

The Intercept

Federal Agents at Protests Renew Calls to Dismantle Homeland Security

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July 30 2020

IN HIS FORMAL PROPOSAL to create the Department of Homeland Security, in the aftermath of the 9/11 attacks, President George W. Bush wrote that “the changing nature of the threats facing America requires a new government structure to protect against invisible enemies that can strike with a wide variety of weapons.”

The Bush administration wanted a new agency to oversee everything from border security to emergency preparedness and response — “the most significant transformation of the U.S. government in over a half-century,” the document noted.

Eighteen years later, the Department of Homeland Security has ballooned into the third largest agency in the U.S. government, employing 240,000 people, including more than 60,000 law enforcement agents — nearly half the total number of federal law enforcement agents. DHS oversees two dozen subagencies and offices and has an annual budget of \$50 billion. Since its founding, in 2002, the department has run agencies as different in scope as the Transportation Security Administration and the Federal Emergency Management Agency, while also largely replicating, through dozens of regional law enforcement hubs known as fusion centers, the counterterrorism mission that premised its founding but remains the primary responsibility of other agencies.

And yet the invisible enemy Bush feared arrived nonetheless. Every two to three days, the coronavirus is killing the number of Americans who died on September 11. Since the beginning of the pandemic, the virus has killed 50 times as many.

Criticism of DHS has accompanied the department through its existence, most recently when former Homeland Security Secretary Kirstjen Nielsen became the face of the Trump administration’s brutal policy of separating children from their parents at the southern border. Calls to abolish U.S. Immigration and Customs Enforcement — one of DHS’s most visible and abusive agencies — have echoed from street protests to the halls of Congress and the 2020 presidential primary. Then earlier this month, as President Donald Trump deployed DHS troops, primarily from U.S. Customs and Border Protection, against protesters rallying against police violence in Portland, Oregon, he once again trained the spotlight on the troubled department. The unidentified agents abducting people in unmarked rental cars raised questions about what the Border Patrol was doing on the streets of an American city and awareness about the impunity with which it operates elsewhere. And their presence stoked calls to not only abolish ICE or CBP, but also to dismantle their parent agency altogether.

“This current moment is bringing this opportunity for widening the frame and having people understand just how large this force has grown, and who are the people working there, and who do they listen to,” said Marisa Franco, director and co-founder of Mijente, one of the groups that popularized the call to abolish ICE. “Has dumping, dropping, flushing all this money down the toilet into these agencies made us any safer? Has it done any real good? Would we rather spend that money somewhere else? I think that’s a really critical conversation to have.”

Franco noted that after 9/11, some might have been hesitant to target DHS because of how closely it was associated with the attacks on New York and Washington. But the last two decades, and particularly the last several months, have radically transformed how many Americans understand what security means and what their government should do to keep them safe.

“I just think the veneer is off,” said Franco. “I think people are pretty shocked at what’s happening, and they are really thinking about how to stop it.”

From 9/11 to Abolition

Trump has been threatening to “send the feds” into American cities, mostly ones run by Democrats, for as long as he has been in office. By the time DHS deployed its federal agents, the nationwide protests that started with the police killing of George Floyd in Minneapolis had mostly dwindled after raging for weeks. In Portland, before the agents’ presence set them off once again, they had shrunk in size to a few hundred protesters.

The deployment of federal law enforcement — particularly BORTAC, a tactical unit some have dubbed CBP’s “RoboCops” — came after weeks of growing calls to defund police departments across the country moved from protest chants to budget negotiation hearings. The deployment is widely understood to be political theater aimed at distracting from the administration’s disastrous response to the Covid-19 pandemic. But at a moment when criticism of law enforcement has reached an unprecedented number of people, Trump’s show of force is having the effect of elevating the local call to defund and abolish police to a sprawling federal law enforcement apparatus that remains largely nebulous to most Americans.

“There is more skepticism of law enforcement on every level of government than there has been in this country’s history, and it’s arguably a result of the overreach of law enforcement,” said Alex Nowrasteh, director of immigration studies at the Cato Institute, a libertarian think tank. “Their unaccountability, the violence of the policies they are carrying out, and the violence with which they are doing it is more known and understood by more people than ever before.”

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“The latest deployment of DHS, and especially CBP officers, going into American cities without the request of local political authorities is incredibly disturbing,” he added. “It’s like a novel written by a libertarian about the encroaching powers of federal law enforcement.”

