

Assistant Secretary Charles E. Allen  
Chief Intelligence Officer  
Department of Homeland Security

Statement for the Record  
Before the House of Representatives  
Committee on Homeland Security  
September 6, 2007

Chairman Thompson, Ranking Member King, Members of the Committee, thank you for the opportunity to speak with you about the National Applications Office (NAO). National Technical Means (NTM) – such as overhead imagery from satellites – have been used for decades, lawfully and appropriately, to support a variety of domestic uses by the US government’s scientific, law enforcement and security agencies. The NAO, when operational, will facilitate the use of remote sensing capabilities to support a wide variety of customers, many of whom previously have relied on *ad hoc* processes to access these intelligence capabilities. The NAO will provide not only a well-ordered, transparent process for its customers but also will ensure that full protection of civil rights, civil liberties and privacy are applied to the use of these remote sensing capabilities.

Once initially operational this fall, the NAO will facilitate the use of NTM for civil applications and homeland security purposes. A third domain, law enforcement, will be a part of the NAO, but will not be operational on October 1 to allow additional time to closely examine any unique aspects of law enforcement requirements in light of privacy and civil liberties. In doing so, it will build on the outstanding work of the Civil Applications Committee, known as the “CAC,” which was established in 1975 to advance the use of the capabilities of the Intelligence Community for civil, non-defense uses. My staff and I have worked closely with the CAC to ensure that the stand-up of the NAO – with a broadened mandate to include the homeland security and law enforcement communities – will still support civil and scientific need for geospatial imagery, at an even more robust level.

### **Background of the National Applications Office**

From its inception, the CAC has helped civil and scientific users understand how NTM can assist their missions and how to gain access to information normally in the hands of the intelligence agencies. With the CAC’s assistance, for example, scientists have used historical and current satellite imagery to study issues such as environmental damage, land use management, and for similar purposes of research. The CAC also has used imagery to study glaciers and examine the effects of global climate change.

Similarly, some homeland security and law enforcement users in the past routinely accessed imagery and other technical intelligence directly from the Intelligence Community, especially in response to natural disasters such as hurricanes and forest fires. The Department of Homeland Security (DHS), for example, used overhead imagery in 2005 to examine areas damaged by Hurricanes Katrina and Rita to determine areas most in need of assistance. The DHS US Secret Service has used overhead imagery to identify areas of vulnerability based on topography and to build large maps to support its security planning. DHS and Federal law enforcement agencies have used imagery to identify potential vulnerabilities of facilities used for high-profile events such as the Super Bowl. These are *all* valid, lawful uses of NTM that enhance our ability to protect our nation – whether the threats are man-made or naturally occurring. The objective of the NAO is to bring all of these requirements for imagery support under one oversight body, where they are not only prioritized but also reviewed to determine whether requirements are appropriate and lawful. Allow me to state categorically, the NAO will have no relationship or interaction with either the FISA or the Terrorist Surveillance Programs.

Let me provide background on the decision to establish the NAO. The Director of National Intelligence (DNI) and the Director of the U.S. Geological Survey commissioned an independent study group in early 2005 to review the current and future role of the CAC and to study whether the Intelligence Community was employing NTM capabilities effectively for homeland security and law enforcement purposes. The study group, led by Mr. Keith Hall, formerly Director of the National Reconnaissance Office, concluded that, unlike civil users, many homeland security and law enforcement agencies lacked a federal advocate for the use of NTM. In addition, the study group determined that many agencies, especially at the state and local level, did not know what remote sensing capabilities the Intelligence Community possessed that might be useful to them or how to request NTM in support of their missions. The study group's bottom line was that there was "an urgent need for action because opportunities to better protect the nation are being missed." It recommended unanimously that the DNI establish a new program to employ effectively the Intelligence Community's NTM capabilities not only for civil purposes, but also for homeland security and law enforcement uses as well.

