August 4–6 Austin, TX

TEXAS CITY ATTORNEYS ASSOCIATION

2021 SUMMER CONFERENCE

Cybersecurity Is a Risky Business

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TML TEXAS MUNICIPAL LEAGUE

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Partnering with Texas Local Governments Since 1974

It Won't Happen to Us

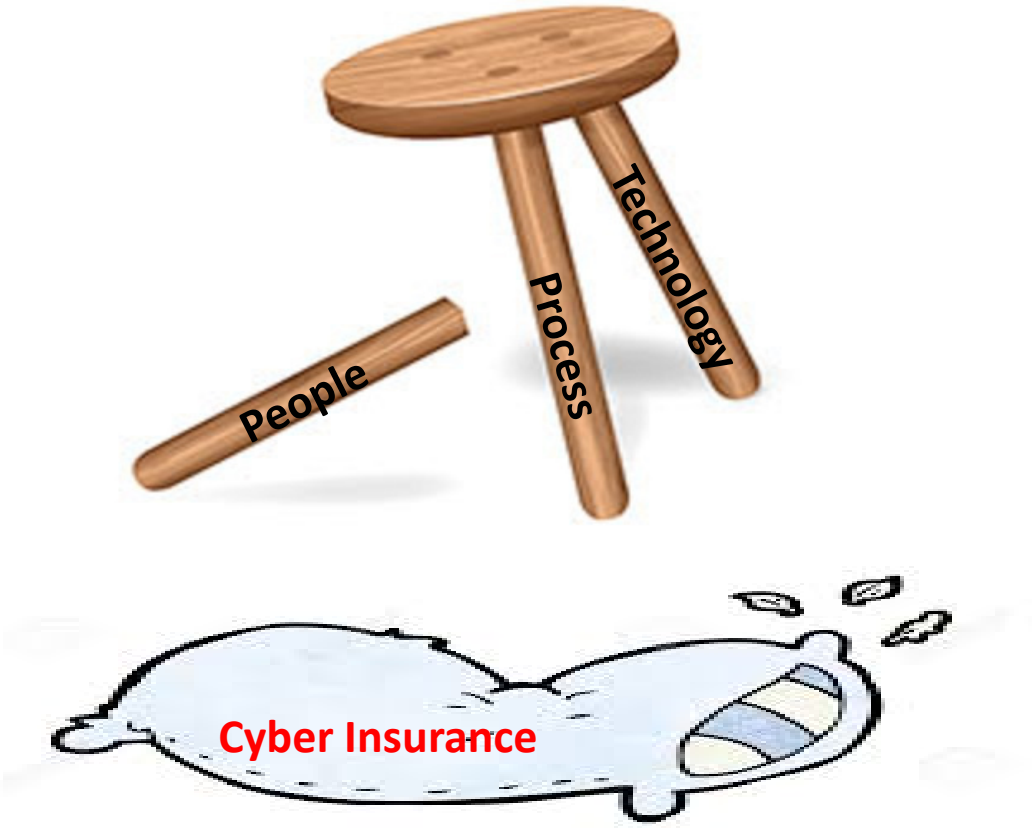
Ransomware Attack Will Cost Baltimore Over $18 Million

