

William C. Banks
Professor of Law Emeritus

Books

COUNTERTERRORISM LAW (*with* STEPHEN DYCUS, PETER RAVEN-HANSEN & STEPHEN I. VLADECK) (4th ed. 2020 & Supp. 2021).

NATIONAL SECURITY LAW (*with* STEPHEN DYCUS, PETER RAVEN-HANSEN & STEPHEN I. VLADECK) (7th ed. 2020 & Supp. 2021).

CONSTITUTIONAL LAW: STRUCTURE AND RIGHTS IN OUR FEDERAL SYSTEM (*with* RODNEY A. SMOLLA) (7th ed. 2019).

COUNTERTERRORISM LAW (*with* STEPHEN DYCUS, PETER RAVEN-HANSEN & STEPHEN I. VLADECK) (3rd ed. 2016 & Supp. 2018-19).

NATIONAL SECURITY LAW (*with* STEPHEN DYCUS, ARTHUR L. BERNEY, PETER RAVEN-HANSEN & STEPHEN I. VLADECK) (6th ed. 2016 & Supp. 2018-19).

SOLDIERS ON THE HOME FRONT: THE DOMESTIC ROLE OF THE AMERICAN MILITARY (*with* STEPHEN DYCUS) (2016).

COUNTERTERRORISM LAW (*with* STEPHEN DYCUS & PETER RAVEN-HANSEN) (2nd ed. 2012 & Supps. 2015-2016, 2014-2015, 2013-2014, 2012-2013).

NATIONAL SECURITY LAW (*with* STEPHEN DYCUS, ARTHUR L. BERNEY & PETER RAVEN-HANSEN) (5th ed. 2011 & Supps. 2015-2016, 2014-2015, 2013-2014, 2012-2013).

CONSTITUTIONAL LAW: STRUCTURE AND RIGHTS IN OUR FEDERAL SYSTEM (*with* RODNEY A. SMOLLA) (6th ed. 2010 & Supps. 2011, 2012, 2013, 2014, 2015, 2016, 2017).

COMBATING TERRORISM (*with* MITCHEL WALLERSTEIN & RENEE DE NEVERS) (2008).

COUNTERTERRORISM LAW (*with* STEPHEN DYCUS & PETER RAVEN-HANSEN) (2007 & Supps. 2009-2010, 2010-2011).

NATIONAL SECURITY LAW (*with* STEPHEN DYCUS, ARTHUR L. BERNEY & PETER RAVEN-HANSEN) (4th ed. 2007 & Supps. 2008-2009, 2009-2010, 2010-2011 & TEACHER'S MANUAL 2008).

CONSTITUTIONAL LAW: STRUCTURE AND RIGHTS IN OUR FEDERAL SYSTEM (*with* DAAN BRAVEMAN & RODNEY A. SMOLLA) (5th ed. 2005 & Supps. 2006, 2007, 2008, 2009).

NATIONAL SECURITY LAW (*with* STEPHEN DYCUS, ARTHUR L. BERNEY & PETER RAVEN-HANSEN) (3rd ed. 2002 & Supps. 2002-2003, 2003-2004, 2004-2005, 2005-2006 & TEACHER'S MANUAL 2003).

CONSTITUTIONAL LAW: STRUCTURE AND RIGHTS IN OUR FEDERAL SYSTEM (*with* DAAN BRAVEMAN & RODNEY A. SMOLLA) (4th ed. 2000 & Supps. 2000, 2001, 2002, 2003, 2004).

NATIONAL SECURITY LAW (*with* STEPHEN DYCUS, ARTHUR L. BERNEY & PETER RAVEN-HANSEN) (2nd ed. 1997 & TEACHER'S MANUAL 1997).

CONSTITUTIONAL LAW: STRUCTURE AND RIGHTS IN OUR FEDERAL SYSTEM (*with* DAAN BRAVEMAN & RODNEY A. SMOLLA) (3rd ed. 1996 & Supps. 1996, 1997, 1998, 1999).

NATIONAL SECURITY LAW AND THE POWER OF THE PURSE (*with* PETER RAVEN-HANSEN) (1994).

