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**HOMELAND SECURITY IN AN
OBAMA ADMINISTRATION**



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Homeland Security in an Obama Administration

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## *Introduction*

With all the pageantry of Presidential conventions, the intensity of the financial crisis and bailing out of Wall Street, the off-again-on-again debates about Iraq and the surge, the discussions on health care, taxes, and the back-and-forths over whether Sarah Palin should or should not talk to the press, one critical issue was absent from the national dialogue in the campaigns this year: *homeland security*.

What is surprising about this is that historically, domestic safety and security concerns have topped the fall agenda of those jockeying for the top job in Washington. Nixon ran on a promise to restore “law and order.” Reagan trumpeted Star Wars to safeguard the homeland against ballistic missile attacks. George Bush claimed Michael Dukakis was soft on crime. Bill Clinton promised to put 100,000 cops on the street. George W. Bush promised 9/11 never again. Except for a minor discussion on drivers’ licenses and immigration reform during the primaries, neither the Presidential candidates, nor the media focused on homeland security.

And yet, the terrorist threat has not abated. We see a resurgence of al Qaeda along the Afghanistan-Pakistan border. We continue to respond to real attacks or failed attempts – in Britain, Germany, Spain, and most recently India. There has been a rise in terrorist recruitment as a result of the war in Iraq, and a significant increase in public communications from al Qaeda over the internet. Even in the United States, there have been additional attacks that have been prevented, including a plot to blow up the gas terminal at New York’s Kennedy Airport, and most recently at Fort Dix in New Jersey.

Nor has the risk of natural disasters diminished. The homeland security mission includes responsibility for response to all types of catastrophic events and we have seen a huge increase in floods, fires, and tornados. In fact, the average number of federally-declared disasters in the United States have increased regularly over the past forty years.<sup>1</sup>

Moreover, U.S. vulnerabilities to terrorist threats persist. There is insufficient control of the border. Illegal immigrants and drugs, even some nuclear material, continue to stream across the U.S. borders.<sup>2</sup> We do not agree on the best way to secure cargo (e.g., 100% scanning or using intelligence to select just the high-risk cargo to scan). We are not prepared for even known biological risks, like pandemic flu, let alone deliberate attacks. And chemical facilities are only just beginning to improve protection against possible attacks.

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<sup>1</sup> See *Declared Disasters by Year*, available at: <[http://www.fema.gov/news/disaster\\_totals\\_annual.fema](http://www.fema.gov/news/disaster_totals_annual.fema)>.

<sup>2</sup> See for example, David de Sola, “Government investigators smuggled radioactive materials into U.S.,” *CNN*, March 27, 2006. <<http://www.cnn.com/2006/US/03/27/radioactive.smuggling/index.html>>; Government Accountability Office, *Drug Control: Cooperation with Many Major Drug Transit Countries Has Improved, but Better Performance Reporting and Sustainability Plans Are Needed*, July 2008. GAO-08-784 <<http://www.gao.gov/new.items/d08784.pdf>>; Government Accountability Office, *Border Security: Despite Progress, Weaknesses in Traveler Inspections Exist at Our Nation’s Ports of Entry*, January 3, 2008. GAO-08-329T <<http://www.gao.gov/new.items/d08329t.pdf>>.

Still, there are many questions the next president will face, including for example:

- What is the right vision for protecting America against terrorism? Are we in a global war on terror? Does the government have to be right 100% of the time and the terrorist right only once? If we fight terrorists abroad, will that protect us from having to face them at home?
- How should government be structured to best manage the nation's homeland security enterprise? Should the White House Homeland Security Council be preserved or subsumed into the National Security Council? Where and how should cross-cutting issues like preventing nuclear, cyber or biological terrorism be managed? Should FEMA remain part of DHS or become a free-standing cabinet-level agency?
- What is the best way to control the border? What is the optimal combination of physical fences and virtual ones? Do we need more guards at the border, or more officers for interior enforcement? Does the country need comprehensive immigration reform?
- How can the federal government better engage the private sector and the American public in preparing for catastrophic emergencies or other plausible disasters?
- What should be the U.S. policy on foreign ownership of critical infrastructure?<sup>3</sup> What is the U.S. strategy for engaging foreign partners in homeland security?
- Given the many new missions and intelligence operations since 9/11, as well as new Attorney General guidelines to clarify the role of the FBI, what is the right architecture for how the federal government manages and implements its domestic intelligence programs? What are the appropriate rules, guidelines, and requirements for domestic surveillance and intelligence collection across the government? Who should oversee the process? Should the U.S. establish its own version of MI5<sup>4</sup>?
- Three provisions of the Patriot Act are up for reauthorization next year.<sup>5</sup> Should they be reauthorized?

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<sup>3</sup> When Dubai Ports, a government-funded company from the UAE, sought to own and operate terminals at the docks of a number of U.S. ports, the deal was squashed. With airlines plagued with financial problems and rising fuel costs jeopardizing the health of the sector, and with the growing economic crisis, many critical infrastructures are looking for foreign investment to stay afloat. And yet, in the case of airlines, for example, these are the same airlines that we depend on and who are called to duty to transport US troops and material in times of national crisis.

