

**PRESIDENT BUSH’S WARRANTLESS SURVEILLANCE PROGRAM,  
THE PROTECT AMERICA ACT OF 2007 AND THE FISA AMENDMENTS ACT OF 2008**

	<b>President Bush’s Warrantless Surveillance Program started after 9/11 (known as the “PSP” or “TSP”)</b>	<b>PRESIDENT BUSH’S PROTECT AMERICA ACT OF 2007 P.L. 110-55, August 5, 2007</b>	<b>FISA AMENDMENTS ACT OF 2008 PASSED BY DEMOCRATIC CONGRESS P.L. 110-261, July 10, 2008</b>
<b>Exclusive Means</b>	Absolute Presidential discretion pursuant to the inherent authorities of Article II of the Constitution	No provision.	<ul style="list-style-type: none"> <li>• States that FISA and Title III of the criminal code are the “exclusive means” for conducting electronic surveillance and the interception of domestic wire, oral, or electronic communications.</li> <li>• States that only express statutory authorization can provide authority for electronic surveillance and/or interceptions.</li> <li>• Ensures that no President can use executive power or Authorization of Use of Military Force (AUMF) like authority to conduct warrantless domestic surveillance.</li> </ul>
<b>FISA Court Approval</b>	No requirement.	No requirement for review or pre-approval by FISA court required before surveillance begins.	<ul style="list-style-type: none"> <li>• Requires FISA court review and approval of the AG and DNI’s certification for targeting non-U.S. persons located outside of the U.S.</li> <li>• Requires review and pre-approval by the FISA court of targeting procedures.</li> <li>• Requires review and approval of minimization procedures by the FISA court.</li> <li>• In case of emergency, allows the government immediately to start surveillance. The government must, however, submit its application to the court within 7 days in order to continue surveillance.</li> </ul>
<b>Reverse Targeting</b>	No requirement to protect against reverse targeting.	No requirement to protect against reverse targeting.	<ul style="list-style-type: none"> <li>• Expressly prohibited reverse targeting (i.e., targeting a non-U.S. person outside the U.S. in order to target a U.S. person [located anywhere] or a known person located inside the U.S.)</li> </ul>
<b>Individual Warrants for Persons Inside the US</b>	No requirement.	No requirement.	<ul style="list-style-type: none"> <li>• Clarifies that individual warrants based on probable cause are required to conduct surveillance on any U.S. person (citizen or permanent resident) or any person located inside the U.S.</li> </ul>
<b>Individual Warrants for US Persons</b>	No requirement.	Did not require FISA court approval to conduct surveillance of U.S. persons located outside of the U.S.	<ul style="list-style-type: none"> <li>• Requires the government to obtain an individual FISA court order based on probable cause to conduct surveillance of a U.S. person located outside of the U.S.</li> </ul>

	<b>President Bush’s Warrantless Surveillance Program</b>	<b>PRESIDENT BUSH’S PROTECT AMERICA ACT</b>	<b>FISA AMENDMENTS ACT OF 2008</b>
<b>Inspector General Review and Audits</b>	No requirement.	No requirement.	<ul style="list-style-type: none"> <li>• Requires regular audits and reviews by statutory independent DOJ IG and IGs of the intelligence community. These reviews must be provided to the AG, DNI, and the Congressional Intelligence and Judiciary Committees.</li> <li>• Required IGs from DOJ, DOD, DNI and NSA to review President Bush’s warrantless wiretapping program. The IGs were required to submit a final report within one year of enactment to Congressional Intelligence and Judiciary Committees.</li> </ul>
<b>Intelligence Agency Reviews</b>	No requirement.	No requirement.	<ul style="list-style-type: none"> <li>• Requires intelligence agencies conducting surveillance to conduct annual reviews to ensure privacy protections for U.S. persons and adequacy of minimization procedures. These reviews must be provided to the FISA court, AG, DNI, and the Congressional Intelligence and Judiciary Committees.</li> <li>• Requires AG and DNI to assess compliance and minimization targeting and minimization procedures and guidelines on a semi-annual basis. This assessment must be submitted to the FISA Court, and the Congressional Intelligence and Judiciary Committees.</li> </ul>
<b>Congressional Oversight</b>	No requirement.	Requires the AG to provide semi-annual reporting to Congressional Intelligence and Judiciary Committees. The reporting must include non-compliance incidents and the number of certifications and directives issued during the reporting period.	<ul style="list-style-type: none"> <li>• Requires significant FISA court decisions, orders and opinions be provided to Congressional Intelligence and Judiciary Committees.</li> <li>• Requires IG audits and reviews and agency audits and review to be provided to Congressional Intelligence and Judiciary Committees.</li> <li>• Requires AG to provide guidelines to ensure government compliance to Congress.</li> <li>• Requires AG, DNI and intelligence agency annual and semi-annual, detailed reviews to be provided to the Congressional Intelligence and Judiciary Committees.</li> </ul>
<b>Sunset</b>	None.	Original 6-month sunset.	<ul style="list-style-type: none"> <li>• Original 4-1/2 year sunset through December 2012.</li> <li>• On December 30, 2012, reauthorized through December 31, 2017 (P.L. 112-238).</li> </ul>