

BRENNAN  
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FOR JUSTICE

Brennan Center for Justice  
*at New York University School of Law*

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**“Building Freedom, Building Security: America’s Challenge for the  
Next Five Years”  
Liberty and National Security Conference**

**Co-sponsored by the Brennan Center for Justice at New York University School of  
Law and American Constitution Society for Law and Policy**

**September 7, 2007**

**at**

**The New York University School of Law  
Vanderbilt Hall  
40 Washington Square South  
New York, NY**

9:00 to 10:00 AM

Opening Remarks

Welcome:

- **Michael Waldman**, Executive Director, Brennan Center for Justice at NYU School of Law
- **Lisa Brown**, Executive Director, American Constitution Society for Law and Policy

Commencing the Discussion on America’s Challenge for the Next Five Years: Building Freedom, Building Security

- **Sen. Gary Hart**, Former Senator (D – Colorado); Former Co-Chair, U.S. Commission on National Security/21st Century
- The **Hon. Thomas Kean**, President of Drew University; Former Governor of New Jersey; Former Chair, National Commission on Terrorist Attacks Upon the United States

10:00 to 11:15 AM

Panel 1: Definitions and Priorities: The Challenge of Counterterrorism

Moderator: **Gary Hart**, Former Senator (D – Colorado)

Speakers:

- **Hady Amr**, Fellow in Foreign Policy Studies at the Brookings Institution and Director of the Brookings Center in Doha, Qatar,
- **The Hon. James E. “Jamie” Baker**, Court of Appeals for the Armed Forces; Author of “In the Common Defense: National Security Law for Perilous Times”
- **Louise Richardson**, Executive Dean, Radcliffe Institute for Advanced Study
- **Ian Shapiro**, Sterling Professor of Political Science, Yale University

11:15 to 11:30 AM

Coffee Break

11:30 AM to 12:45 PM

Panel 2: The Challenges of Gathering Intelligence and Conducting Investigations

Moderator: **James Johnson**, Partner, Debevoise & Plimpton LLP; Board Chair, Brennan Center for Justice

Speakers:

- **Milt Bearden**, Retired CIA Officer, Recipient of the CIA’s Distinguished Intelligence Medal for work in Afghanistan, Pakistan, Moscow, and Khartoum
- **Kate Martin**, Director, Center for National Security Studies
- **Deborah Pearlstein**, Associate Research Scholar in Law and Public Affairs, Woodrow Wilson School for Public and International Affairs

12:45 to 1:00 PM

Break

1:00 to 2:00 PM

Lunchtime Debate

Michael Waldman moderates a discussion with John Brademas, other members, or senior congressional staff. Brennan Center leaning towards inviting Jay Rockefeller.

2:00 to 2:15 PM

Break

2:15 to 3:30 PM

Panel 3: The Will to Justice: Prosecuting Suspected Terrorists

*Moderator:* **Hon. Thomas Kean**

Speakers:

- **The Hon. Kenneth M. Karas**, United States District Judge for the Southern District of New York
- **Stephen J. Schulhofer**, Robert B. McKay Professor of Law, NYU School of Law; A founder of the Liberty and National Security Project at the Brennan Center for Justice
- **Khurram Wahid**, Partner, Wahid, Vizcaino & Maher LLP (represents people detained by government and accused of terrorism)

3:45 to 5:00 PM

Panel 4: Building Checks and Balances for National Security Policy: The Role of Congress

*Moderator:* *Wyndee Parker* (tentative yes), Deputy Minority Staff Director and Special Counsel, U.S. House of Representatives

Speakers:

- **Farhana Khera**, Executive Director, Muslim Advocates; Executive Director, National Association of Muslim Lawyers
- **Alasdair S. Roberts**, Professor of Public Administration, Maxwell School of Citizenship and Public Affairs at Syracuse University; Honorary Senior Research Fellow of the Constitution Unit, School of Public Policy, University College London.
- **Suzanne Spaulding**, Principal, Bingham Consulting Group

5:00 to 5:30 PM

Closing Remarks: **Sen. Gary Hart** and **Gov. Kean**

5:30 to 6:30 PM

Working in Freedom and Security: A Career Discussion

[Participants to be confirmed]

- **Aziz Huq**, Counsel, Brennan Center for Justice at NYU School of Law
- **Kate Martin**, Director, Center for National Security Studies
- **Suzanne Spaulding**, Principal, Bingham Consulting Group
- **Shaarik Zafar**, Department of Homeland Security, Office of Civil Rights and Civil Liberties

Also sponsored by: Wagner School of Public Policy at New York University; the Brademas Center for Congressional Studies.

