



IN CASE YOU MISSED IT: Director McConnell Interviewed on CNN's "Late Edition"

MR. JOHN KING (CNN): And welcome back to the second hour of "Late Edition." I'm John King, sitting in today for Wolf Blitzer.

The Director of National Intelligence is accusing Congress of compromising the nation's ability to fight terrorism by allowing the Protect America Act -- that's an extension of the Foreign Intelligence Surveillance Act -- to expire.

So is the United States really in more danger?

Joining me here in Washington is the Director of National Intelligence, Admiral Mike McConnell.

Admiral, thanks for joining us today.

DIRECTOR MIKE McCONNELL: Thank you.

MR. KING: To most Americans out there, and to a guy like me who's spent most of his time, in the past several months, out covering a Presidential campaign, this is highly detailed stuff that's pretty hard to follow.

So, the FISA -- the Protect America Act expires. One thing, let me ask you right off the top, Congress says it offered a 21-day extension. Why not just sign on to the 21-day extension and give it three more weeks to try to sort this out?

DIRECTOR McCONNELL: Well, John, since it is so complex, let me just start with the fundamentals, and then, maybe, we can build from there.

First of all, why do we have this act? Why was it passed? There was some abuses in the past. In the late 1970s, Congress conducted hearings. And at the end of that, they wanted to be able to do two things; one, protect Americans from unauthorized surveillance; and two, enable my community to do foreign surveillance.

So the issue is doing foreign surveillance while protecting Americans. So, now, the act, which was passed in '78, did not accommodate the fact that technology changed. So we might be conducting surveillance of a foreigner, a terrorist in a foreign country, talking to

another terrorist in a foreign country, and our access to that information might be here in the United States. That's the issue.

MR. KING: That's the issue. And so you signed on to this letter. Because the act expired and you were unable to reach an agreement with the Congress, you signed onto a letter.

It's you and the Attorney General, Michael Mukasey, who said this, "We have lost intelligence information this past week as a direct result of the uncertainty created by Congress' failure to act."

Now, if I'm an average American sitting out there, I'm thinking, so I'm less safe today. How do you know -- if you can't gather the intelligence, how do you know you lost some?

DIRECTOR McCONNELL: You're less safe today because we lost some of our ability to monitor.

Here's the issue, John. We cannot do this mission; we cannot do this activity without the help of the private sector.

And when the act expired, there is a portion of the act passed last year that provided prospective liability protection. It's expired.

So the private sector partners said, well, wait a minute, are we now protected?

So we went through a discussion, for the entire week -- now, this is the problem. We may have authority to conduct surveillance, and we do, of, for example, Al Qaida, but you can't make that actionable if you have something specific to load into our systems to target.

So when we wanted to load new information, the private sector partners said, we're not prepared to do that. So we negotiated all week to be able to come to closure.

MR. KING: Help the layman understand what you mean by "load new information." You mean load somebody's cell phone code; load some Internet conversation? What are we talking about?

DIRECTOR McCONNELL: Well, let me start with the accusation first. Some would say that our community is broadly spying on Americans, combing through lots of data. Nothing could be further from the truth.

In the situation we're in, we have to be very surgical about what we reach in and take out. So, an identifier, a telephone number would allow us to do that.

So if you want to put in a new telephone number, because you have now identified a terrorist, a member of Al Qaida, be you didn't know who he was before, didn't know his

telephone number, that's the part we had to negotiate over the week.

So, for five or six days, there's information we missed. We don't know what that was because we missed it. We may never recover it.

MR. KING: I know you don't like to get involved in the politics of all this.

DIRECTOR McCONNELL: That's correct.

MR. KING: But Senator Harry Reid, the Senate Majority Leader, says this, "No amount of fear mongering will change the fact that our intelligence-collection capabilities have not been weakened last week. Even the President's own Director of National Intelligence agrees."

That would be you, sir, Harry Reid putting you in his statement accusing the administration, of which you are a member, of fear mongering.

DIRECTOR McCONNELL: John, we're less safe because we're not as an agile. And we have to have the cooperation and partnership from the private sector. And we are actually negotiating -- so, think about it. We may be able to get information that's fleeting, seconds or minutes, and you have to sit down with a lawyer to say, well, can I do this?

