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THE CAVEAT



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ISSUE 2

The Movement From Sympathy to Empathy, Through Fear

by Professor David B. Oppenheimer

When I watched the tape of the beating of truck driver Reginald Denny in Los Angeles after the Rodney King verdict, I was afraid. There, I thought, but for the grace of God, go I. When I watched the tape of Rodney King's beating I was angry and horrified, but not afraid. For King I had sympathy, for Denny, empathy.

If I'm correct in my belief that my own emotional response was typical of white men, this difference in response can be a tool for whites to better understand racism; we'd be wise to use it.

In talking with black friends and colleagues about their response to viewing the tape of King's beating, there has been a nearly universal response of empathy. King's speeding and inebriation were irrelevant. The fact that the officers may have had good cause to stop King produced no sense of separation, no belief that King's treatment might somehow be explained by his own conduct, and that they might expect to be treated differently.

Rather, it served as a reminder that for any black person in our society, the threat of unprovoked white violence is a constant presence. A successful black businessperson seeing a police cruiser in the rear view mirror, while driving in a careful and sober manner, feels fear. An ugly confrontation is an immediate significant risk; a beating cannot be dismissed as unlikely. In this context, the legal guilt or innocence of the police officers who beat King is inconsequential. The beating itself, repeated daily across America off tape, is a symbol of racial violence and the fear of such violence which has transcended the particulars of the case.

White men, unless disabled or elderly, don't live with that fear. Women, of all races, have at least a parallel fear, based on the prevalence of male violence against women. But I don't; I rarely feel physically threatened, I can, and do, abhor racist violence, but unless I can understand it emotionally as well as intellectually, I'm not likely to be fully committed to doing something about it. That's where the tape of

Denny's beating can help.

We have no history in this nation of racial violence against whites. Hate mongers have often raised the specter of black mobs randomly attacking white victims, but their demagogic incantations have been based on fantasy. Our factual history of racial violence is one of white violence against blacks; from the night riding and intimidating public marches of the Ku Klux Klan, to the lynchings that permeate Southern history, to the civilian and police assaults on civil rights leaders, to the suspected looters in the rebellions of the 1960s who were - by lawful order - shot on sight, to police violence like the assault on King.

The video of King's beating serves as a touchstone for it all. But now we have, and on video no less, a parallel touchstone for white fear. Those of us who are white and who care about racism need to talk about it. We need to get in touch with the fear with which blacks live constantly.

...we need to learn to view King's beating with empathy.

If we want to cure ourselves and our society of this peculiar mental illness in which we see people as different, as more or less intelligent, as hard-working or lazy, and, most important, as safe or threatening, based on skin color, we need to learn to view King's beating with empathy. We need to understand, in our hearts and in our minds, that the fear we feel when we watch the beating of Denny is the same fear that blacks experience constantly, merely as part of living in a world filled with racial violence directed against black people.

A black journalist wrote that every time he saw the batons strike Rodney King, he felt the blows. We all need to feel those blows emotionally, to feel the pain of racism, before our lack of feeling destroys our humanity.

Originally printed in *The Recorder* on 9 June 1992.

Judge Reinhardt Speaks Out at Graduation About Race, Riots

by Miles J. Dolinger (Vice-President Day, 3L)

Challenges New Grads To Reestablish Trust In The Legal System.

To GGU's progressive Class of 1992, their law school career could not have been more appropriately concluded than with the strong political message about race and poverty that was so eloquently delivered during their graduation by Judge Stephen Reinhardt. Judge Reinhardt, of the Ninth Circuit of the U.S. Court of Appeal, was one of the Judges who granted Robert Alton Harris an 11th hour, 59th minute stay of execution, and he openly criticized the U.S. Supreme Court for overruling him. Judge Reinhardt's graduation comments came on the heels of the emotional upheaval surrounding both Harris' execution and the post Rodney King verdict rioting in Los Angeles, and he made no bones about what he thought were the causes, and potential consequences, of poverty and racism in America. In a moving speech delivered to a predominantly white, conservative audience ... he warned of deepening racial separation, the loss of individual rights and more rioting, all caused by a lack of trust in a legal system founded on principles of equality and justice.

