



American Bar Association

Section of Administrative Law and Regulatory Practice

10th Annual
**HOMELAND SECURITY
LAW INSTITUTE**

Hyatt Regency Washington on Capitol Hill ★ August 27-28, 2015

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THE SCHEDULE AT A GLANCE

THURSDAY, AUGUST 27, 2015

Time	Session	Ballroom
7:30 AM – 8:30 AM	Continental Breakfast & Registration	Regency A
8:30 AM – 8:45 AM	Welcome & Introductions	Regency A
8:45 AM – 9:45 AM	A View from the Top: Challenges and Changes at the Department of Homeland Security – 2015 and Beyond (NON-CLE)	Regency A
9:45 AM – 10:45 AM	Homeland Security: Regulations and Legislation Outlook 2015	Regency A
10:45 AM – 11:00 AM	Break	
11:00 AM – 12:00 PM	Breakout Session I	
<i>Breakout A</i>	Privacy v. Data Security – Finding a Balance	Regency A
<i>Breakout B</i>	Submitting the High Value SAFETY Act Application	Regency B
12:00 PM – 12:30 PM	Lunch Break	Regency A
12:30 PM – 1:30 PM	The U.S. Immigration Agenda	Regency A
1:30 PM – 1:45 PM	Break	
1:45 PM – 2:45 PM	Breakout Session II	
<i>Breakout A</i>	The Role of the Lawyer in Emergency Preparedness and Response	Regency A
<i>Breakout B</i>	Homeland Security – A Growing Discipline	Regency B
2:45 PM – 3:00 PM	Break	
3:00 PM – 4:00 PM	Drones and UAVs in the Homeland	Regency A
4:00 PM – 5:00 PM	Supply Chain 2.0 and Customs-Trade Partnership Against Terrorism (C-TPAT)	Regency B
5:00 PM – 7:00 PM	Networking and Cocktail Reception	Regency A

FRIDAY, AUGUST 28, 2015

Time	Session	Ballroom
7:30 AM – 8:30 AM	Continental Breakfast & Registration	Regency A
8:30 AM – 9:00 AM	The Lessons of Oklahoma City – 20 Years Later (NON-CLE)	Regency A
9:00 AM – 10:00 AM	Committee on Foreign Investments in the United States (CFIUS) – 2015 and Beyond	Regency A
10:00 AM – 10:15 AM	Break	
10:15 AM – 11:15 AM	Breakout Session III	
<i>Breakout A</i>	Export Controls – Changes in Attitudes, Changes in Latitudes	Regency A
<i>Breakout B</i>	Infrastructure Protection Regulations: Chemical Facility Anti-Terrorism Standards (CFATS)	Regency B
11:15 AM – 11:30 AM	Break	
11:30 AM – 12:30 PM	Breakout Session IV	
<i>Breakout A</i>	Corporate Compliance with DHS Rules and Regulations	Regency A
<i>Breakout B</i>	National Response and Recovery Framework: Legal Considerations in Emergency Management	Regency B
12:30 PM – 1:00 PM	Lunch Break	Regency A
1:00 PM – 2:00 PM	DHS General Counsel's Office 2015 Update: Changes and New Direction	Regency A
2:00 PM – 2:15 PM	Break	
2:15 PM – 3:15 PM	Breakout Session V	
<i>Breakout A</i>	Foreign Corrupt Practices Act (FCPA): Doing Business Internationally	Regency A
<i>Breakout B</i>	Public & Private Partnerships – Legal & Policy Issues	Regency B
3:15 PM – 3:30 PM	Break	
3:30 PM – 4:30 PM	Cybersecurity Risk, Readiness & Insurance	Regency A
4:30 PM	Conference Adjourns	

PROGRAM FACULTY



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Former and first General Counsel, U.S. Department of Homeland Security (DHS); Former U.S. Attorney for the Northern (Macon) and Middle (Atlanta) Districts of Georgia, U.S. Department of Justice (DOJ); Former Associate Attorney General, U.S. Department of Justice



