

# IN AMERICA THE LAW IS KING

*~ Thomas Paine ~*





## ANNUAL REPORT 2019-2020

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Cover photos:

Retired Gen. Joseph L. Votel and Prof. Claire Finkelstein; Michèle Flournoy, former Under Secretary of Defense for Policy; and James R. Clapper, former Director of National Intelligence, and Prof. Claire Finkelstein

# ABOUT CERL

CERL is a nonpartisan interdisciplinary institute dedicated to preserving and promoting ethics and the rule of law in national security, warfare, and democratic governance. CERL draws from the study of law, philosophy, and ethics and unites scholars, policymakers, and legal practitioners to answer the difficult questions that arise in times of national dilemmas and conflict.

CERL's conferences and symposia focus on some of the most daunting issues facing our country and the world. Academics, legal experts, intelligence officials, journalists, public servants, and private sector professionals convene to engage in discussion and analysis, produce papers, identify needed policies and actions, and issue recommendations. CERL enjoys a particularly constructive partnership with the armed services and collaborates with the private sector's defense industry. It also partners with renowned public interest organizations and academic centers.

In addition to holding conferences and symposia, CERL conducts ethics and policy briefings; drafts and disseminates policy papers; publishes volumes through an ethics, national security, and rule of law book series; presents book talks with high-profile authors; participates in podcasts; and engages with national and international media. CERL's summer internship program focuses on national security's next generation. Law and graduate students learn rule of law principles through research, writing, and conference planning to help ensure their future perspectives and decisions are always ethical and grounded in the rule of law.

Since 2012, CERL has been raising public consciousness and influencing policy through varied activities that tackle serious and often complex threats to or violations of the rule of law. CERL does this to help academia, government, and the public cultivate a clearer understanding of the rule of law and play a role in the preservation of our country's democratic principles and institutions.



## **CERL Executive Board**

*Front row from left: Paul Welsh, Connie Rosati, Shawn Turner, Claire Finkelstein, Joseph Votel, Arlene Fickler, Sean Carter*

*Back row from left: guest Paul Graziani, Duncan MacIntosh, Christopher Morris, Stephen Xenakis*

*Not pictured: Harold Berger, Vivian Berger, James Clapper, William Craven, Kevin Govern, Alberto Mora, Jens David Ohlin, Elizabeth Rindskopf Parker, Jules Zacher, and Executive Board Emeritus Paul Haaga, Jr.*



## LETTER FROM THE FACULTY DIRECTOR

October 2020

Dear Friends of CERL,

The 2019-2020 academic year was a challenging one—for CERL, for the country, and for the rule of law. We witnessed unprecedented upheaval in the cohesiveness of civic life, and profound disagreements surrounding fundamental tenets of our democracy tore academic communities and the country apart. This was also the year in which every aspect of American life was altered for the foreseeable future by the COVID-19 pandemic. Along with the tragic loss of life in our communities, we have experienced economic uncertainty, continuing restrictions, and a pattern of disruption in our daily activities, all of which continue to occur. Virtual encounters abound, and CERL, like other organizations, now holds all events and academic activities online. We have also witnessed profound rifts in our system of government as tensions between the states and the federal government on the COVID-19 response continue to surface.

Disturbing as they are, crises of this magnitude bring out the best in most people. That is especially true of those at CERL and our program participants, researchers, partners, and supporters who worked together this past year as enthusiastically as ever to continue CERL's mission of preserving and promoting the rule of law in national security, warfare, and domestic governance.

CERL's 2019-2020 calendar of events featured several programs on issues related to military operations: hybrid threats in the grey zone, ethical challenges presented by new weaponry, and violence against women in the U.S. military. The topic of women in national security was further explored in a symposium recognizing the 20-year anniversary of Women, Peace and Security, a global initiative spurred by UN Resolution 1325 that was passed to increase women's participation in conflict prevention and peace stabilization. Other programs covered interrogation and torture, prompted by CERL's screening of the Amazon film *The Report*, and the role of technology in the rise of autocracy, a chilling development that we believe, unfortunately, will only intensify.

CERL also held four book talks with prominent authors, filed an amicus brief in the U.S. Supreme Court appellate case *Trump v. Vance*, and was continually sought out by the media for expert commentary. Facing down significant obstacles, we chose to forge ahead with CERL's summer internship program and successfully held a productive and entirely virtual six-week program that enriched the lives of our student interns and helped CERL advance its mission of protecting and defending the rule of law.

Notwithstanding the public health and workplace challenges of the past year, CERL experienced several notable developments. In February 2019, CERL and Annenberg Public Policy Center (APPA) of the University of Pennsylvania formed an alliance to help strengthen our country's democratic institutions, combining CERL's rule of law expertise and APPA's policymaking and communications scholarship. CERL added two members to its Executive Board and four more to its Advisory Council. All are superstars in their respective fields and dedicated to ensuring that ethics and the rule of law remain intact in our democracy. There were also several departures. Paul G. Haaga, Jr., stepped down as Executive Board Chair. We are forever grateful to Paul for serving at the helm since 2016. Sadly, we lost Advisory Council member LTG Paul E. Menoher, Jr., a U.S. Army careerist, and we pay tribute to him in this report. Additionally, CERL's Executive Director, Chris Welsh, moved on to a new position, but his duties were assumed immediately by Interim Executive Director Rich Meyer, whom we were delighted to welcome to CERL in time for the start of the summer internship program.

In 2022, CERL will reach a milestone: 10 years of educating the national security sector, lawyers and other professionals, students, and the general public about what it means for a society to be governed by ethical principles and the rule of law. Until then we will continue our efforts and hope you will engage with and support CERL in the coming academic year.

Claire O. Finkelstein  
CERL Faculty Director  
Algernon Professor of Law and Professor of Philosophy  
University of Pennsylvania Carey Law School

## EXECUTIVE BOARD



**CLAIRE FINKELSTEIN**

*Algernon Biddle Professor of Law and Professor of Philosophy and Faculty Director of CERL*



**HON. HAROLD BERGER**

*Of Counsel and Managing Shareholder Emeritus, Berger Montague*



**VIVIAN BERGER**

*Nash Professor of Law Emerita, Columbia Law School; Mediator*



**SEAN CARTER**

*Member, Cozen O'Connor*



**JAMES CLAPPER**

*former Director of National Intelligence*



**WILLIAM CRAVEN**

*CERL Founding Executive Board Chair; Chair of Federal Systems (retired)*



**ARLENE FICKLER**

*Partner, Schnader Harrison Segal & Lewis LLP*



**KEVIN GOVERN**

*Professor of Law, Ave Maria School of Law*



**DUNCAN MACINTOSH**

*Professor of Philosophy, Dalhousie University*



**ALBERTO MORA**

*Associate Executive Director for Global Programs, American Bar Association*



**CHRISTOPHER MORRIS**

*Professor of Philosophy, University of Maryland*



**JENS DAVID OHLIN**

*Vice Dean and Professor of Law, Cornell University Law School*



**CONNIE ROSATI**

*Professor of Philosophy, University of Texas at Austin*



**ELIZABETH RINDSKOPF PARKER**

*Dean Emerita, McGeorge School of Law; former General Counsel, CIA and NSA*



**SHAWN TURNER**

*Professor of National Security Communication, Michigan State University; CNN National Security Analyst*



**JOSEPH VOTEL**

*General, U.S. Army (Ret.); Executive Director, Business Executives for National Security (BENS)*



**PAUL WELSH**  
*Vice President,  
 Analytical Graphics, Inc.*



**STEPHEN XENAKIS, M.D.**  
*Brigadier General (Ret.);  
 U.S. Army; Advisor, Physicians  
 for Human Rights*



**JULES ZACHER**  
*Attorney, Jules Zacher, P.C.;  
 Board Member, Council For a  
 Livable World*



**DELL DAILEY**  
**EXECUTIVE BOARD  
 EMERITUS**  
*President, Dell Dailey  
 and Family; fmr  
 Ambassador-at-Large,  
 Department of State*



**PAUL HAAGA, JR.**  
**EXECUTIVE BOARD  
 EMERITUS**  
*fmr Chair, Capital Research  
 and Management Company*

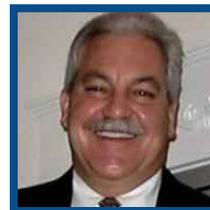
## ADVISORY COUNCIL



**ANITA ALLEN**  
*Henry R. Silverman Professor  
 of Law and Professor of  
 Philosophy, Vice Provost,  
 University of Pennsylvania*



**WILLIAM BURKE-WHITE**  
*Professor of Law, University of  
 Pennsylvania*



**GEORGE CRONER**  
*Senior Fellow, Foreign Policy  
 Research Institute*



**STUART DIAMOND**  
*Emeritus Practice Professor  
 of Legal Studies and Business  
 Ethics, The Wharton School,  
 University of Pennsylvania*



**MARK FALLON**  
*Former Senior Executive,  
 Department of Homeland  
 Security; International  
 Security Consultant*



**EDNA FOA**  
*Professor of Clinical Psychology  
 in Psychiatry; Director of the  
 Center for the Treatment and  
 Study of Anxiety, University of  
 Pennsylvania*



