External Shocks and Domestic Institutional Development:
U.S. Homeland Defense Policies in Comparative-Historical Perspective

Draft: Comments Welcome

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Introduction

The attacks of September 11, 2001 are widely viewed as having ushered in a new era in American national security policy. Since the attacks on New York and Washington, D.C., the Bush administration has commenced a global war on terror, gone to war in Afghanistan and Iraq, put forward a new National Security Strategy which emphasizes pre-emption over deterrence, pushed through a major organizational restructuring of the federal government by creating the new Department of Homeland Security (DHS), and introduced new domestic security legislation in the form of the Patriot Act. Clearly, the past few years have seen major changes in how the United States conceives of its security environment and in its policy responses to that environment.

What is less clear, however, is the degree to which these changes represent a wholly novel approach to U.S. national security and defense. The widely held assumption that 9/11 represents an historical break with the past needs to be more closely interrogated. Which elements of the post-9/11 response are new, and which elements can be viewed as having their roots in earlier periods of American political development? To what extent do U.S. responses to 9/11 represent an historical break with the past, and to what extent can one detect elements of historical continuity in the U.S. response to 9/11?

This paper grapples with these questions by examining one particular element of the American response to the 9/11 attacks: the major re-organization of the federal government that occurred with the establishment of the Department of Homeland Security (DHS). The paper places the DHS in a comparative-historical context, and asks to what extent the institutional structures and policies that define the DHS are new, and to what extent they demonstrate a degree of continuity with earlier homeland and civic defense policies. We
argue that, while the events of 9/11 certainly created a shift in policymakers’ perceptions and led to the emergence of new domestic institutional structures, the shape of both the institutional structures and the specific policy responses have been highly determined by pre-existing institutional configurations and policies which arose in the U.S. during the beginning of the Cold War period in the late 1940s and early 1950s.

In order to account for this mix of novelty and historical continuity that is embodied in the DHS, we propose a modified punctuated equilibrium model of institutional change as a means of understanding the emergence and development of U.S. homeland security policies in the post-9/11 period. We argue that, while the events of 9/11 created a crisis that required a novel institutional response from the U.S. security bureaucracy, the specific form that this response has taken can only be understood by examining the institutional legacies that the U.S. had in place from earlier periods in its history – most specifically, the institutional developments that occurred in the U.S. during the early post-World War II period in response to the onset of the Cold War. A comparison between contemporary homeland security policies and homeland defense policies during the early Cold War period reveals a number of elements of continuity. While 9/11 led to a major change in the organizational structure for managing internal security matters, the shape which this institutional restructuring has taken relies heavily on earlier models for civilian defense that emerged during the early Cold War period.

Understanding the emergence and institutional logic of the U.S. policy response to 9/11 is an important enterprise for both theorists and policymakers. For policymakers and policy analysts, understanding the development of the domestic institutional response to 9/11 is a precondition for evaluating the effectiveness and appropriateness of policies as a response to the post-9/11 global security environment. It is useful to try to understand to what extent post-9/11 policies have emerged as a rational response to a new security environment,
and to what extent they have evolved in a path-dependent manner from policies and institutional legacies of an earlier era.

For political scientists, an analysis of the U.S. response to 9/11 provides an interesting case study that can be used to shed light on larger questions surrounding the dynamics of domestic institutional development and change. The case study of the emergence and evolution of domestic security institutions is a particularly interesting one, because it pushes the boundaries of traditional sub-disciplinary divides in political science. While there is a substantial historical institutionalist literature that addresses issues of institutional stasis and change in comparative politics and American political development, this literature has by and large focused on the domestic and internal determinants of institutional development and change. Despite acknowledgement that international-systemic level factors can sometimes matter for understanding the developmental trajectories of domestic institutions, there have been to date rather few attempts to examine the nexus between international-systemic level factors and domestic institutional development.¹

International relations (IR) and security scholars have also paid very little attention to analyzing matters of internal security and homeland defense. As Gourevitch and others have noted, domestic institutions tend to be treated as independent variables in IR, and are rarely treated as dependent variables.² Yet, for IR scholars – particularly for those interested in state security institutions and security policies – there is utility in focusing on domestic institutional change as a dependent variable. A full understanding of state behaviors that emerge in response to their security environments cannot be gleaned without including the

¹ See the discussion in one of the few works to have emerged that explicitly examines the role of external factors in the development of American political institutions, Ira Katznelson and Martin Shaffer, eds., Shaped by War and Trade: International Influences on American Political Development (Princeton, N.J.: Princeton University Press, 2002).

domestic dimension of state policies, including the emergence of internal security bureaucracies in response to perceived international threats.

The rest of our paper addresses these issues and themes in the following manner. First, we situate the question of internal and homeland security institutions in the broader literature, pointing out that it occupies an intellectual space that requires one to draw together literatures in public policy and American political development with literatures in IR and security studies. Second, we propose a modified punctuated equilibrium framework to explain the emergence of homeland security policies by bringing together international systemic-level factors and domestic institutional development to explain the tensions between continuity and discontinuity in the area of homeland defense policy. In the empirical section of our paper, we compare the institutional development of civil defense policies in the early Cold War period, with the policy responses to 9/11 that have been articulated through the emergence of the Department of Homeland Security. We discuss areas of continuity and discontinuity in the two periods, before concluding with a brief discussion of some of the theoretical and policy implications of our work.

Understanding the Development of Internal Security Institutions

The emergence and development of internal security institutions has received relatively little attention in the political science literature, as compared with the study of other categories of domestic institutions and bureaucracies. This in itself is remarkable, given the prevalence and variety of internal security institutions across states, ranging from the extensive internal security apparatuses of police states, to the internal security bureaucracies and institutions of liberal democracies. As the focus of our paper is on the historical development of U.S.

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3 Examples of internal security institutions in police states include, for example, the KGB in the Soviet Union or the SS or Schutzstaffel, Sicherheitsdienst and Gestapo in Nazi Germany. Examples in other liberal
internal security institutions, we do not attempt to classify and categorize types of internal security institutions across different states. However, the exercise would be instructive in establishing a typology of internal security institutions; one interesting point to note is that the nature of internal security apparatuses does not necessarily correspond easily with standard “strong state” and “weak state” dichotomies that appear in the literature. States such as Egypt or Uzbekistan have “a very effective internal security apparatus and yet cannot execute simple tasks like processing visa applications or licensing small businesses efficiently.” Despite the extensive Cold War internal security apparatus in the United States, it did not compare with the police states that characterized the Soviet Union and Eastern bloc countries – a difference that has not been examined systematically in classic works that have argued that the U.S. and the Soviet Union shared similarities as strong states.

