

# NANCY GERTNER

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Admitted to Practice: December, 1972

Harvard Law School  
Langdell 328  
Cambridge, MA 02138

## EDUCATION

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- J.D.** Yale University 1971  
Yale Law Journal, Board of Editors
- M.A.** Yale University, Department of Political Science 1971  
Completion of all course requirements towards Ph.D.
- B.A.** Barnard College, Columbia University Jun 1967  
Major in Political Science  
Graduated Cum Laude with Honors in Government

## EMPLOYMENT

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**Harvard Law School, Cambridge, MA**

Senior Lecturer Sep 2014 – Present  
Professor of Practice Sep 2011 – Jun 2014

**Center for Law, Brain & Behavior, Massachusetts General Hospital**

Managing Director Sep 2016 – Present

**Fick & Marx, Boston, MA**

Of Counsel Sep 2016 – Present

**Resolutions, LLC, Boston, MA**

Mediation, Etc. Sep 2011 – Present

**Guttman, Buschner & Brooks, Washington, DC**

Of Counsel Jan 2019 – Present

**Law Offices N. Gertner**

Limited Practice Sep 2011 – Present

**United States D.Ct. (D.Mass), Boston, MA**

United States Federal Judge Apr 1994 – Aug 2011

**Neufeld Scheck & Brustin, LLP, New York, NY**

Special Counsel Apr 2013 – Sep 2018

**Boston Globe**

Op Ed Writer Sep 2015 – Present

## **BOARD, COMMITTEES, AND COMMISSIONS**

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<b>American Academy of Arts &amp; Sciences</b>	Apr 2020 – Present
<b>Aleph Advisory Board</b>	Jul 2019 – Present
<b>Massachusetts Forensic Science Oversight Board</b> Board Member	Jun 2019 – Present
<b>Juvenile Law Center</b>	Jun 2018 – Present
<b>Warren-Markey Advisory Committee on Judicial Selections</b> Chair	Oct 2011 – Present
<b>American College Trial Lawyers</b>	1994 – Present
<b>White House Commission on the Supreme Court</b>	Apr – Dec 2021
<b>Columbia Univ. Exec. Session on the Future of Justice Policy</b>	May 2018 – May 2021
<b>The Sentencing Project</b> Board of Directors	Sep 2014 – May 2021
<b>American Constitution Society</b>	Sep 2014 – Sep 2019
<b>International Center for Research on Women</b> Board of Directors	Sep 2013 – Jul 2019
<b>President’s Counsel of Advisors on Science and Technology</b> Senior Advisor	2015 – 2016 2015-2016
<b>The MacArthur Foundation Research Network on Law and Neuroscience</b> Network Scholar	Jul 2012 – Jul 2016
<b>American Bar Association</b> Fellow	Dec 2002
Central and Eastern European Law Initiative Advisory Council Delegate, Criminal Justice Section	2002 1987 – 1988
Chair, Subcommittee on Witness Harassment, Litigation Section	1985 – 1986
<ul style="list-style-type: none"><li>Specifically charged with reviewing 18 U.S.C. §151, obstruction of justice statute</li></ul>	
Vice-Chair, Grand Jury Committee, Criminal Defense Function	1987 – 1988
<ul style="list-style-type: none"><li>Principally involved in preparing testimony and guidelines for the issuance of attorney subpoenas</li></ul>	
<b>National Association of Criminal Defense Lawyers (NACDL)</b> Delegate, Criminal Justice Section	1986 – 1994
Chair, Lawyer’s Assistance Strike Force; Elections Committee Honorary Lifetime Member	

<b>Lawyers Committee for Civil Rights Under Law of the Boston Bar Association</b>	
Steering Committee Member	1979 – 1994
Member	
<b>National Organization of Women- Legal Defense Fund and the National Judicial Institute</b>	
Advisory Committee, National Judicial Education Program to Promote Equality for Women and Men in Courts	1992 – 1993
<b>Department of Justice Dialogue Committee</b>	
Chair	1990 – 1992
<ul style="list-style-type: none"> <li>Joint Committee of the ABA and the National Association of Criminal Defense Lawyers</li> </ul>	
<b>Committee for Public Counsel Services</b>	
Chair, Public Defenders Board	1988 – 1990
<del>Member since its inception</del>	
<b>Massachusetts Bar Association</b>	
Delegate at Large	1986 – 1990
Labor Law Committee; Bench Bar News Committee; Section on Individual Rights and Responsibilities	
<b>Governor’s Anti-Crime Council</b>	
Member	1984 – 1990
<ul style="list-style-type: none"> <li>Council formed by Governor Dukakis to oversee criminal justice issues</li> </ul>	
<b>Massachusetts Citizen's Advisory Committee on Probation</b>	
Member	1984 – 1990
<ul style="list-style-type: none"> <li>Oversight to Massachusetts Probation Service</li> </ul>	
<b>ATLA</b>	
Vice-Chair, Basic Trial Advocacy Course Committee	1985 – 1986
<b>Women and the Law Conference</b>	
Former member, Steering Committee, Board of Directors	1973 – 1985
<b>American Civil Liberties Union</b>	
Board of Directors	1977 – 1984

## PUBLICATIONS

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### *Books*

*Incomplete Sentences: Memoir of Sentencing Judge* (Forthcoming) (Beacon)

