

# **SETH F. KREIMER**

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## **EDUCATION**

9/74-5/77 YALE LAW SCHOOL, J.D., Member, Yale Law Journal  
9/70-4/74 YALE COLLEGE, B.A., Economics, Phi Beta Kappa

## **PROFESSIONAL EXPERIENCE**

6/04- Kenneth W. Gemmill Professor, University of Pennsylvania School of Law  
6/02-6/04 Associate Dean, University of Pennsylvania School of Law  
6/92-6/04 Professor, University of Pennsylvania School of Law  
6/85-6/92 Associate Professor, University of Pennsylvania School of Law  
6/81-85 Assistant Professor, University of Pennsylvania School of Law  
9/78-6/81 Associate, Fine, Kaplan & Black, Philadelphia, PA  
8/77-8/78 Clerk, Hon. Arlin M. Adams, U.S. Court of Appeals

## **TEACHING EXPERIENCE**

### University of Pennsylvania Law School:

1981- Constitutional Law, Constitutional Litigation, Privacy and Disclosure ,  
First Amendment, Individual Rights and Health Care, Managed Care, Civil  
Procedure, Complex Litigation, Torts  
2011 Winner: Beacon Award for Exemplary Pro Bono Service, Penn Law School  
2006 Winner, A. Leo Levin Teaching Award, Penn Law School  
1998 Winner, Christian R. and Mary F. Lindback Foundation Award for Distinguished  
Teaching, University of Pennsylvania  
1997 Winner: Harvey Levin Teaching Award, Penn Law School

## PUBLICATIONS

Pervasive Image Capture and the First Amendment: Memory, Discourse, and the Right to Record  
159 U. Pa. L. Rev. 335 (2011)

The Responsibilities of the Jewish Lawyer in Howard Lesnick, RELIGIOUS THOUGHT IN  
LEGAL PRACTICE (2010)

Remembering Ed Baker 159 U. Penn. L Rev. 647 (2010).

The Freedom of Information Act and the Ecology of Transparency  
10 U. Penn J. Const. Law 1011 (2008)

Rays of Sunlight in a Shadow "War": FOIA, The Abuses of Anti-Terrorism, and the Strategy of  
Transparency 11 Lewis & Clark L. Rev. 1141(2007)

Rejecting "Uncontrolled Authority Over the Body": The Decencies of Civilized Conduct , the Past  
and the Future of Unenumerated Rights 9 U. Pa. J. Const. L. 423 (2007)

Censorship by Proxy Censorship by Proxy: The First Amendment, Internet Intermediaries and the  
Problem of the Weakest Link 155 U. Pa. L. Rev. 11 (2006)  
Selected for reprint in THE FIRST AMENDMENT LAW HANDBOOK 2007-08

Torture Lite, Full-Bodied Torture, and the Insulation of Legal Conscience  
1 Journal of National Security Law and Policy 187 (2005)

Truth Machines and Consequences; The Light and Dark Sides of "Accuracy" in Criminal Justice  
60 N.Y.U. Ann. Surv. Am. L. 655 (2005)

Watching the Watchers: Surveillance, Transparency and Political Freedom  
in the War on Terror 7 U. Penn. J. Con. Law 133 (2004)

Chapters on "Privacy" and "Free Expression" in  
The Pennsylvania Constitution: A Treatise on Individual Rights and Liberties, (2004)

Too Close to the Rack and the Screw: Constitutional Constraints on Torture in the War on  
Terror, 6 U. Penn. J. Con. Law 278 (2003)

Double Helix, Double Bind; Factual Innocence and Post Conviction DNA Testing  
151 U.Pa.L.Rev. 547 (2002) (with David Rudovsky)

The Pennsylvania Constitution's Protection of Free Expression,  
5 U. Penn. J. Con. L. 12 (2002)

Lines in the Sand: The Importance of Borders in American Federalism,  
150 U. Penn. L. Rev. 973 (2002)

Technologies of Protest: Insurgent Social Movements and the First Amendment in the Era of the Internet, 150 U. Penn. L. Rev. 119 (2001)