**ROBERT FULLER, JR.**  
*Captain, U.S. Navy, Judge  
 Advocate General's Corps  
 (Ret.)*



**DAVID GAUTHIER**  
*Professor Emeritus, Philosophy  
 Department, University of  
 Pittsburgh*



**DEREK GILLMAN**

*Distinguished Teaching Professor, Art History and Museum Leadership, Drexel University*



**MICHAEL HOROWITZ**

*Director of Perry World House and Richard Perry Professor, University of Pennsylvania*



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*Partner, Fluet Huber & Hoang PLLC*



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**VIJAY KUMAR**

*Nemirovsky Family Dean of Penn Engineering, University of Pennsylvania*



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*Professor from Practice, Georgetown University Law Center*



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*White's Professor of Moral Philosophy, University of Oxford*



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*Robert and Marion Short Professor of Law, Research Professor of International Dispute Resolution, University of Notre Dame*



**ERIC ORTS**

*Guardsmark Professor of Legal Studies and Business Ethics, The Wharton School, University of Pennsylvania*



**RICHARD PAINTER**

*S. Walter Richey Professor of Corporate Law, University of Minnesota Law School*



**HARVEY RUBIN**

*Professor of Medicine, Microbiology and Computer Science, University of Pennsylvania*



**STEPHEN SHELLER**

*Founding Partner, Sheller P.C.*



**ROGERS SMITH**

*Christopher H. Browne Distinguished Professor of Political Science, University of Pennsylvania*

# THE CERL TEAM

## Leadership



**CLAIRE FINKELSTEIN**

*Algernon Biddle Professor of Law and Professor of Philosophy and Faculty Director of CERL*



**RICHARD MEYER**

*Interim Executive Director*



**EILEEN KENNEY**

*Director of Engagement*

## Fellows



**CHRISTOPHER JACOBS**

*Nonresident Senior Research Fellow*



**ALEXANDRA MEISE**

*Senior Research Fellow*



**CASSANDRA STEER**

*Nonresident Senior Research Fellow*

## Events and Faculty Support Staff



**ELISABETH AULEPP**

*Events Coordinator*



**JENNIFER EVANS**

*Assistant Director, Faculty Support*

## DEVELOPMENTS

### ALLIANCE WITH THE ANNENBERG PUBLIC POLICY CENTER (APPC)

In February, CERL and the University of Pennsylvania's Annenberg Public Policy Center (APPC) formed an alliance to promote and strengthen the rule of law in democratic institutions. The collaboration combines CERL's expertise in national security and the rule of law with APPC's nationally recognized work in policymaking and communication scholarship to enhance the institutions of democracy. The centers will work together on conferences, publications, and CERL's summer internship program. The first two joint conferences will be *Circling the Arctic: Security and the Rule of Law in a Changing North* on October 1-3, 2020, and *Left of Launch: Communication and Threat Escalation in a Nuclear Age* on April 22-24, 2021. CERL will maintain its affiliation with the University of Pennsylvania Carey Law School.

**THE ANNENBERG PUBLIC POLICY CENTER**  
OF THE UNIVERSITY OF PENNSYLVANIA

**CENTER for ETHICS and the RULE of LAW**  
UNIVERSITY of PENNSYLVANIA

### EXECUTIVE BOARD

CERL expanded its Executive Board with the addition of two national security powerhouses: Elizabeth Rindskopf Parker, former general counsel of the National Security Administration (NSA) and Central Intelligence Agency (CIA); and James Clapper, former director of national intelligence in the Obama administration. Ms. Parker is an ardent proponent of strengthening civic education in the U.S. K-12 education system and will collaborate with CERL on projects that advance its rejuvenation. Director Clapper will propel CERL on many fronts in the national security space. Paul G. Haaga, Jr., CERL's Executive Board Chair since 2016, has stepped down from CERL's board to serve as Chair of the Oversight Board Trust. During the past five years, Paul helped lead CERL from a small academic center to a nationally and internationally renowned rule of law authority and advocate. We are deeply grateful to him for his enthusiastic leadership and support.



*Paul G. Haaga, Jr., former Executive Board Chair, is now Executive Chair Emeritus*



*At the 2020 Paul G. Haaga, Jr. Lecture in Law, Government, and Public Policy (from left): Mr. Paul Haaga, Ms. Michèle Flournoy, Prof. Claire Finkelstein, and Ms. Heather Haaga*

## DEVELOPMENTS

### ADVISORY COUNCIL

There were four additions to CERL's Advisory Council, which serves in a subject matter advisory role. George Croner, a senior fellow in the national security program at the Foreign Policy Research Institute (FPRI), served in the National Security Agency's Office of General Counsel. Mark Fallon was the director of the Criminal Investigative Task Force at the Guantánamo Bay detention camp post 9/11 and is the author of *Unjustifiable Means: The Inside Story of How the CIA, Pentagon, and US Government Conspired to Torture*. Eric Orts is the Guardsmark Professor of Legal Studies and Business Ethics at The Wharton School at the University of Pennsylvania. Richard Painter, former White House chief ethics counsel in the George W. Bush administration, is the S. Walter Richey Professor of Corporate Law at the University of Minnesota Law School and co-author of *American Nero: The History of the Destruction of the Rule of Law, and Why Trump Is the Worst Offender*. Sadly, CERL lost an esteemed member of its Advisory Council, retired Lt. General Paul E. Menoher, Jr. CERL honors Paul in a tribute on page 10.

### STAFF

Christopher Welsh, CERL's Executive Director, left CERL to become the director of the Delaware County Office of the Public Defender. On July 1, CERL named Richard Meyer as Interim Executive Director. As such he will lead CERL and its team on research projects, publications, events, advocacy projects, and the summer internship program. Senior Research Fellow Christopher Jacobs departed to serve as an instructor for the Defense Institute of International Legal Studies (DIILS). Chris will remain affiliated with CERL as a nonresident senior fellow.

#### **Introducing Richard Meyer, CERL's Interim Executive Director**

Richard Meyer joined CERL as Interim Executive Director on July 1, 2020. Before then, he was Director of International & LL.M. Programs for the Mississippi College School of Law after retiring from a professor of law position at the U.S. Military Academy at West Point. Before entering academia, Rich was a Judge Advocate, Field Artillery Commander, and Military Intelligence Specialist for the U.S. Army from 1985 to 2007. A recognized military justice and trial advocacy expert, he has tried fully contested criminal cases in front of juries on three continents and trained some of the most respected trial advocates in the military. He is a frequently requested speaker and has presented at Yale University, University of Pennsylvania, University of Oxford, Columbia University, and dozens of other law schools and conferences around the globe.



## Remembering Lt. General Paul E. Menoher, Jr., U.S. Army (Ret.)

**A member of CERL's Advisory Council, Paul was an extraordinary officer, innovator, and mentor revered for his leadership, knowledge, and wisdom.**

Lt. General Paul E. Menoher, Jr., a member of CERL's Advisory Council, died on September 7, 2020, in Fredericksburg, Virginia. Paul spent more than three decades on active duty as a highly decorated intelligence officer. He served as Commanding General of the Army Intelligence Agency, Commanding General of the U.S. Army Intelligence Center and Fort Huachuca, Commanding General of the Army Intelligence and Security Command, and Army Deputy Chief of Staff for Intelligence. He was an influential visionary and innovator throughout his career and became known as a multi-INT champion of integration of imagery and geospatial information. His awards include the Director of Central Intelligence's National Intelligence Distinguished Service Medal and an honorary doctorate from the Joint Military Intelligence College. He was inducted into the Military Intelligence Hall of Fame, and in 2011, he received the Arthur C. Lundahl Lifetime Achievement Award for his dedication to tradecraft and focus on intelligence integration.



### **“Paul understood the importance of balancing leadership and family.”**

I had one interaction with Paul. It was at the Pre-Command Course for Battalion Commanders at Fort Leavenworth in 1996 when Paul visited to talk about intelligence matters. He ended by talking about leadership and life balance, telling his own personal story about the challenges of balancing career and family. It was powerful and profound, and it had a huge impact on me and I assume on many others. As I became a senior leader, I incorporated Paul's thoughts into the “spiel” I gave to younger officers, emphasizing that all leaders were obligated to set an example for those they led on balance between their professional and personal lives.

—*Joseph Votel, retired U.S. Army general and former CENTCOM commander, and CERL Executive Board member*



### **“A gentle giant, Paul was an unselfish, insightful, and patient mentor, teaching me the ways of the Army, and he did it without my realizing it.”**

I served in South Korea from 1985 to 1987 as a new Air Force one-star; I was the J-2, or Director of Intelligence for U.S. Forces Korea. Paul was a colonel then, a commander of an Army Military Intelligence Brigade. I learned a great deal from him; he looked at every problem as an opportunity to excel and that was contagious to subordinates and seniors alike. He was a major reason I had a very successful tour of duty. I will always treasure him as a great professional colleague and mentor, and a wonderful friend.

