

# ROBERT (BOBBY) CHESNEY

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## ACADEMIC LEADERSHIP AT THE UNIVERSITY OF TEXAS

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### **Associate Dean for Academic Affairs, School of Law** (since 2011)

- Advising the dean on the full spectrum of strategic, operational, and tactical issues
- Curating the curriculum
- Promoting pedagogical best practices
- Troubleshooting a broad array of issues raised by faculty, students, and staff
- Building relationships with university leaders, alumni, and employers
- Supporting a diverse and inclusive learning environment
- Participating annually in the budget, appointments, and curriculum committees
- Managing challenges and transformations brought on by the pandemic

### **Director, Strauss Center for Int'l Security & Law** (since 2014) (appointed by President Powers)

- Developing and executing strategies to achieve the Center's mission
- Fundraising (approximately \$8.5m from private donors and foundations since 2014)
- Planning and supervision of a \$1.5m annual budget
- Conceiving of, establishing, and sustaining 10-12 program areas
- Developing relationships with key constituents
- Ensuring support from the Center's Board of Directors (chaired by UT's president)
- Managing a full-time staff of five as well as faculty, fellows, and visitors
- Working cooperatively with the leadership of other UT units

### **Co-Chair, University Strategic Planning Group** (since 2021) (appointed by President Hartzell)

- Designing and implementing a process to develop UT's "strategic direction"
- Conducting more than 70 interviews and meetings with university stakeholders
- Providing briefings and recommendations to university leadership
- Engaging university stakeholders to identify specific initiatives to pursue
- Assessing and recommending metrics to track the university's progress
- Communicating with varied constituencies to build support for the strategic plan

### **Co-Chair, Council for Texas Impact (2019-2020)** (appointed by President Fenves)

- Designing a process to identify long-term research priorities for the university
- Orchestrating engagements with all university schools, colleges, and research units
- Assembling a group of research leaders from across the campus to act as advisors
- Working collaboratively to develop a consensus

## FACULTY APPOINTMENTS

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### University of Texas School of Law

James A. Baker III Chair	(since Spring 2018)
Charles I. Francis Professor in Law	(Fall 2009 – Fall 2017)
Visiting Professor	(Fall 2008 – Spring 2009)

**Courses:** Cybersecurity Law and Policy; various versions of National Security Law; Constitutional Law; Law of the Intelligence Community; various seminars (including Current Issues in Cybersecurity Policy and Law; The Judicial Role in National Security Affairs; History of Counterterrorism Law and Policy; Law of Armed Conflict)

**Current Service:** University Strategic Planning Working Group (academic co-chair, by presidential appointment); University Advisory Committee on Classified Research (by presidential appointment); University Faculty Grievance Hearing Pool (by presidential appointment); Law School Appointments (*ex officio*); Law School Budget; Law School Curriculum

**Selected Past University Service:** Provost Search Committee (by presidential appointment); LBJ Dean Search Committee (by provost appointment); Faculty Council Advisory Committee on Budgets (by presidential appointment)

### LBJ School of Public Affairs, University of Texas

Courtesy appointment	(Spring 2010 – present)
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### Wake Forest University School of Law

Associate Professor of Law	(Fall 2005 – Spring 2008)
Assistant Professor of Law	(Fall 2002 – Spring 2005)

## NON-ACADEMIC PROFESSIONAL EMPLOYMENT

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### United States Department of Justice, Detention Policy Task Force

Advisor	(May-August 2009)
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### Davis Polk & Wardwell, New York, New York

Litigation Associate	(1999-2002)
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**United States Court of Appeals for the Second Circuit  
Chambers of Hon. Robert D. Sack**

Law Clerk (1998-1999)

**United States District Court for the Southern District of New York  
Chambers of Hon. Lewis A. Kaplan**

Law Clerk (1997-1998)

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**FEDERAL AND STATE ADVISORY APPOINTMENTS**

**Department of Homeland Security, Cybersecurity & Infrastructure Security Agency,  
Cybersecurity Advisory Committee**

Member (since 2021)

**Texas Department of Information Resources, Strategic Plan for Information  
Resources Advisory Committee**

Member (since 2021)

**Office of the Director of National Intelligence, Intelligence Science Board/Advanced  
Technology Board**

Member (2006-2013)

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**AWARDS**

Eyes of Texas (for service to UT-Austin)	(2017)
Excellence in Teaching (dean-selected)	(2004-2005)
Excellence in Teaching (student-voted)	(2003-2004)

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**GRANTS**

Principal Investigator, Integrated Cybersecurity Studies

Hewlett Foundation, \$450,000	(2021-23)
Hewlett Foundation, \$38,000	(2021)
Hewlett Foundation, \$450,000	(2019-21)
Hewlett Foundation, \$250,000	(2018-19)
Hewlett Foundation, \$150,000	(2017-18)
Hewlett Foundation, \$100,000	(2016-17)

## EDUCATION

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### Degrees

#### Harvard Law School

J.D. (1997)  
*Magna cum Laude*

#### Texas Christian University

B.S. (Political Science and Psychology) (1994)  
*Magna cum Laude*  
National Merit Scholarship

### Additional Training

#### The U.S. Army Judge Advocate General's Legal Center and School

Law of War Course (July 2005)

#### Center for National Security Law at the University of Virginia

12<sup>th</sup> Annual National Security Law Institute (June 2004)

## PUBLICATIONS

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*Note: this list does not include my writing for *Lamfare*. For those posts, see [here](#).*

### Forthcoming

THE POWER OF THE STATE TO KILL OR CAPTURE: A HISTORY OF LAW, TERRORISM, AND WAR

- Book under contract with Oxford University Press

JUDGING NATIONAL SECURITY: THE EVOLVING JUDICIAL ROLE IN NATIONAL SECURITY CASES

- Collected volume co-edited with Steve Vladeck, under contract with Oxford University Press (publication expected 2022)

“Counterterrorism and the Hybrid Model of Detention-Prosecution,” chapter in JUDGING NATIONAL SECURITY: THE EVOLVING JUDICIAL ROLE IN NATIONAL SECURITY CASES (Chesney and Vladeck, eds.) (Oxford University Press, forthcoming 2022)

“The Law of Detention,” in NATIONAL SECURITY LAW AND POLICY: A READER (Tom Karako & Melanie Marlowe eds.) (Rowman & Littlefield) (forthcoming 2022)

## 2021

### [CYBERSECURITY LAW, POLICY, AND INSTITUTIONS v.3.1](#)

- This free eCasebook uniquely integrates the legal and the policy aspects of cybersecurity. Written in connection with a grant from the Hewlett Foundation, the concept behind the book was to pioneer a novel approach to this integration and to propagate the results as widely as possible by making the book entirely free and easily accessible to anyone. Accordingly, it was posted as a .pdf to SSRN under a Creative Commons license. It has been downloaded more than 8000 times.

[Adapting to the Cyber Domain: Comparing U.S. and U.K. Institutional, Legal, and Policy Innovations](#), AEGIS SERIES PAPER NO. 2103 (Hoover Institution) (also to be included in an Oxford University Press volume edited by Jack Goldsmith)

- This paper provides a comparative analysis of developments in the United States and the United Kingdom over the past two decades concerning the institutions, policy frameworks, and legal architectures associated with cybersecurity and cyber operations.

## 2020

[The Domestic Legal Framework for US Military Cyber Operations](#), AEGIS SERIES PAPER NO. 2003 (Hoover Institution) (also to be included in an Oxford University Press volume edited by Jack Goldsmith)

- This paper provides a detailed account of the legal architecture that enables and constrains U.S. military cyber operations, with an emphasis on the “defend forward” operational concept

### [CYBERSECURITY LAW, POLICY, AND INSTITUTIONS](#) (v. 3.0)

- This is an earlier, shorter edition of the eCasebook described above.

## 2019

[Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security](#) 107 *California Law Review* 1753 (2019) (co-authored with Danielle Citron)

- This article draws attention to a disruptive technological trend involving “deep fakes”—that is, the capacity to make realistic and hard-to-detect changes to video and audio, portraying real people doing and saying things they never said or did. We provide (i) a detailed introduction to the technology, (ii) a comprehensive survey of the benefits and harms it likely will entail (including introduction of the

“liar’s dividend” concept, which describes how growing awareness of deep fakes will engender skepticism that will spill over to unaltered media, making it easier for liars to deny legitimate video and audio evidence), (iii) an assessment of the legality of deep fakes across numerous dimensions, and (iv) a review of technical, behavioral, and legal adaptations we might see in response to deep fakes (including the offsetting costs of those adaptations). The article has been downloaded from SSRN more than 18,000 times.

