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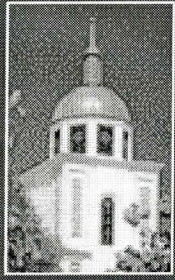
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USD Faculty Newsnotes

Issue #388

April 24, 2006

Edited by Stacy Miller

Provost Office

Faculty Research Report 2004-2005

Approximately \$520,000 was expended in 2004-2005 to support faculty research projects. Below are summarized the projects for which the Provost's Office has received reports by the date of this publication and submitted on the form, "Research Report Guide." Reports received after this date will appear in a future issue.

College of Arts and Sciences

Dr. Dennis M. Clausen, English department, wrote *Forever Christmas*, a novella (short novel) for dyslexic children who struggle with problems of self-esteem and self-confidence. It demonstrates that dyslexia can, in some circumstances, be a real gift.

Dr. Colin Fisher, History department, is still working on his book, *Nature from the Bottom Up: Immigrants, African-Americans, Industrial Workers, and Outdoor Recreation in Chicago, 1900-1940*.

Dr. Valerie Hohman, Biology department, along with undergraduate research students Allison Kane and John Putnoky, cloned the immunoglobulin J chain from several species of sharks and rays and presented their findings in a poster entitled "J chains of cartilaginous fish" at the Annual Meeting of the American Association of Immunologists, held in San Diego in April 2005.

Dr. Molly McClain, History department, researched and began to write her next book, *Mary: Holland's Princess and England's Queen*, a biography of Queen Mary II (1662-94), who was part of the royal partnership known as "William & Mary."

Dr. Mary Quinn, English department, began research on the second section of her book, *Mindful Moments in American Poetry*. She continues to work on this project.

Dr. Kenneth P. Serbin, History department, wrote and presented a conference paper, made substantial progress on an article to be published in a scholarly journal, and spent four weeks in Brazil interviewing former members of the resistance against Brazil's military regime.

Dr. Anne Sturz, Marine Science and Environmental Studies department, continued her work on the Mudpots Project, a project designed to monitor the effect of geothermal energy production at the Salton Sea Geothermal Field on mud pots and mud volcanoes that occur along the southeast shore of the Salton Sea.

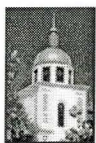
Dr. Yi Sun, History department, completed and published a number of articles on the subject of Chinese women in journals both in the U.S. and overseas.

School of Law

Professor Larry Alexander: The précis of *A Culpability-Based Theory of Criminal Law* covers the retributive basis of punishment, the relation of culpability to desert, the immateriality of results to culpability, the mental states constitutive of culpability, and the relation of inchoate criminality and culpability.

Professor Roy Brooks' project will result in a book that offers a new theory of civil rights theory, one that is attuned to racial dynamics developed during the years following the civil rights movement.

Professor Karen C. Burke completed work on a revised third edition of her book on partnership taxation, and published articles discussing tax shelters and the politics of estate tax repeal.



Professor Laurence Claus: "Constitutional Guarantees of the Judiciary" is the United States National Report on that topic to XVIIth Congress of the International Academy of Comparative Law, and analyzes the constitutional guarantees of jurisdiction and tenure that empower and protect the U.S. federal judiciary.

Professor Don Dripps continues to work on his project titled, "Bentham vs. Blackstone: The First Criminal Procedure Revolution and Its Implications."

Professor Robert C. Fellmeth: The article "Public Investment in Children: Law, Economics and Politics" discusses child investment policies and trends federally and among several states, tracking an increase in the deferral to the young of future public obligation by elderly populations.

Professor Ralph Folsom completed new editions of his *International Business Transactions* and *NAFTA* course books, and first editions of *Principles of International Business Transactions*, *Trade and Economic Relations*, and *Principles of European Union Law*.

Professor Steve Hartwell: "Six Easy Pieces: Teaching Experientially" presents one theory of experiential learning and then describes six classroom simulations that apply theory.

Professor Gail Heriot wrote a reply to an article entitled, "Illness and Injury as Contributors to Bankruptcy."

