

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Beryl Alaine Howell

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

United States District Judge for the District of Columbia

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.

U.S. Sentencing Commission
One Columbus Circle, NE
Suite 2-500, South Lobby
Washington, D.C. 20002-8002

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

1956; Ft. Benning, Georgia

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.

1980 –1983; Columbia University School of Law; J.D., 1983

1974 – 1978, Bryn Mawr College; B.A., 1978

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.

2010
American University Washington College of Law
4801 Massachusetts Avenue, NW
Washington, D.C. 20016-8181
Adjunct Professor

2009 – Present
Home Address
Washington, D.C.
Consultant (self-employed)

2004 – Present
United States Sentencing Commission
One Columbus Circle, NE
Suite 2-500, South Lobby
Washington, D.C. 20002-8002
Commissioner

2003 – 2009
Stroz Friedberg
1150 Connecticut Avenue, NW
Washington, D.C. 20036
Executive Managing Director and General Counsel (2007 – 2009)
Partner and General Counsel of Washington, D.C. Office (2006)
Managing Director and General Counsel of Washington, D.C. Office (2003 – 2005)

1993 – 2003
United States Senate, Committee on the Judiciary
Washington, D.C. 20510
General Counsel (1997 – 2003)
Senior Counsel, Subcommittee on Antitrust, Business Rights, and Competition (1995 – 1996)
Senior Counsel, Subcommittee on Technology and the Law (1993 – 1994)

1987 – 1993
U.S. Attorney's Office for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201
Deputy Chief, Narcotics Section (1990 – 1993)
Assistant U.S. Attorney (1987 – 1993)

1985 – 1987
Schulte Roth & Zabel
900 Third Avenue
New York, New York 10022
Litigation Associate

1983 – 1984
United States District Court for the District of New Jersey
Martin Luther King, Jr. Federal Building & U.S. Courthouse
50 Walnut Street
Newark, New Jersey 07101
Law Clerk to the Honorable Dickinson R. Debevoise

1983
Schulte Roth & Zabel
900 Third Avenue
New York, New York 10022
Summer Associate

1982 & 1983
U.S. Attorney's Office for the Southern District of New York
One St. Andrews Plaza
New York, New York 10007
Summer Law Clerk (uncompensated)

1978 – 1980 & 1981
Shanley & Fisher
550 Broad Street
Newark, New Jersey 07102
Legal Assistant (1978 – 1980)
Summer Associate (1981)

Other Affiliations (uncompensated)

2008
Commission on Cyber Security for the 44th Presidency
Center for Strategic and International Studies (CSIS)
1800 K Street, NW
Washington, D.C. 20006
Member

2005 – Present
Center for Democracy and Technology
1634 I Street, NW, Suite 1100
Washington, D.C. 20006
Member of Board (2005 – Present)
Treasurer (2008 – Present)

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.

I have not served in the military, nor did I register for selective service.

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.

Director's Award from the Federal Bureau of Investigation (2006)
First Amendment Award, Society of Professional Journalists (2004)
Freedom of Information Act Hall of Fame (2001)
Certificate for Outstanding Contributions in the field of Drug Law Enforcement from Drug Enforcement Administration (1993)
Award from New York City Department of Investigation for public corruption investigation and prosecution (1992)
Award from Federal Bureau of Investigation for public corruption investigation and prosecution (October 1992)
Award from Drug Enforcement Administration, Asian Heroin Task Force (1992)
Attorney General's Director's Award for Superior Performance (1991)
U.S. Attorney's Special Achievement Award for Sustained Superior Performance (1991)
Certificate for Outstanding Contributions in the field of Drug Law Enforcement from Drug Enforcement Administration (1990)
U.S. Attorney's Special Achievement Award for Sustained Superior Performance (1990)
International Fellows Program, Columbia University School of Law (1982-83)
Harlan Fiske Stone Scholar, Columbia University School of Law (1981-82)
President and Member, Honor Board, Bryn Mawr College (1976-78)

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
Bar Association for the District of Columbia

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.

New York, 1984
District of Columbia, 1997

There has been no lapse in membership.

- 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.

Supreme Court of the United States, 1997
District of Columbia Court of Appeals, 1997
United States Court of Appeals for the Second Circuit, 1989
United States District Court for the Eastern District of New York, 1987
United States District Court for the Southern District of New York, 1985
New York Supreme Court, Appellate Division (First Department), 1984

There has been no lapse in membership.

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.

Francis Scott Key Elementary School (Washington, DC), Parent Teacher Association (1999 – 2003)
Member and Secretary of Executive Committee (1999 – 2003)
Lake Dunmore/Fern Lake Association (Leicester, Vermont) (approximately 1995 - Present)
Commission on Cyber Security for the 44th Presidency, Center for Strategic and International Studies (CSIS) (2008)
Center for Democracy and Technology, Member of Board (2005- Present) and Treasurer (2008 - Present)

From time to time in previous years, I have supported various cultural institutions, such as the Kennedy Center, and may have been considered a “member.” I do not recall the dates of membership.

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. 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 listed 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.

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.

I have searched my files and electronic databases in an effort to locate all published material responsive to this question. I have located the materials listed below, but it is possible there are a few that I have been unable to identify.

Beryl A. Howell, "*Sentencing of Antitrust Offenders: What does the Data Show?*" American Bar Association, Section on Antitrust, Fall Forum Conference Book (November 12, 2009).

Beryl A. Howell, "*Lawyers on the Hook: Counsel's Professional Responsibility to Provide Quality Assurance in Electronic Discovery,*" Journal of Securities Law, Regulation & Compliance, Vol. 2, No. 3 (2009).

Beryl A. Howell and Laura Wertheimer, "*Data Detours In Internal Investigations In EU Countries,*" The Metropolitan Corporate Counsel (October & November, 2008); *reprinted in* ABA 23rd Annual National Institute on White Collar Crime Conference Book, at O-23 (March, 2009).

Beryl A. Howell, "*Digital Contraband: Finding Child Porn in the Workplace,*" ABA 22nd Annual National Institute on White Collar Crime Conference Book, at Q-39 (March, 2008).

Beryl A. Howell and Brian M. Heberlig, "*The Lamar Owens Case: How Digital Evidence Contributed to an Acquittal in an Explosive Rape Case,*" The Computer & Internet Lawyer, Vol. 24, No. 12 (December, 2007).

Steven M. Dettelbach and Beryl A. Howell, "*Return to Sender: Justice Department Lawyers Should Review National Security Letters before FBI Delivery,*" Legal Times, Vol. XXX, No. 27 (July 2, 2007).

Beryl A. Howell and Dana Lesemann, "*FISA's Fruits in Criminal Cases: An Opportunity for Improved Accountability,*" UCLA Journal of International Law and Foreign Affairs, Vol. 12, No. 1 (Spring 2007).

Beryl A. Howell and Rick Wolf, "*Rough Waters Ahead: No Smooth Sailing and No Safe Harbor; Ediscovery and the New Federal Rules of Civil Procedure,*" ACC Docket (January-February, 2007).

Beryl A. Howell, "Real World Problems of Virtual Crime," Chapter 5, Cybercrime: Digital Cops in a Networked Environment, ed. Jack M. Balkin, et al. (New York University Press) (2007).

Beryl A. Howell, "Foreign Intelligence Surveillance Act: Has the Solution Become the Problem?" Chapter 9, Protecting What Matters: Technology, Security, and Liberty Since 9/11, ed. Clayton Northouse (The Brookings Institution Press) (2006).

Beryl A. Howell and Rick Wolf "Finding a Safe Harbor: Before Relying on Sanctions Shield in Electronic Discovery, Companies Need to Get Their IT House In Order," New York Law Journal's GC-New York (November 13, 2006).

Beryl A. Howell and Sam Rubin, "What You Need to Know about Digital Forensics," The Pennsylvania Lawyer (November-December 2006).

Beryl A. Howell, "The Slippery Slope From Spoliation to Obstruction," New York Law Journal Vol. 236, No. 18 (July 27, 2006).

Beryl A. Howell and Andrew Weissmann, "Obstruction for Data Destruction After Andersen," New York Law Journal Vol. 235, No. 110 (June 8, 2006).

Beryl A. Howell, "Using Computer Forensics to Pursue Civil Justice," 2006 National Conference of The National Crime Victim Bar Association (May 12, 2006).

Beryl A. Howell, "Proving Web History: How to Use the Internet Archive," Journal of Internet Law (February 2006).

Beryl A. Howell, "Digital Forensics: Sleuthing on Hard Drives and Networks," The Vermont Bar Journal (Fall 2005).

Beryl A. Howell and Eric Friedberg, "Hard to Hide on Computer Hard Drives" Chapter IA-1, Cybercrime & Security (ed. Professor Pauline C. Reich) (March 2005).

Beryl A. Howell, "Strategic Planning At Outset of E-Discovery Can Save Money In the End," Digital Discovery and E-Evidence (February 2005).

Beryl A. Howell, "Surveillance Powers in the USA PATRIOT Act: How Scary Are They?" The Pennsylvania Bar Association Quarterly, Vol. LXXVI, No. 1 (January 2005).

Beryl A. Howell, "Real World Problems of Virtual Crime," Joint Special Issue on Cybercrime of Yale Journal of Law & Technology and International Journal of Communications Law & Policy (Autumn 2004).

Beryl A. Howell and Paul H. Luehr, "*Child Porn Poses Risks to Companies That Discover It in the Workplace*," Tech Trends/Litigation Pull-Out Section of The New York Law Journal (October 4, 2004).

Beryl A. Howell, "*Electronic Discovery: Getting It Right Is Hard – Getting It Wrong Is Worse*," 12th Annual Advanced ALI-ABA Course of Study in Criminal Enforcement of Environmental Laws (October 1, 2004).

