

National Security Law – Fall 2014
Exam

The exam will be turned in to my administrative assistant, Tenisha Collor (tenisha.collor@law.lsu.edu), by email. It will be due by noon, Wednesday, December 17th, 2014. Submit it in a Microsoft word compatible file, with only your exam number in the file. She will send me the files so I do not know who they are from. She will reply when she gets your email. If you do not get the reply, check with her to make sure it was received.

Mechanics: 12pt font, single spaced, a space between paragraphs (like this exam). This is an open book, open materials exam, but it must be your own work. You may not confer with others and you must attribute any published work that you use.

Philosophy of this exam: there is not a single right answer to the questions. They are intended to allow you to show me you that you can analyze these complex problems within the context of national security law. There are many possible paths, all of which are valid if properly argued and supported.

Question 1 – not to exceed 3,000 words, including footnotes.

The law of war has not worked since World War II, and, as we discussed in class, it did not work very well even in that war. Asymmetric warfare dominates our modern conflicts. Asymmetric warfare exploits the traditions and beliefs of the opponent, including law and international norms, to gain strategic and psychological advantage. Write a guide to the legal issues posed by asymmetric warfare. Footnote key sources of law so someone could look them up. (Just put cites or URLs in the footnotes, no quotes or lengthy text in the footnotes.) Your audience is new law grads who are going to work in the White House Office of Legal Counsel. They need a careful, concise guide to the legal issues so they can recognize problems when they are talking to White House officials.

Question 2 – not to exceed 3,000 words, including footnotes.

The *Pentagon Papers* case begins the modern story of the cat and mouse game between the news media and intelligence officials. The roles were simple in that case – the government worker/contractor with authorized access to secrets who gives those secrets to a newspaper for publication. While the *Pentagon Papers* case did resolve the issue of prior restraint, it left other critical issues open. With the Internet and social media, the lines between leakers, reporters, and publishers has blurred from the simple leaker-publisher model.

Write an analysis of the law and legal questions facing participants in the world of new media in the United States under U.S. law as related to national security issues. (Ignore private law issues such as libel and intellectual property.) Assume your audience is new lawyers who will be doing volunteer work for various non-profit new media outlets. Think about Wikileaks and Snowden and the whole work and surveillance environment.