

**The Paradoxes of Civilian Defense: Political Development and the Fate of
Homeland Security in the United States**

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Introduction

After the attacks of 9/11, the revival of a national civilian defense program, under the moniker homeland security, has become a crucial domestic policy of the federal government. Disaster planning and civilian defense, subjects that had long been relegated to the academic subdiscipline of security studies, are now the daily grist of newspapers and television news channels. The events following the natural disasters last year along the Gulf coast have brought increased attention to disaster planning and preparedness. More than a few self-proclaimed experts on asymmetric warfare, civilian defense, weapons of mass destruction (WMD), and grand strategy (as well as, over the past year, the weather), have offered opinions on the obvious: emergency planning and post-disaster operations are dysfunctional.¹ But this is not news to anyone who has spent time thinking about emergency planning, national security, or the postwar history of civilian defense. There is a sizeable policy history regarding domestic planning for catastrophic events and none of it bodes well for the new Department of Homeland Security (DHS) or the other agencies charged with civilian defense in the post- 9/11 period. Along with the post-World War II history of emergency planning and operations, there is also a large literature on organizational theory and American political development.² All of this literature

¹ In this essay the term WMD is used more broadly than usual to include the use of “conventional weapons” that can have the same mass casualty effects that chemical, biological, radiological, and nuclear weapons can have. In this broad use of the term WMD, the paper is less precise than some studies. Also, the term super-terrorism or catastrophic terrorism is conceived as an attack with the intent to cause a serious disruption to the economic and political social order of the United States (or other nations), including mass destruction, death, and panic.

² The literature on emergency planning and disaster studies can be found, for the most part, in three main areas: sociology, policy administration/public policy, and the security studies subdiscipline of political science. Two interesting books with large bibliographies that offer fine examples of the scope of this literature are Alan Kirschenbaum, *Chaos Organization and Disaster Management* (New York: Marcel Dekker, 2004); and E. L. Quarantelli, ed., *What is a Disaster? Perspectives on a Question* (New York: Routledge, 1998). In addition, two well-respected journals deal specifically with these issues: the *Journal of Disaster Studies and Management* and the *Journal of Contingencies and Crisis Management*, both published by Blackwell. Regarding American political development, the literature is large and growing; however, see the following as examples, Ira Katznelson and Martin

directs some attention to structural and institutional bureaucratic weaknesses that tend to cripple centralized bureaucracies such as the DHS in the United States. It is not an impossible goal of the federal government to do better than the Federal Emergency Management Agency (FEMA) did in New Orleans in September 2006. But is it really possible to protect large civilian populations and the spread-out, rural, profoundly important economic infrastructure from well-planned acts of catastrophic-terrorism?³ Planning for such acts is a tough row to hoe, and my guess is that DHS will fail at civilian defense and will fail in ways that will make the tragedy of New Orleans look relatively benign.

The political, structural, financial, and organizational problems with central-state plans for national civilian defense are complex and issues of this complexity are not clarified by engaging in the kind of popular media-driven debate that has taken place since Hurricanes Katrina and Rita (i.e., lots of blame, little analysis).⁴ A detailed investigation of the complexity of emergency preparedness is outside the scope of a short paper such as this; what follows is a preliminary consideration of what, at its core, is a state-building question: is the United States

Shefter, ed. *Shaped By War and Trade* (Princeton: Princeton University Press, 2002); Karen Orren and Stephen Skowronek, *The Search for American Political Development* (Cambridge: Cambridge University Press, 2004); Skowronek, *Building A New American State: The Expansion of National Administrative Capacities 1877-1920* (Cambridge: Cambridge University Press, 1982); Richard Franklin Bensel, *Sectionalism and American Political Development 1880-1980* (Madison: University of Wisconsin Press, 1984); Elizabeth Sanders, *Roots of Reform: Farmers, Workers, and the American State* (Chicago: University of Chicago Press, 1999). In addition, the journal *Studies In American Political Development* deals with issues related to all facets of APD.

³ On critical infrastructure and homeland security, see John C. Baker, Beth E. Lachman, et al., “Mapping the Risks: Assessing the Homeland Security Implications of Publicly Available Geospatial Information” (Santa Monica, CA: Rand Corporation, 2004), <http://www.rand.org/publications/MG/MG142/MG142.sum.pdf>. Equally difficult would be the implementation of a systematic public policy that would protect citizens from car-bombs and individual (“free-lancing”) suicide bombers *without* fundamentally impinging on many civil liberties that are taken for granted (even five years after 9/11) in the United States.

⁴ As we get some perspective the rather facile analyses are being replaced by more systematic analysis. See for example, Christopher Cooper and Robert Block, *Disaster: Hurricane Katrina and the Failure of Homeland Security* (New York, NY: Henry Holt & Co., 2006). See especially, *A Performance Review of FEMA’s Disaster Management Activities in Response to Hurricane Katrina*, www.dhs.gov/interweb/assetlibrary/OIG_06-32_Mar06.pdf

adept at creating highly centralized *internal* security bureaucracies such as the DHS? The contradictions within the organizational approach to DHS planning for civilian defense and the paradoxes that these contradictions create suggest that bureaucratic development of internal security apparatuses in a federal republic such the United States is really quite problematic, at best.⁵

This paper is divided into two main sections. Part one outlines a conceptual problem related to civilian defense and its objective. Part two outlines *how* DHS's organizational development perpetuates the organizational and bureaucratic state of affairs summarized in the first section of the essay.⁶

I.