—*James Clapper, former Director of National Intelligence, and CERL Executive Board member*



### **“Paul was eager to help the warfighter. Figuring out smarter and safer ways for them to perform their duty was what he wanted to do.”**

A mutual friend introduced us in 1988, just after Paul retired, when I was searching for someone who could help my business develop software that integrated intelligence capabilities. We were at an impasse with several federal agencies when Paul agreed to be a technical advisor. Just a few weeks after he took over, the problems were solved. He was a brilliant strategist, always the smartest guy in the room who was a good listener and let others have the spotlight. We got important things done for the warfighter, and his genuine, respectful way played a big role in many project successes. He was my good friend and mentor.

—*William Craven, Chair, Overwatch Systems, Inc., and CERL Executive Board member*



## CONFERENCES AND SYMPOSIA



### Ethical Challenges in the Development of New Weaponry September 26, 2019, Philadelphia

The need to develop a nuanced balance between advancing precision technologies and protecting against the impact of increasing lethality increases the need for more consultation among military experts, the defense industry, and ethicists. Through four unique panels, this public symposium addressed the domains of new weaponry development: cyber security and artificial intelligence (AI); biological and chemical convergence; biological enhancements and genetics; and nanotechnology. Lawyers, ethicists, scientists, military and government service personnel, technologists, and private sector professionals comprised the panels, which addressed the risks that new weaponry will be used for malign purposes; the relative ease with which weaponry may be acquired, the adequacy of current regulatory measures, the relationship between military requirements and private sector innovation, and the need to identify and resolve important ethical and legal issues before full-scale development and deployment.

#### KEYNOTE DISCUSSION

Joseph L. Votel, retired U.S. Army general and former commander of U.S. Central Command, participated in the keynote discussion entitled “A Warfighter’s Perspective on the Challenge of Future Weaponry.” CERL’s Professor Claire Finkelstein moderated.



*From left: Prof. Mitt Regan, Co-Director of the Center on National Security and the Law, Georgetown University Law Center; Prof. Margaret Kosal, Georgia Institute of Technology; LTC Christopher Korpela, Associate Professor and Director of the Robotics Research Center, U.S. Military Academy at West Point; and moderator Mr. Louis Del Monte, CEO of Del Monte & Associates, Inc.*



*Gen. Joseph Votel's keynote discussion with Prof. Claire Finkelstein at University of Pennsylvania Carey Law School*



*From left: Prof. Claire Finkelstein, Gen. Joseph Votel, and keynote attendees (from left) MAJ MinJae Back, CPT Angel Torres, and SFC Andrew Acuna, Drexel University Army ROTC faculty*



*Dr. William Casebeer, Director of the Innovation Laboratory at Beyond Conflict, and Dr. Edward Barrett, Director of Research, Stockdale Center for Ethical Leadership, U.S. Naval Academy*



*Conference participant Prof. Victoria Sutton, Director of the Center for Biodefense, Law and Public Policy, Texas Tech School of Law*



## Violence Against Women and the U.S. Military

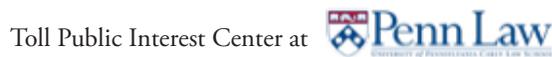
**October 22, 2019, Philadelphia**

In this public symposium, panelists unpacked the prevalence of sexual assault in the military. Experts discussed the risk of sexual assault in the military, the link between the #MeToo movement and the number of reported incidents in the military, the results of sexual assault studies, survey results on sexual harassment in the military, the similarities and differences between military and non-military sexual assault episodes, and the bureaucratic structure of the military that fails to support victims.

### CO-SPONSORS



The Alice Paul Center for Research on Women, Gender and Sexuality at



Toll Public Interest Center at



*Panelists (from left): Ms. Andrea Goldstein, Prof. Emily Rothman, Prof. Melissa Dichter, and Mr. Andrew Morral*



# Autocrats' Tech Assault and Democracy's Response

November 21-22, 2019

## Autocrats' Tech Assault and Democracy's Response November 21-22, 2019, Philadelphia

Democracies are facing increasing threats by autocratic regimes around the world and by autocratic leanings within their own borders. Many experts believe the rise is intertwined with advances in technology. This closed-session conference focused on how new technologies are strengthening autocracies around the world and what the United States and other democracies can do to thwart their infiltration and effectiveness, primarily through civic engagement and education, media response, and private sector technology collaboration. Sessions covered the reasons why technology favors the autocrat, the autocrat's toolkit, the case of China, domestic and international policymaking and legislation, media's role and response, and civic education and media literacy as protections against autocrats' attempts to hijack social media.

### PUBLIC KEYNOTE PANEL

A keynote discussion entitled "How Technology Advances Autocracy and What Democracies Can Do About It" was presented by David Cole, Legal Director, ACLU, and Professor of Law at Georgetown Law; Richard Fontaine, Executive Director, Center for a New American Security (CNAS); Marwan M. Kraidy, Professor of Communication and Chair in Global Media, Politics and Culture, Penn's Annenberg School for Communication; and Kara Frederick, Technology and National Security Fellow, CNAS. CERL's Prof. Claire Finkelstein moderated the discussion.

### CO-SPONSORS



*Keynote panelists Prof. Marwan Kraidy, Mr. David Cole, Prof. Claire Finkelstein, Mr. Richard Fontaine; and Ms. Kara Frederick*



*Closed session at University of Pennsylvania's Perry World House*



*From left: Mr. Gabe Rottman, Director, Reporters Committee's Technology and Press Freedom Project; Mr. Devin Stewart, Senior Fellow, Eurasia Group Foundation; Prof. Jacques deLisle, Director, Center for East Asian Studies, University of Pennsylvania Carey Law School*



*Reception for participants at University of Pennsylvania Carey Law School*



*From left: Prof. Claire Finkelstein and Ms. Elizabeth Rindskopf Parker, former National Security Agency (NSA) and Central Intelligence Agency (CIA) general counsel*



# HYBRID THREATS IN THE GREY ZONE: MAPPING THE TERRAIN

December 6-7, 2019

## Hybrid Threats in the Grey Zone: Mapping the Terrain December 6-7, 2019, Philadelphia

This private workshop-style conference was the second in a two-part series addressing the legal and moral complexities of “grey zone conflict.” U.S. Special Operations Command defines the grey zone as “a conceptual space between peace and war, occurring when actors purposefully use single or multiple elements of power to achieve political-security objectives with activities that are typically ambiguous or cloud attribution and exceed the threshold of ordinary competition, yet intentionally fall below the level of large-scale direct military conflict.” Members of the U.S. military and other government officials, policy experts, and academics discussed the grey zone foundation and framework, tactics, domains, responses, and clarifying legal and ethics principles to guide conduct. The first conference took place on April 3-4, 2019, at The Judge Advocate General’s Legal Center and School (TJALCS) in Charlottesville, Virginia.

### KEYNOTE ADDRESS

Daniel "Deak" Roh, Director of Irregular Warfare at the U.S. Department of Defense, delivered the address to participants.



*Closed session at University of Pennsylvania Carey Law School*



*Mr. Tobias Vestner, Head of Security and Law, Geneva Centre for Security Policy, and Ms. Beba Cibralic, Ph.D. candidate, Georgetown University*



*Prof. Claire Finkelstein and Prof. Todd Huntley, Director of the National Security Law Program at Georgetown University Law Center and retired U.S. Navy captain and judge advocate*



*Keynote speaker Mr. Daniel "Deak" Rob, Director for Special Operations and Combatting Terrorism Partnerships in the Office of the Deputy Assistant Secretary of Defense for Special Operations and Combatting Terrorism, Office of the Undersecretary of Defense for Policy*



*From left: CERL Executive Board member Mr. Jules Zacher and CERL Advisory Council member Prof. Mitchell Orenstein, Russian and East European Studies, University of Pennsylvania*

CERL PRESENTS

# A Screening of “THE REPORT”

with a post-film expert panel discussion

Thursday, January 16, 2020

Fitts Auditorium

University of Pennsylvania Carey Law School

Movie Screening: 3:30 – 5:30 PM | Panel Discussion: 5:45 – 7:15 PM

Reception to follow



## Screening of “The Report” with Panel Discussion

January 26, 2020, Philadelphia

CERL presented a special public screening of “The Report,” an Amazon Studios film chronicling the Senate Intelligence Committee’s real-life investigation of the CIA’s use of torture after the 9/11 attacks. The film focused on Senate staffer Daniel Jones’s seven-year investigative journey and 6,700-page report, including the federal government’s response. Following the screening, a panel of experts discussed the film, the report’s findings, and government’s response to the torture program. The film is partly based on the *Vanity Fair* article, “Rorschach and Awe,” by Katherine Eban, one of the panelists.

### CO-SPONSORS



*From left: Panelists Mr. Mark Fallon, Mr. Alberto Mora, Ms. Alka Pradhan, Ms. Katherine Eban, Prof. Claire Finkelstein, and Dr. Stephen Xenakis*



*The panel on stage at University of Pennsylvania Carey Law School*



*Dr. Stephen Xenakis takes a question from the audience*



*For fellow volume contributor Mr. Mark Fallon, Mr. Alberto Mora signs *Interrogation and Torture: Integrating Efficacy with Law and Morality*, a new volume published by Oxford University Press in The Oxford Series in Ethics, National Security, and the Rule of Law*



## NATIONAL SECURITY IS A FEMINIST ISSUE: TWENTY YEARS OF WOMEN, PEACE, AND SECURITY INITIATIVES February 11, 2020

### National Security is a Feminist Issue: Twenty Years of Women, Peace, and Security Initiatives February 11, 2020, Philadelphia

Decades of data show that when women do better, countries do better. Women offer distinctive contributions to making and keeping peace. But after 20 years of domestic and international Women, Peace and Security (“WPS”) initiatives, observers have asked whether women’s participation in conflict prevention and peace stabilization efforts have increased and whether countries’ national security measures and outcomes are better. In this public symposium, panelists introduced WPS initiatives springing from the UN’s Resolution 1325 passed in 2000 and discussed the results of two decades of efforts around the globe to address the undervalued and underutilized contributions of women as active agents in peace and security. Panel one focused on the successes and shortcomings of WPS initiatives in the United States; panel two examined the same internationally.

