Information Society Project
2016-2017

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People
Information Society Project at Yale Law School
2016-2017 Directors, Staff, and Fellows

Directors and Staff

- **Jack M. Balkin**, Director, Information Society Project; Knight Professor of Constitutional Law and the First Amendment
- **Rebecca Crootof**, Executive Director, Information Society Project; Research Scholar and Lecturer in Law, Yale Law School
- **Heather Branch**, Program Administrator and Event Coordinator
- **Natasha Rentas**, Program Coordinator and Business Manager

Postdoctoral Resident Fellows

- BJ Ard
- Hannah Bloch-Webha
- Jean-Philippe Foegle
- Claudia Haupt
- Ying Hu
- Ido Kilovaty
- Alyssa King
- Kate Klonick
- John Langford
- Caitlin Petre

Resident and Visiting Fellows

- Sandra Baron
- Maria Bastashevski
- Kiel Brennan-Marquez
- Andrew Burt
- Jonathan Cardenas
- Irin Carmon
- Ignacio Cofone
- Kate Darling
- Nick Frisch
- Samantha Godwin
- Argyro Karanasioi
- Cortelyou Kenney
- Sam Kleiner
- Adrian Kuenzler
- Asaf Lubin
- Peter Maybarduk
- Torey McMurdo
- Gabriel Michael
- Dina Mishra
- William New
- Guy Pessach
- Bilyana Petkova
- Ri Pierce-Grove
- Hector Postigo
• Sandra Ristovska
• David Robinson
• Amanda Shanor
• Priscilla Smith
• Christopher Soghoian
• Ramesh Subramanian

• Nabiha Syed
• Nafees Syed
• Gabriel Teninbaum
• Shlomit Yanisky-Ravid
• Elana Zeide

**ISP Student Fellows**

• Omer Aziz
• Miriam Becker-Cohen
• Rebecca Chan
• Elizabeth Dervan
• Ariel Dobkin
• John Ehrett
• Kyle Elliot Fees
• Beth Mara Goldberg
• Misha Guttentag
• Olivia Horton
• Jaunita John
• Scout Katovich
• Lina Khan
• Julia Knight
• Meenu Krishnan
• Hilary Ledwell
• Aaron Levine
• Helen Li

• Marisa Lowe
• David Manners-Weber
• Laura McCready
• Yurij Melnyk
• Nora Niedzielski-Eichner
• Alexandra Perloff-Giles
• Jessica Purcell
• Emma Roth
• Rumela Roy
• Simone Seiver
• Harrison Stark
• Stephen Stitch
• Julius Taranto
• Rachel Tuschman
• Andrew Udelsman
• Camila Vega
• Ethan Wong
Knight Law and Media Scholars

- Patrick Baker
- John Brinkerhoff
- Mark Dore
- Allison Dougls
- John Ehrett
- Anna Gonzalez
- Alexandra Gutierrez
- Bethany Hill
- Meenu Krishnan
- Steve Lance
- Yurij Melnyk
- David Murdter
- Nora Niedzielski-Eichner
- Daniela Nogueria
- Lourdes Pantin
- Caitlin Petre
- Ben Picozzi
- Rumela Roy
- Brandon Sadowsky
- Stephen Stich
- Delbert Tran
- Andrew Udelsman
- David Walchak
- Beatrice Walton
- Corinne Waite
- Ethan Wong
- Jacob Zionce

Yale University Affiliates

- Logan Beirne
- Jason Eiseman
- Joan Feigenbaum
- Michael Fischer
- Vali Gazula
- Susan Gibbons
- Bonnie Kaplan
- Sean O’Brien
- Limor Peer
- Thomas Pogge
- Brad Rosen
- Christina Spiesel
- Xiyin Tang
- Graham Webster
- Tina Weiner
Resident Fellow Accomplishments

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1 This section includes only information shared with the compilers; it is not a full listing of all ISP resident fellow accomplishments for this time period.
BJ Ard – Resident Fellow

Courses
Technology Law, Yale Law School, Spring 2017 (with Jack Balkin and Rebecca Crootof).

Academic Publications

Presentations


Fair Use as Penalty Default, Works-In-Progress in IP Colloquium, Boston University School of Law, 2017.


Hannah Bloch-Wehba – Stanton First Amendment Fellow

Courses
Media Freedom and Information Act Clinic, Yale Law School, 2016-17 (with Jack Balkin, John Langford, and David Schultz).

Popular Publications
*New Disclosures Reflect NSLs’ Substantive First Amendment Flaws*, JUST SECURITY (Dec. 14, 2016).

*Will Trump Kill Executive War Powers?*, THE OUTLINE (June 5, 2017).

Reports

Amicus Briefs
Brief of Amicus Curiae Abrams Institute for Freedom of Expression and First Amendment Scholars, In re NSL (9th Circuit 2017) (arguing that National Security Letter statute’s gag provision is an unlawful prior restraint).

Presentations


MFIA Activities
*Significant Victories & Decisions*


Schwartz v. DoD et al., No. 15-cv-7077 (S.D.N.Y.). FOIA lawsuit for records about censorship of audio feed from Guantanamo military commissions proceedings. Court ordered disclosure of some information, and MFIA obtained attorney’s fees.
ACLU. v. NSA et al. (S.D.N.Y.). FOIA lawsuit for access to the government’s interpretations of its legal authority to conduct communications surveillance abroad pursuant to Executive Order 12,333. Court granted summary judgment for the government.

In Re Access to Opinions of Foreign Intelligence Surveillance Court, No. 13-08 (FISC). Sought access to the opinions of the Foreign Intelligence Surveillance Court (FISC) concerning “bulk” communications surveillance. FISC held MFIA and ACLU lack standing to seek judicial opinions, and en banc FISC reconsidered issue.

New Cases
In Re Access to Opinions of Foreign Intelligence Surveillance Court, No. 16-01 (FISC). Filed motion seeking access to FISC opinions containing “novel or significant interpretations of law.”

Privacy Int’l v. NSA et al. (D.D.C.). FOIA lawsuit for access to information about intelligence-sharing under “Five Eyes” agreement.

Nolen v. First Judicial District et al. (Pennsylvania Commonwealth Court). Filed motion seeking access to arrest reports, jury records, and search warrant affidavits in Philadelphia courts.
Rebecca Crootof - Executive Director

Courses
Technology Law, Yale Law School, Spring 2017 (with Jack Balkin and BJ Ard).

Academic Publications


Popular Publications


Presentations


Invited Participant, Emerging Legal, Legislative, and Liability Issues at the Intersection of Robotics and Policy, Halcyon and the American Association for the Advancement of Science, Halcyon House, 2107.


Guest Lecturer, Political Hacks: State Accountability in Cyberspace, Cyberspace Law Course with Professor Andrew Chin, University of North Carolina School of Law, 2017.


Jean-Philippe Foegle - Resident Fellow

Courses
Transatlantic Clashes on Privacy in a Digitized World (Reading Group), Yale Law School, Fall 2016

Presentations
Claudia Haupt – Resident Fellow

Academic Publications


Popular Publications

Presentations
Ido Kilovaty – Resident Fellow

Academic Publications

*Freedom to Hack* (in progress).


Popular Publications


*The Democratic National Committee Hack: Information as Interference*, JUST SECURITY (August 1, 2016).

*Will “Cyber Bonds” Mitigate Transnational Cyberspace Threats*, JUST SECURITY (June 15, 2016).
Presentations


Doxfare – Politically Motivated Leaks and the Future of the Norm on Non-Intervention in the Era of Weaponized Information, Fellows’ Collaborative at the Georgetown University Law Center, 2017.

Kate Klonick – Resident Fellow

Courses
Social Science and Institutional Design, Yale Law School, Spring 2017 (with Tom Tyler).

Academic Publications

Popular Publications
Facebook, Free Expression and the Power of a Leak, N.Y. TIMES OP-ED (June 27, 2017) (with Margot Kaminski).

The Most Important Lesson From the Leaked Facebook Content Moderation Documents, SLATE (Jun. 29, 2017).

How Online Campaigning is Influencing Britain’s Election, ECONOMIST (May 27, 2017).

Here’s What It Would Take for Twitter to Get Serious About Its Harassment Problem, VOX (Oct. 25, 2016).

Facebook Under Pressure, SLATE (Sept. 12, 2016).

You’ll Never Guess This One Crazy Thing Governs Online Speech, SLATE (Aug. 24, 2016).

Presentations
Presenter, Faculty Talk, University of Arizona Law School, 2017.


Chair, We Robot 2017, Yale Law School, 2017.

John Langford – Abrams Clinical Fellow

Courses
Media Freedom and Information Act Clinic, Yale Law School, 2016-17 (with Jack Balkin, John Langford, and David Schultz).

Amicus Briefs
Brief of Amici Curiae Constitutional, Administrative, Contracts, and Health Law Scholars, Expressions Hair Design v. Schneiderman, 137 S. Ct. 1144 (2017). Argued that a New York statute regulating the imposition of “surcharges” for credit cards should not be subjected to heightened scrutiny under the First Amendment or, in the alternative, should be upheld under intermediate scrutiny as a valid regulation of commercial speech.

