

# Prof Talks 2017

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## Session One

1:00 – 1:35

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### **Annie Buth:** Chicago ATI Collaborative: Youth, Community, and Restorative Justice

What would it look like if we no longer incarcerated youth? The Chicago Alternative to Incarceration (ATI) Collaborative is a group of grassroots and faith-based organizations working in partnership with juvenile justice system stakeholders to develop community-based alternatives to incarceration. Learn about a neighborhood approach for change grounded in restorative justice principles.

### **Alyson Carrel:** Future Proofing Mediation

Technology is changing the way we communicate, access information, and make decisions. Online Dispute Resolution (ODR) recognizes these changes and utilizes technology to make mediation more efficient by moving it to an online setting. Critics claim this efficiency comes at the expense of mediation best practices and impedes effective communication and potential relationship building among parties. This session challenges these claims and demonstrates how mediators can embrace technology without sacrificing best practices by incorporating technology in traditional offline settings.

### **Brian Citro:** Global Health and Human Rights

What do human rights have to do with health? Is there a right to health care? While the health insurance debate rages here at home, human rights and the right to health in particular play powerful roles globally in promoting access to health services and shaping health systems. This is due to the inclusion of a right to health in more than 130 national constitutions and the passionate advocacy of health rights advocates in courts, legislatures and the public sphere around the world. This talk will highlight some key concerns and emerging issues in global health and human rights, with an eye on the current debate around health care in the United States.

### **Tonja Jacobi:** Judicial Politics and Behavior

Much of law school focuses on the minutiae of specific legal topics, but are there patterns in judicial decision-making that apply across all topics of law? How do judges decide which cases to take, form coalitions and decide how broadly to write their opinions? And how does politics influence those choices? We will look at the empirical evidence on these topics.

### **Emily Kadens:** How to Commit Fraud in Early Modern England

Trust and reputation are buzzwords in business today, and the assumption is that they were even more important in the past. Economists and legal scholars seem to believe that

premodern merchants relied heavily on trust and reputation in regulating commerce, and that trust and reputation were easily assessed and easily damaged. My research on commercial cheating in England from about 1550-1630 suggests that trust and reputation were not particularly good market regulators, that they were easily falsified, and that a lot of cheating was going on, some of it quite sophisticated. I will discuss a few of the more fascinating court cases I have found in the English archives and talk about their implications for our understanding of trust and reputation.

### **Matthew Kugler: Corporate Surveillance and Privacy Expectations**

A drone flies over an industrial site taking picture after picture. An investigator picks through a disgusting dumpster looking for unshredded memos. A camera streams the comings and goings of office workers 24/7. Whether these activities are permissible when done by either private or government actors raises hard questions about privacy law and the role of changing technology. My work explores how everyday people think about these complicated issues in today's world.

### **Karl Lutz: Hot Topics in Private Equity**

Private equity is a \$4 trillion industry on a world-wide basis, and includes venture capital, leveraged acquisitions, and many other alternative asset high-risk, high-reward investments. In our conversation, I will attempt to provide a very brief introduction to the industry and its most significant players, and will highlight one or two current topics. My remarks will be directed not only to the JD/MBA candidate, the transactional LLM lawyer, the MSL candidate, and the future business lawyer or investment banker, but also to the college literature or history of art major who doesn't know the difference between a balance sheet and a balance beam.

### **John McGinnis: How Machine Intelligence Is Transforming the Legal Profession**

Machines are coming to disrupt the legal profession and bar regulation cannot stop them. Machine intelligence is not a one-time event that lawyers will have to accommodate. Instead, it is an accelerating force that will exercise a firmer dominion over an ever-larger area. I describe five areas in which machine intelligence will provide services or factors of production currently provided by lawyers: discovery, legal search, document generation, brief generation, and prediction of case outcomes. These areas represent almost all of law done outside the courtroom.

### **Wendy Muchman & Mary Foster: Hot Topics in Ethics and Professionalism**

Want to get and keep your law license? Come learn about the most recent jaw dropping ways lawyers get suspended and disbarred and how to avoid them! We can't make this stuff up.

### **Rob Owen: Law Students Fighting for Life in the Death Belt**

Three years ago, Texas – the nation's most prolific executioner – set its sights on Robert Campbell, an indigent prisoner convicted of murder at age 19. Just hours before Campbell was to be killed, a federal appellate court blocked his execution after Campbell's legal team,

including clinical students from Northwestern Pritzker School of Law, discovered that the prosecution had concealed evidence of Campbell's mental disability. This summer, after three years of intense litigation in which NU Law students played a vital role, Campbell was finally removed from Texas's Death Row and re-sentenced to life imprisonment. Come hear the exciting story of how law students helped save Robert's life.

