

## SUSAN A. BANDES

### CONTACT INFORMATION

Centennial Distinguished Professor Emeritus  
DePaul University College of Law  
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### EDUCATION

Law School: University of Michigan, J.D. 1976.  
Undergraduate: State University of New York at Buffalo; Bachelor of Arts *summa cum laude*, Phi Beta Kappa; with departmental honors in English literature, 1973.

### COURSES AND AREAS OF INTEREST:

Criminal Procedure, Criminal Law, Federal Courts, Civil Rights, Capital Punishment, Policing and Police Accountability, Law and Emotion, Law and Literature

### ACADEMIC EXPERIENCE

July 2017 to present Centennial Distinguished Professor Emeritus, DePaul University College of Law  
July 2012 to July 2017 Centennial Distinguished Professor, DePaul University College of Law  
July 2011 to July 2012 Professor of Law and Dean's Distinguished Scholar, University of Miami Law School, Coral Gables, FL.  
August 1984 to 2011 DePaul University College of Law, Chicago IL  
Distinguished Research Professor since 2003; Tenured full professor since 1990.

### VISITORSHIPS AND APPOINTMENTS

Fall 2019 Visiting Professor, Brooklyn Law School  
May 2019 Fulbright Specialist, Uppsala University, Sweden  
August 2017 to August 2018 Distinguished Research Scholar, Center for Policing Equity  
January 2017 Visiting Scholar, New York University School of Law

March 2016	Distinguished Visiting Scholar, University of New South Wales
July 2012-June 2015	Visiting Professorial Fellow, University of New South Wales
Spring 2011	Visiting Professor, University of Miami Law School.
Fall 2010	Visiting Professor, Florida State University College of Law.
Fall 2007-Spring 2008	Visiting Professor, University of Chicago Law School.
Fall 2005	Visiting Scholar, U.C. Berkeley, Center for the Study of Law and Society.
Spring 1996	Visiting Professor, Northwestern University School of Law.

## EMPIRICAL RESEARCH PROJECTS

**Official collaborator** on research program investigating how emotion affects intergroup dynamics during individual and group decision making. Principal investigator: Professor Jessica Salerno at the Social Psychology and Law Lab, Arizona State University (funded by the NSF and American Bar Foundation). **Related work in progress:** An article coauthored with Professor Salerno based on results from the Emotion and Visual Evidence Project, testing the impact of gruesome photographs of a murder victim and jury instructions on mock jurors' judgments about the case, psychophysiological responses to the evidence, and the group deliberation process.

**Affiliated researcher** on the project **JUSTEMOTIONS: The Construction of Objectivity: an international perspective on the emotive-cognitive process of judicial decision-making**, studying the decision-making process employed by judges, prosecutors, and other legal actors, in Sweden, Scotland, the USA and Italy. (Funded by the European Research Council). <https://www.soc.uu.se/research/justemotions/>

## PUBLICATIONS

Ranked one of the 20 most cited law professors in criminal law and procedure for 2010-2014, in Brian Leiter's Law School Rankings, available at <http://leiterlawschool.typepad.com/leiter/2016/05/twenty-most-cited-criminal-law-procedure-faculty-in-the-united-states-2010-2014-inclusive.html> and 2000-2007, available at [http://www.leiterrankings.com/faculty/2007faculty\\_impact\\_areas.shtml](http://www.leiterrankings.com/faculty/2007faculty_impact_areas.shtml)

## Books

THE PASSIONS OF LAW. Anthology of original interdisciplinary essays on the subject of emotion and the law, published by New York University Press as a part of its *Critical America* series. I edited the book and wrote the introduction. Contributors include Martha Nussbaum, Robert Solomon, Jeffrie Murphy, Bill Miller, Martha Minow, Cheshire Calhoun, Dan Kahan, Judge Richard Posner, Austin Sarat, Toni Massaro and others (January 2000) (Paperback, NYU Press 2001).

The Edward Elgar Research Handbook on Law and Emotion (Susan A. Bandes, Jody Lynce Madeira, Katherine Temple and Emily Kidd White eds. 2020). Introduction available here: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3676084](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3676084)

## Law Reviews

What are victim impact statements for? Revisiting the information, healing, and public information rationales, *Brooklyn Law Review*, forthcoming 2022.

Empathy and Remote Legal Proceedings, 51 *Southwestern L. Rev.* 20 (2021).

Feeling and Thinking Like a Lawyer: Cognition, Emotion, and the Practice and Progress of Law, 89 *Fordham L. Rev.* 2427 (2021).

