

# THERE ISN'T ANY DUMPSTER

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## INTRODUCTION

“Dumpster” is often linked with “fire” in current vernacular to connote chaos—crumbling infrastructure posing public safety threats<sup>1</sup> due to its underfunding and poor regulation by the federal government, for example. Similarly, the phrase “dumpster fire” also seems apt to describe the state of our criminal justice system, which systematically locks up vulnerable young men of color.<sup>2</sup> It could also describe the struggle public schools face today to provide students with equal access to education, despite the landmark decision *Brown v. Board of Education*.<sup>3</sup> Unfortunately, post *Brown v. Board of Education*, segregation in the public school system will still exist until our government confronts its systematic bias and provides schools with the resources needed to set all students up for success.<sup>4</sup>

In this Article, however, no fire rages because there is no dumpster. Instead, the school principal takes the day’s trash home in the trunk of his

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1. See, e.g., Faiz Sididqui, “Ongoing Dumpster Fire”: How Close The Federal Government Came To Shutting Down Metro, WASH. POST (June 23, 2018), [https://www.washingtonpost.com/local/trafficandcommuting/ongoing-dumpster-fire-how-close-the-federal-government-came-to-shutting-down-metro/2018/06/23/91ce2736-74c0-11e8-b4b7-308400242c2e\\_story.html?noredirect=on&utm\\_term=.d793268d1089](https://www.washingtonpost.com/local/trafficandcommuting/ongoing-dumpster-fire-how-close-the-federal-government-came-to-shutting-down-metro/2018/06/23/91ce2736-74c0-11e8-b4b7-308400242c2e_story.html?noredirect=on&utm_term=.d793268d1089).

2. James Forman, Locking Up Our Own: Crime and Punishment in Black America 13 (2017).

3. See generally *Brown v. Bd. of Educ.*, 37 U.S. 483 (1954).

4. RICHARD ROTHSTEIN, THE COLOR OF LAW 179 (2017).

car and returns the next morning to find joy in a student discovering Shakespeare. This principal represents the true heroes of the public education system, who persist each day despite the multitude of barriers their schools face. Each day they put students first, even when our government fails to do so.

Through the Marshall-Brennan Constitutional Literacy Project, I taught at a Washington, D.C. school and wrote the foregoing reflection essay at the end of my experience about how the principal—the school’s unsung hero—helped me recognize the systematic flaws that disadvantage low-income students of color in schools today. The Marshall-Brennan program was founded by Jamie Raskin, who, like the school principal, “*was a role model [to me] in many ways.*” I recently flagged that sentence of the following reflection essay with a note to myself: “Just like Raskin!” Jamie Raskin, of course, is a force to be reckoned with and a role model to many. He co-founded the Marshall-Brennan Program with the goal of bringing the law to life for high school students and “advanc[ing] civic engagement.”<sup>5</sup>

I frequently ask my own law students to reflect on their “role model attorney” to surface for them the habits and qualities they value in lawyers. The exercise cultivates their professional identity by inviting them to consider how they will develop those habits and qualities in themselves. I tell my students that Raskin, my own “role model attorney,” taught our first-year Constitutional Law course by stressing the impact of legal doctrine on human beings. His lessons on voting rights and the privacy doctrine opened my eyes to the power of jurisprudence in driving social change. Raskin’s passion for legal reform, I explain, led him to a position in the Maryland State Senate, which he held while also remaining a professor at WCL.<sup>6</sup> Raskin now represents Maryland’s 8<sup>th</sup> District in the U.S. Congress. Ironically enough, he was elected to Congress the same day Donald Trump was elected. Knowing that Raskin is on the Hill fighting for social justice is the strongest antidote to my near-constant anxiety that our democracy is in peril.

I often looked to Raskin as my “role model attorney” during my time as a Marshall-Brennan fellow. During my time as a fellow, I was forced to

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5. *The Marshall-Brennan Constitutional Literacy Project: A Program with Local Origins Continues to Grow in National Stature*, AM. UNIV. WASH. COLL. OF LAW (Nov. 16, 2017), <https://www.wcl.american.edu/news-events/news/the-marshall-brennan-constitutional-literacy-project-a-program-with-local-origins-continues-to-grow-in-national-stature/>.

6. Remarkably, while a Maryland State Senator, Professor Raskin created another experiential learning course for WCL students that took them to the state capitol with him to study and engage with lawmaking firsthand.

confront my own biases and assumptions about the educational system and the students who navigate within them. My 2000 Marshall-Brennan Reflection Essay, which is reproduced in part below, highlights some of these biases I, in varying degrees of clumsiness, confronted as a law student. Section II of this article contains some language I would not use today. I have learned from Marshall-Brennan and other experiences that my own privilege is often the blindest of blind spots. Some of the things I wrote in the essay are insensitive and self-serving at best, and I am ashamed of that. But this article is not about me or my shame. It is about the students and teachers in the school who enlightened me to their lives and experiences. At the time, I was navigating that enlightenment as a young, privileged adult who wanted to help people—but sorely lacked cultural competence to do so. Two decades later, I stare intently at my former words as a student of my own journey towards some modicum of cultural competence. I have edited some of the essay's original language to avoid distracting the reader, but I tried very hard not to bury the evidence of my own bias in this article.<sup>7</sup>

#### I. MY 2000 MARSHALL-BRENNAN REFLECTION ESSAY

*Shakespeare Ladies and the Fourth Amendment in Southeast D.C.*

“Uppity white bitch.”

