

September 18, 2018

The Honorable Mitch McConnell, Majority Leader  
United States Senate  
317 Russell Senate Office Building  
Washington, DC 20510

The Honorable Charles Schumer, Minority Leader  
United States Senate  
322 Hart Senate Office Building  
Washington, DC 20510

The Honorable Paul Ryan, Speaker  
United States House of Representatives  
H-232, United States Capitol  
Washington, DC 20515

The Honorable Nancy Pelosi, Minority Leader  
United States House of Representatives  
H-204, United States Capitol  
Washington, DC 20515

Dear Leader McConnell, Leader Schumer, Speaker Ryan, and Leader Pelosi:

Thank you for your leadership in combatting the opioid epidemic. The undersigned organizations represent a diverse group of stakeholders across the health care spectrum committed to aligning 42 CFR Part 2 (Part 2) with the Health Insurance Portability and Accountability Act (HIPAA) for the purposes of treatment, payment, and health care operations (TPO). The SUPPORT for Patients and Communities Act, H.R. 6, and the Opioid Crisis Response Act represent critical steps in addressing this crisis. We strongly urge you to include the Overdose Prevention and Patient Safety (OPPS) Act, H.R. 6082, in the final opioid agreement. This language will bolster the effectiveness of other key provisions in the package that promote coordinated care and expand access to treatment.

Part 2, federal regulations that govern confidentiality of drug and alcohol treatment and prevention records, sets requirements limiting the use and disclosure of patients' substance use records from certain substance use programs. Patients are required to give multiple consents, creating a barrier for integration and coordination of health care. A lack of access to the full scope of medical information for each patient can result in the inability of providers and organizations to deliver safe, high-quality treatment and care coordination. The barriers presented by Part 2 can result in the failure to integrate services and can lead to potentially dangerous medical situations for patients.

H.R. 6082, which passed the House of Representatives by a bipartisan vote of 357-57, would align Part 2 with HIPAA for TPO and strengthen protections against the use of addiction records in criminal, civil, or administrative proceedings. The bill further amplifies consumer protections by incorporating antidiscrimination language, significantly enhanced penalties for any breach of a patient's substance use record, and breach notification requirements.

As Congress works to reconcile both chambers' opioid bills, the inclusion of provisions to align Part 2 with HIPAA for TPO is critical. Modifying Part 2 to ensure that HIPAA-covered entities have access to a patient's entire medical record will improve patient safety, treatment, and outcomes across the care delivery spectrum, enhancing the entire opioid package. The House and Senate bills contain a number of key initiatives designed to attain the goal of treating and coordinating care for persons with substance use disorder. However, the success of some of these new initiatives, such as Comprehensive Opioid Recovery Centers and expanding Medicare coverage of certain services furnished by opioid treatment programs, will be hampered without harmonizing Part 2 with HIPAA. As we build out an addiction treatment infrastructure, it is imperative for it to integrate substance use disorder, mental health, and primary care services in order to produce the best patient outcomes and establish the most effective approach to caring for people with complex health care needs.

Alignment of Part 2 with HIPAA will allow appropriate access to patient information that is essential for providing safe, effective, whole-person care, while protecting this information with enhanced penalties for unlawful disclosure and use. The Partnership strongly believes that the modernization of privacy regulations and medical records for persons with substance use disorders is a critical component for tackling the opioid crisis and will improve the overall coordination of care in the United States. As a result, we urge you to include H.R. 6082 in the final opioids agreement sent to the President's desk.

Sincerely,

Academy of Integrative Pain Management  
 Academy of Managed Care Pharmacy  
 Adventist Health  
 Adventist Health System  
 Advocate Aurora  
 Advocates for Opioid Recovery  
 Aetna  
 Alliance of Community Health Plans  
 Allscripts Healthcare Solutions  
 AlohaCare  
 American Association of Neurological Surgeons  
 American Association of Orthopaedic Surgeons  
 American Association on Health and Disability  
 American Dance Therapy Association  
 American Health Information Management Association  
 American Hospital Association  
 American Psychiatric Association  
 American Society of Addiction Medicine  
 American Society of Anesthesiologists  
 America's Essential Hospitals  
 America's Health Insurance Plans  
 America's Physician Groups  
 AmeriHealth Caritas  
 AMGA  
 AMN Healthcare  
 Anthem  
 Arizona Psychiatric Society  
 Ascension  
 Association for Behavioral Health and Wellness  
 Association for Community Affiliated Plans  
 Atrium Health  
 Atrius Health  
 Avera Health  
 Beacon Health Options  
 Better Medicare Alliance  
 Billings Clinic  
 Blue Cross Blue Shield Association  
 Blue Cross Blue Shield of Michigan  
 Bon Secours Mercy Health

California Association of Social Rehabilitation Agencies  
California Health Collaborative  
California Hepatitis C Task Force  
California Society of Addiction Medicine  
CareOregon  
CareSource  
The Catholic Health Association of the United States  
Centene Corporation  
Centerstone  
Cerner Corporation  
Change Healthcare  
Cigna  
College of Healthcare Information Management Executives  
Colorado Gerontological Society  
Colorado Society of Addiction Medicine  
Community Health Charities of Nebraska  
Community Health Network of Washington  
Community Health Plan of Washington  
Cone Health  
Confidentiality Coalition  
Congress of Neurological Surgeons  
Datavant  
Delaware Ecumenical Council on Children and Families  
Einstein Healthcare Network  
Employee Assistance Professionals Association  
Geisinger  
Georgia Society of Addiction Medicine  
Global Alliance for Behavioral Health and Social Justice  
Greater New York Hospital Association  
Hackensack Meridian *Health*  
Hartford Healthcare  
Hawaii Society of Addiction Medicine  
Hazelden Betty Ford Foundation  
Health IT Now  
Healthcare Leadership Council  
Hearst Health  
Hennepin Health  
Henry Ford Health System  
Hospice and Palliative Nurses Association  
Indiana Health Industry Forum  
Indiana Society of Addiction Medicine  
InfoMC  
Inland Empire Health Plan  
International Association of Hepatitis Task Forces  
International Cancer Advocacy Network  
Johns Hopkins Medicine  
The Joint Commission  
The Kennedy Forum