Virtual Trials: Necessity, Invention, and the Evolution of the Courtroom, 68 *Buffalo L. Rev.* 1275 (2020) (with Neal Feigenson) (cited extensively in *Vasquez Diaz v. Commonwealth of Massachusetts*, Massachusetts Supreme Judicial Court, May 5, 2021).

The Mismeasure of Terry Stops: Assessing the Psychological and Emotional Harms of Stop and Frisk to Individuals and Communities, 37 *Behavioral Sciences & the Law* 176 (2019) (with Phillip Atiba Goff, Erin Kerrison, and Marie Pryor).

Video, Popular Culture, and Police Excessive Force: The Elusive Narrative of Over-Policing, 2018 *University of Chicago Legal Forum*, available at <https://legal-forum.uchicago.edu/publication/video-popular-culture-and-police-excessive-force-elusive-narrative-over-policing>

Police Accountability and the Problem of Regulating Consent Searches, 2018 *Illinois Law Review* 1760 (2018), available at <https://illinoislawreview.org/print/vol-2018-no-5/police-accountability-and-the-problem-of-regulating-consent-searches/> (adapted and reprinted at 46 *Search and Seizure Law Report* 89 (August/September 2019)).

All Bathwater, No Baby: Expressive Theories of Punishment and the Death Penalty, 116 *Mich. L. Rev.* 905 (2018) (reviewing Steiker and Steiker, *Courting Death*).

Why Behavioral Reforms are More Likely than Implicit Bias Training to Reduce Racial Conflicts in U.S. Policing (with Jill Swencionis and Phillip Atiba Goff), *Scholars Strategy Network*, available at <https://scholars.org/brief/why-behavioral-reforms-are-more-likely-implicit-bias-training-reduce-racial-conflicts-us>

Compassion and the Rule of Law, 13 *Int'l Journal of Law in Context* 184 (2017). (This article was the subject of an appreciation in Jotwell, *The Journal of Things We Like (Lots)*. See <http://conlaw.jotwell.com/a-compassion-for-the-law/>)

What Executioners Can—and Cannot—Teach Us About the Death Penalty, 35 *Criminal Justice Ethics* 183 (2016).

Remorse and Demeanor in the Courtroom: Cognitive Science and the Evaluation of Contrition, in *The Integrity of Criminal Process: From Theory into Practice* (Hunter, Roberts, Young and Dixon eds. 2016).

Share Your Grief But Not Your Anger: Victims and the Expression of Emotion in Criminal Trials, in *The Expression of Emotion: Philosophical, Psychological and Legal Perspectives*, (Abell and Smith eds. 2016)

Remorse and Criminal Justice, *Emotion Review* (Special Issue on Law and Emotion, Susan Bandes and Terry Maroney eds.) pp 1-6 (December 2015).

Moral Shock and Legal Education, 65 *Journal of Legal Education* 201 (2015). (symposium on the impact of Ferguson on legal education).

Empathy and Article III: Judge Weinstein, Cases and Controversies, 64 *DePaul Law Review* 317 (2015).

Taz and Empathy, 58 *Howard L. J.* 397 (2015) (symposium in honor of Andrew Taslitz).

Emotion, Proof and Prejudice: The Cognitive Science of Gruesome Photos and Victim Impact Statements (with Jessica Salerno), 46 *Arizona State L. J.* 1003 (2014).

Remorse, Demeanor and Misinterpretation: The Limits of Law as a Window into the Soul, 3 *Journal of law, religion and state* 170-199 (2014).

Remorse and Demeanor in the Courtroom: The Cognitive Science of Evaluating Contrition, in *The Integrity of Criminal Process: From Theory into Practice* (Hunter, Roberts, Young and Dixon eds.) Hart Publishing. (Forthcoming 2016).

Civil Liberties and the “Imaginative Sustenance” of Jewish Culture, 16 *Rutgers Journal of Law and Religion* 238 (2015).

Emotion and Deliberation: The Autonomous Citizen in the Social World, (reply to George Marcus’s “Reason, Passion, and Democratic Politics”), *Nomos* LIII 189 (J. Fleming, ed. 2013).

Emotions and Risk Regulation, in *Studies in Law, Politics and Society* (Lange, Sarat and Thomas eds. 2013).

Emotion and the Law, 8 *The Annual Review of Law and Social Science* 161(2012) (with Jeremy Blumenthal).

Moral Imagination in Judging, 51 *Washburn L. Rev.*1 (2011) (the issue features this article, based on my 2011 Annual Foulson-Siefkin lecture, as well as articles commenting on it).

The Lone Miscreant, The Self-Training Prosecutor, and Other Fictions: A Comment on *Connick v. Thompson*, 80 *Fordham L. Rev.* 715 (2011) (Symposium: Official and Municipal Liability for Constitutional and International Torts Today: Does the Roberts Court Have an Agenda?).

