US Senate approves extension of NSA spying

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The US Senate voted by a top-heavy bipartisan majority Tuesday to approve legislation that extends several key spying programs of the National Security Agency. President Obama declared his intention to sign the bill into law "as soon as I get it" in order to allow the NSA to resume the collection of telephone metadata and several other surveillance efforts that had nominally been suspended with the expiration of authorization under the Patriot Act Sunday night.

While the White House, congressional leaders of both parties and the American media are all portraying the so-called USA Freedom Act as a significant restriction on NSA spying, an effort to "strike a balance" between security and civil liberties, it is nothing of the kind.

In the first place, Section 215 of the Patriot Act, whose expiration May 31 made passage of the new authorization necessary, only covers a tiny fraction of the vast surveillance operations of the NSA. The collection of telephone metadata on every American was only one of the many of these illegal and unconstitutional programs first exposed in 2013 by former NSA contractor Edward Snowden, now in exile in Russia.

In a bitter floor speech just before the final vote, Senate Majority Leader Mitch McConnell denounced the bill as "a victory for Edward Snowden," but this is merely part of the congressional play-acting aimed at giving the American people the illusion that something is being done about illegal government spying, when it continues on a virtually unlimited and ever-expanding scale.

Only hours before McConnell's diatribe, the Associated Press revealed yet another secret government spying program—hundreds of flights by a fleet of FBI planes that conduct low-flying video and cellphone surveillance over dozens of American cities.

McConnell denounced the bill for supposedly "taking away another tool from those who defend us every day" because it phases out the bulk collection of telephone metadata by the NSA, leaving collection of data to the telecommunications companies, which are in turn required to respond to NSA search requests once they are approved by the rubber-stamp FISA (Foreign Intelligence Surveillance Act) court.

The bill contains a few other cosmetic efforts to conceal the build-up of police-state powers in America. The secret FISA court is required to hear from privacy advocates and document its decisions on surveillance policy, rather than, as in the past, hearing only from government prosecutors and making all its decisions in secret. This will have no material effect on the surveillance state.

The Senate passed the grossly misnamed USA Freedom Act by a vote of 67-32, with nearly all the opposition coming from right-wing Republicans, led by McConnell, who objected to even the minor limitations on the surveillance operations of the US government contained in the bill. The House passed the same bill last month by an overwhelming margin of 388 to 38, with the backing of Speaker John Boehner and the entire Republican leadership.

The 67-32 Senate vote actually expresses near-unanimous support for the US intelligence apparatus. Democrats backed the bill by 44-2. Republicans were split, 23 in favor and 30 against, but nearly all those opposed wanted no restrictions on NSA spying, even of a cosmetic character.

After McConnell's vitriolic attack on the Obama White House for supposedly capitulating to Edward Snowden, Senate Minority Leader Harry Reid retorted that it was McConnell who had undermined US spy operations by his mistaken handling of delaying tactics by Kentucky Republican Senator Rand Paul, leading to the supposed shutdown of the telephone metadata program by the NSA Sunday night.

Final passage came after the Senate narrowly rejected

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all three amendments put forward by McConnell and the Republican leadership to further water down the bill's anemic "reform" element. One amendment would have set the transition period from NSA databases to telecom databases at a year, rather than six months. Another would have required the telecoms to notify the NSA before any change in data retention policy, and mandated the NSA to certify that it was ready to make the transition without any loss of ability to conduct searches. The third amendment would have eliminated the requirement that the FISA court report to Congress on significant changes in the interpretation of surveillance laws.

The amendments were less important substantively than as an attempt to delay passage of the legislation indefinitely, since an amended bill would have to go back to the House for further deliberation. In that event, the Senate Republican leadership hoped to push through a simple extension of all Patriot Act surveillance authority, without any cosmetic changes.

A US Court of Appeals ruled earlier this month that Section 215 of the Patriot Act did not provide adequate legal authority for the telephone metadata collection—in effect, finding the program had been operating illegally for 14 years. The White House and the congressional leadership of both parties moved quickly to reestablish the program using a different legal process—FISA warrants served on the telecoms—to accomplish the same end.

Appearing on the CBS program Face the Nation Sunday, CIA Director John Brennan denounced the protracted wrangling in the Senate and whipping up fears of new terrorist attacks—despite the well-documented fact that none of the Section 215 programs has played any role in disrupting terrorist activities. "Anyone who is satisfied with letting this critical intelligence capability go dark isn't taking the terrorist threat seriously," Brennan said. "I'd urge the Senate to pass the bipartisan USA Freedom Act, and do so expeditiously."

Brennan declared, "I think terrorist elements have watched very carefully what has happened here in the United States, whether or not it's disclosures of classified information or whether it's changes in the law and policies. They are looking for the seams to operate within."

In the days leading up to Tuesday's vote, Obama made increasingly strident denunciations of the congressional delay in approving the extension of NSA spying authority. The White House issued a statement Sunday night, after the expiration of Section 215, declaring, "We call on the Senate to ensure this irresponsible lapse in authorities is as short-lived as possible. On a matter as critical as our national security, individual senators must put aside their partisan motivations and act swiftly. The American people deserve nothing less."

White House press secretary Josh Earnest said Monday that the American people faced "unnecessary risk," because of the loss of surveillance tools "our national security professionals can use to keep us safe." In reality, there was no change in the operation of the vast US police-intelligence apparatus, as the *New York Times* admitted, reporting that "interviews with law enforcement and intelligence officials about what they will do in the interim suggest there are multiple workarounds to the gap."

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