

SCOTT W. HOWE
Frank L. Williams Professor of Criminal Law
Dale E. Fowler School of Law
Chapman University

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EDUCATION

UNIVERSITY OF MICHIGAN

Juris Doctor, *cum laude*, 1981
Administrative and Article Editor, Michigan Law Review
Jason L. Honigman Award for Outstanding Contribution to the Michigan Law Review

UNIVERSITY OF MISSOURI

Bachelor of Arts (Economics), *summa cum laude*, 1977
Phi Beta Kappa

PROFESSIONAL EXPERIENCE

Law School Teaching and Administrative Experience:

1996 to Present CHAPMAN UNIVERSITY SCHOOL OF LAW

Frank L. Williams Professor of Criminal Law, 2001-Present
Professor, 1996-2001
Professor of the Year (1996-1997, 1997-1998, and 2014-2015)
Valerie Scudder Award (2008) (university-wide prize for outstanding teaching, scholarship and service)
Courses: Criminal Law, Evidence, Criminal Procedure-Police Practices, Criminal Procedure-Adjudicative Process, Capital Punishment
Committees: University: Faculty Personnel Committee (reviewing all requests for sabbaticals, promotion and tenure) (2007- 2009); Grievance Committee (reviewing and recommending dispositions on faculty grievance petitions) (2013-2015); Socio-Economic Diversity Advisory Group (Spring, 2015) (recommending changes to promote diversity within University Community); Phi Beta Kappa Application Committee (preparing documents and participating in site-visit in connection with university's application for membership) (2016-present). Law School: Academic Standards (1996-2007), Admissions (Chair, 2013-2014 and 2007-2009; Member, 1996-1997), Curriculum (1997-1998, 1999-2007), Faculty Appointments (Chair, 2012-2013; Member, 1997-2000), Long

Range Planning/Self-Study (2017-2018, 2016-2017 and 1997-2007), *Pro Bono* (1998-1999), Tenure and Promotion (Chair, 1997-1999; Member, 1996-1997, 2004-2007; 2011-Present); Committee on Teaching Effectiveness and Scholarship (Chair, 2007-2008); Honor Council (Chair, 2008-2009).

Faculty Advisor: Criminal Law Society (1997-1999); National Lawyers Guild (2007-2008, 2010-2015)

Interim Dean, February, 2016-June, 2016, and February, 2010-February, 2011

Associate Dean for Academic Affairs, 1999-2007

1989 to 1996

WESTERN NEW ENGLAND COLLEGE SCHOOL OF LAW

Professor (tenured), 1994-1996

Associate Professor, 1992-1994

Assistant Professor, 1989-1992

Professor of the Year (1991-1992 and 1995-1996)

Courses: Criminal Law, Evidence, Criminal Procedure, Advanced Criminal Procedure, Capital Punishment Seminar, Criminal Law Clinic.

Faculty Committees: Tenure (1995-1996), Admissions (1994-1996), Faculty Appointments (Chair, 1992-1994; Member, 1991-1992), Academic Standards and Student Petitions (1990-1991), Honor Code (1989-1990).

1988 to 1989

UNIVERSITY OF TEXAS SCHOOL OF LAW

Adjunct Professor of Law

Courses: Capital Punishment Clinic

Law Practice Experience:

1988-1989

TEXAS DEATH PENALTY RESOURCE CENTER, Austin, Texas

Deputy Director. Represented inmates under execution warrants on Texas' death row. Recruited and mentored law firms in the provision of *pro bono* representation for Texas, death-row inmates.

