Celebrate with a thank you

This is a wonderful time for the Massachusetts Bar Association — we have a lot to cheer about. And now that our Annual Dinner is upon us, that is exactly what we are going to do, loud and clear! In 2015, with the support of our judiciary and our Legislature, Massachusetts finally embraced attorney-conduct ed voir dire, and we recognize two individuals in particular — House Speaker Robert A. DeLeo (President’s Award) and Superior Court Judge Dennis Cur ran (Chief Justice Edward F. Hennessey Award) — who played significant roles in bringing this to fruition. Both have been vocal supporters of justice and friends of the bar for many years, and I am so pleased to present them with these well-deserved awards.

And I am also particularly excited to have Mark Geragos, an internationally acclaimed trial lawyer and civil rights advocate, who has represented some of the most recognizable figures in entertainment and politics, as our keynote speaker. On a personal level, I am especially looking forward to meeting a fellow Armenian who has done so much for our community and brought important recognition to the Armenian genocide, which marks its 100th anniversary this year.

I cannot highlight the Annual Dinner as a celebration of our year without recognizing our member-volunteers who made it possible. Quite a lot happens in an MBA year, from CLEs to seminars to community-based programs and everything in between. And while we are fortunate to have an incredibly dedicated and hard-working staff, equally important are the hundreds of members who volunteer substantial time and effort to the association. The MBA will honor several volunteers this summer at our Annual Volunteer Recognition Dinner, and we are grateful for all the nominations we received last month. We have many worthy award recipients, including those unsung heroes whose important work behind the scenes often goes unheralded.

We have extraordinarily dedicated members — members who not only participate, but who give back to us every day. I want to take this opportunity to thank you all, even if there isn’t enough space in this column to list each and every volunteer by name. Thank you to everyone who has volunteered to be on an MBA com-

Access to Justice Award winners to be honored at Annual Dinner

The Massachusetts Bar Association’s Access to Justice Awards will be given to six attorneys and one law firm, recognizing their exemplary legal skills and service to the community this month at the MBA’s 2015 Annual Dinner at the Westin Boston Waterfront.

Honorees
• Adriana Lafaille, Rising Star Award
• Elizabeth Toulan, Legal Services Award
• Ropes & Gray LLP, Pro Bono Award for Law Firms
• Brian McLaughlin, Pro Bono Publico Award
• Benjamin Evans, Defender Award
• Jonathan Miller, Prosecutor Award
• Willard P. Ogburn, Lifetime Achievement Award

Access to Justice honoree profiles begin on page 4.
Chairwoman Maura Healey ( pictured, above). Conference highlights included a panel of experts providing a detailed review of developments in the fields of labor law and employment law over the past year, underground economy policy initiatives and misclassification of independent contractors.
News from the Courts

Gavin named statewide training supervisor for Mass. Probation Service

Patricia W. Gavin has been named the new statewide training supervisor for the Massachusetts Probation Service by Commissioner Edward J. Dolan.

The Massachusetts Probation Service Training Academy, located in Clinton, was the site of 269 training workshops attended by approximately 8,000 participants in the past year.

As the Statewide Training Supervisor, Gavin will develop, manage and implement a comprehensive program of training and professional development for Probation staff. She will also be responsible for creating training policies and protocols.

Prior to her appointment as training supervisor, Gavin worked as an associate professor of criminal justice and director of the Criminal Justice Department at Anna Maria College in Paxton. She served as co-director of the Molly Bish Center for the Protection of Children and the Elderly and as program supervisor for the RFK Action Corps for Children in Lancaster. Gavin is also a former adjunct professor at Fitchburg State University.

She earned a bachelor’s degree in law and society and sociology from the University of California-Santa Barbara. She graduated from Northeastern University with a master’s degree in criminal justice and earned a doctorate in criminal justice from Rutgers University in Newark, N.J.

Training grant to improve delivery of drug, mental health services in Franklin County

The Massachusetts Trial Court, in partnership with the Department of Public Health and the Department of Mental Health, has received a training grant that will help improve the coordination of drug and mental health services and their delivery to residents in Franklin County.

The training, provided by the Substance Abuse and Mental Health Services Administration’s GAINS Center, will enable the court system and community organizations to identify available services and solutions that help individuals with mental health and substance abuse issues who are at various stages of involvement with the criminal justice system.

SJJC invites public comment on a proposed new Code of Judicial Conduct

The Supreme Judicial Court’s Committee to Study the Code of Judicial Conduct invites public comments on a proposed new Code of Judicial Conduct. The SJC established the committee in September 2012 and asked it to review the current Massachusetts Code of Judicial Conduct in light of the American Bar Association’s 2007 Model Code of Judicial Conduct. The current Massachusetts Code of Judicial Conduct is based on the American Bar Association’s 1990 Model Code. The committee is chaired by Justice Cynthia J. Cohen of the Appeals Court, and committee members are drawn from the judiciary, the bar and academia.

Visit www.mass.gov/courts/court-info/sjc/ to review the proposed code. The committee will make its recommendations to the Justices of the Supreme Judicial Court following receipt and review of public comments. Comments are due by Friday May 22, and should be directed to the Committee to Study the Code of Judicial Conduct at CodeJudicialConductComm@sjc.state.ma.us. The comments received will be made available to the public.

Translated restraining order forms now available in eight languages

The Massachusetts Trial Court announced that forms and instructions for filing an Abuse Prevention Order, known as a restraining order, are now available in eight languages.

In addition to English, the forms are now available in the following languages: Spanish, Arabic, Chinese, Haitian Creole, Khmer, Portuguese, Russian and Vietnamese. These and other translated forms are available on the Trial Court’s online Language Access Portal online at www.mass.gov/courts/language-access.

“For individuals under stress, navigating the court system can be a challenge in any language,” said Trial Court Chief Justice Paula M. Carey. “The trauma that often accompanies a restraining order hearing can make it even more daunting to come to court. Translated restraining order forms will enable people with limited English proficiency to understand the forms related to their case and help them advocate for their own protection.”
McLaughlin serves on the board of Shelter Legal Services where he has done pro bono cases for veterans in housing and civil litigation matters. He is also a board member for Easter Seals Massachusetts and frequently volunteers with the Volunteer Lawyer of the Day program at Suffolk County Courthouse. In 2010, McLaughlin handles pro bono family law cases for the Community Legal Services and Counseling Center, the Volunteer Lawyers Project and Senior Partners for Justice. The way McLaughlin sees it, lawyers are in a unique class and have a responsibility to give back through pro bono work and community service.

“When you’re a lawyer, you’re given the gift of education,” he said. “My clients give back to me much more than I give to them.”

