

## HEIDI KITROSSER

University of Minnesota Law School - Walter F. Mondale Hall - 229 19<sup>th</sup> Ave. South - Minneapolis, MN 55455  
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### TEACHING EXPERIENCE

**University of Minnesota Law School**, Minneapolis, MN Fall 2005 – current  
*Current appointment:* Professor of Law & 2011-12 Julian E. Davis Professor of Law. Courses include constitutional law I, constitutional law II, and first amendment.

*Past appointments:* Vance K. Opperman Research Scholar, 2010–11; Associate Professor (with tenure), Fall 2008 – Spring 2011; Associate Professor (tenure-track), Fall 2006 – Spring 2008; Visiting Associate Professor, Fall 2005 – Spring 2006

**Brooklyn Law School**, Brooklyn, NY Fall 2003 – Spring 2006  
Assistant Professor. Taught courses on constitutional law, administrative law and free speech.

**Northwestern University School of Law**, Chicago, IL Fall 2002 - Spring 2003  
Visiting Assistant Professor. Taught courses on First Amendment and civil procedure.

**Santa Clara University School of Law**, Santa Clara, CA Spring 2002  
Visiting Assistant Professor. Taught courses on constitutional law and administrative law.

**University of Oregon School of Law**, Eugene, OR Fall 2001  
Visiting Assistant Professor. Taught courses on administrative law and telecommunications law.

### BOOK (in progress)

*Reclaiming Accountability: Transparency, Executive Power, and the U.S. Constitution* (University of Chicago Press, forthcoming (expected 2012))

### ARTICLES (completed)

*What if Daniel Ellsberg Hadn't Been Bothered?*, \_\_\_ Ind. L. Rev. \_\_\_ (2011) (symposium article) (forthcoming)

*Scientific Integrity: The Perils and Promise of White House Administration*, 79 Fordham L. Rev. 2395 (2011) (symposium article)

*Supremely Opaque?: Accountability, Transparency, and Presidential Supremacy* 5 ST. THOMAS JNL. L. & PUB. POL'Y 62 (2011) (symposium article)

*It Came From Beneath the Twilight Zone: Wiretapping and Article II Imperialism*, 88 TEXAS L. REV. 1401 (2010) (symposium article)

*National Security and the Article II Shell Game*, 26 CONST. COMM. 483 (2010) (symposium article)

*The Accountable Executive*, 93 U. MINN. L. REV. 1741 (2009) (symposium article)

*Accountability and Administrative Structure*, 45 WILLAMETTE L. REV. 607 (2009) (symposium article)

*Classified Information Leaks and Free Speech*, 2008 ILLINOIS L. REV. 881 (2008) [reprinted in *First Amendment Law Handbook*, 2008-09 (Thomson Reuters / West)]

*Congressional Oversight of National Security Activity: Improving Information Funnels*, 29 CARDOZO L.REV. 1049 (2008) (symposium article)

*“Macro-Transparency” as Structural Directive: A Look at the NSA Surveillance Controversies*, 91 MINN. L. REV. 1163 (2007) (symposium article)

*Secrecy and Separated Powers: Executive Privilege Revisited*, 92 IOWA L. REV. 489 (2007)

*Containing Unprotected Speech*, 57 FLA. L. REV. 843 (2005)

*Secrecy in the Immigration Courts and Beyond: Considering the Right to Know in the Administrative State*, 39 HARV. C.R. – C.L. L. REV. 95 (2004)

[reprinted in 25 IMMIGR. AND NAT'LITY L. REV. (2004)]

*From Marshall McLuhan to Anthropomorphic Cows: Communicative Manner and the First Amendment*, 96 NW. U. L.R. 1339 (2002)

*Meaningful Consent: Toward a New Generation of Statutory Rape Laws*, 4 VA. J. SOC. POL'Y & L. 287 (1997)

### **SHORTER WORKS**

Transcript of comments on executive power in the wake of 9/11, \_\_\_ Wayne St. L. Rev. \_\_\_ (2011)

*Discussion Paper on Executive Privilege*, for exploratory symposium on executive privilege at University of Virginia's Miller Center for Public Affairs (2010)

*Reclaiming Skepticism: Lessons from Guantanamo*, 35 William Mitchell L. Rev. 5067 (2009) (essay in *Journal of the National Security Forum* issue)

*“Globe Newspaper Co. v. Superior Court,” “Press-Enterprise Co. v. Superior Court I & II,” Richmond Newspapers, Inc. v. Virginia,” “U.S. v. Eichman”* – entries in *Encyclopedia of the First Amendment* (Congressional Quarterly Press, 2008), David L. Hudson, David A. Schultz and John R. Vile, editors

