

Report for Congress

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Homeland Security: The Presidential Coordination Office

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Summary

As part of his response to the September 11, 2001, terrorist attacks on New York City and Washington, DC, President George W. Bush announced in his September 20 address to a joint session of Congress that he was creating, within the White House Office, an Office of Homeland Security (OHS), headed by a director who would have Cabinet rank and would report directly to the President. OHS, as subsequently chartered with E.O. 13228 of October 8, 2001, is an agency of the Executive Office of the President. The success of this office as a coordinator of a comprehensive national strategy to safeguard the nation against terrorism may be guided by past experience with similar such entities. This report reviews past experience—principally with the Office of War Mobilization and its successor, the Office of War Mobilization and Reconversion—and its possible significance for OHS, as well as the administrative development of the new agency; it will be updated as events recommend.

Contents

A Presidential Charter	1
A Model and Principles for Success	2
Institutional Status in the President's Office	4
Jurisdiction Over All Agencies	5
Restriction of Functions to Top Policy and Program Issues	5
Non-involvement in Normal Functions of Individual Departments ...	5
Maintenance of Reasonable Control	6
Qualifications of the Program Coordinator	6
Small High-Level Staff	6
Implications for the Homeland Security Office	6
Administrative Developments	8
Legislation	14
H.R. 525 (Gilcrest)/S. 1453 (Smith)	14
H.R. 1158 (Thornberry)	14
H.R. 1292 (Skelton)	15
H.R. 3026 (Gibbons)	15
S. 1449 (Graham)	15
S. 1534 (Lieberman)	15
S. 2452 (Lieberman)/H.R. 4660 (Thornberry)	15

Homeland Security: The Presidential Coordination Office

In his September 20, 2001, address to a joint session of Congress, President George W. Bush announced that, as part of his response to the September 11 terrorist attacks on the World Trade Center in New York City and the Pentagon in Washington, DC, he was creating an Office of Homeland Security (OHS). According to the President's initial description of OHS, it was to be located within the White House Office and would be headed by a director who would have Cabinet rank and would report directly to the President. Pennsylvania Governor Tom Ridge was named as the President's choice for director. His mission and that of his office would be, in the President's words, to "lead, oversee, and coordinate a comprehensive national strategy to safeguard our country against terrorism and respond to any attacks that may come."¹

Following the announcement by President Bush, few details were forthcoming regarding OHS. Because the President historically has enjoyed virtually complete authority over the organization of the White House Office, no directive or charter for OHS was publicly released, although this omission contributed to a lack of specificity regarding the office's duties.²

A Presidential Charter

On October 8, 2001, President Bush issued E.O. 13228 establishing OHS as an agency within the Executive Office of the President, which includes such other agencies as the Council of Economic Advisers, the National Security Council, the Office of Management and Budget, and the White House Office.³ Later in the day, Tom Ridge was appointed the Assistant to the President for Homeland Security. The President's directive specifies that the head of OHS is the Assistant to the President for Homeland Security, signifying that the individual directing OHS is a member of the White House Office staff. The Assistant to the President for National Security Affairs, Condoleezza Rice, has a similar status: she is a member of the White House Office staff and directs the staff of the National Security Council. Because the direction of OHS is vested in a presidential assistant, no Senate approval of the Ridge appointment was necessary, because all White House Office staff are

¹*Weekly Compilation of Presidential Documents*, vol. 37, Sept. 24, 2001, p. 1349.

²The White House Office was established with E.O. 8248. This order organized the primary units within the Executive Office of the President, which had been created by Reorganization Plan 1 of 1939 (53 Stat. 1423). Other than providing appropriations and a personnel authorization for the White House Office, Congress has not legislatively limited the President's prerogatives regarding its operations.

³*Federal Register*, vol. 66, Oct. 10, 2001, pp. 51812-51817.

appointed without Senate confirmation. However, this situation and the advisory role that senior White House officials play may limit congressional access to such presidential aides. Traditionally, they have come before congressional committees only to explain very serious allegations of personal misconduct. Otherwise, attempts by congressional overseers and investigators to require their appearance and testimony before committees has usually been met by presidential invocations of so-called executive privilege—the privilege of the President to exercise a discretion, based upon the constitutional separation of powers doctrine, regarding the questioning of his advisers.⁴ Also, because OHS has been established by a presidential directive, its mission, responsibilities, and administration may be readily modified through the issuance of additional executive orders, a situation that has contributed to congressional reluctance to appropriate significant amounts of money for an agency so established for any length of time before requiring a statutory charter.⁵ Furthermore, because it has a presidential mandate and its leader is a member of the White House Office staff, OHS may be funded, in large or small part, from discretionary monies available to the President or amounts from the White House Office budget, with the result that congressional overseers and appropriators may have difficulty determining the adequacy of the OHS budget. These conditions seemingly militate against the ability of Congress to assess the success of OHS as a coordinator of a comprehensive national strategy to safeguard the nation against terrorism.