Volunteer lawyers depend in several different types of pro bono cases, McLaughlin has been able to gain experience in many areas of the law — experience that he necessarily wouldn’t get from specializing in one or two practice areas.

“When you do pro bono work and meet with clients, you might be the only lawyer they’ve ever met in their life so you have to know a little bit about everything,” he said.

When public defender Benjamin Evans says that the attorney general’s office is letting the client know that someone is in their corner. For some of the defendants who represent, this will be a first for them.

Working as the Fall River supervising attorney for the Committee for Public Counsel Services (CPCS), Ev- ans must balance the duty of providing a high level of service with maintaining large numbers of clients appointed to him by the court. But each case is unique and, for Evans, everything comes together when he sees a client’s face when a jury returns a verdict of “not guilty.”

But criminal defendants aren’t Evans’ only “clients.” The Fall River CPCS Office runs a robust internship program that gives young law students and those who are Su- preme Judicial Court Rule 3.03 certified the opportunity to immerse themselves in criminal cases in District Court. Like legal apprenticeships from days gone by, Evans said he thinks practical experience while in law school is criti- cal to the successful practice of law, especially criminal defense.

This may be because of the great lessons he learned as a student intern. “As a law student in 2005 I was fortunate to intern at what the attorney general’s office referred to as the ‘dreaded’ Fall River. I had the amazing opportunity to help Jonathan Shapiro when he tried a four defendant murder case,” Evans said. “Watching those lawyers try that case every day for six weeks was a real education.”

Defender Award
Benjamin Evans
Committee for Public Counsel Services
Public Defender Division

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Pro Bono Publico Award
Brian J. McLaughlin
Brian J. McLaughlin, Attorney at Law

Giving back through pro bono work and community service has become second nature for sole prac- tioner Brian McLaughlin, a recipient of the Access to Justice Pro Bono Publico Award. A native of Easton and a graduate of Boston College Law School, McLaughlin handles cases involving family law, special needs issues, unemployment and me- diation. He has been practicing in this area since 2002. Some of his most meaningful pro bono projects have been family law and domestic violence cases involving clients of battered women’s shelter, which have come to him through working with the Women’s Bar Foundation. On the urban transportation front, McLaughlin has also strongly advocated for those with disabilities by working for the Sunrise Transportation and MAX taxi cabinets.

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FAMILY LAW

DIVORCE BASICS: A VIEW FROM THE BENCH AND BAR

Monday, May 4, 4–7 p.m., MBA, 20 West St., Boston

Divorce practice ranks among the most demanding, complex and challenging areas of law. This course will teach you how to determine the facts of your client’s case, select appropriate avenues of relief and carry your opponent’s strategies while you become familiar with relevant statutes, rules and leading cases in order to achieve positive results for your client. Specific topics will include:

- Initiating representation
- Obtaining temporary orders
- Discovery
- Pretrial conferences and case management conferences
- Trial preparation
- Case law update
- Alimony reform update

FACULTY: Calvin J. Heinle, Esq., program chair; Hon. John D. Casey, Wendie Hurstein, Esq., John Roman, Esq.

TRENDS IN LEGAL CUSTODY

Wednesday, May 20, 4–6 p.m., MBA, 20 West St., Boston

The issue of legal custody can often be a stumbling block to settlement of divorce and paternity cases. Hear what legal custody means from a legal and practical perspective, and learn how to navigate through disputes regarding this issue. Also discover how legal custody is impacted by the appointment of parent coordinators, and by statutes governing divorce and paternity actions. Explore creative techniques for resolving legal custody battles, including drafting tips for the appointment of parent coordinators and legal custody carve outs. The panels will review historic and recent cases that address legal custody and discuss whether and when the issue should be litigated.

Faculty: Maureen McBrien, Esq., program co-chair; Donald G. Tye, Esq., program co-chair

GENERAL INTEREST

CLOUDY WITH A CHANCE OF SANCTIONS: FORECAST FOR SUCCESSFUL CLOUD COMPUTING

Tuesday, May 5, 12:30–1:30 p.m., MBA, 20 West St., Boston

As more firms and practitioners maintain paperless files, this CLE will offer an introduction to the cloud and cloud security, MA data privacy laws and ethics opinions on cloud computing, and potential issues with file retention. The program will conclude with tips and tricks from an attorney who currently uses the cloud.

FACULTY: Nicole M. Neiman, Esq., program chair; Steven Ayr, Esq.; Constance Vecchione, Esq.

TECH TIPS FOR LAWYERS: ORGANIZATION AND EFFICIENCY

Wednesday, May 27, noon–2 p.m., MBA, 20 West St., Boston

Members of the Young Lawyers Division’s Technology Committee will lead a brown-bag lunch discussion of their favorite technology tips for creating organization and efficiency. Topics covered will include:

- Strategies for dealing with the email inbox
- Collaborating effectively with clients and colleagues
- Creating file structures for a paperless office

FACULTY: Steven Ayr, Esq., program co-chair; Melissa Comer, Esq., program co-chair; Samuel Segal, Esq., program co-chair

UPCOMING COURSES

May 13 — College of the Holy Cross, Worcester
July 16 — MBA, 20 West St., Boston
Sept. 17 — UMass Lowell Inn and Conference Center
Oct. 23 — Western New England University School of Law, Springfield

REGISTER AT WWW.MASSBAR.ORG/EDUCATION OR (617) 338-0530.
MBA leaders take part in ABA Day in Washington

The MBA bylaws are available at www.massbar.org/bylaws. To view the MBA nomination and election procedures, go to www.massbar.org/bylaws.

2015-16 MBA officers and delegates announced

The Massachusetts Bar Association Nominating Committee, led by MBA Immediate Past President Douglas K. Sheff, has issued its report for the 2015-16 nominations for MBA officers and regional delegates.

The committee was composed of Sheff, MBA Past President Robert L. Holloway Jr., MBA Past President Richard P. Campbell, MBA Past President Warren Fitzgerald, Alice B. Braunstein, Hon. Nancy Holtz (ret.) and Catherine E. Reuben. automatically succeeds to the office of president on Sept. 1, 2015. Pursuant to Article VIII, Section 1 of the MBA bylaws, the committee has filed with MBA Secretary Christopher P. Sullivan.

For information about MBA officer positions, please refer to Article VI of the MBA’s bylaws. For information on Committees and Boards, please refer to Article VIII of the MBA’s bylaws.
The Winsor School of Boston and Pioneer Valley Performing Arts Charter Public School of South Hadley competed in the MBA’s 30th Annual High School Mock Trial Competition at Faneuil Hall’s Great Hall.

The Winsor School accepts a contribution of $2,500 from Massachusetts Bar Foundation President Robert J. Ambrogi (left) to help with travel costs as they advance to compete in the national competition.