Alarm in Texas as 23 towns hit by 'coordinated' ransomware attack

Cost of City of Atlanta's cyber attack: $2.7 million — and rising

'Dangerous Stuff': Hackers Tried to Poison Water Supply of Florida Town

3 Pillars of Cyber Security

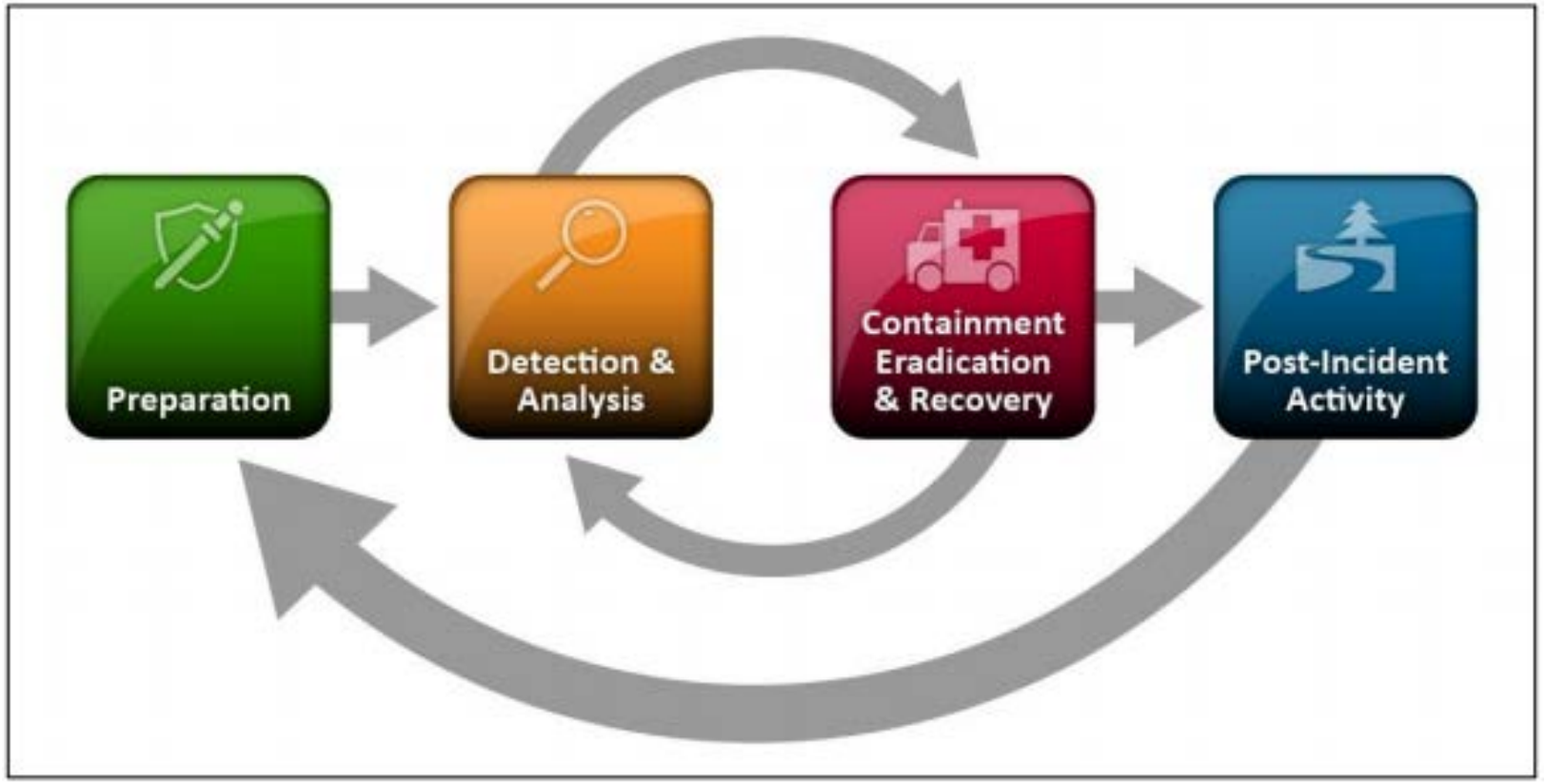


9 Building Blocks of a Successful Cybersecurity Program*

1. Train your staff
2. Prepare for a breach
3. Monitor your IT
4. Assess your risk (often)
5. Transfer Risk
6. Test your security
7. Maintain policies and procedures
8. Keep track of your data
9. Choose and use a cybersecurity controls framework

* Source: LGM Security

A Cyber Event is a DISASTER



* Source: NIST 800-61

Data Breach

"breach of system security" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information maintained by a person, including data that is encrypted if the person accessing the data has the key required to decrypt the data. Good faith acquisition of sensitive personal information by an employee or agent of the person for the purposes of the person is not a breach of system security unless the person uses or discloses the sensitive personal information in an unauthorized manner

-Tex. Bus. & Com. Code § 521.053(a).

