



## McConnell Strategy Falters and Patriot Act Powers Likely to Expire

The dogged insistence of Senate Majority Leader Mitch McConnell (R-Ky.) on renewing the expiring portions of the PATRIOT Act intact has created a logjam in the Senate that will likely lead to those provisions expiring at midnight on May 31.

McConnell introduced a bill on April 21 (S. 1035) “to extend authority relating to roving surveillance, access to business records, and individual terrorists as agents of foreign powers under the Foreign Intelligence Surveillance Act of 1978 and for other purposes.”



S. 1035, which was a “clean” extension (that is, without amendments) would have extended the government’s surveillance authority to the end of 2020. However, given the passage of the USA PATRIOT Act (which provided for some modest limitations on surveillance powers, but would extend portions of the PATRIOT Act to 2019) in the House, as well as strong opposition to government surveillance from Senator Rand Paul (R-Ky.) and others, S. 1035 stood little chance of passage. It was cosponsored by only one other senator, Richard Burr (R-N.C.)

Hoping to buy more time, on May 14 McConnell introduced a bill (S. 1357) which does basically the same thing as S. 1035 (“extend authority relating to roving surveillance,” etc.), but only until July 31. McConnell placed his bill on the Senate Legislative Counter, a procedure called “fast-track” because it avoids the lengthy committee process and allows legislation to be brought to the floor for a vote quickly.

However, Senator Rand Paul (R-Ky.), the Senate’s strongest opponent to the government surveillance powers authorized under Section 215 of the PATRIOT Act, vowed immediately to prevent an extension of those powers. During an interview with CNN’s Alisyn Camerota on a *New Day* program that aired on May 19, Paul said he would do “everything humanly possible” to keep the Senate from passing a reauthorization of the PATRIOT Act. “I will do a formal filibuster.”

True to his word, Paul held the Senate floor for 10 and a half hours on May 20 to hold up McConnell’s bill. During that time, he yielded the floor to several Senate colleagues including two Republicans — Mike Lee of Utah and Steve Daines of Montana — and seven Democrats: Richard Blumenthal of Connecticut, Maria Cantwell of Washington, Chris Coons of Delaware, Martin Heinrich of New Mexico, Joseph Manchin of West Virginia, Jon Tester of Montana, and Ron Wyden of Oregon.

“There comes a time in the history of nations when fear and complacency allow power to accumulate and liberty and privacy to suffer,” Paul said as he began his lengthy Senate oration. “That time is now, and I will not let the PATRIOT Act, the most unpatriotic of acts, go unchallenged.”

With Paul’s filibuster contributing to the delay in acting on McConnell’s temporary extension bill, it is very likely that the powers granting the NSA the authority to collect bulk phone surveillance records



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will no longer exist on June first.

“What happened this week in the Senate, I think, was a catastrophe,” Rep. Adam Schiff of California, the ranking Democrat on the House intelligence committee, told *Face the Nation* on CBS the day after the filibuster “What happens right now [is that it] looks like this program is going to expire.”

Schiff — along with the Obama White House — supports the USA Freedom Act, which passed the House on May 13 in a 338-88 vote. Its supporters claim it strikes the right balance between reining in the NSA’s powers and protecting national security. However, though the act does eliminate the NSA’s bulk collection of phone records, it allows data gathering from specific individuals or groups, and extends other PATRIOT Act powers through 2019.

McConnell also lamented the lack of progress in extending the NSA spying powers: “This is a high-threat period. We know what is going on overseas. We know what has been tried here at home. Do we really want this law to expire?”

“We better be ready next Sunday afternoon [May 31] to prevent the country from being in danger by the total expiration of the program we are all familiar with,” McConnell added.

McConnell has called the Senate into session on Sunday, May 31 to hold a vote for renewal of the expiring provisions.

The Senate battle over extension of the NSA data collection authorizations pits the two Kentucky Republicans — McConnell and Paul — squarely in opposition to each other.

“We should be in open rebellion, saying, ‘enough is enough, we’re not going to take it anymore’ ” Paul said of the NSA’s “metadata” program. During his long speech on the Senate floor he asked: “Do we want to live in a world where the government knows everything about us? Do we want to live in a world where the government has us under constant surveillance?”

Lovers of freedom and the Constitution’s Bill of Rights surely do not want to live in such a world. Many may have read about the Reichstag Fire Decree, issued in Germany one day after the fire in the Reichstag (German parliament) on February 27, 1933. The decree issued by the Nazi government nullified many of the liberties of German citizens. It read, in part:

The burning of the Reichstag was intended to be the signal for a bloody uprising and civil war. Large-scale pillaging in Berlin was planned for as early as four o’clock in the morning on Tuesday. It has been determined that starting today throughout Germany *acts of terrorism* were to begin against prominent individuals, against private property against the lives and safety of the peaceful population, and general civil war was to be unleashed.” [Emphasis added.]

Citing “acts of terrorism” as the authority to suspend the rights of citizens did not begin with the Patriot Act in 2001, nor end with the defeat of Nazi Germany 70 years ago.

*Photo of Sen. Mitch McConnell: AP Images*

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