Presentations

MFIA Activities
Significant Victories & Decisions
Guardian News & Media LLC v. Ryan, No. 17-17083 (9th Cir.). Argued and won summary judgment motion for access to view entirety of Arizona lethal injection executions.

United States v. Doe, No. 11-cr-479 (2d Cir.). Filed motion to intervene and unseal the Second Circuit’s docket in a criminal case on behalf of journalist Richard Behar and Forbes magazine, argued motion to special master, obtained report and recommendation that all but a handful of documents be released.

In Re Access to Opinions of Foreign Intelligence Surveillance Court, No. 13-08 (FISC). Sought access to the opinions of the Foreign Intelligence Surveillance Court (FISC) concerning “bulk” communications surveillance. FISC held MFIA and ACLU lack standing to seek judicial opinions, and en banc FISC reconsidered issue.
Rosenberg v. DOD (“PERSTAT”), No. 16-cv-2117 (D.D.C.). Negotiated the release of thousands of pages of records detailing personnel reports at Guantanamo Bay for Miami Herald journalist Carol Rosenberg.
New Cases

ACLU v. Los Angeles Police Department, No. BS 169474 (Cal. Sup. Ct.). Filed pattern and practice lawsuit that seeks to compel the Los Angeles Police Department to comply with the California Public Records Act.

In Re Access to Opinions of Foreign Intelligence Surveillance Court, No. 16-01 (FISC). Filed motion seeking access to FISC opinions containing “novel or significant interpretations of law.”

Rosenberg v. DOD (“Kelly Emails”), No. 17-cv-0437 (D.D.C.). FOIA litigation against the Department of Defense seeking email correspondence between General John F. Kelly and Lisa Monaco, the former Assistant to the President for Homeland Security and Counterterrorism.
Caitlin Petre - Resident Fellow

Academic Publications

Gamifying the Workplace, PUBLIC BOOKS (2016).


Becoming Data: The Production of Web Analytics in Journalism (abstract accepted to Digital Journalism special issue on “Measurable Journalism”).

Presentations


Conferences
Hacking the Election

September 20, 2016

In the wake of the DNC hack, there has been a flurry of discussion of how both foreign and domestic actors may use new technologies in the attempt to influence the election, ranging from releasing private information to actively hacking voting machines. This raises a host of legal and political questions regarding the relationship between advanced technologies and the integrity of political processes.

Sponsored by the Oscar M. Ruebhausen Fund.

Panel 1: The DNC Hack (Livestream)
This panel focused chiefly on the recent exposure of thousands of emails belonging to officials of the Democratic National Committee and this action’s implications for national security law, international law, and foreign affairs.
Moderator: Scott Shapiro
Panelists: Jack Goldsmith, Oona Hathaway, Susan Hennessey

Panel 2: Hacking the Election (Livestream)
This panel explored how the presidential election could be affected by the use of different technologies, including manipulative social media algorithms, voting machines vulnerabilities, and cyberattacks or cyber-enabled disinformation campaigns.
Moderator: Jack Balkin
Panelists: Paul Brewer, Michael Fischer, Heather Gerken
Weaponizing Information

January 24, 2017

Information warfare is the use of information to delegitimize rivals and adversaries and/or to push a state’s agenda. The "Weaponizing Information" conference, co-hosted by the Center for Global Legal Challenges and the Information Society Project, brought together legal, policy, political science, and military experts to discuss the history and future trajectory of information warfare in the internet age. While foreign digital interference raises concerns about the security of our democracy, attempts to use information to delegitimize rivals and adversaries, or to push a state’s agenda are not new: rather, they are modern iterations of longstanding information warfare tactics and strategies.

This conference sought to understand the roots of these practices and how today's technology adds new dimensions. In what ways does cyber conflict change – or reassert – existing information warfare norms? What are the military, legal and policy implications of this evolution? What existing precedents should inform new scholarship and policy orienting principles?

Sponsored by the Oscar M. Ruebhausen Fund.

Manipulation and Misinformation: Propaganda and False News (Livestream)
Moderator: Michael Reisman
Speakers: Ellen Goodman, Jason Stanley, Patrick Tucker

Information Warfare in the Cyber Era (Livestream)
Moderator: Oona Hathaway
Speakers: Catherine Lotrionte, Jacquelyn Scehneider, Aaron Brantly
The International Law of Whistleblowers Conference

February 14, 2017

This conference brought together academics and practitioners to discuss the legal protections for whistleblowers, their role in checking executive action, and public perceptions surrounding whistleblowers and its effect on the public interest defense.

*Sponsored by the Oscar M. Ruebhausen Fund.*

**Whistleblowers’ Shields: Anonymity and Asylum**
Anonymity and asylum can shield whistleblowers from state retaliation but also raises technical and legal problems. The effectiveness of online anonymity depends on data security and the scope of state surveillance, and the current asylum framework was not designed to accommodate whistleblowers’ unique needs.

- **Cannelle Lavite**, PhD Candidate, University of Bremen; Project Manager, Blueprint for Free Speech (moderator)
- **Susan Mc Gregor**, Assistant Director, Tow Center for Digital Journalism; Assistant Professor, Columbia Journalism School
- **Anna Myers**, Director, Whistleblowing International Network
- **Patrick Weil**, Visiting Professor of Law, Oscar M. Ruebhausen Distinguished Senior Fellow, and Senior Research Scholar in Law, Yale Law School

**Whistleblowers as a Check on the Executive**

- **Bob Woodward**, Current Associate Editor, *Washington Post*; Visiting Lecturer, Yale University
- **Emily Bazelon**, Senior Research Scholar in Law, Yale Law School; Staff Writer, *New York Times Magazine*

**The Public Perception and the Public Interest Defense**
Whistleblowers often face criminal prosecution. Panelists considered the pros and cons of establishing a “public interest” defense, which would shield whistleblowers from criminal liability when the public interest in the disclosed information outweighs the public interest in prosecution.

- **Jean-Philippe Foegle**, Resident Fellow, Information Society Project; PhD candidate and Lecturer in Law, Université Paris Ouest Nanterre (moderator)
- **Sandra Coliver**, Senior Legal Counsel, Open Society Justice Initiative
- **Tom Devine**, Legal Director, Government Accountability Project
- **Patrick McCurdy**, Associate Professor, Department of Communication, University of Ottawa
Fighting Fake News Workshop
March 7, 2017

The Information Society Project at Yale Law School and the Floyd Abrams Institute for Freedom of Expression hosted a workshop intended to explore the ongoing efforts to define fake news and discuss the viability and desirability of possible solutions.

The discussion encompassed attempts to identify the particular harm associated with fake news; the many First Amendment questions that arise in any attempt to create governmental regulations on specific kinds of speech; and the pros and cons of self-regulation by those involved in the digital ecosystem.

This workshop was meant to be a first step towards encouraging interdisciplinary conversation and work on these issues. There were twenty-one participants from various disciplines, including members of academia, the practicing bar, news organizations, information intermediaries, data scientists, computer scientists, and sociologists.

Support for this workshop was provided by the Information Society Project and the Floyd Abrams Institute for Freedom of Expression.
We Robot 2017
March 31-April 1, 2017

March 31, 2017

Welcome Remarks: Jack Balkin, Director, Information Society Project
Introductory Remarks: Kate Klonick, We Robot 2017 Chair
(Livestream)

Karen Levy and Meg Leta Jones, Sporting Chances: Robot Referees and the Automation of Enforcement
Jack Balkin, Discussant
(Livestream)

Solon Barocas and Andrew Selbst, Taking Explanation Seriously in Law and Machine Learning
Frank Pasquale, Discussant
(Livestream)

Lightning Round: Robot Criminals, Judges, and Lawyers: A Discussion of Robotics and the Justice System
Ying Hu, Drew Simshaw, Daniel Susser, Karen Levy, Kiel Brennan-Marquez
(Livestream)

Brishen Rogers, Discussant
(Livestream)

Rebecca Wexler, Trade Secrets as Evidentiary Privilege
Roger Ford, Discussant
(Livestream)

Lightning Round: Robots’ Place in the World: A Discussion on the Intersection of Robotics and Society
Kate Darling, Judith Donath, Hin-Yan Liu
(Livestream)
April 1, 2017

Kristen Thomasen, *Feminist Perspectives on Drone Regulation*
Madeleine Elish, Discussant
(Livestream)

Marc Canellas, et al., *Framing Human-Automation Regulation: A New Modus Operandi from Cognitive Engineering*

Tracy Pearl, *Reformulating Regulation Around Driverless Cars*

Ed Felten, Discussant
(Livestream)

Demo: Howard Chizeck, Haptic Passwords
(Livestream)

Sophie-Charlotte Fischer, *The Role of the Private Sector in the Governance of Autonomous Weapon Systems: A Principal-Agent Perspective*

Rebecca Crootof, Discussant
(Livestream)

Lightning Round: Private Law and Public Law Answers to AI: A Discussion of Robotics and Regulation

Lauren Henry Scholz, Amanda Levendowski, Kevin Miller, Matthew Scherer, Garry Mathiason
(Livestream)

Michael Guihot, et al., *Nudging Robots: Innovative Solutions to Regulating Artificial Intelligence*


Kate Crawford, Discussant
(Livestream)

Sponsors include the Microsoft, the Omidyar Group, the Rock Center for Corporate Governance, and the Oscar M. Ruebhausen Fund.
Freedom of Expression Scholars Conference (FESC) 5
April 29-30, 2017

At FESC, scholars and practitioners discuss works-in-progress on the freedoms of speech, expression, press, association, petition, and assembly as well as on related issues of knowledge and information policy. FESC has become a fixture on the calendar of leading First Amendment thinkers and scholars nationwide.

