

MARC L. MILLER

Dean &

*Ralph W. Bilby Professor
James E. Rogers College of Law
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Under my leadership the University of Arizona College of Law has been recognized as a leading innovator in legal education and the legal profession. This leadership is reflected in my Winter 2017 *National Jurist* ranking as the 8th most influential person in legal education – though, needless to say, institutional innovation is very much a team sport. Major innovations include the addition of the GRE as an option for JD admissions (an innovation now followed by Harvard, Georgetown, Northwestern and others), the creation of the first BA in Law in the US (with more than 1100 students after the first 4 years), the globalization of the JD program (with 20% of JD students coming from outside the US), originating the idea of the Arizona “February Bar” option, the reduction in nominal and actual JD tuition to respond to market demand and embrace our public roots (UA COL ranks 7th in value), expansion of clinical and experiential learning opportunities (UA COL now ranks 6th in the US in experiential learning), professionalization of the Arizona Law legal writing program (now US News top 25), the creation of unique global dual degree partnerships, the development of new programs in lawn and technology, intellectual property, business law, advocacy, legal writing, civil justice, mining and natural resources, regulatory science and other areas, including innovative partnerships throughout UofA Colleges and Departments.

EMPLOYMENT

Dean, University of Arizona James E. Rogers College of Law, July 1, 2013 to present
(interim dean, November 2012-June 2013)

Ralph W. Bilby Professor of Law, University of Arizona James E. Rogers College of Law, 2006-present
(Ralph W. Bilby Visiting Professor, 2005-2006)

Vice Dean, University of Arizona James E. Rogers College of Law, July 1, 2011 to Oct. 31, 2012

Associate Dean for Faculty and Scholarship, Emory Law School, 2003-2005

Professor, Emory Law School, 1998-2006 (Assistant and Associate Professor, 1988-1998)

Visiting Professor, Duke Law School, Spring 1998

Visiting Scholar, Stanford Law School, 1995-1996

Special Counsel, Vera Institute of Justice, New York, 1987-1988

Attorney-Advisor, Office of Legal Counsel, United States Department of Justice. Washington, D.C. 1985-1987

Law Clerk, Chief Judge John C. Godbold, United States Court of Appeals for the Eleventh Circuit,
Montgomery, Alabama. 1984-1985

EDUCATION

University of Chicago Law School. J.D. 1984. Honors.
Managing & Book Review Editor, University of Chicago Law Review

Pomona College. B.A. 1981. Honors. Phi Beta Kappa.
Major: Politics, Philosophy & Economics
Special Programs Related to the History & Politics of India –

- Oxford University. 1980. Political philosophy & Indian history
- Lucknow, Uttar Pradesh, India. 1979. Research on urban housing

PUBLICATIONS

My more than full time job for the past five years has been in academic administration. For most of my academic career I have been a law school teacher and legal scholar, though for many years I also carried administrative responsibilities at both Arizona and Emory (my prior professional home). I began publishing professional articles as a law student at Chicago, and since that time I have written more than 70 articles and essays on a wide range of environmental, criminal justice and legal theory topics. I am a co-editor on several widely used casebooks on criminal procedure and sentencing, and co-founded the *Federal Sentencing Reporter*, the leading journal on sentencing law and policy and a joint project of the Vera Institute of Justice and the University of California Press. For many years I have been ranked in the top 20 most cited criminal procedure scholars in the United States. I currently serves as a series editor for *Summits* — books published by the University of Chicago Press and focused on the intersection of environmental science, law and policy.

Books

- CRIMINAL PROCEDURES: CASES, STATUTES & EXECUTIVE MATERIALS (Aspen Publishers, 5th Ed. 2015)
(& Teachers' Manual) (with Ronald Wright) (21 chapter, full-spectrum casebook, covering police, adjudication, and survey courses) See <http://www.crimpros.com>
(6th Ed. Forthcoming, 2019, with the addition of Jenia Turner & Kay Levine)
* Review: Robert Weisberg, *A New Legal Realism for Criminal Procedure*, 49 BUFF. L. REV. 909 (2001).
* Review: Stephanos Bibas, *The Real World Shift in Criminal Procedure*, 93 J. CRIM. LAW AND CRIMINOLOGY 789 (2003) (see http://papers.ssrn.com/sol3/papers.cfm?abstract_id=345320)
- CRIMINAL PROCEDURES—THE POLICE: CASES, STATUTES & EXECUTIVE MATERIALS
(5th Ed. Aspen Publishers, 2015) (chapters 1-10 of CRIMINAL PROCEDURES)
- CRIMINAL PROCEDURES—PROSECUTION & ADJUDICATION: CASES, STATUTES & EXECUTIVE MATERIALS
(5th Ed. 2015) (chapters 11-21 of CRIMINAL PROCEDURES)
- SENTENCING LAW & POLICY: CASES, STATUES AND GUIDELINES (Aspen Publishers 4th ed. 2018)
(& Teachers' Manual) (with Nora Demleitner, Doug Berman & Ronald Wright) (see <http://www.sentbook.com>)
- HARMFUL INVASIVE SPECIES: LEGAL RESPONSES (Environmental Law Institute 2004)
(editor, with Robert Fabian) (see http://www.elistore.org/books_detail.asp?ID=10930)

