

Michael H. Marcus

320 Multnomah County Courthouse
1021 SW Fourth Avenue
Portland, Oregon 97204
Telephone: (503) 988-3250
Fax: (503) 796-1234; E-mail: SMMarcus1@comcast.net
<http://www.smartsentencing.com>

Education:

A.B. 1966 University of California [Pi Sigma Alpha]
J.D. 1969 University of California (Boalt Hall) [Calif. L. Rev.; Coif]

Judicial:

Oregon Trial Judge: District Court 3/5/90-1/15/98
Circuit Court 1/15/98 to present
District Judge Pro Tempore, 1980 to 1990
Circuit Judge Pro Tempore, 1983 to 1998
Circuit Court Reference Judge, 1984 to 1990

Associations:

American Judges Association
American Law Institute

Bar Memberships:

United States Supreme Court since 1977
United States Court of Appeals (9th Circuit) since 1970
United States Temporary Emergency Court of Appeals since 1972
United States District Court (N.D. Cal. 1970; D. Or. 1975)
Oregon State Bar since 1974; California State Bar since 1970 (*inactive since 1974*)

Areas of Judicial Experience

All aspects of state court civil litigation, from small claims to major personal injury and business litigation, involving questions of state, federal, and local law, and including class actions, actions for damages, and for declaratory and injunctive relief; misdemeanor and felony criminal litigation; domestic relations, juvenile, and mental commitment proceedings; judicial review of hearings officer and state agency decisions; state and federal constitutional litigation in civil and criminal cases.

Prominent Judicial Projects

Sentencing Support Technology: Author of 1997 Or Laws ch 433 (1997 HB 2229), and promoter of 1997 Oregon Judicial Conference Resolution #1, Judicial Conference representative to Governor's Work Group on Criminal Justice Program Effectiveness Data and Research Needs; DSS-Justice Sentencing Support Focus Group; Oregon Judicial Conference Sentencing Support Judicial Sponsors Group; Promoter of crime-reduction proposals to the Adult Sentencing Subcommittee of Governor's Public Safety Review Steering Committee. Instigator of 2005 Oregon Laws Ch 473 (SB 914) and 2005 Oregon Laws Ch 474 (SB 919) and resulting Oregon Criminal Justice Commission Advisory Committee on SB 919. See <http://www.smartsentencing.com>. Active participant in Oregon Judicial Department technology committees, and Judicial Sponsor of ECM, Decision Support, and inter-agency data sharing initiatives.

Judicial Committees

Criminal Law Committee (2000-08)
Technology in the Courts Committee (Chair 2001-08)
Special Task Force on Future Technology in the Oregon Courts (2004-05)
Oregon Judicial Department Technology Committee (2005-08)
Oregon eCourt Implementation Team (2008-09)
Oregon eCourt Implementation Committee (2009-)
Oregon eCourt Steering Committee (2009-)
Oregon Judicial Department Performance Measure Advisory Committee (2008-)

Publications:

[The more recent are available [on line](#)]

