Even though the ABA Young Lawyers Division’s (YLD) Tolerance Through Education program was conceived before September 11, it proved tailor-made for confronting intolerance toward people perceived to be of Muslim or Arab descent.

Bringing lawyers into schools for dialogues and workshops with students, Tolerance Through Education is a three-pronged program that includes lessons built around the concepts of tolerance, diversity, and understanding. The programs are aimed at three learning levels.

Welcome to School: Helping Kids Belong is for third graders, Playing Together for Peace is for intermediate students, and Taking the Hate Out of the Classroom is for middle- to high-school learners.

“The YLD’s Welcome to School: Helping Kids Belong program is a bright light at an otherwise difficult time in our nation’s history. Working with third graders to help them develop tolerance is good for the kids, the schools, and the lawyers involved. This is such a special program that the General Practice, Solo, and Small Firm Section will co-sponsor it with Girl Scouts USA beginning next October.”
—Karen J. Mathis, Chair, ABA House of Delegates

Farber’s work on the project began when she contacted the multidisciplinary California Hate Crimes Prevention Task Force, which is composed of law enforcement officials, educators, mediators, and others who go into schools to present various educational programs and assist with crisis management after serious incidents. “I learned that there is a lot of programs for high schools and middle schools, but [not much] going on in the elementary schools,” Farber says. “And approaches tend to be more crisis oriented than preventative.”
ABA’s Dialogue on Freedom Goes to High Schools

Since the ABA launched the Dialogue on Freedom program in January 2002, more than 200 Dialogues have been held in high schools around the nation. Conceived by U.S. Supreme Court Associate Justice Anthony Kennedy, the program brings lawyers and judges into high-school classrooms to discuss American society and democratic values in the wake of the September 11 attacks.

Many Dialogues were held on and around Law Day, May 1. On May 6, ABA President Robert Hirshon joined Maine Supreme Court Justice Leigh Saufley for a Dialogue with 30 freshman and juniors at Portland High School, his alma mater. President Hirshon also joined Justice Anthony Kennedy, U.S. Senator Edward Kennedy, and Boston Bar Association President Michael Keating in an April 29 Dialogue with 25 U.S. history students at the Boston Latin Academy.

President-elect Alfred P. Carlton, Jr., teamed with local attorney Debra Bechtel at North Carolina’s Catawba County Public Library for a May 6 Dialogue with 34 high-school students from seven area schools. They were joined by Judge Linda McGee of Hickory, N.C., an active ABA member and co-chair of the North Carolina Bar Association’s “Lawyers in the Schools” program. In Detroit, President-elect nominee Dennis Archer and U.S. Senator Carl Levin led an April 29 Dialogue with 35 ninth-grade government students at Detroit’s Thomas Cooley High School.

Finally, ABA Executive Director Robert Stein traveled to Minneapolis on May 2 for a Dialogue co-hosted by Chief Justice Kathleen Blatz of the Minnesota Supreme Court. Participating in the discussion was a group of Minneapolis South High School 11th and 12th graders who are in an English-language immersion program.

The ABA encourages you to host a Dialogue on Freedom in your area in SY 2002-2003. You might consider Constitution Day, September 17, which is also the last day of a new National Civic Participation Week that will be celebrated from September 11-17. For more information on Dialogue on Freedom, visit www.dialogueonfreedom.org

National Mock Trial Championship

In May, over 300 high-school students gathered at the Ramsey County Courthouse in St. Paul to compete in the 2002 National High School Mock Trial Championship hosted by the Minnesota State Bar Association and Minnesota Law-Related Education Inc. Forty-four teams from across the United States, Guam, and the Northern Mariana Islands participated in the intense two-day championship. This year’s civil case, Gale Storm v. Sleeping Giant Shipping, Inc., was based on the 1975 sinking of the freighter S. S. Edmund Fitzgerald, in which 29 crew members perished. While there are many theories about what led to the tragedy—including intense storm conditions and improper ship maintenance—no cause has ever been established.

The charge in the mock trial case was that the shipping company’s negligence led to the sinking of the Fitzgerald and the death of Gale Storm’s only son, Wilder, an invitee on the ship. Six members of each team served as either the prosecution or the defense—three as counsel and three as witnesses. Each team came prepared to present both sides of the case. Teachers and attorney coaches served as advisers.

Each team was guaranteed to participate in three of the five total rounds. Cases were presided over by a real-life attorney or judge. A scoring panel (generally comprised of attorneys and others with extensive mock trial experience) served as the jury. A ranking system based on the number of points earned and rounds won determined the participants in the fourth round. The top two teams competed in a fifth championship round.

