



**Remarks by ODNI General Counsel
Mr. Robert Litt**

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Video of this event is available online at www.dni.gov/video.

MR. ROBERT LITT: Thank you, Harvey. I also want to add my thanks to the sponsors and particularly to Holly McMahon for running this conference. And I want to echo Harvey's words about Veterans Day, which I think is a day that is greatly under-observed in this country as we move farther and farther away from the event that it commemorates. And I think it's deserving of more commemoration and the people who serve our country in the military are deserving of more recognition on that day.

When I was nominated for this job, my mother, of course, was very proud and congratulated me, and then she said, what does the general counsel of the Office of the Director of National Intelligence do? Well, four months into the job, I can give her a better answer than I could at that point. The DNI is the head of the Intelligence Community. The ODNI doesn't do the actual work of intelligence; it's our job to make sure that the people who are collecting and analyzing the information have the tools they need, they're adequately focused and coordinated, and that they share information to ensure that the policymakers get the best possible intelligence product.

It's also the DNI's job to oversee the Intelligence Community and make sure that all intelligence activities are conducted in accordance with the Constitution and the laws. And so as general counsel, my job is to give the DNI the legal advice he needs to carry out those responsibilities, but also to work with the other lawyers in the Intelligence Community, including the people here, many of whom I talk to almost on a daily basis, to try to resolve issues of common concern. And I think you'll get a sense for how much common concern there is by the fact that there's probably going to be a fair amount of overlap on the issues that we're going to be talking about here this morning.

Obviously, there are a number of the top issues on our plates that we can't – we won't be able to talk about in this forum. But I do want to mention some, and I might actually do a couple more than three, Harvey – I apologize. Obviously, one of the major issues on all of our plates is the whole issues surrounding the closure of Guantanamo and detention and interrogation. I'm not

going to talk about that at length because I expect others will, but I do want to say that, in my view, it was absolutely the right decision for the President to make to close Guantanamo Bay.

It's proven to be politically, logistically, legally a lot more challenging than people anticipated, but I still think it's the right decision and one that ought to be carried through. Within the ODNI, the general counsel's office, along with the office of legislative affairs has a lot of responsibility for matters having to do with relations with Congress. And this has occupied a lot of my time. One of the issues is the renewal of the Patriot Act provisions that are set to expire at the end of this year, which is the "lone wolf" provision, the roving wiretaps provision and the section 215 business records.

We've been working, along with Department of Justice and the administration as a whole, working, I think very cooperatively, with the Congress to try to draft legislation that, on the one hand, preserves important intelligence-gathering capabilities and, on the other hand, ensures that there are adequate protections for privacy and civil liberty and oversight built in. And I think the bill that came out of the Senate Judiciary Committee is a good compromise that accommodates everybody's interests, and we're hopeful that, that bill will be moved ahead and adopted before the end of the year.

Another legislative matter that I've had to deal with a lot is the question of congressional notification and oversight of intelligence activities. The National Security Act requires that the intelligence committees be kept fully and currently informed of all significant intelligence activities, including anticipated intelligence activities and significant intelligence failures. Some of you may have heard that some in Congress believe that this provision has not been properly complied with in recent years and, indeed, you may hear that a little bit more in the next panel.

And I can tell you that they're expressing the same concerns to us in private that they're saying in public. Director Blair has made very clear, both, again, publicly and privately, that he views the relationship with the intelligence committees as a partnership – that the Intelligence Community benefits from oversight, both because the intelligence committees and their staff can often bring a valuable different perspective to what we do and maybe serve as a reality check in some respects, but also because if there's vigorous and informed oversight, it can help give the public at large some confidence in the way the Intelligence Community is conducting its activities.

And so we are working with the committees on the one hand and the entire Intelligence Community on the other hand to try to improve the oversight process in a way that everybody is comfortable with. Another issue that is very much on the mind of the DNI himself, who has a statutory authority to protect sources and methods from unauthorized disclosure, is leaks of classified information. This is obviously not a new problem or an easy problem to solve, and I think we all recognize that people are very concerned, both about over-classification and about ensuring the free flow of information to the public.

Having said that, I have been in a number of briefings where people have been able to point to leaks of classified information that have caused specific and identifiable losses of intelligence capabilities – not just theoretical, but briefings where this appeared in the press and this target

changed its behavior in that way. And this is something of great concern. Many of you may know Bear Bryant, formerly of the FBI, who the DNI appointed to be the National Counterintelligence Executive. And he's charged Bear with dealing with the issue of leaks. And if you know Bear, you know that means there's going to be something done about it. And you can expect to hear more about this in the coming months.

Finally, if there's a single task that defines the Office of the Director of National Intelligence, it's the responsibility to try to move towards greater integration and information-sharing within the Intelligence Community. This is an imperative. It's not optional; it's something that needs to be done. And it sounds, from the outside, to be a relatively straightforward problem, but four months on the job have shown me that it's not – that it's extremely complex.

You have to deal with different authorities that different agencies have, different rules governing their ability to retain and disseminate information, and with the need to protect sources and methods while, at the same time, disseminating information that other people need. And these are particular problems when you're talking about sharing information outside of the Intelligence Community with state and locals, with foreign governments, but information that needs to be shared and how do you do it.

And apart from the legal issues, there are technical and practical issues, and finally, the problem of creating a culture in the Intelligence Community that treats sharing as the rule rather than hoarding of information. I can't say that I have a strong personal basis for comparison because I have only been on the job for a few months, but it's certainly my sense that we're doing better than we were but we're still not doing as well as we'd like. And this is going to be an issue that's going to require a lot of attention.

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