

# Prithika Balakrishnan

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UC College of the Law, San Francisco  
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## ACADEMIC APPOINTMENTS

**UC College of the Law, San Francisco, California**

*Associate Professor, July 2024 – present*

- Courses Taught: Criminal Law, Criminal Practice Clinic, Social Justice Lawyering

**UC College of the Law, San Francisco, California**

*C. Keith Wingate Visiting Assistant Professor, August 2022 – June 2024*

- Courses Taught: Criminal Practice Clinic

**UC Berkeley School of Law, Berkeley, California**

*Lecturer, August 2017 – May 2022*

- Courses Taught: Criminal Law and Ethics, Advanced Criminal Trial Practice

## RESEARCH AND TEACHING INTERESTS

*Primary: Criminal Law, Criminal Procedure, Evidence, Professional Responsibility*

*Secondary: Race and the Law, Constitutional Law, Trial Advocacy, Law and Technology*

## SCHOLARSHIP

*Police Surveillance and the Perils of Techno-Solutionism, MICH. J. RACE & L., Vol. 31 (forthcoming 2025)*

- This Article reveals how law enforcement's turn to surveillance technology as a tool to address staffing challenges – a “force multiplier” promising increased efficiency in meeting policing goals with fewer officers – is an example of a larger techno-solutionist trend in American policing. The expansion of surveillance technology into local law enforcement, while intended to solve perceived staffing challenges, has altered the purposes of policing. It has reoriented policing from evidence gathering and deterrence to a focus on constant data collection and crime prediction. Further, this paper shows how police surveillance, operating within the existing racial inequalities of the criminal legal system, extends racial bias through both targeted and pervasive surveillance.

*Mass Surveillance as Racialized Control, 71 UCLA L. REV. 428 (2024)*

- This Article examines how the expanded use of pretrial GPS surveillance is radically changing the presumption of innocence by implicating punitive measures absent constitutional protections and amplifying the racial disparities in our criminal justice system. Largely viewed as a substitution for physical detention and, therefore, a less onerous intrusion on a defendant's liberty, pretrial GPS surveillance has eroded fundamental liberties under the guise of criminal justice regulation. These highly racialized but invisible repercussions include harms to physical and psychological health, freedom of movement, privacy and future economic self-determination. I argue that in light of these substantial harms, courts must examine how they evaluate technological surveillance, providing

defendants substantive and procedural due process protections where there currently are none.

*Correcting Collaborative Courts – A Paradigm Shift from Rehabilitation to Reducing Recidivism* (work in progress)

- Recent years have seen the growth of diversion courts in the adjudication of criminal cases. These courts aim to address the root causes of criminal behavior by mandating drug treatment, mental health services and other forms of intensive case management. The goal of these courts, laudably, is to encourage the rehabilitation of criminal defendants. However, the efficacy of these programs is unclear, with many defendants falling short of the court's rehabilitative requirements and left without the dismissal or other legal benefit their participation in treatment court was intended to offer, despite having participated with great effort, often for years, in the diversion court system. This is especially true for indigent defendants, who most often must rely on over-burdened and under-funded public programs and, as a result, face daunting odds of meeting rehabilitation metrics. This Article argues that diversion courts result in a two-tier system of justice, with defendants who can afford private treatment placed at a rehabilitative advantage over indigent defendant, one which the court unfairly rewards with better case outcomes. Diversion courts should acknowledge this imbalance by shifting their focus to recidivism metrics as opposed to rehabilitating the defendant, gauging the success of the defendant based upon their ability to avoid reoffending versus sobriety or mental health recovery.

*The Suspect Data Double and the Preventive State* (work in progress)

- The concept of the “suspect data double” emerges as police surveillance shifts from traditional crime deterrence and evidence gathering to data collection and predictive policing. Importing the idea of the data double from sociology and surveillance studies, this paper interrogates the creation of suspect profiles constructed from aggregated and rhizomatic data. This “suspect data double” is used by law enforcement in predictive policing, informing risk assessments, driving preemptive police action and altering the concepts of reasonable suspicion and probable cause. Unlike traditional policing methods, predictive policing employs correlations in unconnected data and exists beyond the reaches of the Fourth Amendment. This Article shows how the suspect data double will work to amplify racial biases and raises concerns about the growth of the preventive state.

