



# MINI-NEWSLETTER

JANUARY – FEBRUARY, 2011  
DIALOGUE ON DIVERSITY

1629 K STREET, N.W., SUITE 300  
WASHINGTON, D.C. 20036  
TEL: [FFXVA] 703-631-0650, FAX:[FFXVA] 703-631-0617  
E-MAIL: DIALOG.DIV@PRODIGY.NET, URL: WWW.DIALOGUEONDIVERSITY.ORG

## *Friends of Dialogue on Diversity*

**MINI-NEWSLETTER –  
FEBRUARY 1, 2011**



The *Holiday Fair and Children's Gift Collection*, the festal occasion, once more in 2011 marking the conclusion of Dialogue on Diversity's program year, set, as always, for the second week-end of December, this year the Friday, 10th of the month, was held at the Josephine Butler Parks Center, a classic Washington mansion at 2437 Fifteenth Street in North West Washington, some half dozen blocks east of the Adams Morgan and Mount Pleasant districts of the city. The site, in its century long history, has been home to the city's elite, an embassy of at least two countries, and now, glowing with a new life, the focus of community efforts brightening the existence of the rainbow of immigrant communities in the metro area.



Santa Claus and Chief Helper

The children, most of them in the four to six age range (the older contingents being occupied, midday on that chilly Friday, with their pencils and books at school) trooped in with their parents and pre-school chaperons, group by group, and proceeded with songs of the season and a succession of very free-style dancing performances, urged by their elders and the pulsing holiday tunes of Ramón Calá and his combo. The participating community organizations, indispensable sources of aid and vitality in the midst of their respective neighborhoods, would distribute to the client households they serve, throughout the holiday time just ahead, the trove of toys that our Dialogue, along with friends and generous firms in the metropolitan area, had managed to collect. The holiday season is doubtless the necessary celebration of light in the dark of the year, and Santa Claus, its multi-lingual genius, entering at the side door of the ballroom, was suddenly in the midst of the children, bantering with them, amid jovial laughter, in elegant English and in the Spanish that was the home idiom of many of his small, eager clients. While the assembly were finishing up their lunch of hot dogs and cookies, Santa conferred, under conditions of strict confidentiality, with one after another of the young hopefuls as they

advanced to climb on his knee. He then essayed a dance step or two, demonstrating a panache that was the envy of those watching who were a hundredth of his age. The party at last came to its close at mid-afternoon with the distribution of gifts in the building's foyer, presided over by Santa himself, aided by the crew of helpers that The Dialogue had brought together for the occasion.

The many friends crowding into the ballroom had come from every corner of the metro area, among them officers of not-for profit charitable and educational organizations on the Washington scene, then workers from the State Department and other government agencies, lawyers and other professionals, entrepreneurs from around the town, and the always goodly contingent from the community organizations in the near north quarter of the city, which is home for

More Helpers: (front) Elisheba Goldhaber, Ma. Cristina Caballero, Eleanor Domantay (back) Valentina Pasillas, Martha Bazurto



Holiday Portrait: Artist with Subject

many of the immigrants and other persons not among the affluent of the land — all of whom swelled the chorus of seasonal merriment. Each of the diverse party had brought along a gift for a child, wrapped and marked for boy or girl, with a hint of the intended age – from four to fourteen. (Suggested value: \$10 or a shade more) From many came a second, or third, gift, as well as contributions of cash for additional gifts. The Holiday fair is the Dialogue on Diversity program in which the year's airing of ideas and instruction on entrepreneurship and a range of public policy questions, moves to a direct, on-the-ground effort of service to the street level diversity of a compact and energized society, with its fervors of sentiment and ambition and creative work. The 2010 Holiday Fair was generously

sponsored, as in earlier years, by **Kaiser Permanente**.

