

**IT 801-INFORMATION LAW AND POLICY
TENTATIVE SYLLABUS
SPRING 2008**

Welcome to Information Law and Policy. We will explore this ever-changing area of law through discussions, hypotheticals, student presentations and perhaps a guest lecture or two. Your participation is essential. To fulfill the requirements for this three-credit seminar, you will need to (1) prepare and deliver an in-class presentation, (2) complete an original position paper and (3) make a personal information inquiry.

COURSE DESCRIPTION

This seminar considers the historical foundation and current status of information law and policies. We will examine a variety of issues concerning *informational privacy* i.e., the gathering, use and protection of information about individuals. Topics will include the right of access to information, the free flow and use of information, the value of personal information, commercial uses of personal information, privacy implications of emerging technologies and the roles of government and the private sector in protecting informational privacy. Specific topics and materials may be adjusted according to current events and students' experience with and interests in informational privacy.

COURSE MATERIALS

There is no required textbook for this class. Course materials will be posted online at www.lesliereis.com/infolaw.html. Additional materials may be distributed in class or via email.

Recommended texts:

William G. Staples, *Encyclopedia of Privacy* (Greenwood Press 2007)

Daniel J. Solove, *The Digital Person: Technology and Privacy in the Information Age* (NYU Press, 2004).

Simson Garfinkle, *Database Nation: The Death of Privacy in the 21st Century* (O'Reilly & Associates, Inc., 2000).

Robert O'Harrow, *No Place to Hide* (Simon and Schuster, 2005).

James Cortada, *Making the Information Society* (Prentice Hall, 2002).

How To Use The Federal FOI Act. Available free online at <http://www.rcfp.org/foiact/index.html>.

GRADES AND COURSE REQUIREMENTS

Grades will be based on class participation (20%), an in-class presentation (20%), a personal information inquiry (15%), and a final paper (45%).

IN-CLASS PRESENTATIONS -- Each student will make a fifteen-minute in-class presentation that explains, as simply as possible, the significance of a specific current controversy, statutory regime, or other issue involving informational privacy. The goal of this assignment is to explain and demystify a concept or issue to a non-expert audience (such as clients or managers) in a realistic format. Thus, the fifteen-minute time limit will be strictly enforced. Each presentation must offer additional information or raise issues not covered in the assigned readings. Creativity is greatly appreciated and handouts are strongly encouraged. Specific topics for in-class presentations will be discussed during our third class meeting.

PERSONAL INFORMATION INQUIRY -- Each student must make a personal record inquiry from either a government agency or a private sector entity (e.g., a credit bureau, a former employer, an educational institution, an Internet advertising agency, etc.), and submit a brief written report explaining the process and the general results of the inquiry, including a critique of the agency or company's disclosure practices. Specific details of the records obtained should not be submitted. Creativity is encouraged. We will discuss the processes used and progress made in obtaining this information throughout the semester. The reports are due on or before the last class session, so students should not wait until late in the semester to make the inquiry.

POSITION PAPERS -- Each student must complete an original, well-researched, position paper that expresses a *novel* idea or approach to resolving an issue, problem or controversy in some area of information law and policy. The ideal paper will clearly state a problem, offer a suggested solution and justify that solution citing applicable law, policies or theories. The paper must be submitted in publishable form--i.e., fully edited, with correct grammar and spelling, proper citations, and supporting materials (statutes, appendices, etc.) if appropriate. While there is no length requirement, most topics will likely require at least 1-15 pages (3,000 words not including citations) to adequately address. Remember, quality is more important than quantity.

- Papers will be evaluated on the basis of clarity of analysis, persuasiveness of argument, depth of research, originality of thought, readability, and understanding of the course materials. Proper use of authority is required (footnotes preferred).
- Students may present projects of equivalent depth and magnitude in other formats with prior approval of the instructor.
- Students will submit a thesis statement on or before the eighth class meeting.
- The instructor is available to discuss questions regarding papers/projects.
- Position Papers are due on or before May 16, 2008.

SYLLABUS AND READINGS (Subject to change)

PLEASE NOTE: There is a lot of reading for this class. The inclusion of many different types of material is intended to give you an overview of information theory, policy and law and a little background in a lot of areas. You are not required to brief cases or memorize statutes. Just familiarize yourself with the materials and be prepared to discuss the issues raised.

