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February 2, 2009

Congressional Research Service

Report RL31357

*Federal Interagency Coordinative Mechanisms: Varied Types  
and Numerous Devices*

Frederick M. Kaiser, Government and Finance Division

Updated July 22, 2002

**Abstract.** Interagency coordinative mechanisms at the federal level have become more prominent and prevalent recently. The Office of Homeland Security and the companion Homeland Security Council are the most visible. Other examples not only include such well-known entities as the National Security Council and the so-called "drug czar" but also extend to a multiplicity of nearly anonymous working groups and task forces. This report provides information on, examinations of, and preliminary comparisons among federal interagency coordinative devices.

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# Report for Congress

Received through the CRS Web

## **Federal Interagency Coordinative Mechanisms: Varied Types and Numerous Devices**

**Updated July 22, 2002**

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# Federal Interagency Coordinative Mechanisms: Varied Types and Numerous Devices

## Summary

Interagency coordinative mechanisms at the federal level have become more prominent and prevalent recently. The Office of Homeland Security (OHS) and the companion Homeland Security Council (HSC), along with proposals for change, are the most visible. Other examples not only include such well-known entities as the National Security Council (NSC) and the so-called “drug czar” but also extend to a multiplicity of nearly anonymous working groups and task forces. Some of them have short life spans, while others have remained in place for long periods.

Seven different types of interagency coordinators are described here. They cross a broad spectrum of categories and cover a large number and wide variety of specific mechanisms and arrangements, established by public law, executive orders, administrative directives, and other legal instruments:

- ! councils chaired by the President and consisting of the Vice President and the heads of certain departments and agencies, with the NSC, HSC, and the USA Freedom Corps Council being the only three;
- ! committees whose members are department and agency heads, including ones connected to the NSC and to the HSC;
- ! specially created offices and positions, especially the offices of Homeland Security, National Drug Control Policy, and USA Freedom Corps, along with their directors;
- ! specified agency heads and other officers—notably, the Director of Central Intelligence, Director of the Secret Service, and inspectors general—with qualified authority to enlist the assistance of organizations outside their own establishments;
- ! sub-cabinet boards, committees, and councils, such as those associated with inspectors general and with chief financial officers;
- ! transfers of personnel and resources among new or existing entities, by way of operational task forces, working groups, staff details, and redeployments; and
- ! transfers of authority between and among agencies, through cross-designation and special deputation of personnel.

The diverse arrangements and devices, collectively numbering in the hundreds, extend across a broad range of policy areas; exist in a wide variety of institutional locations; consist of different echelons of members and categories of leaders; carry out different types of responsibilities; perform different operations and activities; and vary in terms of their capabilities, resources, and powers.

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# Federal Interagency Coordinative Mechanisms: Varied Types and Numerous Devices

## Introduction

Federal interagency coordinative mechanisms are executive entities, possessing their own statutory or other establishing authority, that provide coordination in policy areas involving a number of separate, independent agencies.<sup>1</sup> The devices and arrangements, which have proliferated and gained prominence recently, range from the Office of Homeland Security (OHS) to the National Security Council (NSC), the “drug czar,” and a multiplicity of joint operational task forces. These entities, numbering in the hundreds,<sup>2</sup> can be categorized among seven different types, which vary in significant ways. They raise competing rationales and objections; have been established and have evolved for different reasons and in different time periods; and

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<sup>1</sup>This review covers only formal entities, created by public law, executive order, administrative directive, or other specific legal authority. It does not include departments and agencies, even though these may have been created by statute, in part, to coordinate a broad policy area and combine related agencies. The study also excludes informal organizational arrangements, such as the President’s cabinet.

<sup>2</sup>There is no authoritative, comprehensive count of interagency mechanisms, in part, because of the difficulty in locating them throughout the government and, in part, because of changes in their number, especially for working groups and task forces, over time. Nonetheless, the total is likely to be high, largely because of the sheer magnitude of crosscutting and overlapping programs and the contemporary reliance on such coordinative devices, especially at the operational and working group level. Along these lines, the Comptroller General, head of the General Accounting Office (GAO), has noted that “virtually all of the results that the federal government strives to achieve require the concerted and coordinated efforts of two or more agencies,” even though he emphasized coordination problems in several major policy areas. (U.S. General Accounting Office, *Managing for Results: Using GPRA to Help Congressional Decisionmaking and Strengthen Oversight*, Statement of David M. Walker, Comptroller General, GAO Report T-GGD-00-95 (Washington: GAO, 2000), p. 19.) Reinforcing this perception of a large number of interagency coordinators, a 1997 GAO report listed 34 federal program areas with multiple agency involvement, including border inspection, food safety, and student aid. It is possible that mechanisms have been developed to coordinate activities among agencies in many of these areas. (U.S. General Accounting Office, *Managing for Results: Using the Results Act to Address Mission Fragmentation and Program Overlap*, GAO Report AIMD 97-146 (Washington: GAO, 1997).) Substantiating the likelihood of a large number of interagency mechanisms is the fact that just two agencies have produced more than 100 coordinative entities or arrangements: the Federal Emergency Management Agency (FEMA) alone has formed nearly 70 interagency partnerships, and each of the 17 National Security Council Policy Coordination Committees can establish interagency working groups to assist it.

differ in terms of their jurisdiction, authority, responsibilities, membership, leadership, and governmental location.

This report and other related CRS and congressional documents<sup>3</sup> provide information on, examinations of, and preliminary comparisons among federal interagency coordinative devices.<sup>4</sup>

## Rationales and Objections

A number of rationales for and objections to interagency coordinative mechanisms might be offered.

### Rationales

The fundamental rationale for such mechanisms is to provide a basis for coordination among federal entities, located in different departments or agencies, that share responsibilities and jurisdictions in a policy area.<sup>5</sup> This need is seen as more

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<sup>3</sup>For information and analyses of relevant entities and proposals for change in selected areas, see *CRS Terrorism Electronic Briefing Book*, “Office of Homeland Security,” by Ronald C. Moe, and “Government Response Coordination,” by Keith Bea; CRS Report 98-149, *Drug Control: Reauthorization of the ONDCP*, by David Teasley; CRS Report 97-141, *Drug Smuggling, Drug Dealing, and Drug Abuse: Background and Overview of the Sanctions Under the Federal Controlled Substances Act*, by Charles Doyle; CRS Report 97-974, *Reorganization Proposals for U.S. Border Management Agencies*, by Frederick M. Kaiser; CRS Report 93-517, *The National Security Council: An Organizational Assessment*, by Mark M. Lowenthal and Richard A. Best, Jr.; Raphael Perl, “Terrorism: Threat Assessment in a Changing Global Environment,” statement before the U.S. Congress, House Committee on Government Reform, Subcommittee on National Security, Veterans Affairs, and International Relations, July 26, 2000, at [<http://usinfo.state.gov/topical/pol/terror/perl>]; and U.S. Congress, Senate Committee on Governmental Affairs, *Border Management Reorganization and Drug Interdiction: Study Prepared by the Congressional Research Service*, 100<sup>th</sup> Cong., 2<sup>nd</sup> sess., S.Prt. 100-111 (Washington: GPO, 1988).

<sup>4</sup>Background information on particular interagency arrangements and government reorganization efforts is available in the studies cited above and in the following: Harold Seidman, *Politics, Position and Power: The Dynamics of Federal Organization* (New York: Oxford University Press, 1998), pp. 20 and 142-157; Allen Schick, “The Coordination Option,” in Peter Szanton, ed., *Federal Reorganization: What Have We Learned?* (Chatham, NJ: Chatham House Publishers, 1981), pp. 85-113; Eugene Bardach, *Getting Agencies to Work Together* (Brookings Institution: Washington, DC, 1998); Emmette S. Redford and Marlan Blissett, “An Executive Guidance and Coordination System,” *Organizing the Executive Branch: The Johnson Presidency* (Chicago: University of Chicago Press, 1981), pp. 186-215; and Paul C. Light, *The Tides of Reform: Making Government Work, 1945-1995* (New Haven: Yale University Press, 1997).

<sup>5</sup>For instance, interdiction of illegal narcotics, just one part of the overall anti-drug strategy, involves as many as nine entities in three different departments: in the Justice Department, the Drug Enforcement Administration, Federal Bureau of Investigation, Immigration and Naturalization Service, U.S. Attorneys, and U.S. Marshals Service; in the Transportation  
(continued...)

important and immediate in the contemporary era than in the past,<sup>6</sup> because of changed conditions and governmental characteristics. These include, among other transformations, the increasing complexity and interrelated nature of public policies; the expansion of federal responsibilities, notably in law enforcement and public safety, national security, and environmental quality; the growth in the number of

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<sup>5</sup>(...continued)

Department, the Coast Guard; and in the Treasury Department, the Bureau of Alcohol, Tobacco and Firearms, Customs Service, and Internal Revenue Service. Besides these units, other organizations have performed roles in drug interdiction efforts. The military services and National Guard units, for example, provide surveillance for law enforcement efforts, assist in operations on the high seas (Navy), support border patrol operations, and enforce anti-narcotics laws within their own organizations. And the Central Intelligence Agency, along with other intelligence community components, disseminates intelligence to law enforcement agencies. See CRS Report 97-974, *Reorganization Proposals for Border Management Agencies*; Barry R. McCaffrey, former Director of the U.S. Office of National Drug Control Policy, Testimony before Senate Committee on Governmental Affairs, October 21, 2001, available at [[http://www.senate.gov/-gov\\_affairs/10120mccaffrey.html](http://www.senate.gov/-gov_affairs/10120mccaffrey.html)]; Peter Andreas, *Border Games: Policing the U.S.-Mexican Divide* (Ithaca, NY: Cornell University Press, 2001); and Ethan Nadelmann, *Cops Across Borders: The Internationalization of U.S. Criminal Law Enforcement* (University Park, PA: Pennsylvania State University Press, 1993), pp. 1-15 and 103-188.

<sup>6</sup>Conditions in the past, of course, also brought about realignment efforts to improve interagency coordination, either through mergers and consolidations of units or through various coordinative devices. Most ambitious along these lines was the creation of a new national security establishment in the aftermath of WWII and early phase of the Cold War. This occurred with passage of the National Security Act of 1947 (50 U.S.C. 401 et seq.), resulting in several new or reconstituted agencies: the Department of Defense, which consolidated the existing military services along with the new Air Force; the National Security Council; the Central Intelligence Agency; and the Director of Central Intelligence. Other interagency coordinative concerns, both major and minor, have been addressed in the past by Congress and the Executive, as well as by private organizations. See, for example, U.S. Congress, Senate Committee on Government Operations, Subcommittee on Reorganization and International Organizations, *Interagency Coordination in Environmental Hazards*, Hearings, 88<sup>th</sup> Cong., 1<sup>st</sup> sess. (Washington: GPO, 1964); U.S. Congress, Senate Committee on Rules and Administration, *Study of Interagency Coordination, Economy, and Efficiency*, S.Rept. 25, 88<sup>th</sup> Cong., 1<sup>st</sup> sess. (Washington: GPO, 1963); and U.S. Civil Service Commission, Interagency Stenographic Conference, *Practice Manual for Typists in Government Agencies*, and *Better Utilization of Stenographers and Typists* (Washington: U.S. Civil Service Commission, 1944).

