



Cyber Law as an Element of National Power

National Defense University
Marshall Hall 155
October 14, 2010

08:30 – 08:45	Stuart Starr, CTNSP, Introduction
08:45 – 09:15	Robert Butler, DASD (Cyber Policy), OUSD (Policy), OSD
09:15 – 09:45	Break
09:45 – 10:30	Jody Westby, Global Cyber Risk LLC, “International Cyber Framework: II”
10:30 – 11:15	Dan Ryan, iCollege, NDU, “Cyber Incidents”
11:15 – 12:00	Col James Baker (USAF), Commander’s Advisory Group, “Cyberwar” Lt. Col Cynthia Wright (USAF), Pentagon Joint Staff
12:00 – 13:30	Lunch; “Perspectives from Congress” Speakers: Paul Lewis, General Counsel, Committee on Armed Services, U.S. House of Representatives Brandon L. Milhorn, Minority Staff Director and Chief Counsel, Senate Homeland Security and Governmental Affairs Committee
13:30 – 14:15	Steven Chabinsky, Deputy Assistant Director, FBI Cyber Division, “Cyber Crime”
14:15 – 15:00	Dan Kuehl, iCollege, NDU, “From IO to Cyberwarfare”
15:00 – 15:15	Break
15:15 – 16:00	Harvey Rishikof, National War College, NDU, “Data Issues”
16:00 – 16:45	Ben Wittes, The Brookings Institute, “Terrorism: The Long War”
16:45 – 17:00	Panel Wrap-up

Plan: Presentation: 30 minutes, with 15 minutes for Q&A

Dr. Stuart H. Starr is a Senior Research Fellow at the Center for Technology and National Security Policy (CTNSP), National Defense University (NDU). Concurrently, he serves as President, Barcroft Research Institute (BRI), where he consults on cyber, Command and Control (C2), and Modeling and Simulation (M&S) issues (e.g., The Institute for Defense Analyses (IDA)), lectures to audiences world-wide on cyber, C2, and M&S issues, and participates on Blue Ribbon panels (e.g., member of the Army Science Board). Prior to founding BRI, Dr. Starr was Director of Plans, The MITRE Corporation; Assistant Vice President for C3I Systems, M/A-COM Government Systems (currently a unit of SAIC); Director of Long Range Planning and Systems Evaluation, OASD(C3I), Office of the Secretary of Defense (where he was member of the Senior Executive Service); and Senior Project Leader, IDA. Dr. Starr received a PhD and MS in Electrical Engineering from the University of Illinois, and a BSEE from Columbia University. He has received the Clayton Thomas medal (2004) and the Vance Wanner medal (2009) from the Military Operations Research Society (MORS) for lifetime accomplishments in operations analysis.

Benjamin Wittes is a senior fellow in Governance Studies at The Brookings Institution. He is the author of *Law and the Long War: The Future of Justice in the Age of Terror*, published in June 2008 by The Penguin Press. He is editor of the 2009 Brookings book, *Legislating the War on Terror: An Agenda for Reform*. His previous books include *Starr: A Reassessment*, which was published in 2002 by Yale University Press, and *Confirmation Wars: Preserving Independent Courts in Angry Times*, published in 2006 by Rowman & Littlefield and the Hoover Institution. Between 1997 and 2006, he served as an editorial writer for *The Washington Post* specializing in legal affairs. Before joining the editorial page staff of *The Washington Post*, Wittes covered the Justice Department and federal regulatory agencies as a reporter and news editor at *Legal Times*. His writing has also appeared in a wide range of journals and magazines, including *Slate*, *The New Republic*, *The Wilson Quarterly*, *The Weekly Standard*, *Policy Review*, and *First Things*. Benjamin Wittes was born November 5, 1969 in Boston, Massachusetts, and graduated from Oberlin College in 1990.

