National Security Watch

Department of Homeland Security: Pros, Cons and Opportunities

by Peter Gillette

The Department of Homeland Security bill, signed into law by President George W. Bush on 25 November 2002, outlines an ambitious plan for a large-scale federal reorganization, unseen since the National Security Act of 1947 made sweeping changes in establishing the Department of Defense (DoD) and standardizing its operational provisions. The Department of Homeland Security (DHS) was created to eliminate redundant operations between federal agencies, propel intelligence sharing and establish standard operational procedures for training and crisis response at all levels of government.

While the new department will streamline America’s domestic protection measures to prevent and mitigate terrorist attacks, the public must be cautious not to expect a quick-fix, foolproof defense against future incidents within the United States. With assistance from DoD, in particular a sensible reevaluation of the National Guard’s role, American security could take a radically new and effective course.

Discussions and debates, such as the reports of the Hart-Rudman and Gilmore1 commissions, examined domestic protection against terrorism and mass-casualty mitigation years before the attacks of 11 September 2001. The events that day exposed America’s glaring vulnerability and prioritized the need for a sound national defense and emergency response system. However, it took more than a year and several delays to establish a separate department devoted to homeland security.

The authority granted to DHS sets in motion a radically reorganized structure affecting federal, state and local agencies and designed to protect the lives of American citizens at home. Yet it must be understood that the nature of the terrorist threat prevents any guarantee of safety. The danger of an attack still exists. While prevention of terrorist incidents requires constant vigilance and readiness, terrorists, it has been said, must be lucky only once.2 Even with the DHS now officially chartered, it may be up to a year before the department is fully mission-capable and potentially longer before organizational obstacles are overcome—just as it took more than ten years after the passage of the 1947 National Security Act to perfect the national security arrangements in place today.3

The Nuts and Bolts of the Department of Homeland Security

The bill establishes the department’s leader as a cabinet-level secretary, outlining the Secretary of Homeland Security’s authority and functions as well as the department’s mission and organizational structure. The new department incorporates 170,000 workers from 22 federal agencies, making it the third largest in the government behind DoD and the Veterans Administration.4 Its primary missions are to prevent terrorist attacks within the United States, reduce U.S. vulnerability to terrorism and minimize the damage of attacks once they occur. To
support those objectives, the department is divided into four areas of responsibility with under secretaries
overseeing them: Information Analysis and Infrastructure Protection; Chemical, Biological, Radiological
and Nuclear (CBRN) Countermeasures; Border and Transportation Security; and Emergency Preparedness
and Response.

Note: Former Pennsylvania governor Tom Ridge, designated by President Bush soon after the
11 September terrorist attacks to head up the homeland security initiative, was sworn in as the

The Under Secretary for Information Analysis and Infrastructure Protection will:
• have access to all relevant intelligence and law enforcement information dealing with terrorist threats
  within the United States;
• assess infrastructure and vital resource vulnerabilities and develop a comprehensive national plan for
  securing them;
• administer policy and public threat advisories to state and local governments and the private sector; and
• improve policy and procedures, including information sharing, between agencies at all levels of
government.

These functions utilize specific communications, computer and infrastructure security capabilities
transferred from the Federal Bureau of Investigation (FBI), DoD, Department of Commerce, National
Institute of Standards and Technology and the Department of Energy (DoE).

The bill requires the secretary to protect all relevant information from unauthorized disclosure. At the
same time, information regarding infrastructure vulnerabilities provided by nonfederal sources is not subject
to disclosure under the Freedom of Information Act.

The Under Secretary for Chemical, Biological, Radiological and Nuclear Countermeasures is
tasked with:
• securing the American population, infrastructure and resources from CBRN terrorist attacks;
• coordinating countermeasure research and development.

Funding and procurement hinge on blocking the importation of CBRN materials, detecting, preventing
and protecting against CBRN attacks, and establishing guidelines for all levels of government to develop
and employ countermeasures. The departments of Health and Human Services, Energy, Defense and
Agriculture transferred relevant nonproliferation, nuclear assessment and bioweapons defense functions to
DHS in support of the mission.

