

# ***Jeffrey L. Kirchmeier***

CUNY School of Law  
City University of New York  
2 Court Square  
Long Island City, NY 11101

## **Law School Teaching**

*Professor of Law*, CUNY School of Law, City University of New York, Flushing, New York. August 1998 to present (Associate Professor 1998 - August 2003).

*Lecturer in Law and Forrester Teaching Fellow*, Tulane Law School, Tulane University, New Orleans, Louisiana. July 1995 to July 1998. Helped develop new Legal Research & Writing program, and upon completion of fellowship, was promoted to *Lecturer in Law* (July 1997). Designed and taught *The Constitution and the Death Penalty*. Helped create *Capital Punishment Externship* for local defender office.

*Adjunct Professor*, Arizona State University College of Law, Tempe, Arizona. August 1991 to May 1994. Taught and created syllabus for *Capital Litigation Clinic* and *Seminar on Habeas Corpus, Post-Conviction and the Death Penalty*.

## **Other Legal Positions**

*Staff Attorney*, Arizona Capital Representation Project, Arizona State University College of Law, Tempe, Arizona. July 1991 to June 1995. Represented condemned prisoners on appeal, in post-conviction proceedings in both state and federal courts, and at commutation hearings. Monitored death penalty cases in Arizona and assisted attorneys throughout the state in their representation of condemned prisoners by consultation, speaking at seminars, drafting briefs, providing research, and conducting moot courts.

*Associate*, Arnold & Porter, 1200 New Hampshire Ave., N.W., Washington, D.C. September 1989 to June 1991. Worked in general litigation area, including work in antitrust, securities and environmental law. Worked on various pro bono projects, including representation of a capital defendant in Virginia.

*Summer Associate*, Crowell & Moring, Washington, D.C. May - August 1988. Worked in various areas, including general litigation, environmental law and business crimes.

*Research Assistant* for Professor Kevin McMunigal at CWRU School of Law, Cleveland, Ohio. August 1987.

*Summer Associate*, Jones, Day, Reavis & Pogue. Austin, Texas. June - July 1987. Worked on various projects, including litigation and drafting articles of incorporation and bylaws.

## **Legal Publications**

### **Books and Study Guides:**

*Imprisoned by the Past: Warren McCleskey and the American Death Penalty* (Oxford University Press 2015).

*Barron's First Year Law School Flash Cards: 350 Cards with Questions and Answers*, Barron's Educational Series, Inc. (Baron's Educational Series 2010).

### **Law Reviews:**

*Confession for the Soul?: A Defense Lawyer's Moral Advice to a Guilty Client*, 10 Ohio State J. Crim. L. 219 (2012) (invited symposium).

*Scaling the Lexicon Fortress: The United States Supreme Court's Use of Dictionaries in the Twenty-First Century*, 94 Marquette L. Rev. 75 (2010) (w/ Judge Samuel Thumma).

*Vigilante Justice: Prosecutor Misconduct in Capital Cases*, 55 Wayne L. Rev. 1327 (2010) (w/ co-authors).

*The Undiscovered Country: Execution Competency & Comprehending Death*, 98 Ky. L.J. 263 (2009-2010).

*Our Existential Death Penalty: Judges, Jurors, and Terror Management*, 32 Law & Psychol. Rev. 55 (2008).

*Dead Innocent: The Death Penalty Abolitionist Search for a Wrongful Execution*, 42 Tulsa L. Rev. 403 (2006) (invited symposium).

*Casting a Wider Net: Another Decade of Legislative Expansion of the Death Penalty in the United States*, 34 Pepp. L. Rev. 1 (2006) (lead article).

*Empire State Injustice: Based Upon a Decade of New Information, A Preliminary Evaluation of How New York's Death Penalty System Fails to Meet Standards for Accuracy and Fairness*, 4 Cardozo Pub. L. Pol'y & Ethics J. 85 (Report of the Association of the Bar of the City of New York) (with co-authors) (2006).

*A Tear in the Eye of the Law: Mitigating Factors, Disease Theory, and the Progression Toward a New Theory of Criminal Justice*, 83 Or. L. Rev. 624 (2004).

*Scrupulous in Applying the Law: Justice Ruth Bader Ginsburg and Capital Punishment*, 7 N.Y. City L. Rev. 701 (2004) (with Prof. Sidney Harring) (invited symposium).