So that's the issue that makes us less capable because we can't keep up. We have to be agile, and it takes full partnership from the private sector.

MR. KING: I want you to listen to something you yourself said to the Intelligence Committee on February 14, that some are citing you're saying, now, the damage is worse than you said just a short time ago. Let's listen.

(BEGIN VIDEO CLIP)

DIRECTOR McCONNELL: The provisions of the bill allow us that, once we had submitted to the FISA Court the procedures and so on, they were approved. And we are loaded. From the date that's approved, we get a year. So some level of connection -- collection will go forward if it, in fact, expires on Saturday.

(END VIDEO CLIP)

MR. KING: It expired. It expired, some level of collection goes forward. Explain, to the best you can, to someone out there who doesn't understand the intricacies of, A, how you gather it, and, B, what this intelligence is.

To the degree you can, what's the missing piece?

DIRECTOR McCONNELL: The missing piece, John, is directive. Now, this gets a little technical, but an authorization is one thing, an authorization to collect against Al Qaida.

They put it in last August. We can collect against Al Qaida today.

However, a new personality, a new phone number, a new location -- we now have to put it into the system to be able to collect the information. That's the question, because the private sector partners said nothing new.

So we had to negotiate that. Because what it created was uncertainty, and the position from the private sector point of view, "Am I protected? Does the law allow you to compel me to comply?"

And when the act expired last week, that's in question. And that's why we feel that we are less capable of doing our job.

MR. KING: You say "private sector partner." It's the phone companies, Internet service providers, somebody out there, in a private enterprise, where you think we have a number we need to trace; we have a conversation we think we need to trace; here's our evidence that it's worth doing; we need you need to cooperate with us now.

One of the disputes in this, as you know, is a legal question is about immunity.

I want to read you something else from Senator Harry Reid, the Majority Leader. He says, "For the President, this debate isn't about protecting America. It's about protecting the telecommunications industry and his own administration. He's explicitly refused to compromise on immunity for telecommunications companies, even as he's claimed the law's expiration endangers Americans. I can only conclude then that the President would put American lives on the line to let the phone companies off the hook."

Now, there are some who say, if you're wrong, and I am somehow abused by this process, I should have the right to sue the phone companies. Why not?

DIRECTOR McCONNELL: Well, since you're reading, let me try. Because I anticipated your question. And this is the language that comes out of the Senate Oversight Committee, bipartisan that voted out the current bill in the Senate.

And they did an extensive investigation. This is what they said. "The committee was concerned 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." And this is the most important point. "The possible reduction in the intelligence that might result from this delay is simply unacceptable for the safety of our nation."

Now, there is a debate between some members of Congress and the administration over how the program was conducted immediately after 9/11. That's a disagreement by some members on the Hill and the administration. What we're talking about here is getting a bill that allows us to conduct electronic surveillance against foreigners that wish us harm and protect U.S. persons.

There's something else that was added to the bill. Previously, under the law, and under the executive order, if a U.S. person was conducting unlawful activities, for example, as a spy, and he traveled overseas, the Attorney General could authorize my community to conduct surveillance.

In the Senate bill, that changes, and it makes it very simple. A U.S. person gets a warranted protection, supervised by a court, anywhere on the globe.

The other part is also true. It does not require us to have a warrant to conduct surveillance against foreign entities. And the foreign entity could be a terrorist; it could be North Korea. It could be Syria.

And our mission is foreign intelligence. So it's not like we're spying on Americans. We are using a system that's global. Global communications pass through America, and we need the ability to pull out the foreign communications.

MR. KING: Let me ask you about a number of other hot spots around the world after the break, but before we take a break, one more quick question. I know you don't like to get involved in the politics. But how much of this in your view, the dispute, is a legitimate disagreement or dispute over some policy things? Whether it's the immunity provision, whether it's about the scope of your powers, how much power you should have, especially within the confines of the United States, and how much of it is just lingering tensions and frustrations between the Democratic majority and a Republican President that many of those Democrats simply do not trust?