*Collected Opinions and Dissents of Justice Ruth Bader Ginsburg* (2022) (Talbot Publishing)

*The Law of Juries*, co-authored with Judith Mizner and Joshua Dubin (2021) (Thomson-Reuters)

*In Defense of Women: Memoirs of an Unrepentant Advocate* (April 2011) (Beacon Press)

## Chapters

- “Reimagining Judging,” in *Parsimony and Other Radical Ideas About Justice* (2022) (Jeremy Travis and Bruce Western, eds.) <https://squareonejustice.org/paper/reimaginingjudging/>
- “Disruptors and Disruptions: Re-Centering Procedural Narratives,” in *A Guide to Civil Procedure – Integrating Critical Legal Perspectives* (2022) (Brooke Coleman, Suzette Malveaux, Portia Pedro, and Elizabeth Porter, eds.)
- “Robust Speech, Robust Democracy,” in *Fight for Liberty: Defending Democracy in the Age of Trump*, (2018) (Mark Lasswell, ed.)
- “Employment Law: Implicit Bias in Employment Discrimination Litigation,” in *Implicit Racial Bias Across the Law* (2012) (Justin D. Levinson & Robert Smith, eds.)
- “The Failure of the United States Sentencing Commission” in *Penal Populism: Sentencing Councils and Sentencing Policy*, (eds. Arie Frieberg and Karen Gelb) (Routledge Press, Fall 2007)
- “Interference with Reproductive Rights,” *Reproductive Laws for the 1990s*, Rutgers Law School (Springer, 1988) (Sherrill Cohen & Nadine Taub, eds.)
- Comments - *Offense/Offender Distinction and Competence*, in *Criminal Law Conversations* (ed. Paul H. Robinson, Stephen P. Garvey, Kimberly Kessler Ferzan) (Oxford University Press, 2009)
- Chapter on Employment Discrimination, Callaghan & Co. *A Comprehensive Guide to Labor & EEOC Law* (1985)

## Journal Publications

- “Apprendi/Booker and Anemic Appellate Review,” 99 N.C. L. REV. 1371 (2021)
- “Essay: The Extraordinary Criminal Law Jurisprudence of Justice Ralph Gants,” 62 Boston College Law Review 2697 (2021)
- Women and Sentencing, 57 Am.Crim.L.Rev. 1401 (Fall, 2020)
- (With Joseph Sanders) “Alternatives to Traditional Adversary Methods of Presenting Scientific Expertise in the Legal System,” 147 Daedalus 135 (Fall, 2018)
- “The ‘Lower’ Federal Courts: Judging in a Time of Trump,” 93 Ind. L.J. 83 (2018)
- “Sexual Harassment and the Bench,” 71 Stan. L. Rev. Online 88 (2018)
- “Keynote Address,” University of Baltimore School of Law Center on Applied Feminism, 46 U. Balt. L. Rev. 191 (2017)
- “A Critique of Judge Pryor’s Proposals, Federal Sentencing Reporter,” December 1-2016-February 1, 2017
- “Opinions I Should Have Written” 110 Nw. U. L. Rev. 423 (2016)
- “Neuroscience and Sentencing,” 85 Fordham L. Rev. 399 (2016)

"How To Talk about Sentencing Policy – and Not Disparity," 46 Loyola Law Journal 313 (2014)

"The Judicial Repeal of the Johnson/Kennedy Administration's 'Signature' Achievement," SSRN:  
<http://dx.doi.org/10.2139/ssrn.2406671> (2014)

"Dissenting In General: Herring v. United States, in Particular," 127 Harv. L. Rev. 433 (2013)

"Rick Kern: A Remembrance," 25 FSR 158 (2013)

(With Elizabeth Schneider), "Only Procedural: Thoughts on the Substantive Law Dimensions of Preliminary Procedural Decisions in Employment Discrimination Cases," 57 New York Law Review 767 (2012/13)

"On Competence, Legitimacy and Proportionality," 160 U. Pa. L. Rev. 1585 (2012)

"Losers' Rules," 122 Yale L. J. ONLINE 109 (2012), <http://yalelawjournal.org/2012/10/16/gertner.html>

"Feminism, Stalled: Thoughts on the Leaky Pipeline," 2012 Mich.St. L. Rev 1473 (2012)

"Judge Identifiers, TRAC, and a Perfect World," 25 Federal Sentencing Reporter (September 2012)

"A Judge Hangs Up Her Robes," 38 Litigation, American Bar Association (Winter, 2012)

"From 'Rites' to 'Rights': The Decline of the Criminal Jury Trial," 24 Yale L.J. & Human Rights. 433 (2012)

"National Academy of Sciences Report: A Challenge to the Courts," 27 Criminal Justice (Spring 2012)

"Commentary to Mnookin, et al. The Need for Research Culture in the Forensic Sciences," 58 UCLA Law Review 789 (February, 2011)

"Supporting Advisory Guidelines," 3 Harvard Law & Policy Review 237 (2009)

*New York University Annual Survey of American Law*, Vol. 64, Issue 3 (2008-2009), pp. 449-458

Kimbrough, Gall and Me, Ohio St. L. J. Crim.L. Amici: Views from the Field, at 4 (January 2008), available at <http://osjcl.blogspot.com>.

