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Getting to Know Seymour Gelber *2008 Selig Goldin Honoree*

By Ivy R. Ginsberg

The Honorable Seymour Gelber began his legal career after graduating from the University of Miami School of Law in 1953 by working for State Senator Joseph Eaton in Tallahassee as a Legislative Aide. Although Seymour Gelber had been a high school drop out, special laws permitted World War II veterans to enter law school without an undergraduate degree. In 1956, Seymour Gelber began working as an Assistant State Attorney in Dade County, Florida under Richard Gerstein. Gelber served as an Administrator and his responsibilities included supervising attorneys, grand jury investigations, and serving as a liaison with the media. Gelber worked along side Richard Gerstein from 1956 through 1968 and was responsible for hiring many lawyers including Bob Butterworth, David M. Levy, and Janet Reno, among others.

Gelber informed Janet Reno that he had a special project for her after she joined the State Attorney's Office. He put her in charge of setting up the Juvenile Court Division procedures after the Supreme Court's decisions in *In re Gault* which entitled juveniles charged with crimes the right to counsel. Although he thought this would keep her busy for six months, in a month Reno had organized the Juvenile Division so that trials could be conducted for juveniles.

Gelber was known for his laid back, calm demeanor which balanced out

the often fiery, assertive Gerstein. Gelber related how Gerstein had received a tip about a check that had to do with President Richard Nixon's re-election. Gerstein assigned his investigator Martin Dardis to follow the check. Dardis's investigation and connection to investigative reporters Woodward and Bernstein ultimately led to the Watergate hearings and the downfall of President Nixon.

Seymour Gelber then moved his family to Tallahassee, Florida and worked as an Assistant Attorney General under Attorney General Earl Fair-

cloth. During that time period, Gelber earned a Masters Degree in Criminology at Florida State University in 1968 and a Ph.D in higher education in 1972. Gelber taught courses at Florida State University, University of Miami Law School, Florida International University and Nova University.

In 1974, Governor Reuben Askew appointed Seymour Gelber to the Circuit Court bench. Judge Gelber was assigned to the Juvenile Court Division and remained there his entire legal career. Judge Gelber was the Administrative Judge of the
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Message From the Chair

By Ann E. Finnell



ANN E. FINNELL

Criminal Justice Symposium

No one graduates from law school knowing how to try a criminal case, either as a prosecutor or as a defender. The skills required to be an adequate trial attorney in the criminal arena, even at a basic level, require several years of practice. This is why most prosecutor and public defender offices ask newly hired attorneys to give a three or four year commitment. It takes that long just to train a lawyer in basic trial skills before the individual office can

reap any reward back from the attorney in terms of the attorney being able to train others or handle a complex case.

It is no wonder that elected prosecutors and public defenders are tearing out their hair over the recent budget cuts imposed by the Florida legislature. Every

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An Interview with Ann E. Finnell

Criminal Law Section Chair 2007-2008

by Ivy R. Ginsberg

Our current Chair, Ann E. Finnell, grew up in Jacksonville, Florida. She attended Duke University and the University of Florida College of Law. Ann started her legal career as a Certified Legal Intern with the Duval County Public Defender's Office in Jacksonville and has worked there as an attorney for twenty nine years.

Ann currently serves under the Honorable Bill White as the Felony Court Coordinator or more commonly known as the Chief of the Felony

Division. She supervises thirty-four (34) attorneys, handles death penalty cases and other administrative responsibilities. Ann was also an Assistant Public Defender under the tenure of the Honorable Lou Frost.

Ann has been active with the Florida Bar where she served on the Florida Rules of Criminal Procedure Committee for almost twenty years and on the Florida Supreme Court Standard Jury Instruction in Criminal Cases Committee.

Ann is the Past President of the Jacksonville Women Lawyers Association and the Past President of the Jacksonville League of Women Voters. She has received several awards for her service including the Craig Barnard Award from the Florida Public Defender's Association for her outstanding service and relentless pursuit of justice.

Ann has lectured widely on criminal law topics including false confes-

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CHAIR'S MESSAGE

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office has suffered some pretty extreme budget cuts with the possibility of more on the way.

The disparity between starting salaries for prosecutors and public defenders and the rest of the legal community has always been great. Big law firms are paying new lawyers two and sometimes three times the salary a new prosecutor or public defender makes. Even the starting salaries handed out by small firms are 10 to 20 thousand dollars greater. Nevertheless, prosecutor and public defender offices have always had the ability to hire good and sometimes even exceptional attorneys who either want the experience and are willing to make sacrifices in remuneration, or who sincerely do the work for the love of the job.