Two Ways to Transfer Risk

1. Contractual Risk Transfer

2. Insurance

Contractual Risk Transfer

Staff Attorney In-House or Contract Legal Counsel

- Have a written contract
- Legal review for acceptable language
- Include hold harmless, duty to defend, indemnification language, additional insured status
- Clearly defined roles/responsibilities for both parties
- Clearly stated insurance requirements for the vendor
- Vet your providers

Cyber Insurance: Why I Need It

- May not have the financial resources to recover
- Data is a valuable asset that is not covered by traditional property insurance, data restoration costs
- PII/PHI/PCI exposed can result in notification requirements
    - Lawsuits and settlements/judgements

Cyber Insurance: Why I Need It

- Business interruption from systems downtime due to breach
- Access to specialized resources (forensics, data breach coach, legal services)
- Penalties and fines (PCI, other privacy and security regulations)
- Claims of defamation, libelous comments, trademark infringement from social media and website content
- Reputational harm and public relations assistance

Resources Available Through Cyber Coverage (Pre-Breach)

Privacy Builder

Establish a data and privacy security program

Assessments

- Data mapping
- Legal, regulatory, contractual obligations
- Policy review
- Independent security assessment
- Policy creation
- Incident response planning

Resources Available Through Cyber Coverage (Post-Breach)

Forensic Services

Investigate your digital environment to determine the extent of breach:

- Data exposed
- Data exfiltrated
- Types and amount of data
- Cause and scope of breach

Serves as incident response team:

- Combat any active threat (EDR tools)

Works in tandem with privacy counsel

- Investigation and response
- Attorney/Client privilege

Disaster Recovery service (DR):

- Offsite, cloud-based backups of data that occur incrementally
- Monitoring of backups to ensure success and notification in the event of backup failure
- Restoration of data and applications on the client server, post-disaster event

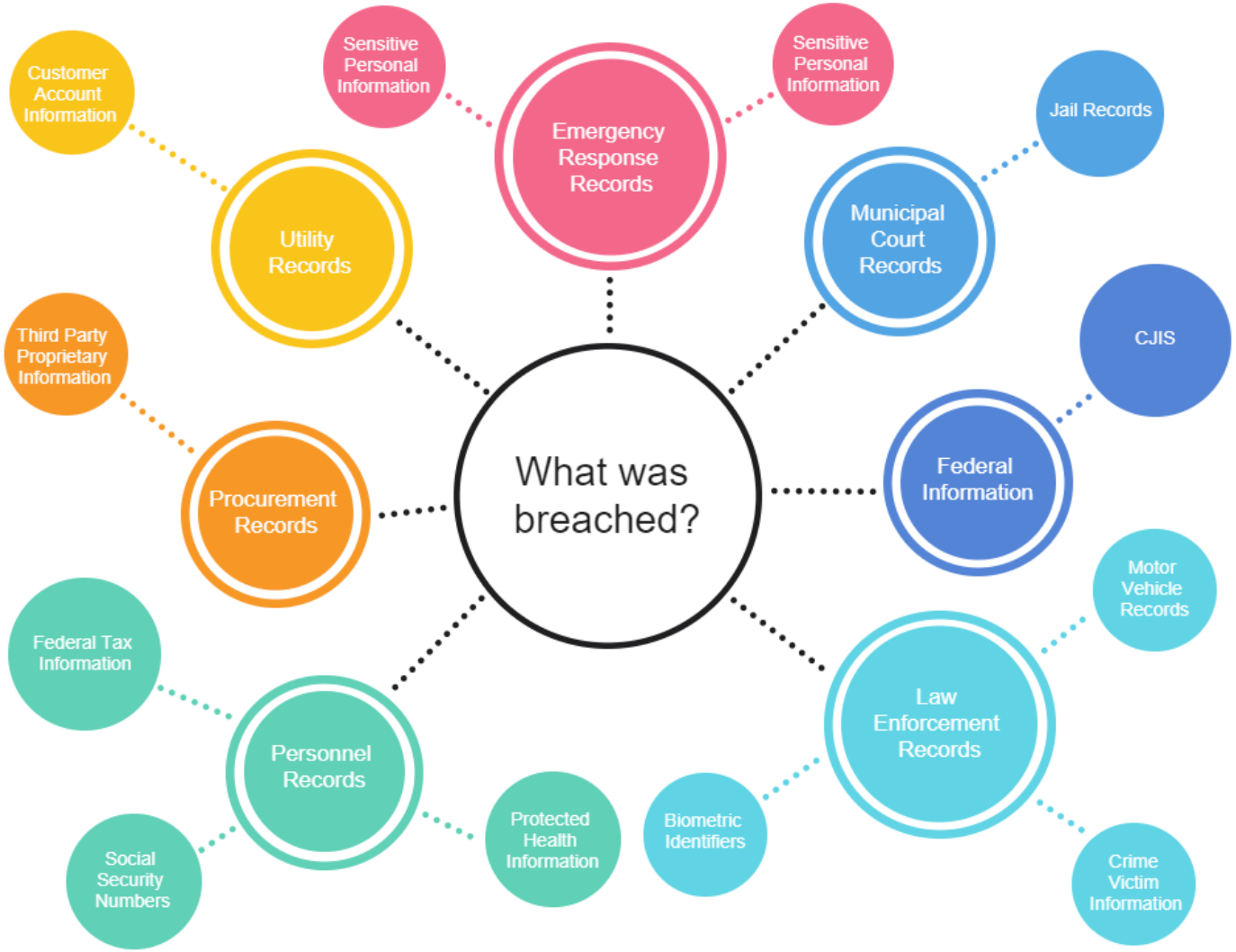
Advanced services with DR could include:

