

Daniel J. Solove & Paul M. Schwartz

**PRIVACY LAW
FUNDAMENTALS**

2015

An IAPP Publication

Privacy Law Fundamentals

Daniel J. Solove

John Marshall Harlan Research Professor of Law

George Washington University Law School

and

Senior Policy Advisor

Hogan Lovells

and

President and CEO

TeachPrivacy, LLC

&

Paul M. Schwartz

Jefferson E. Peyser Professor of Law

U.C. Berkeley School of Law

and

Director

Berkeley Center for Law & Technology

and

Special Advisor

Paul Hastings LLC

An IAPP Publication

©2015 by the International Association of Privacy Professionals (IAPP).
All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, mechanical, photocopying, recording or otherwise, without the prior, written permission of the publisher, International Association of Privacy Professionals, Pease International Tradeport, 75 Rochester Ave., Suite 4, Portsmouth, NH 03801 United States of America.

Cover design by -ing designs, llc.
Book design and layout by Tammy F. Sneddon Design.

ISBN 978-0-9885525-7-9

ABOUT PRIVACY LAW FUNDAMENTALS

“Two giants of privacy scholarship succeed in distilling their legal expertise into an essential guide for a broad range of the legal community. Whether used to learn the basics or for quick reference, *Privacy Law Fundamentals* proves to be concise and authoritative.”

– Jules Polonetsky, *Future of Privacy Forum*

“There are no better-qualified authors than Professor Schwartz and Solove to summarize the current state of privacy law and, as a result, there is no better compact privacy law resource than *Privacy Law Fundamentals*.”

– Christopher Wolf, *Hogan Lovells US LLP*

“This book is my go-to reference for when I need quick, accurate information on privacy laws across sectors and jurisdictions. Solove and Schwartz masterfully make complex privacy law more accessible and understandable for anyone, from the most experienced practitioner to first year law student.”

– Nuala O’Connor, *Center for Democracy and Technology*

“Professors Solove and Schwartz pack an enormous amount of privacy knowledge into a slim volume in *Privacy Law Fundamentals*. In our fast-paced practice, there’s nothing better than a compact and accessible work that is curated by two of the great thinkers of the field. It is a gem.”

– Kurt Wimmer, *Covington & Burling LLP*

“The go-to privacy law reference that you will keep going to. Professors Schwartz and Solove manage to distill without distorting and to outline without obscuring. Part reference, part primer and part pathfinder, *Privacy Law Fundamentals* is the ultimate privacy law resource.”

– Tom Counts, *Paul Hastings LLP*

“This is the essential primer for all privacy practitioners. Professors Solove and Schwartz have done a remarkable job of keeping this volume current in the fast-changing environment of new technology, case law and legislation.”

– David A. Hoffman, *Intel Corporation*

ABOUT THE AUTHORS

Daniel J. Solove is the John Marshall Harlan Research Professor of Law at the George Washington University Law School. He is also a senior policy advisor at Hogan Lovells and the President and CEO of TeachPrivacy, <http://teachprivacy.com>, a company that provides privacy and data security training to organizations in a wide array of industries. One of the world's leading experts in privacy law, Solove is the author of numerous books, including *Nothing to Hide: The False Tradeoff Between Privacy and Security* (Yale 2011), *Understanding Privacy* (Harvard 2008), *The Future of Reputation: Gossip and Rumor in the Information Age* (Yale 2007; winner of the 2007 McGannon Award), and *The Digital Person: Technology and Privacy in the Information Age* (NYU 2004). Professor Solove is also the co-author (with Paul Schwartz) of a textbook, *Information Privacy Law*, with Aspen Publishing Co., now in its fourth edition. Additionally, he is the author of several other textbooks, including *Privacy and the Media* (1st edition, Aspen Publishing Co. 2009) and *Privacy, Information, and Technology* (3rd edition, Aspen Publishing Co. 2012), all with Paul Schwartz. He has published nearly 40 articles and essays.

