Law firm Liability Exposures: How to protect your firm against Cyber Liability Claims

Mark Lefever, CIC, VP, Sales and Client Management
USI Affinity

© 2017 USI Affinity. All rights reserved.

Agenda

- Cyber Liability Exposures For Law Firms
- Cyber Risk Management Tips
- Cyber Liability Insurance

© 2017 USI Affinity. All rights reserved.

Cyber Exposures For Law Firms

Cyber Exposures – Law Firms Are Prime Targets

- Rich Collection of Data
- Sensitive Information
- Bank Information
- PII
- Poor Safeguards
- Lack of internal training and controls
- Lack of IT resources
- Wireless access
- Vendor Management
- Lost of stolen devices

- Internal Exposures
  - Rogue employees
  - Careless staff
- External Exposures
  - Business associates, vendors and suppliers
  - Organized crime
  - Hackers

© 2017 USI Affinity. All rights reserved.

Why Are Small and Midsize Businesses Targeted?

- Small and midsize businesses (SMBs) are the principal target of cybercrime.
  - Based on one study, 60 percent of all targeted cyberattacks last year struck SMBs.
- SMBs are easier targets than larger organizations.
- Many SMBs lack sufficient resources and in-house expertise to address cyberattacks.
- It has been estimated that half of the small businesses that suffer a cyberattack go out of business within six months as a result.

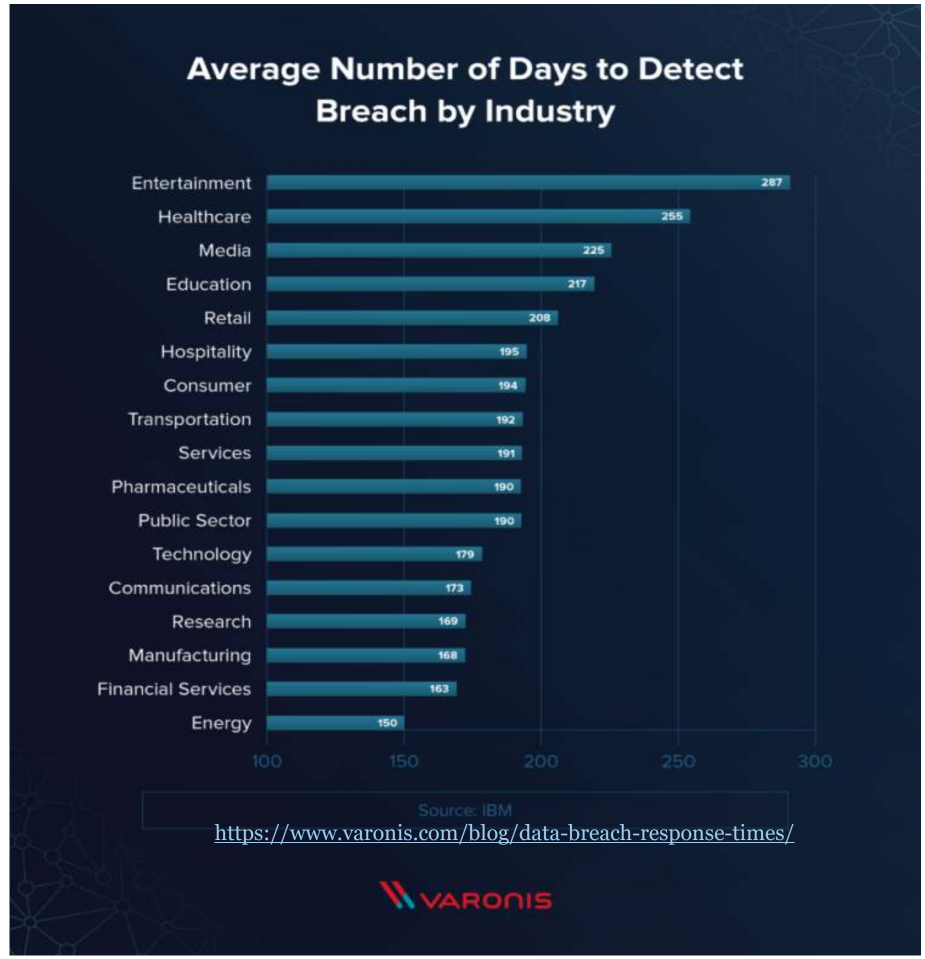
Source: U.S. Securities and Exchange Commission, "The Need for Greater Focus on the Cybersecurity Challenges Facing Small and Midsize Businesses," 2015.

