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Lee S. & Charles A. Speir Professor of Law

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Career Summary:

Vanderbilt University Law School:

Lee S. & Charles A. Speir Professor of Law (2003 - present); Associate Dean of Research and Faculty Development (1999 - 2001); Professor of Law (1996 - 2003); Associate Professor (1994-96); Assistant Professor (1991- 94).

Teaching Criminal Law, Criminal Procedure: Adjudication, White Collar Crime Seminar, and Sentencing. Past teaching includes Evidence, Civil Procedure, and other seminars.

Awards and grants:

- 2010 - Alexander Heard Distinguished Service Professor Award
- 2006 - \$247,000 National Institute of Justice grant to lead study ~ Habeas Litigation in U.S. District Courts ~ completed August 2007 (with F. Cheesman & B. Ostrom of the National Center for State Courts), final report available [here](#) at NCJRS
- 2005 - Chancellor's Award for Research, for research on jury sentencing with R. Noble
- 2003 - Distinguished Faculty Award, Vanderbilt University
- 2001 - FedEx Research Chair, Vanderbilt University Law School

Associate Reporter, Advisory Committee for the Federal Rules of Criminal Procedure (October 2007- present); Member (2001- 07)

Harvard Law School:

Touroff-Glueck Visiting Professor of Law, Cambridge, MA, Fall 2015

Courses: Criminal Law; Misdemeanors

Northwestern University Law School, Visiting Scholar, Chicago, IL, October, 2002

University of Michigan Law School, Visiting Professor of Law, Ann Arbor, MI, Fall 1998

Courses: Bail to Jail; White Collar Crime

Honorable Michael F. Cavanagh, Michigan Supreme Court, Judicial Clerk, Lansing, MI, 1988-90

Honorable Douglas W. Hillman, Chief Judge of the United States District Court for the Western District of Michigan, Judicial Clerk, Grand Rapids, MI, 1987-88

Varnum, Riddering, Schmidt & Howlett, Summer Associate, Grand Rapids, MI, 1987

Jenner & Block, Summer Associate, Chicago, IL, 1986

Delta County Prosecutor's Office, Assistant Prosecutor/Intern, Escanaba, MI, 1985

Education:

University of Michigan, J.D. magna cum laude, 1987

Henry M. Bates Memorial Scholarship, Order of the Coif, Managing Editor, Mich. L. Rev.
Oberlin College, B.A. Government, 1983

Publications - Books, Monographs:

LAFAVE, ISRAEL, KING, & KERR, CRIMINAL PROCEDURE (Thomson-Reuters 4th ed. 2015 & annual supplements) (seven-volume treatise covering state and federal criminal procedure) (on WESTLAW as database CRIMPROC) (also coauthored prior editions)

KAMISAR, LAFAVE, ISRAEL, KING, KERR & PRIMUS, MODERN CRIMINAL PROCEDURE (West 15th ed. 2019 & statutory supplement) (casebook, this text also published annually in two paperback volumes: BASIC CRIMINAL PROCEDURE and ADVANCED CRIMINAL PROCEDURE) (also coauthored prior editions)

PODGOR, HENNING, ISRAEL & KING, WHITE COLLAR CRIME (Hornbook, West, 2d ed. 2017)

KING & HOFFMANN, HABEAS FOR THE 21ST CENTURY: USES, ABUSES, AND THE FUTURE OF THE GREAT WRIT (Univ. Chicago Press 2011)

KING, CHEESMAN & OSTROM, HABEAS LITIGATION IN U.S. DISTRICT COURTS, FINAL REPORT (supported by Award No. 2006-IJ-CX-0020, National Institute of Justice, Office of Justice Programs, United States Department of Justice) (August 2007) available [here](#)

LAFAVE, ISRAEL, KING, & KERR, CRIMINAL PROCEDURE (Thomson-Reuters 6th ed. 2016 & annual supplements) (hornbook, also coauthored prior editions)