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Col. Dawn M. K. Zoldi

Staff Judge Advocate, U.S. Air Force Academy, Colorado Springs, CO

PROGRAM AGENDA

Thursday August 27, 2015

7:30 am – 8:30 am Continental Breakfast & Registration

8:30 am – 8:45 am Welcome & Introductions

8:45 am – 9:45 am **A View from the Top: Challenges and Changes at the Department of Homeland Security – 2015 and Beyond (NON-CLE)**

Stevan E. Bunnell

Office of General Counsel, U.S. Department of Homeland Security (DHS), Washington, DC

9:45 am – 10:45 am **Homeland Security: Regulations and Legislation Outlook 2015**

James W. McCament (Moderator)

Christina E. McDonald, Joan V. O'Hara, Stephen Vina

This panel will provide an overview of significant and pending legislative and regulatory initiatives of DHS in 2015. Panel members will also provide a summary of the status of key homeland security legislation and discuss current priorities in the 114th Congress to address our nation's homeland security. The Senate Committee on Homeland Security and Governmental Affairs can be traced back to 1816. Beginning as the Committee on the District of Columbia and the Committee on Post Office and Postal Roads, the committee has since undergone transformation. After the September 11, 2001 terrorist attacks on New York City and Washington, DC the Committee broadened its title to the Homeland Security and Governmental Affairs Committee. Concurrently, following the events of September 11, the House Committee on Homeland Security was established in 2002 to provide Congressional oversight for the U.S. Department of Homeland Security (DHS).

10:45 am – 11:00 am Break

11:00 am – 12:00 pm **Privacy v. Data Security – Finding a Balance**

Breakout Session I

Congressman Jim Turner (Moderator)

Jennifer Daskal, Laura Donohue, Ronald D. Lee, Robert Litt, Daniel W. Sutherland

Where are we now? With the Second Circuit's ruling in *ACLU v. Clapper* and the passage of the USA Freedom Act, where do we stand now on statutory and constitutional issues related to security, privacy, and the governmental and private sector use of technology in homeland security? Panel members will discuss the balance, analyze NSA surveillance and its outsourcing to the private sector, and provide an overview of cybersecurity threats and the use of technology for foreign and domestic security.

11:00 am – 12:00 pm

Breakout Session I

Submitting the High Value Support Anti-Terrorism by Fostering Effective Technology (SAFETY) Act Application

Bruce Davidson (Moderator)

Akmal Ali, Brian E. Finch, Mark J. Roberston

Recent DHS approvals for cyber security, sports venue and aviation security programs have not gone unnoticed by clients and counsel. This experienced panel will discuss the expanding opportunities for submitting high impact SAFETY Act applications related to the protection of critical infrastructure and other high value venues. Valuable insights will be offered as to submitting a compelling application and how to chart a course for success through effective engagement with the DHS Office of SAFETY Act Implementation.

12:00 pm – 12:30 pm **Lunch Break**

12:30 pm – 1:30 pm **The U.S. Immigration Agenda**

Lynden Melmed (Moderator)
Daniel Brown, Greg Chen, Jill Family, Mary Giovagnoli

Last Fall, President Obama announced a series of immigration initiatives that will reshape almost every aspect of U.S. immigration law. Though the signature program to grant relief from removal and work authorization to millions of undocumented immigrants is being challenged in the courts, many other changes – ranging from detention reform to work authorization for spouses of high-skilled workers – are being implemented. This panel of expert immigration attorneys, academics and advocates will discuss the status of the President's agenda, how those proposals will reshape the immigration system, and what the public should expect as the administration enters its final year.

1:30 pm – 1:45 pm **Break**

1:45 pm – 2:45 pm **The Role of the Lawyer in Emergency Preparedness and Response**
Breakout Session II

Joshua D. Filler (Moderator)
Daniel S. Connolly, George A. Grasso, Robert J. Hildum, Adrian Sevier

This panel will review and discuss best practices and lessons learned on the role department general counsels play in assisting their departments before, during, and after an incident. Panel participants will review their experiences addressing natural disaster and threats and acts terrorism. In doing so, the panel will analyze the legal and policy issues associated with these incidents, including issues involving the declaration and use of emergency authorities, and crisis decision making.

