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## TRANSCRIPT

### Senate Select Intelligence Committee Holds Hearing on Worldwide Threats

January 31, 2012

FEINSTEIN:

The Senate Select Committee on Intelligence meets today in open session for our annual worldwide threat hearing.

This hearing provides the intelligence community with an opportunity to present to the nation its views of the threats and challenges we face and for the committee to ask questions of our intelligence leaders in public.

Today is also an opportunity to take stock of what has happened in the last year and what we can expect for 2012.

Before looking ahead, I want to congratulate the leaders of the intelligence community before us today and the tens of thousands of civilian and military intelligence professionals they represent. Through their efforts, 2011 was a year of numerous major intelligence successes, including, first and foremost, the operation that located and killed Osama bin Laden.

This past year also saw the removal of top terrorist leaders, plotters and recruiters, including Anwar al-Awlaki in Yemen; Al Qaida's linchpin in Pakistan, Atiyah Abd al-Rahman; and numerous others, resulting in the disruption of specific terrorist plots and casting into disarray Al Qaida's senior leadership.

Closer to home, since our hearing last year there were at least 20 individuals arrested in the United States on terrorism-related charges in 17 different investigations, which stopped them from carrying out or assisting in attacks on the homeland. In the interest of time, I will put a list that describes each of these arrests in the record.

Arrests like these are the product of coordination between the FBI, other intelligence agencies, the Department of Homeland Security, and state and local law enforcement units throughout the country.

Also, in 2011 the Drug Enforcement Administration, the DEA, the Federal Bureau of Investigation, the FBI, and the Central Intelligence Agency, the CIA, and others combined to identify and thwart an Iranian plot to kill the Saudi ambassador to the United States, a plot so unusual and amateurish that many initially doubted that Iran was responsible. Well, let me state for the record, I have no such a doubt.

Finally, the intelligence community supported countless United States national security and foreign policy actions, including the war in Afghanistan, the drawdown in Iraq, the NATO-led mission in Libya that removed dictator Moammar Gadhafi, the implementation of sanctions on Iran over its nuclear program, the interdictions of weapons of mass destruction shipments, and many, many others.

Despite the successes, the threats to our nation remain serious, and in many ways more difficult to understand and even address than in years past.

The intelligence community's statement for the record, which is posted on the committee's website and will be summarized by Director Clapper, describes these threats at length. Let me address just a few points.

Terrorism. We are all familiar with the continuing threats posed by Al Qaida affiliate's in Yemen and Somalia, AQAP and al-Shabaab, as well as that from Al Qaida in Iraq, AQI, and all three of which aspired to conduct attacks outside of their borders.

I want to mention with special emphasis the threat posed by the Al Qaida affiliate in North Africa, which calls itself Al Qaida in the Lands of the Islamic Maghreb, or AQIM.

For the past few years, AQIM has been almost an afterthought when discussing the terrorist threat. This may be about to change. Recent public records point out that AQIM, which has traditionally operated in parts of Algeria and Mali, is well positioned to exploit instability and pockets of extremism in Libya and Nigeria, and to create new safe havens.

The reports also raised concerns about the tens of millions of dollars AQIM has received from ransom payments for hostages and other illicit activities.

I believe the intelligence community needs to move now to be prepared to address this possible growing threat.

Then there is Iran and North Korea. While the overall terrorist threat may be down, the threat from the proliferation of weapons of mass destruction from Iran and North Korea is growing. On January 9th, Iran announced that it started enriching uranium at its Fordow plant, near the city of Qom.

According to IAEA reports, Iran is enriching uranium to 20 percent, both there and at Natanz. IAEA



FBI director Robert Mueller, National Intelligence director James Clapper, CIA director David Petraeus and DIA director Ronald Burgess testify before the Senate Select Committee on Intelligence in Washington, D.C. on Tuesday, Jan. 31, 2012. The directors answered questions pertaining to national security threats as outlined in the 2012 Worldwide Threat Assessment. Photo by DIA.

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Contact Defense Intelligence Agency Office of Public Affairs at:

- 703 695-0071
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inspectors arrived in Iran over the weekend, and I believe they must and should have complete access to all Iran nuclear facilities, and I ask that they make their findings public on a regular basis so the world will clearly understand what is happening there.

FEINSTEIN:

According to most timelines I've heard, 2012 will be a critical year for convincing or preventing Iran's development of a nuclear weapon.

In North Korea, there is now a 28-year-old dictator ruling over the country's cache of nuclear weapons and ballistic missiles, which should concern us deeply.

Recently this committee received an update from the intelligence community on the threat North Korea poses, and it was quite sobering. I won't go into any details because they're classified. But I strongly believe this will need to be an area where the intelligence community continues to focus its resources and attention.

I think we all know the threat from cyber. We all know the need to pass some legislation in this regard. And we know that the intrusions could be enormous -- take down a dam, take down our electric grid -- and United States companies have been -- have cost untold billions of dollars annually. China and Russia have both been named as aggressive and persistent cyber thieves.

In Afghanistan, the surge of U.S. forces that began '09 has produced meaningful gains. That said, I think we're all very concerned about what will happen in 2014 when we reduce our troop commitment and President Karzai's term is up.

Frankly, I don't see a viable strategy for continuing the level of security and stability that we are building after 2014. And I'm also concerned by what appears to be a disparity between the discussion of Afghanistan in Director Clapper's statement for the record and the bleaker description in the December 2011 NIE.

The director's statement notes modest improvements in the challenges that remain. While I'm unable to describe the NIE, as it remains a classified document, news reports of the NIE describe it as "sobering and dire." Those words in quotes, and include phrases like, quote, "mired in stalemate," end quote.

So I would like to ask the witnesses how they assess how stable Afghanistan will be in 2012 as well as 2014 and beyond.

I also want to note that last week I met with Zarar Ahmad Osamni (ph) -- Osmani, excuse me -- the Afghan minister of counternarcotics, and I was very impressed. I believe he's making good progress in Afghanistan and we should be supportive of his efforts to replicate the Helmand food zone in five other provinces to help farmers grow alternative crops instead of the heroin poppy.

Of course, Pakistan remains a huge problem, and I would very much appreciate your views on Pakistan's willingness to be a partner in our efforts against terrorists and in Afghanistan, as well as whether the civilian government can survive in light of other political controversies.

There are a couple of things I want to add, and I'm not sure this is a good place, but I'm going to do it anyway.

In this morning's edition of the Los Angeles Times there was an article asserting that CIA Director David Petraeus has been inaccessible and guarded in his interactions with Congress, and with the intelligence committees in particular, since being sworn in last September. As far as I'm concerned, nothing could be farther from the truth. And I believe the ranking member -- the vice chairman -- would agree with that.

I spoke to the reporter last Friday and made very clear to him that this has not been my experience, or to the best of my knowledge the members of this committee. If it had been, I would have heard.

Director Petraeus has appeared before us every month since becoming director, and the vice chairman and I have had several phone calls and other meetings with him. He has upheld his obligation to keep the committee fully and currently informed, and I regret that some people felt the need to engage in anonymous complaints.

I'd also like to say that once again this committee has been put in a difficult position of trying to avoid any mention of classified matters when various parts of the executive branch may be doing somewhat the opposite.

I ask members to be careful in their questions and statements and to remember that public discussion of some intelligence programs and assets can lead to them being compromised.

On the particular issue of drone strikes, I will only say that I was cleared to say in our joint hearing with the House Intelligence Committee last September, and there's no issue that receives more attention and oversight from this committee than the United States counterterrorism efforts going on along the Afghanistan-Pakistan border.

These efforts are extremely precise and carefully executed and are the most effective tools we have. Noncombatant casualties are kept to an absolute minimum.

So now, if I may, Mr. Vice Chairman, I want you to know it's been a great pleasure for me to work with you. I also want the public to know that together your side and our side have been able to pass three intelligence authorization bills by unanimous consent in both houses. And it's just been a great pleasure for me to work with you. And if you have some comments, if you would make them now, and then I'll introduce the speakers.

CHAMBLISS:

Very good. Thanks, Madame Chair. And let me just echo the same sentiment to you with respect to our working relationship. It has been pretty seamless, both at a personal level at the top as well as with our staff. And I thank you for the way that you have integrated me into the vice chairmanship over this past year, and I look forward to continuing to work in a very close way with you. And also I

like your California wine, by the way.

(LAUGHTER)

And I join the chairwoman in welcoming our guests today. And this is certainly the brain trust of the intelligence community. And there's an awful lot of experience here. There's also an awful lot of talent at the table. But I'll comment more on the brave men and women that work for you and the great job that they're doing.

The committee holds most all of our meetings in closed session, so this annual threat hearing is one of the only opportunities we have to discuss in public the threats that face our nation.

It's also one of the few opportunities we do get to extend our public thanks to the men and women of the intelligence community. Because of the hard work of the folks who work for each of you, 2011 was a great year for the intelligence community, a year when we finally saw the realization of a decade of work to ensure that Osama bin Laden and Anwar Awlaki will never again threaten this nation.

I'm glad to say that we will no longer have an annual threat hearing where someone asks the question, Where is Osama bin Laden?

Last year's successes were no small achievement. They resulted from transformation and improvement in every I.C. agency.

In particular, I am impressed by the work being done by CIA's counterterrorism operators and analysts, working together to take down terrorists and their network. We have heard from these officers in countless briefings that core Al Qaida is essentially on the ropes, as long as we continue sustained C.T. pressure on the group.

Director Clapper, this exact same sentiment is expressed in your written statement for the record for today's hearing.

I know I am not alone on this panel in believing that we must continue whatever level of pressure it takes to degrade core Al Qaida once and for all.

As we are seeing in Iraq, gains that took a decade to achieve can erode quickly if we do not do what it takes to protect them. I also hope we are learning from other lessons -- some other lessons from Iraq. I was dismayed by the administration's decision to hand over custody of Hezbollah operative Ali Mussa Daquq to Iraq last year.

It is too late now to prevent what I believe will result in the ultimate release of a terrorist who killed five American soldiers in Iraq. But it is not too late to make sure that the same thing does not happen with the hundreds of terrorists still in detention in Afghanistan.

I hope our witnesses can discuss the range of likely threats posed by these detainees and the role of the community in providing intelligence and support of planning for any handover of detention facilities to Afghans.

I understand that this is going to be a challenge because the administration still lacks a long-term detention policy. But we just cannot keep letting dangerous detainees go free.

CHAMBLISS:

This brings me to my last point. Press reports have outlined the administration's plans to trade prisoners detained at Guantanamo Bay to the Taliban as a confidence-building measure.

It appears from these reports that in exchange for transferring detainees who has been determined to be too dangerous to transfer by the administration's own Guantanamo Review Task Force, we get little to nothing in return. Apparently, the Taliban will not have to stop fighting our troops, and won't even have to stop bombing them with IEDs.

I have also heard nothing from the IC that suggests that the assessments on the threat posed by these detainees have changed. I want to state publicly as strong as I can that we should not transfer these detainees from Guantanamo.

Moreover, I believe the community should declassify the intelligence assessments on these detainees so that we can have a full and open debate without the wisdom of this transfer before it takes place.

Let me conclude with two other comments. First of all, with respect to the LA Times article, Madam Chair, I did not see that this morning, but I want to, again, state in an unequivocal fashion that Director Petraeus has done an outstanding job in service to our country in many capacities, as his service in the military would indicate.

And during the time that he has been the director of the CIA, you're exactly right. He has stayed in constant communication with the two of us, and I know with our colleagues on the House side and -- and has been readily available to come to the committee on both a formal and an informal basis, as well as being available on -- at any time for -- for us to have a conversation with. And I'm surprised that there would be any question about that.

And as we all know, we have the utmost confidence in -- in his leadership, along with the leadership of the entire community. And there has been, again, a seamless transition from Director Panetta to Director Petraeus. And we're very confident of his leadership.

One other issue that I want to mention, following the event of September 11, as a member of the House Select Committee on Intelligence, Chairwoman -- excuse me -- Congressman Jane Harman and I chaired a committee -- a subcommittee on the Intel Committee that did a review of the facts leading up the events of September 11.

And we issued the first detailed report on the deficiencies within the intelligence community that led up to September 11. And we were very critical of the community, in one respect particularly. And that was the lack of the sharing of information between our various agencies within the community.

