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**Opening Statement:
Open Hearing on NSA Programs and FISA Reform
Ranking Member C.A. Dutch Ruppersberger
October 29, 2013**

Thank you, Mr. Chairman, and thank you to our witnesses:

- General Keith Alexander, Director of the National Security Agency;
- James Clapper, Director of National Intelligence;
- Chris Inglis, Deputy Director of NSA; and
- James Cole, Deputy Attorney General, Department of Justice.

I also want to thank the people of the Intelligence Community who work day and night to protect the security of our nation.

With all the criticism leveled at these programs, it is important that we not forget that these men and women are doing what we have told them to do, within the confines of the laws we've passed, and doing so to keep us safe.

The most important thing we can do here today is let the public know the true facts so that we can engage in a meaningful process of reform that will enhance transparency and privacy, while maintaining the necessary capabilities.

There's been a lot in the media about this situation -- some right, some wrong. Much has been mischaracterized, which is not helpful for those of us who are serious about both privacy and national security.

After these leaks came out, Chairman Rogers and I and other Members of Congress urged the Intelligence Community to release more information to help the public understand, which they've done.

Today, we are holding this open hearing so we can continue to get out the facts, and so that the American people can hear directly from the Intelligence Community-- and outside legal experts.

One key fact we need to keep in mind is that NSA's focus is on *foreign* threats. Under FISA, NSA does not target Americans in the U.S. and does not target Americans *anywhere* else, without a court order.

There are two FISA authorities that have been highlighted in the press.

First, the business records provision, known as Section 215, which allows the government to legally collect what is called metadata—a phone number, a length of call, NOT content. No names, no conversations, no content.

Let me be clear again: Under 215, the NSA cannot listen to anyone's phone calls.

What Section 215 does allow is the Government to connect the dots. These dots should have—and likely could have been—connected to prevent 9/11, and are necessary to prevent the next attack.

With this tool, we could have determined that one of the 9/11 hijackers was in San Diego and made a call to a known Al Qaeda number in Yemen. I shudder to think what connections will be missed if the program were to be completely eliminated.

Keep in mind, law enforcement obtains and analyzes these types of records every day to stop organized crime and to keep drugs out of the country. We don't want to make it easier to be a terrorist than a criminal in our country.

The second authority is known as Section 702 of the FISA Amendments Act. It allows the Government to collect the content of email and phone calls of foreigners-- not Americans-- who are located outside the United States.

This authority allows the government to get information about terrorists, cyber threats, and clandestine activities.

But again, this authority prohibits the targeting of American citizens or U.S. permanent residents without a court order, no matter where they are located. Both of these authorities are legal. Congress approved and reauthorized both of them over the last two years, and no court has ever struck them down.

The NSA is also subject to layered and constant oversight from the Executive, Judicial and Legislative branches of government. But let me be clear: more needs to be done. The Foreign Intelligence Surveillance Act must be reformed.

We have worked with the Administration, the Senate, telecommunication companies, and other stakeholders, to evaluate and vet a range of options. We must improve transparency, privacy protections and thereby restore the public's confidence:

You cannot truly have privacy without security, or security without privacy.

So, we are exploring a proposal to require a declassification review of any FISA Court decision, order or opinion, to improve transparency without threatening sources and methods.

We are also evaluating expanding Congressional reporting so that all Members of Congress, not just those on Committees of jurisdiction, can view the *classified* reporting about the programs.

We are vetting a measure that would create a presidentially appointed, Senate confirmed Inspector General of the NSA to provide an extra, independent check.

We are discussing ways to change the makeup of the FISA Court to correct the perception that it is controlled by one political party or the other.

We are looking into creating a privacy advocate, a non-Executive branch lawyer who would take an independent position on matters before the FISA Court that involve significant constructions or interpretations of FISA.

And the most intriguing, but also the most operationally challenging, is changing how section 215 is implemented. Can we move away from bulk collection and towards a system like the one used in the criminal prosecution system, in which the Government subpoenas individual call data records - phone numbers, no content - to be used for link analysis?

We've spent months working very hard on these proposals, and we would like to hear your thoughts on them.

We brought you here today to get your input in an open forum and allow all Members and the American people to hear your responses for themselves.

I thank you for your time today and look forward to a thoughtful discussion on the range of reform proposals out there.

Mr. Chairman, I yield back.

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