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Reforming the Department of Homeland Security Through Enhanced Oversight & Accountability

Carrie F. Cordero

with photographs by Ivan Pierre Aguirre



About the Author



Carrie F. Cordero is the Robert M. Gates Senior Fellow and General Counsel at the Center for a New American Security. Her research and writing interests focus on intelligence community oversight, transparency, surveillance, cybersecurity, and related national and homeland security law and policy issues.

She is also an adjunct professor of law at Georgetown Law and a CNN legal and national security analyst. Ms. Cordero spent the first part of her career in public service, including as Counsel to the Assistant Attorney General for National Security; Senior Associate General Counsel at the Office of the Director of National Intelligence; and Attorney Advisor at the U.S. Department of Justice, during which time she handled critical counterterrorism and counterintelligence investigations and appeared frequently before the Foreign Intelligence Surveillance Court. At the U.S. Department of Justice and the Office of the Director of National Intelligence, she worked extensively on developing policies, procedures, and processes relating to oversight, compliance, and protection of privacy and civil liberties in the context of government national security investigations and intelligence activities. She also served as a Special Assistant United States Attorney. After leaving government service, Ms. Cordero was the Director of National Security Studies at Georgetown Law, and was in private practice, handling matters related to surveillance, law enforcement response, security, and privacy. She has testified before the U.S. Congress on surveillance reform and foreign influence on democratic institutions. Ms. Cordero earned her J.D., *cum laude*, from Washington College of Law, American University, and her B.A., *magna cum laude*, from Barnard College, Columbia University.

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[@carriecordero](#)

About the Photographer



Ivan Pierre Aguirre is a freelance photographer based in El Paso, Texas. Born and raised in a border city, he began covering border and immigration issues that were important to him and his community in 2008, along the southwest region and in Juarez, Mexico. Mr. Aguirre was a photographer/contributor to the

Texas Tribune's five Edward R. Murrow Awards for the Tornillo and border stories in 2019. He earned his B.A. from the University of Texas at El Paso. Previously, he was a photo intern at the San Angelo Standard-Times, Scripps Howard News Service, Washington Post Newsweek Interactive, San Antonio Express-News, and Associated Press in Mexico City.

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Introduction

In November 2002, 14 months after the attacks of September 11, 2001, the Department of Homeland Security (DHS or the department) was created by Congress to make America safer from terrorism.¹ At the time, the policy focus was on international terrorism, in particular al Qaeda. Since then, not only has the terrorism landscape evolved—from al Qaeda and its affiliates to ISIS to the present increased attention to domestic terrorism linked to white supremacist violence²—but the scope and complexity of national security threats have evolved. The new department centralized border security, immigration enforcement, transportation security, emergency management, and critical infrastructure protection, plus additional functions, with an intent to protect against future terrorist attack. The fundamental activities of the department, however, have always been broader than terrorism. And over the years, attention to the department has quickly shifted depending on the critical events of the time, whether a natural disaster, such as Hurricane Katrina in 2005, or persistent cyberattacks and other malign cyberactivity since the mid-2000s, or the emergence of a global pandemic.³ Meanwhile, due to a variety of factors, the size and complexity of DHS's law enforcement functions have grown, while recent attention has focused primarily on the border and immigration functions. The department is arguably the most operational agency in the federal government in terms of its routine activities that affect and directly touch millions of people each day. These varying and disparate missions across the department are focused domestically and therefore require substantial attention to whether and how they are carried out in accordance with law and respect for constitutional protections.



On a typical morning, pedestrians line up on the Paso Del Norte International Bridge to enter El Paso from Juarez, Mexico. (IPA)

This report, issued as part of a Center for a New American Security (CNAS) project⁴ on enhancing DHS oversight and accountability, posits that 18 years into the department's existence, the functions of border security and immigration enforcement, as well as the law enforcement functions of Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) in particular, have grown disproportionately large in size and broad in scope, without the necessary oversight and accountability structures that must accompany such activities.⁵ And DHS's border and immigration functions are under tremendous strain as they are tasked with increased policy directives, humanitarian challenges on the southern border, intense political pressure, and growing public scrutiny about these functions. The department is in severe need of legislative attention and policy coordination. If it does not reform to address the issues identified in this report, it is likely the department will face calls for partial or full dismantlement under a future administration.⁶ Such a result would undo nearly 20 years of effort to better protect the nation from terrorism and emerging homeland threats, and risk returning to a pre-9/11 era of disjointed homeland security coordination.

An unintended consequence of consolidating its legacy entities into one department, however, has been that DHS is now the largest federal law enforcement agency in the country. That makes the secretary of Homeland Security the federal law enforcement executive with leadership over the greatest number of federal law enforcement officers, with oversight and management responsibilities larger in quantity and far different in operational scope than the FBI director or the attorney general of the United

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The U.S. Border Patrol detains migrants under the Paso del Norte International Bridge, El Paso, Texas. Some members of the local media questioned whether the U.S. government's creation of these temporary, severe conditions was intended to bring attention to needed resources for border security. (IPA)

States. And yet, DHS's internal oversight and accountability mechanisms as an institution have not been appropriately calibrated to those responsibilities. Nor was the purpose of DHS to facilitate the creation of a federal police force, which is constitutionally prohibited. And Congress chose not to pursue the creation of an internal security or domestic intelligence agency following the attacks of September 11, 2001. Instead, Congress created the department to coordinate existing functions related to protecting the United States, other than complex investigations relating to terrorism and collecting foreign intelligence information. As a result of intense political pressure combined with weak internal controls, however, DHS is currently suffering from a severe public backlash to its operations, and even existence, which is detrimental to DHS's ability to effectively perform its critical mission. Such a department or agency cannot operate effectively domestically without public confidence that its activities are conducted lawfully and appropriately. Building public confidence in DHS activities, and enhancing controls within DHS that will improve public confidence, will bolster DHS effectiveness. For DHS to remain a viable entity, it must conduct its activities according to law and constitutional principles, and it must foster public confidence that it is doing so.

Three substantial adjustments should be made to improve DHS's effectiveness and stability in the next decade and beyond, particularly in the areas of border security, immigration enforcement, and law enforcement. First, DHS core statutory authorities should be updated to accurately reflect its day-to-day homeland security functions and the activities that are in support of those functions. Congress should update DHS's legislative charter to align its practical functioning with its legal authorities. Second, DHS must pursue efforts to enhance public confidence in the lawful functioning and integrity of government agencies, and law enforcement activities in particular. The way to achieve this second goal is to bolster its internal oversight and accountability functions by encouraging the development of a department-wide culture of compliance and oversight through legislation that establishes the structural and budgetary framework supporting those activities. If the agency is going to continue to conduct the breadth of security and law enforcement functions it has been charged with, its internal oversight and accountability structures and operations must mature accordingly. Third, Congress should take on responsibility for overseeing these improvements and needs to overcome its well-known jurisdictional infighting to tackle modernizing the department. This report provides six specific and practicable recommendations to achieve these goals, including proposed text to modernize the department's mission statement in a manner that reflects current operations and activities, incorporates respect for the rule of law, and provides for a proactive approach to protecting the nation from the security threats of today and tomorrow.



BUILDING PUBLIC CONFIDENCE IN DHS ACTIVITIES, AND ENHANCING CONTROLS WITHIN DHS THAT WILL IMPROVE PUBLIC CONFIDENCE, WILL BOLSTER DHS EFFECTIVENESS. FOR DHS TO REMAIN A VIABLE ENTITY, IT MUST CONDUCT ITS ACTIVITIES ACCORDING TO LAW AND CONSTITUTIONAL PRINCIPLES, AND IT MUST FOSTER PUBLIC CONFIDENCE THAT IT IS DOING SO.

Background on Selected DHS Operations



From its inception, there has been an incongruence between DHS's foundational statutory mission and its day-to-day operations, as exercised through the already-existing authorities of its legacy agencies' components.

DHS was created in response to the terrorist attacks of September 11, 2001. As the 9/11 Commission Report would later document when released in 2004, the attackers took advantage of gaps and inadequacies in aviation security, immigration enforcement, and related security efforts. At the time, consolidation of these and related border security efforts were enacted by Congress to provide better and more efficient coordination of all homeland security activities, a concept that was not part of the mainstream national security, defense, or academic lexicon prior to the 2001 attacks. In the post-9/11 environment, policymakers were able to work off of a blueprint for the department previously developed by the early 2001 Commission on National Security/21st Century (known as the Hart-Rudman Commission), which previewed the homeland security concept.⁷ With over 250,000 employees and contractors, and a budget of over \$70 billion, DHS is now the third-largest federal government department.⁸

From its inception, there has been an incongruence between DHS's foundational statutory mission and its day-to-day operations, as exercised through the already-existing authorities of its legacy agencies' components. In theory, and according to its statutory mission, four of the top seven statutory objectives of the department are related to terrorism, all of which could be related to terrorism but all of which are also functions that exist irrespective of terrorist threats.⁹ As a practical matter, most of DHS's activities fall into five overarching categories: (1) border protection and transportation security; (2) immigration system administration and enforcement; (3) cyber and infrastructure protection; (4) disaster preparedness and response; and (5) protection against chemical, biological, radiological, nuclear, and explosive threats or activities.¹⁰ In addition, the department has substantial detention responsibilities related to its border and immigration functions. Thus, throughout its first 18 years of existence, the department has underachieved its original, terrorism-specific mission because the primary responsibility for investigating international and domestic terrorism resides with other government agencies and elements of the intelligence community.¹¹ Worse, it has outgrown its original mission because the nature of the threats to national and homeland security have substantially evolved over time.¹² And even for missions that have grown over time—for example, cybersecurity—the lead DHS entity (Cybersecurity and Infrastructure Agency) does not have investigative authority; those investigations are conducted by both the FBI and, within DHS, the Secret Service. The mismatch between DHS's statutory mission and its day-to-day functions is increasingly apparent.