"Rita Needs Gall -- How to Make the Guidelines Advisory," 85 Denver University Law Review 63 (2007)

"Alternatives to the Carceral State: The Judge's Role," 74 Social Research (No.2) (Summer 2007)

"12 Angry Men (and Women) in Federal Court," 82 Chi-Kent L. Rev. 613 (2007)

"Thoughts on Reasonableness," 19 Fed. Sent. R. 165 (February, 2007)

"What Yogi Berra Teaches About Post-Booker Sentencing," July 03, 2006, Pocket Part, A Companion to the Yale Law Journal (<http://thepocketpart.org/2006/07/gertner.html>)

"The Globalized District Court," 26 U. Haw. L. Rev. 351 (2004)

"To Speak or Not to Speak: Musings on Judicial Speech," 32 Hofstra Law Review 1147 (Summer 2004)

"Videoconferencing: Learning Through Screens," 12 William and Mary Bill of Rights Journal 769 (2004)

"Women Offenders and the Sentencing Guidelines," 14 Yale Journal of Law & Feminism 291

(2002)

"What Has Harris Wrought?" 15 Fed. Sentencing Reporter 83 (2002)

"Electronic Case Filing Is Here to Stay," Boston Bar Journal (May/June, 2002)

"Federal Sentencing Guidelines, A View from the Bench," American Bar Association; 29 Hum. Rts. Mag. 6 (Spring, 2002)

"Apprendi and the Return of the Criminal Code," 37 Criminal Law Bulletin 553 (2001)

"Teaching Judges How to Sentence," with Judge Michael M. Mihm, 11 Federal Sentencing Reporter 96 (1998)

"Jury Selection in Massachusetts," Massachusetts Criminal Procedure, (E. Blumenson, Editor) (1991)

"Money Laundering Crimes and the Sentencing Guidelines," ABA Federal Sentencing Guidelines Institute, ABA (May 16, 1991); Champion (December, 1990)

"Organization and Litigation Strategy for Comparable Worth," 20 U. Mich. J.L. Reform 163 (1986)

"On Trial! A Disciplinary Rule that Limits Attorney Subpoenas," 1 Criminal Justice 2 (Fall 1986)

"The Impact of Bakke on Sex Discrimination: Pedestal or Cage," 14 Harvard Civil Liberties Civil Rights Law Review 173 (1979)

"Rehabilitation, Investigation, and the Welfare Home Visit," 79 Yale L.J. 746 (March 1971)

### *Opinion Pieces*

(With Dean Strang), "Ketanji Brown Jackson Defended the Poor – Experience That Can Balance the Supreme Court," *Boston Globe* (March 22, 2022)

<https://www.bostonglobe.com/2022/03/22/opinion/ketanji-brown-jackson-defended-poor-experience-that-can-balance-supreme-court/>

"Ketanji Brown Jackson Isn't a Radical – Despite What the GOP Wants You to Think," *WBUR* (March 1, 2022) <https://www.wbur.org/cognoscenti/2022/03/01/joe-biden-nominates-ketanji-brown-jackson-supreme-court-nancy-gertner>

"Majority in 'Sweeting-Bailey' Ignored What SJC Itself Warned Against Year Ago," *Massachusetts Lawyers Weekly* (Jan 6, 2022) <https://masslawyersweekly.com/2022/01/06/majority-in-sweeting-bailey-ignored-what-sjc-itself-warned-against-year-ago/>

(With Laurence Tribe), "The Supreme Court Isn't Well. The Only Hope for a Cure Is More Justices," *Washington Post* (Dec 9, 2021) <https://www.washingtonpost.com/opinions/2021/12/09/expand-supreme-court-laurence-tribe-nancy-gertner/>

"The Stench at the Supreme Court," *Boston Globe* (Dec 2, 2022)

<https://www.bostonglobe.com/2021/12/02/opinion/stench-supreme-court/>

(With Dean Strang), "America Should Not Tolerate Vigilante Behavior," *Chicago Sun Times* (Nov 8, 2021) <https://chicago.suntimes.com/2021/11/8/22770572/kyle-rittenhouse-ahmaud-arbery-vigilante-justice-self-defense-nancy-gertner-dean-strang-other-views>

