

# MARY D. FAN

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## EXPERIENCE

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UNIVERSITY OF WASHINGTON, Seattle, WA 2010-present

**Henry M. Jackson Professor of Law** 2014-present

**Core Faculty, Harborview Medical Center, Injury Prevention & Research** 2014-present

**Associate Professor (with tenure), 2012-2014. Assistant Professor, 2010-2012.** 2010-2014

**Expertise:** Criminal Law & Procedure, Evidence, Privacy, Law & Epidemiology, Soc. Anthropology

### Honors and Professional Appointments:

- Elected to Board of Governors, American Civil Liberties Union (ACLU) of WA, 2019
- Chair, Law & Anthropology Section, American Association of Law Schools (AALS), 2019
- Richard O. Kummert Outstanding Contribution Award, *Washington Law Review*, 2016.
- Dean's Medal for excellence in teaching, scholarship, service, 2012, 2014.
- Elected to American Law Institute, 2012.
- Elected as Fellow of the American Bar Association, 2014.
- Advisor & Supervisor, IFAP (legal aid for U visa-eligible victims of violent crime), 2011-2015.
- Advisor, ALI Model Penal Code: Sexual Assault & Related Crimes Project, 2012-present.
- Appeal Board Member, Title IX Cases (sexual assault adjudications), 2016-present.
- Members Consultative Group, ALI Principles of Policing, 2015-present.

HARVARD SCHOOL OF PUBLIC HEALTH, Visiting Scientist, Cambridge, MA 2017-2018

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW, Washington, DC  
**Assistant Professor.** Criminal Law & Procedure, International Criminal Law 2008-2010

UNITED NATIONS INTERNATIONAL CRIMINAL TRIBUNAL 2007-08  
**FOR THE FORMER YUGOSLAVIA (ICTY), The Hague, The Netherlands**  
**Associate Legal Officer to Judge O-Gon Kwon.** War crimes, crimes against humanity, genocide cases.

U.S. ATTORNEY'S OFFICE, SOUTHERN DISTRICT OF CALIFORNIA 2004-07  
**Assistant U.S. Attorney (AUSA).** Prosecuted criminal cases; trials, appeals, investigations.

U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT, San Francisco, CA 2003-04  
**Law Clerk to the Hon. John T. Noonan, Jr.**

## EDUCATION

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**JD, YALE LAW SCHOOL, 2003**

*Yale Law Journal*, Notes Editor. *Yale Journal of International Law*, Managing Editor.  
Nathan Burkan Prize, 2003 (*Jurimetrics* article). Jewell Prize, 2002 (student comment).

**MPHIL, UNIV. OF CAMBRIDGE,** Social Anthropology, 2008. Gates Cambridge Scholar.

**BA, UNIV. OF ARIZONA, 2000.** Flinn Scholar. Boren Fellowship. President's Award for Excellence.

## SCHOLARLY PUBLICATIONS

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### *Books:*

CAMERA POWER: PROOF, POLICING, PRIVACY, AND AUDIOVISUAL BIG DATA (Cambridge University Press 2019).

PERILOUS SCIENCE: PERSISTENCE AND SURVIVAL IN POLITICALLY DANGEROUS RESEARCH DOMAINS (Stanford University Press, forthcoming 2020).

*The publications list continues on pages 2-3.*

**Books, Continued:**

INTERNATIONAL CRIMINAL LAW: CASES AND COMMENTARY (Oxford Univ. Press 2011) (with Antonio Cassese, Guido Acquaviva and Alex Whiting).

**Articles:**

*Audiovisual Analytics and Smarter Early Intervention Systems for Policing*, 2019 U. ILL. L. REV. 1705 (forthcoming).

*Body Cameras, Big Data, and Police Accountability*, 43 LAW & SOC. INQUIRY 1 (2018).

*Democratizing Proof: Pooling Public and Police Body Camera Videos*, 96 N.C. L. REV. 1639 (2018).

*Missing Video: Evidentiary Fairness Beyond Blame in Criminal Courts*, 52 GA. L. REV. 57 (2018).

*Justice Visualized: Courts and the Body Camera Revolution*, 50 U.C. DAVIS L. REV. 101 (2017).

*Privacy, Public Disclosure, Police Body Cameras*, 68 ALA. L. REV. 395 (2016).

A. Rowhani-Rahbar, **M.D. Fan**, J.A. Simonetti, V.H. Lyons, J. Wang, D. Zatzick, F.P. Rivara, *Violence Perpetration among Patients Hospitalized for Unintentional and Assault-Related Firearm Injury*, 165 ANNALS OF INTERNAL MEDICINE 1 (2016).

