ACC Association of Corporate Counsel
COLORADO

The Tipping Point?

DATA PRIVACY & SECURITY 2.0

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SPEAKERS

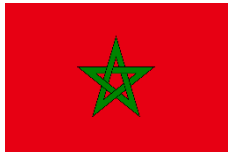
Maggie Warren
Corporate Counsel
Vertafore®

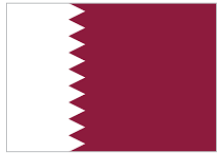
Rebecca Perry, CIPP US/G
Director of Professional Services
Jordan Lawrence®

David Navetta
Partner
Cooley


WELCOME TO
DATA SECURITY &
PRIVACY COMPLIANCE

Expanding Data Privacy & Cybersecurity Regulations





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GDPR Update

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News

Nonprofit Files Complaints Against Amazon, Netflix and Others Over Alleged GDPR Violations

Austrian data privacy nonprofit Noyb said it has filed formal complaints against a number of streaming services, including Amazon, Apple, Netflix and Spotify over alleged GDPR violations.

By **Caroline Spiezio** | January 18, 2019 at 06:34 PM

Netflix headquarters at 100 Winchester Circle, Los Gatos, California. Photo by Jason Doiy/The Recorder.

Data privacy organization Noyb **announced Friday** that it filed a series of complaints with the Austrian Data Protection Authority against major tech companies who it alleged are not in compliance **with GDPR**'s **Article 15**, which outlines European Union residents' "right to access" their personal data from processors.

California's Consumer Privacy Act

TOP THINGS TO KNOW:

- California Residents (Employees & Consumers)
- Dramatically Expands Privacy Rights
- Broad Definition of Personal Data
- Fines for Violations
- Private Right of Action
- Data Retention & Disposal
- Must Know Third Parties
- 12-Month Look Back

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Business disruptions & new theories of liability.

Business Disruptors

IN A NUT SHELL

- Increased initial compliance costs
- Increased burdens for CCPA rights
- Increased litigation (“Privactivists”)
- Changes to Incident Response
- Increased Regulatory Actions/Fines
- Business Model Undermining

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CALIFORNIA
CONSUMER PRIVACY ACT

About Facts Updates Coalition Contact Donate

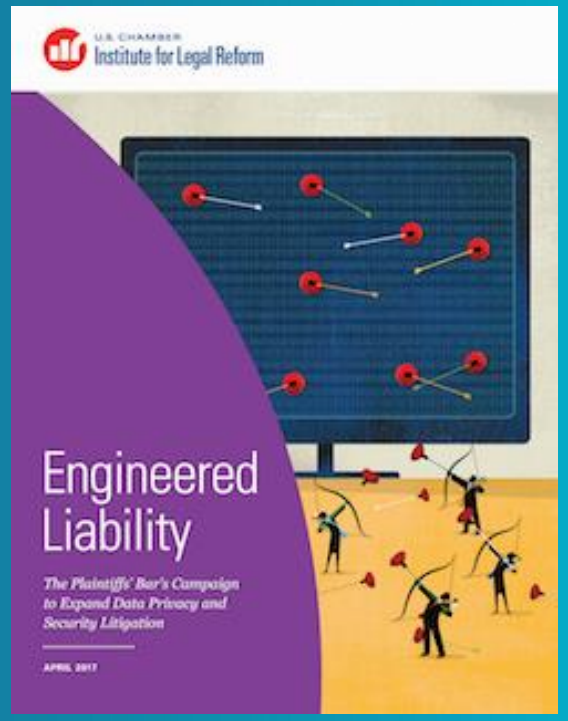
Own Your Personal Information

The California Consumer Privacy Act empowers you to find out what information businesses are collecting about you, your devices, and your children, and gives you the choice to tell them NO.

If a business collects your personal information, once a year and free of charge they have to tell you what categories of information they have collected on you, your devices and your children.

If a business sells your personal information, they have to tell you what categories of personal information they are selling and then tell you to whom they sold your personal information.

The Plaintiffs' Bar's Campaign to Expand Data Privacy and Security Litigation



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Executive Summary

When the prospect of large monetary settlements is on the table, no business sector is secure from plaintiffs' attorneys. In this pattern, there is a growing campaign by the plaintiffs' bar to target data privacy and security in the hopes of striking it rich in a new goldmine on the level of the asbestos litigation of the 1970s, 80s, and 90s.

