

## David M. Siegel

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### EMPLOYMENT

<b>New England Law   Boston</b>	Boston, MA
<i>Professor of Law and Director, Center for Law and Social Responsibility (Courses: Clinical Evidence, Comparative Criminal Procedure, Criminal Advocacy, Criminal Law, Criminal Procedure I and II, Evidence, Mental Health Issues in the Criminal Process, Wrongful Convictions)</i>	2001-Present
<i>Associate Professor of Law</i>	1999-2001
<i>Assistant Professor of Law</i>	1996-1999
<b>Office of the Metropolitan Public Defender</b>	Nashville, TN
<i>Senior Assistant Public Defender</i>	1992-1996
<i>Assistant Public Defender</i>	1990-1992
<b>Hon. E. Grady Jolly, Jr., U.S. Court of Appeals for the Fifth Circuit</b>	Jackson, MS
<i>Law Clerk</i>	1989-1990

### PROFESSIONAL ACTIVITIES

#### Fellowships

- Fulbright Senior Specialist, Law, Sichuan University, Chengdu, China (May-June 2009).
- Criminal Procedure Fellow, Center for Computer-Assisted Legal Instruction (CALI) (2008).

#### Awards

- Recipient, Educator of the Year Award, New England School of Law Minority Students Association (2005).
- Recipient, Robert W. Ritchie Award for Outstanding Service to Tennessee Association of Criminal Defense Lawyers (TACDL) (1996).

### EDUCATION

<b>University of Chicago Law School, Chicago, IL</b>	J.D., 1989
<i>University of Chicago Legal Forum - Senior Comment Editor (1988-89).</i>	
<i>Recipient, D. Francis Bustin Prize for an Outstanding Student Comment (1989).</i>	
<i>Hinton Moot Court Competition - Co-Chair of Cases (1988-89), Semi-Finalist (1987-88).</i>	
<b>University of Chicago, Chicago, IL</b>	B.A., 1984
<i>Degree Awarded with General Honors (Politics, Economics, Rhetoric &amp; Law).</i>	
<i>National Merit Scholarship (1980-84); Dean's List (1st, 3rd &amp; 4th years).</i>	
<i>1st Prize, Annual Humor Essay Contest (1983 &amp; 1984).</i>	

### BAR ADMISSIONS

TN (1991, inactive); DC (1993, inactive); MA (1997); U.S. Supreme Court (1997).

## PUBLICATIONS

### ARTICLES

#### Comparative Law

- Coauthor, *The Law and Policy of Police and Prosecutorial Control of Detention in China*, 21 ASIA-PACIFIC J. ON HUMAN RIGHTS AND THE LAW 121 (No. 1, 2020).
- Coauthor, *Electronic Recording of Custodial Interrogations with Chinese Characteristics: Tool for Transparency or Torture?*, 45 HONG KONG L.J. 795 (Part 3, 2015).
- *The Ambivalent Role of Experiential Learning in American Legal Education and the Problem of Legal Culture*, 10 GERMAN L. J. 815 (No. 7, 2009).
- *Training the Hybrid Lawyer and Implementing the Hybrid System: Two Tasks for Italian Legal Education*, 33 SYRACUSE J. OF INT'L L. AND COMMERCE 445 (Spring 2006).
- *Canadian Fundamental Justice and U.S. Due Process: Two Models for Guarantee of Basic Adjudicative Fairness*, 37 GEORGE WASHINGTON INT'L L. REV. 1 (No. 1, 2005).

