RIGHT TO PRIVACY SPURS TRAINING

Organizations are training employees to avoid liability.

By Paul Harris

Inside **Intelligence**:

A SPIKE IN DEMAND FOR TRAINING on privacy protection is appearing in organizations thanks to increased government mandates and liability concerns inside companies, according to training experts.

Privacy-related regulations including data protection have already been adopted within the federal government and private industry, but they're expected to assume even greater importance soon within the private sector. The initiatives are fueled by fears of identity theft and unauthorized or accidental release of personal records.

The demand for increased privacy protection has already begun. Examples include the Health Insurance Portability and Accountability Act (HIPAA), enacted in 1996 to establish national standards to protect the privacy of recipients of healthcare services and coverage. Other privacy-related laws include the Gramm-Leach-Bliley Act

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of 1999 related to finance, and the Fair Credit Reporting Act, which was amended in 2003.

Mandatory training requirements outlined in such laws prompted a dramatic upturn in requests for training on privacy issues, according to Norman Ford, director of compliance solutions at content provider SkillSoft.

"There is lot of confusion about personal information that organizations need to protect, and how they need to protect it," Ford says. "Something as innocuous as asking for a telephone number can expose a company to liability."

Those concerns will increase further when Congress revises privacy provisions in the Patriot Act and the Foreign Intelligence Surveillance Act, Ford predicts.

Meanwhile, laws and compliance training mandates written specifically for the federal government are expected to migrate into the private sector eventually. One possible candidate is the Federal Information Security Management Act, a new law that requires every federal agency to provide information security for their information-technology (IT) systems.

The U.S. Department of Defense issued a new regulation that dictates specific levels of certification and training for individuals throughout the military and its suppliers throughout the world. Known as Directive 8570.1, it's the subject of intense training by IT training providers such as Global Knowledge. The directive is a likely prototype for security training throughout the government, says Global Knowledge executive Kevin Rogers.

While high-profile laws such as Sarbanes-Oxley garner media attention, employers are facing an unprecedented level of required training in all sorts of areas. There is the panoply of laws affecting environment, safety, and health, and HR compliance regarding Equal Employment Opportunity, just for starters.

Even where employers aren't being ordered to train, they often do so to avoid liability. For example, training providers report increased demands for training on ergonomics issues despite the lack of any official driver.

Another emerging trend in compliance training is greater use of e-learning as a delivery tool. SkillSoft and other e-learning providers again predict double digit growth in 2008 for compliance products, continuing the pattern of recent years. Even so, "the compliance training market in e-learning is still in its infancy," Ford says.

One reason why is the principal point of contact at many companies—the risk manager. That individual is by definition risk-averse and typically not an early adopter of new technologies, says Ford.

E-learning's expanding role in the delivery of compliance-related training has also received a powerful endorsement from the California state government. At issue is the state's three-year-old sexual harassment training law, which requires most employers to provide their California-based supervisors with sexual harassment training. Final regulations issued last August explicitly approve e-learning and webinars as methods of achieving compliance with the law. They also detail the type of web-based learning programs that satisfy its mandate.

The rules stipulate that e-learning must be sufficiently interactive so that employees can ask questions of a qualified trainer and have them answered within two days. They do not permit content that consists of a one-way "information dump" or excessive amounts of passive reading. Also included are guidelines for development of in-house sexual harassment training programs and selection of content from external training vendors.

The California law may be a nuisance to some employers, but it's being hailed by e-learning content providers as an important precedent for future government mandates of compliance training.

BEWARE OF COMPULSORY TRAINING

Mandatory training may be a fail-safe way to ensure that key employees receive important information about topics such as diversity, but it doesn't always produce a change in behavior.

Alexandria Kalev, a sociologist at the University of Arizona discovered in her research that most diversity training by American companies is not only ineffective, but counterproductive in placing women and minorities in management positions.

Kalev reviewed 31 years of data from 830 mid-size to large U.S. companies. She discovered that the typical diversity training exercises offered by most companies were followed by a roughly 10 percent drop in the number of women and minorities in management posts.

The report concluded that when diversity training is a voluntarily measure in pursuit of the firm's business goals, management diversity was actually increased. Mandatory training is the least effective option in terms of increasing diversity and actually creates a backlash against diversity.

The study compared training data from participating companies with reports filed with the Equal Employment Opportunity Commission.

