

1/6/16 Erik Fitzpatrick

Senate Privacy Bill

Summary of Substantive Differences Between ACLU and SA/AG Proposals
January 6, 2016

	ACLU	SA/AG	
	Applies to any government entity	Applies to law enforcement officers	
	Warrant generally required for obtaining from service provider any information about an electronic communication (other than subscriber information), including contents, location data, sender, recipients, time, IP address	Warrant generally required for obtaining from service provider location data and contents of an electronic communication	
	Subpoena permissible if information not sought for criminal investigation or prosecution	Subpoena or other court order permissible for information other than contents or location data	
	No comparable provision	Exceptions for judicially-recognized exceptions to warrant requirement, user's consent, when device lost or stolen, in corrections facilities under certain circumstances	
	Warrant generally required for obtaining electronic device information (any information stored on or generated through operation of an electronic device, including its current and prior locations), unless there is consent, emergency, stolen device, corrections facility	No comparable provision	
	Permits court to appoint special master to ensure that only information necessary to achieve objective of warrant is produced, or to order that information unrelated to that objective be destroyed after investigation is complete	No comparable provision	
	Any person may file motion to suppress	Defendant may file motion to suppress	
	Permits petition to void/modify a warrant or subpoena	No comparable provision	
	Annual reporting requirement	No comparable provision	