## NEW AND RENEWING MEMBERS

Many among the Dialogue's many friends are newly taking their place on the membership rolls of the organization. On the corporate side, the Dialogue welcomes **New York Life Insurance Company**, recently joining at the Silver level. New York Life's Washington management team is presenting a **Networking and Career Opportunity Reception** for women entrepreneurs on February 24. Members and friends are invited. See the attached flyer for details on this event. Newly renewing are **Emma** and **David Moreno**, longtime supporters and regular attendees at Dialogue programs, who have each joined formally as Advocate Members. Also we mention **Evelyn Brooks**, of Evelyn Brooks Designs, where she is chief jewelry designer and the enterprise's star marketer. Ms. Brooks, who grew up in a family of Peruvian jewelry makers, has at length gravitated to the design tradition herself. Dialogue on Diversity presented its Young Entrepreneur Award to her in its July, 2010 Entrepreneurship/IT Conference. Along with regular volunteer **Lori Maes**, are **Julian Gonzales** and **Eleanor Domantay**, simultaneous English/Spanish interpreters and our all around volunteers per excellence – all are now officially members.

## AMIGAS DEL CORAZÓN

**Ann M. Garcia**, heading the Corazón Project of Women Empowered Against Violence (WEAVE), a bi-lingual community organization serving the numerous Latino population of the Washington metropolitan area, has announced a series of support programs for domestic violence survivors, with sessions running weekly for three months during the spring. The program, a series of Wednesday meetings, each week from February 23 to May 25, is held at the WEAVE headquarters on downtown K Street. The program is free, the sessions are confidential, and child care is available. For information interested persons should telephone for Ana at 202-280-6001. Ann Garcia was one of the leading speakers at Dialogue on Diversity's October, 2010 Domestic Violence Awareness Colloquium, discussing the work of the WEAVE organization and zeroing in on the very special features of domestic violence as it occurs among young persons in their teens, often in a school-related context.

## INTERNET DATA PRIVACY COLLOQUIUM

The third annual Dialogue on Diversity Internet Data Privacy program was presented at the Stewart R. Mott Home on Capitol Hill the snowy afternoon of Wednesday, January 26. This year's program, a colloquium bringing together think tank experts, communications lawyers, corporate privacy heads, and government officials, bore the title: *Stable Value in a Technological Tempest*, referring to a felt social need for an anchoring value of privacy, which finds itself embattled in a multi-front encounter with a swiftly innovating technology. The two dozen communications, internet, and policy wonks who stayed to the last word, near 5:00 p.m., were rewarded with an interminable homeward ride (more accurately stated, crawl) on the jammed, icy roads – a night that doubtless will go down in the history of the national capital's calamities alongside the British incineration of the Presidential Mansion in the War of 1812.

The four panels airing facets of the privacy problematic were preceded by an introductory session featuring the greeting by Ma. Cristina Caballero, founder and head of the Dialogue, and a discussion by Anna Gomez, deputy chief of the DOC's National Telecommunications and Information Administration (NTIA), describing that agency's essential mission and outlining the Commerce Department's initiative for a standard trust-assuring protocol for the now very numerous private-sector procedures for identity authentication that internet users and online customers are already well acquainted with.

Maureen Ohlhausen, a broadly experienced privacy expert from the leading communications law firm Wilkinson, Barker, and Knauer, summed up the day's themes in an Afterword and Look Ahead. The lead agency in fashioning a régime of privacy rules as a matter of public policy continues to be the Federal Trade Commission, working under its very broad mandate, and with the force of an experienced and sharply focused legal and regulatory staff. The FTC, of course, encounters a regulatory terrain in which the goal of privacy concerns has got to be pursued when the controlling technological and economic facts are changing beneath us as the notably fluid IT industry innovates at a mind boggling rate, and the entrepreneurial ingenuity of engineers, Harvard drop-outs, and assorted pop-culture geniuses relentlessly innovates. Among key problems on the immediate agenda are identify theft, which is coming to be a major concern, and the looming task of hammering out an effective and acceptable system of Do Not Track rules for the rapidly expanding field of on-line commerce.



DEVIN L. CROCK, of Sprint-Nextel's privacy office, explored the world of social networking and the perils to children (through the teen years) who are caught up in the whirl, with a detailed exploration of the special problems of mobile devices — always with an eye to the tools, from technical barriers to moral suasion, placed in the hands of parents as they seek to supervise a much younger generation's use of these ever evolving technologies. Communications carriers, such as Sprint itself, are aggressively pushing their technical capabilities in directions facilitating parents' classifying content to be restricted in more or less stringent ways. Like most battles, however, this one is never won once and for all. A later speaker remarked that for all the protective efforts of their elders,

youthful genius has continued to “run circles around” the best efforts of parents to rein in their offspring's technological excursions.

