



# NATIONAL/HOMELAND SECURITY & TERRORISM RESEARCH GUIDE

## H. DOUGLAS BARCLAY LAW LIBRARY

**Check the library's "Location Guide" and the Summit online catalog for the current location of sources mentioned in this pathfinder.**

### **Purpose:**

This research guide focuses on resources available at the Barclay Law Library. The emphasis is on the United States Code, Administrative Law materials and various texts and treatises that deal with the topic generally. The resources are discussed in terms of basic primary sources, secondary sources and finding aids.

### **Outline:**

#### **PART I: NATIONAL SECURITY AND TERRORISM**

#### **PART II: HOMELAND SECURITY**

#### **PRIMARY SOURCES**

- A. Codes
- B. Case Law Reporters

#### **SECONDARY SOURCES**

- A. Encyclopedias
- B. Treatises & Practice Materials

#### **FINDING TOOLS**

- A. Summit/Voyager Online Catalog
- B. Periodical Indexes

#### **ONLINE RESOURCES**

- A. ABA
- B. Other web sites of interest

## **Part I – National Security & Terrorism**

### **Introduction**

National Security and Terrorism involve such issues as the Constitutional powers between the President, the Congress, and the courts in the national security field. This would include such topics as war powers, the making and interpretation of treaties, international agreements, and the oversight of intelligence activities. Other topics would include arms control, intelligence and counterintelligence, international dispute resolution and the legal constraints on the foreign transfer of technology and information with national security implications.

National and international legal issues are raised by the struggle against international terrorism. One should examine the role of United Nations Peacekeeping and the International Criminal Court in National Security Law. Counter-proliferation, counter-terrorism, and the role of the Press in Military Operations should also be considered when conducting National Security Research.

### **Primary Sources**

#### **A. National Security Laws & Statutes**

Powers of Congress; Levy of Taxes for Common Defense and General Welfare;  
Uniformity of Taxation U.S. Constitution, Article I, Sec. 8, cl. 1

National Emergencies Act 50 U.S.C. 1601 et al. Pub. L. 94-412, (Sept. 14, 1976), 90 Stat. 1255

See, for example

Declaration of national emergency by President; publication in Federal Register;  
effect on other laws; superseding legislation 50 U.S.C. § 1621

National emergencies 50 U.S.C. § 1622

Accountability and reporting requirements of President 50 U.S.C. § 1641

War Powers Resolution 50 U.S.C. 1541 Pub. L. 93-148, Nov. 7, 1973, 87 Stat. 555

See, for example:

Purpose and policy 50 U.S.C. § 1541

Consultation; initial and regular consultations 50 U.S.C. § 1542

Congressional action 50 U.S.C. § 1544

Uniform Code of Military Justice 10 USC 801, et seq. May 5, 1950, ch. 169, 64 Stat. 108

See, for example:

Art. 2. Persons subject to this chapter 10 U.S.C. § 802

## Related Legislation: Federal Military & Security Legislation – U.S. Code Titles

Air Force, 10 U.S.C. § 801 et al.  
 Armed Forces, 10 U.S.C. § 101 et al.  
 Army, 10 U.S.C. § 3001 et al.  
 Coast Guard 14 U.S.C. § 1 et al.  
 Crimes and Criminal Procedure, 18 U.S.C. § 2 et al.  
 National Guard, 32 U.S.C. § 101 et al.  
 Navy and Marine Corp., 10 U.S.C. § 501 et al.  
 Pay Allowances of the Uniformed Services, 37 U.S.C. § 101 et al.

### **Congressional Activity**

*Joint Resolution of 107th Congress* - "To authorize the use of United States Armed Forces against those responsible for the recent attacks launched against the United States." P.L. 107-40, 115 Stat 224, 10 USC 956(5)

### **B. Supreme Court Decisions - National Security & Terrorism**

Hamdi v. Rumsfeld 124 S. Ct. 2633 (2004).  
Rasul v. Bush 124 S. Ct. 2686 (2004). Reversed and remanded  
Rumsfeld v Padilla 124 S. Ct. 2711 (2004). Reversed and remanded  
Prize Cases, 67 U.S. 635 (1862)

Cases in which Supreme Court held that a war may exist without formal declaration of war, and the President may respond.

