The Department of Homeland Security and the Dual Politics of Reorganization: Presidential Preemption, Agency Restructuring, and Congressional Challenges*

Richard S. Conley
Assistant Professor
Department of Political Science
University of Florida
309 Anderson Hall
P.O. Box 117325
Gainesville, FL 32611
(352) 392-0262 x 297

Introduction

On January 24, 2003, the Department of Homeland Security (DHS)—the fifteenth cabinet-level department created by Congress—officially opened for business. The mammoth new department, which will become the third largest with over 170,000 employees and an initial budget of more than $38 million, has the broad charge of securing the United States from future terrorist attacks and coordinating the domestic response to an attack if one occurs. Former Pennsylvania Governor Tom Ridge, confirmed unanimously by the Senate as the Secretary of the DHS, exchanged his headquarters in the White House as Director of the Office of Homeland Security for a secure naval facility on Nebraska Avenue. The latter site, which had served as a telecommunications command operations center after 9/11, will temporarily house employees of the twenty-two agencies that are to be transferred to the DHS until a permanent location can be found.¹

In retrospect, the creation of the DHS and the swift consolidation of existing agencies under the umbrella of the new department were anything but assured. Legislative efforts stalled in the summer and fall of 2002 as the White House and the Democratic-controlled Senate reached an impasse over labor issues that would govern the operation of the new department. Senate passage of the bill, which ultimately gave extensive latitude to President Bush in structuring the DHS, came in a lame-duck session of the 107th Congress after Republicans narrowly regained control of the upper chamber in the 2002 mid-term elections.

Prospects for the department’s success remain decidedly mixed. The massive reorganization of federal responsibilities—the largest of its kind in fifty years—touches not only the presidency and the executive branch but also Capitol Hill. As agencies coalesce into the DHS new structures that will lead to inter-agency cooperation and organizational competence will take time to develop. Moreover, the reshuffling of agencies under the DHS necessitates the reorganization of congressional committee structures and appropriations processes if Congress is to fund DHS operations adequately and exercise meaningful oversight. Civil libertarians are particularly concerned about an erosion of fundamental freedoms in the absence of substantive congressional oversight of, and budgetary control over, the intelligence gathering activities of the new department.

This article focuses on the “dual” politics of reorganization, from Bush’s efforts to win legislation on his terms to congressional attempts to refashion internal committee structures to oversee the DHS. The analysis begins with a brief legislative history that offers a critical assessment of inter-branch negotiation of the bill, including Bush’s preemption of congressional proposals and the interplay of veto threats, “strategic disagreement,” and electoral politics in shaping the eventual outcome. The analysis then turns attention to provisions in the legislation concerning civil liberties, with specific reference to domestic intelligence-gathering by the department and unresolved issues. The final section bridges the discussion of civil liberties with the congressional imperative to reorganize internal processes on Capitol Hill, and how House and Senate leaders have responded to the challenge of oversight.
Modern presidents typically choose to centralize policymaking functions in the White House as a means of gaining control and influence over the bureaucracy. Their reasons are numerous. Congress poses a major constraint on presidents’ ability to use reorganization as a tool of influence, since departmental and agency reorganization requires legislative approval. And executive proposals for reorganization have often been met by skepticism on Capitol Hill: The process is lengthy, and many proposals have failed.2 “The problems associated with large-scale reorganization,” James P. Pfiffner notes, “exact a high cost in terms of presidential energy, political capital, and good-will. They take up valuable time and must be traded off against other policy priorities.”

