

## Angle falsely claimed Dems' bill would be first to require a court order to intercept terrorism suspects' calls to U.S.

On the October 10 edition of Fox News' *Special Report with Brit Hume*, Fox News chief Washington correspondent Jim Angle falsely claimed that proposed revisions to the Foreign Intelligence Surveillance Act (FISA), which the House Judiciary Committee passed on October 10, would, for the first time, require the federal government to obtain a court order to intercept the communications of terrorism suspects abroad when they call the United States. Angle asserted that "even requiring warrants for terrorists calling the U.S. from abroad is a major departure, something the law has never required since it was passed some 30 years ago." In fact, with few exceptions, FISA, as originally enacted in 1978, required the government to obtain a court order to conduct "electronic surveillance," which FISA [defines](#) in part as "the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire communication to or from a person in the United States, without the consent of any party thereto, if such acquisition occurs in the United States." It was only in August that Congress passed the Protect America Act (PAA), which [categorically excludes](#) from FISA's definition of "electronic surveillance" any "surveillance directed at a person reasonably believed to be located outside of the United States." The PAA is set to expire in February of 2008.

David Kris, an associate deputy attorney general from 2001-2003 whose "[portfolio](#) include[d] national security policy and FISA," noted in a May 2007 [letter](#) to the Senate Judiciary Committee that the interception of a landline telephone call between a person abroad and a person in the United States, regardless of whether either of them was the target of the surveillance, would be "electronic surveillance" under FISA if the interception occurred in the United States and would therefore require a court order in most circumstances. Discussing the application of FISA's "electronic surveillance" definition to a hypothetical landline call between two people, A and B, Kris [wrote](#) that "[i]t is ... 'electronic surveillance' under [then-]current Subsection (2) [of FISA's definition of 'electronic surveillance'] if the contents of the call are acquired from a wire (not a radio signal), whether or not the government is targeting either A or B (or anyone else), as long as at least one of them is in the United States, the acquisition of the content occurs in the United States, and neither A nor B consents."

Full text here: [http://mediamatters.org/items/200710120010?f=h\\_latest](http://mediamatters.org/items/200710120010?f=h_latest)

