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## Legal Implications of September Eleventh: A Question of Security and Civil Liberties

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## SPEAKER PRESENTATION

### LEGAL IMPLICATIONS OF SEPTEMBER ELEVENTH: A QUESTION OF SECURITY OR CIVIL LIBERTIES<sup>1</sup>

*"History teaches that grave threats to liberty often come in times of urgency, when constitutional rights seem too extravagant to endure."*

— Justice Thurgood Marshall,  
*Skinner v. Railway Labor Executives' Assn.* (1989)

#### INTRODUCTION BY PROFESSOR DAVID DITTFURTH†

Good afternoon, I would like to welcome you to the Law Alumni Room in the law library. My name is David Dittfurth and I am acting as the host for this presentation, which is being presented by *The Scholar: St. Mary's Law Review on Minority Issues*. The topic is Legal Implications of September Eleventh: A Question of Security or Civil Liberties. I am sure all of you realize that after the attack on the World Trade Center, the government took action to protect us against the threats of terrorism both foreign and internal. The action or reaction of the government included legislation in Congress, the resolution giving President Bush the power to take all appropriate actions, President Bush's response, which was the Military Order of November Thirteenth<sup>2</sup> providing for military

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1. The speaker presentation was held in conjunction with the Spring 2002 President's Peace Commission, which presented a three-day program titled "Understanding the Middle East." The mission of the President's Peace Commission is to foster an ethical commitment to participate in the establishment of world peace and social justice. The Commission encourages respect for human rights and dignity of all people and seeks to build a greater awareness of the Roman Catholic and Marianist perspectives on peace and justice.

*The Scholar* wishes to express its gratitude to the participants for their dedication, their tenacity in being a voice for the voiceless, and their insightful contributions to legal discourse.

What follows is an edited transcript of the presentation.

† Professor of Law, St. Mary's University School of Law.

2. Military Order of November 13, 2001—Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism, 66 Fed. Reg. 57,833-57,836 (Nov. 16, 2001); *see*

tribunals for any non-citizen who was accused of any terrorist activity, especially or more specifically terrorist activity in regards to the World Trade Center, and subsequently the USA Patriot Act.<sup>3</sup> These are government reactions we think of as needed under the circumstances to respond to the threat of terrorism. We also need, of course, to respond to the threat of intrusion on our civil liberties, and that is what our two speakers are going to discuss today.

We have two speakers who have taken the time to come and prepare a talk for us. The first will be William Clark Harrell, who is the executive director of the Texas affiliate of the American Civil Liberties Union (ACLU), and the other is local attorney Gerald H. Goldstein. Mr. Goldstein is someone who has been known to us as an adjunct professor at the University of Texas at Austin and an adjunct professor here at St. Mary's University School of Law. He received his Bachelor of Arts from Tulane and his Juris Doctor from The University of Texas at Austin, an esteemed alma matter. He is a criminal defense lawyer of national reputation and a civil rights attorney as well. In the early 1990s, he was named as the Outstanding Criminal Defense Lawyer by the National Association of Criminal Defense Lawyers and received the John Henry Faulk Civil Libertarian Award by the ACLU. Mr. Goldstein often appears on national television and other national mediums. Today, he will speak on the General Erosion of the Criminal Norms and Procedures and the Police Abuse of Authority.

The first speaker is Mr. William Clark Harrell. Mr. Harrell obtained his Bachelor of Arts degree from the University of Texas at Austin and from there went on to the American University Washington College of Law for his Juris Doctor. At that same law school, he received a Master of Laws in International Law. Mr. Harrell has been the executive director of the ACLU's Texas affiliate for the last couple of years. He has received the Torch Bearer Award from the National Association for the Advancement of Colored People (NAACP), was named the Best of the Legislature in the Hispanic Journal, and for those of you in the first year, he was also the recipient of the Moot Court Best Oral Advocate Award in law school. Mr. Harrell has also served as the national vice president of the National Lawyer's Guild. The title of his speech is Federal and

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*also American Bar Association Task Force on Terrorism, American Bar Association Task Force on Terrorism and the Law: Report and Recommendations on Military Commissions* (Jan. 14, 2002), available at <http://www.abanet.org/leadership/military.pdf> (last visited Apr. 1, 2002).

3. Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001) [hereinafter USA Patriot Act].