Professor Adam Kolber drafted an article that describes pharmaceuticals that help us to forget traumatic experiences and argues that such drugs should not be generally prohibited.

Professor David Law wrote an article that explores various types of commitment problems that sovereigns face, the extent to which those problems are aggravated (rather than relieved) by constitutional provisions, and the role of courts in managing such problems on behalf of the sovereign.

Professor William H. Lawrence's project, "Annual Updates of the Texts of The Law of Sales Under the Uniform Commercial Code and The Law of Personal Property Leasing," provides updates on all of the cases decided during the most recent year in the areas of sales and leases of goods.

Professor Herbert Lazerow's project focuses on whether the U.S. Visual Artist's Rights Act protects art produced outside the U.S., art produced by nonresident aliens, or art mislabeled, distorted, or destroyed either by nonresident aliens or outside the United States.

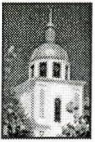
Professor Orly Lobel's project, "The Four Pillars of Work Law," describes how the law of the workplace developed in the American legal system as a patchwork of common law doctrine, federal and state statutes, and evolving social norms, and argues for the need for a more coherent, integrated framework for employment and labor policies that will fit the realities of 21st century production. "Sustainable Capitalism or Ethical Transnationalism" explores the ways in which globalization and off-shore production can either undermine national industrial relations systems and erode labor protections, causing a global race to the bottom, or create positive effects for workers, creating competitive pressures to ratchet up production processes, pushing forward skill, training, and economic development.

Professor Shaun P. Martin wrote law review articles on pretrial litigation as a real option, the availability and implications of judicial sandbagging, and the criminal defense of necessity.

Professor Lesley McAllister spent the summer editing her book manuscript, tentatively entitled, *Environmental Enforcement and the Rule of Law*.

Professor Grayson McCouch completed work on a revised edition of a casebook on federal estate and gift taxation as well as a new casebook on family wealth management and a book review discussing the politics of estate tax repeal.

Professor David McGowan's project, "A Realistic Look at the Free Speech Critique of Copyright," argues that recent calls for judges to use the First Amendment to limit Congress' power over copyright cases rest on an uneasy combination of legal realist premises and the formalism of modern free speech doctrine, a combination that ultimately renders the argument incoherent. "Some Copyright Consumer Conundrums" explores a variety of problems with the notion of using consumer protection theories to limit the length of scope of copyright.



Professor Miranda McGowan considers Justice Scalia's argument that statutes should be interpreted according to the meaning an ordinary speaker of the English language would give them and in her paper examines Justice Scalia's dissents and concurrences in his statutory interpretation cases to determine what characteristics Justice Scalia imputes to this "ordinary speaker," and uses recent cognitive science research to critique Justice Scalia's methodology.

Professor John H. Minan's completed projects deal with contemporary legal issues involving environmental law and land use policy.

Professor Grant Morris' chapter of a book entitled, "Civil Law: Structures and Procedures," introduces readers to law and lawmaking in the United States (including such topics as common law, precedent, *stare decisis*, holding and dictum, and judicial supremacy), using as examples issues involving the civil commitment, treatment, and rights of the mentally disabled. This article also discusses the doctrine of informed consent from legal, clinical, and ethical perspectives. Furthermore, the article discusses the creation of the right of a competent, but involuntarily committed, mental patient to refuse treatment and devices used by courts and legislatures to undermine, if not eliminate, that right.

Professor Saikrishna Prakash's project, *Reconsidering the Removal Power*, considers whether each branch of the federal government might have the power to remove officers. *Are Presidential Powers Indefeasibly the President's?* considers whether Congress may regulate the exercise of the President's constitutional powers.

Professor Lisa Ramsey argues in her article, "Intellectual Property Rights in Advertising," that the primary theoretical justification for intellectual property protection in the United States, utilitarianism, does not justify intellectual property rights in advertising.

