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With Deal to Renew PATRIOT Act, Reformers Will Have to Wait

By Chris Good

Top lawmakers cut a deal to extend provisions until 2015, dashing civil libertarian hopes as the Obama administration finds itself agreeing with Republicans



The future of the PATRIOT Act is rounding into shape, and, despite protests from civil liberties advocates, it's unlikely anything will change.

House Speaker John Boehner, Senate Majority Leader Harry Reid, and Senate Minority Leader Mitch McConnell agreed today on a clean extension of three expiring provisions until June 1, 2015, according to senior Democratic aide. Unless an extension is signed by President Obama by May 27, the administration will lose its authority to conduct roving wiretaps, gain access to "any tangible thing" (including documents and records) during an investigation, and conduct surveillance on "lone wolves" not suspected of associating with any terrorist group.

A few months ago, it looked as if some of these authorities could be curtailed, or at least that Congress

could renew them on a shorter-term basis.

In January, Senate Judiciary Committee Chairman Patrick Leahy (D-Vt.) introduced a bill to extend the expiring provisions through 2013 but require Department of Justice audits and institute a sunset of the controversial National Security Letters provision, which is not set to expire this month and which grants the administration authority to request information about U.S. citizens from various entities, including Internet providers and phone companies, without obtaining court orders. Leahy's [suggested](#) that National Security Letters had been abused in the past and that greater oversight was needed; a sunset would afford Congress more scrutiny, and his committee [approved](#) Leahy's plan earlier this year. Senate Intelligence Committee Chairwoman Diane Feinstein (D-Calif.), meanwhile, introduced her own bill, a clean extension through 2013. Senate Republicans had supported a permanent extension of all the provisions, without any strings attached.

The three-way agreement appears to be a compromise in which Republicans have mostly gotten their way: Provisions will be extended, but on a slightly longer timeline than Feinstein had called for, without any oversight measures or sunsets attached.

What's odd about PATRIOT Act politics is that the Obama administration has agreed more with congressional Republicans than with its Democratic allies -- a rare occurrence, in general. At a House Judiciary Committee hearing on Department of Justice oversight on May 3, Attorney General Eric Holder voiced support for a permanent extension of the expiring provisions, the position held by Republicans. Holder said:

We believe, I believe, it is absolutely essential that these expiring provisions be reauthorized. We never want to see these acts, these provisions, expire. The fact that they have sunset, period, and requiring us to come back periodically to get them reauthorized, is not helpful to us ... We need certainty. Our prosecutors, our investigators, need certainty in that regard ... So my hope is that these provisions are reauthorized for as long as we possibly can. If they were extended permanently, that is not something we would be opposed to.

The PATRIOT Act is facing a fresh round of questions, some of them having to do with the death of Osama bin Laden. As [USA Today reported](#) a week after bin Laden was killed, the Navy SEAL raid swayed some for and some against the PATRIOT Act.

The PATRIOT Act's periodic sunsets mean that its total value is contested by civil libertarians every few years. The last time they expired, in 2009, MoveOn.org launched a petition to "[Stop the Patriot Act](#)" as the Senate [deliberated down to the wire](#) in December of that year.

This year has been no different. The Cato Institute's Julian Sanchez published a [called for](#) reforms to end the "surveillance state" in a recent policy paper, and Miller-McCune's Emily Badger [suggested](#) that bin Laden's death invites the question of when PATRIOT Act authorities should be rolled back. The ACLU took the current reauthorization process as an opportunity to [call once again for restrictions](#).

But with Holder and the Obama administration seeking to preserve these authorities, reformers have been crowded out of the debate. It once appeared likely that Senate Democrats would back Leahy's position, at least initially. As we saw Thursday, that wasn't the case.

Civil libertarians will probably have to wait until 2015 for their next crack at overturning the

surveillance measures they most vehemently oppose.

Image credit: Tami Chappell/Reuters

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