



House Votes To Cut Key Pursestrings For NSA Surveillance

By Andy Greenberg

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The House of Representatives may have only passed a puny attempt to reform the NSA's surveillance activities last month. But on Thursday evening it swung back with a surprising attack on a key element of the agency's spying programs: their funding.

In a late night session, the House of Representatives voted 293 to 123 to pass an amendment to a Department of Defense appropriations bill that would cut off all funds for two of the agency's most embattled activities: First, using the 702 provision of the Foreign Intelligence Surveillance Act to perform searches of collected surveillance data that target Americans, and second, asking hardware makers and software developers to build backdoors into their tools designed to give the agency access to users' communications. On that second count, the amendment specifically forbids funding for any agency attempt "to mandate or request that a person redesign its product or service to facilitate...electronic surveillance."

Both of those funding bans represent a clear reaction against behavior revealed from the leaks of Edward Snowden, which have shown over the past year that the NSA subverted cryptography standards, diverted hardware shipments to plant bugs in products, and found other ways to gather raw communication data from Silicon Valley firms like Google, Facebook, Microsoft, Apple, and others.

Though the amendment's bans still haven't been mirrored in the Senate, the House vote nonetheless sends "an unambiguous statement that there's political will to do something about the issue of unchecked NSA spying," says Parker Higgins, an activist at the Electronic Frontier Foundation, which supported a campaign to persuade citizens to call their congressman in support of the amendment. "This is not a trivial thing. These surveillance programs need money to survive. Without it there are hard questions ahead for the NSA."

The bill also represents a striking shift from the USA Freedom bill, intended to reform NSA mass surveillance, that passed the house last month in a watered-down form that disappointed privacy advocates. In part, the contrast is a result of political procedure: Much of the Freedom bill's weakening took place in the Judiciary and Intelligence committees, says Julian Sanchez, a fellow at the Cato Institute who follows surveillance policy. As an amendment to an appropriations bill, he says, the defunding legislation instead escaped that "double gauntlet" of lobbying. "In particular, it didn't have to go through the Intelligence Committee, which is basically a proxy for the intelligence community," says Sanchez.

In fact, the toothless surveillance reform bill may have directly inspired Thursday night's landslide vote by not going far enough to satisfy legislators seeking to curtail the NSA's most controversial activities. Due to the weakening of that bill's anti-spying provisions in committee, many House members never had a chance to show their intention to more drastically limit the NSA's spying.

Even if the amendment becomes law, it still wouldn't necessarily end all federally-mandated backdoors in hardware and software, cautions Matt Blaze, a computer science professor and cryptographer at the University of Pennsylvania. According to his reading of the amendment, it wouldn't cover the FBI, for instance. "The goal is clearly important. I worry that the scope...is limited," he says. "Even when the NSA and CIA don't request or put pressure on vendors to incorporate backdoors, other agencies, like FBI, may be in the same business."

Still, the passage of the amendment marks a serious shift in the political landscape following a year of Snowden's spying disclosures. A similar amendment put to a vote last year came up seven votes short of passing. The lopsided tally this year shows that reining in the NSA has become a popular political cause that crosses party lines, says the EFF's Higgins. "Last year, legislators who voted in favor of this amendment were sticking their necks out," he says. "Now the status quo has changed. There's a sense that if you're not doing something about this problem, it's going to be a black mark on your record."