

Privacy, Technology, and the Law Course Syllabus* — Fall 2018

<http://science.slc.edu/msiff/courses/privacy/>

Meeting times

Mondays & Thursdays, 2:00–3:25, Science Center 201

Instructor

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Required texts

Available at the SLC bookstore:

Farivar, Cyrus. *Habeas Data: Privacy vs. the Rise of Surveillance Tech*. Melville House, 2018.

Orwell, George. *1984*. Signet Classic, [1949] 1961.

Schulhofer, Stephen J. *More Essential Than Ever: The Fourth Amendment in the Twenty First Century*. Oxford University Press, 2012.

Singh, Simon. *The Code Book: The Science of Secrecy from Ancient Egypt to Quantum Cryptography*. Anchor, 2000.

Conference

Possible conference topics include (but by no means are limited to):

privacy law outside the U.S.

philosophy of privacy (e.g., Bentham and the Panopticon)

societal power structures and privacy

privacy policies and practices of one or more big-tech companies

advertising and privacy

technology in tension with other parts of the U.S. Constitution

free speech v. hate speech on-line

*. Draft syllabus as of August 31, 2018, for consideration during registration.

Assignments

Daily readings. You will be assigned reading for just about every class. In most cases, you will be asked to electronically submit a reaction to the reading at least several hours prior to the class in which it will be discussed. The readings will vary in complexity and in length. Everyone reads at a different pace, but you should expect each reading (and associated response) to take a few hours to complete. It will be helpful for both class discussion and several of the associated writing assignments to be able to recall the salient points from the assigned reading. To that end, you may wish to make and keep handy a written outline of what they have read.

Orwell. In addition to the daily readings, you will read (or reread) the novel *1984* and write a short paper connecting it to the course material. The paper will be due shortly before October Study Days. It is up to you to pace yourself, though I recommend completing *1984* by the end of September; that way you will have plenty of time to plan and write the paper.

Counterfactual. Inspired by the privacy-law cases we discuss in class, you will write a fictional, but logical essay describing a legal conundrum involving privacy and a new or yet-to-be invented (but plausible) technology.

Please note: A short essay does not mean that it should take you a short time to write; it means that it should take me a short time to read! You may well want to write more first, then trim your essay down. Please do not forget to both proofread (which means more than using spell-checking and grammar-checking software) and to edit — meaning rewrite portions of your essay that are unclear or can be expressed more succinctly. The edit-rewrite process is an effective way to take a longer essay and make it a better, shorter essay.

Conference. Your completed conference project (which will be a research paper for most of you) is due Friday, December 13. In addition to the final project, you will be expected to give a 10–15 minute presentation describing your conference work near the conclusion of the semester.

Except in highly unusual circumstances, *late work will not be accepted.*

Participation

Class participation is an essential component of this course. It is not a competition to see who can participate most. This is a course that presents a fair amount of opinion and therefore warrants other opinions and invites criticism. This is a good thing. I am not telling you how to think about things. If you think I am, call me on it. Furthermore:

- I want everyone to participate at least once in every class. I want everyone to want to participate. And I want everyone to want everyone to participate.
- Equally important to participating by speaking is *participating by listening*.
- You may be asked to argue on behalf of a viewpoint you do not hold.
- At least once during each semester, you will give a short presentation (for instance, describing your conference work).

Calendar

The following represents a *preliminary* schedule of assignments and topics. The readings are to be completed prior to class on the date indicated.

Week	Date	Topics	Reading
1	9/10	overview	
	9/13	what is privacy?	Lepore
2	9/17	from common law to law	Schulhofer 1–2
	9/20	Solove’s taxonomy	Solove
3	9/24	cryptology primer	Singh 1
	9/27	crypto arms races	Singh 2
4	10/01	algorithms, bits, the Internet	<i>tba</i>
	10/04	modular arithmetic	<i>tba</i>
5	10/08	exclusionary rule	Schulhofer 3
	10/11	stop & frisk	Schulhofer 4
6	10/15	the administrative state	Schulhofer 5
	10/18	<i>Katz</i> overturns <i>Olmstead</i>	Farivar 1, Schulhofer 6
7	10/22	<i>no class — Study Days</i>	
	10/25	Apple v. FBI	Farivar 2
8	10/29	<i>Smith v. Maryland</i> ; third-party doctrine	Farivar 3
	11/01	license-plate readers & facial recognition	Farivar 4
9	11/05	thermal imaging; DNA	Farivar 5
	11/08	Snowden, metadata, NSLs	Farivar 6
10	11/12	GPS, prolonged surveillance, mosaic theory	Farivar 7
	11/15	mobile phones (tracking)	Farivar 8
11	11/19	can police search mobile phones?	Farivar 9
	11/22	<i>no class — Thanksgiving</i>	
12	11/26	reputation; anonymity	Ito
	11/29	the right to be forgotten	Toobin
13	12/03	conference presentations I	
	12/06	conference presentations II	
14	12/10	modern crypto	Singh 6–7
	12/13	privacy v. national security	Schulhofer 7
15	12/17	quantum crypto v. quantum computation	Singh 8
	12/20	blockchain & bitcoin	

Course policy

Attendance. As stated on p. 22 of the *Student Handbook*: “Consistent attendance at all classes and conferences is expected.” Unexcused absences or repeated lateness, whether in class or conference, may lead to reduced credit for the course. I will consider an absence that you did not let me know about in advance as unexcused. (That is not to say that if you do let me know in advance that I will definitely excuse you, but it will help.)

Electronic mail. You are expected to check Sarah Lawrence email account frequently. I stress your @gm.slc.edu account because that is what I will use to communicate with you. Please reply in a timely fashion to course-related inquiries.

Academic integrity and mutual respect. Familiarize yourself with the sections in the *Student Handbook* on **Undergraduate Policy on Academic Integrity** (pp. 20–22) and **Freedom of Expression and Mutual Respect** (pp. 129–130). I take both quite seriously.

Additional readings

Friedman, Barry. “The Worrisome Future of Policing Technology.” *The New York Times*, June 22, 2018. Accessed June 22, 2018. <https://www.nytimes.com/2018/06/22/opinion/the-worrisome-future-of-policing-technology.html>.

Igo, Sarah E. *The Known Citizen: A History of Privacy in Modern America*. Harvard University Press, 2018.

Lepore, Jill. “The Prism.” *New Yorker*, June 24, 2013. <https://www.newyorker.com/magazine/2013/06/24/the-prism>.

Liptak, Adam. “Warrant Required for Cellphone Tracking Data.” *The New York Times*, June 23, 2018. Accessed June 22, 2018. <https://www.nytimes.com/2018/06/22/us/politics/supreme-court-warrants-cell-phone-privacy.html>.

Menand, Louis. “Why Do We Care So Much About Privacy?” *New Yorker*, June 18, 2018. <https://www.newyorker.com/magazine/2018/06/18/why-do-we-care-so-much-about-privacy>.

Toh, Amos, Faiza Patel, and Elizabeth Goiten. *Overseas Surveillance in an Interconnected World*. Brennan Center for Justice, 2016. <http://www.brennancenter.org/publication/overseas-surveillance-interconnected-world>.

Toobin, Jeffrey. “The Solace of Oblivion.” *New Yorker*, September 29, 2014. <https://www.newyorker.com/magazine/2014/09/29/solace-oblivion>.

Warren, Samuel D., and Louis D. Brandeis. “The Right to Privacy.” *Harvard Law Review* 4, no. 5 (December 1890): 193–220. <http://faculty.uml.edu/sgallagher/Brandeisprivacy.htm>.