The Winsor School wins MBA Mock Trial Championship

BY MIKE VIGNUEUX

The Winsor School of Boston is the state champion of the Massachusetts Bar Association’s 2015 High School Mock Trial Program. This is Winsor’s third consecutive championship and fourth state title since 2010.

Winsor and Pioneer Valley Performing Arts Charter Public School (South Hadley) competed in a closely contested two-hour mock trial in Faneuil Hall’s Great Hall on March 27. Winsor represented the prosecution, while Pioneer Valley represented the defendant in a fictional case that centered on the question of self defense versus first-degree murder in a shooting death. Pioneer Valley won the case by getting a not-guilty verdict, but Winsor prevailed in the overall scoring of the match.

Hon. Kathe M. Tuttman, Massachusetts Superior Court, presided over the mock trial and was assisted by Hon. Mark D Mason, Massachusetts Superior Court, and Hon. Howard J. Whitehead, Massachusetts Superior Court (ret).

“Each and every one of the participants was so well prepared and just did an outstanding job. You demonstrated a level of poise, self confidence, intelligence and skill that really is comparable to the attorneys who appear in front of me in my courtroom on a daily basis,” said Tuttman. “Any one of you could do that right now, and you’re still in high school. That’s pretty impressive.”

Next up for Winsor is the National High School Mock Trial Championship in Raleigh, N.C., May 14-16. A portion of the trip will be funded by a $2,500 donation from the MBA’s philanthropic partner, the Massachusetts Bar Foundation.

Started in 1985, the MBA’s Mock Trial Program began its 30th year in January. The competition places high school teams from across the state in simulated courtroom situations where they assume the roles of lawyers, defendants and witnesses in hypothetical cases. More than 1,500 students at 135 high schools competed in this year’s competition.
ADR

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Continued on Page 9
**MBA hosts speed networking with a twist**

MBA Vice President Christopher A. Kenney (pictured at center, top) and MBA Secretary Christopher P. Sullivan (pictured at left, bottom) participated in the April 9 Speed Networking with a Twist event, which was held during MBA Appreciation Week. Attendees shared marketing, billing, technology and time management advice and work-life balance tips.

**BAR NEWS**

**Letters of intent for Executive Management Board due May 22**

The House of Delegates is seeking letters of intent from its delegates to become a member of the Executive Management Board for the 2015-2016 association year. Letters must be filed with the MBA Secretary on or before 3 p.m. on, Friday, May 22.

Submit letters of intent to:

Massachusetts Bar Association
Attn: Christopher P. Sullivan, MBA secretary
20 West St., Boston, MA 02111

**Nominate a company for an MBA Pinnacle Award**

The Massachusetts Bar Association’s Consumer Advocacy Task Force is seeking nominations for companies, large or small, that should be considered for the 2015 MBA Pinnacle Awards honoring good corporate citizenship. The task force seeks to recognize one or more companies, which:

- Are in good standing
- Act to benefit consumers in Massachusetts

The task force is particularly interested in hearing about companies that have taken the initiative on their own accord to improve products or services in order to benefit consumers, as opposed to those which have made changes in response to litigation.

If any MBA member has a suggestion or nomination of a company that should be considered for a Pinnacle Award, visit www.massbar.org/pinnacleawards to fill out a nomination form and send it to Elizabeth O’Neil at oneil@massbar.org by May 29.

**EXPERTS & RESOURCES**

**CONTINUED FROM PAGE 8**

**WEATHER**

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What is the ABA’s Fair Court Funding Initiative? An important initiative undertaken by the TIPS section of the ABA to bring awareness to the importance of full and fair funding of our courts throughout the country.

How did you get involved with it? The ABA Annual meeting was held last summer in Boston, and I was asked to participate and advise on a local level regarding approaches to secure adequate funding for our courts.

From working with others at the ABA, how does the situation in Massachusetts compare to other states around the country? Massachusetts, like so many other states, has endured several years of significant reductions in funding that has clearly impacted our ability to perform our core functions, namely; justice with dignity and speed. However, over the last few years, the Massachusetts judiciary, with significant assistance from the bar associations — specifically the Massachusetts Bar Association — has been more successful in articulating that adequate court funding cannot simply be a policy decision but a core issue of good government. The courts have done a very good job, in my opinion, at changing the way we operate in many areas and streamlining our procedures to adapt to the changes in our business practices and the explosion of pro se litigants. We are working closely with our partners and legislative and executive branches.

How many years have you worked as a clerk? I was appointed and sworn in as the clerk-magistrate by His Excellency, Argeo Paul Cellucci, in March of 2000.

In that time, what for you personally at the Boston Municipal Court has been the most noticeable fallout from lower court funding? We have experienced a reduction in staffing from a high of 105 employees to approximately 46 employees now. This negatively impacts our ability to perform from the most mundane to the most complex situations efficiently and effectively. Crime and other disputes don’t suspend in difficult economic times.

What can lawyers do to help? Lawyers must continue to publicly and forcefully advocate for the full and fair funding of the judiciary. They must continue to emphasize not only to the executive and legislative branches, but also to their clients and the citizens, just how important a fully funded court system is to our commonwealth. Because without the courts, our democracy is at stake where individual rights may be sacrificed, business would suffer, victim’s rights would go unprotected and all of our constitutional protections would be at risk.

Current title: Clerk-magistrate, Boston Municipal Court-Central Division, President, Massachusetts Association of Magistrates and Assistant Clerks.

Law School: Suffolk University Law School.

Undergrad: Stonehill College.

Any other degrees: Master of Science Degree in Public Affairs: McCormack Institute at University of Massachusetts.
Healy receives high honor from Juvenile Bar

The Massachusetts Juvenile Bar Association (MJBA) in March presented its Chief Justice Francis J. Poitrast Award to Massachusetts Bar Association Chief Legal Counsel and Chief Operating Officer Martin W. Healy during the MJBA’s Annual Conference in Sturbridge.

Healy was honored for his advocacy on behalf of the juvenile justice system, including his efforts to increase compensation for attorneys who handle juvenile cases through the Committee for Public Counsel Services (CPCS). The MJBA created the award in 1993 in honor of Chief Justice Francis J. Poitrast, the Juvenile Court’s first chief justice, who is considered the architect of the statewide Juvenile Court system.

“Healy, like Judge Poitrast, can be described as an astute practitioner of law who is as comfortable in the halls of Beacon Hill as in the halls of justice,” said Suffolk County Juvenile Court First Justice Terry Craven during her introduction of Healy at the awards luncheon. “He is the perfect example of an extraordinary individual who through his work has contributed to the advancement of child welfare and juvenile justice.”