It is little wonder, then, that following the terrorist attacks of 9/11 George W. Bush established the Office of Homeland Security (OHS) in the Executive Office of the President through an executive order. Executive directives do not require legislative approval and enable the president to take swift action. Yet no sooner did Bush’s choice to head the OHS, Tom Ridge, take up his position in October 2002 than a cacophony of voices on both sides of the aisle on Capitol Hill emerged to call for a reorganization of governmental agencies to meet the challenges of defending the home front. Critics of Ridge’s executive coordinator status, including then-Senate Governmental Affairs Committee Chair Joseph Lieberman (D-CT), contended that he lacked the requisite budgetary authority and human resources to effectively carry out his coordinative responsibilities. As a presidential advisor without a legislative mandate, Ridge was also placed beyond congressional accountability.4

Bush was initially insistent that Ridge had all the authority he needed to meet his responsibilities but ultimately gravitated toward the idea of a massive governmental reorganization as proposals sprung forth in Congress in Spring 2002. Recognizing that an irreversible momentum had built on Capitol Hill to create a new Cabinet-level department, the White House sought to preempt Congress with its own proposal, which the president detailed in early June.5 Bush’s strategy was straightforward: He sought to maximize leverage over any legislation that would affect a reorganization of federal agencies with responsibilities for carrying out the war on terrorism domestically. In the process, the president and Congress moved from one end of the spectrum to the other in organizational terms—from a statutory coordinator to a full-fledged reorganization of government functions, “leapfrogging” over several other viable organizational choices such as a “czar” position that had short- and medium-term advantages.6

Presidential-congressional relations on the legislation to create the DHS were marred by significant conflicts between the White House and Senate Democrats, primarily over labor regulations and collective bargaining arrangements in the new entity. A basic model of presidential strategy is nevertheless visible in the institutional dynamics that ultimately produced a bill granting the president most of his preferences in the lame-duck session of the 107th Congress (2001-2002).

The model may be conceived of as a two-stage process that reflected the unique configuration of divided government, with the House under Republican control and the Senate narrowly in Democratic hands. In the first stage, Bush used the House’s swift passage of his proposal as leverage over the Senate. The president wielded the threat of a veto if the Democratic Senate failed to remove objectionable provisions that conflicted with the House bill.
The White House used much public rhetoric to clarify and solidify the president’s commitment to winning legislation on his terms.

At this stage the president’s strategy followed rather well the tenets of the “commitment model” of veto threats, which suggests that the effectiveness of his strategy turns on public engagement. “Going public” with a commitment to veto a bill if select provisions are included or excluded can give the president important leverage to propose and shape the contours of legislation. “The effect of political rhetoric,” Charles Cameron asserts, “is to constrain the speaker so he can’t retreat from his position without paying a steep price.” Reneging on a veto threat might entail electoral retaliation or cost the president in the court of public opinion. These factors enhance the credibility and sincerity of the veto threat from the standpoint of the congressional majority. Presidents can therefore bluff and threaten to veto bills they might otherwise accept.

In the second stage, Bush and the Senate chose “blame-game” politics—faulting one another publicly for the failure act—in lieu of reaching compromise. By “strategically disagreeing” the White House and the Senate preferred to forestall passage of the bill to retain the support of constituency interests and gain political advantage. Bush used the legislative stalemate as a platform from which to campaign for his co-partisans in the 2002 mid-term elections. The results of the election were widely hailed as a referendum on Bush’s stance and broke the impasse in the lame-duck session of the 107th Congress. Republicans’ capture of the Senate, and Bush’s willingness to lay his reputation and political capital on the line in the fall campaign, convinced Democrats to cede on the provisions opposed by the president.

**Veto Threats, Commitment, and Strategic Disagreement**

Bush’s strategy vis-à-vis Congress reflected the peculiar configuration of divided government in the 107th Congress. With a cohesive Republican majority in the House of Representatives, the president’s proposal sailed through that chamber largely intact. The House adopted HR 5005 on July 26, 2002 by a vote of 295-132, with eighty-eight Democrats supporting the legislation. House Republicans fended off a series of Democratic amendments on subjects ranging from Freedom of Information Act (FOIA) requirements for the new department to airport screening timetables.

