

NATIONAL SECURITY LAW

Syllabus - Fall Semester 2016

Professor Williams

Fridays, 10:00 a.m. – 1:15 p.m. Room TBD

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Objectives

Students should be able to identify, construct and apply (legal!) national security policies to a variety of issues and situations. This should come from a greater understanding of the past and present National Security policies of the United States, as well as national and international laws regarding the use of force, and the political ramifications thereof.

Grading

This is a paper course and thus the final paper will make up 75% of your grade. The final paper must be at least **20 pages total**, using 12 pt. font, Times New Roman, with 10 pt. font for footnotes.

Class participation will count for approximately 25% of your final grade. It is wise to read for class and participate in class discussions. In addition to speaking, class participation includes (1) attendance, (2) punctuality, (3) preparation and (4) professionalism. In this class we will not shy away from sensitive topics so please be respectful of everyone's opinion. Those who are not may be asked to leave.

Key Dates

October 23, 2016: All paper topics due to me in writing by 5 p.m. PST. There will be no changing of paper topics so choose wisely. Everyone must discuss their paper topic with me before choosing one. It can be in an office hour appointment, or five minutes before class or through e-mail, but you must have your topic approved by me and chosen by this date.

November 13, 2016: Rough Draft due by 5 p.m. PST on TWEN. Everyone must turn in some kind of rough draft and have it posted to TWEN by this time. It can be 1 page or 30, but the more you turn in, the more I will review.

December 15, 2016: All papers due by 12:00 p.m. noon PST on TWEN.

TWEN

Please sign up for the TWEN cite for this course. The password is “compiegne”.

Course Materials

National Security Law is a particularly fluid field of study. As such, there is no textbook for the course. All of the readings are free and available to you either online, through Westlaw, or handout. You are expected to complete, on average, at least 6 hours worth of outside reading/work per week (2 hours per each unit of the course). The readings for each week will be provided to you in advance, and consist of articles, cases, and other materials I have compiled for your review. As you will see, some weeks are heavier than others. The following are the scheduled reading assignments as of August 2016. Though not anticipated, any changes to the syllabus will be clear and announced in advance, both in class and on TWEN.

I. The Laws of War

Class 1 Kenneth Waltz, Man the State and War, (1954), the Introduction, p. 1 – 15. (TWEN) and/or Google Books online.

Class 2 – Just War Theory and the formation of the United Nations (TWEN); Article 2(4) and Article 51 of the UN Charter (Online).

Class 3 – Geneva Conventions; Common Article 3 (handouts/TWEN); In class simulation.

II. Separation of Powers and National Security Law

Class 4 – Articles 1 – 3 of the U.S. Constitution (handouts and online). Federalist Papers, Pacificus/Helvidius debates (TWEN or Online); *Youngstown Sheet & Tube Co. v. Sawyer* 343 U.S. 579 (1952) – Justice Jackson’s concurrence. John Hart Ely, War and Responsibility, Chapter 1 (TWEN).

Class 5 - John Hart Ely, War and Responsibility, Chapter 1 cont. (TWEN); The War Powers Resolution (Handouts/TWEN); Jane E. Stromseth, 106 Yale L.J. 845 (selected pages).

III. 9/11 and the War on Terror

Class 6 – Egyptian Islamic Jihad and Ayman al-Zawahiri (Online).

Class 7 – *Ex-Parte Milligan*, 71 U.S. 2 (1866); *Korematsu v. United States*, 323 U.S. 214 (1944), *Ex Parte Endo*, 323 U.S. 283 (1944); Eric Snowden and NSA spying (TWEN).

Class 8 – *Ex Parte Quirin*, 317 U.S. 1 (1942); Bush Memo to Cheney, 2002 (TWEN); *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004). CSRT Article.

Class 9 – Movie and Discussion.

Class 10 - [*Boumediene v. Bush* 128 S. Ct. 2229 \(2008\)](#) and NDAA 2012 (Online and TWEN).

IV. Where Do We Go From Here?

Class 11 – The Rise of the Islamic State (a.k.a. ISIS) – (Online and TWEN). In Class Simulation.

Class 12 – Predator Drones (readings on TWEN).

Class 13 – The Kill List (and maybe some torture) selected works (Online and TWEN).

Class 14 – Story.

DISABILITY SERVICES STATEMENT: Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law. To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the First Floor Students Services Suite. Dean Espinoza’s phone number and email address are: (714) 459- 1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify

Dean Espinoza; or please notify Associate Dean of Students Charles Sheppard at csheppard@wsulaw.edu or (714) 459-1152. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

Western State College of Law – Programmatic Learning Outcomes

Western State College of Law's curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

(1) Doctrinal Knowledge

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

(2) Practice Skills

Students will demonstrate the development of other law practice skills. Each student's chosen outcomes within this category will be varied based on the student's particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

(3) Legal Analysis

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to

identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

(4) Legal Research

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

(5) Communication

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

(6) Advocacy of Legal Argument

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

(7) Client Sensitivity and Cultural Competency

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

(8) Legal Ethics

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.

Argosy University Institutional Learning Outcomes:

1. Analytical Reasoning

Analyze issues objectively, interpret and synthesize data and ideas, and develop feasible, flexible, and creative solutions to real world problems

2. Effective Communication

Identify audiences, assess information provided, interpret needs, and present relevant information using appropriate written, oral, and listening skills and media to meet the needs of the situation

3. Information Competency

Gather, evaluate, and ethically use information from a variety of relevant technological and library resources to make decisions and take action

4. Interpersonal Effectiveness

Develop individual and group interpersonal skills to improve and foster participation and interaction critical for achieving individual and group goals

5. Personal and Professional Integrity and Ethical Behavior

Demonstrate a multi dimensional awareness of individual and social responsibility to act ethically and with integrity in a diverse, global society.

6. Professional Competence

Apply skills appropriate to program objectives and employ critical reasoning to contribute to one's field and profession