

**STATE OF ALASKA
THE LEGISLATURE**

2014

Source
HCS SJR 22(JUD)

**Legislative
Resolve No.**
51



Opposing the warrantless collection of telephone call data by the National Security Agency.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS the Fourth Amendment to the Constitution of the United States provides "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized"; and

WHEREAS the Fifth Amendment to the Constitution of the United States provides "No person shall . . . be deprived of life, liberty, or property, without due process of law"; and

WHEREAS, on December 16, 2013, United States District Court Judge Richard Leon ruled that the National Security Agency's program, bulk collection, and querying of telephone record metadata are likely unconstitutional; and

WHEREAS the legislature objects to the dragnet approach to data collection allowed by the Foreign Intelligence Surveillance Court, a court that operates in secret and, under sec. 215 of the USA PATRIOT Act, issues orders that perpetuate the warrantless collection of data

of nearly all Americans; and

WHEREAS the National Security Agency stores the date and time of calls, their duration, and the participating telephone numbers of the calls of nearly all Americans in a centralized database, which allows National Security Agency analysts to access not only those numbers, but the numbers with which the numbers have been in contact, and, in turn, the numbers in contact with those numbers; and

WHEREAS the Privacy and Civil Liberties Oversight Board, in its January 2014 report titled "Report on the Telephone Records Program Conducted under Section 215 of the USA PATRIOT Act and on the Operations of the Foreign Intelligence Surveillance Court," questions the legal basis for the National Security Agency's mass telephone call data collection program; and

WHEREAS, when telephone call data of Americans is collected by the National Security Agency, that data is not related to specific investigations of the Federal Bureau of Investigation; and

WHEREAS orders issued by the Foreign Intelligence Surveillance Court at the request of the federal government require telephone companies to provide new calling records on a daily basis, a mandate not grounded in statute; and

WHEREAS sec. 215 of the USA PATRIOT Act is designed to enable the Federal Bureau of Investigation to obtain records in the course of investigations, but the National Security Agency's mass collection of the records is not consistent with that design; and

WHEREAS the Electronic Communications Privacy Act of 1986 prohibits telephone companies from sharing consumer data with the government except in special circumstances, and the Privacy and Civil Liberties Oversight Board concluded that the National Security Agency's telephone call data collection program may violate the Act; and

WHEREAS the Privacy and Civil Liberties Oversight Board found that the National Security Agency's telephone call data collection program has not prevented, discovered, or identified terrorist attacks, plots, or suspects that threatened the security of the United States; and

WHEREAS the widespread collection of telephone call data of Americans reveals highly sensitive personal information; and

WHEREAS the legislature resolutely opposes the continuation of the National

Security Agency's warrantless data collection program; and

WHEREAS the legislature views the National Security Agency's storage in a central database of the telephone call metadata of all Americans as an unconstitutional practice that should be immediately suspended; and

WHEREAS the history of government coercion, persecution, and abuse of personal information and human life in the twentieth century prompts the legislature to seek to protect the liberty of future generations from an oppressive and tyrannical federal government; and

WHEREAS the fundamental rights of Americans to speak freely and associate with others are threatened and are likely being diminished by the National Security Agency's mass collection of telephone call data; and

WHEREAS the National Security Agency's mass collection of telephone call data may intimidate or chill the freedom of expression of individuals and groups that disagree with certain government policies or result in extreme scrutiny of those persons simply for opposing those policies; and

WHEREAS the Foreign Intelligence Surveillance Court has deviated from its purpose to authorize warrants for electronic surveillance relating only to a specific person, a specific place, or a specific communications account or device; and

WHEREAS the Foreign Intelligence Surveillance Court operates in a secretive manner that prevents the court from hearing public input regarding government requests to conduct surveillance;

BE IT RESOLVED that the Alaska State Legislature urges the federal government to end the mass telephone call data collection program conducted under sec. 215 of the USA PATRIOT Act, because of its lack of a statutory foundation and because it raises serious constitutional concerns under the Fourth and Fifth Amendments to the Constitution of the United States; and be it

FURTHER RESOLVED that the Alaska State Legislature urges the federal government to eliminate all stored metadata upon ending the mass telephone call data collection program; and be it

FURTHER RESOLVED that the Alaska State Legislature urges the United States Congress to authorize the creation of a panel of private sector lawyers to serve as advocates for the public before the Foreign Intelligence Surveillance Court to increase public knowledge

and oversight; and be it

FURTHER RESOLVED that the Alaska State Legislature urges judges of the Foreign Intelligence Surveillance Court to write opinions in a manner that allows the government to declassify and release the opinions to the public; and be it

FURTHER RESOLVED that the Alaska State Legislature urges the Foreign Intelligence Surveillance Court to work to declassify past opinions and release those opinions to the public; and be it

FURTHER RESOLVED that the Alaska State Legislature requests the United States Attorney General and members of the intelligence and judiciary committees of the United States Congress to inform the Alaska State Legislature of the federal government's activities under the Foreign Intelligence Surveillance Act and provide the Alaska State Legislature with copies of reports submitted under the Foreign Intelligence Surveillance Act; and be it

FURTHER RESOLVED that the Alaska State Legislature urges the Governor to prohibit the use of state personnel and resources to assist the National Security Agency in its collection of mass data on Alaskans without a specific search warrant; and be it

FURTHER RESOLVED that the Alaska State Legislature considers the National Security Agency's unilateral collection of the telephone call data of all Americans a violation of statute, an unconstitutional program, and a troubling overreach by the federal government; the Alaska State Legislature has sworn to uphold both the Constitution of the United States and the Constitution of the State of Alaska and will not assist the federal government by facilitating programs that are tyrannical in nature, that subject Americans to unreasonable and unwarranted searches, and that violate the fundamental principle of liberty; let this resolution serve as a notice to this Administration and all future Administrations that Alaskans reject surrendering their liberty in the name of an unconstitutional program.

COPIES of this resolution shall be sent to the Honorable Barack Obama, President of the United States; the Honorable Joseph R. Biden, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable John Boehner, Speaker of the U.S. House of Representatives; the Honorable Harry Reid, Majority Leader of the U.S. Senate; the Honorable Patrick J. Leahy, President pro tempore of the U.S. Senate; the Honorable Dianne Feinstein, Chair, U.S. Senate Select Committee on Intelligence; the Honorable Saxby Chambliss, Vice Chair, U.S. Senate Select Committee on Intelligence; the Honorable Mike

Rogers, Chair, U.S. House of Representatives Permanent Select Committee on Intelligence; the Honorable C. A. Dutch Ruppersburger, Ranking Member, U.S. House of Representatives Permanent Select Committee on Intelligence; the Honorable Jeh Johnson, United States Secretary of Homeland Security; the Honorable Sean Parnell, Governor of Alaska; General Keith B. Alexander, United States Army, Director, National Security Agency; Richard H. Ledgett, Jr., Deputy Director, National Security Agency; James B. Comey, Director, Federal Bureau of Investigation; and the Honorable Lisa Murkowski and the Honorable Mark Begich, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.