

Adam M. Gershowitz

William & Mary Law School
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CURRENT POSITION

William & Mary Law School

Hugh & Nolie Haynes Professor of Law, 2019-present

Associate Dean for Research and Faculty Development, 2015-2019

Kelly Professor of Teaching Excellence, 2014-2016

Professor of Law, 2012-present

PREVIOUS EMPLOYMENT

University of Houston Law Center, Associate Professor of Law, 2009-2012

South Texas College of Law, Assistant Professor of Law, 2005-2009

Covington & Burling, Litigation Associate, 2002-2005

Hon. Robert B. King, U.S. Fourth Circuit Court of Appeals, Law Clerk, 2001-2002

TEACHING AND RESEARCH AWARDS

1L Professor of the Year, William & Mary Law School (2019)

Walter Williams, Jr. Memorial Teaching Award, William & Mary Law School (2015)

Plumeri Award for Faculty Excellence, College of William & Mary (2015)

University of Houston All University Teaching Award (2012)

University of Houston Law Center Student Bar Assoc. Professor of the Year (2011)

University of Houston Law Center Order of the Barons Professor of the Year (2010)

South Texas College of Law All Faculty Teaching Award (2008)

South Texas College of Law All Faculty Advising Award (2007)

South Texas College of Law Best New Professor Award (2006)

Courses Taught

Criminal Law; Criminal Investigation; Criminal Adjudication; The Wire: Crime, Law and Policy; Capital Punishment Law; Texas Criminal Procedure; Deposition Skills; Health, Crime, and the Opioid Crisis; Constitutional Law; Property; Contracts

BOOKS

CRIMINAL PROCEDURE: THE ADJUDICATION PROCESS (2020) (with J. Bellin)

CRIMINAL LAW: CASES AND COMMENTS (Foundation Press 10th ed. 2017); (9th ed. 2013)
(with Ashdown and Bacigal)

THE WIRE: CRIME, LAW, AND POLICY (Carolina Academic Press 2013)

LAW REVIEW PUBLICATIONS

The Race to the Top to Reduce Prosecutorial Misconduct, 89 FORDHAM L. REV. ____
(forthcoming 2021) (symposium)

Punishing Pill Mill Doctors: Inconsistent Sentences in the Opioid Epidemic, 54 U.C. DAVIS
L. REV. ____ (forthcoming 2021)

The Opioid Doctors: Is Losing Your License a Sufficient Penalty for Dealing Drugs? 72
HASTINGS L.J. __ (forthcoming 2021)

Justice on the Line: Prosecutorial Screening Before Arrest, 2019 U. Ill. L. Rev. 833

Criminal Justice Apps, 105 VA. L. REV. ONLINE 37 (2019)

The Challenge of Convincing Ethical Prosecutors That Their Profession Has a Brady Problem,
16 OHIO ST. J. CRIM. L. 307 (2019) (solicited)

Prosecutorial Dismissals as Teachable Moments (and Databases) for the Police, 86 GEO.
WASH. L. REV. 1525 (2018) (symposium)

The Post-Riley Search Warrant: Search Protocols and Particularity in Cell Phone Searches, 69
VAND. L. REV. 585 (2016)

*Post-Trial Plea Bargaining in Capital Cases: Using Conditional Commutations To Remove
Weak Cases From Death Row*, 73 WASH & LEE L. REV. 1359 (2016) (symposium)

Consolidating Local Criminal Justice: Should Prosecutors Control the Jails? 51 WAKE FOREST
L. REV. 677 (2016) (symposium)

Google Glass While Driving, 47 ARIZ. ST. L.J. 755 (2015)

Rethinking the Timing of Capital Clemency, 113 MICH. L. REV. 1 (2014)

An NTSB for Capital Punishment, 47 TEX. TECH L. REV. 151 (2014) (symposium)

The Wire as a Gap-Filling Class on Criminal Law and Procedure 64 J. LEGAL EDUCATION 117 (2014)

Why Arizona v. Gant is the Wrong Solution to the Warrantless Cell Phone Search Problem, 94 B.U. L. REV. ANNEX 9 (2014) (solicited)

Seizing a Cell Phone Incident to Arrest: Data Extraction Devices, Faraday Bags, or Aluminum Foil as a Solution to the Warrantless Cell Phone Search Problem, 22 WM. & MARY B. RTS. J. 601 (2013)

Texting While Driving Meets the Fourth Amendment, A Proposal to Deter Texting and Warrantless Cell Phone Searches, 54 ARIZ. L. REV. 577 (2012)

