

**Prepared Statement before
U.S. Senate Committee on Governmental Affairs
for a Hearing on
“Organizing for Homeland Security”
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**By
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Mr. Chairman, Members of the Committee, we very much appreciate the opportunity to testify before you on how to organize the U.S. government for homeland security. We are grateful for the work you, Mr. Chairman, the committee members, and the committee staff have put into this effort.

Much of this effort is reflected in Senator Lieberman’s draft bill, which is the subject of today’s hearing. That bill contains many worthwhile ideas. At the same time, we believe it may both be too ambitious in some areas and not sufficiently ambitious in others. In particular, we do not believe a Department of Homeland Security is the most effective way to organize for this effort. It is better to build upon the coordinating mechanisms put in place by the Bush administration.. At the same time, we strongly believe that these arrangements ought be made statutory, that the Office of Homeland Security (OHS) and its Director should have greater budget authority, and that there is scope for agency consolidation in certain functional areas, notably border security.

Consolidation or Coordination?

There are two basic approaches to organizing the federal government for homeland security. One is to rely on a lead agency—either an existing agency (like the Justice Department) or a new one (like the Department of Homeland Security proposed by Senator Lieberman and others). The other approach, currently being pursued by the Bush administration, focuses on interagency (and intergovernmental) coordination, with a single White House-based entity tasked with bringing together the myriad of agencies responsible for different aspects of homeland security.

The lead agency approach has clear advantages. Assigning responsibility to a single agency provides a focal point in an otherwise diffuse landscape of interests and capabilities. Accountability should thereby be enhanced. Merging critical functions dealing with frontier security, infrastructure protection, and emergency response into distinct directorates within a lead agency should ease communications and enhance effective implementation of agreed policy both within and probably

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among the directorates. And empowering the new entity with direct budgetary authority and political responsibility should make the agency a major player in the overall homeland security effort.

But the problems of this approach outweigh the benefits. The homeland security mission involves, by definition, many more entities than can be brought under a single roof. Left outside will necessarily be the most important agencies:

- the *Department of Defense*, which has the bulk of federal capabilities for deterring and responding to terrorist attacks (especially involving weapons of mass destruction);
- the *Department of Justice and the FBI*, which are responsible for domestic surveillance and law enforcement;
- the *Department of Health and Human Services* and the *Centers for Disease Control and Prevention*, responsible for detecting and responding to a bioterrorist attack; and
- the *Central Intelligence Agency* and other parts of the intelligence community, responsible for tracking terrorists and the materials they might bring into the country to do us harm.

And a Department of Homeland Security cannot, by definition, include state and local government authorities. Consolidation may better focus some homeland security efforts, but it cannot include most of them, or even the most important of them.

So even if a consolidated agency is created, there will still be a need for effective coordination. But assigning that function to the head of a new homeland security entity, as many propose, would be a mistake—even if that official were given cabinet rank. A Secretary of Homeland Security, with direct authority for some (but not most) relevant governmental activity, would likely be perceived as partial toward the functions she or he supervised. This would create resistance by peers with major authorities of their own (the Attorney General, for example, or the Secretary of Health and Human Services) just as the Secretary of State—repeatedly called upon to exercise government-wide foreign affairs leadership—comes up against the Department of Defense and the intelligence community.

Coordination is difficult to achieve through any arrangement, but it tends to work better when the leader is perceived as an honest broker and/or can evoke the authority of the White House. If the coordinator is seen as a competitor, other agencies whose cooperation is crucial are likely to balk at following its lead, and bureaucratic fights over turf become pervasive.

Senator Lieberman's bill recognizes the drawback of handing full coordination responsibility to a partial player, and therefore proposes the creation of a National Office to Combat Terrorism within the Executive Office of the President. This office and its director are modeled on a similar structure for coordinating U.S. drug policy. However, past experience with the czar model suggests that this approach is unlikely to work. Even the most effective drug czars (including William Bennett under the first President Bush and General Barry McCaffrey under President Clinton) never were able to wrest control over policy and funding from the individual agencies responsible for implementing drug policy. The ability to develop a national drug control strategy helped the drug czar shape overall policy, while his power to decertify agency budgets provided some leverage over programs. But these powers alone did not bring him overall control. The national strategy became

a largely aspirational document with only very loose ties to budgetary priorities. The decertification powers proved more effective in theory than in practice (McCaffrey was the only ONDCP head to use it, and then only once). Moreover, the draft legislation would establish *both* a Secretary of Homeland Security *and* a White House director, with attendant confusion about which one was, in fact, the leading federal official for this vital issue. That issue is not solved by the legislation's proposal that these two officials co-chair a council charged with overseeing the implementation of the national strategy. Such co-chairmanship is a recipe for conflict, paralysis, or both.