E.O. 13228 also established the Homeland Security Council, which is responsible “for advising and assisting the President with respect to all aspects of homeland security” as well as serving as “the mechanism for ensuring coordination of homeland security-related activities of executive departments and agencies and effective development and implementation of homeland security policies.” Chaired by the President, the council is composed of the Vice President, the Secretaries of Defense, Health and Human Services, and Transportation, the Attorney General, the Director of Central Intelligence, the directors of the Federal Bureau of Investigation and the Federal Emergency Management Agency (FEMA), the Assistant to the President for Homeland Security, “and such other officers of the executive branch as the President may from time to time designate.”

A Model and Principles for Success

OHS is emerging in an environment in which several entities, having established reputations and turf, could become rivals in some policy and administrative areas. The situation is reminiscent of the efforts of President Franklin D. Roosevelt to create an effective war mobilization and preparedness coordination entity. Success was realized with the Office of War Mobilization (OWM), established by presidential order on May 27, 1943, and the man Roosevelt selected to direct it, James F. Byrnes, a former member of the House of Representatives, the

⁴See CRS Report RL31351, *Presidential Advisers’ Testimony Before Congressional Committees: A Brief Overview*, by Harold C. Relyea and Jay R. Shampansky.

⁵See 31 U.S.C. 1347.

Senate, and the Supreme Court, and former director of the Office of Economic Stabilization.⁶ The OWM mandate was sweeping and general; it was empowered:

(a) To develop programs and to establish policies for the maximum use of the nation's natural and industrial resources for military and civilian needs, for the effective use of the national manpower not in the armed forces, for the maintenance and stabilization of the civilian economy, and for the adjustment of such economy to war needs and conditions;

(b) To unify the activities of Federal agencies and departments engaged in or concerned with production, procurement, distribution or transportation of military or civilian supplies, materials, and products and to resolve and determine controversies between such agencies or departments, except those to be resolved by the Director of Economic Stabilization under Section 3, Title IV of Executive Order 9250 [concerning agricultural prices]; and

(c) To issue such directives on policy or operations to the Federal agencies and departments as may be necessary to carry out the programs developed, the policies established, and the decisions made under this Order. It shall be the duty of all such agencies and Departments to execute these directives, and to make to the Office of War Mobilization such progress reports as may be required.

Given an office in the White House, Byrnes “soon was regarded as second only to the President on the home front,” and, with “his frequent exhibition of confidence in Byrnes, the President helped established public and governmental understanding and recognition of his position.”⁷ OWM operated with a small staff, which Byrnes “instructed not to constitute an isolating ‘layer between the director and the heads of agencies [but] ... to facilitate the relations of the director with agency heads.’” A small staff “prevented OWM from engaging in administrative activities and operations and from undertaking or interfering with the normal functions of other agencies.” It was also “inadequate to perform the type of central planning function which many people considered OWM’s most important duty.” However, this was not a limitation in Byrnes’s view, for he “felt that most planning should be conducted at agency levels and that it was his job primarily to coordinate such plans.”⁸ A concise, clear understanding of OWM’s functions was offered in a July 27, 1943, memorandum on the general plan for the operation of the agency.

The Office of War Mobilization acts for the President. ... The job of the Office is not to perform the functions of the established departments and agencies but to see that these functions are well performed by those charged with responsibility for their performance. The other primary task of the Office is to assure coordination of separate programs, by securing policy integration, resolving conflicts and rendering responsible authoritative and firm decisions in controversies.⁹

⁶E.O. 9347, 3 C.F.R., 1938-1943 Comp., pp. 1281-1282.

⁷Herman Miles Somers, *Presidential Agency: OWMR, the Office of War Mobilization and Reconversion* (Cambridge, MA: Harvard University Press, 1950), p. 52.

⁸*Ibid.*, pp. 55-56.

⁹Reproduced in *ibid.*, p. 58.

A few months after OWM's creation, another presidential order expanded the agency's authority to include aspects of U.S. foreign economic affairs.¹⁰ As a consequence of congressional concern about the accountability of the OWM director's exercise of his discretionary power, as well as a desire to begin planning for conversion to a peacetime economy, Congress enacted the War Mobilization and Reconversion Act in 1944, creating the Office of War Mobilization and Reconversion (OWMR) as an independent agency and making its presidentially appointed director subject to Senate confirmation with a two-year term.¹¹ This act, by one near-contemporary estimate, was "considered the broadest grant of power ever legislated by Congress, creating for the first time by statute a superdepartmental director over the whole range of home-front executive activities for war and reconversion—powers so great that some critics questioned the constitutionality of such a grant to anyone short of the President."¹² Upon signing the legislation into law, President Roosevelt issued an order transferring the functions and resources of OWM to OWMR.¹³ Byrnes, who was named the director of the new agency, continued to operate from the East Wing of the White House. He left the office in April 1945, and, three months later, was named Secretary of State. OWMR was dismantled at the end of 1946.¹⁴

A few years after the demise of OWMR, it was evaluated in a study as "a notable, although improvised, attempt to equip the President with a strong staff arm for executive policy and program coordination, as distinguished from administrative management and fiscal control." The author of the study, a participant-observer who served on the OWM-OWMR staff for 16 months, regarded the agency to be a successful instrument of central control and coordination for the President.¹⁵ Why was OWM-OWMR successful? In response to this question, seven guiding principles were offered.

