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Recent Attacks on Data Security: The Stuff of Nightmares!

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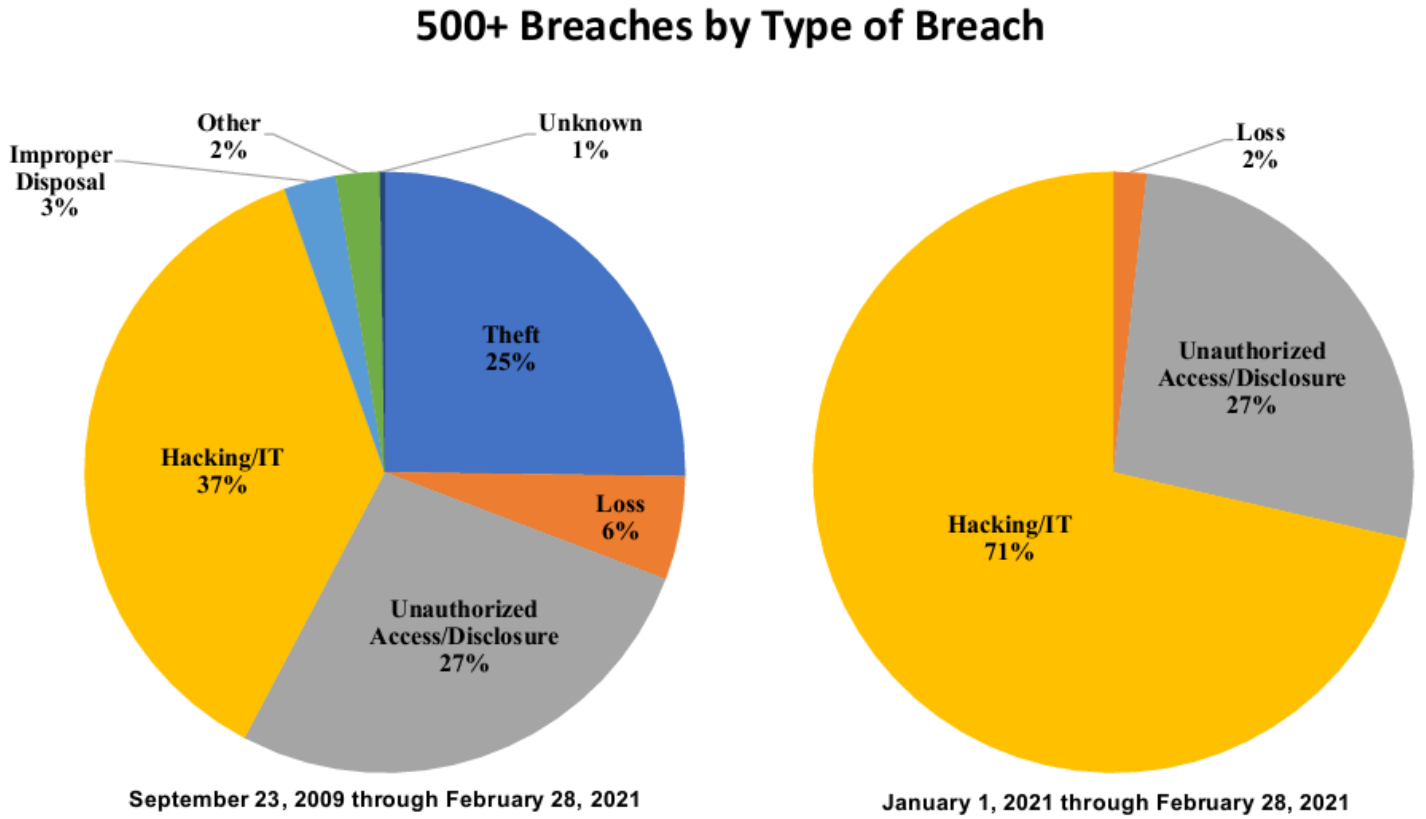
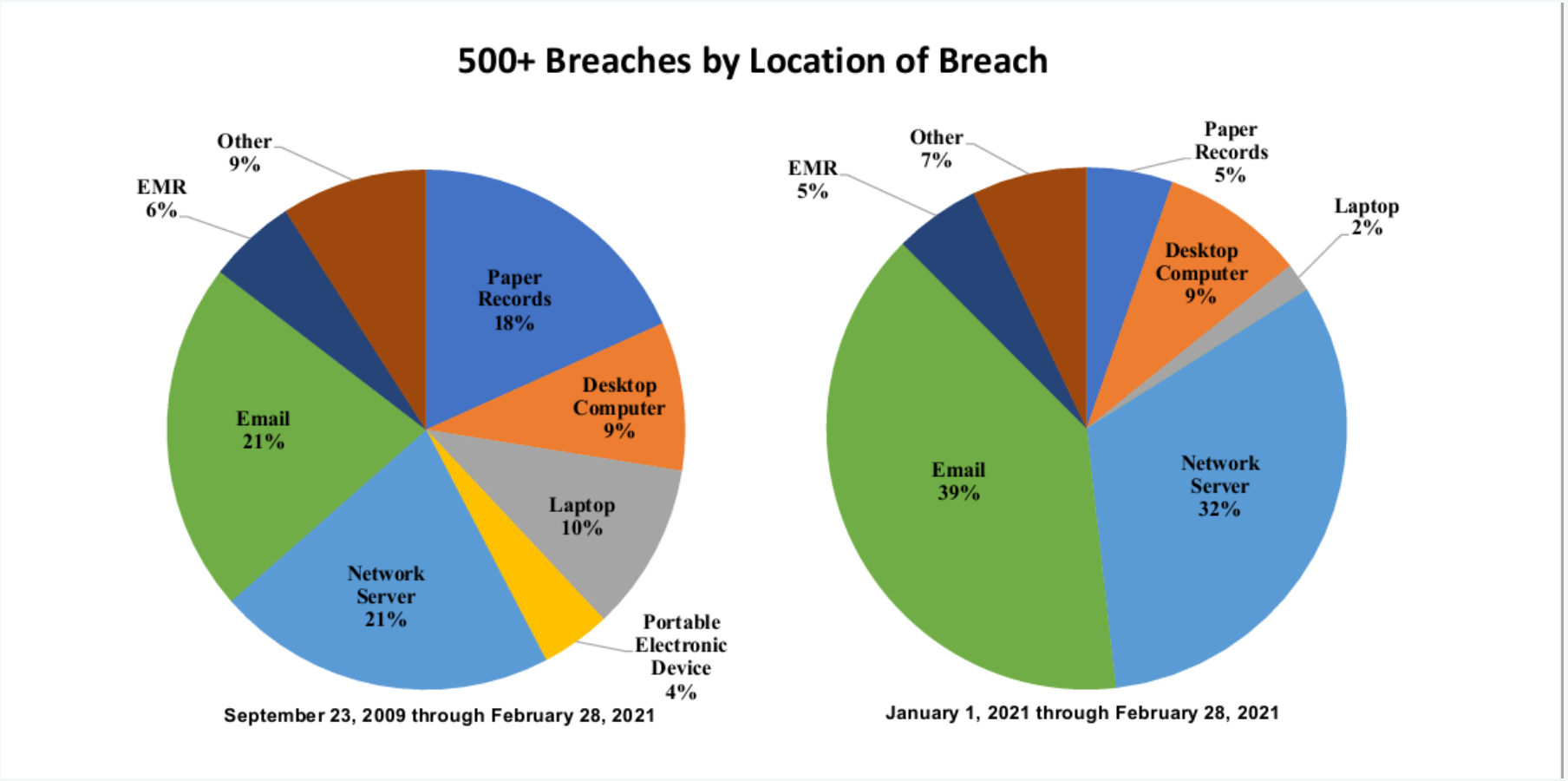
HHS Breach Report