Healy, who has also handled delinquency cases pro bono for many years, said it was an honor to receive an award named for Chief Justice Poitrast, whom he called “a giant in every way.” He thanked the MJBA, his MBA colleagues, his family and the several Juvenile Court judges and officials in the room, calling the award one of the highlights of his career.

In his acceptance remarks, Healy noted that both the House and Senate had approved raising the hourly cap from 1,650 hours for children in family law cases to 1,800 as part of a supplemental budget piece pending on Beacon Hill. He urged the roughly 130 MJBA members and judges in attendance to contact their legislators and join in the call for improved funding and lesser restrictions on private attorneys handling juvenile cases.

Also at the awards luncheon, Nancy Hathaway, an attorney with CPCS’ Children and Family Law Division, was given the Judge Leo J. Lydon Award for her representation of Justina Pelletier during the teenager’s highly publicized custody ordeal.

By Jason Scally
Mandatory minimum sentences endanger public safety

BY PETER ELIKANN

Mandatory minimum sentences may, indeed, be tough on certain individual offenders, but they are, ironically, soft on crime. A plethora of evidence-based research over decades has proven that scarce crime-fighting dollars diverted to mandatory sentencing practices is one of the least effective ways to lower the crime rate and reduce recidivism. Therefore, mandatory sentences endanger the public by soaking up a lion’s share of resources rather than allocating them to methods that are dramatically more successful in enhancing public safety.

One of the strongest arguments is that, although crime is down everywhere, the states that have followed the evidence-based research and repealed mandatory sentencing have seen the most extraordinary crime drops. A 2013 Pew study notes that the 10 states with the biggest decline in imprisonment rates saw a larger decrease in crime than the 10 states with the highest imprisonment rate increases. This may be why a number of conservative states with previous reputations for harsh sentencing have moved further than Massachusetts and reduced or eliminated mandatory sentencing in favor of evidence-based smart-on-crime legislation. Those states include Texas, Mississippi, Georgia, North Carolina, South Carolina and Kentucky.

A case in point is Texas, where, like many states, it had quadrupled its prison population from 1980 to 2005 and, in fact, built 38 new prisons under then Gov. George W. Bush while, simultaneously, seeing its crime rate rise. Since 2005, as a unique bipartisan right/left alliance in Texas made a concerted effort against mandatory sentencing, the crime rate has dropped 22 percent, the incarceration rate is down 12 percent, three adult prisons have closed and Texas has its lowest crime rate since 1968. In every single category of offense, the Texas crime rate is improving faster than the U.S. average.

By keeping more offenders out of prison through its elimination of mandatory sentences, Texas was able to free up money to support more recidivism-reducing programs inside its prison walls for job training, education and reentry, and became a model of efficiency in addiction treatment and mental healthcare.

The following hypothetical question raises the singular best argument against mandatory minimum sentences, bar none: If a person in Massachusetts — perhaps a teenager or a welfare mother given $50 to carry a bag weighing more than 200 grams for a drug dealer — either decides to exercise his or her right to a trial and loses or is arrested in a county that, as policy, does...
not break down mandatory sentences ever, then he or she will be sentenced to a minimum of a dozen years in prison. The cost of warehousing that one individual will be close to three quarters of a million dollars. So here’s the question, what if someone said to you something to the effect of: “Here is almost three quarters of a million dollars. Take that money and do something with it to fight the scourge of illegal drugs in Massachusetts. I’m giving you free rein. So be creative and put on your thinking cap.” Will you take that money and provide drug education to thousands of people? Or will you provide drug treatment to many hundreds of people? Will you see what almost three quarters of a million dollars could do if you gave it to the police for crime prevention? Or would you say, “I’m going to take my almost three quarters of a million dollars and use it to have one foolish teenager or go-again girlfriend sit in a cell. That is the most effective thing I can think of to fight drugs that are ruining our communities.”

That person who would take that money and fill a single cell would be wrong, as a well-known 1997 Rand study noted that mandatory minimum sentences were seven-and-a-half times less effective than drug treatment. In the ensuing years, virtually every study and all of the research has backed up that 1997 study. If there is one truism that we know, it is that we cannot jail our way out of the drug problem. And it is not as if we have discernible impact, we just kept repeating the same effort and expecting a different result? It has been as if all the king’s horses and all the king’s men couldn’t put Humpty together again, so let’s keep redoubling the number of horses and men in perpetuity to no avail.

Part of the problem is what criminologists refer to as the “replaceability effect.” If public officials stand in front of a just closed-down crack house after a major number of arrests at the site and point out that, “We’re sending a message on what happens if you try to flood our community with drugs,” it really is an ineffective message, though genuinely heartfelt it may be. That is because there is, regrettably, so much money to be made that, within a week, the drug house may have moved two blocks over, but some other drug dealer will take the arrested dealer’s place. The “replaceability effect” is not similarly operative in all areas of crime. For example, not to be facetious, but if a sex offender is arrested, it is not as if there is an opening available for a new sex offender in the neighborhood.

Equally indefensible has been the peculiar set-up where an adversarial system exists where one of the involved adversarial parties is also the final decider. Imagine a boxing match where one of the two boxers is also the referee. Or imagine an Olympic sports competition where one of the participating athletes also gets to hold up the scoreboard and determine him or herself the winner. That system was created by mandatory minimum sentences where the prosecutor, by determining the charge, determines the sentence. This system of “prosecutorial adjudication,” where we no longer have the deliberations of an experienced disinterested neutral magistrate, reduces the judge to a sentencing widget on the sidelines who is almost always reduced to looking at a graph on a chart to find out the sentence that has already been picked out by the prosecutor.

At first glance, it might seem that this one-size-fits-all sentencing where we sentence the offense rather than tailoring the punishment to the individual offender would result in a uniform sentence for everyone and all of those who committed the same crime regardless of their background and history. But one of the byproducts of this is that prosecutors are too often giving the most draconian sentences to the most minor offenders since the more major impact players are frequently able to reduce their sentences by providing information. Regardless, there is absolutely no uniformity of sentencing since there are some counties in Massachusetts where the mandatory charge is never ever broken down as a policy; other counties might break it down one only level as a policy, and, if one chooses to go to trial, all hope of a breakdown is lost. There is, indeed, an, inarguably, staggering inconsistency of sentencing.

A collateral issue is that mandatory sentences disproportionately affect the minority population. Arguments have been heard from both sides on whether this is purposefully intentional or not, but what is indisputable is that this reprehensibly inexcusable disparity exists. The difference is not explained by drug use rates; whites do not use drugs at lower rates than non-whites. Nationally, African-Americans are 13 times more likely to be incarcerated than whites even though they comprise 13 percent of regular drug users. In Massachusetts, in 2013, racial and ethnic minorities comprised 32 percent of all convicted offenders and made up 75 percent of all those convicted of mandatory drug offenses.

