

doctors in Sierra Leone. These 10, with an honorable mention, 11 Americans, have led the best face of the United States overseas from my congressional district.

#### SUNSET MEMORIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. FRANKS) is recognized for 5 minutes.

Mr. FRANKS of Arizona. Madam Speaker, I once again stand before this body with yet another sunset memorial. It is February 25, 2008, in the land of the free and the home of the brave, and before the sun set in America, almost 4,000 more defenseless unborn children were killed by abortion on demand just today. That is more than the number of innocent Americans lost in September 11's tragedy, only it happens every day.

Madam Speaker, it has now been exactly 12,817 days since the travesty called *Roe v. Wade* was handed down. Since then the very foundation of this Nation has been stained by the blood of almost 50 million of its own children. Some of them, Madam Speaker, cried and screamed as they died, but because it was amniotic fluid passing over the vocal cords instead of air, we couldn't hear them.

All of them had at least four things in common. They were each just little babies who had done nothing wrong to anyone. Each one of them died a nameless and lonely death. And each of their mothers, whether she realizes it immediately or not, will never be the same. And all the gifts these children might have brought to humanity are now lost forever.

Yet, even in the full glare of such tragedy, this generation clings to a blind invincible ignorance while history repeats itself and our own silent genocide mercilessly annihilates the most helpless of all victims yet to date, those unborn.

Madam Speaker, perhaps it's important for those of us in this Chamber to remind ourselves again of why we are really all here. Thomas Jefferson said: "The care of human life and its happiness and not its destruction is the chief and only object of good government."

The phrase in the 14th amendment capsulizes our entire Constitution. It says: "No state shall deprive any person of life, liberty or property without due process of law."

Madam Speaker, protecting the lives of our innocent citizens and their constitutional rights is why we are all here. It is our sworn oath.

The bedrock foundation of this Republic is that clarion declaration of the self-evident truth that all human beings are created equal and endowed by their Creator with the unalienable rights of life, liberty, and the pursuit of happiness. Every conflict and battle our Nation has ever faced can be traced to our commitment to this core self-evident truth. It has made us the bea-

con of hope for the entire world. It is who we are.

And yet, Madam Speaker, another day has passed and we in this body have failed again to honor that foundational commitment. We've failed our sworn oath and our God-given responsibility as we broke faith with nearly 4,000 more innocent American babies who died today without the protection we should have given them.

But perhaps tonight, Madam Speaker, maybe someone who hears this sunset memorial will finally realize that abortion really does kill little babies, and that it hurts mothers in ways that we can never express, and that 12,817 days spent killing nearly 50 million unborn children in America is enough, and that America, that same America that rejected human slavery and marched into Europe to arrest the Nazi Holocaust is still courageous and compassionate enough to find a better way for mothers and their babies than abortion on demand.

So tonight, Madam Speaker, may we each remind ourselves that our own days in this sunshine of life are also numbered, and that all too soon each one of us will walk from these Chambers for the very last time. And if it should be that this Congress is allowed to convene on yet another day to come, may that be the day when we finally hear the cries of the innocent unborn. May that be the day when we find the humanity, the courage, and the will to embrace together our human and our constitutional duty, to protect these, the least of our tiny little brothers and sisters, from this murderous scourge called abortion on demand.

It is February 25, 2008, Madam Speaker, 12,817 days since *Roe v. Wade* first stained the foundation of this Nation with the blood of its own children. This is the land of the free and the home of the brave.

#### GLANZMANN'S RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BROUN) is recognized for 5 minutes.

Mr. BROUN of Georgia. Madam Speaker, I rise today to present a resolution promoting awareness of Glanzmann's Thrombasthenia, a little known, yet debilitating disorder that affects numerous Americans every day.

Glanzmann's Thrombasthenia is a genetic blood disorder that is inherited, putting children and young adults at risk. Leading physicians report that Glanzmann's Thrombasthenia presents many symptoms that are often mistaken for other bleeding disorders. This, along with the lack of information on the disorder itself, has caused Glanzmann's to be frequently misdiagnosed. People with Glanzmann's are missing a protein on the surface of the platelet that is vital to the clotting process. People suffering from this disorder have serious problems with uncontrollable bleeding and severe, painful bruising. Their activities can be strictly limited and their lives can be at stake without any warning. Currently there is no cure for this disorder, but research

is very promising. The leading researchers in this field firmly believe a cure for Glanzmann's Thrombasthenia can be found through current ongoing research. With proper funding, Glanzmann's could be controllable in the foreseeable future, and some suggest as soon as 10 years from now.

A young constituent of mine who lives in Augusta, Georgia, suffers from Glanzmann's Thrombasthenia. Julia Smith is only 9 years old and every day lives and deals with the realities of her disorder. When Julia was born, she was covered in bruises, but blood tests came back normal. Doctors assured her parents that the bruising was just the result of a difficult delivery. When Julia was 6 weeks old, she got a tiny scratch on her cheek; this small scratch bled enough to cover her entire face in blood and saturate her sheets. After this incident, Julia's mother, Helen, took her to the Medical College of Georgia in Augusta and asked that tests be run to find out what was wrong with her daughter. After countless tests and consultations, the Medical College of Georgia's Children's Medical Center physicians diagnosed Julia with Glanzmann's Thrombasthenia.

Frantic for information that could save her daughter, Mrs. Smith attempted to research the disorder, and was frustrated and disheartened by the lack of available information. She began to put her name and information on internet registries for individuals suffering from other disorders, hoping that someone who had similar symptoms would make contact with her. She found numerous cases of people equally distraught, seeking information for themselves or their loved one who was dealing with the same misdiagnosed disorder. This realization, along with a small contribution from the grandmother of a Glanzmann's sufferer who wanted to donate money to help others, compelled Mrs. Smith to begin the Glanzmann's Research Foundation in 2001. This non-profit foundation is the focal point for information to others in need and the sole source for funding the ongoing research efforts that will lead to a cure. Mrs. Smith is truly a mother on a mission.

Augusta, Georgia, holds a special place in my heart. I graduated from the Medical College of Georgia in Augusta in 1971, and I am proud to have begun my medical career there. I am delighted to represent a city that contains, not only the Glanzmann's Research Foundation, which is quite significant in its own right, but also the preeminent public medical college in the southeast, the Medical College of Georgia.

To promote awareness for Glanzmann's Thrombasthenia, March 1 has been recommended as the day to establish a National Glanzmann's Thrombasthenia Awareness Day. This date was chosen to coincide with the Glanzmann's Research Foundation's annual fundraiser.

#### EXPIRATION OF THE PROTECT AMERICA ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentlewoman from New Mexico (Mrs. WILSON) is recognized for 60 minutes as the designee of the minority leader.

Mrs. WILSON of New Mexico. Madam Speaker, I appreciate the opportunity

to talk to folks this evening about something that's critical to our country. Ten days ago a very important law was allowed to expire. It's called the Protect America Act, and it made changes to our foreign intelligence surveillance laws.

We passed the Protect America Act in August of this last year to close a gap in our intelligence collection caused by changes in technology. Unfortunately, that law had a sunset in it. It expired after 6 months.

The Senate passed a bill, a bipartisan bill, overwhelmingly in the Senate, and sent it over to the House. I believe that that bill, if it were brought up on the floor of this House, would pass overwhelmingly here as well. Consideration of that legislation is being blocked by the liberal Democratic leadership in the House of Representatives, and it is putting all of us as Americans at very serious risk.

Ten days. Ten days we've been going without the ability to listen to foreigners in a foreign country without a warrant because the Protect America Act has been allowed to expire.

I wanted to take this opportunity tonight, with some of my colleagues, to explain why this matters, what the foreign intelligence surveillance laws are, why we should care.

Now, I believe that the greatest accomplishment of the last 6 years has been what has not happened. We've not had another terrorist attack on our soil since the morning of 9/11. And they have tried.

The first line of defense against terrorism is good intelligence. The intelligence problem has changed since the Cold War when I served in the military. In the Cold War, our biggest enemy was the Soviet Union, and we had no doubt about where they were. In some ways they were a very convenient enemy. They had exercises from the same barracks every year at the same time using the same ray of lines and the same radio frequencies. They were very easy to find. Had they ever attacked us, they would have been very difficult to defeat; but we know where they were. We know what their capabilities were.

