

Data Privacy Act of 2012

R.A. 10173

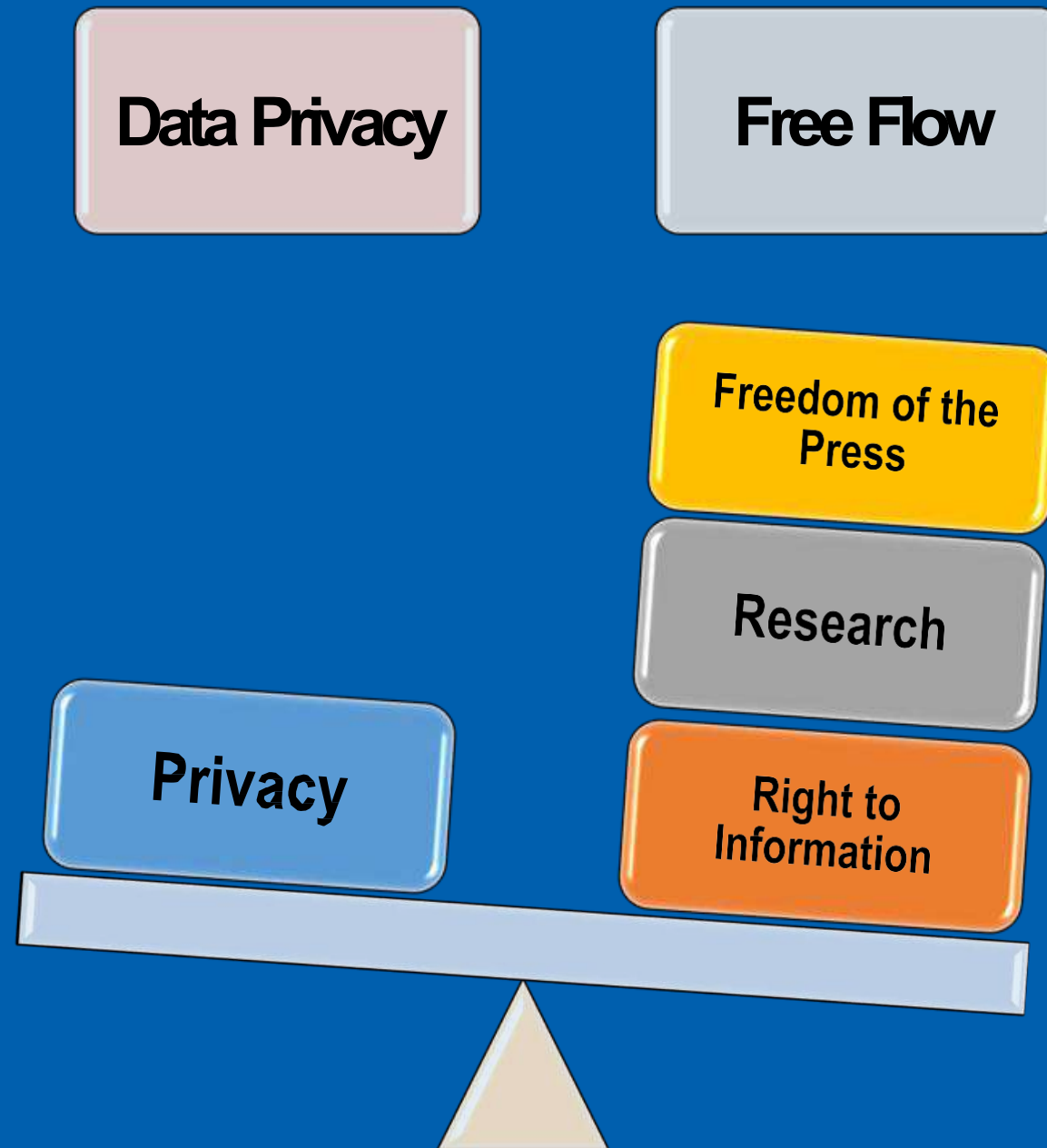
Right to Privacy



“the right to be let alone - the most comprehensive of rights and the right most valued by civilized men”

[Brandeis J, dissenting in *Olmstead v. United States*, 277 U.S. 438 (1928)].

It is the policy of the State to protect the fundamental human right of privacy, of communication while ensuring free flow of information to promote innovation and growth



Data Privacy and FOI

Right to Data Privacy

The “right to be let alone”

The individual’s ability to control the flow of information concerning or describing him or her.


