2017 JOINT SPRING MEETING

GROUP LEGAL SERVICES ASSOCIATION

SOLO, SMALL FIRM, AND GENERAL PRACTICE DIVISION

STANDING COMMITTEE ON GROUP & PREPAID LEGAL SERVICES

MAY 18-20, 2017

SCOTTSDALE, ARIZONA

RESPONDING TO A DATA BREACH

FRIDAY, MAY 19, 2017
9:15 – 10:15

PRESENTERS: KERI C. NORRIS (MODERATOR)
BRIAN LAPIDUS
JENNIFER STUECKLER

Keri Coleman Norris
LegalShield Vice President Regulatory Compliance & General Counsel
Ada, Oklahoma

Keri Coleman Norris joined LegalShield, formerly Pre-Paid Legal Services, Inc., as its first General Counsel in 2003. Now as General Counsel and Vice President of Regulatory Compliance she he manages the company's corporate legal matters, including litigation as well as governmental and regulatory affairs. Keri earned her B.A. in English in 1994 from Oklahoma City University, summa cum laude and her J.D. in 1997, summa cum laude, from Oklahoma City University School of Law. Keri joined LegalShield after working as a litigation attorney for Crowe & Dunlevy, PC in Oklahoma City, and Hunton & Williams, PC in Raleigh, North Carolina. A member of the American Bar Association, and the Oklahoma and North Carolina Bar Associations, Keri serves as Chairman of the ABA's Standing Committee on Group and Prepaid Legal Services and the Board of Directors for the Group Legal Services Association, currently serving as President; additionally she serves on a variety of local and state nonprofit boards.

Brian Lapidus
Kroll
Nashville, TN

Vanderbilt University, MBA, Strategy and General Management
Washington University, B.A., Psychology and Business Administration
Harvard University, Launching New Ventures – Executive Education Certificate

PROFESSIONAL AFFILIATIONS

Brian Lapidus is managing director and leader of the Identity Theft & Breach Notification group for the Cyber Security practice of Kroll. Brian has over 15 years of experience leading strategic business development, marketing and product expansion initiatives. His experience includes significant expertise driving affinity marketing programs and enhancing revenue generation for Kroll's membership products.

Brian concurrently focuses on optimizing organizational alignment around these key areas and continues to guide strategic partner relationships into a broader channel marketing structure that has consistently improved business performance. His group is particularly attuned to solutions for healthcare, higher education, retail and financial entities.

Brian's interest in service to higher education may be traced to his early days with the company as the director of strategic products and partnerships for the Background Screening division of Kroll. He created Global Academic Verification (GAV) to assist universities in authenticating foreign student application data matriculating to domestic universities.

In addition to helping business clients resolve issues resulting from data breach, Brian's practice is engaged in consumer-level service and remediation in the wake of such an event. He expanded Kroll's individual identity theft restoration footprint in 2007 when he launched the program in Canada.

Prior to joining Kroll in 2003, Brian developed organizational structures, business processes and performance management programs for offices within the federal government as well as private enterprise.

PROFESSIONAL EXPERIENCE

Thought Leadership

Recognized as a noted content authority, Brian has contributed by article or interview to various online and print publications, including The Wall Street Journal, Washington Post, New York Times, Chicago Tribune, Bloomberg News, CNN and various media channels. He is also a frequent contributor to the Kroll blog.

Speaker and Panelist

Brian has been invited to present and moderate at several regional and national conferences, including the IBM IT Services Legal Summit, the International Association of Privacy Professionals (IAPP) Global Privacy Summit, Practical Privacy Series and Privacy Academies, Compliance Week 2011 and LegalTech 2011.

Jennifer Stueckler
LegalShield
Dallas, TX

Jenn Stueckler began working at LegalShield in April 2015 to head up the company's identity theft protection product, IDShield. Coming on just before the product was re-branded, in the last 2 years Jenn has driven the launch of a membership companion app for IDShield as well as development of additional features to drive member value and sales. Jenn has also driven competitive analysis, an innovation pipeline, and explored numerous partnership opportunities.

Prior to LegalShield, Jenn Stueckler worked at DISH in brand and partner marketing. In this role she managed partnerships with Southwest Airlines, Denver Broncos, Colorado Rockies, Telco and National Account partners. Jenn also launched a new product for commercial sales (SMARTbox), and worked to develop a co-op marketing platform for third party sellers of DISH. She also launched an internal group that focused on defining, driving, and owning corporate culture for the department.

