

**UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY**

**QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES**

**PUBLIC**

1. **Name:** State full name (include any former names used).

James Xavier Dempsey

2. **Position:** State the position for which you have been nominated.

Member, Privacy and Civil Liberties Oversight Board

3. **Address:** List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Primary office:

55 New Montgomery Street #513  
San Francisco, CA 94105

CDT's Washington, DC office:

1634 I Street, NW #1100  
Washington, DC 20006

4. **Birthplace:** State date and place of birth.

May 20, 1953 Waterbury, CT

5. **Education:** List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

Harvard Law School, 1976-1979, JD 1979  
Yale College, 1971-1975, BA 1975

6. **Employment Record:** List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

**Center for Democracy and Technology (1997 – present)**

Current positions: Vice President for Public Policy; Corporate Secretary  
1634 I Street, NW #1100  
Washington DC 20006

Previous positions: Policy Director (2005-2007); Executive Director (2003 – 2005); Deputy Director (2001-2002); Senior Staff Counsel (1997-2000).

**Center for National Security Studies (1995 – 1997)**

Deputy Director  
1120 19th Street NW  
8th Floor  
Washington, DC 20036

**National Security Archive (1995 – 1997)**

Special Counsel  
Gelman Library  
Suite 701  
2130 H Street, NW  
Washington, DC 20037

**Subcommittee on Civil and Constitutional Rights (1985 – 1995)**

Assistant Counsel  
Committee on the Judiciary  
U.S. House of Representatives  
2138 Rayburn House Office Building  
Washington, DC 20515

**Arnold & Porter (1980 -1984)**

Associate Attorney  
555 12th Street, NW  
Washington, DC 20004

**Massachusetts Supreme Judicial Court (1979 - 1980)**

Law clerk to the Hon. Robert Braucher  
Boston, MA

**Palmer & Dodge (Summer 1978)**

Summer law clerk  
Boston, MA

**Weil Gotshal & Manges (Summer 1977)**

Summer law clerk  
New York, NY

**Civil Liberties Union of Massachusetts (1977-1979)**

Research Assistant  
Boston, MA

**VISTA (Volunteers in Service to America) (1975-1976)**

VISTA volunteer: Midlands Community Action Agency, Columbia, SC, and Georgia Department of Corrections, Atlanta, Georgia

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

None

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Phi Beta Kappa

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Bar Association –Member: Approx. 1980 to 1984 or 1985

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

District of Columbia bar – admitted March 10, 1980

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

U.S. District Court for the District of Columbia – October 6, 1980

U.S. Court of Appeals for the District of Columbia Circuit – June 5, 1981

Supreme Court of the United States – March 28, 1983

U.S. Court of Appeals for the Ninth Circuit – December 27, 1983

U.S. Court of Appeals for the Fourth Circuit – July 25, 1984

U.S. Claims Court – August 16, 1984

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held.

Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Defending Dissent Foundation (2007 – present)  
Vice President and Member, Board of Directors (unpaid)

First Amendment Foundation (2002 – 2007)  
Vice President and Member, Board of Directors (unpaid)  
(The First Amendment Foundation merged in 2007 with another organization to become the Defending Dissent Foundation.)

The Oversight Project (1997 – 2007)  
President and Member, Board of Directors (unpaid)  
(The Oversight Project never conducted major activities; it was ended in 2007.)

Digital Policy Institute (2003-2007)  
President and Member, Board of Directors (unpaid) (The Digital Policy Institute ceased operation in 2007.)

The Center for Democracy and Technology (CDT) sponsors the Digital Privacy and Security Working Group (DPSWG), a policy forum for computer and communications companies, trade associations and public interest organizations. I have participated in DPSWG since I joined CDT in 1997; I coordinated its meetings and mailing list until 2010. Since 2010, I have coordinated Digital Due Process, a coalition recommending updates to the Electronic Communications Privacy Act.

The Global Internet Policy Initiative was an unincorporated project of CDT and Internews from 2001 to around 2006. I was Policy Director for the project. The project is no longer active.

Rapleaf, Inc., Privacy Advisory Board (2008 – 2010)

Palantir, Inc., Privacy Advisory Committee (2008 – 2010)

Bill of Rights Defense Committee, Advisory Board (2002 – present)

National Strategic Policy Council on Cyber and Electronic Crime of the National Governors Association Center for Best Practices (2006-2007)

Steering Committee of the ANSI-BBB Identity Theft Prevention and Identity Management Standards Panel (2006-2008)

Markle Foundation, Task Force on National Security in the Information Age – member (2004 – present); member of steering committee (2006 - present)

Markle Foundation, Connecting for Health initiative – participant and member of steering committee (2007- 2008)

Industry Advisory Board for the National Counter-Terrorism Center (2005 – 2006)

Transportation Security Administration Secure Flight Working Group (2005)

Conference on Computers, Freedom and Privacy, sponsored by AOL, the Association for Computing Machinery and other for profit and non-profit organizations, Program Committee (2007)

California Identity Theft Summit, sponsored by the California Department of Consumer Affairs, the California Office of Privacy Protection, the California State and Consumer Services Agency and the California District Attorneys Association, Advisory Committee (2007)

California e-Prescribing Task Force, sponsored by the California HealthCare Foundation (2008 - 2009)

State of California Terrorism Threat Assessment Advisory Group, California Office of Homeland Security (2008 – present)

DARPA Privacy Panel (2010 – present)

Janney School, Washington, DC, PTA Vice President (1997- 1999)

Maret School, Washington, DC, Auction committee (2003-2005)

Urban School, San Francisco, CA, Auction committee (2008)

From around 1989 to 2005, I attended and made contributions to St. Columba's Church in Washington, DC. From late 2005 or early 2006 to 2009, I attended and made contributions to St. Aidan's Church in San Francisco, where I served on the stewardship committee for about a year and a half, between 2007 and 2009. I have more recently attended and made contributions to Trinity Church in San Francisco.

I have made financial contributions to charitable organizations over the years. I have not included in the list above any organizations to which I gave funds and did not otherwise participate in programmatic activities, although the organization may label me a member.

- b. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

None of the organizations I listed in response to 11a above, to my knowledge, currently discriminate or formerly discriminated on the basis of race, sex, or religion, either through formal membership requirements or the practical implementation of membership policies.

**12. Published Writings and Public Statements:**

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

The list below consists of materials identified from my recollection, from my files, and from search of Internet databases. A copy is supplied for each item. Despite these searches, there may be other items I have been unable to identify, find, or remember.

***Publications/Books:***

Deirdre K. Mulligan and Jim Dempsey, "Internet Can Be a Big Benefit for Democracy," San Francisco Chronicle (op-ed), July 4, 2010.

Deven McGraw, James X. Dempsey, Leslie Harris and Janlori Goldman, "Privacy As An Enabler, Not An Impediment: Building Trust Into Health Information Exchange," Health Affairs, Vol, 28, no. 2 (2009).

"Digital Search & Seizure: Updating Privacy Protections To Keep Pace With Technology," article reprinted in course handbook for the Privacy and Security Law Institute 2008 (PLI, June 2008 and June 2009).

"Federal Computer Security Initiative: Welcome but Too Secretive," Forbes online, May 13, 2008.

"The Internet at Risk: The Need for Higher Education Advocacy," EDUCAUSE Review, Vol. 42, No. 6, November/December 2007.

James X. Dempsey and Ira Rubinstein, "Lawyers and Technologists: Joined at the Hip?," Guest Editors' Introduction to IEEE Security and Privacy Magazine, Vol. 4, Issue 3 (May/June 2006).

James X. Dempsey and Lara M. Flint, "Commercial Data and National Security," The George Washington Law Review, Vol 72, Number 6 (August 2004).

"What E-Government Means for Those of Us Who Cannot Type, Local Government Brief," Winter 2003, p. 22.

"Civil Liberties in a Time of Crisis," Journal of the National Council of Jewish Women, Winter 2001/2002. (typescript submitted in hardcopy)

James X. Dempsey and David Cole, Terrorism and the Constitution (New Press, 3rd ed. 2006).

Essays on PATRIOT Act provisions, in "Patriot Debates: Experts Debate the USA PATRIOT Act," Stewart A. Baker and John Kavanagh, editors (published by the American Bar Association Standing Committee on Law and National Security, June 2005).

James X. Dempsey, "Civil Liberties in a Time of Crisis," Human Rights, Winter 2002.

James X. Dempsey, "Freedom of Expression in the IT Era: User Empowerment," edited transcript of a speech to the IPI World Congress and 50th General Assembly (January 2001).

James X. Dempsey and Martin L. Stern, 'Disconnect the FBI Wiretap Plan,' Legal Times, June 15, 1998.

Michael J. O'Neil and James X. Dempsey, 2000 DePaul Business Law Journal: "Critical Infrastructure Protection: Threats To Privacy And Other Civil Liberties And Concerns With Government Mandates On Industry."

Deirdre Mulligan and James X. Dempsey, "Applying Campaign Finance Law to the Internet - Risks to Free Expression and Democratic Values," CFP, April 2000.

James X. Dempsey, "Overview of Criminal Justice Information Systems," CFP, April 2000.

"Communications Privacy In The Digital Age: Revitalizing The Federal Wiretap Laws To Enhance Privacy, " Albany Law Journal of Science & Technology, 1997

"Proprietary Data Hard to Protect in Government Bids" (with James A. Dobkin), Legal Times, May 16, 1983.

"Court Reexamines State, Federal Utility Regulatory Role" (with G. Philip Nowak), Legal Times, October 24, 1983.

"FERC Limits PURPA Electric Transmission Authority" (with G. Philip Nowak), Legal Times, January 30, 1984.

