

PETER SIMON MARGULIES
Roger Williams University School of Law
Ten Metacom Avenue
Bristol, RI 02809-5171
(401)254-4564
pmargulies@rwu.edu

EDUCATION:

Columbia University School of Law, J.D. 1981; Articles Editor, *Columbia Journal of Law and Social Problems*; Harlan Fiske Stone Scholar, 1978-79, 1979-80.

Colgate University, B.A. in History, Magna cum Laude, 1978; Editor-in Chief, *Colgate News*; Member, Colgate Thirteen (traveling singing group); Phi Beta Kappa; Honors in History.

LEGAL EXPERIENCE:

PROFESSOR OF LAW, July 2001-
VISITING PROFESSOR, July, 2000-June, 2001
Roger Williams University School of Law
Bristol, Rhode Island

Teaches Professional Responsibility, National Security Law, Torture and the Law, and Immigration Law; taught Family and Disability Law Clinic (through 2005), Seminar on Bioethics.

VISITING PROFESSOR, January-May 2006
St. John's University School of Law
Queens, New York

Taught Professional Responsibility; participated in planning for Conference on Race, Culture, Class, and Crisis in Child Welfare: Theory into Practice.

PROFESSOR OF LAW, DIRECTOR, IMMIGRATION CLINIC, July 1992 - July 2001
St. Thomas University School of Law
Miami, Florida

Started and directed Immigration Law Clinic focusing on representation of refugees and immigrant families, with duties including supervision of clinic staff and outreach to community legal services providers; taught Professional Responsibility, Seminar on Law and Disability, and Law and Medicine; coordinated administration of three other clinical programs, including domestic violence clinic, externship program, and clinic in appellate litigation.

VISITING PROFESSOR, August 1989-July 1992
City University of New York Law School at
Queens College, New York, NY

Designed and taught seminar integrating representation of clients with disabilities, training in interviewing and counseling, and instruction in substantive doctrine in law of government benefits, education, employment, and housing pertaining to disability; as third semester simulation coordinator, designed and implemented required Lawyering Seminar curriculum, and taught seminar on legal analysis, negotiation, and trial practice integrated with substantive curriculum of property, evidence, and procedure.

ASSOCIATE CLINICAL PROFESSOR, January 1988-August 1989
General Civil Clinic, Hofstra Law School
Hempstead, N.Y.

Taught seminar in lawyering skills, including advocacy, interviewing, investigation, counseling, and negotiation; supervised students in live cases involving public benefits, family law, special education, immigration, and employment.

CLINICAL ASSOCIATE PROFESSOR, December 1984-December 1987
Federal Litigation Clinic
New York Law School, New York, New York

Helped design clinical program with the following responsibilities: teaching substantive law and lawyering skills through classroom instruction, tutorials, simulations and live cases involving governmental benefits, special education, disability discrimination, and criminal justice competency issues; supervising submission of comments on proposed federal regulations; coordinating and participating in amicus briefs and appellate litigation in United States Supreme Court and Second Circuit Court of Appeals.

SENIOR ATTORNEY; STAFF ATTORNEY, August 1981-December 1984
Mental Health Information Service, New York, New York

Represented patients committed under the New York Mental Hygiene Law and Criminal Procedure Law in proceedings for furloughs, release, and retention, as well as appeals; represented amicus curiae in appellate proceedings; advocated on patients' behalf with state officials, doctors and other facility staff, and outside agencies; and initiated, supervised, and participated in class action litigation in state and federal courts.

PUBLICATIONS:

I. Book:

LAW'S DETOUR: POLITICS, IDEOLOGY, AND JUSTICE IN THE BUSH ADMINISTRATION (NYU Press 2010).

II. Articles

A. Public Interest Law, Legal Education, and Professional Responsibility

Public Interest Lawyering and the Pragmatist Dilemma, in RENASCENT PRAGMATISM: STUDIES IN LAW AND SOCIAL SCIENCE 220 (Alfonso Morales ed., Ashgate Press 2003).

After Marek, the Deluge: Harmonizing the Interaction Under Rule 68 of Statutes That Do and Do Not Classify Attorney's Fees as Costs, 73 Iowa L. Rev. 413 (1988).