DHS is the largest federal law enforcement agency in the country, with well over 60,000 law enforcement officers.¹³ Law enforcement officers and agents work in 10 DHS components: Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), Coast Guard, Secret Service,



CBP tactical law enforcement units conduct training exercises in El Paso, Texas. (IPA)





CBP officers monitor the port of entry at the Paso del Norte International Bridge. (IPA)

Transportation Security Administration (TSA), National Protection and Programs Directorate's Federal Protective Service, Federal Emergency Management Agency (FEMA), Office of the Under Secretary for Management's Office of the Chief Security Officer, Federal Law Enforcement Training Centers, and Office of the Inspector General.¹⁴ Based on fiscal year 2018 reporting, the number of law enforcement personnel in CBP and ICE is greater than that of the FBI, Drug Enforcement Administration (DEA), and the Bureau of Alcohol, Tobacco, and Firearms (ATF)—three main investigative law enforcement agencies in the Department of Justice—combined. In CBP¹⁵ and ICE alone, there are a combined 54,901 agents: 20,711 Border Patrol agents,¹⁶ 17,468 Office of Field Operations officers, 8,738 Homeland Security Investigations (HSI) agents, and 7,984 ICE Enforcement and Removal Operations (ERO) agents.¹⁷ The U.S. Secret Service includes approximately 3,200 agents.¹⁸ As a point of comparison, as of FY 2018, there were 14,120 agents in the FBI, 4,341 in the DEA, and 2,640 in the ATF. CBP alone has a larger law enforcement force than the FBI and DEA combined. In addition, both CBP and ICE operate and oversee a significant detention system within the United States. While the full extent of these agencies' detention operations is beyond the scope of this

report, their existence and the compliance problems surrounding them are highly relevant to the report's overall focus on enhancing oversight and accountability, as discussed below.

CBP includes the Border Patrol, but the CBP mission is broader than that of the Border Patrol alone. CBP officials in the Office of Field Operations work at official points of entry.¹⁹ Border Patrol agents monitor the space between lawful points of entry, focusing on interdicting foreign persons entering the country unlawfully, human smugglers and drug traffickers, or other threat actors.²⁰ And Air and Marine Operations monitors conduct operations in their domains. The size of the Border Patrol has grown, from under 5,000 agents and pilots in 1992 to over 20,000 in 2009; there are 20,711 agents and pilots as of 2018.²¹ The ability of the Border Patrol to retain an experienced workforce has not kept pace with the significant hiring increases, resulting in a high attrition rate.²² One of the repercussions of the fast growth of the force is the inadequacy of corresponding oversight and accountability mechanisms. Border Patrol authorities, including their law enforcement powers, are derived from legacy authorities under the Immigration and Nationality Act.²³ Although the intent of the creation of DHS was to address threats from terrorists, the day-to-day activities of the Border Patrol

have remained primarily “preventing unauthorized aliens from entering the country”; the vast majority of these “unauthorized aliens” are not actual or suspected international terrorists.²⁴ Moreover, much of the Border Patrol’s responsibilities in recent years have grown to meeting humanitarian needs in addition to enforcement activities, given the increased migration on the southern border. CBP’s leadership and workforce have struggled to successfully adapt to that new environment, particularly in light of the polarized legislative debate over border security enforcement.²⁵

With respect to ICE operations, there has been an increasing approach over decades of treating ICE enforcement activities as law enforcement, when historically they were viewed as an administrative function and as an aspect of government activity more closely tied to economic and labor considerations. In one capacity, ICE carries the responsibilities to arrest and deport individuals without legal status to remain in the United States under the purview of its ERO component. ERO is charged with enforcing the laws governing lawful status and immigration. This role makes ICE particularly susceptible to accusations of harsh enforcement activity, as it is responsible for carrying out the enforcement of existing laws, consistent with policy directives from the executive branch. Particularly in an environment when the current administration has made it a policy priority to increase the scope of enforcement activity, ICE’s activities have come under further scrutiny.²⁶

In another capacity, however, ICE performs law enforcement investigative work concerning intellectual property rights,²⁷ counterfeiting, drug trafficking, and human smuggling. This work takes place under the purview of ICE’s other component, HSI. Despite its stated mission to protect against terrorism, DHS does not have primary responsibility to conduct counterterrorism investigations:

Homeland Security Act Section 101: “(2) RESPONSIBILITY FOR INVESTIGATING AND PROSECUTING TERRORISM.—Except as specifically provided by law with respect to entities transferred to the Department under this Act, primary responsibility for investigating and prosecuting acts of terrorism shall be vested not in the Department, but rather in Federal, State, and local law enforcement agencies with jurisdiction over the acts in question.”²⁸

Over time, HSI has applied its counterfeit investigative authorities in order to play a more visible role in protecting events of national significance, such as the Super Bowl, which is a designated National Special Security Event (NSSE).²⁹ The Super Bowl is a useful example of how HSI mobilizes, and how DHS more broadly



DHS plays a leading role in providing security for significant national events, such as the Super Bowl.³² (Twitter)

mobilizes its component agencies to protect against terrorism or other threats to large-scale public events to provide public safety. Overall, DHS, including both CBP and ICE, clearly embraces the NSSE role, although the Secret Service is the entity charged as the lead entity for NSSEs.³⁰ The contrast between the crisis in resources presented by the department with respect to its southern border activities and the image (complete with go-fast boats, helicopters, mobile command centers, and polished video public relations messaging) for its recent NSSE activities, is striking. HSI also publicized its physical presence at this year's Mardi Gras, posting a photo of HSI agents walking the streets of New Orleans.³¹

Within ICE, however, the incongruence between its day-to-day immigration enforcement and transnational criminal investigations, money laundering, and counterfeiting investigations creates tension. In June 2018, 19 HSI special agents in charge (SACs) wrote a letter to then-Secretary Kirstjen Nielsen requesting that ICE's HSI and ERO be split into separate agencies. The HSI SACs argued that HSI has developed into a global leader in combating transnational crime and that being combined with ERO has hindered that growth. This proposal has merit for the reasons described by the SACs, as well as because the law enforcement investigative activities of ICE have contributed to an overall increasing culture of law enforcement in the agency, which is inconsistent with the administrative activities conducted by ERO. Serious consideration should be given to separating the (1) law enforcement investigative activities; (2) protective activities that support DHS's homeland security mission, such as national event preparedness; and (3) immigration enforcement activities. A more effective structural delineation would need to accommodate the synergies that exist within DHS for comprehensive NSSE activities. Further below is a recommendation addressing the complex investigative activities of HSI.



ICE HSI officers walk the streets at Mardi Gras. (ICE)

Demonstrating the Need for Improved Oversight & Accountability

An Impressionable Department with Weakened Leadership & Insufficient Oversight Framework

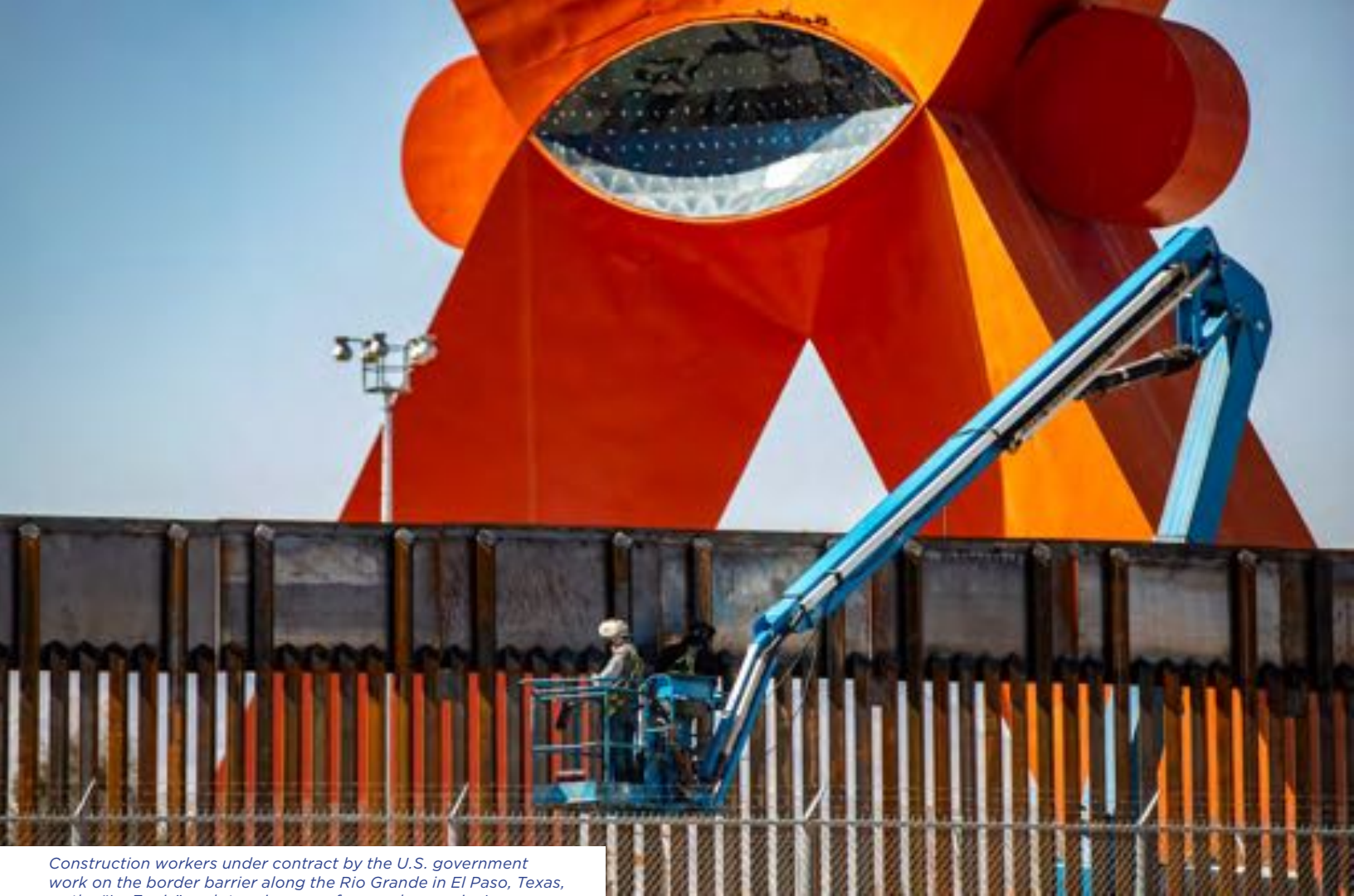
Only 18 years into its existence, DHS is a relatively young department, even if some of its legacy components have an extensive history. But because its core immigration, border security, and law enforcement functions involve complex authorities, implementation, and consequences for civil liberties, it is essential that the department have effective oversight structures. Yet DHS has “struggled to mature”³³ as an organization. According to former Inspector General John Roth in testimony before Congress last year, the agency suffers from “poor employee morale” and “a dysfunctional work environment.”³⁴ Management or organizational improvements made by one secretary can easily be reversed or naturally atrophy under another. As currently designed, too much about the department’s effective functioning is dependent on political appointments at leadership levels. Additional oversight and accountability mechanisms need to be developed in the law governing the department and baked into its institutional mechanics and culture.

