



Written by [Joe Wolverton, II, J.D.](#) on February 13, 2014

Sen. Rand Paul Files Suit Against NSA, Obama Administration

As he has promised for months, Senator Rand Paul (shown, R-Ky.) has 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 Wednesday, the libertarian-leaning freshman senator announced that he was teaming with FreedomWorks and former Virginia attorney general Ken Cuccinelli 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 declares, "Our Founders never intended for Americans to trust their government."

Paul's purpose in the lawsuit is 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 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, 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," he added.

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



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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 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."

The Justice Department sees things differently, of course.

In a statement published by Politico, a Justice Department spokesman said, "We remain confident that the Section 215 telephone metadata program is legal, as at least 15 judges have previously found."

Although he's been promoting the idea since late last year, perhaps Senator Paul chose to file the suit



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now in light of recent favorable court rulings.

In December, for example, a federal judge ruled that the NSA's dragnet collection of information on all phone calls likely violates the Constitution. In a 68-page Memorandum Opinion issued on December 16, Judge Richard J. Leon of the U.S. District Court for the District of Columbia ruled that the NSA's unwarranted surveillance of telephone calls is prohibited by the Fourth Amendment's protections against unreasonable searches and seizures.

The suit that was the subject of Leon's ruling was filed by Larry Klayman, the founder of Freedom Watch. In a statement published by WND, Klayman reached out to the senator-turned-plaintiff, welcoming him to the fray.

"I invite Sen. Paul to join our ongoing class actions, as they have already proven to be successful in large part — given Judge Leon's unconstitutionality ruling. The other plaintiffs and I are pleased that Paul also is fighting to slay the NSA express," Klayman wrote.

Donations to help pay the legal expenses associated with pursuing Senator Paul's complaint are being collected at defendthefourth.com and constitutiondefensefund.com, a website managed by FreedomWorks.

"Any money donated through the petition page on www.ConstitutionDefenseFund.com will be going towards the legal costs of this suit," FreedomWorks spokeswoman Jacqueline Bodnar said, as reported by Politico. "We expect this case to go all the way to the Supreme Court, so it's going to be expensive."

While Senator Paul's efforts are to be commended, the federal judiciary is not empowered in the Constitution to be the arbiter of what is or is not constitutional.

Furthermore, the Supreme Court has demonstrated repeatedly that it cannot be relied upon to rein in the other branches of the federal government.

The best answer to the NSA's wholesale violations of the Fourth Amendment is state and local actions refusing to cooperate with the organization's surveillance activities, whether through bills nullifying federal acts permitting the programs or through measures cutting off vital utilities from NSA facilities.

Senator Paul's lawsuit names President Obama, Director of National Intelligence James R. Clapper, NSA director Keith Alexander, and FBI director James Comey as co-defendants.

Photo of Sen. Rand Paul (R-Ky.) announcing his lawsuit Feb. 12: AP Images

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