

SHIFTING LAW ENFORCEMENT GOALS
TO REDUCE MASS INCARCERATION

SEPTEMBER 23, 2014

BRENNAN

CENTER

FOR JUSTICE

at New York University School of Law

ABOUT THE BRENNAN CENTER FOR JUSTICE

The Brennan Center for Justice at NYU School of Law is a nonpartisan law and policy institute that seeks to improve our systems of democracy and justice. We work to hold our political institutions and laws accountable to the twin American ideals of democracy and equal justice for all. The Center's work ranges from voting rights to campaign finance reform, from racial justice in criminal law to Constitutional protection in the fight against terrorism. A singular institution — part think tank, part public interest law firm, part advocacy group, part communications hub — the Brennan Center seeks meaningful, measurable change in the systems by which our nation is governed.

ACKNOWLEDGEMENTS

The Brennan Center extends special thanks to Marguerite Casey Foundation, Public Welfare Foundation, and William B. Wiener, Jr. Foundation for their generous support of this conference. The Center also gratefully acknowledges the Democracy Alliance Partners, Ford Foundation, Open Society Foundations, Rockefeller Family Fund, and Vital Projects Fund for their support of the Justice Program.

WELCOME LETTER

Over the past two decades, our nation has seen a dramatic drop in crime, an enormous success. But at the same time, we see new and growing consensus that we incarcerate too many people, with too many economic and social costs. We represent 5 percent of the world's population, but 25 percent of its prison population. That can — and must — change.

Americans rightly are tough on crime. There is no substitute for safe streets. But we know now we can be smart on crime as well. Today we see a tremendous creative ferment, bringing together left and right, across the country. This has engaged the energies of law enforcement, the academy, civil society, and the bar.

In this pivotal moment, law enforcement and prosecutors can play an especially important role. Their voices ring loudly. Their leadership marks an especially powerful force for change.

This conference offers an opportunity to assess the way federal prosecutors can shift priorities. It will allow us to hear how state and local law enforcement can innovate so that safety does not come with the high costs of unnecessary incarceration. And it will gather the nations' top budget experts to explore how economic incentives can steer policy — wisely or unwisely — throughout the system.

We are deeply grateful to U.S. Attorney General Eric Holder for his encouragement for this work and his presence today. We are appreciative, as well, to the law enforcement leaders who will speak out in this conference. Their efforts already have shown the positive consequences of strong and committed leadership. And we are grateful to the United States Attorneys and other law enforcement leaders who participated in the Brennan Center's Blue Ribbon Panel as we crafted the reform proposals released today. These partnerships would not have been possible without the leadership and insight provided by our Board member, James E. Johnson, and G. Douglas Jones, co-chairs of the Blue Ribbon Panel.

The Brennan Center works to reform the systems of democracy and justice. We seek to ensure that American institutions follow core values. Thus we are committed to ending mass incarceration as a mission for our organization. Over the past two years, our Justice Program has embarked on an innovative drive to harness economic analysis to this vital task. We are excited by the results. Today we release our latest proposal, showing how U.S. attorneys' offices can reorient priorities to bolster safety while reducing incarceration as well. We are grateful to our colleagues who worked so hard and well.

We look forward to working with all of you in the coming weeks, months, and years. The voice of law enforcement can be an especially effective force for change. We look forward to hearing it, today and going forward.



