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CONGRESSIONAL TESTIMONY

Next Steps for Homeland Security

**Testimony before
Committee on Homeland Security,
Subcommittee on Management,
Investigations, and Oversight
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Thank you for the opportunity to appear before the committee today to discuss the subject of this hearing, “Moving Beyond the First Five Years: Solving the Department of Homeland Security’s Management Challenges.” I would like to raise with the committee three immediate priorities for Congress to tackle, as well as two long-term challenges that should be among the first priorities of the next administration.

The three immediate priorities are:

- Consolidating Congressional oversight of the Department of Homeland Security (DHS);
- Passing homeland security authorization legislation to better structure the department’s oversight role; and
- Restraining further major organizational changes within the department.

Two long-term projects for Congress and the next administration to undertake must include:

- Establishing the national homeland security enterprise; and
- Improving federal interagency operations.

1. Put First Things First—Consolidate Congressional Oversight of the Department of Homeland Security

Arguably, many of the most significant challenges in effectively managing DHS have resulted from disparate and, at times, contradictory direction from Congress. This has resulted in a plethora of unrealistic mandates and endless tinkering by various Congressional committees. Therefore, the first and most productive objective should be to address the lack of effective Congressional leadership.

Congress has failed to consolidate jurisdiction of DHS under one committee in each chamber as recommended by the 9/11 Commission Report. Homeland Security Department officials report to a plethora of committees that offer conflicting and competing guidance. Committees continue to tinker with the department, moving offices and adding missions. Committees other than the homeland security committees still retain jurisdiction over major parts of the department, including the Coast Guard. Consolidating jurisdiction in a single committee in each chamber will resolve these and other coordination problems.

2. Pass a Homeland Security Authorization Bill

Congress not only needs to reform the structure of its oversight but its form as well. Next to defense, arguably the most important congressional responsibility is

ensuring that the federal government has the resources and guidance needed to fulfill its domestic security role. Congress created the Department of Homeland Security in 2002; however, it has yet to pass a homeland security authorization bill—an inexcusable shortfall.

To its credit, the House Committee on Homeland Security has drafted authorization legislation every year since the department's inception, but the measure has never been taken up by the Senate. Congress must make it a priority to improve and pass DHS authorization legislation.

The United States is waging a long battle against transnational terrorism. Congress must pay consistent and close attention to homeland security through the authorization process. Passing an annual authorization bill and further consolidating jurisdiction over DHS would show that Congress takes its responsibilities seriously.

Priorities for the authorization measure should be to:

- Ensure the completion of requirements established in the Homeland Security Act of 2002;
- Complete reforms of the secretariat articulated in the Secretary's Second Stage Review; and
- Reconsider the plethora of operational mandates imposed on the department.

Build a State-Based Regional Response Network. An authorization bill could well begin by addressing fundamental requirements for DHS first established in its enabling legislation. One area in which Congress could speak is on the lack of **DHS** follow-through in establishing a cooperative state-based regional response network. Such a network is an essential next step in building the kind of national security enterprise the nation needs.¹

The rationale for a stronger cooperative regional network based on the states rather than Washington is based on the nature of national disaster response. On average, the federal government needs 72 hours to marshal national resources in response to an incident that has surpassed a state's response capacity.

Usually, a 72-hour delay is not a problem. State and local governments manage most of the responders that arrive immediately at a disaster scene and, in most circumstances, have the critical assets needed to carry themselves through the first three days. This was largely the case even during terrorist attacks, such as the bombing of the Alfred P. Murrah Federal Building in Oklahoma City and both attacks on the World Trade Center in New York City. On the other hand, when catastrophic disasters overwhelm state and local governments at the outset, as in the aftermath of Hurricane Katrina, the 72-hour buffer disappears, and any delays in a coordinated federal, state, and local response have serious consequences.

¹For more information on setting up DHS regional offices, see The Heritage Foundation and The George Washington University Homeland Security Policy Institute Task Force, "Empowering America: A Proposal for Enhancing Regional Preparedness," Heritage Foundation *Special Report* No. 6, April 7, 2006, at www.heritage.org/Research/HomelandDefense/SR06.cfm; and Jill D. Rhodes and James Jay Carafano, "State and Regional Responses to Disasters: Solving the 72-Hour Problem" Heritage Foundation *Backgrounder* No. 1962, August 21, 2006, at www.heritage.org/Research/HomelandSecurity/bg1962.cfm#_ftn2.