April 29, 2017

Floyd Abrams, Welcome Remarks

First Session (Breakout Session)

Heidi Kitrosser, Free Speech, Higher Education and the PC Narrative
Caroline Mala Corbin, Discussant

Moot for Justin Marceau’s upcoming oral argument in Animal Legal Defense Fund v. Wasden, No. 15-35960 (9th Cir.)

Ashley Messenger, Rethinking the Right of Publicity in the Context of Social Media
Sandra Baron, Discussant

Second Session (Breakout Session)

Hannah Bloch-Wehba, Exposing Secret Searches: A First Amendment Right of Access to Electronic Surveillance Applications and Orders
Jameel Jaffer, Discussant

David Pozen, Transparency’s Ideological Drift
John Langford, Discussant

Lyrissa Lidsky, #I [GUN EMOJI] U: Considering the Context of Online Threats
Alexander Tsesis, Discussant

Marc Blitz, Intermediate Scrutiny, the Spence Test, and Other Tools for Navigating Lockean Borderlands
Enrique Armijo, Discussant
Third Session (Plenary Panel) – Press Freedom

Floyd Abrams & David Schulz, Moderators
Christina Koningisor, The De Facto Reporter’s Privilege
RonNell Andersen Jones & Sonja R. West; Press Freedom’s House of Cards
Lisa Sun & RonNell Andersen Jones, Enemy Construction and the Press
D. Victoria Baranetsky, Press Clause and Privacy Principles

Fourth Session (Breakout Session)

Brian Soucek, Permitting Art
Tabatha Abu El-Haj, Discussant

Helen Norton, Government Speech and the War on Terror
Heidi Kitrosser, Discussant

Morgan N. Weiland, First Amendment Metaphors: From “Marketplace” to “Free Flow of Information”
Alan Chen, Discussant

Alexander Tsesis, Categorizing Away Student Speech
Ashutosh Bhagwat, Discussant

Fifth Session (Breakout Session)

Justin Marceau & Alan K. Chen, Material Benefits, Cognizable Harms, and the Scope of the Constitutional Protection for Lies
Lyrissa Lidsky, Discussant

Vincent Blasi, Rights Skepticism and Majority Rule at the Birth of the Modern First Amendment
Genevieve Lakier, Discussant

Caroline Mala Corbin, Depictions of Terrorists in the U.S. through a Critical Race & Propaganda Lens
Maggie McKinley, Discussant

Ashutosh Bhagwat, When Speech is Not “Speech”
Jack Balkin, Discussant
April 30, 2017

Sixth Session (Breakout Session)

Ge Chen, Copyright and International Negotiations: An Engine of Free Expression in China
BJ Ard, Discussant

Tabatha Abu El-Haj, “Live Free or Die” – Liberty and the First Amendment
Amanda Shanor, Discussant

Jonathan Manes, Methods & Techniques: The Problem of Secret Innovation in Law Enforcement
Hannah Bloch-Wehba, Discussant

Seventh Session (Breakout Session)

Roy Gutterman, Ballot Selfies: New Political Speech in Search of First Amendment Protection in Social Media
Claudia Haupt, Discussant

Enrique Armijo, Government-Provided Internet Access, Infrastructures of Free Expression, and the Role of the State
Andrew Tutt, Structural Barriers to the Transformation of the United States Into a “Democratic” Information State
David Schulz, Discussant

Eighth Session (Lunchtime Plenary Panel) – Content Regulation

Robert Post, Moderator
Genevieve Lakier, Reed v. Town of Gilbert, Arizona and the Rise of the Anti-Classificatory First Amendment
Claudia Haupt, Professional Speech and the Content-Neutrality Trap
Commercial Speech II: Creeping Commercial Speech

June 13, 2017

This conference focused on the pursuit of a definition of “commercial speech” and provided a multi-faceted account of how the absence of a coherent definition impacts First Amendment protections with regards to the content creation community, creativity in advertising, and other areas of corporate speech.

Planning Committee: Sandra S. Baron, Abrams Institute for Freedom of Expression, Yale Law School; Chris Beall, Fox Rothchild LLP; Scott Dailard, Cooley LLP; Bruce Johnson, Davis Wright Tremaine LLP; and Rick Kurnit, Frankfurt Kurnit Klein & Selz PC.

Funding for the conference was provided by: Avvo, Inc., Cooley LLP, Davis Wright Tremaine LLP, Fox Rothschild LLP, Frankfurt Kurnit Klein & Selz PC, Levine Sullivan Koch & Schulz, LLP.

Opening Conversation
Jason DeLand, Founding Partner of Anomaly, and Shawn Flowers, Deputy Counsel, Time Inc., considered what “commercial speech” is to those who pay to create and disseminate it and to the media that rely on it for their existence.

The Creep and Its Impact
In the absence of a considered or even consistent definition of “commercial speech,” regulators and legislatures continue to limit speech by classifying it as commercial. Consider Kasky v. Nike versus Citizens United, Sorrell and Reed: What scrutiny is to be applied in evaluating the constitutionality of speech regulation? How are courts applying Reed and Sorrell in judicial review of statutes and regulations abridging freedom of speech?

- Jack Balkin, Knight Professor of Constitutional Law and the First Amendment, Yale Law School
- Steven G. Brody, Partner, Morgan, Lewis & Bockius LLP
- Jonathan Donnellan, Vice President and Deputy General Counsel, Hearst Corporation
- David Viadeck, A.B. Chettle, Jr. Professor of Law, Georgetown University Law Center
- Moderated by Bruce Johnson, Partner, Davis Wright Tremaine LLP
Right of Publicity
The expansion of right of publicity claims against content classified as “commercial speech” poses a substantial chilling effect on free speech. The opportunity to punish speech through litigation costs and runaway damage awards against speech or speakers that are disfavored or unpopular is exploding. Meanwhile, increasing concerns for individual privacy are expanding claims for commercial appropriation of identity against creators of content in a variety of genres and new media. Is there a definition of “commercial speech” that might put boundaries on these claims and that the Supreme Court might adopt?

- Jennifer Rothman, Professor of Law and Joseph Scott Fellow, Loyola Law School (Los Angeles), Loyola Marymount University
- Katherine Surprenant, General Counsel, National Media & Marketing, Meredith Corporation
- Alonzo Wickers, Partner, Davis Wright Tremaine LLP
- Moderated by Rick Kurnit, Partner, Frankfurt Kurnit Klein & Selz PC

Beyond “Native Advertising”
As media try to stay both economically and editorially relevant, they are creating new business models and formats both for their own content and for that of advertisers and brands. Where do these new models and formats fit within First Amendment analysis? Will the creep of commercial speech regulation inhibit or even make them untenable? And can the framework for commercial speech regulation be stretched to cover fake news?

- Eric Goldman, Professor, Santa Clara University School of Law
- David Perpich, President and General Manager of the Wirecutter
- Tamara Piety, Professor of Law, University of Tulsa College of Law
- Moderated by Scott Dailard, Partner, Cooley LLP
Challenges of Advanced Technology and Artificial Intelligence in the 3A Era of “Dark Mirror”

June 12, 2017

Patricia Sánchez Abril, Associate Professor, Business Law, University of Miami School of Business Administration

BJ Ard, ISP Resident Fellow; PhD Candidate in Law, Yale Law School

I. Glenn Cohen, Faculty Director, Petrie-Flom Center for Health Law Policy, Biotechnology and Bioethics; Professor of Law, Harvard Law School

Rebecca Crootof, ISP Executive Director

Camilla A. Hrdy, ISP Affiliate Fellow, Assistant Professor, Akron Law School

Ido Kilovaty, ISP Resident Fellow; Cyber Fellow, Center for Global Legal Challenges

Shlomit Yanisky Ravid, ISP Visiting Fellow; Founder and Academic Director, Shalom Comparative Legal Research Institute, ONO Academic Law School, Israel; Visiting Professor, Fordham Law

Christina Spiesel, ISP Affiliated Fellow

Ramesh Subramanian, ISP Resident Fellow; Gabriel Ferrucci Professor of Computer Information Systems, School of Business, Quinnipiac University

Xiyin Tang, ISP Yale Affiliated Fellow

This event was hosted by the Information Society Project at Yale Law School and The Shalom Comparative Legal Research Institute, OAC, I-L.
Activities
Access to Knowledge (A2K)

Access to Knowledge (A2K) refers to the right to participate in the creation, distribution, and acquisition of raw information, secondary analyses of data, and knowledge-embedded tools and services. The A2K critical discourse emphasizes the value of openness and highlights the impact of knowledge policy on international development and civil liberties. It touches on a wide variety of policy issues, including those related to patents, copyright, media openness, communication technologies, access to government information, open-access scholarship, spectrum allocation, interoperability standards, and the preservation of traditional knowledge. A2K policy aims include fostering broader participation in civic, cultural, and educational affairs; expanding the benefits of scientific and technological advancement; and promoting innovation, development, and social progress around the world.