Kentucky Society of Addiction Medicine  
Leidos  
Lifebridge Health  
Living Hope for Mental Health  
Louisiana Society of Addiction Medicine  
Lupus and Allied Diseases Association, Inc.  
Lupus Foundation of Arkansas, Inc.  
Magellan Health  
Marshfield Clinic Health System  
Maryland Community Health System  
Maryland-DC Society of Addiction Medicine  
Medicaid Health Plans of America  
MemorialCare Health System  
Mental Health America  
Mental Health America of Hawai'i  
Mental Health America of Los Angeles  
Mental Health America of Montana  
MetroHealth  
Molina Healthcare  
National Alliance on Mental Illness  
NAMI Clackamas  
NAMI Georgia  
NAMI Keystone PA  
NAMI Minnesota  
NAMI Multnomah  
NAMI Nevada  
NAMI-NYS  
NAMI Ohio  
NAMI Sioux Falls  
NAMI Tennessee  
NAMI Texas  
NAMI Utah  
NAMI Washington  
National Association for Behavioral Healthcare  
National Association for Rural Mental Health  
National Association of ACOs  
National Association of Addiction Treatment Providers  
National Association of Counties  
National Association of County Behavioral Health and Developmental Disability Directors  
National Association of Social Workers  
National Association of State Mental Health Program Directors  
National Oncology State Network  
Neighborhood Health Plans of Rhode Island  
Netsmart  
New Directions Behavioral Health  
New Jersey Association of Mental Health and Addiction Agencies, Inc.  
New Jersey Society of Addiction Medicine  
New York Society of Addiction Medicine

North Carolina Society of Addiction Medicine  
Northwest Society of Addiction Medicine (representing Montana, North Dakota, and Wyoming)  
Northwestern Medicine  
OCHIN  
Ohio Society of Addiction Medicine  
OPEN MINDS  
Optum  
Oregon Urological Society  
Otsuka America Pharmaceutical, Inc.  
Pacific Dental Services  
Partnership HealthPlan of California  
Passport Health Plan  
Pennsylvania Society of Addiction Medicine  
PerformCare  
Pharmaceutical Care Management Association  
Premier Healthcare Alliance  
Rhode Island Society of Addiction Medicine  
Riverside Health System  
SCAN Health Plan  
Shatterproof  
Sjögrens and Lupus Foundation of Hawaii  
South Carolina Society of Addiction Medicine  
Strategic Health Information Exchange Collaborative  
Summa Health System  
Texas Health Resources  
Trinity Health  
Virginia Society of Addiction Medicine  
Vizient  
Waianae Coast Comprehensive Health Center  
Washington State Prostate Cancer Coalition  
Washington State Urology Society  
Wisconsin Society of Addiction Medicine  
Wyoming Epilepsy Association

9/21/18

# United States Senate

WASHINGTON, DC 20510

September 20, 2018

The Honorable Lamar Alexander  
Chairman  
Committee on Health, Education, Labor and Pensions  
United States Senate  
Washington, DC 20510

The Honorable Greg Walden  
Chairman  
Committee on Energy and Commerce  
United States House of Representatives  
Washington DC 20510

The Honorable Patty Murray  
Ranking Member  
Committee on Health, Education, Labor and Pensions  
United States Senate  
Washington, DC 20510

The Honorable Frank Pallone, Jr.  
Ranking Member  
Committee on Energy and Commerce  
United States House of Representatives  
Washington DC 20510

Dear Chairman Alexander, Chairman Walden, Ranking Member Murray, and Ranking Member Pallone:

We applaud the diligent work of the Senate Health Education Labor and Pensions, Finance, Commerce, Judiciary, and Banking Committees in developing a comprehensive response to the opioid epidemic that secured such strong bipartisan support. The Opioid Crisis Response Act, along with the SUPPORT for Patients and Communities Act, H.R. 6, will go far in addressing the opioid and drug epidemic that claimed 72,000 lives in 2017. As a final legislative package is being developed, we write to express our support for the inclusion of the Protecting Jessica Grubb's Legacy Act (S. 1850), which would further improve integrated treatment and care for those suffering from substance use. Companion legislation, the Overdose Prevention and Patient Safety (OPPS) Act, H.R. 6082, recently passed the House of Representatives by an overwhelmingly bipartisan vote of 357-57.

42 CFR Part 2 (Part 2), federal regulations that govern confidentiality of drug and alcohol treatment and prevention records, sets requirements limiting the use and disclosure of patients' substance use records from certain substance use programs. Patients are required to give multiple consents, creating a barrier for integration and coordination of health care. A lack of access to the full scope of medical information for each patient can result in the inability of providers and organizations to deliver safe, high-quality treatment and care coordination. The barriers presented by Part 2 can result in the failure to integrate services and can lead to potentially dangerous medical situations for patients.

The Legacy Act was written after we lost Jessica Grubb more than two years ago for one simple reason: one of her physicians did not know that she was in recovery from an opioid addiction and sent her home from the hospital with 50 pills of oxycodone. Jessie's death could have easily been prevented. Both the Legacy Act and H.R. 6082 would align Part 2 with HIPAA for treatment, payment, and health care operations (TPO) and strengthen protections against the use of addiction records in criminal, civil, or administrative proceedings. H.R. 6082 further amplifies consumer protections by incorporating antidiscrimination language, significantly enhanced penalties for any breach of a patient's substance use record, and breach notification requirements.

