

**Computer Crime  
Fall 2009  
Final Version 1.0b**

**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, encryption, online economic espionage, cyberterrorism, the First Amendment in cyberspace, federal/state relations in the enforcement of computer crime laws, 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 and Wednesday from 1:00 pm – 2:20 pm in Room 301. I will generally be available for office hours on Monday and Wednesday afternoons from 2:30 pm – 3:30 pm in Room 433 or at any other time by appointment. I can also be reached via e-mail at paul.ohm@colorado.edu.

**Course Expectations**

Grades for the course will be based on a final exam, attendance at and preparation for one of two conferences (details below) and class participation. I value class participation very much, and I may increase or decrease your grade up to five points to reflect your participation.

The final exam is an *eight-or-nine-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.

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 during that day. You may not use this “pass” more than three times during the semester unless you talk to me about your situation. If you do not leave me a note but are unprepared 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 using what I call a “catch.” Just like with a pass, 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 do my best to call on you at some point during the class.

In addition to the call system, voluntary participation is encouraged. Your grade will be positively affected by consistent, insightful contributions.

You will be required to attend one of two conferences scheduled for the semester. First, on Friday, November 20, 2009, the Denver University Law Review will be hosting a symposium focused on a recent law review article by Danielle Citron, *Cyber Civil Rights*, 89 B.U.L. REV. 61 (2009). Second, on Friday, December 4, 2009, our own Silicon Flatirons Center is hosting a conference on “Reforming Internet Privacy Law.”

At least a week before each event, I will make available on the course website a short reading relating to each conference. At least twenty-four hours before the start of the conference you choose to attend, you must finish reading the assigned reading and send me via email (paul.ohm@colorado.edu) two questions you might ask the panelists at the conference. I will not grade the quality of the questions, but I can reduce a student’s final grade by up to three points for failure to submit the questions on time or failure to attend one of the conferences.

I do not use the chalkboard in my class. Instead, I project a computer’s display onto the screen and use a technology known as mind mapping software. In particular, I use a product called MindManager made by a company called MindJet. This product provides many of the advantages of PowerPoint with few of PowerPoint’s weaknesses. For each class, I will start with a skeleton mindmap which I will fill in during the class with student contributions. At the end of each class, I will upload a pdf version of the mindmap to the course website.

I will pass around a seating chart on Wednesday, August 26. Please be sure you can see the text on the MindManager mind maps from your chosen seat.

## **Course Materials**

Our primary source will be a casebook: ORIN KERR, *COMPUTER CRIME LAW* (West 1st ed. 2006) ISBN 978-0314144003. A 2008 Supplement is available as a PDF-download on the course website. Despite the supplement, because this book is almost three years old—decades in internet time—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.

This is largely a statutory course, and most of the relevant statutes are available in the Appendix to the casebook, pages 667-751. Some of these statutes are out-of-date, and for those, updated statutes will be made available on the course website.

I have also made an optional book available in the bookstore, *CYBERCRIME: THE INVESTIGATION, PROSECUTION AND DEFENSE OF A COMPUTER-RELATED CRIME* (2d ed. 2006) (Ralph D. Clifford ed.). I will not assign pages from this book, but it provides a different take on many of the themes and topics raised in the Kerr book. Consider this a secondary source for exam preparation.

Our course website is at <http://paulohm.com/classes/cc09>. 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 two classes 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 TWEN.