AARON BRAUER-RIEKE

The ubiquitous data collection activities of commercial entities in their internet marketing was described by Aaron Brauer-Rieke of the Center for Democracy and Technology, under the headings: the law, the technology, and the remedial tools in the hands of consumers – then the philosophy of privacy in the setting of contemporary commerce. Privacy as a single concept is not in the Constitution, but much of the substance of it, in the realm of public law, resides in the Fourth Amendment, with its barriers against searches and seizures, the First Amendment, the Ninth and then the Fourteenth, dealing with sanctity of property and with equal protection. From these a penumbra of protections, a barrier to invasions of person and property, with an intended attainment of personal dignity, is crystallized. In an account of the law governing privacy, the striking fact is that the governing statute (at the federal level) dates from 1986 – before a period of historically dazzling rapidity of relevant technological advance, which is still moving forward at full throttle. The resultant effectiveness of protection for privacy is weak. There is a patchwork, nevertheless, of specialized systems of privacy protection, those, for example, instituted by banks themselves with respect to

financial data, and those under the federal HIPAA statute restricting the indiscriminate use of patients' medical data.

As for the pertinent technology story, online sellers collect information on your own purchases, personalizing the online customer's experiences. This is called "first party" tracking: you are aware of the fact and can escape this familiarity by changing sellers. Then there is "third party" tracking. This is the collection of information on many parties by an entity that is not a party to any of the transactions. One is always suspicious since there is no real way to tell if it is going on. Modes of protection are coming on stream. Some new software systems will permit users to form a 'blacklist' (content sources, sellers, etc. by which tracking is permanently barred); others, again, put a header atop each page on which the user proposes to enter into a transaction – the user can thereby "opt out" of any tracking on a transaction by transaction basis. Next question: could there be a system of no-tracking without an affirmative user "opt in"? The tracking, of course, may well be useful in that it sends us a stream of ads in which we are likely to be interested and keeps out the rest. Our concerns are roused, however, by the possibility of access by government or other more or less unwelcome parties. It is not all that hard to penetrate the sanctum one might wish to erect for personal information. (Example: law firms have discovered that the readiest and best source of certain evidence in divorce cases lies through a quick visit to Facebook.) Much information is to be found on very hand, and there is no practicable way of abolishing it. It stays there. The internet is funny: it does not forget; materials from long long ago pop up on search sites. There is no question of diminishing this volume of information, but the key is to understand and to control the use of the information. This resolves into a concern for both fairness and control.

#### MELISSA NGO AND CHRISTOPHER CALABRESE

The most delicate aspect of the larger question lies in the activities carried on or proposed by governments in their unappeased quest for information and with the threat of prejudice to privacy interests of residents – and anyone else in range. The Electronic Communications Privacy Act – the



law that has protected on-line communications of various kinds – was enacted in 1986 – a quarter century's remove, a time before the internet. It is thus, not surprisingly, in significant respects out of date. The law knows – if not universally approving – the concept of publication in the sense that an utterance once heard by another is no longer the speaker's, and therefore enjoys minimal privacy protection. Does this rule extend to "cloud computing"? (another device unknown to the world of 1986) Here the third parties are not themselves participants in the information transaction, but mere bystanders (and in general the information is "seen" only by non-sentient computers). Many complaints are being voiced as to this legal situation, some agitated by such groups as the Digital Due Process Coalition, which brings together somewhat

disparate ideological personalities, the ACLU on the one hand, and various right-wing libertarians on the other, each jealous of individual interests vis-à-vis the coercive, intrusive power of governments (one matter on which their otherwise greatly divergent ideologies may intersect). Movement is thus in train for new and today-oriented statutes erecting some species of more robust protection for communications.