Civil Defense Redux

What is civilian defense? From the days of the Federal Civil Defense Administration (FCDA, 1950-1958) and its “duck and cover” and “Bert the Turtle” programs to the current post 9/11 era, there has always been a tension among the general public, state and local government, and

⁵ This paper is part of a larger three-country comparative study of public policy and homeland security in the United States, Great Britain, and Israel. The United States is an interesting case because federalism, geographic size, and its mixed history of centralized bureaucratic development (i.e., state building) make it an outlier when compared to the other two democracies. Given its resources and robust post-World War II history in emergency planning, one might expect the U.S. to have a highly rationalized approach to internal security. It does not. Some of the reasons why are discussed in this paper. The other two countries represent interesting comparisons: Great Britain, has a very tough internal security apparatus, a shadow garrison state may not be too strong a term and, of course, Israel in many respects is a garrison state in that there is no difference between internal and external security matters when it comes to civilian defense/homeland security. As of this writing, Israel is engaged in a low-level war in Gaza and major conflict in Southern Lebanon. DHS planners look to both Great Britain and Israel for workable models that might be used in the United States.

⁶Six works on organizational theory are germane here. Charles Perrow, *Normal Accidents Living with High Risk Technologies* (Princeton, NJ: Princeton University Press, 1999); Lynn Eden, *Whole World on Fire: Organizations, Knowledge, and Nuclear Weapons Devastation* (Ithaca, NY: Cornell University Press, 2004); James G. March, Martin Schulz, and Xueguang Zhou, *The Dynamics of Rules: Change in Written Organizational Codes* (Stanford, CA: Stanford University Press, 2000); James G. March and Johan P. Olsen, *Democratic Governance* (New York: The Free Press, 1995); March and Olsen, *Rediscovering Institutions: The Organizational Basis of Politics* (New York: The Free Press, 1989); James G. March, ed., *The Pursuit of Organizational Intelligence* (Malden, Mass: Blackwell Publishers, 1999).

the federal government regarding civilian defense policy and its expected outcomes. Who, what agency, what level of government should do what and under what circumstances with respect to emergency management? In short, who takes responsibility for catastrophic events? At first glance, one might say there is no difficulty here at all: the federal government is responsible. But this, of course, is clearly not the case at least if we are to draw conclusions from the postwar public policy regarding emergency management. There are all sorts of conflicting expectations and demands along a continuum from personal responsibility — the FCDA during the early Cold War and DHS pronouncements concerning duct tape and plastic sheeting — to martial law. It seems to me that one area that is worth closer analysis is how *expectations* are dealt with in a large nation that is, by constitutional design, a federal republic. As the scholarship in American political development (APD) has demonstrated, the United States does not have a history of great success with highly centralized bureaucratic development, at least with highly centralized domestic security bureaucracies such as the DHS.⁷ An organizational problem that further creates impediments for the success of a centralized DHS is that civilian defense has, as has been the case since the late 1940s, mostly incompatible policy objectives: a public relations objective and a pragmatic, primarily top-secret objective related to national security policy (currently, counter-terrorism).

For example, consider a hypothetical terrorist attack using a biological weapon. Let us assume that the infectious agent requires a week to ten days to get epidemiological traction within the target population. Now consider how a response *might* unfold. Once the reality of the

⁷ For example see Skowronek, *Building a New American State*. Alternatively, I myself and others have argued that, in fact, there was an antebellum state that was more robust than some of the APD literature has suggested. But in the end, even these early state building projects did not successfully create what, currently, the US is trying to do with the DHS. Perhaps one could argue, however, that the early attempts at centralization of bureaucratic power in Washington, although not great success stories for the most part, did set the pattern for potential success. On the view that the early American state produced an a framework for strong central-state apparatuses, see in particular Laura Jensen, *Patriots, Settlers, and the Origins of American Social Policy* (Cambridge: Cambridge University Press, 2003).

situation has been confirmed, the president will declare a national emergency and DHS, the governor, and other state authorities will move quickly to do the same.⁸ The DHS, FEMA, the Centers for Disease Control (CDC), and the Department of Defense (DOD) will activate a civil defense plan, mobilize first responders of all kinds to implement the civil defense operations, and attempt to contain the crisis. The federal government will simultaneously attempt to contain mass panic. Unfortunately, the general public has been glued to its television sets, getting a minute-by-minute analysis by the "experts" detailing the gruesome effects of, say, a weaponized version of anthrax.⁹ What does civil defense mean under such circumstances in a situation such as this? Not very much, at least not very much that is good, especially since "homeland security" is put forward (to the public) as both a proactive and protective public policy. This simple hypothetical example is not only within the realm of possibility, but the public policy

⁸ Independent of the president's prerogative to declare a national state of emergency, the statute that further governs this process as it relates to disaster-area declarations is the *Stafford Act*. See <http://www.fema.gov/library/stafact.shtm>

⁹ A sophisticated biological attack would use an agent that, ideally, would fool medical specialists (especially if the attack began in a region without a highly developed medical infrastructure) by producing a two-stage process: first, people get ill then start to feel better; the second stage follows what looks to be a recovery with a "relapse" and death. This process is called "disease eclipse" and is the way that weaponized anthrax is supposed to perform. An even more frightening prospect is that genetically engineered viruses could be "switched" such that they are rendered non-contagious after a set period of time: hence, the biggest problem of biological weapons use – the fact that it could rebound on the user – is solved after a target population is decimated. On disease eclipse and biological warfare, see Ken Alibek with Stephen Handleman, *Biohazard: The Chilling Story of the Largest Covert Weapons Program in the World – Told From Inside by the Man Who Ran It* (New York, Random House, 1999), 7-8; on bioweapons threats and their problematic use, see Gregory Koblenz, "Pathogens as Weapons: The International Security Implications of Biological Warfare," *International Security* 28 (Winter 2003/04): 84-122; Kendall Hoyt and Stephen G. Brooks, "A Double-Edged Sword: Globalization and Biosecurity," *ibid.*, 123-148. In general see the analysis related to the 2002 gaming of a biological attack scenario using smallpox: "Dark Winter" http://www.upmc-biosecurity.org/pages/events/dark_winter/dark_winter_participants.html See also, <http://www.globalsecurity.org/security/library/report/crs/7932.pdf> . Finally, see the following 2004 executive summaries for WMD attacks for local, state, and federal preparedness planning: <http://www.globalsecurity.org/security/library/report/2004/hsc-planning-scenarios-jul04.htm> . For a current and truly frightening analysis that confirms the problem of proliferation see, <http://www.washingtonpost.com/wp-dyn/content/article/2006/07/29/AR2006072900592.html> and <http://www.washingtonpost.com/wp-dyn/content/article/2006/07/30/AR2006073000580.html>

literature on disaster planning is full of analyses (more comprehensive and systematic) of similar kinds of problems, and much worse.¹⁰

