

Law 790
Counterterrorism and the Law
Syracuse University College of Law
Visiting Assistant Professor William C. Snyder
Spring 2008

Course Description:

This three-credit course is about ***the law*** and legal policy used to counter terrorism, not about its history, ideology, or grand strategies. As the authors of our textbook (including our own Professor William Banks) explain, the course is designed to help you “reflect intensively on how to protect national security under the rule of law; whether civil rights and civil liberties must be traded for security, and, if so, how much; and what roles each of the three branches of government should play in making these decisions and trade-offs.” Special attention will be paid to the dynamic quality of counterterrorism law – that is, most classes will begin with a review of developments since last we met. Included specific topics can be found in the Assignments section, below. The course is less of a practical “how to” course than Law 779 *Prosecuting Terrorists in Article III Courts* and less of a policy course than Law 744 *Perspectives on Terrorism*. There are no prerequisites for enrollment.

Class Meeting Times:

Class meets on Tuesdays and Thursdays from 10:00 to 11:15 a.m. in Room 275. Past experience has shown that the location is subject to change by the Registrar.

Required Reading:

The primary text is Dycus, Banks & Raven-Hansen, *Counterterrorism Law* (Aspen 2007). More materials will be provided in class. All materials other than the primary text will be available on the course website at www.counterterrorismlaw.info and on The West Education Network (TWEN). All required readings are essential. Many supplemental materials will be available for anyone who wants to delve into a subject more deeply. Anything projected during class will be available on the course websites.

Grading:

This is an exam class. In-class participation will not be a specific percentage of the final grade. Classroom participation will be taken into account in determining a final course grade only under exceptional circumstances. Ordinarily, performance on the **anonymously-graded, closed-book, in-class final examination** will constitute 100% of the final course grade. Students are expected to act responsibly and professionally in preparing for and participating in class. In my experience, not including class participation in the grade actually promotes discussion in this type of course – perhaps because people are free from fear of sanction for expressing their views on

controversial subjects or for displaying their ignorance. You will learn more if you participate, and that increased knowledge should shine through in your answers on the examination. I do call on students in class, but generally not for things that everyone should already know (such as the facts of a case or its procedural posture).

You may use computers or bluebooks to answer exam questions. The exam will include both essay and objective questions. The examination is scheduled for Tuesday, May 13, 2008, at 9:00 a.m.

Availability:

My office is Room 402E in the suite of offices occupied by the Institute for National Security and Counter-Terrorism. You are welcome to stop by anytime that my door is open. If you want to go over something in detail, however, please make an appointment. To schedule a meeting, please see me at class or contact me by email. In addition, you are encouraged to ask questions in class or by sending me an email. Also, we can arrange telephone conferences. My email is wcsnyder@syr.edu. An alternate email is wcs@williamsnyder.com. My office telephone number is: (315) 443-6655 and my cellular telephone number is [REDACTED]. (Please use the cell phone sparingly.) I am very willing to work with you individually, either in person or electronically. I am willing to meet outside of the office, but generally the presence of a third party will be required. As a rule, I do not meet one-on-one with students outside of my office.

Attendance Policy:

Regular and punctual attendance is required. You might need to miss a class for reasons that are personal and none of my business. I will respect that. However, you are requested to notify me (preferably by email) of an absence if at all possible, even if your notice is sent at the last moment before class. If you miss more than 3 class hours (each class meeting is scheduled for 1.5 hours), you will need to meet with me about whether there is a systemic problem interrupting your attendance. If you miss more than six class hours, I reserve the option to drop you from the course with the approval of Dean Tomas Gonzalez.

Do not avoid class because you are unprepared and fear being called upon to speak. The goal here is your education, and you will learn more by attending class unprepared than by avoiding class altogether. Just be sure that you catch up on the readings.

If you miss a class, I will assume that you make it up by listening to a recording of the lecture.

Audio Recording:

All lectures will be digitally recorded. Audio files of at least the key lectures will be posted on the course web site. In the past, I have provided CD's of the lectures to students upon request, and I expect to continue that practice. Typically, I use WMA

format, but I can convert to MP3 or M4U or several others. You are welcome to make your own recordings of class, if you prefer.

Use of Internet:

Live access to the Internet during classes is permitted and encouraged. Some documents and exhibits will be distributed only in electronic form, and accessing them during class will be helpful. A constantly updating syllabus, copies of all handouts, and many useful links will be available throughout the course at www.counterterrorismlaw.info. Announcements and updates will be sent by email.

Feedback

Feedback and criticism by you to me is encouraged. It is too late for me to correct a problem if you wait until the course evaluation to tell me. A survey will be distributed during the first class and again at about the half-way point. The first will concern your background and goals for this course. The second will concern improvements or mid-course corrections. If you want to maintain anonymity, you can log into an email account I created at Google and send a message to me at wcs@williamsnyder.com. I will have no way of knowing who logged into the account or from where. The username is [REDACTED] and the password is [REDACTED]. You can sign in at <http://mail.google.com>. Of course, only one person can log in with that username at a time, so if you get an error message it may be that someone else is sending me feedback at the same time.

