

COMMITTEE ON NATURAL RESOURCES
114th Congress Disclosure Form
As required by and provided for in House Rule XI, clause 2(g)(5)

July 28, 2015

*"Accountability, Policies, and Tactics of Law Enforcement within the Department of the Interior
and the U.S. Forest Service"*

For Individuals:

Name: **Paul James Larkin, Jr.**
Address: **The Heritage Foundation**
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Washington, DC 20002-4999
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* * * * *

For Nongovernment Witnesses ONLY:

1. Please attach/include current curriculum vitae or resume.

Attached.

2. Please list any federal grants or contracts (including subgrants or subcontracts) related to the subject matter of the hearing that were received in the current year and previous two calendar years by you or the organization(s) you represent at this hearing, including the source and amount of each grant or contract.

None

3. Please list any contracts or payments originating with a foreign government related to the subject matter of the hearing that were received in the current year and previous two calendar years by you or the organization(s) you represent at this hearing, including the amount and country of origin of each contract or payment.

None

PAUL J. LARKIN, JR.
Curriculum Vitae



EMPLOYMENT

The Heritage Foundation: *Senior Legal Research Fellow; Manager, Overcriminalization Project:* 2011 to the present

Federal Bureau of Investigation: *Counsel to the Program Director, Office for Victim Assistance:* 2011; *Special Assistant to the Assistant Director for Professional Responsibility:* 2010-2011

Federal Trade Commission: *Office of the General Counsel, Attorney:* 2010

Verizon Communications Inc.: *Assistant General Counsel:* 2004-2009

Environmental Protection Agency, Criminal Investigation Division: *Acting Director, Criminal Investigation Division:* 2003-2004; *Special Agent-in-Charge:* 2002-2004; *Associate Special Agent-in-Charge:* 2001-2002; *Special Agent:* 1998-2001

United States Senate Environment & Public Works Committee: *Majority Fellow:* 2000

United States Senate Judiciary Committee: *Counsel to the Senate Judiciary Committee and Chief of the Crime Unit:* 1996-1997

King & Spalding: *Of Counsel:* 1994-1996

Office of the Independent Counsel (Department of Housing & Urban Development Investigation): *Associate Independent Counsel:* 1995-1996

Office of the Solicitor General, United States Department of Justice: *Assistant to the Solicitor General:* 1985-1993

Organized Crime and Racketeering Section, Criminal Division, U.S. Department of Justice: *Attorney:* 1984-1985

Hogan & Hartson (now Hogan Lovells): *Law firm associate:* 1982-1984

Law Clerk to the Honorable Robert H. Bork, United States Court of Appeals for the District of Columbia Circuit: 1982

Law Clerk to the Honorable Robert A. Ainsworth, Jr., United States Court of Appeals for the Fifth Circuit: 1981- 1982

Law Clerk to the Honorable Frederick J.R. Heebe, United States District Court for the Eastern District of Louisiana: 1980-1981

EDUCATION

George Washington University, M.P.P. 2010

Phi Alpha Alpha Public Policy & Administration Honor Society – 2010
“Policy Perspectives” – Associate Editor 2007-2008

Stanford Law School, J.D. 1980

Stanford Law Review:

Note, *The Eighth Amendment and the Execution of the Presently Incompetent*, 32
Stan. L. Rev. 765 (1980)

Research Assistant for Professor Anthony G. Amsterdam

Washington & Lee University, B.A. 1977, Summa cum Laude with Honors in Philosophy

Phi Beta Kappa (1976)

Omicron Delta Kappa (1977)

Psi Chi Psychology Honor Society (1976)

Phi Eta Sigma Freshman Honor Society (1974)

Virginia English-Speaking Union Scholarship for Summer
Study at Exeter College, Oxford University (1976)

Young Scholarship in Philosophy (1977)

Robinson Award in English Literature, History and Social
Sciences (1977)

Senior Representative Student Body Executive Committee (1976-1977)

Student Activities Board (1976-1977)

Robert E. Lee Scholarship (1976-1977)

James D. Davidson Memorial Fund Scholarship (1975-1976)

Major Ronald O. Scharnberg Memorial Scholarship (1973-1975)

Varsity Baseball (1973-1975)

Exeter College, Oxford University, Summer 1976

PUBLICATIONS

Law & Public Policy Journals

Public Choice Theory and Occupational Licensing, 39 Harv. J.L. & Pub. Pol’y (forthcoming 2016)

Swift, Certain, and Fair Punishment—24/7 Sobriety and HOPE: Creative Approaches to Alcohol- and Illicit Drug-Using Offenders, 105 J. of Crim. L. & Criminology (forthcoming 2015)

Medical or Recreational Marijuana and Drugged Driving, 52 Am. Crim. L. Rev. 543 (2015)

The Dynamic Incorporation of Foreign Law, and the Constitutional Regulation of Federal Lawmaking, 38 Harv. J.L. & Pub. Pol’y 337 (2015)

Revenge Porn, State Law, and Free Speech, 48 Loyola L.A. L. Rev. 57 (2015)

Philemon, Marbury, and the Passive-Aggressive Assertion of Legal Authority, 29 B.Y.U. J. of Pub. L. 241 (2015)

Strict Liability Offenses, Incarceration, and the Cruel and Unusual Punishments Clause, 37 Harv. J.L. & Pub. Pol’y 1065 (2014)

Funding Favored Sons and Daughters: Nonprosecution Agreements and “Extraordinary Restitution” in Environmental Criminal Cases, 47 Loyola L.A. L. Rev. 1 (2014)

Managing Prisons by the Numbers: Using the Good-Time Laws and Risk-Needs Assessments to Manage the Federal Prison Population, 1 Harv. J.L. & Pub. Pol’y: Federalist 1 (2014)

Oversized Frauds, Undersized Fish, and Deconstruction of the Sarbanes-Oxley Act, 103 Geo. L.J. Online 17 (2014)

Prohibition, Regulation, and Overcriminalization: The Proper and Improper Uses of the Criminal Law, 42 Hofstra L. Rev. 745 (2014)

Taking Mistakes Seriously, 28 B.Y.U. J. of Pub. L. 71 (2014)

Finding Room in the Criminal Law for the Desuetude Principle, 65 Rutgers L. Rev. Commentaries 1 (2014)

Crack Cocaine, Congressional Inaction, and Equal Protection, 37 Harv. J.L. & Pub. Pol’y 241 (2014)

Stops and Frisks, Race, and the Constitution, 82 Geo. Wash. L. Rev. Arguendo 1 (2013)

Public Choice Theory and Overcriminalization, 36 Harv. J.L. & Pub. Pol’y 715 (2013)

Parole: Corpse or Phoenix?, 50 Am. Crim. L. Rev. 303 (2013)

Clemency, Parole, Good-Time Credits, and Crowded Prisons: Reconsidering Early Release, 11 Geo. J.L. & Pub. Pol’y 1 (2013)

A Mistake of Law Defense as a Remedy for Overcriminalization, 26 A.B.A.J. Criminal Justice 10 (Spring 2013)

Edwin Meese III & Paul J. Larkin, Jr., *Reconsidering the Mistake of Law Defense*, 102 J. of Crim. L. & Criminology 725 (2012)

Turning Points in Telecommunications History, 29 John Marshall J. of Comp. & Info. L. 513 (2012)

Paul J. Larkin, Jr. & Joseph Luppino-Esposito, *The Violence Against Women Act, Federal Criminal Jurisdiction, and Indian Tribal Courts*, 27 B.Y.U. J. of Pub. L. 1 (2012)

John Kingdon's "Three Streams" Theory and the Antiterrorism and Effective Death Penalty Act of 1996, 28 J.L. & Pol. 25 (2012)

United States v. Nosal: Rebooting the Computer Fraud and Abuse Act, 8 Seton Hall Cir. Rev. 257 (2012)

Viewpoint, *A Competitive Analysis of the Proposed XM-Sirius Satellite Radio Merger*, eSapience Center for Competition Policy (July 26, 2007), available at <http://www.globalcompetitionpolicy.org/index.php?&id=512&etkbqkgf=etkbqkgf&action=907> (last visited July 26, 2007)