Jenn Stueckler earned a BBA degree in Marketing and Communications from Baylor University in 2011, and an MBA from the University of Denver in 2012.

Making it Right After a Data Breach

How to Keep Your Employees Happy, and *Keep Them* As Employees

Brian Lapidus, *Practice Leader*
Kroll

Jennifer Stuckler, Senior Product Manager
IDShield

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Today's Speaker

About Brian Lapidus

- Practice Leader of the Identity Theft and Breach Notification Group Practice
- Responsible for business development, marketing, operations and product expansion
- Leveraged strategic partner relationships into broader channel marketing structure
- Established vendor management, client services and project management programs for the practice
- Frequent contributor to various media channels, including *The Wall Street Journal*, *Washington Post*, *New York Times*, *Chicago Tribune*, *Bloomberg News* and *CNN*.

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Today's Speaker

About Jennifer Stueckler

- Senior Product Manager for IDShield
- Responsible for product development, innovation, marketing, and member experience
- Leverage strategic partnerships to constantly improve product mix

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Today's Discussion

When the personal information of individuals is unexpectedly exposed by an organization, many eyes are watching.

From legislators to shareholders, consumers and shoppers, to patients and students, people expect the wrong to be made right.

- What happens if your client gets it wrong?
- When is expectation ***not*** reality?
- What gives impacted individuals and interested onlookers the most confidence in a company's ability to set things straight and reduce the likelihood of another breach?

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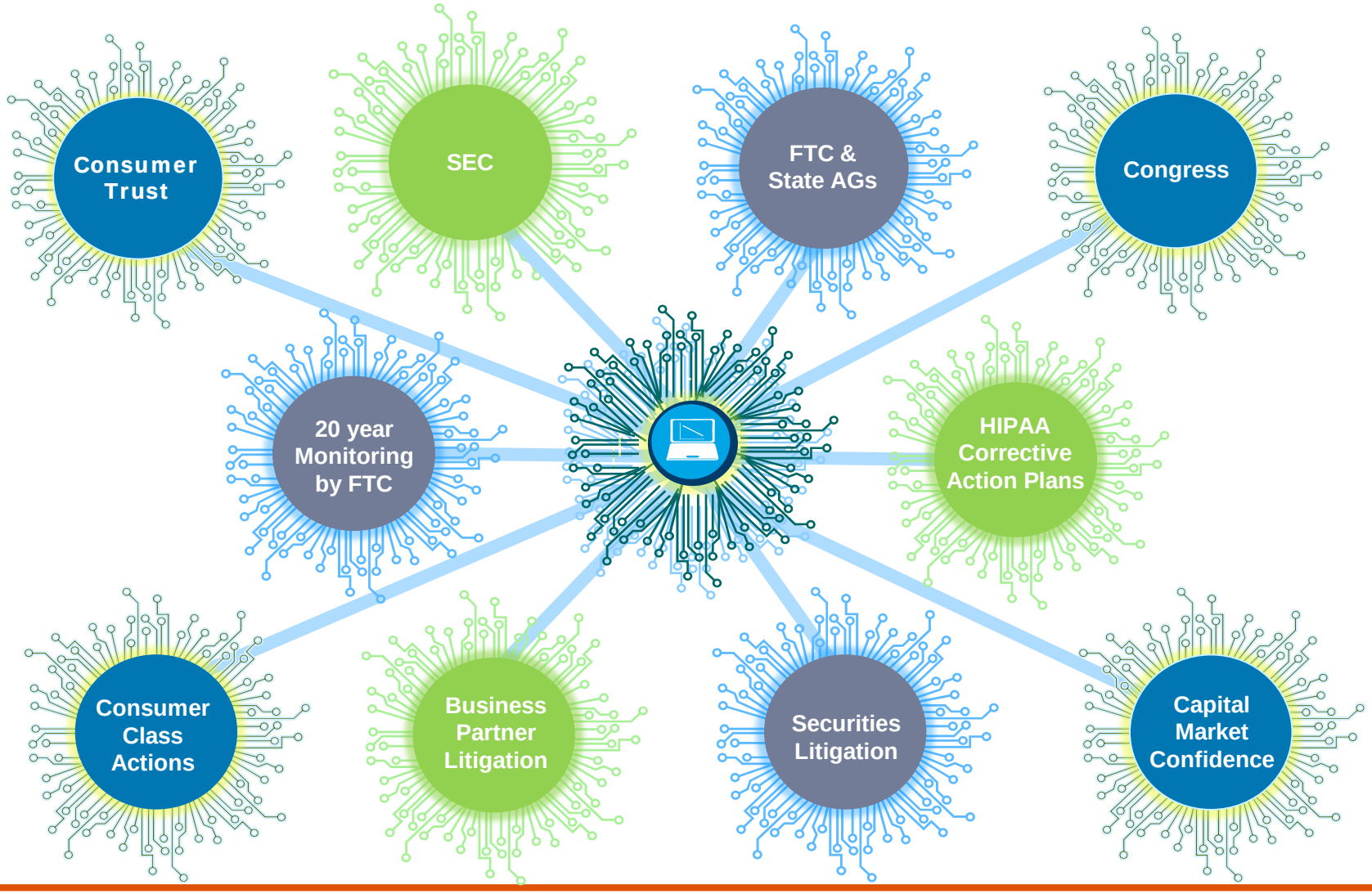
Implications of Data Breaches