#### Criminal Law and Procedure

- *Internalizing Private Prison Externalities: Let's Start with the GED*, 30 NOTRE DAME J. OF LAW, ETHICS & PUBLIC POLICY 101 (No. 1, 2016).
- *What Hath Miller Wrought: Effective Representation of Juveniles in Capital-Equivalent Proceedings*, 39 NEW ENGLAND J. ON CRIMINAL AND CIVIL CONFINEMENT 363 (Spring 2013).
- Coauthor, *Preserving Evidence to Convict the Guilty and Protect the Innocent: Massachusetts' Post-Conviction Access to Forensic and Scientific Analysis Act*, 56 BOSTON BAR J. (No. 4, Fall 2012).
- Coauthor, *A New Tool for Determining Factual Innocence: Massachusetts' Post-Conviction Access to Forensic and Scientific Analysis*, 56 BOSTON BAR J. (No. 3, Summer 2012).
- Coauthor, *Emphasizing Privacy of the Home and Limiting Third Party Consent Under the State Constitution: Commonwealth v. Porter P.*, 93 MASSACHUSETTS L. REV. 357 (No. 3, Jan. 2011).
- Coauthor, *Law Enforcement Interviews of Hospital Patients: A Conundrum for Clinicians*, 295 J. OF THE AMERICAN MEDICAL ASSOCIATION 822 (No. 7, Feb. 15, 2006).
- *A New Regime of Electronic Recording of Police Interrogations: Commonwealth v. DiGiambattista*, 442 Mass. 423 (2004), 89 MASSACHUSETTS L. REV. 171 (No. 4, Winter 2006).
- *Justice on the Cheap*, 49 BOSTON BAR J. 10 (2005).

#### Ethics

- Coauthor, *The Established Continuing Duty*, 25 THE PROFESSIONAL LAWYER 3 (No. 1, 2018).
- Coauthor, *The Continuing Duty in Reality*, 55 AMERICAN CRIMINAL LAW REVIEW ONLINE 63 (2018).
- *The Continuing Duty Then and Now*, 42 HOFSTRA L. REV. 447 (Winter 2013).
- *What (Can) (Should) (Must) Defense Counsel Withhold from the Prosecution in Ineffective Assistance of Counsel Proceedings?*, 35 THE CHAMPION 16 (National Association of Criminal Defense Lawyers) (Dec. 2011).
- *The Role of Trial Counsel in Ineffective Assistance of Counsel Claims: Three Questions to Keep in Mind*, 33 THE CHAMPION 14 (Feb. 2009).
- Coauthor, *The Ethical Obligations of Prosecutors in Postconviction Claims of Innocence: A New Ethical Framework for a New Legal Regime*, 38 CAL. WESTERN L. REV. 389 (2002).
- *My Reputation or Your Liberty (or Your Life): The Ethical Obligations of Trial Counsel in Postconviction Proceedings*, 23 THE J. OF THE LEGAL PROFESSION 85 (1998-99).

## **History**

- *Felix Frankfurter, Charles Hamilton Houston and the 'N-Word': A Case Study in the Evolution of Judicial Attitudes Toward Race*, 7 SOUTHERN CALIFORNIA INTERDISCIPLINARY L. J. 317 (No. 2, 1998).

## **Legal Education**

- *Should you Bother Reaching Out? Performance Effects of Early Direct Outreach to Low-Performing Students*, 94 UNIVERSITY OF DETROIT MERCY L. REV. 427 (2017).

## **Mental Health**

- Coauthor, *Recording Routine Forensic Mental Health Evaluations Should be a Standard of Practice in the 21st Century*, 36 BEHAV. SCI. & THE LAW 373 (2018).
- *The Supreme Court and the Sentencing of Juveniles in the United States: Reaffirming the Distinctiveness of Youth*, 20 CHILD AND ADOLESCENT PSYCHIATRIC CLINICS OF NORTH AMERICA 431 (No. 3, July 2011).
- *Involuntary Psychotropic Medication to Competence: No Longer an Easy Sell*, 12 MICHIGAN STATE UNIVERSITY J. OF LAW & MEDICINE 1 (2008).
- *The Growing Admissibility of Expert Testimony by Clinical Social Workers on Competence to Stand Trial*, 53 SOCIAL WORK 153 (No. 2, Apr. 2008).
- *Psychoactive Medication and Your Client: Better Living and (Maybe) Better Law Through Chemistry*, 27 THE CHAMPION 22 (Dec. 2003).
- Coauthor, *Old Law Meets New Medicine: Revisiting Involuntary Psychotropic Medication of the Criminal Defendant*, 2001 WISCONSIN L. REV. 307.

## **TREATISE CHAPTERS**

### **Juvenile Law**

- Coauthor, *Confidentiality & Privilege in the Juvenile Court Setting*, Chapter 11 in IMPROVING THE PROFESSIONAL RESPONSE TO CHILDREN IN THE LEGAL SYSTEM (National Association of Counsel for Children 2000).
- Coauthor, *Transfer to Criminal Court* (Chapter), A GUIDE TO JUVENILE PRACTICE (Tennessee Association of Criminal Defense Lawyers, 1997).

