

Race, Poverty, and Other Urban Realities

Gaps Along Race and Income Lines Are Focus of Law School Programs

Marquette Law School did not set out to hold a symposium on issues related to race and poverty during the 2013–2014 school year. But with problems associated with those realities facing the Milwaukee region and the United States as a whole, public events in Eckstein Hall across the school year often focused on these subjects. The conversations were polite but direct. At one session, attorney William Lynch, a longtime advocate for desegregation programs in public schools, said, “When was the last time you heard in polite conversation the term *integration* except to read the materials about coming to this conference?” In short, the programs did not shy away from crucial and sensitive subjects. Here are some samples from across the year.

ON THE ISSUES WITH MIKE GOUSHA, FEBRUARY 18, 2014

Milwaukee Police Chief Ed Flynn

If there's something strange in your neighborhood, who ya gonna call? Those were the opening lines of the theme song to the movie *Ghostbusters* in 1984. And it was, in large part, the key question Milwaukee Police Chief Ed Flynn asked recently in Eckstein Hall. His answer, of course, was, “The police.” But that that is *the* answer carries serious consequences for efforts to make Milwaukee a safe place with vibrant neighborhoods.

Over the last 25 years, Flynn said, “we have seen a consistent and unrelenting disinvestment in the social network.” He gave mental health as an example: “Right now, the response of our society to issues of mental health is the criminal justice system. I’ve seen this for years, and it’s becoming more so. . . . If you have a mental health problem, we can guarantee you a jail cell.” He said substance abuse is another example.

“What is our social network [for] dealing with substance abuse? Jail.”

Flynn, in his sixth year as Milwaukee’s chief, said, “I’ve got 1,800 men and women out there who are being asked to deal with virtually every single social problem that presents as an inconvenience, discomfort, or issue. . . . It is this one group that right now has the weight of every single social problem on it. And maybe we should start asking ourselves, do we need to double back and see what else we’re doing?”

“The problems of intergenerational, endemic, hardcore poverty are pernicious and affect everything,” Flynn said. “Crime is probably 20 percent of the police department’s work. My average copper is out there spending 80 to 85 percent of his or her day dealing with social problems presenting themselves as things nobody can do anything about except call the cops.” ■



ON THE ISSUES WITH MIKE GOUSHA
OCTOBER 3, 2013

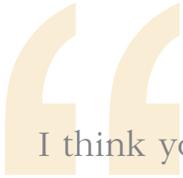
The Three Co-chairs of the Milwaukee Succeeds Initiative

Milwaukee Succeeds, the broad-based effort of civic leaders to improve the educational outcomes of Milwaukee children, is a low-profile but ambitious effort. After two years, the work of several committees focused on a range of major issues has produced little for public view. But three civic leaders who spearhead the effort said at an Eckstein Hall event that they expect that to change soon.

“I think we’re going to see success much sooner than we thought because we’re going to start to implement things,” said Jacqueline Herd-Barber, a retired engineer who is involved in a wide array of civic efforts.

Mike Lovell, chancellor of the University of Wisconsin–Milwaukee





I think you're going to start seeing some meaningful outcomes, that we're going to start implementing things that will start moving the needle."

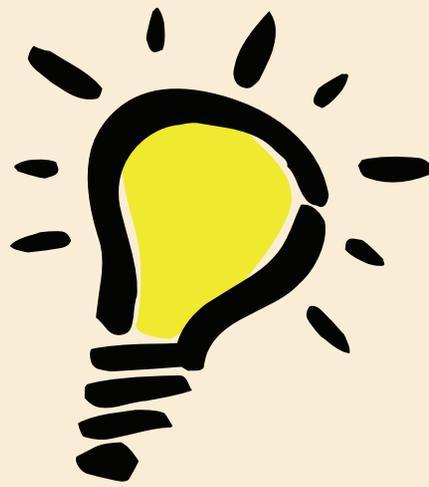
John Schlifske, CEO of Northwestern Mutual

(and now president-elect of Marquette University), said that Milwaukee Succeeds has brought together large numbers of people from many of the important sectors and organizations in the area and that they have been preparing fresh efforts around important goals. "A year from now, when we measure, the needle is going to be moved just because there are so many people involved," Lovell said.

And John Schlifske, CEO of Northwestern Mutual, said, "I think you're going to start seeing some meaningful outcomes, that we're going to start implementing things that will start moving the needle."