"Protection of Corporate Secrets in Government Contract Proposals and Bids" (with James A. Dobkin), 15 Pub. Con. L.J. 46 (1984).

"Data privacy – Law enforcement's access to your information," in National

Conference on Privacy, Technology and Criminal Justice Information, proceedings of a Bureau of Justice Statistics/SEARCH conference (2001).

“Control y Supervision Legislativa del FBI en Estados Unidos,” in Control Democrático en el Mantenimiento de la Seguridad Interior, 1998 (hardcopy attached)

“Control y supervision legislative del FBI en Estados Unidos,” in Policia y sociedad democratica, 1998 (hardcopy attached)

“The Terrors of Counterterrorism,” The Recorder, May 11, 1995 (hardcopy attached).

***CDT blog entries:***

“A Good Start for the 110<sup>th</sup>.” CDT Blog. Jan. 10, 2007.

“A Global Forum on National Issues.” CDT Blog. Nov. 6, 2006.

“A Wake-Up Call for Reform.” CDT Blog. Mar. 14, 2007.

“Admin Cyber-Security Plan Raises Concerns over NSA’s Role.” CDT Blog. Nov. 8, 2007.

“CTO Aneesh Chopra – A Breath of Fresh Air.” CDT Blog. Aug. 6, 2009.

“Camey Revelations Highlight Surveillance Concerns.” CDT Blog. May 16, 2007.

“Congressional Oversight on Privacy and National Security.” CDT Blog. Nov. 10, 2006.

“Does ‘Targeting’ Authorize the Vacuum Cleaner?” CDT Blog. June 25, 2008.

“ICANN, US Government Affirm Private Sector Lead in Domain Name Governance.” CDT Blog. Sept. 30, 2009.

“‘Internet Governance:’ The Contribution of the IGF.” CDT Blog. July 15, 2010.

“More Bad News.” CDT Blog. June 9, 2006.

“New Urban Myth: The Internet ID Scare.” CDT Blog. Jan. 11, 2011.

“Privacy in the Age of Big Data.” CDT Blog. Aug. 20, 2009.

“Progressives Should Embrace Intent Behind ‘Violent Radicalization Bill.’” CDT Blog. Dec. 14, 2007.

“Supreme Court Holds Stead on Workplace Privacy.” CDT Blog. June 17, 2010.



“The Real Story on Warrantless Surveillance.” CDT Blog. Aug. 2, 2007.

“Transparency, Privacy and Financial Services Reform.” CDT Blog. April 26, 2010.

“What Do the Twitter ‘Subpoenas’ Mean?” CDT Blog. Jan. 12, 2011.

“Why the NSA Should Not Lead Cybersecurity Government-Wide.” CDT Blog. April 21, 2009.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

The list below consists of materials identified from my recollection, from my files, and from search of Internet databases. A copy is supplied for each item. Despite these searches, there may be other items I have been unable to identify, find, or remember.

**Markle Foundation- Connecting for Health Initiative:**

“Consumers as Network Participants: Common Framework for Networked Personal Health Information,” Connecting for Health, Markle Foundation (June 2008).

“Overview and Principles: Common Framework for Networked Personal Health Information,” Connecting for Health, Markle Foundation (June 2008).

“Linking Health Care Information: Proposed Methods for Improving Care and Protecting Privacy”, Connecting for Health, Markle Foundation (February 2005).

“Achieving Electronic Connectivity in Healthcare: A Roadmap from the Nation’s Public and Private Sector Healthcare Leaders,” Connecting for Health, Markle Foundation (Fall 2004).

“Achieving Electronic Connectivity in Healthcare: Summary of Recommendations,” Connecting for Health, Markle Foundation (July 2004).

“Achieving Electronic Connectivity in Healthcare: A Preliminary Roadmap from the Nation’s Public and Private Sector Healthcare Leaders,” Connecting for Health, Markle Foundation (July 2004).

### **Markle Foundation-Task Force on National Security in the Information Age**

“Creating a Trusted Network for Homeland Security: Second Report of the Markle Foundation Task Force,” Task Force on National Security, Markle Foundation (2003).

“Protecting America’s Freedom in the Information Age: A Report of the Markle Foundation Task Force,” Task Force on National Security, Markle Foundation, (October 2002).

### **CDT Reports-**

“Intermediary Liability: Protecting Internet Platforms for Expression and Innovation,” Center for Democracy & Technology (April 2010).

“Patriot Act Sunsets Should Prompt Re-Consideration of Anti-Terror Powers; Adjustments Needed To Protect Civil Liberties,” Center for Democracy & Technology, website content (Sept. 16, 2009).

“PASS ID Act Addresses Major Privacy Concerns in REAL ID,” Center for Democracy & Technology, website content (June 15, 2009).

“White House Sets Framework for Cybersecurity; Builds in Privacy,” Center for Democracy & Technology, website content (May 29, 2009).

“Cybersecurity Program Should Be More Transparent, Protect Privacy,” Center for Democracy & Technology, website content (March 30, 2009).

“Domestic Intelligence System Grows without Controls,” Center for Democracy & Technology, website content (March 19, 2009).

“Show Us the Data: Most Wanted Federal Documents,” Report by the Center for Democracy & Technology and OpenTheGovernment.Org (March 2009).

“Investigative Guidelines Cement FBI Role As Domestic Intelligence Agency, Raising New Privacy Challenges,” Center for Democracy & Technology, website content (October 29, 2008).

“Online Consumers at Risk and the Role of State Attorneys General,” Center for American Progress and the Center for Democracy & Technology (August 2008).

“Legislation Needed to Correct Widespread Errors in use of National Security Letters,” Center for Democracy & Technology, website content (May 14, 2008).

“Governance of Critical Internet Resources: What Does ‘Governance’ Mean?”

What Are ‘Critical Internet Resources’?” Prepared by the Center for Democracy & Technology for the Second Internet Governance Forum in Rio de Janeiro, Brazil (Nov. 14, 2007).

“Bills Would Strengthen, Weaken Surveillance Standards,” Center for Democracy & Technology, website content (Oct. 26, 2007).

“Federal Appeals Court Holds Email Content Is Constitutionally Protected,” Center for Democracy & Technology, website content (July 25, 2007).

“IRS Proposal Could Impact Millions of Internet Users,” Center for Democracy & Technology, website content (May 4, 2007).

“Bill Introduced to Reform FBI Data Demands,” Center for Democracy & Technology, website content (March 29, 2007).

“The Internet in Transition: 2009 and Beyond, A Platform to Keep the Internet Open, Innovative and Free,” Center for Democracy & Technology, website content (Nov. 17, 2006), available at <http://old.cdt.org/election2008/>.

“ICANN Seeks Input on Improving Transparency and Accountability,” Center for Democracy & Technology, website content (Nov. 17, 2006).

“Congress Poised to Consider Dangerous NSA Bills,” Center for Democracy & Technology, website content (Sept. 25, 2006).

“FISA ‘Modernization’ is Dangerous and Premature,” Center for Democracy & Technology, website content (Aug. 2, 2006).

“Internet Governance Debate Poses Unique Global Challenges,” Center for Democracy & Technology, website content (July 19, 2006).

“Court Upholds Imposition of Technical Design Mandates on the Internet,” Center for Democracy & Technology, website content (June 13, 2006).

“Illegal NSA Data Mining Highlights Need for Congressional Oversight,” Center for Democracy & Technology, website content (May 11, 2006).

“President Signs PATRIOT Act Reauthorization Bill Lacking Civil Liberties Protections,” Center for Democracy & Technology, website content (March 17, 2006).

“Digital Technology Makes Surveillance Easier, Requiring Stronger Privacy Laws,” Center for Democracy & Technology, website content (Feb. 22, 2006).

“Congress Begins Deeper Investigation of NSA's Warrantless Wiretapping

Program,” Center for Democracy & Technology, website content (Feb. 14, 2006).

“Digital Search & Seizure: Updating Privacy Protections to Keep Pace with Technology,” Center for Democracy & Technology (February 2006).

“Congress Needs to Hear About PATRIOT Renewal,” Center for Democracy & Technology, website content (Jan. 4, 2006).

“Civil Liberties Crisis Confronts Nation,” Center for Democracy & Technology, website content (Dec. 19, 2005).

“PATRIOT Act Deal Falls Short on Civil Liberties Checks and Balances,” Center for Democracy & Technology, website content (Dec. 12, 2005).

“Congressional Revolt Over Civil Liberties; PATRIOT Reform Hangs in the Balance,” Center for Democracy & Technology, website content (Nov. 11, 2005).

“Federal Appeals Court Reaffirms E-Mail Privacy Protections,” Center for Democracy & Technology, website content (Aug. 18, 2005).

“Civil Liberties at Issue in PATRIOT Act Reauthorization,” Center for Democracy & Technology, website content (June 2, 2005).

“SAFE Act Would Control PATRIOT Powers,” Center for Democracy & Technology, website content (April 26, 2005).

“Federal ID Proposals for US Citizens and Others Grow in Number and Scope,” Center for Democracy & Technology, website content (Jan. 18, 2005).

“Technologies That Can Protect Privacy as Information is Shared to Combat Terrorism,” Center for Democracy & Technology (May 26, 2004).

“The Internet and Law Enforcement Surveillance: Extension of CALEA to the Internet Would Be Unlawful, Unnecessary and Unwise,” Center for Democracy & Technology (May 20, 2004).

“No Design Mandates for Internet, CDT Tells FCC,” Center for Democracy & Technology, website content (April 28, 2004).

“Google's GMail Highlights General Privacy Concerns,” Center for Democracy & Technology, website content (April 12, 2004).