## 2018

[Deep Fakes and the New Disinformation War: The Coming Age of Post-Truth Geopolitics](#), FOREIGN AFFAIRS (January/February 2019) (with Danielle Citron, published December 2018)

- This essay explores the potential impact of deep fakes on foreign relations, defense, and intelligence activities.

[Disinformation on Steroids: The Threat of Deep Fakes](#), Council on Foreign Relations Issue Brief (Oct. 2018) (with Danielle Citron)

- This essay for CFR’s Digital and Cyberspace Policy Program, similar to the Foreign Affairs essay above, explores the potential impact of deep fakes on foreign relations, defense, and intelligence activities.

## 2015-2017

Throughout this period I was working on the still-in-progress manuscript for THE POWER OF THE STATE TO KILL OR CAPTURE: A HISTORY OF LAW, TERRORISM, AND WAR, listed above under “Pending.”

## 2014

[Postwar](#), 5 HARVARD NATIONAL SECURITY JOURNAL 305-334 (January 2014)

- Both critics and supporters of the status quo relating to drones and detention assume that declaring an end to the armed-conflict model of counterterrorism will, as a legal matter, compel significant policy changes. This shared assumption rests on mistaken understandings of both current policy and the likely default legal regime in a postwar environment.

## 2013

[Beyond the Battlefield, Beyond al Qaeda: The Destabilizing Legal Architecture of Counterterrorism](#), 112 MICHIGAN LAW REVIEW 163-224 (2013)

- This article identifies an array of long-term strategic and technological trends the combined to ensure that the period of cross-party and cross-branch stability that emerged in relation to counterterrorism policy in the 2009-2011 period would not last.

[Computer Network Operations and U.S. Domestic Law: An Overview](#), 89  
INTERNATIONAL LAW STUDIES 218-232 (2013)

- This essay identifies and explores a set of key domestic law questions raised by computer network operations conducted by the U.S. military and the Intelligence Community, including congressional oversight, presidential authorization, and whether there is statutory authority to violate international law in some contexts.

[A Statutory Framework for Next-Generation Terrorist Threats](#), Hoover Institution Task Force on National Security and Law 1-16 (2013) (co-authored with Jack Goldsmith, Matthew C. Waxman, and Benjamin Wittes)

- This essay argues that there is a pressing need for Congress to revisit the authorization for use of military force created in 2001, and identifies and assesses options for doing so.

[IHL and Terrorism: A Response to the ICRC's Report on the Challenges of Contemporary Conflicts](#), Intercross (April 2013) (1014 words)

- This short comment critiques section VI of the International Committee of the Red Cross's report "International Humanitarian Law and the Challenges of Contemporary Armed Conflict," concerning the risks of conflating armed conflict and terrorism. It is part of a series of commentaries solicited by the ICRC and then published online at "Intercross."

[A Tale of Two NSA Leaks, The New Republic](#) (June 10, 2013) (co-authored with Benjamin Wittes) (2900 words)

- This short essay contends that NSA leaker Edward Snowden had some policy justification (though not legal basis) for his decision to expose a program collecting domestic telephone metadata, but no such justification for his exposure of a program through which the NSA monitored purely-foreign communications. The essay was cited favorably the next day in the *Washington Post's* [lead editorial](#).

[Would Abandoning the War Model of Counterterrorism Make a Difference from a Legal Perspective?](#), The New Republic (October 4, 2013) (1075 words)

## 2012

*Military-Intelligence Convergence and the Law of the Title 10/Title 50 Debate*, 5 J. NAT'L SEC. L. & POL. 539-629 (2012)

- This article documents a long-term trend—much accelerated since 9/11—in which military and intelligence community activities have converged toward one another, describes the legal consequences of this convergence, and recommends reforms meant to better align the status quo legal architecture in relation to both security and democratic accountability concerns.

## 2011

*Who May Be Killed? Anwar al-Awlaki as a Case Study in the International Legal Regulation of Lethal Force*, 13 YEARBOOK OF INTERNATIONAL HUMANITARIAN LAW 3-60 (2011)

- This article examines the international law issues raised by the use of armed unmanned aerial vehicles to carry out a targeted killing, using the high-profile circumstances of Anwar al-Awlaki as a case study in that practice. More specifically, the paper explores questions of sovereignty, self-defense, international humanitarian law, and international human rights law. A shorter version will be reprinted as a chapter in a forthcoming collected volume edited by William Banks and published by Oxford University Press.

*The Emerging Law of Detention 2.0: The Guantanamo Habeas Cases as Lawmaking* (revised edition) (with Benjamin Wittes and Larkin Reynolds) (Brookings Institution) (2011)

- This 171-page monograph, which functions as a treatise on the law of military detention as developed since 2008 by the federal courts overseeing Guantanamo habeas litigation, expands substantially on the 106-page version we published in 2010 (inevitably so in light of the volume of decisions published in the intervening period). Further iterations of the project beyond the 2.0 version will be produced in real-time, with the assistance of a team of students at Harvard operating under our guidance, and published on the project [website](#).

*Who May Be Held? Military Detention Through the Habeas Lens*, 52 BOSTON COLLEGE LAW REVIEW 769-866 (2011)

- This article examines the substantive scope of military detention authority asserted by the Bush and Obama administrations and the judicial response to those claims. Shorter versions of this article were reprinted in 87 Int'l Law Studies 113 (2011) (the Naval War College's Annual "Blue Book" volume) and 41 Israeli Yearbook of Human Rights 197 (2011).

[\*Iraq and the Military Detention Debate: Firsthand Perspectives from the Other War, 2003-2010\*](#), 51 *Virginia Journal of International Law* 549-635 (2011)

- This article describes the evolution of detention-related law, policy, and practice (both at the point of capture and in detention facilities) in Iraq between 2009 and 2010, drawing heavily on a previously-unexplored body of after-action reports and personal interviews.

[\*A Primer on the Libya/War Powers Resolution Compliance Debate\*](#), Brookings Institution Online (June 17, 2011)

- This short essay explores the controversy with respect to whether the U.S. military intervention in Libya violates the War Powers Resolution.

[\*Transfers of Guantanamo Detainees to Yemen: Policy Continuity between Administrations\*](#), A Report for the House Armed Services Subcommittee on Investigations (with Benjamin Wittes and Matthew Waxman) (June 15, 2011)

- This paper, solicited by the House Armed Services Subcommittee on Investigations, contends that there has been little change between the Bush and Obama Administrations with respect to the release or transfer of Yemeni detainees from Guantanamo, and that current legislative proposals relating to this practice are misguided.

[\*The Supreme Court, Material Support, and the Lasting Impact of Holder v. Humanitarian Law Project\*](#), 1 *Wake Forest Law Review Online* 13-19 (2011)

- This short essay responds to a recent Supreme Court decision rejecting constitutional challenges to the 1996 statute that criminalizes the provision of material support to designated foreign terrorist organizations.

[\*The Least Worst Venue\*](#), *Foreign Policy Magazine Online* (Jan. 21, 2011) (1600 word essay)

*Bad Advice or Bad Law: Considering Post-9/11 Legal Advice*, 45 *TULSA LAW REVIEW* 541-603 (book review symposium, Sanford Levinson & Mark Graber, guest eds.) (reviewing HAROLD BRUFF, *BAD ADVICE: BUSH'S LAWYERS IN THE WAR ON TERROR*) (2011)

- This symposium essay explores questions of statutory interpretation and professional ethics in relation to post-9/11 opinions generated by the Office of Legal Counsel, arguing among other things that critics have not paid sufficient attention to the inadequacy of the statutory framework for criminalizing torture.

## 2010

***The Emerging Law of Detention: The Guantanamo Habeas Cases as Lawmaking***  
(Brookings 2010) (with Benjamin Wittes and Rabea Benhalim)

- This 106-page report examines the caselaw generated by federal judges in Guantanamo habeas cases in the aftermath of the Supreme Court's landmark 2008 decision in *Boumediene v. Bush*. We depict these decisions as a lawmaking process responding to a substantive and procedural vacuum created by the inaction of the elected branches. We identify those areas in which the judges have reached consensus and the several areas in which they have splintered, and we describe the larger significance of these developments for ongoing military operations.

*National Security, Litigation, and the State Secrets Privilege*, in LEGAL ISSUES IN THE STRUGGLE AGAINST TERROR 113-40 (John Norton Moore and Robert Turner eds.) (2010)

- This book chapter reviews the origins and evolution of the state secrets privilege, including a detailed assessment of recent legislative proposals to codify and amend the privilege.

