



AMERICAN UNIVERSITY LAW REVIEW

Anatomy of Justice:

An Honest Conversation on the Criminal Justice System in 2017

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American University
Washington College of Law
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WELCOME

The *American University Law Review* is very pleased to welcome you to its Annual Symposium: *Anatomy of Justice: An Honest Conversation on the Criminal Justice System in 2017*. Today's Symposium discusses the current state of the criminal justice system, an issue of growing importance in recent years.

As the title of the symposium suggests, today's event and its accompanying print volume of the *Law Review* will address various topics in the criminal justice system that are the focus of debates on Capitol Hill, policy choices in the Executive Branch, arguments in the Supreme Court, and discussions in academic circles. The *American University Law Review* is honored to have this prominent group of scholars and practitioners here today for a diverse, vigorous, and thoughtful dialogue on the issue.

Finally, this year the *Law Review* has the honor of dedicating its symposium and the accompanying print publication to the career of Judge Gerald Bruce Lee, who has demonstrated an unwavering commitment to justice and fairness in the criminal justice system.

Chiara Vitiello
Senior Symposium Editor
Volume 67

CLE Materials*

CLE materials for the Symposium are available at <http://auw.cl/fl7ajhc>.

**Upon request, the law school will submit applications to state bar associations for continuing legal education credits. Please note that CLE approval is ultimately at the discretion of individual states and no advance assurance can be given that credit will be granted in all cases. Please contact secl@wcl.american.edu with any questions.*

Acknowledgments

Today's event would not have been possible without the generous support and involvement of the Washington College of Law Faculty and its administration. The *American University Law Review* would like to express its gratitude to the following individuals: Dean Camille Nelson, Dean Lia Epperson, Professor Angela Davis, Professor Cynthia Jones, Professor Jenny Roberts, Professor Ira P. Robbins, Professor Ezra Rosser, Professor David Snyder, Professor Robert Tsai, alumnus Nathan Briggs ('09, Vol. 58), Jennifer Dabson, and Sharon Wolfe. Also, the *Law Review* would like to thank the Office of Facilities Management and the Office of Special Events & Continuing Legal Education for their support.

Sponsorship





AMERICAN UNIVERSITY LAW REVIEW

Founded in 1952, the *American University Law Review* is the oldest and largest student-run publication at the American University Washington College of Law (WCL) and publishes six issues each year. As WCL's flagship law review, the *Law Review* is ranked the forty-sixth journal in the nation, the twenty-fourth most-cited by the courts, and the highest-ranked and most-cited of WCL's journals.

The *Law Review* receives approximately 2500 submissions annually and publishes a wide range of legal scholarship from professors, judges, practicing lawyers, and renowned legal thinkers. The *Law Review* has published articles or commentaries by Supreme Court Chief Justices Warren Burger, William Rehnquist, and Earl Warren, as well as Associate Justices Hugo Black, Stephen Breyer, Ruth Bader Ginsburg, and Arthur Goldberg. The *Law Review* has also published articles or commentaries by prominent legal figures such as Stephen Bright, Paul Butler, Erwin Chemerinsky, Tom Goldstein, Paul Kamenar, Judge Paul Michel, Judge Stephen Reinhardt, Nadine Strossen, and Laurence Tribe.

In addition to serving as an academic forum for legal scholarship and a research tool for professors and practitioners, the *Law Review* is committed to developing the writing and research skills of its staff. The *Law Review* showcases student-written pieces by publishing notes and comments, unrestricted in terms of subject or area of the law, in each issue. In support of the staff, the *Law Review* has an esteemed faculty advisory board, including Professors Ira P. Robbins, Elizabeth Beske, Barlow Burke, Janie Chuang, John Corr, Walter Effross, Paul Figley, Egon Guttman, and David Snyder.

On behalf of the *Law Review*, it is my pleasure to welcome you to our Annual Symposium, which certainly will continue our tradition of contributing to academic scholarship.

John R. Boulé III
Editor-in-Chief
Volume 67



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AGENDA

9:00–9:30 Registration & Breakfast

9:30–9:45 Introduction

Lia Epperson, *Senior Associate Dean for Faculty and Academic Affairs, Washington College of Law*

9:45–11:00 Panel 1: The Juvenile Justice System

Kristin Henning, *Associate Dean for Clinics and Centers, Director for the Juvenile Justice Clinic, Professor of Law & Agnes N. Williams Research Professor of Law, Georgetown Law Center*

Craig S. Lerner, *Professor of Law, George Mason Antonin Scalia Law School*

Patricia Puritz, *Founder and Former Executive Director, National Juvenile Defender Center & Adjunct Professor, Washington College of Law*

Jenny Roberts, *Professor of Law & Associate Dean for Scholarship, Washington College of Law, moderator*

11:15–12:30 Panel 2: The Death Penalty: Yesterday, Today, and Tomorrow

Shawn M. Armbrust, *Executive Director, Mid-Atlantic Innocence Project*

J. Richard Broughton, *Associate Dean for Academic Affairs & Associate Professor of Law, University of Detroit Mercy Law School*

The Honorable Timothy K. Lewis, *Counsel, Schnader Attorneys at Law & Former Circuit Court Judge, U.S. Court of Appeals for the Third Circuit*

Mark J. MacDougall, *Partner, Akin Gump Strauss Hauer & Feld LLP & Adjunct Professor, Washington College of Law*

Ira P. Robbins, *Barnard T. Welsh Scholar and Professor of Law & Justice, Washington College of Law, moderator*

