Index

9/11 Commission, 2, 109, 112–113
9/11 Commission Report, The, 1, 2, 3, 85, 113

A

A and Others v. the Home Secretary, 131
Abu Ghraib, 3, 32, 124, 149n.2, 150n.3, 152, 162–163, 168
Abu Hamza, Sheikh, 147
Abu Jihad, 62
Advisory Committee on the Internment of Rebels, 125
Afghanistan, 10, 31–32, 54, 62, 63, 149, 152, 154–155
Algeria, 167, 168, 171, 172
al-Harethi, Qaed Salim sinan, 64
al-Qaida, 54, 55, 60, 62, 106, 130, 152, 155, 163
al-Sadeq, Abdallah, 134
al-Shahwani, Mohammed Abdullah, 135
Amnesty International, 120, 121, 129

Part IV, 129–130
Application Registration Cards (ARCs), 141
Arar, Maher, 153n.24
Argentina, 62, 64
Arrigo, Jean, 166n.79
Article 16 See United Nations Convention Against Torture assassination ban (United States), 7, 59, 60, 61, 64; see also targeted killing.
Ashcroft, John, 98
attorney general (United States), 11–12, 18, 19, 22, 23, 34–35, 36, 51, 52, 57, 58, 70, 71, 72, 73, 74, 173; see also Attorney General’s Guidelines for criminal or national security investigations; Attorney General’s Guidelines on crimes, racketeering, and terrorism enterprise
Asylum, Immigration, and Nationality Act of 2002, 147
Attorney General’s Guidelines for criminal or national
security investigations, 83, 90
Attorney General’s Guidelines on crimes, racketeering, and terrorism enterprise, 95–96, 97, 98, 99
Auld, Jim, 120
Assaresses, Paul, 167
Authorization for Use of Military Force (AUMF), 41

B
Bach, Lord, 124
Bagram air base, 152
Ballykinler, 126
Barber, Sir Brian, 131
Beck, Adrian, 141
bin Laden, Osama, 60, 64
biometric identification (bId), 85, 86–91
impermissible demands for, 89–91
passports and, 88–89
permissible demands for, 87–89
Blair, Tony, 137
Blunkett, David, 129, 139–140
Bowden, Mark, 61
British Intelligence Centre, 120
British Irish Rights Watch, 135
Bush, George W., 54

C
Cahill, Joe, 126–127
Cambone, Stephen, 153n.25
Campaign for Nuclear Disarmament (CND), 144
Central Intelligence Agency (CIA), 37, 60, 107, 150
Charter 88, 139, 140, 141
Chavez v. Martinez, 161–162, 163, 176
Chile, 62
Churchill, Sir Winston, 140
Clarke, Charles, 129
Classified Information Procedures Act (CIPA), 15, 19, 44, 46, 53, 55–56
coercive interrogations, 11–13, 31–35, 119–125; see also highly coercive interrogations; torture, coercive interrogations and admissibility in U.S. trials, 13
Congressional power and oversight, 32, 33
emergency exception, 13, 33
executive powers, 32, 33
individual remedies, 13
probable cause and, 12
U.S. treaty and statutory commitments, 11, 33–34
Collins, Michael, 125
Colombia, 61
Colville of Culross, Viscount, 128
Combatant Status Review Tribunal, 41
Compton, Sir Edmund, 121
Compton Report, 121
Congress, 9–10, 12, 13, 32, 33, 36, 42, 49, 51, 52, 61, 65, 76, 81–82, 94, 95, 109, 111–114, 115–116, 150n.6, 151, 154, 158–160
Coughlin, Con, 135
courts-martial, 19, 54, 55, 56, 57, 58
Crawford v. Washington, 57
Criminal Justice and Public
treatment,” 11, 33, 34, 154, 156–157, 159–160, 163–164, 171, 175n.108, 176; see also torture, coercive interrogation and; highly coercive interrogation (HCI)

