Case Study #1: Ethics of Whistleblowing

Read the ethics section in our text and the attached op-ed piece from The Guardian, CBS News and NPR, then answer the following questions. The completed assignment should be three pages long, using 12 pt. fonts and single spacing with one inch margins. Each answer should be proportionate to the number of points possible and each supporting quote should be no longer than one or two short sentences. All quotes must be from primary literature (the philosopher in question) and not from Solomon’s secondary commentary or any other non-primary source. Quotes must be cited and all you need do is indicate the page from the text. Please separate and number each response as shown in the example attached. This exercise is worth a total of 105 points. Your completed assignment is due on the 26th of June.

Keep Scrolling Down – Detailed instructions, rubrics and a sample completed assignment are on the pages following the Background!

Questions:

1. Paraphrase the argument supporting his decision put forth by Edward Snowden in the first attached article from The Guardian. (15 points)

2. Prior to determining whether Edward Snowden actions are morally justifiable, what sort of research information would you need? Provide as a bulleted list and pose in question form. For this assignment, you do not have to do the research but you need to raise the kind of questions that would drive such a project. These should be research questions and as such should be concrete and answerable. No bias or prejudice should be evident and the questions should be non-normative. Think about facts that, if known might help determine how one should or could respond to the issues identified. (20 points)

3. Do you think that Kant would approve of Snowdon’s decision to leak the NSA confidential material? Explain your answer including specific details from Kant’s deontology including a discussion of the categorical and practical imperatives. (30 points)

   3b. Provide and cite a quote from Kant supporting your answer. (5 points)

4. Do you think that Mill would approve of Snowdon’s decision to leak the NSA confidential material? Explain your answer using specific details from Mill’s utilitarian approach to ethics. Include in your explanation, a brief discussion of Mill’s definition of the good. (30 points)

   4b. Provide and cite a quote from Mill supporting your answer. (5 points)
Edward Snowden: the whistleblower behind the NSA surveillance revelations

- Glenn Greenwald, Ewen MacAskill and Laura Poitras in Hong Kong
- The Guardian, Sunday 9 June 2013

The 29-year-old source behind the biggest intelligence leak in the NSA's history explains his motives, his uncertain future and why he never intended on hiding in the shadows

- Q&A with NSA whistleblower Edward Snowden: 'I do not expect to see home again'

The individual responsible for one of the most significant leaks in US political history is Edward Snowden, a 29-year-old former technical assistant for the CIA and current employee of the defence contractor Booz Allen Hamilton. Snowden has been working at the National Security Agency for the last four years as an employee of various outside contractors, including Booz Allen and Dell.

The Guardian, after several days of interviews, is revealing his identity at his request. From the moment he decided to disclose numerous top-secret documents to the public, he was determined not to opt for the protection of anonymity. "I have no intention of hiding who I am because I know I have done nothing wrong," he said.

Snowden will go down in history as one of America's most consequential whistleblowers, alongside Daniel Ellsberg and Bradley Manning. He is responsible for handing over material from one of the world's most secretive organisations – the NSA.

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1 Please note that you are not limited to the background offered – you may feel free to use any credible/reliable source as evidence for your arguments. Please provide full citation for all research.
2 http://www.guardian.co.uk/world/2013/jun/09/edward-snowden-nsa-whistleblower-surveillance
In a note accompanying the first set of documents he provided, he wrote: "I understand that I will be made to suffer for my actions," but "I will be satisfied if the federation of secret law, unequal pardon and irresistible executive powers that rule the world that I love are revealed even for an instant."

Despite his determination to be publicly unveiled, he repeatedly insisted that he wants to avoid the media spotlight. "I don't want public attention because I don't want the story to be about me. I want it to be about what the US government is doing."

He does not fear the consequences of going public, he said, only that doing so will distract attention from the issues raised by his disclosures. "I know the media likes to personalise political debates, and I know the government will demonise me."

Despite these fears, he remained hopeful his outing will not divert attention from the substance of his disclosures. "I really want the focus to be on these documents and the debate which I hope this will trigger among citizens around the globe about what kind of world we want to live in." He added: "My sole motive is to inform the public as to that which is done in their name and that which is done against them."

He has had "a very comfortable life" that included a salary of roughly $200,000, a girlfriend with whom he shared a home in Hawaii, a stable career, and a family he loves. "I'm willing to sacrifice all of that because I can't in good conscience allow the US government to destroy privacy, internet freedom and basic liberties for people around the world with this massive surveillance machine they're secretly building."

