

MARGARETH ETIENNE

Professor of Law and Nancy Snowden Research Scholar
University of Illinois College of Law
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Education

YALE LAW SCHOOL, J.D., 1995
YALE UNIVERSITY, A.B. in History (with honors), 1991
STUYVESANT HIGH SCHOOL, 1987

Appointments

University of Illinois College of Law

Administrative Appointments:

Associate Dean for Graduate and International Programs, 2015-present
Associate Dean for Academic Affairs, 2012-13
Provost Fellow, 2008-2011 (50% appointment)

Faculty Appointments:

Professor and Nancy Snowden Scholar, 2011-present
Professor, 2006-present;
Associate Professor and Richard W. and Marie L. Corman Scholar, 2004-06;
Assistant Professor, 2001-04;

Courses Taught:

Criminal Law; Criminal Procedure; Children and the Law; Juvenile Law; Sentencing Law and Policy; Education Law; Race, Gender and Sentencing Policy

The University of Illinois College of Liberal Arts and Sciences

Interim Department Head, Department of African American Studies, 2011-2012

The University of Chicago Law School- Visiting Professor, 2007-2008.

Courses: Criminal Law, Children and the Law, Advanced Topics in Criminal Procedure.

Honors and Awards

Fulbright Scholar
American Bar Foundation Fellow (2017 to present)

Publications

Books

ILLINOIS JUDICIAL BENCHBOOK ON JUVENILE LAW (editor) (2016, 2017, 2018) (with Administrative Office of Illinois Courts)

Selected Articles, Reviews and Other Publications

Managing Parents: Navigating Parental Rights in Juvenile Cases, 50 CONN. L. REV. 61 (2018).

Education, Violence, and Re-Wiring Our Schools, 2018 U. CHI. LEGAL F. 89 (2018).

Private School Vouchers and the Failed Promise of Osmosis, 5 BELMONT L. REV. 59 (2018) (symposium).

A Lost Opportunity for Sentencing Reform: Plea Bargaining and Barriers to Effective Assistance, 69 S.C. L. REV. 467 (2017).

A Dangerous Lesson: School Choice Without Standards, 2017 U. ILL. L. REV. ONLINE 21 (2017) (symposium).

Saving Harlem From Drugs: A Hobson's Choice, JOTWELL, August 2017.

More Data In the Debate on Colorblind Justice, JOTWELL, October 2016.

A Case Study for Understanding Prison-Reform, Its Advocates and Its Critics, JOTWELL, October 2015.

What Can Be Learned From the Wrongfully Accused?, JOTWELL, May 2014.

Lessons Learned from International Prosecutions of Sex Crimes, JOTWELL, August 2013.

Arrest Records and the Right to Know, in THE RIGHT TO PRIVACY IN THE LIGHT OF MEDIA CONVERGENCE (de Gruyter Press) (2012).

Making Sense of the Ethnic Profiling Debate, 80 MISS. L.J. 1523 (2011).

Rape Prosecutions and the Civil Rights Movement, JOTWELL, May 2011.

Sentencing Women: Reassessing the Claims of Disparity, 14 IOWA J. GENDER, RACE & JUST. 73 (2010).

An Intriguing Thought Experiment on Culpability, JOTWELL, June 2010.

Restoring Justice Through Individualized Processes, in CRIMINAL LAW CONVERSATIONS (Oxford University Press) (2009).

In Need of a Theory of Mitigation, in CRIMINAL LAW CONVERSATIONS (Oxford University Press) (2009).

Legal and Practical Implications of Evidence-Based Sentencing by Judges, 1 CHAP. J. CRIM. JUST. 43 (2009).

Apologies and Plea-Bargaining, 91 MARQ. L. REV. 295 (2007) (with Jennifer Robbennolt) (symposium).

Taking Black Pain Seriously: A New Understanding of Racial Disparity in Sentencing, 3 ST. THOMAS L. REV. 496 (2006) (symposium).

Parity, Disparity and Adversariality: First Principles of Sentencing, 58 STAN. L. REV. 101 (2006).

The Ethics of Cause Lawyering: An Empirical Examination of Criminal Defense Lawyers as Cause Lawyers, 95 J. CRIM. L. & CRIMINOLOGY 101 (2005).

Into the Briar Patch?: Power Shifts Between Prosecution and Defense after United States v. Booker, 39 VALP. L. REV. 741 (2005) (solicited piece for symposium issue on Booker including articles by Erwin Chemerinsky & Susan Klein).