Michael Waldman
President
Brennan Center for Justice



Inimai Chettiar
Director, Justice Program
Brennan Center for Justice

SHIFTING LAW ENFORCEMENT GOALS TO REDUCE MASS INCARCERATION

SCHEDULE

- 8:30 A.M. – 9:00 A.M.** **Registration and Breakfast**
Greenberg Lounge
- 9:00 A.M. – 9:15 A.M.** **Welcome**
Greenberg Lounge
- 9:15 A.M. – 10:30 A.M.** **New Priorities for Federal Prosecutors**
Greenberg Lounge
- 10:30 A.M. – 10:45 A.M.** **Break**
Greenberg Lounge
- 10:45 A.M. – 12:00 P.M.** **New Priorities for State and Local Law Enforcement**
Greenberg Lounge
- 12:00 P.M. – 12:45 P.M.** **Lunch**
Greenberg Lounge
- 12:45 p.m.** *Attendees are seated in Tishman Auditorium for keynote address.*
- 12:45 P.M. – 2:15 P.M.** **Keynote: Address by the Hon. Eric H. Holder, Jr.:
The Benefits of Shifting Law Enforcement
Priorities and Incentives**
Tishman Auditorium
- 2:15 P.M. – 2:30 P.M.** **Break**
Greenberg Lounge
- 2:30 P.M. – 3:45 P.M.** **Reforming Federal Grants and State Budgets
to Reduce Incarceration**
Greenberg Lounge

SESSION DESCRIPTIONS AND SPEAKERS LIST

WELCOME **Michael Waldman**, President, Brennan Center for Justice

9:00 a.m. – 9:15 a.m.

NEW PRIORITIES FOR FEDERAL PROSECUTORS

9:15 a.m. – 10:30 a.m.

Prosecutors are increasingly exploring how to define their role to converge with the growing consensus that they can protect public safety, dispense justice, and reduce incarceration. Leading U.S. Attorneys will discuss how to shift incentives, goals, and funding to better align with this modern approach and how federal prosecutors can play a leading role in both reducing violence and incarceration.

Moderator: **Timothy Purdon**

U.S. Attorney, District of North Dakota;
Member, Attorney General's Advisory Committee

Speakers: **Lanny Breuer**

Vice Chairman, Covington & Burling, LLP;
former Assistant Attorney General, Criminal Division, U.S. Department of Justice

Paul Fishman

U.S. Attorney, District of New Jersey

Barry Grissom

U.S. Attorney, District of Kansas

G. Douglas Jones

former U.S. Attorney, Northern District of Alabama

Kenneth Polite

U.S. Attorney, Eastern District of Louisiana

NEW PRIORITIES FOR BROADER LAW ENFORCEMENT

10:45 a.m. – 12:00 p.m.

There is a rising discussion among broader law enforcement — including state and local prosecutors, police and federal agencies — on shifting goals and incentives away from overuse of arrests and prosecution. Leaders in law enforcement will discuss how to create this shift.

Moderator: **James E. Johnson**

Partner, Debevoise & Plimpton LLP;
former Undersecretary for Enforcement, U.S. Department of Treasury

Speakers: **Anthony Batts**

Commissioner, Baltimore Police Department

Douglas Gansler

Attorney General, Maryland

David Keene

Opinion Editor, *The Washington Times*; founding member, Right on Crime; former President, National Rifle Association; former Chair, American Conservative Union

Cathy Lanier

Chief of Police, Washington, D.C.

Jeff Tsai

Special Assistant Attorney General, Office of Attorney General Kamala Harris, California

Cyrus Vance

District Attorney, Manhattan, New York

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SESSION DESCRIPTIONS AND SPEAKERS LIST

KEYNOTE ADDRESS

THE BENEFITS OF SHIFTING LAW ENFORCEMENT PRIORITIES AND INCENTIVES

1:00 p.m. – 2:15 p.m.

Hon. Eric H. Holder, Jr.

U.S. Attorney General

REFORMING FEDERAL GRANTS AND STATE BUDGETS TO REDUCE INCARCERATION

2:30 p.m. – 3:45 p.m.

Many government funding structures inadvertently encourage more arrests, more detentions, and more prison sentences. The nation's leading economic policy experts and criminal justice leaders will discuss using fiscal policy and economic incentives, at the federal and state level, to reduce incarceration.

