LNDN LGLS 3369
Cybersecurity and Privacy Regulation

CAPA LONDON PROGRAM

Summer 2020

Faculty name	:	First Name and Surname
E-mail	:	Email address
Class times	:	Day and time
Classroom location	:	Name / number of classroom
Office Hours	**:**	Day and Time or by appointment

Course Description

Cybercrime is a global threat to national security, essential services, businesses and private individuals, costing billions of dollars in damage around the world. Recent years have seen significant growth in the scale and complexity of cyber criminality as cybercriminals are becoming more sophisticated in exploiting security vulnerabilities online, such as the massive breach of personal data stored online and recent coordinated ransomware campaigns against organisations around the world. Cybercrime is also transnational, with criminals and technical infrastructure operating across and between national jurisdictions, requiring international collaboration to combat multiple threats. This course examines current frameworks of US cyberlaw, procedures, key legal cases and their implications for future practice and policy, and compares and contrasts US, UK and EU law at the interface of criminal law, technology and information sciences.

Course Aims

Computer crime law is a fast-moving area of criminal practice. This course takes a case-based approach and aims to provide an accessible introduction to this emerging field, explaining current cyberlaw and considering the new questions of law which courts are now having to consider. Topics to be covered will include computer fraud and hacking laws; computer warrants, search and seizure legislation; the international application of the Fourth Amendment; encryption, internet surveillance laws and the implications of the US Cybersecurity Act of 2015 as a mechanism for cybersecurity information sharing among private-sector and government agencies.

Requirements and Prerequisites

No advanced knowledge of computers or the Internet is required or assumed. Neither a technical background nor prior cyberlaw experience is required or expected. This course will be of interest to all students interested in law, cyberlaw and law and technology.

Learning Outcomes

At the end of the course, students will be able to:
    a. Demonstrate a sound understanding of the basic principles of current US cyberlaw
    b. Appreciate the transnational nature of cyber criminality and security collaboration
    c. Compare and contrast the main principles of US, UK and EU cyberlaw
    d. Understand the principal tools and frameworks available to law enforcement agencies for combating cybercrime
    e. Demonstrate a sound understanding of the key cases in each area of cyberlaw and their significance in shaping current and future practice
    f. Appreciate the role and significance of London-based and UK-based institutions as both potential targets for cyber criminality and agencies of cyberlaw enforcement

Developmental Outcomes

Students should demonstrate: responsibility & accountability, independence & interdependence, goal orientation, self-confidence, resilience, appreciation of differences. Students will demonstrate enhanced skills of collaboration and research, and will be able to present and debate their findings effectively in both oral and written work.

Class Methodology

This class is an intensive seminar class, and as such will proceed largely through discussion, with some lecturing to cover background and contextual material. Therefore, close reading of academic sources, such as the required textbook and academic articles, will be essential. Students will be expected to have read the required readings before the class session to which it is assigned and be ready to discuss and respond to them and will also be expected to collaborate in group projects.

Field Components

CAPA provides the unique opportunity to learn about the city through direct, guided experience. Participation in field activities for this course is required. You will actively explore the Global City in which you are currently living. Furthermore, you will have the chance to collect useful information that will be an invaluable resource for the essays/papers/projects assigned in this course.

The assigned field component(s) are:

Possible field studies for this course are listed in the course schedule below (TBC).
Bletchley Park: bletchleypark.org.uk
National Cyber Security Centre, Victoria, London: ncsc.gov.uk

Students are also strongly encouraged to participate in **co-curricular** program activities, among which the following are suggested: (My Global City events and activities, or other optional activities (such as LSE Public lectures etc.) vary termly. Relevant activities and events will be highlighted by the instructor).

