

National Security Law
Fall 2013 - Richards

The allowed materials for this exam are the book, your notes, and the materials posted on the class WWW site. You are not allowed to use any other resources and you are not allowed to discuss the exam with anyone else until the period for turning in the exam has passed.

Each question has a 1500 word limit.

The answers are in the form of memo. There is no special form for a memo. For this exam, it is just a concise explanation of a legal problem, with relevant authority. Your audience is a legally sophisticated person who is not an expert in national security law. I am looking for tightly written answers that focus on the most critical issues, not a general, superficial discussion of the topic. While the questions have policy implications, you cannot successfully answer without reference to laws, and when applicable, treaties and international conventions.

Use your own word processing program, not the exam software. You may submit the exam in Word format, RTF format (if you do not use Word), or as a PDF file. Do not put your name on your exam, only your exam number. You will submit the exam to my secretary, Linda May by email to: linda.may@law.lsu.edu. The exam is due by 1 PM on 13 Dec. Please request a read receipt if your software allows it. You will receive a confirmation email from Ms. May. If you do not receive the confirmation email by 3 PM on 13 Dec, send her a follow up email.

Question 1 - 1500 word limit

The Senate Oversight Committee on National Security wants a memo on the use of force by drones and missiles in third party countries without their permission before and after 9/11. For the pre-9/11 example, discuss the strike after the 1998 bombings of our embassies in East Africa (p. 82 in your book). What were the authorities and justifications for this strike under applicable U.S. law, Customary International Law, International Human Rights Law, and applicable treaties and conventions at the time of the strike? What are the authorities and rationales for post-9/11 targeted killings by drones and how do they differ from your analysis for the 1998 strike? Does the legal argument change for a strike against a target without specific knowledge of who will be killed, as in the 1998 strike, versus the targeted killing of a specific person?

Question 2 - 1500 word limit

The Senate Oversight Committee on National Security wants a memo on the treatment and detention of detainees taken on the battlefields of Afghanistan, Iraq, and other countries after 9/11. What were the authorities and justifications for their detention and harsh interrogation under applicable U.S. law, Customary International Law, International Human Rights Law, and applicable treaties and conventions? What were the conflicts between these sources of law? Are there limits on how long we can detain them? Were there potential violations of US law? How were potential violations of US law handled in legal memos so as to provide protection for individuals who dealt directly with the detainees?

Question 3 - 1500 word limit

The Department of Justice wants you to write a memo for incoming assistant U.S. attorneys explaining the legal tools for collecting information about potential terrorists without resorting to the use of traditional criminal 4th Amendment probable cause warrants. Assume that they have the basic knowledge of a recent law school grad who has not taken a specific course in national security or counterterrorism law.