Articles & Book Chapters

- There Ought to be a Law! The Peculiar Absence of Broad Federal Harmful Nonindigenous Species Legislation*, in INVASIVE SPECIES IN A GLOBALIZED WORLD: ECOLOGICAL, SOCIAL, AND LEGAL PERSPECTIVES ON POLICY 327 (Reuben P. Keller, Marc W. Cadotte, & Glenn Sandiford eds. 2015).
- A review of lawsuits related to point-of-care emergency ultrasound applications*. Lori Stolz, Kathleen M. O'Brien, Marc Miller, Nicole D. Winters-Brown,m, Michael Blaivas, & Srikar Adhikari, 16 West. J. Emerg. Med. Vol. I, p.1-4 (Jan. 2015).
- Missing in Action: A Framework Invasive Species Law*, in INVASIVE SPECIES IN A GLOBALIZED WORLD (Reuben Keller et al. Eds.) (Univ. Chicago Press, 2015)
- Adding Ecosystem Services to Environmental Impact Analyses: More Sequins On a 'Bloated Elvis' or Rockin' Idea?* ECOLOGICAL ECONOMICS (peer review) (with Carrie Presnall & Laura Lopez-Hoffman (2014)
(<http://dx.doi.org/10.1016/j.ecolecon.2014.02.001>)
- Illegally Crossing Borders: The Limits of State Criminal Immigration Laws*, in STRANGE NEIGHBORS: THE ROLE OF STATES IN IMMIGRATION POLICY (NYU Press, Carissa Hessick & Jack Chin Eds.) (with Jack Chin) (2014)
- The Many Faces of Prosecution*, STANFORD JOURNAL OF CRIMINAL LAW & POLICY, Volume 1 (invited)
(with Ron Wright & Kay Levine) (2014)
- Key Landscape Ecology Metrics for Assessing Climate Change Adaptation Options: Rate of Change and Patchiness of Impacts*, Vol. 4, No. 8. Ecosphere Article 101 (Aug. 2013) (with Laura Lopez-Hoffman, David Breshears & Craig Allen)

- The 3L February Bar Exam: An Experiment Under Way in Arizona*, 82 THE BAR EXAMINER 15 (Sept. 2013)
(with Sally Rider)
- Arizona Prosecution: Problem-Solving & Local Innovation*, in PROSECUTORS & POLITICS IN COMPARATIVE PERSPECTIVE (Michael Tonry, Ed.) (Univ. Chicago Press 2012) (with Samantha Caplinger)
- The Unconstitutionality of State Regulation of Immigration Through Criminal Law*, 62 DUKE L. J. 251 (2011)
(with Gabriel (Jack) Chin)
- Here Comes the Sun: Solar Power Parity With Fossil Fuels*, 36 WILLIAM & MARY ENV. L. & POL'Y REV. 119 (2011)
(with Nathan Mee)
- Reporting for Duty: The Prosecutorial Accountability Puzzle and An Experimental Transparency Alternative*, in Erik Luna & Marianne Wade, eds., TRANSNATIONAL PERSPECTIVES ON PROSECUTORIAL POWER (Oxford University Press 2012) (with Ronald Wright)
- Arizona Senate Bill 1070: Politics Through Immigration Law*, in ARIZONA FIRESTORM: A CHRONOLOGY OF EXCLUSION (Celeste Bustamante & Otto Santa Ana, Eds.) (Rowman & Littlefield 2012) (with Jack Chin & Carissa Hessick)
- Global Climate Change as a Local Phenomenon*, in STRATEGIES FOR ADAPTING TO CLIMATE CHANGE (Edella Schlager, Kirsten Engel & Sally Riders, Eds.) (University of Arizona Press) (Edge book series)
(with Jonathan Overpeck & Diana Liverman) (2011)
- Biological Invasions: Federal and States Law*, in ENCYCLOPEDIA OF BIOLOGICAL INVASIONS (Daniel Simberloff and Marcel Rejmánek, eds., University California Press) (2011)
(see http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1701244)
- The Criminal Justice System in the USA*. This report is part of the Max Planck Institute project, Rethinking European Criminal Justice (EuroJustice) (2011, in press)
- A Legal Labyrinth: Issues Raised By Arizona Senate Bill 1070*, 25 GEORGETOWN IMMIGR. L.J. 47 (2010)
(with Gabriel (Jack) Chin, Carissa Hessick & Toni Massaro)
(see http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1617440)
- The Worldwide Accountability Deficit for Prosecutors*, 67 WASH. & LEE L. REV. 1587 (2010) (with Ron Wright)
(see <http://law.wlu.edu/deptimages/Law%20Review/67-4WrightMiller.pdf>)
- Taking Climate Change into Account: A Guidance Document for Judges Adjudicating Water Disputes*, 40 ENV. L. RPTR 11215 (Dec. 2010) (in press) (with Jonathan Overpeck, Kirsten Engel, Kathy Jacobs, Dan Luecke, Julia Matter, Brad Udall & Carolyn Brickey)
(see www.eli.org/pdf/40.11215.pdf or <http://www.judges.org/news/2010/news121010.html>)
- Can the Deepwater Horizon Trust Take Account of Ecosystem Services and Fund Restoration of the Gulf?* 40 *Env. L. Rptr.* 11129 (Nov. 2010) (Special Report jointly published with the *National Wetlands Newsletter* and *The Environmental Forum*) (with Carrie Presnall & Laura López-Hoffman)
(See www.eli.org/pdf/NA_40-11/40.11129.pdf)
- Climate Change and the Practice of Law*, 47 ARIZONA ATTORNEY MAGAZINE No. 2, 33 (Oct. 2010)
(with Jonathan Overpeck) (distributed to all members of the Arizona bar, circ. >20,000)
(see <http://www.azattorneymag-digital.com/azattorneymag/201010/#pg33>)
- Subjective and Objective Discretion of Prosecutors*, in CRIMINAL LAW CONVERSATIONS (Paul Robinson, Kimberly Ferzan, and Steven Garvey, eds., 2009) (with Ronald Wright).
- Shaping Modern Sentencing: Three Giants*, 21 FED. SENT. RPTR. 227 (2009) (with Steve Chanenson)
- State Governance: Leadership on Climate Change*, in John Dernbach, Ed., AGENDA FOR A SUSTAINABLE AMERICA (2009) (with Kirsten Engel)
- The Black Box: The Reasons Behind Prosecutors' Declination Choices*, 94 IOWA L. REV. 125 (2008)
(with Ronald Wright) (see www.law.uiowa.edu/documents/ilr/miller-wright.pdf)

