

**LEGAL ISSUES
IN THE
STRUGGLE AGAINST TERROR**

Edited by

John Norton Moore

Robert F. Turner

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Foreword

R. James Woolsey, Former Director of Central Intelligence

Some twenty-two centuries ago, in 204 B.C., the bitter Second Punic War had finally begun to turn in favor of the Roman Republic. The Romans had launched an attack under their great general, Scipio, against Carthage itself, and on the way to North Africa he had conquered several city-states in Italy that had once been loyal to Rome but had betrayed her some years before and formed an alliance with Carthage. After conquering Locri, Scipio left behind his lieutenant, Pleminius, to occupy the city.

A short while later a delegation of Locrians traveled to Rome and asked to meet with the Roman Senate. The Senators agreed to hear them out, and what they heard was an indignant blast at the behavior of Pleminius and his troops—details of the desecration of Locrian shrines, robbery, torture, and a full list of horrors: “This officer of yours,” the Locrians told the Senators, “there is nothing human except his face and appearance, there is no trace of the Roman except in his clothing and speech...”

The Roman Senate’s reaction would have been met by stunned disbelief in virtually any other third century B.C. capital, or indeed in most capitals throughout history. The Senators immediately opened an investigation of the Roman troops’ behavior, freed the Locrian women and children who had been put in captivity, and not only apologized but restored double the amount of property that had been stolen by the Roman troops.

In telling the story of Locri in his fine book, *Empires of Trust*, Thomas F. Madden stresses the degree to which the American founding fathers saw themselves as recreating the Roman Republic while repairing some of the flaws that had led to its collapse in the first century B.C. into imperial rule. One of many Roman traits that they retained was a commitment to the principle that war does not abrogate the need to observe the law. This is certainly not to say that war and law require no adjustments when they intersect, and sometimes clash. But the Roman way of succeeding in war while honoring

the rule of law has become the American way as well—one aspect of this is summed up by the Marines’ saying, “We are your best friend, and your worst enemy.”

The interactions between war and law have always been complex, but until recent years Americans have generally had little doubt whether or not they were in fact at war. Wars generally began with some use of military force, even if disputed (the sinking of the battleship *Maine*, the Tonkin Gulf incident) and involved either formal declarations or at least some concrete expression of a national decision (a congressional resolution). Guerrilla wars and insurrections, sometimes using terrorism as a major tool, at least ordinarily have had clear-cut sides and objectives (the Basques in Spain, the Tamil Tigers in Sri Lanka).

Today’s struggle against terror, however, which provides the war-like context for this excellent collection of essays, is different. The first, and in many ways the dominating, issue with which one is faced is whether we are, predominantly, at war or at peace.

Clearly there are some elements of both in our current circumstances. But I would submit that much of our confusion is spawned by a hesitancy to acknowledge that we are in some key ways definitely at war, but not with the kind of enemy we are used to. Our hesitancy seems to me heavily driven by the religiously-rooted nature of our enemy’s ideology. The United States is very substantially a nation of religious refugees and their progeny. Our record of religious tolerance is not perfect but compared with most countries’ records it is exemplary. About the last thing most Americans think is proper is to discriminate against someone because of his religion—respect for the First Amendment is, in more than one sense, at the heart of our national identity.

Yet not all totalitarianism is secular—Communism, Nazism, and Fascism are, and we came to understand how to deal with those. But dealing with religiously-rooted totalitarianism is very difficult for us religious refugees, and history unfortunately contains many examples of religious beliefs that have inspired totalitarian ideology and behavior, whether it was Catholic Torquemada’s leadership of the Spanish Inquisition, Protestant Thomas Muentzer’s drive for a totalitarian society during the Reformation, Puritan Cotton Mather’s persecution of the Quakers, Jewish Yigal Amir’s assassination of Yitzhak Rabin, Hindu enforcers of suttee, Shinto kamikazes, or Muslim suicide bombers. It may be difficult for Protestants to read about Muentzer or Hindus to read about suttee without wincing, but it is impossible to understand such behavior and movements without understanding their religious roots. Surely we are able to judge today’s Hindus and Catholics on their behavior and personal merits without tarring them with the brush of Torquemada or the practitioners of suttee.