- "Do Supreme Court Justices Have Competing Judicial Philosophies or Are They Just Partisan Hacks?" *Boston Globe* (Oct 4, 2021) <https://www.bostonglobe.com/2021/10/04/opinion/do-supreme-court-justices-have-competing-judicial-philosophies-or-are-they-just-partisan-hacks>
- "The Lawlessness of the Supreme Court," *WBUR* (Sep 15, 2021) <https://www.wbur.org/cognoscenti/2021/09/15/texas-abortion-law-supreme-court-nancy-gertner>
- (With Dean Strang), "Supreme Court Rulings on Traffic Stops Reinforce Structural Racism in Policing," *Boston Globe* (Apr 16, 2021) <https://www.bostonglobe.com/2021/04/16/opinion/supreme-court-rulings-traffic-stops-reinforce-structural-racism-policing>
- (With Dean Strang), "What Trump's Pardons Say About Criminal Justice," *Boston Globe* (Dec 20, 2020) <https://www.bostonglobe.com/2020/12/29/opinion/what-trumps-pardons-say-about-criminal-justice>
- "A Judicial Undoing Project," *Boston Globe* (Oct 14, 2020) <https://www.bostonglobe.com/2020/10/14/opinion/judicial-undoing-project>
- "Ruth Bader Ginsburg Was All I Wanted to Be," *Washington Post* (Sep 19, 2020) [https://www.washingtonpost.com/opinions/ruth-bader-ginsburg-was-all-i-wanted-to-be/2020/09/19/cd04f480-fa95-11ea-89e3-4b9efa36dc64\\_story.html](https://www.washingtonpost.com/opinions/ruth-bader-ginsburg-was-all-i-wanted-to-be/2020/09/19/cd04f480-fa95-11ea-89e3-4b9efa36dc64_story.html)
- "That Harvard Racial Disparities Study: What's Left Out," *Boston Globe* (Sep 11, 2020) <https://www.bostonglobe.com/2020/09/11/opinion/that-harvard-racial-disparities-study-whats-left-out>
- (With Martin F. Murphy and Michael Keating), "Prosecutors' Excessive Zeal During the Tsarnaev Trial," *Boston Globe* (Aug 4, 2020) <https://www.bostonglobe.com/2020/08/04/opinion/prosecutors-excessive-zeal-during-tsarnaev-trial>
- (With Mark Bennett), "Criminal Contempt Charges in Donziger Case Are Excessive," *Law 360* (Jul 13, 2020) <https://www.law360.com/articles/1290825/criminal-contempt-charges-in-donziger-case-are-excessive>
- (With Paul Butler), "The Moment the Police Approached George Floyd, the Wheels of Injustice Started," *Los Angeles Times* (Jun 5, 2020) <https://www.latimes.com/opinion/story/2020-06-05/george-floyd-arrest-police-killing>
- "Presidents Once Used This Law to Uphold Civil Rights and Protect Black Americans. Now Trump Is Trying to Silence Dissent," *WBUR* (Jun 4, 2020) <https://www.wbur.org/cognoscenti/2020/06/04/trump-insurrection-act-protests-nancy-gertner>
- "Coronavirus Can Mean a Death Sentence to Prisoners," *Boston Globe* (May 5, 2020) <https://www.bostonglobe.com/2020/05/05/opinion/coronavirus-can-mean-death-sentence-prisoners>
- (With John Reinstein), "Compassionate Release Now for Prisoners Vulnerable to Coronavirus," *Boston Globe* (Mar 23, 2020)

- <https://www.bostonglobe.com/2020/03/23/opinion/compassionate-release-now-prisoners-vulnerable-coronavirus>
- “Stone Case Lays Bare Barr’s Not So Just Justice Department,” *Boston Globe* (Feb 19, 2020)  
<https://www.bostonglobe.com/2020/02/19/opinion/stone-case-lays-bare-barrs-not-so-just-justice-department/?outputType=amp>
- “This President Won’t Be Deterred,” *WBUR* (Feb 13, 2020)  
<https://www.wbur.org/cognoscenti/2020/02/13/trump-barr-roger-stone-justice-department-nancy-gertner>
- “William Barr’s New War on Drugs,” *Washington Post* (Jan 26, 2020)  
<https://www.washingtonpost.com/opinions/2020/01/26/william-barrs-new-war-drugs>
- “What the Constitution Actually Says About a Senate Impeachment Trial,” *Boston Globe* (Jan 13, 2020)  
<https://www.bostonglobe.com/2020/01/13/opinion/what-constitution-actually-says-about-senate-impeachment-trial>
- “This Isn’t a Partisan Hit Job; Trump Deserves to Be Impeached,” *Boston Globe* (Dec 5, 2019)  
<https://www.bostonglobe.com/2019/12/05/opinion/this-isnt-partisan-hit-job-trump-deserves-be-impeached>
- “Trump Is Bad. Barr Is Worse,” *WBUR* (Sep 27, 2019)  
<https://www.wbur.org/cognoscenti/2019/09/27/william-barr-donald-trump-impeachment-whistleblower-nancy-gertner>
- “The Robert Mueller We Saw Testify Is Not the Man I Knew,” *WBUR* (Jul 25, 2019)  
<https://www.wbur.org/cognoscenti/2019/07/25/mueller-testimony-nancy-gertner>
- “Beyond Caricature: The Real Lives at Stake in the Abortion Debate,” *Boston Globe* (Jun 3, 2019)  
<https://www.bostonglobe.com/opinion/2019/06/03/beyond-caricature-the-real-lives-stake-abortion-debate/frNWVnInh8p1sm7DiQXa9K/story.html>
- “Trump Won’t Stop Congress’ Investigations,” *WBUR* (May 30, 2019)  
<https://www.wbur.org/cognoscenti/2019/05/30/trump-financial-records-house-subpoenas-mueller-nancy-gertner>
- “We’ve Seen Federal Aggression With ‘Illegals’ Before – During Slavery,” *WBUR* (May 24, 2019)  
<https://www.wbur.org/cognoscenti/2019/05/24/judge-shelly-joseph-immigration-enforcement-nancy-gertner-sabin-willett>
- “In AG Barr, Trump Has His Rhetorical Hatchet Man,” *Boston Globe* (Apr 19, 2019)  
<https://www.bostonglobe.com/opinion/2019/04/19/barr-trump-has-his-rhetorical-hatchet-man/KMgbolzujIKkZFbG6YpusM/story.html>
- “DA Rollins Is on the Right Path in Criminal Justice Reform,” *Boston Globe* (Apr 8, 2019)  
<https://www.bostonglobe.com/opinion/2019/04/08/rollins-right-path-criminal-justice-reform/rba5oplGordySac4ws3lOM/story.html>
- “The Mueller Report: Where Does It Go from Here?” *Boston Globe* (Mar 25, 2019)  
<https://www.bostonglobe.com/opinion/2019/03/25/the-mueller-report-where-does-from-here/TYN67CIzcRaiuRSIf3iSrL/story.html>



