

Having trouble viewing this message? Please click [here](#).

Attorney Advertising

Robinson+Cole

Data Privacy + Security Insider

Leveraging Knowledge to Manage Your Data Risks



CYBERSECURITY

[Cybersecurity Threats for Treasury & Payment Management Systems Report Released](#)

Pactera Technologies N.A., Inc. [www.Pactera.com], has released the report “Cybersecurity Threats for Treasury & Payment Management Systems: Six Things You Should Know to Manage Them.” It is easy to understand and pertinent, particularly this time of year when we are seeing a drastic increase in phishing and scams aimed at finance departments. [Read more](#)

HEALTH INFORMATION

[New HHS Secretary Delays Effective Date of Part 2 Final Rule](#)

We previously reported that the 30-year-old regulations (last updated in 1987) relating to the disclosure of substance abuse treatment information has been updated by the Substance Abuse and Mental Health Services Administration (SAMHSA) to bring it into the modern world of electronic health information [[view related post](#)]. The Part 2 Final Rule was to go into effect tomorrow (February 17, 2017).

Yesterday, (February 15, 2017) new HHS Secretary Tom Price [issued a notice](#) that will be published today in the Federal Register delaying the effective date of the new Part 2 Final Rule from February 17 to March 21, 2017, in order to allow more time for consideration, despite the fact that SAMHSA already received 376 public comments on the proposed changes since the interim rule was published on February 9, 2017. [Read more](#)

ENFORCEMENT + LITIGATION

[TCPA Violations Claimed Against Rady Children’s Hospital in San Diego](#)

February 16, 2017

FEATURED AUTHORS:

[Linn Foster Freedman](#)
[Kelly Frye Barnett](#)
[Kathryn M. Rattigan](#)

FEATURED TOPICS:

[Cybersecurity](#)
[Data Breach](#)
[Data Privacy](#)
[Enforcement + Litigation](#)
[Health Information](#)
[Privacy Tip](#)

VISIT + SHARE:

[Insider Blog](#)
[R+C website](#)
[Twitter](#)
[Facebook](#)
[LinkedIn](#)

Rady Children's Hospital-San Diego (Rady) was hit with a proposed class action in California federal court this week for alleged violations of the Telephone Consumer Protection Act (TCPA) for autodialed debt collection calls to consumers' cell phones. [Read more](#)

[Former NSA Contractor Indicted for Theft of Government Property](#)

The United States Department of Justice has announced that a former subcontractor of a defense contractor has been indicted for stealing over 75 percent of hacking tools belonging to the National Security Agency's offensive cyber unit, as well as the ICA and Cyber Command. [Read more](#)

DATA PRIVACY

[Supreme Court Nominee Neil Gorsuch on Data Privacy](#)

Last month, the president announced his nomination of Judge Neil M. Gorsuch—a federal appeals court judge—to the Supreme Court. Gorsuch must still go through Senate confirmation hearings before officially becoming the ninth justice in our nation's highest court, but some are already discussing Gorsuch's potential impact on cybersecurity, technology, and privacy law. [Read more](#)

DATA BREACH

[Arby's Investigating Payment Card Breach](#)

Arby's has announced that it is investigating its payment card systems after investigative reporter Brian Krebs first reported on a breach at the company.

According to reports, malware placed on Arby restaurants' payment card systems allowed attackers to steal credit card data at the time it was swiped at the cash register. The breach is believed to have occurred between October 25, 2016, and January 19, 2017. Approximately 355,000 credit and debit cards were affected. [Read more](#)

PRIVACY TIP #74

[What to Do about Customs and Border Patrol](#)

There has been lots of talk about the ripple effects of the Trump travel

ban. But here's a new twist I hadn't heard before—U.S. Customs and Border Patrol (CBP) agents are detaining U.S. citizens and requiring them to unlock their phones at the border.

