

# **THE REAL “GAP” IN FISA: REALITY AND REPUBLICAN RHETORIC**

The Bush Administration has a history of gaps between their rhetoric on the issue of foreign intelligence surveillance and reality. For example, in September 2007, Director of National Intelligence Mike McConnell had to **correct his own testimony and admit that “new U.S. surveillance powers did not play a role in helping German authorities thwart a suspected terrorist plot.”** [LA Times, 9/13/07] This pattern of gaps has continued:

- The Administration said that the intelligence community would lose the tools it needs to conduct surveillance of terrorists when the Protect America Act expired.

“If Congress does not act... our ability to find out who the terrorists are talking to, what they are saying, and what they are planning will be compromised.” [President Bush, 2/14/08]

***In fact, it was President Bush and Congressional Republicans who refused to extend the PAA for 21 days. Surely if Republicans believed their rhetoric they would have supported an extension.***

- The Administration said that because the nation would be at risk when the Protect America Act expired, the President would cancel his trip to Africa to work on FISA legislation.

“I am scheduled to leave tomorrow for a long-planned trip to five African nations. Moments ago, my staff informed the House leadership that I'm prepared to delay my departure, and stay in Washington with them, if it will help them complete their work on this critical bill.” [President Bush, 2/14/08]

***In fact, President Bush not only went to Africa at the time and day originally planned, but has since refused to work with Democrats to “complete work on this critical bill.”***

- The Administration said that at least one telecommunications company was refusing to provide intelligence on suspected terrorists because it is uncertain whether legal immunity will be granted.

“We have lost intelligence information this past week as a direct result of the uncertainty created by Congress’ failure to act. Because of this uncertainty, some partners have reduced cooperation. In particular, they have delayed or refused compliance with our requests to initiate new surveillances of terrorist and other foreign intelligence targets under existing directives issued pursuant to the Protect America Act.” [Attorney General Michael Mukasey & Director of National Intelligence Mike McConnell, 2/22/08]

***In fact, the Bush Administration backtracked within hours, and said that all telecommunications companies were in fact cooperating and providing the intelligence requested.***

- The Administration said that a law updating the Foreign Intelligence Surveillance Act needs to be passed quickly.

“Congress must fix this damage to our national security immediately.” [President Bush, 2/23/08]

***In fact, the Bush Administration has refused to come to the table with House and Senate Democrats to produce a bicameral, bipartisan bill – essentially delaying the resolution of this serious national security matter.***