- (With Alex Whiting and Ryan Goodman), "Why This One Rationale for Not Releasing the Mueller Report Won't Fly," *Washington Post* (Mar 20, 2019) [https://www.washingtonpost.com/opinions/2019/03/20/why-this-one-rationale-not-releasing-mueller-report-wont-fly/?utm\\_term=.20f47a1694e0](https://www.washingtonpost.com/opinions/2019/03/20/why-this-one-rationale-not-releasing-mueller-report-wont-fly/?utm_term=.20f47a1694e0)
- "I Was a Federal Judge. I Was Taken Aback by Manafort's Sentencing," *Washington Post* (Mar 9, 2019) [https://www.washingtonpost.com/opinions/2019/03/09/us-sentencing-needs-reform-manaforts-months-was-strange-one/?utm\\_term=.c2fc87df6018](https://www.washingtonpost.com/opinions/2019/03/09/us-sentencing-needs-reform-manaforts-months-was-strange-one/?utm_term=.c2fc87df6018)
- (With Daniel Marx and William Fick), "Critique of Michelle Carter's Defense Ignores Case's Complexity," *Boston Globe* (Feb 15, 2019) <https://www.bostonglobe.com/opinion/letters/2019/02/15/critique-michelle-carter-defense-ignores-case-complexity/GfpxFoztvhwxtc3ESNk5SO/story.html>
- (With Laurence Tribe), "Judge Was within His Rights to Threaten Harsher Sentence for Michael Flynn," *Boston Globe* (Dec 21, 2018) <https://www.bostonglobe.com/opinion/2018/12/21/judge-was-within-his-rights-threaten-harsher-sentence-for-michael-flynn/oJmxELzqYGmuJYNZg2YpoJ/story.html>
- "Newton Judge and Lawyers Were Right to Be Concerned about Ice in the Courtroom," *Boston Globe* (Dec 4, 2018) <https://www.bostonglobe.com/opinion/2018/12/04/newton-judge-and-lawyers-were-right-concerned-about-ice-courtroom/pROp346z4l7N4NacNtNd6L/story.html>
- "How to Become a Trump Judge," *Boston Globe* (Sep 29, 2018) <https://www.bostonglobe.com/opinion/2018/09/29/how-become-trump-judge/5czau933jHf0ewJCuFcvXI/story.html>
- "Why We Need an F.B.I. Investigation," *New York Times* (Sep 20, 2018) <https://www.nytimes.com/2018/09/20/opinion/why-we-need-an-fbi-investigation.html>
- "The Extraordinary Bias of the Judge in the Manafort Trial," *Washington Post* (Aug 16, 2018) [https://www.washingtonpost.com/opinions/the-extraordinary-bias-of-the-judge-in-the-manafort-trial/2018/08/16/aca48040-a16c-11e8-83d2-70203b8d7b44\\_story.html?noredirect=on&utm\\_term=.15516b1e27c8](https://www.washingtonpost.com/opinions/the-extraordinary-bias-of-the-judge-in-the-manafort-trial/2018/08/16/aca48040-a16c-11e8-83d2-70203b8d7b44_story.html?noredirect=on&utm_term=.15516b1e27c8)
- "Brett Kavanaugh's Record Makes His Antiabortion Stance Clear," *Boston Globe* (Aug 12, 2018) <https://www.bostonglobe.com/opinion/2018/08/12/brett-kavanaugh-record-makes-his-antiabortion-stance-clear/6dA1RJGzXjcgAI5Wn2jTDL/story.html>
- "It's Too Late for the Supreme Court, but Lower Courts Can Still Check Trump," *Huffington Post* (Jul 20, 2018) [https://www.huffingtonpost.com/entry/opinion-gertner-judiciary-trump\\_us\\_5b50d5a0e4b0b15aba8cc82b](https://www.huffingtonpost.com/entry/opinion-gertner-judiciary-trump_us_5b50d5a0e4b0b15aba8cc82b)
- "Irresponsible Attacks on a Fine Judge," *Boston Globe* (May 31, 2018) <https://www.bostonglobe.com/opinion/2018/05/31/irresponsible-attacks-fine-judge/NvWBZ3KdHCrwgbdYuSr2YM/story.html>
- "Smearing Robert Mueller," *New York Times* (Apr 18, 2018) <https://www.nytimes.com/2018/04/18/opinion/robert-mueller-smearing-complicit.html>
- (With Paul Butler) "Yes, Trump Can Legitimately Be Charged with Obstruction of Justice," *Boston*

