# The Alledger

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**Boston College Law School**

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## Death Penalty Debate Pits National Figures

By Doug Sachs

**Editor-in-Chief**

The moment before a killer strikes is the time the death penalty serves its function as a deterrent, according to advocate Ernest van den Haag.

Prof. van den Haag, a distinguished scholar with the Heritage Foundation, made his remarks during a debate Feb. 26 against Hugo Bedau, a Tufts Law School professor and a leading opponent of the death penalty.

The Federalist Society and the National Lawyers Guild co-sponsored the event, which pitted two of the nation's leading proponents from opposite sides of the death penalty issue.

Profs. Bob Bloom and Ingrid Hillinger host the PILF Auction.

Dr. van den Haag argued that studies have demonstrated a reduction in the number of murders in states within a year of a public execution. He stressed the need for the death penalty as a way of preventing murder in America.

"It is remarkably immoral for the law to promise prospective murderers that what they are about to do will never be done to them," van den Haag said. "That would be an incentive we would hold out to murderers.

Bedau argued against the deterrent effect of the death penalty, as well as pointing out the flaws at several other justifications for capital punishment.

"The burden of proof (for the death penalty)," according to Bedau, "is on those who favor it. The presumption is against capital punishment.

The deterrent argument fails, said Bedau, when he points out that, just as the death penalty may be a marginally greater deterrent to murder than life in prison, he could demonstrate that torture is a marginally greater deterrent to murder than the death penalty.

"It's always open for someone to up the ante," he said.

In addition, Bedau looked at the "incapacity" argument, pointing to a 25-year-old Supreme Court case, in which the Court committed the sentencing of 600 prisoners on death row. Since the decision...

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### PILF Auctions Dinner and Parking

**By Doug Sachs**

The Public Interest Law Foundation (PILF) raised $7,241 at its annual auction, held Friday, March 6.

Professors Bob Bloom, Ingrid Hillinger, Renee Leaders and Fred Yun, along with Dean Dan Coquillette served as auctioneers for the various event, which included a live Elvis impersonation by first-year student Ken Small.

Proceeds from the auction will assist students working in the public interest to pay off their loans, said 3L Julia Thompson.

One of the most coveted items at this year's auction was a permit to park in the faculty lot, good through July.

"Laugh while others are being towed away," said auctioneer Dean Coquillette. "It's like being one of the faculty.

The permit sold for $240.

Small seduced students into bidding on a singing telegram, in complete Elvis costume, with impromptu performances of "Love Me Tender" and "Are You Lonesome Tonight?" both of which brought the house down. He sold two singing telegrams for $65 each.

As usual, meals with faculty members proved to be brisk sellers, with dinner for six at Prof. Frank Upham's home, co-hosted by Prof. Phyllis Goldfarb going to a high bid of $225. A Chinese dinner for four, homemade by Prof. Charles "Buzzy" Baron and co-hosted by Prof. Mark Spiegel sold for $150 and dinner for four with professor and former dean Richard Hubes went for $140.

Another traditional item, a Boston College Law School chair, which retails for $235, sold for a whopping $335.

Among the more usual items were an Instant Gratification basket, which included edible body paint, wine, glasses, chocolate and flowers (it sold for $95) and a day of domestic servitude, donated by 2L Joanne O'Sullivan, which sold for $100.

But certainly the most valuable item auctioned was a date with The Alledger's very own man of mystery, Nick Danger. Second-year Rina Mayman paid $60 for the chance to spend a romantic evening with the most wanted man on campus, on the condition she keep his identity strictly confidential.

"Nick Danger wrote about me," Mayman said, "so I had to meet him face-to-face. Also, it's for a good cause.

When he learned of Mayman's motivation for staying in the bidding, Danger reportedly said, "I hope she's not mad at me or anything."
CBS Screws Up Olympic Coverage

By Larry Friedman
Senior Editor

On the first day of the Winter Olympics, one of CBS's commentators said that she noticed a decreased emphasis on nationalism in the sixteen winter games. A somewhat ironic statement considering that CBS decided to show as many athletes who weren't American, or events where Americans didn't have a chance of medaling. It seems as though there were actually two Olympics: the games in Albertville, and the version CBS presented to Americans. To just look at the CBS version, however, would be to think that only the two Olympic sports were figure skating and ice hockey.