*Private Data, Public Safety: A Bounded Access Model of Disclosure*, 94 N.C. L. REV. 161 (2016).

*The Supply-Side Attack on Lethal Injection*, 95 BOSTON UNIV. L. REV. 427 (2015).

*Legalization Conflicts and Reliance Defenses*, 92 WASH. U. L. REV. 907 (2015).

*Violence and Police Diversity: A Call for Research*, BYU L. REV. 875 (2015).

*Disarming the Dangerous: Preventing Ordinary and Extraordinary Violence*, 90 IND. L.J. 151 (2015).

A. Rowhani-Rahbar, D. Zatzick, J. Wang, B. Mills, J. Simonetti, **M.D. Fan**, F.P. Rivara, *Firearm-Related Hospitalization and Risk for Subsequent Violent Injury, Death, or Crime Perpetration: A Cohort Study*, 162 ANNALS OF INTERNAL MEDICINE (2015).

\* Published with a call to action by the American Bar Association and Eight Health Organizations

*Adversarial Justice and Victim-Witness Protection*, 55 BOSTON COLLEGE L. REV. 775 (2014).

*Post-Racial Proxy Battles*, in STRANGE NEIGHBORS (G. Chin & C. Hessick, eds. NYU Press 2014).

*The Law of Immigration and Crime* in THE OXFORD HANDBOOK OF ETHNICITY, CRIME AND IMMIGRATION (S. Bucerus & M. Tonry eds. Oxford Univ. Press 2013).

*The Case for Crimmigration Reform*, 92 N.C. L. REV. 75 (2013).

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**SCHOLARLY PUBLICATIONS, CONTINUED**

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*Street Diversion and Decarceration*, 50 AM. CRIM. L. REV. 165 (2013).

*Rebellious State Crimmigration Enforcement and the Foreign Affairs Power*, 89 WASH. U. L. REV. (Washington Univ. in St. Louis) 654 (2012).

\* Relied on *passim* by Mexico (joined by Argentina and 15 other nations) in brief to the U.S. Supreme Court. See *Arizona v. United States*, 132 S.Ct. 2492, 2498 (June 25, 2012) (citing Argentina et. al's brief joining Mexico); 2012 WL 1098267 (brief). \*\*Selected for reprinting in the *Immigr. & Nationality L. Rev.* as a notable immigration article.

*Beyond Budget-Cut Criminal Justice*, 90 N.C. L. REV. 581 (2012).

*Panopticism for Police: Structural Reform Bargaining and Police Regulation by Data-Driven Surveillance*, 87 WASH. L. REV. 93 (2012).

*Decentralizing STD Surveillance*, 11 YALE J. HEALTH POL'Y L. & ETHICS 132 (2012).

*Constitutionalizing Informational Privacy by Assumption*, 14 U. PA. J. CONST. L. 953 (2012).

*Custom, General Principles, and the Great Architect Cassese*, 10 J. INT'L CRIM. JUSTICE 1063 (2012).

*The Police Gamesmanship Dilemma*, 44 UC DAVIS L. REV. 1407 (2011).

\* Quoted in Fourth Circuit case, *United States v. Mubdi*, 691 F.3d 334, 347 n.4 (4th Cir. Aug. 10, 2012) (Davis, J., concurring in part and in the judgment).

*Sex, Privacy and Public Health*, 45 U.C. DAVIS L. REV. 531 (2011).

*Post-Racial Proxies*, 32 CARDOZO L. REV. 905 (2011).

*When Deterrence and Death Mitigation Fall Short: Fantasy and Fetishes as Gap-Fillers in Border Regulation*, 42 LAW & SOC'Y REV. 701 (2008).

*Home, Community, Property: Crimes of Displacement and the Evolution in Focus from Sovereign Interests to Victim Rights-Holder*, in THE GLOBAL COMMUNITY YILJ 267 (Giuliana Ziccardi Capaldo, ed., Oxford Univ. Press 2008).

*Disciplining Criminal Justice*, 26 YALE L. & POL'Y REV. (2007).

*The Immigration-Terrorism Illusory Correlation and Heuristic Mistake*, 10 HARVARD LATINO L. REV. 33 (2007).

\* Selected for reprinting as a notable immigration law-related article, 28 IMMIGRATION & NATIONALITY L. REV. 555 (2007).

*Reforming the Criminal Rap Sheet: Federal Timidity and the Traditional State Functions Doctrine*, 33 AM. J. CRIM. L. 31 (2005).

