Course Syllabus

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POS 6686: National Security Law

Dept of Political Science

College of Sciences, University of Central Florida

Course Info

- Term: Spring 2018
- Class Meeting Days/Times: Mondays, 6pm to 8:50pm
- Class Location: Political Science Dept Conference Room (HPH)
- Credits: 3

Instructor Info

- Instructor: **Eric Merriam, J.D., LL.M. (http://politicalscience.cos.ucf.edu/people/merriam-eric/)**
- Offices: HPA 1, Room 340 (**Where's this? (http://map.ucf.edu/locations/80/health-public-affairs-i-hpa1/)**); HPH, Room 305A (**Where's this? (http://map.ucf.edu/locations/14/howard-phillips-hall-hph/)**)
- Office Hours:
  - Legal Studies Dept Office (HPA1): Mondays, 12:30-3:30pm
  - Political Science Dept Office (HPH): Thursdays, 1:30-3:30pm
- Phone: 407-823-3074
- E-mail: **eric.merriam@ucf.edu (mailto:eric.merriam@ucf.edu)**
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Course Description

This course offers an examination of the domestic and international legal authority affecting US national security and the command and control of the key instruments of the national security, focusing on the US military and intelligence apparatuses. Primary emphasis is on national security law as a source of, and constraint on, national security power. Topics include: Presidential and Congressional treaty and war powers under the Constitution; use of the military under the modern national security system; legal authority for the use of force; intelligence law; counterterrorism; and domestic use of the military.

Course Objectives

Students will:

1. **Shared National Security Powers:** Improve understanding of the Constitutional framework of shared national security powers between the President, Congress, and the Judiciary, and the Judiciary's role in shaping that authority.
2. **National Security vs. Individual Liberties:** Increase understanding of the complex balance between security and liberty.
3. **National Security Law as a Policy Tool:** Understand the ways in which political actors use national security law as a tool to achieve policy goals and the tension between law as a tool for power versus law as a constraint on power.
4. **Use of Force:** Improve understanding of domestic and international legal authorities for the use of force.
5. **Critical Thinking and Application to Modern Challenges:** Develop critical thinking skills and be able to utilize those skills to comprehend and analyze complex contemporary national security challenges.
6. **Communication Skills:** Improve written and oral communication skills.

Course Concept

As is the case for most graduate courses, this is a seminar course where discussion of the reading material will comprise the bulk of class time. However, the course reading material and pedagogical approach will differ significantly from most graduate courses in that the course intentionally uses the law school style of study, using a law school casebook rather than traditional political science readings. This approach exposes students to the way attorneys -- an important element of the national security apparatus -- think about and deal with national security issues. By considering national security questions from the legal perspective, students are regularly confronted with a central question of the course: does law *enable* or *constrain* the exercise of national security power (stated differently, is law a tool or obstacle to the exercise of national security power)? Additionally, students will be better appreciate and understand the legal elements and parameters of national security policy choices.

Course Schedule

Class, Date	**Topic**	**Preparation for Class (page #s are for Dycus casebook unless otherwise noted)**	**Deliverable**
	Block I: National Security and the Separation of Powers		
1, Jan 9	Course Introduction; Study of Law; Reading Cases; Constitutional	None	

	Text		
-- Jan 15	NO CLASS (MLK, Jr. Holiday)		
2, Jan 22	President's National Security Powers; *Youngstown*	25-46; 53-103	**Paper Topic Due**
3, Jan 29	Congress's National Security Powers	105-133	
4, Feb 5	The Judiciary's National Security Role and Powers	135-174	
5, Feb 12	Separation of Powers	317-362; re-read 33-39 (J. Jackson's opinion); 46-52	
	Block II: Lawful Use of Force Abroad		
6, Feb 19*	Domestic Effect of International Law *Jus Ad Bellum*	177-220 253-276	
7, Feb 26*	Collective Use of Force Unilateral Use of Force	363-384 385-416	**Paper Abstract Due**
	Block III: Counterterrorism Law		
8, Mar 5	Detaining Terrorist Suspects: Habeas Corpus	829-886	
--, Mar 12	NO CLASS (Spring Break)		**War Powers Legal Advice Memos Due**
9, Mar 19*	Detaining Terrorist Suspects: Military Detention of U.S. Persons	887-990	

	Detaining Terrorist Suspects: Military Detention of Non-U.S. Persons Detaining Terrorist Suspects: Civilian Preventive Detention	923-954 955-990	
10, Mar 26*	Interrogating Terrorist Suspects Killing Terrorist Suspects	991-1054 417-439	
11, Apr 2*	Trying Terrorism Suspects: Secret Evidence in Criminal Trials Trying Terrorist Suspects: Military Commissions	1123-1160 1161-1198	
	Block IV: Intelligence Collection Law		
12, Apr 9*	Intelligence Collection: The Fourth Amendment Framework Authority for Foreign Intelligence Surveillance	591-632 633-666	
13, Apr 16*	Programmatic Surveillance (The Terrorist Surveillance Program) Intelligence Collection: Third Party Records Bulk Collection and Data Mining	667-706 707-742 743-770	
	Block V: Research Papers		
-- Apr 20	Note: not a class date		**All Research Papers Due**
14, Apr 23	Research Paper Presentations/Discussions		**Present and Discuss Papers**
-- Apr 25	Note: not a class date		**Research Paper**

