

HARVARD PORTRAIT



Erika Bailey

Like many young thespians, Erika Bailey once dreamed of acting Ibsen and Molière. Eventually, though, the years of auditions wore on her. “As an actor, you’re always asking for jobs,” she says. “You’re like, ‘Please, I need the Cheez-It commercial!’”—which wasn’t exactly the kind of poetic, “heightened text” she’d pored over while studying theater (at Williams), or acting (for an M.F.A. at Brandeis). Seeking more “authority” over her career, she left the New York City cattle calls and a day job at the Council on Foreign Relations, heading to a London conservatory to study the performance element she loved most: voice. Since then, Bailey has collaborated with actors playing roles from Andy Warhol to Mary Stuart, fine-tuning dialects (regional quirks) and “idiolects” (personal ones) and advising them on how to safely reach “vocal extremes” such as “screaming, shouting, vomiting, or even coughing a lot.” In 2014, after working in theaters from Kansas City to Broadway, she became the American Repertory Theater’s new head of voice and speech. (The move was a kind of homecoming: her parents met and married as Harvard students, and she spent her early years at Peabody Terrace, reading books aloud and in character.) Now, in addition to coaching A.R.T. productions, she teaches the basics of voice to seasoned performers, public speakers, and total novices alike. Atop anatomy and phonetics lessons, class can involve yawning, tongue-stretching, and rolling around on the floor. The full-body experience carries a deeper and more resonant lesson: Whether they love them or hate them, she says, “people think about their voices as kind of a given thing”—a fixed aspect of their identities. Bailey aims to instill a sense of power and play over that sound, and help them make their words carry. —SOPHIA NGUYEN

“Crimmigration”

At HLS, a new frontier in immigration law.

“IT OFTEN HAPPENS,” says Phil Torrey, managing attorney of the Harvard Immigration and Refugee Clinical Program (HIRC), “that I’ll get a phone call from criminal-defense counsel somewhere random in the country, like the one last week I got from Tennessee. The lawyer says, ‘Hey, I’m about to go into the courtroom, here’s the plea deal that’s on the table—and my client’s not a U.S. citizen. What’s gonna happen?’” Torrey is addressing the four law students in his “crimmigration” clinic, who are learning how to advocate for criminal defendants who are not American citizens. A complex tangle of state and federal offenses—from petty theft to murder and drug crimes—can lead to detention or deportation for non-citizen immigrants, even those with green cards who have lived in the country for many years.

“Crimmigration”—the intersection of criminal and immigration law—is the newest policy area for HIRC, one of oldest clinical programs at Harvard Law School (HLS). In addition to its broader Immigration and Refugee Advocacy clinic, HIRC offers Torrey’s crimmigration clinic in the spring: an opportunity for students to gain direct experience working on and contributing to case law in this young field. When she co-founded HIRC in 1984, says clinical professor of law Deborah Anker, it “was at the bottom of the pile”; immigration issues were barely recognized as a subfield of law. But student interest has spiked since the 2016 election, and now, she says, the Immigration and Refugee Advocacy clinic has one of “the longest waiting lists among [HLS] clinics—about 100 students.”

As Nancy Kelly, a clinical instructor and lecturer on law, puts it, Donald Trump “ran on a platform of immigrants being criminals, and now he’s doing his best to make that a reality.” Crimmigration reflects, on one hand, an increase in the number of crimes that can result in deportation, and on the other, a push among immigration opponents to create ever more crimes for which to prosecute immigrants. For example, entering the country without inspection is already a crime, but the recent Republican immigration bill, the Securing America’s Future Act, would have made it a federal crime to *be*

in the United States without a valid immigration status, thereby criminalizing the estimated 11 million undocumented immigrants in the country.

THE U.S. criminal and immigration systems used to be almost entirely separate: criminal violations didn't have immigration consequences, and vice versa, so immigrants convicted of burglary were sentenced in the criminal-justice system, but didn't face loss of immigration status and deportation. In the last few decades, though, Congress has created an ever-growing list of crimes that can get both legal and illegal immigrants kicked out of the country. Today, immigration-related cases make up the largest category of federal prosecutions (more than drug crimes, white-collar crimes, or violent crimes).

