# Heather Ellis Cucolo

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#### **EDUCATION**

New York Law School, New York, NY

Honors: Law Review publication, Faculty Presentation Day Clinics: Domestic Violence Project- President Mental Health Advocacy. Advocacy of Criminal Cases. Recipient of Federal Communications Commission Fellowship.

*Judicial Clerkship: Honorable State Supreme Court Justice,* New York, 2003 *Michael A. Corriero, presiding over Manhattan's Youth Part* 

Binghamton University, Binghamton, NY

Honors: Dean's List.

B.A., Philosophy 1997

Atlanta, Ga

2018-Present

J.D., 2003

# LEGAL AND TEACHING EXPERIENCE

Albert Einstein College of Medicine	New York, NY
Fellowship Faculty	2019-Present

- Instruct doctoral students on legal research, sex offender law and procedure, and the implementation of therapeutic jurisprudence.
- > Offer mentoring opportunities and doctoral thesis support.

Emory University School of Law Adjunct Professor

- Co-creator of course, Legal and Ethical Controversies in Health Care: Examinations through Mental Health Law
- Instructor at Emory University of Law, JM program

Mental Disability Law and Policy Associates	Worldwide
Co-Owner and Partner	2015- Present

> Provide legal education and policy through in-person and online webinar training worldwide.

- > Specialize in expert consultation on all areas of criminal and mental disability law.
- Offer consulting services for expert witnesses, clinicians and attorneys on criminal law, family law, and mental disability law trial preparation.
- > Design, launch and maintain company website (<u>www.mdlpa.net</u>).
- > Draft contracts for collaborative business with various organizations.

New York Law School	New York, NY
Distinguished Adjunct Professor	2007 – Present

- Instructor in Criminal Procedure, Investigation; Criminal Procedure: Adjudication; Professional Responsibility for the Criminal Attorney; Professional Responsibility; Sex Offenders; Criminal Law and Mental Disability; Mental Health Issues in Jails and Prisons; Race, Gender, Class and Culture (online); American with Disabilities Act (online); Survey of Mental Disability Law (online).
- Contributed to lectures, simulations, mock trials and roundtable videos for courses in Sex Offenders, Trauma and Mental Disability, Advocacy Skills in Cases Involving Persons with Mental Disabilities: The Role of Lawyers and Expert Witnesses, and Therapeutic Jurisprudence.
- Participated in the simulation video in Lawyering Skills in the Representation of Persons With Mental Disabilities (Interviewing and Counseling, and Mock Civil Commitment Trial Units) used in China as part of the American Bar Association's rule of Law-Asia's initiative to teach Chinese lawyers how to create their own online programs.
- Justice Action Center (JAC) faculty member, specializing in social justice and legal outreach programs for students wishing to receive clinical experience in the legal field.

New York Law School	New York, NY
Facilitator of the John Jay College and NYLS joint degree program	2015- Present

- Manage students enrolled in the masters in forensic psychology and mental health law joint degree program.
- > Assist with internship and clinical experience opportunities in both the legal and psychology field.
- > Co-designed the joint degree curriculum and prepared and managed law school course production.
- > Organize orientation programs and recruitment endeavors.

New York Law School	New York, NY
Acting Director, Online Mental Disability Law Program	1/14-1/17

- > Oversaw all thirteen courses in the Mental Disability Law curriculum.
- Prepared and managed course production as well as created new materials to highlight changes in the law.
- Supervised the creation of the Disability Rights Information Center for Asia and the Pacific.
- Fostered domestic partnerships with law schools throughout the United States and international projects with institutions in China.
- Organized orientation programs; screened, evaluated and made application decisions regarding prospective students.

# State of New Jersey Office of the Public Defender *Pool Attorney*

Newark, NJ 2014-2017

- Represent individuals who are civilly committed under the N.J.S.A. 30:4-27.24: New Jersey Sexually Violent Predator Act.
- Assist and advise attorneys in criminal cases and at trial when the charged offense contained a sex crime element.
- Offer consultation to clients and staff about the complexities of New Jersey's Megan's Law and the Adam Walsh Act.
- > Developed institutional guidelines and best practices for civil committees.