“The Internet and Law Enforcement Surveillance: Law Enforcement Concerns Can Be Addressed Without Regulation, Which Would Stifle Innovation, Raise Costs, Risk Security,” Center for Democracy & Technology (March 19, 2004).

“GAO Echoes CDT Criticisms of CAPPS II; Coalition Calls for Hearings,” Center for Democracy & Technology, website content (Feb. 26, 2004).

“Security Holes at DMVs Feed ID Theft, Offer Lessons for National ID Card Debate,” Center for Democracy & Technology, website content (Feb. 3, 2004).

“Privacy’s Gap: The Largely Non-Existent Legal Framework for Government Mining of Commercial Data,” Center for Democracy & Technology (May 19, 2003).

“Part 4: Information Security and Government Policies,” in Information Technology Security Handbook (2003).

“The E-Government Handbook for Developing Countries,” Project of InfoDev and the Center for Democracy & Technology (November 2002).

“Anti-Terrorism Legislation Gutting Privacy Standards Becomes Law,” Center for Democracy & Technology, website content (Oct. 26, 2001).

“Appeals Court Rules on FCC CALEA Decision,” Center for Democracy & Technology, website content (Aug. 15, 2000).

“Bridging the Digital Divide: Internet Access in Central and Eastern Europe,” Center for Democracy & Technology (2000).

“Square Pegs & Round Holes: Applying Campaign Finance Law to the Internet – Risks to Free Expression & Democratic Values,” Center for Democracy & Technology (October 1999).

“‘Regardless of Frontiers:’ Protecting The Human Right to Freedom of Expression on the Global Internet,” Global Internet Liberty Campaign (1998).

### **GIPI Reports:**

“A Process for Developing Internet Policy: The Model of the National ICT/Internet Summit - The Case Study of the Kyrgyz Republic,” Global Internet Policy Initiative (April 2001).

“Licensing Options for Internet Service Providers,” Global Internet Policy Initiative (June 23, 2001, updated Sept. 25, 2002).

“Application of Defamation Laws to the Internet,” Global Internet Policy Initiative (October 2001).

- “Flat Rate versus Per Minute Charges for Telephone Service: The Relationship between Internet Access and Telephone Tariffs,” Global Internet Policy Initiative (Dec. 4, 2001).
- “Taxation of E-Commerce,” Global Internet Policy Initiative (December 2001).
- “Voice-over-IP: The Future of Communications,” Global Internet Policy Initiative (April 29, 2002).
- “Best Practices for Telecommunications Reform,” Global Internet Policy Initiative (May 2002).
- “The Keys to the Back Office: Building a Legal and Policy Framework to Attract IT-Enabled Outsourcing,” Global Internet Policy Initiative (May 2002).
- “Redelegation of Country Code Top Level Domains,” Global Internet Policy Initiative (February 2003).
- “Trust And Security In Cyberspace: The Legal And Policy Framework for Addressing Cybercrime,” Global Internet Policy Initiative (September 2005).
- “Privacy and E-Government: Privacy Impact Assessments and Privacy Commissioners –Two Mechanisms for Protecting Privacy to Promote Citizen Trust Online,” Global Internet Policy Initiative (May 1, 2003).
- “Copyright and the Internet: Building National Legislative Frameworks Based on International Copyright Law,” Olena Dmytrenko and James X. Dempsey, Global Internet Policy Initiative (December 2004).
- “The Regulatory Framework for E-Commerce –International Legislative Practice,” Global Internet Policy Initiative (May 21, 2002).
- “Creating the Legal Framework for ICT Development: The Example of E-Signature Legislation in Emerging Market Economies,” James X. Dempsey, Global Internet Policy Initiative (2003).
- “The International Legal Framework for Data Protection and Its Transposition to Developing and Transitional Countries,” Global Internet Policy Initiative (Dec. 28, 2004).
- “Management of ccTLDs by Member States of the European Union,” Global Internet Policy Initiative (Oct. 26, 2002).
- “Building Local E-Government through Public-Private Partnerships: Conference Conclusions,” Conference on E-Government in Romania, Global Internet Policy Initiative (2005).

Additionally I managed all web content for the Global Internet Policy Initiative, available at <http://www.internetpolicy.net>.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

The list below consists of materials identified from my recollection, from my files, and from search of Internet databases. A copy is supplied for each item. Despite these searches, there may be other items I have been unable to identify, find, or remember.

***Testimony:***

Testimony before the Senate Judiciary Committee, on The Electronic Communications Privacy Act: Promoting Security and Protecting Privacy in the Digital Age, Sept. 22, 2010.

Testimony before the House Judiciary Committee, Subcommittee on the Constitution, Civil Rights and Civil Liberties on Electronic Communications Privacy Act Reform, May 5, 2010.

Testimony before the House Intelligence Committee on FISA and the Protect America Act, Sept. 18, 2007.

Testimony before the Senate Judiciary Committee on FISA and the Protect America Act Sept. 25, 2007.

Testimony before the House Intelligence Committee on National Security Letters, Mar. 28, 2007.

Testimony before the President's Privacy and Civil Liberties Oversight Board on Privacy and Information Sharing for Counterterrorism, Dec. 5, 2006.

Testimony before the House Committee on the Judiciary, Subcommittee on Crime, Terrorism, and Homeland Security on Updating FISA, Sept. 6, 2006.

Testimony before the Senate Judiciary Committee on Modernization of the Foreign Intelligence Surveillance Act, July 26, 2006.

Testimony before the House Intelligence Committee on Modernization of the Foreign Intelligence Surveillance Act (FISA), July 19, 2006.

Testimony before the House Committee on Homeland Security, Subcommittee on

Economic Security, Infrastructure Protection, and Cybersecurity on Improving Pre-Screening of Aviation Passengers against Terrorist and Other Watch Lists, June 29, 2005.

Testimony before the Senate Select Committee on Intelligence on USA PATRIOT Act, May 24, 2005.

Testimony before the House Permanent Select Committee on Intelligence on the PATRIOT Act, May 11, 2005.

Testimony before the Senate Committee on the Judiciary on the PATRIOT Act, May 10, 2005.

Testimony before the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security on Oversight Hearing on Implementation of the USA PATRIOT Act: Section 212, May 5, 2005.

Testimony before the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security on Implementation of the USA PATRIOT Act: Sections of the Act that Address Crime, Terrorism, and the Age of Technology, April 21, 2005.

Testimony before the Senate Select Committee on Intelligence on USA PATRIOT Act, April 19, 2005.

Testimony before the Senate Committee on the Judiciary on Securing Electronic Personal Data: Striking a Balance Between Privacy and Commercial and Governmental Use, April 13, 2005.

Testimony before the Subcommittee on Telecommunications and the Internet House Committee on Energy and Commerce on Law Enforcement Access to Communications Systems in a Digital Age, Sept. 8, 2004.

Testimony before the House Committee on Government Reform on Moving from 'Need to Know' to 'Need to Share:' A Review of the 9-11 Commission's Recommendations, Aug. 3, 2004.

Testimony before the Senate Committee on Commerce, Science and Transportation on S. 2281, The VOIP Regulatory Freedom Act of 2004, June 16, 2004.

Testimony before the House Committee on the Judiciary Subcommittee on Commercial and Administrative Law on Privacy in the Hands of the Government: The Privacy Officer for the Department of Homeland Security, Feb. 10, 2004.

Testimony before the Senate Committee on the Judiciary on America after 9/11: Freedom Preserved or Freedom Lost? Nov. 18, 2003.



Testimony before the Subcommittee on Commercial and Administrative Law and the Subcommittee on the Constitution of the House Judiciary Committee on The Defense of Privacy Act and Privacy in the Hands of the Government, July 22, 2003.

Testimony before the House Committee on the Judiciary Subcommittee on the Constitution on Anti-Terrorism Investigations and the Fourth Amendment After September 11: Where and When Can the Government Go to Prevent Terrorist Attacks? May 20, 2003.

Testimony before the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations and the Subcommittee for Technology and Procurement Policy of the House Committee on Government Reform on H.R. 3844, the 'Federal Information Security Reform Act of 2002,' May 2, 2002.

Testimony before the House Committee on the Judiciary Forum on National Security and the Constitution on the Nation's Counter-Terrorism Programs and their Implications for Civil Liberties, Jan. 24, 2002.

Testimony before the House Committee on the Judiciary on Legislative Measures to Improve America's Counter-Terrorism Programs, Sept. 24, 2001.

Testimony before the House Subcommittee on the Constitution on privacy legislation, Sept. 6, 2000.

Testimony before the Senate Judiciary Committee on Carnivore. Sept. 6, 2000.

Testimony before the Senate Judiciary Committee on Internet Security and Privacy. May 25, 2000

Testimony before the House Judiciary Subcommittee on the Constitution on 'The Fourth Amendment and the Internet,' April 6, 2000.

Testimony before the Subcommittee on Crime of the House Judiciary Committee and the Subcommittee on Criminal Justice Oversight of the Senate Judiciary Committee on Internet Denial of Service Attacks and the Federal Response, Feb. 29, 2000.

Testimony before the Commerce Committee on the Wireless Privacy Enhancement Act of 1999 and the Wireless Communications and Public Safety Enhancement Act of 1999, Feb. 3, 1999.

Testimony before the House Committee on the Judiciary Subcommittee on Crime on CALEA Implementation, Oct. 23, 1997.

**Other Communications:**

Comments of the Center for Democracy & Technology regarding ‘Cybersecurity, Innovation and the Internet Economy,’ Docket No. 100721305-0305-01, before the U.S. Department of Commerce, September 20, 2010.