Free Flow of Information

Right to information or Freedom of information

Freedom of the press

Research

Access Information from the **Government**

Research Data, Statistics, Etc. 

Browse over **244,896** requests and **683** government agencies

Data Breaches in the Philippines

Jollibee Data Breach

In June, fast-food chain Jollibee reported a data breach that affected around 1.5 million users.

The National Privacy Commission is now the lead agency in investigating the breach, which involved the theft of users' identification numbers and other personal information.

1. Comelec Data Breach (2016)

A month later, the Commission on Elections (Comelec) announced a data breach that affected the personal information of 1.5 million voters.

The breach involved the theft of voters' names, addresses, and other personal information. The government's website was also compromised, and the country's national flag was displayed on the homepage.

On April 12, 2017, the government's website was compromised, and the country's national flag was displayed on the homepage.

The names of the National Union of Public Employees (NUPE) and the National Union of Teachers (NUT) were also affected.

4. UCPB Independence Day Cyber Attacks (2020)

The government's website was compromised, and the country's national flag was displayed on the homepage. The breach involved the theft of the government's personal information, including the names of the National Union of Public Employees (NUPE) and the National Union of Teachers (NUT).

5. PhilHealth Medusa Attack (2023)

The recent attack on the Philippine Health Insurance Corporation (PhilHealth) has far-reaching implications for the government's cybersecurity capabilities. As of October 10, hackers have begun releasing stolen data on the dark web, including confidential memos and member data (i.e., addresses, phone numbers, and insurance IDs). They demanded \$300,000 (₱17 million) in exchange for the stolen information.

No Business Wants a Data Breach

Impact of data breaches
on businesses:



- Loss of reputation
- Loss of market share
- Legal liabilities

What is Privacy Risk?

A Personal Data
Breach or a Data
Privacy Violation



that has NOT happened yet.

What is Privacy Resilience?

