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Data Breach Lessons from the Trenches: A Retrospective and Forecast

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Retrospective

- Move to electronic health records
- Increased legal and regulatory risk
- Health information and insurance market exchanges

Retrospective

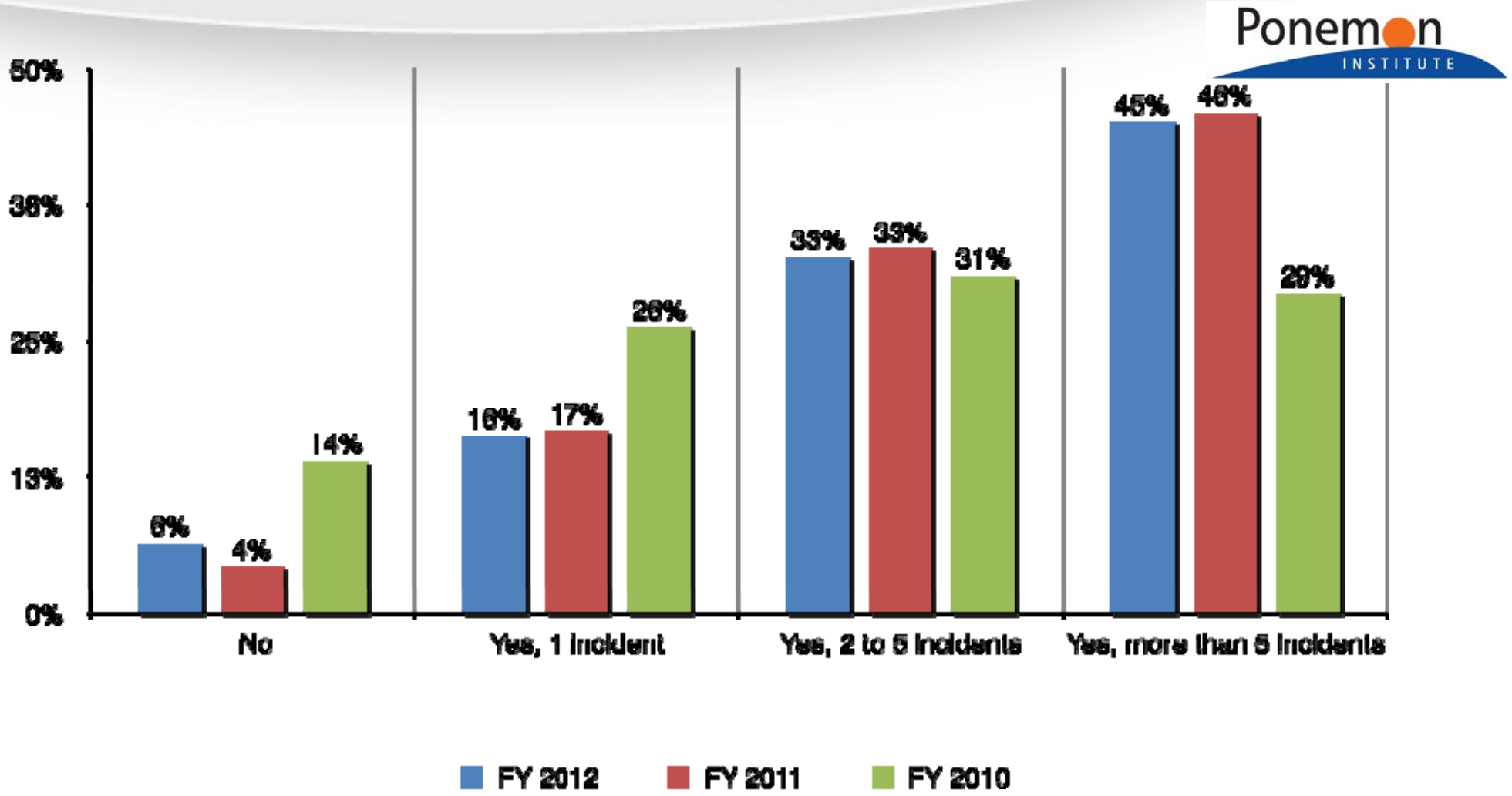
- Omnibus Rule Implications
  - HITECH privacy/security now applies directly to business associates
  - CEs and BAs need to embrace new definition of “breach”
  - “Ownership” of data becomes more fluid

Retrospective

- Convergence of Risk
  - Mobile, Cloud, BYOD
  - “Black market” value of PHI/PII
  - Increased reputational, medical, and other risks from loss and/or other unauthorized disclosure of PHI

Patient Privacy & Data Security Study

Experienced a data breach involving the loss of patient data in the past two years



