KATE STITH
Yale Law School, P.O. 208215, New Haven, CT 06520-8215
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EMPLOYMENT

1998 –: Lafayette S. Foster Professor, Yale Law School

Spring 2009: Acting Dean, Yale Law School

2003-04 and 1999-2001: Deputy Dean, Yale Law School

1991-1997: Professor of Law, Yale Law School

1985- 1990: Associate Professor of Law, Yale Law School

1981-1984: Assistant United States Attorney, Southern District of New York (prosecuting white collar crime and organized crime)

1980-1981: Special Assistant to the Assistant Attorney General for the Criminal Division, Department of Justice, Washington, DC

1979-1980: Staff Economist, Council of Economic Advisers, Executive Office of the President, Washington, DC

1978-1979: Law Clerk to Justice Byron R. White, Washington, DC

1977-1978: Law Clerk to Judge Carl McGowan, United States Court of Appeals, Washington, DC

LEGAL EDUCATION

Harvard Law School, J.D., 1977. Articles Editor, HARVARD LAW REVIEW. Harvard Prison Legal Assistance Project

GRADUATE EDUCATION

John F. Kennedy School of Government, Harvard University (joint four-year program with law school), Master in Public Policy, 1977. Master's thesis: The Politics and Policy of Tax Reform

UNDERGRADUATE EDUCATION

Dartmouth College, B.A., 1973. Highest Distinction in Economics. Phi Beta Kappa. Rank in Class: First

COURSES and SEMINARS

Constitutional Law; Criminal Law; Criminal Procedure: Investigations; Criminal Procedure: Adjudication; Criminal Sentencing; Comparative Criminal Sentencing; Federal Criminal Prosecution; Federal Criminal Law; Federal Separation of Powers; Prosecution Externship; Theories of the Fourth Amendment; University Governance

PUBLICATIONS

DEFINING FEDERAL CRIMES (in progress, with D. Richman & W. Stuntz) (Wolters Kluwer)

A Positive Example from the United States?: Washington State's Guidelines System, 74 LAW AND CONTEMPORARY PROBLEMS ___ (forthcoming).

Booker Rules, 160 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 631 (2012) (with A. Baron-Evans)

Weinstein on Sentencing, 24 FEDERAL SENTENCING REPORTER 217 (2012)

Amicus Brief, *Herrera v. Oregon* (U.S. Supreme Court, No. 10-344)

In Memoriam: A Tribute to Professor Daniel J. Freed, 24 FEDERAL SENTENCING REPORTER 82 (2011)

The Cost of Judging Judges by the Numbers, 28 YALE LAW & POLICY REVIEW 313 (2010) (with M. Levy and J.A. Cabranes)

Standing on the Shoulders of a Giant: Sentencing Reform and Daniel Freed, 21 FEDERAL SENTENCING REPORTER (2009)

The Fifth Amendment Privilege: Introduction, 30 CARDOZO LAW REVIEW 717 (2008)

Two Fronts for Sentencing Reform, 20 FEDERAL SENTENCING REPORTER 343 (2008)

The Arc of the Pendulum: Judges, Prosecutors, and the Exercise of Discretion, 117 YALE LAW JOURNAL 1420 (2008)

No Contract, THE DARTMOUTH INDEPENDENT (2007)

The Real Sentencing Law, SCOTUSblog (2007)

Amicus Brief on Behalf of Law Professors and Former United States Attorneys, *United States v. Rita* (U.S. Supreme Court, No. 06-5754)

United States v. Mistretta: The Constitution and the Sentencing Guidelines, chapter of CRIMINAL PROCEDURE STORIES (C. Steiker, ed.) (Foundation Press, 2006)

A Sentencing Agency in the Judicial Branch, 58 STANFORD LAW REVIEW 217 (2005) (with K. Dunn)

Abraham S. Goldstein's Contribution to Criminal Law Scholarship, 115 YALE LAW JOURNAL 511 (2005)

Crime and Punishment Under the Constitution, 2004 SUPREME COURT REVIEW 221 (2005)

Stanford Symposium on *Blakely v. Washington* (2004), FEDERAL SENTENCING REPORTER (2004) (transcript of law school conference)

Sense and Sensibility, NEW YORK TIMES (2004) (with W. Stuntz) (op-ed)

