

**DAN MARKEL**  
**FSU College of Law**  
**425 West Jefferson Street**  
**Tallahassee, Florida 32301**  
**850-644-3831 (w)**  
**202.276.8200 (c)**  
**Markel@post.harvard.edu**  
[www.danmarkel.com](http://www.danmarkel.com) (homepage)  
<http://prawfs.com> (blog)

---

### ACADEMIC APPOINTMENTS

**2009-Present D'Alemberte Professor, FSU College of Law**

- Courses: Criminal Law; Criminal Procedure: Adjudication; Sentencing Law and Policy; Tort Theory and Punitive Damages; Advanced Topics in Criminal Law
- Recipient of Searle Fellowship for Research Leave (Spring 2011)
- Recipient of FSU FYAP Research Fellowship (2006) (university-wide competitive academic grant)
- Present or Past FSU Service: Appointments; Faculty Enrichment; Admissions; Student Affairs; Academic Waiver; Graduate Policy (University)
- Past and current visits slated for short courses at Hebrew University of Jerusalem; Bar Ilan University; Inter-Disciplinary Center at Herzliya
- Promoted to full professor two years early

**2013-Present Professor of Law**

**2011 Scholar-in-Residence, Center on the Administration of Criminal Law, New York University**

**2010-12 Associate Professor with Tenure, FSU College of Law**

**2005-2010 Assistant Professor, FSU College of Law**

### EDUCATION

**Harvard Law School, J.D., 2000-01.**

- Graduated with honors
- Editor, Harvard Law Review (Volumes 112-13)
- Olin Fellow, Harvard Law School
- Resident tutor in law and government, Lowell House, Harvard College

**University of Cambridge, M.Phil., 1997.**

- Graduated with high honors in political thought and intellectual history
- Cambridge Overseas Trust Scholar; Emmanuel College Research Scholar; Pechet Scholar
- Thesis: The Biblical Criticism of Thomas Hobbes's *Leviathan* (Prof. Quentin Skinner, supervisor)

**The Hebrew University of Jerusalem**, Visiting Graduate Fellow, 1996.

- Harvard University Visiting Fellowship
- Dorot Foundation Fellowship

**Harvard College**, A.B., 1995.

- Graduated Phi Beta Kappa and Magna Cum Laude in Government
- John Harvard Scholarship for Highest Academic Distinction
- Allston Burr Senior Tutor Prize, Lowell House
- Rosovsky Fellow, Center for Middle East Studies
- Undergraduate Fellow, Center for International Affairs

## SCHOLARSHIP

### Book

1. [PRIVILEGE OR PUNISH? CRIMINAL JUSTICE AND THE CHALLENGE OF FAMILY TIES](#) (Oxford 2009) (with Jennifer M. Collins and Ethan J. Leib) (PDF available on SSRN)
  - *Reviews in the Yale Law Journal* by Professors Alafair Burke, Alice Ristroph, & Melissa Murray
  - *Reviews in the New Criminal Law Review* by Professors Doug Berman, Naomi Cahn, & Jack Chin

### Articles, Essays and Book Chapters (with links to SSRN)

26. [Making Punishment Safe for Democracy: A Reply to Professors Bowers, Cahill & Duff](#), 1 VA. J. CRIM. L. 205-63 (2012) (invited reply)
25. [Retributive Justice and the Demands of Democratic Citizenship](#), 1 VA. J. CRIM. L. 1-133 (2012) (invited keynote article with responses by Professors Bowers, Cahill & Duff)
24. [A Judge for Justice](#), 43 ARIZ. ST. L. J. 57 (2011) (celebration essay).
23. [Revisiting the Taxation of Punitive Damages](#), 97 VA. L. REV. IN BRIEF 73-82 (2011) (with Gregg D. Polsky) (reply to responses by Prof. Larry Zelenak and Paul Mogin)
22. [Beyond Experience: Getting Retributive Justice Right](#), 99 CAL. L. REV. 605-628 (2011) (with Chad Flanders and David Gray).
21. [What Might Retributive Justice Be?](#), RETRIBUTIVISM: ESSAYS ON THEORY AND POLICY 49-72 (ed. Mark White, Oxford University Press, 2011).
20. [Overcoming Tradeoffs in the Taxation of Punitive Damages](#), 88 WASH U. L. REV. 609-659 (2011).
19. [May Minors Be Retributively Punished after Panetti \(and Graham\)?](#), 23 FEDERAL SENTENCING REPORTER 62-66 (2010) (invited essay)
18. [Taxing Punitive Damages](#), 96 VA. L. REV. 1295-1360 (2010) (with Gregg D. Polsky).
17. [Bentham on Stilts? The Bare Relevance of Subjectivity to Retributive Justice](#), 98 CAL. L. REV. 907-988 (2010) (with Chad Flanders).