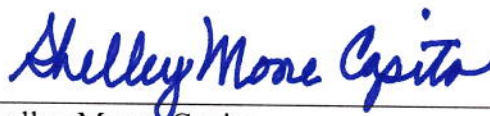
As both chambers' opioid bills are reconciled, it is imperative that they include H.R. 6082 to align Part 2 with HIPAA for the purposes of TPO. The House and Senate packages contain a number of key initiatives designed to attain the goal of treating and coordinating care for persons with substance use disorder. However, the success of some of these new initiatives, such as Comprehensive Opioid Recovery Centers and expanding Medicare coverage of certain services furnished by opioid treatment programs, will be hampered without harmonizing Part 2 with HIPAA.

Modernizing Part 2 by aligning it with HIPAA will allow for better coordination of care and ensure that health care professionals have the information they need to safely and effectively treat all patients. We look forward to working with you to advance this important policy this year.

Sincerely,



Joe Manchin III  
United States Senator




Shelley Moore Capito  
United States Senator




Sheldon Whitehouse  
United States Senator



Susan M. Collins  
United States Senator



Jeffrey A. Merkley  
United States Senator



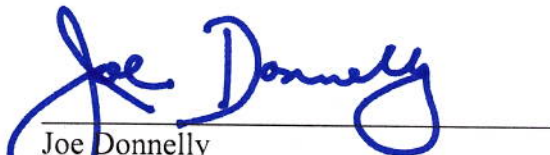
M. Michael Rounds  
United States Senator



Amy Klobuchar  
United States Senator



Bill Cassidy, M.D.  
United States Senator



Joe Donnelly  
United States Senator

## PRESS RELEASES

September 12, 2018

### Committee to Hold Hearing Examining Consumer Privacy Protections

**WASHINGTON** – U.S. Sen. John Thune (R-S.D.), chairman of the Senate Committee on Commerce, Science, and Transportation, will convene a hearing titled “Examining Safeguards for Consumer Data Privacy,” at 10:00 a.m. on Wednesday, September 26, 2018. This hearing will examine privacy policies of top technology and communications firms, review the current state of consumer data privacy, and offer members the opportunity to discuss possible approaches to safeguarding privacy more effectively.

*“Consumers deserve clear answers and standards on data privacy protection,” said Thune. “This hearing will provide leading technology companies and internet service providers an opportunity to explain their approaches to privacy, how they plan to address new requirements from the European Union and California, and what Congress can do to promote clear privacy expectations without hurting innovation.”*

#### Witnesses:

- Mr. Len Cali, Senior Vice President—Global Public Policy, AT&T Inc.
- Mr. Andrew DeVore, Vice President and Associate General Counsel, Amazon.com, Inc.
- Mr. Keith Enright, Chief Privacy Officer, Google LLC
- Mr. Damien Kieran, Global Data Protection Officer and Associate Legal Director, Twitter, Inc.
- Mr. Guy (Bud) Tribble, Vice President for Software Technology, Apple Inc.
- Ms. Rachel Welch, Senior Vice President, Policy & External Affairs, Charter Communications, Inc.

\*Witness list subject to change.

#### Hearing Details:

Wednesday, September 26, 2018

10:00 a.m.

Full Committee

Dirksen Senate Office Building G50

Witness testimony, opening statements, and a live video of the hearing will be available on [www.commerce.senate.gov](http://www.commerce.senate.gov).



## Big Tech Launches Full-Court Press for Federal Privacy Rules

*Industry is counting on Washington to rescue them from the aggressive new data-privacy laws coming out of California and elsewhere.*

**[Brendan Bordelon@BRENDANBORDELON](#)**

Sept. 13, 2018, 8 p.m.- National Journal

Despite an escalating series of privacy scandals, the tech industry's cadre of Washington lobbyists have for years resisted attempts by policymakers and consumer advocates to craft federal rules governing the use—and punishing the misuse—of their customers' personal data.

After the events of the last week, it seems safe to declare that resistance officially over.

On Tuesday the Internet Association, a trade group representing Facebook, Amazon, Alphabet, and nearly all other top-tier Silicon Valley platforms, [announced](#) their support for a federal framework to address data privacy. By Wednesday they [were joined](#) by the Software Alliance, a consortium that includes Apple, Oracle, IBM, and Adobe. Both groups came in behind the U.S. Chamber of Commerce, who last Thursday [introduced](#) their own plan for a federal privacy law.

Together, the groups encompass nearly every major company collecting or tracking consumer data in the United States. And representatives from all three are pointing to escalating global anxiety over privacy—supercharged by Cambridge Analytica and other scandals—as the driver of their newfound enthusiasm for federal rules.

Skeptical privacy advocates, however, point to the June passage of the California Consumer Privacy Act. The law is a forceful set of privacy provisions that restrict some common data-harvesting methods, expand opt-out requirements, mandate data portability, and potentially open the door to a flood of tech lawsuits.

California's rules are slated to go into effect in 2020, but could be preempted by federal legislation. Achieving that preemption, say many privacy advocates, is the real reason behind Silicon Valley's sudden U-turn.

“These industries have really fought tooth and nail against states passing privacy laws for a long time, and have never come to the table or have never supported a real consumer-privacy-protection structure,” said Ernesto Falcon, legislative counsel at the Electronic Frontier Foundation. “And suddenly California passes a law that puts some teeth on certain practices, and now the industry is desperate for a federal law.”

The notion that California's new law is driving industry's about-face is echoed by some—though not all—of Washington's tech lobbyists. “California in particular, we think they got it wrong,” Michael Beckerman, the president and chief executive of the Internet Association, said during an Atlantic Live event Thursday. “And there's corrections that can be made at the federal level.”

