

The Cambridge Handbook of

SURVEILLANCE LAW

EDITED BY

David Gray

Stephen E. Henderson

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"In many debates about privacy and security, I've emphasized it is not a battle between the forces of light and darkness. It is essentially a discussion among free people as to how to balance things that they actually want (but cannot have) in full measure. That's why *The Cambridge Handbook of Surveillance Law* is so important – it adds to the reasoned debate we must have."

MICHAEL HAYDEN, Principal at the Chertoff Group and former Director of the Central Intelligence Agency

"*The Cambridge Handbook of Surveillance Law* is a superb contribution to the debate about surveillance. Pushing far beyond typical generalities about surveillance, this book contains essays of great depth and focus. The result is a volume with a fresh and nuanced set of perspectives addressing cutting-edge issues. The editors have assembled an all-star group of contributors. This is a truly outstanding volume, one that is essential reading."

DANIEL J. SOLOVE, John Marshall Harlan Research Professor of Law, George Washington University Law School and author of *Nothing to Hide: The False Tradeoff Between Privacy and Security*

"Professors Gray and Henderson have assembled a comprehensive and thought-provoking collection of essays by many of the leading thinkers on surveillance law. This handbook is a perfect first stop for any scholar or citizen interested in the field. My students and I have already begun to benefit from their work."

RICHARD E. MYERS, Henry Brandis Distinguished Professor of Law, University of North Carolina School of Law

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Gray and Henderson

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Edited by

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University of Maryland

Stephen E. Henderson

University of Oklahoma



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THE CAMBRIDGE HANDBOOK OF SURVEILLANCE LAW

Surveillance presents a conundrum: how to ensure safety, stability, and efficiency while respecting privacy and individual liberty. From police officers to corporations to intelligence agencies, surveillance law is tasked with striking this difficult and delicate balance. That challenge is compounded by ever-changing technologies and evolving social norms. Following the revelations of Edward Snowden and a host of private-sector controversies, there is intense interest among policy makers, business leaders, attorneys, academics, students, and the public regarding legal, technological, and policy issues relating to surveillance. This handbook documents and organizes these conversations, drawing together some of the most thoughtful and impactful contributors to contemporary surveillance debates, policies, and practices. Its pages explore surveillance techniques and technologies; their value for law enforcement, national security, and private enterprise; their impacts on citizens and communities; and the many ways societies do – and should – regulate surveillance.

David Gray teaches criminal law, criminal procedure, evidence, international criminal law, and jurisprudence at the University of Maryland's Francis King Carey School of Law. He was voted Professor of the Year in 2012. He has published dozens of articles in leading law reviews, is the author of *The Fourth Amendment in an Age of Surveillance* (Cambridge University Press, 2017), and has submitted amicus briefs in high-profile cases involving surveillance and the Fourth Amendment. Professor Gray is a sought-after speaker and frequently provides expert commentary for national media outlets on questions relating to criminal law and criminal procedure.

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For two people I miss and mourn: F. P. Gray, whose
fortitude, intellectual curiosity, and unbending
independence continue to inspire, and Dan Markel,
a true mensch of enormous heart and unflinchingly
critical mind.

– DG

For my greatest contribution,
the five I'll leave behind.

– SEH

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