

# Intelligence Law Reform

## *Syllabus and Assignments*

**Frederick P. Hitz**  
fph7w@virginia.edu

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Wednesdays, 4:00 – 6:00 pm

**University of Virginia**  
**School of Law**

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This seminar will trace the development of intelligence law from the creation of CIA in 1947, through the Cold War, to the current War on Terrorism. It will look at the USA PATRIOT ACT of 2001 and the more recent effort to strengthen intelligence collection, analysis and dissemination in the wake of the 9/11 attacks and the inaccurate intelligence on Iraqi WMD, both administratively and with passage of the Intelligence Reform and Terrorism Prevention Act of 2004. We shall look at the role of the National Security lawyer. We shall also seek to decide whether the threat of international and domestic terrorism is primarily an intelligence problem or a law enforcement/military one informed by good intelligence. We shall finally arrive at a view of the propriety and legality of coercive interrogations, pre-emptive incarcerations, and intrusive surveillance in a constitutional democracy.

Course Requirement: A Substantial Research Paper

### **Week One: The Origins of CIA and the Early Cold War**

Required Reading:

**“For The President’s Eyes Only”** by Christopher Andrew, Chapters 3-7, pp.75-306.

### **Week Two: The End of the Cold War**

Required Reading:

**“For The President’s Eyes Only,”** Chapters 8-Conclusion, pp. 307-541.

### **Week Three: Surrogate Wars: Afghanistan**

Required Reading: **“The Main Enemy”** by James Risen and Milton Bearden

## **Week Four: The Challenge of Post-Cold War Operations**

Required Reading: **“See No Evil”** by Robert Baer

## **Week Five: 9/11 and the Start of the War on Terror**

Required Reading: **“Against All Enemies”** by Richard A. Clarke

## **Week Six: The USA PATRIOT ACT and Changes to FISA**

Required Reading: Michael T. McCarthy, **Recent Developments, USA PATRIOT ACT**, 39 *Harvard Journal on Legislation* 435 (2002) [Hein Online]; [www4.law.cornell.edu/uscode/50/ch36.html](http://www4.law.cornell.edu/uscode/50/ch36.html).

## **Week Seven: Al Qaeda and Osama bin Laden**

Required Reading: **“The Looming Tower”** by Lawrence Wright

## **Week Eight: Role of Law and the National Security Lawyer**

Required Reading: **“In the Common Defense”** by James E. Baker

## **Week Nine: The Bush Response to Terrorism**

Required Reading: **“The Terror Presidency”** by Jack Goldsmith

## **Week Ten: Post-9/11 Intelligence Reform**

Required Reading: **“The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States”**

## **Week Eleven: Legislative Reform**

Required Reading: **The Intelligence Reform and Terrorism Protection Act of 2004 (December 7, 2004)**

[http://www.nctc.gov/docs/pl108\\_458.pdf](http://www.nctc.gov/docs/pl108_458.pdf)

**Report of the Commission on the Intelligence Capabilities of the U. S. Regarding Weapons of Mass Destruction (Silberman-Robb Commission, March 31, 2005),**

<http://govinfo.library.unt.edu/wmd/report/index.html>

**Week Twelve: The Torture Memos and the Problem of “Enhanced Interrogation”**

Required Reading: **The Dark Side** by Jane Mayer

**Week Thirteen: Does the Intelligence Reform Bill Solve the Problem?**

Required Reading: **Preventing Surprise Attacks: Intelligence Reform in the Wake of 9/11** by Richard A. Posner and **Why Spy? Espionage in an Age of Uncertainty** by Frederick P. Hitz