Assessing *the* Department of Homeland Security

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THE BROOKINGS INSTITUTION
Washington, D.C.
July 2002

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PRINCIPAL FINDINGS

President Bush's June 6 proposal to create a Department of Homeland Security (DHS) would constitute the largest reorganization of the federal government in fifty years. Given the urgency of the terrorist threat, Congress has pledged to act rapidly. It aims to have a bill ready for the President's signature in time for the one-year anniversary of the September 11 terrorist attacks.

The issue of homeland security is one of the most important challenges facing our nation, and the decisions we make today about the strategy and organization for addressing these new threats will have profound consequences for our national security, our economy and our way of life. It is particularly important that we make these decisions based on careful analysis before instituting far reaching changes. For while it is possible to revisit or even reverse organizational decisions at a later stage, it is far better to get it right the first time.

There is a broad consensus that some organizational reform is necessary—a conclusion reached by a number of high level commissions and Congress even before the President offered his proposal. The question is no longer whether to reorganize but how and to what extent. Congress is clearly moving toward creation of a new department, but it can still choose what kind of department—how large and how comprehensive. Tom Ridge, the President's point man on the issue, has told Congress that the administration considers its proposal a "work in progress."[1] Modifications are therefore possible, even likely.

We addressed many of the organizational questions raised by the President's proposal in our previous report on homeland security, *Protecting the American Homeland*.[2] Based in part on this earlier effort, we believe that although the idea of creating a Department of Homeland Security is sound,

Congress should modify key elements of the President's suggestions. In particular, we conclude that:

- ***Strategy Must Guide Organizational Change.*** It is not obvious how or even whether the administration's organizational reforms reflect its homeland security strategy, since the strategy had not been completed and shared with Congress and the American people when the proposals were being developed. Yet, both logically and practically, any organizational reform should reflect a coherent strategy, not the reverse. Therefore, Congress should proceed cautiously, merging only those functions for which a clear case has been made. And the administration should rapidly complete, and make public, its long-delayed homeland security strategy.

- ***The Department Should Initially Focus on Border and Transportation Security, Infrastructure Protection, and Intelligence Analysis.*** The administration proposal merges too many different activities into a single department, including many that have little day-to-day connection with one another. At the outset, reorganization should focus on areas where major gains are needed and possible: consolidating border, transportation, and infrastructure security and creating a major new intelligence and information unit. We favor a focused department centered on these functions and excluding, for now, the Federal Emergency Management Agency (FEMA) and chemical, biological, radiological, and nuclear (CBRN) countermeasures.

- ***Good Management Must be a Top Priority.*** The administration is right to seek substantial flexibility in managing the new department, but wherever possible management flexibility should be provided through general legislation affecting the executive branch as a whole rather than for the new department on an exceptional basis. And Congress should retain greater oversight of departmental appointments and internal reorganization than the administration proposes.

- ***Reorganization Should Reach Beyond the Executive Branch.*** To enhance its oversight capacity, Congress should establish standing authorizing committees and appropriations subcommittees specializing in homeland security. And the federal government should lead in establishing federal-state-local-private sector task forces for homeland security in every state and major urban area.

- ***White House Coordination and Leadership Remain Crucial***. A strong, central White House coordinating office is essential for making appropriate overall strategic and budgetary choices, coordinating DHS activities with those of the numerous other federal agencies involved in the homeland security effort, and mobilizing resources and motivating people to take the steps necessary to secure the nation against terrorist attack.

Link Strategy and Organization

President Bush announced his reorganization initiative before Tom Ridge and his staff in the Office of Homeland Security were able to complete work on a national homeland security strategy. As a result, the relationship between the administration's strategy and its reorganization proposal is not at all clear. Yet logically, the organizational reform should follow, not precede, strategy development.

Ridge and others have argued that the administration's strategic preferences can be gleaned from its homeland security budget submitted last February and from the organizational design of the proposed DHS. These underscore the critical importance of key homeland security missions: defending the borders; enhancing critical infrastructure protection; and strengthening the nation's consequence management capacity, including especially preparations to deal with terrorist use of weapons of mass destruction. Yet, as we argued in our earlier report, these missions fall short both of what is needed and of what would constitute a coherent, integrated strategy. At best, they provide a framework—and one that with the exception of border security is largely based on protection and response much more than on prevention.

This has major drawbacks. A sound homeland security strategy should focus first and foremost on prevention—by ensuring terrorists and their materials do not enter the United States, identifying would-be terrorists already here, and securing dangerous materials so they cannot be used for an attack. To be sure, protection is also important, but rather than hardening only those targets that intelligence and other information suggest might be threatened, a more cost-effective strategy would focus on protecting those targets whose destruction would cause the gravest harm—be it to people, the economy, or our national psyche. Finally, consequence management activities must focus not only on helping those that are most directly affected by an attack, but also on minimizing the effects of an attack on our society and

economy more generally. Indeed, this is where the integration of prevention, protection, and response efforts becomes absolutely vital.

Absent a clear and coherent statement of the administration's strategic priorities, it is impossible to assess whether its proposed reorganization will strengthen efforts to secure the country against attack. Rather than accepting the administration's proposal at face value, therefore, Congress would be better advised to limit the department, initially at least, to those areas where major organizational reform is clearly desirable and possible. This will involve consolidating entities that perform similar functions rather than trying to bring many agencies with widely diverse homeland security functions under a single roof. Meanwhile, the administration should complete and distribute its homeland security strategy, which is fundamental to the broader effort to improve the nation's security against terrorist attack as well as to the specific effort to reorganize the federal government in pursuit of that goal.

Focus on Consolidating Similar Functions

The administration proposes to organize DHS along four pillars: border and transportation security, emergency preparedness and response, CBRN countermeasures, and information analysis and critical infrastructure protection. All of these are crucial to any sound homeland security effort. But it is wrong to presume—as does the administration's proposal and much of the commentary on this issue—that the most effective way to organize this effort is to merge as many homeland security agencies and functions as possible into a single department. Just because a variety of functions contribute to homeland security does not mean that they necessarily need to be under common organizational control. Military force and diplomacy contribute to our national security, yet no one seriously argues that they should all be conducted by a single agency. It is simply not possible to bring all or most of the important homeland security entities into one department. Even the administration's very ambitious consolidation proposal leaves the Pentagon, the CIA, and the FBI untouched—yet, all play absolutely vital roles in the homeland security effort.

Moreover, any fundamental reorganization represents a huge managerial undertaking—one that becomes ever more daunting as the number of agencies to be included increases. The danger is that top managers will be preoccupied for months, if not years, with getting the reorganization right—thus giving insufficient attention to their real job: taking concrete action to counter the terrorist threat at home. This is already a potential

problem today, with Tom Ridge (supported by many in his office) spending much or all of his time convincing Congress of the virtues of the President's proposal rather than on what up till now has been his day job—to lead, coordinate and mobilize the U.S. government in the effort to secure the nation against attack.

Given these challenges, Congress would be well advised to focus the initial reorganization effort on bringing together federal government entities that perform similar functions—emphasizing consolidation in the areas of border and transportation security, infrastructure protection, intelligence analysis, and emergency preparedness and response. Some—but not all—of these consolidated areas should be brought into a new Department of Homeland Security. But it is better to begin with what is clearly doable and then consider merging other entities into the new department at a later stage.

Accordingly, we recommend Congress adopt the following organizational changes:

First, the Department of Homeland Security should have clear responsibility for border and transportation security, infrastructure protection, and assessment and analysis of terrorist threats to the United States. These three responsibilities are vital to the federal homeland security effort, and the agencies responsible for each area can be merged or created within a relatively short period of time. To accomplish these tasks, Congress will have to legislate the following organizational changes:

- ***Border and Transportation Security:*** Like the administration, we believe border and transportation security must be a central mission of DHS. Accordingly, we favor moving the Coast Guard, Customs Service, Animal and Plant Health Inspection Service, Transportation Security Administration, and the enforcement (but not the service) parts of the Immigration and Naturalization Service into the department. We also believe that, on balance, the visa administering functions of the State Department's Bureau of Consular Affairs—including responsibility for managing the applications process in embassies and consulates abroad—should be moved into DHS (while all the other consular responsibilities should remain the State Department's sole responsibility).

- ***Infrastructure Protection:*** Protecting our critical infrastructure—which includes a wide variety of crucial networks ranging from cyberspace to banking systems to electricity grids to gas pipelines—is vital to any homeland security effort. It therefore makes sense to bring the various federal agencies responsible for infrastructure protection now dispersed

throughout the federal government into DHS. The fact that this is a relatively new area of governmental activity (and one that has no real home under present organization) makes it particularly appropriate to assign responsibility to a new department, which could address it flexibly and give it the priority it deserves. This should include the role of the Special Adviser to the President for Cyberspace Security.

- ***Assessment and Analysis of Terrorist Threats to the United States:*** There is currently no single focus in the U.S. government for the comprehensive analysis of information concerning possible terrorist threats in the United States is collected and analyzed. Effective prevention efforts require the integration of all relevant data—including the intelligence community, the law enforcement community, and the border and transportation security agencies—dealing with terrorism at home. The administration's proposal for a new information unit is inadequate to that task. It will not have regular or routine access to the raw intelligence and law enforcement information necessary to make an informed analysis of possible threats. In this one area, Congress should move beyond what the administration has proposed and create a new, adequately staffed unit responsible for examining *all* intelligence and law enforcement information pertaining to terrorist threats to the country. The new analytical unit within the FBI that is being set up for this purpose should accordingly be transferred to DHS.

Second, the Federal Emergency Management Agency should be responsible for all federal emergency preparedness and response efforts, but should for now remain an independent agency. The Bush administration rightly proposes to consolidate within FEMA a range of governmental units and grant programs dealing with emergency preparedness and response. The dispersal of these programs has been a source of major confusion for state and local authorities, and creating a one-stop shop for federal assistance efforts is important for increasing overall performance and effort.

But it would be a mistake to merge such a consolidated agency into DHS, as the President proposes. After years of determined effort, FEMA has emerged as an effective federal agency. Moving it into a new department, at a time when its new management is busily trying to mold many different entities, cultures, and capabilities into a new, coherent whole, is unlikely to be the best way to improve FEMA's ability to manage the emergency response function, much less sustain its ability to carry out its important, non-homeland security related activities. It would be much better for FEMA to remain

independent and absorb the other agencies and programs responsible for aspects of the emergency response efforts.

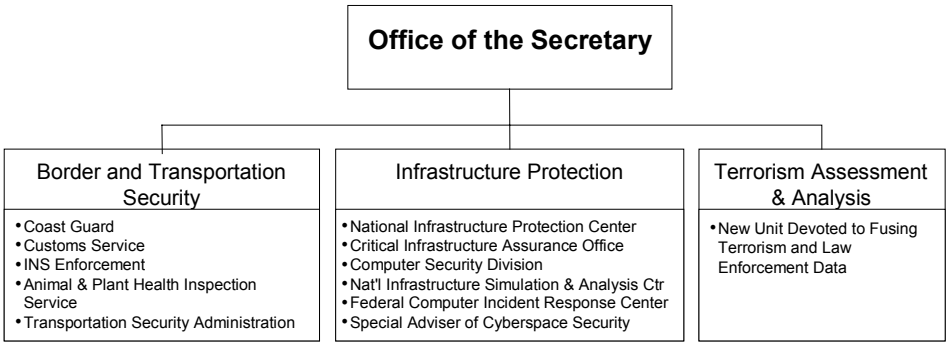
Once the new department is up and running smoothly and FEMA has successfully completed its consolidation, the question of moving FEMA into DHS can be revisited.

Third, Congress should defer the question of what, if any, science and technology research and development responsibilities to include in DHS and invite the administration to develop a new proposal next year on how to better manage not only the issue of CBRN countermeasures but homeland security-related research and development as a whole. The question of how the government should reorganize its scientific research efforts to deal with the threat of terrorism is difficult and complex. The Bush administration has oversimplified the problem by focusing primarily on just one of its aspects—dealing with attacks by chemical, biological, radiological, or nuclear devices. But various types of conventional attacks are also serious concerns, as the September 11 attacks underscored. A recent National Research Council report points to the need to conduct research on preventing or mitigating the effects of conventional attacks on transportation systems, electric systems, buildings, and other such infrastructure. In addition, we need to place a higher premium on preventing CBRN and other attacks from occurring, rather than simply addressing their consequences after they have happened. That means more greater emphasis on securing dangerous materials and controlling access to them at home and abroad, and focusing more on other research and development priorities, including sensors and surveillance technologies, and data management capabilities.

The administration's proposal for placing certain types of scientific research under DHS raises many more questions than it answers. Biological research and development, in particular, has a wide array of important missions to attend to, many with the potential to save large numbers of lives. Such work should not be given secondary priority, as could happen under the proposed reorganization. Moreover, the inherent seamlessness between civilian and defense research in the biological area calls into doubt the idea of splitting up such work into different areas and supervised by separate federal bureaucracies. Finally, biological research institutes—including the Centers for Disease Control and Prevention and the National Institutes of Health—are generally well run, so one risks disrupting operations that are currently quite effective and already do good work in the realm of homeland security. In fact, they can surely do more good work if given additional funds and visibility but left in their current homes.

In contrast, the case for transferring Lawrence Livermore National Laboratories to DHS may be stronger. At present, research the nation's three premier research laboratories—Los Alamos, Sandia, and Livermore—is devoted primarily to the Department of Energy's nuclear weapons mission. That seems a questionable allocation of resources in our current age. Whether Livermore should be relocated under DHS, or simply given more homeland security work within its current home at Energy, can be debated. But there is little urgency about making an immediate decision, since good work is being done on homeland security even under existing arrangements. Therefore, we do not believe there is a compelling case for making a decision this year to relocate key components of the country's basic science research and development under DHS control. Instead, Congress should invite the administration to report back next year on how it would believes homeland-security related research and development—including, but not limited to CBRN countermeasures—can best be supported.

AN ALTERNATIVE DEPARTMENT OF HOMELAND SECURITY



In short, Congress should move expeditiously to create a more focused Department of Homeland Security, one centered on border and transportation security, infrastructure protection, and domestic terrorism assessment and analysis. The new department should exclude, at least for now, FEMA and units responsible for CBRN countermeasures. This more focused department would incorporate half of the 22 agencies or offices in the original White House plan, roughly 185,000 employees (compared to the administration plan's estimate of 200,000 once the larger number of likely TSA employees are counted), and roughly $25 billion (two-thirds) of the $37.5 billion the administration projected as the current budget of the new

department.[3] It would, therefore, be very large. But it would be substantially more focused than what the administration proposes to do and hence easier to manage. Above all, it would center on those functions whose consolidation seems likely to offer substantial gains to homeland security.

Flexible Management—With Oversight

The urgency and novelty of the homeland security challenge requires that those who bear responsibility for this mission enjoy a significant degree of management flexibility. The administration certainly argues so, and has asked Congress to grant the DHS and its new secretary extraordinary managerial leeway. This includes: creating up to 28 new senior positions in the department (only 14 of them subject to Senate confirmation); giving the new secretary freedom to determine the titles, duties, and qualifications for all 16 assistant secretaries requested and to reorganize the department at will; granting unprecedented latitude in setting the department's personnel policy; exempting the department from key provisions of the Freedom of Information Act; and limiting the independence of the department's inspector general as an internal watchdog.

Congress should seek ways to accommodate the administration, but modify the proposed legislative language to assure appropriate accountability and oversight. It should support a more time-tested approach to providing civil service waivers. It should make the inspector general an independent watchdog. And it should reduce the number of assistant secretaries and maintain the standard practice of requiring their confirmation by the Senate. An absence of accountability does not make for good governance.

- ***Congress should help the new secretary succeed through government-wide flexibility reforms that are already on the legislative agenda.*** These reforms include: the Presidential Appointments Improvement Act cosponsored by Senators Fred Thompson (R-Tenn.) and Joe Lieberman (D-Conn.) and the Federal Workforce Management Improvement Act, introduced by Senator George Voinovich (R-Ohio). Alternatively, Congress should adopt reforms that would be easy to design, such as granting the President limited reorganization authority for DHS by providing for a single up-or-down vote for any reorganization proposal involving, say, more than 5,000 employees.

- ***Any DHS-specific personnel flexibility should give the department secretary broad authority over hiring and pay subject to detailed***

statutory guidelines, using as precedent what Congress has already granted the heads of such agencies as the CIA, the FAA, and the IRS.