Professor Michael Ramsey's project, "The Constitution's Text in Foreign Affairs," investigates the original meaning of the Constitution's text relating to foreign affairs, and develops a structure for foreign affairs law based on the Constitution's text.

Professor Michael Rappaport's article, "The Condorcet Case for Supermajority Rules," analyzes the Condorcet Jury Theorem and shows that it provides a strong justification under certain circumstances for supermajority rules. The article, "The Judicial Filibuster, the Median Senator, and the Countermajoritarian Difficulty," analyzes the use of the filibuster for judicial nominations and argues that it can operate to mitigate the countermajoritarian difficulty.

Professor Daniel Rodriguez's book, *What Statutes Mean: Positive Political Theory and the Interpretation of Federal Legislation*, and article, "The Paradox of Expansionist Statutory Interpretations," articulate and defend a "positive political theory" account of statutory interpretation in the modern American policy-making system.

Professor Steven D. Smith's article, "The Jurisdictional Establishment Clause: A Reappraisal," argues that the First Amendment's establishment clause was intended not to constitutionalize any substantive principle of religious freedom, but rather only to confirm the jurisdictional understanding in which religion was a subject for the states, not the new national government.

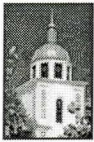
Professor Thomas A. Smith's project, *The Web of Law*, uses new techniques in computer science to investigate the statistical properties of the legal citation network.

Professor Lester B. Snyder is completing a book entitled, *Double Take – Unequal Taxation of Equals*, which exposes the wide disparity in federal income tax treatment of persons of equal income and financial resources.

Professor Ed Ursin's project, "Judge Richard Posner and the American Judicial Tradition," explores the lawmaking role of courts by focusing on the jurisprudential views of the great judges (Shaw, Holmes, Traynor, and Posner) who have shaped our law, and by placing those views in the context of the law and legal scholarship of their respective eras.

Professor Jorge A. Vargas' *Concubines Under Mexican Law* provides a detailed discussion on the legal regime applicable to "Mexican concubines" (somewhat equivalent to U.S. common-law wives) under Mexican law (i.e. civil law, labor law, social security law, criminal law, health law, etc.). The article also provides a comparative analysis of "concubines" under the laws of Canada and certain European countries (i.e. England, France, Germany, and Spain).

Professor Mary Jo Wiggins presented a paper, "Economic Conservatism, Conservative Economics, and Optimal Consumer Bankruptcy Law," in June 2005 at an international bankruptcy conference at the Tel Aviv University School of Law. The paper was accepted for publication by *Theoretical Inquiries*, a peer-review journal published by the Tel Aviv University School of Law.



Professor Chris Wonnell's article, "The Decision to Settle or Try a Case," explores the economics of the decision to settle or try a lawsuit, as that decision is influenced by the option to pursue additional discovery of information at each stage.

Professor Fred Zacharias' article, "Reconceptualizing Advocacy Ethics," spells out a theory of advocacy ethics, rooted in an 18th century case, *Rush v. Cavanaugh*, under which lawyers' duties of zealous advocacy are limited by duties to the court that are implicit in the lawyer's professional role, capable of being articulated, and, in some cases, judicially enforced. The article, "Who Owns Work Product," explores the issue of who has, or who should have, the power to control or waive the work product privilege. The article, "What Direction Should Legal Advertising Take?," considers the future of legal advertising regulation.

School of Leadership and Education Sciences

Dr. Jerome J. Ammer's project is an investigation of a computer-based instructional strategy platform (Web Quest) as a device that allows educators to enhance the standards-based curriculum learning performance outcome of students with learning disabilities and English language learners through collaborative problem-based learning.

Dr. Kathryn Bishop-Smith's project examines the successes and challenges of supporting individuals with significant cognitive and/or socio-emotional disabilities in accessing and succeeding in institutes of higher education.

Dr. Kathleen M. Collins organized an interactive symposium consisting of eight posters/papers and two research reports. Along with two graduate students from USD and four local teachers, she presented this work at the National Reading Conference in December 2004.