In his comments Judge Reinhardt recounted the violent TV images of the L.A. riots, saying, "No one should have been surprised when Los Angeles erupted," and he cited the failures of forced integration, the widening gap in distribution of wealth (45% of black children live in poverty), the alarming rates of African American men involved in the wrong side of the criminal justice system, and the continued white flight to the suburbs. "A whole generation of blacks is being lost," he said, and warned that "[d]espite all the advances we have made in the area of civil rights, the unthinkable open racial warfare is now possible. In fact it is rapidly becoming more probable. It could well happen here."

From Reinhardt's perspective on the federal bench, he described one major cause of such racial strife as being the legal system itself, as evidenced by the loss of faith in its ability to do justice. "Last week," he said, "a nationwide poll showed that 84% of African Americans believe that they do not receive fair or equal treatment in our courts. To me, that figure is shocking. It means that our judicial system is failing. We have lost the confidence of these who most need to believe in the fairness of the judiciary."

Reinhardt placed some blame on the changed priorities of the federal courts and the Supreme Court, which was once dedicated to the expansion of individual rights and liberties and the end of racial separation at a time when "neither the executive nor legislative branch had the will

or the courage to do what common sense and the Constitution demanded." Reinhardt then cited numerous Supreme Court rulings which evidenced the Rhenquist court's "hostility" to the pursuit of civil rights. In McCleskey v. Kemp, for example, he said the Court held that "unless a black man about to be executed can prove that racism was the specific cause of his conviction or sentence [,] another standard that can rarely be met [,] then the Court will not consider a challenge based on the fact that blacks are treated differently from whites." Reinhardt concluded that, "[t]he message the new Supreme Court has delivered to the minority communities is clear. We no longer care. We have other concerns. Look elsewhere for help."

Finally, as an overriding reason why African Americans lack confidence in the federal courts, Judge Reinhardt looked at the racial make up of the federal appellate courts themselves, that "bastion of white America." The statistics are truly staggering: In eight years President Reagan made 83 appointments to the courts of appeal, and during that time appointed only one black. Reinhardt went on to say that "George Bush, with 32 appointments thus far, has also been able to locate only one African American he thought qualified to serve, in this case, guess who - Clarence Thomas and now that Justice Thomas has been rewarded with an even higher office because of his outstanding legal abilities, there are no black Bush appointees in the Courts of Appeal. In President Bush's view, Clarence Thomas is apparently all there is out there."

Judge Reinhardt was not altogether pessimistic, however. He saw the L.A. riots as a glimpse of the future of racial hatred, armed warfare, the military occupation of our cities and as an opportunity to forestall that future. "Blaming the rioters is easy," he said, "it's a no-brainer. On the other hand, accepting responsibility for our own failures requires a different breed of person..." And thus, Judge Reinhardt encouraged the Class of 1992 to do what little they can to "restore to the minorities of this land the belief that they will receive justice in our courts," by insisting that all individuals are treated with dignity and with respect, by speaking out against injustice in the courts, and by seeing that fairness and justice is done and that equal treatment under law prevails.

These words, by this man, were especially touching to GGU's vocal, progressive minority, and seemed to validate their 3 years of perseverance in the face of an

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The Student Bar Association: The President's Perspective

by Kieran John Flaherty (SBA President)

Welcome once again to all first-year students and continuing students also. I am the **SBA President, Kieran John Flaherty**. By now you realize that I intend to use **The Caveat** as a primary means of achieving the SBA goal of improving communication. In this issue I would like to introduce some of the basic proposals and plans already underway for achieving that goal.

Last year's SBA purchased a Macintosh Classic II Personal Computer and a Hewlett Packard Desk Writer Printer. The computer will be used primarily for producing: **The Caveat**, SBA correspondence and bookkeeping, RPC (Research Projects Clearinghouse) correspondence and publicity, and for Student Clubs' business. At the first SBA meeting the procedure for using the SBA computer was made known to all Club Representatives. For those of you who were unable to make it to the meeting, the procedure for using the computer is laid out in this issue of **The Caveat**. The computer was purchased with student fees for use by students -- please treat it well!

Now that we do have a computer and other things of value in the SBA Office, the need for somewhat heightened security is obvious, especially since most of the keys to the SBA Office which were distributed last year have not been returned. To that end I have requested that the lock be changed. The new keys will be distributed to elected SBA Officers, a representative from each Student Club, the Directors of the RPC, and Student Members of the Law School Committees by Asst. Dean Greg Egertson, whose office is on the 14th floor of 49 Stevenson. A \$5 key deposit will be required for each key. The deposit will be returned to the student who signed out the key.