Today, the problem has completely changed. We have terrorist networks that are hiding in the midst of civil society using commercial telecommunications. If we can find out what they're doing, we can stop them and prevent another terrorist attack. It's almost like it's a Where's Waldo problem. You have to find Waldo who's hiding in the midst of regular, everyday confusion. If we can find him, we can stop him. The hard part is the intelligence problem. It is finding him. It's uncovering what their plans and capabilities and intentions are. And so that's why these laws make so much difference.

We need to be able to listen to communications among foreigners in foreign countries, do so very quickly, so that we can act on tips as soon as we get them, and use our great strengths

in telecommunications to uncover what our enemies are trying to do and prevent another terrorist attack by then using our law enforcement, our military, our financial networks to shut down and arrest and, in some cases, eliminate these terrorist threats.

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I want to talk a little bit about what the Foreign Intelligence Surveillance Act is for, and then one of my colleagues has joined me here from Oregon, and I will yield to him whenever he is ready to speak.

The Foreign Intelligence Surveillance Act was put in place in 1978. It was as a result of some abuses by the intelligence community where they had been listening to Americans, and it puts in place protections for Americans so that if you are in America and, for foreign intelligence reasons, the government wants to listen to you, they think you are a spy, you have to go to a court and get a warrant. That's the basics of it. But we do not require warrants and we never have under, or it was never intended under the initial law to require warrants to listen to people overseas.

America spies on its enemies. We are trying to figure out what the North Koreans are intending to do, whether they have developed a nuclear weapon, whether they're going to sell that materiel to someone. Likewise, we are trying to figure out what is going on in Venezuela or in Iran or Syria or any hotspot around the world. We seek, through our intelligence agencies, to know the plans and capabilities and intentions of other countries and groups around the world who may harm us. We spy.

The Foreign Intelligence Surveillance Act says that you cannot do that on a U.S. person in the United States without going to a special court set up for that purpose and getting a warrant saying you have probable cause to believe that this American is an agent of a foreign power or this person is in America.

But the problem is technology changed. In 1978, that was the year that I graduated from high school, the telephone was something that was on the wall in the kitchen. The word "Internet" didn't exist. There were no such things as cell phones. I mean, that was Buck Rogers stuff. Technology changed, but the law did not change to keep pace with technology.

Under the original Foreign Intelligence Surveillance Act, they made a distinction among technology. It said, if it bounces over the air, you don't need a warrant no matter where you are listening. That's because at that time almost all international calls bounced over the air over satellites. At the time in 1978, almost all local calls were over a wire. And so the law was written that said if you touch a wire in the United States, you have got to have a warrant. You are presumed to

be impacting a U.S. person. So it was technology-specific for that moment in time.

But technology has changed. Today, almost all international traffic goes over a wire or a fiber-optic cable. And in complete reverse from 1978, there are over 2 million cell phones in this country. So a majority now of local calls actually bounce over the air. So we needed to modernize the law so it was no longer technology specific. And what happened over a period of 1 year or 2 was that the Foreign Intelligence Surveillance Court started saying no matter where a person is, if you are trying to listen to somebody in Pakistan, talk to somebody else in Pakistan, you needed to get a warrant if you sought to collect that communication by touching a wire in the United States.

This created havoc with our intelligence collection, particularly with fast-moving terrorist targets, and we were losing access to intelligence information from overseas. You can understand why, because you know it's kind of hard to develop a case for probable cause for somebody who is overseas potentially talking to somebody else overseas. I mean, it is not like you can have the FBI go and talk to their neighbors.

So a problem built that was compromising America's security.

I would be happy to yield to my colleague from Oregon.

Mr. WALDEN of Oregon. I appreciate my colleague's comments. I think you have laid out very clearly the problems that we face, and I couldn't agree more. You know, I will always remember being on these grounds of the United States Capitol on the morning of 9/11, September 11, 2001, and the attacks that occurred on our country, and I will always remember going back to the apartment I lived in at the time, three blocks from the Pentagon, and the smoke from the burning roof of the Pentagon wafted in all day because the air-conditioning was on.

I swore then, and I have kept that pledge and promise, that I would never forget what happened to this country. And like you and many of my colleagues on this floor and in this Congress, we said, How could this happen? What went wrong? What was the failure? How did we miss seeing this coming?

As my colleague from New Mexico knows all too well, because you are on the Intelligence Committee and I'm not, there are lots of investigations. And we said we will never let this happen. We brought in the outside experts, the best people in the land: tactical experts, policy experts. We did reviews, we second-guessed everybody in every position, and we changed the law. We changed the law to protect the lives of Americans and to prevent attack.

It is sad today to be here on this floor 10 days after the Protect America Act has expired and know that the only people who are gleeful about that are

probably residing in caves and camps in Pakistan and Afghanistan and who knows where else. They have to be looking at us saying, What fools, and thank you, thank you for opening the door and closing your eyes and your ears to our communications because you won't modernize a law that is anchored back in the 1970s.

Technology, as you have clearly pointed out, has changed. You think about these kids who buy these cell phones that are throw-away. Or if you are on the Internet, how do you know where somebody is or where they're downloading or wherever? Technology has changed; the law hasn't. And the people who seek to do our country and our people and our allies harm, they understand technology. That's one of the lessons we learned coming out of 9/11.

And so many people on both sides of the aisle changed a lot of Federal laws to try to leap forward so that we would be protected, so that our professionals, the intelligence community, would have every tool and asset to make sure it never happened again. How many people on this floor, how many Americans pledged after 9/11 to say we will do whatever it takes to make sure innocent American lives are never taken down by terrorists again? We all said that. I was in briefings on this floor, closed door, open door, where there was that unified feeling that we've just got to get with it. We've got to figure it out.

It's terrible tonight to be here knowing this law has expired and that there is a bipartisan fix. Senator ROCKEFELLER, who chairs the Intelligence Committee in the Senate, wrote the bipartisan measure that passed with 68 votes. More than two-thirds of the United States Senate supported this bipartisan fix that provides Americans more protection than the existing law, or certainly the bill that the House had.

Now, I dare say on some matters Mr. ROCKEFELLER is no friend of President Bush's, as he would probably tell you that. He certainly said it publicly. But he knows in the crafting of this bill that America has got to come first, our intelligence gathering has to come first. There are privacy protections, but we don't close the eyes and ears of our intelligence community listening overseas to see who's plotting to do us harm. That bill, I dare say, if brought to this floor, would pass in a heartbeat. Pass in a heartbeat.

And if I might just quote from a letter to the chairman of the House Permanent Select Committee on Intelligence from both the Attorney General and Admiral McConnell, the Director of National Intelligence, said, among other things, this is a letter dated February 22: Our experience since Congress allowed the Protect America Act to expire without passing the bipartisan Senate bill demonstrates why the Nation is now more vulnerable to terrorist attack and

other foreign threats. In our letter to Senator REID on February 5, 2008, we explained that the expiration of the authorities in the Protect America Act would plunge critical intelligence programs into a state of uncertainty which could cause us to delay the gathering of or simply miss critical foreign intelligence information. Underlining for emphasis, they write: That is exactly what has happened since the Protect America Act expired 6 days ago without enactment of the bipartisan Senate bill. We have lost intelligence information this past week as a direct result of the uncertainty created by Congress's failure to act.

Mrs. WILSON of New Mexico. Madam Speaker, one of the things that bothers me about this is that one of the frustrations is that we can't talk about specific instances, but the Director of National Intelligence, Admiral McConnell, has said very clearly, and now publicly, we've lost intelligence.

On one of my visits to one of our intelligence agencies where I was there to oversee a particular program and get briefed on it, but when we started out the briefing, the director of that agency said, Congresswoman, I just want you to get a flavor for our highest priority threads we are following today, and he passed a sheet across the table for me to look at what exactly they were trying to, you know, the tips that they had, the leads that they had that day that they were trying to listen in to disrupt attacks on this country.

It is a very dynamic situation where you get a tip today, do we have 12 terrorists that are transiting Spain, that are coming from Pakistan, where are they going? They picked up cell phones. We think we have the numbers. Can we listen to them before they move to someplace else and before they move to another number? Can we be as fast as they are, because if we are not, the consequences are devastating.