DIRECTOR McCONNELL: I think some of this is lingering concern. I think some of it has been politicized. But what I would point out, after very strenuous debate -- and I watched almost all of it -- on the Senate side, the bill passed 68-29. And I believe in my heart of hearts, if it would be brought up on the House floor, it would get a similar vote, and we would move on. And then if those who disagree with the President's past activity, let them disagree with the President, but let us go do our job. And then of course the electoral process will take care of those disagreements in the eyes of the American people.

MR. KING: Admiral Mike McConnell, the Director of National Intelligence. Stay right here, because in a moment, we'll get to the political strife in the race for the Democratic nomination. But when we come back, more from the Director of National Intelligence Mike McConnell discussing key world hot spots. Stay with us. You're watching "Late Edition."

(COMMERCIAL BREAK)

MR. KING: Welcome back. Once again, I'm joined by the Director of National Intelligence, Admiral Mike McConnell.

Before the break, we were talking about this controversy between the administration and Congress about surveillance powers. I want to wrap it up and move on to some discussion of other world hot spots, but just tell me first, in this dispute, you're trying to change some things in the surveillance laws that you believe are necessary to modernize it. Specifically, what is it you are looking for?

DIRECTOR McCONNELL: John, I'll answer that with just three basic points, points I've made since I came back into government. First of all, do not require us to get a warrant for surveillance against a foreign terrorist in a foreign country talking with someone else in a foreign country. The issue is it may pass through the United States, and under the old rules we had to get a warrant, and it takes a lot of time.

Second issue, warranted protection for a U.S. person anywhere on the globe. That's the right thing to do. We're for that. And that in fact is in the Senate bill.

The third thing, and this is very important, we can't do the mission without the assistance of the private sector. So we have to do several things. One, a means to compel them to help us, and then for that help, liability protection. And when the bill was passed last August, it was prospective, future liability protection, but not retroactive. And the retroactive, billions of dollars in suits, so that's the part we have to get corrected in the new legislation.

MR. KING: Okay, we'll keep track of this as it goes on.

I want to turn your attention to some other places in the world that might be causing Americans some angst at the moment. We have seen the political turmoil in Pakistan. Most Americans probably don't follow as closely the political parties in Pakistan, how this all works out, but they do know that Pervez Musharraf has been a key ally in the Bush administration in the war on terrorism. Many of the opposition parties are saying it is time for him to go. And there was some questions actually just before the elections as to whether he was doing what you were asking him to do, doing things on his own right, using his intelligence services and his military, and allowing our Intelligence Community the freedom to operate in some cases within Pakistan.

The state of play right now, sir. Are you more confident or less confident that you can do what you think is necessary within the borders of Pakistan, especially up in the Pakistan-Afghanistan tribal areas. Can you do everything you need to do today, or has the political uncertainty there compromised that?

DIRECTOR McCONNELL: John, that's the key question. That is the key question.

Let me start by saying, first of all, that Pakistan, led by President Musharraf, has been our best partner. We have been able to kill or capture more of the Al Qaida leadership in partnership with Pakistan than anyone else.

Now, that said, you can always be better, and our dialogue and negotiation was how to get better and what would we do differently.

Now, the election has changed the political scene there. The two parties that are going to form a coalition do not have enough members to impeach President Musharraf, although some are talking about that. So the question is, what happens when a coalition is formed in the new government and what is the position of the President? So we'll be very carefully monitoring that, engaging with the Pakistani government as this goes forward.

MR. KING: And some of the members of the new coalition, frankly, resent the United States for thinking it put too many eggs in the Musharraf basket, if you will, stood by him too long. Do you suspect that there will be fallout in terms of the tone and tenor of the relationship with the new members of the coalition?

DIRECTOR McCONNELL: John, it could be, but one thing that's sort of not noticed or reported upon very much is many of the fundamentalists, those radicals who were very vocal about engagement with the United States, lost in the election. And the more secular members are the ones that prevailed.

So I'm optimistic that we'll be able to figure out how to work with the Pakistani government going forward and be more effective than we have been in the past.

