BOR 6340 - LEGAL AND CONSTITUTIONAL ISSUES IN HOMELAND SECURITY

Course Description/Overview

Since September 11, 2001, leaders in the U.S. Government have focused significant resources to preventing another terrorist attack against U.S. citizens, both in the U.S. and abroad. Along with a massive realignment of government organizations, Federal law enforcement authority was appreciably expanded by the USAPATRIOT Act. These changes are not without Constitutional challenges, however. The balance between protecting national security and recognizing personal freedoms has been difficult to achieve.

Students receive an in-depth overview of laws, policy, strategy, organization and plans for dealing with various natural, accidental and premeditated threats to homeland security. Students review the respective and relative roles and responsibilities of government agencies, non-government organizations and individual citizens for U.S. national security. Students discuss various policy and strategy issues, including balancing security and civil liberties and information sharing and protection, and the USAPATRIOT Act. Students will also learn how the Constitution has been challenged in various circumstances arising out of recent changes, to included airport security, detention and trials of terror suspects, searches of business records, and situations in which anti-terrorism law intersects with humanitarian aid efforts.

Course Bibliography and Required Readings:

There is no assigned text for this course. All readings are assigned by the instructor and listed, along with direct links to each source, in your online classroom. Many of the articles/materials must be accessed through the ASU library online site. If you are not familiar with how to use the ASU library online, you should consider familiarizing yourself before weekly lessons come due.

Course Objectives/Learning Outcomes

**Objective One:** Be familiar with the significant government reorganization which took place after September 11, 2001, including the creation of the Department of Homeland Security
Objective Two: Understand the political climate in which the USA PATRIOT Act was created and how the Act now affects law enforcement agencies, U.S. citizens and non-citizens

Objective Three: Be familiar with Constitutional rights as they are applied to detaining terror suspects and trying them of Federal crimes, personal searches in airports, Federal law enforcement searches of business records, and situations in which people or organizations desire to provide humanitarian aid to different groups.

Objective Four: Be able to analyze the different sides of a legal issue and demonstrate an understanding of the justification for each side and the legal and social policy reasoning used to defend one side or the other.

As a student, you should be aware of what instructors are going to expect that you are to learn from a course, and how this learning will be measured. This course includes several learning outcomes that are measured both objectively and subjectively. When you complete this course, you should be able to:

1. Explain the mission and organizational structure of the Department of Homeland Security (DHS), and how each component within DHS contributes to accomplishing the mission
2. Be familiar with the justification for enacting the USAPATRIOT Act and the political and national security concerns during the early years of this legislation. Understand use of this legislation in the U.S. war on terror and the ongoing struggle to balance national security concerns with personal freedoms
3. Understand the Constitutional rights afforded under the Fourth Amendment from unreasonable government searches. Be familiar with the debate over national security concern with airline travel and the invasion of personal privacy rights
4. Understand the current case law governing the right for citizen and non-citizen detainees to challenge their detention using a writ of habeas corpus
5. Understand the national security justifications for keeping potential terror suspects detained
6. Become familiar with one of the debates surrounding the decision to extend or repeal Section 215 of the USA PATRIOT Act, namely the authority for federal law enforcement agencies to request an order to obtain any relevant, tangible item connected with business records
7. Understand why the American Library Association and other organizations are opposed to Section 215 of the Act, based on a concern to protect Constitutional freedoms
8. Understand the options available to government prosecutors in attempting to secure convictions for detainees charged with terrorist activities
9. Understand the difference between trying cases in military tribunals and civilian criminal courts
10. Understand the limits of First Amendment protections when interacting with foreign terrorist groups
Grading Policies

This course employs writing assignments and weekly discussions to measure student learning.

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<thead>
<tr>
<th>Assignment</th>
<th>Percent of Grade</th>
<th>Due</th>
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<tbody>
<tr>
<td>Writing Assignment 1</td>
<td>20%</td>
<td>Week 2</td>
</tr>
<tr>
<td>Participation in the Discussion Board</td>
<td>80%</td>
<td>Weekly</td>
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Angelo State University employs a letter grade system. Grades in this course are determined on a percentage scale:

- A = 90 – 100%
- B = 80 – 89%
- C = 70 – 79%
- D = 60 – 69%
- F = 59% and below.

Writing Guidelines

Each writing assignment deals with the topic under discussion. These writing assignments cumulatively account for 60% of the student's grade. Writing assignments are expected to be a minimum of 1500 words.

Formal academic writing uses standardized styles and citation formats. The preferred format is the APA style. To access the APA writing guidelines go to this link:

http://owl.english.purdue.edu/owl/resource/560/01/

Every writing assignment should be submitted as a WORD or PDF document. If you do not have Microsoft Office or Adobe Acrobat, then copy the text you have written directly into the assignment section of Blackboard during the appropriate week. **Do NOT** submit writing assignments in Word Perfect, Microsoft Works, or some e-mail format. They will not be accepted.

An abstract is not required.
Rubrics

Discussion forums and writing assignments will be graded using a standardized rubric. It is recommended that you be familiar with these grading criteria and keep them in mind as you complete the writing assignments. There are two rubrics. Click the link to download the PDF document:

[Discussion Rubric](#)
[Writing Assignment Rubric](#)

Final Exam

This is an online graduate course and does not utilize a final exam as part of evaluating student learning. In lieu of a final exam, students are expected to complete their final assignment and an evaluation of the course by Wednesday of the last week of class.

