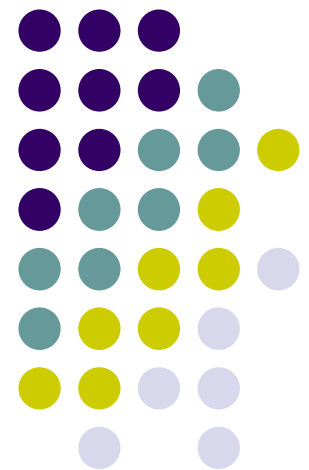


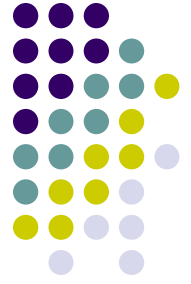
NC's Identity Theft Protection Act

What Does it Mean for Local Health
Departments?

Jill Moore
UNC Institute of Government

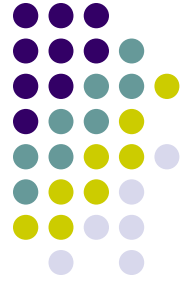


Two Issues



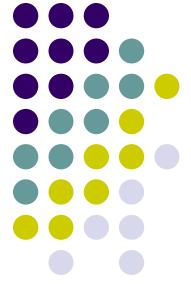
- Managing security breaches
- Collection and use of SSNs

Security Breaches



- If a state or local government agency experiences a security breach (as defined by law), the agency must notify people affected by the breach and take other specified actions.

What constitutes a security breach?

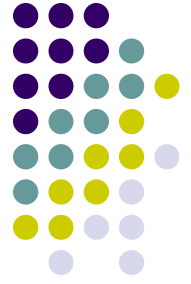


- “An incident of unauthorized access to and acquisition of unencrypted and unredacted records or data containing personal information where illegal use of the personal information has occurred or is reasonably likely to occur or that creates a material risk of harm to a consumer. ...”

What constitutes a security breach?



- Someone obtains unauthorized access and acquires records or data
- The records contain unencrypted and unredacted “personal information”
 - First name or initial and last name, PLUS
 - SSN or taxpayer ID number; DL, state ID or passport number; financial account numbers; etc.
- One of the following applies:
 - Illegal use of info has occurred
 - Illegal use of info is likely to occur
 - Incident creates material risk of harm to consumer



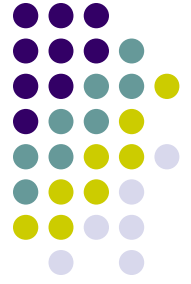
Example 1

- Local health department inadvertently sends bills to wrong patients. John Doe gets Mary Smith's bill, and so forth. Each bill contains patient's first and last name, address, date(s) of service at health department, and amount owed.



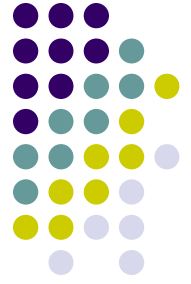
Example 1

- Local health department inadvertently sends bills to wrong patients. John Doe gets Mary Smith's bill, and so forth. Each bill contains patient's first and last name, address, date(s) of service at health department, and amount owed.
- Unauthorized access/acquisition to data/records?
 - Yes – Mr. Doe not supposed to see Ms. Smith's bill.
- Unencrypted/unredacted personal information?
 - No – Information in bill does not meet Act's definition of "personal information." No SSNs, no financial account numbers, etc.



Example 2

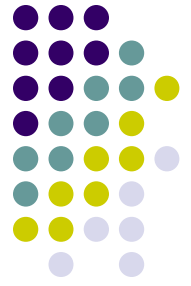
- Local health department inadvertently sends bills to wrong patients. Each bill contains patient's first and last name, address, date(s) of service at health department, SSN, and amount owed.



Example 2

- Local health department inadvertently sends bills to wrong patients. Each bill contains patient's first and last name, address, date(s) of service at health department, SSN, and amount owed.
- Unencrypted/unredacted personal information?
 - Yes, because of the SSN.
 - Must continue to next question →
- Has illegal use happened, is it likely to happen, or is there other material risk of harm to consumer?
 - Strongly recommend you call your lawyer at this point.

