



WEST VIRGINIA STATE PRIVACY OFFICE

2015 Annual Report



DECEMBER 1, 2015

Sallie Milam, Chief Privacy Officer
Terri Barrett, Deputy Chief Privacy Officer
Sue Haga, Administrative Secretary

MEMBERSHIP ON THE 2015 PRIVACY MANAGEMENT TEAM INCLUDED:

Executive Branch Departments and Department Privacy Officers:

- ◆ Governor's Office – Alyssa Keedy
- ◆ Health Care Authority – Sallie Milam
- ◆ Bureau of Senior Services – Lee Rodgers
- ◆ Department of Administration – Tom Miller
- ◆ Department of Commerce – Debe Browning
- ◆ Department of Education and the Arts – Brenda Bates
- ◆ Department of Environmental Protection – Cher Szerokman
- ◆ Department of Health and Human Resources – Lindsey McIntosh
- ◆ Department of Military Affairs and Public Safety – Rick Staton
- ◆ Department of Revenue – Doug Buffington
- ◆ Department of Transportation – Karen Saunders
- ◆ Department of Veterans Assistance – Stacy Brown
- ◆ Chapter 30 Licensing Boards – Lanette Anderson (Privacy Liaison)

Representing other Constitutional Officers, Agencies and Higher Education:

- ◆ State Auditor's Office – Mark Shelhammer
- ◆ Department of Agriculture – Chris Ferro
- ◆ Department of Education – Georgia Hughes-Webb
- ◆ ERP Board (wvOASIS) – Dawn Warfield
- ◆ Secretary of State – Sheryl Webb
- ◆ State Treasurer – Kin Richardson
- ◆ West Virginia School of Osteopathic Medicine – Jeffrey Shawver

INTRODUCTION

The State Privacy Office (SPO) leads the Executive Branch's Privacy Program as well as the Privacy Management Team (PMT), which is made up of representation from each department as well as other constitutional officers and higher education. Each year the team focuses on a different privacy dimension or domain, all with the goal of improving our protection of employees' and citizens' personally identifiable information (PII). Generally, the SPO and the PMT's efforts fall into three broad categories: (1) compliance and oversight, (2) education and training, and (3) policies and procedures.

COMPLIANCE & OVERSIGHT

The SPO provides consultation and technical assistance to support the PMT and departments as they integrate measures to ensure enhancement of data governance and privacy.

- The SPO continued to encourage Executive Branch Confidentiality Agreement enrollment and completion using the State's Learning Management System (LMS).
- The SPO offered advice and consultation regarding privacy policies, procedures, laws, regulations, and best practices in project design and implementation across the Executive Branch.
- The Privacy Impact Assessment (PIA) project was completed in early spring of 2015. A PIA provides a business process owner with information as to the privacy impact of a new technology or system. In June 2015, the SPO provided training on the PIA process to privacy professionals, security professionals, PMT members and business unit managers. The PIA guidance document, PIA tool and training materials are available on the SPO website.
- The SPO created a guidance document and a tool regarding public records release to assist state government in determining whether disclosure of personal information would result in an unreasonable invasion of personal privacy, and thus must be protected. Both the document and the tool are available on the SPO website and training was provided to several audiences.
- In November 2015, the SPO and a PMT workgroup began work on developing a template Data Use Agreement for all Executive Branch Departments.
- The SPO continued to provide incident response support to Executive Branch Department Privacy Officers (DPOs). The SPO served as a resource, offering guidance and advice throughout the incident process, from the initial report, throughout the investigation, until the privacy incident was resolved.
- The SPO along with PMT members continued to provide input to the wvOASIS project and assisted wvOASIS with its Security Incident Response Program, including strategy and tactical plans.
- In 2015, the SPO and PMT made the decision to transition the privacy audit program from one of solely self-assessment to a program that includes Departmental Privacy Self-assessment, as well as third party audits as follows:
 1. West Virginia Board of Risk & Insurance Management's (BRIM) Standards of Participation which will include a section on Cyber/Information Security & Privacy; and
 2. SPO Desk Audit that will focus on department privacy notices.
- The SPO and PMT continued to work with BRIM related to the Standards of Participation Program which is now in the process of being updated with privacy and security cyber controls. Beginning in 2016, all BRIM insureds will audit themselves against these privacy and security Standards, which will impact premium payments, credits and surcharges.

EDUCATION & TRAINING

The SPO provides privacy awareness training to state government workforce along with in-depth programmatic training to the PMT and others.