Recently, DHS law enforcement activities have proved susceptible to an inappropriate level of White House control and influence, beyond expected responsiveness to political leadership. While DHS as a whole was designed, in part, to be responsive to legitimate political priorities, its volume of political appointees and weak headquarters structure have shown significant signs of law enforcement activities appearing politically motivated. As its law enforcement functions have grown, that political malleability can have the appearance of tainting law enforcement as being politically motivated. DHS’s political malleability has been on display in the past three years due to this White House’s persistent pressure on its leadership corps, resulting in high turnover of personnel occupying positions that require Senate confirmation, the department’s willingness to implement policies with what appears to be minimal legal review and implementation planning, and overtly political public messaging from both DHS leadership and official departmental social media accounts. Pursuing policies that stretch or go beyond the boundaries of existing law has contributed to the persistent leadership crisis at DHS, as Senate-confirmed agency executives have been forced to resign or been fired for not implementing policies inconsistent with law. A paucity of internal policies, regulations, and other governance documents has made DHS more

A DHS security officer secures a protest at the Tornillo port of entry. (IPA)



vulnerable to such external manipulation. When the public starts to perceive homeland security, including law enforcement activities, as politically motivated, or, worse, when these activities actually become politically motivated, it undermines public confidence that law enforcement activities are conducted equally under the law.³⁵ This state of affairs is corrosive to the rule of law in a functioning democracy.



Construction workers under contract by the U.S. government work on the border barrier along the Rio Grande in El Paso, Texas, as the “La Equis” sculpture is seen a few yards away in Juarez, Mexico.⁴⁰ (IPA)

The current administration came into office with political promises made by the president to limit immigration and build a wall on the southern border. The president’s advisors have been effective at translating the candidate’s instincts and campaign rhetoric into policy initiatives by, for example, focusing on limiting entry of foreign nationals from specific countries (i.e., the “travel ban”)³⁶ and redirecting congressionally appropriated funding to build a wall on the southern border in spite of a congressional decision not to do so.³⁷ While it is certainly legitimate for a new administration to change policy direction, the administration has found a soft spot in DHS. The department is susceptible to political exploitation, that is, using the legitimate enforcement and administrative functions of the agency as mandated by law for political purposes.³⁸ By doing away with many interagency processes that have existed as norms in prior administrations but are not required by law, White House staff have been able to advance policies that do not sufficiently take into account legal requirements and constraints.³⁹

Leadership vacancies and institutional weaknesses are well known within the department. In testimony before the House Committee on Homeland Security in May 2019, former Inspector General Roth told the

committee that, “[i]n the best of times, DHS is an unruly and difficult to manage organization. We are not in the best of times. The nature and extent of senior leadership vacancies in the Department is cause for concern as such pervasive vacancies significantly hamper the Department’s ability to carry out its all-important mission.”⁴¹ While acting officials play a role in filling gaps, Senate-confirmed leaders are more accountable to Congress and are more empowered to effect strategic and long-term change than acting officials who are temporary. In addition, there are certain functions that can only be performed by a Senate-confirmed official. Congress must leverage its authorities to encourage the president to nominate and fill these important positions with qualified, politically accountable leaders. Even where Congress can legislate, the department will not reach its potential without executive leadership. In the first three years of the Trump administration, there have been five secretaries of homeland security, only two of whom were confirmed by the Senate. And, although not all of these require Senate confirmation, as of late February 2020, there are acting officials in the following capacities: secretary; deputy secretary; commissioner for Customs and Border Protection; commissioner for Immigration and Customs Enforcement;



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AND THE JUDICIARY.



Chad Wolf, testifying here before the Senate Committee on Appropriations, is the current and fifth secretary of homeland security in three years, and the third to serve in that capacity on only an acting basis, without Senate confirmation, since January 2017. (Getty Images)

undersecretary of management; undersecretary of science and technology; director of U.S. Citizenship and Immigration Services; undersecretary for the Office of Strategy, Policy, and Plans; chief of staff; executive secretary; general counsel; chief financial officer; chief information officer; chief privacy officer; deputy undersecretary of science and technology; deputy administrator of TSA, assistant secretary for countering weapons of mass destruction; and assistant secretary for public affairs.⁴²

Meanwhile, DHS as an organizational entity has a disparate framework for conducting comprehensive oversight and accountability activities. Its Secretary's Office is small in size and is generally assessed to operate in an environment of managing a federated department of independent agencies, as opposed to leading a cohesive department. An integrated, whole-of-agency approach to oversight and accountability has yet to be developed. Oversight in government agencies is best managed through a layered approach. This includes oversight conducted within the agency, oversight conducted from elsewhere in the executive branch, and oversight from the other two branches of government, Congress and the judiciary.

Focusing only on the internal DHS oversight mechanisms, there are individual component agencies that have professional responsibility or oversight responsibilities, and there are headquarters components that have oversight functions. What DHS lacks, however, is an effective organizational framework across the agencies and components that effectively develops, prioritizes, and coordinates its oversight activities. DHS, at the departmental level, does have the skeleton of an effective internal control apparatus, which includes the Office of General Counsel, Privacy Office, Office of Civil Rights and Civil Liberties (CRCL),⁴³ and Office of Inspector General.⁴⁴ The Policy Office and Management Directorate also could be considered part of a loose oversight network, if those offices were empowered to exercise oversight across the department. Next, individual components or agencies have their own internal control units. CBP has, for example, an Office of Internal Affairs; an Office of Professional Responsibility; a Joint Intake Center, which receives allegations of misconduct; an agency-level civil rights and civil liberties office; and a field oversight office.⁴⁵ ICE, meanwhile, has its own Office of Professional Responsibility, Office of Detention Oversight, and Office of Diversity and Civil Rights, which facilitates complaints regarding potential civil rights or liberties violations. What is missing, however, is a headquarters-driven mechanism or framework for coordinating and managing these fragmented oversight activities. Former DHS officials report that the Secretary's Office currently is not staffed



A Border Patrol officer detains an adult with a child while waiting for other migrants to be processed. (IPA)

or structured to effectively manage the oversight and compliance functions of the department given its size and substantive operational breadth.⁴⁶ Thus, to improve the effectiveness of these disparate oversight-focused entities, DHS needs an organizational framework other than the leadership and political skills of a particular secretary to coordinate these efforts and ensure that oversight activities across the department are resourced, coordinated, and effective.

Family Separation and Migrant Deaths Under DHS Authority

The pursuit of a policy absent an articulated legal foundation and thoughtful interagency coordination and planning was apparent in the implementation of the family separation policy in the spring of 2018, which resulted in the separation of upwards of 2,500 children from their families. The program had previously been piloted between July and November 2017 in the El Paso, Texas, region,⁴⁷ and was formally implemented in early 2018 in conjunction with the companion “zero-tolerance” policy of prosecuting illegal entry by the Justice Department under a policy change authorized by then-Attorney General Jeff Sessions. The implementation of family separation resulted in the forcible separation of children who had arrived with a parent or guardian, without sufficient

planning for reuniting the adults with the children after a suitable period of time. In a scholarly article, *The Law Against Family Separation*, researched and written under the umbrella of this CNAS project by the author of this report with law professors Heidi Li Feldman and Chimène Keitner, the authors argue that analysis of domestic and international law counsels against the legality of intentionally separating children from



A boy waits on the Paso del Norte International Bridge in November 2019. (IPA)

A girl waits in line with her mother on the Paso del Norte International Bridge in October 2019. (IPA)



parents or guardians as a punitive, deterrent purpose in the context of enforcing immigration laws.⁴⁸ Sufficient legal review aside, the policy was implemented without the most basic bureaucratic due diligence. In particular, neither DHS nor the Department of Health and Human Services had confirmed the existence of, or developed, an electronic tracking system to keep track of children separated from their parents and placed in separate detention facilities. The policy appeared to have been implemented without regard to the potential harmful long-term consequences to the children and families affected.⁴⁹

An additional area that demands greater oversight and accountability within DHS is the prevalence of deaths of migrants en route to the United States or in DHS custody. Although there have been isolated instances of migrant deaths prior to the existence of the department, including in May 2003 when a group of migrants were found dead in a truck trailer in Texas, and in October 2002 when a group of migrants were found dead in an Iowa railway car, more recently, the deaths of adults or children while in DHS custody appear increasingly problematic. From September 2018 to September 2019, 10 migrants died in CBP custody.⁵⁰ In 2019 alone, six children died in DHS custody.⁵¹ These circumstances include the death of Carlos Gregorio Hernandez Vasquez, a 16-year-old who died in a Border Patrol holding cell in May 2019 and was not discovered until many hours after he died, presumably on the floor of his CBP holding cell.⁵² This particular incident is but one example highlighting the challenges involved in CBP detention practices, including the extended detention of individuals in holding rooms and other facilities originally designed for short-term detention only, and not adequate for the age and family connections or travel of newly arriving migrants. The Hernandez Vasquez death was subject to investigation by DHS itself, local police, and the FBI.



A Border Patrol officer briefs the media inside a new processing facility that houses migrant families. (IPA)

Workforce Misconduct & Corruption

Confidence in government institutions is eroded when there is sustained evidence of misconduct and corruption. A June 2019 DHS Office of the Inspector General (OIG) report found that DHS “does not have sufficient policies and procedures to address employee misconduct.”⁵³ The OIG conducted a review that spanned the entire department, finding that despite thousands of allegations of misconduct each year, and repeated reviews articulating such problems, the department has been unable to develop a consistent program of reporting or handling misconduct.⁵⁴

Despite the tough physical and mental environment in which Border Patrol agents work and even heroic activities agents may engage in to provide humanitarian support for migrants, the Border Patrol, in particular, has suffered from pervasive corruption among its agents and staff.⁵⁵

From 2005 to 2012, 125 current or former CBP employees were convicted of corruption-related activities.⁵⁶ Twice that many are arrested each year.⁵⁷ Most of the problems of corruption pertain to employees on the southwest border—where the majority of Border Patrol agents are assigned—as those are the government officials most targeted by the drug and trafficking cartels with bribes.⁵⁸

Corruption is anathema to an organization that is charged with enforcing the law and degrades that agency’s ability to effectively perform its homeland security mission. An advisory council charged with reviewing CBP activities and led by former New York City Police Chief William Bratton found in 2016 that CBP was facing an enormous challenge in reforming its internal controls in order to bring down corruption rates and increase accountability.⁵⁹ Polygraphs in the hiring process have appeared to play a significant role in trying to prevent corruption, but other mechanisms are needed.⁶⁰ There has for several years, however, been disagreement over jurisdiction questions between CBP’s Internal Affairs office and DHS’s agencywide Inspector General.⁶¹ The result is that corruption, low standards in hiring, and a mandate to hire more have resulted in a continuation of the problem.

