

## 2009 Annual Meeting Preview



On July 30, thousands of attorneys will convene in Chicago for the American Bar Association's 2009 Annual Meeting. ABA members and leadership, as well as representatives from other state, local and specialty bar associations will be present for the five-day conference, regarded as the premier gathering of legal professionals in the United States.

Programming at the event will include over 200 CLE course offerings; numerous ABA entity meetings and award ceremonies; meetings of the House of Delegates and Board of Governors; and the ABA EXPO, showcasing a plethora of legal products and services. Section programming during the conference will include the Thurgood Marshall Award Dinner; a series of CLE programs on current topics; and ongoing

meetings of the Section Council, committees and projects.

Highlighting the Section program schedule is the 16th annual **Thurgood Marshall Award Dinner** honoring former U.S. Attorney General Janet Reno.

Appointed by President Clinton in 1993 and reappointed in 1997, Reno became both the first woman to hold this position and the longest-serving Attorney General of the 20th century. Among her achievements in office were a renewed focus on enforcement of civil rights laws, transparency in government, and nondiscrimination in FBI hiring and personnel practices. Before taking national office, Reno had already established a history of excellence in public service. As State Attorney for Dade County, she was instrumental in pushing significant juvenile justice reform in the

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### SPECIAL INSERT: Section Annual Meeting Programs

Download a copy of IRR News Report at  
[www.abanet.org/irr/newsreport.html](http://www.abanet.org/irr/newsreport.html)

### Nominating Committee Announces Slate of Candidates

The 2009 Section Nominating Committee (Robyn S. Shapiro, Chair; Jodi Levine; Richard M. Macias; Jerome J. Shestack; and Walter White) has proposed the following slate of candidates for open positions for the 2009-10 Section Council:

#### Chair-elect:

C. Elisia Frazier, Savannah, GA

#### Vice Chair:

Kay Hodge, Boston, MA

#### Secretary:

James Silkenat, New York, NY

#### Finance Officer:

Patrick McGlone, Washington, DC

#### Three-year Council Positions:

Kristen Galles, Alexandria, VA  
Gerald Gardner, West Hollywood, CA  
Roy Hammer, Boston, MA  
Armando Laso-Ferrer, San Juan, PR  
Myles Lynk, Tempe, AZ  
Mary Smith (Minority-at-Large), Chicago, IL

#### One-year Unexpired Term:

Robert A. Stein, Minneapolis, MN

The Section will hold its 2009 Annual Meeting and elections on Friday, July 31, 2009, during the ABA's Annual Meeting.

Under the Section's bylaws, any Section member may make additional nominations for these positions by submitting a written statement of nomination signed by at least one other member in addition to the member being nominated.

Nominations must be received by Section Chair Neal R. Sonnett or Section Secretary Kay Hodge at least six hours before the election. Nominations will not be accepted from the floor at the time of the election.

# Legislative Update

Before breaking for its summer recess, the U.S. Congress moved forward on two prominent bills related to the work of the Section.

The **Uniting American Families Act**, which has been introduced in some form by Rep. Nadler (D-NY) in the past nine sessions of Congress, continues to make progress in the 111<sup>th</sup> session. On June 3, Chris Nugent, Co-Chair of the Section's Committee on the Rights of Immigrants, testified on behalf of the ABA before the Senate Judiciary Committee in a hearing entitled "The Uniting American Families Act: Addressing Inequality in Federal Immigration Law." The bill was introduced to both chambers by Nadler and Sen. Leahy (D-VT) on Feb. 12. If passed, it would amend the Immigration and Nationality Act to allow U.S. citizens and permanent residents to sponsor their same-sex partners for family-based immigration in the same manner as spouses of citizens and lawful permanent residents. During the 2009 ABA Midyear Meeting, the House of Delegates passed a Section-sponsored resolution urging Congress to pass legislation to this effect. For a copy of the ABA testimony, visit [http://www.abanet.org/poladv/letters/immigration/2009jun3\\_nugent\\_t.pdf](http://www.abanet.org/poladv/letters/immigration/2009jun3_nugent_t.pdf).

