



McINNES COOPER	National Privacy Services Inc.
 	<h1>Privacy and Security of Personal Information</h1> <h2>HTCIA Halifax Conference 2004</h2>
Available online at <a href="http://www.privacylawyer.ca/privacy/htcia.pdf">http://www.privacylawyer.ca/privacy/htcia.pdf</a> .	

McINNES COOPER	National Privacy Services Inc.
<h2>What is Privacy?</h2> <ul style="list-style-type: none"><li>■ <b>Has been characterised as the right to be left alone, to be secure in one's home and free from unwanted interference</b></li><li>■ <b>In the context of the new law, privacy means having control over one's personal information</b><ul style="list-style-type: none"><li>• Choice of whether to disclose information at all</li><li>• Control over with whom it is shared</li><li>• Control over how it is used</li><li>• Don't lose control once you've released your information "into the wild"</li></ul></li></ul>	
<p><a href="http://www.privacylawyer.ca/privacy/htcia.pdf">http://www.privacylawyer.ca/privacy/htcia.pdf</a></p> <p>2</p>	

## History of Privacy Laws

- Public sector laws dated back 20+ years
  - *Privacy Act* – protection of personal information held by federal government
  - *Freedom of Information and Protection of Privacy Act (NS)* – protection of personal information held by the provincial governments
- No private sector laws until recently
  - Only Quebec - 1994!
  - Now Alberta & British Columbia
- According to surveys, one significant impediment to widespread adoption of electronic commerce has been consumer privacy.
- Part of the federal government's e-commerce agenda, but not limited to online activities

<http://www.privacylawyer.ca/privacy/htcia.pdf>

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## Privacy - PIPEDA

- **PIPEDA is implemented in a unique way that demonstrates its unusual constitutional position.**
  - Property and civil rights in a province are part of **provincial** jurisdiction.
  - Privacy is a civil right.
  - But commerce is inter-provincial, international, inter-jurisdictional.
  - Some constitutional scholars say it is unconstitutional.
  - Government decided on a phased-in implementation.

<http://www.privacylawyer.ca/privacy/htcia.pdf>

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## Privacy - PIPEDA

- ***Personal Information Protection and Electronic Documents Act***
  - First attempt by the federal government to impose privacy standards on the **private sector**
  - **Public sector** was already covered by the federal *Privacy Act*
  - Represents a huge change from previous *laissez faire*, self-regulation model

<http://www.privacylawyer.ca/privacy/htcia.pdf>

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## Privacy - PIPEDA

- **Phased in application**
  - 1 January 2001 - Federal Private Sector
    - Telecommunications, railways, air travel, shipping, credit bureaus, banks
  - 1 January 2004 - Provincial Private Sector
    - The rest of the economy
- **Exemption if provincial government steps in and passes legislation that is declared to be “substantially similar”**
  - Quebec, Alberta and British Columbia

No such legislation in Atlantic Canada –  
none anticipated

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## PIPEDA – Purpose

3. The purpose of this Part is to establish, in an era in which technology increasingly facilitates the circulation and exchange of information, rules to *govern the collection, use and disclosure of personal information* in a manner that recognizes the right of privacy of individuals with respect to their personal information and the need of organizations to collect, use or disclose personal information for purposes that a reasonable person would consider appropriate in the circumstances.

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## Privacy - PIPEDA

- **Addresses “personal information” – information about an identifiable individual:**
  - **NOT** name, title, business address or telephone number of an employee or organization
  - Would include name, address, income, health information, demographics, preferences, birth date, SIN, customer numbers, unique identifiers
- **Also includes information that may be traced back to an individual**

