

AMERICAN BAR ASSOCIATION
Section of Administrative Law and Regulatory Practice

7th ANNUAL
**HOMELAND SECURITY
LAW INSTITUTE**



March 22-23, 2012

**CAPITAL HILTON
WASHINGTON, DC**

DAY ONE

THURSDAY - MARCH 22, 2012

7:30 am – 8:45 am

Continental Breakfast & Registration

8:45 am – 9:00 am

Welcome and Introductions

MICHAEL E. HERZ

Chair, ABA Section of Administrative Law & Regulatory Practice

Arthur Kaplan Professor of Law and Co-Director, Floersheimer Center for Constitutional Democracy, Benjamin N. Cardozo School of Law, New York, NY

JOE D. WHITLEY

Program Chair

Vice-Chair, ABA Section of Administrative Law & Regulatory Practice

Greenberg Traurig LLP, Atlanta, GA and Washington, DC

Former and first General Counsel, U.S. Department of Homeland Security (DHS); former U.S. Attorney for the Northern (Macon) and Middle (Atlanta) Districts of Georgia, U.S. Department of Justice (DOJ)

CHAD N. BOUDREAUX

Program Vice-Chair

Huntington Ingalls Industries, Inc., Newport News, VA

Former Deputy Chief of Staff, U.S. Department of Homeland Security (DHS); former Senior Counsel to the Deputy Attorney General, U.S. Department of Justice (DOJ)

ELIZABETH L. BRANCH

Program Vice-Chair

Smith, Gambrell & Russell LLP, Atlanta, GA

Former Counselor to the Administrator of the Office of Information and Regulatory Affairs (OIRA), U.S. Office of Management and Budget (OMB); former Associate General Counsel for Rules and Legislation, U.S. Department of Homeland Security (DHS)

9:00 am – 9:45 am

Keynote Address

THE HONORABLE ALAN D. BERSIN

Assistant Secretary of International Affairs &
Chief Diplomatic Officer to DHS
Former Commissioner, U.S. Customs and Border Protection

9:50 am – 10:40 am

Plenary Session

**EXECUTIVE AGENCY GENERAL COUNSEL PANEL: A LOOK AT HOMELAND
SECURITY LEGAL AND POLICY ISSUES**

Moderator **Ivan K. Fong**
General Counsel, U.S. Department of Homeland Security (DHS)

Panelists **John P. Carlin**
Principal Deputy Assistant Attorney General and Chief of Staff, Office of the
National Security Division (NSD), U.S. Department of Justice

Robert S. Litt
General Counsel, Office of the Director of National Intelligence Agency (NIA)

Stephen W. Preston
General Counsel, Office of the Director of Central Intelligence Agency (CIA)

Cynthia Ryan
General Counsel, National Geospatial-Intelligence Agency (NGIA)

Andrew Weissmann
General Counsel and Assistant Director, Federal Bureau of Investigation (FBI)

10:40 am – 10:50 am

Coffee Break

10:55 am – 12:00 pm

Plenary Session

HOMELAND SECURITY: REGULATORY AND LEGISLATIVE DEVELOPMENTS 2012

Moderator **Elizabeth L. Branch**

Smith, Gambrell & Russell LLP, Atlanta, GA

Former Counselor to the Administrator of the Office of Information and Regulatory Affairs (OIRA), U.S. Office of Management and Budget (OMB); former Associate General Counsel for Rules and Legislation, U.S. Department of Homeland Security (DHS)

Panelists **Michael Fitzpatrick**

Senior Manger and Senior Counsel for Government and Regulatory Affairs,
General Electric, Washington, DC

Former Associate Administrator, Office of Information and Regulatory Affairs (OIRA), U.S. Office of Management and Budget (OMB)

Matthew McCabe

Republican Counsel for the Committee on Homeland Security, U.S. House of Representatives

Christina E. McDonald

Associate General Counsel for Regulatory Affairs, U.S. Department of Homeland Security (DHS)

Christopher Richardson

Assistant General Counsel for Legislative Affairs, Office of the General Counsel, U.S. Department of Homeland Security (DHS)

12:00 pm – 12:30 pm

Lunch

12:30 pm – 1:30 pm

Panel Discussion

HOMEGROWN THREATS AND RADICALIZATION

Moderator **Adam J. White**

Boyden Gray & Associates, Washington, DC

Panelists **Daveed Gartenstein-Ross**

Director, Center for the Study of Terrorist Radicalization, Foundation for Defense of Democracies, Washington, DC