D
Data Protection Act of 1998, 136
Death on the Rock, 133
Defence of the Realm Act, 125
Defense Advanced Research
Projects Agency (DARPA), 76, 77
Department of Defense, 12, 17,
31, 32, 36, 37, 41, 49, 50, 54,
57, 77, 150, 151, 152
Department of Homeland
Security, 85, 88, 116
Department of Homeland
Security Inspector General, 116
Department of Justice, 12, 30,
32, 36, 93, 96, 103, 105–106,
114, 115, 116, 151; see also Federal Bureau of
Investigation (FBI)
Department of Justice Inspector
General, 114, 115, 116
deprivation of food and water,
120, 124, 150, 154, 157, 176
deprivation of light, 150
deprivation of medical treat-
ment, 150, 152, 154, 161, 162,
163, 176
deprivation of sleep, 120, 124,
154, 157, 161, 162, 164, 168,
172, 174, 176
Diplock Commission, 127
Diplock, Lord, 127
Dirty War, 134
distinctions based on group
membership See profiling
Dublin Easter Uprising (1916),
125, 126
Dubs, Lord, 128
due process, 11, 17, 33, 36,
41–42, 50, 160–162, 175

e
Egypt, 150, 153
Eighth Amendment (U.S.
Constitution), 13, 33, 34, 38,
160–161, 174–175
Ellsberg, Daniel, 83
Emergency Powers Act (1973),
126, 127–128
Escobar, Pablo, 61
European Commission on
Human Rights, 122–123
European Convention on
Human Rights, 121, 122,
129, 133, 135, 138, 146
European Court of Human
Rights (ECHR), 119,
123–124, 133, 157–158, 160,
163, 165
Executive Order 12333, 60

F

Fourteenth Amendment (U.S. Constitution), 13, 33, 34, 38, 160, 161, 162, 174–175 Fourth Amendment (U.S. Constitution), 69, 80, 83 France, 97, 167, 168, 171 Frongoch internment camp, 125, 126

G

H
habeas corpus, 6, 17, 41, 48, 49–50, 131 Hamdi v. Rumsfeld, 41, 42
Headquarters Mobile Support Unit (HMSU), 132
Heath, Edward, 122, 124, 126n.41
Heseltine, Sir Michael, 133
highly coercive interrogation (HCI), 12, 13, 35–39, 171–177
admissibility in U.S. trials, 39 defined, 175–176
Hogg, Douglas, 134
home secretary, 129–130, 131, 143, 144, 147
hooding, 120, 124–125, 150, 154, 157, 158, 161, 162, 168, 172, 174, 175
Hoon, Geoff, 124–125
House Armed Services Committee, 12
House Intelligence Committee, 12, 23, 29, 36, 61, 73, 111, 114
House Judiciary Committee, 12, 27, 95
House of Commons, 129, 141
House of Lords, 129, 131
Hughes, Simon, 142
Human Rights Act (1998), 131, 138, 146
Human Rights Derogation Order, 129
Hussein, Saddam, 135, 174
identification of individuals, 85–91 access to sensitive resources and locations, 87–89 biometric identification (bId), 85, 86–91 impermissible demands for, 89–91 passports and, 88–89 permissible demands for, 87–89 false identification, 85 nonfederal agencies and, 87, 88, 89, 90 Immigration Act of 1971, 129n.57, 147 Immigration and Asylum Act of 1999, 147 Immigration and Nationality Act of 2002, 147 Immigration Law Practitioners Association, 131 indefinite detention, 14–18, 41–52, 125–131, 154 access to attorney, 14, 16, 44, 46, 47, 48 administrative detention without trial, 44–45 compensation and, 15, 44 Congressional powers and, 42, 49, 51, 52 detention hearings, 14–15, 16, 44, 47 due process and, 17, 41, 50 enemy combatant status, 41
executive power and, 42  
international law and, 48  
judicial jurisdiction and, 48  
judicial warrants and, 18, 46, 51  
non-U.S. persons, 15–16, 18, 41, 43, 47–48  
outside United States, 15–16, 18, 43; see also indefinite detention, zones of active combat and  
probable cause, 14, 45, 47, 48  
special advocate and, 16, 44, 46, 47, 130  
speedy trial and, 15, 44, 45, 46, 48  
trial jurisdiction, 16  
treaty obligations and, 17  
U.S. national security law and, 43  
U.S. persons, 14, 41, 42–47  
within the United States, 14, 18, 42–47  
zones of active combat and, 16–18, 42, 49–51  
zone of active combat, defined, 50  
information collection, 3, 75–84, 136–139  
Congress and, 76, 81–82  
individualized data and, 82–83  
judicial authorization and warrants, 77, 81–82  
Nixon administration, 83  
pattern recognition and, 75, 76, 77, 78–80  
oversight, 81–82  
required security concerning delivery, 84  
transactions and, 76  
Inland Revenue, 139  
Inspector General Act of 1978 (IG Act), 115  
inspectors general (IGs), 114–117  
intercepted communications, 69–74  
Fourth Amendment (U.S. Constitution), 69  
non-content information, 73–74  
non-U.S. persons, 69, 71–73  
probable cause, 70, 71, 72  
unintended acquisitions, 73  
U.S. persons and, 69–74  
within the United States, 69, 70–73  
Intelligence Company, 132  
Intelligence and Security Committee (ISC), 143  
International Covenant on Civil and Political Rights (ICCPR), 61, 156  
Iran, 63  
Iraq, 3, 10, 31, 32, 63, 64, 124–125, 135, 151, 154–155; see also Abu Ghraib  
Iraqi National Accord (INA), 135  
Irish National Liberation Army (INLA), 132  
Irish Republican Army (IRA), 5, 119, 122, 123, 126, 127, 157–158
Irish Republican Brotherhood, 125
Israel, 62, 97, 158, 163, 165, 170; see also General Security Services

