

by Andy Haas Schneider

*Many professional lives in the United States have been affected by the attacks of September 11, 2001, and the resulting legal developments, which include most notably Congress's passage of the USA PATRIOT Act (this being an acronym for the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act). This article briefly profiles three Marquette University Law School graduates with diverse backgrounds who are all working in Washington, D.C., in various positions within the United States government. The work of all of them brings them into contact with the PATRIOT Act, which is currently the subject of a fierce debate concerning whether aspects of it should be renewed. We would be interested as well in profiling in subsequent issues other attorneys whose professional work has been affected by the PATRIOT Act, particularly if they find themselves on the opposite side of the government.*

## **Barbara Berman**

Barbara Blankstein Berman, L'75, a trial attorney with the Department of Justice and International Initiative Coordinator, has strong and enduring ties to the Law School. While a law student, her study group included such notable friends as Janine Geske, former Wisconsin Supreme Court Justice and now Distinguished Professor of Law at Marquette, Deb Beck (featured on page 17), and Judy Drinka. Her first job after graduating was with the Wisconsin State Public Defender's Office, which was then under the leadership of the late Howard Eisenberg, Marquette Law School's former dean. During the past 25 years, she served in various positions within the U.S. Department of Justice (D.O.J.), including as a

prosecutor in the U.S. Attorney's Office for the Eastern District of Wisconsin, and as Assistant Counsel in the D.O.J. Office of Professional Responsibility, where she headed up the Ruby Ridge Task Force. In 1994, while completing the final report, she was invited by U.S. Attorney Thomas Schneider to be the first assistant in the U.S. Attorney's Office in Milwaukee, where she served until 2001. Shortly before the terrorist attacks of September 11, 2001, Berman accepted a position back in Washington with the Justice Department's Counterterrorism Section, where she has been recently promoted to be the International Initiative

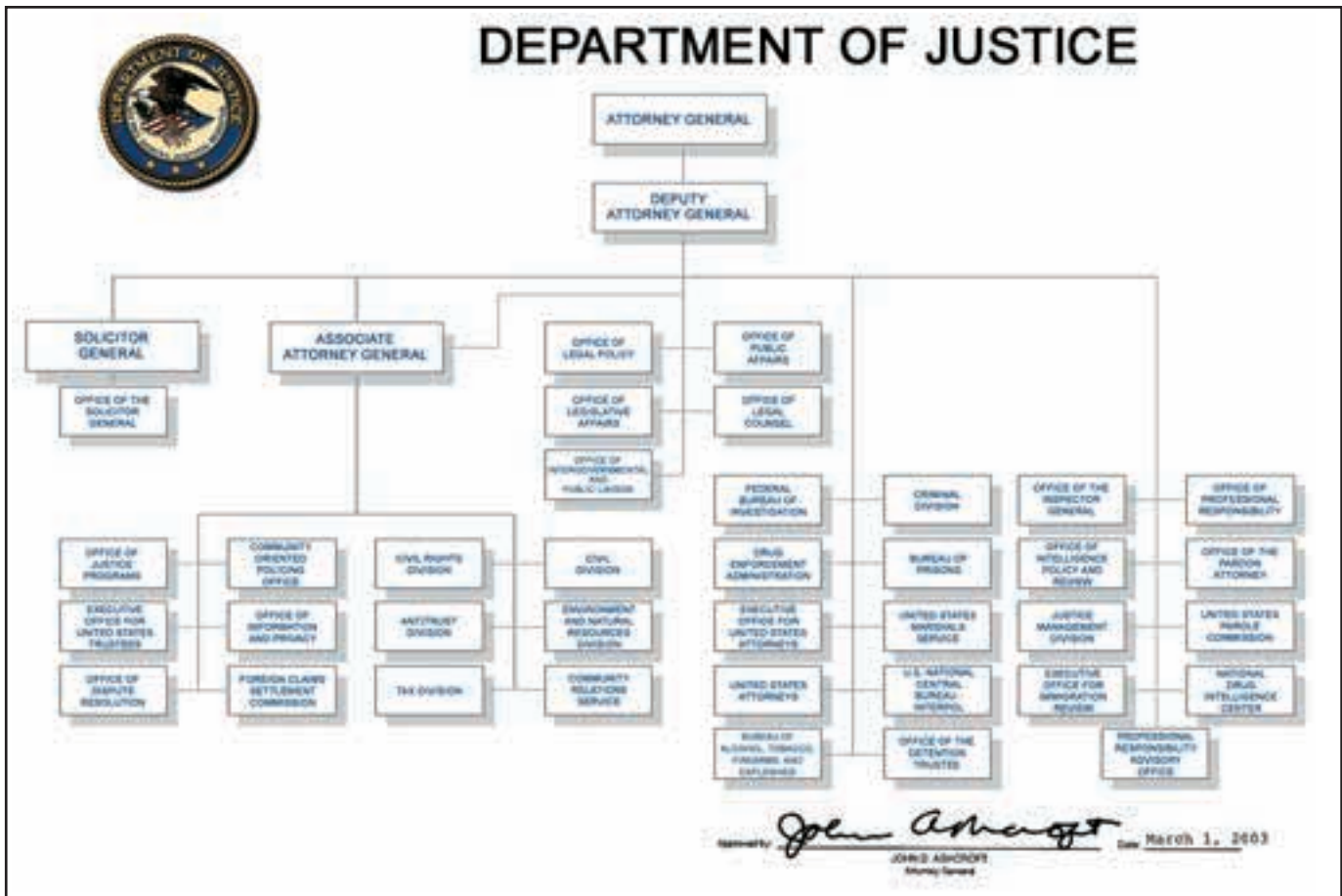
Coordinator. As a trial attorney within the Criminal