Alan Friel, a privacy attorney at Baker Hostetler whose clients include many in the tech industry, said he believes California's new law—along with similar efforts now being pursued in Illinois and elsewhere—finally pushed tech companies to the table. “I think that the industry would rather concentrate its efforts in Washington than in a dozen or half-dozen state capitals,” he told *National Journal*.

But Friel also took umbrage at the suggestion that the move is a ploy to dismantle real privacy protections in favor of a federal fig leaf. “Another way to say it is, it’s an attempt to preempt reckless and ill-advised and costly—maybe well-intentioned, but ill-advised—state efforts at regulation, and to prevent an unworkable patchwork of state laws that make it impractical, if not impossible, for our data-driven economy to operate,” Friel said.

The aggressive industry push for federal rules is complemented by rapid moves on privacy by the Trump administration and the Senate. The National Telecommunications and Information Administration, in coordination with industry stakeholders, is working on a nebulous set of privacy principles. So too is the National Institute of Standards and Technology, which hopes to develop best-practice privacy guidelines that industry can draw upon when needed.

Republican Senate Commerce Committee Chairman John Thune has meanwhile teased the impending release of data-privacy legislation, [telling reporters](#) last month that he hopes to release a bill in September.

On Wednesday Thune announced a hearing for later this month on data privacy, and negotiations between Senate lawmakers and industry stakeholders over potential legislation are ongoing.

“The legislative process is serious right now, and we expect significant legislation introduced this year to set the stage for next year,” said one industry source, who requested anonymity in order to freely characterize discussions with lawmakers.

Privacy advocates are dismayed by the industry’s abrupt about-face on federal legislation, convinced it’s a prelude to the passage of federal rules that will cripple the tough privacy regime passed in California.

Laura Moy, the deputy director of Georgetown Law’s Center on Privacy and Technology, said she’s confused by the Chamber of Commerce and the Internet Association’s plans to promote a “neutral” privacy framework across all industry sectors, regardless of the amount or type of consumer data handled.

“As a consumer, I don’t have the same privacy expectations when it comes to interactions with my doctor as I do when it comes to interactions with a telemarketer,” she said, suggesting that a blanket framework for different industry sectors would be unworkable.

Falcon expressed his concern over the slate of panelists set to address the Senate Commerce Committee on Sept. 26. While executives from AT&T, Amazon, Google, Twitter, Apple, and Charter Communications are expected to testify, consumer advocates are conspicuously absent.

“There’s dozens of consumer-privacy groups out there,” said Falcon. “If you invite none of them that are challenging industry, and you only invite the Chamber of Commerce membership, you’re not going to get a hearing that actually is going to produce thoughtful dialogue.”

“I think it’s 100 percent the industry driving Congress right now,” Falcon added, arguing that no committee leaders on Capitol Hill were seriously considering privacy legislation before industry began clamoring for a bill.

But Thune's bill isn't the only potential privacy legislation percolating in Washington. On Thursday Sen. Mark Warner, the ranking Democrat on the Senate Intelligence Committee, said at the Atlantic Live event that any privacy bill backed by him would likely receive "overwhelming" GOP support.

Warner [released](#) a white paper this summer that called for a federal privacy framework mirroring certain provisions from the EU's new General Data Protection Regulation. That idea received a cool reception from the Washington tech lobby, many of whom have openly criticized Europe's adoption of the GDPR.

Dean Garfield, the president and chief executive of the Information Technology Industry Council, said Thursday he supports Warner's effort to address privacy at the federal level. But, he added, the senator is making a mistake by assuming the privacy problem is easy to solve, and that the main roadblock is the lack of industry desire to fix it.

"We haven't developed rules before, and so we have to work together to figure it out," Garfield said during the Atlantic Live event. "And [Warner's] suggestion that it is so simple is simply inconsistent with reality."

# NIST Privacy Framework

## An Enterprise Risk Management Tool

### Why a Privacy Framework

#### The challenge

It is a challenge to design, operate, or use technologies in ways that are mindful of diverse privacy needs in an increasingly connected and complex environment. Inside and outside the U.S., there are multiplying visions for how to address these challenges.

#### Why good cybersecurity doesn't solve it all

While good cybersecurity practices help manage privacy risk by protecting people's information, privacy risks also can arise from how organizations collect, store, use, and share this information to meet their mission or business objective, as well as how individuals interact with products and services.

#### Addressing the privacy challenge

The U.S. Department of Commerce is developing a forward-thinking approach that supports innovation and strong consumer privacy protections. The National Institute of Standards and Technology (NIST) is leading the development of a voluntary privacy framework as an enterprise risk management tool for organizations while the National Telecommunications and Information Administration is leading the development of a set of privacy principles, and coordinating with the International Trade Administration to ensure consistency with international policy objectives.

### What is the NIST Privacy Framework

- NIST aims to collaboratively develop the Privacy Framework as a voluntary, enterprise-level tool that could provide a catalog of privacy outcomes and approaches to help organizations prioritize strategies that create flexible and effective privacy protection solutions, and enable individuals to enjoy the benefits of innovative technologies with greater confidence and trust.
- It should assist organizations to better manage privacy risks within their diverse environments rather than prescribing the methods for managing privacy risk.
- The framework should also be compatible with and support organizations' ability to operate under applicable domestic and international legal or regulatory regimes.

