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R E P O R T
OF THE
SELECT COMMITTEE ON INTELLIGENCE
UNITED STATES SENATE
COVERING THE PERIOD
JANUARY 6, 2015
TO
JANUARY 2, 2017



MARCH 29, 2017.—Ordered to be printed

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PREFACE

The Select Committee on Intelligence submits to the Senate this report on its activities from January 6, 2015 to January 2, 2017. This report also includes references to activities underway at the conclusion of the 114th Congress that the Committee expects to continue into the future.

Senate Resolution 400 of the 94th Congress charges the Committee with oversight responsibility for the programs and activities of the United States Intelligence Community (IC). The Committee conducts the preponderance of its oversight work in secret; accordingly, it cannot be discussed publicly to protect sensitive sources and methods. Nevertheless, the Select Committee on Intelligence has submitted activities reports on a biennial basis since 1977 to provide the American public with information about its intelligence oversight efforts. We submit this report to the Senate in furtherance of this practice.

We also take this opportunity to thank all of the Members of the Committee in the 114th Congress. In particular, we take special note of our colleagues who have completed their service on the Committee. Senator Mikulski served on the Committee from the 107th Congress until she retired from the U.S. Senate at the end of the 114th Congress. Senator Coats served on the Committee from the 112th Congress until he retired from the U.S. Senate at the end of the 114th Congress. Senator Reid served on the Committee in the capacity of an *ex officio* (non-voting) member from the 109th Congress until he retired from the U.S. Senate at the end of the 114th Congress. Senator Hirono served on the Committee during the 114th Congress. Their commitment to the Committee's important work helped to ensure an adaptive, capable IC and a secure nation amidst a time of global instability. We are grateful for their efforts.

We also express our sincerest gratitude for the work of all members of the Committee's staff during the 114th Congress. Their professionalism and dedication were essential to the Committee's fulfillment of its oversight mandate.

RICHARD BURR,
Chairman.
MARK R. WARNER,
Vice Chairman.

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COMMITTEE ACTIVITIES

MARCH 29, 2017.—Ordered to be printed

Mr. BURR, from the Select Committee on Intelligence,
submitted the following

R E P O R T

I. INTRODUCTION

The activities of the Committee during the 114th Congress included: passage and enactment into law of critical legislation; confirmation of a nominee to a key intelligence Inspector General post; conducting extensive inquiries into, and reviews of, activities of the IC. In addition, the Committee fulfilled its many other oversight responsibilities through regularly interacting with IC senior leaders, conducting numerous hearings and briefings, traveling abroad with Member and staff delegations, and visiting domestic IC facilities.

As described in Part II of this report, the Committee's paramount legislative priority and achievement in the 114th Congress was enactment of the Cybersecurity Information Sharing Act of 2015 (S. 754). The incorporation and promulgation of this legislation as part of H.R. 2029 (Public Law No: 114–113) represented the culmination of a steadily increasing alarm among Committee Members about cybersecurity threats facing our nation. Informed by a multi-year, extensive effort that drew on the input of senior intelligence officials and private sector experts, the Committee sponsored the Cybersecurity Information Sharing Act of 2015 to improve cybersecurity in the United States through enhanced sharing of cybersecurity threat information.

Additionally, the Committee was successful in enacting a seventh consecutive intelligence authorization bill (the Intelligence Authorization Act for Fiscal Year 2016), and favorably reporting out of Committee the Intelligence Authorization Act for Fiscal Year 2017.

Throughout the 114th Congress, the Committee routinely inquired into the IC's efforts to protect our national interests—at home and abroad—against the unpredictable and evolving terrorism threat, while safeguarding citizens' privacy and civil liberties. Similarly, the Committee made the IC's preparedness to

warn of, and defend against, the cyber capabilities of adversary nations and non-state actors, a regular point of inquiry in hearings, briefings, and roundtable discussions with the IC leadership. Finally, by means of hearings, staff briefings, site visits, and other interactions with the IC, the Committee exercised particular oversight of the IC's performance relative to Syria, Iraq, Iran, Afghanistan, Pakistan, and the Asia-Pacific Region.

II. LEGISLATION

A. CYBERSECURITY INFORMATION SHARING ACT OF 2015

The serious and growing number of cyber threats has been the subject of significant Committee oversight and extensive testimony from senior IC officials. The Committee has reviewed many troubling cybersecurity incidents and focused considerable attention on malicious actors' efforts in cyberspace to inflict harm in the short term, and to intensify their capabilities over the long term. Through IC reporting and senior officials' testimony, the Committee has maintained awareness of the broad scope of risks posed by cyber threats to our national security and economic interests. Foreign cyber actors have stolen sensitive U.S. national security information and valuable commercial information for intelligence purposes and economic gain. The Committee has noted with growing concern a trend in cyber activity: intrusions into sensitive government systems and critical infrastructure. The potential for a disruptive or destructive attack on our infrastructure continues to be one of the most significant cyber threats facing the United States.

Capitalizing on its cybersecurity and legal expertise, the Committee constructed a legal framework to improve the sharing of information between the public and private sector about cyber threats. Building on the Committee-reported Cyber Information Sharing Act (CISA) during the 113th Congress, the Committee reported an updated Cybersecurity Information Sharing Act of 2015 (S. 754) on March 17, 2015. The bill included authorizations, procedures, and protections to encourage public/private collaboration on cybersecurity threats, including:

- Requirements for procedures for the government to increase sharing about cybersecurity threats with the private sector, including increased sharing of classified information and declassification as appropriate;
- Clarification of authorities for entities to monitor data on or transiting their networks or those of consenting customers, for cybersecurity threats, take defensive measures on their networks for cybersecurity purposes, and voluntarily share relevant information about cybersecurity threats with each other and the government;
- Requirements for procedures to ensure appropriate sharing of cyber threat indicators and defensive measures within the government, establishment of privacy guidelines, and the creation of a capability and process at the Department of Homeland Security as the primary means of receiving cyber threat indicators and defensive measures from the private sector;

- Limitations on the government's use of cyber threat information to cybersecurity efforts, responding to specific public safety threats, and countering computer crimes;
- Provision of liability protection to private entities that appropriately monitor their networks and share cyber threat indicators and defensive measures consistent with privacy rules; and,
- Requirements for multiple levels of oversight of the information sharing system by senior government officials, inspectors general, the Privacy and Civil Liberties Oversight Board, and Congress.

