

Opening Statement

of

Chairman Peter Hoekstra

“Legislative Proposals to Modernize the Foreign Intelligence
Surveillance Act”

Permanent Select Committee on Intelligence
U.S. House of Representatives

July 27, 2006

Good afternoon, and welcome. Today the Committee will continue to consider issues relating to potential legislation to modernize the Foreign Intelligence Surveillance Act, or “FISA”.

Last week, the Committee had an excellent hearing to receive testimony from outside witnesses on the subject of modernizing FISA. Judge Richard Posner testified that the current FISA structure is “dangerously obsolete” and “hopeless as a framework for detecting terrorists.” Kim Taipale of the Center for Advanced Studies in Science and Technology Policy testified that the current law “simply did not anticipate the development of global communications networks or advanced technical methods for intelligence gathering.”

I want to particularly emphasize that testimony, because it is important that the intelligence issues are kept at the forefront of this debate. As part of our overall review of this issue, we will consider fundamental issues with respect to Constitutional powers, checks and

balances, and legal processes. Those solemn matters deserve our fullest attention. At the same time, we are a nation at war with a sophisticated terrorist enemy. Our ultimate responsibility is not an academic or a political one – it is the responsibility of ensuring that we best empower the Intelligence Community to fight the war on terror and protect American citizens, with appropriate protections for civil liberties.

And it should be clear that the Intelligence Community requires additional tools. Yesterday, General Mike Hayden testified that “In terms of both technology and the character of our enemy, ‘in’ America and ‘of’ America no longer were synonymous” after the 9/11 attacks. The very specific technical challenges that he has identified and repeatedly briefed to the Committee are real, and they are significant. I agree fully with his comment that “I don’t think that anyone could make the claim that the FISA statute was optimized to deal with a 9/11 or to deal with a lethal enemy who likely already had combatants inside the United States.”

The Terrorist Surveillance Program that has been described by the President was initiated because of the deficiencies in FISA and the process used to implement it – not in spite of FISA.

Today, the Committee will receive testimony from Members who have sponsored or cosponsored legislation to address various issues relating to FISA. By agreement with the Ranking Member, the Committee will receive testimony in two blocks of time. First,

the Chair of our Subcommittee on Technical and Tactical Intelligence, Ms. Wilson, will testify for 10 minutes with respect to her bill, H.R. 5825, to modernize FISA. I am a cosponsor of her bill, as is the Chairman of the Judiciary Committee, Mr. Sensenbrenner. I believe that this bill recognizes the importance of empowering the Intelligence Community as well as ensuring appropriate safeguards, and it will provide an important base for our deliberations as the Committee moves ahead with the process.

In addition, the Committee will receive testimony in a second block of 10 minutes from the proponents of two bills intended to reinforce the current FISA structure. The first is H.R. 5371, the "LISTEN Act," that is sponsored by the Ranking Member of the Full Committee, Ms. Harman, and cosponsored by the Ranking Member of the Judiciary Committee, Mr. Conyers.

Although we do not have bipartisan agreement on a solution to the FISA issue, it is a notable accomplishment that the leadership of the Intelligence and Judiciary Committees in the House are in broad agreement on the parameters of this debate. The second bill is H.R. 4976, sponsored by Mr. Schiff of California, and cosponsored by Mr. Flake of Arizona.

I have asked the witnesses to provide their perspectives on potential initiatives to modernize and reform FISA generally, as well

as any testimony they may wish to offer on their specific bills legislation.

I look forward to the testimony, but first will recognize the Ranking Member for her opening statement.