Institutional Status in the President's Office. A presidential coordination entity, like OWM-OWMR, "must have permanent institutional status and must be clearly a presidential arm accountable only to him." It is also "essential" that the director of such an office or "coordinator be known to have full presidential confidence and backing." While it was thought that "the permanent establishment of such an Office [as OWM-OWMR] should probably be recognized by [statutory] law," it was also considered to be "undesirable that the coordinator have any statutory powers or be accountable to Congress."¹⁶ Byrnes did not have "statutory powers," such as responsibility for administering a program, so he was not accountable to Congress in that regard, but he did serve as a presidential liaison to

¹⁰E.O. 9361, 3 C.F.R., 1943-1948 Comp., pp. 257-259.

¹¹58 Stat. 785.

¹²Somers, *Presidential Agency*, p. 1.

¹³E.O. 9488, 3 C.F.R., 1943-1948 Comp., 345-346.

¹⁴See E.O. 9809, 3 C.F.R., 1943-1948 Comp., pp. 591-592.

¹⁵Somers, *Presidential Agency*, pp. 1-2.

¹⁶*Ibid.*, p. 224.

Congress to negotiate the drafting of legislation.¹⁷ He also informally kept in touch with Members of Congress, and agreed to follow up on conflicting war programs identified by Senator Harry S. Truman and his Senate Special Committee to Investigate the National Defense Program,¹⁸ but avoided interceding with Congress on behalf of individual departments, and appears to have been an infrequent witness before congressional committees, which is reportedly why Congress made the appointment of the OWMR director subject to Senate confirmation.

Jurisdiction Over All Agencies. A presidential coordination entity’s span of jurisdiction “must include all agencies and, in effect, be as broad as the President’s,” but should “not involve curtailment of the existing policy-making jurisdiction of any agencies.” While the “inclusion of the military within the coordinative jurisdiction may prove most difficult to work out,” the “problems of the military have to be reconciled with the interests of the other agencies, and this must be done in the President’s office,” or in the office of the coordinator acting on behalf of the President.¹⁹

Restriction of Functions to Top Policy and Program Issues. The OWM-OWMR “experience demonstrated clearly that successful central coordination must be completely divorced from any operating or administrative responsibilities.” Indeed, when “the central unit is the capstone of an operating organization, it will soon become just another operating agency, however important its operations may be.”²⁰

Non-involvement in Normal Functions of Individual Departments. The OWM-OWMR experience suggests that the “coordinator must avoid the two-edged evil of either allowing departments to feel that some of their normal responsibilities—either for administration or policy-making within their regular jurisdiction—have been taken away, or of being drawn into the innumerable detailed problems which they may bring to him to obtain support.” The coordinator “should take jurisdiction only over issues not susceptible of settlement at the department level ... or where inter-agency conflict has caused an impasse.” Similarly, he “should not be concerned with development of methods of operation but only with seeing that agencies concerned are following through.”²¹

Maintenance of Reasonable Control. Because reasonable discipline is essential to effective coordination, in situations where “the coordinator’s authorized decisions are flouted, he must take prompt and appropriate action either directly or, preferably, through the President.” Also, the coordinator “should not attempt to eliminate all disputes among agencies, but rather to reduce their volume and magnitude through early delineation of general policy and the provision of a locale

¹⁷Ibid., p. 74.

¹⁸Donald H. Riddle, *The Truman Committee: A Study in Congressional Responsibility* (New Brunswick, NJ: Rutgers University Press, 1964), p. 98.

¹⁹Somers, *Presidential Agency*, pp. 225-226.

²⁰Ibid., p. 226.

²¹Ibid., p. 227.

for final arbitration.” As a corollary consideration, “Agencies must be given relatively free rein for debate and for working out their differences among themselves, within the broad framework of administration policies.” Ultimately, when resolving a conflict, the coordinator should “indicate that he is bringing together all elements in the issue for the President, and assisting him in arriving at a decision, but that the decision is the President’s.”²²

Qualifications of the Program Coordinator. Recognizing that “paper authority and organizational lines rarely prove adequate in the higher echelons of government,” the OWM-OWMR experience suggests that a successful coordinator “must not only be a man [or woman] of highest ability and broad perspective, but should possess independent position and prestige based on wide experience and public respect.” Those who suggest that a highly regarded individual appointed to the coordinator position might become the President’s political competitor are reminded that this individual is a presidential agent, whose “effectiveness can be brought to a halt by a few public nods of disapproval from the President” because his “office is empty of power without presidential backing.” Indeed, the likelihood exists that, no matter how prestigious a coordinator may be, he may become expendable when White House decisions require a scapegoat.²³