Transcript of Remarks for symposium on Brain Sciences in the Courtroom, 62 *Mercer L. Rev.*811 (2011).

And All the Pieces Matter: Thoughts on *The Wire* and the Criminal Justice System, 8 *Ohio State Journal of Criminal Law* 435 (2011) (Symposium on the HBO series “*The Wire*”). Reprinted in Collins, Peter A. & David C. Brody, eds. (Forthcoming 2013). *Crime and Justice in the City as Seen Through “The Wire.”* Carolina Academic Press.

The Promise and Pitfalls of Neuroscience for Criminal Law and Procedure, 7 *Ohio State Journal of Criminal Law* 119(2010) (Symposium: Neuroscience, Cognitive Psychology, and the Criminal Justice System).

Is it Immoral to Punish the Heedless and Clueless? 29 *Law and Philosophy* 443 (2010). (Symposium on Alexander, Ferzan and Morse, Crime and Culpability) Available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1476602](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1476602)

Protecting the Innocent as the Primary Goal of the Criminal Justice System, reviewing George Thomas, *The Supreme Court on Trial*, 7 *Ohio State Journal of Criminal Law* 413 (2009). Available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1431231](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1431231)

Empathetic Judges and the Rule of Law, 2009 *Cardozo Law Review De Novo* 133, available at [http://www.cardozolawreview.com/index.php?option=com\\_content&view=article&id=111:bandes2009133&catid=19:empathyandjustice&Itemid=23](http://www.cardozolawreview.com/index.php?option=com_content&view=article&id=111:bandes2009133&catid=19:empathyandjustice&Itemid=23)

Repellent Crimes and Rational Deliberation: Emotion and the Death Penalty, 33 *Vermont Law Review* 489 (2009).

Foreword to Emotions in Context symposium, 33 *Vermont Law Review* 387 (2009).

Child Rape, Moral Outrage, and the Death Penalty, 103 *Northwestern Law Review Colloquy* 17 (2008), <http://northwestern-colloquy.typepad.com/>

Emotions, Values, and the Construction of Risk, 156 *U. PA. L. REV. PENNumbra* 421 (2008), <http://www.pennumbra.com/responses/03-2008/Bandes.pdf> (response to article by Dan Kahan).

Framing Wrongful Convictions, 2008 *Utah Law Review* 5 (Symposium: Beyond Biology: Wrongful Convictions in the Post-DNA World).

Victims, ‘Closure,’ and the Sociology of Emotion, 72 *Law and Contemporary Problems* 1 (2009), (Symposium: Group Conflict Resolution: Sources of Resistance to Apology, Forgiveness and Reconciliation). Reprinted in *Recht und Emotion II* (Landweer and Bernhardt eds. 2017).

The Heart has its Reasons: Examining the Strange Persistence of the American Death Penalty, 42 *Studies in Law, Politics and Society* 21 (Austin Sarat ed. 2008). Available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1019615](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1019615) This article was chosen as one of 35 “core texts” for *CRIMINAL LAW CONVERSATIONS* (Robinson, Ferzan and Garvey, Oxford University Press 2009). The core text is followed by the comments of eight criminal law scholars and my reply to those comments. The core text and my reply are available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1658480](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1658480)

We Lost it at the Movies: The Rule of Law Goes from Washington to Hollywood and Back Again, 40 *Loyola L.A. L. Rev.* 621 (2007) (Symposium: Access to Justice: Law and Popular Culture).

When Freedom of Information Came to Illinois, 75 *UMKC L. Rev.* 1145 (2007) (inaugural issue of annual volume on ‘law stories’).

The Lessons of *Capturing the Friedmans*: Moral Panic, Institutional Denial, and Due Process, 3 *The Journal of Law, Culture and Humanities* 293 (2007). Available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=781585](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=781585) Cited extensively in *Friedman v. Rehal*, (618 F.3d 142 (2d Circuit 2010).

Judging, Politics and Accountability: A Reply to Charles Geyh, 56 *Case Western Reserve Law Review* 947 (2006) (symposium on judicial accountability).

Loyalty to One’s Convictions: The Prosecutor and Tunnel Vision, 49 *Howard Law Journal* 475 (2006) (symposium on loyalty).

Repression and Denial in Criminal Lawyering. 9 *Buffalo Criminal Law Review* 339 (2006).

Fear Factor: The Role of Media in Covering and Shaping the Death Penalty, 1 *Ohio State Journal of Criminal Law* 585 (2004).

Introduction, Race to Execution Symposium, 53 *DePaul Law Review* 1403 (2004).