Director Mueller, you and I have had extensive conversations, since you've been here longer than any of the rest of the members here, about that issue. And I just want to say that over the past decade, the stovepipes that we alluded to in that report have continued to fall. And I would have to say that today, without question, while we still have improvements to be made that the sharing of information between all of our agencies is at a superior level.

And Mr. Olsen, I had the privilege, as you know, visiting with your folks at NCTC recently. It was very impressive to not only see the -- the improvement from a technology standpoint, but just to see every member of the intelligence community sitting around a table virtually and discussing in real time the issues that face the community from a CT standpoint. It's very impressive. And I commend all of you for the great work you've done. It's not been easy.

And sometimes it's, I know, very difficult to put aside some of the previous relationships that might have existed. But boy, have you all ever done a good job breaking down those firewalls and really engaging with every member of the intelligence community to ensure that we disrupt and interrupt terrorist activity around the world that's directed at America, Americans, as well as other countries and allies around the world. So I commend you from that respect.

I thank you for being here today, and I look forward to your testimony. Thank you, Madam Chair.

FEINSTEIN:

Thank you very much, Mr. Vice Chairman. Now I'd like to introduce the distinguished panel before us.

They are the director of National Intelligence, James Clapper, who will deliver an opening statement on behalf of the entire intelligence community, Director of the Central Intelligence Agency, David Petraeus, Director of the Defense Intelligence Agency, General Ronald Burgess, Director of the Federal Bureau of Investigation, Bob Mueller, Director of the National Counterterrorism Center, Matthew Olsen, Assistant Secretary of State for Intelligence and Research, Philip Goldberg, and Under Secretary for Intelligence and Analysis at the Department of Homeland Security, Caryn Wagner.

Thank you all very much for being here. We will now take your statement, Director Chambliss, and then go into a period of questions. What did I say? Excuse me, Director Clapper. And we will then go into 10-minute rounds based on the early bird rule.

Director Clapper, welcome.

CLAPPER:

Well, I take that as a compliment, so thank you.

FEINSTEIN:

Good.

CLAPPER:

Thank you, Chairman Feinstein, Vice Chairman Chambliss, and distinguished members of the committee for inviting us to present the 2012 Worldwide Threat Assessment.

These remarks and our statement for the record reflect the collective insights of the extraordinary men and women of the United States intelligence community, whom it is our privilege and honor to lead.

And on their behalf, I would thank you both for your acknowledgment, recognition of the great work that these men and women do all over the world, day in and day out, in many cases at some hazard. I want to attempt to cover the full scope of the worldwide threats in these brief oral remarks, so I'd like to highlight just some of the issues we identified for the coming year.

Never has there been in my almost 49-year career in intelligence a more complex and interdependent array of challenges than that we face today. Capabilities, technologies, know-how, communications and environmental forces aren't confined by borders and can trigger transnational disruptions with astonishing speed, as we have seen.

Never before has the intelligence community been called upon to master such complexity on so many issues in such a resource- constrained environment. We're rising to the challenge by continuing to integrate the intelligence community, as you both alluded, taking advantage of new technologies, implementing new efficiencies, and as always, simply working hard.

But, candidly, maintaining the world's premier intelligence enterprise in the face of shrinking budgets will be difficult. We'll be accepting and managing risk more so than we've had to do in the last decade.

We begin our threat assessment, as we did last year, with the global issues of terrorism and proliferation. The intelligence community sees the next two or three years as a critical transition phase for the terrorist threat, particularly for Al Qaida and like- minded groups.

With Osama Bin Laden's threat, the global jihadist movement lost its most iconic and inspirational leader. The new Al Qaida commander is less charismatic, and the death or capture of prominent Al Qaida figures has shrunk the group's top leadership layer.

However, even with its degraded capabilities and its focus on smaller, simpler plots, Al Qaida remains a threat. As long as we sustain the pressure on it, we judge that core Al Qaida will be of largely symbolic importance to the global jihadist movement, but regional affiliates, as the ones you mentioned, and to a lesser extent small cells and individuals, will drive the global jihad agenda.

Proliferation, that is, efforts to develop, acquire or spread weapons of mass destruction, is also a major global strategic threat. Among nation states, Iran's tactical advances, particularly in uranium enrichment, strengthen our assessment that is Iran is well capable of producing enough highly-enriched uranium for a weapon if it's political leaders, specifically the Supreme Leader himself, choose to do so.

North Korea's export of ballistic missiles and associated materials to several countries, including Iran and Syria, illustrate the reach of the North's proliferation activities. We don't expect Kim Jong Un, North Korea's new young leader, to change Pyongyang's policy of attempting to export most of its weapon systems.

CLAPPER:

I would note that in this year's statement for the record, we elevated our discussion of cyber threats to follow terrorism and proliferation. The cyber threat is one of the most challenging ones we face, as you alluded. We foresee a cyber environment in which emerging technologies are developed and implemented before security responses can be put in place.

Among state actors, we're particularly concerned about any -- entities within China and Russia conducting intrusions in the U.S. computer networks and stealing U.S. data. In the growing role that non-state actors are playing in cyberspace is a great example of the easy access to potentially disruptive and even lethal technology and know how by such groups.

Two of our greatest strategic cyber challenges are first, definitive real time attribution of cyber attacks. That is, knowing who carried out such attacks and where these perpetrators are located. And second, managing the enormous vulnerabilities within the IC supply chain for U.S. networks. Briefly looking geographically around the world, in Afghanistan during the past year the Taliban lost some ground, but that was mainly in places where the International Security Assistance Forces or ISAF, are concentrated.

And the Taliban senior leaders continue to enjoy safe haven in Pakistan. ISAF's efforts to partner with Afghan National Security Forces are encouraging, but corruption and governance challenges continue to threaten the Afghan forces operational effectiveness. Most provinces have established basic governance structures, but they struggle to provide essential services. The ISAF and the support of Afghanistan's neighbors, notably and particularly Pakistan, will remain essential to sustain the gains that have been achieved.

And although there's broad international political support for the Afghan government, there are doubts in many capitals, particularly in Europe, about how to fund Afghan initiatives after 2014. In Iraq, violence and sporadic high profile attacks continue. Prime Minister al-Maliki's recent aggressive moves against Sunni political leaders have heightened political tensions. But for now, the Sunni's continue to view the political process as the best venue to pursue change.

Elsewhere across the Mideast and North Africa, those pushing for change are confronting ruling elites, sectarian, ethnic and tribal divisions, lack of experience with democracy, stalled economic development, military and security force resistance and regional power initiatives. These are fluid political environments that offer openings for extremists to participate much more assertively in political life. States where authoritarian leaders have been toppled, like Tunisia, Egypt and Libya, have to reconstruct their political systems through complex negotiations among competing factions.

In Syria, regime intransigence and social divisions are prolonging internal struggles and could potentially turn domestic upheavals into regional crises. In Yemen, although a political transition is underway, the security situation continues to be marred by violence and fragmentation of the country is a real possibility. As the ancient Roman historian Tacitus once observed, the best day after a bad emperor is the first. After that, I would add, things get very problematic.

The intelligence community is also paying close attention to the developments across the African continent, throughout the Western Hemisphere, Europe and across Asia. Here too, few issues are self-contained. Virtually every region has a bearing on our key concerns of terrorism, proliferation, cybersecurity and instability. And throughout the globe wherever there are environmental stresses on water, food and natural resources, as well as health threats, economic crises and organized crime, we see ripple effects around the world and impacts on U.S. interests.

Amidst these extraordinary challenges, it's important to remind this distinguished body and the American people that in all of our work, the U.S. intelligence community strives to exemplify American values. We carry out our missions with respect for the rule of law and the protection of civil liberties and privacy. And that pledge leads me to a crucial recommendation on our highest legislative priority this year. And it requires the support of this committee and both houses of Congress.

The Foreign Intelligence Surveillance Act -- Amendment Act, or FAA is set to expire at the end of this year. Title-7 of FISA allows the intelligence community to collect vital information about international terrorists and other important targets overseas. The law authorizes surveillance of non U.S. persons located overseas who are of foreign intelligence importance, meaning they have a connection to, or information about threats such as terrorism or proliferation.

It also provides for comprehensive oversight by all three branches of government to protect the privacy and civil liberties of U.S. persons. The Department of Justice and my office conduct extensive oversight reviews of these activities and we report to Congress on implementation and compliance twice a year. Intelligence collection under FISA produces crucial intelligence that is vital to protect the national against international terrorism and other threats. We're always considering whether there are changes that could be made to improve the law.

But our first priority is reauthorization of these authorities in their current form. We look forward to working with you to ensure the speedy enactment of legislation reauthorizing the FISA Amendments Act so that there's no interruption in our ability to use these authorities to protect the American people. So, I'll end this brief statement where I began. The fiscal environment we face as a nation and in our intelligence community will require careful identification and management of the challenges the IC focuses on, and the risk that we must mutually assume.

With that, I thank you and the members of this committee for your dedication to the security of our nation, your support for the men and women of the intelligence community and for your attention today. My colleagues and I look forward to your questions and our discussion. Thank you.

FEINSTEIN:

Thank you very much, Director Clapper. We will begin with 10 minutes and early-bird rule. As I mentioned in my opening statement, I think 2012 is going to be a critical year for convincing or preventing Iran from developing a nuclear weapon. In Sunday's New York Times magazine, Israeli journalist, Ronen Bergman, wrote and I quote, "After speaking with many senior Israeli leaders and chiefs of the military, and the intelligence, I have come to believe that Israel will indeed strike Iran in 2012", how do -- end quote.

How do you assess that likelihood? And the response from Iran if that happens, that might be forthcoming?

CLAPPER:

Well, the -- our hope is that the sanctions, particularly those which have been recently implemented, would have the effect of inducing a change in the Iranian policy towards their apparent pursuit of a nuclear capability. Obviously this is a -- a very sensitive issue right now. We're doing a lot with the Israeli's, working together with them. And of course for them, this is -- as they have characterized is as an existential threat. But this is an area that we are very, very concerned about.

And would be pleased to -- because of the sensitivities -- would be pleased to discuss in greater detail in -- in closed session.

FEINSTEIN:

Well, the vice chairman and I have just met this past week with the Director of Mossad, so that is a classified meeting. But we do know that. I -- I think -- and let -- let me ask this of you, Director Petraeus, I think the world has to know what's happening. It's one of the reasons I believe that the IAEA when they go in -- well they're in Pakistan now, but when they go into Fordow, really must make transparent and public what they find there -- what they see there so that we know for sure what is happening.

I think the world is entitled to that. Particularly when you have a situation where one country views this as an existential threat. They believe it's their survival. They are determined not to let it happen. To really get the correct picture on what is happening, I think is important. Do you have a view on this?

PETRAEUS:

I do, Madam Chairman.

If I could up front, let me also echo -- echo Director Clapper's remarks about thanking you and the vice chairman for your kind words on the members of the Intelligence Committee on the accomplishments of this past year. Some of which obviously were of enormous significance and thanks to both of you as well for your comments on the agency efforts to keep the committee fully and currently informed. We've worked very hard to be accessible to you. I have personally, my deputy and the staff, we think that the facts reflect that.

PETRAEUS:

We have worked hard also to shorten the time frame from event to notification when it comes to Congressional notifications. And we've also increased those over the last five months as well. Like you, I obviously met with the head of Mossad when he was here. That is part of an ongoing dialogue that has also included conversations that I've had with Prime Minister Netanyahu and with Minister Barack, the latter almost on a monthly basis in the nearly five months that I've been in the job.

I think it's very important to note, as the article did in the New York Times, the growing concerns that Israel has and that the countries in the region have -- and, indeed, all of us have -- about the continued activities by Iran along a path that could, if the decision is made, as Director Clapper noted in his opening statement, the decision is made to pursue the construction of a nuclear device.

As both of you noted, Israel does see this possibility as -- as an existential threat to their country. And I think it's very important to keep that perspective in mind as, indeed, analysis is carried out.

As you noted, the IAEA inspectors are in Iran right now. I believe their past report was a very accurate reflection of reality, of the situation on the ground. I think that is the authoritative document when it comes to informing the public of all the countries in the world of the situation there.

Iran is supposedly, reportedly trying to be more open this particular time, perhaps trying to reassure countries, as it feels the increased bite of the new sanctions, of the Central Bank of Iran sanction and the reduction in the purchase of oil from some of its key customers.

