

WELCOMING SPEECH

My name is Robert Post, and I am your Dean. It is my pleasure to welcome you to the Yale Law School.

Today in this auditorium there are 214 members of the J.D. Class of 2012. There are 23 LL.M. students, 1 MSL student, and 6 new JSD candidates. A few days ago I was privileged to meet with our graduate students and to extend to them a special welcome. So I hope they will understand if today I speak primarily to the JD Class of 2012.

For this one astonishing moment, you are poised at the very edge of what undoubtedly will become one of the great adventures of your life. As of today, as of this instant, everything will begin to change. Lean back, take a deep breath, and relish the many flavors of this precise moment—its exhilaration, its promise, its anxiety, its triumph.

In about three years I shall meet you again as a class. That will be when you graduate from this place. You will be different then. You will

have acquired literacies and capacities that you do not now possess. You will have made friends, discovered colleagues, forged alliances in ways that are now quite inconceivable to you. You will have accomplished new feats, mastered new skills, and imagined new possibilities.

In the next three years you will grow and change so profoundly that this moment, this instant, will come to seem, from the perspective of June 2012, like the first day of a new phase of your life. So remember the fragile anticipation of this moment and treasure it. It is filled with the potential of new futures.

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I am a new Dean, just like you are new students. I became Dean of this school on July 1, so you and I together are beginning this adventure. You are, and you always will be, the first class I have welcomed to the Yale Law School as its Dean. So together we will learn much about how this great institution works, and together we shall attempt to make it even better than it was before I became Dean and you became the newest and the most promising members of our community. Know always that I welcome your

thoughts and suggestions, because I can't do my job unless you help me understand frankly and fully what you think.

You have arrived at this unique and precious moment through many diverse paths. In the beginning there were 3363 prospective students who applied for admission, who applied for the right to sit where you are now sitting. In the end those 3363 students were winnowed down to the 214 of you who are now sitting in this auditorium. About 25% of you come to us right from your undergraduate institution; 38% of you are about two years out from college graduation, and 37% of you have more than 2 years of post-graduate experience. You have arrived here from 7 countries, 38 different states and from 76 different undergraduate institutions. Collectively you hold 35 advanced degrees, in subjects like computer science, economics, education, Egyptology, philosophy, and public policy.

Many of you have already accomplished extraordinary things. Within your ranks is a reporter and editor for the Christian Science Monitor; a Bioethics fellow for NIH; a policy analyst for the ACLU; a speechwriter to

former Secretary of State Condoleezza Rice and former Deputy Secretary John Negroponte; a program officer for George Soros's Open Society Institute; a trial preparation assistant for the Manhattan District Attorney's Office; an intern for UN High Commissioner for Refugees in Amman, Jordan.

You are diverse in every sense of the word. Our task, in the next three years, is to take the magnificent kaleidoscope that presently shines in this auditorium, and, turn by turn, knit you together, each to the other. We will encourage you to learn from each other, which is to say to listen hard to what your peers have to teach to you and to *respect*—how difficult that is—the heterogeneous perspectives that your classmates in good faith bring to a common conversation. We will encourage you to learn the power of collegiality, which nourishes social solidarity and which magnifies your capacity to achieve your goals. We will encourage you to trust each other. I am confident that out of the 214 discrete individuals who now sit in this room will emerge gradually, over the next three years, the bonds of common experiences, shared memories, entangled hopes and mutual loyalties, and I know that these will together endow you with strength throughout your life.

We will grow these sensibilities and virtues even as we engage in the serious business of teaching you the law. Here at Yale among your faculty are some of the finest legal minds in the world. We encourage you, indeed we *require* you, to work with them, to write with them, to question them, to learn from them. They are on the faculty because they are brilliant and passionate about the questions that they bring to the law. If you catch some of the flame of their passion, you will be enlivened. The law will become for you a source of wonder and outrage and power; it will become your provocation and your challenge, not merely your fate.

Oscar Wilde once said that “A map of the world that does not include Utopia is not worth even glancing at, for it leaves out the one country at which Humanity is always landing.” Here at the Yale Law School we aspire to offer you always maps of the law that include your hopes, your dreams, your utopias. We do this so that one day you can hand on to your children maps of the world in which the law has been improved and transformed.