Potential Wave of Litigation

BREACHES SUDDENLY HAVE GREAT POTENTIAL:

10,000 CA RESIDENTS:	**$1 to $7.5 million**
100,000 CA RESIDENTS:	**$10 to $75 million**
1,000,000 CA RESIDENTS:	**$100 to $750 million**
10,000,000 CA RESIDENTS:	**$1 to $7.5 billion**

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Privacy governance program.

Identify Stakeholders & Update Policies

- ✓ Privacy Stakeholders and Escalation Process
- ✓ Data Governance Policy
- ✓ Internal Privacy Policy
- ✓ Record Retention Policy
- ✓ External Privacy Statements
  - Website
  - Solutions

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Privacy and Security Impact Assessments

- ✓ Address new laws
- ✓ Address new processing
- ✓ Assessment Questions
- ✓ Answered and attested to by the Product Owners or department heads
- ✓ Set to an annual or otherwise regular cadence

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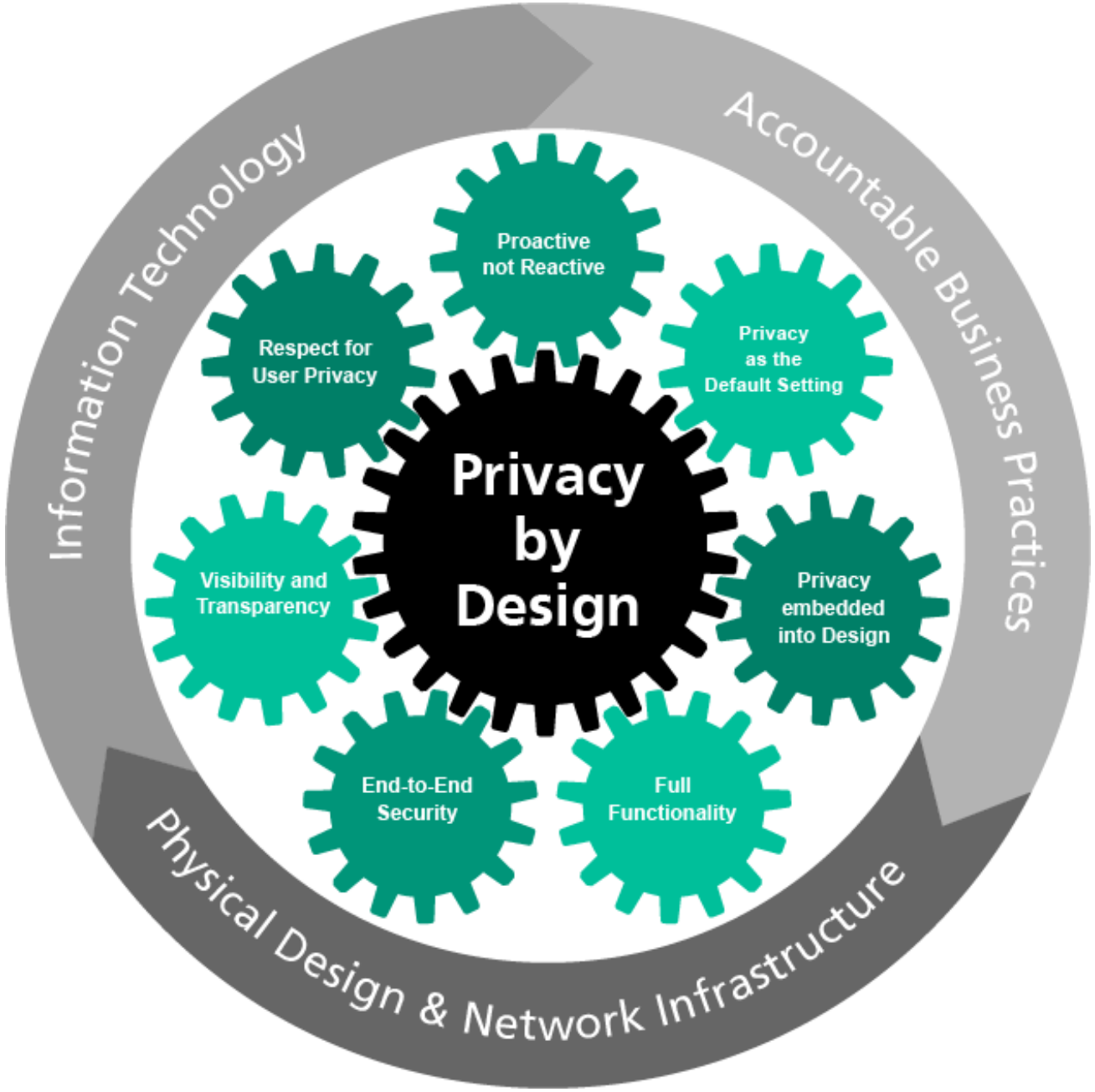
Privacy By Design...