Division, Berman has been assigned to prosecute some high-profile cases, including the Daniel Pearl kidnapping and murder and several Colombian hostage and murder cases.

With the advent of the PATRIOT Act, her office's role became (in addition to prosecuting cases) to assist in the prevention of terrorism. "The government has come a long way and is very dedicated to working very diligently in the areas of vulnerability," she stated in a recent interview. Berman believes that the United States has taken significant steps since 9/11. "We have put additional resources to the problem, and there are very dedicated, hard-working people keeping our country safe," she said. "We are an open society and enjoy our freedom, so the challenge remains to focus on how we can be more secure while maintaining this freedom and accessibility."

As far as whether there will be future attacks on our county, Berman commented frankly. "I'd be shocked if there weren't," she said. "But how can anyone read the mind of a madman?" Her own view is that everyone would be served by remaining vigilant





**“Joan is a great example of a successful Marquette Law alumna who has had a remarkable career in public service. Her work is in keeping with the finest traditions of Marquette University Law School.”**

—Patrick E. Kelly, L'93

and becoming prepared. “Everyone should look at the website sponsored by the Department of Homeland Security ([www.ready.gov](http://www.ready.gov)) and learn how to be prepared,” she suggested.

### Joan Harvath

Keeping the government prepared and informed is a large part of Joan Harvath’s job at the Department of Justice’s Office of Intelligence Policy and Review (OIPR). Harvath has been a public servant since her graduation from Notre Dame in 1987 with a degree in government and international studies, when she worked for approximately three years as a legislative aide to then-Congressman John Rowland of Connecticut before heading off to Marquette for law school in 1991. Between her second and third year of law school, Joan had an internship with the U.S. Army Judge Advocate General’s (JAG) Corps, where she assisted military attorneys

on various matters, including criminal prosecutions of soldiers and government contract litigation. Upon graduation from Marquette in 1994, Harvath was commissioned as an officer in the Army JAG Corps. She was first stationed at Fort Meade, Maryland, where, among other things, she was a military prosecutor and a Special Assistant United States Attorney for the District of Maryland. Her next tour of duty was at Fort Gordon, Georgia, where she served as a prosecutor and as an intelligence law attorney for the 513th Military Intelligence Brigade. It was in this position that Harvath first became immersed in laws and regulations related to national security. After leaving active duty in 1998, Harvath was a civilian attorney for the U.S. Army Intelligence and Security Command at Fort Belvoir, Virginia, before joining the Justice Department’s Office of Intelligence and Policy Review in April 2001.



