

# President Donald J. Trump – What Lies Ahead for Privacy, Cybersecurity, e-Communication?

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Following a brutal campaign – one laced with *Wikileaks*' email dumps, confidential **Clinton** emails left unprotected, flurries of *Twitter* and other social media activity – it will be interesting to see how a **Trump Administration** will address the serious issues of privacy, cybersecurity and electronic communications, including in social media.

Mr. Trump had not been too specific with many of his positions while campaigning, so it is difficult to have a sense of where his administration might focus. But, one place to look is his [campaign website](#) where the now President-elect outlined a vision, summarized as follows:

- Order an immediate review of all U.S. cyber defenses and vulnerabilities by individuals from the military, law enforcement, and the private sector, the “Cyber Review Team.”
- The Cyber Review Team will provide specific recommendations for safeguarding with the best defense technologies tailored to the likely threats.
- The Cyber Review Team will establish detailed protocols and mandatory cyber awareness training for all government employees.
- Instruct the U.S. Department of Justice to coordinate responses to cyber threats.
- Develop the offensive cyber capabilities we need to deter attacks by both state and non-state actors and, if necessary, to respond appropriately.

There is nothing new here as these positions appear generally to continue the work of prior administrations in the area of cybersecurity. Perhaps insight into President-elect Trump's direction in these areas will be influenced by his campaign experiences.

## ***Should we expect a tightening of cybersecurity requirements through new statutes and regulations?***

Mr. Trump has expressed a desire to reduce regulation, not increase it. However, political party

hackings and unfavorable email dumps from Wikileaks, coupled with continued data breaches affecting private and public sector entities, may prompt his administration and Congress to do more. Politics aside, cybersecurity clearly is a top national security threat, and it is having a significant impact on private sector risk management strategies and individual security. Some additional regulation may be coming.

An important question for many, especially for organizations that have suffered a multi-state data breach, is whether we will see a federal data breach notification standard, one that would “trump” the current patchwork of state laws. With Republicans in control of the executive and legislative branches, at least for the next two years, and considering the past legislative activity in this area, a federal law on data breach notification that supersedes state law does not seem likely.

***Should we expect an expansion of privacy rights or other protections for electronic communication such as email or social media communication?***

Again, much has been made of the disclosure of private email during the campaign, and President-elect Trump is famous (or infamous) for his use of social media, particularly his Twitter account. For some time, however, many have expressed concern that federal laws such as the Electronic Communications Privacy Act and the Stored Communications Act are in need of significant updates to address new technologies and usage, while others continue to have questions about the application of the Communications Decency Act. We also have seen an increase in scrutiny over the content of electronic communications by the National Labor Relations Board, and more than twenty states have passed laws concerning the privacy of social media and online personal accounts. Meanwhile, the emergence of Big Data, artificial intelligence, IoT, cognitive computing and other technologies continue to spur significant privacy questions about the collection and use of data.

While there may be a tightening of the rules concerning how certain federal employees handle work emails, based on what we have seen, it does not appear at this point that a Trump Administration will make these issues a priority for the private sector.

We'll just have to wait and see.

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