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Homeland Security Experts Weigh in: Obama's Worst Move in 2009? Think Tank Analysts

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In part one of CQ Homeland Security's series kicking off 2010, we asked experts to define the Obama administration's best homeland security move in 2009. Today, we're taking the opposite tack, asking them to name the administration's biggest misstep.

The answers varied, but a few themes emerged, including the administration's handling of the Guantanamo Bay detainees, the attempted Christmas Day bombing of Northwest Airlines Flight 253 and the creation of the White House cybersecurity coordinator's position. Many respondents had trouble picking just one.

On Thursday, we look ahead to the administration's biggest challenge in the new year.

Former DHS officials

- **Stewart A. Baker**, former assistant secretary for policy at the Department of Homeland Security, currently a partner at the law firm Steptoe and Johnson LLP: "Late in December, DHS extended the Real ID deadline for states to provide strong driver's license security but did not obtain any interim security measures from the states. While DHS had supported a bill modifying Real ID, the extension takes the heat off the states to do anything -- including accepting the modified version of Real ID. This was the only 9/11 commission recommendation aimed at the states, and they have stiffed all of us. The extension rewards their stonewalling behavior."

- **Tom Blank**, former acting deputy administrator of the Transportation Security Administration, currently vice chairman at the lobbying firm Wexler & Walker Public Policy Associates: "The worst thing the Obama administration did this year was failing to chart a clear path forward on U.S. Visit Exit. This is an achievable goal that has been prolonged year after year. This is an important gap in our border security to close and it must become a priority to solve."

- **Asa Hutchinson**, former under secretary of homeland security and a founding partner of the business-consulting firm the Hutchinson Group: "The worst move has been in the failure to move quickly on key security positions and agency heads. I was confirmed and at work in August of 2001 as head of the [Drug Enforcement Administration] during the first Bush administration. This is December and many agencies, including TSA and DEA, do not have its leadership team in place. This administration has moved slowly and the result is that critical security agencies are without leadership or have been dangerously delayed in having its new leadership."

- **Julie Myers Wood**, former assistant secretary for Immigration and Customs

Enforcement and a founder of the consulting firm Immigration and Customs Solutions, LLC: "The administration may not have fully come to terms with what will happen to Guantanamo Bay detainees brought to the United States, particularly if criminal cases brought against them do not succeed. Deporting individuals who pose national security risks has proven to be extremely complicated, and far too often these individuals end up being released in the United States."

- **Greg Garcia**, former DHS assistant secretary for cybersecurity and communications and a founder of the consulting firm Garcia Strategies, LLC: "Taking seven months for the no-brainer appointment of Howard Schmidt as the cyber coordinator."

Lawmakers, Staff and Former Staff

- **Rep. Peter T. King**, R-N.Y., ranking member of the House Homeland Security Committee: "President Obama's worst decision . . . was set into motion on his second day in office, when he ordered the closure of the detention facility at Guantanamo. That was a terrible decision. But by far, the worst decision he's made since is to try Khalid Sheik Mohammed, the admitted mastermind of the 9/11 attacks, and four of his fellow conspirators in New York City in civilian federal court. In fact, I believe this decision will go down in history as one of the worst made by any U.S. president. The decision to transfer these terrorists from Guantanamo to lower Manhattan creates a huge, unnecessary security risk to the people of New York. These five terrorists should be brought to trial in the military-commission system, not in civilian federal court where defense attorneys will seek to exploit the constitutional rights afforded criminal defendants."

- **Leslie Phillips**, spokeswoman for Senate Homeland Security and Governmental Affairs Committee Joseph I. Lieberman, I-Conn.: "Proposing a budget that reduces resources for DHS in out years [those beyond the current fiscal year] at a time when the terrorist threat is growing."

- **Rep. Harold Rogers**, R-Ky., ranking member of the House Appropriations Subcommittee on Homeland Security: "Allowing detainees housed at Guantanamo Bay to be tried in civilian court within the United States. Let's be absolutely clear about what [Khalid Sheik Mohammed] and his cronies were after on 9/11: not only the deaths of a few thousand Americans, but rather destruction of the United States. Al Qaeda wants to destroy America -- that is not a criminal act. That's an act of warfare. Therefore, I think it is a huge mistake to allow enemy combatants, apprehended on the field of battle, to be granted the rights and privileges of a U.S. civilian criminal court. Terrorists will only exploit our legal system, and they should be brought to justice through the more appropriate military-tribunal process. I should add the administration's defensive and initially dismissive way of responding to the Christmas Day terrorist attack aboard Northwest Airlines Flight 253 is a close second in terms of homeland security failures this year."

