



Stop the CLOUD Act

Our data often moves across international borders. Social media posts could pass through servers in Sweden, while the user is located in Oklahoma. Internet search history could be stored in data centers in Berkeley or Belgium.

When police want access to data that is stored beyond their country's borders, they often have to comply not just with their own data protection laws, but also with the data protection laws where the data is stored. That's a good thing - it ensures that when data crosses borders, people don't suffer a reduction of privacy.

A new bill in Congress - the CLOUD Act (S. 2383 and H.R. 4943) - aims to undermine this privacy-protective system by allowing foreign police to demand data stored in the United States directly from U.S. companies. Along the way, foreign law enforcement will predictably capture American emails, chat logs, online photos, and videos.

The CLOUD Act Would

- Enable foreign police to collect and wiretap people's communications from U.S. companies, without obtaining a U.S. warrant.
- Allow foreign nations to demand personal data stored in the United States, without prior review by a judge.
- Allow the U.S. President to enter "executive agreements" that empower police in foreign nations that have weaker privacy laws than the United States to seize data in the United States while ignoring U.S. privacy laws.
- Allow foreign police to collect someone's data without notifying them about it.
- Empower U.S. police to grab any data, regardless if it's a U.S. person's or not, no matter where it is stored.

The Impact of the CLOUD Act

The President could *unilaterally* empower police of any nation on Earth to seize electronic communications stored in the United States, or to wiretap phone calls passing through the United States, while ignoring U.S. privacy laws, and without even notifying the U.S. government. The CLOUD Act expressly says U.S. courts can't review the President's decision to grant this extraordinary power to a foreign country, even if it is a well-known human rights abuser.

Foreign police using these powers will inevitably capture the communications of Americans who happen to be communicating with foreign targets. Foreign police could then share much of these communications with the U.S. government, which would be free to use them against the Americans who sent or received them. Such Americans would thereby be stripped of their Fourth Amendment rights to a warrant and notice when U.S. police read their emails.

Fix the MLAT system. Some police are frustrated that the existing system for accessing cross-border data, known as Mutual Legal Assistance Treaties (MLATs), is too slow. The solution is to improve the MLAT system, with resources, streamlining, and training. The solution is not to bypass the privacy protections of the MLAT system, as the CLOUD Act would do.