

ROBERT M. CHESNEY

Charles I. Francis Professor in Law, University of Texas School of Law

Associate Dean for Academic Affairs (Faculty)

Distinguished Scholar, Robert S. Strauss Center for International Security and 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>

OVERVIEW

- Professor, University of Texas School of Law (2009-present), previously Professor, Wake Forest University School of Law (2002-2008) (received Teacher of the Year award in 2004 and 2007)
- Department of Justice, Advisor to the Detention Policy Task Force (May – August 2009)
- Nonresident Senior Fellow, Brookings Institution (Governance Studies) (2009-present)
- Expertise: National Security Law and Policy, Constitutional Law, International Law, Terrorism in Historical Perspective, Counterterrorism Law and Policy
- Member, Advisory Committee of the ABA Standing Committee on Law and National Security (2009-present)
- Co-Founder and Contributor, www.lawfareblog.com
- Term Member, Council on Foreign Relations (2008-present); Member, American Law Institute (elected fall 2007); Member, Advanced Technology Board (clearance TS/SCI)
- Senior Editor, Journal of National Security Law and Policy
- Education: Harvard Law School, *magna cum laude*

PROFESSIONAL EMPLOYMENT & ASSOCIATIONS

University of Texas School of Law, Austin, TX

Charles I. Francis Professor in Law (Fall 2009 – present)
Associate Dean for Academic Affairs (Dec. 2011 – present)
Visiting Professor of Law (Fall 2008 – Spring 2009)
Subjects Taught: Constitutional Law, National Security Law,
Law and Terrorism
Committees/University Service: Faculty Colloquium Series Coordinator
Endowed Lecture Series Co-Coordinator
Bridging Disciplines Program (Int'l Studies)
ABA Site Visit Committee
Sheffield Room Redesign Committee

University of Texas LBJ School of Public Policy, Austin, TX

Courtesy appointment (Spring 2010 – present)

Brookings Institution, Governance Studies

Non-Resident Senior Fellow (Fall 2009-present)

Robert S. Strauss Center for International Security and Law, Austin, TX

Distinguished Scholar (Fall 2009 – present)

United States Department of Justice, Detention Policy Task Force

Advisor (May-August 2009)

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

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 (2007)
Jurist Excellence in Teaching (2004)
Committees: Faculty Appointments (2007-2008)
Information Resources (2007-2008) (chair)
Young Alumni Forum (2007-2008)
Judicial Clerkships (2006-2008)
Law School Dean Search (2006-2007)
Admissions (2004-2006)

Advanced Technology Board/Intelligence Science Board (TS/SCI since 6/07)

ATB Member (2011 – present)
ISB Associate Member (2006 - 2010)

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

Harvard Law School

J.D., 1997

Magna cum Laude

Texas Christian University

B.S.(Political Science and Psychology), 1994

Magna cum Laude

Additional Training

The Judge Advocate General's Legal Center and School, Charlottesville, VA

Law of War Course

(July 2005)

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

12th Annual National Security Law Institute for Professors and Government
Practitioners

(June 2004)

FORTHCOMING AND IN-PROGRESS SCHOLARSHIP

**TERRORISM AND THE COERCIVE POWERS OF THE STATE: CONTINUITY AND CHANGE IN
THE LEGAL REGULATION OF COUNTERTERRORISM AND ARMED CONFLICT (under
contract with Oxford University Press) (forthcoming 2012)**

**JUDGING NATIONAL SECURITY (under contract with Oxford University Press)
(forthcoming 2013)**

PUBLISHED SCHOLARSHIP

[***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.

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.

***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 MAX PLANCK ENCYCLOPEDIA OF INTERNATIONAL LAW (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. A draft of the paper appears on the Brookings Institute website [here](#).

***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.

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

***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>)

***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) (not available to the public until 2010)**

***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

***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>)

***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>)

***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>)

***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

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

Presentation, Harvard Law School, Colloquium on the Law of Covert Actions (February 2012)

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 6th 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 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 Odab 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

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)

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

INTERNATIONAL INSTITUTE OF HUMANITARIAN LAW

Member (elected 2011)

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 (2005-2010)

Licenses

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