Of course, there were exceptions; unfortunately, those exceptions were devoted to athletes' extracurricular, rather than sporting, activities. Alberto Tomba is the prime example: CBS felt compelled to show us a bit more of the Italian skier's social life than we really wanted to see. That commentary by Sylvester Stallone on Tomba's potential acting ability was especially insightful. And thank goodness Katarina Witt was on hand with her own personal message for Tomba; I know I wasn't getting enough of her in those endless Diet Coke commercials.

CBS also went into detail about Japanese figure skater Midori Ito. All well and good, but one can't help but wonder if the attention from CBS—and presumably, the Japanese media—affected her performance. And nothing can excuse CBS' attempt to foster a dueling-like atmosphere between Ito and American Kristy Yamaguchi, reminiscent of our old Cold War Olympic battles with the former Soviet Union. Also irritating was the commentators' habit of referring to Ito, Yuka Yamaguchi, reminiscent of our old Cold War Olympic battles with the former Soviet Union. Also irritating was the commentators' habit of referring to Ito, Yuka Sato, and Chen Lu as "the women from the Far East."

American athletes were not spared the insipid propedals and proddings of CBS reporters. What they did to speed skater Dan Jansen was unforgivable. Why not just leave the guy alone? CBS also overdosed American viewers on the few American winners. How many of us were really interested in what Bonnie Blair's family ate for dinner every night?

The Olympics that America saw were especially disappointing when we realize that everyone else saw in another so-called human interest area, somehow an actual Olympic event was taking place. Sure, it may have been something like the biathlon or curling, or another event alien to North Americans; but isn't the spirit of the Olympics to transcend borders? Would we really rather see an unimporatable-looking Tim Curlevy to get excited about some ice sculpture?

The next Winter Olympics are in 1994, in Lillehammer, Norway, and CBS will once again be providing American coverage. Let's hope that they will have learned from this experience and present a more balanced program, not forgetting that this Olympic nationalism can be taken to the extreme, at least for two weeks, and that the events themselves (not the human interest sidebars) are why we watch.

Women's Law Center March on Washington

By Katie D'Urso
Co-Chair Women's Law Center

On April 19, 1992, in Washington D.C., thousands of women and men from across the country are gathering for what promises to be an historic rally for women's rights. The declaration of the march, "We Won't Go Back! We Will Fight Back!", calls for an end to the attacks on abortion rights and all civil rights as we progressives towards reproductive freedom for all women. The Women's Law Center is mobilizing to send a delegation down to the March on Washington to voice support for the cause. If you support reproductive freedom and women's rights this is an opportunity that you do not want to miss.

There are fourteen reasons why you should join us in Washington on Sunday, April 5, 1992. The first reason is anger at the unfair representation of women in the American political system. The events of the past year have made it clear that we have reached a critical point in our quest for women's equality. Women make up more than half of the population, yet we re- present only 15 percent of the U.S. Senate and seven percent of the U.S. House of Representatives. The result of this lack of representation is that during the Clarence Thomas confirmation hearings, women's experiences were ignored and trivialized. If you were angered by the Thomas confirmation hearings this is your chance to voice your anger.

The second reason is that abortion rights are in jeopardy. The Supreme Court, through its Webster and Rost decisions has been chipping away at abortion rights without actually overturning Roe v. Wade. This April the Supreme Court will have the opportunity to further erode abortion rights when it reviews an extremely restrictive Pennysylvania anti-abortion law.

If the Supreme Court decides to pass the abortion rights issue into the hands of the states, even Massachusetts is in jeopardy of losing its pro-abortion rights status. The Massachusetts Supreme Judicial Court is pro-choice by one vote and its members are among the most conservative on the Massachusetts Supreme and district courts, state laws, and protect women's rights. Your presence at this march will make a difference in an election year when we are in the process of sending a successful message to those seeking election.

The third reason is that it will be an incredibly unifying and empowering experience. Megyn Kadee Keddy, Jr., described the 1963 march for women's rights as a memorable and powerful experience. "It was wonderful to see people of all ages and types marching to support the common cause of women's equality," she exclaimed.

This year's march on Washington promises to be the largest march for women's rights in history.

