

Lewis & Clark Law Review

Volume 26

2022

Number 3

ARTICLES

- Set Up to Fail: Youth Probation Conditions as a Driver of Incarceration
Jyoti Nanda.....677
- Immigration Detention as a Violation of Transgender Detainees’ Substantive Due Process Rights
Emily Torstveit Ngara.....749
- Taking *Corwin* Seriously
Itai Fiegenbaum791
- Crime and Excessive Punishment: How the Courts Accelerate the Race to Recidivism
Rachel Kunjummen Paulose831

ESSAY

- The *Other Hand* Formula
Maytal Gilboa & Yotam Kaplan883

NOTES & COMMENTS

- Domestic Terrorism: Not Actually a Crime, But Desperately in Need of a Federal Response
Rebecca K. Tucker909
- The “Rainbow Tax”: Overcoming Repayment Barriers
Hannah C. DeLoach.....935
- Legal Liability for Artificially Intelligent “Robot Lawyers”
Michael Loy951

Lewis & Clark Law Review

Volume 26

2022

Number 3

MANAGING BOARD

Editor in Chief

Talia K. Brumfield

Executive Editors

Sydney Chong Ju Padgett

Brock A. Vasconcellos

Managing Editor

Catherine Mattechek

EDITORIAL BOARD

Articles Editors

Emily Anderson

Kevin Carty

Jackie Dewart

Jessica Fauble

Emily Gilbert

Rachel P. Henry

Ilona Hyett

Dominik MacKinnon

D. Ryan Mets

Colin Milton

Colleen Moore

Hailey Nicole Rethmeier

Justin J. Richter

Katharine Shepherd

Sunny Sidman

Shawn Stevenson

Kenneth Williams

Notes & Comments Editors

Frank Morton-Park

Kristine Quint

Lead Articles Editors

John J. Caufield

Ember DeVaul

Emily Potucek

Matt A. Heldt

Mary Talamantez

Natalia Woodman

Production Editor

Kasey Lundberg

Submissions Editor

River Sterne

FACULTY ADVISORS

John T. Parry

Lydia Pallas Loren

Janet W. Steverson

David Schraub

Tung Yin

LAW REVIEW PROGRAM ASSISTANT

Matty Davis

LEWIS & CLARK LAW SCHOOL

ADMINISTRATION

Robin Holmes-Sullivan, B.A., M.A., Ph.D., *President,
Lewis & Clark College*

Jennifer J. Johnson, B.A., J.D., *Dean and Prof.*

David M. Carter, B.A., M.A.P.P., *Asst. Dean of Fin. &
Admin.*

Elizabeth Davis, B.S., J.D., *Assoc. Dean, Student Affs.*

Rob Truman, B.A., J.D., M.L.S., *Assoc. Dean and Dir.
of Boley Law Libr. and Prof.*

Tiffany Henning, B.A., M.A., *Registrar*

Judy Asbury, B.A., A.P.R., *Asst. Dean of Comms. &
External Rels.*

Mimi Huang, B.A., J.D., *Asst. Dean of Admissions*

John T. Parry, A.B., J.D., *Edward Brunet Prof. of Law
and Assoc. Dean of Fac.*

Devra Sigle Hermosilla, B.A., J.D., *Asst. Dean, Career
& Pro. Dev.*

NATURAL RESOURCES & ENVIRONMENTAL LAW PROGRAM

Janice L. Weis, B.S., J.D., *Assoc. Dean and Dir., Nat.
Res. & Env't Law*

Lucy Brehm, B.A., J.D., *Assoc. Dir, Env't, Nat. Res., &
Energy Law Program*

FACULTY

Paula Abrams, B.G.S., J.D., *Emerita Prof.*

Douglas E. Belooof, B.A., J.D., *Emeritus Prof.*

Lisa Benjamin, B.A., LL.B., LL.M., PhD, *Asst. Prof.*

Toni Berres-Paul, B.A., M.A., M.S., J.D., *Emerita
Prof. of Lawyering*

Brian A. Blum, B.A., LL.B., LL.M., *Prof. and Jeffrey
Bain Faculty Scholar*

Michael C. Blumm, B.A., J.D., LL.M., *Prof. and
Jeffrey Bain Faculty Scholar*

John A. Bogdanski, A.B., J.D., *Prof. and Douglas K.
Newell Faculty Scholar*

Humberto Briceno, *Visiting Int'l Scholar*

Thomas C. Buchele, B.A., J.D., *Clinical Prof. and
Managing Att'y, Earthrise Law Ctr.*

Amy C. Bushaw, A.B., J.D., *Prof.*

Bill Y. Chin, B.S., M.S., J.D., *Prof. of Lawyering*

Henry H. Drummonds, B.A., J.D., *Prof.*

Tabrez Ebrahim, B.S., M.S., M.B.A., J.D., LL.M.,
Assoc. Prof.

Susan Felstiner, B.A., J.D., *Clinical Prof., Small Bus.
Legal Clinic*

George Foster, B.A., J.D., *Prof.*

Pamela Frasch, B.A., J.D., *Assoc. Dean, Animal Law
Program and Prof. & Brooks Scholar of Animal Law
& Policy*

Nick Fromherz, B.A., J.D., *Latin Am. Program Dir.,
Global Law Alliance for Animals & the Env't*

William F. Funk, B.A., J.D., *Lewis & Clark
Distinguished Prof. of Law Emeritus*

Margaret A. Garvin, B.A., M.A., J.D., *Exec. Dir., Nat'l
Crime Victim Law Inst. and Clinical Prof., Crime
Victim Litig. Clinic*

