

Eric J. Miller

Professor

Loyola Law School, Los Angeles
919 Albany St.
Los Angeles, CA. 90015
Tel: (213) 736-1175
Email: millere@lls.edu

Loyola Law School, Los Angeles, Los Angeles, CA, 2013-present

Professor of Law

Leo J. O'Brien Fellow, 2016-19.

Courses: Evidence, Criminal Procedure, Jurisprudence

Center for Teaching Excellence: Certificate for Online and Hybrid Teaching and Learning

Saint Louis University School of Law, St. Louis, MO, 2005-2012

Professor, 2010-2013; Associate Professor, 2008-2009; Assistant Professor, 2005-2008. Tenured, 2008.

Kathy W. Humphrey Award for Diversity (2011)

Advisor, Black Law Students Association (2006-2013)

Advisor, American Constitution Society (2009-2013)

Western New England College School of Law, Springfield, MA, 2003-2005

Assistant Professor, 2003-2005

Dr. Martin Luther King, Jr. Recognition of Achievement Award (2005)

Advisor, Multicultural Students Association (2003-2005)

Advisor, American Constitution Society (2003-2005)

Visiting Positions

Washington University in St. Louis School of Law, St. Louis, MO, Fall and Spring 2016-17

Visiting Professor of Law

BLSA Outstanding Faculty Member (2017)

Loyola Law School, Los Angeles, Los Angeles, CA, Fall 2012

Visiting Professor of Law

Oxford University, Faculty of Law, Oxford, UK, Hilary and Trinity 2012

Academic Visitor

Member, Brasenose College Senior Common Room

Washington University in St. Louis School of Law, St. Louis, MO, Spring 2011

Visiting Professor of Law

Education

Joint Fellow, Harvard Criminal Justice Institute & Harvard Civil Rights Project
Harvard Law School, Cambridge, MA (2002-2003)

Charles Hamilton Houston Fellow
Harvard Law School, Cambridge, MA (2001-2002)

Visiting Scholar
Harvard Law School, Cambridge, MA (1996-1997)

Master of Laws
Harvard Law School, Cambridge, MA (1993)

Bachelor of Laws
University of Edinburgh, Edinburgh, UK (1991)
Honors: First Class Honors
Henry Dalgetty Award for Academic Excellence

Editorial Positions

Jotwell
Contributing Editor, 2016-present.

Research Grants

Saint Louis University
Do Structural Rather than Therapeutic Factors Determine the Placement of Offenders in Mental Health Courts?
President's Research Fund, Saint Louis University, September 2011-September 2012

Publications

Books

CRIMINAL LAW: A CRITICAL APPROACH (Roger A. Farfax, I. Bennett Capers & Eric J. Miller, eds. Forthcoming 2021)

THE CAMBRIDGE HANDBOOK OF POLICING IN AMERICA (Eric J. Miller & Tamara R. Lave, eds. (2019)

Articles and Book Chapters

Knowing Your Place: The Police Role in the Reproduction of Racial Hierarchy
GEO. WASH. L. REV. (forthcoming 2021)

