

Virginia Privacy Laws



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Outline

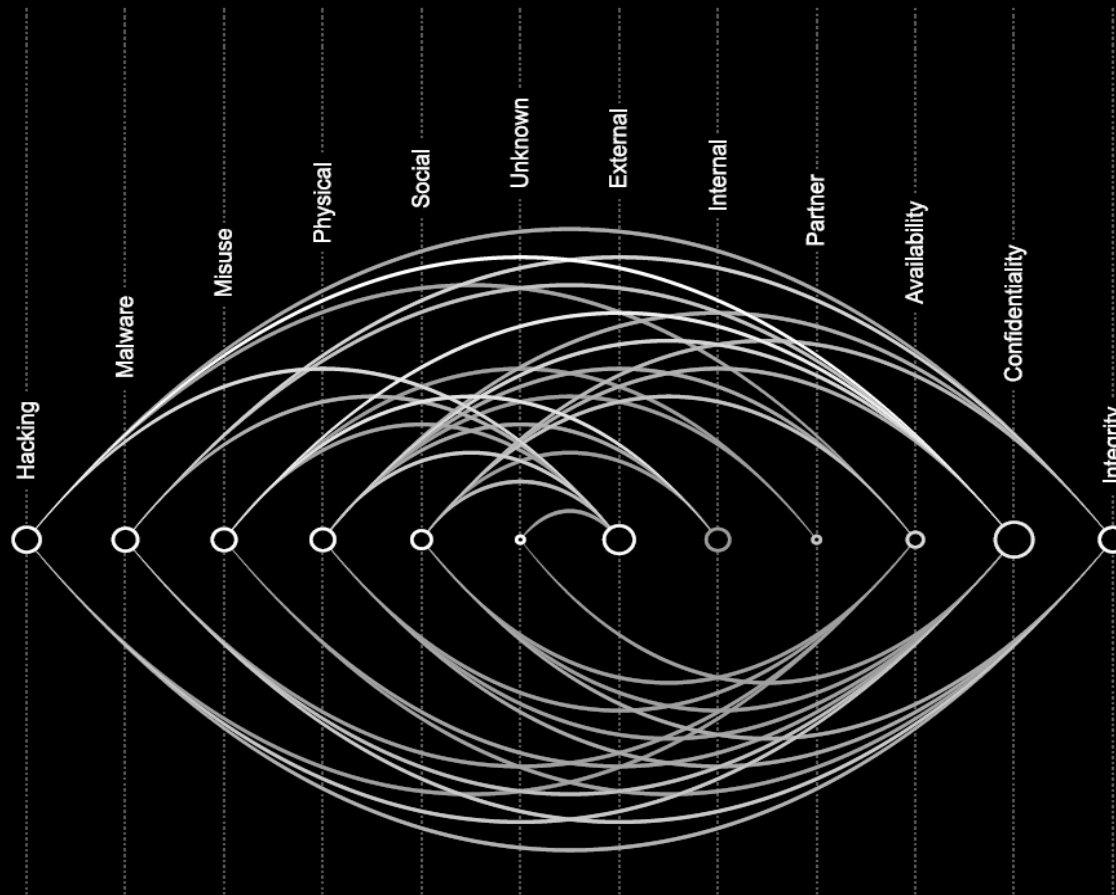
- Database Breaches
- Identity Theft
- Phishing
- Computer Trespass
- Computer Fraud

Database Breaches





2018 Data Breach Investigations Report


11th edition





Who's behind the breaches?


73% 
perpetrated by outsiders

28% 
involved internal actors

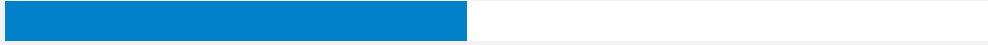
2% 
involved partners


2% 
featured multiple parties


50% 
of breaches were carried out by organized
criminal groups


12% 
of breaches involved actors identified as nation-state or
state-affiliated


What tactics are utilized?