This example illustrates the paradoxes of civilian defense and emergency planning: namely, the antinomy between civil defense as public relations and civil defense as operational public policy. In the case of public relations, a perusal of the DHS website, specifically the section entitled “ready.gov” serves as a fine case, as it has the visual and narrative framework of a Madison Avenue advertising agency’s best practices for over-simplifying a very complicated set of problems related to catastrophic disasters.¹¹ However, if homeland security is not concerned with public relations *per se* but with real-world public policy, then a different array of operational policy issues come to the fore, and they have little to do with slick public relations palliatives. Planning for catastrophic terrorism has almost nothing to do with public programs that *downplay* the consequences of a disaster such as the DHS’s “don’t be afraid, be ready” campaign or FEMA’s upbeat “FEMA for Kids” campaign, which informs children that they can become a “disaster action kid”¹² Planners must deal with the reality of cleaning up the mess or containing

¹⁰As 9/11 and other attacks in Israel, Europe, and in the war zones of Iraq and Afghanistan tragically demonstrate, often “first responders” are the first to die after the initial casualties from an attack. The infrastructural breakdown in New Orleans also demonstrated how catastrophic events disable or kill first responders (in the latter case, hospitals failed and some police ran away, a few committed suicide, and others engaged in looting). Additionally, as counter-terrorism specialists have often warned, a really well-planned attack strategically aims to kill first responders and to cripple vital infrastructure by using delayed explosives and other tactics of asymmetric/guerilla warfare. See for example, Brian A Jackson, D.J. Peterson, et al., *Protecting Emergency Responders: Lessons Learned From Terrorist Attacks* (Santa Monica, CA: Rand Corporation, 2002). Although not related directly to the proximate dangers of being a first responder, but very much concerned with the organizational theory that underpins first responses to catastrophic events, see the essays in Juliette N. Kayem and Robyn L Pangi, eds., *First to Arrive: State and Local Responses to Terrorism* (Cambridge, MA: MIT Press, 2003).

¹¹See <http://www.ready.gov/> There is long policy history of the Advertising Council organizing top advertising agencies to work, gratis, for the federal government on issues of community mobilization, civil defense, and, currently, homeland security and the war on terrorism. On the postwar history see, Andrew D. Grossman, *Neither Dead Nor Red: Civilian Defense and American Political Development During the Early Cold War* (New York: Routledge, 2001), 41-105; on current Ad Council programs see http://psab.adcouncil.org/2005_September_October/

¹² See <http://www.ready.gov/index.html>; and the FEMA program which is almost an exact copy of the FCDA programs of the early 1950’s, <http://www.fema.gov/kids/dizkid1.htm>

the consequences of an act of catastrophic terrorism. And this points us in the direction of a competing version to the public relations aspect to DHS planning: *preemptive civilian defense*.

Preemptive civilian defense is a fundamentally different policy from the public-relations-driven preparedness planning that DHS promotes. To act in a preemptive fashion entails a policy switch to the covert realm of the “global war on terrorism” (GWOT¹³) and the top-secret domain of domestic counter-terrorism. If this is how homeland security operations are arranged — and the current organizational structure of the DHS suggests close interagency ties between homeland security bureaus and counter-terrorism agencies — then preemptive civilian defense confuses the general public and its understanding of *how* the DHS is supposed to carry out its charge.¹⁴ Consider, for example, the recent in-fighting between local and federal agencies regarding the threat to the New York City subway system in October 2005.¹⁵ The decision to go public was made by Mayor Bloomberg, but the interagency back-biting as well as local, state, and federal turf fighting began almost immediately. The political and bureaucratic posturing highlights one aspect of the point I am trying to make here: Having two goals that work at cross-

¹³The idea and the policy of a “war on terrorism” has come in for its fair share of criticism because it is so vague and discretionary. However discretion and vagueness seem to go hand-in-glove with DHS planning. What exactly is a war on a tactic, i.e., terrorism? What are the standards for success? How are these standards set and by whom? Much of this has to do with language and its usage. In any case, the use of the term “war on terrorism” seems to be changing as the lexicon has been revised. The revisions reveal both political and practical issues that suggest that planners themselves understand the incongruity of the original usage of the term “war on terrorism.” The new lexicon has two identifying expressions that seem to reflect two camps within the Bush administration. One term is the “Global War on Terrorism” (GWOT) and the second term is “Global Struggle Against Violent Extremism” (GSAVE). The problem here seems to center on what constitutes a war. Symbolism is crucial: there is a new “GWOT expeditionary medal” that the Air Force now confers on its members that, presumably, engage in the GWOT. On the Air Force and its new medal, see <http://usmilitary.about.com/od/airforcemedals/a/AFGWOT.htm> For the change in terms and the reasons why the administration is changing the terminology, see “Bombings in London: Hearts and Minds; New Name for ‘War on Terror’ Reflects Wider U.S. Campaign,” *New York Times* (July 26, 2005), p. A-7. Finally, a succinct analysis of how language can shape ideas see George Orwell’s classic essay, *Politics and the English Language*: <http://www.k-1.com/Orwell/index.cgi/work/essays/language.html>