#### THE PAUL G. HAAGA, JR. LECTURE IN LAW, GOVERNMENT AND PUBLIC POLICY

The symposium concluded with the Haaga lecture. Michèle Flournoy, former Under Secretary for Policy at the U.S. Department of Defense and a leader in the U.S. national security space, delivered a “fireside chat” entitled “Women Driving Change through Red Tape: Policymaking in the World’s Biggest Bureaucracy.” Ms. Flournoy talked about her experience devising front-line U.S. defense policy, her leadership in security strategy, and her role in developing new U.S. policy in line with domestic and international women, peace, and security efforts. CERL’s Prof. Claire Finkelstein moderated the discussion.



*Panel one from left: Panelists Ms. Angelic Young, Director of Training for Law Enforcement, Anti-Defamation League; Ms. Jenna Ben-Yehuda, CEO and President, Truman National Security Project; Prof. Joan Johnson Freese, National Security Affairs, U.S. Naval War College; Ms. Alexandra A.K. Meise, CERL Senior Research Fellow; Amb. Melanne Verwee, Executive Director of the Georgetown Institute for Women, Peace and Security; and Ms. Lyric Thompson, Director of Policy and Advocacy, International Center for Research on Women*



*Moderator Ms. Alexandra A.K. Meise introduces panel one and program topics*



*Amb. Melanne Verveer, the first U.S. Ambassador for Global Women's Issues*



*Panel two from left: Ms. Irene Khan, Director-General, International Development Law Organization; Ms. Farahnaz Ispahani, Global Fellow, Wilson Center, and Adviser to the Prime Minister of Pakistan; Ms. Funmi Balogun, UN Women Country Representative for South Sudan; and moderator Prof. Rangita de Silva de Alwis, Associate Dean for International Affairs, University of Pennsylvania Carey Law School*



*Ms. Funmi Balogun, UN Women Country Representative for South Sudan*



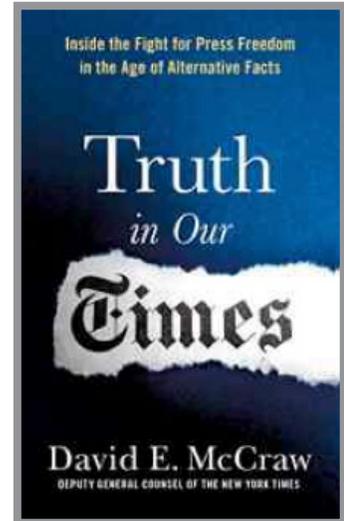
*Keynote speaker Ms. Michèle Flournoy, former Under Secretary of Defense for Policy*

## BOOK TALKS

**September 17, 2019**

***TRUTH IN OUR TIMES: INSIDE THE FIGHT FOR PRESS  
FREEDOM IN THE AGE OF ALTERNATIVE FACTS***  
by David E. McCraw

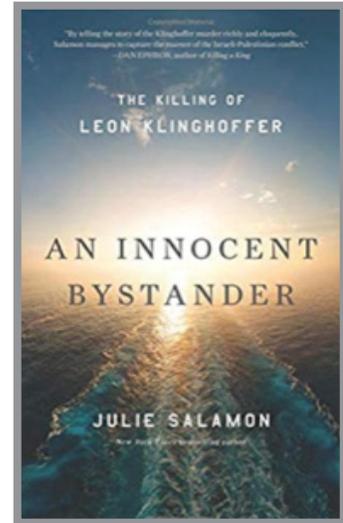
In a one-on-one discussion with CERL's Prof. Claire Finkelstein, David McCraw, Deputy General Counsel of *The New York Times*, talked about the challenges and dangers that today's media companies and journalists face, including President Trump and his administration, through his experiences as a top newsroom lawyer at *The New York Times* for 17 years.



*Mr. David McCraw and Prof. Claire Finkelstein before the audience*

**October 10, 2019**  
***AN INNOCENT BYSTANDER: THE KILLING OF LEON KLINGHOFFER***  
**by Julie Salamon**

In 1985, four members of the Palestinian Liberation Front hijacked the Achille Lauro cruise ship and demanded the release of Palestinians held in Israeli jails. Unsuccessful, they killed passenger Leon Klinghoffer, an American who was wheelchair bound and thrown overboard after being shot. Salamon recounted this shocking act of international terrorism and its aftermath. Also participating in the discussion was Sean Carter, a partner in the law firm Cozen O'Connor, who discussed the issues surrounding legal claims under the Foreign Sovereign Immunities Act and Anti-Terrorism Act.



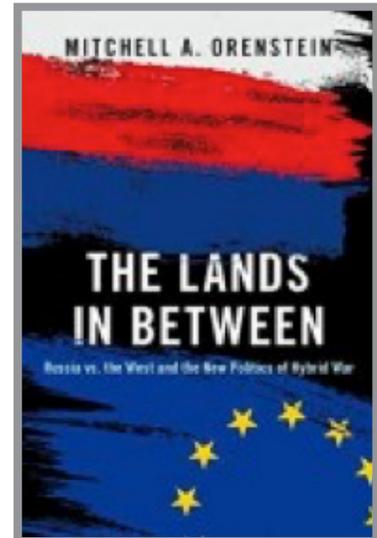
*From left: Mr. Sean Carter, Ms. Julie Salamon, and Prof. Claire Finkelstein*

**December 5, 2019**

***THE LANDS IN BETWEEN: RUSSIA VS THE WEST  
AND THE NEW POLITICS OF HYBRID WAR***

**by Mitchell A. Orenstein**

Russia's stealth invasion of Ukraine and its interference in the 2016 U.S. presidential election and later elections in Europe have forced the West to confront the problems that "lands in between" (or the states between Russia and the EU) have long encountered, including disinformation campaigns, election hacking, influence operations by foreign security services, and frozen conflicts. Prof. Orenstein discussed his contention that the polarizing hybrid war tactics inflicted by Russia on these "lands in between" present significant lessons for Western countries.



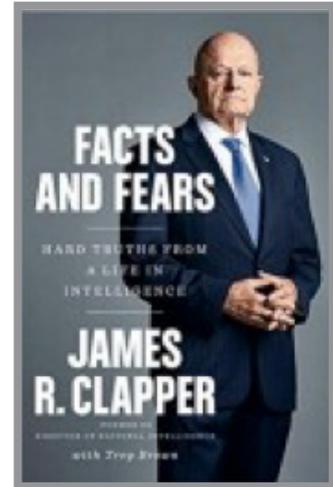
*Prof. Mitchell Orenstein, Russian and East European Studies, University of Pennsylvania*

**February 27, 2020**

**FACTS AND FEARS: HARD TRUTHS FROM A LIFE IN INTELLIGENCE**

**by James R. Clapper**

In his book, James R. Clapper, retired U.S. Air Force Lt. Gen. and former Director of National Intelligence in the Obama administration, provides a look inside the U.S. intelligence community as he traces his career through his service during 10 presidencies and more recently through the wars in Syria, Ukraine, and Afghanistan. At the book talk, he spoke about important intelligence moments in his career, including Russia's interference in the 2016 election.



*Director James Clapper and Prof. Claire Finkelstein speak to a full house*

## CERL'S IMPACT

### BRIEFINGS AND ENGAGEMENT

#### PENTAGON BRIEFING

On May 15, 2020, CERL leadership and national security students held its annual Pentagon briefing for U.S. Army Judge Advocate General attorneys. In past years, briefings took place at the Pentagon, but this year it was necessary to hold the briefing virtually. Two subjects were covered: targeted killing of non-state actors and outer space policy under international law. The students' presentations generated additional discussion and questions among the JAG attorneys and general audience for a pointed examination of these issues.

#### CERL ENGAGEMENT

While at Penn Law to deliver the keynote presentation at a CERL conference in May, retired U.S. Army General Joseph Votel met with students for a roundtable discussion on contemporary military ethics issues. Such a gathering brings more attention to important ethics and rule of law issues and raises CERL's profile and mission among Penn Law students.



*Gen. Joseph Votel (bottom row, fourth from left) with Penn Law students*

After his CERL book talk on February 27, James Clapper, former director of national intelligence, met with CERL Executive Board members and donors for an on-campus dinner and discussion on current rule of law issues in national security.



*Then CERL Executive Director Christopher Welsh opens the dinner and discussion event*

On March 20, 2020, Penn Law held the first virtual U.S. Army War College “International Strategic Crisis Negotiation Exercise.” The unique three-day learning opportunity, led by several Penn Law professors and retired Col. Paul J. McKenney, was designed to engage and educate law students in the process of crisis negotiation at the highest strategic level. CERL Senior Research Fellow Alexandra A.K. Meise helped to organize and participated in the exercise.