Harvey Rishikof is chair of the ABA Standing Committee on Law and National Security, www.abnet.org/natsecurity. Rishikof is a professor of law and national security, and former chair of the department of National Security Strategy at the National War College in Washington, DC. He was a tutor in Social Studies at Harvard University, a federal law clerk in the Third Circuit for Judge Leonard I. Garth, an associate at Hale and Dorr, a Supreme Court Judicial Fellow, AA to the Chief Justice of the United States, William H. Rehnquist, legal counsel to the Deputy Director of the FBI, and Dean of a law school. He has been a consultant for the World Bank, USAID, and national intelligence. Rishikof has written numerous law review articles, chapters and monographs. His latest forthcoming co-edited book with Roger George at Georgetown press is, "[Navigating the Labyrinth - the National Security Enterprise](#)." Rishikof is a member of the Council on Foreign Relations, the American Law Institute and is on the Advisory Board for Harvard University's National Security Law Journal.

Mr. Robert (Bob) Butler is Deputy Assistant Secretary of Defense for Cyber Policy. He is responsible for providing insightful policy advice and support to the Secretary of Defense and other senior Department of Defense (DOD) leaders by formulating, recommending, integrating, and implementing policies and strategies to improve United States Cyber and Space posture. This encompasses DoD policy relating to requirements,

capability development, operations, declaratory policy, employment, and international cooperation or agreements. Mr. Butler served as an Account Executive with Computer Sciences Corporation (CSC), managing Defense Intelligence business with Combatant Commands and Military Services. He managed approximately 200 employees at over ten separate customer locations in the United States, Germany and the United Kingdom. He served as chairman of corporate cyber technical working group coordinating cyber strategies across commercial, international and federal sector market spaces. Mr. Butler is a former member of the Senior Executive Service, and recently was the Associate Director, Joint Information Operations Warfare Command (JIOWC), Lackland Air Force Base, Texas. In this position, he advised the JIOWC commander and US Strategic Command leadership on key information operations issues and opportunities for providing superior support to combatant command and Department of Defense plans and operations. Additionally, Mr. Butler guided the development of JIOWC IO strategies and technologies to enhance mission support. Mr. Butler is a retired U. S. Air Force officer. From December 1979 to August 2005, he served in a variety of intelligence and communications-computer systems positions in the continental United States and Europe at the detachment, squadron, group, major command, unified command, Headquarters Air Force and Office of the Secretary of Defense levels.

Paul M. Lewis was appointed the General Counsel of the House Armed Services Committee in March 2010. Mr Lewis served as the Director, Office of Legislative Counsel (OLC), Office of General Counsel, Department of Defense, from 2008-2010. Previously, Mr. Lewis was the counsel to the Chairman of the House Ethics Committee and a senior counsel for the House Armed Services Committee. While with the Ethics Committee he served as the lead counsel when the House of Representatives expelled Representative James Traficant in 2002. While serving as counsel to the Chairman in the fall of 2004, the Committee admonished the Majority Leader of the House, Representative Tom DeLay, three times. Mr. Lewis received his undergraduate degree in History from the University of Notre Dame in 1980. After his graduation from Notre Dame Law School in 1983, he served as a judge advocate in the United States Marine Corps, an Assistant District Attorney in the Manhattan DA's office and as a trial attorney in the Organized Crime and Racketeering Section of the Department of Justice. He is admitted to the bars of New York, New Jersey and other federal jurisdictions. Mr. Lewis is an adjunct professor at Georgetown University, where he currently teaches "Introduction to Ethics" and "Ethical Issues in American Politics". He also regularly lectures on ethics and congressional investigations at Georgetown Law School and George Washington University Law School.

Dr. Daniel Kuehl is the Director of the Information Operations Concentration, a specialized curriculum on national security in the information age offered at the National Defense University. His courses concentrate on such issues as the information component of national power, information operations, cyberspace, and strategic communication. He retired as a Lieutenant Colonel in 1994 after nearly 22 years active duty in the USAF. He holds a PhD in History from Duke University, where his dissertation focused on the Air Force's employment of electronic warfare in the decade after WW II. His publications include a wide range of academic and professional journals, and he has contributed to numerous books on airpower and information warfare, including the *Cyberwar* series from AFCEA, *Information Operations* by Potomac Press, and *Cyberpower and National Security*. He is on the editorial boards of *Joint Force Quarterly*, *Journal of Information Warfare*, and the *Journal of Military Studies* (in

Finland), and is the editor of *The Information Operations Journal*. He is a member of the Public Diplomacy Council, the Information Operations Institute, and the Cyber Conflict Studies Association. He was a member of the Defense Science Board team that wrote the 2004 report on *Strategic Communication*. He lectures internationally on the subject of information power, and his current research focuses on the relationship between the information age and national security.

