

Bio for Elizabeth Goitein

Elizabeth (Liza) Goitein is Senior Director of the Brennan Center for Justice's Liberty & National Security Program, which seeks to advance effective national security policies that respect constitutional values and the rule of law.

Goitein is a nationally-recognized expert on presidential emergency powers, government surveillance, and government secrecy. Her writing has been featured in major newspapers and magazines including the *New York Times*, *Washington Post*, *Wall Street Journal*, *USA Today*, *Los Angeles Times*, *The Atlantic Magazine*, and *The New Republic*, and she has appeared frequently on MSNBC, CNN, and NPR; she is also the author of several book chapters. She has testified on several occasions before the Senate and House Judiciary Committees. In 2021–22, she was a member of the inaugural class of Senior Practitioner Fellows at the University of Chicago's Center for Effective Government.

Before coming to the Brennan Center, Goitein served as counsel to Senator Russ Feingold, chairman of the Constitution Subcommittee of the Senate Judiciary Committee, and as a trial attorney in the Federal Programs Branch of the Civil Division of the Department of Justice. Goitein graduated from Yale Law School and clerked for the Honorable Michael Daly Hawkins on the U.S. Court of Appeals for the Ninth Circuit.

ELIZABETH (LIZA) GOITEIN

EMPLOYMENT

THE BRENNAN CENTER FOR JUSTICE AT NYU SCHOOL OF LAW (Washington, DC Office)
Director (2009-2022) and Senior Director (2002-present), Liberty and National Security Program.

CENTER FOR EFFECTIVE GOVERNMENT, UNIVERSITY OF CHICAGO
Senior Practitioner Fellow, 2021-2022.

SENATOR RUSSELL D. FEINGOLD
Counsel to Senator Feingold, Senate Judiciary Committee, 2007-2008.

U.S. DEPARTMENT OF JUSTICE, CIVIL DIVISION, FEDERAL PROGRAMS BRANCH
Trial Attorney, 1999-2007; Intern, Summer 1998.

JUDGE MICHAEL DALY HAWKINS, U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT
Law Clerk, 1998-1999.

EDUCATION

YALE LAW SCHOOL, J.D. 1998

THE JUILLIARD SCHOOL, Master of Music 1994, Oboe Performance Major

YALE UNIVERSITY, B.A. 1992, cum laude with distinction in the major (History)
Book Reviews Editor, *Yale Law Journal* (1997-1998)
Developments in Policy Editor, *Yale Law & Policy Review* (1996-1997)

PUBLICATIONS

Book Chapters, Major Reports, and Law Review Articles

- *An Army Turned Inward: Reforming the Insurrection Act to Guard Against Abuse* (with Joseph Nunn), 13 J. NAT'L SECURITY L. & POL'Y 355 (2023)
- *The State Secrets Sidestep: Zubaydah and Fazaga Offer Little Guidance on Core Questions of Accountability*, CATO SUPREME COURT REVIEW (CATO 2022)
- *Emergency Powers, Real and Imagined: How Trump Used and Failed to Use Presidential Authority in the COVID-19 Crisis*, in COVID-19: THE LEGAL CHALLENGES (Carolina Academic Press 2020)
- *In Case of Emergency*, in THE AMERICAN CRISIS: WHAT WENT WRONG. HOW WE RECOVER. (Simon & Schuster 2020)
- *A Guide to Emergency Powers and Their Use* (Brennan Center for Justice 2018)
- *Liberty & National Security: An Election Agenda for Candidates, Activists, and Legislators* (with Faiza Patel and Michael Price) (Brennan Center for Justice 2018)
- *Another Bite Out of Katz: Foreign Intelligence Surveillance and the "Incidental Overhear" Doctrine*, 55 AM. CRIM. L. REV. 105 (2018)
- *Lessons From the History of National Security Surveillance* (with Faiza Patel and Frederick A.O. Schwarz, Jr.), in CAMBRIDGE HANDBOOK ON SURVEILLANCE (Cambridge Press 2017)
- *The New Era of Secret Law* (Brennan Center for Justice 2016)

