

The  
**4th Amendment**  
in the  
**21st Century**

*A Symposium Presented By:*



TEXAS TECH LAW REVIEW



TEXAS TECH UNIVERSITY  
**School of Law™**

April 17, 2015



Texas Tech University School of Law  
Criminal Law Symposium

# The 4th Amendment in the 21st Century

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April 17, 2015

9:00 - 9:15 | Greetings and Welcoming Remarks

9:15 - 9:45 | Opening Keynote Address:  
Orin Kerr (George Washington University)

9:45 - 10:00 | Break

10:00 - 12:00 | Panel 1

*What is (should be) the scope and limitation of the power to search cell phones and/or computers?*

12:00 - 1:15 | Lexis-Nexis Luncheon  
Speaker: Christopher Slobogin  
(Vanderbilt University)

1:15 - 3:15 | Panel 2

*What is (should be) the scope and limitation of police power to track suspects?*

3:15 - 3:30 | Break

3:30 - 5:30 | Panel 3

*What is (should be) the scope and limitation of governmental power to collect DNA?*

5:30 - 6:30 | Wine & Cheese Reception

*The mission of the  
Texas Tech University School of Law  
is to educate and train individuals  
for the ethical practice of law  
in the twenty-first century;  
to engage in productive, effective,  
scholarship both within our academic  
community and within the larger academic  
community throughout our state and nation;  
and to render public service.*



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# TEXAS TECH LAW REVIEW

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April 17, 2015

Dear Participant:

On behalf of the Texas Tech University School of Law and the *Texas Tech Law Review*, we welcome you to Lubbock, Texas. We are pleased that you are joining us for the Law School's ninth annual Criminal Law Symposium: *The 4th Amendment in the 21st Century*.

This Symposium promises to be a significant contribution to criminal law and policy in the United States. Our speakers are nationally renowned experts in a variety of fields, and we hope you find their presentations and comments insightful and thought-provoking. We recognize, however, that many of you bring considerable and diverse knowledge to this Symposium. We encourage you to actively participate in the program and to share your experiences. Your contributions will only serve to enhance the Symposium.

We also wish to inform you that the *Texas Tech Law Review* will publish papers from many of the Symposium participants in Book 1 of Volume 48, which is dedicated to this Symposium and will be available next fall. Additional information will be provided during the Symposium; we encourage you to order this publication.

Again, thank you for your presence and participation in this Symposium. We hope that you enjoy your time here at Texas Tech University School of Law.

Warmest Regards,

Dean and W. Frank Newton  
Professor of Law

George Killam  
Professor of Criminal Law

Editor-in-Chief  
*Texas Tech Law Review*

Symposium Editor  
*Texas Tech Law Review*

## Keynote & Luncheon Speakers

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### **Orin S. Kerr (George Washington University)**

Orin Kerr is the Fred C. Stevenson Research Professor at George Washington University Law School. He received his B.S.E. from Princeton University, his M.S. from Stanford University, and his J.D. from Harvard University. Professor Kerr has authored more than 50 articles, and his scholarship has been cited in over 150 judicial opinions and almost 2000 academic works.

Before joining the GW faculty in 2001, Professor Kerr was a trial attorney in the Computer Crime and Intellectual Property Section at the U.S. Department of Justice, as well as a Special Assistant U.S. Attorney in the Eastern District of Virginia. He is a former law clerk for Justice Anthony M. Kennedy of the U.S. Supreme Court and Judge Leonard I. Garth of the U.S. Court of Appeals for the Third Circuit.

Professor Kerr has argued cases in the United States Supreme Court and the Third, Fourth, and Sixth Circuits. He has testified six times before Congressional committees. In 2013, Chief Justice Roberts appointed Professor Kerr to serve on the Advisory Committee for the Federal Rules of Criminal Procedure. Professor Kerr has been a visiting professor at the University of Chicago and the University of Pennsylvania, and he served as a scholar-in-residence at the Law Library of Congress from 2012 to 2014.



