

As of December 9, 2022  
(subject to revision)

Privacy and Information Security Law  
Law 243  
Spring 2023  
Monday 6:05–8:05 p.m.

Professors Brenda Leong: [bleong@gmu.edu](mailto:bleong@gmu.edu) & Jessica Martz: [jmartz2@gmu.edu](mailto:jmartz2@gmu.edu)

**COURSE OVERVIEW/DESCRIPTION:** The course explores the rapid development of the law governing the collection, use, protection and disclosure of personal and other information by governmental entities and private sector parties. The course also examines the legal obligations in regard to the protection of information from misuse or access by unauthorized third parties and potential liability that may arise from such misuse or access.

**REQUIRED TEXT:** Solove, Schwartz, Information Privacy Law, Wolters Kluwer (Seventh Edition). Additional reading materials will be posted on the class TWEN site.

**OFFICE HOURS:** Will be by appointment, and can be by phone, in person, or video conference as professor schedules allow. Please email either professor to schedule a time.

**GRADING:** Final exam - 80%; Class participation 20%; Extra Credit worth up to 10% - optional extra credit will be made available via TWEN.

**LEARNING OUTCOMES:** By the end of the course students should have an understanding of:

- The history of privacy and information security law in the U.S.
- The intersection of privacy and the press and social media
- The interaction of criminal law and privacy
- The sectoral approach that the U.S. has taken to privacy law
- Commercial versus public sector privacy practices, laws and regulations
- Issues regarding information security and data compromise
- An introduction to national security and international approaches to privacy

**COURSE RULES/STRUCTURE:**

- We will use the On Deck approach. We will have four groups of students. One group will be designated to be prepared to present cases and participate actively in discussion of the materials covered during that day of class.

- Discussion between the instructor and students and among students is strongly encouraged.

EMAIL COMMUNICATION: Students must use their MasonLive email account to receive important University information, including communications related to this class. We will not respond to messages sent from or send messages to a non-Mason email address. Students must also check TWEN for updates and announcement regarding the class.

ATTENDANCE: Regular and punctual attendance are required to earn academic credit.

- Attendance requirements for academic credit will follow the policies set forth in Academic Regulation 4-1.
- Should circumstances occur where you anticipate the possibility of missing a substantial number of class sessions (e.g., a serious illness), you should immediately contact the Assistant Dean, Student Academic Affairs.
- The instructors will record attendance at each class.
- A student who is not present for at least 75 percent of a session of the course is absent from that session.

CLASS RECORDINGS PROHIBITED: Pursuant to Academic Regulation 4-2.2, no portion of a class session or an examination may be preserved by means of a recording device such as an audio recording device or camera. Any exceptions to this policy must be expressly permitted in writing by me. We may record classes for possible use in appropriate circumstances.

CONTINUITY CONTINGENCY PLAN FOR STUDENTS: To the extent that a student becomes ill and cannot participate in class for a period of time, the student will notify Associate Dean Nields or Assistant Dean Malone of their illness and absence(s). They will work with the student and us to arrange for substituted work in accordance with the School's Academic Regulations.

INSTRUCTIONAL CONTINUITY CONTINGENCY PLAN: In the event we are unable to teach any class, we will reschedule the class.

EXAM CONFLICTS: In accordance with AR 4-4.1, excuses and requests for permission not to sit for an examination when scheduled must be presented, with appropriate documentation, to the Assistant Dean, Student Academic Affairs. Except in emergencies, such requests should be presented no later than two weeks before the date of the examination.

ACADEMIC INTEGRITY: It is expected that students adhere to the Law School Honor Code. The Honor Code prohibits lying, cheating, or stealing. This includes a student obligation to never represent the work of another as their own, and to never provide or accept unauthorized assistance on any school related assignment. The Honor Code is available here: <https://sls.gmu.edu/honor/>.

**CLASSROOM ACCOMMODATIONS:** Disability Services at George Mason University is committed to providing equitable access to learning opportunities for all students by upholding laws that ensure equal treatment of people with disabilities. If you are seeking accommodations for this class, please visit <http://ds.gmu.edu/> for detailed information about the Disabilities Registration Process. Faculty may not receive or respond to requests for an accommodation. All requests must be handled by the office of Disability Services. You may contact Disability Services directly via email at [ods@gmu.edu](mailto:ods@gmu.edu) or phone at (703) 993-2474. If you have any questions about how in-class or testing accommodations are implemented at the law school, please contact the Assistant Dean, Student Academic Affairs for more information.