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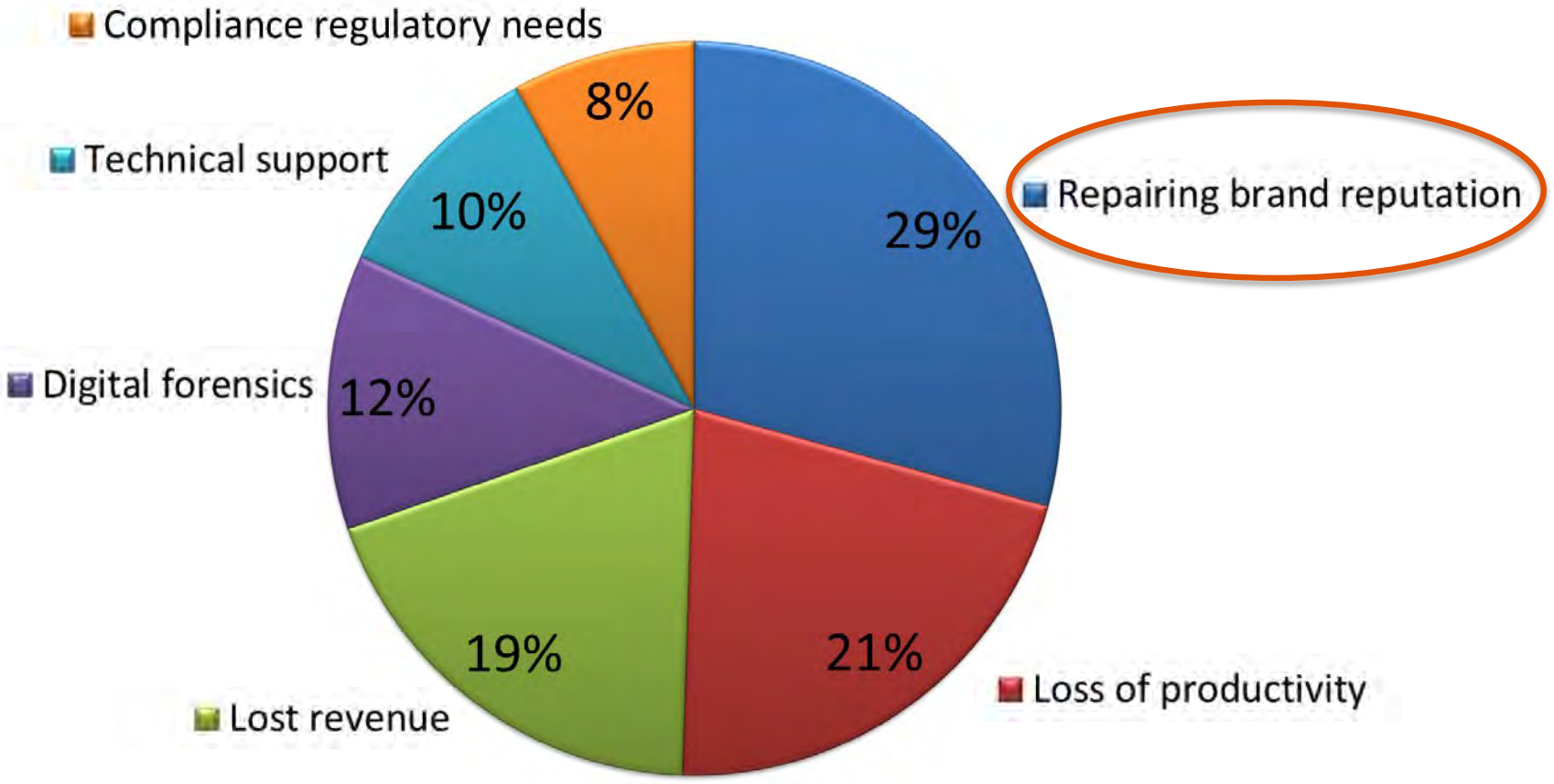
Average data breach cost to a company: $3.5M

