

December 2024

Curriculum Vitae
JEFFREY S. PARKER

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CURRENTLY: Professor Emeritus of Law, Antonin Scalia Law School, George Mason University, Arlington, VA.

EDUCATION: B.I.E. (high honors; co-operative plan), Georgia Institute of Technology, 1975.

J.D., University of Virginia, 1978.
Editorial Board, Virginia Law Review.

EXPERIENCE:
Law Practice:

Sullivan & Cromwell, New York City (August 1978-May 1986)

Sacks Montgomery, P.C., New York City (May 1986-August 1987, and September 1988-August 1990)

Civil litigation and counseling practice, including antitrust and trade regulation, banking, construction and commercial contracts, patent, product liability, securities, and corporate takeover matters; regulatory proceedings; and domestic and international commercial arbitration.

Bar Admissions: New York State; U.S. District Courts (S.D.N.Y., E.D.N.Y.); U.S. Courts of Appeals (2d Cir., 3d Cir., 4th Cir., 7th Cir., 9th Cir., D.C. Cir., Fed. Cir.); U.S. Supreme Court.

Bar Associations: American Bar Association, New York State Bar Association, New York City Bar Association.

Government Service:

Deputy Chief Counsel (September 1987-August 1988) and Consulting Counsel (September 1988-May 1989), United States Sentencing

Commission, principally engaged in developing federal criminal sentencing guidelines for corporations, and for white-collar and property offenses.

Law Teaching:

Associate Professor of Law (August 1990 to August 1994), and Professor of Law (September 1994 to January 2021), George Mason University/Antonin Scalia Law School, Arlington, Virginia.

Visiting and part-time appointments and fellowships: World Bank Seminar on Legal Structure for Free Market Development in the Baltic Countries, Vienna, Austria, 1995; University of Graz, Austria, Spring 1999 (Lectures on the George Mason School of Law and Economics); IMADEC University, Vienna, Austria, 2002-04 (Introduction to the U.S. Legal System); Goldwater Institute, Phoenix, Arizona, Senior Fellow, 2004-12.

Subjects Taught:

Recently: Civil Procedure; Evidence; Criminal Law; Advanced Civil Procedure.

Previously: Evidence and Proof (1992-93); Federal Sentencing Law (2000-01); Legal Research, Writing, and Analysis (1990-91); Litigation Track Theses Supervision; Litigation Management (1998-99); Litigation and Dispute Resolution Theory (1993-94 through 1994-95, 2001-02, 2003-04); Litigation Practice Seminar (1999-2000); Proof (taught 1993-94; supervision 1996-99); Trial Evidence (1995-96); Trial Practice (1995-96).

Courses Developed at George Mason: Federal Sentencing Law; Litigation and Dispute Resolution Theory (with Bruce H. Kobayashi); Proof (with David Schum); Litigation Practice Seminar; Advanced Civil Procedure.

School Committees: ABA/AALS Site Evaluation (1999-2000; Chair); Academic Freedom (1996-97 and 1999-2000); Ad Hoc Committee on Academic Regulations (2004-05; Chair); Adjunct Faculty (2001-05; Chair); Arlington Campus (1990-94); By-Laws (1995-96); Curriculum (1992-96 and 1999-2003; Chair, 1993-96 and 2001-03); Faculty Selection (1992-96 and 1997-99; Chair, 1994-96); Faculty Retention, Promotion, and Tenure (2003-05; Chair); Law School Self-Study (1996-97; Chair); Legal Research and Writing Program (2002-05; Chair); Library and Technology (1997-03; Chair, 1997-98); Litigation Law Track (1992-94; Chair); Minority Recruitment and Retention (2003-05; Chair); Placement (1992-93); Student Affairs (1990-92); Technology in Teaching (1993-94; Chair); Tenured Faculty Chair (2003-05).

Administration: Associate Dean for Academic Affairs, May 1994 to May 1996.

Student Activities: Faculty adviser to student moot court trial, evidence, and appellate competition teams; faculty adviser to student chapter of George Mason American Inn of Court (1993-2004); judge of student counseling and moot court competitions.

Centers Activities: Instructor in various programs for judges, Law and Economics Center; co-founder (with Ernest Gellhorn), Law and Psychiatry Center.