This legislation passed the Senate on October 27, 2015, by a vote of 74–21, and it was incorporated into and became law as part of H.R. 2029 on December 18, 2015 (Public Law No: 114–113).

B. INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2016

In the 114th Congress, the Committee emphasized the continued enactment of annual intelligence authorization acts as a primary means of its oversight.

The Committee's budget monitors evaluated the fiscal year 2016 National Intelligence Program and Military Intelligence Program budget requests submitted by the President.

The intelligence entities covered by the annual budget reviews included: the Office of the Director of National Intelligence (ODNI), the Central Intelligence Agency (CIA), the Defense Intelligence Agency (DIA), the National Security Agency (NSA), the National Geospatial-Intelligence Agency (NGA), the National Reconnaissance Office (NRO); the intelligence capabilities of the military services and the U.S. Coast Guard; and, the intelligence-related components of the Federal Bureau of Investigation (FBI), as well as the Departments of State, Treasury, Energy, and Homeland Security, and the Drug Enforcement Administration.

As part of its budget review, the Committee received testimony from senior IC officials in closed hearings. Additionally, Committee budget monitors evaluated classified budget justifications submitted by the Executive Branch. Based on those reviews, the Committee prepared a classified annex to its annual authorization bill and report. This annex contained a classified schedule of authorizations and classified direction to IC elements.

The Committee also reviewed the Administration's legislative proposals for the public part of the fiscal year 2016 bill, which included new or amended legislative authority requested by the IC.

The Committee completed work on an intelligence authorization bill for fiscal year 2016 and reported a bill (S. 1705) on July 7, 2015, and subsequently reported an accompanying report (S. Rpt. 114–83) on July 16, 2015. The House of Representatives had previously passed the Intelligence Authorization Act for Fiscal Year 2016 (H.R. 2596) on June 16, 2015, by a vote of 247–178. The Committee then worked with the House Permanent Select Committee on Intelligence and other congressional committees on a final version of the legislation. On December 1, 2015, the House of Representatives passed an amended version of H.R. 2596 (H.R. 4127), by a vote of 364–58.

Subsequently, the intelligence committees continued to work on a joint bill to be included as Division M of the Consolidated Appro-

priations Act of 2016 (H.R. 2029). After resolving differences, both the House and the Senate passed H.R. 2029 by recorded votes on December 18, 2015. It was presented to the President and signed into law on December 18, 2015 (Public Law 114–113).

The Intelligence Authorization Act for Fiscal Year 2016 authorized funding for intelligence and intelligence-related activities across the U.S. Government and included a classified schedule of authorizations and a classified annex. The Act contained a number of legislative provisions, including:

- A requirement for the Director of National Intelligence (DNI) to direct each agency to implement a program for enhanced security review of individuals who have been deemed eligible for access to classified information or to hold a sensitive position;
- A requirement for the DNI, in collaboration with the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff, to develop a strategy, with milestones and benchmarks, to ensure that there is a comprehensive interagency review of policies and practices for planning and acquiring national security satellite systems and architectures, including the capabilities of commercial systems and partner countries, consistent with the National Space Policy issued on June 28, 2010;
- A provision making the National Counterintelligence Executive subject to Presidential appointment and Senate confirmation;
- A requirement that the DNI submit an assessment to the appropriate congressional committees concerning the funding of political parties and nongovernmental organizations in the former Soviet States and Europe by the Russian Security Services since January 1, 2006, as well as an assessment concerning the use of political assassinations as a form of statecraft by the Russian Federation to the appropriate congressional committees;
- A requirement that the Secretary of State ensure that key supervisory positions at United States diplomatic facilities in Cuba are occupied by citizens of the United States who have passed a thorough background check, and, in coordination with other appropriate government agencies, submit to the appropriate congressional committees a plan to further reduce the reliance on locally employed staff in United States diplomatic facilities in Cuba, including cost estimates, timelines, and numbers of employees to be replaced;
- A requirement that the DNI, in consultation with the Secretary of the Treasury, submit to the appropriate congressional committees a report assessing the monetary value of any direct or indirect form of sanctions relief Iran has received since the Joint Comprehensive Plan of Action entered into effect on October 18, 2015, and how Iran has used funds made available through such sanctions relief;
- A prohibition on IC elements from using funds authorized to be appropriated or otherwise made available to transfer or release individuals detained at Guantanamo Bay to or within the United States, its territories, or possessions;
- A prohibition on IC elements from using funds authorized to be appropriated or otherwise made available to construct or

modify facilities in the United States, its territories, or possessions to house detainees transferred from Guantanamo Bay;

- A prohibition on IC elements from using funds authorized to be appropriated or otherwise made available to transfer or release an individual detained at Guantanamo Bay to the custody or control of any country, or any entity within such country, as follows: Libya, Somalia, Syria, or Yemen;
- A requirement that the DNI submit a periodic report to the congressional intelligence committees on foreign fighter flows to and from Syria and Iraq;
- A requirement that the DNI submit a report on the strategy, efforts, and resources of the IC that are necessary to detect, deter, and degrade the revenue mechanisms of the Islamic State of Iraq and the Levant (ISIL); and
- A requirement that the President submit to the appropriate congressional committees a comprehensive report on the counterterrorism strategy to disrupt, dismantle, and defeat ISIL, al-Qa'ida, and their affiliated groups, associated groups, and adherents.

C. INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2017

In early 2016, the Committee began its consideration of the President's requests for funding levels and legislative authority for fiscal year 2016. Again, the Committee's budget monitors evaluated the budget requests submitted by the Executive Branch. As before, the Committee also reviewed the Administration's legislative proposals for the fiscal year 2017 bill, including new or amended legislative authority requested by the IC. Committee staff received a number of briefings, and the Committee conducted classified budget hearings.