But just as surely it is impossible to discuss, much less understand, these cases of religiously-rooted totalitarian behavior without candidly admitting that they were driven by some people's understanding of what their religion required of them. And if one cannot describe, discuss, and understand what motivates such behavior one cannot change it. The Spanish Inquisition would still be with us if Catholics had never been able to discuss and understand that it was a malignant branch of their religion that needed to be eliminated.

So does euphemism advance or detract from our ability to understand? Are we better able to deal with religiously-inspired violence that seeks to move us toward replacing our Constitution with a Caliphate if we must call such incidents "man-caused disasters?" Has Saudi Prince Alwaleed bin Talal aided our understanding of riots by Muslims in France by ordering Fox News (in which he is reported to have a substantial investment) not to call them "Muslim" riots but just "riots"? Would those who halted the Spanish Inquisition have been able to move more quickly if they had called Torquemada and his followers "anger-management-challenged candidates for therapy with pyromaniacal propensities?"

Lawrence Wright, in his definitive work, *The Looming Tower*, tells us that with just over one per cent of the world's Muslims Saudi Arabia controls around 90 per cent of the world's Islamic institutions. The beliefs espoused and taught by most of those institutions are essentially those of the Wahhabis, Saudi Arabia's dominant sect of Islam—they are views that are somewhere between violent and genocidal with respect to Shi'ites, Jews, homosexuals, and apostates and highly repressive of women and many other groups. Their objective is to replace democratic government with a world-wide Caliphate—a theocratic dictatorship. These views are substantively quite similar to al Qaeda's. The principle difference between the two is not a matter of substance but the question of tactics and control, a bit like the difference between Stalinists and Trotskyites in the 1920s and 1930s.

So by all means let us carefully lay out the lines that should guide our behavior, considering carefully those aspects of our lives where we may reasonably say we are at peace and those where we must admit we are at war. This book is a superb guide in that regard. And let us ensure that we are not only the worst enemy of those who are trying to destroy us but the best friend of those who join us—those who will work with us in defending the Constitution and tolerance against hatred and theocratic totalitarianism.

Above all, let us call things, and ideas, and beliefs by their real names so that we can probe, question, analyze, and decide how to proceed and lay out our guidelines based on facts and logic. Orwell, as is often the case, put it best:

“Language ...” he said in his 1946 essay, “Politics and the English Language,” should be “an instrument for expressing and not for concealing or preventing thought.”

Preface¹

John Norton Moore & Robert F. Turner

The September 11 attacks focused the nation's and the world's attention on the problem of international terrorism. This focus has in turn raised important new legal questions. When sovereign nations engage in armed conflict, well-established regimes exist to establish the legal rights of belligerents and innocent civilians who may be found on the battlefield. The rights and duties of soldiers—on the battlefield, or if wounded or captured by the enemy—are generally clear. But in this conflict, fought against non-governmental terrorist organizations rather than the armed forces of sovereign nations, the answers to many questions are not that clear.

The nineteen chapters that follow are authored by some of the nation's leading authorities and address core issues in the struggle against terror from a variety of important perspectives. Some of the essays that follow address aspects of constitutional or other domestic United States law, while others focus on concerns of international law. Still other chapters address intermestic blends of domestic and international law. Their common feature is their special relevance to the struggle against al Qaeda and its terrorist allies.

1. The University of Virginia takes pride in its pioneering role in the development of the important new field of national security law. The first law school course on national security law was offered in 1969 at the University of Virginia School of Law and was taught by Professor John Norton Moore. In 1981, Professors Moore and Turner co-founded what was originally called the "Center for Law and National Security," the nation's first "think tank" devoted to non-partisan, non-profit, interdisciplinary advanced scholarship and education on legal issues affecting American national security. It was subsequently renamed the Center for National Security Law, <http://www.virginia.edu/cnsl/>. The Center's *National Security Law* casebook was published in 1990 and a revised edition was released in 2005. Since the attacks of September 11, 2001, the field has exploded, with several new national security law and terrorism law centers emerging and courses being offered at most law schools across the nation. Each summer since 1991 the Center has run a National Security Law Institute to train law professors and government practitioners in this growing new field.