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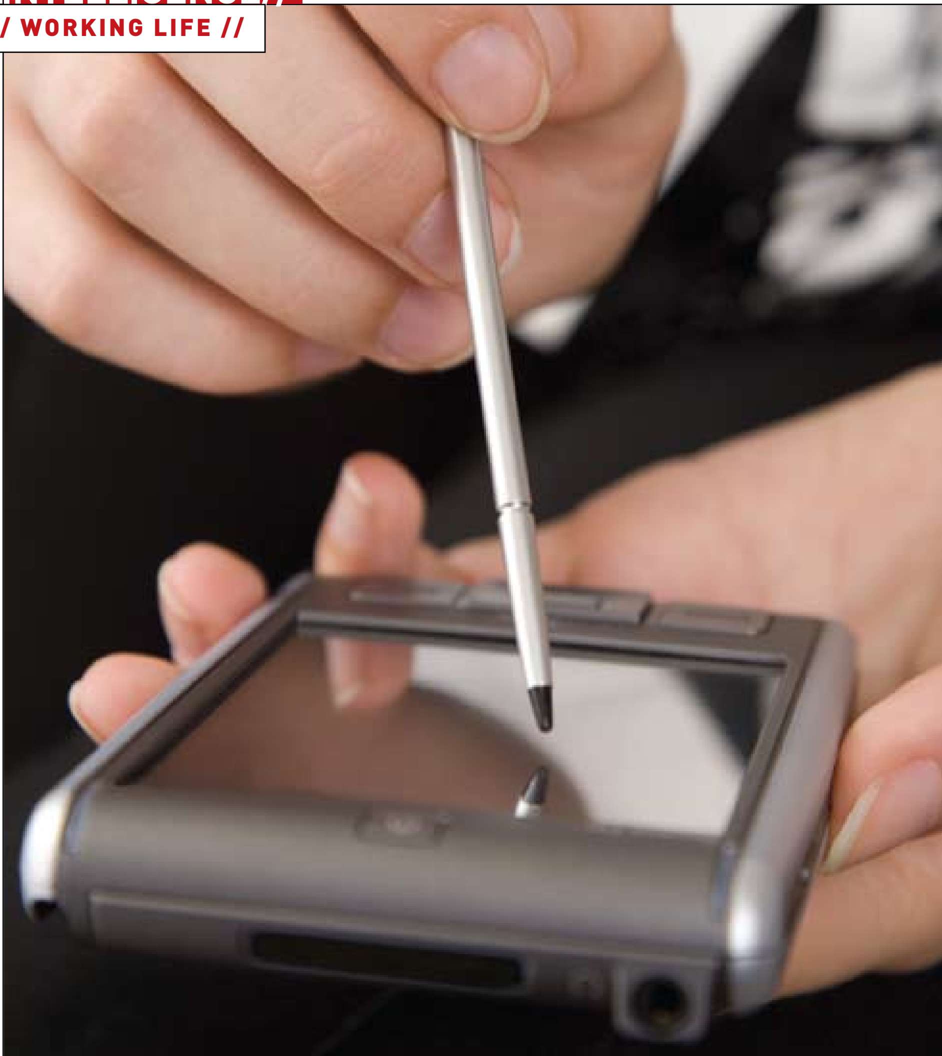

Balancing Act

For anyone who wakes up in the middle of the night to frantically check email, achieving the right balance between work and home can lead to sleepless nights.

Workplace professionals lament their inability to carve out personal time away from the office, according to a recent survey conducted by MRINetwork of Philadelphia. Among respondents, 70 percent said their company does not allow for a proper balance between work and time spent away from the office.

A larger question is whether employees are actually busier or are they just creating a hectic schedule out of a sense of pride, claiming to be too busy to enjoy a life away from work?

"It's both," says Michael Jalbert, president of MRINetwork. "There are more demands on people and the ones they place upon themselves. People are trying to do their job, please a boss, and compete with others."

The survey also revealed that 65 percent of respondents reported working frequently after normal business hours. Another 19 percent reported working "sometimes" after hours compared with 9 percent "occasionally" and 5 percent "never."

Jalbert says that senior management in many organizations may not be aware of the level of sacrifice made by individuals who not only put in time at work but regularly check email or voicemail at home.

> **"People spend an awful lot of time on busy work, which at the end of the day doesn't amount to much."**

"Technology makes it so easy," he says.