J
Japanese-American internment, 104
Jordan, 135, 150, 153

K
Kennedy, Anthony, 161, 162

L
Lambert, Brian Adam, 134
Landau Commission, 158
Lawrence Inquiry, 144
laws of war, 42, 53, 56–58, 65
Liberty (civil rights organization), 139, 140, 141
Libya, 60
Lieberman, Joseph, 112
Local Government Finance Act of 1992, 136n.95

M
MacPherson, Sir William, 144
Magillian, 126
Major, John, 140
Martinez, Oliverio, 161–162
Massachusetts Bay Colony, 9
Massu, Jacques, 167
Mathews v. Eldridge, 17, 50
Maudling, Reginald, 121
Maze Prison, 132
McCain, John, 112
McDonnell, Mick, 126
McGuffin, John, 121
McVeigh, Timothy, 5
Militant Islamic Group (MIG), 134–135
military commissions, 53–58
access to attorney, 55
federal courts and, 55, 56
national security secrets and, 56, 58
non-U.S. persons and, 57
right to appeal, 55
right to confrontation, 53, 57
rules of evidence, 53, 54–55
zones of active combat, 54, 56, 57
Miller, Geoffrey D., 151n.11
Mohammed, Khalid Shaikh, 150n.7
Morocco, 153
Moussaoui, Zacharias, 54–55

N
National Audit Office (NAO), 139
National Liberation Front (FLN), Algeria, 168
national origin profiling, 104
National Security Letters, 25, 76, 82, 83, 84
nationality profiling, 101, 102–103, 105–108
Nelson, Brian, 135
New York Police Department (NYPD), 166–167
Northern Ireland See United Kingdom, counterterrorism policy

Official Secrets Act, 147
Operation Demetrius, 126–127

Padilla v. Rumsfeld, 42
Pakistan, 63
Palestinian Authority, 63
Parker of Waddington, Lord, 121
Parker Report, 122
pattern recognition, 75, 76, 77, 78–80
Pentagon Papers, 83
Performance and Innovation Unit (PIU), 137–138
Phoenix Program, 64
Philippines, 166
Pipes, Daniel, 147
Plutarch, 1
Police and Criminal Evidence Act (PACE), 144–145
political profiling, 104
President’s Foreign Intelligence Advisory Board (PFIAB), 112, 113
prisoner of war status, 17, 49, 50, 155, 174
Privacy Act of 1974, 78, 80, 98, 99
Privacy International, 140
probable cause, 12, 14, 16, 22, 35–36, 37, 43, 45, 47, 48, 70, 71, 72
profiling, 101–108, 144–148
acts of terrorism and, 104, 105
national security exceptions and, 103–104
national origin profiling, 104
nationality profiling, 101, 102–103, 105–108
political profiling, 104
racial profiling, 101–102, 103, 144, 146
religious profiling, 104
undercover agents and, 106
U.S. persons, 103, 105–107
lawfully admitted aliens, 105–106, 107
Provisional Irish Republican Army (PIRA), 126, 132, 133
psychological coercion, 120, 150, 153, 154, 168, 174–176

