Syllabus
(Last Updated: August 26, 2016)

Law 2070
National Security Business Law
Mondays, 9a-11a
Location: Hotung 5013

Phillip Carter
Office Hours: Mondays, 11a-12p

1. **Course Description.** National Security Business Law provides an overview of the major legal issues arising out of the U.S. government’s reliance on the private sector for its national security capacity and capability. The course will cover four areas of law, focusing on the specific issues arising in each area out of national security work:
   a. Privatization and insourcing/outsourcing issues for the U.S. government and private sector in the national security arena.
   b. Government contracts issues in national security work, including contract competition and protests, contract formation, contract structure and interpretation, subcontracting issues, performance issues, disputes and terminations, procurement integrity, and contractor accountability. The course will also cover tort liability for government contractors, including liability for battlefield actions, and the interplay between government contracts and diplomatic agreements like status of forces agreements.
   c. Export controls issues, including those relating to the State Department’s regulation of defense items, the Commerce Department’s regulation of “dual use” items, and the regulation by Treasury and other agencies of sanctioned and listed entities.
   d. Classified information and the private sector, including the structure of the National Information Security Program, processes for acquisition and maintenance of facility and personnel clearances, and special issues within this area such as mitigation of foreign ownership, control and influence.

2. **Course Goals.** This course will introduce students to the field of national security business law, and teach students to identify and analyze many of the significant issues likely to arise in private sector law practice relating to national security.

3. **Course Grading and Exam.** 90 percent of the course grade will be based on an open-book, take-home exam that will test students’ abilities to review scenarios, identify issues, and develop legal arguments based on applicable laws and regulations. 10 percent of the course grade will be based on class attendance and participation.

4. **Course Texts.** This course will utilize the following texts:
   b. Supplemental readings provided via Canvas course website.
5. **Course Schedule.** The table below contains the subject(s) and course material(s) for each scheduled class, as well as other information about class activities relevant for the semester. Materials in the course text are listed with page numbers in parentheses; supplemental materials on the course website are indicated with Canvas in parentheses. This table will be updated with more specific detail at least one week prior to each week’s reading.

<table>
<thead>
<tr>
<th>Class</th>
<th>Subject(s)</th>
<th>Course Material(s)</th>
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| 1.    | Aug 29     | **Overview of the National Security Business and Long/Short-Term Trends**  
         |             | **Insourcing vs. Outsourcing**  
         |             | **Competition in Contracting**  
         |             | *Brian X. Scott*, B-298370, 298490, Aug. 18, 2006 (Canvas)  
         |             | *WorldWide Language Resources, Inc.; SOS International Ltd.*, B-296984, etc; November 14, 2005 (Canvas)  
         |             | *Sig Sauer, Inc.*, B-402339.3, July 23, 2010 (Canvas) |
| 2.    | Sep 12     | **Procurement Integrity, Organizational Conflicts of Interest, and Revolving Doors**  
         |             | *Skim: 18 U.S.C. 205, 207, 208 (Westlaw or Lexis)*  
         |             | *Druyun Case Study (Canvas)*  
         |             | *Lockheed*, B-295402 (Canvas)  
         |             | *United States v. SAIC*, 626 F.3d 1257 (D.C. Cir. 2010) (Canvas) |
| 3.    | Sep 19     | **Performance Issues – Changes and Delays**  
         |             | *Textbook introduction and changes clause, equitable adjustments (266-267, 272-73)*  
         |             | *Propellex Corp. v. Brownlee*, 342 F.3d 1335 (Fed. Cir. 2003) (277-281)  
         |             | *Blinderman Construction Co., Inc. v. United States*, 695 F.2d 552 (Fed. Cir. 1982)  
<pre><code>     |             | *ABB, ASBCA No. 57509, Apr. 12, 2012 (Canvas)* |
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<table>
<thead>
<tr>
<th>Week</th>
<th>Date</th>
<th>Topic</th>
<th>Resources</th>
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*ECC,* ASBCA No. 55781 (Canvas)  
*Bill Strong Enterprises, Inc. v. Shannon,* 49 F.3d 1541 (Fed. Cir. 1995) (198-205)  
*Bearing Point,* ASBCA (Canvas)  
*KBR,* ASBCA (Canvas) |
| 5.   | Oct 3* | Intellectual property and rights in data | Briefing Paper by Jay Devecchio (Canvas)  
*Colt I* and *Colt II* (Canvas)  
U.S. military uniforms camouflage case study (Canvas) |
| 6.   | Oct 11** | Surveillance and Private Industry | *Apple vs. FBI* (Canvas) |
| 7.   | Oct 17 | Politics and government contracts | Case study: small business rules  
Executive orders and labor policy  
Buy American / Trade American Act |
| 8.   | Oct 24 | Terminations and Contractor Accountability | *United States v. SAIC,* 626 F.3d 1257 (D.C. Cir. 2010) (Canvas)  
*Jacobs Engineering Group v. US* (544-48)  
*Lisbon v. US* (575-579 plus questions) |
| 9. | Oct 31 | Torts and National Security | Boyle (Canvas)  
Kooji (Canvas)  
CACI (Canvas)  
Harris (Canvas)  
Metzgar (Canvas) |
|---|---|---|---|
| 10. | Nov 7 | SOFA/Diplomacy Issues; Export Controls; Navigating the State and Commerce export control regimes (practical exercise) | Nisour Square case study (Canvas)  
ITT indictment / settlement (Canvas)  
Covarrubias (Canvas)  
Bernstein (Canvas)  
Casebook 475-479 |
| 11. | Nov 14 | Export Controls II | TBD |
CRS Report RS21900, “The Legal Framework for Protection of Classified Information” (Canvas)  
Totten (Canvas)  
Tenet vs. Doe, 544 U.S. 1 (2005) (Canvas)  
McDonnell Douglas / GD vs. US (A12 case (Canvas)) |
Foreign Ownership, Control, and Influence (FOCI) Issues  
CFIUS Issues | Dep’t of Navy vs. Egan, 484 U.S. 518 (1988); DoD clearance adjudication case (Canvas)  
FOCI case study (Canvas)  
CRS report on CFIUS |
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<tr>
<th>Date</th>
<th>Topic</th>
<th>Ralls vs. CFIUS (Canvas)</th>
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<tbody>
<tr>
<td>Dec 1</td>
<td>Industrial Espionage, Cyber and Hacking</td>
<td>TBD</td>
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<tr>
<td>Dec 6-17</td>
<td><strong>Final exams</strong></td>
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* Class will be rescheduled
** Class meets Tuesday, Oct. 11, instead of Monday, Oct. 10, per Georgetown