FAIR PLAY?

For host countries of major sporting events, the most important win might be over corruption — if they’re willing to take it on.
Brooke Taylor-Street was one of 164 joy-filled graduates at commencement in May. Next came the less enjoyable studying for the bar exam in July, then the long wait for results until October. For graduates like Taylor-Street who are headed into careers in government and public interest law, Richmond Law offers Bridge to Practice Fellowships, which provide placements and a stipend to support students until that happy day when, bar passage results in hand, they can accept paid employment commensurate with their new credentials. For more information about the program, go to law.richmond.edu/bridgetopractice.

Photograph by Kim Lee Schmidt
Global and local

Dear Alumni and Friends,

It might sound like something of an oxymoron: a school that is global and local in equal measure; one that embraces its community impact as much as its worldwide reach.

But when it comes to our approach to education, Richmond Law is one school that prefers global and local over either/or. This issue of Richmond Law magazine is testament to that fact.

We’re proud of our Virginia roots and of the important work we do here in the capital. More judges in Virginia are graduates of Richmond Law than of any other law school, and many of the state’s most prominent attorneys are our alumni as well. This issue highlights a small handful of them. For example, Carlos Hopkins, L’96, serves on Gov. Terry McAuliffe’s cabinet as counselor right here in Richmond, and Heather Lyons, L’06, is the general counsel for National Industries for the Blind in Alexandria. They are just two examples of how Richmond Law alumni make significant contributions to the Virginia legal community.

At the same time, our global focus and reach is ever expanding — and our faculty are living proof. In this issue, you can learn about Professor Ann Hodges’ employment law class, taught in conjunction with a professor in Milan; Professor Chiara Giorgetti’s perspectives on challenges in the international law community; and Professor Andy Spalding’s anti-corruption work surrounding the Olympics in Brazil.

Finding the right mix of international and local programs and initiatives can be a balancing act. But here at Richmond Law, that rich mixture makes us a stronger school. From our summer study program in Cambridge to our pro bono partnership at the Hunter McGuire Veterans Center in Richmond, from the student-run Journal of Global Law and Business to our five in-house clinical programs, global and local combine with impressive results.

So, is it possible for a law school to support its community while making its mark on the international law landscape? To create strong networks in our own backyard and around the world? To be both global and local? The students, faculty, and alumni of Richmond Law answer that question with a resounding yes.

Whether at home or abroad this summer, wherever your travels may take you, we are with you in spirit and proud of your accomplishments, just as we hope you are proud as we share ours.

My best wishes for an enjoyable summer.

Wendy Perdue
Dean
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Buon giorno, studenti

Richmond Law students are studying comparative employment law alongside law students in Milan, Italy

Dillon Taylor, L’16, transferred to Richmond Law last year for one key reason: to participate in professor Ann Hodges’ courses. “She’s really well-known in the labor law and employment law arena,” Taylor said.

Hodges’ class on comparative employment law, offered in the spring 2015 semester, was a natural fit. But this course had a unique twist: It was taught jointly by Hodges and Maurizio Del Conte, associate professor in the department of law at Bocconi University in Milan, Italy.

The set-up of the class is straightforward: Students gather at the same time in Milan and Richmond in classrooms fitted with audiovisual equipment and high-speed Internet connections. The students can see and communicate with each other in real time. The classes are taught in English, with a curriculum created by Del Conte and Hodges. It’s a concept known in academic circles as COIL — Collaborative Online International Learning — and this is the first such course taught at Richmond Law.

In the course’s final project, American and Italian students partnered to address a topic related to an imagined international merger, based loosely on the 2014 pairing of Fiat and Chrysler. “We want the students to have the opportunity to work together as much as possible,” said Hodges.

“The biggest takeaway is just seeing the United States employment law from a different perspective,” said Taylor. One example: the United States’ “at-will” employment policy, meaning that in most workplaces an employer can dismiss an employee for any reason. “That’s just mind-blowing to people from Europe,” said Hodges.

Teaching simultaneously on two continents had a few logistical challenges, such as snow days and spring breaks. Technical glitches, though, were minimal. Both professors plan to offer the course again during the fall semester, so another class of law students will have the benefit of what Hodges says is one of the primary values of the course: “Understanding how much law is intertwined with culture and history.”

—Emily Cherry
Pro bono certificates

A record number of graduates in the Class of 2015 earned the Carrico Center Pro Bono Certificate, which recognizes students who have completed at least 120 hours of pro bono service during their three years at Richmond Law.

Twenty-seven students earned the honor this year. Nearly 120 students have received the certificate since 2009, the first year it was offered, said Tara Casey, director of the Carrico Center.

Campus bookshelf

A memoir by an attorney that “will make you upset and ... will make you hopeful,” according to The New York Times, is the subject of the University of Richmond’s campuswide One Book, One Richmond reading program for the 2015–16 academic year.

In Just Mercy, Bryan Stevenson — who received a MacArthur “genius” grant and Sweden’s Olof Palme prize among other awards — offers an idealistic lawyer’s coming-of-age story, a moving portrait of those he defended, and an inspiring argument for compassion in the pursuit of justice. Kirkus Reviews calls it “emotionally profound, necessary reading.”

As part of the yearlong series of events and programs, the author will visit campus for a lecture in February 2016.

Recent accolades

In its analysis of American Bar Association data about the Class of 2013, National Law Review ranked Richmond Law in the top 20 in the nation for the percentage of graduates placed into clerkships with state judges.

“The legislative process is messy,” Hon. Robert A. Katzmann, chief judge of the U.S. Court of Appeals for the Second Circuit, told a group of students, faculty, and community members during a conversation with Wendy Perdue, dean. “I have no illusion about the difficulty of interpretive enterprise. All I’m saying is, I don’t want to give up on it.”

That, in a nutshell, is the position he stakes out in his new book Judging Statutes, in which he argues that judges must look at the legislative record behind a law, not just a statute itself, when rendering decisions.

Other judges, including Supreme Court Justice Antonin Scalia, have made the case for a text-based approach to statutory understanding — one that doesn’t take into account such outside sources, but relies solely on a strict interpretation of the statutory text at hand.

The danger of the textual approach to understanding statutes, Katzmann argued, is that “we inject our own preferences ... when the language is unclear.”

“When it comes to federal statutes,” he added, “we should not exclude something that can be helpful to us.”

For Katzmann, that means exploring all of the different components that go into informing that statute, including the statutory structure and legislative history.

Following the conversation with Perdue, Katzmann engaged in a question-and-answer session with faculty and students.

“Getting in legislators’ heads”

“The things that veterans need are not cool and sexy,” explained Greg Collins, L’15, a Marine veteran and Tillman Military Scholar, but that never stopped him from serving them.

From the time he arrived at Richmond Law, he worked to deepen sustainable ties between the law school and Richmond-area veterans. As president of the Veteran and Military Law Association, for example, he worked with Ed Simpson, L’14, to build a relationship with a local VA hospital, hosting pizza nights at its polytrauma unit and bringing veterans to campus for football tailgates. But he always sought opportunities to do more.

He found one when he partnered with Andrew Nea, L’66, the pro bono partner at Williams Mullen. Nea’s firm had developed a program to provide wills, powers of attorney, and advanced medical directives to low-income seniors. Together, they adapted it for veterans to create a program called Wills for Veterans. The firm provides support and attorneys, and students round out the volunteer team.

The benefit for law students is readily apparent. “These are real people with real needs,” Nea said. “You can, in a short time, really make a difference.”

Nicole Manning, L’16, comes from a military family and was one of six students who served 15 veterans at the inaugural session. These clients “serve us,” she said, “and anything I can do to help serve them is really close to my heart.”
Peer pressure

In a 2013 experiment, British researchers offered a nominal £10 bonus to subjects just for showing up. At the end, they asked these subjects to consider donating some or all of the bonus back to charity. Some participants made the decision privately, while others were made to talk about it with a fellow research subject.

Going public proved better for the public good, as participants who knew they would reveal their donation decision gave significantly more frequently and in greater amounts.

A similar dynamic might soon increase pro bono hours served by Virginia’s lawyers thanks to second-year law student Brittany Burns, who proposed, as part of a classroom assignment, that lawyers reveal how much unpaid, charitable legal work they do. The proposal “would require attorneys to report the hours of pro bono that they did,” she said. “It wouldn’t require attorneys to do pro bono, and there would be no penalty for reporting zero.”

