

**Privacy Rights Seminar
John Marshall Law School
Summer 2009
Monday 6:00pm-9:00pm**

Professor Paul B. O'Flaherty, Jr.
Adjunct Faculty
Office Hours: By Appointment
poflaherty@lawchicago.net
(312) 853-8712

SEMINAR DESCRIPTION

The evolution of a right of privacy in American law has been an interesting story over the last century, but never more fascinating than at the present. Changes in technology and in the security environment of a smaller and more interdependent world, not least the post – 9/11 War on Terror, pose important questions about the value we place on privacy and the legal protections it should be afforded. This seminar is an attempt to address those questions, and to equip its participants to understand and engage the debates in which privacy law will continue to evolve.

We will begin with a look backward. The first several class meetings will review and discuss the common law, constitutional, and statutory sources of American privacy law. However, our emphasis will be on bringing that framework to bear on current events and future problems. “Privacy In The News” will be a feature of every class meeting, and our latter meetings will take a deeper look at a variety of technological and security challenges to privacy.

READING MATERIALS

Text: Anita L. Allen, *Privacy Law and Society* (Thomson West 2007)

Newspaper, periodical or online news source (Tribune, Sun-Times, WSJ, NYT, USA Today, etc.). Each seminar participant will be required to review a national newspaper or other news source each week and pull articles relevant to our seminar discussions.

SEMINAR REQUIREMENTS

Participation (40%)

First, each student must be prepared to discuss the readings assigned for each class. While there will be some supplemental materials, I have anchored the readings in the *Privacy Law and Society* text for the sake of simplicity. Though some weeks might look extensive, many of the selections are quick reads of a few pages. Case reports and statutes should be read for conceptual understanding, rather than minutia. My objective is to have a basis for informed classroom discussion, not to impersonate Professor Kingsfield. Nonetheless, the reading load conforms to a graduate level of study, and familiarity with it will be reflected in the participation portion of your grade.

Second, participation will also weighed by the student's efforts to supplement the seminar materials with articles read in national newspapers and on various Internet sources. Consequently, each student

will be required to monitor a national news source and bring relevant articles to class (or to share before class via email where the article is located on the web) for distribution and discussion.

In classroom participation, quality is valued more than quantity. That being said, no one should feel hesitant to share an idea or comment. There is plenty of room for debate about privacy related topics informed by a variety of legal, political, national and cultural perspectives. We hope to create an open, conversational atmosphere in class meetings.

Research Paper (60%)

Each seminar participant is responsible for an original research paper of a style and quality suitable for publication in a law review or other professional journal. The paper should address a narrow topic approved by the instructor and within the scope of the seminar. The paper should be an in-depth exploration and analysis of a privacy issue, rather than a superficial survey of recent developments. If the topic is related to another paper the student has written for academic credit, basic preexisting research may be utilized, but this paper must demonstrate new and original analysis or conclusions.

Because of the importance of the paper, and our relatively short summer timeline, the following interim deadlines are required for the project:

June 19, 2009 - Submit one-page abstract.

You should submit an abstract that identifies your issue, the questions deemed worthy of exploration, the scope of your research paper, and the intended relevance/impact of your research paper. The abstract should be single spaced; one inch margins; one line between title, name, and content; and no more than 500 words.

June 26, 2009 - Submit proposed bibliography

You should submit a list of articles and sources you have found thus far your research. The citations should be in blue book form. No limits; not necessary to have read all of them as of yet.

July 10, 2009 - Submit paper outline

You should submit a detailed outline of the proposed paper, reflecting the organizational structure for your argument or development of your topic. Ideally, the outline should integrate your bibliography into the structure of your paper, by indicating the sections in which various sources will be discussed or analyzed.

July 24, 2009 -Submit final research paper.

While page or word limitations will not be enforced, most satisfactory papers will fall within the range of 5,000 to 10,000 words, not including citations.

CLASS MEETING SCHEDULE

Class One - Introduction June 8, 2009

Text: pp. 1 – 34, 855

Class Two - Tort Remedies I June 15, 2009

Text: pp. 35–46, 75-78, 80-87, 100-101, 112-113,

Class Three Tort Remedies II June 22, 2009

Text: pp. 128-135, 154-181

Class Four – Defamation June 29, 2009

Readings TBA

Class Five – Constitutional Sources July 6, 2009

Text: pp. 226-236, 248-253, 367-418, 427-428, 442-460

Class Six - Surveillance July 13, 2009

Text pp. 699 - 750

Class Seven· Communications Privacy July 20, 2009

Text: pp. 751-816

Class Eight – Security and Terrorism July 27, 2009

Text: pp. 816-856, 520