The Committee reported the Intelligence Authorization Act for Fiscal Year 2017 (S. 3017) on June 6, 2016, and subsequently reported an accompanying report (S. Rpt. 114-277) on June 15, 2016. The House of Representatives had previously passed under suspension of the rules an Intelligence Authorization Act for Fiscal Year 2016 (H.R. 5077) on May 24, 2016, with a roll call vote of 371-35. The Committee proceeded to work with the House Permanent Select Committee on Intelligence and other congressional committees on a final version of the legislation. Reflecting a portion of these discussions and agreements, the House of Representatives passed two amended versions of the Intelligence Authorization Act for Fiscal Year 2017 (H.R. 6393 on November 20, 2016, with a roll call vote of 390-30; and H.R. 6480 on December 8, 2016) under suspension of the Rules.

The Committee-passed Intelligence Authorization Act for Fiscal Year 2017 authorizes funding for intelligence and intelligence-related activities across the U.S. Government and includes a classified schedule of authorizations and a classified annex. The Act contained a number of legislative provisions, including:

- A requirement that the DNI submit a five-year investment strategy for outreach and recruiting efforts in the fields of Science, Technology, Engineering, and Mathematics (STEM), and a requirement that IC elements submit STEM investment plans supporting this strategy for each of the fiscal years 2018 through 2022;

- Authorization of a new pay scale to permit salary increases for employees in the IC with STEM backgrounds;
- A requirement that the inspector general for each IC element implement a policy that prohibits Office of Inspector General senior employees from being involved in potentially conflicting matters, as well as prohibiting the DNI from requiring an employee of an Office of Inspector General to rotate to a position in the element over which such office conducts oversight;
- A requirement that the DNI submit to the congressional intelligence committees notifications and copies of any classified or unclassified Presidential Policy Directive, Presidential Policy Guidance, or other similar policy document issued by the President which involves the IC;
- A requirement that the DNI and the Secretary of Homeland Security establish a program to provide assistance and support to certain critical infrastructure entities, on a voluntary basis, for the purpose of reducing the likelihood of catastrophic harm resulting from a cyber-attack;
- Authorization for the Director of the CIA to pay death benefits substantially similar to those authorized for members of the Foreign Service, and a requirement that the Director submit implementing regulations to the congressional intelligence committees;
- A requirement that the President establish an interagency committee to counter active measures by the Russian Federation that constitute Russian actions to exert covert influence over peoples and governments;
- A requirement that the Director of the FBI certify that Russian diplomats have followed proper travel notification procedures before the Secretary of State can permit Russian diplomats' travel in excess of 50 miles outside of their diplomatic posts;
- A requirement that the DNI conduct a study to determine the feasibility of creating an intelligence sharing arrangement and database among parties to the Open Skies Treaty with higher frequency, quality, and efficiency, as well as a requirement that the DNI issue a report as to how the Russian Federation is using Open Skies Treaty collection, a list of the covered parties that have been updated with this information, and an analysis of the benefits the United States derives by being a party to the treaty as well as the potential implications for covered state parties if the United States should withdraw from the treaty;
- A requirement that the Privacy and Civil Liberties Oversight Board (PCLOB) keep Congress and relevant IC elements fully and currently informed of its activities;
- A provision to ensure that the PCLOB can maintain personnel in the absence of a chairman;
- A provision to ensure that the PCLOB is focused on the privacy and civil liberties of United States persons when conducting its analysis and review of United States counterterrorism efforts;
- A requirement that the DNI complete a declassification review of information on the past terrorist activities of detainees transferred or released from Guantanamo, make resulting de-

classified information publicly available, and submit to the congressional intelligence committees a report setting forth the results of the declassification review and, if any information covered by the review was not declassified, a justification for the determination not to declassify such information;

- A prohibition on individuals detained at Guantanamo from being transferred or released to a foreign country until after the date that the DNI certifies that an intelligence-driven threat monitoring system has been established and is sufficient to mitigate the risk of such individuals reengaging in terrorism, or posing a threat to United States persons or national security, and that the IC has the capability to monitor all such individuals by appropriate means to provide assessments on their activities, as required;

- A prohibition on the Secretary of Defense from using waiver authority under 10 U.S.C. § 119(e)(1) to omit reporting intelligence or intelligence-related activities in the annual report requirements;

- A requirement that the DNI, in collaboration with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, issue an update to the strategy for a comprehensive review of the United States national security overhead satellite architecture required in the Intelligence Authorization Act for Fiscal Year 2016 (H.R. 2029, Division M);

- A requirement that the DNI conduct and provide to the congressional intelligence committees a current assessment of the IC's implementation of the recommendations issued in 2013 by the National Commission for the Review of the Research and Development (R&D) Programs of the IC; and

- A requirement that the DNI develop and brief the congressional intelligence committees on a plan, with milestones and benchmarks, to implement a R&D Reserve Corps, as recommended in 2013 by the bipartisan National Commission for the Review of the R&D Programs of the IC.

The full Senate did not formally consider S. 3017 for passage before the 114th Congress concluded. However, the intelligence committees continue to work toward passing a modified Intelligence Authorization Act for Fiscal Year 2017.

III. OVERSIGHT ACTIVITIES

A. HEARINGS

1. Worldwide Threat Hearings

Since 1994, the Committee has held annual open hearings to review the IC's assessment of the current and projected national security threats to the United States. These "Worldwide Threat" hearings cover national security concerns in all geographic regions, as well as transnational threats such as terrorism and weapons proliferation.

On February 12, 2015, the Committee held an open hearing on the current and projected terrorist threats the United States faces around the world. The witness before the Committee was National Counterterrorism Center Director, Nick Rasmussen. Director Rasmussen's unclassified prepared statement for the record is

available in the Hearings section of the Committee's website. A video recording of the full hearing can also be found on the Committee's website.

