

Rand Paul, Tea Party Ask: What About Privacy?

By [LIZ HALLORAN](#)
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Sen. Rand Paul (R-KY) speaks during a Tea Party Town Hall meeting in February at the National Press Club in Washington. The freshman lawmaker is being hailed by civil libertarians for putting privacy concerns over the Patriot Act back in the spotlight. (Alex Wong / Getty Images)

It's been nearly a decade since Congress, in the wake of the Sept. 11 terrorist attacks, hastily approved the USA Patriot Act and its historic expansion of law enforcement and domestic intelligence-gathering powers.

For just as long, civil libertarians have been agitating for legislators to hold a full-blown debate on the sweeping measure, fast-tracked to President George W. Bush's desk just four days after it was raised in Congress.

This week, the Senate failed again to have a robust back-and-forth on expiring provisions of the act that allow wide latitude in surveillance of Americans.

The pressure on the House and Senate, from the White House and others, was to extend the measures — not to question if they infringe too much on civil liberties.

But freshman Sen. Rand Paul, a Kentucky Republican and Tea Party favorite, raised a ruckus with leaders of both parties over the lack of debate, and forced the issue into the spotlight briefly but potently.

Julian Sanchez of the libertarian Cato Institute has suggested, only half-jokingly, that it would take a "legislative boxing match" to get the press and the public interested in a policy debate over a byzantine intelligence law.

Paul, in taking on Democratic Senate Majority Leader Harry Reid of Nevada, and Republican Minority Leader Mitch McConnell, also from Kentucky, provided that fight.

Paul has since been hailed by civil libertarians and privacy activists for reinvigorating the debate over what rights Americans, in the name of counterterrorism, may have sacrificed.

"It is amazing how much he's been able to drive attention to this by breaking the cozy agreement between Republicans who didn't want to revisit the Patriot Act, and Democrats who didn't want to call too much attention to it," says Sanchez, a longtime advocate of Patriot Act reforms.

And though civil liberties activists may not agree with some of Paul's anti-Patriot Act agenda — including his unsuccessful effort to amend the act to restrict national security officials' access to gun records — his passion and Tea Party clout are seen as an asset to those who have long pushed Congress to rein in aspects of the legislation.

Says Laura W. Murphy of the American Civil Liberties Union's Washington legislative office: "Rand Paul took a very strong stand — he wasn't in the control of the Republican Party, or the Democratic Party."

"If he didn't feel strongly about the substance of the Patriot Act, it would have been perceived as just another — yawn — procedural dustup," Murphy said. "But you could tell that he felt passionately about this."

She says sees common concerns among Tea Party Republicans and progressive Democrats "about the way the Patriot Act undermines our Fourth Amendment rights" that guard against unreasonable searches and seizures.

And Murphy is among those who are not looking to the White House to lead on the issue.

"We'd hoped for a much more progressive position out of the Obama administration," she said.

Paul Vs. Reid And McConnell

What happened between Paul and Majority Leader Reid came pretty close to Sanchez's "boxing match." And there was an equal struggle behind the scenes between Paul and fellow Republican McConnell, who wanted to move to a quick vote without considering changes Paul wanted included.

Reid, from the Senate floor, had attacked Paul's push-back on the Patriot Act as akin to aiding terrorists by giving them "the opportunity to plot against our country undetected."

A clearly infuriated Paul responded later from the floor, saying Reid's comments were "offensive" and "personally insulting." And he dressed down the majority leader for abandoning an earlier promise to have a week of debate on the issue.

"I think we should have an intelligent and rational discussion about this," he said. The issue, he said, is "not so simple that you can just say well, I'm either against terrorism, or I'm going to let terrorists run wild and take over the country."

Paul also took on McConnell, sending out a statement to supporters that asserted the senior Kentucky senator was working against efforts by his junior colleague to force a debate on amendments to the act.

With pressure building on both Reid, who took heat for his treatment of Paul on the floor, and McConnell, buffeted by Tea Party backlash, Paul was allowed to introduce two amendments — both of which failed — before moving to a final vote.

Paul pronounced himself "pleased that we cracked open the door to shed some light" on the Patriot Act.

Consistent Pressure

Congress has always been under pressure to extend expiring provisions of the counterterrorism law.

And the Obama administration has pushed Congress just as hard as the Bush White House. It insisted that if Congress failed to extend the provisions that were set to expire Thursday, terrorism investigations could be compromised.

James Clapper, director of national intelligence, was even dispatched to warn Congress that analysis of "information obtained at the Osama bin Laden compound" could be slowed if the surveillance provisions lapsed.

Sanchez is among those who have long suggested that the need for many of the expanded government powers under the Patriot Act are overstated, as is the imperative that extensions of expiring provisions must be done quickly and without lapse.

"If an investigation is already open, it's grandfathered in if a provision expires," he says. "And if they need to open a new investigation, I would be very surprised if they couldn't figure out a way to do that."

"Terrorism investigations happened before 9/11," he says.

Future Of Debate

Paul has teamed up with Sen. Patrick Leahy (D-VT) on an amendment to the Patriot Act that would phase out so-called National Security Letters. The controversial letters allow the FBI to collect, without court approval, personal records from financial institutions, credit card companies and Internet service providers.

Paul did not raise the amendment last week; Leahy has promised to raise it as a stand-alone bill.

Murphy, of the ACLU, says she's been heartened to see more members of Congress willing to push back on Patriot Act extensions. They include Democratic Sens. Mark Udall of Colorado, Jon Tester of Montana and Ron Wyden of Oregon and Republican Rep. Denny Rehberg of Montana.

She sees a western and New England flavor to the core of opposition.

It appears that Paul will remain at the center of the ongoing debate over counterterrorism policy executive power.

"If he can do what he's just done, and show that there isn't a huge political price to pay for saying that there should be limits on government surveillance, maybe other people will step forward, too," Sanchez says.

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