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McINNES COOPER	National Privacy Services Inc.
<h2>Privacy Principles</h2> <div><div><p>■ <b>Based on the principles of the Canadian Standards Association Model Code for the Protection of Personal Information:</b></p></div><div><ol style="list-style-type: none"><li>1. <b>Accountability</b></li><li>2. <b>Identifying purposes</b></li><li>3. <b>Consent</b></li><li>4. <b>Limiting collection</b></li><li>5. <b>Limiting use, disclosure and retention</b></li><li>6. <b>Accuracy</b></li><li>7. <b>Safeguards</b></li><li>8. <b>Openness</b></li><li>9. <b>Individual access</b></li><li>10. <b>Challenging compliance</b></li></ol></div></div> <div><p><a href="http://www.privacylawyer.ca/privacy/htcia.pdf">http://www.privacylawyer.ca/privacy/htcia.pdf</a></p><p>9</p></div>	

McINNES COOPER	National Privacy Services Inc.
<h2>Principles</h2> <ol style="list-style-type: none"><li>1. <b>Accountability</b> - an organization is responsible for personal information under its control and shall designate an individual or individuals who are accountable for the organization's compliance with the principles contained in the Canadian Standards Association model code for the protection of personal information. <p>Must appoint a privacy officer</p></li><li>2. <b>Identifying Purposes</b> - the purposes for which personal information is collected shall be identified by the organization at or before the time the information is collected. <p>Must tell people why you are collecting their information</p></li><li>3. <b>Consent</b> - the knowledge and consent of the individual are required for the collection, use or disclosure of personal information, except where inappropriate. Form of consent is dependent upon the sensitivity of the information <p>Must get consent for the collection, use and/or disclosure of PI</p></li></ol> <div><p><a href="http://www.privacylawyer.ca/privacy/htcia.pdf">http://www.privacylawyer.ca/privacy/htcia.pdf</a></p><p>10</p></div>	

## Principles

4. **Limiting Collection** - the collection of personal information shall be limited by that which is necessary for the purposes identified by the organization. Information shall be collected by fair and lawful means.

Can only collect information that is necessary

5. **Limiting Use, Disclosure, and Retention** - Personal information shall not be used or disclosed for purposes other than those for which it was collected, except with the consent of the individual or as required by law. Personal information shall be retained only as long as necessary for the fulfilment of those purposes.

Can only use information for the purposes identified. Can only keep information for as long as necessary for those purposes.

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## Principles

6. **Accuracy** - Personal information shall be as accurate, complete, and up-to-date as is necessary for the purposes for which it is to be used.

Information should be as accurate as necessary for the purposes identified

7. **Safeguards** - Personal information shall be protected by security safeguards appropriate to the sensitivity of the information.

Must protect personal information against all risks.

8. **Openness** - An organization shall make readily available to individuals specific information about its policies and practices relating to the management of personal information.

Must have a privacy policy and make it available to anyone who asks.

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## Principles

9. **Individual Access** - Upon request, an individual shall be informed of the existence, use, and disclosure of his or her personal information and shall be given access to that information. An individual shall be able to challenge the accuracy and completeness of the information and have it amended as appropriate.

Must provide timely access to all an individual's personal information, unless subject to an exception.

10. **Challenging Compliance** - An individual shall be able to address a challenge concerning compliance with the above principles to the designated individual or individuals accountable for the organization's compliance.

Must have a mechanism to deal with complaints....  
It's your last chance to avoid a formal complaint.

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## Does it apply to you?

- **PIPEDA, s. 4(1):**
  - “... applies to every organization in respect of personal information that
    - (a) the organization collects, uses or discloses in the course of commercial activities; or
    - (b) is about an employee of the organization and that the organization collects, uses or discloses in connection with the operation of a federal work, undertaking or business.”

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## Does it apply to you?

- **“... in the course of commercial activities...”**
  - Defined in the Act to mean:

“any particular transaction, act or conduct or any regular course of conduct that is of a commercial character, including the selling, bartering or leasing of donor, membership or other fund raising list”
  - Subject is the **“transaction, act or conduct”**, not the whole enterprise
  - You can be non-profit, but engage in some commercial activities under the Act
    - E.g. universities operating bookstores, health clubs, etc.