16. [Rethinking Criminal Law and Family Status](#), 119 YALE L.J. 1864-1903 (2010) (with Ethan J. Leib and Jennifer M. Collins).
15. [Punitive Damages and Private Ordering Fetishism: A Reply to Professors Krauss and Owen](#), 158 U. PA. L. REV. PENNUMBRA 283-304 (2010).
14. [\(When\) Should Family Status Matter in the Criminal Justice System?](#), 13 NEW CRIM. L. REV. 151-75 (2010) (with Ethan J. Leib and Jennifer M. Collins).
13. [Executing Retributivism: Panetti and the Future of the Eighth Amendment](#), 103 NORTHWESTERN U. L. REV. 1163-1222 (2009).
  - An abridged version of this piece appears as a chapter in WHO DESERVES TO DIE?: CONSTRUCTING THE EXECUTABLE SUBJECT (co-edited by Austin Sarat and Karl Shoemaker) (University of Massachusetts Press, 2011)
12. [How Should Punitive Damages Work?](#), 157 U. PA. L. REV. 1383-1484 (2009).
11. [Retributive Damages: A Theory of Punitive Damages as Intermediate Sanction](#), 94 CORNELL L. REV. 239-340 (2009).
10. [Voluntarism, Vulnerability, and Criminal Law: A Reply to Professors Hills and O’Hear](#), 88 B.U. L. REV. 1449 (2008) (with Ethan J. Leib and Jennifer M. Collins).
9. [Punishing Family Status](#), 88 B.U. L. REV. 1327-1423 (2008) (with Ethan J. Leib and Jennifer M. Collins).
8. [Criminal Justice and the Challenge of Family Ties](#), 2007 U. ILL. L. REV. 1147-1228 (with Jennifer M. Collins and Ethan J. Leib).
7. [Wrong Turns on the Road to Alternative Sanctions: Reflections on the Future of Shaming Punishments and Restorative Justice](#), 85 TEX. L. REV. 1385-1412 (2007).
6. [Connectedness and Its Discontents: The Difficulties of Federalism and Criminal Law](#), 4 OHIO ST. J. CRIM. L. 573-85 (2007) (peer-reviewed); a previous version appeared in 155 U. PA. L. REV. P. 38 (2006).
5. [State, Be Not Proud: A Retributivist Defense of the Commutation of Death Row and the Abolition of the Death Penalty](#), 40 HARVARD CR-CL L. REV. 407-480 (2005).
4. [Against Mercy](#), 88 MINN. L. REV. 1421-1480 (2004).
3. [Are Shaming Punishments Beautifully Retributive? Retributivism and the Implications for the Alternative Sanctions Debate](#), 54 VANDERBILT L. REV. 2157-2242 (2001).
  - Cited in *United States v. Gementera*, 379 F. 3d 596 (9th Cir. 2004), and LAFAVE, SUBSTANTIVE CRIMINAL LAW
2. [Can Intellectual Property Law Regulate Behavior? A “Modest Proposal” for Weakening Unclean Hands](#), 113 HARV. L. REV. 1503-20 (2000).
  - Cited, *inter alia*, in NIMMER ON COPYRIGHT

1. [\*The Justice of Amnesty? Towards A Theory of Retributivism in Recovering States\*](#), 49 U. TORONTO L.J. 389-445 (1999) (peer-reviewed journal).
  - Cited, *inter alia*, by Justice Albie Sachs of the South African Constitutional Court

### Short Essays and Reviews

4. Review, [\*Allen & Laudan's Deadly Dilemmas\*](#), JOTWELL, September 15, 2010.
3. [\*Retributive Damages as Intermediate Public Sanctions: A Synopsis\*](#), THE LEGAL WORKSHOP (2009).
2. Review Essay, [\*Ethics and Authority in International Law\*](#), 10 EUROPEAN J. INT'L L. 200 (1999) (peer-reviewed journal).
1. Recent Case, [\*United States v. DeZarn\*](#), 112 HARV. L. REV. 1783 (1999).