CONSTITUTIONAL LAW: STRUCTURE AND RIGHTS IN OUR FEDERAL SYSTEM (*with* DAAN BRAVEMAN & RODNEY A. SMOLLA) (2nd ed. 1991 & Supps. 1991, 1992, 1993, 1994, 1995).

NATIONAL SECURITY LAW (*with* STEPHEN DYCUS, ARTHUR L. BERNEY & PETER RAVEN-HANSEN) (1st ed. 1990 & TEACHER'S MANUAL 1991).

CONSTITUTIONAL LAW: STRUCTURE AND RIGHTS IN OUR FEDERAL SYSTEM (*with* DAAN BRAVEMAN) (1st ed. 1987 & TEACHER'S GUIDE 1987).

Books, Edited

COUNTERINSURGENCY LAW: NEW DIRECTIONS IN ASYMMETRIC WARFARE (William C. Banks ed., 2013).

NEW BATTLEFIELDS OLD LAWS: CRITICAL DEBATES ON ASYMMETRIC WARFARE (William C. Banks ed., 2011).

Law Review and Other Scholarly Articles

Cyber Attribution and State Responsibility, 97 INT'L L. STUD. SER. US NAVAL WAR COL. 1039 (2021).

The Bumpy Road to a Meaningful International Law of Cyber Attribution, 113 AJIL UNBOUND 191 (2019).

Next Generation Electronic Surveillance Law: Imaging the Future, 49 CONN. L. REV. 1702 (2017).

State Responsibility and Attribution of Cyber Intrusions After Tallinn 2.0, 95 Tex. L. Rev. 1487 (2017).

Next Generation Foreign Intelligence Surveillance Law: Renewing 702, 51 U. RICH. L. REV. 671 (2017).

Cyber Espionage and Electronic Surveillance: Beyond the Media Coverage, 66 EMORY L.J. 513 (2017).

Two Aspects of Cybersecurity – Human Rights and Economic Espionage (with Liis Vihul & Lorena Trinberg), 8 J. NAT'L SECURITY L. & POL'Y 469 (2016).

Customary Constraints on the Use of Force: Article 51 with an American Accent (with Evan J. Criddle), 29 LEIDEN J. OF INT'L L. 67 (2016).

The Role of the Courts in Time of War, 71 WASH. & LEE L. REV. ONLINE 169 (2014)
<http://scholarlycommons.law.wlu.edu/wlulr-online/vol71/iss3/3> (last visited Sept. 6, 2017).

Educating National Security Lawyers for the Twenty-first Century: The Intersection of National Security Law and International Affairs (with Harvey Rishikof), 6 J. NAT'L SECURITY L. & POL'Y 483 (2013).

Shadow Wars, 5 J. NAT'L SECURITY L. & POL'Y 315 (2012).

Introduction (with Elizabeth Rindskopf Parker), Symposium, *Cybersecurity: National Leadership, Individual Responsibility*, 4 J. NAT'L SECURITY L. & POL'Y 7 (2010).

Programmatic Surveillance and FISA: Of Needles in Haystacks, 88 TEX. L. REV. 1633 (2010),
reprinted in CURRENT CONTROVERSIES: ESPIONAGE AND INTELLIGENCE (Sylvia Engdahl ed. 2012).

Closing Guantanamo and Redirecting the U.S. Ship of State, 3 J. PARLIAMENTARY & POL. L. 5 (2009).

National Security Law Advice to the New Administration, 3 J. NAT'L SECURITY L. & POL'Y 221 (2009).

Providing “Supplemental Security” – The Insurrection Act and the Military Role in Responding to Domestic Crises, 3 J. NAT'L SECURITY L. & POL'Y 39 (2009).

Responses to the Ten Questions: 9. Is the FISA Amendments Act of 2008 good policy? Is it Constitutional?, 35 WM. MITCHELL L. REV. 5007 (2009).

Smart Counterterrorism, 8 CRIMINOLOGY & PUB. POL'Y 593 (2009).

Terror and Consent: The Long View, 37 SYRACUSE J. INT'L L. & COM. 1 (2009).

The Death of FISA, 91 MINN. L. REV. 1209 (2007).