And so I look forward, as do others, obviously, to seeing what that public report will provide this time, believing, again, that it will be, again, the authoritative open-source document on the program that Iran is pursuing in the nuclear field.

FEINSTEIN:

Thank you very much, General Petraeus.

To many -- to me, Pakistan is a very puzzling country. We know that thousands of Pakistanis have been killed by terrorists, and we suspect that what Pakistan is doing is trying to essentially -- to use a vernacular -- walk both sides of the street.

I think I and most of us believe that having a positive relationship with Pakistan, as a nuclear power, a significant nuclear power, is very important. The question I have is, how do you assess this relationship, which certainly had its low in December, may or may not be approving -- improving, how do you assess it at this time?

CLAPPER:

Well, let me start, and I'll ask Director Petraeus to add in. Well, clearly, as you -- as you allude, Chairman Feinstein, this is a challenging relationship, but it's an important one for exactly the reason that you allude -- that you mention, which is Pakistan is a nuclear power.

Pakistan and our interests are all not always congruent. Their existential threat continues to be India. They have also paid a huge price because of the militants that they've had in their country and have

suffered literally thousands of casualties in that context.

So sometimes our interests converge, and sometimes they -- they differ. But I -- as I would characterize the relationship, it's crucial that we have one and have a positive relationship, even though we've gone through some trying times.

PETRAEUS:

Well, again, relationship is very important, but the relationship right now is also quite strained. The most recent cause of that, of course, is the 26 November border incident between ISAF and Pakistani forces.

The Pakistani parliament, there is a committee that is determining recommendations to make for the government for the way forward with the -- in the relationship between the United States and Pakistan. I think there's an awareness there, as well, that this is a critically important relationship, that there are areas of considerable mutual concern, mutual objectives, while there are also those, as Director Clapper noted, are ones in which there are diverging interests.

Their -- the activities right now are also complicated, though, because of the difficulties in the domestic context there, where there's a bit of tension between the supreme court, between the army chief, and the ISI director, and the government, the president and the prime minister. That may be calming a bit. There have been signs of that in recent days.

It's worth noting, by the way, that the former Pakistani ambassador to the United States, Ambassador Haqqani, was allowed to leave, and he did arrive in the UAE this morning.

Nonetheless, the situation, I think as are British colleagues might say, is fraught, and it is going to take some time, it's going to take a lot of diplomacy, engagement, and so forth, to move forward in a relationship that's important to both our countries.

I should note that, as a general comment, we believe the relationship between the intelligence services is -- is generally still productive. There is certainly good communication going back and forth. And there have been some important, again, pursuit of important mutual objectives between the two services.

FEINSTEIN:

Thank you both very much.

Mr. Vice Chairman?

CHAMBLISS:

Thanks, Madame Chair.

Director Clapper, press reports -- and I emphasize that -- indicate that the United States is prepared to trade five Taliban members currently detained at Guantanamo as a confidence-building measure in negotiations with the Taliban.

Now, all five detainees that are named by the press were determined by the current administration to be, and I quote, "too dangerous to transfer" and are being held as enemy combatants. Now, as part of the task force, did the intelligence community concur in the determinations that these five detainees were too dangerous to transfer and should be held as enemy combatants?

CLAPPER:

Well, I believe in the original assessments, which NCTC Director Matt Olsen was involved, that -- that was the case. I should say, though, that this proposed so-called trade has actually not been decided yet. There's continued consultation with the Congress. In fact, there will be a session this afternoon with the Senate leadership on -- on this issue.

And, of course, we are certainly mindful of the provisions in the National Defense Authorization Act and the requirement for any -- you know, certifications -- and I believe inherent in that is -- is continued consultation with the Congress on whether or not this would go forward.

That said, that -- I think the history has been, in -- in almost every case where we've had hostilities, that at some point in time there are negotiations. I don't think anyone in the administration harbors any illusions about the potential here. And, of course, part and parcel of -- of such a decision, if it were finally made, would be the actual determination of where these detainees might go and the conditions in which they would be controlled or -- or surveilled.

CHAMBLISS:

Director Olsen, as stated there, you did head the Guantanamo review task force that made the determination that these five reporter named individuals were too dangerous to transfer. Have you changed your view with respect to these detainees?

OLSEN:

Vice Chairman, I have not been involved in any reviews more recently of those detainees. As you point out, they were subject to the review we conducted in 2009 that determined that -- I believe those were among the 48 who were deemed too dangerous to release and who could not be prosecuted. But I've done no further review in my current capacity at NCTC.

CHAMBLISS:

So it's -- what you're saying is that the administration has not asked you for any update of your opinion relative to these individuals?

OLSEN:

That's correct.

CLAPPER:

Well, sir, I need to inject here, though, that in the interagency deliberations, certainly the -- the IC has been asked, and we have provided, assessments of the five that are in question. So that has been a part of the discussion.

CHAMBLISS:

And has there been a change by the community from the categorizing of these individuals as too dangerous to transfer?

CLAPPER:

We haven't -- no, sir, I don't believe that -- under normal circumstance -- in other words, a repatriation to their point of origin or their country of origin. This is a little different. This is a different condition, though, in terms of the potential for negotiating some form of confidence-building measure with the Taliban. And this is very, very preliminary. And, again, no final decision's been made.

CHAMBLISS:

Let me ask you and Director Petraeus, who are very familiar with this, are you comfortable with transferring these individuals out of Guantanamo?

CLAPPER:

For me, the key would be where they would go, the intermediate country that they -- where they might be detained, and the degree to which they would be surveilled. And that would be the key determinate for me.

CHAMBLISS:

Director Petraeus?

PETRAEUS:

Very similar, Vice Chairman. In fact, our analysts did provide assessments of the five and the risks presented by various scenarios by which they could be sent somewhere -- not back to Afghanistan or Pakistan -- and then based on the various mitigating measures that could be implemented to ensure that they cannot return to militant activity.

CHAMBLISS:

The intelligence community assesses -- and, Director Clapper, your statement for the record underscores -- that the Taliban remains resilient and capable of challenging U.S. and international goals in Afghanistan. The community also assesses that Taliban senior leaders continue to enjoy safe havens in Pakistan, which enables them to provide strategic direction to the insurgency in Afghanistan without fear for their safety.

Does the community assess that Taliban reconciliation is likely to have a great deal of success, considering that the group is resilient, maintains the ability to challenge the United States, and continues to enjoy sanctuary in Pakistan and knows the time lines under which we plan to withdraw U.S. forces from Afghanistan?

CLAPPER:

(OFF-MIKE)

FEINSTEIN:

Your mike please?

CLAPPER:

Yeah. I think your -- our assessment is pretty much as you stated it, sir. The Taliban remains a resilient, determined adversary.

That said, again, I repeat that I don't think anybody harbors any illusions about it, but I think the position is to at least explore the potential for negotiating with them as a part of this overall resolution of the situation in Afghanistan.

CHAMBLISS:

Want to be careful how I ask this and hopefully you can respond in some way, with respect to our relationship with Pakistan. The safe havens that do exist have been pretty obvious and well-documented publicly.

How is our relationship with Pakistan at this point in time allowing us to address those safe havens and the cross-border activity that's taking place there from a Taliban standpoint?

CLAPPER:

Well, this is obviously part of the dialogue that -- and engagement that Director Petraeus and I have spoken of. And clearly this is a point of discussion with the Pakistanis and they are certainly aware of our concerns, but this is a case where historically sometimes our -- a good -- a good -- a good example where our mutual interests don't always converge.

CHAMBLISS:

Director Petraeus, anything you want to add to that?

PETRAEUS:

Well, I think again the record is obviously mixed. There has been progress against some of the extremist elements, in the border regions in particular. That would include, obviously, Al Qaida. When you get -- when number one, two and three are removed from the picture in a single year, needless to say that's a pretty significant accomplishment.

But beyond that it's important to note back in October of this past year, for example, four of the top 20 in a single week were either captured or killed. And, again, some of this has obviously been undertaken together.

There's been progress also by our Pakistani partners against the elements that have threatened their very existence. We should remember that a little over two and a half years ago it looked as if the Tehrik-i Taliban Pakistani was going to continue to march right out of Swat Valley and perhaps into the suburbs of Islamabad. They reversed that. They fought very hard. They've taken very, very significant casualties. And in so doing they've also gone after some of the other elements allied with the TTP in the Federally Administered Tribal Areas.

On the other hand, obviously, there's been insufficient pressure on the Haqqani network, on some of the other elements, again, the allies of Al Qaida, such as the Commander Nazir (ph) group, the IMU,

and some others. And then, needless to say, the Afghan Taliban has not been pressured sufficiently in the sanctuaries that it enjoys in Baluchistan and in other areas as well.

CHAMBLISS:

General Burgess, you've also been integrally involved in this issue relative to the cross-border activity. Anything you want to add to this?

BURGESS:

No, sir. I think, in fact, Director Petraeus kind of laid the line out very well in terms of where things are progressing.

CHAMBLISS:

OK.

Director Mueller, a month ago the president signed the National Defense Authorization Act and issued a signing statement in which he outlined his reservations about certain provisions. Regarding Section 1022, which mandates military detention for a limited type of non-U.S. citizen terrorist, the president stated that he would use his waiver authority for entire categories of cases and would design implementation procedures to provide maximum flexibility and clarity to our counterterrorism professionals.

Are you aware of any categories of terrorists for whom the president has used or intends to use his waiver authority, and if so, which ones, and how are the intelligence and law enforcement communities implementing Section 1022 of the NDA?

MUELLER:

Let me start, Mr. Vice Chairman, by saying that at the outset I had reservations in two areas. One, in terms of our continued authority to investigate terrorism cases in the United States, and that was resolved by the legislation.

The other part was what happens at the time of the arrest in the United States, and the statute provides for the administration to develop a set of procedures that'd be applicable to that particular situation.

Without getting into details, I can say that they're -- with the Justice Department and White House -- they're in the process of drafting those procedures. I think it'd be premature to talk about any of the specifics because it's on the drafting -- drafting stages. But my hope is that, as we go through and develop these procedures, that the remaining concerns that we have as to what happens at the time of arrest will be resolved.

CHAMBLISS:

I thank you for that and -- that comment -- and would just say that, as you know, we had extensive conversations between DOJ, the White House and Congress on this issue as it went through that drafting, and I would hope you would continue to dialogue with us with regard to the regulations that are ultimately implemented.

MUELLER:

Yes, sir.

CHAMBLISS:

Thanks, Madam Chair.

FEINSTEIN:

Thank you very much, Mr. Vice Chairman.

Senator Wyden ?

WYDEN:

Thank you, Madam Chair. And let me commend you, Madam Chair, and the vice chair for the way in which you put the focus in this committee in a bipartisan way, and I commend you for it.

And to all at witnesses in the table, I thank you for your outstanding service. This has been extraordinary year.

Let me start with you, if I might, Director Clapper, with respect to Iran. I've come to believe that Iran's leaders are not going to give up their push for a nuclear weapons capability unless they believe it's going to cost them their hold on power. Do you share that assessment?

CLAPPER:

Senator Wyden, actually that comports with the intelligence community assessment that this -- if the decision is made to press on with a nuclear weapon and there are certain things they have not done yet to eventuate that, that this would be based on a cost-benefit analysis, starting with the supreme leader's world view and the extent to which he thinks that would benefit the state of Iran or, conversely, not benefit.

So that's, I think, precisely where he is, and it will be done on a cost-benefit basis, and we don't believe he's made that decision yet.

WYDEN:

What could convince them, in your view, that their hold on power is being undermined by their nuclear effort?

CLAPPER:

Well, the -- I think, you know, a restive population, because of the economic extremis that the country of Iran is incurring.

If you look at the plunging value of the rial, if you look at the two indicators I think are important and the extremely high unemployment rate in Iran, this, I think, could give rise to resentment and discontent among the populace. And that's not to say there haven't been other examples of that elsewhere in the region.

WYDEN:

Now, on another subject, Mr. Director, you referenced a recent report that described how foreign spies, particularly those in China and Russia, are stealing our economic secrets. Can you give us some sense of what types of secrets these entities in China and Russia are most interested in stealing?

CLAPPER:

Well, the report you refer to is a national counterintelligence executive report that was issued this fall, which called out Russia and China for -- particularly China on their wholesale plundering, I guess if you will, of intellectual property. And of course they seem most interested in our technology. Obviously if they can save themselves the time and expense of doing R&D and their own and just steal it from us, that works to their benefit.