Moderator: **Inimai Chettiar**

Director, Justice Program, Brennan Center for Justice

Speakers: **Mark Earley**

former Attorney General, Virginia; former President, Prison Fellowship;
Signatory, Right on Crime

Robert Greenstein

President, Center on Budget and Policy Priorities

Gene Sperling

former Director, White House National Economic Council

Neera Tanden

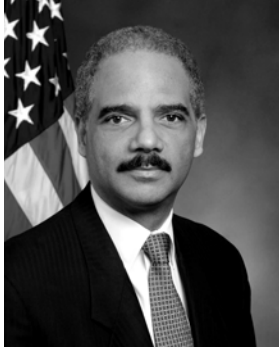
President, Center for American Progress

Jeremy Travis

President, John Jay College

SPEAKER BIOGRAPHIES

HON. ERIC H. HOLDER, JR. *U.S. Attorney General*



Eric H. Holder, Jr. was sworn in as the 82nd Attorney General of the United States on February 3, 2009 by Vice President Joe Biden. President Barack Obama announced his intention to nominate Mr. Holder on December 1, 2008.

In 1997, Mr. Holder was named by President Clinton to be the Deputy Attorney General, the first African-American named to that post. Prior to that, he served as U.S. Attorney for the District of Columbia. In 1988, Mr. Holder was nominated by President Reagan to become an Associate Judge of the Superior Court of the District of Columbia.

Mr. Holder, a native of New York City, attended public schools there, graduating from Stuyvesant High School where he earned a Regents Scholarship. He attended Columbia College, majored in American History, and graduated in 1973. He graduated from Columbia Law School in 1976.

While in law school, he clerked at the N.A.A.C.P. Legal Defense Fund and the Department of Justice’s Criminal Division. Upon graduating, he moved to Washington and joined the Department of Justice as part of the Attorney General’s Honors Program. He was assigned to the newly formed Public Integrity Section in 1976 and was tasked to investigate and prosecute official corruption on the local, state, and federal levels.

Prior to becoming Attorney General, Mr. Holder was a litigation partner at Covington & Burling LLP in Washington.

Mr. Holder lives in Washington with his wife, Dr. Sharon Malone, a physician, and their three children.

SPEAKER BIOGRAPHIES



NICOLE AUSTIN-HILLERY is the Director and Counsel of the Brennan Center's Washington, D.C. office. In her role, Ms. Austin-Hillery has overseen the growth and development of the Brennan Center's advocacy and policy development work in Washington. Ms. Austin-Hillery is the organization's chief liaison to Congress and the Administration. Ms. Austin-Hillery has significant litigation experience having practiced with the law firm of Mehri & Skalet, PLLC as part of the firm's civil rights employment class action practice.



ANTHONY BATTS is the Police Commissioner of the Baltimore Police Department, the eighth largest city police department in the country. He was formerly the chief of police for Oakland, California, and Long Beach, California. Batts worked in the Long Beach Police Department for 27 years, rising to Chief of Police in 2002. Under Batts, homicides decreased 45 percent and overall crime decreased 13 percent in Long Beach. Batts has said that he was motivated to seek the Oakland Chief of Police job by the aftermath of the killing of four Oakland police officers in March 2009.



LANNY BREUER is Covington & Burling, LLP's Vice Chairman and one of the leading trial and white collar defense attorneys in the United States. Mr. Breuer served from 2009-2013 as Assistant Attorney General for the Criminal Division at the U.S. Department of Justice. As one of the longest-serving Criminal Division chiefs in history, Mr. Breuer oversaw nearly 600 lawyers at the center of federal criminal prosecution, policy, and legislation in the United States.



INIMAI CHETTIAR is director of the Justice Program at the Brennan Center for Justice. She has expertise in and has published extensively on implementing legal reforms grounded in economic principles to reform the justice system. Ms. Chettiar was previously counsel at the ACLU, where she led state legislative efforts to end overincarceration. She also served as a fellow at NYU's Institute for Policy Integrity, a leadership fellow at the Center for American Progress, and a litigation associate at Debevoise & Plimpton LLP.



MARK EARLEY, former State Senator and Attorney General of Virginia, is the immediate past president of Prison Fellowship USA, having served for more than eight years as president of the nationwide ministry founded by Charles Colson. He is currently a member of the Board of Directors of Prison Fellowship International, which is now active in more than 110 countries. Earley recently served on the American Bar Association's Commission on Effective Criminal Sanctions and on the Virginia General Assembly Joint Subcommittee to study the Commonwealth's program for prisoners returning to society.



