

**CRAIG S. LERNER**  
Antonin Scalia Law School  
George Mason University  
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## EMPLOYMENT

- Professor, Antonin Scalia Law School August 2016 to present
- Associate Dean for Academic Affairs and Professor June 2007-August 2016
- Professor August 2006-June 2007
- Associate Professor May 2004-August 2006
- Assistant Professor January 2002 – May 2004
- Visiting Assistant Professor August 2000 - December 2001

Classes taught: Business Associations, Conflict of Laws, Criminal Law, Criminal Procedure, Jurisprudence, Professional Responsibility, White Collar Crime

- Associate, Cooper, Carvin & Rosenthal January 1999 - May 2000
- Associate Independent Counsel August 1996 - August 1997 and  
Office of Independent Counsel March 1998 - December 1998
- Associate, Wiley, Rein & Fielding September 1997 - March 1998
- Clerk, The Hon. James L. Buckley August 1995 - August 1996  
U.S. Court of Appeals for the District of Columbia Circuit
- Associate, Winthrop, Stimson, Putnam & Roberts September 1994 - August 1995
- Teaching Fellow, Harvard College September 1992 - June 1993 and  
Section leader in political philosophy classes September 1993 - January 1994

## EDUCATION

Harvard Law School, J.D. 1994, cum laude

- Law Tutor, Lowell House, Harvard College

University of Chicago, M.A. 1990

- The Committee on Social Thought

Harvard College, A.B. 1987, magna cum laude

- Senior Thesis: “Interest and Virtue in *The Federalist Papers*”
- Phi Beta Kappa, one of 24 juniors elected
- Charles Bonaparte Prize, awarded to the Government concentrator with highest GPA

## ACADEMIC PUBLICATIONS

### Articles

*Human Rights as Limits on State Power: The Problem of Punishment*, \_\_ UNIVERSITY OF LOUISVILLE LAW REVIEW, \_\_ (forthcoming 2024)

*The Puzzling Persistence of Capital Punishment*, \_\_ NOTRE DAME JOURNAL OF LAW, ETHICS, AND PUBLIC POLICY \_\_ (forthcoming 2024)

*Posthumous Pardons*, 12 WAKE FOREST LAW REVIEW ONLINE 67 (2022)

*Criminal Justice is Local: Why States Disregard Universal Jurisdiction for Human Rights Abuses* (with Jeremy Rabkin), 55 VANDERBILT JOURNAL OF TRANSNATIONAL LAW 375 (2022)

*“Crimes Involving Moral Turpitude”: The Puzzling, Persistent, and Constitutional Immigration Law Doctrine*, 44 HARVARD JOURNAL OF LAW AND PUBLIC POLICY 71 (2021)

*Justice Scalia’s Eighth Amendment Jurisprudence: The Failure of Sake-of-Argument Originalism*, 42 HARVARD JOURNAL OF LAW AND PUBLIC POLICY 91 (2019)

*Originalism and the Common Law Infancy Defense*, 67 AMERICAN UNIVERSITY LAW REVIEW 1577 (2018)

*The Trial of Joseph Dotterweich: The Origins of the “Responsible Corporate Officer” Doctrine*, 11 CRIMINAL LAW AND PHILOSOPHY 1 (2017)

*The Tower of Babel Revisited: Global Governance as a Problematic Solution to Existential Threats*, 19 NORTH CAROLINA JOURNAL OF LAW AND TECHNOLOGY 69 (2017)

*Who’s Really Sentenced to Life Without Parole: Searching for “Ugly Disproportionalities” in the American Criminal Justice System*, 2015 WISCONSIN LAW REVIEW 789 (2015)

*Does the Magna Carta Embody a Proportionality Principle?*, 16 GEORGE MASON UNIVERSITY CIVIL RIGHTS JOURNAL 271 (2015)

*Life Without Parole as a Conflicted Punishment*, 48 WAKE FOREST LAW REVIEW 1101 (2013)

*Sentenced to Confusion: Miller v. Alabama and the Coming Wave of Eighth Amendment Cases*, 20 GEORGE MASON LAW REVIEW 25 (2012)

*Juvenile Criminal Responsibility: Can Malice Supply the Want of Years?*, 86 TULANE LAW REVIEW 309 (2011)

*Judicial Duty and the Supreme Court's Cult of Celebrity* (with Nelson Lund), 78 GEORGE WASHINGTON LAW REVIEW 1255 (2010)

*Heller and Nonlethal Weapons* (with Nelson Lund), 60 HASTINGS LAW JOURNAL 1387 (2009)

*Originalism and Criminal Procedure*, 11 CHAPMAN LAW REVIEW 277 (2008) (transcribed remarks)

*Judges Policing Hunches*, 4 JOURNAL OF LAW, ECONOMICS AND POLICY 25 (2007)

*Review of Clint Bolick, David's Hammer*, 8 ENGAGE 148 (2007)

*"Left Behind" after Sarbanes-Oxley* (with Moin A. Yahya), 44 AMERICAN CRIMINAL LAW REVIEW (2007)

*Reasonable Suspicion and Mere Hunches*, 59 VANDERBILT LAW REVIEW 407 (2006)