Comments of the Center for Democracy & Technology regarding the ‘Framework for Broadband Internet Service,’ GN Docket No. 10-127, before the Federal Communications Commission, July 15, 2010.

Comments of the Center for Democracy & Technology regarding the Notice of Inquiry regarding the ‘Assessment of the Transition of the Technical Coordination and Management of the Internet’s Domain Name and Addressing System,’ before The National Telecommunications and Information Administration within the U.S. Department of Commerce, June 8, 2009.

Comments of the Center for Democracy & Technology regarding The Continued Transition of the Technical Coordination and Management of the Internet’s Domain Name and Addressing System: Midterm Review of the Joint Project Agreement, before The National Telecommunications and Information Administration within the U.S. Department of Commerce, January 25, 2008.

Joint comments on the ‘Petition for Expedited Rulemaking to Establish Technical Requirements and Standards Pursuant to Section 107 (b) of the Communications Assistance for Law Enforcement Act,’ before the Federal Communications Commission, July 25, 2007.

Reply Comments by Industry and Public Interest Commenter’s in support of the ‘Petition for Reconsideration and Clarification of the CALEA Applicability Order’ filed by the United States Telecom Association, ET Docket No. 04-295, before the Federal Communications Commission, January 30, 2006.

Comments in support of the Petition for Reconsideration and Clarification of the CALEA Applicability Order, ET Docket No. 04-295, before the Federal Communications Commission, December 30, 2005.

Request for stay pending issuance of subsequent orders and for stay pending judicial review, regarding the Communications Assistance for Law Enforcement Act and Broadband Access and Services, ET Docket No. 04-295., before the Federal Communications Commission, November 23, 2005.

Joint Comments to the further notice of proposed rulemaking, regarding the

‘Communications Assistance for Law Enforcement Act and Broadband Access and Services,’ ET Docket No. 04-295, before the Federal Communications Commission, November 14, 2005.

Bipartisan Working Group of Former Government Officials: Recommendations Regarding the Expiring Provisions of the Patriot Act, July 17, 2005.

Letter to the Honorable John Sununu, regarding Voice over Internet Protocol (VOIP) serves, June 21, 2004.

Letter to Senator Akaka from the Center for Democracy & Technology, ACLU, and the Electronic Privacy Information Center (EPIC) regarding data mining, May 26, 2004.

Reply Comments of the Center for Democracy & Technology regarding the ‘Joint Petition for Rulemaking to Resolve Various Outstanding Issues Concerning the Implementation of the Communications Assistance for Law Enforcement Act,’ before the Federal Communications Commission, April 27, 2004.

Letter to the Honorable Don Young and the Honorable James Oberstar, regarding the Transportation Security Administration’s Computer Assisted Passenger Prescreening System (CAPPS II), February 17, 2004.

Comments of the Center for Democracy & Technology on the ‘Notice of Status of System Records, Interim Final Notice, 68 Fed. Reg. 45265-01 (Aug. 1, 2003), Docket No. DHS/TSA-2003-01, September 30, 2003.

Comments on TSA’s proposed Aviation Security Screening Records System, 68 Fed. Reg. 2101(Jan. 15, 2003), Feb. 24, 2003.

Comments on the ‘Petition of the Cellular Telecommunications Industry Association for a Rulemaking to Establish Fair Location Information Practices,’ before the Federal Communications Commission, April 6, 2001.

Comments of the Center for Democracy & Technology on the Council of Europe Draft ‘Convention on Cyber-crime.’ Draft No. 25; before the Council of Europe and the U.S. Department of Justice, February 6, 2001.

Reply Comments of the Center for Democracy & Technology regarding the ‘Communications Assistance for Law Enforcement Act,’ CC Docket No. 97-213, before the Federal Communications Commission, January 27, 1999.

Comments of the Center for Democracy and Technology on the ‘Communications Assistance for Law Enforcement Act,’ CC Docket No. 97-213, before the Federal Communications Commission, May 20, 1998.

Comments of the Center for Democracy and Technology regarding the  
 ‘Communications Assistance for Law Enforcement Act: Extension of  
 October 1998 Compliance Date,’ CC Docket No. 97-213, before the  
 Federal Communications Commission, April 2, 1998.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

The list below consists of speeches or talks identified from my recollection, from my files, and from search of Internet databases. Despite my searches, there may be other speeches or talks I have been unable to identify, find, or remember.

February 8 or 9, 1994 – spoke on a panel about criminal history records at the “National Conference on Criminal History Records: Brady and Beyond,” organized by the Bureau of Justice Statistics, US Department of Justice, Constitution Ave, NW, Washington, DC, and SEARCH, 7311 Greenhaven Drive, Suite 145, Sacramento, California 95831

August 3, 1994 - spoke on a panel about gang databases at the International Symposium, “Criminal Justice Information Systems and Technology: Building the Infrastructure,” organized by SEARCH, 7311 Greenhaven Drive, Suite 145, Sacramento, California 95831

October 7, 1998 - Presentation on Protecting the Human Right to Freedom of Expression on the Global Internet, made at the conference on the Public Voice in the Development of Internet Policy, Ottawa, Canada, organized by the Electronic Privacy Information Center, 1718 Connecticut Ave, NW, Suite 200, Washington, DC 20009 <http://thepublicvoice.org/events/ottawa98/default.html> (PowerPoint attached - hardcopy).

April 2001 – Global Internet Policy initiative, Promoting the Development of the Internet through Legal and Policy Reform, Almaty, Kazakhstan, sponsored by the Open Society Institute 111A Zheltoksan St., Office 9 Almaty 050000 Kazakhstan (PowerPoint attached - hardcopy).

June 2001 – presented on “Content Controls, Freedom of Expression and ISP Liability on the Internet,” and “Internet Policy Overview: The legal and

Regulatory Framework Enabling Development of the Internet,” at the Advanced Network Workshop, Stockholm, Sweden, sponsored by the Internet Society, 1775 Wiehle Avenue, Suite 201, Reston, VA (PowerPoints (2) submitted electronically)

July 2001 – Internet and Democracy, The Legal and Regulatory Framework, presentation at the National Foreign Affairs Training Center, US Department of State, 2201 C St. NW, Washington, DC (PowerPoint submitted electronically).

July 2001 – spoke about “Internet Policy Overview: The Legal and Regulatory Framework Enabling Development of the Internet as an Engine of Economic Growth,” at a telecommunications regulatory study tour training session sponsored by the US Telecommunications Training Institute, 1150 Connecticut Ave, NW, Washington, DC (PowerPoint submitted electronically)

April 2002 – spoke about “Overview of Internet legislation: The Legal and Regulatory Framework for Development of the Internet – Global Perspective,” in Tashkent, Uzbekistan, organized by the Global Internet Policy Initiative-UZ, 31 Kamol Jalilov Street, Tashkent and the United national Development Programme, One United Nations Plaza, New York, NY 10017 (PowerPoint submitted electronically)

June 18, 2002 – Tutorial, Legal and Regulatory Issues: A Primer - Consumer Privacy Overview, and Government Surveillance, INET 02, sponsored by the Internet Society, 1775 Wiehle Avenue, Suite 201, Reston, VA 20190-5108 U.S.A., (PowerPoints (3) submitted electronically).

October 2002 – I am submitting electronically a PowerPoint dated October 2002 on the subject “Internet Policy Overview: The Legal and Regulatory Framework Enabling Development of the Internet as an Engine of Economic Growth” – based on a review of my records, I cannot determine whether I actually gave such a presentation in October 2002, let alone where.

April 21, 2003 – I am submitting electronically a PowerPoint dated April 21, 2003 on the subject “Privacy Overview” - based on a review of my records, I cannot determine whether I actually gave such a presentation in April 2003, let alone where.

June 27, 2003 – The Legal and Regulatory Framework Enabling Development of the Internet as an Engine of Economic Growth and Democratization, UNITAR/INTEL Seminar, 2 United Nations Plaza, New York City (PowerPoint submitted electronically)

September 8, 2003 – Protecting Privacy and Freedom of Communication in the Fight against Cybercrime, Southeast Europe Cybersecurity Conference, in Sofia, Bulgaria, sponsored by the United States Government, Department of State, 2201 C Street, NW, Washington, DC and the Government of Bulgaria, <http://www.cybersecuritycooperation.org/> (PowerPoint submitted electronically).

March 7, 2004 - spoke at a workshop, in Washington DC, entitled, "Civil Liberties: The Patriot Act: The Toll on Our Rights," convened by the National Council of Jewish Women's Washington Institute, in Washington DC, 1707 L Street, NW, Suite 950, Washington, DC 20036-4206

March 10, 2004 - spoke on CALEA and VoIP at a brown bag lunch meeting of the D.C. Bar's Computer and Telecommunications Law Section, 1101 K Street NW, Suite 200, Washington, DC.

May 11, 2004 – spoke about CALEA at a VoIP conference in Reston, VA, organized by Law Seminars International, 800 Fifth Avenue, Suite 101 Seattle, WA 98104 .

May 18, 2004 – participated in a panel discussion on Internet governance at the Microsoft Government Leaders Forum, One Microsoft Way, Redmond, WA in Seattle, Washington.

June 4, 2004 – spoke about “Human Rights and the War on Terrorism,” at the US Foreign Policy Colloquium, sponsored by the National Committee on United States- China Relations, 71 West 23rd Street Suite 1901, New York, NY 10010-4102 (PowerPoint attached – hardcopy)

June 18, 2004 - spoke on a panel on "Government Surveillance: Civil Liberties and the War on Terror" at the National Convention of the American Constitution Society, 1333 H Street, NW, 11<sup>th</sup> Floor, Washington, DC

July 2004 – “Internet and Democracy: The Legal and Regulatory Framework Enabling Development of the Internet as an Engine of Economic Growth and Democratization,” presentation at National Foreign Affairs Training Center, US Department of State, 2201 C St. NW, Washington, DC (PowerPoints (2) submitted electronically).