PAUL FISHMAN is U.S. Attorney for the District of New Jersey, and is responsible for overseeing all federal criminal investigations and prosecutions and the litigation of all civil matters in New Jersey in which the federal government has an interest. In addition to his service as U.S. Attorney, Mr. Fishman served as a member of the Attorney General's Advisory Committee of U.S. Attorney's (AGAC) from 2009-2013.

SPEAKER BIOGRAPHIES



DOUGLAS F. GANSLER is the Attorney General of Maryland. Since taking office in 2006, Attorney General Gansler has focused on environmental, consumer, and public safety issues. Attorney General Gansler recently ended his tenure as President of the National Association of Attorneys General (NAAG). He served as Chair of the Democratic Attorneys General Association until becoming President-Elect at the national organization. He also has chaired NAAG committees on Youth Access to Alcohol, the Environment, and Energy.



ROBERT GREENSTEIN is the founder and President of the Center on Budget and Policy Priorities. He is considered an expert on the federal budget and a range of domestic policy issues, from anti-poverty programs and various aspects of tax policy to health reform and Social Security. He has written numerous reports, analyses, book chapters, op-ed pieces, and magazine articles on these issues.



BARRY R. GRISSOM was nominated by President Barack Obama in April 2010 and confirmed by the U.S. Senate in August 2010 to be U.S. Attorney in the District of Kansas. He leads an office of 49 Assistant U.S. Attorneys and 53 support staff working in offices in Wichita, Topeka, and Kansas City. His law enforcement priorities for the U.S. Attorney's office include national security, violent crime, drug trafficking, financial fraud, and crimes against children.



JAMES E. JOHNSON is a litigation partner at Debevoise & Plimpton LLP who focuses his practice on white collar criminal defense, internal investigations, corporate compliance and corporate crisis management in connection with internal investigations. Mr. Johnson is recognized as a leading lawyer in white collar criminal defense and is commended in *The Legal 500 US* (2007) for his 'calm and methodical demeanor' as well as his "clear sense of high ethics and morals."



G. DOUGLAS JONES represents individual, institutional, and corporate clients in complex civil and criminal litigation, with particular concentrations in class actions, securities litigation, healthcare litigation, white-collar criminal defense, False Claims Act and whistleblower litigation, environmental litigation, and internal and corporate compliance matters. He served as an Assistant United States Attorney from 1980-84 and was in private practice in Birmingham until his appointment as United States Attorney for the Northern District of Alabama in 1997. While in office Mr. Jones served on the Attorney General's Advisory Sub-Committees on Health Care Fraud, White Collar Crime and Ethics. He currently serves as the Treasurer of the National Association of Former United States Attorneys.

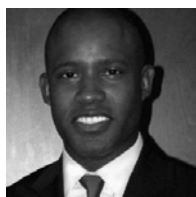
SPEAKER BIOGRAPHIES



DAVID KEENE was the President of the National Rifle Association for the traditional two one-year terms from 2011 to 2013. From 1984 to 2011, he was the chairman of the American Conservative Union. He is currently the Opinion Editor for *The Washington Times*. He also co-chairs the Constitution Project's Liberty and Security Committee and is a founding member of Right on Crime, a criminal justice reform group.



CATHY LYNN LANIER is the chief of the Metropolitan Police Department of the District of Columbia (MPDC). Lanier was appointed by Washington, D.C. Mayor Adrian Fenty in January 2007, replacing outgoing Police Chief Charles H. Ramsey. She is the first woman to achieve the position. Lanier joined the Metropolitan Police Department of the District of Columbia in 1990 as a foot patrolman. In 1994 she was promoted to Sergeant, and, two years later, a Lieutenant. In April 2006, she became the Commander at the Office of Homeland Security and Counter-terrorism, Office of the Chief of Police in MPDC, overseeing, among other things, the bomb squad and the emergency response team.



