

PRIVACY & DATA PROTECTION

Fall 2025 (Course 6392/19233)
M/W, 1:00p-2:30p, room 311

Nikolas Guggenberger (nguggenberger@uh.edu)

Office hours: Wednesdays, 2.30-3.30 pm (430B) & by appointment

ADMINISTRATION & ORGANIZATION

This course will introduce the foundations of privacy and data protection law, including privacy-related constitutional guarantees, tort law, and consumer protection. The course will cover the life cycle of data, sector-specific privacy regulation, and selected aspects of EU data protection law. The focus will be on *informational privacy* in the digital age. There are no prerequisites.

Outcomes

At the end of this course, students should be able to 1) apply the main federal, key state, and selected international privacy protections; 2) understand various perspectives on privacy protections; 2) grasp policy options for informational privacy protections and their trade-offs; and 4) navigate selected sector specific privacy protections.

Course Materials

- WILLIAM MCGEVERAN, PRIVACY AND DATA PROTECTION LAW (2d ed. 2023)—(you can request scans of pages through [UHLC's Digital Document Delivery Service](#))
- Additional materials as provided via Canvas
- Further resources
 - Legal Information Institute, Cornell Law School, U.S. Code and Code of Federal Regulations, <https://www.law.cornell.edu/>
 - Professor Dan Solove, Useful Resources for Understanding Information Privacy Law, <https://www.informationprivacylaw.com/resources/>
 - International Association of Privacy Professionals, <https://iapp.org/>
 - Wikipedia—the 'Privacy' page (<https://en.wikipedia.org/wiki/Privacy>) provides an excellent overview, for example
 - Privacy & Data Protection are emerging areas of law. Law and policy often develop on the fly and as news:
 - <https://www.nytimes.com/topic/subject/privacy>
 - <https://www.theverge.com/privacy>

Course Requirements and Grading

You are expected to participate in class, write two short reflection notes (800-1000 words each), and pass the final exam. Your grade will be based on the final exam. The final exam will be open-book, without internet access (an electronic casebook is available and permitted in offline mode). The exam will be time-limited (3 hours) and word-limited (3,000 words total). Failure to submit the reflection notes on time can negatively impact your grade.

Attendance is required and expected; excessive absences may render you ineligible to receive credit for the course. If you need to miss a session, please notify me in advance. You may use AI-generated

text for all purposes in this course except the final exam. If you use AI-generated text, you must indicate and explain any use beyond grammatical and stylistic suggestions.

Reflection Notes

One or more of you will write a short reflection note for every class. Reflection notes discuss selected issues in the assigned reading and offer your perspective. The selection of issues is up to you. You will upload the reflection note to Canvas by 6 pm the day before class so that your classmates and I can read them ahead of class.

Final Exam

The first part of the final exam will feature fact patterns with one or more questions each. These questions may ask you to discuss the merits of claims, to advise a client, or to opine on policy. The second part of the exam will consist of one or more essay questions on a specific topic.

Readings

I try to keep readings manageable (if you experience them as not manageable → Feedback). Readings marked as *optional* are optional; even for a good grade, you are not expected to study these.

Class Time

I want this course to be interactive. I appreciate your thoughts, questions, and contributions. I will primarily rely on volunteers and reflection note writers, but I will call on everyone.

Office Hours & Time to Talk

I am available for office hours on Wednesdays from 2:30 to 3:30 pm. No appointment is necessary during these times; just swing by my office (430B). You can also set up a meeting with me via email nguggenberger@uh.edu (please suggest three times slots that work for you) outside of these periods. Either way, your questions are always welcome, and I am happy to help with any concerns you may have.

Feedback

Formal class evaluations often come too late to adjust the course they evaluated. Please don't wait until it is too late. Please let me know what you like and what I can improve. I value and appreciate feedback in any form and at any time. Is the reading too much or too light? Are we proceeding too fast or too slow? Are there subjects that you would like to discuss or see covered? Are you seeking additional resources on specific topics? Is everything just perfect? Whatever it is, *please* share it.