Flexibility is also necessary in inter-governmental relations. Success in the effort to secure our country against attack will depend most on the hundreds of thousands, if not millions, of people who are our nation's eyes, ears, and hands. Many of these "first defenders" and "first responders" work for state and local government as police officers, firemen, and public health officials. Many more work in the private sector as doctors, nurses, and security guards. Connecting all of them into an effective network is crucial. Therefore, the federal government should:

- ***Establish interagency task forces for homeland security with federal, state, and local representation.*** There should be, for each state, major city and/or metropolitan area, an interagency task force, involving federal, state, local and key private sector actors. These task forces would address the full range of homeland security issues from the local perspective. The lifeblood of these task forces will be information, which must flow smoothly up, down, and across them in real-time. If FEMA remains independent, as recommended here, it should take on the responsibility of forming these task forces.

Many of the agencies proposed for inclusion in DHS have significant non-homeland-security responsibilities, from collecting customs duties to inspecting zoos to rescuing Americans in peril in our coastal waters. In some cases, like the INS, it makes sense to split off non-homeland-security functions such as helping immigrants become citizens. In others, like the Coast Guard, the cohesiveness of the organization and the interrelatedness of its tasks require that the agency be kept whole. Congress should examine specific cases and decide upon as many of them as possible before enacting the law. However, it will not be possible to resolve them all on the current tight timetable. Therefore,

- ***Congress should ask the new department to report back regarding how all of its non-homeland security functions will be handled*** (whether by the department or their prior host departments).

Last but assuredly not least, Congress should look to its own house. Much of the benefit of consolidation will be lost if our national legislature continues to address homeland security issues through scores of Senate and

House committees and subcommittees. Congressional reform is never easy, but this is one of those occasions when it is urgently needed. Therefore,

- ***The Senate and House should both establish standing authorizing committees on homeland security with jurisdiction over the broad issue area and appropriations subcommittees to act on the new department's budget.***

White House Role Is Crucial

Whether Congress establishes the multi-function department proposed by the Bush administration or the smaller, more focused department we advocate here, White House coordination and leadership of the homeland security effort will remain crucial. By the administration's own reckoning, over 100 U.S. government agencies are in some way involved in the homeland security effort. It proposes to merge twenty-two of them. So even if the administration's proposal is adopted in its entirety, fully three-quarters of the federal government entities involved in homeland security will remain outside DHS. Among these are most of the critical agencies—FBI, CIA, DOD, CDC, etc. Their activities must be coordinated with those of the new department and there is an equally urgent need to develop and implement a government-wide homeland security strategy and budget.

By default, that responsibility must lie in the White House. The secretary of homeland security will likely want to lead the coordinating efforts, but experience suggests that Cabinet level officers, such as Defense, Justice, HHS, and elsewhere are unlikely to accept a peer as first among equals. Only the White House has the pull necessary to get the various parts of the executive branch working together effectively.

Where in the White House to lodge this coordinating and leadership responsibility will depend, in part, on the size and scope of the new department. If Congress adopts the maximal administration proposal, the National Security Council would become a plausible locus. Many of the agencies that need to be brought together—including Defense, Justice, Treasury, CIA, and the FBI—are already part of the NSC-led interagency process to some degree. Others, like HHS and DHS, could be added to the mix. Moreover, focusing the coordination process within the NSC system has the added benefit of enhancing coordination of the homeland security effort at home with the counter-terrorism effort abroad. At the same time, the NSC would have to be substantially expanded and become immersed in domestic

matters to an unprecedented degree. And it could have difficulty pursuing this priority while retaining its traditional broad international security focus.

In any case, we much prefer a more focused DHS. With this kind of department, NSC coordination becomes more problematic, since many of the relevant agencies outside DHS (including FEMA) would be more domestically oriented. Under our proposed approach, therefore, we favor retaining a strong Office of Homeland Security within the White House responsible for coordinating and leading the homeland security effort. The OHS director needs the necessary authority, however, to develop both a national homeland security strategy and an integrated, government-wide homeland security budget for presentation to and defense on Capitol Hill. We therefore believe that the homeland security council, office, and director should be given statutory authority. Tom Ridge lacks such authority, and his ability to make an impact has suffered accordingly.

1

THE BUSH ADMINISTRATION'S PROPOSAL

President George W. Bush went on nationwide television June 6 to urge Congress to create a new Department of Homeland Security. It would, in his words, be "charged with four primary tasks": controlling our borders; responding to terror-driven emergencies; developing technologies to detect weapons of mass destruction and protect citizens against their use; and "review[ing] intelligence and law enforcement information … to produce a single daily picture of threats against our homeland." The President's proposal, which is far more ambitious in scope than any legislative or other existing alternative for consolidating agencies and functions dealing with homeland security, would pull together some 200,000 government officials now associated with more than twenty government agencies. If approved by Congress in anything like the form proposed, it would be, as the President stated, "the most extensive reorganization of the federal government since the 1940s."[1] Only the creation of the Department of Energy a quarter century ago offers a more recent parallel.

The President's announcement came as a surprise. For months, he and his senior aides had argued against a fundamental reorganization of the federal government. In March, the President's spokesman, Ari Fleischer, asserted that "creating a Cabinet post doesn't solve anything." Instead, "the White House needs a coordinator to work with the agencies, wherever they are."[2] And such a coordinating structure had been put in place shortly after September 11, when President Bush appointed his old friend, Pennsylvania Governor Tom Ridge, as the director of a new Office of Homeland Security (OHS). The president also established a Homeland Security Council (HSC), modeled after its national security namesake, to coordinate homeland security

efforts throughout the government.[3] For President Bush and his senior advisors, the combination of Ridge, a 100-person White House office, and a Cabinet-level coordinating council represented the best organizational response to the new challenge of securing the nation against future terrorist attacks. As a result, the White House continued to reject efforts on the Hill to legislate more far-reaching organizational changes—including the idea of creating a Department of Homeland Security.

All that changed on June 6, when the president not only announced his support for just such a reorganization, but proposed a merger far more ambitious than anything anyone else had proposed. What had changed? President Bush and his advisers stress that their proposal flows logically from their efforts to review overall requirements for securing the country against attack. They also insist that the reforms reflect the strategic priorities of their national homeland security strategy, which Ridge's office has for many months labored to produce by early summer 2002. But the strategy had not been completed by the time the reorganization decisions were made. And while the proposed department's four pillars of border and transportation security, information analysis and infrastructure protection, consequence management, and countering chemical, biological, radiological or nuclear (CBRN) weapons threats may reflect the administration's priorities, these tasks do not themselves constitute a coherent homeland security strategy.

Additional factors were therefore important in convincing the President of the need for a bold organizational initiative. One of these, clearly, was a sense that the original organizational setup was not working. By early spring 2002, Ridge's operation was encountering substantial difficulties. Ridge had lobbied his Cabinet colleagues to reorganize the border security effort—proposing the merger of the Coast Guard, Customs Service, the Immigration and Naturalization Service's enforcement arm (including the Border Patrol), and the Animal and Plant Health Inspection Service—but was rebuffed and forced to settle for something far short of what he believed necessary.[4] The color-coded advisory system developed by Ridge's office created as much uncertainty as clarity. And the White House's refusal to allow Ridge to testify before Congress, even to defend the administration's integrated homeland security budget request that his office had pulled together, significantly undermined his credibility on Capitol Hill.

In light of these problems, President Bush's Chief of Staff Andrew Card proposed in April that a small group of senior White House aides look into ways the federal government might be reorganized. Bush agreed. "Start with a clean piece of paper," he reportedly told Card.[5] Within days, the aides

had developed eight different options. By late May, Bush had accepted the recommendation from Card, Ridge, and others to go with one of the more extensive reorganization options. That decision was communicated to President Bush's Cabinet secretaries, including those immediately affected, only hours before he addressed the nation on June 6.

Widespread support for a major reorganization on Capitol Hill provided another reason for Bush's decision. In early May, Senators Joe Lieberman (D-Conn.), Arlen Specter (R-Pa.), and Bob Graham (D-Fla.) had joined forces with Representatives Mac Thornberry (R-Tex.), Jane Harman (D-Calif.), Jim Gibbons (R-Nev.), and Ellen Tauscher (D-Calif.) to introduce a bipartisan, bicameral proposal for creating a Department of Homeland Security by combining the border agencies, the Federal Emergency Management Agency, and various entities responsible for protecting the nation's critical infrastructure.[6] Lieberman pushed his bill through the Governmental Affairs Committee, which he chairs, on a party-line vote in mid-May. When soon thereafter news broke about various potential intelligence lapses and information sharing problems involving the FBI and CIA, support mounted for a dramatic reorganization effort along the lines Lieberman and his colleagues were advocating. As June began, the Bush administration appeared to be losing the initiative on the homeland security front that it had enjoyed since September 11.

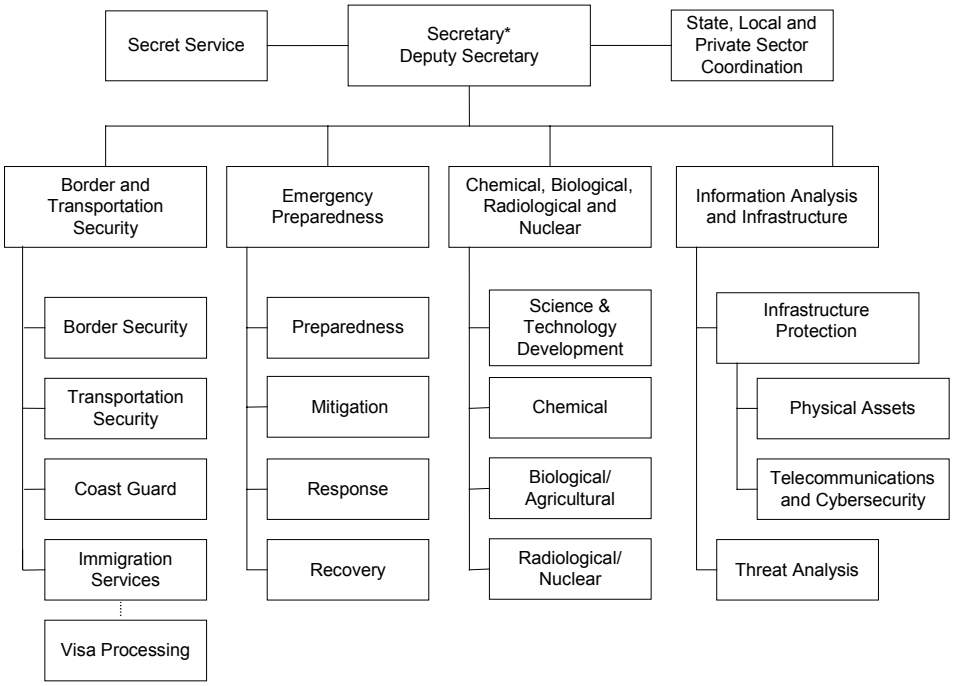
The President's speech of June 6 proposing creation of a new Department of Homeland Security was therefore timely and politically astute. Democrats who had long supported a major reorganization—and had unsuccessfully pressed the White House and the Republican leadership on Capitol Hill to join them—quickly rallied behind the President's proposal. Some, like House Minority Leader Dick Gephardt (D-Mo.), went further, proposing that Congress pass a bill creating a new department by the time of the one-year anniversary of the World Trade Center and Pentagon attacks. Republicans, most of whom had resisted calls for major reorganization, quickly fell in line, their unease about expanding the size of government assuaged by the President's assurance that the reorganization would require no additional expenditures.

The Administration's Proposal

On June 18, Tom Ridge traveled to Capitol Hill to present the House and Senate leadership with legislation detailing the administration's reorganization proposals.[7] The proposed department's primary mission would

be to "prevent terrorist attacks within the United States; reduce the vulnerability of the United States to terrorism; and minimize the damage, and assist, in the recovery, from terrorist attacks that do occur" (sec. 101). It would consist of five divisions, each headed by an undersecretary for homeland security (see figure-1). The Secret Service would be moved from Treasury and report directly to the secretary. Another six assistant secretaries and the commandant of the Coast Guard would be subject to Senate confirmation. The president would appoint an additional fourteen people, including up to ten assistant secretaries, none of whom would be subject to confirmation.

Figure 1: Proposed Department of Homeland Security



The secretary of homeland security would also have unprecedented powers under the administration's proposal. He would be able to transfer functions and responsibilities among subordinates and reorganize the structure of the entire department at will (the Hill would have to be notified 90 days in advance of any change affecting an agency established by an act of Congress). He would be allowed to reprogram appropriated funds from one program to another without congressional approval if it involved less than five percent of any appropriation available to the secretary. The administration's proposed legislation would also provide the secretary with broad latitude in personnel policy, exempt the department from key

provisions of the Freedom of Information Act, and limit the ability of the inspector general to be an independent watchdog within the department.

The proposed department would rest on four substantive pillars—border and transportation security, emergency preparedness and response, chemical, biological, radiological, and nuclear countermeasures, and information analysis and infrastructure protection.

Border and Transportation Security: This division would be responsible for preventing the entry into the United States of terrorists and materials that they could use to do the nation harm. This would include responsibility for protecting the country's "borders, territorial waters, ports, terminals, waterways and air, land, and sea transportation systems of the United States" (sec 401(2)). The division would also become responsible for administrating U.S. immigration and naturalization laws and U.S. customs laws. The main components of the proposed division would be four:

- ***Coast Guard*** (transferring it from the Department of Transportation);
- ***Border Security*** (by moving Border Patrol and other enforcement aspects of INS from Justice, the Customs Service from Treasury, and the Animal and Plant Health Inspection Service from Agriculture);
- ***Transportation Security*** (by moving the Transportation Security Administration from the Department of Transportation and the Federal Protective Agency from the General Services Administration);
- ***Immigration Services*** (by moving the service aspects of INS from Justice and by overseeing visa processing but with the Bureau of Consular Affairs, remaining part of the State Department and continuing to be responsible for administrating the visa application and granting process).

Emergency Preparedness and Response. This division would lead and coordinate the efforts by federal, state, and local government as well as the private sector to prepare for and respond to possible terrorist attacks, natural disasters, and other major emergencies. In the event of a terrorist attack or major disaster, the division would direct the federal government's entire response effort. To assist in that effort, it would be responsible for building a comprehensive national incident management system to coordinate federal, state, and local activities, including by developing interoperable communications technology to enable all those involved in a response effort to communicate effectively. The division would be divided into four components—addressing preparedness, mitigation, response, and recovery—

and would be formed by transferring the following agencies to the new department:

- ***Federal Emergency Management Agency***, which now coordinates the federal preparedness, response, and recovery effort with state and local authorities in case of natural disasters and other large-scale emergencies;

- ***Office of Domestic Preparedness***, transferred from Justice and responsible for enhancing the ability of state and local authorities to prevent and respond to acts of terrorism;[8]

- ***Domestic Support Preparedness Office***, also transferred from Justice and responsible for supporting local efforts to deal with incidents involving mass destruction weapons;

- ***National Domestic Preparedness Office***, transferred from the FBI and responsible for assisting state and local emergency responders with planning, training, equipment, and exercise requirements to respond to an incident involving weapons of mass destruction;

- ***Strategic National Stockpile*,** transferred from the Department of Health and Human Services (HHS), which consists of pallets with pharmaceuticals, antidotes and medical supplies that can be transferred to any point in the United States within 12 hours;

- ***Office of the Assistant Secretary for Public Health Emergency Preparedness***, which was created within HHS as part of bioterrorism legislation signed into law in June and would be responsible for preparing for, protecting against, responding to, and recovering from all acts of bioterrorism and other public health emergencies that affect civilians. This unit would include the Office of Emergency Preparedness, the National Disaster Medical System, and the Metropolitan Medical Response System;

- ***Nuclear Incident Response Team***, which, while remaining housed in the Department of Energy, could be transferred to the control of the division at the direction of the secretary of homeland security and would be responsible for responding to nuclear incidents.

