

## Services

### Data Strategy, Privacy and Security

#### Practice Contact

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Natalia Steele

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From collection, use, selling and cross-border sharing to protecting and disposing of data, we work with clients to navigate the ever-changing patchwork of domestic and global privacy and data security laws and regulations. We have also guided companies' responses to some of the earliest and largest data breaches in the U.S. and have led precedent-setting litigation stemming from those incidents.

### Who We Represent

We advise a range of clients on the full spectrum of privacy and data security matters, from representing one of the nation's largest financial institutions in litigation involving the reported theft of nearly 50 million payment cards to serving as compliance advisor to global retailers – including many that are headquartered steps away from Vorys' office in Columbus, Ohio.

We counsel clients on privacy and data security matters in a wide range of industries, such as:

- Nearly one-third of the National Retail Federation's Top 100 list, including more than half of the Top 25 retailers
- More than 150 financial institutions, including 50 national and regional banks
- National grocery chains, restaurant chains, and franchises
- Manufacturers
- Defense contractors
- Insurance companies
- Large health care providers
- International energy companies
- Colleges and universities
- eCommerce merchants
- Hotels

## Our 360-Degree Approach

Whether by conducting privacy audits, refining data security and privacy policies, negotiating data processing agreements, or developing incident response and crisis communication plans, we help our clients comply with constantly changing domestic and global regulations and implement best practices. We routinely counsel clients through the complete data lifecycle:

- Developing internal and external-facing policies and procedures for management of the collection, use, sharing, selling, storage, transfer and disposal of regulated data
- Negotiating privacy and security contract provisions with service providers, vendors and customers
- Mapping the collection, use and sharing of regulated data
- Assisting with management of individual privacy rights requests
- Developing incident response and crisis communication plans
- Conducting training exercises from the C-Suite to frontline employees
- Responding and reporting to regulatory inquiries and investigations
- Managing responses to data security breaches
- Conducting privileged and non-privileged forensic investigations
- Conducting gap assessments and reviews against applicable security frameworks
- Litigation over privacy and cybersecurity claims

When clients experience data breaches despite their prevention efforts, we represent them in regulatory investigations ranging from the Federal Trade Commission (FTC) to multi-state attorneys general investigations, negotiate consent decrees and advise clients on applicable breach notification laws. Our **crisis management team** is available 24/7 to help clients through cybersecurity emergencies and can be reached by calling the Vorys' **emergency hotline: (833) 525-2100**. When legal disputes arise, we mobilize Vorys' **nationwide bench of trial and appellate lawyers** to defend clients in state and federal courts across the country.

## National Recognition

Vorys is consistently recognized as a top firm for advising clients in a range of industries that are particularly vulnerable to data breaches and privacy-related litigation.

We have earned a nationwide ranking for retail in the prestigious *Chambers USA* guide for the past five years. In its 2023 edition, Chambers and Partners notes Vorys' "*broad range of strengths in the retail sector*," including **data security** adding that Vorys is "*frequently engaged by retailers facing consumer class actions*."

In the guide, Chambers also recognizes the firm's representation of clients in health care matters and states that Vorys "*is noted for its work on HIPAA matters and IT issues*."

## Privacy

Complying with the growing number of domestic and international privacy and data security regulations is increasingly complex. We stay abreast of federal regulations and the patchwork of state laws governing marketing, privacy and security and help our clients develop strategies to ensure that their policies and procedures are compliant.

We advise on matters involving a range of regulations, laws and industry-specific standards, such as:

- California Consumer Privacy Act (CCPA)
- California Privacy Rights Act (CPRA)
- California Invasion of Privacy Act (CIPA)
- California Online Privacy Protection Act (CalOPPA)
- Colorado Privacy Act (CPA)
- Connecticut Data Privacy Act (CTDPA)
- Illinois Biometric Information Privacy Act (BIPA)
- Virginia Consumer Data Protection Act (VCDPA)
- Utah Consumer Privacy Act (UCPA)
- Children's Online Privacy and Protection Act (COPPA)
- Controlling the Assault of Non-Solicited Pornography and Marketing Act (CAN-SPAM)
- Fair and Accurate Credit Transactions Act (FACTA)
- Fair Credit Reporting Act (FCRA)
- General Data Protection Regulation (GDPR)
- Gramm-Leach-Bliley Act (GLBA)
- Health Insurance Portability and Accountability Act (HIPAA)
- Payment Application Data Security Standard (PA-DSS)
- Payment Card Industry Data Security Standard (PCI DSS)
- Section 5 of the FTC Act as well as FTC guidelines, reports and orders
- Telemarketing Sales Rule (TSR)
- Telephone Consumer Protection Act (TCPA)