Unfortunately, the recent budget cuts imposed by the Florida legislature are driving elected prosecutors and public defenders alike to wonder if they will be able to afford to keep dedicated experienced lawyers, those who have the ability to teach young attorneys how to properly practice criminal trial work while at the same time handling the most serious criminal cases.

They also wonder if they will be able to hire recent graduates to fill vacant positions. If they cannot, the existing staff they have will have to work even harder to take up the slack. Forget about ABA standards for the number of criminal cases an attorney is supposed to handle during any given year. Every public defender office in this state has already exceeded the ABA standards for every category of case. The excess is not just a few cases but in some circuits public defenders are

handling ten times the number of cases recommended by the ABA.

If this situation were not bad enough, the legislature has created another crisis regarding conflict counsel. Those issues are pending before the Florida Supreme Court. In the meantime, newly created conflict counsel offices are trying to organize, not really knowing whether or not they are constitutionally permissible. Private attorneys who had previously engaged in conflict counsel work are in limbo not knowing whether or not that aspect of their practices will remain viable.

It is a sad state of affairs. This is why the Criminal Law Section will sponsor a symposium on these and other criminal justice issues. It will probably be a series of symposiums. We need to put together the best minds from the criminal law community to come up with some suggestions for standards and guidelines that govern attorney caseloads, salaries, and qualifications for the handling of particular cases. We also need to take a look at judicial salaries, law enforcement needs and funding for the Department of Corrections. The section will be inviting representatives from selected groups to the table to reach a consensus on a variety of issues that affect all of us. If you are interested in more information contact Donnie Murrell, Chair-elect of the Criminal Law Section. He can be reached at (561) 686-2700.

The *Florida Criminal Law Journal* is prepared and published by the Criminal Law Section of The Florida Bar.

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Message From the Editor

By Ivy R. Ginsberg

This edition of the Florida Criminal Law Journal is more about the people involved in the Criminal Justice System than the law itself. I hope you enjoy the brief interview I conducted with our current Chair, Ann E. Finnell, and her outstanding thirty (30) year career with the Public Defender's Office in Jacksonville. Many of you probably did not know that one of Ann's trials was turned into a documentary entitled "Murder on a Sunday Morning" which ultimately won an Oscar. More importantly, however, was her legal work that resulted in the jury returning a not guilty verdict in the case. Because she is a consummate professional, when information from another public defender client came her way, she followed up with an investigation that ultimately led to the indictment and conviction of the real killer.

Additionally, I am very honored to bring you an article about our 2008 Selig Goldin award winner, the Honorable Seymour Gelber. Judge Gelber has led an exemplary life and had an illustrious legal and judicial career spanning from serving under former State Attorney Richard Gerstein in

Miami-Dade County for over a decade, as an Assistant Attorney General, and as a Circuit Court Judge for almost thirty (30) years in the Juvenile Division in Miami-Dade County. His son, the Honorable Dan Gelber, who serves in the Florida House of Representatives, will be introducing him at the luncheon for the Selig Goldin Award held at the Annual Florida Bar meeting in Boca Raton on June 20th. I hope you will come out and meet Judge Gelber and his family.

In this issue, we also pay tribute to Ms. Connie Stewart, who has been the Criminal Law Section's program administrator since 1979. Connie has served our section well and always with a smile on her face. If you have ever attended a Florida Bar Criminal Law Section Seminar, Connie is there to greet you at the door and provide the seminar materials. For our section meetings, Connie is responsible for providing the Agenda and accompanying documents and essentially has been the de facto Treasurer of the section for us explaining how the section is earning and spending your dues. Connie is the point person for the Criminal Law Journal, as well as making sure

that the brochures for the Selig Goldin Nominee are coordinated and at the luncheon tables. Connie is the go-to person for the Chair of the Section and most of the committees. On behalf of the Criminal Law Section, we wish Connie a long, happy and healthy retirement and for her to know how much she is loved and will be missed.

Finally, on a personal note, this will be my last issue as Editor of the Criminal Law Journal as I have closed my private criminal law practice and am transitioning into my new job as an in-house appellate attorney with United Auto Insurance Group. I have enjoyed my service on the Executive Council of the Criminal Law Section and putting together this Journal for our members. There is a lot of work to be done and this is a good time for some new lawyers to get involved with the Section as we are faced with difficult times in receiving the proper funding for the Criminal Justice System. All members of the section are welcome to attend the Annual Meeting in Boca Raton, the Selig Goldin luncheon, and the Criminal Justice Symposium. Hope to see you there.

