



Redefining Homeland Security

A New Framework for DHS To Meet Today's Challenges

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Executive summary

The U.S. Department of Homeland Security (DHS) was created nearly 20 years ago in response to catastrophic terrorist attacks on the United States. What America needs from DHS today, however, is different from when it was founded. While the department still has an important role to play in preventing attacks against the United States from abroad, it is time to refine the department's mission and priorities to ensure that they fit current needs.

Many of today's most serious threats to America's safety and prosperity—natural disasters, pandemic disease, cyberattacks, and violent white supremacy—originate at home or are borderless by nature. In an era of increased movement of people and goods across borders, we need a DHS that prioritizes the rule of law, and one that protects all Americans as well as everyone who comes to live, study, work, travel, and seek safety here.

Despite consensus among policymakers that the department could be far more effective,¹ there is little agreement on how to fix it. Public debate over the future of DHS has fallen into two predictable camps: One side calls for the department, or parts of it, to be dismantled,² while the other side argues that the solution to DHS's shortcomings is to hand it even more resources and responsibility.³ Neither is the right choice.

The Center for American Progress believes that having a Cabinet agency such as DHS remains critical to the safety and well-being of Americans. With appropriate oversight and respect for civil liberties, the department has tremendous potential to advance public safety and provide critical services.

While the department will continue its efforts to protect, secure, prevent, and enforce,⁴ CAP proposes a strategic shift to a safety and services framework for DHS that would bring the department's existing responsibilities into balance and realign its priorities around five new core values: connecting, communicating, facilitating, welcoming, and helping. In recommending this shift, CAP acknowledges that threats to Americans' safety and security will continue to require a strong and coordinated response from DHS. CAP also recognizes that the safety and services framework proposed will,

in many areas, be enabled by the department's threat management capabilities. But it is time for DHS to focus on the missions and activities that it is uniquely capable of carrying out, and for which it, rather than other agencies, is the natural lead. This means, for example, dialing up DHS's focus on disaster relief and cybersecurity and dialing down its law enforcement focus, particularly where other government agencies have or should have primary responsibility. In line with this new vision, CAP recommends that purely investigative and detention functions be moved out of DHS and transferred to other agencies, such as the FBI and the Bureau of Prisons, which are the federal lead for those functions.

To maximize its value and effectiveness in today's environment, DHS should organize—and articulate its mission—around a balanced set of activities that prioritize safety and services roles more fully with DHS's other protecting, securing, and defending roles. DHS should dial up, or increase, its strategic focus in the following areas:

- **Connecting:** DHS should prioritize service and partnerships and invest in efforts to connect state, local, tribal, and territorial officials with federal resources and officials.
- **Communicating:** DHS should manage information sharing and public disclosures of intelligence between federal entities and their local counterparts through a leading role that would be a valuable public service.
- **Facilitating:** DHS should continue to facilitate lawful international trade and travel, ensure that U.S. transportation services are safe, and maintain U.S. waterways and maritime resources.
- **Welcoming:** DHS should provide efficient and respectful service to aspiring citizens and other immigrants and emphasize its unique role in welcoming the people who immigrate to, visit, or seek refuge in the United States.
- **Helping:** DHS should expand its existing capacity on disaster relief and emergency management and invest in new, flexible headquarters and regional capabilities that can address a wide range of emergencies and situations.

DHS should dial down its strategic focus in the following areas, bringing them into balance with its other priorities:

- **Protecting:** DHS should coordinate cybersecurity and critical infrastructure to bridge the gap between public and privately owned infrastructure and ensure that federal protection efforts can effectively extend to all sectors across the country.
- **Securing:** DHS should maintain its core objective of securely, efficiently, and humanely managing our air, land, and maritime borders.

- **Preventing:** DHS should focus on the increasing prevalence of domestic challenges and borderless threats while maintaining its important role in preventing attacks against the United States at home and abroad.
- **Enforcing:** DHS should conduct a recalibration of its enforcement activities within broader department goals of safety and service and move law enforcement activities that are not aligned to this mission to other areas of the federal government that are better suited to these functions.

To make the case for reform, this report first outlines the legacy of DHS's hasty founding and how past attempts to reform DHS have failed to reorient the department away from a disproportionate focus on foreign threats. It then provides an analysis of DHS's challenges, highlighting long-standing foundational problems, including where the department is absent or not contributing. It also identifies opportunities to reform the factors that hinder DHS from being maximally effective in providing value to the nation. Next, the report reimagines what it means to keep America secure in today's world and provides a new framework for rebalancing the department's focus toward new and emerging needs. It recommends that DHS adopt a new safety and services model, outlined above, that increases its emphasis on connecting, communicating, facilitating, welcoming, and helping, while simultaneously recalibrating its focus on external threats by bringing its emphasis on protecting, securing, preventing, and enforcing into better balance with its other priorities. Finally, this report proposes near- and longer-term steps that the current administration could take to realize this vision and deliver better value for the American people.

CAP's study of the Department of Homeland Security

CAP conducted a qualitative study and review of DHS informed by discussions with more than 35 stakeholders—including former and current government officials, policy experts, and civil society members—from November 2020 to May 2021. CAP focused on first-order questions about DHS's mission and value proposition and how that relates to the needs, challenges, and opportunities facing the nation today. While the study does not make specific recommendations on the structure of DHS, this report proposes a framework that has implications for restructuring and recommends the DHS secretary and Congress realign the components of DHS around that framework. The goal of this report is to provide a vision for what a revitalized DHS could achieve for Americans and those who visit or seek safety or opportunity here.

DHS has the potential to meet today's moment. There is no other department with DHS's range of flexible authorities and unique capacity to respond to these issues and others that fall between the gaps of responsibilities of other federal departments and agencies. There is no other department better suited to coordinate effective federal emergency response; communicate threat information between the public and private sectors; provide a working, humane approach to border management; facilitate an integrated cybersecurity and infrastructure capacity; and implement effective approaches to counter the threats from domestic extremism fueled by white supremacy and the rise of anti-government militias. And there is no other department with the mandate and track record of playing a bridging role between state, local, tribal, and territorial officials and the federal government.

As then-nominee Alejandro Mayorkas argued in his confirmation hearing, DHS is and should be “fundamentally, a department of partnerships.”⁵ He is right. Going forward, DHS should prioritize service and partnerships, connecting people in the United States to federal services that reflect American values and are essential to America's shared prosperity. The department's threat-oriented roles will, of course, remain, but this new framework will help DHS realign its focus and priorities on those areas where it can be maximally effective and provide value to the American people and those who live, study, work, travel, and seek safety here.

The solution

Established in 2003, the Department of Homeland Security was largely defined by the 9/11 terrorist attacks, and the response to those tragic events continues to shape the priorities and mission of the department today. Since its founding, there has been persistent confusion about DHS's role as well as complaints about its structure, operations, and oversight. Observers across the political spectrum have argued that, in the rush to stand up a new department, disparate components of the federal bureaucracy were shoe-horned into DHS, with mixed results.⁶ Today's DHS claims a role in most national security issues—and a number of issues that fall outside of national security—but there are few areas where DHS leads the government's response and even fewer where it does so well and without controversy.

Despite consensus among policymakers that the department could be far more effective,⁷ there is little agreement on how to fix it. Public debate is split between those who call for the department, or parts of it, to be dismantled⁸ and those who argue that DHS needs more resources and responsibility.⁹ Both approaches miss the point. Abolishing DHS and returning its components to where they came from is neither politically feasible nor wise, and giving DHS more resources and responsibility without substantive changes will do little to fix the department's underlying problems. Reform of the agency—and decisions about its future size and scope of responsibilities—should begin not with a catalog of DHS's deficiencies but rather with an analysis of America's homeland security needs. It is critical to consider the following questions: What should be the primary focus of the department? What does DHS need to do, and what is better left to, or better done by, other departments and agencies? How has the department's mission changed since its creation? And how can DHS provide value to the American people and those who visit or seek safety or opportunity here?

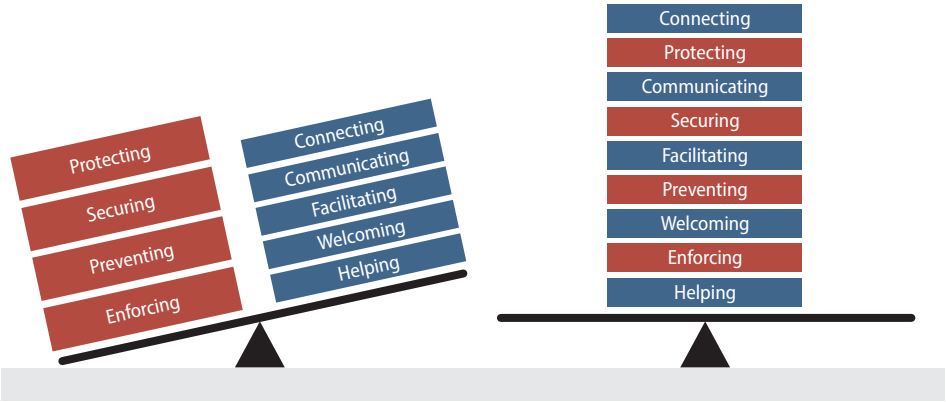
As DHS approaches its 20-year mark, the United States has an opportunity to redefine the department's value proposition for the future and to better align DHS's structure and activities with its mission. It is time to reimagine what it means to keep America safe, secure, and prosperous in today's world and to recalibrate the priorities of the department charged with doing so.

