
CONTACT

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JURISDICTIONS ADMITTED TO PRACTICE

- State of Maryland, 1994
- U.S. District Court, District of Maryland, 1994
- District of Columbia, 1995
- U.S. District Court for the District of Columbia, 2000
- *PRO HAC* Admission: Connecticut

PROFESSIONAL EXPERIENCE

Current

University of Richmond, School of Law, Visiting Professor (2021-Present) teaching Evidence, and two new-to-Richmond Law courses, Cyberlaw in Practice, and Information Privacy Law. Teaching emphasis is on core doctrinal concepts and ensuring law students understand the intersection of technology, law, and policy.

IEEE, 2023 Co-Chair, AI Policy Committee, and Co-Chair, Privacy, Equity & Justice in AI Sub-Committee (Jan 2021-Present), developing IEEE Policy Position Statements for Use and Regulation of artificial intelligence (AI), providing support for members of U.S. Congress in tech-related legislation, responding to OSTP & NIST RFIs, and advising the White House's OSTP on AI, biometrics, and law.

Penn State Institute for Computational & Data Sciences (ICDS), Affiliate Faculty (2020-present). Interdisciplinary faculty member.

ToomeyMcKenna Law Group, LLC, Principal Counsel & Managing Partner (2004-Present). A boutique Maryland law firm devoted to educating and consulting with government, businesses, educational and other institutions, + individuals in the fields of privacy, technology, data, electronic surveillance, compliance, and law as well as assisting clients with a variety of complex legal matters. Martindale-Hubbell Peer Review Rating® Rated "Excellent" in legal ability and ethical standards. McKenna awarded Top 100 Trial Lawyers by The National Trial Lawyers' Association.

Past

Penn State Dickinson Law and Penn State Institute for Computational & Data Sciences, Distinguished Scholar of Cyber Law, and Policy (2018-2020); and co-hire with ICDS. Interdisciplinary faculty co-hire, participated in multiple development efforts, served as faculty lead for Certificate Programs in Cyber, Data, and Privacy Law, developed Penn State's first ever and annual *Hack Response Simulation*. Consistently high rankings in teacher evaluations.

Penn State Law, Visiting Professor (2016-2018). One of highest teaching loads (by law student numbers) of any professor. Developed law school's first cyberlaw course offerings. Taught Civil Procedure, Evidence, Information Privacy Law, and Cyberlaw in Practice.

Penn State and Dickinson Law Schools, Adjunct Law Professor (2014-2016).

STSW and SILVERMcKENNA, Partner & Practice Group Chair, (Silverman/Thompson/Slutkin/White) Founded and chaired STSW's Internet & Privacy Practice Group, SILVERMcKENNA (2012-2016). Represented government entities, businesses, educational and institutional clients, and individual in matters involving electronic surveillance; Internet, computer, and cellular issues; computer hacking and the CFAA; monitoring employees and students; data compliance; medical privacy; web practices; privacy policies and terms of use; apps; copyright and the DMCA; speech and online content; UAVs; and location tracking. Frequent pro bono representation of victims of online stalking and revenge

porn; served in three-year long *pro bono* appellate case that ultimately secured a landmark First Amendment victory from Connecticut's Supreme Court for victims and survivors to search for their missing loved ones. See, *Gleason v. Smolinski*, 125 A.3d 920 (2015).

The Catholic University of America, Adjunct Professor (2005-2013) Media and Privacy Law

Crosswhite, McKenna, Limbrick & Sinclair, LLC, (CMLS) Managing Partner (1997-2004)

With others from Miles & Stockbridge, I founded CMLS, an AV-rated Baltimore litigation boutique representing companies and individuals in federal and state courts in MD and D.C., in catastrophic loss cases, employment-related litigation, electronic privacy, products liability, medical malpractice, insurance defense and insurance coverage, and surveillance and privacy related matters.