## Assigned Topics and Reading

### Part One: Substantive Computer Crime

<b>Class Number/Date</b>	<b>Topic</b>	<b>Assignment</b>
1: Mon, Aug 24	Course Overview and Introduction to Computer Misuse	1-13; ten-page handout on course website [23]
2: Wed, Aug 26	More Computer Misuse: Property Crime Law and Unauthorized Access Statutes	13-43 [31] (18 U.S.C. § 1030)
3: Mon, Aug 31	The Meaning of “Authorization”: Code and Contract-based Approaches	43-64 [22]
4: Wed, Sept. 2	The Meaning of “Authorization”: Norms-based Approaches and Lori Drew	64-74; Supplement 2-5; U.S. v. Lori Drew Materials (on website) [15+]
<b><i>Mon, Sept. 7</i></b>	<b><i>No Class: Labor Day</i></b>	
5: Wed, Sept. 9	Computer Damage Statutes and Review of § 1030	83-107 [25] (18 U.S.C. § 1030(a)(5))
6: Mon, Sept. 14	Property Crimes, the Economic Espionage Act, and Identity Theft	108-34 [27] (18 U.S.C. §§ 1343, 2314, 1831, 1832, 1839).
7: Wed, Sept. 16	Criminal Copyright Law	134-158 [25] (18 U.S.C. § 2319; 17 U.S.C. § 506)
8: Mon, Sept. 21	Online Threats and Harassment	159-78; Excerpt from Citron [20+] (18 U.S.C. § 875, 2261A; skim 47 U.S.C. § 223)
9: Wed, Sept. 23	Vice Crimes: Internet Gambling and Obscenity	180-210 [31] (18 U.S.C. §§ 1084, 1462, 1465)
10: Mon, Sept. 28	Child Pornography Crimes: Receipt, Distribution, and Possession	211-223; Supplement 10-11; 229-233 [20] (18 U.S.C. §§ 2252, 2252A)
11: Wed, Sept. 30	Virtual Child Pornography, Traveler Cases, and Entrapment	233-63; Supplement 11-12 (note 5) [33] (18 U.S.C. §§ 2252A, 2256)
12: Mon, Oct. 5	Sentencing Computer Crimes	264-97 [34]

**Part Two: Computer and Network Search and Seizure**

<b>Class Number/Date</b>	<b>Topic</b>	<b>Assignment</b>
13: Wed, Oct. 7	Introduction to the Fourth Amendment and Defining Search	298-316 (19)
14: Mon, Oct. 12	Seizures and the Consent Exception	316-35; Supplement 13-24; Handout on website [32+]
<b><i>Wed, Oct. 14</i></b>	<b><i>No Class</i></b>	
15: Mon, Oct. 19	Search Incident to Arrest, Border Searches, and Government Workplace Searches	335-51 [17]
16: Wed, Oct. 21	Search Warrants for Computers and Digital Evidence	352-90 [39]
17: Mon, Oct. 26	The Fourth Amendment in a Networked Environment, Part 1	394-422 [29]
18: Wed, Oct. 28	The Fourth Amendment in a Networked Environment, Part 2	Supplement 24-28, 39-42, 52-59; pp. 427-31, notes 3-5 and Note 7 [22]
19: Mon, Nov. 2	Introduction to the Wiretap Act	446-463 [18] (18 U.S.C. §§ 2510, 2511, 2517)
20: Wed, Nov. 4	The Consent Exception and the Provider Exception	463-82; Handout on website [20] (18 U.S.C. § 2511(2))
21: Mon, Nov. 9	The Pen Register Statute	488-500 [13] (18 U.S.C. §§ 3121-27)
22: Wed, Nov. 11	Introduction to the Stored Communications Act	500-19; Supplement 43-44 [22] (18 U.S.C. §§ 2701, 2703, 2708, 2711)
23: Mon, Nov. 16	More on the Stored Communications Act, and Review of Chapter 6	519-31 [13] (18 U.S.C. § 2702)

**Part Three: Cross-Jurisdictional Computer Crime**

<b>Class Number/Date</b>	<b>Topic</b>	<b>Assignment</b>
24: Wed, Nov. 18	Federalism and Computer Crime Law	532-550 [19]
<b><i>Friday, November 20</i></b>	<b><i>Cyber Civil Rights Conference, University of Denver</i></b>	<b><i>Attendance Required at this or 12/5 event</i></b>
<b><i>Mon, Nov. 23 and Mon, Nov. 25</i></b>	<b><i>Fall Break</i></b>	
25: Mon, Nov. 30	International Computer Crime	576-99 [21]
26: Wed, Dec. 2	National Security Law and the Foreign Intelligence Surveillance Act	630 – 640 (top); 646 (middle) – 655 (middle); Supplement 51 [22]
<b><i>Friday, Dec. 4</i></b>	<b><i>Reforming Internet Privacy Law Conference, Silicon Flatirons, Wittemeyer Courtroom</i></b>	<b><i>Attendance Required at this or 11/20 event</i></b>