"Who Are You to Tell Me that?": Attorney-Client Deliberation Regarding Nonlegal Issues and the Interests of Nonclients, 68 N.C.L. Rev. 213 (1990).

The Mother with Poor Judgment and Other Tales of the Unexpected: A Civic Republican View of Difference and Clinical Legal Education, 88 Nw. U. L. Rev. 695 (1994).

Access, Connection, and Voice: A Contextual Approach to Representing Senior Citizens of Questionable Capacity, 62 Fordham L. Rev. 1073 (1994).

Progressive Lawyering and Lost Traditions (Review Essay), 73 Tex. L. Rev. 1139 (1995).

Introduction: Towards an Inclusive Professionalism, 8 St. Thomas L. Rev. 3 (1995).

Representation of Domestic Violence Survivors as a New Paradigm of Poverty Law: In Search of Access, Connection, and Voice, 63 Geo. Wash. L. Rev. 1071 (1995).

Lawyers as Caregivers: Child-Client's Competence in Context, 64 Fordham L. Rev. 1473 (1996).

Violence Against Women and the Violence of Law, 8 Cardozo Studies in L. & Literature 179 (1996) (Robert Cover Symposium).

Political Lawyering, One Person at a Time: The Challenge of Legal Work Against Domestic Violence for the Impact Litigation/Client Service Debate, 3 Mich. J. Gender & L. 493 (1996).

The Identity Question, Madeleine Albright's Past, and Me: Insights from Jewish and African American Law and Literature, 17 Loy. L.A. Ent. L.J. 595 (1997).

Identity on Trial: Subordination, Social Science Evidence, and Criminal Defense, 51 Rutgers L. Rev. 45 (1998).

Re-Framing Empathy in Clinical Legal Education, 5 Clinical L. Rev. 605 (1999).

Multiple Communities or Monolithic Clients: Positional Conflicts of Interest and the Mission of the Legal Services Lawyer, 67 Fordham L. Rev. 2339 (1999).

The New Class Action Jurisprudence and Public Interest Law, 25 N.Y.U. Rev. L. & Soc. Change 487 (1999).

Commitment, Craft, and the Golden Calf: Lessons from Exodus for Legal Education, 74 St. John's U.L. Rev. 667 (2000).

Battered Bargaining: Domestic Violence and Plea Negotiation in the Criminal Justice System, 11 S. Cal. Rev. L. & Women's Stud. 153 (2001).

The Virtues and Vices of Solidarity: Regulating the Roles of Lawyers for Clients Accused of Terrorist Activity, 62 Md. L. Rev. 173 (2003).

Foreword: Risk, Deliberation, and Professional Responsibility, 1 J. Nat'l Sec. L. & Pol'y 357 (2005) (part of Symposium on Professional Responsibility and the War on Terror).

Lawyers' Independence and Collective Illegality in Government and Corporate Misconduct, Terrorism, and Organized Crime, 58 Rutgers L. Rev. 939 (2006).

Legal Hazard: Corporate Crime, Advancement of Executives' Defense Costs, and the Federal Courts, 7 U.C. Davis Bus. L.J. 55 (2006).

When to Push the Envelope: Legal Ethics, the Rule of Law, and National Security Strategy, 30 Fordham Int'l L.J. 642 (2007).

Lawyering for Children: Confidentiality Meets Context, 81 St. John's L. Rev. 601 (2007).

The Detainees' Dilemma: The Virtues and Vices of Advocacy Strategies in the War on Terror, 57 Buff. L. Rev. 347 (2009).

Reforming Lawyers into Irrelevance?: Reconciling Crisis and Constraint at the Office of Legal Counsel, __ Pepperdine L. Rev. __ (forthcoming 2012).

B. Disability Law

The Pandemonium Between the Mad and the Bad: Procedures for the Commitment and Release of Insanity Acquittes After Jones v. United States, 36 Rutgers L. Rev. 793 (1984).

Involuntary Commitment of the Psychiatric Homeless, Shelter Workers' Handbook (1985).