			Peer Feedback Due
-- Apr 30	No Exam -- finalize papers		
-- May 1	Note: not a class date		**Revised Research Papers Due**

* Subjects eligible for student discussion leader (see below)

IV. Syllabus Updates

Modifications will be posted to Webcourses and announced in class. If you identify inconsistencies between what you see on this page and other pages in Webcourses or what is announced in class, please notify me, but you can rely on what is stated on this page unless instructed otherwise.

V. Course Policies and Expectations

Academic Conduct: Academic dishonesty in any form will not be tolerated. If you are uncertain as to what constitutes academic dishonesty, please consult The Golden Rule, the University of Central Florida's Student Handbook (**http://www.goldenrule.sdes.ucf.edu/ (http://www.goldenrule.sdes.ucf.edu/)**) for further details. As in all UCF courses, The Golden Rule Rules of Conduct will be applied. Violations of these rules will result in a record of the infraction being placed in your file and, at a minimum, receiving a zero for the graded assessment in question. At the instructor's discretion, you may also receive a failing grade for the course. Confirmation of such incidents can also result in expulsion from the University. The plagiarism checker turnitin.com is used for written assignments.

Attendance: Attendance at each class is expected. Failure to attend regularly and on time will result in a reduction of the grade. Missing more than three classes will result in a one letter grade reduction in your overall course grade. **If you miss more than five classes, you will fail the course.** Late arrivals are distracting to your classmates and me, so please be on time to class. Missing more than 30 minutes of a class (beginning, end, or middle) constitutes an absence. **If your personal circumstances will cause you to regularly miss or be late to class, I completely understand, but I strongly recommend you reconsider taking this course.**

Class Preparation and Participation: This is a seminar style graduate course and your regular preparation for and participation in class are essential. To participate effectively, you must be prepared for each class. You are expected to complete all readings for full comprehension. Class participation grade will be based on my assessment of your consistent preparation, meaningful participation, initiative, leadership, maturity, professionalism, and contribution to whole-class and group discussion that contributes to learning and benefits your classmates. Quality participation can take several forms, including asking an informed question, answering a question posed by another student or me, responding to another student's comment,

raising a relevant legal issue that is in the news ("current events"), or otherwise participating in the discussion in a relevant way. Questions or comments that are particularly insightful or that demonstrate a superior understanding or thought process particularly benefit the class. Because preparation can rarely be evaluated without participation, please ensure you participate in a way to demonstrate your preparation. I may solicit your feedback or that of your classmates in determining your preparation and participation grade. Your preparation and participation are an indication of your professionalism -- be excellent!

Collaboration: All graded events are individual effort only unless otherwise explicitly directed. You are welcome (encouraged, if you need it) to use the University Writing Center (UWC) to improve your written work product. The UWC is a free resource for UCF undergraduate and graduate students. At the UWC, a trained writing consultant will work individually with you on anything you're writing, at any point in the writing process from brainstorming to editing. Appointments are recommended, but not required. For more information or to make an appointment, visit the UWC website at http://www.uwc.ucf.edu, stop by MOD 608, or call 407.823.2197.

Communication with Professor: You are welcome to communicate with me by email (recommended) or by phone, but significant substantive discussion (about the course material, your grade, your career plans, etc.) should be in person. I am not permitted to communicate with you about this course by email to any address other than your official UCF email address. From time to time, important course announcements (regarding assignments, unexpected class cancellations, etc.) will be made through Webcourses. **Ensure you have your notification preferences set so you will receive and see these messages (whether they are posted as class "Announcements" or through Webcourses's email message system).**

Disability Access: The University of Central Florida and I are committed to providing reasonable accommodations for all persons with disabilities. This syllabus is available in alternate formats upon request. Students who need accommodations must register with Student Accessibility Services, Ferrell Commons Room 185, phone (407) 823-2371, TTY/TDD only phone (407) 823-2116, *before* requesting accommodations from the professor.

Electronic Devices: Students may use electronic devices *for class purposes only* (taking notes; looking up class-related information when appropriate). Use of electronic devices for purposes other than class is distracting to other students and to the professor and will not be tolerated. Violations of this policy may result in loss of privilege to use electronic devices and/or adverse grade consequences. No recording devices of any kind may be used in class.