On June 4, the House Judiciary Committee Subcommittee on the Constitution, Civil Rights, and Civil Liberties heard testimony regarding the state secrets privilege prior to consideration of H.R. 984, the **State Secrets Protection Act**, introduced by Reps. Nadler (D-NY) and Petri (R-WI). The legislation would provide uniform procedures for courts considering a "state secrets" claim, force courts to consider classified evidence under such claims instead of relying upon government affidavits, and require Congressional reporting of state secrets claims. Former U.S. Representative Asa Hutchinson (R-AR) and former Chief Judge of the U.S. Court of Appeals for the D.C. Circuit Patricia Weld, both members of the Constitution Project's Liberty and Security Committee, spoke in favor of the bill. The Senate version of the bill (S. 417), introduced by Sen. Leahy (D-VT), is currently being considered by the Senate Judiciary Committee. At the 2007 ABA Annual Meeting, the House of Delegates passed a Section-sponsored resolution supporting "procedures and standards designed to ensure that, whenever possible, federal civil cases are not dismissed based solely on the state secrets privilege." On Apr. 2, 2008, then-ABA Governmental Affairs Acting Director Denise Cardman sent a letter to Sens. Leahy and Specter (R-PA) expressing support for an earlier version of this legislation.

Other legislation of interest to the Section is discussed on the following pages.

The bill was referred to the House Committee on the Judiciary.

## Criminal Law

On May 21, the House Judiciary Committee Subcommittee on Crime, Terrorism, and Homeland Security held a hearing titled "Unfairness in Federal Cocaine Sentencing: Is It Time to Crack the 100 to 1 Disparity?" ABA Governmental Affairs Director Thomas M. Susman submitted a statement to the subcommittee on behalf of the ABA in support of the elimination of the disparity in crack versus powder cocaine sentencing.

On May 15, Rep. Jackson-Lee (D-TX) introduced H.R. 2450, to require non-federal prisons and correctional facilities holding federal prisoners under a contract with the federal government to make the same information available to the public that federal prisons and correctional facilities are required to make available. The bill was referred to the House Committee on the Judiciary.

## Disability Law

On May 12, Rep. Kennedy (D-RI) introduced H.R. 2369, to improve mental and substance abuse health care. The bill was referred to the House Committee on Energy and Commerce.

## Elder Law

On May 21, Sen. Martinez (R-FL) introduced S. 1127 to require that, in the questionnaires used in the taking of any decennial census of population or American Community Survey, standard functional ability questions be included to provide a reliable indicator of need for long-term care; The bill was referred to the Senate Committee on Homeland Security and Governmental Affairs.

On May 21, Sen. Reid (D-NV) introduced S. 1150, to improve end-of-life care. The bill was referred to the Senate Committee on Finance.

## Children and Families

On May 7, Rep. Woolsey (D-CA) introduced H.R. 2339, to establish a program that supports the efforts of states to provide partial or full wage replacement to new parents, so that the new parents are able to spend time with a new infant or newly adopted child, and to other employees. The bill was referred to the House Committee on Education and Labor.

## Civil Rights/Constitutional Law

On May 7, Rep. Broun (R-GA) introduced H.J. Res 50 (Broun, R-GA), proposing an amendment to the Constitution of the

United States relating to marriage. If adopted, the amendment would outlaw same-sex marriage throughout the U.S. The proposal was referred to the Senate Committee on the Judiciary. A similar amendment to the Constitution was proposed on Mar. 4 by Rep. Lungren (R-CA), which would also prevent judicial review of the legal status of same-sex couples.

On May 7, Rep. Baldwin (D-WI) introduced H. Res. 417, expressing the sense of the House of Representatives that President Barack Obama should immediately work to reverse damaging and illegal actions taken by the Bush/Cheney Administration and collaborate with Congress to proactively prevent any further abuses of executive branch power.

