

CURRICULUM VITAE

- 2013 -

Judge Nancy Gertner (Ret.)
Professor of Practice
Harvard Law School
Griswold 301
1525 Massachusetts Avenue
Cambridge, Massachusetts 02138

Date of Birth: May 22, 1946

Admitted to Practice: December, 1972

LEGAL EDUCATION

Yale University, J.D. (1971)
Yale Law Journal, Board of Editors

GRADUATE EDUCATION

Yale University, Department of Political Science
M.A. Degree 1971 (Completion of all course requirements towards Ph.D.)

UNDERGRADUATE EDUCATION

Barnard College, Columbia University
B.A. June, 1967 (Major in Political Science)
Cum Laude, with Honors in Government

EMPLOYMENT RECORD

<u>Employer</u>	<u>From</u>	<u>To</u>	<u>Nature of Work</u>
Harvard Law School	9/11	Present	Professor of Practice
Nuefeld, Scheck, & Brustin	4/13	Present	Special Counsel
Resolutions, LLC	9/11	Present	Meditation/Arbitration
Yale Law School	1998	Present	Visiting Lecturer
U.S. District Court	4/94	Present	Judge
Northeastern University Law School	2001	2001	Visiting Lecturer
Dwyer, Collora & Gertner	6/90	4/94	Partner
Boston College Law School	1995	1998	Instructor (Jury System, Advanced Evidence)
Boston University School of Law	9/72	9/90	Instructor (Jury System
	9/94	9/95	Discrimination)
Harvard Law School	9/85	6/86	Visiting Professor
	1/11	1/31/11	Harvard Law School
Silverglate, Gertner, Fine & Good	11/73	6/90	Partner
U.S. Court of Appeals	9/71	10/72	Clerk for Chief Judge Seventh Circuit Luther M. Swygert Chicago, Illinois

PUBLICATIONS

Books

1. Implicit Bias, Justin Levinson, ed., chapter on Employment Discrimination with Melissa Hart (2012) (Cambridge University Press).
2. The Law of Juries, co-authored with Judith Mizner (2012) (Thomson-Reuters).
- 3.. In Defense of Women: Memoirs of an Unrepentant Advocate, (April 2011) (Beacon Press).
4. Comments - Offense/Offender Distinction and Competence, in Criminal Law Conversations (ed. Paul H. Robinson, Stephen P. Garvey, Kimberly Kessler Ferzan) (Oxford University Press, 2009).
5. Essays on the Comparative Law of Sentencing, forthcoming.
6. "The Failure of the United States Sentencing Commission" in Penal Populism: Sentencing Councils and Sentencing Policy, Arie Frieberg and Karen Gelb, ed. , (Fall 2007).
7. "Interference with Reproductive Rights," Reproductive Laws for the 1990s, Rutgers Law School (Sherrill Cohen & Nadine Taub eds., 1988)

Articles/Publications

1. "Miller": What it is, what it is not, Missouri Law Review (Keynote March, 2013; publication forthcoming)
2. Rick Kern: A Remembrance, 25 FSR 158 (2013)
3. Justice Ruth Bader Ginsburg Distinguished Lecture on Women and the Law, "The Uniqueness of Her Voice," February 13, 2013
4. 'Losers' Rules, 122 Yale L. J. ONLINE 109 (2012), <http://yalelawjournal.org/2012/10/16/gertner.html>