© 2017 USI Affinity. All rights reserved.

Breach Detection

Obligation to Monitor For a Data Breach

System Monitoring Activities



https://www.varonis.com/blog/data-breach-response-times/

© 2017 USI Affinity. All rights reserved.

Stopping the Breach and Restoring Systems

USI AFFINITY

Key findings:

Formation of the IR team lowered the total cost of a data breach by an average of $360,000 from the mean cost of $3.92 million.

$360,000

IR team lowers the total cost of a data breach by an average of $360,000

Extensive testing of the IR plan reduced the total cost of a data breach by an average of $320,000 from the mean cost of $3.92 million.

$320,000

IR plan reduces the total cost of a data breach by an average of $320,000

Organizations that both formed an IR team and extensively tested the IR plan saw the greatest savings – $1.23 million less than organizations that neither formed an IR team or tested the IR plan.

$1.23M

Savings from IR teams and testing the IR plan – $1.23 million less than organizations that neither formed an IR team or tested the IR plan.

Source - Ponemon Institute Cost of a Data Breach Study 2019

© 2017 USI Affinity. All rights reserved.

Cyber Exposure and the Need for Insurance

Cyber Exposures – Cyber Loss

- Loss or damage to data/information
- Loss of revenue due to a computer attack
- Extra expense to recover/respond to a computer attack
- Legal liability to others for computer security breaches
- Legal liability to others for privacy breaches (not just computers!)
- Regulatory actions and scrutiny
- Loss or damage to reputation
- Cyber-extortion
- Cyber-terrorism
- Management time expended on breach response

© 2017 USI Affinity. All rights reserved.

Cyber Exposures – How a Law Firm can Protect itself

- Buy Cyber Coverage!
- Incident Response Planning
- Employee Training
- Risk Analysis
- Encryption
- MFA
- Back-ups
- Document Retention Policy
- Penetration Testing
- Anti-virus and Patching
- Intrusion Prevention and Detection
- Vendor Risk Management

© 2017 USI Affinity. All rights reserved.

Insurance Coverage Gaps

	Property	General Liability	Crime/Bond	K&R	E&O	Cyber / Privacy
1st Party Privacy / Network Risks						
Physical Damage to Data	Limited Coverage	No Coverage	No Coverage	No Coverage	No Coverage	Limited Coverage
Virus/Hacker Damage to Data	No Coverage	No Coverage	No Coverage	No Coverage	No Coverage	Coverage Provided
Denial of Service attack	No Coverage	No Coverage	No Coverage	No Coverage	No Coverage	Coverage Provided
B.I. Loss from Security Event	No Coverage	No Coverage	No Coverage	No Coverage	No Coverage	Coverage Provided
Extortion or Threat	No Coverage	No Coverage	No Coverage	Limited Coverage	No Coverage	Coverage Provided
Employee Sabotage	No Coverage	No Coverage	Limited Coverage	No Coverage	No Coverage	Coverage Provided
3rd Party Privacy/Network Risks						
Theft/Disclosure of private Info	No Coverage	No Coverage	No Coverage	No Coverage	No Coverage	Coverage Provided
Confidential Corporate Breach	No Coverage	No Coverage	No Coverage	No Coverage	No Coverage	Coverage Provided
Technology E&O	No Coverage	No Coverage	No Coverage	No Coverage	Coverage Provided	Coverage Provided
Media Liability (electronic content)	No Coverage	Limited Coverage	No Coverage	No Coverage	No Coverage	Coverage Provided
Privacy Breach Expense	No Coverage	No Coverage	No Coverage	No Coverage	No Coverage	Coverage Provided
Damage to 3rd Party's Data	No Coverage	No Coverage	No Coverage	No Coverage	No Coverage	Coverage Provided
Regulatory Privacy Defense/Fines	No Coverage	No Coverage	No Coverage	No Coverage	No Coverage	Coverage Provided
Virus/ Malicious Code Transmission	No Coverage	No Coverage	No Coverage	No Coverage	Limited Coverage	Coverage Provided