The paucity of research on internal security apparatuses can be attributed in part to the fact that questions of internal security tend to fall between the sub-disciplinary boundaries that define the field of political science – they occupy an analytical space that does not rest squarely either within international relations (IR) and security studies, on the one hand, or comparative politics and public policy on the other hand, but rather operates at the nexus of both. Much of international relations and security studies has neglected the study of domestic

democracies include the German Verfassungsschutzamt (Office for the Protection of the Constitution) or the MI5 in the United Kingdom.


5 See, for example, Samuel P. Huntington, Political Order in Changing Societies (New Haven: Yale University Press, 1968).
institutions altogether. Particularly in security studies, the neorealist research agenda has adopted a view of the state as a “black box,” in which international systemic level factors, such as anarchy and the balance of power, prevail in determining state security interests and behavior.\textsuperscript{6} The anarchic international system, it is argued, requires that states be concerned with threats coming from other states, thus necessitating all states to adopt similar policies based on their interests and capabilities, which are determined by their position in the international system.

When IR has examined domestic institutions, it has done so by treating them as independent variables. Literatures that focus on regime type, such as the democratic peace literature, the literatures on foreign policy formation and bureaucratic politics, or the literatures on international trade all rely heavily on analyzing domestic configurations and domestic political institutions.\textsuperscript{7} In security studies, the model of security is that of a hostile external security environment, to which a state must respond through foreign policy formulation. Thus, the study of domestic institutions can be of use in understanding the foreign policy decision making process in that domestic institutions form part of the apparatus that aggregates decision-making at the level of the state, allowing the state to then act as a unitary actor at the level of the international system.\textsuperscript{8}


Yet, this standard view of ‘security’ as being primarily concerned with external threats emanating from other states is at odds with much of empirical reality. A number of IR scholars have noted that neorealist assumptions regarding the strong international-domestic divide that defines the nature of state security interests is not applicable across all states. Scholars such as Stephen David and Mohammed Ayoob have pointed out that many regimes in the developing world have been more concerned with security threats emanating from within the state than from external actors. David’s work on “omnibalancing” against internal security threats, and Ayoob’s subaltern realist framework, both in various ways attempt to address the question of regime security and the state management of internal security threats. Yet, these authors retain a clear distinction between the security dynamics that define state interests and policy in the third world and those that states respond to in the developed world.

Although there are very important differences between states that are differently situated in the international system, concerns about internal security are not limited to states in the developing world. In the United States, policy planners’ concerns over maintaining internal security and preventing internal sabotage date back to the founding of the U.S. and consolidation as a state. The notion of the subversive in American political development is arguably, as the Alien and Sedition Acts of 1798 demonstrate, as old as the Republic. The U.S. has a long history of legislative and bureaucratic responses to what have been considered to be “internal” security threats. These run from the Alien and Sedition Acts of the late 18th century, to the early 20th century responses to the anarchist movement in the

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U.S., to reactions to the perceived socialist threat that emerged in the wake of the Russian revolution of 1917, which led to the infamous Palmer Raids between 1918 and 1921.

This tradition continued into the early Cold War period which resulted in the a number of internal security investigations culminating in the McCarthy hearings. Between 1956 and 1971 the Federal Bureau of Investigation (FBI) used domestic counterintelligence programs (COINTELPROS) that included surveillance and infiltration of groups to monitor or break up the Communist Party, U.S.A, as well as a number of other groups, such as the American Indian Movement and the Black Panther Party. Similar tactics were used in the 1980s to monitor groups such as the Committee in Solidarity with the People of El Salvador.

The United States, however, is not an anomaly amongst western industrialized states. Germany’s Office for the Protection of the Constitution (Bundesamt fuer Verfassungsschutz) monitors groups that are viewed as threatening the German constitution, including neo-nazi, leftist, foreign, Islamist, and other groups (such as, for example, Scientologists). Similarly, the Security Service of the United Kingdom (MI5), was founded in 1909 and has evolved over time from focusing on monitoring activities of communist and fascist organizations in the 1930s, to communist activities in the Cold War period, to a focus on terrorism activities related to the situation in Northern Ireland in the 1970s and 1980s, through to its current focus on international terrorism and militant Islamist groups.

Internal security institutions, however, despite their name, do not fit neatly into the domestic-international dichotomy that divides the discipline of political science into

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11 For a comprehensive discussion, see the Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities. United States Senate, 94th Congress, 2nd Session, April 26 (legislative day, April 14), 1976, which is also known as the “Church Committee Report.” Full text available on www.cointel.org.

12 Material related to the monitoring of these groups can be found at the Bundesamt fuer Verfassungsschutz’s website at www.verfassungsschutz.de.

international relations and comparative politics. While some of the monitoring activities of
the FBI have focused purely on domestic groups, the majority of “internal security threats”
that the internal security apparatuses of western industrialized states have responded to have
ultimately been transnational in nature – or have at least straddled the boundaries between
international and domestic threats. Domestic groups that are connected with broader
revolutionary transnational ideological movements are viewed as threatening precisely
because, from the state’s perspective, their loyalties are in question. They are feared to
represent a “fifth column” within the domestic arena in the broader context of a global
ideological struggle.\textsuperscript{14} Thus, the missions of internal security institutions in western
industrialized states are highly determined by the broader global security environment,
despite the fact that their bureaucratic authority operates squarely within the domestic sphere.

From the perspective of literature on American political development, then, internal
security institutions present an anomaly. Unlike the evolution of other domestic institutions --
such as the education system, the welfare state, or the taxation system -- the evolution of the
internal security apparatus of the U.S. has responded very directly and explicitly to changes
in the external security environment.\textsuperscript{15} This makes the standard approaches to domestic
institutional development that are found in the fields of American public policy and
American political development of less utility for analyzing the evolution and development
of internal security institutions. It is simply not possible to understand the emergence and
evolution of civil defense institutions in the U.S. without also taking into account

\textsuperscript{14} The transnational activities of exiles from revolutionary states are examined in Stephen Walt, Revolution
and War (Ithaca: Cornell University Press, 1996), yet the book is wedded to a state-centric neorealist
framework, and does not attempt to extend the analysis to transnational ideologies that operate at the global
level.

\textsuperscript{15} There has only been a limited amount of work done on the impact of international-system factors on
American political development. See the essays and discussion in Katznelson and Shefter 2002, as well as
discussions of U.S. political development in works such as Bruce D. Portner, War and the Rise of the State:
international-systemic factors. Rather, it necessary to combine approaches from American public policy and American political development with an IR “second-image reversed” approach that examines the impact of international factors on domestic institutional development. In the following section, we provide some initial suggestions for how to do so by proposing a modified punctuated equilibrium model that can be used to analyze the evolution of U.S. internal security institutions and homeland defense policies.

