

# Joshua Kleinfeld

## **George Mason University Antonin Scalia Law School**

Allison & Dorothy Rouse Professor of Law  
Faculty Director, Boyden Gray Center for the Study of the  
Administrative State

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## Research & teaching

Constitutional Law • Legislation & Regulation • Criminal Law • Political, Legal, & Moral Philosophy

## Academic appointments

### **George Mason University Antonin Scalia Law School**

2024-present

Allison & Dorothy Rouse Professor of Law

2024-present

Faculty Director, Boyden Gray Center on Administrative Law

### **Northwestern University Pritzker School of Law**

2017-2024

Full Professor of Law with Tenure

2014-2017

Associate Professor

2011-2014

Assistant Professor

### **Harvard Law School**

2018

Visiting Professor of Law

### **Stanford Law School**

2017-2018

Visiting Professor of Law

## Education

### **Goethe University Frankfurt**

2016

Ph.D. in Philosophy

Supervisors: Axel Honneth (primary), Klaus Günther, and Rainer Forst

### **Yale Law School**

2006

J.D.

### **Yale College**

2001

B.A. in Philosophy

## Selected law & policy experience

2022-present	<b>New Civil Liberties Alliance</b> <i>Board of Advisors &amp; Litigator</i>
2018-2019	<b>Northwestern Juvenile Criminal Defense Clinic</b> <i>Professor &amp; Litigator</i>
2008-2009	<b>Debevoise &amp; Plimpton</b> <i>Associate, Corporate Criminal Law, Frankfurt, Germany</i>
2007-2008	<b>U.S. Court of Appeals for the Fourth Circuit</b> <i>Law Clerk, Hon. J. Harvie Wilkinson III</i>
2006-2007	<b>U.S. Court of Appeals for the D.C. Circuit</b> <i>Law Clerk, Hon. Janice Rogers Brown</i>
Summer 2004	<b>Supreme Court of Israel</b> <i>Law Clerk Hon. Aharon Barak</i>
2002-2003	<b>White House President's Council on Bioethics</b> <i>Senior Research Analyst</i>

## Publications

### Works in Progress

**By the People: Renewing Democracy in Criminal Justice**  
(with Stephanos Bibas & Richard Bierschbach) (book project)

### Articles

**What Voting Is For**  
100 Notre Dame Law Review \_\_ (2024)

**Give Parents the Vote**  
100 Notre Dame Law Review 815 (2024)

**Social Trust in Criminal Justice: A Metric**  
98 Notre Dame Law Review 815 (2022)

**Hijacking the Fed**, National Review (Nov. 18, 2021) (with Christina Skinner)

**Brief of Amici Curiae on behalf of the National Association of Criminal Defense Lawyers and FAMM in support of respondent**  
United States v. Taylor, U.S. Supreme Court, No. 20-1459 (2021)

**Textual Rules in Criminal Statutes**  
88 University of Chicago Law Review 1 (2021)

**Why the Mind Matters in Criminal Law**  
52 Arizona State Law Journal 539 (2021)

**A Criminal Law Based on Harm Alone: The Story of California Criminal Justice Reform**  
94 Southern California (USC) Law Review 35 (2021) (with Thomas Hoyt)

**Saving Alaska's Election**

Anchorage Daily News (June 7, 2020) (with Rachel Kleinfeld)

**How To Save the November Election**

National Review (May 21, 2020) (with Rachel Kleinfeld)

**How To Hold Elections During a Pandemic**

National Review (April 7, 2020) (with Rachel Kleinfeld)

**Constitutional Vagueness Today**

Federalist Society Blog (2019)

**The Principle of Pro-Social Punishment**

Sentencing Law and Policy Blog (2019)

**Manifesto of Democratic Criminal Justice**

111 Northwestern Law Review 1367 (2017)

**Three Principles of Democratic Criminal Justice**

111 Northwestern Law Review 1455 (2017)

**White Paper of Democratic Criminal Justice**

111 Northwestern Law Review 1693 (2017) (co-authored)

**Reconstructivism: The Place of Criminal Law in Ethical Life**

129 Harvard Law Review 1485 (2016)

**Two Cultures of Punishment**

68 Stanford Law Review 933 (2016)

**Embodied Ethical Life and the Criminal Law**

in *The New Philosophy of Criminal Law* (Chad Flanders & Zach Hoskins, eds., 2015)

**A Theory of Criminal Victimization**

65 Stanford Law Review 1087 (2013) (selected for Yale/Stanford/Harvard Junior Faculty Forum)

**Enforcement and the Concept of Law**

121 Yale Law Journal Online (2011)

**Skeptical Internationalism: A Study of Whether International Law Is Law**

78 Fordham Law Review 2451 (2010)

**Tort Law and In Vitro Fertilization**

115 Yale Law Journal 237 (2005)

**President's Council on Bioethics, Beyond Therapy: Biotechnology and the Pursuit of Happiness**

(contributing author)

**President's Council on Bioethics, Human Cloning and Human Dignity: An Ethical Inquiry**

(contributing author) (2003)

