



ACC NCR Congressional Investigations: Learning Best Practices From Missteps

April 26, 2023

Amy Jeffress, Janice Bashford, Mark Epley

Featuring Patrick Samsel, General Counsel at Fors Marsh

ACC NCR Congressional Investigations: Learning Best Practices From Missteps

April 26, 2023

12:30–2:00 PM EST

Table of Contents

Speaker Biographies

.....Tab 1

Amy Jeffress, Janice Bashford, & Mark Epley

Featuring Patrick Samsel, General Counsel at Fors Marsh

Practice Overviews

.....Tab 2

Legislative & Public Policy, White Collar Defense & Investigations,
Congressional Investigations

Supporting Materials,

.....Hyperlinked

- *McGrain v. Daugherty (1927)*
- *Eastland v. US Servicemen’s Fund (1975)*
- *Trump v. Mazars (2020)*
- 118th Congress House Rules
- Rules of the Committee on Oversight and Reform, 118th Congress
- *US v. Bannon (2021)*
- *Comm. on the Judiciary v. Harriet Miers (2008)*
- *Comm. on the Judiciary v. McGhan (2019)*

- *Committee On Homeland Security And Governmental Affairs Resolution Directing The Senate Legal Counsel To Bring A Civil Action To Enforce A Subpoena Of The Permanent Subcommittee On Investigations (2016)*
- *Meadows v. Pelosi (2022)*
- CRS: A Survey of House and Senate Committee Rules on Subpoenas (2021)
- CRS: Congress's Contempt Power and the Enforcement of Congressional Subpoenas: Law, History, Practice, and Procedure (2017)
- CRS: Statement of Todd Garvey before the Committee on the Judiciary Hearing on "Civil Enforcement of Congressional Authorities" (2021)
- *Eastman v. Thompson (2021)*
- *Bragg v. Jordan (2023)*
- 5th Amendment
- Comer Launches Investigation
- Waxman Releases Tobacco Study
- JUUL PMTA denied
- Congressional Correspondence, Exemplars
 - Warren Letter to Circle CEO
 - Letter from Chairman Comer to FDA
 - Chairman Jordan to Pomerantz (letter accompanying subpoena)

Tab 1: Speaker Biographies

Amy Jeffress

Partner

Washington, DC

amy.jeffress@arnoldporter.com

+1 202.942.5968



Amy Jeffress co-chairs the firm's White Collar Defense & Investigations practice. Ms. Jeffress represents clients in criminal defense, national security, and compliance matters. She conducts internal investigations and advises companies and individuals on export enforcement, FCPA, classified information, the Foreign Agents Registration Act (FARA), and mutual legal assistance and other international law enforcement issues, including extradition and INTERPOL notices.

Before joining the firm, Ms. Jeffress served as the Justice Department Attaché to the US Embassy in London, where she coordinated cooperation between US and UK authorities on criminal matters. She previously served as Counselor to the Attorney General, advising the Attorney General and senior Department leadership and interfacing regularly with the White House and National Security Council, the intelligence community, and other agencies on national security investigations and prosecutions and international matters.

Ms. Jeffress tried more than 40 cases during her 13 years as a federal prosecutor with the US Attorney's Office for the District of Columbia. She served as Chief of the National Security Section, conducting and supervising investigations and prosecutions of international and domestic terrorism, espionage, export control violations, and other crimes related to national security.

Experience

Representative Matters

- *Multiple companies and individuals* in government and internal investigations relating to export enforcement, including alleged violations of the Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR), Office of Foreign Assets Control (OFAC) sanctions, and United Nations sanctions. Gained specific experience involving sanctions relating to China, Iran, Russia, and Cuba.
- *Companies and individuals* on a range of matters relating to national security, including handling of classified information and security clearances.
- *Multiple individuals* in FCPA investigations, including DOJ and SEC investigations of a global biopharmaceutical company, a global technology provider, and a major commodity trading and mining company.