## What We Do

### IT & Technology Contract Review

With the increased regulatory focus and media attention on privacy issues related to **vendor management**, we assist clients in negotiating privacy provisions in payments, marketing, cloud services and analytics contracts, as well as in transactions involving:

- Electronic health records systems
- Equipment
- Medical billing systems
- Point of sale (POS) systems
- Radio frequency identification (RFID) tags
- Software licenses
- Technology services

Our work also includes advising clients on:

- Emerging opportunities relating to **analytics** and **big data**
- Privacy and data security challenges related to the **Internet of Things** (IOT)
- Emerging legal issues surrounding **online** and **e-commerce business operations**
- Practical methods to **minimize privacy and data security risks**
- Negotiating **cyber insurance policies** covering data breaches and other cyber issues

## Advertising, Marketing and Consumer Protection

We help our clients ensure that their marketing campaigns and other promotional activities are compliant with state and federal laws, regulations and guidelines.

Our attorneys have substantial experience advising on **consumer disclosures** and **disclaimers** relating to:

- Accessibility
- Advertising
- Biometrics
- Direct mail campaigns
- Email marketing
- Escheat issues
- Gift card and customer loyalty programs, contests and promotions
- Infomercials
- Merchandise return policies
- Mobile applications
- Order fulfillment
- Rebates
- Restrictions on card expiration and loss of value
- Telemarketing

- Text messaging
- Transaction processing

Our experience extends to the unique joint marketing, customer service and contracting issues that are raised by private label and affinity **credit card programs**. We also negotiate third-party provisions of email marketing and call center services, as well as contracts for the services of actors, musicians, models and other talent hired for marketing initiatives.

When claims of deceptive or unfair trade practices arise, we help clients respond to consumer complaints, investigations and enforcement actions brought by federal and state regulators.

### Health Privacy & Security

With deep experience in the developing area of health information privacy and security, our attorneys advise clients on the confidentiality of medical information, including compliance with the **Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule** and the patchwork of state laws.

We help clients navigate the rapidly changing fields of health information exchanges and data sharing, electronic health records, telehealth services, paper and electronic data privacy and security, health information management, and state and federal discovery rules for **electronically stored information (ESI)**.

We have advised large health care providers and trade associations on the full spectrum of legal issues pertaining to HIPAA and privacy compliance, including:

- Developing HIPAA privacy policies and procedures
- Federal financial incentives for the development of electronic health records HIPAA/privacy compliance training
- Health information exchange (HIE) issues
- Interoperability and information blocking
- Production of individually identifiable health information in response to discovery requests, court orders, law enforcement investigations and public health concerns
- State and federal notice of breach requirements
- Telehealth privacy issues
- Third-party service vendors' information systems and related privacy issues

### Employee Privacy

Every employer holds some form of sensitive information about their employees, whether it's **human resources data, employee health records** or **employee email accounts**. We help our clients protect that data while retaining their own ability to access information when they need it, whether data is stored on their own servers, on their employees' personal devices or in the cloud.

## Global Privacy Programs

Backed by an **international network of local counsel**, Vorys spearheads the creation and coordination of global privacy programs for clients' international businesses. We advise on best practices for collecting data in foreign jurisdictions, such as the European Union (EU), Canada and the Asia-Pacific Economic Cooperation (APEC) regions, and counsel clients on transferring and sharing data across international borders. Vorys is a member of **Ally Law**, a network of more than 70 select, business-oriented law firms operating in more than 50 countries.

## News

News, 1.2.2024

Vorys Elevates Ten to Partner

3.31.2022

Duhamel Adds CIPP/E to List of IAPP Certifications

News, 8.19.2021

116 Vorys Attorneys Named to 2022 *Best Lawyers in America* List; 34 Vorys Attorneys Named to *Best Lawyers*' "Ones to Watch" List

News, 2.8.2021

Three Vorys Attorneys Named to the Lawyers of Color "Hot List 2020"

News, 8.20.2020

112 Vorys Attorneys Named to 2021 *Best Lawyers in America* List; 26 Vorys Attorneys Named to Best Lawyers' Inaugural "Ones to Watch" List

News, 3.31.2020

Vorys Named as one of BTI's 2020 "Leading Law Firms in Cybersecurity & Data Privacy"

