

Homeland Security Practice Group

February 10, 2020

Mark, Paul and Kim

**SHULMAN
ROGERS**

Agenda

- Threats and Goals
- Opportunities
- Capabilities
- Q&A, Enlistments & BD

No Attorney-Client Relationship. Not Legal Advice.

**SHULMAN
ROGERS**

Problems and Risks

Businesses face growing concurrent threats

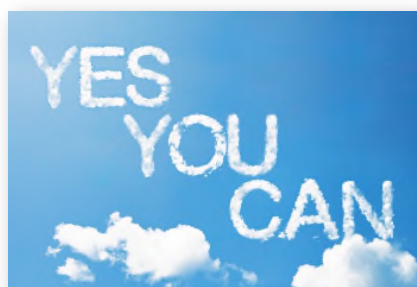


- Vulnerable to attack from insiders, hackers and terrorists
- Inconsistent compliance with rules and processes
- Liabilities and penalties



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- Lower costs and risks
 - Reduce risks and liabilities
 - Best practice reduce chances of an event
 - Mitigate liabilities when it does
 - Reduce costs
 - Fixed price services
 - Single firm efficiencies avoids multiple start up and shar
- While growing business
 - Market and brand safety
 - Increase traffic... safely



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We are strong in each

- National Security
 - Federal: \$700B
 - Dominated by big firms but we can compete
- Domestic Security
 - Federal: DHS: \$47B, DOJ: \$27B, States: ~\$30B
 - More level playing field
- Commercial: **\$350 Billion /year**
 - Private ownership of infrastructure: **\$27 Trillion**
 - Business and personal: Finances, data, IP, trade secrets, identity

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Proactively reduce risks and improve brand

- Negotiate better contract terms and condition
- Use the SAFETY Act to limit or eliminate liabilities
- Comply with data privacy laws
- Prioritize and address threats
- Combined assessment, identify gaps, options to fix
 - Investigate and remediate under the Attorney-Client Privilege including with third party specialists
- Implement best practices

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Mark – Government, Commercial Tech, Cyber

Paul – Real Estate, Hospitality, Immigration, Corp

Kim – International corporate and regulatory law; Data Privacy (US and global)

... plus New Recruits!

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Background

- **US Army Colonel (Retired), 30 years**
 - Special Operations, Clandestine Programs, Communications, FEMA
 - Active Duty and Reserves in Iraq, Afghanistan and Europe
- **Electrical Engineer, 13 years**
 - IT consulting business manager
 - Boston, Australia, Denmark and Germany

Legal Practice

- **Government Contracting**
 - Bid protest
 - Negotiate prime and sub contracts
 - Counsel on compliance
 - Hot: IT services, cyber security, IP/data rights, GWOT, Homeland
- **Commercial Technology**
 - Settlement disputes
 - Negotiate contracts to minimize risks and maximize profits
 - Hot: Software, SaaS/cloud, ERP/CRM, renewable energy (solar, geo, nuclear)
- **Cyber**
 - Counsel on applicability and compliance
 - Negotiate contracts to minimize risks and monetize data
 - Hot: CA's CCPA, DOD's CMMC, EU's GDPR, HIPAA, ...monetize data

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Background

- **Corporate and Business lawyer with over 30 years' experience**
 - Former Assistant United States Attorney for the District of Columbia
 - Outside counsel to hotels and business groups throughout the United States
 - Advise numerous start up entities for business planning and growth

Legal Practice

- Small Business Advising
- Corporate formations
- Mergers and Acquisitions for Small Business
- Commercial Real Estate Transactions
- Commercial Financing

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Background

- **International corporate lawyer with 30 years' experience**
 - Work/deals in 60 countries on six continents
 - Deals ranging from \$2M to \$20B
- **Advised 7 US Presidential campaigns on international issues and policy**

Legal Practice

- M&A, JVs, Foreign Investment, Private Equity
- Business governance and transactions
- Data privacy in US and abroad (GDPR, etc.)
- Nonprofits and foundations, CSR, impact investing

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See next

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- **Win Contracts**
 - Negotiate better terms
 - Identify and balance risks
- **Win Bid Protests**
 - Technical analysis of RFP vs proposals to ID winning issues
 - Noncompliance with cybersecurity
- **Compliance**
 - Cyber security: FISMA, FedRAMP, NISPOM, NIST, CMMC
 - SBA: Company and owner size limits and reporting
 - Cost accounting and invoicing
- **Mitigate Risks** from Termination, Suspensions, Debarments and False Claims if you knew or should have known

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- **Shift Risks and Grow ROI**
 - Business: Clear SOW, enforce SLAs, inspect, report, etc
 - Contingencies: Software escrows, documentation, passwords
 - Ts&Cs: Limit FM, indemnities, caps, exceptions, insurance, TFC, warranties, IP and data rights, cyber
- **SAFETY Act**
 - Identify, detect, deter, respond to or mitigate terrorism
 - Liability limitations
 - How? Buy/Hire standard or develop custom