SEYMOUR GELBER

from page 1

Division and professionalized the juvenile system from the days prior to *In re Gault*. He served alongside Judge William Gladstone until he was mandatorily required to retire at the age of 70 in 1990. During the 1980's, he served as Chairman of the Dade County Criminal Justice Council consisting of the heads of all the law enforcement agencies. They allocated the funds provided by federal and state agencies and conducted studies on pertinent issues.

In 1991, the Honorable Seymour Gelber was elected Mayor of Miami Beach and served three terms. Since 2001, Judge Gelber has served as a Senior Judge in Juvenile Court hear-

ing Termination of Parental Rights cases and Child Support cases.

Judge Gelber is also an avid writer and has published many articles on criminal justice as well as six books covering the Juvenile Court and other areas of criminal justice. In 1988, he published his first book, *Hard-Core Delinquents- the Miami Experiment* which was published by the University of Alabama Press. He wrote several other books of events describing the political and criminal nature of those eras:

- Terrorism in Miami- the 1964 Shoemaker Bombing
- The 1972 Presidential Nominating Conventions in Miami Beach
- The Gelber Family Memoirs

- Mom and Pop Elect a Mayor
- On Behalf of Children- A History of Judicial Activism in the Dade County Juvenile Court which was published jointly by the Historical Museum of Southern Florida and the Eleventh Judicial Circuit Historical Society.

Judge Gelber is the father of three children, Judy, Dan, and Barbara. Judy was a former SEC Attorney in Washington, D.C. and currently teaches Social Studies at Krop Senior High School. Dan is a lawyer with Akerman, Senterfitt and the Minority Leader in the State House of Representatives, and Barbara is a head hunter for attorneys in the electronics field.

INTERVIEW

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sions, and how to defend a case for State Public Defenders in Arizona, Montana, Colorado and Wisconsin. In Florida, she lectured at the Life Over Death Seminar for the Florida Public Defender's Association. Ann has also lectured at the National Association of Criminal Defense Lawyer's Annual Convention in Aspen, Colorado.

She has also worked tirelessly teaching at the Criminal Law Section's Gerald Bennett Prosecutor/Public Defender Training Program in Gainesville, Florida for the last twenty years. She has served as a Team leader and an Assistant Team Leader.

One of her more notable cases was the representation of Brenton Butler, a young black boy charged with a robbery/murder which took place at a motel. Ann and her co-counsel Patrick McGuiness obtained a not guilty verdict. By happenstance, a French Film team was in Jacksonville and wanted

to film a trial. They made a documentary about the trial, called it "Murder on a Sunday Morning." HBO bought the film which won an Oscar for Best Documentary Film in 2002. Ann and Patrick flew to Los Angeles to attend the Oscar Award Ceremony, and later to Paris and Marseilles, France. They both received medals from the Paris Bar Association.

Coincidentally, another public defender client in jail reported that another inmate confessed to the killing and Ann participated in the investigation which led to the prosecution and conviction of the real killer.