ISRAEL, KAMISAR, LAFAVE & KING, CRIMINAL PROCEDURE AND THE CONSTITUTION: LEADING SUPREME COURT CASES AND INTRODUCTORY TEXT (West 2018) (casebook, revised and published annually) (also coauthored prior editions)

LAFAVE, ISRAEL, KING & KERR, CRIMINAL PROCEDURE: INVESTIGATION & CRIMINAL PROCEDURE: POST-INVESTIGATION (2d ed. Thomson-West 2009) (concise hornbooks, also coauthored prior edition)

WRIGHT, KING, & KLEIN, FEDERAL PRACTICE AND PROCEDURE, CRIMINAL (treatise, selected volumes) (West 3d ed. 2003 & supplements through 2004) (on WESTLAW as database FPP)

Publications - Chapters in edited volumes:

[Criminal Appeals](#), in ACADEMY FOR JUSTICE, A REPORT ON SCHOLARSHIP AND CRIMINAL JUSTICE REFORM (Erik Luna ed., 2017).

[Jury Nullification in the United States](#), in OXFORD HANDBOOKS ONLINE (Oxford Univ. Press 2015)

[The Judicial System: Appeals and Post-conviction Review](#), in [EXAMINING WRONGFUL CONVICTIONS: STEPPING BACK, MOVING FORWARD](#) (A. Redlich, J. Acker, R. Norris, C. Bonventre, eds., Carolina Academic Press 2014)

Sentencing Procedure, in [THE OXFORD HANDBOOK ON SENTENCING AND CORRECTIONS](#) (J. Petersilia & K. Reitz, eds., Oxford Univ. Press 2012)

Duncan v. Louisiana: How Bigotry in the Bayou Led to the Federal Regulation of State Juries, in [CRIMINAL PROCEDURE LAW STORIES](#) (C. Steiker, ed. Foundation Press 2006)

Ethics for the Ex-Juror: Guiding Jurors after the Trial, in [JURY ETHICS](#) (Kleinig & Levine, eds., Paradigm Press 2005)

Criminal Juries in the United States, in [WORLD JURY SYSTEMS](#) (N. Vidmar, ed., Oxford U. Press 2000, on line 2010), reprinted in [THE JURY SYSTEM: CONTEMPORARY RESEARCH](#) (V. Hans, ed., Ashgate Press 2006)

Lessons About Jurors in [POSTMORTEM: THE O.J. SIMPSON CASE](#) (J. Abramson, ed., Basic Books 1996)

Publications ~ Articles and Essays (*designates peer-reviewed journal)

Misdemeanor Appeals, forthcoming [B.U. L. Rev.](#) (2019) (with M. Heise) (avail [ssrn](#))

[Sharkfests and Databases: Crowdsourcing Plea Bargains](#), 6 [Texas A&M L. Rev.](#) (2019)

[*Appeals by the Prosecution](#), 15 [J. Emp. Leg. Stud.](#) 482 (2018) (with M. Heise)

[State Criminal Appeals Revealed](#), 70 [Vand. L. Rev.](#) 1939 (2017) (with M. Heise & N. Heise)

[Plea Bargaining's Invisible Revolution: Managerial Judging and Judicial Plea Negotiations](#), 95 [Tex. L. Rev.](#) 325 (2016) (with R. Wright)

[Juries and Prior Convictions: Managing the Demise of the Prior Conviction Exception to *Apprendi*](#), 67 [S.M.U. L. Rev.](#) 577 (2014)

[Sentencing and Prior Convictions: The Past, the Future, and the End of the Prior Conviction Exception to *Apprendi*](#), 97 [Marquette Univ. L. Rev.](#) 523 (2014) (article based on Barrok Lecture), condensed version published as [Once a Criminal? Regulating the Use of Prior Convictions in Sentencing](#), in [Marquette Lawyer Magazine](#) 26-35 (Summer 2014)

[*Alleyne on the Ground: Factfinding that Limits Eligibility for Probation or Parole Release](#), 26 [Fed. Sent. Rptr.](#) 287 (2014) (with B. Applebaum, [VULS](#) '15)

[Enforcing Effective Assistance after *Martinez*](#), 122 [Yale L. J.](#) 2428 (2013)