Community and Professional Service: Member, Fairfax Bar Association Committee on Professionalism, Fairfax, Virginia, 1990-91; Executive Director, George Mason American Inn of Court, Arlington, Virginia, 1993-98; Member, Board of Directors, BASIS School, Inc., Tucson and Phoenix, Arizona, 2003-09; Overcriminalization Working Group, Heritage Foundation, Washington, D.C., 2007-13.

Consulting and Pro Bono Practice (selected matters): United States v. Jacobson, 4 F.3d 987 (4th Cir. 1993), *cert. denied*, 511 U.S. 1069 (1994) (criminal prosecution against a fertility doctor); United States v. Dale, 991 F.2d 819 (D.C. Cir.), *cert. denied*, 510 U.S. 1030 (1993) (on direct review of conviction for conspiracy to attempt to evade corporate income tax that was paid in a timely and unchallenged return), and 140 F.3d 1054 (D.C. Cir. 1998), *cert. denied*, 525 U.S. 1069 (1999) (on motion under 28 U.S.C. § 2255, based upon the supervening decision in *United States v. Gaudin*, which rendered the continued incarceration unconstitutional); Hurwitz v. Hasty, et al., and Three Unknown Named Agents of the United States Drug Enforcement Administration, Case No. 3: 96CV523 (E.D. Va., Richmond Division, 1996-98) (seeking injunctive relief requiring the Virginia Board of Medicine to resume a disciplinary hearing adjourned indefinitely); Hurwitz v. Board of Medicine, 46 Va. Cir. 119, 1998 WL 972259 (Va. Cir. Ct. Arlington County 1998) (judicial review of a disciplinary order against a physician treating chronic intractable pain with opioids); C'Debaca v. Commonwealth, 1999 WL 1125891 (Va. App. 1999) (on the briefs; undisclosed) (appeal of a misdemeanor conviction for voyeurism, on grounds that the charging statute did not criminalize the proved conduct, or was unconstitutionally vague and overbroad, and therefore the conviction was illegal); Milstead v. Kibler, 243 F.3d 157 (4th Cir.), *cert. denied*, 534 U.S. 888 (2001) (civil rights action by a citizen shot dead at his own home by police he had summoned for assistance in repelling a burglar); United States v. Blick, 408 F.3d 162 (4th Cir. 2005) (review of sentence imposed under a plea bargain rendered obsolete by the decision in *United States v. Booker*; Lott v. Levitt, 556 F.3d 564 (7th Cir. 2009) (appeal from the pre-answer dismissal of a defamation action brought by independent researcher John Lott against the author of *Feakonomics*); In re Grand Jury Proceedings (Siobhan Reynolds and the Patient Relief Network), 562

U.S. 979 (2010) (requiring that petition for certiorari be filed under seal) decision under review) & 562 U.S. 1064 (2010) (denial of motion to unseal the petition and denial of certiorari) (First Amendment challenge to grand jury subpoena seeking membership information of a patient rights' group protesting against a criminal prosecution of a pain physician in Kansas, issued during the trial that was being protested; subpoena upheld by a sealed Court of Appeals decision in the Tenth Circuit)(co-counsel with Robert Corn-Revere); *Capener v. United States*, 608 F.3d 392 (9th Cir. 2010), *cert denied*, 131 S. Ct. 997 (2011) (government appeal from an award of attorneys' fees to an acquitted federal criminal defendant on the ground that the prosecution was conducted in bad faith; also acted as consultant to lead defense counsel on the trial of the underlying prosecution of an ENT physician on a 52-count indictment alleging "unnecessary" sinus surgeries in 33 patients; half of the counts were dismissed by the judge on defense motion, and the other half produced not guilty verdicts by the jury); *United States v. Weed*, No. 3: 18-cr-00074-JAG (E.D. Va., Richmond Division, 2018)(after two years of preliminary activity in administrative fora, the grand jury, and a defamation campaign through selective leaks to the press, the government brought an indictment against a former contractor to the National Reconnaissance Office ("NRO"), which is highly secretive joint activity of the CIA and the U.S. Air Force involving space-based surveillance on a global scale, with the indictment charging that Weed had "stolen" some of the equipment he was issued for purposes of carrying out his duties; after the defense moved to dismiss and in the alternative for discovery, the U.S. Attorney withdrew the indictment.); *United States v. Chahal*, No. 1: 18-CR-152 (E.D. Va., Alexandria Division, 2018-19)(on the briefs; undisclosed)(on the government's motion to disqualify retained defense counsel, and on sentencing); *Virginia v. Amaya*, 2021 Westlaw 4942808 (E.D. Va. 2021), appeal dismissed, 2022 Westlaw 1259877 (4th Cir. 2022)(removal and subsequent dismissal of state homicide prosecution of U.S. Park Police officers, on the ground that the federal officers were immune from prosecution in state courts for matters arising in the course of their official duty).