CAP believes that DHS should take a broader view of what it means to keep the nation secure. At the national level, DHS’s attention and political emphasis is out of balance with many of today’s most serious threats. While the department still has an important role to play in preventing attacks against the United States from abroad, many of today’s most serious risks to America’s safety and prosperity—including natural disasters, pandemic disease, cyberattacks, and domestic extremism fueled by white supremacy—originate at home or are borderless by nature. These dangers will require DHS to step up its efforts in areas that have not been its primary focus, prioritizing its missions differently than it has over the past two decades. The department can no longer fulfill its purpose by focusing disproportionately on international terrorism and immigration enforcement and must understand that enforcement-overdrive has damaged critical relationships with communities and their leaders all across the country.¹⁰

DHS should strategically recalibrate its priorities around a safety and services model rather than a threat-oriented model.

Instead, DHS should strategically recalibrate its priorities around a safety and services model rather than a threat-oriented model—which, in its current incarnation, is primarily concerned with counterterrorism and immigration enforcement, with communities of color, immigrants, and refugees treated as threats. This rebalancing does not ignore or downplay the risks that threaten American security and prosperity; rather, it properly focuses DHS’s role on where it is positioned to be most effective rather than overlapping or duplicating the work of other federal agencies.

Seizing the opportunity to reimagine what it means to keep America secure and recalibrate DHS’s priorities accordingly would enable the department to refocus its efforts in areas where it can add unique value and ensure that the government fulfills its responsibility to guarantee the safety, security, and prosperity of all Americans and those who come to live, study, work, travel, and seek safety here.



Rebalancing toward a safety and services model requires bringing DHS’s activities into balance and ensuring they are not overly focused on threat-oriented priorities.

Background: The aftermath of 9/11 and the legacy of DHS's hasty founding

Eleven days after the 9/11 terrorist attacks, then-Pennsylvania Gov. Tom Ridge (R) was appointed to be the first director of the White House Office of Homeland Security and charged with overseeing and coordinating a comprehensive national strategy to prevent future terrorist attacks on the country.¹¹ Although President George W. Bush initially believed that the federal government could better ensure the safety of Americans with a strong homeland security council managed by the White House, he later transmitted his department proposal to the U.S. House of Representatives on June 18, 2002; one of the most determined early proponents of the department was Joe Lieberman, then a Democratic senator from Connecticut. The House approved the original bill on July 26, but the Senate was slower to consider the legislation due to partisan jurisdiction claims, parliamentary factors, and the deliberation of a few highly contentious issues.¹² It was not until after the November 2002 elections that Congress reconvened and passed a compromise bill.

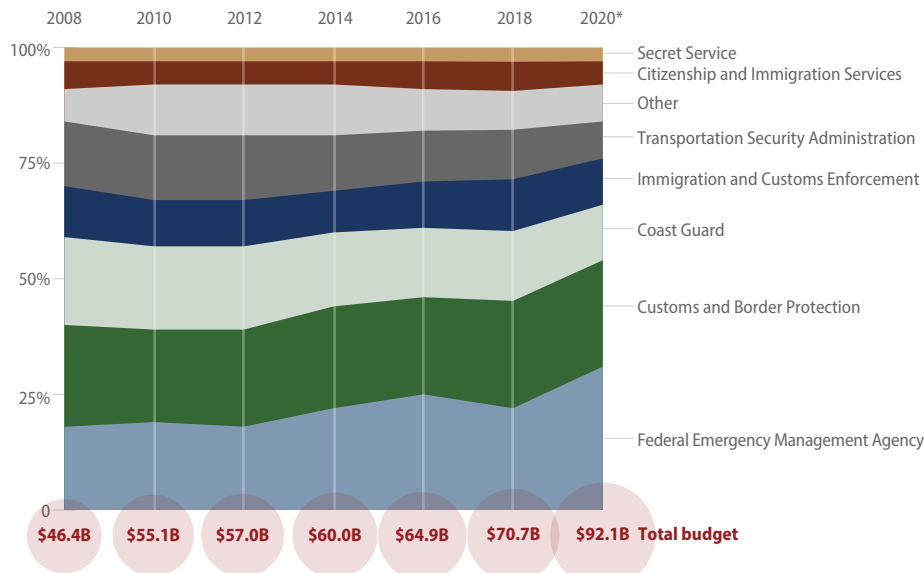
DHS was formally established as a stand-alone, Cabinet-level department on March 1, 2003, bringing 22 federal agencies under one umbrella to coordinate efforts to secure the homeland. Soon thereafter, Congress also put the wheels in motion to stand up a new center for countering terrorism. The Intelligence Reform and Terrorism Prevention Act, enacted in December 2004, established the National Counterterrorism Center (NCTC) and the Office of the Director of National Intelligence to lead intelligence integration across the 17 components that make up the U.S. intelligence community (IC). Together, these efforts produced the most significant government reorganization since the National Security Act of 1947.

In the 20 years since it was established, DHS has become the largest federal law enforcement agency in the government, with more than 240,000 employees—more than twice the size of the U.S. Department of Justice (DOJ), the lead department charged with law enforcement activities.¹³ DHS's budget has also more than doubled in size since its founding, from roughly \$30 billion in fiscal year 2004 to more than \$64 billion in FY 2018—not counting disaster relief funds, which vary depending on emergencies that happen each year. Including disaster relief, DHS's budget was more than \$88 billion last fiscal year—triple its size 20 years ago and almost triple the DOJ's annual budget of \$32.4 billion last year.¹⁴

FIGURE 1

The needs have changed and funding has increased, yet the Department of Homeland Security's priorities have stayed the same

Percentage of budget allocated to different DHS agencies, by fiscal year



* The FY 2020 DHS "Budget in Brief" report allocation overview adds up to 99 percent (p. 7). To make the budget consistent with other years, the authors added an extra 1 percent to the "Other" category for this year.

Source: U.S. Department of Homeland Security, "DHS Budget," available at <https://www.dhs.gov/publication/dhs-budget> (last accessed March 2021).

The original legislation that created DHS tasked the new agency with seven primary missions, almost all of which relate to counterterrorism:

- Preventing a terrorist attack within the United States
- Reducing the United States' vulnerability to terrorism
- Minimizing the damage and assisting in the recovery from terrorist attacks that do occur within the United States
- Carrying out all functions of entities transferred to the department, including responding to natural and human-made disasters
- Ensuring that missions related to homeland security are fulfilled
- Ensuring that such activities do not affect the overall economic security of the United States
- Monitoring connections between illegal drug trafficking and terrorism¹⁵

FIGURE 2

The Department of Homeland Security was created by pulling together existing agencies from other departments

The massive scope of activities and diverse components brought under the new department has stressed the DHS mission and organization from the start



*The Strategic National Stockpile and the National Disaster Medical System were brought under DHS from the U.S. Department of Health and Human Services (HHS) but were transferred back to HHS in 2004.

Notes: Immigration and Naturalization Service (INS), which previously managed most federal immigration services, became U.S. Citizenship and Immigration Services (USCIS) under DHS. Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) were created from INS' domestic enforcement functions, and some divisions of INS were transferred to ICE.

Source: Department of Homeland Security, "Who Joined DHS," available at <https://www.dhs.gov/who-joined-dhs> (last accessed April 2021).

The original administration proposal in June 2002 to create DHS proposed a “clear and efficient organizational structure” with four divisions: border and transportation security; emergency and preparedness response; chemical, biological, radiological, and nuclear countermeasures; and information analysis and infrastructure protection.¹⁶ By the time it came into existence, however, the original agencies and different components of the federal government brought together under the DHS umbrella represented a much broader range of activities.¹⁷

Congress has repeatedly attempted to guide DHS and shape the prioritization of its missions but has achieved little success. In part because of the disparate nature of DHS authorizing and appropriating entities, Congress has never passed an authorization bill for the department. In 2017 and with overwhelming bipartisan support, the House of Representatives passed H.R. 2825, the Department of Homeland Security Authorization Act of 2017, which sought to reauthorize DHS for the first time since its creation.¹⁸ More recently in 2020, several House Democrats introduced H.R. 8719, the DHS Reform Act of 2020, in response to perceived abuses of DHS’s authorities during the Trump administration.¹⁹ Congress never passed either bill, however, and congressional oversight remains divided and largely ineffective at setting overall priorities for the department.

