

Civil Liberty and National Security

(Two Semester Credits)

Professor Timothy Casey, California Western School of Law

This course outlines the tension between the individual and the community in the context of the debate over civil liberty and national security. The first part of the course reviews the philosophical justification for the existence of governments in the post-Enlightenment era. We then move to an overview of the arguments surrounding the formation of the United States Constitution, with particular attention to the separation of powers, federalism and the Bill of Rights. The second part of the course reviews the basic structures of surveillance law, including the Electronic Communications Privacy Act (EPCA), the Foreign Intelligence Surveillance Act (FISA), the National Security Act, the USA PATRIOT Act (and amendments), and the cases and decisions interpreting these statutes. The third part of the course examines the expansion of the technological capacity and the simultaneous diminution of jurisprudential protection for individual security. The fourth part of the course compares international laws regarding privacy, surveillance, and national security, focusing on the way legal, social and political structures challenge the balance between liberty and security. The fourth part will examine specific historical experiences in East Germany and in the Czechoslovakia. The course will follow a discussion format with assigned readings for each class meeting.