Amicus Appearances: Selected recent cases include: *United States v. McDonnell*, 136 S.Ct. 2355 (2016), revg. 792 F.3d 478 (4th Cir. 2015) (Virginia law professors' brief, with colleagues Dan Polsby and Harry Hutchison, among others, in support of McDonnell)(conviction of former Virginia Governor on putative corruption charges affirmed by the Fourth Circuit, but reversed unanimously by the Supreme Court on the law, holding that the charged conduct did not constitute a crime); *Ellison v. United States*, 138 S.Ct. 2675 (2018), *denying cert. to* 704 F. Appx. 616 (9th Cir. 2017).

PUBLICATIONS:

Forthcoming in 2025:

Publications, continued:

RESEARCH HANDBOOK ON COMPARATIVE CIVIL PROCEDURE (Edward Elgar).

Parker's *Teaching Materials on Civil Procedure* (to appear on SSRN).

Works in draft:

Can Withholding Information from the Trier of Fact Improve Adjudicative Decisions?: Psychology and Economics (draft paper presented at a conference in June 2016).

Other works in progress:

Mens Rea Redux: reviewing the case law and literature as affected by my 1993 article on *The Economics of Mens Rea*.

The Creative Products of Civil Litigation: Debunking the Rent-Seeking Myth: building on my 2017 paper *Civil Procedure Reconsidered*, which was under-developed in terms of the implications of reconsidering civil litigation as a productive activity.

Published through 2020:

The Wavering "Wall" Between Intelligence and Law Enforcement: A Longer View, 7 Nat'l Sec. L. J. 116-42 (Published May 30, 2020). Can be found at the following link: www.nslj.org/wp-content/uploads/Jeffrey-Parker_The-Wavering-Wall.pdf.

Civil Procedure Reconsidered, in Zywicki & Boettke (eds.), in RESEARCH HANDBOOK ON AUSTRIAN LAW AND ECONOMICS (Elgar: 2017).

Procedure, in Economic Analysis of Law in Europe and the United States (Springer Verlag: 2016) (with Peter Lewisch).

Corporate Crime, Overcriminalization, and the Failure of American Public Morality, in F.H. Buckley (ed.), THE AMERICAN ILLNESS: ESSAYS ON THE RULE OF LAW 407-31 (Yale University Press: 2013).

Developing Consensus Solutions to Overcriminalization Problems: The Way Ahead, 7 J. L. ECON. & POL'Y 725 (2011).

Comparative Civil Procedure and Transnational "Harmonization": A Law-and-Economics Perspective, in Reinhard Bork, Thomas Eger, & Hans-Bernd Schaefer (ed.),

Publications, further continued:

OKONOMISCHE ANALYSE DES VERFAHRENSRICHTS [ECONOMIC ANALYSIS OF CIVIL PROCEDURE] 387-421 (Mohr Siebeck Tübingen: 2009).

Economics of Evidence and Proof, in Clark, ed., ENCYCLOPEDIA OF LAW AND SOCIETY (Sage: 2007)

Newspeak in Court Rules, Washington Legal Foundation (2007).

Decision Making in the Absence of Successful Fact Finding: Theory and Experimental Evidence on Adversarial versus Inquisitorial Systems of Adjudication, 24 INTERNATIONAL REV. OF LAW & ECON. 89-105 (2004)(with Michael K. Block).

Guns, Crime, and Academics: Some Reflections on the Gun Control Debate, 44 J. L. & ECON. 715 (2001).

