Cyber Claims Trends

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INCIDENT RESPONSE PLANNING – WHAT IS THE BEST RESPONSE?

Build a plan that is . . .

- Tailored to your organization
- Tested through tabletop exercises and scenarios
- Relayed to executive and line personnel with thorough training
- Updated regularly; and

Build outside relationships where needed including:

- Outside Counsel
- Forensic Experts
- Public Relations

BUT it does not always work that way….

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POST INCIDENT RESPONSE DEBRIEF

What precipitated the event?

- Hacker?
- Disgruntled Employee?
- Human Error?
- Malware?

What kind of information been compromised?

- Personally Identifiable Information?
- Protected Health Information?
- Confidential Business Information?

Who did you engage?

- Leadership?
- Outside Vendor(s)?

What costs were incurred?

- Notification?
- ID Theft Remediation?
- Regulatory?
- Corporate Brand?
- 3rd Party Litigation?

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DEVELOPMENTS IN CYBER CASE LAW

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PRIVACY LAW – *SPOKEO* CASE

Spokeo, Inc. v. Robins, No. 13-1339 – Decided May 16, 2016

- Plaintiff filed a federal class-action lawsuit against Spokeo after he discovered that his profile was inaccurate
- Trial Court dismissed the suit, holding that Robins had not met Article III standing
- The Ninth Circuit Court of Appeals reversed the trial court
- The Supreme Court held that the Ninth Circuit's Article III standing was incomplete because it failed to consider both aspects of the injury-in-fact requirement

SPOKEO DECISION

Article III Requirements

- Injury in fact
  - Plaintiff suffered invasion of a legally protected interest
  - "Concrete and particularized" and "actual or imminent"

U.S. Supreme Court Analysis

- Ninth Circuit did not consider "concreteness" of injury in its analysis, but rather only concerned "particularization".
- "Concrete" does not equal "tangible"
- "…Congress plainly sought to curb the dissemination of false information by adopting procedures designed to decrease that risk and that Robins cannot satisfy the demands of Article III by alleging a bare procedural violation."

STANDING IN U.S. VARIES BY CIRCUIT

- D.C. Circuit: low burden, standing presumed unless facts show it is implausible
- 7th Circuit: low burden, standing presumed based on theft of credit card information/alleged overpayment sufficient
- 6th and 9th Circuits have also concluded that standing is sufficient based on increased likelihood of future identity theft
- 1st, 2nd, 3rd 4th and 8th Circuits reject this argument on its own is sufficient to confer standing

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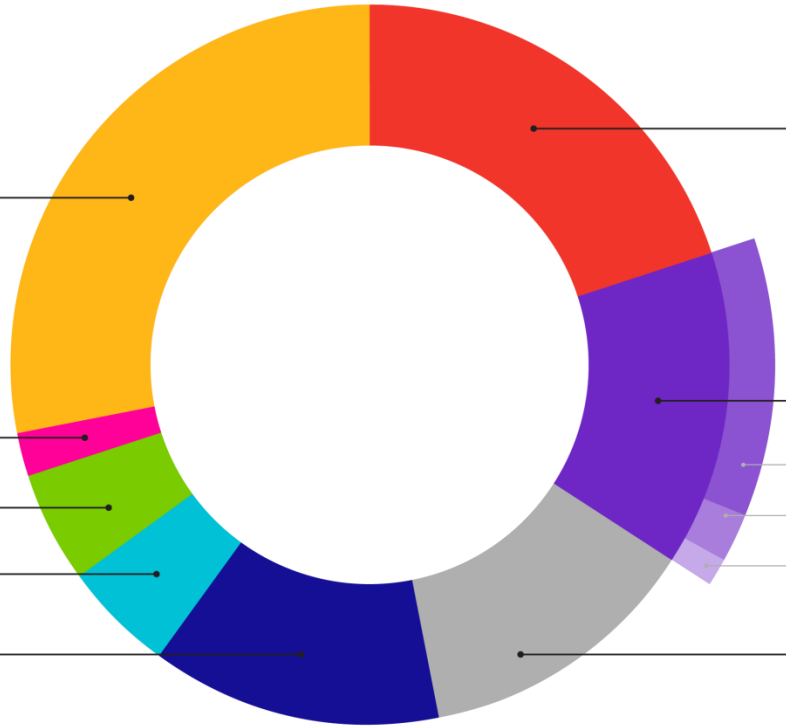
EXPOSURE STATS BY TRIGGER OVER THE LAST DECADE