News, 10.22.2019

Richardson Joins WVXU's Cincinnati Edition to Discuss Cyber Security

News, 8.15.2019

More Than 100 Vorys Attorneys Named to 2020 Best Lawyers in America® List

News, 3.13.2019

Former General Counsel for The National Retail Federation Joins Vorys

News, 2.7.2019

Four Vorys Attorneys Present to Kentucky House Committee

News, 1.3.2019

Duhamel Earns CIPM Certification from IAPP

News, 1.2.2019

Vorys Elevates Five to Partner

News, 12.5.2017

56 Vorys Attorneys Included on Ohio Super Lawyers and Rising Stars List

News, 3.29.2016

Ingram Quoted in *Convenience Store News* Story Titled “Nine Things You Should Do When Skimming Strikes”

News, 12.2.2015

Landolfi Speaks with NBC4 About Recent Data Breach Involving Children’s Information

News, 1.28.2015

Landolfi Talks with WTVN’s Joel Riley about Cybersecurity and Data Breach Issues

News, 12.23.2013

Kahn Profiled in *Law360*’s Female Powerbrokers Q&A

News, 4.4.2013

Kahn and Broz Quoted in *Privacy Law360* Story About Online-Tracking Class Action Suits

News, 1.25.2013

Kahn Quoted in *Columbus Business First* Story on Cyber Security

News, 12.17.2012

Vorys Attorneys Recognized as 2013 Ohio Super Lawyers and Rising Stars

News, 4.6.2012

Kahn and Airey featured in *Business First* Story on Columbus Attorneys With National Reputations

News, 4.6.2010

27 Vorys Attorneys Recognized in 2010 Chambers USA

## Publications

Client alert, 4.5.2024

Kentucky Passes a Comprehensive Privacy Law Becoming the Next State to Join the Privacy Race

Client alert, 11.15.2023

California’s New Delete Act Expands Cyber Security Protections for Consumers

Client alert, 9.22.2023

That Makes Twelve – Delaware Enacts New Data Privacy Legislation

**Client alert, 9.7.2023**

Key Contract Terms and Conditions for AI Products and Services Part 2 – Commitments, Disclaimers, Regulatory, Privacy, and Risk Allocations

**Client alert, 8.29.2023**

Key Contract Terms and Conditions for AI Products and Services, Part 1 - Data Ownership and Licensing

**Client alert, 7.10.2023**

This Time for Sure? EU-U.S. Data Privacy Framework Adopted

**Client alert, 6.20.2023**

Everything's Bigger in Texas – Including Privacy Protections

**Client alert, 5.4.2023**

Questions You Should be Asking about the Groundbreaking My Health, My Data Act

**Client alert, 4.26.2023**

Pennsylvania Data Breach Notification Act Amendment: What Businesses Need to Know for May 2, 2023

**Client alert, 4.17.2023**

Securing State Seven – Indiana's Legislature Passes Data Privacy Legislation

**Client alert, 4.3.2023**

New Utah Law Regulates Social Media for Children

**Client alert, 10.17.2022**

Oklahoma set to join Washington and Florida in the Next Wave of Mini-TCPAs

**Client alert, 10.7.2022**

Next Step in Privacy Shield Replacement – President Biden Signs Executive Order for U.S.-EU Trans-Atlantic Data Sharing Agreement

**Client alert, 9.22.2022**

California Adopts New Privacy Requirements for Online Products, Services, or Features Likely to Be Accessed by Children

**Client alert, 6.10.2022**

One Privacy Law to Rule them All?

**Client alert, 5.25.2022**

The Connecticut Data Privacy Act: The Next Piece in a Patchwork of US Privacy Laws

**Client alert, 3.28.2022**

US and EU Announce a New Trans-Atlantic Data Privacy Framework

**Client alert, 3.25.2022**

Utah Latest State to Enact a Comprehensive Privacy Law



Client alert, 3.8.2022

The Rise of “Zero-Click” Hacks Provides Cautionary Tale when Using Personal Devices for Business Use

Client alert, 2.21.2022

California Attorney General Takes a Fresh Look at Loyalty Programs

Client alert, 2.3.2022

Indiana Consumer Privacy Bill Clears the Senate Unanimously

Client alert, 10.29.2021

FTC Announces Changes to its Standards for Safeguarding Consumer Information

Client alert, 8.23.2021

China’s New Data Protection Law Set to Take Effect November 1

Client alert, 6.9.2021

Colorado Positioned to Become Next Frontrunner in Comprehensive Privacy Regulation

Client alert, 6.7.2021

European Commission Publishes GDPR Decisions that Clarify SCC Issues and Data Transfers From the EU to the U.S.

