

Cyber Law and Privacy

ITP 479 (3 Units)

Spring 2017

USC
Viterbi
School of Engineering

Objective

Upon completing the course, students will:

- Understand and anticipate legal issues relating to forensic computer searches
- Distinguish between police/governmental and private searches
- Be able to analyze various legal methods available to conduct a proper search

Concepts

This course is intended as an informative course detailing basic concepts in privacy, with an emphasis on electronic related activities. This course is projected to supplement cyber security and forensics studies by presenting and explaining potential issues and pitfalls when engaging in a forensic analysis of an individual's property.

Prerequisites

None

Instructor

Ben. Forer

Contact

(310) 497-7003 (personal cell phone)
forer@usc.edu

Office Hours

Listed on Blackboard under Contacts

Lab Assistants

None

Lecture

3 Hours/Week

Required Textbooks

None, but US case law readings will be specified in the schedule

Website

All course material will be on ARES/Blackboard (<https://reserves.usc.edu/ares>).

Grading

Grading will be based on class participation, a midterm and a final. The scheduled class time will involve a combination of analyzing required readings and supplemental cases.

The following percentage breakdown will be used in determining the grade for the course.

Class Participation	10%
Midterm Exam	30%
Final Exam	60%
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Total	100%

Grading Scale

This section must include a breakdown of the final letter grade in terms of the above grading scale. It must indicate the total percentage or points required to earn each letter grade. Here's an example: The following shows the grading scale to be used to determine the letter grade.

93% and above	A
90% - 92%	A-
87% - 89%	B+
83% - 86%	B
80% - 82%	B-
77% - 79%	C+
73% - 76%	C
70% - 72%	C-
67% - 69%	D+
64% - 66%	D
63% and below	F

Policies

No make-up exams (except for documented medical or family emergencies) will be offered nor will there be any changes made to the Final Exam schedule.

Incomplete and Missing Grades

Excerpts for this section have been taken from the University Grading Handbook, located at <http://www.usc.edu/dept/ARR/grades/gradinghandbook/index.html>. Please see the link for more details on this and any other grading concerns.

A grade of Missing Grade (MG) "should only be assigned in unique or unusual situations... for those cases in which a student does not complete work for the course before the semester ends. All missing grades must be resolved by the instructor through the Correction of Grade Process. One calendar year is allowed to resolve a MG. If an MG is not resolved [within] one year the grade is changed to [Unofficial Withdrawal] UW and will be calculated into the grade point average a zero grade points.

A grade of Incomplete (IN) "is assigned when work is no completed because of documented illness or other 'emergency' **occurring after the twelfth week** of the semester (or 12th week equivalency for any course scheduled for less than 15 weeks)."

Academic Integrity

USC seeks to maintain an optimal learning environment. General principles of academic honesty include the concept of respect for the intellectual property of others, the expectation that individual work will be submitted unless otherwise allowed by an instructor, and the obligations both to protect one's own academic work from misuse by others as well as to avoid using another's work as one's own. All students are expected to understand and abide by these principles. *Scampus*, the Student Guidebook, contains the Student Conduct Code in Section 11.00, while the recommended sanctions are located in Appendix A: <http://www.usc.edu/dept/publications/SCAMPUS/gov/>. Students will be referred to the Office of Student Judicial Affairs and Community Standards for further review, should there be any suspicion of academic dishonesty. The Review process can be found at: <http://www.usc.edu/student-affairs/SJACS/>.

Students with Disabilities

Any student requesting academic accommodations based on a disability is required to register with Disability Services and Programs (DSP) each semester. A letter of verification for approved accommodations can be obtained from DSP. Please be sure the letter is delivered to your course instructor (or TA) as early in the semester as possible. DSP is located in STU 301 and is open from 8:30am to 5:00pm, Monday through Friday. Website and contact information for DSP: http://sait.usc.edu/academicsupport/centerprograms/dsp/home_index.html (213) 740-0776 (Phone), (213) 740-6948 (TDD only), (213) 740-8216 (FAX) ability@usc.edu

Emergency Preparedness/Course Continuity in a Crisis

In case of emergency, when travel to campus is difficult, if not impossible, USC executive leadership will announce a digital way for instructors to teach students in their residence halls or homes using a combination of the Blackboard LMS (Learning Management System), teleconferencing, and other technologies. Instructors should be prepared to assign students a "Plan B" project that can be completed 'at a distance.' For additional information about maintaining your classes in an emergency, please access: <http://cst.usc.edu/services/emergencyprep.html>

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Course Outline

Note: Schedule subject to change

WEEK 1 – INTRODUCTION TO CONCEPTS IN CONSTITUTIONAL PRIVACY

- Order of judicial authority
- Criminal justice
- Understanding the U.S. Constitution

Reading

U.S. Constitution, 4th, 5th, 6th, 14th Amendments
Carroll v. Carman, 135 S.Ct. 348 (2014)

WEEK 2 – REASONABLE EXPECTATION OF PRIVACY & EFFECT OF VIOLATION

- Understanding privacy
- Personal privacy vs. actual privacy
- Judicial remedy to violations
- Law enforcement ethics