**Continuity and Change in the Evolution of U.S. Homeland Defense Policies**

Scholars interested in institutional development have long been fascinated with the problem of explaining patterns of institutional stasis and continuity vs. institutional change and emergence. In the fields of comparative politics and American political development, historical institutionalists and others have emphasized the importance of understanding how long-term historical trajectories create a degree of path-dependence that helps to determine the direction of institutional innovations and change. Work done on cases ranging from the origins of national welfare systems and national public health policies to the structure of relations between labor and the state have emphasized the role that path-dependency plays in shaping distinctive institutional trajectories across states. This can be contrasted with rational-choice approaches to institutional development and emergence, which emphasize the

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16 Gourevitch 1978.

interests of actors and the bargaining processes that occur within particular institutional contexts. This literature argues that what drives institutional development and change is a rational process of actors seeking to maximize their interests in ways that eventually produce optimal solutions based on stable political equilibria.\(^\text{18}\)

Both historical institutionalists and rationalists, however, have been confronted with the fact that institutional development is often characterized by disjunctures and rapid changes, as opposed to institutional stasis or incrementalism.\(^\text{19}\) One model that has emerged to explain rapid change in institutional development is a punctuated equilibrium model, which provides a means of understanding fluctuations between periods of institutional continuity and institutional transformation. Based loosely on a model drawn from evolutionary biology, the argument is that exogenous shocks, or punctuations, alter the environment in which evolutionary development occurs, thus creating a critical juncture which necessitates a new institutional response. The model (or more appropriately, some would argue, the metaphor) has been appropriated by social scientists as a tool for making


sense of the dramatic disjunctures and disruptions that often define patterns of institutional
development and policy agendas.\textsuperscript{20}

In the American public policy literature, use of the punctuated equilibrium model has
largely emphasized punctuations that occur \textit{within} the domestic policy environment that lead
to the emergence of new policy agendas. Rapid policy change is understood as occurring
through the interaction of policy subsystems and new ideas that transform the policy agenda.
The “external shock,” therefore, is the influx of new ideas that “alter the terms of debate and
may direct the policymaking process along a new course.”\textsuperscript{21} Baumgartner and Jones’
emphasis on the role of ideas in agenda-setting thus has some similarities with models of
institutional change that emphasize processes of social learning and ideas, such as Peter
Hall’s discussion of the role that new policy paradigms play in bringing about substantial
policy transformations which in turn lead to deeper institutional changes.\textsuperscript{22} Yet, while Hall’s
model views institutional change as emerging endogenously from an interaction between
social learning and new policy paradigms, critics have argued that there is a danger that

\begin{footnotesize}
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\item \textsuperscript{22}Peter A. Hall, “Policy Paradigms, Social Learning, and the State: The Case of Economic Policymaking in Britain,” \textit{Comparative Politics} 25 (2), April 1993: 275-96.
\end{itemize}
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punctuated equilibrium models of institutional change can be employed in a rather post hoc and arbitrary manner – new ideas or policy agendas are brought in after the fact to explain major changes that are otherwise inexplicable.\textsuperscript{23}

As evidenced by the above discussion, much of the literature in comparative politics and American public policy has a rather limited conceptualization of exogenous shocks. Exogenous shocks are simply changes that emerge within the broader domestic institutional context and that spill over into new policy areas, thus creating a new policy environment to which institutions must respond. With few exceptions, very little attention has been paid in the public policy and American political development literatures to the impact of exogenous shocks or punctuations that come from \textit{outside} the state and from the level of the international system, such as wars or global economic crises.\textsuperscript{24} This is symptomatic of the broader deficit in the field of American political development (APD), in which there has been a lack of appreciation of the extent to which “domestic ‘structure itself derives from the exigencies of the international system.’”\textsuperscript{25} In the words of Ira Katznelson,

\begin{quote}
The neglect of international factors is pronounced in the subfield of APD…APD scholars have been attuned almost exclusively to internal processes and development, such as electoral realignments, sectionalism, the changing balance within the federal system, and the extension of welfare state activity.\textsuperscript{26}
\end{quote}

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\textsuperscript{24} One important exception is Bruce Porter’s (1994) work on the role that war and national security interests have played in American state-building, in which he argues that the Civil War, the two World Wars and the Cold War provided the major impetuses to institutional development and the strengthening of state capacity in the U.S. See discussion in Fukuyama 2004, p. 46.
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\textsuperscript{26} Katznelson 2002, p. 7.
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The evolution and development of U.S. homeland defense policies and internal security institutions, however, is one area in which it is close to impossible to understand processes of institutional change and development without bringing in international-systemic factors as an explanatory variable. Domestic changes in U.S. homeland defense policies have been precipitated by major changes in the external security environment – thus necessitating that scholars interested in understanding the evolution of such policies pay attention to both international and domestic factors as being crucial to shaping their development. Major critical junctures in U.S. internal security policies have occurred in response to exogenous shocks that have arisen from the international security environment. U.S. homeland defense policies, therefore, are intimately connected to broader systemic-level dynamics, such as the emergence of new transnational ideological configurations and networks at the level of the international system. The study of U.S. homeland defense policies therefore provides a useful avenue of inquiry for linking domestic institutional developments with transnational relations that occur at the international-systemic level.27

Exogenous shocks at the international systemic-level that have led to a reconfiguration of domestic internal security bureaucracies in the U.S. include the emergence of the global anarchist movement in the late 19th and early 20th centuries, the Russian Revolution of 1917, World War II, and the commencement of the Cold War. For example, the wave of assassinations that occurred in Europe in the 1890s, known as the “Decade of Regicide,” was carried out by transnational anarchist networks which also had links within

the United States. The assassination of President William McKinley by an anarchist in 1901 thus transformed a problem that had been viewed as largely an external problem into a problem that was also perceived as being connected to internal security. This led to proposed changes in federal legislation that included anti-anarchist laws (which did not, however, pass Congress), as well as changes to immigration laws in 1903 and 1907 that excluded any immigrants who held anarchist beliefs from entering the United States. More importantly, however, it provided the impetus for the institutional development of the “Bureau of Investigation,” which was set up in 1908-1909 and which formed the basis for what would eventually become the FBI in 1935.  

