

SUSAN F. MANDIBERG

Lewis & Clark Law School
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EDUCATION

BOALT HALL SCHOOL OF LAW, UNIVERSITY OF CALIFORNIA, Berkeley, California, J.D., 1975
Extern Law Clerk for the Hon. Alfred T. Goodwin, United States Court of Appeals for the Ninth Circuit (Spring, 1975)

UNIVERSITY OF ILLINOIS, Urbana, Illinois, M.A., 1970 (anthropology)
Field research in Saraguro, Loja Province, Ecuador

OBERLIN COLLEGE, Oberlin, Ohio, B.A. (1968)
Cum laude, High Honors in Anthropology

ACADEMIC EMPLOYMENT

NORTHWESTERN SCHOOL OF LAW, LEWIS & CLARK COLLEGE, Portland, Oregon. *Associate Dean of Law Faculty, Jeffrey Bain Faculty Scholar, and Professor of Law*. On the faculty since 1980; tenured full Professor since 1985; Jeffrey Bain Faculty Scholar since 2011-2016; Distinguished Professor of Law 2016-present; Assoc. Dean of Faculty 2013-2016.

Major Courses Taught (current in italics): *Criminal Procedure I; Criminal Law I; Environmental Enforcement; Federal Courts; Comparative Criminal Procedure*.

FULBRIGHT SCHOLAR, Caracas, Venezuela (1988-89)
Professor in Faculty of Law, Universidad Católica Andrés Bello (Seminar on Comparative Criminal Procedure); Professor in Faculty of Juridical & Political Sciences, Universidad Central de Venezuela (Course on Comparative Constitutional Law, co-taught with Venezuelan professor)

UNIVERSITY OF SAN DIEGO SCHOOL OF LAW, Guest Professor, Summer Abroad
Barcelona, Spain, 2011. Course: Comparative Criminal Procedure.

ADDITIONAL PROFESSIONAL EXPERIENCE

UNITED STATES DEPARTMENT OF JUSTICE

Special Assistant United States Attorney, District of Oregon (part time, Apr. 1999- Dec. 2000)

STOEL, RIVES, BOLEY, FRASER & WYSE, Portland, Oregon

Associate (May, 1978-December, 1979)

FEDERAL DEFENDER SERVICES, INC., Portland, Oregon

Staff Attorney (1977-78)

METROPOLITAN PUBLIC DEFENDER, Portland, Oregon

Staff Attorney (1975-77)

SELECTED PUBLICATIONS

Books and Book Contributions

CRIMES AGAINST THE ENVIRONMENT (Michie 1997 and annual supplements through 2004) (co-authored by Susan L. Smith).

“Criminal Enforcement,” in Michael Gerrard, ed., ENVIRONMENTAL LAW PRACTICE GUIDE ch. 12C. (2004).

“Mental State,” in LeRoy C. Paddock, David L. Markell, and Nicholas S. Bryner, eds., COMPLIANCE AND ENFORCEMENT OF ENVIRONMENTAL LAW 189 (Elgar Encyclopedia of Environmental Law 2017).

“Strict Liability,” in Encyclopedia of Criminology and Criminal Justice, Jay S. Albanese, ed. (Wiley Online Library 2013).

Imposição Criminal das Leis de Proteção Ambiental, in Vladimir Passos de Freitas, ed., DIREITO AMBIENTAL EM EVOLUÇÃO (Curitiba, Juruá Editorial 1998).

Law Review Articles

Twists in the Use of Warren Court Fourth Amendment Rhetoric: Searches, Reasonableness, Good Faith, 51 Univ. of Pac. L. Rev. 101 (2020)

A Hybrid Approach to Marijuana Federalism, *Lewis & Clark Law Review* 823 (2019)

Alcohol- and Drug-Free Housing: A Key Strategy in Breaking the Cycle of Addiction and Recidivism, 46 McGeorge L. Rev. 839 (2015) (co-authored with Richard L. Harris)

Marijuana Prohibition and the Shrinking of the Fourth Amendment, 43 McGeorge L. Rev. 23 (2012).

Would Serious Criminal Sanctions Apply if Bhopal Occurred in the United States?, 2 INDIAN YEARBOOK OF INTERNATIONAL LAW AND POLICY 11 (2010-11) (co-authored with Marcel Gesmundo).

Reasonable Officers vs. Reasonable Lay Persons in the Supreme Court's Miranda and Fourth Amendment Cases, 14 LEWIS & CLARK LAW REVIEW 1481 (2010).