And all of us remember where we were the morning of 9/11. Almost no American remembers where you were the morning that the British Government arrested 16 people who were within 48 hours of walking onto airliners at Heathrow and blowing them up simultaneously over the Atlantic, within 48 hours of killing thousands of Americans who were just flying from Heathrow to JFK or La Guardia. We don't remember it because it didn't happen. And it didn't happen because of the expertise of our intelligence agencies and cooperation with the British and Pakistani Governments. We figured it out before they walked through security at Heathrow, and people didn't die.

I yield to my colleague from Oregon.

Mr. WALDEN of Oregon. Madam Speaker, the thing that strikes me is, before we went out for the President's district work period, this Congress had time to spend a full day trying to figure out whether Roger Clemens was on steroids, used steroids, used human

growth enhancement, whatever, and this Congress couldn't take up this law to protect America. And I dare say to my colleague and to my fellow colleagues, that if we were, God forbid, to get attacked again, that every committee will grab jurisdiction around here to do an oversight hearing to find out who failed. They need to pick up a mirror and look in it before it happens and ask that question. Will we fail America's security? Or will we take a bill that passed by two-thirds majority plus 2 in the Senate and put it on this floor today, tomorrow, as soon as possible? There is nothing even scheduled for Thursday of this week, I see. There are no bills scheduled. We have plenty of time. It is available. Why? For the life of me, I don't understand why we take this risk.

Mrs. WILSON of New Mexico. Reclaiming my time, there are a number of things that bother me most about this, but here in this House, I believe that if this bill were brought up for a vote on the floor of the House, it would pass with the same overwhelming bipartisan majority that it passed the Senate and it would be signed by the President, and we would close the gap that is putting Americans at risk.

And we have a small number of people who are liberal Democrats in the elected leadership who are blocking the will of this House. They are preventing this bill from coming to the floor that would pass overwhelmingly if we had the opportunity to vote. And the will of the country is that we fix this problem, and they are standing in the way of the will of the country.

We are joined by my colleague from Georgia (Mr. GINGREY), and I would be happy to yield to him if he would like to join us.

Mr. GINGREY. Madam Speaker, I know that as we go through our time in the Congress, each of us wants to be remembered for some signature accomplishment, and Madam Speaker, I want to commend the gentlewoman from New Mexico. I would say that maybe she's got many signature issues that she brought before the membership of this body, but certainly this issue of intelligence and national security is a signature issue. I commend her for her will and determination in trying to explain to her colleagues on both sides of the aisle an issue that may be somewhat difficult to understand.

There is a lot of arcaneness about this issue when you try to get into the weeds of it. So it's important to have Members like Representative HEATHER WILSON and PETER HOEKSTRA, ranking member on the House Select Committee on Intelligence, to help frame this issue for us.

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But I think it's important to understand, as my neighbor, my colleague and friend from Oregon, Representative WALDEN, just pointed out, the bottom line, when you cut right to the chase, is that last Thursday we left this place

and went home for our district work period during the Presidents Day recess without addressing this issue and we took a break. Maybe some Members were even out of the country. I know, Madam Speaker, I stayed in my district the whole time hoping, literally hoping every day that I would get that call to come back to Washington to fix this because, as my colleagues have pointed out, this is just so important to let something like this lapse.

I would like to have our colleague leading the hour, Representative WILSON, maybe explain to the membership here so they can get a better understanding of why we need to modernize this 30-year-old FISA, Foreign Intelligence Surveillance Act, passed in 1978, why it is so important to be able to bring it into the 21st century. And maybe she could explain to our colleagues on both sides of the aisle the importance of data mining, of being able to get the cooperation of telecommunication companies, if she has not already done that, why it is important to get that information and look at patterns of communication so that we can understand what these terrorists and what these foreign intelligence agents are doing, and why it's such a tremendous threat to this country.

I yield back to my colleague. And I will remain here during this hour and hopefully engage her in more colloquy, and with the gentleman from Oregon, but I would like to hear some discussion on that.

Mrs. WILSON of New Mexico. The key change in the Protect America Act, and also in the Senate bill that is now being blocked here on the floor of the House, is to allow American intelligence to listen to foreigners in foreign countries without a warrant, even if the point of access to that communication is a wire here in the United States. That's really the fundamental change. It has very strong privacy protections for Americans, Americans, wherever they may be, whether you're off in Germany on vacation with your family, you're an American, you have protections and rights under our Constitution. Foreigners in foreign countries do not have those rights under our Constitution, and we are seeking to gather information on terrorist targets overseas.

So it's foreigners in foreign countries. And it just has to do with touching a wire in the United States to gather that information. And it says if the point of access happens to be a wire in the United States, that doesn't matter. What matters is you reasonably believe they are a foreigner in a foreign country.

I yield to my colleague from Oregon. Mr. WALDEN of Oregon. I appreciate that because I think you've summed it up quite well.

And once again, for our colleagues who have just joined us, this is all about a 30-year-old law that needs to be updated, because in the last 30 minutes technology has probably changed

on us; but think about what's happened in 30 years: There was no Internet available to the public; there were no cell phones; there might have been a car radio phone or something somebody had somewhere. But we're dealing with highly trained, sophisticated terrorist organizations who show no allegiance to any country or rules or conventions, who have proven their will to use whatever force they can muster to attack innocent civilians in America and elsewhere. And we're now covering the eyes and ears of our intelligence professionals and reducing their ability to try to prevent another attack.

One of the issues that has come up in this debate, of course, is the participation of the private companies. And I would like to share some information from, again, a letter from the United States Attorney General and the National Intelligence Director where they take on this issue. Because you have to remember that all this stuff is networked. The government doesn't control every phone line and every Internet connection and all of that. You have to have a partnership. And I know after 9/11 the intelligence community and the President said, what do we need to do to work together to make sure we don't get attacked again? Are we going to get attacked again? You remember those days right after 9/11, we had the anthrax attack again here at the Capitol they never have solved. People lost their lives around America. We were really concerned, and rightfully so, that we had missed the big one, and it should never happen again. So they involved the telecommunications companies, because you can't do it without them.

Now, the Senate looked at this issue. The Attorney General and the head of National Intelligence wrote back to the chairman of the House Select Committee on Intelligence and said: "Private party assistance is necessary and critical to ensuring that the intelligence community can collect the information needed to protect our country from attack." Pretty strong words.

In its report on S. 2248, that's the Senate bill, the Intelligence Committee stated that, and this is from the Senate Select Committee on Intelligence: "The intelligence community cannot obtain the intelligence it needs without assistance" from electronic communication service providers.

The committee also concluded that "without retroactive immunity, the private sector might be unwilling to cooperate with lawful government requests in the future without unnecessary court involvement and protracted litigation. The possible reduction in intelligence that might result in this delay is simply unacceptable for the safety of our Nation." That's not President Bush and his people saying that. That's the Senate Select Committee on Intelligence, Permanent Select Committee on Intelligence headed by J. ROCKEFELLER, a Democrat from West Virginia.

The letter goes on to say: "Senior intelligence officials also have testified regarding the importance of providing liability protection for such companies for this very reason."

Do you want to do everything in your power in this Congress to safeguard America, not only here at home, but our allies overseas, and probably our men and women whose lives are on the line in the battlefields across the world? Because, you see, they're being threatened by terrorists, too. It is those communications we're trying to also find out where they plan the next car bomb attack. Where do they plan to take down one of our men and women in uniform whom we hold so high? What if their communication happens through the United States? Do we have to spend 72 hours before a court and a judge, and maybe some trial lawyers to boot, to figure out what we can listen in to and how we can act on it?

Mrs. WILSON of New Mexico. If the gentleman will yield.

Mr. WALDEN of Oregon. I will be happy to yield.

Mrs. WILSON of New Mexico. It was actually a situation like that which caused me to say enough is enough, we have to get this fixed. It was last May, and at the time we couldn't talk about it, but it's been talked about publicly since then.

We had soldiers who were kidnapped in Iraq. We had, we thought, a tip on who might have done it. And there was an army of lawyers here in Washington and over a 24-hour delay in listening to communications because they had to touch a wire in the United States. I mean, you think about it, it's your kid, it's your kid that's been kidnapped. All of us are familiar here in America with the AMBER alerts. Speed matters when someone's been kidnapped, and you want to get information out as quickly as possible to try to save somebody. If it was your kid who was in a combat zone who has been kidnapped by insurgents, and we've got a room full of lawyers in Washington trying to get a warrant to listen to the communications of the insurgents that took him? That's not good enough. It's not good enough. And we should expect more of our government than that. And the responsibility for fixing it rests right here in this body.