So to the extent that they can penetrate unprotected industry networks, which they've done unfortunately...

(CROSSTALK)

WYDEN:

Which -- which industry networks, Mr. Director, do you think are most vulnerable?

CLAPPER:

I think it's across the board. I think a lot of it is driven by what they can get access to. But I think it's pretty much carte blanche. Obviously the more high-tech for them, the better. And so this is a -- a serious, serious problem.

WYDEN:

Let me move to a third topic, Mr. Director. In your view, could the peaceful revolution in the Arab world have happened if repressive governments in the region had been successful in censoring Twitter, Facebook, Internet search engines and electronic communications?

CLAPPER:

Well, in some cases they tried to do that. I -- I am not sure the success of these upheavals, if you -- if you will were completely dependent on -- on -- on social media. I think the basic problems in this region, particularly economic repression of political freedoms and all that -- would -- would have bubbled up anyway. I think the social media simply helped fulminate and amplify that resentment when people understood it was a -- a large, collective.

So, I think the social media certainly facilitated it, but I don't think without it it would not have happened. Of course, some of the governments reacted to that by attempt -- their attempts to suppress such communications.

WYDEN:

I -- I won't continue this because I want to ask something of -- of Mr. Goldberg. But I don't know how the word would have gotten out. I mean if you look, for example at the way phones are tapped in the region and a variety of other, you know, approaches. I don't think the word would have gotten out. And that's why I'm going to ask you a question if I might, Mr. Goldberg. As you know, there is a discussion now in the Congress about whether or not Internet search engines should be involved in a censorship approach in terms of dealing with intellectual property specifically.

Are you concerned that if that is done here, this could be precedent which could make it harder for the State Department to go forward, for example with Secretary Clinton's Internet Freedom Initiative? I've come to feel at a minimum, it would be cited as a precedent. That if it's done here, you could have repressive governments around the world say, look at what goes on in the United States, they're supposed to be the leader in terms of freedom. Now we'll pick up on it. Are you concerned that this could possibly be a precedent?

GOLDBERG:

I think that we're always concerned with many conflicting strains when policy and legislation is being discussed about the Internet and about how to solve various problems with the distribution of information, as well as how to protect private property as is going on in the Congress at the moment. The Secretary of State, Secretary Clinton has made very clear that Internet freedom is very important principle and the overriding principle as we approach all of these issues.

And I think when we consider whatever precedent is being set, whatever legislation is being considered, that that's the primary interest that we need to consider. We also need to consider though, and the administration has spoken about online piracy and how to deal with that very serious issue. And that this can be done within the -- in a way that protects those freedoms, but also that is going to not change the architecture of the Internet.

WYDEN:

Let me wrap up with you, Director Clapper, on an issue that I'd asked about before, at this open hearing. General Petraeus knows about this. This is the question about the use of -- of force in a speech that was given by Mr. Koh -- Harold Koh, the State Department lawyer and let me note at the beginning, it's a matter of public record that the intelligence community sometimes takes direct action against terrorists and this direct action sometimes involves the use of lethal force.

And as you know, Director Koh gave a speech outlining -- outlining our policy with respect to various terrorist groups. He talked about detention. He talked about the use of unmanned drones and noted that under U.S. law, the use of force against terrorist groups is permitted by congressional authorization, while under international law, it is permitted by America's right to self defense. But in spite of having asked about this on a number of occasions and General Petraeus you know that I too share the chair's view with respect to your working with us here on this committee and your being forthright, I have not been able to get an answer to this specific, you know, question.

And I would like to know whether that speech that Mr. Koh gave contained unstated exceptions for intelligence agencies?

CLAPPER:

With respect to counter terrorism, it does not. So it -- it applies to all components of -- of the government involved in counter terrorism, be it military or non military.

WYDEN:

Are there other exceptions other than counter terrorist activities?

CLAPPER:

Well, I believe his speech dealt with counter terrorism.

WYDEN:

So you believe that his speech -- the text of the speech, because this would be important, applies to all agencies? It applies to the intelligence community? His entire speech, the overall thrust of the speech applies to all the intelligence community?

CLAPPER:

With respect to counter terrorism, yes.

WYDEN:

Thank you Madam Chair.

FEINSTEIN:

Thank you very much Senator Wyden. Senator Udall?

UDALL:

Thank you Madam Chairman. Good morning. Thanks to all of you for the important work you do. Let me start by commenting in a follow on way on the topic that Senator Chambliss mentioned, which was the detainee provisions in the NDAA. I want to thank all of you for weighing in, for sharing with the Armed Services Committee and the Senate at large, your concerns about the detainee provisions as they were proposed.

We had a spirited debate on the floor of the Senate for a number of days. Senator McCain was -- was very involved, as were a number of other Senators. I think it was a valuable debate. It was a worthwhile debate. I think it was the Senate at it's best. I'm hopeful that the compromises that were put into the final product will work. I'm going to continue to monitor what's happening. I think the debate as to whether we ought to be prosecuting and delivering justice through the military system versus the Article 3 system is an important one.

Senator Feinstein and I and others have joined to introduce the Due Process Guarantee Act and I think at the heart of our concerns and -- and the center of our mission is to ensure that Americans will not be indefinitely detained. So again I just want to thank everybody for the engagement and -- and the passion they brought to that important debate. General Clapper, if I could focus on a particular topic, commercial imagery. I was glad to see your comments at CSIS last week that you're a big believer in commercial imagery.

You noted that it has the benefit of being unclassified, which is great for sharing among our war-fighters at all levels and with our coalition partners overseas as well as with non military users. In light of those comments, I've become concerned about what I've been hearing about the steep reductions in fiscal year '13 for the Enhanced View Commercial Imagery Program. I understand that the White House has requested a requirements review for commercial imagery consistent with a new defense strategy and that this review may well indicate the need for a shift away from the national technical means given that commercial providers can collect imagery at resolutions that meet virtually all of the military's needs.

So here's my question. Do -- do you believe that fiscal year '13 enhanced view budget will meet the war-fighter's needs for unclassified imagery? How will it affect the safety of our war- fighters and our capacity to work with our allies?

CLAPPER:

Senator, as you eluded, I -- I am a huge believer in commercial imagery, going back to when I served as then director of NIMA and later NGA in the immediate aftermath of 9/11 and we used a lot of commercial imagery then. It continues to be of great value for exactly the reasons you cited. It's unclassified, it can be shared in coalition contexts as well as in domestic disaster relief and the like.

That said, though, we are looking at some pretty steep budget cuts across the board in the intelligence community. And as a consequence, commercial imagery will be considered in that broader look at where we have to take -- where we may have to take reductions. And not going to single out commercial imagery as the only one.

It's my view that not only can we satisfy the military requirements, but all the other non-military requirements as well for commercial imagery at the contemplated level of funding.

I think it's incumbent on the industry to perhaps come up with some innovations and business practices and this sort of thing that will help us as we look at a more constrained fiscal environment.

UDALL:

I appreciate your attention to this matter. I know many of the other participants today on the panel depend on this kind of imagery. My concern, I think, and you share it, I hear you implying, is that if you cut too far, you reduce the reach of the commercial sector, you may lose skill sets and experts that have played an important role and you create a downward spiral that may be hard to reverse if it goes too far.

CLAPPER:

Sir, this is a concern we have across the board, not just in the commercial imagery industry, but as we make reductions, particularly in intelligence, obviously that's going to have some impact on the industrial base across the board.

UDALL:

Let me turn to the Middle East and perhaps direct this question at General Petraeus and Director Clapper. And others on the panel please feel free to weigh in.

Syria. Do you assess that the fall of the al-Assad regime is inevitable at this point or is it still in question? If the regime should fall, how do you assess what a post-Assad Syria looks like, both near term and long term? And then what are your thoughts on how Hezbollah and Iran would be affected should the Assad regime fall?

CLAPPER:

(OFF-MIKE) I personally believe it's a question of time before Assad falls, but that's the issue. It could be a long time, given the protracted -- I think two factors here, is just the protraction of this, these demonstrations. The opposition continues to be fragmented. But I -- I do not see how he can sustain his rule of Syria.

And of course post-Assad is -- would be exactly the issue. There is, you know, a question about who would emerge in a post-Assad situation.

As far as Iran and Hezbollah, what is transpiring in Syria is, of course, of great concern to them. It's why they are both expending great effort in terms of resources and advice and this sort of thing to try to prop up the Assad regime.

UDALL:

General Petraeus?

PETRAEUS:

Yeah, I generally subscribe to that as well.

The opposition is, obviously, showing a considerable amount of resilience and, indeed, is carrying out an increasing level of violence. The fact is that Damascus and Aleppo now, two previously relatively safe cities, the two biggest, are now seeing violence in their suburbs.

The initiation of offensive operations by the Bashar al-Assad's regime to try to push them out of the suburbs has met very stiff resistance, and I think it has shown indeed how substantial the opposition to the regime is and how it is in fact growing and how increasing areas are becoming beyond the reach of the regime security forces.

Post-Assad one would assume that there would be leadership by -- from the Sunni Arab community of the country, which is certainly the majority, as opposed to the Alawi minority that is the core of the regime, of the Bashar al-Assad regime. But that then begs the question of what happens to these other elements, to the minorities, to the Alawi, to the Druze, to the Kurdish minority...

UDALL:

The Christian -- Christian community as well.

PETRAEUS:

The Druze Christians and other Christian sects as well.

Clearly, the loss of Syria as a logistics platform, a line of communication into Lebanon to support Hezbollah would be a substantial setback for Iran in its efforts to use Hezbollah as a -- as a proxy. That is indeed why the Revolutionary Guards Corps, Quds Force, is so engaged in trying to prop up Bashar al-Assad right now.

UDALL:

Let me turn to another country in that region. General Petraeus, you know better than anyone how much we've invested in Iraq -- treasure, our reputation, and of course the lives of Americans from all over our country.

If you were to advise the policymakers sitting here and in the Senate and the Congress at large, what would you suggest we should be doing as Iraq struggles to find a democratic path forward?

PETRAEUS:

Well, I think essentially continuing what we are in fact doing, which is to engage Iraqi counterparts at various levels, all the way from the top through the diplomatic communities, intelligence and security services, to work hard to help them to resolve the ongoing political crisis. And there's no other word for that, although it has perhaps diminished it somewhat and it now appears as of the last 48 hours that the Sunni bloc of the political leadership is going to return to the government, albeit with still some hedging of bets.

Supporting them as they grapple with the security challenges that have emerged over the course of the past two months or so, where Al Qaida in Iraq has been a bit more active than it was for quite some period. Helping them to develop further their security forces and their intelligence services to combat a mutual enemy. We do not want to see the resurgence or the regeneration of Al Qaida in Iraq, and very much in the interests of both countries and indeed the region and the world to work together to combat it.

UDALL:

Thank you. Thank you, Madame Chair.

FEINSTEIN:

Thank you very much, Senator.

Senator Snowe?

SNOWE:

Thank you, Madame Chair.

And thank all of you for your contributions to our country.

I want to follow up on a couple of issues with respect to Iran. And, obviously, it's deeply troubling in terms of the direction that they're taking. And we predicate a lot, obviously, on the report that was issued by the IAEA.

And I know, General Petraeus, you indicate it's an authoritative document.

They list in page 8 of their report the number of activities that are relevant to the development of a nuclear explosive device, including, you know, procuring nuclear-related and dual-use equipment, materials, developed undeclared pathways, the acquisition of nuclear weapons development information and documentation, work on the development of indigenous design of nuclear weapon, including the testing of components.

I gather we agree with the fact that Iran has not made a decision to weaponize at this point. Director Clapper, do you agree on that?

CLAPPER:

Yes, but they are certainly moving on that path. But we -- we don't believe they've actually made the decision to go ahead with a nuclear weapon.

SNOWE:

Well, how will we decide that they have integrated all of these components in a decision to weaponize, at which point?

CLAPPER:

Well, certainly...

SNOWE:

What will be our red line (inaudible)?

CLAPPER:

Well, certainly a key indicator will be, without going into sensitive areas here, but a clear indicator would be enrichment of uranium to a 90 percent level would be a pretty good indicator of their seriousness.

