

# Barry Mitchell

## ATTORNEY

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### Education

University of California – Berkeley  
Boalt Hall, Juris Doctor, 1991

- Legal research and writing instructor
- Chairperson – moot court board

Arizona State University  
Bachelor of Science, Psychology, 1985

- Summa Cum Laude
- Phi Beta Kappa

### Community Involvement

- Junior Achievement (former)
- Phoenix Men's Arts Council (former)
- Recording for the Blind (former)

### Professional Bio

Barry Mitchell is a trial lawyer practicing for over 24 years in the area of criminal defense. He focuses on representing individuals and corporations in criminal, regulatory, and administrative cases. Barry handles the full range of state and federal felony and misdemeanor issues.

Barry is particularly skilled and seasoned in defending cases with an intersection between the criminal justice system and administrative licensing authorities. He has represented hundreds of licensed professionals and entities facing matters ranging from domestic violence to money laundering. Chambers USA says "peers praise his detail-oriented style, his sense of judgment, and his proactive approach."

Barry has a proven track record of conducting effective internal investigations running the gamut of regulatory issues, including FCPA, EPA, SEC, DEA and HHS – OIG matters. He has also helped create and implement compliance programs for organizations ranging from small companies and healthcare practice groups to Fortune 100 corporations.

Barry graduated from Boalt Hall, University of California – Berkeley, in 1991 where he taught legal research and writing, and chaired the Moot Court Board. He graduated summa cum laude and Phi Beta Kappa from Arizona State University with a Bachelor's degree in Psychology in 1985.

Before starting the law firm of Mitchell | Stein | Carey, Barry practiced for 22 years at Gallagher & Kennedy, P.A., and was a partner in its Criminal Law and Regulatory Enforcement Group.

## Related Employment

- Gallagher & Kennedy, P.A., Partner, Criminal Law and Regulatory Enforcement Group (1998 – 2013)
- Streich Lang, Associate (1996 – 1997)
- Gallagher & Kennedy, P.A., Associate (1991 – 1996)

## Professional Recognition

- "Lawyer of the Year", Best Lawyers in America, Criminal Defense (White Collar and Non-White Collar), 2016
- Best Lawyers in America, Criminal Defense, 2010 – Present
- "Band One" in Chambers USA, "America's Leading Litigation Lawyers"
- Southwest Super Lawyers, 2007 – Present
- Arizona's Finest Lawyers, 2011 – Present
- AV Pre-eminent Peer-Reviewed Rating, Martindale Hubbell

## Professional Leadership

- Member – Arizona Attorneys for Criminal Justice
- Member – National Association of Criminal Defense Lawyers
- Board Member, Arizona Association of Health Care Lawyers
- President, Sandra Day O'Connor Inn of Court, 2001-2002 (Currently Pupilage Group Leader)
- American Inns of Court Program Award Committee 2013
- State Bar of Arizona, Fee Dispute Arbitration Committee Member (former)

## Selected Speaking Events

- October 2014, Arizona Corporate Counsel Forum, Data Privacy, Protection and Breaches
- June 2014, Arizona State Bar Convention, Criminal Risks in Real Estate Deals
- May 2013, Arizona Association of Defense Counsel, Criminal Defense Law for Cocktail Party Conversation, or "Dude, It Could Happen to You"
- October 2011, Arizona Association of Healthcare Lawyers, Today's Intersection of Healthcare and Criminal Law: A Sea Change
- September 2011, State Bar of Arizona, White-Collar Crime Seminar – FCPA Update
- October 2010, State Bar of Arizona, Bill and Collect Your Fees Ethically
- January 2010, State Bar of Arizona, White-Collar Crime Update – Framework for Internal Investigations and Compliance Programs
- January 2009, State Bar of Arizona, White-Collar Crime Update – Trends in Investigative Techniques
- February 2008, State Bar of Arizona, The Intersection of Criminal and Administrative Law
- October 2007, State Bar of Arizona, Government Investigations; What's Happening Right Now
- July 2006, National Association of Legal Secretaries, Criminal Procedure Overview
- July 2003, Arizona State Bar, Billing Ethics seminar
- October 2001, Financial Executives Institute, Criminal Defense Strategies
- October 1998, Institute of Paralegal Education, Legal Research and Analysis in Arizona