Criminal Law and the Supreme Court: An Essay on the Jurisprudence of Byron White, 74 UNIVERSITY OF COLORADO LAW REVIEW 1523 (2003)

Disparity in Sentencing–Race & Gender, 15 FEDERAL SENTENCING REPORTER 160 (2003)

Justice White and the Law, 112 YALE LAW JOURNAL 993 (2003)

Sentencing by the Book, 82 PHI KAPPA PHI FORUM 18 (2001)

Sentencing Guidelines: Lessons for the States, 44 SAINT LOUIS UNIVERSITY LAW JOURNAL 387 (2000)

Measuring Inter-Judge Sentencing Disparity Before and After the Federal Sentencing Guidelines, 42 JOURNAL OF LAW & ECONOMICS 271 (1999) (with J.M. Anderson and Jeffrey R. Kling)

FEAR OF JUDGING: SENTENCING GUIDELINES IN THE FEDERAL COURTS (U. of Chicago Press, 1998) (with José A. Cabranes) (awarded the Citation of Merit by the American Bar Association)

Fear of Discretion, 1 THE GREEN BAG 209 (1998)

Judging Under the Guidelines, 91 NORTHWESTERN UNIVERSITY LAW REVIEW 1247 (1997)

The Hegemony of the Sentencing Commission, 9 FEDERAL SENTENCING REPORTER 14 (1996)

The Criminal Jury in Our Time, 3 VIRGINIA JOURNAL OF SOCIAL POLICY & THE LAW 133 (1995)

Juries, Society, and the Criminal Law, 1 YALE SURVEY OF CURRENT LEGAL ISSUES 1 (1995)

THE *DARTMOUTH COLLEGE CASE* AND THE ENDURING SIGNIFICANCE OF SELF¬GOVERNANCE (Dartmouth College, 1995)

The Government Interest In Criminal Law: Whose Interest Is it, Anyway?, chapter of COMPELLING GOVERNMENT INTERESTS (S.Gottlieb, ed.) (Michigan U. Press, 1994)

Byron R. White, Last of the New Deal Liberals, 103 YALE LAW JOURNAL 19 (1993)

The Politics of Sentencing Reform: The Legislative History of the Federal Sentencing Guidelines, 28 WAKE FOREST L. REV. 223 (1993) (with Steve Y. Koh)

Government Interests in Criminal Law, 55 ALBANY LAW REVIEW 679 (1992)

The Role of Government Under the Bill of Rights, 15 HARVARD JOURNAL OF LAW AND PUBLIC POLICY 129 (1992)

Byron R. White, ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION (K. Karst & L. Levy, eds.) (1992)

Search and Seizure, ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION (K. Karst & L. Levy, eds.) (1992)

THE CONSTITUTIONAL ROLES OF CONGRESS, THE EXECUTIVE AND THE COURTS IN THE CONDUCT OF U.S. FOREIGN POLICY (Woodrow Wilson International Center for Scholars) (1991) (with Harold Hongju Koh & Steve Y. Koh)

Comment: The Appropriations Power, 68 WASHINGTON UNIVERSITY LAW QUARTERLY 644 (1990)

The Risk of Legal Error in Criminal Cases: Some Consequences of the Asymmetry in the Right to Appeal, 57 UNIVERSITY OF CHICAGO LAW REVIEW 1 (1990)

Criminal Sanctions in Connecticut, 63 CONNECTICUT BAR JOURNAL 360 (1989) (with L. Underkuffler)

Congress' Power of the Purse, 97 YALE LAW JOURNAL 595 (1988)

Rewriting the Fiscal Constitution: The Case of Gramm-Rudman-Hollings, 76 CALIFORNIA LAW REVIEW 593 (1988)

Comment: Federal Spending and the Deficit: Is a Constitutional Remedy Necessary? 11 GEORGE MASON UNIVERSITY LAW REVIEW 119 (1988)

Case Comment, Discrimination Against Illegitimate Children, 90 HARVARD LAW REVIEW 123 (1977)

Note, Taxation of Employee Fringe Benefits, 89 HARVARD LAW REVIEW 1141 (1976)

Case Comment, Arbitration of Severance Pay, 89 HARVARD LAW REVIEW 812 (1976)

SELECTED LECTURES AND PANELS

"Federal Sentencing: The One-Way Ratchet," New York City Bar Association First Annual Conference on White Collar Crime (May 2012).

