

NYWBA FOUNDATION, INC. BREAKFAST SERIES - LINDA FAIRSTEIN, ESQ. INAUGURAL SPEAKER

The New York Women's Bar Association Foundation, Inc. launched a new program on June 4, 2003, to an enthusiastic audience at the Harvard Club. The featured speaker in the Foundation's new Breakfast Series was Linda Fairstein, former Chief of the Sex Crimes Prosecution Bureau, Manhattan District Attorney's Office, and current bestselling author. Linda's dynamic and informative approach to her topic made it possible for her to cover a potentially disturbing subject over breakfast - and even left everyone eager for more. The torrential morning rain was just a prelude to the coming summer, but it did not keep away attendees who ranged from colleagues, lawyers and judges from around the city-those with many years experience and those recently out of law school-to those non-lawyers who either knew Linda personally or by reputation.

Throughout her twenty-five year career in the District Attorney's Office, Linda piloted the prosecutorial effort in the area of violence against women. "I am so glad that Linda Fairstein agreed to be the first speaker in our new series," said Katherine Posner, Esq., President of the NYWBA Foundation, Inc. "We achieved both our goals with this program; to provide an interesting and informative speaker, and raise money to support one of the Foundation's projects.

That we achieved our first goal was evident by the enthusiastic participants still calling out questions as Linda signed copies of her latest book, *The Bone Vault*. And, I am happy to report that we raised enough money to support a law student internship to a non-profit organization working on behalf of women who are victims of domestic violence."

The financial success of this program was due in part to Ms. Fairstein's generous donation of copies of her book, which she then graciously stayed on to sign. All profits from the sale of these books went towards funding the internship.

Most people in New York have heard of Linda's high profile prosecutions, including the Preppie Murder Case (Robert Chambers) and the Puerto Rican Day Parade Riots. When she joined the DA's office in 1972, there wasn't a department, or an attorney for that matter, responsible for handling reports of acts of violence against women, domestic violence, or rape.

The determination in Linda Fairstein's voice was almost palpable as she described how women were considered 'irrelevant' witnesses in rape and personal violence cases. "My eyes teared as she described how women would have to have corroborating witnesses, people who actually witnessed the rape, in order to be taken seriously," said Tamara Stephen, Esq., a young attorney who expressed her "fascination and appreciation of Linda's description of the evolution of the law, and of the attitudes with respect to sex crime victims as well as the role of prosecutors. I know there is still so much to do, but I am thankful for women like Linda Fairstein when I think of what

the women who came before me-both within the legal practice and out-had to deal with."

Carol Schrager, Esq. was impressed with Linda's knowledge of DNA and her practical understanding of its use. "She understands that with this scientific breakthrough we can do more than capture criminals. It will be extremely valuable in more ways than just clearing the innocent and identifying the guilty in current cases."

Linda spoke about how DNA made it possible, in 2001, for the District Attorney's office to begin clearing more than 16,000 rape cases that then sat in the cold case files waiting to be solved. Some of these women had not heard anything about their cases in ten years or more. "Every time we contacted women about cases that they believed had gone 'cold,' Linda told an engrossed audience, "they were overwhelmed and pleased that their attackers could still be brought to justice."

After discussing the recent advances in the use of DNA, and other rules of evidence in cases of violence against women, Linda warned the audience not to become complacent. She called upon foundations and other not-for-profit organizations to continue in their efforts to shine the judicial light on violence against women and children so prosecutors are given the tools needed to develop "winnable" cases. Linda applauded the Women's Bar Association for supporting her efforts for many years, but urged everyone at the breakfast to keep fighting.

"Linda has been a long-time member of the New York Women's Bar Association," said recently elected President of the Association, Elizabeth Bryson. "And now, as an ex-officio member of the Foundation Board, I am thrilled to be part of an organization that has presented such a dynamic woman in the field of criminal law and has, at the same time, raised funds to support its important mission."

While Linda has retired from the Manhattan District Attorney's Office, she continues to share her criminal justice experiences with us every day through the life and times of Alex Cooper, Assistant District Attorney, who lives on the pages of Linda's bestselling novels. "Alex Cooper is really me," Linda told her audience at breakfast, "only she's younger, thinner and blonder." However, it is clear Alex is not any more knowledgeable, because her cases are fictionalized versions of cases Linda has worked on.

The Bone Vault is the fifth book in the Alex Cooper series; each filled with suspense, police and courtroom procedurals, just enough romance, and healthy humor. In addition, Linda's non-fiction book *Sexual Violence: Our War Against Rape*, was a New York Times Notable Book in 1994.

