

**Opening Statement of GEN Keith B. Alexander, Director, NSA
before the Senate Committee on the Judiciary
2 October 2013**

- Chairman Leahy, Ranking Member Grassley, distinguished members of the Committee, thank you for the opportunity to provide opening remarks.
- I am privileged today to represent the work of the dedicated professionals at the National Security Agency who employ the authorities provided by Congress, the federal courts and the Executive Branch to help protect the nation and protect our civil liberties and privacy.
- If we are to have an honest debate about how NSA conducts its business, we need to step away from sensationalized headlines and focus on facts.
- Our mission is defend the nation and to protect our civil liberties and privacy. Ben Wittes from the Brookings Institution said about the media leaks and specifically about these two FISA programs: “shameful as it is that these documents were leaked, they actually should give the public great confidence in both NSA’s internal oversight mechanisms and in the executive and judicial oversight mechanisms outside the Agency. They show no evidence of any intentional spying on Americans or abuse of civil liberties. They show a low rate of the sort of errors any complex system of technical collection will inevitably yield. They show robust compliance procedures on the part of the NSA. And they show an earnest, ongoing dialogue with the FISA court over the parameters of the Agency’s legal authority and a commitment both to keeping the court informed of activities and to complying with its judgments on their legality.”
- Today I’d like to present facts to specifically address:
 - Who we are in terms of both our mission and our people;
 - What we do: adapt to technology and the threat; take direction from political leadership; operate strictly within the law and consistent with explicit intelligence priorities; and ensure compliance with all constraints imposed by our authorities and internal procedures;
 - What we have accomplished specifically for our country with the tools we have been authorized; and
 - Where do we go from here?

Who We Are – Our Mission

- NSA is a foreign intelligence agency with two missions:
 - We collect foreign intelligence of national security interest and
 - We protect certain sensitive information and U.S. networks.

- All this while protecting our civil liberties.
- NSA contributes to the security of our nation, its armed forces, and our allies.
- NSA accomplishes this mission, while protecting civil liberties and privacy – because the constitution we are sworn to protect and defend makes no allowances to trade one for the other.
- NSA operates squarely within the authorities granted by the president, congress and the courts.

Who We Are – Our People

- I'm proud of what NSA does and more proud of our people.
 - National Security Agency employees take an oath to protect and defend the constitution of the United States of America.
 - They have devoted themselves to protecting our nation.
 - Just like you, they will never forget the moment terrorists killed 2,996 Americans in New York, Pennsylvania, and the Pentagon.
 - They witnessed the first responders' efforts to save lives. They saw the military shift to a wartime footing. They committed themselves to ensuring that another 9/11 would not happen and our deployed forces would return home safely.
 - In fact, they deploy with our armed forces into areas of hostility.
 - More than 6,000 deployed in support of operations in Iraq, Afghanistan, and CT.
 - 22 paid the ultimate sacrifice since 9/11; sadly adding to a list of NSA/CSS personnel numbering over 170 killed in the line of duty since NSA's formation in 1952.
 - Theirs is a noble cause.
- NSA prides itself on its highly skilled workforce.
 - We are the largest employer of mathematicians in the U.S. (1,013).
 - 966 PhDs and 4,374 computer scientists.
 - Linguists in more than 120 languages.
 - More patents than any other Intelligence Community agency and most businesses.
 - They are also Americans and they take their privacy and civil liberties seriously.

What We Do – Adapt to Technology and the Threat

- Today's telecommunications system is literally one of the most complex systems ever devised by mankind.
- The fact that over 2.5 billion people all connect and communicate across a common infrastructure is a tribute to the ingenuity of mankind. The stark reality is that terrorists, criminals and adversaries make use of the same infrastructure.
- Terrorists and other foreign adversaries hide in the same global network, use the same communications networks as everyone else, and take advantage of familiar services: Gmail, Facebook, Twitter, etc. Technology has made it easy for them.
- We must develop and apply the best analytic tools to succeed at our mission; finding the communications of adversaries while protecting those of innocent people, regardless of their nationality.

What We Do – Take Direction from Political Leadership (NIPF)

- NSA's direction comes from national security needs, as defined by the nation's senior leaders.
- NSA does not decide what topics to collect and analyze.
- NSA's collection and analysis is driven by the national intelligence priorities framework and received in formal tasking.
- We do understand that electronic surveillance capabilities are powerful tools in the hands of the state. That's why we have extensive mandatory internal training, automated checks, and an extensive regime of both internal and external oversight.

What We Do – Use Lawful Programs and Tools to Do Our Mission

- The authorities we have been granted and the capabilities we have developed help keep our nation safe.
- Since 9/11 we have disrupted terrorist attacks at home and abroad using capabilities informed by the lessons of 9/11.
- The Business Records FISA program, NSA's implementation of Section 215 of the PATRIOT Act, focuses on defending the homeland by linking the foreign and domestic threats.
- Section 702 of FISA focuses on acquiring foreign intelligence, including critical information concerning international terrorist organizations, by targeting non-U.S. persons who are reasonably believed to be located outside the United States.

- NSA also operates under other sections of the FISA statute in accordance with the law’s provisions (such as Title 1 and Section 704).
- It is important to remember that in order to target a U.S. person anywhere in the world under the FISA statute, we are required to obtain a court order based on a probable cause showing that the prospective target of the surveillance is a foreign power or agent of a foreign power.
- NSA conducts the majority of its SIGINT activities solely pursuant to the authority provided by Executive Order (EO) 12333.
- As I have said before, these authorities and capabilities are powerful; we take this responsibility seriously.