The Russian Revolution of 1917 and the fear of transnational socialist networks operating within the United States led to the passage of new domestic legislation to combat so-called subversive activities in the form of the Espionage Act of 1917 and the Sedition Act of 1918. This legislation provided the legal framework for the Palmer Raids that occurred between 1918 and 1921 against immigrants and foreigners suspected of holding socialist or other subversive beliefs. In addition, a new subdivision of the Bureau of Investigation called the ‘General Intelligence Division’ was set up to establish a database of possible subversives. With World War II came another set of domestic developments that reshaped the U.S. internal security apparatus. President Roosevelt urged J. Edgar Hoover to investigate “the Nazi movement in this country.” In 1935 the Bureau of Investigation was renamed the FBI, and in 1936 it was ordered to expand its collection of intelligence to include “subversive activities in the United States, particularly Fascism and Communism.” In addition, the Dies Select Committee on Un-American Activities was created to expose subversives in and out of

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29 Church Committee Report 1976, Book II, Section B3A.
the federal government. It was within the Dies Committee hearings that the “predatory investigation” was rationalized and effectively deployed. Thus, there has been a clear and visible link between exogenous factors in the international security environment, transnational linkages operating across states in ways that blurred the boundaries between what were considered to be internal and external security threats, and the emergence and development of new internal security legislation and internal security bureaucracies in the United States.

A punctuated equilibrium model that brings together international-systemic level factors and domestic institutional development by focusing on the role of external shocks in stimulating institutional change would appear to be a useful starting point for understanding the evolution of U.S. homeland defense policies over time. Nevertheless, such a model is incomplete as it leaves at least two significant questions unanswered: first, if exogenous shocks explain instances of institutional transformation in the U.S. internal security apparatus, what explains the specific form that such transformations take? Second, and relatedly, if systemic-level shocks -- by their very definition -- have system-wide effects, what explains the variation in institutional responses to these shocks that we see across different states?

These questions are important because, if we return to the above examples, we can observe that the U.S. response to these various systemic-level developments differed significantly from that of other states in the international system. For example, in reaction to the wave of anarchist assassinations in the 1890s and early 1900s, the majority of European

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30 Given the political lay of the land in Congress, the Dies Committee also served as tool to blunt New Deal policies by supporting a conservative coalition between the GOP and Southern Democrats. germane to our investigation here is the fact that the Dies Committee’s key legal staff and hearing files were transferred to the HUAC. A type of path dependent continuity between the inter-war years and the post-war institutional structure of internal security apparatuses. For examples of continuity of staff between HUAC in the 80th Congress and the Dies Committee, see U.S. Congress, Special Committee on Un-American Activities (Dies Committee) 76:3, and 78:1. Investigation of Un-American Propaganda. Vols. 1-7 (Washington, DC: GPO, 1939).
states addressed the problem by signing on to the 1904 St. Petersburg Protocol on international anti-anarchist police cooperation, whereas the United States refused to sign and instead focused on a combination of domestic policing responses and informal and bilateral cooperation with European states. During the Cold War period, communist parties and networks operated in Western Europe, yet European states did not experience anything similar to McCarthyism. If we fast forward to the post-9/11 environment, we can see that domestic institutional responses in the form of counterterrorism legislation and bureaucratic restructuring have also varied widely across states. Peter Katzenstein, for example, has pointed out that the events of 9/11 were interpreted very differently in the United States, Germany and Japan, based on their prior experience – or lack of experience – with domestic terrorism.

Punctuated equilibrium models explain institutional changes as occurring not due to past historical trajectories, but rather as a response to new external environments. Hendrik Spruyt, paraphrasing Stephen J. Gould, sums up the basic model in the following manner: “Whatever forms survive are not explained by reference to the types of preceding the exogenous shock, but by reference to the new environment and the now simultaneously existing forms which emerged after the shock.” Yet, while this type of a punctuated equilibrium model may provide sufficient analytical leverage for understanding evolutionary processes in the biological world, it is less satisfactory for explaining evolutionary processes that characterize the emergence and development of political institutions. Unlike the biological forces that spur on evolution in the biological world, the development of political


institutions occurs within the purposive world of human agency, in which actors respond to external events with a mix of creative ingenuity and a reliance on already established patterns.\(^{34}\)

In explaining the evolution and development of internal security institutions and U.S. homeland defense policies, then, we propose a modified version of the standard punctuated equilibrium model that only emphasizes exogenous shocks. We argue that while exogenous shocks may provide the impetus for major institutional transformations in domestic security institutions, traditional models of policy layering and path dependency help to better explain the specific forms which such major institutional transformations take. Policy layering, in Kathleen Thelen’s words, “involves the partial negotiation of some elements of a given set of institutions, while leaving others in place.”\(^{35}\) The policy layering model can thus help to explain why vestiges of old policies and institutional trajectories are drawn upon during periods of rapid institutional restructuring.

In the rest of the paper, we employ this modified punctuated equilibrium model of institutional change to analyze the relationship between post-9/11 homeland security policies and earlier homeland defense policies from the Cold War period. Specifically, we argue that

\(^{34}\) See discussions of bounded rationality and satisficing in Herbert A. Simon, *Models of Man* (New York: Wiley, 1957)

the major organizational restructuring which has occurred in U.S. internal security polices since 9/11 can only be understood by a combination of an exogenous shock in the form of the emergence of a new security threat in the international system and the reliance by public officials on pre-existing models of internal security that have helped to shape the specific form that organizational restructuring has taken over the past several years.

**The Domestic Bureaucratic Response to 9/11: A Comparative-Historical Perspective**

How much has U.S. domestic security policy fundamentally changed since September 11, 2001? By sketching the institutional response of the United States to the attacks of 9/11, we get a sense of how policy planners conceive of domestic security. The pattern for rationalizing homeland security, we argue, is not wholly new, even if the specific kind of threat – a global network of non-state actors who take their inspiration from a politico-religious ideology and are committed to carrying out lethal attacks against civilian and infrastructural targets – is different, tactically innovative, and would be catastrophic if nuclear, chemical, or biological weapons (WMD) were to be used. *Difference*, however, especially when one considers the long history of asymmetric warfare and tactical innovation, is not the same as claiming that post-9/11 terrorism represents a complete historical break with the past.36