Beryl A. Howell, "*Seven Weeks: The Making of the USA PATRIOT Act*," The George Washington Law Review, Vol. 72, No. 6 (August 2004).

Beryl A. Howell, "*Cyber-Security Liability: Is it Time to Get Off the Soapbox?*" The Computer & Internet Lawyer, Vol. 22, No. 5 (May 2004).

Beryl A. Howell, "*Ambiguities in US law for Investigators*," Digital Investigation, Vol. 1 (April 2004).

Beryl A. Howell, "*Information Overload*," Legal Times, Vol. XXV, No. 22 (June 2, 2003).

Beryl A. Howell and Eric Friedberg, "*21st Century Forensics: Searching for the 'Smoking Gun' in Computer Hard Drives*," The Prosecutor, the monthly publication of the National District Attorneys Association (November/December 2003).

Beryl A. Howell and Stacey J. Moritz, "*Mail Fraud, Wire Fraud and Securities Fraud as Predicate Acts in Civil RICO Actions*," Civil RICO (Practicing Law Institute) (1985 & 1986).

- 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.

I have searched my files and electronic databases in an effort to locate all reports, memoranda, and policy statements responsive to this question. I have located the materials listed below, but it is possible there are a few that I have been unable to identify.

"Securing Cyberspace for the 44th Presidency," Commission on Cyber Security for the 44th Presidency, sponsored by the Center for Strategic and International Studies (December 2008). This report is available at:
http://csis.org/files/media/csis/pubs/081208_securingcyberspace_44.pdf

United States Sentencing Commission Reports and Statements:

While I have served as a Commissioner on the United States Sentencing Commission, the Commission has issued, on an annual basis, federal sentencing guidelines manuals, sourcebooks of federal sentencing statistics, and yearly reports. The Commission has also issued, on a periodic basis, reports on federal sentencing statistics. These materials, as well as reports on the following subject matters, are available at www.ussc.gov:

- 2004: Annual Report, United States Sentencing Commission
- 2005: Annual Report, United States Sentencing Commission
- 2006: Annual Report, United States Sentencing Commission
- 2007: Annual Report, United States Sentencing Commission
- 2008: Annual Report, United States Sentencing Commission
- 2004: Sourcebook of Federal Sentencing Statistics
- 2005: Sourcebook of Federal Sentencing Statistics
- 2006: Sourcebook of Federal Sentencing Statistics
- 2007: Sourcebook of Federal Sentencing Statistics
- March 2006: Report to Congress: Final Report on the Impact of United States v. Booker on Federal Sentencing
- May 2007: Report to Congress: Cocaine and Federal Sentencing Policy
- Sept. 2008: Report to the Congress; Amendments to the Federal Sentencing Guidelines in Response to the Emergency Disaster Assistance Fraud Penalty Enhancement Act of 2007

During my tenure, the Commission also held numerous public meetings, hearings, national seminars, and symposia; filed briefs in the U.S. Supreme Court; issued periodic newsletters; and written letters to Members of Congress. Minutes of the Commission's public meetings, transcripts of select public hearings, Supreme Court briefs, and other materials listed below can be found at www.ussg.gov.

Commission Public Hearings

- February 15, 2005: Public Hearing, United States Sentencing Commission
- February 16, 2005: Public Hearing, United States Sentencing Commission
- April 12, 2005: Public Hearing, United States Sentencing Commission
- February 21, 2006: Public Hearing, United States Sentencing Commission
- March 6, 2006: Public Hearing, United States Sentencing Commission
- March 15, 2006: Public Hearing, United States Sentencing Commission
- November 14, 2006: Public Hearing, United States Sentencing Commission
- March 20, 2007: Public Hearing, United States Sentencing Commission
- November 13, 2007: Public Hearing, United States Sentencing Commission
- March 13, 2008: Public Hearing, United States Sentencing Commission
- Feb. 10-11, 2009: Public Hearing, United States Sentencing Commission

- May 27-28, 2009: Public Hearing, United States Sentencing Commission
- July 9-10, 2009: Public Hearing, United States Sentencing Commission
- Sept. 9-10, 2009: Public Hearing, United States Sentencing Commission
- Oct. 20-21, 2009: Public Hearing, United States Sentencing Commission
- Nov. 19-20, 2009: Public Hearing, United States Sentencing Commission
- Jan. 20-21, 2010: Public Hearing, United States Sentencing Commission
- March 17, 2010: Public Hearing, United States Sentencing Commission
- May 27, 2010: Public Hearing, United States Sentencing Commission

Commission Publications and Newsletters

- March 2010: Demographic Differences in Federal Sentencing Practices: An Update of the Booker Report's Multivariate Analysis
- December 2009: Overview of Federal Criminal Cases Fiscal Year 2008
- October 2009: The History of The Child Pornography Guidelines
- July 1, 2009: Mandatory Minimums and Unintended Consequences
- May 2009: Introduction to the Collection of Individual Offender Data by the United States Sentencing Commission
- March 2009: Impact of Prior Minor Offenses on Eligibility for Safety Valve
- January 2009: Alternative Sentencing in the Federal Criminal Justice System
- December 2008: Overview of Federal Criminal Cases Fiscal Year 2007
- December 2008: Changing Face of Federal Criminal Sentencing: Seventeen Years of Growth in the Federal Criminal Caseload
- November 2008: Report on Federal Escape Offenses in Fiscal Years 2006 and 2007
- Fall 2006: Guidelines Newsletter
- May 2007: Guidelines Newsletter
- Winter 2010: Guidelines Newsletter

Commission Briefs

- Jan 2007: In the Supreme Court of the United States; Nos. 06-5618 & 06-5754 Mario Claiborne, Petitioner v. United States of America, Respondent; Victor A. Rita, Jr., Petitioner v. United States of America, Respondent
- March 2010: In the Supreme Court of the United States; No. 09-6338, Percy Dillon, Petitioner v. United States of America, Respondent

Commission Letters to Congress

- April 19, 2005: USSC Letter to the House Judiciary Committee regarding H.R. 1528, the "Defending America's Most Vulnerable: Safe Access to Drug Treatment and Child Protection Act of 2005"
- August 27, 2008: USSC Letter to House and Senate Judiciary Committees regarding Court Security Offenses

- June 17, 2009: USSC Letters to Senators Durbin and Coburn on Human Trafficking Offenses
- November 10, 2009: USSC Letter to 11 Members of Congress Regarding Undue Influence Enhancement

Commission Programs

- 2005 - 2010: Annual National Seminar on the Federal Sentencing Guidelines (Agendas Only)
- Jul. 14-15, 2008: Proceedings from Symposium on Alternatives to Incarceration
- Aug 11, 2005: 2005 National Sentencing Policy Institute

The Chair of the U.S. Sentencing Commission periodically testifies on behalf of the Commission before various Congressional committees. The testimony, listed below, can be found on www.ussc.gov.

- March 16, 2006: Prepared Statement of Ricardo H. Hinojosa, Chair, USSC, before the House Judiciary Committee's Subcommittee on Crime, Terrorism, and Homeland Security
- June 26, 2007: Prepared Statement of Ricardo H. Hinojosa, Chair, USSC, before the House Judiciary Committee's Subcommittee on Crime, Terrorism, and Homeland Security
- February 12, 2008: Prepared Statement of Ricardo H. Hinojosa, Chair, USSC, before the Senate Judiciary Committee's Crime and Drug Subcommittee
- February 26, 2008: Prepared Statement of Ricardo H. Hinojosa, Chair, USSC before the House Judiciary Committee's Subcommittee on Crime, Terrorism, and Homeland Security
- April 29, 2009: Prepared Statement of Ricardo H. Hinojosa, Acting Chair, USSC, before the Senate Judiciary Committee's Crime and Drug Subcommittee
- May 21, 2009: Prepared Statement of Ricardo H. Hinojosa, Acting Chair, USSC, before the House Committee on the Judiciary Subcommittee on Crime, Terrorism, and Homeland Security.

It is important to note that while members of the Commission contribute to its guidelines, reports, briefs, letters, and other statements of the Commission, these materials are representative of the Commission as a whole, and not of any single Commissioner.

- 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.

I have searched my files and electronic databases in an effort to locate material responsive to this question. I have located the material listed below, but it is possible there are a few that I have been unable to identify.

Testimony, Hearing on Nomination to be Commissioner on the United States Sentencing Commission, United States Senate Committee on the Judiciary, September 22, 2004.

- 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.

I have searched my files and electronic databases in an effort to locate all speeches or talks that are responsive to this question. I have located the materials listed below but it is possible there are a few that I have been unable to identify.

June 18, 2010: Moderator of panel on Organizational Guidelines at Annual National Sentencing Seminar, New Orleans, Louisiana.

June 17, 2010: Participation on panel at plenary session on Guideline amendments at Annual National Sentencing Seminar, New Orleans, LA.

January 14, February 4, March 4, 18, 25, and April 22, 2010: Notes for Legal Ethics class, American University's Washington College of Law.

March 3, 2010: Remarks on the work of the U.S. Sentencing Commission to law school class at Brooklyn Law School, Brooklyn, NY.

February 25, 2010: Participation in panel discussion on "Sentencing in White Collar Criminal Cases and Witness/Victim Rights," at American Bar Association's White Collar Crime Conference, Miami, Florida.

November 12, 2009: Moderator of panel discussion on "The Legislative Agenda," at American Bar Association's Section on Antitrust, Fall Forum, Washington, D.C.

November 6, 2009: Participation on Panel at American Bar Association's Conference on Sentencing, George Washington University, Washington, DC.

June 12, 2009: Moderator of panel on Organizational Guidelines at Annual National Sentencing Seminar, New Orleans, Louisiana.