Fourth and finally, the Women's Law Center has made it easy to get there. All you have to do is buy a bus ticket or find one to Washington and meet CBS at the C.D. and join the B.C. Law School delegation. Bus tickets will be available for the next few weeks in the snack bar or by contacting the Women's Law Center. The bus will leave from the snack bar on Saturday afternoon, April 4 and will return to Newton on Sunday night, April 5. Because the time is right both politically and socially, this could be a once in a lifetime experience. So, whatever you do, don't miss this opportunity to register your support for abortion rights and women's equality.

Capital Gains Tax Cut: Economic Jolt or Reward for Rich?

By Chris Hurley

Will a capital gains tax cut stimulate the economy, create jobs and boost the economy's growth? Will it merely advantage the rich and widen our already staggering budget deficit?

Critics charge that a capital gains tax cut is an oblique and insufficient way to encourage
age corporate investment in equipment and R&D. They claim that an R&D tax credit and more rapid depreciation schedules for plant and equipment would be more efficient and direct ways of encouraging capital investment without providing a windfall to the rich.

Proponents also claim that a cut in capital gains taxes encourages corporations to use more equity financing in lieu of debt financing. The current high capital gains tax rate (28 percent) makes equity financing unattractive because corporations have to compensate investors for lost yield due to taxes on dividends and capital gains. In comparison, debt financing looks good because corporations can deduct their interest payments. Thus, the capital gains tax is necessary to counteract the current bias in the tax code toward debt financing by corporations.

But opponents argue that the current bias toward debt can be cured more efficiently by making dividend payments deductible or by removing the deductibility of interest payments on debt. Not only does a tax cut on capital gains reduce firms’ cost of capital, say advocates, it increases liquidity and movement of capital to its most productive uses. New firms, which do not have access to bank credit or commercial paper, would find it easier to get venture capital by selling new stock issues. New companies provide the jobs of tomorrow, and the capital they need to grow and prosper. With so many U.S. industries maturing and in decline, these emerging industries are more important than ever to our economic future.

Proponents also argue that a capital gains tax cut will encourage investors and managers to take a long-term view of their business. Professor Robert B. Reich of Harvard’s Kennedy School of Government suggests a much lower capital gains rate for investors holding assets for more than six years. Each year Bush’s current proposal similarly taxes assets held three years or more at a higher rate (15.4 percent) than those held one year (23.8 percent). These lower capital gains rates reward investors for buying and holding their shares. Because investors will hold their shares longer, managers can stop focusing exclusively on short-term profits and instead concentrate on long-term economic well-being. Unlike our current system, managers will not be afraid to lose money this quarter if necessary to ensure future competitiveness.

Linking capital gains rates to holding periods is a controversial topic among capital gains tax cut proponents. The “purists,” who oppose any holding period requirements, believe that capital gains should receive the same preferential tax treatment regardless of whether the asset is held for six months or six years. The purists claim that holding periods will greatly impair the mobility of capital—thus defeating the raison d’être for the cut. They claim that far from supporting “patient capital” in emerging companies, the holding periods will force rational investors to favor existing, proven companies since they will be stuck with the company for the length of the holding period.

Opponents of a capital gains tax cut claim that the long-term investment horizon argument is illogical. They claim that any fixed holding period requirement is arbitrary and will likely be mismatched with the ideal holding period for a particular company. They say the ideal holding period for stock should vary with the time horizon necessary to complete each corporation’s particular project. Because the projects will vary greatly depending upon the industry and nature of the project, a fixed holding period may actually shorten investors’ time horizons. If, for example, a corporation had a 10-year R&D project, the President’s proposed three-year holding period would provide investors with an overwhelming incentive to sell after the third year. Without the capital gains tax preference, investors may very well hold the stock for the entire 10-year period.

Finally, proponents argue that a capital gains tax cut will actually increase tax revenue for the Treasury. They claim that a reduction in the tax on capital gains encourages more sales of assets which will result in more tax revenues.

Opponents blast this argument as discredited supply-side Reaganomics. They insist that a cut in the capital gains tax will reduce revenue and only widen the budget deficit.