A seminal study of executive organization and the possible need for reorganization and realignment was conducted by the Brookings Institution, under the auspices of the Byrd Committee, in 1936-1937. The Senate panel was charged by its parent chamber with making a “full and complete study of all the activities of ... all agencies of the executive branch of government, with a view to determining whether the activities of any such agency conflict with or overlap the activities of any other agency and whether, in the interest of simplification, efficiency, and economy, any of such agencies should be coordinated with other agencies or abolished or the personnel thereof reduced” (S.Res. 217, 74<sup>th</sup> Congress). The result was a comprehensive report (of more than 500,000 words), covering virtually all aspects, activities, and agencies of the Executive. U.S. Congress, Senate Select Committee to Investigate the Executive Agencies of the Government, *Investigation of Executive Agencies of the Government*, Senate Report 1275, 75<sup>th</sup> Cong., 1<sup>st</sup> sess. (Washington: GPO, 1937).

separate federal entities involved in policy-making and policy implementation; the resulting overlap of jurisdiction, sharing of responsibilities, and fragmentation of policy-making among agencies; and the establishment of new policy priorities that cross older policy lines and institutional boundaries.<sup>7</sup>

The support for new coordinative mechanisms also results from the inability to achieve (or delay in achieving) more fundamental changes, such as major reorganizations.<sup>8</sup> Consequently, interagency entities are at least a possible, if not ideal, alternative to such other transformations. And because creating interagency coordinative mechanisms is less difficult than completing major reorganizations, the coordinative devices could be modified, replaced, or abolished more easily than new departments or agencies, if policy priorities, political demands, and societal conditions change.

The development and implementation of public policies, arguably, are expected to benefit from formalized coordination mechanisms, both to eliminate or limit dysfunctions and to provide a support structure for enhanced effectiveness. Ideally, these coordinating devices should help minimize (or mitigate the impact of) rivalry among the entities, duplication of effort, avoidance of responsibility, and working at cross-purposes. They should also help improve policy effectiveness in a number of ways. These include increases or suggested improvements in various areas: the availability and concentration of resources for priority policies; cooperation among the involved units, which would be working on behalf of a common purpose and at the behest of a common leader; integration of distinct but reinforcing responsibilities and overlapping jurisdictions among relatively autonomous agencies; recognition of responsibility (and credit or blame) for particular activities and operations; and accountability of the various components, by consolidating review and reporting requirements.

## Objections

Objections to such devices might also be raised in several areas.

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<sup>7</sup>Implementation of the Government Performance and Results Act of 1993 (P.L. 103-62, 107 Stat. 285-296), among other developments, has brought renewed attention to the overlap and fragmentation of the many crosscutting programs. See U.S. General Accounting Office, *Using GPRA to Help*, pp. 19-21; *Managing for Results: Barriers to Interagency Coordination*, GAO Report GGD-00-106 (Washington: GAO, 2000), and *Budget Issues: Effective Oversight and Budget Discipline Are Essential—Even in a Time of Surplus*, GAO Report T-AIMD-00-73 (Washington: GAO, 2000), pp. 11-15; and U.S. Congress, Senate Committee on Appropriations, *Special Report on the Government Performance and Results Act of 1993*, S.Rept. 106-347, 106<sup>th</sup> Cong., 2<sup>nd</sup> sess. (Washington: GPO, 2000), pp. 90-94.

<sup>8</sup>For instance, proposals to create a new Department of Homeland Security (DHS)—incorporating all or parts of numerous agencies that have relevant responsibilities—have been on the drawing board since October 2001. Even if such a new establishment, replacing the Office of Homeland Security, were constructed, various devices and powers would be necessary to ensure coordination between the new department and continuing agencies with related responsibilities and jurisdictions. (Proposals along this line are discussed below.)

First, interagency coordinative entities might be seen as adding another layer of bureaucracy to a policy area, thereby increasing costs and introducing new inefficiencies and organizational rivalries, rather than reducing them.

The genesis of some interagency coordinative devices is the establishment of new policy priorities. Yet these new mandates might have only a temporary appeal, while the new mechanisms could survive indefinitely. As a corollary, the coordinative device may itself become an entrenched entity, thereby increasing future costs and difficulties in realigning relevant functions, duties, and responsibilities.

Interagency coordinative mechanisms might also be criticized from two competing viewpoints: as being too weak or too strong.

Some entities might be faulted for not being given enough power to accomplish their purposes. Their extent of authority, range of jurisdiction, and breadth of responsibilities may not be sufficient to provide meaningful coordination and (forced) cooperation among a number of separate agencies. Because of the device's establishment, expectations are raised; but because of its weaknesses, the expectations may remain unmet. This, in turn, could result in a loss of credibility for the interagency operation and support for the policy. Along these same lines, critics might contend that new interagency coordinative devices might function only as half-measures. What is needed, opponents might say, is a more complete, wide-ranging reorganization. This could include, for instance, transferring related components from various departments or agencies into an existing agency or merging these interrelated entities into an entirely new agency, which would consolidate responsibility for carrying out a policy.

By contrast, other interagency entities might be accused of possessing too much power, thereby interfering with the responsibilities of department and agency heads. For instance, an interagency office with formal or informal power over the budgets and spending plans of outside units could conceivably undercut the priorities and operations of these constituent agencies and their parent agencies. This action, in turn, could erode the effectiveness of the parent agency and reduce its responsibility for carrying out its other missions.

## Variations

Interagency coordinative entities lack standardization and uniformity; consequently, no particular device is an identical match for another. They differ from each other in a number of ways: location, leadership, and membership characteristics; enabling authority and permanency; and powers, responsibilities, and jurisdictions.

### Location, Leadership, and Membership

Significant variations exist among these units in their location, leadership, and membership characteristics. For instance, while several of these mechanisms are integral parts of an agency head's office and powers, others exist independently,

consisting of representatives from a number of agencies and headed by a chairperson designated in the establishing authority.

The positions and level of officials that make up the memberships also differ. Three entities (i.e. the NSC, HSC, and USA Freedom Corps Council) consist of the President and Vice President, along with specified agency heads, while others are made up of department and agency heads, along with officials from the Executive Office of the President in some cases. Others, by comparison, are composed of sub-cabinet officials, such as deputy directors, deputy or assistant secretaries, and senior officials from various agencies and the EOP. Still others, especially working groups and operational task forces, consist of personnel from relevant agencies selected by a higher echelon agency official or an interagency unit. Several officers, including the Director of Central Intelligence (DCI) and the Director of the Secret Service, moreover, possess authority to direct the activities and operations of other agencies; and one (i.e. the DCI) has express authority to review, approve, and change their budgets and spending plans. By contrast, other coordinative devices lack these explicit, substantial powers, instead relying on their authority to review and report—to the President, Congress, other agencies, and the public—on relevant activities and operations, or in the case of working groups and task forces, carrying out the policies and projects assigned by higher level officers.

## **Enabling Authority and Permanency**

The devices also differ in enabling authority and permanency. Some are permanent entities, created by public law or executive order, while others, such as those set up by presidential directive, have been subject to change, abolition, or replacement. Still others are intended to be ad hoc, temporary structures, such as interagency working groups, brought together by a supervising unit or official through administrative directives or orders, or jointly by memoranda of agreement (MOAs) or memoranda of understanding (MOUs).

## **Powers, Responsibilities, and Jurisdictions**

The extent of powers, breadth of responsibilities, and range of jurisdictions of these organizations and arrangements—derived from public laws, executive orders, presidential directives, administrative orders, or MOUs—also differ. For some entities, responsibilities are specialized, affecting a narrow scope of activities; powers are few and qualified; and jurisdictions are circumscribed. For others, by contrast, responsibilities are expansive; powers are many; and jurisdictions are wide.

## **Creation and Evolution**

Finally, such coordinative mechanisms have been established, modified over time, abolished outright, or merged with other units. These actions have occurred in response to changes in societal conditions, political needs and demands, elected and appointed officials, and public policy priorities, as well as perceptions of the mechanisms' effectiveness.

## Types of Coordinative Devices

The combination of these characteristics—different attributes, establishments and evolution, and rationales, along with compromises to meet certain objections—has produced a variety of coordinative mechanisms and arrangements. (Specific examples are described in the next section). Seven broad types are distinguished here:

1. **Councils consisting of the President, who is the chairman, the Vice President, and specified department and/or agency heads**, with only three in existence: the National Security Council, created by public law in 1947, and the Homeland Security Council and the USA Freedom Corps Council, each created by executive order, in 2001 and 2002, respectively.
2. **Committees made up of department and agency heads, along with, in some cases, officials from the Executive Office of the President (EOP)**, including the Interagency Task Force to Monitor and Combat Trafficking [in people], the principals committees of the NSC and HSC, the President's Critical Infrastructure Protection Board, and its predecessor, the Critical Infrastructure Protection Group.
3. **Specially created positions or offices**, with their own authority and resources, to cover a policy area that crosses a number of separate and independent agencies (e.g., Council on Environmental Quality and the directors of the offices of National Drug Control Policy, of Homeland Security, and of USA Freedom Corps).
4. **Agency heads or other officers with qualified authority over other entities**, particularly the Director of Central Intelligence, the Director of the Secret Service, and inspectors general, who can enlist the assistance of or task other organizations in carrying out specific duties and assignments.
5. **Sub-cabinet boards, committees, and councils**, such as the NSC and HSC deputies committees, two inspector general coordinating councils, and the chief financial officers coordinating council.
6. **Transfers of personnel, resources, or units among new or existing entities**, by setting up interagency partnerships, joint operational task forces, and field working groups; by transferring specific units for temporary duty; and by detailing and redeploying staff. These are illustrated by a host of arrangements and mechanisms: U.S. Coast Guard transfer to the Navy in times of war or other emergencies, use of military personnel and resources in law enforcement efforts, FEMA's multiplicity of partnerships, the Secret Service's membership in nearly 50 working groups, NSC's ad hoc working groups, HSC's policy coordination committees, various anti-terrorism support teams and cybersecurity operational centers, and inspector general council committees, as well as numerous staff details for particular operations and redeployments to meet crisis situations.

7. **Transfers of authority between and among agencies**, principally through the cross-designation of agents from one agency to another with shared jurisdiction and related responsibilities (such as the Customs Service and Immigration and Naturalization Service for border control) and through special deputation by the U.S. Marshals Service for personnel without their own law enforcement authority (such as criminal investigators in some offices of inspector general).

## Examples of Coordinative Mechanisms

Examples of federal interagency coordinative mechanisms, interspersed among the seven categories, are manifold. The following illustrate their number, range, and diversity.

### Homeland Security Council and Office

In the aftermath of the terrorist attacks on the Pentagon and World Trade Center, on September 11, 2001, President George W. Bush established the Office of Homeland Security (OHS) and the Homeland Security Council (HSC), through Executive Order 13228.<sup>9</sup> The organization and operation of the HSC has been further developed by Homeland Security Presidential Directive-1, issued by the President on October 29, 2001.<sup>10</sup> The enterprise is also accompanied by the President's Homeland Security Advisory Council (PHSAC), an advisory committee whose 21 members come from the private sector, and four Senior Advisory Committees for Homeland Security (SACs), whose members are selected by the Assistant to the President for Homeland Security (that is, the director of the Office of Homeland Security).<sup>11</sup>

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<sup>9</sup>U.S. President George W. Bush, Executive Order 13228 of October 8, 2001, "Establishing the Office of Homeland Security and the Homeland Security Council," *Federal Register*, vol. 66, Oct. 10, 2001, pp. 51812-51817.