Note, *The Eighth Amendment and the Execution of the Presently Incompetent*, 32 Stan. L. Rev. 365 (1980)

In Progress

The Lost Due Process Doctrines (Draft July 2015)

Reconsidering the Clemency Process (Draft June 2015)

Medical or Recreational Marijuana and Commercial Speech (Draft Sept. 2014)

Reconsidering the Role of Drug Courts (Draft Sept. 2014)

Stop-Question-and-Frisk, Public Safety, and the Constitution (Draft May 2014)

Heritage Publications

Paul J. Larkin, Jr., *The Role for Magna Carta in America in 2015*, The Heritage Foundation, Legal Memorandum (forthcoming 2015)

Paul J. Larkin, Jr., *Regulatory Crimes and the Mistake of Law Defense*, The Heritage Foundation, Legal Memorandum No. 157 (July 9, 2015), http://thf_media.s3.amazonaws.com/2015/pdf/LM157.pdf

Paul J. Larkin, Jr., *Liberalizing Marijuana Use and Improving Driving Safety: Two Contemporary Public Policies on a Collision Course*, The Heritage Foundation, Legal Memorandum No. 156 (June 25, 2015), http://thf_media.s3.amazonaws.com/2015/pdf/LM156.pdf

Paul J. Larkin, Jr., *Revisiting Kelo*, The Heritage Foundation, Legal Memorandum No. 155 (June 18,

2015), http://thf_media.s3.amazonaws.com/2015/pdf/LM155.pdf

Paul J. Larkin, Jr., *The Constitutional Problems Raised by Domestic Convictions for Foreign Crimes*, The Heritage Foundation, Legal Memorandum No. 152 (Apr. 21, 2015), http://thf_media.s3.amazonaws.com/2015/pdf/LM152.pdf

Alden F. Abbott & Paul J. Larkin, Jr., *North Carolina Dental Board and the Reform of State-Sponsored Protectionism*, The Heritage Foundation, Legal Memorandum No. 150 (Mar. 30, 2015), http://thf_media.s3.amazonaws.com/2015/pdf/LM150.pdf

Michael B. Mukasey & Paul J. Larkin, Jr., *The Perils of Overcriminalization*, The Heritage Foundation, Legal Memorandum No. 146 (Feb. 12, 2015), http://thf_media.s3.amazonaws.com/2015/pdf/LM146.pdf

Paul J. Larkin, Jr., & Jordan Richardson, *True Threats and the Limits of First Amendment Protection*, The Heritage Foundation, Legal Memorandum No. 142 (Dec. 8, 2014), http://thf_media.s3.amazonaws.com/2014/pdf/LM142.pdf

Paul J. Larkin, Jr., *The Problematic Use of Nonprosecution and Deferred Prosecution Agreements to Benefit Third Parties*, The Heritage Foundation, Legal Memorandum No. 141 (Oct. 23, 2014), <http://www.heritage.org/research/reports/2014/10/the-problematic-use-of-nonprosecution-and-deferred-prosecution-agreements-to-benefit-third-parties>

ECONOMIC LIBERTY AND THE CONSTITUTION: AN INTRODUCTION, THE HERITAGE FOUNDATION SPECIAL REPORT (Paul J. Larkin, Jr. ed., 2014)

Paul J. Larkin, Jr., *Economic Liberty and the Constitution: An Introduction*, in ECONOMIC LIBERTY AND THE CONSTITUTION: AN INTRODUCTION, THE HERITAGE FOUNDATION SPECIAL REPORT (Paul J. Larkin, Jr. ed., 2014)

Paul J. Larkin, Jr., *Co-opting the Criminal Justice System to Prevent Competition or Serve Noncompetitive Interests*, Heritage Foundation Legal Memorandum No. 134 (Aug. 21, 2014), http://thf_media.s3.amazonaws.com/2014/pdf/LM134.pdf

Evan Bernick, Paul J. Larkin, Jr. & Jordan Richardson, *Is Congress Addressing Our Overcriminalization Problem? Reviewing the Progress of the Overcriminalization Task Force*, The Heritage Foundation, Legal Memorandum (Aug. 12, 2014), http://thf_media.s3.amazonaws.com/2014/pdf/LM131.pdf

Evan Bernick & Paul J. Larkin, Jr., *Filming the Watchmen: Why the First Amendment Protects Your Right to Film the Police in Public Places*, The Heritage Foundation, Legal Memorandum No. 127 (June 12, 2014), http://thf_media.s3.amazonaws.com/2014/pdf/LM127.pdf

Paul J. Larkin, Jr., *Closing the Door to Foreign Lawsuits: Daimler AG v. Bauman*, The Heritage Foundation, Legal Memorandum No. 126 (June 9, 2014),

http://thf_media.s3.amazonaws.com/2014/pdf/LM126.pdf

Paul J. Larkin, Jr., *The Extent of the Overcriminalization Problem*, The Heritage Foundation, Legal Memorandum No. 121 (May 9, 2014), http://thf_media.s3.amazonaws.com/2014/pdf/LM121.pdf

Paul J. Larkin, Jr., *The Hawaii Opportunity Probation with Enforcement Project: A Potentially Worthwhile Correctional Reform*, The Heritage Foundation, Legal Memorandum No. 116 (Feb. 26, 2014), http://thf_media.s3.amazonaws.com/2014/pdf/LM116.pdf

Paul J. Larkin, Jr., *Failing to Protect Women Against Violence in The Violence Against Women Act*, The Heritage Foundation, Legal Memorandum No. 109 (Feb. 19, 2014), http://thf_media.s3.amazonaws.com/2014/pdf/LM109.pdf

Paul J. Larkin, Jr., *Supplying the Information Required by Law: Directing the Federal Government to Identify All Federal Criminal Laws*, Heritage Issue Brief No. 4143 (Feb. 10, 2014), available at <http://www.heritage.org/research/reports/2014/02/overcriminalization-and-the-identification-of-all-federal-criminal-laws>

Evan Bernick & Paul J. Larkin, Jr., *Reconsidering Mandatory Minimum Sentences: The Arguments For and Against Potential Reforms*, Heritage Legal Memorandum No. 114 (Feb. 10, 2014), <http://www.heritage.org/research/reports/2014/02/reconsidering-mandatory-minimum-sentences-the-arguments-for-and-against-potential-reforms>

Paul J. Larkin, Jr., *Why U.S. Citizens Should Not Be Branded as Criminals for Violating Foreign Law*, The Heritage Foundation, Legal Memorandum No. 107 (Jan. 9, 2014), http://thf_media.s3.amazonaws.com/2013/pdf/lm92.pdf

Paul J. Larkin, Jr., *The Fourth Amendment and New Technologies*, The Heritage Foundation, Legal Memorandum No. 102 (Sept. 19, 2013), [http://thf_media.s3.amazonaws.com/2013/pdf/lm102\(new\).pdf](http://thf_media.s3.amazonaws.com/2013/pdf/lm102(new).pdf)

Paul J. Larkin, Jr. & Daniel Dew, *Making Crime Fighting a Team Effort: Cross-Designating Federal Law Enforcement Officers as State Officers*, The Heritage Foundation, Legal Memorandum No. 100 (Aug. 14, 2013), http://thf_media.s3.amazonaws.com/2013/pdf/lm100.pdf

Paul J. Larkin, Jr., *“Sauce for the Goose Is Sauce for the Gander”*: *Treating Private Parties and Government Officials Alike Under the Criminal Law*, The Heritage Foundation, Legal Memorandum No. 99 (June 12, 2013), http://thf_media.s3.amazonaws.com/2013/pdf/lm99.pdf

Paul J. Larkin, Jr., *Reasonably Construing the Computer Fraud and Abuse Act to Avoid Overcriminalization*, The Heritage Foundation, Legal Memorandum No. 95 (June 19, 2013), <http://www.heritage.org/research/reports/2013/06/reasonably-construing-the-computer-fraud-and-abuse-act-to-avoid-overcriminalization>

