

are more interested in making a profit than following the law or protecting our children. Statistics show that 60 percent of guns used in crimes can be traced back to just 1% of the Nation's 80,000 gun dealers. This means that a tiny percentage of criminal gun dealers are responsible for the bulk of guns used in the crimes that terrorize our communities. Yet, this legislation makes it harder to shut down these criminal outliers.

In 2003, the ATF issued only 54 notices of license revocation to shut down rogue gun dealers. That represents .06 percent of all gun dealers. Under the proposed legislation, this small group of dealers would be allowed to stay in business, and pay only a minor fine.

This bill would also weaken the record-keeping requirements that gun dealers must follow currently. This would allow criminal dealers to hide their illegal sales and missing firearms. Rather than being required to properly maintain their gun sale records, this legislation would simply allow them to keep such records in a box or a storage room, and would make it very difficult for the ATF to investigate and uncover dealer violations.

I oppose this flawed legislation. I believe strongly that the ATF needs the authority to prosecute and eventually revoke the licenses of corrupt and criminal gun dealers. I am not alone in this view. This legislation is also opposed by the International Association of Chiefs of Police, The American Bar Association, The Major City Chiefs, the International Brotherhood of Police, Mayors Against Illegal Guns, The Brady Campaign to Prevent Gun Violence, The Violence Policy Center, the Coalition to Stop Gun Violence, Former Director of the ATF Rex Davis, New York City Mayor Michael Bloomberg, and Boston Mayor Thomas Menino.

I urge my colleagues to join me in opposing this dangerous bill.

#### RYAN WHITE HIV/AIDS TREATMENT MODERNIZATION ACT OF 2006

SPEECH OF

**HON. CAROLYN B. MALONEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 28, 2006*

Mrs. MALONEY. Mr. Speaker, I rise in opposition to H.R. 6143, Ryan White HIV/AIDS Treatment Modernization Act of 2006. While I fully support this program and believe we must do everything we can to assist those living with and affected by HIV/AIDS, H.R. 6143 will destabilize established systems of care and will be devastating for New York. While the HIV/AIDS epidemic has expanded, more than 1/2 of all people living with AIDS in the United States reside in just 5 States: New York, California, Florida, Texas, and New Jersey. Under this bill's flawed formula, 3 of the highest prevalence States, including New York, will lose significant funding. New York City predicts a possible \$17.8 million loss in the first year of implementation of this bill and potential increasing losses in each of the remaining 4 years of the reauthorization. In total, New York State expects losses of up to \$78 million in the first 4 years of reauthorization. Of course, New York is not opposed to other regions of the country receiving more funding, but it

should not be at the expense of New York. Instead, we should increase the authorization of appropriations for the program so that we do not pit states against each other.

I urge my colleagues to vote against this bill so that the Committee can find a compromise that will not result in reduced funds for anyone State.

#### ELECTRONIC SURVEILLANCE MODERNIZATION ACT

SPEECH OF

**HON. MARK UDALL**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 28, 2006*

Mr. UDALL of Colorado. Mr. Speaker, I support changing current law on electronic surveillance to remove obstacles to vigorously fighting terrorism, and I believe we can do so in a way that protects the constitutional rights of our citizens. This bill attempts to strike the right balance, but it has serious flaws that could and should have been corrected—and because of those flaws, I cannot support it as it stands.

I believe the American people should know that on this very important subject, for the most part, we are being asked to legislate in the dark. It is only because of leaks to the news media that we became aware that after the terrorist attacks of 2001 the administration decided not to follow the procedures of the Foreign Intelligence Surveillance Act, FISA, with regard to a new, wide-ranging surveillance program.

Since it became public, that decision has been controversial and has been challenged in the courts, but the administration has consistently maintained that this surveillance program is lawful—although it has been less consistent in its reasons for reaching that conclusion.

Like many of our colleagues, I have found some of their arguments strained and far from fully convincing.

Nonetheless, I do think it makes sense to further revise FISA to reflect both the latest technology and the realities of the current threats to our country. And events since the revelation of the administration's decision not to comply with FISA have made it clear that there is a definite need for better oversight by Congress, which can occur only if we require more reporting by the executive branch.

So, I react favorably to some points made by this bill's author and supporters in support of the way it addresses both of these concerns. They point to provisions described as designed to update FISA's definition of electronic surveillance to make it technology neutral as well as those they say are intended to enhance congressional oversight not only of electronic surveillance, but also of U.S. intelligence and intelligence-related activities generally.

While these positive aspects of the bill are encouraging, they are unfortunately overwhelmed by the bill's more serious defects.

Overall, this legislation goes very far toward making warrantless surveillance of communications here in the United States the rule rather than the exception and toward allowing the executive branch to conduct electronic surveillance of telephone calls and e-mail in the United States without adequate, meaningful oversight.

The bill makes sweeping alterations to the current definition of "electronic surveillance" and how to define an "agent of a foreign power." The bill redefines the term "surveillance device" in a way that would allow the government to conduct unregulated data retention and data-mining operations on all the information collected through the warrantless surveillance that this bill authorizes.

My concerns about these provisions are shared by others, including former Representative (and former House Republican leader) Dick Armey, as expressed in a September 26th letter in which he says:

The explosion of computers, cameras, location-sensors, wireless communication, biometrics, and other technologies is making it much easier to track, store, and analyze information about individuals' activities. Unfortunately, the legislation may promote additional government intrusions into individual lives by exempting such data mining from requiring court orders . . . It is not evident that such legislation will necessarily prevent the next terrorist attack. But . . . failure is unlikely to lead to a halt in federal data mining. Instead, it will probably just spur the government into an ever-more furious effort to collect ever-greater amounts of personal information on ever-more people in a vain effort to make the concept work. We would then have the worst of both worlds: poor security and a vast increase in the information about individuals collected by the government that would destroy Americans' privacy and threaten our freedom.

I also am concerned that while the bill would explicitly allow essentially unlimited surveillance in the event of an "armed attack" a "terrorist attack," or an "imminent threat of attack," those terms are not adequately defined. I think this means that there is an unacceptably large chance that these sweeping exceptions would give the Executive Branch unlimited authority to conduct surveillance whenever and however it prefers.

These concerns are heightened by the fact that the bill does not include an explicit reaffirmation of the principle that FISA, including the revisions that would be made by the bill, is the exclusive means for conducting electronic surveillance in the United States. Such a provision would help make sure that every president—now and in the future—complies with the law.

This is not a theoretical matter, because the Bush administration has never indicated that it will comply with FISA—even as it would be revised by this bill, which was proposed by a member of his party and has the support of that party's leadership here in the House of Representatives. Indeed, the Bush administration has indicated it will appeal the recent decision of a federal judge that its ongoing surveillance program—which the administration candidly says does not comply with the current version of FISA—is illegal.

That was one of the reasons I voted for the motion to recommit, which would have added language to reiterate that FISA is the exclusive means by which domestic electronic surveillance for foreign intelligence purposes may be conducted, unless Congress amends the law or passes additional laws regarding electronic surveillance. It also would have made clear that the Authorization for the Use of Military Force, AUMF, passed after the 9/11 attacks and that was the basis for our military actions in Afghanistan—a measure I supported—does not constitute an exception to that rule.