

Privacy and Surveillance (PHIL 4050/5050)
Fall 2014
MW 9:30-10:45, Winingham 107

Course Objectives and Description:

The rapid rise in both the diffusion and capabilities of information technologies has been paralleled by a rise in concern for privacy, in particular as individuals and groups of people are subject to increasing governmental and corporate surveillance. At the same time, “privacy” has proven extremely difficult to conceptualize and even more difficult to deploy. This course will survey the current theoretical landscape at the intersection of privacy theory and surveillance. We will look at a number of different ways of understanding the concept of privacy, and then at the intersection of those with contemporary surveillance practices. The course readings are interdisciplinary in scope and intention, drawing from scholarship in areas such as philosophy, geography, law, sociology, and media studies. The emphasis is on current debates, and we will read relatively little from older theories of privacy in the philosophical and legal literature. Topics to be covered include current theorizations of privacy, the feminist critique of privacy, panopticism (including scopophilia and exhibitionism), the Deleuzian “control society,” state adoption of surveillance technologies, and big data.

As much as possible, I want to conduct this course as a seminar, where much of the discussion is student-driven.

The course meets the Ethics Elective requirement for the philosophy major.

Readings (all are on Moodle; most can also easily be found online):

- Allen, A. L. (2013). An Ethical Duty to Protect One's Own Information Privacy? *Alabama Law Review*, 64(4), 100-119 (preprint)
- Allen, A. L. (2011). Modesty *Unpopular privacy : what must we hide?* (pp. 47-77). Oxford; New York, N.Y.: Oxford University Press.
- Allen, A. L. (2013). Privacy Law: Positive Theory and Normative Practice. *Harvard Law Review Forum*, 126, 241-251
- Arvidsson, A. (2004). On the 'Pre-History of the Panoptic Sort:' Mobility in Market Research. *Surveillance and Society*, 1(4), 456-474.
- Bailey, J. (2009). Life in the Fishbowl: Feminist Interrogations of Webcamming. In I. Kerr, C. Lucock & V. Steeves (Eds.), *Lessons from the Identity Trail: Anonymity, Privacy and Identity in a Networked Society* (pp. 283-301). Oxford: Oxford University Press
- Balkin, J. (2008). The Constitution in the National Surveillance State. *Minnesota Law Review*, 93(1), 1-25.
- boyd, d., & Crawford, K. (2012). Critical Questions for Big Data. *Information, Communication & Society*, 15(5), 662-679.

- Cohen, J. E. (2012). Privacy, Autonomy, and Information *Configuring the Networked Self: Law, Code, and the Play of Everyday Practice* (pp. 107-126). New Haven [Conn.]: Yale University Press.
- Cohen, J. E. (2012). Reimagining Privacy *Configuring the Networked Self: Law, Code, and the Play of Everyday Practice* (pp. 127-152). New Haven [Conn.]: Yale University Press
- Deleuze, G. (1992). Postscript on the Societies of Control. *October*, 59(Winter), 3-7.
- Foucault, M. (1977). *Panopticism Discipline and Punish: The Birth of the Prison* (pp. 195-228). New York: Pantheon Books.
- Foucault, M. (1991). Governmentality. In G. Burchell, C. Gordon & P. Miller (Eds.), *The Foucault Effect: Studies in Governmentality: with two Lectures by and an Interview with Michel Foucault* (pp. 87-104). Chicago: University of Chicago Press.
- Fried, C. (1968). Privacy. *Yale Law Journal*, 77(3), 475-493.
- Haggerty, K. D., & Ericson, R. V. (2000). The surveillant assemblage. *The British Journal of Sociology*, 51(4), 605-622.
- Horning, R. (2013). Games of Truth. Retrieved from <http://thenewinquiry.com/blogs/marginal-utility/games-of-truth/>
- Kerr, O. S. (2009). The National Surveillance State: A Response to Balkin. *Minnesota Law Review*, 93, 2179-2184.
- Lyon, D. (2014). Surveillance, Snowden, and Big Data: Capacities, consequences, critique. *Big Data & Society*, 1(2). doi: 10.1177/2053951714541861
- MacKinnon, C. A. (1989). *Abortion: On Public and Private Toward a Feminist Theory of the State* (pp. 184-194). Cambridge, Mass.: Harvard University Press.
- Magnet, S., & Rodgers, T. (2011). Stripping for the State. *Feminist Media Studies*, 12(1), 101-118. doi: 10.1080/14680777.2011.558352
- Mathiesen, T. (1997). The Viewer Society: Michel Foucault's 'Panopticon' Revisited. *Theoretical Criminology*, 1(2), 215-234
- Nissenbaum, H. (2004). Privacy as Contextual Integrity. *Washington Law Review*, 79, 101-139
- Nussbaum, M. C. (2000). Is Privacy Bad for Women? *Boston Review*, 42-46
- Posner, R. A. (1978). The Right of Privacy. *Georgia Law Review*, 12, 393-422.
- Reiman, J. H. (1995). Driving to the Panopticon: A Philosophical Exploration of the Risks to Privacy Posed by the Highway Technology of the Future. *Santa Clara High Technology Law Journal*, 11(1), 27-44.
- Roberts, D. E. (2012). Prison, Foster Care, and the Systemic Punishment of Black Mothers. *UCLA Law Review*, 59, 1474-1500
- Solove, D. J. (2013). Privacy Self-Management and the Consent Dilemma. *Harvard Law Review*, 126, 1880-1903
- Strahilevitz, L. J. (2013). Toward a Positive Theory of Privacy Law. *Harvard Law Review*, 126, 2010-2042
- Tufekci, Z. (2014). Engineering the public: Big data, surveillance and computational politics. *First Monday*, 19(7).
- Weibel, P. (2002). Pleasure and the Panoptic Principle. In T. Y. Levin, U. Frohne & P. Weibel (Eds.), *CTRL [SPACE]: Rhetorics of Surveillance from Bentham to Big Brother* (pp. 206-223). Cambridge, MA: MIT Press.