- ✓ Embedded into every standard, protocol, and process.
- ✓ Incorporated into networked data systems and technologies, by default.
- ✓ Integral to organizational priorities, project objectives, design processes, and planning operations.



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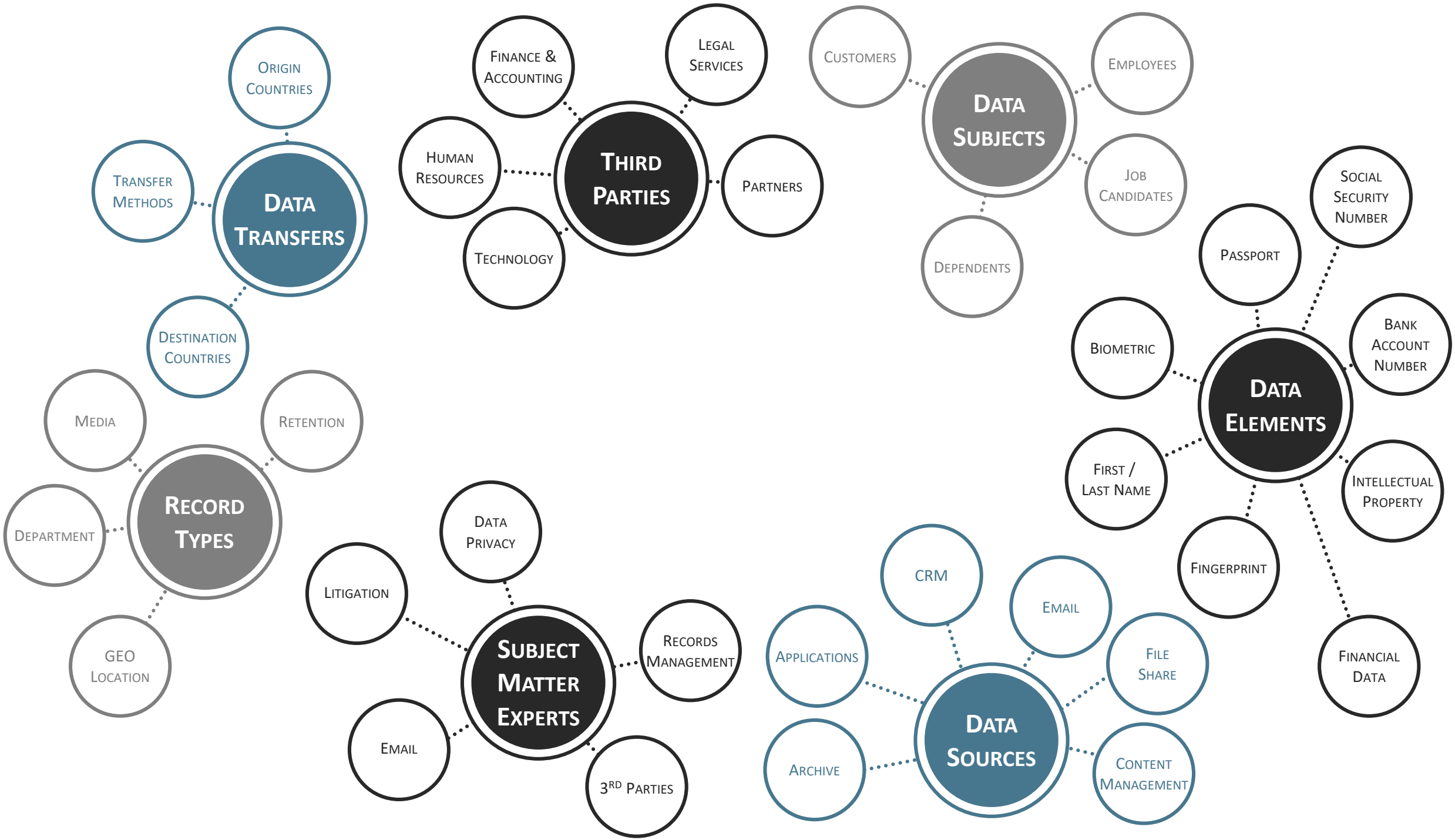
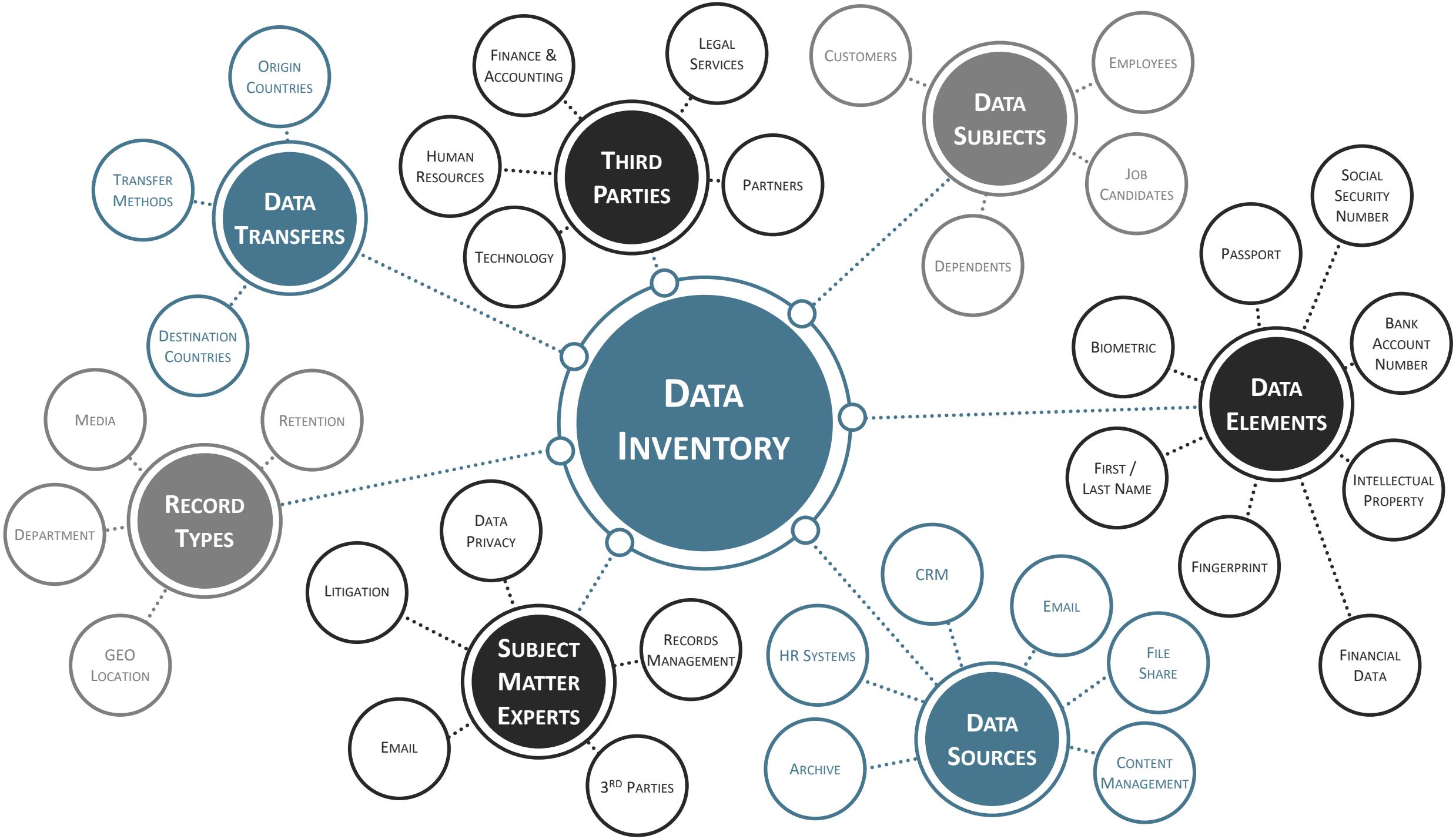
Know your data.

