

INFO 4250 / LAW 6882

SURVEILLANCE AND PRIVACY

Spring 2018
Mon / Wed 2:55-4:10
Thurston Hall 203

~~ syllabus v.3, 4/13/18 ~~

Prof. Karen Levy
Gates Hall 207
karen.levy@cornell.edu
Office hours: Fridays 9:00 – 11:00

TAs:

Hebani Duggal	hd288@cornell.edu	office hrs: Mon/Wed 4:30-5:30
Jessie Taft	jgt43@cornell.edu	office hrs: Tue/Fri 3:00-4:00(Mann 491)

Prerequisites: INFO 1200, graduate standing, or instructor permission

Course websites: current syllabus at <http://www.karen-levy.net/teaching/>
readings available on Blackboard
class discussion available on Piazza

OVERVIEW and GOALS

This course explores social, legal, and ethical facets of surveillance and privacy.

New information technologies collect and analyze data across all sorts of life contexts, and at multiple scales. Data collection is a primary mechanism through which states govern their citizens, corporations make money from their customers, and individuals manage their everyday relationships. Privacy concerns are fundamental to the design and deployment of sociotechnical systems, and all forms of data collection entail choices (often very difficult choices) about how information is gathered, stored, combined, and used.

In this class, we explore the history and theory of surveillance from multiple perspectives, and investigate how privacy is conceptualized and deployed in response to surveillant systems. We'll discuss how surveillance and privacy are situated in law and culture; the emergence of surveillance in law enforcement, workplaces, institutions, and families; and the relationships among surveillance, power, and marginalization of vulnerable groups. We consider avenues through which surveillance is resisted, including technological and policy-based design strategies to mitigate the effects of data collection.

By the end of this course, you should be able to:

- Articulate precise analyses, critiques, and proposals related to contemporary privacy and surveillance debates.
- Analyze the interactions among legal, technical, social, cultural, and economic aspects of surveillance and privacy.
- Evaluate the relationship between surveillance and social inequality.

COURSE MATERIALS

Course readings can be read online or downloaded on Blackboard. The readings for this course are interdisciplinary—we'll be reading legal cases, law review articles, social scientific analyses, popular media accounts, and primary source materials. You might find some of these forms of reading challenging; part of the goal of the course is to familiarize you with different types of work in this area.

Sometimes, we'll discuss the readings in detail in class. Other times, we'll use the readings as background for in-class discussion. You should feel free to ask me, the course TA, or your colleagues if you have questions about the readings (or bring them up in class).

GRADING and ASSIGNMENTS

The breakdown for grading in this course is as follows:

Class attendance and engagement	10%
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Assignment #1 (surveillance frameworks)	15%
Assignment #2 (policy analysis)	20%
Assignment #3 (privacy threat assessment)	25%
Take-home final exam	30%

(NOTE to law students: this class will be graded off the curve.)

Class attendance and engagement

You are required to attend class prepared. This means that you will have thoughtfully completed the day's readings, and will be ready to participate in class conversation. You will receive these points if you show evidence of such engagement by speaking in class and posting on Piazza. Throughout the semester, we will complete several very short activities in class and on Piazza; these mini-assignments will contribute to your engagement grade. (I will not accept late or make-up submissions for these activities.)

A NOTE ON DISSENT:

We'll be discussing many issues that are controversial and politically sensitive. If you're thinking carefully about the topics in this class, you're likely to disagree at some point with me, with the readings, and/or with your colleagues. These points of tension and disagreement can be the most intellectually productive component of the course! I strongly encourage you to voice your opinions in ways that are (1) respectful of others' opinions and (2) well-considered/supported by evidence or experience. We'll devote some class time to discussing how to formulate arguments thoughtfully.

A NOTE ON TECHNOLOGY:

You are permitted to use a laptop, tablet, or other digital device during class time *if* it is in the service of the course (taking notes, referencing readings, etc.). However, *please refrain from using these devices for any other purpose during class time.*

Assignments

You will be required to write three short papers during the course of the semester. The prompts for these papers will be announced as the course progresses, but each will involve applying course concepts and readings to new contexts or questions. The papers will increase in length and complexity as the course progresses. None should involve significant external research. Deadlines are indicated in the weekly schedule below.