Our first chapter addresses one of the most controversial issues associated with the United States' struggle against terrorism, the treatment and interrogation of detainees. Author David Graham served with distinction as an Army Judge Advocate General (JAG) officer prior to becoming the Executive Director of the Army's Judge Advocate General's Legal Center and School. He is widely recognized as the principal founder of the military law field of "operational law"—a key component of national security law—and he was a natural choice to deal with detention issues. After a brief survey of the pre-9/11 legal regime for detainees, he discusses various detainee-related government decisions following the 9/11 attacks, first in Afghanistan, and then at Guantanamo Bay, Cuba. He next examines a series of relevant Supreme Court decisions and discusses two key statutes enacted by Congress in response to these judicial determinations—the 2005 Detainee Treatment Act and the 2006 Military Commissions Act—together with an important 2007 Executive Order regarding CIA interrogation methods issued in response to this latter piece of legislation. He then concludes by raising a series of significant questions for readers to consider concerning where we are—and where we should be going—in addressing this matter in the future.

Closely related to the issue of treatment and detention of detainees is the question of how to try them for war crimes or acts of terrorism against the United States if such a decision is made. Chapter Two of this volume addresses a variety of issues pertaining to the use of military commissions. Its author is another highly respected former Army JAG officer, Major General John Altenburg, who retired as the Deputy Judge Advocate General of the Army to the private sector in 2001. He returned to government service in 2004 to spend three years as the appointing authority for military commissions covering detainees at Guantanamo. General Altenburg notes that military commissions have a well-established and honorable tradition in the prosecution of war crimes dating back to the earliest days of the country, and speculates that—in addition to public ignorance of this tradition—opposition to the use of commissions may in part have resulted from both the secrecy surrounding the Bush Administration's handling of the issue and broad claims of Executive power that are addressed in Chapter Four. In addition to providing a useful historic review of relevant military law, General Altenburg chastises the government for failing to embrace some necessary technical changes in the regulations urged by military lawyers in general and the Office of Military Commissions in particular. Had these changes been adopted, he speculates that the *Hamdan* case might well have been decided differently by the Supreme Court. He notes that special concerns for the preservation of national security secrets may make some cases untriable, and cautions that "the government should not risk achieving a criminal conviction

by employing rules and procedures that reduce a defendant's trial rights in a way that justifies international derision of the legitimacy of the proceedings."

The third key legal issue involving the detention of enemy combatants in the struggle against terrorism involves the rights of detainees to challenge their detention through the historic writ of habeas corpus. During World War II, more than 400,000 German and Italian POWs were transferred to camps within the United States to be detained for the duration of hostilities. Only a very small number were ever charged with criminal behavior or had any contact with domestic U.S. courts. In 1950, the Supreme Court rejected a habeas petition submitted by German soldiers who were being held in a prison in the U.S.-controlled part of Germany pursuant to convictions by military tribunals that they had continued to fight against U.S. forces after the unconditional surrender of their government. In a relatively brief opinion, the Court rejected the petition, denying them any access to U.S. courts. Fifty-four years later, in a trilogy of 2004 cases involving claims by alleged enemy combatants being held at the U.S. naval station at Guantanamo, Cuba, a different Supreme Court reached a different conclusion. These cases and the history of habeas corpus are presented in Chapter Three by Dr. James Terry, a former Marine JAG Colonel and Legal Counsel to the Chairman of the Joint Chiefs of Staff, who currently serves as Chairman of the Board of Veterans Appeal.

Chapter Four addresses a variety of constitutional separation-of-powers issues involving the President, Congress, and the Senate. Co-editor Robert F. Turner examines the views of the Founding Fathers on the proper constitutional role of the legislature in the foreign policy and national security realm, discussing in the process such modern controversies as the authority of the President to authorize warrantless foreign intelligence electronic surveillance and the interplay between the power of the purse and the power to "declare War" given to Congress, and the President's "Executive" power and authority as Commander in Chief.

Closely related is the power of senior executive branch officials to prevent litigation in federal courts on the grounds that going forward would place in jeopardy "state secrets" the disclosure of which would do serious harm to the national security. What is the basis of this by now well-established doctrine? Is it fair? Can it be used to conceal government mistakes or wrongdoing? Should Congress by statute regulate the doctrine? Professor Robert Chesney addresses the history of the doctrine and examines pending legislation on the topic.

Chapter Six provides a broad overview of civil liberties issues related to the struggle against terrorism. Its author, McGeorge Law School Dean Elizabeth Rindskopf Parker, brings an unusual background to the project. After many years as a civil rights attorney working with the NAACP Legal Defense and Education Fund, Inc., she became the general counsel to both the National Security

Agency and the Central Intelligence Agency, in addition to serving as the number two lawyer in the Department of State. One of four former chairs of the American Bar Association's Standing Committee on Law and National Security contributing to this volume, she discusses a series of First and Fourth Amendment issues raised by the special character of the current conflict against terrorism.