We've got this odd situation with soldiers overseas in Afghanistan and Iraq and the Philippines in dangerous situations where they've got the authority to shoot an insurgent, but they can't listen to him without a warrant. Where is the sense in that?

Mr. WALDEN of Oregon. You're kidding. Is that actually the case? So they can shoot them, but they can't listen to their cell phone?

Mrs. WILSON of New Mexico. That's right.

I yield to my colleague from Pennsylvania.

Mr. DENT. I thank the gentlelady. And I thank you for your leadership as

a member of the Permanent Select Committee on Intelligence. But to just follow up on what you said, if there are two insurgents or two terrorists in Iraq talking to each other by cell phones, what appears to be a wireless communication, one to the other, it's likely that that call will be routed through the United States, hit a wire, and then that would pretty much trigger the Wire Act. And that's what caused the intervention of all the lawyers.

So we're talking about the denial of tactical intelligence to our men and women who are on the ground, soldiers on the ground and marines on the ground not being able to pursue a hot tip or a hot bit of information because of the inadequacy of current law.

Mrs. WILSON of New Mexico. And it's even worse than that. You've got your two cell phones there. If the soldiers were able to intercept between that insurgent's cell phone and the tower that it's going to, that's all fine; you don't need a warrant for that. It's only if it happens to route through the United States and you touch the wire where it's actually easier to listen to it that you need a warrant. So it depends on the point of collection. This is stupid.

I yield back to my colleague from Pennsylvania.

Mr. DENT. I've been following this dialogue very carefully, and I commend you all for your leadership on this, but I want to say something. You know, the American people, I think, they believe that Washington is broken, and they get sick and tired of the mindless partisan bickering. But as has been stated here already, we have a strong bipartisan consensus, veto proof majority in the Senate. Senator ROCKEFELLER, and I won't read his quote just now, but we have people who are prepared to vote for this.

In the House, we have 20 Members who signed the letter, 20 Democratic Members who signed the letter saying they support this bill as it passed the Senate, our friends and our colleagues. We stand ready to work with them in a bipartisan manner to pass this bill.

You know, sometimes I think the Speaker of the House has to take "yes" for an answer. It's time to get the job done. The time for debate is over. It's time to get the job done. And, again, our failure to act on this legislation is tantamount to dereliction of duty. And I think all of us have had enough. Let's get it done. The consensus has been reached. It's time to move forward.

DEAR MADAM SPEAKER: Legislation reforming the Foreign Intelligence Surveillance Act (FISA) is currently being considered by the Senate. Following the Senate's passage of a FISA bill, it will be necessary for the House to quickly consider FISA legislation to get a bill to the President before the Protect America Act expires in February.

It is our belief that such legislation should include the following provisions: Require individualized warrants for surveillance of U.S. citizens living or traveling abroad; Clarify that no court order is required to conduct surveillance of foreign-to-foreign commu-

nications that are routed through the United States; Provide enhanced oversight by Congress of surveillance laws and procedures; Compel compliance by private sector partners; Review by FISA Court of minimization procedures; Targeted immunity for carriers that participated in anti-terrorism surveillance programs.

The Rockefeller-Bond FISA legislation contains satisfactory language addressing all these issues and we would fully support that measure should it reach the House floor without substantial change. We believe these components will ensure a strong national security apparatus that can thwart terrorism across the globe and save American lives here in our country.

It is also critical that we update the FISA laws in a timely manner. To pass a long-term extension of the Protect America Act, as some may suggest, would leave in place a limited, stopgap measure that does not fully address critical surveillance issues. We have it within our ability to replace the expiring Protect America Act by passing strong, bipartisan FISA modernization legislation that can be signed into law and we should do so—the consequences of not passing such a measure could place our national security at undue risk.

Sincerely,

Leonard L. Boswell, —, Mike Ross, Bud Cramer, Heath Shuler, Allen Boyd, Dan Boren, Jim Matheson, Lincoln Davis, Tim Holden, Dennis Moore, Earl Pomeroy, Melissa L. Bean, John Barrow, Joe Baca, John Tanner, Jim Cooper, Zachary T. Space, Brad Ellsworth, Charlie Melancon, Christopher P. Carney.

Mrs. WILSON of New Mexico. I yield to the gentleman from Georgia.

Mr. GINGREY. And I appreciate my colleague from Pennsylvania bringing that out. In fact, I will use some of the quotes. And I think this is important that my colleagues understand this, Madam Speaker, because this was a decision that the Democratic leadership made, almost 9 days ago now, to leave this place without reauthorizing and giving that liability protection to the telecommunications industry that is so important and that has made this program work ever since 9/11. This is basically what the majority leader of this House said, and I quote from Representative STENY HOYER: "I don't think anything is going to erode." And that's basically what he said when he left here. But the truth is, and my colleague from Pennsylvania alluded to comments made by the chairman of the Senate Select Committee on Intelligence, J. ROCKEFELLER, the Democrat from West Virginia, and basically he said, clearly, what people have to understand around here that the quality of the intelligence that we are going to be receiving is going to be degraded, it is going to be degraded, it is already going to be degraded. And he said that on the Senate floor on Valentine's Day, 2/14.

Here is what 21 Blue Dog House Democrats said when they wrote a letter to Speaker PELOSI: "We have it within our ability to replace the expiring Protect America Act by passing strong, bipartisan FISA modernization legislation that can be signed into law, and we should do so."

And then finally, as we have said here several times tonight, Madam Speaker, Admiral Mike McConnell, the Director of National Intelligence, after all, it was the Democratic majority that wanted a Director of National Intelligence, it was the 9/11 families that wanted a Director of National Intelligence. And here he says to us: "Some have claimed that expiration of the Protect America Act would not significantly affect our operations. Such claims are not supported by the facts. Without the act in place, vital programs would be plunged into uncertainty and delay, and capabilities would continue to decline."

I yield back to my colleague from New Mexico, but it's clear, it's so clear.

Mrs. WILSON of New Mexico. I yield to my colleague from Oregon.

Mr. WALDEN of Oregon. I just want to pick up in the timeline where you left off, because then Attorney General Mike Mukasey and the Director of National Intelligence, Mike McConnell, the admiral you referenced, head of our national intelligence wrote: "Our experience in the past few days, since the expiration of the act, demonstrates that these concerns are neither speculative, nor theoretical. Allowing the act to expire without passing the bipartisan Senate bill has had real and negative consequences for our national security. Indeed, this has led directly to a degraded intelligence capability."

You know, if he testified to that before the 9/11 Commission or any of these commissions that occurred after 9/11, this House and the Senate would have said, my gosh, we've got to make sure we fix that problem. But for some reason, here we are in 2008 and there are some in the leadership who act like we'll just go about our merry way, everything's fine, there won't be a problem. And hopefully there won't be a problem. But, to me, when the Director of National Intelligence says our intelligence capabilities are degraded, we are losing intelligence-gathering abilities, we are at risk, et cetera, et cetera, it is time to act.

FEBRUARY 22, 2008.

Hon. SILVESTRE REYES,  
Chairman, House Permanent Select Committee  
on Intelligence, House of Representatives,  
Washington, DC.

DEAR CHAIRMAN REYES: The President asked us to respond to your letter of February 14, 2008, concerning the urgent need to modernize the Foreign Intelligence Surveillance Act of 1978 (FISA). Your assertion that there is no harm in allowing the temporary authorities provided by the Protect America Act to expire without enacting the Senate's FISA reform bill is inaccurate and based on a number of misunderstandings concerning our intelligence capabilities. We address those misunderstandings below. We hope that you find this letter helpful and that you will reconsider your opposition to the bill passed last week by a strong bipartisan majority in the Senate and, when Congress returns from its recess, support immediately bringing the Senate bill to the floor, where it enjoys the support of a majority of your fellow members. It is critical to our national security that Congress acts as soon as possible to pass the Senate bill.

