

INTERNATIONAL/NATIONAL SECURITY LAW

[Note: this listing is not intended to represent the Graduate Programs' National Security Law LL.M. degree. This list of courses is for J.D. students who are interested in courses within this area of law.]

In recent years, international and national security law has emerged as an increasingly important field of study. The courses in this area of the curriculum examine the domestic and international legal frameworks that shape U.S. foreign policy and international relations more generally. They also explore particular substantive areas of security policy and law. Some of the courses in this field have a core content that is relatively consistent over time, while others change markedly from year to year in light of world events and related developments in the law. As the world becomes more interconnected and threats to peace and security more diverse, knowledge about both domestic and international legal norms and institutions (and the interrelationships between them) has become critical to a full understanding of the ways in which law both restrains and empowers states in their pursuit of national and international security.

The courses in the field of international and national security law can be divided into three main categories. In one category are course offerings that focus primarily on U.S. domestic law governing the conduct of foreign relations. These courses examine the Constitution's allocation of power between Congress and the President regarding foreign affairs, such as the treaty power and the war power, and also explore the role of the courts as a check on the political branches. Domestic statutory law, including framework statutes such as the War Powers Resolution, is examined as well. The core course in this category is the *Constitutional Aspects of Foreign Affairs Seminar* offered by Professors Wallace, Lazarus, and McGrath. More specialized courses are also offered in this area. Professor Zirkle, for example, offer a seminar on *Strategic Intelligence and Public Policy*, which examines U.S. law bearing on intelligence activities and on the relationship between national security and individual rights. These courses focusing primarily on U.S. law build upon students' exposure to the separation of powers in *Constitutional Law I*, and that course is generally a prerequisite for the advanced courses in this area.

A second major category of courses focus primarily on the international legal framework that governs international relations among states, with a special emphasis on the United Nations Charter. The United Nations Charter not only sets forth legal principles regarding the use of force by states, it also establishes an institutional framework for collective efforts to maintain international peace and security. The United Nations Security Council has played an increasingly important role in authorizing collective responses to threats to the peace in a variety of recent cases, such as in the Persian Gulf War, Somalia, Haiti, Bosnia, and elsewhere. It also has authorized an increasing number of complex, multi-component peacekeeping operations, as in Cambodia, El Salvador and Mozambique. Students who have taken *International Law I: Introduction to International Law* should have a basic knowledge of the United Nations Charter. While *International Law I: Introduction to International Law* is not a prerequisite for the courses in this category, it does provide helpful background.

A third cluster of courses in the area of international and national security law are those that examine both international and U.S. law and focus on particular substantive issues of security law and policy. Professor Koplrow's seminar on *Issues in Disarmament: Proliferation and Terrorism Seminar* explores a wide range of weapons technologies and examines

the legal and political mechanisms – both international and domestic – that constrain them. *National Security Law* likewise introduces students to national and international law bearing on conflict management and security generally, and also examines a number of specific topics, such as arms control and liability for war crimes. *International Law I: Introduction to International Law* provides helpful background for each of these courses.

Students who have taken *Constitutional Law I* and *International Law I* should have a basic understanding of the distribution of power between Congress and the President and of the nature of the international legal system. Students who want a fuller understanding of both the domestic and international law that shapes international and national security policy will benefit, however, from further course work in this area. Which courses the student chooses will depend on the specific substantive areas of most interest to the student as well as the number of courses the student can devote to this subject. Ideally, students should develop their knowledge of both domestic U.S. law and international law and institutions. This can be done by taking a basic course or seminar in each of the first two course categories described above or by taking a course or seminar in the third category that bridges domestic and international law. Students with a special interest in a particular issue area can benefit from the more specialized offerings in each category.

In addition to the courses specifically focusing on international and national security, students will find many related course offerings to be relevant and helpful to their understanding of the complex post-Cold War world in which we live. Weapons proliferation and inter-state aggression remain central concerns, but other security issues – including regional conflicts, ethnic strife, refugee crises, and humanitarian emergencies across the globe – are also taking center stage. Students thus will benefit from the rich array of international law courses offered at Georgetown. These include courses or seminars on *International Human Rights, Immigration Law and Policy, International and Comparative Law on Women's Human Rights*, and *Refugee Law and Policy*. Also helpful are courses in comparative law or foreign law that touch on security issues. In addition, students can pursue independent research projects with individual professors.

Students interested in immigration and refugee issues will benefit especially by participating in the *Center for Applied Legal Studies (CALS) Clinic*, in which students assist refugees applying for political asylum in this country. In so doing, students become experts on the human rights record of the applicant's country of origin and assist in presenting evidence of a well-founded fear of persecution before an administrative law judge. In short, the opportunities to study national and international security law and policy at Georgetown are considerable.

Search InternationalNational Security Law Courses (http://curriculum.law.georgetown.edu/course-search/?cluster=cluster_17)

LAW 1541 v00 Advanced Legal Writing and Practice: National Security Law in the Private Sector (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201541%20v00>)

J.D. Seminar | 2 credit hours

Over the past decade, the practice of "National Security Law" as its own discipline in private practice has emerged, partially as a response to market demand for assistance with national security-related agencies, regulations, and issues, and partially as a realignment of several different areas of law into one holistic practice that benefits from cross-sectoral and cross-regulatory experience. (The relevant areas of law include international trade, data privacy and security, telecommunications, and transactional matters involving foreign direct investment.) This class is designed to prepare students to succeed as national security law practitioners by creating opportunities to develop skills relevant to the various stages of relevant matters, including counseling, investigations, administrative advocacy, and litigation. We will simulate the roles of law firm associate, law firm partner, law clerk, and judge through oral presentations and substantial writing projects (which may be used to develop writing samples suitable for applying to clerkships or other roles). Students will also learn to edit their own work and the work of others. Class format will vary week-to-week and include courtroom simulations, guest speakers, and seminar-style discussions.

Each student will complete three primary assignments:

- A memorandum (~10 pages)
- A motion or brief (section) (~15 pages)
- Oral argument on the motion (~7 minutes)

Learning Objectives:

- Improve legal writing and research skills through "real world" applications of national security law topics.
- Develop a deeper understanding of the structure and function of legal argument.
- Practice techniques to more effectively edit and critique one's own writing.

Prerequisite: Legal Practice: Writing and Analysis.

LAW 1740 v00 Artificial Intelligence and National Security: Law, Ethics, and Technology (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201740%20v00>)

J.D. Seminar (cross-listed) | 2 credit hours

This two-credit course provides students with an appreciation of the legal, ethical, and technical issues raised by the proliferation of artificial intelligence in the field of national security. The focus of the course is to enable students as lawyers, leaders, and policymakers to grapple with these issues by giving them an understanding of how artificial intelligence operates; its potential and likely use in different national security settings; and how each use raises distinctive legal and ethical questions involving predictability, trustworthiness, responsibility, and accountability. The course will use numerous examples and case studies to illustrate these issues, as well as videos to depict some of the technical aspects of artificial intelligence.

The specific learning objectives for the course are for students to understand the following:

- (1) How artificial intelligence operates, including the concept of an algorithm, how it is trained on data, the statistical models that underlie this training and the basis for its outputs, machine learning, deep learning and neural networks, and the ways in which human choices and interactions shape this process. No technical background in statistics or computer science is necessary, since the goal is to explain these concepts in accessible terms.
- (2) Artificial intelligence as a system involving human-machine teaming, the roles that each member of the team potentially plays at different points in the process, and the concept of trustworthy artificial intelligence.
- (3) The role that artificial intelligence is playing in the national security field, its capabilities and potential applications to specific areas, and the extent to which global competition to employ and refine artificial intelligence is itself a national security issue.
- (4) Limitations and risks of artificial intelligence, and possible ways to address them.

LAW 3038 v00 Biosecurity and the Law (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%203038%20v00>)

LL.M Seminar (cross-listed) | 2 credit hours

This course is designed to provide students an understanding of current and emerging issues concerning biosecurity and relevant law. Recent global acts of terrorism coupled with sophisticated advances in biotechnology present a host of complex issues driving biosecurity analysis and discussion. We will examine both the history and current state of bioterrorism threats with an emphasis on the legal and ethical challenges as we "sort out" best methods for moving forward. Our analysis will explore the recent Zika and Ebola threats as well as the threats posed by prior H1N1, SARS, anthrax, smallpox, SARIN, Ricin, and even the possibilities stemming from genetically engineered once thought "dead" bio-threats. Our method of instruction will focus on significant legal challenges each week. We will however, use past examples of quarantine and cordon sanitaire applications to instruct as how best to legally address future possible pandemics. Within our course exercises, students will be assigned healthcare and legal roles in order to gain insight as to management of a true healthcare crisis. Guest speakers with knowledge of crisis management will be invited to share personal experiences and advice concerning future pandemics. We will also examine recent legislation, both domestic and international, with a view toward a better understanding of the complex challenges within biosecurity.

LAW 089 v00 Constitutional Aspects of Foreign Affairs Seminar

(<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20089%20v00>)

J.D. Seminar (cross-listed) | 3 credit hours

This seminar deals with the distribution of powers between the president and Congress in the areas of war, diplomacy, international organizations, foreign assistance, commerce, money, etc. as well as the distribution of powers between the national and state governments. Such related matters as the impact on individual rights and the political question doctrine in this context are also discussed.

Prerequisite: Constitutional Law I (or Democracy and Coercion).

Mutually Excluded Courses: Students may not receive credit for both this seminar and Foreign Relations Law.

Note: FIRST CLASS ATTENDANCE IS MANDATORY. All enrolled and waitlisted students must be in attendance at the start of the first class session in order to be eligible for a seat in the class.

