

# Privacy Torts and Statutory Remedies

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## Privacy Disputes = Conflicts

- ▶ **Series of conflicting interests and sources of law**
- ▶ **State v. federal v. local**
- ▶ **Common law v. statutes**
  - ▶ “The common-law tradition is based on experience, not logic”
  - ▶ “There ought to be a law against that”
- ▶ **Different persons/entities**



# What's new in 21st Century Texas?



1. Technology—Proliferation
  - a) Communications
  - b) Images
  - c) Whereabouts
  - d) Preferences (“likes”)
  - e) Body information
  - f) Medical information
  - g) Financial information
2. Statutes, not common law
3. Texas procedures (Rule 91a, TCPA)

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## Some headlines

### Golden State Killer suspect Joseph DeAngelo's DNA can be collected, judge rules

Prosecutors say they used DNA and a genealogical website to identify suspect Joseph DeAngelo, decades after the case had gone cold.



### Sacha Baron Cohen sues Massachusetts cannabis dispensary over Borat billboard

“Mr. Baron Cohen never has used cannabis in his life. He never would participate in an advertising campaign for cannabis, for any amount of money,” the lawsuit says.

“Police accuse man of secretly recording girlfriend with alarm clock camera” Am. Statesman Sept. 4, 2019

“Canyon Grille worker accused of installing camera to film other employees undressing” KXAN Sept. 3, 2019



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## Some headlines

### Man photographed as baby on 'Nevermind' cover sues Nirvana, alleging child pornography

The shot makes the baby appear "like a sex worker," an attorney for Spencer Elden, the man depicted on cover as an infant, said.

### Lawsuit over shot-down drone could set U.S. law

USA TODAY NETWORK Andrew Wolfson, The (Louisville, Ky.) Courier-Journal 9:53 p.m. EST January 16, 2016

'DRONE SLAYER' CLEARED OF CHARGES, JUDGE SAYS HE HAD THE RIGHT TO SHOOT DOWN UAV

WEIRD NEWS 08/21/2021 03:21 pm ET

### Michigan Parents Owe Son \$30,441 For Tossing Out Prized Porn Collection

U.S. District Judge Paul Maloney ruled that David Werking's parents had no right to throw out the collection of films, magazines and other items.

### Drone Hits Empire State Building: NYPD

By Jonathan Dienst



# The Constitution OF THE UNITED STATES OF AMERICA



## Constitutional implications

- No explicit "privacy" right
- Constitutionally guaranteed right to privacy
- 1<sup>st</sup> Amendment
  - *Snyder v. Phelps* (2011) (Westboro Baptist protests)
- 4<sup>th</sup> Amendment
- 14<sup>th</sup> Amendment
- 9<sup>th</sup> Amendment
- Others

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