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Diplomatic Security and the Role of Congress

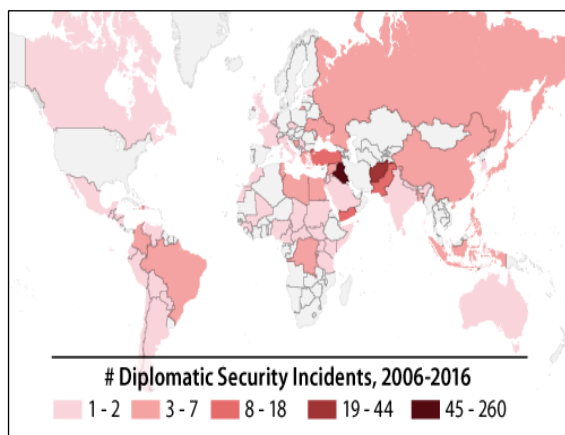
Congress has played a significant role in creating and overseeing the Department of State’s modern-day diplomatic security apparatus. Legislation such as the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (P.L. 99-399) and the Secure Embassy Construction and Counterterrorism Act of 1999 (Appendix G, Division A, Title VI of P.L. 106-113) established core tenets of U.S. diplomatic security processes, structures, and requirements. Congress also provides annual appropriations for the State Department’s diplomatic security programs. With a dangerous and ever-changing threat landscape overseas and ongoing security reforms at the department, Congress is likely to remain closely engaged on oversight and funding matters regarding diplomatic security.

U.S. Diplomatic Security in a Dangerous World

The Department of State maintains an overseas presence in dozens of countries with high levels of instability. When considering whether to open a post in a high-risk area, the department adheres to regulations aimed at balancing acceptable risk, the impetus of advancing core U.S. interests, and the availability of appropriate resources to accomplish the post’s mission. Nevertheless, attacks on U.S. overseas posts and personnel occur with some frequency.

Figure 1 illustrates that from 2006 to 2016, which comprises the most recent data available, the State Department documented more than 450 significant security incidents on U.S. diplomatic facilities and/or personnel.

Figure 1. U.S. Diplomatic Security Incidents, 2006-2016



Source: Created by CRS based on U.S. Department of State, Bureau of Diplomatic Security, <https://www.state.gov/m/ds/rls/rppt/273453.htm>, accessed May, 2019.

These incidents ranged from vandalism to high-casualty terrorist attacks. Of these documented incidents,

approximately 337 of them (69.34%) took place in one of the 12 countries designated as of October 2019 as “Level 4: Do Not Travel” by the Bureau of Consular Affairs.

Like the State Department’s data, information from the (nongovernmental) University of Maryland’s START Global Terrorism Database indicates that of the recorded attacks against U.S. diplomatic facilities and personnel, a similar high percentage occurred in countries considered dangerous or unstable. START data for the period between 2006 and 2016 includes 67 incidents designated as targeting U.S. diplomatic personnel, officials on diplomatic missions, or occurring at U.S. facilities, and meeting the criteria for terrorism defined by the Department of State’s Country Report on Terrorism. Of these incidents, approximately 53% took place in countries with a level 4 travel advisory, such as Afghanistan, Iraq, Libya, and Yemen; another 21% occurred in countries with a level 3 travel advisory, such as Lebanon and Pakistan.

Role of Congress

By passing legislation, conducting oversight of the State Department, and appropriating funding each year, Congress acts as a primary stakeholder in working to better ensure the safety and security of U.S. personnel and overseas posts. Following terrorist attacks against U.S. facilities and personnel in Beirut, Lebanon in 1983 and 1984, Congress enacted the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (P.L. 99-399) to clarify the State Department’s diplomatic security responsibilities, including developing and implementing programs to protect U.S. government personnel abroad and, when necessary, providing for the safe evacuation of such personnel when their lives are endangered. This law further requires the State Department to convene an Accountability Review Board (ARB) following a significant incident at a U.S. mission abroad. It also empowers ARBs to examine the facts and circumstances surrounding the relevant incident and transmit recommendations to the Secretary of State to improve the department’s security programs, while requiring the Secretary to submit a report to Congress regarding the actions it has taken with respect to each recommendation. The Advisory Panel on Overseas Security, which was chaired by Admiral Bobby Inman and issued a report in 1985 containing several recommendations intended to strengthen U.S. embassy security following the Beirut attacks, first conceptualized the ARB process.

