

[From the New York Times, Mar. 20, 2011]
W.J. STUNTZ, WHO STIMULATED LEGAL MINDS,
DIES AT 52

(By Douglas Martin)

William J. Stuntz, an influential legal scholar known for his counterintuitive insights, who blamed liberal judges, conservative legislators and ambitious prosecutors for what he saw as a criminal justice system that imprisons far too many people, died on Tuesday at his home in Belmont, Mass. He was 52.

His family announced the death, which followed three years of treatment for metastatic colon cancer.

Though Mr. Stuntz, a professor at Harvard Law School, advised public officials and wrote often in the popular press, his greatest influence was with legal scholars. After he burst on the scene in the 1980s with a flurry of fresh ideas and interpretations, "you saw a snowballing of references to him," said Daniel C. Richman, a professor at Columbia Law School.

Justice Elena Kagan of the United States Supreme Court said in an interview Friday that Mr. Stuntz's work was "impossible to pigeonhole," despite his self-professed conservative inclinations.

"What was fascinating about him was that everybody read him and listened to him and took seriously what he said," said Justice Kagan, who worked with Mr. Stuntz when she was dean of Harvard Law School. Scholars came to call his ideas "Stuntzian," she said.

Mr. Stuntz looked at criminal law as a collection of "pathologies," beginning with the Supreme Court's decisions to give greater protections to people charged with crimes. State legislatures responded to those rulings with laws that toughened sentencing and defined crime more broadly, leading to more jail time and more arrests, disproportionately affecting the poor and minorities.

But Mr. Stuntz said the legislatures neglected to appropriate enough money to deal with the added arrests, particularly for public defenders and others paid by the government to defend the indigent. Adding to the focus on the poor, he said, was prosecutors' reluctance to bring to trial people who could afford lawyers and who could employ the new court-ordered constitutional protections.

Prosecutors then used their discretion to negotiate guilty pleas with public defenders. The prosecutors could sift through the broader array of criminal charges and sentences passed by legislators to make deals, taking many of what Mr. Stuntz called "easy guilty pleas."

One result was the sort of paradox he loved to illuminate. "Ever since the 1960s, the right has argued that criminal procedure frees too many of the guilty," he wrote in *The Yale Law Journal* in 1997. "The better criticism may be that it helps to imprison too many of the innocent."

Mr. Richman said Mr. Stuntz believed that an equally worrisome problem was that the essential question of guilt or innocence could get lost. For trials of people who can afford lawyers, questions of procedure can supersede substance. Plea deals made by the poor are often just that—deals—even though the convicted person has to admit guilt.

Mr. Stuntz wrote for newspapers and magazines on issues beyond the law. In an article in *The New Republic* in 2006, he raised liberal eyebrows by saying that government could be more effective in fighting terrorism if it were less transparent and more concerned with protecting its own privacy than that of its citizens.

Carol Steiker, a Harvard law professor, said Mr. Stuntz was not only "considerably

to the right of your average Harvard law professor" but also unusual at the university because he was an evangelical Christian. She said he had begun to use the word "mercy" among the "values he thought the criminal justice system should have, but didn't."

Even when applying Christian principles, he had surprises. In one instance he chided Christian conservatives' demand for "originalism" in interpreting the Constitution, wondering why they did not regard this as idolatrous. He said their overwhelming identification with one party, the Republicans, had "poisoned politics in deep ways."

William John Stuntz was born in Washington on July 3, 1958, grew up in Annapolis, Md., and graduated from the College of William and Mary and the University of Virginia School of Law. He clerked for Justice Lewis F. Powell Jr. and taught at the University of Virginia for 14 years.

"He leapt to the top of the field in the early days of his entering the law professor world," said Martha L. Minow, the current dean of Harvard Law School.

Harvard hired him in 2000, and in 2006 he was named the Henry J. Friendly professor. This fall, Harvard University Press will publish his book "The Collapse of American Criminal Justice." Also this fall, Cambridge University Press will publish a book of essays on the implications of his scholarship.

Mr. Stuntz is survived by his wife, Ruth; his children, Sarah Stuntz, Andrew Stuntz and Samuel Cook-Stuntz; his parents, John and Sandy Stuntz; his sister, Linda Adamson; and his brothers, Richard, Michael and David.

Mr. Stuntz wrote extensively about the chronic pain he suffered after a back injury in 1999, saying he felt better after realizing it was futile to dream of being painless. "Hopelessness turns out to be surprisingly good medicine," he wrote.

He kept writing when he was dying of cancer, saying that he found hope in a single passage of the Book of Job. "You will call and I will answer," Job says. "You will long for the creature your hands have made."

Mr. Stuntz wrote, "The concept that God longs for the likes of me is so unbelievably sweet."

ISAIAH VIALPANDO

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, April 8, 2011

Mr. PERLMUTTER. Mr. Speaker, I rise today to recognize and applaud Isaiah Vialpando for receiving the Arvada Wheat Ridge Service Ambassadors for Youth award. Isaiah Vialpando is a 12th grader at Arvada West High School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Isaiah Vialpando is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations to Isaiah Vialpando for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication and character in all his future accomplishments.

DEPARTMENT OF DEFENSE AND FURTHER ADDITIONAL CONTINUING APPROPRIATIONS ACT, 2011

SPEECH OF

HON. JARED POLIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 7, 2011

Mr. POLIS. Madam Speaker, I rise in opposition to this bill. This is not a good-faith effort to keeping the government running. Last night in the Rules Committee, Democrats offered an amendment that would have kept the government open for one week at current levels. Instead of allowing for an up-or-down vote on that measure, Republicans are attempting to force through another bloated spending bill.

Under this continuing resolution, critical government services would face draconian cuts—hundreds of millions of dollars—while defense spending would jump 1.5 percent over last year's level. This means drastic cuts to education, law enforcement, and health care. Meanwhile, the greatest source of waste and overspending in the federal government—the Pentagon—gets even more money.

Cuts to discretionary spending alone will never close our budget gap. But leaving defense spending off the table, which comprises roughly half of all discretionary spending, is counterproductive. Those domestic cuts won't balance the budget but they could stymie economic recovery now and harm our ability to compete globally in the years to come.

Even our Defense leaders recognize that Pentagon spending restraint must be part of debt reduction efforts. Joint Chiefs of Staff Chairman Admiral Mullen stated that "our national debt is our biggest national security threat." He also noted that the past decade's doubling of the Department of Defense budget has led to undisciplined spending. Secretary Gates concurs, stating, "We can't hold ourselves exempt from the belt-tightening. Neither can we allow ourselves to contribute to the very debt that puts our long-term security at risk."

An array of bi-partisan non-governmental groups analyzing our debt crisis have studied our defense budget and identified reductions in annual defense spending in the \$70–100 billion range. The recent bi-partisan National Commission on Fiscal Responsibility and Reform, often called the Simpson-Bowles Commission, called for "substantial defense reductions over the next 10 years." They have recommended various cuts that would lead to \$60 billion in savings from security spending in the first year. In fact, if we implemented the Commission's recommendations, we would save \$100 billion dollars from defense spending in 2015 alone.

Instead of following the lead of fiscally responsible efforts such as the Commission, Republicans have decided to increase defense spending and slash only domestic discretionary spending. To get a sense of how unbalanced this is, we would have to cut \$14.5 billion from defense spending, in order to equal the cuts to domestic spending.

Reasonable military spending reductions can be made without sacrificing national security or undermining our troops. The Department of Defense must be held accountable for ensuring that tax dollars are not wasted and