The Challenge


Data Transfers
Origin Countries
Transfer Methods
Destination Countries
Third Parties
Finance & Accounting
Legal Services
Human Resources
Partners
Technology
Data Subjects
Customers
Employees
Job Candidates
Dependents
Data Elements
Social Security Number
Passport
Biometric
Bank Account Number
First / Last Name
Intellectual Property
Fingerprint
Financial Data
Record Types
Media
Retention
Department
Geo Location
Subject Matter Experts
Data Privacy
Litigation
Records Management
Email
3rd Parties
Data Sources
CRM
Email
Applications
File Share
Archive
Content Management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Legal Services
Human Resources
Partners
Technology
Data Subjects
Customers
Employees
Job Candidates
Dependents
Data Elements
Social Security Number
Passport
Biometric
Bank Account Number
First / Last Name
Intellectual Property
Fingerprint
Financial Data
Record Types
Media
Retention
Department
GEO Location
Subject Matter Experts
Data Privacy
Litigation
Records Management
Email
3rd Parties
Data Sources
CRM
Email
HR Systems
File Share
Archive
Content Management

Regulations apply to personal data in all data sources.

EMAIL

SHARED DRIVES

THIRD PARTIES

Data Inventory Findings | **Jordan Lawrence**

Develop a Sustainable Data Inventory

- ✓ All Sensitive/Personal Data
- ✓ All Data Sources
- ✓ All Third Parties
- ✓ All Retention Requirements

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DATA SUBJECTS	Beneficiaries | Current Employees | Customers | Job Candidates | Minors/Children | Past Employees | Subscribers
APPLICABILITY	NAIC National Association of Insurance Commissioners; GLBA Gramm-Leach-Bliley Act
PERSONAL DATA	Social Security Number| Drivers' License Number | Account Number | Credit Card Number Corporate Financial Data | Legal Actions | Intellectual Property | M&A Data | Attitudes
COLLECTION	Web Form; Email; Paper Form; In Person
APPLICATIONS	SAP; workday; ORACLE JD EDWARDS; KRONOS; PeopleSoft
DEPARTMENTS	Customer Service | Finance-Payroll | HR-Benefits | HR-Recruiting Investor Relations | Legal & Compliance | Marketing
LOCATIONS	Office 365; box; SharePoint; FileNet; Laptops; File Cabinets
THIRD PARTIES	ADP; PageUp; OrangeTree; Iron Mountain; HireRight
RETENTION	Payroll Records Personnel Records Recruiting Records AUT 7 Years; BEL 5 Years; NLD 5 Years; ITA 5 Years; CHE 5 Years; USA 7 Years