With regard to the effect of a capital gains tax cut on the deficit, Senator John Breaux (D., La) proposes a compromise that forces both sides to put their money where their mouths are. Breaux’s proposal would impose a 35 percent top rate on ordinary income for upper-income taxpayers (an increase from the current 31 percent top rate) if, after a few years, a capital gains tax cut is proven to lose revenues over time. Breaux’s proposal is so refreshingly sensible that it has left the partisan loudmouths dumbfounded.

Treatment of capital gains is a complex issue. Forecasting the effect of a capital gains cut is extremely difficult. Is a capital gains tax cut a good idea or a bad idea? The answer is not as simple as Mr. Gingrich or Mr. Gephardt would have you believe. But a lessening Senator Breaux’s plan would allow us to experiment with a cut while hedging against the uncertainty of its effect on the deficit. This, I think, sounds like a very good idea.
Hi folks, it's me, Nick Danger, under attack by the elitist establishment at Boston College Law School, and ready to counterpunch as only a seasoned private eye can. The Dean has asked Brian Lutch, the John Sununu of his administration, to find out who Nick Danger is, expel him, and put an end to this private eye's dissertation raising Olderled column. Even as I write these words, I can hear Lutch closing in on me, dragging his bad leg behind him moaning out "yes master, yes master" as his mouth overflows with the spittle of his desire for human flesh.

Lutch has wasted no time in his search for Danger. He forced certain financial aid people to bring into question the loan activities of Doug Sachs, the Editor of the Alledger, in a failed blackmail attempt. Little did he know that even Now Sachs is privy to my identity. I am careful to always use my Protection of Identities microwave to my dealings with the Alledger. Lutch also went so far as calling up all the Dangers in Boston area phone books, asking for Nick. Haa has, failed you again you vomiting mass; my number is underhanded.

In light of the Big Brother attitude of this administration, I am compelled to turn the tables on the Coquillette Gang before they find out who I am. I'm my attempt to trip the thin veneer off of this facade they call a "kind, gentle law school." Today, I formally announce my candidacy for the position of Dean of Boston College Law School. I believe the Coquillette's grass roots support is soft, and that a candidate willing to address the economic issues that plague our student body will win in May. Nick Danger will be to Newton what Boris Yeltsin was to Russia, an innovator, a patriot, an aficionado of vodka. Face it, in comparison, the Beltway connections. But I ask you to set aside your fears of my well being for the good of Boston College, because, after all, Danger is my name.

Dangerous Manifesto
If I'm elected you can count on:
1. Free penile implants for qualified first years.
2. 190 GPA credit for middle curve second years.
3. My mom will bake you pumpkin pie.
4. Capital gains related issues will be abolished from tax finals.
5. All incomprehensible professors will be taken to the vet and put to sleep.
6. Condoms, condoms, condoms.
7. Bluedog issue spotting exams will be replaced by large jungle murals where students must circle hidden orangutans to qualify for a studio full of wonderful prizes.
8. Male student body will be prohibited from getting haircuts for at least one week.
9. Jon Jacobs will be barred from cheap snack bar graping.
10. Exercise addicts will be forced to lighten up and eat Twinkies.
11. I'll tell all those people that their sweatshirts are on inside out.
12. Pull out your seats in room 103 and replace with a roller derby rink.
13. Change title from "Dean" to "The Big Coconut".
14. Place professors on a curve and fire anyone below a B+; explain to them that we aren't all smart enough to hold down a job, are we?
15. Allow you to drink coffee and soda wherever the hell you want.
16. Pummel any sphincter-like first year who claims to be "so far behind!"
17. Make Ken Krawiec the first human penis.
18. New dress code for professors based on taste.
19. Require Ivy League types to chew tobacco and view Caligula in the back row of an adult theater.
20. Have a nice butter.
21. Abolish write on requirements for Law Review; base it on percentage of body hair.
22. Base Law School admission on ovulation and sperm count.
23. Offer woodworking courses to provide students marketable post graduate skills.
24. Make Regis Philbin full professor.

Hemorrhaging Tuition
By Bradford Babbitt

The following is intended as satiric humor meant to please and entertain. The fact that it is based on reality makes it all the more terrifying.

Times are tough. Money is tight. Jobs are scarce. But fear not, in the immortal words of Dean Dan, "The Law School has always prospered."