Mental Health and Wellness Resources

The University of Houston has a number of resources to support students' mental health and overall wellness, including CoogsCARE and the UH Go App. UH Counseling and Psychological Services (CAPS) offers 24/7 mental health support for all students, addressing various concerns like stress, college adjustment and sadness. CAPS provides individual and couples counseling, group therapy, workshops and connections to other support services on and off-campus. For assistance visit uh.edu/caps, call 713-743-5454, or visit a Let's Talk location in-person or virtually. Let's Talk are daily, informal confidential consultations with CAPS therapists where no appointment or paperwork is needed.

Need Support Now? - If you or someone you know is struggling or in crisis, help is available. Call CAPS crisis support 24/7 at 713-743-5454, or the National Suicide and Crisis Lifeline: call or text 988, or chat 988lifeline.org.

Title IX/Sexual Misconduct

Per the UHS Sexual Misconduct Policy, your instructor is a “responsible employee” for reporting purposes under Title IX regulations and state law and must report incidents of sexual misconduct (sexual harassment, non-consensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, intimate partner violence, or stalking) about which they become aware to the Title IX office. Please know there are places on campus where you can make a report in confidence. You can find more information about resources on the Title IX website at <https://uh.edu/equal-opportunity/title-ix-sexual-misconduct/resources/>.

Reasonable Academic Adjustments/Auxiliary Aids

The University of Houston is committed to providing an academic environment and educational programs that are accessible for its students. Any student with a disability who is experiencing barriers to learning, assessment or participation is encouraged to contact the Justin Dart, Jr. Student Accessibility Center (Dart Center) to learn more about academic accommodations and support that may be available to them. Students seeking academic accommodations will need to register with the Dart Center as soon as possible to ensure timely implementation of approved accommodations. Please contact the Dart Center by visiting the website:

<https://uh.edu/accessibility/> calling (713) 743-5400, or emailing jdcenter@Central.UH.EDU.

The Student Health Center offers a Psychiatry Clinic for enrolled UH students. Call 713-743-5149 during clinic hours, Monday through Friday 8 a.m. - 4:30 p.m. to schedule an appointment.

The A.D. Bruce Religion Center offers spiritual support and a variety of programs centered on well-being.

The Center for Student Advocacy and Community (CSAC) is where you can go if you need help but don't know where to start. CSAC is a “home away from home” and serves as a resource hub to help you get the resources needed to support academic and personal success. Through our Cougar Cupboard, all students can get up to 30 lbs of FREE groceries a week. Additionally, we provide 1:1 appointments to get you connected to on- and off-campus resources related to essential needs, safety and advocacy, and more. The Cougar Closet is a registered student organization advised by our office and offers free clothes to students so that all Coogs can feel good in their fit. We also host a series of cultural and community-based events that fosters social connection and helps the cougar community come closer together. Visit the CSAC homepage or follow us on Instagram: @uh_CSAC and @uhcupbrd. YOU belong here.

Women and Gender Resource Center

The mission of the WGRC is to advance the University of Houston and promote the success of all students, faculty, and staff through educating, empowering, and supporting the UH community. The WGRC suite is open to you. Stop by the office for a study space, to take a break, grab a snack, or check out one of the WGRC programs or resources. Stop by Student Center South room B12 (Basement floor near Starbucks and down the hall from Creation Station) from 9 am to 5 pm Monday through Friday.

Recording of Class

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the [Justin Dart, Jr. Student Accessibility Center](#). If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with *anyone* without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Syllabus Changes

This syllabus will be updated continuously to reflect recent developments and incorporate your feedback.

SYLLABUS

Foundations

- Aug 25, 2025:** **1. Why Privacy Matters & Constitutional Law: The Fourth Amendment**
- NEIL RICHARDS, WHY PRIVACY MATTERS (2022), 1-34 (on Canvas)
 - William Gallagher, [Apple Watch Sensors Are so Good, It Could Provide the First Pregnancy Indicators](#), AppleInsider (Jul. 15, 2025)
 - CB, 3-21
 - Optional: Privacy [Wikipedia](#)
- Aug 27, 2025:** **2. Constitutional Law: The Fourth Amendment**
- CB, 21-44, 83 (note 4)
- Sep 1, 2024:** **LABOR DAY**
- Sep 3, 2025:** **3. Constitutional Law: The First Amendment & more**
- CB, 44-58, 77-78 (CA Constitution), 93-94 (notes 5-6), 95-103
 - Jameel Jaffer & Ramya Krishnan, [Clearview AI's First Amendment Theory Threatens Privacy—and Free Speech, Too](#)
 - Optional
 - o Abortion, CB, 79-96
 - o Danielle K. Citron, [Sexual Privacy](#), 128 YALE L.J. 1870 (2019)
- Sep 8, 2025:** **4. Tort Law: Foundations, Intrusion on Seclusion**
- CB, 113-135
 - Optional: Intrusion and the Media: CB, 135-138
- Sep 10, 2025:** **5. Tort Law: Disclosure of Private Facts & Other Torts**
- CB, 138-167