During the Reagan administration, the Anti-Drug Abuse Act introduced the concept of "aggravated felony"—a crime that could get a non-citizen deported immediately. But a crime doesn't need to be either aggravated or a felony to qualify: "aggravated felony" does cover brutal crimes like murder and rape, but has also been expanded over the years to include things like failing to appear in court, theft, or falsifying a tax form. Because aggravated felonies trigger deportation regardless of how long immigrants have been in the United States, mandates that the accused be detained, and makes them ineligible for asylum and certain procedural protections (like a hearing before an immigration judge), the category is considered especially severe. But Congress has also designated many other types of convictions that can subject immigrants to deportation, including "crimes involving moral turpitude."

In the 2006 article that originated the idea of crimmigration, assigned in Torrey's course, Juliet Stumpf of Lewis & Clark Law School argued that "Both criminal and immigration law are, at their core, systems of inclusion and exclusion...Viewed in that



Phil Torrey

COURTESY OF PHIL TORREY

light, perhaps it is not surprising that these two areas of law have become entwined. When policymakers seek to raise the barriers for noncitizens to attain membership in this society, it is unremarkable that they would turn to an area of the law that similarly functions to exclude." Both criminal and immigration law deem certain categories of people undeserving of rights belonging

to everyone else: felons, for example, aren't allowed to vote, and their movement is restricted. The Obama administration gambled that by embracing a strategy of deporting "felons, not families," it could create a positive image of "good" immigrants in the public imagination—particularly the "Dreamers," some 800,000 young people

brought into the illegally country as children. But the flip side of DACA (Deferred Action for Childhood Arrivals) made it easier to create a class of immigrants—those with criminal records—who were deserving of deportation. The Trump campaign picked up on that narrative to further link immigrants with criminality, a link that's been used, with the pending repeal of DACA, to pull the rug out from under the "good" immigrants, too.

Crimmigration as a school of thought, a community of lawyers and scholars writing about the criminalization of immigrants, calls for decoupling crime from a person's immigration status; deportation amounts to an additional punishment, they argue, exacted only on non-citizens. "I'm definitely of the mind-set that the criminal-law system and the immigration system should be completely divorced from one another," Torrey says. Barring that, he says, the immigration-court system that determines whether a person can stay in the United States needs reform. "What the immigration system should take into account are things like the circumstances in which a felony was committed, how long ago it was committed, any

HM Explore More

Harvardmagazine.com brings you continuous coverage of University and alumni news. Visit to find these stories and more:



After Five Decades, Dean Dingman Bids Harvard Farewell

Tom Dingman retires after 13 years as dean of freshmen and a 45-year career at Harvard. harvardmag.com/dingman-18



A Visit from Bill Gates

The Microsoft co-founder talked about life as a philanthropist and took myriad student questions. harvardmag.com/gates-18



Cinema Through Dualities

Filmmaker Wim Wenders delivers the final installment in the Norton Lectures on Cinema. harvardmag.com/wenders-18

visit harvardmagazine.com

FROM TOP: HARVARD MAGAZINE/IC; COURTESY OF OMNIINOVATION/FICKR; COURTESY OF THE MAHINDRA HUMANITIES CENTER

rehabilitation—all those are important factors” that are not considered currently, he explains. Instead, the system is “sort of a rubber stamp.”

TORREY HAS BEEN leading the crimmigration clinic each spring since 2013, in conjunction with a crimmigration law course (a prerequisite for the clinic) in the fall. In 2009, after a brief stint at Skadden, Arps, Slate, Meagher & Flom, his first job out of law school, he left for a fellowship at the nonprofit Greater Boston Legal Services, which offers free legal advice and direct representation to low-income residents. There, he says, “The cases that I was working on all had criminal issues enmeshed with them.” One client, charged with assault and battery with a dangerous weapon for beating another man with his shoe, was

being held in immigration detention pending deportation proceedings. But he wasn't guilty: the main witness recanted her false testimony; the client was allowed to remain in the country and now has his green card.

What are citizenship and immigration status but a way of arbitrarily allocating resources based on where people are born?

“Seeing how the criminal-law system can be used against somebody in the immigration system, how unfair that can be,” Torrey says, “is what energized me to focus my practice in this particular area.”