- Globe* (Dec 26, 2017) <https://www.bostonglobe.com/opinion/2017/12/26/yes-trump-can-legitimately-charged-with-obstruction-justice/WS3EDC5U9wGdYlovJ78xOI/story.html>
- “Naming and Shaming is Not Enough,” *WGBH* (Dec 21, 2017)  
<https://news.wgbh.org/2017/12/21/how-we-live/naming-and-shaming-not-enough>
- (With Vincent Schiraldi and Bruce Western) “Massachusetts Criminal Justice Bill is Welcome Reform,” *Boston Globe* (Nov 8, 2017)  
<https://www.bostonglobe.com/opinion/2017/11/08/massachusetts-criminal-justice-bill-welcome-reform/aR5gIbZ6T9NkGNCTkXHtzJ/story.html>
- “Governor Baker’s Opioid Proposals Take a Wrong Turn with Drug Sentencing,” *Boston Globe* (Oct 8, 2017) <https://www.bostonglobe.com/opinion/2017/10/08/gov-baker-opioid-proposals-take-wrong-turn-with-drug-sentencing/gaQhAiGhXj7gETRczICQ1J/story.html>
- “Trump Had the Authority to Pardon Joe Arpaio — It Might Not Be So Easy Next Time,” *Boston Globe* (Aug 28, 2017) <https://www.bostonglobe.com/opinion/2017/08/28/trump-had-authority-pardon-joe-arpaio-might-not-easy-next-time/zJHS3ZxSWVcs2oQfjuU5mO/story.html>
- “One Man’s Leaker is Another Man’s Whistleblower,” *Boston Globe* (Aug 10, 2017)  
<https://www.bostonglobe.com/opinion/2017/08/10/one-man-leaker-another-man-whistleblower/uJpBqTd0xFMhrnfiRLPVpM/story.html>
- “19-Year-Olds Don’t Belong in Adult Prisons,” *Boston Globe* (Jun 19, 2017)  
<https://www.bostonglobe.com/opinion/2017/06/19/year-olds-don-belong-adult-prisons/s8QTEcSxvdXNSP6QYPhnBN/story.html>
- (With Chiraag Bains) “Mandatory Minimum Sentences Are Cruel and Ineffective. Sessions Wants Them Back,” *Washington Post* (May 15, 2017)  
[https://www.washingtonpost.com/posteverything/wp/2017/05/15/mandatory-minimum-sentences-are-cruel-and-ineffective-sessions-wants-them-back/?utm\\_term=.5eb1ee4dc9f3](https://www.washingtonpost.com/posteverything/wp/2017/05/15/mandatory-minimum-sentences-are-cruel-and-ineffective-sessions-wants-them-back/?utm_term=.5eb1ee4dc9f3)
- “Judge Gorsuch Is More Dangerous Than He Appears,” *Boston Globe* (Apr 3, 2017)  
<https://www.bostonglobe.com/opinion/columns/2017/04/03/judge-gorsuch-more-dangerous-than-appears/iv3A2GK6FVOjBqHBgi94IP/story.html>
- “How ‘Confused’ Could Jeff Sessions Have Been?” *Boston Globe* (Mar 6, 2017)  
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"The Media's Reporting on Justice is Criminal," *NPR's Cognoscenti* (September 4, 2012)

"Having the Right to Appeal is an Issue of Fairness," *New York Times, Room For Debate Blog* (August 19, 2012)

"'Melissa's Law,' the Mass. Three Strikes Bill, Will Have Identifiable Victims, Too," *Boston Globe* (August 2, 2012)

"Law Doesn't Justify Trayvon Martin's Death," *Boston Globe* (June 1, 2012)

"Be Tough, and Smart, on Crime," *Boston Globe* (May 30, 2012)

"Mandatory Minimum Sentencing Through a Judge's Eye," *Massachusetts Lawyers Weekly* (March 22, 2012)

(With Barry Scheck) "How to Rein in Rogue Prosecutors," *Wall Street Journal* (March 15, 2012)

### **Conference Papers**

"A Short History of American Sentencing: Too Little Law, Too Much Law or Just Right, 100 *Northwestern Journal of Criminal Law & Criminology* 101" (2010) (paper given at conference celebrating the centennial of the *NW Journal of Criminal Law and Criminology*)

"Juries and Originalism: Giving 'Intelligible Content' to the Right to a Jury Trial," 71 *Ohio State Law Journal* 935 (2011) (paper given at a conference on "Originalism and the Jury," *Ohio State University Moritz College of Law*)

"Occupational Health and Safety: The Special Problem of Tort Liability for Reproductive Hazards," *MCLE-NELI Paper* (Winter, 1991)

"Fighting Discrimination Through the Law," *Berlin Journal of Sociology* (December 1991); Paper also presented to a symposium in Germany sponsored by the International Research & Exchange Board in connection with Humboldt University, Berlin, Germany

### **Book Reviews**

*Is the Jury Worth Saving? The Jury: Trial and Error in the American Courtroom*, Stephen J. Adler; 75 *Boston University Law Review* 923 (1995)

*Sex Based Discrimination*, Ginsburg, Davidson & Kay; 54 *Boston University Law Review* 55 (October,

1974)

