

NEW YORK UNIVERSITY LAW REVIEW

Reading the Fourth Amendment:
Guidance from the Mischief that Gave It Birth
The Honorable M. Blane Michael

A Civilized Nation: The Early American Constitution, the Law of Nations,
and the Pursuit of International Recognition
David M. Golove & Daniel J. Hulsebosch

Incomprehensible Crimes: Defendants with Mental Retardation
Charged with Statutory Rape
Elizabeth Nevins-Saunders

Safety in Numbers? Deciding when DNA Alone Is Enough To Convict
Andrea Roth

The Law of Neutrality and the Conflict with al Qaeda
Tess Bridgeman

The Bogeyman of "Harm to Children":
Evaluating the Government Interest Behind Broadcast Indecency
Regulation
Jessica C. Collins

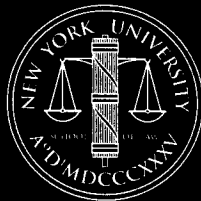
Imagining a Federal Emergency Board: A Framework for
Legalizing Executive Emergency Power
Rachel Goodman

What Remains of the "Forfeited" Right to Confrontation?
Restoring Sixth Amendment Values to the Forfeiture-by-Wrongdoing
Rule in Light of *Crawford v. Washington* and *Giles v. California*
Rebecca Sims Talbott

"Cooperative Prosecution" and the Fifth Amendment
Privilege Against Self-Incrimination
Gregory O. Tuttle

"[We] Can Neither Confirm Nor Deny the Existence or
Nonexistence of Records Responsive to Your Request":
Reforming the Glomar Response Under FOIA
Nathan Freed Wessler

Volume 85



Number 4

NEW YORK UNIVERSITY LAW REVIEW

VOLUME 85

OCTOBER 2010

NUMBER 4

CONTENTS

MADISON LECTURE

- READING THE FOURTH AMENDMENT: GUIDANCE FROM
THE MISCHIEF THAT GAVE IT BIRTH
The Honorable M. Blane Michael 905

ARTICLES

- A CIVILIZED NATION: THE EARLY AMERICAN
CONSTITUTION, THE LAW OF NATIONS, AND THE
PURSUIT OF INTERNATIONAL RECOGNITION
David M. Golove & Daniel J. Hulsebosch 932
- INCOMPREHENSIBLE CRIMES: DEFENDANTS WITH MENTAL
RETARDATION CHARGED WITH STATUTORY RAPE
Elizabeth Nevins-Saunders 1067
- SAFETY IN NUMBERS? DECIDING WHEN DNA ALONE IS
ENOUGH TO CONVICT
Andrea Roth 1130

NOTES

- THE LAW OF NEUTRALITY AND THE CONFLICT WITH AL
QAEDA
Tess Bridgeman 1186
- THE BOGEYMAN OF "HARM TO CHILDREN": EVALUATING
THE GOVERNMENT INTEREST BEHIND BROADCAST
INDECENCY REGULATION
Jessica C. Collins 1225
- IMAGINING A FEDERAL EMERGENCY BOARD: A
FRAMEWORK FOR LEGALIZING EXECUTIVE EMERGENCY
POWER
Rachel Goodman 1263

WHAT REMAINS OF THE "FORFEITED" RIGHT TO
CONFRONTATION? RESTORING SIXTH AMENDMENT
VALUES TO THE FORFEITURE-BY-WRONGDOING RULE
IN LIGHT OF *CRAWFORD V. WASHINGTON* AND *GILES V.
CALIFORNIA*

Rebecca Sims Talbott 1291

"COOPERATIVE PROSECUTION" AND THE FIFTH
AMENDMENT PRIVILEGE AGAINST SELF-INCRIMINATION

Gregory O. Tuttle 1346

"[WE] CAN NEITHER CONFIRM NOR DENY THE
EXISTENCE OR NONEXISTENCE OF RECORDS
RESPONSIVE TO YOUR REQUEST": REFORMING THE
GLOMAR RESPONSE UNDER FOIA

Nathan Freed Wessler 1381

NEW YORK UNIVERSITY LAW REVIEW
(ISSN 0028-7881) (USPS 016181)

All articles copyright © 2010 by the author, except when otherwise expressly indicated. For permission to reprint an article or any portion thereof, please address your written request to the *Law Review* or the author.

Except as otherwise provided, the author of each article in this issue has granted permission for copies of that article to be made for classroom use, provided that: (1) copies are distributed to students at or below cost; (2) the author and journal are identified on each copy; and (3) proper notice of copyright is affixed to each copy.

* * * * *

Published by the *New York University Law Review* at 110 W. Third Street, New York, New York 10012, in April, May, June, October, November, and December. Editorial and General Offices are located at 110 W. Third Street, New York, New York 10012. Inquiries also are accepted by telephone at (212) 998-6350 and by FAX at (212) 995-4032. Periodicals postage is paid at New York, New York and at additional mailing offices.

Current subscriptions: \$50.00 (plus \$6.00 foreign mailing). Single issues: \$16.00 each (plus \$1.00 for optional first class mailing). Please enclose check with order. Bound sets, back issues, and older volumes may be ordered from William S. Hein & Co., Inc., 1285 Main Street, Buffalo, NY 14209-1987; prices may differ from those above. Orders may be placed with Hein by phone at (800)828-7571, via fax at (716) 883-8100, or by e-mail to order@wshein.com. Hein also carries the *Law Review* in electronic format at HeinOnline, <http://www.heinonline.org>.

Subscriptions are renewed automatically upon expiration unless the subscriber sends timely notice of termination. All notifications of change of address should include both old and new addresses, including zip codes. Please notify one month in advance to ensure prompt delivery.

Unless a claim is made for nonreceipt of issues within one year of the mailing date, the *Law Review* cannot replace those issues free of charge.

For information regarding subscriptions, please contact (212) 998-6590.

Postmaster: Send address change to the *New York University Law Review*, 110 W. Third Street, New York, New York 10012.

The *Law Review* invites the submission of unsolicited manuscripts. We regret that such manuscripts cannot be returned except if accompanied by a self-addressed, stamped envelope.

The *New York University Law Review* is printed on recycled paper.