Grades:

Course grades will use the standard 10-point scale, without pluses or minuses (A = 90-100; B = 80-89; C = 70-79; D = 60-69; F = below 60)

Grades for the course will be based on performance in four areas, with points as follows:

Class Preparation and Participation (30 points): See description of expectations in syllabus. Professor will assess preparation and participation based on observation in class.

Discussion Leader (20 points): One of the graded events in this course will be your performance as a "Discussion Leader" for a class period. Responsibilities will include providing a discussion guide to fellow students and the professor in advance of class and taking the lead in discussing the topic during class. Students may be discussion leaders for classes indicated by an asterisk on the Course Schedule. More details to be provided separately.

War Powers Legal Advice Memorandum (20 points): Students will be assigned to represent Congress or the President in writing a legal memorandum that supports their assigned client's perspective on a hypothetical situation implicating the War Powers Resolution.

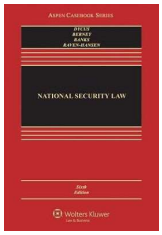
Current Challenge Research Paper (30 points): Students will write a research paper regarding a topic of their choice addressing a *legal issue* in the field of national security law. More details provided separately.

Late Work. Assignments are due before 6pm on the date specified. Late work will be penalized as follows: up to 24 hours late, reduction of 25% of maximum available points. ***No credit* for assignments submitted more than 24 hours late.** Extensions are rarely granted, must be requested before the deadline for the assignment, and are at the sole discretion of the professor. If an extension is granted, it will only be because the student faced truly unforeseen and unforeseeable circumstances that prevented timely submission of the assignment. Students believing they need an extension under such circumstances should contact the professor as soon as possible to explain and make alternative arrangements. The types of events that have qualified for late submissions in the past have included unplanned hospitalizations of the student, emergency medical treatment, and other family emergencies that have occurred in the day or two prior to a graded assessment being due. Events that have not qualified include being "busy," having work obligations, or being sick for some of the time leading up to the due date of the assignment.

You can access your scores at any time using Webcourses. Please note that scores are not official until I submit them to the Registrar at the end of the semester (when you'll be able to view them at myUCF Grades (**https://myucfgrades.ucf.edu/ (https://myucfgrades.ucf.edu/)**).

Office Hours: While I will be generally available during stated office hours (and you are free to just drop by), I *recommend* you make an appointment in advance (email is best for making appointments). I hold office hours in two locations; you are welcome to come to whichever office is more convenient for you. I understand many students in graduate courses are unavailable to visit in person during the day and am happy to make arrangements to speak by phone during office hours when necessary.

Reading Material: Though a few additional readings may be posted on the course website or handed out in class, most of the required readings for this course are in the course textbook, National Security Law, 6th Edition, by Dycus et al. This is a law school level casebook/textbook.



Respect: Respect for others is the most important value in this course and is a key element of your academic education. Because of the contentious nature of some of the subject matter addressed in this course, respect will be especially important, including respect for others (by respecting the right to have different opinions and by courteous behavior) and respect for yourself (through professional presentation and effort). I reserve the right to modify course grades, including receiving a failing grade, for a violation of this expectation of respect.

In addition, students are reminded that violence and harassment based on sex that interferes with educational opportunities is unlawful under Title IX. If you or someone you know has been harassed or assaulted, you can find resources available to support the victim, including confidential resources, and information concerning reporting options at **shield.ucf.edu (http://shield.ucf.edu/)**. Perpetrators are subject to expulsion or termination and may also be subject to criminal penalties.

Syllabus: This syllabus is meant to provide you with an overview of the course, but I may need to make changes. If so, I'll provide you with notice, and if the changes are numerous, a revised syllabus. Please note I do not intend to change due dates for assessments, but it is possible.

Webcourses: Though this is an in-person course, we will use Webcourses extensively, especially for assignment submission. Students should use Webcourses for communications with the professor and classmates, class preparation materials, and due dates for graded assessments. If you are unfamiliar with Webcourses, I strongly recommend reviewing this **Intro to Webcourses tutorial (https://cdl.ucf.edu/support/webcourses/guides/student-tour/)** provided by UCF.

Course Summary:

Date	Details	
Fri Jan 12, 2018	**Academic Engagement Activity** (https://webcourses.ucf.edu/courses/1272130/assignments/5402101)	due by 4:59pm
Mon Mar 12, 2018	**Legal Advice Memorandum** (https://webcourses.ucf.edu/courses/1272130/assignments/5401250)	due by 11:59pm
Mon Apr 23, 2018	**Discussion Leader** (https://webcourses.ucf.edu/courses/1272130/assignments/5401251)	due by 11:59pm
Mon Apr 30, 2018	**Class Preparation and Participation** (https://webcourses.ucf.edu/courses/1272130/assignments/5401249)	due by 11:59pm
	Research Paper (https://webcourses.ucf.edu/courses/1272130/assignments/5401252)	due by 11:59pm