June 11, 2009: Participation on panel at plenary session on Guideline amendment prompted by Drug Trafficking Vessel Interdiction Act of 2008 at Annual National Sentencing Seminar, New Orleans, LA.

June 5, 2009: Presentation on organizational guidelines at 4th Annual Compliance Week Conference, Washington, DC.

June 4, 2009: Presentation on “Federal Enforcement and Corporate Compliance: Knowing and Managing the Risks,” Practising Law Institute’s Corporate Compliance and Ethics Institute 2009, New York City, New York.

May 22, 2009: Participation in panel discussion on “Federal Sentencing After Rita, Kimbrough and Gall,” at 18th Annual National Federal Sentencing Guidelines Seminar, Clearwater, Florida.

May 20, 2009: Participation in panel discussion on “How Would We Structure an Independent Commission for Identifying Labor Shortages,” at symposium on Immigration and Labor Shortages, jointly sponsored by the Economic Policy Institute, Migration Policy Institute and Johns Hopkins University, Washington, DC.

May 5, 2009: Welcoming Remarks at U.S. Sentencing Commission’s Data and Research Conference, Washington, DC.

April 21, 2009: Participation in panel discussion on “The Challenges of Creating and Implementing An Effective Corporate Compliance Program,” at conference on Achieving the Right Balance: The Role of Corporate Criminal Law in Ensuring Corporate Compliance, Georgetown University Law Center, Washington, DC.

March 26, 2009: Presentation on “Federal Enforcement and Corporate Compliance: Knowing and Managing the Risks,” Practising Law Institute’s Corporate Compliance and Ethics Institute 2009, Atlanta, Georgia.

February 17, 2009: Remarks on the work of the U.S. Sentencing Commission to law school class at Brooklyn Law School, Brooklyn, NY.

February 5, 2009: Presentation on “Ethics and Compliance in the New Administration,” to The Conference Board’s Global Council on Business Conduct, Washington, DC.

February 2, 2009: Participation in panel discussion on “The Sentencing and Corrections Challenge: Reinventing the Criminal Justice System” at 4th Annual

Harry Frank Guggenheim Symposium on Crime in America titled “A New Beginning? Exploring the Criminal Justice Challenges Over the Next Four Years,” John Jay College Of Criminal Justice, New York City, New York.

November 6, 2008: Participation in panel discussion on “Jumping the Pond – International Criminal Investigations,” at conference on Defending the White Collar Case sponsored by the National Association of Criminal Defense Lawyers and Georgetown University Law Center, Washington, DC.

October 24, 2008: Participation in panel discussion on “The Future of White Collar Sentencing Practice: What Practitioners Need to Know,” at ABA Sentencing Advocacy, Practice and Reform Institute, Washington, DC.

October 1, 2008: Presentation on “The Making of the USA PATRIOT Act” to U.S. Naval Academy first year classes, Annapolis, Maryland.

September 24, 2008: Participation in panel discussion at plenary session on “The Ethics and Compliance Handbook,” at Annual Business Ethics & Compliance Conference of Ethics and Compliance Officers Association, Orlando, Florida.

July 15, 2008: Moderator of panel discussion on “States’ Implementation of Alternatives to Incarceration,” at U.S. Sentencing Commission’s Symposium on Alternatives to Incarceration, Washington, DC.

July 14, 2008: Participation in opening panel discussion and as moderator of panel on “Intensive Supervision/ Electronic Monitoring/GPS” at U.S. Sentencing Commission’s Symposium on Alternatives to Incarceration, Washington, DC.

June 25, 2008: Participation in panel discussion at plenary session on “Sentencing Considerations post-Booker, Rita, Gall and Kimbrough” at 2008 National Sentencing Policy Institute of the U.S. Judicial Conference Committee on Criminal Law, Long Beach, California.

June 19, 2008: Presentation on “Real Insider Investigations: How to Facilitate Successful Investigations,” at The Summit on Insider Threats, sponsored by MIS Training Institute, Arlington, Virginia.

June 11, 2008: Participation in panel on “Electronic Discovery in Government Contracts Disputes and Other Suits Against the Federal Government,” sponsored by the ABA Contract Claims & Disputes Resolution Committee in conjunction with the Federal Circuit Bar Association Government Contracts Committee and the Court of Federal Claims Bar Association, Washington, DC.

June 9, 2008: CLE presentation on “Electronic Discovery: Technology, Strategy & Emerging Standards,” to White & Case LLP, Washington, DC.

May 23, 2008: Moderator of panel on “Organizational Guidelines,” at 17th Annual National Seminar on the Federal Sentencing Guidelines, Orlando, Florida.

May 22, 2008: Participation in panel at plenary session on “U.S. Sentencing Commission: A year in Review,” at 17th Annual National Seminar on the Federal Sentencing Guidelines, Orlando, Florida.

April 30, 2008: Presentation on “Data Detours: E-Discovery and the EU Data Protection Directive,” to White Collar Women’s Criminal Defense group, Washington, DC.

April 24, 2008: CLE presentation on “Electronic Discovery: Technology, Strategy & Emerging Standards,” to Wheat Wu, Washington, DC.

April 7, 2008: Guest Lecturer on “U.S. Sentencing Commission,” Fordham Law School, New York City, New York.

March 6, 2008: Participation in panel on “Electronic Discovery: Subpoenas vs. Search Warrants,” at the 22nd Annual National Institute on White Collar Crime, sponsored by The ABA Criminal Justice Section and the ABA Center for Continuing Legal Education, Miami, Florida.

February 14, 2008: Participation in Webinar on “Electronic Discovery and Safeguarding Documents: Enforcing Litigation Holds,” sponsored by LRN, Washington, DC.

December 17, 2007: Presentation on “Digital Forensics in Internal Investigations,” at Wiley Rein, LLP, Washington, DC.

November 16, 2007: Participation in panel on “Analyzing Ethics in the Securities Arena” at 3rd Securities Litigation Conference, sponsored by IQPC, New York City, New York.

October 3, 2007: Participation in panels on “Ethical Implications of E-Discovery” and “Responding to Government and Exploring the Range Of Sanctions Available,” at conference on Best Practices for Information Retention and E-Discovery Management sponsored by IQPC, Jersey City, New Jersey.

July 19, 2007: Participation in panel on “The Guideline Amendment Process and Interaction with Other Branches” at National Advocacy Center (NAC)’s Sentencing Issues Seminar, Charleston, South Carolina.

May 24, 2007: Moderator of panel on “Organizational Sentencing Guidelines,” 16th Annual National Seminar on the Federal Sentencing Guidelines, Salt Lake City, Utah.

May 24, 2007: Participation in panel at plenary session on “Federal Sentencing Guidelines Post-BOOKER,” with discussion of criminal history amendment at 16th Annual National Seminar on the Federal Sentencing Guidelines, Salt Lake City, Utah.

May 24, 2007: Participation in panel at plenary session on “Sentencing Issues and the Congress,” at 16th Annual National Seminar on the Federal Sentencing Guidelines, Salt Lake City, Utah.

May 2, 2007: Presentation on “Employment Law & Electronic Evidence: Investigating, Litigating, Resolving Conflicts,” to Morrison Cohen LLP, New York City, New York.

April 19, 2007: Participation in panel on “E-Discovery: Managing Compliance and Risk Challenges,” Ethics and Compliance Officer Association’s Sponsoring Partner Forum, Weston, Florida.

March 15, 2007: Participation in program on “Recovery and Use of Electronic Data In Internal Inquiries and Criminal Cases,” Edward Bennett Williams American Inn of Court Program, U.S. Federal Courthouse, Washington, DC.

December 5, 2006: Participation in panel on “Complying with Document Preservation and Production Obligations,” at American Conference Institute’s Forensics Investigation conference, New York, New York.

November 10, 2006: Presentation on “Privacy, Security and Identity Theft,” to Joint Law Conference of HFMA Colorado Chapter and Health Law Section of the Colorado Bar Association, Denver, Colorado.

November 8, 2006: CLE presentation on “Brave New World: Preparing for Electronic Discovery under the New FRCP Amendments,” to Sally & Fitch LLP, Boston, Massachusetts.

November 3, 2006: CLE presentation on “Brave New World: Preparing for Electronic Discovery under the New FRCP Amendments,” to Sher & Blackwell LLP, Washington, DC.

October 26, 2006: Presentation on “Effective Compliance and Ethics Programs,” at Ethisphere Council Luncheon, Washington, DC.

October 24, 2006: Presentation on “How Slippery is the Slope from Spoliation to Obstruction?” at Legal IQ Conference on Government Investigations, Arlington, Virginia.

October 4, 2006: Participation in panel on “Corporate Compliance in the Post-Enron Era” at conference of Ethics and Compliance Officer Association, Salt Lake City, Utah.

July 25, 2006: Participation in panel on “U.S. Sentencing Commission,” at National Sentencing Policy Institute of the U.S. Judicial Conference Committee on Criminal Law, Washington, DC.

July 8, 2006: Participation in panel on ““Surveillance and Detention After September 11th,” at American Constitution Society conference, Washington, DC. (no notes or transcript).

June 23, 2006: CLE presentation on “Computer Forensics: Law and Strategy,” at Vermont Bar Association Conference, Burlington, Vermont.

June 20, 2006: CLE presentation on “Intellectual Property and the Power of Digital Forensics,” to Patton Boggs, Washington, DC.

June 8, 2006: Participation in panel on “Update on Counsel Privileges in Internal Investigations,” at conference on “Critical Update on Internal and Government Investigations,” sponsored by Troutman Sanders LLP, Washington, DC.

June 5, 2006: Participation in panel on “The Science of Compliance or How To Stay Out of the SOX Box: Using Forensics To Close the Gap Between Policy and Practice,” at Legal Tech West Conference, Los Angeles, California.