The air of bipartisan commitment to creating the homeland security department eroded considerably by the time the matter was taken up by the Senate. The Democratic leadership substituted a bill proposed by Joe Lieberman, Chair of the Senate Governmental Affairs Committee, in lieu of the president’s proposal. Lieberman’s bill differed from the House legislation primarily on matters concerning personnel and collective bargaining rights in the new DHS. Bush remained firm about the need for broad latitude to exempt some employees from union membership for reasons of national security. The Lieberman bill gave the president a temporary waiver which Bush felt was inadequate. The president also demanded far greater flexibility than Congress had traditionally been willing to grant chief executives in terms of hiring, firing, and transferring employees in the civil service, as well as the ability to reorganize the department independently. Bush contended provisions in the Senate Democratic bill that retained traditional federal work rules would stymie efforts to streamline the new DHS to meet domestic terror threats. Proposals to limit Bush’s decertification of employees’ union
membership for reasons of national security had been dropped in the House bill, cited as a “deal-killer” by the White House.\(^\text{14}\)

In early September the White House signaled Bush’s intention to veto the bill if the Senate provisions remained intact. Incredulous Democrats were taken aback that the president might veto his own proposal for the new Cabinet-level department, but press secretary Ari Fleisher reiterated the president’s commitment to reject any bill that failed to meet his criteria on flexible personnel rules. Key Republicans in the Senate, including Fred Thompson (R-TN), reaffirmed Bush’s serious commitment.\(^\text{15}\) Moreover, in mid-September Bush twice publicly made known his determination to veto the Senate version of the bill—once while on the campaign trail for Senator Lamar Alexander in Tennessee, and again at a meeting with Sears employees in Iowa.\(^\text{16}\)

Veto threats operated in tandem with the strategy of the GOP minority in the Senate, which was emboldened to stall the Lieberman bill through parliamentary tactics. Two key moderate Senators held the balance over passage in the narrowly divided upper chamber. Zell Miller (D-GA) broke ranks with his Democratic colleagues and supported the White House’s position, while Lincoln Chafee (R-RI) eventually supported Democrats, tipping the balance against the White House.\(^\text{17}\) Republicans then filibustered the bill to prevent a floor vote. Democratic leaders were unable to find the sixty votes necessary to invoke cloture and end unlimited debate. Senate majority leader Tom Daschle (D-SD), frustrated by the Republicans’ tactics, affirmed that “We’re going to stay on the bill…they can drag this out as long as they want to, and they can tell us when they’ve finished dragging it out. But at some point, whenever that is, we’ll have a vote on final passage.”\(^\text{18}\) Daschle nevertheless faced problems within Democratic ranks. While Republicans backed the president’s opposition to the bill’s provisions concerning collective bargaining, the “Dean of the Senate,” Robert Byrd (D-WV), engaged in a “virtual filibuster” of the legislation for entirely different reasons. Byrd lamented the speed with which the White House was moving to reorganize for homeland security and cautioned that Congress was ceding institutional prerogatives in the process.\(^\text{19}\)

Blame-game politics between the White House and the Senate came into full-swing between late August and mid-October, at which time members of Congress prepared to return home to campaign for the fall mid-term elections. It became clear that the lingering impasse between the White House and the Senate would preclude legislative action by Congress’ October 11 adjournment date. The White House remained intransigent and refused to bargain, despite Democratic and Republican moderates’ efforts to broker a compromise. Democrats dug their heels in, worried that Bush was trying to set a precedent by first weakening collective bargaining rules in the new DHS and then moving to revamp the entire federal civil service in a similar fashion.\(^\text{20}\)

To some, the debate over labor laws was misplaced. Congress and the president conveniently circumvented questions about the financial and human costs of the massive reorganization and the new department’s ability to function effectively after consolidation.\(^\text{21}\) Instead, as the Washington Post aptly summarized: “Both parties appear to be gambling that they can blame the other side for failing to act on a proposal they believe is both necessary and popular. Bush and Republicans have cast Democrats as captives of their union allies, while Democrats complain that the president has shown to willingness to compromise.”\(^\text{22}\)

