

ROBERT M. CHESNEY

Professor of Law

Email: rchesney@law.utexas.edu

Phone: 512-739-9556

faculty webpage: <http://www.utexas.edu/law/faculty/profile.php?id=rmc2289>

ssrn author page: <http://ssrn.com/author=119080>

bepress selected works page: http://works.bepress.com/robert_chesney/

blog: www.natseclaw.com

OVERVIEW

- Professor, University of Texas School of Law (2008-present), previously Professor, Wake Forest University School of Law (2002-2008) (received Teacher of the Year award from students (2004) and Dean (2007))
- Department of Justice, Advisor to the Detainee Policy Task Force (May – July 2009)
- Senior Non-Resident Fellow, Brookings Institute (Governance Studies)
- Expertise: National Security Law and Policy, Constitutional Law, International Law, Counterterrorism Law and Policy
- Member, Advisory Committee of the ABA Standing Committee on Law and National Security (2009-present)
- Term Member, Council on Foreign Relations (2008-present)
- Member, American Law Institute (elected fall 2007)
- Associate Member, Intelligence Science Board (clearance: TS/SCI)
- Senior Editor, Journal of National Security Law and Policy
- Recent publications:
 - *National Security Fact Deference*, VIRGINIA LAW REVIEW (forthcoming 2009)
 - *Terrorism and the Convergence of Criminal and Military Detention Models*, 60 STANFORD LAW REVIEW 1079 (2008) (with Jack Goldsmith)
 - *Beyond Conspiracy? Preventive Prosecution and the Challenge of Unaffiliated Terrorism*, 80 SOUTHERN CALIFORNIA LAW REVIEW 425 (2007)
 - *State Secrets and the Limits of National Security Litigation*, 75 GEORGE WASHINGTON LAW REVIEW 1249 (2007)
- Education: Harvard Law School, *magna cum laude*

PROFESSIONAL EMPLOYMENT

University of Texas School of Law, Austin, Texas

Professor of Law (Spring 2009 – present)
Visiting Professor of Law (Fall 2008 – Spring 2009)
Subjects Taught: Constitutional Law, National Security Law, Law and
Terrorism
Fellow, Robert S. Strauss Center for International Security and Law

United States Department of Justice, Washington, DC

Advisor, Detainee Policy Task Force (May-July 2009)

Wake Forest University School of Law, Winston-Salem, North Carolina

Professor of Law (July 2008 – Spring 2009)
Associate Professor of Law (Fall 2005 – Spring 2008)
Assistant Professor of Law (Fall 2002 – Spring 2005)
Subjects Taught: National Security Law, Law and Terrorism,
Constitutional Law I and II, Evidence, Civil
Procedure II
Awards: Joseph Branch Excellence in Teaching Award (2007)
Jurist Award for Excellence in Teaching (2003-04)
(elected by graduating class)
Committees: Faculty Appointments (2007-2008)
Information Resources (2007-2008) (chair)
Young Alumni Forum (2007-2008)
Judicial Clerkships (2006-2008)
Dean Search (2006-2007)
Admissions (2004-2006)

Intelligence Science Board

Associate Member (2006 - present)
Security Clearance: TS/SCI (effective 6/7/07)

Davis Polk & Wardwell, New York, New York

Litigation Associate (1999-2002)

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)

EDUCATION

Degrees

J.D., 1997, **Harvard Law School**
Magna cum Laude

B.S., 1994 (Political Science and Psychology), **Texas Christian University**
Magna cum Laude

Additional Training

Law of War, **The Judge Advocate General's Legal Center and School**, Charlottesville, VA (July 11-15, 2005)

12th Annual National Security Law Institute for Professors and Government Practitioners, **Center for National Security Law at the University of Virginia School of Law** (June 6-18, 2004)

MAJOR ARTICLES AND BOOK CHAPTERS

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

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

Terrorism and the Utility of Criminal Prosecution (forthcoming 2009)

- This piece will appear as a chapter in a forthcoming book to be published by Brookings under the editorship of Benjamin Wittes. A version of the chapter also will appear as a symposium contribution in the *South Texas Law Review*. In both versions, 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. A draft appears on the Brookings website [here](#).