- Dead Wrong*, 2008 UTAH. L. REV. 89 (with Ronald Wright)
(see <http://epubs.utah.edu/index.php/ulr/article/viewFile/408/306>)
- Leaky Floors: State Law Below Federal Constitutional Limits*, 50 ARIZ. L. REV. 227 (2008) (with Ronald Wright)
(see http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1115515)
- Applying Legal Sunshine to the Hidden Regulation of Biological Control*, 35 BIOLOGICAL CONTROL 358 (2005)
(peer review science journal) (with Greg Aplet)
- Sentencing Lessons*, 58 STAN. L. REV. 1 (2005) (with Robert Weisberg)
- "The Wisdom We Have Lost:" Sentencing Information and Its Uses*, 58 STAN. L. REV. 361 (2005)
(with Ronald Wright)
- A Map of Sentencing and A Compass for Judges: Sentencing Information Systems, Transparency, and the Next Generation of Reform*, 105 COLUM. L. REV. 1351 (2005)
- Sentencing Equality Pathology*, 53 EMORY L. REV. 271 (2005)
- Secret Police and The Mysterious Case of the Missing Tort Claims*, 52 BUFF. L. REV. 757 (2004)
(invited for inaugural essay issue) (with Ronald Wright)
- Domination and Dissatisfaction: Prosecutors As Sentencers*, 56 STAN. L. REV. 1211 (2004)
- Sentencing "Reform Reform" Through Sentencing Information Systems*, in Michael Tonry ed., THE FUTURE OF IMPRISONMENT 121-153 (Oxford University Press 2004) (essays in honor of Norval Morris)
- Biological and Cultural Camouflage: The Challenges of Seeing The Harmful Invasive Species Problem and Doing Something About It* (with Lance Gunderson), in HARMFUL INVASIVE SPECIES: LEGAL RESPONSES (Marc Miller & Robert Fabian, Editors) (2004)
- The Paradox of United States Alien Species Law*, in HARMFUL INVASIVE SPECIES: LEGAL RESPONSES (Marc Miller & Robert Fabian, Editors) (2004)
- NIS, WTO, SPS, WIR: Does the WTO Substantially Limit the Ability of Countries to Regulate Harmful Non-Indigenous Species?*, 17 EMORY INT'L L.J. 1059 (2003)
- Honesty and Opacity in Charge Bargains*, 55 STAN. L. REV. 1409 (2003) (with Ronald Wright) (available at http://lawreview.stanford.edu/content/vol55/4/Wright_Miller.pdf) (response to Gerard E. Lynch, *Screening Versus Plea Bargaining: Exactly What Are We Trading Off?*, 55 STAN. L. REV. 1399 (2003) (critiquing *The Screening/Bargaining Tradeoff*) (available at <http://lawreview.stanford.edu/content/vol55/4/Lynch.pdf>)
- Public Lands for the Public's Health*, 33 ENV. L. RPT. 10217 (March 2003) (with Richard Goodman)
- The Screening/Bargaining Tradeoff*, 55 STAN. L. REV. 29 (2002) (with Ronald Wright) (available at http://lawreview.stanford.edu/content/vol55/1/Wright_Miller.pdf)
- Norval Morris, in the ENCYCLOPEDIA OF PRISONS AND CORRECTIONAL FACILITIES (Sage, 2004)
(with Steve Chanenson).
- Immigration Law: Assessing New Immigration Enforcement Strategies and the Criminalization of Migration*, 51 EMORY L. J. 963 (2002) (introduction to Thrower symposium)
- Pardon Us: Systematic Presidential Pardons*, 13 FED. SENT. R. 139 (2001) (with Charles Shanor)
- Cumberland Island: Constructing and Deconstructing Wilderness and History*, National Oceanic and Atmospheric Administration (NOAA), Coastal Services Center (2001) (with Julie Mayfield)
- Wise Masters*, 51 STAN. L. REV. 1751 (1999) (review of Malcolm Feeley & Edward Rubin, JUDICIAL POLICY MAKING AND THE MODERN STATE (1998))
- Your Cheatin' Heart(land): The Long Search for Administrative Sentencing Justice*, 2 BUFFALO CRIM. L. REV. 723 (1999) (with Ronald Wright)