### NIST's Collaborative Process

- NIST has a long track record of successfully and collaboratively working with the private sector and federal agencies to develop guidelines and standards. With experience in developing the *Framework for Improving Critical Infrastructure Cybersecurity* (Cybersecurity Framework) and extensive privacy expertise, NIST is well positioned to lead the development of this framework.
- NIST will model the approach for this framework based on the successful, open, transparent, and collective approach used to develop the Cybersecurity Framework.
- NIST will convene and work with industry, civil society groups, academic institutions, Federal agencies, state, local, territorial, tribal, and foreign governments, standard-setting organizations, and others, conducting extensive outreach through a series of workshops and requests for public comment.

## Developing the NIST Privacy Framework: How can a collaborative process help manage privacy risks?

The Brookings Institution  
Monday, September 24, 2018  
9:00 a.m. – 12:00 p.m.

# BROOKINGS

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## EVENT ANNOUNCEMENT

### Developing the NIST Privacy Framework: How can a collaborative process help manage privacy risks?

Monday, September 24, 2018, 9:00 a.m. — 12:00 p.m.

The Brookings Institution, Falk Auditorium, 1775 Massachusetts Ave, NW, Washington, DC

The “Cybersecurity Framework” led by the National Institute of Standards and Technology (NIST) has proved to be a valuable tool of cybersecurity risk management. Now, with privacy in the public spotlight and discussions about policy options expanding, NIST is embarking on a collaborative effort to develop a NIST “Privacy Framework: An Enterprise Risk Management Tool.”

On September 24, the Center for Technology Innovation at Brookings will host experts for a half-day forum on the development of this framework and privacy risk management. Through keynotes and panel discussions, experts will share their perspectives on the current and future state of privacy practices from both an implementation and policy perspective, as well as the potential domestic and international impact of this privacy framework. Attendees will learn directly from NIST leadership about their plans for the framework development, hear industry responses, and explore the issues presented by a framework approach to privacy.

After each panel, speakers will take audience questions. You can also follow the conversation on Twitter using **#PrivacyFramework**.

#### 9:00 am Opening remarks

**Cameron Kerry**, Ann R. and Andrew H. Tisch Distinguished Visiting Fellow, Governance Studies, The Brookings Institution

#### 9:05 am The NIST Privacy Framework: The road ahead

**Walter Copan**, Director, National Institute of Standards and Technology, U.S. Department of Commerce

#### 9:25 am Industry principles for privacy risk management

**Dean C. Garfield**, President and CEO, Information Technology Industry Council

#### 9:45 am What does risk management mean in the context of privacy?

**Moderator: Cameron Kerry**, Ann R. and Andrew H. Tisch Distinguished Visiting Fellow, Governance Studies, The Brookings Institution

**Harriet Pearson**, Partner, Hogan Lovells US LLP

**David Hoffman**, Director of Security Policy and Global Privacy Officer, Intel Corporation

**Travis Hall**, Telecommunications Policy Analyst, National Telecommunications and Information Administration, U.S. Department of Commerce

**Michelle Richardson**, Director of the Privacy and Data Project, Center for Democracy and Technology

#### 10:45 am Break

#### 10:55 am What are the practices and tools that can inform a privacy framework?

**Moderator: Naomi Lefkowitz**, Senior Privacy Policy Advisor, National Institute of Standards and Technology, U.S. Department of Commerce

**Jenn Behrens**, Partner and Executive Vice President of Privacy, KUMA LLC

**Kevin Gay**, Chief of Intelligent Transportation Systems Policy, Architecture, and Knowledge Transfer, Federal Highway Administration, U.S. Department of Transportation

**Harley Geiger**, Director of Public Policy, Rapid7

**Zoe Strickland**, Managing Director and Global Chief Privacy Officer, JP Morgan Chase

**John Verdi**, Vice President of Policy, Future of Privacy Forum

## 11:55 am Closing remarks

**Cameron Kerry**, Ann R. and Andrew H. Tisch Distinguished Visiting Fellow, Governance Studies, The Brookings Institution

### Opening remarks

## Cameron Kerry

Cameron Kerry joined Governance Studies and the Center for Technology Innovation at Brookings as the first Ann R. and Andrew H. Tisch distinguished visiting fellow in December 2013. In addition to his Brookings affiliation, Cameron Kerry is senior counsel at Sidley Austin, LLP in Boston and Washington, D.C., and a visiting scholar the MIT Media Lab. His practice at Sidley Austin involves privacy, security, and international trade issues.

Kerry served as general counsel and acting secretary of the United States Department of Commerce, where he was a leader on a wide of range of issues laying a new foundation for U.S. economic growth in a global marketplace. He continues to speak and write on these issues, particularly privacy and data security, intellectual property, and international trade.

While acting secretary, Kerry served as chief executive of this Cabinet agency and its 43,000 employees around the world, as well as an adviser to the President. His tenure marked the first time in U.S. history two siblings have served in the President's Cabinet at the same time.

As general counsel, he was the principal legal adviser to the several Secretaries of Commerce and Commerce agency heads, and oversaw the work of more than 400 lawyers across these agencies. He was a leader in the Obama administration's successful effort to pass the America Invents Act, the most significant overhaul of the patent system in more 150 years. As co-chair of the National Science & Technology Council Subcommittee on Privacy and Internet Policy, he spearheaded development of the White House blueprint on consumer privacy, Consumer Data Privacy in a Networked World. He then led the administration's implementation of the blueprint, drafting privacy legislation and engaging on privacy issues with international partners, including the European Union. He helped establish and lead the Commerce Department's Internet Policy Task Force, which brings together agencies with expertise in the 21st Century digital economy.

He also played a significant role on intellectual property policy and litigation, cybersecurity, international bribery, trade relations and rule of law development in China, the Gulf oil spill litigation, and many other challenges facing a large, diverse federal agency. He travelled to the People's Republic of China on numerous occasions to co-lead the transparency dialogue with China as well as the U.S. / China Legal Exchange and exchanges on anti-corruption.

