



Benjamin A. Powell

PARTNER

Co-Chair, Cybersecurity and Privacy Practice
Co-Chair, Artificial Intelligence Practice

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Benjamin Powell is widely recognized as one of the country's top authorities on handling cybersecurity, data breach and related investigation matters. He has advised companies on major cybersecurity incidents and incident preparedness across virtually every sector of the economy, including the banking, investment management, software, retail, energy, defense and intelligence, media and entertainment, pharmaceutical, cloud services, government contracting, aerospace, information technology, manufacturing, and travel sectors. He is recognized as a leading attorney in handling complex regulatory matters relating to international investment and mergers, including matters involving the Committee on Foreign Investment in the United States (CFIUS) and the Defense Security Service (DSS). He also is regularly asked to be lead counsel on major investigations and strategic counseling across a variety of sensitive regulatory matters for the world's most prominent companies.

He is the author of the Global and US chapters in a cybersecurity guide for companies in jurisdictions worldwide, and contributing global editor of the guide. He was recently selected as one of the 500 Leading Lawyers in America by *Lawdragon*. He is also frequently retained to perform due diligence on major corporate transactions requiring expertise in government regulatory issues, including government contracting, data security and privacy, security clearance issues with the Defense Security Service (DSS), and related issues. He is regularly named as one of Washington's Top Lawyers in surveys of best attorneys in DC. The *Wall Street Journal* calls him one of Washington's "big legal guns" and *The Legal 500* calls him an "exceptional lawyer" who "provides clear guidance on complex technological issues." He is recognized as a CFIUS expert in the 2013–2022 editions of *Chambers USA: America's Leading Lawyers in Business*.

Mr. Powell has performed due diligence on some of the largest recent corporate transactions and successfully guided companies through some of the most complex CFIUS filings for companies in a range of industries. He has also served as lead counsel on matters for companies facing difficult regulatory, congressional, and public policy issues across a range of industry sectors and subjects. Mr. Powell regularly handles matters involving the Defense

Security Service, including the structuring of Special Security Agreements and Proxy Agreements, related to corporate security clearances and classified government contracting. He has represented clients in civil and criminal litigation involving privacy and surveillance issues at the state and federal level.

Mr. Powell was unanimously confirmed by the United States Senate as General Counsel to the Director of National Intelligence. His background includes serving as General Counsel to the first three Directors of National Intelligence, Special Assistant to the President and associate White House Counsel, Air Force officer, work at the Federal Bureau of Investigation, corporate counsel at a software company in Silicon Valley, and part of the trial team that obtained the largest antitrust jury verdict in US history. He joined the firm in 2009.

Additional Background

As General Counsel to the first three Directors of National Intelligence, Mr. Powell's work involved designing and implementing legal compliance and oversight mechanisms, litigation, international law, foreign investment, crisis management, congressional inquiries and investigations, privacy, legislation, cybersecurity and foreign affairs. He worked closely with Congress to modernize the laws governing electronic surveillance activities and private sector involvement with the government in national security matters. This effort resulted in passage of a landmark comprehensive bipartisan bill in 2008.

As an Associate Counsel and Special Assistant to the President, Mr. Powell's responsibilities included numerous litigation and investigatory matters, and policy and legal work with the Department of Homeland Security, Department of State, Department of Justice and Department of Commerce.

Immediately prior to his service at the White House, Mr. Powell was Corporate Counsel for Vitria Technology, an enterprise integration software company, where he handled a wide range of issues, including intellectual property, securities reporting, revenue recognition and international licensing and professional services transactions across Europe.

As a litigator, Mr. Powell was part of the trial team that won the largest antitrust verdict in history of \$1.05 billion. He also handled massive discovery and pre-trial proceedings as part of the case, which concerned unlawful monopolization activities across the country in the wholesale and retail consumer products market.

Mr. Powell served in the United States Air Force from 1989 to 1993 and worked for the Federal Bureau of Investigation in 1988 and 1989.