Burns conducted her research during the fall semester in Public Policy Research and Drafting, a course in which Professor Tara Casey pairs each student with a nonprofit to develop a project. Burns partnered with the Greater Richmond Bar Foundation to develop hers.

“Without any sort of reporting and collection of this data, the legal aid community doesn’t really know what parts of Virginia need more help or what areas of the law need more energy and resources dedicated to them,” Burns said. “We’re kind of shooting in the dark with our pro bono efforts because there’s no benchmark to measure against.”

More than her professor have been listening. After the executive director of the Greater Richmond Bar Foundation saw her proposal, she arranged for Burns to present it to Virginia’s Access to Justice Commission, a body established by Virginia’s Supreme Court to promote equal access to justice.

Nine states have adopted similar requirements, and Burns believes Virginia may soon follow.

“Hopefully, something is adopted,” Burns said. “The costs are relatively low and the numbers [from other states] are promising.”
Muse Library’s new dean
Richmond Law’s strengths in intellectual property and technology are among the draws that brought Roger Skalbeck to campus as associate professor and associate dean of library and information resources, replacing Tim Coggins, who retired this summer.

Skalbeck comes to Richmond from Georgetown Law, where he developed a national reputation in technology and its use in law practices. He applied that thinking to law schools themselves, particularly their websites, developing an influential rating system with which he and a colleague ranked the websites of more than 200 law schools in a variety of areas, from design and organization to accessibility.

“One great outcome is that people actually read the recommendations and implemented many of them,” he said. “It helps improve the experience of people seeking information on law school sites.”

At Richmond Law’s library, he leads a team of library faculty who have become increasingly integrated into students’ curricular experiences, particularly through the legal writing program, which was redesigned two years ago. Among the changes was the creation of a five-member legal writing faculty and their close collaboration with library faculty.

He oversees an institution that is constantly adapting to new information technologies, as well as user habits and expectations.

“It’s not enough to have access to thousands of electronic resources,” he said. “Students need to know how to filter results and understand how to use them effectively.”

Skalbeck’s personal background includes an international perspective. In high school and college, he spent two years plus a couple of summers living in Austria and Germany, and he still keeps up with his German language skills through novels. He has also developed a taste for European-style strategy games (favorites include Agricola and Tammany Hall). “It’s a great way to spend time with friends around a table, eating pistachios and socializing,” he said.

Supreme Court cites Richmond Law scholarship twice
Twice in the term that just concluded, the Supreme Court cited scholarship from Richmond Law in its decisions.

In Johnson v. U.S., a case about whether the Armed Career Criminal Act was unconstitutionally vague, Justice Clarence Thomas cited “Partial Unconstitutionality,” a 2010 article by professor Kevin Walsh published in New York University Law Review, to help him argue in a concurring opinion against the majority’s application of the principle of due process to the case.

Quoting Walsh, Thomas wrote that courts in the early republic “understood judicial review to consist ‘of a refusal to give a statute effect as operative law in resolving a case,’ a notion quite distinct from our modern practice of ‘strike[ing] down’ legislation,” the approach for which Thomas argued in the case.

Justice Stephen Breyer, writing in dissent in Glossip v. Gross, a case about lethal injection drugs, quoted a Richmond Law Review article to support his broader argument that the death penalty is unconstitutional by any method.

Breyer quoted from “A Pink Cadillac, an IQ of 63, and a 14-year-old from South Carolina,” in which Mark Earley explained his changing views on the death penalty. “I have come to the conclusion that the death penalty is based on a false utopian premise,” Breyer quoted Earley, noting that Earley presided over 36 executions as Virginia’s attorney general from 1998-2001.
hen Pierre de Coubertin founded the International Olympic Committee in 1894, he saw sports as a universal language that could bring together people from all over the world. He wanted the Olympic Games to be a platform from which to teach the values of fair play.

In more recent times, however, as allegations of government corruption, staggering economic costs, and mass displacements of poor residents continue to arise, it can seem like the Games are anything but fair to the people who live in the shadows of the Olympic Village.

Corruption around the Olympics and other major international sporting events like the World Cup isn’t new, but what is new is growing international scrutiny of host countries. Much of this attention began in 1998 when it was revealed that International Olympic Committee members accepted bribes from the Salt Lake City bid committee in exchange for hosting the 2002 Winter Olympics. Rumblings of widespread corruption have continued, notably with the arrests of nine high-ranking FIFA officials and five sports marketing executives in May. Allegations of their corruption span two decades and involve more than $150 million in bribes and kickbacks for media rights.

During the 2014 Olympics in Sochi, Russia, allegations of corruption and bribery between government officials and construction companies, as well as human rights violations, seemed to get more press than any athletic feats. The $50 billion event was rife with construction delays and accusations of embezzlement, and the future use of many facilities remains unclear. Russia also suffered from a reinforcement of negative stereotypes in the media, as well as protests surrounding harsh anti-gay legislation.
At the same time, Brazil spent more than $11.5 billion in preparation for the 2014 World Cup. The country faced allegations of price gouging, mismanagement, and close relationships between politicians and construction companies, leading more than a million Brazilians to take to the streets and protest corruption and government cuts to social programs.

It’s no wonder many increasingly question the benefits of hosting. The desire to elevate a host’s standing in a global economy is undeniable, but one can’t help but wonder if countries do more long-term damage than good — financially, politically, and socially — when they sign on to host a major international event.

But Brazil and Russia make for interesting case studies as they each prepare for a second run on the world’s stage. Russia will host the next World Cup in 2018, but the anti-corruption movement hasn’t taken root there, leaving less confidence in credible domestic reforms. As Brazil prepares for the 2016 Olympic Games in Rio de Janeiro, however, government responses to corruption and resulting legal reforms are receiving attention for their efforts to change course.

This space between two of the world’s biggest sporting events is a golden opportunity for an anti-corruption law expert and law professor like Andrew Spalding. In a yearlong class, he worked with eight students to study corruption and bribery around major sporting events worldwide and make recommendations for how Brazil might restore credibility in its federal government.

“The brightness of the spotlight is undeniable,” Spalding says. “The whole world is watching. A country lines up at the starting line, and we see what they have.”

Corruption and bribery around major sporting events can take numerous forms — doping, ticket scalping, and corruption within governing bodies won’t even be covered here. For the purposes of his class, Spalding chose a rather simple definition: the abuse of public office for private gain.

Even this narrow focus covers a broad swath of corrupt behaviors. Spalding’s class looked at bribery in the procurement process and cozy relationships between Brazilian corporations and government officials. They evaluated enforcement strategies to see whether legislation has any weight beyond the paper on which it’s written. Slum clearing for construction projects raised human rights questions about police use of excessive force and compensation for those evicted. They also considered whether the International Olympic Committee’s demands of host cities reduce or exacerbate corruption.

Spalding’s idea was to spend the fall semester researching Brazilian and Olympic history. The spring semester would be an in-depth study, including a trip to Brazil, with each student producing a report on his or her area of focus with recommendations for countering corruption. Spalding would then spend six months compiling the student reports into a comprehensive recommendation.

At least, that was the plan.

Soon after the class started, the *Southwestern Journal of International Comparative Law* approached Spalding about contributing to an issue devoted to anti-money laundering and the 2014 Brazil World Cup. Spalding counter-offered, suggesting that he and his students write a paper on anti-corruption laws in the window between the World Cup and the Olympics.

That’s when the starting gun went off and Spalding’s leisurely study was dropped for a mad dash to the publishing finish. For the paper, Spalding and his students looked at Brazil’s triumphs in recent anti-corruption reforms and its remaining challenges. They also posed a number of research questions that the class would continue to explore throughout the year: What lessons did Brazil learn from the World Cup? Do the country’s recent statutes and enforcement actions signal a new era of combating corruption in Brazil? How will Rio de Janeiro compare to other recent Olympic host cities like Beijing and Sochi? Can the Olympic Games live up to its own ideals of fair competition and international cooperation?

The paper caught the eye of Leonardo Machado, a partner at Machado Meyer law firm in Brazil. Machado is the head of the compliance and corporate integrity department, which promotes anti-corruption efforts in the government and public sectors. He was looking for lawyers and experts in other countries who could share their experiences working in the anti-corruption space and might have recommendations for Brazil.

“[w]e need to have mechanisms that allow us to get the job done — the construction and the improvements,” Machado says. “And at the same time, make sure the businesses are doing things the right way.”