### **Code of Federal Regulations (CFR) Floor 4 Unclassified**

Related Regulations: Federal Military & Security Regulations

The following is a list of executive branch agencies that issue regulations related to the military and security, and where they appear in the CFR.

National Defense falls within title 32 of the CFR and it is divided into two subtitles. Subtitle A is the “Department of Defense” and includes:

Office of the Secretary of Defense (Chapter I),  
 Department of the Army (Ch. II),  
 Department of the Navy (Ch. III), and  
 Department of the Air Force (Ch. III).

Subtitle B is “Other Regulations Relating to National Defense.” This subtitle has ten chapters including:

C.I.A. (Ch. XIX),  
National Counter Intelligence Center (Ch. XVIII),

National Security Center (Ch. XXI), and  
Defense Logistic Agency (Ch. XII).

These regulations relate mainly to procedures and protocols within the Department of Defense.

### **Online/Internet Resources:**

Terrorism and National Security Law @ Megalaw.com

<http://www.megalaw.com/top/terrorism.php>

### **Secondary Resources**

Examples of Summit keyword search in the online catalog:

- “national security” + law
- terrorism + law
- “national security” + law + terrorism

### **Annotated Bibliography: National Security & Terrorism**

#### **National Security & Terrorism**

##### *National Security:*

Dycus, Stephen, Berney, A.L., Banks, W.C.; Raven-Hansen, P. *National Security Law* (Aspen Law & Business 2002) KF4850.A7 N37 2002

Roggemann, Herwig & Sarcević, P. *National Security and International Criminal Justice* (Kluwer Law International 2002) KZ6310 .N38 2002.

Stephen C. Thaman, *Official Privilege, State Security And The Right To A Fair Trial In The USA*

Otto Triffterer, *Security Interests Of The Community Of States, Basis And Justification Of An International Criminal Jurisdiction Versus Protection Of National Security Information, Article 72 Rome Statute/*

Hans-Jörg Behrens, *Protection Of National Security Information In The ICC: A Guide To Article 72 Of The Rome Statute*

***Terrorism:***

Alexander, Yonah & Brenner, E.H. *U.S. Federal Legal Responses to Terrorism* (Transnational Publishers 2002) KF9430 .A3 2002.

Follows statutory and legal changes implemented in response to terrorist threats to the United States. Includes excerpts from the U.S. Code.

National Commission on Terrorist Attacks upon the United States *The 9/11 Commission report: Final Report of the National Commission on Terrorist Attacks upon the United States* (National Commission on Terrorist Attacks upon the United States 2004). HV6432.7 .N39 2004.

TOC: We have some planes, The foundation of the new terrorism, Counterterrorism evolves, Responses to Al Qaeda's initial assaults, Al Qaeda aims at the American homeland, From threat to threat, The attack looms, The system was blinking red, Heroism and horror, Wartime, Foresight and hindsight, What to do? A global strategy, How to do it? A different way of organizing the government. Includes bibliographical references (p. 449-567).

Also available via Internet from the GPO Access web site. Address as of 2/03/2005: <http://www.gpoaccess.gov/911/index.html>

Sterba, James, *Terrorism and International Justice* (Oxford University Press 2003) HV6431.T4614 2003

Divided into three (3) parts. Part I. What is the nature and rhetoric of terrorism? Part II. Who are the terrorists, and why do they hate? Part III. What is a morally justified response to terrorism?.

***Homeland Security:***

ABA Standing Committee *National Security Law Report*, V. 13 (Oct. 1991 to present). KF4850.A15

Anikeeff, Anthony H. [et al.] *Homeland Security Law Handbook* (ABS Consulting 2003) KF4850 .H66 2003.

Part I: Scope of Homeland Security: Part II: Major issues in Homeland Security: Part III: Organization structure of the Department of Homeland Security:

*Guide to Homeland Security*. (West Group 2003) KF7685. A68 G85 2003.

Covers a variety of substantive legal areas. Includes materials related to U.S. homeland security efforts, the *USA Patriot Act*; selected administrative materials; and a bibliography.