<sup>10</sup>U.S. President George W. Bush, "Homeland Security Presidential Directive-1," October 29, 2001, available at [<http://www.whitehouse.gov/news/release/2001/10/2001>]. Such presidential directives are not published in the *Federal Register*; this one is available on the White House Web site.

<sup>11</sup>U.S. President George W. Bush, Executive Order of March 19, 2002, "Establishing the President's Homeland Security Advisory Council and Senior Advisory Committees for Homeland Security," available at [<http://www.whitehouse.gov/news/releases/2002/03>]. As advisory committees, however, these entities are not directly involved in the implementation of policy. Nonetheless, the PHSAC and SACs offer certain advantages to the OHS director: "The PHSAC shall meet periodically at the Assistant's request to: (a) provide advice to the President through the Assistant on developing and coordinating the implementation of a comprehensive national strategy to secure the United States from terrorist threats or attacks; (b) recommend to the President through the Assistant ways to improve coordination, cooperation, and communication among Federal, State, and local officials and private and other entities," among other functions. (Ibid., sec. 2.) And "upon the request of the Chair of the PHSAC, through the Assistant, and to the extent permitted by law, the heads of

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**Office of Homeland Security and Director.** The new office and its director—formally titled the Assistant to the President for Homeland Security—have an exceedingly high profile and visibility, in light of the unique circumstances surrounding their origin and early development. These include their creation following the unprecedented terrorist assaults within the United States on September 11, which resulted in an unequaled loss of life, destruction of property, and adverse effects on the economy within the United States in a concerted, single-day attack. The power of the office and director is also enhanced by the overriding priority of the mission (to secure the United States against terrorist attacks and threats), and their lead role domestically in the “war on terrorism,” as the President has referred to it. Other important features attend the office: its establishment by the President, who announced this initiative in an address to a rare joint session of Congress (which was broadcast to the nation); its placement in the Executive Office of the President (EOP); the cabinet-level status of its director; and perhaps most important, the close relationship between the first incumbent and the President.<sup>12</sup>

In addition, the OHS director is in a position to guide the President’s Homeland Security Advisory Council and Senior Advisory Committees; be aided by its authority, operating through him, to acquire relevant information from executive agencies; and benefit from its findings, conclusions, and recommendations. Consequently, the Council and its committees can be a source of influence for the director.

Even before the office’s establishment, significant changes in homeland security organization, structure, and capacity had already been advocated by several governmental commissions and the General Accounting Office (GAO), as well as

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<sup>11</sup>(...continued)

executive departments and agencies shall provide the PHSAC with such information relating to homeland security matters as the PHSAC may need for the purpose of carrying out its functions” (ibid., sec. 3).

<sup>12</sup>In announcing the creation of OHS and the appointment of its initial director, Tom Ridge, former Governor of Pennsylvania, President Bush referred to him as a “trusted friend”; the President also emphasized the director would hold a “Cabinet-level position,” a rarity for the head of an office who is not a Senate-confirmed appointment, “reporting directly to me.” (U.S. President George W. Bush, “Address Before a Joint Session of Congress of the United States: Response to Terrorist Attacks of September 11,” Sept. 20, 2001, *Weekly Compilation of Presidential Documents*, vol. 37, Sept. 24, 2001, pp. 1347-1351.) For information on the office’s establishment and early evolution, see *CRS Terrorism Briefing Book*, “Office of Homeland Security,” by Ronald C. Moe; CRS Report RL31148, *Homeland Security: The Presidential Coordination Office*, by Harold C. Relyea; U.S. General Accounting Office, *Homeland Security: Progress Made; More Direction and Partnership Sought*, GAO Report GAO-02-490T (Washington: GAO, 2002); Ashton B. Carter, “The Architecture of Government in the Face of Terrorism,” *International Security*, vol. 26, Winter 2001/2002, pp. 5-23; Katherine McIntire Peters, “The War at Home,” *Government Executive*, Nov. 2001, pp. 27-31, and “Security vs. Bureaucracy,” April 1, 2002, at [http://www.govexec.com]; Chuck McCutcheon, “Defining Homeland Security,” *Congressional Quarterly Weekly*, Sept. 29, 2001, pp. 2252-2254; and Adriel Bettelheim “Does Ridge Have the Clout to Carry It Off?”, *Congressional Quarterly Weekly*, Nov. 3, 2001, pp. 2586-2590.

other organizations.<sup>13</sup> Although their specific proposals differed, sometimes significantly, these studies and recommendations laid the groundwork for a new coordinative function.

Among other functions, the OHS is “to coordinate the executive branch’s efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States.”<sup>14</sup> In performing this function and attendant duties, the office possesses a lengthy set of responsibilities connected with coordinating the government’s response to terrorism, all of which cross a broad spectrum of agencies, a wide range of programs, and an array of activities.

The homeland security office is given some, albeit limited, budget review authority. In consultation with the Director of the Office of Management and Budget (OMB) and the heads of departments and agencies, the chief of the homeland security office “shall identify programs that contribute to the Administration’s strategy for homeland security and, in the development of the President’s annual budget submission, shall review and provide advice to the heads of the departments and agencies for such programs.”<sup>15</sup> (E.O. 13228, sec. 3). Along with this function, the new chief is to advise OMB as to the adequacy of the agency budgets and certify that the funding levels are appropriate and necessary. The director, however, does not hold formal veto or approval powers over these budget plans, does not have funds directly at his disposal to grant to agencies, and cannot transfer funds among agencies, all of which would require new statutory authority.

The OHS director, moreover, is not confirmed by the Senate and has a relatively small staff (estimated to reach about 100), relying largely on details from constituent departments and agencies. And because the office was created by executive order, rather than by public law, its jurisdiction is confined to the executive branch, thereby not encompassing such organizations as the U.S. Postal Service and various independent regulatory commissions. Despite these limitations, the office and its

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<sup>13</sup>U.S. Commission on National Security/21<sup>st</sup> Century, *Road Map for National Security: Imperative for Change*, available at [<http://www.nssg.gov>] (2001), pp. 10-26; U.S. Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, *II. Toward a National Strategy for Combating Terrorism* (2<sup>nd</sup> annual report) (Arlington, VA: RAND Corporation, 2000), pp. 7-16; and U.S. General Accounting Office, *Homeland Security: A Framework for Addressing the Nation’s Efforts*, GAO Report GAO-01-1158T (Washington: GAO, 2001), pp. 3-4, and *Homeland Security: Challenges and Strategies in Addressing Short- and Long-Term National Needs*, GAO Report GAO-01-160T (Washington: GAO, 2001), pp. 41-42. In addition to these, the National Emergency Management Association (NEMA), which represents the state emergency management directors in the 50 states, issued a set of principles for domestic preparedness, a full year before the September 11, 2001 attacks. One of the principles called for a “single, visible point of coordination ... at the federal level” through the establishment of an “entity [which] must be codified in authorizing legislation .... “ (National Emergency Management Association, *Resolution on States’ Principles for a National Domestic Preparedness Strategy*, Principle #2, Aug. 25, 2000, available at [<http://www.nemaweb.org/index.cfm>].)

<sup>14</sup>E.O. 13228, sec. 3.

<sup>15</sup>Ibid.

director hold other formal and informal powers, as noted above, that give it substantial influence in meeting its interagency coordinative responsibilities.

A dispute between the Executive and Legislature has arisen over whether the OHS director, given his position and powers, can be compelled to testify at a hearing before a congressional committee on homeland security budget matters. (This is separate from his testifying about the Administration's proposals affecting public policy or reorganization.) The chairman and ranking minority member of the Senate Appropriations Committee, inviting the director to testify before the committee about the President's budget submission for fiscal year 2002, noted: "President Bush gives you the responsibility to certify that the funding levels contained in the Budget transmitted to the Congress are necessary and appropriate for the homeland security-related activities of the Executive Branch .... Your views and insights on the policies necessary to meet these objectives [for homeland security] are critical to the committee and the nation."<sup>16</sup> The administration has declined to send the director. President Bush, responding to a reporter's question about this matter, said: "He doesn't have to testify; he's part of my staff, and that's part of the prerogative of the Executive Branch of government. And we hold that very dear."<sup>17</sup> The director reiterated this stand, which would "avoid the setting of a precedent that could undermine the separation of powers."<sup>18</sup> He added that he, on 35 occasions, and his staff, an additional 100 times, have met informally with legislators. The director also offered to participate in a "public briefing ... [in which] Senators and Members of Congress present would have the opportunity to ask questions of me and of those officers" charged with operational authority for homeland security, a proposal, however, that falls short of testifying at a formal hearing.<sup>19</sup> A spokeswoman for the

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<sup>16</sup>Letter from Hon. Robert C. Byrd, Chairman of the Senate Committee on Appropriations, and Hon. Ted Stevens, ranking minority member of the Committee, to Tom Ridge, Special Assistant to the President for Homeland Security, March 4, 2002; and letter from Hon. Robert C. Byrd, Chairman of the Senate Committee on Appropriations, and Hon. Ted Stevens, ranking minority member of the Committee, to the President, March 15, 2002. See also "Homeland Security Chief Turns Down Offer to Testify Before Senate Panel," *Government Executive*, Daily Briefing, March 5, 2002, at [<http://www.GovExec.com>]; "Ridge Declines to Testify Before Panel," *Washington Post*, March 5, 2002, p. A8; and "Byrd Presses Ridge to Speak to Committee," *Washington Post*, April 5, 2002, p. A2. A followup report indicated that the Senate might consider subpoenaing Mr. Ridge. See "Daschle Says Ridge May Get Subpoena," *Washington Post*, March 18, 2002, p. A2; and Dana Milbank, "Hill, White House Still Differ on Ridge Testimony," *Washington Post*, March 20, 2002, p. A9.

<sup>17</sup>President George W. Bush, "Press Conference by the President: Excerpts on Executive Branch Prerogatives," March 13, 2002, available at [<http://www.whitehouse.gov>]. Later, the White House press secretary reaffirmed this stand: "And the President's position is clear, that as an assistant to the President, as an advisor to the President, it is not proper, it is a change in the way Congress does its business to demand that Governor Ridge testify." Ari Fleischer, Assistant to the President and Press Secretary, Press Briefing, March 25, 2002, available at [<http://www.whitehouse.gov/news/releases/2002/03>].

<sup>18</sup>Tom Ridge, Assistant to the President for Homeland Security, Letter to Hon. Robert C. Byrd, concerning testifying before the Senate Appropriations Committee, March 25, 2002.

<sup>19</sup>*Ibid.* See also Bill Miller, "Ridge Will Meet Informally with 2 House Committees," (continued...)

director argued that he would not testify before a congressional panel, because the director is not a Senate-confirmed head of an agency that implements policy.<sup>20</sup> In rebuttal, supporters of congressional prerogatives might argue that the OHS chief is more than an advisor to the President; that he does implement public policy; and that he holds cabinet-rank status, even though he is not a confirmed appointment.

