

# **NATIONAL SECURITY LAW 454A**

Syllabus - Fall Semester 2013

Professor Williams

Fridays, 9:00 a.m. – 12:10 p.m. Room 110

Office Hours, Tuesdays & Thursdays 9:00 a.m. – 10:30 a.m.; 12:45 p.m. – 2:00 p.m.;  
Room 307

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## **Goals**

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 impact thereof.

## **Grading**

This is a paper course and thus the final paper will make up the majority of your grade. The final paper must be at least **20 pages total**, including 10 pt. font footnotes. Class participation will count for up to +/- .3 points of your final grade. It is wise to read for class and participate in class discussion. In addition to speaking, class participation includes (1) attendance, (2) punctuality, (3) preparation and (4) professionalism.

## **Key Dates**

October 19, 2013: All paper topics due by 5 p.m. PST. There will be no changing of paper topics so choose wisely. Feel free to consult with me about your topic.

November 15, 2013: Rough Draft due by 5 pm PST on TWEN. Everyone must turn in some kind of rough draft. It can be 1 page or 30, but the more you turn in, the more I will review.

December 16, 2013: 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. 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. The following are the scheduled reading assignments as of August 2013. Though not anticipated, any changes to the syllabus will be clear and announced in advance, both in class and on TWEN.

### **I. History and the Study of War**

Class 1 – Kenneth W. Kemp, “Just War Theory”

<http://courseweb.stthomas.edu/kwkemp/Papers/JWTR.pdf> pg. 1; Kenneth Waltz, Man the State and War, (1954), the Introduction, p. 1 – 15. (TWEN) and Google Books online.

### **II. The Use of Force in International Relations - Necessity & Proportionality**

Class 2 – Article 2(4) and Article 51, UN Charter; McDougal & Feliciano, selected pages; Lillich, Forcible Self-Help Under International Law (TWEN).

Class 3 – Crisis in the Gulf – John Moore (selected pgs); Letter to UN SC (TWEN); Charney - the Right to Self-Defense?, 95 Am. J. Int'l L. 835; Franck: Self Defense is a Right, 95 Am. J. Int'l L. 839. Security Counsel Resolutions 678, 687, 1441 (Handouts); Colin Powell's speech (TWEN); Meyer – Int'l Law (TWEN). Entebbe.

### **III. Laws Of War – Geneva and Hague Conventions**

Class 4 – Geneva Conventions, Common Article 3 and Protocol I (Online); In class simulation.

### **IV. Separation of Powers and National Security Law**

Class 5 – Articles 1 – 3 of the U.S. Constitution (handouts and on TWEN). Harold Koh and the Role of Congress (Selected pages); Federalist Papers, Pacificus/Helvidius debates (TWEN); *United States v. Curtiss-Wright Export Corp.* 299 U.S. 304, 315-321 (1936); *Youngstown Sheet & Tube Co. v. Sawyer* 343 U.S. 579 (1952) (selected pages).

Class 6 - Robert Turner, *Truman, Korea, and the Constitution: Debunking the “Imperial President” Myth*, 19 Harv. J.L. & Pub. Pol’y 541 – 547 (1996); The War Powers Resolution (Handouts/TWEN); John Hart Ely, *War and Responsibility*, Chapter 1 (TWEN); Jane E. Stromseth, 106 Yale L.J. 845 (selected pages).

Class 7 – In class simulation – no reading required.

## **V. War and Individual Liberties**

Class 8 – *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), *New York Times Co. v. United States*, 403 U.S. 713 (1971) - selected pages; Snowden and NSA spying (TWEN).

Class 9 –*Ex Parte Quirin*, 317 U.S. 1 (1942); Bush Memo to Cheney, 2002 (TWEN); *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004). CSRT Article (Google Books).

Class 10 – Movie; [\*Hamdan v. Rumsfeld\* 548 U.S. 557 \(2006\)](#).

Class 11 - [\*Boumediene v. Bush\* 128 S. Ct. 2229 \(2008\)](#). NDAA of 2012, selected pages.

In Class Simulation.

## **VI. Terrorism and National Security Law**

Class 12 – Egyptian Islamic Jihad, and Ayman al-Zawahiri (Online); Egypt today (selected handouts) and not so hypothetical, hypotheticals.

Class 13 – Stephen Holmes, [\*In Case of Emergency: Misunderstanding Tradeoffs in the War on Terror\*, 97 Cal. L. Rev. 301, \(2009\)](#) (Selected pages); Predator Drones (TWEN); The Kill List, selected works (Online and TWEN).

Class 14 – Story.