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

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)

***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>)

***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>)

***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>)

***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>)

***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>)

ESSAYS AND OTHER SHORT-FORM SCHOLARSHIP

***Getting Detention Policy Straight in the Post-Guantanamo Era: A Reply to Professor Cole*, CAL. L. REV. CIR. (forthcoming 2009)**

- This essay replies to an article by David Cole appearing in a forthcoming issue of 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 will be published in the inaugural installment of California Law Review's online companion.

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

- 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. (Available at <http://legalworkshop.org/2009/06/25/detention-of-terrorists-and-the-acceleration-of-the-convergence-trend>).

***International Decision: Boumediene v. Bush*, AMERICAN JOURNAL OF INTERNATIONAL LAW (forthcoming 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 (forthcoming 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.

***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 recently gave before the Senate Judiciary Committee, examines proposals for legislative reform of the state secrets privilege.

***The State Secrets Privilege*, in LEGAL ISSUES IN THE STRUGGLE AGAINST TERROR (John N. Moore & Robert Turner, eds.) (book chapter)**

- This book chapter, based in significant part on my earlier article addressing the state secrets privilege, describes the origins and evolution of the privilege, current controversies surrounding it, and the prospects for reform.

***Prisoners of War*, in THE MAX PLANCK ENCYCLOPEDIA OF PUBLIC INTERNATIONAL LAW (Rudiger Wolfrum, ed.)**

- This encyclopedia entry surveys the origin, evolution, and nature of the concept of a prisoner-of-war in international humanitarian law.

***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, a research paper commissioned by Canada's Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182

- to be made available to the public in 2009

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

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>)

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 substantive due process claims

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

Organizer and sponsor, "Law at the Cutting Edge: Technology, Privacy, and Intelligence Collection," Texas Law Review Symposium (Austin, January 2010)

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)

Sole Organizer, The 2nd 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 Guantanamo,” 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

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)

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.*, __ F.R.D. __, 2007 WL 1558567, No. 06-cv-702 (E.D.N.Y. May 25, 2007)

PROFESSIONAL ACTIVITIES & AFFILIATIONS

AMERICAN BAR ASSOCIATION STANDING COMMITTEE ON LAW AND NATIONAL SECURITY

Advisory Committee Member (appointed by the ABA President in 2009)

BROOKINGS INSTITUTE

Senior Non-Resident Fellow (2009-present)

AMERICAN LAW INSTITUTE

Elected Fall 2007

COUNCIL ON FOREIGN RELATIONS

Term Member, Elected Summer 2008

THE NATIONAL SECURITY LAW REPORT (American Bar Association, Standing Committee on Law and National Security)

Editor (2006-2008) (responsible for soliciting and arranging all content from Vol. 28, Issue 1 through Vol. 30, Issue 1) (all issues posted [here](#))

THE JOURNAL OF NATIONAL SECURITY LAW AND POLICY (a peer-selected journal)

Senior Editor (2009-present)
Book Review Editor (2005-2008)

Section on National Security Law, Association of American Law Schools

Chair (2007)

The National Security Law Listserv
Founder and Moderator

Project on National Security Reform
Senior Advisor, Legal Working Group (2007-2009)

Section on New Law Teachers, Association of American Law Schools
Chair (2006)

Center for Law, Ethics, and National Security (Duke University)
Board Member (2005-present)

Licenses

Texas State Bar (1997-present)
New York State Bar (inactive)

MEDIA APPEARANCES

Representative media appearances include:

- Nina Totenberg, "[Judge: Bagram Prisoners May Challenge Detention](#)," NPR Morning Edition, Apr. 3, 2009
- Del Quentin Wilbur & Peter Finn, "[U.S. Retires Enemy Combatant, Keeps Broad Right to Detain](#)," Wash. Post. Mar. 14, 2009
- Del Quentin Wilbur, "[Detainee-Informer Presents Quandary for Government](#)," Wash. Post, Feb. 3, 2009
- Jackie Northam, "[Obama Faces Conundrum in Closing Guantanamo](#)," NPR Morning Edition, January 5, 2009
- Marcia Coyle, "[Closure of Gitmo Raises Questions](#)," National Law Journal, Dec. 9, 2008, at 1
- Robert Barnes, "[Justices to Decide Legality of Indefinite Detention](#)," Washington Post, Dec. 8, 2008, at A2
- Jerry Markon, "[High Court May Consider Legality of Detention](#)," Washington Post, November 9, 2008, at A2
- Del Quentin Wilbur, "[Cases Against Detainees Have Thinned](#)," Washington Post, November 2, 2008, at A2
- Carrie Johnson and Walter Pincus, "[Terrorism Financing Case Back in Court](#)," Washington Post, Sep. 21, 2008, at A2
- Adam Liptak, "[Court Backs Bush on Military Detentions](#)," N.Y. Times, July 16, 2008.
- Ari Shapiro, "[Appeals Court Divided in Enemy Combatant Ruling](#)," NPR Morning Edition, July 16, 2008
- Carrie Johnson and Walter Pincus, "[Few Clear Wins in U.S. Anti-Terror Cases: Moving Early on Domestic Suspects Often Does Not Bring Convictions](#)," Washington Post, April 21, 2008, at A1
- Greg Allen, "[Second Mistrial for 'Miami Six' Terror Suspects](#)," NPR Morning Edition, Apr. 17, 2008
- Stuart Taylor, Jr., "Reforming the State Secrets Privilege," National Journal, Apr. 14, 2008
- Marcia Coyle, "Balancing the Sway of State Secrets," National Law Journal, Mar. 24, 2008, at 1

- Darryl Fears, "[Refusal Keeps Terrorism Convict in Prison: Former Professor Fights Attempts to Force His Testimony Against Muslim Charities](#)," Wash. Post, Mar. 22, 2008, at A2
- Josh White, Dan Eggen, and Joby Warrick, "[U.S. to Try 6 on Capital Charges Over 9/11 Attacks](#)," Wash. Post, Feb. 12, 2008, A1
- Matt Korade, "House Democrats Aim to Rein in State Secrets Privilege," C.Q. Homeland Security, Jan. 29, 2008
- Josh White, "[Greater Use of Privilege Spurs Concerns](#)," Wash. Post, Jan. 29, 2008, at A17
- Scott Shane, "[Nominee's Stand May Avoid Tangle of Torture Cases](#)," N.Y. Times, Nov. 1, 2007
- Ari Shapiro, "[Enemy Combatant Gets Day in Court](#)," NPR Morning Edition, Oct. 31, 2007
- Adam Liptak, "[Mistrial Is Latest Terror Prosecution Misstep for U.S.](#)," N.Y. Times, Oct. 24, 2007
- Kenneth Jost, "[Courts & the Law: Justices' Blind Trust](#)," C.Q. Weekly, Oct. 22, 2007, at 3058
- Adam Liptak, "[Padilla Case Offers New Model of Terrorism Trial](#)," N.Y. Times, Aug. 18, 2007
- Dina Temple-Raston, "[Jose Padilla Convicted of Terrorism Support](#)," NPR Morning Edition, Aug. 17, 2007
- Greg Allen, "[Padilla Case Set for Closing Arguments](#)," NPR Morning Edition, Aug. 13, 2007
- William Glaberson, "[Hurdles Frustrate Effort to Shrink Guantanamo](#)," N.Y. Times, Aug. 9, 2007
- Editorial, "[Keeping Secrets: How to Balance National Security with People's Right to Have Their Day in Court](#)," Wash. Post, July 15, 2007, at B6 (this is not an op-ed by me, but rather an editorial by the Post that discusses my work)
- Greg Allen, "[Prosecution Plays Bin Laden Tape at Padilla Trial](#)," NPR All Things Considered, June 29, 2007
- Ari Shapiro, "[Appeals Court Strikes at 'Enemy Combatant' Policy](#)," NPR All Things Considered, June 11, 2007
- Warren Richey, "[Padilla Terror Trial Meets World of Espionage](#)," Christian Science Monitor, May 18, 2007, at 1
- Ari Shapiro, "[Court Weighs Arguments in Guantanamo Appeals](#)," NPR Day to Day, May 15, 2007
- Dan Eggen, "[Canadian Detainee Charged in '02 Death of U.S. Soldier](#)," Wash. Post, Apr. 25, 2007, at A10
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