In this law school we invite you to seize the law and to make it your own. But you can do this only if you first know the law, only if you first

master its many intricate complexities and deep puzzles. To do this, you must become socialized into the profession of the law.

It is to be expected that each of you will respond differently to this task, depending upon how the distinctive requirements of legal practice intersect with your own inclinations and prior training. Some of you will take naturally to this process; others of you will resist. In the end I am confident that *all* of you will succeed; *all* of you will come to learn what it means to live in the law. Indeed, you are each in this room because we believe that each of you has the capacity to live *greatly* in the law. Out of the 3363 who applied for the 214 seats in this auditorium, we picked the very best, and, trust me, we have very good judgment. Whatever your secret fear, you are not a mistake.

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I am sure that many of you are wondering what you will be doing here for the next three years. I would like to spend a few moments to discuss what a sophisticated legal education is designed to teach. I would like to ask what it means in 21st Century America to know the law.

Many of you, I'm guessing, imagine that the law is a kind of rule book. You believe that to know the law is to know the rules that apply to a situation, something like the way that a baseball umpire knows the rules by which the game is played or that a parliamentarian knows Roberts Rules of Order so that she can decide which motions are appropriate at which times and require what kinds of votes. Being at law school means merely coming to know the relevant rules.

I say this because when I teach first semester students in my constitutional law class, I notice that if I pose a constitutional law problem, the characteristic response is to answer, "Well, let's look up what the Constitution *says* on this problem," as though one could just check the text to find the answer. This way of thinking about law is very deeply ingrained in most laypersons conception of what the law is, as we saw sharply on display during the recent confirmation hearings of Yale graduate Sonia Sotomayor.

Now I want to be clear that much of law surely does function this way. If the Constitution says that each state gets two senators, you can't

suddenly demand three. If a complaint must be answered within a certain number of days, or if a will must be witnessed by a certain number of persons you had better know the relevant rules and get them right, or else you will be guilty of malpractice.

So in one sense, of course, learning the law is in part mastering its many rules. We will teach you these rules during your time at Yale. But learning the rules is actually the easiest part of learning the law. For example, one has to know *which* rules one should apply. Sometimes pertinent rules are located in statutes, sometimes in administrative regulations, sometimes in judicial opinions. It requires diligence and imagination to know where to look to find all the relevant rules that might apply to an event.

And then, when one has through hard work and responsible research found the relevant universe of rules, these rules must be interpreted. Frequently rules are vague and ambiguous. To know their meaning is to be able to interpret them in a convincing way. We will have to teach you the modes of interpretation and argument by which legal practitioners go about interpreting rules.

And then, even if we can determine which rules are relevant and determine their meaning, we might find that the relevant rules conflict and are inconsistent one with the other. Federal law might say one thing, state law another. How do we reconcile such conflicts? Only on the basis of a theory of how the diverse dimensions of the law join together to form some larger pattern. In order to do this, one needs an account of how the many joints of the law fit together to form a coherent order. When people speak of the inner logic of the law, they are often referring to this sense of immanent order.

And finally, once we discover all the relevant rules, once we determine their meanings, once we weave them together to construct an account of what the relevant legal obligations are, we must confront the *practical* question of what these obligations might mean in actual practice. And in this regard every lawyer distinguishes between law on the books and law in practice.

To know that the law really means is to know how it will actually be enforced. It is to know who the judges will be—will it be Yale graduate

Justice Clarence Thomas or Yale graduate Sonia Sotomayor? It will know which tribunal will make the decisions. It will know who will have to make what motions, with what evidence, at what cost? In fact the law is a very human, very political institution, and it is for that reason that we all know what Raymond Chandler meant when he wrote, “Law is where you buy it in this town.”

So while it is true that sometimes knowing the law is like knowing a book of regulations, this is actually a very incomplete and inadequate picture of what it is to know and practice law. More importantly for our purposes here, it is a picture of law that obscures some of its deeper and more theoretical challenges, challenges that will preoccupy you throughout your time at the Yale Law School.

Just to sketch some of the many reasons why your study of law here will not be like umpire school, consider that umpires *apply* rules, but to know the law is also to know how to *make* rules. As a lawyer, your job will frequently be to design the rules that others will apply. In the legal system it is quite common to find the task of *making* rules and the task of *applying* rules to be inseparably interconnected in profound and important ways.

