

CHRISTINA KONINGISOR

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CURRENT POSITION

U.C. Berkeley School of Law 2019 – Present
Fellow, Berkeley Center for Law and Technology

EDUCATION

Yale Law School, J.D. 2014
Yale Journal of International Law, Articles Editor
Coker Fellow (teaching assistant for Constitutional Law Class)
Student Co-Director, Media Freedom and Information Access Clinic
Research Assistant, Professors Paul Kahn and Cristina Rodríguez

Brown University, A.B. in International Relations, 2007
Phi Beta Kappa
Magna Cum Laude
William Gaston Prize for Excellence in International Relations
Samuel C. Lamport Prize (for the paper that “best promotes international understanding”)
Royce Fellowship (for the pursuit of undergraduate research)

Fulbright Scholarship, Kuwait, 2009 - 2010

CLERKSHIP

Chief Judge Sidney Thomas, Ninth Circuit Court of Appeals 2014 - 2015

TEACHING INTERESTS

Primary: Civil Procedure, Constitutional Law, Administrative Law, Media and First Amendment Law, Local Government Law, National Security Law

Secondary: Legislation, Law and Technology, Evidence, Privacy Law

PUBLICATIONS

Secrecy Creep, 129 University of Pennsylvania Law Review (forthcoming 2021) (job talk paper)

The secrets of state and local government have a profound impact on our lives. Every time a school department withholds a record, a state judge closes his courthouse doors, or a police department shields misconduct within its ranks, subfederal secrecy is implicated. Yet the topic of state and local government secrets remains understudied. This scholarly neglect has allowed a troubling recent development to pass largely unnoticed: the migration of powerful federal secrecy tools, initially designed to shield national security secrets, into state law—a process that I refer to as “secrecy creep.” The adoption of these federal secrecy protections raises a host of problems. These

tools often sit uneasily within the confines of the state and local legal regime, where there are fewer countervailing checks to government power. Further, this legal migration vests local law enforcement agencies with expansive authority to shield information from public view. While the problem of police militarization has received ample attention in recent years, the process of secrecy creep operates as a parallel intellectual trend—a kind of “national security-ization” of local police. I argue that this ramping up of police weaponry alongside police secrecy is not coincidental. Rather, these two processes are engaged in a feedback loop: the more that local police rely on military weapons and federal surveillance technologies, the more persuasive their arguments for borrowing national security secrecy protections become.

Transparency Deserts, [114 Northwestern University Law Review 1461](#) (2020)

While the federal Freedom of Information Act has been roundly criticized for failing to serve the needs of either the government or the public, the freedom of information laws of the fifty states have largely escaped scrutiny. I turn attention to this issue, surveying these laws and concluding that these state statutes are both less effective than the federal law and more critical to ensuring public oversight of government. Further, these statutory failings do not operate in isolation, but rather intersect with other facets of the local transparency environment. While a variety of factors shape these local transparency ecosystems, three features are especially critical: the substance of state transparency laws, the culture of the state and local agencies tasked with implementing these statutes, and the health of the local media and civil society organizations that monitor the government from the outside. When all three of these prongs fail—when transparency statutes are poorly written, administered by hostile government actors, and enforced by weak or nonexistent civil society organizations—this failure creates a downward spiral of reduced government disclosure and public oversight, what I refer to as a “transparency desert.” Drawing upon a variety of sources, including hundreds of public records datasets, I contend that these blind spots are deeply harmful to democratic governance. Further, they cast doubt on assumptions prevalent in the federalism scholarship about the benefits of smaller units of government.

The De Facto Reporter’s Privilege, [127 Yale Law Journal 1176](#) (2018)

While every state has enacted some form of legal protection for reporters who shield a confidential source, there is no overarching federal privilege. This can have a chilling effect on newsgathering. And yet efforts to establish a shield have met with strong resistance. Those who oppose the creation of a federal shield often contend that the press has long thrived without protection, and therefore such a privilege is unnecessary today. Drawing upon an array of historical materials—from archival newspaper databases, to legislative records, to published and unpublished case law—I challenge this claim, demonstrating that all three branches of government have long protected members of the press in a variety of other, less formal ways. I refer to this web of informal protections as a “de facto” reporter’s privilege. And I argue that this web is now fraying, lending new urgency to efforts to formalize a federal shield.

EXPERIENCE

The New York Times <i>First Amendment Fellow</i>	2017 – 2018
U.C. Berkeley School of Law <i>Fellow, Berkeley Center for Law and Technology</i>	2016 – 2017
Guanghua Law School, Zhejiang University, Hangzhou, China <i>Visiting Scholar</i>	2015 – 2016
WilmerHale, Washington D.C. <i>Summer Associate</i>	2013
The White House Counsel's Office <i>Summer Intern</i>	2012
The Atlantic Magazine <i>Editorial Staff</i>	2010 – 2011

TEACHING EXPERIENCE

Berkeley Law School: Samuelson Law, Technology, and Public Policy Clinic (co-instructor, Fall 2016)

Guanghua Law School: International Law and U.S. Constitutional Law (Spring 2016)

Yale Law School: Constitutional Law (Teaching Assistant, Fall 2013)

POPULAR WRITING

The De Facto Reporter's Privilege Imperiled, [The Forum](#), Knight First Amendment Institute at Columbia University (April 17, 2018)

How We Describe Sexual Assault: Times Journalists and Lawyers Respond, [The New York Times](#) (Oct. 31, 2017) (one of four contributors)

Electronic Monitoring Isn't Kid-Friendly, [The Sacramento Bee](#) (July 20, 2017) (coauthored with Catherine Crump and Kate Weisburd)

Suing Over a Prayer, [The Atlantic](#) (Nov. 5, 2013)

SELECT PRESENTATIONS

Secrecy Creep

Freedom of Expression Scholars' Conference, Yale Law School (Oct. 2020) (scheduled)

Transparency Deserts

Freedom of Expression Scholars' Conference, Yale Law School (April 2019)

The De Facto Reporter's Privilege

Freedom of Expression Scholars' Conference, Yale Law School (April 2017)

Yale Law Journal Contemporary Scholarship Reading Group, Yale Law School (Oct. 2017)

Information Society Project, Yale Law School (Nov. 2017)

Electronic Monitoring in Practice (with Catherine Crump and Kate Weisburd)

Juvenile Defender Leadership Summit (Oct. 2017)

Privacy Law Scholars' Conference, Berkeley Law School (June 2017)

BAR ADMISSIONS

New York; Massachusetts