The Under Secretary for Border and Transportation Security will be responsible for:
• preventing terrorists from entering the United States;
• securing the 7,514 miles of contiguous border with Canada and Mexico and the 95,000 miles of shoreline
  as well as the ports, terminals and entry points into the country;\(^5\)
• administering immigration, naturalization and customs laws—including the authority from the State
  Department to deny visas—while maintaining timely and efficient commercial exchange and legal travel.
Border and Transportation Security represents a sweeping federal reorganization, as it has absorbed the Customs Service from the Department of the Treasury, the Immigration and Naturalization Service (INS) from the Department of Justice (DoJ) and both the Transportation Security Administration and Coast Guard from the Department of Transportation.

Border and Transportation Security will also absorb the Department of Agriculture’s Animal and Plant Health Inspection Service for traditional quarantine and control measures. The Federal Protective Service will be included because of its mission to secure public buildings. While the Coast Guard falls under the Department of Homeland Security, it remains a distinct military entity that is subject to DoD authority in time of war—just as the existing law states.

The Under Secretary for Emergency Preparedness and Response will take the lead in mitigating the damage caused by a terrorist attack. The main responsibilities for the secretary are to:

- ensure emergency preparedness; certify, train and fund Nuclear Incident Response Teams;
- manage the federal response to a major incident, directing and coordinating other federal, state or local responders;
- aid in the recovery; and
- consolidate existing federal emergency plans into a single, comprehensive and interoperable response strategy for personnel at all levels.

The Federal Emergency Management Agency (FEMA) is being transferred to DHS under this bill. Additionally, the departments of Justice and Health and Human Services, as well as the FBI, are transferring units to Homeland Security for preparedness, public health and emergency support functions. The Environmental Protection Agency (EPA) and DoE Nuclear Incident Response Teams will be under the authority of the Homeland Security secretary only when called to action in support of the department.

Additional administrative provisions within the bill transfer the Secret Service from the Treasury Department to the DHS. The deadline for the unit transfers is 25 November 2003, 12 months from the effective date of the bill.

The bill also authorizes the Secretary of Homeland Security to reorganize and reallocate functions within the department as necessary. The secretary may contract private-sector sources for service and consultation as opposed to typical civil service competitive appointment procedures. The bill also permits cooperative agreements for research and development while exempting the department from procurement regulations that obstruct the homeland security mission. Similar exemptions have been in effect for the Central Intelligence Agency (CIA) and Atomic Energy Commission.

Making Progress and Making Repairs

In the sweeping federal reorganization accompanying the establishment of the DHS, the White House and Congress appear to be applying at least some lessons from the organizational and authoritative pitfalls in DoD stemming from the 1947 National Security Act. Despite the public’s stereotype of disorganization and waste that accompany large bureaucracies, the benefits of a sturdy, consolidated organization should become apparent as superfluous functions are streamlined and outdated standards revised with a unified purpose, increased capability and greater budgetary power. The Homeland Security bill aims to eliminate the redundancy of multiple agencies performing some or all of the same duties (e.g., numerous organizations performing threat assessments or domestic preparedness functions). The department unifies several distinct functions and many disparate agencies under a unified command to act more efficiently. Policymakers also
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*Legal/Congressional/Public Affairs included in Office of the Secretary

realized the value of enumerating the Homeland Defense secretary’s authority for reorganization, intelligence access, coordination, technological development and budgetary control.

Yet potential problems may emerge within DHS as the organization moves from the legislative chambers to the front lines of domestic prevention and protection across the United States. First, creating a new department from many existing agencies will take time. From day-to-day management issues and differing operational standards to long-term consolidation and administrative accountability, achieving a fully functional department will require a substantial time investment. In the long term, efficiency, accountability and economic savings will likely result. In the short term, however, the risks are increased as agency consolidation takes effect. The parent departments must adjust to losing certain functional units just as DHS must determine its most effective form and function.