Client alert, 5.14.2021

Understanding the Legal Aspects of Precision Farming Data

Client alert, 5.5.2021

Florida Privacy Bill Fails to Pass Before End of Legislative Session

Client alert, 4.26.2021

Florida House Passes Expansive Privacy Bill by a Landslide

Client alert, 3.3.2021

Virginia Becomes a Leader in Privacy Regulation

Client alert, 2.22.2021

Virginia Poised to Become the Next Big Player in U.S. Privacy Regulation

Client alert, 1.20.2021

The Washington Privacy Act Gets its Third Bite at the Apple

Client alert, 1.8.2021

New York State Lawmakers Propose New Biometric Privacy Act

Client alert, 12.14.2020

California Attorney General Releases Fourth Draft of Proposed CCPA Regulations

Client alert, 11.4.2020

*Client Alert:* California Voters Set To Approve New Privacy Rights Act – 5 Things to Know

**Client alert, 9.29.2020**

*Client Alert:* California Governor Signs CCPA Amendment Giving Clarity for HIPAA-Regulated Entities

**Client alert, 9.28.2020**

*Client Alert:* Indiana Attorney General to Create Safe Harbor for Businesses that Implement Reasonable Cybersecurity Plans

**Client alert, 9.2.2020**

*Client Alert:* California Legislature Extends CCPA's Employee and Business-to-Business Exemptions Until 2022

**Client alert, 7.27.2020**

*Privacy Alert:* European Data Protection Board Releases FAQ on the Ruling Invalidating the EU-U.S. Privacy Shield

**Client alert, 7.16.2020**

*Privacy Alert:* EU-U.S. Privacy Shield Invalidated by Europe's Court of Justice

**Client alert, 6.29.2020**

*Privacy Alert:* California Attorney General May Commence Enforcement Actions for CCPA Violations on July 1, 2020

**Client alert, 6.26.2020**

*Privacy Alert:* New California Privacy Rights Act Headed to California Ballot

**Client alert, 6.5.2020**

*Privacy Alert:* Final Proposed Regulations Filed for CCPA

**Client alert, 6.1.2020**

*Privacy Alert:* Work Product Protection for Initial Data Breach Investigations Can Be More Limited Than You Think

**Authored article, *Columbus Bar Lawyers Quarterly*, Spring 2020**

HIPAA Compliance 2020

**Client alert, 5.7.2020**

Senators Propose the COVID-19 Consumer Data Protection Act

**Authored article, 4.21.2020**

White Paper: Two Years of GDPR: What We Have Learned and What You Need to Know

**Client alert, 4.20.2020**

Cyberattacks on the Rise During the COVID-19 Pandemic

**Client alert, 4.14.2020**

CCPA Update: Zoom Application Facing Several CCPA-Related Class Action Lawsuits

Client alert, 4.13.2020

Remote Work Increases Data Security Risks

Client alert, 3.12.2020

Client Alert: California Attorney General Releases Third Draft of Proposed CCPA Regulations

Client alert, 2.25.2020

Client Alert: Irish Data Protection Commission Issues Annual Report On GDPR Enforcement

Client alert, 2.18.2020

Client Alert: New Push for Another U.S. Privacy Law as Washington State Senate Approves the Washington Privacy Act (SB 6281)

Client alert, 2.10.2020

Client Alert: California Attorney General Releases Modified CCPA Draft Regulations

Client alert, 10.16.2019

Client Alert: CCPA Amendments Update

Client alert, 9.4.2019

Client Alert: Next Ten Tips for Data Breach Prevention and Response

Client alert, 7.30.2019

Client Alert: California Consumer Privacy Act Amendments Update

Client alert, 7.26.2019

Client Alert: New York State Greatly Expands Data Protections for Consumers

Client alert, 6.20.2019

Health Care Alert: New Texas Privacy Legislation Enhances Notification Requirements in Case of Data Breach

Client alert, 6.7.2019

Client Alert: Privacy law update: Nevada and Maine Pass Laws Restricting the Sale of Personal Information

Client alert, 5.28.2019

Client Alert: In Line with Recent Trends, New Jersey Amends its Data Breach Notification Law to Expand the Definition of "Personal Information"