The words ring in my head every night as I walk down the cement stairs toward the heavy steel door, the color of rotting apples nicked with age and neglect. They were the words a trainer used to describe the resentment I should expect to encounter in the classroom as a white teacher of all black students in the Marshall-Brennan program. “You’ll hear all kinds of things thrown at you,” he’d said. “You have to learn not to take it personally.”

He was right. None of my students have ever called me “uppity white bitch” to my face. But they probably think it sometimes. I can tell. Maybe they all thought it at the beginning of the year, before they knew me. And the students who mill around outside the school, the ones who aren’t in my class and don’t know me, they all think it. Even though I smile and greet them all with a “Hey there,” or a “How y’all doin’ tonight?” when I walk by. Once in a while one of them smiles back or says, “Hi.” But mostly they stand there seeming skeptical.

Constitutional Law. That is what I teach at this high school. Teaching is not my full-time career. I’ve had zero formal training as a high school educator. As a law student at American University, I co-teach the course

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7. The publications team of this Journal have my immense gratitude for their careful assistance with this process.

under the auspices of the Marshall-Brennan Fellowship program. It started as an experiment when Jamie Raskin, my first-year Constitutional Law professor at AU, wrote a textbook on the Constitution for high school students—something no one had ever done. To get his book implemented in the classroom, Raskin came up with a plan for a pilot program in D.C. schools. He secured generous funding from the estates of former Supreme Court Justices Thurgood Marshall and William J. Brennan and recruited several dozen law students to use his new book to teach a course on Constitutional Law in D.C. high schools.

Raskin hadn't planned to implement the course at this particular school. He didn't even know it existed, this nontraditional degree program for current and returning high school students who wish to earn a diploma, not a GED. The school holds classes in the afternoons and evenings. Some students also attend a traditional high school during the day but are taking evening courses to catch up or to accelerate toward their diploma. Most of them, though, are young adults returning to high school after having dropped out years before. It's an innovative and high-quality program in a neighborhood facing many challenges. The principal talked the Marshall-Brennan staff into including his school in the program when he heard about it through the grapevine.

My interest in teaching the course led me down a parallel path. When I read the invitation-to-apply letter from Raskin in the summer of 1999, I noted the schools listed as potential participants, one of which was this one. I had already been interested in the program, but that clinched it.<sup>8</sup> I became intrigued with the school after reading Ron Suskind's "A Hope in the Unseen" the previous year. The book chronicles young Cedric Jennings' astonishing journey from that school to the Ivy League. A few weeks prior to receiving Raskin's letter, I'd attended a signing of Suskind's where the author had announced that Cedric had graduated from Brown University just the day before. At Suskind's signing, I was moved by his words to the small audience at Martin Luther King Jr. Memorial Library urging us to do what we could to help inner city kids. "For every Cedric," he'd said, "there are hundreds who *don't* make it out . . . . We need you, because we need more Cedrics." When I reached the front of Suskind's signing line, I told him I was a former social worker, and hoped to use my law degree to help people like Cedric. He signed it, "To Jill—a fighter for social justice." I was flattered and inspired.

I relayed as much to Raskin in my letter of application for the Marshall-

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8. See generally RON SUSKIND, A HOPE IN THE UNSEEN (1998).

Brennan fellowship and requested that I be placed at that school if I got into the program. Within a few weeks, Raskin and his staff notified me of my acceptance. They also obliged my placement request, explaining that my teaching would take place four nights a week from 7:40 until 9:10 p.m.

Because I am an evening law student who holds down a full-time day job, the school's evening courses were clearly the best fit with my schedule compared to classes in traditional high schools. More importantly, I was intrigued with the school's nontraditional program. The social worker in me liked the idea of working with young adults who likely had multiple needs and obligations—children and jobs—in addition to their classes. I was excited.

And then I got really scared.<sup>9</sup> The fear quickly became mingled with guilt. Did I really want to “fight for social justice” as Suskind had said or did I just like the idea of it? Was my terror simply a combination of racism and fear of the unknown thinly disguised? Was I going to succumb to apprehension and stay sheltered in my privileged Upper Northwest neighborhood giving lip service to wanting to “help people?” Besides, I'd been mugged on my own street; crime can happen anywhere.<sup>10</sup> It was time to push my fear and guilt away and get out there and do something.

My first assignment before classes even started was to attend what Raskin's staff billed as an “orientation” at the high school. To arrange that, they told me to phone the school principal, Mr. Sloan.<sup>11</sup> I reached him and got the session time and driving directions. He said he was looking forward to adding the Constitutional Law class to the curriculum. Principal Sloan sounded like a friendly, energetic, bright man to me. I assumed he was Black. That was my first erroneous assumption. As I discovered as soon as I walked in the door that first day, Sloan is indeed friendly, energetic, and bright but he is as white as I am. My racist assumptions about the way black folks speak had convinced me that his vocal inflections were “Black.”<sup>12</sup> And in retrospect, I suppose that I simply expected everyone in Anacostia to be Black. But although almost

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9. I have deleted language here that expressed my fear of being a victim of a crime and tried unsuccessfully to express my own realization that I was privileged.

