

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

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PEOPLE, NOT PLACES PERSONAL CHOICE

1

2

CONTROL, NOT SECRECY THE RIGHT TO BE LEFT ALONE

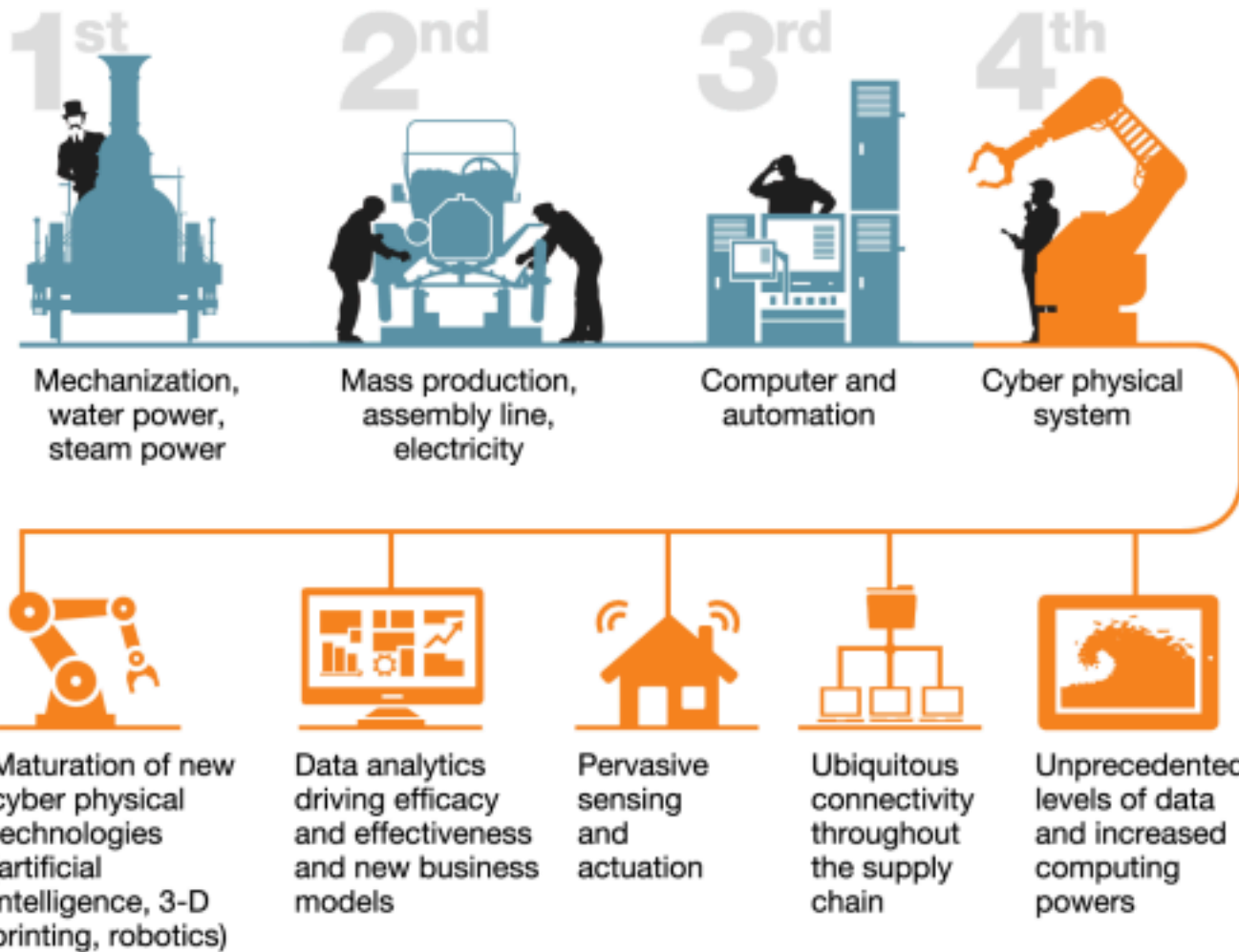
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The 4th Industrial
Revolution: *Data as
the new oil of the digital
economy?*



