


ASAP Workshop 2022

## FOIA/Privacy Incident Scenarios



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## Agenda

**CHOOSE A SPOKESMAN**

**DISCUSS SCENARIOS AND FORMULATE ANSWERS**

**BREAK INTO 4 GROUPS**

**EACH GROUP WILL:**

1. Read their scenario
2. Read each question and the group's response
3. Explain how you reached your conclusions

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ON TARGET

### Scenario One: System Hacked/Routine Use

**THE FACTS:**

Your agency has a fairly old IT system that collects PII, and this data collection is documented by a fairly old PIA and a SORN. The system has been hacked and is down.

You need to access the data to process a FOIA request:

1. Whom do you contact to determine the status of system operations?
2. You are told by the CISO that this is a major breach involving more than 100,000 victims. How does this impact your ability to fulfill requests?

**MORE FACTS:**

The CISO wants to share records from the system with an external agency to help determine what happened. The SORN does not include a Routine Use that permits the disclosure of records in a system that may be needed by another agency to respond to a breach.

1. What should be done?
2. Can you share the records?
3. What are other options?

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ON TARGET

### Scenario Two: Unintentional Disclosure

**THE FACTS:**  
A FOIA professional caused a potential privacy incident by emailing an improperly redacted Excel file in .pdf format that includes PII.

**QUESTIONS:**

1. How and to whom should the breach be reported?
2. Does your answer change if the data is Sensitive PII?
3. What should be done to prevent this type of breach from occurring?

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ON TARGET

### Scenario Three: Contractor-Run System

**THE FACTS:**  
Agency data, including PII, is stored in an external, contractor-run system. The system has been hacked and is down. You need access to the data to process a FOIA request. However, your agency's contract with this vendor does not include essential breach response provisions.

**QUESTIONS:**

1. How and to whom should the breach be reported?
2. What should be done to prevent this issue from occurring?
3. What are some good ideas for clauses?
4. What might be some drawbacks?
5. How does this impact your ability to fulfill requests?

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ON TARGET

### Scenario Four: Unintentional Disclosure

**THE FACTS:**  
Both redacted and unredacted files were sent to a Privacy Act requestor. The unredacted material contains information about a third-party individual, not the requestor.

**QUESTIONS:**

1. Is this a data breach?
2. Is this a Privacy Act violation?
3. How and to whom should the breach be reported?
4. Should redress be provided? If so, to whom?
5. What should be done to prevent this type of incident from occurring?

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