Symposium, A Nuclear Iran: The Legal Implications of a Preemptive National Security Strategy, Introduction: A Second Nuclear Age?, 57 SYRACUSE L. REV. 429 (2007).

Who's in Charge: The Role of the Military in Disaster Response, 26 MISS. C. L. REV. 75 (2006), reprinted in DISASTER LAW (2010).

Teaching and Learning About Terrorism, 55 J. LEGAL EDUC. 35 (2005).

The Normalization of Homeland Security After September 11: The Role of the Military in Counterterrorism Preparedness and Response, 64 LA. L. REV. 735 (2004).

And the Wall Came Tumbling Down: Secret Surveillance After the Terror, 57 U. MIAMI L. REV. 1147 (2003).

Targeted Killing and Assassination: The U.S. Legal Framework (with Peter Raven-Hansen), 37 U. RICH. L. REV. 667 (2003).

Troops Defending the Homeland: The Posse Comitatus Act and the Legal Environment for a Military Role in Domestic Counter Terrorism, 14 J. OF TERRORISM & POL. VIOLENCE 1 (2002).

A Comparison of Enforcement of Administrative Agency Rules and Orders in China and the United States (with R. Goldsmith & G. Xue), 1 STUDY ON ADMIN. L. 1 (2001).

Executive Authority for National Security Surveillance (with M. E. Bowman), 50 AM. U. L. REV. 1 (2001).

The Integration of Theory and Practice in Teaching Structural Issues in Constitutional Law (with D. Braveman), 17 CONST. COMMENT. 361 (2000).

The 'L.A. Eight' and Investigation of Terrorist Threats in the United States, 31 COL. HUM. RTS. L. REV. 479 (2000).

Defense Contingency Budgeting in the Post-Cold War World (with J. Straussman), 59 PUB. ADMIN. REV. 135 (1999).

A New Imperial Presidency? Insights From United States Involvement in Bosnia (with J. Straussman), 114 POL. SCI. Q. 195 (1999), reprinted in THE NEW AMERICAN INTERVENTIONISM LESSONS FROM SUCCESS AND FAILURES (1999).

The Legacy of Lopez: CERCLA and the Commerce Clause, 32 CHEM. WASTE LIT. REP. 224 (1996).

At the Halfway Point: Light Docket Makes it Hard to Read Trends in Supreme Court Decisions, 81 A.B.A. J. 50 (1995).

From Vietnam to Desert Shield. The Commander in Chief's Spending Power (with Peter Raven-Hansen), 81 IOWA L. REV. 79 (1995).

The Impact of Lopez v. United States: Is Environmental Regulation Limited by the Commerce Clause? 5 E.P.A. ADMIN. L. REP. 780 (1995).

Pulling the Purse Strings of the Commander in Chief (with Peter Raven-Hansen), 80 VA. L. REV. 833 (1994).

Presidential Systems in Stress: Emergency Powers in Argentina and the United States (with Alejandro D. Carrió), 15 MICH J. INT'L L. 1 (1993).

The New Colombian Constitution, Democratic Victory or Popular Surrender (with E. Alvarez), 23 INTER-AMERICAN L. REV. 39 (1991).

While Congress Slept: The Iran-Contra Affair and Institutional Responsibility for Covert Operations, 14 SYRACUSE J. INT'L L. & COM. 291 (1988).

Bowsher v. Synar: The Emerging Judicialization of the FISC (with Jeffery D. Straussman), 28 B.C. L. REV. 659 (1987).

When They get Close to the Truth: Challenging the Special Prosecutors, 38 SYRACUSE L. REV. 623 (1987).

First Use of Nuclear Weapons: The Constitutional Role of a Congressional Leadership Committee, 13 J. LEGIS. 1 (1986).

Federalism Disserved: The Drive for Deregulation, 45 MD. L. REV. 141 (1986).

Efficiency in Government: Separation of Powers Reconsidered, 35 SYRACUSE L. REV. 715 (1984).

Conservation, Federalism, and the Courts: Limiting the Judicial Role, 34 SYRACUSE L. REV. 685 (1983).