## INTELLIGENCE COLLECTION

Our experience since Congress allowed the Protect America Act to expire without passing the bipartisan Senate bill demonstrates why the Nation is now more vulnerable to terrorist attack and other foreign threats. In our letter to Senator Reid on February 5, 2008, we explained that: "the expiration of the authorities in the Protect America Act would plunge critical intelligence programs into a state of uncertainty which could cause us to delay the gathering of, or simply miss, critical foreign intelligence information." That is exactly what has happened since the Protect America Act expired six days ago without enactment of the bipartisan Senate bill. We have lost intelligence information this past week as a direct result of the uncertainty created by Congress's failure to act. Because of this uncertainty, some partners have reduced cooperation. In particular, they have delayed or refused compliance with our requests to initiate new surveillances of terrorist and other foreign intelligence targets under existing directives issued pursuant to the Protect America Act. Although most partners intend to cooperate for the time being, they have expressed deep misgivings about doing so in light of the uncertainty and have indicated that they may well cease to cooperate if the uncertainty persists. We are working to mitigate these problems and are hopeful that our efforts will be successful. Nevertheless, the broader uncertainty caused by the Act's expiration will persist unless and until the bipartisan Senate bill is passed. This uncertainty may well continue to cause us to miss information that we otherwise would be collecting.

Thus, although it is correct that we can continue to conduct certain activities authorized by the Protect America Act for a period of one year from the time they were first authorized, the Act's expiration has and may well continue to adversely affect such activities. Any adverse effects will result in a weakening of critical tools necessary to protect the Nation. As we explained in our letter to Senator Reid, expiration would create uncertainty concerning:

The ability to modify certifications and procedures issued under the Protect America Act to reflect operational needs and the implementation of procedures to ensure that agencies are fully integrated protecting the Nation; the continuing validity of liability protection for those who assist us according to the procedures under the Protect America Act; the continuing validity of the judicial mechanism for compelling the assistance of private parties needed to protect our national security; the ability to cover intelligence gaps created by new communication paths or technologies.

Our experience in the past few days since the expiration of the Act demonstrates that these concerns are neither speculative nor theoretical: allowing the Act to expire without passing the bipartisan Senate bill has had real and negative consequences for our national security. Indeed, this has led directly to a degraded intelligence capability.

It is imperative that our intelligence agencies retain the tools they need to collect vital intelligence information. As we have explained before, the core authorities provided by the Protect America Act have helped us to obtain exactly the type of information we need to keep America safe, and it is essential that Congress reauthorize the Act's core authorities while also extending liability protection to those companies who assisted our Nation following the attacks of September 11, 2001. Using the authorities provided in the Protect America Act, we have obtained information about efforts of an individual to become a suicide operative,

efforts by terrorists to obtain guns and ammunition, and terrorists transferring money. Other information obtained using the authorities provided by the Protect America Act has led to the disruption of planned terrorist attacks. The bipartisan Senate bill would preserve these core authorities and improve on the Protect America Act in certain critical ways, including by providing liability protection to companies that assisted in defending the country after September 11.

In your letter, you assert that the Intelligence Community's ability to protect the Nation has not been weakened, because the Intelligence Community continues to have the ability to conduct surveillance abroad in accordance with Executive Order 12333. We respectfully disagree. Surveillance conducted under Executive Order 12333 in a manner that does not implicate FISA or the Protect America Act is not always as effective, efficient, or safe for our intelligence professionals as acquisitions conducted under the Protect America Act. And, in any event, surveillance under the Protect America Act served as an essential adjunct to our other intelligence tools. This is particularly true in light of the changes since 1978 in the manner in which communications are transmitted. As a result of these changes, the Government often has been required to obtain a FISA Court order prior to surveillance of foreign terrorists and other national security threats located outside the United States. This hampered our intelligence collection targeting these individuals overseas in a way that Congress never intended, and it is what led to the dangerous intelligence gaps last summer. Congress addressed this issue temporarily by passing the Protect America Act but long-term FISA reform is critical to the national security.

We have provided Congress with examples in which difficulties with collections under the Executive Order resulted in the Intelligence Community missing crucial information. For instance, one of the September 11th hijackers communicated with a known overseas terrorist facility while he was living in the United States. Because that collection was conducted under Executive Order 12333, the Intelligence Community could not identify the domestic end of the communication prior to September 11, 2001, when it could have stopped that attack. The failure to collect such communications was one of the central criticisms of the Congressional Joint Inquiry that looked into intelligence failures associated with the attacks of September 11. The bipartisan bill passed by the Senate would address such flaws in our capabilities that existed before the enactment of the Protect America Act and that are now resurfacing. We have provided Congress with additional and detailed examples of how the Protect America Act temporarily fixed this problem and have demonstrated the operational need to provide a long-term legislative foundation for these authorities by passing the bipartisan Senate bill.

In your letter, you also posit that our intelligence capabilities have not been weakened, because the Government can employ the outdated provisions of FISA as they existed before the Protect America Act. We respectfully disagree. It was that very framework that created dangerous intelligence gaps in the past and that led Congress to pass the Protect America Act last summer.

As we have explained in letters, briefings and hearings, FISA's requirements, unlike those of the Protect America Act and the bipartisan Senate bill, impair our ability to collect information on foreign intelligence targets located overseas. Most importantly, FISA was designed to govern foreign intelligence surveillance of persons in the United States and therefore requires a showing of

"probable cause" before such surveillance can begin. This standard makes sense in the context of targeting persons in the United States for surveillance, where the Fourth Amendment itself often requires probable cause and where the civil liberties of Americans are most implicated. But it makes no sense to require a showing of probable cause for surveillance of overseas foreign targets who are not entitled to the Fourth Amendment protections guaranteed by our Constitution. Put simply, imposing this requirement in the context of surveillance of foreign targets located overseas results in the loss of potentially vital intelligence by, for example, delaying intelligence collection and thereby losing some intelligence forever. In addition, the requirement to make such a showing requires us to divert our linguists and analysts covering al-Qa'ida and other foreign threats from their core role—protecting the Nation—to the task of providing detailed facts for FISA Court applications related to surveillance of such foreign targets. Our intelligence professionals need to be able to obtain foreign intelligence from foreign targets with speed and agility. If we revert to a legal framework in which the Intelligence Community needs to make probable cause showings for foreign terrorists and other national security threats located overseas, we are certain to experience more intelligence gaps and miss collecting information.

You imply that the emergency authorization process under FISA is an adequate substitute for the legislative authorities that have lapsed. This assertion reflects a basic misunderstanding about FISA's emergency authorization provisions. Specifically, you assert that the National Security Agency (NSA) or the Federal Bureau of Investigation (FBI) "may begin surveillance immediately" in an emergency situation. FISA requires far more, and it would be illegal to proceed as you suggest. Before surveillance begins the Attorney General must determine that there is probable cause that the target of the surveillance is a foreign power or an agent of a foreign power and that FISA's other requirements are met. As explained above, the process of compiling the facts necessary for such a determination and preparing applications for emergency authorizations takes time and results in delays. Again, it makes no sense to impose this requirement in the context of foreign intelligence surveillance of targets located overseas. Because of the hurdles under FISA's emergency authorization provisions and the requirement to go to the FISA Court within 72 hours, our resource constraints limit our use of emergency authorizations to certain high-priority circumstances and cannot simply be employed for every foreign intelligence target.

It is also inaccurate to state that because Congress has amended FISA several times, there is no need to modernize FISA. This statement runs counter to the very basis for Congress's passage last August of the Protect America Act. It was not until the passage of this Act that Congress amended those provisions of FISA that had become outdated due to the communications revolution we have experienced since 1978. As we explained, those outdated provisions resulted in dangerous intelligence gaps by causing constitutional protections to be extended to foreign terrorists overseas. It is critical that Congress enact long-term FISA modernization to ensure that the Intelligence Community can collect effectively the foreign intelligence information it needs to protect the Nation. The bill passed by the Senate would achieve this goal, while safeguarding the privacy interests of Americans.

## LIABILITY PROTECTION

Your assertion that the failure to provide liability protection for those private-sector



firms that helped defend the Nation after the September 11 attacks does not affect our intelligence collection capability is inaccurate and contrary to the experience of intelligence professionals and to the conclusions the Senate Select Committee on Intelligence reached after careful study of the matter. It also ignores that providing liability protection to those companies sued for answering their country's call for assistance in the aftermath of September 11 is simply the right thing to do. Through briefings and documents, we have provided the members of your committee with access to the information that shows that immunity is the fair and just result.