Creation of the effort was spurred by leaders of the Greater Milwaukee Foundation. Improving outcomes from "cradle to career" is the goal, and task forces have been addressing such issues as early-childhood health and community youth programs.

In answering a question from Mike Gousha, the Law School's distinguished fellow in law and public policy, about when results would be visible, Schlifske said, "The three of us are all action-oriented people. . . . I'm getting impatient, to be honest with you." He said he was not impatient with the work being done because it is so complex, but with the need to do something to improve educational results as a whole in Milwaukee. "Every school year that goes by is a lost opportunity," he said. ■



Professor Raj Chetty, Harvard University Economist

NOVEMBER 5, 2013

Crunching data involving 40 million people in every part of the United States, Professor Raj Chetty and colleagues have created a provocative and important index of how much opportunity there is for children growing up on the lowest 20 percent of the economic ladder to make it to higher rungs as adults. The answers vary widely across the country, and Milwaukee is one of the places where the answers are not very encouraging.

Chetty spoke at a session that combined the Marquette University Economics Department's Marburg Lecture with Marquette Law School's "On the Issues with Mike Gousha." Chetty has won numerous awards, including a MacArthur Foundation Fellowship and the John Bates Clark medal, given by the American Economic Association to the American economist under the age of 40 who is adjudged to have made a significant contribution to economic thought and knowledge.

Among the 50 most populous areas in Chetty's analysis, the Milwaukee area ranked 41st in opportunity to move up in life. The opportunity picture in most of the rest of Wisconsin was decidedly better. The differences, Chetty said, translate into saying that a child from a low-income household in Green Bay will make, on average, thousands of dollars more a year as an adult than a child from such a home in Milwaukee.



Raj Chetty

Chetty emphasized education in discussing what Milwaukee might do to improve its rating on the opportunity index. He said the metro area as a whole is on a par with the nation when it comes to success in school. But the difference in success between the city and the suburbs is much higher than in comparable metropolitan areas. The disparity in education may be related to the high degree of racial and economic segregation in Milwaukee, he suggested.

He said that other research he has worked on supports making improvement of the quality of teaching a priority. ■



Crossing the Line:

Lessons Learned from City-Suburban Education Programs

It has been almost 40 years since Wisconsin created the voluntary city-suburban school integration program that is known as Chapter 220. By the early 1990s, more than 6,000 students were involved annually, with minority students who lived in Milwaukee enrolling in suburban schools while white students who lived in the suburbs enrolled in Milwaukee Public Schools. That number has fallen to less than half of that today, as city-suburban transfers using the state's open enrollment law (which has no racial-integration purpose or provision) have risen.

What has been learned from Chapter 220 and related efforts? That was the focus of a fall gathering, which included several key figures involved in the history of the program, primarily organized by Alan J. Borsuk, senior fellow in law and public policy at the Law School.

Kara Finnigan, a researcher who has studied similar efforts nationwide, keynoted the session with a summary of what has been done in other metropolitan areas, including city-suburban school consolidations,

annexation, and other efforts to bridge school-district boundaries on a voluntary basis. "All of these strategies have been limited, at best, in terms of their impact," said Finnigan, associate professor at the Warner School of Education at the University of Rochester. Programs such as Chapter 220 have been one of the few routes that have succeeded in getting large numbers of children to cross school-district lines. Finnigan said that "[t]here is some evidence of higher achievement" among those who have taken part, but research has been limited.

Demond Means, superintendent of the Mequon-Thiensville School District, is a major proponent of Chapter 220—and was a participant as a child. He called the program "transformational," and said reinvigorating it is important. He noted that enrollment has fallen not because of lack of demand from parents, but because school districts have instead moved on to the open-enrollment program, which benefits them more from a financial standpoint. "There is a level of urgency that has just gone away," Means said. "Social justice is not an issue that people are willing to stand up in the arena and advocate for any more."

Professor Robert Lowe of the Marquette University College of Education, which together with the Law School convened the gathering, outlined the rise and fall of support for racial integration of schools nationwide. Among African Americans, he said, there was nearly universal support for school desegregation in the 1950s and 1960s, and, for a period, court decisions were strongly supportive. But the downsides of desegregation fell largely on African Americans, Lowe said, and the tide of court decisions turned against the efforts in the mid-1970s. Now, Lowe said, the legal picture is unfavorable to meaningful desegregation programs, many cities are almost impossible to integrate demographically, and the demand for integration has diminished.

