

## Increase in In-House Oversight of Privacy

Article By:

Jason C. Gavejian

Joseph J. Lazzarotti

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The Association of Corporate Counsel and Major, Lindsey & Africa recently released their [2023 Law Department Management Benchmarking Report](#) (Report) which tracks key trends in law department financial and operational data.

Unsurprising, as there has been an increase in privacy regulation across the country with several states passing comprehensive privacy legislation in 2023, privacy compliance is becoming a focus for legal departments. Our team is seeing this significant growth show up in a wide range of areas, ranging from the adoption of new technologies, incident response, compliance generally, vendor management, and transactions. Here are some examples:

- The uptick in the utilization of generative AI tools like ChatGPT has in-house counsel concerned about several factors including privacy.
- The continued threat of data breaches, including the recent surge in ransomware, warrants continued focus in this area, such as strengthening preparedness with tabletop exercises.
- Consumers and employees are becoming more savvy about their privacy, raising questions about surveillance, broad data collection, retention of personal data, and the use of their information.
- For all organizations, leveraging vendors and third-party service providers is essential to maintaining business-critical functions. But they need data to do it, which requires assessment, strong contract language, and continuous management to maintain the privacy and security of data.
- Long before a deal closes, information, sometimes sensitive personal information, is exchanged, often creating headaches for in-house counsel managing the deal who can face significant compliance challenges.

The Report found that privacy was now the most common business function directly overseen by Legal Departments of businesses overtaking compliance. 70 percent of Chief Legal Officers that were surveyed have oversight over privacy.

The Report also showed that 96 percent of businesses were handling privacy and security compliance in-house, with 25 percent handled by outside counsel and only 3 percent of respondents using alternative legal services for their privacy and security compliance.

This increased focus by legal departments mirrors the increased complexities in the privacy arena, and the risks businesses face in failing to comply, with no signs of slowing down.

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National Law Review, Volume XIII, Number 173

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