This year’s first-place winners were the Family Christian Academy Homeschoolers from Chattanooga, Tenn. Second-place honors went to Quigley Catholic High School in Baden, Pa. In 2003, the championship will be held in New Orleans, La. For more information, visit www.nationalmocktrial.org

ABA President-Elect Alfred P. Carlton, Jr., leads a Dialogue on Freedom in Catawba County, N.C.
The Pledge of Allegiance underscores our nation’s commitment to “liberty and justice for all,” yet how closely do we come to realizing this ideal? This Law Day, May 1, lawyers, judges, legislators, educators, and others collaborated on thousands of programs that helped their fellow citizens better understand how the legal system strives to do so. “A nation of the finest judges, most capable counsel, most enlightened laws, and most far-reaching civil rights is nevertheless flawed if access to that country’s court system is limited to just a few,” said ABA President Robert Hirshon.

National Programs

Emphasizing this year’s theme—Celebrate Your Freedom: Assuring Equal Justice for All—mock trials, awards luncheons, classroom presentations, and free legal clinics were just a few of the many ways organizations around the country observed Law Day. For a listing of 2002 programs, have a look at www.lawday.org. Here are just a few highlights:

Bemidji, Minn.: Interactive TV Broadcast. Students in the 17 counties making up the Ninth Judicial District talked with judges at the Minnesota Judicial Center.

Birmingham, Ala.: The Alabama Center for Law & Civic Education’s Youth Summit. The event was held on the campus of Samford University in Birmingham.

New York County, N.Y.: September 11 Remembrance. A ceremony honored those killed in the tragedy, particularly the three court officers who died after they raced to the Twin Towers to save others, as well as lawyers who volunteered pro bono to help the families of those who died.

San Diego, Calif.: Family Law Assistance Day. Lawyers provided assistance to family law court clients by volunteering at the Family Law Facilitator’s Office at the Family Law Court.

Washington State: Legal Education. At least 20,000 students and more than 500 lawyers and judges met with students to discuss current legal issues and specific areas of law.

Proclamation and ABA Events

President George W. Bush issued the national Law Day proclamation, and the ABA celebrated the day with several national events, including two that the ABA Division for Public Education sponsored with the Close Up Foundation in Washington, D.C. Hosted by John Milewski, the fifth annual “Conversations with Leaders in Law & Media” program aired on April 24 at the Newseum, and numerous times again in late April and early May on C-SPAN. The topic was “Democracy and Debate in a Time of Crisis.” Panelists were Douglas Kmiec, Dean & St. Thomas More Professor of Law at The Catholic University in Washington; Kenneth Paulson, executive director of the First Amendment Center and senior vice president of the Freedom Forum in Washington; and syndicated columnist Arianna Huffington.

The third annual Law Day Breakfast Seminar for Close Up Teachers was held on Law Day, May 1, at the Swissotel. This year’s seminar considered how the events of September 11 have focused public attention on law and national security matters. Suzanne Spaulding, chair of the ABA Standing Committee on Law and National Security, was the featured speaker, addressing issues such as which September 11–related legal issues are important for high-school discussion and how teachers can effectively and appropriately address them with students. ABA President Robert Hirshon welcomed the participants and offered introductory remarks on Law Day’s significance.

Also on Law Day, the ABA Division for Public Education conducted the symposium “Representing the American Lawyer as Judge,” the third in a five-part Leon Jaworski Public Program Series titled “Representing the Lawyer in American Culture.” Taking place at the Library of Congress in Washington, D.C., the symposium was moderated by Marcia Coyle, Supreme Court correspondent and Washington bureau chief for The National Law Journal. Panelists explored the habits of heart and mind that make
American judges judges and American. Participating were Paul Kahn, Robert W. Winner Professor of Law and the Humanities, Yale Law School, New Haven, Conn.; Christine Corcos, associate professor of law, Louisiana State University School of Law, Baton Rouge; and the Hon. David S. Tatel, judge, D.C. Circuit Court of Appeals. The Hon. William Sessions presided at the event, and ABA President Robert Hirshon made welcoming remarks. Program partners were the Federation of State Humanities Councils, the Law Library of Congress, Friends of the Law Library, and the ABA Standing Committee on the Law Library of Congress.

