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Introduction

(U) Chairman Goodlatte, Ranking Member Conyers, Members of the Committee. Thank you for the opportunity to appear today. I am Brad Brooker, the Acting General Counsel at ODNI. Our plan today is that Stu Evans of DOJ will first give you a brief overview of the legal framework for Section 702 and the reasons we needed it.

(U) I will then offer a brief discussion of Section 702 oversight and compliance -- how we are ensuring that rights of US citizens are protected.

(U) Finally, Paul Morris (DGC) and (b)(3) (b)(3) from NSA and Grant Mendenhall (Assistant Director, Counterterrorism Division) from FBI will then talk about the way in which this program is used and the value it provides, with specific examples. This will be the primary focus today.

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(U) At the outset, I want to stress two things:

(U) One, collection under Section 702 has produced and continues to produce intelligence that is vital to protect the nation against international terrorism and other threats.

(U) And two, we are committed to ensuring that the Intelligence Community's use of Section 702 is consistent with the law and the protection of the privacy and civil liberties of Americans and appreciate the opportunity to provide this briefing.

(U) Along with DOJ, we oversee this program, and review after review we find that the number of compliance incidents has been small relative to the scope of collection, with no indication of any intentional attempt to violate or circumvent any legal requirement.

[Turn to Stu]

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Oversight and Compliance Discussion:

(U) Mr. Evans has described the legal framework for Section 702.

(U) Across the Intelligence Community and involving all three branches of government, we have strong and effective oversight to ensure that the legal framework is complied with and that citizens' legal and privacy rights are respected, and we are proud of our record in that regard.

(U) First, we have rigorous processes to ensure that all targets of surveillance are appropriate under the law – that we are only targeting non-US persons outside the US for foreign intelligence purposes.

(U) Analysts must undergo extensive training before they can nominate selectors for targeting, and those nominations have to be documented and reviewed before they are approved.

(U) Our audits have shown that the rate of error in targeting is extremely low, consistently less than 1%.

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(U) Similarly, analysts with access to the data collection under Section 702 are required to have specific training in the retention and dissemination protections embodied in the minimization procedures.

~~(S//NF)~~ Second, the operation of the program is overseen within agencies by lawyers, Inspectors General, and Privacy Civil Liberties Officers, (b)(1), (b)(3)

NSA's compliance office, and CIA's FISA program office.

(U) There is also oversight from outside by ODNI and the Department of Justice, which conduct regular audits which focus not only on compliance with the targeting procedures, but also on the querying of the data that is obtained and dissemination of information under the minimization procedures.

(U) We are required to and do report compliance incidents to the FISA Court.

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(U) As I said earlier, we have never found an incident of the IC agencies' intentional violation of the law when implementing 702 collection or using 702-derived information in furtherance of their investigations or operations. However, when we do find mistakes, they are reported and corrected.

~~(S//NF)~~ Third, we have extensive reporting to Congress about the program, including providing the Judiciary and Intelligence Committees relevant orders of the FISA Court and associated pleadings, descriptions and analysis of compliance incidents, and relevant statistical information, including, for example, the

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number of intelligence reports in which a U.S. person was identified.

(U) All-in-all, this is an effective oversight program. If you would like any more detail, we would be glad to answer any questions, but first want to turn to the NSA and FBI to discuss some the program's value.

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