To others the White House’s inflexibility on workplace rules for the DHS was motivated by a shrewd political calculus that became evident at the outset of the mid-term election campaign. On the one hand, media attention consistently focused on the congressional backlog
on homeland security and a resolution authorizing the use of force against Iraq. The net effect was to preclude Democrats from emphasizing their favored domestic issues, such as Social Security and unemployment—issues of greatest concern to their core constituents.\textsuperscript{23} On the other hand, lack of legislative action on the DHS gave Bush and congressional Republicans a campaign issue—national security and defense—on which voters tended to trust the GOP more.\textsuperscript{24}

Beginning in August and continuing through the election season the president repeatedly criticized the Senate for not following the House’s lead in passing legislation on his terms.\textsuperscript{25} He caused a firestorm of controversy in September when he suggested during remarks in Trenton, New Jersey that Senate Democrats were less than patriotic by refusing to cede to his demands in the bill. Bush argued that “The House responded, but the Senate is more interested in special interests in Washington and not interested in the security of the American people,” reiterating that he would “not accept a Department of Homeland Security that does not allow this president and future presidents to better keep the American people secure.”\textsuperscript{26} Furious at the comments, Senate Majority Leader Tom Daschle and the Democrats demanded an apology from the president, but none was forthcoming. The White House toned down some of the rhetoric, but it was clear that Bush and Republicans intended to use the continuing impasse to blame the Senate for adjourning without passing the bill. In early October White House Press Secretary Ari Fleischer lamented on several occasions that “it would just be unimaginable for the Senate to leave town without having taken action to protect the homeland.”\textsuperscript{27} But that is exactly what occurred in the absence of any willingness to compromise at either end of Pennsylvania Avenue.

A search of the \textit{Weekly Compilation of Presidential Documents} from August through the November 5 election revealed over three dozen public statements by Bush in which he specifically criticized the Senate or blamed “special interests” connected to Democrats for the delay in the homeland security bill. Bush’s comments while on the campaign trail or through weekly radio addresses nationalized the issue in the mid-term elections, giving Republican candidates a basis from which to attack Democratic incumbents in much the same way that the \textit{Contract with America} enabled Republicans to campaign on common themes in 1994. Moreover, because Republicans were one vote short of being able to pass the president’s favored bill in the Senate, each and every Senate Democrat could be blamed individually for holding up the legislation. The cases of Max Cleland (D-GA) and Jean Carnahan (D-MO) are instructive on this account.

Republican Representative Saxby Chambliss of Georgia challenged incumbent Senator Max Cleland for Georgia’s senior spot in the upper chamber. Chambliss had chaired the House Subcommittee on Terrorism and Homeland Security in the 107th Congress. In several campaign appearances with Chambliss in the final three weeks prior to the mid-term elections, Bush lauded the congressman’s efforts in marshaling the legislation on homeland security through the House and reproached the Senate for not doing the same. Chambliss used the issue wittingly against an otherwise formidable incumbent on defense issues—Cleland is a triple-amputee and Vietnam War veteran who also headed the Veterans Administration under President Carter. Chambliss launched a veritable wave of negative television ads that relentlessly attacked Cleland as one of the chief “obstructionist” Democrats blocking the creation of the DHS.\textsuperscript{28} Ironically, Cleland had been one of the sponsors of the idea of creating a Cabinet-level department in the Spring of 2002 before Bush and Republicans signed on to the idea.\textsuperscript{29}

Chambliss won the race by a seven point margin. He admitted that his endorsement by the state Veterans of Foreign Wars chapter “inoculated” him against his own lack of military service.\textsuperscript{30} Whether the race actually tipped in favor of Chambliss due to the homeland security
issue was irrelevant at some level—Bush and Republicans believed it was the main factor not only in Cleland’s defeat but GOP gains generally in the state, which included the ouster of Democratic Governor Roy Barnes. “If any state had a referendum on what the president fought for on homeland security, it was Georgia,” argued Terry Nelson, deputy chief of staff at the Republican National Committee.  

