COURSE OVERVIEW:

The 21st Century risk environment facing our nation is a complex mix of manmade and naturally occurring threats and hazards including: terrorism, hurricanes, earthquakes, floods, power outages, hazardous materials spills, industrial accidents, pandemic influenza, cyber intrusions, among various others. In addition, our nation continues to be engaged in a series of critical policy discussions—some related to these threats and hazards and others to long-running debates regarding immigration, law enforcement and intelligence and information sharing.

At the beginning of the 21st century, the terrorist attacks of September 11th, 2001 served as a catalyst for exploring new mechanisms of coordinated decision-making and response to this complex mix of what are now referred to as homeland security issues.

One such critical mechanism was the establishment of the Department of Homeland Security (DHS) in 2002 as the first new Cabinet-level Department created in over 30 years. The broad policy, decision-making and execution authority of the now well-established DHS covers many areas of homeland and national security. Yet, even with the centralization of issues formerly controlled by multiple federal agencies, since its operational inception in 2003 DHS has continued to work with a multitude of Federal, state, local, tribal and private sector organizations in constructing responses to the critical homeland security issues we face. Although surrounded by robust policy discussion, these responses are ultimately statutory and regulatory in nature and are based upon legal issues of both first impression and long-standing precedent.

This course provides an introduction to the policy, strategy and practical application of homeland security as it has evolved over the past 14 years through an understanding of the authorizing laws, regulations, and polices that established DHS. This is a multi-faceted course that will expose students to complex intergovernmental and public-private sector policymaking, operational planning and crisis management. The course is designed to promote subject matter understanding, critical analysis of issues and insight into senior leader decision making. It also includes a practical examination of stakeholder interaction and key subject matter areas through an interactive tabletop exercise and a research paper assignment as well as other interactive opportunities throughout the course.

COURSE INFORMATION

Credits: 2 Credits

Class Format: Class will consist of lecture and class discussion covering four topic modules: (1) Foundations of Homeland Security; (2) The Re-Evolution and Roles of DHS from 2003 to Present Day; (3) Intelligence and Infrastructure; and (4) Disasters and Emergency Response. In
addition, students will be expected to participate in an incident management exercise and write a research paper. As law students, you are to learn, in an independent manner, a body of knowledge pertaining to federal agency decision-making and its application to the critical issues faced by the DHS and to communicate your understanding and assessment of that knowledge to fellow students and faculty via discussions and written papers.

Office Hours: Professors McCament and Wolff do not have set office hours on-campus. Appointments should be requested and made in advance. We are also happy to meet either in the hour before class meets or after class. Contact information for both professors is listed below.

Professor James McCament: james.w.mccament@uscis.dhs.gov; 202-341-9757
Professor Evan Wolff: ewolff@crowell.com; (202) 624-2615

Tape Recording: Tape recording of any class session 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.

COURSE REQUIREMENTS:

Grading: Grades will be based upon class participation, class exercises and a written research paper on a topic selected by each student and approved by the professors. Grading will be determined as follows:

<table>
<thead>
<tr>
<th>Component</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Class Participation</td>
<td>15%</td>
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<tr>
<td>Class Exercises</td>
<td>15%</td>
</tr>
<tr>
<td>Research Paper</td>
<td>70%</td>
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</tbody>
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Class Participation: Students are expected to come to class prepared to meaningfully participate during lecture discussions. This includes reading all assigned readings for that class. Some sections contain reference readings that, while not required, may be helpful in understanding that section’s topic.

Class Exercises:

1. DHS Stand-up Exercise: At the conclusion of Class One, you will be assigned to serve in a senior official position within the new Department of Homeland Security, a role which you will hold for the remainder of our semester together. That position is one specifically named in the Homeland Security Act and will help frame your participation and, we hope, your perspective on the issues discussed through the semester. In addition to your readiness to discuss the general concepts found in the assigned weekly reading, you will also be asked to provide questions and input based upon your position within the Department of Homeland Security.

2. SAFETY Act Exercise: Based on an understanding of the SAFETY Act application process, students will be presented with some basic information on a hypothetical technology company.
(“Get Them Before They Get You”) and will have to prepare and defend responses to these questions in front of officials from the SAFETY Act Office (Professor McCament) and meet the demands of your clients (Professor Wolff).