*(Continued on page 3)*

## Legislative Update

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### International Law

On June 2, the House passed, by a 396-1 vote, H. Res. 489, recognizing the twentieth anniversary of the suppression of protesters and citizens in and around Tiananmen Square in Beijing, People's Republic of China, on June 3 and 4, 1989 and expressing sympathy to the families of those killed, tortured, and imprisoned in connection with the democracy protests in Tiananmen Square and other parts of China on June 3 and 4, 1989 and thereafter. The simple resolution, introduced on June 2 by Rep. Levin (D-MI), has reached the end of its legislative process and is now in effect.

On May 21, the Senate passed S. Con. Res 19, expressing the sense of Congress that the Shiite Personal Status Law in Afghanistan violates the fundamental human rights of women and should be repealed. The resolution was sent to the House of Representatives, where it was referred to the Committee on Foreign Affairs.

On May 21, the Senate passed S. Res. 160, condemning the actions of the Burmese State Peace and Development Council against Daw Aung San Suu Kyi and calling for her immediate and unconditional release. This simple resolution reached the end of the legislative process upon passage, and is now in effect.

On May 21, Sen. Boxer (D-CA) introduced S. 1159, to promote freedom, human rights, and the rule of law in Vietnam. The bill was referred to the Senate Committee on Foreign Relations.

On May 21, Sen. Brown (D-OH) introduced S. Res. 155, expressing the sense of the Senate that the Government of the People's Republic of China should immediately cease engaging in acts of cultural, linguistic, and religious suppression directed against the Uyghur people. The bill was referred the Senate Committee on Foreign Relations.

On May 21, Rep. Smith (D-WA) introduced H.R. 2639, to require the president to

develop and implement a comprehensive strategy to further the U.S. foreign policy objective of promoting the reduction of global poverty, the elimination of extreme global poverty, and the achievement of the United Nations Millennium Development Goal of reducing by one-half the proportion of people worldwide, between 1990 and 2015, who live on less than \$1 per day. The bill was referred to the House Committee on Foreign Affairs.

### Native American Law

On June 11, the House Natural Resources Committee held a hearing on H.R. 2314, to express the policy of the United States regarding the U.S. relationship with native Hawaiians and to provide a process for the recognition by the United States of the native Hawaiian governing entity. The bill was introduced by Rep. Abercrombie (D-HI) on May 7. At the ABA Midyear Meeting in February 2006, the House of Delegates adopted a Section-sponsored resolution urging Congress to pass legislation to establish a process to provide federal recognition for a native Hawaiian governing entity.

On June 11, the Senate Indian Affairs Committee held a hearing entitled "Reforming the Indian Healthcare System" in anticipation of H.R. 2708, introduced by Rep. Pallone on June 4, which would revise and extend the Indian Health Care Improvement Act.

On June 2, the House passed, by a 385-0 vote, Native American Heritage Day Act of 2009 (H.J. Res. 40), to honor the achievements and contributions of Native Americans to the United States. The resolution, introduced by Rep. Baca (D-CA), was received in the Senate on June 3.

On May 8, the president signed into law S. 39, to repeal Section 10(f) of PL 93-531, commonly known as the "Bennett Freeze," to lift restrictions on property and home improvements by residents in the Western Agency of the Navaho Nation. The bill was introduced by Sen. McCain (R-AZ) on Jan. 6.

## 2009 Thurgood Marshall Award Dinner

*Honoring Former U.S. Attorney General Janet Reno*

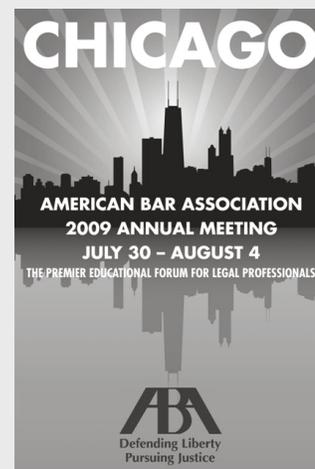
**Hyatt Regency  
Chicago, Ill.  
Aug 1, 2009**

**8:00pm—11:00 pm  
Reception to begin at 7:00pm**

**Individual Tickets \$150**

**Table sponsorships  
starting at \$2500**

To purchase tickets and tables, visit the event webpage:  
<http://www.abanet.org/irr/tmaward>



### National Security

On May 21, Rep. Schakowsky (D-IL) introduced H.R. 2544, to require the intelligence community to use only methods of interrogation authorized by the U.S. Army Field Manual on Human Intelligence Collectors Operations. The bill was referred to the House Committee on Intelligence.