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- Products and services
 - Identify, detect, deter, respond to or mitigate terrorism
 - Including cybersecurity
- “Designation”
 - Liability capped at insurance
 - Exclusive Federal Court
 - Recovery reduced by other sources, no punitives, etc
- “Certification”
 - Dismiss if covered

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- Use of Safety Act to minimize liability
 - MGM files suit to preclude liability in Las Vegas mass attack
 - State of New York complaint against Dunkin Donuts for failure to protect consumer's information from cybersecurity breach
- 21st Century technology in an industry using early 20th Century methods
- Consumer awareness and response to security measures taken by hospitality industry in urban areas
- Internal Security – Is your auditing and reporting systems in compliance with Payment Card Industry Data Security Systems (PCI DSS)
- Physical Security – risks and benefits

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ICE Sends Strong
Message to Employers

- Civil fines for I-9 paperwork violations range from \$224 to \$2,236 per violation, depending on whether the employer has committed repeated violations
- Penalties for knowingly hiring or continuing to employ an unauthorized worker range from \$559 (first offense) to \$22,363 per worker (subsequent)
- Criminal prosecution if engaged in a pattern or practice of knowingly employing unauthorized workers

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TRAFFICKING SIGNS

HUMAN TRAFFICKING RED FLAGS

FOR ADULTS

- Third-party control of schedule and social interaction
- Isolation from community, family or friends
- Evidence of violence: bruising, swelling, scarring
- Tattoos or branding
- Sexually provocative clothing that is inappropriate for the situation or weather
- Frequent movement/erratic schedule
- Inability to speak English
- Identification documents in the hands of a third party
- Lack of knowledge about the community
- Malnutrition, dehydration, exhaustion
- Dizziness, headaches, memory loss from traumatic brain injury
- Untreated chronic disease, dental or visual problems
- Chronic back pain, muscle strains, cardio vascular and respiratory issues related to exposure to chemicals, serious industrial injury

FOR CHILDREN

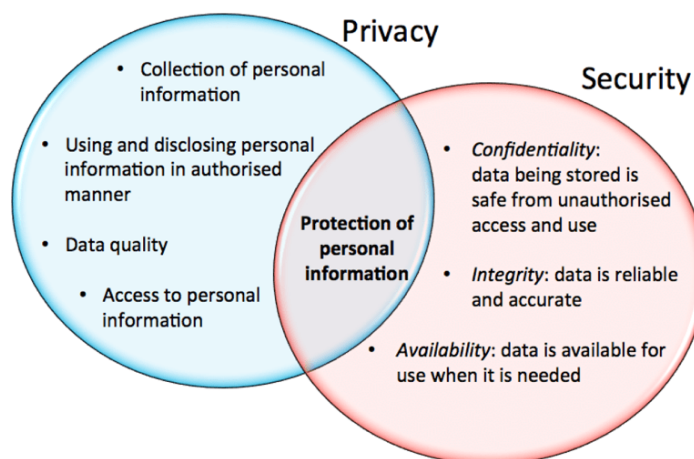
- Changes in their school attendance habits, appearance, socio-economics, friend groups, interests, school activities, vocabulary, demeanor, attitude and sexual behavior
- Luxury items like manicures, designer clothing, purses, etc. without an explainable source of income
- Truancy
- Getting into trouble in the company of older teens or adults
- Sexually provocative clothing
- Tattoos or branding
- Hotel key cards
- Refillable gift cards
- Multiple phone or social media accounts
- Lying about the existence of those accounts or refusing parent access to those accounts
- Sexually provocative pictures on the phone or online accounts
- Unexplained injuries: bruising, swelling, redness, cigarette burns
- Claim of an older boyfriend/girlfriend
- Lack of I.D.
- Multiple runaways in a short period of time

#humantraffickingtx



Source: Texas Attorney General's Office

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Protection of Customers'
Personal Information

Source: www.davidfroud.com

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Data Privacy and Security

- **Laws and Rules**
 - Commercial: SOC, HIPAA, PCIDSS, FCRA, FCC, CCPA, GDPR
 - Law Enforcement: Freedom/PATRIOT Acts, FISA, CALEA, SCA, ECPA
 - Government: FOIA, Privacy/Trade Secrets Acts, NIST, NISPOM, FISMA, RedRAMP, CMMC
- **Common Themes**
 - Consent: Get it before obtaining or using data
 - Transparency: Provide detailed privacy policies about collection, use and sale
 - Opt-Out/In, Access and Deletion: Obtain and delete your data. Opportunity to opt-out/in
 - Security: Maintain reasonable security practices... in accordance with standards
 - Breach: Liabilities and notification within specified time
 - Data Protection Officer
- **Trends**
 - GDPR, CCPA, CMMC new, and are more coming
 - Third party inspections and certifications

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Lets grow this together!