Drawing upon a unique combination of more than twenty years of technical, legal, policy, and business experience, **Ms. Jody Westby** provides consulting and legal services to public and private sector clients around the world in the areas of privacy, security, cybercrime, breach management, forensic investigations, and e-discovery. She also serves as Adjunct Distinguished Fellow for Carnegie Mellon CyLab. Prior to forming Global Cyber Risk, Ms. Westby served as senior managing director for PricewaterhouseCoopers (PwC), specializing in outsourcing and cyber security/privacy issues. Before that, she was president of The Work-IT Group; launched In-Q-Tel, an IT venture capital/solutions company for the CIA; served as director of domestic policy for the U.S. Chamber of Commerce; and was senior fellow and director of IT studies for the Progress & Freedom Foundation. Earlier in her career, Ms. Westby practiced law with two top-tier New York firms and spent ten years in the computer industry specializing in database management systems. Ms. Westby is a member of the bars of the District of Columbia, Pennsylvania, and Colorado and serves as chair of the American Bar Association's Privacy and Computer Crime Committee. She co-chairs the World Federation of Scientists' Permanent Monitoring Panel on Information Security and represents the ABA on the National Conference of Lawyers and Scientists. She is also a member of the United Nation's High Level Experts Group on Cyber Security and led the development of *the ITU Toolkit on Cybercrime Legislation*. Ms. Westby is co-author and editor of four books on privacy, security, cybercrime, and enterprise security programs. She speaks globally and is the author of numerous articles. B.A., summa cum laude, University of Tulsa; J.D., magna cum laude, Georgetown University Law Center; Order of the Coif.

Col Jim Baker is a career acquisition professional, with stints as a program manager, chief engineer and test engineer developing C4I battle management systems, electronic countermeasures, airborne radars, and fighter avionics. His date of rank is January 2007. He has served as an executive officer and had three prior staff tours with the Office of the Secretary of Defense, Air Force Secretariat and on the Air Staff. His most recent assignment was the Deputy Director for Tactical Aircraft Systems with the Under Secretary of Defense for Acquisition, Technology and Logistics organization. Prior, he led the Joint Strike Fighter Mission Systems Integrated Product Team, a \$5.5 billion dollar project which involved developing highly sophisticated avionics, five sensors, and more than 4 million lines of software. He has been a Special Assistant to the Chairman, Joint Chiefs of Staff and Director of the Chairman's Action Group since October 2007. He assists the Chairman in developing his best military advice on a range of national security and strategy issues.

Lieutenant Colonel Cynthia Wright has held a variety of positions in communications systems and information assurance, including: action officer and Executive Officer on both Joint and Air Force major command staffs, Combat Communications Flight Commander, Branch Chief in the Pentagon's National Military Command Center, Chief of Information Assurance for U.S. European Command, and Air Command and Staff

College instructor. She commanded the 690th Intelligence Support Squadron, and was the Deputy Group Commander for both the 26th Network Operations Group under the 67th Network Warfare Wing in Texas, and the 506th Expeditionary Air Group in Kirkuk, Iraq. Lt Col Wright is presently on the Pentagon Joint Staff.

Dr. Daniel J. Ryan is a Professor of Information Operations and Assurance Department at iCollege at the National Defense University. As an academician, Dr. Ryan has developed curricula and taught courses in information assurance and cyberlaw for the Information Resources Management College of the National Defense University, the George Washington University, James Madison University, the University of Maryland University College, and Utica College of Syracuse University. In the private sector, he served as a Corporate Vice President of Science Applications International Corporation, and served in earlier executive roles at Booz Allen & Hamilton, Bolt Beranek & Newman, TRW, and Hughes Aircraft Company. In the public sector, he served as Executive Assistant to the Director of Central Intelligence after earlier serving as Director of Information Systems Security for the Office of the Secretary of Defense, acting as the principal technical advisor for all aspects of information security, including classification management, communications security (COMSEC) and cryptology, computer security (COMPUSEC) and transmission security (TRANSEC), as well as TEMPEST, technical security countermeasures (TSCM), operational security (OPSEC), port security, overflight security, and counterimagery. Dr. Ryan is a co-author of *Defending Your Digital Assets* published by McGraw-Hill and *Cases and Materials in CyberLaw* published by Wyndrose Technical Group. He has also published numerous articles in peer-reviewed journals and professional magazines on the subjects of information assurance, law, engineering and mathematics. Current research interests include quantitative risk management for information infrastructures and evidentiary issues in digital forensics. Dr. Ryan has a B.S. from Tulane University, an M.A. and a J.D. from the University of Maryland, and an M.B.A. from the California State University.

