



Written by [Joe Wolverton, II, J.D.](#) on January 25, 2014

Several States Considering NSA Nullifying Bills

The architects of the sprawling federal surveillance apparatus probably didn't count on one thing that could bring their unconstitutional construction to an abrupt end: nullification.

Legislators in several states are offering bills that would cut the various NSA compounds from the utilities that they need to stay in operation.

[Watchdog.org reports](#) on a bill proceeding through the state legislature in Arizona that takes aim at the federal government's de facto repeal of the Fourth Amendment:



In Arizona, SB1156, which has 14 Republican sponsors, was introduced by state Sen. Kelli Ward. It would bar the state from providing material support to the agency's activities and ban any data collected without a warrant from being used in court.

Ward announced her intentions in December to introduce a bill that would keep Arizona from supporting the NSA.

In New Hampshire, [HB 1533](#) is a bipartisan bill sponsored by two GOP lawmakers and one Democrat. The measure requires law enforcement to obtain "a warrant to search information in a portable electronic device."

Section IV of the bill mandates that "A government entity that purposely violates the provisions of this section shall be guilty of a class A misdemeanor."

One of the sponsors of HB 1533 is also behind [HB 1619](#), a bill specifically protecting a person's:

expectation of privacy in personal information, including personal identifiers, content, and usage, given or available to third-party providers of information and services, including telephone; electric, water and other utility services; internet service providers; social media providers; banks and financial institutions; insurance companies; and credit card companies.

To the credit of the bill's author, the protections it affords are extended to "individuals," not just to "citizens." This scope is consistent with the language of the Fourth Amendment to the Constitution that guarantees 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.

Preserving the protections of the Fourth Amendment is the subject of a proposed statute in Tennessee, as well.

As [reported by the Tenth Amendment Center](#):



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The Tennessee Fourth Amendment Protection Act was introduced by State Sen. Stacey Campfield (R-Knoxville) late Tuesday evening. Rep. Andy Holt (R-Dresden) will file the companion bill in the House.

Based on model legislation drafted by the OffNow coalition, SB1849 would prohibit the state of Tennessee from “providing material support to...any federal agency claiming the power to authorize the collection of electronic data or metadata of any person pursuant to any action not based on a warrant” as required by the Fourth Amendment.

“We have an out of control federal agency spying on pretty much everybody in the world. I don’t think the state of Tennessee should be helping the NSA violate the Constitution and the basic privacy rights of its citizens — and we don’t have to,” Campfield said. “This bill may not completely stop the NSA, but it will darn sure stop Tennessee from participating in unjustified and illegal activities.”

Promoting the tactic of turning off the water and the electricity (the contemporary version of laying siege to the surveillance state) to the NSA’s facilities spread across the United States, is the goal of the OffNow Coalition.

[OffNow](#) is part of a wider effort spearheaded by Nullify NSA, a creation of the Tenth Amendment Center. The plan, aimed at cutting off the power to the surveillance apparatus, is outlined on the Nullify NSA website.

First, citizens should recognize that despite its immense and growing power, the NSA does have a weakness.

Next, the organization’s website explains that the NSA can’t expand if it can’t count on reliable infrastructure:

In order for the NSA to expand and be able to monitor virtually all communications on earth, it needed new facilities with access to a new power source, and natural resources.

In 2006-7, the NSA started searching for new locations to handle their needs.

In each situation, local access to water or a power grid, and cheap utility costs were a major factor in choosing a location.

In most areas, these resources are supplied — in whole or in part — by state or local governments. In others, by corporate partners.

Using the NSA’s new massive data center in Utah as an example, Nullify NSA explains how the plan would work in the real world, with the help of state legislators.

The new Utah Data Center, a massive spy complex, requires 1.7 million gallons of water every single day to operate.

Those massive supercomputers monitoring your personal information are water-cooled. They can’t function without the resources to keep them at operating temperature.

That water is scheduled to be provided by the Jordan Valley River Conservancy District, “a political subdivision of the state of Utah.”

Because of this, a state law can be passed banning this partnership. In short, they can turn the water off.



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OffNow's decision to focus its resistance on the local and state level is wise and is more likely than federal efforts to make headway in the fight to preserve the civil liberties protected by the Fourth Amendment.

The rights protected by the Constitution are natural rights that are the birthright of all people — American citizens or otherwise — and the protections afforded by the Bill of Rights should be sufficient to restrain the government.

In 1798, Thomas Jefferson provided guidance on how and why the states can and should stop federal overreach at the state borders. In the Kentucky Resolution Jefferson wrote:

In cases of an abuse of the delegated powers, the members of the general government, being chosen by the people, a change by the people would be the constitutional remedy; but, where powers are assumed which have not been delegated, a nullification of the act is the rightful remedy.

A powerful first step is to pass state laws and local ordinances turning off the power and the water — now.

Finally, although it is to be commended for the publicity it gave to the various NSA nullification efforts, Watchdog.org makes a common mistake regarding the rightful relationship between the state and federal governments. Speaking of the anti-commandeering doctrine, the author of the article writes:

The principle is disputable under the U.S. Constitution's Supremacy Clause, however, which defers authority to the federal government in the event a conflict over power takes place between the federal and local governments.

The restoration of liberty in our Republic would get a big boost if everyone would understand one simple fact of federalism.

The "Supremacy Clause" (not the actual name of anything) of Article VI does not declare that federal laws are the supreme law of the land without qualification. What it says is that the Constitution "and laws of the United States made in pursuance thereof" are the supreme law of the land.

"In pursuance thereof" is a lot different from "in violation thereof."

Whenever the federal government does anything not listed in the limited roster of its enumerated powers, those acts are unconstitutional and not worthy of any sort of supremacy. Alexander Hamilton says such measures are not the law at all and calls them "[merely acts of usurpation](#)" that "deserve to be treated as such."

Let's start there.

Joe A. Wolverton, II, J.D. is a correspondent for The New American and travels frequently nationwide speaking on topics of nullification, the NDAA, the Second Amendment, and the surveillance state. He is the co-founder of Liberty Rising, an educational endeavor aimed at promoting and preserving the Constitution. Follow him on Twitter @TNAJoeWolverton and he can be reached at jwolverton@thenewamerican.com.



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