¹⁴See <http://www.dhs.gov/dhspublic/display?theme=13>

¹⁵In general, see “Miffed at Washington, Police Develop Own Antiterror Plans” *Wall Street Journal* (October 10, 2005), p. B-1; “New York and Washington Backpedal to Explain Gap in Threat Perceptions” *New York Times* (October 8, 2005), p. A-13.

purposes, public relations (don't panic we have everything under control) and preemptive policy (we cannot tell you what we are doing, it's top-secret, but trust us) not only produces bureaucratic inertia but it ultimately *undermines* public support.¹⁶ This incongruity between two kinds of civilian defense also generates an unsettling policy planning “Catch 22.” If success is measured if and only if *nothing* happens, then tranquility will produce both apathy and cynicism – the exact problem that vexed the FCDA in the 1950s (and killed that agency's reason for being). A successful internal security policy may, in the end, undermine itself by virtue of the very benchmark or standard by which its success is measured. As discussed below, the organizational model for the DHS is one that is bound to produce institutional, jurisdictional, and legal confusion. Without being flip, there really is a sense in which the DHS as currently organized is a poor “fit” for a robust federal republic such as the United States. One result, is the kind of public policy we have recently witnessed in New York City and the hurricane-ravaged city of New Orleans. In addition, the bureaucratization processes *inside* the DHS may leave the

¹⁶One could argue (and some have) that a public-relations approach and preemptive approach to civil defense are *not* at cross-purposes; however, this requires one to accept as fact that most planners are also profoundly cynical. In this view, there is a two-level approach to civil defense. First, the state keeps the people happy with the *illusion* that civil defense can work; and second, the state secretly attempts to preempt attacks using paramilitary or military forces in a proactive fashion. In addition, the illusion of civil defense is systematically tied to the production of a calibrated use of fear in order to channel mass behavior. However, given US domestic politics, DHS planning, staffing, and the public nature of the reorganization of internal security bureaucracy after 9/11, it is much more likely that DHS represents a worst-case Weberian bureaucratic organization— an organization that exhibits the inertia that has vexed centralized bureaucratic development in the United States throughout its history. In short, the organizational structure of the DHS exhibits a path-dependent lock-in whereby policy inertia generates an ad-hoc and contradictory homeland security policy. There may well be cynical political actors using a politics of fear within the bureaucracy, but that is not the same thing as arguing the whole process of emergency preparedness planning is a cynical, conspiratorial manipulation of the polity. In political science the new-institutionalism approach has made much of the theory of path dependency. This concept has been appropriated from economics, especially the work of Douglass North. I am cognizant of the methodological and theoretical problems that may arise from appropriating this concept in political science; nevertheless I use it in this paper. On the path dependency, bureaucratic processes, and lock-in, see Paul Pierson, “Increasing Returns, Path Dependence, and the Study of Politics,” *American Political Science Review* 94 (June 2000): 263-266; idem, “Not Just When, But When: Timing and Sequence in Political Processes,” *Studies in American Political Development* 14 (Spring 2000): 72-92. On the influence of North on new institutionalism and, in particular, path dependence theory in political science, see especially Douglass C. North, *Institutions, Institutional Change and Economic Performance* (Cambridge: Cambridge University Press, 1990); North, *Understanding the Process of Economic Change* (Princeton: Princeton University Press, 2005).

United States public with a war-time like expansion of central state authority, *potentially* less liberty (this possibility is still in play and is not a sure thing), interagency conflict, low morale, and ultimately, no more security than it had before the attacks of 9/11.

II.

A Problematic Organizational Model: Policy Implementation and Political Development

There is no gainsaying the relationship between war and state building. The GWOT, as ill-defined as that term is, is a prime example of the relationship between war mobilization, war-fighting, and state expansion.¹⁷ Following the attacks of 9/11 and, then, the very public 9/11 Commission hearings, a comprehensive reorganization of the national security apparatus – the largest such operation since the National Security Act of 1947 – was started by the Bush administration: long-lived line agencies were folded into new agencies, some new agencies were created, some agencies eliminated and, most important, a new legal framework was developed for the FBI, the CIA, and their new role in internal security.¹⁸ The creation of the DHS was one

¹⁷ On the creation of the DHS see, H.R. 5005, the Homeland Security Act of 2002 . <http://www.whitehouse.gov/deptofhomeland/bill/> . The war and state-building literature is enormous. For a literature review as it relates to the concept of emergency preparedness and civilian defense and Cold War “type” (i.e., long-term processes) mobilizations, see Grossman, *Neither Dead Nor Red*, 1-19.

¹⁸ On the National Security Act of 1947, see Acts of June 25 and July 14, 1798, 1 *Stat.* 570, 596. On intelligence reform and its very public process, see *9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States* (New York: W.W. Norton, 2004). The legal changes not only relate to the USA Patriot Act but really deal with eliminating the much-remarked-on “wall of separation” between the FBI and the CIA. That wall, for all intents and purposes, has been removed. For an analysis with a historical sensibility of intelligence reform (and a critique of some of some of the organizational theories that have been proffered recently on this issue), see Amy B. Zegart, “September 11 and the Adaptation Failure of the U.S. Intelligence Agencies,” *International Security* 29 (Spring 2005):78-111. For a fine essay that reviews in some detail the organizational issues that this paper is touching on, see Patrick S. Roberts, “How Bureaucracies Control Change: Autonomy in the FBI and CIA” unpublished paper presented at CISAC Social Science Seminar, Stanford University, April 6, 2006.

consequence of this rationalization process, a process that is still evolving and, five years after the attacks of 9/11, seemingly in a constant state of organizational flux.