The bottom line is that those who divert money from the evidence-based best practices of lowering the crime rate to ineffective mandatory minimum sentences without doing the research may be tough on some individuals, but soft on crime. And that compromises public safety and endangers the lives of the good law-abiding citizens who play by the rules.
Dear February Bar Admittees,

Congratulations on joining the Massachusetts bar! You will come to find that being a lawyer is everything they’ve said it would be: the good and the bad. You’ll also come to find that just like being Spiderman, having great power means having great responsibility. I’m writing to you all today as a member of the Law Practice Management Section Council, but more importantly as a fellow member of the bar. I want to give you some insight that really would have helped me as a new attorney when I started — insight that actually probably someone did give me, but I wasn’t wise enough to fully appreciate at the time.

Keep on learning and find a mentor

Your formal education as a lawyer is over, but that doesn’t mean that your education as a lawyer is over. As long as you’re an active member of the bar, you will keep on learning. In Massachusetts, there is no required continuing legal education requirement, but it would be foolish to think that everything you need to know as a lawyer, you already know. Even seasoned lawyers will tell you that they continue to learn from CLEs, other lawyers and even their own clients.

If you’re a member of the Massachusetts Bar Association, you get all MBA CLEs for free, so as a new attorney, take advantage of it and attend, either in-person or via online, as many as you can. Explore different areas of law and business if you haven’t yet decided your life’s mission. Subscribe to Massachusetts Lawyers Weekly so that you’re always up to date on the latest news coming out of the bar and the courts. Take part in mentoring, either one-on-one or as part of a group. You can learn from more experienced attorneys and also from younger attorneys.

Don’t stoop down to their level

When I was a new attorney, I had a family case in court where the other, more seasoned attorney yelled at me outside of the courtroom, “You’re out of order!” Instead of participating in a screaming match with this other attorney, I told the other attorney whom you simply is mean for the sake of being mean and he or she might try to bully a younger attorney.

The best defense to attorneys like that is to know the law (do your homework) and stand your ground, but don’t stoop down to their level. If you know they’re lying in court, that doesn’t give you the right to do the same. If they’re trying to start a shouting match with you, that doesn’t mean you have to participate.

Do well by doing good

Doing pro bono work not only helps the community, it also helps you as a lawyer. When I first started my solo practice in family law, I didn’t have a lot of clients. I spent a lot of my free time learning the law and doing pro bono work. I volunteered for Lawyer for the Day at the Probate and Family courts (and still do). I volunteered for Dial-a-Lawyer through the Massachusetts Bar Association to give free legal advice to callers once a month. Not only did those experiences give me a great sense of satisfaction in knowing that I’m helping people that couldn’t otherwise afford legal help, I was learning how to be a lawyer.

As a new lawyer, I wasn’t comfortable giving legal advice and I wasn’t sure of my self. The more pro bono work I did, the more I knew the law and learned the court process, and the better I was at giving legal advice. It helped me learn while at the same time, helping others.

There are a lot of volunteer opportunities through the Volunteer Lawyers Project and Senior Partners for Justice.

Learn to make money

You might start out as an associate at a firm or you might soon be opening up your own practice — whatever the situation might be, you need to learn how to make money as a lawyer. Being a lawyer is a profession, but it is also a business. If you’re the best lawyer in Massachusetts, but you don’t know how to attract clients, your legal skills are not going to matter much.

Knowing how to get clients and make money is an obvious skill to learn if you’re a lawyer. As you continue in your career, you will find out that the clients you attract are the ones that will help you continue to make money. You have to find out how to attract clients who will keep you busy and who will keep you satisfied.

Have a life

As I said in the beginning, there is the good and the bad of being a lawyer. A big part of the “bad” is that typically lawyers work very long hours. Especially as a new associate, you might find yourself working 12-13 hour days in order to get in your minimum billable hours. No matter what type of law you find yourself doing, keep a work/life balance that allows you to step away and live a life. If you have trouble finding that balance, counselors at Lawyers Concerned for Lawyers (LCL) can help. LCL is a free service that is paid by your bar dues, so take advantage of it.

Gabriel Cheong is an attorney with Infinity Law Group LLC.
The cost of college continues to skyrocket with no end in sight. Sending a child to college is now one of the most costly expenses that a family will undertake. Planning for and paying for college becomes even more complicated for divorcing parents.

Massachusetts Probate and Family Court judges have been confronted with issues concerning the allocation of college education expenses with growing frequency, in large part due to the seemingly ever-increasing cost of college and the growing acceptance of college as a necessity to future economic independence. Not surprisingly, divorcing parents are often anxious about how to pay for the future cost of college, especially when it coincides with the expenses of maintaining a second household.

Interplay with child support

Before the issue of college expenses is discussed in detail, it is important to address the related issue of child support. One question divorcing or divorced parents often have when it comes to paying for college is how the allocation of college costs will affect their child support order. It is possible that the court will modify the amount of child support a parent is paying if that parent begins contributing towards college, but modification is not automatic, nor is it presumptive.

Under Massachusetts law, child support can continue until a child reaches the age of 23 if the child is enrolled in an educational program, domiciled at home with one parent and is principally dependent on the parent for support. A child is considered to be domiciled with one parent even if the child lives on a college campus for the academic year.

In August 2013, Massachusetts adopted new child support guidelines. The guidelines provide factors that the court may consider in determining child support orders for children over age 18. The factors include the available resources of the parents, the cost of post-secondary education for the child, the availability of financial aid and the allocation of college costs, if any, between the parents.

In addition to child support, a court can order that parents contribute towards their children’s college expenses. There is no bright line rule, and the court’s decision is based on the same factors as those listed above. If such an order is made, it should be considered by the judge in setting the weekly child support order, if any. In sum, it is possible that the court will modify the amount of child support a parent is paying if that parent begins contributing towards college, but modification is not automatic, and the overall result will most certainly be an increase in the cost to the payor when the two expenses are combined.

Allocation of college expenses by court order

When divorcing or divorced parents disagree as to the allocation of responsibility for payment of college costs, they have the option of asking the court to determine and order the allocation. While the court does have the discretion to order the allocation of college costs between parents, such discretion must be exercised within boundaries. Case law has developed, which states that only under limited circumstances may a judge order future college expenses where children are not approaching college age. The courts have stated that child support orders are meant to address current and not future needs of children. Therefore, it is not permissible for judges to look too far ahead when ordering the allocation of college expenses.

There are some very limited circumstances where a judge may permissibly order the allocation of future educational expenses when the child is still young. Such circumstances include situations where the parents are profligate or a child has special needs. Otherwise, divorcing parents who cannot agree as to the allocation of college costs must wait until the child is approaching college age and then seek the court’s assistance in allocating college expenses.