### SOME WORKS IN PROGRESS (OR ANTICIPATED...)

#### Monographs

#### LUCK OR LAW: IS INDETERMINATE SENTENCING UNCONSTITUTIONAL?

In the majority of states, indeterminate or discretionary sentencing schemes prevail, under which there are virtually no restraints upon judicial and/or executive discretion to ensure that similarly situated offenders convicted of similar criminal conduct will, within the same sovereign jurisdiction, receive punishments that are roughly similar to each other. This project examines the uneasy case for, and the implications of, a finding that such sentencing schemes are impermissible under the federal Constitution. Looking at the history of the Framing Period and selected areas of the Supreme Court's jurisprudence over the last forty years, this work explicates the constitutional restraints on random, arbitrary and/or discriminatory distributions of penalties, and finds little persuasive basis for the continued survival of indeterminate sentencing schemes. To the extent the Supreme Court is reluctant, as a matter of institutional competence, to make that finding explicit, the project explores whether and how legislators at the federal and state levels can shoulder their co-equal burden of implementing the Constitution's commitment to restraining punishment.

- The current plan is to have this book emerge after two companion articles are published, one having to do with the constitutional right and the second having to do with the constitutional remedy; the book will include some more work related to the conceptual, normative and policy issues involved.

#### RETHINKING RETRIBUTION

Over the last dozen years or so, and across approximately a dozen law review articles, I've been writing about punishment theory and its implications for an array of policy choices. This book will try to revise and restate the core account of retributive theory at the heart of those works and to do so in a way that can connect not only to students and teachers of law and philosophy, but also beyond. The book would aim at three substantial interventions. First, it replies to the trenchant objections against retributivism found in recent welfare economics literature. Second, it illuminates the often obscured role of ex ante decision-making to retributivist

thinking. Third, by highlighting that role, the book will explain how to reduce (at least in part) the degree of separation between proponents of retributive justice and deterrence in policy terms.

#### FIXING PUNITIVE DAMAGES

This book will try to coherently tie together a handful of articles on civil damages I've published or will soon be submitting for publication.

#### Articles and Essays

##### *Catalyzing Fans (with Michael McCann and Howard Wasserman) (prepared for submission in fall of 2013)*

It's a (private ordering) puzzle that fans don't have more influence on the recruitment or retention of their sports or entertainment heroes ("talent"). This paper proposes the development of Fan Action Committees, which, like their political counterpart (PACs), could mobilize and empower fans to play a larger role in the decision-making associated with which "production teams" the talent will work. We outline two options—direct compensation by crowdfunding to talent and donations by fans to charities favored by talent—and discuss both obstacles and objections from a variety of policy and legal perspectives. Importantly, crowdfunding through FACs creates the potential for more efficient valuations of talent by registering not only the number of fans but also the intensity of their preferences. This insight, which stresses the upside of price discrimination, has relevance for a wide range of human endeavor where bilateral contracts have third party externalities that are not currently or adequately calibrated or valued.

##### *Punishing Entities (Civilly) (drafting)*

Building upon the pluralistic extra-compensatory damages regime defended in earlier articles, this piece addresses some key policy and legal questions associated with punitive damages against business entities.

##### *The Quiet Scandal of Punitive Pretrial Conditions (with Eric J. Miller) (early drafting)*

When deciding pretrial release conditions, judges across the country routinely impose restrictions on liberty that are punitive or rehabilitative in orientation. But inasmuch as these conditions are irrelevant to protecting public safety or reducing flight risk, they are flatly at war with the constitution's presumption of innocence; additionally, they raise a host of other policy and rule of law concerns. Borrowing insights from punishment theory, this paper outlines the nature of the problem and renders clear how to fix this overlooked and unjustified encroachment on liberty.