- Empty Heart, Vibrant Corpus*, 12 FED. SENT. R. 86 (1999) (with Ronald Wright)
- Teaching Holistic Sentencing*, 10 FED. SENT. R. 338 (1998) (with Ronald Wright)
- Cells vs. Cops vs. Classrooms*, in Lawrence Friedman & George Fisher, Eds., THE CRIME CONUNDRUM 127 (1997)
- Rehabilitating the Federal Sentencing Guidelines*, 78 JUDICATURE 180 (1995)
- The Disproportionate Imprisonment of Low-Level Drug Offenders*, 7 FED. SENT. R. 3 (1994)
- Guiding the Discretion of U.S. Attorneys: Department of Justice Policies, 1980-1994*, 6 FED. SENT. R. 299 (1994)
- Virtues of Biological Control Regulation*, PROCEEDINGS OF THE 1994 U.S. DEPARTMENT OF AGRICULTURE GYPSY MOTH RESEARCH FORUM 55 (1994)
- Biological Control: A Little Knowledge is A Dangerous Thing*, 45 RUTGERS L. REV. 285 (1993) (with Greg Aplet)
- The Chasm Between The Judiciary and Congress Over Mandatory Minimum Sentences*, 6 FED. SENT. R. 59 (1993)
- The Unfulfilled Potential For Independent Federal Sentencing Research*, 6 FED. SENT. R. 3 (1993)
- Contrasting Approaches Toward Guidelines and Departures in Six Circuits*, 5 FED. SENT. R. 243 (1993)
- The Need for Change in Guideline Sentencing: Suggestions for the President and the 103rd Congress*, 5 FED. SENT. R. 123 (1993)
- Purposes At Sentencing*, 66 SO. CAL. L. REV. 413 (1992)
- True Grid: Revealing Sentencing Policy*, 25 U.C. DAVIS L. REV. 587 (1992)
- Departures Visible and Invisible: Perpetuating Variation in Federal Sentences*, 5 FED. SENT. R. 3 (1992)
- Amending the Guidelines*, 4 FED. SENT. R. 307 (1992)
- Perspectives on Disparity in Guideline Research*, 4 FED. SENT. R. 123 (1992)
- Developing Intermediate Sanctions*, 4 FED. SENT. R. 3 (1991)
- Taking 'Purposes' Seriously: The Neglected Requirement of Guideline Sentencing*, 3 FED. SENT. R. 295 (1991)
- Honoring Judicial Discretion Under the Sentencing Reform Act*, 3 FED. SENT. R. 235 (1991)
- Plea Bargained Sentences, Disparity and 'Guideline Justice'*, 3 FED. SENT. R. 175 (1991)
- Pretrial Detention and Punishment*, 75 MINN. L. REV. 335 (1990) (with Martin Guggenheim)
- Georgia's Historical Law Schools -- Emory: The Creation of a National Law School*, 27 GEORGIA STATE BAR JOURNAL 88 (1990). Expanded and republished as *Two Eras at Emory Law School: Building on the Past, Learning from the Future*, in EMORY REPORT (1997)
- Offender Characteristics and Victim Vulnerability: The Difference Between Policy Statements and Guidelines*, 3 FED. SENT. R. 3 (1990)
- The Emerging Proportionality Law for Measuring Departures*, 2 FED. SENT. R. 255 (1990)
- The Commission Under Fire: Constructive Advice or Destructive Attack*, 2 FED. SENT. R. 207 (1990)
- Guidelines Are Not Enough: The Need For Written Sentencing Opinions*, 7 BEHAV. SCI. & THE LAW 3 (1989)
- Handcuffing the Sentencing Judge: Are Offender Characteristics Becoming Irrelevant? Are Congressionally Mandated Sentences Replacing Judicial Discretion?* 2 FED. SENT. R. 189 (1989)
- The Relevant Conduct Controversy*, 2 FED. SENT. R. 150 (1989)
- Predictions of Dangerousness: An Argument for Limited Use*, 3 VIOL. & VICTIMS 263 (1988) (with Norval Morris)
- DEPARTURE SENTENCES UNDER THE UNITED STATES SENTENCING COMMISSION GUIDELINES: INTERIM REPORT OF THE AD HOC SENTENCING STUDY GROUP. Vera Institute (Dec. 1987) (with Daniel Freed)

PREDICTIONS OF DANGEROUSNESS IN THE CRIMINAL LAW, National Institute of Justice Research in Brief
(March 1987) (with Norval Morris)

Predictions of Dangerousness: Ethical Concerns and Proposed Limits, 2 NOTRE DAME JOURNAL OF LAW, ETHICS &
PUBLIC POLICY 393 (1986) (with Norval Morris)

(1) *Changing Legal Paradigms in Juvenile Justice* and

(2) *Legal Constraints on Intervention Programs in Public Schools*, in INTERVENTION STRATEGIES FOR CHRONIC
JUVENILE OFFENDERS: SOME NEW PERSPECTIVES (P. Greenwood, ed.) (1986) (earlier versions of these two
chapters were published in JUVENILE REHABILITATION READER, N-2236-OJJDP, 1985)

In Your Court: State Judicial Federalism in Capital Cases, 18 URBAN LAWYER 659 (1986) (with Ronald Wright)

Legal and Ethical Limits on the Use of Predictions of Dangerousness in the Criminal Law, in THE PREDICTION OF
CRIMINAL VIOLENCE (F. Dutile & C. Foust, eds.) (1986)

Predictions of Dangerousness, in 6 CRIME & JUSTICE: AN ANNUAL REVIEW OF RESEARCH 1 (1985) (with Norval
Morris) (principles for criminal and mental health law suggested in this paper were adopted by the National
Academy of Sciences panel on criminal behavior in 1986)

Comment, *Diversity Jurisdiction Over Alien Corporations*, 52 U. CHI. L. REV. 1458 (1984)

