

Senate expected to act on NSA collection of phone records (Update)

May 21 2015, by Ken Dilanian



In this June 6, 2013 file photo, a sign stands outside the National Security Agency (NSA) campus in Fort Meade, Md. The Justice Department warned lawmakers that the National Security Agency will have to wind down its bulk collection of Americans' phone records by the end of the week if Congress fails to reauthorize the Patriot Act. (AP Photo/Patrick Semansky, File)

The fate of the bulk collection of American phone records by the National Security Agency is now before the Senate, in what is increasingly looking like a game of legislative chicken.

The Senate is expected to decide Friday what to do with the oft-debated measure.

The House has left town, having passed a bill to end NSA's collection of domestic phone metadata, while replacing it with case-by-case searches and extending two other expiring surveillance provisions used by the FBI to pursue suspected spies and terrorists. The president and his top law enforcement officials are urging the Senate to pass the House bill, known as the USA Freedom Act. So are Democrats and Republicans in the House.

If the Senate doesn't act, the laws authorizing the programs will expire June 1, and officials say they will lose valuable surveillance tools. Friday is the last day of congressional business before then.

But key Republican senators continue to resist. One, Richard Burr, chairman of the Senate intelligence committee, floated an alternative plan Thursday afternoon that would essentially dare the House to reject it, allowing the legal authorities to expire.

"I don't think anyone in the House wants it to go dead," he told reporters.

Burr predicted the House's USA Freedom Act would fail to break the 60-vote threshold needed to end debate in the Senate, and he envisioned the same fate for a two-month extension of current law proposed by Senate leaders. As a compromise, he proposes that the Senate vote to extend current law between 5 days and a month.

Alongside that, he said, he would introduce a bill to end NSA's bulk collection of phone records after a two-year transition period, up from six months in the House bill.

The Senate would then depart, leaving it up to the House to take or leave the Senate proposal when House members return June 1.

Burr and other GOP senators worry that six months does not allow enough time for the NSA to make a smooth transition, and believe two years would be better.

But in a conference call with reporters, senior Obama administration officials disputed that view, saying NSA chief Mike Rogers has endorsed six months as sufficient. They spoke under ground rules that they not be named.

The officials were adamant that if the Senate failed to pass the USA Freedom Act, the phone records program and other counterterrorism surveillance would be in jeopardy. They noted that a federal appeals court recently ruled that the program was illegal but kept it in place only because Congress was debating changes.

They said they had been making their case to senators, but they worried that some did not understand "the risk of doing anything other than passing the USA Freedom Act," as one put it.

"I am very concerned that the American people will be unprotected if this law expires," Attorney General Loretta Lynch said in an interview with CBS News.

If senators fail to act, the NSA will begin winding down the phone records program this week, the Justice Department said.

Earlier Thursday, House Speaker John Boehner, R-Ohio, and Democratic leader Nancy Pelosi of California appealed for Senate consideration of the USA Freedom Act, which their chamber passed 338-88 last week.

That bill would end the NSA's collection and storage of domestic calling records after a 180-day transition period. But it would preserve the agency's ability to query phone company records in search of domestic connections to international terrorists. The House measure also would renew two unrelated surveillance powers commonly used by the FBI to track spies and terrorists.

The surveillance authorities expire at midnight May 31. One makes it easier for the FBI to track "lone wolf" terrorism suspects, and another allows the government to eavesdrop on suspects who continuously discard their cell phones in an effort to avoid surveillance. If that were to happen, FBI Director James Comey said it would set back the bureau at a time when domestic threats are on the rise.

Senate Majority Leader Mitch McConnell, R-Ky., has said he would allow a vote on the House bill and on his plan for a two-month extension of the current law. Burr's proposal might result in a third vote.

White House press secretary Josh Earnest called on senators to pass the NSA bill, which he called "a reasonable compromise," before leaving town on their weeklong break for Memorial Day.

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