Small High-Level Staff. The OWM-OWMR experience suggests that a coordinator’s staff “should be small, probably not exceeding 25 persons, other than clerical help.” Such a staff “should all have high rank, be of recognized high caliber and broad-gauged ‘generalists,’” and “[s]taff work requiring technical expertise should be assigned to other units of the Executive Office or regular agencies.” Also, staff members “are political personnel in the high sense of the term” and “must be willingly and patently identified with the President’s program.” Finally, because the coordinator “must either review or direct the actions of heads of agencies on matters not susceptible of final determination at the departmental level, unusual caution must be exercised regarding delegation of authority to staff members.” However, this consideration must be tempered by a caution against rigid adherence, so that the coordination office does not become “an irritating bottleneck.”²⁴

Implications for the Homeland Security Office

What implications do these principles have for the Office of Homeland Security (OHS) as chartered by E.O. 13228? Created by presidential directive, OHS does not have the “permanent institutional status” of the statutorily established OWMR. A statutory mandate for OHS could reduce congressional reluctance to appropriate funds to an agency subject to having its mission, responsibilities, and administration readily modified by presidential order. Fashioning a statutory charter for OHS would also provide an opportunity to determine when and how the head of the agency would be accessible to Congress. Would this OHS leader continue to hold status as a member of the White House Office staff, or be subject to Senate confirmation, to

²²Ibid., pp. 228-229.

²³Ibid., pp. 229-230.

²⁴Ibid., pp. 231-232.

appearing before appropriators to present the OHS budget, or to keeping Congress currently and continuously informed?

It would appear that the man named to direct OHS, former Pennsylvania Governor Tom Ridge, has the President's confidence and backing. He reportedly has been allocated office space in the West Wing of the White House. However, his mandate to "coordinate the executive branch's efforts" to combat terrorism, "work with executive departments and agencies" in this regard, and "identify priorities" concerning same does not appear to convey authority equal to that of the OWM-OWMR director, who was empowered to "develop programs," "establish policies," and "issue ... directives on policy or operations to the Federal agencies and departments." Consequently, in this regard, the head of OHS, compared with the OWM-OWMR director, may of necessity have to make more frequent resort to the President to resolve disputes, including opposition to his initiatives.

Stated in the executive order in the most general terms, the jurisdiction of OHS for performing its functions is not clear, and it is questionable if it, compared with OWM-OWMR, has any jurisdiction "over" other agencies. The executive order establishing OHS also mandates a Homeland Security Council, chaired by the President and composed of at least 10 members, the head of OHS being among them. Five other officials are invited to attend council meetings, and numerous other officials may be invited to attend council sessions "when appropriate." The relationship between the functions of the head of OHS and the council is not clear. A similar question concerns the relationship of the head of OHS with a new national director for combating terrorism on the staff of the National Security Council (NSC). What will be the responsibilities of this NSC staff position, recently filled by retired Army general Wayne Downing, a career specialist in counterterrorism?²⁵ The executive order offers no definition of the "homeland security" concept.

The OWM-OWMR experience also warns against OHS becoming involved in operating or administrative responsibilities. Nonetheless, the Assistant to the President for Homeland Security is designated "the individual primarily responsible for coordinating the domestic response efforts of all departments and agencies in the event of an imminent terrorist threat and during and in the immediate aftermath of a terrorist attack within the United States." Such activity not only suggests the exercise of operating or administrative authority, but also a duplication of, or intrusion into, the responsibilities of the director of FEMA.

A former member of the House of Representatives and a popular governor, Ridge is generally thought to be a qualified appointee to head OHS. Early press accounts indicated that OHS might initially have a staff of 100, four times the number suggested by the OWM-OWMR experience. Most of these, at least initially, would be detailees—civil servants, not "political personnel"—from agencies within the jurisdiction of OHS.²⁶

²⁵Mike Allen and Thomas E. Ricks, "Bush Names Army General to NSC Post on Terrorism," *Washington Post*, Sept. 30, 2001, p. A3; Mike Allen and Eric Pianin, "Two Key Advisers are Filling New Posts to Fight New War," *Washington Post*, Oct. 10, 2001, p. A21.

²⁶Elizabeth Becker and Tim Weiner, "New Office to Become a White House Agency," *New* (continued...)

Finally, apart from the OWM-OWMR experience, some have argued that OHS should have some authority over the budgets of agencies responsible for combating terrorism or homeland security.²⁷ One model is provided in the case of the director of the Office of National Drug Control Policy (ONDCP), a coordinator, who, in conjunction with preparing a national drug control strategy, prepares a consolidated national drug control program budget to implement the strategy. The ONDCP director certifies the adequacy of agency drug control program budgets. In cases where a budget is deemed inadequate, the ONDCP director recommends a new funding level. These recommendations are considered during the preparation of the President's annual budget. Also, no national drug control program agency may submit to Congress a reprogramming or transfer request for any appropriated funds greater than \$5 million in the national drug control program budget unless the request has been approved by the ONDCP director. In the event of a disapproval, the agency may appeal the ONDCP director's decision to the President.²⁸

E.O. 13228 authorizes the head of OHS to review agency budgets and make recommendations to agency heads and to the director of the Office of Management and Budget (OMB) regarding the levels and uses of funding for homeland security-related activities. Prior to the forwarding of the proposed annual budget submission to the President for transmittal to Congress, the head of OHS is to certify to the OMB director the funding levels that he "believes are necessary and appropriate for the homeland security-related activities of the executive branch." No further guidance in this regard is offered by the order.

