

FISA/NSA Talking Points

- The news articles have been discussing what purports to be a classified, lawfully-authorized order that the Foreign Intelligence Surveillance Court (FISA Court) issued under an Act of Congress – the Foreign Intelligence Surveillance Act (FISA). Under this Act, the FISA Court authorized a collection of business records. There is no secret program involved here – it is strictly authorized by a U.S. statute.
- The FISA Court’s order for a lawfully-authorized collection of business records does not allow the Government to listen in on anyone's telephone calls. It does not authorize the collection of any call content, individual names, or organization names. It authorizes only metadata collection, which includes barebones records – such as a telephone number or the length of a call.
- This legal tool, as enacted by Congress, has been critical in protecting America. It has been essential in thwarting at least one major terrorist attack to our country in the past few years.
- This legal tool also allows our counterterrorism and law enforcement officials to close the gap on foreign and domestic terrorist activities. It enables our Intelligence Community to discover whether foreign terrorists have been in contact with other persons who may be engaged in terrorist activities, particularly people located inside the United States.
- Despite what appears to be a broad scope in the FISA Court’s order, the Intelligence Community uses only a small fraction of a percent of the business records collected to pursue terrorism subjects.
- All three branches – Congress, the Courts, and the Executive Branch – review and sign off on FISA collection authorities. Congress passed FISA, and the Intelligence Committees are regularly and fully briefed on how it is used.
- The FISA Court authorizes intelligence collection only after the Intelligence Community has proven its case, based on underlying facts and investigations.
- This legal tool has been reauthorized only after ongoing 90-day renewal periods. That means that every 90 days, the Department of Justice and the FBI must prove to the Foreign Intelligence Surveillance Court that they have the facts and legal basis to renew this legal authority. It is not a rubber stamp.
- FISA-authorized collections are subject to strict controls and procedures under oversight of the Department of Justice, the Office of the Director of National Intelligence and the FISA Court, to ensure that they comply with the Constitution and laws of the United States and appropriately protect privacy and civil liberties.