

JAMES E. BAKER

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PROFESSIONAL, LEADERSHIP & ADMINISTRATIVE EXPERIENCE

Professor, Syracuse University College of Law, The Maxwell School of Citizenship and Public Affairs & Director, Institute for National Security and Counterterrorism, Syracuse University, 2018-Present.

Direct a multidisciplinary, university-based, center for the study of national security law and policy, including emerging technologies, counterterrorism, and intelligence process and practice. Courses include: Managing National Security Law, Emerging Technologies and Global Security, and Central Challenges in National Security law & Policy.

Member and Acting Chair, Public Interest Declassification Board, 2016-Present.

Presidential designee to advisory committee established by Congress in 2000 to promote the “fullest possible access to a thorough, accurate, and reliable documentary record of significant U.S. national security decisions and activities.” The Board advises and reports to the President on reforming the classification and declassification of government records to include the use of AI driven mechanisms to move from a digital to analog based federated system-of-systems.

Robert E. Wilhelm Fellow, Center for International Studies, Massachusetts Institute of Technology, 2017-2018.

An annual fellowship awarded to an individual who has held senior positions in public life. “The fellowship seeks to bridge the worlds of the scholar and the policymaker by offering each a place to exchange perspectives and by encouraging academics to work on policy-relevant problems.” Previous Wilhelm Fellows include: Prime Minister Ranil Wickremesinghe (Sri Lanka); David Miliband (U.K. Foreign Secretary); and Admiral William Fallon (U.S. Central Command).

Consultant, Intelligence Advanced Research Projects Activity, 2017-2018.

Reported to the Director of IARPA on U.S. and international law, norms, and codes of conduct relating to emerging science and technology areas, with a focus on artificial intelligence, culminating in a 250-page report. (This work was subcontracted through Booz Allen Hamilton.)

Chief Judge (2011–2015), Associate Judge (2000–2011), Senior Judge (2015–Present), United States Court of Appeals for the Armed Forces.

Served as the principal administrative officer and presiding judge of the federal court of appeals responsible for reviewing cases under the Uniform Code of Military Justice. Decisions of the Court are appealable to the U.S. Supreme Court. Author of over 250 opinions in the fields of criminal law and procedure, including the First, Fourth, Fifth and Sixth Amendments, rules of evidence, and jurisdiction. Responsible for a docket of approximately 1,000 petitions per year, a \$14 million budget, a staff of sixty, and the court’s security. Represented the Court before domestic and international audiences.

Special Assistant to the President and Legal Adviser to the National Security Council (1997–2000), Deputy Legal Adviser (1994–1997).

As a career civil servant, advised the President, Vice President, the National Security Council, and the National Security Council staff on U.S. and international law related to,

among other topics, intelligence, counter-terrorism, foreign assistance, non-proliferation, and military operations. Led and coordinated the interagency legal process across executive departments on national security law issues. Served as “agency general counsel,” addressing personnel, fiscal, legislative, investigatory, and litigation matters. Served as Designated Agency Ethics Official for the National Security Council.

Counsel to the President’s Foreign Intelligence Advisory Board and Intelligence Oversight Board, 1993-1994.

Served as legal counsel to Presidential Advisory Board comprised of former senior defense and intelligence officials as well as private citizens charged with providing the President input and advice on intelligence matters. Initiated and crafted the reorganization of the President’s Intelligence Oversight Board, a subcommittee of the larger Board responsible for oversight. Contributing author of a report to the President on intelligence relating to U.S. policy and military operations in Somalia between 1992 and 1993.

Attorney-Adviser, Office of the Legal Adviser, United States Department of State, 1990–1993.

Served as line attorney for the Intelligence, Counterterrorism, and Diplomatic Security Bureaus, while also responsible for U.S. extradition and mutual legal assistance practice with designated countries in the Middle East, Africa, and Europe. In addition, served as the Department’s liaison to the Iran/Contra Independent Counsel and Iran/Contra Interagency Classification Review Group. Toward this end, recruited, organized, and led a team of retired Foreign Service Officers recognized with the State Department’s Superior Honor Award. During second rotation, served as legal adviser to U.S. delegations to the Convention on Long-Range Transboundary Air Pollution, the Convention to Combat Desertification, and to the International Maritime Organization.