Chemical, Biological, Radiological and Nuclear Counter-measures. This division would be responsible for "securing the people, infrastructures, property, resources, and systems in the United States from

acts of terrorism involving chemical, biological, radiological, or nuclear weapons or other emerging threats" (sec. 301 (1)). It would accomplish this task primarily by conducting and leading national efforts to develop effective countermeasures. These would focus both on preventing the importation of such weapons and materials and detecting, preventing, protecting against, and responding to terrorist attacks that employ them. The division would be subdivided into four components dealing with science and technology development, chemical, biological/agricultural, and radiological/nuclear weapons and materials. It would accomplish its mission by transferring the following agencies and programs:

- ***Plum Island Animal Disease Center***, transferred from the Department of Agriculture and responsible for researching infectious animal diseases;
- ***Environmental Measurements Laboratory***, transferred from the Department of Energy (DOE) and responsible for assisting agencies to measure environmental radiation;
- ***Select Programs from the National Nuclear Security Administration***, transferred from DOE, including programs addressing chemical and biological national security, nuclear smuggling, the nuclear assessment program (part of an international effort to track fissile materials), and the advanced scientific and intelligence programs of Lawrence Livermore National Laboratories;
- ***Energy Security and Assurance Program***, transferred from DOE and responsible for guarding against severe energy supply disruptions;
- ***National Bio-Weapons Defense Analysis Center***, which the administration proposes to create within the Department of Defense and then transfer to the new department, and would be responsible for developing countermeasures to bioterrorist attacks;
- ***Select Agent Registration Enforcement Program***, transferred from HHS and responsible for registering the possession and transfer of pathogens.

Information Analysis and Infrastructure Protection. The mission of this division would be to assess terrorist threats in the United States, determine the vulnerabilities of key resources and critical infrastructure to possible terrorist attack, and then develop protective measures designed to prevent attacks from taking place or to mitigate their harm. In order to accomplish this mission, the legislation proposes that the secretary "shall have

access to all reports, assessments, and analytical information relating to threats of terrorism in the United States" (sec. 203), but has limited access to raw intelligence unless the Secretary requests and the President approves the access. The division would also administer the new homeland security advisory system, exercise primary responsibility for public threat advisories, and with other agencies provide warning information to state and local authorities, the private sector, and the public. To accomplish these tasks, the division would be divided into an infrastructure protection and a threat analysis sections, which would be composed of the following agencies:

- ***National Infrastructure Protection Center***, transferred from the FBI and responsible for assessing, warning, investigating, and responding to threats or attacks against the country's critical infrastructures;

- ***Critical Infrastructure Assurance Office*****,** transferred from the Department of Commerce and responsible for coordinating the federal government's initiatives on critical infrastructure assurance;

- ***Computer Security Division***, transferred from the National Institute of Standards and Technology in the Department of Commerce and responsible for raising awareness of and establishing guidelines to minimize information technology vulnerabilities;

- ***National Infrastructure Simulation and Analysis Center***, transferred from DOE and responsible for analyzing vulnerabilities in critical infrastructure and developing mitigation strategies;

- ***Federal Computer Incident Response Center***, transferred from the General Services Administration and responsible for providing incident detection, containment and recovery assistance to civilian agencies and departments of the federal government in the event computer security is compromised;

- ***National Communications System*****,** transferred from the Defense Department and responsible for maintaining federal communication systems in the event of a national emergency.

In all, the Bush administration proposes to create a Department of Homeland Security by transferring twenty-two agencies that currently reside in eight of the thirteen federal departments (see figure-2).

Figure 2: Major DHS Components

	$(Millions)	Staff
Border and Transportation Security		
Immigration and Naturalization Service (DOJ)	6,416	39,459
Customs Service (Treasury)	3,796	21,743
Animal and Plant Health Inspection Service (USDA)	1,137	8,620
Coast Guard (DOT)	7,274	43,639
Federal Protective Services (GSA)	418	1,408
Transportation Security Agency (DOT)	4,800	41,300
	23,841	**156,169**
Emergency Preparedness and Response		
Federal Emergency Management Agency	6,174	5,135
Chemical, Biological, Radiological, and Nuclear Response Assets (HHS)	2,104	150
Domestic Emergency Support Team	--	--
Nuclear Incident Response (DOE)	91	--
Office of Domestic Preparedness (DOJ)	--	--
National Domestic Preparedness Office (FBI)	2	15
	8,371	**5,300**
Chemical, Biological, Radiological, and Nuclear Countermeasures		
Civilian Biodefense Research Programs (HHS)	1,993	150
Lawrence Livermore National Laboratory (DOE)	1,188	324
National BW Defense Analysis Center (New)	420	--
Plum Island Animal Disease Center (USDA)	25	124
	3,626	**598**
Information Analysis and Infrastructure Protection		
Critical Infrastructure Assurance Office (Commerce)	27	65
Federal Computer Incident Response Center (GSA)	11	23
National Communications System (DoD)	155	91
National Infrastructure Protection Center (FBI)	151	795
National Infrastructure Simulation and Analysis Center (DOE)	20	2
	364	**976**
Secret Service (Treasury)	**1,248**	**6,111**
Total, Department of Homeland Security	**37,450**	**169,154**

Note: Figures are from FY 2003 President's Budget Request

The projected personnel size of the new department is said to be about 170,000, but this probably underestimates the overall size by the 30-40,000 additional people the Transportation Security Administration expects to hire over the next few months as well as other missions which are given to the new department but not currently staffed (such as the terrorist threat assessment function) and overall department management. The department's initial budget would be about $37 billion, two-thirds of which would directly support homeland security activities with the remainder covering non-homeland security functions ranging from immigration services and customs duty collection to eradicating animal and plant diseases and responding to natural disasters.

2

ASSESSING THE ADMINISTRATION'S PROPOSAL

President Bush's proposal has effectively ended the debate about whether there will be a Department of Homeland Security, but not about what its size and scope should be. Given that the administration is proposing to create what would be the third largest federal department in personnel terms (after Defense and Veterans Affairs), Congress and the public need to ask a series of questions.

- First, has the administration chosen the right broad functions to consolidate into DHS? Is it necessary or desirable to include in the department all four of the proposed functional pillars: border and transportation security; information analysis and infrastructure protection; emergency preparedness and response; and chemical, biological, radiological, and nuclear countermeasures? Does the synergy to be gained by putting these functions under one roof outweigh the costs of disruption and increased departmental complexity? Would an alternative configuration be more effective?

- Second, within each functional area, are the right agencies proposed for inclusion? Should their non-homeland security responsibilities be brought into DHS as well?

- Third, are any critical homeland security-related agencies or functions missing from the president's proposal? Are there good reasons to consider including all or part of the CIA or the FBI, for example?

- Fourth, what management challenges will DHS face? How much flexibility should Congress grant it to meet these challenges?

- Fifth, how should DHS's relations with other actors be managed? What should be done to coordinate DHS's actions with the many federal agencies (CIA, FBI, Department of Defense, etc.) that have major homeland security roles but which will not become part of the department? How should federal-state-local government relations be managed? And how should DHS interact with the private sector, which will bear a major responsibility for hardening crucial properties against terrorist attack?

It is particularly urgent that Congress address these questions before enacting legislation because the proposal received very limited scrutiny within the Executive branch before it was announced. In particular, most officials (and outsiders) with expertise in the subject were not consulted on the pros and cons of the choices the administration made.

In addition, the administration proposed its reorganization before completing the long-promised homeland security strategy that should logically precede it. Homeland Security Office Director Tom Ridge has suggested that the strategy can be inferred from the homeland security budget proposed in February and above all from the reorganization itself: "The centerpiece of that strategy," Ridge told a House Committee in late June, "is the Department of Homeland Security, that has very clear missions."[1] But as we noted in our earlier report, *Protecting the American Homeland*, these missions do not add up to a coherent, integrated strategy. This makes it much harder to assess whether particular organizational changes will in fact enhance homeland security. Reorganization is not a panacea: in fact, there is a risk that reorganization could interfere with, rather than enhance urgent homeland security tasks—so changes should be made only when there is a compelling case that consolidation offers clear benefits.

We begin our analysis by answering the first three questions: which of the functions and which specific agencies should be consolidated into a new Department of Homeland Security, and which should be left out. In the following chapter we address the management and coordination issues, including interagency coordination within the Federal government, and the relationship with state and local governments and the private sector.

Borders, Transportation, and Critical Infrastructure

President Bush's proposal for a new Department of Homeland Security has much to recommend it. This is particularly true of its call for

consolidating the agencies responsible for protecting our borders, our transportation systems, and our critical infrastructure in one organization.

Border Security

The core of the President's proposal would consolidate the agencies that guard America's borders. As we argued in *Protecting American the Homeland*, this the first tier of a comprehensive homeland security strategy. There is a serious terrorist threat emanating primarily from abroad. Terrorists' capacity to do harm within the United States depends, in important part, on their ability to get their operatives across our borders. Their ability to destroy will be enhanced if they are able to smuggle weapons of mass destruction or their components into the country. The U.S. government should mount a coordinated, purposive effort to keep terrorists and their weapons out of the country—while still facilitating the legitimate flow of individuals and goods that is the lifeblood of our globalized economy and our society.

Three agencies are central to this effort: the Immigration and Naturalization Service now in the Department of Justice; the Customs Service housed for two centuries in the Department of the Treasury, and the Coast Guard loosely attached to the Department of Transportation. None of these is closely linked to its current department's core functions; none received much attention from its Cabinet-level boss before September 11. Thus while any reorganization is by definition disruptive, the costs of severing the border agencies' current departmental ties are modest and manageable. (A more complicated case is the Animal and Plant Health Inspection Service; Congress should review which of its functions are best transferred and which retained at the Department of Agriculture.)

INS officers are responsible for keeping out individuals lacking proper documentation or whose records identify them as potential threats. The INS performs this mission through its staff located at points of entry at our borders, seaports, and airports; and through its border patrol that watches for those who try to slip across undetected. Customs officials are responsible for assuring that cargo entering the United States is what it purports to be. The Coast Guard has multiple roles, but the prevention of smuggling and the safety of U.S. ports and coastal waters have always been high among its responsibilities and never more so than since September 11 .

These agencies currently perform at varying degrees of competence. The INS has a legacy of poor management and low morale, exemplified by its sending out visa notification letters for two of the September 11 highjackers six months after the attacks. Customs is better-regarded, and its

original primary function—the collection of import duties—continues to be relevant, raising about $20 billion each year, even though such duties have long since ceased to be a major source of U.S. government revenue. The Coast Guard—a military-style organization with officer ranks paralleling those of the Navy—is considered among the best-run federal agencies.

Although the Coast Guard performs many important non-homeland security related functions, it is neither practical nor desirable to split it up. The Coast Guard's heavy reliance on expensive dual capable equipment, the maritime training which is also a dual function an the need for unity of command on the seas and waterways suggest that it's essential integrity needs to be preserved, so it can respond to the new homeland security priority—as it has since September 11—while continuing in its other key roles. INS, by contrast, cries out for restructuring, and its movement to the new department offers an opportunity to tackle longstanding management deficiencies. Indeed, to benefit from the potential synergies and management efficiencies, a longer-term goal of the reorganization should be to create a common corps of border officials from the presently separate INS, Customs, and APHIS staffs, and other possible combinations or restructurings of the agencies' functions and capabilities. (In practice, limited staffing at the borders today typically leads to INS officials performing customs functions, and vice versa.) Moreover, we believe that the immigration and citizenship responsibilities of INS should be split off and either kept within the Department of Justice or become an independent agency.

The task of blocking dangerous cargoes from entering the United States will increasingly require links to overseas ports and warehouses, with containers inspected and sealed and bonded there, so that customs inspectors at ports can focus their attention on what remains. The administration has already begun limited efforts to "extend the border" in this way, and much more needs to be done. Preventing the entry of dangerous persons similarly requires international reach, of course, to the U.S. embassies and consulates where visas are issued (or denied) to foreigners seeking entry for tourism, study, work, and/or immigration. At present, this function is controlled by the Department of State, with visas issued by its diplomatic and consular officers. The administration bill would transfer to the Secretary of Homeland Security "exclusive authority, through the Secretary of State, to issue regulations … in connection with the granting or refusal of visas," (sec. 403) but State's foreign service officers would continue to make the actual decisions on visas.

Would it be better to lodge the actual issuance of visas in DHS? Arguably this would elevate security among the concerns any visa-granting

officer must address, and improve communication between such officers and border security staff. How much difference this would make is unclear—the high volume of visa applications at many posts means that just a brief interview is possible, and security enforcement will inevitably rest primarily on the availability of a comprehensive, up-to-date list of individuals who are security risks and should be excluded. Beyond this, it is an open question who will be better able to spot high-risk cases: the language-competent, junior, inexperienced diplomat, or the more security-conscious, probably more experienced, but perhaps less language-able DHS officer? On balance, we are inclined toward taking the additional step of shifting the actual granting of visas to the new department. The many other consular responsibilities dealing with the protection of American interests and citizens abroad should remain under the purview of State's Bureau of Consular Affairs.

Transportation Security Administration

A more consequential question is whether to include the new Transportation Security Administration in DHS. Our earlier study reached a positive conclusion, and the administration bill agrees. This agency's security screening will involve, by definition, individuals already in the United States, whether they travel from airports or from train stations or bus terminals and thus forms part of what we called the "second" tier of homeland security—domestic prevention—a function that for the most part, the administration has excluded from its proposed department (leaving it primarily to the FBI). However, there are important synergies to be gained from including TSA with the border security functions (such as common data bases and communications systems) and this synergy will be enhanced if, as we recommend below, the threat analysis, assessment and warning function is strengthened within the new department.

There is another reason for moving TSA into DHS—the potential conflict posed if it remains within a department whose primary function is the promotion and facilitation of travel. Security imposes a cost on travel; airlines have typically tilted toward compromises in the name of expeditious movement of people and goods and the convenience of their passengers; the Department of Transportation must inevitably respond, at least partially, to their concerns. Given this inevitable pressure, DOT and its secretary are to be commended for their commitment and hard work in establishing TSA. However, as memories of tragedy fade and airlines struggle to regain profitability, Americans will be safer if this function is housed in a department where security is the core, primary function.

Critical Infrastructure

The Bush administration is therefore correct in making border and transportation security the operational core of the new Department of Homeland Security, and in bringing a broad range of relevant agencies and functions within its orbit. Is it also correct in making the department the prime locus of responsibility for the protection of critical infrastructure? On balance, we believe it is.

Comprehensive infrastructure protection is a relatively new focus of federal activity. Serious attention began in the 1990s, with President Clinton's Presidential Decision Directive 63 designating key agencies as responsible for protecting specific potential targets, and successive reports to the President outlining particular vulnerabilities and steps to address them. The list is daunting. (See, for example, chap. 4 in *Protecting the American Homeland.*) At one end of the spectrum are potential targets where damage would occur at a fixed location: government buildings and national monuments, sports stadiums filled to capacity, etc. They could cause serious symbolic damage and loss of life, but (aside from devastation of key governmental facilities like the White House or the Capitol) would not harm the nation's basic capacity to function. At the other end are computer systems, increasingly linked to the internet, that manage a wide range of important economic and governmental activities—electricity distribution, crisis communications, management of private financial accounts, etc. If these systems are brought down or penetrated for hostile purposes, the immediate loss of life may be minimal, but the impact could be widespread and enduring. Somewhere in the middle are geographically-specific targets that could involve significant loss of life and from which damage could spread to surrounding areas or activities—dams, ports, nuclear and chemical plants, postal facilities, etc.

The fact that this is a new area of governmental activity makes it particularly appropriate to assign responsibility to a new department, which could address it flexibly and give it priority. This should include responsibility for securing cybersystems: internationally-linked, computer-based networks on which our economy and society increasingly depend. To this end, in addition to the five small governmental units the administration proposes for inclusion, the department should also include the staff and functions of the current Special Adviser to the President for Cyberspace Security. Across the spectrum, however, the new department should give particular priority to developing, updating, and overseeing implementation of a national strategy for the protection of critical infrastructure. In doing so, it is critically

important that the department work closely with private business, which own and operate nearly all of this infrastructure, to achieve joint understanding of problems and threats and assure timely and effective remedial action.

Intelligence and Information Analysis

The administration proposal groups critical infrastructure protectionwith information analysis. Should the latter also be among the functions of DHS? Here our answer is more complicated: we conclude with a strong affirmative, but believe the intelligence and analysis function should be more encompassing than that in the administration plan.