The ISP’s Access to Knowledge (A2K) initiative is part of the larger Access to Knowledge Global Academy, a network of scholars at institutions in Brazil, China, Egypt, India, South Africa, and the United States dedicated to promoting academic scholarship, research, and policy analysis on access to knowledge issues for information-poor communities.

The ISP’s A2K initiative has hosted workshops and published a number of reports and books, including country-specific analyses and subject-matter studies. The ISP recently published a book on global censorship and is now finalizing one on the impact of mobile technologies.

Much of the ISP’s A2K work has been supported by the John D. & Catherine T. MacArthur Foundation and by individual donors.
Knight Law and Media Program

The Knight Law and Media Program (Knight LAMP) is designed to foster a deeper understanding of the issues at the intersection of law, media, and journalism and to encourage Yale Law School students to pursue careers in media law. It is focused on providing support and programming for students who plan to be journalists, journalist advocates, and policy makers or leaders in the media industry; for working journalists who seek a deeper understanding of law, media, and policy; and for scholars who focus on media law issues. Professor Jack Balkin serves as the Program’s director. Knight LAMP supports the work of ISP Resident Fellows and Knight LAMP Student Fellows (Yale Law School students with summer internships focused on media law, defending the First Amendment, or working for the protection of journalism or journalists). The Knight LAMP program also sponsors various events, including conferences, academic roundtables, speakers, and writing workshops.

Knight LAMP is made possible by a generous contribution from the John S. and James L. Knight Foundation, which also enables Yale Law School to bring working journalists in for training programs and conferences.

Speaker Series

FOIA Bootcamp 2017, February 1, 2017
Dan Klau, First Amendment Litigator; President, Connecticut Foundation for Open Government
Michael Morisy, Co-Founder, Muckrock

Tech and the New Politics of Power, February 15, 2017
Nancy Scola, Senior Technology Reporter, POLITICO

Journalism, Technology and Gender in the Trump Era, February 21, 2017
Amanda Hess, Staff Writer, New York Times

The Past and Future of Trump Reporting, February 27, 2017
Jeff Horwitz, DC Investigative Reporter, AP

Covering the Movements Changing America, April 25, 2017
Amy Goodman, Host and Journalist, Democracy Now!
Writing Workshops

How to Write an Op-Ed, September 23, 2016
Emily Bazelon

Writing with Influence: A Workshop on Short-Form Content, October 24, 2016
Jack Goldsmith

How to Write and Pitch an Op-Ed, December 1, 2016
Lincoln Caplan
The Law & Tech Speaker Series on Information Law and Information Policy hosts leading experts, speaking about their latest papers or projects.

This speaker series is sponsored by the Oscar M. Ruebhausen Fund. Asterisked events were co-sponsored with the Center for Global Legal Challenges.

Big Data Off Broadway, September 6, 2016
Harry Fox Davies, Research and Digital Associate, Privacy Production

The Fourth Amendment in a Digital World*, September 13, 2016
Laura Donohue, Professor of Law, Georgetown Law

Friending the Privacy Regulators, September 27, 2016
William McGeveran, Professor of Law, University of Minnesota

Vivek Mohan, Privacy Counsel, Apple Inc.

National Security in the Digital Age*, October 17, 2016
David Sanger, Journalist, New York Times

Pharma, Freedom of Expression, and Fraud, October 18, 2016
Matthew Herder, Associate Professor, Dalhousie University

Transatlantic Perspectives of Privacy and Cybersecurity: A Proposal, October 25, 2016
Pierluigi Perri, Associate Research Professor, University of Milan Law School
David Thaw, Assistant Professor, University of Pittsburgh

Lunch Talk with Michael Sulmeyer*, October 31, 2016
Michael Sulmeyer, Director, Cyber Security Project, Belfer Center, Harvard Kennedy School

Lunch Talk with Richard Salgado*, November 8, 2016
Richard Salgado, Director, Information Security and Law Enforcement Matters, Google
Michael Schmitt, Chairman and Professor, U.S. Naval War College Stockton Center for the Study of International Law

Accountability for War Algorithms, January 17, 2017
Dustin Lewis, Senior Researcher at Harvard Law School Program on International Law and Armed Conflict

The Hidden Costs of Requiring Accounts Online, January 31, 2017
Aaron Shaw, Assistant Professor of Communication Studies, Northwestern University

Journalism, Technology, and Gender in the Trump Era, February 21, 2017
Amanda Hess, Staff Writer, New York Times

Ubiquitous DNA Forensics and Cross-Kingdom Clues: The Evisceration of Molecular Privacy, February 28, 2017
Christopher Mason, Associate Professor, Weill Cornell Medicine

Wikimedia Foundation vs. NSA: Fighting Against the Chilling Effects of Online Surveillance, March 21, 2017
Jim Buatti and Zhou Zhou, Wikimedia Foundation Attorneys

Rethinking Internet Freedom in the Age of Cybercontrol, March 28, 2017
Laura DeNardis, Professor of Internet Architecture, American University

General Counsel as Public Policy Advocate, April 4, 2017
Michal Rosenn, General Counsel, Kickstarter

Blockchain and the Future of Transparent Accountable Government, April 4, 2017
Tomicah Tillemann, Co-founder, Blockchain Trust Accelerator at New America; and Brian Behlendorf, Executive Director, Hyperledger Project

Talk with Dave Willner, April 11, 2017
Dave Willner, Head of Community Policy, Air BnB; former Head of Content, Facebook

It’s Too Complicated: How the Internet Upends Katz, Smith, and Electronic Surveillance Law*, April 18, 2017
Susan Landau, Professor of Cybersecurity and Policy and Computer Science, Tufts University

The Attention Merchants: The Epic Scramble to Get Inside Our Heads (Book Talk), April 20, 2017
Tim Wu, Professor of Law, Science and Technology, Columbia Law School
Ideas Lunches

The ISP facilitates a series of ideas lunches, informal weekly gatherings of students, fellows, faculty, and guest speakers to discuss new ideas related to emerging issues in media law and technology.

The Death of FOIA
Beth Noveck

Overview of the Media Freedom and Information Access (MFIA) Clinic
MFIA Clinic Student Directors

Monopoly and Antimonopoly in American Telecommunications from Chappe to Comcast
Richard R. John

Reproductive Freedom
Brigitte Amiri

Overview and Deep Dive into the Fourth Amendment
Kiel Brennan-Marquez

Legal Disruption: Case Studies in Law and Robotics
Margot Kaminski

Trickle Up/Down Privacy
Ari Ezra Waldman

Harm Reduction, Reproductive Justice, and Democratic Action
Joanna Erdman

Against a Trade Secrets Privilege in Criminal Cases
Rebecca Wexler

The End of Ownership: Personal Property in the Digital Economy
Aaron Perzanowski

Lunch with Dean Post
Robert Post

The Wealth of Humans
Ryan Avent
Use of Experts in Reproductive Justice Litigation
Jen Keighley

Cancer's IP
Jake Sherkow

The Role of Expert Evidence in Reproductive Justice Litigation
Mai Ratakonda

Empirical Research on Bitcoin Providers
Iona (Hanna) Deleanu

Designing Democratic Accountability for an Algorithmic Age
Sabeel Rahman

What Happens When an Acquaintance Buys Your Data?: A New Privacy Harm in the Age of Data Brokers
Theo Rostow

Catastrophic Risks as a Consequence of Scientific and Technical Progress: A Legitimate Governance Regime and the Impact of Public International Law
Silja Voneky

From Habermas to Hannity: Addressing Dysfunctional Public Discourse in the Arab World and Beyond
Belabbes Benkredda

A Cloud for Global Good
Sue Glueck

Humans as a Service
Jeremias Prassl

Anti-Trust Law
Konstantinos Stylianou

The Fetal Hosts: Ending Pregnant Women's Autonomy in End-of-Life Care
Maya Manian
FAIA: Foreign Affairs in the Internet Age

Foreign Affairs in the Internet Age explores the relationship between the Internet and foreign policy. The growth of the Internet has changed how international law-making is conducted. It has also affected how we understand accountability, secrecy, and democratic participation in treaty negotiations.

FAIA is led by the following Yale Law faculty members: Jack Balkin, David Grewal, Oona Hathaway, and Amy Kapczynski. Rebecca Crootof is an affiliated fellow. FAIA works collaboratively with Yale Law students, and has co-sponsored events with the Yale Law National Security Group and the Yale Journal of Law and Technology.

*This initiative is sponsored by the Oscar M. Ruebhausen Fund. Asterisked events were co-sponsored with the Center for Global Legal Challenges.*

The Fourth Amendment in a Digital World*, September 13, 2016
Laura Donohue, Professor of Law, Georgetown Law

Vivek Mohan*, Privacy Counsel, Apple Inc.

