

County in PA Faces up to \$68 Million in Privacy Related Damages

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No industry or sector is immune to privacy or security issues. This week a jury in a district court in Pennsylvania awarded \$1,000 to each of the 68,000 class members who claimed that Bucks County, a county just outside Philadelphia, and several other municipal entities, violated state law by making their criminal records public, in [Taha v Bucks County](#). Bucks County potentially faces up to \$68 million in damages.

This case arises from claims brought by Daryoush Taha in 2012, who alleged that the county's inmate search tool, which was made available to the public in 2008, included access to an online database with criminal history records for all current and former Bucks County Correctional Facility inmates dating back to 1938 (nearly 68,000 individuals), in violation of Pennsylvania's [Criminal History Records Information Act](#) ("CHRIA").

In 2016, the district court granted summary judgment in favor of Taha, holding that Bucks County violated the CHRIA by releasing criminal history records for incidents older than three years that did not result in a conviction. Further, the district court certified a class of individuals for claims against the County regarding similar CHRIA violations stemming from public access to the online database.

As part of evidence, the plaintiffs pointed to an email exchange between two Bucks County employees regarding the online database, where the two concluded that only social security numbers required protection, without checking requirements under the CHRIA. The plaintiffs argued that failure to properly review state law was an indication of "reckless indifference" regarding whether the online base was in violation of the law. Under the CHRIA, punitive damages are awarded where there is a "willful" violation of the law. The court agreed with the plaintiffs that the definition of a "willful" violation in the context of the CHRIA should be considered "reckless difference", and that the actions of the County employees indeed amounted to "reckless indifference". Interestingly, the inmate search tool had undergone several audits by the Pennsylvania State Police and Pennsylvania's Office of Attorney General and neither found any CHRIA violation.

Although the jury awarded \$1000 per individual to nearly 68,000 individuals, totaling nearly \$68 million in damages, this amount will likely be slightly less as some of the individuals in the initial class certification are deceased, but no small sum of money regardless.

With the EU's [GDPR one year in](#), California's [CCPA on the brink](#), and a myriad of other federal, [state](#) and local regulations taking effect or under consideration, and Pennsylvania's own Supreme Court finding a common law obligation to safeguard personal information, the public's sensitivity to privacy and security issues only continues to grow. Whether your organization is public or private, whether it is part of an industry highly susceptible to data breaches such as [healthcare](#), or believed to be less susceptible like [construction](#), it should be reevaluating its privacy and security programs and ensuring compliance with relevant legislation.

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