- Hosting of data/applications in the cloud after a disaster event
- Member would still need a functioning computer/device and internet connection
- Once member has local network rebuilt, applications/data are re-installed locally

Is DR “coverage?”

Does your DR provider:

- Pay a ransom for you in the event of a ransomware demand?
- Prepare legal notices or public announcements?
- Notify individuals of a PII exposure and provide credit monitoring?
- Pay you for loss of revenue that might occur?
- Pay for a loss when sending money due to fraudulent wiring instructions?
- Defend a suit brought against you?
- Pay for legal or forensic services?


What was breached?
Utility Records
Customer Account Information
Emergency Response Records
Sensitive Personal Information
Sensitive Personal Information
Municipal Court Records
Jail Records
Procurement Records
Third Party Proprietary Information
Federal Information
CJIS
Personnel Records
Federal Tax Information
Social Security Numbers
Protected Health Information
Law Enforcement Records
Biometric Identifiers
Motor Vehicle Records
Crime Victim Information

Applicable State and Federal Laws

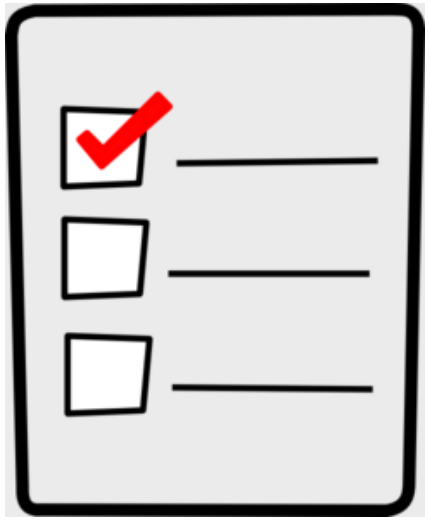
- Family Educational Rights and Privacy Act of 1974 (FERPA)
- Health Insurance Portability and Accountability Act of 1996 (HIPAA)
- Fair and Accurate Credit Transaction Act of 2003 (FACTA or “Red Flags Rule”)
- Privacy Act of 1974
- Federal Information Security Management Act of 2002 (FISMA)

Applicable State and Federal Laws

- Medical Records Privacy Act
- Motor Vehicle Records Disclosure Act
- Driver's Privacy Protection Act
- Payment Card Industry Data Security Standards
- Identity Theft Enforcement and Protection Act

