



WEST VIRGINIA STATE PRIVACY OFFICE

2016 Annual Report



DECEMBER 31, 2016

Sallie Milam, Chief Privacy Officer
Sue Haga, Administrative Secretary

MEMBERSHIP ON THE 2016 PRIVACY MANAGEMENT TEAM INCLUDES:

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/Carolyn Elswick
- ◆ Department of Health and Human Resources – Lindsey McIntosh
- ◆ Department of Military Affairs and Public Safety – Rick Staton
- ◆ Department of Revenue – Misty Peal
- ◆ Department of Transportation – Karen Saunders
- ◆ Department of Veterans Assistance – Stacy Brown/Randy Coleman
- ◆ Chapter 30 Licensing Boards – Lanette Anderson/Brenda Turley (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
- ◆ Secretary of State – Sheryl Webb
- ◆ State Treasurer's Office – Kin Richardson
- ◆ West Virginia School of Osteopathic Medicine – Jeffrey Shawver
- ◆ West Virginia University – Alex Jalso

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) and risk reduction. 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 enhance data governance and strengthen privacy compliance, with the overall goal of lowering risk.

- The West Virginia Executive Branch Confidentiality Agreement sets forth the terms and conditions required of every member of the workforce with respect to confidential data. These terms and conditions are effective throughout the lifetime of the worker. The SPO continued to encourage Executive Branch Confidentiality Agreement enrollment and track 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 SPO continued to encourage departments to use the Privacy Impact Assessment (PIA) tool to provide business process owners with information as to the privacy impact of a new technology or system. When Departments wish to purchase new technology, the Chief Technology Officer (CTO) reviews the purchase for privacy implications, and to ensure that a PIA has been completed. If not, the DPO and the State Privacy Office will be notified of the planned procurement, and a PIA will be requested from the Department. The PIA guidance document, PIA tool and training materials are available on the SPO website. Additionally, the SPO provided departments technical assistance regarding this assessment.
- The SPO continued to provide departments with technical assistance regarding the Privacy – Freedom of Information Act guidance document and tool designed 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. The SPO continued to provide support in using these tools.
- The SPO and a PMT workgroup completed development of a template Data Use Agreement for use by 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.
- In 2016, the SPO developed the Desk Audit program regarding review of department Notice Statements. Privacy Notices are required by a variety of laws and are binding.
- The SPO and PMT completed their collaboration with the WV Board of Risk and Insurance Management (BRIM) and the WV Office of Technology's Chief Information Security Officer related to the Standards of Participation Program (SOPP). Each year BRIM sends out a questionnaire to gather information to better understand current efforts to limit and control

preventable liability claims. In 2016, Cyber/Information Security and Privacy questions were added. Not only will this information help BRIM, but will also help departments identify specific risk management areas. In the future, Cyber/Information Security and Privacy survey responses will impact premium 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 2016 workforce privacy training objectives, the SPO updated the privacy online training course. The new course, Think WV Privacy, was completed and rolled out to all employees within the WV Executive Branch in May with 70% completion in six months. The training was also made available to other constitutional offices and higher education. Privacy training is critical in lowering privacy risk with employees.
- The SPO continues to ensure privacy awareness by providing biweekly privacy tips to workforce members.
- For the fifth consecutive year, the West Virginia Executive Branch championed *Data Privacy Day* on January 28, 2016. In support of *Data Privacy Day*, Governor Earl Ray Tomblin issued a Proclamation declaring January 28, 2016 as *Data Privacy Day* in West Virginia.
- Throughout 2016, the SPO and other subject matter experts provided a variety of educational and training opportunities. This included leading the PMT in revisiting privacy basics to ensure that all departments have a solid foundation. The following educational opportunities were provided:

DATE	TOPIC	AUDIENCE
January 28 Data Privacy Day	Workshop: Privacy Officer Refresher Training	Department & Agency Privacy Officers (APO)
February 11	In-service Training: Overview of the 10 Steps to a Quality Privacy Program	PMT
March 17	Workshop: Privacy Metrics	PMT
April 11	Webinar: <i>Presentations Steve Jobs Style</i>	PMT
April 20	Webinar: <i>The Requirements and Responsibilities of the HIPAA¹ Security/Privacy Officer</i>	DPOs and APOs of HIPAA impacted departments
June 6	In-service Training: Building an Incident Response Team	PMT
September 13	Webinar: <i>Privacy and Proprietary Interests under FOIA: Exemptions and the Submitter Process</i>	PMT and other department employees who deal with FOIA issues.
October 6	In-service Training: Incident Response Event Checklist and Flowcharts	PMT
December 1	In-service Training: Review of 2016 HIPAA Preemption and Privacy Requirements	PMT

¹ References to HIPAA shall mean 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”), any associated regulations and the federal regulations published at 45 CFR parts 160 and 164 (sometimes collectively referred to as “HIPAA”).

POLICY & PROCEDURES

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

- The 2016 update to the West Virginia Executive Branch Privacy Requirements includes all relevant privacy legislative and congressional enactments, regulations, and court decisions since June 2015. 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.
- To facilitate incident response management, the Post Incident Report and Risk of Harm Assessment forms were provided to the PMT with training in August 2016.
- The SPO updated the HIPAA preemption analysis and amended policies to ensure application of more stringent West Virginia law passed in 2016.

PRIVACY PROGRAM GOALS FOR 2017

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 continue to collaborate with the State's Chief Information Security Officer to better measure, manage and reduce risk.
- In an ongoing commitment to protect privacy and reduce risk, the SPO will move forward in establishing a three-part privacy audit program – SPO desk audit, BRIM's Cyber Standards of Participation, and departmental self-assessment.
- As an ongoing demonstration of support for privacy efforts in West Virginia, the SPO anticipates the Governor will once again issue a Proclamation declaring January 28, 2016 as *Data Privacy Day* in West Virginia.
- The SPO plans to host the 2017 PMT Privacy Retreat.
- Given the evolving threat environment and regulatory focus, the SPO plans to update its HIPAA awareness training for the workforce.
- The SPO will continue to provide educational and training opportunities for PMT members.
- The SPO will revise the West Virginia Executive Branch Privacy Requirements for any relevant updates based upon privacy legislation and congressional enactments, regulations, and court decisions.
- The SPO will update the HIPAA Preemption Analysis and will revise policy as needed.