

INDIVIDUAL RIGHTS DURING EXAMINATIONS

- In jurisdictions with invasion of privacy torts, the tort of intrusion into an individual's private matters occurs when one party makes public statements about another party's private life that are not of public concern.
 A. True
 B. False
- Able is an auditor who works for XYZ, a private company. Able suspects that Beta, an employee for XYZ, has embezzled money from XYZ. Able plans to conduct an internal investigation into the missing funds, and during the investigation, Able plans to interview Beta. Based on these facts, which of the following is the MOST ACCURATE statement?
 A. BETA has a fundamental right to have an attorney present at any interview conducted by Able x
 B. BETA likely has a duty to cooperate with the investigation as part of the employer/employee relationship ✓
 C. XYZ cannot fire BETA if he refuses to participate in the interview because of whistleblower protections x
 D. Before interviewing BETA, Able must inform Beta that he has a right to remain silent. •
- Which of the following is NOT a legal element that a plaintiff must prove to recover for defamation?
 A. The statement was printed and distributed ••
 B. The statement was communicated (published) to third parties ✓
 C. The statement damaged the subject's reputation ✓
 D. The defendant made an untrue statement of fact ✓
- In common law jurisdictions with civil laws for defamation and invasion of privacy, under which cause of action can an investigator be held liable for a TRUE statement made about a suspect?
 A. Defamation
 B. Slander
 C. Public disclosure of private facts ✓
 D. Intrusion upon seclusion ✓
- Which of the following is a basic principle for the protection of data privacy on which most data privacy laws are built?
 A. All personal information must be used only for the original specified purpose
 B. All personal information must be kept accurate and up to date
 C. All personal information must be obtained fairly and lawfully •
 D. All of the above
- White, a Certified Fraud Examiner, believes that Blue, a fraud suspect, is guilty of embezzlement. White shares his theory with his supervisor. Blue later turns out to be innocent. Blue can sue and probably recover from White on a theory of defamation.
 A. True
 B. False

7. All of the following are basic principles for the protection of data privacy on which most data privacy laws are built EXCEPT:
- A. All personal information must be kept indefinitely
 - B. All personal information must be used only for the original specified purpose
 - C. All personal information must be accessible to the data subject
 - D. All personal information must be obtained fairly and lawfully
8. Which of the following is the tort that occurs when one party makes public statements about another party's private life that are not of public concern?
- A. Public disclosure of private facts.
 - B. Intrusion into an individual's private matters .
 - C. Injury to an individual's reputation .
 - D. None of the above
9. Which of the following is a correct statement about employees' legal rights?
- A. For a violation of an employee's legal rights to occur, there must be some form of government action
 - B. The International Treaty on Human Rights grants employees certain fundamental rights and it applies equally to employees of private companies and government agencies
 - C. Private employers cannot be found guilty of violating the legal rights of their employees. •
 - D. None of the above are correct
10. The best approach a company can take to protect its right to search workplace areas and reduce its potential liability for privacy violations involving improper searches and seizures is to give employees a written policy that puts employees on notice that the workplace is not private and require employees to sign it. •
- A. True
 - B. False
11. If an employer is investigating an employee who is a member of a union, the union contract might contain certain clauses that restrict the employer's investigatory procedures.
- A. True
 - B. False
12. If, in a country with comprehensive whistleblower protection laws, an employee qualifies as a "whistleblower" for reporting unlawful conduct by his employer, the employer cannot fire the whistleblowing employee for any reason, including for engaging in an unrelated fraud.
- A. True
 - B. False
13. Black, a Certified Fraud Examiner, interviews Green, a fraud suspect. No one else is present at the interview. During the interview, Black accuses Green of committing fraud. Later, it turns out that Green is innocent. Green can sue and recover damages from Black on a claim of defamation if he can show that Black knowingly made the false statement on an unprivileged occasion and that the statement caused economic harm.
- A. True
 - B. False

