

High-Five: House of Representatives Moves to Ban NSA's 'Backdoor Search' Provision

[Spencer Ackerman](#) | [The Guardian](#) | June 20 2014

Surveillance reform gained new congressional momentum as the US House of Representatives unexpectedly and overwhelmingly endorsed stripping a major post-9/11 power from the National Security Agency late Thursday night.

By a substantial and bipartisan margin, 293 to 121, representatives moved to ban the NSA from searching warrantlessly through its troves of ostensibly foreign communications content for Americans' data, the so-called "backdoor search" provision [revealed in August by the Guardian](#) thanks to leaks from Edward Snowden.

The move barring funds for warrantless searches "using an identifier of a United States person" came as an amendment added by Zoe Lofgren, Democrat of California, and Thomas Massie, Republican of Kentucky, to the annual defense appropriations bill, considered a must-pass piece of legislation to fund the US military. Also banned is the NSA's ability, disclosed through the Snowden leaks, to secretly insert backdoor access to user data through hardware or communications services.

"I think it's the first time the House has had the opportunity to vote on the 4th Amendment and the NSA as a discrete item. It was an overwhelming vote," Lofgren told the Guardian. She said the vote succeeded despite efforts of what she called "the intel establishment."

It swiftly circumvented a carefully crafted legislative package, backed by the White House and the NSA, presenting President Obama with an uncomfortable choice about vetoing the entire half-trillion dollar spending bill.

That legislative package, known as the USA Freedom Act, had jettisoned a measure to ban backdoor searches in order to move the bill out of committee. Losing the backdoor-search prohibition prompted, in part, civil libertarian groups to [abandon their support](#) of the House version of the bill. Several senators, including Democrats Ron Wyden and Mark Udall, are seeking to reinstate the ban in the [Senate version](#) currently under judiciary committee consideration.

The NSA considers its ability to search for Americans' data through its massive collections of email, phone, text and other communications content a critical measure to discover terrorists and a sacrosanct prerogative. Its authorities to do so stem from a provision, called section 702, of a key 2008 surveillance law, the Fisa Amendments Act, which Obama endorsed as a legislator and presidential candidate.

During a March hearing of a government privacy board, lawyers for the intelligence community sharply disputed that such warrantless searches are illegal or unconstitutional, as civil libertarians consider self-evident.

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