1:45 pm – 2:45 pm **Homeland Security – A Growing Discipline**
Breakout Session II

Joshua M. Snavely (Moderator)
Major Patrick Walsh, Carrie Cordero, Evan D. Wolff

The April 19th bombing of the Alfred P. Murrah Federal Building in Oklahoma City left an entire nation stunned and forever changed. It opened our eyes to the reality that terrorism could strike anywhere, at any time. This year marks the 20th anniversary of this loss of life, loss of innocence and the tragedy that brought to the legal forefront a need for further exploration of homeland security law and policy. Panelists will discuss the growing discipline of homeland security law – how to think about it, how to study it, and how to teach it. The panel will analyze where we've been and where we are going in the academic world of homeland security law.

2:45 pm – 3:00 pm **Break**

3:00 pm – 4:00 pm **Drones and UAVs in the Homeland**

Maj Gen (Ret.) Charles J. Dunlap (Moderator)
Scott J. Glick, Maj Gen (Ret. USAF) Frederick F. Roggero, Jay Stanley, Col. Dawn M. K. Zoldi

This session will include an overview of current laws and policies for domestic unmanned aerial systems (UAS) use, including an overview of 2013-2014 state and federal legislative proposals. The panel will also discuss several real-world incidents involving actual or attempted small UAS incursions over federal property, followed by a discussion of potential response options from a technological and practical standpoint. Finally, the panel will explore the unique legal and policy challenges to address the threat that small UAS pose to domestic critical infrastructure and present proposals on legal options to address this threat.

Thursday August 27, 2015

4:00 pm – 5:00 pm

Supply Chain 2.0 and Customs-Trade Partnership Against Terrorism (C-TPAT)

Commissioner W. Ralph Basham (Moderator)
Richard Dinucci, Andrew Farrelly, Allen Gina, Geoffrey Powell

Along with the growth of international trade comes increased risk in the global supply chain. While posing a challenge, these risks can be mitigated through 'Trusted Trader' partnership programs like C-TPAT, which are now being developed by customs authorities all over the world. The challenge to the U.S. and its partners going forward is how to best coordinate and amplify their efforts, often in resource-limited environments, to increase the secure, efficient flow of global trade.

5:00 pm – 7:00 pm

Networking and Cocktail Reception

Friday, August 28, 2015

7:30 am – 8:30 am

Continental Breakfast & Registration

8:30 am – 9:00 am

The Lessons of Oklahoma City – 20 Years Later (NON-CLE)

Governor Frank Keating

9:00 am – 10:00 am

Committee on Foreign Investments in the United States (CFIUS) – 2015 and Beyond

Malcolm Tuesley (Moderator)
Nova Daly, Aimen Mir, Andrew Walker

The Committee on Foreign Investment in the United States (CFIUS) reviews the national security implications of investments in U.S. businesses by foreign persons. This panel will discuss issues facing the Committee, including recent US Government security breaches, mitigation agreements with CFIUS member agencies and ongoing compliance issues, as well as the Committee's role in balancing the United States' policy of open investment with realities of evolving national security threats.

10:00 am – 10:15 am

Break

10:15 am – 11:15 am
Breakout Session III

Export Controls – Changes in Attitudes, Changes in Latitudes

Jeannette L. Chu (Moderator)
Doreen M. Edelman, Julie Myers Wood

This panel will discuss the impact of recent and ongoing regulatory developments in Export Control Reform and trade sanctions. Panelists will share practical tips for managing compliance in this dynamic and complex regulatory environment.

Friday, August 28, 2015

10:15 am – 11:15 am
Breakout Session III

Infrastructure Protection Regulations: Chemical Facility Anti-Terrorism Standards (CFATS)

David M. Wulf (Moderator)
Todd Klessman, Joan V. O'Hara, Timothy Scott

The past year was a pivotal year in the history of the maturing Chemical Facility Anti-Terrorism Standards (CFATS) regulatory program, seeing the start of rulemaking efforts to improve the CFATS regulations, implementation of process improvements resulting in a dramatically increased site security plan inspection and review pace, the ramping up of Compliance Inspections, and, most importantly, enactment of the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014, which provided long term authorization for the CFATS program. This panel will include industry and government perspectives on these noteworthy achievements and what they mean for stakeholders involved in CFATS implementation. Discussion will touch on hot topics such as personnel surety, the new Expedited Approval Program, the Compliance Inspection process, and how industry, Congress, and DHS continue to work together to improve the CFATS program and identify cost-effective ways to secure the nation's critical chemical infrastructure.