No feature of the administration's proposal has drawn more commentary than the provisions concerning information analysis.[2] This is fitting, since, as we argued in *Protecting the American Homeland*, effectively mobilizing information is one of the most powerful tools we have to prevent, or at least mitigate the consequences of, a terrorist attack. The congressional inquiry concerning "what went wrong" in relation to September 11 has focused heavily on the role of intelligence collection, analysis and information sharing, and the appropriate roles of the key components of the intelligence community, especially CIA, FBI and NSA.

Information management is key to each of the four components of a successful homeland security strategy: securing the perimeter, prevention within the United States, protecting key vulnerable assets and consequence management. Although the proposed department itself has major responsibilities in three of these areas (it has at most a secondary role in domestic prevention, largely through TSA) the focus of its information-related activities is more limited. On paper, the mission statement for the proposed the department seems broad. It includes comprehensive threat and vulnerability assessment and the planning and implementation of protective measures, administration of the warning system, and an advisory role on information sharing policies and practices both within the federal government and between federal, state and local governments.

In contrast with this far-reaching set of responsibilities, however, the degree of consolidation proposed for the department is fairly modest. The major intelligence related functions of CIA, FBI and Defense are left untouched: only the infrastructure protection and cybersecurity components of existing agencies are brought within DHS's authority. And in his frequent testimony on Capitol Hill, Tom Ridge has emphasized the narrow, protective purpose of the proposed unit.[3]

The bill's provisions concerning DHS's access to information underscore this narrower interpretation of its role within the intelligence community. According to the proposal, DHS would have access to all "reports, assessments and analytical information" (what is known as "finished" intelligence) with respect to terrorism, but would only have access to "raw" data with respect to infrastructure and other vulnerabilities if the President specifically provides for that access (sec. 203) and access to other threat-related information only with Presidential approval and upon specific request from the secretary of homeland security.

Thus there seems to be a mismatch between the department's overall role and the capabilities and authority of its information component. Take the example of threat assessment. DHS would have responsibility for overall threat assessment, yet it would not have automatic access to raw threat-related intelligence—even from domestic intelligence sources. Looked at from the other end, the department would have only a limited role in threat prevention (none outside the United States and only a modest role in the United States, where the FBI has the prime role), yet it would have the responsibility to "fuse and analyze legally accessible information from multiple available sources pertaining to terrorist threats to the homeland to provide early warning of potential attacks." The mismatch is compounded by what seems an artificial distinction between domestic and foreign threats.[4] It seems self-evident post-September 11 that a knowledge of what our adversaries are doing overseas is essential to protecting against threats here at home.

The Bush administration makes a strong case for the need for an all-source fusion center, and the need to connect its work to the ultimate consumers—from border patrol personnel to airline ticket offices to the public health system.[5] The question is whether that fusion center belongs in DHS. There is a strong case to locate it with the majority of the operational functions it will be supporting, particularly border and transportation security (and also emergency response, if that is incorporated into DHS as the president proposes). But if it is to be located in the new department (and even if it is not), the fusion center must have the tools and the authority to make it successful.

There are several key questions that need to be addressed. First, what if any role should DHS play in the collection of intelligence? Second, what information should be available to it? Third, how should DHS's analytic functions relate to other terrorism-related analytic activities (most notably the Counter-Terrorism Center, now under the control of the Director of Central Intelligence)? Finally, what role should DHS play in providing information to

key consumers (in the federal, state, local governments and the private sector)?

Collection

The administration's proposal treats DHS primarily as a "consumer" of intelligence collected by others, and is silent on what if any role it should have in setting collection priorities.[6] As a practical matter, the department itself will be an important collector—its border and transportation security personnel, for example, will provide vital information as well as acting on that supplied by others. Some observers have advocated a broader role in collection, including folding the FBI's domestic intelligence capabilities (as distinct from its law enforcement responsibilities) into DHS. On balance, we believe that domestic intelligence collection should remain within the Justice Department, given the Attorney General's overall supervisory responsibility as chief legal officer and the continued importance of judicial supervision of the use of domestic intelligence investigative techniques. In any event, there is little likelihood that the new department would have control over important related foreign collection.

Therefore, if DHS is to perform its broad ranging mission, it must have an important voice in tasking other intelligence collection assets. This may mean including a senior DHS representative to sit on the National Intelligence Collection Board, exchange of personnel to participate in the DCI Community Management staff and even consideration of creating an Associate Director of Central Intelligence for Homeland Security, selected by the Secretary of Homeland Security. This latter position roughly corresponds to the CIA's Associate Director for Military Support, which has been a key element of coordination between the needs of the military as a consumer and the various collection entities. A new mechanism must also be developed to give DHS a voice in the collection activities of the FBI, perhaps by creating a counterpart position in the Justice Department.

Access to Information

The three tiers of information provided in the administration's bill seem poorly matched to DHS's proposed responsibilities, and practically unworkable. Why should DHS need presidential approval to acquire raw information on a "significant and credible threat of terrorism" when its job is to do threat assessment? Who is to decide what is "significant and credible," if not the analyst in the threat assessment center itself? For information not related to vulnerabilities or "significant and credible threats," DHS will have

access only if the secretary requests and the President approves—but how is the secretary to request information if he or she doesn't know it exists? These kinds of restrictions are the very sorts of problems that have inhibited information sharing in the past and ought now to be done away with. Analysts with the proper clearances should have full access to information relating to terrorist threats, capabilities and domestic vulnerabilities.

Interagency Analysis

As noted above, DHS is explicitly directed to focus on threats to the homeland, in contrast to the CIA's role as the locus of foreign counter-terrorism analysis. This distinction seems artificial: no threat assessment can be meaningful without taking into account the plans of those outside the United States who may strike here or at our interests abroad. There are two alternatives to address the overlap with the current Counter-Terrorism Center: either fold its activities into the new department, or tolerate a degree of overlap between the two. On balance, we believe there is a case for some overlap. The CIA clearly needs to continue to focus on the problem of terrorism—not all terrorist groups target the United States yet are still of interest to us because they affect other national interests (*e.g.*, Hamas or the IRA), and some terrorist groups that do not target the United States now may do so in time, and so we need to watch them. This means we will need a foreign counter-terrorism focus distinct from DHS and closely connected to other regional and functional intelligence collection and analysis (*e.g.*, with Middle East and South Asian analysts at the CIA).

One way to alleviate the overlap is to transfer most of the domestic counter-terrorism analysis (as opposed to collection) from the FBI to DHS. This should not be highly disruptive, because the FBI's capacity in this area is limited. Rather than build it up in the FBI, as the administration proposes, the focus should be on the all-source fusion capability at DHS. This could help strengthen the FBI/DHS link without encountering the problems that would come from moving intelligence collection to DHS.[7]

Information sharing

The administration has rightly identified information sharing both within the federal government and between the federal and state and local governments, as a priority. But this mandate seems too limited in at least two important respects. First, DHS is limited to "making recommendations." But given its key role in linking the federal government to the state and local governments in warning and emergency response, the new department should

have primary authority for the design and implementation of policies for inter-governmental information sharing, including decisions on architecture and standards for interoperability, subject to appropriate interagency review. Although this will necessarily involve important judgments about information security (for which collectors like the CIA and FBI will have strong interests) it is important to give DHS the lead role here, if not the exclusive authority.

Second, there needs to be more emphasis on including the private sector in the information sharing architecture. While the administration's draft legislation provides new protection for private sector information volunteered *to* the government, it says little about government providing threat information to the private sector. Such an arrangement will be essential if DHS is to carry out its critical infrastructure protection functions as well as for emergency response more generally. [8]

Emergency Preparedness and Response

Following the Hart-Rudman commission and earlier congressional proposals for creating a Department of Homeland Security, the Bush administration proposes to merge the Federal Emergency Management Agency into the new department as the core of its emergency preparedness and response capabilities. For over a decade, FEMA has led the federal government's response efforts to deal with major emergencies and natural disasters. It is in charge of drawing up the Federal Response Plan, which delineates the roles and responsibilities of federal agencies in responding to major disasters, and is the designated federal lead for all consequence management phases of the responsive effort. Since the mid-1990s, FEMA has also been explicitly assigned this lead role in case of a terrorist attack on U.S. soil. And by all accounts, FEMA has carried out these many responsibilities with growing effectiveness—a testament to the fact that after the disastrous federal response to Hurricane Andrew in 1992, successive presidents have made sure that FEMA received the high-level attention, resources and support needed to ensure that aid flows quickly to all those affected by disasters of any kind.

Although FEMA has been designated the lead federal agency for preparing and responding to emergencies of any kind, it does not control all of the many federal programs that are designed to assist in this effort. For example, there are several different (at times competing) training and grant programs to help state and local authorities prepare for and respond to terrorist incidents, notably ones involving the possible use of weapons of

mass destruction, only some of which are run or funded by FEMA. Last February, the Bush administration proposed to consolidate all these training and grant programs to assist first responders under FEMA. In merging FEMA into the new department, the administration proposes to go further by consolidating all non-Pentagon agencies dealing with emergency preparation and response efforts alongside FEMA within the department.

The administration's proposal raises two questions. First, does merging all emergency preparation and response programs with FEMA make sense? If so, is it better to take the additional step of bringing this enhanced FEMA into a Department of Homeland Security or should FEMA remain separate and independent? The answers to these two questions are often conflated; since emergency response is a crucial element of homeland security, it is often assumed that those federal entities responsible for this effort should be included in any homeland security consolidation. The Hart-Rudman commission and the congressional proposals flowing from it assumed this to be the case. But the two issues are analytically and practically distinct. Whereas consolidation of the emergency preparedness and response effort makes sense, and FEMA is the right home, it is not self-evident that either the enlarged FEMA or the Department for Homeland Security stands to benefit by merging the former into the latter. Indeed, doing so may undermine the ability of either agency to fulfill its mission.

The case is strong for the first step, consolidating the federal government's emergency preparedness and response effort within FEMA.[9] As the Bush administration recognized, it makes little sense for different federal agencies to run a number of sometimes competing first responder training programs. FEMA should take responsibility for this effort. It also makes sense to bring into this agency the various federal programs and activities for dealing with emergencies involving CBRN weapons and materials. And FEMA should also be responsible for overseeing the effort needed to modernize and synchronize communications capabilities so that effective communication is possible among all levels of government—vertically between the federal, state, and local authorities; and horizontally between FEMA and the rest of the federal government. In short, FEMA must be strengthened to deal effectively with emerging threats (especially CBRN capabilities) and to help state and local authorities better prepare themselves to respond to terrorist attacks. It should become the hub for all consequence management issues—the point of contact for federal agencies that can offer assistance and the one-stop shop for state and local authorities that are in need of such assistance.

The case is much weaker for the second step, bringing this enhanced FEMA into the Department for Homeland Security. The argument for doing so rests on the implicit assumption that effective action depends on bringing into a single entity as many of the homeland security-related activities as possible. But the effort to secure the country against terrorist attack involves a large number of different tasks—from discouraging people from joining terrorist movements to destroying terrorist cells and infrastructure abroad to preventing entry of terrorists and materials into the United States to protecting vulnerable sites and infrastructure to mitigating the consequences of an actual attack. Not all of these functions can be brought into a single government department, for doing so would basically require duplicating much of what is now the federal government.

The most important organizational question therefore is where to draw the line between those agencies that should be included in a new department and those that, at least for now, should not. Given the costs (financial and operational) of reorganization, the best answer, at least for now, would be to limit consolidation to circumstances where the function would not be performed as well in its current agency or would provide a useful synergy with other entities that are to be included. Furthermore, mergers should enhance, not detract, from the ability to fulfill stated agency missions. The merger of a consolidated FEMA into a larger Department for Homeland Security does not meet any of these criteria.

The role of a consolidated FEMA in homeland security is no more important than that of the intelligence community or the Defense Department. Yet, no one has proposed merging these into a new Department of Homeland Security. So the case for including FEMA must be based on more than the fact that it performs an important role in homeland security. No one has made such a case—not the Hart-Rudman commission, which first proposed inclusion of FEMA; not the legislators who followed the commission's advice; and not the Bush administration. All have simply argued that emergency preparedness and response is an important homeland security function. And of course it is. But it is a function that a consolidated FEMA can do whether it is inside the new department or not. The key point is that there is very little day-to-day synergy between the preventive and protective functions of the border and transportation security entities in the department and the emergency preparedness and response functions a consolidated FEMA contributes. There is therefore little to be gained in bringing these very different entities under the same organizational roof. And the costs are not insignificant.

Over the past few years, FEMA has emerged as an effective federal agency. One reason is that successive presidents have invested heavily in it: by making sure that FEMA responds effectively to the demands of local communities hit by natural disasters; and by appointing close and trusted friends to head it—Jamie Lee Witt under Clinton, Joe Allbaugh under Bush. Would either of them be willing to serve as one of five undersecretaries in the new department? How likely is it that a President Clinton or Bush ask one of his very closest and most trusted friends to serve in that position? And while a merged FEMA might become highly adept at preparing for and responding to terrorism, it would likely become less effective in performing its current mission in case of natural disasters as time, effort, and attention are inevitably diverted to other tasks within the larger organization.

Even if FEMA would become somewhat less effective in dealing with natural disasters, some might argue that this is a price worth paying for enhancing the government's overall homeland security effort. But this would be true only if merging FEMA into the new department would actually enhance the performance of its homeland security roles and if the merger itself enhances the overall performance of the department itself. Neither is likely to be the case. Once FEMA is strengthened to deal with homeland security in the ways discussed earlier, it should perform that mission effectively as an independent agency. Since the early 1990s, FEMA has pursued an "all-hazard" approach to emergency preparedness and response—its role is to prepare for and mitigate the consequences of a disaster no matter what its causes. Undistracted by other responsibilities that would result from its inclusion into a larger agency, FEMA will likely perform its homeland security mission at least as (if not more) effectively as an independent agency than as part of a Department of Homeland Security.

For all these reasons, it is better that FEMA be reformed, strengthened, and enhanced in stature as an independent agency that will have lead responsibility for preparing for and responding to emergencies and major disasters of any kind, including a terrorist attack. It will likely perform that crucial function more effectively if it remains independent from a new Homeland Security Department. Change and reorganization are therefore appropriate—but to strengthen FEMA's overall capacity rather than to integrate it into a larger department responsible for homeland security.

Chemical, Biological, Radiological, and Nuclear Countermeasures

The Bush administration's proposal for a new Department of Homeland Security gives considerable visibility to the question of how to employ scientific research in the service of the nation's security against terrorism. This basic emphasis is sound. But the administration's specific approach to the problem is fraught with shortcomings.

Under its proposal, DHS would take responsibility for certain aspects of chemical, biological, radiological, or nuclear terrorism, including agroterrorism.[10] The emphasis would be placed particularly on developing better antidotes to biological attack and better detectors for nuclear or radiological materials.

The administration has not made a strong case for why a substantial amount of biological research should be taken away from the Department of Health and Human Services, which already does good work related to homeland security in places such as the Centers for Disease Control and Prevention (CDC) and National Institutes of Health (NIH). Its proposal for converting Lawrence Livermore National Laboratory, presently a Department of Energy facility with primary focus on nuclear weapons, into an institution focused primarily on homeland security may have greater appeal. But it may not be the best way to reorganize or reorient much of the work done at the nation's nuclear weapons labs. In short, while useful for placing the research and development issue squarely on the homeland security agenda, the administration's proposal is not yet a sound basis for government reorganization in this area. Rather than resolve all the complexities associated with a comprehensive homeland security research and development strategy in the context of the "fast track" reorganization now before Congress, the administration should develop an overall proposal incorporating all aspects of research and development (including the critical question of how to tap the potential of existing technologies in the private sector) and submit it to Congress for consideration in 2003.

Advantages of the Administration's Plan

There certainly are potential advantages to consolidating CBRN countermeasures under one institutional roof. To begin, even though budgets for these areas of research tend to be robust in any event, placing them in

DHS will give them visibility and importance. DHS officials will be able to add money to worthy research programs when appropriate, and keep frequent tabs on research to make sure it is focusing on areas of recognized national vulnerability.

If scientists specializing in CBRN issues are brought under DHS, it may increase their influence in national security debates. DHS will become one of two main agencies, along with the Department of Defense, recognized as focusing on protecting the United States. It is therefore conceivable that scientists who wind up under its authority, rather than that of their current homes at a place such as HHS, will have a louder voice in future national policymaking and federal budgeting.