Solove has testified before the U.S. Congress and has been involved as an expert and consultant in a number of high-profile privacy cases. He has been interviewed and featured in several hundred media broadcasts and articles in publications and on networks including *The New York Times*, *The Wall Street Journal*, *The Washington Post*, *Chicago Tribune*, *USA Today*, *Associated Press*, *Time*, *Newsweek*, *People*, *Reader's Digest*, ABC, CBS, NBC, CNN, NPR and C-SPAN's "Book TV."

For more information about Professor Solove's work go to www.danielsolove.com. He can also be followed on Twitter at <http://twitter.com/DanielSolove>. As one of a select group of LinkedIn "Influencers," Professor Solove blogs at LinkedIn, <http://www.linkedin.com/today/post/articles/2259773>, on privacy and data security issues. His blog has more than 850,000 followers.

Paul M. Schwartz is Jefferson E. Peyser Professor of Law at the University of California–Berkeley Law School and a director of the Berkeley Center for Law & Technology. A leading international expert on informational privacy and information law, he has published widely on these topics. In the U.S., his articles and essays have appeared in periodicals such as the *Harvard Law Review*, *Yale Law Journal*, *Stanford Law Review*, *California Law Review*, *N.Y.U. Law Review*, and *Chicago Law Review*. With Daniel Solove, he has published the leading casebook, *Information Privacy Law* (Aspen, 5th ed., 2015) and other books.

Schwartz has testified as an expert before congressional committees in the United States and provided legal reports to the Commission of the European Community and Department of Justice, Canada. He has assisted numerous corporations in the United States and abroad with information privacy issues. A member of the American Law Institute, Schwartz has received scholarships and grants from the American Academy in Berlin, where he was a Berlin Prize Fellow; the Alexander von Humboldt Foundation; German Marshall Fund; Fulbright Foundation; the German Academic Exchange, and the Harry Frank Guggenheim Foundation. He is a member of the American Law Institute and the organizing committee of the Privacy Law Salon.

Schwartz belongs to the editorial boards of *International Data Privacy Law*, the *International Journal of Law and Information Technology*, and the *Zeitschrift für Datenschutz* (Data Protection Journal).

Schwartz received a JD degree from Yale Law School, where he was a senior editor on *The Yale Law Journal*, and a BA degree from Brown University. His homepage is www.paulschwartz.net.

DEDICATION

To Pamela and Griffin—DJS

To Steffie, Clara and Leo—PMS

PREFACE

This book provides a concise guide to privacy law. *Privacy Law Fundamentals* is designed to serve as a primer of the essential information that one needs to know about the field. For the student of privacy law or the beginning privacy professional, the book will provide an overview that can be digested readily. For the more seasoned and experienced, the book will serve as a handy reference guide, a way to refresh one's memory of key components of privacy laws and central cases. It will help close gaps in knowledge and inform on areas of the field about which one wants to know more.

In writing this book, we have aimed to avoid the “too-much-information” problem by singling out the essential provisions of law, regulations and judicial decisions. A frequent risk in law books is that key definitions, provisions and concepts will become lost in a litany of very long and dense statutes and in a mass of cases. We have endeavored to distill the field down to its fundamentals and present this information in as clear and useful a manner as possible. Wherever possible, we have developed charts and lists to convey the material.

The book is organized in thirteen chapters:

- Chapter One—a review of the key privacy developments since the last edition of this book.
- Chapter Two—an overview of privacy law in all its varied types and forms and a timeline with key points in the development of privacy law.
- Chapter Three—privacy law involving the media, including the privacy torts, defamation and the First Amendment.

