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Preface

In a field of law as dynamic as ours, we expect many important developments each year. But even we were surprised by the torrent of notable changes during the first year and a half of the Trump administration. Federal courts caught up with the Trump travel bans in fast-progressing litigation that came to a head when a divided Supreme Court decided *Trump v. Hawaii*. Almost forty years after the Supreme Court expounded the third-party doctrine to give the government access to dialed phone numbers without a warrant or even probable cause, the Court refused to apply that doctrine to allow access to historical cell tower locational data in *Carpenter v. United States*. Earlier this year Congress approved a five-year extension of programmatic national security surveillance without significantly changing the scheme approved in the 2008 FISA Amendments Act. In the meantime, the continuing chaos of the Guantánamo military commissions continued to generate new case law and new issues, even as the Administration persisted in relying on them to prosecute some accused terrorists. In addition, evidence of Russian efforts to interfere in U.S. elections, and to intrude on critical U.S. infrastructure, presented new challenges in the evolving field of cyber security law.

Other developments arose from continuity between administrations. Arguably building on the Obama administration's precedent of using armed force in Libya for the protection of local civilians, the Trump administration used armed force in Syria for the same purpose. In rejecting the nuclear deal with Iran — the Joint Comprehensive Plan of Action — the Trump administration ironically invoked the same authority that its predecessor used to approve the plan: the putative authority of the President unilaterally to decide on nonbinding political commitments to and with foreign states. Unabated screening and profiling at the borders continued to generate litigation and a broad range of new case law on immigration. Administration efforts to control leaks and prevent disclosure of national security information also continued.

We have tried to keep up with these and many other developments without overly complicating the use of the core casebooks. Achieving that practical goal necessarily requires discriminating selection and presentation. Some readers might wish to see more material concerning some of these developments. But, as in past supplements, we have

carefully edited the principal new cases — including, hot off the press, *Hawaii*, *Carpenter*, *Hamidullin*, and *Doe v. Mattis* — and supplied a minimum of notes, trusting our enterprising adopters to use (and embellish) them as they feel best fits their teaching goals.

This *Supplement* serves two closely related casebooks: *National Security Law* (6th ed.) and *Counterterrorism Law* (3d ed.). This Preface is followed immediately by two Teacher’s Guides, one for each book, which indicate the placement of supplemental materials within each casebook (and are intended to make it easier for adopters to match *Supplement* entries to their syllabi). Each document in the *Supplement* is accompanied by a reference to one or both casebooks. For example, the new materials on the Trump administration travel bans (*Supplement* p. 115) appear with this instruction: **[NSL p. 826, CTL p. 454. Insert after Note 4.]** “NSL” refers to *National Security Law* (6th ed.), and “CTL” to *Counterterrorism Law* (3d ed.). We hope that you will find the materials in this *Supplement* not only extremely *current* but also interesting and pedagogically valuable.

Finally, as important new developments arise during the coming year, we will continue to document them by posting edited new materials on the websites for the two casebooks — supplements to this *Supplement* — from which they may be downloaded by teachers and shared with students. The website for *National Security Law* (6th ed.) may be found at http://www.aspenlawschool.com/books/Dycus_NatSec/default.asp; the website for *Counterterrorism Law* (3d ed.) may be found at http://www.aspenlawschool.com/books/Dycus_CounterTerror/default.asp.

As always, we are extremely grateful to our adopters, fellow members of the National Security Law Section of the Association of American Law Schools, fellow members of the Editorial Board of the *Journal of National Security Law & Policy*, fellow casebook authors (our collaborators in building the field), members of the ABA Standing Committee on Law and National Security, and our many friends in the national security community. We also wish to thank our research assistants. Finally, we wish to express our gratitude to John Devins and Carol McGeehan, our long-time editors and friends, for their longstanding encouragement and support.

Stephen Dycus
William C. Banks
Peter Raven-Hansen
Stephen I. Vladeck

July 2018

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