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## What about employees?

- PIPEDA only applies generally to employee information in the federally-regulated private sector
- Employee information is only covered in the provincially-regulated private sector if it is used in a commercial way
- But, employees likely believe that the law protects them and expect you to protect their privacy

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## Consequences

- **Individual (not just customer!) can make a written complaint to the Privacy Commissioner (s. 11).**
  - Commissioner may initiate a complaint of her own accord.
  - Commissioner investigates the complaint
  - Powers in s. 12(1): Compel evidence, administer oaths, accept any evidence whether ordinarily admissible (or not), enter any premises other than a dwelling, review documents, etc.
- **Commissioner's Report**
  - To contain findings and recommendations, whether there was a settlement
  - Commissioner can decline to issue a report if the complainant has other recourse available

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## Consequences

- **Court hearing**
  - A complainant (*not the organization*), after receiving the Commissioner's report, may apply to the Federal Court – Trial Division for a hearing.
- **Court's remedies include:**
  - Order the organization to correct its practices in order to comply with ss. 5-10 of the Act;
  - Order the organization to publish a notice of actions taken to correct its practices; and
  - Award damages, including damages for humiliation the complainant may have suffered.

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## Not just a technology issue ...

- **Employees are often the weak link**
- **Make sure that personal information is compartmentalized and is not open to abuse by staff**
- **Need to be on guard for “social engineering”, too.**
- **Staff need to verify the identity of people who are getting their own information.**

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**Security and  
Privacy in  
Detail**

## What PIPEDA says ...

### 4.7 Principle 7 -- Safeguards

Personal information shall be protected by security safeguards appropriate to the sensitivity of the information.

#### 4.7.1 The security safeguards shall protect personal information against

- loss or theft, as well as
- unauthorized access,
- disclosure,
- copying,
- use, or
- modification.

Organizations shall protect personal information regardless of the format in which it is held.

#### 4.7.2 The nature of the safeguards will vary depending on the sensitivity of the information that has been collected, the amount, distribution, and format of the information, and the method of storage. More sensitive information should be safeguarded by a higher level of protection. The concept of sensitivity is discussed in Clause 4.3.4.

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## What PIPEDA says ...

### 4.7.3 The methods of protection should include

- (a) physical measures, for example, locked filing cabinets and restricted access to offices;
- (b) organizational measures, for example, security clearances and limiting access on a "need-to-know" basis; and
- (c) technological measures, for example, the use of passwords and encryption.

### 4.7.4 Organizations shall make their employees aware of the importance of maintaining the confidentiality of personal information.

### 4.7.5 Care shall be used in the disposal or destruction of personal information, to prevent unauthorized parties from gaining access to the information (see Clause 4.5.3).

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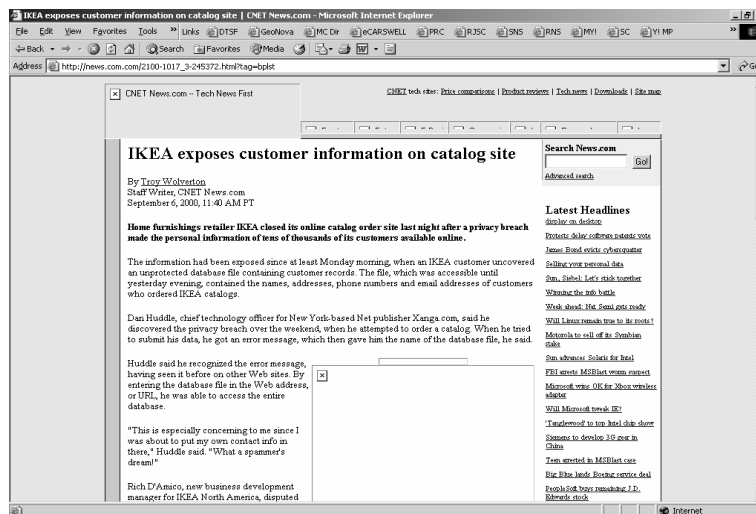
## What does “sensitive” mean?