### **Mental Health**

- *Diminished Capacity*, Chapter 32 in CRIMINAL DEFENSE TECHNIQUES (Matthew Bender, Nov. 1999).
- *Development and Presentation of Psychological Evidence in Criminal Defense Proceedings*, Chapter 68 in CRIMINAL DEFENSE TECHNIQUES (Matthew Bender, Apr. 1999).

## **MISCELLANEOUS PUBLICATIONS**

- Reviewer, *Exonerated: A history of the innocence movement*, INT'L CRIM. JUST. REV. (2019).
- Reviewer, *The Criminal Mind*, 58 CRIME, LAW AND SOCIAL CHANGE 563 (No. 5, Dec. 2012).
- Principal Co-Author, *Commonwealth v. Patterson*, 42 CRIMINAL LAW BULLETIN 21 (2006) (publication of *amicus curiae* brief).
- Contributor, *Magill's Legal Directory* (Salem Press, 1999).
- Commentary, THE FORENSIC ECHO 2 (June 1999).
- Commentary, FORENSIC PANEL LETTER (May 28, 2001).
- Comment, *Some Traditional Thinking about Non-Traditional Searches*, 1988 U. CHI. LEG. FOR. 285.

## **BOARD AND COMMITTEE MEMBERSHIPS**

- Boston Bar Association
  - Bar Council (2014-17)
  - Amicus Committee (2014-present, Co-Chair, 2017-19)
  - Gun Working Group (2013)
  - Task Force on Wrongful Convictions (2008-09)
- Commonwealth of Massachusetts Commission on Medico-Legal Investigation (2009-17, Vice-Chair, 2016-17)
- Massachusetts Supreme Judicial Court Standing Committee on Rules of Criminal Procedure, Member (2011-18); Reporter (2018-present)
- National Association of Criminal Defense Lawyers, THE CHAMPION Advisory Board (2013-present)
- New England Innocence Project, Chair (2014-present), Secretary (2004-13), Founding Board Member
- Watertown (Massachusetts) Community Foundation, Board Member (2012-present), Co-President (2015-present)
- Watertown (Massachusetts) Charter Review Commission, Member (2010)
- Suffolk Lawyers for Justice, Inc., Board Member (2004-present)
- Rhode and Drinan Awards Selection Committee, American Assoc. of Law Schools - Pro Bono Section (2007)
- Tennessee Bar Association, Criminal Justice Section Executive Committee (1994-95)
- Nashville Bar Association
  - Criminal Court Committee, Chair (1996)
  - Juvenile Court Committee (1995)
- Tennessee Association of Criminal Defense Lawyers
  - CLE Committee, Co-Chair (1996)
  - Amicus Committee (1993-95)

## **LECTURING/INSTRUCTION**

- Summer Lecturer, “An Introduction to American Criminal Trial Advocacy,” China University of Political Science and Law, Beijing (Changping), China (5/2016), (5/2017), (5/2019).
- Summer Lecturer, “Selected Topics in American Criminal Procedure,” China University of Political Science and Law, Beijing (Changping), China (7/2015).
- Trainer, “The Role of Prosecutor in Ensuring Efficient and Just Judicial Process: Uzbek and US Experiences,” Charvaq, Uzbekistan (5/23/2014-5/25/2014).
- Invited Lecturer, “Comparative Confrontation: Italy and the U.S.,” “The U.S. Prosecutor: Structure and Function versus the *Pubblico Ministero*,” and “The Enemy Combatant Cases,” Faculty of Jurisprudence, University of Catania, Catania, Italy (5/2005).
- Summer Lecturer, “Comparative Criminal Procedure: Search and Seizure,” New England School of Law (held at National University of Ireland, Galway) (6/2004-7/2004).
- Summer Lecturer, “The Law of Confessions: United States, Canada and Great Britain,” South Texas School of Law (held at University of Malta) (6/2002).