10. See *infra* Part II (addressing and reflecting on this insensitive use of language).

11. The principal's name and all other names in this Essay have been changed to preserve anonymity.

12. See *infra* Part II (addressing and reflecting on this insensitive use of language).

everyone else at the school—teachers, staff and students—is indeed Black, Sloan is unmistakably white. It didn't matter to me one way or the other what race Sloan was, but I learned quickly that I was harboring a lot of assumptions. The lesson was a profound one for me: shed those assumptions and get ready to be educated yourself.

My education started that first afternoon. I had expected to be trained. Instead, I underwent an indoctrination of sorts. The "orientation" turned out to be a staff meeting. I spent an hour listening, observing, and sorting out how I felt about being the only white person in the room. My own issues about race were hitting me with more force than I'd expected. I had always felt I was sensitive to the experiences of minorities, that I treated everyone as equals, and that I empathized with people who were victims of racism. Indeed, as I sat in that meeting, I had a recurring sense of "this is what it must feel like." That pseudo-enlightenment was immediately followed by guilt at realizing that while I was a minority in that room and that setting, I only had to jump back in my car and drive the twenty-five minutes back to my neighborhood and the "White World" to get rid of that discomfort. That realization stuck with me and resurfaced every time I got too pleased with myself for the work I was doing with my students.

So there I was, scared, guilt-ridden, and overwhelmed, feeling like the privileged white woman that I so desperately didn't want to be. But as the meeting broke up, just like a band of angels, the other teachers approached me and welcomed me with warmth and respect that I could not have imagined. Sloan had explained during the meeting what I and my co-teacher would be doing, that we were law student volunteers, and that he was honored to have this experimental course at the school. I had assumed (it was hard to stop assuming) that the other teachers would be critical or at best apathetic about the whole idea. I could not have been more wrong. Handshakes, words of gratitude, offers of help, and sincere arm-squeezes abounded. As much as I knew I didn't deserve their kindness, I let it wash over me with gratitude.

Sloan was the kindest of all. This man, who routinely works twelve-hour days, took nearly an hour to answer my questions in his office, explained what I could expect and generally put me at ease. He talked to me about the challenges they faced at the school—from the chaotic public-school administration to the low motivation of the student body. He warned me to be ready for the students to need remedial education about government, history and current events before we tried to teach them sophisticated legal concepts. He listened genuinely to my concerns and validated them, encouraging me to come to him if I ever needed help.

And he told me a story.

Sloan's story was about a former student. She was a single mom who came back to earn her degree more than a decade after she'd dropped out of high school. A friendly sort, she'd begun giving Sloan regular updates about how she was enjoying her classes. Her favorite, he said, had been English Lit. About halfway through the semester he had asked her how it was going. "Oh, Mr. Sloan," she'd said, "it's great. I love my English class so much. We are reading these poems, and this one writer is so good. Have you ever heard of this fellow *William Shakespeare*?" She'd said the name as though it belonged to the most foreign, exotic, well-hidden creature imaginable, Sloan told me. He told her that, why yes, as a matter of fact he had heard of Shakespeare. "Well," she'd continued excitedly, "he writes the most *beautiful* words I've ever heard." And she'd proceeded to recite a sonnet for Mr. Sloan. "That," he said to me, "may not sound like much but that—that is success in my book."

I agreed, and left his office inspired to facilitate success stories like that for my students. Talking with Sloan gave me a sense of excitement and motivation that helped offset the fear and guilt that were tugging at my sleeve. Still, it wasn't all rosy. Mingled with the cacophony of emotions filling my head that first day was my shock at the school's physical condition. I couldn't stop staring at the dingy walls, the chipping paint, the decades-old furniture, or the stained floors and ceilings. Stopping by a water fountain on my way out that evening, I found it broken. I walked to another fountain down the hall. It didn't work either. "Note to self;" I thought, "bring bottle of water to class." I was afraid to even check out the restroom.

I was soon to discover the restrooms were indeed a big issue. By the time I checked out the teachers' bathroom several weeks later, I was desensitized enough to the school's squalid conditions to find it tolerable. The small room was dingy; it was obvious the floor and walls hadn't been scrubbed for ages, and there was no soap, but the toilet appeared marginally clean. The real shock came when I mustered up the mettle to walk into the girls' bathroom to see what my students were dealing with.

The conditions were like nothing I'd ever seen in a public building. Two of the five toilets were backed up with waste and paper. A third toilet sat covered in a dark green trash bag, which I couldn't bring myself to look beneath. Soap, like in the teachers' bathroom, was nonexistent. So was hot water at the 1960s-style industrial sink in the corner. The stench was overwhelming. I returned to my classroom ready to lead a discussion on the deplorable conditions and elicit suggestions from them as to how to deal with it.

