

**ANDREA L. ROTH**

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**ACADEMIC EXPERIENCE**

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**UC Berkeley School of Law**, Professor of Law (tenured), July 2018-present; Assistant Professor (untenured), 2011-18; 2012-13 (maternity leave)

Teach Criminal Law, Criminal Procedure (Adjudication), Evidence, and Forensic Evidence.

**Faculty Co-Director, Berkeley Center for Law & Technology**, Fall 2017-present.

**Stanford Law School**, Thomas Grey Teaching Fellow, July 2008 – June 2011

Taught Federal Litigation and Legal Research and Writing.

**EDUCATION**

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**Yale Law School**, J.D., June 1998.

Teaching Assistant, Professor Judith Resnik, Procedure; John Currier Gallagher Prize for Best Presentation, Barrister’s Union Mock Trial Final Round; Senior Editor and Admissions Committee, *Yale Law Journal*; Semifinalist, Morris Tyler Moot Court of Appeals

**University of New Mexico**, B.S., Mathematics, B.A., Polit. Sci., *summa cum laude*, May 1995.

**SCHOLARLY WORK**

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Published or Forthcoming Articles, Book Chapters, and Substantial Essays:

*From Damage Caps to Decarceration: Extending Tort Law Safeguards to Criminal Sentencing*, – BOSTON UNIV. L. REV. – (forthcoming 2021) (with Jane Bambauer)

*Principles to Govern Regulation of Digital and Machine Evidence*, in (RO)BOT-HUMAN INTERACTION AND THE DIGITAL SHIFT IN THE ADMINISTRATION OF CRIMINAL JUSTICE (Swiss National Research Foundation, ed., forthcoming 2021) (SpringerOpen)

*The Use of Algorithms in Criminal Adjudication*, in CAMBRIDGE HANDBOOK ON THE LAW OF ALGORITHMS: HUMAN RIGHTS, INTELLECTUAL PROPERTY, GOVERNMENT REGULATION (Cambridge Univ. Press) (2021)

*Admissibility of DNA Evidence in Court*, in SILENT WITNESS: APPLYING FORENSIC DNA EVIDENCE IN CRIMINAL INVESTIGATIONS AND HUMANITARIAN DISASTERS (Henry Erlich, Eric Stover, & Thomas White, eds.) (Oxford Univ. Press) (2020)

*Beyond Cross-Examination: A Response to Cheng and Nunn*, 97 TEX. L. REV. ONLINE 193 (2019) (invited response essay)

“*Spit and Acquit*”: *Prosecutors as Surveillance Entrepreneurs*, 107 CAL. L. REV. 405 (2019)

- Funded by competitive Hellman Family Fellowship grant
- Relied upon in Complaint, *Thompson et al. v. Spitzer* (2021) (CA taxpayer lawsuit challenging “Spit and Acquit” database run by the Orange County District Attorney)

*Machine Testimony*, 126 YALE L.J. 1972 (2017)

- Finalist, AALS Criminal Justice Section, Junior Papers Competition, December 2016
- Informed the Justice in Forensic Algorithms Act of 2019, as profiled [here](#)

## SCHOLARLY WORK (CONT'D)

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### Published Articles, Book Chapters, and Substantial Essays (cont'd):

*Trial by Machine*, 104 GEO. L.J. 1245 (2016)

- Reviewed by: Tal Zarsky, *Automatic – for the People?*, JOTWELL: THE JOURNAL OF THINGS WE LIKE (LOTS), Nov. 8, 2016, available at <http://cyber.jotwell.com/>

*The Uneasy Case for Marijuana as Chemical Impairment Under a Science-Based Jurisprudence of Dangerousness*, 103 CAL. L. REV. 841 (2015)

*Defying DNA: Rethinking the Role of the Jury in an Age of Scientific Proof of Innocence*, 93 BOSTON U. L. REV. 1643 (2013)