[“The Courts’ Shifting Rules on Detainees,”](#) Wash. Post (Feb. 5, 2010) (op-ed)

*Prisoners of War*, in 8 MAX PLANCK ENCYCLOPEDIA OF INTERNATIONAL LAW 436-450 (2010) (Rudiger Wolfrum, ed.)

- This essay reviews the basic principles of international humanitarian law relating to prisoners of war, including a survey of current controversies under that heading.

[The Preventive Dilemma: A Reply to Professor Cole](#), CAL. L. REV. CIR. (2010)

- This essay replies to an article by David Cole in California Law Review, taking issue with certain aspects of Cole's account of proper bounds of the government's authority in connection with both armed conflict and federal criminal prosecution. It appears in the inaugural installment of California Law Review's online companion.

*Optimizing Criminal Prosecution as a Counterterrorism Tool*, in LEGAL ARCHITECTURE FOR THE WAR ON TERROR (Hoover Institution 2010) (Benjamin Wittes, ed.)

- This piece is a chapter in a collected work, and a version of it also appears as a symposium contribution in the South Texas Law Review. In it, I contend that federal criminal law compares favorably to military detention in terms of substantive detention criteria, though I also acknowledges a small but significant set of procedural variations that distinguish the two models.

## 2009

*National Security Fact Deference*, 95 VIRGINIA LAW REVIEW 1361 (2009)

- This article examines the practice of judicial deference to executive branch factual determinations in national security cases, focusing on theoretical grounds.

[\*Detention of Terrorists and the Acceleration of the Convergence Trend\*](#), THE LEGAL WORKSHOP (2009)  
(online companion for a consortium of law reviews including Stanford, Duke, NYU, Georgetown, Northwestern, and Chicago)

- This short piece summarizes the main arguments presented in an article that Jack Goldsmith and I published in 2008 in Stanford Law Review, along with a brief update on how subsequent events have reinforced our thesis. ([here](#))

*Detention Debate in Black and White*, Washington Post, Sep. 12, 2009 (op-ed)

*International Decision: Boumediene v. Bush*, 102 AMERICAN JOURNAL OF INTERNATIONAL LAW 848 (2009)

- This is a short, solicited essay for AJIL that explores the *Boumediene* decision, with an emphasis on the questions it left unanswered.

*Supreme Court of the United States: The District Court Decision on Remand in Boumediene v. Bush*, INTERNATIONAL LEGAL MATERIALS (2009)

- This is an introductory note for ILM's coverage of the events that followed in the aftermath of the Supreme Court's *Boumediene* decision.

## 2008

*Terrorism and the Convergence of Criminal and Military Detention Models*, 60 STANFORD LAW REVIEW 1079 (2008) (with Jack Goldsmith)

- describing the extent to which the traditional criminal and military detention models have converged with respect to detention criteria and procedural safeguards, and discussing prospects for reform in light of that trend

[\*Military Detention and the Post-Guantanamo Era: A Reply to David Cole\*](#), BOSTON REVIEW ONLINE, Dec. 10, 2008

- This essay is part of a dialogue in which Joanne Mariner, Eric Posner, and I respond to David Cole's arguments regarding the future of preventive detention in the post-Guantanamo era. The dialogue arises out of a project funded by the Keystone Center.

*State Secrets Legislation and the Question of Reform*, ROGER WILLIAMS LAW REVIEW (forthcoming 2008) (symposium)

- This short essay, based on testimony I gave before the Senate Judiciary Committee, examines proposals for legislative reform of the state secrets privilege

## 2007

*Federal Prosecution of Terrorism-Related Offenses: Conviction and Sentencing Data in Light of the “Soft Sentence” and “Data Reliability” Critiques*, LEWIS & CLARK LAW REVIEW 851 (2007) (symposium)

- examining controversies associated with statistics relating to federal terrorism prosecutions, and offering a unique set of disposition and sentencing data in cases involving 18 U.S.C. § 2339B as a means to test the merits of those criticisms (available at [http://ssrn.com/abstract\\_id=1005478](http://ssrn.com/abstract_id=1005478))

*Beyond Conspiracy? Preventive Prosecution and the Challenge of Unaffiliated Terrorism*, 80 SOUTHERN CALIFORNIA LAW REVIEW 425 (2007)

- examining the scope of the Justice Department’s capacity to prosecute at an early stage in the context of suspects not affiliated with designated terrorist groups (available at <http://ssrn.com/abstract=932608>)

*State Secrets and the Limits of National Security Litigation*, 75 GEORGE WASHINGTON LAW REVIEW 1249 (2007) (symposium)

- exploring the contours of the military and state secrets doctrine as it relates to civil litigation arising out of counterterrorism activities of the U.S. government) (available at <http://ssrn.com/abstract=946676>)

*Disaggregating Deference: Hamdan, the Judicial Power, and Executive Treaty Interpretations*, 92 IOWA LAW REVIEW 1723 (2007)

- critiquing the doctrine of judicial deference to executive branch treaty interpretations (available at <http://ssrn.com/abstract=931997>)

*Anticipatory Prosecution in Terrorism-Related Cases*, in THE CHANGING ROLE OF THE AMERICAN PROSECUTOR (Worrall & Nugent, eds.) (SUNY Press) (forthcoming 2007) (book chapter)

- providing a brief introduction to the various strategies employed by federal prosecutors in terrorism-related cases, with an emphasis on material support prosecutions (available at <http://ssrn.com/abstract=944117>)

*Terrorism and Criminal Prosecutions in the United States*, Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182 (2007)

*Judicial Review, Combatant Status Determinations, and the Possible Consequences of Boumediene*, 48 HARVARD INTERNATIONAL LAW JOURNAL ONLINE 62 (2007) (essay)

- discussing the future of Guantanamo detainee litigation under the Military Commissions Act and the Detainee Treatment Act (available at: <http://www.harvardilj.org/online/110>)

*Panel Report: Beyond Article III Courts: Military Tribunals, Status Review Tribunals, and Immigration Courts*, 5 CARDOZO PUBLIC LAW, POLICY AND ETHICS JOURNAL 27 (2007) (symposium)

- summary of panel proceedings

## 2006

*Leaving Guantànamo: The Law of International Detainee Transfers*, 40 UNIVERSITY OF RICHMOND LAW REVIEW 657 (2006)

- exploring the constitutional, statutory, and international legal issues that arise when GTMO detainees oppose transfer to the custody of their own government on the ground that they face an unacceptable risk of torture, with particular attention to questions of domestic judicial enforceability; the article includes an extended analysis of Geneva Convention issues relating to detainee status (draft available at <http://ssrn.com/abstract=827604>)

## 2005

*The Sleeper Scenario: Terrorism-Support Laws and the Demands of Prevention*, 42 HARVARD JOURNAL ON LEGISLATION 1 (2005)

- describing the origins and evolution of terrorism-support legislation, assessing the standard civil liberties critiques of them, and proposing legislative reforms to enhance their scope while addressing some civil liberties concerns (draft available at <http://ssrn.com/abstract=587442>)

*Careful Thinking about Counterterrorism Policy* (reviewing PHILIP B. HEYMANN, TERRORISM, FREEDOM, AND SECURITY: WINNING WITHOUT WAR), 1 JOURNAL OF NATIONAL SECURITY LAW & POLICY 169 (2005) (essay)

- discussing the use of the “war” label with respect to counterterrorism policy, in historical perspective (a version of this essay titled “Rhetoric, Practice, and Historical Perspective in the War on Terrorism” appears in 26 NATIONAL SECURITY LAW REPORT 3 (Nov. 2004)) (available at <http://www.mcgeorge.edu/jnslp/media/01-01/08%20Chesney%20Master.pdf>)

## 2004

*Democratic-Republican Societies, Subversion, and the Limits of Legitimate Political Dissent in the Early Republic*, 82 NORTH CAROLINA LAW REVIEW 1525 (2004) (symposium)

- examining the controversy surrounding the Democratic-Republican Societies for the light it sheds on competing conceptions of representative government and freedom of political association in the mid-1790s (available at <http://ssrn.com/abstract=465820>)

## 2003

*The Proliferation Security Initiative and Interdiction of Weapons of Mass Destruction on the High Seas*, 13 NATIONAL STRATEGY FORUM REVIEW 5 (Fall 2003), *also appearing in* 25 NATIONAL SECURITY LAW REPORT 5 (Oct. 2003) (essay)

- discussing the international law implications of WMD interdiction on the high seas

