

# JOSH BOWERS

PROFESSOR OF LAW, UNIVERSITY OF VIRGINIA SCHOOL OF LAW  
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## TEACHING EXPERIENCE

**The University of Virginia School of Law**, Charlottesville, VA  
*Professor of Law*, 2013 – Present  
*Associate Professor of Law*, 2008 – 2013

**Faculty of Law at the Hebrew University of Jerusalem**, Jerusalem, Israel  
*Visiting Professor of Law*, April-May 2022

**Faculty of Law at the University of Münster**, Münster, Germany  
*Visiting Professor of Law*, June 2010, May 2019

**The University of Chicago Law School**, Chicago, IL  
*Bigelow Teaching Fellow and Lecturer in Law*, 2006 – 2008

**Fordham Law School**, New York, NY  
*Adjunct Associate Professor*, 2005 – 2006

## EDUCATION

**New York University School of Law**  
J.D., *magna cum laude*, 2001  
*Order of the Coif*  
Florence Allen Scholar  
Notes Editor, *New York University Law Review*

**University of Wisconsin, Madison**  
B.A., History and Political Science, 1995  
*Phi Beta Kappa*  
Graduated with Distinction in both majors (highest honors)

## PUBLICATIONS & WORKS IN PROGRESS

**McCleskey Accused: Justice Powell & the Moral Price of Judicial Pride**, 2 AM. J. L. & EQUAL. 122 (2022)

**What If Nothing Works? On Crime Licenses, Recidivism, and Quality of Life**, 107 VA. L. REV. 959 (2021)

**Kicking the Habit: The Opioid Crisis, America's Addiction to Punitive Prohibition, and the Promise of Free Heroin**, 80 OHIO ST. L.J. 787 (2019) (invited contribution)

**Annoy No Cop**, 166 U. PA. L. REV. 129 (forthcoming 2017), *cited in United States v. Diaz*, 15-3776-cr (2d Cir. Apr. 18, 2017)

**Upside-Down Juries**, 111 NW. U. L. REV. 1655 (forthcoming 2017) (invited contribution)

**What's Wrong with Sentencing Equality? Sentencing Legality. A Response to Professors Bibas & Bierchbach**, 102 VA. L. REV. ONLINE 120 (2016) (invited contribution).

**The Case for Compassionate Policing**, VA. MAG. (Spring 2015), *reprinted in AMERICA NOW: SHORT READINGS FROM RECENT PERIODICALS* (Arthur Johnson, ed.) (MACMILLAN LEARNING 2017)

***Plea Bargaining's Baselines***, 57 WM. & MARY L. REV. 1083 (2016) (invited contribution)

***Probable Cause, Constitutional Reasonableness & the Unrecognized Point of a "Pointless Indignity"***, 66 STAN. L. REV. 987 (2014), *excerpted in* JOSHUA DRESSLER, UNDERSTANDING CRIMINAL PROCEDURE: ADJUDICATION (LEXISNEXIS 2017).

***Two Rights to Counsel***, 70 W&L L. REV. 1133 (2013) (invited contribution)

***Lafler v. Cooper, Missouri v. Frye, and the Subtle Art of Winning by Losing***, 25 FED. SENT'G REP. 126 (Dec. 2012) (invited contribution)

***The Normative Case for Normative Grand Juries***, 47 WAKE FOREST L. REV. 319 (2012) (invited contribution), *cited in* *United States v. Stevenson*, 2:17-00047-cr (S.D. W.Va. Apr. 12, 2018)

***Perceptions of Fairness and Justice: The Shared Aims and Occasional Conflicts of Legitimacy and Moral Credibility***, 47 WAKE FOREST L. REV. 211 (2012) (with Paul H. Robinson), *cited in* *Rosales-Mireles v. United States*, 138 S.Ct. 1897 (2018); *cited in* *United States v. Pérez-Rodríguez*, No. 19-1538 (1st Cir. 2021); *excerpted in* PAUL H. ROBINSON, CRIMINAL LAW: CASE STUDIES & CONTROVERSIES (3d ed. Aspen Publishing 2012)

***Life Without Parole and the Death of Equitable Discretion***, in LIFE WITHOUT PAROLE: THE NEW DEATH PENALTY (Austin Sarat & Charles Ogletree, eds.) (NYU Press, 2012) (invited contribution)

***Blame by Proxy: Political Retributivism and its Problems, a Response to Dan Markel***, 1 VA. J. CRIM L. 138 (2012) (invited contribution)

