

THE DATA PRIVACY ACT OF 2012

PROPERTY OF THE NATIONAL PRIVACY

COMMISSION^{Deputy Privacy Commissioner}

DPA

Leandro Angelo Aguirre



PROPERTY OF THE NATIONAL PRIVACY COMMISSION

What is private then –

what is found within the

four corners of your home and

within the confidentiality of

communication.

What is private now -

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what a person knowingly exposes

to the public, even in his own house

or office, is not what is private, but
what he seeks to preserve as
private, even in a public area...

DATA PRIVACY IS ABOUT PROPERTY OF THE NATIONAL PRIVACY COMMISSION

1

PEOPLE, NOT PLACES PERSONAL CHOICE

2

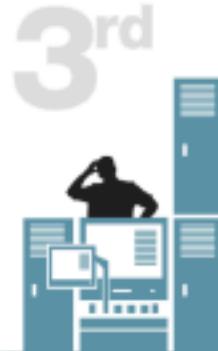
CONTROL, NOT SECRECY THE RIGHT TO BE LEFT ALONE

3

4

The 4th Industrial Revolution: *Data as the new oil of the digital economy?*





Mechanization,
water power,
steam power

Mass production,
assembly line,
electricity

Computer and
automation

Cyber physical
system



Maturation of new
cyber physical
technologies
(artificial
intelligence, 3-D
printing, robotics)

Data analytics
driving efficacy
and effectiveness
and new business
models

Pervasive
sensing
and
actuation

Ubiquitous
connectivity
throughout
the supply
chain

Unprecedented
levels of data
and increased
computing
powers

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DATA PROTECTION

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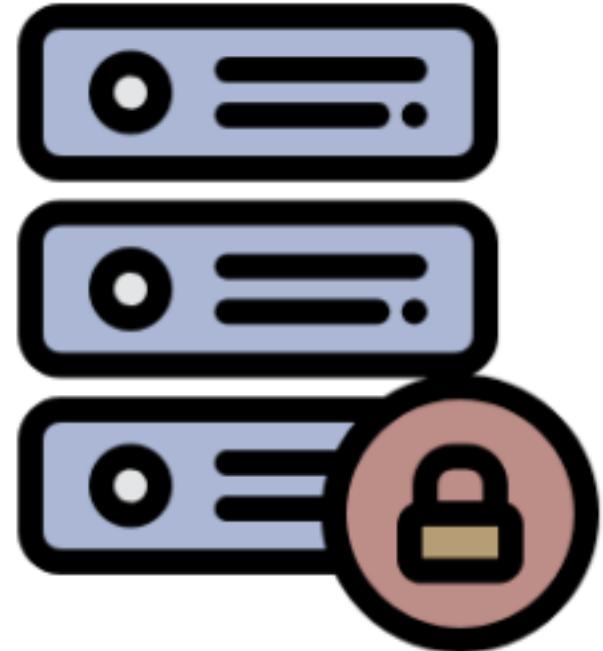
PRIVACY COMMISSION

CONFIDENTIALITY

AVAILABILITY

INTEGRITY

COMPLIANCE



DATA PRIVACY

ACCOUNTABILITY

ASSURANCE

OPERATIONAL COMPLIANCE

DEMONSTRABLE COMPLIANCE

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COMMISSION

PROCESSING FOR INDIVIDUALS
PERSONAL INFORMATION CAN
CREATE PROBLEMS

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WHAT DOES THE LAW
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SAY?

SEC. 4

PROPERTY OF THE NATIONAL PRIVACY COMMISSION

Applies to the processing of all information, in the country and even abroad, subject to certain qualifications.

types of personal

PERSONAL INFORMATION

Any information whether recorded in a material



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form or not, from which the identity of an individual is apparent or can be reasonably and

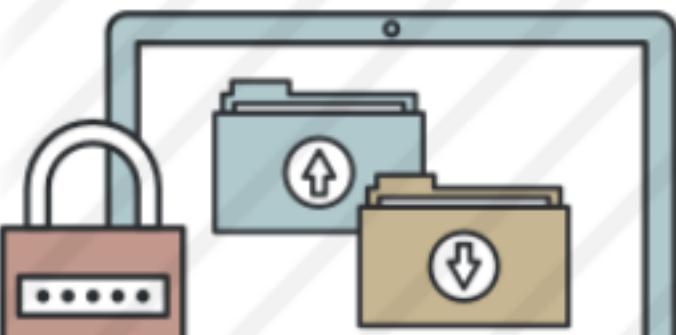
directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual.

Section 12

Conditions under which processing Personal Information is **allowed**...

SENSITIVE PERSONAL INFORMATION

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PRIVACY COMMISSION
(1) race, ethnic origin, marital status, age,



color, and religious, philosophical or political affiliations;

(2) health, education, genetic or sexual life of a person,

(3) civil, criminal or administrative proceedings

(4) Unique identifiers issued by government agencies peculiar to an individual

(5) Specifically established by law as classified

Section 13

Processing of Sensitive Personal Information is **prohibited** except in the following cases...