'I am not afraid, because this is the choice I've made'

Three weeks ago, Snowden made final preparations that resulted in last week's series of blockbuster news stories. At the NSA office in Hawaii where he was working, he copied the last set of documents he intended to disclose.

He then advised his NSA supervisor that he needed to be away from work for "a couple of weeks" in order to receive treatment for epilepsy, a condition he learned he suffers from after a series of seizures last year.

As he packed his bags, he told his girlfriend that he had to be away for a few weeks, though he said he was vague about the reason. "That is not an uncommon occurrence for someone who has spent the last decade working in the intelligence world."

On May 20, he boarded a flight to Hong Kong, where he has remained ever since. He chose the city because "they have a spirited commitment to free speech and the right of political dissent", and because he believed that it was one of the few places in the world that both could and would resist the dictates of the US government.
In the three weeks since he arrived, he has been ensconced in a hotel room. "I've left the room maybe a total of three times during my entire stay," he said. It is a plush hotel and, what with eating meals in his room too, he has run up big bills.

He is deeply worried about being spied on. He lines the door of his hotel room with pillows to prevent eavesdropping. He puts a large red hood over his head and laptop when entering his passwords to prevent any hidden cameras from detecting them.

Though that may sound like paranoia to some, Snowden has good reason for such fears. He worked in the US intelligence world for almost a decade. He knows that the biggest and most secretive surveillance organisation in America, the NSA, along with the most powerful government on the planet, is looking for him.

Since the disclosures began to emerge, he has watched television and monitored the internet, hearing all the threats and vows of prosecution emanating from Washington.

And he knows only too well the sophisticated technology available to them and how easy it will be for them to find him. The NSA police and other law enforcement officers have twice visited his home in Hawaii and already contacted his girlfriend, though he believes that may have been prompted by his absence from work, and not because of suspicions of any connection to the leaks.

"All my options are bad," he said. The US could begin extradition proceedings against him, a potentially problematic, lengthy and unpredictable course for Washington. Or the Chinese government might whisk him away for questioning, viewing him as a useful source of information. Or he might end up being grabbed and bundled into a plane bound for US territory.

"Yes, I could be rendered by the CIA. I could have people come after me. Or any of the third-party partners. They work closely with a number of other nations. Or they could pay off the Triads. Any of their agents or assets," he said.

"We have got a CIA station just up the road – the consulate here in Hong Kong – and I am sure they are going to be busy for the next week. And that is a concern I will live with for the rest of my life, however long that happens to be.'

Having watched the Obama administration prosecute whistleblowers at a historically unprecedented rate, he fully expects the US government to attempt to use all its weight to punish him. "I am not afraid," he said calmly, "because this is the choice I've made."

He predicts the government will launch an investigation and "say I have broken the Espionage Act and helped our enemies, but that can be used against anyone who points out how massive and invasive the system has become".

The only time he became emotional during the many hours of interviews was when he pondered the impact his choices would have on his family, many of whom work for the US government.
"The only thing I fear is the harmful effects on my family, who I won't be able to help any more. That's what keeps me up at night," he said, his eyes welling up with tears.

'You can't wait around for someone else to act'

Snowden did not always believe the US government posed a threat to his political values. He was brought up originally in Elizabeth City, North Carolina. His family moved later to Maryland, near the NSA headquarters in Fort Meade.

By his own admission, he was not a stellar student. In order to get the credits necessary to obtain a high school diploma, he attended a community college in Maryland, studying computing, but never completed the coursework. (He later obtained his GED.)

In 2003, he enlisted in the US army and began a training program to join the Special Forces. Invoking the same principles that he now cites to justify his leaks, he said: "I wanted to fight in the Iraq war because I felt like I had an obligation as a human being to help free people from oppression".

He recounted how his beliefs about the war's purpose were quickly dispelled. "Most of the people training us seemed pumped up about killing Arabs, not helping anyone," he said. After he broke both his legs in a training accident, he was discharged.

After that, he got his first job in an NSA facility, working as a security guard for one of the agency's covert facilities at the University of Maryland. From there, he went to the CIA, where he worked on IT security. His understanding of the internet and his talent for computer programming enabled him to rise fairly quickly for someone who lacked even a high school diploma.

By 2007, the CIA stationed him with diplomatic cover in Geneva, Switzerland. His responsibility for maintaining computer network security meant he had clearance to access a wide array of classified documents.