Note:

If you have a disability that may affect your performance in this class, please contact Assistant Dean Tomás Gonzalez in Suite 444 as soon as possible to discuss necessary accommodations.

Also, the Syracuse University Academic Integrity Policy holds students accountable for the integrity of the work they submit. Students should be familiar with the Policy and know that it is their responsibility to learn about instructor and general academic expectations with regard to proper citation of sources in written work. The policy also governs the integrity of work submitted in exams and assignments as well as the veracity of signatures on attendance sheets and other verifications of participation in class activities. Serious sanctions can result from academic dishonesty of any sort.

- William Snyder

Contact information:

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 MacNaughton Hall
 Syracuse University College of Law

(315) 443-6655 (office telephone)
 [REDACTED] (cellular telephone)

wcsnyder@syr.edu or wcs@williamsnyder.com

AIM: [REDACTED] (not used much)

Also, see www.counterterrorismlaw.info

Administrative assistant (shared) is:
 Marlene Diamond
 mhdiamon@law.syr.edu
 (315) 443-2284

Tentative Assignments:

The reading assignments are not long. For those of you who already have taken a course with me, they are shorter than in any other course I have taught at Syracuse. Yet, the material is fairly challenging, and we may not be able to keep the pace outlined here. Thus, these assignments are subject to change. If the class as a group is not comfortable with its understanding of a section, we will spend an extra day upon it. The topics that would then be dropped to provide the extra time are marked with superscript numbers in the order that they will be dropped, if necessary. An up-to-date version of the syllabus will be available on the course web site.

Unless otherwise indicated, assigned pages are from Dycus, Banks & Raven-Hansen, *Counterterrorism Law* (Aspen 2007).

Lesson	Topic	Assignment
Part I. Introduction		
1 – 1/15/08	Defining Terrorism and Counterterrorism	Ch. 1.
2 – 1/17/08	Overview of the Institutions and Major Legislative Packages Involved in Counterterrorism	Handout

Part II. Attacking Terrorists Abroad		
3 – 1/22/08	Waging War on Terrorists	Ch. 2.
4 – 1/24/08	Targeted Killing	Ch. 3.
Part III. Detecting and Preventing Terrorism		
5 – 1/29/08	The Fourth Amendment and Counterterrorism	Ch. 4.
6 – 1/31/08	Congress and Counterterrorism Intelligence: The Foreign Intelligence Surveillance Act(FISA)	Ch. 5., Parts A, B & C.
7 – 2/5/08	Temporary FISA Provisions and the Future of Foreign Intelligence Electronic Surveillance	Ch. 5, Part D plus Handout
8 – 2/7/08	Third-Party Records and Data Mining	Ch. 6.
9 – 2/12/08	Screening for Security ¹	Ch. 7.
10 – 2/14/08	Organizing and Coordinating Counterterrorism Investigations	Ch. 8.
11 – 2/19/08	Investigating Abroad	Ch. 9.
Part IV. Detaining and Interrogating Terrorist Suspects		
12 – 2/21/08	Civil Detention of Terrorist Suspects ³	Ch. 10 plus handout
13 – 2/26/08	Suspending the Great Writ	Ch. 11.
14 – 2/28/08	Military Detention of Terrorist Suspects	Ch. 12.
15 – 3/4/08	Interrogating Terrorist Suspects	Ch. 13, pp. 399-434
16 – 3/6/08	The “Torture” Debate	Ch. 13, pp. 434-451
17 – 3/18/08	Extraordinary Rendition	Ch. 14.
Part V. Arresting, Prosecuting, and Removing Terrorists		
18 – 3/20/08	Criminalizing Treason, Terrorism, and Material Support	Ch. 15.

19 – 3/25/08	Criminalizing Cyber Terrorism	Handout
20 – 3/27/08	Apprehending Terrorists	Ch. 16.
21 – 4/1/08	Trying Suspected Terrorists as Criminals	Ch. 17.
22 – 4/3/08	Trying Suspected Terrorists as Unlawful Enemy Combatants	Ch. 18.
23 – 4/8/08	Trying Suspected Terrorists as “Special Interest” Immigrants ²	Ch. 19.
Part VI. Managing Terrorist Attacks		
24 – 4/10/08	Responding to a WMD Attack	Ch. 20.
25 – 4/15/08	The Military’s Domestic Role in Counterterrorism	Ch. 21.
Part VII. Noncriminal Sanctions Against Terrorists and Their Sponsors		
26 – 4/17/08	Public Sanctions Against Terrorists and Their Sponsors	Ch. 22.
27 – 4/24/08	Suing Terrorists and Their Sponsors	Ch. 23.
28 – 4/29/08	Exam review	
May 13, 2008, 9:00 a.m.	EXAM	

1,2,3 – These are the topics, in order, that will be dropped if necessary in order to allow more time on other topics, if the class as a group needs more time to master a particular subject.