

# The Wolfe Institute

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*The Ethyle R. Wolfe Institute for the Humanities,  
in cooperation with the Department of Philosophy,  
presents*

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**A Frederic Ewen Lecture in Civil Liberties and Academic Freedom**

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## **Equal Surveillance Under Law: Public & Private Partnerships vs. Bill of Rights**



In 2003, a Georgia homeland security officer closely watched a protest by vegans at a honey-baked ham store. A few years later, Virginia officials worried that historically black colleges could be “nodes of radicalization.” Missouri briefly focused on Ron Paul supporters as potential enemies of the state. While a leviathan homeland security apparatus pursued these phantom menaces, officials who should have been regulating Wall Street were barely monitoring it. For example, a former Office of Thrift Supervision director told the Financial Crisis Inquiry Commission that as late as September 2008, he had “no clue—no idea—what [AIG’s] credit default swap liability was.” Pervasive nonfeasance left finance regulators in an informational vacuum as they attempted to respond to the worst economic crisis since 1929.

The US needs to implement far-reaching surveillance of markets in order to prevent further economic crises. Some civil libertarians may object to such pervasive monitoring as one more step toward a “Big Brother” state. However, given the massive and irremediable blows to individual privacy struck by technological advances, near-universal “consent” to privacy-invading practices, and accumulation of executive power, it is no longer realistic to promote “privacy” as a universal value. Rather, the best civil libertarians can hope for is an egalitarian surveillance, one that afflicts the rich as well as the poor, corporations as well as natural persons. First, Fourth, and Fifth Amendment jurisprudence should accommodate statutory requirements for audit trails, whistleblower protections, and data mining aimed at detecting and deterring illegal and harmful corporate practices.

**Frank Pasquale** is the Schering-Plough Professor in Health Care Regulation and Enforcement, Seton Hall Law School, and is an Affiliate Fellow at Yale Law School’s Information Society Project. He has been a visiting professor at Yale and Cardozo Law Schools, and a visiting fellow at Princeton’s Center for Information Technology Policy. Pasquale’s scholarship focuses on the power wielded by large intermediaries, including insurers, internet service providers, financial institutions, and search engines. He is writing a book on the topic titled “The Black Box Society,” under contract to Harvard University Press. Pasquale has testified before Congress (appearing with the General Counsels of Google and Microsoft), and has twice presented to committees at the National Academy of Sciences on surveillance technologies. He received a J.D. from Yale Law School, an M.Phil from Oxford University, and a B.A. summa cum laude from Harvard University.

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**Monday, April 30, 2012  
6:30 to 8:10 p.m.  
Gold Room  
Brooklyn College Student Center  
Campus Road and East 27th Street**

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