*Civil Liberties and the Terrorism Prevention Paradigm: The Guilt by Association Critique*, 101 MICHIGAN LAW REVIEW 1408 (2003) (reviewing DAVID COLE, ENEMY ALIENS and DAVID COLE & JAMES X. DEMPSEY, TERRORISM AND THE CONSTITUTION) (annual survey of books issue)

- discussing the significance of the material support laws to the post-9/11 terrorism prevention paradigm and assessing the guilt-by-association objection to them, in the context of reviewing two recent books on antiterrorism law and policy) (available at <http://ssrn.com/abstract=396503>)

## Pre-Faculty Publications

*Old Wine or New? The Shocks-the-Conscience Standard and the Distinction Between Legislative and Executive Action*, 50 SYRACUSE LAW REVIEW 981 (2000)

- exposing doctrinal confusion concerning the analytical framework to be applied in the context of certain categories of substantive due process analysis

*National Insecurity: Nuclear Material Availability and the Threat of Nuclear Terrorism*, 20 LOYOLA OF LOS ANGELES INTERNATIONAL AND COMPARATIVE LAW JOURNAL 29 (1997)

- discussing the national security threat posed by insufficient controls on fissile material in the Former Soviet Union and the risk that terrorist groups or rogue states might obtain such materials, and assessing America's legislative response as of 1997

## **PRESENTATIONS AND RELATED ACTIVITIES**

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Panelist, “Cybersecurity: Protecting the Next Frontier,” U.T. System Chancellor’s Council Executive Committee meeting (Nov. 15, 2021)

Panelist, McCombs School of Business Dean’s Advisory Council meeting (Nov. 12, 2021)

Presenter, “A Comparative Analysis of US and UK Adaptation to the Cyber Domain,” NYU School of Law (April 9, 2021)

Panelist, “Great Power Competition with China: Technology,” Journal of National Security Law and Policy Symposium (March 23, 2021)

Panelist and moderator, “International Law and Cyber Operations,” U.S. Cyber Command Annual Legal Conference (March 4, 2021)

Panelist, “Cybersecurity Law and Policy Pedagogy” (Cybersecurity Law & Policy Scholars Conference) (Oct. 15, 2020)

Panelist, “Promoting Digital Transformation Through Innovation in Legal Frameworks” (speaker at the annual “national cybersecurity summit” hosted by the DHS Cybersecurity and Infrastructure Security Agency) (September 23, 2020)

Speaker, “TikTok Teens and Spying Machines: Fear of Foreign Apps” (speaker at an event sponsored by Georgetown University Institute for Technology, Law, and Policy) (August 13, 2020)

Speaker, “Law and Section 702 Surveillance” (speaker at a panel hosted by the U.S. Government’s Privacy and Civil Liberties Oversight Board) (June 24, 2020)

Lecturer, “Law and Cyber Operations” (guest lecturer in a summer course for U.S. military and government lawyers, sponsored by the Defense Intelligence Agency) (June 11, 2020)

Roundtable participant, “Congressional Oversight of Cyber Operations” (participant in a small roundtable discussion group organized by the Center for New American Security) (April 29, 2020)

Co-host and discussant, “Cyber Competition Scholarly Workshop” (a full-day workshop vetting articles slated for publication in a special issue of the Texas National Security Review) (Apr. 3-4, 2020)

Moderator and Speaker, “U.S. Law and Military Cyber Operations” (organized, moderated, and served as panelist for this session during the annual legal conference of US Cyber Command) (March 2, 2020)

Panelist, “Future of Cyber Policy” (panel marking the launch of American University Washington College of Law’s new Center for Technology, Law, and Security) (February 19, 2020)

Atlantic Council Cyber Strategy Student Competition (organized and hosted at Texas Law on January 16-17, 2020; a dozen teams (including several UT teams) competed in a two-day series of competitive role-playing exercises involving a cybersecurity crisis)

Host and commentator, “Book Workshop for Kate Epstein,” Austin (Dec. 6, 2019)

Speaker, “Deep Fakes,” Norton Rose Fulbright Luncheon, Austin (Nov. 21, 2019)

Speaker, “The Law of Military Cyber Operations,” Columbia Law, New York (Nov. 14, 2019)

Speaker, “Live Recording of the National Security Law Podcast,” ABA Standing Committee on Law and National Security Annual Review of the Field Conference, Washington (Nov. 8, 2019)

Speaker, “Cyber Domain Legal Issues,” Hoover Institution Workshop, Washington (Oct. 24, 2019)

Speaker, “Live Recording of the National Security Law Podcast,” Harvard Law (Oct. 17, 2019)

Co-host, moderator, and speaker, “Emerging National Security Law Issues,” The National Security Law Annual Workshop, U.S. Army Judge Advocate General’s Legal Center and School, Charlottesville (Oct. 9-10, 2019)

Host, moderator, and speaker, “Legal Issues for the Cyber Solarium Commission,” Washington (Oct. 8, 2019)

Host and moderator, “Emerging Tech Trends for the Cyber Solarium Commission,” Austin (Oct. 7, 2019)

Moderator, “Dying to Be Here: Collecting Data on Migrant Deaths in South Texas,” Texas TribuneFest, Austin (Sep. 28, 2019)

Speaker, “Domestic Terrorism,” Texas TribuneFest, Austin (Sep. 27, 2019)

Speaker, “Deep Fakes,” National Association of Corporate Directors Annual Conference, Washington (Sep. 24, 2019)

Speaker, “Deep Fakes,” Fordham Law, New York (Sep. 23, 2019)

Speaker, “Domestic Terrorism,” Federalist Society Teleconference-Based Event (Sep. 6, 2019)

Speaker, “Cybersecurity and Congress,” Stanford’s Cybersecurity Bootcamp for Congressional Staff, Palo Alto (Aug. 27, 2019)

Speaker, “Disinformation and Social Media,” Carnegie Endowment for International Peace, San Francisco (June 21, 2019)

Speaker, “State Secrets,” University of Virginia’s National Security Law Institute, Charlottesville (June 12, 2019)

Speaker, “Military Detention: A Legal History,” University of Virginia’s National Security Law Institute, Charlottesville (June 12, 2019)

Speaker, “Live Recording of the National Security Law Podcast,” Office of the Director of National Intelligence General Counsel’s Annual Legal Conference, Washington (May 2, 2019)

Speaker, “Deep Fakes,” University of Texas Tower Fellows Program, Austin (May 1, 2019)

Speaker, “Live Recording of the National Security Law Podcast,” Texas Law Reunion Weekend, Austin (Apr. 13, 2019)

Speaker, “The Legal Framework for Military Cyber Operations,” Carnegie Mellon University, Pittsburgh (Apr. 4, 2019)

Speaker, “The Legal Framework for Military Cyber Operations,” U.S. Cyber Command Annual Legal Conference, Washington (Mar. 5, 2019)

Moderator, “A Conversation with Sally Yates,” Texas Law, Austin (Feb. 7, 2019)

Speaker, “Live Recording of the National Security Law Podcast,” Office of the Director of National Intelligence Civil Liberties and Privacy Officer’s Annual Legal Conference, Washington (Jan. 24, 2019)

Speaker, “A Case Study in Law, National Security, and Technological Change,” LBJ School Diplomats-in-Residence Conference, Austin (Jan. 17, 2019)

Speaker, “Next Steps for Three Expiring FISA Authorities,” Center for Strategic and International Studies, Washington (Jan. 16, 2019)

Speaker, Disinformation and Social Media Roundtable, Carnegie Endowment for International Peace (Nov. 16, 2018)

Speaker, “Deep Fakes and Foreign Affairs,” Briefing for Congressional Staff (Nov. 14, 2018)

Speaker, “Deep Fakes and Foreign Affairs,” Council on Foreign Relations (Nov. 14, 2018)

Organizer, “Texas Cybersecurity Bootcamp 2.0” (Oct. 22-23, 2018)

Speaker, “Law, National Security, and Christian Faith,” Seminary of the Southwest (Oct. 15, 2018)

Speaker, “Deep Fakes: A Looming Threat to Privacy, Democracy, and National Security,” NYU Reiss Center on Law and Security (Sep. 24, 2018)

Invited Participant, Robbins Rare Book Collection Private Seminar on Amanda Tyler’s Habeas Corpus in Wartime (Sep. 14, 2018)

Panelist, “Deep Fakes,” World Affairs Council of San Francisco (Sep. 13, 2018)

Speaker, “Deep Fakes: A Looming Threat to Privacy, Democracy, and National Security,” Hastings College of Law seminar (Sep. 13, 2018)