<sup>4</sup> The British Security Service (a.k.a. "MI5") is the United Kingdom's (U.K.) counter-intelligence and security agency responsible for protecting the U.K. against threats to national security, to include disrupting domestic terrorist plots and networks. It is commonly known as MI5, which is short for "military intelligence, section 5".

<sup>5</sup> Three key provisions are: Section 206, which provides for roving wiretaps or targeting individuals as opposed to the specific phones they use; Section 215, which allows FBI access to business records in support of international terrorist investigations; and the so-called "lone wolf" clause, which defines an "agent of a foreign power" to *include* a non-citizen of the US who engages in terrorism or the preparation therefore.

All of these issues will affect the nature of homeland security next year and the years ahead. They will influence the priorities for the next President and the next Congress. And they will ultimately impact us at home—in terms of our safety, security, our ability to thwart terrorism, and our resiliency should (and when) we face an attack or natural disaster again.

Over the course of the presidential election, both candidates—John McCain, the Republican nominee, and Barack Obama, the Democratic nominee—articulated in whole or in part, their homeland security visions and associated policy agendas. When taken alongside their past legislative record and past speeches, we can start to see what the outline of the new Administration’s homeland security agenda might be. This paper, therefore, attempts to portray, based on campaign positions and remarks, what an Obama Presidency would mean to America’s homeland security enterprise.

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These ‘lone wolves’ or agents are therefore subject to intelligence surveillance as if they were foreign and not entitled to the Constitutional protections afforded U.S. persons, despite not being affiliated with a foreign government or known terrorist organization.



## *The Candidates, the Campaigns and Homeland Security*

Though senators McCain and Obama both took positions on a variety of homeland security issues through legislation and other public appearances, neither candidate presented a detailed vision for homeland security until October.

During the primary season, and well into the fall campaign, Senator McCain, despite co-authoring legislation to create the 9/11 Commission and implement its recommendations, made practically no mention of homeland security on his campaign website or in his remarks.

Senator Obama, who sat on the Senate Committee on Homeland Security and Government Affairs, offered only slightly more. His campaign website maintained a section dedicated to homeland security throughout the primary campaign and into the general election. On it, Obama proposed a list of key areas for improvement which had been the principal focus of his work in the Senate, including: securing U.S. chemical facilities; keeping track of nuclear material; evacuating special needs populations in emergencies; and keeping drinking water safe.

Neither campaign held a specifically homeland security-related event; nor, in general, were homeland security issues raised during the debates.

### *McCain's Positions*

Given McCain's status as the standard-bearer of the Republican Party during the campaign, his positions on homeland security during the campaign may reflect opportunities for cooperation, as well as areas where the Obama Administration may face opposition. McCain's plan, released the week before the general election, called homeland security his top priority, stating specifically that the highest priority for any President is "protecting the lives of American citizens, defending their personal freedom,

| <b><u>SENATOR JOHN MCCAIN on<br/>HOMELAND SECURITY</u></b>                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b><u>Federal and Local Cooperation</u></b>                                                                                                                                                                                                                                                                                                                                                                                         |
| <ul style="list-style-type: none"> <li>• Increase information sharing with state and local governments</li> <li>• Provide funding to state and local authorities based on risk assessments</li> <li>• Require local authorities in large cities to share information w/ federal authorities</li> </ul>                                                                                                                              |
| <b><u>Border Security</u></b>                                                                                                                                                                                                                                                                                                                                                                                                       |
| <ul style="list-style-type: none"> <li>• Increase funding to border agencies for improving technology and hiring additional personnel</li> <li>• Improve screening of people and cargo at U.S. ports and airports.</li> <li>• Implement a risk-based supply chain security strategy for cargo</li> <li>• Work with Mexico and Canada to stem illegal immigration, drug smuggling, and enhance commerce across the border</li> </ul> |
| <b><u>Nuclear and Other Proliferation</u></b>                                                                                                                                                                                                                                                                                                                                                                                       |
| <ul style="list-style-type: none"> <li>• Increase counter-proliferation efforts</li> <li>• Obtain international consensus for strict sanctions to prevent Iran from obtaining material to develop nuclear weapons</li> </ul>                                                                                                                                                                                                        |
| <b><u>Catastrophic Event Preparedness &amp; Response</u></b>                                                                                                                                                                                                                                                                                                                                                                        |
| <ul style="list-style-type: none"> <li>• Appoint experienced disaster management leaders at FEMA</li> <li>• Incorporate private sector capabilities in disaster management</li> <li>• Expand radio spectrum to enable interoperable communications for first responders</li> </ul>                                                                                                                                                  |
| <b><u>Congressional Action</u></b>                                                                                                                                                                                                                                                                                                                                                                                                  |
| <ul style="list-style-type: none"> <li>• Pass the remaining 9/11 Commission recommendations</li> <li>• Simplify oversight for DHS</li> </ul>                                                                                                                                                                                                                                                                                        |
| <b><u>Protecting Critical Infrastructure</u></b>                                                                                                                                                                                                                                                                                                                                                                                    |
| <ul style="list-style-type: none"> <li>• Protect water supply and storage systems from tampering and contamination</li> <li>• Identify and address security vulnerabilities at chemical plants with Security Vulnerability Assessments and Site Security Plans</li> <li>• Support U.S Computer Emergency Readiness Team and National Cyber Response Coordination Group</li> <li>• Improve transportation security</li> </ul>        |

**TABLE 1: McCain Campaign Platform**

and securing our land and resources.” His website itemized fourteen areas where he argued—and promised—improvements must be made (see **Table 1**, for a summary of McCain’s website). Despite the breadth of areas and the importance that McCain put on homeland security, his plan was much more a summary of issues that required attention than a roadmap of how a McCain Administration would address these important items. One could conclude from this that McCain, while perhaps frustrated with the progress of the homeland security agenda under the Bush Administration, would in fact continue to pursue its policies and programs, albeit with more intensity.