- Not defined in PIPEDA, but some examples are given:
  - “Although some information (for example, medical records and income records) is almost always considered to be sensitive, any information can be sensitive, depending on the context. For example, the names and addresses of subscribers to a newsmagazine would generally not be considered sensitive information. However, the names and addresses of subscribers to some special-interest magazines might be considered sensitive.”
- Use common sense and “risk management” concepts.
- Think about the context:
  - Your name on a list of people who went to a Mooseheads game (probably not sensitive)
  - Your name on a list of people who are being treated by a psychiatrist (sensitive)

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## Security



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Victoria's Secret customers exposed - Microsoft Internet Explorer

Address: http://www.msnbc.com/news/840596.asp?cp1=1

MSNBC NEWS

Technology & Science  
HACKS, VIRUSES & SCAMS

Victoria's Secret customers exposed  
Glitch at Web site reveals who ordered what in some cases

Order Information  
Order Number: 1145050002  
Order Date: 11/05/02  
Ship Date: 11/05/02  
Ship Method: UPS Ground  
View all orders

Billing Address  
VERNON HILL, IL 60061 US

Item	Item Description / Color	Size	Qty	Ordered	Unit Price	Qty	Ship	Total Price
4F-100317	High-cut brief Midnight silk	M	1		\$7.00	1		\$7.00
4F-100317	High-cut brief Midnight silk	M	1		\$7.00	1		\$7.00
4F-100317	High-cut brief Midnight silk (2x2)	M	1		\$7.00	1		\$7.00
4F-101005	Lightly lined full coverage bra White 32C	34D	1		\$30.00	1		\$30.00
4F-100414	Seamless plunge push-up bra Vanilla cream (40D)	34D	1		\$30.00	1		\$30.00
4F-100142	Seamless demi bra White	34D	1		\$24.00	1		\$24.00

Many orders at the Victoria's Secret Web site were exposed to all customers until Friday morning, when the company shut down part of its site.

By Bob Sullivan  
MSNBC

Nov. 27 — A glitch at the Victoria's Secret Web site allowed customers who purchased items

Opening page http://www.msnbc.com/news/840596.asp?cp1=1...

http://www.privacylawyer.ca/privacy/htcia.pdf

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CNN.com - Hacker exposes financial data at Georgia Tech - March 20, 2002 - Microsoft Internet Explorer

Address: http://www.cnn.com/2002/TECH/Internet/03/20/georgia.tech.hack.idg/

CNN.com / SCI-TECH

Hacker exposes financial data at Georgia Tech

March 20, 2002 Posted: 8:40 a.m. EST (1340 GMT)

By Brian Sullivan



(IDG) -- State and federal authorities are investigating a hack into a computer server at the Atlanta-based Georgia Institute of Technology (Georgia Tech) last week.

An undetermined number of employee financial records and university credit card numbers could have been exposed when the server was hacked last week, institute spokesman Bob Hardy said Monday afternoon.

The university has created a special Web site for employees and other members of the community explaining what to do to protect themselves, although Hardy stressed that no student or alumni records were exposed in the attack.

The server that was hacked into contained reimbursement records for employees, some of which contained credit card information, and the records for university credit accounts used to pay for "petty cash" type purchases by nonmerchandise departments, for transactions.

From COMPUTERWORLD  
At 10:16 a.m. EST

SAVE THIS EMAIL THIS PRINT THIS MOST POPULAR

IDG.net INFOCENTER

- Computerworldman page
- Computerworldlogic

Done, but with errors on page.

