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## U.S. SENATE SELECT COMMITTEE ON INTELLIGENCE

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### NEWS RELEASE

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#### **Opening Statement of Chairman Rockefeller Open Hearing of the Senate Select Committee on Intelligence On Congressional Oversight (As Prepared)**

The Senate Intelligence Committee meets in open session to continue our examination of how to optimize congressional oversight of the United States government's intelligence activities. To aid in this undertaking, we will hear from two panels of expert witnesses.

Our first panel of witnesses will be two members of the 9/11 Commission, former Congressman Lee Hamilton, who served as Vice Chairman of the Commission, and former Congressman, Tim Roemer.

Our second panel of witnesses will be Professor Amy Zegart from UCLA and Mr. James Saturno of the Congressional Research Service.

The Senate and House intelligence committees were created over thirty years ago as the congressional authorizers of the U.S. intelligence community budget and sensitive classified programs.

In this role, the Senate Intelligence Committee is charged with carefully evaluating the legal foundation and operational effectiveness of a wide-array of intelligence collection and analytic efforts that are linchpins to America's economic, diplomatic and security well-being.

The Intelligence Committee is unlike other Senate committees. Our secure work spaces are windowless and guarded by the Capitol police. Much of our oversight efforts take place at hearings and briefings necessarily held in closed session.

Because the Committee deals with the Nation's most sensitive secrets on a daily basis, we must conduct our work with great care to make sure that the public interest is served without compromising details that could give our adversaries an advantage.

In the aftermath of 9/11, the intelligence community's performance in the months leading up to the attacks came under considerable scrutiny. The sobering findings of this difficult but necessary retrospective investigation were published in the joint congressional inquiry report of 2002 and the 9/11 commission report of 2004.

Two weeks before the 9/11 commission issued its report, the Senate Intelligence Committee released a sweeping and devastating report on the flawed collection, analysis and use of intelligence preceding the invasion of Iraq. Together, these efforts provided the push that led, by year's end, to the passage of landmark legislation reforming the intelligence community.

The focus on reform was not limited to the intelligence community, however. The effectiveness of Congress in overseeing these intelligence activities was brought into question as well. Were there ways that the legislative branch could improve its own efforts at ensuring that our counter-terrorism efforts and other critical intelligence programs were as responsive and effective to the threats facing our nation?

The Senate passed Senate Resolution 445 in October 2004, which set forth a blueprint of reforms designed to strengthen the Senate Intelligence Committee and eliminate artificial hindrances to carrying out oversight, such as doing away with the eight year limitation placed on Senators serving on the committee.

Additional steps have been taken since the passage of Senate Resolution 445 to further improve the Intelligence Committee's oversight efforts.

In February of this year, as the new Chairman of the Committee, I signed a Memorandum of Agreement – or MOA – with the Chairmen and Ranking Members of the Senate Appropriations Committee and the Appropriations Subcommittee on Defense to improve the coordination and transparency in how our committees authorize and appropriate intelligence activities – a primary concern voiced by the 9/11 commission.

In order to improve the flow of information between the committees, under the MOA, staff of the two committees are notified of and allowed to attend the intelligence hearings of the other.

In addition, in order to provide optimum staff support to members, each member of the Intelligence Committee who also serves as an appropriator can bring his or her

Intelligence Committee staff members during appropriations committee hearings and markups.

In order to improve coordination between the two committees in their respective reviews of intelligence activities, all Senators and cleared staff of one committee are permitted under the MOA to review and bill, report and classified annex of the other before action is taken.

Moreover, the Chairman and Ranking members of each committee have the opportunity to appear before the other to present their respective views prior to the markup of either the intelligence authorization and appropriations bills.

While there are other ideas for coordinating the oversight efforts of the two committees – which we will explore at today’s hearing – I believe this Memorandum of Agreement has made great strides toward bringing our committees together in a unity of effort that was lacking before.

