

**ELLEN YAROSHEFSKY**

*Howard Lichtenstein Distinguished Professor of Legal Ethics  
Executive Director of the Monroe Freedman Institute for the Study of Legal Ethics*

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**ACADEMIC EMPLOYMENT**

<b>Hofstra University School of Law</b> <i>Howard Lichtenstein Distinguished Professor of Legal Ethics</i> <i>Executive Director of the Monroe H. Freedman Institute for the Study of Legal Ethics</i> Teaches a range of courses in Legal Ethics, Criminal Procedure, Access to Justice Develop symposia and ethics programs Directs the Freedman Fellowship Program	2016-Present
<b>Benjamin N. Cardozo School of Law</b> <i>Executive Director, Jacob Burns Ethics Center in the Practice of Law</i> <i>Clinical Professor of Law</i> Taught a range of courses in Legal and Judicial Ethics, Evidence, and Wrongful Convictions Youth Justice Clinic. Developed symposia and ethics programs. Directed and taught Cardozo's Intensive Trial Advocacy Program.	1994-2016
<b>Columbia Law School</b> <i>Adjunct Professor of Law</i> Course: Professional Responsibility	Spring 2014 Spring 2015
<b>Fordham School of Law</b> <i>Adjunct Professor of Law</i> Course: Ethics in Criminal Advocacy	Fall 2001 Fall 2010

**PROFESSIONAL SERVICE**

New York State Bar Association Committee on Standards of Attorney Conduct (COSAC)	2003- Present
New York County Lawyers Association Professional Ethics Committee	2008-Present
New York Civil Liberties Union Board Member	2015-Present

National Association of Criminal Defense Lawyers Co-chair, Ethics Advisory Committee	2003-Present
American Bar Association Criminal Justice Section Co-chair of Ethics, Gideon and Professionalism Committee	2006 -2014
New York State Joint Commission on Public Ethics (JCOPE) Commissioner	2012-2014
Association of the Bar of the City of New York Criminal Courts Committee	2008-2011
New York County Lawyers Association Justice Center Advisory Board	2004 -2007
Association of the Bar of the City of New York Committee on Professional Responsibility	2002-2004 1994 -1998
National Conference of Bar Examiners MPRE Drafting Committee	2002
Center for Constitutional Rights Executive Committee Board Member	2001-2015
Legal Services for New York City LSNY Planning Process Advisory Committee	2001- 2002

### PUBLICATIONS

*Prosecutorial Accountability 2.0*, (with Bruce A. Green), 92 NOTRE DAME L. REV. 51 (2016).

*New Models for Prosecutorial Accountability*, 2016 CARDOZO L. REV. de novo 132 (2016).

*Changing the School to Prison Pipeline: Integrating Trauma Informed Care in the New York City School System*, in *Collected Essays Impact: Threat of Economic Inequality*, 1 N.Y. Law School Impact Center for Public Service Law J. 99 (2015) (with Anna Shwedel)

*Ethical Issues in Class Action Representation*, Institute for Law and Economic Policy Conference Materials (2015)

*Waiting for the Elevator: Talking About Race*, 27 Georgetown J. Legal Ethics 1023 (2014)

*Defense Lawyering and Wrongful Convictions* (with Laura Schaefer), Allison D. Redlich, James R. Acker, Robert J. Norris & Catherine L. Bonventre (eds.), *Examining Wrongful Convictions: Stepping Back, Moving Forward* (Durham, NC: Carolina Academic Press) (2014)

*Ethics in Criminal Advocacy*, The State of Criminal Justice 2013 (American Bar Association) (coauthored with Peter A. Joy)

*50<sup>th</sup> Anniversary of Brady: Cognitive Bias and Beyond*, The Champion, June 2013

*New Orleans Prosecutorial Disclosure in Practice After Connick v. Thompson*, 25 Georgetown J. Legal Ethics 913 (2012)

*Ethics in Criminal Advocacy*, The State of Criminal Justice 2012 (American Bar Association) (coauthored with Peter A. Joy)

*Prosecution Ethics in Context* (with Bruce A. Green), in *Lawyers in Practice* (Leslie C. Levin and Lynn Mather (eds.)), University of Chicago Press (2012)

*Prosecutorial Disclosure Obligations*, 62 Hastings L.J. 1321 (2011)

*Ethics in Criminal Advocacy*, The State of Criminal Justice 2011 (American Bar Association) (coauthored with Peter A. Joy)

*Foreword: New Perspectives on Brady and Other Disclosure Obligations: What Really Works*, 31 Cardozo L. Rev. 1943 (2010)