A second major goal of the SBA this year is to improve physical conditions at GGU. The Law School has formed a new committee to deal with problems arising with the building, its facilities, and how space is used at the building. Although we have somewhat facetiously named the committee the "Space Committee," it is known as the Law School Facilities Committee and is allowed one student member. I have appointed myself to this committee (at least temporarily) as one of my primary concerns as SBA President is with the [in]adequate lighting and seating in classrooms and auditoriums, expediting the

remodeling of the Plaza, maintaining clean and well-functioning restrooms, and general improvements in the facilities. I have considerable experience in this area as I was the law student representative to the committee which planned the remodeling of the 6th floor Student Lounge. As individuals we can help in the process of maintaining adequate lighting and clean washrooms by informing the Facilities Office as to the location of burned-out lights and dirty restrooms by dialing extension 7532 on the white intra-campus phones located in the lobby of each floor.

I would like to introduce some key people who will be effectively representing law students as Law School Committee Members. As members of these committees these people will be advocating student concerns in their respective committees' area of focus. They are also required to submit an update on their committees' current projects, meetings, and progress toward their goals, to **The Caveat** and to appear at SBA meetings when necessary. Any concerns you have regarding these areas of focus should be brought directly to these people or to your SBA Reps.

LIBRARY:	Tod Manning
CURRICULUM:	Jim Cavanaugh, Izzy Sanft
FACILITIES:	Kieran John Flaherty
FINANCIAL AID:	Miles Dolinger
WRITING:	TBA
ADMISSIONS:	Myron Eng, Eric Farber, Tammy Garza, Simona Hunt

THANKS TO THE FOLLOWING PEOPLE WHO HELPED MAKE THE SBA PART OF ORIENTATION A SUCCESS:

Lisa and Michele, Ron, Kristin, Tricia, Myron et al., Laurie and Simona, Tod, Miles, Sean, Tanya, Eric, Brooke, Stacy and Izzy, Mark and Robert, Judy and Kirsten, Bonnie, Alex, Chris, Laura et al. (beer run), all Professors and staff who showed, Assoc. Dean Egertson, Assoc. Dean Hughes, Craig and Matt, Tony B. Robin, Andi, the people from Facilities who helped with the clean-up of the lounge and anyone else whose name I don't know or forgot to mention.

Kieran.

Law Library Briefs & Loopholes

by John Adkins (Public Services Librarian)

Contest!

A patron suggested that we name "The Book" -- our notebook that serves as a forum for patron suggestions, comments, questions and the general hysteria law libraries seem to foster. We're game, if you are. We hereby announce a law school-wide contest to name The Book. It can't be nasty, it can't be uncool -- but you knew that already, right? So write your nominations down and leave them at the Circulation Desk. We'll collect them and give you all the suggested names in the next Caveat, where you will have the chance to vote on your favorite. The name getting the most votes will be the winner (as opposed to some elections we've heard about), and the creator of that name will win a prize. We can't wait to read your entries! *[And we can't wait to find out what the prize is. Editor.]*

LEXIS Ids

We have received LEXIS password cards for about 30 transfer or mid-year admits. I won't list each of you by name unless forced to do so; you know who you are (don't you?). Please see me (John Adkins) to get your ID.

Campus Escorts

Security provides escorts to walk with you to your car or to BART after a long evening of studying. It's a good idea to ask for one at the Circulation Desk, otherwise you will have to walk alone. We will call the security officer on duty, who will come down to the Library. Please do not hesitate to request an escort.

Kudos

To Ann Wasilewski of the Law Library staff for getting the Computer Lab staffed and operating. We supply the paper and ink and break up fights when people get uptight about what font to use for their resume. We aren't experts at WordPerfect; you need to know that yourself. We do have a WordPerfect guide available for reference if you get stuck.

Commando Research Alert!

Nobody wins supremely honorable mention this time, but the Library's own Mohamed Nasralla tried (he gave me the wrong date of the Assembly Bill, but I found it anyway). So Mohamed gets a mention, but it ain't honorable.

Judge Reinhardt's Graduation Speech (continued from page 2.)

apathetic, cynical majority. In honor of the Class of '92, who accomplished so much in raising the social consciousness of this law school down to the very end (they wore "PEACE" buttons on their graduation robes), may Justice Reinhardt's optimism in positive change resound throughout these hallways to help guide us toward a brighter future for all races, creeds, colors and genders. To a standing ovation Judge Reinhardt concluded simply, "As our judicial philosophy changed once, so it can change again... That is your challenge and your opportunity. I hope for all our sakes that you succeed." (Contact Miles Dolinger in the SBA Office for the full text of Judge Reinhardt's speech.)