Private party assistance is necessary and critical to ensuring that the Intelligence Community can collect the information needed to protect our country from attack. In its report on S. 2248, the Intelligence Committee stated that "the intelligence community cannot obtain the intelligence it needs without assistance" from electronic communication service providers. The Committee also concluded that "without retroactive immunity, the private sector might be unwilling to cooperate with lawful Government requests in the future without unnecessary court involvement and protracted litigation. The possible reduction in intelligence that might result from this delay is simply unacceptable for the safety of our Nation." Senior intelligence officials also have testified regarding the importance of providing liability protection to such companies for this very reason.

Even prior to the expiration of the Protect America Act, we experienced significant difficulties in working with the private sector because of the continued failure to provide liability protection for such companies. These difficulties have only grown since expiration of the Act without passage of the bipartisan Senate bill, which would provide fair and just liability protection. Exposing the private sector to the continued risk of billion-dollar class action suits for assisting in efforts to defend the country understandably makes the private sector much more reluctant to cooperate. Without their cooperation, our efforts to protect the country cannot succeed.

#### PENDING LEGISLATION

Finally, as you note, the House passed a bill in November to amend FISA, but we immediately made clear that the bill is unworkable and unacceptable. Over three months ago, the Administration issued a Statement of Administration Policy (SAP) that stated that the House bill "falls far short of providing the Intelligence Community with the tools it needs to collect effectively the foreign intelligence information vital for the security of the Nation" and that "the Director of National Intelligence and the President's other senior advisers would recommend that the President veto the bill." We adhere to that view today.

The House bill has several grave deficiencies. First, although numerous senior intelligence officials have testified regarding the importance of affording liability protection for companies that assisted the Government in the aftermath of September 11, the House bill does not address the critical issue of *liability protection*. Second, the House bill contains certain provisions and serious technical flaws that would fatally undermine our ability to collect effectively the intelligence needed to protect the Nation. In contrast, the Senate bill deals with the issue of liability protection in a way that is fair and that protects the national security. In addition, the Senate bill is carefully drafted and has been amended to avoid technical flaws similar to the ones in the House bill. We note

that the privacy protections for Americans in the Senate bill exceed the protections contained in both the Protect America Act and the House bill.

The Department of Justice and the Intelligence Community are taking the steps we can to try to keep the country safe during this current period of uncertainty. These measures are remedial at best, however, and do not provide the tools our intelligence professionals need to protect the Nation or the certainty needed by our intelligence professionals and our private partners. The Senate passed a strong and balanced bill by an overwhelming and bipartisan margin. That bill would modernize FISA, ensure the future cooperation of the private sector, and guard the civil liberties we value. We hope that you will support giving your fellow members the chance to vote on this bill.

Sincerely,

J.M. MCCONNELL,  
*Director of National Intelligence.*

Mrs. WILSON of New Mexico. And one of the things that baffles me is to be able to hear the Director of National Intelligence, Admiral McConnell, say those things, to have very clear testimony both publicly and privately that the problems they predicted are actually taking place, and yet the Democratic leadership in the House is still in a state of denial, just hoping that we don't miss something important.

Now, you kind of wonder, why on Earth are they willing to take this risk? Why are they willing to put the rest of us at risk? And I have difficulty understanding that. And I listened to some of my colleagues on the floor of the House here in the debate last week when one of my Democratic colleagues actually said that he thought that listening to foreigners in foreign countries without a warrant was suspicious and disrespectful.

Mr. WALDEN of Oregon. He said what?

Mrs. WILSON of New Mexico. He said it was suspicious and disrespectful to listen to foreigners in foreign countries without a warrant.

□ 2030

And I couldn't believe he said it. I just couldn't believe it. As if this is about America being polite to terrorists.

Mr. GINGREY. If the gentlewoman would yield, I would say the ultimate disrespect was 9/11.

Mrs. WILSON of New Mexico. I yield to my colleague from Pennsylvania.

Mr. DENT. Thank you. I'd like to try to answer the question you just raised. Why wouldn't we pass this bill, given the comments by Senator ROCKEFELLER, who said on three separate occasions, as the gentleman from Georgia pointed out, that our intelligence capacities had been degraded? And the Director of Intelligence, Director McConnell, he has made similar statements. So the question is why aren't we dealing with this.

I think the answer is this: that there are people in this body who are prepared to put the special interests ahead of the national interests. And it's quite clear they are protecting the interests

of the most litigious members of our society at the expense of the security of the American people. And that is wrong.

And, again, I believe many of us standing here, I know I have tried to work in a bipartisan manner on a number of issues in this Congress. I have reached out on a number of issues from SCHIP to stem cell research to others. We're doing it again today on intelligence, and we are being brushed aside, and I think it's simply disgraceful.

And I also want to read a comment, if I may. The Veterans of Foreign Wars has weighed in on this issue, and their commander, Commander George Lisicki said, "Americans are protected from illegal search and seizures by the fourth amendment, but critical legislation is now being delayed because some would extend these same constitutional protections to those who want to harm America, people who kill without conscience, who represent no country, and who have no agenda other than the total destruction of our country." That's not me. That's from the VFW.

It's been pointed out that Senator ROCKEFELLER, the Democratic Chair of the Senate Intelligence Committee, has said that our intelligence capacities are being degraded. The Attorney General and National Intelligence Director McConnell have said, and I quote, that that is exactly what has happened since the Protect America Act expired 6 days ago without enactment of the bipartisan Senate bill. "We have lost intelligence information this past week as a direct result of the uncertainty created by Congress's failure to act. Because of this uncertainty, some partners have reduced cooperation. In particular, they have delayed or refused compliance with our requests to initiate new surveillance of terrorists and other foreign intelligence targets under existing directives issued pursuant to the Protect America Act."

What they are saying is that those people who were partnering with us, helping us to protect America, are now afraid to do so out of fear of lawsuit. They'll have to be compelled to cooperate. And that's really the tragedy here, in addition to saving American lives.

Mrs. WILSON of New Mexico. One of the things that I think we need to dispel is a couple of myths, and they are myths being promulgated by the Democratic leadership that is blocking the will of the majority in this House from passing this legislation. And one of them is that, oh, well, we can start emergency surveillance, emergency wiretaps in a matter of minutes. It's really just not that big a deal, when, in fact, that's not true.

The requirement under the existing law is that the Attorney General can start a wiretap without going to the court in an emergency, but he has to stand in the shoes of the court. He has to certify that all the elements of probable cause to get a warrant are already

there. So all of the material that would be presented to the court has to be completely worked up. And we found in the real world when it really mattered, we had three soldiers that were kidnapped in Iraq, it took over 24 hours to gather the information, build the case for probable cause. And some of my colleagues said, well, you know, you should have just gone ahead and done it and we would have just taken care of it after the fact. We had testimony in front of the Intelligence Committee where the chairman actually said that. And I looked at the young man who was there who was a member of the intelligence community, and I said, Is it true that initiating a wiretap without authority is a felony?

And he said, Yes, ma'am, it is.

I said, Would you be willing to risk a felony, hoping that this body would somehow cut you some slack or the prosecutor wouldn't go after you?

And he said, I'm an officer of the court. I'm a lawyer. I can't knowingly commit a felony. I can't do that.

Mr. DENT. Madam Speaker, will the gentlewoman yield?

Mrs. WILSON of New Mexico. I yield to my colleague from Pennsylvania.

Mr. DENT. Along those very same lines about protecting our intelligence agents and our counterterrorism officials, it's my understanding that because of this legalistic approach to intelligence gathering, this approach to national security, that has forced intelligence officers to take out liability insurance for fear of investigations or prosecutions for taking the kinds of liberties that someone suggested they take but knowing they are committing a felony. Is that your understanding too, that these intelligence officials are actually having to take out liability insurance to protect themselves not from al Qaeda, not from the enemy, but from prosecution or congressional inquiry?

Mrs. WILSON of New Mexico. The sad thing in this city is that we have people taking tremendous risks on our behalf under complete orders to do so, that we're certified, we're lawful and everything else, and they are so afraid of the kind of after-the-fact inquiries that this body can levy on them that they have taken out liability insurance so that they are not bankrupted by the actions of this Congress.

I yield to my colleague from Oregon.

