

AMERICAN BAR ASSOCIATION

ADOPTED BY THE HOUSE OF DELEGATES

February 10-11, 2003

RESOLVED, That the American Bar Association urges the Congress to conduct regular and timely oversight, including public hearings (except when Congress determines that the requirements of national security make open proceedings inappropriate), to ensure that government investigations undertaken pursuant to the Foreign Intelligence Surveillance Act, 50 U.S.C. 1801 et seq. ("FISA" or "the Act") do not violate the First, Fourth, and Fifth Amendments to the Constitution and adhere to the Act's purposes of accommodating and advancing both the government's interest in pursuing legitimate intelligence activity and the individual's interest in being free from improper government intrusion.

FURTHER RESOLVED, That the American Bar Association urges the Congress to consider amendments to the Act to:

- (1) Clarify that the procedures adopted by the Attorney General to protect United States persons, as required by the Act, should ensure that FISA is used when the government has a significant (i.e., not in-substantial), foreign intelligence purpose, as contemplated by the Act, and not to circumvent the Fourth Amendment; and
- (2) Make available to the public an annual statistical report on FISA investigations, comparable to the reports prepared by the Administrative Office of the United States Courts, pursuant to 18 U.S.C. sec. 2519, regarding the use of Federal wiretap authority.