**The Union Lincoln Made**

47 History Today 24 (1997)

## Videos & podcasts

### **Collision Course: U.S. Democracy and the Changing Nature of War**

Carnegie Endowment talk (2022)

[\[link\]](#)

### **Data-Driven Criminal Justice Reform**

Salzburg Global Seminar Rule of Law & Social Trust Program (2022)

[\[link\]](#)

### **Originalism and Its Discontents**

Federalist Society Dialogue (2021)

[\[link\]](#)

### **Democracy and the Pandemic: Three Reasons for Hope**

TEDx talk (2020)

[\[link\]](#)

### **Is Everything Political?**

Federalist Society Annual Faculty Conference (2020)

[\[link\]](#)

### **Voting In the Time of COVID-19: Can We Make It Work?**

Harvard Kennedy School Ash Center for Democratic Governance and Innovation (2020)

[\[link\]](#)

### **Democracy as Self-Government**

“A Northwestern Law Professor Explains” video series (2020)

[\[link\]](#)

### **COVID and Democracy**

Ideas in Progress podcast (2020)

[\[link\]](#)

### **Scholarly Rigor and Intellectual Orthodoxy**

Federalist Society Annual Faculty Conference (2019)

[\[link\]](#)

### **American & European Cultures of Punishment**

Ipse Dixit podcast (2019)

[\[link\]](#)

## Presentations

### Governmental testimony

#### **Remarks on Criminal Justice Reform: The Example of Europe**

May 2021

Testimony to the California Committee on Revision of the Penal Code

### Academic conferences – as subject

#### **Shared Ethical Life and Criminal Law**

January 2020

Panel on theories of criminal law “reconstructivism” and “democratization” at AALS, Washington, D.C.

## Academic conferences – as organizer

### **Specific Jurisprudence: Philosophy Within Law**

January 2019 AALS Section on Jurisprudence, New Orleans — Promoting an understanding of the philosophy of law as an instrument by which to get interpretive purchase on the departments of law, rather than as an account of the nature of law

### **Philosophy, Criminal Law, and the Present Crisis**

January 2018 AALS Section on Jurisprudence, San Diego — Recognizing and celebrating a renaissance in criminal theory as philosophers of criminal law engage with the present crisis of American criminal justice

### **Democratizing Criminal Justice**

November 2016 Northwestern Law School — Developing a shared vision of criminal justice reform through democratizing interventions in the criminal justice system

## Selected presentations

### **European Criminal Punishment: Lessons for American Criminal Justice Reform?**

May 2022 Keynote, Association of Paroling Authorities International Annual Conference

### **Nonmajoritarian Democracy**

April 2022 Boston College General Faculty Workshop

April 2022 Wharton Legal Studies Department General Faculty Workshop

### **Scholarly Rigor and Intellectual Orthodoxy**

March 2022 Yale Law School Federalist Society Presentation (with Akhil Amar)

### **Social Trust in Criminal Justice: A Metric**

January 2022 Criminal Theory (“Markelloquium”) Workshop at Brooklyn Law School

October 2021 Criminal Theory Workshop (“Political Turn in Criminal Theory”)

### **Democracy and the Pandemic**

April 2021 University of Chicago Law School Federalist Society Presentation (with Tom Ginsburg)

### **Textual Rules in Criminal Statutes**

February 2020 Notre Dame Law School General Faculty Workshop

December 2019 Hebrew University Law School Criminal Law Workshop

April 2019 Cornell Law School General Faculty Workshop

April 2018 Berkeley Law School Criminal Theory Workshop

March 2018 Stanford Law School General Faculty Workshop

February 2018 Harvard Law School General Faculty Workshop

### **Judicial Schism and Legal Impersonality**

July 2019 Legal Theory Workshop at Harvard Law School

### **Specific Jurisprudence: Philosophy Within the Departments of Law**

October 2019 Yale Law School Federalist Society and Yale Law & Philosophy Society Presentation (with Scott Shapiro)

### **Why the Mind Matters in Criminal Law**

July 2019 Crimfest Panel on Legal Theory

March 2017 Georgetown Institute for the Study of Markets and Ethics

### **Democratizing Criminal Justice**

December 2019 Bar-Ilan University Criminal Law Workshop

May 2017 Yale-Harvard-Stanford-Columbia Criminal Justice Roundtable, Columbia Law School

April 2017 Columbia Legal Theory Workshop

April 2017 Georgetown University Law & Philosophy Colloquium

### **“We the People” as the Normative Center of Criminal Procedure**

November 2016 Toronto/Osgoode Law School Conference on Philosophical Perspectives on Criminal Procedure

