



On December 31, 2012, the FISA Amendments Act of 2008 is scheduled to sunset. This law permits the government to obtain year-long orders to collect international communications for foreign intelligence purposes, even if one party is an American in the United States and even if there no reason to believe anyone is involved in terrorism or espionage. It is suspected that this expansive authority is being used to collect mass amounts of data, including on people in the US, and current and past administrations have refused to confirm or deny whether that is the case. The rules about how US communications are collected and used are secret, along with rulings by the secret FISA Court on how the law affects our constitutional rights.

Senators have introduced amendments geared towards transparency, oversight and accountability to better understand how this intrusive law is being used on US soil against US persons. The following modest amendments DO NOT limit collection of information under the FISA Amendments Act.

Vote YES on Wyden-Udall-Lee-Durbin-Merkley-Udall-Begich-Franken-Webb-

Shaheen-Tester-Bingaman-Lautenberg-Coons-Baucus:

Information on Surveillance of US Communications

- A bipartisan group of Senators have repeatedly written to the administration to request an estimate of how many US communications have been swept up in FISA Amendments Act surveillance to better understand the privacy implications of this law. They have been repeatedly rebuffed and told that information is not available.
- While the Intelligence and Judiciary Committees receive regular, classified reports on some FAA information, it does not include information about how many US persons are surveiled or how that information is used.
- This amendment would require the administration to report: a) how many US communications are collected – if that information is already available, b) an assessment of whether wholly domestic communications are collected, c) whether the government searches through FISA Amendments Act information for specific US person data, and d) whether the NSA has collected personally identifiable information on more than 1 million US persons. The report shall be public, but can include redactions where necessary to protect national security.
- This basic information does NOT reveal sources or methods of intelligence gathering and focuses on how the law affects people here in the US-not targets overseas. To the extent that this law is truly about surveillance of foreigners, and only “incidentally” picks up people in the US, that information will remain secret.

Vote YES on Merkley-Lee-Wyden-Franken-Coons-Shaheen:

Access to Significant FISA Court Rulings

- The Senate Select Committee on Intelligence has confirmed that there are secret court opinions interpreting the scope of the FISA Amendments Act and discuss its constitutionality. Those opinions have not been publicly released, summarized or described, creating a secret body of constitutional law.
- There is precedent for releasing FISA Court opinions. Three have been made public over the last decade in an attempt to legitimize repeated expansions of spying authorities. However, not a single opinion has been released about the FISA Amendments Act.
- The Obama Administration stated several years ago that it agreed that the opinions should be released in some form if at all possible and started a process to review the opinions to do so. The Obama Administration has refused to say whether the process has been completed and if so, the disposition of the opinions.
- This amendment would not force complete disclosure of all court rulings. It instead of would require the administration to look at the significant opinions already submitted to the committees of jurisdiction and do one of three things: 1) release the opinions, 2) write unclassified summaries of the opinions, or 3) explain how many will not be released and why.

Vote YES on Leahy-Durbin-Franken-Shaheen-Akaka-Coons:

Shorten Sunset and Increase Reporting

- Current reports to the Judiciary and Intelligence Committees do not include substantive evaluations of whether the procedures that supposedly protect privacy actually do so. This amendment, adopted by the Judiciary Committee, would direct the Inspector General of the Intelligence Community to conduct such an assessment and make an unclassified summary of the findings public.
- This amendment would also shorten the extension from five years to three which will sync the FISA Amendments Act with the Patriot Act, ensuring that these two laws receive consideration together instead of in a piecemeal fashion that may obscure how the surveillance superstructure may work. It will also ensure that Congress conducts oversight sooner rather than later.