There are, however, a couple of notable exceptions to the paucity of details and focus in the McCain plan. In the area of **interoperability**, for example, McCain, who has served for twenty-two years on the Senate Committee on Commerce, Science, and Transportation (which has jurisdiction over telecommunications), proposed to preserve more of a newly released 700 Mhz spectrum band in order to provide first responders with a new *National Interoperable Broadband Network*, with a seamless nationwide roaming capability with real time transmission of data.<sup>6</sup> Furthermore, in the area of **border security**, McCain proposed an initiative to devolve border security from the Federal government to independent border states, where he would require governors—not federal officials—to “certify that the border is secure.”<sup>7</sup> And finally, for **major disasters**, McCain would promote the creation and integration of *Business Operations Centers* at all Government-run Emergency Operations Centers to enhance emergency response and allow for private sector resources to also “surge into the disaster zone with manpower, equipment and material” during a crisis.

These three areas—interoperability, border security, and public-private emergency response cooperation—would likely be areas that Senator McCain would continue to pursue and support during an Obama Administration.

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<sup>6</sup> See John McCain, Press Release: “Senator McCain Announces Plan To Provide First Responders With A National Interoperable Broadband Network,” January 31, 2007. <[http://mccain.senate.gov/public/index.cfm?FuseAction=PressOffice.PressReleases&ContentRecord\\_id=be81cf57-fe34-4ea9-932d-3e4881d01510&Region\\_id=&Issue\\_id=>](http://mccain.senate.gov/public/index.cfm?FuseAction=PressOffice.PressReleases&ContentRecord_id=be81cf57-fe34-4ea9-932d-3e4881d01510&Region_id=&Issue_id=>).

<sup>7</sup> *Ibid.*

## Obama's Positions

By comparison, Obama, who has a shorter legislative record than McCain, had a far more comprehensive homeland security plan available on his campaign website.<sup>8</sup> The plan was divided into eight categories that, taken as a whole, presented a much more integrated vision of homeland security and counter terrorism than currently exists, bringing together both the so-called 'offense' or more politico-military and international aspects of counterterrorism, and 'defense' or more protection and response-based elements of securing Americans at home (see **Table 2**, for a summary of Obama's plan).

| <b><u>SENATOR BARACK OBAMA on<br/>HOMELAND SECURITY</u></b>                                                                                                                                                                                                                                                                                                                                    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b><u>Defeating Global Terrorism</u></b>                                                                                                                                                                                                                                                                                                                                                       |
| <ul style="list-style-type: none"> <li>• Update strategies/ capabilities to fight terrorism</li> <li>• Re-equip, retrain, and expand armed forces</li> <li>• Improve public diplomacy</li> </ul>                                                                                                                                                                                               |
| <b><u>Nuclear Security</u></b>                                                                                                                                                                                                                                                                                                                                                                 |
| <ul style="list-style-type: none"> <li>• Secure and control fissile materials</li> <li>• Build international capacity to prevent theft and spread of nuclear materials</li> <li>• Appoint White House Coord. for Nuclear Security</li> <li>• Set the goal of a nuclear-free world</li> </ul>                                                                                                   |
| <b><u>Biosecurity</u></b>                                                                                                                                                                                                                                                                                                                                                                      |
| <ul style="list-style-type: none"> <li>• Build capacity to mitigate consequences of bioterror attacks</li> <li>• Speed development of drugs used to fight bioterror attacks</li> <li>• Lead international effort to diminish impact of major biological epidemics</li> </ul>                                                                                                                   |
| <b><u>Information Network Protection</u></b>                                                                                                                                                                                                                                                                                                                                                   |
| <ul style="list-style-type: none"> <li>• Protect IT infrastructure needed for U.S. economy</li> <li>• Develop comprehensive cyber security and response strategy</li> <li>• Prevent corporate cyber-espionage</li> <li>• Mandate private data security standards</li> </ul>                                                                                                                    |
| <b><u>Infrastructure Modernization</u></b>                                                                                                                                                                                                                                                                                                                                                     |
| <ul style="list-style-type: none"> <li>• Improve the efficiency and security of the U.S. electricity grid</li> <li>• Invest in recapitalizing transportation infrastructure</li> </ul>                                                                                                                                                                                                         |
| <b><u>Critical Infrastructure Protection</u></b>                                                                                                                                                                                                                                                                                                                                               |
| <ul style="list-style-type: none"> <li>• Revamp national infrastructure protection plan</li> <li>• Improve chemical plant security</li> <li>• Track spent nuclear fuel</li> <li>• Improve airline security</li> <li>• Bolster port security and cargo screening</li> <li>• Protect public transportation</li> <li>• Protect local water supplies</li> <li>• Improve border security</li> </ul> |
| <b><u>Intelligence Activities and Civil Liberties</u></b>                                                                                                                                                                                                                                                                                                                                      |
| <ul style="list-style-type: none"> <li>• Improve information sharing and analysis</li> <li>• Revise the PATRIOT act to preserve civil liberties</li> <li>• Update FISA to provide greater oversight for warrantless wiretapping</li> <li>• Restore habeas corpus to those deemed enemy combatants</li> </ul>                                                                                   |
| <b><u>Emergency Preparedness and Response</u></b>                                                                                                                                                                                                                                                                                                                                              |
| <ul style="list-style-type: none"> <li>• Allocate funds based on risk</li> <li>• Emergency response plan improvement</li> <li>• Improve communications systems interoperability</li> </ul>                                                                                                                                                                                                     |