On May 21, Rep. Issa (R-CA) introduced H.R. 2545, to provide a civil penalty for certain misrepresentations made to Congress. The bill was referred to the House Committee on Intelligence.

# Supreme Court Update

## ABA Resumes Role Reviewing Supreme Court Nominees

On March 17, 2009, ABA President H. Thomas Wells, Jr., announced that the Obama Administration had requested that the ABA Standing Committee on the Federal Judiciary resume its historical role in evaluating the professional qualifications of potential federal judicial nominees on a pre-nomination basis. The Committee is now conducting its review of Judge Sonia M. Sotomayor's nomination as Associate Justice of the Supreme Court of the United States to replace retiring Justice David H. Souter.

Consisting of fifteen members (two members from the Ninth Circuit, one member from each of the other twelve federal judicial circuits and one member-at-large), the Committee evaluates the professional qualifications of judicial nominees, considering only three criteria: professional competence, integrity and judicial temperament. The Committee does not consider ideology or political philosophy in any evaluation.

The committee's work includes confidential interviews with a broad spectrum of lawyers, judges and others in a position to evaluate the nominee's professional qualifications to serve. Any adverse information that has been developed during the evaluation is discussed with the candidate, who is afforded a full opportunity to present additional information regarding those concerns. At the conclusion of the evaluation, the Chair of the Standing Committee discusses the informal report with the designated Administration official.

If the White House requests the Standing Committee's rating of the prospective nominee, a Formal Report is prepared by the evaluator and distributed to Committee members for their consideration. Each member then votes the prospective nominee "well qualified," "qualified," or "not qualified." This rating is transmitted to the White House on a confidential basis. Once the President officially submits the nomination to the Senate, the Standing Committee's rating is transmitted to the nominee and the Senate Judiciary Committee and is posted on the Standing Committee's website. The rating is never publicly released or discussed if the President declines to nominate a candidate.

The Committee's work is entirely independent and is insulated from other ABA activities (and its officers) to ensure the integrity of the evaluations.

For additional information, visit the ABA Standing Committee on the Federal Judiciary's Web site at <http://www.abanet.org/scfedjud/>.

a reduction in her total employment term and, consequently, smaller AT&T pensions.

The respondents, along with their union, also a respondent, filed Equal Employment Opportunity Commission charges alleging discrimination based on sex and pregnancy in violation of Title VII. The EEOC issued each respondent (collectively, Hulteen) a determination letter finding reasonable cause to believe AT&T had discriminated and a right-to-sue letter. Hulteen filed suit in the United States District Court for the Northern District of California, which held itself bound by a Ninth Circuit precedent finding a Title VII violation where post-PDA retirement eligibility calculations incorporated pre-PDA accrual rules that differentiated based on pregnancy. The United States Court of Appeals for the Ninth Circuit affirmed.

The Supreme Court reversed, reasoning that AT&T's benefit calculation rule is protected by Title VII §703(h), which essentially provides that it is not unlawful employment practice for an employer to apply different standards of compensation pursuant to a bona fide seniority system provided that such differences are not the result of an intention to discriminate because of sex. The only way to conclude that §703(h) does not protect AT&T's system would be to read the PDA as applying retroactively to re-characterize AT&T's acts as having been illegal when done. Generally, there is "a presumption against retro-activity [unless] Congress itself has affirmatively considered the potential unfairness of retroactive application and determined that it is an acceptable price to pay for the countervailing benefits." There was no such clear intent here, said the Court. AT&T's choice not to give post-PDA credit to pre-PDA pregnancy leave when Hulteen retired was not facially discriminatory at that time. If a choice to rely on a favorable statute turned every past differentiation into contemporary discrimination, §703(h) would never apply. AT&T's pension payments are in accord with a bona fide seniority system's terms and insulated from challenge under Title VII §703(h).