Federalism and Freedom, 574 Annals Am. Acad. Pol. & Soc. Sci. 66 (2001)

The New Etiquette of Federalism: New York, Printz and Yeskey  
1998 Sup. Ct. Rev. 71 (1999)(with Matthew Adler)

Invidious Comparisons: Some Cautionary Remarks on the Process of Constitutional Borrowing, 1 U. Pa. J. Con. Law 640 (1999)

From Black and White to High Definition Equal Protection, 70 Temple L. Rev. 1165 (1997)

The Second Time as Tragedy: The Assisted Suicide Cases and the Heritage of Roe v. Wade 24 Hastings Const. L.Q. 863 (1997)

Exploring the Dark Matter of Judicial Review: A Constitutional Census of the 1990s, 5 Wm. & Mary Bill of Rts. J. 427 (1997)

Territoriality and Moral Dissensus: Thoughts on Abortion, Slavery, Gay Marriage and Family Values, 16 Quinnipiac L. Rev. 161 (1996)

Book Review: The Right to Die 17 J. Legal Med. 573 (1996)

Does Pro-Choice Mean Pro-Kevorkian? An Essay on Roe, Casey, and the Right to Die, 44 Am.U. L.Rev. 803 (1995)

The Right to Privacy in the Pennsylvania Constitution, 3 Widener J. Pub. L. 77 (1993)

"But Whoever Treasures Freedom..."; The Right to Travel and Extraterritorial Abortions, 91 Mich. L. Rev. 907 (1993)

The Law of Choice and Choice of Law; Abortion, The Right to Travel and Extraterritorial Regulation 67 N.Y.U. L. Rev. 451 (1992)

Sunlight, Secrets and Scarlet Letters; The Tension Between Privacy and Disclosure in Constitutional Law, 140 U. of Pa. L. Rev. 1 (1991)

Entitlement, Encyclopedia of American Constitutional Law (1990 supplement)

Government Largesse and Constitutional Rights; Some Paths Through and Around the Swamp 26 San Diego L. Rev. 229 (1988)

Government, Economic Power, and Free Speech: Can The State Buy Silence?  
8 Tel Aviv U. Studies in Law 265 (1988)

Releases, Redress and Police Misconduct; Reflections on Exchanging Dismissal of Criminal Charges for Release of Civil Rights Liability 136 U. Pa. Rev. 851 (1987)

The Source of Law in Civil Rights Cases; Some Old Light on Section 1988, 133 U.Pa.L.Rev. 601 (1985)

Allocational Sanctions: The Problem of Negative Rights in a Positive State, 132 U.Pa.L.Rev. 1293 (1984)

What is an Appealable Order? in Federal Appellate Advocacy, Pennsylvania Bar Institute Publication No. 104 (1979), updated in Federal Appellate Advocacy, Pennsylvania Bar Institute Publication No. 202 (1982)

Note, Reading the Mind of the School Board: Segregative Intent, and the De Facto/De Jure Distinction, 86 Yale L.J. 317 (1976)

## ACTIVITIES

### a) **Civil Rights/Civil Liberties/ Community Service**

Member American Law Institute (2009- present)

Member of the Board, American Civil Liberties Union, Philadelphia Chapter (1982-present); Cooperating Attorney (1979-present); Chair, Legal Committee (2004-present)

Womens Law Project Cooperating Attorney (1979-present)

(Board of Directors, 1991-1997) (Litigation Committee 1997-present)

Member: American Jewish Congress Commission on Social Action (1986-1996)

Member of Board, Jewish Fund for Justice (1986-91)

President, Congregation Mishkan Shalom (1998-2000)

During the time I have been associated with the University of Pennsylvania Law School, I have served as co-counsel in:

Bailey v. City of Philadelphia, No. 10-5952 (E.D. Pa. complaint filed Nov. 4, 2010) (class action challenging stop and frisk policy of Philadelphia Police Department)

B. H. v. Easton Area Sch. Dist., 2011 U.S. Dist. LEXIS 39483 (E.D. Pa. 2011) (enjoining efforts to retaliate against students who wore breast cancer awareness bracelets to school)

