

## **RACHEL E. VANLANDINGHAM**

Stetson University College of Law  
1401 61<sup>st</sup> St. S., Gulfport, Florida 33707  
(813) 335-3331 (cell) rvanland@law.stetson.edu

### **ACADEMIC POSITIONS**

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**Stetson University College of Law**, Gulfport, FL

*Bruce R. Jacob Visiting Assistant Professor*, 2012-present (two-year appointment)

Courses: Professional Responsibility, International Law, Criminal Procedure, and Civil Procedure

**U.S. Air Force Academy**, Colorado Springs, CO

*Assistant Professor of Law and Deputy Department Head, Department of Law*, 2010-2012

Courses: Military Law and International Law

### **EDUCATION**

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**The Judge Advocate General's School, United States Army**, Charlottesville, VA

LL.M., Operational and International Law, 2006, *Commandant's List*

**University of Texas School of Law**, Austin, TX

J.D., 2000, *With High Honors*

*Chancellors Society, Order of the Coif*

**The University of Maryland**, College Park, MD

Masters of Public Management, National Security Emphasis, 1994

*McArthur Scholar*

**U.S. Air Force Academy**, Colorado Springs, CO

B.S., Political Science, 1992

### **WORKS IN PROGRESS**

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*Modern U.S. Military Operations and the International Committee of the Red Cross: The Department of Defense's Unique Relationship with the Guardian of International Humanitarian Law*, in *LAW AND U.S. MILITARY OPERATIONS* (Oxford Univ. Press, forthcoming Spring 2014). Co-editor (with Professor Geoffrey Corn) of twenty-chapter text on the effect of law in military operations; author of chapter on U.S. military's dialogue with the International Committee of the Red Cross (forthcoming Spring 2014).

### **PUBLICATIONS**

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*Meaningful Membership: Making War a Bit More Criminal*, 34 *CARDOZO L. REV.* (forthcoming 2013).

*Acoustic Separation in Military Justice: Filling the Decision Rule Vacuum with Ethical Standards*, 11 OHIO ST. J. CRIM. L. (forthcoming Spring 2014) (invited contribution).

*The Stars Aligned: The Legality, Legitimacy, and Legacy of 2011's Humanitarian Intervention in Libya*, 46 VAL. U. L. REV. 859 (2012) (invited contribution).

*Politics or Law? The Dual Nature of the Responsibility to Protect*, 41 DENV. J. INT'L L. & POL'Y 63, (Fall/Winter 2012) (invited contribution).

SERVICEMEMBER AND VETERANS' RIGHTS (Joseph Butler & Brian Clauss eds., 2011) (invited contribution; co-authored chapter on military justice in the Air Force).

## ACADEMIC PRESENTATIONS AND OP-EDS

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### *Response Systems to Adult Sexual Assault Crimes*

Testified at fact-finding session of panel established by §576 *National Defense Authorization Act FY 2013*, Washington, DC (August 2013) (federal advisory panel statutorily established to examine sexual assault in the military and the military justice system's responses; presented current research on prosecutorial discretion within the military).

### *Professional Responsibility Pecha Kucha*

Southeastern Association of Law Schools Annual Meeting, Palm Beach, FL (August 2013) (presented *Acoustic Separation in Military Justice: Filling the Decision Rule Vacuum with Ethical Standards*).

### *International Law Colloquia*

New Scholars Colloquia on Justice/International, Southeastern Association of Law Schools Annual Meeting, Palm Beach, FL (August 2013) (presented *Meaningful Membership: Making War A Bit More Criminal*).

### *Affirmative Sir! (And Ma'am!) The U.S. Military Needs Affirmative Action Now More Than Ever*

Op-Ed with Professor Robert Knowles in *The New Republic* (June 24, 2013), available at <http://www.newrepublic.com/article/113603/affirmative-action-us-military-still-essential#>.

### *National Security Law Faculty Workshop*

Fifth and Sixth Annual National Security Law Faculty Workshops, co-hosted by University of Texas School of Law, South Texas College of Law, and The Judge Advocate General's Legal Center and School, Houston, TX (May 2012 and May 2013) (presented two participants' works-in-progress on international responsibility to protect doctrine and detention issues).

### *Legal Scholarship Forum*

Eleventh Circuit Legal Scholarship Forum, Stetson University College of Law, Gulfport, FL (November 2012) (presented *Meaningful Membership: Making War A Bit More Criminal*).

*The Arab Spring and its Unfinished Business: Law & Policy Issues*

Panel Member, 44th Annual Sutton Colloquium, hosted by University of Denver Sturm College of Law, Denver, CO (November 2011).

*Our World at War*

Panel Member, South Texas College of Law, co-sponsored by the International Committee of the Red Cross, Houston, TX (March 2011).

*Drones and Their Implication for International Law*

Panel Member, 43<sup>rd</sup> Annual Sutton Colloquium, hosted by University of Denver Sturm College of Law, Denver, CO (November 2010).