National Security in the Digital Age*, October 17, 2016
David Sanger, Journalist, *New York Times*

Lunch Talk with Richard Salgado*, November 8, 2016
Richard Salgado, Director, Information Security and Law Enforcement Matters, Google

Michael Schmitt, Chairman and Professor, U.S. Naval War College Stockton Center for the Study of International Law

Rethinking Internet Freedom in the Age of Cyber Control, March 28, 2017
Laura DeNardis, Professor of Internet Architecture, American University

Net Neutrality, Cybersecurity, and Beyond, March 29, 2017
Travis LeBlanc, former Chief, Federal Communication Enforcement Bureau
BJ Ard, PhD Candidate, Yale Law School
It’s Too Complicated: How the Internet Upends *Katz, Smith, and Electronic Surveillance Law*, April 18, 2017

Susan Landau, Professor of Cybersecurity and Policy and Computer Science, Tufts University
The Floyd Abrams Institute for Freedom of Expression at Yale Law School promotes freedom of speech, freedom of the press, and access to information as informed by the values of democracy and human freedom. The Abrams Institute is made possible by a generous gift from Floyd Abrams, one of the country’s leading experts in freedom of speech and press issues, who both graduated from and has taught at Yale Law School.

The Institute's mission is both practical and scholarly. It includes a clinic for Yale Law students to engage in litigation, draft model legislation, and advise lawmakers and policy makers on issues of media freedom and informational access. It promotes scholarship and law reform on emerging questions concerning both traditional and new media. The Institute also holds scholarly conferences and events at Yale on First Amendment issues and on related issues of access to information, Internet and media law, telecommunications, privacy, and intellectual property.

The Media Freedom and Information Access Clinic (MFIA) is associated with the Abrams Institute; its activities are detailed separately below.

**Freedom of Speech in the Founding Era, September 9, 2016**
This Salon examined freedom of speech in the founding era. The discussion featured Professor Stephen Solomon (Associate Professor of Journalism, NYU; Associate Director, NYU’s Arthur L. Carter Journalism Institute; author of Revolutionary Dissent (2016)) and Professor Akhil Amar (Sterling Professor of Law, Yale Law School) and was moderated by Professor Nadine Strossen (John Marshall Harlan II Professor of Law, NYU Law School).

**Brown Bag Lunch: Government Ethics Rules for Journalists and Their Lawyers, January 10, 2017**
This off-the-record session produced a free-wheeling discussion of the rules governing governmental conflicts of interest and the ethical obligations of executive branch personnel – what information would be most relevant for journalists to seek out, where to find it, and how to make sense of it. It addressed the rules governing conflicts of interest and the ethical obligations of executive branch personnel. The event fortuitously occurred the day before Mr. Trump’s press conference about how he intended to address his ethical issues once in office.

- **Kathleen Clark**, Professor of Law, Washington University, St. Louis; former counsel to the Senate Judiciary Committee
• Norman Eisen, Fellow, Brookings Institute; Chief Ethics Counsel to President Obama, 2009-2011
• Richard Painter, Professor of Law, University of Minnesota Law School; Chief Ethics Counsel to President Bush, 2005-2007
• Steven Schooner, Professor of Law, George Washington University; former administrator in the Office of Federal Procurement Policy

FOIA Bootcamp 2017, February 1, 2017
The FOIA Bootcamp has become an annual program of the Abrams Institute and the Media Freedom and Information Access Clinic. It is open to members of the Yale community and beyond, and draws attendance from local journalists, advocates, activists, and others. The bootcamp provides a framework for understanding how FOIA can be used and practical advice about how best to use it.

• Dan Klau, First Amendment litigator; President, Connecticut Foundation for Open Government
• Michael Morisy, Co-Founder, MuckRock

Brown Bag Lunch: Protecting Sources and Secrets, March 16, 2017
This workshop explored the legal risks confronted by insiders who leak information to the press, the potential liabilities of journalists who encourage or facilitate those leaks, and risk minimization strategies for journalists.

• Kathleen Clark, Professor of Law, Washington University, St. Louis; former counsel to the Senate Judiciary Committee
• Susan Hennessey, Fellow, National Security in Governance Studies, Brookings Institution; former attorney, Office of General Counsel, National Security Agency
• Susan McGregor, Assistant Director, Tow Center for Digital Journalism; Assistant Professor, Columbia Journalism School

Digital Security for Clinic Students, March 30, 2017
This training on digital security was designed for students currently enrolled in a YLS clinic. Participants learned about the security of their electronic messages, what Signal is, how to use @ylsclincs mail, and their ethical obligations regarding client communications confidentiality.

Abrams Institute First Amendment Salon: Adam Liptak and Floyd Abrams on “The Soul of the First Amendment,” April 5, 2017
Floyd Abrams, a noted lawyer and award-winning legal scholar specializing in First Amendment issues, and Adam Liptak, the Supreme Court correspondent for The New York Times, discussed Abrams’ recent book, which examines the degree to which American law protects free speech more often, more intensely, and more controversially than anywhere else in the world.
Freedom of Expression Scholars Conference (FESC) 5, April 29 - 30, 2017
The Freedom of Expression Scholars Conference (FESC) took place at Yale Law School on April 29-30, 2017. A full description of the event is provided in the “Conferences” section.

Commercial Speech and the First Amendment Conference, June 5, 2017
This half-day conference focused on the pursuit of a definition of “commercial speech” and a multi-faceted look at how the absence of a coherent definition impacts First Amendment protections with regards to the content creation community, creativity in advertising, and other areas of corporate speech. A full description of the event is provided in the “Conferences” section.

Trademarks in Entertainment in Conflict, February 1, 2017
It is not uncommon for those producing entertainment content to utilize goods or other items that are trademarked. Singles at a bar in a romantic comedy order a Budweiser. A group of men in a movie are on their way to a baseball game, dressed in team regalia. Someone in a reality program visits the Rock and Roll Hall of Fame. How are the conflicting rights of those engaged in free expression and the rights of trademark owners resolved? This panel discussed how lawyers evaluate the use of trademarked materials in content and promotional materials.

- **Stephanie Abrutyn**, Senior Vice President & Chief Counsel, Litigation, Home Box Office, Inc. (moderator)
- **Yvette Encarnacion**, Senior Vice President, Intellectual Property & Litigation, Viacom Media Networks
- **Ayala Deutsch**, Executive Vice President and Deputy General Counsel, NBA Properties, National Basketball Association
- **Alonzo Wickers**, Partner, Davis Wright Tremaine

*This panel was funded by the Payson R. Wolff Lectureship, created to honor YLS alumnus Payson R. Wolff, one of the leading entertainment lawyers of his generation.*

Speech, Surveillance, and Secrecy under the Trump Administration, March 20, 2017
During the campaign, Donald Trump said he would “open up” libel law so that newspapers could more easily be sued and called for the surveillance of mosques in the United States. As president-elect, he tweeted that those who burned the flag should lose their citizenship and be jailed. After he took office, the White House barred specific news organizations from attending a press briefing. This discussion focused on the future of the First Amendment under the Trump Administration.

- **Jameel Jaffer**, founding Director, Knight First Amendment Institute, Columbia University; former Deputy Legal Director, ACLU
- **Robert Post**, Dean and Sol & Lilian Goldman Professor of Law, Yale Law School
ISP's Program for the Study of Reproductive Justice serves as a national center for academic research and development of new ideas to promote justice with respect to reproductive health issues, provide a supportive environment for young scholars interested in academic or advocacy careers focusing on reproductive rights and justice issues; and creates opportunities for communication between the academic and advocacy communities.

In the last few years, PSRJ has been more directly engaged in the advocacy world, providing front-line organizations with legal and political ammunition to be more effective, especially through our amicus practice, and acting as academic validators by testifying in Congress and providing expert legal opinion to the press. We work in coordination with national groups, facilitating access to the legal and intellectual firepower that the YLS faculty and students can provide. In the past year, this hard work has begun paying off.

**PSRJ Speaker Series**

Brigitte Amiri, Freedom Project Attorney, ACLU

**Louise Melling Lecture**, October 11, 2016  
Louise Melling, Deputy Legal Director, ACLU

**Harm Reduction, Reproductive Justice and Democratic Action**, October 20, 2016  
Joanna Erdman, Assistant Professor of Law, Dalhousie University

**Use of Experts in Reproductive Justice Litigation**, January 26, 2017  
Jen Keighley, Litigation & Law, Planned Parenthood Federation of America
Panels

SCOTUS Talks Abortion: Unpacking the Supreme Court’s Decision in Whole Woman’s Health, September 28, 2016

On June 27, 2016, the Supreme Court issued the most significant abortion rights ruling in a generation when it struck down a Texas TRAP law that would have forced more than half of the state’s abortion clinics to close. Stephanie Toti, the Center for Reproductive Rights plaintiffs’ litigator who argued before the Court, provided an insider’s view. YLS professors Reva Siegel, and Linda Greenhouse discussed the implications of the case for the legal standard protecting women’s rights and future advocacy for reproductive health care. The panel was moderated by Cilla Smith, Director of the Program for the Study of Reproductive Justice.

Sponsored by the Program for the Study of Reproductive Justice, Law Students for Reproductive Justice and the American Constitution Society.

Accessing Abortion in a Hostile Climate, Panel Discussion with Dr. Rebecca Gomperts, Gruber Distinguished Lecture in Global Justice, February 7, 2017

The panel examined how information and services are obtained in settings hostile to abortion, and the legal and health implications of these actions. Each panelist presented a brief outline of the legal and policy framework in her area, the conditions under which abortions are performed, the incidence and consequences of self-induced abortions, if applicable, and what these experiences can teach us about a potential post-Roe future.