A Personal Data
Breach or a Data
Privacy Violation

that was **PREVENTED.**

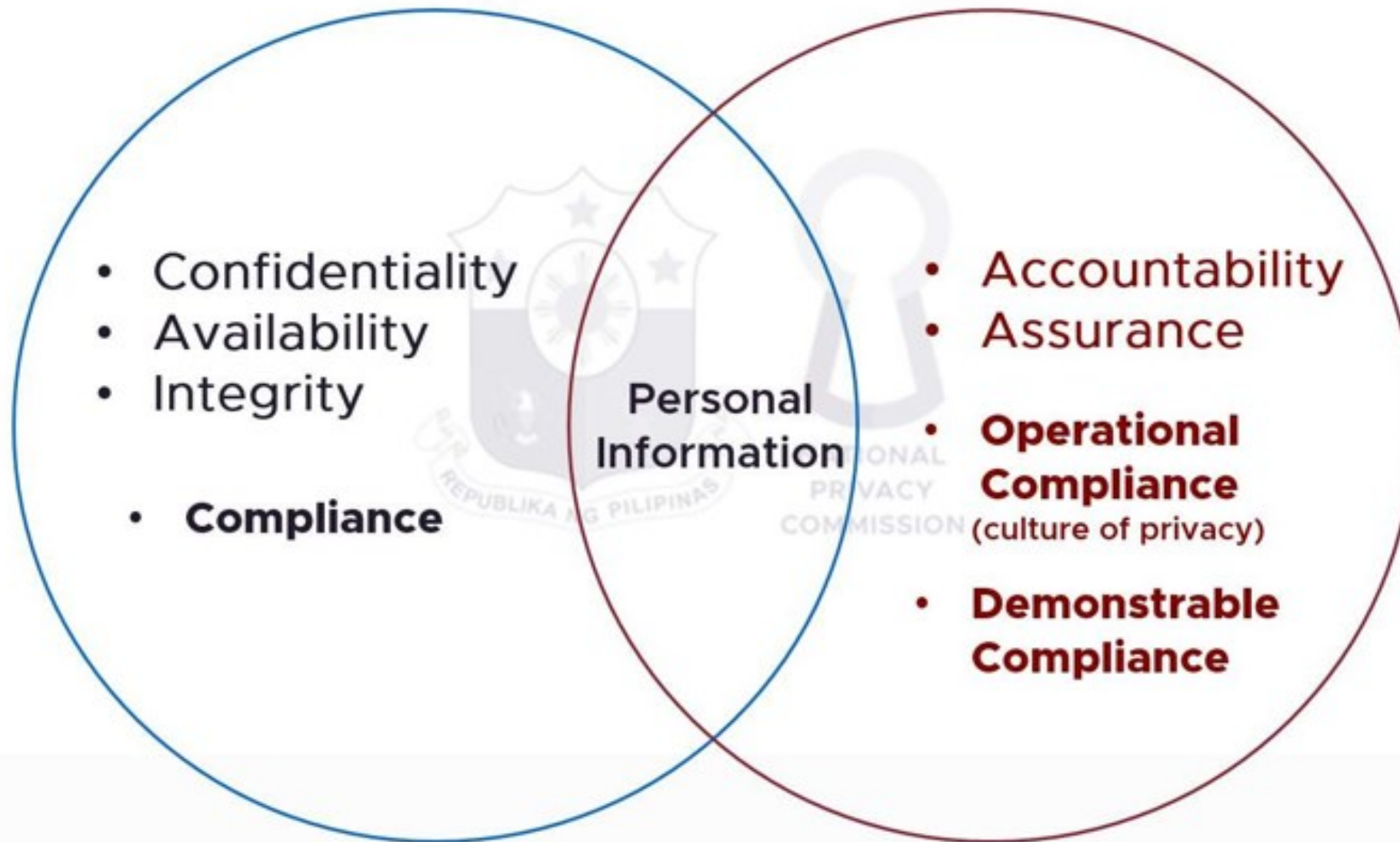
A breach and privacy disaster

that did **NOT** happen.



Data Protection

Data Privacy



Disaster



Resilience



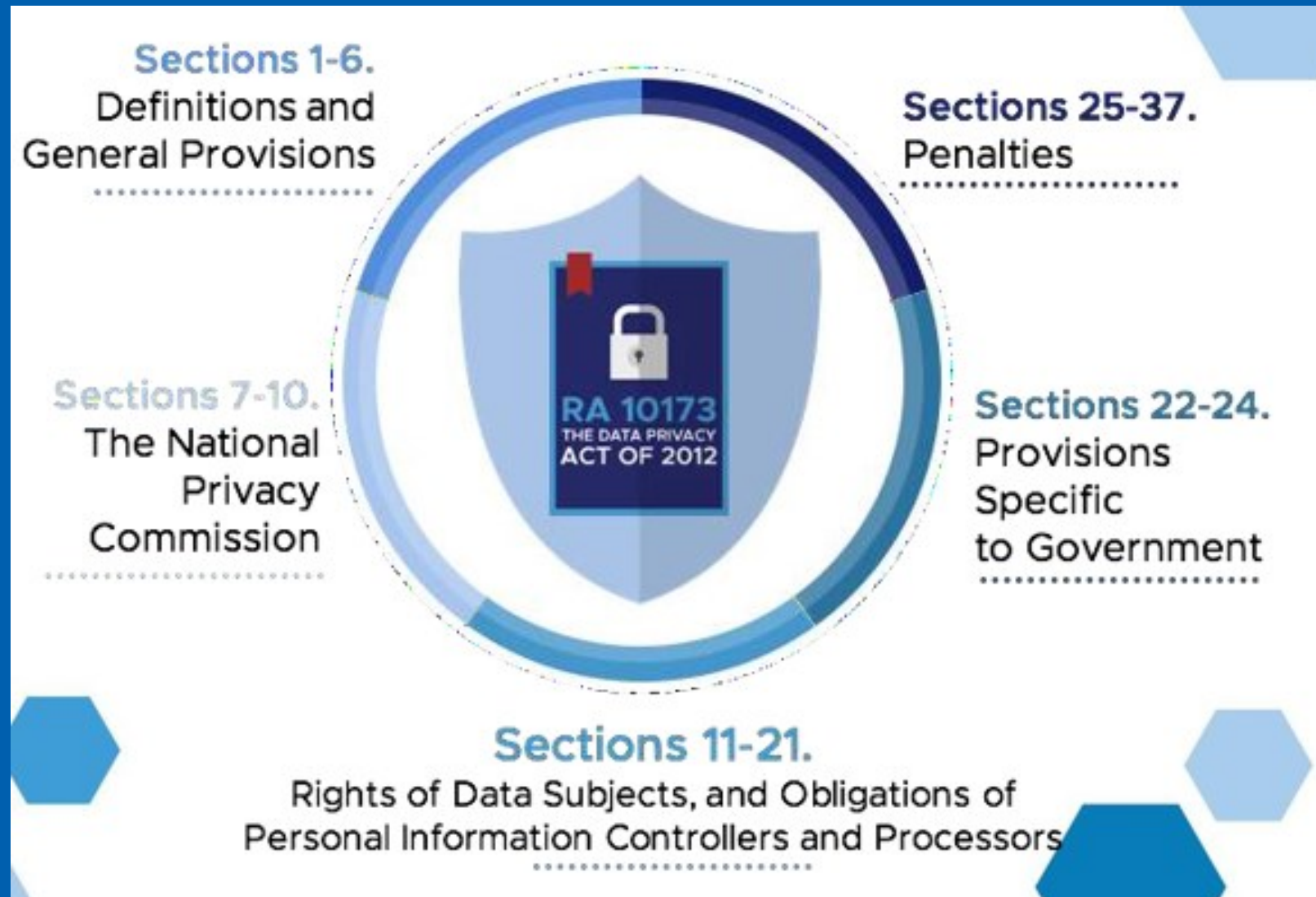
How do privacy breaches occur?