36 What is new about what we currently identify as terrorism? Changes in technology and innovation are, of course, of tremendous import to DHS planners. But the idea of novelty or newness with respect to the issue of fundamental historical change (i.e., we are in a “new era,” etc.) as a result of terrorism and its consequences is facile. Almost two millennia ago most of Rome was burnt to the ground by what Nero considered an internal security threat, by radicals if you will: early Christians, living in what today would be called a ghetto. As Tacitus informs us, after the fire burned itself out, Nero attempted to literally eradicate his internal security by publicly killing most of the Christian population of the city. See Tacitus, *The Annals*, 15:44. Historians have dealt systematically with asymmetries in power, social movements, and what currently passes for terrorism. See for example, Franklin L. Ford, *Political Murder: From Tyrannicide to Terrorism* (Cambridge, Mass.: Harvard University Press, 1985). See also Benjamin Grob-Fitzgibbon, “From the Dagger to the Bomb: Karl Heinz and the Evolution of Political Terror,” *Terrorism and Political Violence* 16:1 (Spring 2004) 97-115.
The creation of the Department of Homeland Security represents a fundamental change in the organizational structure for managing crisis management after the attacks of 9/11. With specific reference to the crisis management/civilian defense function of the DHS, the new bureaucracy has primarily integrated old, off-the-shelf models for civilian defense – now rearticulated as homeland security – to implement a post-9/11 policy of emergency management. This represents a form of policy layering that has received little attention in contemporary analysis of DHS policies (although it has become more apparent with the mind-boggling failures in wake of Hurricane Katrina). In order to examine questions of continuity and discontinuity, we take a very brief look at the 1946-1950 period of internal security which produced parallel political, legal, and institutional questions to what DHS planners are arguably currently grappling with.

The institutional roots for homeland security and the bureaucratic continuity of current policies regarding civilian defense and emergency preparedness lie in the immediate post-World War II period when national security policy was in transition and the issue of internal, homeland security, was a key topic of national security planners. Some of the parallels between the two periods seem more obvious when one considers the following two quotes:

“The responsibility for defense against widespread sabotage and subversive activities and for the defense of civilian elements against all forms of enemy actions will be a primary problem in the defense of the country in the future”. (James Forrestal, memo to President Truman, 1946)


38 An example of this can be found in what came to be known as the “Eberstadt Report,” a study undertaken by Ferdinand Eberstadt at the behest of President Truman, for Arthur Hill (Chairman of the National Security Resources Board). See “Report by F. Eberstadt to Arthur M. Hill,” Papers of Harry S. Truman, White House Central Files, Box 27, National Security Resources Board, Folder 1 of 10.
“Now threats can emerge quickly … In this sense, 9/11 has taught us that terrorism against American interests ‘over there’ should be regarded just as we regard terrorism against America ‘over here.’ In this same sense, The American homeland is the planet. (The 9/11 Commission Report, July 2004, p.362)

In order to compare the context within which these two quotes emerged, we now turn to a comparison between the evolution of internal security policies in the U.S. during the early Cold War period, and the evolution of internal security policies following 9/11.

The Early Cold War Period 1947-1950: In Search of Subversives and Internal Security

The concern about postwar subversion and long-term national security is the subject of an enormous literature on the early Cold War. While it is not possible to review the full body of that literature here, it is worth noting that questions of internal security were of great concern to national security elites. Questions of internal security confronted the Truman administration with a set of political challenges as well as spurring a set of significant long-term bureaucratic changes that were part and parcel of the United States’ postwar grand strategy.

When one reflects on the issue of postwar internal security, McCarthyism immediately comes to mind, but the political manifestation that was McCarthyism was in actuality the end-game of the politics of early Cold War internal security. The organizational structure for the legal and bureaucratic apparatuses that emerged to manage both internal and external security threats were in place and entrenched by the time Senator McCarthy became infamous. The real security issues, subversion from within—the problems that concerned James Forrestal and other postwar security planners of sabotage and the potential link between internal subversion and postwar grand strategy—were largely resolved by
organizational changes in the government during the two sessions of the 80th Congress, not during the McCarthy hearings of the early 1950’s.39

What were some of these organizational changes and the theoretical underpinning of the transformations? First, the committee system in Congress was changed as a result of the Legislative Reorganization Act of 1945 (LRA). The LRA reorganized the committee system and this provided an institutional mechanism for creating “predatory committees” to engage in internal security investigations. These investigations took place independent of the Executive branch and were championed for a variety of different reasons. What is germane here, however, is that the LRA established both the institutional resources and structure for an aggressive counter-subversive program.40

Second, national security planners promulgated a theory of internal security that maintained that the United States faced a “new” kind of enemy: the civilian subversive, the potential saboteur. In this view, everyday folk could be subversives or “potential subversives”; they did not wear uniforms, they could be American citizens, they could be recent immigrants, they could be your neighbor. In effect, internal security was conceived by planners as a problem of groups organized in, to use contemporary DHS language, “sleeper

39 For more detail on this point, see Memo from Forrestal and Patterson to President Harry S. Truman, “Determination of Agencies Responsible for Civil Defense and Anti-Sabotage Activities,” November 29, 1946, p.1, Papers of Harry S. Truman, Presidential Secretary Files, Box 117, General File-Civil Defense Folder.

40 For a systematic analysis of predatory committees and the LRA, see Andrew D. Grossman and Guy Oakes, “The Fifth Column Tactic: Predatory Investigations and the Politics of Internal Security in the 80th Congress,” paper presented at the 2004 Annual Meeting of the American Political Science Association. Some of the many new resources that are germane here are: substantially increased staffing, money, and most crucial, new subpoena power for chairs of both standing and sub-committees. A predatory investigation entails the use of shame: the use of a degradation ceremony where the target of an investigation is placed in a context whereby guilt is not only presumed, but the purpose of the investigation is to use the target as a tool to attack something else, i.e., persons, groups, institutions, ideologies, etc. To engage in this kind of “investigation” a set of social and political conditions are necessary. In both the early Cold War period and the post-9/11 period the conditions for these kinds of investigations (driven by fear, strategic, political, and legal concerns) are in place. For more detail on the pre-conditions required for a degradation ceremony, see Harold Garfinkel’s classic essay “Conditions of Successful Degradation Ceremonies,” *The American Journal of Sociology* 61:5 (March 1956) 420-424.
cells”—ideologically committed to either a transnational movement or a foreign nation state, or both, in the case of postwar Communist affiliations to the Soviet Union. This “fifth-column thesis” and its underpinning logic produced the avalanche of internal security investigations and a corpus of jurisprudence that was institutionalized by the late 1940’s.\textsuperscript{41}

The determination to engage in a national program of everyday vigilance was also deeply ingrained in early Cold War civilian defense policy (i.e., homeland security), a policy that is also being used as a template for current DHS emergency planning.\textsuperscript{42} It should also be made clear that a template does suggest a straight path in which there are no “forks in the road.” Of course there are some differences between the civic education program, say, of the FCDA in 1952 and, currently the DHS in post-Katrina “spin” mode; however, careful analyses will demonstrate that there are not great differences at least as it relates to emergency preparedness. Most interesting is the almost straight-line between the theory of fifth column subversives and current counter-terror operations that also fall within jurisdiction of the DHS. As an example of this, compare the two remarks below that reflect the fifth-column logic and its rationale for enhanced internal security and vigilance. Fifty-five years separate the two remarks, but the continuity of logic and argument jumps out at the reader: the message is one of popular vigilance (without stated standards) in the name of national and individual security.