- To accomplish 2015 workforce privacy training objectives, the SPO offered privacy awareness training through its *Privacy Rocks!* online course. Additionally, biweekly privacy tips were delivered to the workforce.
- For the fifth consecutive year, the West Virginia Executive Branch championed *Data Privacy Day* on January 28, 2015. In support of *Data Privacy Day*, Governor Earl Ray Tomblin issued a Proclamation declaring January 28, 2015 as *Data Privacy Day* in West Virginia.
- Throughout 2015, the SPO and other subject matter experts provided a variety of additional educational and training opportunities as follows:

DATE	TOPIC	AUDIENCE
January 2015	US Dept. of Health & Human Services Office for Civil Rights Audit Preparation	Off-site Training: Department Privacy Teams – HIPAA ¹ Covered Entities
June 2015	BRIM Overview, Breach Response and Cyber Liability Insurance	PMT Members
June 2015	Privacy Impact Assessment Training	Off-site Training: PMT Members, Privacy Professionals, Security Professionals and Business Unit Managers
August 2015	In-service Training: FOIA And Personal Privacy	PMT Members
August 2015	In-service Training: Revised Post Incident Report and Risk of Harm Assessment	PMT Members
October 2015	In-service Training: Minimum Necessary & Limited Use	PMT Members
November 2015	Minimum Necessary & Limited Use	Department of Commerce
December 2015	FOIA and Personal Privacy	State Auditor’s Required Annual Seminar for State Licensing Boards
December 2015	In-service Training: Privacy Basics	PMT Members

- The WV Health Care Authority (which houses the SPO) sponsored the 2015 Privacy Retreat held September 8-10, 2015 at Stonewall Resort. The theme of the 2015 Privacy Retreat was *Does Your Privacy Program Need an Alignment?* The objective for this year focused on tools and tips for taking department privacy programs to the next level. There were two primary goals:
 1. Use the International Association of Privacy Professional’s (IAPP) “Ten Steps to a Quality Privacy Program”, as a model, where Executive Branch privacy professionals would enhance their ability to identify risk, test the incident response procedure, and assess their department’s privacy program maturity progression.
 2. Provide an opportunity to bring PMT members together allowing for networking, sharing successes and challenges.

¹ HIPAA – the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) (the “HITECH Act”), and any associated regulations and the federal regulations published at 45 CFR parts 160 and 164 (sometimes collectively referred to as “HIPAA”).

This year's keynote speaker was Michelle Pirtle, Special Agent (FBI Pittsburgh). Special Agent Pirtle focused on the national landscape of cybersecurity issues and how state government can partner with the FBI to prevent and mitigate cybersecurity incidents. On day two, the primary facilitator was Bob Siegel who trained on IAPP's "Ten Steps to a Quality Privacy Program" model and provided attendees with tools and tips for taking department privacy programs to the next level. On the final day of the retreat, in-house subject matter experts in cybersecurity, Joshua Spence and Jim Weathersbee (from the Office of Technology) enhanced the attendees' knowledge of cyber incidents and the incident response lifecycle. The morning ended with all attendees participating in an incident tabletop exercise and discussing lessons learned. Based upon the evaluation ratings, feedback and comments from the participants, the 2015 Privacy Retreat was a great success and of value to the participants.

POLICY & PROCEDURES

Each department must operate within its legal authority and restrictions with regard to the collection, use, disclosure and retention of PII.

- The 2015 update to the West Virginia Executive Branch Privacy Requirements includes all relevant privacy legislative and congressional enactments, regulations, and court decisions since June 2014. This online resource is used by the Executive Branch as the basis of its Privacy Program and was also communicated to the West Virginia State Bar.
- The Post Incident Report and Risk of Harm Assessment forms were revised and finalized for in-service training in August 2015.
- The SPO updated the HIPAA preemption analysis and amended policies to ensure application of more stringent West Virginia law passed in 2015.

PRIVACY PROGRAM GOALS FOR 2016

At the end of year and in collaboration with the PMT, the SPO sets program goals for the following year.

- The SPO will continue to provide DPOs and departments with on-going support with their privacy questions as well as privacy related consultation and research.
- The SPO will lead the PMT in revisiting privacy basics to ensure that all departments have a solid foundation.
- In an ongoing commitment to protect privacy and reduce risk, the SPO will move forward in establishing a three-part privacy audit program.
- The SPO will continue to coordinate with wvOASIS to facilitate privacy implementation for the project and will provide advice and consultation as requested.
- As an ongoing demonstration of support for privacy efforts in West Virginia, the SPO anticipates that Governor Earl Ray Tomblin will once again issue a Proclamation declaring January 28, 2016 as *Data Privacy Day* in West Virginia.
- The SPO is in the process of refreshing the privacy awareness training. In late 2015, a solicitation was distributed to potential vendors for a new training program. Once the training vendor is selected, the SPO will work with the vendor in creating a fresh look and new experience for the workforce. The goal is to roll-out the new training by mid-spring of 2016.
- The SPO will revise the West Virginia Executive Branch Privacy Requirements for any relevant updates based upon privacy legislative and congressional enactments, regulations, and court decisions.
- The SPO updated the HIPAA Preemption Analysis and will revise policy as needed.