Anti-Terrorism, Law, and the Role of Intelligence

Syllabus and Assignments

Frederick P. Hitz                                      Fall 2016
University of Virginia                  Wednesdays 4:00-6:00
School of Law                             WSB127

This seminar will consider the phenomenon of terrorism as practiced by the
perpetrators of the suicide attacks on the World Trade Center and Pentagon on September 11,
2001 (9/11). It will explore the various motivations for the attacks—religious, political and
societal—and the position of the attackers as non-state actors. It will look at the posture of the
U.S. Intelligence Community before the attacks and after, and examine the inadequacies,
mistakes, lack of coordination and preparedness that beset the CIA and FBI especially, as they
confront a potential age of relentless suicidal terror. We shall focus on the particular challenge
posed by suicidal terror to democratic societies based on the rule of law. Next, we shall look
at the reviews of 9/11 and Iraqi WMD compiled by two Congressional bodies, two outside
blue ribbon commissions, and a Special Advisor to the DCI, and their recommendations to
improve America’s intelligence and law enforcement defenses to the threat of ongoing non-
state suicidal terror. We shall examine the Intelligence Reform and Terrorism Prevention Act
of 2004. Finally, we shall consider the targeted killing of Osama bin Laden in May, 2011,
practically on the 10th anniversary of 9/11, and seek to determine if that may bring about the
end of Al Qaeda. Weekly assigned oral presentations and a long (5,000 words) research paper
shall be required of seminar participants.

Students wishing to satisfy the Writing Requirement should note such intention on
their submitted papers. NOTE for those meeting the Writing Requirement: the Writing
Requirement minimum is 7,500 words, including footnotes (which is approximately 25 pages).

All seminar papers are due no later than Thursday, December 22 by 4:30 p.m.

Note: for live links view syllabus online at http://www.virginia.edu/cnsl/bio/hitz.html

August 31
Week One: What is Terrorism?

Required Reading:
At the Center of the Storm: My Years at the CIA** by George Tenet

Reader:
Inside Terrorism by Bruce Hoffman (Columbia Univ. Press, N.Y.: 1998)
Chapter one, Defining Terrorism pp. 13-44.

Terrorism and America by Philip B. Heymann, (MIT Press, Cambridge,
2001) Chapters one through five, pp. 1-64.

Terrorism and U.S. Foreign Policy by Paul R. Pillar (Brookings
Suggested Reading (on reserve):


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**September 7**

Week Two: Terror in the Name of Religion

**Required Reading:**

*Against All Enemies* by Richard A. Clarke (Free Press, NY: 2004)


**Suggested Reading (on reserve):**

*The Age of Sacred Terror* by Daniel Benjamin and Steven Simon (Random House, N.Y.: 2002)

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**September 14**

Week Three: Terror in the Name of Religion (Cont.)

**Required Reading:**


**Suggested Reading (on reserve):**

*Passion for Islam* by Caryle Murphy, (Scribner, NY: 2002)

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**September 21**

Week Four: America’s Response—WAR on Terror

**Required Reading:**

*The Looming Tower* by Lawrence Wright (Knopf, NY: 2006)

**Suggested Reading (on reserve):**

*The Good Spy: the Life and Death of Robert Ames* by Kai Bird (Crown, 2014)

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**September 28**

Week Five: America’s Response- WAR on Terror

~~Note~~ half of class will read one of these books, the other half will read the other book

**Required Reading:**

*First In: An Insider’s Account of How the CIA Spearheaded the War on Terror in Afghanistan* by G. Schroen (2005)
October 5
Week Six: The Role of Intelligence in the War on Terror

Required Reading:
*The Assassins’ Gate: America in Iraq* by George Packer (New York, Farrar, Straus and Giroux, 2005), pp. 3-218

Suggested Reading (on reserve):

***** October 10-12 Fall Break *****

October 19
Week Seven: The Role of Intelligence in the War on Terror (Cont.)

Required Reading:
*The Assassins’ Gate: America in Iraq* by George Packer, pp. 218-end

Suggested Reading (on reserve):

October 16
Week Eight: Should It be War?

Required Reading:
*The Wrong War* by Bing West (Random House, NY: 2011)

November 2
Week Nine: Impact on U.S. Citizenship and Immigration Policy

Required Reading:
*All the Laws but One* by William H. Rehnquist, (Vintage Paperbacks, N.Y.: 2000)
Reader:  

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**November 9**  
**Week Ten: Terror Investigations: Surveillance and Interrogation – Torture**

**Required Reading:**  
*At the Center of the Storm* by George Tenet (concluded pp. 207-end)  
*The Dark Side* by Jane Mayer

**Reader:**  
and in reader  

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**November 16**  
**Week Eleven: Detention – The Right to a Hearing; Military Tribunals, U.S. Citizenship, POW Status, and Material Witnesses**

**Required reading:**  
“The Shadow President,” book review by J. Heilbrunn of *Angler: the Cheney Vice Presidency* by Barton Gellman, 2008 [http://www.nytimes.com/2008/10/12/books/review/Heilbrunn-t.html?_r=0](http://www.nytimes.com/2008/10/12/books/review/Heilbrunn-t.html?_r=0)

**Reader:**  
*Hamdan v. Rumsfeld* (decided June 29, 2006), syllabus and opinion

**Suggested Reading:**  
*In the Common Defense* by James E. Baker (Cambridge Univ. Press, 2007)
November 30
Week Twelve: What is to be Done? – How to Improve U.S. Government Knowledge of and Pre-emptive Reaction to Terrorist Acts – The Intelligence Reform and Terrorism Prevention Act of 2004

Required Reading:


*Why Spy? Espionage in an Age of Uncertainty* by Frederick P. Hitz (Thos Dunne Books- paperback, July 2009.)


Reader:

[Selections] *The Intelligence Reform and Terrorism Prevention Act of 2004* (December 7, 2004) - Joint Explanatory Statement; Title I, Subtitle A; Title VII.

Suggested Reading:


December 7
Week Thirteen: The Issue of Iraqi WMD and Intelligence Reform

Required Reading:

*America’s War for the Greater Middle East* by Andrew J. Bacevich (2016) [skim]

*The Triple Agent: the Al-Qaeda Mole Who Infiltrated the CIA* by Joby Warrick (Doubleday, NY, 2011)
http://www.informaworld.com/smpp/content~content=a743802283~db=all~order=pag

*Preventing Surprise Attacks – Intelligence Reform in the Wake of 9/11* by Richard A Posner (Rowman and Littlefield, Lanham, MD, 2005).

Reader


Suggested Reading:

*Comprehensive Report of the Special Advisor to the DCI on Iraq’s WMD.*

http://www.gpo.gov/fdsys/pkg/GPO-WMD/content-detail.html

** = Books to be purchased.