**Homeland Security Council and Committees.** E.O. 13228 (sec. 5) created a Homeland Security Council, which is responsible for advising the President with respect to all aspects of homeland security. It is to “serve as the mechanism for ensuring coordination of homeland security-related activities of executive departments and agencies and effect the development and implementation of homeland security policies.”<sup>21</sup> The council, modeled after the National Security Council but with a much larger membership, meets at the President’s direction. Only the second of its kind, the new council consists of the President, who chairs it, the Vice President, and heads of specified departments and agencies as well as other officers in the executive branch as the president may designate. The chief of homeland security, at the President’s direction, is responsible for determining the agenda of the council, ensuring that necessary papers are prepared, and recording council actions and presidential decisions.

Assisting the council’s undertakings are three layers of committees. On October 29, 2001, three weeks after the parent council was created, President Bush issued a directive governing its organization and operation, including establishment of the HSC Principal’s Committee. It is to be the “senior forum under HSC for homeland security issues” and is composed of the heads of member organizations, along with the chiefs of staff of the President and Vice President.<sup>22</sup> The homeland security office director is also a member and chairs the committee. Accompanying it is the HSC Deputies Committee. Consisting of deputy secretaries and deputy directors of HSC components, this panel is to “serve as the senior sub-Cabinet interagency forum for consideration of policy issues affecting homeland security.”<sup>23</sup> Finally, HSC Policy Coordination Committees have been authorized: these units “shall coordinate the development and implementation of homeland security policies by multiple departments and agencies throughout the Federal government ... [and] shall be the main day-to-day fora for interagency coordination of homeland security policy.”<sup>24</sup> The eleven committees—composed of representatives from the entities on the HSC deputies committee—are organized along functional lines, to deal with such matters

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<sup>19</sup>(...continued)

*Washington Post*, April 4, 2002, p. A15.

<sup>20</sup>Director Ridge, Letter to Senator Byrd, March 25, 2002. See also Ari Fleischer, Press Briefing of March 25, 2002; and “Ridge Offers Congress Informal Briefing,” *Washington Post*, March 26, 2002, p. A3.

<sup>21</sup>E.O. 13228, sec. 5.

<sup>22</sup>“Homeland Security Presidential Directive-1,” sec. A and sec. B.

<sup>23</sup>*Ibid.*, sec. C.

<sup>24</sup>*Ibid.*, sec. D.

as surveillance and intelligence, border and airspace security, and law enforcement and investigation.

### **Proposals for Change in Homeland Security Arrangements.**

Concerns about whether the authority and political power of the Office of Homeland Security are sufficient currently or would be so in the long run have led to proposals, beginning in late 2001, either to enhance the director's authority or, more far-reaching, to create a new Department of Homeland Security (DHS).

Plans to establish a new department, by transferring all or parts of a number of agencies engaged in domestic security, have emanated from the Bush Administration and Congress.<sup>25</sup> These also call for different devices and authorities to coordinate operations, responsibilities, duties, and functions with other agencies, for two broad purposes: (1) with agencies outside the new department whose capabilities would provide assistance for homeland security (e.g., FBI and CIA intelligence); and (2) with agencies inside the new department whose capabilities would still be needed by the former parent establishment (e.g., Secret Service anti-counterfeiting efforts for the Department of the Treasury).<sup>26</sup> Other broad-scale coordinative mechanisms—in the form of a modified homeland security council, a national office for combating terrorism, and/or a continuing post of Assistant to the President for Homeland Security in EOP—might also be included, especially to enhance cooperation and support from agencies outside a new Department of Homeland Security.

### **President's Critical Infrastructure Protection Board**

Eight days after establishing the Homeland Security Council and Office, President George W. Bush created a related entity: i.e., the President's Critical Infrastructure Protection Board.<sup>27</sup> Under its establishing order, the Board “shall recommend policies and coordinate programs for protecting information systems for critical infrastructure, including emergency preparedness communications, and the

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<sup>25</sup>See especially H.R. 5005 and S. 2452 in the 107<sup>th</sup> Congress, and accompanying hearings and reports, as well as the proposal from the Bush Administration: U.S. President George W. Bush, *The Department of Homeland Security* (Washington: White House, 2002). Overviews and further citations are contained in CRS reports RL31493, *Homeland Security: Department Organization and Management*, by Harold C. Relyea, and RL31492, *Homeland Security: Management Positions for the Proposed Department*, by Sharon S. Gressle.

<sup>26</sup>For instance, the House and Senate versions provide for interagency coordinative arrangements—including specialized boards, centers, councils, and directorates, as well as special authority for the Secretary—for intelligence analysis, critical infrastructure protection, science and technology development, and energy research and development.

<sup>27</sup>U.S. President George W. Bush, Executive Order 13231 of October 16, 2001, “Critical Infrastructure Protection in the Information Age,” *Federal Register*, vol. 66, Oct. 18, 2001, pp. 53063-53071. For further information and analysis of this effort and its predecessors, see CRS Report RL30153, *Critical Infrastructures: Background, Policy, and Implementation*, by John D. Moteff; and Anthony H. Cordesman with Justin G. Cordesman, *Cyber-threats, Information Warfare, and Critical Infrastructure Protection: Defending the U.S. Homeland* (Washington: Center for Strategic and International Studies, 2002).

physical assets that support such systems.”<sup>28</sup> To carry out related functions that were assigned to the Office of Homeland Security, the director of OHS and the Assistant to President for National Security “shall be responsible for defining the responsibilities of the Board in coordinating efforts to protect physical assets that support information systems.”<sup>29</sup>

Members of the board, whose chairman and vice chairman are designated by the President, are specified senior executive branch officials (or their designees). They are the heads of the departments of State, Treasury, Defense, Justice, Health and Human Services; Director of Central Intelligence; Director of FEMA; Administrator of General Services; and Chairman of the Joint Chiefs of Staff; along with other officials from the Executive Office of the President, including his chief of staff, the Vice President’s chief of staff, Director of OMB, Director of Office of Science and Technology, Director of the National Economic Council, Assistant to the President for National Security Affairs, and Assistant to the President for Homeland Security.<sup>30</sup> Other members of the board are to form its Coordination Committee: Director, Commerce’s Critical Infrastructure Assurance Office; Manager, National Communications System; Vice Chair, Chief Information Officers’ Council; Information Assurance Director, National Security Agency; Deputy Director of Central Intelligence for Community Management; and Director, National Infrastructure Protection Center, FBI.<sup>31</sup>

The chair of the board is also the Special Advisor to the President for Cyberspace Security. Moreover, “in order to ensure full coordination between the responsibilities of the National Security Council and Office of Homeland Security, the Chair shall report to both the Assistant to the President for National Security Affairs and the Assistant to the President for Homeland Security.”<sup>32</sup> Other coordinative arrangements in this field involve the Director of OMB and the Assistant to the President for Economic Policy.

## Critical Infrastructure Coordination Group and Entities

Preceding creation of the Homeland Security Council and Office and, especially, the President’s Critical Infrastructure Coordination Board (in 2001) was a related structure that encompassed similar goals, responsibilities, and arrangements. In 1998, President William Clinton issued Presidential Decision Directive 63 (PDD-63), establishing a coordinative structure and strategy designed to protect the nation’s critical infrastructure—ranging from information and communications to electric power, and from transportation to public health—against intentional attacks (both

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<sup>28</sup>E.O. 13231, sec. 5.

<sup>29</sup>Ibid.

<sup>30</sup>Ibid., sec. 6.

<sup>31</sup>Ibid.

<sup>32</sup>Ibid., sec. 7.

physical and cyber).<sup>33</sup> Along with this, broad government functions were assigned to particular departments or agencies: law enforcement and internal security to the Justice Department/FBI, foreign intelligence to the CIA, foreign affairs to the State Department, and national defense to the Defense Department.

To carry out this protective mission, PDD-63 created the position of National Coordinator for Security, Infrastructure Protection, and Counter-terrorism, who reported to the President through his Assistant for National Security Affairs. The coordinator chaired the Critical Infrastructure Coordination Group, an interagency working group which was responsible for developing and implementing policy and coordinating the federal government's internal security measures. The group consisted of high-ranking representatives from the lead agencies, the National Economic Council, and other relevant organizations. (Many of these functions and duties are now covered by the Homeland Security Council and Office, the President's Critical Infrastructure Protection Board, and the post of Special Advisor to the President for Cyberspace Security.)

Prominent among other coordinative components derived from PDD-63 are the Federal Computer Incident Response Center (FedCIRC) and the National Infrastructure Protection Center (NIPC).<sup>34</sup> NIPC, housed in the Federal Bureau of Investigation, consists of representatives from national security and law enforcement establishments, among other units, and plays a major role in coordinating federal efforts against computer-based attacks. In so doing, the center is responsible for analysis, warning, and response capabilities in such matters. FedCIRC is the central coordination and analysis facility dealing with computer security related issues affecting federal civilian agencies. It is a collaborative partnership of computer incident response, security, and law enforcement professionals, designed to provide both proactive and reactive security services for the federal government.

## USA Freedom Corps, Council, and Office

In early 2002, President George W. Bush established the USA Freedom Corps, giving it prominence in his State of the Union Address, along with a companion

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<sup>33</sup>*The Clinton Administration's Policy on Critical Infrastructure Protection: Presidential Decision Directive 93*, White Paper, May 22, 1998, available at [[http://www.ciao.gov/ciao\\_document\\_library/paper598.html](http://www.ciao.gov/ciao_document_library/paper598.html)]. See also CRS Report RL30153, *Critical Infrastructures*, and Cordesman, *Cyber-threats*.

<sup>34</sup>See CRS Report RL30153, *Critical Infrastructures*; U.S. General Accounting Office, *Critical Infrastructure Protection: Significant Challenges in Developing Analysis, Warning, and Response Capabilities*, GAO Report GAO-01-769T (Washington: GAO, 2001); Ronald L. Dick, Director, National Infrastructure Protection Center, Federal Bureau of Investigation, "Statement on the GAO Review of the NIPC," before the Senate Judiciary Subcommittee on Technology, Terrorism, and Government Information, May 22, 2001, available at [<http://www.fbi.gov/congress/congress01/rondick2.html>]; U.S. National Infrastructure Protection Center, "About NIPC," "Publications," and "Major Investigations," available at [<http://www.nipc.gov>]; and U.S. Federal Computer Incident Response Center, "About FedCIRC," available at [<http://www.fedcirc.gov/about.html>].

council and office<sup>35</sup> (both similar in organizational structure to the Homeland Security Council and Office). As stated in the establishing executive order, “the executive departments, agencies, and offices constituting the USA Freedom Corps shall coordinate and strengthen Federal and other service opportunities, including opportunities for participation in homeland security preparedness and response, other areas of public and social service, and international service.”<sup>36</sup>

The Freedom Corps itself is intended to be “an interagency initiative, bringing together executive branch departments, agencies, and offices with public service programs and components ....”<sup>37</sup> These components are not spelled out in the executive order but are described in accompanying releases. According to its policy book, the Freedom Corps initially consists of a newly created Citizen Corps, to engage Americans in homeland defense; an improved and enhanced AmeriCorps and Senior Corps; and a strengthened Peace Corps.<sup>38</sup> The overarching Freedom Corps Council is composed of the President, who chairs it; the Vice President; and the heads of specified executive departments, agencies, and offices: Justice, State, Health and Human Services, Commerce, Education, Veterans Affairs, FEMA, Corporation for National and Community Service, Peace Corps, U.S. Agency for International Development, Office of Faith-Based and Community Initiatives, and USA Freedom Corps Office.