That access, along with the almost three years he spent around CIA officers, led him to begin seriously questioning the rightness of what he saw.

He described as formative an incident in which he claimed CIA operatives were attempting to recruit a Swiss banker to obtain secret banking information. Snowden said they achieved this by purposely getting the banker drunk and encouraging him to drive home in his car. When the banker was arrested for drunk driving, the undercover agent seeking to befriend him offered to help, and a bond was formed that led to successful recruitment.

"Much of what I saw in Geneva really disillusioned me about how my government functions and what its impact is in the world," he says. "I realised that I was part of something that was doing far more harm than good."
He said it was during his CIA stint in Geneva that he thought for the first time about exposing government secrets. But, at the time, he chose not to for two reasons.

First, he said: "Most of the secrets the CIA has are about people, not machines and systems, so I didn't feel comfortable with disclosures that I thought could endanger anyone". Secondly, the election of Barack Obama in 2008 gave him hope that there would be real reforms, rendering disclosures unnecessary.

He left the CIA in 2009 in order to take his first job working for a private contractor that assigned him to a functioning NSA facility, stationed on a military base in Japan. It was then, he said, that he "watched as Obama advanced the very policies that I thought would be reined in", and as a result, "I got hardened."

The primary lesson from this experience was that "you can't wait around for someone else to act. I had been looking for leaders, but I realised that leadership is about being the first to act."

Over the next three years, he learned just how all-consuming the NSA's surveillance activities were, claiming "they are intent on making every conversation and every form of behaviour in the world known to them".

He described how he once viewed the internet as "the most important invention in all of human history". As an adolescent, he spent days at a time "speaking to people with all sorts of views that I would never have encountered on my own".

But he believed that the value of the internet, along with basic privacy, is being rapidly destroyed by ubiquitous surveillance. "I don't see myself as a hero," he said, "because what I'm doing is self-interested: I don't want to live in a world where there's no privacy and therefore no room for intellectual exploration and creativity."

Once he reached the conclusion that the NSA's surveillance net would soon be irrevocable, he said it was just a matter of time before he chose to act. "What they're doing" poses "an existential threat to democracy", he said.

**A matter of principle**

As strong as those beliefs are, there still remains the question: why did he do it? Giving up his freedom and a privileged lifestyle? "There are more important things than money. If I were motivated by money, I could have sold these documents to any number of countries and gotten very rich."

For him, it is a matter of principle. "The government has granted itself power it is not entitled to. There is no public oversight. The result is people like myself have the latitude to go further than they are allowed to," he said.
His allegiance to internet freedom is reflected in the stickers on his laptop: "I support Online Rights: Electronic Frontier Foundation," reads one. Another hails the online organisation offering anonymity, the Tor Project.

Asked by reporters to establish his authenticity to ensure he is not some fantasist, he laid bare, without hesitation, his personal details, from his social security number to his CIA ID and his expired diplomatic passport. There is no shiftiness. Ask him about anything in his personal life and he will answer.

He is quiet, smart, easy-going and self-effacing. A master on computers, he seemed happiest when talking about the technical side of surveillance, at a level of detail comprehensible probably only to fellow communication specialists. But he showed intense passion when talking about the value of privacy and how he felt it was being steadily eroded by the behaviour of the intelligence services.

His manner was calm and relaxed but he has been understandably twitchy since he went into hiding, waiting for the knock on the hotel door. A fire alarm goes off. "That has not happened before," he said, betraying anxiety wondering if was real, a test or a CIA ploy to get him out onto the street.

Strewn about the side of his bed are his suitcase, a plate with the remains of room-service breakfast, and a copy of Angler, the biography of former vice-president Dick Cheney.

Ever since last week's news stories began to appear in the Guardian, Snowden has vigilantly watched TV and read the internet to see the effects of his choices. He seemed satisfied that the debate he longed to provoke was finally taking place.

He lay, propped up against pillows, watching CNN's Wolf Blitzer ask a discussion panel about government intrusion if they had any idea who the leaker was. From 8,000 miles away, the leaker looked on impassively, not even indulging in a wry smile.

Snowden said that he admires both Ellsberg and Manning, but argues that there is one important distinction between himself and the army private, whose trial coincidentally began the week Snowden's leaks began to make news.

"I carefully evaluated every single document I disclosed to ensure that each was legitimately in the public interest," he said. "There are all sorts of documents that would have made a big impact that I didn't turn over, because harming people isn't my goal. Transparency is."