The Limits of Federal Criminal Sentencing Policy; or, Confessions of Two Reformed Reformers, 9 GEO. MASON L. REV. 1001 (2001)(with Michael K. Block);

STRAFBARKEIT DER JURISTISCHEN PERSON? [CORPORATE CRIMINAL LIABILITY?] (Manz: 2001)(with Peter Lewisch)(in German).

An Experimental Comparison of Adversarial versus Inquisitorial Procedural Regimes, 2 AM. L. & ECON. REV. 170 (2000) (with Michael K. Block, Olga Vyborna, and Libor Dusek).

Did the Corporate Sentencing Guidelines Matter? Some Preliminary Empirical Observations, 42 J. L. & ECON. 423 (1999) (with Raymond A. Atkins).

Evidence (with Bruce H. Kobayashi), in ENCYCLOPEDIA OF LAW AND ECONOMICS (deGeest & Bouckheart, eds. Edward Elgar: 1999).

Civil Procedure: General (with Bruce H. Kobayashi), IN ENCYCLOPEDIA OF LAW AND ECONOMICS (deGeest & Bouckheart, eds. Edward Elgar: 1999).

Revelation of Truth in Civil Procedure: Adversarial versus Inquisitorial Procedure: Experimental Evidence and the Austrian Civil Procedure Code (with Peter Lewisch, University of Vienna), Chapter in 100TH ANNIVERSARY OF THE AUSTRIAN CIVIL PROCEDURE CODE (Springer Verlag: Vienna 1998) (in German).

The Blunt Instrument, Chapter 4 in DEBATING CORPORATE CRIME (Lofquist, Cohen, & Rabe eds., Anderson: 1997).

Publications, further continued:

Doctrine for Destruction: The Case of Corporate Criminal Liability, 17 MANAGERIAL & DEC. ECON. 381 (1996).

Daubert's Debut: The Supreme Court, the Economics of Scientific Evidence, and the Adversarial System, 4 SUP. CT. ECON. REV. 1 (1995).

No Armistice at 11: A Commentary on the Supreme Court's 1993 Amendment to Rule 11 of the Federal Rules of Civil Procedure, 3 SUP. CT. ECON. REV. 93 (1993) (with Bruce H. Kobayashi).

The Economics of Mens Rea, 79 VA. L. REV. 741 (1993).

Rules Without . . . : Some Critical Reflections on the Federal Corporate Sentencing Guidelines, 71 WASH. U.L.Q. 397 (1993).

The Current Corporate Sentencing Proposals: History and Critique, 3 FED. SENT. REP. 133 (1990).

The Sentencing Commission, P.M. (Post-Mistretta): Sunshine or Sunset?, 27 AM. CRIM. L. REV. 289 (1989) (with Michael K. Block, University of Arizona).

Criminal Sentencing Policy for Organizations: The Unifying Approach of Optimal Penalties, 26 AM. CRIM. L. REV. 513 (1989).

Corporate Criminal Liability in the Era of Federal Sentencing Reform, 2 CORP. CRIM. LIAB. REP. 48 (1988).

(Principal Drafter) U.S. Sentencing Commission, *Discussion Draft of Sentencing Guidelines and Policy Statements for Organizations*, (July 1988), reprinted at 10 WHITTIER L. REV. 7 (1988) and at 9 GEO. MASON L. REV. 1001, 1059 (2001).

Note, *Legal Control on Warranty Liability Limitation under the Uniform Commercial Code*, 63 VA. L. REV. 791 (1977).

Unpublished teaching materials:

Parker's Lecture Notes on Civil Procedure (current to 2018).

Parker's selected Lecture Notes on Evidence (current to 2020).

Parker's selected Lecture Notes on Criminal Law (current to 2009).

Publications, further continued:

Introduction to the U.S. Legal System (casebook used in my teaching at IMADec University, Vienna, Austria, through 2004).

The Method of Law and Economics: Lectures on the George Mason School (delivered in 1999 at the University of Graz, Austria).

Unpublished working papers posted on the web:

Chapters from *The Method of Law and Economics* (see above).

Empirical Research for Criminal Code Reform (1990).

Avoidance Costs in Optimal Penalties (1990)/

The Process of Procedural Reform (1994) (with Larry Ribstein and Bruce Kobayashi).

