

Center for National Security Studies

Protecting civil liberties and human rights

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The Center for National Security Studies is deeply disappointed the Senate passed the FISA Amendments Act at President Bush's behest today. In our view, this unconstitutional bill is a major setback for Americans' constitutional rights.

This legislation eviscerates long-standing privacy protections for Americans' international communications.

Under these new powers:

- more personal phone calls and e-mails of Americans will be acquired, retained, and analyzed by the NSA than ever before in US history;
- even more warrantless surveillance of American communications will occur than President Bush admitted occurred under the TSP;
- no Fourth Amendment warrant will be required for broad electronic surveillance of streams of international communications, so long as the NSA does not "target" a particular American at the outset; and
- the NSA will be able to build the biggest database of American communications ever constructed.

It is not correct that individualized warrants will still be required to 'conduct surveillance' of Americans because the bill affirmatively permits electronic surveillance without any warrant for Americans' international communications when the NSA is "targeting" a foreigner or group abroad—more than five billion people live outside the US and communicate with millions of American residents and businesses. At a time when more Americans communicate more often with more friends, family and colleagues living, serving, or visiting abroad than ever before, Congress should be providing greater privacy protections, not fewer.

Unfortunately, the debate over these new powers was distorted by a misleading focus on the rules for the rare instances when a particular American is targeted at the outset, even though the primary purpose of this legislation is permit the mass acquisition of Americans' international communications without targeting particular Americans. It is also especially troubling that the bill protects purely domestic American communications only when the government "knows" that an e-mailer and all recipients are physically located in the US, meaning that far more innocent, private e-mails between Americans will be scooped up by the NSA under these authorities than ever before.

This bill grants new spying powers that will mean a sea change to the detriment of the privacy rights of Americans. When the audit of the warrantless surveillance program is complete and the Congress and the public learn the scope of the government surveillance, we believe there will be greater political will to restore the basic constitutional protections that were eviscerated today. And the Center for National Security Studies intends to hold Members to their commitments to revisit these powers in the next Congress.

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