

Exam Number: \_\_\_\_\_  
Confirmation Code: \_\_\_\_\_

**GEORGETOWN UNIVERSITY LAW CENTER  
EXAMINATION IN INFORMATION PRIVACY LAW  
(3 HOURS)**

Professor Marc Rotenberg

May 9, 2013

**INSTRUCTIONS:**

1. This is an OPEN book, IN-CLASS exam.
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. *Laptop users: To write your exam answers, use a blank document screen to access the exam template in Word as directed by the proctor(s). You must submit your exam in either Word or .pdf format. Laptop users are not permitted to electronically access other documents, outlines, notes, files, etc. and are not permitted to access the Internet. Students may not consult one another or any other person by computer or other electronic device, and may not consult any materials not specifically permitted in the exam room, during the exam administration. iPads, e-readers and other electronic devices that store information may NOT be used in the exam room. Cell phones must be turned off completely and placed out of sight; they may not be used as calculators or time pieces during the exam.*
4. You may not identify yourself in any way to the professor as the author of an exam until the grades are published. Therefore, you must remove personal identifying information from your exam document. Failure to remove any personal identifying information is an exam violation that will be referred to the Ethics Counsel. Instructions on how to remove personal identifying information from your exam are available in the laptop instructions handed out by the proctor.

This exam consists of 4 pages, including this cover page. Please be sure your exam is complete.

Please be sure that you use your exam number (not your student ID number or social security number).

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

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Question 1

You are counsel to the Senate Judiciary Committee.

The Chairman of the Committee has expressed concern about the risk that the accelerated deployment of drones in the United States may pose to the privacy of Americans. He recognizes that the new technology may be useful in a variety of circumstances, such as emergency response, but also believes that federal legislation is necessary to protect important Fourth Amendments interests as well as to limit privacy violations that may result from the use of drones by private parties.

He has asked you to draft the Drone Privacy Act of 2013. Briefly outline the key provisions. For each provision, explain its purpose.

Question 2

You are a clerk to Supreme Court Justice Elana Kagan.

Before the Court is *U.S. v. Williams*, a case concerning the use of a new investigative technique that allows the police to determine the chemical composition of material at a distance. Using a new “terahertz” scanner, police at Union Station determined that an individual standing in the Main Hall had trace elements of cocaine on his coat. Based on this information, the police arrested the suspect. A search uncovered a small packet of cocaine in the suspect’s backpack. The defendant Williams moved to suppress the evidence, saying that the search was unlawful. The district court denied the motion and Williams was convicted. On appeal, the DC Circuit reversed. The government then petitioned the Court for certiorari, which was granted.

The Justice has asked you to briefly outline a draft opinion, relying on the Court’s earlier jurisprudence, her own views, and any other factors that you believe are relevant.

Question 3

You are counsel for the Silicon Valley start-up Gyges, which specializes in hi-tech eyewear, connected to the Internet.

The CEO of Gyges is planning to announce a new product Gyges Glass. She believes there is real value in providing Internet access through cool-looking eyewear but she is also concerned about privacy issues. She is specifically interested in any privacy laws or best practices she should consider, as well as design choices that might impact the functionality of the device. She explains that, as currently conceived, Gyges Glass would give the user access to the Internet and apps through a heads-up display and voice recognition. The Gyges Glass would also have a forward-looking camera that would allow the user to take pictures and record video. And she anticipates that apps will eventually make possible identification of individuals with facial recognition techniques. Gyges also plans to record all user data so as to improve the user experience.

What advice would you give to the CEO of Gyges? Please be specific.

Question 4

You are counsel to the Secretary of State.

The Secretary has been asked to give a speech at an international conference comparing the US approach to privacy protection with the European approach to privacy protection. In particular, he has been asked to compare and contrast the Fourth Amendment of the US Constitution with Article 8 of the European Convention of Human Rights, and specifically to discuss whether one or the other is better suited to the challenges arising from new technology.

Please draft the speech.

END OF EXAM

WRITE NOTHING AFTER TIME IS CALLED.