### **Candice Player:** "Death with Dignity" and Mental Disorder

States and nations are grappling with physician assisted suicide and its boundaries. In the United States, euthanasia is universally prohibited and a handful of states have sanctioned physician-assisted suicide for competent adults with terminal illnesses. In Europe access to physician-assisted suicide is broader. The Netherlands, Belgium and Switzerland permit physician-assisted suicide for competent nonterminal patients, whether the cause of the patient's suffering is psychological or physical. Indeed, all three countries allow physician-assisted suicide for psychiatric patients without an underlying physical disorder. Still, legal scholars are divided over whether someone with a mental disorder should have access to physician-assisted suicide. In a forthcoming Article, I argue that when a person requests the assistance of a physician to hasten her death, our only concern should be whether she is competent to consent to physician-assisted suicide. A large empirical literature has shown that a mental disorder is not synonymous with incompetence. A person can be depressed and form a desire to die that we are obligated to respect.

### **Martin Redish:** Why Liberals Should Like Citizens United

The Supreme Court's *Citizens United* decision, holding that corporations have First Amendment rights to free expression, is the decision liberals always love to hate. I plan to demonstrate why a careful analysis of that decision and an examination of where it fits within the topography of free speech theory demonstrates conclusively that on a foundational level, liberals should actually agree with the decision.

### **Leonard Riskin:** Don't Believe Everything You Think: Managing Inner and Outer Conflict in Law School and Law Practice

In law school and law practice, a person's mindset and internal maps of the world and of lawyering, whether conscious or subconscious, dramatically affect their interpretations, understandings, performance, and satisfaction. I study, write and teach about how law students, lawyers, judges, and mediators can become more aware of their mindsets and other aspects their consciousness, so that they can make choices about how to respond to these phenomena and to the desires, thoughts, sensations, and emotions that arise in themselves and in others with whom they interact. More specifically, I study and teach about how to integrate Tools for Managing Conflict (e.g., trial, negotiation, mediation) and Tools of Awareness (especially mindfulness, qi gong, and other contemplative practices) to help members of the legal profession deal better with stress and feel and perform better.

### **David Schwartz: An Empirical Study of Patent Litigation**

Patent law protects technical innovations with a brief period of exclusivity. Patent litigation brought to protect that exclusivity is widely viewed as expensive and uncertain. To measure expense and uncertainty, we use a comprehensive dataset of U.S. patent litigation. The study uses Big Data techniques to analyze the factors that are correlated with when and why patent cases settle or reach legal judgments.

### **Greg Swygert: War Stories: The Center on Wrongful Convictions' Recent Case Developments**

When the Center on Wrongful Convictions (CWC) launched in April 1999, wrongful convictions were viewed as anomalies — rare exceptions to an otherwise well-oiled criminal justice machine. We know now, however, that prisons and death rows around the country are populated by countless individuals who have been wrongly convicted: innocent people doing someone else's time. The CWC is at the forefront of the nationwide movement to reform the criminal justice system and is dedicated to identifying and rectifying wrongful convictions and other serious miscarriages of justice. We will discuss recent developments in some of the Center's Cases including a case where the CWC, a big law firm, and Northwestern students conducted a federal habeas corpus evidentiary hearing in the Northern District of Illinois, a case that involves interacting with the Cook County State's Attorney's Conviction Integrity Unit, and more.

### **Deb Tuerkheimer: Rape Law in Flux**

Policymakers are increasingly confronting the problem of sexual violence, both on and off on college campuses. I will discuss my research on rape law and problems with its enforcement. In particular, we will talk about difficulties surrounding "he said/she said" cases and the challenge of reforming institutions to fairly adjudicate disputes about consent.

### **Jeff Urdangen: Murder, Wrongful Conviction, and Brotherly Love**

Michael Winston and his older brother were in a convenience store when a scuffle broke out with some local hoodlums, one of which was shot and killed. Though in reality his brother was the perpetrator, Michael was put on trial and convicted of murder based on the dubious testimony of two career criminals who were part of the altercation. After the appellate court overturned the conviction, the Center for Criminal Defense successfully defended Michael at his retrial. This is the story of our client's ordeal, and his brother's righteous efforts to correct this injustice.