## LECTURES AND PANELS

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- Thomas E. Fairchild Lecture, "The Future of the U.S. Supreme Court," University of Wisconsin Law School (April 25, 2022)
- Dr. Richard Saferstein Lecture, "(Bad) Judging of Forensic Science," Northeastern University (March 31, 2022)
- Pope and John Lecture on Professionalism, "Decisions I Would Have Written," Northwestern University, 110 Nw. U. L. Rev. 423 (2014)
- Judge Frank M. Coffin Lecture on Law and Public Service (2013)
- Keynote, symposium, "Bombshell or Baby Step? The Ramifications of Miller v. Alabama for Sentencing Law and Juvenile Crime Policy," "Miller v. Alabama: What it Is, What it May Be, What it is not" 78 Mo.L. Rev. 1041 (2013)
- Justice Ruth Bader Ginsburg Distinguished Lecture on Women and the Law, "The Uniqueness of Her Voice," New York City Bar Association (February 13, 2013)  
[https://youtu.be/pFtb\\_YL98UM](https://youtu.be/pFtb_YL98UM)
- Robinson Lecture, "An Improbable Life: From Unrepentant Advocate to the Bench," UC Irvine School of Law (March 12, 2012)
- "Tradeoffs of Candor: Does Judicial Transparency Erode Legitimacy?" 64 N.Y.U. (2008)
- Justice Harry A. Blackmun Lecture, "From Omnipotence to Impotence: American Judges and Sentencing," 4 Ohio State Journal of Criminal Law 523 (Spring 2007)
- The Philip D. Reed Lecture Series: Panel Discussion: Federal Sentencing Under 'Advisory' Guidelines: Observations by District Court Judges, 75 Fordham L. Rev. 1 (October 2006)
- Distinguished Jurist-in-Residence Lecture, "Sentencing Reform: When Everyone Behaves Badly," University of Maine Law School, 57 Me. L. Rev. 569 (2005)
- Donahue Lecture, "Circumventing Juries, Undermining Justice: Lessons from Criminal Trials and Sentencing," 32 Suffolk U. L. Rev. 419 (1999)
- ABA Panel, "Prosecutorial Misconduct in the Grand Jury: Life After Mechanik and Bank of Nova Scotia" (October 24, 1990)

## HONORS AND AWARDS

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Judge Thomas E. Fairchild Lecture at University of Wisconsin-Madison School of Law	2022
Dr. Richard Saferstein Award in Forensic Science from Northeastern University	2022
Electronic Privacy Information Center, Champion of Freedom Award	2016
Stephen Hamblett First Amendment Award (NEFAC)	2015

ABA Margaret Brent Award	2014
Rockefeller Foundation, Bellagio Residency	Sep 30 – Oct 23, 2014
Justice Ruth Bader Ginsburg Distinguished Lecture on Women and the Law	Feb 2013
MACDL Judicial Excellence Award	Jan 2013
The Lelia J. Robinson Award from the Women's Bar Association	Nov 2012
Champions for Choice, NARAL Pro-Choice of Massachusetts	Oct 2012
Arabella Babb Mansfield Award for Contributions to Women in the Law and Society, from the National Association of Women Lawyers	Jul 2016
The Massachusetts Bar Association's Hennessey Award for Judicial Excellence	May 2011
The Morton A. Brody Distinguished Judicial Service Award from Colby College	2010
The Thurgood Marshall Award, American Bar Association, Section of Individual Rights and Responsibilities. (Former awardees include Justice Ruth Bader Ginsburg)	Aug 2008
Federal Bar Association, Judicial Excellence Award	2008
Charles P. Kindregan Award from Suffolk University Law School	2007
"Judicial Excellence" Citation from the Boston Bar Association in May	2006
"Great Friend of Justice" Award from the Massachusetts Bar Foundation	2006
Massachusetts Lawyer's Weekly Judge Toomey Judicial Excellence award	2005
Charles R. Merriam Distinguished Professor at Arizona State Law School	Feb 2002
New York State Association of Criminal Defense Lawyers, Hon. William Brennan Award	2000
Massachusetts Lawyer's Weekly: One of "The Most Influential Lawyers of the Past 25 Years"	
Massachusetts Lawyer's Weekly: Voted by Readers as the "Best" Federal Judge in Boston	1999
Public Service Award for Recognition of Outstanding Contributions Towards Building the Foundation for Civil Rights Through Public Service from The Lawyers Committee for Civil Rights Under the Law of the Boston Bar Association	Sep 1999
Judicial Recognition Award presented by the National Association of Criminal Defense Lawyers (NACDL)	1999
Lawyers Committee for Civil Rights, Boston, Massachusetts, Award for The Advancement of Civil Rights	1999

Abigail Adams Award, presented by the Massachusetts Women's Political Caucus Education Fund Jun 1994

Distinguished Jurist Award, presented by the Massachusetts Association of Women Lawyers Jun 1996

Listed in "Best Lawyers in America," Steven Naifeh and Gregory White Smith, in two categories: Labor Law and Criminal Law 1991-1993

Black Educators' Alliance Award, Professional Service to Education (For representation of the Concerned Black Educators of Boston in the Boston Desegregation case) Jun 1983

Abraham T. Alper Award for Excellence in Civil Liberties, Civil Liberties Union of Massachusetts May 1980

### *Honorary Degrees*

Doctor of Law, Wheaton College, Norton, Massachusetts 2013

Doctor of Laws, Brandeis University May 2011

Juris Doctor, Northeastern University School of Law, Boston, Massachusetts 1999

Juris Doctor, Suffolk University Law School 1997

### **PRESENTATIONS AND INVITED LECTURES**

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Fairchild Lecture



Saferstein Lecture in Forensic Science (Northeastern University)