What We Do – Ensure Compliance

- We stood up a Director of Compliance in 2009 and repeatedly train our entire workforce in privacy protections and the proper use of capabilities.
- We do make mistakes. The vast majority of compliance incidents reflect the challenge of implementing very specific rules in the context of ever-changing technology.
- Compliance incidents, with very rare exception, are unintentional and reflect the sort of errors that will occur in any complex system of technical activity.
- The press claimed evidence of “thousands of privacy violations.”
- This is false and misleading.
- According to NSA’s independent Inspector General, there have been only 12 substantiated cases of willful violation over 10 years – essentially one per year from a population of NSA/CSS personnel numbering in the tens of thousands. But the relatively small number of cases does not excuse any infraction of the rules. We took action in every case referring several to the department of justice for potential prosecution; appropriate disciplinary action was taken in others.
- We hold ourselves accountable every day.
- Most of these cases involved improper tasking or querying regarding foreign persons in foreign places.
- I am not aware of any intentional or willful violations of the FISA statute, which is designed to be most protective of the privacy interests of U.S. persons.
- Of the 2,776 incidents noted in the press from one of our leaked annual compliance reports, about 75% are not violations of approved procedures at all but rather NSA’s detection of valid foreign targets that travel to the U.S. and a record that NSA stopped collecting, in accordance with the rules (roamers).

- Let me also start to clear the air on actual compliance incidents.
- The vast majority of the actual compliance incidents involve foreign locations and foreign activities, as our activities are regulated by specific rules wherever they occur.
- For the smaller number that did involve a U.S. person, a typical incident involves a person overseas involved with a foreign organization who is subsequently determined to be a U.S. person. All initial indications and research before collection point the other way, but NSA constantly re-evaluates indications.
- NSA detects and corrects and – in most cases – does so before any information is even obtained, used, or shared outside of NSA.
- Despite the difference, between willful and not, we treat incidents the same: we detect, we address, we remediate – including removing or purging information from our databases in accordance with the rules. And we report.
- We hold ourselves accountable and keep others informed so they can do the same.
- On NSA’s compliance regime Ben Wittes said at last Thursday’s Intelligence Committee hearing: “but one thing we have learned an enormous amount about is the compliance procedures that NSA uses. They are remarkable. They are detailed. They produce data streams that are extremely telling – and, to my mind, deeply reassuring.”(26 September)
- We welcome an ongoing discussion about how the public can, going forward, have increased information about NSA’s compliance program and its compliance posture, much the same way all three branches of the government have today. From our perspective, additional measures that will increase the public’s confidence in these authorities and our use of them, can and should be open for discussion.

What We have Accomplished for Our Country

- NSA’s existing authorities and programs have helped “connect the dots,” working with the broader Intelligence Community and homeland and domestic security organizations, for the good of the nation and its people.
- NSA’s programs have contributed to understanding and disrupting 54 terror related events: 25 in Europe, 11 in Asia, 5 in Africa, and 13 related to the homeland.
- This was no accident nor coincidence.
- These were direct results of a dedicated workforce, appropriate policy, and well scoped authorities created in the wake of 9/11 to make sure 9/11 never happened again.

- This is not the case in other countries. In the week ending 23 September there were 972 terror-related deaths in Kenya, Pakistan, Afghanistan, Syria, Yemen and Iraq. [Kenya, 62; Pakistan, 75; Afghanistan, 18; Syria, 504; Yemen, 50; and Iraq, 263].
- Another 1,030 were injured in the same countries.
- We need these types of programs to protect against having these types of statistics on our soil.
- NSA's global system is optimized for today's technology on a global network.
- Our analytic tools are effective at finding terrorist communications in time to make a difference.
- This global system and analytic tools are also what we need for cybersecurity.
- This is how we see in cyberspace, identify threats there, and defend networks.

Reforms

- On 9 August the President laid out some specific steps to increase the confidence of the American people in our foreign intelligence collection programs.
- We are always looking for ways to better protect privacy and security. We have improved over time our ability to reconcile our technology with our operations and with the rules and authorities. We will continue to do so as we go forward and strive to improve how we protect the American people – their privacy and security.
- Regarding NSA's telephone metadata program, policy makers across the Executive and Legislative Branches will ultimately decide whether we want to sustain or dispense with a tool designed to detect terrorist plots across the seam between foreign and domestic domains. Different implementations of the program can address the need, but each should be scored against several key attributes:
 - Privacy – privacy and civil liberties are protected.
 - Agility – queries can be made in a timely manner so that, in the most urgent cases, results can support disruption of imminent terrorist plots.
 - Duration – terrorist planning can extend for years, so the metadata repository must extend back for some period of time in order to discover terrorist plans and disrupt plots.
 - Breadth – repository of metadata is comprehensive enough to ensure query responses can indicate with high confidence any connections a terrorist-associated number may have to other persons who may be engaged in terrorist activities.
- As you consider changes in metadata storage location, length of storage, who approves query terms, and the number of hops, we must preserve these foundational attributes of BR FISA.

- Similarly as you entertain reforms to the FISC, operational and practical considerations must be weighed so that there are no inherent delays; emergency provisions are maintained; and any reform to the FISC structure is respectful of the nature of classified information.

Conclusion

- NSA looks forward to supporting the discussion of reforms. Whatever changes are made, we will exercise our authorities dutifully, just as we have always done.
- The leaks of classified NSA and partner information will change how we operate and what people know about us.
- However, the leaks will not change the ethos of the NSA workforce, which is dedicated to finding and reporting the vital intelligence our customers need to keep the nation safe, in a manner that is fully compliant with the laws and rules that authorize and limit NSA's activities and sustain the privacy protections that we as a nation enjoy.
- I look forward to answering your questions.