



9:30 a.m.

WELCOME AND KEYNOTE

Welcoming Remarks

RICHARD L. REVESZ

Dean and Lawrence King Professor of Law, New York University School of Law

Introductory Remarks

ANTHONY S. BARKOW

Executive Director, Center on the Administration of Criminal Law, New York University School of Law

Keynote Address

PATRICK J. FITZGERALD

United States Attorney, Northern District of Illinois

Note to CLE participants CLE credit is available for all-day attendance. According to state bar rules, in order to receive CLE credit, you must sign in at the beginning of the conference, after lunch, and at the conclusion of the conference.

Panel 1

10:10–11:30 a.m.

**THE FEDS, OUR FEDERALISM,
AND LOCAL PROSECUTORS**

RONALD GOLDSTOCK

Panelist and Moderator

New York State Commissioner
of the Waterfront Commission
of New York Harbor

Independent Private Sector
Inspector General

DANIEL R. ALONSO '90

Chief Assistant District Attorney,
Manhattan District Attorney's Office

Former Chief, Criminal Division,
United States Attorney's Office,
Eastern District of New York

**THE HONORABLE
STERLING JOHNSON JR.**

United States District Judge,
Eastern District of New York

Former Special Narcotics Prosecutor
for the City of New York

KATHERINE A. LEMIRE

Counsel to Raymond W. Kelly, Police
Commissioner of the City of New York

Member, Board of Advisors, Center
on the Administration of Criminal Law

Former Assistant United States Attorney,
Southern District of New York and
Assistant District Attorney, Manhattan
District Attorney's Office

HARRY LITMAN

Practitioner and Visiting Professor,
Rutgers Law School and Princeton
University

Former United States Attorney,
Western District of Pennsylvania and
Deputy Assistant Attorney General,
Office of Legal Policy, United States
Department of Justice

TRACEY MEARES

Deputy Dean and Walton Hale
Hamilton Professor of Law,
Yale Law School

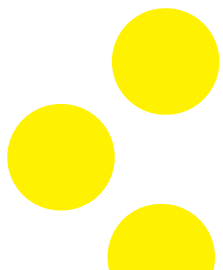
PAUL SHECHTMAN

Partner, Stillman, Friedman &
Shechtman PC

Former Director of Criminal Justice,
State of New York; Chief, Criminal
Division, United States Attorney's
Office, Southern District of New York;
and Counsel to the Manhattan
District Attorney



11:30–11:40 a.m. Break



Panel 2

11:40 a.m.–1:00 p.m.

**COMPETITION AND COOPERATION
WITHIN THE STATE**

RACHEL E. BARKOW

Panelist and Moderator

Professor of Law, New York University
School of Law

Faculty Director, Center on the
Administration of Criminal Law

JOHN KROGER

Attorney General of the State
of Oregon

Former Assistant United States
Attorney, United States Attorney's
Office, Eastern District of New York

ANNE MILGRAM '96

Senior Fellow, Center on the
Administration of Criminal Law

Former Attorney General of the State
of New Jersey; Special Litigation
Counsel, Civil Rights Division, United
States Department of Justice; and
Assistant District Attorney, Manhattan
District Attorney's Office

LISA L. MILLER

Associate Professor of Political
Science, Rutgers University

ROBERT J. SPAGNOLETTI

Partner, Schertler & Onorato LLP, and
President, District of Columbia Bar

Former Attorney General, District of
Columbia and Assistant United States
Attorney, United States Attorney's
Office, District of Columbia

JOHN W. SUTHERS

Attorney General of the State
of Colorado

Former United States Attorney,
District of Colorado and District
Attorney, Fourth Judicial
District of Colorado

BARBARA D. UNDERWOOD

Solicitor General of the State
of New York

Former Acting Solicitor General and
Principal Deputy Solicitor General
of the United States; Counsel
and Chief Assistant United States
Attorney, United States Attorney's
Office, Eastern District of New York;
executive and attorney in the Queens,
Brooklyn, and Manhattan District
Attorneys' Offices; and Professor of
Law, Yale Law School

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1:00–2:10 p.m. Lunch

Panel 3

2:10–3:30 p.m.