Course Organization:

This is an eight week course. Each lesson will entail a discussion or written assignment. You have limited time to complete all assigned readings, discussion boards and writing assignments for each week, so please keep this in mind as you schedule your work. You do not want to fall behind, particularly in the assigned reading materials.

**Lesson 1:** We will begin the course by reviewing the most extensive reorganization of our government in decades: the creation of the Department of Homeland Security. You will learn why the DHS was created, which government agencies were absorbed into the DHS, and the mission is has been tasked with accomplishing.

**Lesson 2:** In Lesson 2, you will learn about the creation and application of the USA PATRIOT Act. We will discuss justification for enacting this legislation, considering the political and national security concerns at the time it was created, and then consider if these concerns continue to be valid. We will also consider the ongoing struggle to balance national security concerns with personal freedoms as it arises in the context of the USA PATRIOT Act.

The USA PATRIOT Act has been applied and extended to various circumstances over the past 10 years. In Lessons 3 through 6, we will look at specific areas of national security concern and how the law is being applied in these areas.

**Lesson 3:** The application of Fourth Amendment rights to airport security is a recently contested issue. The threat of terrorist attacks is most often considered when we think of air travel, given the use of private airlines as the weapon of choice in the 9/11 attacks. However, privacy and the
right to be free from unreasonable searches apply to all travelers within the United States. This week will focus on the debate over the Constitutionality of airport screening.

Lesson 4: Since 9/11, the detention of suspected terrorists has been necessary to reduce the terrorist threat and guarantee the opportunity for interrogation. Detainees were often held without being charged of crimes, many were not informed why they were being held, and many did not have access to an attorney. Detainees challenged the U.S. Government’s authority to detain them by filing a writ of habeas corpus. The Executive Branch, however, has maintained that detention is a military necessity, is essential to continuing the fight against terrorism, and that enemy combatants do not have the same rights as U.S. citizens in a federal court. We will look at several U.S. Supreme Court cases addressing this issue.

Lesson 5: This lesson focuses on Section 215 of the USA PATRIOT Act, which expanded the law under the Foreign Intelligence Surveillance Act to extend the authority of law enforcement agencies to obtain business records from various sources. The American Library Association and public libraries across the United States expressed concern that patron loan records and computer use records are now included under the new law. We will also take a look at how National Security Letters are used to obtain information from public libraries, among other businesses and organizations.

Lesson 6: Once the U.S. Government has detained a possible terror suspect, the next question is how we proceed in trying this person of any crimes charged. Initially, it looked as though all detainees would be tried in specially-created military tribunals, but President Obama later changed the plan and declared that Federal civilian criminal courts will be used. This week will be a comparison of military tribunals and civilian criminal courts for terrorist trials. We will also look at the exclusionary rule and the possible consequences of not having this rule of evidence available in a military tribunal.

Lesson 7: This lesson looks forward in to possible future application of Federal criminal antiterrorism law and the area of humanitarian assistance to groups designated by the State Department as terrorist groups. Persons and organizations can be criminally liable for providing not only material support such as money or military training, but also for humanitarian aid such as medical care or training on peaceful dispute resolution. We will consider the implications of this type of law on future humanitarian aid efforts.

Lesson 8: In these two weeks, you will write your final written assignment. You will research a current legal and/or constitutional issue in Homeland Security and discuss it in a paper format using critical thought to discuss the topic. Your assignment should include an analysis of the different sides of a legal issue and demonstrate an understanding of the justification for each side and the legal and social policy reasoning used to defend one side or the other. The writing guidelines in this syllabus should apply to this assignment.
Participation

In this class everyone, brings something to the table. Your ideas and thoughts do count, not only to me, but the entire class. Feel free to ask questions either via e-mail or the discussion board. Check the discussion board regularly. Many student questions are applicable to the class as a whole, as are the responses. You may be surprised how many of your classmates have the same questions and concerns as you. I may simply post your particular question on the discussion board and allow your classmates to provide the answer through their own posts.

To some, this may be their first online class and naturally, it could seem somewhat intimidating. As a class, we are together to help each other with this learning process and share our collective knowledge on how best to communicate; how to resolve technical issues that may arise (if we have the expertise), and to assist each other to find answers to our questions.

We will learn and work as a team.

Courtesy and Respect

Courtesy and Respect are essential ingredients to this course. We respect each other’s opinions and respect their point of view at all times while in our class sessions. The use of profanity & harassment of any form is strictly prohibited (Zero Tolerance), as are those remarks concerning one’s ethnicity, life style, race (ethnicity), religion, etc., violations of these rules will result in immediate dismissal from the course.

Office Hours/Contacting the Instructor

See the Instructor Information section for contact information.

University Policies

Academic Integrity
Angelo State University expects its students to maintain complete honesty and integrity in their academic pursuits. Students are responsible for understanding and complying with the university Academic Honor Code and the ASU Student Handbook.

Accommodations for Disability
The Student Life Office is the designated campus department charged with the responsibility of reviewing and authorizing requests for reasonable accommodations based on a disability, and it
is the student's responsibility to initiate such a request by contacting the Student Life Office at (325) 942-2191 or (325) 942-2126 (TDD/FAX) or by e-mail at Student.Life@angelo.edu to begin the process. The Student Life Office will establish the particular documentation requirements necessary for the various types of disabilities.

**Student absence for religious holidays**
A student who intends to observe a religious holy day should make that intention known in writing to the instructor prior to the absence. A student who is absent from classes for the observance of a religious holy day shall be allowed to take an examination or complete an assignment scheduled for that day within a reasonable time after the absence.