Locating the Environmental Harm in Environmental Crimes, 2009 UTAH L. REV. 1177.

A Graduated Punishment Approach to Environmental Crimes: Beyond Vindication of Administrative Authority in the United States and Europe (co-author Michael G. Faure), 34 COLUM. J. ENVT'L. L. 447 (2009).

Why Sentencing by a Judge Satisfies the Right to Jury Trial: A Comparative Law Look at Blakeley and Booker, 40 MCGEORGE L. REV. 107 (2009).

Fault Lines in the Clean Water Act: Criminal Enforcement, Continuing Violations, and Mental State, 33 ENVT'L. L. 173 (2003).

Federal Criminal Enforcement in States with Authorized Hazardous Waste Programs: Does it Exist?, included in WHITE COLLAR CRIME 2001 (ABA Center for Continuing Legal Education and the Criminal Justice Center, 2001).

Moral Issues in Environmental Crimes, 7 FORDHAM ENVT'L. L.J. 881 (1996).

The Dilemma of Mental State in Federal Regulatory Crimes: The Environmental Example, 25 ENVT'L. L. 1165 (1995).

Protecting Society and Defendants Too: the Constitutional Dilemma of Mental Abnormality and Intoxication Defenses, 53 FORDHAM L. REV. 221 (1984).

Other Publications

Three blogs for Scotusblog on *Southern Union Co. v. United States*, 132 S.Ct. 2344 (2012): *Argument preview: Does Apprendi limit judicial fact finding relevant to the imposition of criminal fines?*, SCOTUSblog (Mar. 15, 2012, 11:51 AM), <http://www.scotusblog.com/2012/03/argument-preview-does-apprendi-limit-judicial-fact-finding-relevant-to-the-imposition-of-criminal-fines/>; *Argument recap: Jury determination of facts supporting fines? And restitution? And forfeiture?*, SCOTUSblog (Mar. 24, 2012, 7:41 PM), <http://www.scotusblog.com/2012/03/argument-recap-jury-determination-of-facts-supporting-fines-and-restitution-and-forfeiture/>; *Opinion analysis: Imposition of criminal fine implicates Sixth Amendment right to jury trial* (June 24, 2012, 8:36 pm),

<http://www.scotusblog.com/2012/06/opinion-analysis-imposition-of-criminal-fine-implicates-sixth-amendment-right-to-jury-trial/>

What Does an Environmental Criminal Know?, 23-WTR NAT. RESOURCES & ENV'T. 24 (2009)

Parameters for Use of Intoxication & Addiction Evidence in Criminal Cases, published as part of materials distributed in conjunction with OCDLA "States of Mind Program", August 24-25, 1990, Newport, Oregon.

The Venezuelan Criminal Process, written materials presented in conjunction with presentation to Lewis & Clark Alumni CLE, October, 1989).

Lo Formal y lo Procesal en la Vida Constitucional: Observaciones, POLITEMAS: LA REVISTA DE LOS PROCESOS Politicos 26 (Año 3 #8, 1989, Caracas).

Civil Commitment of Alcoholics: Readjusting the Focus, 45 OR. STATE BAR BULL. 44 (Feb/Mar 1985).

SELECTED CONFERENCES AND SPEAKING ENGAGEMENTS

Enforcement of Environmental Laws

Federal Judicial Center

1994 Criminal Procedure Seminar -- Palm Beach (June/July 1994) and Portland (July/August 1994): *Criminal Enforcement of Environmental Statutes*.

Federal Judicial Center, 1993 Criminal Procedure Seminar -- Portland, August 9, 1993: *Criminal Enforcement of Environmental Statutes*.

Federal Judicial Center and Lewis & Clark Law School

Seminar on Environmental Law, Portland: *Criminal Enforcement of Environmental Statutes*, Fall, 2016, 2013, 2012, 2011; 2009; 2008; 2007; 2006; 2002; 2002; 1997; 1996; 1994; 1993; 1992.

Lewis & Clark Law School

Reasonable Officers vs. Reasonable Lay Persons in the Supreme Court's Miranda and Fourth Amendment Cases, Spring Symposium: Who is the Reasonable Person?, April 9, 2010

Criminal Enforcement of a Regulatory Scheme, Wetlands, and Possible Fault Lines in the Clean Water Act, The Clean Water Act Turns 30: Celebrating its Past, Predicting its Future, Portland, Or., October 17-18, 2002.