Dr. Robert Donmoyer's project involved writing an article that critiques traditional strategies used by external consultants to low performing schools and explores the strengths and weaknesses of an alternative approach built around the concept of collaborative action research.

Dr. Ana Estrada is working on an ongoing project titled, "Discovering the Process of Psychotherapy Conducted with Latino Families with Youth Disruptive Behaviors Problems."

Dr. Fred Galloway's project provides a history of the federal loan system and a time-serves analysis that suggests that the competition between the two federal student loan programs, the Federal Family Education Loan Program and the Direct Student Loan Program, has saved federal taxpayers over \$680 million per year.

Dr. Noriyuki Inoue's study found that mathematical teaching requires much more than deep content knowledge. It suggests the need to improve the quality of mathematical explanations.

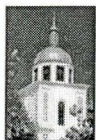
Dr. Jo Ellen Patterson further refined her book, *Collaborative Care Clarified Psychopharmacology Simplified* (August 2006 publication date). She assisted in writing a grant with colleagues from the UCSD Department of Pediatrics. The grant provided the USD MFT Program with \$10,000. Dr. Patterson helped to prepare and present a presentation for a meeting sponsored by the Collaborative Family Healthcare Association. She also revised a manuscript, "Searching for Gold: Evidence Based Practice," with Dr. Williams that was accepted for publication in the *Journal of Marital and Family Therapy*. Finally, Dr. Patterson began a paper (still in draft form) on what family therapists should know about learning problems.

Dr. Kendra Sisserson's project, "Sociocultural Perspectives on Reading and Teaching Literature for Children and Young Adults," explores uses of sociocultural/critical social theories, including critical literacy, positioning theories, critical pedagogy, culturally responsive pedagogy, and cultural-historical activity theory in designing secondary English/language arts pedagogy.

Hahn School of Nursing and Health Science

Dr. Mary-Rose Mueller presented a paper, "Outside or Inside the Margins? Research on Women in Contact with Corrections," at the Royal College of Nursing conference.

Dr. Mary-Rose Mueller and Dr. Susan Instone did an extensive literature review and organization of files. They had meetings with other investigators and consultants on the proposed grant project titled, "Decision Processes of Blood Donors with HCV Markers."



University Professorships

The process for selection of the 15 University Professorships for 2006-2007 will begin in the coming fall semester, and the Professorship awards will be announced in February 2007. Please note below the timeline changes from prior years.

The University Professorship program supports two types of awards. Recognition Professorships are one-year professorships awarded for outstanding career contributions in teaching, research, and service, and faculty must be nominated by a peer. Project-based Professorships support a specific research project, and faculty nominate themselves. Policies and procedures for the University Professorship application can be found online at www.sandiego.edu/administration/academicaffairs/awards/univ_prof.php.

Nominations/applications due to Deans: Monday, November 13, 2006

Recommendations from School/College committees due to University Professorship Oversight Committee: Monday, December 11, 2006

Ratification by University Professorship Oversight Committee due by: Monday, January 22, 2007

Announcement by President: First week of February 2007

Applications and nominations should be forwarded to the Dean of your academic unit. Since the Policy and Procedures guidelines allow flexibility for each academic unit to develop its own process, the Deans will send the information through the appropriate channels.

Academic Publications

Faculty Newsnotes Publication Dates and Deadlines

Listed below is the remaining date of publication for 2005-2006 *Faculty Newsnotes*. Please direct all entries to Stacy Miller, Director of Academic Publications, stacyc@sandiego.edu.

Submission Deadline
May 8, 2006

Publication Date
May 15, 2006

2006-2008 Undergraduate Bulletin

The 2006-2008 *Undergraduate Bulletin* has been published. If you did not receive your copy, please contact Stacy Miller at ext. 6877 or stacyc@sandiego.edu.

Bike to Work Day

Friday, May 19 – 7:00-9:00 a.m.

The Fresh Air Commuters Club, Human Resources, Dining Services, Parking Services, and the University Center invite you to participate in "Bike to Work Day" at the University of San Diego. Free gifts and refreshments provided for anyone riding, walking, car-pooling, etc., to campus! Contact Greg Zackowski at gregoryz@sandiego.edu with questions.