**TABLE 2: Obama Campaign Platform**

Specifically, **to thwart terrorism**, Obama proposed to send at least two additional combat brigades, special operations forces, and \$1 billion in additional non-military aid to Afghanistan; launch a *Shared Security Partnership Program* to help foreign intelligence and law enforcement agencies target and disrupt terrorist networks; create new *Mobile Development Teams* (MDTs) that combine military, diplomatic and development officials to help extend the rule of law to ungoverned areas and build democratic institutions; restore U.S. influence abroad through expanding the U.S. foreign service, and with a new *Global Education Fund* that would offer an alternative to extremist schools; and through a doubling and promoting of a network of volunteers (e.g., *Peace Corps* and a new *America's Voice Corps*) to improve America's public diplomacy and help win the war of ideas.

Of the threats America faces, Obama

<sup>8</sup> Barack Obama, *Barack Obama: Strengthening Homeland Security*, October 20, 2008, <<http://www.barackobama.com/issues/pdf/HomelandSecurityFactSheet.pdf>>.

emphasized three—nuclear, biological, and cyber threats—as ones of particular concern. Specifically, among his many **nuclear initiatives**, Obama proposes to negotiate a verifiable global ban on the production of highly enriched uranium (HEU) and plutonium for use in nuclear weapons, to phase out HEU from the civil sector, and to work through the Non-Proliferation Treaty to eliminate all nuclear weapons. To strengthen **biosecurity**, he proposes to expand the development of U.S. bioforensics programs for tracking the source of biological weapons agents, to invest \$50 billion in electronic health information systems to improve routine (as well as crisis) health care, and to accelerate the development of new medicines, vaccines, and production capabilities to protect against large-scale health disasters. For **cybersecurity**, Obama would establish a national cyber advisor and work to create new security standards to protect against cyber threats and promote physical resilience of America’s critical infrastructure.

A centerpiece of Obama’s campaign was a broad program to recapitalize America’s failing **infrastructure**, including investing in a *Smart Grid* to improve efficiency and security of the nation’s electricity grid. Such a program could benefit multiple national goals to include creating jobs and reducing greenhouse gas emissions, but could bolster homeland security as well. In that context, Obama proposed to “build security into the original design of new infrastructure” so that “critical assets are less vulnerable and more resilient to naturally-occurring and deliberate threats” from the start.

## ***The Obama Presidency—What the Next Administration Will Do***

Despite the breadth of Obama’s homeland security plan, it is almost axiomatic that not all campaign promises get implemented—or at least not right away, especially given the twin constraints of an exploding federal deficit along with the simultaneous need for major economic stimulus packages. Given that, what would homeland security look like in an Obama Administration? What are the *ideas* that will shape the direction a President Obama would seek? What would be his *priorities*?

### ***“Global War on Terror”***

Underpinning the policies and programs that the new president will put in place is a worldview, a philosophy on the threat of terrorism. It is that worldview that provides the filter through which strategies and policies are developed. When the Twin Towers were hit on September 11<sup>th</sup> 2001, John McCain reportedly declared “this is war.”<sup>9</sup> He publicly advocated pushing for more executive discretion over the ‘War on Terror.’ President Bush, in fact, ushered in a ‘global war on terror’ in a joint session of Congress on September 20<sup>th</sup>, 2001, proclaiming that “our war on terror begins with al Qaeda, but it does not end

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<sup>9</sup> Drew, Elizabeth. *Citizen McCain*. New York: Simon & Schuster, 2002. P.131-132.

there. It will not end until every terrorist group of global reach has been found, stopped and defeated.”<sup>10</sup>

This war-centric view on the terrorist threat has been the foundation of Bush policies related to counterterrorism and homeland security. By conflating Saddam Hussein and, subsequently, the violence in Iraq, with al Qaeda and its attacks on America, the Bush Administration was able to extend its war policies to invading Iraq and to securing the homeland. As recently as 2008, President Bush justified his global war on terrorism by arguing that “the terrorists who murder the innocent in the streets of Baghdad want to murder the innocent in the streets of America. Defeating this enemy in Iraq will make it less likely that we’ll face the enemy here at home.”<sup>11</sup>

Under the premise that the President’s role as Commander-in-Chief’s is essentially unfettered during wartime, Bush expanded many existing executive powers that already allow presidents to enact policy without Congressional interference – such as executive

*“...a continuation of the Bush Administration’s policies based on the notion of a “global war on terror” is unlikely in an Obama Administration...”*

orders, memoranda, national security directives and legislative signing statements – and went so far as to take actions that seemed to be directly contravened by standing legislation (i.e. conducting domestic wiretapping without invoking the procedures explicitly called for in the Foreign Intelligence Surveillance Act). This process became the basis for the Bush Administration’s expansion of Executive Branch power and of the implementation of numerous controversial programs with respect to homeland security and counterterrorism, including water-boarding and other treatment of ‘detainees’ in U.S. custody in addition to the so-called “warrantless wire-tapping” discussed above.