The director of the USA Freedom Corps Office is responsible, at the President’s direction, for determining the council’s agenda, ensuring that necessary papers are prepared, and recording council actions and presidential decisions.<sup>39</sup> Accompanying this are other direct connections to the Freedom Corps: it is to be supported by “a USA Freedom Corps Office, which shall be a component of the White House ... and shall have a Director who shall be appointed by the President.”<sup>40</sup> The White House Office is to provide the council and office with “such funding and administrative support, to the extent permitted by law and subject to the availability of appropriations, as directed by the Chief of Staff to the President to carry out the provisions of this order.”<sup>41</sup>

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<sup>35</sup>U.S. President George W. Bush, Executive Order 13254 of January 29, 2002, “Establishing the USA Freedom Corps,” *Federal Register*, vol. 67, Feb. 1, 2002, pp. 4869-4871. For further information, see U.S. President George W. Bush, “The President’s State of the Union Address,” Jan. 29, 2002, available at [<http://www.whitehouse.gov/news/releases/2002/>]; and U.S. Executive Office of the President, White House, *USA Freedom Corps Policy Book*, at [<http://www.whitehouse.gov/news/releases/2002/01/freedom-corps-policy-book.html>].

<sup>36</sup>E.O. 13254, “Establishing the USA Freedom Corps,” sec. 1.

<sup>37</sup>*Ibid.*, sec. 2.

<sup>38</sup>*USA Freedom Corps Policy Book*, p. 1.

<sup>39</sup>E.O. 13254, “Establishing the USA Freedom Corps,” sec. 3.

<sup>40</sup>*Ibid.*, sec. 4.

<sup>41</sup>*Ibid.*, sec. 5.

## National Security Council and Subunits

The National Security Council, combined with its subunits, can provide interagency coordination on at least five levels, with the memberships of units at each level reflecting different echelons of officials. These include: (1) the National Security Council itself, whose members, as noted above, are the President, Vice President, and specified department heads; (2) the NSC Principals Committee (NSC/PC) and certain other committees, whose members are agency and department heads as well as high-ranking officials in the Executive Office of the President; (3) the NSC Deputies Committee (NSC/DC), a sub-cabinet panel, whose members are deputy or assistant secretaries and deputy directors; (4) the NSC Policy Coordination Committees (NSC/PCCs), whose members are representatives from the agencies and departments on the NSC/DC; and (5) Interagency Working Groups—subordinate groups created by an individual NSC/PCC—whose members are selected to assist the NSC/PCC in the performance of its duties.

**National Security Council.** The National Security Council, established by the National Security Act of 1947, as amended,<sup>42</sup> is designed “to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security.” The council is a special construct, headed by the President, who presides over its meetings, and is composed of a statutory membership of the President, Vice President, Secretary of State, and Secretary of Defense.

**National Security Council Subunits.** The NSC has subunits, created by statute or presidential directive, that provide interagency coordination. Some have changed over time, as conditions, policy priorities, perceived success or failure of arrangements, and presidential administrations have changed. Past and current examples illustrate different types of coordinative mechanisms operating on four levels, below the NSC itself, including boards, committees, centers, task forces, and working groups.

**Statutory Boards and Committees.** The National Security Act, as amended, for instance, authorized a *Board for Low Intensity Conflict*, the principal function of which is “to coordinate the policies of the United States” in this regard. Along these same lines, the act established a *Committee on Transnational Threats*, whose members are the Director of Central Intelligence; Secretaries of Defense and State; Attorney General; Assistant to the President for National Security Affairs, who chairs the panel; and others whom the President may designate. Its function “shall be to coordinate and direct the activities of the United States Government relating to combating transnational threats.” In so doing, the committee is authorized to carry out several coordinative functions and duties: develop guidelines to enhance and

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<sup>42</sup>50 U.S.C. 402 et seq. (2000). For information and analysis about the NSC’s recent interagency efforts and focus (on policy rather than program coordination), see John Deutch, Arnold Kanter, and Brent Scowcroft with Chris Hornbarger, “Strengthening the National Security Interagency Process,” in Ashton B. Carter and John P. White, eds., *Keeping the Edge: Managing Defense for the Future* (Cambridge, MA: MIT Press, 2001), pp. 119-126.

improve the coordination of activities of federal law enforcement agencies and elements of the intelligence community outside the United States, with respect to transnational threats; develop policies and procedures to ensure the effective sharing of information about transnational threats among federal departments and agencies; and assist in the resolution of operational and policy differences among federal departments and agencies in their responses to specific transnational threats.

The National Security Act, as amended, also established a *Committee on Foreign Intelligence*, composed of the DCI; the Secretaries of Defense and State; the Assistant to the President for National Security Affairs, who chairs the committee; and other members whom the President may designate. Its function is to assist the council in several ways: by identifying intelligence requirements for national security as specified by the President; by establishing priorities (including funding priorities) among relevant programs and projects; and by establishing policies relating to the conduct of intelligence activities, including appropriate roles and missions of the intelligence community elements. Among its duties and authorities, the committee is to conduct an annual review of the national security interests of the United States; identify the intelligence required to meet such interests; establish an order of priority for the collection and analysis of such intelligence; and conduct an annual review of the elements of the Intelligence Community (IC), in order to determine their success in collecting, analyzing, and disseminating such intelligence.

***Presidentially Authorized Organizations.*** Other, usually more specialized, units have also been created, by executive order and presidential directive. Currently, National Security Presidential Directive-1, issued by President George W. Bush shortly after he took office, governs the organizational structure of the NSC system.<sup>43</sup>

Executive Order 12333, issued by President Ronald Reagan in 1981, for instance, designated the NSC “as the highest executive branch entity that provides review of, guidance for and direction to the conduct of” various national security policies. One of the resulting constructs, since 1989, has been the *NSC Principals Committee* (NSC/PC), the senior interagency forum for considering policy issues affecting national security; its regular attendees are the Secretary of State, Secretary of Defense, Secretary of the Treasury, Chief of Staff to the President, and the Assistant to the President for National Security Affairs (who chairs the NSC/PC).<sup>44</sup>

Another continuing body is the *NSC Deputies Committee* (NSC/DC). This unit serves as “the senior sub-Cabinet interagency forum for considering policy issues affecting national security.” Its membership includes, among others, the deputy or assistant secretaries from the Departments of State, Defense, and Justice, as well as

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<sup>43</sup>U.S. President George W. Bush, National Security Presidential Directive-1, “Organization of the National Security Council System,” Feb. 15, 2001.

<sup>44</sup>Ibid., pp. 1-2

the deputy directors of the Office of Management and Budget and of Central Intelligence.<sup>45</sup>

This panel can prescribe and review the work of various NSC interagency groups, created by National Security Presidential Directive-1. Prominent among these groups are *NSC Policy Coordination Committees* (NSC/PCCs), which are responsible for the “management of the development and implementation of national security policies by multiple agencies of the United States Government”; these units are to be the “main day-to-day fora for interagency coordination of national security policy.”<sup>46</sup> The 17 committees are organized along two lines: (1) under six geographical regions, including Europe and Eurasia, Western Hemisphere, and South Asia; and (2) under 11 functional topics, such as international finance, counterterrorism, international development and humanitarian assistance, and intelligence and counterintelligence. The chairman of each NSC/PCC is authorized to establish subordinate *Interagency Working Groups* to assist it. In creating these new units, NSPD-1 abolished the pre-existing working groups and certain other arrangements, except for those established by statute.<sup>47</sup>

Previously, under the Clinton Administration, several different counterintelligence (CI) structures were developed. Presidential Decision Directive 24 (PDD 24), “U.S. Counterintelligence Effectiveness,” provided for a then-new CI structure under the direction of the NSC.<sup>48</sup> Issued in 1994, in the aftermath of the Aldrich Ames espionage case, PDD 24 was designed for “the coordination of CI policy matters in order to integrate more fully governmentwide counterintelligence capabilities, to foster greater cooperation among the various departments and agencies with CI responsibilities and to establish greater accountability for the creation of CI policy and its execution.”<sup>49</sup> The implementing *National Counterintelligence Policy Board* consisted of a senior representative from each of the following: DCI/CIA; the FBI; the Departments of Defense, Justice, and State; a military Department CI component; and the NSC, Special Assistant to the President and Senior Director for Intelligence Programs.<sup>50</sup>

This 1994 organizational arrangement, which had replaced a pre-existing CI policy and coordinating structure, was itself replaced by a new counterintelligence policy board, established by a presidential decision directive issued by President

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<sup>45</sup>Ibid., p. 2.

<sup>46</sup>Ibid., p. 3.

<sup>47</sup>Ibid., p. 4.

<sup>48</sup>U.S. President William J. Clinton, Presidential Decision Directive 24, “U.S. Counterintelligence Effectiveness,” in U.S. House Permanent Select Committee on Intelligence, *Report of Investigation: The Aldrich Ames Espionage Case* (Washington: GPO, 1994), Appendix 6.

<sup>49</sup>Ibid., p. 1.

<sup>50</sup>Ibid., p. 2.

Clinton in late 2000.<sup>51</sup> The current counterintelligence initiative has been referred to as “CI-21,” in light of its development on the eve of the 21<sup>st</sup> century. Following the recommendations of a Special Review Process—established by the DCI, Director of the FBI, and Secretary of Defense—the new arrangement is designed to improve interaction with policymakers and the private sector on counterintelligence matters. According to the President’s Security Policy Advisory Board, responsibility for national counterintelligence is to be vested in a board of directors, consisting of the Director of the FBI, the Deputy Secretary of Defense, the Deputy Director of Central Intelligence, and a senior representative of the Justice Department. A national CI executive and support organization is also to be established. The principal activities of this successor organization, most of which affect interagency coordination, include: determining the critical assets that must be protected by CI, formulating a national CI strategy, overseeing and coordinating the production of CI analysis, evaluating and assisting in the integration of the CI budget and resource plans of the community, communicating to the Board on the adequacy of these plans, evaluating the effectiveness in implementing the strategy, identifying collection gaps and deficiencies, and coordinating other national level CI activities.

