

**Computer Crime
Fall 2013
Version 0.97**

**Paul Ohm
Syllabus**

Course Description

This course will explore the legal issues that judges, legislators, prosecutors, and defense attorneys are confronting as they respond to the recent explosion in computer-related crime. In particular, we will consider how crimes in cyberspace will challenge traditional approaches to the investigation, prosecution, and defense of crime that have evolved from our experience with crimes in physical space. Topics will include: the Fourth Amendment in cyberspace, the law of electronic surveillance, computer hacking and other computer crimes, cyberterrorism, the First Amendment in cyberspace, and civil liberties online.

Although much of this class involves computer and internet technology, no prior technical background or knowledge is required. Any technology that needs to be understood will be explained in class, and students should not hesitate to ask for other technical explanations.

Class Times and Office Hours

The class will meet every Monday from 5:45 PM – 8:50 PM in Room 203. I do not keep an office at the Law Center, but I will generally be available for office hours before class starting at 5:00 PM, somewhere in the law center building or nearby. (I will announce the location later.) I will also make myself available for meetings near my office at the FTC on other days during the week by appointment. The best way to reach me is via e-mail at paul.ohm@colorado.edu or pk06@law.georgetown.edu.

Course Expectations

Grading and Exam. Grades for the course will be based on a final exam and other class participation. Because I value class participation so much, I may increase or decrease your grade up to five points to reflect your participation.

The final exam is a *six-hour, word-limited, take-home final* containing a mix of issue spotting and policy questions. Students may consult any written materials during the exam, but students must be careful to abide by the honor code.

Participation. I expect you to be prepared to talk every class and will call on you without prior notice. If, however, you are unable to prepare for class on a particular day for whatever reason, please attend anyway. Send me an e-mail at least one hour before we begin or leave me a note on the podium at the front of the room before class starts and

I will not call on you that day. You may not use this “pass” more than three times during the semester unless you talk to me in advance about your situation. If you do not leave me a note but are unprepared or absent when I call on you, your grade will be negatively affected.

If you find yourself especially prepared for class after finishing the reading, you can put yourself on call by volunteering to “catch.” To do so, send me an e-mail at least one hour before we begin, or leave me a note on the podium (highlighting the word “catch” so I don’t mistake it for a pass) at the front of the room before class starts, and I will do my best to call on you at some point during the class. I encourage voluntary participation as well.

I will pass around a seating chart on Monday, January 28th. Please be sure you can see the text on the mind maps from your chosen seat.

Mind Maps. I do not use the chalkboard in this class. Instead, I project a computer’s display onto the screen and use mind mapping software called Free Plane (http://freeplane.sourceforge.net/wiki/index.php/Main_Page). This is open source software that you can install on your computer for free. I think mind mapping software provides many of the advantages of PowerPoint with few of its weaknesses. For each class, I will start with a skeleton mindmap which I will fill in during the class with student contributions. Following each class, I will upload the mind map to the course website.

Course Materials

Required Text. Our primary source will be a casebook: ORIN KERR, COMPUTER CRIME LAW (West 3d ed. 2012). In addition, you must have access to a source containing various statutory sections, all contained in Title 18. One source is the supplement that comes with the book, available online but not in the bookstore. (ISBN 978-0-314-28706-9). Another source is the statutes hosted by Cornell’s Legal Information Institute, or LII, at <http://www.law.cornell.edu/uscode/text/18>. Whatever source you choose, the statute must be up-to-date. In addition, I will be providing supplemental materials through the course website at paulohm.com for many classes. Some of these supplemental materials are noted in the syllabus, below; others will be added to assignments during the semester, in which case they will be made available and announced at least two classes prior. You are responsible for consulting the website before beginning the reading for every class.

Course Website. Our course website is at <http://paulohm.com/classes/cc13>. Here, you will find class mind maps, important announcements, supplemental readings (most of which are mentioned in the day-by-day syllabus, below), changes to the reading, and links to other resources. Supplemental readings will be made available at least one week prior to the assigned date. The top part of the website will list “Latest Changes to the Site” which can be scanned to see what is important and new. Students are advised to consult the website before every class, particularly when a class is missed. I do not use course management tools like TWEN or Courseware.

Assigned Topics and Reading

[Numbers in brackets indicate pages assigned.]

Part One: Substantive Computer Crime

| Class Number/Date | Topic | Assignment |
|-----------------------------------|--|---|
| 1: January 14 | Course Overview; Computer Misuse; Property Crime/Computer Misuse; Unauthorized Access Statutes | 1-51; 18 U.S.C. § 1030 [51+] |
| <i>January 21</i> | <i>No Class: MLK, Jr., Day</i> | |
| 2: January 28 | Unauthorized Access Statutes Continued; Other Section 1030 Provisions; Sentencing CFAA Crimes | 51-82; 87-89; 100-25; 353-65 (skip U.S. v. Batti but read notes following; stop before note 7 at end) [74]. 51-89; 100-25; 129-35; 353-66 (skip U.S. v. Sablan but read notes following) [86] |
| 3: February 4 | Property Crime; EEA; Identity Theft; Criminal Copyright | 136-201; Skim 18 U.S.C. §§ 1028, 1028A, 1029, 1831, 1832, 1839, 2319; 17 U.S.C. § 506(a) [66] |
| 4: February 11 | Child Pornography; Traveler Cases and Entrapment; Sentencing CP; Supervised Release and Probation Restrictions | 267-95; 314-27; 343-53; 366-75; 18 U.S.C. §§ 2252, 2252A; Supplement on mandatory minimums [64+] |
| <i>February 18</i> | <i>No Class: Presidents' Day</i> | |
| 5: THURSDAY February 21 | First Amendment and Computer Crime (Threats, Obscenity and Child Pornography) | 212-31; 247-67; 295-314 [61] |

Part Two: Computer and Network Search and Seizure

| Class Number/Date | Topic | Assignment |
|-------------------|---|--|
| 6: February 25 | Introduction to the Fourth Amendment; Government Action; Search and Seizure; Standalone Computers; Exceptions | 376-409; 415-452 [72] (skip Trowbridge but read notes following). 376-452 [77] |

| <i>March 4</i> | <i>Spring Break</i> | |
|-----------------------|---|--|
| 7: March 11 | More Exceptions; Warrants, Forensics, Ex ante restrictions | 452-95; 504-28 and supplement [69+] 452-528 and supplement (Ohm/Kerr debate) [77+] |
| 8: March 18 | Encryption; Fourth Amendment and Computer Networks | 528-573 [46] |
| 9: March 25 | Wiretap; Pen Register Act; Stored Communications Act (Part 1) | 574-613; 618-648; 18 U.S.C. §§ 2510, 2511, 2517, 3121-27 [62+] |
| 10: April 1 | Stored Communications Act (Part 2) | 648-673; 18 U.S.C. §§ 2701-03, 2705, 2707-08, 2711; Supplement on Location and DDP [26+] |

Part Three: Cross-Jurisdictional Computer Crime

| Class Number/Date | Topic | Assignment |
|--------------------------|---|-------------------|
| 11: April 8 | Limits and sources of federal and state power | 674-724 [51] |
| 12: April 15 | International and Foreign computer crime | 724-87 [64] |
| 13: April 22 | National Security Law and the Foreign Intelligence Surveillance Act | 788-827 [40] |