*Presumed Dangerous* (work in progress)

- The Bail Reform Act of 1984 explicitly allowed for the preventive detention of criminal defendants based upon the deterrence of future crimes. Upheld against a facial challenge by the Supreme Court in *United States v. Salerno*, 481 U.S. 739 (1987), the Act designated the protection of public safety as a legitimate regulatory purpose of bail. In the years subsequent to *Salerno*, future dangerousness has dwarfed concerns over flight risk in decisions concerning pretrial release, resulting in an unprecedented increase in pretrial incarceration and amplifying the racial disparities in our criminal legal system. Today, judicial consideration of public safety is accepted, even by anti-carceral reformers, as an intrinsic component of the bail analysis. In this article, I contend that the origins of “future dangerousness” and its insertion into the pretrial detention analysis can be found in the backlash to the civil rights movement and the racialized politics of the 1970s and 1980s. Moreover, this Article challenges the conventional precedent of *Salerno*, showing that as technologically mediated methods of decision-making have become more prevalent in judicial determinations, the continued reliance on future dangerousness as a bail consideration violates due process and the Equal Protection Clause of the United States Constitution.

## **SELECTED PRESENTATIONS**

“Glowing Up Our Clinic Seminar,” Northern California Clinical Conference, UC Berkeley School of Law (February 2025) (panelist)

“Background on Legal Theories and Approaches to Homelessness,” Symposium on the Impact of *Grants Pass* on Homelessness in the Bay Area, UC Law San Francisco Constitutional Law Quarterly (January 2025) (moderator)

Rocky Mountain Junior Scholars Forum, University of Utah, S.J. Quinney College of Law (November 2024) (presenter)

“The Debt-Free Justice Movement,” Fine-Free Justice: Lessons from Across Movements, Center for Racial and Economic Justice, UC Law San Francisco (November 2024) (moderator)

“Race and the Criminal Legal System,” CrimFest 2024, Cardozo School of Law (July 2024) (panelist)

Third Annual Michael A. Olivas Writing Institute, UC Davis School of Law (June 2024) (presenter)

“Restorative Justice Models: Lessons Learned from Race Conscious Reforms,” Racial Justice Lawyering Symposium, Center for Racial and Economic Justice, UC Law San Francisco (March 2024) (panelist)

“Presumed Dangerous,” CUNY School of Law, Asian American Pacific Islander (AAPI) and Middle Eastern and North African (MENA) Women in the Legal Academy Workshop (October 2023) (presenter)

“Pretrial Release, Probation and Parole,” CrimFest 2023, Brooklyn Law School (July 2023) (panelist)

“Presumed Dangerous,” Decarceration Law Professors 2023 Works-in-Progress Workshop (July 2023) (presenter)

“Punishing the Presumed Innocent,” AALS Conference on Clinical Legal Education, Clinical Conference, Works in Progress (April 2023) (presenter)

“Practices to Build, Sustain and Teach Resilient Hope in the Midst of a Long-Term Struggle for Social Change,” AALS Conference on Clinical Legal Education (April 2023) (panelist)

“Racial Impacts and Disparities of E-Carceration,” Clinical Writer’s Workshop, NYU School of Law (October 2022) (presenter)

“Racial Impacts and Disparities of E-Carceration,” UC Davis School of Law, Asian American Pacific Islander (AAPI) and Middle Eastern and North African (MENA) Women in the Legal Academy Workshop (September 2022) (presenter)

## **EDUCATION**

**Yale Law School**, New Haven, Connecticut

*JD, 2009*

- Charles G. Albom Prize for Excellence in Appellate Advocacy
- Olin Fellowship for Law, Economics and Public Policy
- *Yale Human Rights and Development Law Journal*, Articles Editor

**Stanford University**, Palo Alto, California

*BA in Economics and History, summa cum laude, 1998*

- Highest Departmental Honors
- Stanford University Robert M. Golden Medal for Excellence in the Humanities

## **OTHER EXPERIENCE**

**San Francisco Public Defenders Office**, San Francisco, California

*Deputy Public Defender, 2009-2021*

- Felony trial attorney. Handled life-cases, sex crimes and homicides, conducting over 30 jury trials to verdict. Managed several of San Francisco's mental health collaborative courts, which are lauded as national models of evidence-based, treatment-focused strategies for addressing mental health and addiction as root causes of criminality. Ensured clients received and participated in mental health services. Advocated for improved legal outcomes for clients with mental health concerns, including dismissal of charges, early termination of probation and reduction of the severity of charges upon program graduation. Extensive motions practice, including bail motions, suppression motions, demurrers, motions to dismiss, in limine motions and appellate writs. Led new attorney trainings in Voir Dire and Opening Statement. Moderated case conferences.

**Hotel Employees and Restaurant Employees Union, Local 2 San Francisco**, San Francisco, California

*Union Organizer, 2001-2005*

- Represented hotel workers in grievance hearings and mediation. Developed leadership among rank-and-file union members in contract negotiations and worker campaigns.

**Peace Corps Honduras**, Washington, DC

*Volunteer, 1998-2000*

- Advised a group of indigenous women in the creation, administration and management of an artisan cooperative, focusing on the sustainability of women-owned, income-generating, small businesses.

## **BAR ADMISSIONS**

California (2009)