September 16, 2004 - spoke on cybersecurity issues at the Academy for Educational Development 1825 Connecticut Ave., NW, Washington, D.C. 20009-5721; as part of the DOT-COM/InterAction Speaker Series: Cyber-Security Issues in International Development Environments (PowerPoint submitted electronically and handwritten notes attached in hardcopy

September 30, 2004 - moderated a panel on "Government, Industry and Security" at the Privacy and National Security Forum in Washington, DC, sponsored by the International Association of Privacy Professionals, 75 Rochester Ave., Suite 4 Portsmouth, NH 03801 USA.

October 6, 2004 – presentation on The Patriot Act, Civil Liberties and the War on Terrorism, at LocationOne, 26 Greene Street, New York, New York 10013

October 10, 2004 – spoke on a panel about CALEA at TELECOM04 in Las Vegas, sponsored by the US Telecom Assn, 607 14th Street, NW, Suite 400, Washington, DC 20005

October 16, 2004 - spoke about spam at CPSR's annual conference, "Making the Grade? A Report Card on US Policy for the Information Society," at Georgetown University in Washington, DC. <http://cpsr.org/act/events/annconf/annconf04/>, Computer Professionals for Social Responsibility, PO Box 20046 Stanford, CA 94309-0046

October 26, 2004 - spoke on a panel about privacy and identity at the Digital ID World Conference in Denver. (I don't know for sure, but as far as I can tell, the Digital ID World Conference series is now run by a company called CXO, which is part of IDG, 492 Old Connecticut Path, P.O. Box 9208, Framingham, MA 01701.)

November 9, 2004 - participated in a panel discussion on Implementing the Executive Order on the Sharing of Terrorism Information at the Potomac Institute for Policy Studies, 901 N. Stuart Street, Suite 200, Arlington, VA 22203

December 13-17, 2004 – spoke on “Information Security – Building Trust in Cyberspace” and “Internet Policy” at iLaw Eurasia, Tallinn, Estonia, organized by CDT and the Berkman Center, Harvard Law School, Cambridge, MA in coordination with the eGovernance Academy Foundation, Tõnismägi 2, 10122 Tallinn, Estonia (PowerPoints (2) submitted electronically)

January 11, 2005 - spoke about privacy and cyber security at "Roadmap to Government and Private Sector Cyber Security," a workshop for legal and cyber security professionals, U.S. Department of Commerce Auditorium, 1401 Constitution Ave, NW, Washington, DC

April 4, 2005- spoke on a panel about privacy and datamining at the 5th Annual Knowledge Management (KM) Conference and Exhibition, sponsored by the E-Gov Institute, now part of 1105 Media, 9201 Oakdale Ave., Suite 101 Chatsworth, CA 91311

May 4, 2005 - participated in a panel discussion at the Center for American Progress, 1333 H Street NW, 10th Floor, Washington DC, 20005 on "No Place to Hide: Where the Data Revolution Meets Homeland Security," video available at <http://www.americanprogress.org/events/2005/5/b593305ct782541.html>

May 4, 2005 - spoke at the IP-Based Communications Policy Summit in Washington, DC, sponsored by pulver.com, contact info at <http://pulver.com/jeff/>.

May 17, 2005 - spoke at the Markle Foundation Task Force Conference on Building a Trusted Information Sharing Environment, 10 Rockefeller Plaza, 16th Floor, New York, NY 10020-1903.

May 25, 2005 - participated in a PATRIOT Act Debate at the National Press Club, 529 14th Street Northwest, Washington D.C., DC 20045.

June 1, 2005 - spoke at the Web-Enabled Government Conference, Washington, DC, on the topic "How the Government Uses Private Sector Information," sponsored by the E-Gov Institute, now part of 1105 Media, 9201 Oakdale Ave., Suite 101 Chatsworth, CA 91311

June 7, 2005 – spoke about “The USA PATRIOT Act: Past, Present, Future,” on an EDUCAUSE Live! Webcast, sponsored by EDUCAUSE, 1150 18<sup>th</sup> Street NW, Suite 900, Washington, DC 20036 (PowerPoint submitted electronically).

September 8, 2005 - spoke on a panel at workshop on government use of commercial data, Department of Homeland Security, 301 7th St. SW, Washington, DC, 20006.

September 12-13 – moderated a conference on “Building Local E-Government through Public-Private Partnerships,” sponsored by the USAID-funded Romanian Information Technology Initiative Project (RITI dot-Gov), in partnership with the Romanian Ministry of Communications and Information Technology, Bucharest, Romania. USAID, Ronald Reagan Building, Washington, D.C. 20523-0016

September 21, 2005 – spoke on a panel on privacy at Identity 2005, Identity Risk Management Conference, sponsored by ID Analytics, in San Diego, CA, 15253 Avenue of Science, San Diego, CA 92128

October 19, 2005 - spoke on “Cybercrime: legal developments,” at the Hispanic National Bar Association, 1900 L Street NW, Suite 700, Washington, DC 20036.

October 25, 2005 – spoke on a panel on CALEA and VoIP at Telecom '05 in Las Vegas, sponsored by the US Telecom Assn, 607 14th Street, NW, Suite 400, Washington, DC 20005.

October 26, 2005 - spoke at a seminar on spyware at SiegeWorks 11501 Dublin Blvd. Suite 101. Dublin, CA 945, sponsored by Computer Associates, 895 Emerson Street, Palo Alto, CA (PowerPoint attached in hardcopy).

October 27, 2005 - spoke at a seminar on spyware at Computer Associates in Rancho Cordova, Calif, sponsored by Computer Associates, 895 Emerson Street, Palo Alto, CA(PowerPoint attached in hardcopy – same as Oct. 26, 2007).

November 29, 2005 - participated in a panel discussion on Public Interest Advocacy in Law and Digital Technology, at Boalt Hall, UC Berkeley, 406 Cory HI, Berkeley, CA 94720-0001.

January 27, 2006 – spoke on a panel at a conference on Privacy in the Information Age: Databases, Digital Dossiers and Surveillance, sponsored by the Computer



and High Tech Law Journal of Santa Clara Univ. Law School, 500 El Camino Real, Santa Clara, California 95053 .

February 2, 2006 - gave presentations on "Information Security – Building Trust in Cyberspace," "ICTs and Development," and "E-Government Principles: Theory and Practice" at a conference on e-government in Bishkek, Kyrgyz Republic, sponsored by the Civil Initiative on Internet Policy, 40 Mira Ave, Suite 5, Bishkek 720044, Kyrgyz Republic (2 PowerPoints submitted electronically, 1 attached in hardcopy)

February 22, 2006 - spoke at a forum on "NSA Surveillance: Moving Forward," at the Center for Strategic and International Studies 1800 K St. NW, Washington, DC, 20006.

March 16, 2006 - spoke about the NSA domestic wiretap program at the University of San Francisco Law School, 2130 Fulton St, San Francisco, California.

March 22, 2006 – spoke on "The Legal Framework for Creating Trust in Cyberspace: Security and Privacy," at a seminar in Skopje, Macedonia organized by the USAID e-Gov Project in cooperation with the Macedonian Directorate for Security of Classified Information and the Directorate for Personal Data Protection. (PowerPoint submitted electronically)

May 17, 2006 - spoke on a panel on "The Internet, Censorship, and Political Freedom in Contemporary China," at the Asia Society, 500 Washington Street, Suite 350, San Francisco, CA.

June 7, 2006 - spoke on identity authentication at a meeting of the DHS Data Privacy and Integrity Advisory Committee, in San Francisco, CA. The national headquarters for DHS is located at 301 7th St. SW, Washington, DC, 20006 A transcript of the session at which I spoke is available at [http://www.dhs.gov/xlibrary/assets/privacy/privacy\\_advcom\\_06-2006\\_mtgminutes\\_PM.pdf](http://www.dhs.gov/xlibrary/assets/privacy/privacy_advcom_06-2006_mtgminutes_PM.pdf)

June 17, 2006 - spoke at a Practicing Law Institute, 810 Seventh Avenue, 21st Floor, New York, NY 10019 seminar on privacy law in Chicago.

June 24, 2006 – spoke as panel member at the American Library Association annual convention in New Orleans on federal legislative and policy issues affecting libraries, American Library Association, 1301 Pennsylvania Avenue NW, Washington D.C.

September 20, 2006 - spoke on a panel in San Francisco on "net neutrality," sponsored by the Federal Communications Bar, 1020 19th St NW # 325, Washington D.C.

September 27, 2006 – spoke at a conference, "Defining the Acceptable Balance: A Reasoned Approach to Data Retention," in Washington DC, sponsored by ITAA, 601 Pennsylvania Avenue, NW, North Building, Suite 600, Washington, DC 20004.

September 30, 2006 - spoke about privacy on a panel at the University of California, Berkeley Law School, 406 Cory Hl, Berkeley, CA 94720-0001.

October 23, 2006 - participated in a forum on "The Age of Surveillance," at The International Spy Museum, 800 F Street Northwest, Washington D.C., sponsored by the Open Society Foundations, 400 West 59th Street, New York, NY 10019. Audio available at [http://www.soros.org/initiatives/usprograms/focus/security/events/surveillance\\_20061023](http://www.soros.org/initiatives/usprograms/focus/security/events/surveillance_20061023) .