The First Amendment is the central focus of Chapter Seven as well. Former University of Virginia President, law professor, and founding Director of the Thomas Jefferson Center for the Protection of Free Expression, Robert M. O'Neil tackles the difficult issue of "hate propaganda." To illustrate the issue, he notes that Saudi Arabia has been funding a school in northern Virginia that uses textbooks that reportedly teach young children to hate people of certain ethnic, national, or religious groups. There are numerous Web sites on the Internet that preach hatred and even promote terrorism against disfavored groups. Professor O'Neil examines the long and often unsatisfying history of Supreme Court jurisprudence in this area, including decisions involving the Communist Party and other alleged "subversive" groups, and discusses as well the constraints that have been adopted by our northern democratic neighbor, Canada, to address this problem.

One of the most innovative issues in the struggle against terror is addressed in Chapter Eight. America has traditionally been a strong champion of the rule of law, and Professor John Norton Moore—the founder of the field of national security law and principal co-editor of this volume—has long argued that an important but often neglected legal tool in the struggle against terrorism and other forms of tyranny is civil litigation. Building on his landmark 2004 text, *Civil Litigation Against Terrorism*, Moore not only makes the case for private lawsuits by victims of terrorism and their heirs, but also proposes a new treaty to promote and make this remedy effective. For more than a dozen years the two co-editors of this volume have taught an interdisciplinary graduate seminar at the University of Virginia on "War & Peace: New Thinking About the Causes of War and War Avoidance." A central premise of this enquiry is that incentives matter, and if we wish to maintain the peace and deter potential aggressors it is important to act in such a manner that they will perceive such conduct as not in their personal self interest. The key values in this process are perceptions of strength and will, and disincentives like being held financially liable for misconduct can be cumulative in effect. For example, lawsuits against the perpetrators of the Libyan attack on Pan Am Flight 103 two decades ago, which ultimately resulted in payments in excess of \$2 billion to relatives of the 270 victims of the terrorist bombing, made a difference. In the process, Libya accepted responsibility for the attacks and renounced future acts of terrorism.

One of the many things that separate the current conflict from traditional warfare is the tremendous importance of intelligence in achieving a successful outcome. Traditionally, good intelligence helped identify the location and intentions of an adversary—which facilitated classic military functions like closing with and destroying enemy forces. In the struggle against al Qaeda and the Taliban, identifying and locating the enemy within or outside of our own national borders is by far the most important aspect of a successful outcome, as the function of closing with and neutralizing the enemy could often be accomplished by a small metropolitan police force. Al Qaeda has no armor, artillery, or infantry divisions—it resorts to terrorism because it recognizes it is hopelessly inferior in military power to its adversaries. Intelligence thus becomes arguably the single most important function in this struggle, and to address that issue we have enlisted the considerable talents of Professor Frederick Hitz. Prior to becoming a Senior Fellow at the Center for National Security Law—with teaching responsibilities in both the School of Law and the University of Virginia Department of Politics—Hitz had a distinguished governmental career, including directing CIA operations in Europe and serving as the first statutory CIA Inspector General. Few can rival his expertise in this field.

Chapter Ten is also authored by a former employee of the CIA. Professor John Radsan, of the William Mitchell School of Law, served for eight years in the Department of Justice and as CIA Assistant General Counsel. Like Professor Hitz, he is a graduate of Harvard Law School. He addresses two controversial issues related to gaining control or transferring control of suspected terrorists: rendition and extradition—the former being controversial when American agents snatch suspected terrorists off the streets of other countries, the later when terrorist suspects are sent to countries with dismal human rights records for interrogation.

One of the most significant structural responses to the 9/11 attacks has been the establishment by Congress of the Department of Homeland Security (DHS). We have called upon a dear friend and colleague—another former Chairman of the ABA Standing Committee on Law and National Security, and the first DHS Assistant Secretary for Policy—to discuss some of the more important legal issues in this area. Joined by former Deputy Assistant Secretary and now George Mason University Law School Professor Nathan Sales, Stewart Baker documents how customs and border protection agents at major airports have worked to prevent dangerous terrorists from entering the United States. Particularly interesting is their discussion of differences of opinion between our government and the European Community on airline passenger privacy, and the general issue of the interplay between safeguarding privacy rights and efforts to protect Americans from foreign terrorists.