***Fundamental Fairness & the Path from Santobello to Padilla: A Response to Professor Bibas***, 2 CAL L. REV. CIR. 52 (2011) (invited contribution)

***Physician, Heal Thyself: Discretion and the Problem of Excessive Prosecutorial Caseloads, A Response to Adam Gershowitz and Laura Killinger***, 106 N.W. L. REV. COLLOQUY 143 (2011) (invited contribution)

***Legal Guilt, Normative Innocence, and the Equitable Decision Not to Prosecute***, 110 COLUM. L. REV. 1655 (2010)

***Grand Jury Nullification: Black Power in the Charging Decision***, in CRIMINAL LAW CONVERSATIONS (Paul Robinson, Kim Ferzan & Stephen Garvey, eds.) (Oxford Press 2009)

***Accuracy and Legitimacy***, in CRIMINAL LAW CONVERSATIONS (Paul Robinson, Kim Ferzan & Stephen Garvey, eds.) (Oxford Press 2009)

***The Unusual Man in the Usual Place: A Reply to Professors Stephanos Bibas, George Thomas, and Ronald Wright***, 157 U. Pa. L. Rev. PENNUMBRA 260 (2009)

***Punishing the Innocent***, 156 U. PA. L. REV. 1117 (2008), *cited in* *Commonwealth v. Verbeck*, No. 1 MAP 2022, 2023 WL 2342405 (Penn. Feb. 28, 2023)

***Contraindicated Drug Courts***, 55 UCLA L. REV. 783 (2008), *excerpted in* Alex Kreit,

CONTROLLED SUBSTANCES: CRIME, REGULATION AND POLICY (Carolina Academic Press 2013)

*Grassroots Plea Bargaining*, 91 MARQ. L. REV. 85 (2007) (invited contribution)

*The Integrity of the Game is Everything: Geographic Disparity in Three Strikes*, 76 N.Y.U. L. REV. 1164 (2001) (student note)

*Eternal Sunshine of the Legal Mind: Institutionalism & the Forgotten World* (manuscript in progress)

RESEARCH INTERESTS	Criminal Procedure, Criminal Law, Criminal Theory, Criminal Justice, Plea Bargaining, Police & Prosecutorial Discretion, Misdemeanor Enforcement & Adjudication, Right to Counsel, Juries, Drug Treatment Courts, Drug Policy, Police & Society, Constitutional Law, Jurisprudence
COURSES TAUGHT	Substantive Criminal Law, Constitutional Law, Criminal Procedure Survey, Criminal Adjudication, Contemporary Debates in Criminal Law, Plea Bargaining, Advanced Topics in Law & Public Service, Rule of Law & Its Threats, Race & Criminal Law
LAW SCHOOL SERVICE	<p>Academic Review Committee, <i>Chair</i>, 2023 – Present</p> <p>Ad-Hoc Tenure Committee, <i>Chair</i>, 2022</p> <p>Law &amp; Public Service Program, <i>Co-Director</i>, 2013 – 2017; <i>Faculty Advisor and Mentor</i>, 2017 – Present</p> <p>Faculty Publications Committee, <i>Co-Chair</i>, 2020 – 2023</p> <p>Tenure Appointments Subcommittee, <i>Chair</i>, Fall 2022</p> <p>Public Service Committee, <i>Co-Chair</i>, 2014 – 2017, 2018 – Present</p> <p>Claire Corcoran Award Selection Committee, <i>Committee Member</i>, 2014 – Present</p> <p>Powell Fellowship Selection Committee, <i>Committee Member</i>, 2014 – Present</p> <p>Street Law Program, <i>Faculty Advisor</i>, 2011 – Present</p> <p>Ad-Hoc Committees on Hiring, <i>Committee Member</i>, 2015, 2019, 2021; <i>Chair</i>, 2016-17</p> <p>Center for Study of Race and Law Committee, <i>Member</i>, 2018 – 2019</p> <p>Gregory Swanson Award Selection Committee, <i>Committee Member</i>, 2019</p> <p>Symposium: One Year After Charlottesville, <i>Co-Organizer</i>, 2018</p> <p>Appointments Committee, <i>Vice Chair</i>, 2017 – 2018</p> <p>Annual “Shaping Justice” Conference, <i>Co-Organizer</i>, 2016 – 2017; <i>Moderator</i>, 2020</p> <p>Workshop Committee, <i>Committee Member</i>, 2013-14, 2016 – 2017</p> <p>Immigration Program Committee, <i>Committee Member</i>, 2014 – 2016</p> <p>Student Scholarship Committee, <i>Chair</i>, 2010 – 2011, 2015 – 2016</p>