DHS’s complicated web of roles and responsibilities also means that it plays a supporting role nearly everywhere but rarely leads. The department’s founding mission to prevent another 9/11-style attack continues to influence its outside focus on counterterrorism—despite the fact that DHS’s ability to prevent terrorism is limited, and entities such as the FBI and NCTC are often in the lead statutorily. The dominating focus on counterterrorism comes at the expense of other activities that DHS is uniquely positioned to execute among federal agencies such as providing efficient, safe, and respectful immigration services; facilitating international trade and travel; serving as the nation’s risk adviser for critical infrastructure; and proactively responding to disasters that do not fall within the missions of other parts of the federal bureaucracy.

DHS's intelligence apparatus: A muddled mission meets expansive authorities

As part of reform efforts in 2006 after DHS's failed response to Hurricane Katrina, the Office of Intelligence and Analysis (I&A) was established as an intelligence entity within DHS that would inform department operations and connect it to other federal intelligence efforts. A member of the IC, it is charged statutorily with delivering intelligence to state, local, tribal, and territorial officials, as well as private sector partners, and with developing intelligence from those partners for DHS and the IC.²⁰ The under secretary of I&A is also the chief intelligence officer of the department, overseeing the intelligence activities of the various DHS component agencies.

DHS intelligence activities, at one time derided as being uncoordinated and duplicative of work being done elsewhere, have more recently raised concerns that DHS was acting beyond its already broad authorities. The muddled intelligence mission and an expansive set of authorities present a worrying combination that has led to abusive activities and human rights violations. I&A reportedly compiled dossiers on journalists covering the 2020 protests in Oregon, under a theory of expanded intelligence activities that DHS lawyers argued were "necessary to mitigate the significant threat to homeland security" that such activities posed.²¹ DHS has also ramped up the collection and retention of expanded categories of records during customs and immigration processing, including the collection of data on U.S. persons. DHS policy has expanded the categories of records collected to include "social media handles, aliases, associated identifiable information, and search results."²² DHS has also launched a new system, the Customs and Border Protection Intelligence Records System (CIRS), to aggregate immigration, law enforcement, national security, and publicly available data—including social media—in a central database.²³

Meanwhile, the Homeland Security Investigations (HSI) office, housed within U.S. Immigration and Customs Enforcement (ICE), has ballooned to 7,100 agents in 225 cities nationwide and is now one of the largest federal investigative agencies within the U.S. government.²⁴ HSI claims broad legal authority to investigate a wide range of domestic and international criminal activities arising from the illegal movement of people, goods, money, and contraband into and within the United States and has access to the information stored in the CIRS database. Despite maintaining an intelligence records system and collecting, aggregating, and storing information on millions of individuals, including U.S. persons, HSI is not an intelligence agency.²⁵ Yet it is collecting, analyzing, and storing information in ways that have previously been the exclusive domain of the IC.

Establishing a clear, narrowly tailored intelligence mission for DHS would help ensure that DHS's intelligence activities are lawful and useful, are shaped to achieve congressionally authorized goals, and are not violating the rights of—or being used to unfairly target—marginalized or at-risk populations. DHS is best suited to collect information that other agencies cannot, primarily at ports of entry, and use that information for intelligence purposes. And with a clear intelligence mission, DHS can redouble its efforts as originally envisioned to facilitate the communication of threat information between the federal government, state and local authorities, and the private sector, while also ensuring that its intelligence activities are not beyond the scope of its authorities or redundant to activities conducted by other intelligence agencies.

Diagnosing DHS: Foundational problems, unfulfilled needs, and study findings

Critics offer competing ideas about the sources of DHS's challenges. Some believe that long-standing foundational problems have inhibited DHS's effectiveness as its missions and focus have expanded and morphed. Others believe DHS is absent today and falls short in serving Americans' safety and security needs. And new findings reveal other factors hindering DHS's performance which have dramatically worsened over the past few years, pointing to additional challenges for DHS that should be addressed.

Foundational problems

Since the creation of DHS, challenges related to the foundations of the department and its operations have inhibited its performance. Understanding these foundational issues and why they have not been effectively addressed is critical to articulating a new vision for DHS—one that focuses headquarters' limited attention on the right set of priorities.

Persistent confusion about DHS's shifting and reactive priorities

Successive reform efforts and the use of DHS to advance partisan political objectives have led to sharp swings in the department's headquarters-level focus. These efforts have been at some times political and at other times reactive rather than grounded in a clear articulation of DHS's role within the federal bureaucracy. After the department's abysmal response to Hurricane Katrina, reformers pushed for DHS to take an "all hazards" approach and develop capacities and capabilities to respond to a wide range of potential disasters.²⁶ Then, after the failed bombing attempt on a flight to Detroit on Christmas in 2009, the department shifted again to double down on terrorism prevention as "the cornerstone of homeland security."²⁷ More recently, the Trump administration radically reoriented DHS's focus toward the southern border and interior enforcement, shifting the headquarters-level focus toward immigration enforcement and deportation and diverting resources toward President Donald Trump's ill-conceived border wall.²⁸ Far from clarifying the department's role and priorities, these swings have left the department fatigued and poorly aligned with any overarching strategic goal.

A politicized department with few institutional guardrails

The combination of DHS's hasty founding, its expansive authorities, and its at once decentralized nature and yet lack of institutional independence from the executive branch has left the department susceptible to presidents using DHS and its expansive authorities for political purposes. Compared with executive branch agencies with longer histories and institutional protections and norms—such as the DOJ, founded in 1870, or the FBI, founded in 1908—DHS lacks a history and culture of independence from political influence. Though the independence of the DOJ and FBI has been tested in the past—during the J. Edgar Hoover era at the FBI, for example, and across the DOJ during the past four years—rich institutional memory supported by decades of oversight at these other law enforcement agencies has resulted in unambiguous statutory authorities and well-established norms that have helped these institutions withstand politicization and guide department behavior. DHS lacks those bureaucratic guardrails, and the consequences of weak constraints on DHS became particularly clear during the Trump administration.

Overly broad authorities and harmful overreach

Another challenge that has affected DHS from the outset—and grew increasingly problematic during the Trump administration—is that it was given broad and at times unclear legal authorities that it has used in ways that have harmed the public it is supposed to serve. DHS has used its authorities in ways that have eroded already weak trust among swaths of the American population, particularly among marginalized communities. Most notably, DHS's vetting activities—including the National Security Entry-Exit Registration System (NSEERS), viewed by many as a Muslim registry²⁹—have faced persistent claims of religious and racial bias. These have included allegations of using department resources to target, discriminate against, and detain and deport immigrants of color.³⁰ Despite the documented patterns of abuse, this has yet to be remedied by Congress.³¹ Other DHS components, such as HSI, have authorities that overlap with other federal investigative agencies—authorities the department interprets very broadly. Carrie Cordero from the Center for a New American Security (CNAS) has written extensively on the need for enhanced oversight and accountability to address the growth in size and scope of DHS's activities.³² As Cordero argued, there is a persistent mismatch between DHS's foundational statutory mission and its day-to-day operations. In too many instances, DHS has pursued policies absent an articulated legal foundation, with disastrous results, including: DHS personnel acting as domestic law enforcement in response to peaceful protests in Portland, Oregon; ICE arresting a survivor of domestic abuse seeking a protective order in a courthouse;

and the U.S. Border Patrol stopping a 10-year-old girl in an ambulance on her way to emergency surgery.³³ Others, including the American Civil Liberties Union (ACLU), have documented serious abuses and overreach by DHS officials, particularly at U.S. borders and in immigration enforcement operations.³⁴ It is difficult to overstate the harm that the Border Patrol and ICE have caused to relationships with communities and local officials across the country.³⁵

Oversight is constrained and disorganized

About 90 committees and subcommittees have jurisdiction over DHS's planning, policies, and budgets—each focused on a small piece of the department rather than the entire homeland security operational matrix. This fractured structure makes it nearly impossible for DHS headquarters leaders to manage the department effectively or efficiently.³⁶ CAP has joined the Atlantic Council and the CNAS in calling for consolidated oversight of DHS.³⁷ In addition, six former secretaries and acting secretaries of homeland security recently signed a letter to congressional leadership calling for the House and Senate to consolidate congressional oversight of DHS in a single authorizing committee—as is done for other departments such as the Department of Defense.³⁸ A more streamlined structure under one authorizing and one appropriating committee—such as that governing the Pentagon post-Goldwater-Nichols reform, where oversight was centralized under the Armed Services committees—would allow lawmakers to more effectively oversee the broad range of the department's activities and ensure they are properly balanced against the agency's overall priorities.³⁹ The recent memorandum of understanding announced by Speaker of the House Nancy Pelosi is a welcome step toward improving oversight coordination among the various committees that have jurisdiction over DHS, but more work is needed to centralize authority under the Committee on Homeland Security in the House and the Committee on Homeland Security and Governmental Affairs in the Senate.⁴⁰

A weak and decentralized secretary's office

The organizational chart for DHS suggests that the secretary and deputy secretary are responsible for overseeing 23 separate bureaus and agencies ranging in size from the Office of Public Affairs to the entire U.S. Coast Guard to the Transportation Security Administration (TSA), which has 65,000 employees.⁴¹ Yet the resources for the secretary of DHS pale in comparison to those of other federal agencies: The State Department's Office of the Secretary had some \$57 million for FY 2019 and 75 employees to oversee a bureaucracy of 70,000 personnel while DHS's had just \$19 million for FY 2018 and 68 employees for a bureaucracy of 240,000.⁴² Studies by

the Atlantic Council and the CNAS recently proposed the creation of an associate secretary position to improve coordination and management at the highest levels of the department.⁴³ While more bureaucracy is not always the answer, the current secretary's office does not have the personnel, resources, or authority to effectively lead a department of DHS's size today.

