We've learned that the Defense Department is deeply involved in domestic intelligence (intelligence concerning threats to national security that unfold on U.S. soil). The department's National Security Agency has been conducting, outside the framework of the Foreign Intelligence Surveillance Act, electronic surveillance of U.S. citizens within the United States. Other Pentagon agencies, notably the one known as Counterintelligence Field Activity (CIFA), have, as described in Walter Pincus's recent articles in The Post, been conducting domestic intelligence on a large scale. Although the CIFA's formal mission is to prevent attacks on military installations in the United States, the scale of its activities suggests a broader concern with domestic security. Other Pentagon agencies have gotten into the domestic intelligence act, such as the Information Dominance Center, which developed the Able Danger data-mining program.

These programs are criticized as grave threats to civil liberties. They are not. Their significance is in flagging the existence of gaps in our defenses against terrorism. The Defense Department is rushing to fill those gaps, though there may be better ways.

The collection, mainly through electronic means, of vast amounts of personal data is said to invade privacy. But machine collection and processing of data cannot, as such, invade privacy. Because of their volume, the data are first sifted by computers, which search for names, addresses, phone numbers, etc., that may have intelligence value. This initial sifting, far from invading privacy (a computer is not a sentient being), keeps most private data from being read by any intelligence officer.

The data that make the cut are those that contain clues to possible threats to national security. The only valid ground for forbidding human inspection of such data is fear that they might be used to blackmail or otherwise intimidate the administration's political enemies. That danger is more remote than at any previous period of U.S. history. Because of increased political partisanship, advances in communications technology and more numerous and competitive media, American government has become a sieve. No secrets concerning matters that would interest the public can be kept for long. And the public would be far more interested to learn that public officials were using private information about American citizens for base political ends than to learn that we have been rough with terrorist suspects -- a matter that was quickly exposed despite efforts at concealment.

The Foreign Intelligence Surveillance Act makes it difficult to conduct surveillance of U.S. citizens and lawful permanent residents unless they are suspected of being involved in terrorist or other hostile activities. That is too restrictive. Innocent people, such as unwitting neighbors of terrorists, may, without knowing it, have valuable counterterrorist information. Collecting such information is of a piece with data-mining projects such as Able Danger.

The goal of national security intelligence is to prevent a terrorist attack, not just punish the attacker after it occurs, and the information that enables the detection of an impending attack may be scattered around the world in tiny bits. A much wider, finer-meshed net must be cast than when investigating a specific crime. Many of the relevant bits may be in the e-mails, phone conversations or banking records of U.S. citizens, some innocent, some not so innocent. The government is entitled to those data, but just for the limited purpose of protecting national security.

The Pentagon's rush to fill gaps in domestic intelligence reflects the disarray in this vital yet neglected area of national security. The principal domestic intelligence agency is the FBI, but it is primarily a criminal investigation agency that has been struggling, so far with limited success, to transform itself. It is having trouble keeping its eye on the ball; an FBI official is quoted as having told the Senate that environmental and animal rights militants pose the biggest terrorist threats in the United States. If only that were so.

Most other nations, such as Britain, Canada, France, Germany and Israel, many with longer histories of fighting terrorism than the United States, have a domestic intelligence agency that is separate from its national police force, its counterpart to the FBI. We do not. We also have no official with sole and comprehensive responsibility for domestic intelligence. It is no surprise that gaps in domestic intelligence are being filled by ad hoc initiatives.

We must do better. The terrorist menace, far from receding, grows every day. This is not only because al Qaeda likes to space its attacks, often by many years, but also because weapons of mass destruction are becoming ever more accessible to terrorist groups and individuals.

The writer is a judge on the U.S. Court of Appeals for the 7th Circuit and a senior lecturer in law at the University of Chicago. He will take questions at 2 p.m. today at http://www.washingtonpost.com.