Client alert, 5.15.2019

Client Alert: The State of Washington Expands Breach Notification Requirements

Authored article, *AHLA Connections*, 4.2019

Data Breach Litigation: Defenses Against the Rising Tide

Client alert, 3.21.2019

Client Alert: SCOTUS Remands Google Class-Action Settlement over Standing Issues

Authored article, Winter 2019

*The Bankers' Statement:* Winter 2019

Authored article, Winter 2019

Is Your Bank's Cybersecurity Program Adequate? If Not, Your Bank May be Subject to Negligence Claims

Client alert, 2.18.2019

*Client Alert:* Ohio's New Cybersecurity Requirements on Insurers and Other Licensees Set to Take Effect in March

Client alert, 1.23.2019

*Client Alert:* Massachusetts Expands Breach Notification Requirements

Client alert, 11.30.2018

*Client Alert:* Pennsylvania Supreme Court Requires Employers to Protect Employee Information from Computer Hacks

Authored article, 11.21.2018

Predictive analytics could help prevent student suicides

Client alert, 11.5.2018

*Client Alert:* Securities and Exchange Commission Imposes \$1 Million Penalty on Voya Financial Advisors after Cybersecurity Intrusion

Client alert, 10.31.2018

*Client Alert:* Canadian Privacy Commissioner Releases Data Breach Notification Guidance

Client alert, 9.7.2018

*Client Alert:* Ten Cybersecurity Tips for Businesses

Client alert, 8.6.2018

*Client Alert:* Ohio Enacts Cybersecurity Safe Harbor Law for Data Breach Litigation

Client alert, 6.29.2018

*Client Alert:* California Enacts the California Consumer Privacy Act

Client alert, 3.28.2018

*Client Alert:* Supreme Court Cert Denial Leaves Confusion in Determining Standing in Class Action Data Breach Cases

Client alert, 3.20.2018

*Client Alert:* D.C. Circuit Narrows FCC's Broad 2015 TCPA Order

Client alert, 3.7.2018

*Client Alert:* FTC Reaches Settlement with Paypal over Gramm-Leach-Bliley Act and FTC Act Violations

**Client alert, 1.2.2018**

*Client Alert:* New Year Means Time to Revisit Your Data Incident Response Plan

**Client alert, 12.5.2017**

*Client Alert:* Ohio Bill Would Create Cybersecurity Safe Harbor

**Client alert, 10.19.2017**

*Client Alert:* EU Privacy Officials Release Guidance on Data Breaches, Profiling

**Client alert, 9.12.2017**

*Client Alert:* Equifax Data Breach: Another Reminder to be Proactive in Protecting Your Business

**Client alert, 8.25.2017**

*Client Alert:* NIST Guidelines Expanded to Include 'Internet of Things' Devices and Systems in the Private Sector

**Client alert, 8.23.2017**

*Client Alert:* Delaware Adds New Cybersecurity Requirement and Expands Data Breach Notification Regulations

**Client alert, 8.10.2017**

*Client Alert:* Macro-Level Issues to Consider When Microchipping Employees

**Client alert, 7.19.2017**

*Client Alert:* FTC: COPPA Applies to the Internet of Things

**Client alert, 3.29.2017**

*Client Alert:* China's New Cybersecurity Law

**Authored article, 2.20.2017**

Whitepaper: Consumer Class Actions Arising from Data Breaches Present a Battleground for Standing to Bring Suit

**Client alert, 2.1.2017**

*Client Alert:* FTC Releases New Cross-Device Tracking Guidance

**Client alert, 1.19.2017**

*Client Alert:* NIST Releases Draft Updates to Cybersecurity Framework

**Client alert, 12.23.2016**

*Client Alert:* Online and Mobile Tracking Company Settles FTC Charges It Deceptively Tracked Consumers

**Client alert, 12.14.2016**

*Health Care Alert:* OCR Releases Guidance on HIPAA Compliance and Cloud Computing

**Client alert, 12.14.2016**

*Client Alert:* Cheaters Never Win: Ashley Madison Settles FTC and State Data Security Charges for \$1.65 Million

**Client alert, 12.8.2016**

*Client Alert:* Privacy Issues for Employers: NLRB Aggressively Pursuing Social Media Policies and Terminations

**Client alert, 11.4.2016**

*Client Alert:* Federal Banking Regulators and NHTSA Release Cybersecurity Guidance

**Client alert, 10.28.2016**

*Client Alert:* FTC Releases Breach Notification Guide for Businesses

**Client alert, 10.27.2016**

*Client Alert:* California Releases New CalOPPA Enforcement Tool

**Client alert, 10.10.2016**

*Client Alert:* New York Department of Financial Services Proposed Cybersecurity Regulation: Comment Period Open Until November 12