Is Texas Tough on Crime But Soft on Criminal Procedure? 49 AM. CRIM. L. REV. 31 (2012)

The State (Never) Rests: How Excessive Prosecutor Caseloads Harm Criminal Defendants, 105 NW. U. L. REV. 261 (2011) (with L. Killinger)

Password Protected? Can a Password Save Your Cell Phone From a Search Incident to Arrest? 96 IOWA L. REV. 1125 (2011)

12 Unnecessary Men: The Case for Eliminating Jury Trials in Drunk Driving Cases, 2011 U. ILLINOIS L. REV. 961

Statewide Capital Punishment: The Case for Eliminating Counties' Role in the Death Penalty, 63 VAND. L. REV. 307 (2010)

Imputed Liability for Supervising Prosecutors: Applying the Military Doctrine of Command Responsibility To Reduce Prosecutorial Misconduct, 14 BERKELEY J. CRIM. L. 395 (2009) (with G. Corn)

Prosecutorial Shaming: Naming Attorneys To Reduce Prosecutorial Misconduct, 42 U.C. DAVIS L. REV. 1059 (2009)

The iPhone Meets the Fourth Amendment, 56 UCLA L. REV. 27 (2008)

Get in the Game or Get Out of the Way: Fixing the Politics of Death, 94 VA. L. REV. IN BRIEF 56 (2008) (solicited)

An Informational Approach to the Mass Imprisonment Problem, 40 ARIZ. ST. L.J. 47 (2008)

Raise the Proof: A Default Rule for Indigent Defense, 40 CONN. L. REV. 85 (2007)

Imposing a Cap on Capital Punishment, 72 MO. L. REV. 73 (2007)

Pay Now, Execute Later: Why Counties Should Be Required to Post a Bond to Seek the Death Penalty, 41 U. RICH. L. REV. 861 (2007) (solicited)

The Invisible Pillar of Gideon, 80 IND. L.J. 571 (2005)

The Diffusion of Responsibility in Capital Clemency, 17 J. L. POL. 669 (2001), reprinted in revised form in CAPITAL PUNISHMENT: A BALANCED EXAMINATION (2004)

Note, *The Supreme Court's Backwards Proportionality Jurisprudence: Comparing Judicial Review of Excessive Criminal Punishments and Excessive Punitive Damages Awards*, 86 VA. L. REV. 1249 (2000)

Delaware's Capital Jury Selection: Inadequate Voir Dire and the Problem of Automatic Death-Penalty Jurors, 2 DEL. L. REV. 235 (1999)

SHORTER PUBLICATIONS

The Post-Riley Search Warrant, 43 SEARCH & SEIZURE L. REP. 53 (2017)

Symposium on Riley v. California: Surprising Unanimity, Even More Surprising Clarity, SCOTUSblog, June 26, 2014, available at <http://www.scotusblog.com/2014/06/symposium-surprising-unanimity-even-more-surprising-clarity/>

Can a Password Stop Police From Searching Your Cell Phone Incident to Arrest? 38 SEARCH & SEIZURE L. REP. 81 (2012)

Prosecutorial Misconduct and Supervisory Responsibility, 13 LOYOLA J. PUB. INTEREST L. 331 (2012) (invited lecture)

Can Police Search Your Cell Phone, and Even Break Your Password, During an Arrest? 35 CHAMPION 16 (Nov. 2011)

Judge's Ill-Timed Ruling Invites Irrationality in Public's Views About Capital Punishment, HOUS. CHRON., March 21, 2010, at B10

Searching Cell Phones Incident to Arrest: Can Courts and Legislatures Impose Limits on a Bright Line Rule?, 36 SEARCH & SEIZURE L. REP. 9 (2009)

The Death Penalty for Child Rape: Why Texas May Help Louisiana, JURIST (May 2, 2007)

Supreme Court Nominees and the Fourth Circuit Curse, FINDLAW (March 2003)

AMICUS CURIAE AND EXPERT TESTIMONY

“Amicus Curiae Brief of Criminal Law Professors in Support of Petitioner Riley and Respondent Wurie” (cited by the Supreme Court in *Riley v. California*, 134 S. Ct. 2473 (2014)).

“The American Law Institute Abandons Its Model Capital Punishment Statute,” *State v. Thuesen*, April 5, 2010 (expert testimony in capital murder trial in Brazos County, Texas).

“The Financial Cost of Capital Punishment,” Testimony to the Capital Punishment Subcommittee of the Texas House of Representatives, March 12, 2009.