**SCHOOL POLICIES AND RESOURCES:**

STUDENT HONOR CODE - [Click Here](#)

ACADEMIC REGULATIONS - [Click Here](#)

UNIVERSITY LIFE: University Life provides student support resources such as Counseling and Psychological Services (<https://caps.gmu.edu/>), Student Health Services (<https://shs.gmu.edu/>), and the Student Support and Advocacy Center (<https://ssac.gmu.edu/>). For more information about University Life on the Arlington Campus, please visit: <https://ularlington.gmu.edu/>

## **COURSE ASSIGNMENTS (confirm syllabus version for latest assignments):**

January 23 –

Class 1 (**Leong**) Introduction; Information Security and Privacy Law:

- Origins and Types pp. 1-40
- Pp. 374-388
- See TWEN for additional readings

January 30 –

Class 2 (**Leong**) Information Security

- Introduction to the Computer Fraud and Abuse Act (“CFAA”)
- Pp. 1011-1064
- See TWEN for additional materials

On Deck Group 1

February 6 –

Class 3. (**Leong**) Information Security

- FTC, FCC, State AG, Other Applicable Federal Laws
- AI and Security, Ethics, and Human Rights
- See TWEN site for additional materials

On Deck Group 2

February 13 –

Class 4 (**Martz**) Privacy and the Media: Information Gathering; Disclosure

- Of Truthful Information; Dissemination of False Information; EU Right to be Forgotten
- pp. 87-94, 102-111, 116-125, 156-157 n.5, 158-163, 173-179, 182 n.4, 183-195, 1227-1241
- See TWEN site for additional materials

On Deck Group 3

February 20 –

Class 5. (**Martz**) Privacy and the Media: Dissemination of False or

- Misleading Information; Privacy Protections for Anonymity and Receipt of Ideas; Privacy and Social Media
- pp. 195-198, pp. 203-204 (regarding Atlanta Journal-Constitution v. Jewell), 206-211, 213-219, 248-252
- See TWEN site for additional materials

On Deck Group 4

February 27 -

Class 6 [**Leong**] Privacy Harms; Bias, Sensitive Data and Vulnerable populations

- See TWEN for additional materials

On Deck Group 1

March 6 –

Class 7. (**Martz**) Health Privacy: Confidentiality of Medical Information;

- Constitutional Protection of Medical Information; Genetic Information
- pp. 499-507, 514-518, 521-524, 531-539, 546-563, 564-570, 599- 613
- Government Records: Public Access to Government Records;
- Government Records and Use of Personal Data; Identification Records and Requirements
- pp. 624-632, 648-659, 662n, 6, 670-674, 681-697, 715-720, 727-
- 729, 735-738, 740-751
- See TWEN site for additional materials

On Deck Group 2

March 20 –

Class 8. (**Leong**) Financial Data: Fair Credit Reporting Act; Gramm-Leach Bliley Act; Federal and State Financial Privacy Laws.

- Consumer Data:
- US System of Consumer Data Privacy Regulation pp. 755-778, 782-790, 792-802, 804-808

On Deck Group 3

March 27 –

Class 9. (**Leong**) Consumer Data: U.S. System of Consumer Data Privacy, FTC Enforcement; Regulation; Tort Law; Contract Law; Statutory Regulation

- pp. 810-818, 820-828, 832-837, 839-840, 843-845, 849-851,
- 856-859, 868-881, 896- 907, 907-920, 926-928, 935-940
- See TWEN site for additional material]

On Deck Group 4

April 3 –

Class 10. (**Martz**) Privacy and Law Enforcement: How the Fourth Amendment Works; Wiretapping, Bugging and Beyond; Reasonable Expectation of Privacy Test

- pp. 267-281, 286-291, 293 n.4, 299-307 n.7, 310-312, 315 n.8, 317-321
- See TWEN for additional material

On Deck Group 1

April 10 –

Class 11. (**Martz**) Privacy and Law Enforcement: Fourth Amendment and Emerging Technology; Information Gathering About First Amendment Activities; Federal Electronic Surveillance Law

- pp. 328-332, 336-344, 346 n.4, 346-358, 374-382, 389-404, 415-
- 420, 422-424, 429-432
- See TWEN for additional material

On Deck Group 2

April 17 –

Class 12 (**Martz**) Employment Privacy: Workplace Searches; Workplace Surveillance; Workplace Drug Testing; Telephone Monitoring; Computer Monitoring and Searches; Internet Use

- pp. XXX

On Deck Group 3 and 4

April 24 –

Class 13. (**Leong, Martz**): Review and Discussion Review of course, questions, and discussion around extra credit activities and outcomes.