Administrative Developments

Prior to Ridge's October 8, 2001, appointment as Assistant to the President for Homeland Security, President Bush, as he indicated in an October 5 letter to the Speaker of the House, authorized the transfer of \$195.9 million from the emergency response fund established by statute (115 Stat. 220) for recovery from, and response to, the September 11 terrorist attacks, \$25.5 million of which was allocated for the establishment of OHS.²⁹

Ridge launched OHS operations in early October with a dozen staff assistants. By October 18, when he held his first press conference, he had added a couple of individuals to his staff, and indicated that he talked at least once daily with the President and did so, as well, with key Cabinet officials and the director of the FBI.

²⁶(...continued)

York Times, Sept. 28, 2001, p. B5; Eric Pianin, "Unresolved Issues for Ridge's Job," *Washington Post*, Sept. 29, 2001, p. A16.

²⁷Noelle Straub, "White House, Senate Clash on Ridge's Role," *The Hill*, Oct. 3, 2001, pp. 1, 22.

²⁸21 U.S.C. 1502(c).

²⁹The White House, letter to the Speaker of the House of Representatives, Oct. 5, 2001, Washington, DC (copy in the possession of the author).

He described himself, as a coordinator, as being like an orchestra conductor.³⁰ “The music doesn’t start playing,” he said, “until he taps the baton.” When agencies respond to terrorist activity, “my role would be to participate in that effort to make sure that the response—agency-wide, cross-government-wide—is coordinated so that it is quick and is aggressive and is [as] complete as possible. That’s my job,” he proffered. He also indicated that his role was that of an overseer: “[I]f there is a gap, if there is something I think that needs to be done differently, if there are additional preventive measures I think need to be taken, if I think we have overlooked something, I make the call.” He added, however, in response to a question, that he did not have tactical or operational authority.

What President Bush asked me to do was [to] come to Washington to work to create a comprehensive national plan, to deal with homeland security ... and to do whatever I could in conjunction, in consultation—and yes, I have the authority—I certainly have access. I have the President’s ear. But my job is really long-term.

... The President has tasked me to take a look at the 46-plus agencies, to take a look at everything that everybody considers to be homeland security, and over the next several months [to] put together a comprehensive national strategy to deal with this ... threat that perhaps we thought about, but really didn’t think too long or hard about.

Concluding his remarks on his role, Ridge said: “I’m the one person in the government that can stand back from the different agencies, stand back from their missions, and stand back from their history and say, ‘Well, Mr. President, I would recommend that we strengthen our national ability to respond to these threats with this strategy.’ That I have been asked to do, and that’s what I’ll do.”

Later, in his October 25 remarks to the U.S. Conference of Mayors Summit, Ridge commented that he was “very open-minded to the notion that once I get done doing my work and present a national strategy to the President, that the realignment of some of those agencies [having something to do with homeland security] may be an outcome. I can’t tell you which one[s],” he quickly added, “but my challenge is to give the President a national strategy based on what I learned from you and everybody else. And so, I may just do that.” Government organization for homeland security arose again at Ridge’s November 27 press briefing, where he said that “one of the challenges that the Office of Homeland Security has is to make sure that it becomes a permanent part of how the federal government does business.” Regarding the federal agencies having a role in maintaining homeland security, Ridge commented that “we will have to take a look at whether or not we will enhance security if we merge their functions.” In late December, aides to Ridge reportedly produced a tempest within the Bush Administration when they unveiled a broad proposal to create an agency that would consolidate border security management.

³⁰Transcripts of the press briefings of OHS Director Tom Ridge are available at [<http://www.whitehouse.gov/homeland/archive.htm>]; also see August Gribbin, “Ridge Sees a Secure U.S. Homeland,” *Washington Times*, Oct. 19, 2001, pp. A1, A11.

Opponents represented a wide range of agencies, including five Cabinet departments.³¹

Returning to the October 18 press briefing, Ridge, responding to a question about his being included in the national security and intelligence briefings given daily to the President and his aides, said: “I am cleared by the President to have as much information as I want or need, which means that I have access to that kind of information.” Asked if he would be “the spokesman—the main person who will interface with the public” regarding administration efforts to effect homeland security, Ridge said “yes,” and indicated that there were plans “to try to have more regular briefings of this type.” Indeed, he subsequently held nine such briefings during the year, in addition to some speeches he also offered during the period. This activity prompted some to question whether he would be “an effective overseer or another spinner.”³²

At his October 19 press briefing, Ridge announced the creation of the Homeland Security Support Team at FEMA to gather information concerning consequence management for OHS and help state and local government officials with access to such information. By the end of the month, the task force reportedly consisted of eight staff members, with others to be added, drawn from several agencies.³³