## Christopher Slobogin (Vanderbilt University)

Christopher Slobogin has authored more than 100 articles, books, and chapters on topics relating to criminal procedure, mental health law, and evidence. He earned his A.B. from Princeton University, and his J.D. and LL.M. from the University of Virginia School of Law. Named Director of Vanderbilt Law School's Criminal Justice Program in 2009, Professor Slobogin is one of the five most cited criminal law and

procedure law professors in the country, according to the *Leiter Report*.

Professor Slobogin has also served as Chair of the American Bar Association's Task Force charged with revising the Criminal Justice Mental Health Standards and its Florida Assessment team for the Death Penalty Moratorium Implementation Project, as well as reporter for the ABA's task forces on Law Enforcement and Technology. His book, *Privacy at Risk: The New Government Surveillance and the Fourth Amendment* was published by University of Chicago Press in 2007. He has been cited in more than 2,000 Law Review articles or treatises and more than 100 judicial opinions, including U.S. Supreme Court decisions.

## Panel 1: What is (should be) the scope and limitation of the power to search cell phones and/or computers?

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### Jennifer E. Laurin (University of Texas) Moderator

Jennifer Laurin joined the faculty of the University of Texas School of Law in 2009. Professor Laurin received her undergraduate degree in Politics from Earlham College. In 2003, she earned her J.D. from Columbia Law School, where she was an Executive Articles Editor of the *Columbia Law Review*. She served as a law clerk to Judge Thomas Griesa of the Southern District of New York and Judge Guido Calabresi of the United States Court of Appeals for the Second Circuit, and spent several years as a litigation associate with the New York City civil rights firm of Neufeld Scheck & Brustin, LLP (formerly Cochran Neufeld & Scheck, LLP).

Professor Laurin's principal research interests lie in the intersections of criminal and constitutional litigation, and regulation of criminal justice institutions. Her articles have appeared or are forthcoming in the *Columbia Law Review*, *Texas Law Review*, and *Notre Dame Law Review*, among others. Professor Laurin is also a co-author (with Michael Avery, David Rudovsky, and Karen Blum) of *Police Misconduct: Law and Litigation*, the leading treatise in that area of civil rights litigation. Among other professional activities, Professor Laurin is currently serving as Reporter to the American Bar Association's Criminal Justice Standards Task Force charged with updating the 1996 3rd Edition Discovery Standards.



## **Thomas K. Clancy (University of Mississippi)**

Thomas Clancy is a nationally recognized expert on the Fourth Amendment and cyber crime. He frequently organizes and lectures at judicial and other conferences on those subjects. Clancy has written more than 20 articles on the Fourth Amendment and is the author of two books, both now or soon to be in their second edition: *Cyber Crime and Digital Evidence*; and *The Fourth Amendment: Its History and Interpretation*.

In his more than 30 years of legal experience, Clancy has evenly split his time between academics and practice. He has taught at seven law schools in a variety of capacities, including as Director of the National Center for Justice, and as the Rule of Law and Research Professor at the University of Mississippi School of Law from 2001-2014. Clancy practiced criminal law in Washington D.C. and Maryland. He served as Chief of the Post Conviction Unit in the State's Attorney's Office for Prince George's County, Maryland, as an Assistant Attorney General for the State of Maryland in the Criminal Appeals Division, and in private practice. He has briefed and argued over 900 criminal appeals cases. Professor Clancy is a *cum laude* graduate of Vermont Law School and received his B.A. from the University of Notre Dame.

## Panel 1: What is (should be) the scope and limitation of the power to search cell phones and/or computers?

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### Mary G. Leary (Catholic University of America)

Mary Leary is a Professor of Law at The Catholic University of America. Professor Leary received her B.A. from Georgetown University and earned her J.D. from the Georgetown University Law Center. She is the former Deputy Director and Policy Consultant for the Office of Legal Counsel at the National Center for Missing and Exploited Children (NCMEC), and the former Director of the National Center for the Prosecution of Child Abuse (NCPCA). Prior to working in the nonprofit sector,

she was a prosecutor focusing on crimes against women and children.

