

University of Florida
Privacy: US and European Perspectives
EUS 3930
Spring 2020

COURSE INFORMATION:

Instructor: Prof. Alexander Panayotov, Ph.D.

Course Location: LEI 0104

Course Time: Tuesday 10:40- 11:30AM; Thursday 10:40 AM-12:35 PM

Office Location: Turlington Hall 3343

Office Hours: Tuesday 1:00-2:30 PM, Wednesday 1:00-2:30 PM

“Thoughts without content are empty, intuitions without concepts are blind.”
Immanuel Kant

COURSE DESCRIPTION:

Privacy is a concept that is both omnipresent and elusive. Lawyers, economists, political scientists, and philosophers – among others – try to capture its essence. Despite their efforts, the concept of privacy remains in flux: we have too much to study, we know too little about it, and even what we know is too unclear. For this reason, we will seek to clarify a pragmatic approach to privacy and embed it within a broader framework for understanding law, authority, and power. This means that we will establish the boundaries of the concept and look at its applications. Because of this, the course has the following objectives: 1) to explore the conceptual basis of privacy; 2) to outline how governments, corporations, and individuals view the concept of privacy and deploy it to attain their objectives; and, 3) to learn the difference between the American and European concepts of privacy and the regulatory implications of these differences. States, corporations, and individuals are involved in the negotiation, contestation, and regulation of privacy. We will study how these actors developed strategies for controlling, monetizing, and exploiting privacy. We will refrain from studying the technological aspects of privacy and their relations to global commerce and business. Overall, this course is about the conceptual clarification of privacy and its political and legal ramifications in the context of the relationships between the United States and the European Union

In this class, you will learn different styles of analysis and argumentation. Understanding these styles might prove challenging. Because of this, be prepared to discuss them in class. The class discussion is a deliberative exercise: you are expected to contribute to it because everyone will benefit from a vigorous exchange of ideas. To facilitate this exchange, I will call people in class. Please be advised that class attendance is mandatory. In addition, please respect your colleagues' views: we will study problems open to multiple interpretations. Don't forget that collegiality and tolerance are virtues not vices.

LEARNING OBJECTIVES:

Students in this course will:

- Explore the conceptual foundations of privacy.
- Learn the methodological skills to analyze and understand privacy issues.
- Refine their writing, editing, and presentation skills.

COURSE TEXTS:

1. Raymond Wacks, *Privacy: A Very Short Introduction*, 2nd edn. (Oxford University Press, 2015) [hereinafter PVS]. Check carefully and don't buy previous edition of the book.
2. Daniel J. Solove, *Understanding Privacy* (Harvard University Press, 2008) [hereinafter UP].
3. Henry Farrell & Abraham L. Newman, "*Of Privacy and Power: The Transatlantic Struggle Over Freedom and Security*" (Princeton University Press, 2019) [hereinafter PP].
4. Materials on the Canvas web site.

EXAMINATIONS AND ACADEMIC HONESTY:

- I will not be able to change exams' parameters and presentation dates except in the following cases: a medical emergency, which must be properly documented, and a death in the immediate family.
- Absences from class must be properly documented. An absence without proper documentation will be counted as an unexcused one. Two or more unexcused absences will result in lowering of your attendance and participation grade.
- Depending on our progress, there might be changes in the schedule. You will be notified of all changes in advance.
- No extra credit assignments will be offered.
- Please note that UF students are bound by The Honor Pledge which states, "We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code. On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: "On my honor, I have neither given nor received unauthorized aid in doing this assignment." The Honor Code (<http://www.dso.ufl.edu/sccr/process/student-conduct-honor-code/>) specifies a number of behaviors that are in violation of this code and the possible sanctions. Furthermore, you are obligated to report any condition that facilitates academic misconduct to appropriate personnel. If you have any questions or concerns, please consult with the instructor in this class. Please note that this is a research-intensive course. Because of this, plagiarism and other forms of academic dishonesty will not be tolerated. Students are required to read, understand, and abide by the University of Florida Academic Honesty policy. The policy can be found here: <https://sccr.dso.ufl.edu/process/student-conduct-code/>. All violations of the said policy will be reported in accordance with the process outlined in it.