KENNETH POLITE is the United States Attorney for the Eastern District of Louisiana. He served as an Assistant United States Attorney in the Southern District of New York from 2007 to 2010. From 2010 to 2013, he was a shareholder at the law firm of Liskow & Lewis in New Orleans, Louisiana, where he headed the firm's White Collar Crime Defense Group. In 2013, President Barack Obama nominated Kenneth Polite to become the U.S. Attorney for the Eastern District of Louisiana.



TIMOTHY PURDON is the U.S. Attorney for the District of North Dakota. As U.S. Attorney, he has placed special emphasis on the issues of increasing public safety on the American Indian reservations in North Dakota and on national security and law enforcement cooperation along North Dakota's international border with Canada. In 2014, Purdon was appointed by Attorney General Eric Holder to a seat on the Attorney General's Advisory Committee (AGAC). The AGAC advises the Attorney General on criminal justice matters and serves as the voice of the United States Attorney community in setting Department of Justice policies.



GENE B. SPERLING served as director of the National Economic Council and Assistant to the President for Economic Policy from January 2011 until March 2014. Upon his appointment on January 7, 2011, Sperling became the first person to serve as NEC Director and principal economic policy advisor for two presidents: first under President Clinton from 1997 to 2001, and then under President Obama. Sperling's work extends beyond economics. Prior to joining the Obama Administration, Sperling was a guest scholar at the Brookings Institution where he focused on education in poor and conflict-affected nations. He was also senior fellow for Economic Policy at the Center for American Progress, where he authored *The Pro-Growth Progressive: An Economic Strategy for Shared Prosperity*.

SPEAKER BIOGRAPHIES



NEERA TANDEN is the President of the Center for American Progress and Counselor to the Center for American Progress Action Fund. Tanden has served in both the Obama and Clinton administrations, as well as presidential campaigns and think tanks. She previously served as senior advisor for health reform at the Department of Health and Human Services, working on President Barack Obama’s health reform team in the White House. In that role, she developed policies around reform and worked with Congress and stakeholders on particular provisions of the legislation.



JEREMY TRAVIS is the fourth President of John Jay College of Criminal Justice of the City University of New York. Since 2005, Travis has served as a member of The Committee on Law and Justice of the National Research Council and was named Chair of that Committee in 2012. He is a member of the Board of Trustees of the Urban Institute. President Travis also served as Chair of the Task Force on Transforming Juvenile Justice, appointed by New York Governor David A. Paterson, culminating in the Task Force report recommending significant changes to the state’s juvenile justice system.



JEFFREY E. TSAI is Special Assistant Attorney General of California. He was previously a federal prosecutor with the U.S. Department of Justice — first at the U.S. Attorney’s Office in Miami, where he prosecuted financial fraud and violent crimes and served as a deputy chief; and then at the Public Integrity Section at the Justice Department’s Criminal Division in Washington, D.C., where he handled federal corruption matters across the country. In Washington, Jeff also served as Senior Counsel to former Assistant U.S. Attorney General Lanny A. Breuer.



CYRUS VANCE was first inaugurated as the District Attorney of New York County on January 1, 2010. Over the following four years, Mr. Vance enhanced the Manhattan District Attorney’s Office as a national leader in criminal justice by expanding the office’s expertise on an array of 21st century crimes, including cybercrime, white-collar fraud, hate crimes, terrorism, domestic violence, human trafficking, and violent and gang-related crimes.



MICHAEL WALDMAN is President of the Brennan Center for Justice at NYU School of Law. Waldman is one of the nation’s most prominent public interest lawyers, and is an expert on the presidency, democracy, and the Constitution. Mr. Waldman was Director of Speechwriting for President Bill Clinton from 1995-99, serving as Assistant to the President. He was responsible for writing or editing nearly 2,000 speeches, including four State of the Union and two Inaugural Addresses. He is the author of *The Second Amendment: A Biography*, and appears frequently on television and radio to discuss public policy, the presidency, and the law.

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