

**Chairman Talking Points AEI World Forum
March 7, 2014**

The NSA, Fighting Terrorism, and the Limits of Privacy

- Time: Friday afternoon March 7
 - Abstract: Data mining, cellphone monitoring, spying, and scandal: all are the subtext of every recent story about the National Security Agency in the age of Snowden. Is the NSA protecting Americans from terrorists or rifling through your sock drawer? Where is the line between civil liberty and safety?]
 - Other Panelists: Keith Alexander and Michael Hayden. Jeff Eisenach is the moderator.
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- Thank you AEI for inviting me to discuss the changing public discourse about national security issues following the unprecedented theft and disclosure of classified national security information last summer. [Nod to other panelists].
- Striking the appropriate balance between national security and civil liberties is critical, and this important discussion has been and continues to be a focus of the House Intelligence Committee's oversight of the entire Intelligence Community.
- To have this discussion in a meaningful manner, we need to have an accurate understanding of our intelligence programs. However, a public discussion quickly becomes difficult when the details of intelligence programs are classified.
- I can tell you one thing about the articles that have been published since June, 2013: Not a single one has been fully accurate. It's impossible to weigh the operational value of a program against civil liberties and privacy concerns when the public impression of a program is largely inaccurate, and the Intelligence Community's processes for protecting privacy are largely ignored. The sensationalized manner in which the media reports these leaks would have you believe the NSA is rifling through your sock drawer. That is simply not the case.
- You can't see the entire picture if you only have one or two pieces of a puzzle, which is what the former NSA contractor leaked and the media eagerly ran with.

- For example, the Section 215 bulk metadata program that is now the topic of much public debate is subject to stringent internal controls as well as oversight by all three branches of government. The program is legal and constitutional. Seventeen federal judges have now upheld the program 37 different times.
- Moreover, the call record data the NSA collects under this program does not include any content, names, or addresses. Seventeen judges have taken the time to study the program and determined that, under longstanding Supreme Court precedent, it does not violate the Fourth Amendment. Of course, this also makes common sense. The limited data sets collected are business records, not the personal property or communications of individuals.
- Let me emphasize: **The NSA is not listening to phone calls or reading e-mails of ordinary Americans**. Only a few dozen people can access the call records data, and they can only query the data when they have a reasonable suspicion that call data is associated with a foreign terrorist.
- This program is valuable. It has helped the NSA identify terrorist networks inside the U.S. and stop attacks before they happen. This program closed a gap we found after 9/11. There was a terrorist named al Mihdhar. We knew he was bad and we knew he was plotting against the United States. But we didn't know he was in the United States, plotting the 9/11 attack. If we had this program in place, we just might have been able to prevent 9/11 and save nearly 3,000 American lives. That's one of the reasons presidents of both parties, both houses of Congress, and seventeen judges have all approved the program.
- A second program publicly disclosed was identified in press reports as "PRISM" and involves targeted surveillance of foreigners located abroad for foreign intelligence purposes under section 702 of FISA. This is not a "bulk" collection program. NSA searches for specific identifiers—for example, email addresses) of non-U.S. persons overseas whose communications will contain foreign intelligence. This program, like 215, is overseen by the Justice Department, the FISA court and Congress.
- As a United States person, you cannot legally be the target of 702 collection. As a United States person, if the Government wants to target your communications for

electronic surveillance under FISA, regardless of where you are physically located in the world, it must first obtain a court order based on probable cause.

- The 702 program is one of the most valuable counterterrorism tools we have.
- These programs are also subject to an enormous amount of oversight. FISA programs are overseen by a court, Congress, and several inspectors general, and are subject to internal compliance auditing.
- Despite all of the protections in place, there still exists baseless rhetoric that the NSA is still spying on innocent Americans. In light of this public outcry about the NSA's activities, it's worth taking a moment to consider the difficult job we have asked the NSA to perform.
- Part of the NSA's job is to find the communications of terrorists before a catastrophic attack happens. All the while, technology is evolving and terrorists are changing communications devices and tactics to avoid detection.
- Public discussions about NSA's tools can tip off terrorists about how we disrupt their activities and make it harder for the men and women of the intelligence community to protect our nation.
- The men and women of the NSA work relentlessly, anonymously, and now, unfortunately, under great public disparagement. They act under a fulsome compliance regime that includes standards and procedures designed to minimize any impact on privacy and civil liberties of Americans.
- To that end, there has never been a willful abuse of the heavily audited 215 or 702 programs. The IGs found no abuse, the House or Senate Intelligence Committees found no abuse, the courts found none, the Justice Department found none, and the President's review group found none. Even the Privacy and Civil Liberties Oversight Board (PCLOB) did not find the 215 program to be unconstitutional but rather not compliant with statute. The NSA is not a rogue agency – it is an agency that is very good at collecting the foreign intelligence America needs to keep us safe.

- I look forward to discussing how to protect our national security and preserve our civil liberties, but that discussion must reflect how our intelligence programs actually operate—*not* how the media misrepresents them.

The Traitor

- The President acknowledged whistleblowers don't steal secrets and flee. A whistleblower exposes illegal activity, not a program that has been approved by all three branches of government and that has never been intentionally abused, not flee to China and Russia.
- Snowden is no hero. Now he is bartering the information he stole for his own personal gain.
- The Russian intelligence service is one of the best services in the world and is hostile to the United States. They have had the former NSA contractor in their custody for months. It would be crazy not to think the FSB is debriefing and exploiting him.
- Snowden spreading a lie about America conducting industrial espionage to a German newspaper is a perfect example. This lie does nothing but harm America's economic interests by influencing a pending U.S.-European trade agreement.
- The Russians have a long and successful history of running misinformation campaigns to work against the U.S. Under Putin, whether in Syria, on Iran, or with Snowden, the Russians are eager to bloody the nose of the U.S. at every available opportunity.
- As the Department of Defense recently explained, we have experienced the single largest compromise of national security information in our nation's history, and we are not talking about business records and phone metadata.
- These compromises go to the very core of this country's ability to defend itself. They seriously threaten the capabilities of every one of our armed services: the Army, the Air Force, the Marines, the Navy.