LAW 1640 v00 Current Issues in National Security Law (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201640%20v00>)

J.D. Course (cross-listed) | 3 credit hours

This course explores the legal implications of some of the most challenging issues affecting national security, encompassing both conventional and non-conventional threats. Topics include: domestic and international legal authorities; the law of electronic surveillance; resumption of the nuclear arms race and the weaponization of space; technology and national security (artificial intelligence, cryptocurrency); and cyber threats to national security. The course concludes with discussions on the U.S. national security decision-making process and the ethical dimensions of national security policy.

Note: The last class will be April 3, 2019.

LAW 1127 v00 Cyber and National Security: Current Issues Seminar

(<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201127%20v00>)

J.D. Seminar (cross-listed) | 2 credit hours

This seminar will examine legal and policy issues related to cybersecurity – that is, hacking and other intrusions on global computer and communications networks. The primary focus will be the national security implications of cybersecurity and the current challenges that senior lawyers, policymakers, and the private sector face in addressing those issues. The course will look at international and U.S. domestic law and will examine cyber issues both from the perspective of (1) the U.S. government entities that seek to use cyber tools to further military and other national security aims, and (2) the many government and private sector actors who must defend against the use of these tools by others. The goal of the course is to introduce students to the complex legal and policy issues that senior national security decision-makers must address and to provide insight into the practical challenges they present. The focus of the class is law and policy, not technology. You do not need a technical background to take the course.

Recommended: International Law and/or national security related course.

LAW 3066 v00 Cybersecurity Law & Policy ([http://](http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%203066%20v00)

curriculum.law.georgetown.edu/course-search/?keyword=LAW%203066%20v00)

LL.M Seminar (cross-listed) | 2 credit hours

This seminar will serve as an advanced LL.M. seminar covering topics in cybersecurity law and policy, with a focus on national and homeland security, military, intelligence law and international aspects. The seminar format is a combination of lecture and class discussion. This seminar is intended to serve as a complement to Cybersecurity Law, and students are welcome to take both courses. Grading will be based on a combination of short and/or medium length papers, active class participation and a final class presentation.

Recommended: Prior coursework in national security law highly recommended.

LAW 816 v08 European Union Law: Foundations and International Reach (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20816%20v08>)

J.D. Seminar (cross-listed) | 2 credit hours

What does the difficult divorce between the United Kingdom and the European Union demonstrate about the centrality of EU law to British life? Why has a new European privacy regulation become a centerpiece of U.S. technology companies' efforts to rebuild trust in their global products? What authorities, and constraints, bind EU agencies and courts when they confront U.S. multinationals or U.S. government security and surveillance programs? What legal tools can "Brussels" deploy to respond to challenges from Moscow and rein in EU member states that stray from the rule of law? How is the EU adapting to – and precipitating – new worldwide trade and investment trends, including the retreat from investor-state dispute settlement?

This two-credit survey tackles such questions in the course of providing a comprehensive introduction to the scope and operation of the law of the European Union. The first half begins by focusing on the key legal and political dimensions of European integration and the main features of the succession of treaties that have led to today's Union. We then examine the EU judiciary and its relationship to national constitutional courts, followed by consideration of the EU's increasingly important fundamental rights and citizenship framework. In the second half, we turn to the EU's internal market arrangements, the law governing its economic and other external relations, and data privacy and associated security issues. Brexit and other political and institutional developments are addressed throughout the term.

The course is led by instructors with long experience counseling the U.S. government and private sector in Washington and in Brussels on how to engage with and understand the EU and its governing institutions. (Views expressed by the instructors are their own, not attributable to their employers.) Ranging across EU constitutional, administrative, human rights, economic, security and foreign relations law, the course includes comparisons to U.S. legal concepts and cases as appropriate. Students also will gain a political appreciation for how EU bodies interact with each other and with member states and third countries. A research memorandum on a current EU law topic of the student's choice is the principal form of assessment.

The course has no prerequisites. International Law or related courses may be useful at the margins. Students who have taken European Law and Policy in Times of Crisis are not eligible to enroll.

Learning Objectives:

- Understanding the historical and current context in which European integration has evolved, the legal fundamentals and doctrines that underpin the European Union, and the nature of the relationship between EU institutions and Member States.
- Understanding general structure and specific instruments of EU primary and secondary law, including the text of essential articles in the EU Treaties, as well as how to identify and work with a variety of EU law source materials.
- Connecting and applying legal understandings to current/ongoing political developments involving the EU, member states and third countries, including by producing a professional-caliber legal research memorandum on an EU law topic of personal interest.

Mutually Excluded Courses: Students may not receive credit for both this seminar and European Law and Policy in Times of Crisis.

LAW 193 v04 Financial Regulation and Financial Crises (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20193%20v04>)

LL.M Course (cross-listed) | 2 credit hours

The global financial crisis of 2008 resulted in massive human suffering—9 million unemployed in the U.S. alone, and millions lost their homes. It also fundamentally altered financial regulation and American politics and reshaped social and economic dynamics—for example, the crisis led to the formation of the Tea Party, contributed significantly to political polarization and increased economic inequality.

In 2020, the coronavirus pandemic, which has caused even greater human suffering, triggered economic and financial consequences that almost led to another financial crisis. The reforms implemented after 2008, as well as the implementation of emergency programs used in 2008, were likely the reasons we did not have another financial crisis.

Why did the 2008 crisis happen? Why, throughout our history, have we periodically experienced financial crises? What does this history teach us about the adequacy of financial regulation, and whether regulatory failures contribute to financial crises?

We will begin by briefly reviewing the historical development of the United States banking industry, and the regulatory structure governing it, to get an appreciation of the economic and political forces that have shaped the regulation of our financial system. This will include reviewing past financial crises—the Panic of 1907 and the Great Depression and the responses to them, including the development of the Federal Reserve System, deposit insurance and other major reforms.

We will then focus on the 2008 financial crisis. We will examine the forces that produced the complex financial system of the early 21st century, including the rise of the shadow banking industry and the growth of derivatives. We will examine the response to the crisis, which included drawing on emergency powers that were first created by Congress in response to earlier financial crises, as well as new authorities created in response to the events of 2008. We will look at some of the difficult choices faced by government officials in responding to the crisis, as well as the role of individual accountability for behavior that contributed to the crisis. We will also examine the reforms implemented as a result of the crisis.

We will then turn to the pandemic, and look at its economic and financial consequences. Why was there a risk of another financial crisis? Did the reforms of 2008 help prevent a crisis? How was the government's emergency response to the financial stresses similar to or different from the 2008 response?

Finally, having started the course with a look at the beginnings of the American financial system, we will end with what many predict is the future: cryptocurrencies and central bank digital currencies, the development of which has been accelerated by both the 2008 crisis and the pandemic. Will central bank digital currencies replace cash? If so, will they make our financial system more or less stable? Can they make it more inclusive?

The course will include sessions with guest speakers who have been responsible for some of the critical policy decisions that we will discuss.

Strongly Recommended: Corporations.

Mutually Excluded Courses: Students may not receive credit for both this course and the J.D. courses, Federal Banking Regulation: Modern Financial Institutions and Change or Financial Services: Regulation in the Age of Disruption.

LAW 1745 v00 Foreign Intelligence Law (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201745%20v00>)

J.D. Course (cross-listed) | 3 credit hours

The 20th century witnessed swift expansion of the U.S. national security infrastructure. In the aftermath of Pearl Harbor and faced by an existential threat, institutions tasked with protecting the country sought to collect information about potential threats both at home and abroad. The Church and Pike Committees and Rockefeller Commission subsequently uncovered widespread domestic surveillance programs, prompting Congress to pass the 1978 Foreign Intelligence Surveillance Act (FISA) and to create specialized courts to oversee applications for electronic surveillance. Congress expanded the Court's remit in 1994 to include orders for physical search, and again, in 1998, to authorize the use of pen register and trap and trace devices, (capturing the numbers dialed and the calls received), as well as to collect certain business records. The attacks of 9/11 led to significant programmatic and statutory changes to FISA, as well as parallel foreign intelligence collection instruments and regimes. With the advent of new technologies, the system is now beset by myriad questions with critical constitutional, statutory, and regulatory implications.

This course focuses on the evolution of U.S. foreign intelligence collection, taking into account the history and evolution of the law as well as the pressing and difficult questions posed by technology. Discussion will draw on Georgetown Law Library's Foreign Intelligence Collection, which houses nearly 100 declassified FISC/FISCR opinions and 300 orders in the public domain, as well as the more than 130 FISA-related cases in ordinary Article III courts. The course emphasizes the NSA, FBI, CIA, and NCTC targeting, querying, and minimization procedures and the required annual reporting, as well as special reports detailing prominent use of FISA authorities in investigations during the 2016 Presidential election. The class will examine other intelligence collection conducted under Executive Order 12333, National Security Letters, SIGINT and DoD Directives, Attorney General Guidelines, and other associated documents, providing students with a comprehensive understanding of foreign intelligence law. It will pair a deep understanding of the different forms of intelligence collection with constitutional and statutory law. With the advent of the Internet of Things, next generation social media, 6G networks, artificial intelligence and machine learning, the landscape is about to again shift. Accordingly, the course will delve into new and emerging technologies, looking at how they fit – or fail to fit – current law.

LAW 3093 v00 Foreign Investment & National Security: The Committee on Foreign Investment in the United States (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%203093%20v00>)

LL.M Course | 2 credit hours

This course will explore foreign direct investment in the United States from the national security perspective through an analysis of the Executive Branch inter-agency body known as the Committee on Foreign Investment in the United States (CFIUS). Students will review the evolution of CFIUS from the Exon-Florio amendment, to the Committee as it exists today, including, but not limited to, the relevant authorities, policy implications, case law, and transactional risk analysis frameworks upon which CFIUS. The course will also examine current events in the national security space to determine how those events have informed recent legislative action taken by Congress with respect to CFIUS and how those legislative changes are implemented by the committee in regulation.