And prosper it will, with the new improved tuition rate. It is bigger, larger, greater, faster and higher than you, or your loan officer, could ever imagine! And best of all, just because you're attending this school, its all yours! (Unless of course you are in the class of '92, in which case you can take all your loans, now totalling enough to buy a modest condo in Newtonville, and get out. Thank you for playing.)

Our new tuition rate follows in a long tradition of Boston College Law School Tuition rates by being completely removed from reality. You and I paid an average of 3.1% more for our spaghetti, beer and condoms. Surprisingly, that is the rate of inflation for everybody in the United States during 1991. Everybody, that is, except Boston College, because, after all, we can't afford to lose any money, can we? Thank you for playing.

Free penial implants for qualified first years.
1. My mom will bake you pumpkin pie.
2. All incomprehensible professors will be taken to the vet and put to sleep.
3. Condoms, condoms, condoms.
4. Bluedog issue spotting exams will be replaced by large jungle murals where students must circle hidden orangutans to qualify for a studio full of wonderful prizes.
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15. New dress code for professors based on taste.
16. Require Ivy League types to chew tobacco and view Caligula in the back row of an adult theater.
17. Have a nice butter.
18. Abolish write on requirements for Law Review; base it on percentage of body hair.
20. Offer woodworking courses to provide students marketable post graduate skills.
22. Cover Zygmunt Plater in Liquid Paper.

More from the Dean's Prom
Shirley.

Scoobie Doo appearances, and the fun not only won't make ya

Hellllllooooo, this movie is worthy.

Hollywood and high-tech entertainment.

sponsor-plugging in recent movies by

at the camera. The "gratuitous sex scene"

difference between Pacman and Ms.

present the eternal question: what's the

hurl, it'll make ya laugh.

and''Noway ... WAY!'"There is even some

high brow stuff, including an extended

the movie, including "Ballroom Blitz,

which can be heard and seen on MTV.

Cooper appears as himself when Wayne

and Garth appear backstage at his concert

in Milwaukee.

in Aurora, played by Brian

executive who buys Wayne's show, trans­

ports it to a studio, and sells it out to the

home videos, plays a sleazy account ex­

ports it to a studio, and sells it out to the

The

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Law Student’s Association Offers Variety of Events

By Bob Goldstein

The Law Student’s Association has been extremely busy this year addressing student concerns, planning social events, maintaining cohesive events with the administration, and promoting a healthy environment at BCLS. Our fall and winter have been extremely successful and we plan to continue to make improvements throughout the spring.

At the beginning of the school year we reorganized and improved our book coop. More books than ever before were bought and sold through our office. We tried to make the process easier and it seems to have worked. Even old editions of books that were not picked up by their owners have been put to good use—they have been donated to the prisoners in the Dedham Jail for their reading pleasure. By the way, many of you still have checks that you have not yet picked up—come in to the office and get them!

In addition to Bar Review throughout the year, we have sponsored some incredibly successful social events including the Field Day, the mother of all social events, and the national Bar Review, and exclusive Law School seating at the BC-Miami football game. The best may be yet to come, however. Opening day at the Red Sox is just around the corner (hopefully Roger will be with the organization by then) and Field Day, the mother of all social events, will take place in early May.

Although it has taken quite a while, the Quonset Hut is fully open—finally baseball can be played without having to worry about chunks of plaster falling from the ceiling. The LSA sponsored hoop leagues are now in full swing, following the extremely successful softball season. Open times to use the facility are posted throughout the school—we managed to set aside quite a few hours for law school use so hop on the rowing machines as much as possible.

Many of you may have noticed continued improvements in the physical plant of the school. We have been working closely with Steven McGrath of Buildings and Grounds, as well as the administration to improve the look and feel of the law school. Fresh paint has been applied in many areas, the ventilation systems in the bathrooms beneath the library have been repaired, and new carpeting and furniture will be installed in the lounge within a few weeks, among other improvements. More importantly, soon there will be much improved handicapped access to all facilities and long-term problems are currently being addressed. Mr. McGrath and the deans have been extremely receptive to our suggestions and have been extremely busy this year addressing student concerns, planning social events, and maintaining cohesive events with the administration. Please make sure you inform us as to what types of programs are of interest.

Working with the administration to help clarify and improve school policies, grading procedures, and scheduling have been a major focus throughout the year. Dean Coquillette has been extremely receptive to our complaints regarding timelines of grading and has significantly improved the situation. The administration has included us in discussions regarding school policies and we are working together to make all improvements necessary to maintain the excellence, both academically and socially, of BCLS, and to move continually forward.