Founding Editor, FEDERAL SENTENCING REPORTER (Univ. of Calif. Press) (1988-1995);
Senior Advisor / Editor Emeritus (1996 – present)

FSR is the leading journal on sentencing law and reform. In 1988 I founded FSR with Professor Daniel Freed
of Yale Law School to track the development of guideline sentencing, provide a forum for exploring sentencing
theory and practice, and encourage the evolution of principled sentencing law. FSR is published by the
University of California Press and has been sponsored since its founding by the Vera Institute of Justice (NYC).
FSR received startup funding from the Edna McConnell Clark Foundation and soon thereafter a one year line
item budget authorization from Congress to provide copies to all federal judges. FSR appears on Lexis and
Westlaw, and is available through Heinonline and the UC Press “Caliber” system.

Lead Series Editor, SUMMITS—a book series on Environmental Science, Law & Policy and a joint project of
The UA Institute of the Environment (IE), the James E. Rogers College of Law, the Biosphere 2 Institute,
The Udall Center for Studies in Public Policy, and published by the University of Chicago Press (2007-present)
(originally the Edge series, published by the University of Arizona Press)

Books in print: (1) STITCHING THE WEST BACK TOGETHER: CONSERVATION OF SHARED LANDSCAPES, Susan
Charnley, Thomas Sheridan & Gary Nabhan, Eds. (2014); (2) NAVIGATING CLIMATE CHANGE POLICY:
THE ROLE OF THE STATES, Edella Schlager, Kirsten Engel & Sally Rider, Eds. (2011)
(3) CONSERVATION OF SHARED ENVIRONMENTS: LEARNING FROM THE UNITED STATES AND MEXICO,
Laura Lopez-Hoffman, Emily McGovern, Robert Varady & Karl Flessa, Eds. (2009)

REPORTS, EDITORIALS, TESTIMONY, BRIEFS, & WEB PUBLICATIONS

“Charging,” in CRIMINAL JUSTICE IN ARIZONA, ARIZONA TOWN HALL 29 (2018)

(<http://www.aztownhall.org/resources/documents/111%20criminal%20justice%20in%20arizona%20backgroun%20report%20web.pdf>)

THE CONSTITUTIONALITY OF SB 1070 AND OTHER STATE IMMIGRATION LAWS. American Constitution Society,
Issues Brief (NOV. 2010) (see <http://www.acslaw.org/node/17714>)

TAKING CLIMATE CHANGE INTO ACCOUNT: A GUIDANCE DOCUMENT FOR JUDGES ADJUDICATING WATER DISPUTES
(with Jonathan Overpeck, Kirsten Engel, Kathy Jacobs, Julia Jolley, Dan Luecke, Carolyn Brickey)
(report from workshop with federal and state judges, Dividing the Waters & National Judicial College) (2010)

“A Simple but Fundamental Step: Put All EISs & EAs On the Web.” Testimony for the President’s Council on
Environmental Quality & The U.S. Institute for Conflict Resolution, April 15, 2010 (with Dan Farber) (see
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1703624).

“The President and Congress on Crack,” Dallas Morning News, Monday, February 25, 2008

Letter to Secretary Ann Veneman, July 12, 2004 (as of Jan. 1, 2005 APHIS changed its public information and access policies with regard to biological controls in response to this letter)

THE OWNERSHIP OF HISTORY & NATURE: THE LEGAL BATTLES OVER CUMBERLAND ISLAND (manuscript) (editor with Julie Mayfield & Allison Adams) (2005)

“Go Slow: A Recommendation for Responding to *Blakely v. Washington* in the Federal System,”

Written testimony submitted to the Senate Committee on the Judiciary, Tuesday, July 13, 2004

“Prosecutor Rex,” PHILADELPHIA INQUIRER, Op-Ed, Dec. 19, 2003 (with Ron Wright)

“The Right to Refuse Consent Is In Danger,” LOS ANGELES TIMES, Op-Ed, April 15, 2002 (with Ron Wright) (on criminal procedure after 9/11)

NIS, WTO, SPS, WIR: Does the WTO Substantially Limit the Ability of Countries to Regulate Harmful Non-Indigenous Species?, Halle Institute Paper Series (2002) (part of a multi-disciplinary series of papers on globalization aimed at undergraduates)

Lead Counsel, Amicus Brief to the Supreme Court of the United States for Law Professors and Former United States Attorneys, *Rita v. United States* (2007)

Lead counsel, *United States v. Charlie Liteky* (11th Cir.) (2000-2001)

INTERIM REPORT, POLICY & REGULATION WORKING GROUP OF THE NATIONAL INVASIVE SPECIES ADVISORY COUNCIL (with Keith Pitts) (July 3, 2000)

“Saving the Galapagos,” NEW YORK TIMES, Op-Ed, A15, Oct. 12, 1995; “Galapagos Islands: Trouble in the Middle of Nowhere,” STANFORD REPORT, p. 3, Oct. 11, 1995 (both with Donald Kennedy)

“Proposed Delay in the Federal Sentencing Guidelines,” Written Testimony for the U.S. Senate Judiciary Committee, October 1987 (with Dan Freed)

* In 1985 & 1986 I served as book review editor for the *Castine Patriot* – the local paper for Castine, Maine. In that role I wrote a series of book reviews and solicited reviews from other authors.

BACKGROUND AND PROFESSIONAL PROJECTS

Bar Memberships: California (1984) (active); District of Columbia (1986).