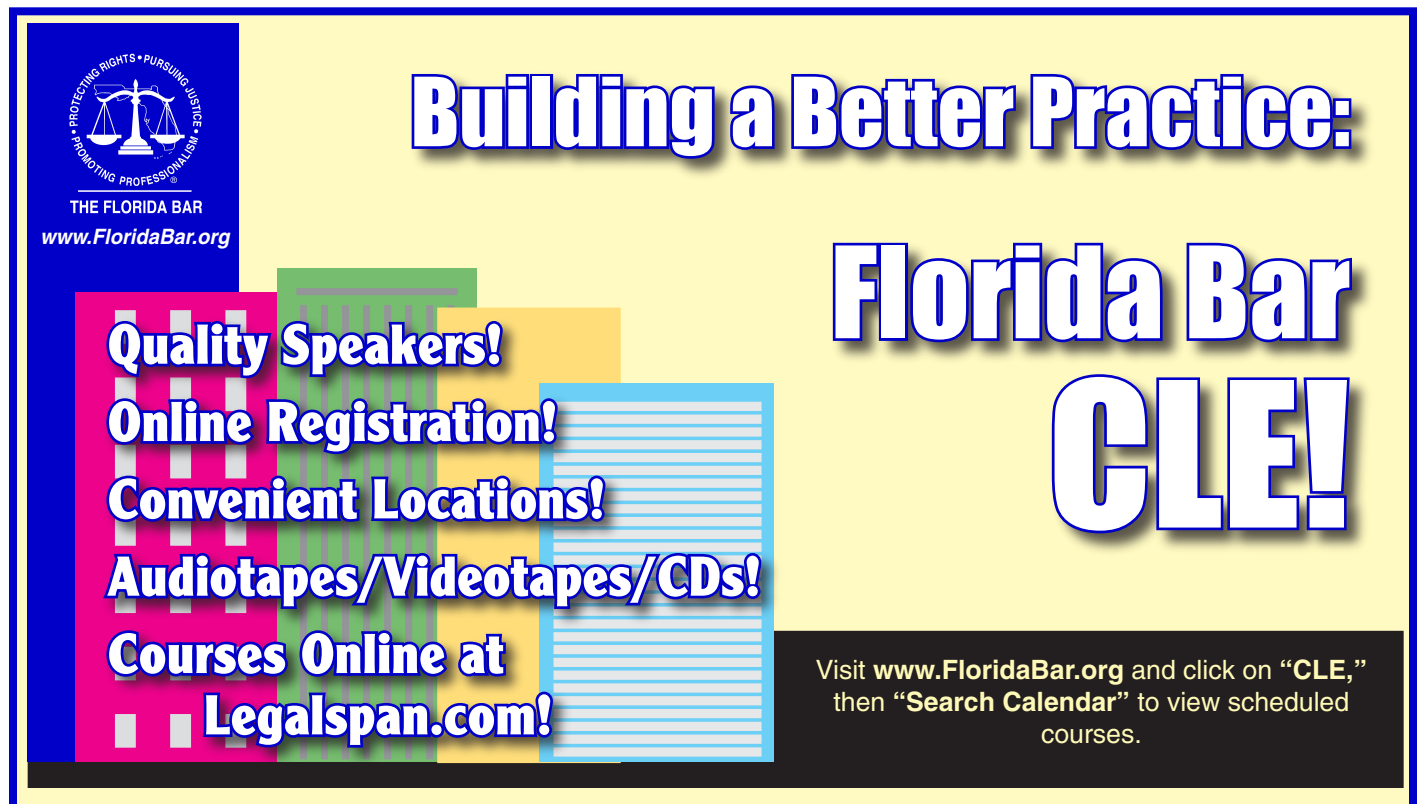
Some of the initiatives Ann worked on for the section during her tenure as Chair included starting to accomplish obtaining the matching funds for the Prosecutor/Public Defender Trial Training Program. Lisa Porter has led the effort for fundraising from members of the Florida Bar and friends of the program.

A proposed budget has been created for the Prosecutor/Public

Defender Trial Training Program. Ann also announced the passing of the torch for overseeing the program from Claire Lutten to Paul Zacks and Jennifer Zedalis. The section thanks Claire for her many years of service to the Criminal Law Section and the Prosecutor/Public Defender Trial Training Program in particular.

Donnie Murrell, the Chair-Elect is spearheading a Symposium on Criminal Justice Issues to include all of the stakeholders in the criminal justice system. The goal is to brainstorm with State Attorneys, Public Defenders, Private Counsel, Judges, the Department of Corrections and others to determine the priorities and budgetary needs to operate the criminal justice system.

Lastly, Richard Polin is working on an Update to the Closing Argument Manual originally created by Douglas Duncan and Harvey Sepler. The year went fast and the projects will continue into the term of Chair-Elect, Donnie Murrell.



The advertisement features a blue header with the Florida Bar logo and website. The main body has a yellow background with large blue text. On the left, there are colorful vertical bars (pink, green, yellow, blue) with white text listing CLE benefits. On the right, the text 'Florida Bar CLE!' is prominently displayed. At the bottom right, a black box contains instructions on how to find CLE courses on the website.

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CRIMINAL LAW SECTION ANNUAL REPORT TO THE BOARD OF GOVERNORS

The Criminal Law Section was created in 1976 and currently has about 2500 members. The section is dedicated to fostering high standards of ethical conduct in the administration of criminal justice and to the improvement of individual trial skills. The Section provides a number of quality programs to criminal practitioners at large and also provides special assistance to its members in order to further its goals.

The Gerald T. Bennett Prosecutor/Public Defender Training Program: The Section sponsors a unique training program for young prosecutors and public defenders named after the late Professor Bennett of the University of Florida School of Law. Professor Bennett was instrumental in the creation of the program. The program engages young prosecutors and public defenders to hone their skills in a week long mock trial of two separate criminal cases. The "students" are given both real-time and videotaped critiques by a team of experienced judges, prosecutors and defense attorneys. The course has been offered since 1979 and has trained more than 1700 government lawyers.

For the first time in 2007 a minimal registration fee was charged per student to offset the increasing costs of the program. Additionally, the Florida Bar Foundation provides support to this program.