PROCESSING

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Any operation of any set of
operations performed upon
personal data including, but not
limited to, the collection,
recording, organization, storage,
updating or modification,
retrieval, consultation, use,

PROPERTY or destruction of data. consolidation, blocking,
erasure

CREATE AND
COLLECT



DISPOSE
AND
DESTROY



THE DATA LIFE CYCLE

RETAIN



STORE AND
TRANSMIT



USE AND
DISTRIBUTE



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PERSONAL INFORMATION CONTROLLER

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A natural or juridical person, or
any other body who controls
the processing of personal
data, or instructs another to
process personal data on its
behalf.

PERSONAL INFORMATION CONTROLLER

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It excludes:

A natural person who processes personal data in connection with his or her personal, family, or household affairs

PERSONAL INFORMATION PROCESSOR

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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.

The PIC should collect personal information for specified and legitimate

1

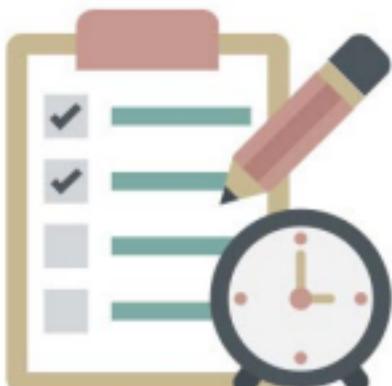
purposes determined and declared before, or as soon as reasonably practicable after collection

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of PICs

The PIC should collect and process

2 3



personal information adequately and not excessively.

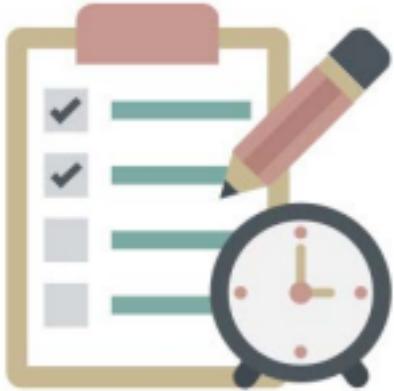
The PIC should process personal information fairly and lawfully, and in accordance with the rights of a data subject.

4

The PIC should process accurate,

relevant and up to date personal information.

PROPERTY OF THE NATIONAL PRIVACY COMMISSION OBLIGATIONS of PICs



5 6

The PIC should retain personal information only for as long as necessary for the fulfillment of the purposes for which the data was obtained. The information should be kept in a form which permits identification of data subjects for no longer than is necessary.

The PIC must implement reasonable and appropriate organizational, physical and technical measures intended for the protection of personal information.

DATA SUBJECT



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COMMISSION
An individual whose personal, sensitive
personal or privileged information is
processed.

- Right to be Informed
- Right to Access
- Right to Object
- Right to Rectification

- Right to Erasure or Blocking
- Right to Damages
- Right to Data Portability
- Right to File A Complaint

DATA PRIVACY PRINCIPLES PRO



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COMMISSION ON TRANSPARENCY LEGITIMATE
PURPOSE PROPORTIONALITY



TRANSPARENCY

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A data subject must be **aware of the nature, purpose, and extent of the processing** of his or her personal data, including the risks and safeguards involved, the identity of personal information controller, his or her rights as a data subject, and how these can be exercised. Any information and communication relating to the processing of personal data should be **easy to access and understand, using clear and plain language.**



LEGITIMATE PURPOSE

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The processing of information shall be compatible with a declared and specified purpose, which must not be contrary to law, morals, or public policy.

Refers to any freely given, specific, informed indication of will, whereby the data subject agrees to the collection

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COMMISSION and processing of personal

CONSENT OF **THE DATA SUBJECT**
information about and/or

relating to him or her. Consent be given on behalf of the data shall be evidenced by written, electronic or recorded means. It may also

subject by an agent specifically authorized by the data subject to do so.



Consent

- The data subject agrees to the

PROPERTY OF THE NATIONAL PRIVACY COMMISSION
collection and processing

- ✓ Freely given
- ✓ Specific
- ✓ Informed indication of will

- Evidenced by written, electronic or recorded means:

- ✓ signature
- ✓ opt-in box/clicking an icon
- ✓ sending a confirmation email
- ✓ oral confirmation

Consent



- Consent means giving data subjects

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genuine choice and control over
how a PIC uses their data.

- Consent should be **unbundled from other terms and conditions**
(including giving granular consent options for different types of

processing) wherever possible.

- Clear affirmative action means someone must take deliberate action to opt in.

Unbundled Consent



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Granular Consent

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I have read and agreed to the

terms and

This consent form is
confusing as the first tickbox

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conditions stated
above.

We may contact you
about products and
services you may like
unless you click to opt
out.

I'd like to receive
exclusive discounts
and updates from XYZ
by email, post, and
SMS.