*Calling a Truce in the Culture Wars: From Enron to the CIA*, 17 STANFORD LAW AND POLICY REVIEW 277 (2006)

*Saving the Constitution: Lincoln, Secession and the Price of Union*, 102 MICHIGAN LAW REVIEW 1263 (2004) (review of DANIEL FARBER, LINCOLN'S CONSTITUTION)

*Legislators as the "American Criminal Class": Why Congress (Sometimes) Protects the Rights of Defendants*, 2004 UNIVERSITY OF ILLINOIS LAW REVIEW 599 (2004)

*"Accommodations" for the Learning Disabled: A Level Playing Field or Affirmative Action for Elites?* 57 VANDERBILT LAW REVIEW 1043 (2004)

*The USA Patriot Act: Promoting the Cooperation of Foreign Intelligence Gathering and Law Enforcement*, 11 GEORGE MASON LAW REVIEW 493 (2003)

*The Reasonableness of Probable Cause*, 81 TEXAS LAW REVIEW 951 (2003)

*Lessons from the Zacarias Moussaoui Investigation: Recasting Probable Cause*, 30 SEARCH AND SEIZURE LAW REPORT NO. 8 (2003)

*Impeachment, Attainder, and a True Constitutional Crisis: Lessons from the Strafford Trial*, 69 UNIVERSITY OF CHICAGO LAW REVIEW 2057 (2002)

*Conspirators' Privilege and Innocents' Refuge: A New Approach to Joint Defense Agreements*, 77 NOTRE DAME LAW REVIEW 1449 (2002)

### Book Supplements

*2011 -2024 Supplements to Virginia Criminal Law and Procedure (4<sup>th</sup> edition)* (co-authored with Jack Costello)

### Book Chapter

*Magna Carta and Modern Myth-Making: Proportionality in the "Cruel and Unusual Punishments Clause,"* in HOW MAGNA CARTA MATTERS (Cambridge University Press 2015, edited by James Melton and Robert Hazell)

## SAMPLE INTERVIEWS, PRESENTATIONS, AND TESTIMONY

Interview with Hungarian Public Media Service, November 5, 2023

"Presidents Accused," Matthias Corvinus Collegium, Zalaegerszeg, Hungary, Sept. 28, 2023

"Rescuing Our Inalienable Rights: Conference on the 75<sup>th</sup> Anniversary of the Universal Declaration of Human Rights," Matthias Corvinus Collegium, Budapest, Hungary, Sept. 27, 2023

Interview of Judge Penney Azcarate, Antonin Scalia Law School, Criminal Law Society, Nov. 2, 2023

Interview of former Attorney General Alberto Gonzales, Antonin Scalia Law School Criminal Law Society, Oct. 14, 2022

Interview of Professor Alan Dershowitz, Antonin Scalia Law School, Criminal Law Society, November 1, 2022

"Liberalism and the Death Penalty," Law and Liberty Podcast Discussion, January 2, 2020

"Crimes Involving Moral Turpitude," The Administration of Immigration Symposium, Center for the Study of the Administrative State, October 25, 2019

“Crimes Involving Moral Turpitude,” Roundtable Discussion on the Administration of Immigration, Antonin Scalia Law School, The Study of Immigration Symposium, Center for the Study of the Administrative State, June 4-5, 2019

“Originalism and the Common Law Infancy Defense,” Juvenile Criminal Justice Symposium, American University Washington College of Law, November 10, 2017

“The Trial of Joseph Dotterweich: The Origins of the Responsible Corporate Officer Doctrine,” Crime Without Fault Symposium, Georgetown University, March 31, 2017

“Joint Defense Privilege in Antitrust Litigation,” ABA Annual Antitrust Meeting, Washington, D.C., 2017

“Criminal Justice Reform Symposium,” Fund for American Studies, George Mason Law School, July 9, 2016

“Who’s Really Sentenced to Life Without Parole?: Searching for Ugly Disproportionalities in the American Criminal Justice System,” Heritage Foundation, February 25, 2016

“Adjunct and Clinical Teaching,” Federalist Society Annual Convention, November 13, 2015

“The Decline of the Death Penalty and the Rise of Life Without Parole,” George Mason Law School Workshop Series, on October 7, 2015

“Stop and Frisk,” Federalist Society and George Mason Civil Rights Law Journal, September 21, 2015

“Who’s Really Sentenced to Life Without Parole?: Searching for Ugly Disproportionalities in the American Criminal Justice System,” George Washington Law School, March 31, 2015

“Proportionality Under the Eighth Amendment,” as part of a Magna Carta Symposium, Library of Congress, December 9, 2014

“Does the Magna Carta Embody a Proportionality Principle?” University College, London, United Kingdom, June 18, 2014

“Friendship Among Bad Men,” New England Political Science Association Annual Convention, Woodstock, Vermont, April 26, 2014

“Life Without Parole as a Conflicted Punishment,” Levy Workshop, George Mason Law School, September 12, 2013

