The Role of the Privacy Officer

- Roles of the CPO
- The CPO’s Top 10 Challenges
- 10 Action Items for the Privacy Officer
- 10 Time-Saving/Cost-Saving Suggestions
- Cost of a Privacy Blowout

Ray Everett-Church, Esq.

"He that prieth into every cloud... may be struck with a thunderbolt."
- English proverb
Privacy Officer Has Internal/External Roles

- **Internal Role**
  - Company-wide Strategy
  - Business Development
  - Product Development & Implementation
  - Operations
  - Security & Fraud
  - Corporate Culture
  - Facilitator:
    - with senior management support, forge long-term cross-disciplinary privacy model
    - problem solve for team members
    - assure cross disciplinary training

- **External Role**
  - Industry Relations
  - Government Relations
  - Media and PR
  - Privacy Community
  - Consumer Relations
The Privacy Officer’s Top Ten Challenges

1. Data = corporate “family jewels,” but value = use
2. Contractual protections helpful, but not enough
   - breach, leakage
4. New products/services requiring review of data policies
5. New partnerships/alliances requiring coordination of policies
6. Data “bumps” (combining databases, augmenting data)
7. M&A issues (merging differing policies), Bankruptcy
8. Monitoring for compliance in fast-moving organizations
9. Consumer fears are as high as ever, media enjoys feeding fear
10. Legislators/regulators eager to turn that fear to their advantage
10 Privacy Officer Action Items

- Three areas:
  - “Know what you do.”
  - “Say what you do.”
  - “Do what you say.”
“Know what you do.”

1. Assess your data gathering practices
   - Database Administrator is your friend
   - Division level, department level databases?
   - Business development deals? Marketing plans? (“data bump”)

2. Understand your level of "permission"
   - “Legacy” databases and past practices
   - Past performance v. future expectations

3. Assess your defensive measures against outsiders
   - Network security audits (e.g., TruSecure)

4. Assess your defensive measures against insiders
   - Consider centralized policies if not centralized control
   - Access restrictions
“Say what you do.”

(a/k/a Drafting/Revising your Privacy Policy)

5. Clearly disclose all relevant practices
   - Notice, choice, access, security, redress

6. Plan for changes in practices that are consistent with today’s policy
   - Balancing “weasel wording” with true flexibility

7. If you diverge from today’s policy, make the changes loud and clear, and move on!
   - State your case plainly, proudly, and let consumers make their choices
“Do what you say.”

8. Get a Chief Privacy Officer and build a privacy team
   - designate point person in departments
     • Business Development
     • Product Management/Development
     • Operations
   - designate point person for major issues
     • Compliance (regulatory & industry)
     • Legal and Regulatory

9. Implement ongoing security and data audits

10. Integrate privacy into your corporate message
    - Internally (education)
    - Externally (consumer message, industry, regulators)
10 Time-saving/Cost-saving Steps

1. Invest in a good data audit (self or 3rd party).
   – Identifies current practices, uncovers flaws, sets baseline.

2. Invest in a good security audit.
   – Cheaper before trouble occurs v. after trouble occurs.

3. Once practices are assessed and problem areas resolved, get certified.* (e.g., TRUSTe, BBBOnline).
   – * know the limitations of certification programs

4. Keep an eye on the political/regulatory scene: AIM, DMA, ITAA, OPA, HHS, FDA, etc.
   – Easiest way to stay ahead of the curve, alerted to data practices that are in media, privacy advocate cross-hairs.

5. No team? Recruit “clueful” staff.
6. Build privacy policies & audit rights into agreements
   - Partners are a weak link; privacy problems spread

7. Don’t be shy about bringing in help.
   - Think of auditors, consultants as insurance.
   - When in Rome... get local counsel!
   - Recruit company executives (internal or external) for “Privacy Board” to share responsibility, blame.

8. Plan for disaster.

9. Participate in the legislative process.
   - Prevention is cheaper than cure (ask kids sites).
   - Do us all a favor: if you have a good story, tell it!

10. Join the IAPO: We’re all in this together.
## Cost of “A Privacy Blowout”

### Small.com, Inc.

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<th>Action</th>
<th>Time (hours)</th>
<th>Cost</th>
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<td>CEO/president time</td>
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<td>Management time</td>
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**Grand total: $44,099**

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**Grand total: $1,037,973**