Barbara B. Berman



Joan Harvath



Patrick E. Kelly

OIPR is responsible for advising the Attorney General on all matters relating to the national security activities of the United States. Among other things, Harvath presents applications for electronic surveillance and physical searches of suspected terrorists before the Foreign Intelligence Surveillance Court. Harvath also participates, on behalf of the Department, in an interagency committee that deals with national security and intelligence matters. It is people such as Joan Harvath, according to fellow Law School graduate and former OIPR co-worker Patrick E. Kelly, L'93, who are the unsung heroes of 9/11. He explains that, working closely with the FBI and intelligence community, the relatively small staff of OIPR frequently had to work late into the night after 9/11 to prepare and present applications to the Foreign Intelligence Surveillance Court. "Joan's work in this vitally important office has made America a far safer place," said Kelly.

Harvath finds her job to be extremely rewarding. "At OIPR, we closely review each case, and take very seriously the balance between the government's need to conduct electronic surveillance and physical search and the rights of persons under the Constitution. Although the operational pace is currently very high, it is very satisfying to know that we are working every day—and many nights—to help protect Americans against future terrorist attacks."

#### **Patrick Kelly**

Patrick Kelly's background makes him well-suited for his current work. After graduating from Marquette undergrad (Bus Ad '85) and completing a rigorous background check, he joined the CIA as an analyst. He served in the CIA for five years, during which time he noticed, as he puts it, "All the interesting jobs were held by lawyers!" So Kelly decided to follow his family tradition of Jesuit education and go to Marquette Law School. "I was attracted to the element of faith and ethical structure," he explained. "Marquette's dedication to training lawyers with a moral background was very significant in my decision to go to Marquette," he said. After a summer internship with the Judge

Advocate General's Corps in Alaska and graduation from Law School, he served six years in the Navy as an Officer and is still active in the reserves as a Lt. Commander. In 1999, he pursued a master's in theology at Catholic University and upon earning his degree in 2000 joined the U.S. Department of Justice as an attorney advisor in the Office of Intelligence and Policy Review. He worked at OIPR until June of this year, having served alongside Joan Harvath (previous page) in the government's effort to secure permission to conduct surveillance on suspected terrorists.

Kelly's work in the Justice Department eventually led him to a job on Capitol Hill. Since June he has worked as the Legislative Counsel to the House Permanent Select Committee on Intelligence, where he handles a wide range of intelligence and legal issues. His chief responsibility is the Intelligence Authorization Act, which is the piece of legislation that authorizes the intelligence community each year. Kelly enjoys his work on the Intelligence Committee. "There is a higher sense of urgency since 9/11," he explained. Kelly believes we are still under a threat because we are an open society. "There is a renewed sense of mission in the intelligence community. The world is different now, and intelligence is our first line of defense," he stated. He believes we are safer now because we are more aware and willing to prevent attacks (such as the shoe bomber whose attempt was averted by vigilant passengers) and government agencies are sharing information in a more organized and open manner. "We continue to be under a threat, but we are much better poised to handle it now. We are vulnerable, but that is the price of freedom." •

*If your professional work has been affected by the PATRIOT Act, particularly in the representation of individuals, or otherwise might make for an interesting profile, we would be interested in hearing from you. Please contact Christine Wilczynski-Vogel at [christine.wv@marquette.edu](mailto:christine.wv@marquette.edu).*