Despite the fact that courts have discretion to order divorcing parents to contribute to college expenses,
Tolstoy was famous for many things, but most remembered because of the way he began his novel *Anna Karenina:* “All happy families are alike; each unhappy family is unhappy in its own way.” This is an adage that has stayed with me throughout my career as a divorce lawyer, especially when dealing with cases involving domestic violence. Indeed, in a recent trial I used the phrase in my proposed rationale submitted to the court. I thought it was a great way to highlight the unusual facts of my case and hoped it would lead to what I considered a just result. Unfortunately, it did not.

Despite my 256-page, carefully pre- pared proposed findings of fact, a third of which detailed incident upon incident of physical and emotional abuse, all of which were supported by testimony allowed into evidence, the court mentioned not a one of them in its judgment, divis- ing the assets nearly equally. My client, the higher-paid wage earner of the family, who also ordered to pay statutory general term alimony, was horrified at the result. I was equally surprised that no mention was made of the violence anywhere in the court’s opinion.1 Ultimately, my client was required to pay spousal support by the pro- cess, and I was left with the impression that short of death or dismemberment, courts in Massachusetts, even in 2015, are not likely to give much weight to violent conduct when dividing up marital assets or awarding alimony.

In *Mitchell v. Mitchell,* 62 Mass. App. Ct. 769, 821 N.E. 2d 7 (2005), the court opined most eloquently that “preservation of the marital enterprise” has been “the dominating concern” of domestic violence law. “One of the purposes of the Abuse Prevention Act, M.G.L. c. 209A, is to provide a forum for the resolution of disputes which have been generated by the violent conduct of a spouse. However, the courts have tradi- tionally focused on financial misconduct in dividing marital assets rather than physical and mental conduct. See, e.g., *Johnson v. Johnson,* 53 Mass. App. Ct. 416, 419, 769 N.E. 2d 741 (2001) (husband’s expenditures on motorcycles, mo- tor home and another home as compared to wife’s use of funds to maintain and improve marital home); *Ives v. Yee,* 23 Mass. App. Ct. 483, 484, 498 N.E. 2d 675 (1986) (husband’s gambling away joint assets constituted dissipation of marital assets); *Bak v. Bak,* 24 Mass. App. Ct. 608, 623-625, 511 N.E. 2d 625, 634-635 (1984) (husband conveyed real estate to his mother prior to divorce in an attempt to circumvent equitable division).”

Under M.G.L. c. 208, § 34(“conduct”) is one of the factors to be considered when dividing up marital assets, and one would think that this simple word would encompass the husband’s “abusive and pathological” conduct towards his spouse. However, the courts have tradi- tionally focused on financial misconduct in dividing marital assets rather than physical and mental conduct. See, e.g., *Johnson v. Johnson,* 53 Mass. App. Ct. 416, 419, 769 N.E. 2d 741 (2001) (husband’s expenditures on motorcycles, mo- tor home and another home as compared to wife’s use of funds to maintain and improve marital home); *Ives v. Yee,* 23 Mass. App. Ct. 483, 484, 498 N.E. 2d 675 (1986) (husband’s gambling away joint assets constituted dissipation of marital assets); *Bak v. Bak,* 24 Mass. App. Ct. 608, 623-625, 511 N.E. 2d 625, 634-635 (1984) (husband conveyed real estate to his mother prior to divorce in an attempt to circumvent equitable division).”

One of these statutes is the Abuse Prevention Act, M.G.L. c. 209A, which I co-authored and helped lobby through the Legislature in 1978 as a member of the Battereds Women’s Ac- tion Committee.

Given this policy, it is think incum- bent upon the courts to consider not just the entitlements of M.G.L. c. 208, §34, but also the obligation of individuals in a marital relationship to observe a modi- cum of civility as they discharge their du- ties as parents and partners.


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We have gone well past the days when husbands were entitled to beat their wives with a stick “no larger than a thumb.” Indeed, psychological literature is replete with documentation of the serious effects of family violence. “It has been associat- ed with emotional, behavior and learning problems in children … [and] the effect is long term — essentially modeling behav- ior for male children to become abusers and for female children to be- come embossed in abusive relationships as they become adults.” Gayla Margulion. Effects of Domestic Violence on Children, in “Violence against Children in the Fam- ily” in *Violence against Children in the Fam- ily: Psychological, Social, and Public Policy Implications,* J. Schellenbach & Penelope K. Trickett eds., American Psychological Association (1998). Domestic Violence and the
Beyond learned helplessness:
Effective advocacy for survivors of domestic violence

BY ELIZA J. MINSCH AND JENNIFER M. NORRIS

Unfortunately, domestic violence is endemic in our society and, hence, in our law practices. Nearly one in three women and one in five men in Massachusetts have experienced physical violence, rape and/or stalking by an intimate partner. Domestic violence can happen to anyone regardless of race, age, sexual orientation, class, religion or gender.

As family law practitioners, it is important to understand the dynamics of abuse in order to recognize it, build trust and understanding with survivor clients and better advocate for their needs. In this short article, we attempt to outline some considerations we hope will assist practitioners in advocating for clients in abusive relationships and understanding the limits of the legal system, which regrettably has often been ineffective in combating domestic violence and has even perpetuated systemic abuse.

This article does not purport to provide an exhaustive assessment of all domestic violence situations, responses or outcomes. As with any client, each survivor of domestic abuse is an individual who responds in their own way.

Initial client screening and intake

Address confidentiality with your client: Carefully explain attorney-client privilege and privacy protections so that the client feels safe disclosing abuse to you. Many survivors have been warned or threatened by their abuser not to tell anyone and speaking about their experience can be a big risk for the client.

Ask questions about domestic abuse: Proceed sensitively, but include screening questions about abuse. Let your client know it’s okay to talk about and, in fact, critical to your ability to represent them effectively.

Give your client time and space to disclose abuse and validate that you believe them: It may take time for a client to reveal abuse. Be supportive and validate their experiences. As a client’s trust in you grows they may be more willing to disclose important details, so encourage them to retell their story more than once as you continue working with them.

Take steps to build trust: Be aware that it may be very difficult for your client to trust you, and they may never have complete trust in you. Be clear about guidelines of representation and communication with your client so they know what to expect from you. Try to demonstrate that you’re worthy of their trust, but don’t take it personally if your client remains guarded. Self-preservation is an essential tool for survivors.

Beware of well-intentioned but victim-blaming statements: Be very careful not to make statements that you may think are innocuous, but may be perceived as blaming the victim for the abuse, such as, “Why did you stay in the relationship for so long?” or, “Did you ever consider calling the police/getting a restraining order?” Survivors have often been told by the abuser that it’s their fault — they don’t need to hear it from their attorney.