Areas of Focus

- White Collar Defense & Investigations
- National Security
- Government Contracts
- Anti-Corruption
- Export Control and Sanctions

Education

- JD, Yale Law School, 1992
 - Diploma, Political Science, Freie Universität Berlin, 1989
- BA, Political Science, Williams College, 1987, *magna cum laude*

Admissions

- District of Columbia
- Virginia

Arnold & Porter

- *Former State Department official* in high-profile Department of Justice investigation; successfully obtained declination.
- *Numerous individuals* in white collar criminal investigations, during Grand Jury proceedings and at trial.
- *Companies* seeking guidance on FCPA, anti-bribery, anti-money laundering, OFAC, and SEC compliance.
- *Public company* in internal investigation of SEC whistleblower allegations.
- *Individuals* challenging INTERPOL Red Notices; obtained decisions from INTERPOL to delete or block Red Notices in four separate individual matters.
- *Multiple individuals* challenging extradition to and from the United States.

Recognition

- *Latin Lawyer 250*
Anti-Corruption Investigations and Compliance (2021)
- *The Legal 500 US*
Corporate Investigations and White-Collar Criminal Defense (2015, 2017, 2019-2021)
International Litigation (2021)
- *Chambers USA*
Litigation: White-Collar Crime & Government Investigations (DC) (2018-2021)
- *Washington, DC Super Lawyers* Criminal Defense: White Collar (2016-2021)
- *National Law Journal*
"Trailblazers"—Washington, DC (2020)
- *Washingtonian* Magazine
"Top Lawyers" – White Collar (2017, 2018)
"Top Lawyers" – National Security (2015)
- *Working Mother* Magazine Featured among the "Working Mothers of the Year" (2016)
- Counterintelligence Award of Excellence
Received for a multi-agency law enforcement and intelligence investigation of an international weapons of mass destruction transshipment network identified as a top national security threat (2013)
- John Marshall Award
Department's highest award for trial litigation, for outstanding legal achievement at trial (2006)
- Executive Office for US Attorneys Director's Award for Superior Performance
Superior performance on a litigation team that prosecuted the longest criminal trial in the history of the US District Court for the District of Columbia (2005)

Arnold & Porter

Professional and Community Activities

- Barrister, Edward Bennett Williams Inn of Court
- Member, Advisory Committee to the US District Court for the District of Columbia on the Local Rules
- Board Member, DC Circuit Historical Society

Government / Military Service

- Justice Department Attaché, US Embassy London
- Counselor to the Attorney General for National Security and International Matters, Department of Justice
- Chief, National Security Section, US Attorney's Office for the District of Columbia

Janice Bashford

Partner

Washington, DC

janice.bashford@arnoldporter.com

+1 202.942.6185

Janice Bashford is a Partner at Arnold & Porter. Janice brings more than 15 years of congressional experience in building strategic partnerships across a range of issues to help clients navigate the oversight, appropriations, and general legislative process. In her prior role as Chief Counsel to several Members of Congress, including Congresswoman Karen Bass, Ms. Bashford played a key role in preparing Members and witnesses to testify before Congress. She also negotiated and advanced legislation and other initiatives on a range of issues. Her background includes congressional oversight, financial services, judiciary and foreign affairs. Since joining the firm, Janice has led client teams and provided strategic advice for several congressional investigations, including for Fortune 50 and Fortune 500 clients. She utilizes her background to guide executives through congressional inquiries and testimony.

She also has worked closely with numerous key committees and groups, including the Ways and Means Committee, the Judiciary Committee, the Financial Services Committee, the Senate Banking, the Foreign Affairs Committee, the Congressional Black Caucus, the Bipartisan Women's Caucus, the Congressional Tri-Caucus (the Congressional Black Caucus, the Congressional Hispanic Caucus, and the Congressional Asian-Pacific American Caucus), and the Congressional Caucus on Foster Youth.

Other senior leadership roles include working for Washington, DC Mayor Muriel Bowser, Congresswoman Maxine Waters, Congresswoman Sheila Jackson Lee, and, earlier in her career, in staff positions for US Senator John Kerry and on the field operations team of the 2008 Obama-Biden campaign.



