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## Mood shifting, Congress may move to limit NSA spying

By David Lightman, Kate Irby and Ben Kamisar  
McClatchy Washington Bureau

Congress is growing increasingly wary of controversial National Security Agency domestic surveillance programs, a concern likely to erupt during legislative debate \_ and perhaps prod legislative action \_ as early as next week.

Skepticism has been slowly building since last month's disclosures that the super-secret NSA conducted programs that collected Americans' telephone data. Dozens of lawmakers are introducing measures to make those programs less secret, and there's talk of denying funding and refusing to continue authority for the snooping.

The anxiety is a sharp contrast to June's wait-and-see attitude after Edward Snowden, a government contract worker, leaked highly classified data to the media. The Guardian newspaper of Britain reported one program involved cellphone records. The Guardian, along with The Washington Post, also said another program allowed the government access to the online activity of users at nine Internet companies.

Obama administration officials quickly provided briefings about the programs, and they continue to have strong defenders at the Capitol. "People at the NSA in particular have heard a constant public drumbeat about a laundry list of nefarious things they are alleged to be doing to spy on Americans \_ all of them wrong," House Intelligence Committee Chairman Mike Rogers, R-Mich., said last month. "The misperceptions have been great, yet they keep their heads down and keep working every day to keep us safe."

Most in Congress remain reluctant to tinker with any program that could compromise security, but lawmakers are growing frustrated. "I think the administration and the NSA has had six weeks to answer questions and haven't done a good job at it. They've been given their chances, but they have not taken those chances," said Rep. Rick Larsen, D-Wash.

The House of Representatives could debate one of the first major bids for change soon. Rep. Justin Amash, R-Mich., is trying to add a provision to the defense spending bill, due for House consideration next week, that would end the NSA's mass collection of Americans' telephone records. It's unclear whether House leaders will allow the measure to be considered.

Other legislation could also start moving. Larsen is pushing a measure to require tech companies to publicly disclose the type and volume of data they have to turn over to the federal government. Several tech firms and civil liberties groups are seeking permission to do so.

Other bipartisan efforts are in the works. Thirty-two House members, led by Amash and Rep. John Conyers, D-Mich., are backing a plan to restrict Washington's ability to collect data under the Patriot Act on people not connected to an ongoing investigation. Also active is a push to require the Foreign Intelligence Surveillance Court, which rules on government surveillance requests, to be more transparent.

"It is incredibly difficult, if not impossible, to have a full and frank discussion about this balance when the public is unable to review and analyze what the executive branch and the courts believe the law means," said Sen. Jeff Merkley, D-Ore., who has asked the administration to make the opinions of the Foreign Intelligence Surveillance Court public.

Rep. Adam Schiff, D-Calif., is leading an effort along with Rep. Ted Poe, R-Texas, to have the court's judges nominated by the president and confirmed by the Senate. Currently, the Supreme Court's chief justice selects judges from those holding other federal district court judgeships.

Schiff also is pushing a measure, along with Rep. Todd Rokita, R-Ind., to require the attorney general to declassify significant Foreign Intelligence Surveillance Act opinions, and got a boost Friday from House Minority Leader Nancy Pelosi, D-Calif.

If there is a prevailing mood, it's the nuanced approach offered by Rep. Jim Himes, D-Conn., an Intelligence Committee member.

"I think as more and more people come to understand the breadth of the authorizations that the NSA and other intelligence agencies have, they start to get a little worried about the encroachment on their privacy, and that's absolutely fair," he said.

The NSA is not acting rogue, Himes added. "They are acting pursuant to very clear authority under Section 215 of the Patriot Act," Himes said. But, he said, "that law is too broadly worded and being interpreted a little broadly." Section 215 provides authority for the surveillance programs.

The Obama administration maintains Congress shouldn't be surprised.

"These programs are not illegal," said James Litt, general counsel for the Office of the Director of National Intelligence. "They are authorized by Congress and are carefully overseen by the congressional intelligence and judiciary committees. . . . "In short, all three branches of government knew about these programs, approved them, and helped to ensure that they complied with the law."

In 2011, he said, Congress reauthorized the programs after the House and Senate intelligence and judiciary committees had been briefed and information was made available to all members.

But Rep. James Sensenbrenner, R-Wis., recalled that when he chaired the House Judiciary Committee in 2006, "I was not aware of any dragnet collection of phone records when the Patriot Act was reauthorized." If he had, he said, "I would have publicly opposed such abuse."

He cautioned the White House that the mood could turn against it. "If the administration continues to turn a deaf ear to the American public's outcry, Section 215 will not have the necessary support

to be reauthorized in 2015," Sensenbrenner said. ". . . The proper balance between privacy and security has been lost."

While the final shape of any legislation, if any, remains uncertain, questions about the programs are getting tougher.

"I'm not saying that they've been breaking the law or anything like that, but I think it's been surprising to most members that it extends as far as it has, and I think members would like to review what is appropriate for the NSA to do," said Rep. Mike Simpson, R-Idaho, a senior House Appropriations Committee member.

The concerns fall into two general categories: What exactly is the NSA doing, and how can its work be more open?

"They need to provide as much clarity as they possibly can so people know and have a familiarity with what's happening, why that happens," said James Lankford, R-Okla., chairman of the House Republican Policy Committee. He wanted "another round of information again and to be able to process that."

The desire to know more sparked a sometimes fiery House Judiciary Committee hearing earlier this week with top administration officials.

Conyers, the committee's top Democrat, noted that the Fourth Amendment protects Americans from unreasonable search and seizure. "You've already violated the law as far as I am concerned," Conyers said.

The ire came from both parties. "The Star Chamber . . . in England started out . . . as very popular with the people. It allowed people to get justice that otherwise would not," said Rep. Spencer Bachus, R-Ala., referring to a court that was abolished by Parliament in 1641 over its abuses of power. "But it evolved over time into a powerful weapon for political retribution by the king."

Litt had a ready explanation, saying the law was designed "to make sure that all three branches of government are involved, that this isn't just the king, or the administration or an executive branch doing it."

That court also came under tough scrutiny, as lawmakers are pressing to make it more open.

"There's no legitimate reason to keep this legal analysis from public interest any longer," said Conyers. Judiciary Chairman Robert Goodlatte, R-Va., was sympathetic, saying, "I share his concern about some classified information that does not need to be classified."

William Douglas and Ali Watkins of the Washington Bureau contributed.