State of New Jersey Public Defenders Office	Newark, NJ
Assistant Deputy Public Defender	2004-2010

- Participated in all phases of trial preparation and litigation on behalf of individuals being prosecuted under the Sexually Violent Predators Act (SVPA), including the conducting of investigations, with emphasis on negotiations and conflict resolution on behalf of a caseload of 70 clients; responsibilities included preparation and argument of motions, hearings, bench trials and post-trial briefs.
- Assist and advise department attorneys in criminal cases when the charged offense contained a sex crime element.
- > Authored and argued appeals before the New Jersey Appellate Division (27 reported decisions).
- Upon request by the state Public Advocate, drafted a model Bill of Rights statute for sexual violent predators, and authored legal memos on the application of SVPA law to cutting edge constitutional issues affecting the Public Advocate, its clients, and State of New Jersey.

# PUBLICATIONS

#### BOOKS

- LANDMARK CASES IN FORENSIC PSYCHIATRY 2<sup>so</sup> EDITION, (Oxford University Press USA) (2019) (with Dr. Merrill Rotter, M.D. & Dr. Jeremy Colley, M.D.).
- SHAMING THE CONSTITUTION: THE DETRIMENTAL RESULTS OF SEXUAL VIOLENT PREDATOR LEGISLATION (Temple University Press) (2017) (with Prof. Michael L. Perlin).
- MENTAL DISABILITY LAW: CASES AND MATERIALS (Carolina Academic Press, 2017) (3d Ed.) (with Prof. Michael L. Perlin & Alison J. Lynch, Esq.).
- MENTAL DISABILITY LAW: CIVIL AND CRIMINAL (3d Ed.) (Lexis Law Publishing) (three volumes) (2016) (with Prof. Michael L. Perlin).
- MICHAEL L. PERLIN & HEATHER ELLIS CUCOLO, MENTAL DISABILITY LAW: CIVIL AND CRIMINAL (2d Ed) (Lexis Law Publishing, 1998, 1999, 2000 & 2002) (co-authored pocket parts, 2005-21).

#### ARTICLES

- "My Bewildering Brain Toils in Vain": Traumatic Brain Injury, the Criminal Trial Process, and the Case of Lisa Montgomery (accepted Rutgers University Law Review, forthcoming 2022).
- The Culpability of Legal Ethics in Failing to Bolster the Shortcomings of Strickland v. Washington in JUSTICE OUTSOURCED: THE THERAPEUTIC JURISPRUDENCE IMPLICATIONS OF JUDICIAL DECISION-MAKING BY NON-JUDICIAL OFFICERS (Temple University Press) (2021).
- "Something's Happening Here/But You Don't Know What It Is": How Jurors (Mis)Construe Autism in the Criminal Trial Process, 82 U. PITT. L. REV. 585 (2021) (with Michael L. Perlin).
- "See This Empty Cage Now Corrode": The International Human Rights and Comparative Law Implications of Sexually Violent Predator Laws, 23 New Crim. L. Rev. 388 (2020) (with Michael L. Perlin).
- Expanding Therapeutic Jurisprudence Across the Federal Judiciary, Journal of the American Academy of Psychiatry and the Law Journal of the American Academy of Psychiatry and the Law Online November 2020, JAAPL.200040-20; DOI: <u>https://doi.org/10.29158/JAAPL.200040-20</u> (with Benjamin A. Barsky, B.A. and Dominic A. Sisti, Ph.D).
- "I Met Another Man Who Was Wounded with Hatred": How We Ignore the Sexual Needs and the Sexual Actions of Persons with Intellectual Disabilities, in INTELLECTUAL AND DEVELOPMENTAL DISABILITIES AND THE CRIMINAL JUSTICE SYSTEM (Voula Marinos et al eds.) (NADD Press 2020) (with Prof. Michael L. Perlin and Alison J. Lynch, Esq.).
- "The Strings in the Books Ain't Pulled and Persuaded": How the Use of Improper Statistics and Unverified Data Corrupts the Judicial Process in Sex Offender Cases, 69 Case W. Res. L. Rev. 637 (2019)(with Michael L. Perlin).
- Representing Intellectually Disabled Offenders in REPRESENTING PEOPLE WITH MENTAL DISABILITIES: A CRIMINAL DEFENSE LAWYER'S GUIDE (Elizabeth Kelley, Ed.) (2018).
- A TJ Approach to Mental Disability Rights Research: On Sexual Autonomy and Sexual Offending in THE METHODOLOGY AND PRACTICE OF THERAPEUTIC JURISPRUDENCE (Carolina Academic Press, Ed.) (2019) (with Michael L. Perlin and Alison J. Lynch).
- SEX, SEXUALITY, SEXUAL OFFENDING AND THE RIGHTS OF PERSONS WITH MENTAL DISABILITIES, 6 Laws 20 (2017) (with Michael L. Perlin and Alison J. Lynch).
- "Tolling for the Aching Ones Whose Wounds Cannot Be Nursed": The Marginalization of Racial Minorities and Women in Institutional Mental Disability Law, 20 J. Gender Race & Just. 431 (2017)
- Promoting Dignity and Preventing Shame and Humiliation by Improving the Quality and Education of Attorneys in Sexually Violent Predator (SVP) Civil Commitment Cases, 28 U. Fla. J.L. & Pub. Pol'y 291 (2017)( (with Michael L. Perlin)
- Contributor to white paper on sex offenders and intellectual disability, *The Arc's National Center on Criminal Justice & Disability* <u>http://www.thearc.org/NCCJD</u> (2015)
- "Far From the Turbulent Space": Considering the Adequacy of Counsel in the Representation of Individuals Accused of Being Sexually Violent 18 U. PA. J. L. & SOC'L CHANGE 125 (2015) (with Michael L. Perlin).

