

BREACHING BORDERS

State Encroachment into the Federal Immigration Domain?



Nearly 100 interested individuals attended the “Breaching Borders: State Encroachment into the Federal Immigration Domain?” symposium on Oct. 20-21 to explore the political and legal controversies mounting at the intersection of federal and state immigration law. Washburn Law’s Center for Law and Government and the *Washburn Law Journal* sponsored the event.

A number of distinguished experts participated in three plenary sessions:

- Comparative Assessment of State Immigration Policies;
- Immigration and Employment; and
- Birthright Citizenship.

STATE POLICY POTPOURRI: SOME COMPARATIVE ASSESSMENTS

State policy makers across the country are advancing a number of proposals that are bound up in the great debate regarding the current state of federal immigration law and its shortcomings. This panel discussed and analyzed this state policy potpourri and offered comparative assessments. Panelists included Patrick J. Charles, historian, U.S. Air Force, 352nd Special Operations Group at RAF Mildenhall, United Kingdom; Reggie Robinson (moderator), professor of law and director of the Center for Law and Government, Washburn University School of Law; Kris W. Kobach, Kansas secretary of state; and Nora V. Demleitner, dean and professor of law, Hofstra University School of Law, Hempstead, N.Y.



Peter S. Vincent discussed federal immigration policy from the U.S. Immigration and Customs Enforcement perspective.

A FEDERAL PERSPECTIVE ON IMMIGRATION POLICY: THE VIEW FROM U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

Peter S. Vincent, principal legal advisor, U.S. Immigration and Customs Enforcement (ICE), U.S. Department of Homeland Security (DHS), Washington, D.C., addressed the participants at this luncheon.

IMMIGRATION AND EMPLOYMENT

In an effort to both protect the legal work force and to deter illegal immigration, the federal government has criminalized the hiring of undocumented workers and in recent years has heightened workplace enforcement. Some states are experimenting with new laws designed to complement, mirror, and/or expand upon federal law and have been challenged by the federal government on preemption grounds. This panel explored the competing sides of the debate, and the implications of the U.S. Supreme Court’s decision in *Chamber of Commerce v. Whiting*, 131 S.Ct. 1968 (2011). Panelists included Rick Su, associate professor of law and director of law journals, University at Buffalo Law School, Buffalo, N.Y.; Aida M. Alaka (moderator), associate dean for Academic Affairs and professor of law, Washburn University School of Law; David S. Rubenstein, associate professor of law, Washburn University School of Law; and Juliet Stumpf, professor of law, Lewis & Clark Law School, Portland, Ore.



Panelists for the Immigration and Employment session debated the hiring of undocumented workers. Panelists included Professor Rick Su, Associate Dean Aida M. Alaka, Professor David S. Rubenstein, and Professor Juliet Stumpf.



State Policy Potpourri session participants included Patrick J. Charles, Professor Reggie Robinson, Kansas Secretary of State Kris W. Kobach, and Dean Nora V. Demleitner.



Panelists in the Curtailing Birthright Citizenship session included Professor Rachel E. Rosenbloom, Professor Tonya Kowalski, Professor Margaret Stock, and Patrick J. Charles. This panel discussed questions about birthright citizenship, including proposals at the federal and state levels.

IMMIGRATION POLICY: MYTHS, REALITIES, AND REFORMS

Peter H. Schuck, Simeon E. Baldwin professor emeritus of law and professor (adjunct) of law, Yale Law School, New Haven, Conn., addressed attendees at the dinner presentation.

CURTAILING BIRTHRIGHT CITIZENSHIP

Anchored within the 14th Amendment to the U.S. Constitution is the principle that a person born within the boundaries



Professor Peter H. Schuck gave a presentation on myths, realities, and reforms in immigration policy.

of the United States is a citizen thereof, regardless of the immigration status of his or her parents. This panel discussed questions about birthright citizenship, including proposals at the federal and state levels. Panelists included Rachel E. Rosenbloom, assistant professor of law, Northeastern University School of Law, Boston, Mass.; Tonya Kowalski (moderator), associate professor of law, Washburn University School of Law; Margaret Stock, adjunct instructor, University of Alaska Anchorage, Department of Political Science; and Patrick J. Charles.

ALUMNI PROFILE

Melissa L. Castillo, '06



Melissa L. Castillo, '06, is assistant chief counsel, Office of the Chief Counsel, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security, Kansas City, Mo. She attended the Breaching Borders symposium on Oct. 20-21.

The following are Castillo's personal views as a Washburn Law alumna and not as a Department of Homeland Security lawyer.

Tell us about your first job after law school and how you landed that opportunity.