##### *Are Preventive Detentions a Takings? (conceptualizing)*

This paper examines whether and how the policy design of preventive detention could be informed by the law and policy of eminent domain.

##### *Are Super-majorities Relevant to the Over-criminalization Crisis? (conceptualizing)*

In recent years, a number of distinguished scholars have argued that we face a crisis of over-criminalization and excessive and harsh punishment. This paper explores some of the conceptual and normative claims at stake in this conversation. One possible check on this development is a new procedural rule: the requirement of super-majorities in the legislature to pass new criminal laws or to enhance punishments. The discussion in this paper will not only address the costs and benefits of such a rule but also include some empirical analysis of recent legislative trends at the state and federal level.

*Retributive Justice in Criminal Procedure (conceptualizing)*

The tropes of retributive justice norms are thought to dominate various doctrines of substantive criminal law. This article looks at a cluster of doctrines associated with a defendant's procedural rights at adjudication and examines which of those doctrines are consistent with the animating ideals of retributive justice and which ones are not. The article then explains whether the desert-deviating doctrines are otherwise justifiable, and, if so, on what grounds.

*Time and Punishment (procrastinating)*

This paper examines the normative conundra associated with how the passage of time affects the institutional imposition and distribution of punishment in criminal law and procedure. Specifically, I explore what principles have been articulated by courts and other political actors to justify temporal limits on criminal responsibility such as those found in statutes of limitations; determinations of offender competence pre-, during, and post-adjudication; the effects of intervening changes in the law and related issues of retroactivity; and choices regarding consecutive and concurrent sentencing. I am chiefly interested in explaining what the time constraints are in the context of criminal law, and whether they endure bare scrutiny.

**OTHER PUBLICATIONS**

20. Op-ed, [What if Fans Could Have Paid Jeremy Lin to Stay in New York](#), The Atlantic, July 23, 2012 (with Howard Wasserman).
19. Op-ed, [Bowling, As Bail Condition](#), NY Times, July 13, 2012 (with Eric J. Miller).
18. Op-ed, [The Benefits of Free](#), The Forward, June 29, 2012.
17. Op-ed, [Playing Double Jeopardy](#), Slate, June 19, 2012 (with Ethan J. Leib).
16. Op-ed, [Fire the Bail Bondsmen](#), Slate, June 19, 2012 (with Eric J. Miller).
15. Op-ed, [Damages Control](#), NY Times, July 1, 2010 (with Gregg D. Polsky).
14. [The Duty to Rescue and the Registry for Caregivers](#), NY Times Freakonomics Blog, July 17, 2009 (with Ethan J. Leib & Jennifer M. Collins).
13. [Sentencing Discounts for Parents?](#) New York Times Freakonomics Blog, July 15, 2009 (with Ethan J. Leib & Jennifer M. Collins).
12. [When the Fugitive is a Family Member](#), New York Times Freakonomics Blog, July 13, 2009 (with Ethan J. Leib & Jennifer M. Collins).
11. ["Family Values" and the Law](#), New York Times Freakonomics Blog, July 9, 2009 (with Ethan J. Leib & Jennifer M. Collins).
10. Review, [The Indispensable Berman on Booker](#), Prawfs.com, June 26, 2006
  - Cited as persuasive authority in [United States v. Kandirakis](#), 441 F.Supp.2d 282 (D.Mass. 2006)
9. Essay, [Redemption-Based Clemency for Stanley "Tookie" Williams: The Right Action for the Wrong Reason](#), Findlaw and CNN.com, December 9, 2005.
8. Essay, [Innocents Lost](#), Slate, November 29, 2005.
  - Also appeared in Dallas Morning News, December 4, 2005.
7. Review, [Summers' Hailstorm](#), The Jerusalem Post, September 8, 2005.
6. Review, [A Woman of Valor](#), The Jerusalem Post, March 18, 2005.
5. Review, [The Dying Art of Advocacy](#), The Jerusalem Post, January 23, 2005.
4. Editorial, [Humiliation is simply wrong](#), USA Today, September 1, 2004.
3. Essay, [Dirty Shame: The Ninth Circuit's dangerous endorsement of shaming punishments](#), The New Republic, August 17, 2004.
2. Op-ed, [Granting Patents Can Foster Crime](#), Nat'l L. J. Sept. 25, 2000