Paul J. Larkin, Jr., *The Injustice of Imposing Domestic Criminal Liability for a Violation of Foreign*

Law, The Heritage Foundation, Legal Memorandum No. 94 (June 12, 2013), http://thf_media.s3.amazonaws.com/2013/pdf/lm94.pdf

Paul J. Larkin, Jr., *The Dangers of the “Trust Us” Approach to Statutory Interpretation*, The Heritage Foundation, Legal Memorandum No. 93 (June 12, 2013), http://thf_media.s3.amazonaws.com/2013/pdf/lm93.pdf

Paul J. Larkin, Jr., *Fighting Back Against Overcriminalization: The Elements of a Mistake of Law Defense*, The Heritage Foundation, Legal Memorandum No. 92 (June 12, 2013), http://thf_media.s3.amazonaws.com/2013/pdf/lm92.pdf

Paul J. Larkin, Jr., *The Need for a Mistake of Law Defense as a Response to Overcriminalization*, The Heritage Foundation, Legal Memorandum No. 91 (Apr. 11, 2013), <http://www.heritage.org/research/reports/2013/04/the-need-for-a-mistake-of-law-defense-as-a-response-to-overcriminalization>

Paul J. Larkin, Jr., & Elizabeth Slattery, *Overview of the Supreme Court’s October Term, 2012*, The Heritage Foundation, Legal Memorandum No. 87 (Sept. 21, 2012), http://thf_media.s3.amazonaws.com/2012/pdf/lm87.pdf

Paul J. Larkin, Jr., *The Focus Act Hearing: Unpersuasive Criticisms and Tacit Admissions*, The Heritage Foundation, Issue Brief No. 3601 (May 10, 2012), <http://www.heritage.org/Research/Reports/2012/05/Freedom-from-Over-Criminalization-and-Unjust-Seizures-Act-FOCUS-Act-Hearing>

Paul J. Larkin, Jr., *The FOCUS Act and Environmentalism*, The Heritage Foundation, Legal Memorandum No. 80 (May 7, 2012), <http://www.heritage.org/research/reports/2012/05/the-focus-act-and-environmentalism>

Paul J. Larkin, Jr., *The FOCUS Act and Federal Law Enforcement*, The Heritage Foundation, Issue Brief No. 3592 (May 7, 2012), <http://www.heritage.org/research/reports/2012/05/focus-act-overcriminalization-and-federal-law-enforcement>

Paul J. Larkin, Jr., *Defanging the Lacey Act: The Freedom from Over-Criminalization and Unjust Seizures Act of 2012*, The Heritage Foundation, Legal Memorandum No. 78 (Mar. 16, 2012), <http://www.heritage.org/research/reports/2012/03/defanging-the-lacey-act-the-freedom-from-over-criminalization-and-unjust-seizures-act-of-2012>

Paul J. Larkin, Jr., *The STOCK Act and Fraud: Competing Visions, Common Goal*, The Heritage Foundation, Issue Brief No. 3534 (Mar. 8, 2012), <https://vo.heritage.org/research/reports/2012/03/DanaInfo=www.heritage.org+stock-act-and-fraud-competing-visions-common-goal-to-address-government-corruption>

Paul J. Larkin, Jr., *The STOCK Act and Gratuities: Competing Visions, Common Goal*, The Heritage Foundation, Issue Brief No. 3532 (Mar. 7, 2012), <http://www.heritage.org/research/reports/2012/03/stock-act-and-gratuities-competing-visions-common-goal-to-address-government-corruption>

Paul J. Larkin, Jr., *When Fighting Crime Becomes Piling On: The Overcriminalization of Fraud*, The Heritage Foundation, Legal Memorandum No. 76 (Jan. 9, 2012), <http://www.heritage.org/research/reports/2012/01/when-fighting-crime-becomes-piling-on-the-overcriminalization-of-fraud>

Paul J. Larkin, Jr., *Overcriminalization: The Legislative Side of the Problem*, The Heritage Foundation, Legal Memorandum (Dec. 13, 2011), <http://www.heritage.org/research/reports/2011/12/overcriminalization-the-legislative-side-of-the-problem>

Heritage On-Line Publications

Paul J. Larkin, Jr., “A New Challenge to the Constitutionality of Capital Punishment,” The Heritage Foundation, The Daily Signal (June 29, 2015), <http://dailysignal.com/2015/06/29/a-new-challenge-to-the-constitutionality-of-capital-punishment/>

Paul J. Larkin, Jr. & Elijah Coryell, “The Two Key Mistakes the Supreme Court Made When Deciding Kelo,” The Heritage Foundation, The Daily Signal (June 22, 2015), <http://dailysignal.com/2015/06/22/the-two-key-mistakes-the-supreme-court-made-when-deciding-kelo/>

Paul J. Larkin, Jr., “Court Again Affirms You Have to Intend a Threat for It to Be a Threat,” The Heritage Foundation, The Daily Signal (June 3, 2015), <http://dailysignal.com/2015/06/02/court-again-affirms-you-have-to-intend-a-threat-for-it-to-be-a-threat/>

Paul J. Larkin, Jr., “Should Government Give Settlement Money to Groups, Not Taxpayers? New Mexico Takes Action,” The Heritage Foundation, The Daily Signal, Apr. 3, 2015, <http://dailysignal.com/2015/04/03/should-government-give-settlement-money-to-groups-not-taxpayers-new-mexico-takes-action/>

Paul J. Larkin, Jr., “The Justice Department Is Giving Away Your Money (Without Your Permission),” The Heritage Foundation, The Daily Signal, Mar. 16, 2015, [http://dailysignal.com/2015/03/15/the-justice-department-is-giving-away-your-money-without-your-permission-](http://dailysignal.com/2015/03/15/the-justice-department-is-giving-away-your-money-without-your-permission/)
[on/?utm_source=heritagefoundation&utm_medium=email&utm_campaign=morningbell&mkt_tok=3RkMMJWWfF9wsRoivK7NZKXonjHpfsX66%2B8vXKe0IMI%2F0ER3fOvrPUfGjI4HSsJkI%2BSLDwEYGJlv6SgFQrLBMaIozrgOWxU%3D](http://dailysignal.com/2015/03/15/the-justice-department-is-giving-away-your-money-without-your-permission/?utm_source=heritagefoundation&utm_medium=email&utm_campaign=morningbell&mkt_tok=3RkMMJWWfF9wsRoivK7NZKXonjHpfsX66%2B8vXKe0IMI%2F0ER3fOvrPUfGjI4HSsJkI%2BSLDwEYGJlv6SgFQrLBMaIozrgOWxU%3D)

John Malcolm & Paul J. Larkin, Jr., *What Obama Got Right and Wrong in the State of the Union*, The Heritage Foundation, The Daily Signal (Jan. 21, 2015), <http://dailysignal.com/2015/01/20/obama-got-right-wrong-state-union/>

Paul J. Larkin, Jr., *Supreme Court Establishes that Police, But Not the Rest of Us, Can Get the Law Wrong—And Not Face Charges*, The Heritage Foundation, The Daily Signal (Dec. 16, 2014), <http://dailysignal.com/2014/12/16/supreme-court-establishes-police-not-rest-us-can-get-law-wrong-not-face-charges/>

Paul J. Larkin, Jr., *How a Fisherman Got Charged With Violating a Law Intended to Apply to Businesses Shredding Documents*, The Heritage Foundation, The Daily Signal, (Nov. 3, 2014), <http://dailysignal.com/2014/11/03/fisherman-got-charged-violating-law-intended-apply-businesses-shredding-documents/>

Paul J. Larkin Jr., *Why Didn't the Government Prioritize an Ebola Vaccine? Lack of Money Wasn't the Issue*, The Heritage Foundation, The Daily Signal, (Oct. 18, 2014), <http://dailysignal.com/2014/10/18/didnt-government-prioritize-ebola-vaccine-lack-money-wasnt-issue/>

Jason Snead & Paul J. Larkin, Jr., *Uber Fights to Win the Regulatory War (And Why You Should Want It To)*, The Heritage Foundation, The Daily Signal (Sept. 25, 2014), <http://dailysignal.com/2014/09/25/uber-fights-win-regulatory-war-want/#>

