

Technology and Privacy Policies in the Trump Administration?



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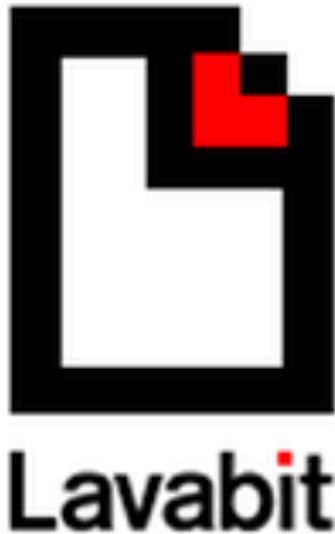


Because Freedom Can't Protect Itself

Outline

- 1. Why policy matters**
- 2. Political environment**
- 3. Key issues**
- 4. Considerations for product development**

Case Study: Lavabit



“I have been forced to make a difficult decision: to become complicit in crimes against the American people or walk away from nearly ten years of hard work by shutting down Lavabit. After significant soul searching, I have decided to suspend operations.”

-Ladar Levison, Owner and Operator, Lavabit LLC

Political Climate



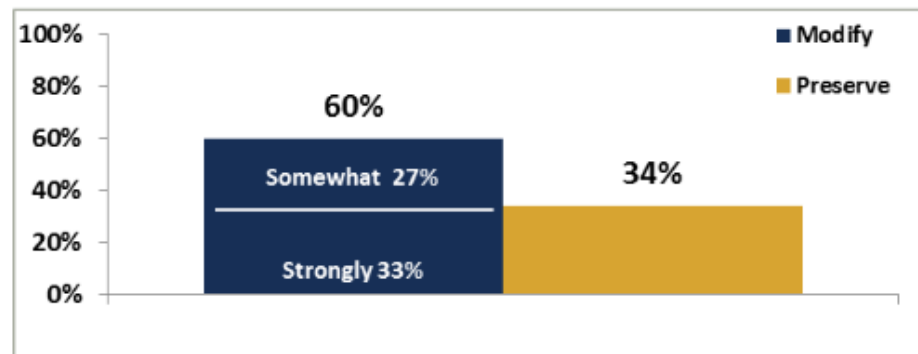
- **Republican**
- **Kentucky**
- **Supports Obamacare repeal**



- **Democrat**
- **California**
- **Supported single payer legislation**

Which of the following statements about reauthorizing the Patriot Act do you agree with more?

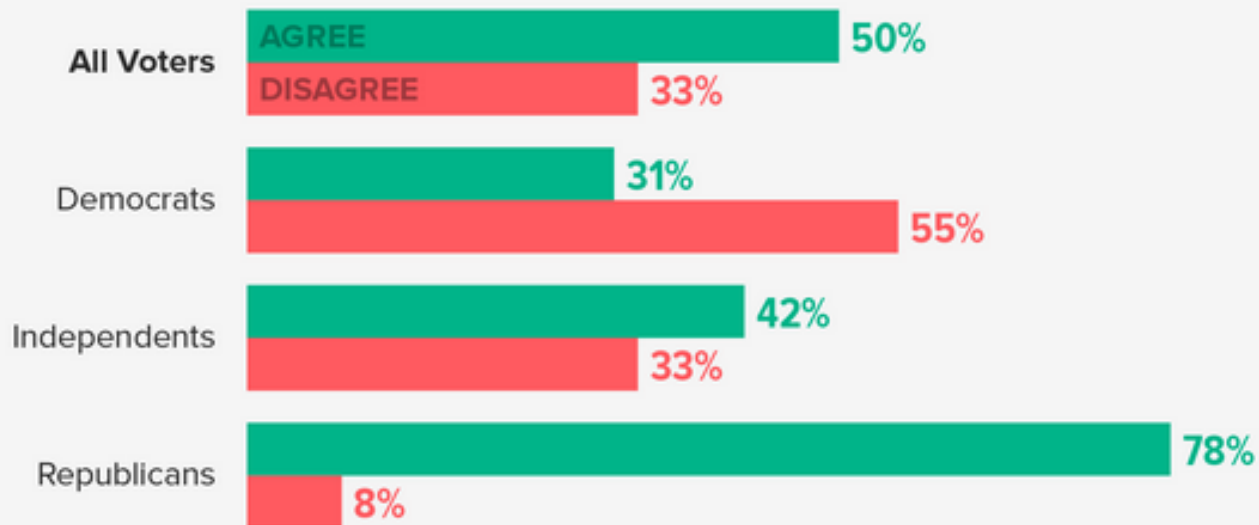
- Some people say Congress should modify the Patriot Act to limit government surveillance and protect Americans' privacy.
- Other people say Congress should preserve the Patriot Act and make no changes because it has been effective in keeping America safe from terrorists and other threats to national security like ISIS or Al Qaeda.