*Rethinking the Death Penalty: Can We Define Who Deserves Death?: Panel Presentation Before the Association of the Bar of the City of New York (May 22, 2002)*, in 24 Pace L. Rev. 107, 131-42, 185-86 (Fall 2003) (symposium).

*Another Place Beyond Here: The Death Penalty Moratorium Movement*, 73 Colo. L. Rev. 1 (2002) (lead article).

*Capital Punishment in the Twenty-First Century: Introduction to Death Penalty Symposium*, 4 N.Y. City L. Rev. 101 (2002) (invited symposium).

*The Lexicon Remains a Fortress: An Update*, 5 Green Bag 51 (2001) (with Samuel A. Thumma).

*Let's Make a Deal: Waiving the Eighth Amendment By Selecting a Cruel and Unusual Punishment*, 32 Conn. L. Rev. 615 (2000) (excerpt reprinted in Randall Coyne & Lyn Entzeroth, *Capital Punishment and the Judicial Process* 108-15 (3d ed. 2006).

*The Lexicon Has Become a Fortress: The United States Supreme Court's Use of Dictionaries*, 47 Buff. L. Rev. 227 (1999) (with Samuel A. Thumma).

*Aggravating and Mitigating Factors: The Paradox of Today's Arbitrary and Mandatory Capital Punishment Scheme*, 6 Wm. & Mary Bill Rts. J. 345 (1998) (excerpt reprinted in Randall Coyne & Lyn Entzeroth, *Capital Punishment and the Judicial Process* 163-67, 364-67 (3d ed. 2006 (casebook)); Evan J. Mandery, *Capital Punishment: A Balanced Examination* 254 (2005)).

*Drink, Drugs, and Drowsiness: The Constitutional Right to Effective Assistance of Counsel and the Strickland Prejudice Requirement*, 75 Neb. L. Rev. 401 (1997) (excerpt reprinted in Randall Coyne & Lyn Entzeroth, *Capital Punishment and the Judicial Process* 604-06 (3d ed. 2006).

Comment, *The Price We Pay for Pornography: A Karamazov View*, 39 Case W. Res. L. Rev. 1395 (1989).

Case Note, *Murray v. United States: Legally Rediscovering Illegally Discovered Evidence*, 39 Case W. Res. L. Rev. 641 (1989).

Case Note, *Torres v. Oakland Scavenger Co.: What's in a Name? -- Everything in a Federal Appeal*, 39 Case W. Res. L. Rev. 943 (1989).

Note, *The Illusion of the Fact-Opinion Distinction in Defamation Law*, 39 Case W. Res. L. Rev. 867 (1989).

### **Other Legal Publications:**

*Book Review: The Death of Punishment: Searching for Justice Among the Worst of the Worst* (Robert Blecker), New York Law Journal, May 12, 2014.

*The Constitution, the People and New York City's Stop-and-Frisk Policy*, JURIST - Forum, Feb. 23, 2014, <http://jurist.org/forum/2014/02/jeffrey-kirchmeier-stop-frisk.php>

*DNA Reminds Us That to Err is Human*, Cato Unbound, March 9, 2012, available at <http://www.cato-unbound.org/2012/03/09/jeffrey-kirchmeier/dna-reminds-us-that-to-err-is-human/>

*Brian MacQuarrie's The Ride*, 51 Am. J. Legal Hist. 545 (July 2011) (book review).

*Capital Punishment* and *Furman v. Georgia* entries, in *Encyclopedia of Civil Liberties* (Routledge Publishers 2006).

*Using a Negotiation Exercise to Teach Criminal Law*, in *Teaching the Law School Curriculum* (ed. Steve Friedland and Gerry Hess) (Carolina Academic Press 2004).

*Prosecution, Dismissal, Investigation and Restitution: The Search for Truth and Healing Through Retrospective Justice After the Fall of the Berlin Wall* (reviewing A. James McAdams, *Judging the Past in Unified Germany* (2001)), 1 Annual of German and European Law 532-38 (ed. Russell A. Miller & Peer C. Zumbansen) (Berghahn Books 2004).

*Public Defenders*, in *Encyclopedia of Crime & Punishment* (Berkshire Publishing Group 2002).