Recommended: National Business Law, National Security Regulation, National Security Law and the Private Sector

LAW 089 v03 Foreign Relations Law (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20089%20v03>)

LL.M Course (cross-listed) | 2 credit hours

This is an advanced course on constitutional principles bearing on U.S. foreign relations: primarily, separation of powers, federalism and judicial review of Executive acts and congressional legislation. It focuses on some of the most challenging issues that have divided the American polity from the inception of the Republic and continue to do so today, e.g., the allocation of foreign affairs power between the Executive and Congress; the scope of Presidential power to protect the nation in times of danger; and the proper role of the courts in deciding legal issues relating to national security. We will study historical materials that inform the legal arguments on both sides of current controversies over Presidential and Congressional power and discuss foreign relations issues under judicial review in 2020. We also study the power to make treaties and executive agreements, the Supremacy clause and application of customary international law by U.S. courts.

Recommended: There are no prerequisites, but familiarity with basic principles of U.S. government is important.

Mutually Excluded Courses: Students may not receive credit for this course and the J.D. courses, Constitutional Aspects of Foreign Affairs Seminar or U.S. Foreign Relations and National Security Law.

Note: FIRST CLASS ATTENDANCE IS MANDATORY. Enrolled students must be in attendance at the start of the first class session in order to remain enrolled. Waitlisted students must be in attendance at the start of the first class session in order to remain eligible to be admitted off the waitlist.

LAW 089 v04 Foreign Relations Law (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20089%20v04>)

J.D. Course (cross-listed) | 2 credit hours

This course addresses the constitutional issues that arise in the conduct of U.S. foreign relations. Topics include: Congress' power to legislate with respect to foreign relations; the respective roles of the President and Congress in initiating and conducting war and other uses of force; the President's power to conduct diplomatic relations; the scope of the power to make and enforce treaties and other international agreements; the status of treaties and customary international law as United States law; the role of the States in foreign relations; and the role of the courts in foreign relations.

Prerequisite: Constitutional Law I: The Federal System.

Mutually Excluded Courses: Students may not receive credit for this course and the J.D. upperclass course, Constitutional Aspects of Foreign Affairs Seminar, or the graduate course, Foreign Relations Law.

LAW 2065 v00 Gender and U.S. Foreign Policy (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%202065%20v00>)

LL.M Seminar (cross-listed) | 2 credit hours

"In recent years, the U.S. has developed a comprehensive policy framework that recognizes gender equality as a pillar of U.S. foreign policy and international law. This class will introduce and analyze these policies, including the U.S. National Security Strategy; the Women, Peace and Security Act of 2017; the U.S. Strategy to Prevent and Respond to Gender-Based Violence Globally; State Department and USAID policy guidance on gender. We will examine the legal basis for women's human rights, as well as the body of evidence linking women's advancement to development, prosperity, and stability. Issues covered will include gender and economic growth, peace and security, political participation, development, gender-based violence, and international institutions and treaties. This class will feature prominent guest speakers in the field.

LAW 2007 v02 Global Cybercrime Law (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%202007%20v02>)

LL.M Seminar (cross-listed) | 2 credit hours

This course will examine the key legal and policy issues associated with cybercrime – i.e., crimes in which computers and the Internet serve as targets, as storage devices, and as instrumentalities of crime – as a global phenomenon. As the Internet has become a truly global medium for commerce and communication, nations are gradually recognizing that new technology can not only expand the reach and power of traditional crimes, but foster new forms of criminal activity as well, throughout the world. The course will adopt an explicitly comparative legal approach to the problem of cybercrime, focusing principally on nations in North America, Europe, and Asia, and address pertinent international legal issues where appropriate. It will first address basic issues in comparative criminal law, as well as background information on computing and Internet technology. It will then address some of the most prominent topics in the substantive law of cybercrime (e.g., pornography and obscenity, "hate speech," cyberstalking, hacking, fraud, intellectual property offenses such as software piracy and economic espionage, and other issues associated with privacy and anonymity on the Internet). It will then turn to major issues in the procedural law of cybercrime (e.g., surveillance technologies such as Carnivore and legal standards for interception of electronic communications). Given the rapid pace of developments in computing and Internet law, the course will incorporate the most current materials available online and in hard copy. Students will be expected to use the Internet for intraclass communications and access to certain course materials, but need not have a detailed knowledge of computing or the Internet.

Prerequisite: Criminal Law.

Mutually Excluded Courses: Students may not receive credit for both this course and the J.D. seminar, Computer Crime Seminar, or the J.D. course, Computer Crime.

LAW 3118 v00 Information Operations in the Cyber Age: Law and Policy (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%203118%20v00>)

LL.M Seminar | 2 credit hours

Russian interference in the 2016 U.S. election, the spread of misinformation related to the COVID-19 pandemic, and the threat of deep fakes have all increased government – and public – attention on the national security threats posed by both State and non-State actors use of information and disinformation. Whether referred to as propaganda, psychological operations, influence operations, or information warfare, States have used information to further their national security interests for many years.

While these activities are not new, cyber capabilities and modern communications technologies have increased both their reach and effectiveness. The use of data to micro-target audiences via social media, leveraging hacked and leaked information, the dissemination of non and misattributed messages to a mass audience, and the potential use of deep fakes all challenge current policy approaches and existing legal norms. This class will examine the U.S. domestic legal and policy issues, as well as the International legal issues, arising from the use of information and disinformation as an instrument of national power.

Learning Objectives

The learning objectives for the course are for students to:

1. Become familiar with how States use information as an instrument of national power, to include past use of propaganda and modern use of disinformation.
2. Appreciate how cyber capabilities have transformed the use of information by States, and the increased threats to national security posed by these activities.
3. Gain an understanding of the domestic and international law governing State informational activities, including the limitations faced by the US Government imposed by the Constitution and US federal law.
4. Understand the role of, and rules applicable to, private actors in monitoring and controlling online communication.
5. Understand how to analyze the different information activities and the applicable legal regimes.

Recommended: International Law course

LAW 905 v00 Intelligence Reform and the Modern Intelligence Community (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20905%20v00>)

LL.M Seminar (cross-listed) | 2 credit hours

This course is an introduction to intelligence law as discussed in the context of changes to the Intelligence Community. The course focuses on changes to the law made in response to reviews and reports conducted following the attacks of September 11, 2001, 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, the modernization of the Foreign Intelligence Surveillance Act, and more recent proposals to reform surveillance laws and policies in the context of global discussions of privacy and civil liberties. In addition, the course will address complexities faced by national security lawyers in protecting classified information, and providing legal advice on intelligence operations, including domestic intelligence activities.

Recommended: Prior or concurrent enrollment in International Law I.

LAW 1323 v00 International Law, National Security, and Human Rights (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201323%20v00>)

J.D. Course | 3 credit hours

This course will examine how international law deals with the tension between two highly prominent concerns of the early twenty-first century: protecting national security and protecting human rights. We begin with an overview of basic principles of international law, and of U.S. domestic legal authority for national security activities. We then move to the regime of international law that is devoted to the protection of human rights. This includes treaties dealing with human rights in general; those that address specific subjects, such as torture and genocide; and customary international law. Our focus then moves to international humanitarian law, which is the legal regime that governs the use of force. This includes provisions that relate both to when parties may resort to the use of force, and how they must conduct themselves when they do so. We will explore the debate over whether humanitarian law should displace human rights law in situations of armed conflict, or whether the two bodies of law should be applied in ways that reconcile their approaches as much as possible.

The course then turns to national security concerns that serve as a vehicle for exploring the interaction of human rights and humanitarian law, with a focus on terrorism. To what extent should counter-terrorism be seen as law enforcement, in which case human rights law governs, and to what extent should it be seen as armed conflict, in which case humanitarian law provides primary guidance? If it has elements of both, what should be the respective roles of human rights and humanitarian law in regulating counter-terrorism? We will focus in depth on five topics that raise these questions: the incorporation of human rights protections in armed conflict, criminal investigation and prosecution of terrorism, targeted killing, covert action and special operations, and cyber operations. The course will include two review sessions at approximately one-third and two-thirds through the semester. These will be devoted to analysis of problems relating to topics covered in specific units of the course.

We will make extensive use of case studies and problems to explore the complex legal, political, and moral questions that arise with respect to the issues we discuss. We also will be working with statutes that relate to various types of national security issues. In addition, events in the news are sure to provide constant vivid examples of the significance of the concepts that we will be discussing throughout the course. In these ways, the course will provide students with a practical understanding of international law through an in-depth examination of how it operates at the intersection of two specific fields that are undergoing dynamic changes.

Learning objectives for the course are:

1. For you to become familiar with basic concepts in international law, especially with regard to treaties, customary law, and how international law interacts with domestic law in the United States.
2. For you to become familiar with basic concepts in international human rights law, United Nations and European Conventions on basic human rights, and their impacts on domestic law.
3. For you to become familiar with the basic provisions of international law that deal with when states may use military force, and that govern how such force may be used in armed conflict.
4. Based on your understanding of the subjects described above, for you to appreciate how many contemporary national security concerns present challenges for which neither human rights law nor the law on military force is fully adequate – which means that creative thinking is necessary in addressing these concerns.

Note: This course is a first-year elective. First-year day students select an elective offering in the first semester.

LAW 1283 v00 Introduction to Military and Veterans Law, 1636-Present
(<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201283%20v00>)

J.D. Seminar (cross-listed) | 2 credit hours

This 13-week, 2-credit elective is intended to ground the student in the history and tradition of a separate military and veterans law for members of the armed forces. Each session will contain specific legal concepts relevant to the subject matter. The student may expect to have a broad appreciation for the importance of a separate law and procedure for the armed forces and veterans, and how to analyze issues. The final grade will include class participation, and a final, take home, open book, examination.

Note: Students may not withdraw from this class after the add/drop period ends without the permission of the professor.

