Thank you, Chairperson Franklin, and all of the Members of the Board for inviting me here today. I very much appreciate the opportunity to be here with April and my fellow panelists to talk to you about Section 702.

- Today's discussion is an extremely important one, as it implicates some of most vital interests and most cherished values.

- Indeed, I doubt there are many people who will appear on the screen today, or who are watching from home, who would disagree with either of the following statements:

    - The United States, like all or nearly all other nations, needs to collect foreign intelligence in order to fulfill its obligation to keep its people safe and secure; and

    - Our country's commitment to protecting individual liberties limits what the government may do in the name of national security.

- Yet, even as simple as it is to agree on these basic principles—both of which we have long recognized as being part of our Constitution—it can often be difficult to work through how to, as April elegantly put it in her opening statement, weave them together.

- How should the Government be allowed to collect foreign intelligence? When should it be prevented from doing so? When should it be required to satisfy some legal burden of specific need to an independent court? What happens in an emergency where lives are at stake? These are not easy questions and there are no obvious easy answers.

- Luckily, however, this is an area where we are very much not writing on a blank slate, for the three branches of our Government have worked together to develop a framework for how to advance our national security needs while protecting civil liberties, a key part of which is FISA.

- President Carter recognized this when signing the original FISA in 1978:

    - "One of the most difficult tasks in a free society like our own," he wrote in his signing statement, "is the correlation between adequate

intelligence to guarantee our Nation's security on the one hand, and the preservation of basic human rights on the other."

  - FISA, in his view, appropriately accounted for both of these interests. As he put it: FISA "sacrifices neither our security nor our civil liberties. And it assures that those who serve this country in intelligence positions will have the affirmation of Congress that their activities are lawful."

- Of course, the passage of the original FISA did not end the debate over these issues. Indeed, in the 40-plus years since FISA's passage, both technology and the geopolitical landscape have continued to change, and Congress has repeatedly returned to FISA, amending the statute to recognize new realities.

- Most importantly, certainly for our purposes, in 2008, Congress enacted FISA Section 702, which recognized that, due to changes in telecommunications infrastructure, foreign intelligence targets—proliferators, hackers, terrorists, spies—often rely on the same U.S. telecommunications services as ordinary U.S. citizens.

- With Section 702, Congress authorized the Government to seek a court order to acquire the communications of these foreign intelligence targets from U.S.-based telecommunications companies, while at the same time requiring safeguards that protect the privacy and civil liberties of U.S. persons.

- Interestingly, President Bush's remarks on signing the law that created Section 702 made a strikingly similar point to the one President Carter made 40 years earlier. Specifically, President Bush said: "This law will protect the liberties of our citizens while maintaining the vital flow of intelligence."

- To be sure, the enactment of Section 702 did not end the debate over how we should collect foreign intelligence while protecting privacy and civil liberties, and material and important modifications have been made to the Section 702 program in the 15 years since it became law—we've increased transparency around the program and put in place additional protections.

- But, notwithstanding those changes, the core of the program Congress created 15 years ago remains the same. And, while the fact that we are here

today of course indicates that the debate continues, there are three key points about Section 702 that are very much worth emphasizing.

- First, the Section 702 program is lawful, as it is clearly authorized by statute and courts have repeatedly found it to be constitutional.
    - Indeed, this is something the Board recognized when it last engaged in an exhaustive review of the Section 702 program in 2014, and, in the years since that review, the case has only grown stronger.
    - This is because, since Board's last review, Congress has again reauthorized the authority, such that Section 702 has now been enacted or reauthorized three times.
    - Moreover, since the Board's last review, federal courts have also repeatedly confirmed the Board's judgment as to Section 702's legality—most recently, when the Tenth Circuit interrogated the Section 702 program and confirmed its constitutionality.
- Which leads to a second point: the Section 702 program is extremely valuable and effective.
    - In order to save time, I won't go into too much detail here, particularly since the Board reached this conclusion during its 2014 review.
    - But General Nakasone's opening remarks provided additional details about the importance of the Program and how it provides crucial intelligence on a range of national security challenges, from counterterrorism to cyber to great power competition to many others.
    - And General Nakasone's remarks only build on the remarks of many other IC leaders, including the DNI, who have emphasized how Section 702 provides critical intelligence.
- Which brings me to a third, and final, point: Section 702 protects privacy and civil liberties.

- Again, General Nakasone and April have already detailed many of the extensive protections Section 702 puts in place, so I will try not to repeat what they have already said.

- Rather, I will simply say a few words about ODNI's oversight role, which reflects its integrating role and statutory authorities and capabilities. Given this, ODNI's oversight efforts largely focus on promoting interagency coordination, prioritization, and harmonization, particularly with respect to program-wide modifications. More specifically, among other things, ODNI:

  - conducts, in consultation with DOJ, reviews of Section 702 taskings;

  - coordinates the provision of IC documents and briefings to Congress, in consultation with DOJ; and

  - leads, in consultation with DOJ, the Government's efforts to provide the public with information about Section 702 activities, to include releases of FISC opinions, Joint Assessments, and the release of the Annual Statistical Transparency Report.

- Of course, as prior statements have made clear, ODNI's work is only part of a detailed compliance regime, the upshot of which is that, as President Obama said in 2014: "[T]he men and women of the intelligence community . . . consistently follow protocols designed to protect the privacy of ordinary people. They're not abusing authorities in order to listen to your private phone calls or read your emails." These statements were true then and they are true now.

- To be sure, the Intelligence Community is not perfect—as President Obama also recognized in his 2014 remarks, "mistakes are . . . inevitable in any large and complicated human enterprise." But when we make such mistakes, we own up to them—we disclose them to the FISC, to the Congress, and to the public—and we set out to fix them and take steps so they do not occur again.

- Which leads to my final point, which I will keep short: I recognize that reasonable minds can disagree about these issues. But I also know that time spent in Government—and I've been lucky enough to have served or overlapped with some of the current Board—is often full of the varied joys and frustrations of trying to develop practical solutions to the messy business of weaving together interests like the need to collect foreign intelligence and the need to protect individual liberties. Viewed through that lens, I really do think Section 702 is an elegant solution to a complex problem, and I hope these short remarks have helped, even a little bit, to illuminate why.