On occasion, Ridge has directly intervened in homeland security administration. At his October 19 press briefing, Ridge revealed that, at the request of New York Governor George Pataki, he had obtained an extension of the stay of a Coast Guard cutter protecting the greater New York harbor area. Ridge reportedly acted on behalf of South Carolina Governor Jim Hodges to ensure that there would be no plutonium deliveries to a Savannah River nuclear power plant until a security and storage dispute was resolved. Similarly, he assisted Michigan Governor John Engler, who was having difficulties in his efforts to keep National Guard troops on duty to help customs agents clear the way for goods and workers to cross the bridges from Canada. Ridge also shifted money in the budget to enable the Postal Service to quickly purchase equipment to irradiate mail that might contain anthrax spores.³⁴

The Homeland Security Council held its initial meeting on October 29. That same day, the President inaugurated the issuance of Homeland Security Presidential Directives (HSPDs) “that shall record and communicate presidential decisions about the homeland security policies of the United States.” Additional details about the issuance of HSPDs were not immediately available, but they apparently are not being published in the *Federal Register*. The initial directive concerned the organization and operation of the Homeland Security Council; the second, also issued on October

³¹See Alison Mitchell, “Official Urges Combining Several Agencies to Create One That Protects Borders,” *New York Times*, Jan. 12, 2001, p. A8.

³²See, for example, David Corn, “Ridge on the Ledge,” *The Nation*, vol. 273, Nov. 19, 2001, pp. 19-20, 22.

³³Bridgette Blair, “Task Force is Bridge to State, Local Governments,” *Federal Times*, Oct. 29, 2001, p. 10.

³⁴See Eric Planin and David S. Broder, “Ridge Defends His Role as ‘Coordinator,’” *Washington Post*, Nov. 18, 2001, p. A5.

29, pertained to combating terrorism through immigration policies; the third, issued March 11, 2002, established the Homeland Security Advisory System of five graduated threat conditions to apprise the executive branch and the nation of the risk of a terrorist attack.

Ridge also named six senior members of his OHS team on October 29. They included:

- Steve Abbot, a retired Navy admiral, former deputy commander in chief of the United States European Command during the recent Kosovo conflict, and executive director of a national preparedness review group for Vice President Richard B. Cheney, to be the OHS deputy director;
- Mark A. Holman, an attorney, former administrative assistant and chief of staff to then-Representative Ridge, and former chief of staff to then-Governor Ridge, to be an assistant to the OHS deputy director;
- Becky Halkias, former deputy chief of staff for federal affairs in then-Governor Ridge's Washington office, to be the OHS liaison to Congress; she subsequently left her OHS position in early April 2002;³⁵
- Carl M. Buchholz, an attorney and former special assistant to the late Senator John Heinz, to be the OHS executive secretary;
- Barbara Chaffee, a former senior assistant to then-Governor Ridge, to be the OHS public liaison; and
- Susan Neely, a communications professional, former press secretary and communications director for then-Governor Terry Branstad of Iowa, and former senior vice president for communications of the Association of American Medical Colleges, to be the OHS communications director and senior media representative.³⁶

By mid-December, as the internal organization of OHS was taking shape, plans called for a staff of 186 personnel, 170 of whom were anticipated to be assigned temporarily from a range of agencies. OHS Deputy Director Abbot was responsible for supervising two program clusters, one composed of directorates on programs and budget as well as policy and plans and another including directorates on research and development, protection and prevention, response and recovery, and intelligence and detection. OHS Deputy Assistant Holman was heading a cluster counting directorates on public liaison, intergovernmental affairs, and communication. An administration and support directorate, as well as the OHS coordination center, were

³⁵John Bresnahan and Ben Pershing, "Ridge's Hill Liaison Leaves," *Roll Call*, Apr. 8, 2002, pp. 1, 26.

³⁶August Gribben, "Ridge Appoints Six Staffers to Homeland Security Team," *Washington Times*, Oct. 30, 2001, p. A4.

supervised by OHS Executive Secretary Buchholz.³⁷ Located in a former naval communications complex off Ward Circle in Washington, DC, the OHS coordination center was unveiled in early May 2002 and was scheduled to become operational within the next few weeks.³⁸ Earlier, with E.O. 13260 of March 19, 2002, President Bush established the President's Homeland Security Advisory Council with four Senior Advisory Committees to assist it, members being drawn from state and local government, academia and the policy research community, the private sector, and emergency services, law enforcement, and public health organizations and hospitals.³⁹

By late January 2002, Ridge was reportedly "facing resistance to some of his ideas, forcing him to apply the brakes on key elements of his agenda and raising question about how much he can accomplish." Among the OHS plans engendering opposition from within the executive branch included those to streamline or consolidate agencies responsible for border security; improve intelligence distribution to federal, state, and local agencies; and alert federal, state, and local officials of terrorist threats using a system of graduated levels of danger. It was noted that, "even though he works a few steps from the Oval Office, Ridge has been left out of important intelligence discussions" concerning homeland security. For example, "he is not included in a more expansive intelligence briefing provided daily to the president, the vice president, the White House chief of staff and several others," and Ridge also acknowledged that he was unaware of the details of late November meetings in Pakistan by the Director of Central Intelligence.⁴⁰