Before his appointment to the Obama administration in 2009, Kerry practiced law at the Mintz Levin firm in Boston and Washington. His practice covered a range of complex commercial litigation and regulation of telecommunications. He tried cases involving significant environmental and scientific evidence issues and taught telecommunications law as an adjunct professor at Suffolk University Law School.

Prior to joining Mintz Levin, he was an associate at Wilmer Cutler & Pickering in Washington, D.C. and a law clerk to Senior Circuit Judge Elbert P. Tuttle of the United States Court of Appeals for the Fifth Circuit. During the 2004 presidential campaign, Kerry was a close adviser and national surrogate for democratic nominee John Kerry. He has been deeply involved in electoral politics throughout his adult life. He is a magna cum laude graduate of Boston College Law School (1978), where he was winner of the school's moot court competition and a law review editor, and a cum laude graduate of Harvard College (1972).

Cameron Kerry also has been actively engaged in politics and community service throughout his adult life. In 2004-04, he was a senior adviser and national surrogate in the U.S. presidential campaign, traveling to 29 states and Israel. He has served on the boards of non-profits involved in civic engagement and sports.

The Ann R. and Andrew H. Tisch distinguished visiting fellows in Governance Studies are individuals of particularly noteworthy distinction. The fellowship is designed to bring distinguished visitors from government, business, journalism, and academia to Brookings to write about challenges facing the country. Kerry is the first to be named to this prestigious fellowship.

## Keynotes

### Walter G. Copan

Walter G. Copan was confirmed by Congress as undersecretary of commerce for standards and technology and NIST director on October 5, 2017. As NIST director, Copan provides high-level oversight and direction for NIST. He has had a distinguished and diverse career as a science and technology executive in large and small corporations, U.S. government, nonprofit and other public-sector settings.

Copan formerly served as president and CEO of the IP Engineering Group Corporation, providing services in intellectual property strategy, technology commercialization and innovation. Until June 2017, he was founding CEO and chairman of Impact Engineered Wood Corporation, an advanced materials technology company. He also is a founding board member of Rocky Mountain Innovation Partners, where he led technology transfer programs and innovation services on behalf of the U.S. Air Force Academy, U.S. federal labs and academic institutions and helped foster entrepreneurial businesses in the Rocky Mountain West. He also served with the National Advisory Council to the Federal Laboratory Consortium for more than five years, providing industry inputs to advance the U.S. economic impacts of the federal laboratory system.

From 2010–2013, Copan served as managing director of Technology Commercialization and Partnerships at DOE's Brookhaven National Laboratory (BNL). Among his accomplishments were leading the creation and implementation of the new DOE technology transfer mechanism, Agreement for Commercializing Technology (ACT), to facilitate collaborations between the federal labs and U.S. corporations. He led the Startup America initiative on behalf of DOE for entrepreneurial business creation, and he initiated the DOE's new Small Business Innovation Research – Technology Transfer (SBIR-TT) program, which built upon the experiences of NIST. He served as founding partner and board member of the Accelerate Long Island alliance for innovation, economic development and early stage investment.

From 2005–2010, Copan was executive vice president and chief technology officer at Clean Diesel Technologies, Inc., an international technology development and licensing firm. He spearheaded the company's transformation, growth and listing on NASDAQ (CDTI), as well as the company's subsequent merger. Prior to joining CDTI, Copan served at the DOE's National Renewable Energy Laboratory (NREL) as Principal Licensing Executive, Technology Transfer. There, he led organizational changes that strengthened relationships with industry and the investment community, and led to the more productive commercialization of energy-related technologies.

After earning dual B.S. and B.A. degrees in chemistry and music from Case Western Reserve University in



1975, Copan began his career in chemicals and materials research at the Lubrizol Corporation (now part of the Berkshire Hathaway Group). He earned a Ph.D. in physical chemistry from Case Western in 1982, and subsequently held leadership positions at Lubrizol in research and development, strategy, business unit management, venture capital, and mergers, acquisitions and strategic alliances in the U.S. and abroad. As managing director,

Technology Transfer and Licensing, from 1999–2003, he was responsible for Lubrizol's corporate venturing and open innovation, technology strategy, business development, intellectual assets and the technology licensing business.

Copan is a patent holder, has authored numerous professional publications and presentations, and has served on the boards of many organizations; including the Licensing Executives Society (LES) USA and Canada, where he recently served as regional vice president for LES USA. He has contributed to the U.S. National Academy of Sciences, the Council on Competitiveness, the World Intellectual Property Organization and the United Nations on innovation, technology transfer, energy and economic development matters.

## Dean Garfield

Dean Garfield is the president and CEO of ITI. Since taking on this role in 2009, Dean has built ITI into the global voice of the tech sector and membership has nearly doubled. He leads a team of professionals who, combined, bring nearly three centuries of advocacy experience to bear on the most complex policy challenges facing the world's leading and most innovative technology companies.

Garfield has worked to foster a policy environment that embraces cutting-edge research, game-changing technologies, and national economic champions as central to the foundation for sustained job creation and growth. The results: the tech sector has continued to grow despite global economic challenges. Companies are expanding — putting more people to work, creating breakthrough products and services, and expanding into new markets with enormous opportunity. Under Dean's leadership, ITI has defined the tech agenda for global policymakers, expanded its membership and influence, and launched a foundation that serves as the preeminent thought leader on innovation. ITI has deepened its expertise on core issues — from trade and new market development to taxes, from cloud computing to core standards. During Garfield's tenure, ITI's advocacy experts have helped to achieve critical legislative victories in the U.S. and internationally, knocking down barriers to innovation, strengthening America's economic competitiveness, and advancing sustainable technologies that will be at the heart of 21st century innovation.