- Regulating Race as Criminal Nuisance*, FORDHAM URB. L.J. CITY SQUARE (forthcoming 2021)
- Just Relationships: Desistance for Reentry Courts*, IND. L. REV. (forthcoming 2021)
- The Drug Court Police*, N. KY. L. REV (forthcoming 2021)
- Republican, Rebellious Reparations*, 63 HOW. L.J. 363 (2020)
- The Moral Burdens of Police Wrongdoing*, 96 RES PHILOSOPHICA 219 (2020)
- Property, Persons, and Institutionalized Police Interdiction in Byrd v. United States*, 52 LOYOLA L. REV. 107 (2019)
- Reasonably Radical: Terry's Attack on Race-Based Policing*, SEARCH & SEIZURE L. RPT. (2019)
- Introduction* in THE CAMBRIDGE HANDBOOK OF POLICING IN AMERICA (Eric J. Miller & Tamara R. Lave, eds., 2019) (with Tamara Lave)
- The Police as Civic Neighbors* in THE CAMBRIDGE HANDBOOK OF POLICING IN AMERICA (Eric J. Miller & Tamara R. Lave, eds., 2019)
- Reasonably Radical: Terry's Attack on Race-Based Policing*, 54 IDAHO L. REV. 479 (2018)
- Evidence* in STAY AHEAD OF THE PACK: YOUR COMPREHENSIVE GUIDE TO THE UPPER LEVEL CURRICULUM (Robert Glicksman et al., eds., 2018)
- A Fair Cop and a Fair Trial* in OBSTACLES TO FAIRNESS IN CRIMINAL PROCEEDINGS: INDIVIDUAL RIGHTS AND INSTITUTIONAL FORMS (John Jackson & Sarah Summers, eds. 2018)
- On Behalf of the Community*, FORDHAM URB. L.J. CITY SQUARE (2017), <http://urbanlawjournal.com/category/discrimination-in-the-sharing-economy-and-new-york-citys-answer-to-gentrification/policing-in-america/>
- Encountering Resistance: Non-Compliance, Non-Cooperation and Procedural Justice*, 2016 U. CHI. LEGAL F. 295 (2016)
- Police Encounters with Race and Gender*, 5 U. IRVINE L. REV. 735 (2015)
- Challenging Police Discretion*, 58 HOW. L.J. 521 (2015)
- Foreword: Some Perspective on Problem-Solving* in JANE C. DONOGHUE, TRANSFORMING CRIMINAL JUSTICE? PROBLEM SOLVING AND COURT SPECIALIZATION (2014)

- Permissive Justification*, 47 IND. L. REV. 689 (2014)
- Judging in Bad Faith*, 1 REV. FORUMUL JUDECĂTORILOR 63 (2012)
- Detective Fiction: Race, Authority and the Fourth Amendment*, 44 ARIZ. ST. L.J. 213 (2012)
- The Warren Court's Regulatory Revolution in Criminal Procedure*, 43 CONN. L. REV. 1 (2010)
- Putting the Practice into Theory*, 7 OHIO ST. J. CRIM. L. 31 (2009)
- Drugs, Courts, and the New Penology*, 20 STAN. L. & POL'Y REV. 417 (2009)
- Judicial Preferences*, 44 HOUS. L. REV. 1276 (2008)
- The Therapeutic Effects of Managerial Reentry Courts*, 20 FED. SENT'G REP. 127 (2007)
- Role-Based Policing: Restraining Police Conduct "Outside the Legitimate Investigative Sphere,"* 94 CAL. L. REV. 617 (2006)
- Foundering Democracy: Felony Disenfranchisement in the American Tradition of Vote Suppression*, 16 NAT'L BLACK L.J. 32 (2005)
- Keeping It Real: Empathy and Heroism in the Work of Charles J. Ogletree, Jr.*, 22 HARV. BLACKLETTER L.J. 131 (2005)
- Embracing Addiction: Drug Courts and the False Promise of Judicial Interventionism*, 65 OHIO ST. L.J. 1479 (2004)
- Representing the Race: Standing to Sue in Reparations Lawsuits*, 20 HARV. BLACKLETTER L.J. 91 (2004)
- Reconceiving Reparations: Multiple Strategies in the Reparations Debate*, 24 B.C. THIRD WORLD L.J. 45 (2004)
- "Sympathetic Exchange:" Adam Smith and Punishment*, 9 RATIO JURIS 182 (1996)

Book Reviews

- Book Review: Picking on the Weak and Vulnerable*, CRIMINAL LAW AND PHILOSOPHY (forthcoming, 2021).
- Book Review: The End of the Criminal Law?* THE NEW RAMBLER (Oct. 15, 2020)

Book Review: Breaking Windows as Corrective Justice: Impure Resistance in Urban Ghettos, 53 TULSA L. REV. 313 (2018)

Book Review: Lynch Mobs and the Killing State, 31 ETHNIC & RACIAL STUD. 209 (2008)

Book Review: Signifyin' Nothing?: Conversations on Race, Color, and Community, 13 Harv. BLACKLETTER L.J. 241 (1997)

Other

The Shield Behind The Badge, JOTWELL (October 12, 2020) (reviewing Rachel Moran, *Contesting Police Credibility*, 93 WASH. L. REV. 1339 (2018)), <https://crim.jotwell.com/the-shield-behind-the-badge/>

The Punishment and Treatment is the Process, JOTWELL (September 18, 2019) (reviewing Wendy Bach, *Prosecuting Poverty, Criminalizing Care*, 60 WM. & MARY L. REV. 809 (2019)), <https://crim.jotwell.com/the-punishment-and-treatment-is-the-process/>.