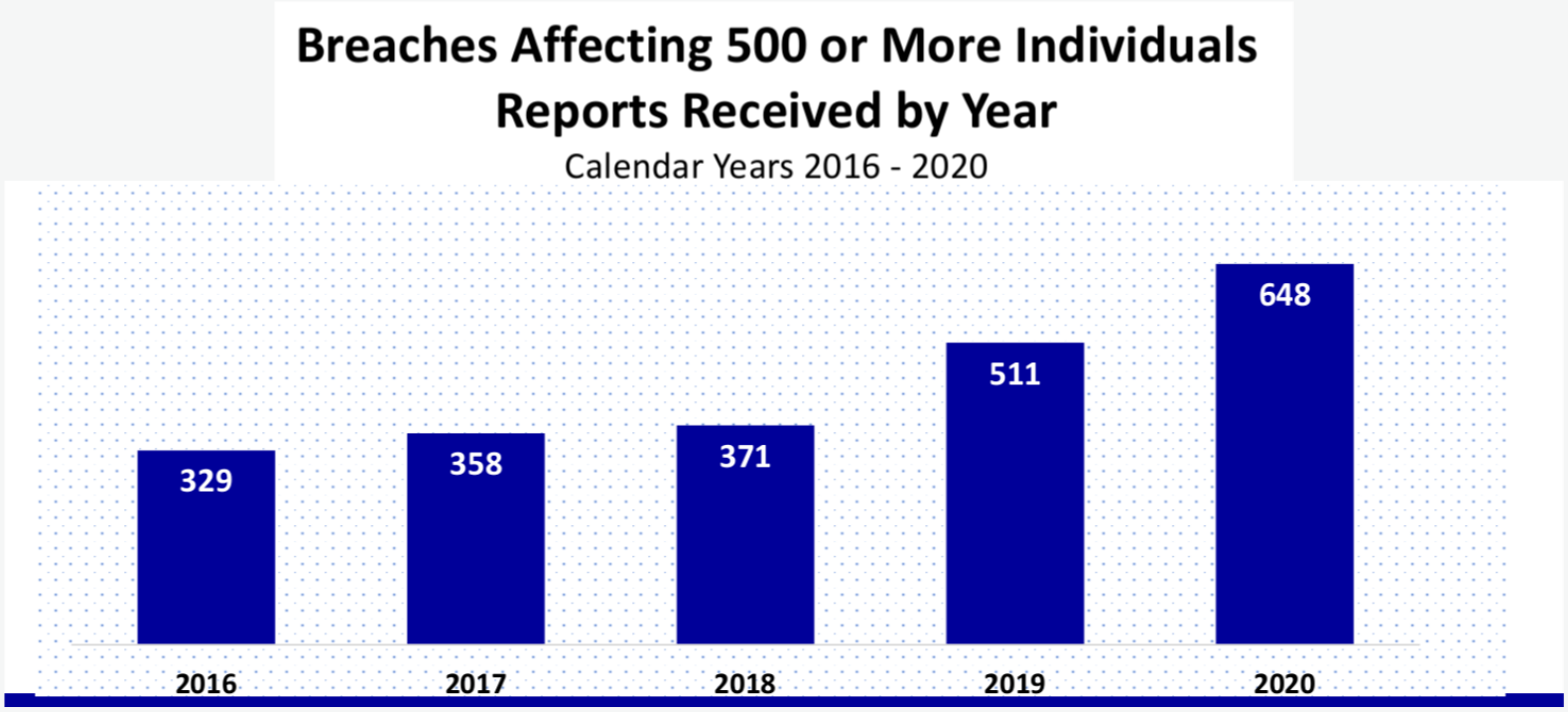
Threat Landscape

- Vast majority of Data has been created in the past couple of years.
  - Estimated 18 ZB (ZB:1M PB:1000 TB) in 2018 / 175 ZB in 2025 (DVDs circle earth 222 times).
- Cloud Engineering is very immature.
  - Cloud is being implemented without IT, Security, or Legal review/approval.
  - Business clients are highly sophisticated and can easily spin up Cloud services.
- Traditional IT Infrastructure resources can be resistant to learning new technology (Cloud)
  - Increasing Use of Third Party and Nth Party Vendors
  - Most US companies have experienced a data breach caused by Nth party.
  - Most companies do not have a comprehensive list of third-party vendors.
  - Nth parties are mostly unknown by most companies.
- NotPetya was a new type of attack in terms of damage and dollar amount.
  - Business Continuity cost Merck at least $1.3B.
  - Maersk had to shift entire worldwide operations to paper. $300M loss.
  - Modelez lost manufacturing and suffered $700M loss.

HHS Breach Report



HHS Breach Report



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Know Your Regulator

- Department of Health and Human Services
  - Office for Civil Rights
  - Office of Inspector General
- Federal Trade Commission
- Federal Communications Commission
- Department of Justice
- State Attorneys General
- Other State Agencies
  - New York State Department of Financial Services (“NYDFS”)

Regulator Activity

- Increasing Fines and Prescriptive Oversight.
  - FTC Facebook $5B; Equifax $575M; Lifelock $100M; Uber $148M with State AGs
  - OCR Sentara $2.175M for 557 records; TX Health Services Commission $1.6M for 6617 records; University of Rochester Medical Center $3M for 43 records; Jackson Health System $2.15M for 1500 records.
  - GPDR British Airways £183M; Marriott £100M; £60k fine for credentials that shared 1 record.

Did you know?

- Current Data from 2020 ACC Foundation State of Cybersecurity Report
  - 33.6% of legal departments did not know how many breaches occurred in the past year.
