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Department Of Homeland Security Has Always Been Controversial. Trump Has Made It Toxic.

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For weeks, federal law enforcement personnel have violently clashed with demonstrators in Portland, Oregon. On Wednesday, news came that the Trump administration has decided to significantly expand the federal presence there: The Washington Post reported that at least 150 federal agents are expected to flood the city in the coming days.

People in Portland have led anti-racism protests for 60 straight nights in response to the police killing of George Floyd in Minneapolis on May 25. The federal officers in Portland, usually dressed in military fatigues and often in uniforms that obscure officers' names or the agencies they work for, have ostensibly been sent to protect the federal courthouse at the center of the protests. But instead, they have been caught on video yanking protesters into unmarked vans, tear-gassing demonstrators and violently cracking down on otherwise peaceful gatherings.

The president's intent is clear: As nationwide protests and the coronavirus pandemic sink his approval ratings to record lows, he views the authoritarian crackdown in Portland as a way to bolster his image as the nation's only bulwark against "violent anarchy," the phrase Acting Homeland Security Secretary Chad Wolf has used to justify his officers' actions. White House press secretary Kayleigh McEnany showed footage from the city during a briefing last week; Trump's campaign has used it to lash out at what might occur in "Joe Biden's America" (with no acknowledgment that it is happening on Trump's watch).

But the stunning use of federal law enforcement to quash domestic unrest, particularly for obvious political purposes, has had another effect: It has generated strong rebukes from congressional leaders and renewed debate about whether Congress and the next president — if it is presumptive Democratic nominee Biden — should radically reform the controversial department that's now carrying out Trump's violent, autocratic fantasies.

“What we’ve been seeing over the last few weeks is exactly why I voted against the Department of Homeland Security’s creation in the first place,” Rep. Jim McGovern (D-Mass.) said Monday. “Many members of Congress thought it would be an unwieldy and unaccountable bureaucracy — and it turns out we were right. I’m hopeful a new administration will take office in the coming months that will drastically overhaul the department to help ensure we have a government that works for, and is on the side of, the American people.”

a group of people that are standing in the dark: Federal law enforcement officers confront anti-racist protesters during demonstrations in Portland, Oregon.© Spencer Platt via Getty Images
Federal law enforcement officers confront anti-racist protesters during demonstrations in Portland, Oregon.

On Saturday, former Sen. Barbara Boxer (D-Calif.) called her vote in favor of establishing the Department of Homeland Security “a mistake” in a Washington Post column that called on congressional leaders to overhaul the two-decade-old agency.

“I can’t get my vote back, but 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,” Boxer wrote.

The rebuke from Boxer followed suggestions from former Obama administration officials that Biden should take a reformist approach to the department should he win the presidency in November.

Ben Rhodes, who served as deputy national security adviser in the Obama administration, tweeted last week that Biden “should give serious thought to breaking up DHS.”

“Of all the thorny problems a President Biden would face, what to do with DHS will be high on the list,” Matthew Miller, a former Department of Justice spokesman under President Barack Obama, tweeted.

Biden last week slammed Trump for “egregious tactics” in Portland in a statement to BuzzFeed, adding that “Homeland Security agents — without a clearly defined mandate or authority — are ranging far from federal property, stripped of badges and insignia and identifying markings, to detain people. They are brutally attacking peaceful protesters, including a U.S. Navy veteran.”

A hodgepodge of agencies smashed together in the wake of the Sept. 11, 2001, terrorist attacks, the Department of Homeland Security has faced opposition from across the political spectrum since its inception in 2002.

Critics worried that it would become an unnecessary and ineffective bureaucracy that would duplicate and complicate the federal government's existing efforts to protect national security. Worse, they feared that it would do more to threaten American freedoms than it would to protect them.

Things have played out even worse than what we feared. What we're seeing now is a worst-case scenario. Julian Sanchez, senior fellow, Cato Institute

The post-9/11 period was marked by "failure to stand up to fear," said former Sen. Russ Feingold (D-Wis.), one of just nine senators who voted against the creation of DHS, told HuffPost on Monday. "And now it's being exploited by an administration that sees itself as under siege and wants to change the subject from what's going on with COVID-19."

"We're not supposed to have a domestic military, and that's essentially what's happening," Feingold said. "All I can say is it's being abused in this instance, and there have been other instances, and I would hope that the people of both parties would realize that it needs to be reformed."

What's happening on the streets of Portland is "maybe even worse than what we were imagining," said Julian Sanchez, a senior fellow at the Cato Institute, a libertarian think tank that has long opposed the existence of the Department of Homeland Security and called for its abolition in 2011.

"If we had painted this scenario, people might have reasonably called us paranoid," Sanchez said. "Things have played out even worse than what we feared. What we're seeing now is a worst-case scenario."

