

Talking Points - CIA-Georgetown University National Security Conference

June 11, 2014 – 8:30 a.m.

Five minute opening remarks on these suggested topics:

Changes in the collection environment—emergence and adoption of technology and cybersecurity such as crypto, policy and legal, perceived risk, industry attitudes, support to network defenders

Prospects for legal reform or new restrictions—FISA and privacy, information sharing including liability and anti-trust issues and who's in charge within the Federal government, requests for industry action against malicious activity, data breach notification

- We in Congress need to update the laws that govern intelligence and law enforcement access to internet data, namely FISA, ECPA and CALEA. As part of that debate, we need to consider how to modernize these laws to be **technology neutral**. If we bring everyone to the table, I believe we could do that in a way that satisfies our national security, law enforcement, and privacy needs.
- We must ensure these laws focus on what data can be accessed, under what circumstances, and for what purpose, regardless of where that data is found and how it is stored or moved. If we don't, technology will keep changing and our laws will continue to lag behind in a way that is not helpful to either privacy or security.
- FISA is a great example of this problem. In recent years, we have made incremental changes to the law, under either the looming deadline of a legislative sunset or because a change in technology created a dangerous gap in our collection. These changes have added new layers of duct tape and bailing wire to FISA's outdated 1970s-era technological framework. The House recently passed a FISA reform bill that takes small steps in the right direction, and I hope the Senate will act on it soon.
- Other laws like ECPA and CALEA may not be in the forefront of everyone's mind, perhaps because there are no looming legislative sunsets, but they are also hopelessly rooted in yesterday's technology. Only by modernizing these tools can we give our intelligence and law enforcement agencies the tools they need to keep us safe.