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Editorial: Rolling back the Patriot Act

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Two years after being unveiled by Edward Snowden and after much protest by privacy and civil liberty advocates, the NSA's mass collection of American phone metadata is ending.

In a contentious 11th hour session of Congress this past Sunday, the Senate voted 77 to 17 to take up the House-backed USA Freedom Act. Now likely to pass, the bill would renew most of three provisions that sunset Sunday, while also reforming the NSA's collection of phone metadata.

The move was precipitated by a federal court striking down the government's authority for mass data collection. It will be a welcome compromise that stops the phone metadata dragnet and instead allows data collection to stay within third-parties — primarily phone companies. Now, when the National Security Agency, via the FBI, gets a court order for phone metadata records from within the United States, it will have to request these records from a third party, and not their own database. This is a win for civil liberties, and restores a more transparent process for gathering information.

Sen. Rand Paul, R-Kentucky, is being vilified for filibustering an extension of the Patriot Act while the USA Freedom Act is moving through Congress. An extension may have been prudent, but the expiration is not the national security crisis it's being portrayed as.

The suspension will likely be temporary, as the Senate is expected to pass its replacement soon. And targeted data collection to address a specific threat will continue.

The replacement bill will extend key provisions of the Patriot Act through Dec. 31, 2017. But it will limit the scope of NSA collections. Under the new rules, the government will have to obtain a warrant to get data from phone companies.

In addition, it mandates the NSA destroy all non-foreign intelligence information, and requires the publication of unclassified versions of major legal interpretations of data.

The Obama administration supports the USA Freedom act, as do most civil liberties groups. And it should give the government all the power it needs to track terrorists, without trampling so heavily on civil rights.

"Obviously phone records that we think are involved with terrorist networks are useful," said Julian Sanchez, senior fellow at the Cato Institute. "But there's no marginal benefit of getting records in bulk."

The Senate Judiciary Committee, the President's Review Group on Surveillance and Communications Technologies, and the Privacy and Civil Liberties Oversight Board all found the NSA's bulk collection of phone metadata to be an ineffective intelligence tool.

"The assertion that this is a vital tool is contradicted by anyone who has access to the information," Sanchez said.

The new bill also seeks to give accountability to the NSA by expanding the amount of information required for inclusion in the annual Attorney General report to Congress as well as directing the administrative office of the U.S. Courts to submit an annual report to Congress.

The Senate should move swiftly this week to put in place a more sensible and less intrusive law that allows for the tracking of terrorists without sacrificing privacy rights of Americans.