In regard to the specific proposal about Lawrence Livermore, which would transfer most of its budget and many of its employees to DHS, there are at least two good reasons for considering the idea. First, given the reduced prominence of nuclear weapons research in national security policy, it may make sense to use this valuable national asset for more urgent purposes. That is not to say that nuclear weapons issues have become unimportant. For those who favor a continued nuclear weapons, research activities be it for earth-penetrating warheads, stockpile stewardship or arms control monitoring, Los Alamos National Laboratory and Sandia National Laboratories provide adequate capabilities.[11]

Second, the three nuclear weapons laboratories offer substantial assets that could be put in service of the homeland security effort. At Livermore, for example, most funds support DOE programs of one type or another, but almost $200 million is devoted to non-DOE work (largely for the Department of Defense). Of the DOE resources, just under $1 billion supports defense programs, $100 million supports nuclear nonproliferation programs and technologies, $70 million supports general science capabilities and programs, $50 million funds environmental efforts, and $10 million is devoted to efficient and renewable energy.[12]

Third, once good technologies are developed, DHS may be able to help push them into the field more quickly than DOE or HHS would have. It may also be able to do so more economically. For example, DOE has been part of the national security establishment for so long that it focuses attention largely on what the warfighter needs. That may lead to bulkier, more expensive, or otherwise more specialized equipment than what is needed for the civilian economy and the civilian population base.

DOE may be capable of working for agencies besides the Pentagon, and in fact it often does. But DHS would start with a clean slate, and might do

better. In particular, it might place greater emphasis on developing relationships with the private sector to get technologies into the field once they are available.

Disadvantages of the Plan

The arguments against consolidation are also abundant. First, creating a divide between civilian research and security-related research may interfere with good science. Particularly in the sphere of health, researching natural disease and researching biological weapons have a great deal of overlap. Trying to place the latter under DHS auspices while keeping the former under current HHS and DOE control risks creating artificial divides in laboratories—not to mention within the work of individual offices and scientists. Relatedly, pushing too hard for immediate payback in research on biological weapons may interfere with more basic research that ultimately provides fundamental understanding about biology in a way that provides both civilian and security benefits.

It is only fair to point out that the technical community can sometimes emphasize interesting science over more practical policies. For example, health research dollars have tended to go more toward understanding the root causes of cancer than towards devising programs or substances for helping people stop smoking. The former are more interesting and do more to push the state of the field; the latter may save more lives. That said, scientists have been right to pursue basic knowledge. Better understanding of DNA and human genes has done a great deal to help with defenses against possible biological terrorism, for example, yet seemed very abstract when initiated as fundamental research years ago.

Second, reorganization is inherently difficult and time-consuming. Carrying it out now is likely to divert attention from actually identifying threats and developing programs to counter them. However hard policymakers work, and however gifted they are, it is virtually impossible to do all of these things equally well at once.

Third, there is reason to think that the current reorganization plan is not particularly well conceived. For example, the proposal for putting most of Livermore's budget under DHS would put only a small fraction of Livermore's employees in the new department. This is confusing.[13] If most Livermore personnel remain DOE employees, but report to DHS and receive funding through DHS, the proposal's net effect would add bureaucracy and complicate matters.

Fourth, important work related to homeland security is being done at laboratories besides Livermore. There is some danger of this work being deemphasized under the new proposal, or of confusion resulting from the addition of yet another major player. For example, Los Alamos has considerable expertise in the realm of nonproliferation work. All the labs are active in Russia on cooperative threat reduction activities as well. The Defense Department does CBRN research, even if it is often focused more on the specialized needs of the warfighter. Such efforts do not fit neatly into CBRN countermeasures or CBRN response as defined by the administration's reorganization proposal. Yet they are at least as important as anything within that the administration proposes to include in DHS. Given the number of existing players, one might ask why yet another federal department needs to oversee scientific research related to CBRN issues.

Fifth, the administration's reorganization proposal emphasizes two areas of effort within the general CBRN field: countermeasures and emergency response. Prevention is not adequately emphasized. That term covers not only cooperative threat reduction in places such as Russia, but efforts such as improving physical security at American institutes conducting biological research as well as background checks on their employees. It also includes efforts to reduce the country's vulnerability to biological attack by building better safeguards in edifices such as large buildings, as our earlier Brookings study emphasized. These types of structures need better protection for their air intake systems, better filters, and other protective measures. Yet the proposal for reorganization does not emphasize such measures. In fact, it will implicitly deemphasize them by turning the policy debate away from addressing vulnerabilities and towards a primary focus on government structure and process.

Sixth, as a recent National Research Council report, *Making the Nation Safer: The Role of Science and Technology in Countering Terrorism*, drove home, science's potential contribution to homeland security goes well beyond CBRN issues. Various ways of improving cybersecurity, using technology to monitor borders and track potential terrorists, and protecting infrastructure against various types of conventional attack are needed, and are within the realm of science to develop. Yet the Bush plan has something of a tunnel vision on matters pertaining to weapons of mass destruction. Such concerns are among the most serious, but they are not the only serious matters on the homeland security agenda.

The Need for a Broader, More Patient Debate

So which arguments are stronger, those for or those against placing CBRN countermeasures under DHS? And does the same conclusion apply to health and biological research as to nuclear and radiological work?

In answering these questions, it is useful to highlight several basic facts. First, the areas of research under consideration have been receiving generally healthy budgetary support in recent times, so the need for greater visibility under DHS to augment their financial resources seems weak. Second, while the health research worlds and the DOE world have both suffered of late from internal schisms, the general scientific cultures in both communities are reasonably strong. Third, the case for centralizing all these activities under one institutional roof is weaker for basic research than it is for emergency response. Basic research efforts do not require that thousands of state and local agencies around the country have quick and easy access to the federal government. Policymakers know the basic players well—DOE's major laboratories, NIH, CDC—and do not need consolidation to keep track of them. Fourth, while more effort is needed in the area of CBRN research, and in the area of preparations for consequence management, the current reorganization plan does not provide much attention to prevention and protection. Nor does it adequately address non-CBRN issues in which science may be able to contribute importantly to homeland security.

On balance, placing health research under DHS seems particularly inadvisable. All of the above arguments are strongest for that area of activity. Moreover, much research in this area is intrinsically dual-purpose, with potential applications to combating natural disease and to combating terrorism. Putting some such work under DHS will tend to fragment, rather than consolidate, the national effort. Finally, other homeland security challenges relating to health—improving the public health system to monitor for disease outbreaks, be they natural or intentional, improving the capacity of hospitals to handle terror attacks in their vicinities, and so on—will be under HHS direction. Again, if consolidation and policy coherence are the goals, giving part of this work to DHS while keeping part of it in HHS seems the wrong approach.

For Lawrence Livermore National Laboratories, many of the above concerns also apply. But the administration's proposal may have somewhat greater merit. One might ask whether all three of what are perhaps the world's top physical research organizations need to remain under the stewardship of an organization, the DOE, that has nuclear weapons as its central concern and emphasis. This argument must be weighed against the advantages of the

status quo. Since DOE will remain in charge of at least two of the weapons labs, and since it has a history of funding homeland security work, perhaps it should simply retain those responsibilities in the future, increasing support for homeland security efforts as deemed appropriate.

But again, the case for a quick change is weak, and the Bush proposal in its present form unconvincing. Even if one wishes to reconsider the way in which the three DOE labs are run, other models besides the Livermore proposal are possible. Instead of Livermore becoming the geographical and institutional center for homeland security, elements of all three major DOE nuclear weapons labs might be put under DHS direction. This approach could allow DHS to tap into relevant ongoing work in all three places—and work that focused not just on response, but also more systematically on prevention. It could also broaden the scope of relevant research beyond CBRN issues, and try to apply science to the homeland security challenge more broadly. Perhaps it would look beyond just the three DOE labs to a broader reorganization of national research capabilities—including possibly creating a federally funded research and developed specifically dedicated to homeland security, might be created.[14]

The administration's narrow focus on CRBN countermeasures research has ignored the wide contribution science and technology can make to helping secure our nation against terrorist attack. These issues should not be rushed without a serious review of the possibilities, however. Therefore, the idea of reorganizing the nation's scientific institutions and infrastructure so as to better serve the homeland security mission is an issue best deferred till later.

Toward a More Focused Department

This assessment of the Bush administration's proposal suggests the need for a more focused Homeland Security Department, which would be centered on Border and Transportation Security, Infrastructure Protection, and Domestic Terrorism Assessment and Analysis. It would exclude, at least initially, FEMA and units responsible for CBRN countermeasures. Including the Secret Service (not addressed in this chapter), it would incorporate 12 of the 22 agencies or offices in the original White House plan, roughly 185,000 employees (compared to the administration plan's estimate of 200,000 once the larger number of likely TSA employees are counted), and roughly $26 billion (two-thirds) of the $37.5 billion the administration projected as the current budget of the new department. It would, therefore, be very large. But

it would be substantially more focused than what the administration proposes to do, and hence easier to manage. Above all, it would center on those functions whose consolidation seems likely to offer substantial gains to homeland security.

3

THE MANAGEMENT CHALLENGE

Whatever Congress decides about the exact shape and scope of the new department of homeland security, there will be major problems in moving from enactment of legislation to achieving its core purpose: a safer America. Within the department, leaders will need to bend to common purposes a disparate range of agencies with differing cultures and varied successes in performing their traditional missions. They and/or Congress must also address, sooner rather than later, the non-homeland security functions of the agencies targeted for integration. Outside of Washington a plethora of state and local governments must somehow be brought to behave as coherent wholes and new relationships with the private sector must be built. And in Washington there will remain the need to reinforce White House-based coordination of the new department's activities with the many homeland security-related tasks inevitably left outside its walls.

Managing the Department

New executive departments are rare. Even less frequent are those that do not simply elevate or separate a previously existing agency (Education, Veterans Affairs) but combine a number of relatively equal, formerly independent entities (such as Defense, Transportation, and Energy).

The Department of Homeland Security falls clearly into this latter category. And it will not just be the largest reorganization since 1947; it is also likely to be the most difficult to manage.

The numbers are stunning. Alongside its 200,000 employees, which will include at least 30,000 baggage screeners not counted in the president's

initial proposal, the proposed department (or the more focused alternative we advocate) will contain a vast array of largely incompatible management systems, including at least 80 different personnel systems mixed in and among the agencies. There are, for example, special pay rates for the Transportation Security Administration, the Secret Service, and the Biomedical Research Service; higher overtime rates for air marshals, the Secret Service, and immigration inspectors; guaranteed minimum overtime for Customs officers and immigration inspectors; Sunday, night, and premium pay for the Secret Service, Customs Service, and immigration inspectors; and foreign language awards and death benefits for Customs officers.

The secretary will also oversee labor contracts with at least 18 separate employee unions, including 33,000 members of the American Federation of Government Employees, 12,000 members of the National Treasury Employees Union, and many others in the National Association of Agriculture Employees, the Metal Trades Council, International Association of Machinists and Aerospace Workers, Fraternal Order of Police, Boilermakers Brotherhood, and International Brotherhood of Police Officers.

Explaining the Complexity

Some of this administrative complexity reflects the sheer size of the reorganization, which involves a multitude of highly customized systems. Some of these, in turn, are the product of successful efforts to escape the federal government's ossified personnel system, most notably the pay caps on hard-to-recruit positions in the scientific, technical, and law enforcement markets.

Some also reflects the prevailing wisdom of the 1990s. Convinced that one administrative size does not fit all, Vice President Al Gore and his reinventing campaign let a thousand management flowers bloom. As Gore argued in 1993, Washington was filled with big, wasteful bureaucracies that paid a premium for centralization.[1] Left to their own devices, however, many agencies opted for highly customized solutions, replacing old systems with highly stylized alternatives that fit what they saw as unique missions and very different customers.

There is much to admire in the reinventing effort, including significant gains in customer satisfaction at agencies such as the Customs Service and of the Federal Emergency Management Agency. But many of the new systems were implemented without a common template. Agencies had to develop strategic plans under the Government Performance and Results Act,

for example, but they did so using different measures with uneven rigor. They also had to generate annual financial statements, but they did so with incompatible financial management systems. And they had to become conversant in e-government, as it is now called, but they did so with customized computer hardware and software.

DHS clearly represents a re-centralizing instinct. The secretary, not the 22 agency heads or Congress, will approve the financial statements, oversee a unified information system, and, with help from the director of the Office of Personnel Management, create an integrated personnel system that might well be the prototype for the rest of government in coming years.

Even with this authority, it will take years, if not decades, to create common management systems to govern the department, and perhaps just as long to break down the competing cultures those systems currently protect. The department's strategic plan will be centralized, but its implementation will rely almost entirely on systems that were designed more for difference than commonality. It takes only a moment to decentralize, but decades to re-centralize.

The Management Challenge

Luckily, the department will be built around some of the best performing organizations in government. The Coast Guard won an A in overall management on *Government Executive's* 2000 federal performance report card, placing it second among more than two dozen agencies graded over the past three years. As the *Government Executive* team concluded, "Top-notch planning and performance budgeting overcome short staffing and fraying equipment."[2] The agency continued to earn high marks when the *Government Executive* grading team visited the agency a year later.

Despite its high grades, the Coast Guard needs more staff, dollars, and a modernized fleet to succeed in its expanded homeland security role. Over the years, it has been asked to take on a growing number of missions while spending has been cut. As former Coast Guard Commandant James Loy (now deputy director of the Transportation Security Administration) once said, the logical extension of doing more with less is doing everything with nothing.[3] That is why we argued in *Protecting the American Homeland* that a major expansion of the Coast Guard is in order—including an increase of roughly 10 percent in staffing and expansion and recapitalization of its fleet of cutters, small boats, and aircraft.[4] Overall, annual spending for the Coast Guard will need to increase by close to $2 billion.

The administration-proposed Department of Homeland Security also has the Federal Emergency Management Agency to build around. Although FEMA came in further down the list with a B overall in 1999, it has made dramatic gains since the early 1990s when one Senator characterized the agency as "the sorriest bunch of bureaucratic jackasses I've ever known." Along the way toward better service and a tight focus on natural, not national, disasters, FEMA abolished the National Preparedness Directorate, which had been responsible for civil defense in anticipation of all-out nuclear war. Although most of the savings went to disaster relief, the agency used some of the money to invest in new technology that made loan applications easier to submit and track, a new mobile emergency response system that provides telecommunications, life support, power generation for individual communities hard hit by a specific disaster such as a tornado or earthquake, and an effort to create "disaster-resistant" communities through stronger building codes and relocation efforts.

Unfortunately, DHS will also contain some of the worst-run agencies in government. The Customs Service received a C in *Government Executive's* 1999 ratings, while the Immigration and Naturalization Service (INS) received a C-minus. Neither agency has improved much since. In 2000, for example, the INS received a D. Its Border Patrol agents are quitting faster than they can be replaced, and its immigration investigators are under-trained, over-worked, and over-stressed. As *Government Executive* described the agency, "Mediocre to poor performance in every management area persists except on services side, where fees support improvements."

Some of these problems come from unresolved tensions between the two sides of the security mission. Like the new Transportation Security Administration, Customs and INS must be fast, courteous, and responsive to the vast majority of the people they encounter, but must be vigilant, tough, and unforgiving to the very few who present a threat to the nation. It is a managerial balancing act that neither Customs nor INS has handled well, and that the TSA has asked Marriott and Disney to help solve.

Managing Complexity

The new secretary does not have to resolve every challenge on the first day, however. Congress often goes back into reorganizations to fine-tune, reconsider, and rearrange its work long after passage. Congress has returned to the Department of Defense reorganization at least six times since 1947, starting with the National Security Act of 1949, which gave the Pentagon departmental status and downgraded the service secretaries. In 1958, it passed

the Department of Defense Reorganization Act, which strengthened coordination among the armed services. In 1980, it enacted the Defense Officer Personnel Management Act, which revised military promotion and retirement practices. Five years later, it legislated the Defense Procurement Improvement Act, which was a direct response to the procurement scandals of the early 1980s, and the following year it passed the Goldwater-Nichols Department of Defense Reorganization Act, which once again sought to strengthen coordination. Finally, in 1989, Congress passed the Base Closure and Realignment Act.

Congress has also returned to the Health, Education, and Welfare reorganization, most notably with the Department of Education Organization Act in 1979, which set asunder what President Eisenhower had joined together in 1953, and the 1994 Social Security Independence and Improvement Act, which split the Social Security Administration from what had been renamed the Department of Health and Human Services in 1979.