Miles & Stockbridge, PC, Associate (1995-1997)

EDUCATION

The Catholic University America School of Law: J.D. – 1994

American Jurisprudence (CALI) Award in Advanced Criminal Procedure/Investigative Process, Moot Court Associate, Women's Law Caucus, International Law Society, Intern with the Honorable Ellen Segal Huvelle (then D.C. Superior Court, now U.S.D.C. for the District of Columbia), and Student Legal Advocate in CUA's Litigation Clinic representing clients in D.C. Courts.

The Catholic University of America: B.A. – 1991

Byzantine History major; Dean's List, Every Semester Sophomore through Senior Years; member of Phi Alpha Theta National Honor Society and Pi Gamma Mu National Honor Society

PUBLICATIONS¹

Global Readership Data (in addition to Westlaw): Readership.works.bepress.com

Treatises	<p><u>Wiretapping & Eavesdropping: Surveillance in the Internet Age, 3rd Ed.</u>, McKenna, Anne Toomey & Fishman, Clifford S. (Thomson West, annually supplemented). Four-volume treatise published both as a hardbound treatise by Thomson West and online with its own dedicated Westlaw directory. This work:</p> <ul style="list-style-type: none">• analyzes and explains in detail federal law and the ever-increasing number of state laws, plus the Constitution, federal and state court decisions, and regulations related to technology, electronic surveillance, electronic devices, data collection, privacy, and the rapidly evolving civil, criminal, societal, and policy issues surrounding these subjects (includes legal analysis of IoT, cellular & smart devices, geolocation tracking, satellites, drones, biometrics)• regularly cited by federal and state judicial opinions, including by the U. S. Courts of Appeals for the Fifth, Seventh, Ninth, and Eleventh Circuits• is a well-known resource for and frequently cited by government and private practice attorneys, researchers, and law enforcement. <p><u>Wiretapping and Eavesdropping, 2nd Ed.</u>, Fishman & McKenna, (Clark, 1995, superseded by 3rd edition).</p> <p><u>Jones on Evidence, Civil and Criminal, 7th Ed.</u>, Fishman, Clifford S. & McKenna, Anne T. (Thomson Reuters, 2004 through present). One of the longest running evidence treatises in existence (in its second century of publication). The 7th edition is frequently cited by federal and state courts, including by the U.S. Courts of Appeal for the Fourth, Sixth, Seventh, Ninth, Tenth, and Eleventh Circuits, and the District of Columbia Circuit. Since joining as co-author to 7th Ed.:</p> <ul style="list-style-type: none">• In 2016, added new hardbound Volume 6 (expert witnesses in civil cases)
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¹ [Links embedded](#) where available.