Machado offered his firm’s help with the class’s trip to Brazil, which included stops in São Paulo, Rio de Janeiro, and the Olympic Park in Barra. Machado Meyer assisted with everything from conference room space to coordinating meetings with federal prosecutors and the anti-corruption NGO Ethos, which is working to make World Cup and Olympic projects more transparent. These meetings, as well as interactions with
corporate lawyers, civil society organizations, academics, government enforcement officials, and Olympic governance organizations, created a complex look at the potential issues of corruption in Brazil, implementation of new procurement laws, and the intricacies of Brazilian federalism.

That federalist mindset is at the heart of many debates about how to address corruption in Brazil. The democratic government is only 30 years old, and after generations of living under dictatorships and authoritarian regimes, there’s a cultural aversion to centralized government. In response, Brazil has adopted a federalist approach that places primary legal power in the hands of states and municipalities, which can override even federal laws in some instances.

“Our were historically accepting of corruption are now starting to recognize it as harmful and a thing that the law can and should address. There was this tremendous sense during our interviews of Brazil being at a historic turning point and we were there to witness it.”

And that’s assuming that lawyers and judges even understand the law to begin with. Lawyers and academics have spent decades trying to interpret the young constitution and its implications for legal policies — and they’re not always in agreement.

“We were surprised by the lack of certainty or lack of clarity among sophisticated lawyers on what these new laws said and what they were going to do in practice, how they were going to be enforced,” Spalding says. “There was a very distinct sense that this is a very young democracy whose institutions are still taking shape and the players are acting in good faith, but we were witnessing the creation [of the government and laws].”

These tensions are common to many new governments. It takes time for laws to take shape. Then enforcement policies have to be enacted and agencies put into place. The United States went through similar growing pains, albeit without the pressures and rapid changes of the modern global economy.

“The U.S. had a lot of time to grow to where we are today, but Brazil is just in this very accelerated atmosphere,” says Carter Nichols, L’16, a student in the class. “It took a very long time to happen in the U.S., from the time our constitution was formed until the federal income tax system was passed in 1913, or any of the major anti-corruption laws that are pretty recent in U.S. history.”

It’s one thing to sit in a conference room and debate the history of legislation and its evolution. It’s quite another to see what a multibillion-dollar infrastructure project looks like. That’s why some of the students spent part of their week in Brazil walking the grounds of Olympic Park construction in Barra.

Construction of mega-facilities, like those required for the Olympics and the World Cup, raises questions of corrupt behavior between contractors and government agencies. It can also force issues surrounding the clearing of slums, or favelas as they’re known in Brazil. These slum-clearing projects result in forced evictions of poor families. They are supposed to be compensated, but it’s not always a clear process.

“A quarter of the people in Brazil live in favelas,” says Albert Flores, L’16, another student in the class. “The Olympics and the World Cup are an opportunity for Rio de Janeiro to clean those up. That’s a great thing in theory, but unfortunately there are plenty of incidences where police abuse their authority and the families being evicted aren’t getting paid enough money.”

There are also concerns that the large-scale construction projects exacerbate economic divides among citizens by taking public funds for much-needed services like water, education, electricity, and public transportation from poorer neighborhoods. In 2013, hundreds of thousands of protestors took to the streets in opposition to a 9-cent increase in bus fares. The protests quickly grew even larger and expanded to complaints about political corruption, high taxes, and poor-quality social services.
It may seem that Brazil’s progress is halting at best, but Spalding is quick to point out that there’s plenty of good happening, and that change is coming quickly and effectively. Protests put pressure on the government to take swift action and, while time will tell the effectiveness of these new laws, the act of passing them is a huge leap in the right direction.

The class’s interviews in Brazil also revealed, time and time again, that not only are the laws changing, but the culture is changing.

“People who were historically accepting of corruption are now starting to recognize it as harmful and a thing that the law can and should address,” Spalding says. “There was this tremendous sense, during our interviews, of Brazil being at a historic turning point and we were there to witness it. And not just to witness it, but to report on it.”

Enforcement policies in Brazil are changing dramatically, he continues, “and that’s a story we have to tell.”

Armed with a clearer understanding of Brazil’s challenges and successes, Spalding and his students aim to help Brazil do just that. Following their trip to Brazil, each of the students submitted a 10-page report documenting one area of Brazil’s anti-corruption initiatives and recommendations for how they might continue to expand those efforts.

Many recommended more clarity in what laws actually mean and transparency in enforcement — both processes and outcomes — while still respecting the culture of local and regional autonomy valued by so many Brazilians.

“Especially with how accelerated the issues are in Brazil, with their involvement in these major international sporting events and in the global economy, there’s a lot of uncertainty about what laws are going to apply, and what the law means and who’s going to be able to enforce it. That’s a corruption risk,” Nichols says.

“My perception is that, without a solid enforcement regime — not necessarily one that’s centralized in the federal government, but one that is very clear and precise about who is going to be enforcing these laws, and what the procedures and penalties will be — without a uniform system that’s clearly dictated, there’s room for people to work outside the bounds of the law.”

Spalding is now spending the next few months compiling the results into a final, comprehensive report that he will share with Leonardo Machado and the Machado Meyer law firm, anti-corruption advocates and NGOs like Ethos and Transparency International, and others interested in anti-corruption reform in Brazil. Their hope is the findings will be used to introduce changes that will last well beyond the closing ceremonies.

With all this talk of Brazil’s work to instill dramatic institutional reforms, it’s clear there’s potential for a lot of good to come from hosting events like the World
Cup and the Olympics. But as public costs race into the billions, and at the risk of government upheaval and exacerbating human rights issues, one still has to ask, is it even worth it?

For some countries, Spalding says, the answer may be no.

Consider Oslo, Norway, which entered a bid for the 2022 Olympics. It’s one of the least corrupt countries in the world according to Transparency International, it has a favorable position in the global marketplace, and the government infrastructure is strong. That left only economic considerations, but Norway’s citizens didn’t support the use of public funds to cover the infrastructure costs. Oslo was forced to withdraw its bid.

But Spalding isn’t as quick to dismiss the potential for nations like Brazil. If a nation can use the platform to establish long-term, positive institutional reforms and improve its standing in a global marketplace, it makes the endeavor worthwhile, even at an economic cost.

In fact, Spalding argues that a push to let developing countries host could give more countries the chance to take advantage of the global platform and follow in Brazil’s footsteps. It’s those countries that have so much more to gain than gold medals and shiny new buildings.

Spalding also sees the current anti-corruption movement as a moment of historic significance in the history of the Olympics. He describes other times when social or political action far outweighed any competition on the fields. There was 1936 in Berlin, when Jesse Owens, an African-American track and field athlete, won four gold medals in the shadow of the Nazi regime. Or 1980 in Lake Placid when, as the Cold War was reawakening, the U.S. men’s hockey team defeated the six-time gold-winning Soviets.

Spalding believes this period of anti-corruption reform is yet another crucial moment, when the meaning of the Games will transcend the games. These debates are a chance to highlight, in yet another way, Coubertin’s Olympic founding belief in the power of sports to teach a global lesson in the values of fair play.

“The physical infrastructure is not the most important legacy of the Games,” Spalding says. “It’s the legal and cultural infrastructure. The Olympics can be an occasion to take an honest look at governance and implement reforms.”

“The legacy of the Rio de Janeiro Olympics for Brazil’s government, law enforcement, and anti-corruption enforcement is almost certainly going to be positive — not incrementally, but in a dramatic, historically important way.”

Kim Catley is a writer at the University of Richmond. She’s always been a casual observer of the Olympics and World Cup, but will be following along a little closer in 2016, thanks to this story.
The collapse of state authority and rise of ISIS in Syria reveal gaps and challenges to international law. To better understand the issues that the situation in Syria raises, we sat down with associate professor Chiara Giorgetti, author of *A Principled Approach to State Failure: International Community Actions in Emergency Situations*.

Interview by Matthew Dewald
You’ve studied state failure extensively. What defines a failed state?

There is no legal, internationally agreed upon definition of what a failed state is, which is part of the challenge. The Montevideo Convention says that to be a state you must have a defined territory, a defined population, a government, and the capacity to enter into international relationships. But the rules are confined to making you part of the club, not getting you out of the club. Once you are a state, you are a state.