Professional Activities

Mr. Powell is a member of the Fellows of the American Bar Foundation. He has served in numerous roles on the ABA Standing Committee on Law and National Security. He is also a

Board Member of Columbia Law School Center on Constitutional Governance, and Board Member of Georgetown University Cybersecurity Law Institute. He served on the Bipartisan Policy Center's Cybersecurity Task Force on Improving Cybersecurity Information Sharing in 2012.

Mr. Powell is a frequent speaker at conferences and law schools on national security and cybersecurity matters, including Harvard Law School, Columbia Law School, Georgetown Law School, Duke Law School and George Washington Law School.

Solutions

Artificial Intelligence

Cybersecurity and Privacy

Government and Regulatory
Litigation

Investigations

Public Policy and Legislative
Affairs

Crisis Management and
Strategic Response

Business and Financial
Integrity

Government Contract
Investigations

Litigation

State Attorneys General

Cross-Border Investigations
and Compliance

Foreign Investment in the US
(CFIUS)

Government Contracts

National Security

Defense Tech Transactions

Experience

CYBERSECURITY

- Investigation of one of the largest cybersecurity incidents in history stemming from an insider threat. Matter involved regulatory inquiries, contracting issues, congressional inquiries, and other proceedings.
- Investigation of cybersecurity incident for one of the world's largest financial institutions. Matter was one of the most significant cybersecurity incidents in history related to a financial institution. Matter involved law enforcement, domestic and international regulatory coordination, multi-state Attorneys General investigation, and variety of other sensitive inquiries.
- Investigation of large breach of payment cards at national retailer. Matter involved PCI DSS investigation, law enforcement, regulatory inquiries, notice to millions of consumers, and other proceedings.
- Investigations of payment card breaches involving PCI DSS investigations at e-commerce sites and credit card processors. Matters involved nationwide notice, third party liability issues, and related issues.
- Counsel in numerous cybersecurity incidents involving defense and intelligence companies.
- Counsel in numerous cybersecurity matters involving SEC disclosure issues, domestic and international financial regulators, corporate governance, state Attorneys General inquiries, international regulators, consumer notice, Federal Trade Commission investigations, government investigations, and law enforcement coordination.
- Regularly advise numerous companies on sensitive cybersecurity matters, including incident preparedness, PCI DSS issues, internal investigations, forensics, securities law disclosure obligations, and corporate governance. Representations have included major companies in the banking, investment management, pharmaceutical, software, electronics, cloud services, social media, financial, energy, defense and aerospace companies.
- Designated lead counsel for any cybersecurity incidents that may occur for a number of the world's largest companies.
- Represented one of world's largest software companies in Federal Trade Commission investigation and Consent Order related to security of software installed on more than 500 million computers.
- Handled criminal and civil litigation related to privacy and surveillance issues.

INTERNATIONAL INVESTMENT AND TRANSACTION DUE DILIGENCE

- Represented Chicago Bridge & Iron N.V. in approximately \$3 billion acquisition of The Shaw Group Inc. on issues related to CFIUS, foreign investment, Defense Security Service and government contracting.
- Representation of BMC Software, Inc. in its approximately \$7 billion sale to a private equity group including Bain Capital and Government of Singapore Investment Corporation (GIC) on matters related to CFIUS, Defense Security Service and government contracting.

- Representation of Silver Lake Partners, a global technology investment firm, in a transaction valued at approximately \$24 billion to acquire Dell Inc. Performed government contracts diligence, security diligence and other related due diligence matters.
- Representation of the New York Stock Exchange (NYSE Euronext) on international investment CFIUS matters with respect to its proposed merger with Deutsche Börse AG, where he successfully obtained CFIUS clearance.
- Representation of Chesapeake Energy Corporation, the second largest US producer of natural gas, on CFIUS matters in the \$4.75 billion dollar sale of its assets in the Fayetteville Shale area to BHP Billiton.
- Representation of Brigham Exploration Company on CFIUS matters in its approximately \$4.4 billion sale to Statoil ASA.
- Numerous other transactions involving CFIUS and due diligence matters, including transactions in telecommunications, electronics manufacturing, energy, aerospace and industrial equipment sectors.
- Representation of large private equity firm on due diligence for transactions involving government contracting, export control, security and Foreign Corrupt Practices Act (FCPA).