12:30–1:00 Lunch

1:00–1:45 Keynote Address

James Forman Jr., *Professor of Law, Yale Law School*

1:50–3:05 Panel 3: Racial Issues in the Criminal Justice System

Roger A. Fairfax, Jr., *Jeffrey and Martha Kohn Senior Associate Dean for Academic Affairs
& Research Professor of Law, George Washington University Law School*

Marc Mauer, *Executive Director, The Sentencing Project*

Renée McDonald Hutchins, *Jacob A. France Professor of Public Interest Law &
Co-Director of the Clinical Law Program, University of Maryland Law School*

Katheryn Russell-Brown, *Director of the Center for the Study of Race and Race Relations,
Assistant Director of the Criminal Justice Center & Chesterfield Smith Professor of
Law, University of Florida Levin Law School*

Angela J. Davis, *Professor of Law, Washington College of Law, moderator*

3:15–4:30 Panel 4: Reforming Bail & Reducing Racial and Ethnic Disparities

Katherine Hubbard, *Attorney, Civil Rights Corps*

Spurgeon Kennedy, *Consultant & Former Director of Strategic Development, Pretrial
Services Agency for the District of Columbia*

The Honorable Truman A. Morrison III, *Senior Judge, Superior Court of the District of
Columbia*

Rachel Sottile Logvin, *Vice President, Pretrial Justice Institute*

Cynthia E. Jones, *Professor of Law, Washington College of Law, moderator*

4:30–5:30 Symposium Dedication to the Honorable Gerald Bruce Lee

Camille Nelson, *Dean, Washington College of Law*

The Honorable Gerald Bruce Lee, *Former Judge, U.S. District Court for the Eastern
District of Virginia*

5:30–7:30 Reception in Capital Hall Atrium

BIOGRAPHIES

Introduction

LIA EPPERSON, Professor of Law and Senior Associate Dean for Faculty and Academic Affairs at American University Washington College of Law, is a nationally recognized expert in the areas of civil rights, constitutional law, and education policy. Her scholarship centers on the constitutional dialogue between federal courts and the political branches, and its implications for educational equity. Her scholarship, published in leading journals, also explores the role of public schools, colleges, and universities in creating equal opportunity. Prior to her appointment at American University, she served on the law faculties of the University of Maryland and Santa Clara University. She has also served as a Senior Fellow at the Center for American Progress, focusing on federal civil rights enforcement of educational policies and practices. Dean Epperson's research interests are informed by her experiences litigating education cases throughout the country, and lobbying for the maintenance and enforcement of civil rights protections.

Prior to becoming a law professor in 2005, Dean Epperson directed the education law and policy group of the NAACP Legal Defense & Educational Fund (LDF). Prior to her time at LDF, Dean Epperson was an attorney with Morrison & Foerster in Palo Alto, CA, and a law clerk to the Honorable Timothy K. Lewis of the United States Court of Appeals for the Third Circuit. She received her law degree from Stanford University, where she served as an editor of the *Stanford Law Review* as well as the *Stanford Law and Policy Review*. She earned her bachelor's degree in sociology, *magna cum laude*, from Harvard University.

Panel 1: The Juvenile Justice System

KRISTIN HENNING is the Agnes N. Williams Research Professor of Law and Director of the Juvenile Justice Clinic and Initiative at Georgetown. Her scholarship on race, adolescence and juvenile justice appears in journals such as the *Cornell Law Review*, *California Law Review*, and *NYU Law Review* and in books such as *Policing the Black Man* (Random House, 2017) and *Punishment in Popular Culture* (NYU Press 2015). Henning was formerly the Lead Attorney for the Juvenile Unit of the DC Public Defender Service and worked closely

with the Juvenile Indigent Defense Action Network to develop and co-author the Juvenile Training Immersion Program, a national training curriculum for juvenile defenders. Henning was elected to the American Law Institute in 2015 and serves as an Adviser to ALI's Restatement on Children and the Law. She is the Director of the Mid-Atlantic Juvenile Defender Center and is the immediate past President of the Board of Directors for the Center for Children's Law and Policy. Professor Henning has also served as an expert consultant to the United States Department of Justice's Civil Rights Division and an investigator in several state assessments of the access to counsel for accused juveniles. She is currently the Reporter for the ABA Task Force on Standards for Dual-jurisdiction Youth. Henning received her B.A. from Duke and J.D. from Yale and has received several awards, including the 2015 Award for Youth Justice from the DC Lawyers for Youth and 2013 Robert E. Shepherd, Jr. Award for Excellence in Juvenile Defense by the National Juvenile Defender Center.

CRAIG S. LERNER is a Professor at Antonin Scalia Law School, George Mason University. Professor Lerner teaches and writes in the area of criminal law, criminal procedure, and legal history. His research has included such topics as the Second, Fourth and Eighth Amendments, sentencing policy, and white-collar crime. His articles have appeared in the *University of Chicago Law Review*, the *Michigan Law Review*, the *Texas Law Review*, the *Vanderbilt Law Review*, and many other journals.

Professor Lerner received an A.B. and J.D. from Harvard and an M.A. from the Committee on Social Thought at the University of Chicago. He clerked for the Honorable James L. Buckley of the United States Court of Appeals for the District of Columbia Circuit and worked as an associate at Cooper, Carvin & Rosenthal and Wiley, Rein & Fielding. He also served as an Associate Independent Counsel in the Office of Independent Counsel (Whitewater Investigation).

