

international communications of suspected and known al-Qaida operatives in a foreign country who are communicating with associates around the world and, occasionally, in a limited way, with individuals inside the United States. The purpose of the program is to collect foreign intelligence in an effort to identify and prevent another devastating attack on our homeland.

As we have learned, the terrorist surveillance program is designed with the goal of preventing terrorist attacks in the United States and protecting the lives of Americans. Given the imperative to reliably and immediately detect and disrupt the plots of international terrorists who are intent on killing Americans, the President is acting well within his constitutional authorities.

The Foreign Intelligence Surveillance Act has been, and continues to be, a valuable tool in protecting our national security interests in many cases. However, the world changed on September 11, 2001, demonstrating the importance that the President have the power and authority to protect the American people from future attacks of terrorism. Both the Constitution and the Congress grant the President that authority. FISA lacks the speed and agility necessary to fight the war on terror, and its bureaucratic requirements prevent the “hot pursuit” of international communications necessary to prevent attacks.

As vitally important as it is to protect American lives, it is also important that Americans’ rights are protected. That is exactly why the administration has put in place a system of responsible measures to ensure our civil liberties are also protected. In doing so, congressional leaders from both parties have been kept informed about the program from the start. Furthermore, this program is reauthorized approximately every 45 days to ensure it is still necessary, and that it is being used properly, and the activities conducted within this program are thoroughly reviewed by lawyers within the National Security Agency and the Department of Justice to ensure the program is only collecting the international communications of suspected terrorists here in the United States and elsewhere.

Their oversight includes assuring an aggressive program is in place to assist the highly trained intelligence professionals at NSA verify that all activities are consistent with minimization procedures that weed out the identities of ordinary Americans and preserve civil liberties.

I note that FISA, which has been the alternative that the critics of this program have looked to as the real program that should be used, requires a reauthorization every 90 days. Here the President and the administration have taken an additional precaution to protect the privacy rights of Americans by reauthorizing this program approximately every 45 days.

On September 11, 2001, terrorists operating covertly inside the United

States, and in contact with al-Qaida members overseas, perpetrated the worst attack on domestic soil in American history. Osama bin Laden recently reiterated publicly al-Qaida’s intention to attack us again with operatives hiding within our borders.

Congress identified al-Qaida as an enemy of this country by passing the authorization for the use of force, authorizing the President to use all necessary and appropriate force to protect our homeland.

When the enemy is behind your lines, you must use every lawful tool at your disposal to find and stop them. That is why the President has authorized the terrorist surveillance program.

As the 9/11 Commission pointed out, and as also the joint House-Senate Intelligence Committee investigation, as well as the report from the Subcommittee on Terrorism and Homeland Security in the House, which was filed in July of 2002, reported, two of the terrorist hijackers who flew a jet into the Pentagon, Nawaf al Hamzi and Khalid al Mihdhar, were communicating with members of al-Qaida overseas while they were inside the United States preparing for the deadly attack of September 11.

Regrettably, we did not know this until it was too late. GEN Mike Hayden, the former Director of the National Security Agency and the Deputy Director of National Intelligence, indicated that had this program been in place before 9/11, these terrorists could have been detected and identified.

Unfortunately, as a result of the public disclosure of this highly classified program, our enemies have learned information they should not have. Our national security has been damaged and Americans have been put at greater risk.

In our recent Intelligence Committee open hearing, CIA Director Porter Goss commented that as a consequence of leaks in general, damage has been very severe to our capabilities to carry out our mission. General Hayden observed that our intelligence capabilities are not immune to leaks in the public domain.

It is clear that this is an important program necessary to address the previous flaws in our early warning system that allowed at least two of the 9/11 murderers to live among us while they plotted our destruction. This vital program makes it more likely that terrorists will be identified and located in time to prevent another disaster. In fact, that may have already happened. It is a program that is conducted within the President’s constitutional authority and is subject to review and oversight.

It is also clear that continued leaks over this program are degrading our ability to continue to protect the lives of Americans.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Kentucky is recognized.