Images of Freedom Winner

At the Newseum, A. P. Carlton, Jr., then ABA President-elect, and the Hon. William Sessions presented the first-place award for the 2002 Images of Freedom National Student Photography Competition. Declan Murphy, a senior at Corona High School in Corona, Calif., was honored for his entry titled “Balance,” a highly stylized rendition of the scales of justice. Describing the photo, Murphy explained “I am trying to depict that people of different races will receive equal treatment under the law.” From April through mid-August, an Images of Freedom exhibit of 19 winning photos starting from 1997 premiered at the Thurgood Marshall Center for Service and Heritage/Shaw Heritage Trust, an historic D.C. landmark building.

Around the World

In addition to all the state, national, and local celebrations, there were many international observances. In the small country of Oman, for example, U.S Air Force personnel celebrated with a 5k run for charity and a law-related movie marathon. In Albania, Law Day activities included moot court competitions and a soccer match between court and media teams.

NEW RESOURCES

Breaking the Silence is a documentary on domestic violence co-produced by Connecticut Public Broadcasting, Inc. and Tatge/Lasseur Productions with the support of Mary Kay Inc. The “Breaking the Silence: Journeys of Hope” videotape and facilitator’s guide packages, designed to encourage discussion of the issues this powerful film raises, are now available in Spanish-language versions for both Mexican and Caribbean dialects. $10 plus shipping and handling. Mention PC #3170321S (Mexican dialect), PC #3170321CDV (Caribbean), PC #3170320 (English).

Focus on Law Studies: The Future of Civil Rights (spring 2002) features a cyberspace dialogue conducted by eight legal and social science scholars. Topics include race, ethnicity, gender, sexual orientation, and disability rights, with participants exploring connections between immigration and civil rights, the enforcement of civil rights by the courts and the executive branch, and the impact of September 11 on civil rights. Available for downloading at www.abanet.org/publiced/focus

Law & the Courts: Juries is a new handbook that looks at the roots of the jury system, modern trial juries, a trial jury in action, grand juries, and jury problems and possible solutions. $2.50 plus shipping and handling; quantity discounts available. Mention PC #2350202.
RECOGNIZING EXCELLENCE IN MEDIA AND ARTS

SILVER GAVEL WINNERS ANNOUNCED

The ABA Silver Gavel Awards recognize excellence in media and the arts for fostering the American public’s understanding of law and the legal system. This year’s Forty-fifth Annual Silver Gavel Awards are presented by ABA President Robert Hirshon at the August 13 ABA Annual Meeting luncheon in Washington, D.C. Gwen Ifill, moderator of PBS’s Washington Week and senior correspondent for The NewsHour with Jim Lehrer, is the featured luncheon speaker. For more information about the Silver Gavel Awards, visit www.abanet.org/publiced/gavel

Books
An American Insurrection: The Battle of Oxford, Mississippi is William Doyle’s thoroughly researched, well-written account of the dramatic fall 1962 series of events precipitated by the courageous decision of black veteran James Meredith to enroll at the segregated University of Mississippi.

Magazines
The Congressional Quarterly Researcher’s Series on Liberty and Justice is an impressive collection of nine periodical reports on potential threats to liberty and justice facing Americans today, ranging from Internet pornography and judicial nominee confirmations to government funding of faith-based initiatives and civil liberties in wartime.

Web site
New Media Picture Projects’ www.360degrees.com is an innovative educational tool using a host of interactive Web technologies to engage users in an exploration of the American criminal justice system, with particular emphasis on prisons.

Newspapers
In “A Duty to Protect,” The News Tribune (Tacoma) found that parole officers in Washington State routinely failed to meet minimum standards for supervising dangerous felons and that their supervisors did not hold them accountable. The five-part series underscores why there must be strict enforcement and adequate funding to realistically carry out an effective law enforcement program.

Radio
Minnesota Public Radio’s ambitious project “Color of Justice” spotlights the causes and effects of racial disparities in the state’s criminal-justice system. The provocative, five-part series tackles “new disparities” faced by growing Latino, Hmong, and Somali minority populations and features a powerful profile of African-American men in the segment “Driving While Black.”

Television News
Frontline: Juvenile Justice follows the stories of four young offenders into the juvenile justice system of Santa Clara County, Calif., dramatically illustrating the failures and successes of widely divergent treatment of the four troubled youth. Produced by Frontline with Oregon Public Broadcasting in collaboration with ABC News Nightline.

Television Drama
The Killing Yard, a cable television motion picture, dramatizes the little-known trial of Bernard Stroble (aka “Shango”), a black Attica inmate charged with killing two white inmates during the New York state prison uprising in 1971. Produced for Showtime by Harris & Company.