*(continued on page 5)*

## Recent Decisions

On May 18, in **AT&T Corp. v. Hulteen**, No. 07- 543, the Court held 7-2 (opinion by Souter; dissent by Ginsberg) that an employer does not necessarily violate the Pregnancy Discrimination Act (PDA) when it pays pension benefits calculated in part under an accrual rule, applied only prior to the enactment of the PDA, that gave less retirement credit for pregnancy than for medical leave generally. The Court added that the PDA did not apply retroactively.

Petitioner AT&T based pension calculations on a seniority system that relied on years of service less uncredited

leave time. This gave less retirement credit for pregnancy absences than for medical leave. After Congress added the PDA to Title VII in 1978 to make it "clear that it is discriminatory to treat pregnancy-related conditions less favorably than other medical conditions," AT&T replaced its old plan with the Anticipated Disability Plan, which provided the same service credit for pregnancy leave as for other disabilities prospectively, but did not make any retroactive adjustments for the personnel policies existing before the enactment of PDA. Each of the individual respondents therefore received less service credit for her pre-PDA pregnancy leave than she would have for general disability leave, resulting in

# Supreme Court Update

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On April 28, in **Federal Communications Commission v. Fox Television Stations**, No. 07- 582, the Court held in a fractured opinion that the Federal Communications Commission order finding Fox Television liable for broadcasting expletives was neither arbitrary or capricious under the Administrative Procedure Act (APA).

The Federal Communications Commissions defined speech prohibited from broadcast in 1975 and has continued to expand its approach to enforcing the statutory prohibition. In 2004, the FCC's Golden Globes Order declared for the first time that an expletive (non-literal) use of the "F-Word" or the "S-Word" could be actionably indecent, even when the word is used only once. During two live broadcasts aired by Fox Television, there were isolated utterances of the F- and S-Words. In its order upholding the indecency findings, the FCC, inter alia, stated that the Golden Globes Order eliminated any doubt that fleeting expletives could be actionable; declared that under the new policy, a lack of repetition weighs against a finding of indecency, but is not a safe harbor; and held that both broadcasts met the new test because one involved a literal description of excrement and both invoked the F-Word. The order did not impose sanctions for either broadcast. The United States Court of Appeals for the Second Circuit set aside the agency action, declining to address the

constitutionality of the FCC's action but finding the FCC's reasoning inadequate under the APA. It required more explanation for the FCC's action that changed prior policy. (The FCC had previously taken the position that such fleeting and isolated expletives were not indecent).

In reversing, the Supreme Court reasoned that under the APA standard, an agency must "examine the relevant data and articulate a satisfactory explanation for its action." Although an agency must ordinarily display awareness that it is changing position, it need not demonstrate to a court's satisfaction that the reasons for the new policy are better than the reasons for the old one. It is sufficient that the new policy is permissible under the statute, that there are good reasons for it, and that the agency believes it to be better, which the conscious change adequately indicates.

Under these standards, the FCC's new policy and its order finding the broadcasts at issue actionably indecent were neither arbitrary nor capricious. First, the FCC acknowledged that its recent actions have broken new ground, taking account of inconsistent prior FCC and staff actions, and explicitly disavowing them as no longer good law. The agency's reasons for expanding its enforcement activity, moreover, were entirely rational. Even when used as an expletive, the F-Word's power to insult and offend derives from its sexual meaning.

Because the FCC's prior safe-harbor-for-single-words approach would likely lead to more widespread use, and in light of technological advances reducing the costs of bleeping offending words, it was rational for the agency to step away from its old regime.

Further, the FCC's decision not to impose sanctions precludes any argument that it is arbitrarily punishing parties without notice of their actions' potential consequences. First, the FCC did not need empirical evidence proving that fleeting expletives constitute harmful "first blows" to children; it suffices to know that children mimic behavior they observe. Second, the Court of Appeals' finding that fidelity to the FCC's "first blow" theory would require a categorical ban on all broadcasts of expletives is not responsive to the actual policy under review since the FCC has always evaluated the patent offensiveness of words and statements in relation to the context in which they were broadcast. The FCC's decision to retain some discretion in less egregious cases does not invalidate its regulation of the broadcasts under review. Third, the FCC's prediction that a per se exemption for fleeting expletives would lead to their increased use merits deference and makes entire sense.