As the participants left the prestigious Harvard Club on that overcast and rainy morning, there was a *Continued on page 7*

WELCOME NEW MEMBERS

Alicia M. Clifford
Beth J. Rotenberg
Paulina Stamatelos
Jaime Katz Sussner

Direct Recording (continued from page 4)

election law attorney who has served as counsel to leading Republicans and Governor Pataki, is also a registered lobbyist for Sequoia.

Lee Daglian, Director of Public Information of the State Board of Elections, said on Sept. 3, 2003, "There is no clear cut answer yet" to the question of what procedure will be used to purchase New York's new voting machines with HAVA funds, or who will decide what machines to get. New York State requires "full face" ballots, a restriction in acquiring new machines. Only three DREs offer a full face ballot, and they do not provide a voter-verifiable paper trail at this time. At least one manufacturer could produce such equipment, however, if it was required.

Conclusion

Computer scientists and others concerned with this issue are working now against the short deadlines imposed by HAVA to protect the integrity of elections in New York and nationally. They are demanding that DRE voting machines provide a voter-verifiable physical record of each ballot cast as well as accessibility of both the original ballot and the verification printout. Across the country, some manufacturers are gearing up to produce DREs that meet these requirements, but secure and accessible voting machines will probably not be ready for the 2004 elections.

It is my opinion that we should take a position supporting those requirements. We should urge Governor Pataki to request his appointee Peter Kosinski to push for voting machines that have these capabilities; urge our state senate to pass legislation to require them (A8847 has already passed the Assembly); urge State Senator Morahan (R-38th Dist.), Chair of the Senate Committee on Elections to introduce and support a companion bill for A8847 in the NY State Senate; urge New York's Congressional Representatives to co-sponsor H.R. 2239, the Voter Confidence and Increased Accessibility Act of 2003, a bill introduced by Rush Holt (D-NJ) which would require voting machines to provide a voter-verifiable permanent record of each ballot cast as well as accessibility; urge Senators Clinton and Schumer to introduce a companion bill for H.R. 2239; and pass information about this issue to other groups in the legal community.

1. The concept and term were created by Dr. Rebecca Mercuri, internationally recognized expert on electronic voting, currently affiliated with Harvard's Kennedy School of Government. <http://www.notablessoftware.com/evote.html>
2. Hudson Star-Register, Saturday, May 3, 2003, page A-1, "Mixed Reviews Greet Brave New World of Voting"
3. <http://www.verifiedvoting.org/resolution.asp>
4. <http://www.avirubin.com/vote.pdf>. The software had appeared on the Internet from an insecure ftp site maintained by Diebold.
5. <http://www.cs.uiowa.edu/~jones/voting/dieboldftp.html>
6. <http://cvfieldsmbp.org/Voting%20Technology%20for%20People%20With%20Disabilities.pdf>
7. <http://assembly.state.ny.us/leg/?bn=A08847&sh=t>
8. <http://holt.house.gov/issues2.cfm?id=5996>

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general sense of excitement that the New York Women's Bar Association Foundation was such a vital and compelling organization. Attendees left in small groups, discussing Linda's presentation, and speculating on who the next speaker in the series will be.

"This was a valuable experience for someone like me, who is not part of the legal profession. I found Linda's presentation informative, insightful and witty, and I am happy to support such a worthwhile organization," exclaimed Kate R. Whitney who came as a guest of Denise A. Coleman, one of the Foundation's Board members. "A good, energizing way to start the day. I hope the Foundation will keep me on their mailing list."

Due to photo policies of the Harvard Club, we are sorry that we cannot share with you any pictures of Linda presenting her compelling remarks.

**THE TRUTH ABOUT
DOMESTIC VIOLENCE AND RAPE**
Points from Remarks by Linda Fairstein
June 4, 2003 NYWBAF Breakfast Series
Inaugural Presentation

- Until the mid-1970's, victims were not allowed to testify in a sexual assault case unless there was independent corroboration of each element of the crime;
- Only 18 of 1000 defendants arrested for sexual assault were convicted in 1969;
- Under the 1977 "Rape Shield Law", if a women was "unchaste" the presumption was that she gave consent;
- The most dangerous times in a relationship with a history of domestic violence is when a woman tries to leave and during pregnancy;
- According to a Department of Justice study, the leading cause of death during pregnancy is homicide;
- 85% of the time the person who brought the victim for medical attention is the batterer;
- In 2001, there were 16,000 untested rape evidence kits, all of which have been outsourced for testing,

COMMITTEE CALENDAR

The Technology and the Internet for Lawyers Committee will be meeting on **October 23, 2003, 6:15 p.m.** at the offices of Elizabeth Bryson, New YorkLife, Room 2612, entrance at 44 East 27th Street [between Park & Madison]. New members welcome. Light refreshments to be served. For information or to R.S.V.P., please contact Kay Marmorek, co-chair, 718-590-8880 or kmarmore@courts.state.ny.us.