

NSA “reform” bill would continue to allow for bulk phone record collection

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On Thursday, the United States House of Representatives passed the “USA Freedom Act,” a piece of legislation that has been presented as a National Security Agency (NSA) “reform” bill. In reality, the bill, which was modified after the intervention of the Obama administration, would allow for the continued bulk collection of telephone records, while doing nothing to address other illegal NSA spy programs.

Nearly one year ago, former NSA contractor and CIA systems administrator Edward Snowden first began revealing the massive police-state spying apparatus. Programs that he has exposed show that the NSA has been collecting vast amounts of data, including from US citizens, without a warrant, a violation of constitutional protections against unreasonable searches and seizures.

One of the first programs exposed by Snowden allows the spy agencies to collect all telephone records, which are then searched to reveal political and social connections. A secret court, the Foreign Intelligence Surveillance Court (FISC), has issued secret rulings authorizing this program, which has been carried out with the close collaboration of the telecommunications companies.

The USA Freedom Act, in line with “reforms” proposed by Obama earlier this year, seeks to assuage widespread opposition while ensuring that the spying continues. It requires the NSA to obtain specific permission from the FISC for records that would be kept by telecommunications companies rather than the agencies themselves.

The act was initially introduced into both congressional houses in October 2013. The bill did not initially receive the backing of NSA supporters and looked all but dead. However, it was reintroduced in an

amended form earlier this month after the failure of a rival bill previously promoted by NSA allies. The new bill now has the support of Congressmen close to the NSA, including Republican Mike Rogers, the Chairman of the House Intelligence Committee.

The amended USA Freedom Act featured significant changes made expressly at the insistence of the Obama administration. Earlier this week, administration lawyers engaged in intense negotiations with lawmakers to modify key portions of the bill.

One of the significant changes introduced was to redefine the criteria that spy agencies must submit to the FISC for data. The “specific selection term” was initially defined as “a term used to uniquely describe a person, entity or thing.” This was changed after the intervention of the Obama administration to “a discrete term” such as “a person, entity, account, address or device” that would “limit the scope of the information or tangible things sought.”

The new language is so broad that it essentially allows for bulk data collection. Harley Geiger, a senior counsel for the Center for Democracy and Technology, told the *New York Times* that the language would allow for the collection of vast amounts of data as long as there were any limiting criteria. “The government has shown remarkable capacity to creatively interpret terms that appeared clear, like ‘relevant,’ and this definition is ambiguous enough that it allows, if not entire-population-scale collection, large-scale collection,” he noted.

In addition, the amended bill allows the NSA to collect data for anyone found to be two degrees away from the suspected target. This would enable the agency to indefinitely surveil potentially thousands or even millions of people with just a single warrant.

The bill was amended so significantly that many of

its original backers have come out in opposition. A collection of telecommunications companies issued a statement that the language created an “unacceptable loophole that could enable the bulk collection of internet users’ data.”

Several former NSA officials turned whistleblowers—including Thomas Drake, William Binney, Edward Loomis and J. Kirk Wiebe, along with former congressional staffer Diane Roark—issued a statement declaring that the bill “does not deserve the name ‘USA Freedom Act’ any more than the ‘Patriot Act’ merits the moniker.”

For its part, the Obama administration praised the bill. A statement from the White House said that the administration “applauds and appreciates the strong bipartisan effort that led to the formulation of this bill, which heeds the president’s call on this important issue.”

The bill will now move on to the Senate where a decision is expected to be made sometime this summer.



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