Indeed, there is not a single reorganization over the past seventy years that has *not* been changed in some material way later on. The *U.S. Government Manual* provides more than 50 pages of executive organizations terminated, transferred, or changed in name since March 4, 1933, the date of Franklin Roosevelt's inauguration. We create new agencies, then rearrange, downsize, coordinate, and terminate them. Then, more often than not, we create them again.

Congress and the president will almost certainly begin thinking about how to reorganize DHS on the day they create it. Indeed, the president has anticipated just that in proposing for the new secretary extraordinary authority to "establish, consolidate, alter, or discontinue such organization units within the Department, as he may deem necessary or appropriate."[5] Given the evolving nature of the homeland security challenge, some flexibility is likely to be essential to the success of the new department. As we discuss below, however, the flexibility the administration seeks is somewhat excessive and needs to be constrained to assure better accountability.

The repeated fiddling with organizational structure underscores an important point: a new department is not a panacea. Merely combining similar units will not produce coherent policy, for example, nor will it produce greater performance, increase morale, or raise budgets. Twenty-five years after the establishment of the Department of Energy, the nation still has no coherent energy policy. Consolidating efforts most certainly will not make broken agencies whole. If an agency is not working in another department, there is no reason to believe that it will work well in the new agency. Bluntly

put, garbage in, garbage out. Conversely, if an agency is working well in another department or on its own as an independent agency, there is no guarantee that it will continue to work well in the new agency.

Given these challenges, it is hardly surprising that the President and his advisers would ask for the fullest possible authority to act quickly. The waivers and exemptions from current law show up early in the President's draft proposal:

- Sec. 103 creates up to 28 senior positions in the department, including the secretary, deputy secretary, five under secretaries, an inspector general, a commandant of the Coast Guard, a director of the Secret Service, a chief financial officer, a chief information officer, and up 16 assistant secretaries. The number is not unusual given the department's size and scope, but the president's appointing authority is unprecedented. Of the 28 homeland security positions, only 14 would be subject to Senate confirmation.

- Also under Sec. 103, the secretary of homeland security would have complete freedom to determine the titles, duties, and qualifications for all 16 assistant secretaries. Congress has not given such broad authority since creating the Department of Transportation in 1966.

- Sec. 733 gives the secretary the authority to reorganize the department at will. In the case of any entity established by statute, the statute merely requires that the secretary give the House and Senate ninety days notice.

- The President's proposal would also give the secretary and director of the Office of Personnel Management full authority to create a personnel system that is "flexible and contemporary." Although the two words are never defined, the implication is obvious: the new department would be free to design a new system from scratch. The rules governing this system would be subject to the notice and comment requirements of the Administrative Procedure Act, which would provide an opportunity for the deliberative consideration and public input that such a redesign would require.

It is hard to blame the President for wanting this last waiver. The current civil service personnel system underwhelms at virtually every task it is asked to do. It is slow at hiring, interminable at firing, permissive at promoting, useless at disciplining, and penurious at rewarding. The vast majority of federal employees describe the hiring process as slow and

confusing, a quarter do not call it fair, and less than a third say that the federal government does a good job at disciplining poor performers.

An Alternative Approach

Tempting though it is to give the secretary maximum authority to move quickly, Congress should modify the waivers to assure greater accountability and appropriate oversight. Congress would be well advised, for example, to reduce the President's appointment burden by simply cutting the number of appointees from 28 to a number nearer 14, which is roughly the same number that launched the departments of Energy and Education. Even at the size of the President's proposes, the Department of Homeland Security will be thick enough with 14 presidential appointees. Where the President wishes to avoid the burdensome Senate confirmation process, he already has ample authority to appoint non-career members of the Senior Executive Service and personal and confidential assistants. In any case, Congress should not allow the precedent of authorizing appointment of up to ten assistant secretaries *not* subject to Senate confirmation.

Similarly, Congress as a whole should not give the new secretary the unfettered civil-service waivers imagined in the legislation. The secretary needs a workforce that hits the ground running, not one that spends its first days asking how the words "flexible" and "contemporary" might affect each worker's future. At the same time, however, the secretary needs a workforce that does not spend its first days figuring out how to jump from lower-paying jobs in one homeland security agency such as the Border Patrol to higher-paying jobs in another such as the Air Marshals program.

Congress could help the new secretary succeed by adopting a stream of proposals that are already on the legislative agenda, have already passed, or would be easy to design. For example,

- Congress could help the department's new appointees by passing the Presidential Appointments Improvement Act cosponsored by Senators Fred Thompson (R-Tenn.) and Joe Lieberman (D-Conn.), and reported to the Senate floor this spring. The act would streamline the government's ridiculously detailed financial disclosure form, and address the need to reduce the number of presidential appointments, and the bureaucratic thickening that they bring. Senate sponsors have also encouraged the White House to streamline its own forms by asking, for example, whether the nation needs to worry about whether a potential appointee has any

traffic tickets over $150 or has ever seen a marriage counselor. Relief is only a few legislative votes and an executive order away.

- Congress could give the President appropriately limited reorganization authority by using a variation of the mechanism it adopted for the military base closing effort. Under the 1988 Base Closure and Realignment Act, Congress changed its own rules under statute to provide a single up-or-down vote on packages of base closures. A similar device could certainly be used for any homeland security reorganization involving, say, more than 5,000 employees.

- Congress could improve the recruitment and retention of talented employees by taking up the Federal Workforce Management Improvement Act, introduced last month by Sen. George Voinovich (R-Ohio). The bill would give the federal government desperately needed, and clearly specified, authorities for accelerating the hiring process.

- Congress could easily "cherry pick" from past statutes to give DHS the same kind of broad personnel flexibility it has already given to the Internal Revenue Service, the Federal Aviation Administration, and the Central Intelligence Agency.[6]

- Absent its own legislative alternative, Congress should define the basic terms of the president's proposed civil service waiver, while providing a set of basic guidelines for personnel reform. That is what the House Ways and Means Committee and the Senate Finance Committee were able to do in 1998 in the Internal Revenue Service Restructuring and Reform Act. One should expect no less from the House Government Reform and the Senate Governmental Affairs Committee, which are the subject matter experts in the field. Lacking greater precision, the homeland security proposal will remain a Rorschach test onto which federal employees can project their worst fears about the secretary's intentions.

None of these changes will matter, however, unless the department's employees are given the resources to succeed. Congress must be prepared to spend more on training, technology, and pay, and be ready to hire more employees if that is what it takes. Although the president has already promised that the department will not cost more money, Congress should give him a waiver on the pledge. The department can hardly be a tribute to the victims of September 11 if Congress and the president pretend that homeland

security can be bought on the cheap. An under-trained, under-staffed department of homeland security would be a hollow monument, indeed.[7]

Non-Homeland Security Functions

With the exception of the Transportation Security Administration and several smaller agencies concerned with infrastructure protection and domestic preparedness, all of the agencies proposed for inclusion in the Department of Homeland Security were created many years ago, for reasons that had only limited relevance to our current concern with homeland security. Inevitably, then, the administration's proposal would endow it with a host of functions and competencies that are unrelated to efforts to secure the nation against terrorist attack. DHS would be responsible for levying duties on goods, confiscating stolen art works, conducting search-and-rescue operations, installing and maintaining buoys, setting ship standards and mariner qualifications, carrying out research on hoof-and-mouth diseases, helping people harmed by earthquakes, floods, hurricanes, or tornadoes, and inspecting zoos, circuses, and pet shops to ensure animals are healthy. These and many other non-homeland security tasks are currently the responsibility of the Customs Service, Coast Guard, the Animal and Plant Health Inspection Service, the INS, FEMA, and other agencies that the administration proposes to move into the new department. Under the administration bill, all of them will be the new department's responsibility.

Although homeland security will be job number one for the new department, the secretary and other senior officials will need to devote time and effort to ensure that the non-homeland security functions will continue to receive the same degree of attention as at present. All are important and will need to be continued, even though they will necessarily take time and energy away from the new department's primary mission.

In some instances it may be possible to strip the homeland security-related functions out of an agency destined to become part of DHS. For example, the House of Representatives earlier this year passed a bill, with White House support, that would abolish the INS and establish two different bureaus—one for immigration enforcement and another for immigration services. This principle should be applied to DHS: the enforcement functions, most of which (though not all) are related to homeland security, should be transferred to the new department while the service functions should either remain at Justice or lodged in a new independent agency. Similarly, as Tom Ridge has reportedly suggested, it may be possible to retain many of the

Animal and Plant Health Inspection Service functions that are unrelated to homeland security with the Department of Agriculture.[8]

In other cases, however, splitting agencies will be undesirable. The Coast Guard is a good example. Its many different functions (of which only a quarter relate to homeland security) cannot be easily split because its vessels and personnel are dual use, and there are substantial efficiencies that come from not duplicating these capabilities. A cutter installing buoys on its way to secure a port is available to conduct a search-and-rescue mission and be on the lookout for smugglers.

In reviewing the Bush administration's proposals, Congress should carefully examine each of the agencies to be included in DHS and determine whether their non-homeland security functions can be adequately performed within the new organization. If an agency's contribution to homeland security is relatively small and its non-homeland security functions are significant, then forgoing its inclusion in the new department may make sense. In other instances, like INS, it should be possible to split the functions, especially if this can be accomplished with few or no costs. Inevitably, however, some non-homeland security functions will have to be included in the new department's responsibilities, and Congress should see to it that these will continue to be discharged appropriately.

Congress could try to decide every case now: which agencies to include in their entirety in the new department, and which to split. However, a thorough examination of these issues will take time—much more time than Congress has given itself for getting a bill on the president's desk. Therefore, Congress should ask the administration to report back to Congress—say in 90 or 180 days after the department has been created—on how best to deal with the non-homeland security functions of agencies that are to be consolidated into the new department. The challenge of making sure non-homeland security functions neither overwhelm the new department nor get lost in the organizational shuffle is one additional argument for limiting the number of agencies to be consolidated in favor of the narrower, more focused department that we have proposed.

Beyond Reorganization

As the preceding analysis shows, managing even a relatively compact new Department of Homeland Security will be a daunting challenge. Yet this could prove to be the easy part of the larger problem of organizing to make America safer. The core function of border security is, in principle, amenable

to organizational consolidation and centralization. The task is discrete, and the units responsible can be brought together, appropriately instructed, and provided the information and the staff needed to do their job.

Matters become more complicated when attention turns inside U.S. borders. Whether the issue is preventing terrorist attacks from individuals already inside the country or responding to the damage such terrorists can wreak, we come up against a stubborn fact: homeland security is, by its very nature, a highly decentralized activity, with success depending on a multitude of actors—both in government at all levels and in the private sector having the resources, the tools and the information that will enable them to make good, timely decisions. Recent events have illustrated this point dramatically—an alert border inspector in Washington helped thwart a major terrorist threat to the United States at the time of the Millennium celebrations. A flight instructor found it suspicious that a student was interested only in steering a commercial jetliner, not in taking off or landing, and then reported his suspicion to law enforcement authorities. A doctor re-examined the X-ray of a postal worker and diagnosed inhalation anthrax in time for an effective antibiotic treatment to be administered.

In some cases, these the "first responders" will be working for the DHS, but often they will be employees of other agencies, state and local governments, or even the private sector. Yet a comprehensive homeland security strategy must take into account the broad range of actors who are essential to an effective response. Information must flow down to the operators in field: the local policeman making an arrest needs to be able to learn, quickly, whether the offender is on a terrorist watch list. Information must flow up: a doctor who diagnoses an anthrax case must be able, and motivated, to report this immediately to those monitoring potential bioterrorism. Information must flow across: local FBI, police and fire officials must have the will *and* the technical capacity to communicate—rapidly—with one another.[9] The July 4th murders at Los Angeles International Airport highlighted, for example, how responsibility for security at the airport taken as a whole is dispersed among the FBI, local police, airport authorities, and the TSA without any single organization being actually in charge.[10]

This brings front-and-center the issue of federal-state-local relations. The administration proposal recognizes this in Section 701, which "specifies responsibilities of the Secretary of Homeland Security relating to coordination with state and local officials"[11] as well as the private sector. To this end an "intergovernmental affairs office" would be created, reporting directly to the secretary, to "consolidate and streamline relations" among officials at the

three governmental levels and "give state and local officials one primary contact instead of many on training, equipment, planning, and other critical needs such as emergency response."[12]

The primary contact role rightly encourages state and local initiatives, for communities must see themselves as "owning" the local homeland security problem, not just responding to Washington. But Washington needs to help them develop coordinated and effective homeland security systems. Since September 11, every state has appointed a homeland security coordinator.[13] These state "homeland security czars" have regular conference calls with each other and with the Office of Homeland Security. In most cases, however, the czar position is merely a second job for a leading police official, emergency management director, or the commander of the state National Guard. Furthermore, in many states, the "homeland security office" has no separate staff or budget.[14]

To enhance local coordination, the federal government should take the lead in creating, for each state, and major city and/or metropolitan area, an interagency task force, involving federal, state, local and key private sector actors. These task forces would address the full range of issues from the local perspective (prevention, protection, response), and establish related committees for key areas (*e.g.*, on law enforcement, chaired by the FBI). Federal homeland security funds would be provided to subsidize the costs associated with these task forces. Further federal support should also be tied to coordinated plans which they develop. And as stressed in our prior Brookings study, federal financing should be directly linked to fighting terrorism—training and equipment devoted to that purpose, such as advanced, compatible communications devices to be distributed across agencies that need to coordinate, rather than general increases in firefighters, police, etc.[15] There should also be a federally-sponsored assessment of state and local progress in homeland security, setting minimum (floor) standards of performance and rating states and communities on their performance.[16]

If an enhanced FEMA is maintained outside the DHS, as we recommend here, then it should take the lead in federal-state-local relations. It has important ties on which to build, and much of the necessary work—training of first responders, information-sharing during crises events—falls into the category of consequence management. If FEMA is brought into the department, then the responsibility should rest there. In either case, each of the task forces should be chaired by a federal official (FEMA or DHS) stationed in the region.

The Role of the White House

Whether Congress establishes the broad ranging department the Bush administration proposes or the more focused department we advocate, there will remain a need for White-House coordination. By the administration's own reckoning, more than 100 U.S. government agencies are involved in the homeland security effort. It proposes to merge twenty-two of them So even if the administration's proposal is adopted in its entirety, fully three-quarters of the federal government entities involved in homeland security will remain outside the DHS. Among these are most of the critical agencies—FBI, CIA, Defense, CDC, etc. There is a critical need to coordinate their actions with those of DHS and to develop and implement a government-wide homeland security strategy.

Arguably, the secretary of homeland security could take on these responsibilities. But interagency coordination led by individual Cabinet secretaries has seldom worked well in the past and it is not likely to do so now. The secretaries of Defense, Treasury, Justice, State, and HHS are unlikely to defer to directives from another Cabinet agency that is a competitor for funds and presidential attention.

That means a White House-led coordination system must be retained. Under current arrangements, set up by Executive Order last October, this structure consists of a Homeland Security Council composed of the President and his senior advisers, and an Office of Homeland Security and director who advise the president and manage the interagency process (including that of the HSC). It is a process that can, in principle, work effectively, as the national security decision-making process (on which it is modeled) has shown. But so far it hasn't. Ten months after the terrorist attacks, OHS still has not delivered to the President and the country the national homeland security strategy that, according to the President's Executive Order, is its number one job. Director Tom Ridge proposed a major border security reorganization over six months ago, but that proposal was opposed by other Cabinet agencies and not adopted. The limitations of the current interagency arrangements were glaring exposed by the fact that the President chose to use an ad hoc, largely secretive approach to developing his reorganization proposal rather than using the interagency arrangements he so recently established for considering homeland security policy.

The precise nature of the coordinating effort required will depend to a significant extent on DHS's size and scope. The broader the scope of the new department, the less the coordination needed from the White House.

If Congress adopts the full administration proposal, it may be possible to abolish the OHS and assign the NSC the federal coordination role. This would have the benefit of integrating the homeland security effort at home with the counter-terrorism effort abroad, and drawing on the well-established experience of the oldest and most successful White House coordinating mechanism. In recent years, as the nature of the national security challenge has evolved with the end of the Cold War, the NSC has already begun to evolve to include a broader range of agencies and substantive policy issue. But including homeland security within the NSC's remit would substantially further this evolution, including an expansion of the NSC staff, broadening its mandate and immersing it in operational domestic matters to an unprecedented degree..