[Plea Bargains that Waive Claims of Ineffective Assistance - Waiving Padilla and Frye](#), 51 *Duquesne L. Rev.* 647 (2013)

[Lafler v. Cooper and AEDPA](#), 122 *Yale L.J. Online* 29 (2012)

*[Non-Capital Habeas Cases after Appellate Review: An Empirical Analysis](#), 24 *Fed. Sent. Rptr.* 308 (2012) (following 2007 study cases through the federal courts of appeals and back to state courts)

*[Three Directions for Future Research into Sentencing Discretion](#), 30 *Justice Quarterly* 223 (2013)

*[Post Padilla: Padilla's Puzzles for Review in State and Federal Courts](#), 23 *Fed. Sent. Rptr.* 239 (2011) (with G. Proctor, *VULS* '07)

[Rethinking the Federal Role in State Criminal Justice](#), 84 *N.Y.U.L. Rev.* 791 (2009) (with J. Hoffmann)

[Habeas Corpus and State Sentencing Reform: A Story of Unintended Consequences](#), 58 *Duke L. J.* 1 (2008) (with S. Sherry)

[Regulating Settlement: What Is Left of the Rule of Law in the Criminal Process?](#), 56 *DePaul L. Rev.* 389 (2007) (annual Clifford symposium)

[Reasonableness Review After Booker](#), 43 *Houston L. Rev.* 325 (2006) (sentencing symposium)

[Appeal Waivers and the Future of Sentencing Policy](#), 55 *Duke L. J.* 209 (2005) (with M. O'Neill)

[Judicial Oversight of Negotiated Sentences in a World of Bargained Punishment](#), 58 *Stan. L. Rev.* 293 (2005)

*[Jury Sentencing in Non-Capital Cases: Comparing Severity and Variance with Judicial Sentences in Two States](#), 2 *J. Emp. Leg. Stud.* 331 (2005) (with R. Noble)

[When Process Affects Punishment: Differences in Sentences After Guilty Plea, Bench Trial, and Jury Trial in Five Guidelines States](#), 105 *Colum. L. Rev.* 959 (2005) (with D. Soule, S. Steen, & R. Weidner) (state sentencing issue)

*[Beyond Blakely](#), 16 *Fed. Sent. Rep.* 316 (2004) (with S. Klein)

[How Different is Death? . . . Jury Sentencing in Capital and Non-Capital Cases Compared](#), 2 *Ohio St. J. Crim. L.* 195 (2004) (sentencing issue)

[Felony Jury Sentencing in Practice—a Three-State Study](#), 57 *Vand. L. Rev.* 885 (2004) (with R. Noble)

The Origins of Felony Jury Sentencing in the United States, 78 Chi. Kent L. Rev. 937 (2003)

Apprendi and Plea Bargaining, 54 Stanford L. Rev. 295 (2001) (with S. Klein)

Essential Elements, 54 Vand. L. Rev. 1467 (2001) (with S. Klein)

*Après Apprendi, 12 Fed. Sent. Rep. 331 (2000) (with S. Klein)

Priceless Process: Non-Negotiable Features of Criminal Procedure, 47 UCLA L. Rev. 113 (1999)

The American Criminal Jury, 62 Law & Contemp. Probs. 41 (1999), reprinted in WORLD JURY SYSTEMS (Vidmar, ed., Oxford 2000, on line 2010), and in THE JURY SYSTEM: CONTEMPORARY SCHOLARSHIP (Hans, ed., Ashgate 2006)

Silencing Nullification Advocacy Inside the Jury Room and Outside Courtroom, 65 U. Chi. L. Rev. 433 (1998)

Batson for the Bench? The Peremptory Challenge of Judges, 73 Chi. Kent L. Rev. 509 (1998), shorter version published in *82 Judicature 74 (1998)

Juror Delinquency in Criminal Trials in America 1796-1996, 94 Mich. L. Rev. 2673 (1996)

*Stratified Juror Selection: Cross-Section by Design, 79 Judicature 273 (1996) (with G. Thomas Munsterman)