**Client alert, 7.5.2016**

*Client Alert:* Fallout From The EMV October 2015 Liability Transfer Mandate

**Client alert, 3.4.2016**

*Client Alert:* Another Federal Regulator Steps Up Data Security Enforcement: CFPB Fines Online Payment Processor Dwolla for Lax Data Security

**Client alert, 2.10.2016**

*Client Alert:* President Obama Issues Executive Orders Establishing the Federal Privacy Council and Commission on Enhancing National Cybersecurity

**Client alert, 2.2.2016**

*Labor and Employment Alert:* EEOC Wants to Collect Employee Pay Data from Employers

**Client alert, 7.1.2015**

*Client Alert:* Cybersecurity - No More Excuses

**Client alert, 6.30.2014**

*Client Alert:* Fresh from Florida – A New Data Breach And Security Law

**Client alert, 4.18.2014**

*Client Alert:* Federal Court Rules That Zip Code Alone is Not an Address Under D.C. Credit Card Transaction Law

**Client alert, 2.11.2011**

*Client Alert:* California Supreme Court Rules that ZIP Code is Personal Information Under the Song-Beverly Credit Card Act

**Client alert, 5.19.2010**

*Client Alert:* New Federal Gift Card Statutes and Regulations

**Client alert, 5.12.2009**

*Client Alert:* Vorys Helps Sterling Chemicals, Inc. Win Important Victory in Rail Injury Case

## Speaking Engagements

**Event, 5.14.2024**

21st Annual OBL CEO Symposium

**Event, 1.17.2024**

"Powered by AI – What Every Retailer Needs to Know When Contracting for AI Products and Services" at the NRF General Counsels Forum 2024

**Event, 11.16.2023**

2023 Vorys Legal Education (VLE) Seminar

**Event, 11.15.2023**

Powered by AI - What Every Business Needs to Know When Contracting for AI Products and Services

**Event, 8.10.2023**

Webinar: Recent Developments in Privacy Litigation

**9.30.2021**

Cyberattacks on the Rise: A Chat with Legal Experts on How to Protect Your Business in a Technology-Based World

**2.25.2021**

CPRA: The Next Four-Lettered Law To Impact Privacy Rights in the US

**12.3.2020**

European Union Regulatory Changes: Post-Schrems II Landscape Panel for Boston Bar Privacy & Cybersecurity Conference

**10.29.2020**

Ethical Issues in Cyberspace for the Ohio Transportation Engineering Conference 2020

**4.3.2020**

Ignite: Legal Tech Innovation 2020

**3.12.2020**

Essentials of Business Law 2020

3.9.2020

Health Care Law Meeting

3.3.2020

Ohio Insurance Institute Continuing Legal Education Symposium

2.19.2020

eCommerce Consortia Meeting

1.14.2020

Merchant Lawsuits Against Visa and Mastercard

10.24.2019

Financial Markets Association's Legal and Legislative Conference

10.9.2019

Apps, Access, and the Opioid Crisis: A Patient Confidentiality Update

6.24.2019

Young Physicians Section Webinar

6.14.2019

2019 Kentucky Bar Association Annual Convention

6.5.2019

CBUS 19 Retail Re-Thought Conference

5.30.2019

2019 Cybersecurity & Privacy Protection Conference

2.7.2019

Cybersecurity and Data Breach Presentation

12.18.2018

CO-ACC Practice Pointers Workshop

12.13.2018

2018 Kentucky Law Update

12.7.2018

New Era of Cybersecurity – When, Not If

11.29.2018

2018 Kentucky Law Update

11.29.2018

Negotiating Physician Employment Agreements



11.15.2018

New Era of Cybersecurity – When, Not If

10.31.2018

2018 Kentucky Law Update

10.25.2018

Legal Developments and Concerns for Medical Professionals

10.17.2018

2018 Kentucky Law Update

10.4.2018

2018 Kentucky Law Update

9.27.2018

2018 Kentucky Law Update

9.13.2018

2018 Kentucky Law Update

8.24.2018

2018 Kentucky Law Update

6.19.2018

Legal Basics and Practical Steps in the Event of a Cyber Incident

5.14.2018

2018 Central Ohio InfoSec Summit

5.3.2018

William J. O'Neill Great Lakes Regional Bankruptcy Institute 2018: It's Time For Our Commercial Break

4.19.2018

2018 Kentucky Court of Appeals Spring Conference

Legal Developments and Implications of Data Breaches

4.10.2018

2018 IAPP Global Privacy Summit: Overview and Recap

2.8.2018

What is the GDPR and Why Should I Care? An Introduction to the EU's General Data Protection Regulation

11.28.2017

Women's Franchise Network Meeting - Ohio Chapter

Cyber Liability – Are you at risk?