5. “Feminism, Stalled: Thoughts on the Leaky Pipeline,” 2012 Mich.St. L. Rev
—.
6. (With Elizabeth Schneider), “Only Procedural: Thoughts on the Substantive Law Dimensions of Preliminary Procedural Decisions in Employment Discrimination Cases,” 57 New York Law Review 767 (2012/13)
7. Judge Identifiers, TRAC, and a Perfect World, 25 Federal Sentencing Reporter (September 2012)
8. Justice Ruth Bader Ginsburg Distinguished Lecture on Women and the Law, “The Uniqueness of Her Voice,” February 13, 2013
9. Competence, Legitimacy, and Proportionality, 160 Univ. Of Pa. L. Rev. 1585 (2012).
10. ‘Melissa’s Law,’ the Mass. Three Strikes Bill, Will Have Identifiable Victims, Too, Boston Globe (August 2, 2012).
11. Law Doesn’t Justify Trayvon Martin’s Death,” Boston Globe (June 1, 2012).
12. Be Tough, and Smart, on Crime, Boston Globe (May 30, 2012).
13. Having the Right to Appeal is an Issue of Fairness, New York Times, Room For Debate Blog (August 19, 2012)
14. A Judge Hangs Up Her Robes, 38 Litigation, American Bar Association (Winter, 2012).
15. From “Rites” to “Rights”: The Decline of the Criminal Jury Trial, 24 Yale L.J. & Human. 433 (2012).
16. (With Barry Scheck) How to Rein in Rogue Prosecutors, Wall Street Journal (March 15, 2012)
17. Mandatory Minimum Sentencing Through a Judges Eye, Massachusetts Lawyers Weekly (March 22, 2012).

18. The Media's Reporting on Justice is Criminal, NPR's Cognoscenti (September 4, 2012)
19. National Academy of Sciences Report: A Challenge to the Courts, 27 Criminal Justice (Spring 2012)
20. Commentary to Mnookin, et al. The Need for Research Culture in the Forensic Sciences, 58 UCLA Law Review 789 (February, 2011).
21. Juries and Originalism: Giving "Intelligible Content" to the Right to a Jury Trial, 71 Ohio State Law Journal 935 (2011) (paper given at a conference on "Originalism and the Jury," Ohio State University Moritz College of Law).
22. "A Short History of American Sentencing: Too Little Law, Too much Law or Just Right, 100 Northwestern Journal of Criminal Law & Criminology 101 (2010)(paper given at conference celebrating the centennial of the NW Journal of Criminal Law and Criminology)
23. Tradeoffs of Candor: Does Judicial Transparency Erode Legitimacy, 64 N.Y.U. Ann. Surv. Am. L. 449 (2009)
24. Kimbrough, Gall and Me, Ohio St. L. J. Crim.L. Amici: Views from the Field, at 4 (January 2008), available at <http://osjcl.blogspot.com>.
25. Supporting Advisory Guidelines, 3 Harvard Law & Policy Review 237 (2009)
26. Rita Needs Gall -- How to Make the Guidelines Advisory, 85 Denver University Law Review 63 (2007)
27. Alternatives to the Carceral State: The Judge's Role, 74 Social Research (No.2) (Summer 2007)
28. From Omnipotence to Impotence: American Judges and Sentencing, 4 Ohio State Journal of Criminal Law 523 (Spring 2007)(Justice Harry A. Blackmun Lecture)
29. 12 Angry Men (and Women) in Federal Court, 82 Chi-Kent L. Rev. 613 (2007)

30. Thoughts on 'Reasonableness. 19 Fed. Sent. R. 165 (February, 2007)
31. What Yogi Berra Teaches About Post-Booker Sentencing, July 03, 2006, Pocket Part, A Companion to the Yale Law Journal (on-line at: <http://thepocketpart.org/2006/07/gertner.html>)
32. The Philip D. Reed Lecture Series: Panel Discussion: Federal Sentencing Under 'Advisory' Guidelines: Observations by District Court Judges, 75 Fordham L. Rev. 1 (October 2006).
33. Distinguished Jurist-in-Residence Lecture, Sentencing Reform: When Everyone Behaves Badly, 57 Me. L. Rev. 569 (2005).
34. The Globalized District Court, 26 U. Haw. L. Rev. 351 (2004)
35. To Speak or Not to Speak: Musings on Judicial Speech, 32 Hofstra Law Review 1147 (Summer 2004)
36. Videoconferencing: Learning Through Screens, 12 William and Mary Bill of Rights Journal 769 (2004)
37. Women Offenders and the Sentencing Guidelines, 14 Yale Journal of Law & Feminism 291 (2002)
38. What Has Harris Wrought? 15 Fed. Sentencing Reporter 83 (2002)
39. Electronic Case Filing Is Here to Stay, Boston Bar Journal (May/June, 2002)
40. Federal Sentencing Guidelines, A View from the Bench, American Bar Association; 29 Hum. Rts. Mag. 6 (Spring, 2002)
41. Apprendi and the Return of the Criminal Code, 37 Criminal Law Bulletin 553 (2001)
42. "Circumventing Juries, Undermining Justice: Lessons from Criminal Trials and Sentencing, 32 Suffolk U. L. Rev. 419, 421 (1999) (Donahue Lecture)
43. Teaching Judges How to Sentence, with Judge Michael M. Mihm, 11 Federal