## **PRACTICE AND OTHER EXPERIENCE**

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**Deputy Department Head, Department of Law & Assistant Professor of Law, 2010-2012**

U.S. Air Force Academy, Colorado Springs, CO

Managed legal department of 19 professors in top-twenty undergraduate institution in which all students are required to take a legal course from the department of law; taught international law and military law courses.

**Chief, International Law and U.S. Central Command Liaison to International Committee of the Red Cross Law, 2006-2010**

U.S. Central Command, Tampa, FL and Doha, Qatar

Advised commander and staff, U.S. Central Command, and constituent units on international and operational legal issues; personally accompanied International Committee of the Red Cross members on inspections in Afghanistan and Iraq; developed policy with Office of the General Counsel, Department of Defense.

**Chief, Recruiting Branch, Office of The Judge Advocate General, 2004-2005**

The Pentagon, Washington, DC

Responsible for all aspects of recruiting new judge advocates into U.S. Air Force.

**Appellate Advocate, U.S. Air Force Appellate Defense Division, 2003-2004**

Bolling Air Force Base, Washington, DC

Drafted appellate briefs and provided oral argument before the Air Force Court of Criminal Appeals (AFCCA) and the Court of Appeals for the Armed Forces (CAAF).

**Area Defense Counsel, 2002-2003**

Holloman Air Force Base, Alamogordo, NM

Represented numerous airmen in military courts-martial and during adverse action proceedings.

**Chief, Military Justice, 2000-2002**

Holloman Air Force Base, Alamogordo, NM

Served as lead prosecutor for all base military justice cases; deployed as Staff Judge Advocate to expeditionary air wing at Al Udeid Air Base, Qatar, June-August, 2002.

**Funded Legal Education Student, University of Texas School of Law, 1997-2000**

Austin, TX

One of seven Air Force officers competitively selected from Air Force officer corps to attend law school funded by the Air Force while on active duty. During summer academic breaks, served as legal intern writing Federal Tort Claims Act opinions at Wright-Patterson Air Force Base, Dayton, OH and as an intern at the Air Force Personnel Center, San Antonio, TX, authoring legal reviews of findings of the Air Force Board for the Correction of Military Records.

**Chief, Wing Protocol, 31<sup>st</sup> Fighter Wing, 1996-1997**

Aviano Air Base, Italy

Ran protocol division for operational fighter base. Hosted U.S. president, foreign dignitaries, senators, and congressional representatives.

**Chief, Wing Readiness/Nuclear Surety, 31<sup>st</sup> Fighter Wing, 1995-1996**

Aviano Air Base, Italy

Ran branch responsible for ensuring nuclear weapons were maintained in a safe, secure and responsible manner. Hand-selected to inspect other European bases for nuclear safety.

**Squadron Section Commander, 8<sup>th</sup> Security Forces Squadron, 1994-1995**

Kunsan Air Base, South Korea

Ensured discipline, morale, and well-being of 100-plus member security squadron.

**McArthur Scholar, University of Maryland, College Park, 1992-1994**

One of three U.S. Air Force Academy graduates competitively selected to attend the University of Maryland, College Park, on full fellowship while serving on active duty in the Air Force.

**PROFESSIONAL AFFILIATIONS**

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**Advisory Board, National Institute of Military Justice**

Scholarly organization for advancing the fair administration of military justice and greater public understanding of the military justice system.

## REFERENCES

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Geoffrey S. Corn, Professor of Law and Presidential Research Professor, South Texas College of Law, 713.646.2973, gcorn@stcl.edu

Peter Margulies, Professor of Law, Roger Williams University School of Law  
401.254.4564, pmargulies@rwu.edu

Colonel Paul Pirog, Permanent Professor and Department Head, Department of Law, U.S. Air Force Academy, 719.333.3680, paul.pirog@usafa.edu

Ellen S. Podgor, Gary R. Trombley Family White-Collar Crime Research Professor and Professor of Law, Stetson University College of Law  
727.562.7348, epodgor@law.stetson.edu

Louis J. Virelli III, Leroy Highbaugh Sr. Research Chair and Professor of Law, Stetson University College of Law  
727.562.7329, lvirelli@law.stetson.edu

## BAR ADMISSIONS

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State Bar of Texas (2000)  
U.S. Supreme Court (2003)  
U.S. Court of Appeals for the Armed Forces (2003)  
U.S. Air Force Court of Criminal Appeals (2003)

## SCHOLARLY RESEARCH AGENDA

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See Appendix.

**RACHEL E. VANLANDINGHAM - SCHOLARLY RESEARCH AGENDA****Generally**

My scholarship has taken an interdisciplinary approach to exploring the procedural and normative elements of decision-making and the development of norms in national security law, military criminal law, and international law. The cross-section of national security law, military law, and international norms is an underdeveloped and important area, and one in which I bring unique expertise, having advised members of the nation's senior national security leadership on all three.

**Past Scholarship**

My published work explores arguably ambiguous areas in national security, international, and military criminal law in which the law fails to provide sufficient guidance. I analyze the decision-making processes that have developed in the law's absence, and juxtapose them against those used in other legal disciplines. I use these comparative analyses to develop proposals to better align the informal processes with their respective body of law's overarching norms.