At about this same time, Ridge began to become embroiled in controversy over his refusal to testify before congressional committees. Among the first to request his appearance were Senator Robert C. Byrd and Senator Ted Stevens, respectively, the chairman and ranking minority member of the Committee on Appropriations. Ridge turned down their initial, informal invitation and later formal requests of March 15 and April 4.⁴¹ When Ridge declined the request of Representative Ernest Istook, Jr., chairman of the House Appropriations Subcommittee on Treasury, Postal Service, and General Government, appropriations for the Executive Office of the President were threatened, prompting Ridge to offer to meet with Istook and other

³⁷Bridgette Blair and Gail Kaufman, "Homeland Director Turns to Trusted Advisers," *Federal Times*, Dec. 10, 2001, p. 4.

³⁸Joseph Curl, "High-tech U.S. Security Center to Open," *Washington Times*, May 9, 2002, p. A10; David E. Sanger, "Ridge Guides Tour of New Situation Room to Coordinate Action in Crises," *New York Times*, May 9, 2002, p. A22.

³⁹See *Federal Register*, vol. 67, Mar. 21, 2002, pp. 13241-13242.

⁴⁰Eric Pianin and Bill Miller, "For Ridge, Ambition and Realities Clash," *Washington Post*, Jan. 23, 2002, pp. A1, A10.

⁴¹Dave Boyer, "Ridge Reluctant to Testify in Senate," *Washington Times*, Feb. 27, 2002, p. A4; Alison Mitchell, "Congressional Hearings: Letter to Ridge Is Latest Jab in Fight Over Balance of Powers," *New York Times*, Mar. 5, 2002, p. A8; Mark Preston, "Byrd Hold Firm," *Roll Call*, Apr. 18, 2002, pp. 1, 26.

subcommittee members in an informal session.⁴² Thereafter, Ridge arranged other informal briefings with members of the House Committee on Government Reform and a group of Senators, and agreed to a similar such session with members of the House Committee on Energy and Commerce. These informal meetings did not appear to abate the controversy that Ridge's refusals to testify had generated.⁴³

Assessing the situation in early May, a *New York Times* news analysis proffered that, "instead of becoming the preeminent leader of domestic security, Tom Ridge has become a White House adviser with a shrinking mandate, forbidden by the president to testify before Congress to explain his strategy, overruled in White House councils and overshadowed by powerful cabinet members reluctant to cede their turf or their share of the limelight." In support of this view, the analysis noted that the Pentagon did not consult with Ridge when suspending air patrols over New York City—a special assistant to the Secretary of Defense explained this action by saying, "We don't tell the Office of Homeland Security about recommendations, only about decisions"—and the Attorney General unilaterally announced a possible terrorist threat against banks last month.⁴⁴ Asked about this assessment by Jim Lehrer on the PBS *Newshour*, Ridge called it "false" and said, "I just don't think they have spent enough time with me on a day-to-day basis."⁴⁵ Shortly thereafter, a *New York Times* editorial observed that one of the reasons Ridge "lost these turf battles is that he failed to build a constituency for change in Congress. His refusal to testify before Congressional committees has not helped."⁴⁶ Others—Senator Bob Graham and Brookings scholar Paul Light, former Lieutenant General Edward L. Rowney, and former White House Chief of Staff Leon Panetta—have contended that Ridge needs "tools" or direct authority to do his job effectively.⁴⁷

⁴²George Archibald, "Panel Ties Funding to Ridge Testimony," *Washington Times*, Mar. 22, 2002, pp. A1, A14; George Archibald, "White House Mollifies House Panel," *Washington Times*, Mar. 23, 2002, pp. A1, A4.

⁴³Bill Miller, "Ridge Will Meet Informally With 2 House Committees," *Washington Post*, Apr. 4, 2002, p. A15; George Archibald, "Ridge Attends Private Meeting on Hill," *Washington Times*, Apr. 11, 2002, p. A4; Elizabeth Becker, "Ridge Briefs House Panel, But Discord Is Not Resolved," *New York Times*, Apr. 11, 2002, p. A17; Bill Miller, "From Bush Officials, a Hill Overture and a Snub," *Washington Post*, Apr. 11, 2002, p. A27; Amy Fagan, "Democrats Irked By Ridge's Closed House Panel Meeting," *Washington Times*, Apr. 12, 2002, p. A6; Stephen Dinan, "Ridge Briefing Called 'Stunt'," *Washington Times*, May 3, 2002, p. A9; Bill Miller, "On Homeland Security Front, a Rocky Day on the Hill," *Washington Post*, May 3, 2002, p. A25.

⁴⁴Elizabeth Becker, "Big Visions for Security Post Shrink Amid Political Drama," *New York Times*, May 3, 2002, pp. A1, A16.

