

FRIDAY, OCTOBER 13, 2017



Sponsored by Howard University School of Law,
Sidley Austin LLP, and Debevoise & Plimpton LLP

Fourteenth Annual Wiley A. Branton/Howard Law Journal Symposium

SPEAKING TRUTH TO POWER: A NEW AGE OF FIRST AMENDMENT RIGHTS?



The Evolution of Protest Speech

Media Rights: The Role of the Media as a
Check on the Government

Keynote Speaker

Erwin Chemerinsky

Dean and Jesse H. Choper
Distinguished Professor of Law
Berkeley Law School



HOWARD UNIVERSITY

School of Law

October 13, 2017

Dear Colleagues and Friends,

It is our honor and pleasure to welcome you to the Fourteenth Annual Wiley A. Branton/*Howard Law Journal* Symposium. Each year, we take time to honor and continue the legacy of Wiley A. Branton, our former dean and a noted civil rights leader. This Symposium has served as a forum for law students, legal scholars, and advocates to engage with the most pressing legal issues of the day to further Branton's legacy of fighting for social justice.

This year, our Symposium focuses on a new age of First Amendment rights regarding protest speech, media rights, and the Administration. Today, technology has allowed individuals and even high-ranking elected officials to use Twitter, Facebook, and other social media platforms to voice their opinions on a wide range of issues. These platforms have not only changed the way we communicate, but the way in which we protest and interact. Accordingly, the *Howard Law Journal* has chosen to discuss this topic because of the ever-changing landscape regarding protest speech and the media, as well as the importance of understanding these First Amendment rights.

We are pleased to welcome Erwin Chemerinsky, Dean of the University of California, Berkeley, School of Law, to deliver our keynote address. Prior to assuming his position as dean, from 2008-2017 he was the founding Dean and Distinguished Professor of Law, and Raymond Pryke Professor of First Amendment Law, at the University of California, Irvine School of Law, with a joint appointment in Political Science. He is the author of ten books and more than 200 law review articles. Additionally, Dean Chemerinsky writes a weekly column for the *Sacramento Bee*, monthly columns for the *ABA Journal* and *Daily Journal*, and op-eds in newspapers across the country. Dean Chemerinsky will be joined by distinguished panelists who will offer their views on the evolution of protest speech, media rights, and the relationship between the media and today's Administration.

Lastly, we would like to acknowledge the continued support of our sponsors Sidley Austin LLP and Debevoise & Plimpton LLP. We extend our deepest thanks and gratitude to both firms.

On behalf of the *Howard Law Journal* and Howard University School of Law, thank you for joining us today.

Sincerely,

Le-Tanya C. Freeman
Executive Solicitations & Submissions Editor
Howard Law Journal, Vol. 61

Matthew W. Burns
Editor-in-Chief
Howard Law Journal, Vol. 61



Fourteenth Annual
Wiley A. Branton/
Howard Law Journal
Symposium

PROGRAM

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#Branton2017
#HUSL

8:30am–9:30am **Continental Breakfast**
Moot Court Foyer

9:30am–10:00am **Welcome Remarks**
Moot Court Room

Danielle Holley-Walker | Dean, Howard University School of Law
Erica Michelle Lamberson | Daughter of Wiley A. Branton
Jeffrey T. Green | Partner, Sidley Austin LLP
Jasmine Ball | Partner, Debevoise & Plimpton LLP
Le-Tanya C. Freeman | Executive Solicitations & Submissions Editor,
Howard Law Journal

10:00am–11:30am **Panel 1—The Evolution of Protest Speech**
Moot Court Room

Rachel Levinson-Waldman | Senior Counsel, Liberty and National Security
Program, Brennan Center for Justice
Kiel Brennan-Marquez | Research Fellow and Adjunct Professor,
Georgetown University Law Center
Carol Pauli | Associate Professor of Law, Texas A&M University School of Law

Q&A **Moderator:** Ziyad Motala, Professor of Law,
Howard University School of Law

11:30am–1:00pm **Lunch, *The Dining Hall***

1:00pm–2:30pm **Keynote Address, *Moot Court Room***

Erwin Chemerinsky | Dean and Jesse H. Choper Distinguished Professor of Law,
Berkeley Law School

Q&A **Moderator:** Justin Hansford, Associate
Professor of Law and Director of the
Thurgood Marshall Civil Rights Center,
Howard University School of Law

2:30pm–2:45pm **Break, *Moot Court Foyer***

2:45pm–4:00pm **Panel 2—Media Rights: The Role of the
Media as a Check on the Government**
Moot Court Room

Johnita P. Due | Vice President & Assistant General Counsel, CNN
David L. Hudson Jr. | First Amendment Law Professor, Vanderbilt Law School
D. Paul Monteiro | Chief of Staff to the President, Howard University

Q&A **Moderator:** Lisa Crooms-Robinson, Associate
Dean of Academic Affairs, Howard University
School of Law