*Governing Copyright in Cyberspace: The Penalty Default Problem with State-Centric Sovereignty*, 43 JURIMETRICS J. 315 (2003) (peer-reviewed).

\* Awarded Nathan Burkan Prize, Yale Law School.

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**SCHOLARLY PUBLICATIONS, CONTINUED**

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Comment, *The Fallacy of the Sovereign Prerogative to Set De Minimis Liability Rules for Sexual Slavery*, 27 YALE J. INT'L L. 395 (2002).

\* Awarded Jewell Prize, Yale Law School.

Comment, *Risk Magnified: Standing Under the Statist Lense*, 112 YALE L.J. 1633 (2003).

Case Note, *Textual Imagination*, 111 YALE L.J. 1521 (2002).

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**SCHOLARLY PRESENTATIONS**

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Plenary Session, Big Data, Big Decisions, Washington Supreme Court and Appellate Judges Spring Program, March 27, 2019 (Union, WA) (with M. Ryan Calo).

Contemporary Issues in Policing Panel, Law of the Police Conference, University of South Carolina, March 1, 2019 (Columbia, SC).

*Starving Science: Producing Knowledge and Ignorance*, Association of American Law Schools Annual Meeting, Law & Anthropology Section Program, Jan. 5, 2019 (New Orleans, LA).

*Audiovisual Analytics and Smarter Early Intervention Systems for Policing*, University of Illinois School of Law, Federal Responses to Police Misconduct: Possibilities and Limits, Apr. 4, 2018 (Champaign, IL).

*Firearms and Family Violence: Preventing Ordinary and Extraordinary Violence*, Kaiser Permanente Doctors, Family Violence Symposium, Continuing Medical Education, Mar. 9, 2018 (Pasadena, CA).

*Democratizing Proof: Pooling Public and Police Body Camera Videos*, University of North Carolina School of Law, Badge Cams as Data and Deterrent, Nov. 3, 2017 (Chapel Hill, NC).

*Camera Power: Proof, Policing, Privacy*, University of Colorado School of Law, Faculty Colloquium, Sept. 8, 2017 (Boulder, CO).

*Preventing Ordinary and Extraordinary Violence*, U.C. Irvine, The Politicization of Safety Conference, Apr. 7, 2017 (Irvine, CA).

*Camera Power*, Vanderbilt Law School, Criminal Justice Roundtable, Nov. 11, 2016 (Nashville, TN).

National Forum Working Group, *On the Record, All the Time: Setting an Agenda for Audiovisual Evidence Management*, UCLA Department of Information Studies, Aug. 17-19, 2016 (Los Angeles, CA).

*Prosecutorial Dissonance*, Law & Society Association, Annual Meeting, May 30, 2015 (Seattle, WA).

*Camera Power: § 1983 and Civil Rights Settlements*, University of Alabama, Alabama Civil Rights & Civil Liberties Symposium, Apr. 1, 2016 (Tuscaloosa, AL).

Presidential Plenary: *The Intersection of Immigration and Criminal Law*, Western Society of Criminology, Feb. 20, 2015 (Tucson, AZ).

*Private Data, Public Safety*, New York University (NYU) School of Law, Institute for International Law and Justice, New York, NY, Nov. 17-18, 2014.

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**SCHOLARLY PRESENTATIONS, CONTINUED**

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Panelist, *Law & War: International Humanitarian Law Professional Panel*, American Red Cross, International Humanitarian Law Workshop, Seattle, WA, March 2, 2014.

*Guns and Suicidal Violence*, 2014 AALS Annual Meeting, New York, NY, Jan. 3, 2014.

*You're Watching Me, I'm Watching You, and the Police Are Watching Us Too*, ACLU 2013 Northwest Civil Liberties Conference, Portland, OR, Sept. 27, 2013.

*Plenary Panel: Fresh Solutions for Intractable Problems*, ABA-AALS Criminal Justice Section Joint Program, Conference on Criminal Justice, San Diego, CA, Jun. 9, 2013.

*Money, Demography and Immigration Criminalization Reform*, University of Amsterdam, Illegality Regimes Conference, Amsterdam, The Netherlands, May 30-31, 2013.

Panelist, *Rape Law*, Univ. of Washington Law Women's Caucus, Seattle, WA, May 2, 2013.

*Border Battles and Beyond*, AALS Annual Meeting, New Orleans, LA, Jan. 5, 2013.