Mr. Steven R. Chabinsky is currently on a rotational joint duty assignment with the Office of the Director of National Intelligence (ODNI) where he serves as the Assistant Deputy Director of National Intelligence for Cyber, the Chair of the National Cyber Study Group, and the Director of the Joint Interagency Cyber Task Force. In this capacity he assists the Director of National Intelligence in fulfilling his obligation to coordinate, monitor, and provide recommendations to the President regarding the implementation of the broad portfolio of activities and programs that comprise the President's Comprehensive National Cyber Security Initiative (CNCI). The CNCI is contained within National Security Presidential Directive 54/Homeland Security Presidential Directive 23. Mr. Chabinsky's home agency is the Federal Bureau of Investigation (FBI), where he previously served as Chief of the Cyber Intelligence Section. In this capacity, Mr. Chabinsky led the FBI's analysis and reporting on terrorism, foreign intelligence, and criminal matters having a cyber threat nexus. Mr. Chabinsky joined the FBI in 1995 as an attorney in the Bureau's Office of the General Counsel. In 1998, Mr. Chabinsky became Principal Legal Advisor to the National Infrastructure Protection Center (NIPC) and later served as senior counsel to the Cyber Division. Mr. Chabinsky played a prominent role in the development of InfraGard, an information sharing and analysis partnership to enhance nationwide cooperation between the private sector, academia, and federal, state, and local government agencies. Prior to joining the FBI, Mr. Chabinsky worked as an associate attorney in the law firm of Simpson Thacher & Bartlett in New York City, and clerked

for the Honorable Dennis G. Jacobs (now Chief Judge) of the United States Court of Appeals for the Second Circuit. Mr. Chabinsky graduated with honors from Duke University in 1987 and from Duke Law School in 1990.

Since October 2006, **Brandon Milhorn** has served as the Republican Staff Director and Chief Counsel of the Senate Homeland Security and Governmental Affairs Committee. The Committee is responsible for oversight of, and legislative matters relating to, the Department of Homeland Security, the United States Postal Service, and several other U.S. government departments and agencies. In addition to these responsibilities, the Committee has primary jurisdiction over matters relating to government information, Federal civil service, intergovernmental relations, certain budget and accounting measures, and the municipal affairs of the District of Columbia. The Committee also has a government-wide investigative mandate to examine issues of efficiency, economy, and effectiveness. Before joining the Committee, Brandon served as the General Counsel of the Senate Select Committee on Intelligence. As General Counsel, he advised the Committee on all legal matters and prepared the annual Intelligence Authorization bill and other Committee legislation. He also provided legal analysis of other legislative proposals within the Committee's jurisdiction. He joined the Committee staff as a counsel in April 2003. Before joining the Senate, Brandon served for more than three years as an attorney in the Office of General Counsel at the Central Intelligence Agency (CIA). During his tenure at the CIA, he was assigned to the Office of Congressional Affairs, the Intelligence Support Division, and the Administrative Law and Ethics Division. In these assignments, he provided guidance on constitutional, statutory, and other legal matters relating to CIA operations, including advice on general legal matters such as appropriations law, government ethics, equal employment and non-discrimination statutes, federal tort claims, and personnel and information security. Prior to joining the CIA, Brandon served as a law clerk to the Honorable Edith H. Jones, United States Court of Appeals for the Fifth Circuit, and the Honorable Kenneth M. Hoyt, United States District Court for the Southern District of Texas. Brandon earned a B.S. in Economics from East Tennessee State University. He received his law degree from Cornell Law School. He was admitted to the Texas bar in 1997.