Nameless Justice: The Case for the Routine Use of Anonymous Juries in Criminal Trials, 49 Vand. L. Rev. 123 (1996)

Portioning Punishment: Constitutional Limits on Successive and Excessive Penalties, 144 U. Pa. L. Rev. 101 (1995)

The Effects of Race-Conscious Jury Selection on Public Confidence in the Fairness of Jury Proceedings, 31 Am. Crim. L. Rev. 1177 (1994)

Racial Jurymandering: Cancer or Cure? A Contemporary Review of Affirmative Action in Jury Selection, 68 N.Y.U. L. Rev. 707 (1993)

Post-Conviction Review of Jury Discrimination: Measuring the Effects of Juror Race on Verdicts, 92 Mich. L. Rev. 63 (1993)

Publications: Other:

Improving Criminal Justice: How Can We Make the American Criminal Justice System More Just?, 95 *Judicature* 59 (2011) (with J. Hoffmann)

Right Problem; Wrong Solution, 1 *Cal. L. Rev. Circuit* (2010) (with J. Hoffmann) (essay)

Introduction: *Skilling v. United States*, 63 *Vand. L. Rev. En Banc* 1 (2010)

Inspiring Generations, 102 *Mich. L. Rev.* 1728 (2004) (tribute to Professor Yale Kamisar)

The Federal Rules of Criminal Procedure, in *Oxford Companion to American Law* (K. Hall, D. Clark, J. Ely, J. Grossman, N. Hull, ed., Oxford Univ. Press, 2002)

Should Juries Nullify Laws They Consider Unjust or Excessively Punitive?, *Insight on the News*, May 24, 1999, pp. 25-27

Issue editor, "The Jury: Research and Reform," Vol. 79 No. 5 *Judicature* (March-April, 1996)

Selected Scholarly Presentations:

Paper Presentations at Law Workshops, Colloquia, Roundtables, Conferences, Symposia:
USC (2014); SMU (2014); Florida State (2018, 2014, 2003); Yale (2013); Duquesne (2013); Columbia (2011, 2005); Harvard (2008); Conference on Empirical Legal Studies, NYU (2007); Fordham (2007); DePaul (2006); Cornell (2005); Brooklyn (2005, 2000); Houston (2005); Stanford (2003); Duke (2003); John Jay College (2003); North Carolina (2020, invited); Northwestern (2002, 2000); Illinois (2002); Colorado (2001); Texas (2000, 1998); Ohio State (2000); Michigan (1998); Virginia (1997); Georgetown (1994); Kentucky (1993); Annual Meetings of the Law & Society Association (multiple).

Speeches and Lectures:

Barrock Lecture in Criminal Law, Marquette University, Milwaukee, WI, November 2013
James Otis Lecture, University of Mississippi Law School, Oxford, MS, April 2008
Hoffinger Lecture, NYU Hoffinger Criminal Justice Series, NYU Law School, NY, April 2007
Brainerd Curry Memorial Lecture, Duke University Law School, Durham, NC, November 2004
Keynote Speech, Constitutional Law Conference, Oberlin College, OH, November 2003
Public Lecture, Princeton University, Princeton, NJ, April 1995

Presentations for the Federal Judiciary:

Sixth Circuit Judicial Conferences, 2007, 2006, 2005, 2001
FJC Sentencing Institute, 2006
FJC Workshops for Judges, 2012, 2005, 2004, 2002, 2001(2), 1996 (2)
Faculty, Byrne Judicial Clerkship Institute, Pepperdine Law School, 2012

Testimony and other Presentations to other Judicial or Government Groups:

Testimony before U.S. Sentencing Commission, Washington, D.C., 2004
Presenter, Virginia Judicial Conference, Richmond, VA, 2005
Presenter, ALI-ABA Live Webcast, Washington D.C., 2005
Panelist, Jury Summit, Augusta, GA, 2002
Speaker, Jury Summit 2001, New York, NY, 2001
Speaker, Nat'l Assn. of Women Judges Annual Conference, Memphis, TN, 1996
Presentation, Office of the State Attorney General, Nashville, TN, 1995
Presentation, Commission on the Future of the Tenn. Judicial System, Nashville, 1994
Presentation, Annual Attorneys General Criminal Justice Colloquium, Nashville, 1994, 1993
Presentation and consultation, Jury Project of New York State, Buffalo, NY, 1993