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The screenshot shows the NZCity website in a Microsoft Internet Explorer browser window. The address bar displays 'http://home.nzcity.co.nz/news/default.asp?id=34796&c=w'. The page features a navigation menu on the left with categories like 'Top Stories', 'Business', 'Sports', 'Politics', 'Health & Safety', 'Technology', 'Education', 'Lifestyle & Travel', 'Entertainment', 'Motoring', 'Environment', 'National', 'International', 'Accidents', 'Māori', 'Rural', and 'Local Politics'. The main content area displays a news article titled 'Human error blamed for privacy breach' dated 1 September 2003. The article text states: 'Bruce Slane Privacy Commissioner satisfied 2 cases of patient info being left in disused buildings due to human error. The Privacy Commissioner has released the findings of two reports into separate cases of patient information being left behind at disused hospital buildings in Auckland and Christchurch. Bruce Slane says in both cases they were isolated events that were the result of human error. But he is concerned private hospitals have to make their own arrangements for the storage of patient records. The Hospitals Act says patient documents from disused hospitals should be sent to the Ministry of Health. However the ministry says it does not have room for all of them.' The article is attributed to '© 2003 NZCity, IRN'. A sidebar on the right contains a 'SEARCHNZ' section and a 'SPONSOR' section with a list of services like 'New Zealand', 'Auckland', 'Wellington', 'Christchurch', etc. The browser's status bar at the bottom shows the URL 'http://data.webads.co.nz/webad.asp?act=C&type=1&site=148&id=news&page=news&aid=1&entry=237957303&c=w'.

<http://www.privacylawyer.ca/privacy/hcia.pdf>

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The screenshot shows the Virtual Medical Worlds (VMW) website in a Microsoft Internet Explorer browser window. The address bar displays 'http://www.house.com/vmw/articles/vmw/V-M-04-99-18.html'. The page features a navigation menu on the left with links like 'Talk to us' and 'Back to TOC'. The main content area displays an article titled 'Medical patient records unintentionally released for anyone to see on the Internet' dated 'Ann Arbor 10 Feb 99'. The article text states: 'Merely by chance, an unsuspecting student at the University of Michigan discovered that thousands of patient records at the University's Medical Center had been left exposed to the public on the Internet. How such a breach could occur can be explained by the fact that computer staff at the Medical Center was trying to solve the bugs in a software programme installed by HBOC, a hospital information systems' provider headquartered in Minneapolis. In order to offer the HBOC experts access to the medical patient records, the University people decided to put the data on a special server which everybody presumed to be protected with special passwords. The student who preferred to remain anonymous, ran into the computer records which had been used a medical center.' The browser's status bar at the bottom shows the URL 'http://data.webads.co.nz/webad.asp?act=C&type=1&site=148&id=news&page=news&aid=1&entry=237957303&c=w'.

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CBC News: Private data unveiled on Aeroplan site - Microsoft Internet Explorer provided by McInnes Cooper

File Edit View Favorites Tools Help

Address http://www.cbc.ca/stories/2003/07/28/Consumers/Aeroplan\_030728

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CBC News

WIRELESS MAIL NEWS FREE HEADLINES LIVE RADIO NEWSCASTS

NEWS BUSINESS SPORTS WEATHER CONSUMERS ARTSCANADA KIDS FORUMS CBC ARCHIVES ON-AIR GUIDE CONTACT US SHOPS & SERVICES CBC CORPORATE RADIO-CANADA

Private data unveiled on Aeroplan site  
Last Updated Mon, 28 Jul 2003 12:24:42

MONTREAL - Members of Aeroplan, Air Canada's frequent flyer program, had personal information made available on the program's Web site over the weekend.

A glitch on the site allowed people to view profiles of other members including the person's home address, phone numbers, date of birth, the balance on their account and number of reward flights taken.

Credit card numbers and Web site passwords were not revealed.

Aeroplan has six million members. The airline did not indicate how many members had their account breached.

Air Canada called it a technical problem and not the work of hackers.

