

Michael Vitiello

Present Position: Distinguished Professor of Law

Education

Law School University of Pennsylvania,  
J.D. (May, 1974)

Undergraduate Swarthmore College  
B.A. (June, 1969)  
Honors: B.A. awarded with Honors in English and Philosophy

Keele University, Staffordshire, England, (1966-67)

Memberships

American Law Institute (2002-present)(member, Consultative Group on reforming MPC sentencing provisions; member, Consultative Group on reforming MPC sex offenses; member, Consultative Group on sexual and gender-based misconduct on campus; Consultative Group on police investigations).  
American Bar Foundation (2010-present)  
Fulbright Senior Specialist (2007-12)

Employment

January, 2008–2014 Director, Center for Advocacy and Dispute Resolution  
McGeorge School of Law

Fall, 2006 – Present Distinguished Professor of Law  
McGeorge School of Law

Fall, 2007 University of Parma (taught Comparative Criminal Law as a Fulbright Senior Specialist)

Fall, 1990-2006 Professor of Law  
McGeorge School of Law

Fall, 2006 University of Davis School of Law  
Adjunct Professor

Spring, 1990 Visiting Professor of Law  
Law Center, University of Mississippi

Fall, Visiting Professor of Law

1989	Tulane University School of Law
1977 - 1990	Professor of Law, Loyola University Law School
Spring, 1988 1989	Tulane University Law School taught Evidence and Torts taught Criminal Procedure
August, 1974 – July, 1977	The Honorable J. Sydney Hoffman Superior Court of Pennsylvania (Judicial clerkship)
Summer, 1973 – April, 1974	Philadelphia District Attorney's Office (Interned for Martin Belsky, Esquire, Chief of Adult Prosecutions)

### Courses

Criminal Law, Criminal Procedure, Federal Courts, Moot Court, Torts, Evidence, Law and Medicine, Civil Procedure, Constitutional Law, Advanced Criminal Procedure, White Collar Crime, Co-Director of Appellate Advocacy, Comparative White Collar Crime, Comparative Criminal Procedure, Appellate Advocacy, Comparative White Collar Crime, Marijuana Law

### Additional Teaching Experience

Spring, 2016	Designed and taught a course at the University of Salzburg, entitled Advising European clients Why and How to Avoid Suit in the United States
Summer, 2012	Designed and taught a course as part of McGeorge's summer program in Salzburg, entitled Comparative Criminal Procedure: Using the Amanda Knox Case to Compare the Italian and American Criminal Justice Systems
Summer, 1998	Co-designed and taught month long program for California's Capital Defenders' Project (training provided for newly hired death penalty appellate attorneys)

### Legislative Reports

2000	Grand Jury Background Report (Co-authored with Clark Kelso)
1984	A Review of Louisiana's Juvenile Transfer Procedures
1983	Living Wills and the Right to Refuse Medical Treatment
1982	The Power of the Legislature to Subpoena Federal Officials

## Books

Bringing Civil Procedure to Life (Carolina Press, to be published in 2017)

Bridge to Practice Series, Criminal Law Simulations (co-authored with Emily Hughes)(West 2015)

Strategies and Techniques for Teaching Criminal Procedure (Aspen, 2013)

Persuasive Written and Oral Advocacy: In Trial and Appellate Courts, Third Edition (co-authored with Michael R. Fontham) (Aspen Publishing Co., 2013)

Bridge to Practice Series, Criminal Procedure Simulations (West 2012)

Bridge to Practice Series, Civil Procedure Simulations (West 2012)

Persuasive Written and Oral Advocacy: In Trial and Appellate Courts, Second edition (co-authored with Michael R. Fontham and David W. Miller) (Aspen Publishing Co., 2007)

Practicing Persuasive Legal Written and Oral Advocacy: Case File III (co-authored with David W. Miller and Michael R. Fontham)(Aspen Publishing Co., 2005)

Practicing Persuasive Legal Written and Oral Advocacy: Case File II (Co-authored with David W. Miller and Michael R. Fontham) (Aspen Publishing Co., 2003).

Persuasive Written and Oral Advocacy: In Trial and Appellate Courts (Co-authored with Michael R. Fontham and David W. Miller) (Aspen Publishing Co., 2002)

Practicing Persuasive Legal Written and Oral Advocacy: Case File I (Co-authored with David W. Miller and Michael R. Fontham) (Aspen Publishing Co., 2002).

## Law Review Articles

### *(a) Refereed Journals*

Vitiello, Michael. "Sentencing Policies and Practices in California." In *Oxford Handbooks Online*, New York: Oxford University Press, forthcoming.

*Still Between a Rock and a Hard Place: Sentencing Reform in California*, 25 Fed. Sentencing Rep. 233 (2013).

*Personal Reflections on Connick v. Thompson*, 11 Ohio State Cr. L. J. 217 (2013).

*Student Law Reviews*

*Justice Scalia's Eighth Amendment Jurisprudence: An Unabashed Foe of Criminal Defendants* (to appear Akron L. Rev. 2017).

