

TONJA JACOBI

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ACADEMIC EMPLOYMENT**Northwestern University**

School of Law

William G. and Virginia K. Karnes

Research Professor 2014 – 2016

Professor 2008 –

Associate Professor 2007 – 2008

Assistant Professor 2004 – 2007

Ford Center, Kellogg School of
Management

Affiliated Faculty Member 2005 –

Searle Center

Affiliated Faculty Member 2011 –

Stanford University

Hoover Institute

Fellow Spring 2013

Fellow Spring 2012

Department of Political Science

Lecturer Summer 2003

University of Melbourne

Law School

Visiting Scholar Spring 2013

University of Virginia

School of Law

Visiting Associate Professor Spring 2008

EDITORIAL POSITIONS

Review of Law and Economics

Associate Editor

2012-2014

EDUCATION

Ph.D. Stanford University, Political Science Department 2004

Dissertation: "The Judiciary's Strategic Interactions with the
Elected Branches in the U.S. Political System"*Committee:* John Ferejohn, Barry Weingast, Jeff Strnad

M.A. Univ. of California, Berkeley, Political Science Department 2000

LL.B.(~J.D.) Australian National University; with 1st Class Honors 1999B.A. Australian National University; with 1st Class Honors 1996

PUBLICATIONS

Articles

32. *Miranda 2.0*
50 UC DAVIS LAW REVIEW 1-85 (forthcoming 2016)
available at <http://ssrn.com/abstract=2656405>
31. *The Hidden Psychology of Constitutional Criminal Procedure*
— with Jesse-Justin Cuevas
37 *Cardozo Law Review* 2161-2237 (2016)
30. *The Second Dimension of the Supreme Court* — with Joshua Fischman
57 *William & Mary Law Review* 1671-1715 (2016)
29. *A Theory of Judicial Retirement* — with Alvaro Bustos
17 *AMERICAN LAW AND ECONOMICS REVIEW* 529-565 (2015)
28. *Creating a Self-Stabilizing Constitution: The Role of the Takings Clause* — with
Sonia Mittal & Barry R. Weingast
110 *NORTHWESTERN UNIVERSITY LAW REVIEW* 601-638 (2015) — constitutional design
symposium
27. *Communicating Judicial Retirement* — with Alvaro Bustos
43 *INTERNATIONAL REVIEW OF LAW AND ECONOMICS* 107-118 (2015)
26. *Criminal Innovation and the Warrant Requirement: Reconsidering the Rights-
Police Efficiency Trade-off* — with Jonah Kind
56 *WILLIAM AND MARY LAW REVIEW* 759-832 (2015)
25. *Why Judges Always Vote* — with Eugene Kontorovich
43 *INTERNATIONAL REVIEW OF LAW AND ECONOMICS* 190-199 (2015)
24. *The Attrition of Rights under Parole* — with Song Richardson & Gregory Barr
87 *SOUTHERN CALIFORNIA LAW REVIEW* 887-976 (2014)
23. *Strategic Judicial Preference Revelation* — with Alvaro Bustos
57 *JOURNAL OF LAW AND ECONOMICS* 113-137 (2014)
22. *Obamacare as a Window on Judicial Strategy*
80 *TENNESSEE LAW REVIEW* 763-845 (2014)
21. *The Filibuster and Reconciliation: The Future of Majoritarian Lawmaking in the U.S.
Senate* — with Jeff Vandam
47 *UC DAVIS LAW REVIEW* 261-342 (2013)
- Cited in *Common Cause v. Biden*, U.S. Court of Appeals, D.C. Circuit, (2014) (No. 12-
5412)
20. *League Structure & Stadium Rent Seeking – the Antitrust Role Revisited* — with
David Haddock & Matthew Sag
65 *FLORIDA LAW REVIEW* 1 (2013)