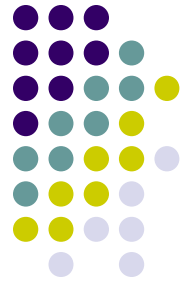
Some* of the ways personal information can be used illegally



- To make false IDs
- To obtain goods or services using another person's financial account numbers
- To forge or counterfeit checks, other financial documents or financial transaction cards
- To use another person's identity for various purposes, such as to obtain employment
- To traffic in stolen identities

*Not an exhaustive list (not even close)

What must you do to respond to a security breach*?



- Determine (and document) scope of the breach
- Restore the security and confidentiality of the data system (and document what you did)
- Notify affected person(s) that there has been a security breach (more on next slide)
- If you have to notify more than 1000 people, must also notify AG and consumer reporting agencies

*Caveat: Still talking only about duties under NC ID Theft Protection Act—may be duties under other laws as well.

More on notifying affected persons



- Must notify without unreasonable delay, unless law enforcement says wait
- Contents of notice:
 - Description of incident
 - Type of personal information involved
 - Agency's actions to prevent further unauthorized access or acquisition
 - Telephone number to call for more info
 - Statement advising person to remain vigilant

More on notifying affected persons (cont.)

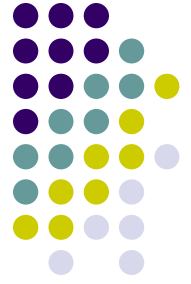


- Method of notice:
 - Written always allowed and likely best choice.
 - Electronic or telephonic allowed in limited circumstances.
 - May give “substitute notice” by posting on website and notifying media if:
 - Notification will cost more than \$250,000, or
 - Must notify more than 500,000 people, or
 - Cannot identify all affected persons or do not have sufficient contact information to provide written, electronic, or telephonic notification



Back to Example 1

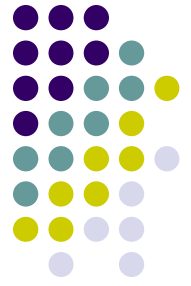
- Local health department inadvertently sends bills to wrong patients. John Doe gets Mary Smith's bill, and so forth. Each bill contains patient's first and last name, address, date(s) of service at health department, and amount owed.
- No security breach under ID theft act, but are there other reasons to be concerned?



SSN Review & Update

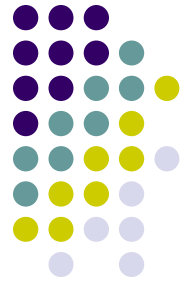
- Local health departments may not require any person to provide a SSN.
- LHDs still collecting SSNs from those who will give them voluntarily, because:
 - Unique identifier necessary to performance of legally prescribed duties and SSN presently the only available unique identifier
 - Some laws specifically allow LHDs to ask for (but not require) SSNs

By Dec. 1, 2005, LHDs were supposed to:

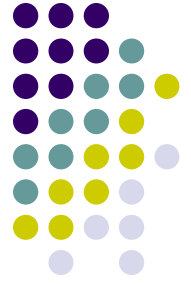


- Document their permission to collect SSNs
- Provide the following information to individuals whose SSNs are collected:
 - Notification that provision of SSN is voluntary
 - Statutory or other authority for asking for SSN
 - Use(s) that will be made of the SSN
- Prepare, and provide on request, written statement of the purpose(s) for which SSNs are collected
- Refrain from using SSNs for any other purpose(s)
- Segregate the SSN from the rest of the record

By July 1, 2007, LHDs must stop:



- Printing an individual's SSN on any materials that are mailed to the individual
- Printing or imbedding SSNs on any cards given to clients to access services
- Requiring individuals to transmit unencrypted SSNs over the Internet
- Requiring individuals to use SSNs to access an Internet website, unless a password, PIN, or other authentication is also required



More SSN Information

- If you need the November 2005 SSN documents, send an e-mail to moore@sog.unc.edu
- Watch phleaders for updated information, including obligations effective July 1, 2007