



CRS Issue Statement on Intelligence Policy

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January 15, 2010

Congressional Research Service

7-5700

www.crs.gov

IS40334

CRS Report for Congress
Prepared for Members and Committees of Congress

011173008

Increasingly, there is little difference between what is “foreign” intelligence and what is “domestic” intelligence. Information can be collected abroad that is of importance to those responsible for law enforcement and, conversely, some information collected within U.S. borders addresses important foreign intelligence concerns. This is especially the case in regard to situations in which parties overseas seek to undertake terrorist attacks within the United States. A number of key statutes (especially the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458)) were enacted in the wake of 9/11 to remove the dichotomy between foreign and domestic intelligence collection and analysis. Given recent terrorist attacks, the second session of the 111th Congress is likely to continue to be concerned that the new organizational relationships put into place in recent years are optimized to deal with the new intelligence environment—including mechanisms to encourage the greater sharing of information while protecting the civil liberties of U.S. persons. An area of particular concern is likely to be counterterrorism capabilities in regard to Al Qaeda and the extent to which the targeting of drone attacks has been misdirected by false information deliberately given to the CIA. Congress is also expected to pay especially close attention to the status of organizational changes in the Federal Bureau of Investigation (FBI) designed to enhance the FBI’s intelligence collection and analysis capabilities. In addition, Congress will likely monitor the role of the Department of Homeland Security (DHS) in its efforts to share intelligence with state and local governments. Particular interest in improving the effectiveness of watchlists for airline travelers is likely.

Distinctions between foreign and law enforcement intelligence do remain important when civil liberties and privacy rights of U.S. persons are involved. In 2008, Congress addressed such issues relating to the Foreign Intelligence Surveillance Act (FISA) in the light of technological changes that have taken place since the legislation was enacted in 1978. The Act, the FISA Amendments Act of 2008 (P.L. 110-261), enacted in July 2008 after extensive debate, adjusted FISA procedures. (Some of its provisions, relating to roving wiretaps, the extent of information that can be collected, and the targeting of “lone wolf” terrorists, however, are set to expire early in 2010.) Congress may review procedures for turning over persons suspected of terrorist activities to law enforcement agencies for prosecution prior to thorough interrogation by intelligence personnel.

The second session of the 111th Congress, as was the case for the first session and earlier congresses, is also likely to remain concerned about the role of the Director of National Intelligence (DNI) in preparing and executing the budgets of national intelligence agencies and in making decisions about major multi-billion dollar collection systems. Covert actions and human intelligence (humint) collection remain important issues, and oversight may be more intensive on the recruiting, training and deployment of clandestine agents and the relationships between the CIA and Defense Department agencies. Congress will continue to be concerned with the quality of analytical products and National Intelligence Estimates (NIEs) in particular. In addition, Congress has sought to establish new procedures for notifying the intelligence committees of especially sensitive intelligence initiatives, but thus far without support from the Executive Branch.

No intelligence authorization act has been passed since 2004 and there are concerns about the extent of oversight and relationships between authorizing and appropriating committees including the intelligence appropriations panel established in the House in 2007.

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