*Federal Practice CLE, The Western District and the U.S. Supreme Court*, Federal Bar Association, Western District of Washington, Dec. 5, 2012.

*Criminal Justice Roundtable*, SEALS 2012 Annual Conference, Amelia Island, FL, Aug. 2, 2012.

*Beyond Budget-Cut Criminal Justice*, Conference on the Criminal Justice System in a Time of Economic Meltdown, Georgia State University, Atlanta, GA, Jan. 27, 2012.

*Budget-Cut Criminal Justice*, Hot Topics Panel, AALS Annual Meeting, Washington, DC, Jan. 7, 2012.

*Federal Practice CLE, Federal Supremacy Under Attack*, Federal Bar Association, Western District of Washington, Dec. 7, 2011.

*Plenary Panel, Decarceration: Taking Advantage of the Budget Crisis. Beyond Budget-Cut Criminal Justice*, ABA-AALS Criminal Justice Conference, Washington, DC, Oct. 28, 2011.

*Regulating Sex and Privacy in a Casual Encounters Culture*, University of California, Berkeley Center for Law & Technology, Privacy Law Scholars Conference, Berkeley, CA, Jun. 3, 2011.

*Moderator, Cops on Camera Panel*, Univ. of Washington-ACLU, Seattle, WA, May 25, 2011.

*Beyond Budget-Cut Criminal Justice*, University of Washington School of Law, Faculty Colloquium, Seattle, WA May 5, 2011.

*Sex and Privacy Paradigm-Updating for a Casual Encounters Age*, University of Pennsylvania School of Law, Conference on Privacy & Social Change, Philadelphia, PA, Jan. 28, 2011.

*The Revival of the Relevance of Hope in Penal Theory*, AALS Annual Meeting, Criminal Justice Section Panel, San Francisco, CA, Jan. 8, 2011 (Call for Papers Winner).

*Crime and Immigration Conflation*, AALS Annual Meeting, San Francisco, CA, Jan. 7, 2010.

*Post-Racial Proxies: Resurgent State and Local Anti-Immigrant Laws and Alternate Frames for Antidiscrimination Values*, National People of Color Conference, Newark, NJ, Sept. 11, 2010.

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**SCHOLARLY PRESENTATIONS, CONTINUED**

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*The Police Gaming Problem*, Law & Society Conference, Chicago, Ill., May 27, 2010.

*Millimeter Wave Imaging*, Homeland Security Institute, Community Perceptions of Technology Panel, Arlington, Va., Aug. 5, 2009.

*Quasi-Privacy and Redemption in a World of Ubiquitous Checking-Up*, GWU-Berkeley Law School Privacy Law Scholars Conference, Berkeley, Cal., June 5, 2009.

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**A SELECTION OF COMMENTARY AND POPULAR WRITING**

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Mary D. Fan, [\*How Sanctuary Cities Can Protect Dreamers\*](#), FORTUNE, Sept. 7, 2017.

Frederick P. Rivara & Mary D. Fan, [\*Pediatricians, Firearms, and the First Amendment\*](#), JAMA PEDIATRICS Aug. 2017.

Mary D. Fan, [\*How Local Police and Prosecutors Protect Immigrants\*](#), JOTWELL, May 23, 2017.

Mary D. Fan, [\*Bringing Values Back\*](#), JOTWELL, May 3, 2016.

Mary D. Fan, [\*Making People Pay—and Pay, and Pay\*](#), JOTWELL, Aug. 12, 2015.

Mary D. Fan, [\*Violence, Yearning, and Hope\*](#), JOTWELL, June 24, 2014.

Mary D. Fan, [\*An Extradition Request for Snowden Would Provide A Chance for A National Debate\*](#), N.Y. TIMES, Room for Debate June 11, 2013.

Mary D. Fan, [\*The Brave New World of Identification\*](#), JOTWELL, May 17, 2013.

Mary D. Fan, [\*The Political Climate Change Surrounding Incarceration\*](#), 38 ABA HUMAN RIGHTS 20 (Summer 2011).

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**A SELECTION OF PRINT MEDIA COMMENTARY**

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Matt Stevens & Sarah Mervosh, [\*The 4 Former First Ladies Condemn Trump's Border Policy\*](#), N.Y. TIMES, June 19, 2018, at A13.

[\*Experts on "Breathtaking" Claim about Attack on Unconscious Woman\*](#), GUARDIAN, July 25, 2018.

Natalie Delgadillo, [\*What DOJ's California Lawsuit Means for Immigrant Sanctuaries Across the Country\*](#), GOVERNING, Mar. 14, 2018.