They beat me to it. Maybe we were on the same cosmic wavelength, maybe they'd seen me coming out of that restroom, I don't know. But before I could catch my breath, they were peppering me with questions about how they could be expected to put up with those facilities. We talked for twenty minutes about how disgusting it was, and how it seemed sadly racist that the District's public-school administration would allow such conditions to persist when we knew that schools in rich, white neighborhoods like mine at least had clean, functional bathrooms. Brainstorming, we came up with ideas to take photographs or videos to record their complaints, and to take the situation to the Board, and if that failed, to the media. I was fired up. Mr. Sloan was gone when our class let out that evening, but I resolved to bring the matter to his attention the next day and get his thoughts on how to handle it.

However, he also beat me to it. Whatever cosmic wavelength was running between me and my students, Sloan must have caught it too. The next evening, I arrived at school to find a gentleman scrubbing the hallway floor with a mop and bucket. Walking into my classroom, I found the trash cans emptied and filled with fresh liners—a first. Usually the cans overflowed for weeks with Twix wrappers, Pepsi cans, and the like; none of them ever contained a liner. It was clear things were changing. I dropped my backpack and headed for the restrooms. They smelled like Clorox. It was obvious they'd been freshly scrubbed. I walked into Sloan's office grinning. "I like the new janitor," I said. "What's going on?"

He laughed. "It's about time, huh?" he said. "I've been here for two years. That's how long it has taken me to get a decent janitor in here. The district gives us people they hire to clean the day school upstairs, and as you know, they've been worthless." I concurred.

"Well," he continued, "I finally decided I wasn't going to put up with it anymore, and I told them I wanted to hire my own janitor. They ignored me for a year. But I'm persistent," he grinned mischievously. "They finally agreed. You want to know how I decided who to hire? I interviewed a bunch of folks, and I'd walk 'em through the halls and rooms, and they'd all say, 'O.K., this isn't so bad, I can handle this, no problem.' Then last week this fellow comes in, and I'm giving him the same tour, and he says to me, 'This is bad. I mean this is really bad. There's a lot of work to do here.' I knew I'd found my man."

"That's the guy who's out there scrubbing?" I asked.

"Yep."

"And he cleaned the bathrooms?"

"Yep."

“Is he going to keep coming back?”

“Yep.”

I smiled. “I gotta go tell my class.”

They were thrilled. As the week went on, the stopped-up toilets got un-stopped, soap dispensers appeared in the bathroom, along with disposable seat covers, and the whole place took on the glorious aroma of bleach. Having heard Sloan’s story, I realized what a victory this was. That point was solidified on the last night of the week as I left the school. I noticed the janitor and Sloan outside loading several lawn-sized trash bags into the trunk of a four-door sedan—clearly not a vehicle meant for hauling trash.

“What’s this?” I asked Sloan.

“We’re taking the trash home,” he said.

“What are you talking about? Don’t you just put it in the dumpster?”

He laughed. “There isn’t any dumpster. Before, I always took it home in my van and put it out with the trash at our house. But I’ve told our new janitor that it’s part of his duties now.” I was astonished. I turned to the new janitor with a “what do you think of all this” look on my face.

“Hey, my wife’s not too crazy about it, but I don’t live too far away. It’s better than him hauling it all the way home,” he said. I had to agree. Sloan lives in Columbia, Maryland.

“I’m working on a better system,” Sloan said seriously. “This shouldn’t last too long.” Given his persistence on the janitor hiring issue, I didn’t doubt him.

Sloan was a role model in many ways. I loved the way he finally found a janitor—never giving up on the search even though it took over a year to get what he knew his school needed. In the meantime, he’d made the best of the situation and stayed positive enough to focus on stories like the Shakespeare Lady.

I wanted my students to be Shakespeare Ladies. I wanted them to recite things they’d learned from me outside of class. The Constitution isn’t terribly poetic but the Preamble is kind of inspirational, I thought, and there is some moving language in landmark Supreme Court cases like *Brown v. Board of Education*. Before classes started in August, I shared the Shakespeare Lady story with my co-teacher Frank, who had been unable to attend that first staff meeting.

Brimming with enthusiasm, Frank and I decided to do something inspiring in our very first week to get the students jazzed about the course. Frank suggested we show them the footage of Martin Luther King delivering his “I Have a Dream” speech. It seemed perfect. We’d talk about Dr. King’s message and goals, how that relates to the promise of

the Founding Fathers in the Constitution, how far we still have to go in the struggle for civil rights, what learning about the Constitution can mean for them in “real life,” on and on and on our perfect first week would go. We’d be a hit!

Too blind to realize that we were deep in assumption land, we set off to implement our perfect lesson plan. The first night of class, we told the students our plan. They seemed to like it. One student, Mr. James even said he had the words to the speech at home in a book. We suggested he bring in the book to class the next night. Modifying our plan, we asked him if he would read the speech instead of us showing the video of Dr. King. He agreed, but the next night he forgot to bring the book. So much for the perfect lesson plan. Of course, we hadn’t brought the video either—assuming, of course, that he’d produce the book. We did something else that night.

The next night, Mr. James showed up with the book. Marvelous! We’d have our perfect class after all. We made photocopies of the speech for everyone, positioned Mr. James at the front of the room, and told him to go ahead. We were encouraging. We were excited. We smiled.

He whispered.

