

# *Electronic Communications Protection Act of 1986*

Title II: “Stored Wire and  
Electronic Communications  
Transactional Records Access”

# *ECPA Title II Breakdown*

- Adds information to Title 18 of the United States Code
- Contains 10 sections which detail anything from data retrieval to the definition of unauthorized entry

## *Section 2701 – Unlawful access to stored communications*

- States that it is unlawful to gain access to unauthorized services intentionally (who would've guessed that?)
- Accessing for commercial gain? \$250,000 and a year in prison
- Just an average person accessing unlawfully? \$5000 and six months in prison

## *Section 2702 – Disclosure of Contents*

- Basically tells services providers to protect their information to insure that unwanted access is, in fact, unauthorized
- Allows for exceptions, which include system admins and law enforcement

## *Section 2703 – Requirements for Governmental Access*

- Outlines that law enforcement agencies need either a subpoena, warrant, court order, or the permission of the user to gain access to information stored by the provider
- Reminds provider that they don't have to inform user of such access by law enforcement

## *Section 2703 – Requirements for Governmental Access*

- Informs the type of information that can and cannot be released to other people (including the user).
- No matter what you do – consult a lawyer!

## *Section 2703 – Backup Preservation*

- Outlines how a governmental agency may go about asking for backups
- With subpoenas, backups can be made before the user is asked, but delivered afterwards
- Exceptions include the possibility that asking for the user's permission may cause damage to records.

## *Section 2705 – Delayed Notice*

- States that user notification can be delayed up to 90 days (more if court ordered) for many reasons.

## *Section 2706 – Cost reimbursement*

- Cost for services provided can either be agreed upon by the two parties involved or by court order (does not apply to common carriers that relate to telephone toll records)



## *Section 2707 – Civil Action*

- If the provider has been harmed by a violation of the above regulations, they may seek civil action for damages.

## *Section 2708 – Exclusivity of remedies*

- “The remedies and sanctions described in this chapter are the only judicial remedies and sanctions for non-constitutional violations of this chapter.”

## *Section 2709 – Counterintelligence access to telephone and transactional records*

- Allows for information to be retrieved by the FBI if they believe that it may involve “clandestine intelligence activities” of a foreign power
- Provider cannot disclose to anyone that this information was provided to the FBI
- Outlines that nobody under Deputy Assistant Director can request this info

# Sources

- <http://www4.law.cornell.edu/uscode/18/>
- [http://www.eff.org/Privacy/Email Internet Web/ecpa laymens view.article](http://www.eff.org/Privacy/Email_Internet_Web/ecpa_laymens_view.article)