Authority over Data Breaches - Depends on what was breached

Breached? Now What Checklist



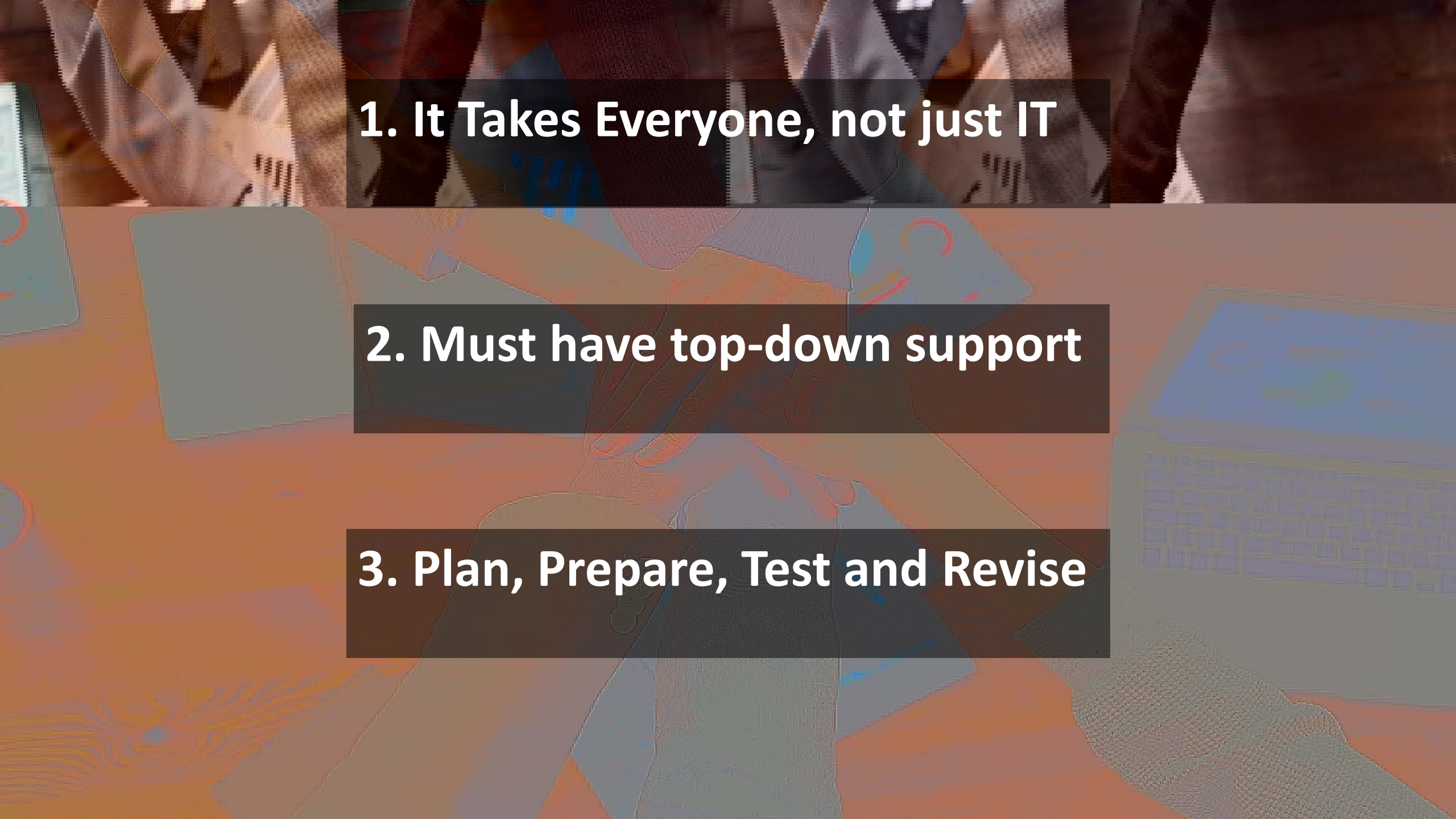
Resources:

TML - https://www.tml.org/199/Cybersecurity-Clearinghouse

TMLIRP - http://info.tmlirp.org/cyber-security-training-program

DIR - https://dir.texas.gov

TechBytes - https://sbot.org/techbytes/


1. It Takes Everyone, not just IT
2. Must have top-down support
3. Plan, Prepare, Test and Revise

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Thank you!

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