- *Overseas Surveillance in an Interconnected World* (with Faiza Patel and Amos Toh) (Brennan Center for Justice 2016)
- *What Went Wrong with the FISA Court* (with Faiza Patel) (Brennan Center for Justice 2015)
- *Overclassification: Its Causes and Consequences*, in *AN ENDURING TENSION: BALANCING NATIONAL SECURITY AND OUR ACCESS TO INFORMATION* (Emily Berman, ed., 2014)
- *Reducing Overclassification Through Accountability* (with David Shapiro) (Brennan Center for Justice 2011)

Selected Articles, Op-Eds, and Blog Posts

- *The Year of Section 702 Reform, Part II: Closing the Gaps and Completing the Modernization of FISA*, JUST SECURITY, Apr. 18, 2023
- *The Year of Section 702 Reform, Part I: Backdoor Searches*, JUST SECURITY, Feb. 13, 2023
- *The Original Sin Is We Classify Too Much*, THE NATION, Jan. 25, 2023
- *The Biden Administration's SIGINT Executive Order, Part I: New Rules Leave Door Open to Bulk Surveillance*, JUST SECURITY, Oct. 31, 2022
- *Biden Used 'Emergency Powers' to Forgive Student Debt? That's a Slippery Slope.*, WASH. POST, Sept. 8, 2022
- *U.S. Surveillance of Americans Must Stop*, THE HILL, May 14, 2022
- *2022 Update: Reforming Emergency Powers*, JUST SECURITY, Jan. 24, 2022
- *Washington's Secrecy Bubble Needs to be Popped*, FOREIGN POLICY, Dec. 23, 2001
- *D.C.'s National Guard Should Be Controlled by Its Mayor, Not by a President Like Trump* (with Joseph Nunn), SLATE, Dec. 2, 2021
- *Three Fixes to Prevent Another Battle of Lafayette Square* (with Angelo Pis-Dudot), DEFENSE ONE, June 1, 2021
- *The Government Can't Seize Your Digital Data. Except by Buying It.*, WASH. POST, Apr. 26, 2021
- *Declaring Climate Change an 'Emergency' Won't Help Biden Fight It*, WASH. POST., Jan. 29, 2021
- *Trump Showed How Easily Presidents Can Abuse Emergency Powers. Here's How Congress Can Rein Them In.*, POLITICO, Jan. 22, 2021
- *Why DC's Mayor Should Have Authority Over DC's National Guard* (with Joseph Nunn), JUST SECURITY, Jan. 8, 2021
- *Emergency Powers, Real and Imagined: How President Trump Used and Failed to Use Presidential Authority in the COVID-19 Crisis*, 11 J. NAT'L SEC. L. & POL'Y 25 (2020)
- *How Congress Is Pushing Back Against Trump's Unprecedented Use of Emergency Powers*, WASH. POST, Sept. 25, 2020
- *A Window to Rein in DHS* (with Carrie Cordero), JUST SECURITY, July 28, 2020
- *Trump's Private Army Is Scarier Than You Think*, SLATE, July 24, 2020
- *Yes, Trump Can Deploy Troops to Suppress Protests*, BOSTON GLOBE, June 3, 2020
- *Trump Has Emergency Powers We Aren't Allowed to Know About* (with Andrew Boyle), NEW YORK TIMES, Apr. 10, 2020
- *The Coronavirus is a Real Crisis. The Border Wall Obviously Wasn't*, WASH. POST, Mar. 18, 2020
- *Trump's Reasonable – and Yet Still Worrisome – Emergency Declaration*, THE ATLANTIC, Mar. 16, 2020
- *Limiting This Governmental Emergency Power Could Curb Presidential Overreach* (with Andrew Boyle), FORTUNE, Mar. 4, 2020
- *The U.S. Says Julian Assange 'Is No Journalist.' Here's Why That Shouldn't Matter.*, WASH. POST, May 25, 2019
- *Congress Considers Taking Back Its Power*, WALL STREET JOURNAL, Mar. 17, 2019
- *The Courts Will Likely Let Trump Declare an "Emergency," Even If It's Made Up*, WASH. POST, Feb. 15, 2019
- *What the President Could Do If He Declares a State of Emergency*, THE ATLANTIC MAGAZINE, Jan./Feb 2019
- *The Corker-Kaine Bill Would Codify, Not End, the Forever War*, DEFENSE ONE, Apr. 17, 2018
- *No Constitutional Authority for the Feds to Confiscate Guns Without Due Process* (with Nila Bala), THE HILL, Mar. 20, 2018

