



*U.S. Biometric Systems Privacy Primer,
Public Comment Version*

March 28, 2024



The Sedona Conference®

- ❖ Nonprofit 501(c)(3) research and educational institute dedicated to the advanced study of law and policy in the areas of antitrust, intellectual property, and complex litigation
- ❖ Transcending traditional continuing legal education to combine experience with dialogue, outside of the adversarial system, to contribute to the reasoned and just development of law and policy
- ❖ Supporting Working Groups to develop principles, guidelines, and best practices in targeted areas “ripe” for development

The Sedona Conference dialogue model



Debate: Assuming that there is a right answer and that you have it

Dialogue: Assuming that many people have pieces of the answer and that together they can craft a solution

Debate: Listening to find faults and make counter arguments

Dialogue: Listening to understand, find meaning, and agreement

Debate: Defend one's own views against those of others

Dialogue: Admitting that others' thinking can improve on your own

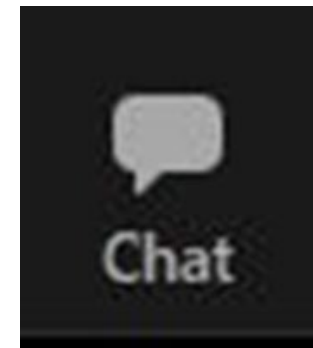
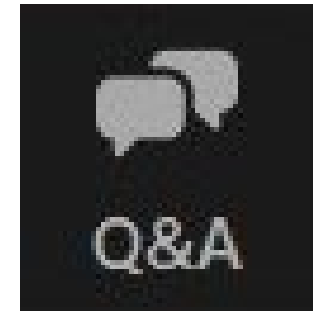
Debate: Seeking a conclusion or vote that ratifies your position

Dialogue: Discovering new options, not seeking closure

Adapted from Daniel Yankelovich, *The Magic of Dialogue* (2001)

“Virtual” dialogue

- ❖ This webinar is being recorded
- ❖ Use the “Q&A” feature to pose a question for the panel to address
- ❖ Keep the “Chat” window open and join the dialogue by text
- ❖ Both the chat and questions will be transcribed for the drafting team’s review



Continuing Legal Education (CLE) credit



- ❖ This webinar has not been pre-approved, but most states will provide at least 1 hour of CLE credit
- ❖ We record your attendance by presenting online polls occasionally during the webinar
- ❖ You **MUST** answer the polling questions so we can record your “active engagement”
- ❖ You will get a link to an evaluation form by email, which serves as your request for a CLE certificate



Disclaimer

- ❖ The information in these slides and in this presentation is not legal advice and should not be considered legal advice
- ❖ This presentation represents the personal views of the presenters and does not reflect the views of any court, firm, or client
- ❖ This presentation is offered for informational and educational uses only