*Enhancing the Justice Mission in the Exercise of Prosecutorial Discretion*, 19 Temple Pol. and Civ. Rts. L Rev. 343 (2010)

*My Client, the Cooperator Lied: Now What? Commentary Symposium, Criminal Law Defense, Ethics, and the Client Who Plans to Lie*, 7 Ohio St. J. Crim. Law 659 (2010)

*Ethics in Criminal Advocacy*, The State of Criminal Justice 2009 (American Bar Association) (coauthored with Peter A. Joy)

*Prosecutorial Discretion and Post-Conviction Evidence of Innocence*, 6 Ohio State J. Crim. L. 467 (2009) (coauthored with Bruce A. Green)

*Ethics and Plea Bargaining*, American Bar Association Criminal Justice Symposium (Fall 2008)

*Ethics in Criminal Advocacy*, The State of Criminal Justice 2008 (American Bar Association) (coauthored with Bruce A. Green)

*Zealous Lawyering Succeeds Against All Odds: Major Mori and the Legal Team for David Hicks at Guantanamo Bay*, Symposium Issue, 13 Roger Williams L. Rev. 469 (2008)

*Military Lawyering at the Edge of the Rule of Law at Guantanamo: Should Lawyers Be Permitted to Violate the Law*, 36 Hofstra L. Rev. 563 (2008)

*State of Washington v. Sherrie Lynn Allery, Victory Despite Conviction* in Michael E. Tigar and Angela J. Davis (eds.), *Trial Stories*, 13 (2008)

*Secret Evidence is Slowly Eroding the Adversary System*, 34 Hofstra L. Rev. 1063 (2006)

*Classified Information and the Courts*, Secret Evidence and the Courts in the Age of National Security, 5 Cardozo Public Law, Policy and Ethics Journal 1 (2006)

*Conference Overview and Summary, The New York City Housing Court in the 21<sup>st</sup> Century*, 3 Cardozo J.Pub. Policy, Law and Ethics Journal 591 (2006) (with Marilyn Flood)

*Wrongful Convictions: It Is Time to Take Prosecution Discipline Seriously*, Symposium, 8 U.D.C. Law Review 275 (2004)

*Introduction to the Cooperating Witness Conundrum*, 23 Cardozo Law Review 747 (2002)

*Session Four: Special Issues in Assisted Settlement, A Symposium: Ethical Issues in Settlement Negotiations*, 52 Mercer Law Review 947 (2001)

*Unethical Clauses in Settlement Agreements*, New York Employment Law and Practice Vol 2, No. 1 (2000)

*Litigation Ethics: Course Materials for Continuing Legal Education, Materials on Client and Witness Perjury*, ABA Section of Litigation, (2000)

*Cooperation with Federal Prosecutors: Experiences of Truth Telling and Embellishment*, 68 Fordham Law Review 917 (1999)

*Advertising: Targeted Mailings for Personal Injury and Criminal Clients*, New York Professional Responsibility Reporter (June 1998)

*How Future Lawyers Learn*, Federal Bar Council News (1997)

*Balancing Victim's Rights and Vigorous Advocacy for the Defendant*, N.Y.U. Annual Survey of American Law 135 (1989)

*The Tucson Trial and Its Legal Consequences of Asylum Seekers*, 9 Proceedings of the National Legal Conference on Immigration and Refugees (1986)

### **PRESENTATIONS IN PROFESSIONAL & ACADEMIC PROGRAMS (since 2003)**

*Seals Conference – proposal status*

*One the Rocks: Hot topic Ethical Issues*, White Collar Seminar, National Association of Criminal Defense Lawyers (9/17)

*[Insert correct name of presentation – 7/22 email did not include it, “ABA's New Model Rule Banning Discrimination or Harassment of Opposing Counsel*, American Bar Association Criminal Justice Section (insert date)

*Top Ten Ethical Rules for White Collar Lawyers*, White Collar West Coast Conference, National Association of Criminal Defense Lawyers (6/17)

*What Constitutes A Cert. Worthy Petition to the Supreme Court*, Second Circuit Court, United States Courthouse (5/18)

*Ethical Issues in the Practice of Criminal Law*, New York City Bar (5/17)

*Current Ethics Issues in Commercial Litigation*, Commercial and Federal Litigation Section, NY State Bar Association (5/17)

*Ethical Issues in Mental Hygiene Legal Service*, Second Department Continuing Legal Education Program, 4/2017

[Insert name of presentation – 7/22 email did not include it], 65th Annual Antitrust Law Spring Meeting (3/17)

*Ethics and Professionalism: Best Practices for Attorneys 2017*, New York City Bar (3/17)