Environmental Values: Institutional Responsibility and the Supreme Court (with Richard I. Goldsmith), 7 HARV. ENVTL. L. REV. 1 (1983), reprinted in 15 LAND USE & ENV'T. L. REV. 319 (1984).

EPA Bends to Industry Pressure on Coal NSPS – and Breaks, 9 ECOLOGY L. Q. 67 (1980).

Book Chapters

Who Did It? Attribution of Cyber Intrusions and the Jus in Bello, in THE IMPACT OF EMERGING TECHNOLOGIES ON THE LAW OF ARMED CONFLICT (Eric Talbot Jensen, Major Ronald T. P. Alcala eds., 2019).

Improving Disaster Risk Mitigation: Towards a 'Multi-Hazard' Approach to Terrorism, (with Katja L.H. Samuel & Daphne Richemond-Barak), in *THE CAMBRIDGE HANDBOOK OF DISASTER RISK REDUCTION AND INTERNATIONAL LAW* (Katja L. H. Samuel, Marie Aronsson-Storrier & Kirsten Nakjavani Bookmiller eds., 2019).

Law Enforcement by Military Means in the United States: Soldiers as Peacekeepers and Cops, Cops as Soldiers, in *RECHTSDURCHSETZUNG MIT MILITÄRISCHEN MITTELN: INLANDSEINSÄTZE DER ARMEE UND MILITARISIERUNG DER POLIZEI (LAW ENFORCEMENT BY MILITARY MEANS: DOMESTIC OPERATIONS OF THE ARMY AND MILITARIZATION OF THE POLICE* (U. Kischel & S. Graf von Kielmansegg, eds., 2018).

Developing Norms for Cyber Conflict, in *RESEARCH HANDBOOK ON REMOTE WARFARE* (Jens David Ohlin ed., 2017).

An Emerging International Legal Architecture for Cyber Conflict, in *RESEARCH HANDBOOK ON THE POLITICS OF INTERNATIONAL LAW* (Wayne Sandholtz & Christopher A. Whytock eds., 2017).

Predator Strikes in the War on Terrorism, in *SECURITY ISSUES IN THE GREATER MIDDLE EAST* (Karl Yambert ed., 2016).

Regulating Drones: Are Targeted Killings by Drones Outside Traditional Battlefields Legal?, in *DRONE WARS: TRANSFORMING CONFLICT, LAW, AND POLICY* (Peter L. Bergen & Daniel Rothenberg eds., 2014).

Law and Terrorism in the US and Beyond, in *THE INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL AND BEHAVIORAL SCIENCES* (James D. Wright ed., 2nd ed. 2014).

Exceptional Courts in Counterterrorism: Lessons from the Foreign Intelligence Surveillance Act (FISA), in *GUANTÁNAMO AND BEYOND: EXCEPTIONAL COURTS AND MILITARY COMMISSIONS IN COMPARATIVE AND POLICY PERSPECTIVE* (Fionnuala Ní Aoláin & Oren Gross eds., 2013).

The Role of Counterterrorism Law in Shaping ad Bellum Norms for Cyber Warfare, in *ISRAEL YEARBOOK ON HUMAN RIGHTS* (Yoram Dinstein & Fania Domb eds., 2013) reprinted from 89 *INT'L L. STUD.* 157 (2013).

Introduction – Shaping a Global Legal Framework for Counterinsurgency: Placing Postmodern War in Context, in *COUNTERINSURGENCY LAW: NEW DIRECTIONS IN ASYMMETRIC WARFARE* (William Banks ed., 2013).

A Brief History of the Field of National Security Law (with Peter Raven-Hansen and Stephen Dycus), in *NATIONAL SECURITY LAW FIFTY YEARS OF TRANSFORMATION: AN ANTHOLOGY* (Jill D. Rhodes ed., 2012).

The United States a Decade after 9/11, in GLOBAL ANTI-TERRORISM LAW AND POLICY (Victor V. Ramraj et al. eds., 2nd ed. 2012).

Toward an Adaptive International Humanitarian Law: New Norms for New Battlefields, in NEW BATTLEFIELDS OLD LAWS: CRITICAL DEBATES ON ASYMMETRIC WARFARE (William C. Banks ed., 2011).

