrease the risk.

¹<http://city.milwaukee.gov/ImageLibrary/Groups/ccCouncil/2015-PDF/SexOffenderPublicNotice2.pdf> (viewed 11/30/16).

²<http://milwaukee.nns.org/2015/12/15/former-sex-offenders-left-out-in-the-cold-by-city-residency-restrictions/> (viewed 11/30/16).

³2015 Wis. Act 156 created a limited exception to enforcement of local residency ordinances, such as Milwaukee's, for persons placed on supervised release in the community by an order under Wis. Stat. § 980.08.

⁴Editorial, "The Pointless Banishment of Sex Offenders," *New York Times* (Sept. 8, 2015).

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Book Review continued from p. 9

(e.g., the number of stab or gunshot or blunt instrument wounds, the ripped or displaced clothing and consequent nudity, the mutilated body parts, the copious pools of blood, the desolate or defiled surroundings where the bodies were discovered). In almost every case (the Thaw and Arbuckle cases being the exceptions), the crime scene description is a matter-of-fact exposition of gruesome savagery, and a valuable reminder that real murder scenes are not as seen on television.

The storytelling formula is straightforward, logical, and easy to follow, but it is—well, formulaic. This, in combination with a writing style that sometimes borders on the dry, induces a measure of reader fatigue toward the end. There is a creeping sense of a “template” story with interchangeable parts, almost making the reader forget that these cases are real, not fictional. Not to worry, however; as noted, the stories are inherently compelling, and the authors mostly stay out of their way. Notwithstanding the somewhat pedestrian presentation, the reader is transported down the highway at a comfortable clip.

The narrative includes frequent endnotes to source materials, which bespeak meticulous research. In general, the authors resort to credible sources, although occasional references to sources such as *Wikipedia* and blogs may not rise to that level.

The work is broad but not deep. This is most evident in discussion of the trials, which, from a litigator’s perspective, barely skims the surfaces of these monumental struggles. The authors approach the trials almost as casual observers, without the in-depth analysis of the legal issues, trial preparation, and crucial decision points necessary to impart a more profound understanding of the result. The trial lasted *w* months, there were *x* witnesses and *y* exhibits, the jury deliberated *z* hours or days, and here is the evidence that appears to have swayed the jury. In fairness, however, the sheer scope of the project effectively prevents more probing treatment, which could easily have consumed 332 pages for each case. Moreover, the book is for a general audience, not a CLE for criminal lawyers. Finally, source materials necessary for a more in-depth analysis of some of the earlier cases may simply be unavailable.

The principal theme of the book is its most problematic aspect. Every chapter dwells on the overzealous and overwhelming media coverage of the alleged crime, its investigation, and trial—coverage the authors recount with barely concealed contempt. For example, in the Sheppard case, the authors conclude, “Media coverage continued to do more than report the case; it influenced and even directed the course of the administration of justice.” (Page 148.) There are frequent references to “yellow journalism,” “saturation” coverage, and “carnival” atmospheres.

The theme is, in short, to blame the news media for miscarriages of justice or anything else that went awry in these cases. The authors, after a nod to the First Amendment, articulate this theme quite openly in their introduction:

Without a curious press free of influence, courts cannot be relied upon to operate in a fair and even-handed manner. *** But an unrestrained press driven to sell newspapers and radio and television ads will inevitably intrude on courts not equipped to insulate themselves from excess. *** The result of unrestrained media coverage is a justice system trajectory pushed from its necessary arc of fairness.

(Pages 12-13.) Steve Hodel, a bestselling true-crime author, echoes this theme in his advance review on the back cover: “The individual case studies are fascinating, but of greater value is how the authors reveal the hyperbolic role the press played in influencing the verdict in each of these cases, the media often attempting to replace the actual seated jurors by making sensational demands for ‘front-page justice.’”

This premise is, if you’ll pardon the expression, reversible error. The authors mistakenly treat the news media as a force independent of the consumers of those media. We’re implicitly asked to imagine the newspaper readers, television watchers, and social media users of America as *tabulae rasae*, whose inherently fair and pure minds are polluted by hucksters subordinating journalistic accuracy to the interests of their profit-motivated editors and advertisers.

Nonsense. The news media, extensions of the eyes and ears of the public, mirror its preferences, predilections, biases, and prejudices. The inquiries of journalists—from the *New York Times* to supermarket tabloids, from Fox News to MSNBC—are driven precisely by what their readers/watchers/users want to know. Yellow journalism exists because there is, always has been, and always will be a market for it: members of the public who value salacious details more than accurate ones. Saturation coverage is merely a matter of supply and demand. A carnival is for many a welcome diversion from the humdrum daily routine. In sum, the news media reflect more than they subvert the mindsets in the community—that is, human nature. To repeat: “Americans love to talk about crime, to read about it, relive it, and revel in it.” (Page 9.) In a democratic society, the news media, like human nature, are simply an immutable fact of public life.

That being the case, it isn’t and cannot be the responsibility of the news media to self-regulate their quantity, tone, or content to guarantee a fair and efficient trial in sensational criminal cases. Rather, it befalls the courts to create even-handed, content-neutral boundaries to safeguard the integrity of the judicial fact-finding process—that is, to rein in the carnival. The authors implicitly recognize as much in the Speck chapter, observing that “perhaps for the first time in a high-profile national case, the judge and both lawyers sought to proactively protect themselves from the potential damage from the intrusive media coverage.” (Pages 175-76.)

Such proactive boundaries are now familiar in modern courts. The media are relegated to an area behind the bar, where they can observe the proceedings but not handle evidence, overhear private and privileged colloquies, or otherwise distract trial participants. (This starkly contrasts, for example, with the conduct of the 1954 Sheppard trial.) Jurors are strictly off-limits until a verdict is returned. In exceptional cases, jurors are sequestered and walled off from media exposure. Counsel and their clients can be ordered to avoid media contact during the trial and even during pretrial proceedings.

Yet the authors persist in their misplaced indictment of the media. They never place the blame where it belongs. They never explain why pre-Speck courts didn’t implement reasonable measures necessary to the conduct of orderly proceedings and to temper acceptably—in the words of the Ohio Supreme Court in the Sheppard case—the “atmosphere of a ‘Roman Holiday’ for the news media ...” (Page 165 (quoting *State v. Sheppard*, 165 Ohio St. 293, 294, 135 N.E.2d 340, 343 (Bell, J.), cert. denied, 352 U.S. 810 (1956)).) They never explain how they would “restrain” the media, consistently with the First Amendment, beyond such common-sense courtroom administration.

It cannot be done in a free society. The pre-Speck courts could have and should have taken constitutionally permissible steps to protect their integrity. The judges and lawyers in those courts were evidently unprepared to do so.

Despite the flaw in its major thesis, *Trials of the Century* is an interesting and worthwhile read. But in an era when the country’s president-elect routinely disparages and seeks to circumvent the news media, and has abused and encouraged the abuse of journalists, the authors’ misdirected antagonism toward the news media is disturbing. It deserves a skeptical reception.

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