DEFENSE OF NSA TERRORIST SURVEILLANCE PROGRAM

Mr. McCONNELL. Mr. President, today America is at war. We were awakened to this war on September 11, 2001, even though our enemies had been waging it against us for a number of years. The enemy, of course, is al-Qaida, a treacherous terrorist group whose goal is simply to kill as many Americans as possible and to strike such fear into civilized nations that freedom itself is forced into retreat.

To combat this deadly threat, the President has rightly—rightly—asserted his constitutional authority to use every tool at his disposal to fight the war on terror. One of those tools is the NSA’s terrorist surveillance program.

Yet despite the grave terrorist threat, I fear too many have forgotten that we are, indeed, a nation at war, and so have forgotten the vital need for the terrorist surveillance program. Perhaps it is because we have not seen another attack on American soil since September 11, despite, I might add, the terrorists’ best efforts.

But there can be no doubt that al-Qaida terrorists are still plotting brutal attacks against this country and other freedom-loving countries. For proof of this, look no further than a recent audiotape made by Osama bin Laden himself. In a tape aired on Al-Jazeera television last month, bin Laden said this:

The mujahadeen, with God’s grace, have managed repeatedly to penetrate all security measures adopted by the unjust allied countries. The proof of that is the explosions you have seen in the capitals of the European nations who are in this aggressive coalition.

He went on:

Similar operations happening in America. . . are under preparation, and you will see them in your homes the minute they are through.

A not-so-veiled threat for another attack here at home. It couldn’t be any clearer than that: “Similar operations,” so Osama bin Laden said, “are under preparation, and you will see them in your homes the minute they are through.”

At this very moment, al-Qaida operatives in America, right here at home—madmen such as Mohamed Atta—may be plotting attacks. What kinds of attacks could they be hatching? Here is one example.

In 2003, authorities apprehended a man named Iyman Faris for assisting al-Qaida in plotting and planning a terrorist attack. Faris is an American citizen. He lived in Ohio before being taken into Federal custody.

In 2002, Faris traveled to Pakistan where he met with known members of al-Qaida. The terrorists told him they were planning attacks in New York and here in Washington, and asked if he would help.

So Faris elected to return to America, visit New York City, and reconnoiter the Brooklyn Bridge with the intent of finding the best means to destroy it. He even went so far as to research how to sever the cables supporting the bridge. Approximately 135,000 vehicles cross the Brooklyn Bridge every day.

According to the Washington Post, Government officials have privately credited Faris's arrest to the President's terrorist surveillance program. Faris has since pleaded guilty to having plotted to destroy the Brooklyn Bridge, a direct result of the terrorism surveillance program.

This time the terrorists did not succeed, but as we all know, while our goal is to stop them every time, their goal is to succeed just once.

Let me repeat that. We have to stop them every time. They only have to succeed once.

To uncover and disrupt attacks such as this, the President must aggressively use every tool at his disposal to exercise his authority under the Constitution to protect America. To do any less would be a dereliction of duty.

A major part of the war on terror is the terrorist surveillance program. This very narrowly tailored program intercepts international communications—not domestic, even though that word has been used a lot in error—international communications by members of al-Qaida or other suspected terrorist groups outside America into this country, or by those terrorists' allies in this country out to terrorists in foreign lands. So the universe is international communications. Public mischaracterizations have portrayed this terrorist surveillance program as something ominous, as if the Government is listening in to domestic phone calls made by average, law-abiding Americans. That is flat out wrong, and those mischaracterizations ought to cease.

If someone is calling from Tora Bora, they are not calling to order a pizza. Let me repeat: If someone is calling from Tora Bora, they are not calling to order a pizza.

The NSA is only interested in al-Qaida sleeper agents in the United States, men such as Iyman Faris, the Brooklyn Bridge bomber, who call or receive calls from known agents of al-Qaida or affiliated terrorist groups abroad with instructions for their next deadly mission.

The NSA terrorist surveillance program is not only entirely necessary, it is entirely lawful. The President enjoys broad authority under the Constitution to protect all Americans. And the Foreign Intelligence Surveillance Court of Review, the court charged with reviewing the legality of measures such as the terrorism surveillance program, has confirmed that the President has broad powers with respect to foreign intelligence gathering.