Kalman v. Cortes, 723 F. Supp. 2d 766 (E.D. Pa. 2010) (invalidating statute that forbidding the grant of a corporate name that constitutes “blasphemy”)

Miller v. Skumanick 605 F. Supp. 2d 634 (M.D. Pa. 2009)

Miller v. Mitchell, 598 F.3d 139 (3d Cir. Pa. 2010) (enjoining threatened prosecution of child pornography charges against teen aged girls who appeared scantily clad in cell phone photos; first successful constitutional challenge to a “sexting” prosecution)

Buck v. Stankovic 485 F. Supp. 2d 576 (M. D. Pa. 2007) (enjoining denial of marriage license to citizen who wished to marry undocumented non-citizen)

Pilchesky v. Miller, 2006 U.S. Dist. LEXIS 73681 (M.D. Pa. 2006) (First Amendment challenge to procedure by which the Pennsylvania State Police shut down a website that hosted a discussion board concerning local politics in Scranton)

Surrick v. Killion, 2005 U.S. Dist. LEXIS 6755 (E. D. Pa. 2005) aff'd 449 F.3d 520 (3d Cir. 2006) (Successfully challenging effort by state court to interfere with right of duly admitted attorney to practice before federal courts)

Center for Democracy and Technology v. Pappert  
337 F. Supp. 2d 606 ( E. D. Pa.2004) (Successful First Amendment challenge to Pennsylvania statute requiring Internet Service Providers to censor access to websites)

Nixon v. Commonwealth of Pennsylvania 576 Pa. 385; 839 A.2d 277 (2003)  
(Successfully challenging constitutionality of lifetime disqualification of ex-offenders from eligibility for work in health care industries)

Rajcoomar v. Transportation Safety Agency Civ Act. No. 03-2294  
(E.D.Pa. 2003)) (Action challenging detention of innocent individual by “sky marshals” on the basis of ethnic background; suit was settled with payment of damages, official apology, and court-supervised commitment to improve training)

Godschalk v. Montgomery County District Attorney’s Office  
177 F. Supp. 2d 366 (E.D. Pa. 2001)  
(Successfully challenging decision of District Attorney to deny access to material sought for post-conviction DNA testing; inmate exonerated and released)

Ferguson v. City of Charleston 121 S. Ct. 1281 (2001) (Establishing that non-consensual drug testing of obstetrical patients violates Fourth Amendment)

Unity 2000 v. City of Philadelphia (E.D. Pa. 2000) (Successfully seeking permit for demonstrators at Republican National Convention)

Jackson v. Hendricks (Phil Common Pleas No.1971 :2437) (Class action consent decree monitoring prison conditions).

Maldonado v. Houston 177 F.R.D. 311 (E.D. Pa. 1997) affd 125 F.3d1042 (3d Cir 1998)  
(Class action successfully challenging unconstitutionally discriminatory residency requirement for public assistance)

Success Against All Odds v. Department of Public Welfare 700 A.2d 1340 (Pa. Cwlth. 1997) stay granted No.0122 M.D. Appeal Docket 1997 (Class action seeking to retain pass through of child support payments to families on public assistance)

NAACP v. City of Philadelphia (E.D. Pa. 1996) No.96-6045 (Class action seeking relief from pattern of police brutality in the city of Philadelphia). Consent decree entered September 1996.

Elizabeth Blackwell Health Center for Women v. Knoll 1994 U.S. Dist. LEXIS 13295 (E.D. Pa.); 61 F.3d 170(3d Cir 1995)(Class action successfully seeking medicaid abortion funding for survivors of rape and incest)

Wilson v. Tinnicum Township No. 92-CV-6617 (E.D. Pa.); 1993 U.S. Dist LEXIS 9971 (Class Action successfully challenging use of racial profiles in stopping and searching motor vehicles)

Alliance for the Mentally Ill v. White, No. 90-6389 (E.D.Pa.)1991 U.S. Dist LEXIS 15994; 1992 U.S. Dist. LEXIS 19391 (Challenging State's refusal to provide necessary medication for patients at state mental hospitals).

