



Written by [Joe Wolverton, II, J.D.](#) on May 6, 2014

## Minnesota House Approves Ban on Warrantless Cellphone Tracking

The Minnesota state legislature took a major step May 2 toward banning warrantless tracking of cellphones.

By a vote of 120-0, the Minnesota state House of Representatives unanimously passed SF 2466, a bill [already approved by their colleagues in the state senate](#) by a vote of 56-1.

The measure now heads to a conference committee that will be charged with hammering out a compromise version of the legislation that will then need to be approved by both houses before heading to Governor Mark Dayton for enactment.



On the House side, the bill was sponsored by state Representative Joe Atkins. The companion measure in the Senate was authored by state Senator Brandon Petersen.

“Nearly every Minnesotan carries some mobile device with them every day and we need to make sure that the location data of innocent people is not subject to unreasonable or unchecked searches by government,” Atkins said in a statement published by the (Minneapolis) *StarTribune*. “Times have changed and we use our mobile devices for location services all the time. This bill is a step in ensuring our laws catch up with the times.”

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Atkins’ apparently appreciates the threat to privacy posed by an ever-widening surveillance net.

The tracking is rampant. Based on reports of the number of domestic phone calls being recorded by the National Security Agency, the Obama administration must have probable cause to suspect millions of us of threatening national security.

As *The New American* [reported last year](#), documents obtained by former NSA contractor-turned-whistleblower Edward Snowden reveal that, in a 30-day period in 2013, the NSA recorded data on 124.8 billion phone calls, about three billion of which originated within the United States.

The program, first reported by *The Guardian*, is appropriately code-named “Boundless Informant,” and it involves the monitoring and recording of phone calls and Internet communication. *The Guardian* revealed that Boundless Informant “allows users to select a country on a map and view the meta data volume and select details about the collections against that country.”

While it is unlikely that the actual conversations themselves were recorded by the NSA, the fact that any information on a phone call was recorded without conforming to the Constitution is alarming. Regardless of the volume of recordings or the amount or type of data stored, a single act of warrantless surveillance violates the Constitution, and everyone who ordered or participated in the program should be held accountable.



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Among the most disturbing disclosures found within the reams of Edward Snowden's revelations was the surrender by major telecommunications companies of the otherwise private phone records of millions of Americans — none of whom was, as required by the Constitution, suspected of committing any sort of crime.

According to a court order labeled "TOP SECRET," federal judge Roger Vinson ordered Verizon to turn over the phone records of millions of its U.S. customers to the NSA.

The order, issued in April 2013 by the U.S. Foreign Intelligence Surveillance Court and leaked on the Internet by *The Guardian*, compels Verizon to provide these records on an "ongoing daily basis" and to hand over to the domestic spy agency "an electronic copy" of "all call detail records created by Verizon for communications (i) between the United States and abroad; or (ii) wholly within the United States, including local telephone calls."

This information includes the phone numbers involved, the electronic identity of the device, the calling card numbers (if any) used in making the calls, and the time and duration of the call.

Last December, the *Washington Post* reported that the NSA is "gathering nearly 5 billion records a day on the whereabouts of cellphones around the world." The article also reveals that "data are often collected from the tens of millions of Americans who travel abroad with their cellphones every year."

In other words, millions of innocent Americans have had their cellphone call records shared with a federal spy agency in open and hostile defiance of the Fourth Amendment's guarantee of the right of the people to be free from such unreasonable searches and seizures.

Even if the reasonableness threshold is crossed, though, there must be a warrant and suspicion of commission of or intent to commit a crime. Neither the NSA nor Verizon has asserted that even one of the millions whose phone records were seized fits that description.

"I think the encouraging thing is it's an issue that resonates on both sides of the aisle," the *Minnesota Post* quoted senate sponsor Petersen saying. "There are a lot of questions that need to be answered. In the 21st-century, what does the Fourth Amendment look like?"

This is a critical question, one that many state legislators are beginning to answer.

If the constant forced exchange of liberty for "safety" is to be stopped, states must step into the breach and prevent the unchecked encroachment of the federal leviathan into the sphere of personal liberty meant to be sacrosanct.

Legislators in Minnesota and elsewhere are demonstrating their understanding of the fact of constitutional law that acts not authorized under the enumerated powers of the Constitution are "merely acts of usurpations" and deserve to be disregarded, ignored, and denied any legal effect.

More state legislators need to learn this. Familiarity with these facts are fundamental to a reclaiming of state authority and removing the threat to liberty posed by the centralization of power in the federal government, particularly as it pertains to the protection of those civil liberties specifically guaranteed by the Bill of Rights.

Thankfully, in that same Bill of Rights there is found the 10th Amendment. That provision clearly defines the line between state and federal authority and reveals that state governments are not left defenseless in the battle to fight the cancer of consolidation. There is a remedy — a "rightful remedy" — that can powerfully and permanently put an end to the federal government's constant overreaching.



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Consistent application of this remedy can stop the poison of all unconstitutional federal acts and executive orders at the state borders and prevent them from working on the people.

The remedy for federal tyranny is nullification, and applying it liberally will leave our states and our nation healthier, happier, and hidden from the constant surveillance of a federal authority bent on converting citizens into suspects.

On May 5, the conference committee of six legislators was assigned the task of drafting a mutually agreeable version of the bill preventing the warrantless cellphone tracking.

*Joe A. Wolverton, II, J.D. is a correspondent for The New American and travels nationwide speaking on nullification, the Second Amendment, the surveillance state, and other constitutional issues. Follow him on Twitter @TNAJoeWolverton and he can be reached at [jwolverton@thenewamerican.com](mailto:jwolverton@thenewamerican.com).*



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