*Maryland v. King and the Wonderful, Horrible DNA Revolution in Law Enforcement*, 11 OHIO ST. J. CRIM. LAW 295 (2013) (peer-reviewed journal)

*Safety in Numbers?: Deciding When DNA Alone Is Enough To Convict*, 85 N.Y.U. L. REV. 1130 (2010)

*Database Limitations on the Evidentiary Value of Forensic Mitochondrial DNA Evidence*, 43 AM. CRIM. L. REV. 53 (2006) (co-authored with Kaestle, Kittles, and Ungvarsky)

### Reviews, Treatises, and Short Essays:

EVIDENCE: CASES, COMMENTARY, AND PROBLEMS (5<sup>th</sup> ed. 2020) (with David A. Sklansky)

SCIENTIFIC EVIDENCE (LexisNexis 6th ed. 2020) (2 vols.) (with Paul C. Giannelli, Edward J. Imwinkelried, Jane Campbell Moriarty, & Valena Beety) (chapters on DNA and Statistics)

Book Review, *The Collapse of American Criminal Justice* by William J. Stuntz, 62 J. L. EDUC. 377 (2012) (peer-reviewed journal)

*Ethical Duties of Defense Attorneys and Experts*, chapter in JUDGING MORALITY: ETHICS IN FORENSIC SCIENCE (Acad. Press 2012)

*Database-Driven Investigations: The Promise – and Peril – of Using Forensics To Solve “No-Suspect” Cases*, 9 CRIMINOLOGY & PUB. POL’Y 421 (2010) (peer-reviewed)

*Data Sharing in Forensic Science: Consequences for the Legal System*, 2009 PROCEEDINGS OF THE JOINT STAT. MEETING, AMERICAN STATISTICAL ASSOC’N 469 (with E. Ungvarsky)

Book Review, *Forensic Identification and Criminal Justice: Forensic Science, Justice, and Risk*, by Carole McCartney, 8 L. PROB. & RISK 55 (2009) (peer-reviewed) (with E. Ungvarsky)

### Recorded Remarks and Commentaries:

*Can We Still Confront Our Accusers?*, LEGAL TALK TODAY PODCAST, May 28, 2021 (at <https://legaltalknetwork.com/podcasts/legal-talk-today/2021/05/can-we-still-confront-our-accusers/>)

*Berkeley Podcast for Music*, Guest, “Remote Instruction?” (at <https://music.berkeley.edu/bpm/>)

*The Golden State Killer and Genetic Privacy* (with Prof. Erin Murphy), WE THE PEOPLE PODCAST, June 21, 2018, 58 minutes (at <https://constitutioncenter.org/debate/podcasts>)

## **SCHOLARLY WORK (CONT'D)**

### **Recorded Remarks and Commentaries (cont'd):**

*Machine Testimony and the Law of Evidence*, L.A./SAN FRANCISCO DAILY JOURNAL, July 19, 2017.

*To End Mass Incarceration, Look Beyond “Non-Violent Drug Offenders,”* L.A. TIMES, July 24, 2015.

*Policy Perspectives on Police Use of Lethal Force* (with Frank Zimring), BULLETIN OF THE AMER. ACAD. OF ARTS & SCI., Spring 2015, at 4.

*Marijuana Policy Perspective: How Much Is Too Much?* (with Abdi Soltani), California Blue Ribbon Commission on Marijuana Policy Official Blog, Apr. 20, 2015 (at [www.aclunc.org/blog](http://www.aclunc.org/blog)).

*Time for DNA Disclosure*, SCIENCE, Dec. 18, 2009, at 1631 (one of numerous co-authors).

## **PROFESSIONAL EXPERIENCE**

### **Public Defender Service for the District of Columbia, Staff Attorney, 1999-2008**

Tried felony and misdemeanor cases; litigated and supervised appeals. Co-founded a Forensic Practice Group, attending hundreds of hours of training. Co-authored Supreme Court *amicus* briefs and co-coordinated office-wide Confrontation Clause litigation. Secured numerous reversals, e.g. *Wilson-Bey v. United States* (D.C. 2006) (*en banc*) (declaring D.C.’s aiding and abetting instruction unconstitutional) (briefed as *amicus*; argued case).