48% 
of breaches featured hacking

30% 
included malware


17% 
of breaches had errors as causal events

17% 
were social attacks

12% 
involved privilege misuse

11% 
of breaches involved physical actions

Who are the victims?

24% 

of breaches affected healthcare organizations

15% 

of breaches involved accommodation and food services

14% 

were breaches of public sector entities

58% 

of victims are categorized as small businesses

Database Breach Laws

- 50 State Laws +
- Virginia Code §18.2-186.6
- Pertinent Provisions
 - Applies to any legal entity; broad application
 - Unencrypted data accessed or acquired by unauthorized person (only electronic data)
 - Must have caused or *reasonably believe* will cause fraud or identity theft to resident
 - Must notify Atty General's Office and affected resident without *unreasonable delay*

Database Breach Laws

- Pertinent Provisions
 - Law enforcement delay acceptable
 - Provisions also apply to encrypted data acquired in an unencrypted form or if person has access to the encryption key
 - If more than 1,000 affected residents, must also notify consumer reporting agencies

Database Breach Laws

- Pertinent Provisions
 - Data = “personal information” to include name, SSN, financial acct/credit card numbers along with access code, driver’s license number
 - Tax identification numbers and tax withheld (to counter prevalent payroll breaches / IRS scams)
 - July 1 = passport numbers, military ID numbers

Database Breach Laws

- Pertinent Provisions
 - Notice = written, electronic, telephone or substitute
 - Substitute Notice = over \$50K in cost, over 100,000 residents, or no sufficient contact info...can then post conspicuously on website, or notify statewide media

Database Breach Laws

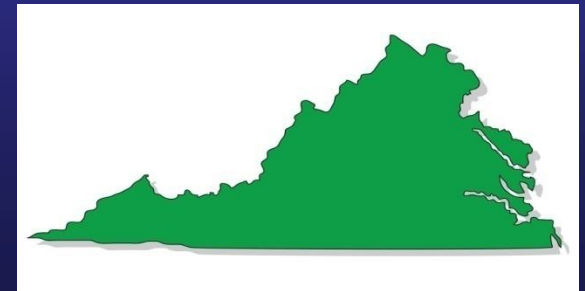
- Pertinent Provisions
 - Notice must include:
 - Incident in general terms
 - Type of information accessed
 - The general acts of entity to prevent further unauthorized access
 - Telephone number for affected persons to call
 - Advice directing person to remain vigilant of accounts and monitor free credit reports

Database Breach Laws

- Pertinent Provisions
 - Attorney General's Office can bring civil enforcement action for failure to comply with notice provisions
 - \$150,000 penalty per breach
 - Does not prohibit affected residents from filing individual claims

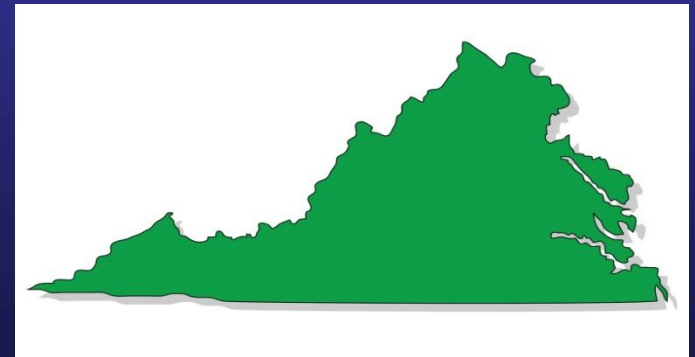
Enforcer's Perspective

- 767 database breach notices received in VA In 2018 (391 already in 2019)
- Broad cross-section of industry
- Lost equipment, theft, intrusion are most common occurrences
- Small breaches dominate



Enforcer's Perspective

- From 1 resident to over 1 million residents affected in a single breach
- Work with your attorneys
- Contact law enforcement
- Work with our office