Migrant boys are held in detention at the Tornillo tent city as officers patrol nearby. (IPA)

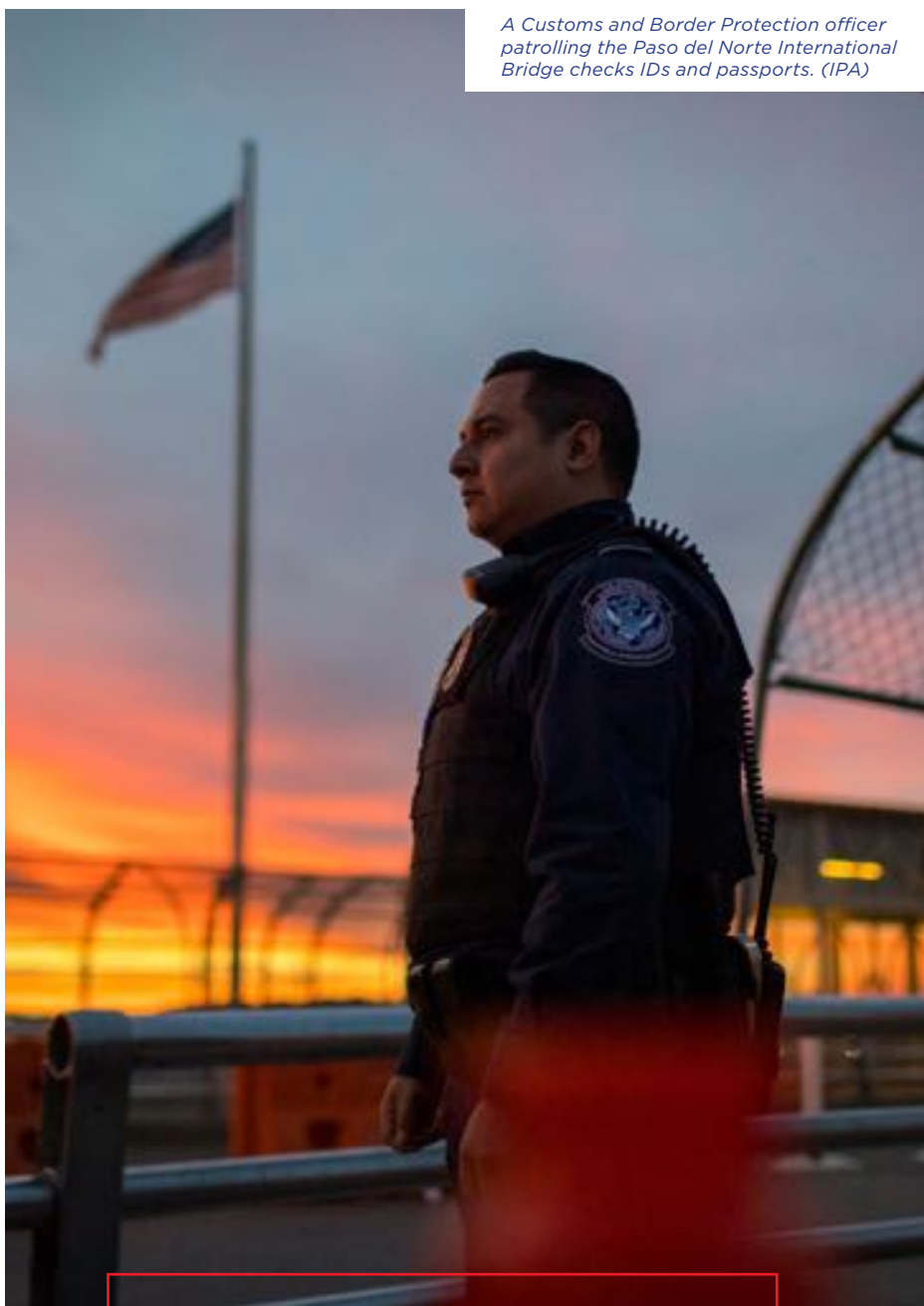


Recommendations

Given the instability of leadership in the department in recent years, improvements to the department's oversight and compliance competencies need to be mandated by congressional action. The recommendations below are intended for Congress's consideration of steps it can take to mandate policy development that will force the department to improve oversight and accountability. Improving oversight and accountability is important to maintain the integrity of the functions that DHS provides, and to better insulate the department from inappropriate politicization. While legislation alone cannot create and foster a culture of compliance and oversight, it can mandate structural changes that encourage such a culture and put in place specific mechanisms through which Congress can hold the department accountable.⁶² Despite the intended efforts of successive secretaries to encourage unity of effort⁶³ across the department, DHS has continued to suffer from weak internal controls required of a mature organization.⁶⁴ Moving forward, this report recommends that DHS leadership develop an agency-wide culture of compliance and oversight. A culture of compliance and oversight includes enhancing the workforce's knowledge of and respect for the Constitution and laws; appropriate and updated guidelines and policies for the workforce to follow; oversight and compliance structures and personnel to ensure that rules are followed, and when not, clearly identified remediation and consequences are transparent and implemented; and agency leadership that puts oversight and accountability at the top of its agenda.

Many DHS activities inherently implicate civil liberties, privacy, and other constitutionally protected activity. Whether in relation to activities that interact with U.S. citizens, lawful residents, prospective immigrants, migrants, or those present in the United States on an unauthorized basis, all of these individuals, once in the United States, are afforded basic constitutional protections, and interactions with them must adhere to U.S. law.⁶⁵ In addition, international law considerations are involved in activities at the border and abroad. Unlike some parts of the federal bureaucracy that operate mainly from Washington, D.C., and have little interaction with the civilian population, DHS is a public-facing and public-serving agency, often in a one-on-one, up-front, and personal way. DHS also is in a position to receive high volumes of information about

A Customs and Border Protection officer patrolling the Paso del Norte International Bridge checks IDs and passports. (IPA)



WHILE LEGISLATION ALONE CANNOT CREATE AND FOSTER A CULTURE OF COMPLIANCE AND OVERSIGHT, IT CAN MANDATE STRUCTURAL CHANGES THAT ENCOURAGE SUCH A CULTURE AND PUT IN PLACE SPECIFIC MECHANISMS THROUGH WHICH CONGRESS CAN HOLD THE DEPARTMENT ACCOUNTABLE.



people in general as compared with other federal entities involved in national security, which are focused solely on foreign intelligence. Thus, the need for attention to constitutional, statutory, and policy requirements geared toward the protection of civil liberties and privacy is heightened when it comes to DHS. DHS needs to build an oversight and accountability infrastructure, a substantial aspect of which is devoted to developing policies and procedures that are consistent with protection for privacy and civil liberties.

1. Update DHS's Legislative Mandate

Despite the current administration's emphasis on immigration enforcement and border security, DHS's mandate under law consists of far more robust responsibilities.⁶⁶ Even in the light of executive policy priorities, the department has a statutory mandate to fulfill a wide array of homeland security roles. Meanwhile, DHS's core mandate at Section 101(b) of the Homeland Security Act overly emphasizes its responsibilities that pertain to terrorism, a vision of DHS that is unrepresentative of its day-to-day activities. Congress should update the DHS statutory mission to make clear that its intent and authorization is for DHS to conduct homeland security activities across a wide array of current and emerging threats. The department's mandate should reflect both the goals of originally creating it and the responsibilities that Congress intends the department to carry out, as well as policy priorities. The mandate of 2002 is simply no longer reflective of the modern threat environment, and it must be updated.

An ancillary benefit to updating the statutory mandate is that it may assist in streamlining congressional oversight over the agency—a subject of long-standing frustration among just about anyone who has been involved in the interactions between DHS and Congress. The consolidation of congressional oversight over DHS functions is well known as one of the last unaccomplished recommendations of the 9/11 Commission.⁶⁷ Despite the existence of a designated committee of oversight in each chamber of Congress—the House Committee on Homeland Security and the Senate Homeland Security and Government Affairs Committee—there are currently over 100 congressional committees that can claim DHS oversight responsibilities.

Proposed text is included here of a modernized mandate reflecting that terrorism is among the threats DHS strives to prevent and respond to but is not singular in its significance.

National security threats since 2002 have grown more complex over time, and the agencies charged with responding to them must be similarly positioned to be able to adapt.⁶⁸

With a piece of steel and concrete from the original World Trade Center behind them, members of the Senate Committee on Homeland Security and Government Affairs conduct a hearing on "The State of Homeland Security After 9/11" in New York, 2019. (Getty Images)



Proposed Update to Legislative Text of Homeland Security Act Section 101

Homeland Security Act (current)

SEC. 101. EXECUTIVE DEPARTMENT; MISSION.

(a) ESTABLISHMENT.—There is established a Department of Homeland Security, as an executive department of the United States within the meaning of title 5, United States Code.

(b) MISSION.— (1) IN GENERAL.—The primary mission of the Department is to—

(A) prevent terrorist attacks within the United States;

(B) reduce the vulnerability of the United States to terrorism;

(C) minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States;

(D) carry out all functions of entities transferred to the Department, including by acting as a focal point regarding natural and man-made crises and emergency planning;

(E) ensure that the functions of the agencies and subdivisions within the Department that are not related directly to securing the homeland are not diminished or neglected except by a specific explicit Act of Congress;

(F) ensure that the overall economic security of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland; and

(G) monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking.

Homeland Security Act (proposed update)

SEC. 101. EXECUTIVE DEPARTMENT; MISSION.

(a) ESTABLISHMENT.—There is established a Department of Homeland Security, as an executive department of the United States within the meaning of title 5, United States Code.

