

Congress Passes Bill Granting “Unlimited Access To Private Communications Of Every American” Without Legal Process

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According to Congressman Justin Amash, Congress just passed a bill which grants the government and law enforcement “unlimited access to the communications of every American”.

When the Michigan lawmaker discovered that the Intelligence Authorization Act for FY 2015 had been amended with a provision that authorizes “the acquisition, retention, and dissemination” of all communications data from U.S. citizens, he desperately attempted to organize a roll call vote on the bill.

However, the legislation was passed yesterday 325-100 via a voice vote, a green light for what Amash describes as “one of the most egregious sections of law I’ve encountered during my time as a representative”.

The bill allows the private communications of Americans to be scooped up without a court order and then transferred to law enforcement for criminal investigations.

The legislation effectively codifies and legalizes mass warrantless NSA surveillance on the American people, with barely a whimper of debate.

Read the full text of Congressman Amash’s letter below, which was sent out before the bill was passed.

Dear Colleague:

The intelligence reauthorization bill, which the House will vote on today, contains a troubling new provision that for the first time statutorily authorizes spying on U.S. citizens without legal process.

Last night, the Senate passed an amended version of the intelligence reauthorization bill with a new Sec. 309—one the House never has considered. Sec. 309 authorizes “the acquisition, retention, and dissemination” of nonpublic communications, including those to and from U.S. persons. The section contemplates that those private communications of Americans, obtained without a court order, may be transferred to domestic law enforcement

for criminal investigations.

To be clear, Sec. 309 provides the first statutory authority for the acquisition, retention, and dissemination of U.S. persons' private communications obtained without legal process such as a court order or a subpoena. The administration currently may conduct such surveillance under a claim of executive authority, such as E.O. 12333. However, Congress never has approved of using executive authority in that way to capture and use Americans' private telephone records, electronic communications, or cloud data.

Supporters of Sec. 309 claim that the provision actually reins in the executive branch's power to retain Americans' private communications. It is true that Sec. 309 includes exceedingly weak limits on the executive's retention of Americans' communications. With many exceptions, the provision requires the executive to dispose of Americans' communications within five years of acquiring them—although, as HPSCI admits, the executive branch already follows procedures along these lines.

In exchange for the data retention requirements that the executive already follows, Sec. 309 provides a novel statutory basis for the executive branch's capture and use of Americans' private communications. The Senate inserted the provision into the intelligence reauthorization bill late last night. That is no way for Congress to address the sensitive, private information of our constituents—especially when we are asked to expand our government's surveillance powers.

I urge you to join me in voting “no” on H.R. 4681, the intelligence reauthorization bill, when it comes before the House today.

/s/

Justin Amash
Member of Congress

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