I was hired straight out of law school through the Attorney General's Honors Program to work for the Executive Office for Immigration Review, an agency within the Department of Justice, as a judicial law clerk for the Orlando, Fla. Immigration Court. I performed legal research and writing for the immigration judges in Orlando for the duration of the two-year clerkship. I am forever grateful to Margann Bennett, the director of the Professional Development Office, for making me aware of this opportunity and how to apply, because I believe it changed the trajectory of my career.

What prepared you most for life after law school graduation?

As far as my professional life is concerned, the Washburn Law Clinic and my Professional Responsibility class were the most helpful in directly preparing me for the practice of law. The nature of those classes along with the superb quality of instruction by professors **Lynette Petty, '87**, and Sheila Reynolds helped mold me into the lawyer I am today.

What prepared you most for your current position?

In addition to Clinic and Professional Responsibility, the classes I took in immigration law and administrative law are the most relevant to my work today. I also benefitted greatly from being a member of the *Washburn Law Journal*, because I not only strengthened my writing, but I learned how to manage deadlines and manage relationships with outside authors, fellow editors, and faculty.

In your current position, what gives you the greatest satisfaction at the end of the day? What challenges you the most?

Knowing that I provided a valuable service for the government by being informed, prepared, and professional

with the court and opposing counsel and compassionate to the respondents gives me the most satisfaction. The most challenging aspect for me is to continuously litigate such personal issues as fear of persecution in asylum cases and whether an alien's removal will result in exceptional and extremely unusual hardship to their children, spouse, or parents in cancellation of removal cases. Being in such an emotionally charged environment all the time can be quite challenging.

You attended the recent Washburn Law immigration symposium. Please tell us why you attended. Please share your thoughts about the current dialogue concerning immigration in our country.

I attended because I am always interested in learning more about immigration law, and I wanted to support my alma mater. After agreeing to attend, the names of the presenters were released, and I was even more excited to attend due to the high caliber of the presenters and the relevance of the topics to be presented. The quality of the symposium was top notch. I am glad that I was able to attend, and I am more proud than ever to be a Washburn Law alumna.

Unfortunately, I think the immigration dialogue in our country is often one-sided, sometimes vitriolic, and usually based on misconceptions about existing law. The Washburn Law immigration symposium as a whole presented a wide-spectrum of issues on both sides of the debate and provided information about the current state of the law as well as suggestions for future modifications to the law. I thoroughly enjoyed it. The Washburn Law students, faculty, and staff who participated in putting on the symposium should be very proud of themselves for a job well done.

Share any advice you might have for third-year students who soon will enter the workforce.

Get to know the staff in the Professional Development Office if you haven't already, because they can only help connect you with an opportunity if they know who you are and what you're looking for. Get to know at least a few professors outside of class. Asking for recommendation letters will be easier, and getting outstanding recommendation letters depends on the professors knowing more about you than your attendance record and final grade. Participate in mock interviews and conduct your own informational interviews. I am confident that the result of my interview for the Attorney General's Honors Program would have been different had I not practiced

interviewing so much. Finally, I understand the desperation for a paying job with student loan debt looming, but be confident in any interview you get and realize that the employer will hire the candidate who can offer them the most. You must be able to let them know what you can do for them and not just what they can do for you. If you don't have any interview prospects, volunteer! When a job opening does become available, you'll already have experience and hopefully be known to the employer.

Do you have a favorite memory of a professor, and if so, tell us about it.

I have many memories of all the talented professors at Washburn, but my favorite is of my legal research and writing professor, Tim Schnacke. He gave us two simple pieces of advice that are at first obvious, and then truly insightful. The first was that all jobs and problems come down to people, and our success or failure will be determined by how well we can work with others. My biggest challenges as a lawyer have had more to do with professional relationships than with any legal issue, and resolving those challenges involved interpersonal skills and communication, not necessarily legal ability. The second was that there are two rules to legal writing: (1) know everything and (2) create a masterpiece. That is not always easy given the time and resource restraints in the real world, but it guides everything I do as a lawyer. I first have to know as much as I can about the law in my case, and then I have to present my position in a way that is helpful—and even enjoyable to read—to the decision-maker.

Final Thoughts

After working for EOIR through the Attorney General's Honors Program, I worked in private practice representing aliens in removal proceedings and also before the United States Citizenship and Immigration Services. I now work for the Department of Homeland Security, representing the government in removal proceedings against aliens. Having worked for the court, the respondents, and the government gives me a unique perspective. I especially enjoyed the Washburn Law immigration symposium because it brought different viewpoints together and created a thought-provoking dialogue.

Disclaimer: All statements are the personal opinions of Melissa Castillo and not of the Department of Homeland Security, Immigration and Customs Enforcement, Office of the Principal Legal Advisor, or the Chicago Office of the Chief Counsel (Kansas City Sub-Office).