Comment, *The Death Penalty Cases*, 56 CALIF. L. REV. 1268 (1968)
Summary of Forcible Entry and Detainer Law (for Oregon Judicial College, 1977)
Forcible Entry Detainer chapter of PLEADING & PRACTICE (Oregon Bar CLE, 1978, 1980, 1985)
Forcible Entry Detainer chapter of REAL ESTATE DISPUTES (Oregon Bar CLE, 1993)
LANDLORD/TENANT RELATIONS FOR OREGON (1978) AND LANDLORD/TENANT RIGHTS IN OREGON (1980, 1988, 1992, 1994, Self-Counsel Press)
“*Doctors, Lawyers and Nursing Home Transfers*,” THE PORTLAND PHYSICIAN (Nov. 1981)
Contributing Editor, OREGON REAL ESTATE AND LAND USE DIGEST (1979 to 1999)
District Court Judges’ FED Casebook (1981 to 1989)
LEGISLATIVE NOTEBOOK “*Landlord/Tenant*” (1981, 1983, 1985 [co-author], 1989 CLE)
SRO HOUSING MANAGEMENT HANDBOOK contributing author (Burnside Consortium, 1983)
“*Rent Increase Under HB 2915*,” Mobilehome Park Owners’ Association Observer, (November/December 1985)
Mediation in the Criminal Justice System chapter of ALTERNATIVE DISPUTE RESOLUTION DESKBOOK (Oregon Bar CLE, 1992, 1996 Supp; 1999 Supp)
“*We Can do Better at Fighting Crime*,” August 21, 1997 [Fall, 1998, OREGON’S FUTURE and July-Sept, 1999, LAW ENFORCEMENT REVIEW, Centre for Law Enforcement Education, Nigeria]
“*Technology is Coming to Sentencing Hearings*,” THE OREGON DEFENSE ATTORNEY (February, 1999)
“*Paying Attention to What Works*,” OREGON STATE BAR BULLETIN (August/September 1999)
“*Technology Confronts the Revolving Door*,” THE VERDICT [Oregon District Attorneys Association] (March, 2000)
“*Courtroom Technology: Sentencing Support Technology*,” THE JUDGES’ JOURNAL [ABA Judicial Division] (Winter, 2002)
“*Sentencing Support Technology Seeks to Modernize Sentencing*,” OCCD BULLETIN [Oregon Council on Crime and Delinquency] (June, 2002)
“*Archaic Sentencing Liturgy Sacrifices Public Safety: What’s Wrong and How We Can Fix It*,” 16 FEDERAL SENTENCING REPORTER 76 (2003)
“*Comments on the Model Penal Code: Sentencing, Preliminary Draft No. 1*” 30 AMERICAN JOURNAL OF CRIMINAL LAW 135 (2003)
“*Sentencing in the Temple of Denunciation: Criminal Justice’s Weakest Link*” 1 OHIO STATE JOURNAL OF CRIMINAL LAW 671 (2004)
“*Sentencing Support Tools and Probation in Multnomah County*,” EXECUTIVE EXCHANGE [National Assn of Probation Executives] (Spring 2004)
“*Smarter Sentencing: On the Need to Consider Crime Reduction as a Goal*,” 40:3-4 COURT REVIEW, [Journal of the American Judges Association] (Winter 2004)
“*Blakely, Booker, and the Future of Sentencing*,” 17 FEDERAL SENTENCING REPORTER 243 (2005)
“*Justitia’s Bandage: Blind Sentencing*,” 1 INTERNATIONAL JOURNAL OF PUNISHMENT AND SENTENCING 1 (2005)
OREGON CRIMINAL BENCHBOOK, Ch. 16 Sentencing [co-author] (2006) <http://www.ojd.state.or.us/reference/criminalbenchbook.htm>
“*Post-Booker Sentencing Issues for a Post-Booker Court*,” 18 FEDERAL SENTENCING REPORTER 227 (2006)
“*Responding to the Model Penal Code Sentencing Revisions: Tips for Early Adopters and Power Users*,” 17 SO CAL INTERDISCIPLINARY LAW JOURNAL 67 (2007)
“*Limiting Retributivism: Revisions to Model Penal Code Sentencing Provisions*,” 29 WHITTIER LAW REVIEW 295 (2007)
“*Four Steps to Progress: A reality test for Assembly Bill 900*,” 43 UNIVERSITY OF SAN FRANCISCO LAW REVIEW 13 (2008)
“*Conversations on Evidence Based Sentencing*,” 1 CHAPMAN JOURNAL OF CRIMINAL JUSTICE 61 (2009)
“*Only the Really Hard Part of eCourt Is Really Worth Doing*,” 45:4 Court Review 124 (2008-2009)
“*MPC--The Root of the Problem: Just Deserts and Risk Assessment*,” 61 FLA L REV 751 (2009)

Advisory Positions:

Mayor’s Low Income Multi-Family Housing Committee, 1980
Health Division Committee on Nursing Home Transfers, 1980, 1983
Multnomah Bar Association District Court Liaison Committee, 1981-83
Portland Housing Advisory Committee, 1981-90; Chair: 1987 to 1990
Portland Civil Service Board Interviewer, Code Hearings Officer Hiring, 1983
Advisor, OSPIRG Renter’s Handbook, 3d - 8th editions (1975-89)
Governor’s State Housing Conference Advisory Committee, 1985, 1986
Member, Rental Housing Energy Rating System Working Group (Bonneville Power Administration) 1985-86
Member, Washington County Mobile Home Task Force, State Long Term Solution Subcommittee, 1985-86
Member, Board of Directors, Victim Offender Reconciliation Program of Multnomah County, 1986-91
Special Needs Advisory Committee, PDC Downtown Low Income Housing Preservation Program, 1988-89