Dennis Conta, who as a legislative leader in the 1970s played a crucial role in creating Chapter 220, called for creating "a new Chapter 220" that would be focused on children growing up amid intense poverty and would offer schools funding that would encourage their participation.

Michael Spector, now retired from Quarles & Brady, was involved in shaping Chapter 220. He expressed regret that so much racial separation still exists. Spector said he asked a granddaughter attending a public school in a predominantly white suburb why Chapter 220 should continue. "Because it's the only way I'm going to get to know kids who are African American," she answered. ■

Former Milwaukee Mayor John Norquist

Congestion in an urban area is “a little like cholesterol,” said John Norquist, mayor of Milwaukee from 1988 through 2003. There is good cholesterol and bad cholesterol. “If you don’t have any cholesterol, you’re dead,” Norquist said.

Norquist is a strong partisan of neighborhoods with a mix of stores, businesses, and residences, with active pedestrian life, and with streets where drivers don’t just zip past. Think of the Third Ward in Milwaukee, an area whose revitalization was spurred by Norquist’s policies. And definitely think of freeways—but not favorably. If anything, Norquist said, Milwaukee hasn’t torn down enough freeways in recent years.

Norquist is retiring this summer after a decade as president and CEO of a Chicago-based nonprofit organization, the Congress for the New Urbanism. He said the trend nationwide toward revitalization of urban neighborhoods is “more of a return to the norm” of American living. It was government policies in the post-World War II era that led to a decline in urban life by promoting freeways, automobiles, and federally subsidized mortgages for homes in suburban areas. His view is that young people more recently have discovered that “they really like urban living.”

Norquist was never afraid to speak his mind, and that was certainly true during his Eckstein Hall visit. He threw barbs especially at the Southeastern Wisconsin Regional Planning Commission, which he said fosters urban sprawl, and at some suburban Republican legislators, who he said have “this sort of racially tinged, anti-Milwaukee attitude, which is relieved temporarily when they show up at a school-choice press conference.” Norquist generally spoke positively about developments in Milwaukee under his successor, Mayor Tom Barrett. ■



John Norquist

Professor Craig Steven Wilder

Head of the history faculty at Massachusetts Institute of Technology

People most likely think of prestigious Ivy League universities as bastions of high-minded thought and pursuit. But their histories are also tied strongly to the slave trade in America and the racism that was so pervasive both before and after the American Civil War. That is the central theme of *Ebony and Ivy: Race, Slavery, and the Troubled History of America’s Universities*, a 2013 book by MIT’s Professor Craig Steven Wilder.



Craig Steven Wilder

“The task of the historian is to tell difficult truths as honestly as we can and to help the reader understand both the complexities and the disturbing realities of the past,” Wilder said.

Wilder described how major institutions such as Harvard and Yale had long and close relationships with the slave business. That included recruiting the sons of slave traders and plantation owners as students, benefiting from large donations from very wealthy businessmen who were involved in slavery, and promoting the belief that black people and American Indians were inferior and should be suppressed.

The academy did not stand apart from slavery, in Wilder’s characterization. While in some university and college quarters the movement to abolish slavery received important support, in other quarters some of the worst excesses of racism were supported and practiced. The phenomenon was Northern as well as Southern.

“We can’t escape that past, we can’t run away from it, so we might as well turn and confront it as honestly as we can,” Wilder said in Eckstein Hall’s Appellate Courtroom.

“Colleges and universities are capable of extraordinary good, but we have to put them to that task,” Wilder said, noting that institutions do what people direct them to do. ■



Marquette Law School's team of Hans Lodge, Robert Steele, and Brendon Reyes (left to right) made it to the finals of the National Moot Court Competition, in New York City, in February after winning in regional competition. Professor Melissa Greipp, who oversaw the team's work, praised the three students and their coaches, attorneys Emily Lonergan and Jason Luczak.



Professor Mitten and the race to make decisions in Sochi

As one of nine international arbitrators serving on the Court of Arbitration for Sport's ad hoc division, Marquette Law Professor Matt Mitten had to be available in Sochi on short notice to resolve disputes that came up during the recent Olympic Games. Mitten served on two of the arbitration panels convened during the Olympics. Decisions had to be issued especially promptly to prevent a disruption of scheduled events. So that meant working through the night without breaks.

"Both of the ones I did, we worked around the clock," said Mitten, the director of Marquette's National Sports Law Institute.

