

THE CONSTITUTION PROJECT



Safeguarding Liberty, Justice & the Rule of Law

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TCP Joins Groups Warning Senate: Don't Water Down Privacy Protections in Cyber Bill

WASHINGTON, D.C. -- The Constitution Project has joined a group of 25 advocacy organizations from across the political spectrum in urging senators to avoid watering down the privacy provisions in the cybersecurity legislation currently being debated in the U.S. Senate. In a [letter](#) delivered today, the groups told the senators that the current version of the legislation "should be considered the privacy floor, and not the ceiling."

The legislation being considered by the Senate, the Cybersecurity Act of 2012 (S. 3414), is a new version of the bill originally co-sponsored by Senators Joe Lieberman (I-CT) and Susan Collins (R-ME). It is designed to protect America's computer networks from hacking and other cyber-attacks. Like all of the lead cybersecurity bills being considered in Congress, the bill includes a program to authorize extensive information sharing between government agencies and private companies.

"The new version of the Cybersecurity Act is the first bill that includes meaningful safeguards to address many of the civil liberties threats posed by a cybersecurity information sharing program," said Sharon Bradford Franklin, senior policy counsel at The Constitution Project (TCP), "and those safeguards are under assault by proposed amendments."

Backers of a competing cybersecurity measure by Sen. John McCain (R-AZ) have already submitted a number of amendments to weaken the privacy protections in the Lieberman- Collins bill, and more are expected.

Franklin said TCP would vigorously oppose any amendments to the legislation that would allow private information shared under the program to be given directly to the military or the NSA , or that would permit the information to be used for general criminal prosecutions or national security purposes unrelated to cybersecurity.

TCP also [joined a group](#) of technology companies and advocacy organizations urging the Senate to consider an amendment proposed by Sen. Patrick Leahy (D-VT) to the cybersecurity bill that would update the twenty-five year old Electronic Communications Privacy Act (ECPA). The amendment would require the government to obtain a warrant in order to compel a service provider to disclose the content of emails, texts or other private material stored by the service provider on behalf of its users.

According to Franklin, "ECPA is long overdue for an overhaul to bring it into the digital age and restore Fourth Amendment protections for the hundreds of millions of Americans who use mobile phones and the Internet."

Leahy's amendment would provide protection for digital content consistent with the due process envisioned by the Constitution, she said.

The Senate is expected to debate the cybersecurity legislation later this week. In January, TCP released a [comprehensive report](#) on the constitutional implications of cybersecurity information sharing programs.

[About The Constitution Project](#)

Created out of the belief that we must cast aside the labels that divide us in order to keep our democracy strong, The Constitution Project (TCP) brings together policy experts and legal practitioners from across the political spectrum to foster consensus-based solutions to the most difficult constitutional challenges of our time. TCP seeks to reform the nation's broken criminal justice system and to strengthen the rule of law through scholarship, advocacy, policy reform and public education initiatives. Established in 1997, TCP is based in Washington, D.C.



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