3. Incident Management Exercise: Students will participate in an interactive tabletop exercise simulating a complex, well-coordinated terrorist attack on critical infrastructures and population centers within the United States. Each student will be assigned a role as a key public or private sector official with attendant concerns and responsibilities. The exercise will include an emerging threat phase, operational response phase and post-incident recovery phase. Students are expected to play a dynamic and informed role playing during the class exercise.

4. Textbook Evaluation: This semester, we are revising our material based upon our forthcoming textbook. The assigned Chapters are noted below and are uploaded onto TWEN. As our goal is to provide as effective a textbook as possible, for this semester we are asking you to help future homeland scholars by completing a very short evaluation form for each Chapter assigned. The forms will be collected at the end of the semester (or may be provided weekly at student choice) to the professors.

Research Paper: Each student will write a 20-25 page research paper, not including citations, on a current homeland security issue of their choice (National, regional, state, local, sector or international focus). The paper should be completed using the following organizational format: problem statement, background (include key players, authorities, resources, etc.), discussion (presentation of alternatives with the identification of pros and cons for each alternative) and recommendations (including rationale behind their selection). Please note that while many of the topics may be policy oriented, we expect thorough legal research and analysis. Citations may be entered as footnotes or endnotes, but there must be a consistent format. The paper should focus on the benefits, drawbacks and obstacles, including practical, policy and legal, to the application of proposed policy alternatives. The recommendations section should clearly describe the rationale for the option of choice.

Prior approval of the topic for the research paper is required. Students should submit a one paragraph written description of their proposed topic in class or via email for approval by the beginning of the 7th class session.

Final papers are to be delivered electronically to Professors McCament and Wolff by close of business on Monday, December 19th.

COURSE OUTLINE

Class One: August 24, 2016

1. See TWEN. Introduction and Chapter 1: An Introduction to Homeland Security Law

This introduction and the first chapter establishes the framework of this course by examining the distinctions between homeland and national security law. Additionally, the later portion of this class introduces the “intelligible principle,” an administrative law doctrine that governs all federal departments and agencies. These readings will acquaint you with the framework of our class, while introducing you to a fundamental administrative law concept that affects ongoing homeland security operations.

**Assignment Next Week:**

Research your assigned position within DHS as it existed at the start of DHS and be prepared to present a brief overview to the class, including: (1) where the duties and functions of your position existed before DHS; (2) where this position existed within the DHS framework circa 2003; (3) how your position has evolved in the years following the initial creation of DHS; and (4) potential challenges or benefits resulting from your position’s inclusion in DHS.

You will be assigned one of the following positions, as outlined in the Homeland Security Act:

1. Secretary of Homeland Security;
2. Deputy Secretary of Homeland Security;
3. Under Secretary of Management;
4. Under Secretary of Border & Transportation Security;
5. Under Secretary of Intelligence Analysis & Infrastructure Protection;
6. Under Secretary for Emergency Preparedness & Response;
7. Under Secretary for Science & Technology;
8. Director, United States Secret Service;
9. Commandant, United States Coast Guard;
10. Director, Bureau of Citizenship & Immigration Services;
11. Assistant Secretary, Bureau of Border Security;
12. Commissioner, Bureau of Customs & Border Protection;
13. Assistant Secretary, Transportation Security Administration;
14. Assistant Secretary, Intelligence & Analysis;
15. Assistant Secretary, Private Sector.

For the remainder of the semester, your role at DHS will guide the selection of the assigned readings for which you will be responsible to brief, as well as your expected role in class discussion.

**Class Two: August 31, 2016**

*See TWEN. Chapter 3: The September 11, 2001 Terrorist Attacks*

This class is divided into two portions. In the first half of class we will discuss in detail the chapter and the impact of the attacks upon the nation collectively and its impact upon defense of the homeland. In the second half each of you will describe your new role in the first DHS leadership structure as described above.
Class Three: September 7, 2016

1. 15 Years Later-Is America Any Safer? Atlantic Monthly

2. See TWEN. Chapter 4: Homeland Security Organization, Structure and Decision-Making

In this class we will first examine the retrospective thoughts on the progress of homeland security over these past 15 years. In the second part of class we will review the federal response to 9/11 by examining (1) deficiencies in the pre-9/11 counterterrorism structure; (2) President Bush's Executive Order 13228 (EO 13228) in the days immediately following 9/11; and, (3) the Homeland Security Act of 2002 (HSA2002). We will then discuss the enabling legislation as well as the Section 872 reorganization authority and certain key elements of the DHS infrastructure.