	<ul style="list-style-type: none"> • In 2019, added new hardbound Volume 7 (damages-related experts, expert witnesses in criminal cases, and DNA evidence) • Significantly updated existing hardbound volumes so all volumes now have stand-alone supps • Oversaw Thomson Reuters’s creation of a dedicated online Westlaw directory for all of <i>Jones</i>
Law Review Articles	<p>The Role of Satellites and Smart Devices: Data Surprises and Security, Privacy, and Regulatory Challenges, 123 Penn State L. Rev. 591 (2019), McKenna, Anne Toomey; Gaudion, Amy C.; Evans, Jenni L. This article has repeatedly hit the top 10 in SSRN downloads in multiple subject areas since its publication.</p> <p>Pass Parallel Privacy Standards or Privacy Perishes, McKenna, Anne T., 65 Rutgers L. Rev. 1041 (2013).</p>
Books (Pending)	<p>Cyberlaw in Practice, McKenna, Anne Toomey (Wolters Kluwer; anticipated late 2023). Unique in design, this casebook flowed from the <i>Cyberlaw in Practice</i> course I designed. It:</p> <ul style="list-style-type: none"> • reviews pervasiveness of cyber and online activity and data in modern human life • explains technical underpinnings of modern communication platforms, smart devices, the cloud, emerging technologies, including biometrics and AI), and the resulting information nexus • analyzes existing constitutional, statutory, regulatory, and common law sources that have melded into the framework of laws called cyberlaw • addresses, in standalone chapters, the impacts that cyber technology has on traditional doctrinal subject areas, including civil procedure, torts, contracts, constitutional law, and evidence (with overview of electronic evidence). • breaks cyberlaw down by major practice areas, including business law, insurance law, employment law, torts and online speech, constitutional law, and criminal law
Articles, Reports, Blogs, Comments	<p>Brinknews (An Atlantic publication), Consumer Data as Evidence in a post-Dobbs world (November 2022)</p> <p>The Conversation, What is Fog Reveal? – A legal scholar explains the app some police are using to track people without a warrant. Picked up by NPR, Fast Company, and others. (October 2022)</p> <p>The Conversation, A new US data privacy bill aims to give you more control over information collected about you – and make businesses change how they handle data, discussing the proposed American Data Privacy Protection Act. Picked up and published by Yahoo News, Ars Technica, Fast Company, NPR, and other media outlets. (August 2022)</p> <p>Science Node, Privacy vs. Pandemic, the impact of COVID-19 on health privacy in U.S.; how contact tracing works, and how its data can be to monitor protestors; and immunity passports. (June 2020)</p> <p>BRINK, An Atlantic Publication, The ACDC Act Opens the Door to a Hack-Back Highway to Hell, in-depth analysis of Active Cyber Defense Certainty Act (July 2019)</p> <p>Science Node, Who owns your information? -The EU's new data protection regulations could influence how privacy is viewed in the US, discussing implementation + impact of E.U.’s General Data Protection Regulation. (June 2018)</p> <p>The Conversation, Appeals Court urges Congress to stop NSA’s mass scale surveillance. (May 2015)</p> <p>Internetprivacylawblog.com (2013-2016 published posts):</p> <ul style="list-style-type: none"> • Apple v. DOJ/FBI - Is Justice Scalia Rolling Over in His Grave?

	<ul style="list-style-type: none"> • The "Troll" - Malibu Media Continues to Sue and Scare Individuals • Business Cybersecurity & the Cloud: Six Practical Steps to Reduce Liability • Malibu Media Makes Marylanders Miserable • Your Business Has an Online Website—Does this Mean You Are an Internet Content Provider? – The CDA and Your Website • Your Employees and Social Media—Can You Read Their Online Activity? Worse, Could You Be Liable? Why Your Business Needs a Social Media Policy for Employees • The Cyber Intelligence Sharing and Protection Act of 2013 (CISPA) • FTC’s Report: Mobile Apps for Kids: Disclosures Still Not Making the Grade • New Jersey Appellate Court Upholds Firing of Teacher for Facebook Post that Labels First Graders “Future Criminals” What Does this Mean for Maryland Teachers and Schools? <p>Cybercrime Law Report, McKenna, Anne T. (West/Thomson 2004-2008). Bi-weekly reporter (subscription base of government & private practitioners) that analyzed technological advances, federal and state laws, cyber-related court decisions, and latest DOJ, FBI, DEA, FTC, FCC news.</p>
Course Materials	NSA’s Principles of Cyber Law & Policy , Lead faculty for course created pursuant to an NSA grant; course published nationally on the Clark Center site as part of the National Institute of Standards and Technology’s <i>National Initiatives for CyberSecurity Education</i> . This NIST-NICE Course examines cyber technology, cyber governance, and cyber law and policy for non-lawyers, and educates the public, business professionals, and workforce about cybersecurity, cyber risks, and the law.
Policy and Guideline Memoranda	U.S. Department of Justice-COPS Div. and the Police Foundation Joint Initiative on Use of UAVs in Community Policing , Principal Legal Consultant, Lead Author of published Policy and Legal Memorandum: <ul style="list-style-type: none"> • UAV Technology and US Law • UAV Liability Analysis • UAV/UAS-Overview of Research and Publications • UAV-Gathered Electronic Data-Analysis of Data Collection, Retention, Storage, & Use • UAV-Related State Legislation