And here's where that money goes:



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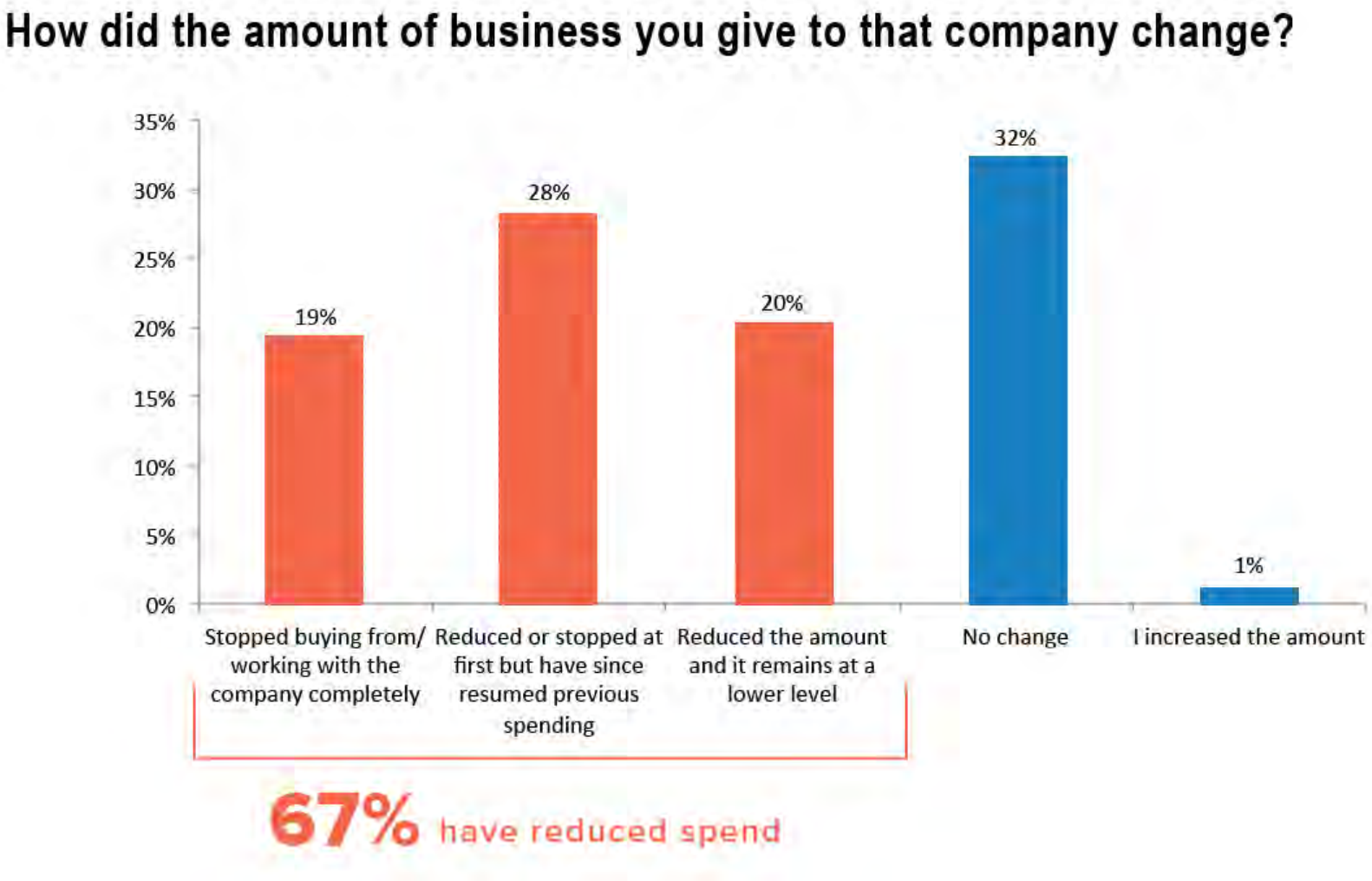
Data Breach Changes Victims' Spending Habits



