

# National Security Law (Law 384)

Fall 2024

Paul Ahern<sup>1</sup>

## Syllabus

### Class Schedule:

Class meets Tuesdays and Thursdays from 8:10 to 9:35 p.m.

### Contact Information and Availability:

Paul Ahern, the Treasury Department's Counselor for Enforcement, is the senior official charged with coordinating the operational enforcement activities of Treasury's Office of Terrorism and Financial Intelligence, or TFI. He previously served as the Principal Deputy Assistant Secretary and Acting Assistant Secretary in TFI's Office of Terrorist Financing and Financial Crimes or TFFC. As the policy development and outreach office for Treasury's national security functions, TFFC works across all elements of the national security community, the private sector, and foreign governments to identify and address the threats presented by all forms of illicit finance. Before this role, Paul was the Assistant General Counsel for Enforcement and Intelligence, where he oversaw the provision of legal advice throughout TFI, to include supervising the chief counsel offices of OFAC and FinCEN. He began his Treasury career as the senior counsel to the Department's intelligence community element. Before joining Treasury, Paul was a Trial Attorney in the U.S. Department of Justice, focused on national security-related civil and criminal litigation. He clerked on the U.S. Circuit Court of Appeals for the Seventh Circuit and previously served as an officer in the U.S. Army. He can be contacted at [pahern2@gmu.edu](mailto:pahern2@gmu.edu).

Please do not hesitate to contact him with any class-related questions, concerns or with requests to schedule a meeting. Please be mindful that it may take several hours / overnight to return a call or email, but calls or emails will always be returned.

### Required Course Materials and Assignments:

*National Security Law* (8th Ed.), Dycus, Banks, Berman, Raven-Hansen, Vladeck. Aspen Casebook Series. ISBN 979-8-8890-6290-5.

The casebook may be supplemented with outside materials on occasion. National security law is an evolving discipline. Assignments may be adjusted from time to time given the pace of the course, as well as consideration of certain subjects or topics that require more attention or less attention, and real-world events. Please note that much of the work of the casebook is done in the notes and questions following presentation of the primary material.

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<sup>1</sup> Any views expressed in this course are personal and do not necessarily reflect the views of the Department of the Treasury, or of the U.S. Government.

## **Expectations, Classroom Participation and Attendance:**

This lecture course will survey the distribution of national security powers among the three coordinate branches of government. The subject matter covered in this course is by definition very broad so the goal is to provide the proper legal foundation for the numerous issues that arise within the national security subject matter. We will be applying the law to facts and policy determinations that arise in the national security context. In other words, the goal is to develop the foundational skills to think and work like a national security lawyer. Throughout this course, students will demonstrate not only their knowledge of the laws and policies that govern the legality of war, protection of national security information, foreign intelligence surveillance, covert action, prosecution of terrorism suspects, and cybersecurity, among other topics, but also how to apply those laws to given fact patterns – to think and work as a national security lawyer. As in national security legal practice, students should also consider their best counsel, not just their best legal advice.

At the end of this course students will be able to apply the course information and skills to real world situations as well as learn the skills for taking and passing the state bar exam. Classroom participation is part of the course requirements. Class participation is also the best way to improve or refine your skills to think like a lawyer in this evolving discipline. Everyone should get in the habit of reciting facts, applying the facts to the law, arriving at plausible analysis, and providing your best counsel. These are skills you will continue to develop for the remainder of your career

Class attendance is obviously important and will be monitored. If you fail to attend class with some frequency without sufficient explanation, you may be precluded from taking the final exam.

## **Internet, Phone and Recording Policies:**

Use of the internet during class is only permitted for class-related searches or access to class-related material. Also, please silence or turn off your phones during class – texting or any other phone use is prohibited during class. Recording of the class in any way is prohibited.

## **Grading:**

Students will receive a grade based on class participation (20%) and one final exam (80%). Students should attend every class/discussion session having read and be prepared to discuss the materials assigned for that session. As contributions to class discussion, thoughtful and informed questions are as valuable as cogent and defensible answers. The exam will take place during the exam period designated for this semester. Further details will be provided as the semester draws to a close.

## **Class Assignments:**

*(All References to Chapters (Ch.) and Pages (pps.) refer to the Class Textbook: Dycus, et al.)*

### **08/22/2024 Introduction to National Security Law**

- Chs. 1-2, pps. 1-23

### **08/27/2024 Separation of Powers: The President's National Security Powers**

- Ch. 3, pps. 25-73
- *Youngstown* ("Steel Seizure Cases"), 343 U.S. 579 (1953), in its entirety

### **08/29/2024 Separation of Powers: Congress**

- Ch. 4, pps. 75-122

### **09/03/2024 Separation of Powers: The Courts**

- Ch. 5, pps. 123-71

### **09/05/2024 International Law and Treaties**

- Ch. 6, pps. 175-211

### **09/10/2024 Extraterritorial Reach of U.S. Law**

- Ch. 7 pps. 213-40
- Ch. 29 pps. 955-60

### **09/12/2024 The Right to Wage War and Int'l Humanitarian Law**

- Chs. 8-9 pps. 241-300

### **09/17/2024 Using Force Abroad**

- Chs. 10-11 pps. 303-356

### **09/19/2024 Targeted Killing**

- Ch. 12 pps. 357-98

### **09/24/2024 Cyber Operations**

- Ch. 13 pps. 399-421

- 09/26/2024    **Intelligence and the Intelligence Community**
- Chs. 16-17 pps. 475-531
- 10/01/2024    **Intelligence Activities and Controls**
- Ch. 18 pps. 533-65
- 10/03/2024    **Fourth Amendment and National Security**
- Ch. 19 pps. 567-601
- 10/08/2024    **Foreign Intelligence Surveillance and Oversight**
- Chs. 20-21 pps. 603-53
- 10/10/2024    **The Third-Party Doctrine**
- Ch. 22 pps. 655-94
- 10/15/2024    **Habeas Corpus and the Suspension Clause**
- Ch. 25 pps. 771-811
- 10/17/2024    **Military Detention**
- Ch. 26 pps. 813-60
- 10/22/2024    **Preventive Detention**
- Ch. 27 pps. 861-93
- 10/24/2024    **Interrogating National Security Detainees**
- Ch. 28 pps. 895-925
- 10/29/2024    **International Terrorism and Related Crimes**
- Ch. 29 pps. 929-66
- 10/31/2024    **Domestic National Security Crimes and Domestic Terrorism**
- Ch. 30 pps. 967-1041
- 11/05/2024    **No Class – Election Day**

11/07/2024 **National Security Prosecutions**

- Ch. 31 pps. 1043-81

11/12/2024 **Homeland Security**

- Chs. 32-33 pps. 1085-1139

11/14/2024 **National Security Information**

- Ch. 34 pps. 1143-79

11/19/2024 **Economic Tools of National Security**

- Reading assignment TBP

11/21/2024 **No Class – Monday Schedule**

11/22/2024 **Tuesday Schedule – Censorship, Course Review  
and Exam Preparation**

- Ch. 36 pps. 1229-53

**END**