8-1-2018


Lisa A. Rich
Texas A&M University School of Law, larich@law.tamu.edu

Follow this and additional works at: https://scholarship.law.tamu.edu/journal-of-property-law

Recommended Citation
Available at: https://scholarship.law.tamu.edu/journal-of-property-law/vol5/iss1/1

This Symposia Article is brought to you for free and open access by Texas A&M Law Scholarship. It has been accepted for inclusion in Texas A&M Journal of Property Law by an authorized editor of Texas A&M Law Scholarship. For more information, please contact aretteen@law.tamu.edu.
INTRODUCTION TO THE SYMPOSIUM EDITION OF THE TEXAS A&M JOURNAL OF PROPERTY LAW AND THE UNITED STATES DEFENSE INDUSTRY: INNOVATION, ACQUISITION, AND ANALYSIS

By Lisa A. Rich†

On February 23, 2018, the Texas A&M Journal of Property Law held an innovative and informative symposium on the United States Defense Industry focused on the acquisition process from conception to deployment and the scientific, budgetary, political, and legal framework through which the United States joint force is forged. The symposium brought together stakeholders from academia, private and public sectors, and the military to explain, analyze, and assess the labyrinthine weapons acquisition system and its role-and impact-on national security.

“There is no perfect defense against the range of threats facing [the United States].”1 “Nuclear, chemical, radiological, biological attacks[,]” cyber warfare, and natural disasters”2 all require robust responses grounded in principle and exemplifying innovation. “Balance is the key to defense. . . . You want procurement to go along with troops and readiness to have a cohesive whole.”3

The United States national security platforms have received renewed focus and momentum in the last two years.4 Beginning with the

† Ms. Rich is the Director of the Residency Externship Program in Public Policy at Texas A&M University School of Law. Ms. Rich has worked on a number of national security related projects and, immediately prior to attending law school, she worked for the Marine Corps Historical Center for which she translated from Chinese to English and archived military documents, including the personal papers of Marine Corps General Samuel Griffith whose translation of Sun Tzu’s Art of War is widely used. She would like to thank Hayley Sauer, Jordan Simmons Hayes, and Catherine Wirth for the opportunity to participate in this innovative and informative symposium.

2. Id. at 7.
Fiscal Year 2017 National Defense Authorization Act\(^5\) and continuing throughout 2017, Congress and the Executive Branch promulgated legislation, executive orders,\(^6\) regulations, and policy initiatives\(^7\) designed to reinvigorate the United States Joint Force and the entire defense industry acquisition process.

Specifically, both the 2018 National Defense Strategy and the 2017 National Security Strategy called for reinvigorated partnerships with universities and academia.\(^8\) Both also called for greater innovation within the defense industry throughout the acquisition process from need to deployment.\(^9\) The Fiscal Year 2017 National Defense Authorization Act, for example, required a review, analysis, and reorganization of the Defense Department’s approach to acquisitions and required a report to Congress, which included the following excerpt.\(^10\)

> Today, we are emerging from a period of strategic atrophy, aware that [the United States] military advantage has been eroding. . . . A . . . rapidly innovating joint force, combined with a robust constellation of allies and partners . . . will provide the capabilities and agility required to preserve and prevail in conflict and preserve peace through strength.\(^11\)

As observers have noted, however, “defense budgets [and the platforms funded by them], like aircraft carriers, can[not] turn on a dime.”\(^12\) The budget governs a “Department of Defense acquisition system [that is] highly complex.”\(^13\) And, “[d]espite decades of efforts...
to reform the way that the United States develops and procures new weapons, [its] acquisition system [until recently has] remained sclerotic."\textsuperscript{14} "Every weapon system in the United States arsenal is created to satisfy a specific military need (often referred to as a requirement), must be paid for by the federal budget, and is designed and built within the acquisition system."\textsuperscript{15}

The Symposium provided an important overview of this acquisition system and its importance to our national security. The acquisition process begins at the moment of innovation and recognition of need.\textsuperscript{16} It "encompasses the design, engineering construction, testing, deployment, sustainment, and disposal of weapons or related items purchased from a contractor."\textsuperscript{17} At each point in the process, stakeholders from the public and private sectors are involved and impacted. As such, the symposium included representatives from every stakeholder group to provide a holistic and thorough analysis of the policy, science, and academic impacts of the weapons acquisition process.

The Fiscal Year 2019 National Defense Authorization Act currently has just been signed by the President.\textsuperscript{18} While this bill authorizes a number of the current administration’s national defense and national security strategies, stakeholders suggest that the Fiscal Year 2020 budget priorities will be even more important. According to Deputy Defense Secretary Patrick Shanahan, "[t]he 2020 budget is ‘probably the biggest step we can take to make sure we can[not] unwind [the Administration’s defense] strategy.’"\textsuperscript{19} "This is where many of the bets, in terms of innovation and some of the new technology, will take place."\textsuperscript{20}

As such, the February 23, 2018, symposium was extraordinarily timely. It answered the Administration’s call to engage the academy in the national security discussion; recognized the strong ties Texas

\textsuperscript{15} SCHWARTZ, supra note 13, at 2 (emphasis in original).
\textsuperscript{16} Id. at Summary.
\textsuperscript{17} Id. at 1 (citation omitted).
\textsuperscript{18} See, e.g., Jim Garamone, President Signs Fiscal 2019 Defense Authorization Act at Fort Drum Ceremony, U.S. DEP’T OF DEF. (Aug. 13, 2018), https://www.defense.gov/News/Article/Article/1601016/president-signs-fiscal-2019-defense-authorization-act-at-fort-drum-ceremony/ [https://perma.cc/SZHD-32C4]. As noted in this article, the FY2019 NDAA authorizes the expenditure of approximately $719 billion on defense, including acquisitions. It does not, however, appropriate these funds for expenditure. Congress currently is considering the FY2019 appropriations bills. Id.
\textsuperscript{19} Clevenger, supra note 3.
\textsuperscript{20} Id.
A&M University has to the innovative protection of the United States given its status as a land, sea, air, and space grant institution; and highlighted the intersection of law, science, and policy, throughout the acquisition process. The articles that follow in this issue continue that important dialogue and the expertise exemplified throughout the symposium. Anyone interested in the acquisitions process from concept to deployment will find the articles herein invaluable.