PATRICIA PURITZ has worked as a child advocate in the juvenile justice system for 40 years and stepped aside from serving as the founding and executive director of the National Juvenile Defender Center in 2015. NJDC is an organization devoted exclusively to ensuring excellence in juvenile defense and promoting access to justice for all children. Prior to that, Ms. Puritz was the director of the American Bar Association Juvenile Justice Center. She has been involved in designing, implementing, managing, and monitoring programs to reform the nation's juvenile justice system, with a particular focus on delivering effective legal services to children and improving the conditions under which children are confined. For the last 15 years, Ms. Puritz has placed particular emphasis on devising strategies to ensure that children have adequate access to competent counsel throughout the duration of the court process. The National Juvenile Defender Center was created to serve as a clearinghouse and resource center for lawyers that defend children and it delivers a range of training, technical assistance, leadership, and capacity-building activities designed to improve juvenile indigent defense systems nationwide.

JENNY ROBERTS is a Professor of Law and the Associate Dean for Scholarship. She currently co-directs the Criminal Justice Clinic and teaches Criminal Law. Her research focuses on misdemeanors, collateral consequences of criminal convictions, and plea bargaining. Professor Roberts' work has been cited by the United States Supreme Court, a number of state high and lower federal courts, and in numerous briefs to the Supreme Court and other courts. She won the Pauline Ruyle Moore Scholar Award for her article *Why Misdemeanors Matter: Defining Effective Advocacy in the Lower Criminal Courts*, and received the American University Faculty Award for Outstanding Scholarship, Research, Creative Activity, and Other Professional Contributions in 2014.

Professor Roberts sits on the National Research Advisory Board for the Misdemeanor Justice Project at John Jay College, and recently joined the advisory board for the *Journal of Collateral Consequences and Reentry*. She served as co-President of the Clinical Legal Education Association, the nation's largest association of law teachers in 2014, and was a member of CLEA's Executive Committee (2012-14) and Board of Directors (2008-14). Professor Roberts served as the Reporter for the National Association of Criminal Defense Lawyers (NACDL)'s Task Force on Restoration of Rights and Status After Conviction, which held a series of regional hearings and issued a report with recommendations relating to legal mechanisms

for relief from the collateral consequences of criminal convictions in the state and federal systems. She was on the board of the Mid-Atlantic Innocence Project from 2012-15.

Professor Roberts previously taught at Syracuse University and in NYU's Lawyering program. Prior to teaching, she was a Senior Research Fellow at NYU Law School's Center for Research in Crime & Justice, a public defender in Manhattan, and a law clerk in the Southern District of New York.

Panel 2: The Death Penalty: Yesterday, Today, and Tomorrow

SHAWN ARMBRUST has been the Executive Director of the Mid-Atlantic Innocence Project (MAIP) since 2005. During her tenure, MAIP has freed or exonerated 25 innocent people and helped secure the passage of several laws to help prevent or correct wrongful convictions. Before joining MAIP, she clerked for Judge Gladys Kessler of the United States District Court for the District of Columbia. Prior to law school, she was the case coordinator at the Center on Wrongful Convictions. Shawn graduated *magna cum laude* from Georgetown University Law Center and with honors from Northwestern University's Medill School of Journalism.

J. RICHARD BROUGHTON is Associate Dean for Academic Affairs and Associate Professor of Law at the University of Detroit Mercy School of Law. He teaches in the areas of criminal law, federal crimes, constitutional law, and constitutional criminal procedure. He has served on four law school faculties, and as a Lecturer in Government at Johns Hopkins University. Professor Broughton previously served as a lawyer in the Criminal Division of the United States Department of Justice in Washington, D.C. There he handled cases involving violent crimes related to gang activity, drug trafficking, organized crime and racketeering. He advised DOJ leaders and federal prosecutors on federal death penalty matters, assisted with federal crime legislation and congressional oversight, and represented the United States in federal capital litigation. He also previously served as Assistant Attorney General of Texas for Capital Litigation, as a law clerk to the chief judge of the Texas Court of Criminal Appeals, and as a law clerk for the House Judiciary Committee's Subcommittee on the Constitution during the 106th Congress. Professor Broughton has won multiple teaching and service awards, appears in the national and local media as a legal expert, and has published scholarship in law journals throughout the country. His writing, speaking, and research focus upon issues in federal criminal law and the intersection of law and American politics.

JUDGE TIMOTHY K. LEWIS, Of Counsel at Schnader Harrison Segal & Lewis LLP is a former judge on the United States Court of Appeals for the Third Circuit and the United States District Court for the Western District of Pennsylvania. He graduated from Tufts University in 1976 and Duquesne University School of Law in 1980. He served as an Assistant District Attorney and an Assistant United States Attorney in Pittsburgh before his appointment to the district court in 1991 and his elevation to the Third Circuit the following year. Judge Lewis joined Schnader in 2000.

He has a national and international ADR practice and an active trial and appellate practice. He is the co-chair of Schnader's ADR Practice Group and the past co-chair of Schnader's Appellate Practice Group. Judge Lewis is a member of the American Law Institute; a fellow of the College of Commercial Arbitrators; a former Board and Executive Committee member of the American Arbitration Association; a past Board member of the International Institute for Conflict Prevention and Resolution (CPR); a member of the Board of the Georgetown Supreme Court Institute; a past member of the House of Delegates of the Pennsylvania Bar Association; a member of the Dean's Advisory Committee of the Duquesne University School of Law; and an honorary fellow of the American Academy of Appellate Lawyers. He served as an adjunct professor at the University of Pittsburgh School of Law and has taught courses on advocacy, adjudication and ADR throughout the United States and Europe. Judge Lewis has authored numerous articles on subjects ranging from racial injustice and the death penalty to judicial reform, dispute resolution and appellate advocacy, and has testified before Congress in connection with criminal justice reform, Guantanamo detainees, and judicial nominations. Among his civic activities, Judge Lewis has served on the Boards of the American Constitution Society for Law & Policy and The Constitution Project in Washington, D.C.; the Peter Jennings Project for Journalists and the Constitution and the National Jazz Museum in Harlem in New York; the Kiski School and the Imani Christian Academy in Pittsburgh; and the Public Interest Law Center of Philadelphia. He is an outspoken proponent for diversity within the legal profession, particularly in the ADR field, and a frequent guest TV and radio commentator on issues affecting human and constitutional rights.

