



NSA's Republican Defenders Settle on a Line: Now the Phone Company Controls Your Data

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No Republican presidential hopeful has belittled National Security Agency critics with quite as much gusto as New Jersey Governor Chris Christie. Given a chance to remind people that he was a U.S. attorney after 9/11, he'll take it; given time to say that no other potential president used the Patriot Act as much as him, he'll use it. on Wednesday in Greenville, S.C., Christie told an audience that the privacy movement's passage of the USA Freedom Act was a lunkheaded defeat for security.

"They're gonna tell you, 'Oh the government shouldn't keep this data for records. We'll let the phone companies keep it and then the phone companies will give it to us when we need it.' Exactly what we want to count on," Christie said, according to reporter Rudolph Bell. "We want to put our national security in the hands of the phone companies."

One day earlier, South Carolina Senator Lindsey Graham was saying basically the same thing. "The metadata provisions, I don't like at all," Graham told CNN's Jake Tapper on Tuesday. "Basically, you've undercut privacy now. All of the records will be in the hands of the phone company with hundreds of people available to look at the records versus 20 or 30 people in the government. So I think the metadata program has been undermined in terms of the USA

Freedom act and quite frankly we've told the enemy so much about it I'm not sure it works anymore."

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Graham, who missed the end of the NSA debate to launch his presidential bid, had settled on a sort of political compromise. There was no longer any point in defending the metadata collection program as it had existed. But there was room to argue that privacy advocates had basically handed over control of the program to people who were not accountable to the American public.

Privacy advocates do not buy this at all. For all the attention paid to Kentucky Senator Rand Paul's filibuster, and the work his House allies did to kill USA Freedom, most advocates saw the transfer of the program to the phone companies as a privacy victory. "Given the government's history of creative, secret reinterpretation of the law, critics of the law can't be faulted for fearing that it still leaves ample room for shenanigans," the Cato Institute's Julian Sanchez wrote last week. "But the critical transparency provisions would at least require the secret court to publish any significant interpretation of the 'specific selection term' requirement."

On Tuesday, in a forum with Amnesty International, NSA leaker Edward Snowden himself called the government-to-phone companies transfer of USA Freedom a "good start." Defenders of surveillance were just primed to over-state the threats posed if they did not access all data at all times.

"It's not about anything that we've struck down," Snowden said. "It's about despite the fact that this program was considered ineffective, spies argued that it should remain. They said, 'But, but, terrorism!'"

That succinctly captured the wisdom of the NSA's congressional defenders. Paul—in one point of agreement—had intended the lapse in bulk data collection to prove that "just using the Constitution" was enough to secure America. After a vote series on Tuesday, Arizona Senator John McCain told Bloomberg that the lack of apparent danger to the homeland during the lapse did not prove Paul right.

"I'm not sure that's the indicator," said McCain. "There may be conversations going on right now that we're not detecting that could lead to further plots. It's not whether I feel safe or not. It's what the judgment of the director of the CIA is, and the judgment of the Director of National Intelligence. All of them say this put us at greater risk. I can't disagree with them—that's their job."

McCain went on to suggest that the great surveillance debate might not move any Republican primary votes at all.

"I'm not sure that Republican primary voters pay that much attention, to tell the truth," he said.

"I'm not sure they judge them by what goes on in the Senate, unless they vote against all of us."