Right to Information Privacy

The individual's ability to control the flow of information concerning or describing him, which however must be overbalanced by legitimate public concern. To deprive an individual of his power to control or determine whom to share information of his personal details would deny him of his right to his own personhood.

Dissenting Opinion of Justice Consuelo Ynares-Santiago in G.R No 167798 Kilusang Mayo Uno, et al., v. The Director General, National Economic Development Authority, et al., and G.R No. 167930 Bayan Muna Representatives Satur C. Ocampo, et al., v. Eduardo Ermita, et al. (19 April 2006)

Structure of R.A. 10173



R.A. 10173 – Full Title

An act protecting individual personal information in information and communications systems in the government and the private sector, creating for this purpose a National Privacy Commission, and for other purposes

Where is privacy in all of these?

The law upholds the right to privacy by protecting individual personal information.

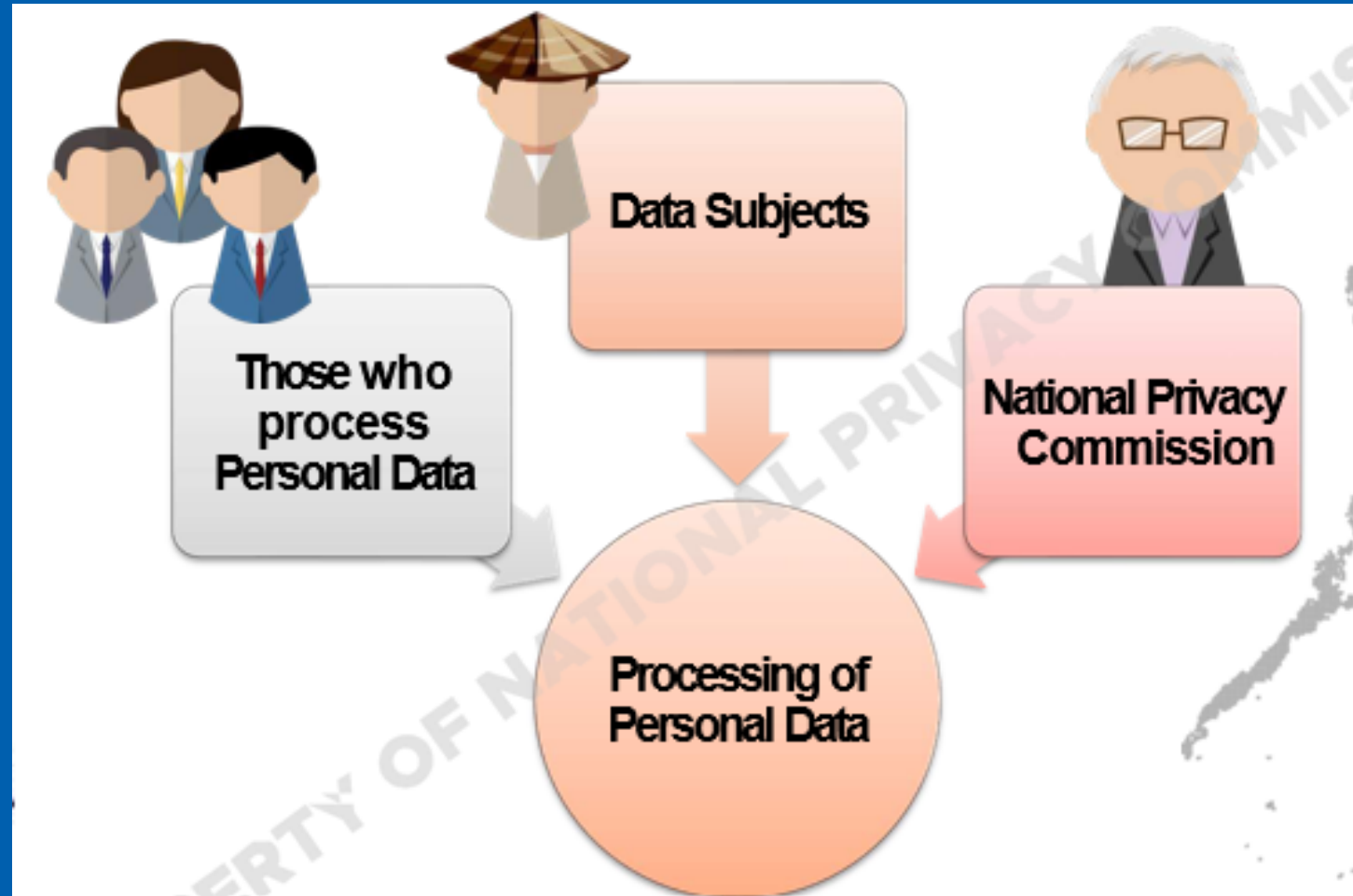
The National Privacy Commission protects individual personal information by ***regulating the processing of personal information***

