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The following Op-Ed by the Director of National Intelligence, Mike McConnell, was published in the New York Times on Monday, December 10, 2007:

Help Me Spy on Al Qaeda

By Mike McConnell – Op-Ed Contributor – The New York Times

Washington

THE Protect America Act, enacted in August, has lived up to its name and objective: making the country safer while protecting the civil liberties of Americans. Under this new law, we now have the speed and agility necessary to detect terrorist and other evolving national security threats. Information obtained under this law has helped us develop a greater understanding of international Qaeda networks, and the law has allowed us to obtain significant insight into terrorist planning.

Congress needs to act again. The Protect America Act expires in less than two months, on Feb. 1. We must be able to continue effectively obtaining the information gained through this law if we are to stay ahead of terrorists who are determined to attack the United States.

Before the Protect America Act was enacted, to monitor the communications of foreign intelligence targets outside the United States, in some cases we had to operate under the Foreign Intelligence Surveillance Act, known as FISA, a law that had not kept pace with changes in technology. In a significant number of these cases, FISA required us to obtain a court order. This requirement slowed — and sometimes prevented — our ability to collect timely foreign intelligence.

Our experts were diverted from tracking foreign threats to writing lengthy justifications to collect information from a person in a foreign country, simply to satisfy an outdated statute that did not reflect the ways our adversaries communicate. The judicial process intended to protect the privacy and civil liberties of Americans was applied instead to foreign intelligence targets in foreign countries. This made little sense, and the Protect America Act eliminated this problem.

Any new law should begin by being true to the principles that make the Protect America Act successful. First, the intelligence community needs a law that does not require a court order for surveillance directed at a foreign intelligence target reasonably believed to be outside the United States, regardless of where the communications are found. The intelligence community should spend its time protecting our nation, not providing privacy protections to foreign terrorists and other diffuse international threats.

Second, the intelligence community needs an efficient means to obtain a FISA court order to conduct surveillance in the United States for foreign intelligence purposes.

Finally, it is critical for the intelligence community to have liability protection for private parties that are sued only because they are believed to have assisted us after Sept. 11, 2001. Although the Protect America Act provided such necessary protection for those complying with requests made after its enactment, it did not include protection for those that reportedly complied earlier.

The intelligence community cannot go it alone. Those in the private sector who stand by us in times of national security emergencies deserve thanks, not lawsuits. I share the view of the Senate Intelligence Committee, which, after a year of study, concluded that “without retroactive immunity, the private sector might be unwilling to cooperate with lawful government requests in the future,” and warned that “the possible reduction in intelligence that might result from this delay is simply unacceptable for the safety of our nation.”

Time for the Protect America Act is growing short, but there is still an opportunity to enact permanent legislation that helps us to better confront both changing technology and the enemies we face in a way that protects civil liberties.

I served for almost 30 years as an intelligence officer before spending some time in the private sector. When I returned to government last winter, it became clear to me that our foreign intelligence collection capacity was being degraded. I was very troubled to discover that FISA had not been updated to reflect new technology and was preventing us from collecting foreign intelligence needed to uncover threats to Americans.

The Protect America Act fixed this problem, and we are safer for it. I would be gravely concerned if we took a step backward into this world of uncertainty; America would be a less safe place.

Mike McConnell is the director of national intelligence.