A large component of his clinic's regular work involves so-called Padilla advisals. Some federal courts in recent years have be-

gun to check the executive branch's ability to deport convicted immigrants, and in 2010, in *Padilla v. Kentucky*, the Supreme Court ruled that criminal-defense counsel must advise their non-citizen clients about the potential

risk of deportation following a conviction, to help them decide how to plead. (In that case, the attorney for a Honduran who'd lived legally in the United States for more than 40 years wrongly told him he wouldn't face deportation after pleading guilty to trafficking marijuana.)

Since that ruling, criminal defenders all

Seasons at the Arboretum

In 2008, photographer Jim Harrison, whose portraits of Harvard community members have appeared in this magazine for decades, turned his eye to a new subject: the plants at the University's Arnold Arboretum, where he began capturing the dramatic seasonal changes of a world-

class collection of trees and shrubs.

Photographers know that, when shooting outdoors, the “golden hours” just after sunrise and just before sunset provide dramatic light. For Harrison, that meant rising on some summer days at 4 A.M. to record the fuschia glow of first light, or

venturing out into frigid winter dawns the day after a blizzard to record a landscape shrouded in shades of white. Some plants present specific challenges, such as the kerchief-like white bracts of *Davidia involu-crata*, the dove tree, gently backlit by the sun in the image opposite.

This summer, an exhibition of 31 prints from his project will open at the Arboretum's Hunnewell Visitor Center. In *Con-*

tinuations: Seasons at the Arboretum (July 28 through the first week of October), Harrison's fascination with the architecture of plants—the way they branch or form their flowers—is a thematic undercurrent. Another is decay: the bloom gone by, or the fallen leaf.

These five photographs from the exhibit illustrate those themes; they also show off some of the finest plant specimens growing on the Arboretum's 281-acre grounds. At far left is *Acer griseum*, the paperbark maple, its cinnamon limbs

Seen at the Arnold Arboretum (from left): a paperbark maple in winter; magnolia blooms in spring; a mid-summer *Stewartia*; and autumn leaves in Bussey Brook



over the country have relied on immigration attorneys like Torrey to prepare Padilla advisals for their clients—often in hasty circumstances, without enough time to conduct a proper analysis. To provide the advisals this past semester, his students partnered with students in the Criminal Justice Institute (HLS’s clinic for students training to become public defenders; see “Criminal Injustice,” September-October 2017, page 44).

To draw up a Padilla advisal, students must engage with both the criminal and the immigration systems to combine information about a client’s immigration status with data about the particular crime at issue, and determine whether that crime meets federal grounds for deportation. Most convictions occur at the state level, and there are *thousands* of state statutes, many with no precedent for triggering deporta-

tion, so students must conduct a “categorical analysis” to determine whether a particular state criminal statute matches the generic, federal definition for a given crime, regardless of the particular circumstances of the defendant’s crime. A state statute that defines burglary as “entry” into a home with intent to commit a crime, for example, would be too broad to meet the federal definition: “an unlawful or unprivileged entry.” “You have different sovereigns, the federal and state governments—two bodies of law with different protections and procedures attached to them,” Torrey explains. “It can be very difficult to figure out when a state-level conviction would trigger something in the federal civil process.”

The most fraught part of this process, though, is making a judgment about U.S. Immigration and Customs Enforcement

(ICE) deportation priorities: how likely the agency is to target the client for deportation. The students’ main frustration involves the difficulty of communicating the relative risk of deportation to a terrified client. The Trump administration “is trying to stretch every removal ground,” third-year student Paulina Arnold points out: revised priorities for deportations target not just immigrants convicted of crimes, but also those who have been charged with crimes, or have committed acts that *could* be charged as crimes. That raises the stakes for advisals, and makes it even harder to communicate deportation risks. A few years ago, she says, she would have been comfortable telling a client that deportation was unlikely. “Now, if there’s any possible chance [the client] could fit under any removal ground, you want to flag it.”

capped with snow. The plant, known for its finely exfoliating bark, often grows straight up on a single, columnar stem, but this particular ancient specimen branches in surprising ways against the sky. The magnolia blossom with elongated petals (opposite, right, a hybrid named “Judy,” was developed at the National Arboretum in the 1950s as part of the “Little Girl” series. Harrison’s photograph hints at the parentage: the star magnolia (*Magnolia stellata*), known for white, ribbon-like petals, contributes this characteristic to its offspring while the purple flowers of *Magnolia lilliflora* ‘Nigra’ explain the tinge of color that rims the petal edges. Beneath the bloom, petals that have gone by lie in soft focus where they have fallen. In Bussey Brook (far right), which flows east at the foot of Hemlock Hill, brightly colored fall leaves (Japanese maple among them) gather at a spot where the water meets rocks in midstream.