Better planning at a regional level could prevent such shortfalls in disaster response. Such efforts should take the form of state-based regional programs that focus on ensuring that states are prepared to sustain themselves and that facilitate cooperation among federal, state, and local efforts. In the Homeland Security Act of 2002, Congress mandated that the Department of Homeland Security set up a regional structure—though the department did follow through on this mandate. Such a structure that coordinates and collaborates with state-based regional programs could help to close the 72-hour gap.

State-based regional programs would focus on ensuring that states are prepared to sustain themselves. Through regional programs, states could learn the capabilities of their partnering states and quickly tap or merge resources as needed. Most recent writing on the development of regional plans, programs, and entities provides for a top-down approach in which the federal government heads the effort. However, a top-down approach may lead to many of the same problems that have occurred during the past few years, such as the potential marginalization of the states by the federal government in emergency planning and response and an overall lack of situational awareness about particular state nuances.

Successful regional programs would focus not on federal structures in each region, but rather on regional emergency management programs and capabilities that are developed, coordinated, and managed by the states. Similar small-scale programs that use a regional model, such as the Emergency Management Assistance Compact (EMAC), have already proven successful. The regional program developed below expands on the idea and focus of EMAC.

DHS regional offices should be required to strengthen state and local preparedness capabilities; facilitate regional cooperation among governments, the private sector, and non-governmental organizations; and plan and exercise with federal entities that support regional disaster response. Such offices would enable regions to access and integrate their capabilities quickly and improve preparedness.

DHS regional offices would have four key missions:

- Facilitating regional planning,
- Organizing regional exercises, training, and doctrine and professional development,
- Helping states and local communities to prepare for catastrophic events, and
- Coordinating critical infrastructure protection.

Establish an Undersecretary for Homeland Security. Chief among the findings in the Second Stage Review was the importance of establishing a secretariat with the capacity of overseeing the department's many activities. One of the most important requirements identified in the review remains unfulfilled—establishing an Undersecretary for Policy and Planning.

Since the Department of Homeland Security was created, many have come to recognize that the agency needs a high-level, high-powered office to develop policies that bind the more than 22 federal entities consolidated within the department, to coordinate with other federal agencies, and to manage international affairs for the department. Congress has yet to authorize an undersecretary for the department to supervise these activities.

This shortfall is inexcusable. The policy and planning requirements of the department have proven broad in scope and vital in execution, from managing affairs overseas to attending to the needs of state and local governments and the private sector. Particularly important is the imperative of completing comprehensive national disaster planning. Six years after September 11, 2001, the federal government still lacks a comprehensive regime for planning and preparing for large-scale disasters.

In part, this shortfall is the product of an inadequate interagency process, the means by which federal agencies organize and cooperate with one another and their partners in state and local government and the private sector. Fixing the problem will require renewed vigor from the administration in setting clear policy guidelines, particularly in implementing a National Exercise Program, emphasizing the priority of interagency disaster preparedness for the National Planning Scenarios, and improving professional development.² Accomplishing these tasks requires the leadership of a homeland security department leader with suitable rank and scope of responsibility.

Rethink Container Security Mandate. Finally, Congress should begin to systematically review some of its most impractical mandates. In 2006, Congress mandated the Secured Freight Initiative to test the efficacy of inspecting 100 percent of shipping containers coming from overseas for terrorist threats. The current system, set by the Container Security Initiative, scans only ““high-risk”“ containers. In 2007, Congress proceeded to mandate 100 percent inspection even before the tests had started. This shortfall should be addressed in authorization legislation.

Congress should establish an independent, bipartisan commission to study the results of the Secure Freight Initiative and the mandate for 100 percent screening of shipping containers and air cargo. This commission should assess the likely threats and look into alternatives for securing global supply chains. The commission should report its findings after the 2008 presidential elections. Congress could then return to the issue in early 2009 with the politics of the election behind it. Based on the results of the commission’s recommendations, Congress should then modify the 100 percent mandate so that U.S. policy bolsters security and prosperity equally well.

