



Written by [Raven Clabough](#) on March 31, 2015

House Members Target Patriot Act with “Surveillance State Repeal Act”

U.S. Representatives Mark Pocan (D-Wis.,  photo on left) and Thomas Massie (R-Ky.), who are seeking to repeal the PATRIOT Act in its entirety and combat any legal provisions that amount to American spying, unveiled their Surveillance State Repeal Act on Tuesday.

“This isn’t just tinkering around the edges,” Pocan said during a Capitol Hill briefing on the legislation. “This is a meaningful overhaul of the system, getting rid of essentially all parameters of the PATRIOT Act.”

“The PATRIOT Act contains many provisions that violate the Fourth Amendment and have led to a dramatic expansion of our domestic surveillance state,” added Massie (R-Ky.), who [co-authored the legislation](#) with Pocan. “Our Founding Fathers fought and died to stop the kind of warrantless spying and searches that the PATRIOT Act and the FISA Amendments Act authorize. It is long past time to repeal the PATRIOT Act and reassert the constitutional rights of all Americans.”

The House bill would completely repeal the PATRIOT Act, passed in the days following the 9/11 attacks, as well as the 2008 FISA Amendments Act, which permits the NSA to collect Internet communications — a program exposed by former NSA contractor-turned-whistleblower Edward Snowden.

Likewise, the bill would reform the court that oversees the nation’s spying powers, enhance protections for whistleblowers, and stop the government from forcing technology companies to create easy access into their devices.

“The warrantless collection of millions of personal communications from innocent Americans is a direct violation of our constitutional right to privacy,” declared Congressman Pocan, adding, “Revelations about the NSA’s programs reveal the extraordinary extent to which the program has invaded Americans’ privacy. I reject the notion that we must sacrifice liberty for security. We can live in a secure nation which also upholds a strong commitment to civil liberties.”

Massie stated, “Really, what we need are new whistleblower protections so that the next Edward Snowden doesn’t have to go to Russia or Hong Kong or whatever the case may be just for disclosing this.”

According to *The Hill*, the bill is not likely to gain much traction, as leaders in Congress “have been worried that even much milder reforms to the nation’s spying laws would tragically handicap the nation’s ability to fight terrorists.”

A 2013 Surveillance State Repeal Act never picked up any momentum, and even bills with smaller ambitions have failed to gain passage. Senator Patrick Leahy (D-Vt.) introduced the USA Freedom Act in 2014, which sought to curtail the amount of mass surveillance that could be performed by the NSA and other groups.

As predicted, however, the bill was dramatically watered down during the consensus process. The



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White House signaled its “strong support” for the bill only after privacy protections and transparency provisions were substantially weakened.

Privacy advocates who once supported the USA Freedom Act were dismayed by its transformation into a consensus bill, which no longer prevented the NSA or FBI from warrantlessly sifting through international communications databases.

Some critics even argued that the USA Freedom Act in its final form would have expanded NSA authorities because of its vague wording about what constituted a “connection” between call records.

Ultimately, the USA Freedom Act failed to garner enough votes in the Senate, as opponents claimed that its passage would have left the country vulnerable to terrorist attacks.

Still, Pocan and Massie remain hopeful that a strong show of opposition may compel lawmakers to take action against portions of the PATRIOT Act, which are due for reauthorization on June 1. However, with Congress scheduled to be out of town after Memorial Day, the actual deadline is May 22.

Three provisions of the PATRIOT Act will expire on June 1, including the controversial Section 215, which the NSA has used to collect phone “metadata,” which includes details about who was called by whom and when each call took place. Snowden revealed that the NSA amassed a bulk collection of records about millions of Americans’ phone calls.

NSA critics have been hopeful that the impending June 1 deadline would be the appropriate time to strike against unpopular programs such as this one.

Privacy advocates such as the American Civil Liberties Union and the CATO Institute are expected to lobby heavily in support of reform.

Patrick Eddington, national security and civil liberties policy analyst for the libertarian think tank [Cato Institute](#), declared, “All mass surveillance does is violate the rights and put a chilling effect on the American people.”

But NSA critics can expect to hear much of the same fear-mongering language from surveillance supporters that has been used against every NSA reform measure proposed in the last few years.

James Clapper, the director of national intelligence, said earlier this month, “If that tool [[surveillance] is taken away from us ... and some untoward incident happens that could have been thwarted if we had had it, I hope that everyone involved in that decision assumes the responsibility.”

Similar sentiments were voiced by Ned Price, a spokesman for the president’s National Security Council, who claimed that abandoning the mass collection of domestic telephone data would deprive the country of a “critical national security tool.”

“If Section 215 (of the law which covers the collection) sunsets, we will not continue the bulk telephony metadata program,” Price said. “Allowing Section 215 to sunset would result in the loss, going forward, of a critical national security tool that is used in a variety of additional contexts that do not involve the collection of bulk data.”

While U.S. officials have said metadata collection has been useful in important counter-terrorism investigations, Reuters notes that a review panel has found no breakthrough that could be attributed to the practice.

Meanwhile, Michael Davidson, a former top lawyer on the Senate Intelligence Committee, recently told the *New York Times* that regardless of how Congress acts, a legal loophole could enable uninterrupted



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surveillance in ongoing investigations.

The *Times* reported:

The law says that Section 215, along with another section of the [Patriot Act](#), expires on “June 1, 2015, except that former provisions continue in effect with respect to any particular foreign intelligence investigation that began before June 1, 2015, or with respect to any particular offense or potential offense that began or occurred before June 1, 2015.”

“It was always understood that no investigation should be different the day after the sunset than it was the day before,” Davidson said. “There are important reasons for Congress to legislate on what, if any, program is now warranted. But considering the actual language of the sunset provision, no one should believe the present program will disappear solely because of the sunset.”

Photos: U.S. Representatives Mark Pocan and Thomas Massie



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