Bush’s narrative has persisted throughout his presidency. In his September 2008 final speech before the United Nations General Assembly, President Bush maintained that terrorism is a threat above all others, calling it the “fundamental challenge of our time.”<sup>12</sup>

By contrast, in 2002, then state-senator Obama, in the run-up to the war with Iraq, opposed the war and argued we should “finish the fight with Bin Laden and Al Qaeda, through effective, coordinated intelligence, and a shutting down of the financial networks that support terrorism, and a homeland security program that involves more than color-coded warnings.”<sup>13</sup> He urged America to “fight to make sure our so-called allies in the Middle East, the Saudis and the Egyptians, stop oppressing their own people, and suppressing

<sup>10</sup> George W. Bush, “Address to a Joint Session of Congress and the American People,” September 20, 2001, available at <<http://www.whitehouse.gov/news/releases/2001/09/20010920-8.html>>.

<sup>11</sup> George W. Bush, “President Bush Discusses Global War on Terror,” March 19, 2008, available at <<http://www.whitehouse.gov/news/releases/2008/03/20080319-2.html>>.

<sup>12</sup> George W. Bush, President Bush Addresses United Nations General Assembly, September 23, 2008, <<http://www.whitehouse.gov/news/releases/2008/09/20080923-5.html>>.

<sup>13</sup> Barack Obama, “Against Going to War with Iraq,” October 2, 2002, available at <[http://www.barackobama.com/2002/10/02/remarks\\_of\\_illinois\\_state\\_sen.php](http://www.barackobama.com/2002/10/02/remarks_of_illinois_state_sen.php)>.



dissent, and tolerating corruption and inequality, and mismanaging their economies so that their youth grow up without education, without prospects, without hope, the ready recruits of terrorist cells.”<sup>14</sup>

In fact, not only did we see candidate Obama avoid the war metaphor in his own understanding of the threat, he explicitly argued for consideration of terrorism as a criminal act, even making the case that the judicial branch holds appropriate tools to prosecute terrorists. In a June 2008 interview with ABC News, Obama cites the perpetrators of the 1993 bombing as proof that the existing justice system can handle terrorism cases:

It is my firm belief that we can track terrorists, we can crack down on threats against the United States. But we can do so within the constraints of our Constitution...in previous terrorist attacks—for example, the first attack against the World Trade Center—we were able to arrest those responsible, put them on trial. They are currently in U.S. prisons, incapacitated.<sup>15</sup>

We see the breadth of candidate Obama’s thoughts most clearly during his first international speech in Germany, where he introduced a new narrative, one that placed terrorism not above, but rather on equal footing to a number of global challenges—environmental degradation, global traffic in drugs and nuclear materials, and human security—challenges that he claims all nations have to face cooperatively.<sup>16</sup>

In terms of how to confront terrorism, Obama shifts away from the historic model of international security as nation states responsible for their own security, to more of a global community where actors share a common humanity and common destiny, and thus must take part in their own common security.<sup>17</sup> He characterizes the Bush administration’s response to “the unconventional attacks of 9/11 [as] conventional thinking of the past,” saying that Bush’s team “largely [views] problems as state-based and principally amenable to military solutions.”<sup>18</sup> This point of view is made manifest in Obama’s own introduction of himself to the people of Berlin, where he says that he comes to Germany as a citizen - a proud citizen of the United States, but also as “a fellow citizen of the world,” emphasizing the global, shared community beyond the nation state.<sup>19</sup>

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<sup>14</sup> *Ibid.*

<sup>15</sup> See interview with Jake Tapper, ABC News, “Obama Defends Gitmo Decision,” June 17, 2008, available at: <<http://abcnews.go.com/video/playerIndex?id=5184225>>.

<sup>16</sup> See remarks of Barack Obama, “Remarks from Berlin,” July 25, 2008, available at <<http://edition.cnn.com/2008/POLITICS/07/24/obama.words/>>.

<sup>17</sup> The notion of “understanding that the world shares a common security and a common humanity” was developed in a summer 2007 piece by Senator Obama in Foreign Affairs. For more on Obama’s vision, see Foreign Affairs, July/ August 2007, “Renewing American Leadership,” available at <<http://www.foreignaffairs.org/20070701faessay86401/barack-obama/renewing-american-leadership.html>>.

<sup>18</sup> *Ibid.* The contrast, in this case, to President Bush is evident when compared to Bush’s September 2008 speech to the United Nations where Bush proclaims that “every nation in this chamber has responsibilities. As sovereign states, we have an obligation to govern responsibly, and solve problems before they spill across borders.”