## Biographies of Contributors

### Co-Chairs of the Conference

**Thomas H. Kean:** Thomas Kean was the Chair of the 9/11 Commission and a former governor of New Jersey (1982-1990). From 1990 to 2005, Kean served as president of Drew University in Madison, New Jersey. He is currently President of THK Consulting and Chair of the 9/11 Public Discourse Project. Kean is also co-author of *Without Precedent: The Inside Story of the 9/11 Commission* (Knopf, 2006).

**Gary W. Hart:** A prolific author, lecturer, teacher, scholar, and attorney, Gary Hart served as a Democratic Senator from Colorado from 1975 - 1987. Most recently, Dr. Hart co-chaired both the U.S. Commission on National Security in the 21<sup>st</sup> Century and the Council on Foreign Relations task force on homeland security. Dr. Hart is the author of more than a dozen books, including his most recent *The Courage of Our Convictions: A Manifesto for Democrats* (Times Books, 2006).

### Speakers and Contributors

**Louise Richardson:** Louise Richardson is the Executive Dean of the Radcliffe Institute for Advanced Study, a senior lecturer in government at the Faculty of Arts and Sciences at Harvard, and a lecturer on law at Harvard Law School. Dr. Richardson's academic focus has been on international security with an emphasis on terrorist movements. She serves on the editorial board of the journals *Security Studies* and *Democracy and Security* and is the author of two books, including *What Terrorists Want: Understanding the Enemy, Containing the Threat* (Random House, 2006).

**Ian Shapiro:** Ian Shapiro is Sterling Professor of Political Science at Yale University, where he also serves as Henry R. Luce Director of the MacMillan Center for International and Area Studies. He has written widely and influentially on democracy, justice, and the methods of social inquiry; his most recent book is *Containment: Rebuilding a Strategy against Global Terror*, published in January 2007 by Princeton University Press. His current research concerns the relations between democracy and the distribution of income and wealth.

**James E. Baker:** James Baker is currently a judge on the United States Court of Appeals for the Armed Forces. Judge Baker previously served as Special Assistant to the President and Legal Adviser to the National Security Council and as Deputy Legal Adviser to the National Security Council and as Counsel to the President's Foreign Intelligence Advisory Board and Intelligence Oversight Board during the Clinton presidency. His most recent book is *In the Common Defense: National Security Law for Perilous Times*, to be published in April 2007 by Cambridge University Press.

**James E. Johnson:** James Johnson has the distinction of having held several senior positions in the United States Department of the Treasury, including Under Secretary of the Treasury for Enforcement (1998-2000) and Assistant Secretary of the Treasury for Enforcement (1996-1998). Currently, Mr. Johnson is a partner in the Litigation Department at Debevoise & Plimpton, and the Chair of the Board of the Brennan Center for Justice. Mr. Johnson focuses his practice on white collar criminal defense, internal investigations, corporate compliance, and corporate crisis management in connection with internal investigations

**Kate Martin:** Kate Martin has been Director of the Center for National Security Studies since 1992, where she has litigated and written about national security and civil liberties issues, including government secrecy, intelligence, terrorism, and enemy combatant detentions. Ms. Martin has taught Strategic Intelligence and Public Policy at Georgetown University Law School and also served as general counsel to the National Security Archive, a research library located at George Washington University.

