



Written by [Joe Wolverton, II, J.D.](#) on May 21, 2014

Rand Paul Bucks Obama's Effort to Scuttle Anti-surveillance Lawsuit

Senator Rand Paul's constitutional challenge to the National Security Agency's (NSA's) warrantless collection of phone data took another giant step forward Monday, as the freshman lawmaker, along with FreedomWorks, filed a motion opposing the Obama administration's attempt to scuttle the suit.

Earlier this month, the president filed a motion to dismiss Paul's complaint against the NSA, insisting that no one had been injured by the dragnet surveillance of citizens.

"It's outrageous that the government would deny that the warrantless collection of citizens' private phone data is an 'injury' to the American people. Sweeping surveillance without warrants doesn't just injure the civil liberties of Americans, it puts them in the constitutional ICU," commented FreedomWorks President Matt Kibbe.

"The Bill of Rights exists to put a check on impulsive government violations against the rights of individual citizens. We, representing the millions of victims of the largest Fourth Amendment violation in history, have the right to be heard in court."

For his part, Senator Paul also remains steadfast. "I remain fully committed to this lawsuit and look forward to having our day in court. The American people deserve better than warrantless surveillance and domestic spying," he said.

Attorneys for the federal government have also filed a "stay," which would not technically end the suit, but would have the effect of indefinitely preventing it from proceeding. Paul and FreedomWorks have formally opposed that tactic, as well.

In February, Senator Paul and FreedomWorks filed a class-action lawsuit against the Obama administration, challenging the constitutionality of the National Security Agency's dragnet collection of metadata.

In a press conference held February 12, the libertarian-leaning Republican senator announced his purpose in pursuing this "historic" lawsuit. "There's a huge and growing swell of protest in this country of people who are outraged that their records are being taken without suspicion, without a judge's warrant and without individualization," Paul said, standing outside the U.S. District Court for the District of Columbia.

In a statement made in a video defending the Fourth Amendment, Paul declared, "Our Founders never intended for Americans to trust their government."

Paul and his co-plaintiffs are trying to demonstrate that principle by holding the NSA and the rest of the intelligence community accountable for the constitutionality of their activities. "I'm not against the





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NSA, I'm not against spying, I'm not against looking at phone records," Paul said. "I just want you to go to a judge, have an individual's name and a warrant. That's what the Fourth Amendment says."

In an interview with *Politico*, Paul indicated he believed there is no wiggle room when it comes to adhering to the standards set out in the Constitution regarding the process for searching and seizing information from citizens. "Whether you breach the Fourth Amendment 20 percent of the time or 100 percent of the time, it's still not the point," he said. "The point is whether or not you still collect millions of people's information with a single warrant."

During an appearance on *Fox News Sunday* in June of last year, Paul announced 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. "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," he added.

The essence of Paul's lawsuit is summed up in an answer to a question asked by host Chris Wallace as to why the senator considered the NSA's surveillance unconstitutional. Paul said:

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 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



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American people have the will and the way to do so. Citing the 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."

With the filing of his opposition to the Obama administration's motions, Paul demonstrates that he still believes that he can stop the surveillance, stop the deprivation of constitutionally protected civil liberty, and stop President Obama from turning citizens into suspects.

Lawyers for the NSA and the president have until May 29 to reply to Paul's pleading.

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