(b) MISSION.— (1) IN GENERAL.—The primary mission of the Department is to—

(A) prevent terrorist attacks within the United States; provide for security from current and emerging threats from abroad and within its borders consistent with the Constitution and rule of law;

(B) reduce the vulnerability of the United States to terrorism (international and domestic), natural disasters, and manmade crises, including cyberattack, through leadership of emergency planning, coordination with federal, state, local, tribal and private sector partners, and border security and immigration enforcement;

(C) minimize the damage, and assist in the recovery, from terrorist attacks, natural disasters, and manmade crises, including cyberattack, that do occur within the United States or, in the case of cyberattack, against United States persons and/or interests.

(D) carry out all the functions of entities transferred to the Department in 2002, consistent with this section; including by acting as a focal point regarding natural and man-made crises and emergency planning;

(E) ensure that the functions of the agencies and subdivisions within the Department that are not related directly to securing the homeland are not diminished or neglected except by a specific explicit Act of Congress;

(F) ensure that the overall economic security of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland; and

(G) monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking in coordination with federal, state, local, and tribal law enforcement agencies.



A Border Patrol officer patrols along the Rio Grande under the Paso del Norte International Bridge between El Paso and Juarez. (IPA)

2. Direct the Development of Operational Guidelines

In addition to modernizing the core mandate of the department as discussed above, Congress should direct the promulgation of operational guidelines by the secretary. Operational agencies can only conform to expectations of conduct if they have clear guidance to follow. Accordingly, Congress should require that the secretary of homeland security issue, in consultation with the Attorney General, Guidelines for DHS Domestic Operations. The Attorney General's involvement is important because the statutory consultation requirement will add a layer of executive branch oversight over the department that does not currently exist. Given the substantial privacy and civil liberties implications of DHS activities, the involvement of Department of Justice legal and policy coordination will provide necessary external views based on substantial experience in creating such guidelines. As discussed earlier, DHS is arguably the most operational of any government agency in its day-to-day work; its guidelines and accompanying policies and procedures should reflect the constitutional basis, legal framework, and care with which such operations should be conducted. Comprehensive guidelines across the department, and

where needed for individual components, will set a baseline of constitutional and lawful activity and make clear across the workforce expectations and standards for professional activities.⁶⁹

In developing these guidelines, the secretary of homeland security should oversee a comprehensive review of operational and investigative guidelines across the department.⁷⁰ The guidelines should establish baseline requirements to ensure that all DHS operational and investigative activity is conducted according to constitutional requirements, with special attention to Fourth and First Amendment requirements and principles. Next, the guidelines should articulate categories of activities that are permissible. It may be that, due to the disparate nature of activities of each component of DHS, a separate set of guidelines is necessary for individual agencies, such as ICE and CBP. The guidelines for each sub-agency, should, however, be consistent where possible, as they relate to standards for investigations, protocols for investigative techniques, handling of personal information, and protection for civil rights and liberties. Because these interagency processes can take time—and often take more time than is reasonable—such a legislative requirement should come with a mandatory statutory deadline and reporting requirement to Congress upon their completion.⁷¹

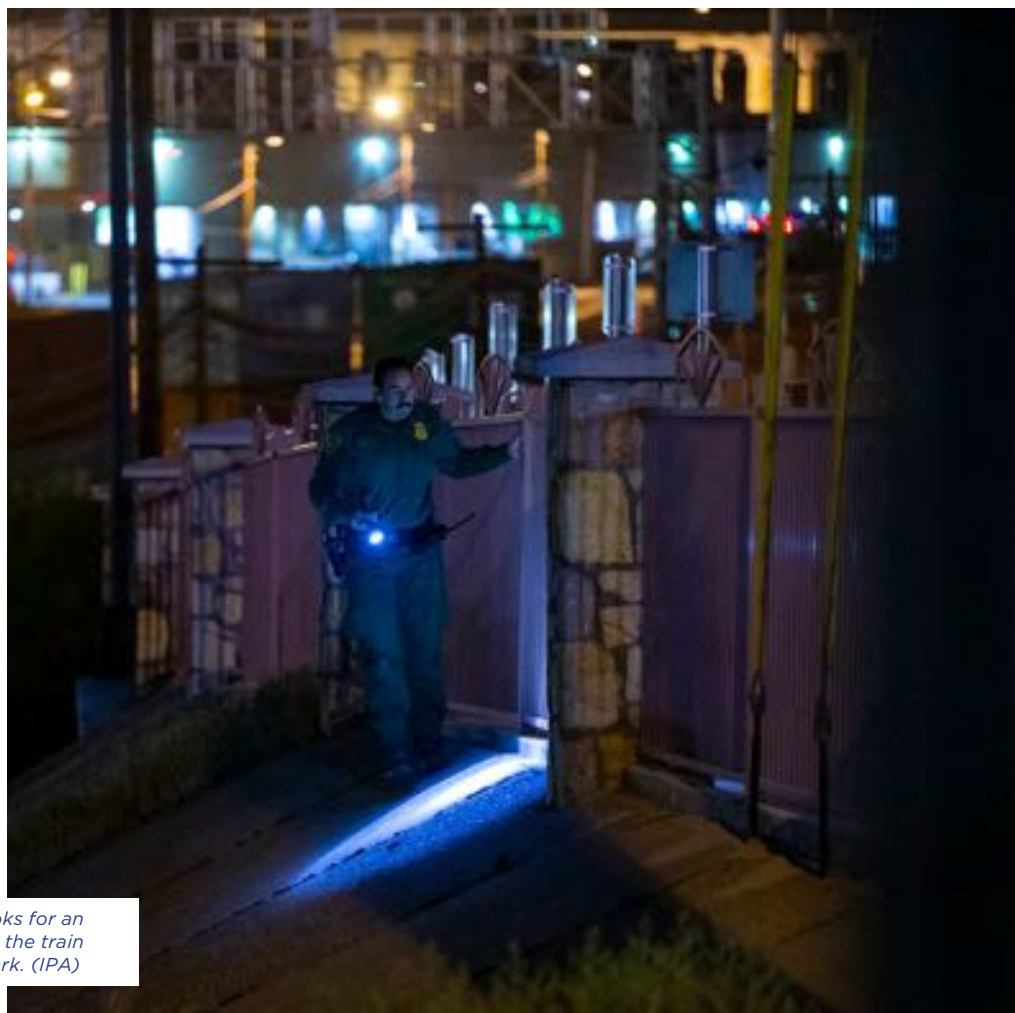
3. Require Transparency About Operational Guidelines and Procedures

Once the guidelines proposed above are issued, as much as possible about the documents themselves and their implementing procedures should be made publicly available. One of the ways that a government department or agency can enhance public confidence is through enhanced transparency. National and homeland security and law enforcement operational activities are afforded greater confidence when the nature of those activities is as transparent as possible, consistent with the need to protect *legitimate* operational equities or investigative sources and methods. Therefore, as the new guidelines as recommended here are developed, special care should be taken to create guidelines that can be unclassified and made publicly available. Additional departmental policies implementing the guidelines that contain law enforcement sensitive information may also be developed and released publicly, consistent with the need to protect certain sensitive investigative techniques.

Transparency efforts are currently the responsibility of the Privacy Office, but transparency initiatives likely go beyond subject matter under the direct authority of the privacy officer. DHS could go a long way toward improving the public's understanding of its work if it conducted a thorough effort to provide transparency regarding its guidelines and procedures.⁷² DHS has shown that when it undertakes a concerted effort to improve guidelines on a particular aspect of its operations, it is capable of success. In recent years, CBP, for example, released a new use-of-force manual that was a result of substantial internal and external engagement by senior CBP leadership.⁷³ Early results indicate the improved internal guidance has reduced the number of shootings.⁷⁴



DHS HAS SHOWN THAT WHEN IT UNDERTAKES A CONCERTED EFFORT TO IMPROVE GUIDELINES ON A PARTICULAR ASPECT OF ITS OPERATIONS, IT IS CAPABLE OF SUCCESS.



A Border Patrol officer looks for an unauthorized entrant near the train station in El Paso in the dark. (IPA)



A CBP officer walks migrants, who crossed through an opening in the barrier near the train tracks between Juarez (on the right) and El Paso, to be processed. (IPA)

4. Mandate Management & Structural Changes to Facilitate Oversight

To encourage department leadership to take tangible steps to improve oversight and accountability in the department, Congress needs to mandate certain structural changes that will contribute to that effort. The leadership structure of the department should be updated to provide more substantial oversight of the vast DHS enterprise. The current leadership structure is inadequate. Morale is low, with DHS ranking last among large agencies in the annual survey of federal government “best places to work.”⁷⁵ Currently, DHS’s leadership structure consists of a secretary and deputy secretary. Under those, there are four undersecretaries (for management; science and technology; intelligence and analysis; and strategy, policy, and plans) who work on equal footing with the agency and other component heads and report directly to the deputy secretary and secretary. In interviews with former DHS officials who served in the Bush, Obama, and/or Trump administrations, the organizational leadership of the department was consistently described as more akin to the federated structure of the intelligence community—which has autonomous agency heads and a director of national intelligence who coordinates budgets and policies, but not operations—than to a department with strong chain-of-command authority over both operations and policy. But, notably, unlike the director of national intelligence, the secretary of homeland security is responsible for the operational activities conducted by the sub-agencies. Thus, a DNI-like framework is inadequate to ensure that sufficient oversight and accountability exist across the sub-agencies.