19. *The Law and Economics of the Exclusionary Rule*,
87 NOTRE DAME LAW REVIEW 585-675 (2012)
18. *A Positive Political Theory of Rules and Standards* — with Frank Cross & Emerson H. Tiller
2012 UNIVERSITY OF ILLINOIS LAW REVIEW 1-41 (2012)
17. *The Strategic Analysis of Judicial Decisions* — with Lee Epstein,
6 ANNUAL REVIEW OF LAW AND SOCIAL SCIENCE, 341-358 (2011)
16. *How the Dissent Becomes the Majority: Using Federalism to Transform Coalitions in the U.S. Supreme Court* — with Vanessa A. Baird
59 DUKE LAW JOURNAL 183-238 (2009)
15. *Competing Theories of Coalition Formation and Case Outcome Determination*,
1 JOURNAL OF LEGAL ANALYSIS 411-458 (2009)
14. *The Role of Politics and Economics in Explaining Variation in Litigation Rates in the U.S. States*,
38 JOURNAL OF LEGAL STUDIES 205-233 (2009)
13. *Judicial Agenda Setting through Signaling and Strategic Litigant Responses* —
with Vanessa A. Baird,
29 JOURNAL OF LAW AND POLICY 215-239 (2009) — empirical legal studies symposium
12. *Taking the Measure of Ideology: Empirically Measuring Supreme Court Cases* —
with Matthew Sag
98 THE GEORGETOWN LAW JOURNAL 1-75 (2009)
11. *Ideology and Exceptionalism in Intellectual Property – An Empirical Study* — with
Matthew Sag & Maxim Sytch
97 CALIFORNIA LAW REVIEW 801-856 (2009)
10. *Super Medians* — with Lee Epstein
61 STANFORD LAW REVIEW 37-100 (2008)
9. *The Judicial Signaling Game: How Judges Strategically Shape Their Dockets*,
16 SUPREME COURT ECONOMIC REVIEW 1-38 (2008)
8. *Acknowledging Guilt: Forcing Self-Identification in Post-Conviction DNA Testing* —
with Gwendolyn Carroll
102 NORTHWESTERN UNIVERSITY LAW REVIEW 263-306 (2008)
7. *Legal Doctrine and Political Control* — with Emerson H. Tiller,
23 JOURNAL OF LAW, ECONOMICS, AND ORGANIZATION 326-345 (2007)
6. *The Subtle Unraveling of Federalism: The Illogic of Using State Legislation As Evidence of an Evolving National Consensus*,
84 NORTH CAROLINA LAW REVIEW 1089-1158 (2006)
- Cited in Supreme Court Brief for Respondents, *Baze v. Rees* (2007), relied on in Justice Alito's concurrence
5. *Sharing the Love: The Political Power of Remedial Delay in Same-Sex Marriage*

- Cases,
15 LAW & SEXUALITY 11-58 (2006)
4. *How Massachusetts Got Gay Marriage: The Intersection of Popular Opinion, Legislative Action and Judicial Power*,
15 JOURNAL OF CONTEMPORARY LEGAL ISSUES 219-241 (2006)
 3. *The Impact of Positive Political Theory on Old Questions of Constitutional Law and the Separation of Powers*,
100 NORTHWESTERN UNIVERSITY LAW REVIEW 259-278 (2006) — centennial symposium
 2. *The Senatorial Courtesy Game: Explaining the Norm of Informal Vetoes in 'Advice and Consent' Nominations*,
30 LEGISLATIVE STUDIES QUARTERLY 193-217 (2005)
 1. *Same-Sex Marriage: Implications of Legislative Remand for the Judiciary's Role*,
26 VERMONT LAW REVIEW 381-406 (2002)
 - Cited in Vermont Civil Unions Legislation (15 V.S.A. @ 1201) (2006) & Vermont Marriages and Licenses Legislation (18 V.S.A. @ 5131) (2006)
 - Republished in GENERAL ASSEMBLY OF MARYLAND, COMPILATION ON STATE LEGISLATURES AS AN INSTITUTION, October 2002

