Exam #\_\_\_\_\_

## National Security Law Spring 2009 - Richards

Put your exam number on each page of the examination. Do not put your name or any other identifying information on the examination. Read the entire exam before answering any questions. Make sure you have all the pages and that they are all different and legible. Use no more than the space provided. **Do not write on the back**. If you are using the computer, number each question so I know what you are answering. Each question has a 60-word limit. If you are handwriting the exam, no tiny writing to try to get around the word count. Be clear and concise. You can use the back of the exam for notes and outlines to better structure your answer.

1. Under the United States Constitutional system, what is an imperfect war and an example?

2. What fundamental change in the organization of the military was not anticipated by the drafters and which undermines the Constitutional control of war making?

3. Why did the Taft-Hartley Act undermine Truman's argument that he could use an executive order to seize the steel mills?

4. What did Lincoln mean when he asked whether we can save the Constitution but lose the nation?

5. In the Pentagon Papers Case (US v. Nixon), why would it have mattered if the tapes had been requested with a congressional subpoena, rather than a grand jury subpoena?

6. If you want to use an appropriations bill as evidence of congressional authorization of a presidential action, what do you want to see in the bill?

7. How did Nixon use the Feed and Forage Act of 1861?

8. Why does Scalia think that congressmen should never have standing in their official capacity?

9. What did the president want to use to justify reinterpreting the ABM treaty?

10. What is a self-executing treaty?

11. How does jus cogens transcend the consent of states?

12. How is the Tokin Gulf incident like WMDs in the Iraq war?

13. What are the three classic justifications for the use of unilateral power?

14. What was the purpose of the initial US military involvement in Somalia in the 1990s?

15. What was the Neutrality Act of 1794 intended to prohibit?

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16. What was the objective of Operation CHAOS?

17. Is terrorism banned by jus cogens?

18. What was the Primary Purpose Doctrine used in Truong?

19. What is a United States person for FISA?

20. How does the legislative history indicate that the appeals court should review the findings of the FISA judge when the target is a non-US person?

21. How did the "lone wolf provision" - 50 U.S.C. §1801(b)(1)(C) - fundamentally change FISA?

22. Why is there no expectation of privacy in bank records?

23. What is a National Security Letter?

24. What does In re Terrorist Bombings of U.S. Embassies in East Africa, 552 F.3d 157 (Cir2 2008) tell us about whether a U.S. search warrant is required to search the home of a US citizen abroad?

25. What is the Shocks-the-Conscience Exception to the Silver Platter Doctrine?

26. What is the key to the jail door for a material witness?

27. When can Congress suspend the writ of habeas corpus?

28. What was the critical factual difference between the Guantanamo detainees and those in Eisentrager?

29. If the president declares that a country has acted against the US in a way to trigger the Alien Enemy Act 50 U.S.C. §21 (2000), what does this declaration allow the US government to do?

30. What was used as statutory justification for the president's detention orders in the detainee cases?