<sup>19</sup> Barack Obama, “Remarks from Berlin,” July 25, 2008, available at <<http://edition.cnn.com/2008/POLITICS/07/24/obama.words/>>.

In summary, what we see from Obama's early formulations, and his subsequent remarks and policy proposals on the campaign trail, is a marked departure from the Bush Administration's war-centric worldview. Obama makes a clear distinction between, on the one hand, Bush's categorical "with us or against us" approach to terrorism—going to war with the latter and seeking support from the former—versus on the other hand, a more nuanced approach that would specifically target al Qaeda, while simultaneously confronting the *circumstances* that perhaps promote radicalization and terrorist recruiting. Consequently, a continuation of the Bush Administration's policies based on the notion of a "global war on terror" is unlikely in an Obama Administration.

These diverging outlooks on terrorism and homeland security could have more tangible effects on the strategies and tools to be used by the president. In practice, we will likely see a de-emphasis, if not an altogether elimination, of the war metaphor for fighting terrorism, and an enhanced focus on judicial processes and an emphasis on standing for the rule of law—a move bureaucratically that would require a reliance more on law enforcement, intelligence, and diplomacy, and the Justice Department, the CIA, and the Department of State, than on the military and the Department of Defense.

### *The Agenda*

There are of course hundreds of issues that could land on the next President and his homeland security team's desks—combating nuclear smuggling, securing the border, cargo scanning, maritime domain awareness, common operating architectures, visa waiver programs, terrorist watchlist screening, biosurveillance, mass casualty care, mass-transit security, among others. Many of these issues have yet to be discussed publicly by Obama or his surrogates. In this regard, the upcoming policy agenda is still largely open for discussion, and up to the discretion of the next team. But given Obama's perspective on terrorism, the policies he put forward during the campaign, and based on the immediate need to focus on fiscal and economic matters, the priorities in an Obama administration would therefore likely include the following:

### *Prevention*

To target and thwart the terrorist threat, disrupt terrorist networks, reduce recruitment, and halt the spread of nuclear weapons, an Obama Administration would likely:<sup>20</sup>

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<sup>20</sup> See interviews on Foreign Policy with Barack Obama in *The Morning Leader*, March 5, 2007, Volume 3 No. 33, available at: <<http://www.themorningleader.lk/20080611/interviews.html>>; and in *The Washington Post*, March 2, 2008, available at: <[http://www.washingtonpost.com/wp-dyn/content/article/2008/03/02/AR2008030201982\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2008/03/02/AR2008030201982_pf.html)>; See also Jon Hemming, "Obama wants more troops in Afghanistan," *Reuters*, July 20, 2008; available at: <<http://www.reuters.com/article/politicsNews/idUSN1833769220080720>>; and Barack Obama, *Renewing American Leadership*, July/August 2007. <<http://www.foreignaffairs.org/20070701faessay86401/barack-obama/renewing-american-leadership.html?mode=print>>; as well as Barack Obama, *Strengthening Homeland Security*, October 20, 2008, <<http://www.barackobama.com/issues/pdf/HomelandSecurityFactSheet.pdf>>. On closing Guantanamo, see Barack Obama, Floor Statement on Habeas Corpus Amendment, September 27, 2006, available at <[http://obama.senate.gov/speech/060927-floor\\_statement\\_7/](http://obama.senate.gov/speech/060927-floor_statement_7/)>; see also interview with Barack Obama on 60

- Downsize military operations in Iraq and shift to and expand operations in the Afghanistan/ Pakistan theater;
- Enlarge and put a greater emphasis on human intelligence, as well as investing in technologies to revolutionize U.S. collection and information sharing capabilities;
- Help to build local police capacity abroad;
- Promote greater public diplomacy to include a major initiative expanding the Peace Corps, increasing participation in all forms of national service, and supporting alternatives to extremist schools abroad;
- Close Guantanamo, repudiate the Justice Department memo that reserved for the president the authority to approve torture, and require interrogation practices be compliant with the Geneva Conventions; and,
- Seek to negotiate a verifiable global ban on the production of highly enriched uranium (HEU) and plutonium for use in nuclear weapons, and phase out HEU from the civil sector.

### *Protection*

To protect America against biological, cyber, critical infrastructure and other attacks, an Obama Administration would likely:<sup>21</sup>

- Invest in recapitalizing the nation's transportation infrastructure;
- Improve the efficiency and security of the nation's electricity grid;
- Mandate and adopt standards to build-in physical and data security for any new infrastructure construction;
- Lead a revolution in research and development in partnership with industry and academia to develop and deploy a new generation of secure hardware and software for our nation's critical cyber infrastructure;
- Complete and implement a strategy for confronting IED attacks;
- Launch an international effort to help build health-care infrastructures to prevent, detect, and treat deadly diseases such as HIV/AIDS, malaria, and avian flu, but that would also provide needed capacity to confront deliberate threats as well.

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*Minutes*, November 16, 2008, transcript available here:

<<http://www.cbsnews.com/stories/2008/11/16/60minutes/main4607893.shtml>>.

