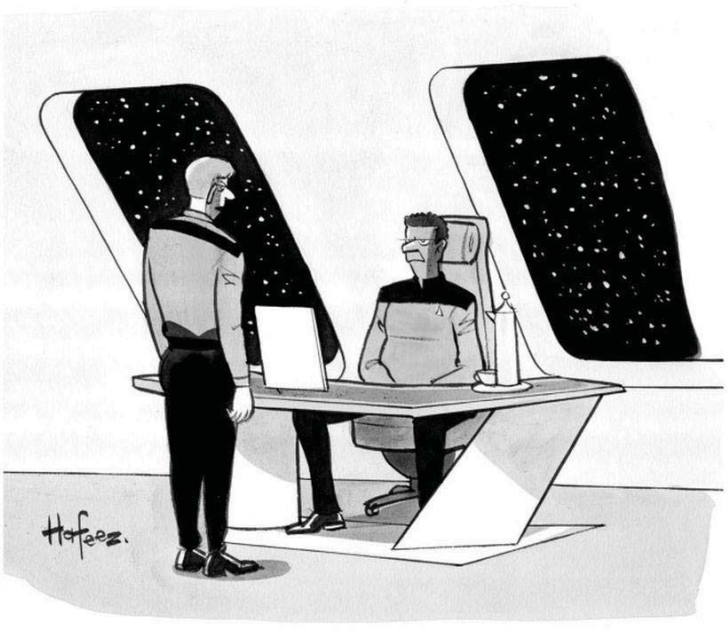
Responding to a Cyber Breach

Art Ehuan, Alvarez & Marsal - Washington, DC
Bart Huffman, Locke Lord LLP - Austin, TX

UT Law CLE
Essential Cybersecurity Law
August 16, 2016
Austin, Texas



"Bad news, captain. The ship's computer has been sharing all our personal data with the Romulans."

Cyber Breach Methodology

- Cyber Attacks are multi-stage, using multiple threat vectors
- Organizations often don't identify that they have been compromised for months after the event[1]
  - 206 days on average before detection of compromise
- Over two-thirds of organizations find out from a 3rd party when they have been compromised[2]

1 – Ponemon Cost of Breach FY 2015
2 – 2014 mTrends Threat Report

Important Considerations

- Different types of incidents
  - malware
  - inadvertent disclosure
  - portable media loss
  - compromised access credentials
  - denial of service attacks
  - "special" types of data: payment card data, Protected Health Information, Nonpublic Personal Information, personally identifiable information, …
- Different scenarios
  - unknown loss or damage but known compromise
  - known loss or damage but unknown compromise
  - holding access to or use of data or systems hostage
  - extortion
- Variations in severity level
  - volume and nature of data
  - criticality to operations
  - potential regulatory or litigation risk
  - potential reputational impact
  - potential exposure to interested third parties

Being Prepared ...

- for loss of data or interrupted systems
- for operational and business continuity issues
- for immediate initiation of investigation(s)
- for preserving evidence
- for task force / response team leadership and meetings
- for immediate engagement of forensic investigator(s) (including, if applicable, PCI Forensic Investigator), counsel, public relations firm, negotiator, other breach response service providers
- for internal communications
- for communications to third parties
- for responses to the media
- for notices to regulators, interested third parties
- for reports to shareholders, Board
- for notices to individuals
- for intelligence sharing

See, e.g., *NIST Computer Security Incident Handling Guide*, Special Publication 800-61 rev. 2.

Crisis Management

- Organization and Management
- Security v. Operations
- Candor and Prudence
- Skills and Experience
- Compliance and Ethics
- Good Judgment

Title search: Responding to a Cyber Breach

Also available as part of the eCourse
2016 Essential Cybersecurity Law eConference

First appeared as part of the conference materials for the
2016 Essential Cybersecurity Law session
"Responding to a Data Breach"