(The Court declined to address the FCC orders' constitutionality, absent a lower court opinion on the matter).

## Annual Meeting Preview

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state of Florida and in establishing the first drug court within the United States.

Since her departure as U.S. Attorney General, Reno has been a steadfast advocate for reform and improvement of the justice system, with particular focus on judicial independence, forensic science and eyewitness identification. She currently serves as a Director of The American Judicature Society and on the Board of Directors for the Innocence Project.

The keynote address will be delivered by 2005 Thurgood Marshall Award recipient

Hon. Abner Mikva (ret.), whose outstanding career as a public servant included service in all three branches of government.

Those interested in attending may purchase tickets for \$150 per person via the Annual Meeting registration page, or using a downloadable form available from Thurgood Marshall Award Dinner webpage (<http://www.abanet.org/irr/tmaward>). After the advance purchase deadline of July 7, tickets must be purchased during the Annual Meeting at the ABA Registration Area at the Hyatt Regency Hotel in Chicago. A ticket order form for non-registrants is included in the attached insert. More information about the Thurgood Marshall

Award, including award history, is also available on the Award Dinner web page.

The Section will offer six CLE programs during the conference addressing some of the most pressing issues in the individual rights field. For more information on Section programming and co-sponsored programs, please see the insert included with this newsletter or visit the Section website.

More information about Annual Meeting programs, registration, and ticketing is available on the Annual Meeting webpage at <http://www.abanet.org/annual/2008>.

## AIDS Committee Program to Examine HIV Testing in Prisons

The ABA AIDS Coordinating Committee, chaired by IRR Council Member Shelley D. Hayes of Washington, DC, will sponsor a program entitled, "HIV and the Rule of Law: Should HIV Testing Be Mandatory in Incarcerated Settings?", on Saturday, Aug. 1, 2009, from 2:00 to 3:00 p.m., in the CLE Centre at the ABA Annual Meeting in Chicago. The program will examine the legal and policy dimensions underlying the fact that incarcerated populations are disproportionately both minority and HIV-infected, and how HIV transmission can be prevented both in prison and after community re-entry.

Speakers for the program will include Committee member MaryBeth Buchanan (moderator), United States Attorney for the Western District of Pennsylvania; Devon Brown, Director of the Washington, D.C., Department of Corrections; Rep. Brenda Gilmore of the Tennessee General Assembly; Dr. Beny Primm, Founder and Executive Director of the Addiction Treatment Research Corporation, Brooklyn,

New York; Edward Harrison, President of the National Commission on Correctional Health Care, Chicago, Illinois; and Barry Zack, CEO of The Bridging Group, Oakland, California.

The program will be the third in the Committee's "Road to Vienna" series examining critical issues in domestic and international HIV law and policy leading up to the 18th International AIDS Conference, July 2010, in Vienna, Austria. The Committee was instrumental in securing the first-ever inclusion of "Law" as part of a major conference track (Track F: Policy, Law, Human Rights and Political Science), to explore the often pivotal role of law and lawyers in ensuring access to effective HIV prevention, treatment, and care. For more information about the program and the Committee's other activities, visit the website at <http://www.abanet.org/AIDS>. To contact the AIDS Coordination Project, dial 202/662-1025 or send an email to [aidsproject@staff.abanet.org](mailto:aidsproject@staff.abanet.org).

## Staff Departure and Arrivals

This June, the Section bids farewell to its Staff Assistant and welcomes three new undergraduate interns for the summer semester.

Staff Assistant Sam Feinson, who has been working with the Section since September 2007, is departing to attend Seattle University School of Law beginning in late June. He has been responsible for coordinating member communications, managing the website, providing administrative support to the Section, solving technical problems, and editing this newsletter.

A native of New Hampshire, Sam received his undergraduate degree in 2005 from McGill University in Montréal, Québec.

Interns Daniel Balmori of Harvard University, Eve Tilley-Coulson of Washington University of St. Louis, and Christina Black of the University of Chicago will be providing support for Section policy and project development and implementation by performing research, reporting on legislative hearings, attending policy events, and assisting with assorted administrative functions.

