

For Immediate Release
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Fact Sheet on FISA Modernization

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The Problem

- The Foreign Intelligence Surveillance Act (FISA) was drafted almost thirty years ago, for the purpose of establishing a process for obtaining a court order to conduct foreign intelligence surveillance in the United States.
- However, as a result of revolutions in telecommunications technology since FISA was passed, FISA now often requires the Government to get a court order to collect information on terrorists and other foreign intelligence targets located overseas.
- It makes no sense to require the Government to obtain a court order to collect foreign intelligence on foreign targets located in foreign countries. This requirement impairs our intelligence capabilities, and diverts scarce resources that would be better spent safeguarding the civil liberties of Americans, not foreigners who wish to do us harm.
- As the Director of National Intelligence has reported, as a result of this outdated law we now are "missing a significant amount of foreign intelligence that we should be collecting to protect our country." This is unacceptable at any time-but it is intolerable in the current heightened threat environment.

The Director of National Intelligence Has Proposed A Reasonable Solution

- The Administration proposed a comprehensive FISA modernization bill to the Congress several months ago. However, Congress has made it clear that they will be unable to act upon the Administration's full proposal before the August recess.
- In an effort to address this critical intelligence gap, the Director of National Intelligence has proposed a significantly narrowed proposal focused on the current, urgent need to protect our Nation.
- This new proposal would substantially enhance our capabilities to collect intelligence on targets located overseas. It would also preserve a role for the Foreign Intelligence Surveillance Court in reviewing the Government's procedures for collecting intelligence on these overseas targets.

This is an effort to balance court review and our urgent need to close the current intelligence gap.

- The court review procedures would not stand in the way of starting collection of foreign intelligence immediately. The Government would have 90 days after collection has started to submit its procedures to the court for review. If the court found any deficiency, collection would continue during any and all court review processes.

What Is Not Acceptable

- Some have proposed that the Government must obtain pre-approval from a court before it conducts critical surveillance of targets located overseas. This is unacceptable. The Government must be able to act immediately, particularly in the case of national security emergencies, to protect the Nation.
- Some have suggested that FISA must be reformed, but only to permit collection against certain overseas threats like al Qaeda terrorists. This is unacceptable. There are many threats that confront our Nation, including military, weapons proliferation, and economic, and we must be able to conduct foreign intelligence effectively on all of them.
- Some have suggested that we must wait to modernize FISA. This is unacceptable. Congress must act now to give our intelligence professionals the tools they need to uncover plots in time to protect our homeland.
- Some have suggested that a court order should be necessary before our intelligence professionals are able to gather any information about a foreign target who happens to contact someone in the United States frequently. This is unacceptable.

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