### **Justice Dana Fabe, Alaska Supreme Court, Law Clerk, 1998-99**

**Yale Law School**, Student Director, Jerome Frank Legal Services Organization, 1996-98  
Represented Title VII plaintiff in federal trial and appeal.

### **Public Defender Service for the District of Columbia, Law Clerk, Summer 1997**

**United States Attorney’s Office, Eastern District of New York, Law Clerk, Summer 1996**

## **AWARDS, HONORS, AND COMPETITIVE GRANTS**

UC Berkeley Campus-wide Distinguished Teaching Award (4 recipients) (2019)

Faculty Commencement Speaker (chosen by graduating class) (May 2018)

Inaugural Berkeley Journal of Criminal Law Distinguished Teaching Award (2018)

Berkeley Campus-Wide Junior Faculty Award (one annually), Prytanean Honor Society (2017)

Rutter Award for Teaching Excellence (one recipient annually), Berkeley Law (2016)

Inaugural “Women Advancing the Law” Teaching Award, Boalt Hall Women’s Ass’n (2015)

UC Berkeley Hellman Foundation Fellowship Award (2015-16)

UC Berkeley Regents Junior Faculty Fellowship (2014-15)

## **SELECTED TESTIMONY, CONFERENCE PRESENTATIONS, AND INVITED TALKS**

### **Testimony:**

California Assembly, Committee on Public Safety, Testimony in Opposition to Bill on Oral Fluid Screening for THC as a Basis for Arrest, May 5, 2015

## SELECTED TESTIMONY, CONFERENCE PRESENTATIONS, AND INVITED TALKS (CONT'D)

### Selected academic presentations:

Scheduled Keynote Speaker, Symposium, *The Death of Eyewitness Testimony and the Rise of the Machine*, Duquesne Law (Oct. 2021)

Scheduled Speaker, *Machine Testimony*, 2021 Joint Statistical Meetings, Seattle (Aug. 12, 2021)

Scheduled Panelist, *Robot Testimony and Digital Evidence*, Basel, Switzerland (July 2021)

Presenter, Stanford Grey Fellow Forum, *The Embarrassing Sixth Amendment* (June 3, 2021)

Speaker, U. Georgia Faculty Workshop, *From Damage Caps to Decarceration* (Apr. 15, 2021)

Speaker, Nat'l Acad. of Sciences Committee on Responsible Computer Research (Mar. 4, 2021)

Lunch Keynote, *The Future of Forensic Evidence in Criminal Trials*, Berkeley Crim. L.J. Symposium: Reimagining the Criminal Legal System (Mar. 2, 2021)

Campus-wide Prytanean Lecture, Alumni Weekend, COVID & Criminal Justice (Oct. 16, 2020)

Commentator, Academy for Justice (Tempe, AZ), Felony Murder Reform (Sept. 25, 2020)

Discussant, Evidence Law Summer Workshop, Vanderbilt Law (Aug. 6, 2020)

Speaker, Digital and Machine Evidence, US-Asia Law Institute, NYU Law (June 18, 2020)

Discussant, Culp Colloquium for Emerging Scholars (June 8-9, 2020)

Annual Lecture on Criminal Justice, Goldsmiths, University of London Law (June 4, 2020) (with Prof. Charles Weisselberg)

Speaker, Berkeley Law COVID-19 and the Law Series, Criminal Adjudication (April 2020) (recorded and available at <https://youtu.be/CEinKqHbqJ4>)

Panelist, Algorithmic Knowledge: Law, Science, and Democracy, AALS Evidence and Biolaw Joint Session, Washington, D.C. (Jan. 3, 2020)