Extension policy

Assignments will be submitted via Blackboard and are due *by 11:59 pm* on the due date. *Papers submitted late will be subject to a 10% grade penalty for each day after the due date that they are submitted, beginning immediately after the assignment is due.*

I understand that things come up in life that can throw off the best-laid plans. Therefore, you may apply 2 “late days” to any assignment: that is, you may submit one assignment two days late, or each of two assignments one day late, without penalty. This policy applies only to assignments #1-3, not to participation activities or to the final exam. You don’t need to let us know if you plan to take a late day on an assignment. Extensions beyond these late days will only be granted in exceptional circumstances.

Take-home final exam

The final exam for this course will be take-home, and will require you to apply course concepts and to precisely analyze surveillance and privacy issues from multiple perspectives. More information will be provided closer to the exam.

ACADEMIC INTEGRITY

You are expected to observe Cornell’s Code of Academic Integrity in all aspects of this course. The code states that:

Absolute integrity is expected of every Cornell student in all academic undertakings. ... Academic integrity is expected not only in formal coursework situations, but in all University relationships and interactions connected to the educational process, including the use of University resources. ... A Cornell student's submission of work for academic credit indicates that the work is the student's own. All outside assistance should be acknowledged, and the student's academic position truthfully reported at all times. In addition, Cornell students have a right to expect academic integrity from each of their peers.

Among other duties, academic integrity requires that you *properly cite any idea or work product that is not your own*, including the work of your classmates or of any written source. If in any doubt at all, cite! If you have any questions about this policy, please ask me or the course TAs.

SCHEDULE (subject to change)

W 1/24 WELCOME

[no readings]

M 1/29 THE EYE

Bentham, Jeremy. *Panopticon: Or, the Inspection-House*. Dublin: Thomas Byrne, 1791.
Letters I, II, V, VI.

Foucault, Michel. *Discipline and Punish: The Birth of the Prison*. New York: Vintage, 1975.
pp. 195-228.

Chiel, Ethan. "[New York City Has Been Shining Surveillance Lights on its Black Population for the Last 300 Years](#)," *Fusion* (May 19, 2016).

W 1/31 NO CLASS!

M 2/5 CONTROL

Deleuze, Gilles. "Postscript on the Societies of Control." *October* 59 (1992): 3-7.

Gandy Jr., Oscar H. "Coming to Terms with the Panoptic Sort." In *Computers, Surveillance, and Privacy* (1996), edited by David Lyon and Elia Zureik, pp. 132-155.

Cheney-Lippold, John. Selections from *We Are Data: Algorithms and The Making of Our Digital Selves* (2017).

W 2/7 THE RIGHT TO PRIVACY

Warren, Samuel D., and Louis D. Brandeis. "The Right to Privacy." *Harvard Law Review* 4, no. 5 (1890): 193-220.

Solove, Daniel J. Nothing to Hide: The False Tradeoff Between Privacy and Security (2011). Chapters 2, 3, and 5.

M 2/12 CONTEXT

Nissenbaum, Helen. [“Privacy as Contextual Integrity.”](#) *Washington Law Review* 79 (2004): 119-158, *focus on pp. 136-147* (description of contextual integrity).

Hartzog, Woodrow. [“There is No Such Thing as ‘Public’ Data.”](#) *Slate* (May 19, 2016).

Readings on the third-party doctrine and *Carpenter vs. United States*: readings TBA based on whether SCOTUS has issued its opinion yet.

W 2/14 COLLECTION AND USE

Nissenbaum, Helen. [“Deregulating Collection: Must Privacy Give Way to Use Regulation?”](#) Working paper. 2017.

Seltzer, William, and Margo Anderson. “The Dark Side of Numbers: The Role of Population Data Systems in Human Rights Abuses.” *Social Research* 68.2 (2001): 481-513.

Bedoya, Alvaro. [“Big Data and the Underground Railroad.”](#) *Slate* (Nov 7, 2014).

M 2/19 BREAK!

>> assignment #1 due on 2/20 <<

W 2/21 THE STATE

Read executive summary and skim the rest: Abelson, Harold et al. [“Keys Under Doormats: Mandating Insecurity by Requiring Government Access to All Data and Communications.”](#) MIT CSAIL Technical Report (2015).

Gasser, Urs et al. [“Don’t Panic: Making Progress on the ‘Going Dark’ Debate.”](#) Report, Berkman Center for Internet & Society (Feb 1, 2016).

Bedoya, Alvaro. [“The Color of Surveillance.”](#) *Slate* (Jan 18, 2016).

Cyril, Malkia. [“Black Americans and Encryption: The Stakes are Higher than Apple v.](#)

[FBI.](#) *The Guardian* (Mar 21, 2016).

M 2/26 THE POLICE

United States v. Jones, 132 S.Ct. 945 (2012).

