Podcast Transcript

The Data Stream

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May: Welcome to The Data Stream, the podcast that dives deep into the fast-moving currents of data, technology, and the law. BakerHostetler's Digital Assets and Data Management Practice Group brings you this series, hosted by partners David Sherman and Nichole Sterling, to explore how companies navigate the complex and often intertwined life cycle of data. From privacy and cybersecurity, to advertising, AI, and other emerging technologies. I'm Charlie May and you are listening to BakerHosts.

May: On today's episode, the questions are turned to one of the hosts for a change as David interviews Nichole Sterling. Nichole is a partner in BakerHostetler's Digital Assets and Data Management Practice Group, and serves as the New York office leader for the practice. She advises clients on privacy, cybersecurity, artificial intelligence, and data governance matters, helping organizations navigate complex regulatory requirements, security incidents, and emerging

technology risks. David and Nichole discuss client service, practical challenges in privacy compliance, and the evolving role of AI in legal practice.

Sherman: Nichole, to start with, I am honored to be in the presence of a 2026 BTI Client Service All-Star. Congratulations.

Sterling: Thank you. I'm not sure exactly what I did to deserve the honor because I really feel like we have a lot of client service all-stars on our team, but I'm happy to be recognized.

Sherman: Well, it is well deserved. And to that end, I must start by asking you this incredibly insightful question. Explain to me, if you will, as a client service all-star, what your client service philosophy is.

Sterling: This is something they made me actually put in writing, but in sort of fewer than 120 words for the webpage for BTI. I think most of it really comes down to the fact that, and you know this, we work in this sort of cybersecurity data protection privacy space. The law is sometimes not clear and it is not always a legal problem. In fact, it is almost never just a legal problem for companies. So, you're trying to deal with people often who don't necessarily understand exactly what the law says, because maybe there is no exactly what the law says. Sometimes they're in a time crunch, they need to make quick decisions, they don't want to have to take the time to translate whatever their outside counsel is telling them into words that make sense for the technology team, the C-Suite, and everybody else. So a lot of my client service focus is just trying to get clients answers that are practical and will make sense to everybody they need to make sense to and that kind of meets them where they are. There is a way in which we can sort of unravel everybody's compliance and say you need to fix everything, but that's almost never where somebody wants to start on a question. So it is really kind of looking at where the client is, what they can do in the time that they have and with the budget that they can allocate to it, and going from there and making it work with what they're looking at and the broader risk landscape that they're in.

Sherman: So be thoughtful about who your client is and where they are. Be responsive. Be on budget. I mean, that all makes good sense to me.

Sterling: In an ideal world now, sometimes we can't do all of those things, but that is my sort of what I attempt to do really with all the clients I work with.

Sherman: Well, given that you and I work together, I think literally every day across however many clients, I think you do a pretty good job at it for what that's worth.

Sterling: Thank you.

Sherman: Now with that, as we explore everything Nichole today, I know that you have the, I mean it is wonderful, but I know that you're able to travel and take some really just interesting trips for work and in a personal capacity. Given all of your world travels, what place has most changed the way you see the world, and where do you still need to go?

Sterling: It is interesting. I think one of the biggest luxuries that I have right now is the ability to just pick random places on a map and go because they sound interesting. Many people don't know that law for me is a second career. I spent my first half of my career, although now actually I've been practicing law more than I was ever a university professor, which is where I started. I started in a space where I had almost no budget to travel and my entire travel planning was built around where I could get somebody to fund some research. And so it became this sort of interesting mishmash of, hey, I want to research this thing, I wonder if I could get somebody to give me some basic budget to go there. And now being just way easier to sort of pick places that I want to go.