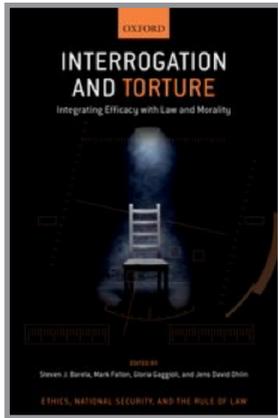


In December, CERL Senior Research Fellow Alexandra A.K. Meise served as an NGO Legal Observer for hearings in the *Al-Nashiri* case before the U.S. Military Commissions at the Guantánamo Bay Naval Base.



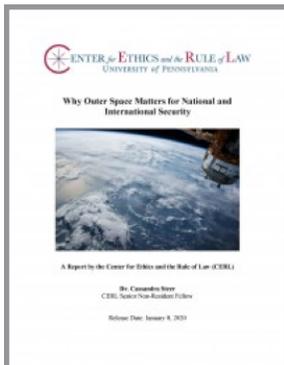
*Marine Corps Brig. Gen. John G. Baker, Chief Defense Counsel, Office of Military Commissions, with Ms. Xander Meise*

## CERL'S IMPACT PUBLICATIONS



### ***INTERROGATION AND TORTURE INTEGRATING EFFICACY WITH LAW AND MORALITY***

Published in January 2020 by Oxford University Press, this volume is co-edited by Steven J. Barela; Mark Fallon, CERL Advisory Council member; Gloria Gaggioli; and CERL Executive Board member Jens David Ohlin. It is the fifth installment in *The Oxford Series on Ethics, National Security, and the Rule of Law*, a CERL and OUP collaboration. It provides guidance on the science, law, and morality behind methods of interrogation and torture and offers lawful human rights compliant and evidence-based policies and procedures for interrogation professionals and criminal investigators.



### ***WHY OUTER SPACE MATTERS FOR NATIONAL AND INTERNATIONAL SECURITY***

**by Dr. Cassandra Steer**

**January 8, 2020**

On December 20, 2019, President Trump signed a defense spending bill that established the U.S. Space Force as the sixth branch of the U.S. military. And today's space "race" is no longer a competition between two superpowers. There are now 13 spacefaring nations with independent launch capacity, and nearly every country is dependent in some way on space-enabled capabilities. Complicating the landscape is that many of these capabilities are supplied not by governments but by commercial entities. In her report, Dr. Cassandra Steer, Nonresident Senior Research Fellow at CERL, covers the unique characteristics of the space environment, increasing commercial and international competition, artificial threats like space debris and covert weaponization, applicable laws, and ways to temper tensions among nations and partners through international collaboration, transparency, and clear behavioral norms.

## CERL'S IMPACT PUBLICATIONS

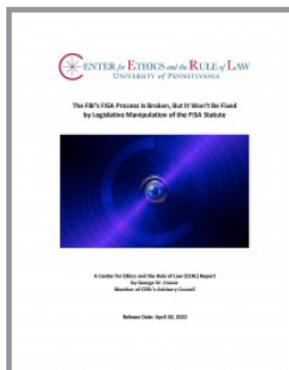


### ***THE 'REFORMING' BEGINS: AN ANALYSIS OF WHETHER THE SAFEGUARDING AMERICANS' PRIVATE RECORDS ACT OF 2020 IMPROVES FISA***

**by George W. Croner**

**March 11, 2020**

The 2019 report of the Department of Justice Inspector General (“Horowitz Report”) identified significant missteps in the FBI’s handling of surveillance under the authority of the Foreign Intelligence Surveillance Act (FISA). Mr. Croner’s report informs ongoing debate over the future of FISA by separately analyzing several aspects of The Safeguarding Americans’ Private Records Act of 2020, a bi-partisan bill introduced in the Senate. He examines the proposal to terminate Section 215 of the Patriot Act—a provision that enables the government to obtain certain call detail records (CDRs) from communications service providers. His report also examines other proposed changes to FISA.

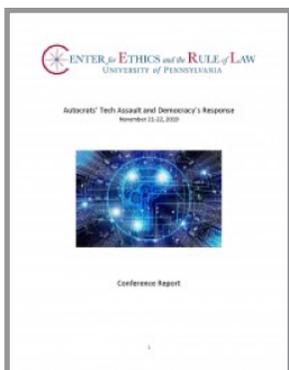


### ***THE FBI'S FISA PROCESS IS BROKEN, BUT IT WON'T BE FIXED BY LEGISLATIVE MANIPULATION OF THE FISA STATUTE***

**by George W. Croner**

**April 30, 2020**

A variety of issues requiring attention have understandably been subordinated on both the congressional calendar and in the national conscience in the wake of the COVID-19 pandemic. One of those issues is legislative consideration of three now-expired surveillance authorities and other matters relating to the Foreign Intelligence Surveillance Act (FISA). In this report, George Croner, a member of CERL’s Advisory Council, summarizes the legislative status of FISA reform, reviews the “Woods Memo” containing the Department of Justice Inspector General’s investigative findings, and considers the outlook for FISA reform.



### ***CONFERENCE REPORT FOR "AUTOCRATS' TECH ASSAULT AND DEMOCRACY'S RESPONSE"***

**September 21-22, 2019**

Democracies are facing increasing threats by autocratic regimes around the world and by autocratic movements within their own borders. Many experts believe the rise is intertwined with advances in technology. On November 21-22, 2019, CERL held a two-day, six-session closed conference, “Autocrats’ Tech Assault and Democracy’s Response,” to examine whether technological developments are contributing to the rise of autocracy and what democracies can do to thwart their infiltration and effectiveness. This report provides an overview of the key issues discussed during the conference sessions and the public keynote panel discussion. Because the sessions operated under the Chatham House Rule, the report does not attribute specific comments to participants by name.

## CERL'S IMPACT BLOG POSTS



CERL's blog, *The Rule of Law Post*, showcases articles written by policy experts, members of the military, lawyers, academics, and CERL fellows and interns who put forth thoughtful analysis, conclusions, and recommendations on current and often urgent ethics and rule of law issues in national security, warfare, and democratic governance.

How will history judge the military commissions?, by Mark Fallon, 7/29/19

Why Putin is smiling, by Eric Orts, 7/30/19

The Trump administration's secret authorizations to sell nuclear tech to Saudi Arabia, by Theo Wilson, 8/5/19

Pardoning servicemembers under Article II can undermine the rule of law, by Kevin Govern and Jesse Hamilton, 8/7/19

Big Brother in China and the UAE: Surveillance tech's threat to U.S. national security, by Sherry Tseng, 8/29/19

How technology helped turn the great power competition 'grey,' by Devin Stewart, 12/5/19

The Horowitz Report: It wasn't a 'witch hunt' but it wasn't pretty, by George W. Croner, 12/19/19

Sanctions in Venezuela: An improper mechanism to effectuate change, by Jon Blomberg, 12/20/19

What is the FISA agenda as the new decade begins?, by George W. Croner, 1/15/20

The unspoken words: Thoughts on the findings of the Horowitz Report, by Michael Levy, 1/28/20

'The Report' won't let us forget that enhanced interrogation is torture, by Mark Fallon, 2/3/20

'Women, Peace, and Security' initiatives are national security initiatives, by Alexandra A.K. Meise, 2/19/20

Latest Guantánamo hearings leave me with more questions than answers, by Stephen Xenakis, M.D., Brigadier General (Ret.), U.S. Army, 3/16/20

Women, Peace, and Security in the military: The need for leadership, by Dr. Joan Johnson-Freese, 2/23/20

Why Congress should not wait to enact FISA reform, by George W. Croner, 3/31/20

## CERL'S IMPACT BLOG POSTS

Corruption spreads like a disease, and some members of Congress have caught it, by Claire Finkelstein and Richard Painter, 4/8/20

Change the deadline, save the election, by Alexandra A.K. Meise, 4/13/20

What's important to know about women, gender norms, and terrorism, by Stephenie Foster, 4/24/20

Would COVID-19 digital contact tracing programs violate the Fourth Amendment?, by Ashley Fuchs and Ryan Bender, 4/28/20

Challenging the limits of executive authority: An analysis of Trump's toolbox during COVID-19, by Clayton Keir and Lachlan Cormie, 4/28/20

Russia's anti-satellite weapons testing reminds us that arms control in space is a responsibility for all nations, by Dr. Cassandra Steer, 5/1/20

The federal response to COVID-19 shows why FOIA needs reform, by Jules Zacher and Theo Wilson, 5/11/20

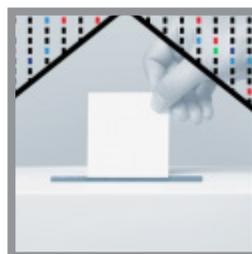
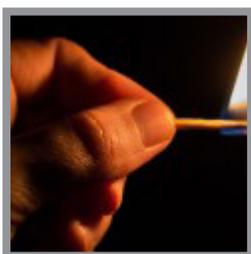
Increasing women's participation in national security begins by talking with girls, by Lauren Bean Buitta and Erin Connolly, 5/13/20

