Dear Guest

I am pleased to invite you to the first of an annual series of programs on the adversary system, to be held at the University of North Carolina School of Law on April 8, 2009. The program is entitled “Conversations on the Future of the Adversary System,” and will feature speakers from Italy, England, Canada and the United States, and is funded by the European Union, the UNC Center for European Studies and UNC School of Law. The invited audience will include federal and state judges, prosecutors and defense attorneys, and academics. Professional credit will be available.

Since the Enlightenment the British adversary system and systems descended from it have been the envy of the Western world. At the time of the French revolution—a period of great importance for continental legal systems and their off-spring around the world—the French made an effort to incorporate features of the adversary system—openness, orality, immediacy—into their own system of criminal procedure. The traditional differences between the British and the French systems were too great for such a wholesale adoption to work, however, and France and the continental nations retained their own very different approach to criminal procedure.

In recent years inquisitorial systems have made more determined efforts to import aspects of the adversary system. Italy, for example, adopted many of the features of Anglo-American criminal procedure in the late 1980s. Mexico’s Congress has just instructed the various Mexican jurisdictions to work toward an oral and adversarial system to replace its traditional inquisitorial system.

Conversely, there have been doubts raised recently in traditionally adversarial countries about the adequacy of the adversarial system to deal with the problems of today’s world. There are, for example, changes and proposed changes inspired by the threat of terrorism. The United Kingdom, for example, has abandoned the jury trial and certain other traditional rights in terrorism cases in Northern Ireland. It is now contemplating extending the period of pre-trial detention for terrorism suspects throughout Britain and, most radically, instituting a French style investigating judge to manage pre-trial investigation so that preliminary conclusions as to the suspect’s guilt may be reached early on in the process. In the United States, the right to confrontation, a right situated at the heart of the adversary system, has diminished or disappeared in deportation cases, intelligence cases, and in military commissions.

Moreover, in the United States we find discontent not only among those concerned about security, but also among those concerned for the rights of innocent defendants. According to some scholars, the adversary system is the best system in the world for guilty defendants, while the inquisitorial system is better for an innocent defendant. There has also been a movement in recent years to make the victim’s rights a central consideration in litigation. It is worth noting that the new North Carolina Innocence Inquiry Commission, whose role is to investigate claims of wrongful conviction, will operate without adversarial guarantees.

All of this leads to the conclusion that the nature and reach of the adversary system is changing. It is being received in countries that rejected it in the past, and the nature of it is changing at home.

The UNC Center for European Studies and UNC School of Law, working together and with financial assistance from the European Union, have made possible this annual series of programs designed to follow these changes in the reach of the adversary system and in its nature. This year the program will feature as speakers:

• Giulio Illuminati, head of the department of criminal law at the University of Bologna and a moving force in Italy’s effort to change from an inquisitorial system;
• Jacqueline Hodgson of the University of Warwick in England, a highly regarded...
comparativist who has published empirical studies of both the French and the English systems of criminal procedure;
• Patrick Healy, formerly a professor of comparative criminal law at McGill University in Canada, and currently a sitting judge on the Canadian courts;
• Ron Wright, professor of criminal law and procedure at Wake Forest University Law School whose empirical research focuses on the work of criminal prosecutors, and who will speak on the Mexican turn to the adversary system;
• Richard Myers, assistant professor of criminal law and evidence, University of North Carolina School of Law and former federal prosecutor; and
• Theresa Newman and James Coleman of Duke Law School, co-directors of the Wrongful Convictions Clinic at Duke.

Application has been made to the North Carolina Bar Association for approval of CLE credit. There are a limited number of places, so if you are interested I would appreciate hearing from you as soon as possible. Formal invitations and application forms will be sent out to those who have expressed interest in December, but to make sure that we have enough places please contact me to express your interest at corrado@unc.edu or at 919 962-4121.

I look forward to hearing from you.

Sincerely,

Michael Louis Corrado
Arch Allen Distinguished Professor of Law
and Professor of Philosophy