- Violeta Canaves, Yale Law
- Farah Diaz-Tello, UC Berkeley Law
- Prof. Joanna Erdman, Schulich Law/Dalhousie (respondent)
- Dr. Rebecca Gomperts (respondent)
- Cherisse Scott, Sisterreach

Black Mamas Matter: Maternal Mortality and Racial Disparities in Maternal Care, March 1, 2017

Black women are four times more likely to die from pregnancy-related complications than white women. Maternal mortality rates in Texas are the highest in the entire developed world, driven in part by a disproportionate number of black women dying from giving birth. This panel lunch talk with Elizabeth Gay and Kwajelyn Jackson, Steering Committee Members for Black Mama’s Matter (BMM), discussed these issues.

Sponsored by the Solomon Center for Health Law & Policy, the Program for the Study of Reproductive Justice, and the Global Health Justice Partnership.
VLP runs a year-long practicum that trains law students in the art of visual advocacy – making effective arguments through film; explores the intersection between law and film through multidisciplinary workshops, discussions with renowned guest speakers, and hands-on production; produces intellectually stimulating and well-researched films grounded in the stories of people who live out the consequences of the law; and is part of a rising community of students, lawyers, and filmmakers invested in visual advocacy. Through the generous support of the Liebman Fund, VLP was able to produce short films and invite a number of experts to Yale Law School during 2016-2017.

Events

Sandra Ristovska, Visual Law Project Advisor, Yale Law School
This lecture brought together examples about the relevance of visual media to the law and how it interacts with evidence, advocacy and analysis. The talk discussed the impact of framing and camera angles to perceptions about police coercion and jury bias.

Photography as Agency, October 11, 2016
Mari Bastashevski, World Fellow, Yale University; and Pete Brook, Writer and Curator
Pete Brook discussed on his work with photographs by prisoners and guards, as well as the role of authorship and intention. Pete was in conversation with World Fellow Mari Bastashevski about the agency of image outside of photojournalism.

Sandra Ristovska, Visual Law Project Advisor, Yale Law School
This lecture reviewed how three human rights organizations — Amnesty International, Human Rights Watch, and WITNESS — use video. The talk emphasized video advocacy for legal audiences, providing examples from screenings in front of the Office of the Prosecutor of the International Criminal Court and the UN Commission of Inquiry.

Video Evidence, Trial Coverage, and Advocacy: International Criminal Tribunal for the former Yugoslavia, November 2, 2016
Sandra Ristovska, Visual Law Project Advisor, Yale Law School
This lecture discussed how the International Criminal Tribunal for the former Yugoslavia (ICTY) uses video to provide trial coverage and evidence and to engage in advocacy. The lecture was based on a fieldwork at this Tribunal and featured video clips.
JALANAN (Screening), November 2, 2016
Daniel Ziv, World Fellow, Yale University
VLP screened the award-winning Indonesian musical documentary JALANAN, hosted by JALANAN producer/director Daniel Ziv (Yale World Fellow 2016) who discussed the idea and messages behind the film, and its unique social and political resonance. The screening was followed by a Q&A.

The Secret Image: The Role of Research-Based Photography in Delineating State and Corporate Secrecy, November 16, 2016
Mari Batashevski, World Fellow, Yale University
Mari Bastashevski spoke about her work as an artist who investigates the commercial transactions that take place within the realm of conflict commerce — those that are usually protected by state and corporate secrecy.

Zero Days (Screening), December 1, 2016
Alex Gibney, Documentary Filmmaker
VLP screened Zero Days, a documentary thriller about Stuxnet and the coming age of cyber conflict. Zero Days is the most comprehensive film to date on the CIA, U.S. military, and allied nations' joint effort to infiltrate Iranian nuclear facilities with cyber weapons, ushering in a new era of cyber conflict, and raising serious ethical debates over the secrecy and security of cyberattacks. A Q&A with Academy Award-winning director and Yale graduate Alex Gibney followed.

Working with Images Workshop, February 16, 2017
Christina Spiesel, Senior Research Scholar, Yale Law School
Christina Spiesel presented a shortened version of her class on legal documentaries. She worked with students in how to craft narratives about critical legal issues.

The Law in These Parts (Screening) & Working with Videos Workshop, February 23, 2017
Ra’anan Alexandrowicz, Documentary Filmmaker
VLP screened The Law in These Parts, along with a workshop session with award-winning filmmaker Ra’anan Alexandrowicz. The workshop included a cut-by-cut analysis of one of the film’s scenes, focusing on an in-depth understanding of documentary editing processes. Walking participants through the editing process, Alexandrowicz discussed his decisions in composing a scene as well as the ethical and aesthetical dilemmas that informed his choices.

Video Evidence & Verification Workshop, March 2, 2017
Kelly Matheson, Human Rights Attorney, WITNESS, Video as Evidence Program
Thanks to the global proliferation of inexpensive mobile devices, video captured by citizens and on-the-ground human rights activists can be instrumental in drawing attention to human rights violations. But many filmers want their videos to do more. They have the underlying expectation that footage exposing abuse can help bring about justice and accountability. And it can. Kelly Matheson highlighted the essential role
lawyers play in moving citizen-shot video footage from capture to courtroom to secure justice and accountability. She also identified the opportunities and challenges of using video evidence through interactive exercises.

**Patent Graphics in Court**, April 13, 2017  
**Greg Diskant**, Senior Litigation Partner, Patterson Belknap  
Greg Diskant spoke about his experience as a patent lawyer and how to communicate complex ideas and tools in court to juries and judges. He highlighted the importance of clear and effective visual representations.

**Storytelling and the Law Workshop**, April 13, 2017  
**Emily Bazelon**, Senior Research Scholar in Law, Yale Law School; Staff Writer, *New York Times Magazine*  
Emily Bazelon discussed the importance of visual media in journalism.

**We Break Things (Screening)**, April 20, 2017  
**Rebecca Wexler**, Co-founder, Visual Law Project  
VLP screened *We Break Things* (VLP production) and a Q&A with Rebecca Wexler.

**Projects**

**Lead Poisoning in Connecticut (Film)**. Five-minute film about lead poisoning issues in Connecticut. Planned in partnership with Connecticut Legal Services.

**The Executive Order (Film)**. Five-minute film about President Trump’s disastrous Executive Order.

**Publications**


**Reading Group**

**Visual Jurisprudence**  
Sandra Ristovska, Ph.D., and Helen Li, 3L  
The law has long been an institution that considers words to be the best vehicle for transporting its logic. Like many social and political institutions, the law associates words with reason, systematic thinking, and deliberation, pushing aside the value of images as tools that work differently from words. When used, the law insists that visuals need words to anchor their legal meaning. Visuals and words, however, facilitate different processes of knowledge acquisition, and now as never before visual exhibits
are important feature of the courtroom. This reading group was a broad survey of the various ways in which images intersect with the law on the level of evidence and advocacy, highlighting the critical visual skills needed to assess the legal value of a wide range of visual media. As knowing how to ‘read’ images is closely linked to knowing how to work with images, the reading group also included workshops on video production, such as storytelling, interviewing, shooting and editing. These workshops took place during the regularly scheduled meetings following the discussion of the readings. Throughout the semester, scholars, advocates, and filmmakers will deliver guest workshops and lectures, allowing students to interact with practitioners in the field.
Clinical Activities
Media Freedom and Information Access Clinic

The Media Freedom and Information Access Clinic (MFIA) provides *pro bono* legal representation to journalists, press organizations, and advocacy groups. Its dual missions are to support robust investigative journalism in the digital age and to advance the public’s right of access to information needed for democracy to function. MFIA engages in impact litigation and pursues policy projects that address key issues surrounding government transparency and the protection of a vigorous press. MFIA is a program of the Floyd Abrams Institute for Freedom of Expression at Yale Law School. MFIA students are supervised by MFIA co-Director David Schulz, MFIA Fellows Hannah Bloch-Wehba and John Langford, and staff attorney Cortelyou Kenney. The clinic’s docket is currently organized around six project areas:

**Constitutional Access**
Lawsuits designed to expand and enforce the constitutional right of access to governmental proceedings and related records. Typical matters include Section 1983 litigation to establish constitutional rights to information about state actions such as executions and federal litigation to establish a right of access to classified information filed in Guantanamo cases.

**Government Accountability**
Projects seeking to secure information needed for democratic oversight of government operations, law enforcement agencies, and the criminal justice system. Representative matters include lawsuits in New York and Los Angeles to obtain information needed for law enforcement accountability.

**National Security and the Surveillance State**
Lawsuits seeking access to information critical to oversight of our nation’s security policies. Active matters include lawsuits seeking substantive opinions of the Foreign Intelligence Surveillance Court and policies by which our intelligence agencies conduct surveillance on U.S. persons abroad.

**Open Data**
Lawsuits seeking to compel the disclosure of information vital to ensure proper regulatory behavior and science-based decisions. Current cases seek to achieve a legal framework that ensures the integrity of medical tests used in new drug approvals and promotes access to data by academic researchers.