Panelist, Criminal Law Roundtable, Columbia Law School (May 2012)

"Corporate Criminal Liability," Yale Law School Federalist Society (with U.S. Attorney Preet Bharara and Judge Richard Sullivan) (September 2012)

Co-organizer and Sponsor of "Trade of Innocents: A Global Perspective on Human Trafficking," Yale Law School (April 2012)

"Sentencing and Plea Bargaining" (with Judge Reena Raggi), sponsored by Yale Law School Federalist Society (April 2012)

"Positive Models from the United States," University of Haifa Faculty of Law, Research Workshop on The Effects of Different Sentencing Reforms, Haifa, Israel (January 2012)

"Has *Booker* Been Salutary?" (with Linda Greenhouse), Yale Law Federalist Society (December 2011)

"Plea-Bargaining" (with Stephanos Bibas and Jenny Roberts), Criminal Justice Theory and Practice Workshop of Yale Law School (December 2011)

"GPS and The Fourth Amendment" (with Orin Kerr and Timothy O'Toole), Yale Law Federalist Society, November 2011

"The Role of OLC" (with Jonathan Cedarbaum '96), Yale Law School Department of Justice Study Group (November 2011)

Symposium on Reform of Criminal Fraud Laws (panelist), American Law Institute, Duke Law School (October 2011)

Yale Law School Moot Camp (commentator), September 2011

"Examining Corporate Criminal Liability" (speaker and moderator), New York City Bar Council on Criminal Justice, New York, NY (June 2011)

, "Prosecuting Smart on Crime" (moderator), Workshop on Criminal Justice Theory & Practice, Yale Law School (April 2011)

Conference on Comparative Prosecution (panelist), University of Minnesota School of Law, Minneapolis, MN (April 2011)

"Sentencing Policy After *Booker*," Yale Law School Federalist Society (moderator and speaker) (March 2011)

"In and Out of Government," Liman Colloquium, moderator of opening session ,Yale Law School (March 2011)

"Discrimination in the Criminal Justice System" (chair), CELS Conference, Yale Law School (November 2010)

Overcriminalization 2.0, "Regulation or Criminalization?" (panelist), sponsored by George Mason University School of Law & The National Association of Criminal Defense Lawyers, Washington, D.C. (October 2010)

"The CSI Effect?" Yale Law School Alumni Weekend panel moderator (October 2010)

Yale Law School Moot Camp (Commentator) (August 2010)

Welcoming Remarks, Women's Campaign School at Yale (July 2010)

Investiture of David B. Fein, U.S. Attorney, D. Conn. (speaker), Yale Law School (July 2010)

Yale-Stanford Junior Faculty Forum, Criminal Law co-chair and commentator (June 2010)

Memorial Service for Professor Daniel Freed (speaker), Yale Law School (April 2010)

"A Conversation with Supreme Judicial Court Justice Margaret Marshall," final session of Celebration of 40 Years of Coeducation, Yale University (March 2010)

"Corporate Criminal Liability: What, Why, and How." Weil, Gotshal Roundtable, Yale Law School, organizer and speaker (March 2010)

Tools to Represent the Poor, Rebellious Lawyering Conference, Yale Law School, (February 2010)

"Over-Incarceration and Decarceration" (moderator), Liman Colloquium, Yale Law School (March 2010)

"A Conversation with Justice Sonia Sotomayor," Woolsey Hall, Yale University (October 2009

Workshop: Evaluating Judges, Judging and Judicial Institutions, Duke Law School (September 2009)

The Life of Constance Baker Motley: A Conference and Living History (host and speaker), Quinnipiac University School of Law and Yale Law School (September 2009)

Criminal Justice Roundtable (panelist), Vanderbilt University School of Law (September 2009)

"Rethinking Federal Sentencing Policies" (testimony), Congressional Black Caucus, Washington, D.C. (June 2009)

Hearings on the Nomination of Judge Sonia Sotomayor to be Associate Justice of the United States Supreme Court (testimony), Senate Committee on the Judiciary (July 2009)

