

By Patti Epler

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The Alaska legal community is in a flap over the choice of the keynote speaker for this year's annual bar convention -- controversial Berkeley law professor John Yoo who wrote the memos justifying U.S. torture of prisoners during the Bush administration.

Yoo's selection to top the agenda at the Alaska Bar Association's annual convention in Fairbanks in May has some lawyers trying to pressure bar officials into withdrawing the invitation. Some are threatening to boycott the association's signature event or organize some sort of protest at the convention.

To blunt some of the anticipated criticism, convention organizers plan to feature a panel discussion between Yoo and Oregon Public Defender Steve Wax, who several years ago volunteered to represent detainees at the Guantanamo Bay detention facility in Cuba established by the Bush administration in 2002 to hold prisoners from the war in Afghanistan and later from Iraq. Anchorage attorney Jeff Feldman has agreed to moderate that discussion.

Bar president Jason Weiner, a Fairbanks lawyer, says Yoo was the choice of an eight-member bar committee. One of the members suggested him after searching the Internet for interesting speakers with a legal background.

### **Like him or not, Yoo's shaped U.S. law**

Yoo "has has been very controversial, but he's willing to talk about it," Weiner said. "And that's pretty neat."

Yoo has been in the middle of high-level government policy decisions and is willing to discuss those issues publicly in a public forum, which is rare, Weiner pointed out.

He said neither the association or committee members are endorsing Yoo's opinions. They just thought it would be interesting to hear what he had to say, Weiner said.

"I've heard he's an incredible speaker," Weiner said. "I want to see that."

Yoo sparked an emotional outcry several years ago when memos surfaced that he'd authored in 2002 while serving in the Justice Department's Office of Legal Counsel. The documents interpreted the federal torture statute as allowing broad torture techniques, including waterboarding. He was later investigated and his legal reasoning found to be flawed and unethical by Justice Department officials. Some critics say he has been disgraced, but he still holds a tenured position at the University of California Berkeley Boalt Hall law school.

Longtime Anchorage attorney Brant McGee is one who believes the bar association is making a big mistake inviting Yoo to be the keynote speaker at an awards dinner that is supposed to honor distinguished service and people who have made major contributions to the profession.

"I think it's an outrage that they've chosen John Yoo as keynote speaker at an awards dinner where we honor our best," McGee said in an interview this week. He listed all the things Yoo has been found to have done wrong, including intentional misconduct, faulty legal reasoning and lying about his sources for the memos.

McGee said investigations revealed Yoo's memos ultimately led to the abuse of prisoners in Abu Ghraib after his interpretation of the torture laws was shared with military interrogators.

### **Yoo is a war criminal, some argue**

McGee wrote a lengthy article for the bar association's newsletter, The Alaska Bar Rag, calling

the invitation to Alaska's convention "an outrageous insult." In the article as well as an interview he calls Yoo a "war criminal" and points out that there are several countries where Yoo cannot travel because he'd be arrested for war crimes.

"It is Yoo's history of unethical conduct, his likely criminal complicity in torture through providing its legal rationale and authorization, and his role in policies that led directly to crimes that blackened America's reputation, especially in the eyes of the Muslim world, that makes his selection as our keynote speaker so offensive," McGee wrote in the article.

McGee is hoping that enough of his colleagues will object to Yoo's appearance that the bar leadership will rescind its invitation. He said bar officials are meeting in an emergency session later this month to deal with the protests.

McGee's not the only one who felt compelled to contribute their opinions to the Bar Rag. Another longtime defense attorney, Doug Pope, calls the decision to invite Yoo to speak "unforgiveable" and "a dishonor" to the bar association and previous guests.

Two proposed resolutions condemning torture and "regretting" the invitation also are printed in the issue. The resolutions are signed by dozens of bar members, they say.

The publication also includes pieces by people who support Yoo's appearance and an explanation by Weiner about the decision.

McGee said he doesn't object to the panel discussion, just the keynote address.

"I feel strongly that we should not be paying to bring this war criminal up to Alaska," he said. But he's willing to compromise and allow him as a panelist if that keeps Yoo off the stage as keynote speaker.

"There's no shortage of legal luminaries in the United States and they have to pick a war

criminal?" he said. "It is truly outrageous and a lot of lawyers are very upset about it."

McGee is joined by several of his colleagues in this issue.

### **'Balance Between Security and Civil Liberties'**

Weiner said he hasn't seen evidence of a boycott of the conference -- yet. But he acknowledges that he has heard the talk and that he realizes there are a number of people who are upset.

"But there's also been a lot of people who've said that's not the answer," Weiner said. "For the most part, I think the lawyers have taken a very respectful position."

Feldman, the Anchorage attorney who is moderating the panel discussion, said this week that he intends it to be "kind of a Socratic dialogue" between two people on opposite ends of the issue.

The panel is being billed as "The Balance Between Security and Civil Liberties in Wartime" and Feldman says he thinks it will be a broad discussion of the legal process used to deal with terrorism including the right to trial, the right to legal counsel and the workings of military courts.

Feldman said he has "pumped an inordinate amount of time into this thing," going over hours and hours of congressional testimony and read the books written by both Yoo and Wax.

"I think it's kind of a sleeper program," Feldman said. "It could be electrifying."