Judith Miller

Adjunct Fellow, Manhattan Institute, New York, NY

Brendan P. Shields

Minority Director, Homeland Security Affairs and Director, Response Policy
at the White House Homeland Security Council

1:45 pm – 3:00 pm

Breakout Session A

HOMELAND DEFENSE AND CIVIL SUPPORT: THE ROLE OF THE MILITARY WITHIN OUR OWN BORDERS

Moderator **Paul F. McHale**

McKenna Long & Aldridge, LLP, Washington, DC

Former Congressman and Assistant Secretary of Defense for Homeland Defense

Panelists **Brad J. Kieserman**

Chief Counsel, Federal Emergency Management Agency (FEMA)

Major General Timothy J. Lowenberg

Adjutant General of the State of Washington

Colonel Chris Rofrano

Chief Counsel, National Guard Bureau (NGB)

Carl M. Wagner

Associate Deputy General Counsel to the Assistant Secretary of Defense

Homeland Defense & Americas' Security Affairs

1:45 pm – 3:00 pm

Breakout Session B

CARGO & SUPPLY CHAIN SECURITY

Moderator **Joel A. Webber**

Couri & Couri, Chicago, IL

Panelists **Marianne Rowden**

President and CEO, American Association of Exporters and Importers (AAEI)

Jason Schlossberg

Trial Attorney, Office of the Chief Counsel, Federal Railroad Administration
(FRA), U.S. Department of Transportation (DOT)

Mardi Ruth Thompson

Deputy Chief Counsel for Regulations & Security Standards, U.S.
Transportation Security Administration (TSA)

1:45 pm – 3:00 pm

Breakout Session C

**EMERGING COMPLIANCE ISSUES FOR GOVERNMENT CONTRACTORS: AN IN-
HOUSE PERSPECTIVE**

Moderator **Chad N. Boudreaux**

Corporate Vice President and Associate General Counsel, Huntington Ingalls
Industries, Inc., Newport News, VA

*Former Deputy Chief of Staff, U.S. Department of Homeland Security (DHS); former Senior Counsel
to the Deputy Attorney General, U.S. Department of Justice (DOJ)*

Panelists **Paul W. “Whit” Cobb, Jr.**

Vice President and Deputy General Counsel, BAE Systems, Washington, DC

Former Deputy General Counsel, U.S. Department of Defense (DOD)

Hilary Hageman

Deputy General Counsel, CACI International, Inc., Arlington, VA

Former Associate Deputy General Counsel, U.S. Department of Defense (DOD)

Eleanor J. Hill

King & Spalding LLP, Washington, DC

Former Inspector General to the Department of Defense (DOD)

John F. Wood

Hughes Hubbard & Reed LLP, Washington, DC

*Former U.S. Attorney for the Western District of Missouri; Chief of Staff, U.S. Department of
Homeland Security (DHS)*

3:00 pm – 3:15 pm

Coffee Break

3:15 pm – 4:30 pm

Breakout Session A

THE LAW ENFORCEMENT AGENDA 2012

Moderator **Jayson P. Ahern**

The Chertoff Group, Washington, DC

Former Acting Commissioner, U.S. Customs & Border Protection (CBP)

Panelists **David V. Aguilar**
Deputy Commissioner, U.S. Customs & Border Protection (CBP)

Sally Brice-O'Hara
Vice Commandant, U.S. Coast Guard (USCG)

Kumar C. Kibble
Deputy Director, U.S. Immigration and Customs Enforcement (ICE)

3:15 pm – 4:30 pm
Breakout Session B

**HOMELAND SECURITY & INFORMATION SHARING: PERSPECTIVES FROM
FEDERAL, STATE & LOCAL GOVERNMENTS AND THE PRIVATE SECTOR**

Moderator **Hugo Teufel III**
Former Chief Privacy Officer, U.S. Department of Homeland Security (DHS)

Panelists **Timothy H. Edgar**
Senior Legal Advisor to the Information Sharing Environment, Office of the
Director of National Intelligence, U.S. National Intelligence Agency (NIA)

Michael German
Policy Counsel, American Civil Liberties Union (ACLU), Washington
Legislative Office

Bret Hartman
Chief Technology, EMC Fellow, RSA, The Security Division of EMC, Bedford,
MA