Out of Touch and Out of Order: Frisking as a Form of Sexual Harassment, JOTWELL (September 26, 2018) (reviewing Josephine Ross, *What the #Metoo Campaign Teaches About Stop and Frisk*, ___ IDAHO L. REV. ___ (forthcoming 2018), available at SSRN), <https://crim.jotwell.com/out-of-touch-and-out-of-order-frisking-as-a-form-of-sexual-harassment/>.

It Gets Worse Before It Gets Better: Victims' Duties to Resist Injustice, JOTWELL (Oct. 4, 2017), <https://crim.jotwell.com/it-gets-worse-before-it-gets-better-victims-duties-to-resist-injustice/> (reviewing Ashwini Vasanthakumar, *Epistemic Privilege and Victims' Duties to Resist their Oppression*, 35 J. APPLIED PHIL. 465 (2018))

Rendering the Community—and the Constitution—Incomprehensible Through Police Training JOTWELL (Nov. 10, 2016), <https://crim.jotwell.com/rendering-the-community-and-the-constitution-incomprehensible-through-police-training/> (reviewing Nancy C. Marcus, *Out of Breath and Down to the Wire: A Call for Constitution-Focused Police Reform*, 59 HOW. L.J. 5 (2015))

(with Dan Markel) *Bowling, as Bail Condition*, NY TIMES, July 14, 2012, available at <https://www.nytimes.com/2012/07/14/opinion/not-yet-tried-but-sentenced-to-red-lobster.html>

How Can We Fix the Constitution? Fire the Bail Bondsmen SLATE.COM, <http://hive.slate.com/hive/how-can-we-fix-constitution/article/fire-the-bail-bondsmen> (last visited June 19, 2012)

Problem-Solving Courts in OXFORD BIBLIOGRAPHIES ONLINE April 25, 2011. <<http://www.oxfordbibliographiesonline.com/>>

How Medicaid's Gender Bias Discriminates Against Male Ex-Prisoners, and What to Do About It, COMMUNITY VOICES, MOREHOUSE COLLEGE SCHOOL OF MEDICINE WORKING PAPER (2007)

The Peculiar Institution of Felony Disenfranchisement
COMMUNITY VOICES, MOREHOUSE COLLEGE SCHOOL OF MEDICINE WORKING PAPER (2007)

Juvenile Justice and Delinquency Prevention Act of 1974, in MAJOR ACTS OF CONGRESS, (Brian K. Landsberg, ed., 2004)

Guest Blogger

PrawfsBlawg, August 2017, February 2016; August 2014; February 2013

Testimony

Testimony before the House Judiciary Committee Subcommittee on the Constitution, Civil Rights, and Civil Liberties Hearing on Continuing Injustice: The Centennial of the Tulsa-Greenwood Race Massacre
United States Congress, House of Representatives, Washington, D.C., May 19, 2021

Testimony before the Inter-American Commission on Human Rights on Reparation for Slavery and Other Forms of Structural Racial Discrimination in the United States, Washington, D.C., September 24, 2019

Testimony before the House Judiciary Committee Subcommittee on the Constitution, Civil Rights, and Civil Liberties Hearing on HR40 and the Path to Restorative Justice
United States Congress, House of Representatives, Washington, D.C., June 19, 2019

Testimony before the Federal Judicial Center's 2018 National Workshop for U.S. Magistrate Judges
Denver, CO, July 30, 2018

Testimony to the Indiana University Grand Challenge Project, "Legal and Policy Best Practices in Response to the Substance Abuse Crisis"
Indiana Law School, Indianapolis, IN, July 16, 2018

Testimony before the Federal Judicial Center's 2018 National Workshop for U.S. Magistrate Judges
New Orleans, LA, April, 12, 2018

Testimony before the 2017 Eighth Circuit Chief Judges' Conference on Specialty Courts
Little Rock, AK, August 3, 2017

Testimony submitted to the Missouri Senate Hearing on Senate Bill No. 287 on Biased Policing
Jefferson City, MO, March 6, 2017.