Low employee morale and a demoralized workforce

DHS also suffers from low employee morale and poor satisfaction among its workforce: It ranked dead last among U.S. federal agencies in the most recent survey conducted by the Partnership for Public Service and has consistently been at the bottom of the list since 2010.⁴⁴ While there are many reasons for low employee morale at DHS, the workforce culture is especially toxic within certain agencies that have overly politicized activities.⁴⁵ ICE and the Border Patrol under the Trump administration, for example, focused on maximizing arrests and deportations with few limits on the targets for enforcement actions or the methods they would employ—the clearest example being the Trump administration's cruel family separation policy.⁴⁶ Personnel asked to pursue these political objectives—most of whom are career public servants—have been required to perform deeply unpopular enforcement tasks that have not advanced sensible law enforcement or public safety priorities and have subjected them to sharp public criticism.

Unfulfilled needs: Where DHS is missing in action today

Recognizing the challenges DHS faces, the department remains critical to the safety and well-being of many. But the current DHS operating emphasis precludes its effectiveness in squarely meeting this central mission or fulfilling unmet needs today.

A leading federal emergency response system

Federal emergencies will continue to pose significant threats to Americans and their way of life. Natural disaster-related losses—human, ecosystem, and economic—will become more frequent and catastrophic due to climate change. Pandemics can uproot daily life and economic security when border-screening measures fail to halt early transmission. The United States needs a proactive emergency preparedness and resilience capacity and a flexible and capable response system that can respond to a wide range of emergencies quickly and efficiently. Whether leading the federal response or coordinating other federal players, local governments, and nongovernmental organizations, the United States needs an agency charged with emergency preparedness and response capabilities that serves as the lead coordinator of U.S. government emergency preparedness and response efforts on the wide range of emergencies that affect the country.

A better way of communicating threat information to and from the public and private sectors

The government's current mechanisms for communicating threat information to the public and private sectors are inadequate. In a world where the public and private sectors must take independent action to ensure America's safety and security, the government needs a trusted, effective mechanism to communicate threat information, including intelligence information, with the public and private sectors and between different levels of state, local, and federal government officials. Without such a mechanism, America lacks critical information on threats that could be mitigated, and the government is unable to enlist the capacity of American businesses and the American people in its threat response. DHS already plays an important role connecting federal entities and officials to their state, local, tribal, and territorial counterparts and has had success coordinating security and resilience efforts across the private and public sectors through Joint Terrorism Task Forces and other mechanisms. But there is no agency that currently leads the federal government's efforts at the national level to share information, advocate for greater government transparency, or develop new communications capacities that add value to the American people. At the same time, there is a clear need for strengthened protections and safeguards for civil liberties and privacy to prevent abuses—such as those DHS has committed in the past—whereby religious, racial, ethnic, and migrant communities are disproportionately affected or targeted by such threat-sharing. Without strengthened protections and an ethos committed to protecting all Americans equally, such sharing may do more harm than good.

A fair, workable, and humane approach to border management

Factors such as devastating hurricanes and droughts due to climate change, political unrest, and gang violence, especially in Central American countries, have translated to a high number of migrants, including large numbers of families and unaccompanied children, seeking asylum in the United States.⁴⁷ Over the past several decades, every administration has struggled to manage this flow, and Congress' failure to create a workable legal immigration system has turned asylum into the only viable avenue. During the Trump administration, however, the focus of DHS shifted squarely toward heavy-handed enforcement designed to terminate access to the country for asylum-seekers.⁴⁸ The Biden administration has taken a different approach to border management and is beginning to reverse policies and repair the damage made to the immigration and asylum systems during the Trump administration.⁴⁹ However, many challenges persist and demonstrate the need for a reorientation of cultural norms at DHS. A change in policies alone will not achieve the goal of building a fair, humane,

and workable immigration system. A shift toward a more service-driven department that treats immigration as an asset to be managed rather than a crime to be enforced against would go a long way in building a rational border management apparatus that facilitates the secure, efficient movement of people and goods while also ensuring a humane approach toward refugees requesting protection under U.S. asylum laws.

A truly integrated cyber and critical infrastructure capacity

Cyberattacks on critical infrastructure are increasingly common and could grind the U.S. economy and daily life to a halt if targeted toward the electrical grid or communications and internet services. The recent SolarWinds hack affected an estimated 18,000 government and private computers at the departments of Justice, State, Treasury, Energy, and Commerce—an alarming national security attack perpetrated by the Russian government.⁵⁰ One of the notable successes from the Trump administration’s DHS was that the Cybersecurity and Infrastructure Security Agency (CISA) carved out a clear and useful role for itself as “the Nation’s risk advisor, working with partners to defend against today’s threats and collaborating to build more secure and resilient infrastructure for the future.”⁵¹ There is a clear need for further developing the U.S. response by expanding the indicators and mechanisms for sharing cyberthreat information. There is also a need for a more empowered and proactive agency that shares cyberthreat intelligence between businesses and government agencies, with the aim of helping organizations quickly identify and mitigate potential cyberincursions.

An effective response to domestic violent extremism largely fueled by white supremacy and the rise of anti-government militias

Threats from domestic violent extremism are rapidly growing in the United States and endanger our way of life, our values, and our democracy.⁵² CAP has called for a strong, coordinated response that marshals the weight of the federal government and uses the right tools, developed using fact-based evidence, to reduce the likelihood of violent attacks before they occur.⁵³ While federal efforts to respond to domestic violent extremism primarily fall within the FBI’s authority, and because there are strong arguments that some prevention efforts would be better housed in the departments of Education or Health and Human Services, there is no agency charged with taking the lead in countering disinformation, coordinating federal grantmaking programs to promote resilience (along with the DOJ’s Office of Justice Programs), and providing support for risk-based prevention responses. At the same time, past mistakes in prevention-based programs have been well documented, and a more proactive government approach must carefully consider potential risks to civil rights and liberties when designing programs to counter violent extremism of any ideological bent.⁵⁴

A core mission focused on protecting civil liberties and privacy

DHS regularly interacts with—and collects information on—Americans and U.S. persons in the routine course of its duties. It screens and vets travelers, interacts with asylum-seekers and aspiring citizens, provides emergency support during natural and human-made disasters, and performs certain law enforcement functions—each of which results in the collection and retention of information on U.S. persons. DHS has a responsibility to safeguard the information it acquires and to protect the civil liberties and privacy of U.S. persons—and all persons—when permitting the use of that information for other purposes. Beyond the information the department collects and retains, DHS also has an important role to play in safeguarding the security of personal or private information from malicious cyberactors and foreign governments. Establishing the protection of civil liberties and privacy as a core DHS mission would fill a critical gap in executive branch roles that is not currently being comprehensively addressed by other departments and agencies.

Transforming DHS: Recalibrating DHS's headquarters-level priorities to meet today's needs

DHS should take a broader view of what it means to keep the nation secure and adapt its mission and activities accordingly. DHS must recognize that many serious challenges to America's safety and security originate at home or are largely borderless by nature. Going forward, DHS should reorganize its activities around roles in connecting, communicating, facilitating, welcoming, and helping—in addition to a recalibrated role for protecting, securing, preventing, and enforcing. DHS should prioritize service and partnerships, connecting people in the United States to federal services and providing value to the American people and those who live, study, work, travel, or seek safety here.

Seizing the opportunity to bring DHS's purpose into focus and recalibrate the department's priorities could also result in a department that fills critical gaps in the current federal bureaucracy. DHS should prioritize efforts where it can add value, paying special attention to those needs that, in today's federal government, DHS is best positioned to meet. This will also help reduce DHS's involvement in activities better left to other federal agencies that have more appropriate authorities, experience, and workforces, while ensuring that America's security needs continue to be addressed by the federal government.