From the early days of the Trump administration, his strongarm tactics on immigration have generated activist calls to abolish or overhaul agencies like Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection — both of which are housed inside DHS. Protesters have recently staged demonstrations outside Wolf's home in Virginia and have pledged to keep taking to the streets in other cities until the department is gone.

Trump's naked politicization of federal law enforcement in response to the anti-racist protests has already drawn rebukes and concerns from top members of Congress and former federal officials, although most have stopped short of calling for an outright overhaul of the department: House Speaker Nancy Pelosi (D-Calif.) accused Trump of sending "stormtroopers" to Portland. Oregon's Democratic senators blasted Trump for turning their home into an "authoritarian police state" and sponsored an amendment to the National Defense Authorization Act that would limit Trump's ability to send federal agents to states without the consent of local elected officials. They also demanded an investigation into the administration's actions, and inspectors general from Homeland Security and Justice Departments launched a joint probe last week.

The criticism didn't come just from Democrats: Tom Ridge, who served as the first Homeland Security secretary under President George W. Bush, decried Trump's wielding of his own "personal militia" in a "reality TV approach" to the demonstrations. And Michael Chertoff, who helped write the post-9/11 USA Patriot Act and later served as DHS secretary under Bush and later Obama, said Trump's "very unsettling" actions undermined "the credibility of the department's principal mission."

a group of people in uniform: Federal law enforcement agents under the authority of the Department of Homeland Security have been arresting protesters, sometimes violently, in Portland, Oregon. © Spencer Platt via Getty Images Federal law enforcement agents under the authority of the Department of Homeland Security have been arresting protesters, sometimes violently, in Portland, Oregon.

On Friday, the House Homeland Security Committee will hold a hearing over the department's actions in Portland. Wolf, the acting secretary, has not yet said if he plans to attend, and for now, Democrats are focused on obtaining documents and gleaning more information about the legality of the use of federal forces in American cities rather than on potential reforms to the department.

Pelosi and other congressional Democrats who voted against the original creation of DHS in 2002 did not respond to requests for comment about Democratic plans to re-examine the role or structure of the department.

Even before Trump took office, DHS was rife with problems that had made it clear that it probably should have never been created. Lawmakers and government oversight agencies have produced reports showing that its security and intelligence programs are often duplicative and far less efficient than existing efforts in more established agencies, such as the FBI. Some of its most high-profile divisions, including the Transportation Security Administration, have repeatedly failed national security trials, raising questions about its effectiveness in bolstering security or counterterrorism efforts.

Its intelligence efforts have generated serious concerns about privacy for American citizens, and its scope and structure have rendered congressional oversight of the department almost impossible, creating a situation in which “the department does what it wants to do,” Chertoff said in 2013. Its role in immigration enforcement during the Trump years has led to calls for abolition from Rep. Alexandria Ocasio-Cortez (D-N.Y.) and Sen. Bernie Sanders (I-Vt.).

DHS is also intimately linked to the policing issues at the heart of the racial justice protests that erupted in late May and have swept the nation over the last two months: Since 2003, two DHS programs have funneled more than \$24 billion in funding to local police departments — an effort meant to help them combat the spread of terrorism that led to the hyper-militarization of police forces nationwide. The DHS programs, Bloomberg reported, have been subject to relatively little oversight from Congress, especially compared with existing programs inside the Department of Defense.

But in the hands of a president with an explicit authoritarian streak, DHS has been a convenient — and pliant — tool. While Trump has at times met resistance from at least some officials inside other agencies, including the FBI, the Department of Justice and, more recently, the U.S. military and National Guard, there has been little pushback from within DHS, even as he has wielded it as a secret police force.

“It has not developed a similar culture, and because of that, it’s more susceptible to a corrupt administration coming in and completely steering the organization off track,” Miller, the former Justice Department official, said.

Sanchez is skeptical there is enough momentum in Congress or the public to actually abolish the department and move its necessary agencies elsewhere, although he didn't dismiss the possibility entirely, especially given the broader political shifts that have occurred amid the protests. Doing so, Miller suggested, wouldn't immediately fix every problem, especially inside ICE, CBP and the nation's immigration enforcement system.

Taking apart a department as unwieldy as DHS “will be at least as messy as putting it together was,” Miller said.

With Trump out of office, a prospective President Biden and a Democratic Congress would have an opportunity to reform or dismantle DHS, though paradoxically it might then seem less urgent. But longtime critics of the agency say the problem isn't simply confined to Trump.

“There are aspects of this that are genuinely problems of the president, but he did not create them,” Sanchez said. “These are problems and risks that we and others were pointing out with DHS when Donald Trump was just another reality TV star.”