Faculty and Curriculum Development Program

The mission of the Faculty and Curriculum Development Program (FCDP) is to enhance pedagogical and curricular transformation, primarily, although not exclusively, in the areas of diversity and inclusion, in accord with the Mission Statement of the University of San Diego. FCDP programs are open to all full- and part-time faculty, students, staff, and administrators. Please contact Evelyn Kirkley, ext. 4131, ekirkley@sandiego.edu with questions and/or comments. To register, contact Michelle Morris, ext. 4525, michellemorris@sandiego.edu.

Women's Dinner: Gender Studies and Women's Center Banquet

Sandra Sgoutas-Emch and Thomas Reifer, Coordinators of the Gender Studies Program; LJ Hartig, Advisor, Women's Center
Thursday, May 4, 5:30 p.m. – 8:30 p.m.
UC 107

In this eleventh annual event, faculty, administrators, staff, and students celebrate graduating Gender Studies minors and Women's Center leaders. Gender Studies minors will present their capstone research, and awards will be presented, including the Linda A.M. Perry Award for Outstanding Achievement in Gender Studies and the American Association of University Women award for outstanding woman's contribution to the USD campus. Come applaud the accomplishments of our (soon-to-be) alumni/ae! Co-sponsored with the Women's Center and Gender Studies Program. Please RSVP by May 1.

Varia

Lieutenant Chris Brusca, Assistant Professor of Naval Science, won the Colonel Leo A. Codd Memorial Award for 2005's Most Outstanding U.S. Naval ROTC Instructor in the country. Every year, each ROTC unit for each service (Army, Navy/Marines, Air Force) across the country submits a nominee for the award which recognizes the most outstanding ROTC Instructor. The award is presented by the National Defense Industrial Association.

Alana Cordy-Collins, Anthropology, was part of the review team for the Anthropology department at Pomona College in February. She also spoke to the Archaeological Institute of America, San Diego Chapter, about the Moche Giants of Ancient Peru. Dr. Cordy-Collins traveled to San Francisco for the annual Tribal and Textile Art Show, and was invited to speak at the Bowers Museum in Santa Ana, Calif., for their exhibition of Tribal Art. Her presentation was titled, "Shamanic Art in Context."

In March, Dr. Cordy-Collins attended the combined meetings of the American Paleopathology Association and the American Association of Physical Anthropologists in Anchorage, Alaska. She co-authored a paper at the latter meeting, "What the Moche Giants Didn't Have: A Medical Evaluation of Potential Causal Agents," with James Kemp, M.D. (Mingei International Museum) and Charles Merbs, Ph.D. (Arizona State University) at the symposium "From the Arctic to Arizona and the Andes: A Celebration of Charles F. Merbs' Contributions to Physical Anthropology." During Spring Break, Dr. Cordy-Collins presented a talk at the Art department of California State University, Fresno titled, "The Moche Kingdoms of Ancient Peru."

Yvette M. Fontaine, adjunct professor in the SOLES Counseling Program and Director of International Services, had two articles published in the *Career Planning and Adult Development Journal*: "Career Counseling Issues: A Latin American Perspective" and "Cuba: An Alternative Perspective."

Mitch Malachowski, Chemistry, gave a presentation at the 231st American Chemical Society National Meeting, held in Atlanta, from March 26-30. His presentation was entitled, "Metal Complexes Formed from Dipyrromethene Ligands."

Dr. Malachowski participated in a planning meeting for the American Association of Colleges and Universities (AAC&U) Network for Academic Renewal in Long Beach, Calif., on March 14. The planning group is crafting AAC&U's April 2007 national meeting on the role of undergraduate research on campuses of all types.

Michael J. Strait, Director of Assessment, led a workshop on "Assessment of Individual Student Learning Outcomes in Courses" at the American Association of Colleges and Universities Network for Academic Renewal conference on general education and assessment, March 9-11, in Phoenix.