14. Officer Knight, a police officer, obtains a warrant to search a suspect's personal work locker at the suspect's place of employment. The warrant is based on probable cause that the locker contains contraband of theft. Officer Knight searches the locker, but he finds nothing relevant. As Knight is about to leave, he notices a folder sitting on the suspect's desk. Having no idea what the folder might contain, he flips through its contents and eventually finds incriminating evidence. Which of the following is the MOST ACCURATE statement regarding the admissibility of the folder's contents under the plain view exception to the warrant requirement?
- A. The evidence is admissible under the plain view doctrine because officer Knight was acting lawfully when he spotted the folder.
 - B. The evidence is not admissible because officer Knight had no authority to search the folder.
 - C. The evidence is admissible because it is implied that officer Knight's search warrant covers a search of the suspect's workspace.
 - D. The evidence is admissible only if it concerns a crime related to the search warrant.
15. An employee may have contractual rights that limit the ability of the employer to compel full cooperation in a fraud examination.
- A. True
 - B. False
16. Which of the following must a plaintiff show to recover for a claim of false imprisonment?
- A. The defendant restrained the plaintiff without consent or legal justification
 - B. The defendant knew his conduct was illegal
 - C. The defendant was not protected under the qualified business privilege
 - D. The defendant was a law enforcement officer.
17. A replevin warrant is a court order that grants government authorities the right to search a premises or property for information pertinent to a case.
- A. True
 - B. False
18. If employees have a duty to cooperate during an internal investigation as part of the employer/employee relationship, the duty exists as long as what is requested from them is reasonable.
- A. True
 - B. False
19. Bert is the lead suspect in an ongoing civil investigation in a common law jurisdiction that will likely result in litigation. Before any litigation occurs, Bert loses original documents that are key to the investigation. Which of the following statements is CORRECT?
- A. Bert violated his duty to preserve relevant information only if the opposing party loses its case because he lost the documents.
 - B. Bert likely violated his duty to preserve relevant information because he lost evidence valuable to anticipated litigation
 - C. Bert did not violate his duty to preserve relevant information because no litigation was pending when he lost the documents.
 - D. None of the above

20. Which of the following is an element that a plaintiff generally must prove to recover damages for a claim alleging the common law tort for intentional infliction of emotional distress?
- A. The defendant engaged in extreme and outrageous conduct ✓
 - B. The plaintiff was an employee of the defendant ✓
 - C. The plaintiff suffered distress that manifested itself for at least two years ✓
 - D. All of the above
- * 21. Which of the following statements about the consent exception to the requirement that government agents must obtain a warrant before conducting a search for evidence of a crime is INCORRECT?
- A. Even if obtained by bribery or force, consent to search constitutes a valid waiver of the person's right to be free from unreasonable searches.
 - B. Government agents do not need a warrant to perform a search if a person with proper authority consents to the search ✓
 - C. Generally, government agents do not have to warn subjects that they have a right to refuse to consent to a search
 - D. To be valid, an individual's consent to a search by government agents must be voluntary. ✓
22. Most jurisdictions have restrictions concerning the ways in which employers can conduct interviews.
- A. True
 - B. False
23. Which of the following is the MOST ACCURATE description of the tort of public disclosure of private facts?
- A. An individual makes an unprivileged oral publication of a false statement about a person that causes harm to that person's reputation ✓
 - B. An individual intentionally intrudes into an area where another individual has a reasonable expectation of privacy ✓
 - C. An individual makes an unprivileged publication of a false statement in writing about a person that causes harm to that person's reputation ✓
 - D. One party makes public statements about another party's private life that are not of public concern.
24. Which of the following is a basic exception for the requirement that a police officer must obtain a search warrant before conducting a search of a person, location, or vehicle for evidence of a crime?
- A. Searches where there is circumstantial proof that the suspects is guilty ✓
 - B. Searches when a confession has been made ✓
 - C. Searches where there is "reasonable belief" in the suspect's guilt ✓
 - D. Searches conducted pursuant to a valid, voluntary consent ✓
- * 25. Which of the following could give rise to sanctions for violating the common law duty to preserve evidence relevant to anticipated litigation?
- A. Accidentally erasing a digital image relevant to a lawsuit ✓
 - B. Failing to suspend routine destruction of electronic data relevant to a lawsuit ✓
 - C. Accidentally shredding documents relevant to a lawsuit ✓

