



Hope Fades for Aggressive NSA Reform in Congress

By John Hudson

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Edward Snowden's greatest fear may be coming true.

Since disclosing government surveillance programs last year, the former National Security Agency (NSA) contractor has said the worst possible outcome would be that "nothing will change." But the odds of that happening increase daily.

This week, a bipartisan chorus of senators poured cold water on the notion that America's surveillance activities need reforming and even criticized the modest NSA reform bill the House passed late last month that enjoys strong intelligence community support. Privacy advocates say the final version of the USA Freedom Act was "watered down" just days before the House approved it, and they looked to the Senate for more robust legislation.

Now the upper chamber appears unlikely to deliver for privacy advocates when it considers the bill later this summer.

"It seems to me that this bill is fixing a lot of things that simply aren't broken," Sen. Saxby Chambliss of Georgia, the Senate Intelligence Committee's top Republican, said Thursday, June 5.

"It seems to me that we're doing something unnecessary," added the committee's former chairman, West Virginia Democrat Jay Rockefeller.

"We should not play to the siren song of a political response," Sen. Dan Coats (R-Ind.) chimed in at a hearing Thursday.

The hearing offered the first public venue for senators to discuss the House bill together, which passed 303-121 on May 22. Broadly speaking, the bill would limit the NSA's ability to collect Americans' communications data en masse. It also would add transparency and oversight safeguards to the Foreign Intelligence Surveillance Court, the judicial body that oversees the NSA's surveillance activities.

Privacy advocates complain that the House bill lacks clarity about the types of requests the government can make to phone companies and the "selection terms," which traditionally are discrete items such as a name or phone number, that the government can use to search huge databases of records.

Now they fear the Senate will follow the House's lead or water down the bill even further.

"One after another, too many lawmakers said, 'Yep, this is constitutional; yep, this is constitutional; yep, this is constitutional,'" said Jesselyn Radack of the Government Accountability Project, referring to the NSA's bulk data collection program. "I didn't leave the hearing feeling that the bill was going to be strengthened."

Julian Sanchez, a privacy expert at the libertarian Cato Institute, agreed. "Even this now rather flaccid reform is still more than some on the Senate Intel Committee can handle," he said. "You are still hearing a Tourette syndrome-like tick that this is a lifesaving program, when every scintilla of public evidence says otherwise."

Besides Democratic senators Ron Wyden of Oregon, Mark Udall of Colorado, and Martin Heinrich of New Mexico, few of their committee colleagues appear eager to build in more privacy safeguards. However, privacy advocates do have a friend in Sen. Patrick Leahy, the Senate Judiciary Committee chairman. In a statement issued after the House vote, Leahy vowed to keep pressing for a tougher final bill.

"The House took an important step last month by approving a modified version of our bill, but at this historic moment, we cannot stop there," he said. "All Senators should support real reform that bans bulk collection of data, provides greater accountability, and improves transparency."

Whether Leahy can overcome the powerful, bipartisan opposition in the Senate is unclear. And not every privacy champion is ready to concede defeat.

"The Senate needs to improve the proposed law to get to real reform," said the American Civil Liberties Union's Gabriel Rottman. "I'd say this is going to be the fight of the summer."