For example, in *Meaningful Membership: Making War a Bit More Criminal*, 34 CARDOZO L. REV. (forthcoming 2013), I analyze how international humanitarian law (the law of armed conflict) governs the determination of membership in non-state armed groups. I posit that the law is largely silent in this area, thus allowing arbitrary targeting of loosely-defined "members." Analogizing to U.S. criminal law, I develop a recommended normative framework to guide membership determination. It incorporates an intent requirement, borrowing the jurisprudence of *Scales v. United States*, 367 U.S. 203, 208 (1961), that heretofore has been lacking. The Article also addresses the current arguments in international humanitarian law regarding direct participation in hostilities (DPH), arguing that limiting membership to those who are continuously functioning in a DPH role is inconsistent with the overarching principles of international humanitarian law.

Similarly focusing on legal process and procedural frameworks, in *Acoustic Separation in Military Justice: Filling the Decision Rule Vacuum with Ethical Standards*, 11 OHIO ST. J. CRIM. L. (forthcoming Spring 2014) (invited), I explore the dearth of formal decision rules for military commanders in their exercise of prosecutorial and disciplinary discretion. This normative analysis draws from civilian attorney ethical rules, Department of Justice policy guidance, the ABA Criminal Justice Prosecution Function Standards, and constitutional constraints. Using Professor Meir Dan-Cohen's conduct and decision rules as context, I highlight the formal normative restraints in the U.S. civilian criminal justice system, and propose a set of hortatory decision rules tailored to the military.

My previous work also explores the evolution of soft norms into binding law on the international stage, using the responsibility to protect doctrine and the United Nations Security Council authorization of the use of armed force regarding humanitarian interventions as examples. In *The Stars Aligned: The Legality, Legitimacy, and Legacy of 2011's Humanitarian Intervention in Libya*, 46 VAL. U. L. REV. 859 (2012) (invited), I examine the role the responsibility to protect doctrine played in the passage of United Nations Security Council Resolution 1970 to allow the use of armed force in Libya. I analyze the procedural and normative import of this resolution, arguing that it likely forecloses unilateral, non-Security Council-approved uses of armed force in future humanitarian intervention situations.

Similarly, in *Politics or Law? The Dual Nature of the Responsibility to Protect*, 41 DENV. J. INT'L L. & POL'Y 63 (Fall-Winter 2012) (invited), I dissect the variants of the responsibility to protect doctrine, and argue that components have attained the level of customary international law because of their capacity to influence the international conversation regarding humanitarian interventions.

### **Current and Future Projects**

In *Modern U.S. Military Operations and the International Committee of the Red Cross: The Department of Defense's Unique Relationship with the Guardian of International Humanitarian Law*, in LAW AND U.S. MILITARY OPERATIONS (Oxford Univ. Press, forthcoming Spring 2014), I explore how the International Committee of the Red Cross's relationship with the Department of Defense shapes the formation of customary international law. I am the co-editor of this book, which brings together military law experts in a comprehensive legal analysis of current U.S. military operations. The chapter topics include, among others, the legal dimensions of detention operations, counter-piracy operations, cyber operations, and targeting operations.

In future articles, I anticipate continuing to write about both normative and procedural aspects of national security law, international humanitarian law, and military criminal law. Regarding the latter, the logical sequel to *Acoustic Separation in Military Justice: Filling the Decision Rule Vacuum with Ethical Standards*, 11 OHIO ST. J. CRIM. L. (forthcoming Spring 2014) (invited), involves a further analysis of prosecutorial discretion in the military. Whereas the first article highlighted the theoretical and practical need for decision rules in the form of ethical standards of conduct for commanders, its successor will focus on an exhaustive development of such normative constraints. In doing so, it will delve into current practices, such as the use of an exemplary combat record in considering responses to misconduct, and examine their normative and practical underpinnings. A third article will focus on a related aspect of military criminal justice, that of military-specific defenses, such as the good character defense, and determine their continued utility by analyzing their impact on juror and judicial decision-making.

Regarding the law of armed conflict and national security law, I am currently working on an article regarding the manifestations of natural law in international humanitarian law. Specifically, this article uses the controversial preamble to the 1899 Hague Convention (II) with respect to the laws and customs of war on land – the Martens Clause – as a theoretical throughway for natural law concepts into the law of armed conflict. It posits that the Martens Clause acts as both a rule of interpretation and a stand-alone legal norm, and shows how current U.S. military doctrine translates the latter. Specifically, military doctrine uses 8th Amendment criminal jurisprudence to determine the legality of cruel and inhuman treatment. By comparing 8th Amendment jurisprudence with the various constructions of the Martens Clause, this article examines whether doctrines such as “evolving standards of decency” are useful juridical devices for identifying natural law norms in existing U.S. international humanitarian law obligations.

Finally, I am also writing several chapters for inclusion in a 2014 Carolina Academic Press textbook on war crimes. My chapters focus on the international development of rape and other sexual assault crimes as violations of the law of armed conflict, on expanding the doctrine of command responsibility to civilian leaders, and on the justifications used by defenses in modern tribunals.