Book Chapters

5. *A Strategy of Increasing Judicial Power in NFIB v. Sebelius*,
THE AFFORDABLE CARE ACT: PHILOSOPHICAL AND LEGAL IMPLICATIONS (FRITZ ALLHOFF & MARK HALL EDs.) (Routledge), 89-102 (2014)
4. *The Exclusionary Rule: Its Effect on Innocence and Guilt*,
THE CONSTITUTION AND CRIMINAL JUSTICE: A PROGRESSIVE AGENDA (JOHN T. PARRY AND L. SONG RICHARDSON, EDs.) (Cambridge) 75-92 (2013)
3. *The Judiciary*,
PUBLIC CHOICE AND PUBLIC LAW (DAN FARBER AND ANNE JOSEPH O'CONNELL, EDs.);
Research Handbooks in Law and Economics series (Richard Posner and Francesco Parisi, Eds.) (Edward Elgar Publishing), 234-260 (2010)
2. *The New Separation of Powers: Integrating the Study of American Politics* — with Rui de Figueiredo & Barry R. Weingast,
HANDBOOK OF POLITICAL ECONOMY (BARRY R. WEINGAST AND DONALD WITTMAN, EDs.) (New York: Oxford University Press), 199-222 (2006)
1. *Cruel and Unusual Punishment*,
ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES, (PAUL FINKELMAN, ED.) (Routledge) (2006)

MANUSCRIPTS IN PROGRESS

Working Papers

- *Judicial Choice among Cases for Certiorari* — with Alvaro Bustos
- *Judicial Review and the Self-Stabilizing Constitution* — with Sonia Mittal and Barry R. Weingast, in Erin F. Delaney and Rosalind Dixon (Eds), *COMPARATIVE JUDICIAL REVIEW* (Edward Elgar Press, forthcoming 2017)

Works in Progress

- *The Future of Terry in the Car Context*, *OHIO STATE JOURNAL OF CRIMINAL LAW*, Terry at 50 symposium (forthcoming Fall 2017)
- *The Supreme Court as Coordinator-in-Chief: Judicial Review as a Self-Stabilizing Constitutional Mechanism* — with Sonia Mittal and Barry R. Weingast
- *Overcoming Racism in Stop and Frisks: Individualizing Judicial Deference* — with Song Richardson
- *A Reconceptualization of Constitutional Criminal Procedure* — with Jesse-Justin Cuevas
- *Justice, Interrupted* — with Dylan Schweers
- *Supreme Irrelevance* — with Ross Berlin

FIELDS

- Judicial politics and behavior — institutional structure, appointments, certiorari, decision-making, and coalition-formation
- Law and economics — formal modeling, empirical studies, and behavioral economics
- Social science methodologies — statistics and mathematical modeling
- Criminal procedure — investigation and prosecution
- Public law — constitutional structure, constitutional rights, legislative process

COURSES TAUGHT

Criminal Procedure
Legislation & Statutory Interpretation
Constitutional Law
Contemporary Supreme Court Cases
Congress, Courts and Politics

- outstanding small class professor nominee, 2004

Constitutional Law Colloquium

- teaching award honorable mention, 2011

Positive Political Theory Colloquium
Introduction to American Politics and Government

CONFERENCE ORGANIZATION

Conference Organizer, <i>Law and Political Economy of Judicial Behavior</i> : Ford Center, Northwestern Kellogg Business School and Northwestern Pritzker Law School Faculty Research Conference	2016
Conference Organizer, <i>Legal Doctrine and Political Control</i> : Northwestern University School of Law Faculty Research Conference	2006

INVITED RESEARCH PRESENTATIONS

University of Southern California, Law and Social Science Workshop, University of New South Wales Law and Economics Centre	Fall 2017, forthcoming December 2017, forthcoming
Ostrom Workshop Colloquium Series, Indiana University	March 2017, forthcoming
University of Arkansas, Faculty Speaker Series	January 2017, forthcoming
Public Defender Association's Fall Seminar	October 2016, forthcoming
19th Judicial Circuit in Lake County, Judicial Education Training Day	September 2016
American Constitution Society, Supreme Court Vacancy Seminar	March 2016
Bluhm Legal Clinic, Northwestern, Women in Interrogations	March 2016
Miranda at 50, University of Northern Kentucky Law School	February 2016
University of Chicago School of Law, Public Law Workshop	November 2015
New York University Wagner School of Public Service	October 2015
University of Melbourne Law School, Centre for Comparative Constitutional Studies Round Table	December 2014
Pontificia Universidad Católica de Chile, Law Workshop	December 2013
Michigan Law and Economics Workshop	September 2013
University of New South Wales Public Law Centre	March 2013
University of Melbourne Law School, Centre for Comparative Constitutional Studies Workshop	March 2013
University of Melbourne Law School Legal Theory Seminar	February 2013
University of Melbourne Law School, Faculty Workshop	February 2013
University of Iowa Law School Faculty Workshop	November 2012
University of Southern California, Price School of Public Policy	November 2012
Harvard Law School, Law & Economics Workshop	September 2011
University of Chicago, Constitutional Criminal Procedure Lecture	April 2011
University of Chicago and Northwestern Law Schools, Judicial Behavior Workshop	February 2009
American Constitution Society & Federalist Society, <i>The Future of Gun Control after Heller</i> Seminar	January 2009
George Mason University Law School, Faculty Workshop	November 2008
Harvard Law School, Public Law Workshop	November 2007
University of Virginia, Olin Law & Economics Workshop	November 2007
Boalt Law School, UC, Berkeley, Law and Economics Workshop	October 2007
University of Pennsylvania Law School, Positive Approaches to Constitutional Law and Theory Symposium	February 2007
University of Pennsylvania Law School, Faculty Workshop	November 2006
University of Southern California, Law and Economics Workshop	November 2005

