



SecureTheVillage: Turning People and Organizations into Cyber Guardians

The California Consumer Privacy Act Part 1

April 2019

This SecureTheVillage Webinar brought to you by ...

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PEPPERDINE | GRAZIADIO BUSINESS SCHOOL



The California Consumer Privacy Act, Part 1

- Guide: Stan Stahl, PhD
 - ▣ Founder, SecureTheVillage
 - ▣ President, Citadel Information Group
- Guests
 - ▣ *Tim Toohey, Esq.*, Greenberg Glusker Fields Claman & Machtinger LLP
 - ▣ *Robert Braun Esq.*, Jeffer Mangels Butler & Mitchell LLP
 - ▣ *Tom Peistrup, Esq.*, General Counsel, InStyler / Tre Milano, SecureTheVillage Board of Directors
 - ▣ *Howard Miller, CRM, CRC*, Vice President, Director Technology Division, LBW Insurance & Financial Services, Inc., SecureTheVillage Board of Directors

Topics and Outline

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- Who is covered by CCPA
- Consumer privacy rights afforded by CCPA
- Business obligations mandated by CCPA
- CCPA and GDPR: similarities and differences
- Enforcement by the Attorney General
- Consumer private right of action
- Safe harbors
- Getting ready
- Managing CCPA risk and insurance
- What is CCPA
- Business Challenges
- What to Do

CCPA: California Law Codifies Consumer Privacy Rights

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- Commencing 1/1/2020, consumers have
 - Right of Disclosure: To request the categories and pieces of information collected, sold, or disclosed about the consumer going back 12 months
 - Right of Deletion: To have certain information deleted, both from the business and any service providers with which the business shared the information.
 - Right to Opt-Out: To opt out of the sale of their information
 - Explicit opt-in under the age of 16 must explicitly opt in to any such sales
 - Right to Be Compensated in Event of Data Breach:
 - Private Right of Action
 - Statutory Damages
 - Definition of PII
- Applies to a for-profit business that collects consumers' personal information that does business in California and that:
 - Has annual gross revenues greater than \$25M, or
 - Obtains personal information of 50,000 or more consumers, households or devices annually
 - Derives 50% or more of its annual revenues selling the personal information of consumers
- Includes exceptions for Other Regulatory Privacy, e.g., HIPAA
- Requires new privacy disclosures
- Reasonable security procedures and practices appropriate to the nature of the information being protected qualifies compensation right

CCPA: Revolutionary. Ambiguous. Large Uncertainties. High-Risk.

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- Ambiguities and Uncertainties in the Law
 - What counts as PII
 - What kinds of relationships are “pre-existing”
 - What are “reasonable information security practices and procedures”
 - Might a breach be construed as *prima facie* evidence of “not reasonable”
 - Law gives Attorney General rights to explicate and define
- Expected Changes in the Law
 - Changes in PII
 - Changes in role of Attorney General to give advice
 - Expanding private right of action
- Unintended Consequences
- Collateral Effects
- Insurability
 - What coverage do current policies provide
 - Are aspects of CCPA not insurable by law?
- Possibilities for Federal Preemption
 - Federal arbitration act
 - Arbitration provisions built into terms of use
- Congruence with Other Privacy Law
 - GDPR
 - WA; HI; CT; DC; MA; AZ; MI; others
- Unknown unknowns

What to Do

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□ Legal

- Establish Responsibility in C-Suite
- Establish Privacy Policies
- Review Vendor Contracts
- Manage Data Privacy
 - Data Inventory
 - Data Map
 - Data Minimization
- Implement Defendable *Information Security Practices and Procedures*

□ Insurance

- Ensure duty to defend
- Statutory damage coverage
- Make sure you know what your policy says

Next Webinars: May 2, CCPA, Part 2

June 6, CCPA, Part 3

- CCPA, Part 2: Managing Data Privacy
 - Data Inventory
 - Data Mapping
 - Data Minimization
 - Guests
 - Ilanna Bavli, Eleven/11 Counsel & Strategy
 - David Grazer, CIPP, Tivora
- CCPA, Part 3: SecureTheVillage: Minimum Reasonable Security Practices
 - Based on *Code of Basic IT Security Management Practices*
 - *If you're not doing these, then your practices are not reasonable*

SecureTheVillage Webinar Series

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- Information Security Management Guidance
 - ▣ Practical
 - ▣ Real-World
 - ▣ How-To
 - ▣ Actionable
- SecureTheVillage ResourceKit
- First Thursday of month, 10AM Pacific

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Monthly Webinar Series: Provides Practical Real-World Actionable How-To Information Security Management Guidance.

Executive Focus Groups: Designed to assist Chief Executives understand how to turn their organization into Cyber Guardians and create a cyber resilient culture.

Information Security Management and Leadership ResourceKit: A practical guide for implementing an information security management and leadership program in your organization.

Code of Basic IT Security Management Practices: A set of basic IT security management practices that are so basic that a failure to implement them puts the organization at a dangerous and unnecessary risk of a costly information incident.

Minimum Set of Reasonable Security Practices: A set of information security management practices so basic as to be necessary for a claim that one's information security practices and procedures are reasonable. *Under development in support of CCPA.*

Community-Based Programs: Train the broader community in basic cybersecurity defense practices for themselves and their families, helping them become cyber-aware citizens.

Visit us at: SecureTheVillage.org

For More Information ...

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Thank You

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