The Privacy Ecosystem



Scope of the Law

Personal Information Controllers (PIC) and Personal Information Processors (PIP) processing personal data of DATA SUBJECTS.



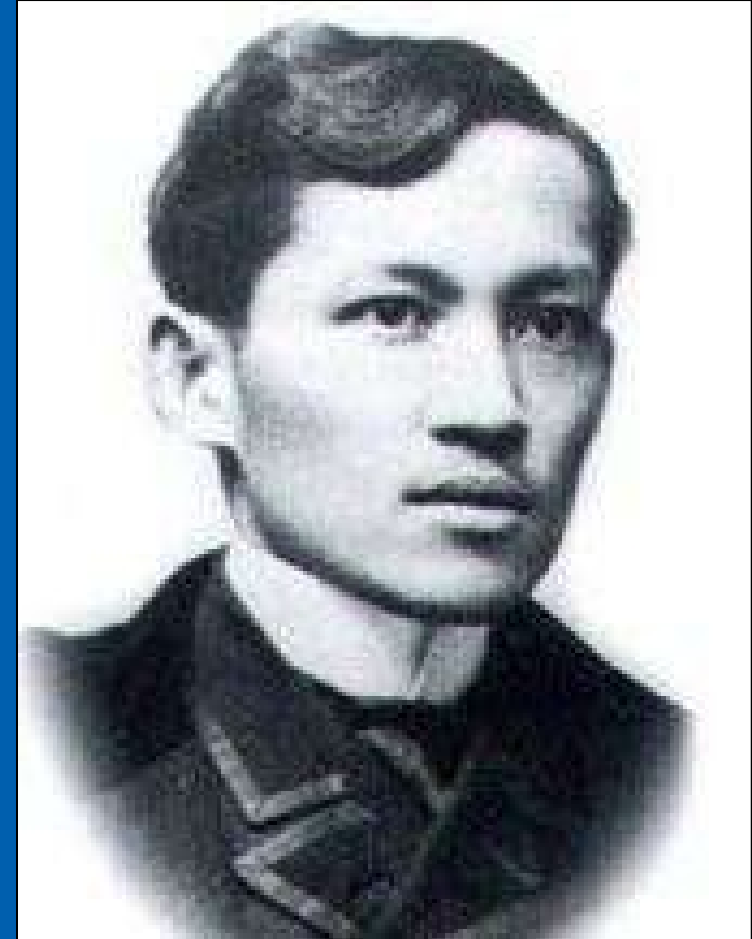
Personal Data

- Any information from which the identity of an individual is apparent
- Any information that can be put together with other information to reasonably and directly identify an individual
- Includes sensitive personal information such as your health, education, genetic or sexual life
- Includes information that is classified or privileged

Are these personal data

- A. "Man born on June 19, 1861"
- B. "Philippine national hero born on June 19, 1861"
- C. "Jose Protacio Rizal"

D.



Jose Rizal, available at
https://en.wikipedia.org/wiki/Jos%C3%A9_Rizal

Processing

any operation or any set of operations performed upon personal information including, but not limited to, the **collection, recording, organization, storage, updating or modification, retrieval, consultation, use, consolidation, blocking, erasure or destruction** of data.



