Intelligence Reform and the Modern Intelligence Community
Georgetown University Law Center
Fall 2016
Tuesdays 7:55-9:55 p.m., Hotung 6005
Professor Carrie Cordero

SYLLABUS

COURSE SUMMARY

This seminar is an introduction to the intelligence community and current laws, policies and practices. The seminar focuses on changes to laws and policies made in response to reviews and reports conducted following the terrorist attacks of 9/11, and how those changes have been implemented in policy and practice in the fifteen years since. Students will examine legislative efforts to enhance information sharing and intelligence collection, such as the creation of the Director of National Intelligence and the Department of Homeland Security, amendments made to the Foreign Intelligence Surveillance Act, as well as the interrelation between those changes and civil liberties and privacy. The seminar will also address complexities faced by national security lawyers in protecting classified information in litigation, providing legal advice on intelligence operations and conducting intelligence oversight.

ADMINISTRATIVE

Attendance: Attendance will be taken. A student who misses more than three classes will be subject to a lower grade by one full grade level. If you expect to miss a class, please send an email to the professor in advance of the class.

Grading: Grading will be based on three components: a short mid-term advice memorandum (25%), one end-of-semester, closed book, final exam (50%), and class participation (25%). Exams may be handwritten or taken on laptop, according to the student’s preference and in accordance with Georgetown Law’s policies.

Readings: Course readings, either in their entirety or by link to their location on the Internet, will be posted on the Canvas site. Selected readings are available in a coursepack. Readings may also be handed out in class and/or added during the semester. Two books are on the syllabus: The 9/11 Commission Report (2004) and Blinking Red: Crisis and Compromise in American Intelligence After 9/11, by Michael Allen (2013).
Canvas Site: Announcements, readings and other materials will be posted periodically on the Canvas site. All students must enroll in the site and should check it frequently, but no less than once per week for updates.

Computers: The Professor retains the right to institute a restriction on the use of laptops or other electronic devices at any point during the semester. Students shall refrain from checking email, surfing the Internet, or doing other work unrelated to the course during class time. As an elective seminar, the success of the class depends on your full attention and participation.

Recording: Recording class sessions on any device is prohibited.

Office Hours: Professor Cordero is available to meet with students in-person or by telephone call, by appointment.

COURSE OUTLINE

I. Introduction to Intelligence Reform and the Modern Intelligence Community (August 30, September 6 and September 13)

II. The Foreign Intelligence Surveillance Act and Surveillance Reform (September 20 and 27)

III. Intelligence, Law Enforcement and Homeland Security (October 4 and 18)

IV. Information Sharing & Information Protection (October 25, November 1 and November 8)

V. Intelligence Oversight (November 15 and 22)

VI. Course Review & Wrap-Up (November 29)

Note: Class will not be held on Tuesday, October 11.
COURSE READINGS

Readings should be completed by the dates below. Readings or links to readings are posted on Canvas. The 9/11 Commission Report is available at the bookstore or online at http://www.9-11commission.gov/report/911Report.pdf.

Class 1: August 30

- The Final Report of the National Commission on Terrorist Attacks Upon the United States (The 9/11 Commission Report), Chapter 13

Class 2: September 6

- Members of the IC
- ODNI History
- 9/11 Commission Report, Chapter 1
- Recommended:

Class 3: September 13

- Chapter 6, Leadership and Management: Forging an Integrated Intelligence Community, WMD Commission Report
- Executive Order 12333, as amended
- Presidential Policy Directive (PPD)-28 (January 17, 2014)
Class 4: September 20

- Foreign Intelligence Surveillance Act (FISA) Sections 101(a)-(j), 104, 105
- In Re Sealed Case, 310 F.3d 717 (For.Intel.Surv.Rev. 2002)
- Recommended:
  - United States v. United States District Court, 407 U.S. 297 (1972)

Class 5: September 27

- FISA Sections 702-705
- No. 08-01 In Re Directives [redacted] Pursuant to Section 105B of the Foreign Intelligence Surveillance Act, 551 F.3d 1004 (For.Intel.Surv.Rev. 2008)
- ACLU v. Clapper (2nd Cir.) (May 7, 2015)
- Recommended:
  - Riley v. California, 134 S. Ct. 2473 (2014)

[Note: Mid-Term Advice Memorandum will be assigned on September 27]

Class 6: October 4

- Chapter 10, Intelligence at Home: the FBI, Justice and Homeland Security, WMD Commission Report
- 9/11 Commission Report, Chapters 3 and 8
- Homeland Security Act of 2002, Sections 101, 102, 201, 207, 210A
[Note: There is NO CLASS on October 11]

Class 7: October 18

- Executive Summary, United States Senate, Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, Federal Support for and Involvement in State and Local Fusion Centers (October 3, 2012)
- Statement for the Record of Secretary Jeh Johnson, Department of Homeland Security, before the Committee on the Judiciary, House of Representatives (July 14, 2015)
- Rob Nixon, Visitors to U.S. May Be Asked for Social Media Information, New York Times (June 28, 2016)
- 9/11 Commission Report, Chapter 12
- Recommended:
  - Danielle Keats Citron and Frank Pasquale, Network Accountability for the Domestic Intelligence Apparatus, 62 Hastings L.J. 1441 (2011)

[Note: Mid-Term Advice Memo DUE on October 18]

Class 8: October 25

- Chapter 9, Information Sharing, WMD Commission Report
- Intelligence Community Directive (ICD) 501 (2009)
- Information Sharing Environment, A Brief History of the Information Sharing Environment (October 2015)
- 9/11 Commission Report, Chapter 6
Class 9: November 1

- Brad Smith, Microsoft General Counsel, *Privacy and Trust in the Cloud* (Berlin, May 19, 2014)

Class 10: November 8

- Classified Information Procedures Act (CIPA), 18 U.S.C. app 3 1-16
- Department of Justice Memorandum, *Policies and Procedures Governing Invocation of the State Secrets Privilege* (September 23, 2009)

  - Recommended:

  - *Brady v. Maryland*, 373 U.S. 83 (1963)

Class 11: November 15

- National Security Act of 1947, as amended, Sections 501-503
Class 12: November 22

- ODNI, *Processes for Assessing the Efficacy and Value of Intelligence Programs* (February 8, 2016)

Class 13: November 29 (review and wrap-up)