**Newsgathering and Publication**
Defending those eligible for the protections afforded by the Constitution’s press clause in a world where online publishing is widespread and litigating issues that shape the ability of journalists to gather news, including prior restraints, privacy, and the use of
new technologies. Representative matters include cases asserting a right to photograph matters of public concern.

Clinic Personnel

Jack Balkin, Knight Professor of Constitutional Law and the First Amendment. Jack Balkin is the founder and director of Yale’s Information Society Project. He has served as the director of the MFIA Clinic since its inception as a student-run practicum in 2009.

David A. Schulz, Clinic Co-Director. David Schulz is a partner in the law firm Ballard Spahr LLP with a national trial and appellate practice representing news and entertainment media in defamation, privacy, newsgathering, access, intellectual property and related First Amendment matters. Mr. Schulz has been co-directing the MFIA Clinic since it was launched in 2009. Since fall 2015, Mr. Schulz has worked full time at the clinic.

Hannah Bloch-Wehba, Stanton First Amendment Fellow. Hannah Bloch-Wehba is the inaugural Stanton First Amendment Fellow in the MFIA Clinic. She graduated from NYU School of Law. Ms. Bloch-Wehba worked as an associate at Baker Botts LLP, and served for two years as the Stanton National Security Fellow at the Reporters Committee for Freedom of the Press.

John Langford, Abrams Clinical Fellow. John Langford is the Abrams Clinical Fellow. He graduated from Yale Law School, during which time he was an ISP student fellow, Knight Law & Media fellow, and a four-semester member of the Media Freedom and Information Access Clinic. Mr. Langford served as an associate at WilmerHale and clerked for the Hon. Robin S. Rosenbaum of the U.S. Court of Appeals for the 11th Circuit.

Cortelyou Kenney, Staff Attorney. Cortelyou Kenney is a Research Scholar in Law, Clinical Lecturer in Law, and Staff Attorney at the Collaboration for Research Integrity and Transparency at Yale Law School. She most recently served as a Thomas C. Grey Fellow and Lecturer in Law at Stanford Law School. Prior to that, she was a fellow at the National Women’s Law Center and was an associate in the Appellate & Supreme Court practice group at Wilmer Cutler Pickering Hale & Dorr in Washington, D.C. She clerked for Judge Roger L. Gregory on the United States Court of Appeals for the Fourth Circuit and Judge Miriam Goldman Cedarbaum of the United States District Court for the Southern District of New York.

Allison Douglis, (Incoming) Student Director. Allison Douglis has been a member of the MFIA clinic for four semesters and is a student director this year.
Meenakshi Krishnan, (Incoming) Student Director.
Meenu Krishnan has been a member of the MFIA clinic for four semesters and is a student director this year.

Delbert Tran, (Incoming) Student Director.
Delbert Tran has been a member of the MFIA clinic for three semesters and is a student director this year.

Clinic students have had the opportunity to work closely with the following practitioners:
Alexander Abdo, Senior Staff Attorney, Knight First Amendment Institute
Michael Berry, Partner, Ballard Spahr LLP
David J. Bodney, Partner, Ballard Spahr LLP
Jay Ward Brown, Partner, Ballard Spahr LLP
Ashley Gorski, Nadine Strossen Fellow, ACLU National Security Project
Craig Hoffman, Partner, Ballard Spahr LLP
Daniel J. Klau, Of Counsel, McElroy, Deutsch, Mulvaney & Carpenter LLP
Christina Koningisor, First Amendment Fellow, The New York Times (MFIA alumnus)
Tom Leatherbury, Partner, Vinson & Elkins LLP
David McCraw, Assistant General Counsel, The New York Times
Bernard J. Rhodes, Partner, Lathrop & Gage LLP
Patrick Toomey, Staff Attorney, ACLU National Security Project
Adrienna Wong, Staff Attorney, ACLU of Southern California (MFIA co-founder)

**Significant Victories and Court Decisions**

**Guardian News & Media LLC v. Ryan, No. 17-17083 (9th Cir.)**
The clinic represents a coalition of news organizations in a First Amendment lawsuit asserting a public right of access to information about the State of Arizona’s execution process, including the source and quality of the drugs used for lethal injection. The clinic obtained an order recognizing the public’s right to view the injection of lethal drugs and ordering the state to install a camera in the chemical room. The clinic also defeated the state’s summary judgment motion and proceeded to trial on its remaining claims.

The clinic represents Harvard Law Professor Susan Crawford in a case seeking data concerning New York City’s broadband infrastructure for underserved neighborhoods. In the fall, the clinic defeated a motion seeking to dismiss the lawsuit on the grounds that it was barred by an adverse ruling in an earlier case. This semester, students briefed motions to decide the case on the merits and presented the oral arguments at a hearing. In May, the clinic won a clear victory, granting access to the data.

**Rosenberg v. DOD (“PERSTAT”), No. 16-cv-2117 (D.D.C.)**
The clinic represented Miami Herald reporter Carol Rosenberg in FOIA litigation against the Department of Defense seeking the personnel reports for the United States Naval Base at Guantanamo Bay dating back to 2002. After filing a complaint, the clinic
negotiated the release of thousands of pages of responsive records, comprising the bulk of the records Ms. Rosenberg sought, and dismissed the case.

**Nolen v. First Judicial Dist. of Pennsylvania, No. 216-md-2017 (P.A. Commw. Ct.)**
The clinic represents a Philadelphia reporter who seeks access to certain categories of judicial records related to Fourth Amendment rights and to the criminal justice system: affidavits from executed search warrants, probable cause affidavits for arrest warrants, and records concerning jurors who have been excluded from voir dire. The clinic filed a petition in May and is awaiting a response.

**Seife v. FDA, No. 17-cv-3960 (S.D.N.Y.)**
Working with Yale's Collaboration for Research Integrity and Transparency, the clinic represented NYU Professor Charles Seife in a FOIA lawsuit against the FDA. Professor Seife sought correspondence and other records related to FDA's controversial approval of Exondys 51 for the treatment of Duchenne Muscular Dystrophy. The clinic drafted Seife's initial request in 2016, pursued an administrative appeal in February 2017, and filed suit in May 2017. In litigation, the clinic successfully obtained a concession that Seife’s request was entitled to expedited processing and negotiated the release of the records Seife requested.

**Ongoing Active Litigation**

**ACLU v. Los Angeles Police Department, No. BS 169474 (Cal. Sup. Ct.).**
The clinic represents the ACLU of Southern California, journalist Ali Winston, activist Shawn Nee, and professor Kelly Lytle Hernandez in a pattern and practice lawsuit that seeks to compel the Los Angeles Police Department to comply with the California Public Records Act. The clinic is now in negotiations with the city to implement a wholesale overhaul of its public records response system, starting with the rollout of a new electronic interface for public records act requests.

**ACLU v. National Security Agency (2d Cir.)**
The clinic is co-counsel with the ACLU in FOIA litigation regarding electronic surveillance under Executive Order 12,333. The suit seeks disclosure of the rules that government EO 12,333 surveillance, reports of non-compliance with those rules, and related information. The district court ruled for the government on summary judgment and the clinic noticed an appeal.

**Graeber v. New Haven Police Dep’t, No. FIC 2016-0865 (Conn. FOIC).**
Along with co-counsel Daniel Klau, the clinic represents Charlie Graeber, a journalist who is working on a documentary about the case of an unsolved murder of a Yale student in 1998. Last semester, the clinic filed a series of requests under Connecticut’s FOIA seeking access to files pertinent to the investigation of the murder and held by a number of law enforcement agencies. In response, most of the agencies claimed their records were exempt from disclosure because releasing them might jeopardize a future law enforcement action. The clinic appealed. In April, clinic students represented our
client at a hearing before the Freedom of Information Commission, which was recorded and televised. The clinic will submit post-hearing briefs over the summer and expects to have a decision this fall. The recording is available here: http://www.ctn.state.ct.us/show_info.asp?mbID=24813.

**Husayn v. Mattis, No. 06-cv-1360 (D.D.C. filed April 2016)**
The clinic is representing national security reporter Ray Bonner in an effort to unseal judicial records in the habeas proceeding filed by Guantanamo detainee Abu Zubaydah, the first detainee subjected to the CIA's harsh interrogation techniques. The clinic succeeded last year in compelling the government to disclose a great many of the court records in this action. The remaining legal issue concerns the appropriate standard the court should apply in deciding whether to unseal classified information in court records that are subject to the First Amendment right of access. The clinic filed a reply brief in the fall and is awaiting a ruling.

**In re Opinions & Orders of [FISC], No. 13-08 (FISC)**
The clinic has a long-pending matter seeking access to the opinions of the Foreign Intelligence Surveillance Court (FISC) concerning “bulk” communications surveillance. In January, the FISC ruled that the clinic and ACLU lack standing to seek these judicial opinions. In February, the clinic moved for reconsideration and the court ruled that it would reconsider the issue en banc, the first time the court has ever conducted such a proceeding in its history.

**In Re Opinions and Orders of [FISC] Containing novel or significant interpretations of Law, No. 16-01 (FISC)**
In December 2016, the clinic filed a motion with the ACLU seeking broad access to FISC opinions containing “novel or significant interpretations of law.” Following the 2015 USA FREEDOM Act, opinions containing “novel or significant interpretations of law” must be released. But the government has taken the position that pre-2015 opinions containing novel or significant interpretations of the law need not be released. The clinic and the ACLU hope to obtain the pre-2015 through this motion. Briefing is complete.