Assessment/Grading Policy

Descriptor	Alpha	UK	US	GPA
Excellent	A	75+	93+	4.0
	A-	70-74	90-92	3.7
Good	B+	66-69	87-89	3.3
	B	63-65	83-86	3.0
	B-	60-62	80-82	2.7
Average	C+	56-59	77-79	2.3
	C	53-55	73-76	2.0
Below Average / Poor	C-	50-52	70-72	1.7
	D+	46-49	67-69	1.3
	D	40-45	60-66	0.7
				1.0
Fail	F	<40	<60	0

Grade Breakdown and Assessment of Learning Outcomes

Assessment Task	Grade %	Learning Outcomes	Due Date
Class participation/Discussion Leadership	25%	all	Weekly
Reading Analysis x 2 @ 15% each (1000 words x 2)	30%	all	Weekly, as assigned
Group Project Presentation (15%) Research Paper (30%): 2000 words	45%	all	Week 6

Assignments

Students will be assessed on a combination of class participation, periodic writing assignments, and a group project:

Class Participation / Discussion Leadership (25%): class attendance is mandatory, and active participation will factor substantially into each student's grade. Emphasis will be place on the quality of students' engagement with course materials and set reading, as well as their proficiency in oral argumentation. On the first day of class, students will each be assigned a specific class period (beginning with Class 3) for which they will be responsible to lead the group discussion. Additionally, as the subject matter of this course is actively evolving, students will be expected to read a "news source of record" selected from the US and UK press (e.g., *The Washington Post, The Guardian, The Times, or New York Times*) and/or read relevant online news sources such as BBC News or CNN to keep abreast of current events to facilitate class discussion.

Reading Analysis (30%) 2 @ 15%, 1000 words each: students will each prepare two reading analysis papers over the course of the term, each of which will discuss and respond to one or more of the readings for a class session. Students should select reading(s) with an academic focus (i.e., law review Articles or academic blog posts) as opposed to background materials. Further guidance and recommended sources will be provided in class. Each paper should be approximately 1000 words in length.

Group Project (45%): *To be determined after first class meeting, depending on current events and student interests.* Further guidance will be provided in class. The group project will comprise two parts: a group presentation in the form of oral arguments (15%) and a final (individual) research paper on your chosen topic area covered in the presentation (30%). The final research paper should be an individual piece of work and comprise approximately 2000 words in length.

Course Materials

Required Readings:
Computer Crime Law, 4th ed. (Orin S. Kerr, 2018) (designated below as "CB")

Recommended Reading(s):
Lawrence Lessig, Code v2.0 (2006): http://codev2.cc/download+remix/Lessig-Codev2.pdf
Chapters 1-5, 7, 11

SUNY-Oswego On-line Library Resources
Students are advised to review assignments and readings. If you do not have access to sufficient additional resources from your home institution to complete the coursework for this class, you may request access to the on-line library resources of SUNY-Oswego: http://libraryguides.oswego.edu/c.php?g=500670. To access this resource, you must request access during the first week of the program.

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Weekly Course Schedule

This schedule is subject to change in response to student needs, interests and current events. Any changes will be kept to a minimum and students will be advised of any changes in advance.

WEEK 1

Class 1: Class Introduction
Introduction to Criminal Law and project discussion

Follow up Reading:
Wikipedia – "Internet"; Wikipedia – "Computer Insecurity"

Class 2: What is Computer / Cybercrime?
Physical property crime approaches to cyber crimes

Reading:
CB 1-38

Computer Fraud and Abuse Act, 18 U.S.C. § 1030
https://www.law.cornell.edu/uscode/text/18/1030 and https://en.wikipedia.org/wiki/Computer_Fraud_and_Abuse_Act

WEEK 2

Class 1: Introduction to "Authorized Access"
What is "authorization"?

Reading:
CB 38-68

United States v. Nosal (9th Cir. *en banc* panel decision is in CB reading above)

9th Cir. panel below: http://cdn.ca9.uscourts.gov/datastore/opinions/2011/04/28/10-10038.pdf

District Court decision on remand:
http://www.davidthaw.com/teaching/cybercrime/NosalRemand.pdf

Class 2: Norms and Computer Fraud

Reading:
CB 68-90

WEEK 3

Class 1: Introduction to the CFAA Key Components
CFAA § (a)(2): computer trespass
CFAA § (a)(4): computer fraud
CFAA § (a)(5): computer damage
CFAA § (a)(2): computer trespass