CBP is not the only federal agency Trump has dispatched to fight his political battle: Last week, the Department of Justice launched what it called “Operation Legend” — a coordinated initiative “across all federal law enforcement agencies working in conjunction with state and local law enforcement officials to fight the sudden surge of violent crime,” according to the department’s

announcement. As The Intercept has reported, federal-local partnerships of this sort, flooding cities with FBI, U.S. Marshals Service, Drug Enforcement Administration, Bureau of Alcohol, Tobacco, Firearms and Explosives, and other federal agents, along with local police, are nothing new. On Tuesday, Attorney General William Barr was grilled by legislators about the Justice Department's response to the protests; testimony from DHS officials is scheduled for later this week.

While it is hardly the only agency facing criticism, DHS embodies much of the unaccountable culture of policing that a growing number of Americans have come to reject. And in the middle of a public health and economic crisis of historic proportions, DHS's massive, and costly, infrastructure has also become an emblem of government's misplaced priorities. The Cato Institute, which has called for the abolition of DHS for nearly a decade, argued in a 2011 policy paper that the agency had already failed. "DHS has too many subdivisions in too many disparate fields to operate effectively," David Rittgers, a former legal policy analyst at the institute, wrote at the time. "Americans are not safer because the head of DHS is simultaneously responsible for airport security and governmental efforts to counter potential flu epidemics."

Today, the greatest threat to American safety in decades has come not in the form of a terrorist attack, but as a pandemic and the resulting economic disaster that have only been exacerbated by years of investment in the country's sprawling security apparatus at the cost of everything else. "If this is not a clear failure of DHS, and this is not a clear failure of the billions of dollars that were poured in, then I don't know what else would be a clearer example," said Hamid Khan, an organizer with the Stop LAPD Spying Coalition, a group that has called for an end to mass surveillance across levels of government. "Billions of dollars, and for what?"

Calls to dismantle, or at least rein in, DHS have surfaced repeatedly over the years, for instance in the aftermath of Hurricane Katrina, as well as at the height of the Trump administration's family separation effort. Last year, following the exposure of a Facebook group for CBP agents filled with racist, violent, and misogynistic content, Rep. Alexandria Ocasio-Cortez advocated the disbandment of DHS altogether, calling the department's establishment "an egregious mistake." Now, the scenes in Portland, against the backdrop of the health, economic, and policing crises the nation is facing, have given those calls new momentum.

"If the Trump years have shown anything, it is that the agencies within D.H.S., and especially ICE and C.B.P., are in desperate need of root-and-branch reform or some other fundamental change," Jamelle Bouie wrote in the New York Times. "If and when we close the book on Trump, perhaps we should use the opportunity to close the book on Homeland Security too."

"I never thought that the Department of Homeland Security would be used against our own people," former Sen. Barbara Boxer wrote earlier this month, calling her own vote in favor of the agency's creation "myopic." "Congress can act to both condemn this gross tyranny and then restructure the department so that no president, now or ever again, can have a private police force and menace the people he or she swears to protect."

As the movement to defund police grew over recent months, a number of people have also called on legislators to withhold DHS funding until more robust checks can be imposed on an agency whose current oversight is the jurisdiction of more than 100 committees and subcommittees — a bureaucratic nightmare that's effectively allowed parts of the department to go rogue.

“Given this state of affairs, there is no excuse for Congress to rush through another multi-billion-dollar appropriation for the department,” analysts with the national security forum Just Security wrote this week ahead of a DHS appropriations vote. “Before any funds are made available, Congress should conduct some of the oversight that’s been missing to date.”

The Just Security analysts also called on legislators to demand that Trump nominate a DHS secretary. Chad F. Wolf, a lobbyist, is currently running the department in an acting capacity, unconfirmed by the Senate, as are Ken Cuccinelli, his deputy, and dozens of other Trump administration officials. And the analysts called on legislators to push for greater transparency on part of DHS, including the publication of operational guidelines and assurances that the department’s law enforcement activities are conducted “with appropriate care for constitutional rights and clear channels of accountability.”

“This trend toward lawlessness is on full display in Portland,” they wrote. “The leverage afforded by the appropriations cycle presents the best and perhaps only opportunity for Congress to confront a department run amok.”

Tackling the Monster

DHS was founded on the belief that a lack of interagency communication had caused the government to miss cues about the 9/11 attacks. The department brought together agencies that had previously operated under several different departments, creating an unwieldy mess of clashing cultures and duplicative efforts, and setting up a massive bureaucracy whose scope, and cost, ballooned over the years.