REGULATORY INVESTIGATIONS AND RESPONSE

- Represented a multinational oil and gas company before the National Commission formed by President Obama to investigate the *Deepwater Horizon* explosion in the Gulf of Mexico and review offshore drilling.
- Represented a multinational oil and gas company before the National Academy of Engineering/National Research Council Committee reviewing the *Deepwater Horizon* explosion in the Gulf of Mexico and recommending changes to offshore drilling.
- Lead counsel on sensitive investigations related to potential regulatory violations and responding to law enforcement, agency, congressional and media requests.

Recognition



Among the 30 Best and Brightest Data Breach Response Lawyers

Cybersecurity Docket

2016, 2018



Top Lawyer for Cybersecurity and National Security Law

Washingtonian

2011, 2013, 2015



Recognized for Extraordinary Contributions to the US Legal Profession

Lawdragon

2014-2015

- Named a 2023 Lawyer Lifetime Achievement Member by *Washingtonian* magazine.
- Selected as a CFIUS expert in the 2014–2024 editions of *Chambers Global: World's Leading Lawyers for Business*. Also, he is Regularly recognized as a nationwide leader by *Chambers USA Guide* and *Chambers Global* for Privacy & Data Security and Privacy & Data Security: Incident Response.
- Regularly recognized by *Chambers USA Guide* nationwide as an international trade CFIUS expert.
- Selected by peers for inclusion in *Best Lawyers in America* for his government relations practice in 2017–2024 and privacy and data security work in 2018–2024.
- Regularly recognized in *The Legal 500 United States* for his work in the international trade, data protection and privacy, cyber law, and telecoms and broadcast regulation fields. He is cited as an "exceptional lawyer" who "provides clear guidance on complex technological issues."
- Named to *Cybersecurity Docket's* 2016 and 2018 "Incident Response 30," a list of the 30 best and brightest data breach response lawyers
- Recognized as a "Top 30 Data Protection Lawyer in the United States" in 2019 by *Euromoney Expert Guides*
- Named a 2017 Cybersecurity & Data Privacy Trailblazer by *The National Law Journal*

- Selected as a member of *Lawdragon* magazine's "500 Leading Lawyers in America" list for 2014–2015, which recognizes lawyers who have made extraordinary contributions to the US legal profession.
- Selected by *Washingtonian* magazine as one of the 2011, 2013 and 2015 top lawyers in Washington DC in the areas of cybersecurity and national security law.
- Received the Edmund J. Randolph award from the Department of Justice, from the Attorney General in 2009 in recognition of his outstanding service to the Department of Justice.
- Received the National Intelligence Distinguished Service Medal in 2009, presented by the Director of National Intelligence, for enduring and invaluable contributions to the safety and security of the Nation.
- Received the National Security Agency's Intelligence Under Law Award In May 2009 for his commitment to the conduct of intelligence activities under the rule of law.
- Recipient of the Central Intelligence Agency Seal Medallion and the National Security Agency Bronze Medallion.
- Named to the 2016–2024 Washington DC *Super Lawyers* lists for his technology transactions practice.

Credentials

EDUCATION

JD, Columbia Law School, 1996

Senior Editor, Columbia Law Review, Kent Scholar

BSE, Finance, University of Pennsylvania, 1989

magna cum laude

BAS, Applied Science, University of Pennsylvania, 1989

magna cum laude

ADMISSIONS

District of Columbia

New York

California

CLERKSHIPS

The Hon. John Paul Stevens and The Hon. Byron R. White, US Supreme Court, 1997 - 1998

The Hon. John M. Walker Jr., US Court of Appeals for the Second Circuit, 1996 - 1997

GOVERNMENT EXPERIENCE

Office of the Director of
National Intelligence

General Counsel

Executive Office of the
President

The White House

Special Assistant to the President

Executive Office of the
President

The White House

Associate White House Counsel