To know how to make rules is to know how the legal institutions that enforce rules work. It is to know what difference it makes to make a rule through court decision or to make it through a statute or to make it through an administrative decision. It is to know how different kinds of rules function—to have a sense of the distinction between a criminal rule or a property rule or a tort rule, and so on. That is why, in this law school, you will spend a great deal of time studying how different kinds of legal institutions work and how different kinds of legal rules work.

To know how to design the law is also to know the kinds of things that we want to use law *to do*, which is to say to know how the institution of the law fits into our larger society. We don't what to use the law to enforce the rules of etiquette, for example. That is why at this law school you will study not merely rules, but also the goals that are characteristically assigned to the legal system to accomplish—goals like justice, efficiency, dignity, or accountability.

And, finally, if one is studying law, rather than pretending to be an umpire, the concept of a “rule” is itself problematic. Of course there are

legal rules, and many of them. The rule is that you stop at red lights. But many legal principles do not assume the form of rules like that. They assume a form like this: “You should drive in a reasonable manner.” “You may not divulge private facts in a manner that would seriously offend the reasonable person.”

When the law enforces general standards like this, it is in effect using the force of the state authoritatively to interpret the social norms of our larger society. But perhaps our society is divided, and seriously divided, about the question of what should or should not offend reasonable persons. Think here of the recent controversies that surround the publication of obscenity or hate speech.

To think about such questions even for a moment is immediately to be brought face to face with the question of legal legitimacy: how does the law acquire the authority to pronounce what is proper and improper to do? And it is for that reason that in this law school you will study not merely the rules, but how legal rules acquire authority. You will study questions like the relationship between law and politics, democracy, representation,

legitimacy, juries, pluralism, the countermajoritarian difficulty, hegemony, and civil disobedience.

So your experience studying law here will be a rich and varied one. You will learn much about how modern societies govern themselves, about how the law works as an institution, about the goals and consequences of using legal institutions, about the relationship between law and other major social institutions, about the various forms of legal legitimacy, and so on. Your experience will be very far from memorizing rules in a rulebook.

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And all this is only part of what I mean when I said that here at the Yale Law School we will teach you to live in the law. To live in the law is not merely to exercise cognitive mastery. It is also a matter of exemplifying certain values and certain commitments. To live in the law is to internalize the value of the rule of law, which is the value of living in a society governed by law rather than subject to military force or to chaotic disorder or to tyrannic whim. To live in the law is to internalize the obligations that come from legal expertise.

Most of you while you are here will take a clinic; in fact in a typical class, between 75 to 80% of you will take a clinical course. It is very likely if you take such a course that you will represent a client, and you will then be required to comply with the obligations of professional ethics.

These obligations are not merely about staying out of jail or avoiding a malpractice suit. They instead express the responsibilities that the legal profession assumes in virtue of its monopoly on a certain kind of legal expertise. In 1776 Tom Paine proclaimed that “in America the law is king.” If that is true, you will acquire, in the next three years, the keys to the kingdom. The price of those keys, apart from tuition, are the ethical responsibilities of being a lawyer, which express society’s judgment that those who dispense law ought to act in ways that serve the purposes of the law.

I hope you will come to inhabit these obligations proudly, as I hope you will work to improve them in ways that will make the legal system more responsive to the many pressing needs of our society. Socialization into any great profession, including the legal profession, entails both cognitive

mastery and professional morality. It is a matter of *both* knowledge and character. Here at Yale we shall seek to orient and jumpstart your internal ethical gyroscope. You'll have to help us in this effort. My predecessor as Dean, Harold Koh, used to stress to our students that their skill should never exceed their virtue, and he couldn't have been more correct.

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You are about to enter one of the truly great and unique pedagogical institutions on this planet. There is really nothing quite like the Yale Law School. This is a large claim, and I thought I would spend my last few moments explaining why I think it is true.

If I said that we have the best faculty in the country, which I happen to believe is true, you might well, and not unreasonably, think me simply biased by my love of the place.

If I said that we have the best students in the country, you might be more inclined to believe me, because each of you knows that despite many choices, you have decided to come to Yale.