Some Aeroplan members who were aware of the breach called up the airline. It took two hours before

EXTERNAL LINKS

Aeroplan

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NATIONAL POST - Microsoft Internet Explorer

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NP BUSINESS MAGAZINE

SEASON-BIGLINE - STORY

Bell breach makes cell client's life a 'living hell'  
Call records released to estranged wife

David Menzies  
Financial Post

Saturday, September 27, 2003

What is the cost of a flagrant breach of privacy by a service supplier resulting in embarrassment, humiliation, aggravation and lost time from work? As far as Bell Mobility is concerned, \$300 plus some free cellular airtime.

At issue: A nasty divorce and leaked telephone records. When Kevin, a 35-year-old Mississauga, Ont., resident, began divorce proceedings against his estranged wife last year, he says his soon-to-be ex was determined to make the split as messy as possible. And because his cellular phone service provider breached its own privacy policy, his spouse's goal was far more easily accomplished.

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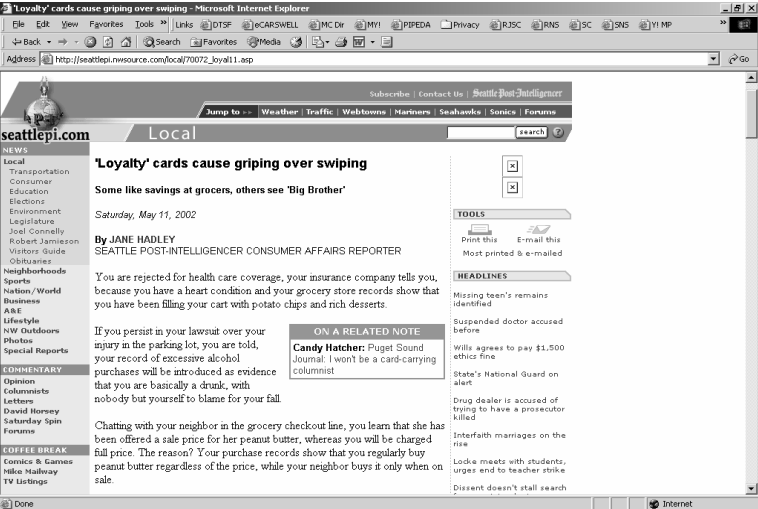
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David Fraser - 902 424 1347

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Address http://www.itbusiness.ca/index.asp?theaction=61&id=61672

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Wednesday, October 01, 2003

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B.C.'s Ministry of H.R. reviews security after server theft

3/12/2003 5:00:00 PM - Management Services prepares to take over IT infrastructure

by Neil Sutton

A plan to centralize the management of IT infrastructure in the government of B.C. is under serious review after a server theft from a Ministry of Human Resources office building.

The server, along with eight laptops, was stolen the night of Feb. 5 from a two-storey Coquitlam, B.C., office. According to ministry spokesman Richard Chambers, the server contained names, addresses, social insurance numbers, and financial information. That information belongs to 568 income assistance clients who receive welfare cheques and a number of ministry staff.

According to Corp. Pierre Lamaitre of the RCMP's Coquitlam office, eight office doors were kicked down and the alarm and phone lines had been cut. This followed a similar break-in the previous evening, but nothing had been stolen. Lamaitre said the criminals were likely testing the building's security.

On March 7, the ministry sent letters out to the affected people warning them to be vigilant and take on their financial records and protect anything not

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Technology in  
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Communications  
and Networking  
Direction  
Information  
IT Business Report

hp

Deploy voice, video and data over a single network

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October 14, 2004

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reunion

How Have Your Friends Changed?

Choose Your High School State:

UNITED STATES

Go

MEMBER CENTER

Create Account

Log In

Confidential Medical Records Found in Dumpster Behind Building

Small to a Friend

Print Friendly Version

October 15th, 2004

Suspected burglars at the Community Counseling Center (CCC) found boxes of confidential files exposed. **Dave J. Rosenbloom, owner of the CCC, says he was shocked when he found the files.** Counseling center staff were shocked when he found them dozens upon dozens of private files in a side open dumpster behind their building. They recovered everything, then called police to find out who would want to hurt those in the business of helping.