1) “[The responsibility of citizenship in the United States] expects all Americans to be alert guardians of our ideals, and eternally vigilant against those subversive elements that seek to undermine, tear down and destroy our form of government. It expects us to watch for those undercover groups and individuals


who would deny to their fellow citizens the privileges of freedom, justice and equality on which democracy was founded. It expects us to keep our country and land where men and women may live free from fear and terror…” (Attorney General Tom C. Clark, May 18, 1947)

2). “‘Are terrorists in Michigan?’ Jim Zoss, Battle Creek emergency services director, asked a group Wednesday. ‘Yes. Don’t think for moment they are not here. And any one of these guys could be in your neighborhood’” (Battle Creek Enquirer, February 14, 2002).

A third change is to be found in what the historian Michael Hogan, in a nicely turned phrase, has called the “Magna Charta” of postwar national security policy, the National Security Act of 1947 (Nat-Sec Act).43 This legislation created numerous bureaucratic and administrative agencies that remain the foundation for many of the current emergency management, counter-terrorism, and internal-security policing policies, including the USA Patriot Act. It is interesting to note that even though the Nat-Sec Act was the most comprehensive reorganization of the U.S. government’s national security bureaucracy (until the DHS), debate about its final form reflected real concern that creating interlocking super-agencies that conflated internal and external policy could lead to a type of garrison state. The debate about the Nat-Sec Act was complicated and multifaceted. However, the issue that relates directly to our concerns in this paper is that the legal and procedural “wall” between the CIA and FBI, a legal separation that has become the grist for so much criticism in the 9/11 Commission Report (and amongst counter-terrorism specialists), was the instrument

(jurisprudential and institutional) that the Truman Administration and the GOP-led 80th Congress purposely established to balance civil liberties and security.

As we shall see below, the DHS essentially goes back and eliminates the “wall” and establishes the kind of super-agencies that previous planners were worried about. This is the one instance where a discontinuity in planning exits. No doubt, the 9/11 Commission Report, for example, recommends working against the early Cold War policy of legally separating the jurisdictions of CIA and FBI. However, as regards our argument about layering and a path dependent institutional development, the elimination of the legal barrier between external and security policy ultimately makes our case stronger.44 How so? The move to go return to the original concept first outlined in Nat-Sec Act—one large, huge, centralized super-bureaucracy located under the jurisdiction of the executive branch, to manage both internal and external security matters—presented planners with perfect model for the new DHS. In this sense, the commission report does work against the final version of the Nat-Sec Act that was signed into law in July 1947, but it works with and gives tremendous support to, the original early Cold War plan for the creation of a super-bureaucracy to manage national security. In short, the DHS structure follows the basic logic of that underpinned the 1946-47 debate about how best to handle national security issues. 45 The current policy considerations about emergency preparedness, counter-terrorism, and internal policing therefore raises the same kinds of questions that were posed in 1946-1948 – even using the same kind of language to engage in civic education about the dangers at hand. In the post-9/11 period policy planners are coming up with different answers to the question of


45 This, of course, does not include the debate about Universal Military Training (UMT), which was also wrapped up in the consideration of the National Security Act of 1947 as it worked it’s way through the 80th Congress. As we know UMT was dropped completely and there is no follow-on support for such a policy in the post-9/11 period either. Although there rumblings about reinstating a draft if the “war on terrorism” continues at current scope endlessly.
how centralized homeland security should be and their answer seems to be based on the rationale of the original concepts promulgated in the draft versions of the Nat-Sec Act: as highly centralized as is possible. 46

The War Against Terror, 2001-2005: Bureaucratic Responses to New Threats

The DHS is the product of the most comprehensive reorganization of the federal government since the National Security Act. As noted, the aim of creating the DHS is to centralize the various emergency planning agencies and institutions under one centralized super agency. However, if one were to trace the institutional development of emergency management when the Federal Civil Defense Administration (FCDA) was created in December 1951 to 1979 when the Federal Emergency Management Agency (FEMA) was created, one would see a fine example of institutional continuity, not discontinuity. The key characteristics linking the FCDA to FEMA and beyond, is institutional inertia, organizational confusion, jurisdictional uncertainty, and dysfunctional implementation of public policy. After the creation of the DHS, FEMA became part of the new homeland security apparatus, but many of the administrative deficiencies of FEMA are now those of the DHS. In short, while the centralization of many agencies under the rubric of DHS is new, the emergency planning policies, while now centralized, are not new.47 For example,

46 Thanks are due to Ron Krebs and Peter Andreas who offered some helpful criticisms and suggestions on this portion of the paper.

47 As one measure of continuity, consider the question of leadership and its relationship to a crude version of path dependency. The leadership of the various permutations of the FCDA (three before FEMA) were usually political appointees (governors and the like) that had a lot more to do with particular party affiliation and personal connections (almost all wanting ambassadorships) than expertise in emergency preparedness planning. The current “discovery” that, for example, the FEMA administrator during Hurricane Katrina, Michael Brown, was a political appointee with minimal qualifications for running the agency (following another similar appointee, Joe M. Allbaugh) was not only par for the course, but essentially the way things have always been done. With the exception of James Lee Witt under President Clinton, almost none of the administrators of emergency management organizations were expert, by any stretch of the imagination, in emergency management. Even the DHS was led first, and quite typically, by
consider the following short list of issues that rendered the FCDA administratively ineffective half a century ago:

1). The unclear status of the statutory authority for the administrator of the civil defense agency;
2). The problem of federalism, central-state authority, and state expansion;
3). The problem of jurisdictional overlap between internal security agencies;
4). The inability to assess and measure either success or failure;
5). The collapse of the distinction between external and internal threats;
6). The granting of enormous discretionary power to unelected officials;
7). The problem of funding;
8). The problem of training;
9). The problem of panic;
10). The problem that post-attack civilian defense against WMD does not work.