1. Review, [\*The Impertinence of Being Earnest\*](#), **The Globe and Mail**, Oct. 2, 1999.

## SELECTED PRESENTATIONS OR APPEARANCES

*Luck or Law: Is Indeterminate Sentencing Unconstitutional? (Reflections on the Constitutional Remedy)*  
FSU College of Law Faculty Colloquium, June 2013

*Justice and Mercy in Christianity and Law*

Annual Conference of Lumen Christi Institute at the University of Chicago and the Law Professors' Christian Fellowship, 2013

*Some Tips and Techniques for Scholars in Progress*

American Association of Law Schools Conference, January 2013

*Retributive Justice in Wicked Regimes*

Osgoode Hall Law School, York University, November 2012

*Catalyzing Fans*

FSU College of Law Faculty Colloquium, November 2013

*Vulnerability and Punishment*

Southeastern Association of Law Schools, August 2012

*Luck or Law: Is Indeterminate Sentencing Unconstitutional? (Reflections on the Constitutional Right)*

CrimProf Shadow Conference, Law and Society, May 2013

Pace Law School Faculty Colloquium, November 2012

NYU Crim Law Theory Colloquium, November 2012

Fed Soc Young Scholars Colloquium (selected in competitive process), June 2012

FSU College of Law Faculty Colloquium, June 2006 and June 2012

Southeastern Association of Law Schools, July 2006

Junior CrimProf Gathering, George Washington University Law School, July 2005

*Retributive Justice and the Demands of Democratic Citizenship*

Prawfsfest!-Phoenix, December 2010

Southwest Works in Progress Conference, Arizona State University, March 2011

Criminal Law Theory Colloquium, New York University School of Law, March 2011

University of Virginia School of Law, April 2011

Yale Law School Criminal Justice Roundtable, April 2011

Law and Society, San Francisco, June 2011

University of Iowa College of Law, August 2011

Suffolk Law School, September 2011

Touro Law School, November 2011

AALS FedSoc Faculty Conference, January 2012 (Winner, Young Legal Scholars Paper Competition)

*Moderator/Discussant for Vice and the Volenti Maxim* (by Michelle Dempsey)

Rutgers-Newark Conference on Vice and Crime, September 2011

*Making Punishment Safe for Democracy: A Reply to Professors Bowers, Cahill, & Duff*

Criminal Law Theory Colloquium, New York University School of Law, September 2011

*What Don't We Know About Family Ties and Criminal Justice? Notes for a Research Agenda*  
New York University School of Law, October 2011

*What Might Retributive Justice Be?*  
Conference on *The Retributive Tradition and Its Future*, St. John's Law, November 2011

*(How) Can Blogs Build a Better Academic Legal Community?*  
SEALS, Hilton Head, SC, July 2011

*Should Retributivists Care About Preventive Detention?*  
American Philosophy Association, Boston, December 2010

*Punishing Entities (Civilly)*  
Law & Society, Chicago, May 2010  
Prawfsfest!, Brooklyn Law School, July 2010

*Taxing Punitive Damages*  
Florida State University College of Law, August 2009  
Canadian Law and Economics Association, September 2009  
Prawfsfest!, Southwestern Law School, December 2009

*Privilege or Punish: Criminal Justice and the Challenge of Family Ties*  
Roundtable at Law & Society, May 2009

- with Alice Ristroph, Melissa Murray, Naomi Cahn, Don Braman, and Tommy Crocker  
Roundtable at Southeastern Association of Law Schools, August 2010
- with Meredith Harbach, Richard Myers, Elizabeth MacDowell, Emily Sack

