

National Security Law
Fall 2012 – Richards
Study Questions – Part II

1. The CIA has asked you to prepare a brief on the application of the United States Constitution outside of the United States, both to U.S. and non-U.S. persons. It is concerned about limitations on covert actions and surveillance, including the possible exclusion of evidence in U.S. courts.
2. Publication by a Seal Team Six member of *THE FINISH: THE KILLING OF OSAMA BIN LADEN*, without prior approval, has raised difficult issues about the control of classified information. Assume that the author was bound by the most restrictive national security agreements discussed in the book. What is the applicable law? What are all the administration's legal options? What is the tension, if any, with the 1st Amendment?
3. Blogging often merges the role of publisher and reporter, while our precedent cases on dealing with the publication of classified information are based on these being legally separate functions. Even the *Pentagon Papers* case is not clear precedent against criminal prosecution, as opposed to prior restraint. This has become a critical national security law issue after Wikileaks. Write a brief for journalism students on the legal issues facing bloggers writing about and publishing classified information. (Assume that while they may have possession of classified information, they are not government employees or others who legally had the information and then released it. For example, they may have received the classified information as an email from an anonymous source.)