FleishmanHillard TRUE || Issue 11 || Fall, 2015 || Bouncing Back from a Data Hack

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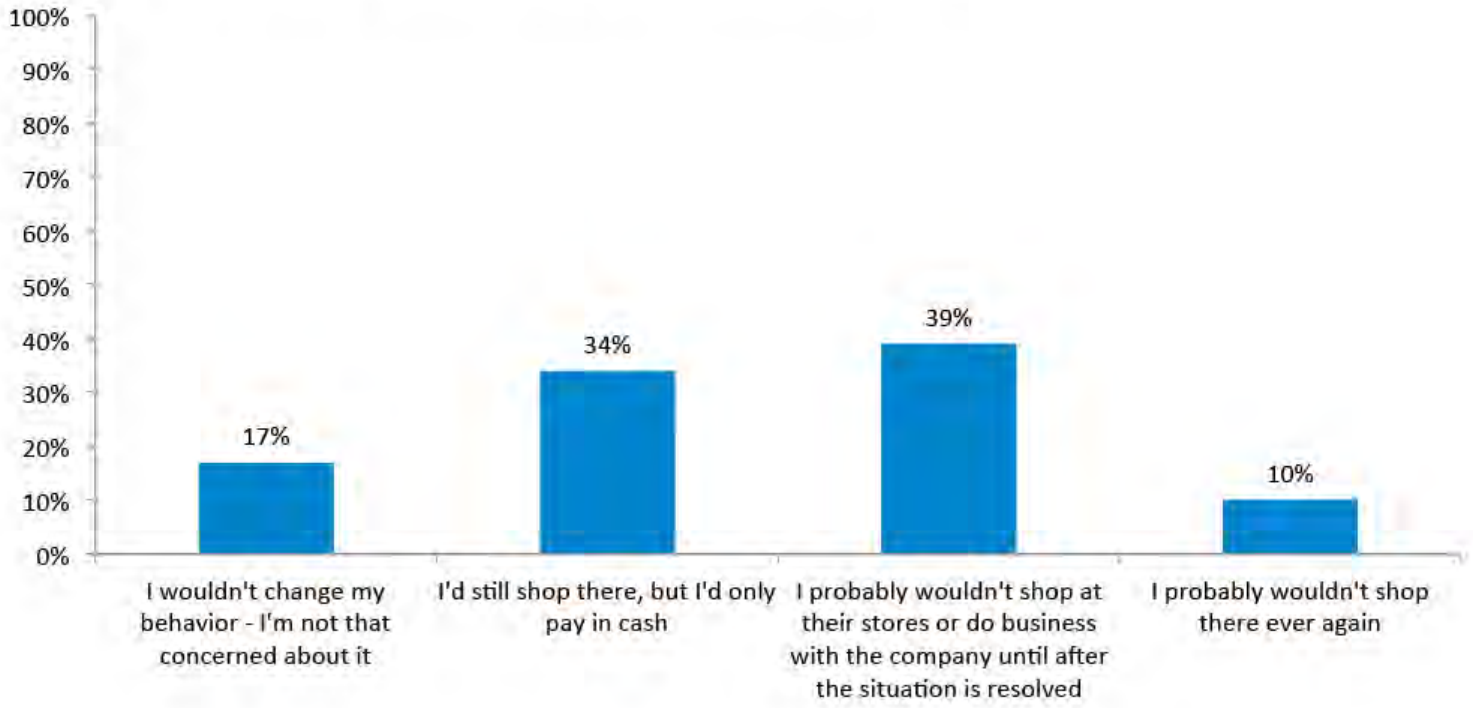
General consumers stop spending there, too

Which of the following best describes your response upon learning that a company may have been breached, (regardless of whether you've been notified that your own data was compromised)?