**CENTRALIZATION AND COOPERATION:
IS STRONG CENTRAL AUTHORITY
NECESSARY OR EFFECTIVE?**

SARA SUN BEALE

Panelist and Moderator

Charles L.B. Lowndes Professor of Law,
Duke University School of Law

ELKAN ABRAMOWITZ '64

Principal, Morvillo, Abramowitz,
Grand, Iason, Anello & Bohrer PC

MICHAEL A. BATTLE

Partner, Fulbright & Jaworski LLP

Former Director, Executive Office for
United States Attorneys, United States
Department of Justice; United States
Attorney, Western District of New York;
and Federal Public Defender

ROSCOE C. HOWARD JR.

Partner, Andrews Kurth LLP

Former United States Attorney, District
of Columbia

JOAN E. MEYER

Partner, Baker & McKenzie LLP

Former Senior Counsel to the
Deputy Attorney General of the
United States and First Assistant
United States Attorney and Chief,
Criminal Division, United States
Attorney's Office, Western District
of Michigan

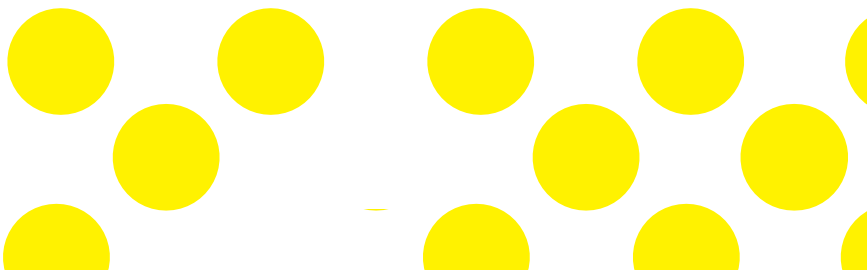
DANIEL C. RICHMAN

Paul J. Kellner Professor of Law,
Columbia Law School

Former Assistant United States
Attorney, United States Attorney's
Office, Southern District of
New York



3:30–4:30 p.m. Reception



The litigation component uses the Center's research and experience with criminal justice practices to inform courts in important criminal justice matters, particularly in cases in which exercises of prosecutorial discretion create significant legal issues. The public policy component applies the Center's criminal justice expertise to improve the public dialogue on criminal justice matters.

The Center is the first and only organization dedicated to defining good government practices in criminal prosecutions. No other organization is dedicated to improving prosecution practices through research, litigation, and the improvement of public policy.

Colon v. New York • Court of Appeals, State of New York • In this case, the Center filed an amicus brief proposing a new, clearer test for determining when a tacit agreement exists between a prosecutor and a cooperating witness to provide benefits to the witness in exchange for testifying against a defendant. This amicus brief was filed in support of the defendants-appellants, in partnership with Weil, Gotshal & Manges LLP. The Court sided with the Center in a unanimous opinion.

Holder v. Humanitarian Law Project • Supreme Court of the United States • The Center filed an amicus brief in support of the government in this case, which raises the issue of whether the federal statute criminalizing the provision of material support to foreign terrorist organizations is unconstitutionally vague. The Center's brief emphasized the essential nature of the statute to prevent terrorism and chronicled the availability of various safeguards in federal criminal practice to protect defendants' First Amendment rights in such prosecutions. This amicus brief was filed in partnership with Skadden, Arps, Slate, Meagher & Flom LLP.

United States v. O'Brien • Supreme Court of the United States • In this case, the Center filed an amicus brief arguing that the logic of the Supreme Court's decision in *United States v. Booker* made clear that *Harris v. United States* is no longer good law, and therefore facts that trigger mandatory minimum sentences must be treated as offense elements. This amicus brief was filed in support of the defendant, in partnership with Jenner & Block LLP.

The Center published op-ed pieces, including on CNN.com (commenting that Justice Sotomayor's experience as a local prosecutor would bring to the Supreme Court a perspective on criminal law that other Justices lack) and the Sentencing Law & Policy blog (discussing the decision by the Boston United States Attorney not to prosecute public intellectual and blogger Andrew Sullivan, and arguing that prosecutors should consider collateral consequences when making charging decisions).