Sentencing Reporter 96 (1998)

44. Book Review: Is the Jury Worth Saving? The Jury: Trial and Error in the American Courtroom, Stephen J. Adler; 75 Boston University Law Review 923 (1995)
45. Jury Selection in Massachusetts, Massachusetts Criminal Procedure, (E. Blumenson, Editor) (1991)
46. Occupational Health and Safety: The Special Problem of Tort Liability for Reproductive Hazards, MCLE-NELI Paper (Winter, 1991)
47. Money Laundering Crimes and the Sentencing Guidelines, ABA Federal Sentencing Guidelines Institute, ABA (May 16, 1991); Champion (December, 1990)
48. Prosecutorial Misconduct in the Grand Jury: Life After Mechanik and Bank of Nova Scotia, ABA Panel (October 24, 1990)
49. Fighting Discrimination Through the Law, Berlin Journal of Sociology (December 1991); Paper also presented to a symposium in Germany sponsored by the International Research & Exchange Board in connection with Humboldt University, Berlin, Germany
50. Organization and Litigation Strategy for Comparable Worth, 20 U. Mich. J.L. Reform 163 (1986)
51. On Trial! A Disciplinary Rule that Limits Attorney Subpoenas, 1 Criminal Justice 2 (Fall, 1986)
52. Chapter on Employment Discrimination, Callaghan & Co. A Comprehensive Guide to Labor & EEOC Law (1985)
53. "The Impact of Bakke on Sex Discrimination: Pedestal or Cage," 14 Harvard Civil Liberties Civil Rights Law Review 173 (1979)
54. Book Review: Sex Based Discrimination, Ginsburg, Davidson & Kay; Boston University Law Review 55 (October, 1974)

55. "Rehabilitation, Investigation, and the Welfare Home Visit," 79 Yale L.J. 746
(March 1971)

HONORS AND AWARDS

1. Honorary Degree, Doctor of Law, Wheaton College, Norton, Massachusetts.
(2013)
2. Justice Ruth Bader Ginsburg Distinguished Lecture on Women and the Law
(February, 2013)
3. MACDL Judicial Excellence Award (January 2013)
4. The Lelia J. Robinson Award from the Women's Bar Association (November
2012)
5. Champions for Choice, NARAL Pro-Choice of Massachusetts (October 2012)
6. Arabella Babb Mansfield Award for contributions to women in the law and
society from the National Association of Women Lawyer (July, 2012)
7. The Massachusetts Bar Association's Hennessey Award for Judicial Excellence
(May, 2011)
8. Honorary Degree, Doctor of Laws, Brandeis University. (May, 2011)
9. The Morton A. Brody Distinguished Judicial Service Award from Colby College
(2010)
10. The Thurgood Marshall Award, American Bar Association, Section of Individual
Rights and Responsibilities. (Former awardees include Justice Ruth Bader
Ginsburg) (August, 2008)
11. Federal Bar Association, Judicial Excellence Award (2008)
12. Charles P. Kindregan Award from Suffolk University Law School (2007)
13. "Judicial Excellence" Citation from the Boston Bar Association in May (2006)