Building on Bush Administration Reforms

A better coordinating approach is the one adopted by the Bush administration, which draws on parallel experience in the national security and economic policy areas. As spelled out in the President's Executive Order, the main coordinating body is the new Homeland Security Council (HSC), which is composed of the president, vice president, attorney general, secretaries of treasury, defense, health and human services, and transportation, and the FEMA, FBI, CIA, and OHS directors. As is the case for the NSC and NEC in their spheres, the HSC is "responsible for advising and assisting the President with respect to all aspects of homeland security. The Council shall serve as the mechanism for ensuring coordination of homeland security-related activities of executive departments and agencies and effective development and implementation of homeland security policies."¹ Since its establishment, the HSC has met as often as twice a week, with the president in attendance.

The HSC process is staffed by Ridge's office, which plays a role akin to that of the NSC staff. And like the NSC, the HSC is supported by an interagency structure that includes the HSC Principals Committee (chaired by Ridge, and composed of all HSC members other than the president and vice president, who are represented by their respective chiefs of staff), the HSC Deputies Committee (chaired by Ridge's deputy and composed of the deputies to the HSC members), and 22 HSC Policy Coordinating Committees (chaired by OHS senior directors) dealing with such issues as detection, surveillance, and intelligence; law enforcement; weapons of mass destruction consequence management; economic consequences; and key assets, borders, territorial waters, and airspace security.

These organizational structures and interagency processes put Ridge in a strong position. As the person designated by the president to lead the government-wide homeland security effort, Ridge has important levers of power within the executive branch that, if employed wisely, can help overcome many of the organizational difficulties inherent in the task—including especially the wide dispersal of authority and capabilities that need to be brought together. By chairing all interagency committees, Ridge and his office have the power to set the agenda, convene meetings, and forge consensus. But wielding that power effectively requires subtlety on Ridge's part. He needs to gain the cooperation of the many cabinet secretaries and agency directors who ultimately will have responsibility for taking the actions that make our homeland safe. Neither Ridge nor anyone on his staff will have the authority to tell others what to do—that must come from the acquiescence, if not support, of Ridge's peers themselves.

¹ "Executive Order Establishing Office of Homeland Security," October 8, 2001, Sec. 5(a), available at: <http://www.whitehouse.gov/news/releases/2001/10/20011008-2.html> (accessed January 2002).

In our statement to this Committee last October, we detail some of the ways in which Ridge can learn from the NSC and NEC experiences to exercise his power effectively.² Ridge must realize that his power in Washington will be ephemeral if not nurtured and protected. Battles will inevitably loom with Cabinet colleagues. He needs to be careful about which ones he chooses to fight—and he must make sure that he wins most of them, particularly during his first year.

Unfortunately, the early returns are not uniformly encouraging. While he worked hard with others to create a national terrorist alert system, the ultimate authority for determining alert levels was vested in the Attorney General, even though the OHS Director was arguably better placed to do so. And whereas Ridge championed the establishment of a new, independent border agency through the consolidation of the Coast Guard, Customs Service, Border Patrol, and Agricultural Quarantine Inspection Agency, he was ultimately forced to join a consensus in favor of something far less, as we discuss below. If such defeats—real and perceived—become a pattern, Ridge will lose credibility. Over time, few will defer to Ridge, and fewer still are likely to follow his lead.

Statutory and Budgetary Authority

Ridge's inability or unwillingness to fight and win some of the tough organizational battles has begun to affect his stature in Washington. The press focuses more on his defeats than on his victories. Pundits are concerned about the slow pace of putting in place a visible homeland security structure and strategy. And politicians both fret about Ridge's refusal to testify on Capitol Hill and worry about his lack of formal authority within the Executive branch. Senator Lieberman's legislation responds to this growing sense that either Ridge is not up to the job or the job is not up to Ridge—either way, organizational reform is necessary.

While statutory authority for White House advisory positions is something presidents naturally tend to shun, such authority is appropriate in Ridge's case. His job by its nature is far more operational and publicly involved than is the norm for those holding parallel positions (like the national security adviser and national economic adviser). He therefore needs to work regularly with Congress, and to use Congressional hearings as a platform for national leadership in the war against terror. In addition, under current circumstances statutory authority may be the best—if not the only—way for Ridge to gain the stature he needs to get the job done.

