

Data Breach Checklist

12 Steps for the First Hours

Cybersecurity and data privacy remain [top-of-mind issues for Chief Legal Officers in 2023](#). Below are 12 items in-house counsel should consider when responding to a data breach:

- Mobilize the response team.** Ensure a clear allocation of decision-making per your response plan.
- Mobilize resources to **document** meetings, attendees, and decisions.
- Follow the company's crisis response policies.** Document deviations and reasons for deviating.
- Engage outside counsel,** with a focus on protecting legal privilege.
- Get technical experts** to investigate. Consider having outside counsel engage them (for privilege).
- Use caution in describing the situation.** Facts may evolve or emerge as investigations progress.
- Report to senior management and the board.** Seek their input as appropriate.
- If credit card data is impacted,** notify credit card issuers.
- Notify the company's insurance carrier.** Keep track of expenses. Keep in mind privilege aspects.
- Notify authorities and consumers** per regulatory requirements (may apply to suspected breach).
 - Prepare to inform and respond to customers. Consider a list of Frequently Asked Questions.
 - Consider engaging local legal counsel in the various countries impacted.
- Ensure communications are prepared and managed** – for the public and for staff.
 - Determine who will respond to press requests.
 - Consider involving crisis communication specialists.
- Assess the cost of the breach and manage expectations:**
 - Determine preliminary cost estimates.
 - Communicate the preliminary nature of estimates, and variations, to senior management.

Learn more! This checklist is based on the ACC resource:

[Data Breach! A Playbook for The First 72 Hours](#), by Stephen H. Baird, Simon Elliott, *ACC Docket* (2023)

More resources on Privacy and Cybersecurity:

- [Checklist: Ransomware Attacks: Prevention and Preparedness \(US\)](#) (by Jackson Lewis P.C.)
- [Cyber Incident & Data Breach Management Workflow](#) (by Exterro)
- [Sample Data Incident or Breach Notification Policy](#)
- Find more in the [ACC Privacy and Cybersecurity Resource Collection](#)
- Also check out the [ACC Resource Library: www.acc.com/resource-library](#)
- [Join the ACC IT, Privacy and eCommerce Network](#) (ACC members-only)

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