

**The New York Times** | <http://nyti.ms/1gvsmce>



POLITICS

## Rand Paul Files Lawsuit Over N.S.A. Call Surveillance

By CHARLIE SAVAGE FEB. 12, 2014

WASHINGTON — Senator Rand Paul, Republican of Kentucky, on Wednesday filed a lawsuit against President Obama and the leaders of several intelligence agencies. The suit challenges as unconstitutional the National Security Agency's once-secret program that is collecting bulk records about Americans' phone calls.

Mr. Paul, who had announced his intention to file the lawsuit in early January, joins an increasingly crowded set of plaintiffs, with several similar cases already pending.

But because of Mr. Paul's status as a rising star of the Tea Party faction of the Republican Party — one who staged a nearly 13-hour filibuster on the floor of the Senate in March raising concerns about the rules governing “targeted killings” using drone strikes — his lawsuit may attract particular attention.

“Today we ask the question for every phone user in America: can a single warrant allow the government to collect all your records, all the time?” Mr. Paul said in a statement. “I don't think so.”

FreedomWorks, the conservative and libertarian advocacy group, is listed as a co-plaintiff in the lawsuit. The lead lawyer is Kenneth T. Cuccinelli II, the former attorney general of Virginia. Bruce Fein, a former Reagan administration attorney, is also among the lawyers on the case.

The Obama administration has defended the program as lawful, noting that 15 judges on the Foreign Intelligence Surveillance Court have authorized it for 90-day intervals dating back to 2006. A 1979 Supreme Court ruling held that

“metadata” — records showing that calls took place, but not their content — is not protected by the Fourth Amendment.

“We remain confident that the program is legal, as at least 15 judges have previously found,” Peter Carr, a Justice Department spokesman, said on Wednesday.

The Bush administration began the bulk call records program in 2001 based on a secret claim of presidential power, and it operated outside of any statutory or judicial framework until the court in 2006 granted a Justice Department motion to issue orders to phone companies for the records. The Justice Department motion was based on the argument that a provision of the Patriot Act that allows the F.B.I. to collect business records deemed relevant to an investigation could allow the N.S.A. to collect records in bulk.

Mr. Paul filed his lawsuit in the Federal District Court for the District of Columbia. In December, Judge Richard J. Leon of that court ruled in a similar lawsuit brought by Larry Klayman, a conservative legal activist, that the program probably violates the Fourth Amendment because its expansive scope makes it different from case considered by the Supreme Court in 1979. The Justice Department has appealed the decision.

In a separate case brought by the American Civil Liberties Union in the Southern District of New York, Judge William H. Pauley III in December concluded that the program is legal and complies with the Fourth Amendment. The A.C.L.U. has appealed that ruling.

There are also similar cases in the Northern District of California and the District of Idaho that are raising similar claims, including litigation in California that dates back to earlier revelations during the Bush administration era about domestic surveillance programs and has been stalled in disputes over state secrets.

A version of this article appears in print on February 13, 2014, on page A19 of the New York edition with the headline: Rand Paul Sues Over Phone Program.