MARK J. MACDOUGALL is a partner in the Washington, D.C. office of Akin Gump Strauss Hauer & Feld LLP and a former federal

prosecutor with extensive trial experience in state and federal courts throughout the United States. Mark has been an Akin Gump partner for more than 20 years and in 2006 was elected a Fellow of the American College of Trial Lawyers. Mark's clients regularly include senior political figures and government officials in the United States, international corporations, prominent executives, foreign governments, journalists and even an occasional spy. He currently serves as a director of The Sentencing Project and previously completed two terms as a trustee of the Public Defender Service of the District of Columbia. Mark's extensive pro bono trial work, as counsel for indigent defendants facing the death penalty in South Carolina, has received national recognition - including the John Paul Stevens Award from the American Bar Association, the Exemplar Award from the National Legal Aid and Defender Association and the Foot Soldier Award from the NAACP.

IRA P. ROBBINS, Professor at AU's Washington College of Law, is an expert on criminal law and procedure, the death penalty, habeas corpus, prisoners' rights, privatization of prisons and jails, conspiracy, insanity, and other legal issues. He was Acting Director of the Federal Judicial Center's Education and Training Division and served as the reporter for the American Bar Association's Task Force on Death Penalty Habeas Corpus and its Task Force on Privatization of Corrections. Professor Robbins also served as a Supreme Court Fellow and as a special consultant to the Advisory Committee on Criminal Rules of the Judicial Conference of the United States. In 2008, Professor Robbins was named a member of the American Bar Association Task Force on Post-Conviction Remedies.

Professor Robbins is a founding member of the WCL Criminal Justice Practice & Policy Institute. His recent books include *Habeas Corpus Checklists* (2017) and *Prisoners and the Law* (six vols., 2017). His interviews and analyses have appeared on all of the major U.S. and foreign television and radio networks (including *The Colbert Report* on Comedy Central) and in such publications as Time, Newsweek, U.S. News & World Report, London Times, New York Times, New York Times Magazine, New Yorker, USA Today, Wall Street Journal, Washington Post, ABA Journal, National Law Journal, and Legal Times. Many of Robbins' recent media inquiries have focused on the legal proceedings and trials in terrorism and other high-profile cases, as well as on many criminal cases decided by the United States Supreme Court.

In 2016, in recognition of his scholarship and testimony opposing private prisons since their inception, Professor Robbins was elected to the Board of Directors of Abolish Private Prisons. The aim of the organization is to eliminate private prisons in the U.S. by challenging their constitutionality. Professor Robbins was also named legal consultant to the litigation team.

Professor Robbins' honors and awards include the Chief Judge John R. Brown Award for Judicial Scholarship and Education (1998). He is also an Elected Life Member of the American Law Institute (2007). At American University, he received the University Faculty Award for Outstanding Teaching (1985) and was selected as American University's Scholar/Teacher of the Year (1988), the University's highest faculty award. In 2010, Professor Robbins won the Pauline Ruyle Moore Award, in recognition of his scholarly work in the area of public law. In 2011, he was selected as the first recipient of the Washington College of Law Award for Exemplary Teaching. In 2015, he was honored with the Washington College of Law Award for Outstanding Service.

Apart from his law-related endeavors, Professor Robbins is an award-winning photographer.

Keynote Address

JAMES FORMAN JR. is one of the nation's leading authorities on race, education, and the criminal justice system, and a tireless advocate for young people who others have written off.

Professor Forman attended Yale Law School, and after he graduated, worked as a law clerk for Judge William Norris of the United States Court of Appeals for the Ninth Circuit and Justice Sandra Day O'Connor of the United States Supreme Court. After clerking, he took a job at the Public Defender Service in Washington, D.C., where for six years he represented juveniles and adults in felony and misdemeanor cases.

Professor Forman loved being a public defender, but he quickly became frustrated with the lack of education and job training opportunities for his clients. So in 1997, along with David Domenici, he started the Maya Angelou Public Charter School, an alternative school for dropouts and youth who had previously been arrested. The Maya Angelou school has been open for almost twenty years, and in that time has helped hundreds of vulnerable young people find a second chance, begin to believe in themselves, graduate, get jobs, and attend college.

At Yale Law School, where has taught since 2011,

Professor Forman teaches Constitutional Law and a course called Race, Class, and Punishment. Last year he took his teaching behind prison walls, offering a seminar called Inside-Out Prison Exchange: Issues in Criminal Justice, which brought together, in the same classroom, ten Yale Law students and ten men incarcerated in a CT prison.

Professor Forman's first book is *Locking Up Our Own: Crime and Punishment in Black America*, which explores how decisions made by black leaders, often with the best of intentions, contributed to disproportionately incarcerating black and brown people. A Washington Post bestseller and a New York Times Editor's Choice, *Locking Up Our Own* has been called "superb and shattering" in the New York Times, "eloquent" and "sobering" in the London Review of Books, and "moving, nuanced, and candid" in the New York Review of Books. The New York Times book reviewer Jennifer Senior said *Locking Up Our Own* was "the best book I've read this year."