He purposely chose, he said, to give the documents to journalists whose judgment he trusted about what should be public and what should remain concealed.

As for his future, he is vague. He hoped the publicity the leaks have generated will offer him some protection, making it "harder for them to get dirty".
He views his best hope as the possibility of asylum, with Iceland – with its reputation of a champion of internet freedom – at the top of his list. He knows that may prove a wish unfulfilled.

But after the intense political controversy he has already created with just the first week's haul of stories, "I feel satisfied that this was all worth it. I have no regrets."

NSA Leaks Caused Terrorists To Change Tactics, Senator Says

by Scott Neuman

June 16, 2013 12:23 PM

Republican Sen. Saxby Chambliss tells NBC's Meet The Press on Sunday that information leaked to the media by former NSA contractor Edward Snowden has caused terrorists to change their tactics to thwart detection.

"And as far as getting him back here, he needs to look an American jury in the eye and explain why he has disclosed sources and methods that are going to put American lives in danger," said Chambliss, the ranking member on the Select Committee on Intelligence.

Snowden worked as a contractor for the National Security Agency in Hawaii before giving The Guardian newspaper a series of exclusives on the agency's surveillance programs.

Chambliss, who has been an outspoken in his support of the NSA's secret collection of phone record metadata and Internet surveillance efforts since they were made public earlier this month, says "there's no question" that Snowden's revelations damaged American security.
"We know now that because of his disclosure that the terrorists, the bad guys around the world, are taking some different tactics, and they know a little bit more about how we're gathering information on them," Chambliss told NBC.

The remarks come after top U.S. intelligence officials told The Associated Press late Saturday that information gathered from the controversial data-collection programs was used to thwart terrorist plots in the U.S. and 20 other countries.

The AP reported that the unnamed officials did not elaborate on the plots, but said that in 2012 "fewer than 300 phone numbers were checked against the database of millions of U.S. phone records gathered daily by the NSA in one of the programs."

Hong Kong: Edward Snowden's welcoming refuge

(CBS News) It's been a week now since former National Security Agency contractor Edward Snowden identified himself as the leaker of top-secret documents about U.S. surveillance programs. Snowden came out of the shadows and into the spotlight in Hong Kong, where he's getting a pretty friendly reception, so far. Our Seth Doane has filed this Sunday Journal:

The story of man-vs.-Big-Brother certainly resonates here. This weekend, hundreds of Hong Kongers took to the streets.

It was a show of support for Edward Snowden, who chose China, of all places, to seek refuge -- and turn the debate over hacking and cyber-security upside-down.

What does this do to the U.S.-China relationship?

"Well, it certainly complicates it," said David Zweig, a political science professor at the Hong Kong University of Science and Technology.

Hundreds of supporters of Edward Snowden, who leaked top-secret information about U.S. surveillance programs, march to the Consulate General of the United States in Hong Kong on Saturday, June 15, 2013.

AP Photo/Kin Cheung

"America has tried to make China look bad on the issue of cyber-security," said Zweig. "But yet, here's a guy who knows that America is also not so clean on this issue."

It was the U.S. that had put China's cyber-spying at the top of the agenda, in a meeting earlier this month between Presidents Xi and Obama. But on the day they met, the British newspaper The Guardian broke the explosive news of the National Security Agency's top-secret PRISM program. It alleged the U.S. government had direct access to spy on the Internet communications of Americans.

Columnist Glenn Greenwald got the scoop.

"Why was the release of the information, on your part, timed as it was?" Doane asked.

"It was just a matter of when we got the documents and when, journalistically, we felt like we were ready to publish the stories with the kind of confidence level that we wanted," Greenwald said.

Facebook: Around 10K requests for info from gov't in last 6 months
John Miller: Edward Snowden extradition could take months, years
Britain to airlines: Don't let Edward Snowden fly to U.K.
The story of how Glenn Greenwald first met Edward Snowden would trickle out later, and only add to the mystery. Greenwald didn't even know what Snowden looked like, so the 29-year-old told him to meet him in a specific part of a hotel in Hong Kong, and ask loudly for directions.

Snowden said he could be identified because he would be the person holding a Rubik's cube.

Today, Snowden remains in hiding while the U.S. considers how to get him extradited to America.

Why would Snowden pick Hong Kong?