So failed and failing states are more of a political category, something the international community has come to understand as states that cannot fulfill the social contract. These states cannot provide basic rights and services to their populations, nor can they play their role in the international community.

Generally speaking, what challenges do failed states pose for the rest of the international community? For their own people?

One is the development of terrorism and other severe security threats. Al-Shabab, the extremist terrorist organization in Somalia, affiliated with al-Qaida, has been able to become so strong in Somalia, even also threatening Kenya, because Somalia lacked a strong government and was unable to stop its growth.

Failed states also don’t participate in the international community in general. So, for example, think about commercial flying. Every country has the legal responsibility to control its air space, but a failed state cannot do that.

There can also be health repercussions. You’ve seen Ebola, right? One big concern was that the health systems of the countries affected were quite weak, but at least they had an infrastructure. A failed state cannot give warnings about possible health emergencies.

They also can’t control their borders, which means they are susceptible to piracy, as we saw in Somalia, and the illegal trafficking of people, drugs, and arms. These are all dangers when the state cannot fulfill its international obligations.

The citizens in failed states don’t get their part of the state bargain. The entire human rights infrastructure operates through the idea that states guarantee rights to their own people. The populations in failed states suffer humanitarian and development deficiencies. Typically, economic development is very low. There is no schooling, no health system, no physical or even legal infrastructure, no roads, and such.

Kobane, Syria, March 2015
Let’s turn to Syria, which seems to be falling apart. Is it more like a failed state than not? Failed and failing states exist on a continuum. Implicit in the notion of state is this notion of territorial integrity. In the case of Syria, you have some areas that are under the control of the central government and some areas that are not. You may not like the central government but it’s a government, so Syria as a whole is not a failed state. The Syrian state still has a lot of power. It still participates in the international community.

Areas where the government has lost control are closer to meeting the definition of a failed or failing state. One thing to consider when you think about state failure is that the entire state does not have to have failed. Part of it can be failed and part of it not.

ISIS claims it has set up a new state in the areas that it controls. Obviously, no one is about to recognize it. Is statehood a legal question, or is it purely diplomatic?

There is no legal obligation to recognize a new state. The Montevideo Convention doesn’t say you have to recognize a new state, nor are there consequences to other states for not doing so. Theories on recognitions are broadly divided into declarative theory, which provides that recognition is merely a declaration that does not influence the existence of the state, and the constitutive theory, which holds that recognition is required to be considered a state.

But in the case of ISIS, the real question is what is a state? ISIS controls territory and calls itself a state. Around the world, there are a lot of insurgent movements asking for recognition, and some of them have control of a small, defined territory, like Somaliland. But ISIS is in a whole different category because of its very dangerous politics and the fact that it’s a very violent group. There is an urgency to try and stop ISIS because of the danger it poses both in the territory that it controls and to the wider international community.

What really makes you a state in the sense of being recognized as a player internationally is admission to the United Nations, which is a legal process. It’s also political, but it has legal provisions. You have to go through the General Assembly and then the Security Council. The Security Council is the body that finally admits countries, but tensions exist within the United Nations and within the Security Council.

What are some of the other challenges to international law that the conflict in Syria poses?

There is the important issue of whether there is a duty to intervene to protect people who are suffering. The responsibility to protect has been recognized as an important guiding principle by the international community, including the United Nations. The secretary-general has issued a big report about it. The idea is that the responsibility to protect people lies first with the state itself and then with the international community. It is not an obligation, though some argue it should become one. But it’s not at the moment.

Do you mean a legal obligation or a moral one? I’m noting the difference. There might be a moral duty to protect, but there is no legal duty. As international law now stands, a state has to call on you to intervene within its borders. If Syria says, “OK, come help me,” then the international community can go. But if Syria doesn’t call, then they can’t go. It’s all based on the idea that states decide what happens within their borders.

That’s the difference between international involvement in Iraq and Syria, then? The Iraqi government has asked for intervention. Exactly. It’s all state-based.

On the main page of its website, the International Criminal Court lists nations in which there are “situations under investigation” or where the ICC has begun “preliminary examinations.” Syria is conspicuously absent from either list. Why?

This is a question about jurisdiction. The jurisdiction of the ICC is limited by the Rome Statute, which created it. The statute provides that the ICC can act if a certain crime is committed in the territory of a signatory country or by a national of one of these countries. Under very specific cases, the Security Council can ask the ICC to investigate a situation, which has happened twice, in Sudan and Libya. The problem with Syria is that they haven’t signed the Rome Statute.
But aren’t some crimes so horrific that they supersede any state jurisdiction?

This is a very interesting question. The question is this: The crimes exist, but who has the jurisdiction to prosecute them? This is a huge distinction. We say that the core crimes of international humanitarian law are genocide, crimes against humanity, and war crimes. The international community has decided that these are horrific and always against the law. But what does it mean to say that these are against the law? It doesn’t mean that the ICC has jurisdiction.

There is another way in which jurisdiction can be attached, and that’s universal jurisdiction. This was used by the Belgians for a period of time. They said that regardless of where a crime was committed, or by whom, or who the victim was, some crimes are so horrible that any court should have the right to investigate and prosecute. But it’s very limited. Only the Belgians and, to a certain extent, the Spanish have decided to use it.

That gets us to another question. In Syria there are plenty of foreign fighters, many of them coming from the West. Do they have a different legal standing than Syrian fighters?

Again we see the difference between the crimes themselves and the question of the ability to prosecute them (the question of jurisdiction). For example, let’s take a British citizen who goes to Syria and commits horrible crimes. He could be prosecuted by the ICC because the UK has signed the Rome Statute. But at the ICC there is also the principle of complementarity. This means the ICC will prosecute only if domestic courts won’t or can’t do it. It would be expected for a British citizen to be prosecuted in Britain first.

So what about the Syrian citizen?
The Syrian could not be prosecuted under the ICC because Syria hasn’t signed the Rome Statute, unless there is a Security Council resolution, which is unlikely. Of course, the Syrian could be prosecuted by Syria later or be prosecuted under universal jurisdiction in domestic courts by the Belgians or whomever.

Does that mean that a British fighter committing international crimes in Syria is in greater legal jeopardy than a Syrian national?

Yes. Or let’s say that the legal system provides more avenues for prosecuting the British citizen. The term “jeopardy” sees the situation from the offender’s point of view.

It is possible that once fighting concludes, there might be some form of a tribunal or a truth commission constituted to investigate the crimes. Very often when fighting terminates nowadays, you have the establishment of a truth and reconciliation commission or some form of international or semi-international tribunals that try to find out what happened and sometimes prosecute. In Rwanda, it was interesting because you had the International Criminal Tribunal for Rwanda, but then you had a lot of prosecutions in Rwanda itself and a unity and reconciliation commission. Just because things are not happening now in Syria doesn’t mean they won’t happen in the future.
CALL OF DUTY

Carlos Hopkins, L’96, had never met Virginia Gov. Terry McAuliffe, but that didn’t stop him from answering a call to serve as his chief legal adviser.

By Paul Brockwell Jr.
Photograph by Jamie Betts

Carlos Hopkins was quite content at his desk in city hall. With an impeccably ironed suit and impossibly perfect bow tie, he surveyed a desk covered in orderly stacks of paper. In the few months since he started as a deputy city attorney for Richmond, he’d managed to assemble a good team and began to see movement on fixing some of the city’s tax and delinquent housing issues. He was getting into a good groove.

And then, the phone rang.

On the other end, he heard the voice of an old friend, Jenn McClellan, ’94. He’d known McClellan since she recruited him to volunteer at a mock trial in the late ’90s. Both were young lawyers starting their careers in Richmond. The two can’t remember whether he was a judge or an attorney, but for both, that’s where their nearly 20-year friendship started.

“One of my fondest memories of Carlos is the time we went around putting up Chuck Robb signs during his final campaign in 2000,” McClellan says. “The work is pretty tedious and tiring, especially late at night. But even at 1 a.m., Carlos makes stuff like that fun — he can find humor in anything and keep everybody entertained.”

Together they co-chaired the Metro Richmond Area Young Democrats. They’ve canvassed and worked countless Democratic races. As both became parents, they watched each other’s kids get older and take their first and next steps. All of that’s to say that even with a rich personal history, McClellan’s modest proposal — ok, so maybe it wasn’t all that modest — still seemed out of the blue. McClellan was calling Hopkins as chair of the transition team for Terry McAuliffe, who’d just beaten Republican Ken Cuccinelli in the Virginia governor’s race.

