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Obama, Feinstein Shut Down Fourth Amendment Debate



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Senate Intelligence Committee Chair Dianne Feinstein has been presided over four days of committee debate over reauthorization of the FISA Amendments Act with an iron fist and incredible subordination to the Obama Administration. The FISA Amendments Act of 2008 was set to expire, but President Obama has been pushing for its un-amended reauthorization.

The FISA Amendments Act largely exempted the federal government from having to work through a special court system in order to obtain warrants to monitor communications involving Americans. While President Obama was in the Senate, he opposed the legislation. Now that he's actually wielding the levers of power, however, he found that oversight can sometimes be too much of an inconvenience.

Sen. Feinstein has helped the Obama Administration's push for full reauthorization, shutting down important amendments from Sens. Rand Paul, Mike Lee, and Ron Wyden. It's created an odd split that hasn't come down along traditional party lines - Feinstein's Republican counterpart, Sen. Saxby Chambliss, has been on board, while Sens. Paul and Lee have been outspoken opponents.

The Heritage Foundation and the Cato Institute have represented opposing sides of the debate, as well. Jessica Zuckerman at Heritage claims that the FISA Amendments Act merely "streamline[s] approval" through the courts, while Julian Sanchez at Cato maintains that "nothing dire would happen if the law expired for awhile" and speaks highly of some of the amendments that have been offered. Many of these amendments have been totally shot down by Sen. Feinstein.

Techdirt has a good rundown (h/t Conor at the Atlantic) on the strange way that the hearings are proceeding, and the misleading arguments being made by Sen. Feinstein and the Obama Administration:

Furthermore, Feinstein continued to mislead (bordering on outright lies) about the FISA Amendments Act. While some of the proposed amendments focused on finally forcing the secret interpretation of the FISA Amendments Act to be disclosed, Feinstein held up the text of the bill and insisted there "is no secret law" and that "the text is public." That assumes that "the law" and "the text of the legislation" are one and the same. They are not. As Julian Sanchez notes, imagine that Supreme Court rulings were all classified, how would you interpret the Constitution? You could make guesses, based on what the law said, but without the court's rulings, you would not know what that meant in practice. That's exactly the situation we have with the FISA Amendments Act... and it's made even worse by the fact that those who have seen the still-secret interpretation -- such as Senator Wyden -- have made it clear that its quite different than what most people think the law says.

The bottom line is that Sen. Feinstein, at the behest of the White House, has been stifling debate and stonewalling the amendment process on an important law that regulates how the federal government can monitor communications on American citizens. It's no way to operate the democratic process, and it will result in a government that is less accountable to its people.

This story has been updated to reflect that the FISA reauthorization has passed through