But I still say that probably the most formative trip that I did was when I was a junior in high school, I spent a study abroad year in the middle of rural southern Sweden, the province of Smaland. And I had grown up in a very rural farm environment in the U.S. in Iowa. I remember when I was going to Sweden, my host family in advance kept saying, it is a very small town, I don't know what you'll think of it. And their small town was about five times the size of my small town. So it still felt large. It had a public bus, it was kind of exciting, I could go places without a car. But it was really interesting in that that switch from being in the middle of a very big country to going to living in a small country that had this sort of incredibly expansive worldview around it was really fascinating for me. And I think that contrast shaped me and being able to study it as part of being in their school system, but also thinking through that was 1991, '92, which was also just a really interesting time to be in Europe. So we're just post-Cold War at that point. And the whole map of Europe was just shifting during the time that I was there, so there was a really interesting sense that history was actually happening around you and you could feel it happening. And I think for me as a teenager, that was also really formative. And I think a lot of just that experience of being totally integrated into a foreign culture really changed how I understood the world, how I sort of fit within it, made me much more comfortable just crossing cultures and learning quickly in different ways. And I think a lot of that plays into the global aspects of my practice today. And I will just add too that probably the other great thing about that year abroad is that those connections have lasted. So since 1991, I've continued to be in contact with my host family and their oldest granddaughter is actually living with us this year in the United States and attending high school as an exchange student. So that's kind of a fun way that it also continues.

On your other question of where I still need to go, I sometimes joke that Istanbul is the only place I've been in Asia. So I really, unless we count St. Petersburg as also in Asia, I have a lot of Asia to explore. So, I think right now I would love to go to places like Japan and South Korea, Thailand, Singapore, even India. Those are all kind of major spots on the map and really an increasing part of the practice that I have at the firm is working with clients who are involved in those countries too. So it'd be interesting to get to know them a bit better.

Sherman: Well, it sounds to me like we may have some justification for some cross-border travel for research, of course.

Sterling: We'll work on it. Work on that budget justification.

Sherman: Indeed. I think, as we think about your world travels and opportunities, I think one of the albatrosses that weighs both you and I down are being devoted Mets fans, which no matter where we are in the world or what time it is, requires a particular relationship with hope, disappointment, faith, questioning faith, you name it, right? But what.

Sterling: Delusion. I think delusion is in there.

Sherman: Definitely. But what, as we think about the whole, you know, all of the good and bad that comes mostly bad that comes with our diehard devotion to this team, what has following the Mets taught you in the most general sense? What lessons can you take from that?

Sterling: On some level I always laugh at this question because growing up in Iowa, I grew up as a Chicago Cubs fan. So I can say the Mets did not introduce me to disappointment. That came early on. So if anything, sort of becoming a Mets fan later in life, and I ended up adopting the Mets because my husband is a sort of lifelong diehard Mets fan. It really kind of suggests on some level, I think, this remarkable inability to learn from past experience. But we won't go there. So I think probably hope and expectation, definitely two different things. That's something that you can take away from being a Mets fan. I think it helps you recognize, this season in particular, help you look at the fact that everything can look so good on paper and still not work out. And that, sometimes that's just the way it goes. You can have all of these sort of perfect pieces to something and still have the entire whole not function as you'd hoped. And I guess there's, if we look at it, sort of that's very human in a way. There's no way around that. I think also this season of the Mets has taught me that, you know, sometimes it is okay to just not pay attention to things that just take up too much emotional space in your life.

Sherman: I hear you loud and clear and thinking about something you just said in a work application, right? Because , I guess that is why we're here to talk about work stuff too. You just mentioned again, like the 2026 Mets, looks great on paper, but just in practice doesn't work. I know one of the things that you and I have talked about often over time is how you, I think, rightfully object to treating IP addresses as personal data and certain jurisdictions acting as though they know everything about privacy and practical compliance and passing laws that look great on paper, but maybe in function, not so much. What do you think those two positions in particular reveal about how privacy law has maybe lost sight in certain ways of actual risk?

