



Phone surveillance critics see chance to end NSA program

Erin Kelly

March 12, 2015

WASHINGTON — Critics of the National Security Agency's collection of millions of Americans' phone records see a strong chance to rein in the mass surveillance program by June.

The agency has been conducting the controversial data-collection program using Section 215 of the USA Patriot Act anti-terrorism law passed following the Sept. 11, 2001, terrorist attacks. That section, along with two others, is set to expire on June 1.

Congress must decide before then whether to allow the provisions to expire, reauthorize them as they are, or change them.

"The deadline is going to force all sides to really focus on this issue and make a decision," said Neema Singh Guliani, legislative counsel for the American Civil Liberties Union, which opposes the NSA's bulk collection of phone data. "This is an opportunity for major reform."

The NSA has used Section 215 as the basis for collecting millions of records from U.S. phone companies showing the date and time of a call, how long it lasted and the telephone numbers of the people who made or received the call. The data, which are saved for up to five years, do not include the actual conversations.

The existence of the controversial program was revealed in 2013 by former NSA contractor Edward Snowden.

Opposition to the program has brought together an unlikely coalition of groups — ranging from the ACLU to the National Rifle Association — to fight what they see as government invasion of the privacy of millions of Americans who are not suspected of any terrorist activity.

The issue has also cut across party lines in the Capitol. In the last session of Congress, the Republican-led House passed the USA Freedom Act, which would have banned the NSA's bulk collection of phone records while allowing targeted surveillance of suspected terrorists.

A version of the bill containing stronger privacy protections failed by just two votes to advance in last year's Democratic-controlled Senate. It won the support of all but one Democratic senator as well as Republican Sens. Ted Cruz of Texas, Mike Lee of Utah and Dean Heller of Nevada.

House Judiciary Chairman Bob Goodlatte, R-Va., said he will push to rein in the NSA program in the weeks ahead.

"I am committed to reforming the bulk collection program ... so that we protect Americans' civil liberties while ensuring that the traditional capabilities of our intelligence-gathering programs are not disturbed," Goodlatte said.

Rep. Adam Schiff of California, the senior Democrat on the House Permanent Select Committee on Intelligence, said he wants lawmakers to take up a bill —such as the USA Freedom Act — to stop the NSA's mass surveillance program before the Patriot Act is renewed.

"I believe there's a bipartisan majority for reform," he said in an interview. "I think we can find the sweet spot where we protect Americans' privacy without interfering in the necessary work of the intelligence community."

But Rep. Devin Nunes, R-Calif, the new chairman of the intelligence committee, wants to leave Section 215 the way it is.

"It is a crucial tool for tracking terrorists that is subject to multiple layers of oversight from all three branches of government," he said. "Simply put, Americans will be safer — much safer — if it is reauthorized."

While Nunes' view may be in the minority in the House, it appears to be in the majority among his GOP colleagues in the Senate, said Julian Sanchez, a senior fellow at the Cato Institute and an expert on national security issues.

"There's a significant group in the Senate Republican leadership that would probably just as soon do nothing or almost nothing on surveillance reform," Sanchez said.

Senate Majority Leader Mitch McConnell, R-Ky., led the opposition last November to the USA Freedom Act. He said that surveillance laws shouldn't be weakened as threats from Islamic State terrorists grow stronger.

"Opponents of this collection program have not provided any examples of the National Security Agency intentionally spying on innocent civilians," McConnell said.

However, Sen. Ron Wyden, D-Ore., said there is no evidence that Section 215 has been effective in catching terrorists. Attorney General Eric Holder and National Intelligence Director James Clapper have said that the USA Freedom Act would not hinder the federal government's ability to capture criminals.

"There is a strong bipartisan majority that wants an end to the dragnet surveillance of ordinary Americans," Wyden said in an interview. "We're going to keep pushing."

Wyden and other Democrats have called on President Obama to end the program through executive action.

In a January 2014 speech, the president promised to "end the Section 215 bulk metadata program as it currently exists." But details of exactly how and when the program would end were not clear as Obama called on administration officials to come up with options for a new approach.

The White House said in a Feb. 27 statement that it is up to Congress to act and "the administration continues to stand ready to work with the Congress."

A federal court renewed the program for the fifth time on Feb. 26.