Reading:
CB 68-90

CB 90-137

Class 2: Computer Fraud and Damage
CFAA § (a)(4): computer fraud
CFAA § (a)(5): computer damage

Reading:
CB 90-137

WEEK 4

Class 1: Access and Authorization in the Modern Context I
Sentencing for (Federal) Computer Crimes

Reading:
CB 328-343, 353-375

United States v. Auerenheimer https://en.wikipedia.org/wiki/Weev#AT.26T_data_breach

Class 2: Field Study: National Museum of Computing (tbc)

Visit to Bletchley Park, site of the National Museum of Computing (TNMOC), home to the world's largest collection of working historic computers and once the top-secret home of the World War Two Codebreakers.

Reading:

The National Museum of Computing: https://www.tnmoc.org/explore/tunny-gallery

Bletchley Park: https://bletchleypark.org.uk/

WEEK 5

Class 1: Access and Authorization in the Modern Context II

Electronic Searches and Seizures; International/Jurisdictional Issues

Reading:

Riley v. California https://en.wikipedia.org/wiki/Riley_v._California

CB 376-78 (read only through the first paragraph of "The Requirement of Government Action")

CB 445 (read "search incident to arrest" paragraphs, as it's relevant to Riley)

CB 770-777 (Council of Europe Convention on Cybercrime)

Additional, Optional Readings:

Electronic Searches and Seizures:

CB 473-74 (computer search/seizure procedures)
CB 401-02 (what constitutes a "seizure")
CB 387-88 (what constitutes a "search")
CB 409-10, 430 (third-party consent), 435-46 (apparent authority)

Jurisdiction:

CB 674-76
CB 693-696
CB 710-11 (procedural limits)
CB 724 (international computer crimes; you might also find *United States v. Ivanov* interesting)
CB 752 (MLATs)

Class 2: Law Enforcement Access to Encrypted Data

Reading:

Apple v. FBI Materials:
Order Compelling Apple, Inc. to Assist Agents in Search:
https://www.documentcloud.org/documents/2714001-SB-Shooter-Order-Compelling-Apple-Asst-iPhone.html

Amicus Curiae Brief of Law Professors in Support of Apple, Inc.: https://www.apple.com/pr/pdf/32_Law_Professors.pdf

Apple v. FBI: Brief in Support of Neither Party in San Bernardino iPhone Case: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2746100

Apple's "Customer Letter": http://www.apple.com/customer-letter/

Background Materials:

CB 513 (*ex ante* restrictions on computer warrants)
CB 528-533 (encryption and 4th/5th amendment issues)
CB 533-541 (*In re Subpoena Duces Tecum*)

Optional Readings:

Government's original application for the search order: http://www.wired.com/wpcontent/uploads/2016/02/SB-shooter-MOTION-seeking-asst-iPhone.pdf

Apple's objection to the order: http://www.wsj.com/public/resources/documents/applefiling.pdf

Other briefs in support of Apple: http://www.apple.com/pr/library/2016/03/03Amicus-Briefs-in-Support-of-Apple.html

WEEK 6
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Class 1: Field Study or Guest Lecture (tbc)
Cybersecurity practices and policies in a UK context
Visit to the National Cyber Security Centre, Victoria, London, tour and/or Q & A: http://ncsc.gov.uk

Reading: to be supplied

Class 2: Synthesis and Conclusions
Trends and recent developments in cybercrime and cybersecurity
"Overflow" and "Special" Topics

Group Project Presentations (Oral Arguments)

Final Research Papers due

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Attendance, Participation & Student Responsibilities

Attendance: CAPA has a mandatory attendance policy. Attendance is taken at the beginning of every class. Unless otherwise expressed by your instructor, the first time a student has an unexcused absence for a class, his/her grade will not be impacted. The second time a student has an unexcused absence in that class, it will result in a 3 percent reduction of the final grade (for example: an A- [92] will become an B+ [89]). The student will be placed on academic probation at this time. Three unexcused absences per class will result in failure of the course. A pattern of three absences in more than one course will result in dismissal from the program.