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COMMISSION

DATA PROTECTION

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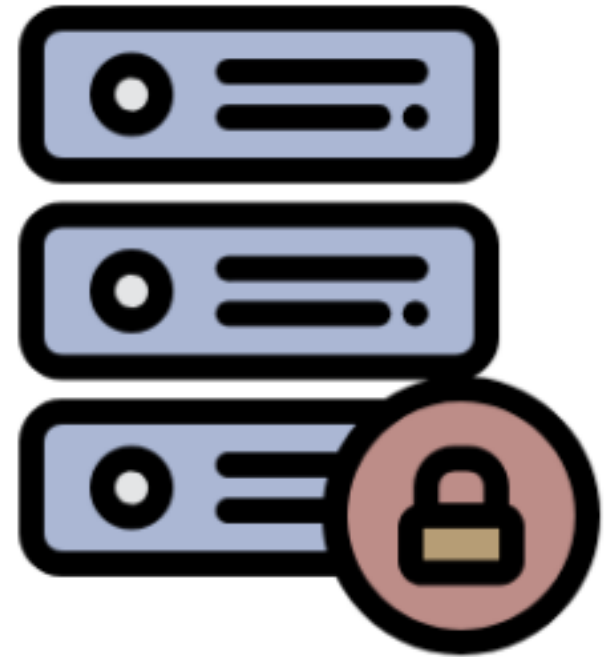
PRIVACY COMMISSION

CONFIDENTIALITY

AVAILABILITY

INTEGRITY

COMPLIANCE



DATA PRIVACY

ACCOUNTABILITY

ASSURANCE

OPERATIONAL COMPLIANCE

DEMONSTRABLE COMPLIANCE

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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

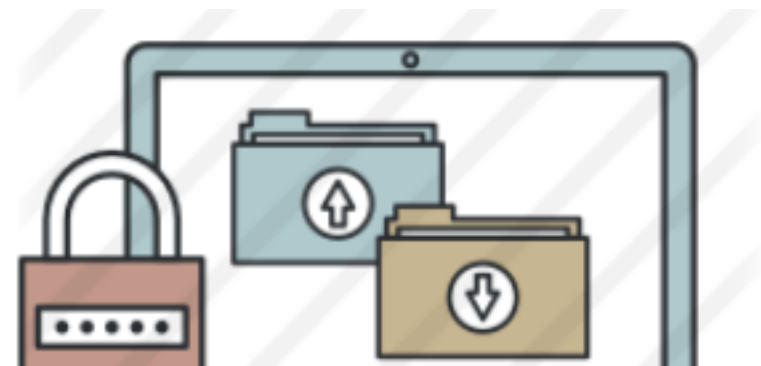
Conditions under which processing Personal Information is **allowed**...

SENSITIVE PERSONAL INFORMATION

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(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...

