

THE HOMELAND SECURITY COUNCIL:  
A DIFFERENT STRUCTURE FOR A DIFFERENT CHALLENGE

Paul N. Stockton ([pnstock@stanford.edu](mailto:pnstock@stanford.edu))

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An overwhelming consensus has emerged on behalf of a very bad idea. Capping a broader drive to reorganize the federal government for the post-9/11 era, a spate of recent studies argue that the next president should subsume the Homeland Security Council (HSC) in the National Security Council (NSC), and thereby fix glaring problems in the way the White House develops U.S. policy and oversees its execution.<sup>1</sup> Two such problems are especially severe. The next administration will inherit a broken system for coordinating the disparate federal departments that contribute to homeland security. Moreover, while states and localities play a key role in providing for homeland security, they have only sporadic opportunities to help shape the policies they must execute. A series of policy failures has been the result.

Merging the HSC and NSC would make both coordination problems worse. The National Security Council has a full plate managing the federal-level conflicts between its current members, especially the State and Defense departments. A merger would not only pile dozens of other interagency disputes on the NSC's agenda, but also confront the Council with policy coordination problems utterly unlike those familiar to it, leaving homeland security to get short shrift. Coordination between federal, state and local governments would suffer still greater damage. While Bush Administration officials promised in 2002 to including state and local input into homeland security policymaking, the HSC took only halting steps to institutionalize such a role, even as key policy initiatives suffered as a consequence. The time has come to make states and localities full partners in shaping the policies they help implement. To do so, the president should

bring their representatives into the Homeland Security Council, rather than shoehorn them into an NSC structured to meet entirely different challenges.

#### FIXING THE WRONG FEDERAL-LEVEL PROBLEM

President George W. Bush's creation of the HSC in 2002 was part of a larger change in the way the United States is organized for security. Before 9/11, National Security Council presided over a very small and tidy set of institutions: Department of Defense, the Department of State, and the Central Intelligence Agency (CIA) had near-total responsibility for U.S. security, and were coordinated by the National Security Council. After 9/11, Bush organized a sprawling parallel system of institutions to protect the United States from terrorist attack. The Department of Homeland Security (DHS) is only part of that system. The Bush administration also assigned terrorism prevention functions to the Departments of Agriculture (USDA), Health and Human Services, Interior and other federal institutions that had never before played such significant roles in securing the United States from attack. Bush then capped this parallel security system with a Homeland Security Council to help guide and coordinate its activities.<sup>2</sup>

Advocates of merging the NSC and HSC argue that the separation between them cripples the integration of domestic and international components of security policy. These advocates contend that by creating two Councils and their supporting staffs, the White House has bifurcated its approach to national security issues, even though the issues themselves frequently hinge on interrelated domestic and international factors.<sup>3</sup> But merger supporters have yet to cite a specific instance in which the division of labor between the NSC and HSC has wrecked a policy initiative. Impediments to collaboration between the two staffs do exist -- most pathetically, their reliance on different email systems.<sup>4</sup> Nothing, however, precludes the NSC and HSC staffs from building effective working relationships across jurisdictional lines, as long as the next president and his appointees make such collaboration a priority. The NSC and National Economic Council (NEC) forged just such a relationship during the Clinton administration; the NSC and HSC can do the same.

The more formidable problems for integration lie in the seams that plague interagency planning and coordination *within* the homeland security system. The incoming administration will inherit major conflicts over department roles and responsibilities for homeland security, including disputes between DHS and the Department of Justice over terrorism prevention and response;<sup>5</sup> between DHS and DOE over preparing cities against nuclear or radiological attack,<sup>6</sup> and -- more recently -- over which agency should have primary responsibility to safeguard U.S. bioterrorism research facilities from rogue employees.<sup>7</sup> The next president will also inherit significant gaps in interagency planning for pandemics and other catastrophic incidents.

These problems stem in part from the Bush administration's failure to effectively staff and empower the HSC to resolve interagency conflicts over them. When the president created the new Council, White House officials said that it would have a staff comparable in size to the NSC, and would have the authority and political backing from the president to coordinate the agencies under its purview.<sup>8</sup> The HSC today has a staff one-fifth the size of the NSC's and labors under much more stringent budget and salary constraints.<sup>9</sup> Rather than rely on HSC to guide interagency planning, President Bush increasingly relied on DHS to serve as the "lead agency" in those efforts. DHS is unable to stand above inter-department rivalries in the way that a White House staff can, however, especially since DHS is a partisan in the very turf wars it is supposed to resolve.