Panel 3: Racial Issues in the Criminal Justice System

ROGER A. FAIRFAX, JR. teaches courses in criminal law, constitutional and adjudicatory criminal procedure, criminal litigation, and seminars on the grand jury, white-collar criminal investigations, and criminal justice policy at GW Law School. Fairfax conducts research on discretion in the criminal process, the grand jury, prosecutorial ethics, and criminal justice policy and reform. His scholarship has been published or is forthcoming in his edited book, *Grand Jury 2.0: Modern Perspectives on the Grand Jury*, and in a number of leading journals including the *Boston College Law Review*, *Cornell Law Review*, *U.C. Davis Law Review*, *Fordham Law Review*, *Iowa Law Review*, *Minnesota Law Review*, and the *Yale Law Journal*.

Before joining the Law School faculty, Fairfax served as a federal prosecutor in the Public Integrity Section of the Criminal Division of the United States Department of Justice, where he represented the United States in a broad range of public corruption investigations and prosecutions. During his time in the Attorney General's Honors Program, he also served details as Special Assistant U.S. Attorney in the Eastern District of Virginia and as special assistant to the Assistant Attorney General for the Criminal Division of DOJ. Following his government service, Fairfax was a Counsel in the D.C. office of O'Melveny & Myers LLP, where his practice included white-collar criminal and regulatory defense, and strategic

Fairfax has advised local, state, and national government officials and candidates on criminal justice policy and recently worked on criminal justice reform as a Senior Legislative Fellow with the United States Senate Judiciary Committee's Subcommittee on Crime and Terrorism and as a Senior Fellow at Harvard Law School's Charles Hamilton Houston Institute. He has engaged in expert consultation and pro bono representation in a number of grand jury, trial, and appellate matters in state, federal, and foreign courts, and is admitted to practice in the District of Columbia, Massachusetts, Maryland, and a variety of federal trial and appellate courts, including the United States Supreme Court.

Professor Fairfax is an elected member of the governing council of the American Bar Association Criminal Justice Section and currently sits on the boards of the Maryland Office of the Public Defender and the Bloomberg/BN White Collar Crime Report. He is former chair of the Montgomery County Criminal Justice Coordinating Commission and has served on the board of directors of the National Bar Association and the Southeastern Association of Law Schools.

Fairfax graduated with honors from Harvard College, the University of London, and Harvard Law School, where he served as commentaries chair of the *Harvard Law Review* and was awarded the Heyman Fellowship for Government Service. Professor Fairfax clerked for Judge Patti B. Saris of the U.S. District Court for the District of Massachusetts and for Judge Judith W. Rogers of the U.S. Court of Appeals for the District of Columbia Circuit.

Professor Fairfax is a member of the Edward Bennett Williams Inn of Court, a Fellow of the American Bar Foundation, and an elected member of the American Law Institute.

MARC MAUER is one of the country's leading experts on sentencing policy, race and the criminal justice system. He has directed programs on criminal justice policy reform for 30 years, and is the author of some of the most widely-cited reports and publications in the field. The Atlantic magazine has described him as a scholar who has "reframed how Americans view crime, race, and poverty in the public sphere." His 1995 report on racial disparity and the criminal justice system led the New York Times to editorialize that the report "should set off alarm bells from the White House to city halls – and help reverse the notion that we can incarcerate our way out of fundamental social problems."

Race to Incarcerate, Mauer's groundbreaking book on how sentencing policies led to the explosive expansion of the U.S. prison population, was a semifinalist for the Robert F. Kennedy Book Award in 1999. A second edition was published in 2006 and a 2013 graphic novel version was cited by the American Library Association as one of the "Great Graphic Novels" of the year. Mauer is also the co-editor of *Invisible Punishment*, a 2002 collection of essays by prominent criminal justice experts on the social cost of imprisonment.

Mauer began his work in criminal justice with the American Friends Service Committee in 1975, and served as the organization's National Justice Communications Coordinator. Since joining The Sentencing Project in 1987, he has testified before Congress and state legislatures, frequently appears on radio and television networks, and is regularly interviewed by the New York Times, Washington Post, National Public Radio, and many other major media outlets. He has served as an adjunct faculty member at George Washington University and Payne Theological Seminary, as well as a consultant to the Bureau of Justice Assistance, the National Institute of Justice, and the American Bar Association's Committee on Race and the Criminal Justice System. In 2005, he became Executive Director of The Sentencing Project.

Mauer has received the Helen L. Bottenweiser Award from the Fortune Society (1991), the Donald Cressey Award from the National Council on Crime and Delinquency for contributions to criminal justice research (1996), the Alfred R. Lindesmith Award from the Drug Policy Alliance for achievement in drug policy scholarship (2003), the Maud Booth Correctional Services Award from Volunteers of America (2008), the John Augustus Award from the National Association of Sentencing Advocates (2009), the Margaret Mead Award from the International Community Corrections Association (2009), and the Inside/Out Summit Award from Centerforce (2011).

A graduate of Stony Brook University, where he received his bachelor's degree, Mauer earned his Master of Social Work from the University of Michigan.

RENÉE McDONALD HUTCHINS joined the faculty at the University of Maryland Carey School of Law in 2004 after spending just over a decade in practice; including time at the U.S. Department of Justice in the Criminal Tax Division, and at the Office of the Appellate Defender in New York City.