Qaddafi, Muammar, 60, 134–135

Race Relations (Amendment) Act of 2000, 146
racial profiling, 101–102, 103, 144
<table>
<thead>
<tr>
<th><strong>Index</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Rasul v. Bush</strong>, 41</td>
</tr>
<tr>
<td>Reagan, Ronald, 60</td>
</tr>
<tr>
<td>Regional Holding Centres (United Kingdom), 121, 126</td>
</tr>
<tr>
<td>Ballykinler, 126</td>
</tr>
<tr>
<td>Girdwood Park, 126</td>
</tr>
<tr>
<td>Magilligan, 126</td>
</tr>
<tr>
<td>Rehnquist, William, 162</td>
</tr>
<tr>
<td>religious profiling, 104</td>
</tr>
<tr>
<td>rendition <em>See transfer of individuals</em></td>
</tr>
<tr>
<td>Report of the Technology and Privacy Advisory Committee, 77</td>
</tr>
<tr>
<td>Royal Ulster Constabulary (RUC), 120, 122–124, 132, 134</td>
</tr>
<tr>
<td>Royal Ulster Constabulary (RUC) Force Order, 122–123</td>
</tr>
<tr>
<td>Rumsfeld, Donald, 154–155</td>
</tr>
<tr>
<td><strong>S</strong></td>
</tr>
<tr>
<td>Sampson, Sir Colin, 132</td>
</tr>
<tr>
<td>Saudi Arabia, 101, 102, 153, 167</td>
</tr>
<tr>
<td>Scalia, Antonin, 162</td>
</tr>
<tr>
<td>Secret Intelligence Service (SIS), 134–135, 147–148</td>
</tr>
<tr>
<td>secretary of state (United States), 11, 15, 34, 35, 47, 173</td>
</tr>
<tr>
<td><em>Secretary of State for the Home Department v. Rehman</em>, 131</td>
</tr>
<tr>
<td>Security Service Act of 1989, 142–143</td>
</tr>
<tr>
<td>Security Service Act of 1996, 143</td>
</tr>
<tr>
<td>Security Service (MI5), 134, 135, 139, 142–144, 147–148</td>
</tr>
<tr>
<td>Senate Armed Services Committee, 12, 35, 150n.6, 151, 154</td>
</tr>
<tr>
<td>Senate Intelligence Committee, 12, 23, 29, 36, 61, 73, 111, 114</td>
</tr>
<tr>
<td>Senate Judiciary Committee, 12, 27, 95</td>
</tr>
<tr>
<td>Senate Select Committee on Intelligence, 94</td>
</tr>
<tr>
<td>Shayler, David, 135, 147–148</td>
</tr>
<tr>
<td>Shipman, Harold, 138</td>
</tr>
<tr>
<td>Somalia, 63</td>
</tr>
<tr>
<td>Soviet Union, 164n.71</td>
</tr>
<tr>
<td>Special Air Service (SAS), 132, 133</td>
</tr>
<tr>
<td>Special Branch (SB), 142</td>
</tr>
<tr>
<td>Special Immigration Appeals Commission (SIAC), 130–131</td>
</tr>
<tr>
<td>“the Squad,” 125–126</td>
</tr>
<tr>
<td>Sri Lanka, 166</td>
</tr>
<tr>
<td>Stalker, John, 132</td>
</tr>
<tr>
<td>State Department, 159</td>
</tr>
<tr>
<td>Statute Law Revision Act of 1927, 140</td>
</tr>
<tr>
<td>Steele, Frank, 123, 127</td>
</tr>
<tr>
<td>Stevens, John Paul, 161–162</td>
</tr>
<tr>
<td>Stevens, Sir John, 134</td>
</tr>
<tr>
<td>Stevens Inquiry, 134</td>
</tr>
<tr>
<td>Sudan, 63</td>
</tr>
<tr>
<td>Supreme Court (United States), 3, 10, 41, 42, 50, 57, 73, 80, 161–162, 176</td>
</tr>
</tbody>
</table>
surveillance of religious and political meetings, 45, 93–99, 142–144
authorization, 95–96, 98
costs of, 94
meetings of organizations that advocate group hatred, 95, 97
meetings of organizations that advocate political violence, 94, 95, 97
oversight, 96
public meetings, 96, 97
reasonable basis, 95
records of monitoring, 98–99
Syria, 63