Not Enough Blame to Go Around: Reflections on Requiring Purposeful Government Misconduct, 68 Brooklyn Law Review 1195 (2003) (Symposium: Responsibility and Blame: Psychological and Legal Perspectives).

Searching for Worlds Beyond the Canon: Narrative, Rhetoric, and Legal Change, reviewing Anthony Amsterdam and Jerome Bruner, *Minding the Law*, 28 Law and Social Inquiry 271 (2003).

Fear and Degradation in Alabama: The Emotional Subtext of *University of Alabama v. Garrett*, 5 University of Pennsylvania Journal of Constitutional Law 520 (2003) (21<sup>st</sup> Annual Edward V. Sparer Symposium at the University of Pennsylvania Law School: Suing the Government: *Velazquez* and Beyond).

Power, Privacy, and Thermal Imaging, 86 Minnesota L. Rev 1379 (2002) (Symposium: Modern Studies in Privacy Law).

Treaties, Sovereign Immunity, and the Plan of the Convention, 42 Virginia Journal of International Law 743 (2002) (Symposium: Federal Courts and Foreign Affairs).

What's Love Got to Do With It?, 8 William and Mary Journal of Women and the Law 97 (2001) (symposium in honor of Susan A. Bandes, *The Passions of Law*).

*Erie* and the History of the One True Federalism, reviewing Purcell, *Brandeis and the Progressive Constitution*, 110 Yale Law Journal 829 (2001).

Tracing the Pattern of No Pattern: Stories of Police Brutality, 34 Loyola Los Angeles Law Review 665 (2001) (Symposium: The Rampart Scandal: Policing the Criminal Justice System).

Running Away With the Circus: Untapping the Subversive Potential of Civil Litigation's Narratives, 50 DePaul Law Review 575 (2000) (Symposium: Civil Litigation and Popular Culture).

When Victims Seek Closure: Forgiveness, Vengeance, and the Role of Government, 27 Fordham Urban Law Journal 1599 (2000) (Symposium: The Role of Forgiveness in the Law).

Patterns of Injustice: Police Brutality in the Courts, 47 Buffalo Law Review 1275 (1999).

*Terry v. Ohio* in Hindsight: The Perils of Predicting the Past, 16 Constitutional Commentary 491 (1999) (Symposium: The Sound of Legal Thunder: The Chaotic Consequences of Crushing Constitutional Butterflies).

Introduction: The Emperor's New Clothes, 48 DePaul Law Review 619 (1999) (Symposium: Section 1983 Municipal Liability in Civil Rights Litigation).

The *Rooker-Feldman* Doctrine: Evaluating its Jurisdictional Status, 74 Notre Dame Law Review 1175 (1999) (symposium on the *Rooker-Feldman* Doctrine).

Reply to Paul Cassell: What We Know About Victim Impact Statements, 1999 Utah Law Review 545 (1999) (symposium on victims' rights).

Victim Standing, 1999 Utah Law Review 331 (1999) (symposium on victims' rights).

Lawyering Up, 2 The Green Bag 2d 5 (1998) (with Jack Beermann).

We the People, and Our Enduring Values, reviewing Akhil Reed Amar, *The Constitution and Criminal Procedure: First Principles*, 96 Michigan Law Review 1376 (1998).

Empathy, Narrative, and Victim Impact Statements, 63 *University of Chicago Law Review* 361 (1996). (reprinted in *CAPITAL PUNISHMENT: THE ACTORS IN THE PROCESS* (Austin Sarat ed. Ashgate 2005) and in *Nussbaum and Law* (Robin West ed. Ashgate 2015) in the *Philosophers and Law Series*).

The Jury System and Leap of Faith, reviewing Jeffrey Abramson, *We, The Jury*, and Stephen J. Adler, *The Jury*, 46 *Journal of Legal Education* 114 (1996).

Simple Murder: A Comment on the Legality of Executing the Innocent, 44 *Buffalo Law Review* 537 (1996) (Symposium: The New York Death Penalty in Context).

Reply to Daniel Polsby, 44 *Buffalo Law Review* 537 (1996) (Symposium: The New York Death Penalty in Context).

Reinventing *Bivens*: The Self-Executing Constitution, 68 *Southern California Law Review* 289 (1995).

The Federalization of State Law, 44 *DePaul Law Review* 715 (1995) (symposium).

Taking Justice to its Logical Extreme: A Comment on *Teague v. Lane*, 66 *Southern California Law Review* 2453 (1993) (symposium: The Future of Habeas Corpus: Reflections on *Teague v. Lane* and Beyond).

The Negative Constitution: A Critique, 88 *Michigan Law Review* 2271 (1990) (reprinted in *RIGHTS* (Robin West ed. 2000)).