"Electing Women," Women's Campaign School at Yale University (July 2009)

"Regulation by Prosecutors" (moderator), New York University School of Law, May 2009)

Comparative Constitutional Law Panel, Aspiring Scholars Symposium, Yale Law School, commentator (April 2009)

"Comparative Sentencing Reform," University of Ljubljana, Ljubljana, Slovenia (March 2009)

"The Sentencing Guidelines: What Went Right? What Went Wrong," Conference on Clinical Education, Yale Law School (June 2009)

"The Trial of the Nazi Sabateurs," Federal Bar Council, Los Cabos, Mexico (February 2009)

"International Criminal Law," moderator at Conference in Honor of Mirjan Damaska, Yale Law School (October 2008)

"The Pardon Power and Second Look Sentencing Reforms," Washington, D.C. (December 2008)

"Government Ethics and the Prosecutor," Yale Law School (October 2008)

"Through the Glass Ceiling in Connecticut," Women's Leadership Forum, University of Connecticut (August 2008)

"Bridges Across the Divide" and "Standing on the Shoulders of Giants," two addresses at the National Association of State Sentencing Commissions, sponsored by Stanford Law School Criminal Justice Center (August 2008)

"Practicing Capital Punishment," Yale Law School (April 2008)

"Comparative Sentencing Law: The American Experience," Honours Seminar on Criminal Law, Faculty of Law and Criminology, University of Leiden, Netherlands (March 2008)

"The Future of Self-Incrimination: Fifth Amendment, Confessions, and Guilty Pleas," Benjamin N. Cardozo School of Law (March 2008)

"The Choir-Master and the Lawyer: A Morality Tale," The Benchers, New Haven, CT (February 2008)

"The Nature of Discretion in Criminal Investigation and Prosecution," Fordham Law School Seminar on Advanced Criminal Law, New York (February 2008)

"The 'Culture of Waiver' and the Corporate Attorney Client Privilege," Yale Law School Center on Corporate Law, Washington, D.C. (January 2008).

"The Woman Who Defied the Odds," Women's Campaign School at Yale (July 2007)

"*Rita* and *Booker* and the Courts of Appeals," First Circuit Judicial Conference (June 2007)

Third Annual Criminal Justice Roundtable, Yale Law School (May 2007)

"What International Law?" Yale Law School (March 2007)

"Informed Consent and Professional Responsibility" (Connecticut Bar Association, New Britain, CT, January 2007)

"Israel and Sentencing Guidelines" (before the Committee on Law and Justice, Israeli Knesset, July 2006)

"The Revolution in Plea-Bargaining and Sentencing" (Harvard Law School Conference on CRIMINAL PROCEDURE STORIES, April 2006)

"Criminal Law in the 21st Century" (New Haven LEAP, February 2006)

"What *Booker* Portends" (Federalist Society of Yale Law School, February 2006)

"The Reporter As Witness for the Prosecution" (Yale Law School Program on Journalism, February 2006)

Memorial Service for Professor Abraham S. Goldstein, Yale Law School (November 2005)

"High Crimes or Misdemeanors: The Role of Criminal Law and Civil Enforcement in the Post-Enron Environment" (Yale Law School Center on Corporate Law, New York, NY, October 2005)

"Sentencing and Mitigation" (Yale Medical School Seminar on Forensic Psychiatry, September 2005 & September 2004)

"The Real PATRIOT Act" (Address at U.S. Coast Guard Academy, New London, CT, March 2005)

"What *Booker* Wrought" (U.S. Court of Appeals for the Fourth Circuit, Federal Judicial Conference Workshop, Williamsburg, VA, March 2005)

"*United States v. Booker*: The Supreme Court and the Sentencing Guidelines" (panel discussion, Yale Law School, February 2005

"Theories of Punishment and State Sentencing Guidelines" (Columbia Law Review Symposium, January 2005)

"Federal Law and Federal Courts" (Discussion with Hartford Chapter, Federalist Society of Connecticut, January 2005)

"Whither the Federal Sentencing Guidelines" (Conference of the U.S. Court of Appeals for the Third Circuit, Hershey, PA, November 2004)

"The End of the Sentencing Guidelines?" (Benjamin N. Cardozo Law School, November 2004)

