



## RECENT LAW REVIEW ARTICLES



### CONSTITUTIONAL LAW

Forrest, Michael P. and Paul S. Miller. A fresh look at the constitutional rights of teens: sex and drugs at the Supreme Court. 45 Idaho L. Rev. 71-92 (2008).

### COURTS

Kimber, Kirk. Comment. Mental health courts—Idaho’s best kept secret. 45 Idaho L. Rev. 249-281 (2008).

Prescott, Dana E. Unified family courts and the modern judiciary as a “street-level bureaucracy”: to what end for the “mythical” role of judges in a democracy. 27 QLR 55-112 (2009).

### CRIMINAL LAW AND PROCEDURE

Bailey, Travis. Comment. California’s Determinate Sentencing Law: how California got it wrong...twice. 12 Chapman L. Rev. 87-105 (2008).

Blume, John H. and Emily C. Paavola. Crime labs and prison guards: a comment on Melendez-Diaz and its potential impact on capital sentencing proceedings. 3 Charleston L. Rev. 205-230 (2009).

Blumenstein, Matthew Hardwick. Note. RICO overreach: how the federal government’s escalating offensive against gangs has run afoul of the Constitution. 62 Vand. L. Rev. 211-238 (2009).

Bodnar, Christopher J. A matter of life and death: statutory authority enabling sobriety checkpoints to effectively fulfill their public safety role. 13 Tex. Rev. L. & Pol. 139-162 (2008).

Carmon, Katherine A. Recent development. Don’t act like you smell pot! (at least, not in the Fourth Circuit): police-created exigent circumstances in Fourth Amendment jurisprudence. 87 N.C. L. Rev. 621-643 (2009).

Caudill, David S. Arsenic and old chemistry: images of mad alchemists, experts attacking experts, and the crisis in forensic science. 15 B.U. J. Sci. & Tech. L. 1-33 (2009).

Christenson, Amber J. Note. Al-Naseer’s deadly knowledge: the mens rea requirement of the vehicular homicide statute based on leaving the scene of an accident. (State v. Al-Naseer, 690 N.W.2d 744, 1005.) 31 Hamline L. Rev. 505-548 (2008).

Cicchini, Michael D. Judicial (in)discretion: how courts circumvent the Confrontation Clause under Crawford and Davis. 75 Tenn. L. Rev. 753-787 (2008).

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Dasgupta, Rid. Bivens in the war on terror: scope for the Supreme Court in its upcoming case. 3 Charleston L. Rev. 397-420 (2009).

Epstein, Jules. Avoiding trial by rumor: identifying the due process threshold for hearsay evidence after the demise of the Ohio v. Roberts "reliability" standard. 77 UMKC L. Rev. 119-159 (2008).

Exum, Jelani Jefferson. The more things change: a psychological case against allowing Federal Sentencing Guidelines to stay the same in light of Gall, Kimbrough, and new understandings of reasonableness review. 58 Cath. U. L. Rev. 115-151 (2008).

Findlay, Daniel. Recent development. Tag! Now you're really "it". What photographs on social networking sites mean for the Fourth Amendment. 10 N.C. J.L. & Tech. 171-202 (2008).

Griffin, Lissa. Avoiding wrongful convictions: re-examining the "wrong-person" defense. 39 Seton Hall L. Rev. 129-162 (2009).

Hagen, Alex M. Comment. From formal separation to functional equivalence: tribal-federal dual sovereignty and the Sixth Amendment right to counsel. 54 S.D. L. Rev. 129-172 (2009). [

Healy, Thomas. Brandenburg in a time of terror. 84 Notre Dame L. Rev. 655-731 (2009).

Heilman, Katie Roth. Comment. Contemplating "cruel and unusual": a critical analysis of Baze v. Rees in the context of the Supreme Court's Eighth Amendment "proportionality" jurisprudence. (*Baze v. Rees*, 128 S. Ct. 1520, 2008.) 58 Am. U. L. Rev. 633-663 (2009).

Hine, David. Note. Dueling ideals: bridging the gap between peace and justice. 32 B.C. Int'l & Comp. L. Rev. 129-141 (2009).

Kang, John M. Taking safety seriously: using liberalism to fight pornography. 15 Mich. J. Gender & L. 1-40 (2008).

Kaye, David H. Rounding up the usual suspects: a legal and logical analysis of DNA trawling cases. 87 N.C. L. Rev. 425-503 (2009).