Human Error 20%

Hack 28%

Lost/Stolen Devices 14%

Laptops 11%

Other 2%

Hard Drives 1%

Software Error 2%

Privacy Policy 5%

Paper 5%

Rogue Employee 13%

Unknown 13%

Lost/Stolen Devices

- 2014 – 14%
- 2015 – 11%
- 2016 – 10%
- 2017 – 6%

Hack

- 2014 – 27%
- 2015 – 40%
- 2016 – 33%
- 2017 – 20%

Rogue Employee

- 2014 – 15%
- 2015 – 13%
- 2016 – 5%
- 2017 – 15%

Source: Chubb's claims data as of October 2017

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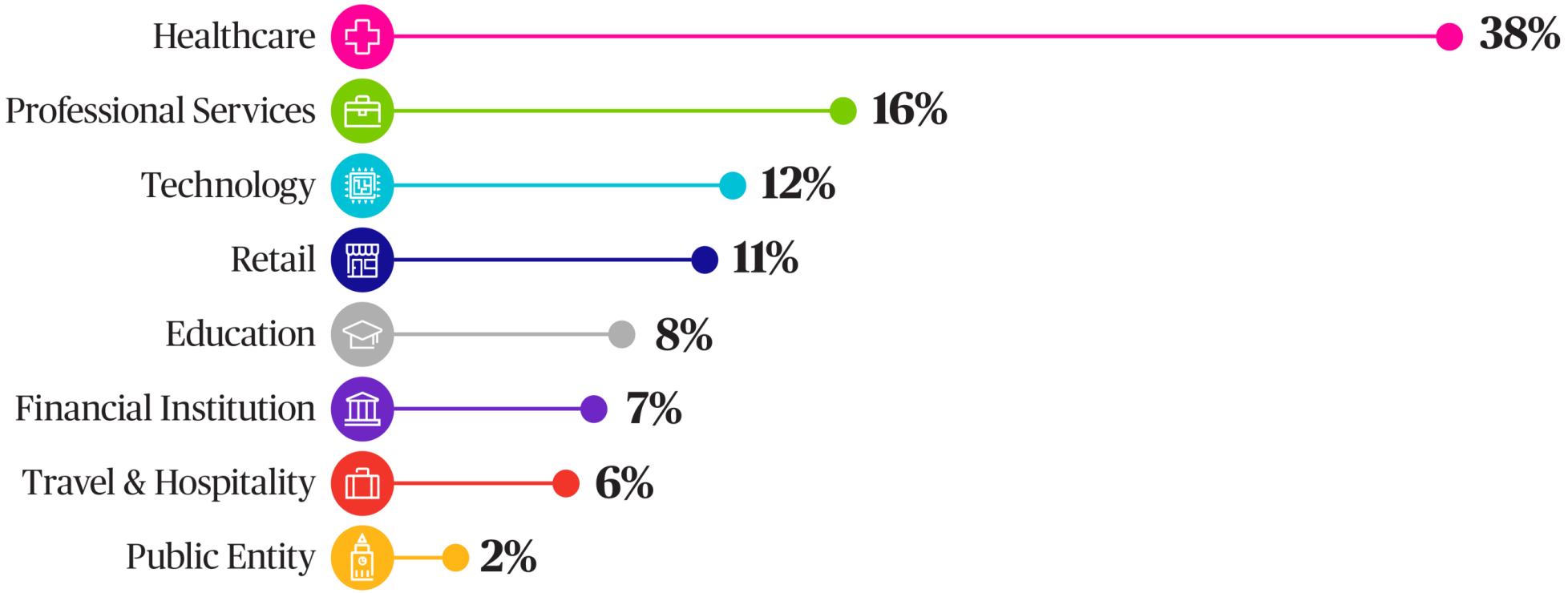
REPORTED INCIDENTS BY INDUSTRY OVER THE LAST DECADE