The opportunity: How recalibrating DHS's activities allows the department to provide value

Understanding the opportunities DHS has today is critical to transforming the agency to better meet unfulfilled needs around Americans' safety and security, to address the issues that emerged or significantly worsened during the past four years, and to focus attention on the right set of priorities for the department going forward. Recalibrating DHS's activities to fit the safety and services model, consistent with acknowledging and addressing threats that impede safety and services, would create space for a new vision for DHS.

DHS could increase its capacity to respond to today's most pressing threats

Successive administrations have continued to interpret DHS's mission as primarily focused on protecting the homeland from threats from abroad. As a result, DHS has not invested in building its capacity to respond to borderless threats, such as natural disasters and cyberattacks against government enterprises, and those, such as the growing threat from white supremacist violence, that originate within U.S. borders. Looking ahead, it is easy to imagine threats to Americans' economic security or food supply that DHS could help to solve through its critical infrastructure and emergency response capabilities, were it determined to do so. DHS should play a leading role in responding to all emergencies that threaten the safety and security of Americans, even when the response will rely heavily upon expertise housed in other federal departments—such as the Department of Health and Human Services and Centers for Disease Control and Prevention (CDC) expertise that is critical to the pandemic response—or at the state level. In cases where special expertise is required, DHS can serve as an emergency response quarterback, identifying resources and making them available to the departments and agencies that need them. Moving forward, DHS has an opportunity to focus on the most pressing threats, including domestic and borderless threats in addition to ongoing global threats, and to hone the department's capacity to serve as the emergency response quarterback for a broader set of national emergencies.

DHS should prioritize efforts where it can add value, paying special attention to those needs that, in today's federal government, DHS is best positioned to meet.

DHS could focus on where it the best-suited agency to act and lead

As is apparent from a quick glance at a DHS organizational chart, the department is involved in a broad range of activities and coordinates a massive workforce of more than 240,000 federal employees.⁵⁵ In the 20 years since it was founded, DHS's broad authorities and short attention span have led to mission creep,⁵⁶ with DHS assuming new missions and creating new programs that are untethered to any overarching strategic goal. Meanwhile, with few exceptions, DHS has not yet found its stride in the conduct of its core responsibilities. Some of these include protecting critical infrastructure, including electricity and election security; administering citizenship and immigration services; and countering terrorism. DHS also wastes energy vying over bureaucratic turf when it could be solving problems. Recent examples include DHS's yearslong battle with the DOJ over which agency has the lead for transnational organized crime; tensions with the FBI and the IC over foreign influence and election interference roles and responsibilities;⁵⁷ turf battles over cybersecurity jurisdiction between DHS's CISA and the National Security Agency;⁵⁸ and persistent questions about the focus and utility of DHS's intelligence unit. In the absence of a clear and well-defined mission, DHS has too often tried to make itself a utility player on every issue, arguing that it has authorities and capabilities that others lack. Meanwhile,

DHS is missing opportunities to meet needs that other departments and agencies cannot and opportunities to lead where DHS's unique strengths would be maximally effective in solving problems. Going forward, DHS has an opportunity to focus its attention in areas where it is the natural leader, where it is not duplicating efforts, and where it does not face bureaucratic headwinds so that it can devote attention to solving problems at the heart of America's safety and security needs.

DHS's workforce can better align with its needs and primary mission

Hiring surges in the DHS workforce—including recently during the Trump administration's expansion of the law enforcement officer ranks—have led to significant workforce growth at DHS in a short period of time.⁵⁹ In some cases, this growth was accompanied by poor quality control in hiring: Investigations following hiring surges in ICE and Customs and Border Protection (CBP) have shown that following these large influxes of new hires, cases of corruption and misconduct spiked.⁶⁰ Going forward, DHS has the opportunity to better align its human capital to meet current needs. DHS officials should conduct a human capital needs assessment, properly screen individuals with ties to extremist groups, and ensure department personnel receive adequate training before they are sent into the field.

A framework for a redefined DHS

To maximize its value and effectiveness in today's environment, DHS should organize—and articulate its mission—around connecting, communicating, facilitating, welcoming, and helping, in addition to protecting, securing, preventing, and enforcing.

Toward safety and services: Dial up DHS's focus on the following five priorities

Connecting: Invest in efforts to connect state, local, tribal, and territorial officials with federal resources and officials

DHS already plays a pivotal role in connecting nonfederal officials with their counterparts in the federal system and serves as the primary connection between state, local, tribal, and territorial officials and the federal government and its resources, as well as between the private and public sectors, including civil society organizations. By investing in its role to connect with federal, state, and local partners and with the private sector and civil society, DHS can add unique value to the nation, managing risk while also ensuring economic prosperity and upholding American values. At the same time,

DHS must do a better job of ensuring that its programs are not discriminatory and including serious guardrails for civil liberties to prevent bias-based activities, such as its past targeting of Muslims and other communities of color. Close collaboration with civil society groups will be key to ensuring these rights are respected.

Connecting in action

CISA is one of DHS's most visible success stories. Working as "the Nation's risk advisor," the CISA partners with the private and public sectors to defend against threats and build more secure and resilient infrastructure for the future.⁶¹ DHS should scale efforts being led by the CISA to prioritize partnership with stakeholders across its missions and priorities. That might mean proactively engaging with American businesses, alongside CBP, to inform efforts to improve the movement of goods and people across borders or refining immigration services so that processes dignify and welcome those who seek to invest their talents here. It might mean working with public and private sector stakeholders to deliver better information about risks to critical infrastructure. Or it might mean partnering with technology companies to thwart domestic extremist messaging on online platforms. In these and other areas, DHS should lead the federal government's efforts to connect nonfederal officials with their counterparts in the federal government and should use those relationships to advance safety and security.

Communicating: Lead the federal government's efforts to communicate threat information to the public

DHS has an uneven role in communicating threat information to the public. Because it is not the originator of most of the threat information it obtains, it has a limited ability to unilaterally disclose that information to the public, even when it may desire to do so. An expanded role for DHS in managing information sharing and public disclosures of intelligence between federal entities and their local counterparts would be a valuable public service and enhance DHS's role as a communicator. DHS could become the lead for communicating threat information to the public, such as intelligence on threats to critical infrastructure, and could expand its capacity to work with law enforcement and intelligence agencies to appropriately protect sensitive intelligence while disclosing information necessary to enlist the private sector and the American people in protecting the nation. DHS could also play an important role in countering disinformation in partnership with the State Department's Global Engagement Center. With the State Department focused on messaging abroad, DHS could play the lead for countering disinformation domestically. This would require new interpretations on current legal constraints in this area,⁶² close collaboration with civil society groups to ensure communications do not violate civil rights and liberties or unfairly target vulnerable communities, as well as a more amplified role for the officer of civil rights and civil liberties. (see p. 23)

Communicating in action

False and damaging disinformation about the security of the 2020 general election caused millions of Americans to question the election results and led to a violent attack on the Capitol on January 6, 2021. Despite being hamstrung by political leaders, some DHS officials nonetheless publicly reassured the nation that there was “no evidence any foreign adversary was capable of preventing Americans from voting or changing vote tallies.”⁶³ Such steps were critical to maintaining credibility in the elections. In the future, DHS should continue to play a growing role in communicating with the American public about threats, dispelling disinformation, and serving as a reliable source of information. In doing so, DHS can uniquely enlist the private sector and the American people in protecting the nation.

Facilitating: Secure and facilitate economic services and the lawful movement of commerce, travel, and people

DHS should continue to facilitate lawful international trade and travel, ensure that U.S. transportation services are safe, and maintain U.S. waterways and maritime resources. Moving forward, DHS should ensure that all agencies charged with transportation security and infrastructure maintenance—including the TSA but also the Coast Guard and CBP—are charged with delivering safety and security to customers and contributing to the nation’s economic prosperity. This includes border management issues, where the focus should be more on facilitating safe and secure travel and commerce to ensure that businesses get the goods and workers they need, visitors are able to travel safely and efficiently, and families can be reunited more quickly. DHS should invest in innovation and first-rate customer service approaches that allow the department to secure our air, land, and sea borders while providing a welcoming and dignified experience.