Don’t make assumptions: Don’t make assumptions about a client’s sexual orientation or gender identity until they disclose it; don’t assume a client is the victim or abuser based on their gender. Don’t assume that if your client’s partner has accused them of abuse or has a restraining order against them that they are the abuser. Be aware of stereotypes and listen with an open mind.

Trust your client’s instincts and assessment of the situation: Your client is the expert on the abuser and what he or she is capable of. Listen and trust their assessment.

Continue to monitor the situation: Even if your client does not initially disclose any abuse, continue to inquire periodically throughout your representation and remain vigilant of warning signs such as: your client’s fear of their partner’s temper; your client not seeing or spending time with friends or family; your client experiencing threats to keep children away, be deported or have their sexual orientation disclosed; and/or being denied access to financial resources. Obviously, this is just a sampling of what may be observable.

Be able to provide resources: Create and maintain contacts with (or at least be sure you have accurate contact information on hand for) appropriate services to connect your client with including counseling, shelters and housing programs, medical services, job training-services, welfare offices and crisis hotlines (24/7 MA hotline: SafeLink 1-877-785-2025). Instruct your client to utilize them from a public phone or library computer if their safety may be in danger if their partner discovers their activities.

Safety

Escalation of danger: Be aware that the risk of abuse (whether physical violence or other abuse) escalates when a survivor leaves the home or obtains legal assistance because the abuser’s sense of power and control are threatened. Encourage your client to be open with you about what they believe their partner is capable of. Take this danger seriously and engage in taking safety precautions for your client, their children, and yourself, if needed.

Legal protections: Be aware of what legal protections and avenues related to domestic abuse are available to your client — 209A protective orders, harassment orders, workplace protections and new criminal statutes pursuant to An Act Relative to Domestic Violence. Also be aware that legal measures, while important, are often not abided and do not deter or put a stop to domestic violence.

Safety planning: Encourage your client to keep a list of resources they can turn to for support, to look for a safe place to stay and to consider other logistical and financial implications of escaping domestic violence. Take steps to have abusers surrender keys to your client’s home and/or car and refrain from shutting off your client’s utilities or interfering with their mail and accessing email, social media, cell phone records, etc. Be aware of and take precautions for cyber security. For additional suggestions, see Quinon, Chapter 25.3 and the National Domestic Violence Hotline (www.thedh.org).

Understanding the dynamics of abuse

Not all domestic violence is physical: Abuse can be physical, emotional, sexual or economic — the key is that the behaviors are used to maintain coercive control over the victim. ALL of these abuse and must be seen and recognized and confronted. “Abuse is a...”
DOMESTIC VIOLENCE

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repetitive pattern of behaviors to maintain power and control over an intimate partner. These are behaviors that physically harm, arouse fear, prevent a partner from doing what they wish or force them to behave in ways they don't want to. They can also use the threat of physical and sexual violence, threats and intimidation, emotional abuse and economic deprivation. Many of these different forms of abuse can be going on at any one time.

Abuser tools: There are many different tactics used by abusers to control their partners. When an abuser's sense of power and control are threatened or tactics used previously are unavailable to them (such as if their partner leaves them), they may engage in other forms of abuse. Abusers may want to exact revenge on their partners and do anything to hurt them, even if it hurts the abuser as well (such as lettre geat, losing their job, or harming their children).

Survivor responses: There is no uniform, predictable, correct way to respond to abuse. Survivor responses to abuse can vary greatly. Some survivors may seem numb, some may seem passive and subdued, while others may be angry and outspoken or even seem obsessed with the abuse they suffered. All are valid and should not be judged.

Psychological effects: Some survivors may experi- ence Post Traumatic Stress Disorder, depression, anxiety and/or post-traumatic stress disorders. Others may exhibit symptoms of these conditions in the absence of a diagnosis. Educate yourself about these conditions and the effect on your client to help you better understand and represent your client. Psychological conditions also may be relevant to many legal issues including child custody and alimony.

LGBT domestic violence: Educate yourself, seek training and be sensitive to issues specific to clients in lesbian, gay, bisexual and transgender relationships. While the dynamics of abuse are the same, there may be additional dynamics including fear of disclosure of sexual orientation, discrimination and systemic oppression, hostility of judges, difficulty obtaining services, concerns about losing custody and barriers within the community.

Issues in representation

The “irrational” client: Often, survivors have been made to feel that they are crazy, unreasonable, unlovable and/or have been told the abuse hadn’t happened or was their fault. Your client may be very sensitive to feeling heard, believed and understood. An abuse survivor may also be perceived to be exaggerating or overly paranoid or alarmist. Hyper-vigilance or hyper-sensitivity to the abuser’s triggers is a perfectly rational, understandable response to abuse. While you may be cordial in dealings with the abuser, it doesn’t mean you are aligning with them. Be prepared and expose the abuse.

The “challenging” abuser: Most abusers are per- fectly likeable, affable people. A colleague who works in domestic violence once commented, “I never met an abuser I didn’t like.” Don’t be taken in by a charming abuser, and be sure to make your client aware that while you may be making reasonable deals with the abuser, it doesn’t mean you are aligning with them.

Educate judges about abuse: It is essential to try to make your judges and jurors understand the text of abusive relationships. Be prepared for judges to be unceptive and hostile to your client’s expe- riences. Often, domestic abuse is not recognized and such cases are instead labeled as being “high con- flict” with victims being held to blame. Judges who don’t understand the dynamics and effects of abuse are likely to characterize and penalize the survivor as being unreasonable, difficult and uncooperative. Use whatever resources you can, including domestic violence experts and mental health providers, to make your judge understand.

Going to court

Protect your client: The experience of facing the abuser, even in controlled environments such as the court room or in mediation, may be harrowing for your client. Prepare them ahead of time, and tell them don’t have to speak with the abuser. In the courtroom, physically place yourself between your client and their former partner. Don’t hesitate to ask a court officer to stay nearby or detain the abuser after the hearing until your client has safely left the court.

Legal issues

(Obviously there are a plethora; these are just a few tips.)

Litigation as a means of re-victimization: Abusers may use scrupulously tactics and use the legal process to harass your client. Be prepared and expose the abuse to the court and seek to dismiss baseless actions and seek sanctions.

Mediation or cooperative law: While it may be appropriate in some cases, approach with great caution due to the power imbalance between the parties, the lack of protections available through the courts, and the potential for the abuse using the process as a tool for maintaining control and perpetuating abuse.

