



Written by [Joe Wolverton, II, J.D.](#) on January 16, 2014

California and Washington Set to Stop NSA at the State Border

Congress, the president, and the courts may have decided to quietly surrender oversight of the National Security Agency (NSA), but state lawmakers in a few states aren't so easily silenced.

Legislators in Washington and California have stepped into the breach, offering legislation that will keep the NSA's all-seeing eye from spying on residents of their states.



On January 6, two California state senators introduced a bill minimizing the effect of the NSA's infamous dragnet phone metadata collection program.

Democrat State Senator Ted Lieu, serving California's 28th Senate District covering parts of the greater Los Angeles area, and Republican State Senator Joel Anderson, serving California's 36th Senate District covering parts of Orange and San Diego counties, are the sponsors of the Fourth Amendment Protection Act that forbids state agencies and officers from cooperation with the NSA.

"State-funded public resources should not be going toward aiding the NSA or any other federal agency from [sic] indiscriminate spying on its own citizens and gathering electronic or metadata that violates the Fourth Amendment," Lieu said [in a statement released in conjunction with the legislation](#).

The language of Senate Bill 828 (SB 828) mostly comes from model legislation drafted by the OffNow coalition. The measure prohibits the state of California and its political subdivisions from "Providing material support, participation or assistance in any form to a federal agency that claims the power, by virtue of any federal law, rule, regulation or order, to collect electronic data or metadata of any person pursuant to any action not based on a warrant that particularly describes the person, place and thing to be searched or seized."

An [article published by Truth Out](#), one of the groups participating in the OffNow effort, explains the value of the California proposal:

Practically speaking, the bill addresses four areas where the NSA relies on state assistance to continue their programs.

It would ban state and local agencies from providing any material support to the NSA within their jurisdiction. This includes barring government-owned utilities from providing water and electricity should the NSA ever need to reach out to California for a water shortage in nearby Utah, or should the NSA ever want to expand within the state.

The bill would block public universities from serving as NSA research facilities or recruiting grounds. There are currently six such universities within the state. It would provide sanctions against corporations attempting to fill needs not met in the absence of state cooperation.

Finally, the bill would ban the state, including local law enforcement, from engaging in information-



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sharing activities with the NSA.

Secretive branches inside the NSA are unconstitutionally tapping phones and collecting data and then packaging that information in a way that is useful to law enforcement. Despite claims by the Obama administration and officials inside the intelligence community, these operations have nothing to do with “national security.”

In fact, [a report published by Reuters](#) last year reveals that these cases “rarely involve national security issues.” This arrangement makes state agents co-conspirators with the NSA in its violation of the protections afforded by the Fourth Amendment.

Senators Lieu and Anderson understand this and refuse to let their state be guilty of aiding and abetting the federal government’s assault on the Constitution and the civil liberties it guarantees. Their bill specifically withdraws the Golden State from that assault.

“I agree with the NSA that the world is a dangerous place,” Lieu said in his statement. “That is why our founders enacted the Bill of Rights. They understood the grave dangers of an out-of-control federal government.”

California is not alone in forcing the feds out of their citizens’ private affairs.

As [reported by U.S. News on January 15](#):

Washington state lawmakers introduced a bill Tuesday that would prohibit state and local officials from providing “material support” to the National Security Agency.

If the bill becomes law, it would deny NSA facilities access to water and electricity from public utilities. The bill would also outlaw NSA research partnerships with state universities and forbid companies with state contracts from working with the NSA.

Businesses with state contracts and state or local officials who provide support or services to the NSA would be guilty of a misdemeanor if the bill passes.

Republican State Representative Matt Shea, of Washington’s 4th Legislative District in Spokane Valley, is a co-sponsor of [HB 2272, the Fourth Amendment Protection Act](#). In a statement to *The New American*, Shea explained the necessity for state action against the NSA.

“This bill is important because secretly spying on one’s own citizens without due process is the very essence of tyranny. Simply claiming “national security” doesn’t make something constitutional,” said Shea, a consistent advocate for the rule of law and the cause of liberty.

“The Constitution was written in and for crisis,” he added. “The federal government is clearly not restraining itself regarding the unconstitutional eavesdropping on innocent people and if the three branches of the federal government won’t act to protect the rights of citizens, Washington will through HB2272.”

Although HB 2272 does not mention the NSA by name, it restricts cooperation with

any federal agency which claims the power, or with any federal law, rule, regulation, or order which purports to authorize, the collection of electronic data or metadata of any person pursuant to any action not based on a warrant that particularly describes the person, place, and thing to be searched or seized.

Washington State’s Fourth Amendment Protection Act has seven sponsors and is anticipating the



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addition of more this week.

Both California and Washington are examples of the increasing momentum of the states' resistance to federal overreach in general and the NSA's unconstitutional surveillance specifically. The [OffNow coalition is one of the driving forces behind the movement](#).

OffNow is part of a wider effort spearheaded by Nullify NSA, a creation of the Tenth Amendment Center. The plan, aimed at cutting off the power to the surveillance apparatus, is outlined on the [Nullify NSA website](#).

First, citizens should recognize that despite its immense and growing power, the NSA does have a weakness. The Nullify NSA information explains:

In 2006, NSA HQ maxed out capacity of the Baltimore area power grid.

"The NSA is already unable to install some costly and sophisticated new equipment. At minimum, the problem could produce disruptions leading to outages and power surges. At worst, it could force a virtual shutdown of the agency."

It's not just power. This physical limitation is a serious weak point for the NSA.

Next, the NSA can't expand if it can't count on reliable infrastructure. Again, from the website:

In order for the NSA to expand and be able to monitor virtually all communications on earth, it needed new facilities with access to a new power source, and natural resources.

In 2006-7, the NSA started searching for new locations to handle their needs.

In each situation, local access to water or a power grid, and cheap utility costs were a major factor in choosing a location.

In most areas, these resources are supplied — in whole or in part — by state or local governments. In others, by corporate partners.

Using the NSA's new massive data center in Utah as an example, Nullify NSA explains how the plan would work in the real world, with the help of state legislators.

The new Utah Data Center, a massive spy complex, requires 1.7 million gallons of water every single day to operate.

Those massive supercomputers monitoring your personal information are water-cooled. They can't function without the resources to keep them at operating temperature.

That water is scheduled to be provided by the Jordan Valley River Conservancy District, "a political subdivision of the state of Utah."

Because of this, a state law can be passed banning this partnership. In short, state officials can turn off the water and let the NSA's infrastructure wither on the vine.

All states should follow this example and follow James Madison's counsel in *Federalist*, No. 46 and refuse "to cooperate with officers of the Union" when cooperation would make the state a collaborator in the violation of the Constitution.

The California measure has not yet been assigned to a committee, while the bill in Washington State awaits consideration by the House Judiciary Committee.



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