The Declining Utility of the Right to Counsel in Federal Criminal Courts: An Empirical Study on the Diminished Role of Defense Attorney Advocacy Under the Sentencing Guidelines, 92 CAL. L. REV. 425 (2004).

Acceptance of Responsibility and Plea Bargaining Under the Feeney Amendment, 16 FED. SENTENCING REP. 109 (2003) (peer reviewed).

Remorse, Responsibility and Regulating Advocacy: Making Defendants Pay for the Sins of their Attorneys, 78 N.Y.U. L. REV. 2103 (2003).

Tinkering with Death in Illinois, 2003 U. ILL. L. REV. 1073 (2003).

Addressing Gender Based Violence in an International Context, 18 HARV. WOMEN'S L.J. 139 (1995).

Judicial Impact

Cited within the following cases:

United States v. Moreno-Trevino, 432 F.3d 1181, 1185 (10th Cir. 2005) (quoting *Acceptance of Responsibility and Plea Bargaining Under the Feeney Amendment*, 16 FED. SENT. R. 109, 112 (2003)).

Baker v. Gearinger, 293 F.3d 1353, 1353 (11th Cir. 2002) (court-appointed attorney).

United States v. Aranda-Diaz, 785 F.Supp.2d 1058, 1062 (D.N.M. 2011) (quoting *Acceptance of Responsibility and Plea Bargaining Under the Feeney Amendment*, 16 FED. SENT. R. 109, 112 (2003)).

United States v. Doyle, No. 16-CR-506 (ALC), 2018 WL 1902506, at *17 (S.D.N.Y. Apr. 19, 2018) (quoting *Remorse, Responsibility, and Regulating Advocacy: Making Defendants Pay for the Sins of Their Lawyers*, 78 N.Y.U. L. REV. 2103, 2163 (2003)).

United States v. Doe, No. 01 CR. 782 (GEL), 2005 WL 167601, at *6 (S.D.N.Y. Jan. 25, 2005) (citing *The Declining Utility of the Right to Counsel in Federal Criminal Courts: An Empirical Study on the Diminished Role of Defense Attorney Advocacy Under the Sentencing Guidelines*, 92 CAL. L. REV. 425, 443-44, 457-62 (2004)).

Administrative/Committee Service

College of Law Committee Service: Executive Committee, Promotion and Tenure Committee (including as Chair), Curriculum Committee, Dean Search Committee, Appointments Committee, Self-Study Committee, Career Placement and Clerkship Committee, Lectures Committee (including as Chair), Strategic Planning Committee, Admissions Committee, International Committee

University/Campus Committee Service: Vice President for Academic Affairs Faculty Advisory Committee (University Administration), Provost Search Committee, Committee on Institutional Cooperation (CIC) Academic Leadership Fellow, UIUC Academic Leadership Group, University Conflicts of Interest Board, Graduate College Executive Committee

External: The College Board (Trustee, 2013- present); American Association of Law School (AALS) (Executive Committee Member for Professional Responsibility Section)

Teaching Interests: Criminal Law, Criminal Procedure, Advanced Criminal Procedure, Children and the Law, Sentencing Law & Policy, Juvenile Law, Federal Sentencing, Education Law

Teaching Experience

University of Illinois College of Law - Assistant Professor, 2001-2004; Associate Professor, 2004 to 2006. Professor, 2006- present. Courses: Criminal Law, Criminal Procedure, Children and the Law, Sentencing Law and Policy.

The University of Chicago Law School- Visiting Professor, 2007-2008. Courses: Criminal Law, Children and the Law, Advanced Topics in Criminal Procedure.

University of Georgia Legal Aid Clinic - Assisted and supervised second and third year law students in representing misdemeanor cases in state and municipal courts.

Yale Law School - Teaching Assistant and Co-Lecturer to Professor Harlon Dalton in “Law and the Human Subject” seminar. Conducted two lectures on the use of eyewitness identification at trial.

Yale Law School - Coker Fellow/Teaching Assistant to Professor Burke Marshall in Constitutional Law course for first year students.

Yale College - Teaching Assistant to Justice Fleming Norcott, Connecticut Supreme Court, in undergraduate civil rights course, “Blacks and the Law”

General Experience

1997- 2001 **FEDERAL DEFENDER PROGRAM, INC.**

Atlanta, GA

Represented indigent defendants at trial, at sentencing and on appeal in federal criminal matters in the Northern District of Georgia. Cases included allegations of financial crimes, bank robbery, kidnapping, drug trafficking, illegal entry by refugees, sex offenses, obstruction of justice, terroristic threats and arson.