Legislative Aide and Acting Chief of Staff to Senator Daniel Patrick Moynihan, 1985–1987.

Performed duties as assigned by Senator Moynihan including legislative review and drafting in the defense, intelligence, and law enforcement areas; domestic and foreign travel with the Senator; and service as Chief of Staff. Organized and led a staff of 57 professional and administrative staff, including design and implementation of the office’s first formal staff and salary structure within a performance management framework.

Infantry Officer, United States Marine Corps (1982-1985) and Marine Corps Reserve, (1979–2000).

Platoon leader, weapons platoon leader, company executive officer, and aide-de-camp to the Commanding General of Marine Corps Base, Camp Lejeune. Authored revised Marine Corps Counterinsurgency Field Manual as a reserve officer. Twice awarded the Navy Achievement Medal. Holder of the Marine Corps Combat Endurance Course Record.

ADDITIONAL EDUCATIONAL & ACADEMIC EXPERIENCE

Board of Trustees, The Langley School, McLean, Virginia, Chairman (2012–2016), Member (2008–2012).

Elected Chair of the Board of Trustees of a 500-student pre-school through eighth grade independent school. During tenure as Chair, the School selected and successfully transitioned a new Head of School, built a fully-funded 28,000 square foot Middle School facility, successfully completed the School’s ten-year accreditation review, and developed the School’s next strategic plan. As a Board Member, served as Chair of the Head of School Search Committee, Chair of the Governance Committee, and member of the Development, Finance, and Facilities Committees.

Visiting Professor, Georgetown University Law Center, 2015-2017.

Responsible for teaching six courses, including three national security seminars incorporating tabletop exercises, a legal ethics seminar exploring legal ethics through the positive example of role models, Federal Courts, and a course on leadership.

Senior Fellow, the Belfer Center for Science and International Affairs, Harvard Kennedy School, Harvard University, 2018-Present.

Distinguished Fellow, the Center for National Security Law, University of Virginia Law School, 2015-Present.

Honorary position recognizing over twenty years of continuous teaching of UVA, and other graduate students, as part of the National Security Law Institute.

Adjunct Professorships

Georgetown Law School, Washington, D.C., 2004–2015 (6 credits per year).

University of Iowa College of Law, Iowa City, IA, 2004–2015 (1 credit). Offered tenure-track position in 2000, which I declined in favor of becoming a judge.

Washington University School of Law, St. Louis, MO, 2012–2015 (1 credit).

University of Pittsburgh School of Law, Pittsburgh, PA, 2009–2012 (1 credit).

Faculty

International Institute of Humanitarian Law, San Remo, Italy, 2013–2016.

Visiting Lecturer

Yale Law School, New Haven, Connecticut, 2001–2004 (2 Credits).

ADDITIONAL AFFILIATIONS

Editorial Board Member, JOURNAL OF NATIONAL SECURITY LAW & POLICY, 2012–Present.

Editorial Board Member, INTELLIGENCE AND NATIONAL SECURITY, 2018-Present.

Member, Board of Directors, ABA Rule of Law Initiative, 2018-Present.

Chair, ABA Standing Committee on Law and National Security, 2015-2018.

Served as the Chair of the standing committee responsible for the ABA's program of scholarship, conferences, workshops, and publications in national security law. The nonpartisan committee of eleven and advisory committee of twenty-two seek to promote public knowledge of, and careers in, the field of national security law.

Member, Advisory Member, and Special Advisor, Standing Committee on Law and National Security, American Bar Association, 2001–2015.

EDUCATION

Yale Law School, J.D., 1990.

Yale University, B.A., *cum laude*, Distinction in History, 1982.

PUBLICATIONS

BOOKS

IN THE COMMON DEFENSE: NATIONAL SECURITY LAW FOR PERILOUS TIMES (Cambridge University Press, 2007).

REGULATING COVERT ACTION (with Michael Reisman) (Yale University Press, 1992).

CHAPTERS

From Horses to Hammers: Homeland Security in Law, Doctrine, and Text, Preface, SOURCEBOOK FOR PUBLIC PRIVATE PARTNERSHIPS FOR SECURITY AND RESILIENCE (American Bar Association, 2017).

