

## ***Thomas K. Clancy***

803 Brentwood Lane  
Oxford, MS 38655  
(662) 915-6918 (office)  
(662) 234-5242 (home)  
E-mail: tclancy@olemiss.edu

### **Summary:**

*current employment:* Director, National Center for Justice and the Rule of Law;  
Research Professor, University of Mississippi School of Law.

*author:* 2 books; 35 articles and other publications

*areas of expertise:* speak nationally and write extensively on search and seizure and cyber crime

### **Current Employment:**

**Director, National Center for Justice and the Rule of Law;  
Research Professor, University of Mississippi School of Law.**  
(since 2001)

*Courses taught:* Criminal Law; Fourth Amendment Seminar; Criminal Procedure II; Cyber Crime.

*Director Activities:* The Center (*see* [www.NCJRL.org](http://www.NCJRL.org)), which is a program of the School of Law, focuses on issues relating to the criminal justice system and implements its mission through projects, conferences, and publications that examine important criminal law and procedure issues. The programs have the core mission to engage in public service. As initial director of the Center, I conceived of and developed the following programs:

#### **Fourth Amendment Initiative**

Promotes awareness of search and seizure principles through conferences, training, and support for selected publications. This initiative includes: an annual symposium and the *James Otis* lecture series (both published annually as a special edition of the *Mississippi Law Journal*); a partnership with the National Judicial College that offers the only national training in search and seizure for trial and appellate judges; and a national training program for state judges and law enforcement on computer-related searches and seizures. This Initiative produces 6-10 conferences annually.

*Tangible results of the initiative include:*

- *Mississippi Law Journal* ranking climbed from 151 to 45
- *Law School* ranking among judges climbed from 2.5 to 2.9

- 10 annual symposiums with 60+ noted scholars contributing lectures and articles
- 12 appellate judge conferences have drawn more than 400 judges from across the country
- two 4 day conferences each year for trial judges that comprehensively address search and seizure principles (15 conferences with 600 participants)
- several 2 day conferences each year on computer searches and seizures
- law enforcement officials receive intensive training on computer searches and seizures

### **Cyber Crime Initiative**

Promotes awareness of computer-related crime through conferences, projects, and publications. This initiative includes: the only national training program for state attorney generals' offices; several conferences each year on cutting-edge issues; cyber crime publications; and projects to combat cyber crime. Associations formed to further the goals of this initiative include the United States Department of Justice, the National Association of Attorneys General, major corporations, and academics.

*Tangible results of the initiative include:*

- special award from the National Association of Attorneys General in 2007 recognizing the Center as a national leader in combating cyber crime
- access to AG offices in all 50 states
- 26 conferences since inception of initiative have provided training to 1000 assistant attorneys general from every state
- published *The Dimensions of Internet Victimization* in the *Mississippi Law Journal*, which discusses strategies to combat Internet-related victimization
- expanded cooperative arrangements with NAAG in 2008 to include training on electronic discovery in civil cases
- heightened awareness nationally of the law school among corporate and governmental decision makers
- fostering of partnerships with individual states to develop projects and studies to combat cyber crime
- in conjunction with the State of California, produced an award winning CD-ROM on how to investigate cases involving Internet chat rooms and email, which has been distributed to over 100,000 investigators and prosecutors
- on line *Cyber Crime Newsletter* is published 6 times a year, with direct circulation of several thousand and redistributed internationally by the US Department of Justice
- specialized publications on cyber crime
- specialized web-based and live courses for judges on Internet-related crimes against children

### **Prosecution Externship Program**

Provides specialized course work and real world training for law students regarding the duties and responsibilities of prosecutors.

*Tangible results of the program include:*

- increased educational opportunities for Ole Miss law students
- summer jobs program with national placements for law students
- placements range from the Los Angeles DA's hard core gang unit, Indianapolis DA's office, Mississippi Attorney General's cyber crime unit, to NAAG's office in DC to focus on cyber crime related issues
- increased relationships with prosecutors, facilitating placement of graduates
- publication in the *Mississippi Law Journal* of *Symposium: Prosecutorial Externship and Clinical Programs*, offering ways to improve the quality of training law students receive to prepare them for careers as prosecutors

### **Criminal Appeals Program**

Provides law students with intensive training representing persons convicted of crimes in Mississippi appellate courts, provides amicus and *Anders/Lindsey* briefs, and places students in the legal division of the appellate courts for semester-long externships for credit.