The Idea of a Case, 42 *Stanford Law Review* 227 (1990).

Taking Some Rights Too Seriously: The State's Right to a Fair Trial, 60 *Southern California Law Review* 1019 (1987).

*Monell, Parratt, Daniels and Davidson*: Distinguishing a Custom or Policy from a Random, Unauthorized Act, 72 *Iowa Law Review* 101 (1986).

## **Book Chapters**

From Dagnet to Brooklyn 99: How Cop Shows Excuse, Exalt and Erase Police Brutality, available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3835444](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3835444) (forthcoming in the *Routledge Handbook of Police Brutality in America* (Thomas Aiello ed 2022)).

Remorse and Judging, in *Remorse in Criminal Justice: Multidisciplinary Perspectives*, (Proeve, Tudor, Rossmannith and Weisman eds. Routledge, Taylor & Francis Group 2021).

Closure in the Criminal Courtroom: The Birth and Strange Career of an Emotion, in *The Edward Elgar Research Handbook on Law and Emotion* (Susan A. Bandes, Jody Lynee Madeira, Katherine Temple and Emily Kidd White eds, 2021). [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3457952](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3457952)

Share Your Grief but Not Your Anger: Victims and the Expression of Emotion in Criminal Justice, in *Emotional Expression: Philosophical, Psychological, and Legal Perspectives* (Smith and Abell eds.) Cambridge University Press. (forthcoming 2016).

The Challenges of “Quality of Life Policing” for the Fourth Amendment, in *The Constitution in 2020: The Future of Criminal Procedure* (Parry and Richardson eds. 2013).

## **Treatises**

*International Encyclopedia of the Social & Behavioral Sciences* 461-467 (2d ed. 2015 (article on Law and Emotion).

*Moore's Federal Practice, Volume 18, Third Edition* (1997) (with Larry Solum). (section on intersystemic preclusion).

*The Oxford Companion to the Supreme Court of the United States* at 290-291 (entry on The Eleventh Amendment) (2d Edition 2005).

## **Practice journals, newspapers and on-line journals**

What Are Victim Impact Statements for? *The Atlantic*, July 23, 2016.

The Arrest Power Unchained, Jotwell, July 13, 2015, available at [http://crim.jotwell.com/the-arrest-power-unchained/?utm\\_source=feedburner&utm\\_medium=feed&utm\\_campaign=Feed%3A+Jotwell+\(Jotwell\)](http://crim.jotwell.com/the-arrest-power-unchained/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+Jotwell+(Jotwell))

Book review: Meredith Rossner, "Just Emotions," Rutgers Criminal Law and Criminal Justice Books, available at <http://cljbooks.rutgers.edu/books/just-emotions.html>

Book review, Susanne Karstedt, "Emotions, Crime and Justice," Rutgers Criminal Law and Criminal Justice Books, available at [http://cljbooks.rutgers.edu/books/emotions\\_crime\\_and\\_justice.html](http://cljbooks.rutgers.edu/books/emotions_crime_and_justice.html)

Power Lies in the Emotion, Room for Debate, *The New York Times*, March 4, 2011, available at <http://www.nytimes.com/roomfordebate/2011/03/03/picketing-funerals-when-free-speech-feels-wrong/speeches-power-lies-in-the-emotion>

What Does it Feel Like to be a Lawyer? Jotwell, April 16, 2013, available at <http://crim.jotwell.com/what-does-it-feel-like-to-be-a-lawyer/>

One Solution to the Enigma of Victims' Rights Theory, Jotwell, January 27, 2011, available at <http://crim.jotwell.com/one-solution-to-the-enigma-of-victims%E2%80%99-rights-theory/>

Parallel Play: The Disconnect between Criminal Procedure and Criminology Revisited, Jotwell, December 17, 2009, available at <http://crim.jotwell.com/parallel-play-the-disconnect-between-criminal-procedure-and-criminology-revisited/>

The Roberts Court and the Future of the Exclusionary Rule, American Constitution Society Issue Brief, April 1, 2009, available at <http://www.acslaw.org/node/8512>

Rethinking "Closure," interview in ARTICLE 3, the newsletter of Murder Victims' Families for Human Rights, Fall 2008/Winter 2009 available at <http://www.murdervictimsfamilies.org/sites/default/files/pdf/MVFHR8-08.pdf>

To Reform the LAPD, More Civilian Pressure is Necessary, *Los Angeles Times* p. M6, November 19, 2000.



## **PRESENTATIONS (SELECTED)**

### **Keynotes**

Endowed Lecture: Howard Lichtenstein Distinguished Lecture: “Is Emotion the Enemy of Reason? The Role of Emotion in the Legal System, Hofstra Law School, October 20, 2022

Emotional Scripts and Public Demeanour: The Role of Science and Folk Knowledge in Evaluating Credibility, Public Lecture, Queen’s University, Belfast, October 4, 2018.