11:15 am – 11:30 am

Break

11:30 am – 12:30 pm
Breakout Session IV

Corporate Compliance with DHS Rules and Regulations

John F. Wood (Moderator)
Jeff Bauer, Hillary Hageman, John P. Torres

The panelists will discuss best practices for effective compliance programs, with a particular emphasis on compliance with Department of Homeland Security Regulations. They will share best practices regarding supply chain security, cyber security, immigration compliance, chemical security, and export controls, among other topics. They will also discuss the importance of risk assessments and how to prioritize limited resources.

11:30 am – 12:30 pm
Breakout Session IV

National Response and Recovery Framework: Legal Considerations in Emergency Management

Ernie B. Abbott (Moderator)
George B. Huff, Jr., Brian Kamoie, Bryan Koon, Adrian Sevier

Disaster frequency and costs are rising and the U.S. population in disaster prone areas continues to grow. This panel will take a look at what the responsibility of the U.S. Government is to foster disaster resilience. Panel members will also discuss how government and organizations can assure that they can continue to function or quickly restore operations in the wake of catastrophic events. The panelists will also take a look at the key challenges faced in administering government preparedness and disaster assistance grants.

12:30 pm – 1:00 pm

Lunch Break

1:00 pm – 2:00 pm

DHS General Counsel's Office 2015 Update – Changes and New Direction

Stevan E. Bunnell (Moderator)
Gwen Keyes Fleming, John Havranek, Francine Kerner, Joseph B. Maher, Jonathan Meyer

With the Office of General Counsel for DHS (OGC) now in its second decade, this panel will explore the mission of the OGC in 2015 to provide legal advice and counsel to the Secretary of Homeland Security and the over 200,000 employees of this department. Panelists will also discuss the latest technologies, emerging trends, and world events and how they affect homeland security. Where are we now in the discipline and practice of homeland security law, where are we going, and how do we get there?

Friday, August 28, 2015

2:00 pm – 2:15 pm Break

2:15 pm – 3:15 pm Foreign Corrupt Practices Act (FCPA): Doing Business Internationally
Breakout Session V

Kenneth L. Wainstein (Moderator)
Bret A. Campbell, Johnathan J. Rusch, Steve Siegel, Joe D. Whitley

The panel will discuss the challenges for U.S. companies that operate in areas with a high FCPA risk. We will examine the enforcement trends on the part of the DOJ, the SEC, and foreign enforcement entities. We will then discuss various strategies for building a compliance program that will protect against FCPA risk in overseas operations. Panelists will share their experiences operating in various regions and their perspectives on best practices for FCPA compliance.

2:15 pm – 3:15 pm Public & Private Partnerships – Legal & Policy Issues
Breakout Session V

Susan Ginsburg (Moderator)
Alan D. Cohn, Kirstjen Nielson, Philip J. Palin, Jonathan D. Schneider

This panel will describe the current status of public-private partnerships across the homeland security spectrum, including for cyber security, other critical infrastructure protection, and disaster response. Panel members will highlight prevalent models, legal issues and the strategic and cultural factors shaping them, and speculate about likely trajectories.

3:15 pm – 3:30 pm Break

3:30 pm – 4:30 pm Cybersecurity Risk, Readiness & Insurance

Lucy L. Thomson (Moderator)
Frank J. Cilluffo, Thomas M. McDermott, Matthew Prevost

The Intelligence Community's 2015 Worldwide Threat Assessment predicted an ongoing series of cyber attacks from a variety of sources, which will impose cumulative costs on US economic competitiveness and national security. Cyber threat actors have become bolder, and the lines among nation-state, terrorist, and criminal exploits have blurred. This panel will review the current threat matrix, possible readiness measures, the role that insurance might play in prevention and mitigation, and variations in the scope of available coverage.