Please untick this box

if you would not like to
receive emails from
XYZ on offers and
news.

asks for
positive action to ***signify
agreement***, while the
second asks for a positive
action to
signify refusal.



PROPORTIONALITY

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The processing of information shall be adequate, relevant, suitable, **necessary**, and **not excessive in relation to a declared and specified purpose**. Personal data shall be processed only if the purpose of the processing could not reasonably be fulfilled by other means.

PRO



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THE FIVE PILLARS OF COMPLIANCE

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**Unauthorized Processing of Personal
Information and Sensitive Personal
Information.**

MISSION

Personal Information

coM

	Sensitive Personal Information
<p>Imprisonment ranging from one (1) year to three (3) years AND</p> <p>PROPERTY OF THE</p> <p>NA</p> <p>Fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Two million pesos (Php2,000,000.00)</p>	<p>TIONAL PRIVACY</p> <p>Imprisonment ranging from three (3) years to six (6) years AND</p> <p>Fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Four million pesos (Php4,000,000.00)</p>

Accessing Personal Information and Sensitive Personal Information Due to Negligence.

MISSION

Personal Information	PRIVACY CO Sensitive Personal Information
<p>Imprisonment ranging from one (1) year to three (3) years and</p> <p>PROPERTY OF THE</p> <p>NA</p> <p>A fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Two million pesos (Php2,000,000.00)</p>	<p>TIONAL</p> <p>Imprisonment ranging from three (3) years to six (6) years and</p> <p>A fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Four million pesos (Php4,000,000.00)</p>

Improper Disposal of Personal Information and Sensitive Personal Information

Personal Information	more than Five hundred thousand pesos (Php500,000.00)	(Php1,000,000.00)
Imprisonment ranging from six (6) months to two (2) years and A fine of not less than One hundred thousand pesos PROPERTY (Php100,000.00) but not	Sentencing ATLIC Imprisonment and A fine of not less than One hundred thousand pesos PROPERTY (Php100,000.00) but not	MISISON ATLIC Imprisonment and A fine of not less than One hundred thousand pesos PROPERTY (Php100,000.00) but not

Processing of Personal Information and

Sensitive Personal Information for Unauthorized Purposes.

Personal Information	
	Sen

Imprisonment ranging from one (1) year and six (6) months to five (5) years and

OF THE N

A fine of not less than Five

PROPERTY

hundred thousand pesos
(Php500,000.00) but not more than One million pesos
(Php1,000,000.00)

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Imprisonm
two (2) ye
years and

A fine of no
hundred th
(Php500,00
more than
(Php2,000,

MISISON

Unauthorized Access or Intentional Breach

PROPERTY OF THE NATIONAL PRIVACY COMMISSION

The penalty of Imprisonment ranging from one (1) year to three (3) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Two million pesos (Php2,000,000.00).

Concealment of Security Breaches Involving Sensitive Personal Information

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The penalty of Imprisonment of one (1) year and six (6) months to five (5) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than One million pesos (Php1,000,000.00)

Unauthorized Disclosure

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Imprisonment ranging from one (1) year to three (3) years
and a fine of not less than Five hundred thousand pesos
(Php500,000.00) but not more than One million pesos
(Php1,000,000.00).

Combination or Series of Acts PROPERTY

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Any combination or series of acts as defined in Sections 25 to 32 shall make the person subject to imprisonment ranging from three (3) years to six (6) years and a fine of not less than One million pesos (Php1,000,000.00) but not more than Five million pesos (Php5,000,000.00).

Large-Scale

The maximum penalty in the scale of penalties

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result of the above mentioned actions.



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PRIVACY COMMISSION EXTENT OF
LIABILITY?

Corporation

If the offender is a corporation, partnership

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or any juridical person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in, or by their gross negligence, allowed the commission of the crime.

AVOIDING LIABILITY

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COMMISSION

THE NPC DATA PRIVACY ACCOUNTABILITY AND COMPLIANCE FRAMEWORK

PR  OPERTY O  F THE NAT



A. Choose a DPO
C. Records of processing activities

B. Register

D. Conduct PIA
E. Privacy Management Program
F. Privacy Manual
G. Privacy Notice H-O. Data Subject

Rights
P. Data Life Cycle
Q. Organizational
R. Physical

S. Technical
► Data Center
► Encryption
► Access Control Policy

T. Data Breach Management;
► Security Policy ► Data Breach Response Team
Response Procedure Document Breach
U. Third Parties;
► Legal Basis for Disclosure
► Data Sharing Agreements
► Cross Border Transfer Agreement

V. Trainings and Certifications W. Security Clearance
X. Continuing Assessment and

Development
► Regular PIA
► Review Contracts ► Internal Assessments ► Review PMP
► Accreditations
Y. New technologies and standards

Z. New legal requirements

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If you can't protect it, don't collect it. The

Data Privacy Golden Rule

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info@privacy.gov.ph