

# **Eric J. Miller**

Professor

Loyola Law School, Los Angeles

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

*Professor of Law*

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

Coordinator, Policing Los Angeles Forum

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**

*Policing Disability* in DIS/ABILITY IN MEDIA, LAW, AND HISTORY: EMBODIED AND SOCIALLY CONSTRUCTED (Micky Lee et al. eds., forthcoming 2002)

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

*Just Relationships: Desistance for Reentry Courts*, IND. L. REV. (forthcoming 2021)

*Municipal Exclusion*, 89 FORDHAM L. REV. ONLINE 193 (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*, 15 CRIM. L. & PHIL. (August 21, 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

*Time's Wounds: The Criminal Process's Accounting for Past Wrongs* (reviewing Michelle Madden Dempsey, *Coercion, Consent, and Time*, 121 Ethics 345 (1921)) (forthcoming 2021)

*Controlling the Lens of History: From Tulsa to the Capital Mob*, JUST SECURITY (May 31, 2021), <https://www.justsecurity.org/76726/controlling-the-lens-of-history-from-tulsa-to-the-capitol-mob/>

*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))

## 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 2015-2020 (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)

Northeast People of Color Legal Scholarship Conference, Committee Member (2004-2019)

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 (2020-2021)

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)  
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