Sterling: Yeah, it is funny. I feel like there are all sorts of things that I rant about in the privacy law space about drafting issues mostly. But I think, the interesting thing with IP addresses, to me anyway, is not so much that they're treated as personal data, which I think can make sense in a way, especially if you look at them in combination with other data where I tend to object to IP addresses is where they show up as specific pieces of the law where they are themselves considered a

direct identifier. So on its own, that an IP address would directly identify a specific person doesn't, I think, make a whole lot of sense in the world that we live in today. I think that some of this intention grew out of an era where people had static IP addresses. I'm assuming you remember that era. And so the online activity and the ability to tie to a particular IP address looked very different then than it does today. And I think that the world that we're in today, we've moved from a space where an IP address could be a relatively stable sort of proxy for a person or a household or a device to largely dynamic IP addresses. More people are using VPNs. Cloud services get involved. It is just a shifting technical architecture that I think makes it really difficult to say that an IP address is a direct identifier. And so, to me, it is an ongoing thing where they get called out in the law as a direct identifier so then we're stuck treating them as such, even when they really have no sort of relation to an actual person in that space and the law already covers types of data that could be combined with other data to create the category of personal data. So I guess that is where a lot of my problem with IP addresses comes in. So it is really not a general objection to IP addresses being personal data sometimes, but to basically treating every single IP address as a direct identifier or as presenting the same type of risk to people and their privacy, that seems a bit of an overreach to me.

Sherman: Yeah, and to that end, I mean, maybe another analogous way in which risk has been perhaps distorted, despite what the law requires would be, I don't know, maybe cookie banners, right? Which as originally intended, perhaps were supposed to give people control. But instead, now we have this elaborate ritual and a whole consent management industry associated with cookies and tracking technologies, but is any of it doing anything useful or is it just this ritualization that we're all now stuck with across the board?

Sterling: I always hesitate to say that something is never doing anything useful. I do think it is something we're sort of stuck with. I have certain things within the cookie ecosystem that I particularly complain about a lot. The blog post on our Data Council blog called The Worst Cookie Recipe that I wrote a couple years ago with one of my colleagues that I think still has a lot of really good background information on sort of how cookies became the issue that they are today, and particularly the issue of categorization that we started to get within the EU cookie sort of ecosystem when consent became something that had to be done there. And it was like companies started looking at ways that maybe they could get people to opt into certain things and not other things and so we ended up with this elaborate categorization structure that is really unnecessary. There is really only two categories that are necessary in the EU. If you look at it that way, it is the sort of strictly necessary or essential category and everything else, with everything else requiring consent. And then of course the U.S. came up with a system that doesn't map at all really onto the EU system and all of the cookie consent managers were built on the EU system and tried to just kind of make it work on both sides, which has created then all sorts of problems in the U.S. And I know we've had several of these podcasts that have touched on the litigation risk that sort of associates with some of these pieces of cookie issues in the U.S., but that is another one where it comes up.

Sherman: Accomplishing useful things, yes.

Sterling: Yeah, exactly. Accomplishing useful things. But I do think it is an interesting one too, because all of these requirements, there are very, very few companies out there that could build the necessary structure internally to make consents and opt-outs in the cookie and tracking technology space work. And so, everybody has become heavily reliant on this vendor ecosystem of consent managers. And I don't think that was probably the original intent of the law. I think there are probably easier and cleaner ways to accomplish what the law is trying to do in the cookie space. One of those I like to think about, and this is one of the ones that I like to think about and still have no real idea of how it can be accomplished, but I really feel that sort of putting more of the control in the hands of the people whose data it is would make sense. And by that, I mean this idea that if everybody could just decide what pieces of data about themselves they were happy to have used for things like targeted advertising and then have companies be able to sort of rely on that sort of single point of a person choosing what they wanted. I think it would actually make it easier to protect the privacy of people and for companies to be able to comply with that if there was a sort of single point of access rather than this entire elaborate ecosystem that has to be managed on both sides by companies and by people who are trying to jump through all the hoops to get all the opt outs and all the consent pieces sorted out themselves as well. Now how you accomplish that on a broad scale, still not something I've totally thought through, but it does seem that there is probably an easier way to accomplish all this. That said, it is written into the law the way that it is now, so it would now take a fairly large legal overhaul to come up with a different system as well.

Sherman: I feel like I have a lot of thoughts on this that are probably not fit for a podcast.