But in fact I do not want to talk to you now about either the faculty or the students, separately considered. I want to talk with you about the intense and vibrant community that surges within the walls of this intimate but capacious building—a community that faculty and students create *together*.

Our educational philosophy is simple: We educate you so that you can make the law your own. Yale is special because we have designed a curriculum and a heuristic structure that is meant to bring out the unique and generative vision of each one of you. We educate you so that you might construct an intelligent, passionate, unalienated relationship to the law.

We want you to discover for yourselves and in yourselves what is important to *you* about the law. This building may be small, but it houses a dazzling variety of activities. To name just a very, very few of the many projects that our students have engaged in during the past few years:

You can argue in the Connecticut Supreme Court about the meaning of the right to education in the Connecticut Constitution. You can save a family home from foreclosure and work with banks to change the

Connecticut home mortgage market. You can work with the City of New Haven to create a unique environment that allows undocumented immigrants a decent life. You can file a brief in the Supreme Court of the United States. You can incorporate a non profit corporation. You can create a community bank. You can structure the financing and push the development of Shaw's Plaza so that low income communities can have access to healthy food choices.

Or you can create an organization called the Iraqi Refugee Assistance Project, which was established by a team of students that included a Fulbright scholar, a former Washington Post reporter who covered Iraq from 2003-2005, and a former U.S. Army Lieutenant who served tours in Iraq and Afghanistan. The Project provides direct assistance to Iraqi refugees, both abroad and here in New Haven, as they resettle in Connecticut. It works with the University of Jordan to create innovative outreach programs to Iraqi refugees abroad.

Or you can create an institution called 24 Hours For Darfur, a unique global video advocacy campaign. Or you can found an organization called "Center for Citizen Leadership," which awards fellowships to empower

wounded and disabled veterans to serve in their communities. Or you can create the TRO Project, which uses students to secure restraining orders to protect battered women. Or you can create an institution called Achievement First, which establishes model charter schools for the inner city, including the famous Amistad Academy. Achievement First now serves 3,700 students in 15 different schools. Or you can found an institution called All Our Kin, which to date has trained 50 low-income parents to become quality child-care providers.

As you see from these examples, one of the more subtle advantages of New Haven is that it is a city that is small enough so that you can really make a difference in the lives of people who live here, and yet it is a city that is large enough to suffer severe and important social problems that are characteristic of large urban settings.

It may be, of course, that reaching out into the community is not your cup of tea. In that case you can engage in different sorts of projects will you are here. You can, for example, make a spectacular conference, the way that the Federalist Society did last year, a conference attended by 600 people, to explore the contemporary significance of the ancient doctrine of separation

of powers. Or you can make a conference, as the American Constitution Society is about to this October, on what the Constitution ought to look like by the year 2020. Or you can create a conference, as the *Yale Journal of Law and Feminism* recently did, on the historical and ongoing significance of the enigmatic Pregnancy Discrimination Act. Or you can put together a conference, as the Community Economic Development Clinic in conjunction with the *Yale Human Rights and Development Law Journal* will do this Spring, on “Developing Food Policy: Domestic and International Perspectives.”

Or it could be that conferences are not your thing. In that case you can write a fascinating article that describes developing transnational norms of nonpunitive detention. Or you can write an article that studies the parental leave policies of large American law firms. Or you can write an innovative article examining changes in the representation of the Constitution in American high school textbooks. Or you can write a thoughtful article that asks how John Doe subpoenas to internet providers can be handled in a way that both preserves the privacy of online users and secures accountability in cases of abuse.

And I've only begun to scratch the surface of what our present students are doing or what our immediate past graduates have done. This small building is literally bursting with opportunities for you. It is filled with faculty who *want* to work with you. It offers an endless stream of intellectual opportunities to think through and to re-imagine important areas of law. It is stuffed with student organizations and clinics and projects that wish to help persons and to change important areas of the law. And if you don't find a project that you like, you can invent a new one.

So, my message to you is this: What makes the Yale Law School unique is that we have created an educational environment in which during the next three years you are virtually guaranteed to bump into some area of the law that will grab you, that will make you excited, and that will challenge you to master it. Whether this is possible because of our scale, or because of our energy, or because of our uniquely intellectual and activist culture, there is no other educational institution that can match us in these respects.