Postponing the 2007 "Restyling" Amendments to the Federal Rules of Civil Procedure (2007).

PRESENTATIONS and CONFERENCES include:

"Corporate Sentencing," Conference on Reform of Sentencing, Ottawa, Canada, August 1988.

"Defense Procurement Violations," Naval Postgraduate School, Monterey, California, October 1988.

"Corporate Sentencing," John M. Olin Program in Law and Economics, Stanford Law School, October 1988.

"Empirical Research for Criminal Code Reform," Conference on Criminal Code Reform, Washington, D.C., January 1990.

"Avoidance Costs in Optimal Penalties," George Mason University School of Law, Faculty Workshop, January 1990.

Testimony on U.S. Sentencing Commission Oversight and Corporate Sentencing Guidelines, before the Subcommittee on Criminal Justice, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C., May 1990.

"White Collar Crime," Federal Judicial Center program for visiting foreign judges, Washington, D.C., May 1991.

Presentations and Conferences, continued:

"The Economics of Mens Rea," University of Vienna, Juridicum, Vienna, Austria, June 1991.

"The Economics of Mens Rea," Western Economic Association Annual Meeting, Seattle, Washington, July 1991.

"Does Corporate Sentencing Make Sense?," a debate with Professor Stephen Saltzburg (George Washington University), at The Cato Institute's conference on "Corporate Sentencing: The Guidelines Take Hold," Washington, D.C., October 31, 1991.

"Corporate Criminal Liability," Wharton School, University of Pennsylvania, October 1, 1992.

Moderator of a panel discussion of the question "Is the Common Law Efficient?" at the George Mason University Law and Economics Center's Conference on the Fourth Edition of Richard Posner's ECONOMIC ANALYSIS OF LAW (January 1993).

"The Process of Procedural Reform: Centralized Uniformity versus Local Experimentation," Georgetown University Law Center, Conference on the Law and Economics of Litigation Reform, Washington, D.C., October 28, 1994 (with Bruce H. Kobayashi and Larry E. Ribstein).

"The Economics of Expert Testimony," University of Vienna, Vienna, Austria, June 1995.

World Bank Seminar on Legal Structure for Free Market Development in the Baltic Countries, Vienna, Austria, July 1-14, 1995.

"Recent Developments in United States Expert Testimony Law," Canadian Law and Economics Association Annual Meeting, Toronto, Canada, September 1995.

"Civil Procedural Reform," Panel Discussion at the annual meeting of the Eleventh Circuit Judicial Conference, Panama City, Florida, April 1996.

"Adversarial versus Inquisitorial Procedure: Some Experimental Evidence," American Law and Economics Association Annual Meeting, Chicago, Illinois, May 1996.

"Revelation of Truth in Civil Procedure: Adversarial versus Inquisitorial Procedure: Experimental Evidence and the Austrian Civil Procedure Code," European Association of Law and Economics, 14th Annual Meeting, Barcelona, Spain, September 4-6, 1997.

Presentations and Conferences, further continued:

“Corporate Criminal Liability: What Purpose Does It Serve?,” *Corporate Crime Reporter* Conference on Corporate Crime in America, Washington, D.C., October 16-17, 1997.

Moderator, Session on Enforcement of Investigative Authority, Conference on the Limits of Congressional Investigations of the Private Sector, Alexandria, Virginia, October 30-31, 1997.

Moderator, William H. Donner Foundation Conference on the role of freedom of contract in Conflict of Laws, Alexandria, Virginia, November 21-22, 1997.

“Did the Corporate Sentencing Guidelines Matter? Some Preliminary Empirical Observations,” University of Chicago Law School, John M. Olin Program in Law & Economics, Conference on *Penalties: Public and Private*, Chicago, Illinois, December 13-14, 1997.

“Corporate Criminal Liability,” University of Salzburg, Salzburg, Austria, May 6, 1999.

“Analytical Methods in Civil Procedure Research,” University of Vienna, School of Law, Vienna, Austria, May 10, 1999.

“The Economics of Evidentiary Privilege,” University of Vienna, Economics Department, Vienna, Austria, May 11, 1999.