Prior to the 9/11 attacks, there were four geographic combatant commands within the U.S. military focused upon Europe (EUCOM), the Pacific (PACOM), South and Central America (SOUTHCOM), and the Middle East/Central Asia (CENTCOM). (A fifth, Africa Command [AFRICOM], was established in 2007.) While the North American Aerospace Defense Command (NORAD) coordinated air defense efforts over North America throughout most of the Cold War, the U.S. mainland had not been attacked by a foreign enemy in more than a century and there had never been thought a need for a unified geographical combatant command for North America. That changed following the 9/11 attacks with the establishment in 2002 of Northern Command (NORTHCOM). Chapter Twelve, written by former NORTHCOM Staff Judge Advocate Kurt Johnson, Prof. Kevin Ciepły (former NORTHCOM Chief of Land Operations Law), and Lieutenant Colonel Jeanne Meyer (USAF), addresses the role of NORTHCOM and the important issues its establishment raises about civil-military relations and the role of the military within the territorial United States.

Chapters Thirteen and Fourteen address core issues in the law of war/law of armed conflict. For centuries, scholars of international law have debated legal rules governing the initiation of armed conflict (*jus ad bellum*) and the conduct of such conflicts (*jus in bello*). Perhaps not surprisingly, we have turned to the senior levels of the Pentagon to find prominent scholars to address both issues. Dr. Walter Gary Sharp, a retired Marine JAG officer, is an adjunct professor at Georgetown Law Center while serving as Senior Associate Deputy General Counsel at the Pentagon. He provides important historical background on the rights of states to initiate the use of armed force and then focuses especially on actions against terrorists and other non-state actors. His counterpart in that office, W. Hays Parks—a legendary figure who served for two-dozen years as Special Assistant for Law of War Matters to the Judge Advocate General of the Army and has been the Charles H. Stockton Professor of International Law at the Naval War College—provides a general overview of international law governing the conduct of war and its implications for the struggle against terrorism.

The “outsourcing” of traditional military functions to civilian contractors during the struggle against terrorism has been historically unprecedented and is the cause of a great deal of concern. Traditionally, the American military has relied heavily on private industry for *products*: weapons, ammunition, transportation, food for the troops, and the like. Today, we also outsource *services*, some of which have traditionally been viewed as the exclusive province of uniformed combatants. Do these non-governmental personnel have the “combatant’s privilege” to engage with and destroy the nation’s enemies, or are they

limited to using force in self-defense against an imminent threat to themselves or others? What is their status under the 1949 Geneva Conventions or other international agreements governing the law of armed conflict? If they break the law, may they be tried by military courts-martial? If not, are our domestic laws adequate to ensure that wrongful conduct will not escape accountability? To address the many important issues raised by this new practice, we have enlisted the service of M. E. “Spike” Bowman, a Distinguished Fellow at the Center for National Security Law who previously served as a Navy JAG officer before establishing and managing the National Security Law Unit in the FBI’s Office of General Counsel. Many of the issues raised by the privatization of traditional military functions have still not been resolved, but Spike does an excellent job of identifying and analyzing many of them.

One of the distinguishing characteristics of all of the perpetrators of the 9/11 attacks was that they were foreign nationals inside the United States as visitors. In the months and years thereafter, a major debate has taken place about U.S. immigration policies. Is it too easy for foreign radicals to enter America? Should our immigration rules be modified to make it more difficult for potential terrorists to enter our country, even if that means excluding promising foreign students, business people, and innocent tourists in the process? In Chapter Sixteen, West Point Professor Margaret Stock, a leading expert on immigration law, addresses a variety of important issues in this area.

In our judgment, the most important single issue facing the nation today in the struggle against terrorism is the danger that terrorists will gain control of nuclear weapons or other weapons of mass destruction. To address the nuclear issue, we have recruited a non-lawyer, Dr. Robert L. Pfaltzgraff, Jr., the founding president of the Institute for Foreign Policy Analysis and Shelby Culom Davis Professor of International Security Studies at the Fletcher School of Law and Diplomacy, Tufts University. Among the many alarming scenarios he addresses are a relatively primitive Soviet-era SCUD missile launched from off our shores and designed to explode 40–400 kilometers above the Earth’s surface. Such a burst could disable the infrastructure on which modern society depends over thousands of square miles, shutting down power grids, information systems, and virtually everything based upon electronics by electromagnetic pulse (EMP), all without a single fingerprint to identify the source. Dr. Pfaltzgraff also discusses a series of other threats, including assembling and detonating an improvised nuclear device, attacking a nuclear power plant, or detonating a radiological “dirty bomb” in which conventional explosives would disburse radioactive waste over a large area. He also addresses a variety of measures that might be taken to reduce the risks of such devastating attacks.