“Would you be interested in coming to work as counselor to the governor-elect?” she asked.

McClellan didn’t know whether Hopkins, known to his friends as ’Los, would say yes to hearing more, but she knew him as a man whose career in civilian and military law showed that, when it came to public service, he had rarely, if ever, said no.

“He’s just a solid, steady person,” says David Hicks, a former Richmond commonwealth’s attorney who recruited Hopkins to work as a prosecutor early in his career. “He has an incredible sense of duty and responsibility. I met him when he was younger, and he was mature beyond his years. He’s probably just now catching up in age with where he was back then.”

Duty is a core value that was instilled in Hopkins from a very young age. His father served in the military, and his mother, a civilian, moved with him from base to base. But his parents were so committed to stability for Hopkins and his younger brother and sister that they wanted their children to be raised in one place by family in their hometown of Columbia, S.C.

“We weren’t the traditional military brats who would relocate every three years with our parents,” Hopkins says. “They wanted us to have one location to be raised in, to go to school in, so we stayed in Columbia.”

His grandparents and aunts became important in his life, raising him and instilling a deep appreciation of family and the quiet pride that comes in taking care of your kin.

“I never had to look outside my home for a mentor,” Hopkins says. His father was a sergeant major in the Army. His grandfather, a dairy worker, was up at 4 a.m.
and came home after the sun set for more than 40 years. His grandmother is still the woman he’ll call for advice and help working through tough personal issues.

His aunt, Jestine Goodwin, talks about a young boy who was quiet, determined, and resilient. An overcomer. Their family grew up in the modest Edisto Court neighborhood in Columbia, S.C. “Carlos defied the odds of everything that said if you’re from this area, you won’t make it,” Goodwin says.

“We didn’t consider ourselves poor,” Hopkins says. “But we certainly weren’t wealthy either.”

Hopkins became the first in his family to go to college, attending the Military College of South Carolina — more widely known as the Citadel — on a full academic scholarship. When he graduated, two parallel tracks began: He was commissioned a second lieutenant in the U.S. Army, and he began studying at Richmond Law. He followed his parents and grandfather in the tradition of military service while adding a slight twist — the law.

“He will say things that need to be said, even if that’s not necessarily what someone wants to hear.”

— Del. Jenn McClellan, ’94

of military service while adding a slight twist — the law.

“I saw the law as an opportunity to help folks and to do it within the court system.” Hopkins says. “I didn’t have an a-ha moment, but it just felt right.”

Shortly after graduating law school, he left the ready reserve of the Army for a judge advocate position with the Virginia National Guard. Since then, he’s served in a range of positions both as a civilian and a guardsman.

After a brief stint at a small insurance defense firm, Hopkins was recruited by David Hicks to become an assistant commonwealth’s attorney for Richmond. Hopkins worked there nearly a decade, becoming one of Hicks’ deputy commonwealth’s attorneys before leaving in 2005. He then briefly opened his own practice before becoming the director of training for Virginia’s indigent defense commission. From criminal defense, he transitioned back to civil defense when he joined the city attorney’s office. In his heart of hearts, he’s a litigator.

“Probably the thing that makes me proudest of Carlos is that I’ve never seen him give up,” Hicks says.

“He’s tried new things, and if it didn’t work he tries something else.”

His legal career in the military included a year as chief of Military Justice for Joint Task Force Guantánamo, where he coordinated and supervised the application of the Uniform Code of Military Justice to members of the armed services stationed in Cuba. His office handled disciplinary matters involving U.S. troops as well as all investigations involving detainees and service members assigned to the task force.

Simply put, declining a request to serve the governor is not easily or often done. His first interview led to another with the chief of staff, and then finally with McAuliffe himself. Soon, Hopkins had said yes to the offer to serve at the pleasure of the governor and was packing up his city hall office to move across Broad Street to the Patrick Henry Building on Capitol Square.

Being counselor to the governor entails an interesting mix of duties. Hopkins is the primary legal adviser to the governor and his chief liaison to the attorney general and the Supreme Court of Virginia.

“At any given moment, anything may rise to the level that the governor needs to know about,” Hopkins says. “And you need to quickly become an expert in that field or at least knowledgeable enough that you can provide appropriate guidance. You could find yourself discussing anything from Medicaid and the relationship between the state and the federal government to the legal issues involved in the same-sex marriage debate or the constitutional authority of the governor in emergency situations.”

The governor’s office oversees 12 secretariats and dozens of state agencies. And that doesn’t include the various executive boards and commissions and constituent services the office interacts with. The everyday demands of the office include pardons and extraditions, executive orders, agency regulations — all of them part of the mix of sticky wickets landing on his desk, usually with a fast turnaround and a host of implications to consider. In the event of death row cases, Hopkins runs point on the governor’s review of clemency petitions. He’s the governor’s short-stop for anything with legal ramifications.

The workload is seemingly infinite. For that reason, it’s a role usually occupied by someone very close to the governor, someone who has been through thick and thin with the candidate. Part of what’s remarkable about Hopkins is that he had never met McAuliffe until his final interview for the job. Friends say that is a testa-
ment to his character and a strength he has for the job.

“He will say things that need to be said even if they’re not necessarily what someone wants to hear,” says McClellan. “That’s one of many reasons he was a good fit for counselor. We needed someone who wouldn’t be intimidated by a big personality or the office.”

The job can be tedious and tiring and serious. Hopkins has to anticipate the effect of existing law on policy proposals of the governor and to recommend potential changes to law and executive branch policies. He’s one of the last stops in the legislative process.

During the legislative sessions, his days are slam-packed with review of the nearly 2,500 bills introduced each year in the Virginia General Assembly.

His role as the governor’s counsel differs subtly from that of the attorney general, who is the state’s chief lawyer. Much like the relationship of White House Counsel to president, Hopkins operates as an important intermediary, focusing on the governor’s policy objectives and evaluating the legal and regulatory implications on them from existing state and federal law. He says the work requires most of the general skills needed when advising a client. But the big difference is that his client happens to be the elected executive of a state. And the issues can have a systemic impact beyond a single person or business.

“To rise to the level of being counselor to the governor is an incredible feat,” says David Hicks says of Hopkins. “It’s not just because a person is super smart. It’s really because you have a balance of experience and perspectives that allows you to give you proper counsel to a chief executive. Interestingly enough, some of the career paths, when they aren’t as straight of a line, prepare you better for positions like that.”

Hopkins continues to serve in the JAG corps. Today he’s a deputy staff judge advocate and a lieutenant colonel in the Virginia National Guard, a commitment, he says, that is deceptively more time-consuming than it sounds. In addition to his day job with the governor’s office, he also manages a team of military lawyers for the guard. Supervising their work is an effort that often involves mission creep outside of the proverbial “one weekend a month and two weeks a year.”

Of the many types of law that Hopkins has practiced, he says he finds prosecution the most fulfilling — his current job excluded, he quickly adds.

Just like his days with the city prosecutor, he’s still juggling multiple issues with various due dates. He had good training on how to manage a calendar and multiple, often competing priorities, so this job wasn’t a baptism by fire. Hopkins also says the other benefit of having experience in many different areas of the law is that you quickly learn to control your emotions and see an issue from every side. Prosecution still holds a strong place in his heart because of the potential for some systemic change.

“I can see where folks come into the system and don’t expect to get a fair deal,” he says. “I felt like, as an African-American prosecutor in a predominantly black city, I had the opportunity to show that wasn’t always the case — that we can have a system that’s fair to everybody.”

As a prosecutor, he says, you have access to systems and people to help correct areas of concern and to make changes across the board rather than one client at a time.

“I enjoy my current job for that same reason,” Hopkins says. “I have the opportunity on a statewide level to assist the governor in promoting his agenda on behalf of helping all Virginians.”

Paul Brockwell Jr. is section editor for Richmond Law magazine and a writer and editor in University Communications.
Azizah al-Hibri was recognized by the House of Representatives for her lifetime of support and advocacy on behalf of human rights. Her new book, *Islamic Worldview: Islamic Jurisprudence, An American Muslim Perspective, Vol. 1*, was published by the American Bar Association.

Stephen Allred’s article “Not My Job: Determining the Bounds of Public Employee Protected Speech” was published in *Labor Law Journal*.