3. End Unwarranted Restructuring

One of the most troubling practices of Congress has been to periodically impose reorganization mandates on DHS. The constant turmoil imposed on the Department of Homeland Security has **adversely affected operations** distracted the leadership, and slowed the process of establishing effective processes and procedures. The first priority of Congress should be to end unwarranted tinkering.

Particularly problematic are continuing calls to move the Federal Emergency Management Agency (FEMA) out of the department. Such proposals misread the lessons of Katrina and fail to comprehend the true nature of the federal role in disaster response.³

²For recommendations see, Matt A. Mayer and James Jay Carafano, “National Disaster Planning Slowed by Inadequate Interagency Process,” Heritage Foundation *Backgrounder* No. 2079, October 24, 2007, at www.heritage.org/Research/HomelandDefense/bg2079.cfm.

³See James Jay Carafano and Matt A. Mayer, “FEMA and Federalism: Washington Is Moving in the Wrong Direction,” Heritage Foundation *Backgrounder* No. 2032, May 8, 2007, at www.heritage.org/Research/HomelandDefense/bg2032.cfm; and James Jay Carafano, “Improving the

Moving FEMA out of the department or any other major restructuring at this time would only further slow the development of the department as an effective organization. At the very least, Congress should impose a moratorium on restructuring or rethinking the department's roles and missions until after the department delivers and Congress deliberates on the first Quadrennial Security Review.

Beyond the short term priorities of consolidating Congressional jurisdiction; establishing authorization legislation; and refraining from restructuring the department, Congress should begin to look to the long-term demands of homeland security. Here there are two areas worthy of attention: 1) establishing a national homeland security enterprise; and 2) improving interagency operations.

Homeland Security 3.0

For future improvements to homeland security, Congress should look not primarily to the department or even to the federal government. Congress should increasingly turn its attention to the national homeland security enterprise, which includes every level of government, every community, and the private sector.

Working together with the Center for Strategic and International Studies (CSIS), the Heritage Foundation has convened a working group to examine the priorities for improving the overall state of homeland security. We have identified five areas that require particular attention. They include:

- **Domestic Intelligence.** Six years after 9/11, the United States has yet to fully articulate a concept for domestic intelligence that completely addresses 21st century threats; the promise of modern technology; and the demands of protecting the rights of our citizens.
- **Human Capital.** At every level of governance and throughout the private sector the nation needs a corps of individuals with the skills, knowledge, and attributes required to fulfill the complex duties associated with ensuring domestic security, facilitating economic growth, and protecting individual liberty.
- **Community Preparedness.** The best preparation for disasters is facilitating a culture of preparedness that empowers and enables individuals and communities to take care of themselves during disaster rather than becoming increasingly dependent on Washington for direction and resources.
- **Resiliency.** Critical infrastructure protection has become an increasingly expensive and unsuitable concept for ensuring the continued delivery of goods and services in the face of terrorist threats. U.S. policies would be better served by moving toward a strategy relying on counterterrorism measures to thwart attacks, while focusing on the resiliency of infrastructure, and the capacity to continue to provide services or quickly recover in the event of a terrorist attack.

- **International Cooperation.** Homeland security is a global mission. From securing the border to protecting global supply chains, virtually every aspect of preventing terrorist attacks has an international dimension that requires the United States to work effectively with friends and allies.

The CSIS–Heritage Foundation task force plans to provide specific recommendations in each of these areas in their report that will be released in September. I look forward to the opportunity to brief the Congress on their findings.

Team Washington. The very rationale for creating the Department of Homeland Security—the imperative of integrating the many agencies and activities that bear on domestic security—highlights one of Washington’s greatest enduring shortfalls, one that could well be addressed by the next administration. In meeting complex challenges that transcend the core competencies of a single department, government does a mediocre job in marshalling all the resources required. Washington can do better—and homeland security would be good place to start.