Bankston, Kevin S. and Ashkan Soltani. "Tiny Constables and the Cost of Surveillance: Making Cents Out of *United States v. Jones*," *Yale Law Journal Online* 123 (2014): 335-357.

Posadas, Brianna. "[How Strategic is Chicago's 'Strategic Subjects List'? Upturn Investigates.](#)" *Equal Future*, Jun 22, 2017.

W 2/28 [class cancelled]

M 3/5 THE CAMERA

Joh, Elizabeth E. "Beyond Surveillance: Data Control and Body Cameras." *Surveillance & Society* 14, no. 1 (2016): 133-137.

Do the interactive activity: Williams, Timothy, et al. "[Police Body Cameras: What Do You See?](#)" *New York Times* (Apr 1, 2016).

Ripley, Amanda. "[A Big Test of Body-Worn Cameras Defies Expectations.](#)" *New York Times*, October 20, 2017.

Feeney, Matthew. "[Body Cameras Worth Deploying Despite Limited Impact.](#)" *CATO Institute blog*, November 1, 2017.

Skim: "[Police Worn Body Cameras: A Policy Scorecard.](#)" Report, The Leadership Conference on Civil and Human Rights (Aug, 2016).

W 3/7 THE CORPORATION

Duhigg, Charles. "[How Companies Learn Your Secrets.](#)" *New York Times Magazine*, (Feb 16, 2012).

Anthes, Gary. "Data Brokers are Watching You." *Communications of the ACM* 58.1 (2015): 28-30.

Narayanan, Arvind, and Dillon Reisman. [“The Princeton Web Transparency and Accountability Project,”](#) in Transparent Data Mining for Big and Small Data, 2017.

M 3/12 THE INTERNET OF THINGS

Jones, Meg Leta. “Privacy Without Screens and the Internet of Other People’s Things.” *Idaho Law Review* 51, no. 3 (2015): 639-660.

Lomas, Natasha. [“Today in Creepy Privacy Policies, Samsung's Eavesdropping TV.”](#) *TechCrunch* (Feb 8, 2015).

Corkery, M. and J. Silver-Greenberg. [“Miss a Payment? Good Luck Moving That Car.”](#) *New York Times* (Sep 24, 2014).

Jeong, Sarah. [“How Technology Helps Creditors Control Debtors.”](#) *The Atlantic* (Apr 15, 2016).

W 3/14 THE FAMILY

Rothman, Wilson. [“Want to Spy on Your Children? Call it Monitoring ... And Get their Blessing.”](#) *Wall Street Journal*, Aug 30, 2017.

Kenner, Alison Marie. "Securing the Elderly Body: Dementia, Surveillance, and the Politics of Aging in Place." *Surveillance & Society* 5, no. 3 (2002), p. 288-302.

Freed, Diana, Jackeline Palmer, Diana Michala, Karen Levy, Thomas Ristenpart, and Nicola Dell. [“A Stalker’s Paradise’: How Intimate Partner Abusers Exploit Technology.”](#) *Proceedings of CHI 2018*.

M 3/19 MARGINALIZATION

Eubanks, Virginia. Selections from Automating Inequality: How High-Tech Tools Profile, Police, and Punish the Poor (2018).

Bridges, Khiara. Selections from The Poverty of Privacy Rights (2017).

Brayne, Sarah. “Surveillance and System Avoidance: Criminal Justice Contact and Institutional Attachment.” *American Sociological Review* 79, no. 3 (2014): 367-391.

W 3/21 VISION

Paglen, Trevor. [“Invisible Images \(Your Pictures Are Looking At You\).”](#) *The New Inquiry*. Dec. 8, 2016.

Read executive summary only: [“The Perpetual Line-Up.”](#) Georgetown Law Center on Privacy and Technology, October 18, 2016.

Watch video: Adam Harvey [link TBA]

Aguera y Arcas, Blaise, Margaret Mitchell, and Alexander Todorov. [“Physiognomy’s New Clothes.”](#) *Medium*, May 6, 2017.

>> assignment #2 due on 3/25 <<

M 3/26 DEPUTIES

Hall, Claire. “An Army of Spies? The Gestapo Spy Network 1933-45.” *Journal of Contemporary History* 44(2) 247-65 (2009).

Kofman, Ava. [“Taser Wants to Build an Army of Smartphone Informants.”](#) *The Intercept*, September 21, 2017.

Chiarello, Elizabeth. “The War on Drugs Comes to the Pharmacy Counter: Frontline Workers in the Shadow of Discrepant Institutional Logics.” *Law & Social Inquiry* 40(1): 86-122 (2015).