Areas of Focus

- Legislative & Public Policy
- Congressional Oversight and Investigations
- Financial Services

Education

- JD, Georgetown University
- BA, American University

Admissions

- District of Columbia
- New York

Mark Epley

Partner

Washington, DC

mark.epley@arnoldporter.com

+1 202.942.5964

Mark Epley brings experience in public policy and crisis management from senior positions in Congress and at the Departments of Justice and Defense to assist clients across a range of industries. He previously served as Senior Advisor and General Counsel to House Speaker Paul Ryan. He also served as General Counsel of the House Ways and Means Committee and Chief Oversight Counsel where his work touched on the full breadth of the committee's jurisdiction—tax policy, trade and Medicare, as well as investigations. At the House Committee on Financial Services, he was Staff Director of the Subcommittee on Oversight, which focused on examining the implementation of the Dodd-Frank Act.

Most recently, Mr. Epley served as Chief Legal Officer of the Managed Funds

Association (MFA), the principal trade association for the hedge fund industry. In this position, he developed and led a government-wide advocacy campaign including rulemaking, tax policy and congressional oversight.

Government / Military Service

- General Counsel, Office of the Speaker of the US House of Representatives
- General Counsel & Oversight Staff Director, House Ways and Means Committee
- Chief Oversight Counsel, House Financial Services Committee
- Associate Deputy General Counsel, US Department of Defense
- Senior Counsel to the Deputy Attorney General, US Department of Justice
- General Counsel, House Armed Services Committee
- Chief of Staff to the Assistant Attorney General for Justice Programs, US Department of Justice



Areas of Focus

- Legislative & Public Policy

Education

- JD, William & Mary Law School
- BA, Gordon College

Admissions

- District of Columbia

ForsMarsh

Patrick Samsel

General Counsel, Fors Marsh
Washington, D.C.

psamsel@forsmarsh.com

Patrick Samsel is General Counsel for Fors Marsh. As the number one federal marketing communications firm, Fors Marsh works to shape the systems that shape lives. It also means a broad variety of matters cross Patrick's desk, from complex government contracting issues, employment claims, real estate and corporate governance.



Education

- JD, University of Baltimore School of Law, 2010
- BS, Physiology/Neurobiology, Williams College, 2005

Tab 2: Practice Overviews



Legislative & Public Policy

Our Legislative and Public Policy practice operates at the intersection of public policy and law, providing strategic advice and counsel and direct legislative and executive branch governmental affairs services on a host of issues critical to our clients' successes. Our attorneys and senior legislative advisors have served in key positions in the government and maintain strong ties with key policymakers. They bring a sophisticated understanding of the pivotal relationship between government and business to the clients they serve. The hallmark of our Legislative and Public Policy practice is our focus on clients with complex legal and public policy challenges.

Three of our lobbyists have been recognized by *The Hill* newspaper in recent years as among Washington's top 100 "Hired Guns". Additionally, our firm is likely the largest AmLaw 100 lobbying practice where a majority of the registered lobbyists are women. The Legislative and Public Policy practice represents a cross-section of the nation's most recognizable companies, associations, and organizations in a number of key industries and sectors, with a particularly strong focus on the education, healthcare/life sciences, insurance, energy, trade, high-tech, and financial services sectors. Our law firm, including our legislative team, has exceptionally deep experience assisting foreign sovereign states and international multilateral organizations drawing policy goals in Washington, DC.

Our seasoned Legislative and Public Policy team achieves results because we offer clients:

- **Experience.** We have represented clients on high-profile and often precedent-setting policy matters for more than 70 years.
- **Judgment.** The complex "hot button" issues we tackle require deft political handling and sensitivity to the impact that policy battles have in other areas, such as litigation risk management, business reputation, the media, and the marketplace.
- **Seasoned Team.** The Legislative and Public Policy team has extensive experience working with Capitol Hill and the administration. The group includes a former US Senator (Senator Christopher J. Dodd), and Capitol Hill and administration staff. In addition, the team draws upon the substantive experience of lawyers throughout the firm.
- **Experience in Government Affairs Compliance and Oversight Investigations.** We counsel clients on the rules regarding campaign activity, lobbying law, and political contributions, so clients can fully and lawfully engage in the political process. We also represent them in investigations before congressional oversight committees.

