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Highly Anticipated Surveillance Overhaul Set to Drop Within Days

By: John Hendel - October 28, 2013

The widely expected surveillance overhaul called the USA Freedom Act will be introduced Tuesday, a spokesman for Rep. Justin Amash, R-Mich., told us Friday. The bill would end the government's bulk collection of phone metadata authorized in Patriot Act Section 215, amend Section 702 of the Foreign Intelligence Surveillance Act and update the FISA Court's transparency, among other things. Privacy advocates have emphasized for months the package's substantive and comprehensive nature and greatly anticipate seeing the bill text itself. They describe it as a marriage of earlier efforts.

The bill is the product of House Judiciary Crime and Terrorism Subcommittee Chairman Jim Sensenbrenner, R-Wis., author of the Patriot Act and an outspoken critic of surveillance this year. Sensenbrenner is sponsoring the bill with Rep. John Conyers, D-Mich., as expected. Amash's spokesman said his boss will also be a sponsor. Free Press Policy Director Matt Wood told us the bill is expected to drop this week. "We are planning to introduce it next week," a spokesman for Sensenbrenner told us Friday, declining to specify the date. A Conyers spokesman confirmed the sponsors plan to drop the legislation early in the week, "barring no outside developments," he said. "We are thinking that around 60 original co-sponsors will be on the bill." Sensenbrenner's spokesman confirmed the number in the House is 60, more if the Senate is included.

"I commend Crime Subcommittee Chairman Sensenbrenner and Ranking Member Conyers for their efforts to examine how best to reform the Foreign Intelligence Surveillance Act," House Judiciary Committee Chairman Bob Goodlatte, R-Va., told us in a statement. "Their bill is a good first step and will generate a healthy discussion about what provisions need to be changed in current law. I am committed to working with these and other Members of the House Judiciary Committee, House leaders, and other Members of Congress to ensure our nation's intelligence collection programs include real protections for Americans' civil liberties, robust oversight, and additional transparency, while maintaining a workable legal framework for national security officials to keep our country safe from foreign enemies."

Both Sensenbrenner and Amash touted the bill in mid-October at a Cato Institute event (WID Oct 10 p3). Sensenbrenner vowed to defeat lawmakers from the House and Senate Intelligence committees who try in alternative proposals to preserve the metadata collection.

Sensenbrenner has developed the proposed legislation with Senate Judiciary Committee Chairman Patrick Leahy, D-Vt. Sensenbrenner will introduce the bill in the House, and Leahy in the Senate. The Senate bill is also expected to be introduced early next week, a Senate aide told us. The Senate version of the USA Freedom Act is planned to be introduced the same day as the House version, Sensenbrenner's spokesman said.

House Oversight Committee Chairman Darrell Issa, R-Calif., is a USA Freedom Act co-sponsor, Issa's office confirmed. Majority Leader Eric Cantor, R-Va., should "move legislation to the floor, including the language of the Amash Amendment that was narrowly defeated on July 26 ... as quickly as possible," Issa told Cantor in a Sept. 10 letter, which Issa's office made available. The Amash amendment would have cut off funding for NSA surveillance activity. Issa slammed "serious legal violations" in the NSA programs. "Government actions that violate the Constitution cannot be tolerated and Congress must act to ensure the NSA and the rest of the intelligence community permanently cease such acts and hold the appropriate individuals accountable," Issa said.

Rep. Duncan Hunter, R-Calif., also co-sponsors the USA Freedom Act, according to his office. "Bottom line, report after report about the NSA overreaching or exceeding its authority provide no assurances that either the NSA or the Administration is capable of reining in data collection," Joe Kasper, Hunter's deputy chief of staff, told us. "The congressman recognizes the need for a surveillance program, but evidently the parameters must be redefined so there's less confusion and potential for abuse."

Amash was likely to have mentioned the act during a speech at Saturday's Stop Watching Us rally protesting NSA surveillance, his spokesman said. The rally is set to mark the anniversary of the Patriot Act's signing. Several groups, including Public Knowledge, the American Civil Liberties Union, Free Press, the Electronic Frontier Foundation and TechFreedom, have joined to back the rally, which expects around 4,500 attendees. The rally was expected to have begun at Union Station in Washington at 11:30 a.m., with a march to the National Mall and a final destination of the Capitol Reflecting Pool, where a stage will feature speakers and musicians. They include Amash and past presidential candidate Dennis Kucinich, former Democratic representative from Ohio Gary Johnson, former Republican governor of New Mexico NSA whistle-blower Thomas Drake and technologist Bruce Schneier.

Conyers appeared in an Electronic Frontier Foundation video promoting the rally last week (WID Oct 24 p8). He will be in Detroit during the weekend of the rally and thus will not be attending, his spokesman said. "He is a big supporter though." Sensenbrenner will not attend either, his spokesman said. "In the last four months, we've learned a lot about our government," said former NSA contractor Edward Snowden in a statement Thursday (<http://bit.ly/19EFt8E>). "We've learned that the U.S. intelligence community secretly built a system of pervasive surveillance. Today, no telephone in America makes a call without leaving a record with the NSA. Today, no internet transaction enters or leaves America without passing through the NSA's hands. Our representatives in Congress tell us this is not surveillance. They're wrong." Senate Intelligence Committee Chairwoman Dianne Feinstein, D-Calif., has on multiple occasions denied that the bulk metadata collection merits the label of surveillance. Snowden leaked significant documents on U.S. surveillance practices earlier this year and kicked off the efforts to change the laws.

"It is clear that fundamental changes to the NSA surveillance programs and the FISA Court are required to ensure the constitutional rights of the American people are protected," bill cosponsor Rep. Mike Quigley, D-Ill, told us in a statement. "Unlike the Amash amendment, which simply cut off NSA funding,

the USA Freedom Act makes substantive changes to the law that will actually increase transparency, protect our privacy rights and keep us safe."