Coverage Provided:	
Limited Coverage:	
No Coverage:	

Traditional Insurance Gaps to name a few:

- Theft or disclosure of Third Party Information – GL
- Security & Privacy – "intentional act" exclusion – GL
- Data is not tangible Property – GL, Prop. and Crime
- Bi/PD Triggers – GL
- Value of Data if corrupted, destroyed or disclosed – Prop & GL
- Contingent Risks from external hosting, etc .

- Commercial Crime policies require "intent" and only cover "money securities and other Tangible Property"
- Territorial Restrictions
- Sublimits or long waiting periods applicable to any virus coverage available - Prop.

© 2017 USI Affinity. All rights reserved.

Claim Statistics

Legal Costs—Damages Defense & Settlement 2014–2017

	Cases	Min	Average	Median	Max
Legal Damages Defense	64	319	120,606	15,500	2,500,000
Legal Damages Settlement	37	1,502	254,851	50,000	4,800,000

Legal Costs—Regulatory Defense & Fines 2014–2017

	Cases	Min	Average	Median	Max
Regulatory Action Defense	10	25,163	696,524	83,750	5,791,000
Regulatory Action Fines	2	28,943	44,634	44,634	60,324

Source: NetDiligence 2017 Cyber Claims Study

© 2017 USI Affinity. All rights reserved.

Claim Statistics

Crisis Services Costs 2014–2017	Cases	Min	Average	Median	Max
Forensics	276	265	141,479	35,175	3,860,000
Credit/ID Monitoring	118	10	112,886	5,511	2,000,000
Notification	138	14	234,011	13,323	5,520,000
Legal Guidance / Breach Coach®	341	112	53,133	14,922	2,500,000
Other	71	149	80,643	10,295	2,000,000
Total Crisis	**446**	**14**	**248,980**	**35,577**	**8,209,000**

Source: NetDiligence 2017 Cyber Claims Study

© 2017 USI Affinity. All rights reserved.

What Does Cyber Insurance Cover?

USI AFFINITY

Cyber Liability

First Party
Breach Notice Costs
- Forensic Investigation
- Crisis management/PR
- Notification costs
- Credit monitoring

First Party
Other Business Costs
- Business interruption
- Data repair /replacement
- Cyber-extortion
- Social Engineering

Third Party
Civil Lawsuits
- Consumer class action
- Corporate or financial institution suits
- Credit card brands
- PCI fines, penalties, and assessments

Third Party
Regulatory Actions
- State AG investigations
- FTC investigations
- Health & Human Services – OCR (enforcement arm)
- Foreign Privacy Entities

© 2017 USI Affinity. All rights reserved.

Demand and Drivers for Cyber Insurance

USI AFFINITY

- Demand for Cyber Insurance
  - Most insurance carriers have reported experiencing an increase in demand
  - Need for additional capacity
  - Policy terms and conditions are broadening
  - Additional sublimited coverage being offered
  - Co-insurance and Higher Deductibles

- Drivers for Cyber Insurance
  - Privacy Notification Laws
  - News of cyber-related events
  - Board/Sr. Management
  - Increased education
  - Experiencing a cyber-related loss
  - Contractual obligations

© 2017 USI Affinity. All rights reserved.

Questions

For any information on Professional Liability or Cyber Liability Insurance please feel free to contact:

Mark Lefever, CIC

mark.lefever@usi.com

717-572-2858

Vice President, Sales and Client Management

USI Affinity

© 2017 USI Affinity. All rights reserved.