- Chapter Four—the law of domestic law enforcement, focusing on the Fourth Amendment and the statutes regulating electronic surveillance.
- Chapter Five—national security law, including the Foreign Intelligence Surveillance Act.
- Chapter Six—the laws and regulations that pertain to health and genetic data, including HIPAA.
- Chapter Seven—government records and laws, such as the Privacy Act and the Freedom of Information Act.
- Chapter Eight—the laws concerning financial information, including the Fair Credit Reporting Act and the Gramm-Leach-Bliley Act.
- Chapter Nine—legal regulation of the privacy of consumer data and business records, involving statutes, tort protections and FTC enforcement actions.
- Chapter Ten—data security law, including the varying laws in a majority of the states.
- Chapter Eleven—school privacy, including the Family Educational Rights and Privacy Act.
- Chapter Twelve—the regulation of employment privacy, including the different rules for government and private-sector employees.
- Chapter Thirteen—international privacy law, including the EU Data Protection Directive, the OECD Guidelines, the APEC Privacy Framework and rules of international data transfers.

For his suggestions on our chapter about school privacy, we wish to thank Steven McDonald. This book also benefitted greatly from the research assistance of Henry Becker, Benedikt Burger, Sarah Chai, Leah Duranti, Yan Fang, Bill Friedman, Thad Houston, Jesse Koehler, Lea Mekhneche, Devon Mongeluzzi, Joseph Mornin, and Lourdes Turrecha.

For further references, including books, websites, statutes and other sources of news and legal materials, visit our website (<http://informationprivacylaw.com>), and for our casebooks, click on the “resources” tab at the top.

We look forward to keeping this book up to date and to finding additional ways to make it as useful as possible. Please feel free to contact us with any suggestions and feedback about the book.

Daniel J. Solove
 Washington, DC
dsolove@law.gwu.edu

Paul M. Schwartz
 Berkeley, CA
pschwartz@law.berkeley.edu

TABLE OF CONTENTS

CHAPTER 1. NEW DEVELOPMENTS	1
Policy Initiatives and Other General Developments	1
Privacy and the Media	5
New Laws of Note	5
Privacy and Law Enforcement	6
Fourth Amendment.....	6
National Security and Foreign Intelligence	8
The Fourth Amendment	8
Foreign Intelligence Surveillance Act (FISA).....	9
Health Privacy	10
Health Insurance Portability and Accountability Act (HIPAA).....	10
Government Records	11
DNA Databases.....	11
Financial Data	12
Notable Reports and Documents	12
New CFPB Rulemaking	12
Notable FTC FCRA Enforcement Actions	13
Consumer Data	15
Personally Identifiable Information	15
Standing	15
Torts.....	16
Contracts.....	16
Notable FTC Cases	16
Children’s Online Privacy Protection Act (COPPA).....	18
FTC COPPA Cases	18
Video Privacy Protection Act (VPPA)	18

Telephone Consumer Protection Act (TCPA)	19
Electronic Communication Privacy Act (ECPA)	19
Data Security	21
FTC Enforcement Under Section 5 of the FTC Act: Leading Case	21
Notable FTC Data Security Enforcement Actions	21
Notable Cases	21
New Laws	21
Education Privacy	24
New State Student Data Collection, Use, and Disclosure Laws	24
New Social Media Account Access Statutes	25
Other Developments	26
Employment Privacy	27
New NLRB Cases	27
State Criminal Background Check “Ban the Box” Laws	28
New Employer Access to Employee Social Media Account Laws	29
International Privacy Law	30
OECD Privacy Guidelines	30
ECHR Cases	31
New Max Mosley Cases	31
EU Data Protection Directive	31
Notable National Caselaw relating to Search Engines	32
EU Proposed Data Protection Regulation	32
The US-EU Safe Harbor Arrangement	33
EU Data Retention Directive	34
New Developments: Canada	34
New Developments: Singapore	35
CHAPTER 2. INTRODUCTION: AN OVERVIEW OF PRIVACY LAW	39
Essential Points	39
Types of Privacy Law	40
Torts	40
<i>Call Out: Torts Most Commonly Involved in Privacy Cases</i>	40
<i>Call Out: Origin of the Privacy Torts</i>	40
Contract/Promissory Estoppel	41
Criminal Law	41
Evidentiary Privileges	41
Federal Constitutional Law	41
<i>Call Out: Ways the U.S. Constitution Protects Privacy</i>	41
State Constitutional Law	41
<i>Call Out: States with Express Constitutional Privacy Protection</i>	42
Federal Statutory Law	42
State Statutory Law	44
<i>Call Out: Areas of State Legislation on Privacy</i>	44
International Law	45
The Chief Privacy Officer	46
<i>Call Out: The Development of Privacy Law: A Timeline</i>	47