<sup>21</sup> See Barack Obama and Joe Biden: *Strengthening America's Transportation Infrastructure* <<http://www.barackobama.com/pdf/issues/FactSheetTransportation.pdf>>; Transcript: *Barack Obama Talks to Rachel Maddow 5 days Before Election*, October 30, 2008, available at: <<http://www.msnbc.msn.com/id/27464980/>>; Barack Obama, *Barack Obama: Fighting HIV/AIDS Worldwide*, October 20, 2008, available at: <<http://www.barackobama.com/pdf/AIDSFactSheet.pdf>>; Barack Obama, *Strengthening Homeland Security*, October 20, 2008, available at: <<http://www.barackobama.com/pdf/issues/HomelandSecurityFactSheet.pdf>>; Barack Obama and Joe Biden: *Science, Technology and Innovation for a New Generation*, available at: <<http://www.barackobama.com/issues/technology/>>; see also, Barack Obama, transcript: *Summit on Confronting 21st Century Threats*, July 16, 2008, available at: <<http://my.barackobama.com/page/community/post/amandascott/gGxPZW/commentary>>



## *Preparedness and Response*

To prepare for responding to terrorist attacks and natural disasters, an Obama Administration would likely:<sup>22</sup>

- Reform grant funding towards a more risk-based formula and through a less political process;
- Increase funding for and make a reliable, interoperable communications systems a national priority;
- Expand private sector participation in critical infrastructure protection and emergency response operations;
- Adopt ‘resiliency’ as a national strategic goal, alongside protection and prevention.

## *The Structure of the Executive Branch*

To manage and over see Homeland Security and Counter-terrorism activities in the Executive branch, an Obama Administration would likely:

### *The White House*

- Subsume the Homeland Security Council into the National Security Council and appoint a deputy National Security Adviser to oversee homeland security and counterterrorism matters;<sup>23</sup>
- Appoint nuclear, biological and cyber security czars to oversee coordination of national policies related to prevention, protection, and response to these unique threats;<sup>24</sup> and,

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<sup>22</sup> See, Barack Obama and Joe Biden: *Agenda-Urban Policy*, last accessed November 25, 2008, available at: <[http://change.gov/agenda/urbanpolicy\\_agenda/](http://change.gov/agenda/urbanpolicy_agenda/)>; Barack Obama, *Strengthening Homeland Security*, October 20, 2008, available at : <<http://www.barackobama.com/issues/pdf/HomelandSecurityFactSheet.pdf>>; See remarks of Senator Barack Obama: *Change That Works for You*, Raleigh, North Carolina, June 9, 2008, available at: <[http://www.barackobama.com/2008/06/09/remarks\\_of\\_senator\\_barack\\_obam\\_76.php](http://www.barackobama.com/2008/06/09/remarks_of_senator_barack_obam_76.php)>; See also Barack Obama’s *Acceptance Speech*, Denver, Colorado, August 28, 2008, available at: <[http://www.nytimes.com/2008/08/28/us/politics/28text-obama.html?\\_r=1&oref=slogin&pagewanted=all](http://www.nytimes.com/2008/08/28/us/politics/28text-obama.html?_r=1&oref=slogin&pagewanted=all)>.

<sup>23</sup> Along with others, Third Way and Center for American Progress [the organization run by John Podesta, who also heads President-elect Obama’s transition team] has urged the next president to abolish the Bush White House’s Homeland Security Council, merge it into the National Security Council, and make the president’s homeland security adviser a deputy to his national security adviser.” See Mike Signer, Matt Bennett and PJ Crowley, *Protecting the Homeland from Day One: A Transition Plan*, available at: <<http://www.thirdway.org/products/175>>; see also, Spencer Hsu in *The Washington Post*, “Democrats Move Cautiously on DHS Appointment,” November 17, 2008, available at: <<http://www.washingtonpost.com/wp-dyn/content/story/2008/11/16/ST2008111602456.html>>;

<sup>24</sup> Barack Obama, *Barack Obama: Strengthening Homeland Security*, October 20, 2008, available at: <<http://www.barackobama.com/issues/pdf/HomelandSecurityFactSheet.pdf>>; see also, Barack Obama, transcript: *Summit on Confronting 21st Century Threats*, July 16, 2008, available at: <<http://my.barackobama.com/page/community/post/amandascott/gGxPZW/commentary>>

## *The Department of Homeland Security*

- Avoid major reorganization for now;<sup>25</sup>
- But also, review DHS organization as part of the Quadrennial Homeland Security Review (QHSR), to include consideration as to whether the Federal Emergency Management Agency (FEMA) should be moved out to an independent cabinet position, whether the Domestic Nuclear Detection Office (DNDO) should be relocated to the U.S. Department of Energy (DOE), and whether FEMA's Housing Assistance Program should be relocated to the U.S. Department of Housing and Urban Development (HUD); and,
- Support the creation of an Undersecretary for Policy position.<sup>26</sup>

## ***Reality on the Ground: Speed Bumps and Overcoming Inertia***

Even with a well-developed agenda going in, the next Secretary of Homeland Security will be faced with many obstacles that can thwart—and has for many years greatly encumbered—getting the job done.