MR. KING: I want to read you something. This is from Lieutenant General Dell Dailey, who's the State Department's Counterterrorism Chief. This was in the New York Times a little more than a month ago. He's talking about what's going on in Afghanistan and Pakistan right along the border area.

"We don't have enough information about what's going on there. Not on Al Qaida, not on foreign fighters, not on the Taliban."

If I'm an American citizen, worrying about Al Qaida or Osama bin Laden, the potential of another attack here in the United States, that leaves me pretty worried.

DIRECTOR McCONNELL: It does indeed, and me worried also. But what I would highlight, John, is this region of the world has never been ruled from the outside -- not by Pakistan, not by the British when they were there. It's a very inhospitable region. It's tribal. It's located at very high altitude. It's primitive in many regards.

Example -- literacy among women in that area is about 2 percent. Literacy among men is 20 percent, 25 percent. So this is a very difficult region to get into and conduct the kind of surveillance or get the information that we need to be effective.

MR. KING: With the information you have, is Al Qaida in a position now, is it training, is it planning in a way that makes it more likely that it is capable of another attack like September 11th, or less likely?

DIRECTOR McCONNELL: It is training. They're enjoying safe haven. They have the leadership that they had before. They have rebuilt the middle management of the trainers, and they're recruiting very vigorously.

So while they were degraded significantly in 2001 when -- to about the 2006 timeframe, when they established the safe haven, they have been improving their capability.

I reference back to our conversation earlier. That's the very reason we need to have this Foreign Intelligence Surveillance Act capability, because that's one of our principal tools in tracking someone who may be recruited in Europe, go to Pakistan to train, and then come back to Europe to be positioned, without a visa, because visas are not required in many cases, to fly into the United States. That's why we need those tools.

MR. KING: As you know, the National Intelligence Estimate on Iran came out back in November. And it has been used by many around the world to say this is not as much of a crisis as the United States is trying to make it to be, the whole controversy about Iran's nuclear program.

Because the NIE said this. "We judge with high confidence that in fall 2003, Tehran halted its nuclear weapons program."

Now I know you have voiced some regret at the language in this intelligence estimate. Give the American people your best sense, right now, of the state of Iran's nuclear program, particularly whether it is a threat.

DIRECTOR McCONNELL: Let me correct something you said. And I did not say it halted a nuclear weapons program. What it said is it halted the design of -- a specific design of a nuclear warhead.

A program has to have fissile material. They're continuing to do that. You have to have a means of delivery, ballistic missiles. They're continuing to do that.

So the hardest part in that three-part equation is fissile material, and they're continuing.

You know, I went back to see, because I was out of government at the time; in 2001, we did an estimate. 2005 we did an estimate; and then, last year, at the end of the year, we did an estimate.

And our estimate for when they would have nuclear weapons hasn't changed throughout that period, 2010 to 2015 -- probably in the middle portion of that is most likely.

So the threat continues. They canceled a very specific portion of it, or halted, I should say. And what were the circumstances?

In 2003, the U.S. had just -- with the allies -- had just invaded Iraq, and significant pressure was being applied to the Iranian government.

So I think that activity and the pressure caused them to halt a very specific portion. It was secret. They've never admitted it. And, for all we know, they could have turned it back on. We are doing everything we can to understand that, but we don't have perfect knowledge.

MR. KING: And so, in your estimation, has the international reaction to this report, which is to say, it's okay, we can take more time; everybody can calm down a little bit; the Bush administration's pushing too hard for sanctions and further -- is the international reaction to the NIE -- has it been counterproductive to what you think needs to be done to avert a threat?

DIRECTOR McCONNELL: I think the international community overreacted. When you quoted what the NIE said, many heard it that way. And I think they, sort of, took a deep breath and overreacted. However, I would point out that the permanent five, China, Russia, France, U.K, and the United States, plus one, Germany, have now agreed to continuing sanctions.

So I think, after the initial "what is this; what does it mean," we've, sort of, gotten beyond it. And I think sanctions will continue.

MR. KING: I wish we had more time. We have to call it a day for there. The Director of National Intelligence, Admiral Mike McConnell. Sir, thank you very much.