Kelly, Arianna Kennedy. The costs of the Fourth Amendment: home searches and takings law. 28 Miss. C.L. Rev. 1-35 (2008-2009).

Kippley, Joseph A. Note. *State v. Buchold*: the South Dakota Supreme Court fails to recognize a de facto life sentence as the functional equivalent of a life sentence when determining gross disproportionality. (*State v. Buchold*, 727 N.W.2d 816, 2007.) 54 S.D. L. Rev. 173-198 (2009).

Lowe, Ashley E. Community collaboration: a blended domestic violence clinic. 10 T.M. Cooley J. Prac. & Clin. L. 375-416 (2008).

McKeown, Cassandra L. and Michael G. Miller. Say what?: South Dakota's unsettling indifference to linguistic minorities in the courtroom. 54 S.D. L. Rev. 33-88 (2009).

Morgan, Preston L. Comment. Public assistance for the price of privacy: leaving the door open on welfare home searches. 40 McGeorge L. Rev. 227-260 (2009).

Nisbett, John. Comment. Checkmate: how sexual predators in (your) space have strategically employed existing cyber-laws to outflank their prey. 28 Miss. C.L. Rev. 181-202 (2008-2009).

Pickerill, J. Mitchell, Clayton Mosher and Travis Pratt. Search and seizure, racial profiling, and traffic stops: a disparate impact framework. 31 Law & Pol'y 1-30 (2009).

Price, Benjamin. Comment. The Sixth District of the California Court of Appeal throws a curveball: the use of juvenile adjudications as strikes in California post- ... (*People v. Nguyen*, 62 Cal. Rptr. 3d 255, 2007, review granted, 169 P.3d 882, 2007.) 12 Chapman L. Rev. 107-126 (2008).

Pritikin, Martin H. Is prison increasing crime? 2008 Wis. L. Rev. 1049-1108.

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Tanaka, Elizabeth Stewart. Can you protect your DNA when your family does not? An analysis of familial DNA usage in criminal investigations. 12 Quinnipiac Health L.J. 115-139 (2008).

Trenticosta, Cecelia M. Comment. A conviction correction procedure: finality, federalism, and post-conviction access to DNA evidence through 42 U.S.C. section 1983. 54 Loy. L. Rev. 674-737 (2008).

Tunink, Michael S. Comment. A new role for the United States Sentencing Commission in post-Booker sentencing: reflecting judicial practice. (*United States v. Booker*, 543 U.S. 220, 2005.) 40 Ariz. St. L.J. 1429-1450 (2008).

Weber, Kendra. Comment. Life, liberty, or your children: California parents' Fifth Amendment quandary between self-incrimination and family preservation. 12 Chapman L. Rev. 155-173 (2008).

Willis, Heather R. Note. Creeping by moonlight: a look at civil commitment laws for sexually violent predators through the lens of *The Yellow Wallpaper*. 15 Wm. & Mary J. Women & L. 161-191 (2008).

Woodward, Alexa. It takes a village to save a life: a statewide model for indigent capital defense. 11 N.Y. City L. Rev. 159-177 (2007).

Wool, Jason. Note. Maintaining the presumption of innocence in date rape trials through the use of language orders: *State v. Safi* and the banning of the word “rape”. 15 Wm. & Mary J. Women & L. 193-226 (2008). [

Zacharias, Fred C. and Bruce A. Green. The duty to avoid wrongful convictions: a thought experiment in the regulation of prosecutors. 89 B.U. L. Rev. 1-59 (2009).

## **DOMESTIC RELATIONS**

Rosenthal, Joy S. An argument for joint custody as an option for all family court mediation program participants. 11 N.Y. City L. Rev. 127-157 (2007).

## **EVIDENCE**

Epstein, Jules. Avoiding trial by rumor: identifying the due process threshold for hearsay evidence after the demise of the *Ohio v. Roberts* “reliability” standard. 77 UMKC L. Rev. 119-159 (2008).

Hebl, Andrew. Spoilation of electronically stored information, good faith, and Rule 37(e). 29 N. Ill. U. L. Rev. 79-116 (2008).

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## **JUDGES**

Duffy, Rose. Comment. The return of judicial discretion. 45 Idaho L. Rev. 223-247 (2008).

## **JURISPRUDENCE**

Wright, R. George. Your mileage may vary: a general theory of legal disclaimers. 7 Pierce L. Rev. 85-120 (2008).