*Tangible results of the program include:*

- *pro bono* representation to indigents
- service to appellate courts
- fosters institutional relationships with the courts, resulting in appellate judges frequently speaking at Ole Miss, hiring our students as judicial clerks, and holding court at Ole Miss each year
- promotes awareness of the unique roles of appellate courts and litigators
- publication in the *Mississippi Law Journal* of a symposium on the unique aspects of appellate advocacy and the training of law students entitled *Symposium: Criminal Appeals Training Programs in Law Schools*

### **Special Projects**

Provides support for selected projects that promote the concepts of justice and the rule of law.

*Tangible results of the initiative include:*

- Gun Crime Reduction: From 2002 to 2008, the NCJRL was the media and research consultant to the U.S. Attorney's Office for the Northern District of Mississippi for Project Safe Neighborhoods, which was designed to reduce gun-related crime. The project received a national award from the US Department of Justice for the quality of its work.
- Mississippi Cyber Crime Unit: worked closely with the Mississippi Attorney General's Office to create and develop a cyber crime unit for that office
- Combating Child Abuse: provided funding for numerous state and national training programs, including on how to investigate and prosecute cases involving computer-facilitated child sexual exploitation; provided funding to sponsor a "train-the-trainers" program by the American Prosecutors Research Institute focused on proper interview techniques for victims of child abuse

- supported visiting Professors at Ole Miss to teach criminal law courses
- provided support for faculty research
- provided support to expand the Civil Clinic at the law school to provide legal assistance to victims of family abuse
- Educational Program for Fourth Graders: Annual three hour program for local fourth grade students on what lawyers do, including a mock criminal trial

### **Publications – Books:**

*THE FOURTH AMENDMENT: ITS HISTORY AND INTERPRETATION*

(Carolina Academic Press 2008).

- Semi-annual supplements available on line at [www.NCJRL.org](http://www.NCJRL.org)

*CYBER CRIME AND DIGITAL EVIDENCE – MATERIALS AND CASES* (Lexis Nexis–forthcoming 2011)

### **Law Review Articles:**

*The Framers' Intent: John Adams, His Era, and the Fourth Amendment*, 86 INDIANA L.J. 979 (2011).

*The Fourth Amendment as a Collective Right*, 43 TEXAS TECH L. REV. 255 (2010).

*The Irrelevancy of the Fourth Amendment in the Roberts Court*, 85 CHI. KENT L. REV. 191 (2010).

*What Constitutes a Search within the Meaning of the Fourth Amendment*, 70 ALBANY L. REV. 1 (2006).

*Hints of the Future?: John Roberts Jr.'s Fourth Amendment Cases as an Appellate Judge*, 35 U. BALT. L. REV. 185 (2006).

*The Fourth Amendment Aspects of Computer Searches and Seizures: A Perspective and a Primer*, 75 MISS. L.J. 193 (2005).

*The Fourth Amendment's Concept of Reasonableness*, 2004 UTAH L. REV. 977 (2004).

*What Constitutes an "Arrest" within the Meaning of the Fourth Amendment?*, 48 VILL. L. REV. 129 (2003).

*Coping with Technological Change: Kyllo and the Proper Analytical Structure to Measure the Scope of Fourth Amendment Rights*, 72 MISS. L.J. 525 (2002).

*Protective Searches or Frisks?: The Scope of a Permissible Intrusion under Terry to Ascertain*

*if a Person is Armed and Dangerous*, 82 MARQUETTE L. REV. 491 (1999).

*What Does the Fourth Amendment Protect: Property; Privacy; or Security?*, 33 WAKE FOREST L. REV. 307 (1998).

*The Role of Individualized Suspicion in Assessing the Reasonableness of Searches and Seizures*, 25 MEMPHIS L. REV. 483 (1995).

*Extending the Good Faith Exception to the Fourth Amendment's Exclusionary Rule to Warrantless Seizures that Serve as a Basis for the Search Warrant*, 32 HOUSTON L. REV. 697 (1995).

*The Future of Fourth Amendment Seizure Analysis after Hodari D. and Bostick*, 28 AM. CRIM. L. REV. 799 (1991).

*The Supreme Court's Search for a Definition of a Seizure: What is a "Seizure" of a Person within the Meaning of the Fourth Amendment?*, 27 AM. CRIM. L. REV. 619 (1990).

