



NACDL/ILR LAW & POLICY SYMPOSIUM

The Enforcement Maze: Over-Criminalizing American Enterprise

Thursday, May 26, 2016

U.S. Chamber of Commerce
1615 H Street NW
Washington, DC 20062

8:30 – 8:55 a.m. **Registration and Continental Breakfast**

8:55 – 9:10 a.m. **Morning Keynote Address**

- **The Honorable Bob Goodlatte**, U.S. House of Representatives (R-VA 6th District) and Chairman, House Committee on the Judiciary

9:10 – 9:20 a.m. **Opening Remarks**

- **Norman L. Reimer**, Executive Director, National Association of Criminal Defense Lawyers

9:20 – 10:25 a.m. **The Rise of Overcriminalization**

This panel will discuss the inappropriate criminalization of what are truly civil or regulatory/administrative problems/disputes as well as inadequate criminal intent requirements and the problem with strict liability crimes.

- **Reginald J. Brown**, Partner and Chair, Financial Institutions Group, Wilmer Cutler Pickering Hale and Dorr LLP
- **John F. Lauro**, Principal, Lauro Law Firm
- **Kate C. Todd**, Senior Vice President and Chief Counsel, U.S. Chamber Litigation Center

Moderated by: **John D. Cline**, Principal, Law Office of John D. Cline



10:25 – 11:30 a.m. **Bearing Down**

This panel will address over-charging/overzealous enforcement and the pressures on businesses and individuals under investigation and engaging in plea bargaining, including collateral consequences for companies (debarment, exclusion) and for individuals (jail, loss of licenses).

- **John H. Beisner**, Partner, Skadden, Arps, Slate, Meagher & Flom LLP
- **Beth J. Hallyburton**, Assistant General Counsel, GlaxoSmithKline
- **Kurt Mix**, Former Deepwater Drilling Engineer, BP America
- **Barry J. Pollack**, Member and Chair, White Collar & Internal Investigations Practice, Miller & Chevalier

Moderated by: **Harold H. Kim**, Executive Vice President, U.S. Chamber Institute for Legal Reform

11:30 – 11:50 a.m. **The Symbiotic Relationship Between Overcriminalization and Plea Bargaining**

This TED Talk-inspired presentation will discuss the manner in which these two phenomena relied on each other to come to dominate our modern criminal justice system.

- **Lucian E. Dervan**, Associate Professor of Law, Southern Illinois University School of Law

11:50 – 12:00 **Break**

12:00 – 1:00 p.m. **Special Remarks and Luncheon Keynote Address**

Special Remarks by: **Lisa A. Rickard**, President, U.S. Chamber Institute for Legal Reform

Keynote Address

- **The Honorable David W. Ogden**, Partner, Wilmer Cutler Pickering Hale and Dorr LLP and Former Deputy Attorney General of the United States

1:00 – 1:15 p.m. **Break**



1:15 – 2:00 p.m. **A Lack of Balance in the System: Criminal Discovery & Grand Jury Inadequacies & Abuses**

This discussion will feature two legal experts and explore the inadequacies and abuses of two important facets of criminal procedure that combine to create an unfair playing field for persons and entities.

- **Ross H. Garber**, Partner, Shipman & Goodwin LLP
- **Timothy P. O’Toole**, Member and Chair, Pro Bono Committee, Miller & Chevalier

2:00 – 2:20 p.m. **The Shadow Regulatory State: A Look at Federal Deferred Prosecution Agreements**

This TED Talk-inspired presentation will discuss the ways in which federal prosecutors have increasingly pressured corporations to enter into deferred- or non-prosecution agreements that entail not only hefty fines but significant changes to business practices, with no showing of wrongdoing or judicial supervision.

- **James R. Copland**, Senior Fellow and Director, Legal Policy, The Manhattan Institute

2:20 – 3:20 p.m. **The New Prosecutorial Focus: Individuals in the Age of Overcriminalization**

This panel will explore the impact of the recent “Yates Memorandum” – a directive from Sally Quillian Yates, Deputy Attorney General of the United States, regarding individual accountability for corporate wrongdoing.

- **Lisa A. Mathewson**, Principal, The Law Office of Lisa A Mathewson
- **Matthew S. Miner**, Partner, Morgan, Lewis & Bockius LLP
- **Ellen S. Podgor**, Gary R. Trombley Family White-Collar Crime Research Professor and Professor of Law, Stetson University College of Law

Moderated by: **Barry Boss**, Co-Chair, Criminal Defense & Internal Investigations, Cozen O’Connor



3:20 – 4:20 p.m. **The Public Policy Consequences and the Road to Recovery**

This panel will address the erosion of respect for criminal law, costs incurred by taxpayers, over-incarceration, and the squashing of business ingenuity and growth, and will explore solutions to these problems.

- **Christopher Bates**, Counsel to Senator Orrin Hatch, Senate Committee on the Judiciary
- **Douglas A. Berman**, Robert J. Watkins/Procter & Gamble Professor of Law, The Ohio State University Moritz College of Law
- **Joseph Luppino-Esposito**, Policy Analyst, Center for Effective Justice & Right on Crime
- **Shana O'Toole**, Director of White Collar Crime Policy, National Association of Criminal Defense Lawyers

Moderated by: **Jonathan Bunch**, Vice President & Director of External Relations, The Federalist Society

4:20 – 4:30 p.m. **Afternoon Keynote Address**

- **The Honorable Orrin Hatch**, U.S. Senate (R-UT), Chairman, Senate Finance Committee and Former Chairman, Senate Judiciary Committee

4:30 – 5:00 p.m. **Networking Reception**

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