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## Obama administration starts to implement changes to NSA phone records program

By Andrea Peterson

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President Obama pauses while talking about National Security Agency (NSA) surveillance, Friday, Jan. 17, 2014 (Carolyn Kaster/AP)

During his Jan. 17 speech on National Security Agency (NSA) surveillance, President Obama proposed a number of changes to the agency's bulk domestic phone records program. Thursday, the administration announced that the Foreign Intelligence Surveillance Court (FISC) approved a motion to start implementing some of those changes.

Specifically, the Office of the Director of National Intelligence (ODNI) said the court granted a motion to modify the most recent primary order authorizing the 215 phone records program to ensure that the metadata will only be queried after a judicial finding that there is a "reasonable, articulable suspicion" that the selection is associated with an international terrorist organization "absent a true emergency." In addition, the motion limited the query results to metadata within two hops of the selection term, rather than the prior three.

The FISC also ordered a classification review of the motions and the most recent primary order authorizing the program from January of this year, the government's motion to amend that order, and the court's order granting that motion, to be completed by Feb. 17. Once the review is completed, ODNI says the documents will "will be published as appropriate."

"It's good to see they're following through on the changes the president announced rapidly, but the fundamental problem isn't this one program -- it's a strained interpretation of the law that lets them secretly collect any type of records in bulk," says Julian Sanchez, a research fellow at the Cato Institute. "This should be seen as an important stopgap measure on the way to legislative reform of the underlying authority."

Laura W. Murphy, director of the ACLU's Washington Legislative Office mirrored his sentiments. "It's good to see that some of the president's reforms to the bulk collection program have been implemented," she said. "What we need now, though, is not tinkering around the edges but an end to bulk collection. If the president won't end the program, then Congress must pass the USA FREEDOM Act and shut it down permanently."

The USA FREEDOM Act is a bipartisan proposal co-sponsored by USA PATRIOT Act author Rep. Jim Sensenbrenner (R, Wis.) which would end the current bulk phone records collection program. In his January speech, President Obama also announced his administration was looking to transition custody of phone records outside of government. But details of which third parties might take over control of the data or how such a shift might be implemented are still in development.

Less than a week after the president's NSA speech, the Privacy and Civil Liberties Oversight Board -- an independent bipartisan government agency created to review the implications of national security policies at the urging of the 9/11 commission -- released a report with the majority finding that the phone records program is illegal and should be ended. Every member of that board also expressed skepticism at the president's plan to continue to access the data but house it with third parties, with Board Chair David Medine saying "it just doesn't seem to address the concerns" the group had about the program.