

Curriculum Vitae

Susan R. Klein
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Employment: Baker and Botts Professor in Law, Univ. of TX
at Austin, 1999 - present.

Areas of expertise include Constitutional
Criminal Procedure, Federal Criminal Law,
Criminal Law, and Ethics.

Professor of Law, Univ. of TX at Austin,
1998 - 1999.

Assistant Professor of Law, Univ. of TX
at Austin, 1994 - 1997.

Attorney General's Honor Program.

1990 - 1994 - Trial Attorney for the
United States Department of Justice, Criminal
Division, Public Integrity, Money Laundering
& Asset Forfeiture, and Terrorism & Violent
Crime Sections. Special Assistant United
States Attorney for the United States Attorney's
Office, Washington, D.C.

1989 - 1990 - **Judicial Clerk** for Judge
Cynthia Holcomb Hall, United States Court of
Appeals for the Ninth Circuit.

Education:Boalt Hall School of Law

University of California, Berkeley, CA
Juris Doctor Degree, 1989
Class rank: top 1% (#2)
John Stouffer Memorial Merit Scholarship for
highest second year GPA
Order of the Coif, for top 10%
Seven American Jurisprudence Awards, for best exam
Two Prosser Prizes, for second best exam
Articles Editor of IRLJ

Wellesley College, Wellesley, MA

B.A., Philosophy and Political Science, 1984

Publications: "The Return of Federal Judicial Discretion in
Criminal Sentencing," 39 Valparaiso Law Rev.
693 (symposium issue, "Shifting Power in the

Federal Courts") (Spring 2005).

"Beyond *Blakely*," (with Nancy J. King), 16 Federal Sentencing Reporter 314 (June 2004).

"The Search for Equality in Criminal Sentencing," (with Jordan M. Steiker), 2002 Supreme Court Rev. 223 (2003).

"No Time for *Miranda*," 81 Tex. Law Rev. 1337 (2003).

"Independent-Norm Federalism in Criminal Law," 90 California Law Rev. 1541 (2002).

"Acceptance of Responsibility and Conspiracy in Drug Sentencing," (with Nancy J. King), 14 Federal Sentencing Reporter 165 (2002).

"*Miranda*'s Exceptions in a Post-*Dickerson* World," 91 Journal of Criminal Law & Criminology 567 (Spring 2002).

"*Apprendi* and Plea Bargaining," (with Nancy J. King), 54 Stanford Law Rev. 295 (2001) (cited in *Blakely v. Washington*, 124 S.Ct. 2531 (2004)).

"Identifying and (Re)formulating Prophylactic Rules, Safe Harbors, and Incidental Rights in Constitutional Criminal Procedure," 99 Michigan Law Rev. 1030 (2001).

"Essential Elements," (with Nancy J. King), 54 Vanderbilt Law Rev. 1467 (2001) (cited in *Harris v. United States*, 536 U.S. 545 (2002)).

"Après *Apprendi*," (with Nancy J. King), 12 Federal Sentencing Reporter 331 (July-August 2000).

"Double Jeopardy's Demise" 88 California Law Rev. 1001 (2000).

"Redrawing the Criminal-Civil Boundary," 2 Buffalo Crim. Law Rev. 226 (1999).

"Principles and Problems in Constitutional Criminal Procedure," 24 Law & Social Inquiry 533 (Spring 1999).

"Successive Prosecutions and Compound Criminal Statutes: A Functional Test,"

(with Katherine Chiarello), 77 Texas Law Rev. 333 (1998).

"The Discriminatory Application of Substantive Due Process: A Tale of Two Vehicles", 1997 Univ. Ill. Law Rev. 401 (1997).

"Civil *In Rem* Forfeiture and Double Jeopardy", 82 Iowa Law Rev. 183 (1996).

"*Miranda* Deconstitutionalized: When the Self-Incrimination Clause and the Civil Rights Act Collide", 143 Univ. Penn. Law Rev. 417 (1994).

"California's Evidence and Discovery Rules in Civil Sexual Harassment Suits", Industrial Relations Law Journal, 11(4) (1989).

Books:

Entry for United States v. Armstrong, 517 U.S. 456 (1996), in *The Oxford Companion to the Supreme Court of the United States*, 2d edition (Oxford University Press, 2005).

Entries for Estelle v. Smith, 451 U.S. 454 (1980) and Apprendi v. New Jersey, 530 U.S. 466 (2000), in *Encyclopedia of American Civil Liberties*, Paul Finkelman, Editor (Routledge, forthcoming 2005).

The Late Charles Alan Wright, Nancy J. King, and Susan R. Klein, "Federal Practice and Procedure, Criminal 3d," volumes 3, 3A, 3B, 3C (West 2004).