To enhance the management of the organization, the CNAS oversight and accountability task force considered different models analogous to existing government agencies. One model would mirror the Department of Defense structure, with a Joint Staff that would coordinate the operational agencies. A second model would mirror more closely the Department of Justice, which includes both a deputy attorney general, with primary oversight over certain of the divisions, and an associate attorney general, with primary oversight over other department divisions. A third model would create a Senate-confirmed position in between the secretary and the immigration and border components of the Department, namely ICE, U.S. Citizenship and Immigration Services (USCIS), and CBP.⁷⁶

This report recommends that Congress develop legislation to enhance effective management of the department by:

- Creating the position of associate secretary, which would enable the deputy secretary and the associate secretary (the number two and three in the department) to divide up their portfolios in a way that ensures substantial secretary-level management of the department, freeing up the chief of staff to support the secretary instead of functioning, as a practical matter, as a second deputy secretary.⁷⁷
- Enhancing budget and resources to strengthen the Office of Strategy, Policy, and Plans, along with a mandate to include that the office develop policies and procedures for oversight, accountability, and compliance. The policy office should be professionalized and staffed in a way that retains institutional knowledge and experience while being responsive to policy priorities but not subsumed by political influence.
- Creating an under secretary for privacy, civil liberties, and transparency. This position would consolidate and manage activities currently conducted by the Privacy Office, the head of CRCL, and accompanying transparency initiatives. Joining these activities into a broader component with a direct reporting line to the secretary; deputy secretary; and new, proposed associate secretary would more effectively coordinate and deconflict the roles of the Privacy Office and CRCL, while empowering those officers due to higher-profile leadership and accompanying resourcing within

the department. Relatedly, legislation should require coordination with the under secretary for privacy, civil liberties, and transparency for new initiatives that substantially impact the privacy and civil liberties of individuals or relate to collecting personal information.⁷⁸

- Reviewing and recalibrating the number of political appointees in the department as compared to career civil service, particularly at the headquarters level.

In order to institutionalize the implementation of policies within the department and ensure that it begins the task of creating a department-wide culture of compliance and oversight, statutory changes should also include requirements for jointness across the agency, to start to break down the cultural silos among the sub-agencies and components, and to provide emerging leaders of the sub-agencies with headquarters experience, which provides exposure to broader oversight and policy issues. Characteristics of jointness should include requirements for joint duty in another agency component or DHS headquarters for personnel seeking promotion to designated senior positions;⁷⁹ a Department Leadership Council, comprising the agency heads that meet regularly with the secretary on matters of departmental importance; and an Oversight and Accountability Council, which would periodically convene legal, civil liberties, and privacy protections senior officials across the department.

CBP officers stand at the border to perform ID checks at the Paso del Norte International Bridge. (IPA)





Border Patrol conducts a full tactical exercise at the border barrier to deter illegal migration. (IPA)



5. Exercise Congressional Oversight Through Appropriations

Because of its creation as an amalgam of 22 other agencies and entities, DHS inherited all of the congressional overseers associated with those components with it. Although there are two committees designated specifically for DHS oversight—the House Homeland Security Committee and the Senate Committee on Government Affairs and Homeland Security—over 100 committees in Congress retain oversight over aspects of DHS

operations. DHS officials therefore have, over the course of the agency's existence, been called to testify before and respond to inquiries from a wide array of committees and members. Moreover, the staffs for the designated homeland security committees are lean as compared with the budget and scope of the department itself. As a result, even considering its size and complexity, DHS is an anomaly when it comes to congressional oversight.⁸⁰

Reforming congressional oversight has proved an insurmountable challenge, and it remains the only major recommendation of the 9/11 Commission not enacted.⁸¹ In the long term, Congress should resolve jurisdictional questions in favor of concentrating oversight responsibilities with the designated homeland security committees to the greatest extent possible.

Until then, however, Congress can improve its oversight over DHS activities by exercising oversight through the appropriations process, in collaboration with the designated homeland security committees in each chamber. The authorizers and appropriators should significantly coordinate efforts. This coordination can take place through formal and informal mechanisms such as periodic meetings of the chairpersons of the four committees, greater coordination of staff, and collaboration on areas of focus—to include oversight and accountability provisions in the appropriations bills. For Congress to exercise its authority, appropriations will likely need to be linked explicitly to the completion of guidelines called for in this report. An additional area that is ripe for appropriator attention is the disproportionate number of political appointees in the department, as compared with other departments with national security or law enforcement missions, as discussed above. The high volume of political appointees in the department—particularly at headquarters—has had the effect of preventing a substantial professional service corps to mature, while also providing lack of continuity at senior levels.



Protester shakes hands with a CPB officer after protest at Tornillo port of entry. (IPA)

6. Review of HSI Authorities and Activities

Congress should solicit and conduct further review of the operational activities, resourcing, and staffing of HSI, including a review of overlapping activities with other federal investigative agencies. Further review of the legal authorities that form the basis of HSI activities, a review of HSI criminal prosecutions for a designated period of time, and an assessment of the homeland security value of HSI activities versus the contribution the component makes to public safety and law enforcement are warranted. Consideration should be given to whether the investigative portion of HSI should be reconceived as Transnational Crime Investigations (TCI) and either retained at DHS as a stand-alone entity or relocated to the Justice Department as an agency of equal stature alongside the FBI, DEA, and ATF. For example, there appears to be some overlap between HSI's focus on intellectual property and an existing component of FBI that investigates intellectual property cases,⁸² just as there may be overlaps with FBI transnational organized crime matters and with DEA's drug trafficking investigations.⁸³ In the June 2018 letter to the secretary from the HSI special agents in charge, which advocated individual status within DHS, they observed that, "[a]s for investigative examples, the FBI, ATF, DEA and, in DHS, USSS all are singular agencies focused on their individual investigative portfolio. No U.S. Department of Justice law enforcement agency is paired with another disparate entity, the FBI is not paired with the Bureau of Prisons or DEA."⁸⁴ A re-conception along these lines would also eliminate the problem identified by the SACs of HSI continually competing for resources with ERO and its separate mission.

Conclusion

DHS is at a perilous juncture: It performs critical functions to protect the country from threats and hazards and houses the largest federal law enforcement force in the country, but as an institution it has not matured sufficiently to ensure adequate oversight and accountability over those activities. This report, after laying out specific challenges, makes six key recommendations to improve oversight and accountability and calls on Congress to build them into legislation so that they become institutionalized and not degraded based on fluctuations in political leadership. The goal in issuing this report is to underscore the urgency in greater congressional interest in DHS's future, and propose practical recommendations that will place DHS on sound footing to support its mission consistent with the rule of law and American values.



Cars line up in heavy traffic to cross the bridge from the Mexican side of the border into downtown El Paso, Texas, with the Franklin Mountains in the distance. (IPA)

DHS Oversight & Accountability Project Task Force*
2019-2020

COL Sarah Albrycht	Senior Military Fellow, Center for a New American Security (CNAS)
Christian Beckner	Former Associate Staff Director, Senate Homeland Security & Government Affairs Committee
Mary Ellen Callahan	Former Chief Privacy Officer, Department of Homeland Security (DHS)
Kevin Carroll	Former Executive Director & Chief Counsel, U.S. Council on Transnational Crime, DHS; Former Senior Counsel, House Homeland Security Committee
Phillip Carter	Senior Policy Researcher, RAND; former Deputy Assistant Secretary of Defense for Detainee Affairs
Carrie Cordero	Robert M. Gates Senior Fellow, CNAS (Project Lead)
John Dermody	Former Deputy Legal Advisor, National Security Council; former Attorney-Advisor, Office of Intelligence, DHS
Heidi Li Feldman	Professor of Law, Georgetown University Law Center
Nadia Firozvi	Associate Director, Just and Inclusive Society, Democracy Fund; former Policy Advisor, Office of Civil Rights and Civil Liberties, DHS
Chimène Keitner	Alfred and Hanna Fromm Professor of International Law, UC Hastings College of the Law; former Counselor on International Law, U.S. Department of State
Matthew Olsen	CNAS Adjunct Senior Fellow; former Director, NCTC; former General Counsel, NSA; former senior executive, DOJ & FBI
Abbas Ravjani	Former Attorney-Advisor, U.S. Department of State; former Deputy Chief Counsel, HPSCI; former CNAS Next Generation National Security Fellow
Paul Rosenzweig	Senior Fellow, R Street Institute; former Deputy Assistant Secretary for Policy, DHS
Elliot Williams	Former Deputy Assistant Attorney General for Legislative Affairs, DOJ; former Assistant Director for Congressional Relations, ICE

*Former government titles provided for identification purposes only. Task force members provided valuable insights and expertise to inform this project, but were not asked to and should not be interpreted as endorsing any particular recommendation in the report.

