

# Surveillance powers to lapse without Senate action Sunday

May 31 2015, by Erica Werner

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A midnight deadline drew near for senators meeting in an extraordinary Sunday session to extend surveillance programs, but a lapse seemed unavoidable and intelligence officials worried about giving terrorists greater freedom to operate.

Republican Sen. Rand Paul of Kentucky, a presidential candidate, has made clear he planned to force the expiration of the bulk collection of Americans' telephone records. The chamber's rules allow him to do it, at least temporarily.

Terrorists "are looking for the seams to operate within," CIA Director John Brennan said. "This is something that we can't afford to do right now." He bemoaned "too much political grandstanding and crusading for ideological causes that have skewed the debate on this issue" and said the terrorism-fighting tools are important to American lives.

A House-passed bill backed by the White House would remake the National Security Agency's phone collection program. But Senate backers were three votes short.

Even if the legislation were to gain the needed support, in spite of opposition from Senate Majority Leader Mitch McConnell, R-Ky., all senators would need to agree to move to a final vote. Paul was not going along.

"I will force the expiration of the NSA illegal spy program," Paul said in

a statement Saturday. "Sometimes when the problem is big enough, you just have to start over."

Paul cannot hold off a final vote indefinitely, just for a few days. But until the impasse was resolved, the NSA would lose legal authority to collect and search domestic phone records for connections to international terrorists—the once-secret program revealed by agency contractor Edward Snowden.

Two lesser-known Patriot Act provisions also would lapse: one, so far unused, helps track "lone wolf" terrorism suspects unconnected to a foreign power; the second allows the government to eavesdrop on suspects who continually discard their cellphones.

"The American people deserve better than this, especially when it comes to a program that is an integral part of protecting our [national security](#)," said Sen. Mike Lee, R-Utah, who nonetheless predicted passage of the House plan by Wednesday.

A member of the Senate Intelligence Committee, Maine independent Angus King, found it to be an "unusual position" for Paul "to be talking about essentially unilaterally disarming an important national security tool at a time when I have never seen the threat level higher."

The White House contended that letting the surveillance powers expire would jeopardize national security.

"Heaven forbid we've got a problem where we could have prevented a terrorist attack or apprehended someone who is engaged in dangerous activity but we didn't do so simply because of inaction in the Senate," President Barack Obama said Friday.

The White House-backed USA Freedom Act would keep the programs

operating, but shut down the bulk phone collection program over six months and give phone companies the job of maintaining records the government could search.

Civil libertarians dispute the White House's warnings, arguing that the [surveillance programs](#) have never been shown to produce major results.

"The sky is not going to fall," the American Civil Liberties Union executive director, Anthony Romero, told reporters.

Paul's opposition complicated matters for McConnell, who oversaw a chaotic late-night session the previous weekend when the Senate failed to pass the House bill and several straight-up extensions of current law.

Paul's presidential campaign is aggressively raising money on the issue. A super PAC supporting him produced a video casting the dispute as a professional wrestling-style "Brawl for Liberty" between Paul and Obama—even though Paul's main opponent on the issue is McConnell.

McConnell had little to say in response to Paul's stalling plan. Spokesman Don Stewart said McConnell called the Senate back "to make every effort to provide the [intelligence](#) community with the tools it needs."

McConnell supports an extension of current law, but even if the Senate could agree to that Sunday, the House was not in session and could not approve it and send it in time to the president.

The NSA has begun winding down the phone collection program in anticipation that it will not be renewed.

To ensure the program has ceased by the time authority for it expires at midnight, the agency planned to begin shutting down the servers that

carry it out at 3:59 p.m. Sunday.

That step would be reversible for four hours—by which time it should be evident whether there's any hope of a last-minute deal on Capitol Hill. After that, rebooting would take about a day.

Brennan spoke on CBS' "Face the Nation," while Lee and King appeared on CNN's "State of the Union."

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