Strengthening congressional oversight is more than changing boxes and lines on an organizational diagram. It is first and foremost about marshalling the resources at the Committee’s disposal to ask the hard questions, do the necessary digging, and conduct the sort of objective and unflinching evaluation needed to understand where change within the intelligence community is required.

In this regard, the Vice Chairman and I established study groups within the Committee to get ahead of the curve and examine the intelligence community’s posture toward high priority issues such as Iran, terrorist safe-havens, and China, in the same way we examined, after the fact, our intelligence on Iraq prior to war.

These efforts augment the invaluable work done by our core budget and issue staff monitors, as well as the evaluations completed by our Technical Advisory Group – an independent group of outside experts who examine and report on three to four sensitive technical programs a year for the Committee.

We also have held two to three Committee oversight hearings a week since January covering a multitude of topics, including Iraq, Iran, Afghanistan, Pakistan, North Korea, covert action, cyber-security, terrorist ideology, human intelligence collection, technical collection systems, and detention and interrogation programs.

In total, the Committee has held over 60 oversight hearings and meetings in 2007, while at the same time reporting out a bipartisan bill on reforming FISA and the first intelligence authorization bill to pass the Senate in three years.

The operational tempo of the Intelligence Committee has indeed been high in the 2007. But there is always room for improvement – and that is why we are holding today’s hearing.

Before turning to Vice Chairman Bond for his opening remarks, followed then by Senators Joe Lieberman and Susan Collins – our colleagues from the Senate Committee on Homeland Security and Governmental Affairs who showed exemplary bipartisan leadership in shepherding through 9/11 reform legislation – I want to highlight what I consider to be the greatest impediment to effective congressional oversight.

For seven years, I have witnessed first-hand how the Intelligence Committee has been continually frustrated in its efforts to understand and evaluate sensitive intelligence activities by an Administration that responds to legislative oversight requests with indifference, if not outright disdain.

For five years after 9/11, the Administration refused to brief the full membership of the oversight committees on the existence of the NSA's warrantless surveillance program and the CIA's secret prison system and interrogation techniques – the two programs the Administration publicly touts as indispensable tools in the war against terrorism.

Those few congressional officials who were briefed were prevented from disclosing the details to other Intelligence Committee members. The end result was that the Intelligence Committees were bypassed for five years at a critical time when their oversight into the controversial legal and operational questions was needed the most.

In retrospect, the Administration's unwillingness to deal with Congress as a full-partner after 9/11 in authorizing and funding these programs was short-sighted and, in turn, created and compounded problems we are dealing with to this day.

In my capacity first as Vice Chairman and now as Chairman of the Intelligence Committee, I am in an ongoing pitched-battle with an Administration that myopically views congressional oversight as being at odds with protecting national security.

In recent months, I have unsuccessfully urged the White House to give all members of Intelligence Committee access to a number of so-called Gang of 8 programs. Like the NSA surveillance and CIA detention programs before them, these programs are known to hundreds if not thousands of Executive Branch employees. But only eight members of the Legislative Branch are trustworthy enough to know about them?

For years, the White House and the Intelligence Community have repeatedly withheld information and documents – even unclassified documents – from the Committee that we have asked for.

For instance, I have pressed the Administration for years, without success, to turn over to the Committee legal reviews concerning the lawfulness of the CIA's secret detention program and interrogation techniques.

Just last week, officials uniquely knowledgeable about the CIA program were prevented from meeting with the committee staff to answer questions.

So, while we discuss today ways of further improving congressional oversight, I'd like hear the views of each of our witnesses on the harm done to this statutorily-mandated oversight when the Executive Branch decides it would rather bypass or ignore Congress in carrying out controversial intelligence activities.

From my vantage point, the notion that congressional oversight is impeded simply because an authorizing committee may have a different view on spending priorities than an appropriations committee is not only simplistic, it misses the larger point.

Effective congressional oversight will never be fully realized as long as the Administration views the Congress as little more than a speed bump when it wants to carry out intelligence activities unfettered by what Congress has to say.

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