"We have a relationship with the mainland whereby our autonomy is protected by constitution," said Hong Kong lawyer Simon Young. "We have an independent judiciary, and, most interestingly, we have a fairly robust system of asylum law."

While there were calls this weekend to protect Snowden, most legal experts here say it's likely he will be returned to the U.S. -- where he could face prison time for revealing America's spy secrets.

Keep Scrolling Down – Detailed instructions, rubrics and a sample are on the following pages!
General Suggestions for Writing Case Studies

How not to write your paper:

I. The Paragraphs
Authors often complain that the most difficult sentence to write is the first one. Your opening sentence should tell your reader your thesis. Then you just need to answer the question as thoroughly and succinctly as possible given the length allowed. Look at the sample case study questions and responses following the rubrics.

II. Format
You do not need to re-type the question. However, each response should be numbered corresponding to the assigned questions. Place the corresponding quote below each response labeled appropriately – see example below. All papers should be three pages single spaced, using 12 pt. fonts and 1 inch margins all around.

III. Tone/Voice
Ever since George Carlin pointed out that “using your own words” would result in a private and hence meaningless expression, I’ve had to give up on the phrase, however a certain degree of originality is still important. Your task is to explain a concept as if you were the Teaching Assistant for this class. If you simply repeat the text or my lecture, you haven’t helped your imaginary student. You need to clarify the argument/concept in a way that demonstrates that you really understand it and can express the same ideas in a way that is different than has already been explained by the text or by me.

IV. Quotes
Quoting is a way of supporting your interpretation of an argument or theory. Relevance to your response and to the question asked is critical. Quotes can be edited but be careful not to take the quote out of context, thus altering the intent of the author. The length of the quote must be appropriate to the length of the assignment: short papers require shorter quotes. All quotes must come from the original author’s works, neither from the secondary commentary of the author of our text nor from my lectures or

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4 Please note that these guidelines are for my class assignments. Individual instructors may have other format preferences and you should consult with your teacher for the details before completing your assignment.
power points. Quotes, if they are drawn from our assigned text, need only be cited with the page where it was found (see example below). However any quotes from other sources must have full citation. A failure to cite will result in zero points for that section of this assignment.

V. Length
Part of the criteria for success is efficient use of the space allowed. If you write a single sentence for a one/third page assignment, you have not satisfied this criterion. However, this is not an invitation to use the additional space for stream-of-consciousness or irrelevant information not pertinent to the assigned issue. If you are having difficulties with the length, it is usually because you have not recognized or developed sufficiently the various issues involved. Conversely, if your draft is too long, you need to whittle it down to just the relevant essentials, perhaps editing out the anecdotes or redundancies; more is not always better! I am very willing to help if you submit drafts sufficiently before the due date.

VI. Rough Drafts
I have invited all of you to bring rough drafts of your completed assignment in for a preview reading. I do not offer re-writes after I have graded your papers. Rough drafts are brought in during my office hours or by appointment and I only read them in person - with the student present. Please do not submit rough drafts electronically nor should you drop them off in my box.

I support pro-active measures that encourage preparation and thought and with rough draft readings, both the student and I should benefit with the end result being a better final draft. If your work satisfies my criteria (see rubrics following) for “A” level work, and if the draft is formatted and printed in final draft format, I will sign off on the draft, guaranteeing those students somewhere between 100% and 90% of the points possible for this assignment. Your cut-off for rough draft submissions is 24 hours prior to the due date; I will read no rough drafts the day of or the day prior to the due date.

Keep scrolling down for specific rubrics and a sample partially completed assignment!
Standards (Rubrics) for Grading Case Studies

The excellent paper (100-90% of points) will exhibit the following qualities:

**Question 1:**
- Conclusion is clearly identified
- Major supporting premises are identified
- Relevant and critical minor supporting premises are identified.
- Argument has been presented with good logical flow.
- Paraphrase has eliminated all irrelevant information.
- Paraphrase is original and not merely a verbatim repetition of original argument
- Argument is clearly understood and consistent with the author’s intent.
- No critique, analysis or irrelevant commentary is provided.

**Question 2:**
- All items are listed as normatively neutral questions. No immediate bias is evidenced.
- All critical questions have been raised given the space allowed.
- Questions are relevant to the case and would be likely to be relevant to the philosophers/theories being applied to the case in the third section.
- Questions are likely to drive effective and informative research. The questions should be answerable (at least in terms of probabilities or projections backed up with historical data).
- Questions are grammatically correct and are presented in a bulleted list.