The Late Charles Alan Wright, Nancy J. King, and Susan R. Klein, "Federal Practice and Procedure, Criminal 3d," 2003 pocket parts for volumes 1, 1A, 2, 2A, 3, 3A (West 2003).

The Late Charles Alan Wright, Nancy J. King, and Susan R. Klein, "Federal Practice and Procedure, Criminal 3d," 2002 pocket parts for volumes 1, 1A, 2, 2A, 3, 3A (West 2002).

Presentations:

Susan Klein delivered the Bartlett Lecture, "The United States Supreme Court and Criminal Sentencing," in Kansas City, MO on 6/30/05.

Susan Klein participated on a panel entitled "Federal Sentencing" for the Travis County Women Lawyers Assoc. annual fed. courts program, 6/1/05.

"Federal Sentencing After *Booker*," panel

discussion (with Deborah Rhodes, U.S. Dept. of Justice, Beverly Dyer, Fed. Public Defenders Service, and Gary Howard, Chief USPO), video program for federal appellate and district judges on Feb. 3, 2005, available through the Federal Judicial Center website.

"Potential Changes to the Federal Sentencing Guidelines after *U.S. v. Booker*," written and oral testimony before the United States Sentencing Commission, Washington, D.C., on Nov. 17, 2004.

"*Blakely* Strategy Session for Federal Public Defenders," national conference by Admin. Office of U.S. Courts, Key Biscayne, FL, on Dec. 9, 2004.

"Can We Reconceive A Good Guidelines System in Light of *Blakely*?" (with Kath Stith, Doug Berman, Frank Bowman, Kevin Reitz), The Future of American Sentencing: A National Roundtable on *Blakely*, Stanford Univ., CA, on Oct. 8, 2004.

"Guideline Sentencing After *Blakely*," National Workshop for District Judges III, the Federal Judicial Center, Sept. 20, 2004, Seattle, WA.

"Criminal Law," first-year orientation, Univ. of TX, Aug. 24, 2004.

"The Supreme Court and Criminal Sentencing," Faculty Presentation, Univ. of TX at Austin School of Law, July 20, 2004.

"Criminal Law," first-year orientation, Univ. of TX, Aug. 26, 2003.

"The New Federal Rules," (with Lucien Campbell, Advisory Committee on Federal Rules of Criminal Procedure, Judicial Conference of the United States), Federal Public Defenders Service of the Western District of Texas, Jan. 24, 2003.

"Independent-Norm Federalism in Criminal Law," with Reply by Deputy Solicitor General Michael Dreeben, U.S. Dept. of Justice, faculty colloquia at the University of Texas School of Law, Sept. 6, 2002.

"Supreme Court Roundup," (with Professors Karen Engle, Ernest Young, and Jordan Steiker), faculty and student colloquia at the University

of Texas School of Law, Aug. 31, 2002.

"New Trends in Sentencing," National Sentencing Policy Institute, the Federal Judicial Center, Raleigh, NC, June 28, 2002.

"Reaffirmation of Miranda; What's Next?" (with Paul Cassell and Yale Kamisar), Association of American Law School Annual Meeting, San Francisco, CA, Jan. 6, 2001.

"Independent-Norm Federalism in Criminal Law," Faculty Workshop at the University of San Diego School of Law, Dec. 4, 2001.

"Supreme Court Roundup," (with Mitchell, Berman, Lynn Blais, George Dix, and Ernest Young), faculty colloquia the University of Texas at Austin School of Law, Aug. 31, 2001.

"The Implications of *Apprendi*," National Workshop for Federal Judges, the Federal Judicial Center, May 3, 2001, Washington, D.C.; Dec. 3rd and 4th, 2001, in San Diego, CA; and Feb. 27, 2002, in New Orleans, LA.

"Prophylactic Rules, Safe Harbors, and Incidental Rights in Constitutional Criminal Procedure," Legal Theory Workshop at the University of Miami Law School, March 2, 2001; Faculty Workshop at Boalt Hall, March 11, 2001; Washington & Lee Faculty Workshop, April 23, 2001.

"*Miranda*'s Exceptions in a Post-*Dickerson* World," (with George C. Thomas, III), University of Michigan Law Review Symposium, Nov. 18, 2000.

"*Apprendi* and Beyond," (with Michael R. Dreeben, Dep. Solicitor General, USDOJ), Federal Judicial Center's Workshop for Judges of the Fifth Circuit, Austin, TX, Nov. 13, 2000.

"Essential Elements," (with Nancy J. King), Faculty Colloquium at the University of Texas at Austin School of Law, Sept. 22, 2000; and at Northwestern School of Law, Sept. 8 2000.

"Constitutional Implications of DNA," (with Sanford Levinson), Texas 2000: The Future of DNA in Texas, Aug. 11 2000.