Other national security-related enterprises disclose additional examples of task forces that operate on different levels. One type is known as “rapidly deployable interagency *Emergency Support Teams* (EST).” Based on authority in a presidential decision directive (PDD) issued by President Clinton in 1995, a Domestic EST, led and managed by the FBI, and a Foreign EST, led by the State Department, are responsible for responding to terrorist incidents in the United States or abroad, respectively.<sup>52</sup>

Additional interagency support and operational structures in the domestic anti-terrorism field have been planned in the meantime, based on the same PDD, as well as other authorities.<sup>53</sup> The resulting *United States Government Interagency Domestic Terrorism Concept of Operations Plan* “establishes a structure for a systematic, coordinated and effective national response to threats or acts of terrorism in the United States ... and encompasses both crisis and consequence management responsibilities, and articulates the coordination relationships between these missions.”<sup>54</sup> The plan outlines several cooperative multi-agency entities and arrangements, including a *Strategic Information and Operations Center*, to provide coordination and management of national level support in response to a terrorist incident; a *Unified Incident Command Post*, to provide coordination to support on-

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<sup>51</sup>President’s Security Policy Advisory Board, Public Meeting, Sept. 11, 2000. For further information on the review, which was launched in June 1999, and the resulting “CI 21,” see U.S. Senate Select Committee on Intelligence, *Authorizing Appropriations for Fiscal Year 2001 for Intelligence Activities*, S.Rept. 106-279 (Washington: GPO, 2000), pp. 15-16; and Vernon Loeb and Walter Pincus, “Bush to Speed Clinton Spy Changes,” *Washington Post*, Feb. 24, 2001, p. A4.

<sup>52</sup>U.S. President William J. Clinton, Presidential Decision Directive 39, “U.S. Policy on Counterterrorism,” Jan. 21, 1995, sec. 3F.

<sup>53</sup>U.S. National Security Council, *United States Government Interagency Domestic Terrorism Concept of Operations Plan* (Washington: NSC, 2001).

<sup>54</sup>*Ibid.*, sec. I.B.

scene operations; and a *Joint Operations Center*, to provide field-level coordination.<sup>55</sup>

## Director of Central Intelligence

The mandates, responsibilities, and powers of the Director of Central Intelligence (DCI), who also heads the Central Intelligence Agency (CIA), derive principally from the National Security Act of 1947 and the Central Intelligence Agency Act of 1949, as amended.<sup>56</sup> Enacted in the aftermath of World War II and during the early phase of the Cold War, these statutory provisions were designed, in large part, to enhance intelligence gathering, evaluation, and dissemination, in part, by improving coordination among components of the intelligence community (IC).

The DCI possesses extensive and detailed authority in this regard. These apparently unique coordinative powers—the most substantial among federal offices—allow the Director to task other agencies; have access to their intelligence collections; establish controls over relevant parts of their budgets and spending; transfer funds and personnel among IC elements, under specified conditions; and set certain security clearance standards and requirements for their personnel (for access to Sensitive Compartmented Information or SCI).<sup>57</sup> As head of the United States intelligence community, the DCI is authorized, among other things, to:

- ! Appoint and remove the members of the National Intelligence Council, which reports to the Director. The council, established within the office of the DCI, is composed of senior analysts from the intelligence community and substantive experts from the public and private sector. The heads of intelligence elements are instructed to furnish support to the council, including the preparation of intelligence analyses, as may be required by the Director.
- ! Provide overall direction for the collection of national intelligence through human sources by elements of the intelligence community.

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<sup>55</sup>Ibid., secs. IV.B and IV.C.

<sup>56</sup>50 U.S.C. 403 et seq. (2000).

<sup>57</sup>Interagency mechanisms among the 13 IC units include various centers, such as those devoted to counterterrorism and counterintelligence. For discussion of the various coordinative entities, the need for them, and the difficulties in establishing and making certain they operate effectively, see Loch K. Johnson, “The DCI and the Eight-Hundred-Pound Gorilla,” *International Journal of Intelligence and Counterintelligence*, vol. 13, Spring 2000, pp. 35-48; U.S. House Permanent Select Committee on Intelligence, *Intelligence Authorization Act for Fiscal Year 2001*, 106<sup>th</sup> Cong., 2<sup>nd</sup> sess., H.Rept. 106-620 (Washington: GPO, 2000), pp. 14-22, and *IC21: Intelligence Community in the 21<sup>st</sup> Century* (Staff Study) (Washington: GPO, 1996), pp. 4-16, 33-36, 43-48; U.S. Commission on the Roles and Capabilities of the United States Intelligence Community, *Preparing for the 21<sup>st</sup> Century: An Appraisal of U.S. Intelligence* (Washington: GPO, 1996), pp. xii, 37-47; U.S. Commission on National Security/21<sup>st</sup> Century, *Road Map for National Security: Imperative for Change*, pp. x, 82-86; and U.S. Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, *II. Toward a National Strategy for Combating Terrorism*, pp. 7-16.

- ! Establish the requirements and priorities to govern the collection of national intelligence by elements of the intelligence community.
- ! Approve collection requirements and determine collection priorities.
- ! Facilitate the development of an annual budget for intelligence and intelligence-related activities. This facilitation involves, among other things, providing guidance for and granting approval of the annual budgets of elements of the intelligence community, before their incorporation into the National Foreign Intelligence Program (NFIP).
- ! Grant prior approval (or withhold approval) for any reprogramming of funds under the National Foreign Intelligence Program by any element in the intelligence community.
- ! Transfer funds from an NFIP program to another such program, with the approval of the Director of the Office of Management and Budget, among IC elements for specified reasons (such as to an activity that is a higher priority intelligence activity and in response to unforeseen requirements) and under certain conditions, providing that the head of the department or agency in which the element is located does not object.<sup>58</sup>
- ! Transfer personnel (for up to one year) among IC elements, for the same reasons and under the same conditions as govern the transfer of funds.
- ! Eliminate waste and unnecessary duplication within the intelligence community.
- ! Protect intelligence sources and methods from unauthorized disclosure.<sup>59</sup>
- ! Perform such other functions as the President or the National Security Council may direct.

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<sup>58</sup>This broad power was modified by the FY 2001 Intelligence Authorization Act (P.L. 106-567, 114 Stat. 2834-2835). Section 105 provides that authority to object to a transfer cannot be delegated by the agency head, except in the case of the Department of Defense, where the Secretary may delegate it only to the Deputy Secretary of Defense. For background on this change, see House Select Committee on Intelligence, *Intelligence Authorization Act for FY 2001*, pp. 26-27.

<sup>59</sup>A distinct but related duty was added to this overarching responsibility by the Intelligence Authorization Act of Fiscal Year 2001 (P.L. 106-567, 114 Stat. 2840). In light of security breaches at the Department of State, the DCI was instructed to certify (to the House and Senate Select Committees on Intelligence) whether “each covered element of the Department of State is in full compliance with all applicable directives of the Director of Central Intelligence relating to the handling, retention, or storage of covered classified material.”

## U.S. Secret Service and Director

The United States Secret Service (USSS) was created in 1865, at the end of the Civil War, to conduct anti-counterfeiting operations. In the late 19<sup>th</sup> century, the Service acquired responsibility for protecting the President and since then has assumed many other protective assignments. Recently, moreover, the Secret Service has been charged with being the lead agency for security arrangements at special events of national significance and for developing a national network of electronic crime task forces. To meet these responsibilities, the USSS and its Director have been given statutory authority to call upon other federal entities (and sometimes others) to assist in carrying out specific duties and assignments.

**Protective Assignments.** The Presidential Protection Assistance Act of 1976 provides that:

Executive departments and Executive agencies shall assist the Secret Service in the performance of its duties by providing services, equipment, and facilities on a temporary and reimbursable basis when requested by the Director and on a permanent and reimbursable basis upon advance written request of the Director; except that the Department of Defense and the Coast Guard shall provide such assistance on a temporary basis without reimbursement when assisting the Secret Service in its duties directly related to the protection of the President or the Vice President or other officer immediately next in order of succession to the office of the President.<sup>60</sup>

Although the statutory language was new at the time, the ability of the Secret Service to secure the assistance of other agencies—particularly when its protective duties and assignments increased markedly, as in presidential election years—was not.<sup>61</sup> In fact, a principal reason for the 1976 change was not a lack of support from other organizations. Instead, the immediate catalyst was the absence of adequate controls over and accountability for security arrangements and expenditures at a

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<sup>60</sup>P.L. 94-524, codified at 18 U.S.C. 3056 (2000).

<sup>61</sup>Even in its formative years, Secret Service protection of the President involved other agencies and required coordination among them. The assassination of President William McKinley in 1901, for instance, occurred at an international exposition where he and other dignitaries were guarded by nearly 100 members of various federal (including three Secret Service agents), state, and local forces. Afterwards, security was heightened and regularized, with the Secret Service serving as the lead agency and conducting surveillance, intelligence gathering, and investigations, as well as bodyguard operations. The Service was assisted, at the time, principally by the Post Office Department, which tracked threatening letters and undertook advance security work at cities where the President would visit, and by the Washington police force, which provided guards for official outings in the District and contacted local law enforcement authorities elsewhere about precautionary measures concerning presidential travel. Military units participated at formal ceremonies and on other special occasions, as they had historically. All of this was coordinated at the time in the White House, by George B. Cortelyou, President Theodore Roosevelt's personal secretary (who, in effect, served as his chief of staff). For further description and citations, see Frederick M. Kaiser, "Origins of Secret Service Protection of the President: Personal, Interagency, and Institutional Conflict," *Presidential Studies Quarterly*, vol. 18, Winter 1988, pp. 112-113.

President's private residences.<sup>62</sup> The added authority made it clear that such protective determinations rested with the Secret Service, not other agencies, and that the buck stopped with the Director.

**Security at Special Events of National Significance.** At the end of the 20<sup>th</sup> Century, the Secret Service was given clarified authority connected with its protective assignments and security responsibilities, in the Presidential Threat Protection Act of 2000.<sup>63</sup> One provision extends its statutory duties: the Secret Service, when directed by the President and under the supervision of the Secretary of the Treasury, is to participate “in the planning, coordination, and implementation of security operations at special events of national significance, as determined by the President.” This power allows the Secret Service to set up and lead interagency task forces—consisting of federal, state, and local organizations, as well as private entities—at what are referred to as National Special Security Events (NSSEs), which might be attended by its assigned protectees, including the President, Vice President, their family members, former Presidents, and visiting foreign dignitaries. NSSEs encompass such special events held in the United States as the 2002 Superbowl (the National Football League championship game), 2002 Winter Olympic Games, the Democratic and Republican National Conventions, and meetings of the World Economic Conference and other international organizations. In so doing, the 2000 enactment codifies a previous grant of authority, under Presidential Decision Directive 62, for the USSS to make similar arrangements.

**National Electronic Crime Task Forces.** Following the terrorist attack on the Pentagon and World Trade Center, Congress passed the USA Patriot Act of 2001. One of its provisions, supported by the Secret Service, called upon the Director to “develop a national network of electronic crime task forces, based upon the New York Electronic Crimes Task Force model, throughout the United States, for the purpose of preventing, detecting, and investigating various forms of electronic crimes, including potential terrorist attacks against critical infrastructure.”<sup>64</sup> The

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<sup>62</sup>The problems cited in support of new controls over security requirements and expenses—which totaled \$17 million for President Nixon's three private residences—included property improvements by the General Services Administration (GSA) that were not requested by the Secret Service and served no apparent security function, along with the shifting of routine expenditures to other agency budgets. U.S. House Committee on Government Operations, *Expenditures of Federal Funds in Support of Presidential Properties*, House Rept. 93-1052, 93<sup>rd</sup> Cong., 2<sup>nd</sup> sess. (Washington: GPO, 1974), pp. 1-4.