- *The Nunes Memo Doesn't Reveal an Abuse of Power. It Is One*, TIME, Feb. 2, 2018
- *Another Bite out of Katz: Foreign Intelligence Surveillance and the Incidental Overhear Doctrine*, 55 AM. CRIM. L. REV. 105 (2018)
- *Step Up on FISA Reform, Democrats*, NY DAILY NEWS, Jan. 16, 2018
- *Pelosi: Lead Fight to Block Government Spying on Americans*, SAN FRANCISCO CHRONICLE, Jan. 10, 2018
- *A Chance to Control Domestic Spying*, THE NEW REPUBLIC, Oct. 26, 2017
- *James Comey's Testimony: "Comey Was Playing Chess"* (with Emily Bazelon), NEW YORK TIMES, June 8, 2017
- *Trump Will Have Wider Spying Powers Than Anything J. Edgar Hoover Ever Imagined*, LOS ANGELES TIMES, Dec. 7, 2016
- *The Government's Addiction to 'Secret Law'*, NEW YORK TIMES, Oct. 18, 2016 (print headline: *Secret Law is Bad Law*)
- *Five Myths About Classified Information*, WASH. POST, Sept. 18, 2015
- *Who Really Wins from NSA Reform?*, MSNBC, June 5, 2015
- *McConnell's Snowden Amnesia Bill Extends NSA Snooping*, USA TODAY, Apr. 28, 2015
- *To Protect Our Privacy, Make the FISA Court Act Like a Real Court* (with Faiza Patel), LOS ANGELES TIMES, Mar. 20, 2015
- *Why Your New iPhone Has Law Enforcement in a Tizzy*, AMERICAN PROSPECT, Oct. 6, 2014
- *CIA-Senate Spat: Battle of the Branches*, LOS ANGELES TIMES, Mar. 23, 2014
- *The Third-Party Metadata Idea is Fourth-Rate* (with Carrie Cordero), WALL STREET JOURNAL, Mar. 10, 2014
- *Muddled Details in NSA Reform*, USA TODAY, Jan. 17, 2014
- *Let's Sequester Secrecy*, POLITICO, July 1, 2013
- *Our Antiquated Laws Can't Cope with National Security Leaks*, TIME, June 12, 2013
- *The Spying on Americans Never Ended*, WALL STREET JOURNAL, June 6, 2013
- *It's Time to Police the NYPD* (with Faiza Patel), NEW YORK TIMES, Jan. 29, 2012, at A23
- *National Security and America's Unnecessary Secrets* (with J. William Leonard), NEW YORK TIMES, Nov. 7, 2011
- *Classification and Consequences* (with David Shapiro), ROLL CALL, Apr. 16, 2010
- *Electronic Border Control*, THE SAN FRANCISCO CHRONICLE, Oct. 2, 2009
- *Abuse Revelations Demand an Inquiry*, THE BOSTON GLOBE, Aug. 5, 2009
- *So Many Secrets: Will Obama Change His Heart on a Key Rule-of-Law Issue?*, THE NEW REPUBLIC, May 7, 2009
- *Fixing Justice: Don't Filibuster the Rule of Law*, PHIL. INQUIRER, Apr. 9, 2009