  - 14.2% do not have an incident response plan / 9.9% don't know.
  - 19.3% do not have an IRT / 6.2% don't know.
  - 38.1% hold a simulated response exercise
  - 31.9% conduct tabletop exercises.
  - 6.9% conduct quarterly cybersecurity audits.

Cyber Attack Response Considerations

- Identify appropriate point(s) of contact
- “Stop the Bleeding” (Identify, Triage, Contain, Eradicate)
- Preserve Evidence
- Contact Cyber Insurer
- Engage Outside Counsel
- Engage Forensic Vendor through Counsel
- Determine Scope
- Coordinate with ISOs/ISAOs
- Coordinate with Law Enforcement
- Analyze Notification Responsibilities
- Engage Notification Vendor
- Prepare for Regulatory Investigations

Technical and Legal Considerations

- Business Associate Agreements
- Lack of Inventory of Data & Assets
- Risk Analysis
- Detect or Manage Identified Risk
- End-to-end Encryption
- Transmission Security; Lack of Security: Data at Rest & Archived Data
- Appropriate Auditing
- Patch management of Software, Systems, Firmware, Devices
- Vulnerability scanning
- Penetration testing
- Security awareness program for end users (e.g., phishing and other threats)
- Insider Threat (negligent & malicious)
- Disaster recovery and business continuity plans & teams
- Incident response plans & teams

- DOJ Guidelines on Evaluating Compliance Programs (included detailed checklist)
  - Risk Assessment
  - Policies & Procedures
  - Training & Communications
  - Confidential Reporting Structure & Investigation Process
  - Third-Party Management
- Speaking Security Lingo is important to creating rapport.
  - List from ACC Cybersecurity Summit

Conclusions and Recommendations

- **Do you have a handle on all of your data?**
  - PII? PHI? IP? Other sensitive or proprietary data?
- **What laws apply to your data?**
  - State? Federal? International?
- **Consider all potential risks!**
  - State, Federal, International civil and criminal actions;
  - Litigation, including class actions.
- **Coordinate closely with counsel.**

Questions?

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