For Further Reference	53
CHAPTER 3. PRIVACY AND THE MEDIA	55
Essential Points	55
The Privacy Torts	55
Public Disclosure of Private Facts	56
<i>Call Out: Approaches to the Newsworthiness Test</i>	56
Intrusion Upon Seclusion.....	56
<i>Call Out: What Constitutes a Privacy Interest?</i>	57
<i>Call Out: Highly Offensive to a Reasonable Person</i>	58
False Light.....	59
Appropriation of Name or Likeness	59
Other Torts	59
Intentional Infliction of Emotional Distress	59
Breach of Confidentiality.....	60
<i>Call Out: Public Disclosure Tort vs. Breach of Confidentiality Tort</i>	60
Other Privacy Laws of Note	60
Video Voyeurism Prevention Act (VVPA)	60
State Video Voyeurism Statutes	60
“Peeping Tom” Laws.....	61
Blackmail Laws	61
California Anti-Paparazzi Act, Cal Civ. Code § 1708.8	61
Revenge Porn Statutes.....	61
Defamation Law	61
Libel and Slander	61
First Amendment Restrictions.....	62
<i>Call Out: Actual Malice</i>	62
<i>Call Out: Public vs. Private Figures</i>	63
<i>Call Out: Defamation Fault Standards</i>	63
Communications Decency Act (CDA).....	63
The First Amendment	64
<i>Call Out: The First Amendment and Torts</i>	66
<i>Call Out: Anti-SLAPP</i>	67
Anonymous Speech	67
<i>Call Out: Standards for Unmasking Anonymous Speakers</i>	68
Privacy of Reading and Intellectual Exploration	68
<i>Call Out: Reporter’s Privilege</i>	69
For Further Reference	69
CHAPTER 4. PRIVACY AND LAW ENFORCEMENT	73
Essential Points	73
The Fourth Amendment	74
<i>Call Out: How the Fourth Amendment Works</i>	75
<i>Call Out: Key Fourth Amendment Doctrines</i>	77

<i>Call Out: Fourth Amendment Reasonable Expectation of Privacy</i>	77
<i>Call Out: Exceptions to the Warrant and Probable Cause Requirements</i>	78
Electronic Communications	79
Electronic Communications Privacy Act (ECPA).....	79
Types of Communications in ECPA	79
The Wiretap Act.....	80
The Stored Communications Act	81
The Pen Register Act	82
<i>Call Out: Key Facts About ECPA</i>	84
<i>Call Out: The Fourth Amendment vs. Electronic Surveillance Law</i>	85
Communications Assistance for Law Enforcement Act (CALEA).....	86
State Electronic Surveillance Law	86
<i>Call Out: Recording Police Encounters</i>	87
<i>Call Out: State Electronic Surveillance Statutes</i>	88
Government Access to Personal Data	89
Fourth Amendment: Third-Party Doctrine	89
Bank Secrecy Act (1970).....	89
Right to Financial Privacy Act (RFPA) (1978).....	90
Subpoenas	90
<i>Call Out: Federal Statutory Provisions for Government Access to Records</i>	91
Searches and Seizures of Media Documents	92
Privacy Protection Act (PPA).....	92
For Further Reference	93
CHAPTER 5. NATIONAL SECURITY AND FOREIGN INTELLIGENCE	97
Essential Points	97
The Fourth Amendment	98
Foreign Intelligence Gathering	99
Foreign Intelligence Surveillance Act (FISA).....	99
Government Access to Personal Data for National Security Purposes	101
National Security Letter (NSLs).....	101
USA Patriot Act	101
State Secrets	101
The Intelligence Community	102
Intelligence Agencies.....	102
Intelligence Reform and Terrorism Prevention Act (IRTPA).....	102
For Further Reference	103
CHAPTER 6. HEALTH PRIVACY	107
Essential Points	107
Patient-Physician Confidentiality	108
Ethical Rules	108
Evidentiary Privileges	108
The Breach of Confidentiality Tort.....	108

