

PRIVACY & DATA PROTECTION

Link: <https://zoom.us/j/96142402219>

Spring 2023, T/TH, 1:00p-2:30p (online)

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ADMINISTRATION & ORGANIZATION

This course will introduce the foundations of privacy and data protection law. These include privacy-related constitutional guarantees, torts, and consumer protection. As the digital economy is shaped by international rules and foreign regulations, we will also study the EU's data protection framework. The course will cover the life cycle of data and sector specific privacy regulation, pertaining to national security, government data collection, employment, medical information, financial records, communication, and education. Overall, the course will focus on informational privacy in the digital age. There are no prerequisites.

Goals

- Understand and be able to apply the main federal, key state, and selected international privacy protections.
- Gain insights into various perspectives on privacy protections, including legal, economic, sociological and political.
- Understand policy options and their trade-offs pertaining to privacy protections.
- See the differences in approaches to privacy between the US and Europe.

Course Materials

- William McGeveran, Privacy and Data Protection Law (1st ed. Foundation Press 2016)—(you can request scans of pages through [UHLC's Digital Document Delivery Service](#));
- William McGeveran, Privacy and Data Protection Law (2022 Supplement), available on Canvas;
- Additional materials as provided;
- Additional resources (if—and only if—you are interested)
 - 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 actively 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 at the end of the semester. The exam will be open book; it will be time and word limited. Failure to submit the reflection notes on time, will negatively impact your grade. Attendance is required and expected; excessive absences may render you ineligible to receive credit for the course. If you have to miss a session, please let me know in advance.

Reflection Notes

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

Final Exam

The first part of final exam will feature one or more questions based on brief fictional narratives provided in the exam. These questions may ask you to discuss the merits of a case, to advise a client, or to opine on policy. The second part of the exam will consist of one or more topical essay questions.

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

Especially because this class will meet online, I want this course to be interactive. I appreciate your thoughts, questions, and contributions. I will primarily rely on volunteers and reflection note writers to carry on our conversation. If that does not suffice, I will call on others.

Office Hours & Time to Talk

I am available for office hours for at least 30 minutes after each session, Tuesdays and Thursdays from 2:30 to 3:00 pm. No appointment is necessary during these times; I will stay online, and you can use the class link. You can also always set up a meeting with me via email nguggenberger@uh.edu (please suggest three times slots that work for you) or [Calendly](#) outside of these periods. Either way, your questions are always welcome, and I am happy to help with any concerns you might have.

Feedback

Formal class evaluations often come too late to adjust the course they evaluate. Please don't wait until it is too late. Let me know what you like and what I should 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 looking for more resources on specific topics? Is everything just perfect? Whatever it is, *please* share it.

COVID-19 Information

Students are encouraged to visit the University's [COVID-19](#) website for important information including diagnosis and symptom protocols, testing, vaccine information, and post-exposure guidance. Please check the website throughout the semester for updates.

Reasonable Academic Adjustments/Auxiliary Aids

The University of Houston complies with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, pertaining to the provision of reasonable academic adjustments/auxiliary aids for disabled students. In accordance with Section 504 and ADA guidelines, UH strives to provide reasonable academic adjustments/auxiliary aids to students who request and require them. If you believe that you have a disability requiring an academic adjustments/auxiliary aid, please contact [the Justin Dart Jr. Student Accessibility Center](#) (formerly the Justin Dart, Jr. Center for Students with DisABILITIES).

Pronouns and Chosen Names

I want to address each of you in a manner that corresponds to your identity. Although mistakes happen, chosen names and preferred pronouns will be respected in my classroom. Please feel free to reach out to me at any time if you want to make me aware of your chosen name or preferred pronoun or if you have concerns about how I or your classmates address you.

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.

Webcams

Access to a webcam is required for participating in this course. Turning on your webcams during class contributes to a more interactive climate.

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/>.

Syllabus Changes

Please note that I may need to make modifications to the course syllabus. Notice of such changes will be announced as quickly as possible through Canvas.