Speaker, “Deep Fakes: A Looming Threat to Privacy, Democracy, and National Security,” Yale Law School Information Society Program (September 4, 2018)

Speaker, “Deep Fakes and National Security,” Heritage Foundation (July 19, 2018)

Lecturer, “Military Detention Law” and also “The State Secrets Privilege,” University of Virginia’s National Security Law Institute (June 6, 2018)

Panelist, “Cyber Operations and Law,” The Judge Advocate General’s Legal Center and School Fugh Symposium (May 29, 2018)

Keynote, “Cybersecurity and National Security,” UT CLE program (May 24, 2018)

Organizer, “Texas Cybersecurity Bootcamp” (May 22-24, 2018)

Panelist, “Technology, Privacy, and Disinformation,” Austin Forum on Technology and Society (May 8, 2018)

Panelist, “The War in Yemen and U.S. Domestic Law,” Yale Law School Center for Global Legal Challenges (Apr. 12, 2018)

Panelist, “The Obama Administration’s Counterterrorism Playbook,” University of Virginia Center for National Security Law (Mar. 22, 2018)

Panelist, “Oversight of Military Cyber Operations,” USCYBERCOM Annual Conference (Mar. 6, 2018)

Panelist, “National Security, Strategy, and Law,” AEI Regional Student Conference (Jan. 27, 2018)

Panelist, “National Security Law in the Trump Era,” AALS Annual Meeting (Section on National Security Law) (Jan. 5, 2018)

“Cybersecurity Curriculum Innovation,” Hewlett Foundation Workshop on Cybersecurity Education (Palo Alto, Oct. 23, 2017)

Co-organizer of the 5<sup>th</sup> Annual Texas National Security Forum (Austin, Oct. 11-12, 2017)

Moderator, “Foreign Policy in the Trump Era,” Texas Tribune Festival (Sep. 23, 2017)

“Courts and the Hybrid Detention-Prosecution Model,” Conference on the Evolving Role of the Courts in National Security Cases (Austin, Sep. 14, 2017)

“An Overview of Legal Issues in the War on Terrorism,” Texas National Guard Legal Conference (Austin, Aug. 19, 2017)

“Cybersecurity Law & Policy: A Survey,” Stanford Cybersecurity Bootcamp for Congressional Staff (Palo Alto, Aug. 15, 2017)

Co-organizer of the 5<sup>th</sup> Annual Transatlantic Dialogue on the Laws of War (Florence, July 29-30, 2017)

“Cybersecurity Curriculum Innovation,” workshop with the National Academies of Science (Washington, June 8, 2017)

Presentations on Military Detention Law and on the State Secrets Privilege, University of Virginia’s National Security Law Institute (June 7, 2017)

“Cybersecurity: Current Trends and Issues,” organizer and moderator at UT alumni event (Dallas, April 26, 2017)

“Surveillance & Privacy,” guest lecture at the Tower Center at SMU (Dallas, April 10, 2017)

“The Past, Present, and Future of Interrogation Law,” Army INSCOM Conference (San Antonio, March 30, 2017)

“Keynote: The Past, Present, and Future of Interrogation Law,” Address to the Defense Intelligence Agency (Virginia, February 9, 2017)

Organizer, “Cybersecurity and Talinn 2.0,” Conference in partnership with West Point (Austin, February 6-7, 2017)

“The First War on Terrorism: The Lethal Force Debates of the Reagan Administration,” Conference on the Reagan Administration (Austin, January 20, 2017)

“Counterterrorism in Historical Perspective,” presentation to university supporters (San Antonio, Nov. 22, 2016)

“On Cybersecurity,” USCYBERCOM Staff Judge Advocate’s Conference (Maryland, Oct. 3-4, 2016)

Co-organizer of the 4<sup>th</sup> Annual Texas National Security Forum (Austin, Sep. 21-23, 2016)

Co-organizer of the 4<sup>th</sup> Annual Transatlantic Dialogue on the Laws of War (Oxford, July 20-21, 2016)

Organizer and co-host, “Comparative Surveillance: The US and German Experiences,” (Berlin, June 10, 2016)

Presentations on Military Detention Law and on the State Secrets Privilege, University of Virginia’s National Security Law Institute (June 8, 2016)

“Detention Law and Policy,” Workshop at Harvard Law School (May 15, 2016)

Organizer and co-host, “Comparative Counterterrorism: The US and UK Experiences,” (NYU, May 5-6, 2016)

“Selective Lethal Force: A Case Study at the Intersection of Legal, Policy, and Technological Change,” at the Princeton Center of International Security Studies (April 22, 2016)

“An Overview of U.S. National Security Law Challenges,” UT Development Board (April 15, 2016)

“The Early History of the Laws of War,” Loyola Los Angeles Law School Faculty Colloquium (Feb. 18, 2016)

“Cyber Deterrence – Legal Challenges to Active Cyber Defense Operations,” Moderator, USCYBERCOM Legal Conference, Maryland (October 20, 2015)

“Selective Lethal Force: A Case Study at the Intersection of Legal, Policy, and Technological Change,” at the Security Studies Program Colloquium, M.I.T. (September 22, 2015)

Co-organizer of campus visit by CIA Director John Brennan, including public address, private meeting with graduate students, and special session on CIA’s efforts to improve recruiting and promotion of minorities (September 15-16, 2015)

“Comparing ISIL and al Qaeda,” speech at the Greater Austin Crime Commission’s annual 9/11 Memorial Service (September 11, 2015)

Debate on Cybersecurity and Civil Liberties, Stanford Cyber Boot Camp (Aug. 19, 2015)

Panelist on Cybersecurity, ISC2 Austin Chapter Meeting (Aug. 10, 2015)

Co-organizer of the 3<sup>rd</sup> Annual Transatlantic Dialogue on the Laws of War, Oxford (July 15-16, 2015)

Presentations on Military Detention Law and on the State Secrets Privilege, University of Virginia’s National Security Law Institute (June 10, 2015)

Organizer and commentator, the 9<sup>th</sup> Annual National Security Law Workshop, Houston, TX (May 15-16, 2014)

“Executive Order 12,333 in Historical Context,” Presentation to the Privacy and Civil Liberties Oversight Board, Philadelphia, PA (May 13, 2015)

“Does the AUMF Debate Matter?” Colloquium, Center for International Security Studies, Princeton University (Apr. 6, 2015)

“Debating the NSA Controversy,” Organizer and debate participant, South by Southwest Interactive, Austin, TX (Mar. 16, 2015)

“Are We Still at War, and Do We Need a New AUMF?” Organizer and moderator, National Security Law Symposium, Duke School of Law, Durham, NC (Feb. 27, 2015)

“The Early History of the Laws of War,” University of Houston Law Center Faculty Colloquium (Feb. 9, 2015)

“The Private Sector Impact of the NSA Controversy,” Moderator, Washington & Lee Law Review Symposium, Lexington, VA (Jan. 19, 2015)

“NSA and Privacy,” CLE Presentation (UT on Nov. 18; Dallas on Oct. 27; Houston on Oct. 20, 2014)

“The Origins of the Laws of War,” Cornell’s International Law/International Relations Colloquium (Oct. 6, 2014)

“The Origins of the Laws of War,” NYU’s Hauser International Law Colloquium (Sep. 24, 2014)

Presentations on Military Detention Law and on the State Secrets Privilege, University of Virginia’s National Security Law Institute (June 9, 2014)

Organizer and commentator, the 8<sup>th</sup> Annual National Security Law Workshop, Charlottesville, VA, (May 15-16, 2014)

“The Early Law of War,” The Fugh Symposium on the Law of War, U.S. Army JAG School, Charlottesville, VA (May 14, 2014)

“On the FISA Court,” Panelist, Fifth Circuit Judicial Conference, San Antonio, TX (May 8, 2014)

Organizer and moderator, “NSA at the Crossroads,” a conference at the University of Texas (Apr. 2-4, 2014)

“NSA and Privacy” Presentation to the World Affairs Council, Houston, TX (Mar. 28, 2014)

“NSA and Privacy,” Presentation for Whittier Trust, Los Angeles, CA (Mar. 26, 2014)

“Postwar,” Presentation to the faculty at BYU Law, Provo, UT (Jan. 2014)

“Postwar,” Presentation to the faculty at Chapman Law, Orange, CA (Jan. 2014)

“Postwar,” Presentation to the Council on Foreign Relations, New York, NY (Nov. 22, 2013)

“Postwar,” Presentation to the NYU School of Law International Law Colloquium (Nov. 21, 2013)