Recent Judgments

- **UBER**

- Intentionally concealed breach for over one year
- Driver's license numbers involved
- 20,000 Virginia drivers affected
- Paid \$3 million to Virginia in penalties

- **BOMBAS**

- Did not report for three years (unintentional)
- Credit card numbers of 1,200 Virginians
- Paid \$25,000 in penalties to Virginia

Identity Theft



CONSUMER SENTINEL NETWORK

**DATA
BOOK
2018**

Federal Trade Commission
February 2019



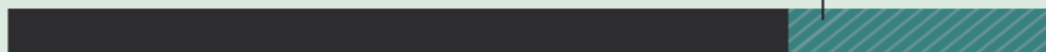
3
MILLION
REPORTS

TOP THREE CATEGORIES

1. Imposter scams
2. Debt collection
3. Identity theft

1.4 million fraud reports

25% reported a loss



\$1.48 billion
total fraud losses

\$375
median loss

Younger people reported losing money to fraud more often than older people.

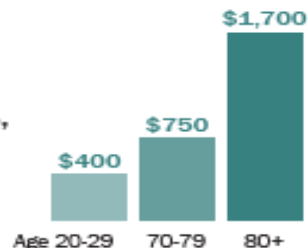
43%

Age 20-29

15%

Age 70-79

But when people aged 70+ had a loss, the median loss was much higher.