Portland Community Housing Resource Board, 1989-90
 Member, Steering Committee, Oregon HOUSING NOW! 1989 to 1990
 Fair Housing Advisory Task Force, 1992
 Multnomah Bar Association Alternative Dispute Resolution Committee, 1992-94
 Oregon Judicial Conference Alternative Dispute Resolution Committee, 1992-93
 Oregon Judicial Conference Committee on Indigent Defense, 1992
 Oregon Judicial Conference Sentencing Policy Committee, 1996-97, 1997-98
 DUI Case Disposition Evaluation Project Advisory Committee, 1992
 Housing Discrimination in Oregon History Project Advisory Committee, 1992-93
 Advisory Committee, DUII/DWS Deskbook for Oregon Courts, Judicial Education Committee, Oregon Judicial Conference, 1994
 Volunteer Lawyers Project Advisory Council, 1995 to 1996
 Oregon Council on Court Procedures, 1993 -2001
 Multnomah County Arbitration Commission, 1998-2002
 Oregon Dispute Resolution Advisory Committee, 1996 to 2003
 Local Public Safety Coordinating Council Data Standards Work Group, 1996
 Local Public Safety Coordinating Council Evaluation Committee, 1997-1998
 Governor's Work Group on Criminal Justice Program Effectiveness Data and Research Needs, 1997-1998
 Local Public Safety Coordinating Council Sentencing Support Focus Group, 1999-present
 Local Public Safety Coordinating Council DSS-Justice Security Committee, 2003-present
 Oregon Dispute Resolution Commission Victim Offender Mediation Evaluation Project Advisory Committee, 2000-2001
 Oregon Judicial Conference Sentencing Support Project Judicial Sponsors Group, 2001-2003
 Oregon Judicial Conference Task Force on Future Technology in the Oregon Courts, 2004-2005
 Multnomah County Alcohol & Drug Criminal Justice Working Group, Subcommittee on Universal Assessment, 2004
 Oregon Judicial Department Technology Committee, 2005-2008
 American Law Institute, Model Penal Code: Sentencing Members Consultative Group, 2005-
 National Institute of Justice, Court Technology Work Group, 2006-
 National Institute of Corrections, Advisory Committee on Evidence Based Decision Making in Local Criminal Justice Systems, 2006-

Educational Projects:

Faculty, 1975 Oregon Bar CLE "Real Property"
 Panelist, 1977 Oregon Judicial College
 Legal Writing Instructor, 1976, 1977, Lewis and Clark Law School
 Faculty, 1981 Oregon Bar CLE "Practical Skills Program"
 Consultant/Trainer, Adult and Family Services Division, Nursing Home Transfer Rules training project, 1981
 Trainer, Volunteer Lawyers Project, Multnomah Bar Association, 1981
 Panelist, "Coping With Brain Disease -- Legal Issues," Good Samaritan Hospital Neurological Sciences Center, 1981
 Consultant, Oregon Department of Justice Consumer Protection and Services Division, 1981
 Speaker, Governor's State Housing Conference, 1981
 Instructor, Multnomah County Sheriff's Regional Law Enforcement Explorer Academy, 1982, 1983
 Faculty, Oregon Health Care Association Transfer Rules Training, 1982
 Panelist, Senior Services Division Regional Training, "Relocation Project," 1982
 Lecturer, Mt. Hood Community College, "Moving Ahead, Options for Unemployed Workers," 1982
 Panelist, Multnomah Bar Association Young Lawyers' U.S. Dist. Court Federal Practice CLE, "Summary Judgments," 1982
 Lecturer, Landlord/Tenant Workshop, Portland YWCA, 1983
 Speaker, "Fair Housing for Salem" conference, Salem Human Rights Commission/Community Housing Resource Board, 1983
 Moot Court Judge, Oregon Law-Related Education Project, 1983, 1985, 1986, 1993
 Lecturer, Tri-County Librarians Network Conference, 1983
 Speaker, Multnomah Bar Association Public Education Project, Good Samaritan Hospital, 1983
 Lecturer, Oregon Landlord and Tenant Law, Portland Association of Building Owners and Managers, 1984
 Judge, Northwestern School of Law Client Counseling Competition, 1984
 Faculty, District Court Judges' Continuing Legal Education, 1984
 Judge, Northwestern School of Law Moot Court Mock Trial Competition, 1985, 1986
 Moderator, "Not in My Neighborhood," Governor's State Housing Conference, 1985
 Faculty, Evergreen Legal Services Appellate Advocacy Training Conference, 1985
 Speaker, "Administrative Law: How to Squeeze Error Out of an Order," MBA-CLE 1985
 Lecturer, Appellate Advocacy, Lewis and Clark Moot Court Board, 1985
 Speaker, 1985 Legislation, Multi Family Housing Council, 1985
 Speaker, 1985 Legislation, Oregon Mobilehome Park Association Convention, 1985