## **JUVENILES**

Davidson, Howard. Federal law and state intervention when parents fail: has national guidance of our child welfare system been successful? 42 Fam. L.Q. 481-510 (2008).

Myers, John E. B. A short history of child protection in America. 42 Fam. L.Q. 449-463 (2008).

Price, Benjamin. Comment. The Sixth District of the California Court of Appeal throws a curveball: the use

of juvenile adjudications as strikes in California post- ... (*People v. Nguyen*, 62 Cal. Rptr. 3d 255, 2007, review granted, 169 P.3d 882, 2007.) 12 Chapman L. Rev. 107-126 (2008).

Russell, Gabrielle. Comment. Pedophiles in wonderland: censoring the sinful in cyberspace. 98 J. Crim. L. & Criminology 1467-1499 (2008).

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## **LAW AND SOCIETY**

Garfield, Alan E. Finding shared values in a diverse society: lessons from the intelligent design community. 33 Vt. L. Rev. 225-281 (2008).

Howe, Ruth-Arlene W. Race matters in adoption. 42 Fam. L.Q. 465-479 (2008).

Mushlin, Michael B. and Naomi Roslyn Galtz. Getting real about race and prisoner rights. 36 Fordham Urb. L.J. 27-52 (2009).

Piven, Frances Fox and Steven Loffredo. An interdisciplinary discussion of poverty, class & economic justice. 11 N.Y. City L. Rev. 1-21 (2007).

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## **LAW ENFORCEMENT AND CORRECTIONS**

Colloquium: Conditions of Confinement. Keynote address by Brian S. Fischer; articles by Alphonse Gerhardstein, Michael B. Mushlin, Naomi Roslyn Galtz, Alexander A. Reinert, William J. Rich and Samuel Wiseman. 36 Fordham Urb. L.J. 1-157 (2009).

Miller, Stephen W. Note. Rethinking prisoner litigation: shifting from qualified immunity to good faith defense in section 1983 prisoner lawsuits. 84 Notre Dame L. Rev. 929-955 (2009).

Zavez, Maryann. Use of the Adoption and Safe Families Act at 15/22 months for incarcerated parents. 33 Vt. L. Rev. 187-199 (2008).

## **LEGAL ANALYSIS AND WRITING**

Gionfriddo, Jane Kent, Daniel L. Barnett and E. Joan Blum. A methodology for mentoring writing in law practice: using textual clues to provide effective and efficient feedback. 27 QLR 171-226 (2009).

Long, Lance N. and William F. Christensen. Clearly, using intensifiers is very bad—or is it? 45 Idaho L. Rev. 171-189 (2008).

## **LEGAL PROFESSION**

Daicoff, Susan. Lawyer, be thyself: an empirical investigation of the relationship between the ethic of care, the feeling decisionmaking preference, and lawyer wellbeing. 16 Va. J. Soc. Pol'y & L. 87-140 (2008).

McMillian, Lance. Tortured souls: unhappy lawyers viewed through the medium of film. 19 Seton Hall J. Sports & Ent. L. 31-103 (2009).

## **MOTOR VEHICLES**

Bodnar, Christopher J. A matter of life and death: statutory authority enabling sobriety checkpoints to effectively fulfill their public safety role. 13 Tex. Rev. L. & Pol. 139-162 (2008).

## **PSYCHOLOGY AND PSYCHIATRY**

Barrett, Jeffrey M. Comment. A state of disorder: an analysis of mental- health parity in Wisconsin and a suggestion for future legislation. 2008 Wis. L. Rev. 1159-1199.

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Rich, William J. The path of mentally ill offenders. 36 Fordham Urb. L.J. 89-119 (2009).

Willis, Heather R. Note. Creeping by moonlight: a look at civil commitment laws for sexually violent predators through the lens of The Yellow Wallpaper. 15 Wm. & Mary J. Women & L. 161-191 (2008).

## **SEXUALITY AND THE LAW**

Nisbett, John. Comment. Checkmate: how sexual predators in (your) space have strategically employed existing cyber-laws to outflank their prey. 28 Miss. C.L. Rev. 181-202 (2008-2009).

Wool, Jason. Note. Maintaining the presumption of innocence in date rape trials through the use of language orders: State v. Safi and the banning of the word "rape". 15 Wm. & Mary J. Women & L. 193-226 (2008).■