⁴⁵*NewsHour Focus, Newsmaker: Tom Ridge*, May 9, 2002, transcript available at NewsHour Index, [http://www.pbs.org/newshour/newshour_index.html].

⁴⁶Editorial, "Faltering on the Home Front," *New York Times*, May 12, 2002, p. 14.

⁴⁷See Bob Graham and Paul Light, "Tools for the Homeland Security Chief," *Washington Post*, Nov. 22, 2001, p. A47; Edward L. Rowny, "Tom Ridge Needs Tools to Win," *Washington Times*, Nov. 19, 2001, p. A17; Leon Panetta, "Homeland Security Chief Needs Direct Authority," *Federal Times*, Apr. 29, 2002, p. 15.

Ridge's problems had not escaped White House attention. In his April 11, 2002, testimony before the Senate Committee on Governmental Affairs concerning Senator Lieberman's proposal for a homeland security department, Mitchell E. Daniels, Jr., the director of the Office of Management and Budget, indicated that the President might eventually decide to create the department as envisaged in the Lieberman bill. In addition, Daniels said he would consider creating a working group with Senator Lieberman to discuss the legislation.⁴⁸ Subsequently, Daniels, Ridge, White House Chief of Staff Andrew H. Card, Jr., and White House counsel Alberto R. Gonzales would constitute the principal members of a secret group that would begin drafting the President's departmental plan on April 23. This proposal was unveiled on June 6. The President's surprise announcement was viewed not only as an attempt to regain the initiative in the nation's efforts at combating terrorism, but also to move beyond the coordination efforts of the Office of Homeland Security to a strong administrative structure for managing consolidated programs concerned with border security and effective response to domestic terrorism incidents. An alternative model is provided by Senator Lieberman (S. 2452) and Representative Mac Thornberry (H.R. 4660), creating both a Department of National Homeland Security and a new Executive Office of the President entity, the National Office for Combating Terrorism.

Legislation

Bills currently pending before the 107th Congress providing an alternative model to the OHS established by the President include the following measures.

H.R. 525 (Gilcrest)/S. 1453 (Smith). The Preparedness Against Domestic Terrorism Act of 2001 amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide for improved federal efforts to prepare for and respond to terrorist attacks, and for other purposes, including the establishment of the President's Council on Domestic Preparedness. Introduced in the House on Feb. 8, 2001, and referred to the Committee on Transportation and Infrastructure; referred to the Subcommittee on Economic Development Feb. 9; subcommittee hearings held Apr. 24 and May 9; subcommittee mark-up session Sept. 20; referred, as amended, to the full committee Sept. 20; committee consideration, markup, and order to be reported Nov. 7. Introduced in the Senate on Sept. 21, 2001, and referred to the Committee on Environment and Public Works.

H.R. 1158 (Thornberry). The National Homeland Security Agency Act establishes a National Homeland Security Agency as an independent agency with a director appointed by the President and subject to Senate confirmation. Introduced March 21, 2001, and referred to the Committee on Government Reform; referred to the Subcommittee on National Security Apr. 23; subcommittee joint hearing held Apr. 24.

H.R. 1292 (Skelton). The Homeland Security Strategy Act of 2001 requires the President to develop and implement a strategy for homeland security, including designating a single government official responsible for homeland security.

⁴⁸Elizabeth Becker, "Domestic Security: Bush is Said to Consider a New Security Department," *New York Times*, Apr. 12, 2002, p. A15.

Introduced March 29, 2001, and referred to the Committee on Armed Services with additional referral to the Committees on Transportation and Infrastructure, the Judiciary, and Intelligence; Transportation Subcommittee on Economic Development joint hearing held Apr. 24.

H.R. 3026 (Gibbons). The Office of Homeland Security Act of 2001 establishes an Office of Homeland Security within the Executive Office of the President with a director appointed by the President and subject to Senate confirmation, who is responsible, among other duties, for the creation of a national strategy and a national budget for homeland security, as well as developing a comprehensive national assessment of the threat to homeland security, and coordinating the planning and implementation of federal activities regarding same. Introduced Oct. 4, 2001, and referred to the Committee on Government Reform with additional referral to the Committee on Armed Services, the Judiciary, Transportation and Infrastructure, Intelligence, and Energy and Commerce.

S. 1449 (Graham). Establishes a National Office for Combating Terrorism within the Executive Office of the President with a director appointed by the President and subject to Senate confirmation. Introduced Sept. 21, 2001, and referred to the Committee on Governmental Affairs; hearing held Oct. 12.

S. 1534 (Lieberman). Establishes a Department of National Homeland Security. Introduced Oct. 12, 2001, and referred to the Committee on Governmental Affairs; hearing held Oct. 12.

S. 2452 (Lieberman)/H.R. 4660 (Thornberry). Establishes a Department of National Homeland Security and a National Office for Combating Terrorism within the Executive Office of the President. Introduced May 2, 2002, and referred in the Senate to the Committee on Governmental Affairs, and in the House to the Committee on Government Reform. Ordered to be reported on a 7-3 vote in the Senate on May 22.