	Overall	Party			Independent		Very Liberal	Very Cons.	Age			Gender	
		Dem	Indy	GOP	Men	Women			18-39	<45	45+	M	F
Modify	60	59	71	58	75	65	65	59	65	62	59	64	57
Preserve	34	35	22	36	19	26	28	34	30	32	35	30	38
Net Modify	+26	+24	+49	+22	+56	+39	+37	+25	+35	+30	+24	+34	+19

Half Say Obama Administration Went Too Far in Monitoring Trump Team

Do you agree or disagree that the Obama Administration went too far in monitoring intelligence information that may have included members of President Trump's transition team?



[*https://morningconsult.com/2017/04/13/poll-surveillance-trump-team-went-far/](https://morningconsult.com/2017/04/13/poll-surveillance-trump-team-went-far/)

Encryption: Obama Administration Technical Options Considered

- Provider enabled access to encrypted devices based on physical control
- Provider-enabled remote access to encrypted devices through current update procedures
- Remote access enabled only when multiple parties with partial key participate
- Remote access to data enabled by providers implementing a forced backup

“Deputies agreed that attempts to build cooperation with industry...will offer the most successful option for making progress on this issue.”

Leaked Memo Sep. 2015

<http://apps.washingtonpost.com/g/documents/world/read-the-obama-administrations-draft-paper-on-technical-options-for-the-encryption-debate/1753/>

Encryption: Strategic Options Considered by the Obama Administration

- Option 1: Disavow Legislation and Other compulsory Action
- Option 2: Defer on Legislation and Other Compulsory Action
- Option 3: Remain Undecided on Legislation and Other Compulsory Actions



“We’re having some good conversations....I could imagine a world that ends up with legislation saying, if you’re going to make devices in the United States, you figure out how to comply with court orders, or maybe we don’t go there. But we are having productive conversations, right now I think.”

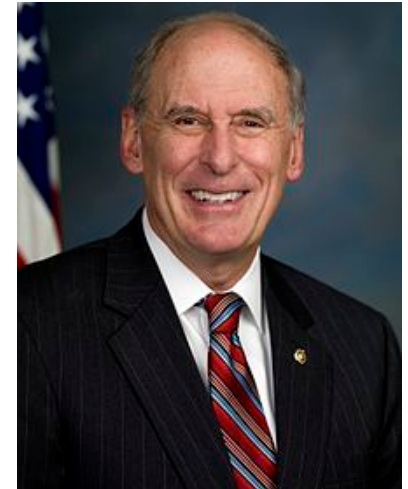
Encryption: Trump Administration



"...to think that Apple won't allow us to get into her cell phone, who do they think they are? No, we have to open it up." (Feb. 2016)



"Encryption serves many valuable and important purposes. It is also critical, however, that national security and criminal investigators be able to overcome encryption..." (Jan 2017)



"...there are instances where it would be feasible to force a company to unlock [a suspected terrorist's] phone..." (April 2016)

<http://www.cnn.com/2016/02/17/politics/donald-trump-apple-encryption-debate/>;

<http://www.cnn.com/2016/02/17/politics/donald-trump-apple-encryption-debate/>;

<http://www.npr.org/sections/alltechconsidered/2016/04/14/474113249/the-next-encryption-battleground-congress>

Encryption: Proposed Legislation

Burr/Feinstein Draft

- Requirement to provide data in “intelligible forms”
- Covered entities include devices and software manufacturers
- Requirements apply to distributors
- Does not require specific design or operating system

McCaul/Warner Commission

- Commission comprised of LE, tech, and privacy experts
- Subpoena authority
- Ability to examine and make recommendations of existing law



Ooops, your files have been encrypted!