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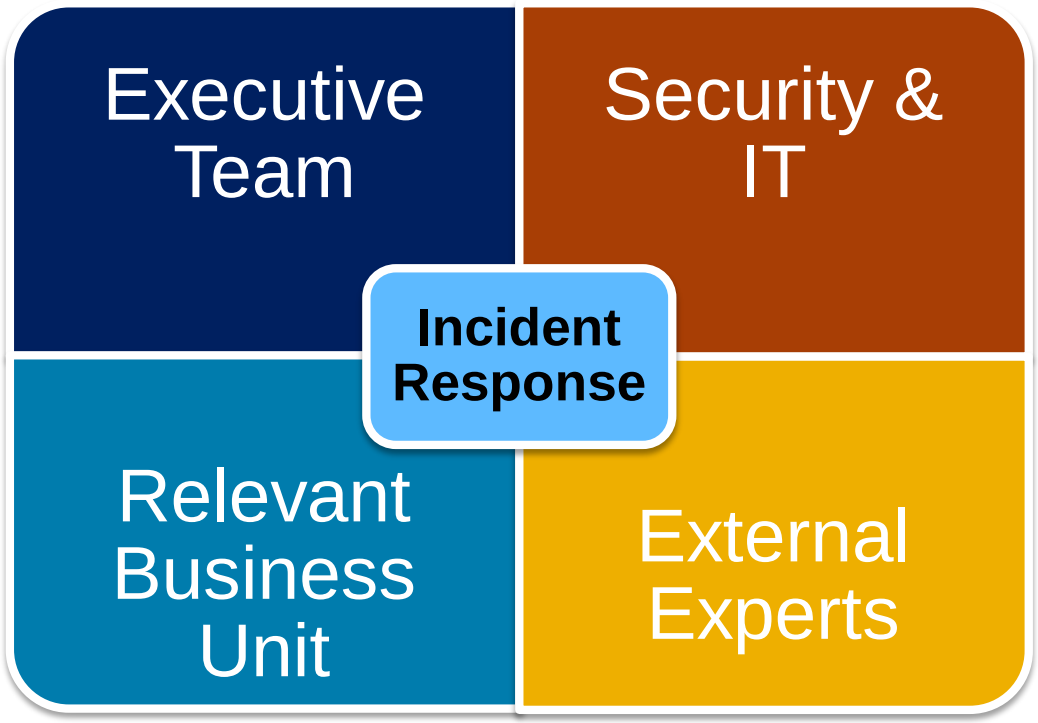
Building A View From The Top



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Key Legal Risks

- Legal Landscape
  - Government investigations / enforcement actions
  - Tort / contract litigation
  - Legal action against perpetrators and related parties
  - Securities litigation

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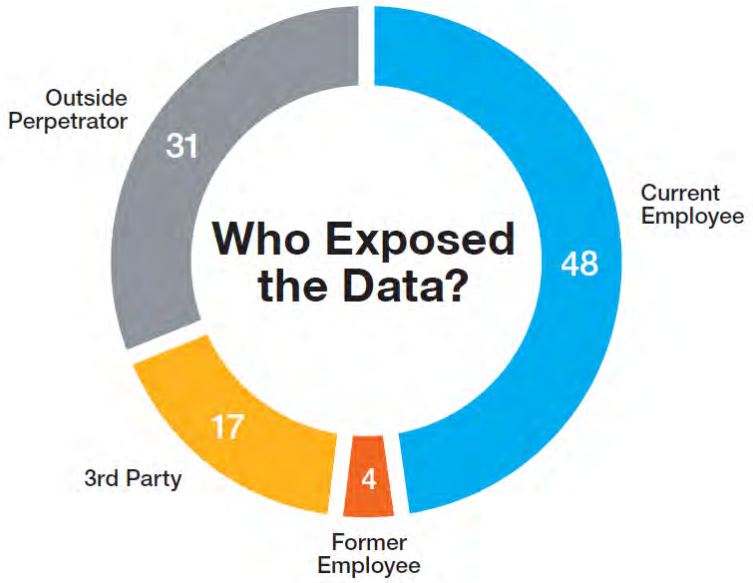
Cyber Threats and Protection: What Do The C-Suite and Board Need to Understand

- There is no “one size fits all” approach to dealing with cyber security
- Cyber attacks, hacking, ransomware, malware, email phishing schemes…

  but also…

- Theft of laptops, employee mistakes, insider misconduct and third party mismanagement all lead to breaches.



