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. Library Online Catalog
B. Periodical Indexes

Online Resources
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


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


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

See, for example:
Art. 2. Persons subject to this chapter 10 U.S.C. § 802


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.
National Guard, 32 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

Rumsfeld v Padilla 124 S. Ct. 2711 (2004). Reversed and remanded
In re Neagle, 135 U.S. 1 (1890).
Prize Cases, 67 U.S. 635 (1862).
Bas v. Tingy, 4 U.S. (4 Dall.) 37 (1800).

Cases in which the 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


**Secondary Resources**

Examples of the Online Library Catalog 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:


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


Terrorism:


Also available via Internet from the GPO Access web site


**Homeland Security:**


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.


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


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.


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


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:


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:
- 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.


See, for example:
- Use of certain weapons of mass destruction 18 U.S.C. § 2332a
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


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. Because it is relatively new, there are not many regulations. Please return to the regulations to check if they have been updated.


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:


Issues covered include:

Part I: Development of homeland security law.


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


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


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.

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


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**

Library 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


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)