
THE HOSPITALITY
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Unique Challenges of Data Security for the Hospitality Industry

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- Chair of Data Security & Privacy Practice Group
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- Assists hospitality clients in the acquisition, disposition, development, management, licensing and finance of hotel assets.
- Assists hospitality clients in operational issues including data security issues.

Recent Hospitality Breaches

Landry's	Sheraton Hotels & Resorts	Kimpton Hotels & Restaurants
Arby's	Trump International	Mandarin Oriental Hotel Group
Wendy's	Hilton Worldwide	Rosen Hotels & Resorts
Noodles & Company	Millennium Hotels & Resorts	Omni Hotels & Resorts
HIE Hotels & Resorts	Hyatt Corporation	Intercontinental Hotels Group
Noble House Hotels & Resorts	White Lodging Services Corporation	Starwood Hotels & Resorts

Why are Hotels a Target of Data Thieves?

- ❑ Large Amount of Business through Credit/Debit Cards
- ❑ Connections with Third Party Systems from Franchisors or Management Company
- ❑ High Employee Turnover and, in some cases, poor employee training in security practices

Typically Protected Data ("PII")

- **Credit/Debit Card Account Information (name of cardholder, account numbers, passwords)**
- **Bank or Financial Account Information (name of cardholder, account nos., passwords)**
- **Social Security Numbers**
- **Driver's License Numbers**

Protected Only In Certain States

- ❑Medical Information
- ❑Health Insurance Information
- ❑Biometric Data (fingerprint, voiceprint, retina image)
- ❑Electronic identification numbers, electronic mail names or addresses, Internet account numbers, or Internet identification names
- ❑Digital signatures
- ❑Parent's legal surname prior to marriage

Not Protected

- Publicly available information that is lawfully made available to the general public from Federal, State or local government records
- Information that an individual has consented to have publicly disseminated or listed (under some state laws only)

Paper Files Are Not Immune

- ***Misconception*** **that data theft is always a high-tech attack on electronically stored information**
- **<u>Paper files</u> containing personal information can be just as vulnerable and are often the target of theft**
- **Some state laws are confined only to addressing electronic breaches, but a few specify that personal information stored in paper form is covered**

Response & Notification

- ***State law controls.***
- ***The law of the state where the affected individual (cardholder, employee) resides is the law that governs notice*** **-- NOT the state where the merchant or employer is situated.**
- **47 States and the District of Colombia have data protection/notification laws**
- **No Federal Data Breach law yet.**

Typical State Notification Statue

- **Who issues the notice?**
  - *An entity that maintains, stores or manages computerized data that includes personal information.*
  - *A vendor that maintains, stores or manages computerized data on behalf of another entity must notify the entity on whose behalf the computerized data is maintained, stored or managed. The entity on whose behalf the computerized data is maintained, stored or managed must discharge the remaining notice duties.*
- **Who receives the notice?** *Individuals, Entities (in cases of vendor breaches) and, possibly, credit reporting agencies, state attorney general or state consumer protection agencies.*
- **Timing?** *Without reasonable delay. Typically 30 days of knowledge of incident. Delays may be permitted in limited circumstances.*
- **Content of Notice?** *Varies by State.*

Consequences of Non-Compliance

- Attorney General Actions
- Private Causes of Actions under certain state notification laws
- FTC Compliance Suits
- Private Claims/Class Actions
  - Most decisions so far – Increased risk of identity theft is insufficient to confer standing
- PCI Compliance Inquires by Credit Card Companies
- Shareholder Suits