MEDIA²

Documentary	<p>Interference: Democracy at Risk (2020)</p> <p>One of primary interviewees, along with the Honorable Tom Ridge, in documentary that addresses dark money, fake news, mis- and disinformation campaigns, the 2016 election, allegations of vote tampering, and securing future elections from disinformation campaigns. My interview segments address law and regulation of online platforms and online speech, the Communications Decency Act, mis- and disinformation campaigns, and how viral content is spread.</p>
News, Radio, Podcasts: Interviews & Quotes	<ul style="list-style-type: none"> • NPR/PBS – the Colin McEnroe Show and Podcast discussing Fog Reveal, data privacy, and electronic surveillance post-<i>Dobbs</i> (November 2022). • BRINK, An Atlantic Publication, (brink.com) re: legislation, social engineering, privacy (Dec. 2019, and Jan. 2020) • Federal News Network, “Penn State creates cybersecurity law & policy course for NSA (Sep. 2019); & “NSA develops online cybersecurity course” (Oct. 2019)

² [Links embedded](#) where available; only events from past 7 years listed due to space constraints.

	<ul style="list-style-type: none"> • PennLive, How social media goes after child porn (Sept. 2019) • Law Journal Newsletters Q&A - the Evolving Nature of Cyber law (June 2018) • The Washington Examiner re: wiretapping Paul Manafort (Sept. 2017) • The Intercept re: body-cam evidence from Baltimore police (Aug. 2017) • Bloomberg Law/Bloomberg Radio re: DOJ charges from Yahoo hack (Mar. 2017) • The Boston Globe re: Boston Police’s aerial surveillance to locate marijuana growers (Oct. 2016) • The Baltimore Sun re: Baltimore police’s aerial surveillance tactics (Oct. 2016) • NPR Morning Edition Interviewed in nationally aired Lead Story re: Yahoo hack (Sept. 2016) • VICE News re: Baltimore police’s secret use of privately funded surveillance plane recording 32-mile radius over the city (Sept. 2016) • The Baltimore Sun A1 cover story re: Baltimore police’s surreptitious aerial surveillance (Aug. 2016) • The Baltimore Sun –re: late-breaking story on company with secret contract to fly surveillance flights over Baltimore (Aug 2016) • Penn State Research Matters –Interviewed and quoted in widely publicized piece on the Pokémon Go phenomenon and privacy concerns associated with the app’s data collection (July 2016) • The Washington Lawyer re: Cybercrime (May 2015) • The Baltimore Sun re: Baltimore Police Department’s secret "stingray" program (Apr. 2015) • The Washington Post A1 cover story re: police body cams and privacy concerns (Dec. 2014)
<p>Televised Interviews</p>	<ul style="list-style-type: none"> • Sinclair Broadcast Group (SBG), multiple televised interviews nationally syndicated to SBG stations, including CBS, NBC, ABC, and FOX news stations: re: online privacy, mobile apps, surveillance, cyber security, data breaches • NBC Baltimore (WBAL): private social media surveillance firm that identified protestors engaged in online speech as “threat actors” during Baltimore Riots • NBC (D.C.): Fraudulent online donation scam • NBC and CBS (Baltimore): D.C. Rabbi secretly videoing women in Mikvah • FOX News: numerous nationally syndicated + prime-time lead stories re: online data and privacy issues, surveillance, and social media content (2015-2018)