*Statutory Penalties and Copyright Litigation*, February 2009

- Podcast Roundtable with UCLA Professor Douglas Lichtman; Charles Nesson; Catherine Sharkey; and Thomas Colby

*Bentham on Stilts: The Bare Relevance of Subjectivity to Retributive Justice*  
Law & Society, May 2009  
FSU-Prawfsfest!, May 2009  
FSU College of Law, June 2009  
Michigan State University College of Law, November 2009  
UNC-Chapel Hill School of Law, November 2009  
McGeorge Pacific Law School, December 2009

*Punitive Damages and Complex Litigation*  
University of Miami-Prawfsfest!, December 2008

*Executing Retributivism*  
Amherst College, October 2008  
FSU College of Law, August 2008

*How Should Punitive Damages Work?*  
FSU College of Law, May 2008



Prawfsfest! at Hofstra, July 2008  
Southeastern Ass'n of Law Schools, August 2008  
Marquette Law School, September 2008  
Canadian Law and Economics Association, September 2008  
Brooklyn Law School, November 2008  
SMU-Dedman School of Law, December 2008  
University of Houston Law Center, February 2009

*Understanding Retribution and Recidivism*

Criminal Law and Philosophy Symposium, Rutgers University, May 2008

*Punishing Family Status*

FSU College of Law's Criminal Law Working Group, October 2007  
Loyola Law School Prawfsfest!, December 2007  
Hofstra Faculty Workshop, March 2008  
U. Arizona Faculty Workshop, March 2008

*Retributive Justice in Criminal Procedure*

Southeastern Association of Law Schools, August 2007

*Retributive Damages*

PrawfsBlawg-UMiami Young Scholars Workshop, December 2006  
Tel-Aviv University Faculty of Law, June 2007  
Bar-Ilan University Faculty of Law, June 2007  
University of Haifa Faculty of Law, June 2007  
Law and Society, July 2007  
FSU College of Law's Criminal Law Working Group, October 2007  
Loyola Law School, Los Angeles, October 2007  
University of St. Thomas, Minneapolis, October 2007  
St. John's University School of Law, March 2008  
Cardozo Young Law and Philosophy Scholars, May 2008

*Wrong Turns on the Road to Alternative Sanctions*

William and Mary School of Law, November 2006

*Criminal Justice and the Challenge of Family Ties*

Washington University School of Law Faculty Colloquium, February 2006  
Law and Society Conference (with Jennifer Collins), July 2006  
University of Miami School of Law Faculty Workshop, October 2006  
Osgoode Hall Law School (York University) Faculty Workshop, October 2006  
Boston College School of Law Faculty Workshop, October 2006  
University of Maryland School of Law Faculty Workshop, November 2006

*Commuting Death Row: A Retributivist Defense*

Law & Society invited panelist with Jonathan Simon (Boalt); Austin Sarat (Amherst); and Nasser Hussain (Amherst), May 2004.

*Mercy: Private Virtue, Public Vice?*

UC-Berkeley Law Faculty Workshop, January 2004.  
University of Chicago Conference on "Doing Justice to Mercy: Problems and Prospects in Criminal Justice,"  
April 12-13, 2002.

Senior Fellows Colloquium, The Shalem Center in Jerusalem, March 2002.

*What's Wrong with the Welfarist Critique of Retribution?*

Law and Philosophy Society, Harvard Law School, May 2001.

*Tracking the Future: Emerging Legal Issues in Wireless Technology*

Presentation with Eric Saltzman at the Internet Law Institute of the National Association of Attorneys General, April 2001.

*Are Shaming Punishments Beautifully Retributive?*

Presentation at the Berkman Center Legal Theory Workshop, Harvard Law School, Feb. 2001.