Professor Leary's scholarship examines the intersection of contemporary social problems, technology, criminal law, and criminal procedure. She focuses on areas of exploitation and abuse of women, children, and "vulnerable peoples." Her recent publications include: *From the Streets to Cyberspace: The Effects of Technology on the Commercial Sexual Exploitation of Children and Adolescents in the United States* (co-authored Abigail M. Judge, Ph.D); *Fighting Fire with Fire: Technology in Child Sex Trafficking*; and *Sex Trafficking Court Holds Hope for the Oft Blamed*.

Professor Leary provides comments for numerous media outlets including, the *New York Times*, *C-Span National Journal*, *National Public Radio*, *The Legal Times*, *Wall Street Journal Online*, *Gannet Newspapers*, and *CNET News*. She is the 2011-2012 recipient of the Award for Teaching Excellence in Early Career from The Catholic University of America. The 2010, 2011, and 2013 graduating classes selected Professor Leary as their Faculty Marshal. Students of Catholic University's Law School have also named Professor Leary Teacher of the Year. She is a previous recipient of the Mary, Mirror of Justice Award.



## **Richard H. McAdams (University of Chicago)**

Richard McAdams is the Bernard D. Meltzer Professor of Law and Aaron Director Research Scholar. He teaches primarily in the areas of criminal law and procedure. He writes on criminal law and procedure, social norms, the expressive function of law, inequality, and law and literature. He is co-editor of the 2013 volume of *Fairness in Law and Economics* and the author of *The Expressive Powers of Law* (Harv. Univ. Press, 2015). He has served as a member of the National

Science Foundation Advisory Panel for Law & Social Sciences, the editorial board of the *Annual Review of Law and Social Science*, and the Board of Directors of the American Law and Economics Association.

Before joining the Chicago Law School in 2007, McAdams taught on the law faculties at the University of Illinois, Boston University, and IIT Chicago-Kent. He was a visiting professor at the University of Virginia School of Law and at Yale Law School, and served as a visiting fellow at Australian National University. McAdams received his B.A. from the University of North Carolina at Chapel Hill and his J.D. from the University of Virginia. After graduation, he clerked for Chief Judge Harrison L. Winter of the U.S. Court of Appeals for the Fourth Circuit and spent three years as an associate with Morgan, Lewis & Bockius in Philadelphia.

## Panel 1: What is (should be) the scope and limitation of the power to search cell phones and/or computers?

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**Paul Ohm**  
**(University of Colorado)**

Paul Ohm is an Associate Professor at the University of Colorado Law School. Professor Ohm earned his undergraduate degrees in computer science and electrical engineering from Yale University. He earned his law degree from the UCLA School of Law, where he served as Articles Editor of the *UCLA Law Review* and received the Benjamin Aaron and Judge Jerry Pacht prizes. In 2010, Professor Ohm was awarded the prize for

Excellence in Teaching by the students of Colorado Law.

He specializes in information privacy, computer crime law, intellectual property, and criminal procedure. In his work, Professor Ohm tries to build new interdisciplinary bridges between law and computer science. Much of his scholarship focuses on how evolving technology disrupts individual privacy. His article *Broken Promises of Privacy: Responding to the Surprising Failure of Anonymization*, has sparked an international debate about the need to reshape dramatically the way we regulate privacy. He is commonly cited and quoted by news organizations including the *New York Times*, *Wall Street Journal*, and *NPR*.

From 2012 to 2013, Professor Ohm served as Senior Policy Advisor to the Federal Trade Commission. Prior to joining the University of Colorado, he served as an Honors Program trial attorney in the U.S. Department of Justice's Computer Crime and Intellectual Property Section. He also clerked for Judge Betty Fletcher of the United States Court of Appeals for the Ninth Circuit and Judge Mariana Pfaelzer of the United States District Court for the Central District of California. Before law school, he worked as a professional computer programmer.