*Constitutional Interpretation and the “World Out There”: An Introduction to the Symposium*, 72 BROOK. L.REV. 1 (2006) (symposium essay)

*Presidential Secrecy and the NSA Spying Controversy*, JURIST (2006) (op-ed piece)

“Revisiting Executive Privilege,” *Perspectives* (UMN law school alumni magazine), 31-34, (Spring 2006)

"A Discourse: Presidential Powers in Time of War," *Perspectives* (UMN Law School alumni magazine) 35-41 (Spring 2006) (exchange with Professors Dale Carpenter and Michael Paulsen)

### **ACADEMIC SYMPOSIA AND PRESENTATIONS**

#### **Presentations on papers or books:**

Presented draft of *What if Daniel Ellsberg Hadn't Bothered?* at Indiana Law Review symposium entitled “What If? Counterfactuals in Constitutional History,” Indianapolis, IN (Apr. 1, 2011)

Presented *Scientific Integrity: The Perils and Promise of White House Administration* at Fordham Law Review symposium on “Presidential Influence over Administrative Action, Recent Developments,” New York, NY (November 12, 2010)

Presented paper entitled *Supremely Opaque?: Accountability, Transparency, and Presidential Supremacy* at U.C. Irvine Law School, Irvine, CA (November 1, 2010)

Presented paper entitled *Supremely Opaque?: Accountability, Transparency, and Presidential Supremacy* at University of Illinois Constitutional Law Colloquium, Champaign-Urbana, IL (October 18, 2010)

Presented paper entitled *Supremely Opaque?: Accountability, Transparency, and Presidential Supremacy* at University of St. Thomas Journal of Law & Public Policy symposium on “Presidential Powers: Prudence or Perversion?,” Minneapolis, MN (October 7, 2010)

Presented book-in-progress at annual Law & Society Conference, Chicago, IL (May 30, 2010)

Presented book in progress at faculty symposium on presidential power, University of Texas Law School, Austin, Texas (April 9 – 10, 2010)

Presented paper entitled *It Came From Beneath the Twilight Zone: Wiretapping and Article II Imperialism* at Texas Law Review symposium on “Intersection of Law, Technology, Privacy, and National Security,” Austin, Texas (February 5, 2010)

Presented aspects of three works in progress at national security retreat hosted by William Mitchell College of Law, St. Paul, MN (September 12, 2009)

Presented paper entitled *The Accountable Executive* in Minnesota Law Review symposium on “Law & Politics in the 21<sup>st</sup> Century,” Minneapolis, MN (October 17<sup>th</sup>, 2008)

Presented paper entitled *Accountability and Administrative Structure* at Washington University School of Law, St. Louis, MO (September 29, 2008) and in Willamette Law Review symposium on “Presidential Power in the 21<sup>st</sup> Century,” Salem, OR (September 12, 2008)

Presented book in progress at University of Minnesota Law School, Minneapolis, MN (April 24, 2008); University of Indiana – Indianapolis School of Law (April 8, 2008); University of Missouri – Columbus Law School (April 4, 2008)

Presented paper entitled *Congressional Oversight of National Security Activities: Improving Information Funnels* for symposium on “The Domestic Commander-in-Chief,” Cardozo Law School, New York, NY (April 16, 2007)

Presented paper entitled *Classified Information Leaks and Free Speech*, at Chicago-Kent College of Law, Chicago, IL (November 7, 2006); University of Florida Center for Information Research, Gainesville, FL (October 26, 2006); Big Ten UnTENured Conference, Indiana University School of Law – Bloomington (August 1, 2006)

Presented paper entitled “*Macro-Transparency*” as *Structural Directive: A Look at the NSA Spying Controversy* at Minnesota Law Review symposium on “9-11 Five Years On: A Comparative Look at the Global Response to Terrorism,” University of Minnesota Law School, Minneapolis, MN (October 13, 2006)

Presented paper entitled *Secrecy and Separated Powers: Executive Privilege Revisited* at Jurisgenesis Conference, Washington University School of Law, St. Louis, MO (June 6, 2006); University of Minnesota Law School, Minneapolis, MN (October 27, 2005)

Presented paper entitled *Containing Unprotected Speech* at University of Minnesota Law School, Minneapolis, MN (January 27, 2005); University of San Diego Law School, San Diego, CA (October 1, 2004); Rutgers Law School, Newark, NJ (September 13, 2004); New York Junior Faculty Colloquium, Fordham Law School, New York, NY (September 10, 2004); Brooklyn Law School Faculty Workshop, Brooklyn, NY (September 2, 2004); Law & Society Association Annual Meeting, Chicago, IL (May 29, 2004).