At the hearing, Director Rasmussen characterized the threat environment as "increasingly diverse and dynamic," and described a "new level of specialization and fragmentation within (the) larger terrorism landscape." Director Rasmussen noted the IC's counterterrorism enterprise may be entering an era "in which the centralized leadership of terrorist groups matters less than it did previously," and "group affiliation and identity is more fluid, and extremist narratives are more focused on a wider range of alleged grievances and enemies." Director Rasmussen's concluding supposition was that personal connections among individual terrorists may now be more relevant to their plotting than their individual group affiliation or identity.

Director Rasmussen did caution, however, that the United States continues to face "moderate and small-scale threats" from groups that are more structured and cohesive, similar to "traditional" al-Qa'ida and al-Qa'ida affiliates, adding that "although the number of groups posing that truly transnational threat is somewhat smaller and our efforts to place pressure on them have met with some success, it's important to remember that these groups are persistent and they're patient with their desires and their plans to strike the homeland."

The Committee held a closed hearing on the current and projected national threats on February 24, 2015.

On February 9, 2016, in the second session of the 114th Congress, the Committee held an open Worldwide Threat hearing. Director of National Intelligence Clapper presented an opening statement on behalf of the IC, and was joined at the witness table by John O. Brennan, Director of the CIA; James B. Comey, Director of the FBI; Admiral Michael Rogers, Director of the NSA; and Lieutenant General Vincent Stewart, Director of the DIA. Director Clapper's unclassified prepared statement for the record is available in the Hearings section of the Committee's website, along with a video recording of the full hearing.

Citing a sustained trend of "unpredictable instability," Director Clapper highlighted that "violent extremists are operationally active in about 40 countries." Director Clapper added that seven countries are "experiencing a collapse of central government authority and 14 others face regime-threatening or violent instability, or both," while another "59 countries face a significant risk of instability through 2016." Director Clapper further testified that migration and displacement will strain countries in Europe, Asia, Africa, and the Americas, noting that "some 60 million people worldwide (are) considered displaced."

Speaking to threats arising in the arena of cyber and technology, Director Clapper offered that the burgeoning "Internet of Things" will connect tens of billions of physical devices susceptible to exploitation. Further, Director Clapper added that Russia, China, Iran, and North Korea each either have a sophisticated cyber program, or are actively engaged in cyber espionage. Director Clapper also referred to the threat of non-state cyber actors, highlighting ISIL's "unprecedented online proficiency," as a non-state actor.

2. Syria / Iraq

The Committee held multiple hearings and briefings on the violence in Syria and Iraq, and the instability caused by the growth of terrorist groups such as ISIL and al-Qa'ida. The Committee also reviewed allegations that intelligence analysis was deliberately manipulated at U.S. Central Command's Intelligence Directorate to reflect favored battlefield outcomes in Iraq. Additionally, the Committee closely examined Russia's combat deployment to Syria in September 2015 and its provision of support to the Assad regime's brutal assault on Syrian cities, including Aleppo.

3. Cybersecurity

The Committee held 11 hearings on cybersecurity-related matters in the 114th Congress. As cited above, it passed the "Cybersecurity Information Sharing Act of 2015," which was signed into law as the "Cybersecurity Act of 2015." This comprehensive cybersecurity bill was the capstone of the Committee's efforts over many years. This bill provided clear authorities to improve the nation's cybersecurity, and allows for the continued, meaningful oversight of U.S. Government cybersecurity efforts. The Committee has supported the bill's implementation through regular meetings with stakeholders and continued assessment of required reports. Beyond hearings and legislative activities, the Committee and its staff frequently engaged with both U.S. Government personnel and leading private sector stakeholders to discuss cybersecurity topics.

The Committee's formal and informal activities have contributed to its detailed and comprehensive awareness of the threats to, and vulnerabilities of, U.S. networks and systems, including the increased aggressiveness of malicious cyber actors. These escalating threats illustrated the importance of the IC's continuously improving its cyber posture by fostering innovation and collaboration. Accordingly, the IC's ability to develop, acquire, and effectively leverage the tools and talent it needs to anticipate and mitigate cyber threats continues to be a priority for the Committee.

4. Countering the Islamic State of Iraq and the Levant

During the 114th Congress, the threat from ISIL expanded significantly, growing from the battlefield in Syria and Iraq to become a global threat. The Committee conducted eight hearings and roundtables associated with the IC's assessment of the ISIL threat, and examined the IC's capabilities to effectively collect intelligence on ISIL activities.

The Committee also conducted regular meetings with IC personnel to evaluate the IC's role in tracking terrorist travel, and the threat from foreign fighters traveling to and from the conflict in Syria and Iraq to join ISIL and other terrorist groups. Committee staff conducted regular meetings with IC personnel to assess the IC's response to ISIL's highly effective online recruitment campaign for foreign fighters.

Additionally, during the 114th Congress, the Committee staff held numerous in-depth oversight meetings with government officials to examine the effectiveness of counter-ISIL operations, and to better understand related intelligence collection and analysis.

5. *FBI*

FBI officials appeared before the Committee more than 19 times during the 114th Congress. Due to a rapid uptick in threats from homegrown violent extremists in the summer and fall of 2015, many of the witnesses focused on counterterrorism issues. Several other briefings were dedicated to defending our nation against cyber-attack, and the challenges presented by ubiquitous encryption. Director Comey appeared before the Committee eight times, discussing “Going Dark” extensively. Conversations with Director Comey centered on preserving the benefits of strong encryption, while addressing law enforcement’s frequent inability to collect evidence or pursue terrorist suspects.

6. *Counterproliferation*

The Committee held multiple hearings to discuss the IC’s counterproliferation efforts, including: the illicit transfer of Weapons of Mass Destruction (WMD) and missile technology by nation states, and the threat of terrorist use of WMD. While the details of these hearings are classified, counterproliferation issues were a major focus of the Committee.

In particular, the Committee held a number of briefings and hearings on Iran’s compliance with the Joint Comprehensive Plan of Action to ensure the terms and conditions of the agreement to limit Iran’s nuclear ambitions are adhered to.