Facilitating in action

DHS’s Trusted Traveler programs are good examples of what DHS can do when it focuses on providing services and delivering real value to Americans and those traveling to the United States. DHS’s development of programs that facilitate customer interactions—such as TSA Precheck and Global Entry, which facilitate quicker screening at airports for U.S. domestic and international flights—are innovations that provide better services and security.⁶⁴ The department must also clearly delimit its own power over travelers, visitors, and residents by prohibiting implementation of past problematic programs such as the NSEERS and Secure Communities.⁶⁵

Welcoming: Provide efficient and respectful service to aspiring citizens and other immigrants

To put America on the strongest foundation, DHS should emphasize its unique role in welcoming the people who visit, immigrate to, or seek refuge in the United States. First, DHS should adopt a service-oriented approach to citizenship and immigration services that is welcoming to immigrants and the U.S. citizens and residents hoping to sponsor them. It should also prioritize reducing the backlog of visa applications accumulated under the Trump administration.⁶⁶ Focusing on these aspects will provide value to U.S. citizens, visitors, those who seek to become Americans, those who want to reunite with family members, and the businesses that rely on these individuals to help the U.S. economy grow. Second, DHS should recalibrate its activities at the border to emphasize efficient and secure management of the flow of goods and people while welcoming asylum-seekers with a safe, legal, and orderly process for them to seek refuge in America; to rehabilitate its relationships in border communities; and to work to create a vibrant border region.⁶⁷

Welcoming in action

Refocusing DHS's immigration activities on the provision of services to facilitate admission, with enforcement that supports that objective, will pay dividends for America by promoting family unity rather than family separation; ensuring American employers can more easily access a global workforce; enhancing the United States' influence by streamlining access to the country for tourists and visitors from around the world; and restoring our identity as a generous nation that keeps the door open to those fleeing harm in their home countries. Recognizing that screening remains a key safety component, a better-managed system would increase the capacity of DHS to process and screen applicants for family, employment, and visitor visas; to reduce processing time and delays; and to provide more reliable and dignified services. A better-managed system would also plan for shifting flows of migrants and asylum-seekers at the border, anticipate the infrastructure needed to safely and humanely process and screen them, and cultivate a welcoming culture of front-line service agents.

Helping: Be the go-to source for disaster relief and emergency management

DHS also has a traditional role in disaster relief services that should be expanded. DHS should work toward expanding existing capacity and investing in new, flexible headquarters and regional capabilities that can address a wide range of emergencies and situations. Incident response is a role that DHS is well situated to lead, and by doing so, and doing so well, other federal agencies can leverage DHS's incident response capacity and avoid replication. By fully realizing the role envisioned for the secretary of DHS in Homeland Security Presidential Directive 5—enhancing the ability of the United States to manage domestic incidents by establishing a single

comprehensive national incident management system⁶⁸—as the principal federal official for domestic incident management, DHS can serve as a force multiplier for the rest of the federal government and use its institutional memory to improve America’s resilience to anything that humankind or nature throws its way.

Helping in action

DHS, primarily through the Federal Emergency Management Agency (FEMA) and the Coast Guard, is already the nation’s helper. When disaster strikes, FEMA is often—though not often enough—the nation’s first responder. As extreme weather events and changing environments become more common, DHS should quarterback incident response, leading coordination with state and local officials, leveraging its flexible and responsive capabilities, and drawing on capacity within other federal departments and agencies. This approach should apply for other national incidents and emergencies as well. This helping mission would also naturally fit with DHS’s existing role as a connector between federal resources and state and local authorities, which must work closely together during disaster management response and relief efforts. Moreover, a dedicated, proactive focus on helping the public may provide a useful shift in DHS’s public perception—something sorely needed after the enforcement-heavy reputation it acquired during the Trump administration. FEMA recently covered DHS logos on vehicles used for vaccine distribution after concerns that the urban community it was targeting would refuse services from the department.⁶⁹

Recalibrate DHS’s focus on the following four threat-oriented priorities

Protecting: Coordinate cybersecurity and critical infrastructure

Today’s digital environment means that our critical infrastructure is more connected and more dependent on functioning cybersecurity than ever. DHS currently protects 16 critical infrastructure sectors whose networks and systems are deemed crucial to U.S. national security, economic security, and public health and safety, such as the critical manufacturing, communications, and energy sectors.⁷⁰ These needs will only increase as digital connectivity plays a growing role in daily American life, particularly as the pandemic has forced many to work from home and increased everyone’s dependence on internet access. Cybersecurity now demands a whole-of-government solution to protect national security, critical infrastructure, intellectual property, and sensitive personal information. Given these demands, DHS will be relied upon to bridge the gap between public and privately owned infrastructure and ensure that federal protection efforts can effectively extend to all sectors and are executed with strong civil liberties and privacy protections in place. DHS’s enhanced cybersecurity coordination role would need to be subject to rigorous transparency and oversight.

Protecting in action

DHS could have played a larger role in responding to the severe winter storms that crippled the electrical grid in Texas in early 2021. FEMA declared an emergency and allowed Texans to apply for federal assistance for storm recovery,⁷¹ but a more proactive response—with better cooperation at the state and local level—might have prevented such severe destruction from occurring in the first place. An expanded DHS role might focus on planned disaster response and preparedness as expectations for climate-related disasters increase. DHS is best positioned among the federal bureaucracy to cross the private-public divide at the state and local level to help municipalities mitigate anticipated climate effects. DHS could also develop better warning and prediction systems that enable a more proactive federal response and assistance presence.

Securing: Execute a balanced and effective approach to immigration and border management

DHS should maintain its core objective of securely, efficiently, humanely managing our air, land, and maritime borders. CBP, under DHS, is charged with functions that range from countering terrorism, securing the border, and facilitating trade and travel. ICE is charged with enforcing immigration laws and investigating the illegal movement of people and goods. U.S. Citizenship and Immigration Services (USCIS) is responsible for delivering immigration services and benefits. These agencies—especially CBP and ICE—center their focus and activities around the law enforcement aspects of their functions. But viewing immigration law violations, which are often civil in nature, through a punitive lens has resulted in a heavy-handed approach at the border and in the interior. It has also warped the public perception of migrants as well as the political debate about immigration policy and has sidelined the service provider components of DHS which encompass the equally important mission of facilitating travel, trade, and administration of immigration benefits. Even more so, the Border Patrol has a significant deficit of trust to make up in border communities, which in turn has led to morale issues within the rank and file and resistance to policy changes.⁷²

Service orientation and safety need not be in tension; the Coast Guard provides a good model for how the two can be well balanced within a single organization. To bring its law enforcement and service provision roles into similar balance, CBP must understand and embrace its important role in providing service to asylum-seekers at the border. Working to recruit and train CBP agents with the tools to excel at working with populations seeking protection will help create the foundations for a shift in cultural norms. But meaningful change will also require headquarters-level prioritization and the establishment of new internal incentives to drive CBP's cultural evolution. Though it will be hard, the potential outcome would be well worth the effort;

the entire system would start moving toward being more fair, humane, and workable. CBP would still retain its law enforcement functions, but it would operate with a better understanding of the broader agenda—as well as the border communities—it serves. A well-managed border will be safe and secure while also efficiently offering different services needed to travel, trade, or seek asylum in the United States.

In achieving this recalibration toward a safety and services model, the two biggest components of CBP—the Office of Field Operations (OFO), staffing ports of entry, and the Border Patrol, securing the border between ports—should be merged into one integrated entity focused on border management. Their combined mission would include traditional security components; facilitating the movement of goods and people to grow binational economies; upholding U.S. domestic and international protection obligations; and promoting quality of life for all people living in and migrating to and between border communities.⁷³

Securing in action

The way the current Coast Guard balances its enforcement and service mission is commendable and could serve as a guide to recalibrating border management. While the Coast Guard plays an important role in maritime security and maritime law enforcement efforts, it is also responsible for—and takes great pride in—search and rescue and disaster relief efforts. Balancing these missions effectively ensures that the Coast Guard can play a vital role in combating terrorism and interdicting drug trafficking while also leading efforts to save people, as it did during the deadly hurricanes in 2017 in Puerto Rico and the U.S. Virgin Islands.⁷⁴

Preventing: A recalibrated and targeted response to threats

DHS still has an important role to play in preventing attacks against the United States and Americans at home and abroad. But the prevention mission must focus on the increasing prevalence of domestic challenges and borderless threats, including white supremacist-fueled domestic extremism, natural disasters, and cyberattacks, as well as external threats. DHS's role should also be carefully calibrated to focus where the department is best positioned relative to other agencies, such as at the borders and ports of entry, and to enable effective information sharing with the other relevant federal players. Choosing to focus DHS's prevention efforts where it can make unique contributions does not compromise U.S. security but rather helps ensure that the federal response is well coordinated and not duplicative. It also helps ensure that DHS capacity is aligned to where DHS has the most to contribute.

Preventing in action

DHS's role in countering terrorism and domestic extremism has never been clear or without controversy. DHS should narrow the scope of its prevention activities to focus its efforts where DHS has sole or unique responsibilities such as in lawful screening and vetting of travelers and goods that cross U.S. borders, countering disinformation, and funding research into evidence-based approaches to preventing extremism. To avoid duplicating the leading role of the FBI and NCTC, DHS should reduce its investigative activities and narrow the focus of its counterterrorism intelligence analysis, as described more fully below.