If Congress opts for the more narrowly focused department that we prefer, a broader White House-based effort, along the lines of the OHS/HSC process now in place would be needed. Indeed, it would be advisable to broaden the scope of the OHS to include overseeing the intersection between the U.S. domestic and overseas counter-terrorism activities. Under this arrangement, the Office of Homeland Security will likely only be able to perform its vital coordinating functions if Congress steps in and provides the homeland security office, council, and director a status in law. There is ample precedent for this. The National Security Council was created by an act of Congress, and numerous other entities within the Executive Office of the President (from the drug czar and OMB to USTR and the Council of Economic Advisors) have been established by statute rather than executive order. Moreover, if the OHS and its director are to continue to have a major role in drawing up an integrated homeland security budget (as was the case for the FY2003 request), it is absolutely critical that the director not only have statutory authority but be accountable and answerable to Congress.

To sum up, making DHS work will be an enterprise of staggering difficulty, both in managing it internally, connecting it to state and local authorities, and assuring broader coordination between its work and government-wide homeland security activities at home and abroad. Continued congressional oversight can contribute importantly to its success. But to do this job well, Congress will need to tend to its own organizational house. Chapter 4 addresses that issues.

4

IMPROVING CONGRESSIONAL OVERSIGHT

President Bush's proposal to create a Department of Homeland Security addresses only how to organize the executive branch. It says nothing about how Congress should organize itself. Nonetheless, the President's proposal gives lawmakers a chance to rethink how they handle these issues. Unless Congress revamps its current oversight structure, many of the promised benefits of the proposed executive branch reorganization are likely to be lost.

Assessing Congressional Oversight

Proper congressional oversight is a crucial element of the overall homeland security effort. Congress provides an important independent perspective on executive branch proposals. It can hold agencies accountable and reflect public concerns about priorities and trade-offs, both for resources and for sensitive issues such as the appropriate balance between security and civil liberties.

Whether congressional oversight enhances or impedes homeland security will, to an important degree, depend on how Congress carries out its responsibilities. A common executive branch complaint is that congressional authority is too widely dispersed. Senior officials find much of their time consumed with testifying before multiple congressional committees and responding to requests from committee staff. But the potential problems go far deeper. The federal bureaucracy reports to and takes orders from Congress as well as to the White House. When Congress issues conflicting directives, bickers internally over what directives to issue, or drags its feet in considering executive branch proposals, the bureaucracy's work is impaired. It would

hardly do, then, to fix the problems that bedevil executive branch decision making only to perpetuate roadblocks on Capitol Hill. A coordinated, integrated homeland security strategy is only possible if Congress itself is prepared to address in an integrated, comprehensive manner the full range of homeland security issues.

What would a sound congressional structure for homeland security look like? It should have three general characteristics. First, it should institutionalize the process by creating bodies within Congress that have a clear mandate to oversee homeland security. One of the ironies of congressional oversight is that formal bodies are least necessary when a subject is in the headlines, as homeland security is today. The urgency of the problem ensures members of Congress will focus on the immediate issue. The challenge is to create institutional arrangements that will assume sustained responsibility even after the issue area slips from the front pages of the nation's newspapers.

Second, any congressional oversight process should minimize unnecessary fragmentation of responsibility within Congress. If oversight responsibilities are widely dispersed, Congress will find it difficult to assess trade-offs and gaps within the homeland security policy because each congressional entity will focus on its particular area of responsibility and none will be responsible for the overall program. As a result, some activities will become the subject of turf battles while others will fall through the cracks.

Of course, some fragmentation is unavoidable. The House and Senate are separate bodies. Both have dueling two-track processes in which some committees (the authorizers) are responsible for substantive policy issues and others (the appropriators) are responsible for budgetary issues, though in practice the dividing line between the two activities is blurred. And to some extent congressional fragmentation is also desirable; multiple panels lessen the chances that the executive branch will capture congressional oversight, and threats to their turf encourage committees to discharge their oversight responsibilities. But too much fragmentation does far more harm than good.

Third, the structure for overseeing homeland security should not undercut Congress's ability to oversee other parts of government. September 11 brought home the seriousness of the terrorist threat; it did not suspend government's other responsibilities. Congressional oversight of homeland security can hardly be said to be working if one consequence is that the House and Senate neglect other important government functions.

Current Oversight of Homeland Security

The Bush administration says that thirteen full committees in each house and 88 committees and subcommittees overall share responsibility for homeland security. This count is technically accurate but also overstates things. Most committees have very limited jurisdiction over homeland security (even then only if the term is defined broadly); bicameralism essentially doubles the number of committees; and subcommittees are less a sign of fragmentation than a rational means of breaking large jurisdictions into digestible chunks.

That said, the dispersal of congressional oversight of homeland security is considerable—far more than is necessary. INS, the Customs Service, the Animal and Plant Health Inspection Service, the Coast Guard, the Transportation Security Administration, and FEMA together constitute 79 percent of the budget of the department President Bush proposed and 95 percent of its employees. These agencies are now primarily overseen by four authorizing committees in the House (Agriculture, Judiciary, Transportation and Infrastructure, and Ways and Means) and five in the Senate (Agriculture, Commerce, Environment and Public Works, Finance, and Judiciary). In addition, five different appropriations subcommittees in the House and five in the Senate have a say over these same agencies. Authority is badly fragmented, coordination problems are rife, and no one is responsible for trying to bring coherence to the decisions made by individual committees.

The Limitations of Select Committees

How might congressional oversight be restructured? One possibility is to create a select committee of committee leaders in both the House and Senate to oversee homeland security.[1] These panels would be co-chaired by the Speaker and the minority leader in the House and by the majority and minority leaders in the Senate. The committee members would include the chairs and ranking members of the committees that currently have (and would retain) jurisdiction over agencies whose functions are related homeland security. The party leaders in each chamber would also have the right to appoint additional legislators to round out the committees' memberships.

Sen. Pat Roberts (R-Kans.) introduced legislation in October 2001 to create such a Select Committee on Homeland Security and Terrorism in the Senate as a solution to the coordination problem. Without it, he said, "You

have 16 different committees and you won't know whose door to knock on… It'll take you six months to do what should have been done in a week."[2]

Bringing committee heads together would provide a forum for coordinating committee decisions and create a perch from which to view homeland security initiatives in broad perspective. However, in practice this approach probably won't solve the coordination and perspective problems. Over the long run, committee chairs and the congressional leadership are unlikely to have the time or inclination to devote sufficient attention to this critical task, particularly as the homeland security challenge fades from the headlines and other priorities assume greater immediacy.

Alternatively, the House and Senate could create select committees drawn from their memberships at large. Like the leadership committee, such a select committee would not have legislative jurisdiction over any aspect of DHS's programs—that responsibility would remain with existing authorizing committees. The select committees would instead provide a forum in which members, freed from jurisdictional constraints and the need to defend bureaucratic clients, could oversee all aspects of homeland security.

Although select committees provide a forum for highlighting issues that cut across different authorizing committee jurisdictions, they cannot translate their preferences into policy because they lack budgetary and legislative authority.[3] This is why the House and Senate now generally resort to select committees to handle specific issues for short time periods.[4]

New Appropriations Subcommittees on Homeland Security

A second approach would put aside the question of restructuring the authorizing committees and instead create House and Senate appropriations subcommittees for homeland security. These new subcommittees would be responsible for drafting the appropriations bill for DHS. They could be created either by redistributing responsibilities among the existing thirteen subcommittees in each chamber or by creating a fourteenth subcommittee. Creating additional subcommittees would require changing House and Senate rules, but it has precedent. Since the end of World War II, the number of appropriations subcommittees has been as high as fifteen.[5]

The scope of homeland security efforts under the proposed reorganization certainly provides ample room for a new appropriations subcommittee. If Congress enacts the organizational blueprint that President Bush has proposed, they would oversee the federal government's third largest bureaucracy in terms of number of employees and its fourth largest in terms

of its annual discretionary budget. Even under the more focused reorganization plan we are proposing, they would still oversee one of the federal government's largest agencies.

From Congress's perspective, revamping the appropriations subcommittees while leaving the existing authorization procedures in place has significant advantages. Foremost, it would save party leaders from the politically painful task of realigning the jurisdictions of the authorizing committees. Unlike the authorizers, the appropriators have signaled their willingness to rethink their internal structure. House Appropriations Chair C.W. "Bill" Young (R-Fla.) has publicly endorsed the idea. "It's important to reorganize. The threat to homeland security is real. We had better prepare and focus a lot of our energy on it."[6] Of course, the willingness of the appropriators to reorganize reflects the fact that they—unlike the authorizers—would not lose authority to another committee.

Authorizers will be quick to argue that excluding them from reorganization makes sense because it preserves the expertise they have acquired over the years overseeing their respective aspects of homeland security. Moreover, the new appropriations subcommittees would dampen any harm that might result from the fragmentation of authority in the authorization process. The appropriations subcommittees not only would have formal responsibility for undertaking a comprehensive review of the new department's operations, they would follow the authorizers in the legislative process. So the appropriators could put right any conflicting directives that the authorizers might issue.

Because creating new appropriations subcommittees would institutionalize a broad perspective on homeland security somewhere in Congress, it is preferable both to doing nothing at all and to creating select committees. Still, revamping the appropriations subcommittees alone is a less than an ideal approach to congressional oversight. Appropriators approach their oversight duties largely through budgetary and management lenses. Their instinct is to ask how much is being spent and whether it can be spent efficiently. Although these budgetary and management questions cannot be neatly disentangled from the substantive policy that the authorizing committees specialize in, neither are they identical. As a result, leaving a fragmented authorizing process in place increases the chances that broader policy issues either will be the object of turf wars or fall through the cracks of committee jurisdictions.

New Authorizing Committees on Homeland Security

The ideal structure for congressional oversight would combine new appropriations subcommittees with new authorizing committees for homeland security.[7] Such a restructuring would both institutionalize the responsibility for overseeing the executive branch—increasing the chances that oversight would occur even if events shift political appeal to other topics—and reduce fragmentation—increasing the chances that Congress can identify major gaps and sensible trade-offs in homeland security. Of course, some degree of fragmentation would remain as a result of bicameralism and the twin-track authorization and appropriations process. The task of coordinating the actions of the authorizers and appropriators on homeland security with those responsible for related activities by the intelligence agencies, the FBI, and the Pentagon (to name just a few) would also remain. But that problem could never be resolved unless Congress chose to operate entirely as a committee of the whole, thereby forfeiting all the benefits of specialization.

How would consolidating homeland security functions in a single authorizing committee affect congressional oversight in other policy areas? One possible concern is that it would hollow out the jurisdictions of existing committees. But one consequence of the fact that so many committees have a stake in homeland security and that none do it full time is that existing panels will retain substantial jurisdictions. The INS is only a small part of the business of the House and Senate Judiciary Committees. The Customs Service has largely been a minor issue for the Ways and Means and Finance Committees. The Agriculture Committees seldom notice APHIS.

The House Transportation and Infrastructure Committee and the Senate Commerce, Science, and Transportation Committee stand to lose the most. If President Bush's vision carries the day, they would lose oversight of the Coast Guard and TSA. The House panel would also lose oversight of FEMA. Still, it would retain jurisdiction over issues such as highways, railroads, transportation safety, inland waterways, and the merchant marine. Meanwhile, its Senate counterpart would retain jurisdiction over all these areas plus interstate commerce and science policy. In short, both committees would retain broad and substantively important jurisdictions.

How would creating authorizing committees for homeland security affect Congress's expertise about agency operations? Authorizers argue that the knowledge they have acquired over the years will be lost. But this presumes that none of the members of the current authorizing committees

would move to the new homeland security committee. The opposite is much more likely to be the case. Members who have been most deeply involved in their committees' homeland security activities are the most likely to join the new committees. Arguments that valuable expertise will be lost also exaggerate the learning curve that members face and the relevance of the knowledge they do have. To a considerable extent, overseeing the new department will be a learning experience for all concerned. And because homeland security often was an afterthought before September 11, much of the existing congressional expertise was about the non-homeland security activities of the agencies scheduled for consolidation. The loss of such expertise, therefore, would not compromise oversight of DHS's core missions. (It does, however, give additional weight to our recommendation to keep as many non-homeland security missions as possible out of the department.)

Although the substantive arguments against creating House and Senate homeland security committees are not compelling, leading authorizers have vowed to resist efforts to realign jurisdictions. Rep. Don Young (R-Alaska), chair of the House Transportation and Infrastructure Committee, warns that legislation to reorganize the executive branch "won't sail through Congress if Congress starts tampering with the committees of jurisdiction."[8] This sentiment is bipartisan. Rep. James L. Oberstar (D-Minn.), the ranking member of that committee, warns that "Our committee is going to fight like hell to make sure there's no new Homeland Security Committee created."[9] The prospect of internal bloodletting helps explain why some congressional party leaders downplay the need to revamp committee jurisdictions. Senate Majority Leader Tom Daschle (D-S.D.) insists that as far as the Senate is concerned, "We're not going to be changing for the foreseeable future to deal with this."[10]

Although the opposition to new homeland security authorizing committees is substantial, it is neither uniform nor insurmountable. Sen. Joseph Lieberman (D-Conn.), who has spearheaded Senate efforts to create a homeland security department, argues that "It is hard to see how Congress could do a decent job of authorizing and overseeing what the new department does without a new Committee of Homeland Security…It's that big."[11] Sen. John McCain (R-Ariz.), ranking member on the Senate Commerce, Science and Transportation Committee, says he would give up jurisdiction of the Coast Guard if it would help improve "America's security."[12] Some congressional party leaders also have indicated a willingness to rethink committee jurisdictions. Speaker of the House Dennis Hastert (R-Ill.) allows

that some reorganization may be required.[13] Senate Minority Leader Trent Lott (R-Miss.) agrees, noting that "We're going to have to rejigger some of the oversight responsibilities."[14]

History gives grounds for optimism that Congress can make the organizational changes needed to grapple with the challenge of overseeing homeland security. In merging the Naval and War Committees into unified Arms Services Committees after World War II and in creating the Budget and Intelligence Committees in the mid-1970s, members overcame their innate inertia and put their policy interests above their parochial concerns. The same logic would support a comparable reorganization today.

5

A More Focused Department of Homeland Security

Our assessment provides powerful arguments for the core of the President's DHS proposal—the merger of the border and transportation security agencies. They address the common problem of securing the perimeter of the United States: the urgent need to prevent, in the wake of September 11, the entry of individuals and cargoes intended to do catastrophic harm. Consolidating these agencies should enable more efficient sharing of information, more complete evaluation of potential threats, and more effective actions to block them.

Moreover, the administration has, for the most part, included the right agencies for this function in its draft legislation. The Customs Service and the Immigration and Naturalization Service are critical, though the INS's non-enforcement, immigration service-related functions should not transfer to the new department. DHS is also a more appropriate home for the Coast Guard than the Department of Transportation. The Animal and Plant Health Inspection Service also protects against threats on terrorists' potential menu, though an assessment is needed on just where to draw the line between security-related and other Agriculture inspection functions. In all of these cases, the cost of severing formal ties with the current departmental home is modest: in no case is a border agency's mission central to its department's prime functions, and Cabinet secretaries paid their work little heed prior to September 11.

On the matter of issuing visas, the administration bill rightly transfers control from the Department of State to the new department, but it keeps the implementation of this authority in the State Department and its overseas embassies and consulates. We go further, and have officials of the new department issue the visas themselves, working in U.S. embassies and

consulates. (All other consular functions would remain with the Department of State.)

The Transportation Security Agency is also appropriate for transfer to DHS. It oversees travel within the United States as well as from abroad, and the potential synergies between the border protection function and airline screening clearly argue for consolidation. In proposing to combine border and transportation security into a single whole, the administration rightly recognizes that this security function extends both beyond our frontiers and into the heartland along the land, air, rail, and shipping transportation lines.