English

What Happened to My Computer?

Your important files are encrypted.
Many of your documents, photos, videos, databases and other files are no longer accessible because they have been encrypted. Maybe you are busy looking for a way to recover your files, but do not waste your time. Nobody can recover your files without our decryption service.

Can I Recover My Files?

Sure. We guarantee that you can recover all your files safely and easily. But you have not so enough time.
You can decrypt some of your files for free. Try now by clicking <Decrypt>.
But if you want to decrypt all your files, you need to pay.
You only have 3 days to submit the payment. After that the price will be doubled.
Also, if you don't pay in 7 days, you won't be able to recover your files forever.
We will have free events for users who are so poor that they couldn't pay in 6 months.

How Do I Pay?

Payment is accepted in Bitcoin only. For more information, click <About bitcoin>.
Please check the current price of Bitcoin and buy some bitcoins. For more information, click <How to buy bitcoins>.
And send the correct amount to the address specified in this window.
After your payment, click <Check Payment>. Best time to check: 9:00am - 11:00am
GMT from Mountain Pddm

Payment will be raised on
5/16/2017 00:47:55

Time Left
02:23:57:37

Your files will be lost on
5/20/2017 00:47:55

Time Left
06:23:57:37

VEP: Obama Administration

- Interagency process run out of the White House
- “No hard and fast rules”
- Equities Review Board that operates on a majority vote
- Balances risks with intelligence needs
- Excludes vulnerabilities prior to 2/16/10
- NSA: most vulnerabilities disclosed

<https://obamawhitehouse.archives.gov/blog/2014/04/28/heartbleed-understanding-when-we-disclose-cyber-vulnerabilities>

<https://www.eff.org/document/vulnerabilities-equities-process-redactions>

<http://www.belfercenter.org/sites/default/files/legacy/files/Vulnerability%20Disclosure%20Web-Final4.pdf>

Possible VEP Legislation: Patch Act

- Vulnerability Equity Review Board: FBI, DHS, DNI, CIA, NSA, Commerce, and ad hoc members
- Publicly available policies
- Consideration of risk and intelligence needs
- Periodic review
- Reporting requirements

NSA Surveillance: Section 702

- Over 106,000 Foreign Targets
- Over 250 million internet transactions collected annually
- Default age-off 5 years
- Estimates are that 50% of communications collected contain information about a U.S. resident
- Procedures approved annually by the intelligence courts
- Information used for non-national security purposes

NSA Surveillance: Political Climate



"I recently confirmed that on numerous occasions the intelligence community incidentally collected information about U.S. citizens involved in the Trump transition. Details about U.S. persons associated with the incoming administration, details with little or no apparent foreign intelligence value or widely disseminated in intelligence community reporting." (Mar. 2017)

-Chairman of HPSCI, Devin Nunes

<http://abcnews.go.com/Politics/timeline-president-trumps-unsubstantiated-wiretapping-claims/story?id=46198888>

Domestic Process: Content

“The government may not compel a commercial ISP to turn over the contents of a subscriber’s emails without first obtaining a warrant based on probable cause.”

-6th Circuit, Warshak (2010)

- FBI obtains a warrant for content in most cases
- Major US companies require a warrant for content
- Law does not reflect current practice