Empathy, Compassion and the Rule of Law, Concluding Lecture in “Questioning Passion” series, Washington and Lee Law School, April 5, 2016.

Compassion and the Rule of Law, Institute for Advanced Legal Studies, London, UK, July 1, 2015.

Moral Imagination in Judging, The 2011 Annual Foulston Siefkin Lecture at Washburn Law School, March 11, 2011.

Wicklender Fellowship Keynote Address: Some Thoughts about the Role of Emotion and Morality in Capital Punishment, DePaul University, May 26, 2010.

Repellent Crimes and Rational Deliberation: Emotion and the Death Penalty, The Barbara Black Spring Lecture on Women and the Law at Columbia Law School, March 22, 2005.

### **Invited Presentations (selected, 2010-present)**

Co-organizer and presenter at symposium on The Role of Victims in the Criminal Justice System, hosted by Brooklyn and Fordham Law Schools, September 24<sup>th</sup>, 2021 (papers to be published in the Brooklyn Law Review in Spring 2022)

Closure in the Criminal Courtroom: The Birth and Strange Career of an Emotion, at Brooklyn Law School, October 2019, and University of Miami Law School, January 2020.

Law & Emotion: Empathy, Objectivity, and Remorse, Uppsala University, Sweden, May 13, 2019.

Expressions of Remorse and Apology in Criminal Justice, Cardiff University, Wales, UK, September 28, 2018

Emotion, Logic, and Courtroom Credibility, University of Strathclyde, Glasgow, UK, September 26, 2018

Police Accountability and the Problem of Regulating Consent Searches, Conference on Federal Responses to Police Accountability, University of Illinois Law School, April 4, 2018.

Fighting the War on Drugs One Brutality Case at a Time, University of Chicago Legal Forum 2017 Annual Symposium: Law and Urban Institutions Ten Years After “The Wire,” October, 2017.

Is Remorse Visible? The Challenges of Evaluating Remorse in the Courtroom, Colorado Judicial Conference, September 2017.

Empathy and Judging, at the 2017 Law and Society Association Annual Meeting, Mexico City, June 17, 2017.

Remorse in the Courtroom, at the 2017 CACJ/CPDA Capital Case Defense Seminar, San Diego, CA, February 18, 2017.

Empathy, Compassion and the Rule of Law, Concluding Lecture in “Questioning Passion” series, Washington and Lee Law School, April 5, 2016.

Emotional Expression and Victim Impact Statements, at University of New South Wales, Conference on Law, Reason and Emotion, March 18, 2016.

The Debate Over Empathy in Judging, International Society for Research on Emotion, biennial conference, University of Geneva, July 9, 2015.

Share Your Grief but Not Your Anger: Victim Impact Statements and the Expression of Emotion at Criminal Trials, Conference on Cognition and Emotion, University of Manchester (UK), June 10-11 (2014), Workshop on Gender at the University of Chicago Law School, May 20<sup>th</sup>, 2015 and the Law and Society Annual Meeting, Seattle, WA, May 30<sup>th</sup>, 2015.

Remorse, Demeanor and the Consequences of Misinterpretation: The Limits of Law as a Window into the Soul, Cardozo Law School, conference on law, religion and emotion, April 26, 2014; Loyola Law School Civitas Child Law Clinic, March 5, 2014; SMU Law School Criminal Justice Conference, January 24, 2014; Law and Philosophy Colloquium, University of Texas, November 21, 2013; University of Iowa Faculty Workshop, September 12, 2103; 2013 conference, International Society for Research on Emotion, Berkeley, CA., August 6, 201; Conduct Unbecoming Conference, UNSW, April 5-6, 2013; William and Mary Law School, Williamsburg, VA. February 26, 2013.

Gruesome Photos, Victim Impact Statements, and the Limits of Evidentiary Discourse: Reconsidering the Probative, the Prejudicial, and the Emotional, 2013 Annual Meeting, Law and Society Association, Boston, MA, May 31-June 2, 2013; U.C. Irvine Center for Law, Society and Culture, May 6, 2013

And All the Pieces Matter: Thoughts on The Wire, at the American Society of Criminology Annual Meeting, Chicago, IL, Nov. 14, 2012; Law and Society Annual Conference, Chicago, May 27, 2010.