- ▶ Distance Learning, THE ENCYCLOPEDIA OF CRIMINOLOGY & CRIMINAL JUSTICE, 1-5 (2014).
- "They're Planting Stories in the Press": The Impact of Media Distortions on Sex Offender Law and Policy, 3 DENVER U. CRIM. L. REV. 186 (2013)(with Michael L. Perlin)
- Online Mental Disability Law Education, a Disability Rights Tribunal, and the Creation of an Asian Disability Law Database: Their Impact on Research, Training and Teaching of Criminology and Criminal Justice in Asia, 1 ASIAN J. LEGAL ED. 1 (2013) (with Prof. Michael L. Perlin & Yoshi Ikehara, Esq.).
- Preventing Sex-Offender Recidivism Through Therapeutic Jurisprudence Approaches and Specialized Community Integration, 22 TEMP. POL. & CIV. RTS. L. REV. 1 (2012).
- Hebephilia and Pedohebephilia: Implications for Law and Policy, 12 SEX OFFENDER LAW REPORT 55 (2011), electronic copy available at http://www.civicresearchinstitute.com/online/article\_abstract.php?pid=7&iid=380&aid=2537
- The Treatment of Sex Offenders: Evidence, Ethics and Human Rights, 23 SEXUAL ABUSE: J. RES. & TREATMENT 295 (2011) (with Dr. Astrid Birgden).
- Reassessing the Aftercare Treatment of Individuals Found Not Guilty Due to a Mental Disability in Hunan, China: Supplemental Study into the Disposition of Mentally Ill Offenders after Forensic Psychiatric Assessment 41 AUSTRAL. & N.Z. J. PSYCHIATRY337 (2007) (Xiaoping Wang et al. coauthors).
- Dealing with Mental Disability in Trust & Estate Law Practice: "Strengthen the Things That Remain": The Sanist Will, 46 N.Y.L. SCH. L. REV. 565 (2003) (published under name Heather Ellis).

