



**Statement of the Honorable John Conyers, Jr.
for the Hearing on "Warrantless Surveillance and the Foreign Intelligence Surveillance Act: The
Role of Checks and Balances in Protecting Americans' Privacy Rights"
Before the Committee on the Judiciary
2141 Rayburn House Office Building
September 5, 2007 - 10:15 a.m.**

One month ago, Congress passed an emergency wiretap law, at the President's urging, that granted the Attorney General largely unfettered authority to conduct surveillance on American citizens who engaged in communications abroad. The law was highly controversial, and I was strongly opposed to it. Fortunately, the law sunsets early next year. Today, we begin the process of reviewing that law and considering modifications to it.

In my judgment, three tests must be met before we can consider additional legislation.

First, we must be able to conduct real and meaningful oversight on the surveillance program. We need to be able to review how the warrantless surveillance began, what its legal justifications were, what abuses or concerns were identified, how those were remedied, and how the program evolved over time, both legally and substantively.

These are the very same questions we have been asking for months. We have sent letters, we have threatened subpoenas, we have made requests to the President, the soon to be former Attorney General, and the Director of National Intelligence. The response each time has been to either ignore us or to change the subject. That response is no longer acceptable.

Second, we must provide the courts with a meaningful role in reviewing surveillance that applies to American citizens. The history of unreviewed surveillance in this nation is not pretty. Just ask Martin Luther King, Coretta King or the other leaders of the 1960's civil rights and anti-war movements who had their phones tapped. Just ask the individuals that ended up on J. Edgar Hoover or Richard Nixon's enemies list.

That's why the Constitution requires court approval for surveillance. That's why Congress passed a law requiring judicial approval in 1978, and maintained that requirement in passing scores of amendments since that time. That is why I believe it is critical that we place some check on governmental power in this area.

Third, we need to consider the role of the telecommunications carriers. One of the few items that the Administration did not get off of their wish list is retroactive immunity for those companies that participated in the warrantless surveillance program. We need to learn what role they played in the program, why they volunteered in the first place, and what promises were made to them.

There is not a member in this room who would deny this or any other Administration the legitimate tools and resources it needs to protect our citizens against terrorism. But granting these tools cannot and should not involve abdicating our responsibility as a co-equal branch of government to protect our precious rights and liberties. We have to remember what truly makes this country different from its enemies, and we can begin by reading the Constitution and Bill of Rights as well as our history books.