- The requirements in the syllabus are consistent with the UF grading policy. The policy can be found here: <https://catalog.ufl.edu/UGRD/academic-regulations/grades-grading-policies/>

GRADE CONCERNS:

If a student disagrees with her grade, she must outline her concerns in writing within 48 hours of receiving the grade. I will not accept grade concern statements after the expiration of the 48 hour period. The statement must contain a reasoned claim backed by textual evidence. After evaluating the merit of the claim, I will do one of the following: 1) increase the grade; 2) lower the grade; or, 3) leave the grade unchanged. The student will be notified about my decision within a reasonable time frame and the grade will be adjusted accordingly. Please note that this policy will not be applicable to the final paper and the overall final grade.

ATTENDANCE:

- Please be advised that class attendance is mandatory. I reserve the right to revise your grade one grade step down (e.g. B+ to B) for systemic unexcused absences from class (two or more absences).
- Arrive on time. I reserve the right to lower your attention and participation grade in cases of systematic tardiness. I define systematic tardiness as “three or more late arrivals to class.”
- Do not leave early. If you leave early three or more times, I reserve the right to lower your attention and participation grade.
- Requirements for class attendance and make-up exams, assignments, and other work in this course are consistent with university policies that can be found at: <https://catalog.ufl.edu/ugrad/current/regulations/info/attendance.aspx>

INCOMPLETES:

Incompletes will be granted under exceptional circumstances. A student who wants to receive an incomplete must: (1) inform the professor 10 (ten) days prior to the last day of class and (2) provide a written explanation about the reasons necessitating the incomplete. These reasons must be properly documented. In addition, the student must provide a written plan for finishing the missing work. The student must complete the work during the following semester. Failure to complete the work will result in an E.

COURSE EVALUATIONS:

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/> . Students will be notified when the evaluation period opens, and can complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluera.com/ufl/> . Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

ACCOMMODATIONS:

Students with disabilities who experience learning barriers and would like to request academic accommodations should connect with the disability Resource Center by visiting disability.ufl.edu/students/get-started. It is important for students to share their accommodation letter with their instructor and discuss their access needs, as early as possible in the semester.

Faculty can expect to receive a student's accommodation letter within the first 3 weeks of classes; however, if a student registers with the DRC later in the semester faculty are still obligated to facilitate accommodations. Neither faculty nor administrators may independently deny a request for accommodation that is approved by the Disability Resource Center.

Students are also advised to explore the opportunities offered by the UF Disability Resource Center. The Center is located at 001 Reid Hall, web page: <https://disability.ufl.edu/#> .

RESPONSIBILITIES:

- Ensure that you have a reliable access to Canvas because it will be used extensively throughout the semester. Note that you will be responsible for printing or viewing the assigned material.
- Read the materials in advance and in the order indicated in the syllabus.
- Turn off your cell phones **before** coming to class.
- Restrict the use of electronic devices to class-related activities, e.g., note-taking or article reading.
- Please do not eat in class. Drinks in closed containers are permitted.
- Please note that I will call people in class. This means that it's your responsibility to be prepared at all times. I reserve the right to lower your participation grade if you are unprepared.

RECORDINGS: No recording of the class discussion is permitted.

GRADE SCALE:

A	94-100
A-	90-93
B+	87-89
B	84-86
B-	80-83
C+	77-79
C	74-76
C-	70-73
D+	67-69
D	64-66
D-	60-63
E	0-59

ASSIGNMENTS AND DEADLINES:

DUE DATE	ASSIGNMENT	DESCRIPTION	WEIGHT
	Attendance and participation	Please note that attendance is mandatory. Participation is an essential ingredient for your success in the course. I reserve the right to revise your grade one grade step up (e.g. A- to A) to reward your class participation. I also reserve the right to revise your grade one grade step down (e.g. B+ to B) for systemic unexcused absences from class (two or more absences). I will consider revising the grade one grade step down (e.g. B+ to B) for systemic tardiness (three or more late arrivals). I will not revise grades upwards to reward regular attendance. Do not leave early. If you leave early three or more times, I reserve the right to lower your attention and participation grade.	10%
30-Jan-2020	Précis I	The précis is a one-page summary of an important privacy concept. I will post three privacy-related concepts on Canvas and you will have to select one of them. The précis will have to be 1'' margin all around, Times New Roman font, size 12, single line spacing. You may cite course materials or external sources — books, articles, judicial decisions or primary documents — related to the concept. All sources must be properly cited in a bibliography, which will not be counted toward the page requirement. Please submit the assignment by using the Canvas web site. I will deduct 20 points for assignments submitted after the deadline and before 11:59 PM on February 2 nd . I will not accept submissions after that and no points will be awarded for this assignment.	10%
18-Feb-2020 – 25-Feb-2020 11:59 pm	Midterm (take-home exam)	The midterm will consist of two questions and two short answers. The answers to the essay questions should not exceed 5 double-spaced pages each. The short answers should not exceed five sentences. The additional requirements for the essay questions and the short answers are: 1'' margin all around, Times New Roman font, size 12. Your answers should reflect the assigned readings and the class discussions. I will deduct 10 points for a proposal submitted after the deadline and prior to 11:59 PM on February 27 th . I will not accept submissions after that and no points will be awarded for this assignment.	30%

17-Mar-2020 – 24-Mar-2020 11:59 pm	Précis II	The précis is a one-page summary of an important privacy concept. I will post three privacy-related concepts on Canvas and you will have to select one of them. The précis will have to be 1” margin all around, Times New Roman font, size 12, single line spacing. You may cite course materials or external sources — books, articles, judicial decisions or primary documents — related to the concept. All sources must be properly cited in a bibliography, which will not be counted toward the page requirement. Please submit the assignment by using the Canvas web site. I will deduct 20 points for assignments submitted after the deadline and before 11:59 PM on March 26 th . I will not accept submissions after that and no points will be awarded for this assignment.	10%
30-Apr-2020 7:30-9:30 am	Final Exam (in-class)	The final exam will consist of two questions and two short answers. The short answers should not exceed five sentences. The answers to the essay questions are not limited. The exam will be open-book based on the lectures, assigned reading, and the class discussions. The final exam will cover all materials studied throughout the semester.	40%

SUBMISSIONS: All assignments should be submitted by using the class Canvas web site unless otherwise noted in the syllabus.

IMPORTANT DATES:

- January 30th: Précis I due
- February 25th: Midterm due
- March 24th: Précis II due
- April 30th: 7:30-9:30 AM: Final Exam

TOPICS AND READINGS:

INTRODUCTION

"History is a guide to navigation in perilous times. History is who we are and why we are the way we are."

David McCullough

Date	Subject	Readings
07-Jan-2020	Introduction	1. Lew McCreary, "What Was Privacy?" [Canvas]
09-Jan-2020	Introduction	1. P VSI 1-48
14-Jan-2020	Introduction	1. P VSI 49-73
16-Jan-2020	Introduction	1. P VSI 74-136

CONCEPTUALIZING PRIVACY: THE TANGLED WEB

"We feel as if we had to repair a torn spider's web with our fingers"

Ludwig Wittgenstein, "Philosophical Investigations", §106

Date	Subject	Readings
21-Jan-2020	The Concept of Privacy: The Beginning	1. Samuel D. Warren, Louis D. Brandeis, "The Right to Privacy" [Canvas]
23-Jan-2020	The Concept of Privacy I	1. UP 1-38
28-Jan-2020	Interlude: Privacy and Technology	1. Hal Varian, "Computer Meditated Transactions" [Canvas] 2. Hal R. Varian, "Beyond Big Data" [Canvas] 3. Shoshana Zuboff, "Big Other: Surveillance Capitalism and the Prospects of an Information Civilization" [Canvas]
30-Jan-2020	The Concept of privacy II	1. UP 39-77
04-Feb-2020	The Value of Privacy	1. John Lancaster "You are the Product" [Canvas] 2. Mara Hvinstendahl, "Inside China's Vast New Experiment in Social Ranking" [Canvas]
06-Feb-2020	The Value of Privacy	1. UP 78-100
11-Feb-2020	Information Collection & Surveillance	1. Meyer, "Golden State Killer Suspect Was Caught Through Genealogy Data, Revealing the Privacy Risks of At-Home DNA Tests" [Canvas] 2. Raffi Khatchadourian, "We Know How You Feel" [Canvas]
13-Feb-2020	Information Collection & Surveillance	1. UP 101-117