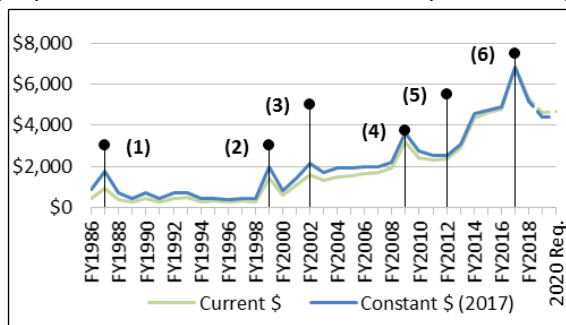
Coordinated bombings of the U.S. Embassies in Kenya and Tanzania in 1998 prompted ARBs and heightened congressional review of embassy security standards and protocol. Those ARBs found that “no attention was paid to vehicle bomb attacks” in the State Department’s Emergency Action Plan guidance and that the U.S. government was not devoting adequate resources to

security against terrorist attacks. Congress subsequently passed the Secure Embassy Construction and Counterterrorism Act of 1999 (Appendix G, Division A, Title VI of P.L. 106-113) to require that any new diplomatic facility be no less than 100 feet from the facility's perimeter (the "setback" requirement), and that new facilities have the capacity to accommodate all nonmilitary U.S. personnel on site (the "co-location" requirement). Congress also authorized additional funding allowing the Diplomatic Security Service, which is tasked with managing the State Department's security programs protecting overseas posts, to hire an additional 200 special agents.

Congress funds the State Department's diplomatic security programs through appropriations for the Worldwide Security Protection allocation of the Diplomatic Programs account and, separately, the Embassy Security, Construction, and Maintenance account. **Figure 2** illustrates funding Congress has appropriated for diplomatic security dating back to FY1986. Congress provides these funds as no-year appropriations, which allows the State Department to retain indefinite authority to spend them beyond the fiscal year for which they were appropriated.

Figure 2. Diplomatic Security Appropriations, FY1986-FY2020

Appropriations in \$ millions. FY2019-2020: requested funding



Source: Created by CRS, based on U.S. Department of State Congressional Budget Justification (1986-2020).

Notes: (1) **FY1987**, implementing Inman Commission recommendations; (2) **FY1999**, increased embassy security funding following embassy bombings in Kenya and Tanzania; (3) **FY2002**, increased funding after 9/11/2001 attacks; (4) **FY2009**, DOD hands over responsibility to State regarding embassy security in Iraq; (5) **FY2012** Terrorist Attack in Benghazi; (6) **FY2017**, increased share of funding enacted in Overseas Contingency Operation (OCO) Funding.

The State Department also convened ARBs to investigate attacks against diplomatic missions in Benghazi, Libya (2012), and Havana, Cuba (2016-2018). The Benghazi and Cuba ARBs issued 29 and 30 recommendations, respectively, all of which the Department of State has either implemented or pledged to implement. Congress carried out particularly significant oversight following the Benghazi attack. Over half a dozen reports authored by several committees—including a House Select committee tasked solely with investigating the attack—analyzed the security postures of the State Department and other agencies prior to, during, and after the attack. Some of the reports included recommendations addressing perceived security deficiencies.

Recent Reforms

The State Department reports that it has implemented the 29 recommendations issued by the Benghazi ARB. Many of its actions have particular relevance to enhancing U.S. diplomatic security at high-risk posts, including the following:

- The creation of the "Vital Presence Validation Process" (VP2), which establishes risk-managed decisionmaking regarding U.S. presence in high-threat locations. VP2 seeks to systematize the process of opening, continuing, ceasing, or restarting diplomatic operations, or modifying staffing footprints, in response to challenges in dangerous locations.
- The creation of the position of Deputy Assistant Secretary (DAS) for High Threat Programs. This DAS is responsible for managing and directing the formulation, planning, coordination, policy development, and implementation of security programs that protect high-risk diplomatic posts and reporting directly to the Assistant Secretary of State for Diplomatic Security on matters related to supporting these missions.

In July 2015, the Government Accountability Office (GAO) found that while the Department of State has implemented upgraded security at "hard" targets such as embassies, "soft" targets such as diplomatic residences remained vulnerable. In May 2019, the department completed a review of its overseas residential security requirements and carried out several actions intended to better ensure that overseas posts are working to meet these residential security standards.

Issues for the 116th Congress

Congress is considering diplomatic security measures intended to increase congressional oversight and bolster the Department of State's risk management practices. For example, Section 206 of the Department of State Authorization Act of 2019 (H.R. 3352) would require the State Department to provide more detailed information to Congress regarding long-term plans to replace or maintain overseas diplomatic posts, taking into account existing requirements under the Secure Embassy Construction and Counterterrorism Act of 1999 and other related statutes and regulations. In addition, Section 209 of this bill would require that the State Department provide more information to Congress regarding assessments of security deficiencies at U.S. diplomatic posts, including information about requests made by diplomatic posts for security upgrades. Finally, Section 210 would mandate the revision of the State Department's internal regulations to ensure that information on the current threat environment is provided to all USG employees traveling to a foreign country on official business. H.R. 3352 passed the House of Representatives on July 25, 2019, and is currently pending before the Senate Committee on Foreign Relations.

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