The persistence and severity of these interagency problems also reflects deeper characteristics of the homeland security system -- characteristics that make the system poorly suited to merging with that of the NSC. The most striking feature of the homeland security system lies in the number of institutions that comprise it. Over 30 departments and independent agencies perform homeland security functions, creating a dizzying array of interagency seams and coordination requirements. A fully staffed HSC focused exclusively on homeland security would have its hands full meeting these coordination needs. Putting 30 additional institutions under the purview of the national security advisor, much less making them members of the NSC, would create immense

span of control problems for the advisor and risk putting domestic issues at the bottom of her in-box.

The novelty of the security functions performed by these 30 institutions creates further problems for interagency planning and coordination. Until 9/11, departments such as USDA had never played significant security functions; now, they have critical roles in protecting U.S. population and infrastructure from attack. Melding these security *arivistes* into an integrated system creates innovation challenges quite different from those posed by the departments overseen by NSC, which have been handling security issues for decades. The institutions under the HSC's purview also share a distinctive internal problem the NSC's departments lack. DOD, the CIA and the State Department focus almost exclusively on security-related issues. Departments such as DHS, USDA and DOJ must not only help secure the United States from attack, but also perform their traditional domestic functions unrelated to (and sometimes in funding and programmatic competition with) their post-9/11 responsibilities. The NSC has never had to deal with such difficult intra-agency tradeoffs between security and non-security functions. Adding that problem to the Council's existing agenda, rather than leaving the issue to an HSC that focuses on the distinctive challenges of homeland security, makes little sense.

## II. LEADING A BROADER REVOLUTION: STATES, LOCALITIES AND THE RESTRUCTURING OF THE HOMELAND SECURITY COUNCIL

Studies of interagency coordination usually focus on the horizontal problems of integration: that is, on the coordination of departments across the executive bureaucracy. Homeland security entails a second dimension as well: the vertical coordination of federal, state and local governments. More to the point, that vertical dimension represents a crucial difference between homeland security and national security issues, and between the coordination challenges confronting the HSC and NSC. National security policies rarely depend on state and local implementation; DOD and other federal departments carry them out. In contrast, state and local governments (and police,

firefighters and public health workers they employ) are absolutely vital to homeland security, making vertical coordination more important as a consequence.

The two policy realms also differ in the president's authority to solve coordination problems. Scholars are fond of noting how little de facto control the president exercises over the federal bureaucracy.<sup>10</sup> Nevertheless, in the national security system, where the primary coordination challenge lies in integrating the work of DOD, the State Department and the CIA, the chief executive -- e.g., the president -- exercises at least formal authority over that system and can fire department heads who resist coordination. The political context of homeland security is very different. Governors do not work for the president. They are independently elected, and are the sovereign chief executives of their states. Homeland security thus entails a paradox. The integration between federal, state and local governments is vastly more important in the homeland security system than in its national security counterpart. Yet, the president has remarkably little authority to impose such vertical integration, especially in comparison with his command over national security institutions.

The Bush administration sought to deal with this paradox when it created the Homeland Security Council. In late September 2001, then-White House Chief of Staff Andrew Card promised that state and local governments would be represented on the Council.<sup>11</sup> That representation would help the HSC bring state and local perspectives to bear on building an integrated homeland security system, and would give them a say over the plans and programs they would need to implement. Including state and local representatives also offered a politically astute way to compensate for the president's lack of command authority over them. By making states and localities party to the decisions that the HSC hammered out, the White House could also increase the likelihood that they would support the policies they helped frame.

The Bush administration's fulfillment of this pledge on state and local representation fared even worse than its promise of robust HSC staffing. Bush did establish a President's Homeland Security Advisory Council to make recommendations to the HSC, and included state and local officials in that panel, along with private sector

leaders, academics and myriad other participants.<sup>12</sup> But that panel was purely advisory and had no authority over the HSC decisions that would affect its state and local members. Those members were also selected by the president rather than by governors or mayors. Moreover, as in federal-level interagency planning, DHS gradually assumed responsibility from the HSC to integrate state and local efforts with federal policymaking, even as spread of homeland security functions across the federal bureaucracy made integration increasingly difficult for any one department to coordinate.