Public Disclosure of Private Facts	109
<i>Call Out: Key Points: Common Law Torts and Medical Information</i>	109
Tort Liability for Failing to Disclose Personal Data	109
Medical Information	110
State Regulation	110
<i>Call Out: Texas' Medical Privacy Act, Tex. Health & Safety Code</i>	111
Health Insurance Portability and Accountability Act Regulations (HIPAA)	111
<i>Call Out: De-Identifying Data Under HIPAA</i>	113
<i>Call Out: HIPAA Myths and Facts</i>	115
<i>Call Out: HIPAA Problems to Avoid</i>	116
OCR HIPAA Enforcement Actions.....	116
<i>Call Out: HHS HIPAA Resolution Agreements</i>	117
The Common Rule	128
Federal Drug and Alcohol Confidentiality Statute.....	128
Subpoenas for Medical Information	129
Constitutional Protections	129
Constitutional Right to Privacy	129
Constitutional Right to Information Privacy.....	130
Fourth Amendment	131
Genetic Information	131
Genetic Testing and Discrimination	131
For Further Reference	131
CHAPTER 7. GOVERNMENT RECORDS	135
Essential Points	135
Fair Information Practices (FIPs)	136
Court Records	136
Common Law Right to Access Court Records.....	136
Protective Orders	137
Depositions and Interrogatories.....	137
Pseudonymous Litigation.....	137
Juror Privacy	137
The First Amendment Right to Access.....	137
Public Records	138
Freedom of Information Act (FOIA)	138
State Public Records	139
<i>Call Out: State Freedom of Information Statutes</i>	140
<i>Call Out: The Constitution and Data in Public Records</i>	140
<i>Call Out: When Does the Constitution Limit the Government</i> <i>from Disclosing Personal Information?</i>	141
Critical Infrastructure Information Act (CIIA).....	141
Privacy Rights in Government Records	142
The Privacy Act.....	142
<i>Call Out: Establishing a Violation of the Privacy Act</i>	144
State Privacy Acts	145
California's Information Practice Act	145

Massachusetts' Fair Information Practices Act	145
Minnesota's Government Data Practices Act	145
New York's Personal Privacy Protection Act	146
Wisconsin's Fair Information Practices Act	146
<i>Call Out: State Statutes Regulating Government Website Privacy Policies</i>	146
Computer Matching and Privacy Protection Act (CMPPA)	147
DNA Databases	147
DNA Identification Act	147
Drivers' Privacy Protection Act (DPPA)	148
<i>Call Out: DPPA: Key Points</i>	148
Identification Records and Requirements	149
Social Security Numbers	150
<i>Call Out: Social Security Numbers</i>	150
Privacy Impact Assessments (PIAs)	151
E-Government Act	151
Chief Information Officers (CIOs)	151
Federal Information Security Management Act (FISMA)	151
For Further Reference	151
CHAPTER 8. FINANCIAL DATA	153
Essential Points	153
The Financial Services Industry	153
Fair Credit Reporting Act (FCRA)	154
<i>Call Out: The Consumer Financial Protection Bureau</i>	155
<i>Call Out: Credit Reporting Limits</i>	156
<i>Call Out: FCRA: Keys to Compliance</i>	159
<i>Call Out: FTC FCRA Enforcement Actions</i>	160
The Use and Disclosure of Financial Information	161
Gramm-Leach-Bliley Act (GLBA)	161
Torts and Financial Privacy	163
State Financial Statutes	164
<i>Call Out: California's SB1 and FCRA Preemption</i>	165
Tax Privacy	165
Internal Revenue Code § 610	165
Identity Theft	166
Identity Theft Assumption and Deterrence Act	166
State Identity Theft Statutes	166
Government Access to Financial Information (see Chapter 7)	167
For Further Reference	167
CHAPTER 9. CONSUMER DATA	169
Essential Points	169
Personally Identifiable Information	170
<i>Call Out: Approaches to Defining PII</i>	170