7. *Russia*

The Committee has focused extensively on the Russian threat to U.S. national security. Hearings covered the Russian threat to critical infrastructure, cybersecurity, counterintelligence, and the Russian “active measures” campaign. During the 114th Congress, the Committee held nine hearings at which the Russian active measures campaign was discussed—four of which centered on Russian involvement in the U.S. political process. The Committee has consistently urged for more aggressive actions that would increase collection, expose active measures, and strengthen the counterintelligence postures of the United States and our key allies. As a result of information obtained throughout the Congress, the Committee included both classified and unclassified provisions in the Intelligence Authorization Act for Fiscal Year 2017 to address these matters.

8. *Afghanistan/Pakistan*

The Committee’s efforts in the 114th Congress focused on the IC’s role in supporting U.S. policy objectives in Afghanistan and the region, as the Obama Administration continued toward its stated “drawdown” of forces. The Taliban insurgency, its threats to regional capitals, and the struggling National Unity Government present challenges to U.S. policy in Afghanistan. The Committee continued to monitor intelligence operations related to providing support to the policymakers on these, and related, issues.

Bilateral relations with Pakistan play a prominent role in addressing Afghanistan’s security and political environment. Accordingly, the Committee continued its oversight of IC support to policymakers seeking to address perennial issues: a terrorist safe haven in the tribal regions, the persistent threat posed by the

Haqqani network, and the Pakistani military's efforts to stabilize and secure the Federally Administered Tribal Areas.

Throughout the 114th Congress, the Committee conducted hearings and received briefings on IC assessments regarding the strength and long-term viability of the Afghan insurgency, and the implications for long-term U.S. policy goals after combat operations in Afghanistan end. As the new Administration confronts challenges in the region, including an Afghanistan still facing a strong insurgency supported by a safe haven in Pakistan, ongoing terrorist developments in the region, and continued tensions between India and Pakistan, the Committee will continue to review the role of the IC in supporting policymakers.

9. Western Hemisphere

The Committee closely reviewed intelligence activities in the Western Hemisphere, examining the continued threats to national security emanating from illicit trafficking, violent transnational criminal organizations, and the military and intelligence activities of U.S. adversaries in Latin America. The Committee continues to seek ways to enhance working relationships between the U.S. Government and partner nations in Latin America through capacity building of police and security forces as well as improving judicial processes and combating corruption to enable a more unified effort to dismantle cartels and criminal organizations. Latin America remains plagued with extremely high levels of violence in certain areas. The U.S. law enforcement and intelligence communities have a responsibility to assist our neighbors in confronting these threats to stability in the hemisphere and the U.S. homeland.

10. Department of Energy Office of Intelligence and Counterintelligence and the National Laboratory Complex

During the 114th Congress, the Committee focused on safeguarding and leveraging the compartmented work performed within the U.S. National Laboratory complex. This included a hearing with the head of the Department of Energy's Office of Intelligence and Counterintelligence (DOE-IN) and the heads of the National Laboratories who work on national security issues for the Department of Defense and the IC. Safeguarding this information by increasing counterintelligence resources for DOE-IN is a top priority in the Intelligence Authorization Act for Fiscal Year 2017.

11. Asia Pacific Region

The Committee dedicated considerable time and attention to monitoring events in the Asia Pacific Region, which included travel to the region, numerous staff briefings, five Committee hearings, and several Committee briefings on topics such as military modernization efforts, burgeoning nuclear weapons capability, and leadership intentions of regional actors. These activities were central to the Committee's oversight obligations vis-à-vis the IC and its mandate to inform policymakers over the growing presence of violent extremism in Southeast Asia, China's territorial expansion in the South China Sea and East China Sea, North Korea's development of new missile, conventional, and nuclear capabilities, and other national security concerns in the region.

B. INTELLIGENCE COMMUNITY ISSUES

1. *Encryption*

Encryption presents both benefits and challenges to U.S. national security and public safety. The Committee engaged with a wide variety of public and private sector experts to obtain valuable insights into the debate. Although security technologies play an important role in protecting an individual consumer's communications, the Committee examined the impact encryption has on IC efforts to conduct its mission. For instance, terrorist use of new encrypted communication technologies poses challenges to the IC's ability to identify and thwart attacks.

The Committee urged the IC to work collaboratively with the private sector to find both technical and policy solutions that could serve to protect both the privacy *and* security of the American people. The Committee also met with stakeholders to isolate technical challenges, explore potential solutions, and identify enduring legal principles to address this complex issue appropriately. Meeting with subject matter experts throughout the IC on encryption, the Committee looked at specific technologies and applications, the policy options available to the IC to achieve its mission, and the varying impacts of a strategy that would affect both law enforcement and intelligence components.

The Committee also heard testimony from senior IC leaders on the current and future impacts of encryption technologies on intelligence collection. The Committee reviewed both qualitative and quantitative data on the scope and importance of technological trends and their impact on specific missions. The Committee believes that there should be a broader national discussion about the relative benefits and risks of different approaches to encryption and the particular role of the IC in protecting our national security.

In April 2016, Chairman Burr and Vice Chairman Feinstein distributed a discussion draft bill for review by important stakeholders. The bill, entitled the Compliance with Court Orders Act, required certain entities to provide readable data to law enforcement, if those entities were served with a lawful court order. The bill did not specify or mandate how entities must comply with such court orders, but nevertheless provided compensation to the entities for any costs they may incur by complying (such as technical assistance). Chairman Burr and Vice Chairman Feinstein did not formally introduce a bill, nor did the Committee formally consider the legislation.

2. *Oversight of Intelligence Community Counterterrorism Efforts*

During the 114th Congress, the Committee continued its oversight of the IC's role in U.S. counterterrorism efforts. The Committee continued its practice of conducting regularly scheduled hearings, roundtables, and meetings with IC personnel relative to counterterrorism.

The Committee also devoted significant time and attention to the IC's role in tracking terrorist travel and, specifically, cross-border movement. Committee staff held numerous in-depth oversight meetings with government officials to review counterterrorism processes, procedures, and technological capabilities in order to examine their efficacy, verify their ability to adapt to the changing

threats of terrorist travel, and review the IC's integration of relevant data sets. Committee staff also traveled to multiple field locations to assess the effectiveness of the IC's terrorist travel tracking efforts.