October 31, November 2, 2006 – spoke on panels at two workshops and on one plenary panel at the Internet Governance Forum, Athens Greece, sponsored by the United Nations, Secretariat of the Internet Governance Forum (IGF), Palais des Nations, CH-1211 Geneva 10, Switzerland (PowerPoint submitted electronically).

December 5, 2006 – spoke on a panel at a public forum of the President's Privacy & Civil Liberties Oversight Board, Eisenhower Executive Office Building, The White House, Washington, DC

February 6, 2007 – spoke on one or more panels at the RSA Conference in San Francisco, sponsored by RSA, 174 Middlesex Turnpike, Bedford, MA 01730, and managed by Nth Degree, 2675 Breckinridge Boulevard, Suite 200, Duluth, GA 30096

February 22, 2007 – Spoke on the topic “Digital Search and Seizure,” at Google, 1600 Amphitheatre Parkway, Mountain View, CA, 94043. A video of my presentation is available at [http://www.youtube.com/watch?v=pplwMDzd2\\_0](http://www.youtube.com/watch?v=pplwMDzd2_0)

February 27, 2007 - spoke on panel on the Future of the Internet at the Tech Policy Summit in San Jose, California, organized by Sagescape LLC, 4251 N Brown Ave, Scottsdale, AZ 85251.

April 11, 2007 – spoke on a panel at the California identity theft summit, "Protecting Privacy Online," sponsored by the California Department of Consumer Affairs, the California Office of Privacy Protection, the California State and Consumer Services Agency and the California District Attorneys Association (PowerPoint submitted electronically).

April 25, 2007 – spoke on a panel about privacy at the seminar "Wireless Location Meets Social Networking: A Policy & Practices Dialogue," in Washington, DC, sponsored by the Congressional Internet Caucus Advisory Committee, 1634 I Street, NW, Washington, DC 20006. A video of the event is available at <http://www.netcaucus.org/events/2007/location/video.shtml>

May 17, 2007 - keynote address on privacy, the Internet and innovation at the EDUCAUSE Policy Conference in Arlington VA, EDUCAUSE, 1150 18<sup>th</sup> Street NW, Suite 900, Washington, DC 20036. An audio of my remarks is available at <http://www.educause.edu/blog/gbayne/2007PolicyConferenceWhyHigherE/166961>

June 25, 2007 - spoke on a panel "Privacy and Anonymity," held in San Francisco, at the American Bar Association's National Institute on Computing and the Law, sponsored by the American Bar Association, Criminal Justice Section, Section of Science and Technology Law and the Center for Continuing Legal Education, 321 N. Clark Street, Chicago, IL (PowerPoint submitted electronically).

July 16, 2007 – presentation on major trends in privacy and security law at a seminar in Chicago sponsored by the Practising Law Institute, 810 Seventh Avenue, 21st Floor, New York, NY 10019 (PowerPoint submitted in hardcopy).

August 12, 2007 - participated in a panel discussion, "Privacy versus Security: Finding a Balance," at the American Bar Association conference in San Francisco, ABA, 321 N. Clark Street, Chicago, IL.

September 24, 2007 – spoke on a panel at the public meeting of the ANSI-BBB ID Theft Prevention and ID Management Standards Panel in Washington, DC, organized by the American National Standards Institute, 25 West 43rd Street, Fourth Floor, New York, NY 10036.

October 31, 2007 – presentation on RFID at public workshop of the California Research Bureau, California State Library, Sacramento, CA (PowerPoint attached in hardcopy).

October 23-24, 2007 - moderated a session on privacy advocacy and participated in a panel on ID theft at the conference in San Francisco of the International Association of Privacy Professionals, 75 Rochester Ave., Suite 4, Portsmouth, NH 03801.

November 12, 2007 - spoke on a panel on Internet governance at the Internet Governance Forum in Rio de Janeiro, Brazil, organized by the United Nations, Secretariat of the Internet Governance Forum (IGF), Palais des Nations, CH-1211 Geneva 10, Switzerland (PowerPoint attached in hardcopy).

April 4, 2008 - participated on panels on national data breach legislation, privacy, and warrantless wiretapping at the RSA conference in San Francisco, sponsored by RSA, 174 Middlesex Turnpike, Bedford, MA 01730, and managed by Nth Degree, 2675 Breckinridge Boulevard, Suite 200, Duluth, GA 30096 (handwritten notes attached in hardcopy).

May 2008 – participated in a webinar on privacy advocacy sponsored by the Practicing Law Institute, 810 Seventh Avenue, 21st Floor, New York, NY 10019 (PowerPoint attached in hardcopy).

June 11, 2008 - spoke to the DHS Data Privacy and Integrity Advisory Committee on the subject of privacy and the counter-terrorism Information Sharing Environment. The national headquarters for DHS is located at 301 7th St. SW, Washington, DC, 20006. A transcript of the session at which I spoke is available at [http://www.dhs.gov/xlibrary/assets/privacy/privacy\\_dpiac\\_june112008\\_afternoon\\_minutes.pdf](http://www.dhs.gov/xlibrary/assets/privacy/privacy_dpiac_june112008_afternoon_minutes.pdf).

June 22, 2008 - spoke at the PLI seminar on privacy and security law, in San Francisco, sponsored by the Practicing Law Institute, 810 Seventh Avenue, 21st Floor, New York, NY 10019 (handout attached in hardcopy).

July 2008 - spoke at the PLI seminar on privacy and security law, in Chicago, sponsored by the Practicing Law Institute, 810 Seventh Avenue, 21st Floor, New York, NY 10019 (PowerPoint and handout attached in hardcopy).

September 8, 2008 - spoke on a panel on privacy, held at Microsoft, 1065 La Avenida, Building 1 - Silicon Valley Campus, Mountain View, CA 94043 and organized by the Churchill Club, 3150 Almaden Expressway, Suite 214, San Jose, CA 95118.

September 19-20, 2008 - spoke on three panels on privacy issues at the Harvard privacy symposium, Cambridge, MA. Symposium contact is listed as Paul Tunnecliff, 3291 West Wilson Rd., Pahrump, NV 89048. See <http://www.privacysummersymposium.com/>.

September 22, 2008 – spoke on “Privacy’s Future” at an event organized by the Center for Internet and Society, Stanford Law School, Crown Quadrangle, 559 Nathan Abbott Way, Stanford, CA 94305-8610 (PowerPoint submitted electronically)

November 12, 2008 – spoke about “Privacy’s Future” at Boalt Law School, UC Berkeley, 406 Cory Hl, Berkeley, CA 94720-0001 (PowerPoint submitted electronically)

December 8, 2008 – spoke at the IP and the Internet Conference in Santa Monica, CA, sponsored by the State Bar of California, 180 Howard Street, San Francisco, CA 94105 (PowerPoint submitted electronically, handwritten notes submitted in hardcopy)

December 10, 2008 - spoke at the IP and the Internet Conference in San Francisco, CA, sponsored by the State Bar of California, 180 Howard Street, San Francisco, CA 94105 (same PowerPoint and handwritten notes as Dec 10)

December 11, 2008 – spoke about "Privacy's Future" at the TRUSTe/IAPP Knowledge Net in Palo Alto, CA, organized by TRUSTe, 55 2nd Street, 2nd Floor, San Francisco, CA 94105 and the International Association of Privacy Professionals, 75 Rochester Ave., Suite 4, Portsmouth, NH 03801 (PowerPoint submitted electronically, notes submitted in hardcopy)

January 14, 2009 - spoke about privacy and cloud computing at the State of the Net conference in Washington, DC, organized by the Internet Caucus Advisory Committee, ICAC, 1634 I Street NW, Washington, DC 20006. Audio available at <http://www.netcaucus.org/conference/2009/agenda.shtml>.

January 28, 2009 - spoke at a Privacy Day event at the San Francisco Public Library, organized by Microsoft Corporation, One Microsoft Way, Redmond, WA 98052-6399.

March 31, 2009 - participated in a Knowledge Congress webinar on national security access to communications and business records, organized by the Knowledge Group, LLC. 123 Town Square Place, Suite 242 Jersey City, NJ 07310.

April 20, 2009 - spoke about privacy at the Executive Security Action Forum in San Francisco, sponsored by RSA, The Security Division of EMC, 174 Middlesex Turnpike, Bedford, MA 01730.

April 22, 2009 - spoke about privacy and security legislation at the RSA Conference in San Francisco, sponsored by RSA, The Security Division of EMC, 174 Middlesex Turnpike, Bedford, MA 01730

April 23, 2009 - spoke about privacy and data governance at the AOTA Online Trust Town Hall Meeting in San Francisco. Online Trust Alliance, (OTA), PO Box 803, Bellevue, WA 98009-0803

April 29, 2009 - participated in a Knowledge Congress webinar on National Security Investigations - Disclosure Requests and Customer Data, organized by the Knowledge Group, LLC. 123 Town Square Place, Suite 242 Jersey City, NJ 07310 (PowerPoint submitted electronically)

May 13, 2009 - spoke about privacy at the Tech Policy Summit in San Mateo, CA, organized by Sagescape LLC, 4251 N Brown Ave, Scottsdale, AZ 85251

May 14, 2009 – spoke about "User Conduct and User Safety" at the Legal Frontiers in Digital Media conference at Stanford, organized by the Media Law Resource Center and the Stanford Law School Center for Internet & Society.

June 2, 2009 - spoke at PLI's Privacy and Data Security Law Institute in San Francisco, Practicing Law Institute, 810 Seventh Avenue, 21st Floor, New York, NY 10019 (PowerPoint submitted electronically).