### **Alex Van Brunt & Sheila Bedi: Reforming the Chicago Police Department: Community-Led Class Action Litigation Challenging Police Brutality and Racism**

MacArthur Justice Center attorneys and clinical professors Sheila Bedi and Alexa Van Brunt will discuss their recently filed civil rights class action suit against the Chicago Police Department, which alleges systematic use of excessive force against people in Chicago, and

especially people of color. Brought on behalf of individual and organizational plaintiffs, including the NAACP, Black Lives Matter Chicago, and the Chicago Urban League, the case is one of the first of its kind in the nation. The suit follows on the heels of the United States Department of Justice's investigation of the Chicago Police Department. But it seeks relief that is community-led and community-driven, on behalf of those who are harmed, day in and day out, by police brutality.

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## Session Two

1:50 – 2:25

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**Julie Biehl:** Punishment or Rehabilitation: How should children who make mistakes be treated?

Should your juvenile record be public and follow you for life? Should juveniles go to prison for life? Should juveniles be subject to life time sex offender registries regardless of the nature of his or her delinquent behavior? Is the solution to our current gun violence crisis sending more young brown and black youth to prison for long periods of time? These threshold questions underlie all juvenile and criminal justice policy debates and this talk will address recent successful reform efforts that answer these questions.

**Leigh Bienen:** Murder and Its Consequences

My current research is on death-eligible murder cases from the period Jan.-June, 2003, when capital punishment was the law in Illinois. The purpose of this research is to look at the actual disposition of cases, which at the time could have resulted in a sentence of death. This research continues my prior research on capital punishment in Illinois at the time of the Ryan commutations, and the period of the Ryan moratorium. The research looks behind the dry facts of charge and conviction to see how cases were actually decided.

**Steven Calabresi:** The Origins and Growth of Judicial Review in the G-20 Constitutional Democracies

I am writing a book discussing what factors cause countries to adopt systems of judicial review and why they either flourish or fail. The countries I am writing about include: the U.S; the U.K.; Germany; France; Italy; Japan; India; Indonesia; South Korea; South Africa; Brazil; Mexico; and the European Union. I attack the two leading scholars in the field and propose alternative explanations.

**Debbie Chizewer:** Collaborating in Communities: East Chicago Lead and Arsenic Crisis

What if you suddenly learned that you needed to move because you have been living on contaminated soil for decades? What if you moved away from a violence-ridden

neighborhood to protect your children only to learn that they have been exposed to lead and arsenic their entire lives? Northwestern's Environmental Advocacy Center has been leading a legal coalition that includes UChicago's Abrams Environmental Law Clinic, Loyola Law School's Health Justice Project, the Sargent Shriver National Center on Poverty Law, Natural Resources Defense Council and the law firm Goldberg Kohn. Learn about the assault on this low-income community of color, and the wide range of strategies we have been using to support the residents.

**John Elson:** Project to Improve the Protection of Division One Football Players' Health and Education

Northwestern football players' authorization of a union vote, the regional NLRB's findings that the University treats them more like employees than students, and the medical evidence on the life-threatening risks from concussions and subconcussions warrant examination of whether Northwestern and other Division One football schools are adequately protecting their players' health and educational interests. My project is to explore, first, the extent to which the players' interests should take priority when they conflict with their coaches' and schools' interests in fielding winning teams and generating revenue; second, what governance reforms could better protect the players; third, whether the schools have a moral obligation to seek out and help their former players who are ailing as a result of having played college football; and, fourth, what strategies would be effective in persuading schools and the NCAA to adopt the needed reforms.

**Daniel Gandert:** Doping in Olympic Sports

I have been researching the Russian doping allegations relating to the Olympics and the way the Olympic sports world has handled them. These allegations brought about a record number of Court of Arbitration for Sport cases being heard during the 2016 Olympic Games and changed the landscape of Olympic institutions. I am also researching the two lines of Court of Arbitration for Sport cases which provide conflicting precedent for how arbitrators should determine which doping offences are deemed intentional

**Jay Koehler:** Forensics or Fauxrensic: Problems and Solutions in Forensic Science

We have all heard about cases in which DNA evidence has helped free people who were falsely convicted of rape and murder. But did you know that nobody knows how accurate DNA evidence - or any other forensic science evidence - actually is? We will talk about the role of error rates in forensic science, and why it is that exaggerations and misstatements about this type of evidence persist.

**Andrew Koppelman:** Libertarianisms

Libertarianism holds that if government has any purpose (which some libertarians doubt), it is to protect people from violence and theft. Regulation and redistribution are either categorically barred or, at least, deeply suspect. This philosophy comes in different

formulations with different entailments. Some have much to offer. Some are crazy and dangerous. I'll try to sort these out.