*Recent Developments in the Lawful Regulation of Cable Television, in Patents, Copyrights, Trademarks, and Literary Property Course Handbook Series*, 283 PLI/Pat 201 (Practicing Law Institute, Nov. 9, 1989) (with Norman M. Sinel, Patrick J. Grant, and William E. Cook).

**OTHER PUBLICATIONS INCLUDE:** *Our Existential Death Penalty*, CUNY Law Magazine 20 (Spring 2009); *To Live or Die: Is There a Moral Obligation to Execute the Worst of the Worst? Point/Counterpoint: No*, 1 N.Y.L.J. 10 (September 2002); *Sixth Amendment Ineffective Assistance of Counsel Claims -- Without Prejudice*, in *Habeas Corpus: Nebraska Criminal Defense Attorneys Association Newsletter* (July 1997); *ACRP Newsletter* (1991-95: editor and author of quarterly publication for Arizona capital defense attorneys regarding court decisions and legal developments); *Omnibus ACRP Newsletter* (1993) (200-page volume with summaries of recent important capital and habeas cases, organized and indexed by topic); During 1992-95, wrote newspaper essays on criminal justice that appeared in *The Arizona Republic*, *The Phoenix Gazette*, and *The Tucson Citizen*.

## **Presentations and Other Activities**

### Continuing Legal Education and Faculty Presentations Include:

- *Foundations and Overview of Federal Habeas Corpus and Pending Cases*: at the 2009 Annual Habeas Corpus Training for Capital Defense Attorneys sponsored by the Association of the Bar of the City of New York (CLE) (Oct. 27, 2009, New York, NY).

- On October 18, 2006, gave a faculty presentation on wrongful executions at CUNY School of Law.

- *State and National Consequences of the Prison Industrial Complex - Workshop*, at Haywood Burns Conference on Law and Policy: Critical Consequences of Criminalization on Communities of Color (CLE) (March 24, 2006, New York, NY).

- On November 2, 2005, gave a faculty presentation on several pending cases before the United States Supreme Court at CUNY School of Law.

- *An Introduction to Habeas Corpus and the Anti-Terrorism and Effective Death Penalty Act for New Capital Defense Attorneys*, at the 2004 Annual Habeas Corpus Training for Capital Defense Attorneys sponsored by the Association of the Bar of the City of New York (CLE) (July 14, 2004, New York, NY).

- On April 4, 2001, gave a faculty presentation on the death penalty moratorium movement at CUNY School of Law.

- In November 2000, gave a faculty presentation on the death penalty moratorium movement at Case Western Reserve University School of Law.

- *Clemency Hearings and Litigating Under an Execution Warrant*, at Tennessee Association of Criminal Defense Lawyers' Defending Your Clients in Death Penalty Cases Conference (CLE) (Dec. 13, 1997, Nashville, TN).

- *Volunteers in Capital Cases*, at Arizona Capital Defense Conference (CLE) (Oct. 1993, Phoenix, AZ).

- *Federal Habeas Corpus Litigation*, at Arizona Capital Defense Conference (CLE) (Nov. 1992, Phoenix, AZ).

Other Presentations, Appearances, etc. Include:

- Panel Presentation, *Mortality, Psychology, and the U.S. Legal System*, as part of "Prejudices, Fantasies, and Justice" Panel, at Left Forum 2014 Conference at John Jay College of Criminal Justice, June 1, 2014.

- Presentation, *Tracing the History of the U.S. Death Penalty*, as part of day-long program Professional Development for High School Educators Who Teach About the Death Penalty (April 30, 2014), New York City Bar Association.

-Panel Presentation, *Existential Crisis in the Courtroom: Capital Punishment, Civil Commitment, and Terror Management Theory* (Nov. 4, 2010), House of the New York City Bar Association.

-Panel Presentation, *Examining the Death Penalty: Personal and Legal Perspectives* (March 28, 2006).

-Legislative Testimony: Testified before New York Legislature Assembly Standing Committees on Codes, Judiciary, and Correction regarding whether the death penalty should be reinstated in New York (Jan. 21, 2005).

-Post-Film Speaker: Gave presentation with film-makers following a showing of the movie, *Deadline*, in Queens, NY (Sept. 29, 2004).

-Panel Remarks: Gave Introductory Remarks at the House of the Association of the Bar of the City of New York as part of panel on *Victims: Who Are They, What Do They Want, What Do They Need?* (April 28, 2004).

