

GREG CRAIG AS WHITE HOUSE COUNSEL

You might remember Greg Craig—the guy Obama just named his White House Counsel—from the FISA fight. Craig, who I guarantee you gets paid a lot more for his lawyering than I get paid to do whatever it is I do here, and who I’m certain has a lot more training and experience in the law than me, explained Obama’s cave on FISA this way.

Greg Craig, a Washington lawyer who advises the Obama campaign, said Tuesday in an interview that Mr. Obama had decided to support the compromise FISA legislation only after concluding it was the best deal possible.

“This was a deliberative process, and not something that was shooting from the hip,” Mr. Craig said. “Obviously, there was an element of what’s possible here. **But he concluded that with FISA expiring, that it was better to get a compromise than letting the law expire.**”
[my emphasis]

As I pointed out at the time,

FISA is not expiring anytime soon. Last I checked, FISA’s been on the books for 30 years, and I have every expectation it will remain on the books for the next 30 years, regardless of how Obama votes on July 8.

Either Craig or Obama is making the common—but ignorant—mistake of conflating the Protect America Act with FISA. The former **does** expire in early August. The latter does not.

I might be accused of pedantry by maintaining this distinction. But it[’]s useful to maintain the distinction

because it focuses on the differences between FISA and PAA. FISA provides a way for the government to wiretap individuals legally, while providing real protections for American citizens. Whereas PAA provides the government the ability to get basket warrants based on the say so of the Attorney General, dramatically eroding the protections for American citizens.

When someone erroneously claims that FISA is going to expire shortly, it's a good bet that that person is thinking about retaining the basket warrant provisions of the PAA and not—as the spin suggests—simply "modernizing" FISA so the government can wiretap foreigners via telecom circuits in the United States.

It'd be useful if someone asked the Obama campaign which of these authorities Obama is really intent on maintaining.

Granted, that was just one teeny tiny little issue—you know, our Fourth Amendment rights, and the willful abuse of the law by the Bush Administration?

Still, I was hoping Craig would not—as he was predicted to—end up with this spot.