Participant, Oregon Legal Assistants Association “Worcester Conference,” 1985
Trainer, Oregon Legal Services, Sunriver Pro Bono Attorneys Training Seminar, 1985
Faculty, “Landlord/Tenant Law,” Professional Education Systems seminar, 1986
Speaker, Forum on Criminal Justice, Ecumenical Ministries of Oregon, 1986
Speaker, Landlord/Tenant Law, Oregon Apartment Association seminar, 1986
Moot Court Judge, Multnomah Bar Association Trial Advocacy Workshop, 1986
Speaker, Landlords’ and Tenants’ Rights, Mid-Valley Rental Housing Association, 1986
Speaker, Oregon State Tenants’ Association Convention, 1987
Lecturer, Marion-Polk Legal Aid Service, Ethical Issues Representing Incompetent Clients, 1986
Judge, Northwestern School of Law Appellate Advocacy Competition, 1986, 1987, 1989
Presenter, “Ethical Issues,” Senior Law Project seminar, Guardianship and Conservatorship, 1987
Speaker, Landlord/Tenant Law, Rental Owners Association, 1988
Speaker, Accredited Resident Manager organization, Oregon-Columbia River Chapter 29, 1988
Speaker, Landlord/Tenant Law, Marion County Bar Association Continuing Legal Education Program, 1988
Speaker, Landlord/Tenant Law, Washington County Bar Association Continuing Legal Education Program, 1988
Speaker, Landlord/Tenant Law and Ethics in Landlord/Tenant Litigation, Oregon Pro Bono Attorneys Seminar, 1988
Speaker, Landlord/Tenant Law, Oregon Apartment Association, 1988, 1994
Speaker, Financing Housing Without Federal Funds, Governor’s Housing Conference, 1988
Judge, Northwestern School of Law Mock Trial Competition, 1988
Moderator, “Fair Housing Amendments of 1988,” Fair Housing Workshop, Multnomah Co., Portland, CHRB, et al, 1988
Speaker, “Funding Housing for the Homeless,” Multi Family Housing Council, 1989
Panelist, “Enforcement Aspects of the New [Fair Housing] Amendments,” HUD, Portland CHRB, et al, 1989
Speaker, Portland Chapter AIA Design Workshop “Search for Shelter” Project, 1989
Panelist, “Housing Our Families,” Technical Assistance for Community Services, 1989
Speaker, “Legislative Changes to the Landlord/Tenant Act,” Affiliated Rental Housing Association, 1989
Trainer, FED Mediation, Multnomah County Circuit Court Alternative Dispute Resolution Program, 1989
Panelist, Conference on Drugs & Crime in Multifamily Housing, HUD, 1989
Panelist, Senior Housing Forum, United Seniors, Oregon Council of Senior Citizens, Gray Panthers, 1990
Panelist, Issues in Mediation of Criminal Cases, Conference on Mediation Policy and Practice, Willamette University Center for Dispute Resolution, 1990
Panelist, Mediation Policy Dialogue, 1991
Speaker, Multifamily Housing Council Conference, 1991, 1992
Speaker, Columbia County Legal Aid Continuing Legal Education Seminar, 1992
Speaker, Landlord Tenant and Fair Housing Issues, Pro Bono Seminar, Oregon State Bar Low Income Legal Services Committee, 1993
Judge, Oregon High School Mock Trial Competition, Classroom Law Project, 1993
Speaker, Accredited Residential Manager Assn, Oregon-Columbia River Chapter 29, 1990, 1993
Panelist, Fair Housing Conference, HUD, CHRB, Multifamily Housing Council, et al, 1990, 1993, 1994
Panelist, Screening and Eviction, Oregon Conference for Housing Management Professionals, Association of Homes for the Aging, 1993
Moderator, Multnomah County DUII Community Program Advisory Board’s Victims Impact Panel, 1993 to present
Trainer, Multnomah County Landlord-Tenant Mediation Program 1994
Speaker, Use of Alternative Dispute Resolution in the Criminal Justice System, Oregon District Attorneys Association Winter Conference, 1994
Speaker, *Restorative Sanctioning*, American Probation and Parole Association Winter Training Institute, 1996
Speaker, *What are we up to and why, or if we’re doing more harm than good, why rush?* West Central Wardens and Superintendents Assn Conference, 1997
Speaker, *Framing the Law of Reasonable Doubt: The State & Local Perspective*, 1998 Winter Conference, Oregon Criminal Defense Lawyers Association, 1998
Judicial Participant, University of Minnesota Law School “Sentencing Workshop,” (Professor Bob Levy), 1998
Faculty, Oregon Judicial Department, New Judge Seminar, 1999
Presenter, University of Oregon School of Law Criminal Sentencing Seminar (Prof. Peter A. Ozanne), 1999, 2000
Presenter, *Technology Implementing HB 2229 for Public Safety*, Oregon Legislative Interim Judiciary Committee (Sept 29, 2000)
Presenter and Judicial Participant, Yale Law School Sentencing Seminar (Hon. Nancy Gertner, District Judge), 2001
Presenter, *Sentencing Support Technology in Pursuit of Public Safety*, 2001 Judicial Decision Support Systems Conference, Chicago-Kent College of Law, 2001
Speaker, *Programming the Appropriate Sentence*, Annual Conference, Oregon Criminal Defense Lawyers Association, 2001
Faculty, *Judicial Sentencing Support Systems*, Seventh Court Technology Conference, National Center for State Courts, 2001
Speaker, *DUII: Treatment vs. Punishment*, Traffic Safety Conference, ODOT/OJPA, 2002