- Guest Lecturer, “Miscarriages of Justice,” Boston University School of Law, Boston, MA (4/2001, 10/2001).
- Guest Presenter, “Psychology & the Law,” Vanderbilt Law School, Nashville, TN (1992-95).

### **Presentations & Trainings**

- Early Experience with AI and the Criminal Law, Sichuan Normal University, Chengdu, China (5/21/2019); Southwest University of Finance and Economics, Chengdu, China (5/22/2019); Southwest Minzu University School of Law, Chengdu, China (5/22/2019); Southwest Jiaotong University, Chengdu, China (5/23/2019); School of Law, Southwestern Medical University, Luzhou, China (5/26/2019); Sichuan University School of Law, Chengdu, China (5/28/2019).
- Modern Measures of Police Performance, Sichuan Police College, Luzhou, Sichuan Province, China (5/24/2019).
- Selected Aspects of American Criminal Procedure of Interest to the Chinese Observer, College for Criminal Law Science, Beijing Normal University, Beijing, China (5/15/2019).
- Conditional Guilty Pleas in Massachusetts, Boston Bar Association, Boston, Massachusetts (3/20/2019).
- Post-Conviction Ethics Issues for Criminal Defense and Prosecution, 44th ABA National Conference on Professional Responsibility, Louisville, KY (5/30/2018).
- The Role of Forensic Science in Wrongful Convictions, University of Electronic Science and Technology, Chengdu, China (11/1/2017).
- Making Forensic Science Scientific, Southwest Minzu University, Chengdu, China (10/31/2017).
- The Supreme Court Discovers the Defense Lawyer’s Role in Plea Bargaining, Southwest Minzu University, Chengdu, China (10/30/2017).
- Responses to Identified Police Misconduct: 20 Years of US Experience with Consent Decrees, Sichuan Police College, Luzhou, Sichuan Province, China (5/20/2017).
- Ethics Issues in IAC Claims: How to Follow the Rules when you go Through the Looking Glass, Center for Appellate Litigation, New York, NY (4/7/2017).
- Should you Bother Reaching Out? Performance Effects of Combining Early Direct Outreach to Low-Performing Students with Formative Assessment, University of Detroit Mercy School of Law, Detroit, MI (3/3/2017).
- The President’s Task Force on 21<sup>st</sup> Century Policing: Implementing the Six Pillars of Reform, Sichuan Police College, Luzhou, Sichuan Province, China (5/26/2016).
- US Police-Community Relations: A Snapshot for the Foreign Observer, Capital University of Economics and Business – School of Law, Beijing, China (5/23/2016).
- The Decentralized Evolution of a New US Standard of Videotaped Interrogation, Southwest University for Nationalities, Chengdu, China (11/8/2014).
- A Continuing Duty Toolkit, NAACP Legal Defense & Educational Fund, Inc., 35<sup>th</sup> Annual Capital Punishment Training Conference, Airlie Conference Center, Warrenton, VA (7/20/2014).
- Juvenile Competence to Stand Trial, Essex County Juvenile Court Clinic, Salem, MA (4/30/2014 and 5/28/2014).