While a terrorist attack during this interim period is not necessarily more probable or potentially destructive, the danger remains high. To secure the welfare of American citizens and infrastructure effectively, DHS must speed its development and step into action.

A second concern is that existing organizational problems will not simply disappear with restructuring. INS provides a shining example of this problem. In November 2001, as part of the antiterrorism effort following the 11 September attacks, INS was directed to locate 4,112 nonimmigrant aliens of interest to law enforcement because of their potential terrorist ties. INS was unable to locate 1,851—about 45 percent—of the aliens. Putting INS and other troubled agencies under a new department or new management will not remedy the problems laxity, errors and mismanagement have caused, in some cases for years. This puts the department at a disadvantage—starting not from zero but from a deficit.

DHS must use its budget, manpower and cooperative agreements with state and local agencies to expedite sound solutions to preexisting organizational flaws. Tracking down missing aliens is only one well-publicized priority mission for the department. Others will surely emerge as the agencies merge and thorough audits and evaluations are made.

With several agencies reassigned to Homeland Security, a third concern has emerged regarding the “housekeeping” functions of organizations such as Customs, the U.S. Coast Guard and FEMA, among others, being relegated to a secondary priority and possibly suffering as a result. With daily duties including collecting cross-border commercial taxes, interdicting drug flow and responding to natural disasters, the agencies double-tasked with homeland security and ongoing specialized missions may be unable to perform both responsibilities equally, causing lower-priority assignments to lag. The effects of this compromise can have unintended consequences for the nation’s health, prosperity and safety. In some of those capacities, the military will share the load with DHS and civil authorities and assist with several of the missions.

The Department of Defense, the National Guard and New Ideas

DoD has not stood idly by awaiting the creation of DHS. Minutes after the 11 September 2001 attacks, homeland defense plans became operational as air patrols took to the skies and emergency response units went into action. Building on the newly realized threat environment, DoD established U.S. Northern Command (NORTHCOM) in October 2002 to lead homeland defense missions for the four armed services and the Coast Guard, including counterdrug duties and support after domestic attacks and natural disasters. The command has few permanently assigned troops. It instead receives forces as needed to deal with crises as they emerge. While NORTHCOM’s role in homeland protection is evolving, critics have said the President and Secretary of Defense should clarify NORTHCOM’s combatant command authority and specialized training responsibilities, and have dedicated rapid-reaction units assigned for domestic emergencies.

DoD has also established the Office of the Assistant Secretary of Defense for Homeland Defense to further coordinate close working relationships and guidance between NORTHCOM and DHS—though not part of either group’s chain of command.
National Guard and Reserve forces have made some of the most visible and significant contributions to the domestic protection of the United States since the terrorist attacks. Call-ups to active duty have removed citizen-soldiers from their civilian lives and placed them in direct support roles executing the war on terror at home and overseas. National Guard forces stood watch over nearly every one of America’s airports in the months following the 11 September attacks.

These units hold an even more valuable inherent advantage for DHS. Because of the more than 3,000 Army National Guard armories, 140 Air National Guard units and a combined Army/Air National Guard strength of 466,000 troops in communities all over the United States, the reserve components provide a readily available resource to act as a go-between for federal, state and local authorities to coordinate training, protection and crisis mitigation. National Guard and Reserve units could contribute to CBRN and medical training, help assess local readiness and interoperability capabilities according to federal guidelines, provide decentralized training centers, and coordinate immediate response measures.12

The Army National Guard Restructuring Initiative (ANGRI), announced in September 2002, reorganizes Guard units to respond to the new strategic environment with changes in its tables of organization and equipment (TO&E). In its new structure, the National Guard will be organized into Multi-Functional Divisions (MFDs) containing Mobile Light Brigades (MLBs). The MLBs will be rapidly deployable using light vehicles (suitable for mobile infantry units) rather than existing tracked vehicles. ANGRI calls for a one-third reduction (about 2,400 vehicles) in the tracked vehicle fleet.