She teaches (or has taught) the Appellate and Post-Conviction Advocacy Clinic, Criminal Procedure, Fourth Circuit Decisions, and a criminal appeals seminar. She is a member of the Appellate Courts Judicial Nominating Commission for the State of Maryland, and serves on the Board of Trustees for the Maryland Office of the Public Defender. Professor Hutchins received her J.D. from Yale Law School, and her B.A., *cum laude*, in mathematics from Spelman College. Following graduation from law school, she served as a law clerk to Judge Nathaniel R. Jones on the United States Court of Appeals for the Sixth Circuit. Immediately prior to joining the faculty at the University of Maryland, Professor Hutchins was part of the Lawyering Program faculty at New York University School of Law. She is the author of several scholarly works including *Tied Up in Knots: GPS and the Fourth Amendment*, 55 U.C.L.A. L. Rev. 409 (2007), which has been cited by state and federal courts, including the United States Courts of Appeals for the Fourth and D.C. Circuits. She recently contributed to the critically acclaimed *Policing the Black Man* (Angela J. Davis, ed.). She has also published two books, *Learning Criminal Procedure* (with Ric Simmons), and *Developing Professional Skills: Criminal Procedure*.

KATHERYN RUSSELL-BROWN is the Chesterfield Smith Professor of Law and Director of the Center for the Study of Race and Race Relations at the University of Florida, Levin College of Law. Professor Russell-Brown received her undergraduate degree from the University of California, Berkeley, her law degree from the University of California, Hastings and her Ph.D. in criminology from the University of Maryland.

Prior to joining the University of Florida law faculty in 2003, Professor Russell-Brown taught in the Criminology and Criminal Justice department at the University of Maryland for 11 years. She has been a visiting law professor at American University and the City University of New York (CUNY). She has been a lecturer at Howard University and her first teaching position was at Alabama State University.

Professor Russell-Brown teaches, researches, and writes on issues of race and crime and the sociology of law. Her article, *The Constitutionality of Jury Override in Alabama Death Penalty Cases*, was cited in the U.S. Supreme Court decision, *Harris v. Alabama* (1995).

In 2009, Professor Russell-Brown was awarded a Soros Justice Advocacy Fellowship. Her project focused on ways to integrate criminal justice issues into the elementary education

curriculum.

Professor Russell-Brown's books include *Criminal Law* (SAGE, 2015) an undergraduate textbook, *The Color of Crime*, 2d edition (New York University Press, 2009), *Protecting Our Own: Race, Crime and African Americans*, Rowman and Littlefield (2006), and *Underground Codes: Race, Crime, and Related Fires* (New York University Press, 2004). Her first children's book is *Little Melba and Her Big Trombone*, a picture book biography (Lee & Low, 2014).

ANGELA J. DAVIS, professor of law at AU's Washington College of Law, is an expert in criminal law and procedure with a specific focus on prosecutorial power and racism in the criminal justice system. Davis previously served as director of the D.C. Public Defender Service, where she began as a staff attorney representing indigent juveniles and adults. She also served as executive director of the National Rainbow Coalition and is a former law clerk of the Honorable Theodore R. Newman, the former Chief Judge of the D.C. Court of Appeals. Davis is the author of *Arbitrary Justice: The Power of the American Prosecutor* (Oxford University Press 2007). She is also the editor of *Policing the Black Man: Arrest, Prosecution and Imprisonment* (Penguin Random House, forthcoming 2017), co-editor of *Criminal Law* (Sage Publications 2015) (with Professor Kathryn Russell-Brown), *Trial Stories* (Foundation Press 2007) (with Professor Michael E. Tigar) and the 7th edition of *Basic Criminal Procedure* (Thomson West, forthcoming 2017) (with Professors Stephen Saltzburg and Daniel Capra).

Davis' other scholarly publications include articles in the *Michigan*, *Iowa*, *Fordham*, and *Hofstra Law Reviews*. Davis won the Pauline Ruyle Moore award for *Arbitrary Justice: The Power of the American Prosecutor* in 2009 and for her *Fordham Law Review* article, *Prosecution and Race: The Power and Privilege of Discretion in 2000*. Davis was awarded a Soros Senior Justice Fellowship in 2003. She won the American University Scholar/Teacher of the Year Award in 2015, the American University Faculty Award for Outstanding Scholarship, Research, Creative Activity, and Other Professional Contributions in 2009 and the American University Faculty Award for Outstanding Teaching in a Full-Time Appointment in 2002.

Davis is a member of the Board of Trustees of the Frederick Douglass Jordan Scholarship Board, the Southern Center for Human Rights, and the Sentencing Project. She was a reporter for the ABA Justice Kennedy Commission and a member of the ABA Commission for Effective Criminal Sanctions. Davis also served as a member of the Advisory Board for the Vera Institute of Justice Prosecution and Racial Justice Program. She teaches Criminal Law, Criminal Procedure, and Criminal Defense: Theory and Practice.

Panel 4: Reforming Bail & Reducing Racial and Ethnic Disparities

KATHERINE HUBBARD is a founding attorney of Civil Rights Corps, a DC-based non-profit organization dedicated to challenging systemic injustice in the American legal system. Her work for CRC focuses on challenging the criminalization of poverty, particularly ending wealth-based pretrial detention. She previously worked as a legal fellow at Equal Justice Initiative, where she represented people on Alabama's death row and children sentenced to die in prison, and Equal Justice Under Law, where she worked on lawsuits challenging money bail and police misconduct.