Testimony before the Scottish Government Judicial Studies Committee on Problem-Solving Courts
Edinburgh, UK, September 27, 2012

Testimony before the Scottish Commission on Women Offenders on the Operation of Problem-Solving Courts
Glasgow, UK, March 15, 2012

Testimony before the United States Sentencing Commission Public Hearing on Alternatives to Incarceration, Reentry and Community Impact
University of Texas, Austin, TX, November 19, 2009

Testimony before the House Judiciary Subcommittee on the Legacy of the Trans-Atlantic Slave Trade in America
United States Congress, House of Representatives, Washington, D.C., December 17, 2007

Speeches, Presentations & Panels

Reading “A Feminist Critique of Police Stops” Law and Society which will be held in virtually May 27-30, 2021

Reparations as Public Nuisance: Litigating the Tulsa Massacre of 1921, American Society of International Law–University of the West Indies Symposium on Reparations under International Law for Enslavement of African Persons in the Americas and the Caribbean, 20 & 21 May 2021

Litigating Reparations
Reparations 2021 Conference, African American Racial Redress Network, April 10, 2021

The Police Function of Drug Courts
Northern Kentucky Law Review Symposium on the Future of Drug Policy, March 26, 2021

Reparations as Racial Justice
Loyola Anti-Racism Center Conference, March 26 LLS

Knowing Your Place: The Police Role in the Reproduction of Racial Hierarchy
Intellectual Life Speaker Series, Tulane Law School (online) March 8, 2021

An Anti-Racist Approach to Teaching Criminal Law
U. Miami Law School Pedagogy Series (online) February 26, 2021

The Public Authority Model of the Police

Criminal Law Theory Conference, Hebrew University of Jerusalem (online)
February 4, 2021

Reading and Responding to Michelle Dempsey's Coercion, Consent, and Time,
PEA Soup (online blog) February 1-2, 2021

Knowing Your Place: The Police Role in the Reproduction of Racial Hierarchy

Addressing the Crisis in Policing in America Today: The Role of Race and
Masculinity in Officer Involved Shootings, George Washington Law School,
October 24, 2020

Policing Disability, SoCal Criminal Justice Workshop (online conference) July
27, 2020

Sheriff Gangs, CrimWip Workshop (online workshop) July 16, 2020

Policing Disability, Crimfest (online conference) July 13, 2020

Sheriff Gangs (with Sean Kennedy), New Frontiers in Independent Oversight of
Jails, Prisons, and Police Conference, National Association for Civilian Oversight
of Law Enforcement, University of Texas, Austin, TX, March 5-6, 2020

Criminal Justice Scorecard, Criminal Justice & Immigration: Where do the
Democratic Presidential Candidates Stand? Experts Grade the Proposals
William S. Boyd School of Law, UNLV, Las Vegas, NV. Feb. 18, 2020

The Dark Ghettos of Criminal Law, Racial Bias, Disparities and Oppression in the
1L Curriculum: A Critical Approach to the Canonical First Year Law School
Subjects, Boston University School of Law, Boston, MA, February 28th-29th
2020.

Reparations and Economic Justice, Socio-Economics panel on Economic Justice
& Racial Justice, AALS Conference, January 2-6, 2020

Police as Civic Neighbors, Symposium on Policing in the United States, AALS
Conference, January 2-6, 2020

Search Incident to Arrest, SouthWest Criminal Justice Workshop, UNLV Law
School, Las Vegas, Nevada, October 22-23, 2019

The Police as Civic Neighbors, Cambridge Handbook of Policing in the United
States 2: Policing Discrimination, 2019 Annual Meeting on Law and Society in
Washington, DC, May 30 - June 2, 2019.