Distinguished Jurist-in-Residence Lecture, University of Maine Law School (2017)

UC Hastings Commencement Address (May 15, 2016)

Pope and John Lecture, Northwestern University Law School (2014)

Keynote, symposium, "Bombshell or Baby Step? The Ramifications of Miller v. Alabama for Sentencing Law and Juvenile Crime Policy," "Miller v. Alabama: What it Is, What it May Be, What it is not" 78 Mo.L. Rev. 1041 (2013)

Justice Ruth Bader Ginsburg Distinguished Lecture on Women and the Law, "The Uniqueness of Her Voice," New York City Bar Association (February 13, 2013)

Judge Frank M. Coffin Lecture on Law and Public Service (2013)

Robinson Lecture, UC Irvine School of Law (2012)



From Omnipotence to Impotence: American Judges and Sentencing, 4 Ohio State Journal of Criminal Law 523 (Spring 2007) (Justice Harry A. Blackmun Lecture)

Distinguished Jurist-in-Residence Lecture, Sentencing Reform: When Everyone Behaves Badly, 57 Me. L. Rev. 569 (2005)

"Circumventing Juries, Undermining Justice: Lessons from Criminal Trials and Sentencing," 32 Suffolk U. L. Rev. 419 (1999) (Donahue Lecture)

Prosecutorial Misconduct in the Grand Jury: Life After Mechanik and Bank of Nova Scotia, ABA Panel (October 24, 1990)

## ABOUT

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### *International*

I have been the keynote speaker at a variety of conferences concerning civil rights, civil liberties, employment and criminal justice and procedural issues. I have participated extensively in events and panels involving the United States Sentencing Guidelines, judicial independence, human rights and women's rights, throughout the United States and abroad: through the ABA CEELI Institute -- programs in Prague involving judges from Eastern and Central Europe, defense lawyers from Kosovo; through the Yale Law China Project and the Wellesley Center on Women, programs in China, Vietnam, Cambodia; through Fordham Law School Law and Ethics program, programs in Israel; through the Lawyer's Committee for Human Rights, programs in Turkey; through the Kennedy School, Women and Public Policy, and Israel, Turkey, Prague - through the ABA CEELI Institute.

I have given papers on sentencing in Glasgow, Scotland, University of Strathclyde, Melbourne, Australia, Monash University School of Law, and in Budapest, Hungary, at the Eotvos Lorand University (Suffolk University Law School's International LL.M Program). I have also lectured at Central European University, Budapest Hungary on race and gender and the criminal law.

### *Trial Practice*

Before becoming a judge, I taught courses sponsored by the Massachusetts Continuing Legal Education - New England Law Institute (MCLE-NELI) and the National Institute of Trial Advocacy nearly every year since August of 1978. In addition, I have served as a teacher in Harvard Trial Advocacy Workshops for the training of Harvard law students.

### *Criminal Law and Procedure*

Before I became a judge, I participated in programs on a number of criminal law topics including programs on lawyer subpoenas, NACDL, August, 1986, the problems of victims of rape and child abuse (National Conference of Women Judges, September, 1984); jury selection issues (First Circuit Judicial Conference, September, 1981); and crime and punishment issues (Northeastern University, June, 1980); Massachusetts Correctional Association (1989); "date rape," the National Judicial Institute (1992); Superior Court of Massachusetts (November, 1992), complex criminal

litigation, including "Super Star" Panel, Florida Public Defenders (December, 1986); National Association of Criminal defense Lawyers and American Bar Association panels on white collar crime (1981-1992); Massachusetts Academy of Trial Lawyers (March, 1980, March, 1981); NCLE-NELI (November, 1978, July, 1980, March, 1984). After leaving the bench, I was the keynote at NYU Center on the Administration of Criminal law, Criminal Procedure and the Modern Court, April 2013; Harvard Medical School – Memory in the Court: Fixed Fallible or Fleeting, January 2013.

### *Women's Rights and Civil Rights*

Before I became a judge, I participated in panels involving reproductive rights, sexual harassment, prosecuting of women for carrying drugs in utero before the Massachusetts bar Association, Labor Law Section (1979, 1980, 1990; Planned Parenthood Association (February, 1982); Kennedy School of Government (November, 1991); Victim's Rights and the Constitution (Superior Court Judges, November, 1984); National Women's Association of America (February, 1982); National Women's Studies Association (July, 1983); Georgetown University, (Fall, 1990); American College of Psychiatrists, (Winter, 1991); International Research and Exchanges Board, (Spring, 1991); Sex Discrimination in United States, Berlin, Germany (1990).

While a judge, I was determined to raise issues with regard to women at every occasion whenever I was honored or privileged to be a keynote speaker, for example, the Massachusetts Women's Bar Association Keynote (2003), conference, Women Lawyers and Obstacles to leadership (2007).

After leaving the bench, my activities continued: Keynote (Women's Power Summit, April 2013, University of Texas School of Law); 7<sup>th</sup> Annual Darrow K. Soll Memorial Criminal Law and Justice Lecture, November 2013: Loser's Rules- Judicial Repeal of the Civil Rights Act of 1964; Frank M. Coffin Lecture on Law and Public Service, October 2013, "When Courthouse Doors are Shutting."