The complex and dynamic nature of the use of online and encrypted communications by international terrorists created an even greater need for the IC to find agile, innovative solutions for intelligence collection. The Committee pressed the IC to continue to streamline its collection efforts against key international terrorist groups.

Additionally, during the 114th Congress, the Committee continued to examine counterterrorism relations between the IC and foreign liaison partners. Specifically, staff conducted multiple oversight meetings with IC personnel to assess counterterrorism intelligence sharing with existing strategic international partners, and the extent to which the IC was identifying new intelligence sharing partners to counter the growing threat posed by international terrorist entities.

3. Defense Clandestine Service and the Defense Intelligence Agency

The Committee continued to examine closely the implementation of the Defense Clandestine Service (DCS) to ensure the intelligence needs of the Department of Defense are adequately addressed, without unnecessary duplication of human intelligence collection conducted elsewhere in the IC.

In addition to oversight of the DCS, the Committee received regular briefings and reports regarding the DIA's performance in providing defense intelligence to our warfighters, defense planners, and national security leaders. The Committee focused heavily on DIA's work in the areas of analysis, science and technology, and strategic intelligence.

The Committee focused particular attention on the roles and missions within the Defense Intelligence Enterprise. In 2015, whistleblower allegations brought into question the integrity and objectivity of intelligence analysis produced within the U.S. Central Command Intelligence Directorate. This episode brought longstanding Committee concerns to the fore and prompted an examination of DIA's suitability for civilian leadership given the systemic issues facing the agency, including an ill-defined mission and a correspondingly vague customer base.

4. Department of Defense Clandestine Activities

The Committee continued to examine closely all dimensions of the intelligence and intelligence-related clandestine activities overseen by the Under Secretary of Defense for Intelligence, including program effectiveness, efficiency, and compliance with applicable laws and directives. As part of this effort, the Committee reviewed the management, coordination, and transparency associated with certain programs.

5. Access to Presidential Policies that Bear on the Intelligence Community

Presidential policy directives issued by the previous Administration garnered particular attention because many were not reported publicly, or contained classified annexes. The Committee held a

number of briefings to enhance its access to IC-affecting presidential directives and other forms of written direction, which were not made public or shared with Committee Members or appropriately cleared congressional staff. Such unacknowledged guidance could allow Executive Branch activity to avoid proper congressional oversight. The Committee-reported Intelligence Authorization Act for Fiscal Year 2017 includes a provision that would require the IC to brief the Committee on such directives to ensure appropriate oversight of White House policy affecting the IC.

6. Classification Policy

The Committee held over 20 briefings on classification and declassification policy with IC elements, the Information Security Oversight Office within the National Archives and Records Administration, members of the Public Interest Declassification Board, and academic experts. A robust classification regime is essential to protecting secrets, ensuring appropriate sharing with mission partners, and providing for appropriate public access when materials no longer merit protection. Recent unauthorized disclosures highlight the need to ensure effective security over classified materials.

The Committee surfaced a number of issues, including the persistently large number of classification guides (over 3,000 across the government) and the high number of categories of classification and handling markings (43) that have yielded error rates in the application of classification (up to 70 percent in some agencies). The Committee-reported Intelligence Authorization Act for Fiscal Year 2017 includes provisions that report on implementation of security reforms and an annual report on IC controlled access programs.

7. Space Oversight and Management

During the 114th Congress, the Committee continued its oversight efforts in the space domain, focusing in particular on ensuring the reliable, effective, and resilient access to—and operation in—space for intelligence purposes. Improved foreign counterspace capabilities have made space a congested, contested, and competitive environment, which jeopardizes this goal. The Committee held a number of briefings and hearings to ensure robust management of IC activity in space and effective collaboration with the Department of Defense.

The Committee also conducted a number of hearings and roundtables to examine key budget issues and to review space system acquisitions. Moreover, the Committee held its first open hearing with the Director of the NGA to discuss NGA's increased leveraging of all sources of geospatial data—classified and unclassified—to provide augmented value for its customers. Further, the open hearing offered an opportunity to appraise the potential impact a wave of new commercial imagery providers will have on NGA. In addition to hearings, the Committee and its staff engaged frequently on overhead architecture topics with the NRO, NGA, and other IC and government officials, and conducted site visits to government facilities and commercial companies to meet with government officials and industry leaders.

8. Intelligence Community Foreign Relations

The Committee reviewed its oversight of the IC's conduct of foreign relations with counterparts overseas. Under the National Security Act, the CIA has authority to coordinate foreign intelligence and counterintelligence relations, while the DNI oversees that coordination function. The Under Secretary of Defense for Intelligence performs a similar oversight function for intelligence and counterintelligence relations undertaken by Department of Defense elements, including the combatant commands and the military services. Executive Order 12333 authorizes IC elements to engage in foreign relations to support their statutorily assigned missions.

Department of Defense foreign security cooperation efforts are governed through dozens of specific statutes, each of which has particular reporting and notification requirements to Congress. However, there is no comprehensive congressional framework for intelligence cooperation efforts. The Committee held over a dozen briefings with the IC in an effort to ensure that the Intelligence Community's approach to cooperation efforts supports U.S. intelligence and policy objectives, is not duplicative, and properly manages counterintelligence and security risks.

9. Management of Intelligence Community Analysis

The Committee continued its review of the IC's management methods for ensuring high-quality, timely, relevant, and impartial analysis. The Committee held a number of hearings and briefings to address allegations of bias in analysis conducted by the Department of Defense Central Command's intelligence center. It also hosted briefings to assess efforts by ODNI's Chief of Analytic Integrity and Standards to exercise leadership over the IC's analytic workforce, training, practices, and products, in light of the dissolution of the Deputy DNI for Analysis in 2010.

10. Intelligence Community Information Technology Enterprise

The Committee continued to host quarterly updates with the IC's chief information officers to ensure the success of the Intelligence Community Information Technology Enterprise (IC ITE) initiative. IC ITE's model of shared services promises to improve information sharing and access, enhance security through detection and audit capabilities, and reduce U.S. Government investment in unwanted legacy information technology capabilities.