TALKS, PRESENTATIONS, & ORGANIZED EVENTS³

- U.S. Senate AI Caucus, Informal presentation to lead staffers on legislative priorities/issues re: artificial intelligence and EU’s forthcoming AI Act (Jan. 2023)
- U.S. House of Representatives, AI Caucus, Informal presentation to staffers on pending and proposed AI legislation (Jan. 2023)
- Central Intelligence Agency (CIA), Organizer + Moderator of Panel (virtual and in-person) with Chief Privacy and Civil Liberties Officer and others from CIA presented at Richmond Law re: risks and legal issues with Agency’s use of AI in organization (March 2022)
- The White House’s Office of Science and Technology Policy (OSTP) Lead Speaker, IEEE Presentation on AI Law & Policy issues to OSTP Leadership (Dec. 2021)
- University of Michigan: Guest Lecturer, *Online Speech, Cyberlaw, and Risk* (April 2021)
- Baltimore Catholic Business Network: Key Speaker: *Cyber Realities for Businesses* (March 2021)
- South Carolina Bar Association: Annual Meeting, Speaker: *Cyberlaw Issues for Attorneys in Federal and State Practice* (Jan. 2021)

³ [Links embedded](#) where available; only events from past 6 years listed due to space constraints.

- [Penn State Institute for Computational & Data Sciences \(ICDS\) 2020 Symposium, The Data Deluge: Opportunities and Challenges](#), Panel Organizer + Moderator, *Social Engineering with Data: Disinformation & Destabilization of Geo-Political Order* Livestream + recorded (Oct. 2020)
- [Seattle University School of Law: 3rd Annual Innovation and Technology Law Conference](#), Speaker: *The Tech at Play in Today's Data Collection*, and *Case Study: Contact Tracing to BLM Monitoring: Health Data & Geo Data as a Surveillance Tool*. (Virtual, Aug. 2020)
- Wolters Kluwer's 2020 Leading Edge Faculty Conference, Presentation: *Contact Tracing to BLM Monitoring: Teaching Law & Protecting Vulnerable Groups*. (Virtual, July 2020)
- [2020 Privacy Law Scholar's Conference](#), Commenter/Reviewer of working paper, *Ubiquitous Wiretaps and the Legal Implications of Passive Listening*, by Lindsey Barrett and Ilaria Liccardi. (Virtual, June 4-5, 2020)
- [Hacking the U.S. Election: How Can We Make U.S. Elections More Secure](#), Lead Organizer, Speaker, and Moderator of [C-SPAN Televised Symposium](#) sponsored by Penn State Dickinson Law, ICDS, Center for Democracy & Technology, and Brennan Center for Justice, held in the U.S. Capitol Building. Flash Talk: *Securing Elections and Combating Social Engineering*. (Washington, D.C., Feb. 2020)
- [Cato Institute 2019 Surveillance Conference](#), Speaker, [televised by C-SPAN](#), *Privacy and security risks from satellite, smart device, and IoT information nexus*. (D.C., Dec. 2019)
- Penn State Dickinson Law's [Responding to Atrocity Crimes Symposium \(2019\)](#), *The American Experience Panel* (how data can be used to identify, prevent, and prove atrocities. (Oct. 2019)
- [Privacy Law Scholar's Conference 2019](#), Presented working paper on *Satellites and Smart Devices* with co-author. (Berkeley, May 2019)
- [Penn State Center for Security Research and Education Symposium, Security and the Autonomous Future](#), Panel Moderator, *Autonomous Systems and Domestic Security* (State College, April 2019)
- [ICDS 2019 Symposium: Artificial Intelligence and Machine Learning in Science and Society](#), Moderator, *Law and Policy in AI Research, Use, and Application*. (State College, April 2019)
- [Penn State Law Review's 2019 Symposium, The Big Data Revolution and Its Impact on the Law](#). Speaker: *Satellite & Smart Devices: Privacy and National Security Challenges*. Keynote: *ABA Opinion 483: Lawyers' Obligations After an Electronic Data Breach*. (March 2019)
- [Annual Joint Hack Response Simulation](#), Developer of Penn State's annual, competitive, large-scale hack simulation of breach of health, PII, and national security data. Interdisciplinary teams vie for most technologically and legally appropriate response to hack. (2018; 2019)
- Monash University (Australia) Symposium: [Data Science and Artificial Intelligence in the Humanities, Arts, and Social Sciences](#), Panel: *Legal and Ethical Implications of Data and AI*; my Flash Talk: *AI – Legal and Regulatory Challenges*. (Melbourne, Australia, Feb. 2019)
- CUA Law Symposium, panel, *Future of Data Regulation* (D.C., Jan. 2019)
- *Electronic Evidence and Social Media: The Cyberlaw Every Judge Needs to Know*. Presented indepth judicial education course to over 150 PA trial and appellate judges *pro bono* at request of Pennsylvania's Administrative Office of Courts. (Philadelphia, Nov. 2018)
- ICDS Seminar, [Use of Human Health Data in Research](#), using human health data and business and data compliance issues. (State College, Oct. 2018)
- KPMG, Panel Moderator, *Cybersecurity and Law for Businesses*. (Philadelphia, Sept. 2018)
- Office of General Counsel (OGC) for CIA: At request OGC, presented to attorneys in the CIA-OGC about cyberlaw, emerging technologies, and imperative for interdisciplinary education in cyber, tech, law, and policy. (Langley, VA, Aug. 2018)
- Wolters Kluwer Leading Edge Faculty Conference (invitation-only conference), Presentation – *Why Cyberlaw and Technology Should Be Taught to Every Law Student*. (Chicago, July 2017)
- Privacy Law Scholars Conference (PLSC), annually invited commenter on working papers at the largest annual gathering of privacy law scholars and industry. (June 2009-June 2020)
- Penn State University, Presenter, *Data: Risks, Responsibilities, and Rights* (Feb. 2017)
- KPMG, Discover, DHS, and Penn State Smeal College of Business Manhattan Event, Speaker and Panel Moderator, *We Are Secure: Data as Asset & Liability*. (New York City, Nov. 2016)
- Penn State Law Event, Speaker, *Will Tweets & Hacks Decide the 2016 Election?* (Oct. 2016)
- Penn State Social Media Summit, Panelist, *Privacy law considerations with social media: use, media marketing, and risk management*. (State College, Oct. 2016)