“Turn up the volume,” I good-naturedly encouraged him. “Let’s really hear the emotion of it.” Mr. James gave it an excellent effort. But he was nervous and raced through it. Still, the speech is moving even if it’s read in a monotone. Frank and I were both tearing up by the end, where Dr. King talks about little Black boys and girls joining hands with little white boys and girls and everyone being able to say with conviction “free at last, free at last, thank God Almighty, we’re free at last!” I still tear up even as I write about it.

But our students didn’t tear up. They’ve heard it a million times. Besides, it’s only words. Dr. King was assassination. Freedom doesn’t ring from the mountains and valleys of this great nation—not for everyone.

Frank and I were taken aback by the decided lack of emotion that hearing and reading the speech produced. We tried to jump-start a class discussion about civil rights and equality and liberty and justice for all. “What did Dr. King mean,” we asked them, “when he referred to a ‘bounced check’ in his speech? How is the Constitution and its promises like a ‘bounced check’ for Black Americans?” Blank stares.

So we explained it and our explanation did indeed yield some animated discussion. However, as we quickly realized, it was our job to carry the discussion, to explain the parallels between Dr. King’s message and the promises of the Bill of Rights. Our students were not going to be moved

to tears like two liberal law students, who while well-meaning, suffer a bit from White Guilt and do-good-ness.<sup>13</sup> They weren't going to grasp the parallels the way we and our fellow law students do. We were learning what our job as teachers would entail. Acknowledging the lesson we'd learned, we decided to take a different approach the next night: back to basics.

On a white flipchart sheet of paper, I wrote the words to the Preamble to the Constitution:

We the People, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, secure the blessings of liberty for ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Taking it clause by clause, we encouraged the class to put the Preamble into modern-day words. Passing around the dictionary, we picked the Preamble apart word for word. We talked about the difference between what it meant to the small group of rich white male British expatriates who wrote it and what we believed it meant for us today. The exercise was exhausting and at times a little tedious. I didn't think anyone found it terribly enlightening.

That assumption, too, was soon blown to bits. After class, one of our quietest students stayed to talk with us. "I just want to tell you," she said in her lovely soft Caribbean-accented voice, "you make me think . . . I want to be a lawyer." Frank and I exploded into joyous, grateful laughter. "You are making me think about things deep in the recesses of my brain," she added as she walked out. She was beaming. We beamed too, and high-fived. Maybe we really could do this.

That was in August. None of our students had said anything quite as encouraging as that in the nine months since, but we learned to bless the small, positive signs. We learned quickly to redefine success: a night when more than two students actually showed up for class; a night when none of our students smelled of alcohol or pot; a night when any of our students had done anything we'd assigned them to do out of class. We stopped giving homework; no one did it. For a few months we bucked the other teachers' admonitions to do all work in class and let go of any expectations of students' completing their homework. I was particularly reluctant to give up my rule that the students would come to class prepared, having read the material I'd assigned. I didn't get away with that in law school; why should they?

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13. See *infra* Part II (addressing and reflecting on this use of insensitive language).

The battle came to a head one night when I exploded with frustration about our students being unprepared. “This is the deal,” I told them. “I know it’s a pain in the ass to have to do this reading but we can’t make any progress in class if you haven’t read what we’re going to cover.” No one was buying it. Groans and rolled eyes ensued. “Ms. Imgrund,” one of our most outspoken students began, “we just don’t have *time*.” Ms. Farmer is a dynamic young woman in her early twenties with a four-year-old daughter. “I go to work,” she continued, “then I have to take care of my daughter, I have to come to school—when am I going to find time to do any homework?” Nonplussed, I continued my Mean Teacher routine. “Ms. Farmer,” I said, “I empathize with you. I know all about having a busy schedule. But you have to *make* the time to do your homework. Listen,” I continued, “I have *four jobs*, OK? And my law school professors don’t care about any of that. I still have to do my reading before class.” I stared at her triumphantly, certain I had won that argument. “Well,” she responded with aplomb, “that may be true, but you don’t work *all four jobs every single day*.”

I stopped giving homework.

Telling Ms. Farmer that I had four jobs was not an exaggeration. During regular business hours, I managed a program at the National League of Cities. My coursework that semester included AU’s Criminal Law Clinic, for which I commuted to Annapolis to work as a student attorney in the Anne Arundel County State’s Attorney’s Office one day a week. I was serving as a Line Editor for the law school’s *Journal of Gender, Social Policy & the Law*. And my fourth job was teaching the Marshall-Brennan course. My journal reflects my struggle to balance the commitments. At times I was exhilarated:

*September 24, 1999*

*And then we have Marshall-Brennan. The jewel in the crown. Really, still my favorite job. I have such fun there. No matter how tired I am when I arrive (and I am usually pretty damn exhausted), I am always totally energized by the time I walk out. I was so psyched that little Mr. Bailey did his essay and made a point to hand it in tonight. He took the time to do the assignment. He is taking it seriously. Mr. Sloan came in after class and literally raved about how well our class is going and how impressed he is with the crowd we continue to get each night. I love teaching, I know I have a knack for it. It is so rewarding to get that immediate feedback from the students. It’s a rhythm I get into with them: “so why is that not right? Who can tell us why this might look right to*

*someone else?” And I love it.*<sup>14</sup>

Exhilaration was fleeting, however.