An obstacle for the DHS and its goal of implementing a national policy of homeland security is that the U.S. is a *relatively* “weak” state. The United States has a very strong tradition of federalism and, hence, one would expect highly centralized bureaucracies to be unsuccessful in the long run. Studies in APD establish this point over and over again: except for specific crises that have fairly well defined time constraints (exceptions would be aspects of the Cold War national security state and some New Deal-era administrative agencies) such as “hot” wars, centralized bureaucracies inevitably run into problems with states’ rights and the structure of American federalism.¹⁹ The DHS has been set up in way that will lead to problems with implementation because the United States is a relatively weak state. Organizationally the DHS is an example of both bureaucratic layering and a form of administrative path dependency (PD) that institutionalized an array of dysfunctional agencies within the larger civilian defense bureaucracy. I submit that both kinds of political/bureaucratic development— PD and layering—has produced a worst case outcome for the DHS, at least from the perspective of organizational and institutional theory: a central-state super-agency that is cumbersome and in many respects helpless.²⁰

¹⁹I would argue even under these crisis circumstances federalism and states’ rights issues continued to hinder the kind of centralization that many policy planners wanted. See for example, Keith D. McFarland and David L. Roll, *Louis Johnson and the Arming of America: The Roosevelt and Truman Years* (Indiana: Indiana University Press, 2005); and Daniel Kryder, *Divided Arsenal: Race and the American State During World War II* (New York: Cambridge University Press, 2000).

²⁰ On the bureaucratic layering and bureaucratic development in the United States, see Jakob S. Hacker, “Privatizing Risk without Privatizing the Welfare State: Hidden Politics an Social Policy Retrenchment in the United States,” *American Political Science Review* 98 (May 2004): 243-260. On PD, see Pierson, “Increasing Returns, Path Dependence, and the Study of Politics,” 263-266.

Bureaucratic Layering:

The current public relations program of the DHS represents a classic example of bureaucratic layering. Many of the programs and public displays that domesticate and downplay the consequences of catastrophic terrorism are duplications of off-the-shelf programs first employed by the FCDA during the early Cold War. Some of the current DHS plans, especially those that relate to panic prevention, are lifted almost verbatim from early Cold War civil defense manuals.²¹ At least one national security specialist, Richard Falkenrath, has argued that postwar civilian defense planning is an artifact of a different era that has nothing to do with current emergency preparedness policy.²² But current civilian defense programs suggest otherwise and

²¹ See (and compare with public statements today) the narrative from the United States Federal Civil Defense Administration, *Annual Report 1952* (GPO: 1952): 41-101. During the early Cold War, *Project East River* dealt specifically with fear and panic and how these emotions can be managed for purposes of civilian defense and homeland defense. Nothing discussed to date indicates that the DHS and FEMA's plans for civilian defense and homeland security are doing anything new regarding the issue of "individual vigilance" and preparedness planning. See National Archives, National Security Resources Board, Records Group 304, Box 19, Project East River Folder, "Information and Training for Civil Defense," *Project East River*, Part IX, specifically, "Panic Prevention and Control," Appendix IXB, pp. 55-65.

²² See Richard A. Falkenrath, "Problems of Preparedness: U.S. Readiness for Domestic Terrorist Attack," *International Security* 25 (Spring 2001):147-86, esp. 147. A short list of the issues that rendered the FCDA administratively ineffective were:

- a). The unclear status of the statutory authority for the administrator of the civil defense agency;
- b). The problem of federalism, central-state authority, and state expansion;
- c). The problem of jurisdictional overlap between internal security agencies;
- d). The inability to assess and measure either success or failure;
- e). The collapse of the distinction between external and internal threats;
- f). The granting of enormous discretionary power to unelected officials;
- g). The problem of funding;
- h). The problem of training;
- i). The problem of panic.
- j). The problem that *post-attack* civilian defense against WMD does not work.

With the exception of the first point, this reads like a current list of challenges that the DHS faces. Even regarding the issue of statutory authority the DHS (which is substantially broader than anything granted the FCDA or its follow-on permutations), is caught up in disagreements about the scope of DHS Michael Chertoff's power, especially as it relates to state governments. Falkenrath has recently been appointed as the New York Police Department's new counter-terrorism commissioner. See <http://www.ny1.com/ny1/content/index.jsp?stid=6&aid=60551> .

the reason is that, as Hacker and others have demonstrated, layering works and works very well within the political structure of the United States.²³ Clearly, it is much easier to use old policies and build upon them than to develop new policies from scratch. However, the driving impetus for post-9/11 homeland security was speed; that is, both political and bureaucratic swiftness were requirements that would demonstrate something was being done quickly about internal security. Layering ostensibly new policies upon old policies is a cost-effective and logical technique to achieve both fast outcomes and, for want of a better term, the “illusion” of public policy. Policy layering creates incentives for the private sector to participate in policy planning and implementation. As Hacker’s work demonstrates, layering promotes the process of risk privatization, a course of action that fits nicely into the American political system where private-sector participation is often encouraged. Policy layering also offers political cover for policy elites and politicians in times of crisis, as the high levels of discretionary power that characterizes crisis legislation allowing politicians to avoid direct blame for operational failures. Still, bureaucratic layering alone does not explain the deeper organizational and structural challenges that the DHS seems to be running up against in its current programming of civilian defense policy. The DHS is shaped by an organizational model that has produced both unclear expectations on the part of the public, confusion at all levels of government, and that has led to *exceptionally* low morale in the DHS.²⁴ These more acute problems of the DHS are likely a

²³ See Hacker, “Privatizing Risk,” 243-60. For a concise and important overview of organizational theory with direct relevance to this paper, see Charles Perrow, *Complex Organizations: A Critical Essay*, 3rd ed. (New York: Random House, 1986), esp. 119-76, 258-78. In addition, one important public policy problem that the confronts the DHS is really one of risk management and uncertainty. Developing a coherent policy to manage risk and uncertainty is difficult in the best of circumstances. See for example, Uri Merry, *Coping with Uncertainty: Insights from the New Sciences of Chaos, Self Organization, and Complexity* (Westport, Conn: Praeger, 1995), esp. 121-205; Pat O’Malley, *Risk, Uncertainty and Government* (Portland, Oregon: Glasshouse Press, 2004), 1-28, 77-94, 173-182.

