

Exam Number: _____

GEORGETOWN UNIVERSITY LAW CENTER
EXAMINATION
"THE LAW OF INFORMATION PRIVACY"
(3 HOURS)

Professor Rotenberg

April 30, 2003

INSTRUCTIONS:

1. This is an OPEN book examination.
2. You should select three of the following four questions. Each question will receive equal weight. There will be no additional credit for answering a fourth question.
3. Use only one side of the paper. Write clearly.
4. I will consider only the material that is in the exam book or in the typed submission.
5. Organize your answers carefully. Note the particular format requested in each question.

This exam consists of 3 pages including this cover page. Please be sure that your exam is complete.

PLEASE DO NOT TURN THE PAGE
UNTIL THE PROCTOR GIVES THE SIGNAL

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Question 1

You are counsel in a Maryland law firm.

You receive a call from a very distraught Barbara Davis. Ms. Davis explains to you that last week, the police entered her home early in the morning, apparently looking for a suspect in a criminal case. When her husband confronted the police, they threw him to the floor and asked for identification. As it turned out, the police were looking for a Mr. Davies and entered the wrong home by mistake. After some further discussion, the police apologized and left the home.

The police were accompanied by a reporter with the Wolf Morning News who filmed the entire episode. Last night, while watching television, Ms. Davis describes how she saw the entry into her home, including her husband face down in their living room, as part of a news special, "Wolf News Takes You Inside the War on Terror!"

Ms. Davis is interested in whether she has any legal claims against the police and the news station.

Question 2

You are counsel to the House Judiciary Committee.

Several Members of the Committee have expressed concern about spam, the unsolicited email that is filling up mailboxes and increasing the costs for the operation of the Internet. A recent hearing revealed that many of the messages come from unidentified sources. Rep. Talley has proposed the introduction of legislation that would criminalize the "sending of a message to more than ten individuals by means of a publicly accessible electronic network without the inclusion of the sender's actual name and contact information."

Is this a good proposal? Outline a brief assessment for Rep. Talley.

Question 3

You are the new Privacy Officer for the Department of Homeland Safety.

The Secretary is concerned about the growing criticisms of the Optimization Online Profiling System. The Optimization System is intended to ensure air travel safety by identifying individuals who may pose a risk to aviation security. The System will (1) incorporate strong identification techniques to ensure that the actual identity of each passenger is known prior to boarding, (2) check the identity against lists maintained by various federal agencies to determine whether the individual is a known suspect, (3) check the identity against a private sector database that will include information about residence, prior travel, nationality, and political association, and then assign a Risk Temperature (from freezing to boiling) to the passenger.

The Secretary says that he is prepared to support legislation that will safeguard privacy while allowing the agency to fulfill its mission and to continue profiling airline passengers.

Outline the key provisions of the Air Travel Privacy Act of 2003.

Question 4

You are general counsel to CasinoWorld, a firm based in the United States that is interested in expanding operation to countries in the European Union. The CasinoWorld CEO has said to you that he believes privacy protection will be important for the company to grow.

Briefly, describe the steps you will recommend for the company.

END OF EXAM

WRITE NOTHING AFTER TIME IS CALLED