Even after the consolidation of roles and missions in the department, many of the essential tasks undertaken by the federal homeland security enterprise rest with other departments. Ensuring all these agencies work together more effectively would be a responsible goal for the transition.

The Departments of Homeland Security, Defense, Health, State, and Justice, as well as the other government agencies that bear responsibility for elements of the homeland security enterprise, each have separate and unique capabilities, budgets, cultures, operational styles, and Congressional oversight committees. They even operate under different laws. Getting them all organized during times of crisis and after disasters can be like herding cats. For meeting the dangers of the twenty-first century, interagency operations will be more important than ever.

Leave the Constitution Alone

The pressing demand for interagency reform does not require that the federal government be reorganized. There is nothing wrong with the underlying principles of American governance. Especially essential are the Constitutional “checks and balances” that divide federal power between the executive, legislative, and judicial branches. This division entails not only sharing responsibility within and among the branches of government but ensuring accountability and transparency in the act of governing. Shortcutting, circumventing, centralizing, undermining, or obfuscating Constitutional responsibilities does not make democratic government work better.

Respecting the principle of federalism is also imperative. Embodied in the U.S. Constitution, the imperatives of limited government and federalism give citizens and local communities the greatest role in shaping their own lives. The 10th Amendment states that “powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” In matters relating to their communities, local jurisdictions and individuals have the preponderance of authority and autonomy. This makes sense: The people closest to the problem are the ones best equipped to find its solution.

Repeating History

Washington's efforts at pulling together routinely fall short for the same reasons. For its part, Washington can certainly do better—in large measure simply by improving interagency operations. For in the long history of interagency operations, the same problems spring up again and again.⁴

Reason 1: Government undervalues individuals. Human capital refers to the stock of skills, knowledge, and attributes resident in the workforce. Throughout its history, Washington has paid scant attention to recruiting, training, exercising, and educating people to conduct interagency operations. Thus, at crucial moments, success or failure often turns on happenstance—whether the right people with the right talents just happen to be at the right job.

Reason 2: Washington lacks the lifeline of a guiding idea. Doctrine is a body of knowledge for guiding joint action. Good doctrine does not tell people what to think, but it guides them in how to think—particularly in how to address complex, ambiguous, and unanticipated challenges when time and resources are both hard pressed. Unfortunately, throughout our nation's history, government has seldom bothered to exercise anything worthy of being called interagency doctrine. The response to Katrina offers a case in point. The U.S. government had the equivalent of a doctrine in the form of the National Response Plan. Unfortunately, it had been signed only months before the disaster and was barely practiced and little understood when disaster struck.

Reason 3: Process cannot replace people. At the highest levels of government, no organizational design, institutional procedures, or legislative remedy has proved adequate to overcome poor leadership and combative personalities. Presidential leadership is particularly crucial to the conduct of interagency operations. During the course of history, presidents have had significant flexibility in organizing the White House to suit their personal styles. That is all for the best. After all, the purpose of the presidential staff is to help presidents lead, not tell them how to lead. Leadership from Congress, especially from the Committee Chairs, is equally vital. There is no way to gerrymander the authorities of the committees to eliminate the necessity of competent, bi-partisan leadership that puts the needs of the nation over politics and personal interest. And, in the end, no government reform can replace the responsibility of the people to elect officials who can build trust and confidence in government, select qualified leaders to run the government, and demonstrate courage, character, and competence in crisis.

Making Washington Work

Addressing these issues requires a scalpel, not a sledgehammer. It would be a mistake to think of interagency operations as a uniform, one-size-fits-all activity requiring uniform, one-size-fits-all reforms.

The highest rung of the interagency process is that that of making interagency policy and strategy. These are the tasks largely accomplished inside the Washington beltway by officials from the White House and heads of federal agencies in cooperation

⁴ See James Jay Carafano and Richard Weitz, *Mismanaging Mayhem: How Washington Responds to Crisis* (Westport, Conn.: Praeger, 2008). This work includes a collection of historical cases analyzing the effectiveness of interagency operations since World War I.

and consultation with Congress. Over the course of modern history, this has actually become the strongest component of the interagency process. When it does fail, failure can often be traced to people and personalities (inattentive presidents or squabbling cabinet officials) more than to process.