-Post-Play Speaker: Gave presentation and answered questions as post-play speaker on "Innocence, Procedure and Morality" following the play *The Exonerated* in New York, NY (Sept. 4, 2003).

- Panel Presentation: Gave presentation at the House of the Association of the Bar of the City of New York as part of a panel on *Rethinking the Death Penalty: Can We Define Who Deserves Death?* (May 22, 2002).

- Workshop Presentation: Presented a workshop entitled, "Exams, What Class Were You In?" with David Nadvorney at *Assessment, Feedback, and Evaluation: Eighth Annual Summer Conference of the Institute for Law School Teaching* at Gonzaga Law School in Spokane, Washington (July 14, 2001). The workshop addressed how to design effective exams that test materials taught in a course.

- Presentations: During 1992 to 2001, gave several presentations on the death penalty to various organizations and to undergraduate classes (e.g., University of Arizona, Hunter College, Staten Island College, and churches). In Spring 2001, moderated evening panel on death penalty at CUNY School of Law.

- Presentation: *The Death Penalty in New York*, to the Staten Island Democratic Society (May 2000).

- Presentation: *Intellectually Disabled Individuals and the Criminal Justice System* at the Criminal Justice Forum at the Association for the Help of Retarded Children in New York City (July 1999).

- Presentation: Gave presentation on capital punishment at Tulane University as part of a panel with Sister Helen Prejean, author of *Dead Man Walking* (Feb. 8, 1996).

## **Consulting Work and Service/Pro Bono Work**

Consulting and Pro Bono Work: Consult with attorneys working on capital cases. Have provided assistance and consulted on capital and civil rights cases in several states, including Arizona, Mississippi, New York, Ohio, Tennessee, Texas, Utah, and Virginia. During July 1995 through August 1996, represented Arizona capital client and drafted motions and briefs for federal and state courts, interviewed witnesses, and did clemency hearing before the Arizona Board of Pardons and Parole.

New York City Bar Association Service: Member, Capital Punishment Committee of the New York City Bar Association, where work includes providing assistance to pro bono capital defense attorneys, writing amicus briefs, writing reports, recruiting pro bono counsel, etc. (Dec. 2000 to present). Help organize and run the Annual Habeas Corpus Training for Capital Defense Attorneys sponsored by the Association of the Bar of the City of New York.

Chair, Capital Punishment Committee of the New York City Bar Association (Sept. 2002 - Aug. 2005). During my three-year tenure, the Committee's activities included presentations, training and recruitment of pro bono attorneys, sponsorship of CLE programs, amicus briefs, work on reports, etc. I also appeared with the Bar Association President before New York State Legislature Assembly Committees that were considering reinstating the death penalty in New York, and my committee submitted a report to the legislature. Among my various Committee activities, I have served on the amicus subcommittee and been involved in writing and filing amicus curiae briefs in the United States Supreme Court and the New York Court of Appeals. For example, I was the main author of amicus brief submitted to the New York Court of Appeals in *People v. Taylor*, submitted December 2006.

### **Bar Admissions**

Admitted to bars of New York, Ohio, Arizona (inactive) and Washington, D.C. (inactive). Also, admitted to practice before the United States Supreme Court, United States Ninth Circuit Court of Appeals, United States District Court for the District of Arizona.

### **Education**

**Legal:** Case Western Reserve School of Law, Cleveland, Ohio.  
- *Graduated:* May, 1989, J.D. Summa Cum Laude.  
- *Academic Record:* 4.09/4.33 (3rd out of 196).  
- *Honors:* Order of the Coif, Edwin G. Halter Scholarship; American Jurisprudence Awards in environmental and criminal law.  
- *Activities:* Executive Board Member and Contributing Editor, *Case Western Reserve Law Review* (1988-89); Associate, *Case Western Reserve Law Review* (1987-88); *CWRU Journal of International Law* (1986-87); Criminal Law Clinic.

**Undergraduate:** Case Western Reserve University, Cleveland, Ohio.  
- *Graduated:* May 1984, B.A. Cum Laude.  
- *Majors:* English and mathematics; minor in philosophy.  
- *Honors and activities:* Earned Departmental Honors in English for senior thesis; Dean's list; CWRU Archery Team and Club (president 1983-84); twice named to the All-Midwest Archery Team; intramural sports.