Discussant, Commenter, or Panelist:

Panelist, Judicial Participation in Plea Bargaining in the States, Conference on Plea Bargaining, William and Mary Law School, 2015
Commenter, Symposium on Research and US Magistrate Judges, UNLV Law School, 2015
Criminal Justice Roundtables, Vanderbilt Law School (multiple years)
Panelist, Conference of the Robina Institute on Criminal Law and Criminal Justice, University of Minnesota Law School, 2011
Discussant, Symposium on Empirical Sentencing Research, Albany Law School, 2010
Booker Roundtable, University of Illinois Law School, 2005
ABA Jury Standards Conference, Washington & Lee Law School, 2004
Roundtable on *Blakely*, Stanford Law School, 2004 (comments published in Fed. Sent. Rep.)
Conference on the Report of the Massachusetts Governor's Council on the Death Penalty, Indiana University School of Law, 2004 (comments published in Indiana L. J.)
Panelist, Criminal Justice Section, AALS Meetings, 2004, 2000
Clifford Symposium on Tort Law and Public Policy, DePaul, 1998
Conference on the Jury, Annenberg/Woodrow Wilson School, Princeton, 1994

Selected Professional Service Activities:

Professional:

American Law Institute: Elected Member 2009- present; Ad Hoc Review Committee, Capital Punishment, 2008-09
American Bar Association: Member, Criminal Justice Standards Committee, 2008-2012; Advisory Committee, American Jury Project, 2004
American Association Law Schools- Member, Section on Criminal Justice
American Judicature Society, National Advisory Council, 2005-09, Board Member, 2001-05
Governor's *Blakely* Sentencing Task Force for the State of Tennessee, 2004-2005
Tennessee Judicial Evaluations Guidelines Commission, 1994-95
FBI Citizens Academy, Nashville, TN, Fall 2007
Harry Phillipps American Inn of Court, Nashville, TN, 1997-2000

Sixth Circuit Advisory Committee on Rules (Member 1996-99)
State Bar of Michigan (admitted 1987, presently inactive member)

Manuscript and proposal reviews:

Judicature; Journal of Empirical Legal Studies; Journal of Politics; Law and Society Review;
National Institute of Justice, U.S. Department of Justice; National Science Foundation;
University of Chicago Press; Oxford University Press; Routledge Press; Yale University Press

Vanderbilt University:

Trans-institutional Programs Initiative, Council Member 2017-present; Proposal Review Panel,
Co-chair, 2015-2017

Search Committees: University Librarian, 2007-08; Public Policy Institute Director, 2006-07;
Law School Dean, 2004-05, 1996-97; Chief of Security, 1998-2000

NCAA Self-Study Committee, 2010-11; Committee on Athletics, 2004-08

Committee on Vanderbilt Institute for Public Policy Studies, 2003-04

Faculty Senate, Law School Representative, 1999-2001

University Committee on Humanistic Research, 1999-2000

Vanderbilt University Law School:

Faculty Appointments Committee - combined lateral, entry level, Chair: 2003-04; member: 1992-
93, 1993-94, 1999-02, 2005-06; 2013-15; 2016-19

Faculty Appointments Committee - entry level, Chair: 2009-10, 2011-12; 2012-2013; member:
2010-11

Faculty Appointments Committee - lateral, Chair: 2006-07

Ad Hoc Promotion Committees, 1995-96, 2010-11, 2011-12

Ad Hoc Curriculum Committee, Chair, 2008-09, 2017-18

Junior faculty mentor, 2018-19

Law and Economics PhD dissertation Committees, 2017 to present

Also served on Good Moral Character, Mentoring, Building, Admissions, Technology,
Workshop, Research, and Clerkship Committees