Bridging the Gap, Foreword to THE U.S. INTELLIGENCE COMMUNITY LAW SOURCEBOOK (American Bar Association, 3d ed., 2016).

From Cold War to Long War to Gray War: Covert Action in U.S. Legal Context, in ESSENTIALS OF STRATEGIC INTELLIGENCE (Loch Johnson ed., ABC-CLIO Publishers 2015) (best of anthology drawn from updated five-volume Praeger PSI Strategic Intelligence).

On Evidence – Foreword to SALTZBURG, SCHINASI, SCHLUETER, AND HANSEN, MILITARY RULES OF EVIDENCE MANUAL, Eighth Ed. (LexisNexis 2015).

National Security Process, in NATIONAL SECURITY LAW (Moore & Turner eds., 3d Ed., Carolina Academic Press 2015).

Fair Justice – Good Order: The Why, the What, the How, and Maybe even the Whether of Military Justice, Foreword to F. GILLIGAN & F. LEDERER, COURT-MARTIAL PROCEDURE (Matthew Bender 5th ed. 2015).

Foreword to MARIANNE F.H. HIRSCH BALLIN, ANTICIPATIVE CRIMINAL INVESTIGATION: THEORY AND COUNTERTERRORISM PRACTICE IN THE NETHERLANDS AND THE UNITED STATES (T.M.C. Asser Press/Springer 2012).

Exercising Discretion in the Middle Grey: Model Rules and Role Models in the Ethical Practice of National Security Law, in THE U.S. INTELLIGENCE COMMUNITY LAW SOURCEBOOK (American Bar Association, 2012).

Prelude to Decision: Michael Reisman, the Intelligence Function, and a Scholar's Study of Intelligence in Law, Process, and Values, in LOOKING TO THE FUTURE: ESSAYS ON INTERNATIONAL LAW IN HONOR OF W. MICHAEL REISMAN (Mahnoush H. Arsanjani, Jacob Katz Cogan, Robert D. Sloane & Siegfried Wiessner eds., 2010).

Covert Action: United States Law in Substance, Process and Practice, in THE OXFORD HANDBOOK OF NATIONAL SECURITY INTELLIGENCE (Oxford University Press 2010).

From Cold War to Long War: Covert Action in U.S. Legal Context, in STRATEGIC INTELLIGENCE (Loch Johnson ed., Greenwood Publishing Group 2007).

National Security Process, in NATIONAL SECURITY LAW (J.N. Moore et al. eds., Carolina Academic Press 2005).

ARTICLES AND REPORTS

National Security Law & Emerging Technologies: Toward a Decisional Framework, I/S: A JOURNAL OF LAW AND POLICY FOR THE INFORMATION AGE VOL. 15 (forthcoming 2018/2019).

Artificial Intelligence and National Security Law: A Dangerous Nonchalance, STARR FORUM REPORT, May 25, 2018, MIT Center for International Studies.

The U.S. Military Commissions: Looking Forward, (with Laura Dickinson), Report, ABA Standing Committee on Law and National Security (May 2018).

The NSC in Transition: Organizing the National Security Council, Process, and Staff in the Next Administration, American Bar Association, Standing Committee on Law and National Security (November 2016).

The Importance of Building Fires: Lessons Learned as a Judge on the United States Court of Appeals for the Armed Forces, 15 J. APP. PRAC. & PROCESS 201 (Fall 2014/Released Spring 2015).

What Process is Due: The role of Judging in National Security, The Judge Leonard I. Garth Lecture, 67 RUTGERS L. REV. VOL. 6 (Spring 2015).

Is Military Justice Sentencing on the March? Should it be? And, if so, Where Should It Head? Court-Martial Sentencing Process, Practice and Issues, 27 FEDERAL SENTENCING REPORTER Issue 2 (2015).

Process, Practice, and Principle: Teaching National Security Law and the Knowledge that Matters Most, Vol. 27. No. 2, GEO. J. LEGAL ETHICS 163 (2014).

The Master Mason: How Professor Baldus Built a Bridge from Learning to Law and the Legacy of Equal Justice he Leaves Behind, 97 IOWA L. REV. 1871 (2012).

