

minimis purpose. A "significant" purpose of gathering foreign intelligence was deemed to be less than "significant," but more than a de minimis purpose. And "a purpose" of gathering foreign intelligence was deemed to include a de minimis purpose.

Congress chose the word "significant" purpose to replace the existing FISA requirement of a "primary" purpose. By this we intended that the purpose to gather intelligence could be less than the main or dominant purpose, but nonetheless important and not de minimis. Because a significant purpose of gathering foreign intelligence was not the primary or dominant purpose, it was clear to us that in a FISA search or surveillance involving multiple purposes, gathering criminal evidence could be the primary purpose as long as gathering foreign intelligence was a significant purpose in the investigation. See generally, e.g., *United States v. Soto-Silva*, 129 F.3d 340, 347 (5th Cir. 1997) (holding that a defendant who maintained a house for the "primary purpose" of taking care of a family member also maintained the house for a "significant purpose" of distributing marijuana).

The Department of Justice confirmed the meaning of the change from primary purpose to significant purpose in a letter supporting the amendment sent on October 1, 2001, to the Chairmen and Ranking Members of the House and Senate Judiciary and Intelligence Committees. The Department stated that the amendment would recognize that "the courts should not deny [the President] the authority to conduct intelligence searches even when the national security purpose is secondary to criminal prosecution."

The understanding of increased cooperation between intelligence and law enforcement was confirmed by voices in the House and the Senate in the days and weeks immediately following the new FISA standard. "This legislation authorizes the sharing of information between criminal investigators and those engaged in foreign intelligence-gathering. It provides for enhanced wiretap and surveillance authority. It brings the basis building blocks of a criminal investigation, pen registers and trap and trace provisions, into the 21st century to deal with e-mails and Internet communications." 147 Cong. Rec. H7196 (daily ed. Oct. 23, 2001) (statement of Rep. SENSENBRENNER). "The core provisions of the legislation we passed in the Senate 2 weeks ago remain firmly in place. For instance, in the future, our law enforcement and intelligence communities will be able to share information and cooperate fully in protecting our Nation against terrorist attacks." 147 Cong. Rec. S11016 (daily ed. Oct. 25, 2001) (statement of Sen. HATCH).

In addition, a news publication confirmed the general understanding on Capitol Hill during the consideration of the U.S.A. PATRIOT Act. The Congressional Quarterly reported separately on October 8, 9, and 23, 2001: "Under the measure, for example, law enforcement could carry out a FISA operation even of the primary purpose was a criminal investigation." Congr. Q., House Action Reports, Fact Sheet No. 107-33, at p. 3 (Oct. 9, 2001); see Cong. Q., House Action Reports, Legislative Week, at p. 3 (Oct. 23, 2001); Cong. Q., House Action Reports, Legislative Week, at p. 13 (Oct. 8, 2001). FISA may not be used "even if the primary purpose is a criminal investigation." Cong. Q. Billwatch Brief, H.R. 3162 (Oct. 23, 2001).

It was our intent when we included the plain language of Section 218 of the U.S.A. PATRIOT Act and when we voted for the Act as a whole to change FISA to allow a foreign intelligence surveillance warrant to be obtained when "a significant" purpose of the surveillance was to gather foreign intelligence, even when the primary purpose of

the surveillance was the gathering of criminal evidence.

#### LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred September 22, 2002, in West Hollywood, CA. Two men brutally attacked a 55 year old gay man walking in West Hollywood, the second such attack in West Hollywood this month. The assailants beat the victim with a baseball bat and metal pipe while yelling anti-gay slurs. The attackers, who match the description of the men who attacked a 34 year old actor on September 1, fled when a cab driver stopped to help the victim. The victim received treatment at Cedars-Sinai Medical Center following the assault.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO DR. ROBERT P. MAGGARD AND CHARLES MILBURN

• Mr. BURNS. Mr. President, I rise today to congratulate two outstanding Montanans, whose enthusiasm and work ethic exhibit the true spirit of our Nation.

Each year the Experience Works program salutes our nations senior workforce. This non-profit organization selects an Outstanding Older Worker from each of the 50 States and Puerto Rico to pay tribute to the contributions that our older individuals are making in the workforce as well as in their communities.

This Year Montana will be saluting the 2001 Outstanding Worker, Dr. Robert P. Maggard and the 2002 Outstanding Worker, Mr. Charles E. Milburn.

Dr. Maggard, originally from Omaha, Nebraska, served in World War II, and then graduated from Creighton University where he studied dentistry. Dr. Maggard, moved to Yellowstone Valley, Montana and began his practice in the 1950's. He sold his practice in 1987 and began working with the Elite Denture center, which allows dentistry service at a reasonable price to thousands who would not otherwise be able to afford it.

Charles Milburn retired from his long career in retail in New York City, to

return home to his native state of Montana. After one year of retirement he began volunteering with the Computerized Books for the Blind. He quickly became the organizations most productive volunteer. He currently works at the Disability Services for Students and is now the president of Roxie M. Anderson Memorial fund which gives help to young teenage mothers.

These two men are truly worthy of the Outstanding Older Worker award. This award represents the dedication these men have exhibited throughout their lives, and both the state of Montana and I are proud of their hard work.●

#### IN MEMORY OF JAMIE CHRISTENSON AND ERIC HURST

• Mr. HARKIN. Mr. President, I rise today to offer my thoughts and prayers to the family of Jamie Christenson of Marshalltown, Iowa and Eric Hurst of Ventura, California. Bob and Debra Christenson suffered a terrible loss this summer when their young daughter, Jamie, died in a tragic swimming accident in Minnesota at the young age of 17. The Hurst family lost Eric, only 24, as he valiantly attempted to save Jamie's life.

Jamie Christenson was one of 53 campers from Trinity Lutheran Church in Marshalltown who were at Camp Vermillion, near Cook, Minnesota. While on a canoeing trip on the afternoon of July 30, Jamie and her friends took a break from carrying their canoes around the more treacherous falls and began cooling off in the waters near Upper Basswood Falls, in Minnesota's Boundary Waters Canoe Area Wilderness.

Beyond the falls, Jamie and a group of campers donned life preservers and entered the water. There, in what had appeared to be calm and shallow waters, Jamie was caught in a swift undercurrent and pulled below the river.

Several campers and boaters in the area rushed to her rescue, including Eric Hurst, who was working on the river as a canoe guide. Sadly, the river claimed both of their lives.

The State of Minnesota and Governor Jesse Ventura have each issued a posthumous certificate of commendation for heroism to the family of Eric Hurst. It is my hope that the Senate can act in some similar fashion, or, that there can be some other Federal recognition of Eric's efforts to save Jamie's life.

As the father of two daughters, I can think of no pain deeper than to lose a child. I offer my deepest condolences to Bob and Debra, their family, and to Jamie's many friends, as well as to the family and friends of Eric Hurst. In times of such pain, words fall far short of comfort we wish we could provide to those in mourning, but even words are we can offer.

So I offer the words of the Greek poet Aeschylus: "In our sleep, pain which