The Newest Equal Protection: City of Cleburne and a Common Law for Statutes and Covenants Affecting Group Homes for the Mentally Disabled, 3 N.Y.L.S. Hum. Rts. Ann. 359 (1986).

The Cognitive Politics of Professional Conflict: Law Reform, Mental Health Treatment Technology, and Citizen Self-Governance, 5 Harv. J. L. & Tech. 25 (1992).

Building Communities of Virtue: Political Theory, Land Use Policy, and the 'Not in My Backyard' Syndrome, 43 *Syr. L. Rev.* 945 (1992).

C. Terrorism, National Security, and Immigration

Stranger and Afraid: Undocumented Aliens and Federal Employment Law, 38 *DePaul L. Rev.* 553 (1989).

Difference and Distrust in Asylum Law: Haitian and Holocaust Refugee Narratives, 6 *St. Thomas L. Rev.* 135 (1994).

Asylum, Intersectionality, and AIDS: Women with HIV as a Persecuted Social Group, 8 *Geo. Immig. L.J.* 521 (1994).

Democratic Transitions and the Future of Asylum Law, 71 *U. Colo. L. Rev.* 3 (1999).

Children, Parents, and Asylum, 15 *Geo. J. Immig. L.* 289 (2001).

Uncertain Arrivals: Immigration, Terror, and Democracy After September 11, 2002 *Utah L. Rev.* 481

Judging Terror in the "Zone of Twilight": Exigency, Institutional Equity, and Procedure After September 11, 84 *B.U. L. Rev.* 383 (2004).

Making "Regime Change" Multilateral: The War on Terror and Transitions to Democracy, 32 *U. Denver J. Int'l L. & Pol'y* 389 (2004).

Detention of Material Witnesses, Exigency, and the Rule of Law, 40 *Crim. L. Bull.* 599 (2004).

The Clear and Present Internet: Terrorism, Cyberspace, and the First Amendment, 2004 *UCLA J.L. Tech.* 4.

Above Contempt? Regulating Government Overreaching in Terrorism Cases, 34 *Sw. U. L. Rev.* 449 (2005).

Beyond Absolutism: Legal Institutions in the War on Terror, 60 *U. Miami L. Rev.* 309 (2006).

The Military Commissions Act, Coerced Confessions, and the Role of the Courts, 25(2) *Crim. Justice Ethics* 2 (Summer/Fall 2006).

Reliability and the Interests of Justice: Interpreting the Military Commissions Act of 2006 to Deter Coercive Interrogations, 12 *Roger Williams U.L. Rev.* 750 (2007) (with Laura Corbin).

Laws of Unintended Consequences: Terrorist Financing Restrictions and Transitions to Democracy, 20(2) *N.Y. Int'l L. Rev.* 65 (Summer 2007).

Guantanamo By Other Means: Conspiracy Prosecutions and Law Enforcement Dilemmas After September 11, 43 Gonzaga L. Rev. 513 (2007).

True Believers at Law: Legal Ethics, National Security Agendas, and the Separation of Powers, 68 Md. L. Rev. 1 (2008).

Judging Myopia in Hindsight: Bivens Actions, National Security Decisions, and the Rule of Law, 96 Iowa L. Rev. 195 (2010).

The Ivory Tower at Ground Zero: Conflict and Convergence in Legal Education's Responses to Terrorism, 60 J. Legal Educ. 373 (2011).

Accountable Altruism: The Impact of the Federal Material Support Statute on Humanitarian Aid, 34 Suffolk Transnat'l L. Rev. 539 (2011) (Symposium Issue).

Advising Terrorism: Material Support, Safe Harbors, and Freedom of Speech, 63 Hastings L.J. 455 (2012).

The Fog of War Reform: Change and Structure in the Law of Armed Conflict After September 11, __ Marquette L. Rev. __ (forthcoming 2012).

SELECTED PRESENTATIONS:

"Immigration Law and the Challenging Client," Conference on Clinical Legal Education, Albuquerque, New Mexico, May 2000.

"Pragmatism and Public Interest Law: From the Progressive Era to Advocacy for Domestic Violence Survivors," Law and Society Annual Meeting, Miami Beach, Fla., Spring, 2000.

