Syllabus for
Technology, Terrorism and National Security Law
[Course No. 496-001]

George Mason University
School of Law
Spring 2012

Professor John O. Marsh
Professor Angeline G. Chen
Course Time/Location: Tuesdays 6:00 – 7:50 p.m.
Room 412

Credits/Grade: 2 Credits

Grades will be based on class participation, a written research paper on a topic selected by each student and approved, and an in-class oral presentation. See section below regarding topic selection and paper requirements.

COURSE DESCRIPTION

Our nation’s increasing utilization, reliance and sheer dependence upon technology upon our societal infrastructure is undeniable. The pervasiveness of technological advancements has significant implications for how individuals engage in their daily lives, functioning of our economy, conduct of business by the government as well as the private sector, and – ultimately - the protection of our national interests and provision of our common defense.

One core theme of the ongoing dialogue involves recognizing that the rapid advancement of technology has led to an inextricable linking of the various systems and establishments that form the critical infrastructure and societal/philosophical underpinnings of our nation. The implications—both actual and potential—of such reliance and dependencies are far-reaching and significant.

America’s critical infrastructure is comprised of those systems and assets – both physical and cyber in nature— that are so vital to our nation that their incapacitation or destruction would have an immediate and debilitating impact on our national security, national economic security and/or national public health and safety. Such systems include area sectors such as transportation, power and energy, communications, finance and banking, and emergency systems. The establishment and linking of these systems creates opportunities for business, trade, convenience, efficiency and the ability to better our lives. Exploitation of these opportunities and emergent technologies has led to America’s continuing economic global dominance.

Our society’s increasing dependence on technology, however, likewise opens it to vulnerability to hostile threats. In the decade following September 11th and in the context of the ongoing War on Terror, there can be no question that there are those that seek to attack or threaten our country through the use of any and all available means and methods. Deliberate attacks upon our national infrastructure could crash key computer-dependent control networks, such as electrical power grids, telecommunications systems and networks, transportation systems and financial institutions. A deliberate and concerted attack by a party hostile to the U.S. on one or more of these key systems, whether governmental or privately-owned, could have devastating effects. Within the intelligence and economic domains, infiltration and theft of critical information can erase competitive and security / information assurance discriminators. The enhancement of terrorist tools and the increase in opportunities that corresponds with the advancement of
technology, its availability and its affordability likewise magnifies the potential consequences of a single event or act, or series of attacks. The need to identify and adequately address America’s vulnerabilities is thus more critical today than ever before.

In recognition of the very real threat of this facilitation of terrorism and its potential consequences through the use of advanced (and often inexpensive and readily available) technology, the U.S. Government has issued a number of directives and regulations. Many of these directives and regulations focus on unifying governmental and private commercial sector resources in establishing a comprehensive national cyberdefense to protect the critical infrastructure of our nation, thus ensuring the continuing national security of the United States. Meanwhile, Congress, as well as state legislatures, have amended and implemented significant legislation seeking to address actual, perceived and/or anticipated deficiencies in the existing bodies of law creating the legal infrastructure upon which the societal rules of engagement rely and ensure careful consideration of integrating the components of civil liberties and homeland security. Private sector organizations and entities have likewise taken action on their own, implementing policies and establishing best practices and standards and codes of conduct that address overlapping efforts relating to business continuity and disaster recovery. Finally, other nations and global actors also have taken steps to attempt to address the recognized threat of disruption and catastrophic consequences of a direct and concerted attack upon critical infrastructure assets around the world.

While many of the consequences of these efforts align with the overarching objective of understanding and protecting the physical and economic infrastructure that serves as the backbone of our country’s national security, it is important to recognize that such efforts are focused on other objectives and can also create conflict and contradictions, and that there is no “one-size-fits-all” solution. Comprehensive and multi-faceted risk management is thus all the more complex, and yet all the more critical.

In such a dynamic environment, a thorough and ongoing analysis of how to ensure appropriate consideration of the most effective means of protecting American society and concurrently recognizing and preserving the individual civil liberties that underpin our way of life in this country is critical. The convergence of the real and perceived threats of terrorism, the advancement of sophisticated and readily available technologies, and America’s dedication to preserving the civil liberties of its citizens alongside the obligation to ensure our country’s national security gives rise to a significant number of legal issues of first impression. Moreover, as the relevant technology continues to develop rapidly, the ability of the law to keep pace or anticipate dynamic situations is often severely stretched, and the readiness of the legal profession to be a valued partner to our nation is constantly challenged.

