



Written by [Joe Wolverton, II, J.D.](#) on January 8, 2014

Rand Paul Will File Suit Against the NSA “Soon”

Senator Rand Paul (shown, R-Ky.) is closer to filing a class-action lawsuit against the National Security Agency (NSA) for violating the constitutionally protected rights of Americans.



On January 3, [The Hill reported](#) that Paul’s office confirmed that he would be filing his complaint “soon.”

Breitbart News, the new home of Senator Paul’s op-eds, [broke the news](#) of the impending first shot in what is sure to be a protracted legal battle.

Not everyone is happy to hear of Senator Paul’s progress. In [a statement published by Politico](#), Representative Peter King (R-N.Y.) reportedly told MSNBC’s *Morning Joe* program that Senator Paul’s attempts to thwart the NSA’s unconstitutional surveillance are “creating ... hysteria.”

Perhaps King forgets (or doesn’t care) that on a “daily, ongoing basis,” the NSA unconstitutionally collects the phone log data of millions of Americans. Additionally, through an operation known as PRISM, the federal government’s surveillance apparatus is reportedly directly tapping into the servers of some of the nation’s biggest computer companies: Google, Apple, Facebook, Yahoo, Microsoft, and others.

Apparently, the libertarian-leaning senator believes that the Supreme Court has the authority to rule on the constitutionality of these surveillance programs.

During an appearance on *Fox News Sunday* in June of last year, Paul announced plans to file a class action lawsuit against the Obama administration, demanding it provide legal justification for the recently revealed wholesale watching of millions of citizens not suspected of any crime.

“I’m going to be seeing if I can challenge this at the Supreme Court level,” Paul said, according to the show transcript. He continued,

I’m going to be asking all the Internet providers and all of the phone companies, ask your customers to join me in a class action lawsuit. If we get 10 million Americans saying, “We don’t want our phone records looked at,” then somebody will wake up and say things will change in Washington.

When asked by host Chris Wallace why he considered the NSA’s surveillance unconstitutional, Paul responded:

Well, you know, they’re looking at a billion phone calls a day is what I read in the press and that doesn’t sound to me like a modest invasion of privacy. It sounds like an extraordinary invasion of privacy. The Fourth Amendment says you can look at and ask for a warrant specific to a person, place and the items.

This is a general warrant. This is what we objected to and what our Founding Fathers partly fought the revolution over is they did not want generalized warrants where you could go from house to



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house with soldiers looking for things or now from computer to computer, to phone to phone, without specifying who you're targeting.

Specifically, the Fourth Amendment states that 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."

While unapologetically spying on millions of Americans, the federal government makes no attempt to demonstrate that any of those whose phone records have been seized are suspected of committing some crime. It is a plain and simple violation of the Fourth Amendment in the hope of discovering something that one day might be found to qualify as suspicious. That is putting the cart of culpability before the horse of the Constitution, and the American people are right to insist that the president be held accountable.

As Senator Paul explained to Chris Wallace, "What I do in my private life is my private life. If you suspect me of a crime, have probable cause."

How far are the citizens of this Republic willing to let the federal surveillance apparatus go toward constructing a Panopticon? At this accelerated rate of construction, how long until every call, every text, every e-mail, every online message, and every movement will fall under the all-seeing eye of federal overlords?

Senator Paul thinks now is the time to derail this "[long train of abuses](#)" and he believes that the American people have the will and the way to do so. Citing the successful defeat of a pair of recent legislative attempts to pierce the veil of Internet privacy, Paul thinks that those events prove that popular resistance can provide a pathway toward ending the NSA's snooping, as well.

The bills referred to by Paul are the Cyber Intelligence Sharing and Protection Act (CISPA) and the Stop Online Piracy Act (SOPA). Both acts were defeated in Congress, although many of their provisions were enacted as part of other bills or through executive orders.

Speaking of the popular uprising that led to the defeat of these measures, Paul told Wallace, "If we can have that again — people by the millions coming out and saying, 'Look, I want to be part of a class action suit that says to the government, let's hear this at the Supreme Court level. Are you allowed to look at phone records even though there's no probable cause that I'm related to a crime?' — I think we'll put an end to this."

Although it's been several months since Paul announced his intention to take the NSA to court, perhaps now he's decided to strike while the iron's hot.

Last month, a federal judge ruled that the NSA's dragnet collection of information on all phone calls likely violates the Constitution.

In a [68-page Memorandum Opinion](#) issued on December 16, Judge Richard J. Leon of the U.S. District Court for the District of Columbia ruled that the NSA's unwarranted surveillance of telephone calls is prohibited by the Fourth Amendment's protections against unreasonable searches and seizures.

The suit that was the subject of Leon's ruling was filed by Larry Klayman, the founder of Freedom Watch. [In a statement published by WND](#), Klayman reached out to the senator-turned-plaintiff, welcoming him to the fray.

"I invite Sen. Paul to join our ongoing class actions, as they have already proven to be successful in



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large part — given Judge Leon’s unconstitutionality ruling. The other plaintiffs and I are pleased that Paul also is fighting to slay the NSA express,” Klayman wrote.

In WND, Klayman also said:

The bottom line is this: I am pleased that the force of our legal actions with regard to the NSA and this huge violation of constitutional rights has finally caused many in the nation to take heed of the strength of our cases. For what is now occurring with this spy agency, and others like the CIA, cannot stand. We the people cannot allow a tyrannical government to run roughshod over our Fourth, First and Fifth Amendment constitutional rights. Our Founding Fathers risked their fortunes and lives to win freedom. We owe it to them to take whatever legal steps we must to preserve this freedom for ourselves, our loved ones, and the country as a whole.

On his senatorial reelection website, Senator Paul offers all Americans the opportunity to sign on as co-plaintiffs in his case against the NSA.

While Senator Paul’s efforts should be commended, the federal judiciary is not empowered in the Constitution to be the arbiter of what is or is not constitutional. Furthermore, the Supreme Court has demonstrated repeatedly that it cannot be relied upon to rein in the other branches of the federal government.

The best answer to NSA deprivations is state and local actions denying the organization the ability to continue its unconstitutional surveillance activities, whether through bills nullifying federal acts permitting the programs or through measures [cutting off vital utilities from NSA facilities](#).

Photo of Senator Rand Paul (R-Ky.): AP Images

Joe A. Wolverton, II, J.D. is a correspondent for The New American and travels frequently nationwide speaking on topics of nullification, the NDAA, the Second Amendment, and the surveillance state. He is the co-founder of Liberty Rising, an educational endeavor aimed at promoting and preserving the Constitution. Follow him on Twitter @TNAJoeWolverton and he can be reached at jwolverton@thenewamerican.com



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