Elizabeth Slattery & Paul Larkin, *Police Must Have a Warrant to Search Your Cellphone*, The Heritage Foundation, The Daily Signal, (June 25, 2014), <http://dailysignal.com/2014/06/25/police-must-warrant-search-cellphone/>

Paul J. Larkin, Jr., *Second Circuit Rebukes Trial Judge in NYC Stop and Frisk Case*, The Heritage Foundation, The Foundry (Nov. 4, 2013), <http://blog.heritage.org/2013/11/04/second-circuit-rebuked-trial-judge-in-nyc-stop-and-frisk-case/>

Paul J. Larkin, Jr., *What Is a “Reasonable” “Search” or “Seizure” in the Age of New Technologies*, The Heritage Foundation, The Foundry (Sept. 18, 2013), <http://blog.heritage.org/2013/09/18/what-is-a-reasonable-search-or-seizure-in-the-age-of-new-technologies/>

Paul J. Larkin, Jr., *Boyer v. Louisiana: A Conflict in Constitutional Rights Postponed*, The Heritage Foundation, The Foundry (May 1, 2013), <http://blog.heritage.org/2013/05/01/boyer-v-louisiana-a-conflict-in-constitutional-rights-postponed/>

Paul J. Larkin, Jr., *Time for a Mistake of Law Defense*, The Heritage Foundation, Commentary (Apr. 10, 2013), available at <http://www.heritage.org/research/commentary/2013/4/time-for-a-mistake-of-law-defense?ac=1>

Paul J. Larkin, Jr. & Hans von Spakovsky, *Supreme Court Strikes a Blow to State Court Bias*, The Heritage Foundation, The Foundry (Mar. 20, 2013), <http://blog.heritage.org/2013/03/20/supreme-court-strikes-a-blow-to-state-court-bias/>

Paul J. Larkin, Jr., *Send in the Lawyers: The House Passes the Senate's VAWA*, The Heritage Foundation, The Foundry (Mar. 1, 2013), <http://blog.heritage.org/2013/03/01/send-in-the-lawyers-the-house-passes-the-senates-violence-against-women-act/>

Paul J. Larkin, Jr., *Violence Against Women Act: House Bill Better but Still Flawed*, The Heritage Foundation, The Foundry (Feb. 26, 2013), <http://blog.heritage.org/2013/02/26/vawa-house-bill-better-but-still-flawed/>

Paul J. Larkin, Jr., *Violence Against Women Act Violates the Constitution*, The Heritage Foundation, The Foundry (Feb. 26, 2013), <http://blog.heritage.org/2013/02/14/vawa-violates-the-constitution/>

Paul J. Larkin, Jr., & Daniel J. Dew, *Do We Need a New Law to Make Stealing Illegal?*, The Heritage Foundation, The Foundry (Dec. 10, 2012), <http://blog.heritage.org/2012/12/10/do-we-need-a-new-law-to-make-stealing-illegal/>

Paul J. Larkin, Jr., *Gibson Guitar: Settling Away Bad Publicity*, The Heritage Foundation, The Foundry (Aug. 7, 2012), <http://blog.heritage.org/2012/08/07/gibson-guitar-settling-away-bad-publicity/>

Paul J. Larkin, Jr., *Armour v. Indianapolis: "Money Down the Sewer,"* The Heritage Foundation, The Foundry (June 4, 2012), <http://blog.heritage.org/2012/06/04/armour-v-indianapolis-money-down-the-sewer/>

Paul J. Larkin, Jr., *Court Strikes Down the Defense of Marriage Act*, The Heritage Foundation, The Foundry (May 31, 2012), <http://blog.heritage.org/2012/05/31/court-strikes-down-the-defense-of-marriage-act/>

Paul J. Larkin, Jr., *Should the Agriculture Committee Decide What We Do in Afghanistan?*, The Heritage Foundation, The Foundry (May 17, 2012), <http://blog.heritage.org/2012/05/17/should-the-agriculture-committee-decide-what-we-do-in-afghanistan/>

Paul J. Larkin, Jr., *The Focus Act Hearing: When Silence Is an Admission*, The Heritage Foundation, The Foundry (May 10, 2012), <http://blog.heritage.org/2012/05/10/the-focus-act-hearing-when-silence-is-an-admission/> (last visited May 10, 2012)

Joe Luppino-Esposito & Paul J. Larkin, Jr., *Members of Congress Work to Rein in Overcriminalization in America*, The Heritage Foundation, The Foundry (May 2, 2012), <http://blog.heritage.org/2012/05/02/time-to-focus-on-overcriminalization-in-america/> (last visited May 2, 2012)

Paul J. Larkin, Jr., *The FOCUS Act and Federal Law Enforcement*, The Heritage Foundation, The Foundry (Apr. 13, 2012),

<http://blog.heritage.org/2012/04/12/the-focus-act-and-federal-law-enforcement/>

Paul J. Larkin, Jr., *Overcriminalization Interrupted: Senate Passes House Version of Stock Act*, The Heritage Foundation, The Foundry (Mar. 23, 2012),

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http://blog.heritage.org/2012/01/25/landmark-supreme-court-ruling-on-technology-and-the-fourth-amend-ment/?utm_source=strategicmarketing&utm_medium=newsletter&utm_campaign=LibertyJustice

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Paul J. Larkin, Jr., *Dixon Gives Up the Ghost – And It’s Admissible*, The Heritage Foundation, The Foundry (Nov. 8, 2011), <http://blog.heritage.org/2011/11/08/dixon-gives-up-the-ghost-%e2%80%93-and-it%e2%80%99s-admissible/>

**TESTIMONY, LECTURES, PRESENTATIONS, SYMPOSIA,
OP-EDS, BLOGS, PANEL DISCUSSIONS, DEBATES, AND INTERVIEWS**

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Paul J. Larkin, Jr., Guest Lecturer, George Washington University, Columbian College of Arts &

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Paul J. Larkin, Jr., *Introduction to Overcriminalization*, Harvard Law School Federalist Society (Nov. 13, 2012)

Paul J. Larkin, Jr., Moderator, *Symposium: Model, Resource, or Outlier? Does It Matter?—What Effect Has the U.S. Constitution Had on the Recently-Adopted Constitutions of Other Nations?*, The Heritage Foundation (Oct. 11, 2012) (Moderator)

The Supreme Court October Term, 2012, “The World and Everything in It with Mary Reichard (Sept. 26, 2012)

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Bill LuMaye, *The Bill LuMaye Show: Overcriminalization*, WPTF (Raleigh, NC May 11, 2012)

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The Supreme Court and Obamacare, WGST Atlanta, Georgia, Dave Merlino Host (Nov. 15, 2011)

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Paul J. Larkin, Jr., *If Rajat Gupta Is an Inside Trader Maybe You Are, Too*, The Curious Capitalist, Time (Oct. 26, 2011), http://curiouscapitalist.blogs.time.com/2011/10/26/if-rajat-gupta-is-an-inside-trader-maybe-you-are-too/?artId=17520?contType=blog_the_curious_capitalist?chn=us

Paul J. Larkin, Jr., *Juvenile Justice Reform in Virginia: 1996*, Alexandria Republican City Committee (Alexandria, VA Mar. 7, 1996)

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Paul J. Larkin, Jr., Panelist, Symposium, *Drugs: A Connection to Violent Crime*, Governor's Forum on Crime (Richmond, VA Oct. 12, 1995)

Paul J. Larkin, Jr., Panelist, Symposium, *The Supreme Court -- October Term, 1994: Criminal Justice Decisions*, Second Annual United States Supreme Court Update, Georgia Institute of Continuing Legal Education (Atlanta, GA Sept. 22, 1995)

Paul J. Larkin, Jr., *Presentation of Recommendations of the Courts and Sentencing Subcommittee*, Meeting of the Governor's Commission on Juvenile Justice Reform (Richmond, VA Aug. 23, 1995) (presentation and written report) (noted at *Tougher Measures Advocated*, Richmond Times-Dispatch, Aug. 24, 1995, at B1, B6)