Presenter, *Sentencing Support Technology and Accountability for Public Safety Outcomes*, Second International Conference on Sentencing and Society, Strathclyde University, Glasgow UK (2002)

Speaker, *IT as Intentional Transformation*, 2002 Conference, National Association for Justice Information Systems (2002)

Presenter, *Sentencing Support Technology: Sentencing for Public Safety*, Provincial Judges of Manitoba education session (2002)

Presenter, *Why Sentencing Needs Profound Change; How Technology Can Help*, 40th Annual Conference, Academy of Criminal Justice Sciences (2003)

Panelist, *Report Writing "Train the Trainer Session,"* Multnomah County Department of Community Justice (2004)

Plenary Panelist, *ALI Update on Model Penal Code*, 2004 Conference, National Association of Sentencing Commissions (2004)

Presenter, *What Works? Who Cares? Strategies for making what works matter in criminal justice*, Conference of the Oregon Program Evaluators Network (2004)

Presenter, *Decision Support Technology to Improve Sentencing*, Ninth Court Technology Conference, National Center for State Courts, 2005

Co-presenter, *Practical Sentencing*, Oregon Circuit Judges Association Fall Conference, 2006

Keynote Speaker, *The Challenge and Promise of Smart Sentencing, "Unlocking the Cuffs,"* Ecumenical Ministries of Oregon and Multnomah County Department of Community Justice, 2006

Presenter, *Sentencing Performance Measures by Recidivism*, Oregon Judicial Department Performance Measure Advisory Committee, 2006

Speaker, *Pursuing Evidence-Based Harm Reduction in Sentencing, "Using the New Sentencing Tools,"* Missouri Sentencing Advisory Commission and Institute of Public Policy, University of Missouri School of Law, 2006

Presenter, *Focusing Sentencing on Public Safety and the Role of Sentencing Commissions*, National Association of Sentencing Commissions (2006)

Presenter and Moderator, *Confronting the Crisis: Current State Initiatives and Lasting Solutions for California's Prison Conditions*, University of San Francisco Law Review Symposium (2008)

Presenter, *Using Prisons in a World of Just Deserts*, UK Parliamentary Justice Committee (2008)

Panelist, *Evidence Based Practices, Incarceration, and Just Deserts*, at *Evidence-Based Sentencing: The New Frontier in Sentencing Policy and Practice*, Chapman University School of Law (2008)

Panelist, *Technology and the Court System*, National Association of Women Judges Annual Conference (2008)

Presenter, *Sentencing Support Tools, Risk & Needs Assessment in Multnomah County, Oregon*, Wisconsin AIM Site Visit Conference, Wisconsin Supreme Court Office of Court Operations (2008)

Presenter, *Where We Are, Where We're Headed*, Yamhill County Local Public Safety Coordinating Council (2010)

Lecturer, *Those who can make you believe absurdities can make you commit atrocities*, Class of Prof. Daniel Reisberg, Reed College (2010)

Co-presenter (With Chief US District Judge Ann Aiken), *Making Sense of Sentencing - How to use thoughtful sentencing to reduce crime and transform offenders*, Friday Forum, Portland City Club (2010)

Co-presenter, *Role of Sentencing Commissions: Commissions Rise and Lead!*, 2010 National Association of Sentencing Commissions Conference, Point Clear, Alabama (2010)

Practice of Law Before Appointment and Election to Bench:

1969-70 Law Clerk, Peters, J., California Supreme Court
1970-74 San Francisco Neighborhood Legal Assistance Foundation
1974-90 Director of Litigation, Multnomah County Legal Aid Service

Arbitration Memberships Before Appointment and Election to Bench:

American Arbitration Association Commercial Panel
Multnomah County Circuit Court Arbitration Panel
Better Business Bureau National Panel of Consumer Arbitrators (Senior Arbitrator)
(Eligibility to serve as arbitrator ended with appointment to the bench)