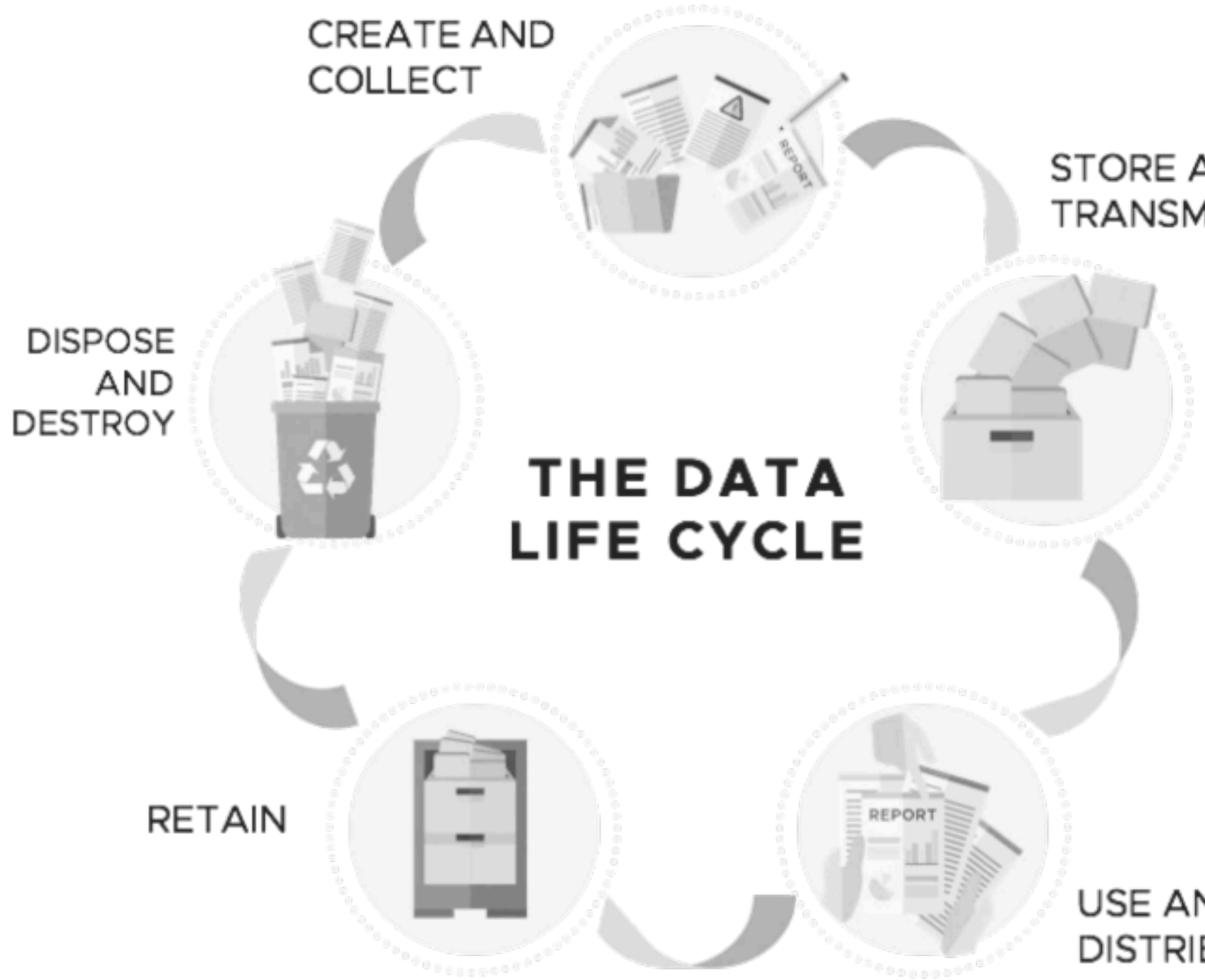
PROCESSING



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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



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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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OBLIGATIONS

of PICs
2 3

The PIC should collect and process



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.

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OBLIGATIONS of PICs



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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



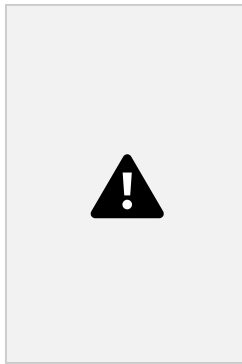
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An individual whose personal, sensitive personal or privileged information is processed.

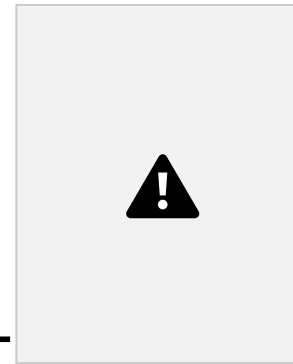
- ☐ Right to be Informed
- ☐ Right to Access
- ☐ Right to Object
- ☐ Right to Rectification

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

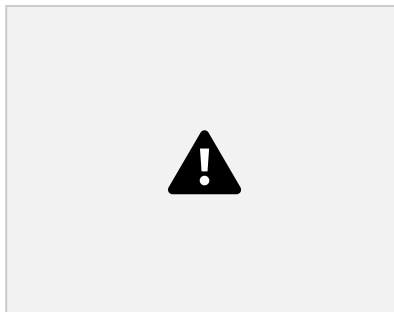
DATA PRIVACY PRINCIPLES PRO



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MMISSIO N 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

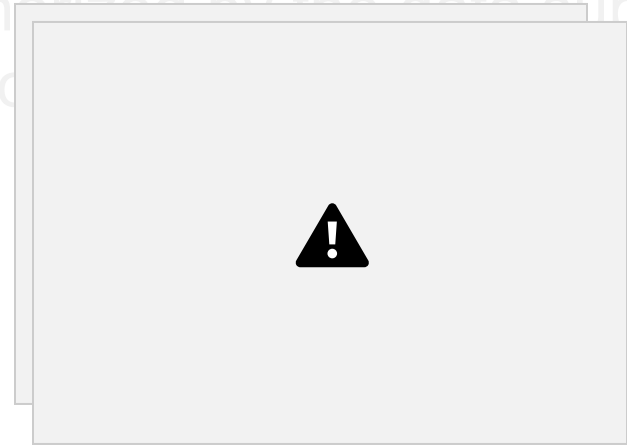
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COMMISSION and processing of personal

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

relating to him or her. **Consent** be given on behalf of the data subject by an agent specifically authorized by the data subject to do

Consent



- The data subject agrees to the

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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.

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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	
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	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>ADDITIONAL 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	
<p>Imprisonment ranging from six (6) months to two (2) years and</p> <p>A fine of not less than One hundred thousand pesos</p> <p>PROPERTY (Php100,000.00) but not</p>	<p>Sen</p>

<p>more than Five hundred thousand pesos (Php500,000.00)</p>	<p>(Php1,000</p>
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Processing of Personal Information and

Sensitive Personal Information for Unauthorized Purposes.

Personal Information	Sen
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Imprisonment ranging from one (1) year and six (6) months to five (5) years and	AT ^I ONAL
OF THE N	Imprisonm
A fine of not less than Five	two (2) ye
PROPERTY	years and
hundred thousand pesos (Php500,000.00) but not more than One million pesos (Php1,000,000.00)	A fine of n
	hundred th
	(Php500,00
	more than
	(Php2,000,

Unauthorized Access or Intentional Breach

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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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respectively provided for the offenses shall be imposed when the personal information of at least one hundred (100) persons is harmed, affected or involved as the

result of the above mentioned actions.