So rather than creating an entirely new office modeled on the drag czar precedent as Senator Lieberman's bill proposes, the president should seek, and Congress should enact, a bill establishing the Homeland Security Council and the Office of Homeland Security in the Executive Office of the President. Out of deference to presidential authority, it should be a relatively clean bill using the language of the Executive Order and allowing for maximum operating flexibility. It should establish Ridge's job as a confirmable EOP position, with rank and salary at the level of the OMB Director.

Formal establishment for Ridge's position, his Office and the Council should be supplemented with the kind of budgetary authority proposed in Senator Lieberman's bill. That

² Ivo Daalder and Mac Destler, "Prepared Statement before the Senate Committee on Governmental Affairs," Oct. 12, 2001, available at <http://www.brookings.edu/views/testimony/daalder/20011012.htm>. See also Daalder and Destler, "Organizing for Homeland Security," *National Interest* (forthcoming, Summer 2002).

authority, which mirrors the budgetary powers of the drug czar, will help Ridge's office pull together a comprehensive, integrated homeland security budget. It will also provide Ridge with the certification powers to give him some degree of authority over agency budgets. To formalize and strengthen this authority, we would further propose a close integration of the homeland security budgetary effort with the presidential budget process run by OMB. Specifically, we would propose appointing the chief OHS budget person as the OMB associate director responsible for homeland security.

Of course, improving control and authority over the executive branch's budget process is only half the matter. Without concomitant reform of congressional procedures, strengthening Ridge's hand in the budget process will have only a marginal impact. Thus, even while Ridge worked hard to present a unified homeland security budget to Capitol Hill last February, once it arrived here it was quickly disaggregated and its components distributed among multiple appropriations subcommittees. There they will be weighed not in relation to overall homeland security needs, but within such jurisdictions as: Commerce, Justice and State; Defense; and Labor, HHS and Education. What the executive branch has laboriously pulled together, Congress will quickly pull apart. The obvious remedy, difficult though it may be to implement, is to establish new appropriation subcommittees on homeland security in both Houses. If that proves too large a reform to swallow, a second best alternative would be for the appropriation committees as a whole to take up and pass the integrated homeland security budget.

A Federal Border Agency

While we believe that establishing a Department of Homeland Security represents too ambitious and unworkable a consolidation, we strongly favor merger of agencies that perform similar functions—starting with border security. Today, responsibility for securing and monitoring the people, cargo, and conveyors that cross the 7,500 miles of U.S. land and air border is dispersed among many different agencies housed in no less than six distinct cabinet departments (State, Justice, Treasury, Transportation, Agriculture and Defense). That is why Governor Ridge proposed to merge at least some of them into an independent border agency.

Ridge's proposal met with predictable resistance. None of the departments wanted to give up control over border security functions currently under their purview. And all of the agencies were concerned that their duties not related to terrorism would receive shorter shrift if they are merged into a border agency whose primary task it will be to prevent terrorists and weapons from entering the United States.

As Ridge rightly argued, the current case for the status quo is extraordinarily weak. Not a single one of the entities that would be merged into a federal border agency is central to the mission of its Cabinet-agency home—not the Customs Service, not the INS enforcement arm, not USDA quarantine inspection, not the Coast Guard. The Cabinet secretaries now allegedly threatened gave no serious attention to any of them prior to September 11. It may be turf they are guarding, but for them it is not prime turf. Yet, Ridge proved unable to overcome their resistance and rather than pushing the president to endorse his idea he worked to achieve a consensus for a more modest—and largely ineffectual—reorganization. Last month, the HSC unanimously recommended bringing the Customs Service into the Justice Department and merge it with the enforcement arm of INS into a separate agency.

This proposal is at best a half measure. Not only does the new agency exclude the Coast Guard, but by placing it within the Justice Department the parochialism characterizing border security efforts in the past is likely to be perpetuated. The president would do well to reject the recommendation and instead back Ridge's original proposal to create a larger, independent border agency. In addition to the Coast Guard, Customs, INS's enforcement arm, and the agricultural inspection agency, the president and Congress should also give serious consideration to including the newly created Transportation Security Agency responsible for airport security, the Bureau of Consular Affairs part of State, and possibly the entire INS (including its service division) in the consolidated agency.

Conclusion

In summary, we agree with this committee that current U.S. government organization for homeland security needs to be strengthened. But rather than seek a new department or White House office, we believe you should build upon what the Bush administration has established. Specifically, we favor legislation that would:

- Make the Homeland Security Council (and Office) statutory entities, with their Director confirmable by the Senate;
- Enhance the Homeland Security Director's budget authority; and
- Establish an independent Federal Border Agency including a broad range of agencies responsible for monitoring people and goods entering the United States.

We thank you for the opportunity to share our views on this important subject with you and your committee.