A unique aspect of the program is the attendance of British barristers and Queen's Counsel. The British barristers attend the program as students and the Queen's Counsel assist as faculty members. More than 50 barristers have graduated from the program and over 20 Queen's Counsel have served as faculty.

Everyone benefits from this aspect of the program in that we not only learn about the differences between our criminal justice systems, we gain in the ability to see different trial tools and techniques that our British colleagues use to great advantage.

The Section lost the invaluable leadership of Claire Lutten this year as the

chair of this event. And while we are saddened that Claire can no longer lighten and brighten the attitudes of the students with her unique wit and sense of humor, the Section is grateful that Paul Zacks and Jennifer Zedalis have stepped up to the plate to run this program.

Oxford Scholarships. The Section awards scholarships to one Assistant State Attorney and one Assistant Public Defender to attend the barrister's program at Oxford. In turn those two Oxford graduates return and teach at the Bennett trial program the following summer. The scholarships are named after the late Professor Bennett and the late Judge Marvin Mounts, Jr.

University of Florida Foundation Endowment. The University of Florida Foundation has established an endowment fund to help ensure the continued vitality of the Bennett Prosecutor/Public Defender Program. Tax-deductible donations have been solicited and will continue to be solicited until the Section raises the needed funds. To date the endowment has received generous donations from the Florida Prosecutor's Association, the Florida Public Defender's Association, the Florida Association of Criminal Defense Attorneys and many individual donors. Additionally, the Florida Bar Foundation provides support to this program. The Section is hoping that in the future the endowment will make the program self-supporting. Once we achieve this goal we will again be in a position to offer the program to the students free-of-charge.

The Section gratefully acknowledges the tireless efforts of Council Member Lisa Porter to raise funds for this endowment.

CLE Opportunities. The Section hosts a number of educational seminars including Masters of DUI and federal practice. We are also planning a forensic seminar that can introduce younger prosecutors and defenders to understand the basics of a broad number of forensic issues. The Section has also published a manual to assist with ethi-

cal closing arguments in criminal cases. That manual is in the process of updating and should be ready for publication this fall.

The Section wishes to thank Section members Sheryl Lowenthal, Ken Swartz, and Richard Polin for their work in these areas.

Selig I. Goldin Award. The 2008 recipient is Judge Seymour Gelber of the 11th Circuit. Judge Gelber was appointed to the Commission on Ethics in 2005 by the Chief Judge of the Eleventh Circuit. Judge Gelber was a Senior Judge with the Circuit Court, Juvenile Division at that time.

Following retirement from the Circuit Court, he served as an Administrative Court Judge, Juvenile Division.

Subsequent to his work on the bench, Judge Gelber was elected Mayor of the City of Miami Beach, holding office there from 1991 to 1997.

Judge Gelber's volunteer work has included membership on the Miami Beach Charter Review Committee and the School Board Committee on Ethics, as well as Chair of Friends of the Miami Beach Regional Library.

Additionally, Judge Gelber supports several children's issues through projects he has headed as President of the Dade County Boys Club After-Care Program, as Chairman Emeritus of the Miami-Dade Criminal Justice Council, and as a member of the American Bar Association Committee on Juvenile Justice.

He is the author of [On Behalf of Children : A History of Judicial Activism in the Dade County Juvenile Court.](#)

Website: The Section website will be launched by the June annual meeting. Hopefully it will provide easy access to important announcements and news for all members of the Section. CLE information, meeting schedules, minutes, links to other sites of interest and the Section newsletter will be regular features. The Section hopes to add additional features as the website progresses such as case law updates and recent briefs.

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ANNUAL REPORT

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Upcoming events. The Section is planning to sponsor a series of symposiums to address the growing problem of adequately funding the criminal justice system. The legislature continues to cut the budgets of prosecutors and public defenders alike. Those offices are having difficulty recruiting and retaining attorneys. Additionally, funding for conflict counsel is unresolved at this time. The

Section hopes it can bring together persons from different areas of the criminal justice arena to discuss these issues and make appropriate recommendations.

Credit for all this work goes to the energetic, resourceful and dedicated members of the Executive Council, member volunteers, and our Section Administrator, Connie Stewart. We also need to thank the Patti Williams and other staff members at the University of Florida College of Law for their dedicated service to the Gerald Bennett

Prosecutor/Public Defender Training Program. Finally we are deeply saddened by the loss of Connie Stewart who retired February 29, 2008 after 29 years of dedicated service to the section. She has been replaced by Paige Graham who has a mighty task ahead of her keeping us all up to speed in the section. Thanks, Connie, for all those wonderful years you gave us!

*Respectfully submitted,
Ann E. Finnell, Chair*

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