



Written by [Joe Wolverton, II, J.D.](#) on June 12, 2013

ACLU Suit Challenges NSA Surveillance; Sen. Paul Plans Class Action Suit

On a [“daily, ongoing basis,”](#) the [National Security Agency unconstitutionally collects the phone log data of millions of Americans.](#) Additionally, through an operation known as [PRISM](#), the federal government’s surveillance apparatus is reportedly directly tapping into the servers of some of the nation’s biggest computer companies: Google, Apple, Facebook, Yahoo, Microsoft, and others.



Senator Rand Paul (R-Ky.) believes that the Supreme Court should be called upon to rule on the constitutionality of these surveillance programs.

During an appearance [on Fox News Sunday on June 9](#), Paul said that he plans to file a class action lawsuit against the Obama administration, demanding it provide legal justification for the recently revealed wholesale watching of millions of citizens not suspected of any crime.

“I’m going to be seeing if I can challenge this at the Supreme Court level,” Paul said, [according to the show transcript](#).

“I’m going to be asking all the Internet providers and all of the phone companies, ask your customers to join me in a class action lawsuit. If we get 10 million Americans saying ‘We don’t want our phone records looked at,’ then somebody will wake up and say things will change in Washington.”

When asked by host Chris Wallace why he considered the NSA’s surveillance unconstitutional, Paul responded:

Well, you know, they’re looking at a billion phone calls a day is what I read in the press and that doesn’t sound to me like a modest invasion of privacy. It sounds like an extraordinary invasion of privacy. The Fourth Amendment says you can look at and ask for a warrant specific to a person, place and the items.

This is a general warrant. This is what we objected to and what our Founding Fathers partly fought the revolution over is they did not want generalized warrants where you could go from house to house with soldiers looking for things or now from computer to computer, to phone to phone, without specifying who you’re targeting.

Specifically, [the Fourth Amendment states](#) that the “right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

While [unapologetically](#) spying on millions of Americans, the federal government makes no attempt to demonstrate that any of those whose phone records have been seized are suspected of committing some crime. It is a plain and simple violation of the Fourth Amendment in the hope of discovering something that one day might be found to qualify as suspicious. That is putting the cart of culpability before the



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horse of the Constitution and the American people are right to insist that the president be held accountable.

As Senator Paul explained to Chris Wallace, “What I do in my private life is my private life. If you suspect me of a crime, have probable cause.”

How far are the citizens of this Republic willing to let the federal surveillance apparatus go toward constructing a Panopticon? At this accelerated rate of construction, how long until every call, every text, every e-mail, every online message, and every movement will fall under the all-seeing eye of federal overlords?

Senator Paul thinks now is the time to derail this “long train of abuses” and he believes that the American people have the will and the way to do so. Citing the successful defeat of a pair of recent legislative attempts to pierce the veil of Internet privacy, Paul thinks that those events prove that popular resistance can provide a pathway toward ending the NSA’s snooping, as well.

The bills referred to by Paul are the Cyber Intelligence Sharing and Protection Act (CISPA) and the Stop Online Piracy Act (SOPA). Both acts were defeated in Congress, although many of their provisions were enacted as part of other bills or through executive orders.

Speaking of the popular uprising that led to the defeat of these measures, Paul told Wallace, “If we can have that again — people by the millions coming out and saying, ‘Look, I want to be part of a class action suit that says to the government, let’s hear this at the Supreme Court level. Are you allowed to look at phone records even though there’s no probable cause that I’m related to a crime?’ — I think we’ll put an end to this.”

In addition to the lawsuit proposed by Senator Paul, another organization has already filed a complaint in federal court challenging the surveillance program.

On Tuesday, June 11, the American Civil Liberties Union (ACLU) and its New York branch [filed a suit in the U.S. District Court](#) for the Southern District of New York against James Clapper, General Keith Alexander, and other Obama administration security officials for the program which the group claims “vacuums up information about every phone call placed within, from, or to the United States.”

According to [a press release announcing the suit](#), the ACLU believes that the rights of free speech and association protected by the First Amendment, as well as the “probable cause” requirement protected by the Fourth Amendment, are infringed by the NSA’s activity.

“This dragnet program is surely one of the largest surveillance efforts ever launched by a democratic government against its own citizens,” said Jameel Jaffer, ACLU deputy legal director. “It is the equivalent of requiring every American to file a daily report with the government of every location they visited, every person they talked to on the phone, the time of each call, and the length of every conversation. The program goes far beyond even the permissive limits set by the Patriot Act and represents a gross infringement of the freedom of association and the right to privacy.”

As a customer of Verizon, the ACLU asserts standing to bring the lawsuit in its own name.

The ACLU’s complaint alleges that the government’s wholesale seizure of and ability to search the organization’s phone records gives the government access to sensitive information about its work and thereby damages the ACLU’s ability to effectively communicate with clients, journalists, advocacy partners, and others.

“The crux of the government’s justification for the program is the chilling logic that it can collect



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everyone's data now and ask questions later," said Alex Abdo, a staff attorney for the ACLU's National Security Project. "The Constitution does not permit the suspicionless surveillance of every person in the country."

When asked by *The New American* when he plans to get the ball rolling on the class action suit challenging the NSA's surveillance of the record of phone calls, Senator Paul's office said that a press conference on the subject is scheduled for Thursday.

Joe A. Wolverton, II, J.D. is a correspondent for The New American and travels frequently nationwide speaking on topics of nullification, the NDAA, and the surveillance state. He can be reached at jwolverton@thenewamerican.com



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