According to *The Verge*, a U.S.-born NASA scientist spent several weeks in South America partaking in his passion of racing solar-powered cars. Sounds like fun. He left for South America under the Obama administration and came back two weeks later into the Trump administration. When he arrived from Chile at customs in Houston, he was detained. My recollection is that Chile was not on the Trump travel ban.

According to the scientist, although he was enrolled in Global Entry and has worked for a NASA department for 10 years, he was detained and pressured by CBP agents to hand over his NASA phone and access PIN. (Did I mention that his last name was Bikkannavar?) Per NASA policy, he was not allowed to divulge the information on the phone, but the CBP waived a blue paper in front of him entitled "Inspection of Electronic Devices" saying they had authority to search the phone. The agents threatened that, if he did not give them his PIN, he would not be able to leave. Although the law does not require passengers to give their PIN, there are reports that you will be detained for a minimum of a few hours if you do not divulge your PIN.

The scientist divulged his PIN, and a border patrol officer took the device and came back in 30 minutes. This is what we have been warning U.S. companies about for years with foreign governments. But in the U.S.? With U.S. citizens?

When he brought his phone to members of his IT department at NASA, they were not happy. Nor would any other organization's IT department. This is a problem for individuals and companies.

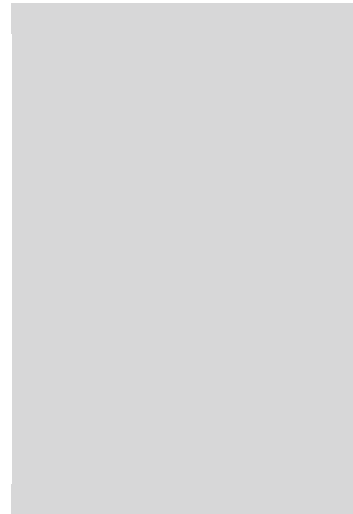
Although savvy security experts have taken extreme travel precautions when traveling to Russia or China, it appears that they are now providing advice for U.S. citizens traveling abroad and returning to their homeland in this environment.

Wired has issued "A Guide to Getting Past Customs With Your Digital Privacy Intact" [<https://www.wired.com/2017/02/guide-getting-past-customs-digital-privacy-intact/>], a step-by-step guide for U.S. citizens to protect their privacy when hitting the border of the U.S. from travel abroad. The experts interviewed posited that U.S. citizens should be as paranoid about CPB as they are when traveling to Russia or China. The ACLU reports that customs agents are demanding passwords to phones and social media accounts. Department of Homeland Security Secretary John Kelly has stated that foreign travelers from those seven Muslim majority countries will be required to provide their social media account passwords, or they will be denied entry. Many are lamenting about whether the fourth Amendment has disappeared.

Here are what the experts are saying we should consider when returning home from travel abroad to protect privacy of our own and our company data:

- Lock down devices
- Keep passwords secret
- Phone a lawyer at home who is ready to help
- Make a travel kit that includes a device that stores minimal information
- Deny Yourself Access so customs agents can't get access

What do we have to hide? Actually, nothing personal. So what's the big deal? Like the NASA scientist, we are all under an obligation to protect the data of our companies and our clients, and handing over our phones with company data and our passwords to CBP for 30 minutes to several hours is unsettling and intrusive. It is something that happens in other countries, not the United States. Other countries search their citizens without a warrant. We don't. Well, that's just not true anymore.



Boston | Hartford | New York | Providence | Stamford | Albany | Los Angeles | Miami | New London | rc.com

Robinson & Cole LLP



© 2017 Robinson & Cole LLP. All rights reserved. No part of this document may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without prior written permission. This document should not be considered legal advice and does not create an attorney-client relationship between Robinson+Cole and you. Consult your attorney before acting on anything contained herein. The views expressed herein are those of the authors and not necessarily those of Robinson+Cole or any other individual attorney of Robinson+Cole. The contents of this communication may contain attorney advertising under the laws of various states. Prior results do not guarantee a similar outcome.