Planned Parenthood of Southeastern Pennsylvania v. Casey, 744 F. Supp. 1323 (E.D. Pa. 1990); 947 F.2d 682 (3d Cir 1991); 112 S.Ct. 2791 (1992); 978 F.2d 74 (3rd Cir. 1992); 14 F.3rd 848 (3d Cir. 1994) (Class action challenging amendments to Pennsylvania Abortion Control Act)

Fischer v. Department of Public Welfare, 509 Pa. 293; 502 A.2d 114 (1985); 492 Pa. 267; 439 A.2d 1172 (1982); 482 A.2d 1148 (Pa. Cwlth, 1984); 66 Pa. Cwlth 70; 444 A.2d 744 (1982) (Class action challenging Pennsylvania's denial of medical assistance for medically necessary abortions)

American College of Obstetricians and Gynecologists v. Thornburgh, 737 F.2d 283 (3d Cir. 1984); 699 F.2d. 644 (3d Cir. 1983); 552 F.Supp. 791 (E.D.Pa. 1982), affd. 476 U.S. 747 (1986) (Challenge to Pennsylvania; Abortion Control Act)

Strathie v. Department of Transportation, 716 F.2d 227 (3d Cir. 1983) (Challenging exclusion of hearing-impaired applicants from eligibility for drivers licenses)

Student Coalition for Peace v. Lower Merion School District, 776 F.2d 431 (3d Cir. 1985) (Challenging refusal to allow student group to use school facilities for Peace Fair)

Peterkin v. Jeffes, 661 F Supp 895 (ED Pa. 1987) affd. in part, vacated in part 855 F.2d 1021 (3d. Cir. 1988) (Challenging conditions of confinement on death row in Pennsylvania)

I have served as guardian ad litem for the class of plaintiffs in:

Daniel B. v. White No. 79-4088 (E.D. Pa.) 1991 U.S. Dist LEXIS 4925 (Seeking appropriate treatment for a class of mentally retarded adults)

I have written amicus briefs in:

In Re R.B.F 803 A.2d 1195 (Pa. 2002) (Successfully establishing right of second parent adoption in Pennsylvania)

Marrero v. Commonwealth of Pennsylvania 739 A.2d 110 (Pa. 1999)

(Asserting justiciability of challenge to constitutionality of Pennsylvania's system of school finance.)

Anderson v. Creighton, 107 S.Ct. 3034 (1987) (opposing extension of good faith immunity in warrantless search)

Price v. Cohen, 715 F.2d. 87 (3d Cir. 1983)  
(Challenging exclusion of persons below the age of 45 from general assistance)

Commonwealth of Pennsylvania v. Robinson, 360 Pa. Super 624; 517 A.2d 204 (1986)  
(Challenging Philadelphia's system of providing counsel for indigents in capital cases)

Bartholomew v. Foster 115 Pa. Cwlth; 430 541 A.2d 393 (1988),  
affd. by and equally divided court, 522 Pa. 489 563 A.2d 1390 Pa. (1989). (Challenging sex-segregated insurance tables under Pennsylvania's ERA)

I have served as consultant to the ACLU, Planned Parenthood Federation, Community Legal Services, the Lawyers Committee for Civil Rights under Law, the Hebrew Immigrant Aid Society, the Center for Constitutional Rights, the Public Interest Law Center of Philadelphia, the Philadelphia Mayor's Committee on the Homeless, the Philadelphia Human Relations Commission, the Disabilities Law Project, the City of Philadelphia, the Juvenile Law Center and the Women's Law, the Jewish Social Policy Action Network, the Mazzone Center Project on various constitutional law and constitutional litigation issues.

**b) Professional Education Activities (presentations and writings)**

In addition to a variety of continuing legal education presentations, I have given the following invited presentations and popular writings:

2010 "Legal Constraints on Visual Advocacy", Penn Law Visual Advocacy Round Table  
October 22, 2010.

2010 A Hollow Debate over Hallowed Ground at CBSNews.com (8/22/2010).  
<http://www.cbsnews.com/stories/2010/08/30/opinion/main6818782.shtml?tag=mncol;lst;1>

2009 "Sex Laws and Videophones: the Problem of Sexting Prosecutions" presented to Center for Children, Law and Policy, University of Houston Law Center symposium on Children, Sex and the Law Symposium, October 23, 2009.