## Panel 2: What is (should be) the scope and limitation of police power to track suspects?

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### Andrew G. Ferguson (University of the District of Columbia)

Andrew Ferguson is an Associate Professor of Law at David A. Clarke School of Law, University of the District of Columbia. He teaches and writes in the area of criminal law, criminal procedure, and evidence. He writes primarily on the intersection of technology and the Fourth Amendment. His articles include: *Big Data and Predictive Reasonable Suspicion*;

*Personal Curtilage: Fourth Amendment Security in Public*; *Predictive Policing and Reasonable Suspicion*; *Crime Mapping and the Fourth Amendment: Redrawing "High Crime Areas"*; *The "High-Crime Area" Question: Requiring Verifiable and Quantifiable Evidence for Fourth Amendment Reasonable Suspicion Analysis* (co-author Damien Bernache).

Professor Ferguson is also author of *Why Jury Duty Matters: A Citizen's Guide to Constitutional Action* (NYU Press). Prior to joining the UDC law faculty, he worked as a supervising attorney at the Public Defender Service for the District of Columbia. Before joining the Public Defender Service, Professor Ferguson was awarded the *E. Barrett Prettyman Fellowship* at the Georgetown Law Center's Criminal Justice Clinic. Immediately after graduating from law school, he clerked for the Honorable Chief Judge Carolyn Dineen King of the United States Court of Appeals for the Fifth Circuit. He is a graduate of the University of Pennsylvania Law School (*summa cum laude*) and has a LL.M. (*Masters in Advocacy*) from Georgetown Law Center.



## Steven Friedland (Elon University)

Steven Friedland is a Professor of Law and Senior Scholar at the Elon University School of Law, in North Carolina, where he was one of the founding professors. Professor Friedland is the author of several Law Review articles on mass surveillance systems and privacy and the co-author of several textbooks on criminal law and procedure. He was elected to the American

Law Institute, appointed to the Law School Advisory Board for the LexisNexis Publishing Company, and selected as a fellow to the Educating Tomorrow's Lawyers Consortium. Professor Friedland has received teaching awards in each of his three decades of law teaching, including recent mention in *What the Best Law Teachers Do* (Harv. Univ. Press).

While in practice, he served as an Assistant U.S. Attorney for the District of Columbia. At Elon, he is Director of the Center for Engaged Learning in the Law (CELL). He is on the Board of Advisors for the Institute for Law School Teaching and has taught in the North Carolina Leadership Academy and the Florida Judicial College. Professor Friedland has a Bachelor's degree from the State University of New York at Binghamton, a J.D. from Harvard Law School, and a LL.M. and J.S.D. from Columbia Law School, where he was a Dollard Fellow in Law, Medicine, and Psychiatry.

## Panel 2: What is (should be) the scope and limitation of police power to track suspects?

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**David Gray**  
**(University of Maryland)**  
*Moderator*

David Gray teaches criminal law, criminal procedure, international criminal law, and jurisprudence. He was voted “Professor of the Year” in 2012. His scholarly interests focus on transitional justice, criminal law, criminal procedure, and constitutional theory. His recent publications have appeared or are forthcoming

in the *Minnesota Law Review*, *Texas Law Review*, *American Criminal Law Review*, *Vanderbilt Law Review*, *California Law Review*, *Alabama Law Review*, *Washington University Law Review*, *Stanford Law Review*, *Law & Contemporary Problems*, *Fordham Law Review*, and in other leading journals as well as in prominent volumes edited by leading scholars .

In addition to his own scholarship, Professor Gray works closely with students to develop and publish their work. Recent work written by or with his students has appeared in *JURIST*, the *Journal of Criminal Law and Criminology*, the *Encyclopedia of Criminology and Criminal Justice*, *New England Law Review*, the *Federal Sentencing Reporter*, *Vermont Law Review*, *Maryland Law Review*, and in edited collections. Consistent with the Law School’s mission as a public educational institution, Professor Gray frequently provides expert commentary for local and national media outlets. Prior to joining the Maryland School of Law faculty, Professor Gray practiced law at Williams & Connolly LLP and was a Visiting Assistant Professor at Duke University School of Law. He also served as a clerk in the chambers of the Honorable Chester J. Straub, U.S. Court of Appeals for the Second Circuit, and the Honorable Charles S. Haight, Jr., U.S. District Court for the Southern District of New York. Professor Gray is admitted to the Massachusetts, Pennsylvania, and District of Columbia bars. He also serves on the Law and Philosophy Committee of the American Philosophical Society.