Mr. WALDEN of Oregon. You raised an interesting point about this sort of smoke-and-mirrors argument of how quickly the FISA Court can act on a surveillance order. The Speaker of the House, Ms. PELOSI, was quoted as saying in a statement on FISA negotiations on February 22, "The FISA Court can approve surveillance orders quickly." But I think what I learned tonight from you is that while that may be the case, they don't get that request until somebody's built up the whole probable cause work; right?

Mrs. WILSON of New Mexico. If my colleague would think about that for a

second, you've got a tip. Most people know that a lot of big cities have gang units. Put this in this context. You got a tip that somebody may be a terrorist overseas, but really all you have is maybe a name and maybe a phone number. That's not enough to get probable cause for a warrant. So you've got to be able to amass why is it that you think this is the person. What relationships do they have? You have to build up this whole case. And unlike something in America where it would be the gang unit in the Albuquerque Police Department or the Washington Police Department, we're talking about people in foreign countries. It's not as though you can send the FBI out to talk to their neighbors to build a case for probable cause to get a warrant to believe that this person is affiliated with a terrorist organization. So in many cases you cannot even reach that standard to get a wiretap in an emergency situation because the probable cause standard was set up to protect Americans who have rights under our Constitution with respect to law enforcement investigations. This is applying a whole body of law to something it was never really intended to be applied to.

Mr. GINGREY. Madam Speaker, will the gentlewoman yield?

Mrs. WILSON of New Mexico. I yield to my colleague from Georgia.

Mr. GINGREY. I appreciate so much the gentlewoman's yielding.

Madam Speaker, I think one of the most important aspects of this hour, and I know we are running short on time and I want to yield back to the gentlewoman from New Mexico, but one of the most important things for people to understand, Members of this body on both sides of the aisle, is the telecommunications companies voluntarily but yet under the law, under the PATRIOT Act, were required to provide information of their records, their phone records, under the threat of criminal and civil penalties from our own Justice Department. So that's why it's so important that they have retroactive immunity in regard to this issue. And these records are so important, and I will quickly say this, what people are doing today that's part of the modernization, they are not using hard lines. My colleague from Pennsylvania held up those two cell phones. They're buying these throw-away \$49.95 cell phones and burn cards, and the only way you can develop a pattern is if our intelligence experts have access to the records of the telecommunications companies so they can look at it and develop a pattern. So that's why that's so important.

Mrs. WILSON of New Mexico. I yield to my colleague from Oregon.

Mr. WALDEN of Oregon. I think, though, it's important for us, too, to talk about the safeguards for American citizens on American soil because I hear that when I go home: Are they listening in when I call my aunt or somebody across the street? This

warrantless wire eavesdropping. Can you speak to that, about the protections that are still there and, in fact, strengthened under the Senate version?

Mrs. WILSON of New Mexico. In fact, the Senate bill for privacy protections for Americans are stronger than the Protect America Act and stronger than current law under the Foreign Intelligence Surveillance Act because the Foreign Intelligence Surveillance Act really focused on technology. It was technology specific and assumed that things that were on a wire were local calls in the United States. Well, we have said that's changed. The bill that we want to bring up and pass in the House has very strict protections for Americans wherever they are and for anyone reasonably believed to be in the United States.

Now, there are some folks who think if somebody's not a citizen or if they are here in the country illegally, you should be able to listen to them. This bill doesn't even authorize that. It has very strict protections for Americans in the United States or for Americans wherever they happen to be.

Now, we collect intelligence. We spy overseas. When I was an officer stationed overseas, one of my jobs at one post was to negotiate with the Soviets back when the Soviets existed. We knew who the KGB guy was in their delegation. If we happened to intercept his report back to Moscow and it mentioned me, there were already procedures in place to mask or so-called minimize the existence of an American that we may have picked up intelligence overseas. This law actually strengthens that. The bipartisan bill that we'd like to see passed here strengthens it even further so that if I am an American businessperson living in Germany, they'd have to actually get a warrant to listen to me in Germany, which is a stronger protection than we have ever had before.

I yield to my colleague from Pennsylvania.

Mr. DENT. I thank the gentlewoman from New Mexico for yielding.

And to follow up on your very valid point about how this law does provide protection for American citizens, in the letter that was signed by about 20 of our Democratic House colleagues in support of the Protect America Act, and the legislation that we'd all like to have considered, they have said that this legislation should include the following provisions:

First, require individualized warrants for surveillance of U.S. citizens living or traveling abroad. So there is protection in there for American citizens who are living or traveling abroad.

It clarifies that no court order is required to conduct surveillance of foreign-to-foreign communications that are routed through the United States.

It provides enhanced oversight by Congress of surveillance laws and procedures; compels compliance by private-sector partners; review by the FISA Court of minimization procedures



that I believe you have just alluded to; and targeted immunity for carriers that participated in antiterrorist surveillance programs.

So I think that there are plenty of protections in place stronger than current law. And I think there is one other issue that needs to be addressed here and now, immediately. Some have suggested, that I think they have irresponsibly suggested, that the PAA's, Protect America Act's, existing certifications will cover all potentially needed surveillance, and I think it's quite clear that in the event that it expired, which it has, it's unclear whether a court would find any directives under the PAA enforceable once the act expires. And it's my understanding too, if a previously unknown group were to attack or kidnap American soldiers after the act expires, it would not be covered under the certifications of the Protect America Act. And I think we should talk about that.

And there is another thing that I think we have to be concerned about too is that I guess within 48 hours after the act expired, around February 14, there were at least a few incidents that occurred around the world where we have seen threats from radical jihadists or radical extremists. In Denmark 2 days after February 14, we saw three jihadists that were arrested in a plot to murder a cartoonist for drawing an editorial cartoon years ago that they found objectionable. We've all heard about that case. In the Philippines it's my understanding that there were two jihadists associated with al Qaeda who were said to be plotting the assassination of the Filipino President and bombing western embassies. And, of course, there were repeated threats against Israel that we have all heard about, including one from Mr. Nasrallah, the chief of Hezbollah, who raised a prospect of a war with Israel. He even said, "Zionists, if you want this kind of open war, let the whole world listen. Let this war be open." And this was all said within 48 hours after the expiration, I believe, of the act.

Mrs. WILSON of New Mexico. Madam Speaker, we have been joined by my colleague from Texas, who is one of the few Members of this House who has direct experience in working with the Foreign Intelligence Surveillance Act when he worked for the Justice Department.

I would be happy to yield to him.

Mr. McCAUL of Texas. I thank the gentlewoman from New Mexico for your great leadership on this very important issue and for having this debate tonight.

I think we are denying democracy its voice by not allowing the Members who represent the American people the opportunity to vote on the Protect America Act and to make that act permanent.

As the gentlewoman mentioned, I do have experience in the Justice Department in this area. I applied for FISA

warrants while I was there. This statute was never intended to apply to overseas intelligence. It was solely intended to apply to agents of a foreign power who were in the United States.

This is a very dangerous game, and it's probably the most important debate that I've seen since I have been elected to the Congress. By allowing the Protect America Act to expire, by walking away from this Chamber 10 days ago and doing nothing about that, we see what the consequences are. We have heard the letters from the Director of Intelligence, from the Attorney General, and the failure now to be able to capture critical intelligence overseas.

□ 2045

In fact, some estimates are as high as 66 percent. In other words, we are going dark now in parts of the world where we should be paying attention. This is a dangerous game of politics; in my view it is partisan politics at its worst.

We are literally putting Americans at risk. The most solemn obligation we have as Members of Congress is to protect the American people. And there is a reason why since September 11 we haven't seen a September 11.

Intelligence is the best weapon we have, as the gentlewoman has mentioned, in this war on terror. And the idea that somehow when American soldiers are kidnapped in Iraq overseas by al Qaeda and yet we are denied the opportunity to listen in because we have to get lawyered up, and we have to go through the FISA Court to get that emergency warrant, and in the meantime one soldier is killed and two we have not heard from since, really saddens my heart as an American. And I believe, as the gentleman from Pennsylvania said, we are derelict in our responsibilities.

I want to share with the gentlewoman an editorial, an op-ed that I wrote with Admiral Bobby Inman. Why is Admiral Inman important? He was the Director of National Intelligence, the Deputy Director of the CIA under both Democrat and Republican administrations. Admiral Inman was one of the principal authors of the FISA statute. And in this editorial he says, to apply FISA to monitoring foreign communications, a suspected terrorist operating overseas such as Osama bin Laden and other key al Qaeda leaders, turns the original intent of FISA on its head. Turns the original intent of FISA on its head.