- Sep 15, 2025:** **6. Tort Law: False Light & Limits on Liability**
- CB, 167-194
 - Quinta Jurecic, [The politics of Section 230 reform: Learning from FOSTA's mistakes](#)
- Sep 17, 2025:** **7. Consumer Protection: The Federal Trade Commission I**
- CB, 195-215; 221-238
- Sep 22, 2025:** **8. Consumer Protection: The Federal Trade Commission II**
- CB, 239-261
- Sep 24, 2025:** **9. Consumer Protection: Consumer Lawsuits**
- CB, 275-314
- Sep 29, 2025:** **10. Consumer Protection: State Consumer Privacy Statutes**
- CB, 316-338
- Oct 1, 2025:** **11. Data Protection: GDPR I**
- CB, 339-382
 - o Skim GDPR art. 21-79, CB 353-360
 - o Focus on GDPR art. 5, 6, & 9, and Problem Set, CB 381-382
- Oct 6, 2025:** **12. Data Protection: GDPR II**
- CB, 388-396
 - Case C-252/21, [Meta Platforms Inc. v. Bundeskartellamt](#), ECLI:EU:C:2023:537 (July 4, 2023), ¶¶ 26–155
 - EDPB, [Opinion 08/2024 on Valid Consent in the Context of Consent or Pay Models Implemented by Large Online Platforms](#) (April 17, 2024), ¶¶ 34–168
 - Nikolas Guggenberger, [Consent as Friction](#), 66 B.C. L. REV. 353 (2025), pp. 363-376 (optional: 377-395)
- The Life Cycle of Data**
- Oct 8, 2025:** **13. ECPA I, Wiretap Act**
- CB, 399-424
- Oct 13, 2025:** **14. ECPA II, Stored Communications Act & Biometric Data**
- CB, 424-455
 - [Attorney General Ken Paxton Secures \\$1.4 Billion Settlement with Meta](#)
 - [Meta to pay \\$1.4 billion settlement with Texas over facial recognition and photo tags](#)
 - [Attorney General Ken Paxton Secures Historic \\$1.375 Billion Settlement with Google Related to Texans' Data Privacy Rights](#)
 - [Google will pay a \\$1.375 billion settlement to Texas over privacy violations](#)

- Optional: Facial Recognition, CB, 461-474

Oct 15, 2025:

15. Consent

- 474-500
- Nikolas Guggenberger, [*Consent as Friction*](#), 66 B.C. L. REV. 353 (2025), pp. 354-363; 395-408

Oct 20, 2025:

16. Processing & Use I: FCRA

- CB, 501-521

Oct 22, 2025:

17. Processing & Use II: Purpose Limitation & Automated Decision Making

- CB, 521-544

Oct 27, 2025:

18. Disclosures & Transfers: International Data Transfers

- CB, 613-635
- Skim CB, 635-641

Oct 29, 2025:

19. Speech Protections for Disclosures

- CB, 641-668

Nov 3, 2025:

20. National Security

- CB, 671-692

Sector Specific Regulation

Nov 5, 2025:

21. Government Data Collection

- CB, 729-748

Nov 10, 2025:

22. Employment and Privacy

- CB, 779-781, 801-814, 825-827

Nov 12, 2025:

23. Medical Information

- CB, 843-844, 863-882

Nov 17, 2025:

24. Financial Records

- CB, 907-927

Nov 19, 2025:

25. Communications & Marketing

- CB, 929-932, 956-971

Nov 24, 2025:

26. Emerging Developments & Buffer

- Reading TBA

Dec 1, 2025:

27. Recap/Questions