- **John Sopko**, a former terrorism expert on the House Energy and Commerce Investigations Subcommittee and chief oversight counsel for both the House Energy and Commerce and Homeland Security committees, currently a partner in the law firm Akin Gump Strauss Hauer & Feld, LLP: "Although the administration moved quickly with the nomination of the very capable Secretary Napolitano and her senior management team, it appears to have fallen into the same trap of its predecessor in not continuing that momentum in making other critical appointments. It has been slow in filling not only such important positions as the director of TSA but also many other critical mid-level political appointments essential to implement Obama's vision of DHS on a day-to-day basis. As a result of numerous vacancies, critical decisions are being delayed and serious issues ignored by career employees who are either not empowered or unwilling to address them."

- **Frank Cilluffo**, director of the Homeland Security Policy Institute at The

George Washington University: "In Secretary Napolitano's inaugural testimony before Congress, the words 'terror,' 'terrorist,' or 'terrorism' were not part of her remarks. This despite the fact that the first three items in the department's mission -- as specified in the Homeland Security Act of 2002 -- deal directly with this subject. Though the department's mission extends beyond counterterrorism, we cannot forget that it was a terrorist attack that precipitated its creation.

"Secondly, the administration's caving in to political pressure regarding the nomination of Phil Mudd as undersecretary of Intelligence and Analysis at DHS was very unfortunate and will have negative repercussions moving forward. Phil was the best person for the job, drawing on his experience at both CIA and FBI. Not only did we as a country lose a key public servant in homeland security, but the episode established a litmus test implying that anyone involved in the formulation or execution of counterterrorism policy post-9/11 is not suitable for confirmable positions, or at the very least faces an extremely difficult road to confirmation. This is especially troublesome given the threats we face from terrorism and radicalization both domestically and overseas."

- **Jena Baker McNeill**, homeland security policy analyst at the conservative-leaning Heritage Foundation: "Besides the administration's efforts to gut and/or cripple several immigration-enforcement programs, the administration's effort to roll back Real ID would be the worst. If this effort had been successful in 2009, it would have been a significant step backward in terms of security and a rejection of a key 9/11 [commission] recommendation. Ensuring that those who possess a driver's license 'are who they say they are' is one of the most important steps the U.S. can take in stopping terrorists from using falsified driver's licenses to harm Americans."

- **James Jay Carafano**, senior research fellow and director of the institutes of International Studies and Foreign Policy at the Heritage Foundation: "Pretending to overturn Bush programs with measures that are merely symbolic or politically motivated."

- **James Lewis**, director and senior fellow of the technology and public policy program at the Center for Strategic and International Studies: "Not closing out some of the no-brainer fixes, like getting rid of the color-code alert system. Deferring to a panel was a bad idea. [Additionally,] there's still a need for clarity over DHS's mission -- it is not a counterterrorism or intelligence agency -- and the focus should be on border control (land, air sea) and critical-infrastructure protection."

- **Ben Friedman**, research fellow in defense and homeland security studies at the libertarian **Cato Institute**: "Increasing homeland security spending. We now spend \$55 billion a year on the Department of Homeland Security and significantly more if you count homeland security spending across the government. We spend more on homeland security than almost any other nation spends on its military. Most of the spending goes toward functions that have little to do with counterterrorism except in their justification. There is not much evidence that DHS spending, as opposed to intelligence gathering and police investigations, does much to keep us safe from terrorism. DHS's budget should be dramatically reduced."

Security Consultants and Lobbyists

- **Christopher Battle**, a partner at the Adfero Group: "Worst: giving no power to the cyber czar to effect policy. Second worst: the decision to neuter the 287(g) program [which authorizes local police to enforce federal immigration laws]. It is unlikely that the administration is serious about tackling internal immigration enforcement without partnering with local law enforcement. The five [thousand] or six thousand agents at ICE, which also have a remarkably broad jurisdiction of other criminal investigations, cannot possibly locate and deport the ten-plus

million illegal immigrations currently living in the United States."

- **Jessica Herrera-Flanigan**, a partner at Monument Policy Group: "Taking nearly a year to name a White House cybersecurity coordinator (though it gets some kudos for naming a strong DHS cyber team). Also, after the Dec. 25 failed attack, letting 'terrorism' become a political media football going into 2010. The White House gatecrashers and the failed Christmas airplane attack overshadowed significant progress at DHS and the administration on the homeland front."