In response to the study group's recommendations, the DNI designated the Secretary of Homeland Security as Executive Agent in late spring 2007 to establish the new program in the form of the NAO. As it becomes initially operational this fall, the NAO will work with the Intelligence Community to improve access to NTM for domestic users in the homeland security and civil applications communities at all levels of government, who, heretofore, have not had a structured process to request such intelligence. DHS, as executive agent, will operate the NAO. A National Applications Executive Committee, co-chaired by the DNI and DHS, will be established to provide senior interagency oversight and guidance. This interagency forum will ensure the NAO adequately serves those government customers who have lawful and appropriate requirements for geospatial intelligence, to include classified satellite imagery and derived products.

### **Day to Day Activities**

On a day-to-day basis, the NAO will work with civil applications, homeland security, and in the future on a case-by-case basis, law enforcement customers, to articulate their requirements, determine how our satellite imagery systems may be able to satisfy them, and submit any validated requests to the National Geospatial Intelligence Agency (NGA) for review, approval and collection tasking. The NAO also will be able to access, through NGA, commercially available imagery to meet many customer needs.

The NAO will be advised and supported by three working groups representing customer domains: civil applications, homeland security, and law enforcement. It should be noted that the law enforcement working group will be stood up over the next year, after closely examining any unique aspects of law enforcement requirements in light of privacy and civil liberties. All three domain working groups will include representatives from the DHS Privacy Office and the DHS Office for Civil Rights and Civil Liberties as well as an attorney assigned directly to the NAO.

In addition to its day-to-day business of helping its customers gain access to NTM, the NAO will help customers take advantage of educational opportunities to learn about the Intelligence Community remote sensing capabilities, including their benefits and limitations. The NAO also

will serve as an advocate in Intelligence Community discussions about future technology investments that might benefit the civil applications, homeland security, and law enforcement domains.

### **Privacy and Civil Liberties**

Since its inception, we have considered privacy and civil liberties to be at the forefront of the planning for the NAO. The independent study group in 2005 clearly articulated the need to protect privacy and civil liberties as a guiding principle in its findings. In my view, the NAO – when operational – will *strengthen* privacy and civil liberties. The NAO will be subject to direct oversight by privacy and civil liberties offices within both the Department of Homeland Security and the Office of the Director of National Intelligence. In addition, the NAO will have its own legal advisor. At the executive level, the DNI's Civil Liberties Protection Officer and its Office of General Counsel, as well as DHS's Chief Privacy Officer and Officer for Civil Rights and Civil Liberties Officer, will serve as advisors to the National Applications Executive Committee, which will provide executive oversight and guidance for the NAO. The President's Privacy and Civil Liberties Oversight Board will have oversight of the use of NTM for combating terrorism.

In addition, all requests from the NAO for the use of classified satellite imagery will continue to abide by current NGA processes and be vetted by NGA attorneys and policy staff to determine legal appropriateness before collection tasking occurs. This review provides a supplemental level of oversight in addition to the strong protections already embedded in the NAO. In this way, both DHS and NGA will ensure adherence to applicable law and regulation, and intelligence oversight rules. DHS and NGA are bound by intelligence oversight rules, explained in Executive Order 12333, that protect the privacy and civil liberties of US persons. Further, DHS and NGA are required to report any violations of law or other questionable activities to the Intelligence Oversight Board of the President's Foreign Intelligence Advisory Board including violations of E.O. 12333. Finally, both DHS and NGA are subject to oversight by the House and Senate intelligence committees.

### **Conclusion**

I assure you and the American people that the appropriate use of these NTM capabilities will make the nation safer while maintaining the privacy and civil liberties of Americans. The NAO will continue long-standing practices of employing these capabilities with full regard and protection for the privacy and civil liberties of Americans. The rules for lawful and appropriate use of such capabilities have not changed.

Under all conditions, and especially in our increasingly uncertain homeland security environment in which we face a sustained and heightened threat, it is essential that our government use all its capabilities to assure the safety and well-being of its citizens. The NAO brings a critical and sensitive national capability to bear. It does so with full respect for the law and the rights our citizens cherish. I request your support for this vital national program.