11. Collection Review

The Committee completed a review of IC collection capabilities that started in the 113th Congress as a complement to ongoing staff oversight efforts. A study team of five staff—three professional staff and two detailees from the Executive Branch—examined IC collection activities, identified redundancies and gaps, confirmed their legal and policy bases, and reviewed efforts to integrate them. Committee professional staff took responsibility for appropriate action on the study's findings and recommendations.

12. Audits and Investigations

During the 114th Congress, pursuant to Committee Rule of Procedure 10.9, the Committee reassigned responsibility for audits and oversight projects from a separate staff element to the Committee's

professional staff. Toward this end, staff formed an external Technical Advisory Group with outside experts and generated a report on a classified topic. Staff also continued to monitor the progress of IC elements toward obtaining unqualified financial opinions.

13. Intelligence Community Offices of Inspectors General

The Committee considered and confirmed the appointment of Ms. Susan Gibson as the Inspector General of the National Reconnaissance Office, the first person to hold this position since its designation as a Senate-confirmed position in the Intelligence Authorization Act for Fiscal Year 2014. Committee staff also held briefings with the inspectors general of the largest IC agencies (CIA, NSA, DIA, NGA, NRO, and the IC IG). These discussions covered their semi-annual reports, annual work plans, and whistleblower protection policies. The Department of Defense Inspector General briefed Committee Members on a critical whistleblower case, and the CIA Inspector General testified before Committee Members on a sensitive issue.

14. Attorney General Guidelines for the Department of Defense

Ensuring that all IC elements have updated Attorney General guidelines has been an area of ongoing Committee interest. The Committee reviewed and consulted with Executive Branch officials on Department of Defense Directive 5240.1-R, "Procedures Governing the Activities of Department of Defense Intelligence Components that Affect United States Persons," which implements the Attorney General Guidelines pursuant to Executive Order 12333, and which was last issued in 1982. The Directive was updated on August 8, 2016 and implemented in its Manual 5240.01, "Procedures Governing the Conduct of Department of Defense Intelligence Activities."

Key changes included updating the definition of the term "collection," issuing guidelines for retaining and destroying collected information, and addressing accountability for special circumstances. Committee staff have continued to monitor the Directive's implementation to assess its impact on intelligence activities, if any.

15. USA FREEDOM Act

Committee staff have monitored implementation of the USA FREEDOM Act (H.R. 2048, P.L. 114-23) enacted on June 2, 2015, particularly the modifications to the "business records" program authorized under Section 215 to ensure its continued effectiveness as a counterterrorism tool.

16. Foreign Intelligence Surveillance Act Amendments of 2008, Section 702 Semi-Annual Reports

Section 702 of the Foreign Intelligence Surveillance Act is a critical intelligence tool which carries with it a significant oversight burden for the IC, the Department of Justice, and the Committee. Committee staff continued to review the statutorily mandated Semi-Annual Reports. Following production of the Reports, the Committee engaged with Executive Branch representatives to probe, in particular, the number of compliance incidents reported and to assess the authority's operational utility. These oversight activities play a critical role in helping the Committee evaluate the

reauthorization of Section 702, which is set to expire at the end of 2017.

17. Multi-Sector Workforce

The Committee continued to examine ways in which the IC can improve the management of its workforce while achieving a better balance between government personnel and core contractors. The Committee held a number of briefings resulting in a provision in the Committee-reported Intelligence Authorization Act for Fiscal Year 2017 that no longer applies personnel ceilings to the IC's civilian workforce. This approach mirrors Congress's management of civilian workforces in other government sectors. The Committee seeks to provide IC managers flexibility in striking the appropriate balance among civilian, military, and contractor workforce sectors, independent of arbitrary end-strength caps.

18. Modernizing Financial Management

The Committee held a number of briefings regarding options to improve financial management of the National Intelligence Program. Past efforts centered on the consolidation or separation of National Intelligence Program accounts from Department of Defense accounts. The current focus is enhancing the IC's ability to manage resources, reach audit readiness, and reduce counterintelligence risks. The Committee continues to work with ODNI on specific proposals to achieve consensus among various government stakeholders.

19. Privacy and Civil Liberties Oversight Board

The Committee held briefings on March 4, 2016, and on May 5, 2016, with PCLOB staff members, regarding the PCLOB's then-current classified "deep dive" studies on various intelligence programs. The Committee also engaged on the PCLOB's ongoing classified and unclassified study regarding Executive Order 12333. In addition, the briefings generally covered certain hiring, declassification, and notification issues.

20. Other Legislative Efforts

During the 114th Congress, the Committee provided significant input to other legislative efforts for which the Committee did not have referral jurisdiction. Specifically, the Committee worked with Senate Judiciary Committee staff to protect IC equities with improvements to the Federal Bureau of Investigation Whistleblower Protection Enhancement Act of 2016 (H.R. 5790), which was signed into law on December 16, 2016; the FOIA Improvements Act of 2016 (S. 337), which was signed into law on June 30, 2016; and the Judicial Redress Act (H.R. 1428), which was signed into law on February 24, 2016. The Committee also worked with the Senate Homeland Security and Governmental Affairs Committee to protect IC equities with improvements to the Inspector General Empowerment Act of 2015 (H.R. 6450, as passed), which was signed into law on December 16, 2016. The improvements included provisions to protect sources and methods and other access to national security-sensitive information.

IV. NOMINATIONS

During the 114th Congress, the Committee received two nominations from President Obama, one of which it considered directly upon receipt (see below).

Section 17 of S. Res. 400 of the 94th Congress (as amended) and a 2009 unanimous consent agreement govern referrals of nominations to the Committee. S. Res. 445, which amended S. Res. 400 in 2004, required all nominations to positions in the IC requiring the Senate's advice and consent be reported by the Select Committee on Intelligence, even when they are positions within departments that are primarily under the jurisdiction of other Senate committees, though the committee overseeing the given department or agency may hold hearings and interviews on the nomination. Notwithstanding that general guidance, the resolution directed the Assistant Attorney General for National Security be reported by the Judiciary Committee, but referred to the Select Intelligence Committee. In the wake of the Intelligence Authorization Act for Fiscal Year 2014, which made the directors and inspectors general of the NRO and the NSA Senate-confirmed positions, the Senate adopted S. Res. 470, July 7, 2014. This resolution directed that if the nominee were a civilian, the Intelligence Committee would report the nomination and refer it to the Armed Services Committee, and if the nominee were a member of the Armed Forces on active duty, the reverse.