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Each of you sitting in this room represents a triumph. You have all been spectacularly successful. And paradoxically this very success itself leads to its own insecurities, because many of you are probably worrying inside yourself and secretly and probably with some embarrassment about whether you can now sustain your high levels of achievement within the remarkable community of the Yale Law School. You may be concerned whether you can continue to be the very best in your environment.

If that is your worry, then I have some advice and counsel. I'm being very serious now, so please take this in. The Yale Law School is unique because it is constructed from the ground up upon a different picture of the nature of success. To succeed at the Yale Law School does not mean being better than everyone else. Indeed, we have taken elaborate steps, ranging from our ungraded first semester to a grading system that can best be described as virtual, to undermine and to de-emphasize any such concept of success. To succeed here at the Yale Law School means, primarily, becoming the best of what you yourself are.

I don't mean to imply by this that your grades won't matter for certain sorts of things. If you aspire to a Supreme Court clerkship, your grades certainly will matter. But I do say as clearly as I can that being a Supreme Court clerk is not the only path to success. It is a path to a certain success. But there are many different paths, and your primary challenge while you are here is to determine what success will mean for you—you personally—because you will have to discover for yourself what will give your own life meaning and satisfaction.

Do not think for a moment that finding what success means for you is an easy task. It is one of life's most important but difficult challenges to learn what one really wants to do and what one really is. It is not likely that your interests and your passions will descend upon you in a Pentecostal flame of enlightenment; it is not likely that you will be suddenly struck blind on the road to Damascus. For many, if not most of you, succeeding at this task will involve serious introspection. It will involve trial and error. It will involve sampling many of the different flavors that Yale has to offer. You will have to wrestle with the question of what will give you satisfaction and

fulfillment, in just the way that just Jacob had to wrestle with an angel before discovering his own life's purpose.

Your education about this question will demand hard psychological work, honesty, and perseverance. The reason that we at the Yale Law School struggle so hard to create such a diverse, polyphonic, polymorphous environment is because we hope to maximize the chance that you will be able to locate and embrace and become great in the thing that you find in the end matters most to you. And it is because so many of our students succeed in this challenge that they graduate loving this school as much as they do.

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I was re-reading my Ralph Waldo Emerson the other day, and I realized that he had the educational philosophy of the Yale Law School exactly right when he said:

There is a time in every man's education when he arrives at the conviction that envy is ignorance; that imitation is suicide; that he must take himself for better, for worse, as his

portion; that though the wide universe is full of good, no kernel of nourishing corn can come to him but through his toil bestowed on that plot of ground which is given to him to till. The power which resides in him is new in nature, and none but he knows what that is which he can do, nor does he know until he has tried. (“Self Reliance”)

That pretty much describes what we strive to give to you. In the next three years we shall try our best to give you the tools, the discipline, the knowledge, and the desire to plough your own corner of the good earth, to discover what is new and unique in yourselves, to take joy in your own capacities, and to give to the world the special, particular blessing that only you can bestow.

We shall educate you so as to empower you to become more truly yourselves. We shall educate you to liberate your energy and your passion. We shall educate you to endow you with the capacities to make a lasting and important difference, no matter what your chosen field of endeavor. And we shall educate you in this way because we believe in you. We believe in every one of you sitting now in this auditorium.

Distilled to its essence, we offer you each the educational gift of *trust*. It is a rare and precious gift. Do not waste it. Take advantage of these next three years. If you are anything like most of the alums that I meet, these will be among the most wonderful three years of your life—the most exciting, the most provocative, the most transformative, the most empowering. Use them well, and good luck.

Welcome to our community.

Of course no institution runs on its own, certainly not on the speeches of its dean. Some of the more senior people who do the actual work, who carry the day to day burdens of administration and responsibility, are here with us today, and I would like to introduce them to you. In time, you shall get to know them well. They are each magnificent.

The first of these I'd like to introduce is **Tracey Meares**, who serves as the Law School's Deputy Dean and who is also the Walton Hale Hamilton Professor of Law at Yale Law School. She received her J.D. from the University of Chicago Law School, and then clerked for Judge

Harlington Wood, Jr. of the U.S. Court of Appeals for the Seventh Circuit.

Before joining Yale's faculty, she was a member of the faculty at the University of Chicago Law School. In her role as Deputy Dean, she is in charge of academic and curricular initiatives. Among the subjects that she teaches are Criminal Law and Administration and Criminal Procedure.

