

Handout: Founding Documents

Overview:

This course provides a primer on the legal and institutional foundations of U.S. national security decision-making. From the Constitution to the National Defense Strategy, these documents and statutes shape how war powers, surveillance, and executive authority are exercised today.

Key Takeaways:

- The Constitution divides war powers: Congress declares war and funds forces (Article I); the President commands the military and directs foreign affairs (Article II).
- Founding debates in the Federalist Papers still inform how we think about defense, executive energy, and separation of powers.
- Modern statutes and strategies build on this foundation, defining the roles of Congress, the President, the courts, and the armed services.

Core Documents & Authorities:

- **Constitution (Articles I & II):** War powers, Commander-in-Chief role, checks and balances
- **Federalist Papers:** Federalist Nos. 23, 41, 70 on defense and executive authority
- **War Powers Resolution (1973):** Attempts to limit unauthorized hostilities
- **AUMFs (2001, 2002):** Authorizations for post-9/11 counterterrorism and Iraq
- **Insurrection Act (1807, amended):** Domestic use of U.S. forces
- **National Security Act (1947):** Created DoD, NSC, CIA, JCS
- **Goldwater-Nichols Act (1986):** Reorganized DoD, strengthened CJCS, joint operations
- **FISA (1978, amended):** Surveillance framework; PATRIOT Act & FAA expansions
- **Key West Accords (1948):** Defined service roles and missions
- **NSS / NDS / QDR:** Strategic planning documents from the White House & DoD
- **Global Posture Review:** Periodic assessments of U.S. overseas force posture

Checks & Balances:

- **Congress:** Oversight, authorizations, appropriations, hearings
- **Executive:** NSC process, agency leadership, IGs
- **Judiciary:** FISA Court, constitutional review

Modern Debates:

- Use of force without congressional approval
- Surveillance vs. privacy in the digital age
- Domestic deployment of troops under the Insurrection Act
- Updating or repealing aging AUMFs

Bottom Line:

The architecture of U.S. national security authority is built on the Constitution, layered with statutes, executive orders, and planning documents. To be effective in policy, you need to understand both the text of these documents and the debates they continue to shape.