Jupiter as Everyman: Michael Reisman and the Scholar as Teacher, 34 YALE J. INT'L L. 533 (2009).

A Running Start: Getting "Law Ready" during a Presidential Transition, 30 A.B.A. Nat'l Sec. L. Rep. (2008).

The Twenty-Year Test: Principles for an Enduring Counterterrorism Legal Architecture, 2 ADVANCE 2, J. ACS ISSUE GROUPS (2008).

What's International Law Got to Do with It? Transnational Law and the Intelligence Mission, 28 MICH. J. INT'L L. 639 (2007).

Internet Pandemic? The Not-So-Secret and Expanding World of Child Pornography (with Melanie Krebs-Pilotti), 53 FED. LAW. 50 (2006).

Letter of Appreciation: Peter Murphy Retires after a Lifetime of Dedication as Counsel to the Commandant of the Marine Corps, 52 FED. LAW. 4 (2005).

LBJ's Ghost: A Contextual Approach to Targeting Decisions and the Commander in Chief, 4 CHI. J. INT'L L. 407 (2003).

The National Security Presidency in Constitutional Context: Reflections on Terrorism and the Presidency from the Last Ten Years, 19 MILLER CTR. REPORT 12 (2003).

The Constitutional Duty of a National Security Lawyer in a Time of Terror, 11 PUB. LAW. 1 (2003).

Constitutional Dignity and the Criminal Law, 174 MIL. L. REV. 125 (2002).

National Security Process and a Lawyer's Duty, 173 MIL. L. REV. 124 (2002).

Ordered Liberty and the Homeland Security Mission, 10 PUB. LAW. 2 (2002).

When Lawyers Advise Presidents in Wartime: Kosovo and the Law of Armed Conflict, NAVAL WAR C. REV., Winter 2002, at 11, 18.

INVITED LECTURES & PRESENTATIONS (*Illustrative List*)

UNITED STATES

National Security Process, Dean Rusk International Law Center, Georgia School of Law, the University of Georgia, September 13, 2018.

A Dangerous Nonchalance: Artificial Intelligence and National Security Law, The Starr Forum, Massachusetts Institute of Technology, March 6, 2018.

Leaders and Lawyers, Keynote Presentation, Judge Advocate General's Worldwide CLE Conference, Charlottesville, Virginia, September 18, 2018.

Thinking About Extremism in the 21st Century, Keynote Panel ABA Rule of Law Initiative Annual Conference on Contemporary Rule of Law Issues: Rule of Law Approaches to Countering Violent Extremism, May 4, 2017.

Free Speech and Sexual Harassment: When Should the Military Prosecute, George Washington Law School, televised live by C-SPAN, April 12, 2017.

To the Temple of Virtue: Ethical Challenges for Judge Advocates at a Time of Challenge and Conflict, United States Court of Appeals for the Armed Forces, Continuing Legal Education and Training Program, March 9, 2017.

Meeting the Challenges of Practicing National Security Law, Keynote, Office of the General Counsel, National Geospatial-Intelligence Agency Off-Site January 31, 2017.

A Higher Form of Patriotism, Address, Georgetown Law School, Veterans Day Ceremony, November 11, 2016.

National Security Law and Process in Transition, United States Air Force Continuing Legal Education Conference, George Mason University, November 4, 2016.

The Duty of a National Security Lawyer in a Time of Challenge and Change, Remarks before the ABA Standing Committee on Law and National Security, Review of the Field Conference, November 14, 2017.

Judges' Perspectives on Victims' Appellate Rights, Testimony, The Judicial Proceedings Panel re: September 23, 2016.

The Importance of Public Service, Remarks of the Guest of Honor, Military Lawyers Committee Dining Out, San Francisco, August 5, 2016.

Lessons Learned as a National Security Lawyer, Office of the Chief Counsel, Transportation Security Administration, July 20, 2016.

Veterans as Lawyers and Judges, Law Students Veterans Conference, Washington, D.C., June 24, 2016.

A Legal Role Model, Investiture of the Honorable John E. Sparks, United States Court of Appeals for the Armed Forces, May 25, 2016.