“Heller and Nonlethal Weapons,” Hastings Law School, February 13, 2009

Capital Hill Briefing, “Overcriminalization: How Careless Federal Law Criminalizes Innocent Conduct,” Hosted by the National Association of Criminal Defense Lawyers, The Heritage Foundation, and the Washington Legal Foundation, December 11, 2008

“Left Behind After Sarbanes-Oxley,” Washington Legal Foundation, Punish the Bad Apple or the Whole Bunch: Corporate Criminal Liability, Standards, Tactics, and Theories, June 28, 2007

“Swashbucklers and Bean Counters” Georgetown Law Center conference on Corporate Criminality: Legal, Ethical, and Managerial Implications, March 15, 2007

“The Sarbanes-Oxley Act 4 Years Later: What Have We Learned,” United States House of Representatives Subcommittee on Regulatory Affairs, Roundtable Discussion, May 3, 2006

“Calling a Truce in the Culture Wars: From Enron to the CIA,” Conference on Intelligence Reform, Stanford University, February 22, 2006

“Judicial Duty and the Supreme Court’s Cult of Celebrity,” Levy Workshop, George Mason Law School, February 2, 2006

“Left Behind After Sarbanes-Oxley,” Federalist Society conference, Washington, D.C. January 6, 2006

“Originalism and Criminal Procedure,” Federalist Society National Conference, Washington, D.C., November 10, 2005.

“Rational Hunches and Policing,” Address to Mississippi and Louisiana Judges, Mississippi Judicial College, Biloxi, Mississippi, August 8, 2005

“Mere Hunches and Reasonable Suspicion,” Law and Economics Conference on Hunches and the Law, Law and Economics Center conference, Arlington, Virginia, May 14, 2005

“Accommodations for the Learning Disabled: Level Playing Field or Affirmative Action for Elites?,” Levy Workshop, George Mason University School of Law, January 29, 2004

“The Patriot Act,” Annual Conference of the Virginia State Bar, Virginia Beach, June 14, 2003

“Defining Probable Cause,” Virginia Trial Lawyers Association, Fairfax, Virginia, October 2002

“Conspirators’ Privilege and Innocents’ Refuge: A New Approach to Joint Defense Agreements,” Faculty Workshop, George Mason University School of Law, August 29, 2001

### SELECTED JOURNALISM

*The Death Penalty Makes a Comeback*, WALL STREET JOURNAL, Jan. 21, 2024, at <https://www.wsj.com/articles/the-death-penalty-makes-a-comeback-buffalo-shooter-biden-ea86e2e9>

*Rendering Judgments on America’s Death Penalty*, LAW AND LIBERTY, Nov. 3, 2022, at <https://lawliberty.org/author/craig-lerner/>

*Who’s Being Mature About Covid-19 Risks?*, LAW AND LIBERTY, July 22, 2020, at <https://lawliberty.org/whos-being-mature-about-the-covid-19-risks/>

*Mask Charade*, AMERICAN MIND, May 22, 2020, at <https://americanmind.org/post/mask-charade/>

*Is the Death Penalty Dead*, CLAREMONT REVIEW OF BOOKS, Summer 2019, at <https://claremontreviewofbooks.com/is-the-death-penalty-dead/>

*The Reality and Rhetoric of Denying Asylum*, LAW AND LIBERTY, February 12, 2019, at <https://lawliberty.org/the-reality-and-rhetoric-of-denying-asylum/>

*Have a Nice Millennium* (Review of Steven Pinker, *The Better Angels of Our Nature*), CLAREMONT REVIEW OF BOOKS, Winter 2011/2012, at [http://www.claremont.org/publications/crb/id.1927/article\\_detail.asp](http://www.claremont.org/publications/crb/id.1927/article_detail.asp). Exchange with Pinker, at [http://www.claremont.org/publications/crb/id.1957/article\\_detail.asp](http://www.claremont.org/publications/crb/id.1957/article_detail.asp)

*Profiles in Courage*, AMERICAN THINKER, September 17, 2009, at [http://www.americanthinker.com/2009/09/profiles\\_in\\_courage.html](http://www.americanthinker.com/2009/09/profiles_in_courage.html)

*Risky Business* (review of *Global Catastrophic Risks* eds. Nick Bostrom and Milan M. Cirkovic), AMERICAN SPECTATOR, May 2009, at <http://spectator.org/archives/2009/05/13/risky-business>

*Fighting Words*, POLICY REVIEW, October-November 2008, at <http://www.hoover.org/publications/policyreview/30189769.html>

“Left Behind” After Sarbanes-Oxley (co-authored with Moin Yahya), REGULATION, Fall 2007, 44, at <http://www.cato.org/pubs/regulation/regv30n3/v30n3-7.pdf>

ABandoning the Constitution, NATIONAL REVIEW ONLINE, August 10, 2006, at <http://article.nationalreview.com/?q=MzdhZGQ0MjY4NzBIYTE5M2ZhMDZmOTZIMjAzYWY0ZDg=> (Co-authored with Nelson Lund)

*Dregs in the SOX Drawer*, TECH CENTRAL STATION, April 10, 2006, at <http://www.tcsdaily.com/article.aspx?id=041006G> (Co-authored with Moin Yahya)

February 2024