- All of the above
26. To recover under the tort of false imprisonment, a plaintiff must show that the defendant knew he had no legal right to restrain the plaintiff's physical liberty.
- True
B. False
27. All of the following are basic options by which organisations can legitimise cross-border transfers of personal information EXCEPT:
- A. Obtain the consent of the data subject ✓
B. Rely on adequacy decisions (if transmitting from the European Union) ✓
C. Establish a contract between the entities exchanging the information ✓
 Obtain approval from a Certified Information Privacy Professional (CIPP) *
28. In the context of an employee interview, all of the following actions could result in liability for false imprisonment EXCEPT:
- A. Telling the interviewee he may not leave the room ✓
B. Locking the door to an interview room ✓
C. Standing in front of an exit to an interview room ✓
 Telling the interviewee that he is required to answer questions
29. Sanctions for violating the common law duty to preserve information relevant to anticipated or existing litigation can arise only from intentional acts, not from negligent acts.
- A. True
 False
30. Walsh, a Certified Fraud Examiner, interviews Brock, a fraud suspect. Walsh, Brock, and Brock's supervisor are present in the interview during which Walsh accuses Brock of cheating on his wife with a coworker. Later, Brock, angry that Walsh revealed the unflattering (albeit true) information about the affair to his supervisor, files a claim of defamation against Walsh. Brock's claim is likely to succeed.
- True
B. False
31. Blue, a Certified Fraud Examiner, conducted an investigation of Brown, a fraud suspect. Brown became so upset at being investigated that he sued Blue for the common law tort of intentional infliction of emotional distress. For Brown to prevail, he has to show that:
- A. Brown actually suffered severe distress as a result of Blue's conduct ✓
B. Blue acted intentionally or recklessly ✓
C. Blue engaged in extreme and outrageous conduct ✓
 All of the above
32. If a person consents to a search by a government officer, but the consent is obtained by force, duress, or bribery, the consent will not constitute a valid waiver of the person's right to be free from searches.
- True
B. False
33. To determine whether authorisation by a judicial officer or other sanctioned official (e.g., a search warrant) is required to conduct a search in a jurisdiction with laws granting people the

right to be free from unreasonable search and seizure by authorities, it is necessary to first determine whether or not _____ is/are involved in the search.

- A. Investigative suspicion
- B. Government authorities
- C. Probable cause
- D. Criminal activity

34. Smith, a CFE, works for the ABC Company, a publicly traded company. One day, Smith's manager asks him to search the personal belongings of Green, an employee for the ABC Company, for evidence of securities fraud, even though there is no direct government authorisation or order for the search. Smith seizes and searches Green's personal tablet. Assuming that these facts occur in a jurisdiction with laws that provide the public with the right to be free from unreasonable search and seizure by government authorities, which of the following is the MOST ACCURATE statement regarding Green's rights?

- A. Green's rights were likely violated because all publicly traded companies are considered "government actors" for purposes of determining rights to be free from unreasonable search and seizure by government authorities.
- B. Green's right to be free from unreasonable search and seizure by government authorities was likely violated because Smith conducted the search without direct authorization from the government
- C. The search did not violate Green's right to be free from unreasonable search and seizure by government authorities because such rights do not apply to searches in the workplace.
- D. The search did not violate Green's right to be free from unreasonable search and seizure by government authorities because ABC is not a government authority.

35. Employee protections afforded by contract law protect employees from actions by private, but not government, employers.

- A. True
- B. False

36. All of the following may restrict the way in which employers can conduct interviews EXCEPT:

- A. Employee-employer contacts
- B. Laws protecting labour rights
- C. Equity and trust law
- D. The common law

37. The key issue to consider when assessing whether an employee has a reasonable expectation of privacy in an area or item is whether the employee has an ownership interest in, or has legal custody over, the area or item.

- A. True
- B. False

38. Employees' privacy rights that can affect the employer/employee relationship may stem from statutory law, but not contract law.