1. “President Bush Signs Homeland Security Act,” The White House, press release, November 25, 2002, <https://georgewbush-whitehouse.archives.gov/news/releases/2002/11/20021125-6.html>.
2. Ellen Nakashima, “DHS: Domestic terrorism, particularly white-supremacist violence, as big a threat as ISIS, al-Qaeda,” *The Washington Post*, September 20, 2019, https://www.washingtonpost.com/national-security/domestic-terror-particularly-white-supremacist-violence-as-big-a-threat-as-isis-al-qaeda-dhs-says/2019/09/20/dff8aa4e-dbad-11e9-bfb1-849887369476_story.html.
3. This report is being finalized as the number of confirmed cases of the novel coronavirus-disease 2019 (COVID-19) compounds daily in the United States and around the world. As this report goes to print, the American death toll is over 60,000, and climbing.
4. In June 2019, CNAS launched a project focused on enhancing DHS oversight and accountability. As part of this effort, in September 2019, CNAS convened a task force of former government officials as well as policy and legal experts to inform the content and recommendations contained in this report. Task force members were not asked to endorse and should not be interpreted as endorsing the recommendations contained in the report, and the author is grateful for their time and expert insights dedicated to this project on a volunteer basis. This report represents the views and recommendations of the author only, and has been informed through research, roundtable convenings, private consultations, and telephone interviews with former senior U.S. government homeland security officials who served in the Bush, Obama, and/or Trump administrations and outside experts, conducted from September 2019 to February 2020.
5. This report does not dive into the functions of other significant components, such as the Cybersecurity and Infrastructure Security Agency, Federal Emergency Management Agency, Secret Service, or Transportation Security Administration.
6. Matt Ford, “Dismantle the Department of Homeland Security,” *The New Republic*, February 21, 2019, <https://newrepublic.com/article/147099/dismantle-department-homeland-security>.
7. U.S. Commission on National Security/21st Century [website], Homeland Security Digital Library, <https://www.hsdl.org/?abstract&did=454629>.
8. U.S. Senate, *Department of Homeland Security Appropriations Bill, 2020*, S. Rept 116-125, 116th Cong., <https://www.congress.gov/congressional-report/116th-congress/senate-report/125/1>.
9. Public Law 107-296, *Homeland Security Act of 2002*, November 25, 2002.
10. This is a modification (with the addition of immigration adjudication and enforcement) of a summary framework articulated by Susan Ginsberg, “The Department of Homeland Security: Civil Protection and Resilience,” in *The National Security Enterprise*, 2nd edition, eds. Roger Z. George and Harvey Rishikof (Washington: Georgetown University Press, 2017), 252.
11. Notably, the administration has recently considered designating Mexican and Central and South American cartels terrorist organizations. Christopher Mele and Kirk Semple, “Trump Says He Will Delay Terrorist Designation for Mexican Cartels,” *The New York Times*, December 6, 2019, <https://www.nytimes.com/2019/12/06/us/trump-drug-cartels-terrorists.html>.
12. Ginsberg, “The Department of Homeland Security: Civil Protection and Resilience” (“The gap between its statutory mandate of terrorism prevention and actual powers has challenged DHS leadership to redefine the department’s overall purpose.”), 251.
13. This overall number of law enforcement personnel was stated publicly by the acting secretary of homeland security in January 2020. Chad Wolf (DHS_Wolf), “Proud to serve alongside the more than 60,000 law enforcement officers at DHS. @SecretService @FLECT @ICEgov @CBP @TSA FPS and others,” January 9, 2020, 10:28 p.m., Twitter, https://twitter.com/DHS_Wolf/status/1215475572345688064. According to a 2017 Office of Inspector General report, however, the approximate total of law enforcement agents is upwards of 80,000. DHS Office of Inspector General, “DHS Lacks Oversight of Component Use of Force (Redacted),” OIG-17-22 (DHS OIG, January 2017), <https://www.oig.dhs.gov/sites/default/files/assets/2017/OIG-17-22-Jan17.pdf> (“DHS employs approximately 80,000 federal law enforcement officers”).
14. DHS Office of Inspector General, “DHS Lacks Oversight of Component Use of Force (Redacted),” 5.
15. There are five categories of law enforcement officer positions within CBP alone. Rebecca Gambler, Director, Homeland Security and Justice, Government Accountability Office, “U.S. Customs and Border Protection: Progress and Challenges in Recruiting, Hiring, and Retaining Law Enforcement Personnel,” testimony before the Subcommittee on Oversight, Management, and Accountability, Committee on Homeland Security, U.S. House of Representatives, March 7, 2019, <https://www.gao.gov/assets/700/697349.pdf>. Note that the statistics included here do not differentiate between law enforcement agents classified under 1801 versus 1811 of the General Schedule federal personnel schedule.
16. In a January 2017 order, CBP was directed to add an additional 5,000 agents. Gambler, testimony before the Subcommittee on Oversight, Management, and Accountability.
17. Coast Guard numbers are not included. Statistics are based on FY 2018 budget documents that are publicly available and refer to the number of law enforcement officers only, not other security professionals, analysts, attorneys, policy advisors, technical specialists, or other operational and administrative support personnel and management.
18. “FAQS – Frequently Asked Questions,” Secretservice.gov, <https://www.secretservice.gov/about/faqs/>.
19. Chad C. Haddal, “Border Security: The Role of the U.S. Border Patrol” (Congressional Research Service, August 11, 2010), <https://fas.org/sgp/crs/homesecc/RL32562.pdf>.
20. The 9/11 Commission Report recognized that, from an international counterterrorism perspective, there has been a historical imbalance in Border Patrol’s staffing and operations on the northern border, as compared to the southern border. Haddal, “Border Security,” 24.
21. For 1992 and 2009 figures, see Haddal, “Border Security,” 6.
22. Haddal, “Border Security.”
23. Haddal, “Border Security.”
24. Haddal, “Border Security,” 5.
25. Garrett M. Graff, “The Border Patrol Hits a Breaking Point,” *Politico*, July 15, 2019, <https://www.politico.com/magazine/>

- [story/2019/07/15/border-patrol-trump-administration-227357](https://www.nytimes.com/2019/07/15/border-patrol-trump-administration-227357) (“Both the modern Border Patrol and its parent CBP have been plagued by poor leadership and management at all levels, and by recruiting challenges that have left them with a subpar, overstressed workforce and a long-running toxic culture. Most deeply, however, they are plagued today by a huge and unresolved mismatch between the agency’s founding identity and its current mission.” As Graff also points out, “CBP went out and recruited Rambo, when it turned out the agency needed Mother Theresa.”). See also Manny Fernandez, Miriam Jordan, Zolan Kanno-Youngs, and Caitlin Dickerson, “People Actively Hate Us: Inside the Border Patrol’s Morale Crisis,” *New York Times*, September 15, 2019, <https://www.nytimes.com/2019/09/15/us/border-patrol-culture.html>.
26. Examples include an ICE armored vehicle on the streets of Queens (Jake Offenhartz, “Armored ICE Vehicle Sparks Panic In Queens During Firearms Bust,” *Gothamist*, November 7, 2019) and enforcement against poultry plant workers in Mississippi (Dianne Gallagher, Catherine E. Shoichet, Madeline Holcombe, “680 undocumented workers arrested in record-setting immigration sweep on the first day of school,” CNN, August 9, 2019, <https://www.cnn.com/2019/08/08/us/mississippi-immigration-raids-children/index.html>).
 27. “ICE HSI New Orleans seizes \$8 million in counterfeit goods during pre-holiday IPR surge operation,” U.S. Immigration and Customs Enforcement, press release, November 14, 2019, <https://www.ice.gov/news/releases/ice-hsi-new-orleans-seizes-8-million-counterfeit-goods-during-pre-holiday-ipr-surge>.
 28. Public Law 107-296, Section 101.
 29. Congressional Research Service, “National Special Security Events: Fact Sheet,” September 16, 2019, <https://fas.org/sgp/crs/homsec/R43522.pdf>.
 30. “DHS and Partners Using Wide Range of Resources to Protect Super Bowl LIV,” Department of Homeland Security, press release, January 30, 2020, <https://www.dhs.gov/news/2020/01/30/dhs-and-partners-using-wide-range-resources-protect-super-bowl-liv>; Secret Service (SecretService), “Excited to be leading the DHS team in Super Bowl security preparations. Let’s go @49ers and @Chiefs!” January 30, 2020, 2:00 p.m., Twitter, <https://twitter.com/SecretService/status/1222957652113862656?s=20>.
- and Acting Secretary Chad Wolf (DHS_Wolf), “Incredible job by @CBP @ICEgov and the entire team for saving Super Bowl fans \$123 million on everything from fake tickets and Super Bowl rings to counterfeit memorabilia.” February 2, 2020, 2:44 p.m., Twitter, https://twitter.com/DHS_Wolf/status/1224056083402100741?s=20.
31. Mardi Gras 2020 was designated a level 2 security event under DHS’s rating system. “Mayor Cantrell works with City Council on vital improvements for safer and greener Mardi Gras,” New Orleans Mayor’s Office, press release, February 3, 2020, <https://nola.gov/mayor/news/february-2020/mayor-cantrell-works-with-city-council-on-vital-improvements-for-safer-and-greener-mardi-gras/>.
 32. ICE (ICEgov), “Take a peek inside one of #HSI’s mobile command centers that are helping keep fans safe in #Miami at #SuperBowlLIV. #HSIatSB54 #SBLIV” February 2, 2020, 10:00 p.m., Twitter; Acting Commissioner Mark Morgan (CBPMarkMorgan), “.@CBP officers and @CBPAMO and Border Patrol agents are hard at work securing #SBLIV in the air, sea and on land. Thank you for your vigilance, ensuring the big game is safe for fans!” February 2, 2020, 6:32 p.m., Twitter, <https://twitter.com/CBPMarkMorgan/status/1224113312650158081?s=20>; CBP (CBP), “Take a closer look at @CBPAMO’s Mobile Command Center being used at #SBLIV to monitor for potential threats.” February 2, 2020, 12:01 p.m., Twitter, <https://twitter.com/CBP/status/1224014948940075009?s=20>;
 33. John Roth, former Inspector General, Department of Homeland Security, testimony before the Committee on Homeland Security, U.S. House of Representatives, May 1, 2019, <https://homeland.house.gov/imo/media/doc/Testimony-Roth.pdf>.
 34. Roth, testimony before the Committee on Homeland Security.
 35. Carrie Cordero and Garrett M. Graff, “Don’t Count on DHS to Resist Trump’s Worst Impulses,” *Politico*, April 17, 2019, <https://www.politico.com/magazine/story/2019/04/17/dont-count-on-dhs-to-resist-trumps-worst-impulses-226659>.
 36. Julie Hirschfeld Davis and Michael D. Shear, *Border Wars: Inside Trump’s Assault on Immigration* (New York: Simon & Schuster, 2019), 78-80. The implementation of the original travel ban, which covered permanent resident aliens (individuals with lawful status), led to the premature firing of Acting Attorney General Sally Yates, who refused to authorize Department of Justice litigators to defend the order.
 37. Josh Gerstein, “Appeals court lifts block on \$3.6 billion for Trump border wall plan,” *Politico*, January 8, 2020, <https://www.politico.com/news/2020/01/08/trump-border-wall-funds-block-096527>.
 38. Hirschfeld Davis and Shear, *Border Wars*.
 39. Hirschfeld Davis and Shear, *Border Wars*, 93, 288. In September 2019, Trump fired DHS General Counsel John Mitnick, whom he had nominated and the Senate had confirmed by voice vote. A career civil service deputy was appointed acting general counsel until February 2020, at which time an individual with closer political ties to the White House was appointed acting general counsel. Geneva Sands, “Stephen Miller ally tapped as top Homeland Security attorney,” CNN, February 12, 2020, <https://www.cnn.com/2020/02/12/politics/chad-mizelle-department-of-homeland-security/index.html>.
 40. For more information on La Equis, see “La Equis (The X),” Atlas Obscura, <https://www.atlasobscura.com/places/the-x-or-la-equis-ciudad-juarez-mexico>.
 41. Roth, testimony before the Committee on Homeland Security.
 42. Garrett M. Graff, “How Trump Hollowed Out US National Security,” *Wired*, February 21, 2020, <https://www.wired.com/story/trump-hollowed-out-us-national-security-vacancies-acting/>.
 43. CRCL has 86 full-time staff and a budget of \$20 million. It was not consulted on the family separation policy. Hirschfeld Davis and Shear, *Border Wars*, 258.
 44. Even the Office of Inspector General’s effectiveness, however, may be diminishing under the current administration. Nick Miroff, “DHS inspector general’s office nearly dormant under Trump as reports and audits plummet,” *The Washington Post*, March 17, 2020, https://www.washingtonpost.com/national/homeland-security-inspector-general-weakened/2020/03/17/c3269ea6-6309-11ea-912d-d98032ec8e25_story.html.