White Collar Defense & Investigations

Our experienced White Collar Defense & Investigations practice represents individuals and leading public and private corporations, both in the US and internationally, in all areas of white collar defense work, including internal investigations; government investigations, enforcement actions, and related litigation (such as grand jury investigations, federal agency enforcement, and *qui tam* litigation under the False Claims Act); congressional investigations; money laundering; trade sanctions violations; crisis management; compliance counseling; trial; and appeal. We have substantial experience with both civil and criminal proceedings. In representing clients in connection with white collar investigation and litigation matters, our firm draws upon its own substantial civil litigation and regulatory counseling experience, including the prior government experience of many of our attorneys.

Businesses and individuals both in the US and throughout the world face increasingly aggressive government enforcement efforts. Matters formerly handled through civil or regulatory processes now often result in criminal investigations. Our firm brings unique strengths to the representation of corporations and individuals who face criminal, congressional, or other enforcement proceedings. Our London and US offices include attorneys with extensive criminal law experience, as prosecutors, barristers, and defense lawyers. They include former officials of the US Department of Justice, UK Serious Fraud Office, and enforcement chiefs at a variety of regulatory agencies. Our defense group includes experienced former Assistant US Attorneys from the Southern and Eastern Districts of New York, the District of Columbia, the Eastern District of Virginia, the Eastern District of Pennsylvania, the Northern District of Illinois, the Southern District of Florida, Colorado, and New Jersey.

Collectively, our attorneys have successfully tried hundreds of jury and bench trials—and favorably settled many more. Our colleagues rely on high levels of integrity and credibility in advocating for clients with government officials from multiple and varied federal and state offices. We understand that the best result for the client is to avoid any prosecution, and we draw upon our significant experience to help our clients navigate the difficult process of investigation. And, our extensive experience with compliance programs helps us advise our clients on best practices to prevent criminal problems from developing or to mitigate them if an issue or inquiry does arise. But, if clients face criminal charges, we have the extensive trial and appellate experience to mount a vigorous defense on their behalf.

Government investigations often involve parallel criminal and civil proceedings, complex e-discovery and data privacy issues, cross-border coordination among countries and their law enforcement agencies, and an increasingly aggressive array of inspectors general (IGS) and suspension and debarment officials. The resulting legal complexities require thoughtful and careful strategy, communication, and coordination at every stage of the defense effort. Our matters range from healthcare, securities, government contracts, tax, and bank fraud to leaks of classified information; from antitrust/cartel to environmental law; from anti-corruption inquiries under the Foreign Corrupt Practices Act (FCPA) and the UK Bribery Act to federal and state False Claims Act/*qui tam* investigations and litigation; export control matters involving The Office of Foreign Assets Control (OFAC), International Traffic in Arms Regulations (ITAR), Committee on Foreign Investment in the US (CFIUS), and the Bureau of Industry & Security (BIS); from nuclear regulatory, national security, and election law violations to defense procurement and other federal agency fraud.

Congressional Investigations

Arnold & Porter's legislative and public policy group has a long record of representing clients in congressional oversight hearings and investigations. Working with our white collar criminal defense attorneys and advisors ensures that clients with potential criminal exposure are well advised. Our ability to understand and weigh the legal, public relations, and business implications of a high-profile investigation enables us to develop responses that minimize risk to a client's litigation posture or reputation. We also provide procedural and political counsel for these inquiries.

Our bipartisan Congressional Oversight team brings substantial experience to bear when helping individuals, associations, and businesses facing congressional scrutiny both navigate the policy, process, and politics unique to congressional investigations and prepare for and mitigate collateral legal and reputational risks. We also have a history of strong relationships with lawmakers and boast an enviable record of success for our clients engaged in the congressional oversight process. We advise and support clients through the full range of congressional oversight activities—whether it means resolving a preliminary or narrow probe quickly and without adverse publicity or preparing company executives for high-stakes testimony before multiple Congressional committees.