(Opinions expressed in articles are those of their authors, and do not necessarily represent the opinions of the editorial staff, the Student Bar Association or the School of Law.)

Grade Policy Update:

Last spring the law students fought to have the low grade means replaced by more equitable means or by a set grade curve. The Academic Standards Committee, composed of law school faculty, voted to adopt the University of San Francisco Law School grade curves with some modifications. There are as follows:

First-Year Courses (actually taken in the first year)

	<u>Max.</u>	<u>Min.</u>
A- and above	15%	5%
B- and above	60%	45%
C- and below	20%	13%
D and below	5%	0%

Non-First Year Required Courses

A- and above	20%	5%
B- and above	65%	45%
C- and below	20%	10%

All Other Courses

A- and above	45%	15%
B- and above	90%	45%
C- and below	10%	0%

The super grade point requirements have not been affected by these changes. If you were required to have a 2.15 GPA in required courses in order to graduate, you still have that requirement.

However, there is currently a question as to what was passed and who will be covered by the new grade curves. Many students and faculty believed that the new grade curves applied to all students, not just the entering 1Ls. Ask your Professors for clarification...

Letters to the Editor

CLASS ACT?

[Dear Editor:] As we begin the new school year, we are once again reminded that the greatest challenge we will face at Golden Gate University may not be found in the classrooms or textbooks. Rather, we are faced with an administration that apparently intends to impede our collective journey to the coveted J.D.

In case you are thinking that this is yet another rehash of The Great Grading Policy Debate of 1991-92, let me assure you that this is a completely new production. The cast of characters is different but the theme is all too familiar. The plot concerns the excessive delay in the distribution of class ranks.

In the beginning of August we were informed that we would be notified by mail of our class ranking within about ten days. When inquiries were made to the powers-that-be as to why the ranks were not distributed as promised, the standard reply was "they should go out next week." Several weeks have come and gone and still the ranks have not gone out. Conventional wisdom now has it that the first week of September is the target date (Yes, that's September of 1992!).

How does this delay in the distribution of class rank compare with the debate over the grading policy? Quite simply, it is another example of how the administration is placing Golden Gate students at a competitive disadvantage with students from other Bay Area law schools.

Most of us who intend to work during the school year to gain practical legal experience and/or to pay the bills are well aware that luck often plays a key role in securing employment. This means being in the right place at the right time. It also means knocking on a

lot of doors and hoping that you knock on the right door before someone else. An updated resume is absolutely essential.

Class rank can be an especially strong selling point on a resume. In fact, the hiring criteria of many employers is based in large part on an applicant's class rank. So let's apply some simple logic; if you don't know your class rank you won't have an updated resume, if you don't have an updated resume you can't proceed with your job search, if you can't proceed with your job search you won't find a job.

Does a delay of roughly one month make that much of a difference? Maybe, maybe not. But I, for one, know the feeling of contacting a prospective employer and hearing, "Sorry, we just hired someone last week."

We all know that economic conditions have caused firms to cut back on hiring. We all know that those positions that remain are being hotly pursued by students from Boalt, Hastings, USF, et al. If students from these schools have already received their ranks then we as Golden Gate students have certainly been put at a disadvantage by our own administration. And if students from these schools have not yet received their ranks, we have been cheated out of what could have been an opportunity to get a leg up on the competition.

I am in no way asserting that the factors would support that argument). It is not a simple task to prepare for the coming school year while wrapping up "business" from the past year. However, the administration must make the prompt distribution of class rank a priority. And under no circumstances should the school inform a few select students of their

ranks while denying others this same privilege. (I know of at least four fellow students who were able to learn their class ranks by asking the "right" person in the administration. When I attempted to do the same I was told, "If I tell you I will have to tell 150 other people also.")

Finally, I recognize that by the time this issue comes to print class ranks will have already been distributed (hopefully!). Let this serve as a reminder then that we as students must encourage the administration to take active measures to ensure that a legal education at Golden Gate University carries at least as much advantage as an education from another law school. We must demand that all policies and procedures which create a disadvantage are reformed or abandoned.

John Hyland, 2L

CONCERNED...