Jarrett, Peggy Roebuck, *The Department of Homeland Security: A Compilation of Government Documents Relating to Executive Reorganization* (W.S. Hein 2003).  
KF4850 .D47

Documents include executive orders, presidential directives, legislature and legislative documents, Congressional Research Service reports, and Governmental Accounting Office reports.

*USA Patriot Act: A Legislative History of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act*, Public Law no. 107-56 (W.S. Hein 2001 & 2002) KF9430.A316 U83 2002.

4 Volumes. Includes the text of the USA Patriot Act, congressional reports, committee prints, bills, presidential statements, and attorney general statements. The series also includes legislative history and additional background information relating to the Patriot Act.

Ewing, Alphonse B. *The USA Patriot Act* (Novinka Books 2002) KF9430.A316 E94 2002

A reference booklet outlining policy considerations and the impact of the Patriot Act on the internet.

### ***Military Law:***

Heere, Wybo P. *Terrorism and the Military: International Legal Implications*, (T.M.C. Asser 2003) HV6431 .T463 2003.

Topics include terrorism prevention, the war on terror, military and international law. Based on a conference at The Hague, the Netherlands, 14-15 November, 2002. Includes bibliographical references and an index.

## **Part II – Homeland Security**

### **Introduction**

Homeland Security and responses to terrorism involve a variety of substantive legal areas such as immigration and border security, civil rights, administrative law, civil and criminal law and, military law. Typical research into Homeland Security issues brings together federal statutes and cases, Administrative law materials and Congressional resources.

## Primary Sources:

- United States Code
- Federal Administrative law – Code of Federal Regulations

### A. United States Code Floor 4

Citations to the US Patriot Act and related statutes, found in the United States Code, include:

USA Patriot Act, PL 107-56 (Oct. 26, 2001) 115 Stat. 272 It is cited as *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism* (USA PATRIOT ACT) Act of 2001.

Enhanced Border Security and Visa Entry Reform Act, 8 U.S.C. 1701 et al., PL 107-173 (May 1, 2002), 116 Stat 543.

See, for example:

Terrorist lookout committees 8 U.S.C. § 1733

Restriction on issuance of visas to non-immigrants from countries that are state sponsors of international terrorism 8 U.S.C. § 1735

Foreign student monitoring program 8 U.S.C. § 1761

Public Health Security and Bioterrorism Preparedness and Response Act, PL 107-188 (June 12, 2002).

See, for example:

National Preparedness Plan 42 U.S.C. 330hh et al.

Coordination of preparedness for and response to bioterrorism and other public health emergencies 42 U.S.C. § 300hh-11

Authority to waive requirements during national emergencies 42 U.S.C. § 1320b-5.

Terrorist Bombings Convention Implementation Act of 2002. 18 U.S.C. 2331 et al, PL 107-197 (June 25, 2002), 116 Stat 721, (Chap. 113B – Terrorism).

See, for example:

Use of certain weapons of mass destruction 18 U.S.C. § 2332a

Acts of terrorism transcending national boundaries 18 U.S.C. § 2332b

Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities 18 U.S.C. § 2332f

Harboring or concealing terrorists 18 U.S.C. § 2339

Providing material support to terrorists 18 U.S.C. § 2339A

Providing material support or resources to designated foreign terrorist organizations 18 U.S.C. § 2339B

Prohibitions against the financing of terrorism 18 U.S.C. § 2339C

Homeland Security Act 2002 6 U.S.C. 101 et al., P.L. 107-296, (November 25, 2002), 116 Stat. 2135

See, for example:

Executive department; mission 6 U.S.C.A. § 111  
 Abolishment of INS 6 U.S.C.A. § 291  
 Litigation management 6 U.S.C.A. § 442  
 Military activities 6 U.S.C.A. § 456  
 National identification system not authorized 6 U.S.C.A. § 554

## **B. Agencies and Code of Federal Regulations** Floor 4 Current year

Federal agencies, such as the Department of Homeland Security, provide the expertise and specialization to regulate the detailed requirements of our federal national security and anti-terrorism laws. They are empowered by federal legislation to engage in administrative lawmaking activity. The Department of Homeland Security was created on November 25, 2003 by the Homeland Security Act. Homeland Security is divided into four major divisions: Border and Transportation Security, Emergency Preparedness and Response, Science and Technology, and Information Analysis and Infrastructure Protection.