Criminal Enforcement in Environmental Cases, Environmental & Natural Resources Law Seminar for Members of the Brazilian Legal Community, Fall 1999; May, 1998; May, 1997.

Moderator, Environmental Crimes, 11th Annual Hazardous Waste Law & Management Conference, Portland Or., December, 1994.

Moderator, Environmental Crimes & Federal Sentencing Guidelines CLE (with Ilene Nagel, Tom Lindley, Kent Robinson), September 23, 1994.

Criminal Law: Analyzed and Applied to Environmental Law, Third Annual Hazardous Waste Law and Management Conference (with James R. Moore, Regional Counsel for the Environmental Protection Agency, Region 10), 1986.

Other U.S. Presentations

Twists in the Use of Warren Court Fourth Amendment Rhetoric: "Searches," "Reasonableness," and "Good Faith," presented at "The Warren Court's Criminal Procedure Revolution: A 50-year Retrospective", Univ. of the Pacific McGeorge School of Law, Oct. 11, 2019.

Fourth Amendment Issues. Spokane, Washington, April 13, 2015. One-day in-service training class for U.S. Fish & Wildlife Service Wildlife Refuge officers.

"Environmental Criminal Prosecution: Essential Tool or Government Overreaching?", S.J. Quinney College of Law, Univ. of Utah, January 22, 2009: Presenter: *Locating the Environmental Harm in Environmental Crimes*.

International Union for the Conservation of Nature and Natural Resources, Academy of Environmental Law: Conference at Pace University Law School: Chair, Panel on Criminal Enforcement, Fall, 2006.

University of Indiana, Indianapolis, *Doing it Right: Corporate Responsibility, Ethics, and the Environment*, "Criminal Enforcement of Environmental Laws: Who is the Outlaw?" October 15, 2003.

Fordham University School of Law, Symposium: Recent Developments in Environmental Crime, "Mens Rea in Environmental Crime," February 19, 1996.

American Bar Association White Collar Crime Conference: Speaker, Environmental Crime Panel, 1999, 2001.

United States Embassy, Caracas, Venezuela

Lecture tour sponsored by the United States Information Service and the United States Embassy, Caracas, covering various aspects of environmental law in the United States, May, 1993. Lectures and workshops were conducted at the Central University of Venezuela; the Venezuelan Ministry of the Environment; LAGOVEN, one of Venezuela's two oil companies; the

Venezuelan Supreme Court of Justice; ECONATURA, one of Venezuela's major environmental citizen groups; Baker & McKenzie, an international law firm; the Ezequiel Zamora National Experimental University of the Western Plains, Guanare; the University of the Andes, Mérida; and the Venezuelan-American Center of Zulia.

University of the Basque Country, San Sebastian, Spain

Lectures and workshops, in Spanish, on aspects of environmental law and legal education in the United States, March, 1992: The challenges of a special law school program in environmental law; Substantive environmental and resources law in the United States: an overview; Enforcement mechanisms in environmental and resources law in the United States: an overview; Criminal enforcement of environmental and resources statutes in the United States.

National Law School of India University, Bangalore, India

Short course on enforcement of pollution control laws in the United States, July, 2010.

Universidad Sergio Arboleda, Bogotá, Colombia

El Acatamiento de las Leyes Ambientales de E.E.U.U. [Enforcement of Environmental Laws in the United States], Universidad Sergio Arboleda, Bogotá, Colombia, October 17-18, 2014. Two-day class given to Master of Laws students, in Spanish.

United States Criminal Law & Procedure

Law School Conferences

Alcohol- and Drug-Free Housing: A Key Strategy in Breaking the Cycle of Addiction and Recidivism, at "The Long Overdue Reform of California's Sentencing Practice and Policy Symposium, McGeorge School of Law, Sacramento, Calif., Nov. 7, 2014.

Marijuana Prohibition and the Shrinking of the Fourth Amendment, The Road to Legitimizing Marijuana: What Benefit At What Cost?, McGeorge School of Law, April 15, 2011.

Reasonableness in Searches and Confessions, Who is the Reasonable Person?, Lewis & Clark Law School Spring Symposium, April 9, 2009.

Oregon Criminal Defense Lawyers Association

The Reasonable Person Vis a vis Suppression/Miranda Issues, Search & Seizure Seminar, Sept. 24-25, 2010, Newport, Oregon.