Today's moderator



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Today's panelists



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Chicago, IL

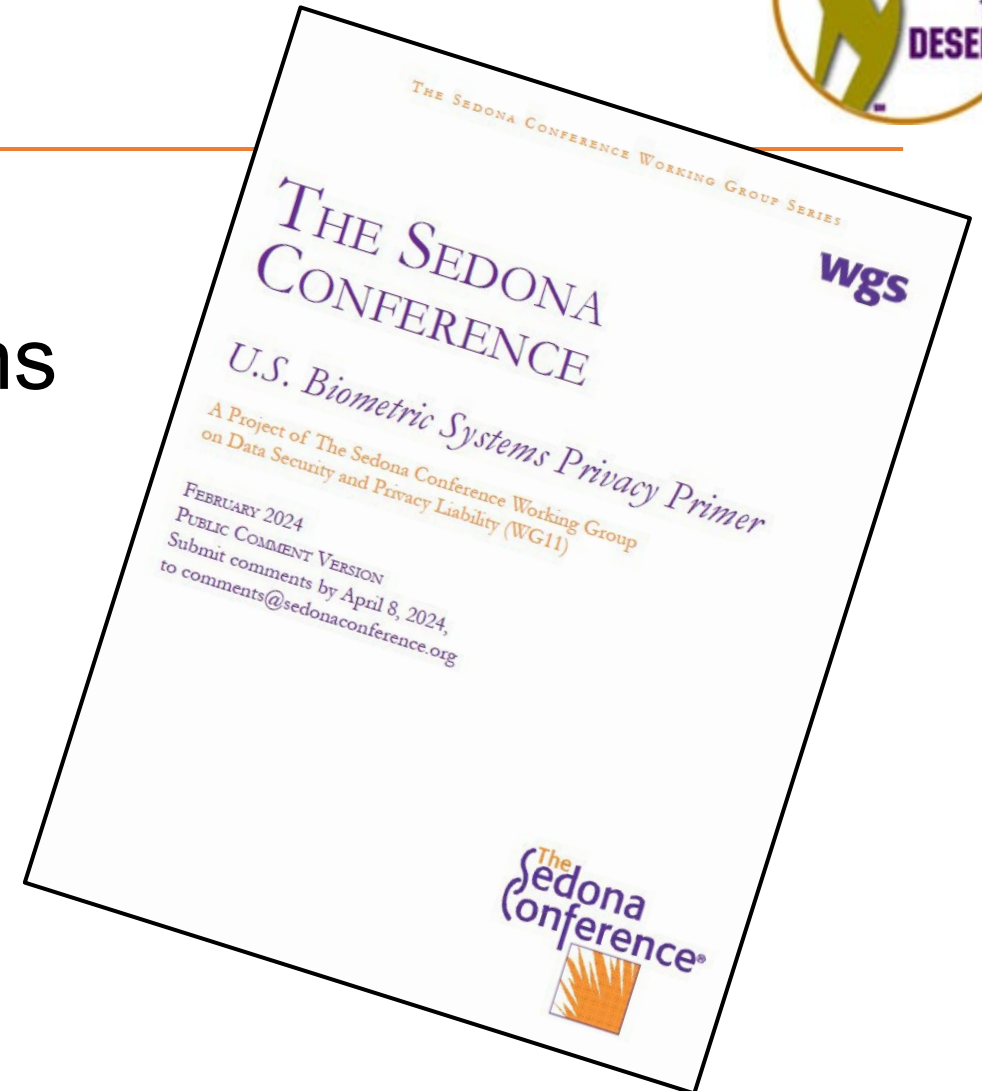


Frank Nolan
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Today's agenda

- ❖ Overview of project
- ❖ Biometric Identification Systems Benefits and Risks
- ❖ U.S. Biometric Privacy Legal Landscape
- ❖ Considerations for Adopting or Implementing Biometric Identification Systems





Overview of Project

- ❖ Why a Primer?
- ❖ What do we mean by “Biometrics”?
- ❖ Who is this for?
- ❖ Limitations



First Polling Question

Are you currently using/advising a client who is using a biometric identity system?

- ❖ Yes
- ❖ No
- ❖ No answer

Biometric Identification Systems - Benefits



- ❖ The Advantages of Biometric Security
- ❖ 1:1 and 1:N Systems
- ❖ Institutional Fraud Risk Control
- ❖ Personal Data Security
- ❖ Law Enforcement and Civil Investigations



Second Polling Question

What do you think is the most important benefit of using biometrics for identity?

- a) No passwords or PII
- b) Easy for users
- c) Meets enhanced MFA requirements
- d) “Phishing” resistance
- e) Other (type into Chat if you wish)
- f) No answer



Biometric Identification Systems - Risks

- ❖ Persistent Identification
- ❖ Security
- ❖ Publicly Accessible Characteristics
- ❖ Secondary Information
- ❖ Tracking and Surveillance
- ❖ Function Creep
- ❖ Discrimination and Bias
- ❖ Transparency