Kroll Annual Data Breach Trends Report 2015

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Notification Laws

- 48 states and territories have enacted separate notification laws
  - Soon to be 49: New Mexico recently passes its first notification law
    - Law goes into effect July 1, 2017
    - Includes biometric data as PII, must notify within 45 days of discovery
    - Only Alabama and South Dakota do not have notification requirement
  - States still making incremental changes – recent examples:
    - Tennessee clarified a recent amendment that notification was not necessary if breached data was encrypted
    - Virginia amended its law to include a requirement for notification by the Attorney General to the Department of Taxation (in the wake of W-2 breaches)
- Different state mandates impact requirements when an event occurs

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Legal: The First 72 Hours

- Decisions and actions taken in the first hours of responding to potential breach can have a profound impact on legal exposure
- Accordingly, one of (if not the) first call should be to experienced legal counsel
  - Conduct investigation for purpose of providing legal advice—such that investigation will be protected from later discovery by applicable privilege
  - Advise on legal obligations in connection with investigation of data security breach
- Analysis and investigation are necessary for providing legal advice
  - Scope of breach
  - Reasons for breach

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Legal: The First 72 Hours

- Discovery of potential data security breach triggers demand for legal analysis on multiple fronts which will help your client
  - Disclosure and notification
  - Law enforcement
  - Public Relations
  - FTC, AG, and other regulatory inquiries
  - Insurance coverage
  - Contractual demands to and from third parties
  - Litigation exposure

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Legal: The First 72 Hours

- Respond quickly and aggressively
- Structure response effectively
- Be defensive, not defeatist
- Avoid creating a bad record
- Manage expectations and prepare for what's next

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Protecting Clients/Employees

- To keep your clients and/or employees happy, protected, and on the books, ensure their personal information is secure
- Ensure they have a comprehensive identity theft protection service
  - If the client already has a consumer facing product, then they are already protected when a data breach happens
- A comprehensive product should touch on 3 key benefit areas:
  - Monitoring
  - Consultation
  - Restoration

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Consumer Identity Theft Protection

- While no one can completely protect against identity theft (like a data breach), to ensure consumers are protected as possible, their IDT protection service should comprise of 3 key areas:
- Monitoring
  - Keep an eye personal information in the places it is most likely to show up during identity theft (credit report, dark web, public records, etc).
- Consultation
  - Have experts on hand who are able to answer any questions, provide information on identity theft trends, and tips to stay safe
- Restoration
  - In the case of identity theft, have true experts who are ready and capable to completely resolve the theft and get the member's identity back to its pre-theft staus

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Case Study

- Member [Gloria] realized someone tampered with two of her existing credit card accounts, and received credit monitoring alerts about new activity that she did not authorize and a credit card receipt for which she did not apply.
- Through consultation with a licensed private investigator, action was taken to resolve the takeover of two of her credit cards. Restoration services were kicked off so the investigator could act on her behalf—taking a lot of the restoration work off of her shoulders and saving her time and frustration.
- Investigators disputed the unauthorized credit applications and the new accounts opened. They kept working until the fraudulent information was deleted. Fraud alerts were placed so that it would be harder for new fake accounts to be created.
- The licensed private investigator was able to completely restore her identity back to its pre-theft status.

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Testimonials

- *“I felt like I had a team of Navy SEALs by my side. My Investigator’s continued support was more than I dreamed possible.”*

- *"My wallet was stolen when I was hundreds of miles from home…. How comforting to have instant access to my Investigator. I am glad to have my IDShield coverage.“*

- *“I know that when I call IDShield that my issues will be resolved completely with minimal effort on my part. Years ago, I had a similar problem, but not IDShield. It was a nightmare to resolve by myself.”*

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