Pleading the 10th, National Journal 1940 (July 29, 1995) (interview)

Reform Initiatives in Other States, Meeting of the Governor's Commission on Juvenile Justice Reform (George Mason Univ., VA July 25, 1995) (presentation and written submission)

A Landmark Decision? Maybe Not, National Journal 1131 (May 6, 1995) (interview)

Illegal Evidence May be Allowed By Congress, Lawyer's Weekly (Mar. 27, 1995) (interview)

Daniel Seligman, *Keeping Up – Dodge City and the Fourth Amendment*, Fortune 142 (Mar. 20, 1995) (interview)

Paul J. Larkin, Jr., *The Jury and the Search for Truth” Hearing on S. 3, the Violent Crime Control and Law Enforcement Improvement Act of 1995, Before the Senate Judiciary Committee*, 104th Cong., 1st Sess. (Mar. 7, 1995) (testimony and prepared statement on Title V of S. 3, Exclusionary Rule Reform)

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Paul J. Larkin, Jr., *Hearing on H.R. 3, the Taking Back Our Streets Act of 1995, Before the Subcomm. On Crime of the House Judiciary Committee*, 104th Cong., 1st Sess. (Jan. 20, 1995) (testimony and prepared statement on Title VI of H.R. 3, Exclusionary Rule Reform)

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Military Justice, Legal Notebook, National Empowerment Television (Washington, D.C. Oct. 24, 1994) (interview)

Litigating Post-Trial Claims of Actual Innocence, Association of Government Attorneys in Capital Litigation (San Francisco, CA July 29, 1994) (handout co-authored with Hon. Margaret P. Griffey; panel presentation by Ms. Griffey)

Paul J. Larkin, Jr., *Washington Legal Foundation Media Briefing: 1993-94 Supreme Court Term Review* (Russell Senate Office Bldg. Washington, D.C. June 28, 1994)

Paul J. Larkin, Jr., *Drafting Certiorari Petitions and Briefs in Opposition*, Association of Government Attorneys in Capital Litigation (Chicago, IL Aug. 6, 1993)

Paul J. Larkin, Jr., *Review of Controlling Supreme Court Death Penalty Decisions: Appellate Considerations in Death Penalty Cases*, First Federal Death Penalty Conference, U.S. Department of Justice (Washington, D.C. Jan. 27, 1993)

Paul J. Larkin, Jr., *Certiorari Petitions and Responses in the U.S. Supreme Court*, North Carolina Department of Justice, Continuing Legal Education Program (Raleigh, NC Aug. 28, 1992)

Paul J. Larkin, Jr., *Actual Innocence: Retrying Your Capital Case*, Association of Government Attorneys in Capital Litigation (Newport Beach, CA Aug. 9, 1992) (panel discussion)

Paul J. Larkin, Jr., *Military and Federal Death Penalty*, Association of Government Attorneys in Capital Litigation (Orlando, FL Aug. 9, 1991)

Paul J. Larkin, Jr., *Supreme Court Practice*, Joint Service Appellate Workshop (Washington Navy Yard, D.C. Feb. 27, 1991)

Paul J. Larkin, Jr., *The Gods Must Be Crazy Part Three: Recent Court Decisions and Department of Justice Guidelines*, The National Association of Federal Investigators (Washington, D.C. Dec. 6, 1990)

Paul J. Larkin, Jr., Panelist, Symposium, *Oral Appellate Advocacy*, Vermont Law School (Oct. 25, 1990)

Paul J. Larkin, Jr., *Supreme Court Practice*, Joint Service Appellate Workshop (Andrews Air Force Base, MD Jan. 18, 1989)

PROFESSIONAL HONORS

Verizon Communications Inc. Verizon Performance Excellence Award (Apr. 2007)

Federal Executive Center – Graduate (Apr. 2003)

Environmental Protection Agency Award for Excellence in Response: Capitol Hill Anthrax Attack (Feb. 2003)

Environmental Protection Agency Award for Excellence in Response on 9/11/01 at the Pentagon (July 2002)

Department of Justice Commendation for Investigative Work (2002)

Department of Justice Commendation for Investigative Work (2000)

Federal Law Enforcement Training Center, *Criminal Investigator Training Program* (CITP-810), Top Academic Graduate (1998)

Secretary of Defense Medal for Meritorious Civilian Service (March 1994)

William J. Schaffer III Award, Association of Government Attorneys in Capital Litigation (August 1993)

GOVERNMENT ORGANIZATIONS

Jury Commissioner, City of Alexandria, Virginia (1999-2000)

Governor-Elect's Public Safety Transition Team (selected by Governor-elect James Gilmore) (December 1997 to January 1998)

Governor's Commission on Juvenile Justice Reform (appointed by Governor George Allen) (March 1995 to December 1995)

Chair, Subcommittee on Courts and Sentencing
Governor's Commission on Parole Abolition and Sentencing Reform (appointed by Governor George Allen) (February 1994 to August 1994)

Member, Subcommittee on Implementation
Rules Advisory Committee, United States Court of Appeals for the Armed Forces (July 1993 to September 2005)

PROFESSIONAL ORGANIZATIONS

National Chamber of Commerce Litigation Center's Constitutional & Administrative Law Advisory Committee (2006-2009)

American Bar Association (1983 to 1988, 2005-2008)

- Vice-Chair Communications Committee, Antitrust Section (2005-2007)
- Co-Editor, Antitrust Section, Communications Industry Committee Newsletter "*The Party Line*" (August 2006-June 2007)
- Co-Chair Criminal Justice Committee, Individual Rights & Responsibilities Section (1983-1984)

Association of Government Attorneys in Capital Litigation, Board of Directors (October 1992 to June 1993)

BAR MEMBERSHIPS

Supreme Court of the United States; District of Columbia Bar; United States Courts of Appeals for the First, Fifth, Sixth, Ninth, Eleventh, and District of Columbia Circuits; United States Court of Appeals for the Armed Forces (formerly the United States Court of Military Appeals); United States Court of Federal Claims

PUBLIC SAFETY TRAINING

Northern Virginia Community College, *Emergency Medical Technician – Recertification Course* (September to December 2008)

American Heart Association, *Cardio-Pulmonary Resuscitation/Automated External Defibrillator Training for the Professional Rescuer* (September 2008)

Virginia Department of Health, Emergency Medical Services, *Emergency Medical Technician – Basic* (2005)

Northern Virginia Community College, *Emergency Medical Technician – Basic Course* (January to May 2005)

American Red Cross, *Cardio-Pulmonary Resuscitation/Automated External Defibrillator Training for the Professional Rescuer* (Arlington, VA December 2004)

Federal Executive Institute, *Leadership for a Democratic Society* (Charlottesville, VA December 2002, March 2003)

Northern Virginia Criminal Justice Training Academy, *Mental Preparation for Armed Encounters* (NVCJTA Ashburn, VA 2002)

Federal Law Enforcement Training Center & InSight Training Center, *Tactical First Aid* (Glynco, GA February 2002)

U.S. Secret Service, *Small Detail Dignitary Protection Training Level B* (Beltsville, MD October 2001)

EPA, *Clandestine Drug Lab Awareness Class* (Ft. Meade, MD October 1999)

EPA, *Sampling for Hazardous Materials* (165.9) (Edison, NJ February 1999)

Glock, Inc., *Glock Armorer's School* (Washington, DC December 1998)

Federal Law Enforcement Training Center, *Firearms Instructor Training Program* (FITP-901A) (Artesia, NM October 1998)

Federal Law Enforcement Training Center, *Environmental Investigations: Basic Training Program* (EIB-801) (Glynco, GA July to August 1998)

Federal Law Enforcement Training Center, *Hazardous Materials Incident Response Operations* (Glynco, GA July 1998)

Federal Law Enforcement Training Center, *Criminal Investigator Training Program* (CITP-810) (Glynco, GA January to March 1998)

District of Columbia Metropolitan Police Department -- Department of Public Works, *Environmental Crimes Training* (Washington, DC June 1998)