- 1996- 97 **UNIVERSITY OF GEORGIA LEGAL AID CLINIC** Athens, GA
Represented indigent clients as public defender in Athens-Clarke County State and Municipal Courts. Handled all aspects of defense, including interviews, bond issues, arraignments, motions, bench and jury trials. Assisted and supervised law students in handling misdemeanor criminal case.
- 1995- 96 **UNITED STATES COURT OF APPEALS, FOURTH CIRCUIT** Baltimore, MD
Law Clerk to Judge Diana G. Motz. Wrote draft opinions and legal memoranda. Researched issues related to civil and criminal federal law.
- 1995 **JEROME N. FRANK LEGAL SERVICES** New Haven, CT
Represented juvenile clients and parents in the Advocacy for Parents and Children Law Clinic; appeared before family and juvenile court judges; drafted court documents; negotiated with state attorneys and prosecutors; sought social services for clients.
- 1994 **CLEARY, GOTTLIEB, STEEN & HAMILTON** Washington, DC
Drafted documents for merger/acquisition transaction; drafted an opinion letter to the Comptroller of the Currency; compiled a regulatory history of sections of the National Bank Act; researched various issues in preparation for litigation including antitrust, product liability and bankruptcy.
- 1994 **UNITED STATES DEPARTMENT OF JUSTICE** Washington, DC
Participated in summer program in Environmental and Natural Resources Division. Wrote legal memoranda and briefs on issues of white collar crime and environmental law.
- 1993 **STEPTOE & JOHNSON** Washington, DC
Served as second-chair in depositions. Drafted section of political asylum brief. Wrote legal memoranda on issues of intellectual property, administrative law, and discovery rules.
- 1993 **CENTER FOR CONSTITUTIONAL RIGHTS** New York, NY
Wrote brief involving affirmative state action and gender discrimination claims. Completed section of litigator=s manual on bringing international human rights suits under the Torture Victim Protection and Alien Tort Claims Acts. Attended weekly seminars on constitutional law.
- 1992-93 **YALE HAITIAN REFUGEE CLINIC** New Haven, CT
Worked on litigation team to secure release of Haitian refugees from Guantanamo Bay, Cuba. Researched and wrote section of brief in opposition to government=s petition for certiorari. Defended deposition of Haitian client and completed other tasks in preparation for trial.

Consulted weekly with leader of Haitian refugee camp and traveled to Guantanamo Bay to counsel clients.

1991-92 **BROOKHAVEN HIGH SCHOOL** Brookhaven, MS
French Teacher placed by the Mississippi Teacher Corps to teach French in rural public high school. Taught five French classes daily, beginner through advanced levels.

Academic Presentations:

2017-18 Academic Year Presentations: **University of Chicago**, University of Chicago Legal Forum: Law and Urban Institutions Ten Years After the Wire, *Education, Violence, and Re-Wiring Our Schools* (December); **University of Georgia**, The 18th Annual Georgia Symposium on Legal Ethics and Professionalism: Conflicts of Interest in Multi-Party Litigation, Panel Discussion, *Conflicts of Interest in Public Defender Offices* (February)

2016-17 Academic Year Presentations: **University of Iowa**, Lutie A. Lytle Black Women Law Faculty Workshop, *Rape and Constructive Consent* (July)

2015-16 Academic Year Presentations: **University of Illinois**, Unit for Criticism & Interpretive Theory, *Author's Roundtable with Michael Javen Fortner* (October); **University of Illinois**, Art Theatre, *Anita: Speaking Truth to Power (film)*, Post Show Discussion (October); **Duke University**, *Racism and Immigration Law Policy*, Symposium on Civil Rights: The Present and Future of Civil Rights Movements: Race and Reform in 21st Century America (November); **Foundation for Law and International Affairs (FLIA)**, *The Problem of Wrongful Conviction in the U.S. Criminal Justice System* (March)

2014-15 Academic Year Presentations: **University of Illinois** (September); **Washington & Lee** (January); **Houston Law Center** (March); **AALS Mid-Year Meeting** (June)

2013-14 Academic Year Presentations: **University of Illinois** (October); **South Eastern Association of Law Schools Conference** (July)

2012-13 Academic Year Presentations: **Washington & Lee** (October); **University of Illinois College of Law** (April); **South Eastern Association of Law Schools Conference** (August)

2011-2012 Academic Year Presentations:
University of Illinois (August); **National Sentencing Policy Institute, Memphis** (October)

2009-2010 Academic Year Presentations
Iowa Law School (September); **University of Illinois** (March, April, May)

2008-09 Academic Year Presentations:
Chapman School of Law; St Thomas Law School (February); **University of Illinois** (March); **Iowa Law School** (May); **South East Association of Law Schools** (August)