#### **Other Presentations or Symposia Contributions:**

Will speak on panel about secrecy in the Bush Administration at conference entitled “From the Pentagon Papers to Wikileaks,” University of Heidelberg (Germany), American Studies Center, May 2012

Will speak on panel regarding Wikileaks and free speech at annual meeting of Association of American Law Schools, Washington, D.C., January 2012

Spoke on panel regarding executive power in the wake of 9/11 at Wayne Law Review symposium, Wayne State University Law School, Detroit, MI, February 4, 2011

Chaired panel at exploratory symposium on executive privilege at University of Virginia's Miller Center for Public Affairs, Washington, D.C., September 20, 2010

Participated in national security retreat hosted by William Mitchell College of Law, St. Paul, MN, September 11, 2010

Participated in debate (with John Radsan) on the rights of suspected terrorists co-sponsored by the University of Minnesota Federalist Society and the University of Minnesota American Constitution Society, University of Minnesota Law School, Minneapolis, MN, April 16, 2009

Participated in discussion (with John Radsan) on national security and the 2008 Presidential race sponsored by the National Security Forum, William Mitchell College of Law, St. Paul, MN, October 22, 2008

Panelist in first annual Minnesota Conservative and Libertarian Legal Colloquium, entitled "Stare Decisis in Constitutional Law," Minneapolis, MN, October 3, 2008

Presented lecture on current issues in presidential power as part of University of Minnesota "Constitution Day," Minneapolis, MN, September 17, 2008

Presented lecture on executive privilege as part of University of Minnesota "Constitution Day," Minneapolis, MN, September 17, 2007

Spoke (with co-presenter Bill McGeeveran) to U. of Minnesota law school students about recent controversies involving domestic surveillance. Minneapolis, MN, April 18, 2007

Presented lecture about recent developments in free speech law as part of University of Minnesota "Constitution Day," Minneapolis, MN, September 19, 2006

Co-organizer and panel moderator (moderated panel on Supreme Court secrecy with panelists Linda Greenhouse, Harold Koh and Edward Lazarus). *Justice Blackmun and Judicial Biography: A Conversation with Linda Greenhouse*, Brooklyn Law School, Brooklyn, NY, September 16, 2005

Panelist on the U.S. Supreme Court's 2003 – 2004 term, Brooklyn Law School, October 4, 2004

Panelist on the U.S. Supreme Court's 2002 – 2003 term, Brooklyn Law School, October 6, 2003

Moderator: Panel on Defense Department's Total Information Awareness Program (sponsored by ACLU chapter of Northwestern University School of Law), Northwestern University School of Law, January 29, 2003

### **OTHER TALKS**

Will speak to Milwaukee chapter of American Constitution Society on constitutionality of federal law mandating individual health insurance coverage, July 14, 2011

Served as guest speaker on state secrets doctrine in undergraduate political science course co-taught by Vice President Walter Mondale and Professor Larry Jacobs, University of Minnesota, Minneapolis, MN, November 30, 2010

Spoke to St. Croix County Democrats on current issues in constitutional law, Hudson, WI, March 11, 2010

Participated in debate (with John Radsan) on presidential power to detain suspected enemy combatants, Warren E. Burger American Inn of Court, St. Paul, MN, November 18, 2009

Spoke to high schools students about the 14<sup>th</sup> Amendment through Just the Beginning Foundation's Summer Legal Institute, Minneapolis, MN, July 2009

Spoke to University of Minnesota adult education class ("lifelong learning" program) about constitutional law and U.S. presidential power, Edina, MN, January 29<sup>th</sup>, 2009

Spoke to adult education class about the constitutional law of U.S. presidential power at St. Luke's Presbyterian Church, Wayzata, MN, October 5<sup>th</sup>, 2008

Spoke on panel about abuse of U.S. presidential power, sponsored by Common Cause (with co-panelists Common Cause president Bob Edgar and journalist John Nichols), St. Paul, MN, September 1, 2008

Spoke to high school students about First Amendment issues for "College in the Schools Program," Minneapolis, MN, January 8, 2008

Spoke to college students in Latin American Summer Leadership Institute (sponsored by U.S. State Department Bureau of Educational and Cultural Affairs) about post-9/11 changes in U.S. domestic policies. Minneapolis, MN, July 13, 2007

Presented lesson for Minnesota high school teachers on the First Amendment, separation of powers and national security. Sponsored by Learning Law and Democracy Foundation. St. Paul, MN. December 12, 2006

Presented lecture on national security and civil liberties for the American Association of University Women, Minneapolis, MN, October 2, 2006

Panelist on "Law Talk": television program on dissent and democracy produced for national and international public access distribution by the New York Bar Association, taped in New York, NY, August 27, 2004