We are presently working on a student survey of courses and professors. Although it is in the beginning stages, it will be completed by the end of the spring semester, so that the evaluations may be used to help select classes for the 1992-93 year. Any suggestions or comments would be appreciated and should be addressed to Don Cannava.

Finally, graduation plans are taking shape nicely, thanks to some hard work by our third year representatives. A plethora of exciting and interesting events have been planned and an excellent speaker will address the graduating class at the ceremony. If anyone has suggestions for graduation events, please drop by the office at any time, or see Tony Rezonczi, Dane Dudley or April Pancella.

Remember, the LSA is here to serve you, so please do not hesitate to come by the office or talk to one of us if you have any problems, comments, questions, or suggestions. We hope we can continue to be successful in constantly improving BCLS.

Binky the Ice Sculpture slowly melts at Dean’s prom.
There are hardly any human activities that may not cause wrongful death," Bedau said. "We want to punish murderers to the last droplet of blood from the victim's veins, and to hang them until dead."

In New Jersey, for example, the state's modified death penalty, which was well known at the time of the Constitution, only six members of the group reportedly have committed additional murders, but the cost would have been at least four innocent lives," Bedau said. Bedau also attacked the "justice" argument, criticizing the "eye-for-an-eye" rationale for the death penalty.

The concept of the punishment fitting the crime may be justifiable in a broad, philosophical discussion, Bedau said, but not as a public policy decision among lawmakers and officers of the court.

He pointed out that such an imitative method for determining punishment cannot be applied across the board. A rapist, he said, cannot be sentenced to be raped, nor could Jeffrey Dahmer be sentenced to have his body eaten by humans.

"Who's going to do the eating?" he asked.

According to Bedau, death penalty advocates cannot justify their position on a purely economic argument, either. The cost of appeals by prisoners sentenced to death actually exceeds the cost of maintaining an inmate for life, he said.

Finally, Bedau mentioned the public opinion argument, conceding that opinion polls overwhelmingly demonstrate support for capital punishment in some parts of the country. However, Bedau pointed to Gallup polls which indicate that if asked if they prefer life in prison with no parole plus mandatory contribution to a victims' relief fund over capital punishment, the vast majority of death penalty supporters said "Yes."

van den Haag responded by first pointing out the constitutional basis for the death penalty. He noted that the 5th Amendment states that no one can be deprived of life without due process of law. That means that people must be subject to the death penalty with due process, he said.

Also, the 8th Amendment forbids cruel and unusual punishment, van den Haag said. While the death penalty may be cruel, he noted the amendment says cruel and unusual punishment. The framers desired to prohibit the introduction of new cruel punishments, he said, and not to eliminate the death penalty, which was well known at the time of the Constitution.

van den Haag responded to Bedau's cost analysis by noting that part of the reason death penalty appeals cost so much relates to the judicial system's opposition to capital punishment.

In New Jersey, for example, the state's supreme court rejected 27 out of 28 death penalty sentences it reviewed recently, van den Haag said. Judges, he said, oppose the death penalty because they are rarely victims of murder. Most victims of murder, van den Haag said, are poor blacks living in housing projects.

van den Haag also defended the eye-for-an-eye justification for the death penalty.

The Alledger now offers FREE PERSONALS! Express your desires in 25 words or less and submit them to the Alledger Box no later than Thursday March 19 at 5:00 p.m. Include your name and year (which will be kept strictly confidential) plus $1.00 for distribution of letters received. The Alledger will assign a box number to all submissions and publish them March 27.

To respond: Simply drop a sealed envelope, with the Box number you desire clearly written on the outside, in the Alledger box, and let cupid do the rest! There is no cost to respond to an ad.
SUMMER 1991
MASSACHUSETTS BAR EXAM
BAR/BRI PASS RATES*
BY SCHOOL

BOSTON COLLEGE 92%
BOSTON UNIVERSITY 91%
HARVARD 92%
NEW ENGLAND 91%
SUFFOLK 91%

NON BAR/BRI PASS RATE 82%

We thought you would like to know.

* FIRST TIME TAKERS ONLY