

# From Secrecy News

## MAU-MAUING THE CONGRESSIONAL RESEARCH SERVICE

Congressional Research Service (CRS) analyses of the Bush Administration's domestic surveillance activity have been exceptionally influential, and their influence has been magnified by media coverage that has sometimes overstated the rather nuanced conclusions of CRS analysts.

But now the CRS faces a backlash from Republican leaders in Congress who apparently resent the agency's high profile and independent judgment, and seek to rein it in.

There has probably never been a CRS report that was cited as frequently as the January 5, 2006 CRS memorandum which delicately concluded that the NSA surveillance operation "does not seem to be as well-grounded" as the Administration contends.

Another CRS memorandum on January 18 observed that since the NSA operation was not a "covert action," the decision to limit congressional notification to eight members of Congress as is done in the case of covert actions "would appear to be inconsistent with the law."

Though some would consider these findings tentative or even timid, their broad acceptance has enraged the President's allies in Congress.

"CRS's work on these matters has not been 'free of partisan or other bias'," wrote House Intelligence Committee chair Rep. Pete Hoekstra in a February 1 letter to CRS Director Daniel P. Mulhollan.

"I ask for immediate action on your part to ensure that CRS truly provides 'comprehensive and reliable' legislative research that is 'free of partisan or other bias'." See:

[http://www.fas.org/irp/congress/2006\\_cr/hoekstra020106.html](http://www.fas.org/irp/congress/2006_cr/hoekstra020106.html)

In his letter, Rep. Hoekstra specifically disputed the suggestion by CRS analyst Alfred Cumming in the January 18 CRS memo that there was any legal obligation to inform all members of the intelligence committees of the NSA surveillance operation. "It is clear that such reporting is not mandated by the law," he wrote.

By Rep. Hoekstra's lights, the statute that limits congressional notification of covert action to eight members of Congress would be redundant or meaningless, since the President would have no obligation to inform other Members of the intelligence committees anyway.

But that has not been the conventional reading of the law, and Rep. Hoekstra's interpretation has been contested by his Committee's Ranking Member, Rep. Jane Harman.

[http://www.house.gov/harman/press/releases/2006/0104PR\\_nsaprogram.html](http://www.house.gov/harman/press/releases/2006/0104PR_nsaprogram.html)

The restricted congressional notification policy on the NSA surveillance program, endorsed by Rep. Hoekstra, has produced an absurd result, said Sen. Jay Rockefeller at a February 2 hearing of the Senate Intelligence Committee.

"Director Negroponte, consider this fact," said Sen. Rockefeller. "The only NSA program the White House had authorized senior intelligence officials to discuss publicly is the only NSA program all members of the congressional Intelligence Committees are prohibited from knowing about."

"I hope you are struck by this paradox and troubled by its implication."

But Rep. Hoekstra was neither struck nor troubled.

"I would appreciate your assistance in ensuring that CRS refrain from speculating with respect to highly sensitive national security matters on which it has no authoritative knowledge," Rep. Hoekstra thundered to CRS Director Mulhollan (whom he mistakenly addressed as Mulholland).

CRS analyst Cumming is a former staff director of the Senate Intelligence Committee with many years of experience in intelligence oversight. Rep. Hoekstra is a relative newcomer to the field.

Although U.S. intelligence is embroiled in public controversy over the NSA activity, the House Intelligence Committee under Chairman Hoekstra has had little to contribute to public understanding. He has held no public hearings, and has left it to Ranking Member Rep. Harman to represent and articulate public concerns.

Rep. Hoekstra's letter to CRS, which was first noted approvingly by the conservative web site Powerline ([powerlineblog.com](http://powerlineblog.com)), was copied to three congressional Republican leaders, but to no Democrats.

Since the January 5 CRS memo was published on the Federation of American Scientists web site on January 6, it has been downloaded thousands of times each day, and as many as forty thousand times in a single 24 hour period.