Class Four: September 14, 2016


3. See TWEN. Chapter 5: Congressional Oversight and Public Accountability

In this class we will discuss the role of Congress in oversight of the Department of Homeland Security following its creation in 2003. The discussion will focus first upon the complex oversight structure of DHS as well as the intersection of innovative elements of the Homeland Security Act with the attempted application of these requirements.

Class Five: September 21, 2016  (Professor McCament on Travel)

See TWEN. Chapter 5: DHS Support Directorates

This chapter examines the two support directorates within DHS: (1) the Science and Technology Directorate and (2) the Management Directorate. Each section will detail the functions each directorate performs, why Congress included these roles as directorate-level operations, and current programs advanced by the directorates.
Assignment Next Week:

Based on an understanding of the SAFETY Act application process, you will be presented with some basic information on a hypothetical technology company (“Get Them Before They Get You”) and will have to prepare and defend responses to these questions in front of officials from the SAFETY Act Office (Professor McCament) and meet the demands of your clients (Professor Wolff).

Class Six: September 28, 2016

Protecting Against Catastrophic Liability: The Meaning and Application of the SAFETY ACT

Readings:


3. Understand the SAFETY ACT through DHS: Visit the DHS SAFETY ACT Office


*NOTE: STUDENT RESEARCH PAPER TOPIC DESCRIPTION DUE NEXT WEEK*

Class Seven: October 5, 2016

See TWEN. Chapter 6: Mending Broken Borders to Meet a New Terrorist Threat

For this class and the following we will be examining the perennially volatile topic of immigration reform. We will spend the first half of this class in a rapid overview of the development of Immigration Law from the nation’s founding through the 1960s. In the second half of class we will discuss the chapter which outlines the post-9/11 reforms to U.S. border security by examining (1) the HSA2002 border security regime and the 2SR modifications, (2) customs and supply chain security, (3) measures to combat illegal immigration, and (4) efforts within the U.S. border that support the border security mission.
Class Eight: October 12, 2016


Class Nine: October 19, 2016

Homeland Security Intelligence Enterprise and Counterterrorism Functions

Readings:


Class Ten: October 26, 2016

Critical Infrastructure and Key Resources

   http://www.dhs.gov/xlibrary/assets/hr_5005_enr.pdf

   http://www.dhs.gov/xabout/laws/ge_1214597989952.shtm


7. GAO-10-296, Update to National Infrastructure Protection Plan Includes Increased 
   Emphasis on Risk Management and Resilience  

Class Eleven: November 2, 2016

Cybersecurity

Readings:

   http://www.dhs.gov/xlibrary/assets/hr_5005_enr.pdf

2. White House Cybersecurity Regulatory Framework  

3. Letter to Congress from OMB regarding the Cybersecurity Legislative Proposal. May 12, 2011.  

5. US-CERT. Cyber Threat Source Descriptions. 
   http://www.us-cert.gov/control_systems/cstthreats.html#gao


Class Twelve: November 9, 2016


   This chapter will discuss DHS’s disaster relief and emergency preparedness mission by (1) introducing the history of U.S. disaster response; (2) reviewing FEMA’s transition to DHS and obligations under the Stafford Act; (3) evaluating post-9/11 FEMA programs using Hurricane Katrina as a case study; and (4) considering the future of U.S. disaster relief programs.


Class Thirteen: November 16, 2016 (Professor McCament on Travel)

Disaster Management and Homeland Defense: The National Response Framework

   DHS National Response Framework Information Sheet

Homeland Defense

   http://www.dhs.gov/xlibrary/assets/hr_5005_enr.pdf


NO CLASS ON Wednesday November 23rd - Thanksgiving Recess

Class Fourteen: November 30, 2016

FINAL CLASS

Reading assignment to be provided at the end of Class Thirteen.

Table-Top Exercise