Sterling: I do too. I tried to keep those very fit for a podcast, but everybody hates the cookie banners. Universally hated, and yet for some reason we are, we continue to be stuck with them and they never seem to work the way that anybody thinks they're going to.

Sherman: No, it is true. If only we could think about some centralized repository where we could in fact help individuals enforce their, you know, I'll say right to privacy in the most general sense. Nevertheless, I'll digress before I say something I regret.

Sterling: No, I do think it makes sense. And I think that, the average person likes to see ads that are relevant to them, they just don't like the sort of what I sometimes refer to as the creepy factor of feeling like they're being tracked everywhere. So, if you could, let people select certain things from a list that, maybe they do want to hear more about or less about or something like that, then and have, that as a space that companies can kind ping of off of to say, this person actually does want to hear about our product, we can send stuff to them, then all of that, I think, might be a more user-friendly and privacy-protective way of going about it. But again, we are far enough down the road at this point that I don't think that is going to happen unless we can, you know, convince the federal government to

override it with a consent management or cookie management system that makes sense.

Sherman: Emphasis on that makes sense, but I'm with you entirely.

Sterling: So that is my cookie rant, my IP and cookie rant for the day.

Sherman: I have to add, you're also quite a baker. So I mean, you've got that going too, speaking of cookies.

Sterling: Yes, both a BakerHostetler attorney and a baker. I do bake on the side when I have time, I haven't actually baked much at all recently.

Sherman: Well, let's fix that then, please. I'll give you a very good reason.

Sterling: I actually have everything on hand right now. I'm supposed to be making a plum cake and I've been supposed to be doing that for the last week. It still has not happened. So I've sworn that it is going to happen today.

Sherman: We're fast approaching the weekend. It is a Friday as we record, so hope springs eternal perhaps.

Sterling: Yeah, exactly.

Sherman: In any event, changing gears for a minute, in addition to privacy governance and compliance, I know that you are heavily engaged in AI and AI governance. You serve on our firm-wide AI task force, and you've helped to develop our BakerHostetler's internal AI guidance and train our lawyers how to use the various AI tools that we have. Although I have to say I heard a certain member of our leadership recently insist that your position here is, and I'm quoting, AI is always good. I'm a little skeptical that he is right about that. What is your actual position?

Sterling: So I don't, first of all, I do not think that AI is always good. I think there are clearly some use cases out there that are not good. I do think that for the people out there who are still pretending that AI is not important or not here, they're the ones that are going to struggle the most to sort of adapt to it. And I feel like that is not doing anybody any favors. So I think a good starting point for people thinking about AI in their legal practice is really this concept that it is here, it is powerful, it can do some things really, really well. and to develop a strategy for figuring out what those things are and how they can improve your legal practice. For me, a lot of my early AI adoption came out of this idea of how can I use AI to do the things I least like to do, most of which are administrative, I will admit that. And I still find that a lot of my AI use probably falls into the category of making the sort of more administrative things that I have to do on a regular basis, sort of faster and less painful, which helps me get to being able to focus on the things that I really like to do, which is really more along the research and legal analysis side of my practice, more of what I do on a daily basis. And so I think that is a good space.

I think it can really help with things like structuring arguments, brainstorming, synthesis, things like that. I find a lot of problems recently with over-reliance on it for research, especially among associates. I think the space where AI in research can really help is when you already know the law well enough to help issue spot where AI has gone wrong in its research. But unfortunately, sort of defaulting to it for basic research often goes quite wrong and doesn't really help sort of, especially at the associate level, help people really kind of learn and think through the law in ways that they maybe should be, because it is sort of, even where it is right, it is pulling answers out of the legal context. And sometimes reading where something is within, say, a statute or how it is integrated into a specific piece of a regulation or something is going to make a difference in how you analyze that and understand it. So yes, so I think there are bad uses, good uses. We still need to be critical of AI, even where I have it do things like drafting based on templates or pieces of information that I already have. I'm still very critical of the language it comes back with. My custom instructions have now gotten to, I think they're like 2 pages long or something, my own custom instructions within Copilot. I do a lot of playing with it. I do a lot of trying to figure out what its best use cases are. And that I think is really something that everybody should be doing is trying to figure out where the best use cases are for their own practice or their own use of AI.