The close race between House Republican Jim Talent and incumbent Democratic Senator Jean Carnahan for Missouri’s Senate election mirrored dynamics in Georgia. Carnahan accused Talent of questioning her patriotism after campaign ads portrayed her with images of terrorists and criticized her for failing to support Bush’s preferred legislation on the DHS and a host of other issues. She was held responsible as one of the key votes hamstringing the president’s agenda. As Vice-President Dick Cheney contended while stumping for Talent, “That one Senate seat could make all the difference in the world.” For his part, President Bush visited Missouri several times in October and November to lend support to Talent’s senatorial bid, arguing at one campaign stop that “Jim Talent understands what I’m talking about. You put him in the Senate; we’ll get us a good homeland security bill, which will make it easier for Presidents to protect America.” Talent narrowly defeated Carnahan by just under 24,000 votes, and homeland security figured prominently into interpretations of his victory. Political scientist Lana Stein at the University of Missouri-St. Louis noted that “Talk of Iraq and 9-11 changed the agenda from the usual off-year concentration upon the economy. The patriotic slant went to the right, and some of the Reagan Democrats might have gone for Talent to rally around the flag.”

Coupled with Republicans’ Senate victories in Minnesota and North Carolina, as well as additional seat gains in the House, the election results were broadly interpreted as a national judgment on Bush’s stands on homeland security. Bush’s success in reversing the typical mid-term loss for the president’s party in Congress was bolstered by his willingness to put his own political capital on the line for GOP candidates. Although the results did not suggest a “realignment” of the electorate—many of the races were extremely narrow—the White House focus on national security issues seemingly tipped the balance in Republicans’ favor.

The net effect of the 2002 mid-term elections was to dislodge the stalled DHS legislation in the Senate almost immediately, along with other elements of Bush’s agenda that had reached an impasse. When the lame-duck session of the 107th Congress convened shortly after the elections, the Senate quickly passed the bill by a 90-9 margin—and largely on the president’s terms. Several key moderate Democrats and Republicans noted that Bush and his GOP supporters were “in a better negotiating position following the election…” The inevitability that Republicans would pass the bill at the beginning of the 108th Congress even prompted Senator Byrd to drop his filibuster, though not without a final word on the “mon-stros-ity” of a bill he thought had been put together with haste and at the expense of congressional prerogatives.

**Civil Liberties and the Second “Axis of Reorganization”: Congress**

The DHS reorganization bill was long on latitude for the president and short on details. The first set of agencies to be transferred to the new department—including the Secret Service, Coast Guard, Customs, the Immigration and Naturalization Service, Transportation Safety Administration, and federal protective services—is slated for March 1, 2003. The president must submit a reorganization plan, but experts suggest it will take a year to two years before the consolidation of agencies will be complete. In the meantime, many uncertainties remain. Bush
won the ability to reassign personnel in the new agency with greater ease, unions contend the entire civil service system is in jeopardy, and much of Secretary Ridge’s immediate task has been to calm the nerves of anxious workers set to be transferred in coming months.  

Equally if not more troubling questions about the DHS that received far less media attention concern the domestic intelligence gathering capacities of the new department. Ironically, the most vocal critics have come from the right, not the left—including GOP stalwarts such as former House majority leader Dick Armey who, among other things, insisted on sunset provisions in the USA Patriot Act. Civil libertarians are careful to point out that the legislation creating the DHS provided for an intelligence unit that potentially places privacy rights and civil liberties in question by obscuring the lines between intelligence gathering, law enforcement, and the military. The relationship between the Federal Bureau of Investigation (FBI), Central Intelligence Agency (CIA), and the DHS in terms of intelligence gathering and sharing is of paramount concern. Four of the agencies to be transferred—the Secret Service, Customs, the Border Patrol, and the Coast Guard—have independent intelligence operations that will be merged under the DHS. An independent commission sponsored by the Markle Foundation in conjunction with the Brookings Institution and the Miller Center for Public Affairs at the University of Virginia had recommended a decentralized information-sharing unit in the DHS that bridges the private, federal, and state and local sectors.

