

Mr. SCOTT of Virginia: Madam Speaker, I oppose this rule because it does not allow consideration of amendments to the FISA bill that would strengthen the underlying bill by providing for greater accountability to the public of an otherwise wholly secretive process.

Operations of the government must be held accountable to the people. The problem with holding operations under the existing FISA law is that most of the activities under it are conducted in secrecy. The fact that I or other Members of Congress have access to classified information regarding those secret activities is not sufficient for public accountability.

Even if I were satisfied by my access to classified information, that only reasonable and constitutionally justified actions are being taken by officials in secret, I would still feel the need to give greater assurances to the public other than simply, trust me, I'm satisfied, so should you. Curiously, if I'm not satisfied, there's nothing I could say because it's classified information.

The Foreign Intelligence Surveillance Act was passed in 1978 to curb abuses in collection and use of intelligence information, foreign and domestic. Under the original provisions of FISA, procedures for collection of foreign intelligence required the government to show not only that there was probable cause to believe that the target of the intelligence surveillance is an agent of a foreign power, but also that foreign intelligence-gathering is the primary purpose of the collection.

Under the USA PATRIOT Act of 2002 and beyond, the government now only needs to show the probable cause of the target is an agent of the Federal government, and that the foreign intelligence-gathering is merely a significant purpose of that collection. When foreign intelligence collection is not the primary purpose for the collection of information, we are left to wonder what the primary purpose of that action might be.

The FISA Act of 2008 went a step further, authorizing the collection of massive amounts of information about foreign persons reasonably believed to be outside of the United States without a warrant. With such massive amounts of information being collected, invariably information involving U.S. persons in the United States whose information may not be the target is also being collected.

The FAA of 2008 requires the executive branch to design targeting procedures which limit the scope of the collection before the government acts and minimization procedures which limit the use of information before the government collects it, and the FISA court reviews these procedures for legal sufficiency. However, with nearly all of this oversight being conducted in secret, the public has no choice but to take the government at its word.

We can do better. My amendment would simply require the executive branch to provide at least some documentation that it uses this authority narrowly, responsibly, and exclusively for foreign intelligence-gathering purposes, while protecting the material that would be classified. So we

should reject this rule in favor of one that allows amendments to strengthen public accountability over the surveillance of Americans.