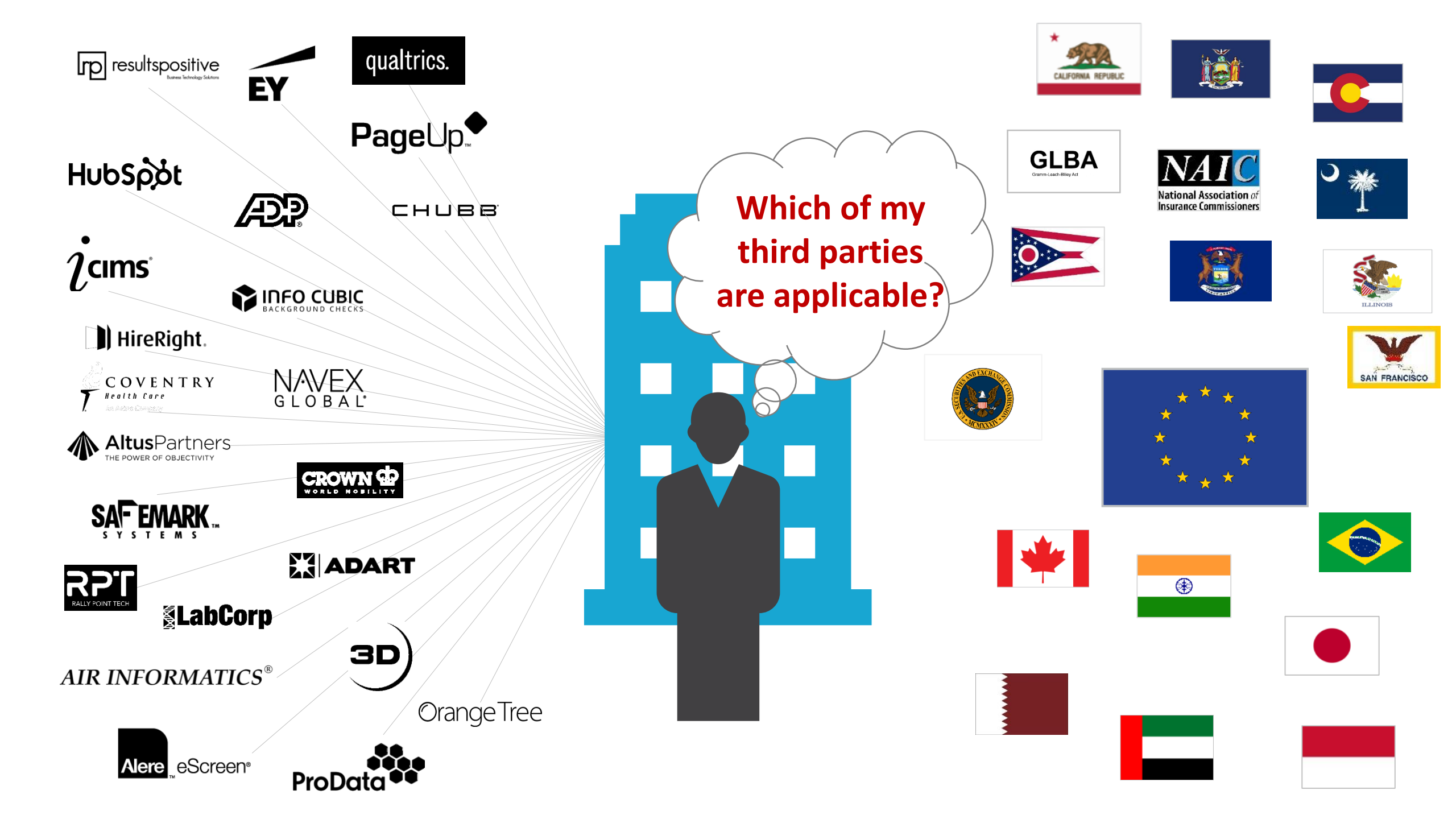
Know your vendors.

Companies lack visibility into the third parties they share sensitive data with.

don't have an inventory of their third parties.

experienced a breach caused by a third party.

Data Risk in the Third-Party Eco System | **Ponemon Institute**


resultspositive
EY
qualtrics.
PageUp
HubSpot
ADP
CHUBB
icims
INFO CUBIC BACKGROUND CHECKS
HireRight
COVENTRY Health Care
NAVEX GLOBAL
AltusPartners THE POWER OF OBJECTIVITY
CROWN WORLD MOBILITY
SAFEMARK SYSTEMS
ADART
RPT RALLY POINT TECH
LabCorp
3D
AIR INFORMATICS
OrangeTree
Alere eScreen
ProData
Which of my third parties are applicable?
CALIFORNIA REPUBLIC
GLBA Gramm-Leach-Bliley Act
NAIC National Association of Insurance Commissioners
ILLINOIS
SAN FRANCISCO
U.S. SECURITIES AND EXCHANGE COMMISSION

Vendor Risk Profile

Identify Regulatory Applicability & Risks

resultspositive
EY
qualtrics.
PageUp
HubSpot
ADP
CHUBB
icims
INFO CUBIC BACKGROUND CHECKS
HireRight
COVENTRY Health Care
NAVEX GLOBAL
AltusPartners THE POWER OF OBJECTIVITY
CROWN WORLD MOBILITY
SAFEMARK SYSTEMS
ADART
RPT RALLY POINT TECH
LabCorp
AIR INFORMATICS®
3D
OrangeTree
Alere eScreen®
ProData

Vendor Risk Profile

Identify Regulatory Applicability & Risks

Priority/Regulated Vendors

INFO CUBIC BACKGROUND CHECKS · EY · COVENTRY Health Care An Aetna Company · icims · HireRight · PageUp · ADP · AltusPartners THE POWER OF OBJECTIVITY · HubSpot · CROWN WORLD MOBILITY · Alere eScreen · NAVEX GLOBAL · OrangeTree · LabCorp · CHUBB