In Sochi, Mitten was part of an arbitration panel that heard a protest from a half-pipe freestyle skier, Daniela Bauer, who was not selected for the Austrian team but felt she should have been.

Mitten said the panel ruled against Bauer "somewhat

reluctantly" because there were no published qualifications for the Austrian ski team, giving the Austrian federation the right to make a subjective judgment about whom to send.

The second case Mitten heard involved a protest from the Canadian and Slovenian ski cross teams, complaining that the French team had violated a rule that prohibited shaping pants legs in ways that gave competitors an aerodynamic advantage. The Canadians and Slovenians alleged that the French had team personnel cuff athletes' pants into a finlike shape just before the event started.

A protest of this kind needed to be made within 15 minutes of the event's finish; this protest was not filed until six hours later. The panel therefore ruled against the complainants, even though their complaint might have had some justification.



Matthew J. Mitten

"You've got to have your ducks in a row and know what the rules are," Mitten said.

Mitten has been a member of the Court of Arbitration for Sport's pool of approximately 300 arbitrators for more than a decade, but this was his first time working at the Olympics.

"It was a once-in-a-lifetime experience," he said. ■

Marquette Law School Alumni Awards

HELPING OTHERS: That's a common denominator among the four Marquette lawyers selected by the Law Alumni Association Board to receive awards this spring. Each has earned a reputation for success in legal or corporate settings, and each has a record of service to others.



ALUMNUS OF THE YEAR

Patrick O. Dunphy, L'76

Inspired by his father, Patrick Dunphy cofounded Cannon & Dunphy nearly 30 years ago. Dunphy's father, Ward, was also a Marquette lawyer, and he spent several years of his career as a member of the Law School faculty.

Patrick Dunphy says that his father "instilled a sense of responsibility, reliability, and ethical conduct in me."

The Cannon & Dunphy firm opened in 1985. While the success of plaintiffs' attorneys often is measured by the size of awards—and the firm has won three of the largest in state history—Dunphy also takes pride in cases that have changed a law or procedure to protect others in society.

Dunphy has remained involved in Marquette Law School throughout his career. In recent years, he has organized (together with Professor Daniel D. Blinka) the Law School's annual civil litigation continuing legal education program, always featuring Marquette trial lawyers.



LIFETIME ACHIEVEMENT AWARD

William J. Mulligan, L'60

One of the most important lessons Bill Mulligan took away from his days as a Marquette law student was that preparation is a one-word formula for success.

Mulligan approaches each case as another chance to learn—the more complex, the better, it seems, from the nuances of how the paper manufacturing process affects the environment to a labyrinth of pharmaceutical and health care issues.

"For me, this legal work combines helping clients and doing good with personal enjoyment," Mulligan says.

Mulligan is a shareholder of Davis & Kuelthau, where he represents individuals, businesses, and local government entities in litigation matters.

In the 1970s, he served as the U.S. Attorney in Milwaukee and as a member of the Marquette law faculty. He also has served as president of the Law Alumni Association Board.



HOWARD B. EISENBERG SERVICE AWARD

Dawn R. Caldart, L'01

As the executive director of the Milwaukee Justice Center (MJC), Dawn Caldart oversees efforts to provide free legal services to members of the community who are unable to afford an attorney. Her dedication to the work is clear to all who deal with her.

"I had the privilege of having Dean Howard Eisenberg as a professor," Caldart says. "For me, he was the model of what a lawyer should be, and he inspired me to 'do well and do good.'"

The MJC is a collaborative project among the Milwaukee Bar Association, Milwaukee County, and Marquette Law School. Caldart oversees all administrative functions of the justice center.

Caldart's service does not stop with the legal profession. She recently led the formation of a Milwaukee chapter of Hope by Twelve, an international organization promoting educational opportunities for girls in Ethiopia.



CHARLES W. MENTKOWSKI SPORTS LAW ALUMNUS OF THE YEAR

Matthew J. Banker, L'01

Right after graduating from the Law School, Matthew Banker went to work for the National Collegiate Athletic Association. Now, his expertise in the nuances of college sports' regulations makes him a key asset to the

University of Louisville athletics department.

"Each day is unique," Banker says. "Being part of the process that involves both educating students and supporting their teams' competitive ambitions is rewarding."

Banker became Louisville's associate athletic director for compliance in October 2013. He previously was the assistant commissioner for institutional services for the Ohio Valley Conference and assistant dean for student affairs at the Indiana University School of Law in Indianapolis.