Speaker, *Lessons from the Algorithmic Age for the Law of Evidence*, Texas Law and Berkeley Law Faculty Workshops (Oct. 17 & 29, 2019)

Panelist, Law Enforcement and Commercial DNA Databases, Berkeley Ethics and Regulation Group for Innovative Technologies (June 28, 2019)

Guest Speaker, "Emerging Issues in AI and Criminal Justice," UC Berkeley Center for Human Compatible Artificial Intelligence (June 2019)

Speaker, *Spit and Acquit*, Penn State Faculty Workshop (April 2019)

Panelist and Facilitator, Judicial Institute Inaugural Symposium, Berkeley Law (April 2019)

Speaker, *Spit and Acquit*, Alabama Faculty Workshop (March 2019)

Guest Lecturer, Stanford Law and Biosciences Workshop (Jan. 22, 2019)

Panelist, Marijuana and Federalism, Federalist Society, Berkeley Law (Oct. 31, 2018)

Panelist, Investigative Genealogy, Internat'l Symp. on Human Identification (Sept. 25, 2018)

Guest Lecturer, Genetics and the Law Class, Iowa Law (Mar. 2018)

Speaker, "Marijuana Impairment and Traffic Safety," Santa Clara Law (Mar. 2018)

Speaker, Machine-Generated Evidence, New Mexico Bar Ass'n (Oct. 2017)

Speaker, Univ. of New Mexico Faculty Workshop (Oct. 2017)

Guest Lecturer, Psychology and Law (undergraduate), UC Berkeley (Sept. 2019, Sept. 2017)

Speaker, Justice in Mexico, Forensic Science in the United States, Berkeley Law (July 2017)

Presenter, *Spit and Acquit* (Stanford Grey Fellow Forum, May 2017)

Presenter, *Algorithmic Proof of Guilt*, Algorithms & Explanations Conf., NYU Law (Apr. 2017)

Presenter, *Spit and Acquit*, Seattle U. Law Faculty Workshop (Apr. 2017)

Presenter, *Spit and Acquit*, Berkeley Public Law Workshop (Mar. 2017)

Discussant, *Surveillance Law*, Crim. Justice Reform Conf., Ariz. St. Univ. Law (Feb. 2017)

Presenter, *Machine Testimony*, Stanford, Willamette, & Vanderbilt Law Faculty Workshops (Sept., Oct., Nov. 2016)

