



URL: <http://www.aclu.org/safefree/nsaspying/35731res20080619.html>

### H.R. 6304, THE FISA AMENDMENTS ACT OF 2008 (6/19/2008)

The ACLU recommends a no vote on H.R. 6304, which grants sweeping wiretapping authority to the government with little court oversight and ensures the dismissal of all pending cases against the telecommunication companies. Most importantly:

- H.R. 6304 permits the government to conduct mass, untargeted surveillance of all communications coming into and out of the United States, without any individualized review, and without any finding of wrongdoing.
- H.R. 6304 permits only minimal court oversight. The Foreign Intelligence Surveillance Court (FISA Court) only reviews general procedures for targeting and minimizing the use of information that is collected. The court may not know who, what or where will actually be tapped.
- H.R. 6304 contains a general ban on reverse targeting. However, it lacks stronger language that was contained in prior House bills that included clear statutory directives about when the government should return to the FISA court and obtain an individualized order if it wants to continue listening to a US person's communications.
- H.R.6304 contains an "exigent" circumstance loophole that thwarts the prior judicial review requirement. The bill permits the government to start a spying program and wait to go to court for up to 7 days every time "intelligence important to the national security of the US may be lost or not timely acquired." By definition, court applications take time and will delay the collection of information. It is highly unlikely there is a situation where this exception doesn't swallow the rule.
- H.R. 6304 further trivializes court review by explicitly permitting the government to continue surveillance programs even if the application is denied by the court. The government has the authority to wiretap through the entire appeals process, and then keep and use whatever it gathered in the meantime.
- H.R. 6304 ensures the dismissal of all cases pending against the telecommunication companies that facilitated the warrantless wiretapping programs over the last 7 years. The test in the bill is not whether the government certifications were actually legal – only whether they were issued. Because it is public knowledge that they were, all the cases seeking to find out what these companies and the government did with our communications will be killed.
- Members of Congress not on Judiciary or Intelligence Committees are NOT guaranteed access to reports from the Attorney General, Director of National Intelligence, and Inspector General.

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