The changes reflect the “4-2-2-1” strategic concept, which calls for U.S. capability to simultaneously protect four forward regions, quickly defeating threats in two of those areas, and decisively defeating one of the two adversaries. The strategy includes homeland security as a priority.13 Army leaders have said the changes will enhance National Guard capabilities and maintain its primary relevance as a warfighting force.

U.S. Army Training and Doctrine Command (TRADOC) will determine the Guard’s exact design and structure. The changes are slated to begin in 2008 and conclude by 2012.14

In addition, the National Guard has fielded 27 Weapons of Mass Destruction-Civil Support Teams, composed of 22 full-time duty volunteers per team, to assist civilian emergency responders in CBRN attacks.

State budgets and manpower limitations prevent any quick and effective employment of these units and facilities. Additionally, the deployments and operations tempo for many reserve component forces inhibit a genuine community-based domestic defense role. DoD and National Guard leaders have called for active duty increases in support personnel to alleviate reliance on Reservists and National Guardsmen. Without funding full-time manning requirements for reserve component units, bolstering the homeland security mission through America’s citizen-soldiers and local military facilities will remain a dubious proposition. DHS needs this manpower and logistical support element to streamline preparedness and coordinate efficient emergency response.

The missions and deployments affiliated with the war on terror have, as Jack Spencer and Larry Wortzel wrote in a recent report, “blurred the lines between national service (Title 10), national service under the command and control of the state governor (Title 32, Section 502[f]) and state service (Title 32).”15 The federal government pays for Title 10 service activations and grants troops full active duty benefits. The financial burden of Title 32 activations typically falls under the particular state’s responsibility. It is only under Title 32 Section 502[f] that Guardsmen are called to federal service with full benefits contingent on the particular mission.

Few states can sustain a long-term readiness posture or training program necessary for effective homeland security. Federal agencies, vying for funds, are reluctant to split the tab for a cooperative mission with a DoD agency. DoD itself has budget and manpower priorities that it is hesitant to rework. To effectively change the budget, manpower and deployment traditions of the National Guard and Reserve would require a revamped mission posture.
Existing arrangements within the National Guard inhibit missions between states. Catastrophic homeland security emergencies would likely require the participation of units from other states for an effective, efficient response. Without appropriate funding and command provisions in place for such missions, state governors and DoD and National Guard leaders would be restricted in their responses. The complications of limited state budgets, Title 32 missions and local homeland defense responsibilities often become entangled when policy meets practical application. These pitfalls must be addressed to establish an effective National Guard role in homeland security.

Conclusion

The creation of the Department of Homeland Security marks a significant step forward for the United States in addressing the threat posed by terrorism within its borders. DHS also marks the major reorganization of nearly two dozen disparate—and sometimes competing—federal agencies. While progress is undeniable, the structural, functional and administrative flaws in the department must be resolved as soon as possible to protect the American public from future attacks and codify emergency response at all levels to mitigate destruction. DHS is not alone in its mission, as DoD has taken steps of its own with homeland defense. The National Guard and Reserve units, dotting every state in the union, should not be overlooked in considering the most effective means to accomplish standardized training, readiness and reaction. To achieve such coordinated involvement through the reserve components will require significant funding and manpower.

Even with an expansive federal department responsible for protecting American lives and property from terrorist attacks at home, the public must understand that the threat is still very real and immediate. It is imperative that the responsibilities of DHS be clearly articulated, including standardized training and operations at state and local levels, legal parameters, and cooperation with DoD. However, with the strides being made with the creation and enhancement of DHS and the continued efforts to improve on security deficiencies at all levels of government, U.S. citizens should be optimistic that progress will continue and that their safety is a top priority.

Endnotes


2. After an attempt to kill British Prime Minister Margaret Thatcher in 1984, the Irish Republican Army released the statement: “Remember, we have only to be lucky once. You will have to be lucky always.” Paul Brown, Colin Brown, Peter Hetherington, David Hearst and Gareth Parry, “Cabinet Survives IRA Hotel Blast,” The Guardian Unlimited, online, http://www.guardian.co.uk/Thatcher/Story/0,2763,400986,00.html, 13 October 1984.


