

# Senate blocks any limit to NSA spying on phone calls

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The US Senate blocked action Tuesday on a bill that would have imposed only minor limitations on a National Security Agency program that collects records of the phone calls of every American. The vote was 58 to 42 to take up the measure for consideration, with supporters falling two votes short of the 60 required to force action.

The vote was nearly by party lines in the outgoing lame duck Senate, with 52 Democrats, two independents who generally vote with the Democrats and four Republicans supporting consideration of the bill. The 41 Republican opponents were joined by one Democrat, Bill Nelson of Florida.

The effect of the vote is to delay consideration of any legislation on NSA spying until the next session of Congress, when Republicans will be in the majority and will control key committees like Intelligence and Judiciary, which originate and write legislation.

The defeated measure, drafted by the outgoing chairman of the Judiciary Committee, Democratic Senator Patrick Leahy of Vermont, would have placed very slight restrictions on the NSA program that collects metadata on virtually every phone call placed in or through US telecommunications companies or the Internet.

The bill had the support of the Obama administration, demonstrating that the military-intelligence apparatus, which dictates policy on such issues, was quite content with the toothless legislation from Leahy. The main purpose of the bill was to give the impression that Obama and the Democrats are responding to the widespread public outrage over government spying sparked by last year's revelations by former NSA contractor Edward Snowden, while actually doing nothing to restrict snooping by the intelligence agency.

The bill was also endorsed by a coalition of

technology companies, including Apple, Google, Microsoft, Facebook, Twitter, AOL and Yahoo, which feared that Snowden's revelations had exposed them as *de facto* arms of the US spy apparatus, harming their ability to sell their products and services, especially in foreign markets.

The Leahy bill would have shifted responsibility for maintaining the records of customer metadata from the NSA to the telecommunications companies themselves, while still allowing effectively unlimited data searches by the spy agency. The NSA, the FBI and other US government agencies would have been required to obtain court orders from the secret rubber-stamp FISA court that has approved government search requests 99.9 percent of the time.

Even these provisions could be waived in cases of "emergency," which would, of course, be defined by the government itself.

The metadata program itself is only one of a vast array of NSA programs that spy on the phone calls, Internet activity and communications of Americans and non-Americans alike—all of which would have remained untouched.

In return for these minor restrictions, the bill would extend the telephone metadata search authorization, a part of the USA Patriot Act that is set to expire next June. With the defeat of the bill, the intelligence agencies will demand that the next Congress take up the question of extending the search authorization before the expiration date.

These agencies already hold the whip hand over both parties in Congress. Their sneering attitude towards any concerns over civil liberties was expressed in an op-ed column published last week in the *Wall Street Journal*, co-authored by former Attorney General Michael Mukasey and former CIA and NSA Director Michael

Hayden, which declared the Leahy bill to be “NSA Reform That Only ISIS Could Love.”

Senate Republican Leader Mitch McConnell, who will be Majority Leader in January, led the opposition to the bill on the Senate floor Tuesday. Like Mukasey and Hayden, he cited the threat of Islamic State of Iraq and Syria, including the beheading of US citizens held prisoner by ISIS in Syria.

McConnell claimed that the measure would be “tying our hands behind our backs” and “would end one of our nation’s critical capabilities to gather significant intelligence on terrorist threats.”

Leahy condemned those who “went at this issue by fomenting fear,” but this plea was particularly empty and insincere, given that the entire US political establishment has based its policy on whipping up fear with terrorism scares ever since the attacks of September 11, 2001. Bush and Obama, Republicans and Democrats have used the 9/11 attacks to justify every war crime committed by US imperialism over the past 13 years, and every attack on democratic rights.

In his final speech, Leahy concluded, “This is the Constitution of the US, and if we do not protect our Constitution we do not protect our country.”

Again, since the outgoing Senate Judiciary chairman has apparently failed to notice, it might be worth pointing out that the Obama administration itself has ridden roughshod over the Constitution, particularly in asserting the “right” of the president to order the assassination of any person in the world, including American citizens, on his sole authority, without any judicial proceeding of any kind. This position, elaborated by Attorney General Eric Holder and the White House in great detail, effectively repeals the First, Fifth and Fourteenth Amendments to the Constitution. (See: “The legal implications of the al-Awlaki assassination”)

So right-wing is the position of the Obama White House that a handful of ultra-right Republicans have sought to posture as libertarian opponents of its police-state actions. Two Senate Republicans, Mike Lee of Utah and Ted Cruz of Texas, co-sponsored the Leahy bill. Two others, Lisa Murkowski of Alaska and Dean Heller of Nevada, voted for it. Another, Rand Paul of Kentucky, voted against the bill saying it did not go far enough to restrict NSA spying.



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