There are some other things they would need to do, which I'd rather not go into in an open session, that we would also look for, as apart -- and apart part from whatever we could glean from across the -- across the community on an actual decision to go forward.

SNOWE:

General Petraeus, do you care to answer as well?

PETRAEUS:

No. I fully subscribe to that. Again, the various components, enrichment, weaponization, delivery. And the -- what we think we would be evident if there is a decision to enrich beyond the 20 percent that they are currently enriching to -- to the weapons grade would be very significant, and I think a tell-tale indicator.

There's no commercial use for that arguably -- in fact, not arguably. I think factually the amount of 20 percent enriched uranium that they have exceeds any requirement, for example, for the Tehran Research Reactor for the foreseeable future. So there are already concerns just with that.

SNOWE:

And the IAEA report said much of there is dispersed among a number of locations. So with the inspectors being there for however many days, several days, would they be able to discern or detect their ability to weaponize at what state they're in? What do we hope to glean from (inaudible)?

(UNKNOWN)

Well, as Director Petraeus has alluded, the rule of IAEA is extremely important here. And of course, we do have to bear in mind that Iran is a signatory to the Nonproliferation Treaty. The facilities that they are now operating are safeguarded, meaning they are required to be inspected by the IAEA.

So their presence there, and in fact their extended stay there, and it's IAEA's intent, as they said before, to hopefully resolve these ambiguities about Iran's program and its intent. So what they have to say is crucial. And of course their continued access is crucial.

(UNKNOWN)

Well, and there's continuous monitoring also by other means that the IAEA has as well.

SNOWE:

General Burgess, Iran has issued various threats with respect to the Strait of Hormuz. Can you give us some analysis of the activities there and what we are doing, in addition to what capabilities does Iran have -- or doesn't have -- with respect to having potential to close the straits or affect it in any way in terms of international transit?

BURGESS:

Well, ma'am, what I have said in open discussions on this, a lot would have to be taken to a closed session, but clearly the Iranians have the capability, we assess, to temporarily close the Straits of Hormuz. The concern becomes then define temporarily and how long that would go, but they clearly have that capability. But if we go any further, I'd prefer to go to closed session, ma'am.

SNOWE:

Do we have a defined time in that respect, on temporary?

BURGESS:

Ma'am, I'd prefer to go to closed session.

SNOWE:

OK. Thank you.

Director Clapper, getting back to the issue of Pakistan, there was a senior administration official who was quoted recently in an article saying that developing a new normal in terms of relationship with Pakistan.

So much of what we're doing in Afghanistan is predicated on effectively addressing and rooting out the safe havens, obviously. And that is the predicate and template for the president's policy that he indicated in June, and that obviously we need to have that strong relationship with Pakistan.

How does our strategy going forward, how is that affected by what's developing in Pakistan, especially now with, as General Petraeus indicated, there is a review of our relationship that's underway within the Pakistan government, the parliament?

And then secondly, they're issuing threats about imposing taxes on the transit of our materials, both ours and NATO's, from their ports and roads to Afghanistan. So this is deeply troubling. And I don't know if this is a new normal, but how does that affect our, you know, our situation in Afghanistan, and how is it that ever changes the dynamic in Afghanistan?

CLAPPER:

Well, it obviously has a profound impact on -- on Afghanistan and prospects for successful resolution there. That's why -- and that is a way of emphasizing the importance of a positive relationship with the Pakistanis and -- this is getting into the policy realm now outside of intelligence, but it's crucial that our dialogue proceed and that we find some way of -- of converging on -- on that issue as well, particularly with respect to safe havens.

Pakistan is -- Pakistanis are very proud people, and they've felt their sovereignty was assaulted in the Abbottabad raid. And of course the regrettable incident in November with the killing of the Pakistani troops along the border sort of heightens that. That has caused them to collectively reassess the relationship.

But in the end, I believe they realize they need a positive partnership with us. And hopefully we'll work through these in such a way that we minimize the impact of these safe havens.

SNOWE:

General Petraeus, you're obviously in a interesting position, both in as being commander of the forces and being the architect of the counterinsurgency strategy in Afghanistan, and now being director of the Central Intelligence Agency.

Since you've assumed this position, do you view things any different in Afghanistan with respect to our strategy?

PETRAEUS:

No. I can't say that I do.

SNOWE:

Even with some of the reports that have been issued publicly regarding the assessments of Afghanistan and that it is very difficult to make the gains that are essential, precisely because what is happening with the safe havens in Pakistan?

These issues are ever thus (ph). I mean, nothing's changed in the dynamic, unfortunately. Including the corruption, the government, and now of course the safe havens. These have sort of been, you know, the dynamics that have been there since the beginning.

PETRAEUS:

There is nothing easy about Afghanistan. As we used to say, it's all hard, all the time, but it's also all important, all the time. There's a reason we went there in the wake of 9/11. We have hugely important national security interests.

And it's very important to that country, to the region and the world that we do everything possibly to try to get that right and to ensure that Afghanistan is never again a launch pad for extremist attacks, as it was for the 9/11 attacks.

If I could, by the way, you know, you touched a little bit that alluded to the fact that I had a different viewpoint at various times than that of the intelligence community. And I was pretty clear I think in my conformation hearing that that typically resulted from the fact that the intelligence community tends to stop, if you will, a clock, and then for six to eight weeks do the analysis, argue within the community itself on the ultimate position, and then actually provide the NIE or district assessment or whatever document is provided to policymakers.

And typically, in the four times that I have differed with the intelligence community on Iraq or Afghanistan, the reason for it has been that lag in a dynamic situation that we continued to make progress, or in a couple cases didn't.

Because in those four cases, twice I thought the assessment was too negative of -- by the intelligence community. And then once in Iraq, once in Afghanistan, two other times, I felt that the community was actually too positive and that we should be more guarded in our assessments.

SNOWE:

Yeah. I appreciate that. I well recall that. And I know there is that sort of, you know, difference. And in terms of the (inaudible) even, but also the lag time.

PETRAEUS:

Well, what I should note is that Director Clapper and all of us have discussed this. And what we want to do is dramatically reduce that amount of time from when you stop the clock for the analysts to start the writing, if you will, or to finalize the writing so that there is not such a large gap between the end of the data and the delivery of the product to the policymakers, to Congress, to the rest of the community.

SNOWE:

So that probably didn't happen this last NIE?

PETRAEUS:

Actually, I'm glad you asked that because I think that's worth clarifying.

First of all, the most recent NIE -- in an open session now -- addressed the post-2014 period. It was not on the past year or how are things going in general in Afghanistan. It was assessments by the intelligence community analysts about the various scenarios. In other words, if you make a certain set of assumptions about the level of support and a number of other factors in Afghanistan, what will the outcome likely be?

And there were a series of assumptions -- groups of assumptions about that. There was relatively little on the state of the insurgency. In fact it -- in open session, it basically said, "Yes, there has been continued progress," but also that the Taliban does remain resilient."

The military's concern in this case was that -- a view that there perhaps should have been an additional set or perhaps even sets of assumptions that could be analyzed, in particular some assumptions that may have implied a greater level of assistance than was in those other sets. And that was really the issue.

So I think that -- that the accounts of this have not, in all cases, been completely well informed, shall we say.

SNOWE:

I appreciate that. Thank you.

PETRAEUS:

Thanks.

FEINSTEIN:

Thank you very much, Senator Snowe.

Senator Rockefeller?

ROCKEFELLER:

Thank you, Madam Chairman.

I -- I want to make a couple of comments. One is I was very pleased to hear that you want to proceed with the renewal of FISA. Actually, I think FISA's served two roles. One, it created a very valuable piece of legislation for us. It was not without controversy, but it was a right thing to do.

And secondly, I think it helped what some of us who've been here for some years should point out that I think it helped open up the dialogue between the intelligence community and this committee. This committee went through a long period of time when the I.C. community treated us very cavalierly. It was not interested in sharing. We could only -- I guess it was Pat Roberts at the time and myself. We switched one chair and then the other chair.

They would -- they would talk with the gang of four, the gang of eight, but never both committees. They would never share what they told us and there were certain circumstances where they could not share what they -- we could not share what they had told us because it was a specific request and for good reason.

But it was not a good relationship. It was not a good relationship. I mean, just as -- right after 9/11, the first thing that the Congress did was to pass a law saying it was OK for the Central Intelligence Agency and the FBI to communicate with each other, perhaps even shake hands and perhaps even start to work up a little intelligence on the FBI side. That was a long process. All of this is long and painful.

Now, I lead up to this by saying I cannot describe to you my own frustration and sense of wonderment how all of our DNI directors have come before these meetings and have, at least in the past, you referenced, Clapper -- Director Clapper, today that far and away the most important matter of national security is something called cybersecurity.

The president in his State of the Union actually used the word "cyber-threat," which I think is a better way of talking about it because it's more sort of stunning, alarming, less passive. We have made virtually no progress on that subject.

So on the one hand, the intelligence community is telling us that it's the number one national security threat, not, you know, taking three of the top five out or, you know, what's going on here or there. But on a sustained basis, national security depends upon our ability to allow a system -- to form a system wherein private companies, working with DHS and the government, can on their own decide how they want to protect themselves and get some help from DHS.

We do not overregulate -- some -- some have said that -- because we've made changes. Olympia Snowe and I came up with a bill three years ago -- three years ago. And it's wandered through Melissa Hathaway and Mr. Schmidt and nobody seems to get very excited about either it or the subject. And I'm very troubled by this, and I want to discuss this with you specifically.

You're in the I.C. community. Cybersecurity is not in -- in your general line of work, General Petraeus, but it's very much in Director Clapper's line of work and therefore all of your lines of work. I don't see particularly movement. There were some criticisms made of Olympia Snowe's and my bill, that it was too regulatory. We have interfaced with hundreds of -- of private stakeholders and companies over the years. And they're -- they're quite satisfied with an almost-completed bill, or a virtually completed bill that we have.

And so, our Democratic leader and -- and the president talked about we've got to do this. The president, as I say, did mention it in the State of the Union. That is important, but nothing has happened. And if it is a national security threat, if it is the national security threat, I don't understand why we can't get, working together on this, and get a bill done.

You know, FISA was hard, but this makes FISA look like a piece of cake and it's far more in the long term. No, not in the long term. It's probably equal in the long term in terms of its importance. But it's -- it's been a very -- very bad demonstration on the part of the Congress, the administration and the public, which really has no particular interest in cybersecurity because nobody's explaining it to them, because it's -- it's abstract. It's not pushed by any one group with particular emphasis, and therefore nobody's very excited about it.

We've worked out a way that the private sector companies basically take responsibility for their own cyber safety, cybersecurity. DHS helps them and they're held accountable for it. I grew so frustrated by the lack of action on the part of all of us -- the conclusive action that I went to Mary Schapiro at

the Securities and Exchange Commission and said, "Look, I can't do legislation, evidently, right now. Would you please at least post on the SEC website where investors go all the time, obviously, to figure out if they're going to invest in private companies or not, and that private company would have to simply say if they had been hacked into, period." That's all they had to say; not what subject, but just that they had been hacked into.

Sort of a desperate measure, but it was a start. It's had some effect. People are talking about that effect in Washington. That doesn't interest me unless it's headed towards a bill.

So I would like to get your take, General Clapper and perhaps Director Mueller also and -- and anybody else who chooses to speak on the subject, how you can tell us that it's the principal national security threat and we have absolutely no bill. We do have a bill, but we have no sort of pervasive push to get this accomplished, not just a legislative matter.

CLAPPER:

Well, first of all, I don't think there's any question as to the potential here. And there is sort of, I think, two -- two dimensions to this. There's what goes on day-in and day-out in terms of our intellectual property being stolen from us. Then there is the -- which is a real -- is a real threat.

Then there is the potential, although I think it's less likely, of a massive attack, as some have described, that would basically paralyze the country or key segments thereof. The most likely proponents of that would be -- would be a nation-state, specifically China or -- or Russia. That's why I was pushed hard, we pushed hard to have that report published by the National Counterintelligence Executive unclassified, that called out that -- that threat.

I think that is an important responsibility of the intelligence community to advise all and sundry, whether it's administration officials, whether it's the Congress or the public, of the nature of that threat.

I do think the government has a responsibility to provide support and advice, as exemplified in my mind by the -- the defense industrial base pilot program that was championed by former Deputy Secretary Bill Lynn in the Department of Defense, which evolved I think a very workable formula whereby threat data is provided to key companies, particularly those involved in the defense or, for that matter, the intelligence business.