The Importance of Building Fires, The 44th Kenneth J. Hodson Lecture, The Judge Advocate General's School, Charlottesville, Virginia, April 2016.

Finding Your Courage to meet the Challenges of Practicing National Security Law, 1L Convocation Lecture, Syracuse University Law School, April 11, 2014.

Ethics Challenges: From Model Rules to Role Models, Ethics training for National Association of Attorneys General representing the 56 state and territorial Attorneys General, February 23, 2016.

Legal Lives: The Role of Moral Courage in Upholding the Law, The 2015 Morehouse Lecture, The Judge Advocate General's School, Maxwell Air Force Base, Montgomery, Alabama, June 2015.

Victims' Rights and the Military Justice System, Keynote Address, National Crime Victims Conference, Lewis & Clark Law School, May 2015.

Mind the Gap: Security, Liberty, and Privacy, Keynote Address, The National Summit on Homeland Security Law, Oklahoma City University School of Law on the Twentieth Anniversary of the Murrah Federal Building bombing, April 2015.

Know What You Stand For: Current Issues in Intelligence Law and Ethics, Washington & Lee Department of Political Science and Law School, April 2015.

Keynote Address, *Military Contractors*, National Security Law Brief Symposium, American University Law School, March 24, 2015.

Law, Leadership, and Role Models, Ohio State University Law School, Program on Law and Leadership, Speaker Series Keynote, November 14, 2014.

Lasting Post: Love, Law and Laureates – Honoring Forgotten Legacies of World War I, The William C. Crooks Distinguished Lecture, Greenwich Historical Society, Greenwich, CT, Nov. 5, 2014.

American Bar Association, Section on National Security and the Law, Annual Keynote Speaker on Law and Ethics (2009–Present).

Peter M. Murphy: An Appreciation, Eulogy, Sousa Band Hall, Marine Barracks, 8th & I, Washington, D.C., November 23, 2013.

Civil-Military Relations in Today's National Security Context (The Military Legal Committee of the Americas (COJUMA) Conference, United States Southern Command, Miami, Florida, 2014).

Why do we Conduct Foreign Intelligence Surveillance? The Baker Framework for Intelligence Gathering, Panel, George Washington Law School, May 2, 2014.

Every Day Commemoration Day: Why the People and Voices of 9/11 Shall Never Fade (Naval Support Activity 9/11 Commemoration Speech, Virginia, 2013).

In Defense of Public Service (William S. Fulton, Jr. Appellate Military Judges Conference, Washington, D.C., 2013).

Military Justice Trends in Brief: From C.A.A.F. to Canberra (William S. Fulton, Jr. Appellate Military Judges Conference, Washington, D.C., 2012).

Do's, Don'ts, and Depends: Intelligence, Ethics, and the Law (National Intelligence University, Washington, D.C., 2012).

Five Legal Lives: Lessons in Moral Courage (Central Intelligence Agency, Offsite, 2011).

National Security Process (United States Special Operations Command, Tampa, Florida, 2011).

The Role of National Security Lawyers (American Bar Association Breakfast, Washington D.C., 2011).

Veterans Day: Our Day of Conscience and Remembering the Judges Who Helped Make it So (Keynote Speaker at the Appellate Judges Education Institute Annual Conference, Washington D.C., 2011).

Cyber Security and the Law (Defense Policy Board Testimony, Washington D.C. 2010).

Homeland Security: The Next Generation (United States Pacific Command Regional Conference, Honolulu, Hawaii, 2010).

Three Legal Lives: Lessons in Moral Courage (The Franklin M. Loew Lecture Series, Becker College, Worcester, Massachusetts, 2010).

Crossroads: Why Northern Command Is at the Intersection of U.S. National Security Policy and Law and Three Lessons to Guide It on Its Way (United States Northern Command, Colorado Springs, Colorado, 2009).

Making Targeting Decisions in Armed Conflict: U.S. Process, Substance, and Practice (Yale Law School, New Haven, Connecticut, 2009).

Lessons I Was Not Taught in Law School (Franklin Pierce Law Center Commencement Address, New Hampshire, 2009).

From Normandy to Montgomery: Frank Johnson, Moral Courage, and the Simple Language of Action (Army Command and Staff College Commencement Address, Fort Leavenworth, Kansas, 2009).

