



FALL 2025 COURSE SYLLABUS (TENTATIVE)

Course Number: 149-001
Course Title: Ethics in National Security Law
Credit Hours: 2
Grading Mode: Letter grade
Meeting Time(s): WED 6:05-8:05P
Meeting Mode: ON CAMPUS
Exam Time(s): DEC 10, 6:00P
Exam Mode: ON CAMPUS
Prerequisite(s): N/A
Corequisite(s): N/A
Instructor(s):
DENNIS FITZPATRICK

Contact Info:
dfitzpa3@gmu.edu

Reading(s) & Supplement(s):

Primary casebook: N/A.

All other course materials are cases or articles available on Westlaw or Lexis-Nexis.

Course Overview

This course is intended to provide students a broad exploration of the ethical concerns related to the theory and practice of national security law. Using the case study method and Socratic discussions in a seminar format, this course will prepare lawyers for professional roles in the executive departments, Congress, and the judiciary that involve the conduct of United States national security policy. It will also include substantial components of jurisprudence, ethical reasoning, and professional responsibility considerations. Specifically, it will further one of the JD Program's six key learning outcomes, namely "Professionalism and Professional Responsibility: Students will demonstrate the professional skills necessary for effective and ethical participation in the legal profession."

While prior coursework in national security law or professional responsibility may be helpful for students, there are no formal prerequisites for this class.

Course Learning Outcomes

By the end of the course students should have acquired/be able to:

- 1) A deeper understanding of the ethical challenges and potential conflicts of interest that confront practicing national security lawyers.
- 2) Knowledge of the jurisprudential, constitutional, statutory, and international treaty foundations for legal ethics in the national security arena.
- 3) Distinguish between the advocacy and advisory roles of national security lawyers.
- 4) Critically analyze national security policy decisions, directives, and actions for both legal violations and ethical concerns in order to properly safeguard the rule of law.

Grading Policies

Grades will be based on an in-class final exam and class participation consistent with the law school grading policy. The exam score amounts to 90% of a student's final grade. The exam will consist of 20-25 MBE-style questions and an essay question. Exam questions will be drawn from reading assignments and class discussion. 10% of a student's final grade is from class participation. Class attendance will be recorded, consistent with the law school policy.

Classroom Policies

Attendance: Per AR 3-1.4, "maintenance of matriculation requires regular class preparation, participation and attendance, registration in the course of study required for the student's program (full-time or part-time), successive registration for each fall and spring term of each academic year until study is completed, and compliance with all other relevant requirements."

Absences: Per AR 4-1.1, "if a student is absent for any reason for more than 20 percent of the sessions of a course, the student is not eligible for credit in that course. A student who is not present for at least 75 percent of a session of the course is absent from that session."

Class Format:

Exam-based course; up to 25 students; two credits; one two-hour class per week. **Active participation in class discussion is required and students are expected to be fully prepared for each class session, including completion of all assigned readings and a readiness for engagement.** Students are permitted one laptop computer for exam taking purposes. Additional laptop computers or any other electronic data storage devices are not allowed in an exam room, unless permitted by the course instructor's written exam instructions. Electronic textbooks (e-books) may be used during exams that are designated as open book by the instructor and the instructor allows textbooks to be used during the exam and allows access to a student's computer files during the exam (open exam).

This class will be held in person. In cases of emergency and/or inclement weather, this class may be held online.

Participation & Preparation:

- 1) Students are expected to complete the assigned readings before each week's class and to come prepared to discuss them. Socratic dialogues will be employed by the instructor to facilitate learning outcomes. If unforeseen circumstances prevent a student from preparing for class, the student is nonetheless encouraged to attend and should inform the instructor in advance if they are not prepared to be called upon.
- 2) All students are expected to treat each other and the instructor with courtesy and respect. Ideas and theories are welcome and encouraged to be challenged, but such critiques should never take the form of personal attacks on another speaker within the classroom setting. The instructor

encouraged an academic environment wherein ethical and philosophical issues can be intellectually explored.

- 3) Subject to other possible Law School determinations, final examination question(s) will be distributed (or made accessible) in person on the day of the examination and students will be required to submit their written or electronically drafted responses within the prescribed time period. Further instructions will be provided in advance of the final examination date.
- 4) Students must use their MasonLive email account to receive important University information, including communications related to this class. The instructors will not respond to messages sent from or send messages to a non-Mason email address.

Use of Technology & AI:

Strict Use Policy: The use of generative AI tools is not permitted for any coursework in this course. Unauthorized use will be treated as a violation of academic standards.

Class Recordings:

Recording of class sessions by any means is prohibited. See AR 4-2.2: "Unless expressly permitted in writing by an instructor, no portion of a class session or an examination may be preserved by means of recording device (such as an audio recording device or a camera)."

Course Schedule & Assignments

Please note that the assigned readings may be revised during the semester based on, among other factors, policies issued by the new Presidential Administration, current events, time, or availability of guest lectures.