### **TESTIMONY & PRO BONO WORK**

Consulted on equal protection and standing issues for the Battered Women's Justice Project of Minneapolis, MN, spring 2011

Submitted solicited written testimony to U.S. Senate Judiciary Committee, Subcommittee on the Constitution, for hearing on Restoring the Rule of Law, September 16, 2008

Testified before U.S. Senate Judiciary Committee, Subcommittee on the Constitution, in hearing on Secret Law and the Threat to Democratic and Accountable Government, April 30, 2008 (written testimony available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1129302](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1129302))

Co-authored (with Steven Vladick) amicus brief on behalf of Erwin Chemerinsky in *Hepting v. AT&T* (U.S. D.Ct., N.D. Cal.) (addressing state secrets issue in case involving warrantless electronic surveillance) (brief available at <http://www.eff.org/legal/cases/att/chemerinskyamicus.pdf>) March 2007

### **PEER REVIEW WORK**

Provided solicited peer review assistance to *Journal of National Security Law and Policy*; provided solicited peer review assistance to *American Journal of Political Science*; regularly conduct peer review of articles as a member of *Constitutional Commentary* editorial board.

## **LAW SCHOOL & UNIVERSITY COMMITTEE WORK**

2011-12: clerkship committee; editor, *Constitutional Commentary*

2010 – 2011: clerkship committee; faculty recognition committee; law school faculty representative to University Senate; editor, *Constitutional Commentary*

2009 – 2010: chair teaching prospects / VAP committee; on faculty recognition committee; law school faculty representative to University Senate; editor, *Constitutional Commentary*; provided consulting assistance to university academic freedom & tenure committee on First Amendment matter

2008 – 2009: chair teaching prospects / VAP committee; on unified appointments committee; law school faculty representative to University Senate; editor, *Constitutional Commentary*.

2007 – 2008: Chair teaching prospects / VAP committee; on faculty workshops committee; on entry level hiring committee; on consultative committee; editor, *Constitutional Commentary*.

2006 – 2007: On faculty workshops committee, on consultative committee, on VAP committee.

## **EDUCATION**

**YALE LAW SCHOOL**, New Haven, CT

J.D., May 1996

**Honors:** Harlan Fiske Stone Prize for Best Oral Argument, Morris Tyler Moot Court of Appeals Competition.

**Activities:** Coker Teaching Fellow (teaching assistant for Professor Robert Gordon's contracts course); *Yale Journal of Law and Feminism*, editor

**UCLA**, Los Angeles, CA

B.A., December 1992

**Honors:** Phi Beta Kappa; *summa cum laude*

## **NON-ACADEMIC WORK EXPERIENCE**

**Law and Policy Consulting**, San Francisco Bay Area, CA

Fall 2000 – Spring 2001

Performed full time consulting work on law and policy matters. Primary project undertaken in this time entailed researching and writing extensive comments and reply comments to the FCC, on behalf of the non-profit organization Children Now. The comments concerned the importation of broadcasters' educational and informational programming requirements into the era of digital television, and raised significant issues of telecommunications law and policy and of First Amendment law.

**U.S. Court of Appeals, D.C. Circuit**, Washington, D.C.

Summer 1999 -Summer 2000

Law Clerk to Judge Judith Rogers. Assisted Judge Rogers on a wide variety of civil and criminal matters.

**Jenner & Block**, Washington, D.C.

Fall 1997 - Spring 1999

Law firm associate. Wrote numerous federal court briefs concerning telecommunications company's rights under 1996 Telecommunications Act; prepared lengthy First Amendment analysis for client; drafted significant portions of petition for review, merits and reply briefs in appeal of habeas corpus decision in death penalty case. Also participated extensively in public housing discrimination class action on behalf of pro bono plaintiffs, including drafting class settlement notice, participating in all settlement negotiations, drafting summary judgment motions, defending depositions, and communicating with named plaintiffs.

**U.S. District Court, Central District of California**, Los Angeles, CA

Fall 1996 - Fall 1997

Law Clerk to Judge William Rea. Assisted Judge Rea on a wide variety of civil and criminal matters.

**Irell & Manella, LLP**, Los Angeles, CA

Summer 1996

Summer Associate. Drafted memoranda on subjects including Article III standing of public interest organizations, breach of contract, and director and officer liability insurance. Permanent offer extended.

**Media Access Project**, Washington, D.C.

Summer 1995

Summer Law Clerk. Researched and wrote portions of Ninth Circuit brief; drafted petitions to the FCC.

**Public Defender of Contra Costa County**, Martinez, CA

Summer 1994

Summer Law Clerk. Researched and wrote motions on behalf of criminal defendant clients.

**BAR ADMISSIONS**

California; Washington, D.C.