

THE CONSTITUTION PROJECT



Safeguarding Liberty, Justice & the Rule of Law

July 30, 2013

The Hon. Patrick Leahy
Chairman
Senate Judiciary Committee
United States Senate
Washington, D.C. 20510

The Hon. Chuck Grassley
Ranking Member
Senate Judiciary Committee
United States Senate
Washington, D.C. 20510

Dear Senators Leahy and Grassley and Members of the Senate Judiciary Committee:

The Constitution Project urges the Senate to support the FISA Accountability and Privacy Protection Act of 2013, S. 1215. As debate continues over the recently disclosed NSA programs, Congress should take this opportunity to ensure that we are protecting not only our security but also our constitutional rights and liberties.

The Constitution Project is a bipartisan organization that promotes and defends constitutional safeguards. The Project brings together legal and policy experts from across the political spectrum to promote consensus solutions to pressing constitutional issues. In 2009, well before the recent revelations regarding the scope of the current NSA programs, the Project's Liberty and Security Committee released a report entitled [Statement on Reforming the Patriot Act](#). The statement is signed by twenty six policy experts, former government officials, and legal scholars of all political affiliations, and urges Congress to reform the Patriot Act and incorporate more robust protections for constitutional rights and civil liberties. Our Committee's recommendations include urging Congress to tighten the standards for Section 215 orders and national security letters (NSLs) and to provide increased judicial review for "gag orders" under these provisions.

The recent disclosures regarding NSA surveillance programs have underlined the wisdom and increased the urgency of our Committee's proposals. Hastily drafted in the wake of the September 11th attacks, the Patriot Act contains several provisions that give the executive branch extraordinarily broad law enforcement powers which raise serious constitutional concerns, and recent disclosures demonstrate that the government has interpreted these surveillance authorities aggressively. The Constitution Project is pleased to see the introduction of legislation which targets some of the most troubling provisions of the Patriot Act, and would help rein in the NSA's surveillance program under Section 215. The FISA Accountability and Privacy Protection Act (S. 1215) co-sponsored by Chairman Leahy and Senators Blumenthal and Lee is consistent with the recommendations in The Constitution Project's Liberty and Security Committee's report, and passage of this legislation would be an important step toward implementing proper safeguards for constitutional rights.

In particular, the bill would reform Section 215 of the Patriot Act, most notably by tightening the standards for obtaining an order compelling a business to turn over records. Importantly, the bill would also tighten the standards for issuing an NSL, would allow NSL recipients to challenge the nondisclosure or "gag orders" that can accompany NSLs, and would require public reporting on the use of such letters. In addition, TCP commends the bill provisions that would increase public reporting and oversight on the use of these authorities.

In short, The Constitution Project backs the FISA Accountability and Privacy Protection Act because it would protect civil liberties while also ensuring law enforcement's ability to protect our national security. We urge Members of the Senate Judiciary Committee to support this bill.

Sincerely,

A handwritten signature in black ink that reads "Virginia E. Sloan". The signature is written in a cursive style with a large initial "V" and a long, sweeping underline.

Virginia E. Sloan
President
The Constitution Project