Dear Editor: As a member of one of society's most responsible parties, i.e. future lawyers, legislators and movers and shakers, let me be the first of my colleagues to put my strong support behind the Democratic ticket of Clinton and Gore. After watching the Republican's "Astrovention" last week, I can't help but wonder who they are trying to kid. How far must we fall -- we the middle class, we the economically insecure, the uninsured, the unemployed and the tenuously employed, the disenfranchised and the disenfranchised -- before the Grand 'Ole Party will admit that giving big business free reign by nixing the capital gains tax will not create economic growth? Further, when will it consider the country as a whole and realize that focusing on today's "economic

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NOTES FROM THE EDITOR

by *Tod Manning (Editor-in-Chief)*

The movie *Paper Chase* depicts some fairly dirty dealings between law students as they pursue their degrees. What happens to students who start losing their sense of humanity while pursuing their JD degrees? I don't know what the cost is for those people, but it must be high.

Be nice to each other. If someone is struggling to understand a concept that you think you understand, explain it to them! Help them out. Next time the situation may be reversed and you may be the one who doesn't understand. You will not be hurting your grade by helping others. Those of you who have had any experience in teaching know that if you truly want to master a subject, teach it to someone else, you will quickly find out where you are weak in your own knowledge of the subject. Help each other, everyone will benefit and everyone will feel better.

Next!...

My first semester at GGU Law School I spent far too many hours walking around the library trying to find the books that I needed. I found them scattered all over the library, under other books, misshelved, etc... I thought that most of the books had been thoughtlessly left out by my fellow students, nothing sinister, just busy students not thinking of others. However, last fall I worked in the Law Library reshelving books. I found books that were not only misshelved, but that had been shelved on the wrong floor amongst a series of books pertaining to a different subject. This wasn't inadvertent, this was cheating. I know that 99.9% of the law students would never consider tearing the page out of a book - now that is cheating! But where do you draw the line? If you make the book unavailable, by not returning it on time, by misshelving, not reshelving, or hiding it, then you are as guilty of cheating as those who tear out pages. Think about it. Everyone's time is valuable here, and no one's time is more valuable than anyone else's.

HELP WANTED: *The Caveat* is looking for an **Advertising Editor**. This may not sound like fun until I tell you that you will get a percentage of what you sell! I need this position filled very soon. We also need a **Proofreader**, an easy job with a low time requirement. Call me at *The Caveat*, 442-7000 ext. 7586 or leave a message for me in *The Caveat* envelope on the door of the SBA office.

What do you think about the tip-tapping of PCs from students typing their notes during class? Let *The*

Caveat know... **Levi-Strauss** is accepting calls from consumers who want to express their opinion about Levi's extension of benefits to employees domestic partners, and their withdrawal of funding to the **Boy Scouts of America** because the BSA discriminates on the basis of religious and sexual orientations. Call 1-800-872-5384, Dial 1 and let them know what you think... There is a dispute brewing between the **Office & Professional Employees Union** and the **GGU Management**. This must be having some kind of an impact on the law students. Any comments from either side?... What is going on with the Professors who create new class hours and days? Some of the changes conflict with the work and class schedules of the students. If you don't like it, then let your instructor (if the class has anonymous grading) and **Dean Pagano** know you don't like it...

VOTE! You may register to vote up until October 5, 1992 in California. If you are going to vote absentee, then write to the Registrar of Voters c/o the County where you have your official residence (home or school) and ask for a ballot. All over the world people are dying to vote - take the time to vote while you still can... Speaking of deadlines, the next deadline for material is September 4 for inclusion in the Sept. 14 issue of *The Caveat*.

Letters to the Editor (continued from page 5)

"growth" ignores the social realities: Rising poverty and homelessness, inadequate healthcare, a failing educational system, the irreparable poisoning and depletion of our water, air and natural resources. No offense, but, (#\$%&?!), aren't these the important family values?

And by blaming their failures on "that liberal Congress," Bush and the Republicans are only exaggerating the problem of the executive/legislative deadlock, which is an even better reason to vote Democrat because the Republicans are nowhere close to taking the House and Senate.

Finally, Bush criticized Clinton for spending only 3 minutes of his acceptance speech on foreign policy, but then Bush spent 15 minutes gratuitously describing how he slew the Satan in the Middle East and saved the world from communism. "George ... Hello ... are you listening? We don't care anymore, George."

There is a real choice to make here, and I'm still waiting to hear why we should give George the Conqueror another chance.

Miles J. Dolinger, 3L