June 2, 2006: Moderator of panel on “Plea Bargaining in the Post-Booker Era,” at 15th Annual National Seminar on the Federal Sentencing Guidelines, Miami Beach, Florida.

June 1, 2006: Participation in panel at plenary session on “Meet the Sentencing Commission,” at 15th Annual National Seminar on the Federal Sentencing Guidelines, Miami Beach, Florida.

May 12, 2006: Presentation on “Computer Forensics and Civil Litigation,” at National Crime Victim Bar Association Conference, Washington, DC.

April 21, 2006: CLE presentation on “Electronic Discovery: Technology, Strategy & Emerging Standards,” to Feldesman Tucker Leifer Fidell LLP, Washington, DC.

April 10, 2006: Participation in Panel on “Ethics, Trust, Culture and the Supply Chain: Eliminating Friction and Building Competitive Advantage,” at National Contract Management Association (NCMA)’s World Congress 2006, Atlanta, Georgia.

March 30, 2006: Presentation on “The U.S. Sentencing Commission – an Overview and Update,” Practising Law Institute’s Corporate Compliance Institute, Atlanta, Georgia. (No notes or transcript).

February 16, 2006: Participation in program on “Aftermath of Andersen,” at Edward Bennett Williams American Inn of Court, U.S. Federal Courthouse, Washington, DC.

November 10, 2005: Presentation on “Employment Law and Electronic Evidence,” at Gulf Coast Employment Law seminar sponsored by Phelps Dunbar, New Orleans, Louisiana.

November 17, 2005: Presentation on “Compliance and Ethics,” at seminar sponsored by the Career College Association, Arlington, Virginia.

November 15, 2005: CLE presentation on “Computer Forensics: Technology, Law & Strategy,” to Kasowitz, Benson, Houston, Texas.

August 8, 2005: Presentation on “The Continuing Evolution of Sentencing: The Effect of Booker/Fanfan on the Federal Guidelines,” at conference of the National Association of Sentencing Commission, Washington, DC.

October 26, 2005: Participation in panel on “Open Dialogue with the Commissioners,” Ethics Officer Association at Ethics Officer Association conference, San Antonio, Texas.

October 27, 2005: Participation in panel on “Inside the Beltway: Shaping Corporate Governance,” at Ethics Officer Association conference, San Antonio, Texas.

September 29, 2005: Presentation on digital forensics at luncheon meeting of Columbia University Law School Association of Washington, DC, Washington, DC.

June 29, 2005: Participation in panel on “Effective Compliance & Ethics Programs in a Post-Booker World,” at Ethics Officer Association conference, New York, New York.

May 26, 2005: Participation in panel discussion on “Practice & Procedure in the Post-Booker Era,” at the 14th Annual National Seminar on the Federal Sentencing Guidelines, San Francisco, California. (No notes or transcript).

May 17, 2005: Participation in Roundtable Discussion on “Time to Mend the Crack in Justice: Confronting the Disparity in Penalty Between Crack and Powder Cocaine,” The Watching Justice Distinguished Speakers Series, National Press Club, Washington, DC.

March 1, 2005: Presentation on “Role of the U.S. Sentencing Commission,” to National Association of Criminal Defense Lawyers, Washington, DC.

February 1, 2005: Presentation to regional forum on “Ethics Compliance and the Organizational Sentencing Guidelines,” co-sponsored by the Ethics Officer Association and the United States Sentencing Commission, Dulles, Virginia. (no notes or transcript).

February 23, 2005: Presentation on “Computer Forensics,” at The Federal Bar Association for the Eastern District of Virginia, Legal Education Program on “Cyberlaw: Cybercrime, Civil Copyright Infringement, and Computer Forensics,” U.S. Courthouse, Alexandria, Virginia.

January 21, 2005: CLE presentation on “Electronic Discovery” to Phelps Dunbar, New Orleans, Louisiana.

October 1, 2004: Participation in panel discussion on “Higher Hurdles for the Defense: Electronic Discovery, Record Retention, Privilege Logs, and Grand Jury Subpoena Compliance,” at 12th Annual Advanced ALI-ABA Course of Study on “Criminal Enforcement of Environmental Laws,” Washington, DC.

September 29, 2004: Participation in panel discussion on “Electronic Discovery and Document Retentions Policies,” at 2004 Media Law Conference, Washington, DC.

August 12, 2004: Participation in panel discussion on “Balancing Privacy Interests with the Patriot Act,” as part of City of Philadelphia Law Department’s Continuing Legal Education Meeting, Philadelphia, Pennsylvania.

August 8, 2004: Participation in panel discussion on “Cyber Security Liability – A Growing Legislative Trend,” at ABA Annual Meeting, Section of Science & Technology Law, 2004, Atlanta, Georgia. (No notes or transcript).

June 4, 2004: Presentation on “Computer Forensics in Support of Litigation and Investigations,” at Annual Retreat of U.S. Attorney’s Office for the Eastern District of Pennsylvania, Avalon, New Jersey. (No notes or transcript).

March 27, 2004: Participation in panel discussion on “New Crimes: Virtual Crimes of the Information Age,” at conference on Digital Cops in a Virtual Environment: Cyber-Crime and Digital Law Enforcement, sponsored by Yale Law School’s Information Society Project, New Haven, Connecticut.

March 12, 2004: Presentation on “Top Ten Pointers for Successful Lobbying on the Hill,” at seminar sponsored by the Society of Professional Journalists, Washington, DC.

December 18, 2003: Presentation on “Computer Forensics In Support of Litigation and Investigations,” to Hughes Hubbard & Reed, New York, New York.

October 23, 2003: Participation in panel discussion on “The Future of Internet Surveillance Law,” at Symposium on “Surveillance Law: Reshaping the Framework,” at The George Washington University Law School, Washington, DC. (No notes or transcript).

September 17, 2003: Remarks on “The USA PATRIOT Act Controversies,” Hamilton College Program, Washington, D.C. (No notes or transcript).

September 11, 2003: Presentation on “The PATRIOT Act, Law Enforcement and Civil Liberties,” at Conference on Government Secrecy: Local, State, National, sponsored by the Knight Center for Specialized Journalism, Washington, DC. (No notes or transcript).

August 7, 2003: Presentation on “Computer Forensics: Use in Litigation and Investigations,” to Computer Science and Telecommunications Board (CSTB), National Research Council of the National Academies, Washington, DC.

August 2, 2003: Participation in panel discussion on “Surveillance and Detention After September 11,” at The American Constitution Society for Law and Policy, First National Convention, Washington, DC. (No notes or transcript).

July 17, 2003: Presentation on “Computer Forensics In Support of Litigation and Investigations,” to Venable LLP, Washington, DC.

May 28, 2003: Presentation on “Computer Forensics In Support of Litigation and Investigations: What, When, Where and How,” to White Collar Women’s Criminal Defense group, Washington, DC.

April 22, 2003: Participation in panel discussion on “The War on Terror – Setting the Legal Agenda,” sponsored by the ABA Standing Committee on Law and National Security, Washington, DC. (No notes or transcript).

April 16, 2003: Participation in panel discussion on “Playing Games with Privacy: Homeland Security Measures and Your Rights,” sponsored by The Federalist Society For Law and Public Policy Studies, Georgetown University Law Center, Washington, DC. (No notes or transcript).

January 25, 2003: Participation in panel discussion on Legislative Briefing: Library Surveillance and the USA PATRIOT Act,” at American Library Association Midwinter Conference, Philadelphia, Pennsylvania. (No notes or transcript).

December 5, 2002: Presentation at conference called “Civil Liberties in an Age of Terror,” Knight Center for Specialized Journalism, Washington, DC. (No notes or transcript).

December 3, 2002: Participation in audio conference on “Risks and Rewards In the New Senate: Prospects for Telecom, Views from the Judiciary Committee,” for Communications Daily and Washington Internet Daily, Washington, DC.

November 26, 2002: Presentation on “The Digital Rights Management Debate: From the DMCA to the FCC,” at Cardozo Law School for course on Regulation of the Electronic Media, New York, New York. (No notes or transcript).

November 22, 2002: Remarks at Model Congress on “How the Judiciary Committee Works,” Washington, DC. (No notes or transcript).

November 21, 2002: Participation in panel discussion on “Reconciling the Commons and the Marketplace,” at conference on The New Gatekeepers: A Conference on Free Expression in the Arts at Columbia University Graduate School of Journalism, New York, New York.

October 23, 2002: Presentation on “The Evolution of the Debate Over Digital Rights Management: From Encryption and the DMCA To Pending Bills,” at Georgetown University’s Communication, Culture & Technology Program, Course: Code & Law: Policy Implications of Internet Architecture, Washington, DC.

September 11, 2002: Participation in panel discussion on “Critical Infrastructure Dilemma,” at conference of American Society of Access Professionals, Washington, DC. (No notes or transcript).

January 30, 2002: Remarks at “White Collar Practice and the USA PATRIOT ACT,” at Women’s White Collar Criminal Defense Luncheon, Washington, DC. (No notes or transcript).

January 17, 2002: Participation in panel discussion on “Terrorism and the Law: The USA PATRIOT ACT,” at Federal Judicial Center Program For Federal Judges, Washington, DC. (No notes or transcript).

November 14, 2001: Participation in panel discussion on “Future of Intellectual Property,” at Cato Institute, Technology and Society Conference, Washington, DC. (No notes or transcript).

November 14, 2001: Participation in panel on “The Information Sharing Provisions in the USA PATRIOT ACT,” at conference of American Bar Association’s Standing Committee on Law and National Security, Washington, DC. (No notes or transcript).

November 2, 2001: Participation in panel on “Women, Law and Public Policy,” at conference sponsored by Public Leadership Education Network (PLEN), Washington, DC. (No notes or transcript).