Imposter Scams



NEARLY
1 IN 5
PEOPLE
LOST MONEY

\$488 million
reported lost

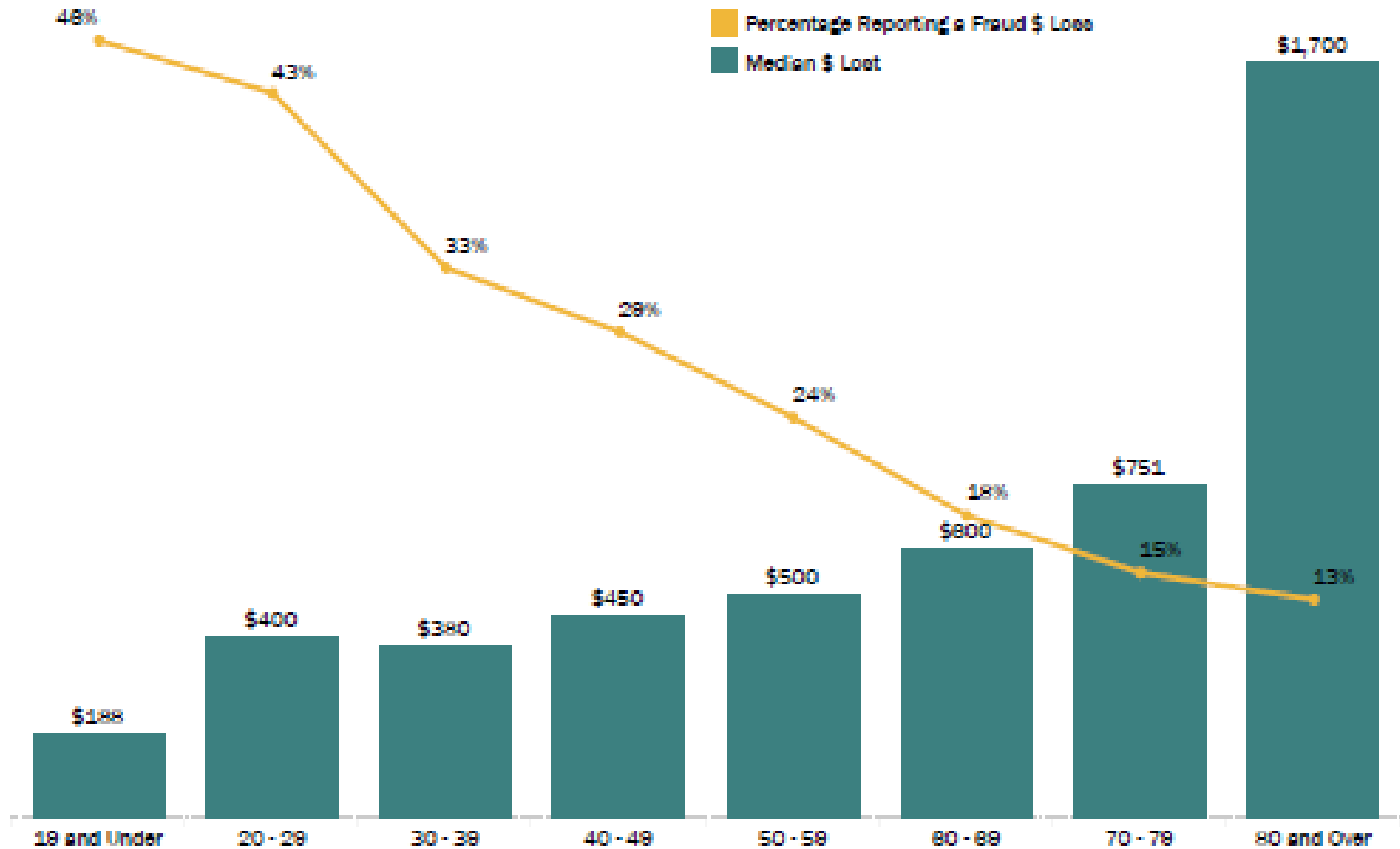
\$500 median loss

Identity Theft

24% ↑
Credit card
new account
fraud

38% ↓
Tax fraud

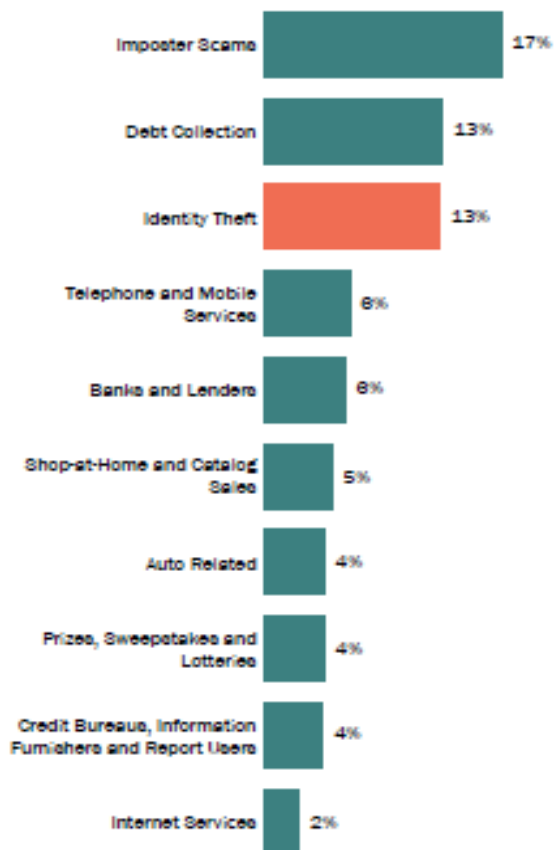
Percentage Reporting a Fraud Loss and Median Loss by Age



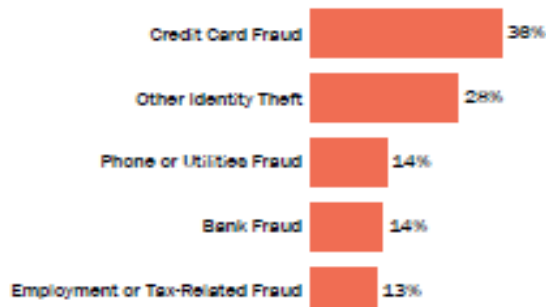
Of the 1,427,583 total fraud reports in 2018, 46% included consumer age information.