Legal Sanctuaries and Predator Strikes in the War on Terror, in DENIAL OF SANCTUARY: UNDERSTANDING TERRORIST SAFE HAVENS (Michael Innes ed., 2007).

Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), in ENCYCLOPEDIA OF PRIVACY (William G. Staples ed., 2007).

General Warrants, in ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES (Paul Finkelman ed., 2006).

United States Responses to September 11, in GLOBAL ANTI-TERRORISM LAW AND POLICY (Victor V. Ramraj et al. eds., 2005).

Terrorism in Argentina: Government as its own Worst Enemy (with Alejandro D. Carrió), in GLOBAL ANTI-TERRORISM LAW AND POLICY (Victor V. Ramraj et al. eds., 2005).

Treaties and Treaty Power, in THE OXFORD COMPANION TO THE SUPREME COURT OF THE UNITED STATES (Kermit L. Hall et al. eds., 2d ed. 2005).

Peacekeeping in Bosnia (with J. Straussman), in TERRORISM AND PEACEKEEPING: NEW SECURITY CHALLENGES (Franke Volker ed., 2004).

To Prevent and Deter International Terrorism, in TERRORISM AND PEACEKEEPING: NEW SECURITY CHALLENGES (Franke Volker ed., 2004).

The Predator, in TERRORISM AND PEACEKEEPING: NEW SECURITY CHALLENGES (Franke Volker ed., 2004).

Foreign Intelligence Surveillance Act, in MAJOR ACTS OF CONGRESS (Brian Landsberg ed., 2004).

The Treaty Power in the Supreme Court, in THE OXFORD COMPANION TO THE SUPREME COURT OF THE UNITED STATES (Kermit L. Hall et al. eds., 1992).

First Use of Nuclear Weapons: The Constitutional Role of a Congressional Leadership Committee, in FIRST USE OF NUCLEAR WEAPONS (Peter Raven-Hansen ed., 1987).

Reports to Governmental Bodies and Professional Associations

New Battlefields/Old Laws: Shaping a Legal Environment for Counterinsurgency, 105 AM. SOC'Y INT'L L. PROC. 365 (2011).

The U.S. Administrative Procedure Act (APA): History, Implementation, and Selected Contemporary Problems (with Richard Goldsmith), in THIRD ANNUAL EAST ASIA CONFERENCE ON ADMINISTRATIVE LAW, PAPERS AND PROCEEDINGS (1999).

Reports, News and Commentary

Expert Backgrounder: Federalizing the National Guard and Domestic Use of the Military, JUST SECURITY, Feb. 21, 2024, <https://www.justsecurity.org/92568/expert-backgrounder-federalizing-the-national-guard-and-domestic-use-of-the-military/>.

Cheap and Easy-to-Use Drones are Making Wars Deadlier, THE GLOBE AND MAIL (December 2, 2023), <https://www.theglobeandmail.com/opinion/article-cheap-and-easy-to-use-drones-are-making-wars-deadlier/>.

100 Days, Trump, and Precaution (with David M. Driesen), HUFFINGTON POST (April 28, 2017, 3:50pm), http://www.huffingtonpost.com/entry/100-days-trump-and-precaution_us_590396c9e4b05c39767f6706?ncid=engmodushpimg00000003.

Soldiers on the Home Front: President Trump and the Military (with Stephen Dycus), THE HILL (Aug. 4, 2016, 8:06am), <http://thehill.com/blogs/pundits-blog/the-military/290285-soldiers-on-the-home-front-president-trump-and-the-american>.

The Legal Landscape for Emergency Management in the United States, NEW AMERICA FOUNDATION (2011), <https://na-production.s3.amazonaws.com/documents/the-legal-landscape-for-emergency-management-in-the-united-states>.

NSA Eavesdropping and the Fourth Amendment, JURIST (Mar 8, 2006, 8:01am), <http://www.jurist.org/forum/2006/03/nsa-eavesdropping-and-fourth-amendment.php>.

Mold, Mildew, and the Military Role in Disaster Response, JURIST (Oct. 17, 2005, 8:01am), <http://www.jurist.org/forum/2005/10/mold-mildew-and-military-role-in.php>.