How the new intelligence unit evolves in the DHS will be central to the protection of civil liberties. For the moment, the DHS will receive intelligence reports only in the form of summaries. But already there are suggestions that “analysts occasionally will need—and receive—access to a wider range of intelligence, including undigested classified information, to fulfill their primary mission of protecting the nation’s infrastructure.”

Congress and the courts have moved to address some civil liberties concerns connected to the DHS and the war on terrorism. In late January 2003 the Senate adopted by unanimous consent an amendment sponsored by Ron Wyden (D-Oregon) that placed limits on the “Total Information Awareness” (TIA) data mining program being developed by the Defense Advanced Research Projects Agency in the Department of Defense. The pilot project, which is aimed at recovering vast amounts of personal information on individuals, may not be used on citizens in the United States and the developers must consult with Congress. At the time of this writing, legislation is also pending in the Senate that would similarly place a moratorium on data mining in the DHS. In addition, when the Senate approved the DHS, the legislation specifically prohibited the Justice Department’s “TIPS” program. The program was called “Orwellian” by its critics and would have encouraged citizens to engage in surveillance and report suspicious activities to authorities. Finally, in early January 2003 a U.S. District Court judge refused to dismiss a case filed by the Electronic Privacy Information Center against the Office of Homeland Security to force the disclosure of public records and discussions about a national identification system. However the case is decided may have spillover effects for the public disclosure of documents in the new DHS.

Privacy concerns, nonetheless, remain at the forefront of the operations of the DHS. The legislation exempts the DHS from elements of the Freedom of Information Act (FOIA). In particular, the legislation creating the DHS places restrictions on the disclosure of information associated with private companies “not customarily in the public domain.” To William Raspberry, a conservative columnist, “The way the law is written seems to put someone who blows the whistle on illegal activity in the company in danger of criminal prosecution.”
Moreover, it is unclear how the “privacy office” created in the DHS will be able to prevent abuse of privacy protections.⁵³

**Reforming Congress: The Centrality of Streamlining Committee Structures**

These and other concerns demand that Congress reform internal structures to meet the challenge of oversight for the DHS. As Gary Andres contends, “Congress should not delay in defining its oversight structure and role on this issue—both for the security of the homeland and to protect the prerogatives of Congress in the ongoing debate.”⁵⁴ This was the same conclusion drawn in the Hart-Rudman Commission Report (U.S. Commission on National Security in the 21st Century) prior to the establishment of the DHS.⁵⁵ With responsibility for components of the DHS spread out across thirteen committees, Congress must rationalize the authorization and appropriations process or the department’s operations may be hindered. Streamlining the committee structure is also necessary to insure that Congress maintain oversight of the department, lest the balance of control shift to the White House.

In the House of Representatives, several options are possible. One is to retain and/or reconstitute the select committee on homeland security formed to create the DHS. Another option is to constitute a permanent, fourteenth committee for homeland security. A final option is to create separate subcommittees for homeland security, which would exacerbate the diffusion of responsibility.⁵⁶ The penultimate problem for Congress is that all of these options require established committees to cede authority. Leaders have not attempted a wholesale rationalization of the committee system since the mid-1970s,⁵⁷ and calls for reform threaten turf wars among key power brokers in both chambers.⁵⁸ Few lawmakers support the idea of a fourteenth subcommittee given typical delays in completing work on the thirteen annual appropriations measures.⁵⁹