CLAPPER:

But the -- I think the bigger issue here is, you know, how do we protect the nation's cyber, and it's writ large, is an open question, and I don't -- I'm not sure that's completely the responsibility of the intelligence community. I don't -- I do not view it that way. I think there needs to be a government-private partnership. They have to participate and they have to be open about that as well.

As far as championing a bill, I personally have...

(CROSSTALK)

CLAPPER:

... sort of, deferred to the White House on -- on...

ROCKEFELLER:

Director Clapper, my time is about to run out. You cannot -- it's not your job to champion a bill.

But I just -- you know, at some point, you start asking, if you and your predecessors -- Mike McConnell and others -- have come up and -- and, you know, said this is our number one national security threat, and you're in the threat business, to say that I don't -- this is not necessarily what we do, frankly, I'm just using this forum to scream out, who is going to start paying attention to this ?

CLAPPER:

Well, I think a lot of people are paying attention. And certainly, the president's mention of it -- there's a White House coordinator for it who's orchestrating this across the board. It involves the intelligence community. It involves the Department of Defense. It involves, clearly, the Department of Homeland Security.

And I think that the leadership for that has to be in the -- in the interagency. So I don't -- I don't know that it's fair to say that, you know, the administration doesn't care. It certainly does.

ROCKEFELLER:

I -- I'm just saying that we have made no progress. We have made no progress, and that is embarrassing in view of what you and your predecessors have said about the nature of the threat.

Director Mueller, do you have any comments?

MUELLER:

Yes, Senator. I think it's wrong to say we're excited -- or somebody should be excited about it. I can tell you that we are exceptionally concerned about that threat.

I do not think today it is necessarily the number one threat, but it will be tomorrow. Counterterrorism and stopping terrorist attacks, for the FBI, is a present number one priority.

But down the road, the cyber threat, which cuts across all programs, will be the number one threat to the country.

We look at it in three different perspectives. The first is, inside the FBI, we have to change our organizational structure. In the same way we changed to address terrorism, we have to change to address cyber crime. We have to recruit and hire and bring on the persons who are capable of doing it. We have to understand that our role is to investigate intrusions and to thwart further intrusions.

And secondly, in the same way, we had to share intelligence in the wake of September 11th. We have to share information and intelligence between the various entities who address this particular threat.

At the time of intrusion, you do not know whether it is a state actor, a Russia or a China. You don't

know whether it's an O.C., organized crime entity or the high school student down the -- down the street.

And consequently, you can't allocate it to a particular agency, which is why we developed the national cyber investigative task force -- task force, with the FBI, CIA, DIA, NSA, Secret Service, all of those who have a role to address this kind of threat.

And so we have to build up the collective addressing of that threat, in the same way that we did so and broke down the walls in the wake of September 11th.

And lastly, in terms of legislation, we have pushed in the legislation two areas that are of concern to us. One is a national data -- data breach requirement. There are 47 states that have different requirements for reporting data breaches. There has to be a national data breach requirement for reporting, and we should be recipients of that reporting.

And secondly, there has to be, in the statute, in my mind, the ability to share the information indicative of a crime with the bureau and others who have that responsibility. But it is something that we as an organization are focusing on as the next substantial threat.

FEINSTEIN:

Thank you very much, Senator Rockefeller.

And I have a data breach law that's been pending for some time, so hopefully you'll include it.

Next is Senator Conrad.

CONRAD:

Thank you, Madam Chairman. Thank -- I want to thank you and the vice chair of this committee for conducting this committee in such a thoroughly professional way. I really have enjoyed my service on this committee and in no small measure because of the leadership of this committee. I think it's just -- it's a very good example for the rest of the Senate.

I also want to thank all those who are here testifying on behalf of the intelligence community. Let me just add my voice with respect to the press reports reflecting on Director Petraeus by these unseen, unnamed sources.

You know, as far as I am concerned, these people that work behind the cloak of anonymity attacking people are -- are cowards. If they have something to say about somebody, if they want it to have some credibility, they ought to have the courage to stand up and say it and put their name behind it.

And I'd say to the press they ought to quit printing anonymous attacks on people. It does not reflect well on them, either.

So with respect to Director Petraeus, as far as I'm concerned, he's a patriot. He's demonstrated that not only in his military career but on taking on this assignment.

That was, to me, an act of patriotism. It would have been very easy for him -- he didn't need to do this for his reputation or his career. So he deserves our praise, not these nameless, faceless attacks that frankly have no basis in fact, either.

And my -- my experience is I have been quite pleasantly surprised at how open the intelligence community has been with this committee, quite to the contrary of this report.

Director Mueller, thank you for agreeing to serve another couple of years. I think that, too, is an act of patriotism. It's very much appreciated. At this time of threat to our country, for you to agree to take on additional years of service deserves our public praise.

And we thank all of you. I can't neglect mentioning Mr. Olsen because his parents are from my home state. I know them well, couldn't have finer people. We're very, very fortunate to have people of that quality and character serving.

I'd like to ask each of you in turn, since this is an annual meeting, what is your assessment of whether or not we have made progress in our ability to handle the terrorist threat to this country?

Have we made progress? If so, how? Are we slipping?

What is your assessment of how we have done compared to where we were a year ago?

I'd start with Mr. Goldberg, go right down the line.

GOLDBERG:

I think, as it was said earlier, Senator Conrad, that progress has been made in various parts of the counterterrorism fight, especially against Al Qaida senior leadership. But there are many other challenges out there and it remains a very, very dangerous part of our -- of our work.

CONRAD:

Ms. Wagner?

WAGNER:

Senator, I would -- I think we have made a lot of progress, particularly in a couple of key areas. I think it was already mentioned, the extent to which many of the stovepipes have been broken down in terms of information-sharing between the elements of the community.

I think we have made huge progress in that realm, and in fact, we operate as a team. And I daily am interacting and operating particularly with my colleagues at the FBI and at NCTC, looking at the -- the terrorists that are abroad as it projects to the homeland and then dealing with the FBI on the issues that are inside the homeland.

In the second area, I would just say quickly that where we've made a lot of progress, I think, in my own department is in the ability to which we have been able to harness the intelligence from the intelligence community to -- to inform our instruments, if you will, to keep people out at our borders,

to make sure that the wrong people are not getting on airplanes at last points of departure and to make sure that people who shouldn't get them are not receiving immigration benefits from the department.

So we've really tightened our ability to take what the community is producing and operationalize that in homeland security.

CONRAD:  
Mr. Mueller?

MUELLER:  
The removal of bin Laden and Awlaki was a huge benefit to the security of the United States -- my brothers and sisters in the other agencies.

By the same token, there are still leaders in both Yemen and Afghanistan-Pakistan border area that have the capability of launching attacks domestically.

MUELLER:  
Most of the arrests that we've made over the last year, year and a half, had been lone wolves, those individuals who have been radicalized, trained on the Internet, have the capability of developing IEDs and other mechanisms on the Internet. And as we have been relatively successful in addressing these particular plots, nonetheless, the ability of persons to utilize the Internet, to be both individually radicalized, but also get the information they need to undertake attacks, has -- has increased.

CONRAD:  
Director Clapper?

CLAPPER:  
Sir, just to take perhaps a little longer perspective, this is my third job in the intelligence community in the last 12 years. I started at NIMA two days after 9/11. I think we've made tremendous progress.

The transformation of the FBI into an intelligence-driven organization is just one case in point. The maturation of Department of Homeland Security, the expansion of the intelligence community to include both foreign and domestic aspects, the sharing with -- at the federal, state, local, tribal, private sector level, all of which have -- I think mean improvement, demonstrate improvement.

That's not to say we should rest on our laurels. We always have more issues to deal with. And this is not, particularly with respect to counterterrorism, it's not a threat that's going to go away.

CONRAD:  
Thank you.

PETRAEUS:  
Senator, first of all, thanks for your words of support.

We have made considerable overall progress over the course of the last year. Any time the top three leaders of the most significant terrorist organization that faces us are taken out, that, needless to say, is really quite a banner year. And Al Qaida in the Arabian Peninsula, al-Shabaab, other organizations have sustained important losses as well.

Having said that, the threat of terrorism remains significant and we must sustain the campaign, we must maintain the pressure on Al Qaida and its affiliates and other violent extremist organizations wherever they may be.

Beyond that, I also concur with Director Clapper that there has been continued important progress in the organizational aspects of the war on terror.

The counterterrorist campaign has benefited enormously from the continued efforts to better integrate intelligence to -- for the various elements of the community to work together more effectively, and, frankly, even within individual agencies to further the progress in the integration of efforts between, say, the CIA operators as well as analysts in bringing together all of the different components of our organization and the rest of the intelligence community, say, in the counterterrorist center and some of the other centers that we have as well.

CONRAD:  
General Burgess?

BURGESS:  
Sir, I guess the phrase up here is I would like to identify myself with the remarks of those that have gone before me. As a plank holder in the director of national intelligence, as I look back, I agree with the way Director Mueller has put it and Director Clapper. We have made great strides in a lot of different areas.

Having said that, we still have work to do and we still have challenges remaining.

CONRAD:  
All right. Mr. Olsen?

OLSEN:  
Consistent with the other comments, the bottom line, I think, is that Al Qaida is weaker now than it has been in the past 10 years.

That said, we face a more diffuse and decentralized threat from Al Qaida's affiliates in Yemen, Somalia, as well as the threat from lone actors in the United States.

As Director Clapper said, I think from an organizational perspective, in answering your question, our ability to handle the threat, we are -- we are better positioned, and I think the operative word is it's a team approach. We're better positioned to share information, as the vice chairman commented at the beginning of the hearing, we do a better job of integrating that information, analyzing it.

At NCTC we've made improvements in watch listing, in providing situational awareness. And overall,

again, it's a team effort among all of the agencies represented here.

CONRAD:

Just in terms of summing this up, what I hear is significant progress, serious threats still remain to the United States, and that the teamwork in the intelligence community itself has dramatically improved. I'm hearing that quite consistently.

I think that's very important for the people that we represent here, that they understand, yes, we've made progress, in some ways very dramatic progress, especially against Al Qaida, but that significant threats remain and that we've got to continue to be vigilant, which means we've got to continue to put resources to these issues.

I thank the chair.

MIKULSKI:

Good morning, everybody, though it's mostly heading into the afternoon.

I would like to thank each and every one of you for the wonderful work you do every day, in every way protecting our country.

So much progress has been made since 9/11 in reforming the intelligence community, making it more effective, making it an integrated unit. The fact that all of you are here at the table at the same time points to our successes. And probably one of our greatest has been what we have been done to dismember and decapitate Al Qaida.

But I'm going to pick up on the issue of -- that Senator Rockefeller raised about cyber. I've been kind of almost a Johnny of Janie one note on this issue in what I focus here.

I share Senator Rockefeller's frustration over a lack of urgency. I think it's partly due to the executive branch at the -- and also due to the Congress itself. My questions are going to go to Clapper, Mueller and Wagner.

First, just a comment about urgency. It's now been -- when we get to April, it will be five years since the attack on Estonia in which we thought we were going to trigger Article V of NATO for the first cyber war. So we've had five years of supposed to being on the edge of our chair on this issue.

So one was, how do we protect dot-mil and so on? But what we've now seen is the issues related to dot-gov and dot-com. In recent meetings with you, Director Mueller, because we -- our involvement to the Appropriations Committee, and with Ron Noble, Interpol and the Interpol team, it is the protection of the dot.com. And he spoke most eloquently about the counterfeit and fake drugs coming into European countries, to Canada, to ourselves.

In a meeting with Dr. Hamburg yesterday at FDA, when we were talking about a new regulatory framework to get drugs to the market fast and yet safe, one of her biggest challenges is protecting the secrets that she has of America's pharmaceutical, biomedical device community and the supply of the drug chain.

Right now, there is a bigger criminal penalty for a knockoff of a Louis Vuitton handbag than there is for fake heparin, which is a blood thinner that came into our country that could kill thousands of people.

So you get what I'm saying here. The growing issues around protecting dot-mil in our country, organized crime, Interpol says cyber is the growing crime and it affects state secrets, trade secrets, and then also this other stuff there.

The corruption, that where there is a weak government there is a strong organized crime element.