**Ad-Hoc Committees on Promotion and Retention**, *Committee Member*, 2014; *Chair*, 2013  
**AALS, House of Representatives**, *UVA Representative*, 2014  
**Curriculum Committee**, *Committee Member*, 2013 – 2014  
**Faculty Retreat & Workshops Committee**, *Committee Member*, 2013 – 2014  
**Graduation Awards Committee**, *Chair*, 2012 – 2013  
**Graduate Program Committee**, *Committee Member*, 2011 – 2013  
**Academic Affairs Committee**, *Committee Member*, 2009 – 2010  
**May Gathering**, *Co-Organizer*, 2009

**OTHER  
PROFESSIONAL  
SERVICE**

**Virginia Criminal Justice Conference**, *Member*, 2023 – Present  
**The Bronx Defenders 25<sup>th</sup> Anniversary Alumni Committee**, *Member and Chair of Panel Event Subcommittee*, 2022 – Present  
**Virginia Harm Reduction Coalition**, *Consultant*, 2021 – 2022  
**Legal Aid Justice Society**, *Board Member*, 2014 – Present; *Budget Committee Member*, 2020 – Present  
*Yale Law Journal*, *Peer Referee*, occasional  
*Harvard Law Review*, *Peer Referee*, occasional  
*Stanford Law Review*, *Peer Referee*, occasional  
*Law & Philosophy*, *Peer Referee*, occasional  
**Leadership in Academic Matters**, *Faculty Participant*, 2019 – 2020  
**Uniform Law Commission, Alternatives to Bail Committee**, *Reporter*, 2018 – 2020  
**Charlottesville Civilian Review Board**, *Member*, 2018 – 2019  
**Pan-University Risk Management Committee**, *Committee Member*, 2016 – 2018  
**Charlottesville Police Foundation**, *Board Member*, 2011 – 2013  
**ABA Comprehensive Representation Task Force**, *Committee Member*, 2010 – 2013

**JUDICIAL  
CLERKSHIP**

**The Honorable Dennis Jacobs**,  
**United States Court of Appeals for the Second Circuit**, New York, NY  
*Judicial Clerk*, 2001 – 2002

**OTHER  
PROFESSIONAL  
EXPERIENCE**

**The Bronx Defenders**, Bronx, NY  
*Staff Attorney*, 2003 – 2006  
**Morvillo, Abramowitz, Grand, Iason, Anello & Bohrer**, New York, NY  
*Associate*, 2002 – 2003  
**Legal Aid Society, Juvenile Rights Division**, Brooklyn, NY  
*Legal Intern*, 2000 – 2001

**Legal Aid Society, Federal Defender Division**, Brooklyn, NY  
*Summer Legal Intern*, 2000

**Legal Services for Prisoners with Children**, San Francisco, CA  
*Summer Legal Intern*, 1999

**Prisoners' Rights Education Project**, Bedford Hills, NY  
*Director and Teacher*, 1998 – 2000

**"The People's Court,"** New York, NY  
*Legal Researcher*, 1998 – 1999

**DeZavala Elementary School**, Houston, TX  
*Fifth Grade Teacher*, 1995 – 1997

**SELECTED PRESENTATIONS**     **Public Defenders in Law Teaching**, CrimFest Conference, Brooklyn Law School, July 2023  
(panel organizer and participant)

**From Courtroom to Classroom: Bringing Holistic Defense to Legal Education**, The Bronx Defenders, July 2023 (panel organizer and participant)

**"McCleskey Accused,"** CrimFest Conference, Cardozo School of Law, July 2022

**"McCleskey Accused,"** Summer Faculty Workshop, University of Virginia School of Law, June 2022

**"McCleskey Accused,"** Neighborhood Criminal Law Conference, University of Virginia School of Law, May 2022

**"McCleskey Accused,"** Criminal Justice Workshop, Hebrew University, April 2022

**"What If Nothing Works?"** Faculty Workshop, University of Virginia School of Law, November 2020

**"Addiction Maintenance & the Promise of Free Heroin,"** Conference on the Opioid Crisis in Rural America, Moritz College of Law, October 2018