*October 25, 2000*

*School was pretty rough tonight. Frank was all freaked out when I got there, had to talk to me in the hall about how the exam was too hard and no one was getting it. Oh well. Learning experience.*

That was the first exam we gave our students. We had spent hours assembling it, including short answer questions that tested their ability to extract the legal doctrines they had learned from reading Supreme Court cases on the First Amendment freedoms of speech and expression and essay questions that encouraged critical thinking. Clearly, though, that was not going to work. Our students had difficulty remembering that the Supreme Court was the highest court in the nation, let alone articulating concepts like “material and substantial interference.”

So, like we did with everything else in our class, we modified our exam preparation and administration. We began giving the students “briefs” of the cases in the book—one-page explanations of the issues and holdings of each case—in lieu of having them read each opinion and try to sift through the highbrow language themselves. We would read excerpts aloud in class and explicate them as a group. The dictionary became our most utilized teaching tool. This approach seemed to generate more response and satisfaction for the students. We still taught them the most significant legal concepts from the major cases, like “material and substantial interference,” but we hammered those home for weeks on end before we tested them on it, incorporating those catchphrases into every aspect of the class. Frank took to telling students who interrupted him or their classmates that they were “creating a material and substantial interference” with his class.

The second exam covered freedom of the press and was more productive than the first. To give it a real-life twist, we made the test an analysis of an actual online newspaper produced by students at Blair High School in Montgomery County, Maryland. We printed out the newspaper’s home page and asked the students to identify headlines and content that they found objectionable and would “cut” if they were the principal in charge of this high school newspaper. The students laughed about the headlines like “Oral Sex: Can it Give You HIV?” and “Marijuana: Should It Be Legalized?” and did a decent job explaining why they were cutting certain material, using actual legal standards that we had drilled for the past two weeks. Maybe it was starting to click, we

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14. *See infra* Part II (reflecting on this journal entry).

thought.

Our next section was on the Fourth Amendment, which everyone found intriguing. The class loved to talk about what the police could and could not do to people in the context of searches, arrests, traffic stops and the like. Their enthusiasm was infectious, but unfortunately those issues were not exactly what Raskin's book covered. His book was designed to explore the rights of students in school, not grown-ups on the street. The Fourth Amendment cases talked about searching students' purses and drug testing student athletes. Our class didn't care; they just wanted to talk about the cops. So, we compromised. Teaching the Fourth Amendment cases from the book was interspersed with online research about recent cases on police searches and seizures, videos dealing with the same issues, and a guest speaker on a suspect's rights.

At the close of this section, we asked the class to write an essay on what they liked or didn't like about the course, the book, and our teaching styles. We explained that Professor Raskin was interested in feedback on the course before the final version of the book went to press. The responses were sublime in their candor and surprising in what they revealed about the students' learning.

*Cornell Taylor, "Constitutional Law Book"*

*First, I've really enjoyed learning the way the Constitution has it set up for all . . . United States people . . . Secondly, I enjoy the way we learn about some of the cases that put a affect [sic] on the school now . . . the one thing I really enjoyed was the case on New Jersey v. TLO. What I enjoy so much was that I found out that sometimes the school doesn't always have the right to search you, but only in serten [sic] situations when they have the right to do so meaning when you cross the school rules.*

He was exactly right. The *TLO* case set out the standard that a student can be searched at school only if the administration has reasonable suspicion that they have broken a law or a school rule. While Mr. Taylor's grammar and spelling were shockingly below his grade level, his grasp on the important legal concept was evident. My fellow over-committed young woman, Ms. Farmer, surprised us as well, revealing a surprising affection for the class (despite its constraints on her busy schedule), in her inimitable, spunky style.

*Dear Professor Jasmine Raskin,*

*Hi, my name is Miss Kendra Farmer but my teachers call me Miss Farmer. I'm a high school student at night (only) taking a Constitutional Law class from your students. Well, I've introduce [sic] myself so better talk about why I'm writing you this letter. First I would like to say is that*

*you have a pretty good Constitutional Law Book 1 & 2. Secondly it has very interesting cases in it that I've never read about. But now I'm glad that I've read your Book and taking your students class.*

Not everyone was as complimentary as Ms. Farmer, but the honesty was striking, such as that from a young woman who worked as a security guard and frequently criticized the class:

*I just want to say, she wrote, that some of the cases in your green book is [sic] interesting like Melton v. Young and Tinker v. Des Moines, and some I just can't get into, regardless of how much I try.*

Fair enough. Frank and I find the law a snoozer sometimes too. Counteracting the criticism was the sweet endorsement from the same woman who had told us we were “making her think of things deep in the recesses of her brain” the first week of class:

*“What I Think About the Constitutional Law Class”*

*Taking the Constitutional law class is very good for me overall because it served as an eye-opener. As an adult student and also coming from another country, this class has enlightened me about the U.S. laws. I now have a better understanding of the rights of all citizens and non-citizens residing in this land. My understanding and knowledge of the Amendments or law of the land is clearer than it's ever been. I've learned about my rights that I am entitled to and what types of protection is due to me under the Constitution. Reading the different cases in the books and looking at the way both sides take a specific part of the case to base their argument gave a better understanding of the court system. The case that grabbed my attention most was Brown v. Board of Education. It made me more aware of the struggle of colored people from 1619 when the first slaves settled under bondage in Jamestown, the struggle of the civil rights movement and where we are now as a nation. Thank you, Professor Raskin, and to your law student teachers who took the time to enlighten me.*