The Center's Faculty Director was appointed to the Manhattan District Attorney's Office's Conviction Integrity Policy Advisory Panel, a group of leading criminal justice experts that will advise the Office on national best practices and evolving issues in the area of wrongful convictions.

**TO READ MORE ABOUT THE CENTER, PLEASE VISIT ITS WEB SITE AT
WWW.PROSECUTIONCENTER.ORG**

We invite you to contact the Center if you wish to join, contribute to its mission, inquire about one of its events or projects, or bring to its attention a case or public policy issue.

The Center welcomes tax-deductible donations to further its mission of promoting and defending good government practices in criminal matters. To contribute, please visit www.prosecutioncenter.org and click on the "Contact/Join/Contribute" link on the left side of the screen. Or contact us directly at prosecutioncenter@nyu.edu.

To join the Center, please e-mail us at prosecutioncenter@nyu.edu. You will be entered into the Center's database to receive invitations to Center events and updates on recent activities and publications.

CENTER BOARD OF ADVISORS

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Anthony C. Thompson

Professor of Clinical Law at New York University School of Law and former Deputy Public Defender, Contra Costa County, California

The Board of Advisors does not directly oversee the Center's activities, including its litigation decisions. The views taken by the Center, including those taken in litigation, are those of the Center and should not be attributed to any member of the Board.

Special thanks to the Ford Foundation for its significant support of all of the Center's activities, including this conference.



ALLOCATING PROSECUTORIAL POWER

HOW PROSECUTORS....



...COMPETE!



...COOPERATE!



...AND CLASH!

SECOND ANNUAL CONFERENCE

Center on the Administration of Criminal Law
at New York University School of Law

Friday, April 23, 2010

ABOUT THE CENTER

The Center on the Administration of Criminal Law is an apolitical advocacy organization and think-tank founded in June 2008 and dedicated to the promotion of good government practices in the criminal justice system.

The Center analyzes important issues of criminal law, particularly focusing on prosecutorial power and discretion. It pursues this mission in three main arenas: academia, the courts, and public policy debates. The academic component involves the research of criminal justice practices at all levels of government, the production of scholarship on criminal justice issues, and the hosting of symposia and conferences to address significant topics in criminal law and procedure.

REPRESENTATIVE CENTER PROJECTS OVER THE LAST YEAR

The Center's Faculty Director testified before the House Subcommittee on Commerce, Trade, and Consumer Protection regarding the proposed Consumer Financial Protection Agency and discussed the value of including state attorney general enforcement as a counterweight to the possibility of agency capture.

The Center's Faculty Director testified before the United States Sentencing Commission and recommended that it keep the current advisory Guidelines framework, reconsider the use of acquitted conduct to increase sentences, reevaluate its decision to set drug trafficking guideline ranges around the mandatory minimums set by Congress, and prioritize its empirical research and data analysis in setting the agenda for itself and Congress.

The Center's Executive Director testified before the House Subcommittee on Commercial and Administrative Law regarding the proposed Transparency and Integrity in Corporate Monitoring Act of 2009, which would prohibit former federal prosecutors from serving as or working for corporate monitors in matters that they investigated or prosecuted when in government service. The testimony

was an outgrowth of the Center's inaugural conference and the book to be published out of that conference, *Prosecutors in the Boardroom* (forthcoming NYU Press).

The Center filed briefs in courts nationwide in support of defendants and the government on various significant criminal law issues. Representative cases include:

Carachuri-Rosendo v. Holder •
Supreme Court of the United States •
This case addresses whether immigration courts can treat second or subsequent misdemeanor convictions as recidivist felonies despite a state prosecutor's choice to decline felony charges and the fact that the individual was not actually convicted as a recidivist. The Center filed an amicus brief on the merits in support of the petitioner and previously filed a brief in support of a petition for a writ of certiorari. These amicus briefs were filed in partnership with Debevoise & Plimpton LLP. This marks the second time in just over a year in which the Supreme Court granted certiorari in a case in which the Center filed an amicus brief in support of a grant.