Reforming police recruitment and training is a national security imperative, by Angelic Young, 6/3/20

An apolitical military is essential to maintaining balance among American institutions, by General (Ret.) Joseph Votel, U.S. Army, 6/6/20

The Lafayette Square assault: A turning point for democracy in America, by Eric Orts, 6/23/20

The time has come for more restrictions on military transfers of equipment to civilian police, by Kevin Govern, 6/23/20



# CERL'S IMPACT

## MEDIA

### OPINIONS

Faculty Director Claire Finkelstein, "What we learned from Greg Craig's acquittal: FARA is toothless," Washington Examiner, September 17, 2019

Executive Board Member Stephen Xenakis and former CERL Intern Jesse Hamilton, "The Shame of Abandoning Their Kurdish Allies Will Haunt Our Troops for Years. We've Betrayed Them, Too," Newsweek, October 21, 2019

Executive Board Member Joseph Votel (with Elizabeth Dent), "How to Protect America After the Syria Withdrawal," The Atlantic, October 21, 2020

Executive Board Member Jens David Ohlin, "Trump pardons people accused of war crimes because he thinks war should be savage," The Washington Post, November 19, 2020

Executive Board Member Joseph Votel, "Ending America's Endless War in Afghanistan," The New York Times, December 11, 2019

Faculty Director Claire Finkelstein, "This Question Is More Important Than Removing Trump," The New York Times, January 27, 2020

Executive Board Member Shawn Turner, "Trump's Firing of Vindman Epitomizes the President's Most Harmful Act of All," by Shawn Turner, Newsweek, February 11, 2020

Faculty Director Claire Finkelstein and Advisory Council Member Richard Painter, "Trump's Bid to Stand Above the Law," The New York Times, May 8, 2020

Faculty Director Claire Finkelstein and Advisory Council Member Richard Painter, "Trump Says a Sitting President Can't Be Investigated. Will the Supreme Court Tell Him He's Wrong?," Newsweek, May 15, 2020

Executive Board Member Stephen Xenakis (with Jonathan D. Moreno), "How the pandemic is changing medicine," The Hill, May 18, 2020

Advisory Council Member Richard Painter, "Trump loves the rule of law. As long as it targets his enemies," The Washington Post, May 28, 2020

Nonresident Senior Fellow Cassandra Steer, "SpaceX's historic launch gives Australia's booming space industry more room to fly," The Conversation, June 2, 2020

Executive Board Member Stephen Xenakis (with Jonathan D. Moreno), "Esper and Milley should resign" The Hill, June 5, 2020

Faculty Director Claire Finkelstein and Advisory Council Member Richard Painter, "Trump's No-Show Attorney General Barr Must Testify to Congress—Or Resign," Newsweek, June 18, 2020

# CERL'S IMPACT

## MEDIA

### IN THE NEWS

Executive Board Member Duncan MacIntosh featured in “Thoughts on Artificial Intelligence,” by Genevieve MacIntyre, Dal Magazine, July 16, 2019

Faculty Director Claire Finkelstein quoted in “Trump administration again pushes limits of authority in shielding whistleblower complaint from Congress,” by Matt Zapposky and Devlin Barrett, The Washington Post, September 23, 2019

Faculty Director Claire Finkelstein quoted in “Trump Is Discovering New Powers,” by Peter Nicholas, The Atlantic, September 24, 2019

Faculty Director Claire Finkelstein interviewed for “Legal implications of Trump’s phone conversation with Ukraine’s president,” Voice of America, September 25, 2019

Faculty Director Claire Finkelstein quoted in “What’s different now that Nancy Pelosi is starting an impeachment inquiry on Donald Trump?,” by Bart Jansen, Christal Hayes, and Courtney Subramanian, USA Today, September 25, 2019

Executive Board Member Shawn Turner appeared on “Whistleblower Said WH Officials Intervened to ‘Lock Down’ Recordings of July 25th Ukraine Call,” CNN Live, September 26, 2020

Faculty Director Claire Finkelstein appeared on “How important to the impeachment inquiry is Kurt Volker?,” Stephanie Ruhle, MSNBC, October 3, 2019

Advisory Council Member Mark Fallon wrote “New Spy Museum’s Torture Exhibit Glosses Over Depravity,” Just Security, October 8, 2019

Executive Board Member Jens David Ohlin quoted in “Trump’s lawyer says he can’t be prosecuted. I asked 16 legal experts if that’s true,” by Sean Illing, Vox, October 24, 2019

Faculty Director Claire Finkelstein participated in “Impeachment probe intensifies,” WHYY Radio Times, October 24, 2019

Faculty Director Claire Finkelstein interviewed for “The impeachment process and outlook,” Al Jazeera, October 31, 2019

Faculty Director Claire Finkelstein quoted in “Trump impeachment hearings today will echo through the ages,” by Stephen Collinson, CNN, November 13, 2019

Faculty Director Claire Finkelstein interviewed for “Democrats Push Ahead With Articles Of Impeachment,” WBUR On Point with Meghna Chakrabarti, December 10, 2019

Executive Board Member Stephen Xenakis quoted in “Psychologist Who Devised ‘Enhanced Interrogation’ Technique For CIA Testifies At 9/11 Trial Hearing,” by Guy Davies, ABC News, January 22, 2020

Faculty Director Claire Finkelstein interviewed for “The impeachment trial,” Al Jazeera, January 26, 2020

Executive Board Member Stephen Xenakis participated in “The danger of traumatic brain injury which afflicted U.S. Troops after Iranian attack,” PBS News Hour, with Nick Schifrin, January 29, 2020

## CERL'S IMPACT

### MEDIA

Faculty Director Claire Finkelstein appeared on “Assertions of Executive Privilege at Impeachment Proceedings,” MSNBC Live with Brian Williams and Nicolle Wallace, January 29, 2020

Faculty Director Claire Finkelstein participated in “Executive Privilege and Impeachment Trial Witnesses,” Voice of America, International Edition, January 31, 2020

Executive Board Member Shawn Turner hosted “COVID-19: Answers and Insight,” WKAR Public Media, March-May 2020

Faculty Director Claire Finkelstein quoted in “Trump’s sarcastic response to Mitt Romney’s negative test for coronavirus follows years of bad blood,” by Anne Gearan, The Washington Post, March 25, 2020

Faculty Director Claire Finkelstein quoted in “Barr Pressed Australia for Help on Mueller Review as DOJ Worked to Free Its Hostages,” by Erin Banco and Lachlan Cartwright, The Daily Beast, April 14, 2020

Faculty Director Claire Finkelstein quoted in “Trump takes back spotlight in ‘us vs. them’ war with states,” by Anita Kumar, Politico, April 14, 2020

Faculty Director Claire Finkelstein appeared on podcast “Freezing funding, adjourning Congress, reopening states. What are the limits on Trump’s power? Can He Do That?,” The Washington Post, with reporter Emily Rauhala, April 16, 2020

Executive Board Member Jens David Ohlin is quoted in “11 legal experts agree: There’s no good reason for DOJ to drop the Michael Flynn case,” by Sean Illing, Vox, May 8, 2020

Faculty Director Claire Finkelstein quoted in “President Trump to claim ‘absolute immunity’ from subpoenas in Supreme Court appeal,” by Devin Dwyer, ABC News, May 11, 2020

Faculty Director Claire Finkelsein appeared on “SCOTUS hearing on the president’s tax returns,” ABC News, May 12, 2020

Senior Fellow Alexandra A.K. Meise quoted in “Judge takes ‘extraordinary’ steps in Flynn case as former officials dispute DOJ’s claims,” by Stephen Loiaconi, Sinclair Broadcast Group, May 14, 2020

Executive Board Member Jens David Ohlin wrote “Jurisdiction at Guantanamo: The Case of Long-Term Complicity, Just Security, May 28, 2020

Advisory Council Member Richard Painter quoted in “Trump Wants the Military Ready to Deploy to Minneapolis. Here’s What The Law Says About Posse Comitatus,” by Aaron Keller, Law & Crime, May 30, 2020

Senior Fellow Cassandra Steer participated in “SpaceX’s launch marks the beginning of a new commercial space age,” by Adam Steer, Mornings, ABC Radio Darwin, June 1, 2020

Executive Board Member Joseph Votel interviewed by Erin Burnett on CNN, June 10, 2020

Advisory Council Member Richard Painter quoted in “Kudlow Looks to Assuage Investors’ Virus Fears as Some States See Cases Mount,” by Richard Rubin and Andrew Restuccia, The Wall Street Journal, June 13, 2020

Executive Board Member Joseph Votel interviewed in video report “Military Role in Civil Unrest Under Scrutiny Amid Protests,” by Carla Babb, Voice of America, June 13, 2020

## **CERL'S IMPACT**

### **EXTERNAL PRESENTATIONS AND PAPERS**

Senior Research Fellow Alexander A.K. Meise, podcast contributor, "The Secure Line," 2017-2019

Executive Board Member Duncan MacIntosh, participant, "Ethical AI for Defence Workshop," sponsored by Australia's Defence Science & Technology Group, Plan Jericho, Air Force and The Trusted Autonomous Systems Defence Cooperative Research Centre, and the Australian Defence College, The Shine Dome, Canberra Australia, July 30-August 1, 2019