#### ARTICLES IN PRESS

- > The Intimacy Module (with Astrid Birgden, Ph.D.)
- "There Was an Evil Messenger": Blame, Mental Illness, Wickedness, the Insanity Defense and the Pretexts of the Justice System (with Prof. Michael Perlin)

#### ARTICLES MENTIONED IN COURT DECISIONS

- State v. Graham, 897 N.W.2d 476, 488 (Iowa 2017), reh'g denied (June 22, 2017) (Heather Ellis Cucolo & Michael L. Perlin, "They're Planting Stories in the Press": The Impact of Media Distortions on Sex Offender Law and Policy, 3 U. Denv. Crim. L. Rev. 185, 205–06 (2013)).
- United States v. D.W., No. 13-CR-0173, 2015 WL 3892643, at \*4 (E.D.N.Y. June 25, 2015) (Heather Ellis Cucolo & Michael L. Perlin, *Preventing Sex–Offender Recidivism Through Therapeutic Jurisprudence Approaches and Specialized Community Integration*, 22 Temp. Pol. & Civ. Rts. L.Rev. 1 (2012)).

Supreme Court Amicus brief contributer, <u>Karsjens v. Piper</u>, 2017 WL 2875933 (U.S.), Amicus Brief for Criminology Scholars and the Fair Punishment Project (2017).

# **PRESENTATIONS**—ACADEMIC

- Lecturer, 2019 Workshop on Transforming Humiliation and Violent Conflict, Columbia University (New York City, December 5 – 6, 2019)
- Guest speaker at the NYU Silver School of Social Work: Evolving Justice, Session VI: Social Work and Vulnerable Populations (New York, NY 2018).
- Guest lecturer, NYU School of Medicine, Legal Literature Series (New York, NY, 2017, 2018).
- Presenter at New York Law School's Legal Association of Women, Let Your Voice Be Heard (New York, NY. 2017).
- Guest lecturer, University of Pennsylvania School of Medicine, *Representing Vulnerable Populations* (Philadelphia, Pa. 2017).
- Guest lecturer, University of Pennsylvania School of Psychology, *Deviance, Intimacy and the Law* (Philadelphia, Pa. 2015).
- Presenter at Judicial Education Seminar for Continuing Judicial Education, *MHL Article 10 Adjudicating Sexual Predators* (New York, First Department, Appellate Division, 2015).
- Panelist for the WEA Disabilities in the Post 2015 Development Agenda in preparation for the United Nation's High Level meeting of the General Assembly on Disability and Development, *Developing a Disability Rights Tribunal for Asia and the Pacific* (New York, NY August 2013).
- Guest Lecturer, Tulane Law School, Mental Disability Law; Americans with Disabilities Act; Therapeutic Jurisprudence (New Orleans, La., April 2011 & September 2011).
- Guest Lecturer at Villanova University (Undergraduate Department of Sociology, and Graduate School of Sociology; courses on Criminology, and on Death Penalty, topics included *Islamic Law and Mental Disability Law*) (Philadelphia, Pa., 2003-2005).

# PRESENTATIONS—PROFESSIONAL ASSOCIATIONS

- Middlesex County Bar Association, Understanding Autism Spectrum Disorder in the Criminal Trial Process (N.J. 2020).
- Impact of Collateral Consequences of a Sex Offense for People with a Mental Disability (March 21, 2020).
- Effectively Advocating for the Client with Developmental Disabilities who has been charged with a sex offense, The Arc of N.J. Equal Justice Talks, <u>https://www.arcnj.org/programs/criminal-justice-advocacy-program/qa-webinar-followup.html</u> (January 17<sup>th</sup> 2019).
- "Effectively Advocating for the Client with Developmental Disabilities who has been charged with a sex offense" <u>https://ww1.womenagainstregistry.org/effectively-advocatingfor-the-client-with-developmental-disabilities-who-has-been-charged-with-a-sex-offense</u> (January 17, 2019).