John Tyler Community College, *Investigating Vehicle Bombs and Car Bombs: Crime Scene Evidence Collection Techniques* (Chester, VA April 1998)

REFERENCES

Hon. Edwin Meese III, Former U.S. Attorney General, Ronald Reagan Fellow and Director of the Center for Legal and Judicial Policy, Emeritus, The Heritage Foundation, 214 Massachusetts Ave., NE, Washington, DC 20002

Senator Orrin G. Hatch, Hart Senate Office Bldg., Washington, DC 20510 (O: 202.224.5251)

Hon. William P. Barr, Former U.S. Attorney General & Former Executive Vice President & General Counsel, Verizon Communications Inc., 1200 Dale View Drive, McLean, VA 22102 (C: 202-841-7925)

Hon. William C. Bryson, United States Court of Appeals for the Federal Circuit, 717 Madison Place, N.W., Washington, D.C. 20439 (O: 202.786.7142)

Thomas M. Buchanan, Winston & Strawn LLP, 1700 K Street, N.W., Washington, D.C. 20006-3817 (O: 202.282.5787)

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CASES HANDLED
IN THE SUPREME COURT OF THE UNITED STATES
(Cases Argued Are Marked With an Asterisk)

Morrison-Knudsen Constr. Co. v. Director, OWCP, 461 U.S. 624 (1983) (whether "fringe benefits," such as employer contributions to union trust funds for health and welfare, pension and training are "wages" for purpose of computing compensation benefits under the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. § 901 *et seq.* (1976))

Barefoot v. Estelle, 463 U.S. 880 (1983) (whether the federal courts may adopt expedited procedures for resolving habeas corpus petitions in capital cases)

Grove City College v. Bell, 465 U.S. 555 (1984) ((1) whether Grove City College operated an "educational program or activity receiving Federal financial assistance" under Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681(a) (1982); and (2) whether the application of Title IX regulations to Grove City College violated the First Amendment)

United States v. Arthur Young & Co., 465 U.S. 805 (1984) (whether tax accrual workpapers prepared by a corporation's certified public accountant are protected from disclosure in response to an Internal Revenue Service summons)

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* *Hillsborough County v. Automated Medical Laboratories, Inc.*, 471 U.S. 707 (1985) (whether Food and Drug Administration regulations concerning the process of manufacturing blood products pre-empt local health ordinances)

Maryland v. Macon, 472 U.S. 463 (1985) (whether a police officer's undercover entry into a bookstore and purchase of a book is a "search" or a "seizure" under the Fourth Amendment)

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* *Delaware v. Van Arsdall*, 475 U.S. 673 (1986) (whether the harmless error doctrine applies to restrictions on defense cross-examination, in violation of the Sixth Amendment Confrontation Clause)

* *Young v. Community Nutrition Institute*, 476 U.S. 974 (1986) (whether the Food and Drug Administration has the authority to regulate the presence of poisonous or deleterious substances in food through case-by-case adjudication, instead of rulemaking)

City of Riverside v. Rivera, 477 U.S. 561 (1986) (whether attorneys' fees awarded under the Civil Rights Attorneys' Fees Awards Act of 1978, 42 U.S.C. § 1988 (1988), must be commensurate with the damages recovered by a plaintiff in a damages action)

Thornburg v. Gingles, 478 U.S. 30 (1986) (involving the proper construction of the Voting Rights Act of 1965, as amended by the Voting Rights Act Amendments of 1982, 42 U.S.C. § 1973 (1988))

* *Rose v. Clark*, 478 U.S. 570 (1986) (whether the harmless error doctrine applies to jury instructions containing an erroneous presumption on an essential element of the offense)

* *Illinois v. Krull*, 480 U.S. 340 (1987) (whether the reasonable mistake exception to the exclusionary rule of *United States v. Leon*, 468 U.S. 897 (1984), applies to an officer's reliance on a statute authorizing a warrantless search)

* *Stringfellow v. Concerned Neighbors in Action*, 480 U.S. 370 (1987) (whether a district court order granting permissive intervention, but denying intervention as of right, is an immediately appealable collateral order)

* *United States v. Merchant*, 480 U.S. 615 (1987) (whether the reasonable mistake exception to the exclusionary rule adopted in *United States v. Leon*, 468 U.S. 897 (1984), applies to an officer's reliance on a consent-to-search clause in a judgment of probation)

United States v. John Doe, Inc. I, 481 U.S. 102 (1987) (whether attorneys involved in a grand jury investigation may use grand jury materials in preparing for a later civil action without first obtaining a court order pursuant to Fed. R. Crim. P. 6(e))

* *Vermont v. Cox*, 484 U.S. 173 (1987) (whether a probation officer must administer Miranda warnings to a convicted defendant before he is questioned during a presentence interview)

Meese v. Keene, 481 U.S. 465 (1987) (whether the Foreign Agents Registration Act of 1938, 22 U.S.C. §§ 611-621 (1982), violates the First Amendment by labeling as "political propaganda" certain expressive material)

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Solorio v. United States, 483 U.S. 435 (1987) (whether the armed forces have the authority to prosecute any servicemember for any crime committed while he is in the military in violation of the Uniform Code of Military Justice)

Lowenfield v. Phelps, 484 U.S. 231 (1988) (whether (a) using an *Allen* charge at the sentencing stage of a capital case, and (b) polling the jury to determine whether further deliberations on sentencing would be profitable, are unconstitutional)

- Taylor v. Illinois*, 484 U.S. 400 (1988) (whether the use of a preclusion sanction, *i.e.*, preventing a defense witness from testifying at trial, for a defense violation of a discovery requirement violates the Compulsory Process Clause of the Sixth Amendment)
- * *Gardebring v. Jenkins*, 485 U.S. 415 (1988) (whether regulations of the Department of Health and Human Services require Aid to Families with Dependent Children recipients to be *notified of statutory changes in eligibility requirements*)
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- Allied Tube & Conduit Corp. v. Indian Head, Inc.*, 486 U.S. 492 (1988) (whether a private company's efforts to persuade a private, standard-setting organization to disapprove a competitor's product is protected by the *Noerr-Pennington* doctrine)
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- Kadrmas v. Dickinson Public Schools*, 487 U.S. 450 (1988) (whether a school bus user fee violates the Equal Protection Clause of the Fourteenth Amendment)
- Mistretta v. United States*, 488 U.S. 361 (1989) (whether the Sentencing Reform Act of 1984 is constitutional)
- * *United States v. Sokolow*, 490 U.S. 1 (1989) (whether law enforcement officers may rely on the totality of the circumstances in determining whether a person traveling through an airport is in possession of narcotics)
- * *Frank v. Minnesota Newspaper Ass'n*, 490 U.S. 225 (1989) (whether 18 U.S.C. § 1302 (1988), which prohibits sending through the mails lottery-related advertisements and prize lists, violates the First Amendment)
- Public Citizen v. Department of Justice*, 491 U.S. 440 (1989) ((1) whether the Federal Advisory Committee Act, 5 U.S.C. app. 1 (1988), applies to the President's reliance on the advice of the American Bar Association's Committee on Federal Judiciary about the qualifications of potential nominees to the federal bench; and (2) if so, whether the Act violates the President's Article II power to nominate Officers of the United States)