2007-08 Academic Year Presentations:
Iowa School of Law (August), **University of Illinois College of Law** (August), **New England School of Law** (September), **Fordham Law School** (faculty workshop in February), **University of Alabama Law School Faculty Colloquium Series** (February), **Duke Law School** (February), **The University of Chicago Law School** (faculty workshop in March), **Chicago-Kent School of Law** faculty workshop (March), **Law and Society Annual**

Conference (May), **Cardozo Law School** Conference (June), **Fordham Law School** (Ethics conference in June)

Marquette Law School, April 2007, Apology and Plea Bargaining in Plea Bargaining Conference

University of Illinois, April 2007, *A Response to Professor Bibas on Formalism in Criminal Procedure*

University of Illinois, April 2007, Conference on “Why Lawyers Matter: Building and Rebuilding Justice Systems after Katrina”

University of Colorado School of Law, September 2006, *Minimization in Interrogation*

University of Illinois Faculty Retreat (Champaign), May 2006
Response to Leslie Reagan’s paper *German Measles: Wrongful Birth/Wrongful Life Cases*.

Presented paper *Taking Black Pain Seriously: A New Understanding of Racially Disparate Sentencing*

American Bar Foundation, (Chicago) February 2007,
Washington & Lee School of Law, (Lexington) November 2006,
University of Chicago Criminal Justice Roundtable, May 2006
University of St. Thomas (symposium), (Minneapolis) March 2006

Presented invited talk on “Infanticide in Senegal: A Comparative Perspective” at **2005 Conference of the Research Committee of Sociology of Law** at the Carré des Sciences in Paris, France (July 13, 2005).

Organized, moderated and presented at conference, *The Impact of Booker: A Dialogue* <http://law.wlu.edu/> Between Scholars and Practitioners at the **University of Illinois College of Law** (April 2005).

Presented paper *Criminal Defense Lawyers as Cause Lawyers* at:
St. Louis University School of Law (St. Louis), April 2005
Stanford Law School (Palo Alto), April 2005
Notre Dame Law School (South Bend), April 2005
2004 Law and Society Association Conference (Chicago), June 2004.

Presented as part of a panel during conference “The Future of American Sentencing: A National Roundtable on *Blakely*” at **Stanford Law School**. (October 8-9, 2004).

Awarded **Fulbright** grant to assist in training judges in Dakar, Senegal (West Africa) on white collar crime. The project consisted of two weeks of lectures for magistrates, in addition to meetings with the Minister of Justice, the Chief Judge of the Constitutional Court, the Senegalese equivalent of the Attorney General, the Dean of the law school, and other dignitaries and officials (July 2004).

Presented *The Declining Utility of the Right to Counsel in Federal Criminal Court* at:
University of California at Boalt Hall, (Berkeley) October 7, 2004.

University of Georgia (Athens), November 19, 2003
American Bar Foundation (Chicago), October 8, 2003
University of Oregon faculty workshop (Eugene), September 20, 2003
2003 Law and Society Association Conference (Pittsburgh), June 2003

Presented *Remorse, Responsibility, and Regulating Advocacy* paper at **Northwestern University** Law School's faculty workshop. (Mar. 3, 2003)

Invited to speak on issues of gender in the classroom at a conference for educators entitled "Diversity and Racism in the Classroom" at the **University of Illinois**. (Jan. 25, 2003).

Invited to moderate portion of film series on law and social movements for Martin Luther King Commemorative Symposium Week. at the **University of Illinois** (Jan. 21, 2003)

Delivered introductory remarks for university-wide lecture at the **University of Illinois** by then Governor of Illinois, Governor George Ryan, on "The Role of the Executive in Administering the Death Penalty" (Dec. 19, 2002).

Addressed group of newly elected members of **Illinois State Legislature** during New Legislators Conference on the "History of the Death Penalty in the United States." (Dec. 4, 2002).

Invited to co-facilitate breakout group section on Immigration, Detention & Punishment at **Fordham University** School of Law conference entitled "Teaching in Crisis, Teaching about Crisis" (Oct. 11, 2002)

Spoke as part of four-member panel at **University of Illinois** College of Law on issue of "Law and September 11." (Sept. 11, 2002)

Presented paper *Taking Black Pain Seriously* on sentencing disparity at **Yale Law School** Conference entitled "Race, Values and the American Legal Process" (Feb. 23, 2002)

Presented paper on sentencing at **Loyola University-Chicago** Law School Conference on Urban Health and Race Law" (Apr. 6, 2002)