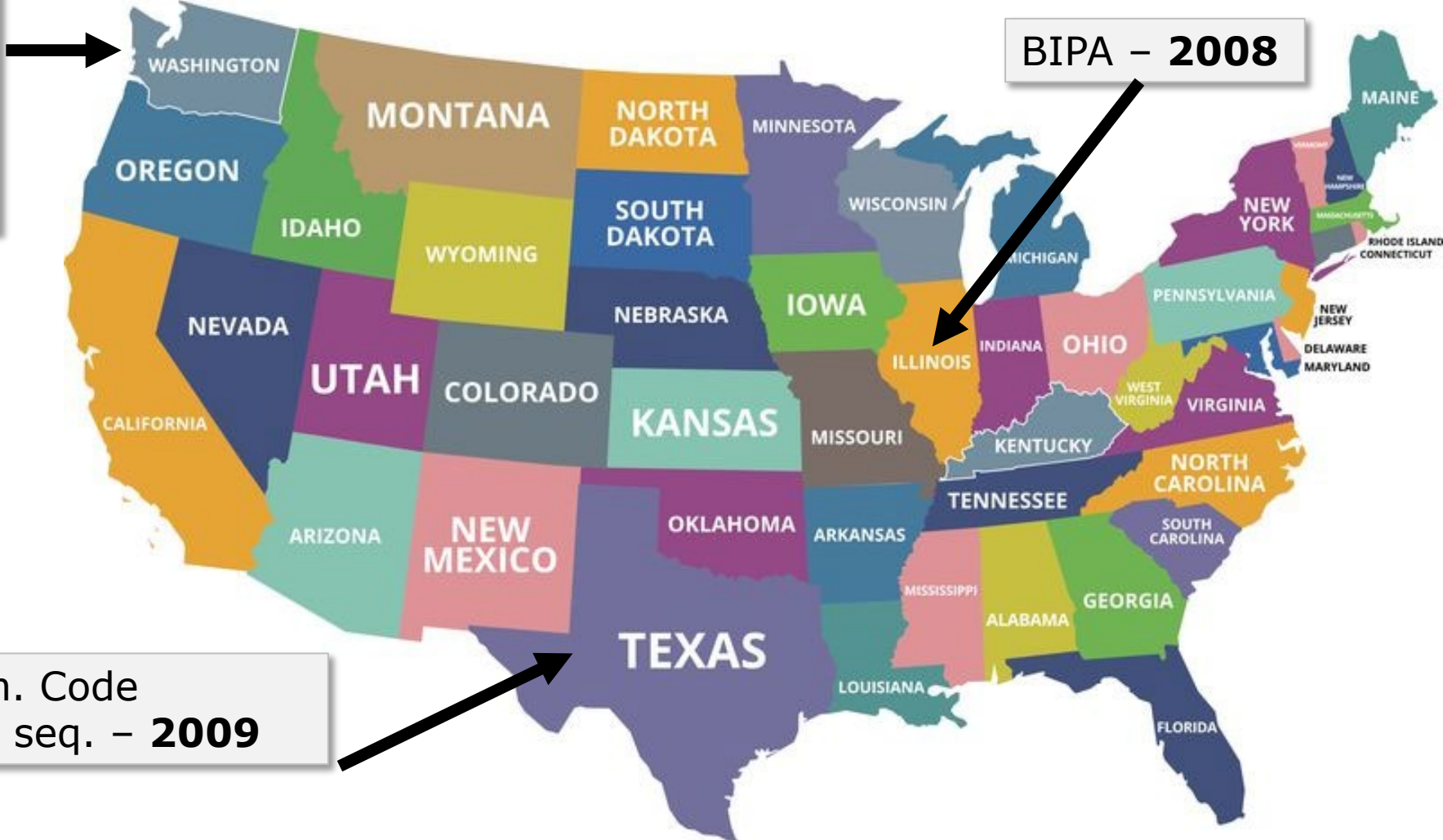
Third Polling Question

What do you think is the most significant risk of using biometrics for identity?

- a) Intrusion into personal privacy
- b) Tracking and surveillance
- c) Discrimination and bias
- d) Security of data
- e) Function creep
- f) Other (type into Chat if you wish)
- g) No answer

