



GOP faces Patriot Act choice

By Julian Hattem

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Republicans have a choice to make.

In five months, key provisions of the Patriot Act are set to expire, potentially eliminating spying programs that intelligence officials say are critical to keeping the nation safe from terrorists.

The battle over what changes should be made to that law — and whether it should be reauthorized at all — is likely to be an early test of Republican leaders' ability to keep their party unified while controlling both chambers of Congress.

“I think there is going to be a very inconvenient and strong difference of opinion within the Republican Party about how to proceed here,” said Kevin Bankston, policy director at the New America Foundation's Open Technology Institute and a supporter of reforms to the spying law.

“This is why we strongly recommended that we pass [reforms] last year, to avoid a significant interparty split,” he added.

On June 1, key portions of the Patriot Act that update the 1978 Foreign Intelligence Surveillance Act (FISA) are set to expire. Among them is Section 215, which the National Security Agency (NSA) has used to authorize the collection of bulk records about millions of U.S. citizens' phone calls.

The program — which collects only “metadata” about people's calls, such as which numbers were dialed and when, and not actual conversations — was the most controversial part of Edward Snowden's leaks about the NSA, and has become the prime focus of privacy advocates on Capitol Hill.

After failing to get NSA reform legislation to President Obama's desk last year, advocates are eyeing the upcoming summer deadline as their best chance to significantly change the practices of the spy agency.

But supporters of the NSA are fighting back, and say the debate over phone data has overshadowed the national security imperatives that led lawmakers to empower the agency in the first place.

They say recent world events have helped their case.

First, the terror attacks in Paris — in which a small team of gunmen killed 17 people over a three-day rampage — [served as a reminder](#) of the importance of keeping tabs on possible terrorist suspects

Then last week, Speaker John Boehner (R-Ohio) credited the Patriot Act with helping to prevent a terror attack on the U.S. Capitol.

“The first thing that strikes me is we would never have known about this had it not been for the FISA program and our ability to collect information on people who pose an imminent threat,” Boehner told reporters during Republicans’ two-day retreat in Hershey, Pa.

“I’m going to say this one more time because you’re going to hear about it for months and months to come as we attempt to reauthorize the FISA program,” he added. “Our government does not spy on Americans, unless they are Americans who are doing things that frankly tip off our law enforcement officials to an imminent threat.”

Critics of the spy agency were quick to question Boehner’s take on the Capitol plot.

The FBI said it relied on Twitter messages and an undercover source to gather information about the suspect, Christopher Cornell — not wiretaps or call records.

“[T]here is every reason to be extremely skeptical of the implication that the [Section] 215 database, or indeed, any novel FISA authorities, played an essential role in the investigation of Cornell,” Julian Sanchez, a senior research fellow at the libertarian Cato Institute, [wrote in a blog post on Friday](#).

Boehner told reporters there was more to the story, but declined to get into details.

New House Intelligence Committee Chairman Devin Nunes (R-Calif.) has put his full support behind the Patriot Act and pledged to reauthorize its powers this year.

A spokesman told The Hill that Nunes agreed with Boehner that “we gained information on the attack through FISA provisions,” and that the planned attack “once again demonstrates the need for reauthorization.”

Republicans are far from united on the spy programs. Leaders on Capitol Hill could face an insurrection from the libertarian wing of their party if they try to push through a blanket reauthorization or make only cosmetic changes to the law.

Last year, Boehner and Nunes both voted for a bill to reform the NSA, though critics said it had become essentially toothless by the time it hit the chamber floor.

The Senate, where Republicans need 60 votes to overcome procedural hurdles, could become the central battleground.

Last year, all but one Democrat voted in favor of a stronger NSA reform bill. Four Republicans also voted “yes,” including Sen. Ted Cruz (Texas), who has an outsized voice among conservatives and is eyeing a run for the White House.

Sen. Rand Paul (R-Ky.), another possible 2016 contender, voted against the NSA bill, but on the grounds that it did not go far enough. He seems unlikely to support anything even faintly resembling an endorsement of the Patriot Act.

The debate over the law is certain to heat up in the coming months, as both Paul and Cruz aim to grow their profile ahead of possible presidential campaigns.

“For them to pass Patriot reauthorization they need to find 60 senators who would support a straight [reauthorization], and they’re just not going to get that by any math I can see,” Bankston said.

“The best they could get in terms of a clean reauthorization with no reforms attached would be a short-term reauthorization to enable the negotiations to continue.”

If a short-term extension is all that lawmakers can muster, the fight to rein in the NSA could turn into a protracted headache for the GOP.