So we've got to really move on this. Rockefeller, Senator Rockefeller has spoken about his frustration with the executive branch. I'm frustrated with the legislative branch. We have turf battles, we dither and diddle over policies and so on. He has a great policy and so on. I hope we move on the (inaudible).

So let me get, though, because to me there are three issues -- urgency, foggy policy, particularly on governance, and the need for bipartisan camaraderie among ourselves to pass the bill.

So let me get to the governance issue and it goes to General -- to Director Clapper. And then Ms. Wagner, and then Director Mueller.

So the question is, who's in charge? We all diddle and dither over the governance issue. Article 10, article 50, homeland security, is it dot-mil, et cetera.

So let's take our president. He is at the Democratic convention and the lights go out in San Diego. (inaudible) said, "Oh, my god. He turns to Napolitano and says, "What is this?"

While he turns to Napolitano -- and the lights only go out for maybe three hours. The lights go out in Boston, et cetera. So he turns to Napolitano and says, "What the hell are we doing here and what can we do?"

MIKULSKI:

My question is, is Napolitano in charge? We know the president's in charge. OK, we know the president's in charge. But what is the president in charge of? And I need to know who would respond and so on, because I feel that it is the governance issue that are the number one issues and continue to diddle, dither and punt. So...

WAGNER:

I'm going to -- I'm just going to jump in here.

(CROSSTALK)

(LAUGHTER)

WAGNER:

You know, if the lights go off and we're talking an electrical power grid issue, then I would say that, you know, my secretary would be the logical person to turn to because we have a clear role.

(CROSSTALK)

WAGNER:

Well, if I could answer the question I didn't get to answer last time, and then I'll get to that. But the clear role that we have -- your first question about who's in charge is never -- there's never a simple answer to that question, especially in this town, because we all have pieces of the pie.

But I can tell you that where -- where we are -- where our responsibilities lie is in securing the dot-gov, and then securing the parts of the dot-com that are associated with -- with critical infrastructure and key resources, including, in your example, the power grid.

So we would hope that we would have been notified because of procedures that we would have already put in place, the relationships we would have built, the education we would have given, that they had detected some kind of issue or intrusion.

MIKULSKI:

Have you done this?

WAGNER:

Yes, we have. And we would then turn to our partners.

MIKULSKI:

Well, why don't they feel that?

WAGNER:

I think, ma'am, we still have a ways to go in terms of -- of educating and building up this network that we've been working on. And we are trying to bring a sense of urgency to that.

We then turn to our partners in the FBI and NSA because, as Director Mueller mentioned earlier, you never quite know what the genesis of these attacks are. It could be crime. It could be a state actor. It could be an accident. It could be a disgruntled former employee.

So we work this as a triad. We make sure that we're bringing to bear the appropriate technologies to bring things back on line as quickly as possible. And we ensure that we have an investigation going to try to determine the source and the attribution.

MIKULSKI:

Ms. Wagner, first of all, my job -- I don't want to harangue you, so just know that. But I don't believe this. I mean, I really have...

Director Mueller -- Director Clapper, what do you think here? So there you are. Is the president going to call you? You're the DNI.

MUELLER:

Well, the president calls us. I mean, the fact of the matter is this happens a fair amount now. DHS is responsible for the infrastructure. But when it comes to attribution, identifying the attribution of a particular domestic intrusion, it generally falls to us. And what we have -- what we currently do is we get ourselves and DHS at the table and we will put a team out.

As soon as we got the word, there would be a team. Generally, we would lead that team, but we'd have DHS there because of the infrastructure. And wherever the outages are, wherever the investigation leads us, we would have a team of ourselves, DHS, and if it goes overseas or if we need expertise, we'd have NSA and others from the community in there. And we -- we do this as a matter of course now when we get a substantial intrusion that needs immediate investigation.

MIKULSKI:

Director Clapper?

CLAPPER:

Well, I think what Director Mueller has described kind of captures the essence of what I believe the intelligence community's responsibility is, which is the detection and attribution of an attack writ large, whether foreign or domestic.

I just might mention that -- so -- it just so happens that the administration is sending a senior-level team to brief the entire Senate on cybersecurity tomorrow on the threat and what needs to be done about it. Secretary Napolitano, I'm told, will be there, my deputy, John Brennan from the White House, the deputy secretary...

(CROSSTALK)

MIKULSKI:

There are 11 coming. There are 11 coming. So that means that there are 11. But I'll come back not only -- I mean, it's great that they're going to come and brief us. It's great that the National Security Council has come to this issue. But my question is still, going back to the Rockefeller and the sense of urgency, do you feel that the current authorities related to title 10 and title 50, and then the issues around homeland security -- we're not talking about the current situation, our proposed goal, or the way it ought to be when the repository of knowledge inside requires -- rests in a military agency at the National Security Agency.

CLAPPER:

I would say that there probably could be more done to take advantage of that technical expertise that you recognize that resides in NSA. You know, the Department of Defense's response to that was to establish Cyber Command as a warfighting headquarters. But smartly, I thought, dual -- having the director of NSA as the commander of Cyber Com for military application.

I think there is a debate, frankly, that, you know, maybe perhaps the responsibility of DOD is bigger

than just to defend itself. That -- this would be a good topic to bring up at this session tomorrow.

(CROSSTALK)

MUELLER:

If I may just interject, we have built up a substantial expertise in this arena over a period of time, not only domestically, but internationally. We have agents that are positioned overseas to work closely with, embedded with our counterparts in a number of countries. And so we have over a period of time built up an expertise.

That is not to say that NSA doesn't have a substantial expertise also, understanding where its located...

MIKULSKI:

But it's a different kind.

MUELLER:

Well, no, much of it is the same kind. Much is the same kind. In terms of power, I think NSA has more power in the sense of capabilities. In terms of expertise, I wouldn't -- I would not sell ourselves short.

MIKULSKI:

We wouldn't sell you short either.

WAGNER:

And ma'am, I would just -- I'd like to add that we're committed to leveraging NSA's expertise in technology to bring to bear for the sectors where we have responsibility. And we think we've made a lot of progress in that regard.

MIKULSKI:

Well, my time is up, but I think, Senator Feinstein, this shows that some of the issues are here. We can -- we can't stop the threat. We can only stop ourselves. This is why I think we need to have a robust new legislative framework and we have to de-conflict these issues. And instead, we just remain foggy and keep punting.

FEINSTEIN:

I thank you. You headed our Cyber Task Force.

I thank Senator Rockefeller for his interest. I think you both are absolutely correct. I think we need to get cracking on it. My own view is there's kind of one overwhelming issue where there's a difference of opinion, and that's whether the standards mean something or they're purely voluntary in the dot-com area. This needs to get resolved and we need to move.

So I thank you both for the work you've done. As chairman of Commerce and as our Task Force chairman, thank you very, very much.

MIKULSKI:

Thank you.

FEINSTEIN:

Let me move on. And let me give you the list as it remains, because it's going to take us close to one o'clock.

We have Senator Coats, Senator Risch, Senator Nelson and Senator Rubio. So it would be my intention, unless there's objection, not to do a second round, but to complete this round.

Senator Coats?

COATS:

Madam Chairman, thank you. I'd like to pursue an issue that you brought up in your opening chairman, Madam Chairman, relative to the situation as it exists with Iran and its pursuit of nuclearization, and the potential Israeli response.

And I -- I think based on what was said early, if there's any dispute to the fact that sanctions to date have not brought about results that we would hope for. And I think, Director Clapper, you indicated in your statement "we hope that sanctions will prevent the necessity for an Israeli response."

I don't think -- I think the evidence is clear unless there's hard evidence to the contrary that we are not aware of, that sanctions to this point have not made any kind of difference with the regime in Iran. Is that -- does anybody dispute that?

CLAPPER:

No, sir, Senator Coats. That's -- that is precisely the intelligence community view or assessment that to this point, this has -- the sanctions as imposed so far have not caused them to change their behavior or their policy.

COATS:

And secondly, Director Clapper, you said, "We just Iran would likely choose missile delivery" -- no, I'm sorry -- "We judge Iran's nuclear decision-making is guided by a cost-benefit approach. Iranian leaders undoubtedly consider Iran's security, prestige and influence, as well as international political and security environment when making decisions about its nuclear program."

Is there any indication that sanctions to date have changed their view relative from a cost-benefit standpoint?

CLAPPER:

Well, I think it's fair to say, and we could go into this in more depth in a closed environment, that there is dissension and debate in the political hierarchy of Iran. So there is not unanimity about this. And I do think that the, to the extent that the international community is united on this, with U.S. leadership, I do think they pay attention to international opinion and what others think of them.

And certainly if there are impacts on their oil exports and to the extent that that would affect their financial situation, that could have I think a profound impact on their decision-making calculus in terms of, as we said, the cost-benefit.

COATS:

But -- but that's more of a hope and a wish than it is a hard reality, from what I understand.

CLAPPER:

As I said, to this point, the sanctions have not caused that -- that calculus to change, apparently. But with -- as the pressure ratchets up, there is the prospect that they could change.

COATS:

Would a dramatic decrease in oil prices have a bearing there? But what is the likelihood of that, given the world demand for oil energy sources?

CLAPPER:

Well, it could, and that's what we'll have to see how this plays out. And this, in turn, is dependent on -- on the willingness of the main customers of Iran to support that position.

COATS:

But to date, those main customers are not supporting these sanctions.

CLAPPER:

I wouldn't say that. Again, we can discuss this in closed session as to who is and who isn't.

COATS:

OK. We can discuss that in closed session.

I -- I don't see any public acknowledgement that China, India, some of the fast-growing Asian nations have joined us in -- in supporting -- rejecting any kind of export.

MUELLER (?):

If I could, Senator, actually publicly, it is well known that China reduced its imports of Iranian oil in the purchases. I mean, these are matters of public record. It remains to be seen whether that continues. It appears that Saudi Arabian production is ramping up and can fill some of the demand that might have been met by Iranian exports now that there are the sanctions on the Central Bank of Iran.

COATS:

Thank you, Director. But aren't we in a situation where the clock is ticking?

MUELLER (?):

Certainly.

COATS:

The clock is ticking on the side of the Iranian pursuit of nuclearization and perhaps weaponization of nuclear capability. And it has been for some -- some time.

My own view is that it's going to take tougher sanctions than currently exist in order to beat that clock that's ticking toward a nuclear Iran.

And so -- but also, we're -- you know, we see how difficult it is to ratchet up that next level of sanctions and get the world community's support. I mean, it took us a long time to get European support for the current level of sanctions. We don't have Chinese or Russian support for it. It's unlikely that we would, unless something changes that I'm not aware of.

And when you put that in the context of what the Israelis must be thinking -- and everybody acknowledges that it's an existential question for them, we've got a time factor here. And I just want to be realistic about the fact that the hope that sanctions -- it's been described as the hope that sanctions can bring about the desired results that we all want, both from the Iranian standpoint and from the Israeli standpoint.

I don't know if any -- you'd like to comment?

(UNKNOWN)

Well, sir, I think you've very accurately captured the gravity of the situation and what's at stake here and particularly for what's at stake for the Israelis.

COATS:

Would a naval blockade -- which I guess would be an act of war -- naval blockade achieve the kind of cost-benefit ratio that would give them real pause about changing their attitudes?

(UNKNOWN)

Well, I -- I don't know, sir. We'd have to take that one under advisement, but perhaps to air out the possibilities there in a closed session.

Certainly, that would have impact on their calculus. Whether it would move in the direction of a positive outcome or a negative outcome is hard to say.

COATS:

Well, of course, the outcome we want is trending very strongly toward a negative -- I mean, the outcome that seems to be taking place is trending strongly toward a negative outcome. And the outcome that we want seems to be diminishing.

And I hope I'm wrong on this, but it just seems to me that we've had years and years and years of sanctions. It's very difficult to ratchet those up and tighten them to the point where we see a decided change in the Iranian supreme leadership decisions on this. The recent movement of uranium to (inaudible) and the enrichment and the defiance in terms of public statements that come out of Iran all indicate that, so far -- I mean, maybe they're disputing this internally, but so far we have not seen positive results from that.

And when you're viewing it from the Israeli standpoint, it clearly, I think, reaches the level of perhaps the number one challenge of 2012, as the chairman has indicated.

General?

BURGESS:

Well, I do think it's...

COATS:

Excuse me -- Director -- Director General.