LAW 1644 v00 Investigating Crime in the Darknet (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201644%20v00>)

J.D. Seminar | 1 credit hour

In recent years, several high-profile criminal investigations and prosecutions have focused on activity taking place in the Darknet, the name for websites and services protected by encryption and other technology designed to make the tracking of individual conduct difficult if not impossible. The Darknet houses legitimate and laudable speech and conduct, but it also harbors criminal activity, from the distribution of child pornography to the sale of illicit drugs and weapons. The technical design of the Darknet has posed many types of significant challenges to law enforcement investigators and prosecutors: technological, bureaucratic, and legal. The legal challenges cover the gamut, placing pressure on prior interpretations of statutes, the Constitution, international law, and the Federal Rules.

In this simulation course, students play the role of law enforcement investigators, prosecutors, and defense lawyers, investigating and litigating many of the novel issues that the Darknet raises. The goal for the simulation will be to help students gain insights and strategies for dealing with the clash between technology and criminal investigation and prosecution generally, so the lessons should apply to other technologies, such as the Internet of Things, celltower simulators, and facial recognition.

This course will meet on two consecutive Saturdays, March 30 and April 6. For the first Saturday, the class will meet for eight hours, excluding breaks, and focus on the technology behind the Darknet, culminating in the preparation of a search warrant application and affidavit and the presentation of these materials to a magistrate judge. At the end of the first day, each student will be assigned the role of prosecutor or defense counsel and will spend the intervening week writing a motion or opposition motion to suppress the information obtained from the Darknet pursuant to the warrant.

During the second Saturday, the class will meet for five hours, excluding breaks, preparing an expert witness for the suppression hearing, examining the witness on the stand, and participating in oral argument before a judge.

Note: ATTENDANCE IS MANDATORY AT ALL CLASS SESSIONS. All enrolled and waitlisted students must be in attendance at the start of the first class session in order to be eligible for a seat in the class.

A student will be permitted to drop a course that meets for the first time after the add/drop period, without a transcript notation, if a student submits a written request to the Office of the Registrar prior to the start of the second class meeting. Withdrawals are permitted up until the last class for this specific course.

LAW 3130 v00 Investigating Transnational Criminal Organizations & Cyber Threats to National Security (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%203130%20v00>)

LL.M Course (cross-listed) | 2 credit hours

As a rule, investigating and prosecuting cybercrime is fraught with challenges. Ephemeral electronic evidence, international evidence-gathering obstacles, and anonymizing technologies can frustrate conventional law enforcement investigative techniques. Recently, distinctions between traditional cybercrimes and crimes committed by foreign actors with national security objectives have eroded, thereby increasing investigative challenges: cybercriminals and national security cyber actors now both steal information for personal financial gain; nation-states have enlisted criminal organizations to act as their proxies to cyber attacks against United States companies; and the tradecraft used by some nation-state actors includes tools commonly used by cybercriminals, such as "botnets" and ransomware. The intersection between conventional cybercrimes and national security crimes with a cyber nexus raises novel legal and policy questions involving the extraterritoriality of criminal statutes, the application of international data privacy regulations, and the boundaries of international legal cooperation. Furthermore, the burgeoning role of private actors, like cybersecurity firms, in data breach response and cyber threat intelligence gathering contribute to confusion over how cybercrime should be investigated.

This course will take a practical look at how U.S. federal law enforcement pursues investigations and prosecutions of sophisticated cyber threat actors using investigative and prosecutorial criminal tools that at times are augmented by national security authorities. It will furnish a background in criminal statutes that are the bedrock of electronic evidence gathering (e.g., the Wiretap Act, 18 U.S.C. § 2510 et seq.; the Stored Communications Act, 18 U.S.C. § 2701 et seq.; and the Pen Register/Trap and Trace Act, 18 U.S.C. § 3121 et seq.); the substantive laws used to indict cyber actors (e.g., the Computer Fraud and Abuse Act, 18 U.S.C. § 1030); the constitutional questions raised by surveillance techniques used to gather domestic evidence against international actors; and national security issues that prosecutors confront when handling hybrid criminal cases (e.g., discovery issues associated with the use of national security authorities). Students in this class will learn how a federal case against transnational cybercriminals and national security cyber actors is built and the legal landmines that can surface while gathering evidence in "cyberspace."

No technical background is required to take this course, but you will be taught the basics of Internet technology to better understand how technology affects the application of certain criminal laws.

Strongly Recommended: Criminal Justice, Criminal Law, or Criminal Procedure; Courses in technology-related subjects

LAW 063 v00 Issues in Disarmament: Proliferation and Terrorism Seminar (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20063%20v00>)

J.D. Seminar (cross-listed) | 3 credit hours

This seminar addresses various issues related to the spread of advanced weapons to diverse countries and non-state actors, considering a set of problems that will raise the most difficult security concerns for the United States and the rest of the world in the post-cold-war era. In the seminar, we will explore a wide range of weapons technologies—including nuclear, chemical, biological, and conventional armaments—and the political and legal mechanisms that constrain them. The seminar will address historical allegations concerning the dissemination and use of these weapons; the rise and fall of various strategic doctrines; the bureaucratic processes of government decision making; and the evaluation of relevant ethical considerations surrounding possession and use. The bulk of the seminar will focus on contemporary legal and political issues such as ongoing treaty negotiations, export controls, verification of compliance, enforcement of treaty commitments, and the dismantling of redundant weaponry. The seminar is particularly recommended for those interested in exploring careers in public international law, but will also be relevant to others interested in the role of the lawyer in influencing United States public policy more generally. Each student will prepare a substantial original research paper and participate in small exercises designed to provide some simulated experience in characteristic legal tasks, such as drafting, analyzing, briefing, etc.

Mutually Excluded Courses: Students may not receive credit for this course and Proseminar in National Security Law.

LAW 1106 v02 Judicial Review of Military Justice Proceedings:

Current Issues and Constitutional Perspectives (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201106%20v02>)

J.D. Seminar (cross-listed) | 1 credit hour

This seminar will address the relationship between courts-martial and civilian judicial proceedings, focusing on the allocation of responsibilities in the military justice system to commanders, judges, and lawyers. Specific topics will include the contemporary debates regarding sexual misconduct and combat-related offenses. The assigned readings will utilize materials available on the internet, including judicial decisions, legislative and regulatory materials, and law review articles. The seminar paper will take the form of a draft judicial opinion based upon topics covered in the course. The seminar is designed for students interested in national security, judicial review, and the constitutional allocation of legislative, executive, and judicial powers.

Learning Objectives:

- Identify the key features of military legal practice, the distinctions between military and civilian jurisprudence, and the primary factors considered by Article III courts in reviewing cases arising in the military justice system.
- Assess the impact of congressional legislation and oversight, as well as the role of the President in the military justice system.
- Enhance research skills through analysis of briefs and source materials.
- Enhance writing skills by preparing a judicial opinion.

Recommended: Constitutional Law I and either Criminal Justice (or Democracy and Coercion) or Criminal Procedure.

Note: This course is mandatory pass/fail and will not count toward the 7 credit pass/fail limit for J.D. students.

ATTENDANCE IS MANDATORY AT ALL CLASS SESSIONS. Enrolled students must be in attendance at the start of the first class session in order to remain enrolled. Waitlisted students must be in attendance at the start of the first class session in order to remain eligible to be admitted off the waitlist. All enrolled students must attend each class session in its entirety. Failure to attend the first class session in its entirety will result in a drop; failure to attend any subsequent class session in its entirety may result in a withdrawal. Enrolled students will have until the beginning of the second class session to request a drop by contacting the Office of the Registrar; a student who no longer wishes to remain enrolled after the second class session begins will not be permitted to drop the class but may request a withdrawal from an academic advisor in the Office of Academic Affairs. Withdrawals are permitted up until the last class for this specific course.

LAW 977 v00 Law and Measures Against International Terrorism

(<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20977%20v00>)

LL.M Seminar (cross-listed) | 2 credit hours

In the decade since the 9/11 attacks, the United States and most other countries have significantly altered ways in which they respond to international terrorism. Many government measures against terrorism have stretched domestic and international law to their limits. Controversial changes to laws have altered the balance between governments' interest in ensuring public safety and individuals' fundamental rights. The class will discuss current events from around the world to explore domestic and international legal bases for counter-terrorism measures such as intelligence gathering, criminal law enforcement, efforts to prevent terrorism financing, and use of military force. Students completing the course will have an overview of laws that apply to governments' responses to terrorism. The course will be graded by exam.

Recommended: Prior enrollment in International Law and/or International Humanitarian Law

LAW 3031 v00 Law in the Gray Zone: The Legal Challenges of Hybrid Conflict (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%203031%20v00>)

LL.M Seminar (cross-listed) | 1 credit hour

State and non-State actors are increasingly pursuing political and economic objectives through the use of aggressive, ambiguous, and integrated multiple elements of power. This strategy, which exceeds the threshold of normal national competition but falls below the level of armed conflict, has been referred to as hybrid, unconventional, asymmetric, and ambiguous warfare. This competition in the gray zone between peace and armed conflict presents significant legal challenges to States responding to these threats.

This course will examine the legal challenges presented by this conflict in the gray zone. We will examine issues in legal classification of threats and how State and non-State actors employ these strategies to exploit perceived gaps in international and domestic law. Additionally, we will discuss how these actors may also use the law when pursuing their objectives in the gray zone.

Some of the specific topics to be discussed include:

- What is hybrid warfare? Case study, actors, definitions.
- Issues in legal classification of threats, including use of force and armed attack (the Article 2(4)- Article 51 "gap"), determining whether an armed conflict exists and, if so whether it is an international or non-international armed conflict.
- State responses to activities in the gray zone.
- State responsibility for surrogates/proxies.
- Information warfare, psychological operations, and the role of cyber.
- Sovereignty and intervention.
- Economic measures.
- Support to domestic organizations such as civil society and political groups.

