

Officials: Obama Likely to OK Phone Record Changes

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WASHINGTON (AP) — President Barack Obama is expected to endorse changes to the way the government collects millions of Americans' phone records for possible future surveillance, but he'll leave many of the specific adjustments for Congress to sort out, according to three U.S. officials familiar with the White House intelligence review.

That move would thrust much of the decision-making on Section 215 of the USA Patriot Act toward a branch of government that is deeply divided over the future of the surveillance apparatus and in no hurry to settle their differences and quickly enact broad changes. Among the key decisions Obama is expected to leave to Congress is whether the National Security Agency should continue hold the trove of phone records or move the data to the phone companies or another third party.

In a highly anticipated speech Friday, Obama is also expected to announce broader oversight of the process that helps determine which foreign leaders the U.S. government monitors. And he's likely to back increased privacy protections for foreign citizens, a step aimed at soothing international anger over U.S. surveillance programs.

The speech marks the culmination of a monthslong review sparked by former NSA systems analyst Edward Snowden, who leaked a trove of classified documents about the secret surveillance programs last year.

In another revelation about NSA activities, The New York Times reported Tuesday that the agency has implanted software in nearly 100,000 computers around the world — but not in the United States — that allows the U.S. to conduct surveillance on those machines.

The NSA calls the effort an "active defense" and has used the technology to monitor units of China's Army, the Russian military, drug cartels, trade institutions inside the European Union, and sometime U.S. partners against terrorism like Saudi Arabia, India and Pakistan, the Times reported.

White House officials on Tuesday cautioned that the review Obama has been conducting is not complete and that the president could make additional decisions in the coming days. Obama is reviewing more than 40 recommendations from a presidential commission.

The U.S. judiciary threw cold water on one proposal Obama has indicated he supports: putting an independent privacy advocate on the Foreign Intelligence Surveillance Court, which currently hears only from the government. Speaking for

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the entire judiciary, U.S. District Judge John D. Bates said Tuesday that appointing an independent advocate to the secret court is unnecessary and possibly counterproductive.

Officials familiar with the White House review say the panel's recommendation to strip the NSA of its authority to hold Americans' phone records has proven difficult for Obama. The panel proposed moving the records to the phone companies or another third party and requiring the NSA to get separate authority from the Foreign Intelligence Surveillance Court each time it wants to access the data.

Obama has suggested he is open to moving the data out of the NSA. But officials say he is unlikely to announce specific entities he believes should hold the records in the future, in part because telephone companies have balked at the proposal to bring the data back under their control. They're worried about their exposure to lawsuits and the price tag if the U.S. government asks them to hold information about customers for longer than they already do.

Some lawmakers are pushing for Obama to get specific in his recommendations about the future of the bulk collections.

"It would be useful to set a timeline for the restructuring of the metadata program," said Rep. Adam Schiff, D-Calif. "But I would not make the reforms reliant in all cases on congressional action."

Many privacy advocates support requiring Congress to codify any changes to Section 215, arguing that legislation is the only way to ensure they last beyond Obama's presidency. And two phone executives said the cellular industry has told the government it would only accept changes to its role in the programs if they were legally required to do so.

The executives spoke on condition of anonymity because they were not authorized to disclose the private discussions with the government. The U.S. officials insisted on anonymity because they were not authorized to discuss the White House review by name.

Section 215 has been one of the most controversial aspects of the Patriot Act, which passed shortly after the Sept. 11, 2001, terrorist attacks and increased the government's surveillance powers. Congress reauthorized the law in 2011.

The section became known as the "library records provision" because it allowed the government to seize a wide range of documents, including library records. It requires the government to show that there are "reasonable grounds to believe" that the records are relevant to an investigation intended to "protect against international terrorism or clandestine intelligence activities."

Last month, a federal judge declared the program is probably unconstitutional and said there is little evidence it had thwarted any terror plot. The Justice Department has staunchly defended Section 215, saying it was narrowly written and has safeguarded liberties.

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