"Commitment and Craft: Lessons from *Exodus* for Legal Education," Conference of Religiously Affiliated Law Schools, St. John's University, Summer, 2000.

"Pragmatism and Public Interest Law," New England Clinical Theory Workshop, Boston College School of Law, Spring 2001.

"Pragmatism, Public Interest Law, and Domestic Violence Advocacy," Clinical Legal Theory Workshop, New York Law School, Spring 2001.

"Domestic Violence Courts: Risks and Benefits," Conference on Domestic Violence and Courts, Pace Law School, Fall 2001.

"Terrorist Organizations and Immigration Law," LatCrit Conference, Portland, Ore., Spring 2002.

Moderator, Panel on Justice, Terrorism, and the Israeli-Palestinian Conflict, Society of American Law Teachers Teaching Conference, Fordham University School of Law, Fall 2002

“Terrorism, Immigration, and the USA PATRIOT Act,” Immigration Law Teachers Conference, New Orleans, La., Spring 2002.

Moderator, “Civil Liberties, Access to Justice, and the War on Terror,” Northeast People of Color Law Conference, St. John’s University (Manhattan Campus), Spring 2003.

“Regulating Prosecutorial Overreaching in Terrorism Cases,” New England Clinical Theory Workshop, Boston University School of Law, Spring 2003.

“Terrorism, Immigration, and Transitions to Democracy,” Law and Society Annual Meeting, Pittsburgh, Pa., June, 2003

“Revising the Rhode Island Rules of Professional Conduct,” Rhode Island Bar Association Annual Meeting, June 2003.

“Prosecutorial Overreaching in Terrorism Cases,” Law and Society Association Annual Meeting, Chicago, Ill., May, 2004.

“Revising the Rhode Island Rules of Professional Conduct,” Rhode Island Bar Association Annual Meeting, June 2004.

Moderator, “Preemptive War and International Humanitarian Law,” Conference on National Security and Terrorism, Naval War College, Newport, R.I., June 2004.

Moderator, “Legal Ethics and National Security,” Joint Program of Sections on Legal Ethics, Criminal Law, and National Security, American Association of Law Schools Annual Meeting, San Francisco, Ca., January 2005.

“Look Before You Leap: Selective Waiver of Attorney-Client Privilege,” Rhode Island Bar Association Annual Meeting, June 2005.

“The Avoidance Doctrine in National Security Cases,” Law and Society Association Annual Meeting, Las Vegas, Nev., June 2005.

Moderator, “Immigration Law’s Impact on Communities,” Conference on Law School Clinics and Community Justice, Roger Williams University School of Law, Bristol, R.I., Summer 2005.

“Confidentiality and the Government Attorney,” American Association of Public Welfare Attorneys Meeting, Providence, R.I., Fall 2005.

“Lawyers’ Independence and Collective Illegality,” Program of Section on Professional Responsibility, American Association of Law Schools Annual Meeting, Washington, D.C., January 2006.

“Terrorist Financing Restrictions and Transitions to Democracy,” N.Y. International Law Review Alumni Conference, St. John’s University (Manhattan Campus), April, 2006.

“Lawyers’ Independence and Group Wrongdoing: Corporate and Government Misconduct, Terrorism, and Organized Crime,” St. John’s University School of Law, April, 2006.

“Lawyers and Group Wrongdoing,” Law and Society Association Annual Meeting, Baltimore, Md., July, 2006.

“Lawyering for Children: Confidentiality in Context,” Conference on Race, Culture, Class, and Crisis in Child Welfare, St. John’s University School of Law, November 2006.

“When to Push the Envelope: Legal Ethics and National Security Strategy,” Conference on Guantanamo and the Rule of Law, Fordham University School of Law, November 2006.

“Inadvertent Disclosure and Attorney-Client Privilege,” Annual Conference on Legal Ethics, Adler, Pollock & Sheehan, P.C., Providence, R.I., June 2007.

“Political Justice: Common Ground in the Torture Memos and the United States Attorney Firings,” Conference on Professional Responsibility, Legal Ethics Professors’ Roundtable, American Bar Association, Chicago, Ill., Spring, 2007.