One of the great challenges of photographing any flowering tree is that doing justice to the blooms demands moving in close, while showing the trunk

and limbs typically requires a wider field of view. With his photograph (below, left) of *Stewartia pseudocamellia*, Harrison flatters this showy, summer-blooming tree, capturing both the waxy, white flowers for which it is named and—through a window in the leaves—the beautifully mottled bark for which it is best known.

Seven more images from the exhibition appear online at harvardmag.com/harrison-trees-18. ~JONATHAN SHAW



Yesterday's News

From the pages of the *Harvard Alumni Bulletin* and *Harvard Magazine*

1918 Between July 1 and August 12, the Harvard Reserve Officers' Training Corps prepares almost 600 men (about half undergraduates) for military service.

1938 At the fifth annual joint outing of the Harvard and Yale Clubs of New York City, at the Rockaway Hunting Club, Cedarhurst, Long Island, Harvard wins the baseball game 4-0, loses the golf match 427 to Yale's 409, and wins the tennis competition five matches to none.

1943 *The Harvard Advocate's* president announces that lack of finances and manpower make its forthcoming issue the last "for the duration," though the organization will continue its "social function."

1953 Assistant professor of anatomy Helen Dean Markham, suspended in June by the Corporation on suspicion of being a Communist, has her suspension lifted on August 31, but the Corporation states that she will not be rehired when her current appointment ends on June 30, 1954.

The School of Public Health has air-freighted a library of "more than 300 texts and reference works on public health

and preventive medicine" to the first school of public health to be established in South Korea.

1968 President Pusey refuses to allow the Boston Patriots to play regularly in Harvard Stadium because "professional football [cannot be] introduced into an academic environment without...exerting a disruptive and disturbing influence...."

1973 Two major construction projects keep the Yard bustling: the demolition of Hunt Hall to make room for the future Canaday Hall, and the excavation of the site for Pusey Library.

1998 On July 4, the day Henry David Thoreau, A.B. 1837, matriculated at Walden Pond, 100 naturalists—including the day's other honoree, Pellegrino University Research Professor E.O. Wilson—descend on Concord and Lincoln, Massachusetts, in what is labeled "the world's first 1,000-species Biodiversity Day." The 24-hour event turns up a species total tentatively set at 1,620.

AFTER THE 2016 election, Deborah Anker remembers, HIRC was overwhelmed by a spike in interest in its work among law students and the wider Harvard community. President Trump had promised to immediately rescind DACA, a group including about 65 Harvard undergraduates. The clinic hired a staff attorney, Jason Corral, in January 2017 to represent members of the University community; soon after, a number of additional Trump administration executive orders affected various Harvard students and staff members: the ban on travel from seven majority-Muslim countries (HIRC wrote an amicus brief challenging that order), the repeal of DACA (now under challenge in courts), and the revocation of Temporary Protected Status (TPS) for 400,000 immigrants from El Salvador, Haiti, Nicaragua, Nepal, and, most recently, Honduras (see harvardmag.com/daca-tps-18). Corral declines to say how many Harvard affiliates will be affected by the repeal, because the University has no way of knowing precisely, but adds, "TPS is a huge issue here."

If the repeal proceeds without challenge, Corral says, HIRC may consider building asylum arguments for TPS holders. To qualify for asylum, refugees must show that they have been persecuted based on race, religion, nationality, political opinion, or membership in a "particular social group." (HIRC is widely known for Anker's work in helping establish women fleeing domestic violence as a "particular social group" eligible for asylum.) "What about the fact that someone has lived in the U.S. for 20 years?" Corral asks. "The way that they talk now, or their perceived wealth or culture or politics that they developed while living in the U.S.—that can create a particular social group such that they're likely to be targeted in their country of citizenship." At the same time, many more law students are interested in practicing and expanding the bounds of im-



migration law. Arnold, who came to HLS specifically to study and work on criminal migration, was a second-year student during the election. As a co-president of the Harvard Immigration Project (HIP), a student group providing legal representation to immigrants, she helped form the Immigration Responsive Initiative, which quickly signed up more than 400 students (one-fifth of the student body) to contribute to post-election refugee and immigrant advocacy. Approaching large corporate firms for funding has suddenly become easier, too. Before the election, she says, firms recoiled from funding things like deportation defense “because *Obama* had created this criminal-alien narrative... people thought, ‘You’re just helping criminals.’ But now, increasingly, they’re will-

ing to help out on bond, they’re willing to help out on Board of Immigration Appeals stuff that we do for people with criminal convictions. I think the narrative around that is really changing.”