SPURGEON KENNEDY is the Program Director at The Justice Management Institute. As the current Vice President of the National Association of Pretrial Services Agencies, Spurgeon helps coordinate the Association's technical assistance to states and localities and the development of NAPSA's Standards and practices on pretrial justice. As the former Director of the Office of Strategic Development of the Pretrial Services Agency for the District of Columbia, Spurgeon lead the Agency's strategic planning initiatives and efforts to implement evidence-based practices and innovations. Spurgeon also has served as Programs Manager with the U.S. Department of Justice's National Institute of Justice and Senior Associate with the Pretrial Services Resource Center. Spurgeon has provided technical assistance and support to organizations such as the Office of Justice Programs, the American Bar Association, the National Institute of Corrections, the Annie E. Casey Foundation and the Edna McConnell Clark Foundation. He also has served as a facilitator or training faculty member for agencies such as the National Association of Pretrial Services Agencies, the American Probation and Parole Association, the National Institute of Corrections, the National Institute of Justice, the Office on Violence against Women, and state pretrial associations in Michigan, Ohio, Florida, Pennsylvania, and

California.

JUDGE TRUMAN A. MORRISON III is a Senior Judge of the District of Columbia Superior Court. Following graduation from the University of Wisconsin Law School, Judge Morrison served as law clerk to Chief Judge John W. Reynolds in the U.S. District Court for the Eastern District of Wisconsin.

In 1971, he began work at the District of Columbia Public Defender Service. For his last four years at PDS, he served as Chief of the Trial Division.

In 1979, President Carter appointed Judge Morrison to the Superior Court. In his more than 36 continuous years as a trial judge, he has presided over civil, criminal, juvenile delinquency, domestic relations, and domestic violence matters. Judge Morrison continues to sit regularly as a Senior Judge, hearing primarily criminal cases.

Judge Morrison taught law school classes on trial advocacy at George Washington and Catholic University law schools. He formerly taught a course entitled "The Craft of Judging" at George Washington University Law School. He has been a faculty member for more than 20 years at the annual Trial Advocacy Workshop at The Harvard Law School.

Judge Morrison has been actively involved in judicial education for more than 25 years in this country and in Europe. For many years he directed all judicial education efforts in his large urban court. He pioneered a mentoring program built around peer courtroom observations for new judges.

Since 2006, Judge Morrison has worked nationally on issues related to pretrial justice. He has spoken widely to judges, pretrial service professionals, prosecutors, defense lawyers, legislators, and others about pretrial issues. Judge Morrison spoke at the Second National Symposium on Pretrial Justice convened by Attorney General Eric Holder. He has worked with judges and others in many jurisdictions including New Mexico, New Jersey, Minnesota, Colorado, Wisconsin, Illinois, Pennsylvania, Idaho, Indiana, Connecticut, Arizona, North Carolina, Maryland, and Michigan. He has long been a faculty member at a week-long, twice-yearly Justice Department workshop for pretrial service executives. He is a recent Chair of The Board of Trustees of The Pretrial Justice Institute. Judge Morrison has discussed pretrial justice issues nationally on Aljazeera television, HBO's John Oliver Show, and HBO's documentary series *Vice*.

RACHEL SOTTILE LOGVIN is a champion of systems reform, having served as an executive administrator in non-profit and state government for over twenty years. A Florida native and resident, she began her career as a child abuse investigator and continued working with foster care youth and their families in South Florida until 2008. She served as the Executive Director of YES Institute in Miami for seven years, spearheading the organization's rapid growth and expansion, creating collaborative partnerships throughout the U.S. and Latin America, and providing powerful communication and educational models on gender and orientation to keep all youth safe. Mrs. Logvin has a Bachelor of Arts from Emory University in Psychology and Political Science and a Master's Degree in Counseling Psychology. She was the recipient of the National Association of Social Workers "2014 Citizen of the Year" Award for Miami-Dade County.

CYNTHIA E. JONES has taught Evidence, Criminal Law, and Criminal Procedure at the American University Washington College of Law for the past fourteen years. Professor Jones was recognized by the University with the prestigious Faculty Award for Outstanding Teaching, and received the "Teaching with Technology" Award from the Center for Teaching Excellence for her animated short film, "Fighting Evidence with Evidence." Professor Jones' areas of scholarship include wrongful convictions, criminal discovery, bail reform, and eliminating racial disparities in the criminal justice system.

Professor Jones established the Pretrial Racial Justice Initiative in 2013 to address racial and ethnic disparities in bail, and she previously directed the ABA Racial Justice Improvement Project, a program to engage criminal justice officials in racial justice policy reform. As a frequent lecturer for the Federal Judicial Center, Professor Jones has given her innovative, multi-media presentation on the Federal Rules of Evidence to federal judges and lawyers across the country. Professor Jones is the President of The Sentencing Project Board of Directors, and also serves on the governing boards of the Pretrial Justice Institute, and the Civil Rights Corp. In addition, each year the Professor Cynthia E. Jones Scholarship is awarded in her honor to an aspiring public defender.

Professor Jones was a staff attorney at the Public Defender Service for the District of Columbia (PDS), served as the Executive Director of PDS, and served as the Chair of the PDS Board of Trustees. Professor Jones is the former Deputy Director of the District of Columbia Pretrial

Services Agency, worked as an associate at the former law firm of Dickstein, Shapiro and Morin, and served as a law clerk to the Hon. Frank E. Schwelb on the District of Columbia Court of Appeals.

Dedication Ceremony

CAMILLE NELSON has long been an outstanding member of the law community before her recent appointment as Dean of the Washington College of Law. She has previously served as the Dean of Suffolk University's School of Law in Boston and was a Professor of Law at Hofstra Law School, where she taught courses in Comparative Criminal Law and Transnational Law. Dean Nelson was also a Dean's Scholar in Residence and visiting Professor of Law at the Washington University in St. Louis School of Law, where she taught courses in Contracts and Criminal Law.