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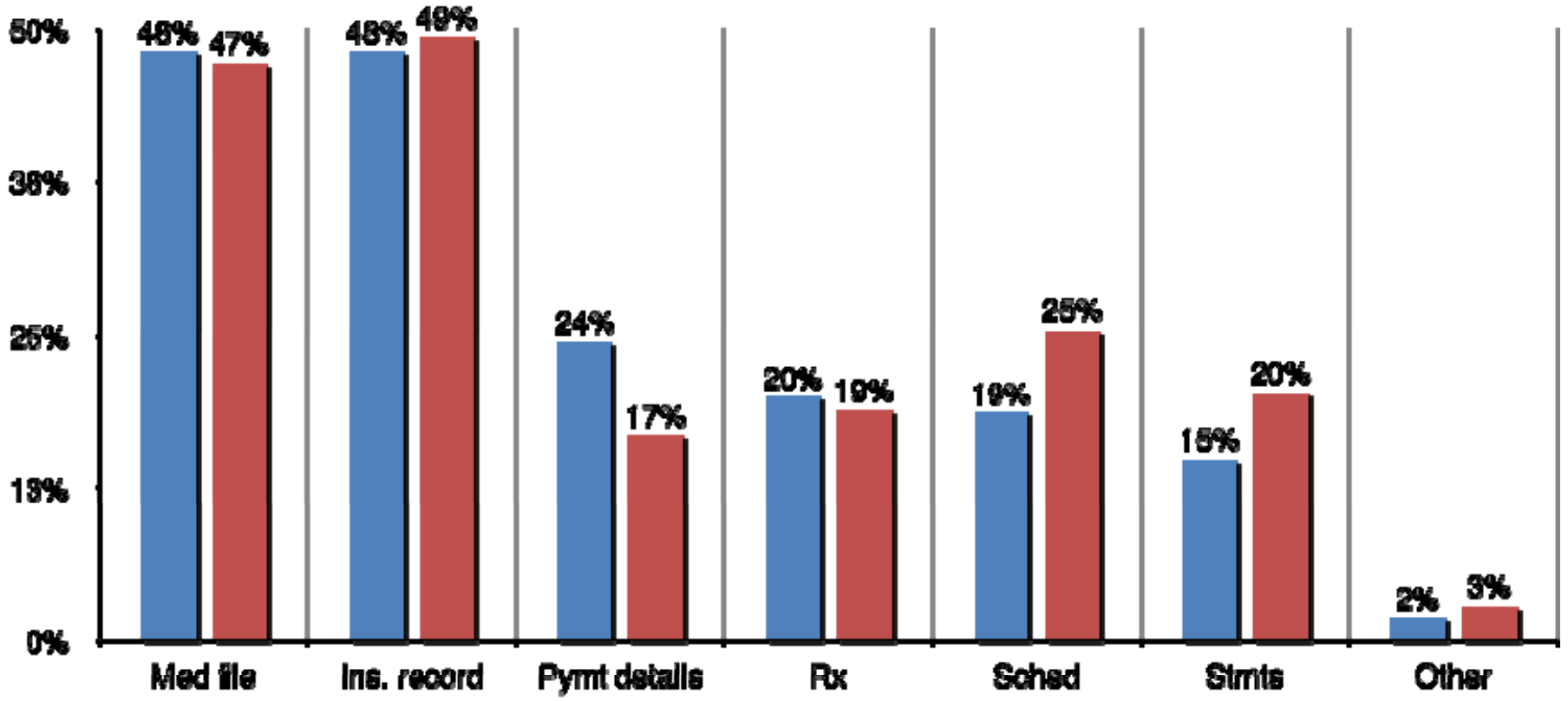
Patient Privacy & Data Breach Study