****It is likely that the syllabus and readings will be updated over the course of the semester; therefore, please **regularly check your email for updates to the syllabus and readings.******

Week 1 – Introduction to American National Security Ethics

1. WSJ 1—Could the U.S. Have Saved Navalny?
2. WSJ 2 – Just as Russia’s Most Famous Dissident Seemed Set To Go Free, Tragedy Struck
3. The United States Constitution (1787) – Art. II, Sec. 1, Cl. 8 (President’s Oath of Office):
 - Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:– I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.
4. *Rumsfeld v. Padilla*, 542 U.S. 426 (2004). (27 pp.)

Week 2 – Professional Responsibility in the National Security Context

1. Federal Oath of Office – 5 U.S.C. § 3331 (1 pp.)
2. Attorney Oath for the Commonwealth of Virginia – VA Code § 54.1-3903 (1 pp.)
3. ABA Model Rules of Professional Conduct – Rules 1.2, 1.6, 1.13, 1.16, 2.1, 2.3, 3.3, 4.1, 5.2, and 8.4 (12 pp.)
4. Jamil N. Jaffer, *The Ethics of National Security Lawyering: A Response to Jeh Johnson*, 31 Yale L. & Pol. Rev. 173, 173-83 (2012) (10 pp.)
5. Charles J. Dunlap, Jr., *Ethical Issues of the Practice of National Security Law: Some Observations*, 38 Ohio N. Univ. L. Rev. 1057, 1057-95 (2012) (38 pp.)

Week 3 – Foreign and Domestic Surveillance

1. Dycus, “Introduction to National Security Law”, Chs. 1-2.
2. Dycus, Ch. 21 Sec A “The Origins of Section 702”
3. Daniel Ellsberg, Edward Snowden, and the Modern Whistleblower, New Yorker, December 11, 2016, Malcolm Gladwell.
4. John Napier Tye, *Meet Executive Order 12,333: The Reagan Rule that Lets the NSA Spy on Americans*, Wash. Post, pp. 1-4 (July 18, 2014) (4 pp.)
5. Charlie Savage, *Declassified Report Shows Doubts About Value of N.S.A’s Warrantless Spying*, New York Times (April 24, 2015) (2 pp.)

Week 4 – Detention and Interrogation

1. Geneva Convention (III) Relative to the Treatment of Prisoners of War, Common Article

3 (1949)

2. Jay S. Bybee, *Memorandum for Alberto Gonzales, Counsel to the President, Standards of Conduct for Interrogation under 18 U.S.C. §§ 2340-2340A*, U.S. Department of Justice, pp. 1-46 (Aug. 1, 2002)
3. *Hamdan v. Rumsfeld*, 548 U.S. 557, 557-65 (2005)

Week 5 – Just War

1. Seymour M. Hersh, *The Massacre at My Lai*, *The New Yorker* (Jan. 15, 1972)
2. Mark Hull, *Vengeance Is Not Our Goal: A Conversation with Nuremberg Prosecutor Benjamin Ferencz*, *War on the Rocks* (Aug. 5, 2014)
3. Michael J. Sandel, “The Afghan Goatherd” dilemma from Justice.
4. Dycus, Ch. 8 The Right to Wage War (jus ad bellum).

Week 6 – Targeted Killings

1. Dycus, “Targeted Killing,” Ch. 12, pps 357-98
2. The White House, Executive Order 12333 – United States Intelligence Activities ¶¶ 2.11 & 2.12 (Dec. 4, 1981)
3. Charlie Savage, *How 4 Federal Lawyers Paved the Way to Kill Osama bin Laden*, *New York Times* (Oct. 28, 2015)

Week 7 –

Week 8 –

Week 9 –

Week 10 –

Week 11 –

Week 12 –

Week 13 –

[Student Resources](#)

[Antonin Scalia Law School Academic Regulations](#)

[GMU Common Course Policies Addendum](#)

[Mason Square Services](#)

[Mason Square Police](#)

Van Metre Hall, Room 110

Emergency - Dial 911

Escort Services - 703-993-8070

Dispatch – 703-993-2810

[Student Support and Advocacy Center \(SSAC\)](#)

Mason Square Sexual Assault Services:

Van Metre Hall, Room 222D

703-993-8186

[Notice of Mandatory Reporting of Sexual Assault, Sexual Harassment, Interpersonal Violence, and Stalking:](#)

As a faculty member, I am designated as a “Non-Confidential Employee,” and must report all disclosures of sexual assault, sexual harassment, interpersonal violence, and stalking to Mason’s Title IX Coordinator per University Policy 1202. If a student wishes to speak with someone confidentially, please contact one of Mason’s confidential resources, such as Student Support and Advocacy Center (SSAC) at 703 -380-1434 or Counseling and Psychological Services (CAPS) at 703 -993-2380. Students may also seek assistance or support measures from Mason’s Title IX Coordinator by calling 703 -993-8730, or emailing titleix@gmu.edu.

[Mason Square Clinic](#)

Van Metre Hall, Room B102

703-991-2831

[Counseling and Psychological Services](#)

[Student Health Services](#)

[Student Disability Services](#)

[Student Conduct](#)

[University Life](#)