With the exception of point one, this list reads like a current list of challenges that the DHS faces (events after Hurricane Katrina clearly demonstrate this point). Even regarding the issue of statutory authority the DHS (which is substantially broader than anything granted the FCDA or its follow-on permutations), is caught up in disagreements about the scope of DHS administrator Michael Chertoff’s power (he is an unelected official), especially as it relates to state governments.48

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48 For more on the almost direct line relationship between FCDA and the emergency preparedness aspects of DHS, see and compare with public statements today with the narrative from the United States Federal Civil Defense Administration, Annual Report 1952 (GPO: 1952): 41-101. During the early Cold War, Project East River dealt specifically with fear and panic and how these emotions can be managed for purposes of civilian defense and homeland defense. Nothing discussed to date indicates that the DHS and FEMA’s plans for civilian defense and homeland security are doing anything new regarding the issue of “individual vigilance” and preparedness planning. See National Archives, National Security Resources Board, Records Group 304, Box 19, Project East River Folder, “Information and Training for Civil Defense,” Project East River, Part IX, specifically, “Panic Prevention and Control,” Appendix IXB, pp. 55-65.

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Long-term home front preparedness planning and mobilization within the indeterminacy that characterizes a “war on terrorism,” creates auspicious conditions for across-the-board policy layering as a means of responding to the exogenous shock of 9/11. In the case of DHS, its institutional foundation lay squarely within the postwar bureaucratic approach to civilian defense planning. In many respects the emergency management side of DHS is an example of the worst aspects of layering and path dependency, a centralized super-agency which is the product of bureaucratic layering that tracked along a particular institutional pathway: a path that paid high returns politically — i.e., favoring institutions with high levels of discretionary power and, hence, producing commensurate levels of “political cover” for legislators—but a track that was, at its core, dysfunctional. For example, emergency planning in the DHS is infused with sixty-year-old policies that, in all probability, will reproduce many of the old structural problems that vexed postwar civilian defense for more than half a century. It is not clear that domestic security can be achieved by a bureau that continues to promulgate procedures that, in the past, produced more problems than they solved.

For example, current DHS emergency preparedness planning has already created (or re-created) a national terror alert system that is less helpful than the old air-raid siren system of the FCDA; a lack of funding on both the national and sub-national level, especially concerning rural versus urban spending; the “stove-piping” of domestic intelligence; the lack

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49 The term “homeland security” is re-articulation of old fashioned civilian defense. One of the most interesting problems in the early 1950’s with Federal Civil Defense Administration was to determine what aspects of civilian defense should be privatized and what not to contract out to the private sector. The same issue is affecting the DHS. Aspects of homeland preparedness have been or will be privatized (e.g., aspects of airport screening are in the process of being privatized three years after the TSA was created specifically to remove airport security from private companies). The policy conditions that affect DHS planning fit nicely into Jackob Hacker’s model for predicting what conditions create the process of bureaucratic layering. See Hacker 2004.
of enough trained personnel in almost every area of civilian defense; the lack of a trained polity; an inability to surmount the obstacles of federalism; mixed approaches to internal security policing between national and sub-national agencies; the perpetuation of a high level of interagency competition; the promulgation of insufficient standards for determining threat levels so that all threats become high threats; almost no systematic planning for managing the “problem of panic” within the general populace; and the seemingly insurmountable obstacle of operational constraints tied to what can and what cannot be made public, which in turn leaves the polity perplexed and, ultimately, cynical.\textsuperscript{50} 

The 9/11 Commission Final Report, focused primarily on the interplay between internal and external security measures and agencies, but it delivers a scathing conclusion about the bureaucracy that was created in 1947 to defend the United States: it is a dysfunctional mess that has become, itself, a national security threat.\textsuperscript{51} There is little to suggest that, as currently configured, the DHS has fundamentally reformed the framework for domestic security. In fact it is largely based on the 1947 model with the main difference being the CIA and FBI can now collaborate as, essentially, one agency. Hence, the 9/11 Commission conclusions hold for the DHS and, if those conclusions are even partially correct, achieving a rational domestic security policy is problematic at best.

Finally, an unsettling and, perhaps, unavoidable, incongruity has been produced by the current bureaucratization of homeland security: the creation of a policy planning “Catch 22.” If success is measured if and only if \textit{nothing} happens, then quiescence will produce both apathy and cynicism—the exact problem that vexed the FCDA in the 1950s. In other words, a

\begin{footnotesize}
\textsuperscript{50} One of the facets of the DHS funding mechanism has already reproduced the “boondoggle effect” that the FCDA and other emergency planning agencies had to deal with in the 1950s and early 1960s. Emergency preparedness planning has historically been viewed by communities and states as a cash cow for purchasing, at federal expense, many “emergency” items. Emergency planning is a fantastic tool for good old fashion “pork-barrel politics.” See for example, “Security Grants Still Streaming to Rural States,” \textit{New York Times} (October 12, 2004), p. 1.

\end{footnotesize}
successful homeland security policy may, in the end, undermine itself by virtue of the standard by which its success is measured. If nothing happens, then public support for homeland security disappears and the country becomes less secure. In short, the homeland security apparatus and the internal logic that underpins its development may leave the United States public with an ever-expanding central state, potentially less liberty, and no more security than it has had in the past.

The Early Cold War Period vs. Post-9/11: Problems of Uncertainty and Security

The 9/11 attacks demonstrated there is a real security problem for policy planners who must strike a balance between civil defense and civil liberties. It is not a stretch to argue that the current domestic security problems are more complex than those faced during the early Cold War years (1949-1963). During the Cold War, planning focused on fighting a strategic nuclear war; it remained an abstract process that took place in a hypothetical world of specialists gaming various wartime scenarios against a nation-state. Internally, security focused on anti-subversive programs and civil defense against nuclear attack. There was nothing abstract or hypothetical about the 9/11 attacks.  

Given the open political structure of the U.S. and its sheer size, the threat from al-Qaeda or other like-minded groups is a clear danger and one that will remain for the

52 Responding to an attack by non-state actors was a conceptual leap that was difficult on September 11: one pilot scrambling to protect Washington, D.C. on 9/11 testified he believed the Russians had launched a cruise missile attack against the Pentagon and flew out to sea looking, one presumes, for Russian targets. See 9/11 Commission Report, 45. Recently (2004-05) the Pentagon’s Northern Command has begun systematic planning for using U.S. troops within the United States as part of a homeland security policy in the event of various sorts of attacks ranging from small-scale weapons to WMD. See, for example, “War Plans Drafted To Counter Terror Attacks in U.S. Domestic Effort Is Big Shift for Military,” Washington Post, August 8, 2005, p. A-1. For an interesting discussion of non-state actors and terrorism, see “Nonstate Actors, Terrorism, and Weapons of Mass Destruction” International Studies Review 7 (March 2005): 133-170.
foreseeable future. After the attacks, the United States moved into a netherworld of “the war on terrorism.” It is an odd usage, a strange phrase for something so important. How does one make war on a tactic? Terrorism is a tactic, a piece to a strategy of asymmetric war. Yet, the United States went to war against nation-states (Afghanistan and Iraq); it went to war against al-Qaeda and its related organizations and members; and it went to war with a tactic, a noun: terrorism. What are the consequences for domestic security if the standards for what constitutes an enemy are so broad as to include all of the aforementioned? Who or what institution has the discretion to determine what security actually means, how it will be achieved, and how will comprehensive policing be used by the central state?