Improving performance at the highest level of interagency activities should properly focus on the qualities and competencies of executive leadership, as well as upon getting the best-quality information to the leaders so that they can make the best informed decisions.

Operational activities stand on the second rung of the interagency process. These activities comprise the overarching guidance, management, and allocation of resources needed to implement the decisions made in Washington. Arguably, it is at this level of government where government's record is most mixed.

Outside the Pentagon's combat command structure (which has staffs to oversee military operations in different parts of the world), the U.S. government has few established mechanisms with the capability to oversee complex contingences over a wide geographical area either at home or overseas. Processes and organizations are usually *ad hoc*. Some are successful. Others are dismal failures. In the domestic theater, it mistake to rely a rigid federal structure. Rather, what is required is an effective system of organization based on a cooperative regional structure built around the governance of individual states. The regional Department of Homeland Security I outlined could significantly aid in facilitating this structure.

The third component of interagency activities is field activities. That's where the actual works gets done—rescuing people stranded on rooftops, handing out emergency supplies, administering vaccines, and supervising contractors. Here success and failure usually turns on whether the government has correctly scaled the solution to fit the problem.

Inside the United States, state and local governments largely take care of their own affairs. When the problems are manageable these approaches work well. On the other hand, when the challenges swell beyond the capacity of local leaders to handle, as in the case of the response to Hurricane Katrina, more robust support mechanisms are required. Arguably, what's most needed at the field level are: 1) better doctrine; 2) more substantial investments in human capital (preparing people to do to the job before the crisis); and 3) appropriate decision-making—instituting the right doctrinal response when a crisis arises.

Goldwater–Nichols

A generation ago, the U.S. military faced similar professional development challenges in building a cadre of joint leaders—officers competent in leading and executing multi-service operations. The Goldwater–Nichols Act of 1986 mandated a solution that required officers to have a mix of joint education, assignments, and board accreditation to become eligible for promotion to general officer rank.⁵

⁵For the genesis and explanation of the Goldwater–Nichols reforms, see James R. Locher III, *Victory on the Potomac: The Goldwater-Nichols Act Unifies the Pentagon* (College Station: Texas A&M University Press, 2002).

Goldwater–Nichols is widely credited with the successes in joint military operations from Desert Storm to the War on Terrorism. The recipe of education, assignment, and accreditation (EA&A) can be used to develop professionals for other critical interagency national security activities.⁶

An EA&A program that cuts across all levels of government and the private sector must start with professional schools specifically designed to teach interagency skills. No suitable institutions exist in Washington, academia, or elsewhere. The government will have to establish them. Although the resident and non-resident programs of many university and government schools and training centers can and should play a part in interagency education, Washington’s institutions should form the taproot of a national effort with national standards.

Qualification will also require interagency assignments in which individuals can practice and hone their skills. These assignments should be at the “operational” level so leaders can learn how to make things happen, not just set policies. Identifying the right organizations and assignments and ensuring that they are filled by promising leaders should be a priority.

Accreditation and congressional involvement are crucial to ensuring that these programs succeed and continue. Before leaders are selected for critical (non-politically appointed) positions in national security, they should be accredited by a board of professionals in accordance with broad guidelines established by Congress.

Congress should require the creation of boards that: 1) establish educational requirements and accredit institutions needed to teach national and homeland security; 2) screen and approve individuals to attend schools and fill interagency assignments; and 3) certify individuals as interagency-qualified leaders. Congress should also establish committees in the House and Senate with narrow jurisdictions over key education, assignment, and accreditation interagency programs.

The Clock Is Ticking

In Washington the important is often sacrificed for the urgent. The important, like reforming the interagency process, is put off until later, but later never comes. Thank you for the opportunity to discuss this and other issues critical to transitioning responsibility for homeland security from this administration to the next.

⁶Proposed reforms are described in James Jay Carafano, “Missing Pieces in Homeland Security: Interagency Education, Assignments, and Professional Accreditation,” Heritage Foundation *Executive Memorandum* No. 1013, October 16, 2006 at www.heritage.org/Research/HomelandSecurity/em1013.cfm.

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