1981-1985 &
1986-1988

PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA

Staff Attorney. Represented primarily felony defendants charged with crimes such as drug distribution, armed robbery, rape, child sexual assault and murder. Tried more than 25 cases. Argued and/or fully or partially briefed more than a dozen appeals, including: Jones v. U.S., 477 A.2d 231 (D.C. App. 1984)(first-degree murder)(argued); Beynum v. U.S., 480 A.2d 698 (D.C. App. 1984) (first-degree murder)(argued); Miller v. U.S., 479A.2d 862 (D.C. App. 1984)(first-degree murder)(argued); Barnes v. United States, No. 80-1055 (D.C. Cir. 1982)(unpublished) (habeas review, first-degree murder)(argued); Hawkins v. United States, 461 A.2d 1025 (D.C. App. 1983)(second-degree murder while armed)(argued); Graves v. U.S., 554 A.2d 1145 (D.C. App. 1989)(second-degree murder while armed); Martinez v. United States, 566 A.2d 1049 (D.C. App. 1989)(second-degree murder while armed); Gray v. United States, 544 A.2d 1255 (D.C. App. 1988)(rape); Abrams v. United States, 531 A.2d 964 (D.C. App. 1987)(multiple armed robberies)(argued); Martin v. United States, 548 A.2d 1383 (D.C. App. 1988)(multiple armed robberies)(argued); Ford v. United States, 549 A.2d 1124 (D.C. App. 1988) (assault with a dangerous weapon); Lewis v. United States, 466 A.2d 1234(1983)(assault with a dangerous weapon)(argued); Abdul-Mani v. U.S., 481 A.2d 431(D.C. App. 1984)(perjury); In re Mills, 467 A.2d 971 (D.C. App. 1983)(civil commitment)(argued); In re M.C.S., 555 A.2d 463 (1989)(juvenile commitment).

Admissions to the Bar:

U.S. Supreme Court
U.S. Court of Appeals, Fifth Circuit
U.S. Court of Appeals, D.C. Circuit
U.S. District Court, D.C.
District of Columbia (1981)
Massachusetts (1990)

Memberships:

Fellow of the American Bar Foundation

PUBLICATIONS

Books:

UNDERSTANDING CAPITAL PUNISHMENT LAW (4th ed.) (with Linda Carter and Ellen Kreitzberg) (Carolina Academic Press 2018).

CALIFORNIA CRIMINAL LAW: CASES AND PROBLEMS (4th ed.) (with Steven F. Shatz and Amy Flynn) (Carolina Academic Press 2016).

UNDERSTANDING CAPITAL PUNISHMENT LAW (3rd ed.) (with Linda Carter and Ellen Kreitzberg) (LexisNexis 2012).

UNDERSTANDING CAPITAL PUNISHMENT LAW (2nd ed.) (with Linda Carter and Ellen Kreitzberg) (LexisNexis 2008).

CRIMINAL PRACTICE INSTITUTE, DISTRICT OF COLUMBIA TRIAL MANUAL (co-ed., 1984) (Two Vols.).

Articles, Book Chapters, Book Reviews and Longer Encyclopedia Entries:

Constitutional Clause Aggregation and the Marijuana Crimes, 75 WASHINGTON AND LEE LAW REVIEW 779-883 (2018).

Moving Beyond Miranda, 110 NORTHWESTERN UNIVERSITY LAW REVIEW 905-962 (2016).

The Perilous Psychology of Public Defending, 2015 THE JOURNAL OF THE PROFESSIONAL LAWYER 157-175 (2015).

The Implications of Incorporating the Eighth Amendment Prohibition on Excessive Bail, 43 HOFSTRA LAW REVIEW 1039-1085 (2015).

Deselecting Biased Juries, 2015 UTAH LAW REVIEW 289-337 (2015).

The Federal Death Penalty and the Constitutionality of Capital Punishment, 50 CRIMINAL LAW BULLETIN 1388 (2014).

The Eighth Amendment as a Warrant Against Undeserved Punishment, 22 WILLIAM & MARY BILL OF RIGHTS JOURNAL 91-131 (2013).

Repudiating the Narrowing Rule in Capital Sentencing, 2012 BRIGHAM YOUNG UNIVERSITY LAW REVIEW 1477-1522 (2012).

Can California Save its Death Sentences? Will Californians Save the Expense, 33 CARDOZO LAW REVIEW 1451-1516 (2012).

Race, Death & Disproportionality, 37 NORTHERN. KENTUCKY L. REV. 213-241 (2010) (invited symposium article)

Slavery As Punishment: Original Public Meaning, Cruel and Unusual Punishment and the Neglected Clause in the Thirteenth Amendment, 51 ARIZONA L. REV. 983 (2009).