Arnold will spend the next two years clerking in New York and Washington, D.C.; she thinks about becoming an immigration-law professor as a longer-term goal. “I’m really interested in what immigration status *means*,” she explains. The answer isn’t obvious. What are citizenship and immigration status, after all, but a way of allocating resources based on where people are born? “Citizenship exists sort of in the ether—there’s no formal document that *makes* you a citizen,” she continues. “People can be citizens and not know it. And things like DACA are creating whole new, liminal

areas of immigration status.

“There’s a massive disconnect between the kinds of rights that we aggressively protect for folks” as part of the criminal-justice process—like the right to an attorney—versus what happens in immigration, she continues. “I worked for a public defender last summer...the kind of process that even the broken criminal-justice system gives to defendants is so divorced from what you get as a non-citizen in immigration hearings. You’re arrested, you’re put in jail in a jumpsuit, you get maybe one hearing, and you can be detained for months and months and deported—and yet you get essentially no process. Conceptually, what that means about what we think about the status of being a non-citizen is really horrible. And interesting.” ~MARINA BOLOTNIKOVA

Changes at the Top

IT’S THE CHANGING of the University guard, as President Drew Faust steps down and Lawrence S. Bacow moves from the Corporation to Massachusetts Hall. That created a vacancy on the senior governing board. But in fact there was a second: Joseph J. O’Donnell ’67, M.B.A. ’71—like Bacow, a member elected in 2011 in the first cohort of new fellows as the Corporation expanded from seven members to its current 13—also concluded his service. Accordingly, the University announced on May 23 that two new Corporation members have been elected as of July 1: Penny S. Pritzker ’81 and Carolyn A. “Biddy” Martin. The annual transition in the Board of Overseers’ leadership will take effect at the same time.

Pritzker—former U.S. Secretary of Commerce and a past Overseer—has long been involved with her alma mater, but took a slight diversion from one of her intended engagements, as a leader of The Harvard Campaign, when President Barack Obama appointed her to a cabinet post. Now, she returns as a member of the Corporation. “It’s an incredible honor and privilege to be returning to Harvard in this important role,” she said in a statement in the University news announcement. “I am deeply grateful to this university community for its transformative impact on my life and career, helping to shape not only my learning but also my values and commitment to others. Harvard’s faculty, students and staff are dedicated to academic rigor, world-class



© MOSHE ZUSMAN PHOTOGRAPHY STUDIO

Penny S. Pritzker

research, and making positive contributions to people across America and throughout the globe.”

A leading member of a leading Chicago family, Pritzker has founded and led diverse businesses in real estate, hospitality, financial services, and other industries. She is founder and chair of PSP Partners, a global private investment firm. She has chaired the board of the Museum of Contemporary Art Chicago, and has been a trustee of Stanford, where she earned her J.D. and M.B.A. At Harvard, in addition to her 2002 election as an Overseer, Pritzker was a founding member of the Corporation’s committee on facilities and capital planning; given her real-estate experience, it was natural for her to be an



COURTESY OF AMHERST COLLEGE

Carolyn A. Martin

adviser on Allston planning. She has served on visiting committees for the Harvard Art Museums, the College, the Graduate School of Design, and the Graduate School of Education. Pritzker and her husband, Dr. Bryan Traubert, have supported work on childhood obesity at the public-health school. The redesign of Cabot Science Library and its common spaces, now named Pritzker Commons, reflect her campaign support. In many respects, she seems to bring to her new role many of the strengths and experiences that O’Donnell offered to the Corporation, plus, of course, her own interests and insights.

At a moment when president-elect Bacow has expressed deep concern about rising antipathy toward higher education, Martin, a