Law School Courses Taught:

- Criminal Procedure I (police practices); Criminal Procedure II (prosecution & adjudication); Criminal Procedure III (sentencing & post-conviction review); Criminal Law; Crime in America; Sentencing Law & Policy (course and seminar);
- Seminars: Executive Discretion: Norms & Internal Regulation; Historical & Comparative Criminal Procedure; Policing After Ferguson (undergraduate honors seminar)
- Public Lands and Natural Resources; Sustainability in Environmental Policy (graduate workshop for ½ law and ½ doctoral students, co-taught with Carol Rose & Tom Swetnam); Legal Aspects of Biodiversity (interdisciplinary course co-taught at Emory with Lance Gunderson to law students and undergraduate environmental studies majors).
- Torts; Constitutional Law.

Original Materials: All criminal procedure courses (published); Sentencing Law & Policy (published); Crime in America; Legal Aspects of Biodiversity; Public Lands & Natural Resources; Sustainability in Environmental Policy

American Association of Law Schools (AALS) Service: (1) Deans Steering Committee (2014-2018) (original member); (2) AALS Presidential Selection Committee (2014-2015).

University of Arizona: Joint Appointments & Administrative Positions: Member (only dean), University of Arizona Presidential Search Committee (2016-2017); Chair, Search Committee for Dean of Eller College of Management (2015-2016); University of Arizona Faculty Senate (2014-2017) (appointed by Provost); University of Arizona Strategic Planning and Budget Advisory Committee (2014-present) (SPBAC) (appointed as representative of deans by University of Arizona President Hart & then reappointed by University of Arizona President Robert

Robbins). Co-Director, Program in Criminal Law & Policy (PCLP), University of Arizona James E. Rogers College of Law, 2007-present (including a certificate program for law students); Associated Faculty, University of Arizona Institute of the Environment, 2007-present; Joint Faculty, Environmental Health Sciences Program, University of Arizona Zuckerman School of Public Health (2009-present); Participating Faculty, Global Change PhD minor; University of Arizona Scientific Committee, Joint UA-French National Scientific Committee (CNRS) unit on water, environment and policy (2009-2010); Arizona Telemedicine Program, Associate Director For Interdisciplinary Education, 2010-present.

University of Arizona James E. Rogers College of Law & University of Arizona Committees & Service:

(As Vice Dean I serve ex officio on a number of committees). Chair, Appointments, 2009-2010 (member 2010-2011); Chair, Promotion & Tenure, 2007-2009; Member, Faculty Advisory Committee (2009-2010); Member, University of Arizona Reconciliation Committee (2007-2009); Co-Chair, Faculty Development Committee, 2006-2007; Member, Retreat Committee (2006-2007); Member, University Earth Sciences & Environmental Program Initiative, 2006; Senior Advisor, University of Arizona Law Review, 2008-2010; Mentor, Arizona Assurance (undergraduate mentoring program for low income Arizona residents), 2010-2011.

Emory Law School Committees & Service: Associate Dean for Faculty & Scholarship, 2003-2005 (I served ex officio on colloquium and scholarship, clerkship, appointments, long range planning and various ad hoc committees); Chair, Appointments Committee (2001), Member (2002); Co-Chair, Special Lateral Appointments Committee (1998); Chair, Law School Faculty Colloquium & Scholarship Committee (1988, 2002), Member, (1989-1992); Chair, Curriculum Committee (1994, 1996-1998); member (1999-2002); Chair & Member, Judicial Clerkship Committee (1988-1997, 2000-2001); Member, Rankings (U.S. News) Committee (2002-2004); Member, Academic Standings Committee (1992); Member, Law School Technology & Library Committees (1993, 1996, 1997, 1999-2002); President, Order of the Coif (1997-2002); Member, Woodruff Scholarship Selection Committee (1992; 2001).

Emory University Committees: Co-Chair, "Courageous Leadership," Emory University Signature Themes Development, Spring 2005; Committee on the Future of Emory (2002-2004); Council on Information Resources & Technology (CIRT) (1999-2001); Faculty Council and University Senate (appointed by Emory University President and Provost) (1994); Faculty-Carter Center Relations Subcommittee (1994); Academic Computing Advisory Committee (1994); University Library Committee (1994); Virtual Library Committee (1993-1994).

Special Projects & Honors

Member, American Law Institute (elected May 2002)

Advisor, Regulation of Prosecutors Project, Vera Institute of Justice (2010-present); Board member: Race & Prosecution Project, Vera Institute of Justice (2007-present)

Building Skills in Group Facilitation Workshop with Gary Forbes (May 6-7, 2010)

Member, Max Planck Institute, Concepts for a European Criminal Justice System Project, 2006-2008.

IUCN Representative, CABI Conference on Developing Invasive Species Policy in China. Hosted by Chinese Academy of Agricultural Sciences (CAAS). Beijing. Oct. 30-Nov. 7, 2004.

Division Chair (Sentencing), American Society of Criminology, Atlanta, Georgia, Nov. 7-10, 2001.

Advisory Board, *Ohio State Journal of Criminal Law*.

Editorial Board, LYONIA (peer-review journal of the Lyon Arboretum, tropical montane forest ecology and use) (2003-2006)

Co-Director, Cross-Disciplinary Workshop on "Greening the University: Environmental Perspectives Across the Curriculum" (May 15-17, 2002) (readings: *Green Notions: Green Curriculum, Green Campus, Green City*).