**Milt Bearden:** Milt Bearden spent 30 years in the CIA, during that time he ran the CIA's covert operations in Afghanistan during the Soviet invasion, was station chief in Pakistan, Moscow, and Khartoum, and received the CIA's highest honor, the Distinguished Intelligence Medal. Since the Sept. 11th attacks, Bearden has been a frequent commentator on TV and in print. He is the author of the novel, *The Black Tulip: A Novel of War in Afghanistan* (Random House, 1998), and co-author of *The Main Enemy: The Inside Story of the CIA's Final Showdown with the KGB* (Random House, 2003).

**Deborah N. Pearlstein:** Deborah Pearlstein is Director of the U.S. Law and Security Program at Human Rights First, and a visiting scholar at the Woodrow Wilson School for Public and International Affairs at Princeton University. An expert in U.S. constitutional law, she focuses on U.S. detention and intelligence operations, executive power, and the role of the courts. She is a regular columnist for *The American Prospect*, and has published numerous popular and academic articles on the work of the U.S. Supreme Court.

**Kenneth M. Karas:** Kenneth Karas was appointed United States District Judge for the Southern District of New York on June 30, 2004, and entered duty on September 7, 2004. Between 1992 and 2004, Judge Karas served as an Assistant United States Attorney for the Southern District of New York. During his tenure at the United States Attorney's office, he served as Chief of the Organized Crime and Terrorism Unit from 2001 until his departure from the office in June 2004.

**Stephen J. Schulhofer:** Stephen Schulhofer is the Robert B. McKay Professor of Law at New York University and one of the nation's most distinguished scholars of criminal justice. He has written more than fifty scholarly articles and six books, including the leading casebook in the field and highly regarded, widely cited work

on a wide range of criminal justice topics. Schulhofer's most recent book, *The Enemy Within: Intelligence Gathering, Law Enforcement and Civil Liberties in the Wake of September 11* (Century Foundation Press, 2002), written for The Century Foundation's Project on Homeland Security, has attracted wide attention as a careful and balanced critique of domestic measures being implemented as part of the "war on terrorism."

**Suzanne Spaulding:** Suzanne Spaulding is a recognized expert on national security issues, including homeland security, terrorism, biodefense, critical infrastructure protection, cyber security, intelligence, law enforcement, foreign investment, crisis management, and issues related to the threat from chemical, biological, nuclear, or radiological weapons. Ms. Spaulding developed her expertise over a career spanning 20 years, working on national security issues in the Executive Branch and for Congress. She has chaired and served on numerous task forces, working groups, and committees related to national security; she is a frequent lecturer, and has been quoted regularly in media outlets around the country, offering analysis and insight into issues related to national security.

**Alasdair S. Roberts:** Alasdair Roberts is a professor of public administration in the Maxwell School of Citizenship and Public Affairs at Syracuse University. He is also an Honorary Senior Research Fellow of the Constitution Unit, School of Public Policy, University College London. Professor Roberts has two research interests: public sector restructuring and transparency in government. He is the author of the forthcoming book, *The Collapse of Fortress Bush: The Crisis of Authority in American Government*. (New York University Press, Fall 2007).

**Farhana Khera** is the first Executive Director of the National Association of Muslim Lawyers (NAML) and Muslim Advocates. Prior to joining NAML and Muslim Advocates in 2005, Ms. Khera was Counsel to the U.S. Senate Judiciary Committee, Subcommittee on the Constitution, Civil Rights, and Property Rights. In the Senate, she worked for six years directly for Senator Russell D. Feingold (D-WI), the Chairman of the Constitution Subcommittee. Ms. Khera focused substantially on the USA PATRIOT Act, racial and religious profiling, and other civil liberties issues raised by the government's anti-terrorism policies since September 11, 2001. She was the Senator's lead staff member in developing anti-racial profiling legislation and organizing subcommittee hearings on racial profiling. Prior to her service with the Senate Judiciary Committee, Ms. Khera was an associate with Washington, D.C. law firms. She worked with Hogan & Hartson, specializing in commercial and administrative litigation. She also worked with Ross, Dixon & Masback, serving as the lead associate on several *pro bono* employment discrimination cases, which resulted in the firm being honored with the Outstanding Achievement Award by the Washington Lawyers' Committee for Civil Rights and Urban Affairs.