As Mr. Sloan suggested to me back in August, over the school year, I had redefined my expectations, intentions, and definition of success. Despite the stopped-up toilets, the lost homework battles, the recurring student apathy, and the acute fear I still feel every night as I sit at the light at the corner of Martin Luther King Jr. Boulevard and 2<sup>nd</sup> Street SE, Constitutional Law has been a success. The uppity white bitch found her Shakespeare Lady. Is she a reflection on the rest of the students? Not in the purest sense. They still have their resentments and their apathy at times. But a core group of them keep coming back to our class to talk about rights, responsibilities, racism and—sometimes—revolution.

At one time or another in this class, they've all been Shakespeare

Ladies. Suskind called me a fighter for social justice. He was too kind. I've been humbled and blessed to be a teacher. But most significantly, I've been a student. At the end of the day, we are all learning from one another in life. The Constitutional Law students taught me much about perseverance, possibilities, and the power of education; as Suskind's book title so aptly sums it up, "A Hope in the Unseen."

## II. REFLECTION 2.0

Teaching in the Marshall-Brennan program changed the way I perceive our "social" system and our "justice" system. Until then, I had never experienced the impact of racial segregation and ineffective policing on a community where I played a role. "Social justice" is a term I use a lot in my teaching and writing, but it means nothing without context. The phrase "a fighter for social justice" appears in this essay when I describe author Ron Suskind inscribing it to me in his book, *A Hope in the Unseen*,<sup>15</sup> shortly before I became a Marshall-Brennan fellow. A few paragraphs later, I admit my own self-doubts and racist fears about teaching in Southeast D.C.:

*And then I got really scared . . . [t]he fear quickly became mingled with guilt. Did I really want to "fight for social justice" as Suskind had said, or did I just like the idea of it? Was my terror simply a combination of racism and fear of the unknown thinly disguised? Was I going to succumb to apprehension and stay sheltered in my wealthy, privileged, Upper Northwest neighborhood giving lip service to wanting to "help people"?*

This passage about fear and guilt accurately summarizes the thought loop that often nagged me early in my career. At the time, I shrugged it off with these words: *Besides, I had been mugged on my own street; crime can happen anywhere. It was time to push my fear and guilt away and get out there and do something.* Reflecting now, though, I see how the Marshall-Brennan program was transformative to my development as both a social justice lawyer and as a teacher. I particularly value the way my inherent biases were confronted by my experience as a fellow in a community marginalized because its residents are African-American. I view my words and sentiments very differently in hindsight—particularly my crude understanding of white privilege.

Meeting Mr. Sloan, the white school principal, who I had assumed after our phone conversation was black, was a key lesson. My description of it, though, is fraught with the self-importance and defensiveness often embedded in white privilege: *Sloan sounded like a friendly, energetic, bright man to me. I assumed he was Black. That was my first erroneous*

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15. See generally SUSKIND, *supra* note 8.

*assumption. As I discovered as soon as I walked in the door that first day, Sloan is indeed friendly, energetic and bright, but he is as white as I am . . . I suppose that I simply expected everyone in Anacostia to be Black. I then wrote, "It didn't matter to me one way or the other what race Sloan was, but I learned quickly that I was harboring a lot of assumptions." But of course, it mattered quite a bit, because it spotlighted my bias. Another phrase in that passage which bothers me is: My racist assumptions about the way Black folks speak had convinced me that his vocal inflections were 'Black.'* Excellent point, but how could I not realize the choice of the word "folks" here is also pretty racist?

Twenty years later, I shudder at these now-obvious blind spots, but cherish the lessons I learned about my own racism and white privilege from this experience. The real teachers employed at that high school, and our students, taught me much about the power of kindness, gratitude, and positivity in education and leadership. At the pre-term teachers' meeting, for example, *[h]andshakes, words of gratitude, offers of help, and sincere arm-squeezes abounded. And as much as I knew I didn't deserve their kindness, I let it wash over me with gratitude. Sloan was the kindest of all. This man, who routinely works twelve-hour days, took nearly an hour to answer my questions in his office, explained what I could expect, and generally put me at ease.* Later in the essay, I again recognize Principal Sloan's leadership in cleaning up the school's physical condition—even without a dumpster:

*I loved the way he made that janitor happen—never gave up on it—even though it took over a year to get what he knew his school needed. In the meantime, he had made the best of the situation, and stayed positive enough to focus on stories like the Shakespeare Lady.*

The Shakespeare Lady, and all her fellow students, also taught me something about what it was like to be a Black adult seeking a high school diploma in a neighborhood that was remarkably underserved by their government. We all lived in our nation's capital but had entirely different lives. I knew that intellectually, but those students taught me this in ways that sometimes resonated and other times discomfited, but always seared with authenticity. I describe our students' reaction to a lesson on Dr. Martin Luther King's "I Have a Dream" speech:

*I still tear up even as I write about it. But our students didn't tear up. They've heard it a million times. Besides, it's only words. Dr. King got killed. Freedom doesn't ring from the mountains and valleys of this great nation—not for everyone.*