SYLLABUS

Foundations

- | | |
|----------------------|--|
| Jan 17, 2023: | 1. Why Privacy Matters & Constitutional Law: The Fourth Amendment <ul style="list-style-type: none">- CB, 3-21 |
| Jan 19, 2023: | 2. Constitutional Law: The Fourth Amendment <ul style="list-style-type: none">- Supp, 2-24 |
| Jan 24, 2023: | 3. Constitutional Law: The First Amendment & Substantive Due Process <ul style="list-style-type: none">- CB, 43-66- Optional<ul style="list-style-type: none">o Jameel Jaffer & Ramya Krishnan, Clearview AI's First Amendment Theory Threatens Privacy—and Free Speech, Tooo Other Constitutional Systems, CB, 66-86 |
| Jan 26, 2023: | 4. Tort Law: Foundations & Intrusion on Seclusion <ul style="list-style-type: none">- CB, 87-111 |

- Jan 31, 2023:** **5. Tort Law: Disclosure of Private Facts & Other Torts**
- CB, 111-149
- Feb 2, 2023:** **6. Tort Law: Limits on Liability**
- Supp, 25-26
 - CB, 150-153
 - Supp, 26-31
 - CB, 157-163
 - Optional
 - o Quinta Jurecic, [The politics of Section 230 reform: Learning from FOSTA's mistakes](#)
- Feb 7, 2023:** **7. Consumer Protection: The Federal Trade Commission I**
- Supp, 33-66
- Feb 9, 2023:** **8. Consumer Protection: The Federal Trade Commission II**
- Supp, 66-92
- Feb 14, 2023:** **9. Consumer Protection: Consumer Lawsuits**
- Supp, 92-122
- Feb 16, 2023:** **10. Consumer Protection: State Consumer Privacy Statutes—
Guest: Nafees Syed, Senior Counsel, Political Appointee,
Department of Education**
- Supp, 122-137
- Feb 21, 2023:** **11. Data Protection: GDPR**
- CB, 259-262
 - Supp, 138-168
 - [Meta's Ad Practices Ruled Illegal Under E.U. Law](#)
 - Optional:
 - o CB, 283-298
- Feb 23, 2023:** **12. Transatlantic Data Transfers**
- Supp, 183-198
 - [FACT SHEET: President Biden Signs Executive Order to Implement the European Union-U.S. Data Privacy Framework](#)
 - Noyb, [First reaction: Executive Order on US Surveillance unlikely to satisfy EU law](#)
 - Optional
 - o [Executive Order On Enhancing Safeguards For United States Signals Intelligence Activities](#)

The Life Cycle of Data

- Feb 28, 2023:** **13. Collection I**
- CB, 327-355
- Mar 2, 2023:** **14. Collection II**
- CB, 356-380
- Mar 7, 2023:** **15. Usage and Inferences—Guest: Alicia Solow-Niederman, Associate Professor of Law, The University of Iowa College of Law**
- Skim CB, 381-411
 - Alicia Solow-Niederman, [Information Privacy and the Inference Economy](#), 117 NW. U. L. REV. 357 (2022), pp. 359-367, 378-395
- Mar 9, 2023:** **16. Storage and Security**
- CB, 413-455
- Mar 21, 2023:** **17. Disclosures and Transfers**
- CB, 475-503
 - CB, 514-519
- Mar 23, 2023:** **18. Speech Protections for Data Usage**
- CB, 520-547

Sector Specific Regulation

- Mar 28, 2023:** **19. National Security and Surveillance**
- CB, 549-578
- Mar 30, 2023:** **20. Communications Metadata Controversy**
- CB, 578-610
- Apr 4, 2023:** **21. Government Data Collection**
- CB, 611-649
- Apr 6, 2023:** **22. Employment and Privacy**
- CB, 665-679

- CB, 689-714

Apr 11, 2023: 23. Medical Information

- CB, 731-732
- CB, 752-775
- CB, 785-788

Apr 13, 2023: 24. Financial Records

- CB, 789-818

Apr 18, 2023: 25. Communications and Marketing

- CB, 819-848
- CB, 853-859

Apr 20, 2023: 26. Educational Privacy

- CB, 883-908

Apr 25, 2023: 27. Recent Developments & Politics of Privacy

Apr 27, 2023: 28. Recap & Questions