The Diffuse Burdens of Police Wrongdoing Southern California Law and
Philosophy Workshop April 23, 2019

The Cambridge Handbook of Policing in the United States, National People of Color Conference, Washington, D.C., March 21-24, 2019

The Diffuse Burdens of Police Wrongdoing, Res Philosophica Conference, Saint Louis University, St. Louis, MO, March 20-22, 2019

The Diffuse Burdens of Police Wrongdoing Law of the Police Conference, University of S. Carolina, Feb. 28-March 2, 2019

Justice Kavanaugh on Criminal Justice, *Civil Rights in the Aftermath of the Kavanaugh Hearings and Confirmation* AALS Conference, January 2-6, 2019

Property, Persons, and Institutionalized Police Interdiction in Byrd v. United States, Arizona State University School of Law, Phoenix, AZ, Nov. 20, 2018

Policing Fragmentation, Western Law Professors of Color Conference: October 18-21, 2018

Policing and Technology, County of Los Angeles Sheriff Civilian Oversight Commission Conference, Los Angeles, CA, October 15, 2018

Reasonably Radical: Terry's Attack on Race-Based Policing
2018 Idaho Law Review Symposium: Terry v. Ohio at 50: Considering the Past, Present and Future of Stop-and-Frisk, University of Idaho School of Law, Boise, Idaho April 6, 2018

The Police as Civic Neighbors
University of Colorado Law School, Boulder, CO, February 23, 2018

Policing Class
Plenary: Neoliberalism's Leviathan: Debtfare, Workfare, Prisonfare, Class Crits, Tulane University School of Law, New Orleans, LA, November 11, 2017

In Harm's Way: The Moral Dangers of Policing
Law and Humanities Conference, Cardozo School of Law, New York, NY, April 7, 2017

#Black Lives Matter: Balancing Security with Dignity in American Policing
AALS Annual Meeting, San Francisco CA, January 6, 2017

A Fair Cop and a Fair Trial
Vanderbilt Law School Annual Criminal Justice Round Table, Vanderbilt Law School, Nashville, TN, November 12, 2016

A Fair Cop and a Fair Trial
Philosophy of Criminal Procedure Conference, Osgoode Hall Law School, York University, Ontario, Canada, November 5, 2016

A Fair Cop and a Fair Trial

Workshop in Politics, Ethics, and Society, Washington University in St. Louis, St. Louis, MO, October 21, 2016

A Fair Cop and a Fair Trial

Obstacles to Fairness in Criminal Proceedings MLR Seminar at the Centre for Criminal Justice Research, University of Nottingham School of Law, Nottingham, UK, September 1-2, 2016

Challenging Police Procedure

The University of Chicago Legal Forum Symposium, *Policing the Police*, University of Chicago Law School, Chicago, IL, November 6, 2015

Community Control of Police Discretion

Taslitz Galaxy Conference, Howard Law School, Washington, D.C., September 19, 2014

Convictions, Collars, and Control

Obstacles to Fairness in Criminal Proceedings and the Irrelation between Criminal Procedural Law and Criminology, Zurich University, Zurich, Switzerland, September 4-5, 2014

Reassessing the Criminal Offender

ABA Criminal Justice Section, Sixth Annual Fall Institute Program, Washington, D.C., November 1, 2013

Do Structural Rather than Therapeutic Factors Determine the Placement of Offenders in Mental Health Courts?

XXXIIIrd International Congress on Law and Mental Health, Amsterdam, Netherlands, July 18, 2013

The Politics of Problem-Solving Justice

Midwest Political Science Association Conference, Chicago, IL, April 11, 2013

The Politics of Problem-Solving Justice

Center for the Interdisciplinary Study of Law Symposium: Our Self-Medicating Culture, Saint Louis University School of Law, April 5, 2013

Legal Standards in Problem-Solving Courts

The Bruce J. Winick Fall 2012 Colloquium: Standards in the Problem Solving Courts, University of Miami School of Law, Miami, FL, October 5, 2012

Holistic Justice: Therapeutic Agents and the Place of Law

Symposium on Therapeutic Jurisprudence and Problem-Solving Justice, Balliol College, University of Oxford, UK, August 7, 2012