April 2017	<b>Two Views of Killing in the Enlightenment Intellectual Tradition</b> Cardozo Law School Conference on Law and the Humanities
November 2016	<b>Normative Reconstruction and Rational Hope</b> Northwestern Department of Philosophy Conference on Freedom's Right: A Discussion with Axel Honneth
September 2016	<b>Against the Positive Law Model of the Fourth Amendment</b> Northwestern Law School Federalist Society Debate (with Will Baude)
February 2016	<b>Embodied Ethical Life and Criminal Law</b> Justitia Centre for Advanced Studies Workshop
October 2015	University of San Diego Law School Faculty Workshop
March 2015	Yale Law School Federalist Society
January 2015	University of Chicago Law School Public Law & Legal Theory Workshop
October 2014	Jilin University Law School Forum on Criminal Law, Changchun, China
May 2014	Harvard Law School Criminal Justice Roundtable
March 2014	New Voices in Criminal Theory Workshop
February 2014	Criminal Theory Colloquium at NYU Law School
April 2015	<b>Wrongdoing and Redress in the Theory of Justice</b> University of Chicago Human Rights Workshop
October 2013	University of Toronto Law School Junior Faculty Workshop
May 2010	Czech Academy of Sciences Conference on Philosophy and the Social Sciences, Prague, Czech Republic
December 2009	Goethe University Colloquium on Political Theory, Frankfurt am Main, Germany
	<b>Law and the Spoils of War</b> Northwestern Department of Philosophy Conference on the Critical Theory of Legal Revolutions, February 2015
October 2014	<b>Two Cultures of Punishment</b> Jilin University Law School Faculty Workshop, Changchun, China
October 2013	Columbia Law School (guest presentation in international criminal law course)
February 2013	University of Virginia Law School Faculty Workshop
October 2010	Harvard/Stanford Law International Junior Faculty Forum
June 2010	University of Glasgow Conference on Bonds and Borders: Identity, Imagination, Transformation, Glasgow, Scotland
October 2009	Goethe University Conference on Justifications and Sanctions, Frankfurt am Main, Germany
April 2013	<b>NATO's Purpose</b> Lewis & Clark International Affairs Symposium
2012	Chicago CTTW (Chicago PBS) (on the role of NATO in the international legal order on television program)
October 2012	<b>Criminalization: A Comparative Study</b> Northwestern University Buffett Center for International and Comparative Studies
June 2012	<b>A Theory of Criminal Victimization</b> Yale/Stanford/Harvard Law Junior Faculty Forum
September 2010	Yale Department of Philosophy Working Group in Moral Philosophy
May 2012	<b>How Can a Value Be Immanent in a Social Practice or Institution?</b> Czech Academy of Sciences Conference on Philosophy and the Social Sciences, Prague, Czech Republic
September 2011	<b>Enforcement and the Concept of Law</b> Notre Dame Law School Faculty Colloquium

## Service, awards, grants, fellowships, international work

2017 & 2021	Outstanding Professor of a Small Class Award, <i>Nominee</i>
2017	Childres Award for Teaching Excellence, <i>Nominee</i>
2017	Last Lecturer, <i>Nominee</i>
2015	Searle Innovative Teaching Grant
2014-15	Searle Teaching Fellowship
	<b>Northwestern Law School</b>
2021-2024	Federalist Society Faculty Co-Advisor
2019-2020	Personnel Committee
2016-2017 & 2018-2019	Curriculum Committee
2014-2015 & 2016-2017	Workshops Committee
2015-2016	HBKU Curriculum & Oversight Committees, Chair of two committees as part of Northwestern's international outreach
2011-2012	Clerkships Committee
2011-2012	Educational Resources Committee
2011-2012	Search Committee for CLR Director
	<b>Federalist Society "NextGen" Project</b>
2017-present	Founder & Co-Director, supporting conservative and libertarian law professors in the untenured and recently tenured phases of their careers
	<b>IHS Discourse Initiative Grant</b>
2022-present	Supporting research into populist revolutions worldwide and related topics in comparative democratic theory and practice
	<b>Bar-Ilan University of Tel Aviv</b>
2019	Visiting Professor, teaching criminal theory
	<b>AALS Section on Jurisprudence</b>
Chair 2017-2019, Officer 2015-2021	Created "Hart-Dworkin Award" (given annually to a scholar who has made lasting contributions to the philosophical understanding of law) and organized annual conferences on themes of "Specific Jurisprudence: Philosophy Within Law" and "Philosophy, Criminal Law, and the Present Crisis"
	<b>Institute for Advanced Studies in the Humanities, Justitia Amplificata Research Fellowship</b>
2016	Supporting research sabbatical in political philosophy at research institute in Germany
	<b>Federalist Society Paul M. Bator Award</b>
2015	Given annually to one scholar under 40 for excellence in legal scholarship, significant public impact, a commitment to teaching, and a concern for students
	<b>Searle Center for Teaching Excellence Innovative Teaching Grant</b>
2015	To develop a jurisprudence course grounded equally in philosophy, intellectual history, and analysis of legal practice
	<b>Searle Center for Teaching Excellence Fellowship</b>
2014-2015	Competitively awarded to "early career faculty members ... who will make significant and long-term contributions to Northwestern University" to support training in the empirical research related to effective teaching
	<b>American Bar Association Rule of Law Initiative</b>
2012	Teaching international human rights law on a pro bono basis at Addis Ababa University School of Law, Ethiopia

## Bar memberships

Admitted to the California Bar Association