4:30 pm Conference Adjourns

10th Annual Homeland Security Law Institute | Washington, DC August 27-28, 2015

Registration: [ONLINE](#) or with the **ABA Service Center at 800-285-2221**. Deadline for advanced registration is August 24. Depending on the number of advanced registrations, on-site registration may be available. Credit cards or checks are required at the time of registration (training vouchers, SF-182, or EFT CANNOT be accepted). Wire Transfers and ACH payments will also be accepted for advanced registration only. Receipt copies are emailed to the registrant when the registration is processed.

In the interest of furthering the ABA's creation, promotion and distribution of educational/informational materials (both now and in the future), I understand and agree that my registration and attendance at, or participation in, ABA meetings, programs and events ("Events") constitutes an agreement by me to grant to ABA the right to record my image, photograph, picture, likeness, and voice by any technology or means. I also grant ABA the right to copy, use, perform, display and distribute such recordings of me for any legitimate purpose, including but not limited to distribution by means of streaming or other technologies via the Internet, or distribution of audio or video files for download by the public. I hereby waive any right to inspect, approve, or be compensated for use of any materials incorporating such images obtained during the Events. I release ABA and its agents, representatives and licensees from all liabilities arising out of any use of my likeness and information as provided above. I understand and agree that any and all negatives, digital images, and recordings of my likeness, regardless of form, are and shall remain property of the ABA.

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Metro & Parking: Easy access via the Metro Red Line at the Union Station stop. Sorry, we cannot validate parking.

A small block of rooms has been reserved at the hotel for the nights of August 26 & 27, 2015 for a \$179.00 rate. Reservations must be made by August 5, 2015 by calling the hotel at 202-737-1234 or 1-888-591-1234 and mentioning the ABA Administrative Law and Regulatory Practice 2015 Homeland Security Law Institute.

CLE: The ABA directly applies for and ordinarily receives CLE credit for ABA programs in AK, AL, AR, AZ, CA, CO, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, MN, MS, MO, MT, NH, NM, NV, NY, NC, ND, OH, OK, OR, PA, SC, TN, TX, UT, VT, VA, VI, WA, WI, and WV. These states sometimes do not approve a program for credit before the program occurs. This course is expected to qualify for 12 CLE credit hours in 60-minute states, and 14.4 credit hours in 50-minute states. This transitional program is approved for both newly admitted and experienced attorneys in NY. For more information about CLE accreditation in your state, visit <http://shop.americanbar.org/ebus/ABAEventsCalendar/EventDetails.aspx?productId=203058468> or contact angela.petro@americanbar.org or 202.662.1582.

All CLE materials will be distributed on a flash drive at registration. Please contact angela.petro@americanbar.org by August 1, 2015 if your local MCLE board/state requires a hard copy of materials.

Scholarships: A limited number of scholarships to defray tuition expenses are available for this program. To request an application or receive additional information, please contact anne.kiefer@americanbar.org or 202.662.1690. Scholarship applications must be received by the ABA no later than two weeks prior to the program presentation.

Cancellations: Cancellations accepted with cancellation fee (\$25-\$50 depending on rate). Substitutions are accepted without fee. Contact angela.petro@americanbar.org or 202.662.1582.

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Section of Administrative Law and Regulatory Practice

Tentative Event Schedule 2015-2016

Administrative Law Conference

October 29-30, 2015

Walter E. Washington Convention Center, Washington, DC
October 31, 2015 Fall Council Meeting

Mid-Year Council Meeting & Panel with Reception at AALS

January 8-9, 2016
New York, NY

12th Annual Administrative Law Institute

March 14-15, 2016

Walter E. Washington Convention Center, Washington, DC
March 13, 2016 Spring Council Meeting & Section Dinner

11th Annual Homeland Security Law Institute

August 24-25, 2016

Walter E. Washington Convention Center, Washington, DC

ABA Annual Meeting – Council & Section Dinner

August 5-6, 2016

San Francisco, CA



ABA Section of Administrative Law and Regulatory Practice

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