"Reimagining Sentencing Guidelines" (Conference on *Blakely v. Washington*, Stanford Law School, October 2004)

"*Blakely*: The Academic Perspective" (American Constitution Society, Yale Law School, October 2004)

"Honoring the Founders" (Connecticut Bar Association, 10th Anniversary Celebration of the James W. Cooper Fellows Program, September 2004)

"Determinant Sentencing and the Supreme Court" (Conference of Federal Judges and Practitioners, District of Connecticut, September 2004)

"The Future of Federal Sentencing" (Administrative Office of the U.S. Courts, Defender Services Division, Washington, DC, July 2004)

"The Criteria of Judicial Independence" (Party School of the People, Beijing, China; conference co-sponsored by China Law Center of Yale Law School, January 2004)

"Investigating Financial Scandals" (Federal Bar Council Symposium, Yale Law School, December 2003)

"The Feeney Amendment and the PROTECT Act" (co-authored submission to Senate Judiciary Committee, April 2003)

"Prosecutorial Discretion, Screening Cases, and Plea-Bargaining" (commentary for Conference on Plea Bargaining, Tulane Law School, April 2003)

"Judges and Politics" (with José A. Cabranes) (Yale Law School Association, Boston, MA, January 2003)

"The Supreme Court, Justice White, and the Criminal Law" (U. of Colorado School of Law, January 2003)

"Justice White's Judicial Legacy" (Memorial Service, United States Supreme Court, Washington, DC, November 2002)

"The PATRIOT Act" (Knight Fellowship Symposium, Yale Law School, April 2002)

"Free Speech in High School" (Federal Bar Council Annual Meeting, San Juan, Puerto Rico, February 2002)

"The Jury in Terrorism Trials" (Horace Mann School, New York, NY, January 2002)

"Capital Punishment in Connecticut" (Yale Law School and Connecticut Bar Foundation Symposium, February 2002)

"Terrorism and the Criminal Law" (Yale Law School, September 2001)

“Multi-Jurisdictional Practice: Old Rules in a New Game” (Connecticut Bar Foundation Symposium, December 2000)

“Daniel Webster and University Governance” (Dartmouth College, Hanover, NH, August 2000)

“Criminal Sentencing, State and Federal” (St. Louis University Law School, January 2000)

“The Corporation and the Grand Jury” (Federal Bar Council, Stamford, CT, June 1999)

“Privileges in the Federal Courts” (Federal Bar Council Annual Meeting, Kona, HA, February 1999)

“Congress and the Criminal Law” (address as Distinguished Visiting Lecturer, University of Nevada School of Law, January 1999)

“Alternative Dispute Resolution: Issues and Prospects” (Connecticut Bar Foundation Symposium, October 1998)

“The Present Crisis and the Independent Counsel” (Yale Law School, September 1998)

“Violence Against Women and the Criminal Law” (Annual Capitol Conference, Hartford, CT, May 1998)

“Inter-Judge Sentencing Disparity” (University of Chicago, Conference of the JOURNAL OF LAW & ECONOMICS, November 1997)

“The Shibboleth of Disparity” (New York University School of Law Fortunoff Colloquium, New York, NY, January 1997)

“The Unsung Heroes” (Dartmouth College, Opening Ceremony Celebrating Twenty-Five Years of Coeducation, Hanover, NH, October 1996)

“Global Constitutionalism from the American Perspective” (Conference on Democracy in the Former Soviet Union, Dartmouth College, Hanover, NH, September 1996)

“Juries, O.J. Simpson, and Rodney King” (Federal Bar Council Annual Conference, Nevis, January 1995)

“The Rodney King Case and the Future of Double Jeopardy Law” (Federal Bar Council Forum, Yale Law School May 1994)

“Investigating the Executive Branch: Congress and the Independent Counsel” (Yale Law School, April 1994)

"Reconsidering the Dartmouth College Case" (Old Supreme Court Chamber, U.S. Capitol, Washington, DC, February 1994)

"Crime, Punishment and Politics" (Georgetown Law School Faculty Workshop, Washington, DC, March 1993)

"Criminal Process Reform in Italy?" (Yale Law School Forum on the Italian Constitutional Court, September 1992)