The consequences have been predictable. Across an array of initiatives, the administration has permitted only limited and sporadic state and local input, producing federal policies and programs that conflict with the requirements of the non-federal agencies crucial to their success. The Homeland Security Information Network (HSIN) exemplifies this flawed process. The network is DHS' key system for sharing homeland security data with states and localities, and is operated by state and local officials nationwide. Yet, DHS did not coordinate with those officials to develop effective joint policies and procedures, integrate HSIN with existing information sharing systems, and ensure the network would meet state and local requirements.<sup>13</sup> DHS is now replicating the same coordination mistakes in its effort to replace the failed network with the HSIN Next Generation program.<sup>14</sup>

These problems of vertical integration are pervasive. The National Response Framework is the key plan for melding federal, state and local agencies into a disaster response system more effective than that which catastrophically failed in Hurricane Katrina. The Bush administration failed to meet statutory requirements to coordinate its development of the 2007 Framework with states and localities, and has yet to put policies or procedures in place provide for such coordination as a revised Framework is developed.<sup>15</sup> Similar coordination failures have produced gaps in U.S. plans for preparedness against pandemic flu;<sup>16</sup> for integrating federal, state and local response efforts against nuclear attack;<sup>17</sup> and for an array of other plans and programs.<sup>18</sup> The overall assessment provided by the National Sheriffs' Association, the National Emergency Management Association, and a dozen other nationwide associations representing state and local homeland security concerns: the federal government follows

“top down” approaches to policymaking that are “uncoordinated and create unintended negative cascading effects.”<sup>19</sup>

The next administration can only provide for better-integrated policies, plans and programs by institutionalizing a role for states and localities in shaping them. Placing these state and local representatives in the National Security Council would produce a bizarre clash of political cultures and professional competencies. NSC staffers are vastly more likely to know the name of the president of Georgia (abroad) than the governor of Georgia (at home). That is a good thing. The NSC staff has enormous expertise in dealing with international security issues, and Russia’s military incursion into Georgia is a reminder of how dangerous a place the world remains.

But the state of Georgia also involves policy challenges of great importance. Georgia’s cities face threats of catastrophic hurricanes and other natural hazards. Mohammed Atta took flying lessons in Georgia before applying those skills to kill thousands of Americans.<sup>20</sup> Against both types of threats, it will be essential for the next administration to build more effectively integrated local, state and federal capabilities for homeland security. The HSC is the right place to provide for that vertical integration. Properly staffed by professionals who speak fluent “state and local,” and for whom a governor’s sovereignty is second nature rather than an oddity to maneuver around, the HSC can be a much better fit for state and local representatives than a merged staff dominated by international security specialists.

That begs that question of who would represent states and localities in the HSC. The Homeland Security Advisory Council that President Bush established in 2002 was hobbled not only by its lack of authority, but also by Bush’s insistence that he select the Council’s members. Providing for state and local representatives in the HSC who are not beholden to the president or tied to his political preferences would bring a more fully representative perspective to bear on policymaking. Of course, with over 80,000 state and local jurisdictions in the United States, representing all such jurisdictions in the HSC is a non-starter. The best approach would be to require states and localities to propose their own selection mechanisms. Organizations such as the National Governors

Association and the National League of Cities have already called for a much stronger, formalized state and local role in homeland security policymaking. Now is the time to embrace that recommendation, and strengthen the HSC to meet the unique policymaking challenges of homeland security.

