

Time running out for lawmakers mulling surveillance bills

December 2 2017, by Deb Riechmann

The congressional clock is running out as a handful of bills are batted around Capitol Hill to reauthorize a critical foreign intelligence collection program that expires in four weeks.

The House intelligence committee on Friday passed the latest one 13-8. The vote split along party lines after harsh exchanges across the political aisle.

Democrats and Republicans agree the law is invaluable in helping the U.S. track foreign spies, terrorists, weapons traffickers and cyber criminals. But some members of Congress and privacy advocates want greater protections for the communications of Americans that are picked up during the collection of the foreign intelligence.

While they support reauthorization, all the Democrats on the House intelligence committee voted no because it included a provision about unmasking. Unmasking is the procedure for officials to find out the identities of American citizens or legal permanent residents mentioned in intelligence reports. Officials with the appropriate security clearances can ask for the names to understand the intelligence being conveyed.

The GOP wants stricter oversight to protect the privacy of U.S. citizens. Democrats see a political stunt related to GOP claims that members of President Donald Trump's transition team were improperly unmasked.

The committee's chairman, Republican Devin Nunes of California, says

this was the case. The ranking Democrat, Adam Schiff of California, counters that there is no evidence any identities were improperly revealed. Even if they were, Schiff says, the issue should be addressed in separate legislation.

So far, the two can only agree to disagree about that.

The biggest sticking point in the larger debate over reauthorizing the surveillance authority is whether to require the FBI to get a warrant if it wants to search the intelligence database of information that the government lawfully collects on foreigners abroad.

Leaders from the House intelligence and judiciary committees and the Senate intelligence committee are expected to try to reach agreement on this issue next week. Those other panels have passed their own versions already. It's expected that the final version would then be tacked to other legislation that must pass before Congress adjourns. If they can't reach an agreement, there is a chance the authority could be temporarily extended as it exists.

Schiff, for instance, has been advocating for legislation that would allow [intelligence](#) agencies, including the FBI, to query the database and review the results. But if they wanted to use the results in non-national security cases or ones that involved serious violent crimes, then they would have to obtain a warrant.

"This would prevent [law enforcement](#) from simply using the database to go fishing, but at the same time it would preserve the operational capabilities of the program," Schiff said. "Law enforcement and the [intelligence community](#) could query the database in a timely way when it goes to national security or serious, violent crime."

Unless there is some kind of warrant requirement in the final legislation,

it's going to be very difficult to pass through the House, he says. Over in the Senate, there is opposition to any kind of warrant requirement.

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