Sherman: Oh, absolutely. And I'll add, I think I recently maxed out the number of instructions that I've captured both for Copilot and for a personal model that I use.

Sterling: That is impressive. I'm like, I didn't know there was a max. I don't think I've hit it yet.

Sherman: If one were ever wondering how detail-oriented I am, there you go. You literally threw a fault, but that is a different story.

Sterling: I find that I end up adding things into my custom instructions anytime I hit something in Copilot where I'm having to repeat myself and correcting it, that goes into my custom instruction. I start asking Copilot, what can I put in my custom instruction that will make you never do this again?

Sherman: And then I passive aggressively call out AI when it nevertheless makes the mistake again, but clearly very productive use of time. To that end though, as we, you just touched on something really interesting, as we think about, whether it is junior attorney or attorney general, in the most general sense, over reliance on AI to produce polished answers, whether it is to legal questions or other issues without requiring in-depth understanding of either the law, the statute, whatever. As a, I'll say as a former educator, what do you think that exposes about the state of legal education or education in a more broad sense?

Sterling: Here is another area that I really like to rant on. I will not, though. I will simply say that I think one of the things that we're running into as, well, let's just say as this century evolves, is the, it has to do with attention span, really, and the ability to read and focus on things long form. And I just think it is something that people

across the board are losing in a way that, we see it, I think a lot in our sort of current associates and maybe the younger generations, but I also, being Gen X, do not think that it is absent in some of the members of my generation either, but just this tendency to consume our media in short form snippets, in reels, in just not long far, like people aren't just sort of even picking up and reading like a long form New York Times article anymore or things like that. And I think that shows in people's ability to analyze text that is difficult to stay engaged with. Text that is dry, like statutes and even to see errors in their own writing. Some people don't even notice things like different font uses or font size uses in something like a Word document. And I think a lot of that does come down to how we are sort of consuming the pieces of media that are out there. And maybe we're moving to both a short form written version of media and just generally away from the written form to a more video format version of what we consume.

Sherman: Well, more distressing. Doesn't the paper of record also write to like an 8th grade level or something?

Sterling: Yeah, something like that is, and I think actually the average U.S. reading level is even below that now slightly, if I recall correctly. I haven't looked at that for a little while, but it is often where we try to pay, like if I'm writing a privacy policy, a public facing disclosure for a client, we usually try to get it to an 8th grade reading level, which can be hard considering some of the things that we are also required to put into privacy notices. But there is separately a requirement that they be clear and understandable.

Sherman: That is true. Maybe a question for the labs out there, how can we help program the next iteration of our models to educate and inform users in a way that allows them to perhaps indulge more thoroughly in long-form material? Because I agree. it is a shame, it is a problem. And getting back to our, what was the episode number with Catherine Larry, episode three or four?

Sterling: Yeah, it was last November. That much I remember, yes.

Sherman: Like a year ago, whatever. But you know, where I'm just, I'm so afraid of my writing skills atrophying if I use AI for first pass drafting. I don't know. I just, I'm terrified of it in that sense.

Sterling: Yeah, and I don't, think, I think the younger generation is less terrified of that issue.

Sherman: Wrongly so, I'll add.

Sterling: Yeah, I'm not necessarily saying they're right, but it doesn't seem to bother them in the same way. And I use that in a blanket way, accepting that there are people out there who will not fall into that generalization.

Sherman: There are no BakerHostetler associates whatsoever who would ever fall into that general category. And on that happy note, Nichole, thank you so much for indulging my questions. This was a lot of fun.

Sterling: Of course. And for anybody who is listening along, I think next I get to interview you, David, so we can find out a bit more about what you do in your practice day-to-day.

Sherman: Oh, this will be dangerous.

Sterling: All right. Thank you.

Sherman: Thank you very much.

May: If you have any questions for David or Nichole, their contact information is in the show notes. As always, thanks for listening to BakerHosts.

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