

# ISSUE BRIEF

No. 4737 | JULY 19, 2017

## Top Four Issues to Address in the Reauthorization of Department of Homeland Security

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In January 2017, the chairmen of eight House committees promised Speaker Paul Ryan (R-WI) that they would work together to reauthorize the Department of Homeland Security (DHS).<sup>1</sup> This complicated eight-committee agreement was necessary because the arcane and inefficient oversight structure of DHS divides oversight of the department across 100 committees, subcommittees, and caucuses. This byzantine system and the power politics that has perpetuated it means the vast majority of DHS has never been formally reauthorized.<sup>2</sup>

In spite of the difficulty and with the agreement of the other House chairmen, the Chairman of the House Committee on Homeland Security Michael McCaul (R-TX) is pushing ahead to reauthorize DHS.<sup>3</sup> Among the numerous issues that the House and then Senate could tackle in this process, the following are the top four items that a DHS reauthorization should include:

1. Centralization of DHS management;
2. Reform and privatization of the Transportation Security Administration (TSA);

3. Reform of DHS's research and development (R&D); and
4. Reform of the Federal Emergency Management Agency (FEMA).

### **DHS Management**

The management structure and authorities of DHS are currently too weak or divided to effectively manage the department. To remedy this problem, at least two things must change.

First, every component of DHS has various support functions such as legislative or congressional affairs, international affairs, general counsel, and chief information officers. Each of these functions must report through the appropriate DHS headquarters office. For example, the Coast Guard and Customs and Border Protection's (CBP) congressional affairs staffs would still work on Coast Guard or CBP issues, but also work for the DHS Assistant Secretary for Legislative Affairs. DHS components having their own congressional outreach outside the chain of command of DHS congressional staff weakens DHS's ability to advance department priorities. The same can be said for numerous other support functions that must be realigned and empowered to make DHS work as a cohesive whole.<sup>4</sup>

Second, the myriad of different DHS headquarters offices should be consolidated to reduce the number of direct reports to the Secretary and improve DHS operations. This could be accomplished in many different ways. Legislative text reported by the Committee on Homeland Security would combine the Office of Policy, the Office of Partnership and Engagement, and the Office of International Affairs

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This paper, in its entirety, can be found at <http://report.heritage.org/ib4737>

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into a new Office of Strategy, Policy, and Plans under an Undersecretary position just elevated in 2016. To keep the policy office focused on policy development, a better alternative would be to create a new Undersecretary for External Affairs to oversee the Office of Partnership and Engagement, the Office of Public Affairs, the Office of Legislative Affairs, the DHS Center for Faith Based and Neighborhood Partnerships in FEMA, and relevant portions of the Office of International Affairs. Congress should also consider combining the Office of Civil Liberties and the Office of Privacy, which is how the Department of Defense is structured.

Consolidation and reorganization, whether with DHS management or other parts of the department, must have the full support of the Secretary to enforce these new ways of operating. Reorganizations will not solve all of the department's problems; however, they are an important step toward making the department run more efficiently.

### Aviation Security

The TSA is a DHS component in need of significant reform. Created after 9/11, the TSA federalized every aspect of aviation security—although other models were considered by Congress. Reauthorization of DHS should revisit security models that employ private airport screeners, as are currently in place in Canada and most of Europe. According to multiple studies, such private models provide security that is at least as good as TSA screeners but at lower cost and greater customer service and efficiency.<sup>5</sup> At the very least, Congress should expand the TSA's Screening Partnership Program (SPP) that allows airports to use private screeners under TSA oversight. To expand the SPP, Congress should stop

the TSA's micromanaging of SPP contracts and allow each airport to contract with a set of TSA-approved screening companies.<sup>6</sup>

In addition to reworking the screening workforce, Congress should improve the security the TSA provides by strengthening trusted travel programs like TSA Pre-Check, providing adequate bomb-detection capabilities and canines, and ensuring rigorous covert testing to probe defenses and ascertain weaknesses.