*Bargained-for-Justice: Lessons from the Italians* (to appear Pacific Law Review 2017).

*Legalizing Marijuana and Abating Environmental Harm: An Overblown Promise?* (to appear U.C. Davis L. Rev. 2016).

*Mass Incarceration: Why are solutions so difficult in California?* 16 Univ. of Maryland J. of Race, Religion, Gender & Class 229 (2015).

*Teaching Oral Advocacy: Creating More Opportunities for an Essential Skill*, 45 Seton Hall L. Rev. 1031 (2015).

*Limiting Access to US Courts: The Supreme Court's New Personal Jurisdiction Case Law*, 19 U.C. Davis Journal of International Law & Policy 209 (2015)

*Reforming California Sentencing Practice and Policy: Are We There Yet?* 46 McGeorge L. Rev. 685 (2014).

*Reflections on an Extraordinary Career: Thoughts about Gerald Caplan's Retirement*, 46 McGeorge L. Rev. 459 (2014).

*The Expanded Use of Genetic and Psychological Evidence: Finding Coherence in the Criminal Law?* 14 Nev. L. J. 897 (2014).

*Making Good Use of a Crisis*, 20 The Law Teacher 63 (2013).

*Joints or the Joint: Colorado and Washington Square off against the United States*, 91 Or. L. Rev. 1009 (2013).

*Chinese Homicide Law, Irrationality and Incremental Change*, 27 Temple Int'l and Comp. L. J. 43, (2013) (co-authored with Cary Bricker).

*Alternatives to Incarceration: Why is California Lagging Behind?* 28 George State L. J. 1275 (2012)(symposium article).

*Why the Initiative Process Was the Wrong Way to Go: Lessons We Should Have Learned from Proposition 215*, 43 *McGeorge L. Rev.* 63(2011)(symposium article).

*Addressing the Special Problems of Mentally Ill Prisoners*, 88 *Denver L. Rev.* 57 (2010).

*Defining the Reasonable Person in the Criminal Law: Fighting the Lernaean Hydra*, 14 *Lewis and Clark L. Rev.* 1435 (2010)(symposium article).

*Legalizing Marijuana: California's Pot of Gold?* 2009 *Wisconsin L. Rev.* 1349 (2009).

*A Kiss is Just A Kiss or Is It? A Comparative Look at Italian and American Sex Crimes*, 40 *Seton Hall L. Rev.* 191 (2010)(co-authored with Alberto Cadoppi).

*Herring v. United States: Mapp's "Artless Overruling?"*, 10 *Nev. L. J.* 164 (2009).

*Lies, Damn Lies and Claims of Judicial Activism*, 14 *Nexus Journal* 55 (2009)

*Punishing Sex Offenders: When Good Intentions Go Bad*, 40 *Ariz. St. L. J.* 651 (2008).

*Liberal Bias in the Legal Academy: Overstated and Undervalued*, 77 *Miss. L. J.* 507 (2007).

Introduction, *Symposium on Sentencing Guidelines and Practice in a Post-Booker World*, 37 *McGeorge L. Rev.* 487-512 (2006).

*Teaching Effective Oral Argument Skills: Forget about the Drama Coach*, 75 *Miss. L. J.* 869 (2006).

*Professor Kingsfield: The Most Misunderstood Character in Literature*, 33 *Hofstra L. Rev.* 955 (2005).

*A Proposal For a Wholesale Reform of California's Sentencing Practice and Policy*, 38 *Loyola L.A. L. Rev.* 903 (2004)(co-authored with Clark Kelso; contributes from Erwin Chemerinsky, Kevin Reitz, Jonathan Turley and Franklin E. Zimring).

*Reforming Three Strikes' Excesses*, 82 *Wash. U. L. Q.* 1 (2004).

*California's Three Strikes and We're Out: Was Judicial Activism Our Best Hope?* 37 U.C. Davis L. Rev. 1025 (2004)

*Punishment and Democracy: A Hard Look at Three Strikes' Overblown Promises*, 90 Cal. L. Rev. 257 (2002)(book review)

*Reform of California's Grand Jury System*, 35 Loyola (Los Angeles) L. Rev. 513 (2002)(co-authored with J. Clark Kelso).

*What Marc Antony, Lady MacBeth, and Iago Teach Us about the First Amendment*, 2 Nev. L. J. 631 (2002).

*Somewhat Frantic: A Brief Response to Crime, Punishment and Romero*, 40 Duq. L. Rev. 615 (2002).

*The Nuremberg Files: Testing the Outer Limits of the First Amendment*, 61 Ohio St. L. J. 1175 (2000).

*How Imperial Is the Supreme Court? An Analysis of Supreme Court Abortion Doctrine and Popular Will*, 34 U.S.F. L. Rev. 49 (1999)

*Article III Judges and the Initiative Process: Are Article III*

*Judges Hopelessly Elitist?* 31 Loyola L. A. L. Rev. 1275 (1998) (Co-authored with Andrew J. Glendon).