²⁴ On DHS morale see, “Study Ranks Homeland Security Department Lowest in Morale,” *New York Times* (October 16, 2005). For the raw data used in the Times article see, <http://www.fhcs2004.opm.gov/published.htm>

consequence of institutional path dependency and the phenomenon of bureaucratic “lock-in,” resulting in the institutional inertia that often stymies central state-building in the United States.²⁵

Institutional Path Dependence and Homeland Security

If one were to trace the institutional development of emergency management from the FCDA in 1952 to 1979 when President Carter created FEMA by executive order, one would see a fine example of institutional continuity, not discontinuity. The key characteristic linking the twenty-seven years between the FCDA and FEMA was institutional inertia and dysfunctional implementation of public policy. After the creation of the DHS, FEMA became part of the new homeland security apparatus, but many of the administrative deficiencies of FEMA are now those of the DHS.²⁶ That the DHS has poor organizational methods and structure is not a surprising institutional consequence, given *how* PD affects institutional and organizational development. In political science and organizational theory, the use of path dependency as framework for understanding institutional change draws heavily on the work of economist Douglass North. North’s understanding of institutional change is crucial for understanding how

²⁵ For a prime example, see “Infighting Cited in Homeland Security: Squabbles Blamed For Reducing Effectiveness,” *Washington Post* (February 2, 2005), p. A-1.

²⁶ As one measure, consider the question of leadership and its relationship to a crude version of path dependency. The leadership of the various permutations of the FCDA (three before FEMA) were usually political appointees (governors and the like) that had a lot more to do with particular party affiliation and personal connections (almost all wanting ambassadorships) than expertise in emergency preparedness planning. The current “discovery” that, for example, the FEMA administrator during Hurricane Katrina, Michael Brown, was a political appointee with minimal qualifications for running the agency (following another similar appointee, Joe M. Allbaugh) was not only par for the course, but essentially the way things have always been done. With the exception of James Lee Witt under President Clinton, almost none of the administrators of emergency management organizations were expert, by any stretch of the imagination, in emergency management. Even the DHS was led first, and quite typically, by a former governor of Pennsylvania, Tom Ridge. Currently, the DHS secretary is Michael Chertoff, who represents a slight change from Governor Ridge in that he has experience (as a former high profile and successful government prosecutor) in law enforcement, but *not* emergency management. For a brief history of FEMA and previous its past leadership, see http://en.wikipedia.org/wiki/Federal_Emergency_Management_Agency#History . For a fine analysis regarding the history and institutional roots of FEMA, see Patrick S. Roberts, “FEMA and the Prospects for Reputation-Based Autonomy” *Studies in American Political Development* 20 (Spring 2006): 57-87.

some social scientists view PD as both a *process* and as a *mechanism* for institutional/organizational “learning” and development.²⁷ Resting in large measure on a theory of increasing returns and its effects on institutional and organizational development, then, the DHS is an organization that has reached a point of maximum inertia.²⁸ As Pierson argues, one of the four features of PD in the study of politics is institutional inertia. This feature is a consequence of the equilibrium that is established when increasing returns (defined in any number of ways) creates a feedback loop and locks in the institutional culture, mechanisms, and modes of action. As a result, change, especially swift change in crisis, becomes almost impossible.²⁹ Currently the DHS exhibits this institutional inertia, much of which can be traced to the FCDA in 1951. The key characteristics of the FCDA’s template for homeland security were: 1) a centralized federal administration with a wide range of discretionary power in time of

²⁷ Methodologically the appropriation of North’s ideas by political scientists interested in APD and comparative “new/historical institutionalism” is open to criticism. One line of criticism that I think has traction is that North’s definition of an institution is so broad that it has almost no meaning whatsoever: almost everything is an “institution.” Thus, appropriating his idea of PD and institutional change for understanding APD *might* be unwise. Nevertheless, in this paper I want to avoid a microanalysis of North’s methodology and think in terms of broader patterns of institutional and organizational development as they specifically relate to the DHS. On North’s broadly conceived understanding of what defines an institution, see North, *Institution’s Institutional Change and Economic Performance*, 5-26. For a fine critique of PD as foundation for historical institutionalism, see Herman Schwartz, *Down the Wrong Path: Path Dependence, Increasing Returns, and Historical Institutionalism*, <http://www.people.virginia.edu/~hms2f/Path.pdf>. On the idea of “institutional learning” see Mary Douglas, *How Institutions Think* (Syracuse, NY: Syracuse University Press, 1986).

²⁸ In this sense, the idea that the DHS is “new” may be wrong. In effect, if the DHS is the consequence of a sixty-year process of PD, it is the endgame not the beginning of a homeland security bureaucracy. This might explain the confusion that this “new” bureaucracy seems to produce within the polity and among national security elites and politicians. On PD and historical sequence see Pierson, “Not Just What But When,” 75-87; Jeffrey Haydu, “Making Use of the Past: Time Periods as Cases to Compare and as Sequences of Problem Solving,” *American Journal of Sociology* 104 (September 1998): 352-53; Orren and Skowronek, *The Search for American Political Development*, 96-119. Much of the analyses of PD and other institutional approaches as they relate to state formation fall under the rubric of “historical institutionalism.” For a comparative overview of what political scientists are trying to do when then use historical institutionalism as a conceptual apparatus, see for example Sven Steinmo, Kathleen Thelen and Frank Longstreth, *Structuring Politics: Historical Institutionalism in Comparative Analysis* (Cambridge: Cambridge University Press, 1992).