Co-Chair (non-federal), Policy & Regulation Working Group, National Invasive Species Council, 2000 (with Keith Pitts, U.S.D.A.). See Executive Order (see Executive Order 13112, 64 Fed. Reg. 6183 (Feb. 3 1999) (Clinton) (invasive species); <http://www.invasivespecies.gov>

Board member, Turner Environmental Law Clinic, 1998-present. Advisor, Cumberland Island project

Clinton-Gore Transition Team, Justice & Civil Rights Cluster, Sentencing and Punishment Policy Group, Principal Drafter (December 1992)

Fellow, World Association of International Studies (California Institute of International Studies) (elected 1996)
Co-Founder, Galapagos Coalition (1995-present) (with Dr. Gregory Aplet & Dr. Matthew James)
[See <http://www.galapagoscoalition.org>]
Advisor, Nature and Culture International [See <http://www.natureandculture.org>]; Advisor, Estacion Cientifica San Francisco (biological research station near Loja, Ecuador)
Director, Atlanta Municipal Court Project, 1988-1990
Member, Central Atlanta Progress Municipal Court Review Committee (1989);
Chair, Subcommittee on Research, Data Collection and Data Analysis.
Secretary, Committee on Education and Prevention, NYC Substance Abuse Task Force. 1987-1988
Secretary, Council on Criminal Justice, Association of the Bar of the City of New York. 1987-1988
Juvenile Justice Project, Rand Corporation, 1984-1985

SELECTED EXTERNAL SPEECHES AND PAPER PRESENTATIONS

Note: I frequently speak to law firms and at various association meetings. I stopped keeping track of Presentations in 2011. The list below reflects the breadth of academic, professional and public Settings in which I presented papers and talks when my principal duties included teaching and scholarship.

- “Crime and Punishment Revisited: Sentencing in a Post-*Plata* World.” The talk can be seen at <http://mediasite.ucdavis.edu/Mediasite/SilverlightPlayer/Default.aspx?peid=027d89366393479caa6b31c2eccde79141d> (starting at 2:23).
- “Blasting a Big Hole in A Sinking Ship: Adapting to Invasive Species and to Climate Change,” University of Chicago, May 12-13, 2011
- “Arizona Plus.” Hot topics panel, AALS. January 7, 2011. San Francisco
- “Climate Change and Legal Practice.” CLE lecture at Bryan Cave, Phoenix, Arizona. Oct 7, 2010
- “State Criminal Enforcement of Immigration Laws.” 2nd Annual Western Criminal Law Scholars Workshop. University of Colorado / Denver University. Aug 26-28, 2010. (1st Annual conference was at Arizona); Also at Arizona State University Conference, Oct. 8, 2010
- “Discretion In Federal and State Immigration Law,” American Constitution Society Panel, University of Arizona, Sept. 2, 2010
- “Lobbying for Constitutionally Suspect Legislation: Ethical Duties to Clients and to the Legislature,” CLE for small & mid-sized firms in Phoenix. Collins, May, Potenza, Baran & Gillespie, June 29, 2010
- Supreme Court Selected Criminal Law Decisions & Trends, United States Court of Appeal Ninth Circuit District of Arizona Annual Conference. Phoenix. Feb. 12, 2010
- “Using A VAP (Visiting Assistant Professor) to Prepare For The Market & The Democratization of The Academy.” Aspiring Law Professors Conference. Arizona State University. Oct. 17, 2009 (Invited back each year: 2010-2012)
- “The Internal Regulation of Executive Discretion: Theory In Search of Environmental Applications,” Environmental Breakfast Club, University of Arizona, Sept. 11, 2008
- “See No Evil.” Villanova Law School. February 2, 2008.
- “Subjective and Objective Perspectives on Judicial and Prosecutorial Sentencing Discretion,” Stanford Criminal Justice Center, Executive Sessions (Sept. 7, 2007) (reported at http://www.law.stanford.edu/program/centers/scjc/pdf/090707_Report_Analysis_lr.pdf (Nov. 2007))
- “Reasons Behind Prosecutor’s Declination Decisions.” First Annual Empirical Legal Studies Conference. University of Texas. Oct. 27-28, 2006