Organizations should take a two-pronged approach to helping employees achieve balance. Managers should encourage employees to enjoy the weekend and not think about work, possibly by offering tickets to a theater or sporting event. Leaders also need to create an employment brand by meeting regularly with staff, outlining clear expectations, and telling employees how to distinguish between major priorities and secondary concerns.

"There is such a focus on activity instead of a focus on results," he says. "People spend an awful lot of time on busy work, which at the end of the day doesn't amount to much."

Creating a favorable employment brand is crucial for retaining and recruiting talent, according to Jalbert, as two major soft drink companies are discovering in China. Coca-Cola pays a premium salary to employees in China, well above market rates, but the work culture is very demanding, which is causing high turnover rates. The company's reputation has suffered.

In contrast Pepsi pays a market rate salary but takes a team approach with greater emphasis on maintaining balance between time at work and personal time. Employees receive regular reviews. The overall environment is very positive, according to Jalbert.

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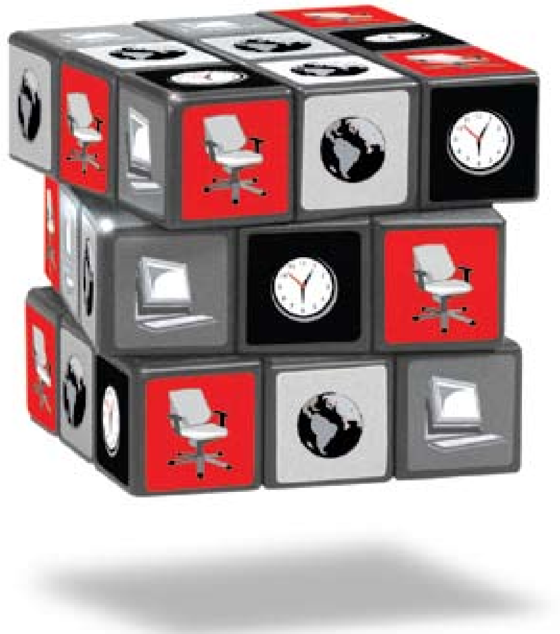

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Companies Need to Manage Outsourcing Risks

The information technology and business process outsourcing market has become a $500 billion business, and it shows no signs of slowing down. But relying heavily on third parties or offshore entities carries many risks, according to recent research.

A report published by Deloitte, "The Risk Intelligent Approach to Outsourcing and Offshoring," cites the key drivers behind outsourcing and offshoring, notably reducing costs in operations, development, and sales; tapping vendors' best practices and innovations; gaining access to human capital; and increasing the flexibility and scalability of operations.

Despite the growing trend in outsourcing, Deloitte's research revealed that some companies expressed disappointment with their outsourcers' overall ability to provide continuous process and technology improvements. Although the inherent risk of any project is failure, outsourcing and offshoring carries many more complex risks.

Organizations could begin relying on third parties and offshore entities for core business processes. Relying upon third parties increases an organization's liability for malfeasance or misfeasance. Senior management could be held accountable for noncompliance associated with third-party operations. Another concern associated with outsourcing is the potential eroding of brands, intellectual property, and other intangible assets due to piracy, security breaches, and information theft.

Deloitte suggests that companies employ a holistic risk management approach by addressing risks at five different stages of the outsourcing and offshoring lifecycle: strategic assessment, business case development, vendor selection, contracting, and service translation, delivery, and post-transition.

"Risk must be evaluated early in the lifecycle," the report states. "It is essential to identify and prioritize risks at the first two stages, the strategic assessment and the business case development. Most failures to manage outsourcing and offshoring risks stem from inadequate risk identification early in the lifecycle."

Deloitte suggests that companies address risks at five stages.

During the first stage, strategic assessment, companies must assess how the outsourcing initiative will support the strategic business goals. Companies also need to define what they need from a service provider and select the right provider. Leaders should inquire about the inherent risks and about the adequacy of internal resources to support the proposed outsourcing strategy.

During the second stage, business case development, Deloitte suggests that companies consider project management, communication, HR, legal, finance, and other costs directly associated with the outsourcing initiative. Leaders also should examine governance and management costs associated with the process.

By taking the time to identify risks, align objectives, and prioritize goals, organizations can find success in outsourcing and minimize the inherent risks associated with the action.

Paula Ketter

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// ON THE HILL //

Code of Ethics Required for Federal Contractors

Seeking to ensure more ethical behavior from federal contractors, the U.S. government issued new rules that will require large contractors to offer formal ethics and compliance training programs to their employees and to adopt written codes of ethics.