Injury and Standing.....	171
<i>Call Out: Standing</i>	171
Tort Law	172
Contract and Promissory Estoppel	173
<i>Call Out: Are Privacy Policies Contracts?</i>	174
<i>Call Out: Liability for Third-Party Apps?</i>	175
FTC Enforcement of Section 5 of the FTC Act	175
<i>Call Out: Statutes Granting Enforcement Authority to the FTC</i>	176
<i>Call Out: Triggers for FTC Complaints</i>	180
<i>Call Out: FTC Consent Decrees</i>	180
Federal Statutes: Entertainment Records	181
Cable Communications Policy Act (CCPA)	181
Video Privacy Protection Act (VPPA).....	182
Federal Statutes: Marketing	184
Telecommunications Act	184
Telephone Consumer Protection Act (TCPA).....	185
Controlling the Assault of Non-Solicited Pornography and Marketing (CAN-SPAM) Act.....	186
Federal Statutes: Internet Use and Electronic Communications	187
Children’s Online Privacy Protection Act (COPPA).....	187
<i>Call Out: FTC COPPA Enforcement Actions</i>	188
<i>Call Out: Complying with COPPA</i>	190
<i>Call Out: How to Determine If a Website (or a portion of it) Is Directed at Children</i>	191
Electronic Communications Privacy Act (ECPA)	191
Computer Fraud and Abuse Act (CFAA).....	191
<i>Call Out: Is the CFAA Too Broad and Vague?</i>	193
Federal Statutes: Overview	193
<i>Call Out: Scope of Federal Statute Coverage</i>	193
<i>Call Out: Federal Statutes and Private Rights of Action</i>	194
<i>Call Out: Federal Statutes and Liquidated Damages</i>	195
<i>Call Out: Federal Statutes and Criminal Penalties</i>	197
<i>Call Out: Federal Statutes: Enforcement</i>	198
<i>Call Out: Federal Statutes and Preemption</i>	199
<i>Call Out: Federal Statutes and Opt-in/Opt-out</i>	203
State Statutes	203
Deceptive Trade Practices	203
Radio Frequency Identification (RFID)	204
<i>Call Out: State Statutes Regulating Private-Sector Use of RFID</i>	204
“Eraser” or “Right to Be Forgotten” Laws.....	205
Spyware	205
<i>Call Out: State Spyware Statutes</i>	206
Transparency.....	207
First Amendment	207
For Further Reference	209

CHAPTER 10. DATA SECURITY	213
Essential Points	213
Data Breach Notification Statutes	213
Rise of the State Statutes	213
State Data Security Breach Notification Statutes	214
<i>Call Out: State Data Security Breach Notification Laws</i>	214
<i>Call Out: PII Definitions in State Data Security Breach</i> <i>Notification Laws (overview)</i>	218
State Credit Freeze Statutes	220
FTC Enforcement Under Section 5 of the FTC Act	220
Leading FTC Data Security Enforcement Actions	221
Tort	224
<i>Call Out: What Constitutes a Privacy Harm?</i>	224
Data Disposal	226
<i>Call Out: State Data Disposal Statutes</i>	226
For Further Reference	227
CHAPTER 11. EDUCATION PRIVACY	231
Essential Points	231
Student Records	232
Family Educational Rights and Privacy Act (FERPA)	232
Protection of Pupil Rights Amendment (PPRA)	234
No Child Left Behind Act (NCLBA)	235
Individuals with Disabilities Education Act (IDEA)	235
National School Lunch Act (NSLA)	235
Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)	236
Other Regulations	236
Gainful Employment Rule	236
Other Statutes	236
State Laws	237
Student Data Collection, Use, and Disclosure	237
Social Media Account Access	238
Student Speech and Expression	238
<i>Call Out: State Anti-Bullying Laws</i>	239
Searches and Surveillance	240
Fourth Amendment	240
Self-Regulatory Measures	241
For Further Reference	241
CHAPTER 12. EMPLOYMENT PRIVACY	243
Essential Points	243
Searches	244