## **Selected Publications**

- December 2011, Medical Society Roundup, "Responding to Government Investigations"
- March 1998, "Compliance Programs Can Bring You Peace of Mind (and They Don't Have to Be Expensive)"
- February 1998, Medical Society Roundup, "What to Do when the Government Knock-Knocks at Your Door"

## **Healthcare Fraud and Regulation**

- Successfully represented national, state, and local healthcare practices in Medicare. False claims act investigations and litigation
- Represented regional medical practice in U.S. Senate Finance Committee investigation. Investigation closed in the practice's favor
- Successfully represented local practice in AHCCCS investigation regarding billing irregularities
- Successfully defended physician accused of AHCCCS and Medicare billing fraud
- Successfully resolved DEA record-keeping violation case against national pharmaceutical distributorship
- Resolved Qui Tam case in favor of individual physician
- Resolved Qui Tam Case in favor of regional medical practice
- Successfully represented numerous individual physicians accused of Stark violations in connection with orthopedic device usage. Investigations closed and government claims not pursued
- Advised regional pharmaceutical distributorship concerning compliance with DEA record-keeping, distributing, and compounding regulations
- Advised online health care practice concerning state and federal regulations
- Successfully defended mobile dental practice against claims of violating AHCCCS billing rules and favorably resolved related Medicare issues with federal government
- Represented individual in FDA and state Attorney General investigation/prosecution concerning drugs imported from India. Achieved favorable civil resolution on behalf of individual
- Represented physician concerning investigation of weight-loss clinic. Investigation favorably closed
- Successfully represented physician in investigation of multiple pain management clinic practice
- Achieved favorable administrative resolution for dentist accused of AHCCCS billing fraud
- Successfully defended individual in HHS-OIG investigation of national dental practice concerning billing and patient treatment issues
- Represented chiropractor in state Attorney General billing fraud investigation which was closed in chiropractic physician's favor

## **Fraud and Public Corruption**

- Successfully represented individuals in state and federal investigations of insurance trusts concerning accusations of misuse of public funds
- Represented Department of Defense contractor in federal fraud investigation
- Represented small business owner in federal investigation of insurance fraud ring, investigation closed in client's favor
- Successfully defended farming partnership in Farming Subsidies Claims Act case. Achieved favorable civil resolution
- Resolved HUD fraud investigation in individual's/development company's favor
- Achieved dismissal of case for security company indicted by state Attorney General for antitrust violations
- Achieved dismissal of Indictment against state worker for bid and procurement violations involving state-run correctional facility
- Successfully resolved a state Attorney General consumer fraud claim against automobile dealership concerning trade-in value issues
- Represented individual in connection with investigation by the Office of Special Inspector General for the Troubled

Asset Relief Program (SIGTARP). Investigation closed in client's favor.

- Represented medical transport company in state Auditor General investigation related to conflict of interest claims. Investigation closed in favor of company.
- Successfully represented individuals accused of trade secret theft and copyright violations
- Successfully defended individuals and companies in mortgage fraud investigation and prosecutions
- Successfully defended individual in connection with an anti-trust investigation involving allegations of price-fixing of refrigeration equipment in five states, investigation closed in the individual's favor
- Advised clients concerning federal and state gaming regulations concerning software for gaming machines
- Successfully represented individual accused of violating state campaign finance laws and federal election laws

## **Felony and Misdemeanor Criminal Accusations; Defense of Licensed Professionals**

- Successfully defended numerous domestic violence investigations and prosecutions of physicians, chiropractors, dentists, lawyers, accountants, CPAs, Insurance professionals, contractors, and law enforcement personnel
- Successfully defended physicians, nurse practitioners, nurses, and other healthcare professionals against accusations of sexual misconduct with a patient
- Successfully represented numerous physicians, pharmacists, nurse practitioners, nurses, and real estate professionals with addiction/mental health issues concerning accusations of drug diversion or inappropriate fraudulent prescribing behavior
- Successfully assisted members of the clergy concerning accusations of sexual misconduct
- Successfully represented numerous physicians, lawyers, nurses, CPAs, contractors, and commercial vehicle operators concerning allegations of hit and run, DUI, and other driving misconduct
- Successfully represented physicians, lawyers, accountants, and other professionals concerning financial misconduct accusations/prosecutions
- Successfully represented physicians and other professionals against allegations concerning prostitution