10.26.2017

2018 Vorys Consumer Financial Services Summit

10.20.2017

The Chamber of the Future: Collegiality, Communication and Globalization in the Age of Innovative Technology

10.13.2017

The 2017 Northern Kentucky University-Chase College of Law Cybersecurity Symposium

9.21.2017

2017 Cybersecurity Days

9.12.2017

Houston ACC September Chapter Meeting

9.12.2017

Cybersecurity, Privacy and Other Legal Issues Surrounding Emerging Technologies and the "Internet of Things"

Hosted by the ACC Houston Chapter

9.29.2016

ACI Data Breach & Privacy Litigation and Enforcement on the TCPA

Hosted by ACI

3.17.2016

Data Breach & Privacy Litigation and Enforcement Conference

Hosted by the American Conference

9.23.2015

17th Advanced Global Legal & Compliance Forum on Cyber Security & Data Privacy and Protection

Hosted by the American Conference Institute

9.10.2014

Data Breach Prevention, Response & Management – The Road to Reasonable Security

Presented by the American Bar Association

4.24.2014

Data Breach Response: The Benefits of Effective Preparation

Central Ohio Chapter - Association of Corporate Counsel

11.14.2013

Communications Law in the Digital Age 2012-Present

Hosted by PLI

5.2.2013

InfoSec Summit 2013

4.24.2013

Corporate Communications in the Digital Age

Presented to the Columbus Chapter of the ACC

4.24.2013

Impact of Encryption on Records Management

4.12.2013

The Impact of International Privacy on Discovery

2.1.2013

12th Annual Privacy and Security of Consumer and Employee Information Conference

1.8.2013

ABA Privacy and Security Update

2.2.2012

11th Annual Privacy and Security of Consumer and Employee Information Conference

10.14.2011

3rd Annual ANCOR Technology Leadership Summit: Technology Solutions for Tough Times

Presented by the American Network of Community Options and Resources

3.9.2011

Protecting Privilege in Corporate Communications and Internal Investigations

3.10.2010

Webinar: Can I get sued for what my employees blog about?

12.14.2009

Compliance with Privacy and Data Security Obligations: How to Avoid Liability

Presented by the Columbus Bar Association

8.5.2009

The Summit on IT Governance, Risk and Compliance

Presented by the MIS Training Institute

## Cyber Security

Vorys has helped clients respond to some of the earliest and largest data breach incidents in the U.S. over the past two decades. We leverage our experience to help clients across a wide array of industries to proactively prepare for future incidents and to comply with the growing contractual and regulatory cybersecurity obligations that impact companies of all sizes.

Our cyber lawyers work with clients on a full range of customized services that can be provided on a predictable, fixed fee basis. Whether it is AI, biometric, block chain, drone or cloud-based implementations, we help clients evaluate cutting edge solutions against potential privacy and security issues. We routinely advise clients on developing comprehensive data security strategies that are consistent with their contractual and regulatory obligations.

Our work also includes:

- Working with IT experts to conduct risk and gap assessments of companies' cyber posture
- Developing written information security programs, policies, and procedures
- Mapping the collection, use, sharing, and disposal of regulated data
- Developing compliant data retention schedules
- Evaluating contractual relationships with IT and cybersecurity vendors and service providers
- Developing incident response plans, including internal and external communications plans
- Conducting customized training and tabletop exercises for executives, senior management, and other personnel
- Negotiating contractual protections for vendor and service provider agreements
- Advising on protective security enhancements, such as tokenization and point-to-point encryption
- Evaluating cyber insurance policies and other cyber risk mitigation techniques
- Working with your cyber insurance carrier on coverage of preferred vendors in advance of an incident

## Tabletop Trainings

Preparing for a data breach is an essential element to any cybersecurity strategy, particularly now that some incidents are required to be reported to certain regulators **within hours** of discovery. We train our clients' directors, executives, and employees on relevant privacy and information security issues and use tabletop exercises that simulate crisis situations to test plans, identify potential gaps and develop muscle memory to position clients' incident response teams to efficiently and effectively manage future incidents.