### Research and Development

DHS's R&D agencies need multiple improvements. The Domestic Nuclear Detection Office (DNDO) appears to be functioning well, actively working on developing and adapting products to be used by Customs and Border Protection officers in the field. On the other hand, the Office of Health Affairs (OHA) has no major program in development with the cancellation of the next generation BioWatch program. The larger Science and Technology Directorate (S&T) has struggled to provide other DHS components with useable technology that meets their needs. The OHA and DNDO as small, specifically focused offices, should not directly report to the Secretary of Homeland Security. Instead, they should report to the Undersecretary for Science and Technology. Any policy or advisory roles could move into the policy office.

Perhaps more important than a reorganization, however, is that S&T improves its focus on useable technology for other DHS components. Some longer-term research is certainly appropriate, but S&T should focus more of its time and resources on fewer discrete projects that can be fielded sooner rather than later.<sup>7</sup> To accomplish this focus on useable

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1. U.S. House of Representatives, Congressional Record—Extension of Remarks, *Memorandum Regarding Authorization of the Department of Homeland Security*, January 11, 2017, <https://www.gpo.gov/fdsys/pkg/CREC-2017-01-11/pdf/CREC-2017-01-11-pt1-PgE47-4.pdf#page=1> (accessed July 18, 2017).
  2. David Inserra and Max Morrison, "How to Resolve Tangled Relationship Between Congress and Homeland Security," *The Daily Signal*, June 19, 2017, <http://dailysignal.com/2017/06/19/congress-and-dhs-have-a-convoluted-relationship-heres-what-needs-to-change/>.
  3. Department of Homeland Security Authorization Act of 2017, H.R. 2825, 115th Cong., 1st Sess.
  4. David Inserra, "Congress Must Re-Set Department of Homeland Security Priorities: American Lives Depend on It," Heritage Foundation *Special Report* No. 175, January 3, 2017, <http://www.heritage.org/homeland-security/report/congress-must-re-set-department-homeland-security-priorities-american>.
  5. For more information, see David Inserra, "Time to Privatize the TSA," Heritage Foundation *Backgrounder* No. 3120, July 19, 2017, <http://www.heritage.org/homeland-security/report/time-privatize-the-tsa>.
  6. *Ibid.*
  7. Inserra, "Congress Must Re-Set Department of Homeland Security Priorities."
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technology, S&T must improve collaboration and coordination with other DHS components, increase technology foraging from the private sector, and encourage further private-sector tech development through the SAFETY Act.<sup>8</sup>

### Emergency Preparedness

Among the multiple problems with FEMA, a reauthorization should address two in particular.

First, growth in disaster declarations leaves FEMA unprepared for major disasters. The Stafford Act and FEMA regulations have made it easy for a disaster to qualify for FEMA disaster money and FEMA will cover most of the costs once a disaster is declared. This system has resulted in a perverse incentive for states to under-prepare for disasters, as this ensures that the federal government will intervene. This reauthorization process should raise the floor for what qualifies as a disaster. Furthermore, FEMA should not be paying for most of the costs of a disaster unless it is truly catastrophic—as in the case of Hurricane Katrina or Hurricane Sandy. Making such changes will ensure that state governments and FEMA are more prepared for disasters.<sup>9</sup>

Second, the reauthorization process should consolidate and streamline FEMA's grant programs, with funds allocated in a risk-based manner. Rather than being treated merely as federal dollars that should be spread around, federal grants should be focused on the highest risk areas or issues. As part of this consolidation, grant programs should be evaluated, and ineffective ones, such as Fire Prevention and Safety (FP&S), Assistance to Firefighters (AFG), and Staffing for Adequate Fire and Emergency Response (SAFER), should be cancelled.<sup>10</sup>

### Fixing the Department of Homeland Security

While other issues, such as the reorganization of the National Protection and Programs Directorate or immigration reforms, also need to be tackled, these issues are being handled separately and in some cases require action from other committees. Tackling DHS management, aviation security, R&D, and FEMA issues identified in this *Issue Brief* should be a priority for Congress to strengthen U.S. homeland security.

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8. Brian Finch and David Inserra, "Expand the SAFETY Act to Make the U.S. More Secure," Heritage Foundation *Issue Brief* No. 4662, March 9, 2017, <http://www.heritage.org/cybersecurity/report/expand-the-safety-act-make-the-us-more-secure>.

9. For greater detail, see Inserra, "Congress Must Re-Set Department of Homeland Security Priorities."

10. *Ibid.*