Honorable Mentions
Charleston Gazette (West Virginia) for “The Price of Practice”; NBC Dateline for “Murder Before Dawn”; and WAMU The Diane Rehm Show for “Rape as a War Crime.”
Supreme Court watchers could have predicted many of the 2001–2002 term outcomes, but few could have predicted them all. Here are four results that baffled more than one commentator:

- A 5-4 majority affirms that requiring students to urinate in a bottle while a school monitor stands just outside the toilet stall door to listen represents a “negligible” intrusion into privacy.
- A 5-4 vote decides that the Fifth Amendment allows the state to require prisoners to choose between confessing to a crime and losing their prison privileges.
- A five-justice “moderate/conservative bloc” lines up in support of judicial candidates’ free speech rights while the “moderate/liberal bloc” defends state restrictions on such speech.
- Justice Scalia joins Justice Ginsburg in holding that only a jury can determine whether there are sufficient “aggravating factors” to permit the imposition of capital punishment.

Actually, the “negligible” intrusion on privacy found in this term’s suspicionless student drug testing case, Board of Education v. Earls, No. 01-332, was clearly foreshadowed by the court’s earlier decision to approve a drug-testing policy in Vernonia School Dist. 47J v. Acton, 515 U.S. 646 (1995). The student athletes in Vernonia were not even allowed to retire to a closed stall when producing their urine samples. Yet the court’s decision in Earls to uphold a school’s authority to conduct suspicionless drug testing on any student seeking to participate in any extracurricular activity (not just athletics) was nonetheless surprising to those who had read Vernonia as emphasizing the relatively unique circumstances in that case. The Vernonia policy had applied only to students engaged in athletics (“where the risk of physical harm to the user and other players is high” and students already have a diminished expectation of privacy) and only to a high school where there was evidence that student athletes were acting as the leaders in a “serious and growing” drug culture. None of those special circumstances were present in the Earls case.

In the Fifth Amendment case McKune et al. v. Lile, No. 00-1187, the court voted 5-4 to uphold a prison Sexual Abuse Treatment Program in which, to avoid losing prison privileges, inmates must sign an “Admission of Responsibility” form accepting responsibility for the crimes for which they have been sentenced. The respondent (who has consistently protested his innocence despite his conviction) objected that this requirement violated his privilege against self-incrimination. The court concluded, however, that the treatment program serves a vital penological purpose and simply offers inmates “minimal incentives” to participate that do not amount to compelled self-incrimination.

Meanwhile, the court in Republican Party of Minnesota v. White, No. 01-521, ruled 5-4 that a state’s canon of judicial conduct cannot constitutionally prohibit judicial candidates from “announcing” their views on disputed legal or political issues. Justices Stevens, Souter, Ginsburg, and Breyer accepted Minnesota’s argument that this restriction was justified by the state’s compelling interest in furthering the judiciary’s integrity. To the surprise of some, it was Justice Scalia, together with Chief Justice Rehnquist and Justices O’Connor, Kennedy, and Thomas, who concluded that the restriction violated the First Amendment.

Finally, those familiar with Justice Scalia’s support for the death penalty might have been surprised by his vote in Ring v. Arizona, No. 01-488, in support of Justice Ginsburg’s 7-2 ruling that a jury—not a judge—must determine the presence or absence of any “aggravating factors” required for imposition of the death penalty. However, Scalia in fact has a long record of defending the jury’s role in a wide variety of cases.
First Amendment Schools Selected

To help the nation remain vigilant in promoting American freedoms—a need especially urgent since the September 11 attacks—last year the Association of Supervision and Curriculum Development and the First Amendment Center launched First Amendment Schools: Educating for Freedom and Responsibility. This multiyear initiative is designed to demonstrate that the most effective way to create free and responsible citizens is to uphold First Amendment rights and responsibilities.

The First Amendment Schools project serves as a national resource for K–12 public and private schools interested in affirming First Amendment principles and putting them into action in their school communities. Its goals include creating consensus guidelines and guiding principles for schools interested in sustaining First Amendment principles, as well as encouraging and developing crosscurricular reforms that reinvigorate and deepen teaching about the First Amendment.

The listed schools have been selected to develop the educational models to guide First Amendment schools as they are established in communities nationwide. For more information about the First Amendment Schools project, visit www.firstamendmentschools.org or contact Sam Chaltain, (703) 284-2808, schaltain@freedomforum.org.