### SELECTED MEDIA APPEARANCES

32. Richard Luscombe, [George Zimmerman appears briefly in court](#), The Guardian, April 12, 2012.
31. John Schwartz, [Severe Charge, With a Minimum Term of 25 Years](#), N.Y. Times, April 11, 2012.
30. Emily Bazelon, [Shame on You!](#), Slate, February 22, 2012.
29. Emily Yoffe, [Brotherly Love](#), Slate, February 16, 2012.
28. Jeff Zeleny & Richard A. Oppel, Jr., [Perry Proposes Overhaul of Washington](#), The New York Times, November 15, 2011.
27. Gary Marx & David Jackson, [State Targets Relatives Who Aid Fugitives](#), Chicago Tribune, Nov. 11, 2011.
26. Alexa Tsoulis-Reay, [Is Incest a Two-Way Street?](#), Slate, Dec. 10, 2010.
25. Marcia Coyle, [On Punitive Damages, A New Stance Ahead](#), Nat'l Law Journal, Nov. 1, 2010.
24. Dan Engber, [If a Siamese Twin Commits Murder, Does His Brother Get Punished, Too?](#), Slate, Jan 5, 2010.
23. Amir Efrati, [Judges Show Leniency to Military Veterans, Stirring Debate](#), Wall St. Journal Law Blog, Dec. 31, 2009.
22. Clyde Haberman, [Is 150 Years Appropriate, or Just Silly?](#), New York Times, July 3, 2009.
21. Ashby Jones, [Go Directly to . . . Authorship? More on Judge Urbina's Odd Sentence](#), Wall St. Journal Law Blog, June 12, 2009.
20. Clyde Haberman, [Imparting Some Shame to Those Who Trade in Greed](#), New York Times, January 27, 2009.
19. Jon Marcus, [Obama Exploits Academe to Staff His White House](#), Times Higher Education, Jan. 22, 2009.
18. Joe Lawlor, [What's a Parent to Do? Escaped Convict Case Raises Questions](#), The Flint Journal, June 11, 2008.
17. Shame and the Law, [Weekday on NPR \(audiofile\)](#), February 20, 2008.
16. John Faherty, [Offenders' mugs posted to deter DUI](#), Arizona Republic, Dec. 3, 2007.
15. Pallovi Gogoi, [Shaming and Shoplifting at Walmart](#), BusinessWeek, July 25, 2007.
14. Joana Dalila Santos, [Humilhacoes](#), Sabado (Portugal newsweekly), June 28, 2007.
13. Reymer Kluver, [Schandlaufen vorm Supermarkt Wie US-Richter Straftater an den Pranger stellen](#), Sueddeutsche Zeitung (Germany), May 16, 2007, page 3.
12. The Anthony Mazzarelli Show, CBS Radio, May 8, 2007.
11. Irina Peris, [Alternative Sanctions](#), BBC Russia, October 27, 2006.
10. Erica Grieder, [Ingenious Punishments: Their Object All Sublime](#), The Economist, October 12, 2006.
9. Howard Bashman, [The Battle over the Soul of Law Professor Blogs](#), The Legal Intelligencer, May 8, 2006.

8. Jeremy Hay, [Williams' Fate in Governor's Hands](#), The Press-Democrat, December 4, 2005.
7. Adam Liptak, [After 24 Years on Death Row, Clemency is Killer's Final Appeal](#), New York Times, A1, December 2, 2005.
6. Darren Everson, [No More Horsing Around](#), Slate, September 8, 2005.
5. Jeff Stryker, [Using Shame As Punishment: Have sex, get infamous](#), The San Francisco Chronicle, Sunday, March 13, 2005.
4. Interview with Heidi Collins, American Morning, CNN, October 6, 2004.
3. Interview with Bax & O'Brien, WAQY Radio, Springfield, MA, September 15, 2004.
2. Jane Eisner, [Bring back the stigma that made misbehaving a no-no](#), The Philadelphia Inquirer, March 21, 2004.
1. Richard Louv, [Welcome to the Era of the Global Pillory](#), The San-Diego Union-Tribune, September 29, 2002.