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<sup>1</sup> *9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks upon the United States* (New York: Norton, 2004), p. 406; Richard C. Clarke and Rand Beers, *The Forgotten Homeland* (New York: Century Foundation, 2006), pp. 129–33; P.J. Crowley, *Safe at Home: A National Security Strategy to Protect the American Homeland, the Real Central Front* (Washington, DC: Center for American Progress, 2008), pp. 60-1; Jonah Czerwinski, “A Future for the Homeland Security Council?” *Homeland Security Watch*, 21 November 2007, at <http://www.hlswatch.com/index.php?s=A+Future+for+the+Homeland+Security+Council>; Clark A. Murdock and Michèle A. Flournoy, *Beyond Goldwater-Nichols: U.S. Government & Defense Reform for a New Strategic Era, Phase 2 Report* (Washington, DC: Center for Strategic and International Studies, 2005), p. 68; Cindy Williams, *Strengthening Homeland Security: Reforming Planning and Resource Allocation* (Washington, DC: IOBM Center for the Business of Government, 2008), p. 36; Christine Wormuth and Anne Witkowsky, *Managing the Next Catastrophe: Ready (Or Not)?* (Washington, DC: Center for Strategic and International Studies), pp. 16-18.

<sup>2</sup> *Homeland Security Presidential Directive-1/HSPD-1, “Organization and Operation of the Homeland Security Council,”* October 29, 2001, p. 1, at <http://www.whitehouse.gov/news/releases/2001/10/20011030-1.html>

<sup>3</sup> Williams, p. 30; Wormuth, p. 16.

<sup>4</sup> Wormuth, 16.

<sup>5</sup> Wormuth, pp. 4-5, 29.

<sup>6</sup> *Combating Nuclear Terrorism: Federal Efforts to Respond to Nuclear and Radiological Threats and to Protect Key Emergency Response Facilities Could be Strengthened* (Washington, DC: US Government Accountability Office, November 2009).

<sup>7</sup> Nelson Hernandez and Philip Rucker, “Anthrax Case Raises Doubt on Security,” *Washington Post*, 8 August 2008, p. A1.

<sup>8</sup> Elizabeth Becker and Tim Weiner, “A Nation Challenged: Homeland Security; New Office to Become a White House Agency,” *New York Times*, 28 September, 2001.

<sup>9</sup> Wormuth, p. 16; Williams, p. 29.

<sup>10</sup> Richard Neustadt, *Presidential Power* (New York: Free Press, 1990)

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<sup>11</sup> Becker and Weiner, loc cit.

<sup>12</sup> *Homeland Security Council Executive Order, Order Establishing the President's Homeland Security Advisory Council and Senior Advisory Committees for Homeland Security*, the White House, 21 March 2002.

<sup>13</sup> *Information Technology: Homeland Security Information Network Needs to Be Better Coordinated with Key State and Local Initiatives* (Washington, DC: Government Accountability Office, 10 May 2007).

<sup>14</sup> Rep. Bennie Thompson (R-Miss.), Chair, House Committee on Homeland Security, *Letter to Michael Chertoff*, Secretary of DHS, 23 July 2008. Thompson's letter summarizes the findings of a GAO study of the Next Generation initiative that GAO has not yet released.

<sup>15</sup> *National Response Framework: FEMA Needs Policies and Procedures to Better Integrate Non-Federal Stakeholders in the Revision Process* (Washington, DC: Government Accountability Office, June 2008).

<sup>16</sup> *Influenza Pandemic: Further Efforts Are Needed to Ensure Clearer Leadership Roles and an Effective National Strategy* (Washington, DC: US government Accountability Office, 14 August 2007).

<sup>17</sup> James Schwarz, Chief, Arlington Fire Department, and Paul McHale, Assistant Secretary of Defense for Homeland Defense and Americas' Security Affairs, *Testimony* to U.S. Senate Committee on Homeland Security, "Nuclear Terrorism: Providing Medical Care and Meeting Basic Needs in the Aftermath – the Federal Response," 6 June 2008, at <http://hsgac.senate.gov/public/index.cfm?Fuseaction=Hearings.Detail&HearingID=4beb5b2f-726f-4541-98cf-763b0656d777>.

<sup>18</sup> For a survey of homeland security plans that have gaps caused by inadequate coordination, see William Jenkins, *Emergency Management: Observations on DHS's Preparedness for Catastrophic Disasters* (Washington, DC: US Government Accountability Office, 11 June 2008), pp. 8-9 and passim.

<sup>19</sup> The National Homeland Security Consortium, "Protecting Americans in the 21<sup>st</sup> Century: Imperatives for the Homeland," April 2008, pp1-2, at <http://www.nemaweb.org/?2253>.

<sup>20</sup> 9/11 Commission Report, p. 229.