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Rep. Eshoo's Opening Statement on Congressional Notification Of Intelligence Activities

Washington, D.C.—*Representative Anna G. Eshoo, Chair of the House Permanent Select Committee on Intelligence Subcommittee on Intelligence Community Management, gave the following opening statement at the Subcommittee's hearing on Congressional Notification of Intelligence Activities:*

Today's hearing examines the provisions in the National Security Act of 1947 that establish how the President keeps Congress informed of intelligence activities. It is part of the full Committee's investigation into whether the Intelligence Community has met its obligation to keep Congress "fully and currently" informed of intelligence activities.

The obligation is a solemn one. Intelligence activities necessarily take place in secret, the details known only to those who execute and plan them. They are not subject to the scrutiny of public debate, competing interest groups, or taxpayers. The only people outside the Executive Branch who may examine these activities are the members of the congressional intelligence committees. We act as the stewards of the public's trust; a check on a system that sometimes acts without the benefit of independent perspectives.

Congress cannot fulfill its constitutional role without access to information. Congress has a duty to learn – and the Executive Branch has a duty to share – the information necessary for Congress to authorize, appropriate funds, and oversee the activities of the federal government, including intelligence activities.

The manner in which the branches have shared information has evolved in the decades since World War II. From 1947 until the mid-seventies, the Intelligence Community briefed Congress primarily through informal meetings with a handful of senior committee chairmen. The Church and Pike Commissions helped usher in reforms that led to the creation of the intelligence committees and required that the President report to Congress when initiating a covert action. The Iran-Contra affair and revelations about other U.S. government activities in Latin American spurred

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Congress to create the current standard in 1991 – that the President must keep Congress "fully and currently informed" of all "significant" and "significant anticipated" intelligence activities.

But even this statutory regime is flawed. Members of this committee have been repeatedly frustrated by the lack of prompt, thorough notification of intelligence activities. Public revelations of intelligence activities after 2001 have also raised serious questions about the commitment of the Executive Branch to meeting not just the letter of the law, but its intent.

Some have argued that there is no obligation to notify Congress if an activity is not "operational", a term not found in the statute. There have been disputes about what "significant" means in this context. We need to understand why there are no penalties in the National Security Act itself, and what Congress' remedies are if the Executive Branch does not comply with its obligations to keep Congress informed.

Our witnesses today are Mr. L. Britt Snider, former Inspector General at the Central Intelligence Agency; Mr. Fritz A.O. Schwartz, former Chief Counsel of the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities; and Mr. David E. Munson, a private citizen from Standish, Michigan.

I hope our witnesses can help us answer these questions and gain a deeper understanding of Congress' oversight role, the history of Congress and the intelligence agencies, and the meaning of the statute.

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