18-Feb-2020	REVIEW SESSION	There are no readings for this class. Please prepare your questions for the review session.
20-Feb-2020	Information Processing	1. Kashmir Hill & Aaron Krolik, “ <i>How Photos of Your Kids Are Powering Surveillance Technology</i> ” (Canvas)
25-Feb-2020	Information Processing	1. UP 117-136
27-Feb-2020	Information Dissemination	1. UP 136-161
10-Mar-2020	Invasion	1. UP 161-170
12-Mar-2020	Understanding Privacy	1. UP 171-183
17-Mar-2020	Understanding Privacy (Summary)	1. UP 183-197

REGULATING PRIVACY: THE HOLLOW HOPE?

*Every breath you take
Every move you make
Every bond you break
Every step you take
I'll be watching you*

Gordon Sumner (Sting)

Date	Subject	Readings
19-Mar-2020	Sovereignty and Privacy: Privacy Across Borders or Bordered Privacy?	1. Tim Wu, “ <i>Is Internet Exceptionalism Dead?</i> ”
24-Mar-2020	Privacy and Cyberwarfare: What Explains Cyberattacks?	1. Rebecca Slayton, “ <i>What is the Cyber –Offense Defense Balance?: Conceptions, Causes, and Assessment?</i> ” [Canvas]
26-Mar-2020	The Wheels of Commerce: Monetizing Privacy in the Digital Age	1. Frank Pasquale, “ <i>Privacy, Antitrust, and Power</i> ” [Canvas]
31-Mar-2020	Student Privacy	1. Dalia Rivto, “ <i>Privacy and Student Data</i> ” [Canvas] 2. UF Student Data Privacy Policy [Canvas] a) https://registrar.ufl.edu/ferpa.html b) https://catalog.ufl.edu/UGRD/academic-regulations/ferpaconfidentiality-student-records/
02-Apr-2020	Transatlantic Privacy	1. James Q. Whitman, “ <i>The Two Western Cultures of Privacy: Dignity vs. Liberty</i> ”, pp.1153-1171 [Canvas]

		2. James Q. Whitman, " <i>The Two Western Cultures of Privacy: Dignity vs. Liberty</i> ", pp.1171-1189 [Canvas] (skim)
07-Apr-2020	Transatlantic Privacy	<ol style="list-style-type: none"> 1. James Q. Whitman, "<i>The Two Western Cultures of Privacy: Dignity vs. Liberty</i>", pp.1189-1196 [Canvas] 2. James Q. Whitman, "<i>The Two Western Cultures of Privacy: Dignity vs. Liberty</i>", pp.1196-1211 [Canvas] (skim) 3. James Q. Whitman, "<i>The Two Western Cultures of Privacy: Dignity vs. Liberty</i>", pp.1211-1221 [Canvas]
09-Apr-2020	Transatlantic Privacy	1. PP 1-39
14-Apr-2020	Transatlantic Privacy	1. PP 40-95
16-Apr-2020	Transatlantic Privacy	<ol style="list-style-type: none"> 1. PP 96-176 2. James Tobin, "<i>The Solace of Oblivion</i>" [Canvas]
21-Apr-2020	REVIEW SESSION&SUMMARY	There are no readings for this class. Please prepare your questions for the review session.

USEFUL LINKS:

1. The Electronic Frontier Foundation: <https://www.eff.org/> (United States)
2. European Digital Rights: <https://edri.org/> (Europe)
3. The Sedona Conference: <https://thesedonaconference.org/> (The premier source on policy research and recommendations on privacy in the United States)
4. The European Digital Market: <https://ec.europa.eu/digital-single-market/> (Short and lucid explanation on how the European Union has built its digital infrastructure and incorporated privacy rights into it).
5. Privacy Rights Clearinghouse: <https://privacyrights.org/data-breaches> (This link is particularly useful if you are interested in the systematic study of data breaches)
6. The Legal Information Institute (Cornell Law School): <https://www.law.cornell.edu/> (It covers the whole breadth of United States law)