The Virginia Bar Association honored Margaret Bacigal with the Robert E. Shepherd Jr. Award for her outstanding work in child advocacy.

Paul Birch’s article “Of Valentines, Diamonds, Emeralds, and Peanuts” explores the nature of “heart balm” torts in the February issue of *Virginia Lawyers Magazine*.


Governor Terry McAuliffe appointed Henry Chambers to a sub-panel to study law enforcement technologies. Various media outlets interviewed Chambers about gerrymandering and financial gifts to politicians.

Timothy L. Coggins, who retired in June, is the recipient of the Marian Gould Gallagher Distinguished Service Award, given by the American Association of Law Libraries. “Tim is one of the finest library directors in the country and has built a truly outstanding law library for us here,” said Wendy Perdue, dean.

The National Law Review highlighted Chris Cotropia’s article on higher rates of citation for female legal scholars. Cotropia also co-wrote an article on the patent “troll” debate and was interviewed by Bloomberg Radio about a Supreme Court patent case.

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Joel Eisen contributed a chapter to the book *Research Handbook on Climate Change Mitigation Law* and has been invited to contribute a chapter to a book on energy policy. Eisen published several articles on the Center for Progressive Reform’s CPRBlog, and he gave the keynote address at the 19th Annual Ohio Energy Management Conference.

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John Douglass’ article “Death as a Bargaining Chip: Plea Bargaining and the Future of Virginia’s Death Penalty” was published in *University of Richmond Law Review*.

Slate and Yahoo News interviewed Jim Gibson for articles about streaming service copyright issues. Gibson also contributed a post on fair use to the Media Institute. He gave a presentation on trademark law at the International Trademark Association Academic Day and a presentation, with Corinna Lain, on the death penalty at the Kenan Institute for Ethics at Duke Law.

Chiara Giorgetti’s article “Using International Law in Somalia’s Post-Conflict Reconstruction” was published by *Columbia Transnational Law Journal*. Giorgetti was co-chair for the American Society for International Law Conference and a panelist at a George Washington Law confer-
ence on state oppression and violence against minorities.

Meredith Harbach presented a session on children and the law at an Association of American Law Schools Annual Conference.

Mary Heen’s article in Georgia Law Review, “Non-discrimination in Insurance: The Next Chapter,” was featured on the Feminist Law Professor Blog and made its way to the Social Science Research Network’s top-10 list of downloads.

Media outlets including The New York Times, The Wall Street Journal, and The Dallas Morning News turned to Ann Hodges for expertise. In addition, Hodges’ comparative employment law class, taught jointly with Maurizio del Conte of Bocconi University in Milan, was featured in the Italian newspaper Universitetime.

Corinna Lain’s article “God, Civic Virtue, and the American Way: Reconstructing Engel” was published by Stanford Law Review, her article “The Politics of Botched Executions” was published by University of Richmond Law Review, and her article “The Highs and Lows of Wild Justice” was published by Tulsa Law Review. Lain testified before the Virginia General Assembly on a bill involving the death penalty and was quoted by multiple media outlets on that subject. For Richmond Times-Dispatch, she co-wrote an op-ed with Kevin Walsh on Virginia’s lethal injection secrecy bill. Along with Jim Gibson, she addressed the Kenan Institute for Ethics at Duke Law.

In an article from the Center for Public Integrity, Julie McConnell weighed in on news that Virginia tops the nation in sending students to law enforcement agencies.

Shari Motro’s article “Scholarship Against Desire” was published by Yale Journal of Law & the Humanities. She presented the article at Oregon Law and spoke at the Association for the Study of Law, Culture, and the Humanities Conference in Washington, D.C. Motro’s article “Americans Are ‘Internationals,’ Too” was published by Inside Higher Ed.


Jack Preis's article on federal causes of action was deemed a “must read” in a review by JOTWELL. Preis was quoted in a Sputnik News article on police

**FACULTY PROFILE**

**Acting, preaching, teaching**

**Christopher Corts**

From the stages of New York to the classrooms of Richmond, Christopher Corts’ career path could certainly be labeled unconventional. The entertainment industry veteran joined the Richmond Law faculty in 2013 as one of five full-time legal writing professors, part of the school’s redesigned skills program for first-year students.

Corts’ first career included stage work, soap operas, and commercials. But while living in California between projects, he decided to mix things up a bit by enrolling in Fuller Theological Seminary. As it turned out, the ethics, justice, and philosophy issues he explored while pursuing a masters in theology transferred well to his next professional step, the legal profession.

“I thought law would be a way that I could be engaged in these issues and try to do things in the world that matter to people’s lives in tangible ways,” said Corts.

Corts received his J.D. from the University of Virginia in 2011 and became an associate at Carlton Fields Jorden Burt in Miami, Fla., where he focused solely on appellate cases — “one of the few practices that allows you to really be a generalist,” he said. After two years in Miami, the opportunity for a teaching position at Richmond Law was too good to pass up.

The performance and creative aspects of the position appealed to him. Plus, he had experience serving as a teacher’s assistant for legal research and writing in law school. “The ability to reach 1Ls and to be involved, not just as a teacher but as a mentor … is incredibly gratifying,” he said. It’s a passion that transfers well to his position at Richmond Law.

What strikes Corts most about his career journey is not so much the differences in his areas of interest, but their similarities.

“To me,” said Corts, “these three different disciplines, they’re all finding ways to help people cope with the terrors, the thrills, the challenges of human existence.”

—Emily Cherry
force and was a speaker at the LegalED’s annual Igniting Law Teaching conference.

**Emmy Reeves** was one of three Richmond Law speakers at the LegalED’s annual Igniting Law Teaching conference.

**Kimberly Robinson**’s book *The Enduring Legacy of Rodriguez: Creating New Pathways to Equal Educational Opportunity*, co-written with Charles Ogletree, was accepted for publication by the Harvard Education Press.

*The New York Times* featured **Noah Sachs’** research on India’s new energy-efficient program in a story, and his op-ed “Upgrade our drinking water protections” was published by *Richmond Times-Dispatch*. Sachs was also quoted in articles in ThinkProgress.com and *The Hill*.

**Tamar Schwartz** presented at the Legal Writing Institute Capital Area Legal Writing Conference with Rachel Suddarth.

**Andy Spalding** co-wrote an article for the Brookings Institute, “Freedom from Official Corruption as a Human Right.” He also wrote several posts for the FCPA Blog about Brazil and was one of three Richmond Law speakers at LegalED’s annual Igniting Law Teaching conference.

**Rachel Suddarth** was quoted by *Richmond Times-Dispatch* and *Virginia Business* in articles regarding the Health Diagnostic Laboratory anti-kickback settlement. Suddarth also presented at the Legal Writing Institute Capital Area Legal Writing Conference with Tamar Schwartz.

**Peter Swisher** offered expert testimony for a case in Australia dealing with a wrongful death aviation insurance lawsuit.

**Mary Tate** participated in a workshop at Yale regarding new federal clemency petition guidelines. She was also quoted extensively in an article on TheAtlantic.com about North Carolina’s Innocence Commission and was published in *University of Richmond Law Review*.

**Carl Tobias** was quoted by multiple news outlets, including *The New York Times*, *Los Angeles Times*, *The Wall Street Journal*, *The Washington Post*, *The Philadelphia Inquirer*, Bloomberg, CNN, and Politico. He addressed such topics as the Supreme Court’s decision on same-sex marriage, the confirmation of a new U.S. attorney general, Obama’s immigration plan, and the plan to close Sweet Briar College. In an op-ed in *The Washington Post*, he wrote about a vacancy on the Virginia Supreme Court.

In a debate at the National Press Club, **Kevin Walsh** and Frederick Gedicks debated issues related to religious freedoms for corporations. Walsh co-authored an op-ed in *Richmond Times-Dispatch* with Corinna Lain on Virginia’s lethal injection secrecy bill and testified before the Virginia General Assembly on a bill involving the death penalty. Walsh was quoted by several media outlets, including *The Virginian Pilot*, *Catholic Herald*, *Richmond Times-Dispatch*, and Politico, and published a number of posts on the Mirror of Justice blog.

### New faculty

**Ashley Dobbs** joined the Richmond Law faculty as assistant clinical professor of law and director of the Intellectual Property and Transactional Law Clinic. A 2005 graduate of Richmond Law, Dobbs was a shareholder with Bean, Kinney & Korman in Arlington, Va., practicing in the areas of intellectual property and business transactions.

