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Dean Logan's Blog: Justice Breyer's Visit, v. 2

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After delivering his Con Law class, Justice Stephen Breyer adjourned to the Bay View Room to meet student leaders. The vibe was decidedly informal, as the pics below show.

Asked how he prepared for cases, Breyer described SCOTUS’s “cert. pool” – the mechanism by which the Court manages the massive influx of petitions for certiorari – now over 8,000 a year. Under this system, the Justices’ law clerks are randomly assigned a portion of the petitions and they evaluate them via a memo sent to the Justices participating in the pool (currently all except Justice Alito).

Discussing judicial ethics – and the seven-volume tome on the topic he consults over such matters – Breyer casually referenced his younger brother, Charles, who is a federal district judge in Breyer’s hometown of San Francisco – noting with a smile that he would, of course, recuse himself from any case decided by his brother.

The Justice grew more serious as the topic turned to what he considered one of the profession’s top problem areas – “criminal law at this moment,” what he defined as “the system we pretend is a system of fair trial,” but has in fact become a system of “plea bargaining based on mandatory minimum [sentencing]” at the expense of “finding the truth.”

The discussion wrapped up with a discussion of the Westboro Baptist Church case (decided last March), which asked whether the First Amendment protected protestors who employed distasteful and emotionally disturbing messages while picketing the funeral of a Marine who died in the Iraq War. The Court ruled in favor of the protesters in an 8-1 decision (with Breyer in the majority). Admitting that it was “a hard case,” Breyer carefully and compassionately outlined the nuances of law and context that led to his decision.

“I’ve read so many Supreme Court cases in law school, so it’s interesting and exciting to meet the people who decided them,” noted Kim Arndt ’12, who recently had an opportunity to meet Justice Elena Kagan as well.

“It was a pretty intimate and informal way to meet a Supreme Court Justice,” added John Reyes, ’13, president of the Latino Law Students Association. “It was cool.”