## Support the ABA Section of Individual Rights & Responsibilities

Show your support for the Section's ongoing work by making a tax-deductible contribution to the ABA Fund for Justice and Education (FJE). Download and mail in a contribution form from the Section website at <http://www.abanet.org/irr/fje/pledge.pdf>. Contributions may also be made online via the FJE webpage at <https://www.abanet.org/fje/donate/>. Be sure to designate your gift for the IRR Support Fund or the Thurgood Marshall Individual Rights Fund.

## Death Penalty Moratorium Implementation Project to Begin New Round of State Assessments

The Death Penalty Moratorium Implementation Project will soon begin a second round of jurisdictional assessments to comprehensively examine the administration of the death penalty in various U.S. states.

In 2007, the Project completed its assessment of the capital punishment systems of eight states, Alabama, Georgia, Florida, Pennsylvania, Ohio, Tennessee, Indiana, and Arizona. In May of this year, the Project was awarded a second grant from the European Commission to conduct assessments in additional capital jurisdictions. Project staff is currently working to determine the most appropriate states for assessment and plan to begin the assessments process in early fall.

The Project also participated in a death penalty symposium, held at the Georgia Bar's annual meeting, in which the ABA's Georgia Death Penalty Assessment Report formulated the basis the Bar's discussion on capital punishment issues in the state. Former justices of the Georgia Supreme Court and practitioners across the state discussed critical issues in Georgia's capital punishment system identified by the ABA Georgia Assessment Team, including ineffective assistance of capital counsel, racial disparities, and the lack of meaningful proportionality review of death sentences.

Additionally, Project Steering Committee member Sandra Babcock attended the World Coalition Against the Death Penalty annual meeting in Rome on behalf of the Project, where she was able to generate interest in a second international conference on the death penalty and solicit feedback on the Project's International Statement of Principles on the Death Penalty from practitioners and activists across the globe.

## Members in the News

*IRR News Report is proud to announce the following awards, honors and offices recently received by Section members and leadership.*

### **Mark D. Agrast**

On May 18, Section Delegate Mark D. Agrast became the Deputy Assistant Attorney General for the Department of Justice (DOJ) Office of Legislative Affairs. In his new capacity, he will support the Assistant Attorney General in overseeing Congressional initiatives and articulating the position of the DOJ on legislative matters.

Prior to this office, Agrast served as a Senior Fellow at the Center for American Progress, where he focused on Constitutional issues such as the separation of powers, national security and civil liberties, and the rule of law. He has held positions as Counsel and Legislative Director to Congressman William D. Delahunt of Massachusetts and as a top aide to Massachusetts Congressman Gerry E. Studds, providing advice on a range of international and judicial matters.

### **Helaine M. Barnett**

Section member Helaine M. Barnett has been named a recipient of the 2009 Margaret Brent Women Lawyers of Achievement Award, given by the ABA Commission on Women in the Profession. After nearly four decades of work with the Legal Aid Society in New York City, Ms. Barnett became the first legal aid lawyer to serve in her current office as president of the Legal Services Corporation.

Established in honor of Margaret Brent, the country's first female lawyer, the award honors outstanding women lawyers who have achieved professional excellence in their area of specialty and have actively paved the way to success for others. It will be presented this year at a luncheon ceremony on Sunday, August 2, at the Fairmont Hotel in Chicago during the ABA Annual Meeting.

### **Michael S. Barr**

On May 26, Section member Michael Barr was confirmed as Assistant Secretary for Financial Institutions for the Department of the Treasury. He will be responsible for coordinating Treasury Department legislative priorities and regulatory policies with respect to financial issues.

A former professor at the University of Michigan School of Law, Barr has served in numerous executive roles, including Special Assistant to former Treasury Secretary Robert E. Rubin, Deputy Assistant Secretary of the Treasury, Special Advisor to President Clinton, and as a policy advisor in the Department of State.

