

HSA@20 Episode Companion: Intelligence

May 15, 2023

This Insight accompanies the “Intelligence” episode of *The Homeland Security Act at 20* podcast series and includes background information on the issues discussed during the podcast.

Click this [link](#) to ask questions, provide feedback, or offer suggestions for future topics. You can also e-mail the podcast team at HSA20@loc.gov. Thank you for your engagement.

Intelligence and Homeland Security before 9/11

- *New York Times* journalist Seymour Hersh [broke the story](#) of the intelligence community’s illegal domestic surveillance in late 1974.
- This led to the establishment of [two select committees](#) in early 1975 to investigate past intelligence activities.
- The investigatory work of these committees was the basis for establishing a permanent congressional intelligence oversight framework:
 - The Senate Select Committee on Intelligence (1976) and
 - The House Permanent Select Committee on Intelligence (1977).
- Concern over potential for new domestic intelligence abuses like those uncovered in the 1970s contributed to an institutional reluctance on the part of the intelligence and law enforcement communities to collaborate and share information on threats to U.S. national security, even in situations where it would have been legal and appropriate to do so.
- This ultimately impeded their collective understanding of domestic threats to U.S. national security.

Post 9/11 Actions (Drawn from a Bush Administration [summary](#))

- Selected post 9/11 intelligence community-related actions:
 - October 8, 2001: President George W. Bush [establishes the Office of Homeland Security](#) within the Executive Office of the President
 - November 8, 2001: The Department of Justice (DOJ) [announces](#) a plan to reshape the department to focus on counterterrorism
 - March 5, 2002: DOJ establishes the [National Security Coordination Council](#)

Congressional Research Service

<https://crsreports.congress.gov>

IN12160

- May 29, 2002: DOJ announces [further reorganization](#), including steps for the reorganization of the Federal Bureau of Investigation (FBI) to better coordinate with the Central Intelligence Agency (CIA)
 - June 6, 2002: The Bush Administration releases [The Department of Homeland Security reorganization proposal](#).
- Two investigative efforts that addressed the factors that contributed to a failure to prevent 9/11:
 - The congressional Joint Inquiry Into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001 (“Joint Inquiry”)
 - [S.Rept. 107-351/H.Rept. 107-792](#) (December 2002)
 - [Hearing Record](#)
 - The National Commission on Terrorist Attacks Upon the United States (“9/11 Commission”)
 - [The 9/11 Commission Report](#) (July 2004)
 - Among their most significant findings relating to intelligence:
 - The intelligence community failed to focus on the “collective significance” of the information it had.
 - The intelligence community lacked a culture conducive to sharing relevant information within and between intelligence agencies, between the law enforcement and intelligence agencies, and between intelligence agencies and non-intelligence organizations of the U.S. government.

Intelligence Reform and Terrorism Prevention Act (IRTPA)

- Enacted December 17, 2004, as [P.L. 108-458](#).
 - The most comprehensive legislation to address shortfalls in how the intelligence and law enforcement communities manage and share intelligence.
 - Established the position of the Director of National Intelligence (DNI) to foster greater oversight, efficiency, and collaboration among intelligence elements.
- The IRTPA also underscored the significance of the intelligence provisions of the Homeland Security Act of 2002:
 - Enacted November 25, 2002, as [P.L. 107-296](#)
 - The act highlighted the importance of collaboration and intelligence sharing among a diverse spectrum of intelligence and law enforcement organizations balanced by respect for the privacy and civil liberties of Americans. ([6 U.S.C. 121](#); [6 U.S.C. 122](#))
 - The DHS Office of Intelligence and Analysis (I&A)—created under DHS Secretary Chertoff’s “[Six-Point Agenda](#)” effective October 1, 2005—is charged with ensuring the dissemination of intelligence to law enforcement organizations below the federal level and for receiving information from those organizations that might provide insight on threats to the homeland.

Distinctions

- **Intelligence** generally refers to **foreign intelligence and counterintelligence** activities defined under [50 U.S.C. 3003](#).

- In statute—principally Title 50—the intelligence community is authorized to conduct foreign intelligence and foreign counterintelligence operations.
- Foreign intelligence is defined in that section as “information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.”
 - Section 902 of the USA PATRIOT ACT ([P.L. 107-56](#)) added “international terrorist activities” to the definition in October 2001.
- If collecting foreign intelligence within the United States, intelligence and law enforcement agencies have to adhere to the provisions of the Foreign Intelligence Surveillance Act (FISA) of 1978 as amended.
- Law enforcement organizations are authorized to conduct **criminal intelligence**, which pertains to understanding and mitigating the criminal threat environment within the United States.
 - It is not defined in statute.
- Foreign and criminal intelligence overlap in situations where foreign persons or entities present a threat of conducting criminal activity within the United States.

Defining the Intelligence Community

Current statutory members of the Intelligence Community (per [50 U.S.C. 3003](#)) include:

- (1) Office of the Director of National Intelligence (ODNI)
- (2) Central Intelligence Agency (CIA)
- (3) National Security Agency (NSA)
- (4) National Geospatial-Intelligence Agency (NGA)
- (5) National Reconnaissance Office (NRO)
- (6) Defense Intelligence Agency (DIA)
- (7) U.S. Army Intelligence (USA G2)
- (8) U.S. Navy Intelligence (CNO N2/N6)
- (9) U.S. Marine Corps Intelligence (USMC MCISR-E)
- (10) U.S. Air Force Intelligence (A2/6)
- (11) U.S. Space Force Intelligence (S2)
- (12) Department of Energy Office of Intelligence and Counterintelligence (I&CI)
- (13) Federal Bureau of Investigation Intelligence Branch (FBI/IB)
- (14) Drug Enforcement Agency Office of National Security Intelligence (DEA ONSI)
- (15) Department of Homeland Security Office of Intelligence and Analysis (I&A)
- (16) U.S. Coast Guard Intelligence (USCG CG-2)
- (17) Department of the Treasury Office of Intelligence and Analysis (OIA)
- (18) Department of State Bureau of Intelligence and Analysis (INR)

Homeland Security Threat Intelligence

- Senate Select Committee on Intelligence hearing on “[Worldwide Threats](#),” March 8, 2023
 - [Annual Threat Assessment of the U.S. Intelligence Community](#)

- DHS [National Terrorism Advisory System](#) (NTAS)

FOR MORE INFORMATION

- For more information on the intelligence community and homeland security, see CRS Report R47229, *Intelligence Coordination on Domestic Terrorism and Violent Extremism: Background and Issues for Congress* or the other works of Michael E. DeVine on the CRS website.
- For more episodes of this podcast series, search “HSA@20” on the CRS website.

NEXT EPISODE

June 5, 2023: Border Enforcement.

Author Information

William L. Painter, Coordinator
Specialist in Homeland Security and Appropriations

Michael E. DeVine
Analyst in Intelligence and National Security

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