**CYBERLAW & CYBERSECURITY**
Winter 2020 | POLI 102G: Special Topics in American Politics
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**Course Materials**
Required Text: *Information Law, Governance, and Cybersecurity* (Sandeen & Levine, 2019). Assigned readings are underlined in Course Topics below.

**Course Specifics**
This class meets Mondays from 6:00-8:50pm in Peterson Hall 103 during the Winter 2020 term.

**Professor Availability**
Professor E. is available to meet after each class (until 9:15pm) and a few minutes before class in the classroom. Also, Professor E. will hold “virtual office hours” by phone while he is at his California Western School of Law office, by arranging a mutually convenient time to speak by email request at TEbrahim@cwsl.edu (please include in the subject line “UCSD Cyber”).

For law school planning purposes: Professor E. can provide general counseling about law school and about legal careers, can arrange visits to law school classes at California Western School of Law, and can give guidance on the law school application and admissions process. Professor E.’s bio is found on his faculty website, https://www.cwsl.edu/faculty-staff-and-campus-directories/faculty-and-staff-directory/t/tabrez-ebrahim.

**Course Grade**
30% = In-Class Midterm (*Feb. 3, 6:00-7:30pm: open book + notes + slides*)
70% = Take-Home Final Exam, via Turnitin (*March 18, 7:00-9:59pm: open book + notes + slides*)

**Course Background, Methodology, & Learning Objectives**
This course acquaints students with cyber legal issues, with a focus on cyberlaw and cybersecurity. Specifically, the course provides a detailed examination of environments and settings, legal doctrines, policies, and politics of the cyber world.

Cyberlaw is the study of regulation of information in a world interlinked and mediated by computer networks. In the modern world, information is increasingly distributed through computers rather than traditional mediums such as paper, broadcast, or film. Correspondingly, because information is able to be controlled and manipulated through computer networks, existing laws and legal institutions may need to be reevaluated. This section on cyberlaw concerns the study of the rules and norms governing the control and dissemination of information in a cyber world, and how law can both shape and respond to behaviors.

Cybersecurity is the study of the laws, policies, techniques, and technologies that work together to protect the confidentiality, integrity, and availability of computing resources, networks, software programs, and data from attack. Cybersecurity enhancement is a critical issue affecting the competitiveness of firms and the security of governments. Increasingly policymakers are fashioning regulatory schemes around the world that promise to shape not only day-to-day realities of operating information systems, but also cyberspace itself. This section on cybersecurity takes an interdisciplinary, global approach to introduce students to cybersecurity risk management, cyber attack management, and national cybersecurity.
Methodology
This course is a simulation of a second-year or third-year law school elective course, and is conducted in a “modified law school” style. Class sessions will focus on discussion of cases, legal principles, and policy considerations. To get maximum value from the course, you will need to do the assigned readings for each session fully before each class (see Course Topics below, and read the underlined pages under Pre-Class Assigned Readings), and come to class prepared to engage in lively discussion. Please refer to the Student Participation section below.

Learning Objectives
This course examines how the cyber world has bent the path of law, and what lessons might be learned about the relationship between law and cyber developments. The course will explore several key themes, including how cyber technologies work, how they disrupt the balance of societal power, and how legal institutions are adapting in response. This course introduces the use of legal methods within the cyber world. Students will learn how to read judicial opinions, perform basic legal analysis, and import insights from law into the cyber world. Specifically, students will learn the foundations of cyberlaw and how to integrate cybersecurity law and policy into regulatory solutions. Furthermore, course content includes Internet governance, privacy, cybersecurity code of conduct, cybersecurity risk management, and technical cybersecurity.

Additionally, this course introduces students to the teaching and learning methodology in law schools. This course is similar to elective courses taught in a law school. One intent of this course is to provide a sample law school experience to undergraduates at the University of California, San Diego (UCSD). Also, students will learn about the academic and professional expectations within law school and in the legal profession. While giving students exposure towards developing their particular interests in law, this course will give a firsthand experience of being a law student and chance to prepare for success in law school. As such, students will become familiar with the law school experience, and in doing so, will develop an ability to:

- read and brief case law;
- read and analyze statutory law;
- apply legal rules to a set of facts;
- become familiar with legal doctrines and legal reasoning;
- identify and formulate issues; and
- analogize, distinguish, and synthesize cases.