Repellent Crimes and Rational Deliberation: Emotion and the Death Penalty, at Wayne State Law School, April 14, 2011; FIU Law School, April 7, 2011; University of Miami Law School, December 1, 2010; International Society for Research on Emotion, Leuven, Belgium, August 6, 2009; Gruter Institute for Law and Behavioral Research, conference on Law, Behavior and the Brain, Squaw Valley, California, May 20, 2009; Law and Culture Workshop, NYU Law School, April 3, 2008; U.C. Berkeley Center for Law and Policy, November 22, 2005.

The Lone Miscreant, The Self-Training Prosecutor, and Other Fictions: A Comment on Connick v. Thompson, Fordham Law School, April 8, 2011.

Moral Imagination in Judging, at the Social Science History Association Annual Meeting, Vancouver, Canada, Nov. 3, 2012; Chicago-Kent College of Law, November 30, 2011.

Reason, Passion, and Democratic Politics, at the Annual Meeting of the American Society for Political and Legal Philosophy, Washington D.C., December 29, 2010.

Is it Immoral to Punish the Heedless and Clueless?: symposium on Brain Sciences in the Courtroom, Mercer Law

School, October 22, 2010; Gruter Institute Conference on Law, Behavior and the Brain, Squaw Valley, CA, May 25, 2010.

The Fourth Amendment and Equality, conference on The Constitution in 2020: The Future of Criminal Justice, Florida State Law School, October 8, 2010.

Emotion and Risk Regulation, at the conference on Economic Perspectives on Transnational Risk Regulation, Centre for Socio-Legal Studies, Oxford, U.K. April 13-14, 2010.

The Exclusionary Rule in the Roberts Court, University of West Virginia Law School, March 12, 2010.

Neuroscience, Cognitive Psychology and the Criminal Justice System, AALS Annual Meeting, New Orleans, January 8, 2010 (organizer and moderator).

Remorse and Law, AALS Annual Meeting, panel on Emotions and Behavior, New Orleans, January 7, 2010.

### **Academic Conferences Organized**

Symposium on The Role of Victims in the Criminal Justice System, hosted by Brooklyn and Fordham Law Schools, September 24<sup>th</sup>, 2021 (papers to be published in the Brooklyn Law Review in Spring 2022)

University of New South Wales, Conference on Law, Reason and Emotion, March 18, 2016 (with Jill Hunter, UNSW).

Florida State Law School, The Constitution in 2020: The Future of Criminal Justice. Conference (cosponsored by the American Constitution Society and Florida State University College of Law), October 7-8, 2010 (with Wayne Logan and Dan Markel).

University of Chicago Law School, conference on Emotion in Context: Exploring the Interaction between Emotions and Legal Institutions, May 9-10, 2008 (with Martha Nussbaum, University of Chicago). The articles from this conference appear in Volume 33 of the Vermont Law Review.

U.C. Berkeley School of Law, Conference on Law and the Emotions: New Directions in Scholarship, February 8-9, 2007 (with Kathryn Abrams, Berkeley, Hila Keren, Southwestern, and Terry Maroney, Vanderbilt).

DePaul Law School, Race to Execution Conference, October 25 and 26<sup>th</sup>, 2003 (with Andrea Lyon, Valparaiso).

University of Chicago Law School, Law and Emotion, May, 1998 (with Martha Nussbaum). This conference led to my book *The Passions of Law* (2000).

### **LEGAL EXPERIENCE**

June 1981 to August 1984	STAFF COUNSEL American Civil Liberties Union 203 North LaSalle Street, Chicago, IL
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Represented clients in civil rights litigation, mainly in federal court, including a wide range of constitutional cases, complex Title VII class action practice, and habeas corpus practice. Participated as lead or co-counsel in federal trials, federal evidentiary hearings, state and federal preliminary injunction hearings, argument of complex motions, and hearing before Illinois Human Right Commission.

Coordinated ACLU's legislative program. Reviewed and drafted state, county, and municipal legislation. Drafted and successfully lobbied for Illinois Freedom of Information Act. Testified frequently before legislative committees and commissions.

Addressed academic and professional groups and news media on civil liberties issues.

October 1976 to June 1981

**STAFF ATTORNEY**

Office of the State Appellate Defender  
100 West Randolph Street, Chicago, IL

Represented clients convicted of felonies in over one hundred appeals to the Illinois Appellate Court. Argued frequently before the Appellate Court. Argued before the Illinois Supreme Court and the Seventh Circuit Court of Appeals. Filed several petitions for certiorari, as well as petitions for federal habeas corpus.

Summer 1975

**SUMMER ASSOCIATE**

Spiegel and McDiarmid  
1600 Virginia Avenue, Washington, D.C.