“Political Justice: Friends, Enemies, and Ideology in the Bush Administration,” Law and Society Annual Meeting, Berlin, Germany, July, 2007.

“Immigration Law and Enforcement After September 11,” Conference on Legal Dilemmas in a Dangerous World: Law, Terrorism, and National Security, Roger Williams University School of Law, November 9, 2007 (also served as coordinator for Conference).

Roundtable on Law, Terrorism, and National Security, Association of the Bar of the City of New York, December 13-14, 2007.

“True Believers at Law: Legal Ethics and National Security Agendas,” Professional Responsibility Roundtable, Fordham University School of Law (in conjunction with American Association of Law Schools Annual Meeting), January 3, 2008.

“Legal Ethics and National Security,” LatCrit Annual Meeting, Seattle, WA, Oct. 2008.

Panel on Current Issues in Legal Ethics, Rhode Island Bar Association Annual Meeting, Providence, RI, June 18, 2009.

ACADEMIC ACTIVITIES:

Reviewer, Tenure and Promotion Applications, California Western School of Law, San Diego, California; Touro Law School, Huntington, New York; Catholic University, Washington, D.C.; City University of New York Law School at Queens College; University of New Mexico School

of Law; Syracuse University School of Law; University of Miami Law School; Wake Forest University College of Law.

Member, Diversity Task Force, St. Thomas University, 1993-95.

Chair, Library Committee; Member, Long-Range Planning Committee; Co-Chair, Ad Hoc Committee on Establishment of Pro Bono Requirement, St. Thomas University School of Law.

Member, Strategic Planning (SP) Steering Committee; Chair, SP Subcommittee on Library and Technology, Roger Williams University School of Law, 2007 - .

Coordinator, Conference on Legal Dilemmas in a Dangerous World: Law, Terrorism, and National Security, Roger Williams University School of Law, November 9, 2007.
Faculty Advisor, Roger Williams Law Review, 2006- .

Member, Executive Committee, Section on National Security Law, American Association of Law Schools (AALS), 2008-09.

Member, Executive Committee, Section on Professional Responsibility, AALS, 2009-10.

Chair, Section on Professional Responsibility, AALS, 2012.

COMMUNITY AND PROFESSIONAL ACTIVITIES:

Board of Directors, Public Interest Law Foundation at Columbia, 1980-1989.

Board of Directors, Manhattan Legal Services Corporation, November 1983- May 1985.

Board of Directors, MFY Legal Services, Inc., September, 1985 - July 1992 (Member, Executive Committee; and Secretary, 1988).

Member, Forum for Haitian Justice, Rep. Carrie Meek, Congress of the United States, House of Representatives, 1994-98.

Member, Board of Governors, Society of American Law Teachers, 2000-02.

Member, Rhode Island Supreme Court Committee to Revise the Rules of Professional Conduct, 2002-05.

Consultant, National Disability Rights Network Legal Ethics Panel, 2005- .

Counsel for *amicus curiae* in federal and state cases involving legal ethics, criminal law, and national security, 1985-present, in cases including:

Humanitarian Law Project v. Holder, 130 S. Ct. 2705 (2010) (upholding statute barring

provision of material support to foreign terrorist organizations, when statute also permits independent advocacy);

Padilla v. Kentucky, 130 S. Ct. 1473 (2010) (holding that failure to advise defendant of immigration consequences of plea constitutes ineffective assistance of counsel under the Sixth Amendment);

Boim v. Holy Land Found. for Relief & Dev., 549 F.3d 685, 698 (7th Cir. 2008) (holding that Anti-Terrorism Act allowed suit by victims against entity that allegedly provided funding to Hamas and knew of Hamas's history of violence against civilians);

In the Matter of Brown v. Blumenfeld, 930 N.Y.S.2d 610 (App. Div. 2d Dep't 2011) (denying prosecutor's petition for writ of prohibition barring trial judge from ruling on whether prosecutor's pre-arraignment interview program violated ethics rules);

In re Town of Little Compton, 2012 R.I. Lexis 16 (S. Ct. Feb. 9, 2012) (holding that representation of union by union official in grievance and arbitration proceedings did not violate prohibition on unauthorized practice of law).