- Informal Judicial Training in the United States: How the training of US lawyers, and US legal culture, Affects US Judges, Lawyers Training Center, Tashkent, Uzbekistan (5/20/2014).
- Litigating Claims of Factual Innocence under G.L. c. 278A: Where did this law come from, and What does it do?, Post-Conviction Relief & Appellate Advocacy MCLE Conference Center, Boston, MA (3/21/2014).
- Internalizing Private Prison Externalities, Symposium on Prisoners' Rights in the Modern Era, Northeastern University Law School, Boston, MA (1/31/2014).
- Defending Children Facing LWOP: What does *Miller* Require?, 2013 National Convening of the Campaign for the Fair Sentencing of Youth, Washington, D.C. (11/15/2013).
- Realizing the Ethical Obligations of Defense Lawyers and Prosecutors Throughout a Capital Case, 10<sup>th</sup> Anniversary of the ABA *Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases: Implementing the ABA Guidelines to Achieve Justice*, Hofstra University, Hempstead, New York (10/21/2013).
- The Dawn of a Neurologically and Psychologically Informed Juvenile Justice System or a Sentencing Correction?, Law Librarians of New England (Spring Meeting), New England Law | Boston (3/8/2013).
- "Whose side am I on?" Defense Counsel's Ethical Obligations When a Former Client Files a §440 Motion under *Padilla v. Kentucky*, New York City Bar Association, New York University (11/28/2012).
- "What Hath *Miller* Wrought?" Effective Assistance and Due Process in Capital-Equivalent Proceedings, New England Journal on Criminal and Civil Confinement Fall Symposium, New England Law | Boston (10/26/2012).
- "Whose side am I on?" Confidentiality in Post-Conviction Proceedings, Tennessee District Public Defenders Conference (Annual CLE), Kingsport, Tennessee (10/19/2012).
- An (Increasingly) Integrated Approach to Teaching Law: The US Experience, Faculty of Law Colloquium, North-West University, Potchefstroom, South Africa (7/20/2012).
- "Whose side am I on?" Confidentiality in Post-Conviction Proceedings, Tennessee Association of Criminal Defense Lawyers (Capital Defense Training & Seminar), Nashville, Tennessee (3/23/2012).
- Testamentary Capacity and Guardianship Case Conference, American Academy of Psychiatry and the Law (Annual Meeting), Boston, Massachusetts (10/30/11).
- Non-Character Specific Acts Evidence in Massachusetts, New England Law | Boston, Boston, Massachusetts (4/16/11).
- Criminal Responsibility Case Conference Using a DVD Format, American Academy of Psychiatry and the Law (Annual Meeting), Tucson, Arizona (10/22/10).
- Legal and Judicial Ethics for Criminal Practice in US, Afghan Defense Lawyers' Program of the Public-Private Partnership for Justice Reform in Afghanistan, Cambridge, Massachusetts (2/25/10).
- Forensic Science and Exoneration, Suffolk University Law School, Boston, Massachusetts (2/11/10).
- Legal Issues when Police Interview Hospital Patients, Academy of Psychosomatic Medicine (Annual Meeting), Las Vegas, Nevada (Workshop Presenter) (11/14/09).

- Closing Arguments: Big Ideas from Small Points, Jury Trials Skills Training, Suffolk Lawyers for Justice, Inc., Boston, Massachusetts (10/3/09).
- The American Death Penalty in the 21<sup>st</sup> Century, US Consulate, Chengdu, China (6/3/09).
- Eyewitness Misidentification: Social Science Informing Law Enforcement Reform, Southwest University of Finance and Economics, Chengdu, China (6/1/09).
- US Sentencing Law and Practices, Workshop for Sichuan High Court Judges, Sichuan University School of Law, Chengdu, China (5/21/09).
- Task Setting in Police Management for Performance, Southwest Jiaotong University, Chengdu, China (5/19/09).
- The Increasingly Paradoxical Nature of Lengthy Juvenile Sentences, Law & Psychiatry Program – Clinical Case Conference, University of Massachusetts Medical School, Worcester, Massachusetts (10/08).
- The Increasingly Paradoxical Nature of Juvenile Life Sentences, American Psychiatric Association (Annual Meeting), Washington, D.C. (5/08).
- Trial Skills: Openings & Closings; Cross-Examination, Suffolk Lawyers for Justice, Inc., Boston, Massachusetts (4/08).
- DNA Forensics & the Law, Harvard Journal of Law & Technology Annual Symposium, Harvard Law School, Cambridge, Massachusetts (3/08).
- USA - Terrorism and the Threat to Human Rights, Amnesty International USA – Northeastern Regional Conference, Boston University, Boston, MA (10/07).
- Trial Skills – Story-driven Lawyering, Suffolk Lawyers for Justice, Inc., Boston, Massachusetts (5/07).
- Preservation/Access Issues, National Innocence Network Conference, Harvard Law School, Cambridge, Massachusetts (3/07).
- Legal Aspects of Law Enforcement Interviews of Hospital Patients, New York University Child Study Center Grand Rounds, New York, New York (1/07).
- Reputation, Obligation, and Loyalty: The Defense Role in 23-110 Proceedings, Public Defender Service for the District of Columbia (Criminal Practice Institute), Washington, D.C. (11/06).
- Legal Aspects of Law Enforcement Interviews of Hospital Patients, American Academy of Psychiatry and the Law (Annual Meeting), Chicago, Illinois (10/06).
- Crawford v. Washington: What Lies Ahead?, New England Appellate Judges' Conference, Boston, MA (11/05), Flaschner Judicial Institute, Newton, Massachusetts (6/06).
- Involuntary Medication to Competence: No Longer an Easy Sell, International Center for the Study of Psychiatry & Psychology (Annual Conference), Flushing, New York (10/05).
- Docs and Cops: Police Interviews of Hospital Patients, Psychiatry Grand Rounds - Case Conference, University of Massachusetts Medical School, Worcester, Massachusetts (1/05).
- Suffolk Lawyers for Justice: Jury Trial Training: Crawford v. Washington, Small Group Discussion Leader, Suffolk Lawyers for Justice, Inc., Boston, MA (12/04).
- The Medicated Client: Ethical Considerations Post-Sell, 2004 The Fight for Life: From Gregg to Atkins – Full Circle? Co-Sponsored by Tennessee Association of Criminal Defense Lawyers and the ABA Death Penalty Representation Project, Nashville, TN (10/04).
- Eyewitness Identification in Criminal Cases, Massachusetts Bar Association Annual Meeting, Boston, Massachusetts (1/04).

