



STANFORD LEGAL OFFICE MEMORANDUM

TO: Office of the General Counsel Attorneys
Distribution

FROM: Patrick Dunkley

SUBJECT: New Law re Breach of Personal Information

DATE: February 7, 2003

Effective **July 1, 2003**, a new law will place notice requirements on entities that possess personal information stored on a computer system that is the subject of an unauthorized breach. Civil Code section 1789.82 applies to any breach of unencrypted **personal information** pertaining to a California resident that was or is reasonably believed to have been acquired by an unauthorized person.

- **Personal information** is defined as first name or first initial and last name in combination with one or more of the following data elements when *either* the name or the data elements are **not** encrypted:
 - Social security number.
 - Drivers license number or California identification card number.
 - Account number, credit or debit card number in combination with any security code, access code or password that would permit account access.
- Notice of the breach must be made in the most expedient time possible, without unreasonable delay and must be made by *one* of the following methods:
 - In writing.
 - Electronically pursuant to 15 U.S.C. section 7001 (electronic signature laws).
 - Substitute notice if (1) it can be proven that the cost of providing notice would exceed \$250,000, (2) that the affected class of subject persons exceeds 500,000, or (3) the entity does not have sufficient contact information. Substitute notice shall include *all* of the following:
 - Email notice if email address is available.
 - Conspicuous posting on web site (if one is maintained).
 - Notification to a major statewide media.
 - Alternative to substitute notice – if an entity maintains its own notification procedures as part of an information security policy that is otherwise consistent with the timing requirements of Civil Code 1798.82 it shall be deemed in compliance with the statute if such notice is provided.
 - Notification may be delayed if law enforcement determines that the notification will impede a criminal investigation.

To aid in compliance with this new law, please distribute this memo to departments that possess personal information in a computerized format. Based on the foregoing, the most control over compliance process may occur where we have our own complying policies in place.

If you have any questions about the interpretation of this law or its applicability, please feel free to contact Patrick Dunkley at 725-7655 or pdunkley@stanford.edu.