

**IT 801 -- INFORMATION LAW AND POLICY
SPRING 2002**

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Office Hours: Open Door Policy

Welcome to Information Law and Policy. This seminar meets on Tuesday evenings from 6pm – 9pm for 10 weeks. 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 receive credit for this seminar, you will need to (1) prepare and deliver an in-class presentation, (2) complete a research project or paper of publishable quality, 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 and organizations held by third parties. Topics will include the right of access to information, the free flow and use of information, the creation and value of an individual's "digital persona", 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 textbook for this class. Course materials will be distributed on CD and possibly via email. Occasionally, on-line materials will be assigned.

Recommended texts:

Marc Rotenberg, *The Privacy Law Sourcebook 2001: United States Law, International Law, and Recent Developments* (Electronic Privacy Information Center, 2001). Available at the JMLS Bookstore.

How To Use The Federal FOI Act. Available at the JMLS Bookstore.

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

GRADES AND COURSE REQUIREMENTS

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

IN-CLASS PRESENTATIONS -- Each student will be expected to make an in-class presentation (approximately 15 minutes in length) that explains the significance of a specific topic to a non-legally trained audience. Creativity is greatly appreciated and handouts are strongly encouraged.

TOPICS FOR IN-CLASS PRESENTATIONS: A list of suggested topics will be distributed during the second class meeting. Please pick your top three choices for your in-class presentation and return the questionnaire at the beginning of the third class meeting. You may propose additional topics (subject to the instructor's approval).

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.

RESEARCH PAPERS/PROJECTS -- Each student must complete an original, well-researched, position paper or project that expresses a *novel* idea or approach to some area of information law and policy. The ideal paper will clearly state a problem and offer a suggested solution. 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 3,500 words (12 to 18 pages) to adequately address. 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 are preferred to endnotes).
- 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 fifth class meeting (February 26, 2002).
- The instructor is available to discuss questions regarding papers/projects.
- Papers/projects are due on May 7, 2002.

SYLLABUS

Class #1 (January 29, 2002) -- 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 (February 5, 2002) – ACCESS TO INFORMATION ABOUT THE GOVERNMENT

This session will focus on 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.

Class #3 (February 12, 2002) – INFORMATION THE GOVERNMENT HAS ABOUT INDIVIDUALS/PUBLIC INFORMATION/PUBLIC RECORDS

Here, we will explore information about individuals that is collected, maintained and used by the government.

Class #4 (February 19, 2002) – INFORMATION THE PRIVATE SECTOR HAS ABOUT INDIVIDUALS

This class will focus on the impact of technology on information exchange, transactions and security. We will discuss methods of collecting information including voluntary disclosure, transactional trails, and physical trails. We will also delve into the balancing of interests: information as a commodity v. personal privacy. We will also look at the regulatory mechanisms (government and industry self-regulation) used to protect consumer's personal information.

Class #5 (February 26, 2002) – FINANCIAL INFORMATION

Here, we will look at permitted uses and disclosures of an individual's financial information. We will analyze the FCRA, GLB, and other regulations and public v. private sector access to an individual's financial information. We will also examine how post-911 regulations and policies affect the confidentiality of financial information.

Class #6 (March 19, 2002) – MEDICAL INFORMATION

This class will examine the collection, use and dissemination of an individual's health information, use of genetic information, biometric identification and physical profiling.

PRESENTATIONS:

DNA Profiling
Human Subjects Institutional Research Boards
National ID Numbers

Class #7 (March 26, 2002) – DATAMINING/TARGET MARKETING/USE AND ABUSE OF CUSTOMER LISTS

In this session, we will take a cost/benefit approach as we investigate the collection, manipulation and distribution (buying, selling and trading) of consumer information.

PRESENTATIONS:

Data Warehousing
Putative Paternity Registry
Caller ID

Class #8 (April 2, 2002) – PRIVACY POLICIES, CERTIFICATION SERVICES AND OTHER SELF-REGULATORY MECHANISMS

This class will explore some of the industry approaches to self-regulation.

PRESENTATIONS:

Web Site Privacy Policies
FOIA's
Access to Executive and Legislative Information

Class #9 (April 9, 2002) – IDENTITY THEFT AND OTHER 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.

PRESENTATIONS:

ID Theft
Educational Records/FERPA
Counter-terrorism/Effect on Informational Privacy

**Class #10 (April 16, 2002) – SPECIAL PROBLEMS: CHILDRENS' PRIVACY,
WORKPLACE PRIVACY AND WRAP UP**

This final class will examine some of the special problems that arise when dealing with information about children and information in the workplace. We will also look at the economic implications of information exchange in various settings and take a practical look at litigation and other practice concerns in this area.

PRESENTATIONS:

Surveillance Technologies

Children's Privacy

Workplace Privacy