In reciting a veritable catalogue of government activities impinging on the sanctity of privacy expectations, Ms. Melissa Ngo, publisher of *Privacy Lives*, listed practices by which, under various security rationales, private entities and the government have practiced some semblance of surveillance, leading, it was feared, to a "surveillance society" She noted the federal funding for construction of radar and electronic fences, and even the use of the famous "drones" (a practice carried on by leave and under rules of the FAA). Still other installations and practices, generally more intrusive yet, are in place at the border. Papers can be taken and copied. In the most alarming example laptop computers can be seized and held for thirty days. It has been officially maintained that informing the traveler of this copying of computers' contents is less than "practicable". Further apprehensions of privacy advocates are roused by the government's National Security Letters, which require recipients to furnish information about clients, customers, visitors, etc., a practice rendered more disquieting by the instruction that no one may be informed (least of all the subject target) of the NSL (the notorious example is that of librarians ordered to disclose reading histories of library patrons). Other questions are raised by the so-called "fusion centers", groupings in adjacent offices of several different, non-

intersecting security agencies for sharing data. While all this is, arguably, part of the well learned lesson to “connect dots” and reduce the “silo” mentality of the disparate securities agencies, the stew of often innocuous acts and meagerly attested data, as distinguished from data proximate to cognizably criminal activity, presents potentially grave privacy dangers. There should here be a comprehensive privacy law, the panel agreed. Almost all industrialized countries have a national privacy law. Individual subjects in those countries are deemed the owners, under such laws, of their own data (as generously defined). That is: the presumptive sphere of privacy against which the world is barred.

HEALTH PANEL, MR. GEIGER AND MS. WALDO.

The final segment of the colloquium agenda dealt with the very important question of health care data and the need, on the one hand, for assembling medical records, test results, and current treatment charts in total detail and with total interoperability among the myriad of collection points, that is, providers of health care services; all while ensuring at the same time that access to this extraordinary mass of information is accessible only to medical professionals for their treatment or diagnostic needs, or, arguably, once made duly anonymous, to scientific researchers.

Harley Geiger, of the Center for Democracy and Technology, discussed the complicated cross effects at work between the job of amassing full, accurate, and immediately accessible health information and the task, impending at the same time, of keeping that corpus of information, once in existence, out of inappropriate hands. If there is a tension between these two moments, there is a cognizable complementarity as well. That is, the very presence of an assurance of privacy is a condition for the release by patients, and perhaps others, of a full and accurate account of present symptoms and treatment strategies and of medical histories. They must believe that disclosure beyond the narrowest confines is of only the remotest likelihood. A tightly fashioned and – most important – known privacy mechanism, therefore, is an imperative of the first order.

At what point has health IT now arrived? The so-called “stimulus” Act of early 2009 put in place, with significant funding, the project of IT extension as the basic communication and coordinating mechanism for the health care system – a project which necessarily involves the privacy imperative. In the quest for a workable means of teasing some utility from the mass of medical records generated day by day, and those previously generated over years and decades, and indeed from the greater and more standardized and searchable body of records promised by the universality of IT procedures in the health care industries, a variety of means protective of privacy interests have been proposed – the magical goal being to refine both the copiousness and accessibility of data and at once the security of the data trove. The form of the ideal system would, at any point, be a function of the sharpened reach and enhanced speed of the IT technology. The somewhat cumbersome and restrictive means set up in the present governing statute (the HIPAA) would be in some measure supplanted by the evolving schemas made possible by technological development.

It is, at all events, a delicate problem, a tension, Ms. Waldo noted, in effectively promoting both poles; a fluidity of information for the sake of medical professionals treating patients, and the impulse, for the sake of privacy, to lock away the corpus of data. There is a serious want of efficiency in the present schemas of health care delivery. Much of this can be put down to an inability to place better information at the right time before the right providers. How is medicine now practiced in all too many situations? How smartly, it could be imagined, might finances be managed if one could not see the bank records? It is much the same. Another facet of the privacy problem is that encountered in conducting retrospective studies in the search for valid causal links among environmental and behavioral factors, on the one hand, and the incidence of disorders, side effects of therapies, etc. In such studies historical data on large numbers of subjects are reviewed as a causal matrix from which known present outcomes have been generated. Can that be done consistently with privacy? Limited access to these records is allowed under present rule, leave being had for treating physicians and for investigators operating through neutral agents to access pertinent data under restrictive conditions (basically having to do with ensuring anonymity of subjects’ records). It was suggested that adequate privacy could be achieved for a much broader use of historical records in such studies.