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LIABILITY?**

Corporation

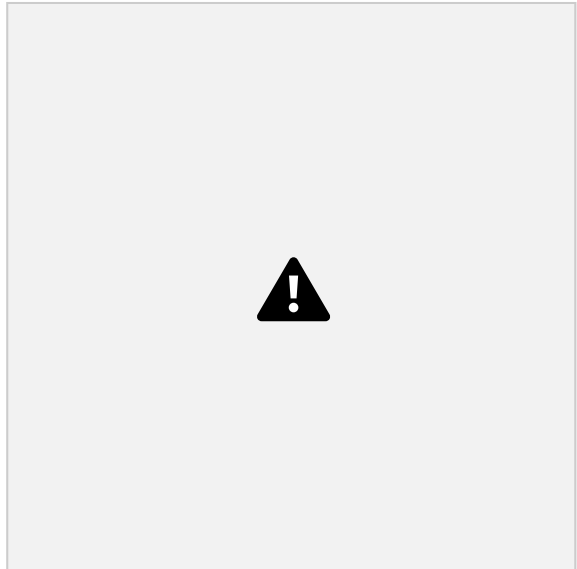
If the offender is a corporation, partnership

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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.

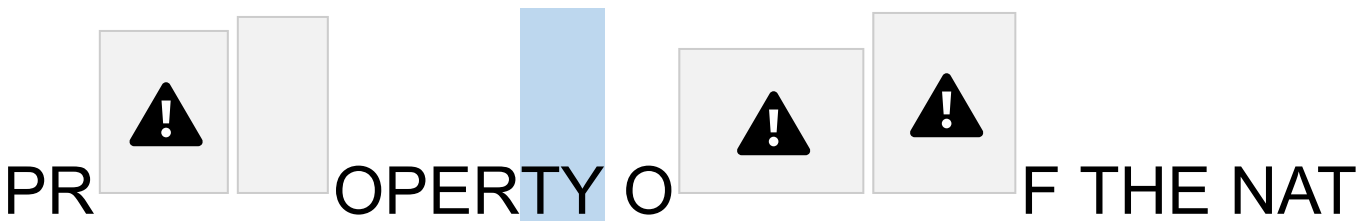
AVOIDING LIABILITY

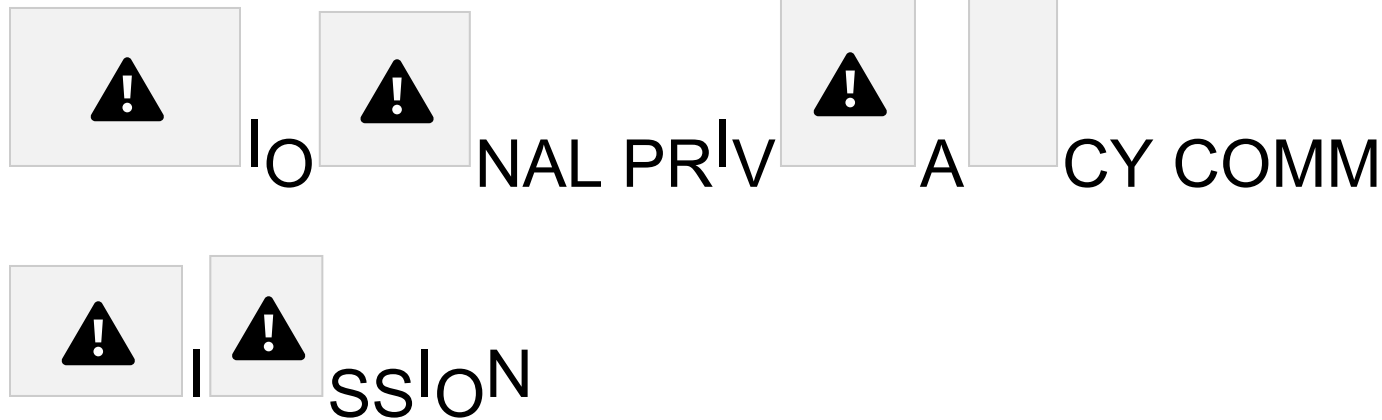
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THE NPC DATA PRIVACY
ACCOUNTABILITY AND COMPLIANCE
FRAMEWORK





- A. Choose a DPO
- B. Register
- C. Records of processing activities
- 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
 - ▶ Incident Response Procedure
 - ▶ Document
 - ▶ Breach
- Notification
- 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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twitter.com/privacyPH

info@privacy.gov.ph