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Data Governance

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| 1 | **Data governance – May 2022** |

| 2 | Purpose of this paper |

3 This document explains to attorneys why data governance improves the value we get from data. It supplies 13
4 frameworks for future noodling on and use for the purposes of empowering ethical, achievable decision-making and
5 establishing our data as worthy of our trust in it.
6
7 It begins at the end: three recommendations; it works backward to: (1) tenets for data governance, (2) description
8 and values, and (3) teasers for frameworks using systems thinking and lifecycle management as earnest invitations to
9 read the appendices; it concludes with a case study (Formal Opinion No. 477R) of maturing ethical obligations, and
10 starting spaces for how to apply data governance to our work. Where possible, rabbit holes and existential angst
11 populate the appendices.

| 12 | **Recommendations** |

13 1. Follow the American Bar Association (ABA) formal opinions on ethics. Find relevant opinions in Appendix D.
14   a. Avoid repeating the same mistakes, and avoid similar mistakes.
15   b. Follow the ethical opinions of your local bar.
16   c. As an example, find relevant opinions the Professional Ethics Committee for the State Bar of Texas in
17   Appendix E.
18 2. Read to understand the ABA Model Rules, particularly those identified in Appendix C.
19   a. Apply those model rules and their comments to your practice.
20   b. Follow the rules of your local bar.
21   c. As an example, find the Texas Disciplinary Rules of Professional Conduct in Appendix F.
22 3. Earn trust.
23   a. Use "do unto others" as a guiding principle for the why underpinning your data governance
24   approach.
25   b. Apply, judge, and then tinker with any of the data frameworks in this narrative.
26   c. Document efforts, and use documentation to transform our overwhelm over technology (and
27   technology harms) into agency.

| 28 | **Middling: tenets, values, frameworks** |

| 29 | Data governance tenets |

30 Tenets guide future decision-making via operational principles. They create value when they identify the existential
31 purposes of workstreams, codify how problems are approached, and declare in advance *what matters more*.[1]

32 My (personal) data governance tenets are:

33 1. Implementing proactive governance on data spares downstream remedial efforts.
34 2. We partner in the process: anyone who questions the integrity of data is (in that moment) a "data steward."
35 3. By respecting what came before, we learn from working legacy systems and manual problem-solving.
36 4. Like life, the data governance process is iterative.

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[1] Tenets bound bureaucratic in-fighting to written down and aligned-upon goals.

| 37 | 5. | Processes and people (and thinking) matter much, much more than technology in this space. |
| 38 | 6. | Data minimization reduces financial, operational, and regulatory burdens. |

39 Governance is valuable

40 Data governance is a concept; for me it means the iterative process of (1) pondering and then (2) implementing
41 standards that we expect for ourselves (and our institutions) that enable us to extract value from data.

42 **Value for…**

43 Value for lawyers

44 The benefit of data governance is simply its articulation of methodology to address and to document our efforts that
45 the bar requires of us in its own evolution of understanding technology.

46 By moving something we unconsciously understand as scary and ill-defined into the realm of categorizable and
47 treatable, it transforms into something not-so-scary, and we're able to change too, instead of short-circuiting in the
48 overwhelm ("Y'all… that's not my job."). We're able move towards self-efficacy, and towards behavior change. For
49 any of this to work, we've got to believe it can work.[2] And so breaking what seems impossible into small steps,
50 monitoring our data habits, understanding feedback and allowing feedback in, and actually experiencing our ability
51 to change our data behaviors and give counsel on our clients' abilities to do that, too, is the way we do this.

52 Let's acknowledge that the overwhelm of digitally-available people communication is real. And the ability of
53 computers through artificial intelligence to fake that communication is real. Data proliferated; it got big and
54 unwieldy and hard to handle, let alone to understand. So what I offer by way of data governance evangelism and its
55 ability to encourage ethics, is truly simple. We use frameworks to set forth requirements for what good looks like –
56 competency, effective communication, reasonable confidentiality, fairness in dealings, and the ability to be teachers
57 ourselves for all the non-lawyers we're lucky to work with. Through the experience of using frameworks we can
58 observe them and then judge them: this works for me, this doesn't work for me. And then we can tinker and work
59 towards improvement. And we can apply that same rigor in going through the phases of any framework, and through
60 each of those frameworks, for planning, that pondering I mention above, and for the actual performance and
61 execution of those phases. We don't have to "recreate the wheel" or "boil the ocean" and we leverage the models of
62 those who thought through this before. Technology, and technology harms, are deeply prevalent in our practices and
63 our lives today. I'm offering that through the lens of data governance, you can make your data tighter, cleaner, more
64 understandable, and more insightful. And so, so importantly, less scary.

65 Value for those of us too clever to work as lawyers

66 How and why we govern our data systems are differentiators. Similar to corporate governance, and to civil
67 governance, *why* we have certain systems in place informs and provides feedback into the systems themselves.

68 At root, data governance is about the why; other components focus on how we answer other questions baked into
69 that why? (who?, what?, when?, where?, how?).

70 Credit to Anita Lynch, who while VP for Data Governance at Disney Streaming, offered the following four core
71 competencies for data governance that focus her teams: (1) quality, (2) privacy, (3) security, and (4) sharing.[3] There
72 are definitions and descriptions of those four keywords (and more!) in Appendix A. For the purpose of exploring
73 value here, "quality" means trusting data because we know where it comes from and where to find it (think data

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[2] Credit to my Noom course, which is hard to cite.
[3] "The Data Cloud Podcast," "The Wonderful World of Data Governance with Anita Lynch, VP of Data Governance at Disney Streaming," July 1, 2021. Available on Spotify: https://open.spotify.com/episode/3AGzwfgBf9TvqVlwDWEsFG?si=RcrHYoX0TBy-B7gNpc48Ag

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