2008 Testimony before the Senate Judiciary Committee, Subcommittee on the Constitution hearing "Restoring the Rule of Law" September 16, 2008 available at  
<http://feingold.senate.gov/ruleoflaw/testimony/kreimer.pdf>

2007 "Rays of Sunlight in a Shadow "War": Subconstitutional Structures of Transparency", presented April 20, 2007 at the Lewis and Clark Law School Symposium "Crimes, War Crimes, and the War on Terror"

2006 "Uncontrolled Authority Over the Body": The Decencies of Civilized Conduct, the Past and

the Future of Unenumerated Rights” University of Pennsylvania Journal of Constitutional Law Symposium on Unenumerated Rights

- 2005 “Religious Liberty in the American Constitution” ,  
Religion and Politics Convocation, Kellogg Fellows Leadership Alliance,  
Ucross, Wyoming.
- “Torture Lite, Full-Bodied Torture, and the Insulation of Legal Conscience”  
American Association of Law Schools Conference in San Francisco  
Panel on National Security Law
- 2004 “Truth Machines and Consequences; the Dark Side of DNA Testing”  
NYU Law School Symposium on “The Power and Pitfalls of Technology”
- “The Pennsylvania Constitution’s Protection of Free Expression”  
Pennsylvania Appellate Courts Conference
- “Watching the Watchers, Surveillance, Transparency and Political Freedom  
in the War on Terror”  
Civil Liberties and Terrorism Conference jointly sponsored by  
Army War College and University of Pennsylvania Law School
- 2003 “Free Speech in a Time of Terror” Sparer Conference  
University of Pennsylvania Law School
- 2001 “Responding to Terrorism”, University of Pennsylvania Symposium  
Presentation available at <http://www.upenn.edu/almanac/v48/n04/Kreimer.html>
- “Technologies of Protest”, Sparer Conference on Law and Social Movements  
University of Pennsylvania Law School
- 1999 “Women and the Law: The Unfinished Agenda”, Greater Philadelphia Women’s Studies  
Consortium
- 1998 “Constitutional Borrowings” Conference, University of Pennsylvania Constitutional  
Law Journal
- “Jewish Bioethics at the Crossroads”, University of Pennsylvania Center on Bioethics
- 1997 American Philosophical Association, "Physician Assisted Suicide"
- Third Circuit Judicial Conference Presentation: "The Impact of Social  
and Technological Trends on Civil Rights Law in the 21<sup>st</sup> Century"
- Hastings Law School, Panel on "Visions of Death and Dying"

- 1996 Quinnipiac Law School, Conference on "Federalism Revisited: Extraterritorial Recognition of Same-Sex Marriages"
- Fordham Law School/Center for Law & Social Welfare Conference on Welfare Litigation in the Block Grant Era: "Institutional Procedural Fairness"
- 1995 Third Circuit Historical Society Symposium: The Pennhurst Case: "The Eleventh Amendment Legacy of Pennhurst"
- Americans United for Separation of Church and State Conference on School Vouchers, "School Vouchers and the Pennsylvania Constitution"
- 1994 New York University Law School: Program on Law and Philanthropy Conference on Nonprofit Speech: Lobbying & Political Campaign Activities; Commentator on Constitutional Issues
- 1993 Pennsylvania Bar Assn. Annual Meeting "The Right to Privacy in Pennsylvania's Constitutional Law"
- AALS Conflict of Laws Section Panel on Abortion and Conflict of Law
- 1991 Third Circuit Judicial Conference: Session on Privacy and the First Amendment
- 1990 University of California, Berkeley Schools, of Law and Journalism, Conference on Privacy and the Media
- 1988 American Association of Law Schools, Constitutional Law Section: Panel on Unconstitutional Conditions (New Orleans, Louisiana)
- 1987 Tel Aviv University Conference on Constitutional Law, "Freedom of Speech in America, A Worthy Tradition."
- 1983 Third Circuit Judicial Conference: Recent Developments in Federal Practice and Procedure