Excused Absences: Absences are only excused for medical reasons, for a family emergency or for a religious holiday. To request an excused absence, students must contact excused.absence@capa.org ahead of time and provide evidence (e.g. a doctor's note) of the reason for his/her absence, otherwise the absence will not be excused. Even if the student knows the absence will not be excused, the student should still contact CAPA to inform CAPA they will not be in class.

In addition to contacting excused.absence@capa.org, it is the responsibility of the student to contact his/her instructor and make up any missed assignments.

Class Participation: Students are expected to participate actively and critically in class discussions, and the participation portion of the class will be graded accordingly. Students must read assignments BEFORE the class, and come in on time. Participation is a vital part of your grade: students are expected to participate orally in seminars and in online forums and discussions in a critical and evaluative manner; to interact with the faculty and fellow students with respect and tolerance; and to actively engage in discussion. Derogatory or inflammatory comments about the cultures, perspectives or attitudes of others in the class will not be tolerated.

Any student who feels s/he may need an accommodation based on the impact of a physical, psychological, medical, or learning disability should contact the instructor and/or the director of academic affairs privately to discuss your specific needs.

Academic Integrity: A high level of responsibility and academic honesty is expected. Because the value of an academic course depends upon the absolute integrity of the work done by the student, it is imperative that a student demonstrates a high standard of individual honor in his or her scholastic work and class behavior. Plagiarism, self-plagiarism and cheating can result in dismissal from the program.

Self-plagiarism, copying an assignment entirely or partially to submit to a different class in an attempt to receive credit twice for one piece of work is unacceptable and considered cheating by duplication. Students risk receiving an "0" for any assignments in which they have duplicated their own work.

All substantial writing assignments (typically anything worth 20% or more of the final course grade) will be run through the plagiarism checking software Turnitin when submitted via CANVAS. See CAPA's Academic Standards and Policies for more information and resources on plagiarism.

Sexual Misconduct, Required Reporting, and Title IX: CAPA The Global Education Network is committed to encouraging a safe and healthy environment at our seven CAPA centers. This commitment includes the understanding of, and applicable adherence to, the guidelines outlined in Title IX of the Education Amendments of 1972. Title IX necessitates that US universities provide equity in all educational programs and activities without sex discrimination.

CAPA understands the implications of Title IX compliance for our institutional partners and thus endeavors to support this compliance as a vital aspect of partnership. The safety and security of all students during a program is a matter of crucial importance to CAPA. To facilitate this, CAPA encourages students to openly disclose any and all information that is Title IX relevant so that CAPA staff can provide support and connect students with appropriate resources. Because students may not understand the implications of Title IX abroad, CAPA will work to advise students about the resources available through Title IX and explain the importance of compliance in Title IX reporting. CAPA will work to build student confidence in CAPA's status as a mandated reporter by outlining the advantage of disclosure for the student, reassuring them that any information disclosed will not be used in an inappropriate manner, and stressing that individuals will only be informed on a need-to-know basis.

Use of electronic equipment in class: All devices such as laptops, i-pods, i-pads, netbooks, notebooks and tablets, smartphones, cell phones, etc. are **NOT** allowed unless you have express permission from the faculty or you have been instructed to do so. If you require an accommodation to use any type of electronic equipment, inform the Associate Director of Academic Affairs at the beginning of Term.

Use of Electronic Translators: In Language courses students are NOT allowed to use electronic translators for writing texts in the target language: those submitting compositions and texts of whatever kind translated in such a fashion will receive a final F grade for the course.

Late Submission: Late submission of papers, projects, journal entries, pieces of homework and portfolios is only permitted with prior approval. A request must be made to the relevant Faculty member no later than two days prior to the due date. Late submission without prior approval will result in a full alpha grade penalty. In either case, work cannot be submitted after feedback has been provided to the rest of the class on the relevant assessment or one week after the due date whichever comes first, after which point a grade of F will be given for the assessment.

Behaviour during Examinations: During examinations, you must do your own work. Unless specifically instructed by the lecturer or instructor, talking during an exam is not permitted, nor may you compare papers, copy from others, or collaborate in any way. Any failure to abide by examination rules will result in failure of the exam, and may lead to failure of the course and disciplinary action.