Virginia

Top Ten Report Categories



Top Identity Theft Types



Fraud & Other Reports

13th
State Rank
(Reports per 100K Population)

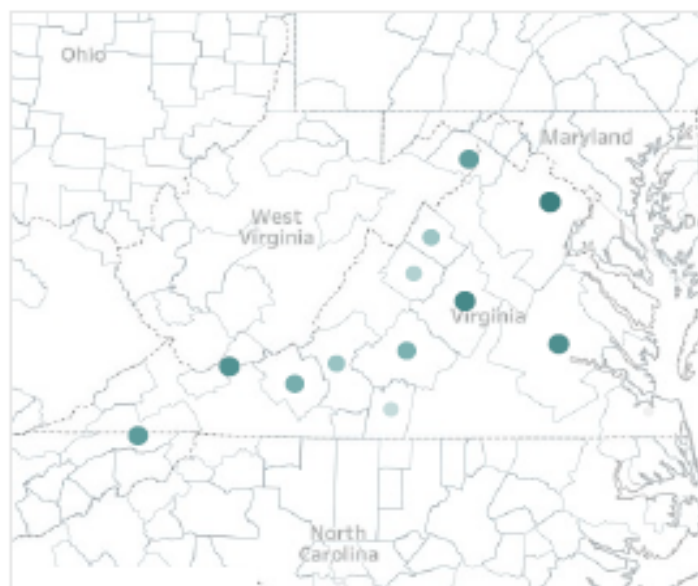
56,135
Total Fraud & Other Reports

Fraud Losses

\$28.0M
Total Fraud Losses

\$368
Median Fraud Losses

Fraud & Other Reports by Metropolitan Area



Identity Theft Reports

25th
State Rank
(Reports per 100K Population)

8,196
Identity Theft Reports

Identity Theft

A. Unlawful for any person, without authorization....to:

1. Obtain, record or access identifying information which is not available to the general public that would assist in accessing financial resources...;
2. Obtain money, credit, loans, goods or services through the use of identifying information of such other person;
3. Obtain identification documents in such other person's name

Identity Theft

A. Identifying Information

- (i) name;
- (ii) date of birth;
- (iii) social security number;
- (iv) driver's license number;
- (v) bank account numbers;
- (vi) credit or debit card numbers;
- (vii) personal identification numbers (PIN);
- (viii) electronic identification codes;
- (ix) automated or electronic signatures;
- (x) biometric data;
- (xi) fingerprints;
- (xii) passwords; or
- (xiii) any other numbers or information that can be used to access a person's financial resources, obtain identification, act as identification, or obtain money, credit, loans, goods, or services.

Identity Theft

- Penalties

- Up to 12 months jail
- If over \$200, 1-5 years imprisonment
- If 50 or more person's identifying info stolen, 1-5 years
- 1-10 years if information is used to commit another crime

Identity Theft

WHAT CAN YOU DO?

- Protect your social security number
- Use caution when giving out personal info (phishing)
- Treat your trash carefully
- Protect your postal mail
- Check your bank statements often

Identity Theft

WHAT CAN YOU DO? cont...

- Check your credit reports (1 free report annually)
 - Annualcreditreport.com (recommended by FTC)
- Protect your computer (firewall, anti-virus, lock wireless networks)
- Use some plain common sense (i.e. too good to be true)

Identity Theft

HOW TO SPOT IT...

- You see withdrawals from your bank account that you can't explain
- You don't get your bills or other mail
- Debt collectors call you about debts that aren't yours
- You find unfamiliar accounts or charges on your credit report

Identity Theft

WHERE TO REPORT IT...