*Proposition 215: De Facto Legalization of Pot and the Shortcomings of Direct Democracy*, 31 U. Mich. J. L. Reform 707 (1998)

*Three Strikes: Can We Return to Rationality?* 87 J. Crim. L. & Criminology 395 (1997)

*Three Strikes and the Romero Decision: The Supreme Court Restores Democracy*, 30 Loyola L.A. L. R. 1643 (1997)

*The Firm Revisited: Somebody at the Justice Department Has Been Reading John Grisham*, 4 Nat'l Italian Am. Bar Ass'n J. 73 (1996)

*More Noise from the Tower of Babel: Making "Sense" out of *Reeves v. Ernst & Young**, 56 Ohio State L. J. 1363 (1995).

*Has the Supreme Court Really Turned RICO Upside Down?: An Examination of *NOW v. Scheidler**, 85 J. Crim. Law & Criminology 1223 (1995)

*Payne v. Tennessee: "Stunning Ipse Dixit,"* 8 Notre Dame Journal of Law, Ethics & Public Policy 165 (1994).

*Does Culpability Matter?: Statutory Construction Under 42 U.S.C. §6928,* 6 Tulane Env. L. J. 187 (1993).

*Reconsidering Rehabilitation,* 65 Tulane L. Rev. 1011 (1991).

*Journal Wars,* 22 St. Mary's L.J. 927 (1991).

*The Appellate Lawyer's Role in the Caseload Crisis,* 58 Miss. L.J. 437 (1988).

*Do We Really Want To Curtail Appeals?* 6 Fifth Cir. Rep. 133 (1988).

*In Defense of Student-Run Law Reviews,* 17 Cumberland L. Rev. 859 (1987).

*Baby Jane Doe: Stating a Cause of Action Against the Officious Intermeddler,* 17 Hastings Law Journal 863 (1986).

*Louisiana's Natural Death Act and Dilemmas in Medical Ethics,* 46 La. L. Rev. 259 (1985).

*An Analysis of Mississippi's Natural Death Act,* 54 Miss. L. J. 459 (1984).

*Letting Seriously Ill Minors Die: A Review of Louisiana's Natural Death Act,* 31 Loyola L. Rev. 67 (1985).

*The Senate's Report on HEREIU: Will RICO Take A Walk on the Boardwalk with Local 254?* 16 Rutgers L.J. 671 (1985).

*Fifth Circuit Symposium: Criminal Law and Procedure,* 30 Loyola L. Rev. 671 (1984).

*The Baby Jane Doe Litigation: An Exercise in Raw Executive Power,* 17 Conn. L. Rev. 95 (1984).

*The Ethics of BRILAB,* 27 How. L. J. 905 (1984).

*The Power of State Legislatures to Subpoena Federal Officials,* 58 Tulane L. Rev. 548 (1983).

*Congressional Withdrawal of Jurisdiction from Federal Courts: A Reply to Professor Uddo,* 28 Loyola L. Rev. 61 (1982).

*Mapp's Exclusionary Rule: Is the Court Crying Wolf?*, 86 Dickinson L. Rev. 15 (1981) (lead author; co-authored with Jane C. Burger).

Trial Manual (1980; a book length volume co-authored with Arthur Lemann and Gerard Rault, for the East Baton Rouge District Attorney's office; funded by a grant from L.E.A.A.) (revised, 1983).

*Independent and Adequate State Grounds: A Stone Unturned by Louisiana's Criminal Defense Bar?*, 25 Loyola L. Rev. 745 (1979).

*Fifth Circuit Symposium: Civil Procedure and Federal Jurisdiction*; 24 Loyola L. Rev. 529 (1978).

*Speedy Trial Under Rule 1100: Administrative Ease or Administrative Agony?*, 50 Temple L.Q. 513 (1977).

*Constitutional Safeguards for Juvenile Transfer Procedure: The Ten Years Since Kent v. United States*, 26 DePaul L. Rev. 23 (1976).

### Selected Presentations

Legalizing Marijuana in the US, Spring 2016 (delivered lecture to criminal law faculty at the University of Salzburg)

Advocate in residence, Washburn Law School, 2015 (gave three presentations on advocacy)

Reforming California Sentencing Practice and Procedure, 2014 (delivered symposium paper)

The New Personal Jurisdiction Case Law: Allowing Foreign Defendants to Avoid American Courts, 2014 (delivered paper to the Northern California Northern California International Law Scholars)

Teaching Oral Advocacy: Creating More Opportunities for an Essential Skill, 2014 (delivered a paper via Skype to Seton Hall symposium on advocacy)

Are we on the road to legalizing marijuana?, 2013 (delivered a lecture to the Northern California Association of Law Librarians)

Integrating Experiential Learning in Traditional Classrooms, 2013 (along with my wife, delivered a lecture and demonstration on how to integrate experiential learning into a traditional classroom)



Wine and the Law, 2013 (delivered a lecture on some of the constitutional issues surrounding the interstate shipment of wine)

Implications of the Legalization of Marijuana in Colorado and Washington, 2013 (delivered a paper at the annual meeting of the Association of American Law Schools)