- Presenter at The American Society of Criminology, "The Strings in the Books Ain't Pulled and Persuaded": How the Use of Improper Statistics and Unverified Data Corrupts the Judicial Process in Sex Offender Cases (Philadelphia 2017).
- Organizer and Presenter at the XXXV International Congress on Mental Health (Prague, July 2017).
- Presenter at the Indigent Offense Research Association, Sexual Perversion and Morality: How an Attorney's Personal View of Deviance Can Shape the Quality of Representation in Sex Offender Cases (New Orleans, La. 2017).
- Presenter at American Society of Criminology "Another ride on the nurture-nature merrygo-round": Pedophilia and the Neurology of Morality in Law and Science; 2<sup>nd</sup> presentation: Sexual Perversion and Morality: How an Attorney's Personal View of Deviance Can Shape the Quality of Representation in Sex Offender Cases (New Orleans, La. November 2016).
- Presenter at 2016 SALT Teaching Conference & LatCrit/SALT Faculty Development Workshop: Using Technology to Address International Human Rights Issues and Reach Underrepresented Clients (Chicago, II. September 2016).
- > Lead trainer, Ohio Sexual Offender Training for Clinicians (Ohio, November 2016).
- Organizer at The American Society of Criminology, Filling in the Gaps: Specialized Mental Disability Law and Policy Training for Criminology Practitioners, Scholars and Professionals; presenter, Maintaining Dignity and Ethical Practice by Improving the Quality of Attorney Representation in Sexually Violent Predator (SVP) Civil Commitment Cases (Washington D.C., November 2015).
- Presenter at the XXXIV International Congress on Mental Health, *Treating the Human Being to Eliminate the Monster: Intimacy Training and the Right to Sexual Interaction for Civilly Committed Sexual Predators*, (Sigmund Freud University, Austria, July 2015).
- National Multicultural Conference and Summit, APA Division, *Therapeutic Jurisprudence Sexuality and the Law, Intimacy Module* (Atlanta, Ga., 2015).
- Academy of Criminal Justice Sciences, Why Shaming Sex Offenders is Counterproductive and Anti-Therapeutic (Philadelphia, Pa., February 2014).
- American Psychology-Law Society, Maintaining Dignity and Ethical Practice in the Merging of Law and Psychology in Sexually Violent Predator (SVP) Civil Commitment Cases (New Orleans, La., March 2014).
- American Society of Criminology, "Far from the Turbulent Space": Considering the Adequacy of Counsel in the Representation of Individuals Accused of Being Sexually Violent Predators (Atlanta, Ga., November 2013).
- Academy of Criminal Justice Sciences, They're Planting Stories In the Press": The Impact of Media Distortions on Sex Offender Law and Policy (Dallas, Tx., March, 2013).
- Academy of Criminal Justice Sciences, Preventing Sex Offender Recidivism Through Therapeutic Jurisprudence Approaches and Specialized Community Integration (New York City, March 2012).
- Presenter at the XXXI International Congress on Mental Health, Preventing Recidivism Through Therapeutic Jurisprudence and the Humane Treatment of Offenders, (Humboldt University, Berlin, Germany, July 2011).

- Presenter at the Academy of Criminal Justice Sciences annual conference, March 2011, Online Distance Learning: A Tool to Teach About the Intersection Between Law and Criminal Justice (Toronto, Canada, March, 2011).
- American Psychiatric Association Conference, Substance Abuse, Diminished Capacity and Criminal Law, (New York University, February, 2010).
- Guest Presenter at Tri-State American Academy of Psychiatry and Law, Substance Abuse, Diminished Capacity and Criminal Law (New York City, February, 2010).
- Presenter at the XXIX International Law and Mental Health Symposium (Electronic copy available at: <a href="http://ssrn.com/abstract=1338298">http://ssrn.com/abstract=1338298</a> 53) RIGHT TO SEX in the Treatment and Civil Commitment of Sexual Violent Predators, discussed in Michael L. Perlin's Everybody Is Making Love/Or Else Expecting Rain, Considering the Sexual Autonomy Rights of Persons Institutionalized Because of Mental Disability in Forensic Hospitals and in Asia, 83 U. WASH. L. REV. 481 (2008), and in Peter Bartlett et al, You May Kiss the Bride, But You May Not Open Your Mouth When You Do So': Policies Concerning Sex, Marriage and Relationships in English Forensic Psychiatric Facilities, 31 LIVERPOOL L. REV 155 (2010) (Padua, Italy, June 2007).