3:15 pm – 4:30 pm
Breakout Session C

PRIVATE CIVIL LITIGATION AGAINST ALLEGED TERRORIST SPONSORS

Moderator **Vincent J. Vitkowsky**
Edwards Wildman Palmer LLP, New York, NY

Panelists **Daniel L. Cantor**
O'Melveny & Meyers LLP, New York, NY

Viet D. Dinh
Professor, Georgetown Law School and Founding Partner, Bancroft PLLC,
Washington, DC
Former Assistant Attorney General, Office of Legal Policy, U.S. Department of Justice (DOJ)

Gregory G. Katsas

Jones Day LLP, Washington, DC

Former Assistant Attorney General, Civil Division, U.S. Department of Justice (DOJ)

Stephen J. Landes

Edwards Wildman Palmer LLP, Chicago, IL

4:45 pm – 5:15 pm

Closing Address

JAMES (JIM) J. CARAFANO, PH.D.

Deputy Director, The Kathryn and Shelby Cullom Davis Institute for International Studies and

Director, Douglas and Sarah Allison Center for Foreign Policy Studies

The Heritage Foundation, Washington, DC

5:30 pm-7:00 pm

Cocktail Reception

DAY TWO

FRIDAY - MARCH 23, 2012

8:00 am – 8:40 am

Continental Breakfast

8:40 am – 8:45 am

Welcome and Introductions

8:45 am – 9:15 am

Plenary Session

VOLATILITY OVERSEAS AND ITS AFFECT ON AMERICA'S HOMELAND SECURITY

Moderator **Chad C. Sweet**

The Chertoff Group, Washington, DC

Former Chief of Staff, U.S. Department of Homeland Security (DHS)

Panelists **The Honorable Michael Chertoff**

The Chertoff Group and Covington & Burling LLP, Washington, DC

Former Secretary, U.S. Department of Homeland Security (DHS)

The Honorable Michael V. Hayden

The Chertoff Group, Washington, DC

Former Director, U.S. Central Intelligence Agency (CIA) and former Director, National Security Agency (NSA)

9:15 am - 9:25 am

Coffee Break

9:25 am – 10:30 am

Breakout Session A

PRESSING CHALLENGES IN IMMIGRATION LAW AND POLICY

Moderator **Rachel Brand**

Chief Counsel for Regulatory Litigation, U.S. Chamber of Commerce

National Chamber Litigation Center, Washington, DC

Former Assistant Attorney General, Office of Legal Policy, U.S. Department of Justice (DOJ)

Panelists

Jessica R. Herrera-Flanigan

Monument Policy Group, Washington, DC

Former Staff Director and General Counsel, House Homeland Security Committee

Michael J. Garcia

Kirkland & Ellis LLP, New York, NY

Former U.S. Attorney for the Southern District of New York; former and first Assistant Secretary, Immigration & Customs Enforcement (ICE)

James W. McCament

Chief, Office of Legislative Affairs, U.S. Citizenship and Immigration Services (CIS)

Julie Myers Wood

President, ICS Consulting LLC (ICS) and Immigration Customs Solutions, LLC

Former Assistant Secretary for Immigration & Customs Enforcement (ICE) and former Assistant Secretary for Export Enforcement at the U.S. Department of Commerce

9:25 am – 10:30 am

Breakout Session B

NATIONAL PREPAREDNESS: HAVE 10 YEARS AND BILLIONS OF DOLLARS MADE OUR COMMUNITIES BETTER PREPARED?

Moderator **Joshua Filler**

Filler Security Strategies, Inc., Washington, DC

Former Director, Office of State & Local Government Coordination, U.S. Department of Homeland Security (DHS)

Panelists **Ernest B. Abbott**

FEMA Law Associates, PLLC, Washington, DC

Former General Counsel at Federal Emergency Management Agency (FEMA)

Timothy L. Beres

Vice President and Director, CNA Safety and Security

Former Director of Preparedness Programs, Office for Domestic Preparedness, U.S. Department of Homeland Security (DHS)

Darrell L. Darnell

Senior Associate Vice President for Safety and Security, The George Washington University, Washington, DC

Former Director of Resilience Policy, National Security Staff, The White House and former Director, Homeland Security and Emergency Management Agency (HSEMA), Washington, DC

Dennis R. Schrader

President, DRS International, LLC, Annapolis, MD

Former Deputy Administrator for National Preparedness, Federal Emergency Management Agency (FEMA) and former Homeland Security Advisor to the Governor of Maryland

