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- Committee markup hearing by Senator Rubio strips I&A of the ability to intentionally collect on USPERs with the exception of information gathered from SLTT partners.
 - House codified suspension of practice by preventing I&A from collecting information from individuals who are in pretrial law enforcement custody or facing criminal charges.
 - House passed this and called for a general review of the OHIC program.
 - Senate bill wrapped into the National Defense Authorization Act (NDAA).
 - Had hoped this provision would be taken out – it was not.
 - Passed as part of the NDAA.
 - We expect conference will be contentious.
 - Language is odd, having conversations with Senator Rubio’s staff to better understand intent.
 - Statement, which came from voters who support the committee report, has three points:
 - 1) Inappropriate for IC to collect on USPERs when there is not a foreign nexus.
 - 2) Acknowledges I&A’s role as a go between for SLTT partners
 - Open source and overt collection activities show that it is inappropriate for them to collect.
 - Three examples included:
 - Journalist activities in 2020;
 - Collection of activities on pretrial custody; and
 - DVE on them and their platforms.
 - 3) Prohibits I&A from overt and open-source intelligence collection on any USPERs.
 - USPERs with foreign nexus wording is left out, which could make it problematic for components.
 - Always having a foreign nexus is not consistent with statutory orders or mission.
 - Conversations with Senator Rubio and Senator Ossoff’s staff about intended consequences and unintended consequences.
 - They have expressed two primary concerns:
 - 1) Ensuring safeguards to protect individuals’ privacy.
 - 2) Fundamentally believe I&A’s work is law enforcement’s mission. Belongs to the FBI and other law enforcement, not intelligence.

- We have said that we are very sensitive to privacy issues and open to safeguards and protection. However, it is critical to the mission that we can collect overtly and openly.
- Senate and House Conference on I&A is starting now.
- We are trying to make sure people on the Hill understand what we do. Educational session with Governmental Advisory Committee (GAC).

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- Traded authorities for civil liberties.
 - What are we dealing with in terms of the opinion we are trying to shape?
 - There are political motivations that are doing political prescription. How do you speak to that? Assume good faith.
 - Assume they are talking about civil liberties and privacy, not talking about making political statements.
 - Respond by saying we need these authorities because there is a threat.
 - What requirements placed on us will satisfy you so that authorities are exercised responsibly?

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- You have been criticized, as have the FBI, for not having actionable intelligence that anticipated the January 6th storming of the Capitol.
 - Think there are a lot of people in Congress that would be surprised that the Congressional response to that, including by Democrats, is to take away the authority you have, rather than insist you use them. Creates whiplash to say you had gaps in reporting, to then say you should not do it at all.
 - The FBI is on record in testimony saying they do not think they have authority to do it. I think they are wrong, but you can see they have cultural inhibitions about it.
 - Antecedent question about whether we want anyone to do this work at all? Senate's vote is no.

██████████ That is why the FBI letters are important.

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- I would add that the argument to break up the FBI is because of:
 - Culture.
 - You are protecting civil rights and civil liberties by taking away suspicion from law enforcement, because intelligence can collect all they want.
 - Focus on the things that people have a hard time disagreeing on, like protection of critical infrastructure.

██████████ Senator Rubio seems vulnerable if you attribute what happens if we do not do that.

██████████: Reach out to post 9/11 leaders – Tom Ridge, Francis Townsend, Michael Chertoff, Jeh Johnson.