Only slightly less frightening is the risk of a biological attack, and we are pleased to have found Professor Barry Kellman to address this highly technical issue. Director of the International Weapons Control Center at DePaul University College of Law and author of the highly acclaimed 2007 volume, *Bioviolence: Preventing Biological Terror and Crime*, Professor Kellman also chairs the American Bar Association's Committee on International Security of the Section on International Law and Practice. He notes that it would be much easier for foreign terrorists to transport a small vial of biotoxins through airport security and customs inspection than to move a nuclear weapon, and addresses ways in which genomics, nanotechnology, and other microsciences might be used to alter bacterial agents like plague or rabbit fever to increase their lethality or make them resistant to traditional treatments. He notes the importance of international cooperation in addressing this threat, and emphasizes the importance of establishing an effective system for controlling access and accounting for pathogens and biolabs.

The final chapter addresses the important issue of cyberterrorism, the use of cyberspace to cause harm to the nation's critical infrastructure. The author, Dr. Jeffrey Addicott, is a retired Army JAG Colonel and currently Distinguished Professor of Law and Director of the Center for Terrorism Law at St. Mary's University School of Law. He discusses a variety of techniques used under the general heading "cyber attack" to cause harm or harass a target. These include viruses, Trojan horses, worms, spyware, malware, and many others. Some, like phishing, are regularly used by criminals and criminal organizations to trick people into revealing bank account numbers, passwords, Social Security numbers, and the like. Other techniques are often used by teenagers merely curious to see whether they can hack into a Pentagon computer. But a 2007 cyber attack that virtually shut down the nation of Estonia demonstrated that these techniques can be used to great effect during periods of war or heightened tensions. And the potential that hostile states or terrorist groups might use computer attacks to shut down critical infrastructure systems like electrical power grids, transportation systems, or emergency services is a real and serious threat. Dr. Addicott provides a valuable summary of the problem and then discusses a number of important questions related to the prevention or prosecution of cyber attacks, as well as a discussion of whether cyber attacks might in certain circumstances constitute acts of war warranting the use of defensive armed force.

If there is a common theme in this volume, we believe it is excellence. We are particularly pleased with the quality of the contributors who have participated in this enterprise. They represent a diverse range of backgrounds and political viewpoints. Some are primarily academics, others have distinguished careers in government service, and several belong to both groups. They in-

clude lawyers, political scientists, and technical experts on such matters as chemical, biological, and nuclear weapons of mass destruction—in our view the most important issue of concern in this struggle, but all of the contributors share in common that they are among the world’s top experts on the subjects they are addressing.

Many of the issues being addressed are so new or so unsettled that no one can draw bright legal lines with great confidence. Courts have struggled for more than two centuries over the precise bounds of Executive power in foreign affairs, and able scholars argue passionately on various sides of these issues today. Throughout most of our history Congress made no effort to constrain the President’s conduct of foreign intelligence, and post-Vietnam congressional activism in this area has produced great uncertainty about line drawing. All admit that the Fourth Amendment prohibits “unreasonable” searches and seizures, but major differences exist about what conduct is “reasonable” during a period of armed conflict against terrorists who seem willing to slaughter as many Americans as possible.

For more than twenty-seven years, the Center for National Security Law has published literally dozens of books, monographs, and similar publications on a range of important topics. We are proud of this volume, and we are confident that both expert and lay readers will find it of value as they seek to come to terms with these important legal issues.

We would be remiss if we failed to express our grateful appreciation to all of the contributors to this enterprise as well as to Donna Ganoë, Becky Gilderleeve, Judy Ellis and the rest of the staff at the Center for National Security Law for their important roles in bringing this project to fruition. We are also grateful to Dr. Keith Sipe, Linda Lacy, and Tim Colton, of Carolina Academic Press, for their professionalism and wise counsel.