<sup>63</sup>P.L. 106-544. For a discussion of this authority and its heritage, see U.S. House Committee on the Judiciary, *Presidential Threat Protection Act of 2000*, 106<sup>th</sup> Cong., 2<sup>nd</sup> sess., H.Rept. 106-669 (Washington: GPO, 2000); U.S. House Subcommittee on the Treasury, Postal Service, and General Government, *Appropriations for Fiscal Year 2002*, Hearings, 107<sup>th</sup> Cong., 1<sup>st</sup> sess. (Washington: GPO, 2001), pp. 493-501 and 513-515; and U.S. Secret Service, *Strategic Plan, FY 2000-FY 2005* (Washington: USSS, 2001), Protective Strategic Goal and Key External Factors Affecting Achievement of Goals.

<sup>64</sup>P.L. 107-56, section 105. For background on the New York experience, see U.S. House Appropriations Subcommittee on Treasury, Postal Service, and General Government, *Appropriations for Fiscal Year 2002*, Hearings, 107<sup>th</sup> Cong., 1<sup>st</sup> sess. (Washington: GPO, (continued...))

New York enterprise, started in 1995, was credited with improvements in sharing information and expertise, combining resources, and coordinating efforts among approximately 250 representatives from numerous federal agencies (FBI, U.S. Customs Service, Securities and Exchange Commission, and Bureau of Alcohol, Tobacco, and Firearms, among others); state and local government entities, including law enforcement units and prosecutors; as well as businesses, academic institutions, and other private sector organizations.

## Director of the Office of National Drug Control Policy

The position of Director of the Office of National Drug Control Policy (ONDCP)—established by the National Narcotics Leadership Act of 1988—is primarily one of coordinating federal, state, and local efforts to control illegal drug abuse and devising a national strategy to carry out anti-drug activities.<sup>65</sup> The informal title of “drug czar” is misleading, however, because the Director has neither the extensive legal authority nor autocratic power implied in the notion of a “czar.” The post, for instance, lacks formal powers to assign specific tasks to agencies or direct them to carry out certain responsibilities under the anti-drug strategy devised by the Director. Furthermore, the office does not hold specific statutory authority to approve or change the budgets of the agencies involved or to override their spending plans, although the Director is authorized to review and comment on them (and in so doing, may hold an informal veto or clearance power).

Despite these limitations, the Director heads an office with important bases for support and coordination among the constituent agencies:

- ! The office is strategically placed—in the Executive Office of the President—which provides ONDCP with high visibility and an advantageous location to carry out its cross-agency mandates.
- ! Its head is a presidential appointee subject to Senate confirmation, thereby giving the Director a higher status and visibility than he or she would otherwise have.
- ! The office has a wide cross-agency jurisdiction.
- ! ONDCP has broad responsibilities. These include promulgating the national anti-drug strategy annually and setting policy priorities; reporting annually to the President and Congress on these matters; advising the President with regard to changes in organization, management, personnel allocation, and budgeting of the federal agencies involved; and notifying these agencies, if their policies are not in compliance with their responsibilities under the national drug control strategy.

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<sup>64</sup>(...continued)  
2001), p. 503.

<sup>65</sup>21 U.S.C. 1501-1509 (2000). Among the many sources on ONDCP, see McCaffrey, Testimony before the Senate Committee on Governmental Affairs, Oct. 21, 2001; CRS Report 98-149, *Drug Control*; and CRS Report 97-141, *Drug Smuggling*.

- ! The Director has specific powers that have both direct and indirect effects on the agencies. He can review and comment on the spending plans and budgets of agencies for anti-drug purposes, powers that could lead to an informal clearance of and veto over agency anti-drug budgets and spending plans. The Director is also authorized to detail personnel among constituent agencies.
- ! ONDCP receives appropriated funds that are directed to be transferred to other programs and operations.

## Attorney General Fugitive Apprehension Task Forces

The Presidential Threat Protection Act of 2000<sup>66</sup> is designed, primarily, to clarify and enhance the authority of the U.S. Secret Service. Nonetheless, the act gives new powers to the Attorney General over the Service, along with other law enforcement entities, for a specialized duty. The law directs the Attorney General, in consultation with appropriate law enforcement components in the Departments of Justice and the Treasury, to “establish permanent Fugitive Apprehension Task Forces consisting of Federal, State, and local law enforcement authorities in designated regions of the United States, to be directed and coordinated by the United States Marshals Service, for the purpose of locating and apprehending fugitives.”

## Interagency Task Force to Monitor and Combat Trafficking [of People]

Efforts to combat trafficking of people, particularly for labor and sexual exploitation, resulted in passage of the Victims of Violence Protection Act of 2000.<sup>67</sup> To help implement its policies, the legislation created an upper-echelon Interagency Task Force to Monitor and Combat Trafficking of people internationally. The task force consists of the heads of designated departments and agencies—the Agency for International Development, Central Intelligence Agency, and the Departments of Labor, Health and Human Services, and State—and the President may assign other officials. The Secretary of State chairs the task force and is directed to create an Office to Monitor and Combat Trafficking, within the State Department with staff supplied by the member agencies.

## Inspectors General and Their Coordinative Councils

**Inspectors General.** Beginning in 1976, offices of inspector general (OIGs) have been established by public law in nearly 60 federal establishments and entities, supplanting administratively created audit and investigative units that lacked their replacements’ independence, authority, and capabilities. The contemporary offices, designed to combat waste, fraud, and abuse in agency programs and activities, operate under the Inspector General Act of 1978, as amended.<sup>68</sup> Although their investigative and auditing powers are generally confined to the parent agency and its

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<sup>66</sup>P.L. 106-544.

<sup>67</sup>P.L. 106-386, sec. 105.

<sup>68</sup>5 U.S.C. Appendix (2000).

programs, inspectors general (IGs) have authority to seek assistance from outside agencies. IGs are authorized “to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof.”<sup>69</sup> The agency head, moreover, is required to furnish such information or assistance, “insofar as is practicable and not in contravention of any existing” legal prohibition or restriction.<sup>70</sup>

A related provision reinforces an IG’s power in this regard: “Whenever the information or assistance, in the judgment of an Inspector General, is unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the establishment involved without delay.”<sup>71</sup> In addition, inspectors general have other reporting obligations—first to the agency head, who sends the reports unaltered to Congress—that could include this same charge of noncompliance. These notifications are both periodic reports summarizing the OIGs’ recent activities and recommendations as well as immediate reports identifying particularly serious or flagrant problems, abuses, or deficiencies.<sup>72</sup>

**Coordinative Councils and Their Committees.** Inspectors general belong to one of two coordinative councils that operate under an executive order, issued by President George H. W. Bush in 1992: the President’s Council on Integrity and Efficiency (PCIE), consisting of the IGs who are presidential appointees, subject to Senate confirmation, and who head offices in the cabinet departments and larger federal agencies; and the Executive Council on Integrity and Efficiency (ECIE), consisting of the IGs who are appointed by agency heads and who direct offices in the usually smaller boards, foundations, and government corporations.<sup>73</sup> Other members of these councils include the Deputy Director for Management of the Office of Management and Budget, who chairs both the PCIE and ECIE; the Associate Deputy Director for Investigations of the Federal Bureau of Investigation; the Controller of the Office of Federal Financial Management; the Director of the Office of Government Ethics; the Special Counsel of the Office of Special Counsel; and the Deputy Director of the Office of Personnel Management.

Among their functions, the councils “shall continually identify, review, and discuss areas of weakness and vulnerability in Federal programs and operations to fraud, waste, and abuse, and shall develop plans for coordinated, Governmentwide activities that address these problems and promote economy and efficiency in Federal programs and operations.”<sup>74</sup>

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<sup>69</sup>Ibid., sec. 6(a)(3).

<sup>70</sup>Ibid., sec. 6(b)(1).

<sup>71</sup>Ibid., sec. 6(b)(2).

<sup>72</sup>Ibid., sec. 5.

<sup>73</sup>U.S. President George H. W. Bush, Executive Order 12805 of May 11, 1992, “Integrity and Efficiency in Federal Programs,” *Federal Register*, vol. 57, May 14, 1992, pp. 20627-20629.

<sup>74</sup>Ibid, p. 20628.

The councils also maintain committees, consisting of each council's members, "to examine important issues and to assist the Councils in their ongoing efforts to improve the members' effectiveness in fighting fraud, waste, and abuse in the federal government."<sup>75</sup> These include panels on audits, investigations, inspection and evaluation, legislation, professional development, and integrity matters. A special integrity committee operates under separate authority in response to allegations of wrongdoing by an inspector general or other high-ranking officials in an OIG.<sup>76</sup>

## Chief Financial Officers Council

The Chief Financial Officers Act of 1990 provided a blueprint for financial management reform, in large part, through the creation of positions of Chief Financial Officers in 23 (since extended to 25) departments and agencies.<sup>77</sup> The act also established a coordinating council, composed of these officers: the Controller of the Office of Federal Financial Management in the Office of Management and Budget (OMB); the Fiscal Assistant Secretary of Treasury; and OMB's Deputy Director for Management, who chairs the council.<sup>78</sup> It is directed to "advise and coordinate the activities of the agencies of its members" on a number of matters connected with financial management and its improvement.<sup>79</sup>

## Council on Environmental Quality

The Council on Environmental Quality (CEQ) was established in the Executive Office of the President by the National Environmental Policy Act of 1969 (NEPA)<sup>80</sup> and was given a support structure—the Office of Environmental Quality (OEQ)—the next year, via the Environmental Quality Improvement Act of 1970.<sup>81</sup> The council chair, who also serves as director of the OEQ, is appointed by the President.

The council is responsible for developing policies which bring into harmony the social, economic, and environmental priorities of the nation. In order to do so, CEQ has been granted certain coordinative responsibilities. As required by its establishing authority, it evaluates, coordinates, and mediates federal activities in this field; advises the President on both domestic and international environmental matters; prepares the President's annual environmental quality report to Congress; and oversees federal agency and departmental implementation of NEPA.

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<sup>75</sup>U.S. President's Council on Integrity and Efficiency and Executive Council on Integrity and Efficiency, *A Progress Report to the President, Fiscal Year 1999* (Washington: OMB, 2000), p. 61.

<sup>76</sup>*Ibid.*, pp. 61-64. U.S. President William J. Clinton, Executive Order 12993 of March 21, 1996, "Administrative Allegations Against Inspectors General," *Federal Register*, vol. 61, March 26, 1996, pp. 13043-13045.

<sup>77</sup>Chief Financial Officers Act of 1990 (P.L. 101-576, 104 Stat. 2838-2855).

<sup>78</sup>104 Stat. 2848.

<sup>79</sup>104 Stat. 2849.

<sup>80</sup>42 U.S.C. 4321 et seq.

<sup>81</sup>42 U.S.C. 4371 et seq.

## FEMA Interagency Partnerships

The Federal Emergency Management Agency (FEMA), established in 1979 by President Jimmy Carter, consolidated responsibility for the nation's emergency-related programs, then being operated in five separate agencies.<sup>82</sup> FEMA—an independent agency in the executive branch, headed by a Director who is a presidential appointee subject to Senate confirmation—funds emergency programs, offers technical guidance and training, and deploys federal resources in times of catastrophic disaster.