### ***Human capital***

First and foremost, the upcoming presidential transition will mark the first time DHS has changed executive hands. At stake: the organizational knowledge held by DHS managers as well as the personal relationships developed within DHS and across the federal landscape that made the department more effective. Nobody yet knows how much of the nascent institutional memory the department has collected in its five years of existence will walk out the door following the election. Of all the current staff members in leadership positions at DHS, roughly half have been working at their current positions for two years or less.<sup>27</sup> Meanwhile, the Department has struggled to keep senior managers on board and recruit new ones.<sup>28</sup> The paucity of managerial experience at DHS could be worsened by the turnover associated with a presidential transition. Whomever Obama picks to lead DHS will both influence and need to drive the department's recruiting efforts and ability to retain skilled staff.

### ***Internal plumbing***

Second, though DHS has made progress since its inception towards becoming a more integrated and cohesive agency, its components do not yet function as a whole.

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<sup>25</sup> See Signer, Bennett, and Crowley.

<sup>26</sup> *Ibid.*

<sup>27</sup> See DHS leadership listing, June 23, 2008, <[http://www.dhs.gov/xabout/structure/gc\\_1157655281546.shtm](http://www.dhs.gov/xabout/structure/gc_1157655281546.shtm)>

<sup>28</sup> U.S. House of Representatives Homeland Security Committee, *Critical Leadership Vacancies Impede United States Department of Homeland Security*, 110<sup>th</sup> Congress, 1<sup>st</sup> sess., July, 2007, 4. <<http://homeland.house.gov/SiteDocuments/20070709112923-81091.pdf>>

Compounding this concern is that the internal plumbing of the Department—financial systems, acquisition systems, and other IT systems—remain very much a work in progress, preventing the Department from operating at maximum efficiency.<sup>29</sup>

### ***Interagency cooperation***

Third, homeland security is more than DHS. Congress created the Department of Homeland Security not just to integrate activities in the federal government, but also help to lead efforts across the government. To be successful in this realm—whether negotiating visa policies, controlling the border, preparing for catastrophes, or developing strategies to deter our adversaries—requires the full cooperation of not just the various components within the Department of Homeland Security, but also elements of the departments of Defense, Justice, State, Agriculture, and Health, among others. Unfortunately, however, turf battles among agencies involved in homeland security have slowed efforts to build national polices and programs. When the Bureau of Alcohol, Tobacco and Firearms (ATF) was subsumed into the Justice Department in 2003, for example, it precipitated bitter disputes with the FBI over jurisdiction in counterterrorism investigations. The long-awaited national plan for protecting against and responding to improvised explosive devices (IEDs) has been collateral damage in the aftermath of this dispute.<sup>30</sup>

### ***Public perceptions***

Fourth, engaging ordinary citizens is a critical component of any preparedness strategy, providing potentially the difference between lives saved and lives lost. And yet, seven years after 9/11, public opinion surveys continue to find minimal personal disaster preparedness, reluctance to evacuate if needed, and a lack of confidence in the government's ability to protect its citizens.<sup>31</sup> The next Secretary has a large hurdle—but also a real opportunity with the change in administrations—to overcome a skeptical and complacent public trapped in a mindset of duct tape, Katrina, and color-coded warnings.

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<sup>29</sup> See, for example, statement before the House Appropriations Subcommittee on Homeland Security by David M. Walker, Comptroller General of the U.S. Government of Accountability Office (GAO), “Homeland Security Management and Programmatic Challenges Facing the Department of Homeland Security”, February 6, 2007, available at: <http://www.gao.gov/new.items/d07398t.pdf>.

<sup>30</sup> Jerry Markon, “FBI, ATF Battle for Control of Cases,” *Washington Post*, May 10, 2008; available at: [http://www.washingtonpost.com/wp-dyn/content/article/2008/05/09/AR2008050903096\\_pdf.html](http://www.washingtonpost.com/wp-dyn/content/article/2008/05/09/AR2008050903096_pdf.html).

<sup>31</sup> See, for example, “Where the American Public Stands on Terrorism, Security, and Disaster Preparedness, Five-Years after September 11, One-Year after Hurricane Katrina”, September 2006, Annual Survey of the American Public by the National Center for Disaster Preparedness at Columbia University, Mailman School of Public Health and The Children’s Health Fund. Survey administered by the Marist College Institute for Public Opinion. Results available at: [http://www.ncdp.mailman.columbia.edu/files/2006\\_white\\_paper.pdf](http://www.ncdp.mailman.columbia.edu/files/2006_white_paper.pdf). Also available for 2007 at: <http://www.ncdp.mailman.columbia.edu/files/NCDP07.pdf>.

### *The Inbox*

And lastly, there is the infamous Washington inbox. The military dictum that no plan survives first contact with the enemy is equally apt in homeland security. While much can be planned, the role of Secretary will also be influenced greatly by what shows up in the inbox. Secretary Chertoff's thorough and well-received "second stage review" that he put in place to help establish the agenda for his tenure was rapidly overtaken by events—namely Hurricane Katrina—shortly after he announced it. Whether by major disasters, future terrorist incidents, or other events, even the best of plans will face unknown challenges in the months and years ahead that the incoming leadership in homeland security will need to address and overcome to advance the U.S. homeland security agenda.