Executive Board Member Duncan MacIntosh, lecturer, "Protecting Democracy by Commingling Politics: The Case for Accepting Foreign Influence and Interference in Democratic Processes," Dalhousie University Philosophy Colloquium series, September 6, 2019

Faculty Director Claire Finkelstein, panelist, "How Emerging Technologies are Rewiring the Global Order," Perry World House Global Order Colloquium, University of Pennsylvania, September 23-24, 2019

Executive Board Member Duncan MacIntosh, paper, "We Have Met the Grey Zone and He is Us," CERL conference "Hybrid Threats in the Grey Zone: Mapping the Terrain," University of Pennsylvania Carey Law School, December 6-7, 2019

Faculty Director Claire Finkelstein, participant, "Short Circuit" live podcast, Institute for Justice: Third Circuit Edition, University of Pennsylvania Carey Law School, October 10, 2019

Senior Research Fellow Alexander A.K. Meise, featured speaker, "Dispelling International Law and National Security Myths in Immigration," Dartmouth Lawyers Association Annual Meeting, Lake Louise, Canada, February 21, 2020

Faculty Director Claire Finkelstein, panelist, "The Trump Impeachment Episode: Party Wars and the Constitution," Miller Center, University of Virginia, February 24, 2020

Faculty Director Claire Finkelstein and Executive Board Member James Clapper, podcast, Case In Point, University of Pennsylvania Carey Law School, March 11, 2020

Faculty Director Claire Finkelstein, videocast, "A Supreme Court Briefing LIVE, Demand Justice," May 12, 2020

Senior Fellow Cassandra Steer, chapter, "The Province of Humankind: A Feminist Analysis of Space Law, Stacey Henderson and Melissa de Zwart (eds.), *Military and Commercial Uses of Outer Space* (Springer due Q4 2020)

### **ADVOCACY FOR THE RULE OF LAW**

Professor Claire Finkelstein and CERL, with Professor Richard Painter, S. Walter Richey Professor of Corporate Law at the University of Minnesota Law School, filed an amicus brief in the U.S. Supreme Court in support of the New York state attorney general, the appellee in *Trump v. Vance*. A New York grand jury served a subpoena on Trump's accountants for Trump's financial records as part of a state criminal investigation. Trump's lawyers argued that a sitting president has absolute immunity from being criminally investigated and can block a subpoena. The Court disagreed. On July 9, it found in favor of the New York state attorney general, ruling that a president is in fact subject to criminal investigation and cannot assert executive privilege to block a subpoena issued by a grand jury.

## 2020 SUMMER INTERNSHIP PROGRAM

In 2020, CERL held its eighth summer internship program for students. Gaining national attention each year, the program prepares law and graduate-level students for a national security career by providing a foundation that helps ensure their future perspectives and decision-making are always grounded in ethics and the rule of law.

### A VIRTUAL EXPERIENCE

This year, 14 students—eight from Penn Law, five from graduate programs, and one Penn undergraduate—participated in the eight-week program. Because Penn Law shut down its facility during the summer months of the COVID-19 pandemic, the entire program was held virtually. With thoughtful and creative curriculum and logistical planning, CERL’s leaders and senior fellows transformed a daunting idea into a fully realized and valuable learning experience for the students.

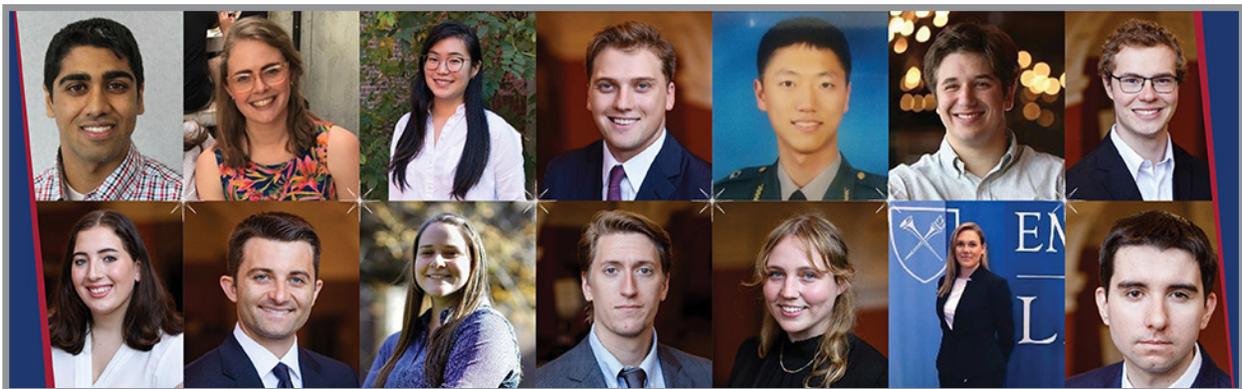
### THE PROJECTS

Summer internship projects comprised research, writing, and other projects stemming from the subject matter of future CERL conferences and current critical national security and governance issues that demand CERL attention and action. Each intern served on teams that examined the ethical and rule of law issues in the areas of 2020 election security, nuclear threat escalation, U.S. violent extremism, today’s Department of Justice policies and practices, Arctic climate change, state and federal COVID-19 response, and lasting damage to the rule of law caused by the CIA’s illegal post-9/11 torture program carried out at Guantánamo Bay and other detention camps. The students researched and wrote memoranda, reports, and blog articles for CERL’s blog, *The Rule of Law Post*.

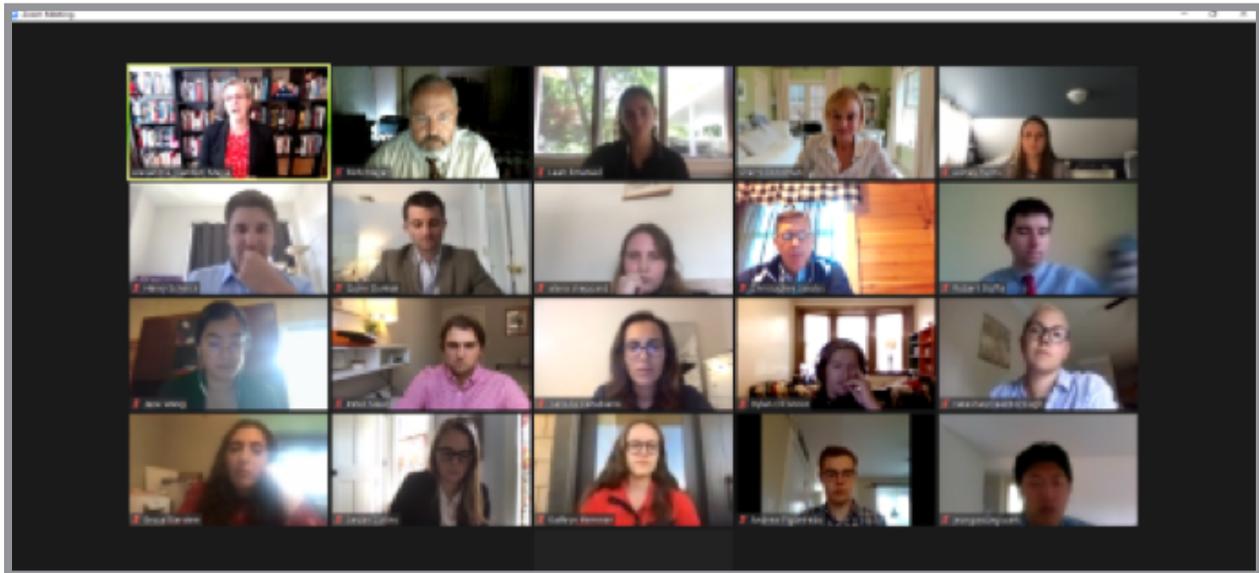
### DIALOGUE WITH INDUSTRY EXPERTS

Throughout the internship, leading authorities in national security made virtual presentations on topics related to the curriculum and engaged with the interns in free-flowing dialogue. Additionally, in the “Breakfast with the Board” series, a CERL board member would meet virtually with the interns and lead a discussion on a relevant topic. At the end of the internship, the teams provided brief virtual synopses of their findings to CERL executive board members, CERL advisory council members, and other special guests.

### The 2020 CERL Summer Internship Class



*Top row l to r: Souvik Chatterjee, Aedan Collins, Jane Wang, Peter Neal, Jeongwoung Park, Henry Scherck, Andrew Figueiredo  
Bottom row l to r: Rebecca Bierstein, Quinn Dunkak, Ashley Fuchs, Dylan O’Conner, Alana Sheppard, Natasha Spreadborough, Robert Stoffa*



*CERL Senior Research Fellow Xander Meise (top row, far left) leading a virtual session with the interns*

## Takeaways

- Climate change is a threat multiplier; a warming Arctic will have serious implications on geopolitics and national security.
- The U.S. State Department would be well served with a central hub for climate change issues like Canada's ECCC.
- Climate change will accelerate the spread of disease and catalyze the emergence of new diseases.
- Legislative efforts to further integrate climate change considerations into the structure of government and refugee law are pending, but face an uncertain future under the current political climate.