New York University, Law and Economics Workshop
Stanford University, Olin Law and Economics Program

November 2005
November 2003

SELECT CONFERENCE PARTICIPATION

Comparative Judicial Review	2016
Loyola University Chicago Law School Conference on Judicial Decision-Making	2016
American Political Science Association Annual Conference	2003, 2004, 2005, 2007, 2008, 2009, 2014
American Law and Economics Association Annual Meeting	May 2005, 2006, 2007, 2008, 2009, 2011, 2013
European Law and Economics Association Annual Meeting	2009, 2012
Midwest Political Science Association National Conference	April 2004, 2005, 2006, 2007, 2009, 2010, 2011, 2012
Canadian Law and Economics Association Annual Meeting	2005, 2012
Conference on Empirical Legal Studies	2007, 2011
Searle Center Conference on Antitrust Economics and Competition Policy	2011
Law and Positive Political Theory Conference	2005, 2009, 2010
Law and Social Sciences Conference	2010
Intellectual Property Scholars Conference	2008, 2009
Political Economy and Public Law Conference	2008
Midwest Law and Economics Association Annual Meeting	2005
American Association of Law Scholars	2005

GRANTS, FELLOWSHIPS AND PRIZES

W. Glenn Campbell and Rita Ricardo- Campbell Fellowship, Hoover Institute, Stanford University	2012, 2013
Searle Fellow	2010-2014
Research Fellowship, Searle Fund for Policy Research	2005
Ph.D. Scholarship, Stanford University	2000-2004
Essay Prize, AT&T	2000
Tuition Scholarship, Institute of Governmental Studies, U.C. Berkeley	1999-2000
1 st Class Honors in Law, Australian National University	1998
1 st Class Honors in Political Science, Australian National University	1996
Top Ranked Honors Thesis in Political Science, Australian National University	1996
L.F. Crisp Prize in Political Science, Australian National University	1993

SERVICE

Faculty Workshops Committee, Chair	2014-2016
Tenure Review Committee	2014-2015
Appointments Committee	2011-2012
Faculty Workshops Committee, Chair	2010-2012
Executive Committee of the AALS Law and Social Science Section	2010-2011
Tenure Review Committee	2008-2009
Entry Level Appointments Committee	2006-2007
Constitutional Law Appointments Committee	2005-2007
JD-PhD Committee	2005-2006
Entry Level Appointments Committee	2004-2005

MEDIA

WBEZ, The Afternoon Shift with Steve Edwards, Special on Supreme Court Ruling on the Affordable Health Care Act, June 28, 2012
www.wbez.org/blogs/bez/2012-06/thursdays-game-plan-afternoon-shift-100506

PROFESSIONAL MEMBERSHIPS

American Political Science Association
American Law & Economics Association
Society for Empirical Legal Studies

American Association of Law Scholars
Admitted to the Bar in Australia

JOURNAL AD HOC REVIEW

American Journal of Political Science
American Law and Economics Review
American Political Science Review
American Politics Research
Economics Bulletin
Journal of Empirical Legal Studies
Journal of Law, Economics, and
Organization

Journal of Legal Analysis
Journal of Politics
Law and Society Review
Political Research Quarterly
Review of Law and Economics
Supreme Court Economic Review

Date: November 28, 2016