A Criminal Revolution? Problem Solving Courts in Theory and Practice

Strathclyde University, UK, March 14, 2012

A Criminal Revolution? Problem Solving Courts in Theory and Practice
All Souls College, University of Oxford, UK, March 7, 2012

Incommensurability, Practices, and Points of View: Revitalizing H.L.A. Hart's Practice Thesis
Oxford Jurisprudence Discussion Group, University of Oxford, UK February 16, 2012

Detective Fiction: Race, Authority and the Fourth Amendment
U.C. Irvine School of Law, Irvine, CA, December 6, 2011

Project on Problem-Solving Courts Problem-Solving Courts in Theory and Practice
Columbia Law School, New York, NY, December 1-2, 2011

The Epistemology of Suspicion
Criminal Justice Roundtable, Yale Law School, Hartford, CT, April 30, 2011

Reparations: Conservative and Republican on panel Marking Space, Marking Time: Sovereignty and Orientalism
Law and Humanities Conference, Las Vegas, NV, March 11, 2011

Blue Above All: Anti-Subordination and Police Professionalism
National People of Color Conference, Newark, NJ, September 10, 2010

The 1921 Tulsa Race Riot, 150th Anniversary of Dred Scott v. Sandford: Race, Citizenship & Justice
Harvard law School, Cambridge, MA, April 6, 2007

Service

Academic

AALS Criminal Justice Section Executive Committee (Chair in 2019)
Coordinator, *Policing Los Angeles Forum* (2018-present)
Western People of Color Legal Scholarship Conference, Committee Member (2018-present)
ABA Judicial Division, Lawyer's Conference Co-Chair of the Committee on Promoting Specialized Courts (2016-2017)
Rapporteur, Economic and Social Research Counsel
August 25, 2012
Northeast People of Color Legal Scholarship Conference, Committee Member (2004-present)
New Voices in Legal Theory Organizing Committee Member (2009-present)

Committees

Loyola Marymount University Presidential Black Leadership Accountability Council (2020-present)
Loyola Marymount University Intercultural Advisory Committee (2020-present)
Loyola Law School, Los Angeles, Library Committee (2020-present)
Loyola Law School, Los Angeles, Scholarship Committee (2020-present)
Loyola Law School, Los Angeles, Equity and Inclusion Committee (2019-present) (Co-Chair, 2020-present)
Loyola Law School, Los Angeles, Curriculum Committee, Member (2018-2019)
Loyola Law School, Rains & Deans Fellows Faculty Advisor (2017-2019)
Loyola Law School, Los Angeles, Appointments Committee (2018-2019)
Loyola Law School, Los Angeles, Dean's Advisory Committee (2017-2018)
Loyola Law School, Los Angeles, Research and Sabbatical Grants Committee, Co-Chair, (2014-2016)
Loyola Law School, Los Angeles, Curriculum Committee, Member (2014-15)
Saint Louis University Appointments Committee (2008-2011)
Saint Louis University Scholarship Committee (2008-2009)

Community Service

Arch City Defenders (2010-2013, 2016-2019)
Coach, Saint Louis University BLSA Mock Trial Team (2007-2009)
Coach/Supervisor, Saint Louis University BLSA Moot Court Team (2007-2011)
Coach, Mock Trial Team, Grace Hill Community Project (2007)

Other Professional Experience

Clerkships

Hon. Stephen Reinhardt, Ninth Circuit (2000-2001)
Hon. Myron H. Thompson, Middle District, Alabama (1998-1999)

Litigation

Litigation Team Member

Advocates for Justice for Greenwood Litigation Team, Tulsa, OK (2020-present)
Chicago Slavery Ordinance Litigation Team, Chicago, IL (2006)

Litigation Committee Member

The Legacy of the Georgetown 272 Alliance (2016-2017)
Reparations Coordinating Committee, Washington, D.C. (2001-2010)

Litigation Associate

Quinn Emanuel Urquhart Oliver & Hedges, LLP, Los Angeles (1997-1998, 1999-2000)

Memberships

State Bar of California
Central District of California
Ninth Circuit Court of Appeals