“Francis Lieber and the Problem of Guerilla Warfare,” Presentation at Columbia Law’s Symposium in Honor of the 150<sup>th</sup> Anniversary of the Lieber Code (Nov. 21, 2013)

Moderator, Panel on History, Intelligence, and Law, Symposium: Diplomacy, Alliances and War: Anglo-American Perspectives on History and Strategy in the September 11<sup>th</sup> Era, The Clements Center for History, Strategy & Statecraft, University of Texas at Austin (Nov. 1, 2013)

Presenter, “A Survey of the Field Regarding Detention and Drone Strike Debates in the Post-9/11 Period,” at Cardozo School of Law’s Symposium on the Authorization for the Use of Military Force in the Face of a Changing Security Environment (Oct. 13, 2013)

Constitution Day Speaker, “Law and the Use of Lethal Force,” Austin Seminary (Sep. 18, 2013)

“America, Syria, and International Law,” American Constitution Society University of Texas School of Law (Sep. 16, 2013)

“Military Detention through the Lens of IHL and IHRL,” Transatlantic Dialogue Workshop on International Humanitarian Law and International Human Rights Law, Oxford University (July 19, 2013)

“Postwar,” Columbia Law National Security Workshop (June 19, 2013)

“Beyond the Battlefield, Beyond al Qaeda,” Emory Law (Apr. 18, 2013)

“Beyond the Battlefield, Beyond al Qaeda,” Stanford University’s Center on International Security and Cooperation (Apr. 11, 2013)

“Beyond the Battlefield, Beyond al Qaeda,” Michigan Law (Mar. 21, 2013)

Panelist, “21<sup>st</sup> Century Warfare: Law, the Enemy, and the Battlefield,” Center on National Security at Fordham Law (Mar. 18, 2013)

Presentation to student groups, “Beyond the Battlefield, Beyond al Qaeda,” at University of Chicago, Chicago-Kent, and Notre Dame (Feb.19-21, 2013)

Panelist, “The Changing Judicial Role in National Security Affairs,” Annual Review of the Field of National Security Law, American Bar Association, Washington, DC (Nov. 30, 2012)

Panelist, “The Responsibility to Protect,” Council for Re-Thinking Diplomacy, University of Texas (Oct. 31, 2012)

Keynote Speaker, “The Convergence of Military and Intelligence Activities,” Defense Intelligence Agency Annual Legal Conference, Aerie, VA (Oct. 22, 2012)

Lecture on the role of law in national security policy, U.S. Army Senior Service College Fellows Program (University of Texas participants) (Aug. 16, 2012)

Presentation on the Law of Cyberwarfare, Navy Information Operations Command—Texas, San Antonio (August 2012)

Panelist, Domestic Law and Computer Network Operations, Naval War College, Annual International Law Conference, Newport, RI (June 2012)

Instructor, The National Security Law Institute, Charlottesville, VA (June 2012) (covering topics including detention law and policy and the state secrets privilege)

Organizer and Article Discussant, 5<sup>th</sup> Annual National Security Law Workshop (May 17-18, 2012)

Speaker, “Beyond the Battlefield, Beyond al Qaeda: Counterterrorism and Law in the Second Post-9/11 Decade,” Houston Council on Foreign Relations (May 16, 2012)

Panelist, “Covert Action and the Law,” Harvard National Security Journal Symposium (April 2012)

The Solf-Warren Lecture, the U.S. Army Judge Advocate General’s Legal Center and School (Charlottesville, Virginia, February 2012)

Article Workshop, Harvard Law School, Colloquium on the Law of Covert Actions (February 2012) (presenting “Military-Intelligence Convergence and the Law of the Title 10/Title 50 Debate”)

Participant, Experts Meeting on the Application of IHL and IHRL in the Context of Non-International Armed Conflict, hosted by the International Committee of the Red Cross (Geneva, January 2012)

Presentation, University of Georgia School of Law International Law Colloquium (January 2012)

Arranged (in coordination with 2L Ross Weingarten) the visit to UT of Attorney General Eric Holder and Assistant Attorney General Thomas Perez, and conducted moderated dialogue with them in the Sheffield Courtroom (December 2011)

Participated in a panel discussion at Special Operations Command (MacDill Airbase, Florida), as part of the Defense Department's premier annual conference relating to detainee law and policy (November 2011)

Participated in a panel discussion at SMU as part of a day-long interdisciplinary conference concerning national security affairs (October 2011)

Provided written responses to "questions for the record" from House Armed Services Committee members, as a follow-up to my testimony in a hearing in July 2011.

Gave a speech to the Rotary Club of San Antonio on the occasion of the 9/11 anniversary.

Participated in a panel discussion as part of the University's 9/11 anniversary commemoration.

Taught a session of the introduction to global affairs class (involving freshman and sophomores, primarily), as part of the University's undergraduate Bridging Disciplines Program.

Convened and moderated the opening panel at the Harvard Law School/Brookings Institution inaugural national security law conference, at Harvard.

Convened and moderated a panel concerning the pedagogy of national security law, at an event sponsored by the American Bar Association's Standing Committee on Law and National Security.

Presenter, Constitutional Law and Theory Colloquium, New York University School of Law (New York, September 2011)

Presenter, National Security Law Roundtable, Vanderbilt University (Nashville, September 2011)

Lecturer, Tikvah-Hertog Summer Institute on Law and National Security (New York City, August 7, 2011)

"Understanding the State Secrets Privilege," presented at the Center for National Security Law at the University of Virginia School of Law, as part of the annual National Security Law Institute (Charlottesville, VA, June 2011)

"Understanding Military Detention Law and Policy," presented at the Center for National Security Law at the University of Virginia School of Law, as part of the annual National Security Law Institute (Charlottesville, VA, June 2011)

Co-organizer and participant, The Fourth Annual National Security Law Workshop, U.S. Army JAG School (Charlottesville, VA, May 2011)

Participant, American Society of International Law Roundtable on International Law and Security (Washington, April 29, 2011)

Moderator, “Indefinite Detention of Terrorists,” at the conference “National Security Since 9/11: New Norms for a New Decade,” Center on Law, Ethics, and National Security, Duke University School of Law (Durham, NC, April 14, 2011)

“Cartel Violence and U.S. National Security,” presentation at the annual meeting of the Greater Austin Crime Commission (Austin, TX, Mar. 24, 2011)

“International Law and the Use of Lethal Force,” presentation at UCLA (Los Angeles, CA March 2011)

Panelist, “Detention Law and Policy,” American University Washington College of Law (Washington, DC Feb. 18, 2011)

Moderator, Panel on Targeting Issues, Texas International Law Journal Symposium, “The Air and Missile Warfare Manual: A Critical Analysis” (Austin, TX, Feb. 10, 2011)

“The Authorization for Use of Military Force: Past, Present, and Future,” presentation at the annual legal conference sponsored by Special Operations Command (SOCOM) (Tampa, FL, Feb. 9, 2011)

Panelist, “Detention Policy,” Harvard National Security Law Association and Harvard National Security Journal (Cambridge, MA, Feb. 4, 2011)

Panelist, “The Detention Debate,” Appellate Judges Education Institute (Dallas, TX, Nov. 20, 2010)

Moderator, “National Security and the Environment,” American Bar Association Standing Committee on Law and National Security, Annual Review of the Field Conference (Washington, DC, Nov. 8, 2010)

“The Post-9/11 Evolution of Military Detention Law and Policy,” presented as the annual Ben Greene Lecture at Case Western Reserve School of Law (Cleveland, OH, Oct. 28, 2010)

“Who May Be Held?” presented at a faculty workshop at Case Western Reserve School of Law (Cleveland, OH, Oct. 28, 2010)

“The Law and Policy of Military Detention,” presentation to students at Texas Tech School of Law (Oct. 8, 2010)

Lunchtime Keynote Speaker, “The Emerging Law of Detention,” Naval War College Annual Law of War Conference (Newport, RI, June 22, 2010)

“Iraq and the Military Detention Debate,” article workshop sponsored by the Hoover Institution Task Force on National Security (Palo Alto, CA, June 10, 2010)

“Understanding the State Secrets Privilege,” presented at the Center for National Security Law at the University of Virginia School of Law, as part of the annual National Security Law Institute (Charlottesville, VA, June 2010)

““Understanding Military Detention Law and Policy,” presented at the Center for National Security Law at the University of Virginia School of Law, as part of the annual National Security Law Institute (Charlottesville, VA, June 2010)

“Understanding Military Detention Law and Policy,” presented at the Understanding Humanitarian Law Workshop (jointly sponsored by the Human Rights Program of the University of Virginia School of Law, the International Committee of the Red Cross, and the Judge Advocate General’s Legal Center and School (Charlottesville, VA, June 2010)

Commentator, “Bad Advice or Bad Laws? Assessing Post-9/11 Legal Advice,” The University of Texas School of Law Executive Power Symposium (reviewing Hal Bruff, Bad Advice) (Austin, March 2010)

“Militarization of Drug Trafficking Organizations,” presented at the 6<sup>th</sup> Annual NORAD and USNORTHCOM Legal Conference (Colorado Springs, April 14, 2010)

Commentator, Hal Bruff’s Bad Advice: Bush’s Lawyers in the War on Terror, at the University of Texas Presidential Power Symposium (Austin, April 2010)

Organizer, Third Annual National Security Law Junior Scholar Workshop (Austin, April 2010) (also served as commentator for one of the paper’s presented)

Panelist, “National Security Law and the Obama Administration,” jointly sponsored by the Federalist Society Lawyers’ Chapter in Winston-Salem and Students’ Chapter of Wake Forest University (North Carolina, March 2010)

Panelist, “Military Detention and the Law,” South Texas College of Law (Houston, February 2010).

