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THE CONSTITUTION PROJECT



Safeguarding Liberty, Justice & the Rule of Law

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Time to Pass Email Privacy Laws, TCP Says

WASHINGTON, D.C. -- Virginia Sloan, president of The Constitution Project, a bipartisan legal watchdog group, offered the following comment in response to the introduction today of bipartisan legislation in the U.S. House and Senate requiring law enforcement agencies to obtain a search warrant based on probable cause before accessing emails or documents stored in the cloud:

"These bills enjoy wide support from across the political and ideological spectrum. It is time for Congress to recognize that the Fourth Amendment applies to online communications. We should not enjoy less legal protection when we choose to communicate by email or store records in the cloud than when we send a letter by snail mail or put it in a desk drawer at home.

"The bills preserve the legal tools necessary for law enforcement and regulatory agencies to conduct criminal investigations and protect the public. There is no conceivable reason to delay their passage."

Senators Patrick Leahy (D-Vt.) and Mike Lee (R-Utah) introduced the Electronic Communications Privacy Amendments Act of 2015 in the Senate, with six additional cosponsors. Reps. Jared Polis (D-Colo.) and Kevin Yoder (R-Kan.) are chief sponsors of the bill in the House, which already has 228 cosponsors, more than half of the members of that chamber.

The companion bills would update the Electronic Communications Privacy Act, a 1986 law that currently allows law enforcement agencies to access without a warrant emails that have been stored for more than 180 days and information stored in the cloud. Once the legislation is signed, law enforcement agents would still be able to seek electronic communications as evidence in criminal investigations and prosecutions, but only when they can establish probable cause and obtain a warrant.

Last week, a broad coalition of 70 technology companies, trade associations and privacy groups, including The Constitution Project, urged quick consideration of warrant-for-content legislation. In similar letters delivered to leaders of the [House](#) and [Senate](#) Judiciary Committees on January 22,

the groups wrote that "there is an extraordinary consensus around ECPA reform - one unmatched by any other technology and privacy issue."

TCP is part of the Digital Due Process Coalition, which strongly supports modernizing ECPA to keep pace with changing technology.

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[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 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 through scholarship, advocacy, policy reform and public education initiatives. Established in 1997, TCP is based in Washington, D.C.

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