## Brian Owsley (Indiana Tech)

Brian Owsley graduated from the University of Notre Dame with Honors. He attended Columbia University, where he received a joint degree in Law and a Master in International Affairs. While at Columbia Law School, he was a Harlan Fiske Stone Scholar and earned a Certificate with Honors from the Parker School of Foreign and Comparative Law. He served as the Executive Editor of the *Columbia Human Rights Law Review* and was also a staff member of the *Columbia Journal of Gender and the Law*.

Following law school, Professor Owsley clerked for the Honorable Martha Craig Daughtrey of the United States Court of Appeals for the Sixth Circuit and for the Honorable Janis Graham Jack of the Southern District of Texas. He served as the Leonard H. Sandler Fellow at Human Rights Watch and as a Law Fellow for the Southern Poverty Law Center. He also served as a civil trial lawyer for the United States Department of Justice and earned a Special Commendation for Outstanding Service awarded by the Assistant Attorney General for the Civil Division. Most recently, he served as a United States Magistrate Judge for the Southern District of Texas, where he presided over numerous civil and criminal bench and jury trials. At the conclusion of his term, the Senate of the State of Texas issued a Commendation in a Senate Resolution recognizing his service as a magistrate judge.

He has published several Law Review articles on a range of topics, including an article published this year entitled, *The Supreme Court Goes to the Dogs: Reconciling Florida v. Harris and Florida v. Jardines* and an article published last year entitled, *The Fourth Amendment Implications of the Government's Use of Cell Tower Dumps in Its Electronic Surveillance*. He has also recently published essays in the *California Law Review* Circuit and the *University of Pennsylvania Law Review* Online, and has forthcoming articles on electronic surveillance issues in the *Hastings Law Journal* and the *Akron Law Review*.

## Panel 2: What is (should be) the scope and limitation of police power to track suspects?

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**Russell L. Weaver**  
**(University of Louisville)**

Russell Weaver graduated *cum laude* from the University of Missouri School of Law. He was a member of the *Missouri Law Review*, was elected to the Order of the Coif, and won the Judge Roy Harper Prize. After law school, Professor Weaver was associated with Watson, Ess, Marshall & Enggas in Kansas City, Missouri, and worked for the U.S. Department of Energy's Office of General Counsel in Washington, D.C.

Professor Weaver began teaching at the Louis D. Brandeis School of Law in 1982, and holds the rank of Professor of Law and Distinguished University Scholar. He teaches Constitutional Law, Advanced Constitutional Law, Remedies, Administrative Law, Criminal Law, and Criminal Procedure. Among his awards, are the Brandeis School of Law's awards for teaching, scholarship, and service, including the Brown Todd & Heyburn Fellowship.

Professor Weaver is a prolific author, who has written dozens of books and articles over the last twenty-five years. He was named the Judge Spurgeon Bell Distinguished Visiting Professor at South Texas College of Law during 1998-1999, and he held the Herbert Herff Chair of Excellence at the Cecil C. Humphreys School of Law, University of Memphis, during 1992-1993. In addition, he has been asked to speak at law schools and conferences around the world, and has been a visiting professor at law schools in France, England, Germany, Japan, Australia and Canada.

Professor Weaver is particularly noted for his work in constitutional law. He served as a consultant to the constitutional drafting commissions of Belarus and Kyrgyzstan, and as a commentator on the Russian Constitution. Professor Weaver is also noted for his writings on legal education and his work in the administrative law area. He served as a consultant to the Administrative Conference of the United States.