“The Emerging Law of Detention: The Guantanamo Habeas Cases as Lawmaking,” presented at New England College of Law (Massachusetts, February 2010)

Organizer and faculty sponsor, “Law at the Cutting Edge: Technology, Privacy, and Intelligence Collection,” Texas Law Review Symposium (Austin, February 2010)

“The Emerging Law of Detention: The Guantanamo Habeas Cases as Lawmaking,” co-presented (with Ben Wittes) to the Hoover Institution Task Force on National Security and Law (January 2010)

Participant, “Detention and the Transatlantic Dialogue,” two-day private conference sponsored by the Atlantic Council and Chatham House (Washington, December 2009)

“Guantanamo Detainee Litigation,” presented to the Federal Bar Council of San Antonio (December 2009)

“National Security Fact Deference,” presented to the Foreign Relations Law Colloquium organized by Professor Carlos Vazquez at Georgetown Law (Washington, November 2009)

Panelist, “Understanding the State Secrets Privilege,” Conference on Government Secrecy, American University’s Washington College of Law (Washington, November 2009)

Moderator and organizer, “Emerging Issues in National Security Law: Narcoviolence as a National Security Threat,” American Bar Association Standing Committee on Law and National Security Annual Meeting (Washington, DC, November 2009)

Panelist, “Detainee Policy: Perspectives From Inside and Outside the Administration,” American Bar Association Annual Meeting (Chicago, July 31, 2009)

Co-Investigator, “The State’s Response to Terrorism Under the Rule of Law: A Historical and Comparative Approach,” a three-year research project directed by Antonio Masferer of the University of Valencia (2009-2011) (funding pending)

Moderator, “Closing Guantanamo: The Legal and Policy Issues,” American Society of International Law Annual Meeting (Washington, DC, March 25, 2009)

Organizer, The 2<sup>nd</sup> Annual National Security Law Junior Faculty Workshop, in partnership with the International Committee of the Red Cross (Austin, March 12-13, 2009)

“National Security Fact Deference,” presented at a faculty workshop at Cumberland (Birmingham, Feb. 27, 2009)

“National Security Fact Deference,” presented at a faculty workshop at LSU (Baton Rouge, Feb. 13, 2009)

Discussant, “Emergencies and Constitutional Design: Should a Well-Designed Constitution Confront the Circumstances of Its Own Negation (or, at Least, Suspension)?” Texas Law Review, Symposium on Constitutional Design (Austin, Jan. 30, 2009)

Convenor and moderator, “Closing Guantanamo,” [panel discussion](#) sponsored by the Strauss Center at the University of Texas (Jan. 28, 2009)

“National Security Fact Deference,” presented at a faculty workshop at Southwestern (Los Angeles, Jan. 16, 2009)

Moderator, “The Role of the Courts in the Aftermath of *Boumediene*,” panel discussion at the annual meeting of the Federalist Society Faculty Division (January 9, 2009)

“Supreme Court Update: *Boumediene v. Bush*,” presented to the Section on Military Law of the Texas Bar Association, Austin, TX (Oct. 10, 2008)

“The Law of Detention and Targeting,” presented to the Joint Operational Law Training Conference sponsored by the Joint Chiefs of Staff, Alexandria, VA (Sep. 24, 2008)

Moderator for panel on “The Terrorist Threat Emanating from Iraq,” as part of an event co-sponsored by the National Counterterrorism Center and the Robert S. Strauss Center for International Security and Law titled “The Current Terrorist Enemies of the United States,” Austin, TX (Sep. 17, 2008)

“Supreme Court Update: *Boumediene v. Bush*,” presented to the Federal Bar Council in San Antonio (August 13, 2008)

“Federal Prosecution of Terrorism,” presented at an authors’ conference for the project “Building a Long-Term Legal Architecture for the War on Terror,” jointly sponsored by Brookings Institution, Georgetown Law Center, and the Hoover Institution (June 11, 2008)

“Role of the Judiciary in Terrorism Cases,” panel presentation at the D.C. Circuit Judicial Conference (June 4, 2008)

“The Law of War in the Courts of Law,” presented as part of “Applying International Humanitarian Law to Today’s Conflicts,” a seminar at the University of Virginia School of Law co-sponsored by the International Committee of the Red Cross (May 30, 2008)

Organizer and host of the first inaugural National Security Law Junior Scholar Workshop, held at Wake Forest in coordination with the U.S. Army Judge Advocate General’s Legal Center and School. Twenty individuals (10 JAG officers, 10 law professors) attended the day-and-a-half event, which included 11 paper presentations and four hours of JAG-led instruction in law of war issues. (May 23, 2008)

Organizer and moderator of panel discussion reform of the Foreign Intelligence Surveillance Act, as part of the annual national security law conference sponsored by the Center on Law, Ethics, and National Security at Duke University (April 10, 2008)

Faculty sponsor, convenor, and host for Wake Forest Law Review’s 2008 symposium addressing terrorism financing and the law (April 4, 2008)

“The Convergence of Criminal and Military Detention,” presented to the Special Operations Command (SOCOM) Staff Judge Advocate’s Conference (MacDill Airbase, Tampa, FL) (Feb. 6, 2008)

Participant in panel addressing reform of military detention procedures, part of the conference “Terrorists and Detainees: Do We Need a New National Security Court?” co-sponsored by the Brookings Institute and American University’s Washington College of Law (Feb. 2, 2008)

“Supreme Court Preview: *Boumediene v. Bush*,” presented to the Forsyth County Inns of Court (Jan. 28, 2008)

Participant in panel at the National Press Club addressing reform of the state secrets privilege, sponsored by the Constitution Project (Jan. 24, 2008) (transcript [here](#))

“The Domestic Role of the U.S. Military,” organizer and moderator of panel presentation for the Section on National Security Law of the Association of American Law Schools (“AALS”), at the AALS Annual Meeting in New York (January 2008)

“Litigating Rendition,” presented at a symposium sponsored by the North Carolina Journal of International Law and Commercial Regulation (November 2007)

Participant in panel addressing extraordinary rendition, at the annual “Review of the Field” conference sponsored by the American Bar Association’s Standing Committee on Law and National Security (November 2007)

“Terrorism and the Law,” presented at a symposium sponsored by the Roger Williams Law Review (November 2007)

Guest lecturer discussing enemy combatant litigation, Judge Advocate General’s Legal Center and School, Charlottesville, VA (October 2007)

“The Convergence of Military and Criminal Detention Models,” presented as part of the Distinguished Lecture Series sponsored by the Human Rights and National Security Law Program at William & Mary (Marshall-Wythe School of Law) (October 2007)

Participant in National Security Law Colloquium sponsored by the National Security Forum at William Mitchell College of Law (September 2007)

“The Combatant-Civilian Distinction: A Comparative Analysis of Sharia and International Humanitarian Law,” presented at a conference at West Point sponsored by the Law of Armed Conflict Center (September 2007)

“Current Developments in Guantanamo Detainee Litigation,” organized and moderated panel presentation at the annual meeting of the Southeast Association of American Law Schools (Aug. 2, 2007)

“Terrorism Prosecution Statistics,” presented at Lewis & Clark in connection with a conference titled “Crimes, War Crimes, and the War on Terror (April 20, 2007)

“[Interrogating Terrorists: Probing the Limits](#),” moderated (and assembled) a panel concerning interrogation techniques in connection with a conference titled “Confronting Terrorism Here and Abroad: Which Way Forward?” at Duke University School of Law (April 13, 2007)