High-Risk Vendors

AIR INFORMATICS · 3D · ProData · SAFEMARK SYSTEMS

Non-Regulated Vendors

resultspositive · RPT RALLY POINT TECH · qualtrics. · ADART

Priority/Regulated Vendors

INFO CUBIC BACKGROUND CHECKS
EY
COVENTRY Health Care An Aetna Company
icims
HireRight
PageUp
ADP
AltusPartners THE POWER OF OBJECTIVITY
HubSpot
CROWN WORLD MOBILITY
Alere eScreen
NAVEX GLOBAL
OrangeTree
LabCorp
CHUBB

High-Risk Vendors

AIR INFORMATICS®
3D
ProData
SAFEMARK SYSTEMS

COMPREHENSIVE ASSESSMENT

REPEAT

NIST CSF
NIST SP 800 171
COBIT
ISO 27000

Requisite Reporting

Third-Party Diligence

-

TOP 10 LIST

1. **ONBOARDING DILIGENCE**
2. Categories of Data Touched & Access Granted
3. Specific Data Processing Activities
4. Information Security Policy & Program
5. Disaster/Business Continuity Planning
6. History of Enforcement or Breaches
7. Breach Detection, Notification, Response
8. Your Vendor's Vendors (4th Party Risks)
9. Cyber Insurance
10. **RECURRING DILIGENCE (REPEAT ROUTINELY)**

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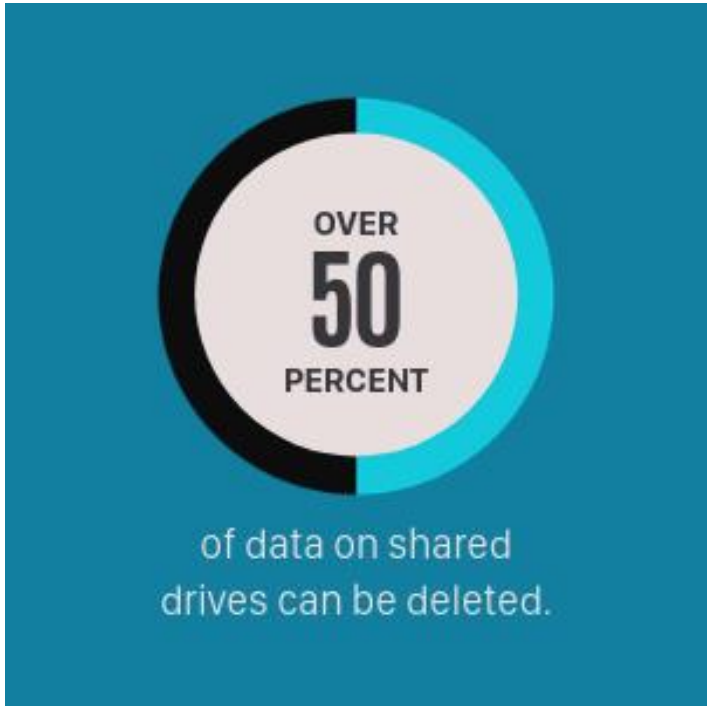
Eliminate unnecessary data.

Over-retention of personal data will not be defensible.

EMAIL

SHARED DRIVES



PAPER

Client Data Minimization Results | **Jordan Lawrence**

A Clear Path to Data Minimization

- ✓ Data Inventory
- ✓ Retention Standards
- ✓ Routine Deletion

Develop

- ✓ Retention Schedules
- ✓ Scheduling Logic
- ✓ Policies
- ✓ Deletion Strategies
- ✓ Hold Process

Implement

- ✓ Program Training
- ✓ Attestation
- ✓ Email
- ✓ File Share
- ✓ Structured Data
- ✓ Paper Records

Maintain

- ✓ Audit Trail
- ✓ Documentation
- ✓ Program Monitoring
- ✓ Program Updates
- ✓ Annual Review

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Bet-Your-Job Questions…

1. Do we really know where all personal and sensitive data exists?
2. Which of our third parties are relevant to data privacy & cybersecurity regulations?
3. Do we retain any personal data longer than business or regulatory requirements?
4. Are our SEC disclosures aligned with SOX controls and cyber risk analysis?

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QUESTIONS

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