November 1, 2001: Participation in panel on “Fighting Terrorism Through Legislation: Where Privacy Rights and Law Enforcement Collide,” at conference sponsored by the District of Columbia Bar, Civil Rights Committee of the Criminal Law and Individual Rights Section, Washington, DC. (No notes or transcript).

April 4, 2001: Participation in panel on “Technology: Peer-to-Peer and End-to-End: Copyright and Napster,” at Georgetown Law School, Washington, DC. (No notes or transcript).

February 26, 2001: Remarks on “A Day in the Life of Judiciary Committee Staffer,” at meeting of Presidential Management Interns at Georgetown University’s Governmental Affairs Institute Washington, DC. (No notes or transcript).

November 1, 8, and 15, 2000: Remarks on “Incorporating Public Service Into Your Legal Career,” at National Youth Leadership Forum on Law, Washington, DC. (No notes or transcript).

September 24, 2000: Remarks on “What Happens in Conference?” at Georgetown University’s Government Affairs Institute, Washington, DC.

June 20, 2000: Participation in panel discussion on “Cybersquatting: The Effect of New TLDs on IP Rights,” at U.S. Chamber of Commerce conference, Washington, DC. (No notes or transcript).

February 1, 2000: Remarks on “An Insider’s View Of Legislative History” at George Washington University Law School, Washington, DC. (No notes or transcript).

October 27, 1999: Participation in panel discussion on “Cooperation and Competition: What’s Next? ” at Electronic Commerce Conference sponsored by Cross-Industry Working Team and Electronic Payments Forum, in cooperation with the Financial Services Technology Consortium and Commerce Net, Washington, DC.

March 8, 1999: Participation in panel discussion on “Role of the Congress, the Commission, and the Courts in Sentencing: A Legislative Perspective,” at National Sentencing Policy Institute, Washington, DC. (No notes or transcript).

December 3, 1998: Participation in panel discussion on “Encryption: Law Enforcement Meets Competitive Reality,” at American Jewish Committee, Washington, DC. (No notes or transcript).

November 17, 1998: Participation in panel discussion on “Government Information Policy Issues Before Congress: Nazi War Crimes Disclosure Act, Implementation of EFOIA Amendments, and Declassification,” at conference of American Society of Access Professionals (ASAP), Washington, DC. (No notes or transcript).

February 10, 1998: Participation in panel discussion on “Action Items for the Senate Judiciary Committee,” at Fraternal Order of Police Annual Conference, Washington, DC. (No notes or transcript).

December 1, 1997: Remarks on S. 10, juvenile justice legislation to U.S. Conference of Mayors, Task Force on Youth Violence, Washington, DC. (No notes or transcript).

April 4, 1997: Remarks on “The Federal Role in Combating Crime,” at the Fulbright Foreign Student Washington Seminar, Washington, DC.

December 13, 1996: Remarks on “Implementation of the E-FOIA Amendments,” at American Society of Access Professionals’ (ASAP) Annual Symposium, Washington, DC. (No notes or transcript).

September 20, 1996: Remarks on “Passage of Electronic Freedom of Information Act Amendments,” at Society of Professional Journalists National Convention, Washington, DC. (No notes or transcript).

April 10, 1995: Remarks on “Progress on the E-FOIA Amendments,” at conference of American Library Association's Government Documents Round Table and D.C. Library Association's Government Documents Interest Group, Washington, DC. (No notes or transcript).

February 22, 1995: Remarks on “Hi-Tech Issues Before Congress,” at New York City Bar Association, Committee on Science and Law, New York, New York.

October 20, 1994: Remarks on “Electronic Freedom of Information Act Amendments,” at conference of American Society of Access Professionals (ASAP), Washington, DC.

June 9, 1994: Remarks on Freedom of Information Act at Department of Justice, Washington, DC.

April 7, 1994: Remarks on Freedom of Information Act to Congressional Youth Leadership Council, Washington, DC.

December 14, 1993: Remarks on FOIA at Department of Justice, Seminar for FOIA Personnel, Washington, DC. (No notes or transcript).

- 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.

I have searched my files and electronic databases in an effort to locate all media interviews that are responsive to this question. I have located the materials listed below but it is possible there are a few that I have been unable to identify.

David Freed, *The Wrong Man*, The Atlantic Magazine, May 2010.

Ben Smith, *Obama staff will say cu l8r 2 IM*, Politico, Jan. 17, 2009.

Kenneth R. Bazinet and James Gordon Meek, *Obama team eyeing DC lawyer Eric Holder as Attorney General*, New York Daily News, November 18, 2008.

Shane Harris, *Surveillance Standoff*, THE NATIONAL JOURNAL, April 5, 2008 (cover story).

Stroz Friedberg *Achieves Safe Harbor Certification Ensuring Data Security Standards for European Union Clients*, Computer Technology Journal, February 25, 2008.

Richard Schmitt, *Inquiry May Test House's Legal Shields*, Los Angeles Times, October 9, 2006.

Larry Abramson, *Stolen Laptop with Veterans' Information Returned*, National Public Radio, June 30, 2006.

WUASA-TV, Interview for story on *iPod Slurping and Corporate Security Risk*, April 25, 2006 (I have no transcript or copy of the video of this program).

Ted Bridis, *Experts Say Wiretap Fight May Taint Cases*, Associated Press, December 21, 2005.

David Corn, *The FBI Fails (For Now) to grab Subpoena powers*, The Nation, September 22, 2005.

Ted Bridis, *Fraud reveals workings of Internet Theft*, Associated Press, September 11, 2005.

T.R. Goldman, *The Judiciary Committee's Star Turn*, Legal Times, September 8, 2005.

Nicholas Hoover and Eric Chabrow, *Homeland Security: How Far have We Come?* Information Week, September 5, 2005.

Mark Mueller, *To Catch a monster, using anti-terror law*, The Newark Star-Ledger, August 14, 2005.

Timothy L. O'Brien, *The Rise of Digital Thugs*, The New York Times, August 7, 2005.

Scott Orr, *How acts of terror changed the law of the land*, The Newark Star-Ledger, July 10, 2005.

Judiciary panel no 'shrinking violets'; Senate committee charged with vetting Supreme Court nominee polarized by nature, Grand Rapid Press (Michigan) July 3, 2005, at A4.

Chuck McCutcheon, *Judiciary Committee: Polarized by its Nature*, Newhouse News Service, July 1, 2005.

Tom McGinty and Carrie Mason-Draffen, *For bosses no option but to report*, Newsday, June 29, 2005.

Ian Marquand, *Tips to help government officials work for you*, The Quill, April 2005.

James Meek, *Patriot Act Power Cut*, New York Daily News, March 14, 2005.

Justin Rood, *Arlen Specter, FBI's Bane, Likely to Bring Fireworks to Judiciary Committee Chair*, CQ, January 11, 2005.

James Gordon Meek, *Ex-Reno aide is face of Bush terror team*, Daily News, August 15, 2004.

Margaret Reed, *Protecting the Infrastructure*, Federal Computer Week, August 2, 2004.

Larry Abramson, *President Bush Promotes the Patriot Act in Buffalo*, National Public Radio, April 20, 2004.

Charlie Savage, *GOP Downplays Reading of Memos*, The Boston Globe, January 23, 2004.

Christopher Schmitt and Edward Pound, *Keeping Secrets: The Bush Administration is Doing the public's business out of the public eye*, U.S. News & World Report, December 12, 2003.

Larry Abramson, *The Patriot Act Continues*, National Public Radio, October 20, 2003.

Eric Lichtblau, *Two Years Later: The Context, Counter Terror Proposals are Hard to Sell*, New York Times, September 11, 2003.

Tim Funk, *Lawyerly Questioning Trips Bush Nominee at Hearing*, Charlotte Observer (North Carolina) August 17, 2003, at 10A.

Tim Funk, *Trial Skills count at Impeachment*, Charlotte Observer (North Carolina), August 17, 2003, at 11A.

Tim Funk, *Novice Made Quick Mark In National Politics*, Charlotte Observer (North Carolina), August 17, 2003, at 1A.

Elsa Wenzel, *FBI worries US privacy watchdogs*, Dow Jones Factiva, IDG Data, July 14, 2003.

Elsa Wenzel, *Who's Watching you Surf?* PC World, July 4, 2003.

Hill People: The Senate Judiciary Committee, National Journal, June 21, 2003.

Shannon McCaffrey, *Federal Warrant Approval A Record*, Charlotte Observer (North Carolina), May 3, 2003, at 6A.

Ted Bridis, *U.S. Court Approved 1,228 Special Terror Warrants Last Year*, Associated Press, May 1, 2003.

Eric Lichtblau, *Republicans Want Terror Law Made Permanent*, New York Times, April 9, 2003.

Ted Bridis, *"Justice Department Lifts FBI Database Limits,"* Associated Press, March 28, 2003.

Ted Bridis, "Limits Lifted on Fugitive, terrorist Data in FBI Criminal Database," Associated Press, March 24, 2003.

US Justice Dept Loosens Limits On FBI Crime Database, Dow Jones International News, March 25, 2003.

Dan Eggen and Robert O'Harrow, U.S. Steps up Secret Surveillance, The Washington Post, March 24, 2003.

Barbara Spector, Practicing at the Intersection of Law, Policy and Technology, Bryn Mawr College, Science & Technology Magazine (2003).

Hatch, Leahy to Continue Bipartisan Work on Internet Issues, Washington Internet Daily, December 4, 2002.

Drew Clark, Intellectual Property: Anti-piracy Debate May Be Tech Industry's; 'biggest Issue', National Journal's Technology Daily, December 3, 2002.

Bush Urges Senate to Pass Virtual Child Porn Bill, Washington Internet Daily, October 24, 2002.

Senate Likely to Fast-Track Virtual Porn Bill, Washington Internet Daily, October 3, 2002.