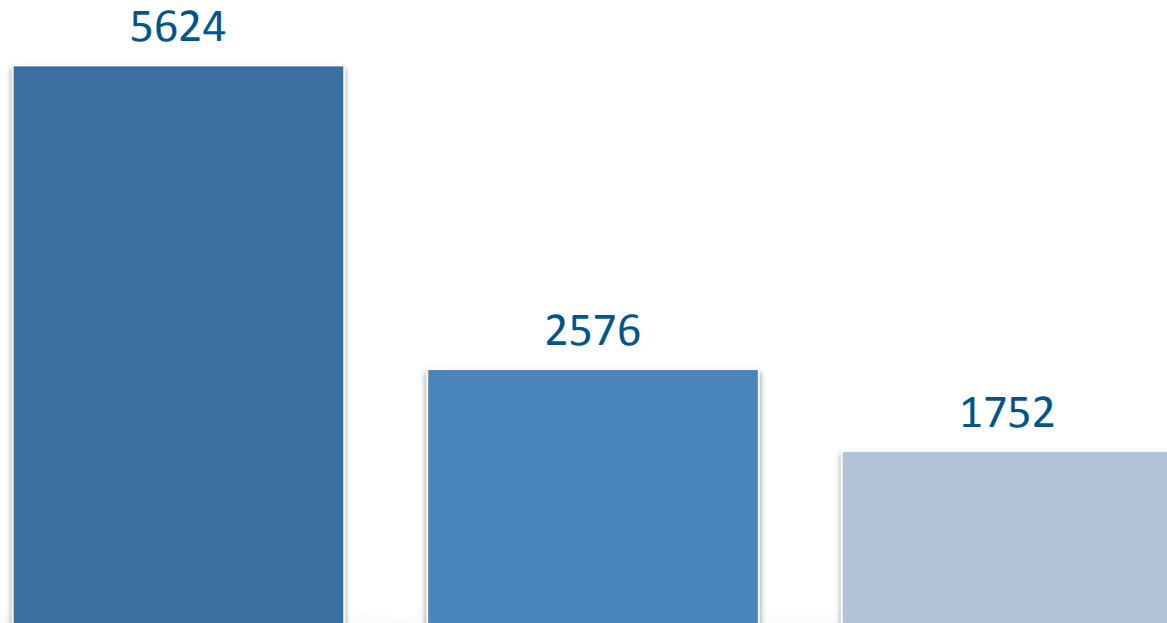
Domestic Process: Content Email Privacy Act

419-0

Domestic Process: Content

Microsoft Requests & Secrecy Orders Sep. 2014-March 2016

■ Demands ■ Secrecy Orders ■ Orders w/o Duration



Technical Considerations: Data Collection and Retention

- Does the current law allow data to be turned over under a standard lower than what users expect?
- How easy is it to determine a users' immigration status, nationality, or religion?

Technical Considerations: Resisting Government Overreach

- If your product will be used by the government, will it be used in the way it was intended?
- Do you have built-in auditing to ensure that the government uses your product as it was intended?
- Are there built-in features that enable public transparency and reporting?

Opportunities for Political Engagement

- Impacting employer contributions
- Direct lobbying
- Deliberate transparency



Because Freedom Can't Protect Itself
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FBI complains it can't break encryption on phone used by San Bernardino terrorists

By Roger Fingas

Thursday, February 11, 2016, 07:11 am PT (10:11 am ET)

FBI technicians have been trying and failing to break the encryption of a phone used by the couple who killed 14 people in a terrorist attack in San Bernardino, Calif. in December, according to FBI Director James Comey.



<http://appleinsider.com/articles/16/02/11/fbi-complains-it-cant-break-encryption-on-phone-used-by-san-bernardino-terrorists>

NSA Surveillance: FBI?



“If you weigh the risks of compromising phone records against the enormous benefits, I think you’ll find it justified...I remain very supportive of the program.”

-Fmr. Senator Joe Lieberman (June 2013)

<https://ctmirror.org/2013/06/17/lieberman-defends-nsa-phone-internet-data-collection/>

Domestic Process: Location

2016 Requests for Location Information

AT&T	Verizon
70,528	38,902

Verizon: 14,360 Cell Tower Dumps

<http://www.verizon.com/about/portal/transparency-report/us-report/>

<https://www.verizon.com/about/portal/transparency-report/wp-content/uploads/2016/07/Transparency-Report-US-1H-2016.pdf>

<http://about.att.com/content/csr/home/frequently-requested-info/governance/transparencyreport.html>

Case Study: Yahoo

Verizon Seeking \$1 Billion Yahoo Price Cut; Will Yahoo Investors Care?



Verizon reportedly wants to pay less for Yahoo's core assets after revelations of the massive 2014 hacking attack. (Yahoo)

ED CARSON | 10/08/2016



Verizon Communications (VZ) wants a \$1 billion price cut on its planned purchase of core Yahoo (YHOO) operations following revelations of a mass hack and reported spying on its customers, the New York Post reported late Thursday.

Technical Considerations: Transparency

- Are there built-in features that enable public transparency and reporting?
- Are there transparency mechanisms to contribute to the public debate?
- How much control do users' really have?