*Ethical Issues in the Practice of Law*, The Presidential Inauguration and the Unfolding Era, City University of New York Law School (1/17)

[Insert name of presentation – 7/22 email about 12/12 on Commercial Litigation Ethics CLE Conference Call, Commercial Litigation Ethics (insert date)

*Original document:*

*New ABA Model Rule of Professional Conduct against Harassment and Discrimination: Understanding the Rule in Detail*, Practising Law Institute (12/16)

*Fragomen event on November 1 2016*

*What's in a name? Or a Number?: Attorney Advertising and Ratings*, New York State Bar Association (10/16)

*Medical Marijuana in New York*, New York State Bar Association (10/16)

*30<sup>th</sup> Annual Metropolitan New York Trainer*, New York University Law School (3/16)

*Ethical Issues in Criminal Practice*, The Legal Aid Society (12/15)

*Twenty Five Years of Wrongful Convictions Conference*, Northeastern School of Law (9/15)

*Ethics in Juvenile Defense*, National Juvenile Defender Center, Georgetown Law School (4/15)

*Navigating the Complex Ethical Issues*, Cannabis Business, Law and Ethics (4/15)

*Ethical Issues in Class Actions*, Institute for Law and Economic Policy (4/15)

*Legal and Ethical Obligations in Discovery*, Public Defender of the Ninth Judicial Circuit (3/15)

*Ethical Obligations of Judges and Prosecutors*, ABA Tenth Annual Summit on Indigent Defense Improvement, Thurgood Marshall School of Law (2/15)

*Ethical Issues in Indigent Immigration Cases*, Brooklyn Defender Services (2/15)

*Ethics in Forensic Science, Virtual Lunch Series*, American Association of American Law Schools (12/14)

*Ethics Seminar, White Collar Crime Seminar*, National Association of Criminal Defense Lawyers (11/14)

*Ethical Issues in Forensic Science*, New York State Bar Association Criminal Justice Section Fall Meeting (10/14)

*Protecting the Sixth Amendment 50 Years Later: Current Issues in Ethics and Technology*, Second Circuit Judicial Council (6/14)

*Ethical Obligations in Dealing with Child Victims: Role and Responsibilities of System Actors*, American Bar Association Criminal Justice Section (5/14)

*Ethical Issues for the Defense Relating to Forensic Science*, 14<sup>th</sup> Annual Public Defender Retreat (4/14)

*Race and Access to the Justice System*, Georgetown University Law Center (3/14)

*Ethical Choices in Dealing with Crime Victims: What is the Prosecutor, Defender and Judge To Do?* American Bar Association Criminal Justice Section (2/14)

*Ethical Choices Regarding Discovery and Forensic Science*, New York State Bar Association Criminal Justice Section Fall Meeting (10/13)

*Prosecutorial Disclosure Obligations*, Fifth Circuit Judicial Conference, (5/13)

*Ethics in Plea Bargaining and Discovery*, Chief Justice's Indigent Defense Summit, Virginia State Bar (5/13)

*Basics of Criminal Law for the Criminal and Civil Lawyer*, New York State Bar Association, (4/13)

*Criminal Law and Ethics: The Present State of Brady, A View from Both Sides*, New York County Lawyers Association, (4/13)

*50<sup>th</sup> Anniversary of Gideon v. Wainwright*, American Constitution Society, Cardozo Law School (3/13)

*Gideon in the 21<sup>st</sup> Century*, American Bar Association Criminal Justice Section Roundtable, (2/13)

*Workshop Presentation*, The National Institute for Teaching Ethics and Professionalism, (6/12)

*Ethics and Open Source Software*, Practicing Law Institute, (11/11)

*Challenging Ethical Dilemmas: Candor, Client Competency and the Use of Social Networking*, New York County Lawyers Criminal Trial Advocacy Institute, (11/11)

*Legal and Ethical Implications for Defense Counsel, Prosecutors and the Court in Cutting Edge Forensic*

*Science Issues: Discovery and Disclosure Obligations*, New York State Bar Association, (11/11)

*Attorney Advertising, Social Media and Ethics*, National Advertising Division Annual Conference, (10/11)

*Ethics for Corporate Counsel*, New York State Bar Association Corporate Counsel Section, (11/10)

*Ethical Considerations for Using Technology in Your Practice* American Bar Association Section on Litigation, 11<sup>th</sup> Annual Women in Product Liability Conference (11/10)

*Prosecutorial Ethics*, Sixth Annual Defending the White Collar Case (9/10)

*Ethical Issues in Prison Actions*, Prison Law 2009, Practicing Law Institute (9/10)