This course will explore the existing laws, equities and variables in this compelling multidisciplinary area, along with the tensions that are created as a result of the various competing concerns, in an interactive manner. We will draw upon the expertise of outside individuals with significant experience, multidisciplinary domains, current events, as well as the experiences of the students in the class. Throughout the semester, we will also weave strategic planning, risk management, economical considerations and real-world application into our
discussions of the legal issues and challenges that accompany the convergence of emergent technology, terrorism, and national security.

**Class Attendance:** Consistent with law school policy, regular and punctual attendance is required. If absence is unavoidable, prior arrangements must be made with and notice provided to the professors where possible. If for some reason you are unable to contact one of us prior to any absence, please do so as soon as practicable. Unexcused absences from this class may affect your grade in this course.

**Office Hours:** Professors Marsh and Chen do not have set office hours on campus. Appointments should therefore be requested and made in advance, and are more easily managed via phone. Outside of class, Professor Chen can be reached via e-mail: angeline.chen@rocketmail.com or via phone: (202) 488-4797.

**Class Format:** Class format will consist of a combination of presentations by the professors and various guest lecturers, combined with class discussions regarding the presentations provided as well as any assigned or recommended reading materials for that class. Guest lecturers are distinguished individuals with established expertise directly in or relevant to the specific focus for that particular class. **Remarks are not for attribution unless otherwise expressly noted.**

**Recording:** Recording of any class session through the use of any type of medium or equipment is strictly prohibited.

**In-class Laptop Usage:** Note-taking during class using personal laptops is permissible. **Accessing and use of the GMU wireless area network during class, however, is not permitted while class is in session. Particularly when we have guest lecturers with us, please accord them due courtesy and the attention they deserve, and refrain from using your laptops for any other use than taking notes on the remarks being given or in-class discussion.**

**LEGAL RESEARCH PAPER AND PRESENTATIONS**

A legal research paper and an in-class oral presentation are required in lieu of a written examination. It is recommended that you begin considering your topic selection for the paper as soon as possible in order to avoid last-minute scrambles towards the end of the semester and to allow time for sufficient substantive research.

**Paper Requirements:** The paper should be approximately 25-35 double spaced pages, and must reflect individual substantive research on and analysis of a legal issue relevant to the subject matter of this course. You are free to select a topic of your choice, but must have the topic selected and approved by the professors in accordance with the schedule set forth herein. **Your intended topic and a rough outline of your proposed paper must be submitted for review and approval by no later than 14 February 2012.**

(10 January 2012 ver 1.0)
Citation Format: Papers should be well-organized, written and citations properly formatted in accordance with the current version of the Blue Book. Endnotes should be utilized, and should appear at the end of the paper.

Executive Summary: An executive summary or abstract of the paper’s premise and analysis (of approximately 1-2 pages in length and independent of the paper itself) must also be submitted along with your finished paper. The executive summary and the endnotes are not counted towards the page count for your final paper.

Submission: Paper topic proposals, final papers, and executive summaries should be submitted via e-mail to Professor Chen at angeline.chen@rocketmail.com (Professor Chen will provide you either an e-mail or telephonic confirmation of receipt of your paper). Alternative means of submission require advance notice and arrangements.

Please be sure that all of your materials are clearly marked with your name and semester. Because you will be submitting a paper, examination numbers are not required. Contact information for the student (phone number and e-mail address) should also be provided on the front page of the paper and the Executive Summary.

PAPERS ARE DUE ON TUESDAY, 8 MAY 2012.

Presentation Requirements: In-class oral presentations will take place during the last three class sessions (April 3rd, 10th, and 17th). Presentations will be approximately 10-15 minutes in length, depending on the number of students in the class, and will be scheduled in advance during one of the prior classes via sign-up by students for scheduled dates and time slots. The amount of time available for each presentation may be adjusted due to the number of students in the class; you will be informed of the specific time limit by no later than March 27th. Students should be sure to plan on adhering to noted time limitations. The use of PowerPoint or other visual aids to supplement presentations is permitted but not required.

Reading Requirements / Course Materials: Due to the nature of this course, there is no assigned text and no set weekly reading assignments. A CD-ROM containing a compilation of recommended reading, key resources and other relevant materials will be provided to the class by the professors. The compilation is strictly for your personal use in conjunction with this class. This approach was taken to assist students in saving costs for reading materials.

The compilation is presented in components sequentially ordered solely for your consideration in reviewing the materials, they do not have to be reviewed in order (unless specifically assigned).

Specific reading assignments, if any, will be based primarily upon the materials provided either by the professors in class or as cited in the reading list. Occasionally, supplemental materials may be placed on Reserve in the GMU Library by the professors.

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