## Panel 3: What is (should be) the scope and limitation of governmental power to collect DNA?

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**Ronald J. Rychlak**  
**(University of Mississippi)**  
**Moderator**

Ronald Rychlak is the Butler Snow Professor of Law at the University of Mississippi School of Law, where he has been on the faculty since 1987. He also serves as the university's Faculty Athletics Representative. Professor Rychlak is a graduate of Wabash College, where he received his B.A. (*cum laude*) and of Vanderbilt University School of Law, where he received his J.D. and was elected to the Order of the Coif. Prior to joining the faculty, Professor Rychlak practiced law with Jenner & Block in Chicago, and he served as a clerk to Honorable Harry W. Wellford of the U.S. Sixth Circuit Court of Appeals.

Professor Rychlak is an advisor to the Holy See's delegation at the United Nations, a member of the Southeastern Conference (SEC) Executive Committee, a member of the Mississippi Criminal Code Revision Committee, and serves on the Board of Governors at Ave Maria School of Law. He is also the author or co-author of numerous articles and eight books, including: *Real and Demonstrative Evidence: Applications and Theory* (3rd ed., 2012), which *Lawyers Weekly USA* called a "very valuable resource for lawyers looking to stay on top of their changing world"; *Hitler, the War, and the Pope* (2nd ed., 2010), which the *Weekly Standard* called "the best and most careful of the recent works [on the church during World War II], an elegant tone of serious, critical scholarship"; and his latest book, *Disinformation: Former Spy Chief Reveals Secret Strategies for Undermining Freedom, Attacking Religion, and Promoting Terrorism* (WND Books, 2013), which he wrote with Ion Mihai Pacepa, the highest ranking Soviet bloc intelligence officer ever to defect to the West. Former CIA Director R. James Woolsey called his latest book a "remarkable book [that] will change the way you look at intelligence, foreign affairs, the press, and much else."





## **Catherine Hancock (Tulane University)**

Catherine Hancock earned her J.D. at the University of Chicago Law School and her A.B. with Distinction from Stanford University, where she majored in History. Professor Hancock joined the Tulane Law School faculty after a clerkship with the Honorable James L. Oakes on the U.S. Court of Appeals for the Second Circuit in Brattleboro, Vermont. Her pro bono activities include eight years of service as

co-counsel for a Louisiana death row inmate, whose case she argued in the Supreme Court in 1990.

Professor Hancock has co-authored West casebooks on Constitutional Criminal Procedure and Criminal Law, an Aspen casebook on Constitutional Law, and a LexisNexis casebook on the First Amendment. Her teaching fields include these subjects, as well as Domestic Violence, Law & Gender, Comparative Criminal Procedure, and Federal Courts. Her writing on criminal justice subjects includes articles on police interrogations, searches incident to arrest, privacy rights, the prosecutor's duty to disclose evidence, and the death penalty. She received the Felix Frankfurter Distinguished Teaching Award from the graduating classes of 1992, 1998, and 2005. She was awarded the Geoffrey C. Bible & Murray H. Bring Professorship in Constitutional Law in 2007.

## Panel 3: What is (should be) the scope and limitation of governmental power to collect DNA?

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**Arnold H. Loewy**  
**(Texas Tech University)**

Arnold Loewy is the first professor to hold the Texas Tech School of Law's new Judge George R. Killam Jr. Chair of Criminal Law. Professor Loewy recently joined the Texas Tech School of Law faculty after having taught for 38 years at the University of North Carolina School of Law and four years at the University of Connecticut School of Law.

Professor Loewy has initiated a series of annual symposiums in the area of criminal law or criminal procedure. In addition to his work on the annual symposiums, Professor Loewy teaches a Supreme Court seminar and courses in criminal law, criminal procedure, and the First Amendment. In each course, he uses a casebook that he has edited.

He received both his Bachelor's degree and J.D. from Boston University, where he achieved the top academic average in his graduating class and was a senior editor for the *Boston University Law Review*. Professor Loewy obtained his LL.M. from Harvard Law School in 1964.

He was chair of the criminal justice section of the Association of American Law Schools in 1993 after serving for seven years on the executive board and as an officer. He also chaired the AALS Constitutional Law Section from 1973 to 1975. In addition to being an invited speaker at law schools and conferences throughout the nation, Professor Loewy has participated in multiple Oxford Round Tables and addressed the International Society for the Reform of Criminal Law at several different venues around the world.