Prior to joining ITI, Dean served as executive vice president and chief strategic officer for the Motion Picture Association of America (MPAA). While there, he developed the association's global strategies, securing accomplishment of key operational objectives, forged industry alliances on behalf of the MPAA, and led the MPAA's research and technology departments. Dean also represented the MPAA before legislative bodies and at key conferences around the world, including the European Commission and Oxford University.

Dean also served as vice president of legal affairs at the Recording Industry Association of America (RIAA). He helped to develop the organization's comprehensive intellectual property policy and litigation strategies and managed several of the United States' most important intellectual property cases, including the *Grokster/Kazaa* case, from its filing to its resolution at the Supreme Court.

He received a joint degree from New York University School of Law and the Woodrow Wilson School of Public Administration and International Affairs at Princeton University. He was a Ford-Rockefeller as well as a Root-Tilden-Snow scholar.

## Panel 1

### Travis Hall

Travis Hall is a telecommunications policy specialist for the National Telecommunications and Information Administration's Office of Policy and Development, focusing on surveillance and consumer privacy.

His portfolio includes IoT, UAS, and Blockchain, and he recently successfully concluded two privacy multistakeholder processes. He has a Ph.D. from the Department of Media, Culture and Communication from New York University, and his dissertation research focused on the cultural contexts and histories of state identification programs, specifically those that use bodies as the media of identity (biometrics, tattoos). He has acted as a consultant for advocacy groups, academic institutes, and private companies on the technical and policy details of identification and the potential impacts of these technologies on privacy rights. Before joining the Department of Commerce, Hall taught at American University and was a research fellow at the Humboldt Institute for Internet and Society in Berlin, Germany. He received his M.A. in international communications and B.A. in international relations from American University.

### Daniel A. Hoffman

David A. Hoffman is associate general counsel and global privacy officer at Intel Corporation, in which capacity he heads the organization that oversees Intel's privacy compliance activities, legal support for privacy and security, and all external privacy/security engagements.

Hoffman joined Intel in 1998 as Intel's eBusiness attorney to manage the team providing legal support for Intel's chief information officer. In 2005, Mr. Hoffman moved to Munich, Germany, as group counsel in the Intel European Legal Department, while leading Intel's Worldwide Privacy and Security Policy Team.

Hoffman served on the TRUSTe Board of Directors from 2000-2006. From 2005 – 2009, Hoffman served on the Board of Directors for the International Association of Privacy Professionals, and he is currently a member of the Advisory Board for the Future of Privacy Forum and the Board of the Information Accountability Foundation. He also chairs the board for the Coalition for Cybersecurity Policy and Law. Hoffman is a senior lecturing fellow at the Duke University School of Law.

Hoffman has a J.D. from The Duke University School of Law, where he was a member of the Duke Law Review. Hoffman also received an A.B. with honors from Hamilton College.

### Peter Lefkowitz

Peter Lefkowitz is chief privacy & digital risk officer at Citrix Systems. Peter oversees legal and regulatory risk associated with data, products and systems, as well as policy engagement on digital issues.

Prior to joining Citrix, Lefkowitz worked at GE, where he served as chief privacy officer (corporate) and then as senior data rights management counsel (digital) and at Oracle, where he was vice president of privacy and security legal and chief privacy officer. Lefkowitz is Chairman of the Board of the International Association of Privacy Professionals and a member of the Boston Bar Association Council. Lefkowitz holds a Bachelor of Arts in history, magna cum laude, from Yale College and a law degree from Harvard Law School.

## Harriet Pearson

Harriet Pearson currently leads Hogan Lovells' global multidisciplinary cybersecurity practice and serves as the firm's first innovation and new ventures partner, a role in which she is responsible for sparking and supporting ideas for new client solutions.

Internationally recognized as a corporate data privacy and cybersecurity pioneer, Pearson brings to her practice decades of leading-edge experience advising companies and boards on cyber and data risk management and governance, breach preparedness and response, crisis management, global data privacy compliance, and public policy strategies.

The Financial Times recognized Harriet in 2016 as North America Legal Innovator of the Year. Lawdragon named her as one of the 500 Leading Lawyers in America from 2015 to 2018, and the National Law Journal recognized her in 2015 as a Cybersecurity and Privacy Trailblazer. Clients seek out Harriet's unique mix of legal, compliance, and business skills. Harriet joined Hogan Lovells in 2012 from the IBM Corporation, where among other roles she served as vice president security counsel and chief privacy officer (CPO) from 2000-12.

Harriet co-founded and has co-chaired the Georgetown Cybersecurity Law Institute since 2012 and serves on a number of advisory boards. She helped found and served for a decade on the board of the International Association of Privacy Professionals, an organization that recognized her longstanding leadership in the privacy field in 2007 by awarding her its Vanguard Award.

## Michelle Richardson

Michelle Richardson is the director of the data and privacy project where she leads CDT's efforts to create a user-centered internet. Her team engages companies and government officials to create policies and technical solutions that protect individual privacy, empower users, and advance social justice.

Michelle has testified before Congress, advised government agencies, and frequently appears in national press such as The Washington Post, The New York Times, NPR, and Politico. Recognized by The Hill as one of the most influential nonprofits lobbyists in Washington, she has led left-right coalitions to defend privacy in the face of ever-expanding government authorities.

Before joining CDT in 2017, Michelle led the American Civil Liberties Union's preeminent legislative campaigns against overreaching surveillance programs for 10 years. She also served as a democratic counsel for the House Judiciary Committee where she worked on a range of anti-terrorism laws and policies. She received her B.A. from the University of Colorado and her J.D. from American University, Washington College of Law. She currently serves as a senior fellow at George Washington University's Center for Cyber and Homeland Security.