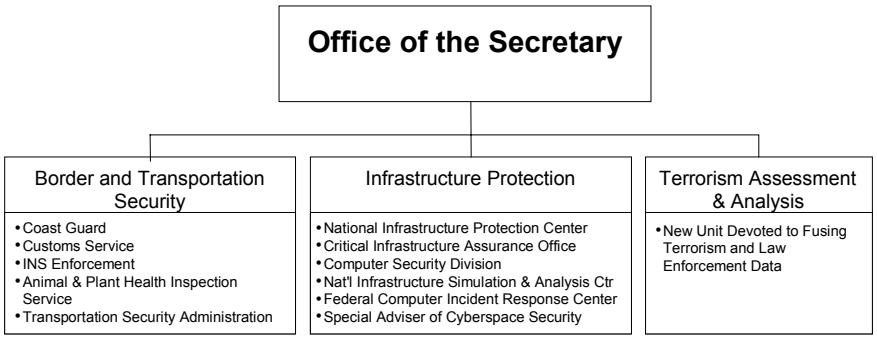
Overall protection of the nation's critical infrastructure is another function that belongs in the new department. As noted previously, "infrastructure" encompasses an enormous range of structures, networks, and institutions, from buildings or dams or port facilities located in a single place to internet-linked control systems governing everything from transmission of electricity to management of financial accounts. Given that infrastructure protection is a relatively new sphere of government activity, with no single, integrated home within existing agencies, the decision to consolidate it within DHS is compelling.

There is also a clear need for the new department to develop its own independent analytic capacity. However, rather than limiting this capacity to assessing threats to critical infrastructure as the administration proposes, we believe the department should have the lead responsibility for fusing all sources of intelligence analysis of terrorist threats to the United States—including raw intelligence derived from foreign intelligence sources and domestic law enforcement operations. The unit will be able to both provide the comprehensive analysis that has until now been sorely lacking and connect this analysis directly to key operational agencies carrying out homeland security functions. Its responsibilities would include some elements of information and intelligence collection through the department's own organic units (such as the border and transportation security agencies), but it would not subsume the foreign intelligence collection of the CIA, NSA, etc., nor the legal authorities currently exercised by the FBI for domestic intelligence collection. Further reform of the intelligence community may well be warranted, but it should be postponed, as Congress now intends, until completion of the intelligence committees' review of the causes of September 11 and the administration's own further assessment of intelligence reorganization needs.

If one "limited" the new department to the missions of border and infrastructure agencies, plus this overall analytic function, it would still be an

enormous organization. It would have about 185,000 employees (including newly federalized airport security screeners), over 90 percent of those in the administration's proposed structure, and more than in any current department save Defense and Veterans Affairs. Its budget would be two-thirds that of the administration-proposed department. Consolidating the border and infrastructure functions and adding the intelligence-law enforcement fusion center would represent a huge step forward—one that Congress can and should take sooner rather than later. (See figure-3.)

Figure 3: An Alternative DHS



Beyond this, however, Congress should proceed with extreme caution. Specifically, it should defer action on the two other broad groupings proposed for inclusion: emergency preparedness and response and chemical, biological, radiological, and nuclear countermeasures. The case for incorporating these functions in DHS has not been made, and to plunge ahead absent detailed study risks complicating the new department's tasks and weakening the performance of these key functions.

FEMA is likely to operate more effectively and contribute better to the terrorist response effort if it remains outside the new department at least for now. Its work is certainly a key component of the overall U.S. response to the terrorist threat, but it does not, for the most part, require day-to-day operational integration with the other activities to be housed at DHS. Likewise deserving of a concerted and vigorous national response is the threat of terrorism employing weapons of mass destruction. But this will require far more than the limited consolidation of research and development tasks that the administration proposes for this department, which would sever small

research programs from the broader, connected activities in their current home agencies. The administration should instead consider how best to advance scientific research and technology development on all homeland security-related issues, including but not limited to the CBRN issue. And while the reform of international and domestic intelligence and law enforcement agencies is needed, how best to accomplish this result is something that ought to be considered on the basis of the outcome of ongoing investigations by the intelligence committees on the Hill and an independent commission that still must be appointed

The case for creating a department of homeland security is strong, and Congress is almost certain to do so. But legislators need to scrutinize closely what kind of department that will be most effective. Our analysis leads strongly to the conclusion that a more modest and clearly-focused consolidation of homeland security functions is preferable to the more complicated, multi-function merger proposed by the President. A DHS concentrating on border and transportation security, infrastructure protection, and intelligence assessment would be functionally more coherent—and hence easier to manage. It would allow its secretary and management team to focus on issues where the need for organizational consolidation is clear and defer for future consideration the inclusion of functions where the benefits of consolidation are yet to be proven.

Notes to Principal Findings

[1] Quoted in Juliet Eilperin and Bill Miller, "House Approves Intelligence-Sharing Plan," *Washington Post*, June 27, 2002, p. A4.

[2] Michael E. O'Hanlon, Peter R. Orszag, Ivo H. Daalder, I. M. Destler, David L. Gunter, Robert E. Litan, and James B. Steinberg, *Protecting the American Homeland: A Preliminary Analysis* (Washington, D.C.: Brookings Institution Press, 2002).

[3] In this study we do not address the administration's proposal for moving the Secret Service from Treasury to DHS, which we do not believe to be a first-order concern. We therefore exclude it from our proposed alternative department.

Notes to Chapter One

[1] "Remarks by the President in Address to the Nation" (June 6, 2002), available at: http://www.whitehouse.gov/news/releases/2002/06/20020606-8.html (accessed July 2002).

[2] "Press Briefing by Ari Fleischer" (March 19, 2002), available at http://www.whitehouse.gov/news/releases/2002/03/20020319-7.html (accessed July 2002).

[3] "Executive Order Establishing Office of Homeland Security" (October 8, 2001), available at: http://www.whitehouse.gov/news/releases/2001/10/20011008-2.html (accessed July 2002).

[4] Alison Mitchell, "Official Urges Combining Several Agencies to Create One That Protect Borders," *New York Times*, January 12, 2002, p. A8; and David E. Sanger and Eric Schmitt, "Bush Leans Toward New Agency to Control Who and What Enters, *New York Times*, March 20, 2002, p. A1.

[5] Quoted in David Von Drehle and Mike Allen, "Bush Plan's Underground Architects." *Washington Post*, June 9, 2002, p. A14. See also Howard Fineman and Tamara Lipper, "Bush's Homeland Shuffle," *Newsweek*, June 17, 2002, pp. 28-31; and Romesh Ratnesar, "Can He Fix It?" *Time*, June 17, 2002, pp. 24-30.

[6] *National Homeland Security and Combatting Terrorism Act of 2002*, S. 2452, 107 Cong. 2 sess.; and *National Homeland Security and Combating Terrorism Act of 2002*, H.R. 4660, 107 Cong. 2 sess.

[7] *Homeland Security Act of 2002*, available at http://www.whitehouse.gov/deptofhomeland/bill/index.html (accessed July 2002).

[8] In its FY2003 budget request, the administration proposed transferring this program to FEMA in order to consolidate all federal government training and grant programs for state and local first responders.

Notes to Chapter Two

[1] "Proposed Homeland Security Department," Hearing before the House Government Reform Committee (June 20, 2002).

[2] For the administration's proposals for information analysis and infrastructure protection, see "Analysis for the Homeland Security Act of 2002," Title 2; and "Department of Homeland Security," Sect. 6.

[3] "This center, as designed in this legislation, is really to take the work product of these agencies, map it against and match it against the vulnerabilities and then make recommendations for either the private sector, for that company, for that community to harden itself against a terrorist attack." Testimony of Tom Ridge, Hearing before the Senate Judiciary Committee, 107 Cong. 2 sess. (June 26, 2002).

[4] In describing the role of the new office, the administration observes, "Currently, the U.S. government has no institution primarily dedicated to analyzing systematically all information and intelligence on potential terrorist threats within the United States, such as the Central Intelligence Agency performs regarding terrorist threats abroad." See "Department of Homeland Security."

[5] "The Department of Homeland Security would translate analysis into action in the shortest possible time—a critical factor in preventing or mitigating terrorist attacks." See "Department of Homeland Security."

[6] "The Department of Homeland Security will not become a domestic intelligence agency." See "Department of Homeland Security."

[7] In *Protecting the American Homeland*, we suggested a major increase in analysts at the FBI. On further reflection, and in light of this new proposal, we believe the capability would be better used at DHS.

[8] In its initial description of the proposed new department, the administration did give appropriate attention to this function: "The Department of Homeland Security would coordinate a national effort to secure America's critical infrastructure. Protecting America's critical infrastructure is the shared responsibility of federal, state, and local government, in active partnership with the private sector, which owns approximately 85 percent of our nation's critical infrastructure. The new Department of Homeland Security will concentrate this partnership in a single government agency responsible for coordinating a comprehensive national plan for protecting our infrastructure. The Department will give state, local, and private entities one primary contact instead of many for coordinating protection activities with the federal government, including vulnerability assessments, strategic planning efforts, and exercises."

[9] Our understanding of these issues has benefited from discussions with Professor Donald Kettl of the University of Wisconsin-Madison, who has written extensively on federalism and the challenge of homeland security.

[10] The administration estimates that CBRN countermeasures would account for $3.6 billion of the total $37.5 billion DHS budget. (An additional $2.1 billion is budgeted for preparing and responding to possible CBRN attacks as part of the emergency preparedness and response effort.) Of this, $1.2 billion is for Livermore programs (or three-fourths of its current budget). These programs focus largely on addressing nuclear and radiological threats, including better detectors for monitoring cargo coming into the country. Of the remaining amount, about $2 billion would be

devoted to civilian biodefense research. DHS would also take control of a newly created biological weapons analysis center, funded at $420 million a year. Even though the budget category of CBRN countermeasures would represent nearly 10 percent of the administration's proposed DHS budget, it would include only 598 (0.6 percent) of its 200,000 employees. In addition to these research and analysis activities, DHS would have an operational role in responding to any CBRN attacks and preparing the country for them in advance. These efforts, with a combined budget of about $2.1 billion, would fall under the DHS budget category of "emergency preparedness and response." That CBRN effort, considered elsewhere in this monograph, would direct exercises and drills for responding to CBRN threats. It would also manage the public health surveillance system to monitor databases for evidence that a biological attack may have occurred.

[11] David Mosher, *Preserving the Nuclear Weapons Stockpile Under a Comprehensive Test Ban* (Washington, D.C.: Congressional Budget Office, 1997).

[12] See, for example, the institutional plans of each lab, with supporting budget documentation in appendices, available at http://www.llnl.gov/llnl/ip/IP2002/pdfs/Section5.pdf.

[13] Martin Enserink and Andrew Lawler, "Research Chiefs Hunt for Details in Proposal for New Department," *Science*, vol. 296, June 14, 2002, pp. 1944-1945.

[14] See National Research Council, *Making the Nation Safer: The Role of Science and Technology in Countering Terrorism*, prepublication copy (Washington, D.C.: National Academy Press, 2002), p. ES-17.

Notes to Chapter Three

[1] Al Gore, *From Redtape to Results* (Washington, D.C.: Government Printing Office, 1993), p. 6.

[2] All quotes and agency grades cited here are from the Federal Performance Project, *Government Executive*, February 1999, March 2000, April 2001, and May 2002

[3] James A. Loy, "State of the Coast Guard," May 1998, referenced in *Government Executive*, March 1, 1999.

[4] *Protecting the American Homeland*, pp. 21-24.

[5] Although the White House rightly notes that this is the same authority granted to the secretary of education under the 1979 statute, one must remember that the Department of Education consists of less than 5,000 employees, while the new department will start with nearly 200,000 posts.

[6] The 1998 Internal Revenue Service reforms are particularly instructive for DHS. Although Congress gave the IRS Commissioner broad authority to design and implement a new personnel system, it provided clear directions on how the new system was to work. It gave the commissioner the freedom to hire and pay his senior executives outside the civil service system, but limited the number of positions to no more than 40. It gave the commissioner authority to give those executives larger bonuses, but placed a check on the size of those awards by requiring the secretary of the Treasury to approve any amounts that exceed more than 20 percent of an

executive's base pay. It permitted the IRS to create new personnel demonstration projects and increase cash awards for performance, streamlined the employee disciplinary process, and gave the commissioner authority to offer employee buyouts through January 1, 2003. In sum, it gave the commissioner broad authority, but did so through seven pages of statutory text setting limits and informing the IRS workforce about the range of authority.

[7] In our previous study, we proposed major increases in the staffing and capabilities of the Coast Guard, the Customs Service, and the INS among others. In personnel terms alone, we estimated that these agencies required an additional 10,000 people to do their jobs effectively. Protecting the American Homeland, pp. 24-6, 30-1, 45-8, 60, 62, and 65.

[8] Jerry Hagstrom, "Ridge Says Some Parts of APHIS may be kept in USDA," *GovExec.com*, July 3, 2002.

[9] On September 11, the New York fire and police departments did not communicate—with the tragic result that a message about the impending collapse of the second tower reached the police officers but not the firemen in the building. Jim Dwyer, Kevin Flynn, and Ford Fessenden, "9/11 Exposed Deadly Flaws in Rescue Plan," *New York Times*, July 7, 2002, p. 1.

[10] Richard J. Riordan and Amy B. Zegart, "City Hall Goes to War," *New York Times*, July 5, 2002, p. A19.

[11] "Analysis for the Homeland Security Act of 2002," p. 9.

[12] President George W. Bush, "The Department of Homeland Security" (June 6, 2002).

[13] Jodi Wilgoren, "U.S. Terror Alert Led to No Change in States' Security," *New York Times*, May 25, 2002, p. A1.

[14] "Across the USA: Homeland security, state by state," *USA Today*, April 23, 2002, p. A4.

[15] *Protecting the American Homeland*, chap. 6.

[16] For discussion of such a system, see Donald F. Kettl, "Promoting State and Local Government Performance for Homeland Security," The Century Foundation Homeland Security Project, May 2002, available at http://www.homelandsec.org/Pub_category/pdf/state_local_gov_perform.pdf (accessed July 2002). For a detailed discussion of the myriad issues involved in federal encouragement of state and local efforts, see General Accounting Office, *National Preparedness: Integration of Federal, State, Local and Private Sector Efforts Is Critical to an Effective National Strategy for Homeland Security,* GAO-02-621T (April 11, 2002), available at http://www.gao.gov.

Notes to Chapter Four

[1] See U.S. Senate, "Establishing a Select Committee on Homeland Security and Terrorism," S. Res. 165, 107. Cong. 1 sess. (October 2, 2001); and "Meeting the Challenges of Establishing a New Department of Homeland Security: A CSIS White Paper" (Washington, D.C.: Center for Strategic and International Studies, undated), p. 5.

[2] Quoted in David Nather and Karen Foerstel, "Proposal Presages Turf War," *CQ Weekly*, June 8, 2002, p. 1508.

[3] For the same reason, a joint House-Senate committee would contribute little to congressional oversight of homeland security. Joint committees generally exercise no legislative authority, which is why most deal with housekeeping rather than substantive matters.

[4] The House and Senate Permanent Select Intelligence Committees are select committees in name but function as standing committees in practice. Both committees exercise legislative and budgetary authority over the CIA and the rest of the intelligence community.

[5] See Mary Dalrymple, "Bush's Plan Gives Appropriators Even More to Ponder This Season," *CQ Weekly*, June 8, 2002, pp. 1506-07.

[6] David Nather and Karen Foerstel, "Committee Chairmen Express Concerns About Major Shift in Jurisdiction," *CQ Weekly*, June 15, 2002, p. 1585.

[7] As the examples of the House and Senate Intelligence Committees attest, such committees might technically be labeled select committees. What is pivotal is not their name but that they be given budgetary and legislative authority over homeland security.

[8] Quoted in Nather and Foerstel, "Proposal Presages Turf War," p. 1508.

[9] Quoted in Nather and Foerstel, "Proposal Presages Turf War," p. 1508.

[10] Quoted in Curt Anderson, "Congress Moving Aggressively to Create Bush's Homeland Security Department," *Associated Press*, June 13, 2002.

[11] Quoted in Kirk Victor and Richard E. Cohen, "From the Hill, 535 Ideas," *National Journal*, June 15, 2002, p. 1776.

[12] Nather and Foerstel, "Committee Chairmen Express Concerns," p. 1584.

[13] See Nather and Foerstel, "Proposal Presages Turf War," p. 1505.

[14] Nather and Foerstel, "Committee Chairmen Express Concerns," p. 1584.