## Wayne A. Logan (Florida State University)

Wayne Logan received his J.D. from the University of Wisconsin, his M.A. in Criminology from the State University of New York at Albany, and his B.A. from Wesleyan University. Professor Logan, Gary and Sallyn Pajcic Professor of Law, teaches and writes in the areas of Criminal Law, Criminal Procedure, Sentencing, and Torts. Professor Logan has published widely on a variety of issues, including capital punishment, police search and seizure, sex offender registration and

community notification, and the interplay among state, federal, and local criminal justice systems. His work has appeared in such publications as the *Pennsylvania Law Review*, the *Michigan Law Review*, the *Georgetown Law Journal*, the *Vanderbilt Law Review* and the *Minnesota Law Review*, and his most recent book, *Knowledge as Power: Criminal Registration and Community Notification Laws in America* (Stan. Univ. Press 2009), was cited by and relied upon by the U.S. Supreme Court in *United States v. Kebodeaux* (2013).

Professor Logan is an elected member of the American Law Institute and a past Chair of the Criminal Justice Section of the Association of American Law Schools. Before entering full-time teaching, he clerked for Justice Louis B. Meyer of the N.C. Supreme Court and Robert R. Merhige, Jr. of the U.S. District Court for the Eastern District of Virginia, and was an associate with Brooks, Pierce, McLendon, Humphrey and Leonard in Raleigh, North Carolina. Prior to joining the Florida State Law faculty in 2007, Professor Logan was the William Mitchell Research Professor of Law at William Mitchell College of Law, in St. Paul, Minnesota, and a visiting Professor of Law at William and Mary's Marshall-Wythe College of Law.

## Panel 3: What is (should be) the scope and limitation of governmental power to collect DNA?

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**Tracey Maclin**  
**(Boston University)**

Tracey Maclin is the Joseph Lipsitt Faculty Research Scholar at Boston University School of Law. Professor Maclin received his B.A. (*magna cum laude*) from Tufts University and his J.D. from Columbia University School of Law. He is the 1995 recipient of the Metcalf Award for Excellence in Teaching, Boston University's highest teaching award.

In addition to his teaching responsibilities at Boston University, Professor Maclin has held visiting professorships at Harvard Law School and Cornell Law School. He also has served as counsel of record for the American Civil Liberties Union, the National Association of Criminal Defense Lawyers (NACDL), and the Cato Institute in a number of U.S. Supreme Court cases addressing Fourth Amendment issues. Most recently, he was the author of an amicus brief representing the Cato Institute and NACDL in *Hudson v. Michigan*.

In the early part of his career, Professor Maclin served as a law clerk to Judge Boyce Martin, Jr. of the U.S. Court of Appeals for the Sixth Circuit. He was then associated with the New York law firm of Cahill, Gordon & Reindel and taught at the University of Kentucky College of Law.



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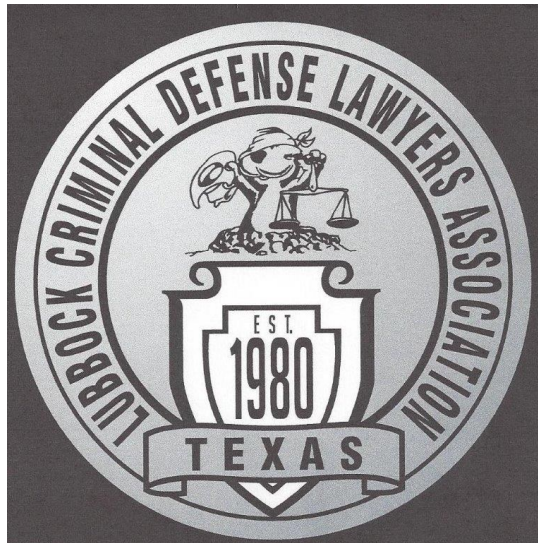


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**Front Row** (left to right): Brittany Weaver and Kaitlin Kerr  
**Back Row** (left to right): Matt McKee, Cassidy Woodard, Josh Frost, Rachel Stuteville, and Samantha Wolcott



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