Grading/Requirements: The requirements are slightly different for graduate and undergraduate students. I list them here, and then follow with short descriptions.

Graduate:

Short Assignments: 30% (total)
Short Paper: 15%
Prospectus: 15%
Seminar paper: 40%

Undergraduate:

Short Assignments: 30% (total)
Short Paper: 15%
Long Paper: 30%
Final: 25%

Short Assignments [both undergrad and grad]: Eight times over the semester (*i.e.*, more or less every other week), you should prepare a précis of one of the readings for that class (where you turn it in at the beginning of the class discussing the reading in question – once we’ve talked about a text, you can’t then go back and précis it). **Four of these need to be done by mid-term grade deficiency day.** The précis should clearly state (a) the basic argument of the text, and (b) the primary supporting arguments/evidence used to defend that argument. This is not a book report, and you should not summarize “he says this, then he goes on to say that…” Your goal should be to extract the important parts of the argument and present them synthetically – in the manner of an extended abstract. Minor points do not go in this précis; the major ones do. You should conclude with (c) an assessment of the greatest strength of the argument – what is most compelling about it, and why; and (d) a criticism of the argument – something you think is wrong with the paper, and why. The entire assignment shouldn’t be much more than 2-3 pages, double-spaced. Try to be both concise and precise. I expect you to find this difficult; it is. But it’s an important skill.

Short Paper [both undergrad and grad]: This is a 4-6 page paper on an assigned topic (TBA). You will be graded on the quality of your argument and your development of it. You should have a clear thesis statement: “In this paper I will argue that…” If you can’t finish that sentence with a straight face, you don’t have a thesis.

Prospectus [grad only]: This is a brief statement of where you’re going with your seminar paper. It should include (a) a thesis. Even if you can’t have a thesis ready, you should have a topic, along with a justification/explanation of why that topic is worth looking at and a direction you want to take it; (b) a literature survey – you need to have at least 4 secondary sources listed, with an indication of why each of them is included; (c) if possible, a very rough outline of how you plan to structure the paper. This assignment is for your own benefit, so the more you can put into it, the more it will help you – even if you end up changing a lot of what you are doing between writing the prospectus and the final paper.

Seminar paper [grad only] (12-15 pages): This is a 12-15 page (usual format: double-spaced, 12 point, reasonable margins) paper due on the last day of class. You will develop a topic of your own choosing related to the course readings. The paper must be about (in some significant way) ethical theory (an applied ethics paper will not earn a passing grade). More information closer to due-date. *You must submit a passing seminar paper in order to pass the class.*

Long Paper [undergrad only]: This is a 6-8 page paper due on the last day of class. Topics will be assigned (there will be several to pick from); you will need to specifically reference/cite and discuss at least *two* of the readings from the semester. By “specifically reference/cite,” I mean quote and discuss in a way that indicates you have assimilated the material. For the sake of your grade, you should have a clear thesis and an “In this paper I will argue that x” sentence, somewhere in the first paragraph. I’ll have more details for you closer to the due date.

