

Statement of Rep. John Spratt

Foreign Intelligence Surveillance Act

June 19, 2008

I voted against the Protect America Act, but I support the Foreign Intelligence Surveillance Amendments Act of 2008, because it is a vast improvement over the Protect America Act and existing surveillance law.

The new FISA permits surveillance but protects civil liberties by insisting that the FISA Court approve surveillance activities in advance of their initiation. Protect America would have allowed warrantless surveillance, allowing the FISA Court to review those activities only in retrospect. The new FISA allows for surveillance without a warrant only if justified by exigent circumstances and only if FISA Court approval is sought within seven days. FISA Court approval must be granted within thirty days.

The new FISA protects U.S. persons from domestic surveillance, and to ensure that the process works as intended, it extends congressional as well as judicial oversight into surveillance activities. To bolster oversight, the Inspectors General from Justice, Defense, State, the DNI, and NSA are directed to review surveillance procedures and submit their findings to the Intelligence and Judiciary Committees.

The new FISA is needed now to eliminate the potential for an intelligence gap, and needed also to give the intelligence community flexibility for responding to exigent threats. The new FISA makes clear that the government is required to obtain an individual warrant from the FISA Court before it can conduct surveillance of U.S. persons either at home or abroad. In addition, the bill requires the government to establish guidelines, subject to review by Congress and the FISA Court, to protect Americans from reverse targeting, that is, from any unwarranted procedures by which foreign individuals would be tagged with the intent of collecting information on an American with whom the targeted foreigner might communicate.

Finally, FISA, as amended, and Title III of our criminal code would be the exclusive authorities under which the government can conduct domestic surveillance.

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