June 3, 2009 - spoke at the CDT-TRUSTe Tech Policy Series event on cloud computing. Center for Democracy and Technology, 1634 I Street, NW, Washington DC 20006; TRUSTe, 55 2nd Street, 2nd Floor, San Francisco, CA 94105

July 21, 2009 - spoke at PLI's Privacy and Data Security Law Institute in Chicago. Practicing Law Institute, 810 Seventh Avenue, 21st Floor, New York, NY 10019

August 2009 – presented a “Privacy Overview” at the Privacy Academy, sponsored by the National Governors Association, Hall of the States, 444 N. Capitol St., Ste. 267, Washington, D.C. 20001-1512 (PowerPoint submitted electronically)

October 22, 2009 - participated in a panel, "Just How Private? The New Front in Data Privacy" at the BSA 2009 High-Tech General Counsel Forum in San Francisco, CA. Business Software Alliance, 1150 18<sup>th</sup> Street, N.W., Suite 700, Washington, DC 20036

October 23, 2009 - participated in a panel at a conference on social networking at UC Berkeley law school, 406 Cory HI, Berkeley, CA 94720-0001.

December 4, 2009 – spoke at a conference on Reforming Internet Privacy Law, sponsored by Silicon Flatirons, a Center for Law, Technology and Entrepreneurship at the University of Colorado Law School, 401 UCB, Wolf Law Building, Boulder, CO 80309. A brief summary of the event is available at <http://www.silicon-flatirons.org/news.php?id=782> (PowerPoint submitted electronically)

December 7, 2009 – spoke about “Privacy’s Future,” at an IAPP KnowledgeNet event, sponsored by the International Association of Privacy Professionals, 75 Rochester Ave., Suite 4, Portsmouth, NH 03801 (PowerPoint submitted electronically)

January 20, 2010 - spoke about the global implications of cybersecurity on a panel at the Global Cybersecurity Policy Conference in Washington, DC, organized by Howe School of Technology Management, Stevens Institute of Technology, Castle Point on Hudson, Hoboken, NJ 07030

January 27, 2010 – spoke on a panel about cloud computing and privacy at the State of the Net conference in Washington, DC, organized by the Internet Caucus Advisory Committee, 1634 I Street NW Suite 1100, Washington, DC 20006

March 19, 2010 - addressed privacy issues posed by the smart grid at a workshop of the California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102 (PowerPoint submitted electronically).

March 23, 2010 – participated in a webinar on “Proposed Changes to the Electronic Communications Privacy Act,” sponsored by the American Bar Association, N. Clark Street, Chicago IL (PowerPoint submitted electronically)

April 30, 2010, Spoke about “Smart Privacy: Addressing Privacy Concerns in the California Smart Grid,” at an even sponsored by the California Foundation on the Environment and the Economy, Pier 35, Suite 202, San Francisco, CA 94133 (PowerPoint submitted electronically)

May 25, 2010 – spoke about the legal standards for government access to personal information at the PLI Privacy and Security Law Institute in San Francisco, CA. Practicing Law Institute, 810 Seventh Avenue, 21st Floor, New York, NY 10019 (PowerPoint submitted electronically)

June 9, 2010 – described the Electronic Communications Privacy Act and proposals for reform in webinar, sponsored by EDUCAUSE, 1150 18<sup>th</sup> Street NW, Suite 900, Washington, DC 20036. An audio recording is available at <http://www.educause.edu/Resources/GovernmentAccessToElectronicCo/206152>. (PowerPoint submitted electronically)

July 20, 2010 - spoke about the legal standards for government access to personal information at the PLI Privacy and Security Law Institute in Chicago, IL. Practicing Law Institute, 810 Seventh Avenue, 21st Floor, New York, NY 10019 (PowerPoint submitted electronically)

July 30, 2010 – spoke about standards for government access to communications at the Burton Group Catalyst Conference in San Diego. Burton Group, 7090 Union Park Center, Suite 200, Midvale, UT, 84047-6051 (PowerPoint submitted electronically).

August 24, 2010 - participated in a panel on privacy and government surveillance, sponsored by the American Constitution Society, San Francisco. American Constitution Society 1333 H St, NW, 11th Floor Washington, DC 20005

September 15, 2010 – spoke to a law school class about Standards for Government Access to Communications Data, Golden Gate Law School, Mission Street, San Francisco, CA (PowerPoint submitted electronically)

November 10, 2010 - spoke about the Electronic Communications Privacy Act at a luncheon meeting of the Association of Corporate Counsel in Palo Alto. Association of Corporate Counsel, 1025 Connecticut Avenue NW, Suite 200, Washington, DC 20036 (PowerPoint submitted electronically).

January 7, 2011 - participated in a panel discussion at an event on the National Strategy for Trusted Identities in Cyberspace, in Palo Alto, CA, sponsored by the Churchill Club, 3150 Almaden Expy # 214, San Jose, CA 95118-1253 and Stanford University, 450 Serra Mall, Stanford, CA 94305. A raw transcript of the event is available at [https://docs.google.com/View?id=dfxgdcdfc\\_307dj3hkvdz](https://docs.google.com/View?id=dfxgdcdfc_307dj3hkvdz).

January 18, 2011 – spoke on a panel about cloud computing at the 2011 State of the Net Conference, sponsored by the Internet Caucus Advisory Committee, 1634 I Street, NW, Washington, DC 20006. Video of the panel is available at <http://www.youtube.com/watch?v=HbDbOadEV7w>

January 25, 2011 - participated in a panel discussion on privacy and cybersecurity at "Washington Meets Silicon Valley: The Outlook for the Technology Industry in the New Congress," in Menlo Park, CA, sponsored by Patton Boggs LLP, 2550 M Street, NW, Washington, DC 20037, and the Information Technology Industry Council (ITI), 1101 K St, NW Suite 610, Washington, D.C. 20005

January 26, 2011 - spoke on a panel on location privacy, in San Francisco, sponsored by the Churchill Club, 3150 Almaden Expy # 214, San Jose, CA 95118-1253

February 16, 2011 – spoke about “Government Access to Communications and Other Data – Updating the Rules,” at the RSA Conference, sponsored by RSA, 174 Middlesex Turnpike, Bedford, MA 01730, and managed by Nth Degree, 2675 Breckinridge Boulevard, Suite 200, Duluth, GA 30096 (PowerPoint with handwritten notes attached in hardcopy)

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

The list below consists of interviews identified from my recollection, from my files, and from search of Internet databases. Despite these searches, there may be other interviews I have been unable to identify, find, or remember.

“Facebook Less Private in U.S. Courtrooms,” CALGARY SUN, Jan. 29, 2011.

“Wyden Eyes Legislation to Limit Warrantless Cell Phone Tracking,” TALKING POINTS MEMO, Jan. 28, 2011.

“Privacy Hawks Reopen Debate on Data,” POLITICO, Jan. 13, 2011.

“Following WikiLeaks on Twitter?” FAST COMPANY, Jan. 13, 2011

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13. **Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have not held any public office. My employment with government entities is listed above, as is membership on or participation in governmental advisory boards or groups. I have not been a candidate for elective office. In 2008, President George W. Bush nominated me to be a member of the Privacy and Civil Liberties Oversight Board. The Senate took no action on any of President Bush’s nominations to the PCLOB.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have not held any office in any political party or election committee, nor have I ever held a position in a political campaign. In the late 1980s or early 1990s, I participated to a small degree in a volunteer body drafting issue memos for a Democratic presidential candidate; it may have been for Michael Dukakis, but I cannot remember for sure. In 2004, I spent several hours doing turn-out-the-vote work in Philadelphia on behalf of the Democratic Party.

14. **Legal Career:** Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

**Massachusetts Supreme Judicial Court (1979 - 1980)**

Law clerk to the Hon. Robert Braucher  
Boston, MA

- ii. whether you practiced alone, and if so, the addresses and dates;

I have never practiced alone.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

**Center for Democracy and Technology (1997 – present)**

Current positions: Vice President for Public Policy; Corporate Secretary  
1634 I Street, NW  
#1100  
Washington DC 20006

Previous positions: Policy Director (2005-2007); Executive Director (2003 – 2005); Deputy Director (2001 – 2002); Senior Staff Counsel (1997 – 2000).

**Center for National Security Studies (1995 – 1997)**

Deputy Director  
1120 19th Street NW  
8th Floor  
Washington, DC 20036

**National Security Archive (1995 – 1997)**

Special Counsel  
Gelman Library  
Suite 701  
2130 H Street, NW  
Washington, DC 20037

**Subcommittee on Civil and Constitutional Rights (1985 -1995)**

Assistant Counsel  
Committee on the Judiciary  
U.S. House of Representatives  
2138 Rayburn House Office Building  
Washington, DC 200515

**Arnold & Porter (1980 -1984)**

Associate Attorney  
555 12th Street, NW

Washington, DC 20004

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have never served as a mediator or arbitrator in alternative dispute resolution proceedings.

- b. Describe:

N/A

- i. the general character of your law practice and indicate by date when its character has changed over the years.

As an Associate at Arnold & Porter, I performed typical associate duties: legal research, memo writing, document review, drafting of briefs and other pleadings, and drafting of contracts.

In 1985, I became an Assistant Counsel to the House Judiciary Committee. I researched legal issues, drafted memos for the chairman and members of the subcommittee, planned hearings, assisted in the drafting of legislative language, and drafted committee reports.

In 1995, I joined the Center for National Security Studies, where I analyzed legislative proposals and wrote policy papers on matters related to domestic intelligence, terrorism and government surveillance. I also served as special counsel to the non-profit National Security Archive, assisting in the preparation and appeal of FOIA requests.