The new guidelines establish a policy that all federal government contractors should have a written code of business ethics and conduct. Contractors should also establish an internal control system that facilitates discovery of improper activity in connection with federal contracts and ensures corrective measures are instituted promptly.

In some cases compliance with the policy is voluntary, but for large contracts the requirements are mandatory. Contractors submitting bids for contracts of $5 million or more where performance of the contract is expected to exceed 120 days must adopt their written code of ethics within 30 days and implement the training and internal control system components within 90 days of the contract award.

A copy of the code of ethics must be provided to each employee working on the contract. Agency contracting officers can extend the implementation period at the request of the contractor. The rules do not specify the required elements for the training program, giving flexibility in design and implementation to organizations.

The internal control system should include periodic reviews of the organization's business practices and policies for compliance with government contracting requirements, an internal reporting mechanism to encourage employees to report suspected incidents of misconduct, internal or external audits, and disciplinary action for improper activities.

Carl E. Anderson, an attorney with Barley Snyder in York, Pennsylvania, believes the new regulations will have a meaningful impact on federal contractors.

"These regulations impose, in the context of many small privately owned government contractors, the same ethical considerations and standards applicable to large public companies under Sarbanes-Oxley," he says.

To view the final rule, visit www.regulations.gov and search "FAR Case 2006-007."

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Employees Growing Restless

Surveys of employee attitudes often paint a bleak picture, but as long as employers insist upon checking the pulse of their staff, they need to be prepared for good and bad news.

A recent survey conducted by BlessingWhite, a New Jersey-based consulting agency indicates that a greater number of employees are casting an eye toward the door compared with just two years ago. Still a majority of employees said they "definitely" plan to stay with their employer during 2008.

A total of 58 percent of employees say they definitely plan to stay with their current employer this year, down from 65 percent two years ago when the survey was last conducted. The percentage of employees who said there is "no way" they will stay with their current employer increased from 6 percent to 8 percent.

Mary Ann Masarech, director of research and marketing at BlessingWhile, says that the percent of disgruntled employees, while troublesome, should be less of a concern than the number of fence sitters, the ones who said they will "probably" stay with their employer which increased from 29 percent in 2006 to 34 percent. They are considered at risk to leave.

"Some of the 8 percent you might want to head for the door," she says. "The ones who are on the fence are the ones to worry about. You want them to say they will definitely stay."

The reasons for cited by individuals in the "probably" category include not enough opportunities, a desire for change and to a lesser degree, a dislike of current tasks.

Most individuals cite their pursuit of a new or expanded career opportunity as the reason for leaving or wanting to leave. A desire to leave an ineffective manager typically ranks third on the list of reasons.

"In general people like the work they do," Masarech says. "They leave organizations to pursue career opportunities."

There was no appreciable difference between male and female respondents. Most of the survey participants were managers or above, and more than 90 percent have been working with their current employer longer than one year.

American employers can take solace in comparison with their European counterparts where restless employees register greater frustration. Only 49 percent of European respondents said they would definitely stay with their employer during the current year. In Asia 54 percent of respondents say they will definitely stay while 39 percent say probably.

Michael Laff

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// INFO GRAPH //

When Is Coaching Called For?

	2008	2007	2006
Transition	19%	19%	20%
Problems	32%	32%	37%
Leadership	50%	49%	43%

Who Gets a Coach?

Senior managers	28%
Top line executives	18%
Managers at all levels	46%
Private pay clients	8%

Source: Sherpa Coaching survey of HR professionals and coaching clients.

// FAST FACT //

Older Workers, Newer Skills

A recent survey conducted by Experience Works serves as an endorsement of the importance of training as a way to encourage older people to enter or reenter the workforce.

More than half of the survey respondents believe significant age discrimination still exists in the workplace while one-third stated that the greatest barrier older workers face when searching for jobs is that employers think older people cannot learn new skills. The survey included responses from 300 older workers.

"Nearly 70 percent of those surveyed said that if we want older people in the workplace, we need to encourage companies to provide more training for seniors," says Cynthia A. Metzler, president and CEO of Virginia-based Experience Works. "The fact is, many older people learn differently, but they retain new skills better and they are more reliable and dedicated than younger workers."

The survey also reinforced the need for companies to consider flexible schedules and part-time work if they want to attract older workers.