To carry out its responsibilities and programs, many of which involve cross-cutting activities with other agencies, FEMA has developed numerous cooperative agreements with other relevant agencies.<sup>83</sup> The nearly 70 resulting partnerships consist of a variety of interagency task forces, coordination groups, centers, committees, and other arrangements. Each includes anywhere from two to 27 different agencies.<sup>84</sup>

## U.S. Coast Guard/Navy Relationships

Another type of transfer—highly unusual and rarely used authority—affects the U.S. Coast Guard and its affiliation with the Navy: “Upon a declaration of war or when the President directs, the Coast Guard shall operate as a service in the Navy, and shall so continue until the President, by Executive order, transfers the Coast Guard back to the Department of Transportation.”<sup>85</sup>

The relationship between the two maritime organizations is reversed under different statutory authority and for different purposes. Coast Guard personnel trained in law enforcement can be assigned to naval vessels at sea, in order to perform law enforcement operations.<sup>86</sup> This provision, in effect, authorizes Navy assistance to the Coast Guard in its drug interdiction efforts.

## Transfers of Personnel and Resources

Another type of coordinative arrangement is manifested in the temporary transfer of personnel from one department or agency to an existing or new organization; such changes usually occur through setting up task forces and working groups and through detailing and redeploying staff to other agencies. These efforts are instituted under a wide range of authority: public laws, executive orders,

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<sup>82</sup>U.S. President Jimmy Carter, Executive Order 12127 of March 31, 1979, based on authority granted in Reorganization Plan No. 3 of 1978. 15 U.S.C. Note.

<sup>83</sup>U.S. Federal Emergency Management Administration, *Annual Performance Plan, Fiscal Year 2001* (Washington: FEMA, 2000), p. 16 and Appendix I: Index of Agencies and Crosscutting Programs.

<sup>84</sup>*Ibid.*, pp. I-2, I-3, and I-5.

<sup>85</sup>14 U.S.C. 3 (2000 ed.).

<sup>86</sup>10 U.S.C. 379 (2000 ed.).

administrative directives, interagency memoranda of understanding, or agency-head delegations. Such transfers are confined to specialized jurisdictions; are mostly ad hoc constructions, designed to meet a particular assignment or duty; and are usually short-term in duration, although several (i.e., the Attorney General's fugitive apprehension task forces, the Secret Service's electronic crime task forces, and the FBI's National Infrastructure Protection Center) have been granted long-term status by statute or other enabling authority.

**Joint Operational Task Forces and Working Groups.** Operational task forces and working groups are ad hoc constructs, with narrow jurisdictions and specialized duties; they bring together personnel from a number of agencies with shared responsibility in a policy area, into a new organizational arrangement. Task forces and working groups are designed to meet operational needs in executing policies or to provide support to other offices in carrying out their responsibilities; this involves transferring personnel from different agencies that have shared responsibilities and overlapping jurisdictions. For example, Organized Crime Drug Enforcement Task Forces were established to deal with multi-national or multi-state organized criminal enterprises involving high-level drug trafficking operations, including money laundering.<sup>87</sup> Their membership has included the U.S. Attorneys, the Justice Department Criminal and Tax Divisions, and eight other federal agencies (Federal Bureau of Investigation, Drug Enforcement Administration, U.S. Marshals Service, Immigration and Naturalization Service, Coast Guard, Customs Service, Internal Revenue Service, and Bureau of Alcohol, Tobacco, and Firearms).

By comparison, some coordinative task forces and working groups have achieved long-term, if not permanent, status and a relatively broad jurisdiction. As noted before, the Secret Service electronic crime task force operating in New York, for instance, covers a wide range of relevant criminal conduct; and the number of participants in the task force is large, approximately 250 members, representing many federal agencies (e.g., FBI, SEC, and Customs Service), state and local government entities, and private businesses and organizations.

Other illustrations, noted above, include interagency working groups created to assist the National Security Council Policy Coordination Committees; various anti-terrorism emergency support teams, along with strategic information and operations centers, such as the National Infrastructure Protection Center; the many working groups and task forces of which the Secret Service is a member; and the numerous interagency partnerships developed by the Federal Emergency Management Agency.

**Staff Details and Redeployments.** The transfer of personnel from one agency to another, either by staff details or redeployments, illustrates a set of still different coordinative arrangements. Transferring staff for a particular assignment is intended, in part, to improve effectiveness in carrying out a policy by enhancing interagency cooperation and operational capacity. Although usually limited in

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<sup>87</sup>U.S. President George H. W. Bush, *National Drug Control Strategy* (Washington: GPO, 1990), p. 96; and Office of National Drug Control Policy, Office of Programs, Budget, Research and Evaluation, *An Overview of Federal Drug Control Programs on the Southwest Border: Briefing Book* (Washington: ONDCP, 1997), p. 38.

duration, jurisdiction, and number of personnel, a detail is expected to add capabilities, resources, and expertise to an operation or project under the direction of another agency. The detail might also benefit interagency coordination beyond the immediate involvement in a project, as staff develop contacts with counterparts in other agencies and gain experience and familiarity with other organizations, their operations, activities, and cultures.

Several officials, notably the Director of Central Intelligence and the Director of ONDCP, hold permanent authority to detail staff among relevant agencies. In other cases, redeployments may occur in response to a crisis or emergency situation. In the aftermath of the September 11, 2001 terrorist attacks, for instance, personnel from offices of inspector general in various agencies and from the Interior Department were redeployed to the Transportation Department to assist with airline security matters.

Over the past two decades, moreover, amendments to the Posse Comitatus Act of 1878 (18 U.S.C. 1385), which restricts the use of the military in law enforcement operations, have allowed for military assistance at the request of federal law enforcement agencies. This participation includes the detection, monitoring, and communication of movement of air and sea traffic outside the United States; aerial reconnaissance; interception of vessels and aircraft outside U.S. borders; and transportation of civilian law enforcement personnel.<sup>88</sup>

## Transfers of Authority

A final set of examples of arrangements that involve interagency coordination are cross-designating agents and deputizing personnel to hold certain law enforcement powers.

**Cross-Designation.** Cross-designating agents involves the transfer of authority from one agency to personnel in another. Cross-designation allows agents of one unit to perform the duties and use the authority of another agency with overlapping jurisdiction or responsibilities. One illustration involves the U.S. Customs Service in the Treasury Department and the Immigration and Naturalization Service Border Patrol in the Justice Department, each of whose agents may be authorized to carry out the duties and use the powers of the other. This transfer of authority can result in inspections at ports of entry being conducted by a single agency, rather than both, or at least in allowing one to be the primary inspector and the other the secondary. It can also result in initial searches for contraband in-between such ports being conducted by the Border Patrol, instead of being shared with Customs, which could be called to the scene, if the situation warranted, for follow-up operations.

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<sup>88</sup>18 U.S.C. 372 for military services in general and 10 U.S.C. 379 (2000 ed.) for the Coast Guard, in particular, as noted above. For background information and analysis, see *The Posse Comitatus Act and Related Matters: The Use of the Military to Execute Civilian Law*, CRS Report 95-964, by Charles Doyle; and *U.S. Military Participation in Southwest Border Drug Control*, CRS Report 98-767, by Nina M. Serafino.

**Special Deputation.** A final interagency coordinative arrangement involves special deputation by the United States Marshals Service for personnel in other federal departments or agencies (and from state and local governments as well as the private sector).<sup>89</sup> This power has been used historically to expand the capacity and capabilities of U.S. Marshals. Deputizing personnel from other federal agencies (or elsewhere) allows a marshal to use these recruits to assist in the performance of his or her law enforcement duties, on an ad hoc, temporary basis and under the marshal's supervision.

A different reason for special deputation also exists: to grant police powers to other federal agencies which lack them, so that they can enforce laws under their jurisdiction independently, for a specific operation or for a specified duration. This design permits personnel outside the Justice Department (criminal investigators in offices of inspector general, for instance) to carry firearms, make arrests, and execute warrants.<sup>90</sup> With these powers, the recipients can conduct law enforcement operations on their own, rather than relying on other federal, state, or local officers to do so. While this kind of special deputation allows the receiving entity to operate in the field alone, the recipients must have the approval of the Marshals Service to acquire the police powers in the first place and again later on, if they want to renew the authority. As an outgrowth of this, the initial grant, along with its use and renewal, gives the Marshals Service opportunity to track the operations of the deputized personnel, coordinate them with its own projects, if they overlap, and assess the performance and results.

## Concluding Observations

Federal interagency coordinative mechanisms have become prevalent and prominent recently, as means of fostering cooperation and support among government agencies. They range from such well-established entities as the National Security Council to the Office of Homeland Security, and from such highly visible devices as the "drug czar" to nearly anonymous joint task forces and field working groups. Now numbering in the hundreds, the devices can be categorized among seven distinct types. These differ in terms of their location and membership, powers and responsibilities, enabling authority and permanency, and establishment and evolution. Their contemporary growth in quantity and importance has occurred for a variety of reasons. Among these are: the expansion of federal responsibilities, both foreign and domestic; additions in the number and types of government organizations

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<sup>89</sup>Justice Department regulations for special deputation are at 28 C.F.R. 0.19(a)(3) and 0.112.

<sup>90</sup>U.S. Senate Committee on Governmental Affairs, *Amending the Inspector General Act of 1978 to Establish Police Powers for Certain Inspector General Agents*, S. Rept. 106-470, 106<sup>th</sup> Cong., 2<sup>nd</sup> sess. (Washington: GPO, 2000), and *Amending the Inspector General Act of 1978 to Establish Police Powers for Certain Inspector General Agents Engaged in Official Duties*, S.Rept. 107-176, 107<sup>th</sup> Cong., 2<sup>nd</sup> sess., available at [<http://www.congress.gov/cgi-lis>]; and U.S. General Accounting Office, *Inspectors General: Comparison of Ways Law Enforcement Authority Is Granted*, GAO Report GAO-02-437 (Washington: GAO, 2002).

implementing policy; increases in the complexity and interrelated nature of public policies; and changes in policy priorities. These developments have resulted in a higher incidence of shared responsibilities, overlapping jurisdictions, cross-cutting programs, and fragmentation of policy implementation among agencies.

Interagency devices are viewed as a way of overcoming these obstacles to cooperation and coordination among entities and, thereby, improving the effectiveness and efficiency of policy implementation. This can be accomplished, moreover, in a relatively quick and straightforward fashion, by comparison to broad-scale reorganizations, such as mergers and transfers of separate agencies. Different coordinative “models,” moreover, can be adopted or adapted for different purposes and under different circumstances. Nonetheless, some coordinative devices have aroused concerns about their impact and implications. Certain devices have been viewed as setting up another bureaucratic layer and a potentially rival organization; as being too weak to meet their mandates; or, alternately, as being too strong, thus interfering with other responsibilities of agencies under the coordinator’s jurisdiction. Finally, in cases where executive orders and presidential directives govern the devices, their creation and control can circumvent the legislative process and present problems for congressional oversight.