"Child Abuse and Neglect: Constitutional Considerations" (Connecticut Bar Foundation, University of Connecticut School of Law, May 1992)

"Mandatory Federal Sentencing" (YALE LAW JOURNAL Conference on the Federal Sentencing Guidelines, March 1992)

"Criminal Law and the Constitution" (Conference on Compelling Government Interests, Albany Law School, September 1991)

"The Bill of Rights as a Constitution" (Federalist Society Conference on the Bill of Rights, Yale Law School, March 1991)

"Separation of Powers and the Conduct of Foreign Policy" (Co-organizer and Moderator of Symposium, Yale Law School and the Woodrow Wilson International Center for Scholars, Smithsonian Institution, Washington, DC, January 1991)

"The Appropriations Power and the Separation of Powers" (Federalist Society Conference on Constitutional Separation of Powers, Washington, DC, January 1990)

"The Future of Gramm-Rudman-Hollings" (Annual Research Conference of the Association of Public Policy and Management, Arlington, VA, November 1989)

"Legal Error and Criminal Appeals" (Legal Theory Workshop, Columbia Law School, February 1989)

"The Supreme Court and the Fifth Amendment" (American Bar Association Annual Meeting, Toronto, August 1988)

"Who Controls Government Spending?" (Law and Economics Workshop, University of Toronto Faculty of Law, Toronto, April 1988)

"The Constitutional Role of Special Prosecutors" (Federal Bar Council Annual Meeting, Maui, HA, February 1988)

"Government Spending Without Taxes or Deficits: Is There an Executive Power of the Purse?" (Address as Distinguished Scholar in Residence, Valparaiso University Law School, Valparaiso, IN, October 1987)

"Why a Balanced Budget Amendment is a Bad Idea," (Federalist Society Conference on Constitutional Law, Arlington, VA, October 1987)

"Cross-Disciplinary Perspectives on Constitutional Law" (AALS Workshop on Constitutional Law, Washington, DC, October 1987)

"Gramm-Rudman: Constitutional Status and Budgetary Impact" (Wesleyan University, Middletown, CT, March 1986)

PROFESSIONAL ACTIVITIES

YALE UNIVERSITY PRESS, Board of Governors (2011 -).

AMERICAN LAW INSTITUTE, Adviser on Model Penal Code—Sentencing (2002 - present)

COMMITTEE ON PROFFESSIONAL ETHICS, Connecticut Bar Association (2002 – present). Vice-Chair (2007 – present). Principal author of recent opinions on duties of former, now disabled, client; counsel fees; fee-sharing by former partners; lawyer advertising; response to ABA Commission on Ethics 20/20

CONNECTICUT BAR FOUNDATION, Board of Directors (1987 - 2011)
President (1999-2002)

OHIO STATE JOURNAL OF CRIMINAL LAW, Board of Advisors (2002 - present)

CONNECTICUT LAWYER, Board of Editorial Advisors (2002 - present)

WHITNEY HUMANITIES CENTER, Fellow and Executive Committee, Yale University (2004-06; 2007-08)

THE GREEN BAG, Editorial Advisory Board (1997 - present)

WOMEN'S CAMPAIGN SCHOOL AT YALE UNIVERSITY, Faculty Sponsor and Board Member (1994 - present)

FEDERAL SENTENCING REPORTER, Advisory Board (1993 - present)

LEGAL AFFAIRS, Board of Directors (2001 - 2004)

FEDERAL BAR COUNCIL FOUNDATION Board of Trustees (1996 - 2003)

NATIONAL RESEARCH COUNCIL, Committee on Law & Justice (1997 - 2002)

JUDICIAL CONFERENCE OF THE UNITED STATES, Advisory Committee on the Federal Rules of Criminal Procedure (1995 - 2001)

DARTMOUTH COLLEGE, Board of Trustees (1989 - 2000)

U.S. DISTRICT COURT, DISTRICT OF CONNECTICUT, Civil Justice Advisory Group (1996 - 1999)

CONNECTICUT PERMANENT COMMISSION ON THE STATUS OF WOMEN, Commissioner (appointed by Governor) (1987-1996)

Member: American Law Institute, Council on Foreign Relations

Bar Memberships: District of Columbia, State of Connecticut