Final exam [undergrad only]: This is a written exam (essay and/or short answer) designed to test your comprehension of the material. I will give you questions in advance, and you’ll write answers to one of them during the test period.

Attendance/Participation: You can’t learn very much in philosophy by just sitting there. You learn even less if you’re not there at all. Attendance is expected. I’m not going to formally measure attendance, as traditionally in my courses attendance correlates pretty well with grade. .

Contact Information/Getting Assistance: It is important that you not fall behind. I want to help you avoid doing so. To get help from me:

1. Speak to me before or after class; we can set an appointment to meet at a later time if need be.
2. Office hours: by appointment (Winningham 105, in the Ethics Center). The Center places weird demands on my time, so I’m not setting formal office hours. However, I’ll be on campus quite a bit, and will work with you on meeting times.
3. Email me at ghull@uncc.edu. This is probably the best way to get in touch outside of class.
4. Call my office x77804 and leave a voicemail (note: this is a new phone number). This is less effective than email because I’m bad about checking my messages.

Disabilities: I share UNCC’s commitment to provide reasonable accommodations for students with disabilities. Please address any special needs or special accommodations with me at the beginning of the semester or as soon as you become aware of your needs. You’ll also need to contact disability services, 704-687-4355 (230 Fretwell).

Academic Integrity: This syllabus incorporates university policy on academic integrity as found at <http://legal.uncc.edu/policies/up-407>.

Proposed Readings/Schedule (not a contract!)

| Date | Reading, etc. | Topic Area |
|--------|---|--|
| 8/18 | (First Class) | |
| 8/20 | Fried, "Privacy" | Privacy Theory: <ul style="list-style-type: none"> • Control of information |
| 8/25 | Posner, "Right of Privacy" | <ul style="list-style-type: none"> • Economic efficiency |
| 8/27 | Solove, "Privacy Self-Management" | <ul style="list-style-type: none"> • Critique of control/econ |
| 9/1 | No Class: Labor Day | |
| 9/3 | MacKinnon, "Abortion" Nussbaum, "Is Privacy Bad" | <ul style="list-style-type: none"> • Feminist critique |
| 9/8 | Nissenbaum, "Privacy as Contextual Integrity" | <ul style="list-style-type: none"> • Contextual |
| 9/10 | Strahilevitz, "Positive Theory" | <ul style="list-style-type: none"> • Distributional |
| 9/15 | Allen, "Privacy Law" Allen, "Ethical Duty" | <ul style="list-style-type: none"> • Coercive |
| 9/17 | Cohen, "Privacy, Autonomy" | <ul style="list-style-type: none"> • Post-structural |
| 9/22 | Cohen, "Reimagining Privacy" | |
| 9/24 | Foucault, "Panopticism" | Panopticism: Foucault |
| 9/29 | Foucault, "Governmentality" | |
| 10/1 | Reiman, "Driving to the Panopticon" | Analytic use of panopticism/privacy impacts |
| 10/6 | Catch-up day Short Papers Due (undergrad) | |
| 10/8 | No Class: Fall Break | |
| 10/13 | Magnet & Rodgers, "Stripping for the State" | Examples of panopticism |
| 10/15 | Bailey, "Life in the Fishbowl" | |
| 10/20 | Allen, "Modesty" | Scopophilia, eroticism |
| 10/22 | Weibel, "Pleasure and the Panoptic" | |
| 10/27 | Horning, "Games of Truth" | Panopticism as subjectification |
| 10/29 | Mathiesen, "Viewer Society" Prospectus Due (grad) | Limits of panopticism |
| 11/3 | Deleuze, "Control Societies" | Deleuze |
| 11/5 | Haggerty and Ericson, "Surveillant Assemblage" | |
| 11/10 | Arvidsson, "On the Pre-History" | Surveillance and capitalism |
| 11/12 | Balkin, "Constitution" | The State |
| 11/17 | Kerr, "Response to Balkin" | |
| 11/19 | Lyon, "Surveillance, Snowden" | Big Data |
| 11/24 | boyd and Crawford, "Critical Questions" | |
| 11/26 | Thanksgiving | |
| 12/1 | Tufekci, "Engineering the Public" | |
| 12/3 | Last class | |
| 12/10, | Final Exam | |

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| 8:00- 10:30 | | |
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