W 3/28 MACHINE LEARNING (guest lecture by Solon Barocas)

Read Part I only: Barocas, Solon, and Andrew Selbst. [“Big Data’s Disparate Impact.”](#) *California Law Review* 104, no. 3 (2016).

Kosinski, Michal, David Stillwell, and Thore Graepel. “Private Traits and Attributes Are Predictable From Digital Records of Human Behavior.” *Proceedings of the National Academy of Sciences* 110, no. 15 (Apr 9, 2013): pp. 5802–5805.

M 4/2 SPRING BREAK!

W 4/4 SPRING BREAK!

M 4/9 SEX I

Levy, Karen. "Intimate Surveillance." *Idaho Law Review* 51 (2015): 679-693.

Brunton, Finn. "An Affair to Remember." *Artforum* (Dec 2015).

Allen, Anita and Erin Mack. "How Privacy Got its Gender." *Northern Illinois University Law Review* 10 (1991): 441-478.

W 4/11 SEX II

In class watch Black Mirror S01 E03: "The Entire History of You"

[no additional readings]

M 4/16 MARKING

Guest lecture by Lauren Kilgour

[no additional readings]

W 4/18 WORK I

Pasquale, Frank. "[The Other Big Brother.](#)" *The Atlantic* (Sep 21, 2015).

Kaplan, Esther. "[The Spy Who Fired Me.](#)" *Harper's Weekly* (Mar 2015).

Levy, Karen. "The Contexts of Control: Information, Power, and Truck-Driving Work." *The Information Society* (2015).

M 4/23 WORK II

Bernstein, Ethan S. "The Transparency Paradox: A Role for Privacy in Organizational Learning and Operational Control." *Administrative Science Quarterly* 57, no. 2 (2012): 181-216.

Levy, Karen, and Solon Barocas. "Refractive Surveillance: Monitoring Customers to Manage Workers." *International Journal of Communication* (2018).

>> assignment #3 due on 4/25 <<

W 4/25 THEATER

Mann, Charles C. "[Smoke Screening.](#)" *Vanity Fair* (Dec 20, 2011).

Schneier, Bruce. "[In Praise of Security Theater.](#)" *Wired* (Jan 25, 2007).

Browne, Simone. "'What Did TSA Find in Solange's Fro?': Security Theatre at the Airport." In *Dark Matters: On the Surveillance of Blackness*. 2015, pp. 131-160.

["How Ashley Madison Onboards New Users."](#) *User Onboard*. 2015. ([read through slides online](#))

M 4/30 TATTLETALES

Waidzunas, Tom, and Steven Epstein. "'For men arousal is orientation': Bodily truthing, technosexual scripts, and the materialization of sexualities through the phallometric test." *Social Studies of Science* 45.2 (2015): 187-213.

Bereznak, Alyssa. "[The Harvey Weinstein Saga Proves that We are Living in the Age of the Receipt.](#)" *The Ringer*, Oct. 11, 2017.

Stephens-Davidowitz, Seth. Selections from [Everybody Lies: Big Data, New Data, and What the Internet Can Tell Us About Who We Really Are](#). (2017)

W 5/2 DECOYS AND RUMORS

Max Ernest-Jones et al. "Effects of Eye Images on Everyday Cooperative Behavior: A Field Experiment," *Evolution & Human Behavior* 32 (2011), pp. 172-78.

Alexander, Leigh. [“Why the Rumor that Facebook is Listening to Your Conversations Won’t Die.”](#) *Motherboard* (Jul 31, 2016).

Penney, Jon. “Chilling Effects: Online Surveillance and Wikipedia Use.” *Berkeley Technology Law Journal* 31(1): 117 (2016).

M 5/7 RESISTANCE I

Schivelbusch, Wolfgang. “The Policing of Street Lighting.” *Yale French Studies* 73: 61-74 (1987).

Marx, Gary T. “A Tack in the Shoe: Neutralizing and Resisting the New Surveillance.” *Journal of Social Issues* 59, no. 2 (2003): pp. 369-390.

Skim: United States Central Intelligence Agency. 1944. *Simple Sabotage Field Manual*.

W 5/9 RESISTANCE II

Vertesi, Janet. [“My Experiment Opting Out of Big Data Made Me Look Like a Criminal.”](#) *Time*, May 1, 2014.

Brunton, Finn and Helen Nissenbaum. Selections from *Obfuscation: A User’s Guide for Privacy and Protest* (2016).

>> take-home final exam due on 5/17 <<