That is what a few key leaders on the other side of the aisle have done. By not allowing us to vote, they know that it would pass. It passed overwhelmingly in the Senate in a bipartisan way. And he goes on to say, contrary to some of the rhetoric coming from the Democrats, it is the members of al Qaeda, not American citizens, who are the target of these intelligence-gathering activities.

I submit the question, don't you think that most Americans want us to

be listening to what al Qaeda is saying overseas? Don't you think most Americans want to hear the conversations that we know they are having, because this is a long-term struggle, and we know that they are planning to attack us again? Don't the American people want us to be listening to that? And yet by failing to make this Protect America Act permanent, we are denying that opportunity.

If I can just by saying that if, God forbid, something happens between now and the time we can finally get this body together to pass this act, and American blood is spilled, that blood will be on the hands of all Members of Congress. We need to get this act passed.

Mrs. WILSON of New Mexico. I yield to my colleague from Pennsylvania.

Mr. DENT. The gentleman from Texas made a very eloquent point. It is well stated. His op-ed is worth reading. I would recommend anybody to read this. It states all the points.

But to follow up, we did have an incident in this country where there were two suspected terrorists in the United States, and in August of 2001, I believe this was written about in the 9/11 Commission Report, there were two suspected terrorists, and I know there was an individual whose name I can't recall at the moment, but I believe he was in the counterterrorism division of the FBI who was very concerned about two individuals who he thought were in this country, and he wanted a nationwide manhunt.

And he had written a memo in August of 2001 saying, some day someone is going to care about this, that all the protections are being provided to al Qaeda and bin Laden at the expense of the security of the American people. Those two people he was concerned about were the two who crashed the plane into the Pentagon on September 11. I believe it was sometime in the afternoon of September 11 he received his request to go engage in that nationwide manhunt for those two individuals. So this is a very real issue.

And I think we should try to conclude this program in the way it began, in talking about the need for bipartisanship, particularly when it comes to national security issues. And it can't be stated enough that our friends on the other side of the aisle in the Senate and many in this House are waiting to vote for this bill. We just want to have the opportunity. As I said earlier, I think it is almost tantamount to a dereliction of duty that the Speaker has not allowed a vote on this issue.

Sometimes, we have to take "yes" for an answer. We have the solution. It is in our reach. It is time to get the job done. And maybe if we do that, the American people will look more favorably upon Congress.

Mrs. WILSON of New Mexico. We are very close to the time being up in the hour that we have had this evening. But I think it is important to summarize some of the things we have talked about here tonight.

The Foreign Intelligence Surveillance Act was intended to protect the civil liberties of Americans while also allowing our intelligence agencies to collect the intelligence information that can protect us. That is all it was intended to do. But it has become outdated because of changes in technology.

We have a bill that has been passed in the Senate by 68 votes. There has been a letter from 20 Democrats to their own leadership saying, please, take up this bill because we want to vote for it. We all know here that if we were allowed to vote on this bill, it would pass overwhelmingly in the House, and the President has already said that he would sign it. Instead, we are here tonight, 10 days after a law expired, that our Director of National Intelligence, Admiral Mike McConnell, has said has already degraded our ability to gather intelligence on the people who are trying to kill Americans. I think that is inexcusable.

I think we made a decision as a country on the morning of 9/11. We made a decision that we were going to go on offense. We were going to play away games because the home games cost too much.

I want the leaders of al Qaeda hiding in a hole in the mountains between Pakistan and Afghanistan wondering whether they can use their cell phones without being detected by American Special Forces, rather than Americans using their cell phones to call home one last time. That is the difference.

As my colleagues from Texas and Pennsylvania said, God forbid, God forbid that we have to have another 9/11 Commission, that we have another terrorist attack. I believe that the greatest accomplishment of the last 6 years has been what has not happened. There has not been another terrorist attack on our soil, and they have tried. Our first line of defense in preventing another terrorist attack is good intelligence. And because this law expired 10 days ago, we are tying the hands of the intelligence agencies who are sworn to protect us. We are making it harder for them. We are making them jump through hoops that in some cases are too high and taking tremendous risks for the American people. Why? Because a minority of Democrats, including their leadership, refuse to allow a bipartisan bill to be brought up on the floor of this House. Shame on them. Shame on them for not putting the security of this country first.

If we have that other commission after another terrorist attack, they are going to be saying, why didn't you protect us? What you are seeing tonight is why. You can't connect the dots unless you can collect the dots in the first place. This is about allowing our intelligence agencies to collect the dots that can protect us.

I would urge the Democratic leadership, as my colleague from Pennsylvania said, to take "yes" for an answer, to fix this problem, to close this

gap this week. We have nine suspensions on the floor. We are naming post offices tomorrow. Pull it up tomorrow. And I will stand here shoulder to shoulder with them on the floor of this House, we will overwhelmingly pass it, and we can walk down to the White House tomorrow afternoon so that the President can sign it and protect this country.

I yield the balance of our time.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BISHOP of Georgia (at the request of Mr. HOYER) for today.

Mr. EDWARDS (at the request of Mr. HOYER) for today on account of death in the family.

Mr. ELLISON (at the request of Mr. HOYER) for today on account of official business.

Mr. RUPPERSBERGER (at the request of Mr. HOYER) for today on account of medical reasons.

Mr. SHERMAN (at the request of Mr. HOYER) for today.

Ms. WOOLSEY (at the request of Mr. HOYER) for today and for the balance of the week on account of medical reasons.

Mr. LUCAS (at the request of Mr. BOEHNER) for today on account of a family commitment.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. KAPTUR) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. KIRK) to revise and extend their remarks and include extraneous material:)

Mr. POE, for 5 minutes, today and February 26, 27, and 28.

Mr. JONES of North Carolina, for 5 minutes, today and February 26, 27, and 28.

Mr. KIRK, for 5 minutes, today.

Mr. FRANKS of Arizona, for 5 minutes, today and February 26, 27, and 28.

Mr. BROWN of Georgia, for 5 minutes, today.

Mr. GARRETT of New Jersey, for 5 minutes, February 28.

#### ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 10:30 a.m. tomorrow for morning-hour debate.

There was no objection.

Accordingly (at 8 o'clock and 55 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, February 26, 2008, at 10:30 a.m., for morning-hour debate.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5440. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting notice of the completion of a public-private competition at the Defense Logistics Agency, pursuant to 10 U.S.C. 2462(a); to the Committee on Armed Services.

5441. A letter from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, Department of Defense, transmitting notice of a public-private competition of the Commander of Headquarters Air Combat Command (HQ ACC), 57th Maintenance Group, Nellis Air Force Base, Nevada, pursuant to 10 U.S.C. 2462; to the Committee on Armed Services.

5442. A letter from the Comptroller, Department of Defense, transmitting the Department's quarterly report as of December 31, 2007, entitled, "Acceptance of contributions for defense programs, projects and activities; Defense Cooperation Account," pursuant to 10 U.S.C. 2608; to the Committee on Armed Services.

5443. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on Foreign Affairs.

5444. A letter from the District of Columbia Auditor, Office of the District of Columbia Auditor, transmitting a report entitled, "Letter Report: Certification of the Fiscal Year 2008 Total Non-Dedicated Local Source Revenues in Support of the District's \$333,840,000 General Obligation Bonds (2007C)," pursuant to D.C. Code section 47-117(d); to the Committee on Oversight and Government Reform.

5445. A letter from the Secretary, Department of Education, transmitting the Department's 2007 Annual Report on Grants Streamlining, pursuant to Public Law 106-107, section 5; to the Committee on Oversight and Government Reform.

5446. A letter from the Assistant Secretary for Administration and Mgmt., Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

5447. A letter from the Assistant Secretary for Administration and Mgmt., Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

5448. A letter from the Assistant Secretary for Administration and Mgmt., Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

5449. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

5450. A letter from the Secretary, Mississippi River Commission, Department of the Army, Department of the Army, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act covering the calendar year 2007, pursuant to 5 U.S.C. 552b(j); to the Committee on Oversight and Government Reform.

5451. A letter from the Associate Deputy Secretary, Department of the Interior, transmitting the Department's Annual Report on