- Eyewitness Misidentification and Approaches to Reform, Massachusetts Appellate Judges' Conference, Boston, Massachusetts (5/03).
- Forensic Expert Training - Pediatric Radiologists, Boston Children's Hospital, Boston, Massachusetts (12/02).
- Proposed Postconviction DNA Testing Statute (Boston Bar Association Criminal Law and Individual Rights & Responsibilities Sections), Boston, Massachusetts (9/02).
- Postconviction Use of DNA Evidence in Federal Court: Individual Cases and Beyond (Federal Bar Association), Boston, Massachusetts (7/02).
- Ethics: One Case, One Client in *Team Defense: The Basics & Beyond* (Tennessee Association of Criminal Defense Lawyers & Tennessee Public Defenders Conference), Nashville, Tennessee (4/02).
- Ethical Obligations of Prosecutors in Postconviction Claims of Innocence (National Innocence Network), San Diego, California (1/02).
- Forensic Expert Training - Mental Health Professionals, Bridgewater State Hospital, Bridgewater, Massachusetts (10/01).
- Forensic Expert Training - Forensic Pediatricians, Hasbro Children's Hospital/Brown University School of Medicine, Providence, Rhode Island (9/01).
- The Constitutional and Ethical Implications of Involuntary Psychotropic Medication of the Criminal Defendant (TACDL), Nashville, Tennessee (10/99).
- The Ethical Obligations of Trial Counsel in Postconviction Proceedings, Tennessee Association of Criminal Defense Lawyers (TACDL), Nashville, Tennessee (9/99).
- Forensic Evaluator Training, Worcester State Hospital, University of Massachusetts Medical School Law & Psychiatry Program (6/99, 6/00, 4/01, 5/02, 5/03, 4/04, 4/05, 4/06, 4/07, 4/08, 4/09, 4/10, 4/11, 4/12, 4/13, 4/14, 4/15, 4/16, 4/17, 4/18, 4/19, 4/20, 4/21).
- The Law of Juvenile Transfer in Tennessee, ABA-Sponsored CLE, Nashville, Tennessee (11/95).
- Funding the Work: How to Obtain Adequate Court-Ordered Fees, National Association of Sentencing Advocates (Annual Conference), Chicago, Illinois (5/95).
- Appropriate Care and Quality of Life Issues: *Balancing the Principles of Autonomy and Nonmaleficence*, St. Thomas Hospital Clinical Ethics Seminar, Nashville, Tennessee (2/94, 4/94 & 4/95).
- Mental Health Issues & How to Raise Them, Tennessee Association of Criminal Defense Lawyers (TACDL) CLE, Nashville, Tennessee (2/95) (presentation materials subsequently reissued).
- Evidence - General Criteria for Admissibility, TACDL-CLE, Nashville, Tennessee (10/93) (presentation materials subsequently reissued).
- Search and Seizure - Preserving Issues for Appeal, TACDL-CLE, Nashville, Tennessee (4/93) (presentation materials subsequently reissued).