The clinic represents IP Watch, a non-profit, independent news source on intellectual property law and policy, in its FOIA litigation against the U.S. Trade Representative (“USTR”). IP Watch seeks records of communications between USTR and business community members related to USTR’s adopted positions in the Trans-Pacific Partnership negotiations. After successfully forcing disclosure of some records and partially losing summary judgment with respect to others, the clinic submitted supplemental briefing on three narrow issues in March at the court’s request.

**Privacy International v. NSA, No. 17-cv-01324 (D.D.C.)**
The clinic is representing Privacy International (PI), a UK-based charity, in FOIA litigation against several agencies that constructively denied FOIA requests concerning the UKUSA Agreement, the so-called “Five Eyes” signals intelligence sharing agreement. Although the Agreement has likely been repeatedly amended, the latest
public version is from 1955. PI seeks implementation records which are relevant to questions about whether intelligence-sharing violates the First and Fourth Amendments. The clinic is awaiting the completion of the government’s search for responsive records.

Rosenberg v. DOD (“Kelly Emails”), No. 17-cv-0437 (D.D.C.)
The clinic represents Miami Herald and reporter Carol Rosenberg in FOIA litigation against the Department of Defense seeking email correspondence between General John F. Kelly and Lisa Monaco, the former Assistant to the President for Homeland Security and Counterterrorism. The clinic filed suit and successfully requested an expedited production schedule. The government produced roughly 600 pages of responsive emails and reports. The parties are proceeding to summary judgment.

The clinic filed FOIA lawsuit on behalf of the Treatment Action Group and Global Health Justice Partnership seeking access to clinical trial data and related information about recently-approved Hepatitis C drugs Sovaldi and Harvoni. The FDA has sought to delay its response to the FOIA request for nearly two years, and the clinic has vigorously opposed FDA’s stalling in court and sought expedited treatment.

United States v. Doe, No. 11-cr-479 (2d Cir.)
In March 2017, the clinic filed a motion to intervene and unseal the Second Circuit’s docket in a criminal case on behalf of journalist Richard Behar and Forbes magazine. The sealed case concerns the federal prosecution of Felix H. Sater, who was indicted for securities fraud in 1997 but then become a cooperating witness for the government. His case was sealed for over a decade while Sater reportedly worked with the government to track down Al-Qaeda operatives and root out organized crime operations on Wall Street. During that time, Sater also became involved with a real estate firm called Bayrock Group and reportedly brought Russian oligarchs to meet with Donald Trump and secured funding from banks with ties to those oligarchs. In 2010, Sater’s criminal prosecution was disclosed when an attorney obtained a copy of case records and publically filed them in support of a civil RICO action against Bayrock. The disclosure initiated a series of sealed proceedings in the Eastern District of New York and the Second Circuit. Much of the Eastern District’s dockets in those proceedings were later unsealed; the clinic’s motion seeks to unseal the Second Circuit’s docket. The Second Circuit appointed a Special Master to make an initial determination on the clinic’s motion.

Victor v. NYC Office of Trials and Hearings, No. 100890/2015 (N.Y. Sup. Ct.)
The clinic represents The New York Times as an intervenor in a civil lawsuit seeking to cut off access to Department of Corrections disciplinary hearings decisions. These hearings take place at the Office of Administrative Trials and Hearings, a public adjudicative body. Victor, a terminated DOC employee, argues that the decisions are confidential under New York’s Civil Rights Law 50-a, which make “personnel records” of certain public officers confidential. The clinic is now awaiting a ruling.
Amicus Submissions

Brief of Amici Curiae Constitutional, Administrative, Contracts, and Health Law Scholars
The clinic filed an amicus brief arguing that a New York statute regulating the imposition of “surcharges” for credit cards should not be subjected to heightened scrutiny under the First Amendment or, in the alternative, should be upheld under intermediate scrutiny as a valid regulation of commercial speech. Ultimately, the Court held that the statute regulates speech and remanded to the Second Circuit for a determination of whether the statute survives intermediate scrutiny.

Brief of Amici Curiae Floyd Abrams Institute for Freedom of Expression and First Amendment Scholars
*In re National Security Letter*, 863 F.3d 1110 (9th Cir. 2017)
The clinic filed an amicus brief on behalf of a group of First Amendment professors arguing that the NSL statute’s gag provision, even as amended, creates an unconstitutional prior restraint. Ultimately, the panel concluded that the NSL statute’s gag provision does not constitute an unconstitutional prior restraint.

The clinic submitted an amicus brief on behalf of ten news organizations in an appeal by the New York Civil Liberties Union asserting a right of access to disciplinary decisions of the NYPD. Ultimately, the Appellate Division – First Department ruled that the police commissioner’s decisions implementing rulings of the Civilian Complaint Review Board constituted “personnel records” and could not be disclosed under New York law.

Other Advocacy

Sealed Cases Research & Advocacy Project (D. Conn.)
Clinic students conducted a six-month study to determine if the sealing practices of Connecticut federal courts adequately enforce the public’s right of access to court records. They interviewed court clerks and local prosecutors and researched courthouse records. Their investigation revealed practices that permit widespread, indefinite sealing of applications and orders for search warrants, pen registers/trap and traces, and electronic surveillance in contravention of public access rights. The students submitted a report of their findings to the Chief Judge of the District of Connecticut, along with specific recommendations for changes to the local rules to protect the public access right. The Chief Judge distributed the report to each magistrate and district judge and asked the Criminal Local Rules Advisory Committee to address the report’s issues expeditiously.
This issue is of broad interest, and litigation concerning this issue is ongoing in the District of Columbia and Northern District of California. The clinic has shared its report with Selina MacLaren at the Reporters Committee for Freedom of the Press, Patrick Kabat’s clinic at Case Western, and Heidi Kitrosser’s practicum at Minnesota. This report is a first step in remedying the widespread secrecy that accompanies searches and seizures; hopefully, it will provide a legal and analytical blueprint for ongoing and future challenges to this problem.

Arnsdorf Travel Ban FOIAs
The clinic assisted former POLITICO reporter Isaac Arnsdorf in preparing FOIA requests about the government’s enforcement of President Trump’s initial travel ban executive order. The clinic drafted five FOIA requests to four agencies – two requests to U.S. Customs and Border Protection, and one request each to Immigration and Customs Enforcement, the U.S. State Department, and the Department of Homeland Security – concerning the agencies’ initial enforcement efforts. The clinic currently awaits responses.

Anti-Censorship Infrastructure Project
In collaboration with the University of Colorado’s Samuelson Tech Law & Policy Clinic, clinic students drafted a white paper on the legality of a new anti-censorship technology. This technology adopts a new method of routing Internet traffic to enable users in foreign nations that censor the Internet to circumvent those firewalls and other roadblocks, facilitating access to a free and uncensored Internet without the cumbersome aspects of proxy servers and the Tor Browser. The clinic’s contribution concerns the Computer Fraud & Abuse Act, which contains myriad provisions that criminalize “unauthorized access” to computers. This collaboration allowed both clinics to tackle a project that would otherwise have been too large in scope for either to handle.

Events

FOIA Bootcamp 2017, February 1, 2017
A full description of the FOIA bootcamp is above, in the Abrams Institute section.

Buzzfeed Meeting, April 15, 2017
Students in the clinic, together with David Schulz, Hannah Bloch-Wehba, and John Langford, traveled to BuzzFeed’s headquarters in New York City to meet with Nabiha Syed, the chief newsroom lawyer at BuzzFeed, as well as reporters, investigators, and others directly involved in reporting and producing the news at Buzzfeed. The trip allowed MFIA students to meet with and learn from a practicing media lawyer, reporters, and news producers, and to get an inside look at how a news organization functions and the role of lawyers in that context.
“Brown Bag Lunch” Series
A grant from the Stanton Foundation allowed the clinic to launch a new series of “brown bag lunches,” providing an informal forum for journalists and lawyers to discuss current issues concerning government accountability and newsgathering. To date, the clinic has convened two luncheons, described above in the Abrams Institute section.
Courses
ISP Courses and Reading Groups

**ISP Courses**

**Advanced Supreme Court Clinic**, Fall 2016-Spring 2017  
Linda Greenhouse

**Media Freedom and Information Access Clinic**, Fall 2016-Spring 2017  
David Schulz, John Langford, Hannah Bloch-Wehba, Jack Balkin

**The Institutional Supreme Court**, Spring 2017  
Linda Greenhouse

**ISP-Sponsored Reading Groups**

**Artificial Intelligence, Robotics and Law**, Spring 2017  
Israeli-ISP Partnership

**Citizen FOSS: What Snowden Knew**, Spring 2017  
Sean O’Brien

**Discrimination, Algorithms, and Privacy**, Spring 2017  
Jack Balkin and Ignacio Cofone

**Transatlantic Clashes on Privacy in a Digitalized World**, Fall 2016  
Jean-Philippe-Foegle

**Visual Jurisprudence**, Spring 2017  
Sandra Ristovska and Helen Li