**Roger V. Skalbeck** joined Richmond Law as associate professor of law and associate dean of Library and Information Services. Skalbeck succeeds Tim Coggins, who retired this summer. Skalbeck comes to Richmond Law from the Georgetown University Law Center, where he was associate law librarian for Electronic Resources and Services.

**Allison Tait** joined the Richmond Law faculty as assistant professor. She earned both her J.D. and Ph.D. from Yale and was a research scholar and associate-in-law at Columbia Law School. She will teach Wills and Trusts and Wills Drafting.
Since she was a child, Christina Sorenson, '15, knew one thing with certainty: She wanted to help children in foster care. “That was why I went to law school,” said Sorenson, “because I really wanted to give back to foster kids and represent them.” As a child in the foster care system, Sorenson lived in 14 different homes in nine years, experiencing the full spectrum when it came to the quality of care.

“I wanted to make sure that I could, even in law school, be doing child advocacy,” she said. The clinical programs were a large part of her training. She enrolled in two semesters through the Children’s Defense Clinic, working closely with professors Adrienne Volenik and Julie McConnell — “two of my most amazing inspirations,” said Sorenson. Through the clinics, she worked hands-on with clients on issues of child welfare. “It’s been really amazing because I’ve been able to advocate for children and fulfill that dream,” said Sorenson.

During the summers, Sorenson sought opportunities to further her experience. In 2014, she took part in the Bergstrom Fellowship through the University of Michigan, which specializes in child welfare. And at the Cook County Public Guardian’s Office in Chicago that same summer, she worked as a child advocate.

After taking the bar in July 2015, Sorenson will start a clerkship in Delaware through the Unified Family Court, an opportunity that she describes as the perfect next step. “It’s a very prestigious placement to land,” says Tara Casey, director of the Carrico Center for Pro Bono Service. Sorenson put together a policy memo for Casey’s class on the special education needs of children in foster care.

After her one-year clerkship in Delaware, Sorenson plans to seek out work in the child advocacy field. “Unfortunately,” explained Sorenson, “it is against all the odds [for foster children] to succeed.” But she has a theory that explains her own accomplishments and progress so far. Sorenson discussed the concept of success with another student who came from the foster care system: “The thing that we shared is that we both have this idea or goal,” explained Sorenson. “I knew I wanted to do something to change the foster system.”

She used her law school experience to do just that. “I think when you have some sort of purpose that’s larger than yourself, you can get through obstacles,” said Sorenson.

— Rina Van Orden, '15, and Emily Cherry
Guantánamo diaries
2L joins the ‘flying circus’ of military justice in the 21st century

Getting to Gitmo isn’t easy.

Malcolm Savage, ‘16, was nominated three times to go with a group from the National Institute for Military Justice before he boarded a charter flight at Andrews Air Force Base in January. On board were judges, lawyers, and journalists coming down for the hearings four hours, and yet an entire world, away.

Savage put in time researching and writing a paper under the guidance of retired faculty member John Paul Jones, who sponsored him with National Institute of Military Justice, the only NGO with a permanent spot at the tribunals. Even when the institute was ready to send him, trips got cancelled without explanation, slots were taken, and folks hoping for a glimpse at a highly secretive process and detention facility were left in the lurch.

But January marked an end to all of that suspense. Savage spent a week at Camp X-ray, observed four days of court sessions, and met with the chief prosecutor and defense attorneys for detainees.

“It was good to get my head out of the books,” Savage said. “It was very enlightening to hear a career Marine lawyer talk about how it’s impossible for his client to get a fair trial and the court is clearly rigged for securing convictions. I would expect him to zealously defend his client but the fact that he was so outspoken about it was pretty wild.”

Savage says his stint with the so-called flying circus of lawyers brought down for hearings helped him make his research on the topic much less abstract.

“There’s a sense that this type of military commission system is likely going to be used again,” Savage said, “and we might as well hash out all these novel legal arguments and constitutional questions to prepare for future prosecutions in future wars. It’s really a noble effort.”

Students learn from McDonnell sentencing

Three Richmond Law students had the chance to observe history in February when a federal judge sentenced former Virginia first lady Maureen McDonnell to prison on corruption charges.

For second-year law students Amy Braun, Liz Tyler, and Chris Keegan, the experience was both emotional and enlightening.

“I felt like I was changing as I was sitting there because I was looking at part of it from a very analytical point of view,” Keegan said, “and then all of a sudden somebody would say something that struck me that this is a real person and this sentencing is going to have a profound effect on them.”

Tyler, Braun, and Keegan are all John Marshall Scholars and attended the sentencing as part of the scholarship program. Before the hearing, professor and former prosecutor John Douglass spoke to them and provided a brief summary of the federal sentencing guidelines, as well as an overview of sentences handed down to public officials in high-profile corruption cases.

“It’s nice to be sitting in that room and not talking about what happened 100 or 200 years ago but what’s happening in legal history right now,” Tyler said. “I was glad that the program responded to our interest.”
Bench press

Shortly after the plaintiff left the witness stand, he sat down and began gasping for breath.

The case was a fairly nonchalant unlawful entry trial, but as the defense attorney began his statement, it became clear the victim was in medical distress. Someone began waving his hands to get the attention of the judge.

“We cleared everybody out of the courtroom and went back to see how he was doing,” said Thomas Kelley, L’81, the presiding judge of the Arlington County, Va., General District Court. “He had a pulse I’d describe as weak, and then he didn’t have a pulse.”

Kelley and three sheriff’s deputies laid the victim on the ground and began administering CPR. Kelley handled chest compressions while one of the deputies provided rescue breaths.

“We did it for what seemed like a long time, but it was probably between 5–10 minutes,” Kelley said. “You sort of take the fire department for granted. By the time we thought to ask someone to grab the defibrillator from the hallway, the rescue crew was in the lobby.”

The crew quickly assessed the situation and asked the judge and his deputies to continue while the EMTs set up for the transport.

“Later that afternoon, I got a message from the emergency room,” Kelley said. “I wasn’t sure what it was going to say, but it said we had saved his life.”

Kelley tried to go visit the man who had the heart attack in his court. But four days later, he had already been discharged. About three weeks later, he came by the courthouse to thank Kelley and his deputies. “George,” as ARLnow.com identified him, has no memory of what happened but fortunately has not suffered long-term side effects.

Kelley handled chest compressions while one of the deputies provided rescue breaths.

Later that afternoon, I got a message from the emergency room,” Kelley said. “I wasn’t sure what it was going to say, but it said we had saved his life.”

Spider vs. Spider

No matter who wins the election, the next commonwealth’s attorney for Madison County, Va., will make Richmond Law proud.

Former Culpeper, Va., defense attorney Clarissa Berry, L’07, announced in January that she would run for the office. She will vie with interim Madison County commonwealth’s attorney Jim Reid, also L’07, in the election this November.

The two aren’t strangers.

“We were friends in law school, and we’ve been friends,” Berry says. Reid has worked for eight years as an assistant in the Madison County top prosecutor’s office, and Berry has worked as an assistant commonwealth’s attorney in neighboring Orange County.
We want to hear from you. Send us your note via the “Submit a Class Note” link at lawmagazine.richmond.edu, email us at lawalumni@richmond.edu, or contact us by mail at Law Alumni, University of Richmond School of Law, University of Richmond, VA 23173, or at 804-289-8028.

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ALUMNI PROFILE

Reel determined
Ramona L. Taylor, L’00

When Ramona Taylor separated from her husband, she quickly learned how difficult it can be for a woman without means to get legal services. So she went to a legal library, researched, and presented her own case. Impressed, the judge suggested she apply to law school.

The judge’s advice was easy to hear, but hard to take. Taylor had grown up on a pig farm in rural Georgia, where her parents taught her hard work and persistence. Neither had gone to college, but both stressed the value of education. Taylor went on to earn a bachelor’s in political science from Duke and was eyeing law school, but then came the ill-fated marriage. Soon she had a baby, too.

“I thought, ‘I’ll wait till she’s 2,’” Taylor says now. “Then I had another. And another.” Then her sister, who is disabled, moved in with her — bringing her infant daughter.

But the judge’s advice was also the push she needed. “I had all these people to care for,” she says. “I wanted to improve their life, but I also wanted to be a mother they could be proud of.”

She started classes at Richmond Law in 1997. She was 37, supporting her sister and five children under the age of 11. “I wasn’t a bad student, I wasn’t a great student,” Taylor says, “but I was a dedicated student.”