Personal Information Controller

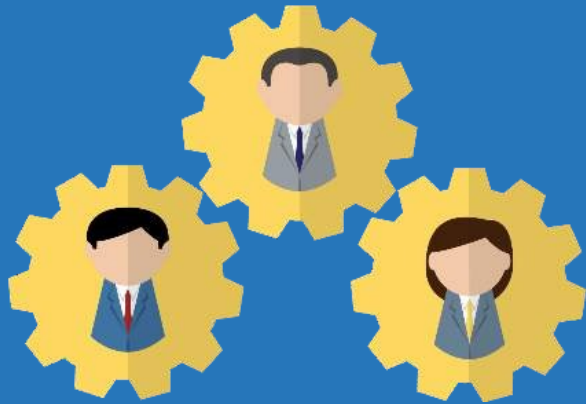


- ▶ person or organization who **controls the collection, holding, processing of personal data**, or instructs another to process personal data on its behalf.

it excludes:

- ▶ a natural or juridical person, or any other body, who performs such functions as instructed by another person or organization; or
- ▶ a natural person who processes personal data in connection with his or her personal family, or household affairs.

Personal Information Processor



- ▶ Refers to any natural or juridical person or any other body to whom a personal information controller may **outsource or instruct the processing of personal data** pertaining to a data subject.

Data Subject



- ▶ Any individual whose **personal, sensitive personal or privileged information is processed.**

Data Subject



Rights of Data Subjects

- ▶ Right to information
- ▶ Right to object
- ▶ Right to access
- ▶ Right to correct
- ▶ Right to erase
- ▶ Right to damages
- ▶ Right to data portability
- ▶ Right to file a complaint

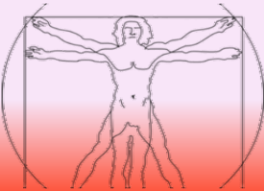
Data Privacy Principles

NOTICE

TRANSPARENCY



LEGITIMATE PURPOSE



PROPORTIONALITY

**If it is NOT CLEAR
it is NOT CONSENT**

Case Study

The complainant attended the accident and emergency department of a public hospital. A few months later, **she was contacted by an organization carrying out research.** The researchers knew when she had attended the hospital and why, and they asked her to answer some questions.



<https://www.kauveryhospital.com/blog/emergency-and-critical-care/medical-emergency-what-to-do/>

Case Study

- The hospital was in fact aware of its obligations under the Data Protection Act, but it contended that it had met these in two ways:

1. It listed "personnel engaged in medical research" as authorized in its entry in the Public Register of Data Controllers.
2. It made patients aware of the research project by putting a NOTICE in the waiting area of the accident and emergency department. **This notice told patients that the hospital intended to disclose their information to the researchers, and invited them to let the receptionist know if they objected.**