45. As of December 2012, CBP also had integrity officers assigned to each field office, but there were internal disputes as to whether those officers effectively coordinated with the Office of Internal Affairs (IA). Government Accountability Office, “Border Security: Additional Actions Needed to Strengthen CBP Efforts to Mitigate Risk of Employee Corruption and Misconduct,” GAO-13-59 (GAO, December 2012), <https://www.gao.gov/assets/660/650505.pdf>. The report identified significant internal disagreement about the effectiveness of internal controls. According to the GAO interview of the IA assistant commissioner, “there has been significant cultural resistance among some CBP component entities in acknowledging CBP IA’s authority and responsibility for overseeing the implementation of all CBP integrity related activities.” GAO, “Border Security,” 30.
46. Author interviews with former DHS senior officials.
47. Hirschfeld Davis and Shear, *Border Wars*, 253.
48. For a comprehensive review of the legal landscape at issue in family separation, see Carrie F. Cordero, Heidi Li Feldman, and Chimène I. Keitner, “The Law Against Family Separation,” *Columbia Human Rights Law Review*, 51 no. 2 (2020), <http://hrlr.law.columbia.edu/hrlr/the-law-against-family-separation/>. For a summary of that academic publication, see Carrie F. Cordero, Heidi Li Feldman, and Chimène Keitner, “Assessing the Legal Landscape of Family Separation in the Immigration Context,” *Just Security*, October 25, 2019, <https://www.justsecurity.org/66717/assessing-the-legal-landscape-of-family-separation-in-the-immigration-context/>.
49. Department of Homeland Security Inspector General, “DHS Lacked Technology Needed to Successfully Account for Separated Migrant Families,” OIG-20-06 (Office of Inspector General, November 25, 2019), <https://www.oig.dhs.gov/sites/default/files/assets/2019-11/OIG-20-06-Nov19.pdf>.
50. Fernandez, Jordan, Kanno-Youngs, and Dickerson, “People Actively Hate Us.”
51. Three may have died of preexisting illness and two are believed to have died from flu developed while in custody. Robert Moore and Susan Schmidt, “Inside the Cell Where a Sick 16-Year Old Boy Died in Border Patrol Care,” *ProPublica*, December 5, 2019, <https://www.propublica.org/article/inside-the-cell-where-a-sick-16-year-old-boy-died-in-border-patrol-care>.
52. Moore and Schmidt, “Inside the Cell Where a Sick 16-Year Old Boy Died in Border Patrol Care.” For a discussion of the need for a conclusory FBI civil rights investigation and additional legal remedies for such neglect, see Carrie Cordero, Heidi Li Feldman, and Chimène Keitner, “Holding DHS Accountable for a Child’s Death in the Custody of Border Patrol,” *Just Security*, December 9, 2019, <https://www.justsecurity.org/67671/holding-dhs-accountable-for-a-childs-death-in-the-custody-of-border-patrol/>.
53. Department of Homeland Security Inspector General, “DHS Needs to Improve its Oversight of Misconduct and Discipline,” OIG-19-48 (Office of Inspector General, June 17, 2019), <https://www.oig.dhs.gov/sites/default/files/assets/2019-06/OIG-19-48-Jun19.pdf>.
54. Department of Homeland Security Inspector General, “DHS Needs to Improve its Oversight of Misconduct and Discipline.”
55. Graff, “The Border Patrol Hits a Breaking Point”; A.C. Thompson, “Years Ago, the Border Patrol’s Discipline System Was Denounced as ‘Broken.’ It’s Still Not Fixed,” *ProPublica*, June 20, 2019, <https://www.propublica.org/article/border-patrol-discipline-system-was-denounced-as-broken-still-not-fixed>.
56. GAO, “Border Security,” 17-19 (according to GAO interviews of CBP Internal Affairs personnel, “polygraph examination is the key investigative tool in the agency’s integrity program” because it reveals problems with an applicant before that person is hired). CBP also conducts periodic reinvestigations and random drug tests.
57. GAO, “Border Security.”
58. GAO, “Border Security.”
59. Thompson, “Years Ago, the Border Patrol’s Discipline System Was Denounced as ‘Broken.’”
60. GAO, “Border Security.”
61. GAO, “Border Security.”
62. Hirschfeld Davis and Shear, *Border Wars*, 385-386. Creating a culture of compliance is the best way to ensure that unlawful orders are not followed. For example, on a spring 2019 visit with border security officials at Calexico, California, Trump told CBP then-Chief Kevin McAleenan and other officials that they should “stop letting migrants cross the border” and that if they faced legal jeopardy, he would pardon them.
63. See, e.g., Memorandum from Secretary Jeh Johnson to DHS Leadership, April 22, 2014, <https://www.hsdl.org/?view&did=805139> (observing that “[i]t is clear to me ... that DHS has yet to reach its full potential as an organization. Such potential is difficult to achieve and takes even the best organizations many years” and proposing changes “intended to transparently incorporate DHS Components into unified decision-making processes and the analytic efforts that inform decision-making.”).
64. Roth, testimony before the Committee on Homeland Security.
65. Ginsberg, “The Department of Homeland Security: Civil Protection and Resilience,” 261.
66. Under pressure from the president, former White House Chief of Staff John Kelly emphasized border security. As Julie Hirschfeld Davis and Michael D. Shear report, “Every day, Kelly made calls to Hamilton, Nielsen and others and his message could not have been more clear: ‘If you’re not spending every waking minute thinking about securing the border, you’re not doing your job,’ he told them.”). Hirschfeld Davis and Shear, *Border Wars*, 241.
67. The 9/11 Commission, “The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States” (National Commission on Terrorist Attacks upon the United States, 2004).
68. Carrie Cordero, “Far-Right Extremism and the Christchurch Massacre: Adapting to New Threats,” *Lawfare*, March 19, 2019, <https://www.lawfareblog.com/far-right-extremism-and-christchurch-massacre-adapting-new-threats>.
69. See, e.g., “The Attorney General’s Guidelines for FBI Domestic Operations,” <https://www.justice.gov/archive/opa/docs/guidelines.pdf>, and its implementation manual, “FBI Domestic Investigations Operations Guide,” <https://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29>.

70. An example of such review was those of FBI investigative guidelines in the Justice Department in the early 2000s. Previously, the FBI had been operating under several different sets of guidelines for national security and criminal law enforcement investigations. Those guidelines were consolidated to provide more uniformity and compliance with one set of guidelines, approved by the attorney general, that would set the constitutional floor for what activities the FBI could engage in. Then the guidelines were implemented according to a comprehensive investigative guide developed by the FBI, in consultation with the Department of Justice. The guidelines provided more uniformity across FBI divisions.
71. As a point of comparison, DHS U.S. person procedures mandated by Executive Order 12333, as revised in 2008 under President George W. Bush, took nine years to complete and issue. And the Department has not completed the Quadrennial Homeland Security Review that was due to Congress over two years ago.
72. Eoin Higgins, “ICE Doesn’t Want You to Read Its Manuals-For No Good Reason Whatsoever,” *The Intercept*, April 18, 2018, <https://theintercept.com/2018/04/18/ice-hsi-special-agent-training-manuals/>.
73. Graff, “The Border Patrol Hits a Breaking Point.”
74. Graff, “The Border Patrol Hits a Breaking Point.”
75. “Best Places to Work Agency Rankings,” *Best Places to Work in the Federal Government*, <https://bestplacestowork.org/rankings/overall/large>. See also Ginsberg, “The Department of Homeland Security: Civil Protection and Resilience,” 267, “DHS has rock-bottom employee ratings recorded in surveys conducted by OPM.”
76. In research interviews, prior DHS officials (across administrations of both political parties) expressed concerns that the secretary’s time and energies may be susceptible to being consumed by the immigration and border security portfolios of the department, to the detriment of other substantive responsibilities, such as cybersecurity.
77. Early in DHS’s existence, it had an under secretary overseeing border and transportation security issues. The position was later eliminated in favor of the agency heads reporting directly to the secretary.
78. The Obama administration implemented this policy approval process, which increased the visibility of the Privacy and CRCL offices and avoided implementation of policies that were not well thought out. This required approval has been removed under the Trump administration, diminishing the roles of these components. Codifying such insights would strengthen their responsibilities.
79. A rotational program was proposed in H.R. 2825, the DHS Authorization Act, which passed the House in July 2017 but was not taken up for debate in the Senate. U.S. House of Representatives, *DHS Authorization Act*, H.R. 2825, 115th Cong., 2nd sess. <https://www.congress.gov/bill/115th-congress/house-bill/2825>.
80. Timothy Balunis Jr. and William Hemphill, “Escaping the Entanglement: Reversing Jurisdictional Fragmentation over the Department of Homeland Security,” *Journal of Homeland Security and Emergency Management*, 6 no. 1 (2009), 6.
81. The 9/11 Commission, “The 9/11 Commission Report”; Balunis Jr. and Hemphill, “Escaping the Entanglement,” 6, 13 (“Reforming DHS itself, and streamlining its major components into a leaner department, may be easier than overcoming jurisdictional inertia in Congress.”).
82. “Intellectual Property Theft/Piracy,” FBI, <https://www.fbi.gov/investigate/white-collar-crime/piracy-ip-theft>; “Intellectual Property Rights,” ICE, <https://www.ice.gov/iprcenter>.
83. “DEA-led operation nets more than 600 arrests targeting Cártel Jalisco Nueva Generación,” Drug Enforcement Administration, press release, March 11, 2020, <https://www.dea.gov/press-releases/2020/03/11/dea-led-operation-nets-more-600-arrests-targeting-cartel-jalisco-nueva-4>.
84. Letter from 19 HSI Special Agents in Charge to Secretary of Homeland Security Kirstjen Nielsen, June 2018 <https://www.documentcloud.org/documents/4562896-FILE-3286.html> (observing that HSI operations have been hindered through its organizational link to ERO as a result of reprogramming of funds, and other impacts on “the hiring and resourcing of HSI personnel, unplanned reductions in operational funds, and an inability to invest in tactical communications, purchase of information/evidence, travel, training, Title III funding, and procurement of technical equipment, all of which are crucial to effectively conduct complex transnational criminal investigations.”) A review of this list of resources sought by HSI to perform its work bolsters the argument that these types of investigative activities may more appropriately fall under the Justice Department umbrella of mission, prioritization, operations, oversight, and funding.

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