Student Participation
Students must participate in class, and will be asked to verbally share issue statements and case summaries with the entire class. A guiding principle for this class (and representative of law school classes) is—the best way to effectively learn how to analyze cases and understand legal principles is to actively engage with each other during class discussions. This requires that students come to class prepared, ready to be called upon, and engage in the Socratic method.

UCSD Policies
Please refer to and follow all the university rules and recommendations, such as:
- absences/attendance, incompletes;
- academic regulations and policies;
- Office of Students with Disabilities (OSD); and
- student counseling, health, and well-being.
Course Topics

JANUARY 6

Course Introduction & Administrative Matters (Jan. 6)

Information (Jan. 6)
Pre-Class Assigned Readings:

- Preface, pgs. v-vi (Jan. 6)
- Information, pgs. 1-2 (Jan. 6)
- Anticipated Learning Outcomes + Problem, pg. 3 (Jan. 6)

A. Why is Information Important?, pgs. 3-9 (Jan. 6)
B. Defining “Information”, pgs. 9-14 (Jan. 6)
C. Is Information Property?, pgs. 14-30 (Jan. 6)

- E.I. DuPont deNemours & Company, Inc. v. Christopher
- Information as Property: Do Ruckelshaus and Carpenter Signal a Changing Direction of Intellectual Property Law?
- Privacy and Freedom

JANUARY 13

What is “Information Law?” (Jan. 13)

Anticipated Learning Outcomes + Problem, pg. 31 (Jan. 13)

A. Introduction, pgs. 31-34 (Jan. 13)
B. Defining “Information Law”, pgs. 34-39 (Jan. 13)
C. Information Theory and Methods for Regulating Information, pgs. 39-66 (Jan. 13)

- The Law of the Horse: What Cyberlaw Might Teach
- The Social Life of Information
- Communication Power
- Economic Welfare and the Allocation of Resources for Invention
- Configuring the Networked Self: Law, Code, and the Play of Everyday Practice
- The Internet of Heirlooms and Disposable Things
In-Class Reading & In-Class Discussion:


In-Class Discussion About Midterm Exam: Format, Instructions, & Preparation

JANUARY 20

No Class: Martin Luther King, Jr. Holiday (Jan. 20)

JANUARY 27

Information Diffusion, Speech, and Transparency (Jan. 27)

Anticipated Learning Outcomes + Problem, pg. 67 (Jan. 27)

A. Introduction, pgs. 67-69 (Jan. 27)

B. The Purpose and Benefits of Information Access and Diffusion, pgs. 69-83 (Jan. 27)
   • Baker v. Selden
   • Funk Bros. Seed Co. v. Kalo Inoculant Co.
   • The Future of Ideas: The Fate of the Commons in a Connected World

C. The Potential Detriments of Information Access and Diffusion, pgs. 84-89 (Jan. 27)
   • Privacy in Context: Technology, Policy and the Integrity of Social Life
   • The Economics of Attention: Style and Substance in the Age of Information

D. Speech, pgs. 89-96 (Jan. 27)
   • Junger v. Daley
   • Open Government and Open Society
   • The Transparent Society
   • Wikileaks Fails “Due Diligence” Review

E. Transparency, pgs. 96-106 (Jan. 27)
   • Secrecy and Unaccountability: Trade Secrets in Our Public Infrastructures
   • Open Government and Open Society
   • The Transparent Society
   • Wikileaks Fails “Due Diligence” Review
FEBRUARY 3

In-Class Midterm Exam (Feb. 3, 6:00-7:30pm: open book + notes + slides)

Pre-Class Assigned Readings:

Information Torts (Feb. 3)

Anticipated Learning Outcomes + Problem, pg. 161 (Feb. 3)

A. Introduction, pgs. 162-163 (Feb. 3)

B. Common Law Privacy Torts, pgs. 186-191 (Feb. 3)
   • Lake v. Wal-Mart Stores, Inc.

C. Other Common Law Information Torts, pgs. 191-202 (Feb. 3)
   • Sunpower Corp. v. Solarcity Corp.

D. Statutory Law, pgs. 202-211 (Feb. 3)
   • State Analysis, Inc. v. American Financial Services Assoc.

FEBRUARY 10

Pre-Class Assigned Readings:

Information Privacy and Data Protection (Feb. 10)

Anticipated Learning Outcomes + Problem, pg. 213 (Feb. 10)

A. Introduction, pg. 213-219 (Feb. 10)

B. Defining the Right to Privacy, pgs. 219-229 (Feb. 10)
   • The Right to Privacy
   • Privacy in Context
   • The Boundaries of Privacy Harm

C. U.S. Privacy and Data Protection Laws of General Applicability, pgs. 230-247 (Feb. 10)
   • Federal Trade Commission v. Facebook, Inc.

In-Class Reading & In-Class Discussion:

- Opinion: Forget About Safe Harbor: Modernize Global Privacy Law Instead,
FEBRUARY 17

No Class: President’s Day Holiday (Feb. 17)

FEBRUARY 24

Pre-Class Assigned Readings:

**Information Security** (Feb. 24)

Anticipated Learning Outcomes + Problem, pg. 279 (Feb. 24)

A. Introduction, pg. 279-286 (Feb. 24)
   • Cybersecurity Issues and Challenges: In Brief

B. Information Security and the Common Law, pgs. 286-295 (Feb. 24)
   • AUA Private Equity Partners, LLC v. Soto

C. Government Responses to Cybersecurity Concerns, pgs. 295-300 (Feb. 24)

D. Section 5 of the Federal Trade Commission Act, pgs. 300-311 (Feb. 24)
   • FTC v. Wyndham Worldwide Corp.

E. Industry Standards and Best Practices, pgs. 334-339 (Feb. 24)

In-Class Readings & In-Class Discussion:

• Improving the Security of the Nation’s Critical Infrastructure,
  https://obamawhitehouse.archives.gov/blog/2013/02/13/improving-security-nation’s-critical-infrastructure

• A Cybersecurity Agenda for the 45th President,
  https://www.csis.org/news/cybersecurity-agenda-45th-president

• Presidential Executive Order on Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure,

In-Class Discussion About Final Exam: Format, Instructions, & Preparation
MARCH 2

Pre-Class Assigned Readings:

**Responses to Data Breaches & Information Crimes** *(March 2)*

Anticipated Learning Outcomes + Problem, pg. 341 *(March 2)*

A. Introduction, pgs. 341-343 *(March 2)*

B. Private Civil Litigation and Standing, pgs. 343-345, 359-361 *(Feb. 4)*
  • *Risk and Anxiety: A Theory of Data-Breach Harms*

Anticipated Learning Outcomes + Problem, pg. 383 *(March 2)*

C. Computer Fraud and Abuse Act, pgs. 422-436 *(March 2)*
  • *United States v. Nosal*

In-Class Readings & In-Class Discussion:

• *Up From Below: Tackling Cyber Threats*,
  https://www.policyforum.net/up-from-below-tackling-cyber-threats/

• *Opinion: The Tech Behind Bitcoin Could Reinvent Cybersecurity*,
  https://tinyurl.com/j2ce9t2

MARCH 9

Pre-Class Assigned Readings:

**Government Documents and Transparency** *(March 9)*

Anticipated Learning Outcomes + Problem, pg. 603 *(March 9)*

A. Introduction, pgs. 603-606 *(March 9)*

B. The Importance of Government Transparency, pgs. 606-609 *(March 9)*
  • *Transparency in Three Dimensions*

C. The Theoretical Underpinnings of Government Transparency, pgs. 609-613 *(March 9)*
  • *The Opacity of Transparency*

D. Social Media as a Government Information Platform, pgs. 643-646 *(March 9)*

**National Security** *(March 9)*

Anticipated Learning Outcomes + Problem, pg. 647 *(March 9)*
A. Introduction, pgs. 647-650 (March 9)
   • National Security Secrecy: How the Limits Change

In-Class Readings & In-Class Discussion:


• The Need for a Digital Geneva Convention, https://tinyurl.com/gwgd6q2


Review + Final Exam Preparation Discussion (March 9)

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MARCH 18

Take Home Final Exam, via Turnitin (March 18, 7:00-9:59 pm PST: open book + notes + slides)