

STATEMENT FOR THE RECORD BY

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BEFORE THE

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Chairwoman Schakowsky, Chairwoman Eshoo, Ranking Member Miller, Ranking Member Myrick, and Members of the Committee: thank you for inviting me to speak to you today about the Congressional notification process and the practices and procedures in place throughout the Intelligence Community to help ensure that the Congressional intelligence committees are kept fully and currently informed of significant intelligence activities.

Congressional oversight of the Intelligence Community is critical because of the importance of intelligence in protecting our national security, the power of the tools given to the Intelligence Community and their potential risks to privacy, civil liberties, and foreign relations if used improperly, and the necessarily secret nature of much of what the Intelligence Community does. Congress and the President have established reporting and oversight procedures that balance Congress' oversight responsibility with the need to protect our nation's most sensitive information. This oversight, conducted by the intelligence committees through dedicated Members and a cadre of knowledgeable and experienced staff, is a valuable contribution to improving the quality of intelligence and the effective, efficient operation of the Intelligence Community. In addition, robust oversight helps secure the trust of both Congress and the public

in the Intelligence Community. I believe that the Intelligence Community benefits from input from Members of Congress because they bring a different perspective on some of the difficult issues we confront. The value of their input would be limited if the intelligence committees were not “fully and currently informed” of significant intelligence activities.

The Intelligence Community takes seriously its obligation to keep the intelligence committees informed both of the information it needs to conduct intelligence oversight and of national intelligence to inform Congress in its policy-making role. Indeed, Director Blair has repeatedly emphasized the importance of timely congressional notification, and the notification process is subject to the DNI’s continued supervision and oversight. Let me give you some statistics: Since the beginning of the 111th Congress, the Intelligence Community has provided the HPSCI over 500 written Congressional notifications, given approximately 800 briefings, and participated in 20 HPSCI hearings. It has provided the HPSCI several thousand intelligence assessments, reports, and written products on intelligence programs. In addition, the Intelligence Community makes a significant amount of information available to Congress via our classified internet platform called ‘CapNet’, including daily classified intelligence updates on-line from the National Counterterrorism Center, State/INR, the CIA, DIA, NGA and the Office of the DNI among others. In short, the Intelligence Community is working hard to make sure that the intelligence oversight committees have timely and accurate intelligence information to inform policy and enable them to conduct oversight.

This is in accord with our statutory responsibility. To ensure that the intelligence committees are kept “fully and currently informed,” the National Security Act requires the Director of National Intelligence and the heads of all departments and agencies with intelligence

components to notify the committees of intelligence activities, including significant anticipated intelligence activities, significant intelligence failures, and covert actions. This obligation must be exercised “consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive sources and methods or other exceptionally sensitive matters,” which provides the DNI and the heads of departments and agencies a degree of latitude in deciding when and how to bring extremely sensitive matters to the committees’ attention.

In addition, the DNI has a statutory obligation to ensure that all Intelligence Community elements comply with the Constitution and laws of the United States, including the Congressional notification requirements of Title V of the National Security Act. DNI Blair takes seriously his responsibility to ensure that Congress has the information it needs to conduct oversight of the Intelligence Community, and I want to tell you a little bit about what Director Blair and his predecessors have done to carry out that obligation.

In January 2006, an Intelligence Community Policy Memorandum (ICPM) entitled “Reporting of Intelligence Activities to Congress” was issued. That Memorandum, which is binding on all elements of the Intelligence Community, provides guidance about the requirements of notification to the committees. In March of this year, Director Blair issued a memorandum to the heads of all the Intelligence Community elements reaffirming the ICPM and directing that notification of any significant intelligence activity be provided to the intelligence committees within 14 days.

In addition, beginning last summer, Director Blair directed a comprehensive review of the Congressional notification policies and procedures throughout the Intelligence Community.

This review examined whether all Intelligence Community elements were in compliance with Congressional notification obligations and had policies and procedures in place to ensure the intelligence committees would be kept fully and currently informed going forward. At the conclusion of this review, the DNI suggested that each element compare its current policies and procedures to a number of suggested “best practices” and make any necessary changes. These best practices include:

- A process for the head of each IC element informally to canvass his or her leadership regularly for matters requiring Congressional notification. In turn, senior leadership personnel should canvass their offices or components.
- Training and education programs to ensure that personnel understand the duty to identify and put forward matters requiring Congressional notification.
- Written procedures that both establish the obligations related to Congressional notification and outline the internal processes to ensure that significant intelligence activities are identified and reported in a timely fashion, including specifying a point of contact that will have responsibility for ensuring that notifications are timely made.

The DNI will continue to review compliance with Congressional notification requirements by the entire Intelligence Community and, if necessary, will evaluate whether to modify the ICPM.

Intelligence Community elements differ in size, structure, and mission. Some elements, such as the CIA, are large and conduct extensive operations; others are small and purely analytical. Accordingly, there is no need for a detailed “one size fits all” policy on Congressional notification for the entire Intelligence Community. For example, a dollar threshold for “significance” might be very different for the State Department’s Bureau of Intelligence and Research, compared to the National Reconnaissance Office. Rather, different elements should adopt procedures that are adapted to their particular situations. It is essential, however, that each element have standards and procedures that are designed to ensure, to as great an extent as possible, that significant intelligence matters are identified according to a clear and consistent standard, and that such matters are promptly and fully reported to the intelligence committees.

In summary, intelligence oversight is critical to the successful operation of the Intelligence Community, but this oversight can only be effective if the Intelligence Community keeps the intelligence committees fully and currently informed of intelligence activities. The DNI is committed to working with the intelligence committees and the Intelligence Community to address this important issue.

I appreciate having the opportunity to come before this subcommittee today, and I look forward to responding to your questions. However, as you know, because the facts surrounding particular notifications are often classified, I will not be able to discuss specific or hypothetical examples in this open session.