### Panel 2

## Jenn Behrens

Jenn Behrens is partner and executive vice president of Kuma. She specializes in privacy, governance, and identity management and leads our privacy service offering. Behrens focuses on supporting organizations in transition from compliance to commitment in privacy excellence in identity management.

She has vast experience in leading privacy related efforts for multiple federal (NSTIC) pilots as well as in providing privacy gap assessment and risk mitigation methodologies in conjunction with developing compliance strategies for both government and industry organizations.

Behrens is the IDESG plenary chair (former privacy committee chair), is an IAPP Women Leading Privacy Advisory Board Member, and is a HIMSS Patient Identity Integrity Workgroup member. Jenn received her B.A. from UVA, M.S.W. from VCU, and Ph.D. in public policy and administration from VCU. Jennifer holds CIPP/US, CIPP/G, CIPM and CHPSE credentials.

## Kevin Gay

Gay is the chief of the ITS Policy group in the Intelligent Transportation Systems Joint Program Office at the U.S. Department of Transportation. Gay leads a group program managers responsible for executing a portion of the \$100M ITS annual research portfolio to support the development and deployment of ITS technology. Gay's group includes both enabling technology and policy research in the areas of radio frequency spectrum, cybersecurity, standards, architecture, data management and privacy.

Gay previously worked for the National Highway Traffic Safety Administration (NHTSA) as the program manager for the development of the Connected Vehicle Security Credential Management System (SCMS), which developed a proof-of-concept system to demonstrate feasibility for trusted vehicle-to-vehicle and vehicle-to-infrastructure communications.

Prior to that, Gay led a team of researchers at the Volpe National Transportation Systems Center in the development of the 5-year program plan for vehicle automation research at the U.S. DOT. Prior to this, Gay managed the technical day-to-day aspects of the Connected Vehicle Safety Pilot Model Deployment in Ann Arbor, Michigan, which was a yearlong field operational test of dedicated short-range communications (DSRC) based crash avoidance systems involving thousands of motor vehicles and corresponding roadside systems.

Gay is certified as a project management professional (PMP) and has a Bachelor of Science in applied mathematics from the Georgia Institute of Technology.

## Harley Geiger

Harley Geiger is director of public policy at Rapid7, where he leads the company's policy engagement and government affairs activities on cybersecurity, privacy, computer crime, exports, and digital trade issues.

Prior to working at Rapid7, Geiger was advocacy director at the Center for Democracy & Technology (CDT), where he worked on issues related to government surveillance, privacy, and computer crime. Prior to that, Geiger was senior legislative counsel for U.S. Representative Zoe Lofgren of California, serving as lead staffer for technology and intellectual property issues. Geiger is an attorney and is CIPP/US certified.

## Naomi Lefkovitz

Naomi Lefkovitz is the senior privacy policy advisor in the Information Technology Lab at the National Institute of Standards and Technology, U.S. Department of Commerce. She leads the privacy engineering program, which focuses on developing privacy risk management processes

and integrating solutions for protecting individuals' privacy into information technologies, including digital identity services, IoT, smart cities, big data, mobile, and artificial intelligence.

FierceGovernmentIT named Ms. Lefkowitz on their 2013 "Fierce15" list of the most forward-thinking people working within government information technology, and she is a 2014 and 2018 Federal 100 Awards winner.

Before joining NIST, she was the director for privacy and civil liberties in the Cybersecurity Directorate of the National Security Council in the Executive Office of the President. Her portfolio included the National Strategy for Trusted Identities in Cyberspace as well as addressing the privacy and civil liberties impact of the Obama administration's cybersecurity initiatives and programs.

Prior to her tenure in the Obama administration, Lefkowitz was a senior attorney with the Division of Privacy and Identity Protection at the Federal Trade Commission. Her responsibilities focused primarily on policy matters, including legislation, rulemakings, and business and consumer education in the areas of identity theft, data security and privacy. At the outset of her career, she was assistant general counsel at CDnow, Inc., an early online music retailer.

Lefkowitz holds a B.A. with honors in French literature from Bryn Mawr College and a J.D. with honors from Temple University School of Law.

## Zoe Strickland

Zoe Strickland is the managing director, global chief privacy officer, for JPMorgan Chase. She is responsible for domestic and global privacy compliance at the company enterprise level, including its privacy policies, procedures, governance, strategy, training, and administration.

Previously, Strickland served as the VP chief privacy officer for UnitedHealth Group and for Walmart Stores Inc. Strickland is an active participant in the privacy community. She serves on the Advisory Board of the Future of Privacy Forum and several other cross-industry organizations. She previously served on the Board of Directors for the International Association of Privacy Professionals (IAPP). Strickland is a frequent speaker at industry conferences and events, has testified before subcommittees of the House Energy and Commerce Committee, and has been quoted in national and trade media sources, including USA Today, the New York Times, and National Public Radio.

## John Verdi

John Verdi is vice president of policy at the Future of Privacy Forum (FPF). John supervises FPF's policy portfolio, which advances FPF's agenda on a broad range of issues, including artificial intelligence & machine learning, algorithmic decision-making, ethics, connected cars, smart communities, student privacy, health, the internet of things, wearable technologies, de-identification, and drones.

Verdi previously served as director of privacy initiatives at the National Telecommunications and Information Administration, where he crafted policy recommendations for the U.S. Department of Commerce and President Obama regarding technology, trust, and innovation. John led NTIA's privacy multi-stakeholder process, which established best practices regarding unmanned aircraft systems, facial recognition technology, and mobile apps. Prior to NTIA, he was general counsel for the Electronic Privacy Information Center (EPIC), where he oversaw EPIC's litigation program. John earned his J.D. from Harvard Law School and his B.A. in philosophy, politics, and law from SUNY-Binghamton.

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