The "I Have a Dream" speech doesn't make me weep these days. The Dream is achingly far from realization, thanks in large part to segregation sanctioned, and even imposed, by our own government. Racist laws and

policies at all levels have entrenched segregation into the United States.<sup>16</sup> That segregation effectively ensured the demise of countless black neighborhoods<sup>17</sup>—Anacostia being one of them. Anacostia did not have to be a dangerous, poor Black community with schools with inadequate waste disposal, but our government set this neighborhood up for failure.<sup>18</sup> No wonder our students didn't tear up—their reality was crying at their friends' funerals.<sup>19</sup> But my essay did not explore the students' perspective with any more depth—instead, it pointed the lens back to me:

*Our students were not going to be moved to tears like two liberal law students, who while well-meaning, suffer a bit from White Guilt and do-goodness.*

Notably, I lumped my co-teacher, Frank, into my “white guilt” without acknowledging that he was actually Latinx. Looking back, my cognitive dissonance about my own racism and lack of humility sadden me. Now, I recall Frank being stunned that I had never read—or even heard of—W.E.B. Du Bois, which I demonstrated by mispronouncing his name at a class prep meeting. Frank tried to explain Du Bois's cultural significance to me, and I remember being so embarrassed that I couldn't absorb what he was saying. But I didn't choose to write about that in my reflection essay. Instead, I chose to conflate Frank's identity with my own. I could have highlighted how much I stood to learn—not just to teach—from this experience with that revealing anecdote. Instead, I wrote things that now make me cringe, like “*I love teaching. I know I have a knack for it.*”

Also cringe-worthy is my blindness to my student's points about the stress of motherhood as a single-parent working multiple jobs but still living below the poverty line. I am especially stunned by my blindness regarding her caregiving duties for her daughter. As a mother myself, my attitude towards her reads as tone-deaf and dangerously anti-feminist. Instead of responding with empathy to her candid explanation of why assigning homework was absurd, I compared my life to hers. I expected her to meet me where I was, when I should have done the inverse. “*Do-goodness*”? Not so much. Though my lack of compassion in statements like, “*despite its constraints on her busy schedule*” is embarrassing, I am grateful to have had this account to learn from. Ms. Farmer taught me much more than I realized at the time, most notably, gratitude for the opportunity to learn. In her words, the “*very*

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16. See generally Rothstein, *supra* note 4.

17. *Id.*

18. *Id.*

19. One student wore a shirt with a memorial “RIP” message about his friend. That same student later disappeared for weeks, and the principal told me he thought the student had to leave town for his own safety.

*interesting cases that [she had] never read about” made her “glad [she] read [Raskin’s] book and was taking [his] students’ class.”*

### III. CONCLUSION

My 2000 reflection essay ends with references to humility and learning from my students but I remain chagrined by the lack of cultural competency demonstrated by my words. On teaching the Fourth Amendment I said:

*The class loved to talk about what the police could and could not do to people in the context of searches, arrests, traffic stops and the like . . . . Raskin’s book was designed to explore the rights of students in school, not grownups on the street.*

Yet these students were in fact grown-ups on the street. I talked about “compromising” by covering a few cases from the book, while also letting them do *online searches* (it seemed so innovative in 1999!) *about recent cases on police searches and seizures, videos dealing with the same issues, and a guest speaker on a suspect’s rights*. I have no recollection of who that guest speaker was. Nor do I recall whether we genuinely listened to our students’ descriptions of police interaction. My essay does not mention fear of police brutality, raising children in violent neighborhoods left behind by law enforcement, or even racial bias. That breaks my heart. What an opportunity I missed to learn from hardworking, law-abiding, community members about their daily lived experience. What could I have done with that information to “fight for social justice” besides pen a self-serving essay about me helping them by teaching them about the law? The law should reflect what they have to teach me, then and now. The law should reflect their humanity, it should diminish their marginalization, and it should speak about that work in their voice.

Their voices, quoted in my essay, inspire me today as much as Professor Raskin inspired me then. Raskin was and remains a transcendent teacher. He held up a mirror and pointed out aspects of my potential I could not discern by myself. He modeled the calling to teach justice—not just doctrine—by inviting students to examine the rule of law from the perspective of others. One of my favorite stories about Raskin’s selflessness is when I tried to visit him at his home during his recovery from cancer treatment. He insisted that if I came by, *he* would make *me* lentil soup. Raskin embodies the social justice ethic with an authenticity and tenacity I can only hope to cultivate. I think he would agree that listening to the community members is what the Marshall-Brennan program does best. A few lines from our 1999-2000 Shakespeare Lady: *Brown v. Board of Education made me more aware of the struggle of colored people from 1619 when the first slaves settled under bondage in Jamestown, the*

*struggle of the civil rights movement and where we are now as a nation.* The struggle continues, and my piece of it is miniscule in comparison to my fellow Americans, like those high school students. I wish I could go back and thank them, and apologize for the homework and my utter insensitivity. They are the fighters for social justice, leaving work and taking care of kids to show up to class at their neighborhood school that doesn't even have a dumpster. Raskin is my role model, but they are my heroes.