- **Randy Beardsworth**, a principal at Catalyst Partners: "Taking their eye off the existential threats of nuclear and biological attacks. It's not that the administration has not addressed the issues -- it's that they haven't done enough given the nature of the threat and the consequences of such an attack. Yes, the White House National Security Staff now has a WMD Terrorism Directorate, and yes, there is acknowledgment of the biological threat. But there isn't the sense of urgency to shore up our defenses against the low probability, extremely high consequence event of a nuclear detonation. Without national-level strategic guidance, our move toward implementing a global nuclear detection architecture has been adrift this year. Similarly, the national strategic guidance on biological attack has not been sufficiently reinforced (and beefed up) by the current administration."

- **Rich Cooper**, principal at Catalyst Partners: "There are some humdinger choices here: not having TSA be more proactive in communicating about revised screening procedures following Flight 253 stands out right now. The administration bungled the communications on this incident, big time. Letting the atrociously written [DHS Office of Intelligence and Analysis] report go forward that accused returning military veterans of being susceptible to violent extremism. Failing to stand up and defend ICE and law enforcement personnel when Speaker [Nancy] Pelosi [D-Calif.,] questioned their 'value system' and called them, 'un-American,' which she did last March. Having the president announce how personally important the cybersecurity position was to him and then not giving it the budgetary powers or authorities to do the job, let alone find someone to fill it for more than six months. Refusing to confront the politics that have kept people like Erroll Southers and others from being able to lead TSA and other homeland components. Or continuing to spend billions of dollars on infrastructure projects with no comprehensive strategic plan or demand that 'resilience' be incorporated into those investments. For me, the winner is a toss-up between blowing the cyber position and the continued spending of billions on infrastructure without any semblance of a strategy."

- **Mark C. Merritt**, a former FEMA official and founding partner at James Lee Witt Associates: "Failing to follow up on [Obama's] campaign promise of pulling FEMA out of DHS and re-establishing the FEMA administrator/director as cabinet level."

- **David Olive**, a principal at Catalyst Partners: "This is a tie. First is the decision to cancel the [FEMA National Level Exercise 2009] after pressure from hypocritical Nevada-based legislators and casinos who apparently have no problems forcing DHS to include Las Vegas in the [Urban Area Security Initiative] grant program but don't want a DHS exercise based upon a nuclear detonation in Las Vegas. Equally bad was the inaction, or outright ineptitude, of the White House Personnel Office in failing to understand the necessity of getting DHS officials nominated and through the confirmation process, where required. It should be an embarrassment that DHS is still without confirmed officials at CBP, TSA and [Intelligence and Analysis] -- and the nominee for [undersecretary] for management [Rafael Borrás] may not be able to get past Senate holds on his selection."

Trade Association and Private Sector Officials

- **Larry Allen**, president of the Coalition for Government Procurement, the trade

association of federal procurement and service contractors: "The worst decision was to make the cyber security czar a staff-level position with no real authority to set policy. At best, any new czar will serve mainly as a ringmaster in an attempt to coordinate cross-agency initiatives in the cyber field. The diminution of this position has already resulted in many top-tier people turning away from it. It will be all that much more difficult now to drive governmentwide cybersecurity."

- **Scott Greiper**, founder of The Secure Strategy Group, an advisory firm focusing on business development in the fields of security and defense: "One, under-funding the Office for Bombing Prevention and not stressing domestic counter-IED [improvised explosive device] programs. Plenty of speeches, but nothing to back up the rhetoric on one of the most serious threats our country faces.

"Two, Failing on air cargo security. The [9/11 commission legislation] passed in August, 2007 (PL 110-53) requires that 100 percent of air cargo placed on passenger-carrying aircraft be inspected by August 2010. I don't believe that this mandate will come close to compliance by that date and in all likelihood will have to be delayed. The air-freight forwarding industry is pushing back hard against the bill as the burden of deploying and supporting screening systems will currently fall on their back. The systems proposed by the TSA are too expensive and don't provide enough throughput to enable the freight forwarders to maintain their business while achieving compliance. While X-ray detection technology has been qualified by the Transportation Security Laboratory, other technologies such as portable detection systems and explosive trace detection systems have yet to be qualified and can provide complementary technologies to aid throughput requirements.

- **Colleen M. Kelley**, national president of the National Treasury Employees Union: "One disappointment during the year was the slow and inadequate response of DHS to the need for frontline homeland security employees to have the right to don personal protective equipment in the event of a public health crisis. This right finally was extended, after NTEU's strenuous involvement, but it should have been an easy agency call from the beginning.

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