The court wrote in 2002 that, with respect to conducting searches without

warrants in order to obtain foreign intelligence information:

We take for granted that the President does have that authority, and, assuming that is so, FISA could not encroach upon the President's constitutional power.

That could not be more clear. That is the Foreign Intelligence Surveillance Court of Review saying:

We take for granted that the President does have that authority, and, assuming that is so, FISA could not encroach upon the President's constitutional power.

If that is not enough legal authority, here is more. Congress delegated broad war powers to the President when it authorized the war on terror in 2001. The Senate passed that authorization 98 to 0 with the support of many of the same Democrats who vehemently speak against the program today.

That authorization empowered the President to "use all necessary and appropriate force" to fight terror. It did not say "some force." It did not say "all force except when it comes to international communications intercepts." It did not even say "all force now, less later, depending on the political landscape." It said "all force," and "all force" means "all force."

However, opponents of the terrorism surveillance program apparently do not want to allow the President to use all the force at his disposal to fight terror. Howard Dean, the chairman of the Democratic Party, recently expressed his strong disapproval, and this is how he put it:

President Bush's secret program to spy on the American people reminds Americans of the abuse of power during the days of President Nixon and Vice President Agnew.

That is Howard Dean's appraisal of the terrorism surveillance program. That is from the leader of the Democratic Party. Obviously, he completely misses the point.

The terrorist surveillance program intercepts calls between known al-Qaida terrorists and their affiliates overseas and the al-Qaida terrorist accomplices here in America. As the President has said, if you are calling al-Qaida, we want to know why.

The only conclusion one can draw from statements such as Governor Dean's—statements that explicitly compare programs that stop terrorists who want to destroy the Brooklyn Bridge to illegal activity from a generation ago—is that he opposes the program and wants it stopped.

We cannot fight the war on terror with one hand tied behind our backs. That is exactly the wrong direction we need to take in the war on terror. After more than 4 years since the devastating attack of September 11, this is still a hard-fought battle. Al-Qaida's leader, Osama bin Laden himself, has bragged—has boasted—about impending attacks.

If anyone doubts the death-crazed tenacity of our enemies, let them hear these words, also from the bin Laden audiotape I quoted from earlier. Here is what he had to say further:

We will seek revenge all our lives. The nights and days will not pass without us taking vengeance, like on September 11, God permitting. Your minds will be troubled and your lives embittered.

Clearly our enemy is cunning and our enemy is cruel. We must be aggressive about using every tool at our disposal to fight the war on terror.

I applaud the President for doing just that, and for remaining unbowed in the face of loud criticism from a few as he continues to carry out his duty to protect America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

THE PRESIDENT'S INTELLIGENCE PROGRAM

Mr. ALLARD. Mr. President, I want to take just a moment to say a few words in support of the President's intelligence program and associate myself with the comments that have been made both by the Senator from Georgia as well as the Senator from Kentucky. They focused a lot on the legal arguments, but I thought perhaps I would approach this from what is best for the security of this country and how the American people are reacting to the President's intelligence program. I will have to base my observations on town meetings I have recently held in Colorado. I had several town meetings. I think they help me better understand the issues of importance to my constituents, and I think my constituents in Colorado are a cross-section, pretty much, of the United States.

Interestingly enough, the top issues facing most Coloradans at those town meetings had to do with the war in Iraq, whether we should be in the conflict or not; the Federal deficit—we had a lot of discussion about getting the debt in order, getting the deficit in order—and obviously, because we are a cold weather State, there was a lot of talk about the cost of energy and our continued reliance on foreign energy resources.

The National Security Agency surveillance program was not a top issue. Indeed, it was hardly mentioned. This tells me a couple of things. First, it tells me that Coloradans are not particularly alarmed by the use of those tools that seem to be used by the President which are creating so much objection from the other side of the aisle. I think most Coloradans view this as just a commonsense thing. They know it is important to national security and we have to conduct such a program. They understand that we need to protect this country. I think they understand this Nation is at war. It is at war with terrorism. And I think they are beginning to understand, as I am beginning to understand, that this didn't start with 9/11, it started in the 1990s—maybe even as far back as 1979 when we began to have terrorist attacks on embassies and ships and