4:00pm **Closing Remarks, *Moot Court Room***

Dean Danielle Holley-Walker | Howard University School of Law
Matthew Wellington Burns | Editor-in-Chief, *Howard Law Journal*



Panel 1—The Evolution of Protest Speech

Moderator: **Ziyad Motala**

Professor of Law, Howard University School of Law



Rachel Levinson-Waldman
Brennan Center for Justice

Rachel Levinson-Waldman serves as Senior Counsel to the Brennan Center’s Liberty and National Security Program, which seeks to advance effective national security policies that respect constitutional values and the rule of law. Ms. Levinson-Waldman recently published a law review article in the *Emory Law Journal* titled *Hiding in Plain Sight: A Fourth Amendment Framework for Analyzing Government Surveillance in Public*, and has authored a Brennan Center report, *What the Government Does with Americans’ Data*, on the federal government’s use, sharing, and retention of non-criminal information about Americans for law enforcement and national security purposes. Ms. Levinson-Waldman is also active on issues related to policing and technology, including providing commentary on predictive policing, law enforcement access to social media, body cameras, license plate readers, and other types of surveillance technologies deployed in public. Ms. Levinson-Waldman regularly comments for television, radio, and print on issues relating to national security, privacy, and surveillance. Her writing has been featured in publications including *Bloomberg View*, *The New Republic*, *Wired*, *The Atlantic*, *The Daily Beast*, *U.S. News & World Report*, and *Salon.com*, and she has been interviewed for Al Jazeera, Nerding Out, and Let Your Voice Be Heard, among others. Prior to joining the Brennan Center, Ms. Levinson-Waldman served as counsel to the American Association of University Professors (AAUP) and as a Trial Attorney in the Civil Rights Division of the Department of Justice. Ms. Levinson-Waldman is a graduate of Williams College and the University of Chicago Law School, and clerked for the Honorable M. Margaret McKeown of the U.S. Court of Appeals for the Ninth Circuit.



Kiel Brennan-Marquez
Georgetown University
Law Center

Kiel Brennan-Marquez is a research fellow and adjunct professor at the Georgetown University Law Center, where his research and teaching focus on how the legal system — especially law enforcement — is adapting to the age of big data and algorithmic decision-making. Kiel received a B.A. in philosophy and religious studies from Pomona College, and a J.D. from Yale Law School. He clerked for the Honorable Shira A. Scheindlin of the Southern District of New York (ret.), who presided over *Floyd v. City of New York*, the well-known challenge to the NYPD’s (now reformed) stop-and-frisk program.



Carol Pauli
Texas A&M University
School of Law

Carol Pauli, Instructional Associate Professor at Texas A&M University School of Law, teaches legal writing and writes on the role of the news media in conflict and conflict resolution. She earned her J.D. at the Benjamin N. Cardozo School of Law and her M.S. at the Columbia University Graduate School of Journalism. She was a writer for the *Evansville (IN) Sunday Courier & Press* and the *Decatur (IL) Herald-Review*, a writer and editor for the Associated Press broadcast wire, and a radio writer and producer for CBS News. She taught journalism and mass communication law at Marist College in Poughkeepsie, N.Y. Her scholarship can be seen at http://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=1164230.

Keynote Speech

Erwin Chemerinsky

*Dean and Jesse H. Choper Distinguished
Professor of Law, Berkeley Law School*



Erwin Chemerinsky became the 13th Dean of Berkeley Law on July 1, 2017, when he joined the faculty as the Jesse H. Choper Distinguished Professor of Law. Prior to assuming this position, from 2008-2017, he was the founding Dean and Distinguished Professor of Law, and Raymond Pryke Professor of First Amendment Law, at University of California, Irvine School of Law, with a joint appointment in Political Science. Before that he was the Alston and Bird Professor of Law and Political Science at Duke University from 2004-2008, and from 1983-2004 was a professor at the University of Southern California Law School, including as the Sydney M. Irmas Professor of Public Interest Law, Legal Ethics, and Political Science. He also has taught at DePaul College of Law and UCLA Law School. He teaches Constitutional Law, First Amendment Law, Federal Courts, Criminal Procedure, and Appellate Litigation.

He is the author of ten books, including *The Case Against the Supreme Court*, published by Viking in 2014, and two books published by Yale University Press in 2017, *Closing the Courthouse Doors: How Your Constitutional Rights Became Unenforceable* and *Free Speech on Campus* (with Howard Gillman). He also is the author of more than 200 law review articles. He writes a weekly column for the *Sacramento Bee*, monthly columns for the ABA Journal and the Daily Journal, and frequent op-eds in newspapers across the country. He frequently argues appellate cases, including in the United States Supreme Court. In 2016, he was named a fellow of the American Academy of Arts and Sciences. In January 2017, *National Jurist* magazine again named Dean Chemerinsky as the most influential person in legal education in the United States. He received his B.S. from Northwestern University (1975) and his J.D. from Harvard Law School (1978).