Discussant, “The Effect of Gun Control Proposals on Multiple-Victim Shootings,” American Enterprise Institute for Public Policy Research, Washington, D.C., May 24, 1999.

Discussant, “Juvenile Gun Bans and Gun Homicides,” American Enterprise Institute for Public Policy Research, Washington, D.C., December 11, 1999.

Moderator, Symposium on Economic Crimes and New Technology Offenses, United States Sentencing Commission and National Center for Technology and the Law, at George Mason University School of Law, Arlington, Virginia, October 12-13, 2000.

Discussant, An Overview of Federal Sentencing Research, United States Sentencing Commission/ Federal Judicial Center, Washington, D.C., April 12, 2002.

“Federal Courts and Procedure,” Institute on American Law, Law and Economics Center, George Mason University School of Law, Arlington, Virginia, October 29, 2002.

“Corporate Criminal Liability: Oxymoron, Practical Expedient, or Moral Imperative?” in the Judges’ Institute on Corporate Law, Law and Economics Center, George Mason University School of Law, held in Tucson, Arizona, October 15-16, 2003.

Presentations and Conferences, further continued:

“After *Booker*,” in *The Future of Federal Sentencing: “Reasonable” Judicial Discretion or Congressional Intervention?*, Washington Legal Foundation, Media Briefings Series, Washington, D.C., February 24, 2005.

Debate with Professor Kent Sinclair (University of Virginia School of Law) on the advisability of Virginia adopting a new code of evidence rules, Virginia Bar Association Summer Meeting, The Homestead, July 2006.

Comparative Civil Procedure and Transnational ‘Harmonization’: A Law-and-Economics Perspective, presented at the *Travemunde Symposium on the Economic Analysis of Civil Procedure*, University of Hamburg, held at Travemunde, Germany, March 29, 2008.

“Corporate Criminal Liability: An Abolitionary View,” in *Judicial Symposium: Criminalization of Corporate Conduct*, Northwestern University, April 20, 2009.

Discussant, *Finding the Balance Between Benefit and Cost: A Public Policy Roundtable on the Federal Rules of Civil Procedure*, Northwestern University, April 21-22, 2010.

Conference co-director and organizer, *Overcriminalization 2.0: Developing Consensus Solutions*, held at Georgetown University Conference Center, Washington, D.C., October 21, 2010 (co-sponsored by the GMU Law and Economics Center, National Association of Criminal Defense Lawyers, the Foundation for Criminal Justice, and the Journal of Law, Economics and Policy).

Presenter, *Colloquium: Corporations and the Criminal Law*, GMU Law and Economics Center, Fairfax, Virginia, September 23-26, 2010.

“Prosecutorial Discretion: Is Current American Practice Consistent with the Rule of Law?,” in *Colloquium: Rule of Law*, GMU Law and Economics Center, Fairfax, Virginia, October 9, 2010.

“Overcriminalization of Corporate Behavior,” in *The American Illness*, Alexandria, Virginia, December 3-4, 2010.

Presenter and Discussant, *The Law and Economics of Crime and Punishment*, GMU Law and Economics Center, April 2011, 2012.

Discussant, Research Roundtable, *Building on the Work of Professor Larry Ribstein*, Arlington, Virginia, September 2012.

“Civil Procedure Reconsidered,” in *Research Roundtable on Austrian Law and Economics*, GMU Law and Economics Center, Arlington, Virginia, April 25, 2013.

Presentations and Conferences, further continued:

Moderator, *The New Discovery Rules: How Will They Impact Litigation*, GMU Law and Economics Center, Arlington, Virginia, May 23, 2016.

“Can the Reform of legal instruction in Europe benefit from the American experience?,” speech to the Law Faculty of the University of Vienna, Austria, June 10, 2016.

“Civil Procedure Reconsidered,” and “The Costs of Criminalization,” presented in the Seminar in Law and Economics, University of Vienna, Austria, June 9, 2016.

“Can Withholding Information from the Trier of Fact Improve Adjudicative Decisions?: Psychology and Economics,” at *Symposium on Psychology in Legal Proceedings*, Palace of Justice, Vienna, Austria, June 13, 2016 (sponsored by the University of Vienna Center for the Economic Analysis of Law).