Source: Chubb's claims data as of October 2017

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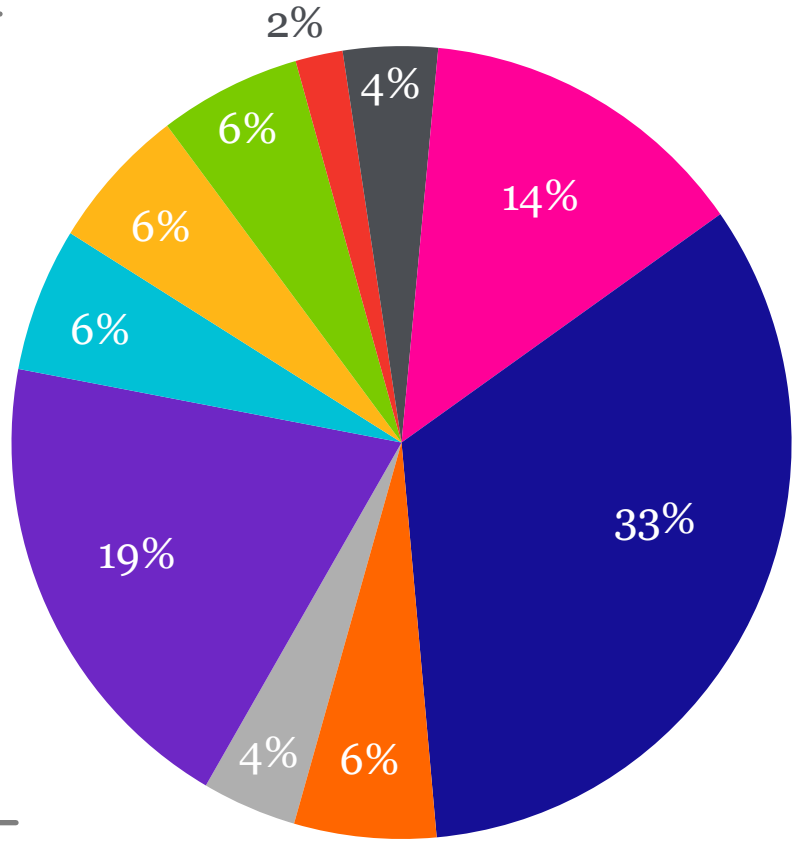
RANSOMWARE INDUSTRY INCIDENTS SINCE 2016

41% Less Impacted



- Non-Profit
- Professional Services
- Public Entity
- Real Estate
- Education
- Technology
- Travel & Hospitality
- Financial Institutions
- Healthcare
- Retail

Source: Chubb's claims data as of October 2017

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INDUSTRY SPECIFIC TRENDS THROUGH 2017

Healthcare:

- Ransomware
- Value of PHI
- Increase in Hack YOY
- Vulnerable IOMT Medical Devices
- Oversharing on Social Media by Staff

Retail:

- PCI Fines and Penalties
- EMV Liability Shift
- Point of Sale Malware
- Denial of Service Attacks

Travel & Hospitality:

- Point of Sale Malware in the Hotel Industry
- Point of Sale Malware in the Restaurant Industry
- Ransomware (affecting guest rooms with electronic locks)

Education:

- Spear Phishing
- Inadvertent Disclosure of Sensitive Data
- Cyberbullying

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Claim Trends through 2017 continued

Professional Services:

- Business Email Compromise
- Spoofed Email Accounts
- Ransomware
- Direct Hacking
- Employee Mistake/Loss of Devices
- Inadequate Security and Protocols in Place
- Denial of Service Attacks
- Increased Regulatory Scrutiny
- Increased Ethical Rules and Compliance

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Biometric Laws

- Several states (IL, TX and WA) have passed laws regarding biometric privacy
- These statutes essentially operate as informed consent laws
- The Illinois law, the Illinois Biometric Information Privacy Act ("BIPA"), provides for liquidated damages of $1,000 for each negligent violation and $5,000 for each intentional/reckless violation
- BIPA protects a person's biometric identifiers such as: fingerprints, voiceprints, retina scans or facial recognition.
- During the past year there have been several lawsuits brought under BIPA in Illinois courts

CLOUD MIGRATION TYPE CLAIMS

- We are currently seeing several new claims involving Cloud Migration type claims; these include Phishing scams that mimic legitimate requests for credentials
- These claims result in email accounts becoming compromised
- Bad actors set up forwarding rules that send legitimate email traffic intended for the victim to the bad actor
- Forensic firm and counsel usually need to do a review of the compromised accounts to see if PII or PHI has been exposed
- Many forensic vendors have new technology available to significantly limit the scope of the review of compromised email accounts

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Chubb's Cyber Alert℠

- Mobile application provides U.S. and Canadian cyber policyholders with comprehensive incident response services and resources
- 24/7 incident reporting via your mobile device
- Live specialists are available 24X7 to assist you with reporting an incident
- Real time status updates provided through the *Incident History* dashboard via your mobile device
- Ability to submit additional files, such as photos to help assess the event (e.g., phishing emails, ransomware) via your mobile device
- For more information: www.chubbcyberalert.com
- Download Cyber Alert℠ from either the Apple or Android stores. Enrollment is completed via the Cyber Alert℠ application

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Chubb Cyber Index

- The Chubb Cyber Index was launched last month and can be found at: www.chubbcyberindex.com
- It is a state-of-the-art cyber analytics platform built upon our cyber claims data
- It is an interactive tool showcasing the amount of data Chubb has collected over the past 20 years
- Index will provide insight on cyber claim trends and enterprise risk management solutions
- Users can segment data by company size and industry to learn about prevalent risk factors in various industry segments

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QUESTIONS?

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