She stood out for other reasons. “Of all the people I’ve ever met, Ramona has the greatest capacity to do many things and to do them well,” says Adrienne Volenik, director of the Education Rights Clinic. Volenik praises her former student’s legal skills, creativity, ethical compass, and professional generosity. She adds: “I love her.”

After graduation, Taylor set up a private practice. Six years later, she joined the City of Richmond as an attorney for the Richmond Department of Social Services. In February of this year, she became legal counsel for Virginia State University, the historically black land-grant institution near Petersburg, Va.

At VSU, she says, “It’s different every day.” She deals with employment issues, grants and contracts worth millions, real estate issues, and an endless range of questions to research, analyze, and decide. Taylor has also managed to pursue her passion of screenwriting and film production. One of her screenplays, Respite, made her a finalist for the Virginia Screenwriting Competition in 2008. In 2014 and 2015 her short film, Bruehm’s Closet, was screened at a number of film festivals across the country.

“People believe that once you have a family you can’t change your destiny,” she says. “And it’s not true. ... Every day you wake up is an opportunity to do something really amazing.”

—Greg Weatherford
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Digital discovery
Alex Case, ’06

While the pace at which technology evolves is frenetic, it’s often at odds with the more deliberate evolution of law. As assistant general counsel and e-discovery counsel for the U.S. Commodity Futures Trading Commission for the last two years, Alex Case navigates the nuance of that tricky intersection.

The CFTC is an independent litigation authority that works closely with the Federal Bureau of Investigation and U.S. attorneys offices to police the derivatives market. Case guides the discovery program and the exchange of information, most of which is now electronic. That brings up issues of how to search and preserve all that data — the “science of information retrieval,” Case says.

A Michigan native, Case got his start in tax law working for the Department of Justice and serving as the electronic discovery coordinator for the tax division, an experience he said was almost like a postgrad course. But even though he’s a self-declared “tech geek,” he initially wanted to be a criminal prosecutor.

“Sometimes I find myself thinking, ‘How the hell did I get here?’” he jokes. “I came from a law and order family; guns and drugs is what I wanted to prosecute. … But I’m really fortunate that I was able to get into the e-discovery space. It’s definitely not the trajectory I was expecting, but this is a good crossroads for me.”

One of the initiatives the CFTC is working on is something called “technology-assisted review,” also known as predictive coding. The concept is, if you have a database of a million documents, you can also do a lot of collateral damage if you don’t finely tune it.”

Precision scores are good enough to be defensible in court. But it’s a constant struggle between keeping up with technology and working with 11 federal circuits that don’t all approach it the same — not to mention attorneys who are still wedded to paper. That brings up issues of how to search and preserve all that data — the “science of information retrieval,” Case says.

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One of the initiatives the CFTC is working on is something called “technology-assisted review,” also known as predictive coding. The concept is, if you have a database of a million documents, a trial team can review a small subset of the information. Through several iterations of review, you train the computer to find the relevant and nonrelevant documents of the entire set.

“That has promise to save a lot of time and be very efficient,” he says. “It’s sort of a precision-guided missile. It can blow away many of the non-relevant documents from the attorneys’ review, but it can also do a lot of collateral damage if you don’t finely tune it.”

There are quite a few technical components to tune — precision and recall rates and math equations to make sure your precision scores are good enough to be defensible in court. But it’s a constant struggle between keeping up with technology and working with 11 federal circuits that don’t all approach it the same way — not to mention attorneys who are still wedded to paper. In 2006, a lot of new amendments to the Federal Rules of Civil Procedure addressed e-discovery for the first time, and nine years later attorneys are waiting for a new set of amendments.

“The amount of data we work with is just exploding exponentially because everything is electronic now,” Case says. “It takes so long for the law to catch up, and technology is changing so rapidly.”

—Catherine Amos Cribbs, ’07
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### In Memoriam

**Harry L. Thompson, L’49**  
Feb. 16, 2015

**Joseph P. Rapisarda Sr., L’50**  
Dec. 22, 2014

**Robert L. Hicks Jr., L’52**  
May 14, 2014

**Clyde M. Weaver, L’52**  
July 30, 2014

**John Mercer White Jr., L’52**  
Dec. 28, 2014

**Eddie Cantor, L’53**  
March 28, 2015

**Gordon B. Wills Sr., L’53**  
Dec. 12, 2014

**James Wicker, L’58**  
March 6, 2015

**Joseph B. Benedetti, L’59**  
Nov. 19, 2014

**William Park Lemmond, L’64**  
July 7, 2014

**Renee C. Ricciardelli, L’74**  
Dec. 11, 2014

**Terry Van Horn, R’73 and L’75**  
Feb. 27, 2015

**Lawrence W. Trull, L’76**  
Jan. 6, 2015

**Thomas A. Louthan, L’83**  
Feb. 9, 2015

**Mark Tyndall, L’84**  
March 18, 2015

**Charles M. Caliendo, L’92**  
Jan. 17, 2015

**O. Cyrus Hinton, L’96**  
April 12, 2015

**Cayman Shawn Mooney, L’14**  
Dec. 1, 2014

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### Alumni Profile

**Vision focused**

Heather Lyons, L’06

For Heather Lyons, walking the floor at manufacturing facilities where visually impaired employees create valuable products is just one satisfying aspect of a multifaceted job.

“It’s really amazing,” she says.

Lyons is general counsel for National Industries for the Blind (NIB), a nonprofit based in Alexandria, Va., that, along with its associated nonprofit agencies, is the nation’s largest employer of people who are blind. The work NIB does is important because 70 percent of working-age Americans who are blind are not employed.

A native of Hampton, Va., Lyons became interested in the law while taking graduate courses at Virginia Tech on industrial organizations and “the intersection of economics and antitrust law.”

She chose Richmond Law because she wanted to stay in Virginia and because of its strong reputation and alumni network, particularly in the state.

After law school, Lyons went to work at Howery LLP, a large firm in Washington, D.C. Lyons’ practice included patent litigation, antitrust litigation, and counseling.

The experience was valuable, she says. “With a big firm, you learn how to be a lawyer. You learn about client service, and you burn the midnight oil.”

But Howery, like many large firms, was hit hard by the recession and in 2010, Lyons moved on.

She saw a listing for in-house counsel at NIB, whose mission is to enhance opportunities for economic and personal independence of people who are blind, with emphasis on employment. Its customers include government agencies, the military, and private industries such as Boeing, 3M, and Harley-Davidson. NIB and its associated agencies also offer rehabilitative services to 146,000 people who are blind nationwide.

“I’d never heard of NIB, but I was fascinated,” Lyons says. “We’re a federally designated nonprofit agency, and we run a network of associated nonprofit agencies. The regulatory structure fascinated me, and I love the mission.”

Lyons was NIB’s first in-house counsel and since has hired a staff attorney, Julie Chase, L’07. She also oversees compliance staff and deals with ethics programs, contracts, and trademarks.

“With a big law firm, you’re probably going to focus on one or two clients or one or two cases at a time,” Lyons says. “The legal issues that come up here are always interesting. They’re different from day to day. There’s not a lot of case law revolving around what we do.”

A big firm is “a great place to cut your teeth,” Lyons says. “But once you’ve done that, let your passions take you.”

—Rob Walker
With the help of a summer stipend from Richmond Law, Brad Reeser, L’15, interned with the Capital Defender’s Office. Over the past two years, he worked through the law school’s Harry L. Carrico Center for Pro Bono Service and argued a case in the Virginia Court of Appeals.

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Experts in 1995 agreed …


Color-optional 9.5-inch screen. Hard disk capacity up to 170 MB. A feather-like 6.3 lbs. With a sticker price of $1,995–$3,805, this “stylish” machine “might just be worth the investment,” said Compute! magazine.

Compute!, which ran its review in January 1994, wasn’t the only one impressed with the new NCR 3150. It made the cover of this magazine’s Winter 1995 issue as the centerpiece of a 13-page story package about Richmond Law becoming the nation’s first law school to require incoming students to “bring state-of-the-art laptop computers and portable printers.” Though technology has since transformed the practice and teaching of law dramatically, you can still spot this gem in the Muse Law Library. It’s an artifact on display in a glass case opposite the reception desk. Look for it just above the videocassette titled “Laser Disc Technology in the Courtroom.”