- GW’s School of Media & Public Affairs, Penn State College of Communications, & Penn State Law, Organizer, *The Legal and Policy Dimensions of Cybersecurity*. (D.C., Sept. 2016)
- Penn State Dickinson Law School, Panelist, *The FBI’s San Bernardino iPhone case*. (Apr. 2016)
- CUA Law School, Speaker, *Careers in Privacy Law*. (D.C., Mar. 2016)
- Johns Hopkins University, Solo presenter for two-hour presentation, *Student Online Speech and Universities: Walking the Line of Technology, Law, & Liability*, to Deans and Administrators from Johns Hopkins, Georgetown, George Washington, American Univ, Loyola Univ., Univ. of Maryland, and other mid-Atlantic universities. (Baltimore, Feb. 2016)

PROFESSIONAL AND VOLUNTEER ACTIVITIES

<p>Associations (Past and Present)</p> <ul style="list-style-type: none"> • IEEE (Co-chair, IEEE’s Subcommittee on Privacy, Equity & Justice in AI; Member, AI Policy Committee) • American Bar Association • Maryland State Bar Association; Baltimore County Bar Association • Baltimore City Bar Association • District of Columbia Bar Association • American Trial Lawyers Association • Judicial Selections Committee for Baltimore City Bar Association 	<p>Volunteer & Community Activities</p> <ul style="list-style-type: none"> • VA Medical Reserve Corps: Volunteer assisting VA-DOH with COVID-19 • Faculty Advisor for Students taking VA Bar Exam • Attorney Advisor to Maryland State Bar Association’s Mock Trial School Programs • <i>Pro bono</i> educational seminars and presentations for state bar associations across the U.S. and for judges and attorneys regarding cyber law, social media and the law, and electronic surveillance law, as well as for local schools, students, and parents • Stop Internet Bullying Committee, Baltimore County Public Schools • Chair, Parish Finance Committee, Baltimore Catholic Parish • St. Vincent de Paul – Meals for Homeless • Volunteer & Meal Coordinator, Baltimore County Homeless Shelter • Various Volunteer activities in community and local schools
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