- Roper v. Simmons: *Abolishing the Juvenile Death Penalty in the Wake of International Consensus*, in CAPITAL PUNISHMENT STORIES (Jordan Steiker & John Blume eds.) (Foundation Press 2009).
- Furman's Mythical Mandate*, 40 UNIVERSITY OF MICHIGAN JOURNAL OF LAW REFORM 435 (2007).
- The Value of Plea Bargaining*, 58 OKLAHOMA LAW REVIEW 599-636 (2005).
- The Futile Quest for Racial Neutrality in Capital Selection and the Eighth Amendment Argument For Abolition Based on Unconscious Racial Discrimination*, 45 WILLIAM & MARY LAW REVIEW 2083-2166 (2004).
- Publicity In Criminal Cases*, in 3 ENCYCLOPEDIA OF CRIME & JUSTICE 1269 (Joshua Dressler, ed., 2nd ed., 2002) (5,500 words).
- The Troubling Influence of Equality in Constitutional Criminal Procedure: From Brown to Miranda, Furman and Beyond*, 54 VANDERBILT LAW REVIEW 359-450 (2001).
- The Failed Case for Eighth Amendment Regulation of the Capital Sentencing Trial*, 146 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 795-863 (1998).
- Untangling Competing Conceptions of Evidence*, 30 LOYOLA OF LOS ANGELES LAW REVIEW 1199-1248 (1997).
- The Prospect of a President Incarcerated*, 2 NEXUS 86-102 (1997).
- Juror Neutrality or an Impartiality Array? A Structural Theory of the Impartial Jury Mandate*, 70 NOTRE DAME LAW REVIEW 1173-1245 (1995).
- Reassessing the Individualization Mandate in Capital Sentencing: Darrow's Defense of Leopold and Loeb*, 80 IOWA LAW REVIEW 989-1071 (1994).
- Human Dignity as the Polestar for Rights Decision Making*, 73 BOSTON UNIVERSITY LAW REVIEW 695-713 (1993) (book review).
- Jury Fact-Finding in Criminal Cases: Constitutional Limits on Factual Disagreements Among Convicting Jurors*, 58 MISSOURI LAW REVIEW 1-83 (1993), reprinted in 6 CRIMINAL PRACTICE LAW REVIEW 509 (1994).
- The Constitution and Capital Sentencing: Pursuing Justice and Equality*, 60 FORDHAM LAW REVIEW 749-802 (1992) (review essay).
- Resolving the Conflict in the Capital Sentencing Cases: A Desert-Oriented Theory of Regulation*, 26 GEORGIA LAW REVIEW 323-419 (1992).

Due Process Sacrificed For Speed In Powell Proposal, 3 BNA CRIMINAL PRACTICE MANUAL 523 (1990) (5,000 words).

Note, The Attorney-Client Privilege After Attorney Disclosure, 78 MICHIGAN LAW REVIEW 927-946 (1980).

Op-Ed and Short Encyclopedia and Bar Journal Pieces

Two Cases Will Test the Limits on Locking Up Juvenile Offenders L.A. DAILY JOURNAL 4 (May 18, 2009).

Harsh Prison Terms Might Work Better than Painless Executions, L.A. DAILY JOURNAL 4 (July 16, 2008).

Capital Punishment: Due Process Limits, in I ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES (Paul Finkelman, ed. 2006).

Capital Punishment: Eighth Amendment Limits, in I ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES (Paul Finkelman, ed. 2006).

More Texas Law Firms Needed to Represent Death Row Inmates, TEXAS BAR JOURNAL 850 September 1988.

PROFESSIONAL AND COMMUNITY ACTIVITIES

AALS Reporter, ABA-AALS Site Team, Louisiana State University Law Center, Baton Rouge, Louisiana (March 12-15, 2017).

Chair, ABA-AALS Site Team, Washington and Lee University Law School, Lexington, Virginia (Oct. 25-28, 2015).

Member, ABA-AALS Site Team, University of Houston Law Center, Houston, Texas (March 23-26, 2014).

Member, ABA-AALS Site Team, New York Law School, New York, New York, (March 3-7, 2012).

Member, WASC Site Team, Golden Gate University, San Francisco, California, (Oct. 26-29, 2010).

Member, ABA Site Team, Thomas Cooley Law School, Grand Rapids & Auburn Hills, Michigan (March 16-19, 2009).

Member, WASC Site Team, Golden Gate University, San Francisco, California, (Oct. 7-9, 2008).

Master, Warren J. Ferguson Chapter, American Inns of Court, Orange County, California (2000-2015).

Elected Member, District of Columbia Bar Steering Committee, Section on Criminal Law and Individual Rights (1987-1988).

Co-Chair, Criminal Practice Institute, Washington, D.C. (1983-1984); Board Member (1981-1983 and 1986-1987).