Recommended: Prior or concurrent enrollment in International Law, Law of War, Foreign Relations Law

Note: A student will be permitted to drop a course that meets for the first time after the add/drop period, without a transcript notation, if a student submits a written request to the Office of the Registrar prior to the start of the second class meeting. Withdrawals are permitted up until the last class for this specific course.

LAW 936 v02 Law of War (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20936%20v02>)

LL.M Course (cross-listed) | 2 credit hours

Surveys the law of armed conflict (LOAC) and customary international law as applied by the United States in warfare. From where does LOAC arise? What is a war crime – and who decides? What is “unnecessary suffering,” and what drives that legal determination? When does LOAC apply and what role do other rules of law, such as domestic U.S. law and International Human Rights Law play in regulating the conduct of armed conflict? Does it cover non-state actors? What are U.S. LOAC obligations, and how are they enforced? How does one distinguish illegal combatants from prisoners of war? Where do military commissions come from, and who may be tried by them? Could the atomic bombing of Nagasaki have been a war crime? Can a superior’s order constitute a defense to war crime charges? What is the U.S. position in regard to laser weapons? Land mines? Non-lethal weapons? Torture? Rendition? Reprisals? The assassination of enemy commanders? What is an illegal order, and what should a soldier do if she receives one? How may battlefield war crimes be prosecuted? Our inquiry will focus on the law applicable to the conduct of U.S. military operations in past and current conflicts, whether or not they be declared, whether they be internal or international. Although primarily focused on the law of land warfare, the law of air and naval warfare, as well as space and information warfare, will be considered.

Learning objectives:

To gain a firm understanding of the law of armed conflict and to consider, through discussion of practical exercise from the textbook, how the law is applied in an operational context.

Mutually Excluded Courses: Students may not receive credit for both this seminar and Law of War, the International Law of Armed Conflict Seminar or War Crimes and Prosecutions.

LAW 936 v03 Law of War (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20936%20v03>)

J.D. Course (cross-listed) | 2 credit hours

This survey course covers the law of armed conflict and customary international law as applied on today’s battlefields. Is there really law in combat? When does the law of war apply? Does it apply to non-State actors? What is a war crime, and who decides? How is proportionality determined? What is the difference between a combatant, a terrorist, and a criminal? Is torture ever lawful? Is targeted killing lawful? What constitutes a cyber attack? What is the jurisdiction of military commissions and why is that a difficult question for Guantánamo? Can a superior’s order constitute a defense to war crime charges? Is indefinite detention lawful? Can the U.S. ever lawfully kill a U.S. citizen in a foreign state with which we are not at war? Such questions are the subject of the course. It is not a philosophy course, nor is it national security law, nor human rights law, although those topics are inextricably related. Our focus is on the law applicable in today’s non-international armed conflict battlefields. Military experience is *not* required to do well in this course.

Recommended: Completion of International Law I prior to enrollment in this course.

Mutually Excluded Courses: Students may not receive credit for both this course and the Law of War Seminar or War Crimes and Prosecutions.

LAW 1616 v00 Legal and Policy Aspects of Countering Terrorist Recruiting and Online Propaganda in the Digital Age Seminar (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201616%20v00>)

J.D. Seminar (cross-listed) | 2 credit hours

Rapidly evolving technological advances over the past decade have created powerful mechanisms to instantly and directly reach billions of information consumers around the world. Although the latest information revolution has fostered tremendous progress by connecting people in every corner of the planet, it has also been accompanied by governmental and non-governmental efforts to spread propaganda, particularly through social media platforms. This course will review the legal and policy aspects of addressing these challenges, focusing on the rise of terrorist recruiting and other organized online propaganda efforts.

As governments intensify their extensive counterterrorism initiatives, terrorist recruiting continues to evolve and poses a more complex threat than perhaps at any time in history. Terrorists no longer require in-person recruiting to spread their ideology and to inspire attacks in other countries. Domestic and international extremist groups have become more adept at using online platforms and other tools to “crowd source” their recruiting in a decentralized attempt to attract and inspire disaffected individuals by exploiting grievances and offering a sense of purpose, belonging, adventure, and obligation. At the same time, governments and other organizations are themselves using social media platforms to reach audiences in their countries and around the world. They have done so not only to increase public support for their political leaders, but also to attempt to impact public debates on major issues, influence policy formulation, and even to sow discord between groups domestically and abroad. These propaganda efforts have raised questions about whether social media companies, governments, and international organizations should play a larger role in determining how such information is disseminated, and how they can implement solutions without undermining freedom of expression and other legal protections.

In addressing online propaganda, this course will focus on legal and policy challenges and strategies in three main areas: (1) assessing and countering methods to spread propaganda online, including terrorists’ efforts to recruit followers and to inspire attacks; (2) examining innovative NGO and private sector cooperation in developing counter-propaganda initiatives; and (3) utilizing existing law enforcement tools and crafting new governmental and non-governmental prevention and intervention programs to disengage, redirect, and rehabilitate those who are radicalized online.

LAW 697 v00 Managing National Security (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20697%20v00>)

J.D. Course (cross-listed) | 3 credit hours

This course introduces students to the substance, process, and practice of national security law. The first third of the term is devoted to the structure and process of national security decision-making. The second third of the term introduces students to the instruments of national security policy, e.g., intelligence, the use of force, and homeland defense. The final third of the course is devoted to functional exercises in national security policy with the students playing the roles of national security principals (a.k.a., national security moot court). Each exercise is designed to give students experience in spotting issues and applying law in national security context. The exercises are also intended to give students a feel for the texture and pressure of national security decision-making.

LAW 697 v50 Managing National Security (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20697%20v50>)

J.D. Seminar (cross-listed) | 3 credit hours

This course is about the substance, process, and practice of national security law. The course has two segments. The first segment addresses the substance and process of national security decision-making. The second segment covers the tools of national security: intelligence, military, law enforcement, diplomacy, and homeland security. Special attention is paid to the relationship between law and policy and the role of the lawyer in effecting both. Up to 8 J.D. students may enroll in the course for three credits, and prepare a research paper that satisfies the Law Center’s upper-class Writing Requirement (WR). In addition to the final paper, students who select this option must submit an outline and a draft for comment. Both the draft and final papers must be a minimum of 6,000 words (25 pages) and must be supported by substantial independent research. Students may also enroll in the course for two credits. Students electing this option are required to prepare a term-paper approximately 4,800 words (20 pages) on an approved topic.

Recommended: Other national security law courses offered at the Law Center; courses in Constitutional Law; International Law I.

Mutually Excluded Courses: Students may not receive credit for both this course and Challenges in National Security Law: A Seminar for Mid-Career LL.Ms.

Note: This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.

Note: This course will be enrolled via waitlist.

LAW 922 v01 National Security & the Law of the Sea (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20922%20v01>)

LL.M Course (cross-listed) | 2 credit hours

This course reviews the basic principles of international law related to the many exclusive and inclusive uses of ocean space, especially on those critical issues affecting U.S. national security. Students will develop a comprehensive understanding of the legal regimes governing the ocean, from internal waters and other coastal zones through the regimes of the high seas, and an overall appreciation for U.S. ocean law and policy, based on relevant principles of international and national law. Topics include navigation and overflight rights, living and non-living ocean resources, military and law-enforcement activities, protecting the marine environment, marine scientific research, the law of naval warfare, and the formal and informal processes for developing ocean policy and for resolving international disputes. Students will research and engage in class discussions on a number of problems involving national security issues and the use of ocean space, including resources on the continental shelf, maritime terrorism, military exercises, maritime transportation systems, at-sea trafficking in illicit drugs, piracy, weapons of mass destruction, collection of intelligence, and naval rules of engagement

Final exam only.

Recommended: International Law I: Introduction to International Law (or the equivalent International Law I).

Mutually Excluded Courses: Students may not receive credit for both this course and Oceans Law and Policy.

LAW 3084 v00 National Security and International Aviation Law (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%203084%20v00>)

LL.M Seminar (cross-listed) | 2 credit hours

This course reviews the basic principles of international law governing aviation, especially those involving critical issues affecting national security. Students will develop an understanding of the legal regimes governing civil aviation and an overall appreciation for U.S. aviation law and policy regarding national security issues. Topics include international organizations, such as the United Nations International Civil Aviation Organization, int'l disputes resolution mechanisms, int'l treaty obligations and government oversight responsibilities, air transport agreements, navigation and overflight rights, regulation of international airspace, airspace zones and military enforcement activities, the concept of civil and state aircraft, unmanned aircraft operations (drones), economic sanctions, and airport security and border control. We will also discuss the intersection of international aviation law with related regimes governing oceans and space.

Students will research and engage in class discussions on a number of problems involving international aviation and national security issues. We will make extensive use of case studies and problems to explore the complex legal and geopolitical questions that arise in these cases. In addition, we will track events in the news to provide real-world examples of the significance of the concepts that we will be discussing throughout the course. Case studies will involve issues like sovereign airspace management, establishment of no-fly zones, territorial disputes in the South China and East China Seas, the conflict in Ukraine, Saudi-led blockade of Qatar, U.S. Iran Sanctions, international terrorism, and forums for dispute resolution. The course aims to provide students with a practical understanding of international aviation law through an in-depth examination of how it operates in relation to national security.

Recommended: Public International Law, National Security Law, Administrative Law

LAW 2070 v00 National Security Business Law (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%202070%20v00>)

LL.M Course (cross-listed) | 2 credit hours

National Security Business Law explores important 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 include sections focusing on: (1) Privatization and insourcing/outsourcing issues for the U.S. government in the national security arena; (2) Government contracts issues in national security work, including contract competition and protests; performance issues, disputes and terminations; torts and national security; and how the U.S. Government holds contractors accountable; (3) 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; and (4) 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.