**Question 3 and 4:**
- Responses are sufficiently detailed and focused on the questions raised.
- Responses are consistent with the philosopher referenced.
- Sufficient detail from the philosopher’s theory is provided.
- Responses reflect careful and detailed consideration of background material provided.
- Responses are well supported with relevant reasons.
- No immediate personal bias is evidenced.

**Quotes in 3b and 4b:**
- Quote is from primary work & is cited properly.
- Quote is specifically relevant to the issue and is not too general.
- Length of quote is appropriate to the assignment.
- Quote supports the position maintained by the author in the previous section.

**Overall Impressions:**
- Study presents evidence of a thoughtful and deliberative approach.
- Language is clear and explanations/arguments are original
- Effective use has been made of space allowed – with length of responses proportionate to the number of points for each question.
- Assignment format has been followed.

**The Good Paper (89-80% points)**
The good paper will demonstrate all the above qualities but perhaps to a lesser degree or, will demonstrate some of the above qualities excellently, but not all of the qualities will be presented at a consistently high level.

**The Satisfactory Paper (79-70% points)**
The satisfactory paper will present all of the above qualities but not as strongly as the good paper or, some qualities may be stronger with some not as strong. Insight is not usually present.

**The Paper that Needs Work (69-60% points)**
This paper is weak on many of the desired qualities.

**The Paper that Really Needs Work – Pretty Much Unacceptable (59-0% points)**
This paper presents few if any of the desired qualities.

*Keep scrolling down for a sample completed assignment!*
1. Paraphrase the argument put forth by Randy Cohen in the attached article. (15 points)

Cohen argues that Kant would agree that while it is illegal it is still morally justifiable to treat red lights and stop signs as yield signs while riding a bicycle in NYC. He claims that it passes the categorical imperative test in that he is prepared for every cyclist to treat red lights & stop signs as yield signs in NYC. Cohen rejects the relevance of laws written to apply to both cars and bikes; just because a law reasonably applies to cars, it doesn’t follow that the justification would hold for bicycles since a) bicycles are not relevantly similar in weight, speed and capacity for damage and, b) allowing exceptions for bikes works in Idaho, Amsterdam and Copenhagen. Cohen offers the promise of beneficial consequences in allowing cyclists to run red lights, people could get to their destinations faster which would encourage more cycling which then would promote health for more people and it would be better for the environment. Finally, by allowing cyclists to run red lights, Mr. Cohen’s enjoyment of cycling is improved – it makes him happier to go faster.

2. Research information (20 points)

- How many cyclists are there in NYC and what is the proportion of cyclists, to motorists and to pedestrians?
- How many accidents occur at intersections involving cyclists running the red light or stop sign?
- Of these accidents, how many people have been injured or killed?
- In cities such as Amsterdam or states such as Idaho, where such practices are legal, what is the safety record of cyclists, motorists and pedestrians?
- Are Idaho, Amsterdam & Copenhagen traffic patterns relevantly similar to NYC?
- Proportionately, how much time on average is actually saved on a bicycle by running red lights?
- Have studies been done examining the motivations for people to shift from automobiles to bicycles in large urban areas & is it reasonable to expect statistically significant shifts given the weather and other hazards encountered in NYC with the readily available option of public transit?
- Is riding a bicycle hazardous in NYC - how many people have been injured while riding a bicycle in NYC over the past decade?

3. Do you agree with Mr. Cohen that Kant would approve of his actions? (30 points)

Kant would not agree with Mr. Cohen’s thesis for the following five reasons. First, Cohen’s plan to break the law fails the test of acting solely upon the good will – the will to act upon one’s duty without contradicting one’s reason. One cannot articulate a duty to break traffic
laws whenever it is convenient to do so without contradicting one’s aims to use the roads to arrive safely – the concept of orderly traffic depends upon the concept and general agreement to all traffic laws. Were Cohen to advocate breaking laws whenever one assessed it safe to do so, he would have to then be prepared to have everyone – not just cyclists – to act accordingly. This would make maneuvering the roadways ridiculously perilous and thus contradict his intention to use them safely. Even if one charitably articulated the duty more narrowly – “when riding a bicycle in NYC and when one encounters a red light or stop sign at an intersection, pause & verify that it is clear and safe to cross before entering” – then he is still failing the categorical imperative by selectively writing exceptions to rules for himself and other cyclists. When one uses the public roadways, one is tacitly agreeing to the rules and conventions that apply to all. Admittedly, Cohen’s thesis would be a better Kantian argument if he were simply arguing to change the law rather than break the law. In this way, at least this behavior would then be one that is reasonably expected by those who share the roads with him. However, it still smacks of writing exceptions based on one’s desires and preferences and not from a will to act in a rationally consistent fashion.