targeted killing, 59–68, 132–135
Article 51 (UN Charter), 60
authorization, 65
Congress and, 65
counterterrorism and, 59–60
covert military operations, 61, 66
executive power and, 60–61, 65
international law, 61, 64, 66
of known terrorists, 63–64
self-defense and, 60, 61–62, 66
standards, 65
transparency, 65, 67–68
U.S. persons, 65, 66
within United States, 65, 66
zones of active combat and, 62–63
T
Taguba, Antonio, 152
Taguba Report, 153, 155n.28, 169
targeted killing, 59–68, 132–135
Article 51 (UN Charter), 60
authorization, 65
Congress and, 65
counterterrorism and, 59–60
covert military operations, 61, 66
executive power and, 60–61, 65
international law, 61, 64, 66
of known terrorists, 63–64
self-defense and, 60, 61–62, 66
standards, 65
transparency, 65, 67–68
U.S. persons, 65, 66
torture, coercive interrogations and, 149–177; see also highly coercive interrogations; coercive interrogation
Congress, 154, 158–160
due process clauses, 160–162
evaluating efficacy of, 164–171
anecdotal evidence, 166–167
empirical evidence, 164–165
methodological problems, 167–169
theoretical literature, 165–166
executive branch, 154
illegal combatants, 155
indefinite detention, 154
international law, 155–158; see also Geneva Conventions
obtaining strategic information and, 179, 170, 177
ticking bomb scenario, 169–170, 177
transfer of individuals, 150, 153, 159, 163
treaty obligations, 171
Temple of Solomon, 136
Terrorism Act of 2000, 128–129
Thomas, Clarence, 162
Thompson, Larry, 153n.24
Title III, 22, 70–71
Title 10 (U.S. Code), 19, 56, 57
Title 18 (U.S. Code), 14, 43, 83
Title 28 (U.S. Code), 17, 41, 49–50
Title 50 (U.S. Code), 23, 73
Tomlinson, Richard, 147–148
Treaty of Washington, 166
INDEX

U.S. definition of, 158
U.S. interrogation practices, analysis of, 150, 153–154, 162–164
water boarding, 150n.7
transfer of individuals, 11–12, 34–35, 150, 153, 159, 163, 173
requests for information and, 12, 34, 35
torture and, 11–12
Tunisia, 62
“Tunworth,” 134–135

U
Ulster Defence Regiment, 134
United Kingdom counterterrorism policy, 4–5, 7–8, 96, 97, 119–148, 163
coercive interrogation and internment, 119–125
identification of individuals, 139–142
asylum seekers, 141
national ID card, 139–142
“no2id campaign,” 141–142
indefinite detention, 125–131
Irish terrorism and, 125–128
War on Terror and, 128–131
information collection, 136–139
profiling, 144–148
grounds for suspicion, 145
immigration policy and, 146–147
racial profiling and institutional racism, 144, 146
surveillance of religious and political meetings, 142–144
interception of communications, 144
targeted killing and, 132–135
British Army, 132, 133, 134
foreign leaders, 134–135
loyalist paramilitaries, 134
United Nations Charter, 60, 62
United Nations Committee against Torture, 158, 163
Universal Declaration of Human Rights, 121
Urban, Mark, 132–133, 135
U.S. Special Forces and, 61
USA PATRIOT Act, 5, 7, 76, 111, 112, 113, 115

V
Vienna Convention, 155n.30
Vietnam, 64
Vietnam War, 164n.71

W
wall-standing, 120, 151, 157, 175
War Powers Resolution, 6
Winthrop, John, 9
Yemen, 10, 62, 63, 64, 67

zones of active combat, 9–10, 16–18, 42, 49–51, 54, 56, 57, 62–63