# **MEDIA QUOTES**

- "QAnon's Deadly Price", Rolling Stone https://www.rollingstone.com/culture/culturefeatures/matthew-taylor-coleman-qanon-children-killing-1239151/ (October 9<sup>th</sup>, 2021)
- "Police Use of Deadly Force as it Relates to People with Behavioral Health Issues" <u>https://www.arcnj.org/news\_events/calendar.html/event/2020/06/18/webinar-police-use-of-deadly-force-as-it-relates-to-people-with-behavioral-health-issues-/294310</u> (June 18th, 2020).
- "Trump Shows Utter Cluelessness About Mental Illness, Says He Wants to 'Nab' People, Throw Them in Institutions", Law & Crime https://lawandcrime.com/uncategorized/trumpshows-utter-cluelessness-about-mental-illness-says-he-wants-to-nab-people-throw-them-ininstitutions/ (February, 27<sup>th</sup> 2018).
- US Supreme Court to Decide Karsjens v. Piper: Part 2, <u>https://sajrt.blogspot.com/2017/08/us-supreme-court-to-decide-karsjens-v\_8.html</u> (2017).
- "Sex with Younger Girlfriend Won't Get Man Deported," Bloomberg BNA, Law Week (2017)(discussing Esquivel-Quintana v. Sessions).
- "Star Athlete Gets Just Probation in Rape Case, But Let's Not Be Quite So Outraged," LAWNEWZ (August 2016).
- Before the Abstract, Springer Nature Storytellers at the American Society of Criminology Meeting https://www.storycollider.org/stories/2017/2/24/predators-drew-prochaska-heathercucolo (November 2016).
- "Child Porn Gets Longer Sentences than Rape, Molestation", Bloomberg BNA, Criminal Law Reporter <u>https://www.bna.com/child-porn-gets-n73014445352/</u> (July 24, 2016).
- Sex Offender Registration: Driven by Fear or Real Risk? Bloomberg BNA, Criminal Law Reporter (June 7, 2016).

- "Why Sex Criminals Get Locked Up Forever" | VICE | United States https://www.vice.com/en\_uk/article/why-young-sex-criminals-get-locked-up-forever (April 13, 2016).
- "Underage 'Sext' Offenders: Criminalizing Teenage Conduct?" by LYVBHRadio
- Expert guest, "Let Your Voice Be Heard", Radio 90.3, Sexting Laws and Policy in the Wake of Colorado Sexting Scandal (New York, New York, November 2015).
- "Serial Oswego County Sex Offender Attacks Indefinite Confinement Law", Syracuse.com http://www.syracuse.com/news/index.ssf/2014/11/serial\_oswego\_county\_sex\_offender\_attac ks\_civil\_confinement\_law.html (November 17, 2014).
- "Isolating Sex Offenders Doesn't Make Us Safer", ABC News, The Drum, Opinion http://www.abc.net.au/news/2012-10-17/barns-sex-offenders/4318300 (October 17, 2012).

### AWARDS AND HONORS

- Fellowship Faculty Appointment Albert Einstein College of Medicine (2019)
- Otto L. Walter Distinguished Writing Award--- Representing Intellectually Disabled Offenders in REPRESENTING PEOPLE WITH MENTAL DISABILITIES: A CRIMINAL DEFENSE LAWYER'S GUIDE (Elizabeth Kelley, Ed.) (2018) (2019).
- Otto L. Walter Distinguished Writing Award--- SHAMING THE CONSTITUTION: THE DETRIMENTAL RESULTS OF SEXUAL VIOLENT PREDATOR LEGISLATION (Temple University Press) (2017) (with Prof. Michael L. Perlin) (2018).
- → Honorary Order of the Barristers Award---New York Law School (2018).

#### PROFESSIONAL AND COMMUNITY SERVICE

$\triangleright$	Legal expert and attorney for U.S. law and procedure, Slave Free Seas &	2019- Present
	Law Aid International	
$\triangleright$	Director, International Society for Therapeutic Jurisprudence	2017-Present
$\triangleright$	Treasurer, Co-Founder, Freehold Borough Arts Council	2014-15

#### **BAR MEMBERSHIP**

$\succ$	New Jersey Bar	Admitted to New Jersey Bar, 2004
$\triangleright$	New York Bar	Admitted to New York Bar, 2004
$\triangleright$	American Bar Association	Member, ABA, 2004 - Present