"Sentencing as a Driving Force Changing the

Criminal Justice System," Association of American Law Schools Conference on Criminal Justice, Washington, D.C., June 12, 2000.

"Eroding the Boundaries between Criminal and Civil Actions," Association of American Law Schools Conference on Criminal Justice, Washington, D.C., June 11, 2000.

"The Modern Fifth Amendment," Central Texas Chapter of the ACLU, Austin, TX, May 25, 2000 (and aired on Channel 10 on July 12, 2000).

"Criminal Law - New Developments in the Supreme Court," (with Jordan Steiker) Conference of Chief Justices', Austin, TX, Feb. 1, 2000.

"Annual Review of Supreme Court's Term - Criminal Cases," American Bar Association, Annual Convention, Atlanta, GA, Aug. 6, 1999.

"Constitutional Criminal Procedure" course for new judges, National Judicial College, Reno, NV, July 13 - 17, 1998.

Organizations: **State Bar of California**, 1989 - present.

American Bar Association, 1989 - present.

American Assoc. of Law Schools, 1994 - present.

State Bar of Florida, 1995 - present.

State Bar of Texas, 1996 - present.

USSC cites: *United States v. Harris*, 122 S.Ct. 2406 (2002), citing King & Klein, "Essential Elements," 54 *Vanderbilt Law Rev.* 1467 (2001).

Blakely v. Washington, 542 U.S. ____ (2004), citing King & Klein, "Apprendi and Plea Bargaining," 54 *Stanford Law Rev.* 295 (2001).

Service: 2005 - 07 - appointed to the State Bar of TX Committee on Pattern Jury Charges, Crim.

Nov. 17, 2004 - provided oral and written testimony in hearing before the United States Sentencing Commission regarding

amendments after *Blakely v. Washington*.

March/May 2004 - Member, Working Group to write proposal for AALS Criminal Justice Mid-Year Meeting in Summer of 2006.

June 2002 - present, Board of Advisors, the Ohio State Journal of Criminal Law (a peer-reviewed publication).

2000 - 2002, assisted Judge Hayden W. Head, Jr., in redrafting the "Fifth Circuit Pattern Jury Instructions, Criminal" (West 2002).

March 1999 - present, Attorney Board of Editors for the Texas Board of Legal Specialization, State Bar of Texas.

June 1, 1999 - present, member of the American Bar Association's Forfeiture, Civil Remedies and RICO Committee.

Faculty Research Associate for the Center for Criminology and Criminal Justice Research, U.T. at Austin, 1997 - present.

May 1997 - Testified before Texas Representative Alan Hightower's House Corrections Committee against Senate Bill 250, the retroactive elimination of mandatory supervised release.

1996 - 1997 - Assisted Judge Hayden W. Head, Jr., in drafting the "Fifth Circuit Pattern Jury Instructions, Criminal" (West 1997).

April 27, 1995 - Submitted written testimony to the Texas Senate Judiciary Committee supporting Senate Bill 1383, Indigent Defense Reform Bill.

Committees:

Faculty Advisor, The Societies Program for Extracurricular Student Life, 2004-2005.
 Coordinator, Internship program with the United States Attorney's Office for the Western District of Texas, 2001 - present.
 Curriculum Committee, 2003-2004.
 Tenure Committee, 1999 - 2002
 Budget Committee, 1999 - 2005
 Chair, Tenure Committee, 2000 - 2001
 Dean Search Committee, 1999-2000
 Curriculum Committee, 1996 - 1999, 2003 - 2004.

Chair, Curriculum Committee, 1997 - 1998
 Advisor, Criminal Law Practice, 1996 - 2000.
 Appointments Committee, 1995 - 1998
 Admissions Committee, 1994 - 1997
 Judge, UT Student Ass. App. Court, 1994 - 1995
 Advocacy & ADR Programs Committee, 1994 - 1995

Consulting:

2004 - expert witness for the Federal Public Defender, W.D. of TX, in *United States v. Davidson*, No. 03-CR-254, one the "yogurt shop" murder cases.

2004 - expert witness on Fourth Amendment specificity of warrant issue for David L. Botsford in *United States v. Naples* (E.D. TX).

1996 - 2003 - Assisted Provost * Umphrey in *State v. Texas v. The American Tobacco Co., Co. No. 3-96CV91*, which resulted in historic \$ 17 billion settlement for the state.

1998 - 2003 - Assisted McClanahan & Clearman in certifying federal civil RICO class action suit in *Sandwich Chef of Texas., Inc. v. Reliance Nat'l Indem. Ins. Co.*, 202 F.R.D. 484 (S.D. Tex. 2001), *rev'd* 2003 WL 139607 (5th Cir. 2003).

1996 - expert witness for Hughes & Luce in mortgage fraud case.