Government Employees: Fourth Amendment	244
Private-Sector Employees: Fourth Amendment	245
Searches and Surveillance by Private-Sector Employers	246
Questioning and Testing	247
Fourth Amendment	247
Constitutional Right to Information Privacy	247
Employee Polygraph Protection Act (EPPA)	247
Americans with Disabilities Act (ADA)	248
Occupational Safety and Health Act (OSHA)	249
Genetic Information Nondiscrimination Act (GINA)	249
State Employment Testing and Inquiry Laws	249
State Criminal Background Check “Ban the Box” Laws	249
Employee Access to the Computer Network	250
Surveillance and Monitoring	251
Electronic Communications Privacy Act (ECPA)	251
<i>Call Out: What Every Employer Must Know to Comply with ECPA</i>	252
<i>Call Out: Employment Privacy Law: Public vs. Private Sector</i>	252
Employer Social Media Policies and Practices	253
National Labor Relations Act (NLRA)	253
<i>Call Out: The NLRA and Social Media Policies</i>	254
Employer Access to Employee Social Media Accounts	256
For Further Reference	258
CHAPTER 13. INTERNATIONAL PRIVACY LAW	261
Essential Points	261
Data Protection and Information Privacy: A Note on Terminology.....	262
Worldwide Privacy Rights and Guidelines	262
Universal Declaration of Human Rights	262
OECD Privacy Guidelines	262
<i>Call Out: OECD Member Countries</i>	263
<i>Call Out: The Influence of the OECD Guidelines</i>	264
UN Guidelines for the Regulation of Computerized Personal Files	264
Europe	266
European Convention on Human Rights (ECHR)	266
Council of Europe Convention on Privacy.....	268
EU Data Protection Directive	269
<i>Call Out: A Leading German Case on Search Engines</i>	272
EU Proposed Legislation	272
The US-EU Safe Harbor Arrangement	274
<i>Call Out: Safe Harbor Principles</i>	274
Other Safe Harbor Arrangements	276
<i>Call Out: Positive Adequacy Determinations by the EU Commission</i>	277
Model Contractual Clauses	277
Binding Corporate Rules (BCR).....	278
<i>Call Out: Discovery from EU Member Nations in U.S. Litigation</i>	278

Directive on Privacy and Electronic Communications	279
EU Data Retention Directive	279
<i>Call Out: European Data Protection Supervisor (EDPS)</i>	280
North America	281
Canada	281
Charter of Rights and Freedoms (1982).....	281
Privacy Act (1985).....	282
Personal Information Protection and Electronic Documents Act (PIPEDA) (2000)	282
<i>Call Out: PIPEDA's 10 Privacy Principles</i>	282
Canada's Anti-Spam Law (CASL) (2010).....	283
<i>Call Out: Provincial Privacy Laws</i>	285
Mexico.....	285
South America	286
Argentina	286
<i>Call Out: Habeas Data</i>	286
Brazil	287
Middle East	287
Dubai	287
Israel	287
Asia	288
Japan	288
China	288
Hong Kong	288
Singapore	289
Personal Data Protection Act ("Singapore PDPA") (2012).....	289
South Korea	289
Personal Information Protection Act (PIPA)(2011).....	289
India	290
Philippines.....	290
Data Privacy Act (2012)	290
Europe, Non EU Countries	291
Russia	291
APEC Privacy Framework	291
<i>Call Out: APEC Privacy Framework's 9 Principles</i>	292
<i>Call Out: APEC Member Nations</i>	293
Australia	293
For Further Reference	293