Govt. Imposition of Digital Rights Systems Opposed, Audio Week, November 19, 2001.

Capitol Hill, Washington Internet Daily, November 15, 2001.

ON THE HILL: Leahy Staff Member Criticizes Hollings' Copyright Bill, National Journal's Technology Daily, November 14, 2001.

Brian Krebs, "Senate to Hold December Hearings on Microsoft Settlement," Post-Newsweek Business Information Newsbytes, November 14, 2001.

Kathleen Murphy, Congress To Vote Soon on Several Internet Bills, Internet World, May 11, 1998.

Debra Gersh Hernandez, Congress Approves EFOIA, Editor & Publisher Magazine, September 28, 1996.

Leslie Gevirtz, Three on trial in bootlegging scheme, United Press International, May 1, 1989.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not held a judicial office.

a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____

i. Of these, approximately what percent were:

jury trials:	_____%
bench trials:	_____%
civil proceedings:	_____%
criminal proceedings:	_____%

- b. Provide citations for all opinions you have written, including concurrences and dissents.
 - c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
 - d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
 - e. Provide a list of all cases in which certiorari was requested or granted.
 - f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
 - h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:
- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
 - b. a brief description of the asserted conflict of interest or other ground for recusal;

- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

I have not served as a judge.

15. 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.

On November 29, 2004, following confirmation by the United States Senate, I was appointed by President George W. Bush to be a Commissioner on the United States Sentencing Commission. This appointment was continued by President Bush on December 12, 2006, for the next session of the Congress. On March 5, 2007, following confirmation by the United States Senate, I was appointed by President Bush to a second term as a Commissioner on the United States Sentencing Commission.

I have had no unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

- 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 never held a paid or unpaid position with any political party, political campaign organization or election committee.

16. 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;

From 1983 to 1984, I served as a law clerk to the Honorable Dickinson R. Debevoise, United States District Judge for the District of New Jersey.

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

I have never practiced law alone. Since 2009, I have worked as a solo legal consultant.

- 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.

1983 & 1985 – 1987
Schulte Roth & Zabel
900 Third Avenue
New York, New York 10022
Summer Associate (1983)
Litigation Associate (1985 – 1987)

1987 – 1993
U.S. Attorney's Office for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201
Deputy Chief, Narcotics Section (1990 – 1993)
Assistant U.S. Attorney (1987 – 1993)

1993 – 2003
United States Senate, Committee on the Judiciary
Washington, D.C. 20510
General Counsel (1997 – January 2003)
Senior Counsel, Subcommittee on Antitrust, Business Rights, and
Competition (1995 – 1996)
Senior Counsel, Subcommittee on Technology and the Law (1993 – 1994)

2003 – 2009
Stroz Friedberg
1150 Connecticut Avenue, NW
Washington, D.C. 20036
Executive Managing Director and General Counsel (2007 – 2009)
Partner and General Counsel of Washington, DC Office (2006)
Managing Director and General Counsel of Washington, DC Office (2003
– 2005)

2004 – Present
United States Sentencing Commission
One Columbus Circle, NE
Suite 2-500, South Lobby
Washington, D.C. 20002-8002
Commissioner

- 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:

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

Following my one-year clerkship with a United States District Court Judge in 1984, I became a litigation associate at the law firm of Schulte Roth & Zabel. At the law firm, I worked on civil matters for the firm's clients, which were generally corporations, including handling discovery-related motions in U.S. District Court, conducting direct examination of witnesses at an arbitration, drafting briefs and memoranda of law, and assisting in oral arguments before various district and appellate courts. In 1987, I joined the U.S. Attorney's Office for the Eastern District of New York. As an Assistant U.S. Attorney and Deputy Chief of the Narcotics Section, I was the lead prosecutor on over one hundred criminal cases, many of which involved multiple defendants and all of which were resolved by verdict or guilty plea. I conducted lengthy grand jury investigations of public corruption among New York City Building Inspector; heroin trafficking by a notorious Chinatown gang, the Flying Dragons; and money laundering by a Colombian cocaine organization, all of which resulted in convictions of the defendants.

In 1993, after moving to Washington, D.C., I worked for Senator Patrick J. Leahy on the staff of the U.S. Senate Committee on the Judiciary. As a Senior Counsel and, later, General Counsel, I provided legal analysis on proposed and pending legislation and issues; crafted legislation and helped to carry out the legislative and oversight agenda of Senator Leahy.

In 2003, I joined the consulting and technical services firm Stroz Friedberg, and established the first regional office of the company. Until March 2009, when I left the firm, I headed the Washington, D.C. office, served on the executive committee of the firm with management

responsibilities for the firm as a whole, managed consulting engagements for clients, who were primarily law firms and companies, and also served as in-house general counsel handling general legal affairs for the firm as it grew from two to eleven offices internationally and from a dozen to over 150 employees.

In addition to my work at the firm, from 2004 until the present, I have served as a Commissioner on the United States Sentencing Commission. As a Commissioner, I have voted on numerous amendments to the Guidelines Manual, including those prompted by directives from the Congress, recommended changes in Federal criminal law to the Congress, joined with my fellow Commissioners in presiding at public hearings and conferences on criminal justice issues, and contributed to the direction of research projects and reports on Federal sentencing and related matters.

Since January 2010, I have taught Legal Ethics as an Adjunct Professor at American University's Washington College of Law.

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

In private law practice and as a consultant, my clients were corporations, law firms, a trade association, and occasionally individuals. As a prosecutor, I represented the Federal government in criminal matters.

- c. 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.

In private practice at Schulte Roth & Zabel, from 1985 to 1987, I appeared in the U.S. District Court for the Southern District of New York occasionally to argue discovery motions, and also assisted counsel in appearances in other federal trial courts and the Court of Appeals for the Second Circuit, primarily in civil matters. As an Assistant United States Attorney, from 1987 to 1993, I appeared regularly in the U.S. District Court for the Eastern District of New York, as well as the Court of Appeals for the Second Circuit, entirely in criminal matters. I did not appear in court while I worked for Senator Patrick Leahy from 1993 to 2003. From 2003 to 2009, as General Counsel for a private firm, Stroz Friedberg, I did not appear in court but supervised outside counsel retained by Stroz Friedberg to represent the firm, including in litigation.

- i. Indicate the percentage of your practice in:
 - 1. federal courts: 100%
 - 2. state courts of record:
 - 3. other courts:
 - 4. administrative agencies:

ii. Indicate the percentage of your practice in:

1. civil proceedings: 20%
2. criminal proceedings: 80%

d. 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.

During the time that I served as an Assistant United States Attorney and Deputy Chief of the Narcotics Section in the U.S. Attorney's Office for the Eastern District of New York, I tried approximately ten jury trials to verdict as the lead prosecutor. I also handled many more criminal cases that resulted in a plea.

i. What percentage of these trials were:

1. jury: 100%
2. non-jury:

e. 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 not practiced before the Supreme Court of the United States.

17. **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.

1. United States v. Clemente, et al., 22 F.3d 477 (2d Cir. 1994).

I led a wide-ranging three-year grand jury investigation into widespread corruption within the New York City Department of Buildings by building inspectors and their supervisors across the boroughs of Manhattan, Staten Island, Brooklyn and Queens. The case resulted in the convictions of over 25 building inspectors for extorting payoffs from architects, engineers, builders and others for

“expediting” certificates of occupancy (COs) and insuring that paperwork was not “lost” or unreasonably delayed. The intense investigation involved reluctant cooperators and consensual recordings and culminated in a five-week jury trial on Hobbs Act and other charges that resulted in the convictions of nine defendants. Before the trial, one of the defendants sought to kill a cooperating witness by hiring a “hit-man,” who cooperated with authorities. The illegal plan was stopped before a witness was harmed. This case uncovered a pervasive and systematic pattern of corruption at the Department of Buildings, and resulted in the arrests of over one-fifth of the inspection force of the construction division of the Department. Importantly, this investigation provided the impetus for local officials to reform Department of Buildings’ procedures and management policies to minimize corruption on this massive scale in the future at the Department.

Presiding Trial Court Judge:

Hon. I. Leo Glasser, U.S.D.J., Eastern District of New York

Co-Counsel:

David James, Deputy Chief, Appellate Section
U.S. Attorney’s Office, E.D.N.Y.,
221 Cadman Plaza East
Brooklyn, NY 11201,
(718) 254-7000

Opposing Counsel:

Daniel M. Felber, Esq.
99 Wall Street, 21st Floor
New York, N.Y. 10005
Telephone (212) 422-4600

Robert Koppelman, Esq.
585 West End Avenue
New York, NY 10024

Samuel Gregory, Esq.
45 Main Street
Brooklyn, N.Y. 11201
Telephone (718) 222-2992

The Hon. Robert J. Collini, Judge
New York Supreme Court, 13th Judicial District
18 Richmond Terrace
Staten Island, NY 11301
Telephone (718) 675-6650

Allen Lashley, Esq.
16 Court St., Rm 906
Brooklyn, N.Y. 11241,
Telephone (718) 875-1128

Charles Ross, Esq.
111 Broadway, Ste 1401
New York, N.Y. 10006
Telephone (212) 616-3030

Martin Adelman, Esq.,
225 Broadway, Suite 1804
New York, NY 10007
Telephone (212) 732-4343

Louis Diamond, Esq.
77 Targee Street
Staten Island, NY 10304
Telephone (718) 448-4800

2. United States v. Eng, 14 F.3d 165 (2d Cir. 1994). From 1988 through 1992, I led the investigation and prosecution of Johnny Eng, who was the head of the Flying Dragons, a violent gang operating in the Chinatown area of Manhattan. He was charged with engaging in a continuing criminal enterprise and running a heroin trafficking operation that used various ingenious methods to smuggle heroin into the United States from 1987 to 1988. Shortly after other members of the Flying Dragons were arrested, the defendant fled the country and was subsequently apprehended in Hong Kong, where he was held in custody from August 1989 until November 1991. Shortly after I traveled to Hong Kong to work with authorities there, he was successfully extradited to the United States to stand trial. Over the course of this investigation, a cooperating defendant was shot at point-blank range in an assassination attempt, but survived. Eng was convicted after a four-week trial in December 1992.

