

# **FISA FACT VS. FICTION**

## *Republicans Try to Stampede America Once Again*

Republicans have resorted to fear mongering in an attempt to stampede America on a key national security issue – the Foreign Intelligence Surveillance Act (FISA). Democrats are working hard to craft a bipartisan modernization of FISA that protects America, while protecting Americans’ fundamental rights.

### **Let’s set the record straight:**

**FICTION:** “By not giving the professionals the tools they need, it’s going to be a lot harder to do the job we need to be able to defend America.” - *President George W. Bush, 2/15/08*

**FACT:** All sides agree that the intelligence community should have the tools it needs to protect America. Indeed, right now, intelligence professionals have what they need to conduct surveillance of terrorists. **Expansive authorizations to conduct surveillance** of all known terrorist organizations and targets **are already in place**. All surveillance being conducted today can continue for at least another six months, and **new targets can be added under existing authorizations**. In the unlikely event that new warrants for new surveillance against previously unknown terrorist organizations are needed, they can be obtained quickly from the FISA court. In an emergency, surveillance can begin immediately and permission can be obtained from the FISA court later.

**FICTION:** “There is no longer a way to compel the private sector to help us.” - *Director of National Intelligence Mike McConnell, 2/14/08*

**FACT:** First, telecommunications companies surely want to continue to help protect our nation. In addition, **under current law, telecommunications companies can be compelled by the Administration to help with surveillance**. Lastly, these companies have had, and continue to have, immunity from prosecution when legally providing information to the government.

**FICTION:** “When this Protect America Act expires, we are going to go back under the same set of rules and regulations that were in place before 9/11.” - *Rep. Peter Hoekstra, Ranking Member, House Intelligence Committee, 2/15/08*

**FACT:** Even with the expiration of the PAA – which Democrats offered to extend and Republicans refused – **surveillance that began under its guidelines will continue for at least another six months**. Democrats agree that FISA needs modernization, and we have invited Republicans to work with us in a constructive manner to quickly achieve that goal.

**FICTION:** “We can’t go up on new targets. Let’s say, for example, you’ve got a terrorist in Baghdad communicating with a terrorist in London. You can’t go up on a new target without going through the extensive warrant provisions at FISA that have made this law not work in the first place.” - *Senate Minority Leader Mitch McConnell, 2/17/08*

**FACT:** In fact, in the slim chance that intelligence officials become aware of a currently unknown terrorist organization not already under surveillance, they **can get an emergency approval to begin surveillance within minutes**. **There is no backlog of cases** to slow down getting surveillance approvals from the FISA court, like there was last summer. In the case of an emergency, surveillance can begin immediately, and approval from the FISA court can be obtained later, within 72 hours.