LAW 1031 v00 National Security Crisis Law I (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201031%20v00>)

J.D. Course (cross-listed) | 5 credit hours

National Security Crisis Law is a nationally-recognized class, and the capstone course for the J.D./LL.M. in National Security Law at Georgetown. It examines the law as it is written and as it is applied. The course will be equally helpful to students who go into other fields, as it emphasizes leadership and examines how cognitive biases, institutional cultures, and formal and informal social networks influence lawyers' ability to perform effectively under pressure. The course takes into account both conventional and non-conventional threats, such as terrorist use of biological weapons, cyber attacks, and the detonation of radiological dispersal devices, to examine the constitutional, statutory, and administrative contours of the government's response. In lieu of an examination, students will take part in a week-long simulation, during which they will assume positions within the federal Executive Branch, as well as state and local government. Students will have the opportunity to meet with lawyers who practice in the field, to help to prepare for their roles. Students will be assigned sim-classified and sim-unclassified email accounts, and provided with access to the Video News Network and AP Wire, through which they will receive information about a series of events as they unfold. A Control Team, made up of approximately 50 professors and attorneys from practice, will respond to the student decision-making. For the final two days of the week, students will be present in person at the law school. During the 2018-2019 year, the final exercise will be both national and inter-national, involving students from top national security law schools across the United States and Canada. Enrollment is limited to 30 students.

Prerequisite: Constitutional Law I: The Federal System (or Democracy and Coercion). Prior or concurrent enrollment in either Constitutional Law II: Individual Rights and Freedom, Criminal Justice or Criminal Procedure.

Note: In Spring 2019, this course will meet three days a week on Mondays, Wednesdays and Fridays, 9:00 a.m. - 11:00 a.m. This course will also meet on a few Wednesdays from 3:30 p.m. - 5:30 p.m. Dates to be announced. There will also be an all-day crisis simulation exercise in this course held on a Friday and Saturday. Attendance at the simulation exercise is mandatory. Students may not withdraw from this class after the add/drop period ends without the permission of the professor. The course can be taken either pass/fail or for a grade.

LAW 1320 v00 National Security Crisis Law II (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201320%20v00>)

J.D. Course | 1 credit hour

During the early part of the term, students enrolled in NSCL II will conduct research and write injects to support the NSCL I simulation. During the week-long simulation, students in NSCL II will serve on the Control Team, writing articles, press releases, and TS/SCI reports and communications. They will also take on governmental and non-governmental roles as the Control Team responds to player decision making and requests for information (RFIs) in response to emerging national security crises. In preparation for the simulation, students also will take part in a training session on Canadian National Security Law. From Monday through Thursday students will be working intermittently on work for the simulation. On Friday (8:00 am - 6:00 pm) and Saturday (8:00 am - 4:00 pm), students will be expected to be physically present at the law school. Students will act as ambassadors to the students coming to Georgetown Law from Penn Law, as well as the Ministry of Justice in Canada, the University of Ottawa School of Law, and Osgoode School of Law. The course builds on the simulations held over the past seven years as part of the National Security Crisis Law class, which is a prerequisite for participation on the NSCL Control Team.

Prerequisite: National Security Crisis Law.

Note: THIS COURSE REQUIRES PROFESSOR PERMISSION TO ENROLL. Please email Professor Donohue at lkdonohue@law.georgetown.edu to request permission to enroll in the course.

Note: This course is mandatory pass/fail.

LAW 1424 v00 National Security in Theory Seminar (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201424%20v00>)

J.D. Seminar (cross-listed) | 3 credit hours

There is consensus among scholars that National Security Law as a field of study is under theorized. How does the law function in a state in which "national security" is a considerable concern? What is the nature of the "state of exception" that national security law puts into effect? How does "surveillance" of citizens transform the normal functions of the state? When is violence "Islamic"? What is the proper response to a terrorist attack?

This seminar offers students an opportunity to think about national security theoretically by reading texts that adopt critical approaches to the various issues typically discussed within this field of study. These issues include: the state of exception, surveillance, Islamic terrorism, and Drones.

Students will be required to write a paper of 6,000 words minimum (excluding footnotes) to pass the class. Students will be expected to finalize the paper topic after meeting with me by the fourth week of the semester, submit a research outline by the sixth week of the semester, a 6,000 word draft by the tenth week of the semester and the final draft on the date assigned by the registrar for final submission of seminar papers.

LAW 972 v00 National Security Law ([http://](http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20972%20v00)

curriculum.law.georgetown.edu/course-search/?keyword=LAW%20972%20v00)

LL.M Course (cross-listed) | 2 credit hours

Following the 9/11 attacks, one of the fastest growing areas of legal inquiry has been national security law. This course, taught by the principal founder of the field, is a comprehensive introduction, blending relevant international and national law. It begins with an overview of modern theories about the causes of war including "democratic peace," "deterrence" and "incentive theory." The course then examines the historical development of the international law of conflict management. It takes up institutional modes of conflict management, including the United Nations system and the role of the Security Council. Addressing the lawfulness of using force in international relations, i.e. jus ad bellum, the course discusses aggression, low-intensity conflict, terrorism, intervention, anticipatory defense, and "preemption." It then examines several case studies including the Indochina War, the "secret war" in Central America, the Gulf War, Kosovo, Afghanistan (the War on Terror), and the Iraq War, as well as case studies in United Nations peacekeeping and peace enforcement (including operations in Somalia, Haiti, Rwanda and the former Yugoslav republics). The course examines the norms concerning the conduct of hostilities, i.e. jus in bello, providing an overview of the protection of non-combatants and procedures for implementation and enforcement. It looks at war crimes issues, such as the Nuremberg principles, the new International Criminal Court, and the Yugoslav and Rwanda tribunals. The course briefly discusses American Security Doctrine, then turns to the general issues of strategic stability and arms control, examining nuclear, chemical and biological weapons and their effects, and arms control agreements. The course then examines the institutional framework for the control of national security, including the Authority of Congress and the president to make national security decisions, the war powers, and constitutional issues in the debate on the Anti-Ballistic Missile Treaty. The course further examines the national security process, including the national command structure, and considers the issues of secrecy, access to information, the classification system and homeland security. It reviews intelligence and counterintelligence law, and ends with a review of individual rights and accountability as they interface with national security. Individual Powerpoint modules are offered in the course segments concerning modern theory about the origins of war, jus ad bellum, terrorism, the Vietnam War, Arms Control intelligence law, individual rights vs. national security, the national security process and homeland security. The course typically invites one or more experts to meet with the class to discuss contemporary issues.

LAW 972 v03 National Security Law ([http://](http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20972%20v03)

curriculum.law.georgetown.edu/course-search/?keyword=LAW%20972%20v03)

J.D. Course (cross-listed) | 2 credit hours

This introductory, survey course will explore national security law as developed from the U.S. Constitution, relevant federal statutes, case law, and historical experience, as well as from principles and influences of international law and foreign relations. It will cover key components of, and debates over, the Federal Government's exercise of national security authorities, including: decisions to use force and how to employ it; detention and interrogation of combatants; collection, protection, and sharing of intelligence; military and civilian prosecutions for national security-related criminal charges, including terrorism, espionage, export control, and state-sponsored cybercrimes; civil litigation involving national security interests and concerns; protection of homeland security; and economic aspects of national security policy. Themes of the course will include: (1) the separation of powers among the three branches of the Federal Government, and appropriate roles for these branches in the conduct of national security activities; (2) the interplay between international law and domestic law; (3) textual, historical, and functional modes of legal argument as applied to national security issues; and (4) the evolution of modern warfare and its implications for relevant legal regimes.

Course Goals/Student Learning Outcomes:

This course will provide students with exposure to the broad reach of modern national security law in the United States, and the many as-yet unresolved and knotty legal, policy, practical, and moral issues that arise as the Government strives to protect national security, while preserving the generally free and open society that most U.S. persons expect. Students will examine with a critical eye the justifications offered for, and scope of, security-based governmental actions, while considering practical alternatives and results.

The student learning outcomes will be the following:

1. Analyze current and emerging issues in national security law, and understand the policy arguments underlying the balance of ensuring security and protecting individual rights
2. Assess the justifications offered for, and scope of, security-based governmental actions
3. Examine the effects that national security measures have on individual rights of U.S. citizens and non-citizens, and on U.S. institutions, norms, and governance.

Mutually Excluded Courses: Students may not receive credit for this course and the graduate course by the same name.

Note: LL.M. STUDENTS: THIS COURSE REQUIRES PROFESSOR PERMISSION TO ENROLL. Priority will be given to LL.M. students in the National Security program. Students must submit a resume/CV and a statement of interest in the course to Professor Huntley (Todd.Huntley@law.georgetown.edu) by 5:00 p.m. on Wednesday, June 9, 2021. After the June 9 application deadline, students will be admitted into open seats on a rolling basis.

LAW 1151 v00 National Security Lawyering Seminar (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201151%20v00>)

J.D. Seminar (cross-listed) | 2-3 credit hours

This course will examine the substantive, ethical, moral, procedural, and practical challenges of practicing national security law in the government. Government national security and foreign affairs lawyers have significant influence on operational and policy decision-making, but generally encounter fewer external checks and less oversight than lawyers in other areas. Because of threshold doctrines such as standing and political question, courts address national security legal questions relatively rarely. There are few timely, formal checks in the area of international law, which develops over time and by consensus and often lacks a direct enforcement mechanism. In addition, much of the subject matter about which national security lawyers provide advice is classified, which can limit the scrutiny of legal analysis by Congress, the press, and the public. Therefore, national security lawyers, who provide advice on what are often extremely high stakes and difficult legal issues, shoulder a great deal of responsibility to carry out their roles ethically and effectively.

The course will use case studies and hypotheticals to explore these important challenges. Students will discuss a variety of issues, including: the players and process of national security legal decision-making; flexibility, constraint, and accountability for the national security lawyer; the challenges in providing balanced advice; whether and when it is appropriate to “push the envelope” on legal advice; the impact of secrecy on legal advice and decision-making; the importance of transparency about national security legal advice and why it is so difficult; prosecution, litigation, and national security; the appropriate role of lawyers and the law in the national security policymaking process; lawyering when the law is not developed; and the challenges and responsibilities of lawyering during war and other national security crises.