The firm represented municipal power companies in plaintiffs' antitrust litigation against large power companies before the Federal Power Commission and the federal courts. As a law intern, assisted in the research and writing of briefs and other preparation for complex litigation, and in several administrative hearings

**COMMUNITY ACTIVITIES (law related)**

Members Consultative Group, Project on Principles of the Law, Policing, American Law Institute

Co-founder, Collaborative Research Network on Law and Emotion, Law and Society Association (with Jill Hunter and Jody Lynee Madeira)

Member, Advisory Board, Criminology, Criminal Justice, Law & Society: A Transdisciplinary Journal of Scholarly Inquiry, Policy, Practice, & Pedagogy.

Member, Advisory Board, Emotions: History, Culture, Society, the publication of the Australian Research Council Centre of Excellence for the History of Emotions

Member, Board of Advisors, Project on Knowledge of Emotion: Expression and Social Cognition (Abell, Goldie and Smith, project directors).

Senior Scholar at Annual Federal Courts Workshop for Junior Scholars, FIU Law School, February 2-4, 2012.

Senior Scholar at Second Annual Federal Courts Workshop for Junior Scholars, Michigan State Law School, October 22-23, 2009.

Contributing editor to *Jotwell: The Journal of Things We Like (Lots)*, Criminal Law/Criminal Procedure/Criminology Section.

Research Fellow, Gruter Institute for Law and Behavioral Research, as of November 2007.

Reviewer, *Law and Social Inquiry*, *Emotion Review*, *Law and Society Review*, *Journal of Law, Culture and Humanities*, *Law and Philosophy*, Oxford University Press, University of Chicago Press, *Emotion Review*, Kluwer Press, Vanderbilt University Press, NYU Press, among others.

Member, Advisory Committee, Appleseed Fund for Justice Examination of the Criminal Justice System in Cook County, which released A Report on Chicago's Felony Courts in December, 2007. The report is available at <http://www.chicagoappleseed.org/>

Law and Society Association, Member, Planning Committee, 205-2016 for the 2016 Annual Meeting; Local Arrangements Committee 2003-04, for 2004 Annual Meeting. Member, Graduate Student Workshop Planning Committee, 1998-99, for 1999 Annual Meeting and 2010-2011 for 2011 Annual Meeting. Member, Article Prize Committee, 2006-07, for 2007 Annual Meeting, and 2008-09, for 2009 Annual Meeting.

Criminal Justice Colloquium Fellow, The University of Chicago Law School, Spring 2002.

Organizer, Conference on Stresses of Capital Defense Litigation: Their Effects on Jury Selection, sponsored by the DePaul Humanities Institute and DePaul College of Law, March 19, 2001 (with Andrea Lyon).

Co-reporter (with Professors Robert Mosteller and Steven Saltzburg) for the Death Penalty Initiative of The Constitution Project, (2000-2001). The reporters, on behalf of the committee, drafted a sixty-six page report containing eighteen recommendations for reforming death penalty administration. See *Mandatory Justice: Eighteen Reforms to the Death Penalty*, July 3, 2001 (available at <http://www.constitutionproject.org> (Death Penalty Initiative/Mandatory Justice)).

Board of Governors of the Chicago Council of Lawyers, 1993 to 1997. (Board of Directors, Fund for Justice of the Chicago Council of Lawyers, 1988-1993). Participated in state judicial evaluation process. Drafted survey of law firms' pro bono policies.

Co-author of the Council of Lawyers evaluation of the Seventh Circuit judiciary, (section on Judge Posner) published at 43 *DePaul Law Review* 673 (1994).

Board of Directors, Public Interest Law Initiative, 1988-1993. Chair, Education Committee.

American Association of Law Schools: Chair of the Section on Federal Courts January 1995 to January 1996. Program chair, January 1994 to January 1995. Executive committee member, 1996 to present. Nominating committee, 2000. Article prize committee 2011. Executive committee member of Section on Constitutional Law, 1996. Executive committee member of Section on Criminal Justice, 2009 to present.

## **HONORS AND AWARDS**

Fulbright Specialist Grant, Uppsala University, May 2019

Member, American Law Institute (elected October 2016).

Fellow of the American Bar Foundation

Wicklander Fellowship (awarded by the University and the School of Commerce to one or two DePaul University faculty engaged in the study in applied and professional ethics) (2009-2010).

DePaul University "Spirit of Inquiry" Award (2015-2016 and 1999-2000).

DePaul Law School Faculty Achievement Award (2014-2015 and 1996-1997).

DePaul Law School Excellence in Scholarship Award (2007-2008 and 1998-1999).

DePaul Law School Distinguished Service Award (2003-2004).

DePaul University Excellence in Teaching Award (1994-1995).

DePaul Law School Outstanding Teacher Award (1986-1987).

Faculty Fellow, DePaul Humanities Center (2000-2001).