- * *Alabama v. Smith*, 490 U.S. 794 (1989) (whether the Due Process Clause prohibits a trial judge from imposing a more severe sentence on a defendant after a trial than after a guilty plea)
- * *Washington v. Harper*, 494 U.S. 210 (1990) (whether the Due Process Clause prohibits the involuntary medication of a mentally ill and dangerous prisoner)
- Ngiraingas v. Sanchez*, 495 U.S. 182 (1990) (whether a territory and its officers, acting in their official capacities, are subject to suit under 42 U.S.C. § 1983 (1988))
- * *Commissioner, INS v. Jean*, 496 U.S. 154 (1990) (whether the Equal Access to Justice Act, 28 U.S.C. § 2412(d) (1988), requires the government automatically to pay fees incurred in litigation over attorney's fee awards)
- * *Illinois v. Perkins*, 496 U.S. 292 (1990) (whether an undercover police officer must give an incarcerated suspect Miranda warnings before asking him questions)
- Hodgson v. Minnesota*, 497 U.S. 417 (1990) (whether the Constitution prohibits a State from adopting a 48-hour waiting period for a minor to have an abortion)
- United States v. France*, 498 U.S. 335 (1991) (whether a defendant is entitled to a reversal of his conviction because a magistrate conducted voir dire if the defendant did not object to that procedure) (reply brief only)
- Ohio v. Huertas*, 498 U.S. 336 (1991) (whether the admission of "victim impact" evidence at the sentencing stage of a capital trial violates the Eighth Amendment)
- * *Air Courier Conference of America v. American Postal Workers' Union*, 498 U.S. 517 (1990) ((1) whether Postal Service employees, through their unions, can bring suit under the Administrative Procedure Act to challenge a regulation permitting private mail services to engage in international remailing; and (2) whether the Postal Service acted arbitrarily and capriciously in promulgating its international remailing regulation)
- * *Arizona v. Fulminante*, 499 U.S. 279 (1991) ((1) whether a suspect's confession was coerced because he made the statement in response to an offer by an informant to protect him from other inmates; and (2) whether the admission of a defendant's involuntary confession can be harmless error)
- United States v. Gaubert*, 499 U.S. 315 (1991) (whether supervisory actions taken by federal regulators of financial institutions are within the "discretionary function" exception to the Federal Tort Claims Act, 28 U.S.C. § 2680(a) (1988))
- California v. Hodari D.*, 499 U.S. 621 (1991) ((1) whether a police officer's pursuit of a person who flees at the sight of the officer is a "seizure" under the Fourth Amendment before

that person's flight has been halted; and (2) whether drugs that a suspect abandons during his flight from a police officer must be suppressed as the fruits of an unlawful seizure)

- * *Chapman v. United States*, 500 U.S. 453 (1991) ((1) whether, in determining the weight of lysergic acid diethylamide (LSD) for sentencing purposes, a district court must consider the combined weight of the LSD and a carrier medium for the drug; and (2) whether the Constitution forbids considering the combined weight of LSD and a carrier medium for sentencing purposes)

Chisom v. Roemer, 501 U.S. 380 (1991) (whether the results of Section 2 of the Voting Rights Act of 1965, 42 U.S.C. § 1973, applies to the election of state court judges)

Houston Lawyers' Ass'n v. Texas Attorney General, 501 U.S. 419 (1991) ((1) whether the results test of Section 2 of the Voting Rights Act of 1965, 42 U.S.C. § 1973, applies to the election of state court judges; and (2) whether the results test of Section 3 of the Voting Rights Act applies to the election of offices that can be held by only one person)

- * *United States v. R.L.C.*, 503 U.S. 291 (1992) (whether the Sentencing Guidelines apply to juvenile delinquency proceedings)

- * *Jacobson v. United States*, 503 U.S. 540 (1992) (whether the defendant was entrapped by the government's undercover efforts to investigate trafficking in child pornography)

Morales v. Trans World Airline, 504 U.S. 374 (1992) (whether the Airline Deregulation Act of 1978, 49 U.S.C. § 1035(a)(1) (1988), which pre-empts "any" state laws "relating to rates, routes, or services of any air carrier," pre-empts state regulation of air fare advertising) (brief filed in response to Supreme Court request)

- * *Sawyer v. Whitley*, 505 U.S. 333 (1992) (whether a federal court may entertain a successive habeas corpus petition challenging a prisoner's sentence where a prisoner cannot make a colorable showing that he is innocent of the crime or the aggravating factors that rendered him eligible to receive that sentence)

Medina v. California, 505 U.S. 437 (1992) (whether Due Process Clause prohibits a State from assigning to the defendant in a criminal case the burden of proving that he is incompetent to stand trial)

Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833 (1992) ((1) whether *Roe v. Wade*, 410 U.S. 113 (1973) should be overruled; and (2) whether the Pennsylvania Abortion Control Act is constitutional)

Bray v. Alexandria Women's Health Clinic, 506 U.S. 263 (1993) ((1) whether a conspiracy to deter pregnant women from obtaining abortions involves the class-based animus required by

42 U.S.C. 1985(3); and (2) whether obstructing access to a medical facility deprives out-of-state patients of their constitutional right of interstate travel)

- * *Herrera v. Collins*, 506 U.S. 390 (1993) (whether the Cruel and Unusual Punishments Clause of the Eighth Amendment, or the Due Process Clause of the Fifth and Fourteenth Amendments, entitles a prisoner to obtain judicial relief from a judgment of conviction on the basis of newly-discovered evidence of his innocence, instead of being required to seek executive clemency)

United States v. Nachtigal, 507 U.S. 1 (1993) (whether Art. III, Sec. 2, Cl. 3 of the Constitution or the Jury Trial Clause of the Sixth Amendment requires a trial by jury for the offense of driving under the influence of alcohol, where the maximum authorized penalty is six months' imprisonment and a \$5,000 fine) (summary reversal without full briefing or argument)

- * *United States v. Dunnigan*, 507 U.S. 87 (1993) (whether the Constitution bars a court from enhancing a defendant's sentence under Sentencing Guidelines § 3C1.1 if the court finds that the defendant committed perjury while testifying at trial)

- * *Stinson v. United States*, 508 U.S. 36 (1993) (whether a district court's failure to follow the Sentencing Commission's commentary on the Sentencing Guidelines constitutes an "incorrect application" of the Sentencing Guidelines under 18 U.S.C. § 3742(f)(1))

- * *United States v. Edge Broadcasting Co.*, 509 U.S. 418 (1993) (whether 18 U.S.C. §§ 1304 and 1307, which restrict the right of a radio or television licensee to broadcast lottery-related advertisements, violate the First Amendment Free Speech Clause when applied to a licensee operating in a State that prohibits lotteries, but whose broadcasts extend into a State that operates a state lottery)

Alexander v. United States, 509 U.S. 544 (1993) ((1) whether the forfeiture provisions of the RICO statute violate the First Amendment when the predicate acts of racketeering are obscenity violations and the forfeited property consists of the assets of a business dealing in magazines and video cassettes; and (2) whether the forfeiture of petitioner's property resulting from his RICO convictions was disproportionate to his crimes, in violation of the Eighth Amendment)

Weiss v. United States, 510 U.S. 163 (1994) ((1) whether the Appointments Clause of the Constitution, Art. II, Sec. 2, Cl. 2, prohibits Congress from authorizing the Judge Advocates General to select commissioned officers in the military as court-martial trial judges and judges of the courts of military review; and (2) whether due process requires that military judges have fixed terms of office)

- * *Ratzlaf v. United States*, 510 U.S. 135 (1994) (in a prosecution for willfully violating the Bank Secrecy Act, 31 U.S.C. § 5324(3), by structuring currency transactions with one or more domestic financial institutions for the purpose of evading the reporting requirements of 31 U.S.C. § 5313(a), whether the government must prove that petitioners knew that structuring for that purpose was unlawful)
- Victor v. Nebraska*, 511 U.S. 1 (1994) (whether the jury instructions on the meaning of the reasonable doubt standard violated the Due Process Clause)
- Arizona v. Evans*, 514 U.S. 1 (1995) (whether the Fourth Amendment exclusionary rule requires the suppression of evidence obtained by law enforcement officers acting in reliance upon a facially-valid radio report that a warrant exists for a suspect's arrest)
- U.S. Term Limits v. Thornton*, 514 U.S. 779 (1995) (whether the Qualifications Clauses of the Constitution, Art. I, § 2, Cl. 2, and § 3, Cl. 3, prohibit a state from limiting the terms served by United States Representatives and Senators)
- Felker v. Turpin*, 518 U.S. 651 (1996) ((1) Whether Title I of the Antiterrorism and Effective Death Penalty Act of 1996 is an unconstitutional restriction on the appellate jurisdiction of the Supreme Court; (2) whether Title I of the Act applies to habeas corpus petitions filed as original matters in the Supreme Court pursuant to 22 U.S.C. § 2241; (3) whether application of Title I of the Act in this case amounts to a suspension of the writ of habeas corpus, in violation of the Suspension Clause of the Constitution, Art. I, § 9, Cl. 2)
- MGM Studios v. Grokster*, 545 U.S. 913 (2005) (whether providers of peer-to-peer file sharing network software can be held secondarily liable for copyright infringement by others)
- Texaco v. Dagher*, 547 U.S. 1 (2006) (whether it is per se illegal concerted action under Section 1 of the Sherman Act for an economically integrated joint venture to set the selling price of its own products)
- Illinois Tool Works v. Independent Ink*, 547 U.S. 28 (2006) (whether existence of a patent itself proves market power for purposes of the Sherman Act)
- Scheidler v. NOW*, 547 U.S. 9 (2006) ((1) whether the Seventh Circuit on remand disregarded the Supreme Court's mandate; (2) whether the Hobbs Act 18 U.S.C. § 1951(a), punishes acts or threats of physical violence against "any person or property" in a manner that "in any way or degree * * * affects commerce," even if such acts or threats of violence are wholly unconnected to either extortion or robbery; and (3) whether injunctive relief is available in a private civil action for treble damages under RICO, 18 U.S.C. § 1964(c))