Enforcing: An role that supports broader department goals

As discussed above, broad interpretation of DHS authorities by former department officials has led to questionable activities and occasions of abuse or violations, particularly in the immigration space.⁷⁵ One example of these broad authorities occurred when the Trump administration deployed DHS officials to respond to protests in Portland, Oregon, where the administration stretched legal authorities to justify activities that harmed the public that DHS is supposed to serve. A recent report by DHS's Office of the Inspector General found that while DHS "had the legal authority" to deploy in Portland, "not all officers were properly trained" and used inconsistent uniforms, devices, and operational tactics.⁷⁶ This history of violations and persistent doubts about DHS's capacity to carry out a humane enforcement mission demands a serious recalibration of DHS enforcement activities moving forward. Future enforcement activities need to be balanced within broader department goals of safety and service and focused exclusively where DHS is the lead actor rather than in areas in which other federal agencies—such as, for example, the DOJ—play a leading role.

Enforcing in action

While the department must continue its efforts to enforce U.S. laws where applicable, those activities conducted at DHS should be primarily in service to the overall safety and services mission of the agency. A limited law and immigration enforcement role would focus DHS enforcement activities only on areas where they assist the support and services model and where other federal agencies and bureaucracies do not have a leading role to play. Border Patrol agents, for example, would be focused on addressing border issues rather than being deployed in places such as Portland as Federal Protective Service (FPS) personnel. Likewise, the merging of the OFO and the Border Patrol would help to ensure effective border management that does more to help border communities, businesses, families, visitors, and those seeking refuge here, even as it continues to ensure a secure border. Department leadership should work to clearly set limits on enforcement activities and constrain them appropriately to ensure past mistakes and abuses are not repeated and work with Congress to codify these restrictions.

Law enforcement, detention, and investigatory functions under a redefined DHS

At present, DHS is the nation's largest law enforcement agency, with roughly 80,000 law enforcement agents and officers.⁷⁷ Yet many of the enforcement functions that the department pursues overlap with, are duplicative of, or would be better suited being integrated into the work of other government entities. With the premise that DHS should recalibrate toward a safety and services model, and that DHS should focus on the things that it is best capable of doing, this study distinguishes between two types of law enforcement functions: law enforcement functions that enable a safety and services model to operate and those for which law enforcement is the primary focus. CAP concludes that DHS components that are primarily or exclusively focused on enforcing federal laws do not belong in a reimagined DHS and should be transferred to other federal departments.

Some law enforcement functions are compatible with a safety and services model at DHS. Components such as the Coast Guard, the TSA, and CBP have narrow law enforcement roles that are directly tied to safety and security missions. These law enforcement roles enable the safety and services model to operate. The Coast Guard provides perhaps the best example, balancing its search and rescue missions with its clear and tailored drug and migrant interdiction roles. CBP and the TSA are primarily focused on enabling the safe and secure movement of goods and people and have narrow law enforcement roles that enable these primary missions. CBP focuses on keeping terrorists and their weapons out of the United States while facilitating lawful travel and trade. The TSA's Federal Air Marshal Service provides additional passenger safety on commercial passenger flights. Even the Secret Service, which focuses largely on protecting elected leaders, plays an important role in ensuring public safety at National Special Security Events, playing a safety and services role that is critical to working with local communities across the nation on events of critical or high-visibility importance.⁷⁸

In contrast, components such as the FPS and ICE are examples of DHS components that are primarily focused on enforcing federal laws and should not remain in a reimagined DHS. The FPS protects federal facilities, their occupants, and visitors by providing law enforcement and protective security services. ICE, which views itself as "essential law enforcement partners,"⁷⁹ enforces immigration laws and combats transnational crime, a mission that overlaps with that of the DOJ. Both FPS and ICE perform primarily law enforcement functions that do not enable other safety and services functions within DHS to operate. HSI, within ICE, investigates transnational crime and threats and claims a role in nearly all criminal activity, even those only tangentially related to DHS's mission. While it is beyond the scope of this report to detail where every subcomponent within DHS belongs, components that are primarily focused on investigating violations of federal laws should most naturally live within the FBI, the lead agency charged with investigating criminal activity. Likewise, while CAP has long argued that the nation should move away from a system based on large-scale immigration detention and toward alternatives such as community supervision,⁸⁰ for the limited immigration detention that would remain, it would be more effective to have this function merged with, for example, the Bureau of Prisons (BOP), also under the DOJ. Had these functions been merged under the BOP when the Obama administration announced that it would end the use of private prisons in DOJ facilities,⁸¹ it would have likely meant a similar end to some of the most problematic facilities in the immigration context as well.⁸²

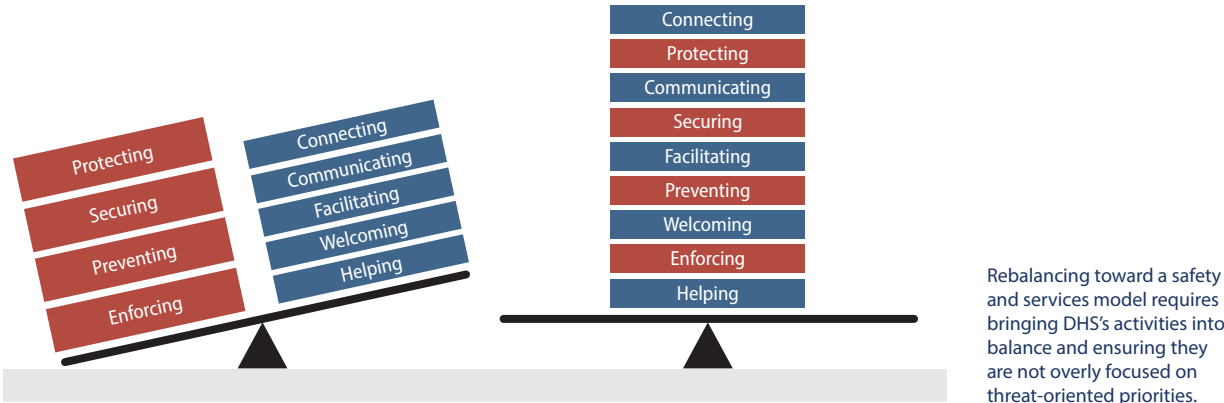
CAP recommends that DHS components that are primarily or exclusively focused on enforcing federal laws should be transferred to other federal departments.

Recommendations: How to transform DHS to deliver value for the American people

The Biden administration and Congress have the opportunity to transform DHS into an agency that provides much greater value to the American people and those who visit or seek safety or opportunity here. The current administration and Congress will need to work together for longer-term changes to institutionalize reforms. But with shared objectives in gaining a more effective agency that can deliver for and to the American people, it can be done. Based on this study, CAP makes the following recommendations and guidelines for the administration and Congress to transform DHS into the safety and services department CAP proposes.

Recalibrate toward a safety and services model

To better serve Americans’ safety and security needs, DHS leadership should articulate a new framework of department activities that increases the emphasis on connecting, communicating, facilitating, welcoming, and helping through a safety and services model and recalibrate its emphasis on protecting, securing, preventing, and enforcing. This recalibration of department activities will better fulfill the unmet needs of Americans and those who live, study, work, travel, and seek safety here. It will also put the department and its workforce in a better position to focus on the needs that only DHS can meet given its flexible authorities and unique capacity to respond to a range of issues that fall between the gaps of responsibilities of other federal departments and agencies.



Reform oversight

Without clear and streamlined oversight responsibilities, Congress lacks the ability to act in its appropriate legislative role to set and guide the department's priorities and activities. Since no part of Congress authorizes the entire departmentwide functions, DHS's appropriators have largely become the subcommittees of de facto jurisdiction over the department. Six former secretaries and acting secretaries of DHS recently advocated for consolidation under a single authorizing committee in each chamber, warning that achieving other needed reforms to the department "is not possible with fragmented jurisdiction."⁸³ Congressionally driven efforts to improve oversight coordination, such as the Goldwater-Nichols reforms of the Pentagon,⁸⁴ significantly improved that department's functioning and enabled better oversight to secure U.S. national interests. Recent steps announced by Speaker Pelosi's office toward centralizing authority under the House Committee on Homeland Security by the current Congress are a welcome step but need to be further developed and have not been taken up by the Senate.⁸⁵ Congress and the Biden administration should build on these important reforms to further consolidate and centralize oversight responsibilities and work toward passing an annual authorization for the department.

Seek congressional support to resource DHS effectively

This study makes the case that DHS should be more active in the areas where it is the most effective player within the federal bureaucracy and less so where its efforts are duplicative of other agencies. The current administration should evaluate how much of this realignment can be done within existing statutory functions and what requires congressional assistance and legislation. Then, the Biden administration and Congress should work together to realign DHS's resources to support these strategic priorities and ensure they are carried out consistently with annual authorization legislation.

Increase resources for effective department management

To effectively manage the bureaucracy and oversee the recalibration of the department mission, the Biden administration should work with Congress to increase resources to the DHS secretary and move away from the hyperdecentralization that characterizes its current structure. The current administration should work with the new secretary to empower the secretary's office and staff to better manage, delegate,

and oversee responsibilities across the bureaucracy. The Biden administration should also work with Congress to significantly increase resources in future appropriations toward the secretary's front office to be more commensurate with the bureaucracy's size and scope, ideally through reallocations within the existing budget.