US Biometric Privacy Legal Landscape

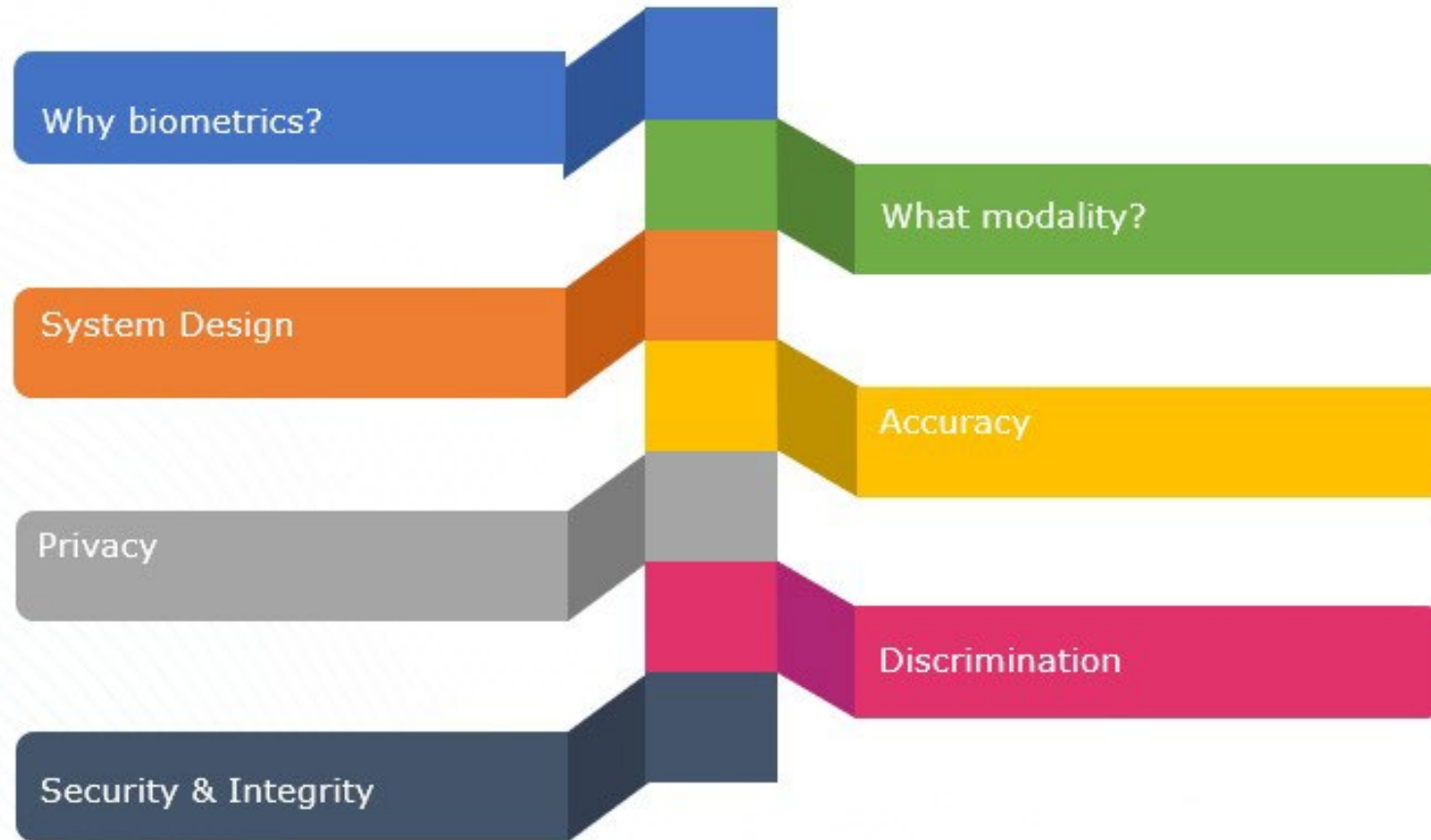
Rev. Code
Wash.
(ARCW) §
19.375.010(1)
– **2017**



Tex. Bus. & Com. Code
§ 503.001(a) et seq. – **2009**

BIPA – **2008**

Considerations For Adopting Or Implementing Biometric Identification Systems



Considerations For Adopting Or Implementing Biometric Identification Systems



- ❖ Summary
- ❖ Emerging trends/best practices/risks
 - ❖ Technological developments since laws enacted
 - ❖ Biometric Data Security Principles

Upcoming events

**The Sedona Conference on AI and the Law, Part I
AI and Civil Litigation**

Hyatt Regency, Reston, Va., April 4-5

Working Group 1 Midyear Meeting

FDIC Campus, Arlington, Va., April 25-26

Working Group 11 Annual Meeting

Four Seasons Hotel, Minneapolis, Minn., May 2-3

**The Sedona Conference on AI and the Law, Part II
AI and Intellectual Property Law**

Hyatt Regency, Reston, Va., June 20-21

For more information and to register, go to:

thesedonaconference.org



Comments? Questions?



Submit all comments to
comments@sedonaconference.org
by April 8, 2024

Thanks to today's panelists



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Thank you for attending!



Dall-E prompt: “Painting of the red rocks of Sedona in the plein air style”