14. "Great Friend of Justice" Award from the Massachusetts Bar Foundation (2006)
15. Massachusetts Lawyer's Weekly Judge Twoomey Judicial Excellence award (2005)
16. Massachusetts Lawyer's Weekly - one of "The Most Influential Lawyers Of The Past 25 Years"
17. Massachusetts Lawyer's Weekly - voted by readers as the "best" federal judge in Boston (1999)
18. Public Service Award for Recognition of Outstanding Contributions Towards Building the Foundation for Civil Rights Through Public Service from The Lawyers Committee for Civil Rights Under the Law of the Boston Bar Association (September 15, 1999)
19. Judicial Recognition Award presented by the National Association of Criminal Defense Lawyers (1999)
20. Charles R. Merriam Distinguished Professor at Arizona State Law School (February 2002)
21. New York State Association of Criminal Defense Lawyers, Hon. William Brennan Award, (2000)
22. Honorary Degree, Juris Doctor, Northeastern University School of Law, Boston, Massachusetts (1999)
23. Lawyers Committee for Civil Rights, Boston, Massachusetts, Award for The Advancement of Civil Rights (1999)
24. Honorary Degree, Juris Doctor, Suffolk University Law School (1997)
25. Abigail Adams Award, presented by the Massachusetts Women's Political Caucus Education Fund - June, 1994
26. Distinguished Jurist Award, presented by the Massachusetts Association of Women Lawyers - June 1996

27. Listed in "Best Lawyers in America," Steven Naifeh and Gregory White Smith, 1991 - 1993, in two categories: Labor Law and Criminal Law.
28. Black Educators' Alliance Award, Professional Service to Education - June, 1983 (For representation of the Concerned Black Educators of Boston in the Boston Desegregation case)
29. Abraham T. Alper Award for Excellence in Civil Liberties, awarded May, 1980, Civil Liberties Union of Massachusetts

LECTURES AND PANELS

International

I have been the keynote speaker at a variety of conferences concerning civil rights, civil liberties, employment and criminal justice and procedural issues. I have participated extensively in events and panels involving the United States Sentencing Guidelines, judicial independence, human rights and women's rights, throughout the United States and abroad: through the ABA CEELI Institute -- programs in Prague involving judges from Eastern and Central Europe, defense lawyers from Kosovo; through the Yale Law China Project and the Wellesley Center on Women, programs in China, Vietnam, Cambodia; through Fordham Law School Law and Ethics program, programs in Israel; through the Lawyer's Committee for Human Rights, programs in Turkey; through the Kennedy School, Women and Public Policy, and Israel, Turkey, Prague - through the ABA CEELI Institute.

I have given papers on sentencing in Glasgow, Scotland, University of Strathclyde, Melbourne, Australia, Monash University School of Law, and in Budapest, Hungary, at the Eotvos Lorand University (Suffolk University Law School's International LL.M Program). I have also lectured at Central European University, Budapest Hungary on race and gender and the criminal law.

Trial Practice

Before becoming a judge, I taught courses sponsored by the Massachusetts Continuing Legal Education - New England Law Institute (MCLE-NELI) and the National Institute of Trial Advocacy nearly every year since August of 1978. In addition, I have served as a teacher in Harvard Trial Advocacy Workshops for the training of Harvard law students.

Criminal Law and Procedure

Before I became a judge I participated in programs on a number of criminal law topics including programs on lawyer subpoenas, NACDL, August, 1986, the problems of victims of rape and child abuse (National Conference of Women Judges, September, 1984); jury selection issues (First Circuit Judicial Conference, September, 1981); and crime and punishment issues (Northeastern University, June, 1980); Massachusetts Correctional Association (1989); "date rape," the National Judicial Institute (1992); Superior Court of Massachusetts (November, 1992), .complex criminal litigation, including "Super Star" Panel, Florida Public Defenders (December, 1986); National Association of Criminal defense Lawyers and American Bar Association panels on white collar crime (1981-1992); Massachusetts Academy of Trial Lawyers (March, 1980, March, 1981); NCLE-NELI (November, 1978, July, 1980, March, 1984).