### **PROFESSIONAL SERVICE, MEMBERSHIPS & SUNDRY**

*Founder and Editor-in-Chief*, [Prawfs.com](#) (group law professor blog with ~5000 page-views/weekday)

- *Selected by the ABA Journal as one of the top 100 law blogs three years running through 2012*

*Organizer*

- Prawfsfest! Early Works in Progress Conference: 2006 (UMiami); 2007 (Loyola LA); 2008 (Hofstra); 2008 (UMiami); 2009 (FSU); 2009 (Southwestern); 2010 (Brooklyn); 2010 (ASU); 2011 (Loyola LA)

*Co-Organizer*

- NYC Criminal Law Theory Colloquium (meets 7-8 times annually since January 2011 at NYU)
- The Retributive Tradition and its Future (St. John's Law, NYC, November 4, 2011)
- Criminal Justice and the Constitution in 2020, ACS-FSU (around 20 participants and 4 panels) (TLH 2010)
- CrimProf Shadow Conference, 2013 Law and Society (Boston 2013) (around 16 panels and 60 participants)
- CrimProf Shadow Conference, 2012 Law and Society (Hawaii 2012) (around 10 panels and 40 participants)
- CrimProf Shadow Conference, 2011 Law and Society (around 40 participants and 10 panels) (SF 2011)
- CrimProf Shadow Conference, 2010 Law and Society (around 50 participants and 12 panels) (Chicago 2010)
- New Voices in Criminal Law, 2009 Law and Society (around 30 participants and 8 panels) (Denver 2009)

*Referee*, Oxford University Press

*Referee*, Cambridge University Press

*Referee*, University of Chicago Press

*Referee*, Legal Theory

*Referee*, Law and Philosophy

*Referee*, Australasian Journal of Philosophy

*Referee*, Philosophical Quarterly

*Referee*, Israel Science Foundation

*Referee*, Public Affairs Quarterly

*Referee*, Punishment & Society

*Referee*, Studies in Law, Politics & Society  
*Referee*, Law, Culture & the Humanities

*Tenure or Promotion Evaluations*: St. John's Law (2011), Hebrew University of Jerusalem Faculty of Law (2012), Tel Aviv University Faculty of Law (2012); Academic Center of Law & Business (Israel) (2012)

*Secretary*, AALS 2013 Scholarship Section Executive Committee (chair-elect for 2014)  
*Member*, AALS Criminal Justice Section

*Co-Chair/Committee Member*, Harvard Law School 5th Year and 10<sup>th</sup> Year Reunion Class Gift Committee  
*Board Member*, Shomrei Torah, Tallahassee, FL (2009-12)

*Interviewer*, Schools Committee of Harvard College Alumni Association

*Member* of the Bar in the United States Court of Appeals for the Ninth Circuit; District Court of the District of Columbia; and District of Columbia Bar Association.

### PRIOR POSITIONS

**2002-2005 Associate, Kellogg, Huber, Hansen, Todd, Evans, & Figel, Washington D.C.**

- Criminal defense matters including:
  - *United States v. Gementera*, 379 F.3d 596 (9th Cir. 2004)
    - Amicus counsel of record for law professors seeking rehearing of case permitting a shaming punishment
  - *United States v. Gordon* (9th Cir. 2004)
    - Briefed and argued cause in bank fraud and false statements case; secured remand for re-sentencing
  - *United States v. Gewin, et al.* (D.D.C. 2004)
    - Lead briefing responsibilities for drafting over 400 pages during complex conspiracy, wire fraud, and securities fraud trial
- Appellate Litigation
  - Briefed various cases at cert. and merits stages in U.S. Supreme Court

**2001-02 Research Fellow, Berkman Center for Internet & Society, Harvard Law School**

**2001-02 Law Clerk, Judge Michael D. Hawkins, U.S. Court of Appeals for the Ninth Circuit**

**1997-2001 Teaching Fellow, Harvard University Faculty of Arts and Sciences**

- Taught philosophy of law; political theory; theism and moral reasoning
- Senior Thesis Advisor, Government Department, Harvard College
- Recipient of Bok Prize for Teaching Excellence, Harvard College

**1999 Summer Associate, Mayer, Brown & Platt, Washington, D.C.**

- Drafted cert. petition for *United States v. Jones*, 178 F.3d 479 (7th Cir. 1999) (challenging federal arson statute); cert. granted, decision reversed 9-0, *see Jones v. United States*, 120 S. Ct. 1904 (2000)

**1995-96 Legislative Aide, Dr. Naomi Chazan, M.K., Deputy Speaker, Israeli Knesset**