9:25 am – 10:30 am

Breakout Session C

CYBERSECURITY DEVELOPMENTS IN THE FEDERAL GOVERNMENT AND PRIVATE SECTOR

Moderator **Stewart A. Baker**

Step toe & Johnson, LLP, Washington, DC

Former Assistant Secretary for Policy, U.S. Department of Homeland Security (DHS) and former General Counsel, National Security Agency (NSA)

Panelists **Dmitri Alperovitch**

President, Asymmetric Cyber Operations LLC

Kevin Gronberg

Senior Counsel, U.S. House of Representatives, Committee on Homeland Security

James A. Lewis

Senior fellow and Director, Technology and Public Policy Program Center for Strategic and International Studies (CSIS)

Gregory Schaffer

Assistant Secretary, Office of Cybersecurity and Communications, U.S. Department of Homeland Security (DHS)

10:30 am - 10:45 am

Break

10:45 am – 11:55 am

Breakout Session A

TWO OUNCES OF PREVENTION: THE SAFETY ACT AND PS PREP – VOLUNTARY PROGRAMS AND TO MITIGATE LIABILITY

Moderator **Brian E. Finch**

Dickstein Shapiro LLP, Washington, DC

Panelists **Steve Amitay**
President, Amitay Consulting, Washington, DC

Bruce Davidson
Director, Office of SAFETY Act Implementation, U.S. Department of
Homeland Security (DHS)

Dana B. Pashkoff
McKenna Long & Aldridge, Washington, DC

10:45 am – 11:55 am

Breakout Session B

**CAREERS IN HOMELAND SECURITY & NATIONAL SECURITY – THE ACADEMIC
PATH, ETC.**

Moderator: **Harvey Rishikof**
Chair, ABA Standing Committee on National Security Law

Panelists: **Angeline G. Chen**
Vice President, General Counsel and Chief Compliance Officer, Marinette
Marine Corporation, Washington, DC

Michael I. Greenberger
Professor, University of Maryland, Center for Health and Homeland Security,
Baltimore, MD

Mark E. Rosen
Deputy General Counsel, The CNA Corporation, Alexandria, VA

Paul B. Thompson
Professor, Penn State University Harrisburg, Middletown, PA

10:45 am – 11:55 am

Breakout Session C

CHEMICAL FACILITY ANTI-TERRORISM STANDARDS (CFATS)

Moderator **Philip J. Perry**
Latham & Watkins, Washington, DC
Former General Counsel, U.S. Department of Homeland Security (DHS)

Panelists **Penny Anderson**
Director, Infrastructure Security Compliance Division (ISCD), U.S.
Department of Homeland Security (DHS)

Meghan G. Ludtke

Associate General Counsel, National Protection and Programs (NPP), U.S.
Department of Homeland Security (DHS)

12:00 pm – 12:30 pm

Lunch

12:30 pm – 1:30 pm

Afternoon Address

THE HONORABLE MICHAEL B. MUKASEY

Debevoise & Plimpton LLP
Former United States Attorney General

1:45 pm – 3:00 pm

Breakout Session A

INTERNATIONAL ISSUES: SPOTLIGHT ON FCPA & OFAC

Moderator **Kenneth L. Wainstein**

O'Melveny & Myers LLP, Washington, DC

Former Assistant to the President (43rd) for Homeland Security and Counterterrorism

Panelists **Valerie E. Caproni**

Northrup Grumman Corporation, Falls Church, VA

Former General Counsel of the Federal Bureau of Investigation

Alice S. Fisher

Latham & Watkins LLP, Washington, DC

Jeffrey A. Taylor

Vice President & General Counsel, Raytheon Company - Integrated Defense
Systems, Tewksbury, MA

Matthew T. West

Baker Botts L.L.P., Washington, DC

1:45 pm – 3:00 pm
Breakout Session B

CFIUS & FOREIGN INVESTMENTS

Moderator **Mark E. Plotkin**
Covington & Burling LLP, Washington, DC

Panelists **Robert Fitch**
Senior Vice President, Government Relations, BAE Systems, Inc., Manassas,
VA

Dr. Paul Halpern
CFIUS Coordinator, Office of the Under Secretary of Defense for Acquisition,
Technology and Logistics (OUSD(AT&L))

Mark Jaskowiak
Deputy Assistant Secretary of the Treasury for Investment Security, U.S.
Department of Treasury

Nancy McLernon
President & CEO, Organization for International Investment (OFII),
Washington, DC

3:00 pm – 3:15 pm
Coffee Break

3:15 pm – 4:30 pm
Closing Address

TO BE ANNOUNCED

4:30 pm
Giveaways & Concluding Remarks