Case Study

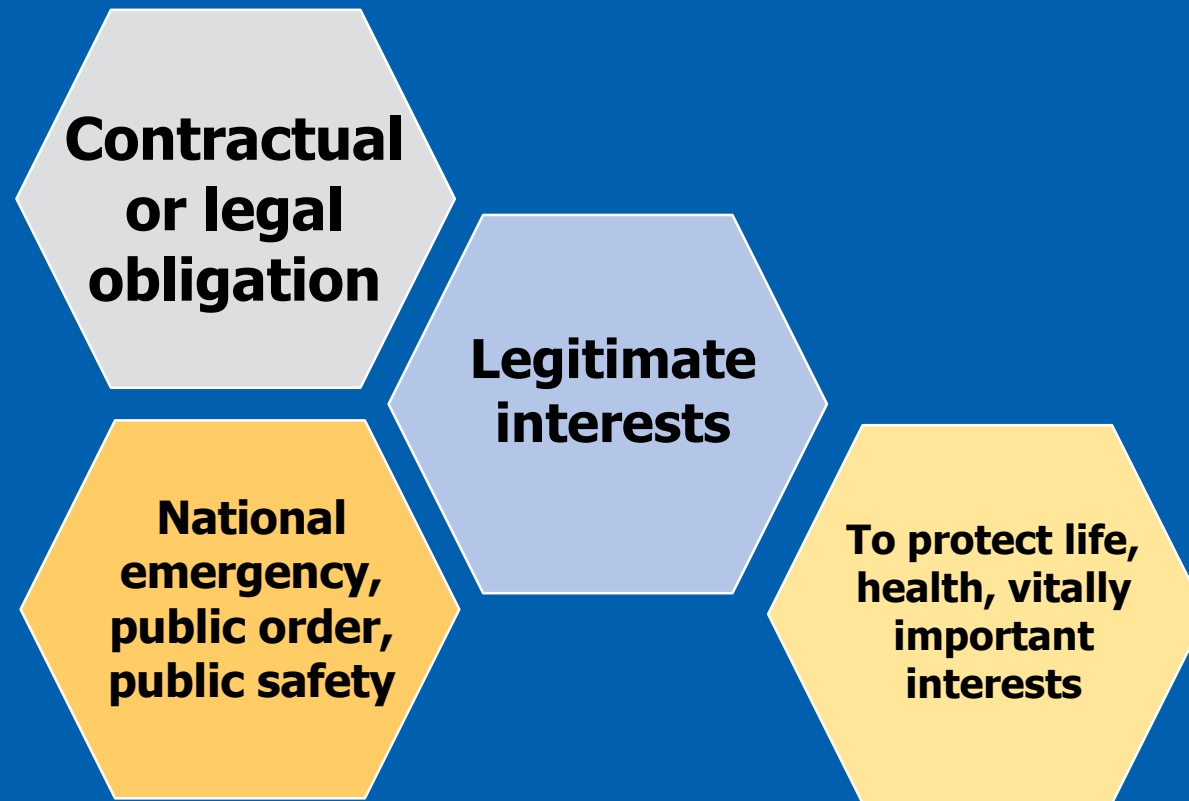
- On the Noticed Placed in the waiting area: The issue to be decided was whether this was an adequate way of informing patients that their information would be disclosed to the researchers.
- In different circumstances, it might have been. In this case, however, account ought to have been taken of the particular environment in which patients' data were obtained. Many patients presenting themselves at the casualty department of a hospital may be expected to be in a state of some anxiety or discomfort. Consequently, they may not be expected to be alert to matters not relating directly to their condition. In such circumstances there is a special need for the data controller to satisfy itself that any uses of the data which are unlikely to be anticipated by the data subject are fully explained.

Is consent always necessary?

Sometimes

**CONSENT is
NOT necessary**

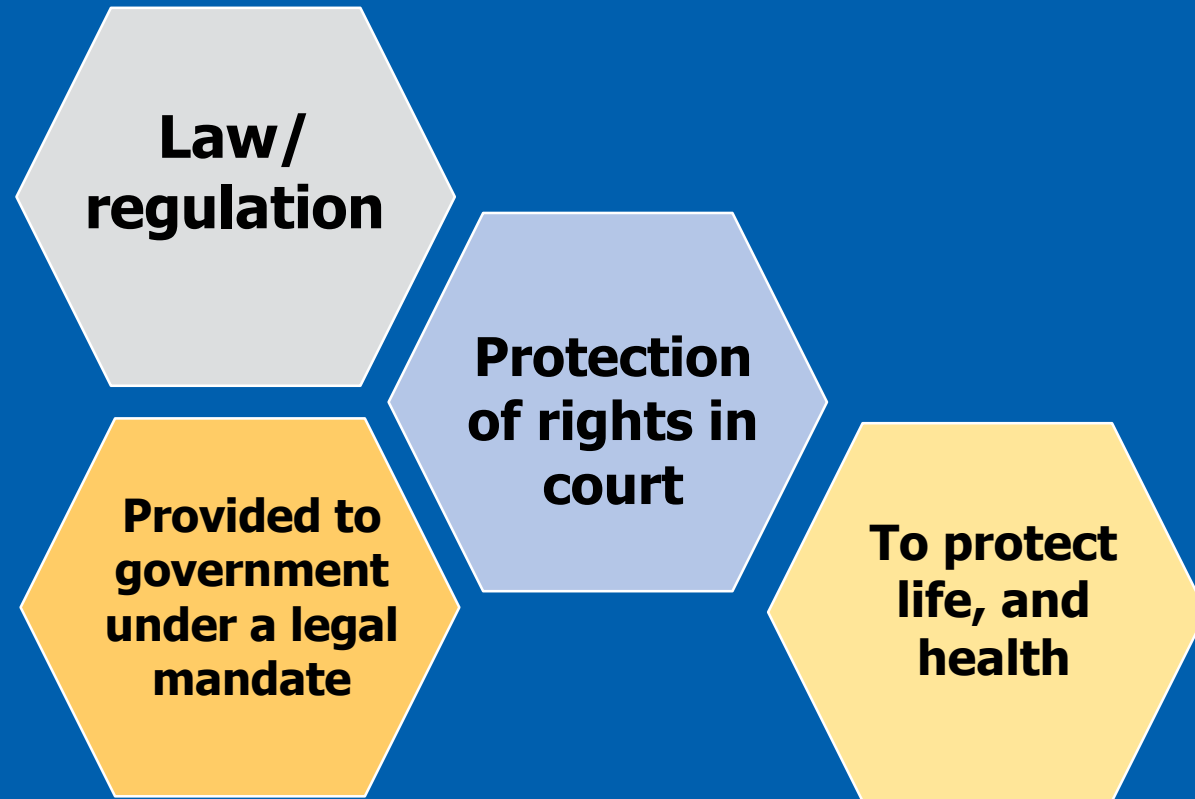
Personal information (not sensitive)



