



Privacy vs. security: Patriot Act vote could split GOP

Erin Kelly

May 6, 2015

A debate over the USA Patriot Act is spotlighting a split between security hawks and privacy advocates within the Republican congressional majority, and analysts say the privacy faction appears to have the upper hand.

Lawmakers have until the end of May to decide whether to extend expiring provisions of the law, passed after the Sept. 11, 2001, terrorist attacks, that gives federal law enforcement agencies sweeping powers of surveillance over Americans and citizens of other nations.

Senate Majority Leader Mitch McConnell, R-Ky., has introduced legislation to simply renew the Patriot Act as-is. He said the government's power should not be weakened at a time when the threat from the Islamic State and other militant groups is growing.

But McConnell is facing fierce opposition in the Senate and the House from Tea Party-aligned Republicans and liberal Democrats demanding an end to the National Security Agency's use of the Patriot Act to collect phone records from millions of Americans not suspected of any terrorist activity.

"The conflict shows how much the world has changed since 9/11," said Darrell West, director of the Center for Technology Innovation at the Brookings Institution. "When the Patriot Act first passed, it was bipartisan legislation supported by most people. More than a decade later, people worry that the law went way too far and want to scale it back."

The House Judiciary Committee underscored that point last week when members voted 25-2 to pass the USA Freedom Act, which would end the mass collection of phone records under Section 215 of the Patriot Act, a program revealed in 2013 by former NSA contractor Edward Snowden. The bill is expected to come to the House floor for a vote as early as next week. Its lead sponsors range from conservative Republican Reps. Bob Goodlatte of Virginia and Jim Sensenbrenner of

Wisconsin to liberal Democratic Reps. John Conyers of Michigan and Jerrold Nadler of New York.

The same bill has been introduced in the Senate by Sen. Patrick Leahy, D-Vt., with the support of Republican Sens. Ted Cruz of Texas and Mike Lee of Utah. Both Cruz and Lee are Tea Party favorites, and Cruz is running for president.

"Our liberty is threatened when government claims the power to spy on its own citizens," Lee said.

The Freedom Act sponsors want to block a bill by McConnell and Senate Intelligence Chairman Richard Burr, R-N.C., to extend Section 215 and other Patriot Act provisions through 2020. The McConnell-Burr bill is supported by Sen. Tom Cotton, R-Ark., an outspoken veteran of the Iraq and Afghanistan wars who is trying to build support among his fellow GOP freshmen to extend the law without changes.

McConnell and Burr also have the backing of another Republican presidential candidate, Sen. Marco Rubio of Florida.

"We ... cannot afford to ignore another lesson of 9/11 and curtail intelligence-gathering capabilities that have been legally and painstakingly established following those horrific attacks," Rubio said in a recent op-ed on Fox News.

However, the security hawks appear to be outnumbered by the privacy advocates, especially in the House, analysts say.

"The likelihood of a straight-up re-authorization (of the Patriot Act) is almost nil," said Patrick Eddington, a policy analyst specializing in homeland security and civil liberties issues at the Cato Institute.

He said most Tea Party Republicans are displaying a libertarian streak when it comes to government surveillance.

"These people are deeply distrustful of government, and we've had a number of them come to Congress over the last few years," Eddington said. "We're seeing a resurgence of a traditional strain of Republicanism that is manifesting itself as a rejection of the post-9/11 surveillance state."

Surveillance is likely to be an issue in the 2016 GOP presidential primary, with Cruz and Rubio on opposite sides, West said. Another Republican presidential candidate, Sen. Rand Paul of Kentucky, has said he wants to go beyond the USA Freedom Act and repeal the entire Patriot Act.

"I think Congress is much more likely to change the law than get rid of it entirely," West said. "People still recognize that America faces security threats but want to get rid of the most onerous provisions of the Patriot Act."

Sen. Ron Wyden, D-Ore., a member of the Senate Intelligence Committee and a strong privacy rights advocate, said he believes the growing number of congressional Republicans criticizing mass surveillance reflects the sentiments of GOP voters.

"The Republican leadership in the Senate is in a very different place than the Republicans coming to my town hall meetings in Oregon who are concerned about government power," said Wyden, who vowed to use every procedural move at his disposal to block a straight renewal of the Patriot Act. "There is a gap between the leadership and some of the newer Republicans in Congress who are listening to those citizens."