Henry Scherck

*Intern Henry Scherck discussed his climate change team's findings at the end-of-internship presentation*

## GUEST SPEAKER SERIES

CERL thanks its guest speakers for their valuable contributions to CERL's 2020 Summer Internship Program.

- “Ethics and National Security,” by Richard Painter, S. Walter Richey Professor of Corporate Law, University of Minnesota
- “The Executive Power,” by Julian Davis Mortenson, James G. Phillipp Professor of Law, University of Michigan Law School
- “Threat Escalation in a Nuclear Age,” by Bruce Blair, Co-Founder, Global Zero, and Research Scholar, Program on Science and Global Security, Princeton University; John Burroughs, Executive Director, Lawyers Committee on Nuclear Policy (LCNP); Charles Moxley, Fordham University School of Law, and Treasurer, LCNP; Jules Zacher, Board Member, Council for a Livable World
- “Practicing National Security Law as a Judge Advocate in the United States Army,” by CPT Brian Jones, Judge Advocate, U.S. Army; and MAJ Sharon Shim, Recruiting Officer, Judge Advocate Recruiting Office, U.S. Army
- “Foreign Interference in the 2020 Elections,” by Carrie Cordero, Robert M. Gates Senior Fellow and General Counsel, Center for a New American Security (CNAS); Shawn Turner, Professor of Practice, Michigan State University, and CNN National Security Analyst
- “Challenges in National Security Litigation,” by Amanda Reinitz, Assistant U.S. Attorney, Eastern District of Pennsylvania
- “Combatting the Rise of Violent White Nationalism,” by Amy Spitalnik, Executive Director, Integrity First for America
- “My Perspective on Serving in the National Security Space from Government, Private Law Firms and the Defense Industry,” by Alex Wagner, Vice President, Strategic Initiatives, Aerospace Industries Association
- “Guantánamo Bay, the War on Terror, and Accountability 20 Years Later,” by Mark Fallon, former Director, Criminal Investigative Task Force, GITMO; Dr. Stephen Xenakis, BGEN (Ret.), U.S. Army; Alberto Mora, Director, American Bar Association Rule of Law Initiative; M. Gregg Bloche, Professor of Law and Co-Director, Georgetown-Johns Hopkins Joint Program in Law and Public Health
- “Reporting on National Security Post 9/11,” by Mark Mazzetti, investigative correspondent, *The New York Times*; David McCraw, Deputy General Counsel, *The New York Times*
- “Working in #BigTech – Navigating from Public to Private Service,” by Zaid Zaid, Public Policy Strategic Response Team, Facebook
- “National Security, Climate Change, and the Arctic,” by Sherri Goodman, Senior Fellow, Environmental Change and Security Program and Senior Fellow, Wilson Center
- “Handling NatSec Career Transitions from the Uniform Military, to Civilian Service, to the Private Tech Sector,” by Yvette Bourcicot, Policy Communications Director, The Match Group
- “The Department of Justice and the Rule of Law,” by Noah Bookbinder, Executive Director, Citizens for Responsibility and Ethics (CREW); Jennifer Ahearn, Policy Director, CREW; Richard Painter, S. Walter Richey Professor of Corporate Law, University of Minnesota
- “How to Effectively and Ethically Represent Government Whistleblowers,” by Mark Zaid, Managing Partner, Mark Zaid, P.C.

### Remembering Bruce Blair

Nuclear policy scholar and writer Dr. Bruce G. Blair died suddenly in Philadelphia on July 19, 2020, just 10 days after speaking with the summer interns on nuclear threat escalation. Dr. Blair was the co-founder and board trustee of Global Zero, an international movement to eliminate all nuclear weapons. His experience as a launch control officer responsible for dozens of nuclear warhead-armed missiles caused him to devote his career to disarmament. A research scholar at Princeton's Science & Global Security program, Dr. Blair received the prestigious MacArthur Foundation fellowship in 1999 for his proposals to diminish inadvertent nuclear strikes. The world has lost a brilliant and passionate advocate for abolishing nuclear weapons. CERL is grateful to have spent time with him this summer.



## WHAT CERL INTERNS HAD TO SAY ABOUT THE SUMMER PROGRAM



“I was able to interact with incredibly intelligent co-interns from across the country as well as work with and receive mentorship from some of the most highly regarded legal professionals working in the federal government and national security.”

– **Dylan O’Connor**, *University of Pennsylvania Carey Law School, J.D. program*



“I thoroughly enjoyed listening to and interacting with the incredible guest speakers. Despite the remote work environment, the team meetings and events were engaging, and the schedule was always clearly communicated.”

– **Ashley Fuchs**, *University of Pennsylvania College of Arts & Sciences, B.S. program*



“The CERL internship accomplished the two things you hope for in any job or internship: substantive and important work that you take pride in and an opportunity to learn about an area or industry from those who lead it. The work that I did, and the people I worked with to do it, may very well be already known to my next employer.”

– **Peter Neal**, *University of Pennsylvania Carey Law School, J.D. program*



“Good level of independence in the internship. We were allowed to develop creative angles on the topics.”

– **Andrew Figueiredo**, *University of Pennsylvania Carey Law School, J.D. program*



“I never once felt that my work as a CERL intern was unimportant or discounted; CERL allowed us to contribute substantial work product right from the jump and that dynamic never changed. I also felt a great deal of respect from the senior fellows. I enjoyed working with them very much.”

– **Quinn Dunkak**, *University of Pennsylvania Carey Law School, J.D. program*



“Fantastic slate of speakers. The opportunity to engage with such a qualified range of speakers is unrivaled in my internship and work experience.”

– **Henry Scherck**, *University of Pennsylvania Carey Law School, J.D. program*



“It was an honor to speak with the presenters this summer and hear about their experiences within the natsec/legal world. Everyone who spoke with us provided information that we would be hard pressed to find elsewhere. I really enjoyed getting to know my teammates and the team leaders/board advisors. I also appreciated that the projects were fluid and changed in response to the research that our teams produced.”

– **Jane Wang**, *University of Pennsylvania Carey Law School, J.D. program*



“CERL gave me the opportunity to interact with people at the highest levels of military, law, and business. As a non-lawyer, I gained a much better understanding and appreciation for the law.”

– **Souvik Chatterjee**, *Columbia University School of International and Public Affairs, M.P.A. program*

## 2020-2021 EVENT CALENDAR

### Virtual Symposium – September 17, 2020

Protecting Democracy: Foreign Interference, Voter Confidence and Defensive Strategies in the 2020 Elections and Beyond

presented by CERL, Center for a New American Security (CNAS), and Annenberg Public Policy Center (APPC)

### Virtual Book Talk – September 24, 2020

*How to Save a Constitutional Democracy*

by Tom Ginsburg and Aziz Huq

### Virtual Conference – October 1-3, 2020

Circling the Arctic: Security and the Rule of Law in a Changing North

co-sponsored by Annenberg Public Policy Center (APPC)

### Virtual Book Talk – October 29, 2020

*Dark Mirror: Edward Snowden and the American Surveillance State*

by Barton Gellman

### Virtual Book Talk – November 19, 2020

*Dare to Speak: Defending Free Speech for All*

by Suzanne Nossel

### Virtual Book Talk – January 14, 2021

*American Nero: The History of the Destruction of the Rule of Law, and Why Trump is the Worst Offender*

by Richard Painter (with Peter Golenbock)

### Book Talk – February 18, 2021

*Defending Frenemies: Alliances, Politics, and Nuclear Nonproliferation in US Foreign Policy*

by Jeffrey W. Taliaferro

### Book Talk – April 8, 2021

*How to Lose the Information War: Russia, Fake News, and the Future of Conflict*

by Nina Jankowicz

### Conference – April 22-24, 2021

Left of Launch: Communication and Threat Escalation in a Nuclear Age

co-sponsored by Annenberg Public Policy Center (APPC)

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- Annenberg Public Policy Center (APPC)
- Pamela and William Craven Charitable Fund
- Captain Robert G. Fuller., Jr, Esquire., JAGC, USNR (Ret.)
- Heather and Paul G. Haaga, Jr.
- University of Pennsylvania Carey Law School
- The Windover Foundation

#### **\$20,000 to \$49,999**

- Analytical Graphics, Inc.
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- Symantec Corporation
- Jules Zacher, Esquire
- The Carol and Lawrence Zicklin Center for Business Ethics Research, The Wharton School

#### **\$10,000 to \$19,999**

- The Barnes-Wall Foundation
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- Glasswall Solutions
- Nino Magliocco and Carla Solomon
- National Attorneys General Training & Research Initiative

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- Sean Carter, Esquire
- Michael Finkelstein
- The McNulty Leadership Program, The Wharton School
- Middle East Center, University of Pennsylvania
- Penn Global, University of Pennsylvania
- Alan I. Reich, Esquire
- Shawn Turner
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- Annenberg School of Communication
- James Backstrom, Esquire
- Cultural Heritage Partners
- Herrick Feinstein LLP
- Initbridge
- Journal of International Law, University of Pennsylvania Law School
- Duncan MacIntosh
- Christopher Morris Fund
- Secure World Foundation
- Villanova University Ethics Program
- John and Eileen Welsh
- Brig. Gen. Stephen Xenakis, M.D., U.S. Army (Ret.)



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