Weyerhaeuser Co. v. Ross-Simmons Hardwood Lumber Co., 549 U.S. 312 (2007) (whether “predatory buying” can be proved without established unprofitable purchases and likely recoupment of losses during a later monopoly period)

Bell Atlantic v. Twombly, 550 U.S. 544 (2007) (whether a complaint states a claim under Section 1 of the Sherman Act, 15 U.S.C. § 1, if it alleges that the defendants engaged in parallel conduct and adds the assertion that the conduct was a “conspiracy”)

Leegin Creative Leather Products v. PSKS, 551 U.S. 877 (2007) (whether the per se rule adopted in *Dr. Miles Medical Co. v. John D. Park & Sons Co.*, 221 U.S. 373 (1911), outlawing as per se illegal vertical minimum resale price maintenance should be reconsidered and overruled)

Pacific Bell Tel. Co. v. linkLine Communications, Inc., 555 U.S. 438 (2009) (whether the allegation that a vertically-integrated firm selling products at a wholesale price and a retail price in a manner that creates a “price squeeze” – viz. one that prevents a competing firm at the retail level from making a profit – state a claim under the Sherman Act) (amicus brief)

Ashcroft v. Iqbal, 556 U.S. 662 (2009) ((1) whether a conclusory allegation that a cabinet-level officer or high-ranking official knew of, condoned, or agreed to subject a plaintiff to allegedly unconstitutional acts purportedly committed by subordinate officials is sufficient to state individual-capacity claims against those officials under *Bivens*; (2) whether a cabinet-level officer or high-ranking official may be held personally liable for the allegedly unconstitutional acts committed by subordinate officials on the ground that, as high-level supervisors, they had constructive notice of the discrimination allegedly carried out by such subordinate officials).

CASES HANDLED IN THE LOWER FEDERAL AND STATE COURTS
(Cases Argued Are Marked With an Asterisk)

Pennsylvania Public Utility Comm'n v. United States, 749 F.2d 841 (D.C. Cir. 1984) (briefed)

Hughes v. A.H. Robins Co., 490 A.2d 1140 (D.C. 1985) (briefed)

* *United States v. Cascarelli*, 746 F.2d 1480 (6th Cir. 1984) (Table) (briefed and argued)

United States v. Provenzano, 747 F.2d 1462 (5th Cir. 1984) (Table) (briefed)

* *United States v. Tribunella*, 749 F.2d 104 (2d Cir. 1984) (briefed and argued)

* *Sinito v. United States*, 750 F.2d 512 (6th Cir. 1984) (argued)

* *In re Application for Appointment of Independent Counsel*, 596 F. Supp. 1465 (E.D.N.Y. 1984), *aff'd*, 766 F.2d 70 (2d Cir. 1985) (briefed and argued in district court)

- * *United States v. Segrera*, 752 F.2d 648 (11th Cir. 1985) (Table) (briefed and argued)
- * *United States v. Notarantonio*, 758 F.2d 777 (1st Cir. 1984) (argued)
- United States v. Bridges*, 760 F.2d 151 (7th Cir. 1984) (briefed)
- United States v. Leo*, 762 F.2d 995 (3d Cir. 1985) (Table) (briefed)
- In re Grand Jury Matter (Antoni Gronowicz)*, 764 F.2d 983 (3d Cir. 1985) (briefed)
- * *United States v. DiCaro*, 772 F.2d 1314 (7th Cir. 1985) (briefed and argued)
- * *United States v. Arnold*, 773 F.2d 823 (7th Cir. 1985) (briefed and argued)
- United States v. Fey*, 787 F.2d 598 (9th Cir. 1986) (Table) (briefed)
- * *United States v. Curtis*, 32 M.J. 252 (C.M.A. 1991) (briefed and argued)
- United States v. Stinson*, 30 F.3d 121 (11th Cir. 1994) (briefed)
- United States v. Wright*, 33 F.3d 1297 (11th Cir. 1994) (briefed)
- United States v. Bruce*, 39 F.3d 323 (11th Cir. 1994) (briefed)
- Coca-Cola Co. v. FTC*, 1995 U.S. App. LEXIS 15183 (D.C. Cir. Dec. 28, 1994) (No. 94-1596) (briefed)
- Owens-Illinois v. Estate of Burt*, 897 S.W.2d 765 (Tex. 1995) (briefed)
- Sofamor Danek Group v. Gaus*, 61 F.3d 929 (D.C. Cir. 1995) (briefed)
- Mattox v. Williams*, 855 F. Supp. 406 (D.D.C. 1994), *aff'd*, 62 F.3d 408 (D.C. Cir. 1995) (briefed in district court)
- Brown & Williamson Tobacco Corp. v. Williams*, 81 F.3d 155 (5th Cir. 1996) (Table) (briefed)
- United States v. Watt*, No. 95-3192 (D.C. Cir. stay application filed Dec. 26, 1995) (withdrawn as moot Jan 2, 1996) (briefed)
- Starling v. Hughston Clinic*, 101 F.3d 709 (11th Cir. 1996) (Table) (briefed)
- Mazda Motor Corp. v. Chudasama*, 123 F.3d 1353 (11th Cir. 1997) (briefed)
- Covad Communications v. Bell Atlantic*, 398 F.3d 666 (D.C. Cir. 2005) (briefed)
- Levine v. BellSouth*, 143 Fed. Appx. 298, 2005 U.S. App. LEXIS 20418, No. 04-10819-D (11th Cir. Apr. 11, 2005) (briefed)
- Law Offices of Curtis V. Trinko v. Verizon*, No. 00 Civ 1910 (SHS) (JCF) (S.D.N.Y. 2004) (briefed)

Greco v. Verizon, 2005 U.S. Dist. Lexis 4434, 2005 Trade Cas. (CCH) ¶ 74,738 (S.D.N.Y. 2005) (briefed)

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Cascade Health Solutions v. PeaceHealth, 502 F.3d 895 (9th Cir. 2007) (amicus brief)

linkLine Communications v. SBC California, 503 F.3d 876 (9th Cir. 2007) (amicus brief), *rev'd Pacific Bell Tel. Co. v. linkLine Communications, Inc.*, 555 U.S. 438 (2009)

New Phone Co. v. New York City & Verizon Communications, 00 Civ. 2007 (JG) (KAM) (E.D.N.Y. Oct. 17, 2006), *aff'd*, No. 06-5276-cv (2d Cir. Dec. 7, 2009) (summary order) (briefed)

Global Naps, Inc. v. Verizon New England, Inc., 603 F.3d 71 (1st Cir. 2010) (briefed)

FTC v. Watson Pharmaceuticals, 677 F.3d 1298 (11th Cir. 2012) (briefed), *rev'd sub nom.*, *FTC v. Actavis, Inc.*, 133 S. Ct. 2223 (2013)

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