Grounds for divorce: Although common practice is to file the complaint for divorce on the grounds of “irretrievable breakdown,” consider filing on the grounds of “cruel and abusive treatment.” While there is no tan- gible legal benefit to doing so, failing to plead abusive grounds may result in the judge discounting or mini- mizing evidence, especially if subjective. This can be submitted.

Custody: While not always followed, there are strong presumptions under Massachusetts law against awarding custody to a parent who has committed a “pat- tern of abuse or a serious incident of abuse towards a parent of child” and, further, the court is required to consider past or present abuse toward either a parent or child as a factor contrary to the child’s best interest. M.G.L. c. 209C, §10(e). Utilize these presumptions when advocating for your client. Don’t assume that your client will get custody if challenged. “The abuser’s parents may even attempt to litigate for grandparent visitation rights — be prepared to defend against it on the basis that it’s truly the abuser seeking control over their child — or is a violation of your client’s restraining order, if they have one.

Alimony: The Alimony Reform Act of 2011 specifi- cally addresses “a party’s own support by reason of physical or mental abuse by the payor” as a potential ground for judges to deviate from the alimony guidelines. Advocates for survivors should argue their client’s entitlement to alimony under this provision whenever appropriate and use it to further educate judges about the harm of abuse.

Mutual protective order: The vigorously protest against any protective order against your client, includ- ing a mutual protective order, even if it might hasten a settlement or if your client fears going to court. A mutual protective order doesn’t have to be gender neutral. If you feel the client is in imminent danger, can limit the scope of the order to potentially limit the options where the client may feel it is necessary.

Conclusion

While it can be challenging and frustrating working to achieve just results for survivors, it is critical for family law practitioners to gain an understanding of the nuances involved in representing victims of abuse and utilizing the sometimes limited strategies available.

We are grateful and indebted to our survivor clients, who have shared their stories and helped us grow as lawyers and human beings.

3. Domestic violence affects all genders and gender identities. In an effort to be gender-neutral, this text uses “they” and “them” to refer to survivors rather than gendered pronouns.
5. Quirke, Chapter 20.3.1
8. Studies show that abusers are more likely to seek custody than non-violent ones, and are successful about 70% of the time. ABA Commission on Domestic Violence, “Mutual Custody and Domestic Violence and How to Counter Them,” 2006.

COLLEGE EXPENSES

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many judges limit contribution. For example, a judge may order that a parent pay a percentage based on the cost of tuition, fees and expenses for a residential Univer- sity of Massachusetts student, despite the fact that the child may be attending a more expensive private institu- tion.

Parents should also be wary of waiting until after a child is attending college to bring an action requesting that the other parent contribute. Massachusetts courts have been very hesitant to order a parent to pay for col- lege after the fact, especially when that parent did not have the opportunity to be part of the college decision making process. It is important to address these issues prior to the child’s graduation from high school.

Allocation of college expenses by agreement: Drafting tips

Some divorcing or divorced parents address the issue of college expenses by agreement. In order to avoid fu- ture disputes, divorcing parents and their attorneys should consider and address multiple factors when drafting col- lege expense provisions in a separation agreement, such as:

- Whether the child will attend a private or public col- lege.
- Whether any of the tuition and fees will be the respon- sibility of the child.
- Whether the obligation of the parent paying child sup- port will be reduced when the child begins college in consideration of that parent’s contribution towards col- lege expenses.
- Whether standardized tests, like the SATs and ACTs, will be covered by a parent’s contribution towards col- lege expenses.
- Whether parents cover the cost of college visits, and if so, whether the number of visits should be limited.
- Whether parents will cover application fees, and if so, whether the number of applications should be limited.
- Whether parents will cover the cost of second visits after acceptance.
- Whether parents will contribute towards extra costs. For example, a vehicle for the student and school sup- plies, such as a computer.
- Whether the child is required to enroll as a full-time student.
- Whether there is an expectation that the child will re- side on campus.
- The educational institutions should also be defined, and the agreement should make clear whether “voca- tional” programs will qualify, as well as study abroad programs.
- Whether one or both of the parents will be responsible for meeting with third parties to assist in the process, such as a guidance counselor.
- Clarification as to the manner in which information on college searches will be shared between the parents and child, and whether both parents will be granted access to the child’s academic records once in college as a condition of their obligation to pay.
- Identification of the parent responsible for completing financial aid forms and applications.
- Whether a parent is required to contribute to college expenses will continue if the child has poor academic performance.

In sum, addressing the issue of college expenses by agreement is advisable whenever possible. If divorcing parents address the issue in their separation agreement, they can potentially eliminate the need to revisit the college search process and costs that will be covered in order to avoid future litigation or at least plan to en- gage in the discussion early in the child’s high school years. The cost of college is expensive enough, and if parents add the cost of litigation on top of the college expense, they can find themselves deploying what might have been one or two more years of the student’s college expenses just seeking a judge’s determination as to who will pay. When it comes to the high cost of college, the devil is in the planning and the detail.
Criminal justice reform

When you look at it, Massachusetts is lagging behind even red states in dealing with the scourge of drugs in society. A number of conservative states are dealing with it as a drug rehabilitation issue rather than a crime issue.

MBA CHIEF LEGAL COUNSEL AND CHIEF OPERATING OFFICER MARTIN W. HEALY, BOSTON GLOBE, APRIL 8, 2015

Healy was quoted in a Globe story about proposed criminal justice reforms outlined by Senate President Stanley C. Rosenberg in a speech delivered at a Greater Boston Chamber of Commerce event.

Botched MBTA land sale

Assuming there was no interest by a public authority, it should have gone out to bid publicly in a process that didn’t favor any one private entity.

MBA REAL ESTATE LAW SECTION COUNCIL MEMBER MELANIE HAGOPIAN, BOSTON GLOBE, APRIL 14

Hagopian was quoted as a real estate and land-use law expert after the Baker administration accused the MBTA of an improper land sale to Wynn Resorts in Everett.

Hernandez verdict

I think what happened here is there were a number of circumstantial events that led the jury to their conclusions. It wasn’t one single factor that they were able to hang their verdict on.

MBA CHIEF LEGAL COUNSEL AND CHIEF OPERATING OFFICER MARTIN W. HEALY

Healy was quoted in a Globe story about how the jury reached a verdict in the Aaron Hernandez trial.

Workers’ compensation ruling

This is very, very helpful to all of us who practice in this area. The argument has always been made that someone who retires is no longer an employee, but this case makes clear that your employment is as of the time you’re hurt, not afterwards.

MBA WORKERS’ COMPENSATION SECTION CHAIR DEBORAH G. KOHL

Deborah G. Kohl of Fall River was quoted in a Massachusetts Lawyers Weekly story about a recent Appeals Court ruling allowing “assault pay” for a corrections officer to continue after retirement.
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