Students will be graded on several short reaction papers and one longer final paper. Class discussion will also be considered in grading.

Recommended: International law and/or national security related course.

Note: This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.

LAW 1402 v00 National Security Regulation (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201402%20v00>)

J.D. Seminar (cross-listed) | 2 credit hours

National Security Regulation examines a cross disciplinary area of law mingling international law, constitutional law, statutory interpretation, and administrative law. Areas regulated by the Federal government because of national security concerns are frequently high stakes and high dollar. The government cares a lot about getting the “right” result, and the penalties can be enormous. Unfortunately, knowing what is “right” can be hard. The rules are arcane, formal guidance may not be public or even exist, and case law may be thin or nonexistent. The adjudication process likely involves classified information (which you may not be able to access), and you may have limited due process or appeal options. If you have a career ahead of you in corporate law, you will almost certainly run into national security regulations at some point during your career. This course is designed to help. It surveys some of the most common areas of regulatory interest, as well as some hot issues that will dictate the path of emerging technologies. Areas of law that will be examined include National Emergencies Act, International Emergency Economic Powers Act, cybersecurity, export controls, economic sanctions, and foreign investment.

Recommended: Administrative Law and National Security Law.

LAW 755 v00 Nuclear Non-Proliferation Law & Policy (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20755%20v00>)

LL.M Course (cross-listed) | 2 credit hours

This course will provide students with an understanding of the current matrix of nuclear non-proliferation treaties, multilateral arrangements, laws, regulations, initiatives, proposals, and organizations that aim to halt the spread of nuclear weapons and prevent nuclear terrorism. The goal is to examine the full array of tools employed by the United States to address nuclear proliferation, as well as how the Executive Branch brings these tools to bear through the inter-agency process and its joint efforts with Congress and international partners. Virtually every element of the nonproliferation toolbox was deployed to address the nuclear programs of Iran and North Korea, so considerable time will be spent examining these critical cases. We will also examine how the nuclear programs of India and Iraq shook and ultimately altered the nonproliferation regime.

Throughout the course, we will consider nonproliferation efforts in the context of great power strategies, alliance obligations, and regional rivalries, on how these factors influence the decision-making of proliferating countries and countries seeking to prevent proliferation. A continuing theme in the course will be the evolution of nonproliferation tools over time and the role of and lawyers in that evolution.

LAW 3131 v00 Preventing, Detecting and Responding to Global Health: The International Health Regulations and the U.S. Government Interagency Process (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%203131%20v00>)

LL.M Seminar (cross-listed) | 2 credit hours

The World Health Organization's International Health Regulations (IHRs) provided a basis for the design of the Global Health Security Agenda. This course will provide students with a general understanding of the way in which the IHRs helped shape the Global Health Security Agenda, and the engagement of the various U.S. Departments and Agencies in the GHSA. It will include those agencies with a clear global health mission, such as the Center for Disease Control and Health and Human Services, as well as other Departments whose work in global health are not as evident, such as the Department of Defense, Department of State, and the Federal Bureau of Investigation. We will examine why issues of global health are a national security issue. The course will also include a simulation where students will have an opportunity to better understand the different roles of the various U.S. Departments, Agencies, as well as the role of the non-governmental sector.

LAW 260 v02 Research Skills in International and Comparative Law (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20260%20v02>)

J.D. Seminar (cross-listed) | 2 credit hours

This two-credit course will instruct students in understanding the relationship between the sources of public and private international law in a theoretical sense with their actual embodiment in tangible and electronic media. Comparative law bibliography and sources will be covered, as will selected jurisdictions in the civil law tradition. With regard to locating legislation and jurisprudence, students will learn which topics are usually covered in a civil code, and how to deal with problems of language and translation. Separate, in-depth sources will be explored for one or more of the following: international criminal law, international environmental law, international human rights, international trade law and arbitration, commercial law and intellectual property, family law as an international and comparative law topic, and documentation for intergovernmental organizations, chiefly the United Nations bodies, regional organizations, and the European Union. Grading will be based on weekly in-class or homework assignments that allow the student to use and evaluate the various sources; a brief oral presentation on a foreign legal system; and a final research guide on an international law topic or an international organization.

Recommended: International Law I: Introduction to International Law.

Mutually Excluded Courses: Students may not receive credit for both this course and the International and Foreign Legal Research Seminar or Legal Research and Communication Theory in International and Foreign Law.

LAW 260 v03 Research Skills in International and Comparative Law (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20260%20v03>)

J.D. Seminar (cross-listed) | 1 credit hour

This short course will familiarize students with the sources of public and private international law and their embodiment in tangible and electronic media. Comparative law bibliography and sources will be covered, as will selected jurisdictions in the civil law tradition. Students will learn which topics are usually covered in a civil code, and how to deal with problems of language and translation when researching foreign legislation and jurisprudence. In addition, in-depth sources will be explored for a variety of specialized topics, such as international criminal law, international environmental law, international human rights law, international trade law and arbitration, transnational commercial law and intellectual property disputes, and comparative family law. Documentation for intergovernmental organizations, chiefly the United Nations bodies, regional organizations, and the European Union, will be covered as well. Grading will be based on weekly homework assignments that allow the student to use and evaluate the sources discussed in class and on a final project consisting of a research guide on an international law topic, an international organization or the law of a foreign jurisdiction.

Recommended: Prior or concurrent enrollment in International Law I: Introduction to International Law.

Note: In Spring 2017, this class will meet on the following Thursdays: 1/19, 1/26, 2/2, 2/9, 2/16, 3/2, and 3/9.

Students may not withdraw from this class after the add/drop period ends without the permission of the professor.

LAW 260 v04 Research Skills in International and Comparative Law (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20260%20v04>)

J.D. Seminar (cross-listed) | 2 credit hours

Whether they are representing couples in transnational adoptions or multinational enterprises in cross-border mergers, legal practitioners increasingly are expected to consult international and foreign legal materials. This course will familiarize students with the best tools for researching international law and the domestic law of jurisdictions outside the U.S., enabling them to approach these tasks with confidence, rather than trepidation. Students will learn how to efficiently locate multilateral and bilateral treaties, decisions issued by international tribunals, documentation produced by the United Nations and other international organizations, as well as legislation and case law from selected foreign jurisdictions, including the European Union. Tools for topical research in specialized fields, such as human rights, international trade, and investor-state arbitration, also will be covered. Students will refine their information-gathering skills through a series of in-class research exercises and take-home quizzes based on real world, practice-oriented scenarios. This course will be especially beneficial for journal editors, students participating in the Jessup International Moot Court competition and other international competitions, and for students interested in pursuing careers in international law or in practicing law outside their home jurisdiction.

Recommended: Prior or concurrent enrollment in International Law I: Introduction to International Law.

LAW 415 v00 Strategic Intelligence and Public Policy Seminar (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20415%20v00>)

J.D. Seminar (cross-listed) | 3 credit hours

This seminar explores several significant legal and policy concerns raised by the conduct of foreign intelligence activities. We will consider the disclosures of Edward Snowden and their impact on the balancing of national security and privacy, the congressional authorization for foreign intelligence surveillance and the operation of the Foreign Intelligence Surveillance Court. We will review the role of Congress and the executive branch in intelligence oversight. We will consider the investigation and prosecution of espionage, using the Aldrich Ames and other recent cases as examples, including the Classified Information Procedures Act and the state secrets privilege. We will examine the authority for, and controls on, covert action and its role in the conduct of foreign policy, and compare the role of military special operations. We will use one class to examine the Law of Armed Conflict and International Humanitarian Law. And we will discuss the problems of cyber-security with a senior corporate officer from a major military industrial company. The class will be structured as an ongoing conversation on these and related topics.

LAW 1659 v00 Technology (Un)leashed: the Future of National Security Law (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201659%20v00>)

J.D. Seminar (cross-listed) | 3 credit hours

Traditional ways of thinking about National Security Law have left the United States relatively unprepared for the technological revolution. Private actors control global communications systems, social media, satellites, and currencies, all of which are vulnerable to manipulation. Autonomous systems and vehicles, such as drones and driverless cars, can be weaponized by states or non-state actors to devastating effect. In the interim, Fourth Amendment doctrine's terrestrial ties are failing to address the explosion in personal data generation and its subsequent collection and analysis by government actors—even as myriad questions accompany the application of the Law of Armed Conflict (LOAC) to autonomous weapons systems and the cyber realm.

Technology (Un)leashed: the Future of National Security Law focuses on technologies that mark the frontiers of National Security Law, exploring the current state of their development and future trajectory. It provides students with the opportunity to do a deep dive on the related constitutional, statutory, regulatory questions and the implications for international law. For the 2019-20 academic year, the course will examine big data, surveillance law, algorithmic analysis, and the Internet of Things; social media; and automation and artificial intelligence.

The goal is to help students to develop the intellectual flexibility required to understand and respond to the challenges posed by new and emerging technologies; to identify and address related ethical concerns; and to anticipate myriad, related issues and interests so that they can more effectively represent their clients in the future. Readings will be a combination of tech-focused and scientific articles as well as legal source material (case law, statutes, and regulatory measures) and (potential) client-specific information. Grading centers on briefs, meeting preparation, papers laying out proposed solutions, and students' performance in class and on the final exercise.

Note: There will be an all-day exercise in this course held on Saturday, April 4, 2020 from 8:30 a.m. - 5:30 p.m.

LAW 1656 v00 Technology and Election Integrity Seminar (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201656%20v00>)

J.D. Seminar (cross-listed) | 2-3 credit hours

This course will examine the security requirements for voting systems (particularly those used for civil elections in the United States), how various technology designs and implementations meet or fail to meet these requirements, and how such systems can be improved. The course will focus on the implications of various vote-casting technologies ("voting machines") as well as the "backend" election management systems and processes that define ballots, register voters, provision precinct equipment, and count and report vote tallies. While it will not be our main focus, we will also examine the interaction between modern social media and foreign and domestic influence operations aimed at affecting election outcomes.

