

Cybersecurity, Emergencies, & Law

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Cybersecurity

- Confidentiality, availability, integrity
- Law, policy, plans, procedures, practices

Emergencies?

- Data security for state voting machines
- Sony Pictures
- Snowden-like theft and disclosure
- Military/intelligence operations
- Cyber Pearl Harbor or 9/11

Emergency Frameworks

- Executive authority
- National Emergencies Act
- International Emergency Economic Powers Act
- Other cyber emergency lenses:
 - Information assurance
 - Operational military/intelligence functions
 - Law enforcement
 - Emergency management
 - Critical infrastructure

April 2015

Cyber Emergency Declaration

“... increasing prevalence and severity of **malicious cyber-enabled activities** originating from, or directed by persons located, in whole or in substantial part, outside the United States **constitute an unusual and extraordinary threat to the national security, foreign policy, and economy** of the United States.”

2017 NDAA

Sec. 1641.

- Senate modifies title 10, U.S.C. (Defense)
- **House modifies title 41, U.S.C. (Procurement)**

“... procurement of property or services by or for an executive agency ... to facilitate the defense against or recovery from *cyber*, nuclear, biological, chemical, or radiological attack against the United States.”

Theoretical Framing

- An expansive emergency paradigm
- Liberal constitutionalism vs. relativism
- Administrative National Security State
- Behavioral public choice:
 - Policy choices
 - Operational decisions
 - Transnational law and relationships

Looking Ahead

- Organization of Congress
- Legislative clarity
- Functionalist constitutional rights
- Transparency, as with IEEPA and NEA
- State-level cybersecurity
- International law

Educating Legal and Other Professionals

- Cybersecurity in context—not just cybercrime
- Interdisciplinary degrees
- Psychology & decision science
- Leadership
- Emergency management
- UMD Carey Law JD, LLM, MSL, + MSL online

<http://www.law.umaryland.edu/academics/>



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40 J. Legis. 251 (2014)