MEDIA APPEARANCES

Quoted in more than 400 news stories, including:

Print: The New York Times, Wall Street Journal, Washington Post, Los Angeles Times, Houston Chronicle, Associated Press, USA Today, Atlanta Journal & Constitution, BusinessWeek, CNET, ABA Journal

Radio: NPR, WABC, KUHF, KTRH, WBUR, WINA, WRVA

Television: ABC News, Fox News Channel, KHQB-39, KHOU, KPRC, KTRK, WAVY

SELECTED SERVICE

William & Mary

Associate Dean for Research and Faculty Development (2015-2019)

Responsibilities included: course scheduling, hiring and supervision of over seventy adjunct faculty, mentoring of junior faculty, coordinating faculty speakers and enrichment programming, supervising the summer research grant program, faculty media promotion, administering faculty travel pool

Appointments Committee (2013-2015, 2017-19, 2020-22; Chair 2014-2015)

Clerkship Committee (2017-18)

Curriculum Committee (2012-2014, 2015-2021; Chair, 2012-2014 & 2017-20)

Dean Search Committee (2019-20)

Enrichment Committee (2016-2019, Chair)
Faculty Assembly (2020-present)
McGlothlin Teaching Award Committee (2016-2019)
Status Committee (2019-20)

University of Houston

Appointments Committee (2009-2010, 2011-2012)
Executive Committee (elected by faculty, 2011-2012)
Honor Court (elected by students, 2010-2012)
Faculty Scholarship Committee (2010-2012)

South Texas College of Law

Appointments Committee (2006-2008)
Fred Parks Distinguished Professor Search Committee (2006-2009)
Student Faculty Committee (2007-2009, Chair 2008-2009)
Student Awards Committee (2007-2009)
Curriculum Committee (2008-2009)
Financial Aid Committee (2006-2007)
Library Committee (2005-2006)

SELECTED PRESENTATIONS AND LECTURES

Criminal Justice Apps, Digital Democracy Symposium, University of Virginia School of Law, January 25, 2019.

Justice on the Line: Prosecutorial Screening Before Arrest, Neighborhood Criminal Justice Roundtable, University of Richmond School of Law, May 14, 2018.

“The Intake Prosecutor: Prosecutorial Screening of Warrantless Arrests,” ABA-AALS Criminal Justice Conference, Washington, D.C., Nov. 2, 2017.

“Dismissals as Teachable Moments (and Databases) for Police,” George Washington University Law School, Oct. 26, 2017.

“The Supreme Court’s 2016-2017 Criminal Procedure Term,” Virginia Supreme Court, Richmond, Va., Aug. 22, 2017.

“Consolidating Local Criminal Justice: Should Prosecutors Control the Jails?” Wake Forest Law School, Apr. 1, 2016.

“Warrant and Warrantless Searches of Digital Devices,” North Carolina Judicial College, University of North Carolina, Chapel Hill, N.C., Nov. 6, 2015.

“The Supreme Court’s 2014-2015 Criminal Procedure Term,” Virginia Supreme Court, Richmond, Va., Sept. 1, 2015.

“The Law of Constructive Possession, Drug Quantity, and Intent to Distribute in the United States, University of Delaware, Newark, De., Nov. 6, 2014.

“Cell Phone Searches and the Aftermath of *Riley v. California*,” Inn of Court, Williamsburg, Va., Oct. 7, 2014.

“The Supreme Court’s 2013-2014 Criminal Procedure Term,” Virginia Court of Appeals, Richmond, Va., Aug. 19, 2014.

“Big Data and the Fourth Amendment,” ABA Criminal Justice Meeting, Washington, D.C., Nov. 1, 2013.

“The Supreme Court and the Fourth Amendment,” Virginia Court of Appeals, Richmond, Va., Aug. 27, 2013.

“Teaching *The Wire*: Fiction as Pedagogical Tool,” Southeastern Association of Law Schools Annual Meeting, Palm Beach, Fla., Aug. 10, 2013.

Summarizing and Commenting on the Evidence in American Versus Canadian Courts, William & Mary Law School, Feb. 7, 2013.

“Harmonizing Clinical and Doctrinal Teaching in Criminal Law, SALT Teaching Conference, Baltimore, Md., Oct. 5, 2012.

“Electronic Privacy and Criminal Procedure,” Public Privacy Workshop, William & Mary Law School, Sept. 6, 2012.