Dean Nelson began her education at the University of Toronto, and then went on to the University of Ottawa Faculty of Law to receive her law degree. She then completed a Master of Laws from Columbia Law School in New York. Dean Nelson was the first Black woman to clerk for the Supreme Court of Canada, the first woman and person of color to have been appointed dean at Suffolk University Law School, and the first Black person ever to be appointed dean at American University Washington College of Law.

Dean Nelson has worked to augment discussions of equality and justice in academic areas of culture and race through publishing many revered, well-known articles in a variety of academic journals. These works, her academic positions, and a multitude of speeches have been recognized through a variety of awards and honors.

Dean Nelson has also been involved with various professional organizations. She is currently a member of the Overseers' Committee to Visit the Harvard Law School, The Partnership (Next Generation Executive and C-Suite Program), Demography is Not Destiny Advisory Group of the Open Society Foundation, and the Association of American Law Schools' Nominating Committee. She also serves on the Advisory Board for Mina's List. In September 2016, she was named to the Governing Council of the American Bar Association Center for Innovation, and in January 2017, she was elected to the Executive Committee of the Association of American Law Schools.

DEDICATION



**The Honorable Gerald Bruce Lee (JD '76, BA '73)
U.S. District Court for the Eastern District of Virginia**

The *American University Law Review's* Editorial Board, staff members, and faculty advisory board are honored to dedicate this year's symposium and Issue 5 of Volume 67 to the Honorable Gerald Bruce Lee. Throughout his tenure at the United States District Court for the Eastern District of Virginia, Judge Lee has demonstrated an unwavering commitment to justice and fairness and has worked tirelessly—with the "adrenaline of excellence," as he would say—in pursuit of those values both in the courthouse and outside of it.

As one can note in his biography, his accolades and accomplishments have merited the tremendous admiration and respect of many; however, the *Law Review* has chosen to dedicate the symposium event and issue to Judge Lee because of his sustained presence at the American University Washington College of Law (WCL) and in the lives of the school's students and alumni.

Since graduating, Judge Lee has maintained strong ties with WCL. Not only has Judge Lee been an exceptionally generous donor, but his commitments to WCL and its students has been resolute. He is a member of the American University Board of Trustees and the WCL Dean's Advisory Council. Judge Lee has also been an invaluable help to numerous school organizations and programs, including inviting alumni to events, presiding as judge for law school competitions, and advising students about judicial internships and clerkships. Moreover, every Friday, Judge Lee has opened his chambers to law students, giving them the valuable opportunity of attending a judicial proceeding and asking follow-up questions to a judge. Ultimately, any student who has the opportunity to speak with and learn from Judge Lee leaves a better person, a greater friend, and a more dutiful lawyer.

BIOGRAPHY OF JUDGE GERALD BRUCE LEE

On October 8, 1998, Judge Lee was confirmed as a United States District Judge in the Eastern District of Virginia, Alexandria Division. Prior to his nomination, he was a trial judge in the 19th Judicial Circuit, Fairfax, Virginia for six and one-half years.

Judge Lee lives by his motto, “To whom much is given, of him much is required.” Throughout his career, he has been an innovator, trailblazer, and bridge builder, opening doors and providing pathways to justice and opportunity.

Judge Lee was born and raised in southeast Washington, D.C. He learned the importance of opportunity and the value of hard work through Youth Pride, Inc., a summer job program that employed youth throughout the city. While still in high school, Judge Lee was admitted into the “Pride American University Project,” which allowed inner-city residents to attend The American University.

In 1973, he received his undergraduate degree in communications from there. In 1976, Judge Lee earned his Juris Doctorate degree from The Washington College of Law at The American University. During law school and while in private practice, Judge Lee served as an adjunct professor at the law school.

Prior to ascending to the bench, Judge Lee was a trial lawyer for 15 years in state and federal court, representing individuals and businesses in civil and criminal cases. Among other firms, he was a partner at Cohen, Dunn & Sinclair, P.C. of Alexandria. An active member of the profession, Judge Lee has served in many leadership roles. He was an elected member of the Virginia State Bar Council, Chairman of the General Practice of Law Section of the Virginia State Bar, and Chairman of the Judiciary Committee of the American Bar Association General Practice Section. He is a past president of the George Mason American Inn of Court, and is past treasurer of the Federal Judges Association.

In May 1992, Judge Lee began his judicial career when he was elected to the Fairfax Circuit Court. As a trial judge, he was known for his expertise in the management of complex civil trials and for his use of emerging technology in the courtroom. Judge Lee led the Fairfax Circuit Court to become one of the first courts in Virginia to have a presence on the Internet, and throughout his years on the bench, kept pace with the evolution of technology and encouraged the innovative use of computer technology in the courthouse and demonstrative evidence in trial.

Judge Lee’s largest contribution has been through his service to the community and legal profession. In 1995, Judge Lee received the Fairfax County Human Rights Award for his efforts in working with community groups, mentoring young people, and speaking to the public. For over twenty-two years, Judge Lee has led the Kamp Kappa “Street Law” Program, which introduces at-risk young boys to the legal system by conducting a mock trial. Additionally, Judge Lee is a founding member and actively involved in Just the Beginning – A Pipeline Organization, a nonprofit working to expand diversity in the legal profession. Since 2001, Judge Lee led the Just The Beginning Share the Wealth Judicial Clerkship Program, which places minority, underrepresented, and economically disadvantaged law graduates in judicial clerkships across the country, and he subsequently played an integral role in developing Just The Beginning’s judicial internship program. In addition to these programs, Judge Lee has served as a mentor and example to countless students, interns, law clerks, and lawyers, through whom his legacy will continue to live.

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We hope you join us again at our
32nd Annual Federal Circuit
Symposium.



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