Presiding Trial Court Judge:
Hon. Reena Raggi, then-U.S.D.J., Eastern District of New York

Co-Counsel:
Karen Seymour, Esq. (former AUSA)
Sullivan & Cromwell LLP,
125 Broad Street
New York, NY 10004,
Telephone (212) 558-4000;

Catherine Palmer, Esq.
Latham & Watkins
885 Third Avenue, Suite 1000,
New York, NY 10022,
Telephone (212) 906-1335

Opposing Counsel:
Gerald L. Shargel, Esq.
570 Lexington Avenue, 16th floor
New York, NY 10022
Telephone (212) 446-2323

3. United States v. Yu, et al., 697 F. Supp. 635 (E.D.N.Y. 1988). From 1988 through 1992, I led the investigation of a heroin trafficking import and distribution network of a violent gang called the “Flying Dragons,” which operated in the Chinatown area of Manhattan. The investigation required the prosecution of low-level associates to obtain cooperation all the way up the leadership chain to the underboss and the leader of the gang, whom I extradited from Hong Kong where he had fled when the success of the investigation became apparent. The gang recruited Chinese women, who were regular customers at gambling parlors operated by the gang and owed gambling debts, to accept boxes of heroin shipped from Hong Kong to help repay their debts. The investigation resulted in the convictions of eight individuals at trial and other associates of the gang, who pleaded guilty and cooperated. The investigation and prosecutions successfully disrupted the heroin trafficking operation of this Chinatown gang.

Presiding Trial Court Judge: Hon. Leonard Wexler, U.S.D.J. Eastern District of New York

Opposing Counsel:

Jay Goldberg, Esq.
250 Park Avenue, Suite 2020
New York, N.Y. 10177
Telephone (212) 983-6800

Gerald B. Lefcourt, Esq.
148 E 78th Street
New York, N.Y. 10021
Telephone (212) 737-0400

Judd Burstein, Esq.
1790 Broadway, Ste 1501
New York, N.Y. 10019,
Telephone (212) 974-2400

Richard Ware Levitt, Esq.
148 East 78th
New York, N.Y. 10021
Telephone (212) 737-0400

Bernard H. Udell, Esq.
16 Court Street
Brooklyn, N.Y. 11201
Telephone (718) 596-2410

Charles D. Lavine, Esq.,
30 Vesey Street, 6th Floor
New York, N.Y. 10007
Telephone (212) 608-6650

4. United States v. Carlos Restrepo, et al., 936 F.2d 661 (2d Cir. 1991). From 1988 through 1991, I supervised the successful investigation and prosecution of various aspects of the largest money laundering cell and narcotics distribution cell of the Cali, Columbia cartel ever located up to that time, in the New York area. Under my supervision, agents and police officers assigned to the New York Drug Enforcement Task Force conducted intensive surveillance of various defendants as they moved large loads of cocaine and drug proceeds around Queens, New York. Searches pursuant to warrants resulted in the recovery of \$19 million, which was the single largest cash seizure of drug proceeds ever made at that time in the United States. The investigation also resulted in the arrests of ten high ranking associates of the Cali cartel, and records showing the accumulation of \$ 44 million in narcotics proceeds between 1988 and 1989. Ultimately, all ten defendants were convicted. Six pleaded guilty to money laundering charges and four were convicted of money laundering and narcotics charges after a four week trial at which I led the prosecution team. For my work on this case, I was awarded the prestigious Attorney General's Director's Award from the United States Department of Justice.

Presiding Trial Court Judge: Hon. Charles P. Sifton, U.S.D.J. Eastern District of New York.

Opposing Counsel:
Hon. William Mogulescu, Judge
Bronx County Supreme Court, Criminal Div.
265 East 161st Street
Bronx, NY 10451
Telephone (718) 618-3000, ext. 1137

Emanuel Moore, Esq.
245 East 44th Street, 18th Floor
New York, N.Y. 10007
Telephone (407)957-0600

Frank Mandel, Esq.
16 East 34th Street
New York, N.Y. 10016
Telephone (917) 358-6874

James Cohen, Esq.
140 W 62nd Street
New York, NY 11241
Telephone (212) 929-7500

Vincent F. Siccardi, Esq.
125-10 Queens Blvd.
Kew Gardens, NY 11415
Telephone (718) 261-7660

5. United States v. Campino. et al., 890 F.2d 588 (2nd Cir. 1989), *cert. denied*, 110 S. Ct. 1787 (1991). From 1987 through 1992, I supervised the investigation into a narcotics operation in Queens that led to the arrest and conviction of senior-level Colombian traffickers. At a jury trial, I presented evidence of narcotics trafficking based solely on the seizure, pursuant to search warrant, from the defendants of \$93,000 in cash narcotics proceeds, firearms and coded transactions that were proved to be narcotics records, as well as sophisticated electronic surveillance equipment and counterfeit money detector. No cocaine was ever found connected to the defendants, but this case helped demonstrate that senior management in cocaine wholesale operations could not inoculate themselves from narcotics charges by storing the narcotics in a separate place than the money and records of the illegal wholesale operation.

Presiding Trial Court Judge: Judge Sifton, U.S.D.J., Eastern District of New York.

Opposing Counsel:
Jerald Levine, Esq.
73-19 Broadway
Jackson Heights, N.Y.
Telephone (718) 507-6464

Barry E. Schulman, Esq.
16 Court Street, Ste. 2901
Brooklyn, NY 11241
Telephone (718)855-8855

Michael A. O'Connor, Esq.
16 Court Street
Brooklyn, NY 11201
Telephone (718) 855-8855

6. United States v. Montoya, 760 F. Supp. 27 (E.D.N.Y. 1991) and United States v. Michael Ahuja, 936 F.2d 85 (2d Cir. 1991). From 1989 through 1991, while in the midst of prosecuting a Cali cartel cell, I discovered that an undercover New York City Police Officer had been approached with a bribe to aid in the escape of four of the defendants incarcerated at the Metropolitan Correctional Center in New York City. The investigation resulted in the identification of additional members of the conspiracy to break the defendants out of jail, all of whom were believed to be high ranking associates of the Cali cartel. These additional targets paid a \$50,000 cash bribe to an undercover NYC police officer, made arrangements for the defendants to fly out of the country to Colombia, provided four complete suits of clothing so that the defendants would be appropriately attired when they made their escape, and negotiated a bribe price for the jail-break of two additional members of the narcotics organization, who had been arrested with the seizure of \$5.7 million in Houston, Texas. I successfully prosecuted these individuals, two of whom pleaded guilty and one of whom was convicted after a two-week trial. This case was important to demonstrate to Colombian drug cartel members that the American criminal justice system was not easily susceptible to corruption, and that they could not bribe their way out of United States jails and prisons to avoid liability for criminal activity here.

Presiding Trial Court Judge: Judge I. Leo Glasser, U.S.D.J. Eastern District of New York.

Opposing Counsel:
Jorge DeJ. Guttlein, Esq.
291 Broadway, Suite 707,
New York, N.Y. 10007
Telephone (212) 608-7575

Joel Cohen, Esq.
30 W 42nd Street, Suite 1301
New York, N.Y. 10036
Telephone (212) 944-1499

Roger L. Stavis, Esq.
845 Third Ave., 8th Floor
New York, N.Y. 10022
Telephone (212) 935-3131

7. Brennan v. United States, 867 F.2d 111 (2d Cir. 1989). From 1988 through 1998, I successfully handled the response to a petition, filed pursuant to 28 U.S.C. 2255, by a corrupt former Justice of the New York Supreme Court to set aside his convictions for racketeering, Travel Act violations and extortion. The defendant had been convicted of agreeing to “fix” cases in exchange for bribes at a trial that occurred before I became an Assistant U.S. Attorney in the Eastern District of New York. Following the Supreme Court decision in McNally v. U.S., 107 S.Ct. 2875 (1987), which rejected an “intangible rights” theory for wire and mail fraud convictions, the defendant’s wire fraud convictions were vacated. He then sought vacatur of his remaining convictions. I handled the briefing and argument on appeal. The Second Circuit denied his motion to set aside his remaining convictions.

Presiding Trial Court Judge: Judge Leonard Weinstein, U.S.D.J. Eastern District of New York

Co-Counsel:

Hon. John Gleeson, U.S.D.J., Eastern District of New York
225 Cadman Plaza East,
Brooklyn, New York 11201
Telephone (718) 260-2450

Opposing Counsel:

Arnold E. Wallach, Esq.
New York, New York

8. United States v. Contractor, et al., 926 F.2d 128 (2d Cir. 1991). I supervised an undercover investigation of heroin trafficking by a practicing physician at a medical clinic in Brooklyn, New York. This physician agreed to sell almost a kilogram of cocaine to a confidential informant and undercover agent of the Drug Enforcement Administration. Over the course of the next few months, arrangements were made for the shipment of five kilograms of heroin in meetings that took place in Pakistan and New York. The investigation resulted in the arrest not only of the physician, but also of his heroin suppliers from Pakistan. All three defendants pleaded guilty. .