- Creditors (Card Issuers & Utilities)
- Credit Bureaus
- Federal Trade Commission (FTC)
- Local/State Law Enforcement
- Office of the Attorney General



How to Avoid Identity Theft

A Guide for Victims



Office of the Attorney General of Virginia
Victim Notification Program
202 North 9th Street
Richmond, Virginia 23219

Phishing

- Using a computer to gather identifying information
 - A. Unlawful to use a computer to obtain, access, or record, through the use of material artifice, trickery or deception, any identifying information – 1-5 years imprisonment
 - B. Distribution of material – 1-10 years
 - C. Uses such information to commit another crime – 1-10 years

Phishing

- Supervisor Scams
 - Posing as supervisor
 - Requests transfer money, bank account numbers, payroll info
- Employee test emails
- If unsure, check with actual source. Don't hit reply.

Likelihood of clicking based on previous performance

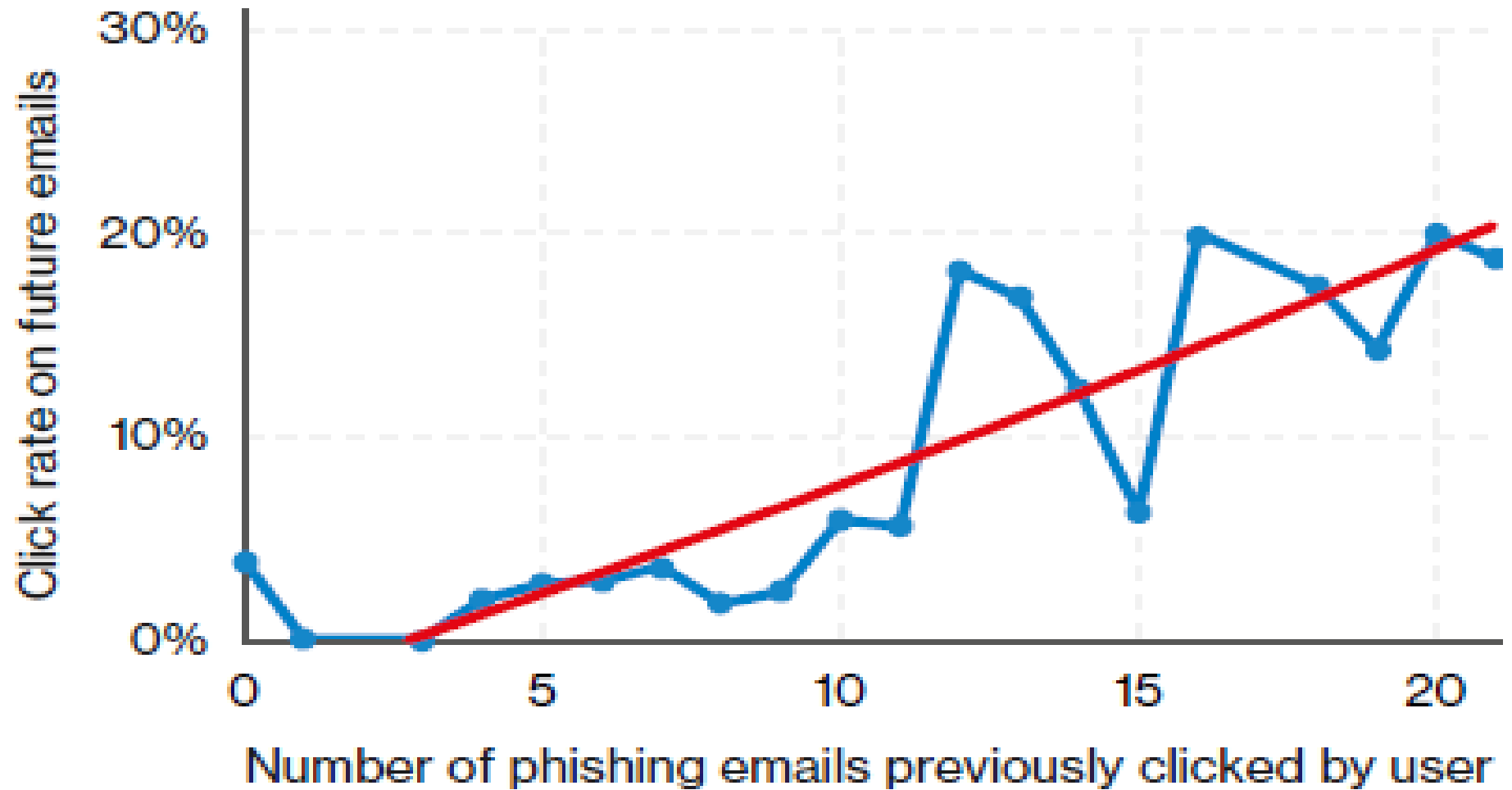


Figure 13. Click rates of users based on historical performance in phishing tests (n=2,771,850)

Computer Trespass

- Unlawful, with malicious intent, to:
 - Remove, halt, or disable computer data or program
 - Cause a network to malfunction
 - Alter, disable, or erase computer data, programs, or software
 - Effect the creation or alteration of financial instruments
 - Use a computer to cause physical injury to property
 - Use a computer to make unauthorized copy
 - Install keystroke logger