*Difficult Ethical Choices*, Office of Legal Counsel, Second Circuit Court of Appeals (7/10)

*Prosecutors and Their Disclosure Duties*, American Bar Association Professional Responsibility Annual Conference (6/10)

*Litigating Under the New Ethics Rules: A Close Look at Rule 3.3 and Gender Bias in the Courthouse*, New York Women's Bar Association (5/10)

*Update on Legal Ethics in Investigation*, National Employment Lawyers Association Spring Conference (5/10)

*Ethical Issues with Blogging, Friending and Tweeting*, Association of the Bar of the City of New York (3/10)

*Ethical Issues in Criminal Defense Practice*, 24<sup>th</sup> Annual Metropolitan New York Trainer (3/10)

*Ethics for Corporate Counsel*, New York State Bar Association Third Corporate Counsel Institute (11/09)

*Ethical Implications of Open Source Strategies*, Open Source Software, Practicing Law Institute, (11/09)

*The New New York Rules of Professional Conduct in Criminal Practice*, Citibar Center for Continuing Legal Education (11/09)

*Examining Modern Approaches to Prosecutorial Discretion*, Keynote Address, Temple University Beasley School of Law Political and Civil Rights Law Review Annual Symposium (10/09)

*Racial Issues, Confidentiality and Other Ethical Dilemmas*, 2009 Annual Criminal Defense Conference, Milwaukee, Wisconsin (9/09)

*Ethical Issues in Prison Actions*, Prison Law 2009, Practicing Law Institute (9/09)

*Ethical Issues in Special Education*, Seventh Annual School Law Institute, Practicing Law Institute, (5/09)

*Past, Present and Future of Guantanamo*, CSPAN, April 2009

*Ethical Implications of Open Source Strategies*, Open Source Software, Practising Law Institute, (11/08)

*Confidentiality and Its Limits, Legal Ethics in New York*, Lorman Educational Services, New York (9/08)

*Ethical Issues in Client Representation at Guantanamo*, Association of Professional Responsibility Lawyers, (5/08)

*The Prosecution Ethic*, Symposium in Tribute to Seattle-King County Prosecutor Norm Maleng, Seattle Washington (5/08)

*The Bi-Annual Criminal Justice Retreat: A Summit on the Prosecution Function*, Association of the Bar of the City of New York (4/08)

*Ethical Issues in Direct and Cross Examination*, American Bar Association Criminal Justice Section, (4/08)

*Ethical Issues in Witness Preparation*, Commercial and Federal Litigation Section, New York State Bar Association, (1/08)

*What Every Attorney Must Know About Ethics*, Practising Law Institute (12/07)

*Ethics and Professionalism in Plea Negotiation: Best Practices and Worst Pitfalls*, American Bar Association Criminal Justice Section 2007 Fall Conference, Washington, D.C., (11/07)

*Business and Ethical Implications of Open Source Strategies*, Open Source Software, Practising Law Institute, (11/07)

*Confidentiality and Conflicts*, Back to Business, Proskauer Rose LLP, (11/07)

*Lawyering and Terrorism Cases*, Legal Dilemmas in a Dangerous World: Law Terrorism and National Security, Roger Williams University School of Law, (11/07)

*Lawyering at the Edge of the Rule of Law*, Ethics Conference: Lawyering at the Edge, Hofstra Law School (10/07)

*Ethics in Employment Law*, Jackson Lewis Women's Employment Law Conference, New Jersey (10/07)

*Zealous Representation: Ethical Limits and Trial Techniques*, New York State Bar Association (5/07)

*Ethical Practices in Start-Ups and Smaller Firms*, Association of the Bar of the City of New York, (5/07)

*Ethics for the Immigration Lawyer*, Federal Bar Association, New Jersey 26<sup>th</sup> Annual Hon. William H. Strasser Immigration Conference, (5/07)

*Ethical Issues in Special Education*, Fifth Annual School Law Institute, Practising Law Institute, (5/07)

*Potential Criminal Exposure of Attorneys*, Professional Responsibility and Risk Management Conference, New York (10/06)

*Attorney-Client Privilege, Inadvertent Disclosure and Document Retention*, Jackson Lewis Women's Employment Law Conference, New Jersey (10/06)



*Ethical Issues for Intellectual Property Lawyers*, The Copyright Society of the USA, New York (9/06)

*Ethical Issues in Advising the Self Represented*, New York Family Court (9/06)

*Ethical Issues for the Entertainment Lawyer*, Association of the Bar of the City of New York Center for Continuing Legal Education, (6/06)

