

Opening Statement
of
Representative Anna G. Eshoo
Chair, Intelligence Community Management Subcommittee
House Permanent Select Committee on Intelligence

Open Hearing: Congressional Notification Policies, Practices and Procedures
October 27, 2009

Last week, the Intelligence Committee Management Subcommittee held a hearing examining the provisions in the National Security Act of 1947 that establish how the Executive Branch keeps Congress informed of intelligence activities. This hearing comes as a welcome follow up, so we can examine how the Executive Branch has implemented those provisions, and how they interpret the statute.

As I said last week, the Executive Branch's obligation to keep the Committee fully and currently informed is a solemn one. Congress has a right to know – and the Executive Branch has a duty to share the information necessary for Congress to authorize and appropriate funds and oversee the activities of the federal government, including intelligence activities, to ensure that taxpayer funds are wisely spent.

Last week we heard that the relationship works best when the Executive Branch takes in good faith its obligation to share full and complete information about intelligence activities with the Committee. In many cases, Congress provides the only outside oversight on intelligence activities, and thus its role is all the more crucial in checking executive excesses or strengthening plans.

We examined the statute, and we focused on a number of phrases where the law is ambiguous. Some in the Executive Branch could use that lack of clarity to circumvent their obligations to inform Congress. We need to understand how the agencies interpret their obligation to keep the Committees “fully and currently” informed, what kinds of intelligence activities they consider “significant,” and how they view the obligation to inform, rather than merely notify.

I want to understand how the agencies interpret the phrase “significant.” Last week's witnesses explained the factors that make an intelligence activity significant are those are approved at high levels of leadership, or are particularly sensitive, or are likely to have serious foreign policy implications. I'd also like to understand whether the agencies are basing any of their decisions to inform Congress on whether an activity is “operational.” As we heard last week, that phrase is not in the statute and should not be used to decide what information should be shared with the intelligence Committees.

Mr. Litt, I hope you will shed light on how the Intelligence Community implements its obligation to keep the Committees fully and currently informed. I'm also looking forward to hearing about some of the changes that the Intelligence Community is considering to improve its congressional notification practices so that the failures of the past do not repeat themselves.

Again, thank you for being here Mr. Litt, and I yield back the balance of my time.