H. Tomás Gómez-Arostegui, B.A., J.D., LL.M., *Prof.
and Kay Kitagawa & Andy Johnson-Laird IP Faculty
Scholar*

John P. Grant, LL.B., LL.M., *Distinguished Prof. of
Law Emeritus*

Pamela Hart, B.B.A., J.D., *Asst. Dean and Exec. Dir.,
Animal Law Studies*

Katherine Hessler, B.A., J.D., LL.M., *Clinical Prof.
and Dir., Animal Law Clinic*

James L. Huffman, B.S., M.A., J.D., *Emeritus Dean
and Prof.*

Steven J. Johansen, B.S., J.D., *Prof. and Dir.,
Lawyering Program*

Craig N. Johnston, B.A., J.D., *Prof.*

Stephen Kanter, B.S., J.D., *Emeritus Dean and Prof.*

Aliza B. Kaplan, B.A., J.D., *Prof. of Lawyering and
Dir., Crim. Just. Reform Clinic*

Robert H. Klonoff, A.B., J.D., *Jordan D. Schmitzer
Prof. of Law*

John Kroger, B.A., M.A., J.D., *Visiting Prof.*

Hadley Van Vactor Kroll, B.S., J.D., *Asst. Prof. of
Lawyering*

Allison LaPlante, B.S., J.D., *Co-Dir., Earthrise Law
Ctr.*

Donald Large, B.A., LL.B., *Emeritus Prof.*

Sarah Lora, B.A., M.A., J.D., *Asst. Clinical Prof. and
Dir., Low Income Taxpayer Clinic*

Lydia Pallas Loren, B.A., J.D., *Henry J. Casey Prof. of
Law*

Erica Lyman, B.A., J.D., *Clinical Prof., Global Law
Alliance for Animals & the Env't*

Kathleen Maloney, B.A., M.A., J.D., MSt., *Visiting
Prof.*

Susan F. Mandiberg, B.A., M.S., J.D., *Lewis & Clark Distinguished Prof. of Law*
 Russ Mead, B.S., C.P.A., M.B.A., J.D., *Shared Earth Found. Visiting Prof.*
 Judith Miller, B.A., J.D., LL.M., *Visiting Prof. of Lawyering*
 Douglas K. Newell, B.A., J.D., *Edmund O. Belsheim Prof.*
 Michele Okoh, B.A., J.D., M.P.H., *Asst. Prof.*
 James Oleske, B.A., J.D., *Prof.*
 Samir D. Parikh, B.B.A., J.D., *Prof.*
 Sandy Patrick, B.S., J.D., *Prof. of Lawyering*
 Melissa Powers, B.A., J.D., *Jeffrey Bain Faculty Scholar and Prof. & Dir., Green Energy Inst.*
 Rajesh K. Reddy, B.A., M.A., M.F.A., J.D., Ph.D., *Program Dir., Global Animal Law & Animal Law Advanced Degree*

Daniel J. Rohlf, B.S., J.D., *Prof. and Of Counsel, Earthrise Law Ctr.*
 Barbara Safriet, B.A., J.D., LL.M., *Visiting Prof.*
 James N. Saul, B.S., J.D., *Assoc. Clinical Prof. & Staff Attorney, Earthrise Law Center*
 David Schraub, B.A., J.D., M.A., Ph.D., *Asst. Prof.*
 Janet W. Steverson, B.A., J.D., *Douglas K. Newell Prof. of Teaching Excellence*
 Juliet Stumpf, B.A., J.D., *Robert E. Jones Prof. of Advoc. & Ethics*
 Elaine Sutherland, LL.B., LL.M., *Distinguished Prof. Emerita*
 Joyce Tischler, B.A., J.D., *Prof. of Practice*
 Chris A. Wold, B.A., J.D., *Prof. & Dir., Int'l Env't Law Program*
 Tung Yin, B.S., M.J., J.D., *Prof.*

ADJUNCT FACULTY

Joe Adams
 Juhi Aggarwal
 Nika Aldrich
 Emil Ali
 Mary C. Bodine
 Tony Bornstein
 Rob Bovett
 Kristen Boyd
 Susan Jane Brown
 Jacob Bush
 Dagmar Butte
 Nathan Christensen
 Frank Curci
 Nadia Dahab
 Mieke de Vrind
 William Earle
 Paul Ehrlich
 Jason Eisdorfer
 Ada Ejikeme
 David Elkanich
 Dan Eller
 Alan Galloway
 Patricia Gibson
 Brad Grenham
 Brad Harris
 Scott Heiser
 Natalie Hollabaugh
 Dan Housley
 Jacqueline Jacobson
 Scott Jerger
 Tate Justesen
 Jake Kamins
 Somya Kaushik
 J.B. Kim
 George Kimbrell
 Edward A. Kroll
 Corin La Pointe-Aitchison
 Evan Lenneberg
 Matt Levin
 Gregory Levinson

Christopher Lewis
 Jeffrey Litwak
 Caroline Lobdell
 Lisa Ludwig
 Lauren MacNeill
 Honorable Judith Matarazzo
 Melissa May
 Honorable Rich Melnick
 Nathan Morales
 Courtney Moran
 Sandra Naranjo
 Daniel Nichols
 Troy Nixon
 Jonathan Norling
 Honorable Darleen Ortega
 Joe O'Leary
 Christina Parker
 Chris Parrucci
 Joanna Perini-Abbott
 Janis Puracal
 Jennifer Richman
 Peter Richter
 Nancy Rosenbloom
 David Rosengard
 Karen Russell
 Irion Sanger
 David Silverman
 Joni Slinger
 Joshua W. Smith
 Natasha Smith
 Wendy E.D. Smith
 Javier Spyker
 Dennis Stubblefield
 David Sugerman
 Edward Sullivan
 Mark Tratos
 Michele Wasson
 Simon Whang
 Ashley Yorra
 Jessie Young