Reading

How to Read a Legal Opinion, 11 The Green Bag 2d 51 (2007)
Katz v. United States, 389 U.S. 347 (1967) (*Opinion + Harlan's Concurrence*)
Weeks v. United States, 232 U.S. 383 (1914)

WEEK 3 – PRINCIPLES OF PROBABLE CAUSE

- Right to infringe privacy
- Standards to search person
- "Reasonable Suspicion"
- "Probable Cause"

Reading

Illinois v. Gates, 462 U.S. 213 (1983) (*Skip Part 1 of opinion*)
Terry v. Ohio, 392 U.S. 1 (1968)
Read: Santa Ana Pot Shop Raid Documents

WEEK 4 – PLAIN VIEW

- Voluntary public exposure
- Forfeiture of privacy

Reading

People v. Benedict, 2 Cal.App.4th 400 (1969)
People v. Camacho, 23 Cal.4th 824 (2000) (*Skip concurrence and dissent*)
Illinois v. Andreas, 463 U.S. 765 (1983)

WEEK 5 – SEARCH WARRANTS

- Defining warrants
- Content of warrants
- Issuance of warrants

Reading

California Penal Code §§ 1523, 1524, 1525, 1526, 1527, 1528, 1529, 1530, 1531, 1533, 1534, 1535

People v. Herrera, 2015 CO 60. No. 14SA281 (2015)

WEEK 6 – COMPUTER SEARCHES

- Right to search a computer
- Privacy concerns regarding a computer
- Computer searches vs. warrant specificity
- Revocation of consent

Reading

U.S. v. Griswold, U.S. Dist. LEXIS 153943 (2011)

U.S. v. Seiver, 692 F.3d 774 (2012)

United States v. Megahed, 2009 US Dist. LEXIS 24441 (M.D. Fla., 2009)

United States v. Sharp, 2015 U.S. Dist. LEXIS 101342 (N.D. Ga., 2015)

WEEK 7 – CELL PHONE SEARCHES

- Cell phone search without a warrant
- Authority to search cell phone for data
- Remedy to unlawful search

Reading

U.S. v. Flores-Lopez, 670 F.3d 803 (2012)

Riley v. California, 134 S.Ct. 2473 (2014)

U.S. v. Bah, 793 F.3d 617 (6th Cir. 2015)

WEEK 8 – MIDTERM

WEEK 9 – WIRETAPS/THIRD-PARTY DOCTRINE

- When a wiretap can be obtained
- How to apply for a wiretap
- Authority to wiretap

Reading

California Penal Code §§ 629.50, 629.51, 629.56, 629.72, 629.80, 629.86, 630, 631, 632, 633, 633.5, 636, 637.7

<http://www.uscourts.gov/statistics-reports/wiretap-report-2015>

WEEK 10 – TRACKING DEVICES/PRIVACY TORTS

- Do tracking devices infringe privacy?
- External vs. Internal?

Reading

People v. Jones, 132 S.Ct. 945 (2012) (*Opinion + Sotomayor Concurrence*)
People v. Barnes, 216 Cal.App.4th 1508 (2013)

WEEK 11 – WORKPLACE PRIVACY: COMPUTER SEARCH

- Civil privacy vs. government privacy
- Private citizen's infringement of privacy
- Non-Governmental Searches
- Computer Searches

Reading

O'Connor v. Ortega, 480 U.S. 709 (1987)
K-Mart Corp. v. Trott, 677 S.W.2d 632 (1984)
NFL Personal Conduct Policy

WEEK 12 – WORKPLACE PRIVACY: DRUG TESTING/DNA TESTING

- Invasion of individual privacy
- Corporate drug testing policies
- DNA testing

Reading

Chandler v. Miller, 520 U.S. 305 (1997)
WWE Abuse Policy
Lowe v. Atlas Logistics, 102 F.Supp.3d 1360 (N.D. Ga. 2015)

WEEK 13 – WORKPLACE PRIVACY: MONITORING TELEPHONE USE

- Invasion of individual privacy
- Monitoring employee telephone use
- Work related vs. personal

Reading

Watkins v. L.M. Berry & Co., 704 F.2d 577 (1983)
Public Utilities Commission of the State of California, General Order 107-B
Huff v. Spaw, 794 F.3d 543 (6th Cir. Ky. 2015)
18 U.S.C. 2510, 2701, 2703

WEEK 14 – WORKPLACE PRIVACY: MONITORING EMAIL/INTERNET USE

- Invasion of individual privacy
- Monitoring email & internet usage

Reading

Smyth v. Pillsbury Co, 914 F. Supp. 97 (1996)
Konop v. Hawaiian Airlines, Inc., 302 F.3d 868 (2001)

WEEK 15 – BANK RECORDS

- Access to individuals bank records
- California's Privacy Act
- Methods of obtaining information

Reading

Gov't Code §§ 7473, 7474, 7475, 7476, 7480

FINAL EXAM

According to the final exam schedule on the Schedule of Classes.

NO ORDER - SAMPLE