**"Crime Licenses,"** Summer Faculty Workshop, University of Virginia School of Law, July 2018

**"Crime Licenses,"** Law & Society Annual Meeting, June 2018

**"Crime Licenses,"** Faculty Workshop Series, St. Johns University School of Law, April 2018

**"Upside-Down Juries,"** Democratizing Criminal Law Conference, Northwestern University Pritzker School of Law, November 2016

**"Annoy No Cop,"** Criminal Law & Criminal Justice Seminar, London School of Economics, October 2016

**“Understanding the Police,”** Faculty Workshop, University of Virginia School of Law, April 2016

**“The Legality of Indignity, The Power of Equal Concern and Respect: Community Policing in the Age of ‘Black Lives Matter’,”** National Executive Institute, September 2015 (presentation to approximately fifty police chiefs, FBI agents, and other senior law enforcement officials)

**“Legality & Rough Justice,”** UW Law Colloquium, University of Washington School of Law, March 2015

**“Plea Bargaining & Coercion’s Constitutional Baselines,”** Plea Bargaining Regulation: The Next Criminal Procedure Frontier, William & Mary Law School, February 2015

**“Legality & Rough Justice,”** Summer Faculty Workshop, University of Virginia School of Law, June 2014

**“Legality as a License, not a Limit,”** AALS Workshop on Criminal Justice, June 2013

**“Two Rights to Counsel,”** Law & Society Annual Meeting, June 2013

**“A Dignitary Approach to the Fourth Amendment,”** The University of Chicago Criminal Justice Roundtable, April 2013

**“A Dignitary Approach to the Fourth Amendment,”** Faculty Workshop Series, University of Missouri Law School, April 2013

**“Drug Courts & Drug Policy,”** Moderator, Conference on Criminal Law & the Modern Court, New York University School of Law, Center on the Administration of the Criminal Law, April 2013

**“A Dignitary Approach to the Fourth Amendment,”** Criminal Theory Colloquium, New York University School of Law, March 2013

**“Two Rights to Counsel,”** *Gideon at 50: Reassessing the Right to Counsel Symposium*, Washington & Lee School of Law, November 2012

**“Police, Prosecutors, and Misdemeanors,”** Misdemeanor Roundtable, New York University School of Law, July 2012

**“The Unrecognized Constitutional Point of a ‘Pointless Indignity,’”** Summer Faculty Workshop, University of Virginia School of Law, July 2012

**“Equitable Discretion as a Rule of Law,”** Public Law & Legal Theory Workshop, University of Chicago Law School, April 2012

**“Equitable Discretion as a Rule of Law,”** Faculty Enrichment Workshop, Florida State University College of Law, March 2012

**“The Normative Case for Normative Grand Juries,”** Conference on Community Prosecution and Defense, Wake Forest University School of Law, November 2011

**“Beyond Immigration: Litigating Expansions of *Padilla*,”** *Padilla* and the Future of the Defense Function, Cardozo School of Law, June 2011

**“Life Without Parole and the Death of Equitable Discretion,”** LWOP Conference, Amherst College, December 2010

**“Legal Guilt, Normative Innocence, and the Equitable Decision Not to Prosecute,”** Faculty Workshop Series, Stanford Law School, April 2010

**“A Comment on Jeffrey Fagan’s Principal Arguments,”** Olin Conference on the Law & Economics of Crime, University of Virginia School of Law, March 2010

**“Legal Guilt, Normative Innocence, and the Equitable Decision Not to Prosecute,”** Student Scholarly Lunch, University of Virginia School of Law, March 2010

**“Legal Guilt, Normative Innocence, and the Equitable Decision Not to Prosecute,”** Faculty Workshop Series, Michigan State University College of Law, March 2010

**“Contraindicated Drug Courts,”** Works in Progress Seminar, University of Chicago Law School, September 2007

**“Contraindicated Drug Courts,”** NEPOC Annual Conference, Southern New England School of Law, September 2007

**“Grassroots Plea Bargaining,”** Conference on Plea Bargaining, Marquette University Law School, April 2007

**HONORS,  
AFFILIATIONS  
& ADDITIONAL  
INFORMATION**

- Selected Graduation Faculty Marshal (2015, 2019, 2022, 2023)
- Selected Graduation Hooder (2012, 2014)
- Admitted to New York State Bar, 2002
- Avid long-distance trail runner and cross-country, alpine, and telemark skier
- Volunteer adaptive ski instructor (certified Level I)