## SELECTED TESTIMONY, CONFERENCE PRESENTATIONS, AND INVITED TALKS (CONT'D)

### Selected academic presentations (cont'd):

Speaker, Criminal Justice Post-Election, Henderson Center for Social Justice (Nov. 2016)  
Speaker, Justice in Mexico, Forensic Science in the United States, Berkeley Law (Aug. 2016)  
Panelist, *Technology in Criminal Justice Reform*, Quattrone Center, Penn Law (May 2016)  
Discussant, Stanford Criminal Justice Roundtable, Stanford, CA (Apr. 2016)  
Panelist, *Can Law Keep Up with Technology?*, UCLA Law (Apr. 2016)  
Panelist, *Per Se DUI Marijuana Laws*, UC Davis Symposium on Marijuana Reform (Jan. 2016)  
Panelist, *Risk Assessment and the Future of Policing*, AALS Ann. Mtg., NY, NY (Jan. 2016)  
Presenter, *Trial by Machine*, U. Ariz. Workshop (Sept. 2015)  
Panelist, *Criminalization of Poverty*, Henderson Ctr for Social Justice, Berkeley (Apr. 2015)  
Presenter, *Trial by Machine*, G.W. Univ. Faculty Workshop (Mar. 2015)  
Panelist, *After Ferguson and Staten Island*, Federalist Society, Berkeley Law (Mar. 2015)  
Speaker, *Race and Criminal Justice*, Amer. Constitution Society, Berkeley Law (Mar. 2015)  
Panelist, *Policy Perspectives on Police Killings*, AAAS Reception, UC Berkeley (Feb. 2015)  
Presenter, *Trial by Machine*, UC Irvine Faculty Workshop (Jan. 2015)  
Panelist, Public Defense and Academia Symposium, Georgetown Law (Nov. 2014)  
Guest Lecturer, Trends in Criminal Law Scholarship, Berkeley Law (Oct. 2014)  
Presenter, *Race Against the Machine*, Whiteness as Property Conference, UCLA (Oct. 2014)  
Discussant, "Trial with and Without Mathematics" Conference, Stanford Law (May 2014)  
Presenter, *Trial by Machine*, Harvard Criminal Justice Roundtable (May 2014)  
Presenter, *Trial by Machine*, Wash. & Lee Faculty Workshop (April 2014)  
Panelist, Oxford-Style Public Debate on Stand Your Ground Laws, Berkeley Law (April 2014)  
Presenter, *DUI Marijuana*, SMU Criminal Justice Roundtable (Jan. 2014)  
Presenter, *Defying DNA*, Project on Science, Law and Evidence (UCLA Law, June 2013)  
Panelist, Criminal Justice in the Age of DNA (NYU Law School, Feb. 2013)  
Speaker Series, Law and Biosciences Workshop (Stanford Law School, Jan. 2013)  
Panelist on Neuroscience, Empirical Legal Stud. Ass'n (Stanford Law School, Nov. 2012)  
Speaker, Supreme Court Roundup Series, UC Berkeley Faculty Workshop (July 2012)  
Panelist, Discussion of Trayvon Martin Case, Berkeley Law (Apr. 2012)  
Presenter, Innocence and the Road to Exoneration (Texas Wesleyan Law School, Oct. 2010)  
Guest Lecturer, Introduction to American Law (Stanford Law, Sept. 3, 2009; Sept. 2010)  
Guest Lecturer, Evidence (Catholic Univ. School of Law, Mar. 7 & 9, 2006)  
Speaker, Panel on *Hammon v. Indiana* Supreme Ct. case (Columbia Law, Mar. 2006)  
Speaker, Forensic Evidence and the Law, Univ. of D.C. School of Law (Oct. 2005)  
Presenter, ASU International Conference on Forensic Statistics (Tempe, AZ, Mar. 2005)

### Selected professional or pedagogy-related presentations and trainings:

Scheduled Faculty Presenter, *Confronting Machines* and *Explaining Error Rates to Jurors*, 2021 DNA Cross-Examination College, NY, NY (June 10 and July 9, 2021)  
Moderator, Panels on COVID-19 and Criminal Adjudication, Nat'l Center for State Courts (Sept. 3, 2020 & Nov. 19, 2020)  
Panelist, Distinguished Teaching Award Panel, Teaching Innovation Symposium, UC Berkeley Center for Teaching and Learning (May 9, 2019)  
Speaker, "Approaches to Interpretation and Quantification of Forensic Evidence," CA Attorneys for Criminal Justice National Seminar, Monterey, CA (Feb. 17, 2019)  
Trainer, *DNA Match Statistics*, National DNA Boot Camp, Oakland, CA (Nov. 2018)