On the inside, the signs of respecting privacy and confidentiality are everywhere. But just outside the Community Counseling Center near Sahara and Maryland Parkway, we discovered a serious violation of that privacy. "Social Security numbers, telephone numbers, address, psychological testing results."

People come here for mental help to cope with AIDS and overcome addictions. Often, inmates are referred for mandated treatment programs. They disclose very private, personal, sometimes painful information never intended to be made public, as noted by this man who asked not to be identified.

"People in these counseling programs and going through these GUT programs are already starting off from a bad place," which could have been much worse had we not discovered these files after receiving a tip. Not knowing who was at fault, we went on to ask some questions.

"I'm Dave Spears from Channel 3. I'm looking to talk to someone about all the confidential files that someone tossed out in the dumpster back there, not shredded."

"Confidential files?"

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DOCTORATES DEGREES

More

The Future is Online

Start Your Now!

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The screenshot shows a CNET News.com article from June 15, 2004. The headline is 'UCLA laptop theft exposes ID info'. The article reports that representatives of the University of California, Los Angeles, are warning 145,000 blood donors that their information could be at risk due to a stolen university laptop. The article mentions that the laptop contained a database with names, birth dates, and Social Security numbers. It also includes a quote from Dr. Priscilla I. Figueroa, director of the university's Division of Transfusion Medicine, expressing regret over the incident and hope for continued blood donations. The article is categorized under 'Security >> Privacy & data protection'.

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The screenshot shows a Yahoo! News article from December 10, 2003, titled 'Customer Data Was on Stolen PC, Wells Fargo Says'. The article reports that Wells Fargo & Co. (NYSE:WFC) said on Friday it had offered a \$100,000 reward for information leading to the arrest and conviction of the burglar who stole a bank consultant's computer that had sensitive customer information on it. The article includes a table of related quotes and a section titled 'Get Quotes' with a disclaimer. The article is categorized under 'Technology - Reuters'.

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For sale: memory stick plus cancer patient records

The Register - Microsoft Internet Explorer

Address: http://www.theregister.co.uk/2003/03/14/for\_sale\_memory\_stick\_plus/

Google: patient privacy incident

Links: blog bugme.net DTSF eCARSWELL MCOW MYI PIPEDA PRC RJSC RNS SC SNS Word YI MP

The Register > Security

For sale: memory stick plus cancer patient records

By John Leyden

Published Friday 14th March 2003 09:45 GMT

Health bosses in Lancashire are facing awkward questions after confidential medical records of 13 cancer patients found their way onto a portable memory stick, which was repackaged and sold as new to a Crewe estate agent.

Investigations into the leak of the medical records of 13 patients are continuing, the *Bolton Evening News* reported yesterday. Meanwhile hospital chiefs are trying to restore confidence by vowing to take steps to make sure that such a serious security breach can never happen again.

Graham Fullerton, the Royal Bolton Hospital's data protection manager, told the paper that there would be a "full review" of hospital procedures, which will likely result in a ban on portable storage devices.

"Using memory sticks is unusual and unorthodox. We don't want people to cart information like this around," he said.

"We are treating this with the utmost gravity. It is a serious incident. There has to be additional security put in place to make sure this situation is not repeated.

Police involvement in the incident is dependent on the results of the hospital's own internal investigation.

An early picture of what happened and when has emerged, but there are still plenty of blanks in the story to fill in.

It seems medical records of patients (dating back to 1999) were copied from a hospital PC onto a portable memory stick. We don't know who did this.

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## Consequences

- **A company can be liable for all losses related to a breach of security or misuse of personal information**
- **Identity theft is expensive and if you leaked the info, you can be on the hook**
- **You can also be on the hook for embarrassment the individual may suffer**

<http://www.privacylawyer.ca/privacy/htcia.pdf>

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## Privacy and Security of Personal Information

HTCIA Halifax  
Conference  
2004

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