## **Felony and Misdemeanor Criminal Accusations – General**

- Successfully tried cases and resolved investigations involving homicide, manslaughter, assault, sexual misconduct, domestic violence, misuse of computers, and privacy violations
- Successfully represented numerous individuals accused of drug possession, manufacture, and/or sale.
- Successfully represented individuals accused of or being investigated for theft, money laundering, conspiracy, embezzlement, and gambling violations
- Significant experience in mental health defense and guilty except insane law; represented individuals in homicide and assault cases resulting in Guilty Except Insane dispositions

## **Environmental / Natural Resource Allegations**

- Represented an Arizona county concerning allegations by the Environmental Protection Agency (EPA) and Department of Justice (DOJ) concerning improper handling of refrigerant and venting procedures, investigation closed in favor of client
- Represented a mercury recycling plant in a six-year investigation by the EPA and DOJ. Persuaded EPA to decline to submit the matter to DOJ
- Successfully resolved the prosecution of an individual for violating the Endangered Species Act
- Successfully resolved investigation of river rafting company concerning accusations of violating Navigable Waterways Act
- Successfully obtained a civil resolution for an Arizona rancher involved in a criminal prosecution for Bureau of Land Management tree-cutting violation
- Successfully resolved state investigation of individual accused of aiding and abetting violation of state environmental laws concerning land development and endangered species

## **Workplace Events and OSHA Matters**

- Successfully represented several mining companies concerning allegations of reckless endangerment/ manslaughter and OSHA violations in connection with the maintenance and operation of backhoes and other equipment
- Successfully represented housing development in OSHA/county investigation concerning installation and maintenance of septic tanks
- Successfully represented day care employee during investigation concerning Sudden Infant Death Syndrome
- Successfully resolved investigation against hospital employee concerning allegations of euthanasia
- Successfully resolved investigation of hospital employee concerning allegation of sexual abuse of a patient
- Successfully resolved allegations of assault/harassment of fellow hospital employees
- Successfully resolved allegations of reckless endangerment and drug diversion against nurse practitioner concerning accusations of administering an unauthorized take-back program
- Successfully resolved allegations against a nurse of reckless endangerment for mistakes in the administration of medication to a patient

## **Internal Investigations**

- Assisted company with investigating refrigerant leaks and other environmental issues
- Assisted company with Medicare fraud investigation related to over-billing concerns and fraudulent sale of durable medical equipment
- Assisted construction material manufacturing company with internal investigation of theft and embezzlement
- Assisted company with its investigation of computer tampering by employees

## **Foreign Corrupt Practices Act Matters**

- Successfully represented international company before the SEC and DOJ from allegations of bribing foreign officials. Persuaded government close investigation
- Advised company concerning whether certain gifts to state-run bank officials and China constitute violations of the CPA
- Advised company concerning the FCPA compliance of its business activities in Poland

## **Victims Advocacy and Workplace/Individual Security Issues**

- Represented media company concerning embezzlement by employee and facilitated the prosecution of employee by the state Attorney General's office. Secured restitution award and payment
- Advised physician concerning security and threat assessment issues due to threats made by patient to physician and practice
- Advised physician concerning extortionate behavior toward physician by another individual; facilitated prosecution by Maricopa County Attorney's Office
- Represented regional healthcare practice in investigation and prosecution of internal theft and fraudulent Medicare billing; facilitated federal prosecution of employee
- Assisted land development and apartment owners and criminally investigating employees suspected theft ring; facilitated civil recovery
- Assisted high-ranking city official by conducting security assessment and implementing precautionary measures due to threats made by an acquaintance
- Assisted insurance company in the recovery of mishandled funds from local bond company
- Assisted numerous clients in securing orders of protection / injunctions against harassment against individuals who engaged in threatening and harassing behavior towards the client