 - Install software to take control of computer in order to cause damage or disrupt transmissions

Computer Trespass

- Penalties:

- Up to 12 months jail

- Damage over \$1K, 1-5 years imprisonment

- Installs software on more than 5 computers, 1-5 years

- Keystroke logger violation, 1-5 years

- Exception for ISPs

Days receiving malware per organization



Figure 19. Days receiving malware per organization (n=128,131)

Frequency of malware vectors

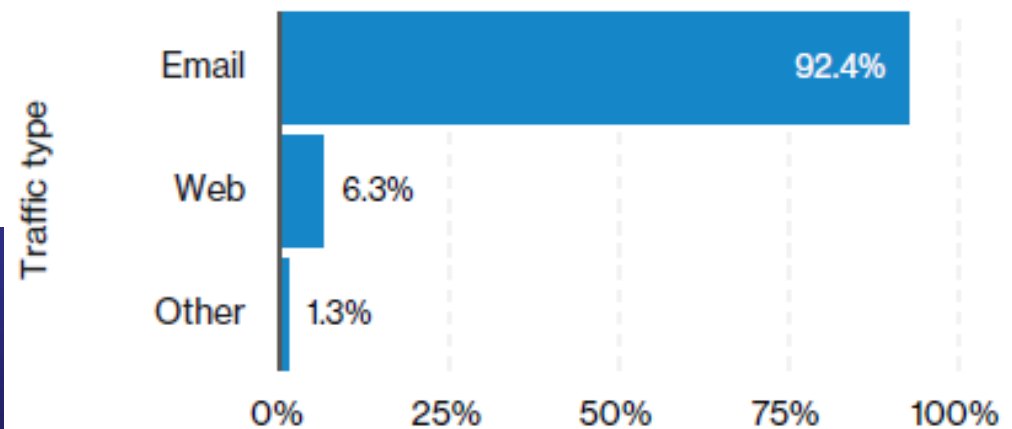


Figure 21. Frequency of malware vectors within detected malware (n=58,987,788)

Computer Trespass

-Preventative measures:

- Employee training
- Updated security software
- Firewalls
- Strong passwords, or two factor authentication
- Encryption vs. plain text
- Tabletop exercises

Computer Fraud

- Use a computer without authority to:
 - Obtain property or services by false pretenses
 - Embezzle or commit larceny
 - Convert the property of another
- Value is \$200 or more – 1-10 years imprisonment
- Otherwise up to 12 months in jail

VA Computer Crimes

- Civil Remedy

- Any individual wronged by any violation of aforementioned prohibitions may bring suit
- For any damages sustained and cost of suit
- Loss of profits
- Malicious intent NOT required

RESOURCES

VA Office of the Attorney General

<http://www.ag.virginia.gov>

Internet Crime Complaint Center

<http://www.ic3.gov>

Federal Trade Commission (FTC)

<http://www.ftc.gov>

Thank You

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