- “Sentencing Information: The Next Generation of Sentencing Reform.” National Association of Sentencing Commissions, 2006 Annual Meeting, Philadelphia, Aug. 6-8, 2006
- “Tort Claims For Harm From Invasive Species,” American Law Institute / American Bar Association workshop on endangered species, Washington, D.C., April 8-9, 2005
- “‘Lawless’ Prosecutorial Power and Reason as Law,” Hoffinger Criminal Justice Colloquium Lecture at New York University School of Law, March 29, 2005
- “Hidden Wisdom: Accessibility and Transparency of Sentencing Information,” Columbia Law School, Jan. 2005
- “Crimes and Punishments: Prosecutorial Domination of Sentencing Power,” Stanford Law School, Feb. 2004
- “Is a Biological Control Law The Answer?”, at a U.S. Dept. of Agriculture conference on Science and Decision-Making in Biological Control of Weeds, Denver, January 27-29, 2004
- “The Federal Sentencing Travesty,” American Constitution Society, Stanford Law School, April 11, 2003
- “The Screening/Bargaining Tradeoff,” Symposium on “The Screening/Bargaining Tradeoff” organized by Stanford Law Review, Feb. 4, 2003; Faculty Workshop, Tulane Law School, April 4, 2003
- “Sentencing Reform Reform: The Sentencing Information System Alternative To Sentencing Guidelines,” Houston Scholarship Colloquium/Course (April 24, 2003)
- “Sentencing Sans Purposes: The Steady Drift Towards “Out of Guideline” Sentences,” Yale Law School, Conference on Federal Sentencing Reform, Nov. 8, 2002
- “The Screening/Bargaining Tradeoff,” Florida State University, October 5, 2001
- “Cumberland Island: The Ownership & Use of Nature & History,” NOAA, Charleston, S.C., June 26, 2001 (revised version to Emory University environmental faculty, Sept. 23, 2002)
- “NIS, WTO, SPS, WIR: Does the WTO Substantially Limit the Ability of Countries to Regulate Harmful Non-Indigenous Species?,” Boğaziçi University, Istanbul, May 31-June 1, 2001 (conference and paper) (revised version presented at World Association of International Studies, Stanford University, Aug. 1, 2001)
- “The Federal Sentencing Guidelines and Misdemeanors: Big Lessons from Small Injustices,” Cedar Hill Society, April 12, 2001, LaGrange, Georgia
- “Sentencing Federal Misdemeanors: When the Sentencing Reform Act Applies But the Guidelines Do Not,” Federal Judicial Center, Workshop for Defenders and Panel Attorneys, Santa Fe, N.M., March 13, 2001
- “Scientists, Lawyers & Bureaucrats: Will The New Federal Policy for Harmful Invasive Species Help?,” Monterey Bay Aquarium Research Institute (MBARI), Moss Landing, Calif., August 11, 2000
- “Sentencing in the Law School Curriculum: Another Kind of Mandatory Minimum,” AALS Criminal Justice Section, Conference on Criminal Justice in the New Millennium, Washington, D.C., June 12, 2000
- “Five Sentencing Myths; Three Sentencing Mysteries,” Federal Judicial Center, Sentencing Workshop for Federal Defenders and Panel Attorneys, Washington, D.C., Feb. 28, 2000
- “Sentencing Departures: The ‘Answer’ or the ‘Problem’?,” St. Louis University, Jan. 12-14, 2000
- “The Paradox of United States Alien Species Law,” IUCN World Conservation Union, Bonn, Germany, December 10-11, 1999
- “The Lost Parsimony Concept and the Continuing Search for Sentencing Justice,” Federal Defenders of the Ninth Circuit, Las Vegas (Sept. 14, 1998)
- “Lessons from Executive Order 11987 (May 24, 1977) on the Regulation of Harmful Non-indigenous Species,” Public Interest Environmental Law Conference, Eugene, Oregon (March 8, 1996)
- “Corrections Entitlements: Cells vs. Cops & Cells vs. Classrooms,” Jurisprudence & Social Policy, University of California at Berkeley, November 2, 1995
- “The Pepinero Wars: The Challenge of Conservation in the Galapagos,” California Academy of Sciences, October 17, 1995
- “The Intersection of Law and Biology: Biological Control and the Introduction of Non-Indigenous Species,” Stanford University (Environmental Policy Forum), November 28, 1994

- “The Modern Chicago School of Criminology: An Exploration in Honor of Norval Morris,”
University of Chicago, October 26-28, 1994
- “The History of Executive Order 11987: Problems With the Regulation of Non-Indigenous Species,”
Aspen Global Change Institute, August 17-September 2, 1994
- “Why Biologists and Researchers Should Support Regulation of Biological Controls,”
Gypsy Moth Research Forum, Annapolis, Maryland, January 1994
- "The State of the Sentencing Guidelines: Images of Stability, Hints of Anarchy," Annual White
Collar Crime Seminar, Atlanta, Georgia, October 16, 1992
- "Origins of the Corporate Sentencing Guidelines," New Jersey Corporate Counsel Association,
New Brunswick, July 13, 1992
- "The Disappointing Sentencing Guidelines," National Association of Former U.S. Attorneys
(NAFUSA), The Cloister at Sea Island, Georgia, March 22-24, 1992
- "Purposes at Sentencing," University of Southern California Law Center, Los Angeles, February 21-22, 1992
- "Plea Bargaining and Sentencing Under the Guidelines," Annual White Collar Crime Seminar
(Institute of Continuing Legal Education in Georgia), Atlanta, October 17, 1991
- "Grappling with the Federal Sentencing Guidelines," Atlanta Bar Association Criminal Law Section,
April 10, 1991. (Also "The Federal Sentencing Guidelines," September 21, 1989)
- "Sentencing Discretion and Appellate Review," Joint Circuit Conference of the U.S. Courts of
Appeals for the Sixth and Eighth Circuits, Charleston, South Carolina, January 14-16, 1991
- "The Federal Sentencing Guidelines," American Association of Law Schools Annual Meeting,
Criminal Justice Section, New Orleans, January 6, 1989
- "Pretrial Detention and the Abuse of Predictions," National Pretrial Services Association, Hartford,
October 1987
- "Congressional Oversight of Foreign Affairs: Iran and Nicaragua," University of Chicago,
Department of Political Science, February 1987
- "State Judicial Federalism in Capital Cases," Paper delivered at conference on federalism issues run
by the Academy for State and Local Government, Washington, D.C., February 1986
- "Predictions of Dangerousness," Paper at conference on the Prediction of Criminal Violence,
Indianapolis Lawyers Commission, May 1985
- "Predictions of Dangerousness." Law and Society Conference, Boston, June 1984
- "Gandhi as a Radical Lawyer," South Asia Outreach Seminar, University of Chicago, 1983