“A Brief Overview of the Law of Bail in Texas,” ABA Pretrial Justice Conference, Austin, TX, March 30, 2012.

“Prosecutorial Misconduct and Supervisory Responsibility,” Loyola University New Orleans College of Law, Nov. 3, 2011.

“The Supreme Court and the Fourth Amendment,” Symposium on Lifelong Learning, Jewish Community Center, Houston, TX, Oct. 12, 2011.

"Trading a Confession for a Search: A Proposal to Deter Texting While Driving and Warrantless Cell Phone Searches," William & Mary Law School, Oct. 4, 2011.

"The Constitutionality of Gang Injunctions," ACLU Panel, University of Houston Law Center, March 2, 2011.

"Password Protected? Can a Password Save Your Cell Phone From the Search Incident to Arrest Doctrine?" Stetson University College of Law, Feb. 3, 2011.

"The Fourth Amendment and Technology: Future Supreme Court Decisions on GPS Monitoring and Cell Phone Searches," American Constitution Society, University of Houston Law Center, Oct. 19, 2010.

"Password Protected? Can a Password Save Your Cell Phone From the Search Incident to Arrest Doctrine?" Florida State University College of Law, Sept. 24, 2010.

"Warrantless Searches of Cell Phones," Harris County Judicial Education Conference, Houston, TX, Aug. 11, 2010.

"Is Texas Tough on Crime But Soft on Criminal Procedure?" Southeastern Association of Law Schools Annual Meeting, Palm Beach, Fla., Aug. 4, 2010.

"12 Unnecessary Men: The Case for Eliminating Jury Trials in Drunk Driving Cases," Law and Society Association Annual Meeting, Chicago, Ill., May 29, 2010.

"So You Want To Be a Law Professor," University of Houston Law Center, May 22, 2010.

"Capital Punishment Is Bad Public Policy," Emerson Unitarian Church, Houston, TX, May 9, 2010.

"12 Unnecessary Men: The Case for Eliminating Jury Trials in Drunk Driving Cases," Arizona State University College of Law, Southwestern Junior Scholars Conference, March 15, 2010.

"Panel Discussion on Capital Punishment," University of Houston Honors College, Feb. 17, 2010.

"Capital Punishment Is Not Morally Justified: A Response to Professor Stephanos Bibas," University of Houston Law Center, Feb. 3, 2010.

"The Case for Eliminating Jury Trials in Misdemeanor DWI Cases," Faculty Workshop, University of Houston Law Center, Oct. 1, 2009.

“Prosecutorial Shaming,” Faculty Workshop, South Texas College of Law, Oct. 29, 2008.

“The iPhone Meets the Fourth Amendment,” Faculty Workshop, University of Houston Law Center, Oct. 27, 2008.

“The Death Penalty: New Age Questions in an Age Old Debate,” Southeastern Association of Law Schools Annual Meeting, Aug. 1, 2008.

“The iPhone Meets the Fourth Amendment,” Faculty Workshop, South Texas College of Law, Feb. 13, 2008.

“Cell Phone Searches and the Fourth Amendment,” Garland Walker Inns of Court, Houston, TX, Dec. 11, 2007.

Keynote Speaker, University of Delaware Undergraduate Research Symposium, “Legal Research Inside and Outside the University,” May 5, 2007.

“The Sentencing of Enron’s Jeffrey Skilling,” Houston Chronicle Podcast, Oct. 23, 2006.

“Imposing a Cap on Capital Punishment,” Southeastern Association of Law Schools Annual Meeting, July 21, 2006.

“The Invisible Pillar of Gideon,” Florida State University College of Law, Faculty Workshop, Jan. 5, 2005.

“The Invisible Pillar of Gideon,” South Texas College of Law, Faculty Workshop, Nov. 9, 2004.

EDUCATION

UNIVERSITY OF VIRGINIA SCHOOL OF LAW, Charlottesville, Virginia
Juris Doctor, 2001

Roger and Madeleine Traynor Prize for Best Paper by a Graduating Student
Order of the Coif
Virginia Law Review, Articles Development Editor

UNIVERSITY OF DELAWARE, Newark, Delaware
B.A. with Distinction in Political Science and Criminal Justice, *summa cum laude*, 1998

Best Paper Award, University of Delaware Legal Studies Colloquium
Phi Beta Kappa
Len Perfetti Award for Outstanding Criminal Justice Major

ADMITTED TO PRACTICE

Texas (2011) (inactive)

District of Columbia (2002) (inactive)

Virginia (2001) (inactive)