**Bruce Markell: Weaseling Out of Debt: Offshore Trusts for the Rich**

During the last 30 years, entire national legal systems have been co-opted into creating new perks for the rich. Common law countries such as the Cook Islands, the Isle of Man, Nevis, and Belize, have created “asset protection trusts,” designed to allow the rich to shelter money from creditors. My research examines how these laws work, and develops international and local strategies to thwart them.

**Laura Nirider: Brendan Dassey and the Problem of False Confessions**

Remember that gut-wrenching scene from *Making a Murderer* where police interrogators coerced sixteen-year-old, intellectually disabled Brendan Dassey into confessing to a murder he didn't commit? So do we – all too well. For ten years, Brendan has been represented by the Clinic's Center on Wrongful Convictions of Youth, which is staffed by leading experts on police interrogations and confessions (and which is featured on the Netflix series). Come learn about other cases just like Brendan's – and learn what Clinic professors, students, and advocates nationwide are doing to combat the problem of false confessions.

**Uzoamaka Nzelibe: Travel Ban 2.0: What Is It and Who Is Affected?**

During this Prof Talk, we will discuss Executive Order 13780, Protecting the Nation From Foreign Terrorist Entry into the United States (colloquially known as the Travel Ban). We will delve into the legal issues raised by the Travel Ban and how its implementation has affected communities in the United States and abroad.

**James Pfander: Courts at War**

For a conference this fall, I've been working on an article that explores the role of courts in enforcing the rule of law during times of war. I'm particularly interested in contrasting the rather strict nineteenth century rigor of common law remedies with the far more deferential approach that modern courts adopt in the enforcement of constitutional rights. The project builds on my book, *Constitutional Torts and the War on Terror* (2017).

**Stephen Presser: Law Professors: Three Hundred Years of Shaping American Law**

I want to talk about my recently released book, which discusses how law professors have both sought to preserve and sought to destroy the rule of law in America. I want to talk about how Americans are now divided politically about the law (Democrats want a “Living Constitution”; Republicans want the “original understanding”). I hope to discuss the aims of law school, and whether what is being taught in law schools really prepares students for the practice of law and life in the modern administrative state.

## **Meredith Rountree:** Criminal Justice Reform in Cook County: Challenges and Opportunities

When I was a law student, I got in the habit of going to court regularly just to watch what was going on. Now I'm looking at courts again as part of larger project dedicated to improving criminal justice here in Chicago and Cook County. Like many cities, Chicago is struggling to address significant race and class disparities in its criminal justice system, but its political history and structure also create some particular challenges. In advancing reform, the project works with criminal justice agencies to understand trends in arrests, detention, charging decisions, and case processing. In addition, we are conducting court-watching and planning focus groups and interviews. We've also created a course here at Northwestern that involves students in collecting data and engaging with system actors about opportunities and obstacles to change. I hope we can have a lively and very informal conversation about both the research and the students' experiences.

## **Len Rubinowitz:** A Civil Rights Lawyer

This is an account of a little known but very important civil rights lawyer. He was part of the *Brown v. Board of Education* team and was involved in Supreme Court decisions on voting rights, housing, education, etc. He helped defeat President Nixon's efforts to appoint segregationists to the U.S. Supreme Court. And he spent most of the last year of his life in federal prison. As they say, no good deed goes unpunished.

## **Jim Speta:** Re-re-revisiting Network Neutrality

After nearly 15 years of figuring out how to regulate broadband carriers – both legally and as a policy matter – the FCC in 2016 finally won court approval for its “Open Internet Rules” (which everyone else calls net neutrality). However, the new FCC has made clear its intent to eliminate those rules – notwithstanding more than 4 million public comments in favor of retaining them. What gives (economically, legally, and as a matter of business practices)?

## **Sam Tenenbaum:** Complex Civil Litigation and Investor Protection

Learn about the efforts to chase a fraudulent investment advisor who bilked his clients out of over a million dollars. What started out as an online learning experience ended up as a fraud that resulted not only in the Investor Protection Clinic filing suit but also working with the SEC in their investigation.

## **Cliff Zimmerman:** Personal Narrative and Professional Identity

As you enter the study of law, how will this experience change you personally and professionally? What will happen to your story and your identity? Narrative and identity are core elements of who we are as people and how we engage the legal profession. How can you make the most of this engagement and development so that you can be most successful (and what does that mean?) in your life?