

Testimony of Porter J. Goss,
Director, Central Intelligence Agency
Before the Select Committee on Intelligence

United States Senate

April 27, 2005

Good morning, Mr. Chairman, Mr. Vice Chairman, and Members of the Committee.

I appreciate the opportunity to appear before you today to discuss the important role the USA PATRIOT Act has played in improving the ability of the Intelligence Community to fight the global war on terrorism. As you recall, in October 2001, members of Congress worked together in a united effort to create legislation that would give federal law enforcement and intelligence officials the additional legal authorities needed to combat the terrorist threat to our country. I can assure you that the tools you provided in the PATRIOT Act have greatly assisted intelligence officials in the on-going effort to interdict and disrupt terrorist groups and individuals who seek to do harm to our country and our citizens. I will now briefly discuss how the PATRIOT Act has been most helpful to intelligence officers, and, along with my colleagues, the Attorney General, and the Director, FBI, urge you to renew permanently those provisions of the Act due to expire at the end of this year.

INFORMATION SHARING

The PATRIOT Act has played a large role in an information-sharing transformation throughout the federal law enforcement and intelligence communities, permitting a cultural shift in previously unshakeable paradigms. Today, intelligence officers have the ability to receive foreign intelligence information from federal law enforcement officials that has been obtained during the course of criminal investigations, and the PATRIOT Act makes it clear that this information may include information obtained from grand jury proceedings and criminal investigative wiretaps. If the various provisions of the PATRIOT Act that authorize this foreign intelligence information sharing are permitted to sunset, we will lose some of the essential weapons used to counter the grave threats posed by al-Qaeda and other terrorist groups. Now is not the time to engage in unilateral disarmament.

Of particular concern is the “wall” that served to limit the sharing of information between intelligence and law enforcement officers. The wall was a barrier against full and discerning dialogue and greatly impinged on the effective use of critical tools necessary to fight terrorism. Continuation of the PATRIOT Act information sharing provisions ensures while we do not hamstring ourselves in this vital area of intelligence and law enforcement collaboration we will also take the appropriate steps to protect the privacy rights and civil liberties of Americans.

If the information sharing provisions of the PATRIOT Act are permitted to expire, currently robust information sharing relationships may be adversely impacted as officials seek guidance on what information sharing is permitted absent the PATRIOT Act authorities, because the clarifying and instructive benefits of the PATRIOT Act will be lost. As any war-fighter will tell

you, a necessary tool in fighting the battle is the ability to share information freely to get the job done expeditiously and effectively. Constructs that otherwise preclude information sharing had to be torn down, and the PATRIOT Act provisions accomplished that end. Resurrection of these obstacles will significantly impede the war effort.

If, however, the provisions scheduled to sunset are renewed, ongoing efforts by government officials to use the PATRIOT Act authorities to improve information sharing, to utilize highly valuable limited resources most effectively, and to continue the cooperation between agencies, will continue. One of the most positive illustrations of this collaborative environment may be found in the National Counterterrorism Center (NCTC).

NCTC is a specific example of how the information-sharing authorities of the PATRIOT Act have been leveraged to benefit the Federal Government as a whole.

NCTC personnel assigned from multiple federal law enforcement and intelligence community entities receive foreign intelligence information from the FBI that is obtained by the Bureau during criminal investigations and disseminated to NCTC under authorities granted by the PATRIOT Act.

This information is compiled with other foreign intelligence information obtained through traditional intelligence collection methods and is used to produce all-source terrorism analysis that is subsequently disseminated throughout the Intelligence Community and to officers within the Department of Homeland Security and the FBI.

NCTC officials also use terrorist identity information disseminated by federal law enforcement officials under PATRIOT Act authorities to maintain TIPOFF, a database used to prevent known and suspected terrorists from entering the United States. NCTC officials estimate that the number of known or suspected terrorists that have been intercepted at US borders, based on FBI reporting alone, has increased due to the information sharing provisions of the PATRIOT Act.

In addition to talking about the information sharing provisions that are due to expire in a few months, I wanted to also highlight the importance of another information sharing authority in the PATRIOT Act. This provision, section 905 of the Act, not only permits, but also generally requires the Attorney General to expeditiously disclose to the DCI, and now to the DNI under the Intelligence Reform Act of 2004, foreign intelligence information acquired by the Department of Justice during the course of criminal investigations. This provision, like the expiring information sharing provisions, encourages the free flow of intelligence information by removing any doubt from the minds of federal law enforcement officials that sharing is authorized.

FISA PRIORITIZATION

My colleagues from the Department of Justice will discuss with you how federal law enforcement officials have benefited from amendments made to the Foreign Intelligence Surveillance Act (FISA) by the PATRIOT Act. I would like to advise you how authority granted by the PATRIOT Act has enabled the DCI to improve the process for submitting FISA requests to the Attorney General and the Foreign Intelligence Surveillance Court.

The PATRIOT Act called upon the DCI to establish requirements and priorities for foreign intelligence information to be collected under the FISA and to assist the Attorney General with the dissemination of FISA-derived intelligence. The DNI is now charged with these responsibilities under the Intelligence Reform and Terrorism Prevention Act of 2004.

In June 2003, the DCI implemented this provision of the PATRIOT Act by creating an interagency panel to prioritize requests seeking authorization to engage in foreign intelligence collection operations under the FISA. The panel, coordinated by the ADCI for Collection, includes representatives from the CIA, DOJ, FBI, and NSA. The prioritization mechanisms established by the panel are working well and have enabled intelligence officials to carefully weigh and accommodate competing priorities for FISA-authorized collection operations, making the best use of the limited resources of the FBI, NSA, CIA, and the Department of Justice, and most specifically, the FISA Court.

Conclusion

Let me conclude my comments today by saying that the PATRIOT Act has improved the ability of intelligence officials to fight the war on terrorism by removing legal and cultural impediments that previously prohibited or discouraged the sharing of foreign intelligence obtained by federal law enforcement officials during the course of criminal investigations, and by enhancing the ability of the intelligence and law enforcement communities to collect and analyze vital information to wage an effective and continuing effort to disrupt international terrorist activities. Failure to renew the provisions due to sunset will ill-serve the national security of the United States.

I thank you for inviting me to speak with you today, and for your continued support.