COURSE SUMMARY

This course is an introduction to intelligence law. The course 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. 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 implications of those changes on civil liberties and privacy. In addition, the course will address complexities faced by national security lawyers in protecting classified information in litigation, and providing legal advice on intelligence operations.

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 course of 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.

Contact Information: The best way to reach Professor Cordero is by email at [email protected]. Her work telephone number is [number].

COURSE OUTLINE

I. Introduction to Intelligence Reform and the Modern Intelligence Community (September 1, 8 and 15)

II. The Foreign Intelligence Surveillance Act and Surveillance Reform (September 21* and September 29)

III. Intelligence, Law Enforcement and Homeland Security (October 6 and 20)

IV. Information Sharing & Information Protection - U.S. and European Issues (October 27, November 3 and November 10)

V. Congressional Oversight & Intelligence Reform (November 17)

VI. Intelligence, Civil Liberties and Privacy: the Debate Since Snowden (November 24)

VII. Course Review & Wrap-Up (December 1)

* September 21 is a Monday. Class will not be held on Tuesday, September 22.
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: September 1

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

Class 2: September 8

- Members of the IC
- ODNI History
- Craig Forcese, Spies Without Borders: International Law and Intelligence Collection, 5 Journal of National Security Law & Policy, 179 (June 2011)
- 9/11 Commission Report, Chapter 1
- Recommended:
Class 3: September 15

- 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 21*

- Foreign Intelligence Surveillance Act (FISA) Sections 101(a)-(j), 104, 105 (as of 2014)
- Recommended:

Class 5: September 29

- 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:
  - Steven G. Bradbury, *Understanding the NSA Programs: Bulk Acquisition of Telephone Metadata Under Section 215 and Foreign Targeted Collection Under Section 702*, Lawfare Research Paper Series, September 1, 2013
[Note: Mid-Term Advice Memorandum will be assigned on September 29]

Class 6: October 6

- 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 13]

Class 7: October 20

- 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)
- 9/11 Commission Report, Chapter 12

[Note: Mid-Term Advice Memo DUE on October 20]
Class 8: October 27

- Chapter 9, *Information Sharing*, WMD Commission Report
- Intelligence Community Directive (ICD) 501
- United States Intelligence Community, Strategic Intent for Information Sharing 2011-2015

Class 9: November 3

- Podcast (or video), Congressional Internet Caucus, *Data Across Borders: Treaties, Law Enforcement, and Digital Privacy in the Aftermath of Snowden* (July 24, 2015)

Class 10: November 10

- 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)
- *United States v. Adel Daoud (7th Circuit)* (June 16, 2014)
- *United States v. Adel Daoud (7th Circuit)* (supplemental classified opinion (redacted) July 14, 2014)
- Recommended:
  - *Brady v. Maryland*, 373 U.S. 83 (1963)
Class 11: November 17

- National Security Act of 1947, Sections 501-503
- Recommended:

Class 12: November 24

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

Class 13: December 1 (review and wrap-up)