DHS’s size and sprawling nature are part of the reason why a broader grassroots movement targeting the agency has not yet emerged. “It’s a department that has so many layers, and so many tentacles to it,” said Khan. “So it’s a matter of how do we pick it apart and look both at the larger infrastructure and at the points of this monstrosity that can be exposed and picked upon one by one?”

Questions about the efficiency of the consolidation of profoundly different agencies under DHS were raised from the beginning, across party lines, but the department’s creation was hastily approved anyway. Despite early promises that spending would be contained, the agency’s cost more than doubled in the first decade of the department’s existence, in part thanks to the funding of dozens of state, local, and regional information and intelligence-sharing centers, known as fusion centers. The centers were established ostensibly to improve collaboration among law enforcement agencies but in practice replicated the work of the FBI and FBI-run Joint Terrorism Task Forces. DHS had little to show for its price tag: A 2012 Senate Homeland Security report found that the department’s fusion centers “often produced irrelevant, useless or inappropriate intelligence reporting to DHS, and many produced no intelligence reporting whatsoever.” In 2015, Sen. Tom Coburn issued a scathing report concluding that “despite spending nearly \$61 billion annually and \$544 billion since 2003, the Department of Homeland Security is not executing any of its five main missions.”

But DHS was not just a colossal waste of money: Its very existence, and the need to justify it, puts civil liberties at risk. Over the years, fusion centers that had been set up to counter terrorism dedicated much of their time and resources to sharing intelligence about crime, which was already the responsibility of local law enforcement. And increasingly, they started monitoring the

constitutionally protected activities of activists and government critics. “There are not enough terrorists to go around; the police and the FBI already identify and prosecute potential terrorists whenever possible,” the Cato report noted in 2011. “So fusion centers seem to be treating mere political dissent as a threat without any indication of violent intent in order to justify their continued existence.”

A product of the war on terror, in more recent years DHS came to be defined by the work and human rights violations of two of its largest agencies, CBP and ICE, whose treatment of migrants, as well as immigration activists, has been a precursor to the abuses now on display in Portland.

CBP in particular operates far beyond the border, as its authority extends 100 miles into the interior to an area that encompasses nine of the country’s 10 largest cities and nearly two-thirds of the U.S. population. In recent months, hundreds of CBP agents were dispatched to respond to protests against police violence in Washington, D.C., and a CBP drone monitored the George Floyd protests in Minneapolis. The move to police protests has been a disturbing development for an agency that for years has been accused of pushing the limits of its legal authority.

“This is an opportunity for the broader public to see and really ask themselves, if this is what DHS agents and this is what Border Patrol agents do to mostly white people in Portland, imagine what they are doing to women crossing alone in the middle of the night with children, to young people coming across the desert in the borderlands,” said Franco. “I think people asking themselves that question should really send a chill down their spine, imagining what might happen, and what is happening, and what has been happening.”

When immigration enforcement and border protection were moved away from the Department of the Treasury and the Department of Justice to the jurisdiction of the newly formed DHS, “there was an explicit reframing of immigration from being a labor issue to a national security issue,” noted Franco. “And what is happening now is that they’re trying to frame people exercising their freedom of speech and their right to protest and their right to organize as an issue of national security. And calling people who do those things terrorists.”

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While critics of DHS and its war on terror ethos have been warning of those dangers since the agency’s early days, their concerns came into sharper focus under the Trump administration. CBP and ICE in particular, whose rank and file were among the first to endorse Trump’s presidential bid, have often contributed to the impression that they are more loyal to the president than to their legal mandate. “The DHS houses Trumpism’s true believers,” sociologist Stuart Schrader wrote in the New Republic earlier this month.

“I think there’s a good reason why it’s Customs and Border Protection that’s in Portland and not another law enforcement agency,” said Brendan McQuade, a professor at the University of Southern Maine who studies the Homeland Security apparatus. “And that is because Customs and Border Protection is, in liberal terms, one of the least professionalized agencies, and to name it more plainly, it’s been captured by white supremacists.”

Migrants and their communities have known that for years, and as Americans connect the dots between what is happening in Portland and what has been happening along the border and in immigration detention centers nationwide, scrutiny of DHS is bound to grow.

What is coming into focus is a more general rejection of the notion of “security” that the U.S. has long peddled, said McQuade.

“The unique circumstances of Covid, the Trump administration’s very poor handling of it, and the insecurity and uncertainty that has created have created textbook circumstances for political rupture and realignment,” he added. “Now is the time to push everything on the table and fight for the biggest demands.”