We customize our tabletop exercises based on our clients' goals, which often include:

- **Introducing Response Plans:** educate and train stakeholders on their roles and responsibilities when a data breach occurs
- **Testing Response Plans:** simulate how a particular department or the entire enterprise adheres to existing incident response plans, including internal information security teams and third-party vendor investigations of potential incidents

- **Refining Response Plans:** identify gaps in a response plan and modify it to facilitate improvements

### WHAT TO EXPECT

Prior to a tabletop exercise, we thoroughly vet which participants to include in the simulation, we ask questions that allow us to maximize our customization of the program and fit the exercise to the organization's IT environment.

### THE EXERCISE

The objectives of our exercises are three-fold:

- We observe your incident response plan in action and discuss revisions
- We consider appropriate roles and responsibilities for each of the participants involved
- We document, discuss and share the lessons we have collectively learned to make appropriate changes

Although completely customizable, our exercises operate under the guidance that all key stakeholders must participate and respond to the scenario as if it is a real event, and participants must help create an environment in which all questions and input are welcome.

Vorys regularly partners with technical experts and moderators to facilitate realistic exercises based on current threats and often records training sessions to track issues as we progress through the exercise.

### GROUP DISCUSSION

After each exercise, we facilitate a discussion covering lessons learned and recommended changes.

Questions discussed may include:

- Who are the stakeholders who need to be included in incident response?
- Does the client's insurance policy require notification of potential events in a certain timeframe and/or use of certain vendors?
- Are there other parties that would require notice of a potential event?
- Have all stakeholders been trained on invoking attorney-client privilege?
- What is the organization's risk tolerance in these scenarios?
- What are the appropriate escalation protocols, including escalation to senior management and the board?
- Is the organization fully aware of its potential legal obligations in these situations?
- How can the organization best protect itself during these crises?

After a tabletop exercise is completed, we produce specific deliverables as discussed with each client, which typically include detailed recommendations to strengthen incident response plans.

## Incident Response & Litigation

Vorys' cyber lawyers and crisis management professionals regularly assist clients. This includes providing legal strategy, privileged and non-privileged investigations and support, and assisting clients with media relations issues surrounding data breaches and cybersecurity incidents. Your organization may have legal obligations to report an incident **within hours** of its discovery. Our team is available 24/7 through Vorys' **emergency hotline at (833) 525-2100**.

## Data Breach Litigation and Investigations

Vorys has more than 20 years of experience leading data breach response efforts and related litigation that have helped define standards subsequently applied by courts across the country.

Our experience includes leading cases that have addressed issues of first impression in privacy litigation, such as standing to sue, the existence of cognizable injury, causation and the ability of plaintiffs to expand traditional common law claims and defined statutory causes of action.

In a number of cases, our efforts have resulted in the dismissal of claims and the defeat of class certification before costly discovery was required. In cases where classes are certified, Vorys mobilizes its **nationwide bench of trial and appellate lawyers** to represent clients in state and federal courts across the country. Serving as national counsel in **multidistrict litigation (MDL)**, we use the U.S. Judicial Panel on Multidistrict Litigation process to coordinate cases pending in multiple federal courts, avoid duplication and reduce defense costs.

Our attorneys have represented clients before the **FTC and multi-state attorneys general in investigations** of data breaches, assisted in concluding investigations without further action and, when necessary, negotiated the resulting consent decrees and advised on compliance obligations imposed by those agreements.

Our experience also includes defending merchants and their banks who are sued in the wake of data breach incidents by consumers, banks that have issued credit cards, state attorneys general and other parties. We have a long track record for successfully taking on the payment card industry to reduce clients' financial burdens and set precedents that help future victims.

## Representative Experience

- Representing payment processors in data breach cases of first impression in the First, Third and Fifth U.S. Circuit Courts of Appeals – each resulting in precedent-setting opinions that are largely upheld today
- Representing one of the nation's largest financial institutions in litigation stemming from one of the largest-ever data breaches, which involved the reported theft of nearly 50 million payment cards from a group of T.J. Maxx stores
- Advising a large university and its special response committee in responding to a data breach involving 700,000 individuals

- Guiding a restaurant chain through a data breach and working with a forensic investigator to identify the cause of the breach involving approximately one-third of its locations, resulting in the significant reduction of loss assessments by payment card brands
- Conducting a multiyear desktop incident response training for an international energy company and amending its incident response plans
- Representing a national food and beverage chain before the FTC during a data breach investigation and negotiating consent decrees with no monetary liability to our client
- Persuading a judge to dismiss claims brought by a proposed class of shoppers – before significant discovery occurred – in a consolidated multidistrict litigation (MDL) alleging harm when hackers installed malicious software on a national grocer's in-store payment-processing network