## **SELECTED TESTIMONY, CONFERENCE PRESENTATIONS, AND INVITED TALKS (CONT'D)**

### **Selected professional or pedagogy-related presentations and trainings (cont'd):**

Panelist, *From Classroom to Courtroom: Decriminalization of Poverty* (Berkeley Oct. 2018)  
Panelist, *Managing Inclusive Classroom Conversations* (Berkeley Law Mar. 2018)  
Speaker, *Probabilistic DNA Genotyping Software*, Northern District of California Judicial Conference (Apr. 2016)  
Panelist, Pedagogy Workshop, *Discussing Difficult Cases and Topics* (Berkeley Law Jan. 2016)  
Speaker, *DNA Statistics for Lawyers*, Admin. Office of U.S. Courts (Oct. 2015)  
Speaker (with Barry Scheck and David Faigman), *Bringing Science to Justice*, San Francisco Exploratorium Evening Public Event Series (Mar. 2015)  
Speaker, “New Developments in DNA” and “Statistics for Lawyers,” CA Attorneys for Criminal Justice National Seminar, Monterey and San Diego, CA (2016, 2015, 2012, 2011, 2010)  
Speaker, UC Berkeley School of Law Teaching Institute (Aug. 2013)  
Speaker, National Public Defender Training Conference (Berkeley, CA, Aug. 2013)  
Plenary Speaker, Nat’l Ass’n of Crim. Defense Ann. Meeting (Washington, D.C., Feb. 2013)  
Speaker, *Forensic Science*, Nat’l Workshop for District Judges (San Francisco, July 2012)  
Speaker, Innocence Network / Bureau of Justice Statistics (Kansas City, MO, Mar. 2012)  
Speaker, Robert C. McGrath Inn of Court (Contra Costa County, CA, Jan. 2012)  
Lecturer, San Francisco Public Defender Speaker Series (San Francisco, CA, Oct. 2011)  
Speaker, *Forensic Evidence*, California Appellate Project (San Francisco, CA, June 2010)  
Speaker, Conf. on the Nat’l Acad. of Sciences Report (Los Angeles, CA, Mar. 2010)  
Lecturer, Criminal Justice Act Summer Series (Washington, D.C., June 2007)  
Panelist, Criminal Justice Act Forensic Science Conference (Washington, D.C., June 2007)  
Speaker, *Crawford v. Washington* and Experts, Bar Association of D.C. (Mar. 2007)  
Speaker, Experts and Child Cases, Children’s Law Center (Washington, D.C., Sept. 2006)  
Panelist, American Bar Association Criminal Justice Section (Baltimore, MD, Nov. 2005)  
Faculty Member, DNA Cross-Examination College, Gallaudet Univ. (Wash., D.C., Sept. 2005)  
Guest Lecturer, Prettyman Fellows Training, Georgetown Univ. Law School (2005-07)  
Speaker, *DNA and the Law*, NM Crim. Lawyers Ass’n (Albuquerque, N.M. July 2005)

## **SELECTED ACADEMIC SERVICE ACTIVITIES**

UC Berkeley Campus Committee on Teaching (2019-present); incoming Chair (2021-22)  
Berkeley Law Admissions Committee (2020-21, 2019-20; 2012-13)  
Berkeley Law Emergency Preparedness Committee (2020-present)  
Berkeley Law Appointments Committee (2019-20 (AALS interviews only); 2018-19; 2017-18)  
Berkeley Law, Co-Coordinator, Criminal Law Curriculum (2018-present)  
Berkeley Law Academic Placement Committee (2011-12; 2014-17); Co-Chair (2015-17)  
Berkeley Law Experiential Education Taskforce (Jan. 2015-June 2016)  
Berkeley Law Faculty Workshop Series Co-Chair (2013-14)  
Berkeley Law Thelen Marrin Prize Selection Committee (2015)  
Faculty Sponsor of: Women of Berkeley Law (2014-present); Berkeley Crim. Law J. (2015-present); Restorative Justice Committee (2017-present); Berkeley Defenders (2017-present)

## **SELECTED PROFESSIONAL SERVICE AND AFFILIATIONS**

Appointed Member, Legal Resources Committee, Org. of Scientific Area Committees, Nat’l Inst. of Standards and Tech., U.S. Dep’t of Commerce (2017-present)

**SELECTED PROFESSIONAL SERVICE AND AFFILIATIONS (CONT'D)**

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Board Member, East Bay Community Law Center (2015-present)

Member, Academic Advisory Panel, U.S. Supreme Court Fellows Program (2018-present)

Member, Heterodox Academy (2018-present)

Member, The Constitution Project, National Committee on DNA Collection (2014-16)

**BAR MEMBERSHIPS**

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United States Supreme Court

California

New York

Washington, D.C.