We will devote particular attention to understanding how the legal framework and historical threat models for elections relate to specific technical requirements, how technical failures can affect election outcomes, and the limitations of various remedies when such failures occur. We will look at a range of formal and informal proposed designs for election systems, specific systems that have been or are currently in active use, and various studies that have been made of these systems and designs. The course will focus on technical security issues, but will also touch on usability, threat modeling, and legal and governance issues.

Our primary reference will be the 2018 National Academies study "Securing the Vote" as well as readings drawn from the technical, legal, and policy literature.

Student papers will focus on some issue at the intersection of technology and voting, depending on the specific background and interests of the student.

Recommended: A basic background in computer science and software will be helpful but is not essential.

Note: This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.

LAW 3134 v00 The Intersection of Employment and National Security Law (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%203134%20v00>)

LL.M Course (cross-listed) | 1 credit hour

Federal employees and contractors safeguard our nation's most sensitive information and secrets. However, many do not consider that national security is a major consideration when employing civil servants or making decisions regarding their continued employment. As of 2017, over 4.3 million Americans possess a security clearance and even more have access to sensitive, unclassified information. Security clearances and suitability reviews assess the reliability, trustworthiness, and character of prospective employees.

Because security clearance and suitability adjudications often determine whether a person is hired - and in some cases, fired - they invoke the application of employment protections under laws such as Title VII of the Civil Rights Act of 1964, Age Discrimination in Employment Act of 1967, and the Americans with Disabilities Act Amendments Act of 2008. The decision to deny employment based on a security clearance or suitability decision is considered an adverse action. While some actions are subject to judicial and/or administrative court review, others are not. Therefore, executive orders, federal regulations, and agency guidance are necessary to ensure that vetting is both thorough and fair. In the last decade, courts and agencies have grappled with issues ranging from discrimination to the stigmatization of mental health issues in security clearance and suitability adjudications.

This course will examine the intersectionality of national security issues and employment; specifically, how national security concerns shape vetting in federal employment from security clearances to suitability reviews. Moreover, it will serve as an introduction to understanding the interplay of federal case law, executive orders, federal regulations, and agency guidance in this area.

Note: NOTE FOR THE SUMMER 2021 SECTION: The professor will teach this course virtually via Zoom. Students may choose to participate from the classroom or via Zoom while the professor is participating remotely. Students who want to participate in person must be in the University's COVID testing protocol (<https://www.law.georgetown.edu/covid-19-updates/message-from-the-dean-covid-health-protocols-enforcement-and-discipline>) and follow all other safety measures.

LAW 1715 v00 The Law and Ethics of Special Operations (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201715%20v00>)

J.D. Seminar (cross-listed) | 1 credit hour

Over the past two decades, the US has intensively relied on Special Operations Forces (SOF) for an expanding set of missions. These include preparing the environment for large-scale military operations, counterterrorism and counterinsurgency operations, security assistance and training to both states and non-state groups, and furthering US interests in areas in which the US has significantly reduced its conventional military presence. Such activities also increasingly have the potential to generate intelligence that is useful both for immediate operational and longer-range strategic purposes. The tendency to turn to SOF for a variety of "light footprint" missions has resulted in an exceptionally demanding operational tempo, with minimal time between deployments.

This evolution of the role of SOF has created a widespread sense that the special operations community is at a critical inflection point. One concern is the number of recent high-profile disciplinary and ethical transgressions. This resulted in a Congressional directive to conduct a review of the ethics and culture of SOF. US Special Operations Command published a report pursuant to this directive in January 2020, which has generated considerable discussion. Another concern is that SOF culture has come to place undue emphasis on kinetic action. This creates the risk of excessive reliance on force, as well as prospect that operators may be unprepared to perform non-kinetic functions that will be crucial with the resurgence of competition with peer powers. Finally, some fear that extensive reliance on SOF for a wide range of diverse purposes has resulted in a tendency to treat special operations as a magic all-purpose bullet, as opposed to a distinctive asset that the US should use only in carefully specified circumstances. The result of these concerns is an unprecedented intense focus on what the role of SOF should be in furthering US national security interests, and the appropriate legal and ethical foundations of that role.

This course will cover the history of SOF; the legal mechanisms that define and provide oversight over special operations; the legal and ethical issues that are relevant with respect to the different types of activities that SOF perform; a description of the non-kinetic operations that are becoming more important for SOF; an analysis of the current debate over the role of special operations; and how geopolitical, military, technological, and other trends are likely to affect the use of SOF by the United States in the future.

Learning Objectives

The learning objectives for the course are for students to:

- (1) Become familiar with how US Special Operations Forces are organized and the kinds of missions that they conduct
- (2) Gain an understanding of the domestic and international law governing SOF and their activities
- (3) Gain an understanding of the distinctive ethical issues that can arise on different types of SOF missions and with respect to the use of SOF as a national security asset
- (4) Appreciate how trends in geopolitics, technology, and military doctrine are likely to affect missions that SOF are asked to conduct and how they conduct

Note: In Fall 2020, this course will meet on the following dates: 9/2, 9/9, 9/16, 9/23, 9/30, 10/7 and 10/14.

LAW 1458 v00 Use of Force, National Security, and Human Rights Seminar (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201458%20v00>)

J.D. Seminar (cross-listed) | 3 credit hours

The struggle to respect and ensure universally recognized and protected human rights while also protecting national security raises important and complex legal and policy challenges across a range of issues from the "war on terror" to climate change. This course will address current issues at the intersection of national security and human rights, with an emphasis on the novel and complex questions about the nature of conflict, national security threats, and the place of human rights in the context of the struggle against transnational terrorism after 9/11. These questions are especially salient with regard to state use of force, which involves the deployment of violence against individuals, as well as their seizure, detention, and trial.

In general terms, the current legal approach to dealing with these issues tends to present decision makers with a binary framework that was created with the assumption that conflict between states is the primary threat to international peace and stability. The absence of armed conflict is presumed to constitute peacetime, when human rights law requires that states deal with threats to the peace through law enforcement operations in which lethal force may be used only as a last resort, and exercising physical control over individuals is strictly constrained. Movement from peacetime to war occurs when states use armed force against one another, or when the use of force between non-state organized armed groups (against one another or against a state) reaches sufficient intensity and duration. During this period, the traditional paradigm assumes that international humanitarian law (IHL) largely governs state conduct, and that the demands of human rights law must be adapted to the IHL regime.

International terrorism by non-state actors presents challenges to reliance on this binary peacetime-wartime framework. One possible response is to regard terrorist violence as presumptively occurring during peacetime, which means that terrorism must be addressed under a law enforcement paradigm, which is governed by human rights law. Some critics, however, argue that the scale of destruction inflicted by international terrorist attacks is more akin to wartime damage than domestic criminal activity, and that law enforcement is insufficiently flexible to permit preventive operations. They argue that that international terrorists therefore should be treated as engaged in armed conflict that triggers the application of IHL.

Rules governing the use of force under IHL, however, run the risk of being excessively permissive when applied in settings that do not involve segregated battlefields but terrorists embedded in large civilian populations whose behavior is not unambiguously hostile. Service members are also being increasingly required to carry out activities more akin to law enforcement when undertaking operations amidst these local populations. One response to this is a call for greater incorporation of human rights principles into armed conflict operations in some settings.

There is a pressing need to develop legal concepts to guide operations that blend human rights and national security concerns in a way that does justice to the distinctive nature of many conflicts in the contemporary world. Some commentators and scholars argue that we should eschew the legal categories of human rights law and IHL and focus on forms of regulation that involve highly contextual assessment of the complex competing considerations at stake in particular situations. Others argue that traditional legal categories establish important presumptions, and that human rights law in particular is more flexible about the use of force than many observers realize. Still others suggest that we should consider a new third category to guide the use of force that draws on elements of both law enforcement and armed conflict. This course will assess these and other positions in the debate, with the aim of exploring how best to respond to the challenges that international

LAW 937 v01 War Crimes & Prosecutions (<http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20937%20v01>)

LL.M Seminar (cross-listed) | 1 credit hour

This course focuses on international war crimes and legal actions taken against war crimes violators. Using such topics as the abuse allegations as irregular rendition, the trial of Saddam Hussein, the arrest warrant for Omar Al-Bashir, the Armenian Genocide, and other events, the course will explore in depth topics such as the principal international war crimes, universal jurisdiction and issues surrounding jurisdiction to conduct war crimes trials, civil remedies for war crimes under the Alien Tort Statute, who should conduct war crimes trials, and other matters. Students will be expected to write a paper, approximately 12-15 pages, on a topic of their choosing pertaining to war crimes, and to participate in class discussions.

Mutually Excluded Courses: Students may not receive credit for both this seminar and Law of War, Law of War Seminar, or War Crimes, Terrorism and International Criminal Procedure.

Note: ATTENDANCE IS MANDATORY AT ALL CLASS SESSIONS. Enrolled students must be in attendance at the start of the first class session in order to remain enrolled. Waitlisted students must be in attendance at the start of the first class session in order to remain eligible to be admitted off the waitlist. All enrolled students must attend each class session in its entirety. Failure to attend the first class session in its entirety will result in a drop; failure to attend any subsequent class session in its entirety will result in a withdrawal.

Enrolled students will have until the beginning of the second class session to request a drop by contacting the Office of the Registrar; a student who no longer wishes to remain enrolled after the second class session begins will not be permitted to drop the class but may request a withdrawal from an academic advisor in the Office of Academic Affairs. Withdrawals are permitted up until the last class for this specific course.

Full-time Faculty

Laura Donohue
David A. Koplow
Philip G. Schrag
Jane E. Stromseth
Don Wallace, Jr.