*Equal Protection Considerations of the Spousal Sexual Assault Exclusion*, 16 N. ENG. L. REV. 1 (1980-81).

### **Other Publications:**

*The Fourth Amendment's Reasonableness Command*, ENCYCLOPEDIA OF THE FOURTH AMENDMENT (forthcoming 2012).

*SELECTED TOPICS ON SEARCH AND SEIZURE: MATERIALS AND CASES*  
(annually updated class materials).

*The Role of History: Book Review, William J. Cuddihy, THE FOURTH AMENDMENT: ORIGINS AND ORIGINAL MEANING*, 7 OHIO J. CRIM. L. 811 (2010).

*Digital Child Pornography and the Fourth Amendment*, 49 THE JUDGE'S JOURNAL 26 (Judicial Division of the American Bar Association) (2010).

Foreword, *Symposium: The Fourth Amendment Rights of Children*, 80 MISS. L.J. 1 (2010).

Foreword, *Symposium: Great Dissents in Fourth Amendment Cases*, 79 MISS. L.J. 1 (2009).

Foreword, *Symposium: The Fourth Amendment at the International Border*, 78 MISS. L.J. i (2008).

Foreword, *Symposium: Independent State Grounds: Should States Depart from the Fourth Amendment in Construing Their Own Constitutions and, if so, on What Basis Beyond Simple*

*Disagreement with the United States Supreme Court's Result?*, 77 MISS. L.J. i (2007).

(Co-author) *Combating Cyber Crime: Essential Tools and Effective Organizational Structures— A Guide for Policy Makers and Managers* (2007).

Foreword, *Symposium: Prosecution Responses to Internet Victimization*, 76 MISS. L.J. i (2007).

Foreword, *Symposium: Programmatic Purpose, Subjective Intent, and Objective Intent: What is the Proper Role of "Purpose" Analysis to Measure the Reasonableness of a Search or Seizure?*, 76 MISS. L.J. i (2006).

Foreword, *Symposium: Criminal Appeals Training Programs in Law Schools*, 75 MISS. L.J. i (2006).

Contributor, *ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES* (2006).

Foreword, *Symposium: The Search and Seizure of Computers and Electronic Evidence*, 75 MISS. L.J. i (2005).

Foreword, *Symposium: Prosecutorial Externship and Clinical Programs*, 74 MISS. L.J. i (2005).

Foreword, *Symposium: The Tools to Interpret the Fourth Amendment*, 74 MISS. L.J. 273 (2004).

Foreword, *Symposium: Should Race/Ethnicity be a Permissible Factor in Assessing the Reasonableness of a Search or Seizure?*, 73 MISS. L.J. 365 (2003).

Foreword, *Symposium: The Effect of Technological Change on Fourth Amendment Analysis and Individual Rights*, 72 MISS. L.J. 1 (2002).

*A Vision of Search and Seizure Protection*, XXXIV MD. BAR J. 10 (2001).

### **Recent Lectures / Presentations:**

*Outside Speaking Activities.* I speak at conferences across the country about my core areas of interest: the Fourth Amendment and Cyber Crime.

2011

- Texas regional judicial conferences (two conferences: Austin, Dallas)
- National Internet Crimes Against Children Conference (San Jose, CA)
- Cyber Crime Panel, Norton Corporation Initiative (Washington, DC)

- South East Association of Law Schools (presenter, annual conference)
- Missouri trial judge regional conferences (two conferences: Kansas City, Lake of Ozarks)
- Wyoming trial judge conference

#### 2010

- Texas Tech School of Law Symposium
- South East Association of Law Schools (annual conference)
- Massachusetts Trial and Appellate Judge Conference
- ABA Annual Meeting, National Conference of State Trial Judges (San Francisco, CA)
- Nebraska judicial conference (webinar)
- University of Arkansas, School of Law at Little Rock
- National Internet Crimes Against Children Conference (Jacksonville, FL)
- Samuel Chase School of Law, Northern Kentucky
- New Mexico conference for judicial magistrates (organizer and speaker)

#### 2009

- Kentucky Bar annual convention
- Arkansas trial judges conference (organizer and presenter)
- Montana limited jurisdiction judges conference
- Nebraska appellate judge conference
- Mississippi judicial conference

#### 2007-08

- Criminal Procedure Forum (Emory University)
- Guest blogger, *Concurring Opinions*
- Nebraska trial judge conference
- New Mexico annual judicial conclave
- New York trial judge conference
- Ohio trial and appellate judge conference
- Tennessee trial judge conference
- Texas annual judicial conference
- West Virginia annual judicial conference
- Wisconsin appellate judge conference
- University of Baltimore School of Law
- Summer meeting of the National Association of Attorneys General

*The National Center for Justice and the Rule of Law Conferences.* Each year I organize and speak at the following conferences:

- *Selected Fourth Amendment Issues for Appellate Judges*  
This annual three day conference focuses on foundational principles, computer searches and seizures, and other selected issues.