- A. True
- B. False

39. Which of the following is NOT one of the three basic options by which organisations can legitimise cross-border transfers of personal information?
- A. Get the consent of the data subject ✓
 - B. Obtain a warrant granting permission to transfer the data ✓
 - C. Establish a contract between the entities exchanging the information ✓
 - D. Rely on adequacy decisions (if transmitting from the European Union) ✓
40. Which of the following is a common law invasion of privacy tort that occurs when an individual intentionally encroaches into an area where another individual has a reasonable expectation of privacy and the encroachment would be highly offensive or objectionable to a reasonable person?
- A. Intrusion into an individual's private matters ✓
 - B. Slander ✓
 - C. Public disclosure of private facts ✓
 - D. Infliction of emotional distress ✓
41. Able, a fraud examiner, interviewed Beta, a fraud suspect. No other people were present at the interview. During the interview, Able accused Beta of committing fraud. This accusation later turned out to be erroneous, and Beta sued Able for damages. Under these facts, which of the following statements is CORRECT?
- A. If Beta sued Able for determination, Beta would recover damages because Able made an untrue statement of fact on an unprivileged occasion ✓
 - B. If Beta sued Able for libel, Beta would not recover damages because Able believed the accusation to be true. ✓
 - C. If Beta sued Able for slander, Beta would not recover damages because Able did not publish the accusation to a third party. ✓
 - D. If Beta sued Able for defamation, Beta would recover damages because Able made statements about Beta's private life on an unprivileged occasion ✓
42. CalaCala Foods, a private meat processing company, hired Able, a private investigator, to investigate allegations of internal fraud. During the investigation, Able questions Baker, a suspect in the alleged fraud, at Baker's home. During the interview, Baker seeks to invoke his right to counsel. In most jurisdictions, Able legally must discontinue questioning until Baker contacts his attorney.
- A. True ✓
 - B. False ✓
43. Which of the following best describes probable cause in government search and seizure cases?
- A. The set of facts showing proof beyond all doubt that a crime has been committed and that the accused committed the crime
 - B. Those facts that would induce a person of reasonable caution to believe that a crime has been committed and that the accused committed the crime
 - C. The set of facts showing that it is more likely than not that a crime has been committed and that the accused committed the crime ✓
 - D. None of the above

44. Blue, a Certified Fraud Examiner, is a government agent in a jurisdiction with a warrant requirement. Based on evidence that White is manufacturing forged identification documents to facilitate large-scale identity theft, Blue obtains a valid warrant to search White's residence. While conducting a lawful search, Blue immediately recognises several plastic bags containing many different types of illegal drugs. Even though the items were not mentioned in the search warrant, Blue retrieves the items without a warrant based on the:
- A. Warrantless search doctrine
 - B. Plain view doctrine
 - C. Incidental evidence doctrine
 - D. None of the above
45. Nelson, a CFE, works for Electric Avenue Manufacturing, a private company that operates in a jurisdiction with civil laws for defamation, invasion of privacy, and conflict of interest. Nelson searched the purse of Harriet, one of Electric Avenue's employees. Assuming that Harriet had a reasonable expectation of privacy in the purse and Nelson conducted the search without a legitimate interest or authority, under which of the following claims would Harriet most likely be able to recover damages against Nelson?
- A. Intrusion into Harriet's private matters
 - B. Slander
 - C. Conflict of interest
 - D. Libel
46. Which of the following can affect the rights that employees may have during an internal investigation?
- A. Existence of an employment contract
 - B. Existence of a union contract
 - C. Existence of a collective bargaining agreement
 - D. All of the above
47. Eagle Hardware and Garden, a home improvement retailer, is concerned about employee theft and wants to retain the right to conduct searches of employee workspaces. It also wants to avoid any possible claims of violating employees' privacy rights as a result of those searches. Which of the following can help accomplish these goals?
- A. Openly retain keys to all employee desks, lockers, offices, etc
 - B. Obtain employee consent before conducting any searches
 - C. Issue a written policy that communicates the company's right to search
 - D. All of the above will help eliminate invasion of privacy claims