Secondly, Cohen’s argument also fails the practical imperative to always have respect for persons. In not abiding by the generally agreed upon laws Cohen’s actions present an avoidable risk to the well-being of others and constitute a kind of lying promise to abide by those laws commonly agreed upon by those who share the roads.

Thirdly, Cohen’s justification that pedestrians often jaywalk and cross against the light so that makes it ok for cyclists to run red lights and stop signs would not pass the Kant test – just because others don’t do their duty, it doesn't follow that one should be excused from doing one’s own duty. Kant asks us to act as if everyone always did their duty – this is what he meant in his discussion of a Kingdom of Ends.

Fourthly, Cohen’s argument is largely consequentialist. His expectations that it will be good for more people’s health and the environment are used as a justification to run red lights. Kant is not a consequentialist – one must act solely from the good will – the will to do one’s duty regardless of outcome. If one makes a decision based on consequences, then one must be prepared to take responsibility for things one cannot foresee with any certainty or control with any regularity. For Kant, the only thing we can control is our own good will.

Finally, Cohen’s justification that it makes him happy to go fast is insufficient for Kant – happiness as an end to one’s actions is inadequate for humans who are capable of acting rationally and having the will to counter one’s appetites. Though Kant is not opposed to happiness in itself, it is not, or at least should not be, a determinate for one’s moral duty.

3b. Cite a quote from Kant supporting your answer. (5 points)

“For the universality of a law which says that anyone ...could promise whatever he pleases with the intention of not keeping it would make promising itself and the end to be attained thereby quite impossible....” (page 287)
4. For Mill does it make sense to institute exceptions to rules and if so, under what circumstances? (30 points)

Mill would not agree with Mr. Cohen’s decision to treat red lights and stop signs as yield signs. For Mill as a consequentialist, the decision would hinge on a kind of cost/benefit analysis. Mill would need to assess the risk associated with Cohen’s plan and weigh that risk against the reasonably expected beneficial outcomes.

Firstly, there is clearly a reasonable risk associated with Cohen’s plan. While it is true that for Mill, liberty is a critical aspect of happiness but one’s rights can justifiably be limited if the exercise of those rights constitute harm to others. Oncoming pedestrians or vehicles may not always be seen - blocked intersections and congested traffic are common in NYC. Further, while it may be true that automobiles present a greater risk to pedestrians, nevertheless if a pedestrian is hit by a bicycle it can still do significant damage. Even if a cyclist hits a car there can be significant damage to oneself, to the driver (if not physical harm then one could reasonably argue for psychological, legal, financial impacts), to the vehicle and such an event would most likely produce subsequent delays due to accident investigations with the associated drain on city revenues afterwards by costs from first responders and the police.

Secondly, Cohen’s predicted beneficial consequences are somewhat questionable. It is unclear that advocating this practice, even if the law were changed, would significantly increase the number of cyclists in NYC – the weather for many months of the year is inclement and would make showing up for jobs having gotten there on a bike in well-groomed business attire very challenging to say the least. There is also the additional concern that if one is involved in an accident, the bike offers no protection from impact. Cohen’s comparison to Idaho, Amsterdam or Copenhagen is not relevantly similar – Though there may have been positive outcomes in these places, it does not follow that the same would occur in NYC. None of them have the same traffic patterns and city planning; Idaho does not have the high density population and traffic of NYC and Amsterdam and Copenhagen very likely have proportionately more cyclists and fewer motorists; It is very likely that what generates good consequences in those areas will not be a good predictor for NYC nor will it be likely to produce similar results.

Finally, the perceived direct beneficial consequence is trivial; Cohen’s good of going fast and being happy is not the same as Mill’s good which he called Happiness which is associated with a higher rational dignity. Mill argued that one must make clear distinctions not just about the quantity of a good but also the quality of such goods. I doubt that Mill’s ideas of higher rational goods such as freedom of speech, religion, etc. are really commensurate with running red lights with impunity. Dogs have great pleasure hanging their heads out car windows with the wind in their fur; humans can do better!

4b. Cite a quote from Mill supporting your answer. (5 points)

“That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.” (page 255)