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As of May 2002, over 200 lawyers had presented secondary programs, and programs are up and running in all 50 states. Next year, the General Practice Section will adopt the Welcome to School: Helping Kids Belong program, marking the first time another ABA section has adopted a YLD project. “That will take it to more senior members of the bar,” says Farber.

According to Hilda Quiroz, project specialist with the National School Safety Center and a trainer with the California Hate Crimes Prevention Task Force, lawyers bring their understanding of the justice system and the rule of law to the classroom—along with “a breath of fresh air.” “I call them prophets from another land,” Quiroz says. “Usually, the kids hear only from teachers and principals. This brings a new kind of credibility.”

The third-grade program is geared toward children at a critical age for forming lifelong values and norms, and one during which some children begin to bully and tease. The package includes an 18-minute videotape, worksheets, and a recorded children’s song titled “The Child in Me.” In January, the intermediate program was launched, emphasizing role playing to help students acquire conflict-resolution techniques. There is also a videotape and teaching guide available for this program.

Since last fall, the secondary program has been introduced all over the country. “This is really to get the kids talking,” Farber says. “The lawyers can discuss penalties and ramifications and what elements of a hate crime make it different from others.” By September 1, a CD-ROM and other support materials for this program will be available.

Tolerance Through Education finds a useful complement in the ABA’s Dialogue on Freedom program, which was created at the suggestion and with the help of Supreme Court Associate Justice Anthony Kennedy (see page 2). Started in response to the criticism of American culture and values that were at the heart of the September 11 terrorist attacks, this program brings lawyers and judges into high schools to lead classroom discussions about core values and the rule of law in democracy. According to Quiroz, the YLD’s Tolerance Through Education lessons can help lay a foundation for later, more sophisticated discussions with students involved in Dialogue on Freedom.

For more information, visit Tolerance Through Education at www.abanet.org/yld/home/toolkit/main.html; to order materials, contact the ABA’s Service Center at (312) 988-5522 or abasvcctr@abanet.org. For more on Dialogue on Freedom, visit www.abanet.org/dialogue

Elementary
Edith Bowen Laboratory School
K–5 elementary school
Utah State University, Logan
Fairview Elementary School
K–6 public school
Modesto, Calif.
Nursery Road Elementary School
K–5 public school
Columbia, S.C.
Middle-School Consortium
Salt Lake City, Utah
Butler Middle School
Suburban public school
Center City School
Charter school in west Salt Lake
Northwest Middle School
Salt Lake City school district
High Schools
Cesar Chavez Public Charter
High School for Public Policy
Washington, D.C.
Federal Hocking High School
Stewart, Ohio
Harmony School
Bloomington, Ind.
Hudson High School
Hudson, Mass.
Lanier High School
Jackson, Miss.

After September 1, and while supplies last, Tolerance Through Education materials are available at no charge.
As we begin our next program year, I am pleased to announce an exciting bicentennial coming up in 2003: the anniversary of the Supreme Court’s landmark case Marbury v. Madison. The ABA Division for Public Education and its other ABA partners are already busy preparing instructional programs and publications to help make the celebration as inspiring as it should be for your schools and communities.

The Supreme Court hasn’t always been viewed as the venerable, powerful institution that it is today. In 1801, when President John Adams named John Marshall as the fourth chief justice in only 12 years of the court’s existence, it was a weak group just whittled down from six to five members, living in boarding houses and meeting in an unfinished, small, ground-floor room in the Capitol. Marshall, who was already secretary of state, added chief justice to his other duties only because Adams forced a reluctant Senate to confirm the appointment.

For the next 34 years—the longest service of any chief justice—Marshall earned his reputation as the “Great Chief Justice,” fortifying the separation of powers and the principle of judicial independence, and establishing the doctrine of judicial review, among other benchmarks in the judicial branch’s history. A cornerstone of his influence was Marbury v. Madison, the case that once and for all raised the judiciary to a level equal to the executive and legislative branches and confirmed the Supreme Court’s implied power to declare laws unconstitutional.

Unfortunately, in the present time of stress and national crisis, when judicial independence is being challenged and tested, few Americans are aware of Marbury’s significance as an anchor of the U.S. justice system. We hope you agree that Marbury v. Madison’s bicentennial year is an opportunity for all lawyers, judges, and educators to join together to teach the public about the nature of our legal system and its importance to every citizen.

To learn more about Marbury v. Madison: An Anchor of Justice, and to join the bicentennial celebration, see this page for how to contact the ABA Division for Public Education.

Hon. Judith M. Billings