Women's Rights

Before I became a judge, I participated in panels involving reproductive rights, sexual harassment, prosecuting of women for carrying drugs in utero before the Massachusetts bar Association, Labor Law Section (1979, 1980, 1990; Planned Parenthood Association (February, 1982); Kennedy School of Government (November, 1991); Victim's Rights and the Constitution (Superior Court Judges, November, 1984); National Women's Association of America (February, 1982); National Women's Studies Association (July, 1983); Georgetown University, (Fall, 1990); American College of Psychiatrists, (Winter, 1991); International Research and Exchanges Board, (Spring, 1991); Sex Discrimination in United States, Berlin, Germany (1990).

AFFILIATIONS

1. Board of Directors, International Committee for Research on Women
2. Board of Directors, The Sentencing Project
3. Board of Directors, Wheelock Family Theatre
4. Board of Editors, Federal Sentencing Reporter
5. Faculty, MGH Center for Law, Brain & Behavior
6. Equality Commission, formed by various Mass. Bar Associations

7. National Association of Women Judges, federal judges committee (current)
8. American College of Trial Lawyers, fellow, and member Criminal Litigation Committee (current)
9. Chair, Department of Justice Dialogue Committee; Joint Committee of the ABA and the National Association of Criminal Defense Lawyers (1990 -1992)
10. Chair, (Public Defenders Board) (1988-1990) - Committee for Public Counsel Services (Member since its inception)
11. Member, Governor's Anti-Crime Council (1984-1990) (Counsel formed by Governor Dukakis to oversee criminal justice issues)
12. Delegate, American Bar Association, Criminal Justice Section (1987-1988)
13. Chair, American Bar Association Subcommittee on Witness Harassment, Litigation Section (1985-1986) (Specifically charged with reviewing 18 U.S.C. §151, obstruction of justice statute)
14. Vice-Chair, American Bar Association Grand Jury Committee, Criminal Defense Function (Principally involved in preparing testimony and guidelines for the issuance of attorney subpoenas)
15. Member, Massachusetts Citizen's Advisory Committee on Probation, (1984-1990) (Oversight to Massachusetts Probation Service)
16. Delegate at Large (1986-1990), Massachusetts Bar Association, Labor Law Committee; Bench Bar News Committee; Section on Individual Rights and Responsibilities
17. Board of Directors, National Association of Criminal Defense Lawyers (NACDL) (1986 - 1994); Chair, Lawyer's Assistance Strike Force; Elections Committee
18. Boston Bar Association, Member, Civil Justice Advisory Committee to the U.S. District Court (Charged with implementing the Biden Committee reforms)
19. Member, Advisory Committee, U.S. Court of Appeals, First Circuit

20. Fellow of the American Bar Foundation (December 2002)
21. Advisory Committee, National Judicial Education Program to Promote Equality for Women and Men in Courts; National Organization of Women- Legal Defense Fund and the National Judicial Institute (1992 - 1993)
22. Member, Lawyers Committee for Civil Rights Under Law of the Boston Bar Association, Steering Committee Member (from 1979 - 1994)
23. American Civil Liberties Union, Board of Directors (1977-1984)
24. Massachusetts Civil Liberties Union, Board of Directors; Women's Rights Committee
25. Women and the Law Conference, former member, Steering Committee, Board of Directors, (1973-1985)
26. American Bar Association - Central and Eastern European Law Initiative Advisory Council (2002)
27. Member/Adviser, American Law Institute - American Bar Association
28. Honorary Lifetime Member, National Association of Criminal Defense Lawyers
29. METCO, former member, Board of Directors
30. Massachusetts Academy of Trial Lawyers
31. Massachusetts Half-Way Houses, Incorporated, House Committee
32. Vice Chair, Basic Trial Advocacy Course Committee, ATLA (1985-1986)
29. Louis Stein Center for Law and Ethics (Fordham Law School) Board of Advisor (check)
30. American Judicature Society, Center for Forensic Science and National Judicial College; proposed project on judicial awareness of developments in forensic science