Sometimes

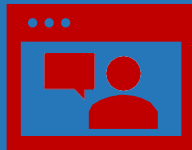
**CONSENT is
NOT necessary**

Sensitive Personal Information

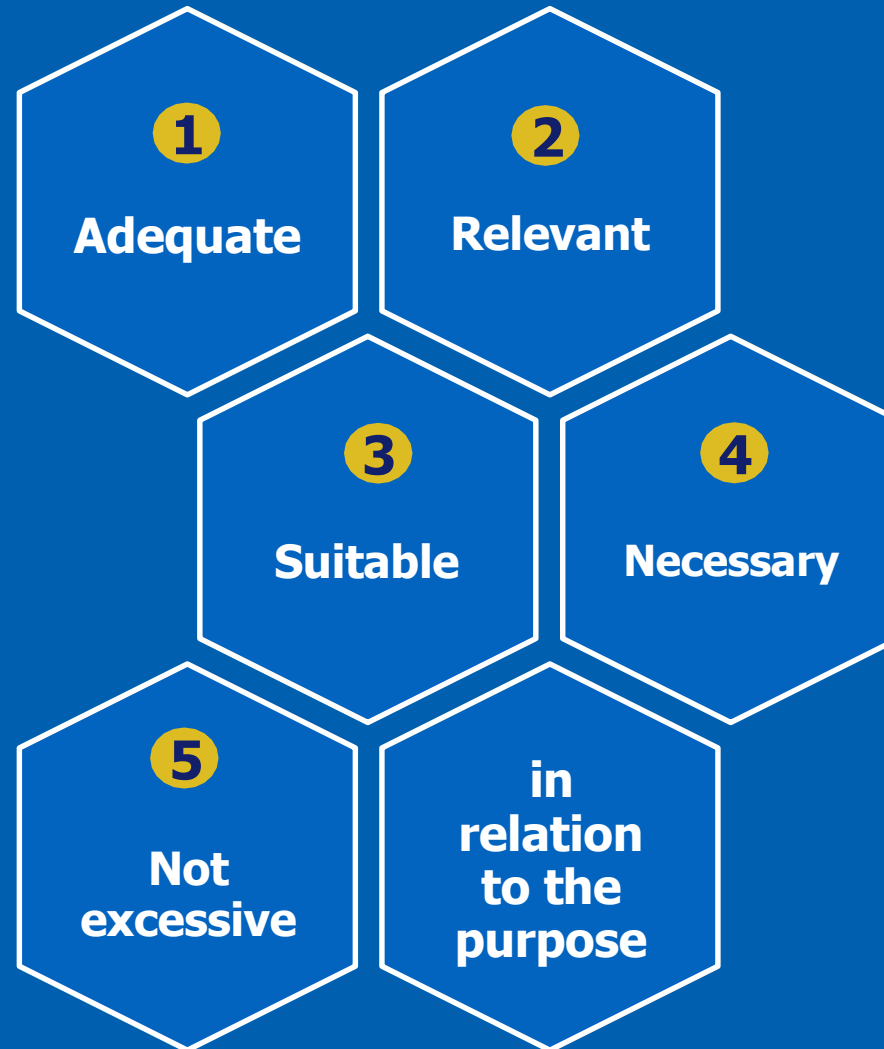




How much
personal
data can we
collect?



Proportionality





PARA MAKAUTANG..

(PLEASE BRING THIS REQUIREMENTS)

- 6pcs 2x2 PICTURE
- 4pcs 1x1 PICTURE (WHOLE BODY)
- 3 VALID ID'S
- BRGY. CLEARANCE
- NBI CLEARANCE
- MAYORS PERMIT
- MEDICAL
- CEDULA
- BIRTH CERTIFICATE (NSO)
- SSS/TIN
- CO-MAKER
- X-RAY (WHOLE BODY)
- POLICE CLEARANCE
- PROOF OF BILLING
- FORM 137