

Exam Number: _____
Confirmation Code: _____

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

Professor Marc Rotenberg

April 30, 2015

INSTRUCTIONS:

1. This is an OPEN book exam. You are permitted to access material you have brought into the exam room and material available online. However, you may not consult with any other person. Cell phones must be turned off completely and placed out of sight.
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 DOC or PDF format.
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.
5. Exams at the Law Center are graded on an anonymous basis. The Student Disciplinary Code provides that the “unauthorized breach of anonymity in connection with a blind-graded examination” is a disciplinary violation. Therefore, be sure that you do not reveal your identity as the author of an examination in your answers themselves, in any communications with the professor, or otherwise discuss the substance of the exam with your professor(s) or with any other student from the time the exam is first administered until after grades are published.
6. 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 3 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). Tbbq yhpx!

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 Committee is considering a variety of proposals to regulate the use of drones. One proposal would mandate that any drone operated in the United States include a mandatory GPS tracking feature that would always broadcast the location of the drone when aloft (latitude, longitude, and altitude), course, speed over ground, as well as owner identifying and contact information. Manufacturers would be required to install this feature and operators would be required to complete registration information prior to use. Penalties would be established for any use of a drone that failed to comply with this requirement.

The Committee Chair has asked you to evaluate this proposal. Consider the arguments for and against, the perspectives of the various stakeholders, and the impact on privacy and data protection. Make a concrete recommendation. It should be assumed that drones carry surveillance cameras that enable remote viewing capability.

Question 2

You are a clerk to Supreme Court Justice Elena Kagan.

Before the Court is *U.S. v. Harrison*, a case concerning the use of a new investigative technique “TRIDS” (the Terahertz Remote Inspection Detection System) that allows the police to determine the chemical composition of materials on exterior surfaces at a distance. According to an amicus brief filed by technical experts, TRIDS can detect the presence of such materials as cocaine residue and powdered explosives on outer garments at a distance of more than 25 meters. In the case before the Court, the police used a TRIDS device to identify a person at Union Station with cocaine residue on his jacket, leading to a search, and then an arrest for unlawful possession of a controlled substance. The defendant Harrison moved to suppress the evidence, arguing that the warrantless search of his person was unlawful. The district court denied the motion. On appeal, the DC Circuit reversed. The government then petitioned the Court for certiorari, which was granted.

Justice Kagan 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 PrivateSearch, a new Internet search firm that intends to provide strong privacy protection for Internet users.

The CEO for PrivateSearch explains to you that she wants to build a successful and profitable company that also respects user privacy. She believes advertising revenue is critical for the firm's success, but she also believes privacy is important. She anticipates that PrivateSearch will be a global firm, with a strong presence in the European Union.

She asks you to briefly outline for her relevant legal, policy, and technical considerations for privacy that confront companies in the search business.

Question 4

You are counsel to the Secretary of State.

The Secretary has been asked to give a speech at an international conference on data protection on the significance of Article 12 of the Universal Declaration of Human Rights. In particular, he has been asked to discuss recent efforts by the United States to ensure effective enforcement and implementation of Article 12.

Please draft the speech.

END OF EXAM

WRITE NOTHING AFTER TIME IS CALLED.