²⁹ See W. Brian Arthur, *Increasing Returns and Path Dependency* (Ann Arbor: University of Michigan Press, 1994); Pierson, “Increasing Returns, Path Dependence, and the Study of Politics,” 263.

emergency; 2) a single federal administrator with power over the state governments in time of emergency; 3) a national civic education program; and 4) an inconspicuous (purposely secretive) but important national security task; namely, operational civilian defense.³⁰ With the exception of civic education, these key pieces of homeland security *did not work* very well for the FCDA or its follow-on agencies, including FEMA and now the DHS. Following the path of FCDA-FEMA, the DHS has inherited a type of bureaucratic structure that Perrow identifies as neo-Weberian. This kind of administrative/bureaucratic structure is complex, but two important characteristics are germane here: a lack of internal communication and a production of internecine interagency competition. Both characteristics produce severe interagency infighting that takes priority over the public policy objective of homeland security.³¹ Perhaps this will change with the DHS as time goes on, but the key characteristics developed in 1951 are still the basic elements of comprehensive national civilian defense. Given the institutional logic of PD, the neo-Weberian organizational model, and the fact that the DHS is a *domestic* internal security bureaucracy in a political system that penalizes such establishments, one can anticipate short- and long-term problems for the DHS.

The DHS and Federalism: The APD Conundrum?

It is the incongruity between the organizational model and the political system that, I think, explains why state-building operations such as the DHS seem to confound state-planners time and time again. In this particular case, the organizational design – a centralized federal

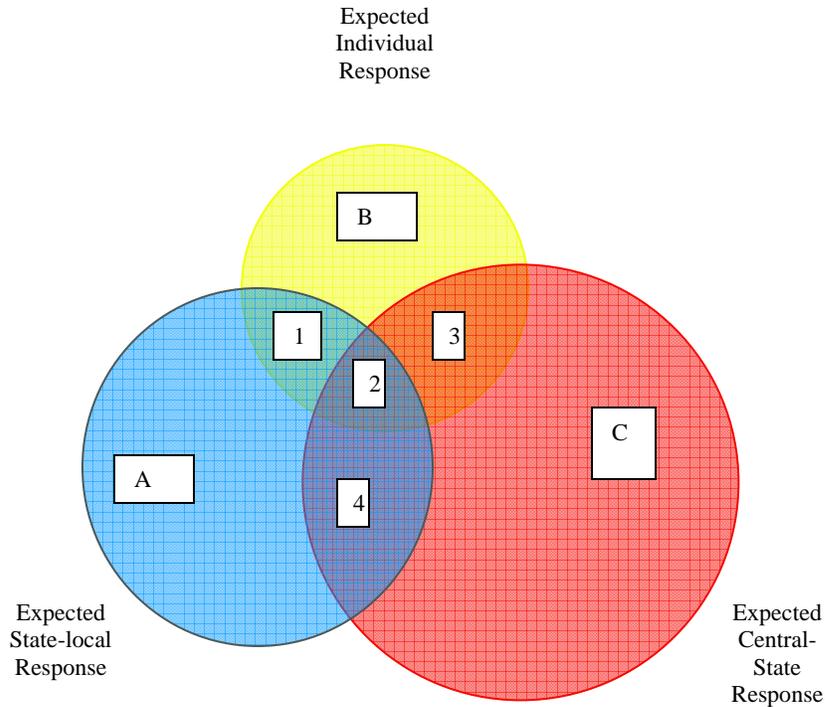
³⁰ I say “primarily beginning with the FCDA” because the FCDA was really the first attempt at a permanent, federal, centralized homeland security bureaucracy. However, it would be interesting to trace the developmental processes from the Office of Civil Defense (OCD) of World War II to the DHS. The planning years of the FCDA (1946-1950) owe much to OCD operations and institutional experience. The DHS is the offspring of the FCDA so there *should* be a nice PD link between the OCD and the DHS, but that is another essay.

³¹ On the characteristics of the “neo-Weberian” model and its place in organizational theory, see Perrow, *Complex Organizations*, 119-156.

bureaucracy with far-reaching power over the states and local communities – produces the basis for inconsistency in policy planning and mystification on the part of the polity as to how DHS will carry out its charge. How so? As students of APD have long argued, in a relatively weak state such as the United States federal bureaucracies tend to adapt to a less statist mode of operation as time goes on. Federalism more or less dictates this kind of policy adaptation. For example, in the case of civilian defense the DHS seeks to assign a lot of discretion and operational responsibility for emergency operations with state and local governments. The result? The duplication of processes and, worse, confused expectations during a crisis at both ends of the command and control structure, from the individual citizen to the president. Federalism is something no centralized bureaucratic organization – and that is what the DHS is supposed to be —can circumvent. In addition to duplication of processes, the DHS organizational structure is wide open to the “boondoggle effect.” With homeland security money being spent as fast as it can be printed, mini-reproductions of the DHS at the local level are developing all over the country. Of course it makes sense that towns have the capacity for local emergency planning. However, in most cases there is more pork-barrel politics in play than emergency planning, as local politicians and whole communities crowd up to the trough to replace roads, dams, police cars, and almost anything else one can imagine as they “mobilize” for the long-term GWOT. And, of course, this mobilization will come at the expense of the federal government and DHS, *not* local tax payers.³²

³² Emergency preparedness planning has historically been viewed by communities and states as a cash-cow for purchasing, at federal expense, many “emergency items. Emergency planning is a fantastic rationale for old fashioned “pork-barrel politics.” See, for example, “Security Grants Still Streaming to Rural States,” *New York Times* (October 12, 2004), p. 1. On “pork-barrel politics” see “Homeland Security Oversight,” *Washington Post* (December 28, 2004), p. 18. In general see, “Contracting Rush for Security Led to Waste and Abuse,” *Washington Post* (May 22, 2005), A-1. For an interesting data on per capita spending for DHS funding see, <http://www.fas.org/sgp/crs/RL32463.pdf>

