

**Prepared Statement of Senator Chuck Grassley of Iowa
Chairman, Senate Judiciary Committee
Hearing on “Oversight and Reauthorization of the FISA Amendments Act:
The Balance between National Security, Privacy and Civil Liberties”
Tuesday, May 10, 2016**

Almost exactly six months ago, our Nation’s oldest ally, France, suffered the deadliest attack on its soil since World War II. In a series of coordinated suicide bombings, mass shootings, and hostage-takings across Paris, ISIS killed 130 people and injured 368 more. The President of France referred to it as an act of war.

A month or so later, in December, the United States sustained the most deadly terrorist attack on *our* soil since September 11, 2001. In San Bernardino, a couple inspired by ISIS opened fire on an office holiday party, killing 14 and seriously injuring 22 more.

A few months after that, ISIS struck again, in Brussels, the home of NATO’s headquarters. On March 22, it launched a series of coordinated bombings at an airport and train station there that killed 32 and injured over 300.

These attacks underscore that one of the core responsibilities of our government is to ensure that those who protect us every day, including the Intelligence Community, have the tools to keep us safe. And these tools must adapt to both the changing technological landscape and the evolving security threats we face.

But at the same time, the rights and liberties enshrined in our Constitution are a constant. And it’s the duty of this Committee in particular to be vigilant in ensuring that they endure, no matter what.

Section 702 of the FISA Amendments Act, which provides the government the authority to collect the electronic communications of foreigners outside the United States with the compelled assistance of American companies, sits at the intersection of these responsibilities.

In 2008, after much debate and discussion, this law was passed by Congress and signed by President Bush. And in 2012, it was reauthorized by Congress without any changes and with President Obama’s strong support. From all accounts, it’s proven to be highly valuable in helping to protect the United States and our allies.

Moreover, the Privacy and Civil Liberties Oversight Board, the Foreign Intelligence Surveillance Court, and many other federal courts have found Section 702 constitutional and consistent with the Fourth Amendment.

But questions and concerns persist for some about its effect on our civil liberties. Most of these concerns relate to the treatment of communications collected when it turns out that a targeted foreigner is in contact with someone *inside* the United States. But of course, these are also situations where the program can be highly valuable, by letting our government know if a foreign terrorist plot might reach our shores.

So this Committee's oversight of this law should continue to be robust. And although the FISA Amendments Act doesn't require Congress to reauthorize it until the end of 2017, I'd like to begin the conversation about it well in advance of that.

That's why I requested that the Committee receive a classified briefing from the Obama Administration on Section 702 back in March. It's why I'm so glad to have such a distinguished panel here with us today to talk through these issues. And it's why I'm sure we'll continue this public dialogue with the Administration and others in the future.

As I mentioned, Section 702 allows for the targeting of foreigners located overseas for surveillance. The statute specifically prohibits the targeting of anyone in the United States, or any U.S. person, wherever that person is located in the world. And it also prohibits "reverse targeting" -- that is, targeting someone outside the country for the purpose of targeting a specific person who is located inside it.

Under the statute, the FISA Court must approve targeting and minimization procedures to ensure that only appropriate individuals are subject to surveillance, and that limit the handling and use of any communications collected. And implementation of the statute is overseen by all three branches of government, including the appropriate Inspectors General.

Now it's true that human error has led to mistakes in implementing the law over the years. But it's also significant that no internal or external review of the Section 702 program has ever found any instance of an intentional violation of the law.

Moreover, Section 702 has been highly important to our national security. The Privacy and Civil Liberties Oversight Board found unequivocally that it "has helped the United States learn more about the membership, leadership structure, priorities, tactics, and plans of international terrorist organizations. It has enabled the discovery of previously unknown terrorist operatives as well as the locations and movements of suspects already known to the government. It has led to the discovery of previously unknown terrorist plots directed against the United States and foreign countries, enabling the disruption of those plots."

The Board came to these conclusions about the value of the Section 702 program after conducting a lengthy, in-depth review of it. Just as importantly, however, the Board found that the program was constitutional and authorized by the statute. In addition, the Board proposed a number of recommendations to help improve the privacy and civil liberties protections of the Section 702 program.

According to the Board's most recent assessment report in February, all of its recommendations have been implemented in full or in part, or the relevant government agency has taken significant steps toward adoption. That's encouraging news. Among other things, I look forward to hearing about the status of those recommendations today as we discuss reauthorizing this important national security authority.