Tracey studies the relationship between law and communities. She is an expert in what makes communities, like ours, work. She is wise and she is strong, and I hope you come to trust her judgment and her insights as much as I do.

Apart from the deputy dean, we have here many associate deans and senior administrative officials. I'd like now to introduce you to them, in alphabetical order. They are:

Megan A. Barnett

- Megan is a 1997 graduate of the Yale Law School and has served as the Associate Dean of Academic Affairs since 2005. She is very involved in developing programs for law students who wish to make careers in legal teaching. She is also involved in initiatives about health law. She supervises the Registrar's office. She is to the dean what Talleyrand was

to France—she is indispensable. There is scarcely a decision in which she is not consulted and in which she does not offer sage advice. She is an administrator that bridges faculty and students and that always envisions the welfare of the entire school.

Sharon C. Brooks

- Sharon graduated from Yale Law School in 2000 and returned in 2007 to serve as Associate Dean of Student Affairs, and she also oversees the Career Development Office. If you have any questions about student life, academic or personal, she is a fantastic resource. She is the soul of compassion and you will find her a source of enlightenment and support. She is our conscience and she is our joy.

Judith Calvert

- Judith is our Registrar. You will get to know Judith well during your time here. She is like the Greek fates. She spins and measures the threads of your classes and requirements, and she snips the rope of your graduation. You will find her helpful and knowledgeable at every stage of your career here at the Law School. She is one of our great resources.

Toni Hahn Davis

Toni graduated from Yale Law School in 1992 with an LL.M. degree, and since 2000 she has served as associate dean for Alumni and Public Affairs, and she now also oversees the law school's Graduate Programs. As alums you will get to know Toni very well, but you should not hesitate to reach out to her during your time here. And the graduate students in the auditorium will find her the one necessary person in the building.

Brent Dickman

- Brent is the Associate Dean for Finance and Administration and recently joined us from the University of Michigan Law School. When Deep Throat told Woodward and Bernstein to Follow the Money, he was talking about Brent. Brent controls the finances, which means he controls everything. We all look to Brent to determine what we can and cannot do. And he always keeps us honest. He makes sure that we color within the lines. We are very, very grateful to him for that.

Mark LaFontaine

- Mark has served as the Associate Dean for Development since 2004. He works with our extremely loyal alumni base to fund the law school's

diverse and exciting initiatives. Much of what you do will be funded by imaginative donations Mark has created by dint of his endless energy and persistence. I will be traveling with him throughout the year to connect with our alums to plead for donations. If you have any ideas for fundraising, Mark is the man to see.

Asha Rangappa

- Asha graduated from Yale Law School in 2000 and returned in 2005 as the Associate Dean of Admissions. Many of you know her well already through the admissions process. She was your gateway to the Law School! She is like Athena—or maybe like the sorting hat in Harry Potter—she never gets a person wrong. She reads applicant files the way that a radiologist reads X-rays—with precision, accuracy and the kind of uncanny good judgment that eerily predicts future developments. If you want to know why she is so good at this, you should know that she is an ex-FBI agent, so know that each of you has been subject to the most thorough, the most tough-minded, the most professional vetting that it is possible for a human being to suffer.

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Georganne Rogers

- Georganne, the Dean's Executive Assistant, is the backbone of the Law School. If it were not for Georganne I could not get through a day. She is the living repository of the school's traditions and character. Any of you who take me up on my offer to meet to share your ideas and feedback will get to know Georganne, as well as her colleagues in the Dean's Office—Marianne Dietz, Beth Barnes, and Carolyn Poole. Georganne, to quote a phrase of Eliot, is the still point in the turning world of this law school.

Mike K. Thompson

- Mike is a graduate of Georgetown Law and has served as an Associate Dean since 1996, joining YLS's administration as an Assistant Dean in 1991. He oversees the Building and the Dining Hall and works closely with members of the community to plan events and to ensure that they run smoothly. Mike is like St. Peter—he holds the keys to the building. Every time you wish to schedule a room, hold a conference, or cater food, Mike is the man to talk to. Mike assigns offices, he creates security, he is the master of space and of time. He is the Dr. Who of the law school. You will find him always available and always helpful.