Type of data that was lost or stolen



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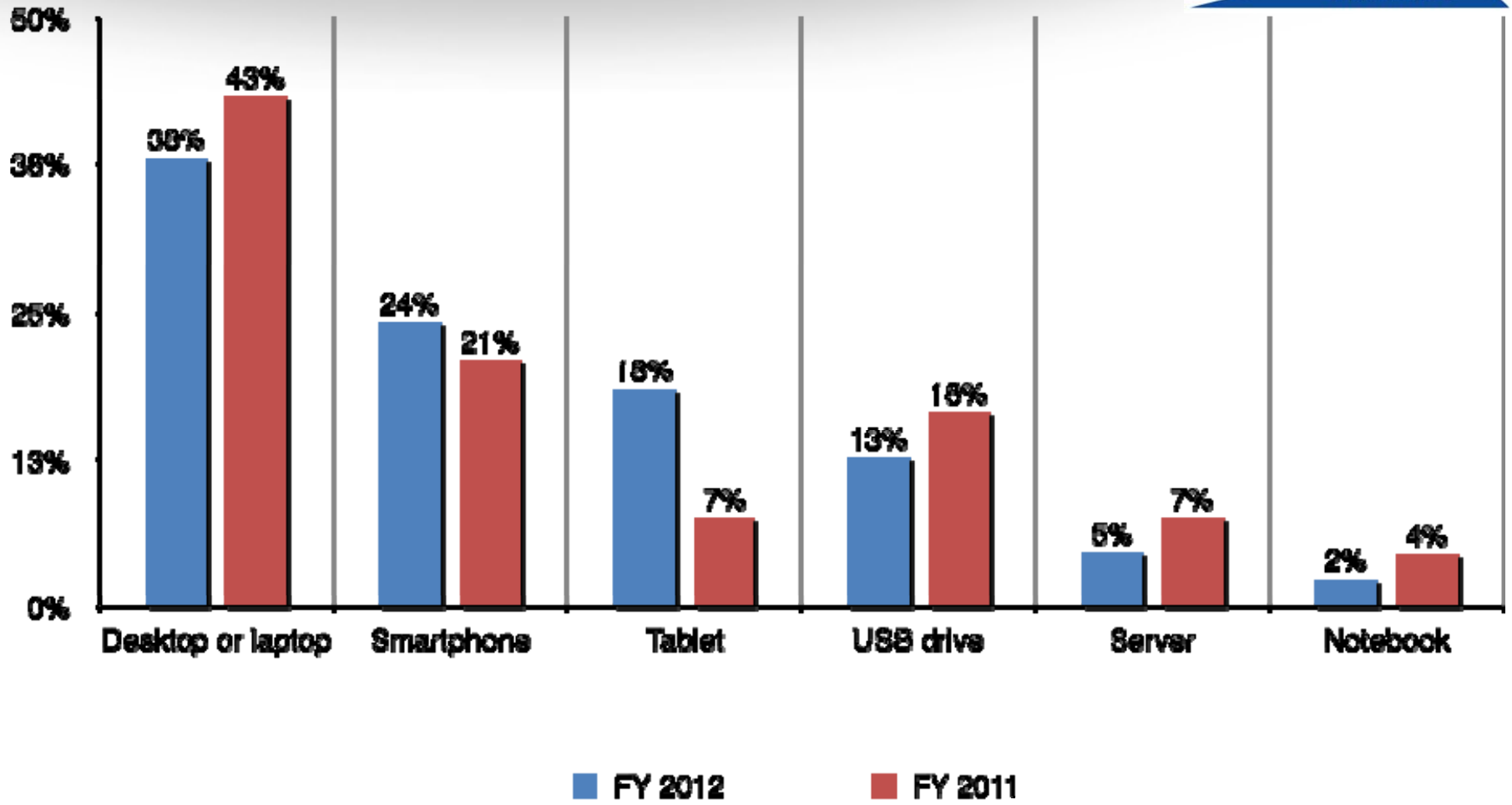
Patient Privacy & Data Breach Study

Type of device compromised or stolen



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Summary of Trends

- More data privacy incidents
- More PHI data loss (i.e. health insurance info)
- Increased risk from tablets

Lessons from the Trenches

- If you don't have a *documented security risk analysis*, including actions you've taken to address risks, you are exposed, no matter your size
- It is a "brave new world" for HIPAA *business associates; get ready*
- Organizations are *evolving governance models* for privacy & security; some trend towards unifying these responsibilities and report structure to board
- Need to "operationalize" incident management

Lessons from the Trenches

- "Operationalizing" assessment of incidents involving PII and PHI
  - Becoming a necessity due to frequency of incidents and complexity of regulations
  - Must carry out tasks presuming the need to "prove" your decisions/outcomes as to compliance
  - Will grow in complexity as you add in Accounting for Disclosure of authorized disclosures, added to unauthorized ones

Forecast

- Increased scrutiny & enforcement will continue
- Business associates will grow in prominence relative to protecting PHI
- Trends (cloud, mobile, EHRs/HIEs) are point towards higher velocity of incidents & increased importance of managing them properly

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Resources

- PHI Protection Network (PPN) LinkedIn Group
http://www.linkedin.com/groups/PHI-Protection-Network-PPN-4493923

- 2012 Ponemon Study on Patient Privacy & Data Security
http://www2.idexpertscorp.com/ponemon2012/

- 3 Steps to Tackle HIPAA's Final Rule
http://www2.idexpertscorp.com/resources/BestPracticesChecklists/3-steps-to-tackle-hipaas-final-rule/

- HIPAA Final Omnibus Rule Whitepaper
http://www2.idexpertscorp.com/omnibus-hipaa-final-rule-whitepaper/

- HIPAA Final Omnibus Rule Playbook: Covered Entity Edition
http://www2.idexpertscorp.com/resources/BestPracticesChecklists/hipaa-final-omnibus-rule-playbook/

- HIPAA Final Omnibus Rule Playbook: Business Associate Edition
http://www2.idexpertscorp.com/resources/BestPracticesChecklists/hipaa-final-omnibus-rule-playbook-ba/

- RADAR Software for Healthcare Entities
http://www2.idexpertscorp.com/data-breach-tools/radar-for-phi/

- Medical Identity Fraud Alliance:
http://www.medidfraud.org