- *Computer Searches and Seizures for Trial Judges*  
This two day conference is held twice a year.
- *Comprehensive Search and Seizure Course for Trial Judges*  
This four day conference is held twice each year (in Reno and at Ole Miss) and offers a broad examination of Fourth Amendment principles.
- *Annual Fourth Amendment Symposium*  
2011 marks the date of our 10th annual symposium. My role includes developing the topics, organizing, and speaking at the conference.
- *Cyber Crime Conferences*  
Through 2010, we have held 26 conferences for assistant attorneys general. My role is usually as host and occasionally as organizer and speaker.
- *Internet Crimes Against Children Conferences.*  
Based on DOJ competitively awarded grants for 2009-11, the Center has six conferences for judges, which I organize and at which I speak.

**Other Activities at Ole Miss:**

- *Criminal Law and Procedure Curriculum:*
  - ▶ Initiated and shaped the expansion of the criminal law curriculum of the law school from 2 courses to 12.
  - ▶ Created Criminal Law certificate program.
  - ▶ In the Fall of 2010, proposed a LL.M. program, which is currently under development.
- *Management Activities:*
  - ▶ Oversight of \$2-3 million annual budget and staff of nine.
  - ▶ Grant writing, grant management, and fund raising activity exceeding \$20 million.
- *Facilities/Technology:*
  - ▶ Oversight of \$1.5 million technology upgrade of the law school's building (2001-02).
  - ▶ Member of new building committee, with particular emphasis on classroom technology (2007-10).
  - ▶ Developed the Center's website, [www.NCJRL.org](http://www.NCJRL.org), which contains additional information about the Center's programs.
- *Partnerships/Outreach:*
  - ▶ Established partnerships with national organizations, corporations, and state agencies to create educational programs for law students, attorneys, judges, and law enforcement.
  - ▶ Outreach efforts to members of the bench and bar to develop positive relationships.
  - ▶ Created two lecture programs, called a "Conversation with ..." and "Mentoring," to bring to the law school notable judges, scholars, and practitioners to discuss the practice of criminal law.



**Other Law School Teaching Experience:**

- Summer, 2007, 2003 Visiting Professor, University of Hawai'i School of Law  
Subject: Fourth Amendment Seminar.
- 1998-2001 Adjunct Faculty, University of Baltimore, School of Law  
Subjects: Criminal Justice; Criminal Procedure.
- 1993-2001 Adjunct Faculty, University of Maryland, School of Law  
Subjects: Criminal Law; Constitutional Law.
- Spring, 1995 Visiting Professor, Vermont Law School  
Subjects: Criminal Law; Fourth Amendment Seminar.
- 1983-85 Adjunct Faculty, American University, Washington College of Law  
Subject: Legal Writing.
- 1980-81 Legal Writing Instructor, Vermont Law School

**Education:**

J.D., *cum laude*, Vermont Law School. May, 1980.  
Law Review: Staff, 1978-79; Notes Editor, 1979-80.  
Class Rank: 10th.

B.A., University of Notre Dame. May, 1974.

**State Bar Admissions:** District of Columbia; Maryland

**Other Legal Employment:**

- 1999-2001 Chief, Post Conviction Unit, State's Attorney's Office for Prince George's County, MD
- 1988-99 Assistant Attorney General, Office of the Attorney General of Maryland, Criminal Appeals Division, Baltimore, MD
- 1982-88 Sole Practice, Washington, DC
- 1981-82 Legal Services Corporation, Washington, DC

**Awards/Recognitions:**

National Judicial College, certificate of appreciation for 5 years of teaching (2008).

National Association of Attorneys General, for contributions to educational programs (2007).

State of Maryland, service to the state award from the Senate (2001).

State of Maryland, service to the state award from the General Assembly (2001).