

First Circuit Chief Judge Michael Boudin has a unique view of history that few others share, and it is visible from the window in his office. Judge Boudin's office is located seven stories above Boston Harbor in the new and expansive federal courthouse building. The entire courthouse, in fact, was designed to deliberately facilitate this view of America's early history. A large portion of the courthouse that faces the water, and the city across the water, is made of glass — an enormous window to history.

Just below and to the left of Judge Boudin's corner office is the site of the Boston Tea Party, where American Revolutionary patriots made initial steps toward the

It seems that it is his destiny to be here in this position — no matter how much he wonders at it.

"I never thought of becoming a judge at all," he says. "I don't have any political connections." Nevertheless, Boudin was appointed a judge of the First U.S. Circuit Court of Appeals in 1992 (following service as a judge of the U.S. District Court for the District of Columbia). Boudin has served as chief judge of the First Circuit since 2001. Even though the "ultimate policy decisions [of his own court] are made by the judges as a whole," Boudin serves as "superintending official" in his role as chief judge. Most circuitwide affairs are heard in the Circuit Council, of which Judge Boudin is chair.

Hon. Michael Boudin

Chief Judge, U.S. Court of Appeals for the First Circuit

By Jared D. Correia

throwing off of British rule. Looking out across the cityscape, one can see Bunker Hill, and a careful eye can spot a site close to where the Boston Massacre took place. Everywhere one looks out from the judge's office, the revolutionary foundations of America are now settled, standing in the place where they had been set.

This is a place for prodigious thought, and Judge Boudin puts it to use for its purpose. Listening to Judge Boudin hold forth on various and sundry topics is a learning experience of the first order. The term "magistrate" comes from the Latin, *magister*, or teacher; the meaning is unconscious now. And the way the meaning of the word has evolved is how Judge Boudin's role has developed; he describes how he has "stumbled" into four legal careers: the judiciary, government service, private practice, and teaching. He also says that he has never consciously remembered teaching anyone anything, the process of mentoring being one that is mysterious to him. But I can vouch for his effectiveness in the mystical art of teaching — however it may actually be accomplished.

Each of my questions to Judge Boudin is met with earnestness and an intensity of thought. He turns in his chair, places his chin on his hand, looks out at the city, ruminates, and pauses until his formulation is just right. "The Thinker" in profile. And when his words come out, they are backed by discrete meanings — each one necessary for its singular purpose and in its relation to the whole. He exhibits the characteristics of a judge: personal detachment, reasoned analysis, and measured emphasis.



Judge Boudin describes his work, in general, as "moderate in amount, and sometimes difficult." The volume of subject matter can be daunting. Judge Boudin's work involves determining issues that touch upon all 50 titles of the U.S. Code, state law in diversity cases, and even Puerto Rico's civil code regime. The judge notes that this breadth of occupation is much different than that required of the average private practitioner, who specializes in narrow issues. And, although Judge Boudin finds that "the diversity of subjects [is] almost overpowering," he has also come to the conclusion that the work becomes "eventually exciting in its own way."

But, it's not enough that Judge Boudin has his hands full at work. When he comes home, he has most recently been occupied by "looking after three quarrelsome cats," which, he says, he has adopted "as caretaker." The cats, birthday presents from his wife (their "co-owner"), have been named by Judge Boudin's stepchildren, who have christened the cats basing their names on their current interests: Isis was named by a child studying Egyptian civilization; Muggsy was named after a certain undersized point guard of some fame, late of the Charlotte Hornets; and Lilly's name comes with no explanation, and the mystery must suffice — Lilly is Lilly.

When not watching over his feline pride, Judge Boudin enjoys playing tennis. He is also an avid reader. The native New Yorker and resident Bostonian does not leave his discretion at the bench in everyday matters either. When asked whether he was conflicted during the Red

Sox comeback against the Yankees and the subsequent World Series run last year, he states plainly and with equanimity: "I just kept my mouth shut."

Growing up in New York's Greenwich Village (before it became hip), Michael Boudin was exposed to the law at a young age. His grandfather, great uncle, and father were all lawyers. The judge would go to his "father's law office as a young man, and play with the central switchboard there." It was only later that he got around to the books. In fact, he never really planned to be a lawyer at all, but offers that "getting taken places you don't plan is part of life."

Judge Boudin's first real exposure to the law came "in college and primarily in law school." He attended Harvard University and received his bachelor's degree in 1961. He immediately went on to Harvard Law School — during one of the school's "periodic golden ages" of instruction — and became president of the *Harvard Law Review*. After graduating from law school in 1964, Boudin began a two-year journey during which he served as law clerk for two of the finest judges in American history.

From 1964 to 1965, Boudin served as a law clerk to Judge Henry J. Friendly of the U.S. Court of Appeals for the Second Circuit. Judge Boudin still treasures the experience he had working with one of the luminaries of American judicial history. He describes Friendly with reverence as "a man of brilliance and extraordinary scholarship, who was the author of several books and a parade of important articles." In referring to the opinions of Friendly (and Learned Hand), Boudin shakes his head incredulously and says that the pair wrote "extraordinary opinions [that] still bowl me over when I read them today."