A unanimous consent agreement of January 7, 2009, refers all nominations for inspectors general to the committees of primary jurisdiction and then sequentially to the Senate Committee on Homeland Security and Governmental Affairs. Under this consent agreement, the nominations for the NRO and NSA inspectors general are thus also referred to the Homeland Security and Governmental Affairs Committee. The exception to this consent agreement is the inspector general for the CIA, which is handled exclusively by the Intelligence Committee.

The following nominations were referred to the Committee during the 114th Congress:

SUSAN S. GIBSON, INSPECTOR GENERAL OF THE NATIONAL
RECONNAISSANCE OFFICE

On April 14, 2016, the President nominated Susan S. Gibson to be Inspector General of the National Reconnaissance Office. At that time, Ms. Gibson was the Principal Deputy General Counsel at the Office of the Director of National Intelligence.

After receiving Ms. Gibson's responses to the Committee's standard questionnaire, as well as her responses to the Committee's prehearing questions about her understanding of the duties and responsibilities of the office to which she had been nominated, the Committee held a nomination hearing on June 7, 2016. Ms. Gibson's testimony and her responses to the Committee's questionnaire, prehearing questions, and questions for the record are posted on the Committee's website. Following the hearing, the Committee unanimously reported the nomination favorably on June 13, 2016. The nomination was reported to the Armed Services and Homeland Security and Governmental Affairs committees and discharged.

The Senate approved the nomination by a vote of 93–0 on September 15, 2016.

SHIRLEY WOODWARD, INSPECTOR GENERAL OF THE CENTRAL
INTELLIGENCE AGENCY

On June 16, 2016, the President nominated Shirley Woodward to be Inspector General of the Central Intelligence Agency. At that time, Ms. Woodward was a partner with the law firm Wilmer Cutler Pickering Hale and Dorr LLP, in the firm’s Litigation and Controversy practice.

Questions about Ms. Woodward’s understanding of the duties and responsibilities of the office to which she had been nominated were prepared, and responses to the Committee’s standard pre-hearing questionnaire were furnished. However, the Committee did not hold a nomination hearing during the 114th Congress.

ROBERT P. STORCH, INSPECTOR GENERAL OF THE NATIONAL
SECURITY AGENCY

On November 29, 2016, the President nominated Robert P. Storch to serve as Inspector General of the National Security Agency. At that time, Mr. Storch was the Deputy Inspector General of the Department of Justice, and served as the Whistleblower Ombudsman in the Office of the Inspector General there, and as Chair of the Council of the Inspectors General on Integrity and Efficiency Whistleblower Ombudsman Working Group. The Committee did not act on this nomination during the 114th Congress.

Subsequently, on January 4, 2017, President Obama renominated Mr. Storch to be Inspector General of the National Security Agency. The Committee received Mr. Storch’s Ethics in Government Act submission on January 6, 2017. On February 28, 2017, President Trump withdrew Mr. Storch’s nomination.

V. SUPPORT TO SENATE

Under S. Res. 400, which established the Committee in 1976, the Select Committee on Intelligence has an important role in assuring that the IC provides “informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the Nation.” The Committee fulfills this responsibility by providing access to IC information and officials to the U.S. Senate.

The Committee facilitated access to intelligence information for senators and staff outside the Committee by inviting them to participate in briefings and hearings on issues of shared jurisdiction or interest. Further, the Committee provided intelligence briefings by its professional staff to senators outside the Committee, and assisted senators in resolving issues with intelligence agencies. The Committee also offered its expertise with regard to arms control matters, to include the Joint Comprehensive Plan of Action.

VI. APPENDIX

A. Summary of Committee Actions

1. Number of Meetings

During the 114th Congress, the Committee held a total of 133 on-the-record interviews, meetings, briefings, and hearings, and numerous off-the-record briefings. There were 40 oversight hearings, including seven hearings on the IC budget, and one open confirmation hearing. Of these 40 hearings, six were open to the public and 34 were closed to the public in order to protect classified information pursuant to Senate rules. The Committee also held 69 on-the-record briefings and roundtable discussions, and 14 business meetings, including mark-ups of legislation. Additionally, the Committee staff conducted nine on-the-record briefings, and numerous off-the-record briefings.

2. Bills and Resolutions Originated by the Committee

S. Res. 55—An original resolution authorizing expenditures by the Select Committee on Intelligence.

S. 754—An original bill to improve cybersecurity in the United States through enhanced sharing of information about cybersecurity threats and for other purposes.

S. 1705—An original bill to authorize appropriations for fiscal year 2016 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

S. 3017—An original bill to authorize appropriations for fiscal year 2017 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

3. Bills Referred to the Committee

S. 794—A bill to extend whistleblower protections for defense contractor employees to employees of contractors of the elements of the IC.

S. 1471—A bill to require declassification of certain redacted information from the Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 2001 and for other purposes.

S. 2239—A bill to restrict funds related to escalating United States military involvement in Syria.

H.R. 2596—A bill to authorize appropriations for fiscal year 2016 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

H.R. 4239—A bill to require IC reporting on foreign fighter flows to and from terrorist safe havens abroad and for other purposes.

H.R. 5077—A bill to authorize appropriations for fiscal year 2017 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

4. Committee Publications

Report 114–8—Report of the Select Committee on Intelligence covering the period January 3, 2013–January 5, 2015.

Report 114–32—Report to accompany the Cybersecurity Information Sharing Act of 2015 (S. 754).

Report 114–83—Report to accompany the Intelligence Authorization Act for Fiscal Year 2016 (S. 1705).

Report 114–277—Report to accompany the Intelligence Authorization Act for Fiscal Year 2017 (S. 3017).