Making Good Choices and the Role Models Who Guide Us (Buckingham, Browne & Nichols School, Cambridge, Massachusetts, 2008).

National Security Process (Project on National Security Reform, Washington D.C. 2008).

Support and Defend: Constitutional Law and the Threat of Nuclear Terrorism (New York University, New York, New York, 2007).

What's International Law Got to Do with It? Good Process, Good Lawyers, Transnational Law and Better Intelligence (University of Michigan Journal of International Law Symposium, Ann Arbor MI., 2007).

Terrorism and the National Security Legal Agenda: Authority, Appraisal, and the American Legal Ideal, NPR live broadcast before the Iowa City Foreign Relations Council, July 8, 2004.

Finding True North in Times of Challenge: Honor as a Moral Compass for High School and Beyond (The Dubois Fellowship Lecture, The Taft School, Watertown, Connecticut, 2003).

INTERNATIONAL

Yin & Yang: Getting the Most out of the Strategic Partnership Between Military Leaders and their Lawyers (United States Pacific Command, Military Operations Regional Conference, Keynote, Brisbane, Australia, June 26, 2017).

Judging Judges: Meeting Today's Challenges in and out of the Courtroom (Address to the Justices and Judges of the Supreme Court, Court of Appeal, and High Courts of the Republic of Fiji, June 22, 2017).

The Role of the Prosecutor: A Judicial Perspective (Presentation at the Fiji Police Training Academy, June 21, 2017.)

On Lawyering: In Court, Under Pressure, and in Life, Three-part presentation to the Office of the Director of Public Prosecutions, Suva, Fiji, June 23, 2017).

Essence of Decision: Presidential Process and the Role of Law and Intelligence (International Security and Intelligence Program, Pembroke College, University of Cambridge, Cambridge, England, 2014 & 2015).

The Rule of Law in the Military Context: What Is It? How Do You Get It? What is the Role of the Military Lawyer? (Africa Accountability Colloquium, International Institute of Humanitarian Law, San Remo, Italy, 2014).

The Six Cs: The Why, the What and Maybe Even the Whether of Military Justice in the 21st Century (The South and North American Constitutional and Military Law Seminar, Superior Military Tribunal, Brasilia, Brazil, 2013).

Command and Control: Thoughts on the Role of Command in Military Justice (Africa Accountability Colloquium, International Institute of Humanitarian Law, San Remo, Italy, 2013).

The Role of the Military in Advancing the Rule of Law (World Justice Forum, The Hague, The Netherlands, 2013).

Toward a National Security Paradigm: Targeted Killing in US Practice and Law (T.M.C. Asser Institute/International Centre for Counter-Terrorism, The Hague, The Netherlands, 2012).

Comparative Criminal Law (University of Utrecht, The Hague, The Netherlands, 2012).

The Intelligence Lawyer: Practice, Process, and Principles and *The Role of the Judiciary in National Security*, (Centro de Investigación y Seguridad Nacional (CISEN), Mexico City, Mexico, 2011).

Civil-Military Relations in Today's National Security Context (United States European Command, Budapest, Hungary, 2010).

Comparative Law and Military Justice (New Zealand Law Reform Commission, Wellington, New Zealand, 2010).

The Role of Law in National Security Decision-Making (Jawaharlal Nehru University, New Delhi, India, 2009).

National Security Law in Transition: Examining the First Months of the New Administration (United Kingdom Home Office, London, England, United Kingdom, 2009).

A National Security Legal Agenda for the Next Administration (Pacific Command Regional Conference, Singapore, Singapore, 2008).

Rule of Law and Civil Society (Malaysian Bar Association, Kuala Lumpur, Malaysia, 2008).

In addition, lectured and made faculty presentations at numerous additional educational institutions, including: Brooklyn Law School, Catholic University, Columbia University, Cornell University, Duke University, Essex Community College, Fordham University, the Judge Advocate Schools, Miami University, the National Defense University, the National War College, New York University, Oxford University, Texas Tech University, the United States Air Force Academy, University of Iowa College of Law, University of Michigan, University of Washington, University of Virginia, and Vanderbilt University.

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