This problem of policy duplication is that it underpins the contradictory roles of civilian defense and, as the diagram below illustrates, it creates overlapping spheres of authority. A bureaucracy such as the DHS is attempting to aggressively centralize power while also trying to



In this diagram: “C” represents the federal government (e.g., the DHS), “A” represents the state government emergency planning agencies, and “B” represents the individual and her/his role in shouldering responsibility in the post 9/11 homeland security operation. In the overlap of 1, 2, 3, & 4 one finds all positions: federal, state, and individual assuming the other will handle the problem of emergency planning and, most important, post-catastrophic civilian defense. Since all sides are passing the buck, nothing gets done, classic example: New Orleans and Hurricane Katrina. It is in position number 2, that all aspects of command and control break down as organizational frameworks fail as citizens, local government, and the federal government assume the *other* is handling the problem of civilian defense. Position 4 highlights the obstacle of federalism in emergency planning and civilian defense. Finally positions 1, 2, & 3 represent a worst case scenario for politicians, because the citizens do not expect to be part of operational civilian defense even as state government and the DHS expect them to assume substantial responsibility. In this case, the citizenry will blame their representatives and the two political parties for the failure of homeland security operations.

surmount the problem of states' rights: the result is not one that bodes well for operational planning, as overlapping spheres of authority that lack clear command and control, create enormous incentives for buck passing. As the diagram illustrates, emergency management agencies and citizens assume that responsibility for post-disaster civilian defense resides somewhere else than their own jurisdiction or operational plans.

Because states' rights are fundamental to the American political structure, the DHS cannot function in an optimal fashion as currently organized without, in all probability, a Supreme Court ruling that would allow it to override key aspects of federalism; in this case, the explicit power of governors to manage regional planning in an emergency. Equally important is the fact that preemptive civilian defense is more or less an active military operation. This fact raises constitutional issues when we consider the use of military forces or their surrogates (e.g., counter-terrorism specialists) *domestically*, to say nothing of the fact that the military is not exactly "gung ho" about another operational mission being added to fast growing list of GWOT tasks. It seems clear, and planners have long written about this in the disaster studies literature, that the DHS will need active military troops to carry out post-attack operations if an act of catastrophic terrorism takes place. However, this truth confronts fundamental legal issues such as the Posse Comitatus Act.³³ How can DHS surmount such obstacles? It is not clear that it will be

³³ See the Posse Comitatus Act (18 USC 1385). For an analysis of the act and current planning, see Gregory D. Grove, "The U.S. Military and Civil Infrastructure Protection: Restrictions and Discretion under the Posse Comitatus Act," Working Paper, *The Center for International Security and Cooperation, Stanford University* (October 1999). For additional information see: <http://www.uscg.mil/hq/g-cp/comrel/factfile/Factcards/PosseComitatus.html> and <http://www.rand.org/publications/MR/MR1251/MR1251.AppD.pdf> The Posse Comitatus Act is a Reconstruction-era criminal law proscribing the use of the Army (later, the Air Force) to "execute the laws" except where expressly authorized by the Constitution or Congress. Limits on use of the military for civilian law enforcement also applies to the Navy. In December 1981, additional statutory amendments were enacted (codified 10 USC 371-78) clarifying permissible military assistance to civilian law enforcement agencies--including the Coast Guard--especially in combating drug smuggling into the United States. These refinements of the act emphasize supportive and technical assistance (e.g., use of facilities, vessels, aircraft, intelligence, tech aid, surveillance, etc.) while still generally prohibiting direct participation of DOD personnel in law enforcement (e.g., search, seizure, and arrests). For example, Coast Guard Law Enforcement

able to do so as currently organized. In late 2001, Ashton Carter wrote about the need for a new planning architecture for emergency management in an age of super terrorism. In his essay he used a wonderful metaphor to describe the fate of large DHS-type bureaucracies and the “czars” that run them: “The barons ignore them, and eventually the peasants kill them.”³⁴ The DHS *may* end up ignored by the barons—the other emergency planning agencies that are now competing *within* the DHS itself and the Congress—and killed by the peasants—the fifty states and hundreds of localities that are already planning their own version of civilian defense in the age of super terrorism. Should we despair of the notion of some kind of systematic, comprehensive, and national homeland security process? I think not, but I believe that organizationally it would have to look very different from the DHS.

III.

Conclusion

This paper has suggested that DHS civilian defense planning has a conceptual problem with what post-9/11 civilian defense/homeland security actually is. Is civilian defense primarily a public relations program aimed at emotion management and controlling the problem of panic, or is it a form of internal security that is secret and preemptive in its function and policy goals? I have argued that the DHS actually is trying to do both kinds of civilian defense simultaneously and this leads to confusion and policy failure. Furthermore, I have argued the organizational model of

Detachments (LEDETS) serve aboard Navy vessels and perform the actual boardings of interdicted suspect drug smuggling vessels and, if needed, arrest their crews. Most recently the confusion displayed during and after Hurricane Katrina exemplifies the chaos between national guard and active duty troop deployment during emergencies.

³⁴Ashton B. Carter, “The Architecture of Government in the Face of Terrorism,” *International Security* 26 (Winter 2001/02): 5-23. Quotation on p. 12.

the DHS is very much indebted to the early Cold War model for homeland security. This institutional continuity is explained by a path dependence model that creates incentives for policy layering, internal conflict, policy confusion, buck passing, and institutional inertia. Finally, I suggest DHS is a type of organization that has only a small chance of functioning successfully in a weak state that is founded on a robust type of federalism. Political geography and the nature of American political development all work against the probability of success for a federal super-bureaucracy such as the DHS. I hope that I am incorrect in this statement. Perhaps the DHS will prove to be the rare example of a highly successful and efficient internal security bureaucracy that protects the citizens, their civil liberties, and our liberal democratic structure from catastrophic terrorism.