*Prosecution Ethics*, American Bar Association Professional Responsibility Conference, Vancouver, B.C. (6/06)

*Ethical Issues for Employment Lawyers*, National Employment Lawyers Association, (5/06)

*Ethical Issues in Special Education*, Sixth Annual School Law Institute, Practising Law Institute, (5/06)

*Lawyers in the Dock: When Does Good Lawyering Become Criminal Conduct*, Association of the Bar of the City of New York Center for Continuing Legal Education, (2/06)

*Prosecution Ethics*, Association of Professional Responsibility Lawyers, (2/06)

*The Law and Ethics of Criminal Defense in Terrorism Cases*, Association of American Law Schools, (1/06)

*Bridge the Gap*, Practising Law Institute, (12/05)

*Secret Evidence is Eroding the Adversary System*, Lawyers' Ethics in an Adversary System, 2005 Legal Ethics Conference, Hofstra Law School, (11/05)

*The Changing Legal Profession*, Legal Ethics in the New Millennium, American Association of Law Schools Professional Responsibility Conference, (6//05)

*Ethical Issues in Special Education*, Fifth Annual School Law Institute, Practising Law Institute, (4//05)

*Ethical Issues in Pro Bono Work*, City Bar Center for Continuing Legal Education, (6/05)

*Ethical Dilemmas for Financial Services Attorneys*, SIA Compliance and Legal Division, (6/05)

*Ethics for the Immigration Lawyer*, City Bar Center for Continuing Legal Education, (3/05)

*Ethical Considerations for Corporate Investigations*, City Bar Center for Continuing Legal Education, (9/04)

*Timely Ethical Issues: Cooperating Witnesses*, Federal Bar Council, (11/04)

*Ethical Issues for the Entertainment Lawyer*, City Bar Center for Continuing Legal Education, (6/04)

*Ethics for the Immigration Lawyer*, City Bar Center for Continuing Legal Education, (3/04)

*Ethical Issues in Dealing with the Difficult Client*, New York Employment Lawyers Annual Conference, (11/03)

*Internet Ethics*, New York County Lawyers Association, (10/03)

*The Evolving Defense Function in the Wake of Sarbanes-Oxley*, New York Council of Defense Lawyers 2003 Biennial Retreat, with SEC Commissioner Harvey Goldschmid, SDNY Judge Jed Rakoff and New York State Attorney General Eliot Spitzer, (10/03)

*Child Abuse, Neglect & the Foster Care System - The Attorney's Role & Responsibilities 2003*, Practicing Law Institute, (3/03)

### LEGAL EMPLOYMENT

**Ethics Consultant** 2008-Present  
Advise and represent lawyers and judges on matters pertaining to the law governing lawyers; expert witness.

**Clayman and Rosenberg**, New York, NY 2006 - 2008  
*Of Counsel*  
Advised and represented lawyers and legal organizations on matters pertaining to the law governing lawyers; expert witness.

**Hinshaw & Culbertson LLP**, New York, NY 2004 - 2006  
*Of Counsel*  
Advised and represented lawyers and legal organizations on matters pertaining to the law governing lawyers; expert witness

**Private Practice**, New York, NY 1988 - 2000  
Criminal, civil rights and constitutional rights litigation

**Center for Constitutional Rights**, New York, NY 1982 - 1988  
National practice in civil rights and international human rights.

**Gibbs, Douglas, Theiler, Yaroshefsky and Drachler**, Seattle, WA 1980 - 1982  
Criminal defense and civil rights litigation

**Seattle-King County Public Defender**, Seattle, WA 1976 - 1980  
Criminal defense litigation

**Puyallup Indian Tribe**, Tacoma, WA 1975 - 1976  
*Staff Attorney*  
Provided general legal counsel to tribe on land rights and economic development.

### BAR ADMISSIONS

New York and Washington State Courts  
Second and Ninth Circuit Courts of Appeals

Various U.S. District Courts  
U.S. Supreme Court

### EDUCATION

Rutgers School of Law, Newark, New Jersey J.D. 1975

Douglass College for Women  
Rutgers University, New Brunswick, New Jersey B.A. 1969

### HONORS

*“Eric Neisser Award for Outstanding Public Service,”* Sept 2005  
Rutgers University School of Law

*“Outstanding Contribution in the Field of Criminal Law Education” Award* January 2000  
New York State Bar Association, Criminal Justice Section

Monrad G. Paulsen Award (with other members of the clinical faculty) June 1998  
*“In recognition of devoted service to the ideals and purposes of Legal Education”*

American Immigration Lawyers Association Award June 1991

Steps to End Family Violence Award May 1991