### **Brooksley Born**

Former Section Chair Brooksley Born was profiled in a *Washington Post* feature article on May 26. The column highlights her previous role as Chair of the Commodity Futures Trading Commission (CFTC) under the Clinton administration. Referring to her as the "Cassandra of the Derivatives Crisis," it details her efforts as CFTC Chair to begin government regulation of over-the-counter derivatives, which were a leading cause of the current economic crisis.

### **Drucilla S. Ramey**

Section Council member Drucilla S. Ramey was named Dean-elect of the Golden Gate University School of Law on March 25. Upon taking this position on August 1, Ramey will draw upon her extensive experience as an attorney, educator, and administrator to head the San Francisco law school where she was previously a faculty member.

Ramey has been the Executive Director of the National Association of Women Judges since 2005. Her extensive resume includes service as the Executive Director and General Counsel for the Bar Association of San Francisco, as well as Chair of the ACLU of Northern California

and the San Francisco Commission on the Status of Women.

### **James R. Silkenat**

On May 27, the New York City Bar Association presented Section Finance Officer James R. Silkenat with its 2009 Diversity Champion Award in recognition for his outstanding work in helping to create and serving as Chair of the ABA Legal Opportunity Scholarship Fund.

The New York City Bar Diversity Champion Award recognizes up to three individuals annually "whose actions and activities, within the legal profession, particularly in New York City, embody the Statement of Diversity Principles."

### **Mary L. Smith**

On April 9, Section Council member Mary L. Smith was nominated by President Obama to be the Assistant Attorney General for the Department of Justice (DOJ) Tax Division. This new office will find her overseeing more than 350 attorneys as part of the Department's efforts to enforce U.S. tax laws through criminal and civil litigation.

Previously, Smith was a partner at Schoeman, Updike, Kaufman & Scharf LLP, where she specialized in complex litigation, regulatory practice and government investigations. Her distinguished career also includes positions as Senior Litigation Counsel at Tyco International and service in the Clinton administration as Associate Counsel to the President and Associate Director of Policy Planning.

*Have you recently received an award, office, or other honor that you would like to share? Chair-elect Dick Podell asks that you notify the Section so that we may make an announcement in an upcoming issue of the IRR News Report. Contact the Section office via email at [irr@abanet.org](mailto:irr@abanet.org) or by phone at 202/662-1030.*



Section of  
**Individual Rights  
and Responsibilities**

AMERICAN BAR ASSOCIATION  
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Washington, D.C. 20005-1022

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## Upcoming Events

### **ABA 2009 Annual Meeting**

July 30 - Aug. 4, 2009  
Swissotel  
Chicago, Ill.

### **Thurgood Marshall Award Dinner**

*Honoring Some Person of Note*  
Hyatt Regency Chicago  
Aug. 1, 2009  
Chicago, Ill.

### **IRR Fall Council Meeting**

Oct. 15-17, 2009  
Westin Arlington Gateway Hotel  
Arlington, Va.

### **ABA 2010 Midyear Meeting**

Feb. 3-9, 2010  
Orlando, Fla.

**IRR News Report** is published quarterly by the American Bar Association Section of Individual Rights and Responsibilities.

740 15th Street, N. W.  
Washington, D. C. 20005  
tel.: 202/662-1030; fax: 202/662-1032;  
e-mail: irr@abanel.org

**IRR News Report Editor:** Samuel C. Feinson

#### **Section Officers:**

Neal R. Sonnett, Chair  
Richard J. Podell, Chair-Elect  
C. Elisia Frazier, Vice Chair  
Kay H. Hodge, Secretary  
James R. Silkenat, Finance Officer  
Mark D. Agrast, Section Delegate  
Richard M. Macias, Section Delegate  
Robyn S. Shapiro, Immediate Past Chair

#### **Section Staff:**

Tanya N. Terrell, Director  
Patrice McFarlane, Assistant Director  
Michael L. Pates, Project Director (AIDS/HR)  
Sarah E. Turberville, Project Director (DP)  
Jaime T. Campbell, Section Administrator  
Samuel C. Feinson, Staff Assistant  
Daniel Balmori, Intern  
Christina Black, Intern  
Eve Tilley-Coulson, Intern