At the Center for Democracy and Technology, which I joined in 1997, my legal work has focused on legal and policy analysis.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

As an Associate at Arnold & Porter, typical clients of the firm included corporations large and small and a municipal utility district. My main substantive areas of practice were government and commercial contracts, anti-trust and federal energy regulation. In addition, I provided pro bono representation to several death row inmates in post conviction proceedings.

At the Subcommittee, my main substantive areas were oversight of the Federal Bureau of Investigation, privacy and civil liberties. I worked on issues at the intersection of national security and constitutional rights, including terrorism, counterintelligence, and electronic surveillance, as well as on crime issues, including the procedures for the federal death penalty, remedies for racial bias in death sentencing, information privacy, and police brutality.

At the Center for National Security Studies and the National Security Archive, the main client was the Archive itself, in its pursuit of FOIA requests.



The Center for Democracy & Technology does not have clients per se. My main area of focus has been the privacy and other civil liberties issues that arise in the national security and law enforcement contexts, including electronic surveillance, information sharing for counter-terrorism purposes, airline passenger screening, cybersecurity and other issues. I have also been extensively involved in CDT's international projects, providing advice to Internet policy reformers in developing and transitional countries, studying and writing about the international policy framework for the Internet, and engaging in international discussions on Internet policy.

- b. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.
  - i. Indicate the percentage of your practice in:
    1. federal courts – 75%
    2. state courts of record – 5%
    3. other courts;
    4. administrative agencies – 20%

I am not a litigator. A very small percentage of my practice has been in litigation. I have appeared in court only on a few occasions. I have contributed to briefs in a variety of cases, but, with the exception of death row habeas corpus cases, I have rarely been the lead writer on a brief. My name appears on the briefs in the following published opinions:

*In re Sealed Case* 310 F.3d 717 (For. Intel Sur. Ct Rev. 2002)

Issue: Whether the Foreign Intelligence Surveillance Act, as amended by the Patriot Act, was constitutional.

On amicus brief with CDT/ACLU/EFF/EPIC and Center for National Security Studies

*United States Telecom Ass'n v. FCC*, 227 F.3d 450 (D.C. Cir. 2000).

Issue: Challenge to FCC order requiring telecommunication carriers to make certain modifications to their networks to facilitate government interception.

On the brief with Eugene Scalia, John H. Harwood, II, Lynn R. Charytan, Michael Altschul, Jerry Berman, Lawrence E. Sarjeant, Linda L. Kent, John W. Hunter and Julie E. Rones (Ted Olson argued)

*Texas Independent Producers Legal Action Ass'n v. IRS*, 605 F. Supp. 538 (D.D.C. 1984)

Counsel, with Stephen M. Sacks, Arnold & Porter, James Craig Dodd, Jones, Gungoll, Jackson, Collins & Dodd

My only significant litigation experience was in working on several habeas corpus post conviction cases while I was at the law firm, prior to 1985.

- ii. Indicate the percentage of your practice in:
  - 1. civil proceedings - 100% (includes habeas corpus post-conviction proceedings)
  - 2. criminal proceedings.
- c. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

Between 1980 and 1985, I participated as associate counsel in three habeas corpus post-conviction cases that were tried to final decision:

*Briley v. Bass*, 750 F.2d 1238 (4th Cir. 1984)

Ruling: Dismissal of defendant's habeas corpus petition affirmed.

Counsel also included Gerald T. Zerkin, Zerkin, Wright & Heard, and Richard J. Wertheimer

*Stevens v. Zant*, 580 F. Supp. 322 (S.D. Ga 1984)

Habeas corpus denied

Counsel, with John Paul Batson, Batson & Shurtleff, Daniel A. Rezneck & Steven G. Reade

*Stevens v. Kemp*, 254 Ga. 228; 327 S.E.2d 185 (1985)

State court habeas proceeding.

Counsel, with John P. Batson, Batson & Shurtleff, Daniel A. Rezneck, Steven G. Reade, Arnold & Porter, Washington, D.C., Edward L. Wolf

During that same time period, I was associate counsel on other civil cases, but in more of a supporting role. These tended to be complex and lengthy cases, involving many lawyers. I cannot recall any cases that proceeded to verdict, judgment or final decision.

Between 1980 and 1985, I participated as associate counsel in a few government contract matters involving bid protests on behalf of commercial clients. None of these was before a court. I cannot recall the exact nature of

the decision-maker, but in at least one matter it was an administrative law judge.

While special counsel to the National Security Archive, I was counsel for the plaintiff in *Devine v. CIA*, D.D.C – FOIA case filed March 1996.

i. What percentage of these trials were:

1. jury;
2. non-jury – 100%.

d. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have never argued before the Supreme Court. I have assisted in drafting briefs that were filed in the Supreme Court, and my name may appear on one or more briefs, but upon search of the CDT website I could not find any Supreme Court brief that bears my name.

15. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

I described above the cases in which I participated.

16. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s).

(Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

As Assistant Counsel to the House Judiciary Committee, the most significant pieces of legislation that I worked on were the omnibus crime bills (1988 and 1994) and the Communications Assistance for Law Enforcement Act (1994). My participation in these activities consisted of studying the issue at hand, talking to experts in the field, organizing hearings, meeting with Executive Branch officials to better understand their interests, drafting memos for the Chairman and members of the Subcommittee, assisting in the drafting of legislation, drafting of committee reports or sections of committee reports, and otherwise assisting the Subcommittee chair and chief counsel of the Subcommittee.

At the Center for National Security Studies, my most significant activities, consisting of research and writing, focused on the antiterrorism legislation of 1996.

At CDT, my most significant activities centered around the PATRIOT Act and the 2007 and 2008 amendments to FISA – writing and publishing analyses of the legislative proposals and testifying before this and other Congressional Committees. More recently, I have coordinated the formation of a coalition supporting updates to the Electronic Communications Privacy Act. I am also very proud of the work I have done advising reformers and government officials in developing and transitional countries on legal and policy reforms associated with oversight of intelligence agencies and the framework for Internet development.

Within the limits of the provisions of the Internal Revenue Code governing tax-exempt organizations, I have lobbied on behalf of the organizations for which I have been employed, namely the Center for National Security Studies and the Center for Democracy and Technology. My lobbying activities have been limited, such that I have never been required to register as a lobbyist.

On behalf of the Center for National Security Studies (1995-1997) and the Center for Democracy and Technology (1997 – present), my lobbying activities have consisted mainly in discussions (face-to-face, telephonic, or by e-mail) with Congressional staff (and to a small extent with Members of Congress) about pending legislation; preparation for such meetings; drafting of analyses of legislative proposals; coordination with other organizations engaged in lobbying activities; and, to a limited degree, drafting of grassroots calls for action.

17. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I have not taught a course. I have been a “guest” speaker in courses taught by others on a few occasions. These are the ones I can recall: two appearances at a course on Internet law taught by Sharon Anolik at Golden Gate University, one appearance in a course taught by Prof. Joel Paul at UC Hastings, one appearance at a course on

telecommunications policy taught by John Podesta at Georgetown University Law School, one appearance at a course on national security law taught by John Marsh at William & Mary, two appearances at a course taught by Sec. Marsh at George Mason University Law School, and several appearances at courses taught by Dan Kuehl at the National Defense University.

18. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

Since the position for which I am nominated is a part-time position, I plan to continue in my current position as Vice President for Public Policy at the Center for Democracy & Technology. I do expect future income from two employer retirement accounts; CDT and the Thrift Savings Plan account created during my tenure as a Congressional staffer. Additionally, I may continue to receive a small amount of royalties from my book, Terrorism and the Constitution.

19. **Outside Commitments During Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service? If so, explain.

Yes, since the position for which I am nominated is a part-time position, I plan to continue in my current position as Vice President for Public Policy at the Center for Democracy & Technology.

20. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached financial disclosure report.

21. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

22. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

In connection with the nomination process, I have consulted with the Office of Government Ethics to identify potential conflicts of interest. I will resolve any potential conflicts of interest in accordance with the terms of an ethics agreement I have entered into with the Office of Government Ethics.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

In connection with the nomination process, I have consulted with the Office of Government Ethics to identify potential conflicts of interest. I will resolve any potential conflicts of interest in accordance with the terms of an ethics agreement I have entered into with the Office of Government Ethics.

23. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

While I was in private practice as an associate attorney at the law firm of Arnold & Porter, I spent a significant percentage of my time on pro bono matters, representing indigent individuals on death row in their post-conviction proceedings. More recently, I have served in an unpaid capacity on the board of directors or advisory boards of several non-profit public interest organizations. Since 2007, I have been one of the vice presidents and a member of the board of directors of the Defending Dissent Foundation, a small grass-roots oriented non-profit that seeks to ensure that domestic intelligence and national security activities do not improperly intrude upon First Amendment rights. Prior to that, from 2002 – 2007, I was vice president and a member of the board of directors of the First Amendment Foundation, a small non-profit that advocated in favor of strong protection of First Amendment rights. I also serve on the advisory board of the Bill of Rights Defense Committee.

AFFIDAVIT

I, James X. Dempsey, do swear  
that the information provided in this statement is, to the best  
of my knowledge, true and accurate.

3/31/11  
(DATE)

[Signature]  
(NAME)

See Below PK.  
(NOTARY)

State of California County of  
San Francisco  
Subscribed and sworn to (or affirmed)  
Before me on this 31 day of March, 2011, by  
JAMES X. DEMPSEY  
PK. ~~I personally knew~~ James X. Dempsey proved to me on  
the basis of satisfactory evidence to be the  
person(s) who appeared before me.  
Signature Pamela Kahn  
Questionnaire for non-Judicial nominees  
(Seal)

