



Protect America – Act Now

By U.S. Sen. John Cornyn

Last May, three U.S. troops were kidnapped in Iraq, south of Baghdad, by al Qaeda terrorists. The U.S. military immediately launched a search and rescue operation, including electronic monitoring of phone conversations.

What happened next is extremely disturbing. Within hours, a new source of information was discovered that required electronic surveillance. Then, a maze of complicated U.S. laws kicked in, stopping progress for nearly 10 long hours.

Weeks later, the body of one missing American was found in the Euphrates River. The terrorists claimed the other two had been executed. No one can be certain whether they might have been found if the intelligence lead had been immediately followed.

We do know that restrictions in an outdated federal law seriously complicated rescue efforts while government lawyers back in the U.S. sorted through a legal quagmire to develop “probable cause” for electronic surveillance. A Texas soldier, Cpl. Ryan Collins of Vernon, was killed while participating in the unsuccessful attempt to find the missing troops.

There is no dispute that laws must be followed. That is what our American soldiers did that day in Iraq. It’s also clear, however, that existing law can prevent immediate use of our latest and best intelligence technology, when quick action is critical to the lives of Americans. When this is the case, it’s up to Congress to change the law.

We must do better in fulfilling this duty. At the time of this Iraq incident, electronic surveillance for intelligence and military use was subject to the 1978 Foreign Intelligence Surveillance Act (FISA). Last year, Congress approved a temporary update, the Protect America Act. In early February, a bipartisan majority of the Senate voted overwhelmingly to extend key parts of the Protect America Act for six years.

But instead of approving the Senate bill, House leaders left for a 10-day recess. This meant the Protect America Act expired on Feb. 16. Now our troops and intelligence community are again operating under legal constraints that delay tracking terrorists who use Internet and

cell phone devices that did not exist when FISA was enacted.

America leads the world in electronic technology. Some 98 percent of it is owned by private companies, and their cooperation is necessary in preventing terrorist attacks. But trial lawyers have filed lawsuits seeking billions of dollars from telecommunications firms that have helped our government stop another 9/11.

The Senate-passed bill provides protection against lawsuits for firms acting in good faith on government requests for help. This lawsuit protection is necessary to make certain they can protect their shareholders from legal expense even while they do their part to keep Americans safe.

Top U.S. intelligence officials certified that in the week after Congress allowed the Protect America Act to expire, our country lost significant national security information. We are asking our troops and intelligence officials to operate with one hand tied behind their back. We are less safe than we were before Feb. 16.

National defense is the first duty of our federal government. Good intelligence helps protect our troops and win wars. Undercutting it hampers our efforts to defend ourselves, and endangers the lives of Americans.

Our nation is grateful to Cpl. Ryan Collins, his family and the sacrifices of those who help protect our country. I will fight to reverse the recent lapse in judgment by Congress, and ensure our intelligence community and security forces have every tool available to keep us safe. We owe that to our citizens, and to the memory of Cpl. Collins.

Sen. Cornyn serves on the Armed Services, Judiciary and Budget Committees. In addition, he is Vice Chairman of the Senate Select Committee on Ethics. He serves as the top Republican on the Judiciary Committee’s Immigration, Border Security and Refugees subcommittee and the Armed Services Committee’s Airland subcommittee. Cornyn served previously as Texas Attorney General, Texas Supreme Court Justice and Bexar County District Judge. For Sen. Cornyn’s previous Texas Times columns: www.cornyn.senate.gov/column.