Class #1 (January 15, 2008) – INTRODUCTION: In this session, we will explore the various definitions and concepts of "information" – who needs it, who wants it, and who can protect it. We will discuss the history and development of information policy in the United States and examine the regulatory mechanisms, applicable statutes, and the right of access to information. We will begin an ongoing analysis of "informational privacy"-- an individual's right to control his or her personal information held by others.

Class #2 (January 22, 2008) – ACCESS TO INFORMATION ABOUT THE GOVERNMENT AND INFORMATION THE GOVERNMENT HAS ABOUT INDIVIDUALS: This session will focus on access to information about the government. Among the topics that will be addressed are public records and federal and state Open Meetings Acts, Freedom of Information Acts and the federal Privacy Act of 1974.

Class #3 – (January 29, 2008) INFORMATION THE GOVERNMENT HAS ABOUT INDIVIDUALS CONTINUED AND NATIONAL SECURITY ISSUES: Here, we will explore information about individuals that is collected, maintained and used by the government. We will examine changes to the informational privacy landscape during a time of heightened national security post 9/11.

Class #4 (February 5, 2008) – PUBLIC RECORDS AND THE INTERSECTION BETWEEN PUBLICLY AND PRIVATELY HELD INFORMATION: In this class, we will look at information that is considered to be public record. We will examine how recent technological developments have dramatically increased access to public records and whether the privacy implications of such increased access demands a change in public records policy. In addition, we will discuss the issues that arise when publicly and privately collected/held information is combined. Topics for discussion will include court, criminal history and educational records.

Class #5 (February 12, 2008) – INFORMATION THE PRIVATE SECTOR HAS ABOUT INDIVIDUALS, INFORMATION AS A COMODITY, DATA MINING AND THE USE AND ABUSE OF CUSTOMER LISTS: In this session, we will continue our discussion about the privacy implications of emerging technologies and take a cost/benefit approach as we investigate the collection, manipulation and distribution (buying, selling and trading) of consumer information in the private sector. We will also look at the regulatory mechanisms (government and industry self-regulation) used to protect consumer's personal information and the role of the Federal Trade Commission in enforcing consumer privacy protections.

Class #6 (February 19, 2008) -- PRIVACY OF FINANCIAL INFORMATION: Here, we will look at permitted uses and disclosures of an individual's financial information including the Gramm-Leach-Bliley Financial Modernization Act (GLB) and the Sarbanes-Oxley Act (SOX). We will examine public v. private sector access to an individual's financial information and how post-9/11 regulations and policies affect the confidentiality of such information. In addition, we will discuss the problems associated with outsourcing and offshoring of personal financial information.

Class #7 (February 26, 2008)– PRIVACY OF MEDICAL INFORMATION: In this class, we will explore the collection, use and dissemination of an individual's health information using the Health Insurance Portability and Accountability Act (HIPAA) as a basis for discussion. We will also look at genetic and biometric information.

Class #8 (March 4, 2008) – REGULATING PRIVACY: We will explore public and private sector approaches to privacy regulation. We will discuss privacy policies, certification systems as well as other self-regulatory mechanisms to privacy protection.

Class #9 (March 11, 2008) – DATA BREACHES AND OTHER INFORMATION SCAMS: Here, we will focus on the data subject's (victim's) rights and remedies when personal information is used without knowledge and/or consent. Special consideration will be given to identity theft and other data-based crimes. Student presentations will begin

Class #10 (March 25, 2008) – THE PRIVACY IMPLICATIONS OF EMERGING TECHNOLOGIES: In this class, we will begin to examine specific information technologies and how these technologies have affected access to, as well as collection and dissemination of personal information. Student presentations will continue.

Class #11 (April 1, 2008) – SPECIAL PROBLEMS: CHILDREN'S PRIVACY: This class will examine some of the issues that arise when dealing with information about children. Student presentations will continue.

Class #12 (April 8, 2008) – SPECIAL PROBLEMS: WORKPLACE PRIVACY: Here, we will discuss informational privacy in the workplace. Student presentations will continue.

Class #13 (April 15, 2008) – INTERNATIONAL ISSUES AND WRAP-UP: Here, we will explore differing cultural concepts of informational privacy. We will examine some of the regulatory mechanisms governing trans-border data flow including the European Union Data Protection Directive and Safe Harbor provisions. Student presentations will continue.

Class #14 (April 22, 2008) – WRAP-UP:
Student presentations will conclude.

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