"If Men Were Angels" NSA Eavesdropping and the Fourth Amendment, 28 A.B.A. NAT'L SECURITY L. REP. 1 (2006).

Phantom Agent, NATIONAL SECURITY STUDIES CASE SERIES (Maxwell Sch. of Citizenship and Pub. Aff., Syracuse U., Syracuse, N. Y. & Paul Nitze Sch. of Advanced Int'l Stud., Johns Hopkins U., Washington, D.C.), 2005.

The Predator, NATIONAL SECURITY STUDIES CASE SERIES (Maxwell Sch. of Citizenship and Pub. Aff., Syracuse U., Syracuse, N. Y. & Paul Nitze Sch. of Advanced Int'l Stud., Johns Hopkins U., Washington, D. C.), 2003.

The Role of the Courts in Time of War, SYNDICUS (Syracuse U. C. of L., Syracuse, N.Y.), 2003, reprinted in 14 THE INTELLIGENCER, J. OF U.S. INTELLIGENCE STUD. 35 (2004).

Dangerous Prisoner: The Threat of Bioterrorism in the U.S., NATIONAL SECURITY STUDIES CASE SERIES (Maxwell Sch. of Citizenship and Pub. Aff., Syracuse U., Syracuse, N. Y. & Paul N. Nitze Sch. of Advanced Int'l Stud., Johns Hopkins U., Washington, D.C.), 2002.

How We Uncover Their Plots: Laws for Keeping Tabs on Terrorists Draw Difficult Lines, LEGAL TIMES, Sept. 17, 2001.

Trolling for Terrorists: New Report Outlines Surveillance Authorities, 22 A.B.A. NAT'L SECURITY L. REP. 10 (2000).

The Devil and the Demon: The Threat of Bioterrorism in the U.S., NATIONAL SECURITY STUDIES CASE SERIES (Maxwell Sch. of Citizenship and Pub. Aff., Syracuse U., Syracuse, N. Y. & Paul N. Nitze Sch. of Advanced Int'l Stud., Johns Hopkins U., Washington, D.C.), 1999.

To Prevent and Deter International Terrorism: The U.S. Responses to the Kenya and Tanzania Embassy Bombings, NATIONAL SECURITY STUDIES CASE SERIES (Maxwell Sch. of Citizenship and Pub. Aff., Syracuse U., Syracuse, N. Y. & Paul N. Nitze Sch. of Advanced Int'l Stud., Johns Hopkins U., Washington, D.C.), 1999.

Peacekeeping in Bosnia (with J. Straussman), NATIONAL SECURITY STUDIES CASE SERIES, (Maxwell Sch. of Citizenship and Pub. Aff., Syracuse U., Syracuse, N.Y. & Paul N. Nitze Sch. of Advanced Int'l Stud., Johns Hopkins U., Washington, D.C.), 1997.

State Workers' Compensation at Federal Facilities: A Classic Federalism Struggle, 7 PREVIEW U.S. SUP. CT. CASES 207 (1988).

After One Hundred Years: A New First-Year Course is Needed, SYNDICUS (Syracuse U. C. of L., Syracuse, N.Y.), 1986.

Energy Planning – Getting Through the 1980's (with Richard Goldsmith), SYNDICUS (Syracuse U. C. of L., Syracuse, N.Y.), 1980.

Book Reviews

Still the Imperial Presidency?, 2 BOOKS-ON-LAW (1999) (reviewing CHRISTOPHER MAY, PRESIDENTIAL DEFIANCE OF “UNCONSTITUTIONAL” LAWS (1998)).

Book Review, 554 ANNALS AM. ACAD. POL. & SOC. SCI. 223 (1997) (reviewing LOUIS FRENCH, PRESIDENTIAL WAR POWERS (1995)).

Book Review (with Richard I. Goldsmith), 10 CAL. W. INT'L L.J.157 (1980) (reviewing ENERGY FUTURE – REPORT OF THE ENERGY PROJECT AT THE HARVARD BUSINESS SCHOOL (Robert

Stobaugh and Daniel Yergin eds., 1979) and BARRY COMMONER, THE POLITICS OF ENERGY (1979)).