Sam Levin, [\*Weinstein Suit May Be Turning Point, Experts Say\*](#), GUARDIAN, Feb. 13, 2018.

Laura Crimaldi, [\*Mass. Joins Other States in Suing Trump Administration over DACA\*](#), BOSTON GLOBE, Sept. 6, 2017.

Derek Hawkins, [\*Trump's Talk—'Muslim Ban.' 'Islam Hates Us,' — Comes Back to Bite Him in Court Again\*](#), WASH. POST, Mar. 16, 2017.

Derek Hawkins & Fred Barbash, [\*In Court as on Twitter, Trump Confronts Evidence Gap\*](#), WASH. POST, Feb. 10, 2017.

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**A SELECTION OF PRINT MEDIA COMMENTARY, CONTINUED**

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Tom Vanderbilt, [\*The Walls in Our Heads\*](#), N.Y. TIMES, Nov. 6, 2016, at SR1.

Jonah Engel Bromwich, [\*Video of Charlotte Police Shooting Could Be the Last Released in North Carolina\*](#), N.Y. TIMES, Sept. 26, 2016.

Edith Brady-Lunny, [\*What Happened? Body Camera Video Headed to the Courtroom\*](#), PANTAGRAPH, Sept. 4, 2016.

Cyrus Farivar, [\*Woman Ordered to Provide Her Fingerprint to Unlock Seized iPhone\*](#), ARS TECHNICA, May 2, 2016.

Josh Sanburn, [\*Storing Body Cam Data Is the Next Big Challenge for Police\*](#), TIME, Jan. 25, 2016.

Diana Hefley, [\*No Record of Gun-Purchase Prohibition in Databases\*](#), DAILY HERALD, Mar. 31, 2015.

Elisha Fieldstadt, [\*Knox Case: Italian Court Overturns Murder Conviction\*](#), NBC NEWS, Mar. 27, 2015.

Vivian Yee & Kirk Johnson, [\*Body Cameras Worn by Police Officers Are No 'Safeguard of Truth,' Experts Say\*](#), N.Y. TIMES, Dec. 7, 2014, at A1.

Fred Clasen-Kelly, [\*Secret Cell Phone Tracking May Get More Scrutiny from Mecklenburg County Courts\*](#), THE CHARLOTTE OBSERVER, Nov. 29, 2014.

Ian Urbina, [\*The Challenge of Defining Rape\*](#), N.Y. TIMES, Oct. 12, 2014, at SR12.

John Follain & John Harlow, [\*School of Hard Knox\*](#), AUSTRALIAN, Feb. 3, 2014.

[\*Knox Murder Verdict Sets Stage for Italy Extradition Battle\*](#), SOUTH CHINA MORNING POST, Feb. 2, 2014.

Colin Neagle, [\*3-D Printed Gun May Be Unveiled Soon\*](#), NETWORK WORLD, Apr. 24, 2013.

Terry Baynes, [\*Knox Case Could Pit Extradition Treaty Against Constitution\*](#), REUTERS, Mar. 26, 2013.

[\*Will DOJ Fight Marijuana Law?\*](#) NBC NIGHTLY NEWS, Dec. 6, 2012.

Alyssa Newcomb, [\*Washington Rape Suspect Wants Victims to View Videotapes Before Trial\*](#), ABC NEWS, Aug. 1, 2012.

Christine Clarridge, [\*Police Department Demonstrates New Drone, to Help Allay Concerns\*](#), SEATTLE TIMES, Apr. 28, 2012.

Gene Johnson, [\*Could Feds Keep Barefoot Bandit, Mom from Profit?\*](#), NBC NEWS, July 19, 2010.

Naimah Jabali-Nash, [\*"Barefoot Bandit": Can Colton Harris-Moore and His Mother Be Prevented from Profiting?\*](#) CBS NEWS, July 21, 2010.

### **EDITORIAL WORK**

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Peer Review Board Member, *Northwestern University Law Review*, 2018-present

Contributing Editor, Criminal Law Section, Jotwell Blog on Legal Scholarship, 2011-present

Editorial Committee, *Journal of International Criminal Justice*, 2008-2018

Peer Reviews for *JAMA Pediatrics*, *Law & Social Inquiry*, *Law & Society Review*, the *NYU Law Review*, *Social Problems*, *Stanford Law Review*, *Washington Law Review*, *Yale Law Journal*

### **BAR ADMISSIONS**

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California, 2004, Washington, DC, 2010, Washington State, 2012.