“[Terrorism and the Law](#),” presented at Case School of Law in connection with a conference titled “Sacred Violence: Religiously-Based Terrorism and the Uses and Limits of Government Intervention” (March 30, 2007) (my portion begins at the 20:50 mark)

“The Military Commissions Act of 2006: Outstanding Legal Issues,” panel presentation at Duke University School of Law (February 12, 2007) (video [here](#))

“Enemy Combatants and the Law: A Survey of the Latest Developments in Litigation and Legislation,” presented (by live video link) to the Law of War course at the U.S. Army Judge Advocate General’s Legal Center and School (Feb. 2, 2007)

Inspection tour of Guantanamo Bay (January 23, 2007) (invited by Defense Department General Counsel)

“Scholarship and the New Law Professor: Of Blogs, Books, Networks, and the Placement Game,” panel presentation organized on behalf of the AALS Section on New Law Professors at the AALS annual meeting (January 5, 2007) (audio [here](#)) (moderator/convenor)

“Congressional Power and the Military Commissions Act of 2006: Stripping Jurisdiction and Precluding Consideration of Geneva Convention Claims,” panel presentation organized on a “hot topics” theme at the AALS annual meeting (January 5, 2007) (moderator/convenor)

“The Military Commissions Act of 2006: The Litigation Ahead,” presented at the Air Force Judge Advocate General’s annual conference (October 2006)

“The Impact of the Military and State Secrets Doctrine on Terrorism-Related Litigation,” presented at George Washington University Law School (October 2006)

“Anticipatory Prosecution and the Challenge of Unaffiliated Terrorism,” faculty workshop at the University of Iowa College of Law (September 2006)

“Anticipatory Prosecution and the Challenge of Unaffiliated Terrorism,” presentation at the Annual Meeting of the Southeast Association of American Law Schools (July 2006)

“*Hamdan v. Rumsfeld* and *al Odah v. Bush*: An Overview,” presentation to the National Security Studies program at Syracuse University (April 25, 2006)

“Judicial Deference to Executive Branch Treaty Interpretations,” faculty workshop at the University of North Carolina-Chapel Hill School of Law (April 21, 2006)

“The Impact of the Detainee Treatment Act on GTMO Habeas Litigation,” faculty colloquium presentation at the University of Richmond School of Law (February 28, 2006)

“Detainee Status Law,” presentation for graduate students at the Judge Advocate General’s Legal Center and School, Charlottesville, VA (Jan. 12, 2006)

“Disaggregating American Exceptionalism,” presentation given for the Section on International Law, Association of American Law Schools 2006 Annual Meeting, Washington, DC (Jan. 6, 2006)

“Judicial Deference to Executive Treaty Interpretations,” presentation at the annual workshop of the International Law in Domestic Courts Interest Group of the American Society of International Law, at Vanderbilt University School of Law (Dec. 13, 2005)

Moderator, “Beyond Article II Courts: Military Tribunals, Status Review Tribunals, and Immigration Courts,” Symposium: Secret Evidence and the Courts in the Age of National Security, Cardozo School of Law (Dec. 5, 2005)

Inspection tour of Guantanamo Bay (September 2005) (invited by Office of Military Commissions)

“Leaving Guantànamo,” presented to the Law of War course at the U.S. Army Judge Advocate General Legal Center and School (July 15, 2005)

"GTMO Transfer Litigation," presented at the Law & Society Annual Meeting (June 4, 2005)

"The Changing Legal Architecture of National Security," presented to the NORAD-USNORTHCOM 2005 Staff Judge Advocate's Conference (April 19, 2005)

"Law of Armed Conflict and Salient Distinctions Among the Guantanamo Detainees," presented to the National Security Studies program at Syracuse University (April 12, 2005)

"Prosecution Patterns in the War on Terrorism, 2001-2003," presented at "Strategies for the War on Terrorism: Taking Stock," a conference sponsored by Duke University School of Law's Center for Law, Ethics, and National Security (April 8, 2005)

“Terrorism Prosecutions Since 9/11,” presented at the 2004 Jim Wright Symposium: Conflict and the Politics of Fear, sponsored by Texas Christian University (Oct. 15, 2004)

“Antiterrorism Prosecutions and the Demands of Prevention,” presented at the South East Association of American Law Schools’ Annual Meeting at Kiawah Island (Aug. 2004)

“Detention of Terrorists and the Rule of Law,” presented to the National Security Studies program at Syracuse University (March 30, 2004)

“Antiterrorism Prosecutions and the Demands of Prevention in Post-9/11 America,” presented at a conference of terrorism law experts from America, Spain, Italy, and Columbia hosted by Florida International University (March 12, 2004)

“Before the Alien & Sedition Acts: Washington and the Democratic-Republican Societies,” presented during “Law, Loyalty, and Treason,” a symposium sponsored by the University of North Carolina Law Review (October 2003)

## **TESTIMONY**

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Senate Committee on Homeland Security and Governmental Affairs, “[Countering Domestic Terrorism: Examining the Evolving Threat](#)” (Sep. 25, 2019)

House Armed Services Committee, “[Outside Perspectives on the President’s Proposed Authorization for the Use of Military Force Against the Islamic State of Iraq and the Levant](#)” (Feb. 26, 2015)

House Judiciary Committee, “Protecting U.S. Citizens’ Constitutional Rights During the War on Terror” (May 22, 2013) (co-authored with Benjamin Wittes)

House Judiciary Committee, “[Drones and the War on Terror: When Can the United States Target Alleged American Terrorists Overseas?](#)” (Feb. 27, 2013)

House Armed Services Committee, “[Ten Years After the AUMF: Current Status of Legal Authorities, Detention, and Prosecution in the War on Terror](#)” (July 26, 2011)

Senate Judiciary Committee, “[Examining the State Secrets Privilege: Preserving National Security While Protecting Accountability](#)” (Feb. 13, 2008)

Oral testimony before the Commission of Inquiry into the Bombing of Air India 182 (Canada) (November 26, 2007) (available at <http://www.cpac.ca/forms/index.asp?dsp=template&act=view3&pagetype=vod&lang=e&clipID=521> (click “next” twice).

Written testimony before the Senate Judiciary Committee regarding “Oversight Hearing: Aiding Terrorists – An Examination of the Material Support Statute” (May 5, 2004) (available at [http://judiciary.senate.gov/testimony.cfm?id=1172&wit\\_id=3394](http://judiciary.senate.gov/testimony.cfm?id=1172&wit_id=3394))

Expert witness declaration concerning the legislative history of statute imposing civil liability on those who provide material support to designated foreign terrorist organizations, cited with approval in *Weiss v. National Westminster Bank*, 242 F.R.D. 33 (E.D.N.Y. 2007) and *Strauss v. Credit Lyonnais, S.A.*, 2007 WL 1558567, No. 06-cv-702 (E.D.N.Y. May 25, 2007)

## **OTHER PROFESSIONAL ACTIVITIES & AFFILIATIONS**

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### **American Law Institute**

Member (since 2007)

### **Lawfare: Hard National Security Choices**

Co-founder and Contributor (since 2011)

### **The National Security Law Podcast** (~13,000 downloads per episode)

Co-hosted with Steve Vladeck (since 2017)

**The National Security Law Lectures**

Video series co-curated with Matthew Waxman (since 2020)

**Lieber Institute for Law and Land Warfare at West Point (U.S. Military Academy)**

Senior Fellow (since 2016)

**Brookings Institution, Governance Studies**

Non-Resident Senior Fellow (Fall 2009-Spring 2016)

**Council on Foreign Relations**

Term Member (2008-2013)

**ABA Standing Committee on Law & National Security**

Advisory Committee Member (2009-2012)

**The Journal of National Security Law and Policy** (a peer-selected journal)

Senior Editor (2009-2013)

Book Review Editor (2005-2008)

**The ABA National Security Law Report**

Editor (2006-2008)

**International Law Studies** (Naval War College's International Law Department)

Member of the Board of Advisors (2013-present)

**Association of American Law Schools**

Chair, Section on National Security Law (2007)

Chair, Section on New Law Teachers (2006)

**The National Security Law Listserv** (2003-2014)

Founder and Moderator of 1400-member listserv

**Project on National Security Reform**

Senior Advisor, Legal Working Group (2007-2009)

**Center for Law, Ethics, and National Security** (Duke University)

Board Member

(2005-2010)

**Licenses**

Texas State Bar

(since 1997)

New York State Bar

(2000-2002)