(LAUGHTER)

PETRAEUS:

The latest round of sanctions, of course, is really just being felt, and it will take a number of months. But as you note, there is a clock ticking during that time, and there is the inexorable progress, if you will, and the refinement of additional uranium to 3 percent, then 20 percent, and a variety of other activities that are ongoing.

And again, the IAEA has laid these out very accurately and effectively.

But the fact is that the Iranian currency has lost considerable value recently. There are runs on the bank in recent weeks that have been seen as the Iranian citizenry tries to get its money out of their own domestic currency and into anything that will hold its value better as inflation also takes off. Director Clapper talked about problems of unemployment as well.

But the overall situation is one in which the sanctions have been biting much, much more literally in recent weeks than they have until this time.

So I think what we have to see now is how does that play out and what is the level of popular discontent inside Iran? Does that influence the strategic decision-making of the Supreme Leader and the -- and the regime, keeping in mind that the regime's paramount goal in all that they do is their regime's survival.

COATS:

I have additional questions to pursue, particularly regarding the Israelis' perception of the impact of this, but I think that's better left for closed session.

Thank you, Madam Chairman.

FEINSTEIN:

Thanks, Senator (OFF-MIKE). Appreciate it. Senator Nelson?

NELSON:

Thank you, Madam Chairman. Senator Coats, in response, I think it's instructive to remember, on this, what the policy is, stated by the president is in the State of the Union.

And he said, quote, "America is determined to prevent Iran from getting a nuclear weapon, and I will take no options off the table to achieve that goal."

And then the secretary of defense, interview on "60 Minutes," said, "The U.S. and the president's made this clear. It does not want Iran to develop a nuclear weapon. That's a red line for us, and it's a red line, obviously, for the Israelis, so we share a common goal here. If we have to do it, we will do it."

Questioner: "What is 'it'?"

And this is the secretary: "If they proceed and we get intelligence that they're proceeding with developing a nuclear weapon, then we will take whatever steps are necessary to stop it."

Question: "Including military steps?"

Answer: "There are no options that are off the table."

COATS:

Would the senator yield just for...

NELSON:

Of course.

COATS:

... a quick response?

NELSON:

Of course.

COATS:

In a previous life, I served here and I heard much the same rhetoric regarding North Korea. And now we know that North Korea, despite all of our rhetoric, possesses nuclear weapons capability. And I just hope we don't have to talk ourselves into a situation where we're not able to back up what we see. We didn't do it before, and so it raises some skepticism on my part, by statements made by both Republican and Democrat leadership relative to what you indicated and quoted. But we've been down this road before.

NELSON:

Well, let's ask General Clapper. Is that the policy?

CLAPPER:

I read it just as you do, sir. It's not policies as much as it's execution. And in the case of the North Koreans, our policy was just words, not action.

NELSON:

Well, I believe -- this senator believes the stakes are so high that the policy will be executed.

What I wanted to do was I wanted to give an example from an earlier discussion of how we are meeting the terrorist threat. And I want to particularly congratulate you, Mr. FBI Director, because we just had a plot in Florida, in Tampa, to have several truck bombs go off downtown to kill a lot of people. And the FBI was all over this, in coordination with the U.S. attorney, in coordination, bringing in local law enforcement, the sheriff's office, the Tampa police department.

But what is also instructive is help with intelligence out of the Moslem community to identify the potential perpetrator and to stop him before he did the act.

And I think it's another example of how all of these different stovepipes that weren't interacting before are beginning to. So I congratulate you.

MUELLER:

Thank you, Senator. It was, as I want to use the word here, a team effort of particularly state and local law enforcement and the other federal authorities working together over a substantial period of time.

But I particularly want to single out the Muslim community for its recognizing a threat and bringing it to the authorities. And I will tell you, over a period of time, many of our cases -- most of our cases have come with individuals from the Muslim community or the neighborhood who have brought to our attention concerns about the potential threat in which we have run and ultimately have resulted in a disruption of a plot.

NELSON:

Madam Chairman, thank you.

FEINSTEIN:

And I thank you, Senator Nelson, for your patience.

Senator Rubio?

RUBIO:

Thank you. Thank you all. For the panelists, I think this is, kind of, a general question. I don't know who will handle it. It has to do with Iran's intentions in the Western Hemisphere.

I think it's generally accepted; I think it's fact that Iran is willing to sponsor and use terrorism as a tool of its foreign policy and its statecraft around the world. And so it's with alarm that I view, having been on this committee only a year, but that I view a recent trip through Latin America, a four-nation trip, Ahmadinejad to Latin America -- now, part of it probably is just an effort, I think, to show that he's not isolated, that there are countries that will actually meet with him and talk to him, and part of it is that.

And I think mutually important, some of these leaders, particularly the one in Venezuela, have these weird illusions that he's some sort of global figure and that, and that on that stage, that he's actually a relevant individual.

But beyond that is -- is something else that I may be concerned about. And maybe, in this open source, you can comment, a little bit, about what else is behind there.

I mean, for a couple things that are concerning is, for example, the Venezuelan banking system is a significant banking system where billions of dollars flow through there. Could it not be used as a place to evade sanctions, for example?

We also know that I guess they opened up what is called Banco Internationale de (inaudible). I guess it's the International Bank of Development. And I think the largest stakeholder in that is a bank by the name of -- it's an Iranian bank -- Saderat, if I'm not mistaken, which we know is used to funnel funds to Hezbollah and other groups like that.

So we're concerned about that. Obviously, the resources, uranium mining, et cetera, is an issue, and then, you know, any other kind of asymmetrical capabilities that that may be establishing in the region.

So, kind of, on a global -- kind of looking at that, how serious a threat is it? How focused are we on it?

Obviously, you know, relatively speaking, it's not what we confront in the Middle East yet, but what's the state of that? Because there's not a lot of conversations about Iran's intentions in this hemisphere.

CLAPPER:

Well, we are -- we are concerned about it. We do follow it. And I think you're quite right to -- I appreciate your highlighting that, Senator Rubio, because, in this day and age, the Iranians are looking anywhere for a friendly hand.

Ahmadinejad's trip was not all that successful.

Obviously, very concerned about connection with Venezuela. And of course the most obvious manifestation of this outreach, if you'll call it, is of course the plot uncovered to assassinate the Saudi ambassador here in Washington, which was uncovered in Mexico -- with the cooperation, by the way, of the -- of the Mexican authorities.

So there is more to -- more to unfold here. I think they are, consistent with their outreach elsewhere, they're trying as well to penetrate and engage in this hemisphere.

We'll have to -- I would like to research a little bit these financial banking, potential financial banking connections. I'm not current on that specifically. But I think that if -- if there is, that's indicative of their attempts to, again, evade sanctions, which they have worked very assiduously at, at the past.

RUBIO:

Just as a follow-up to that, and I appreciate it, is -- and obviously we're limited in what we can talk about in this setting, nor would I ask you to opine on specific, you know, policy decisions that have to be made -- but I would just encourage, whether privately or otherwise, for the administration and those in the intelligence/security community to think about -- I hate to use the word red lines, it's been discussed -- but certainly things we're not going to tolerate in the region.

Because I think there's potentially always the risk that some may think we're so distracted in other parts of the world that there are certain things they may be able to get away with in terms of capability building that we're (inaudible) not going to respond to.

So I don't think we should necessarily be out looking for conflicts, but I certainly there are things that we should not allow and that we should consider that as a matter of policy expressing that, privately or publicly, whatever, you know, fits the -- the needs of the community.

My last question is about Mexico and just your -- any assessment that we have with regards to drug violence in that country posing a threat to governance and to the government, particularly in such an important year where these key elections are going on in that country.

CLAPPER:

Director Petraeus just returned from a very successful trip to Mexico, so I'll ask him to address that.

PETRAEUS:

Well, thanks.

I did indeed just visit there. There's no question about the magnitude of the challenges there to the rule of law. In certain areas it does not exist.

But there's also no question about the determination of the government of Mexico and indeed the progress that they have made in a variety of different ways, both in terms of results in taking key leaders of the criminal gangs, the narcotic -- illegal narcotics gangs out of action, very substantial results in that in the last two or three years in particular, but also in their organizing for this effort and in the building of institutions.

Indeed, I think that the legacy of the current president will be the institutions that he has built during his time in terms of, for example, the national police, in coming to grips with some of the judicial challenges, the opening up of -- or soon to open, for example, more than five additional corrections institutes, and indeed the comprehensive approach that they are taking to this effort in truly a civil, military, law enforcement approach, because that is, obviously, what it takes to retrieve certain areas that have gotten away from the grip of the government and the writ of law, if you will.

That's the impression that I took away from this. And clearly the fact that this is going to be -- continue to be a very tough fight. But my sense that the government knows what needs to be done, has been building, again, these critical institutions that are necessary to carry out this comprehensive campaign that they recognize is necessary.

Needless to say, all of the different elements of the U.S. government are partnering with their respective elements of the Mexican structures. The integration of intelligence that we've tried to achieve here in the United States is something that they're also trying to achieve in Mexico and it's something with which we're involved in trying to support.

FEINSTEIN:

Thank you very much, Senator Rubio.

Senator Wyden has one last question.

Senator Wyden?

WYDEN:

Madam Chair, thank you for your courtesy. I'm going to be very, very brief.

Director Clapper, as you know, the Supreme Court ruled last week that it was unconstitutional for federal agents to attach a GPS tracking device to an individual's car and monitor their movements 24/7 without a warrant. Because the chair is being very gracious, I want to just do this briefly.

Can you tell me, as of now, what you believe this means for the intelligence community, number one? And two, would you be willing to commit this morning to giving me an unclassified response with respect to what you believe the law authorizes?

This goes to the point that you and I have talked, sir, about...

CLAPPER:

Yes, sir.

WYDEN:

... in the past, the question of secret law, as you know. I strongly feel that laws and their interpretations must be public and that of course the important work that all of you are doing we very often have to keep that classified in order to protect secrets and the well being of your capable staff.

So just two parts. One, what you think the law means as of now. And will you commit to giving me an unclassified answer on the point of what you believe the law actually authorizes.

CLAPPER:

Sir, what it -- the law -- the judgment rendered was, as you stated, was in a law enforcement context. We are now examining, and the lawyers are, what are the potential implications for intelligence, you know, foreign or domestic. So that's -- that reading is of great interest to us and I am sure we can share it with you.

Bob, would you want to add anything?

One more point I need to make, though. In all of this, we will -- we have and will continue to abide by the Fourth Amendment.

WYDEN:

OK. Thank you, Madam Chair.

FEINSTEIN:

Thank you very much.

And I'd like to end this by thanking all of you. I think it's been a positive year, as much as one can say anything is a positive year in this area.

I just was looking at the list of the 20 plots that had been prevented this past year, and it's really consequential, the work that has been done to protect the homeland, as well as the work that's been done abroad.

So I think we really have a very important intelligence team together, and I think it's really progressing. And I know on behalf of the vice chairman and myself we are very grateful to you, and I know that includes the whole committee as well.

So thank you very much for your dedication, for your talent, and for your extraordinary service.

This hearing will be adjourned.

CQ Transcriptions, Jan. 31, 2012

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List of Panel Members and Witnesses

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SEN. JOHN D. ROCKEFELLER IV, D-W.VA.  
SEN. RON WYDEN, D-ORE.  
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SEN. MARCO RUBIO, R-FLA.  
SEN. MITCH MCCONNELL, R-KY. EX OFFICIO  
SEN. JOHN MCCAIN, R-ARIZ. EX OFFICIO

WITNESSES:

JAMES R. CLAPPER JR., DIRECTOR OF NATIONAL INTELLIGENCE  
CIA DIRECTOR DAVID PETRAEUS  
FBI DIRECTOR ROBERT MUELLER  
LIEUTENANT GENERAL RONALD L. BURGESS JR. (USA), DIRECTOR, DEFENSE  
INTELLIGENCE AGENCY  
MATTHEW OLSEN, DIRECTOR, NATIONAL COUNTERTERRORISM CENTER  
PHILIP S. GOLDBERG, ASSISTANT SECRETARY, BUREAU OF INTELLIGENCE AND  
RESEARCH, DEPARTMENT OF STATE  
CARYN A. WAGNER, UNDERSECRETARY FOR INTELLIGENCE AND ANALYSIS, DEPARTMENT  
OF HOMELAND SECURITY

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