Reckoning that there was no place to go but up, Boudin moved to the Supreme Court of the United States for the 1965–1966 term, and he clerked for Justice John Marshall Harlan. Boudin found his time at the Supreme Court to be a "rather surprising experience." He discovered early on that the conventional methods he had learned in law school and under Judge Friendly were not as applicable when the primary questions shifted from those of general statutory interpretation to the construction of "broadly phrased constitutional provisions." Boudin quickly determined that answers weren't "supplied with the same precision as in other areas of law." He was also generally struck by the "breadth, lack of guidance, and potential impact" of each court decision.

Boudin found another role model in Justice Harlan, whom Boudin found to be an "extraordinary gentleman with superb judgment on spacious issues," who possessed "unusual gifts of character and judgment." The most impressive aspect of Harlan's judicial personality, in the memory of his law clerk, was his quiet confidence. Boudin still marvels at Harlan's power to listen more than he spoke and theorizes that Harlan was "so sure of himself that he did not feel he had to make pronouncements all the time." Boudin also knows that his general impression of Harlan was widely held, stating that the justice was "greatly admired."

After leaving the Supreme Court, Boudin joined the

leading Washington, D.C., law firm of Covington & Burling — whose senior partners included Dean Acheson — where Boudin worked for more than 20 years, concentrating on appellate cases involving antitrust and regulatory issues in general. Boudin worked under Hugh Cox, who was the principal appellate attorney for AT&T and several railroad companies. It was while working at Covington that Boudin developed his beautiful and simple general legal strategy that has served him so well: "I just tried to read the record, figure out what arguments could be made, and write a little essay on the case."

In his 16th year at the firm, Boudin was invited to be a visiting professor at Harvard Law School. His acceptance of the position supplied the beginning of a 16-year relationship with the school, during which Boudin served as a part-time instructor. Another offer had come Boudin's way in 1982, when he was asked to become deputy assistant attorney general in the antitrust division at the Department of Justice. He refused that offer, but when it came around again in 1987, Boudin was ready to accept.

Despite the big change represented by a move from more than 20 years of private practice and his initial misgivings about the position, Boudin felt that he had hit a serendipitous moment the second time around. "It seemed so reasonable a thing," he says now. "I made the best professional choice of my life. It was the best job I have ever had." Between the "work and the companionship and the excitement of government enforcement and policymaking," he "couldn't wait to get to the office in the morning." Even more appealing was the flexibility that came with the position, which allowed Boudin to continue teaching at Harvard while on unpaid leave. Despite his affinity for his position, Boudin worked at the Department of Justice for only three years, because in 1990 he was "asked without warning whether [he] would be interested in a judgeship."

Judge Boudin's long years of experience and continued activity in the law allow him to draw conclusions related to the current state of the legal profession as compared to the profession as it existed when he did not have those years behind him. Judge Boudin has noticed that today there is "a degree of flexibility and openness within the profession that didn't exist when I was a young lawyer," such that "there is ever more broadly an extent to which young lawyers have resources and opportunities that would not have existed in the past." Opportunities for rapid advancement and heightened responsibility seem to carry a price tag, however. Judge Boudin notes that the flip side of the coin is that "increasingly, law practice has become a competitive business" wherein there is "less security, more pressure [and] nothing like the safe place that had existed."

According to the judge, given that these modern realities of practice are liable to increase the strains and tensions that result from being overworked, it is more important than ever for attorneys to achieve an appropriate

balance between work and everyday life. In this regard, Judge Boudin recalls that the lawyers at Covington “who seemed to have the most fun were those who managed to do a number of different things with their lives,” which created “breadth and variety in their lives, the value of which I did not appreciate at the time.” However, Judge Boudin also recognizes that “people vary a great deal ... and for some the greatest satisfaction is to spend their lives in one line of work ... and I don’t denigrate them for that.” Judge Boudin’s answer is not surprising; it is a judge’s response, imbued with personal detachment, reasoned analysis, and measured emphasis.

Judge Boudin rises from his chair now, his time for answering personal questions having passed. Now he seems more at ease, not having to talk about himself any longer. He leads me halfway across the building to the elevator, asking me about myself and noting that I am doing good things with my life. We walk past the gigantic panes of glass wherein are reflected the serenity of the water, the sun, and the city. Once again, Judge Boudin does his best to deflect praise from himself and

to emphasize the greater contributions made by others. This is the mark of a good person and the trait common to successful people. But all the praise that Judge Boudin shines on others reflects back on him. And you get the feeling that the memories are not so distant and that the reason that Judge Boudin knows all these lessons of his life so well is that he brings them forward with him. He carries the torch along for his own part and on his own way.

He has echoed Socrates (in an appropriate nod to the font of legal instruction) this whole time, basing his confidence in the sole surety that there is still — and always will be — a great deal to learn. He has said to me many times and in many ways, “There are things I do easily, and things I am still learning.” **TFL**

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