Make protecting civil rights, civil liberties, and privacy a core mission at DHS

As the department expands what it means to keep the nation secure, DHS should reimagine its role in protecting personal information and privacy. As CAP has previously argued, Congress and the administration can do more to empower the current DHS Office for Civil Rights and Civil Liberties (CRCL). These steps include clarifying the CRCL's statutory authority to ensure that it is involved in the policymaking process from the beginning, rather than being asked to respond or investigate once policy is already set; that its recommendations receive timely responses from the agency; and more.⁸⁶ In addition, this study recommends a broader policy role for DHS in protecting personal information and privacy. At a minimum, this would mean elevating the CRCL officer—even while remaining operationally independent to oversee complaints related to civil rights and civil liberties—to an assistant secretary level, with a seat at the management table, to be able to more directly influence agencywide decision-making. The CRCL officer should lead and oversee the relevant offices within DHS which include the CRCL, the Privacy Office, the Office of the Immigration Detention Ombudsman, and the Office of the Citizenship and Immigration Services Ombudsman. A more ambitious approach would involve making the protection of personal information and privacy a core DHS mission, assigning DHS the lead federal agency for protecting the privacy of U.S. persons' information.

Launch a workforce initiative to inspire new leadership opportunities

Renewing the DHS workforce also is critical to the department's long-term success. Efforts are underway to improve departmentwide workforce satisfaction, measured through yearly index scores such as the inclusion and employee engagement indexes. However, the DHS secretary should launch an initiative specifically to study the department's recruitment, retention, and training efforts to further identify areas of success and for improvement. This initiative would be part of efforts to develop a pipeline of leaders, encourage creativity and innovation, and drive a cultural shift within the department toward its new service-oriented framework. The initiative should consider what

changes might be needed in human capital and launch programs to realign the future workforce accordingly. For example, CBP could greatly benefit from specialized training of its Border Patrol agents to initiate a cultural change of its workforce and prepare them to handle asylum-seekers at the border humanely and fairly.

Refocus DHS where it is best positioned to lead rather than follow

At the same time, DHS should step back from roles where it is neither needed nor best suited. In each of the cases outlined below, there is another federal agency or office charged with a similar or identical mission that is better equipped to fulfill it or the current tasks do not fit today's needs.

Right-sizing and refocusing the counterterrorism missions

The original mandate and goal of DHS was to counter terrorism and homeland threats—but nearly 20 years later, it is time to refocus DHS's role in counterterrorism activities. DHS should reduce its counterterrorism investigative and intelligence analysis activities, as described below, and focus its efforts where it has unique responsibilities and authorities: managing the border, countering disinformation, countering violent white supremacy, and investing in evidence-based prevention approaches.

Reducing DHS's role in international crime fighting

There has been a long-standing bureaucratic battle between the DOJ and DHS over which federal agency has the lead on countering transnational organized crime (TOC). While DHS can contribute to efforts to thwart organized crime and bring criminal actors to justice, the DOJ should continue to serve as the lead federal agency for TOC. DHS should reduce its TOC efforts and transfer investigative leads and other TOC activities to the DOJ.

Refocusing DHS's intelligence role

DHS I&A has long focused diffusely, to the detriment of focusing more precisely where it can make unique contributions. I&A should reduce or eliminate its efforts to provide strategic intelligence on counterterrorism trends that are well covered by other departments and agencies. It should invest its unique capacity to analyze and contextualize threats to land, sea, and air borders and ports of entry and to deliver intelligence to state, local, tribal, and territorial partners. And while I&A should redouble its efforts to facilitate the communication of threat information between partners, it should not conduct intelligence activities that are beyond the scope of its authorities. Finally, I&A should develop intelligence from those partners to share with the rest of the IC, within the appropriate guardrails of civil liberties and privacy protections against stereotypes and biased profiling.

Recalibrating immigration functions to focus on service

As DHS as a whole intensifies focus on safety and service, law enforcement efforts should occur within this context rather than as the primary mission. Consistent with this emphasis—and with the affirmative vision that CAP previously put forth of a more fair, humane, and workable immigration system that would rebalance immigration enforcement—ICE is primarily a law enforcement agency, and as such its responsibilities should be transferred out of DHS. DHS has a key role in CBP’s primary function, facilitating safely the transfer of goods and people, with its related enforcement component supporting that function. DHS also plays a critical role in adjudicating immigration benefits and promoting naturalization, which are the primary functions of USCIS. With these adjustments, DHS will be able to execute a clear mission, which includes delivering immigration and asylum services effectively, honoring historic American values as a refuge for those seeking sanctuary from repression and injustice while keeping the nation safe.

Conclusion

The Department of Homeland Security should play an important role in addressing the challenges and threats of today and tomorrow, and it should do so in a way that upholds American ideals and provides value to those who live, study, work, travel, and seek shelter here. Recalibrating the DHS mission would empower the agency and its workforce to play a more effective role in the federal bureaucracy. It would also enable DHS to further build partnerships between the federal government and counterparts in state and local government and the private sector, if properly managed with safeguards to protect civil liberties and privacy. Finally, it would ensure that DHS is most effectively positioned to solve national challenges.

If policymakers want to improve the work of DHS, they must start with a focus on today's homeland security needs, defining the department's role and identifying what value it should provide today. Moving toward the safety and services model outlined in this report would allow DHS to calibrate its activities within a new mission maximally focused on delivering value to America. It would also provide a framework through which officials could then turn to reforming the structure of DHS, to determine which elements of the agency need to stay within DHS and which may better fit within other parts of the bureaucracy.

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Acknowledgments

This project and report reflect the contributions of many stakeholders, including former and current government officials, policy experts, and civil society members. They lent us their time and expertise over the past six months to help shape our understanding of what the mission and value proposition of DHS should be in today's world in order to address the needs, challenges, and opportunities facing the nation and to develop and refine our recommendations. We are sincerely thankful for their support.

This report also reflects the collective work of numerous researchers, analysts, and experts across the Center for American Progress. Teams involved in the development, drafting, and editing include National Security and International Policy, Immigration, Art, Editorial, and Video—with significant contributions from Sofia Carratala, Lauren Vicary, Jasmine Hardy, Hai-Lam Phan, and Chester Hawkins.

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- 76 Andrew Crespo, "Unpacking DHS's Troubling Explanation of the Portland Van Video," *Lawfare*, July 25, 2020, available at <https://www.lawfareblog.com/unpacking-dhss-troubling-explanation-portland-van-video>. A recent DHS Office of the Inspector General report found that DHS "had the legal authority" to deploy in Portland but that "not all officers completed required training; had the necessary equipment; and used consistent uniforms, devices, and operational tactics when responding to the events in Portland." See Office of the Inspector General, "DHS Had Authority to Deploy Federal Law Enforcement Officers to Protect Federal Facilities in Portland, Oregon, but Should Ensure Better Planning and Execution in Future Cross-Component Activities" (Washington: U.S. Department of Homeland Security, 2021), available at <https://www.oig.dhs.gov/sites/default/files/assets/2021-04/OIG-21-31-Mar21.pdf>.
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- 81 Matt Zapotosky and Chico Harlan, "Justice Department says it will end use of private prisons," *The Washington Post*, August 18, 2016, available at <https://www.washingtonpost.com/news/post-nation/wp/2016/08/18/justice-department-says-it-will-end-use-of-private-prisons/>.

- 82 The authors understand that this would result in a further fractured immigration bureaucracy, with border enforcement staying within the department but enforcement moving out of DHS. But the benefits of removing these problematic entities would be well worth the cost in bureaucratic coordination and would help move toward significant reforms in the immigration system that are long overdue. The authors further understand that merging the detention functions—which are often civil rather than criminal—with the Bureau of Prisons could inadvertently add to the overcriminalization of immigration. Necessary safeguards would need to be put in place to ensure that what immigration detention remains does not become wrapped up in the overall criminal carceral system.
- 83 Atlantic Council, “Former and Acting Secretaries of Homeland Security sign open letter on consolidating congressional jurisdiction over DHS.”
- 84 Goldwater-Nichols Department of Defense Reorganization Act of 1986, Public Law 433, 99th Congress, 2nd sess. (October 1, 1986), available at <https://www.congress.gov/99/statute/STATUTE-100/STATUTE-100-Pg992.pdf>.
- 85 Speaker of the House Nancy Pelosi, “Pelosi Announces Agreement on Committee Jurisdiction Regarding Department of Homeland Security.”
- 86 Scott Shuchart, “Building Meaningful Civil Rights and Liberties Oversight at the U.S. Department of Homeland Security” (Washington: Center for American Progress, 2019), available at <https://www.americanprogress.org/issues/immigration/reports/2019/04/02/467776/building-meaningful-civil-rights-liberties-oversight-u-s-department-homeland-security/>.

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