The following are some examples of the regulations promulgated by the Department of Homeland Security. Because it is relatively new, there are not many regulations. Please return to the regulations to check if they have been updated.

Homeland Security, Dept. of Homeland Security, Office of the Classified Security Information:

Purpose 6 CFR 7.1.  
 Scope 6 CFR 7.2.  
 Classification and declassification authority 6 CFR 7.21

Homeland Security, Dept. of Homeland Security, Regulations to Support Anti-Terrorism by Fostering Effective Technologies:

Purpose 6 CFR 25.1  
 Delegation 6 CFR 25.2  
 Designation of qualified anti-terrorism technologies 6 CFR 25.3  
 Obligations of Seller 6 CFR 25.4  
 Procedures for Certification of Approved Products for Homeland Security 6 CFR 25.7

Homeland Security, Dept. of Homeland Security, Protected Critical Infrastructure Information:

Purpose and scope 6 CFR 29.1  
 Effect of provisions 6 CFR 29.3  
 Requirements for protection 6 CFR 29.5  
 Disclosure of Protected Critical Infrastructure Information 6 CFR 29.8

### Secondary Sources

The law library's holdings include the following sources on Homeland Security and Immigration issues:

ABA Standing Committee, *National Security Law Report*, Vienna, VA. V. 13 (Oct. 1991) to present. Unclassified. Floor 2

Anikeeff, Anthony H. et al., *Homeland Security Law Handbook* (ABS Consulting, 2003). KF4850 .H66 2003.

Issues covered include:

**Part I:** Development of homeland security law.

**Part II:** Major issues in Homeland Security - Air transportation security, Maritime transportation security, Chemical security, Public health and bio-terrorism, Immigration and border security, Cyber-security, Procurements, grants, and appropriations, and Employment and work issues.

**Part III:** Organization & Management of the Department of Homeland Security:

Ewing, Alphonse B., *The USA Patriot Act*. (Novinka Books 2002) KF9430.A316 E94 2002

A reference booklet outlining policy considerations and the impact of the Patriot Act on the internet.

*Guide to Homeland Security* (West Group 2003). KF7685.A68 G85 2003.

Covers various legal areas and documents related to U.S. homeland security efforts such as the Homeland Security Act, the USA Patriot Act; regulations and administrative materials; and a bibliography listing pertinent research references.

Jarrett, Peggy Roebuck, *The Department of Homeland Security: A Compilation of Government Documents Relating to Executive Reorganization* (W.S. Hein 2003). KF4850 .D47

Loose-Leaf 1 Vol. Documents include executive orders, presidential directives, legislature and legislative documents, Congressional Research Service reports, and Governmental Accounting Office reports.

*USA Patriot Act : A Legislative History of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act*, Public Law no. 107-56 (2001) (2002). KF9430.A316 U83 2002.

4 Volumes. Includes the text of the USA Patriot Act, congressional reports, committee prints, bills, presidential statements, and attorney general statements. The series also includes legislative history and additional background information relating to the Patriot Act.

### Finding Aids

Summit Online Catalog: “Keyword” search examples:

“Homeland Security” +Anti-Terrorism

“Homeland Security” +Terrorism

“Immigration Law” +Crimes

“Immigration Law” +Defense

Immigration +Procedures + Handbook

### Internet & Online Resources

Electronic & Online Resources

American Bar Association. Standing Committee on Law and National Security.

<http://www.abanet.org/natsecurity/about.html>

*National Strategy for Homeland Security*

[http://www.whitehouse.gov/homeland/book/nat\\_strat\\_hls.pdf](http://www.whitehouse.gov/homeland/book/nat_strat_hls.pdf)

9/11 Commission Final Report (GPO Access)

<http://www.gpoaccess.gov/911/index.html>.

Westlaw – “HOMELAND-NEWS” database contains the Homeland Security Act and related topics such as domestic terrorism, anti-terrorism prevention, and domestic security. (authorized vendor password required)