What Do Marion Barry & Michael Deaver Have in Common? -- Drug and Alcohol Defenses, in OCDLA "States of Mind Program", August 24-25, 1990, Newport Oregon.

Can the Prosecutor Be Forced to Investigate for the Defense? Or Can the Defense Otherwise Engage in 'Coercive' Investigative Practices?, Oregon Criminal Defense Lawyers' Association Seminar on Discovery and Trial Preparation, 1987.

Miranda Warnings: When, Where, What, and So What?, Oregon Criminal Defense Lawyers Association Conference on Police Interrogations and Suspect Confessions, 1981.

Comparative Law (non-environmental)

University of Parma, Parma, Italy: participant, 2-week seminar on recent developments in European criminal law & procedure, co-sponsored by University of Parma and Temple University Beasley School of Law, June-July, 2007.

Lewis & Clark Law School: *Criminal Justice in Venezuela*, Lewis & Clark Law School Alumni CLE, 1989.

United States Embassy, Caracas, Venezuela - Lectures during Fulbright year (1988-89).

- *La Constitución Viva*, presentation to Maracaibo, Venezuela, Bar Association on the development of constitutional interpretation in Venezuela and the United States.
- *El Sistema Norteamericano de Enjuiciamiento Penal*, presentation to San Cristóbal, Venezuela, Bar Association on the North American criminal justice system .
- *La Estructura Formal de las Relaciones Entre los Gobiernos Federales, Estatales, y Locales en Los Estados Unidos*, Symposium on the Reform of the State and its Achievement in Venezuela, sponsored by the Faculty of Law of the University of Carabobo and the Bar Association of Valencia, Venezuela.
- *Centralización, Decentralización, y Democracia en las Cortes Federales de los Estados Unidos*, presentation to symposium on federalism sponsored by COPRE (Venezuela's Presidential Commission for the Reform of the State) and the United States Embassy, Caracas.

University of the Basque Country, San Sebastian, Spain: *Judicial Federalism in the United States*, Address to Faculty of Law, March, 1992.

Universidad Latina de America, Morelia, Michoacán, Mexico, April 2004: 1-week symposium on the United States “oral trial” approach to criminal adjudication, in conjunction with Hon. Edward Jones (Multnomah Co. Circuit Court) and Constance Crooker. Materials (in Spanish) on “oral trials”; classes with law students; mock homicide trial, in Spanish, for an audience of approximately 150 judges, lawyers, and students.

Miscellaneous

Oregon State Bar Juvenile Law Section, *Race, Class, and Culture in Juvenile Court*, “Language, Miranda, and Competency: When Does Age Matter?” (Portland, OR, Apr. 22, 2004).

Juvenile Rights Project CLE, “Recent Oregon Appellate and U.S. Supreme Court Decisions,” (Portland, OR October 2, 2000).

AALS Equal Justice Conference, “Integrating Equal Justice Issues Into Substantive Courses,” (Seattle, WA January 20, 2001).

SELECTED LEADERSHIP AND ADMINISTRATIVE RESPONSIBILITIES

LEWIS AND CLARK LAW SCHOOL

Associate Dean of Faculty, 2013-2016

Global Law Committee, Founding Chair

Administration of Global Law Certificate; administration of internship program for Lewis & Clark students in Beijing, China; administration of MOUs with national law schools in India; administration of internship program for Lewis & Clark students involving placements with a variety of law firms and NGOs in various cities in India; development of MOUs with law schools in Germany and Liechtenstein; hosting foreign visitors to the law school; liaison activities with international law community in Portland.

Law School and Campus-wide DEI Committees, Occasional Chair, Occasional Member

Development of policies and procedures regarding diversity-related issues on campus; sponsorship of activities promoting teaching of diversity as it relates to law.

Law School Curriculum Committee, Occasional Chair, Occasional Member.

Public Interest Law Council, Loan Repayment Assistance Program, Chair

Development and administration of program to provide income assistance to recent graduates who practice low-salary public interest law.

Public Interest Law Project, Occasional Member of Advisory Board and Summer Stipend Committee

Advisor to student-run program to support students engaged in public interest law.

College-wide Strategic Planning: Convener of International Education workgroup, Spring, 2012

COMMUNITY

METROPOLITAN PUBLIC DEFENDER, INC., Board of Trustees

FRIENDS OF CHAMBER MUSIC, Board Member

BAR ADMISSIONS

1975 Oregon State Bar (currently Active Pro Bono).