Presiding Trial Court Judge: Judge Joseph M. McLaughlin, U.S.D.J., Eastern District of New York

Opposing Counsel:

Hon. Robert Stoiz, Judge
State of New York, NYC Criminal Ct.
111 Centre Street
New York, NY 10013
Telephone (646) 386-4022

Susan Kellman, Esq.
25 8th Avenue
Brooklyn, NY
Telephone (718) 783-8200

Jeffrey Traub, Esq.
100 Church Street
New York, NY 10007
Telephone (212) 732-0208

9. United States v. Huerta, 878 F. 2d 89 (2d Cir. 1989). The defendant in this case arranged for the sale and delivery of one kilogram of cocaine to a Drug Enforcement Administration informant. Although he agreed to cooperate, his efforts were fruitless, incomplete and produced no results. Consequently, the defendant was sentenced to a mandatory minimum of five years' imprisonment. On appeal, he claimed that the statute requiring a government motion for eligibility to be sentenced below the statutory mandatory minimum was unconstitutional as violation of the separation of powers, and on other grounds. I successfully defended, both before the District Court and before the Court of Appeals for the Second Circuit, the constitutionality of the Sentencing Reform Act and the government's prerogative to evaluate the substantiality of cooperation.

Presiding Trial Court Judge: Judge Edward R. Korman, U.S.D.J., Eastern District of New York

Opposing Counsel:
Helen Coady, Esq.
The Legal Aid Society, Federal Defender Services Unit
52 Duane Street
New York, NY 10007
Telephone (212) 417-8700

10. United States v. Sanchez and Reynoso-Nunez, Appeal No. 91-1620 (2d Cir. March 17, 1992). I supervised the investigation and was the lead trial counsel at the jury trial resulting in the convictions of two defendants for the illegal distribution of cocaine. This case was a "dry conspiracy" -- no cocaine was ever found connected to the defendants. They were convicted on the basis of expert testimony and the seizure of \$75,000 in cash narcotics proceeds, firearms, ammunition and a ledger containing coded transactions that were proved to be narcotics records. This case helped demonstrate that senior management in cocaine wholesale distribution operations could not inoculate themselves from narcotics charges by storing the narcotics in a separate place than the money and records of the illegal wholesale operation.

Presiding Trial Court Judge: Judge John Bartels, U.S.D.J., Eastern District of New York

Opposing Counsel:
Ivan S. Fisher, Esq.
251 East 61st Street
New York, NY 10021
Telephone (212) 517-5000

18. **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 an Assistant U.S. Attorney, at both the trial and appellate levels, I investigated and prosecuted different types of criminal activity, including gang-related crimes, narcotics trafficking, money laundering, and public corruption investigations. I successfully prosecuted the leadership of a Chinatown gang named the Flying Dragons, broke up a large Cali, Colombian money laundering ring on the eve of their plan to transport millions of dollars in cash narcotics proceeds outside the country, and exposed a public corruption extortion scandal among building inspectors that operated across all five boroughs of New York City. As Deputy Chief of the Narcotics Section and part of the management of the U.S. Attorney's Office, I was responsible not only for supervision of my own cases and those of other Assistant U.S. Attorneys in the section, but also for addressing broader issues raised by local Federal Judges, law enforcement agencies, and Main Justice, that had implications for investigations and cases throughout the Office. These issues ranged from reducing delays in execution of court-orders for electronic surveillance to developing mechanisms to manage the large number of drug couriers caught carrying illegal narcotics through the international transit points located within the Eastern District of New York.

My prosecutorial work garnered numerous awards from the Federal law enforcement agencies with which I worked, as well as the prestigious Attorney General's Director's Award for Superior Performance and Special Achievement Awards from my peers within the U.S. Attorney's Office.

For a decade, I served on the staff of the United States Senate Committee on the Judiciary, where I worked for Senator Patrick J. Leahy. My responsibilities included providing legal analysis of the constitutionality and impact of legislation, crafting bills and reports issued by the Judiciary Committee and Conference Committees, organizing hearings, supervising staff in oversight investigations of Federal agencies subject to the jurisdiction of the Judiciary Committee, and coordinating legislative initiatives with staffs of other Members and Executive Branch agencies.

During my time in private practice, I gained significant civil litigation experience. I have extensive expertise in application of the electronic discovery amendments to the Federal Rules of Civil Procedure and the discovery obligations of counsel. My articles on these topics (and others) have been published in peer-reviewed, leading legal journals, including the Journal of Securities Law, Regulation & Compliance, the New York Law Journal and Digital Discovery and E-Evidence. At Stroz Friedberg, I was a consultant to lawyers dealing with the potentially high-stakes and high-cost issues surrounding electronic discovery, and was called upon to develop legally defensible and reasonable protocols to comply fully with litigation hold requirements for preservation of records and to identify, collect, review, and produce large volumes of electronic documents in response to document demands and for use in internal investigations.

Additionally, during my tenure at Stroz Friedberg, I successfully built a small digital forensics and cyber-security business and gained invaluable experience with the practical, legal, and other issues that inform business decision-making. I believe this experience would be particularly helpful to me if I am confirmed as a judge in guiding parties in civil cases to reach cost-effective resolutions efficiently.

At the same time as performing General Counsel duties at Stroz Friedberg, I managed client matters, many of which required an understanding of applicable legal parameters, developing creative technical solutions and expertly marshalling the facts to reach a successful conclusion. For example, I conducted an investigation on behalf of a client company victimized by defamatory e-mails and computer security breaches, for which investigation I was awarded the Federal Bureau of Investigation Director's Award.

I am currently working alongside U.S. District Judges on the U.S. Sentencing Commission, providing guidance to sentencing judges on appropriate sentences and procedures for the myriad of extant Federal crimes as well as new ones created by recently enacted laws. My role as a Commissioner on the U.S. Sentencing Commission has allowed me to immerse myself in critical current criminal justice issues.

From 2004 until 2009, I was a registered lobbyist for Stroz Friedberg and was registered to lobby for the Recording Industry Association of America and Vivendi Universal – Universal Music Group. I was the contact person within the firm who acted to provide advice on anti-piracy strategies and legislation.

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.

From January to May 2010, I taught Legal Ethics at the American University's Washington College of Law, with a focus on the American Bar Association's Model Rules of Professional Conduct and pertinent rules of Federal Civil Procedure.

19. **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.

I continue to hold common stock in Stroz Friedberg, but have no voting or other management rights or responsibilities in the firm. In addition, I hold a limited number of restricted stock units, which were awarded to me during my employment with the firm and will vest over the next four years.

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

I plan to fulfill my term, which ends in 2011, as a Commissioner on the United States Sentencing Commission. I have no other plans, commitments or agreements for any other outside employment should I be confirmed and appointed as a U.S. District Judge.

21. **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.

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

See attached Net Worth Statement.

23. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements 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.

I would recuse myself from any case based on a client matter in which I was involved or that I supervised at Stroz Friedberg, as well as litigation involving husband's employer. While I would carefully assess each case for any potential conflict or appearance of conflict, and would disclose information or recuse myself as called for by the canons and the law, I am not aware of any other conflict likely to arise when I first assume the position of District Judge, if I am confirmed by the Senate.

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

If confirmed and appointed as a U.S. District Judge, I will adhere to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and all applicable ethical rules, statutes and codes to resolve any potential conflicts of interest. I will review all assigned matters for potential conflicts before taking any action. To help discharge this obligation, I will provide all necessary information, including regular updates, to implement fully the automated screening adopted by the Judicial Council of the District of Columbia Circuit to identify possible financial or other conflicts of interest. In addition, I will participate in training and take advantage of any assistance provided to judges to facilitate my participation in the automated screening, and require my staff to do so as well.

24. **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.

Most of my legal career has been spent in public service. I believe that my over twenty years of public service is consistent with Canon 2 of the American Bar Association's Code of Professional Responsibility as well as Rule 6.1 of the American Bar Association's more recently adopted Model Rules of Professional Conduct. Consistent with current ethical rules, I have endeavored over my legal career to participate in activities for improving the law, the legal system and the legal profession. During my service as a federal prosecutor, staff member on the Senate Judiciary Committee and as a Commissioner on the United States Sentencing Commission, I have strived to improve the administration of justice in the highest tradition of the Bar. I have also contributed my time, at no fee, as a Member of a Commission sponsored by the Center on Strategic and International Studies to make recommendations to the new 44th President on cybersecurity vulnerabilities and solutions, and through board membership for the Center for Democracy and Technology, to assist this non-profit group in furthering the interest of protecting civil liberties and privacy rights. After leaving full-time government service in early 2003, I have participated extensively in continuing legal education events to improve the profession.

During periods when I worked in the private sector, I also committed my time to *pro bono* matters. For example, early in my career, while I was in private practice at Schulte Roth & Zabel, I worked *pro bono* on an immigration matter representing a Haitian immigrant seeking asylum. More recently, at Stroz Friedberg, I promoted a policy of accepting *pro bono* assignments requiring use of the firm's digital forensic expertise, and piloted the program by assisting, on a *pro bono* basis, Steptoe & Johnson's representation of a U.S. Naval Academy student accused of raping a fellow student.

25. Selection Process:

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

United States Senator Patrick J. Leahy recommended me to the President to fill a vacancy of the U.S. District Court for the District of Columbia. In May 2009, I submitted an application to the Federal Law Enforcement Nominating Commission, which was established by Hon. Eleanor Holmes Norton, United States Representative for the District of Columbia, and thereafter met with the Commission on two occasions, in July and December 2009. Since March 16, 2010, I have been in contact with pre-nomination officials at the Department of Justice. I was interviewed on April 14, 2010, by members of the White House Counsel's Office and the United States Department of Justice. On July 14 2010, I was nominated by the President.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AFFIDAVIT

I, Beryl Alaine Howell do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

July 14, 2010
(DATE)

Beryl A. Howell
(NAME)

Sworn to and subscribed before me this
14th day of July, 2010. Shane Goldberg
(NOTARY)
My commission expires August 31, 2012.