For the moment, Republican leaders in the House and Senate have sought a “middle way” to deal with the imperative of oversight of the DHS. In the Senate, oversight responsibility for the new department will remain with the Senate Governmental Affairs Committee, chaired by Susan Collins (R-ME), just as it had in the 107th Congress. Collins’ committee will have “lead responsibility” vis-à-vis other committees with current responsibilities for homeland security programs.⁶⁰ In the House, a Select Committee on Homeland Security is currently being organized. Speaker Hastert will appoint the chairmen and ranking members of at least eight other standing committees, including Judiciary, Government Reform, and Transportation.⁶¹ Representative Christopher Cox (R-CA) has agreed to chair the committee, with Jim Turner (D-TX) as ranking member. According to Cox’s office, Speaker Hastert has not yet appointed any other members to the committee, and there are no plans to establish a standing committee in the 108th Congress.⁶² In sum, these interim steps are pragmatic given that reorganization of the DHS will take time and much is to be determined from the president’s plan. Speaker Hastert may be attempting to acclimatize lawmakers to the new committee and then make it permanent. Nonetheless, these steps do not solve the longer-term need to sort out the overlap of jurisdictions. that will undoubtedly prove difficult to untangle in coming months.
Reprise

This article began with two objectives. The first was to trace presidential-congressional relations on the passage of legislation creating the DHS. The second was to connect several key issues concerning civil liberties in the new department to congressional oversight and reform of committee structures on Capitol Hill.

The analysis emphasizes a multi-faceted perspective on the dynamics surrounding presidential-congressional negotiation of the DHS legislation. In the first stage of negotiations Bush preempted congressional proposals with his own, used rapid approval of his plan by the House to pressure the Democratic Senate to follow suit, and threatened to veto the entire bill if Democrats inserted objectionable language. When the Senate failed to act, the White House and Democratic leaders blamed one another for the legislative impasse, strategically disagreeing in order to posture for political gain in the 2002 mid-term elections. Bush’s steadfast campaign for Republican candidates tipped the balance of several narrow races in the GOP’s favor. Interpretations that the election results were a referendum on Bush’s stance on homeland security, and the inevitability of passage of the president’s favored provisions in the 108th Congress, prompted Democrats to cede to the White House in the lame-duck session of the 107th Congress. With passage of the bill on the president’s terms and the reorganization of federal agencies underway, privacy rights hang in the balance. The potential domestic intelligence-gathering capacity of the new DHS troubles civil libertarians and necessitates meaningful congressional oversight of the department. For the moment, congressional leaders have taken interim steps to address the question of oversight without provoking internecine jurisdictional wars. These steps, however, are insufficient in the long-term. At stake not only are privacy rights but congressional prerogatives more generally, especially if the organization of the DHS serves as a template for consolidating other governmental functions as recommended by the Volcker Commission.  

Few believe that the new DHS will prove a panacea to defending the home front in the war on terrorism. Whether the department can surmount the many obstacles that lay ahead—from the creation of a culture of cooperation between transferred agencies where none has existed before to liaison with state and local governments—is an open question. Critics point to the complexity of the undertaking, carefully underscoring the panoply of unintended consequences and bureaucratic dysfunctions that grew out of Truman-era reforms of the Department of Defense.  

Regardless, the success or failure of the DHS—from balancing civil liberties with law enforcement to preventing future terrorist attacks—will be a central criterion in any historical evaluation of the legacy of George W. Bush. The growth of the national security state under his watch would seem to define Bush’s conservative vision in the post 9/11 era. Bush has been willing to expand government significantly in the defense and national security arena while seeking to keep domestic programmatic growth to a minimum. Such a stance is consistent with the legacy of his father and of Ronald Reagan, but it threatens to place Bush at odds with the libertarian wing of the GOP. Bush stances also seems to solidify contemporary Republicans’ break with conservatives of yesteryear, including Eisenhower, who warned of the dangers of the military-industrial complex and sought to limit the growth of the federal establishment in the domestic and defense/national security domains.
Endnotes

26 Ibid., Week Ending September 27, 2002, p. 1598.
33 Connie Farrow, “Cheney Says Talent is Key to Passing GOP Agenda in Senate,” *Associated Press State and Local Wire*, November 2, 2002.


Ibid.

Telephone communication to the office of Christopher Cox, 4 February 2003.