The war that began five years ago has produced a continuous state of emergency with a limited and vague set of standards for what constitutes success or failure. For the DHS the only clear measure of success is no attacks. However, the space between quiescence on the one hand, and attacks such as 9/11, or the Madrid and London mass transit attacks (or worse) on the other hand, is very wide indeed.

53 Clearly the Taliban and the use of a “failed state” such as Afghanistan played a role in incubating Al Qaeda, but for all intents and purposes, the United States and is own openness with respect to its political system offered fertile ground to carry out the relatively low-budget attack on 9/11. See 9/11 Commission Report. On the low-budget operations of Al Qaeda, see “al-Qaeda does terror on a budget: UN Report” http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/1093575592527_88984792/?hub=World

54 This idea of a “war on terrorism” has come in for its fair share of criticism because it is so vague and discretionary. However discretion and vagueness seem to go hand-in-glove with DHS planning. What are the standards for success? How are these standards set and by whom? Much of this has to do with language and its usage. In any case, the use of the term war on terrorism seems to be changing as the lexicon has been revised. The revisions reveal both political and practical issues that suggest that planners themselves understand the incongruity of the original usage of the term “war on terrorism.” The new lexicon has two identifying expressions that seem to reflect two camps within the Bush administration. One term is the “Global War on Terrorism” (GWOT) and the second term is “Global Struggle Against Violent Extremism” (GSAVE). The problem here seems to center on what constitutes a war. Symbolism is crucial: there is a new “GWOT expeditionary medal” that the Air Force now confers on its members that, presumably, engage in the GWOT. On the Air Force and its new medal, see http://usmilitary.about.com/od/airforcemedals/a/AFGWOT.htm For the change in terms and the reasons why the administration is changing the terminology, see “Bombings in London: Hearts and Minds; New Name for ‘War on Terror’ Reflects Wider U.S. Campaign,” New York Times (July 26, 2005), p. A-7. Finally, a succinct analysis of how language can shape ideas see George Orwell’s classic essay, Politics and the English Language: http://www.k-1.com/Orwell/index.cgi/work/essays/language.html
Within the space between tranquility and terrorism, the DHS’s homeland security policy has moved in two directions that create a paradox: one direction is the implementation of preemptive civilian defense and policing. The other direction is a public relations and civic education campaign. The first policy is highly secret and resides in the shadow world of counter-terrorism; the other policy is a feature of public relations, advertising (the Advertising Council, as it did in the 1950’s, is fully engaged in DHS publicity), and pork-barrel politics.\(^{55}\) It is within the domain of preemptive civil defense, however, that the balance between civil defense and civil liberties becomes problematic. It is the role of the Congress to clarify the standards by which domestic security operations are configured, but Congress’s legislative response to the attacks of 9/11 was not a formal declaration of war, which would have defined in precise statutory language the responsibilities of war-making and victory; instead, on September 18, 2001, Congress passed a use of force resolution: Public Law 107-40, “Authorization to Use Military Force,” (AUMF). Ostensibly because non-state actors were behind the attack on the United States, Congress gave the President maximum discretion to carry out both internal and external national security operations. Hence, Congress skirted its obligation to establish strict criteria for making war or at the least delimiting the scope of war.\(^{56}\) Public Law 107-40, the “Authorization to Use Military Force,” (AUMF) offers the following power to the Executive branch:

> “That the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that


\(^{56}\) The balance of war powers between the Executive Branch and Congress is an area of intense debate and scholarly research. For an overview of this subject, which takes into account various standpoints on these questions, see Louis Fisher, Presidential War Power (Lawrence: University of Kansas Press, 1995).
occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons."  

AUMF seemingly gives carte blanche to the President and organizations within the executive branch to determine how homeland security is defined and the tools for its protection. Unless Congress were to revise AUMF and the other forms of legislation (to say nothing of the presidential executive orders), domestic security operations have begun purposely to mirror the external war on terrorism. Within weeks of the passage of Public Law 107-40, the Congress passed the USA Patriot Act (UPA), a broad piece of legislation that was quickly deliberated, debated, and marked up in time of crisis. While the UPA does include both statutory rule of law standards and sunset provisions, there seems to be little chance that it will be methodically revised, even though arrests and convictions of terrorists


58 This is a contentious issue. The current debate about the “unitary executive” and presidential power is very much in the news. Specifically the question about surveillance of US citizens absent FISA warrants offers a window through which a larger debate about the scope of the AUMF can be viewed. This debate really can be distilled into two camps. One group of scholars and planners believe the statute should be read as it stands and, hence, it should be interpreted as broadly as possible. This is the position of the president. The other stand-point holds that statutes are not self-interpreting and, hence, the competing rationales and the debates that went into the development of the statute itself, are the only way one can ascertain the intent of Congress as regards the AUMF. This latter position emphatically argues for a limited interpretation of the AUMF. For an example of the two postions see the following, John Yoo, *The Powers of War and Peace: The Constitution and Foreign Affairs After 9/11* (Chicago: University of Chicago Press, 2005); David Cole, “What Bush Wants to Hear,” *New York Review of Books* 52 (November 17, 2005).

59 This is the case for any President regardless of party affiliation. The power of the executive was enhanced tremendously by AUMF at the expense of Congress’s power to perform its constitutional duty related to war-making. If the historical pattern in American political history holds, it will very hard for Congress to reestablish the power it relinquished. Not impossible, but difficult.

60 Drawing on a set of previous laws such as the 1996 Anti-Terrorism and Death Penalty Act, the Patriot Act was written and passed within six weeks. See Public Law 107-56, “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001” http://www.epic.org/privacy/terrorism/hr3162.html The Department of Justice wants to expand and renew key portions of the Patriot Act. See http://www.npr.org/documents/2004/071304_doj_patriot.pdf The roll call vote on the act was overwhelming: 357 yea, 66 nay, with 9 members not voting.
and enemy combatants (both terms defined by the President and his agencies) seem, to date, unimpressive.\textsuperscript{61}

The Patriot Act is extensive in its jurisdictional scope, systematically linking policing of all kinds with DHS, the Department of Justice, the CIA, and other intelligence agencies. For all intents and purposes, the UPA codifies the internalization of policies that historically have been aimed at potential enemy nation-states, eliminating the wall created by the Nat-Sec Act between external and internal policing, intelligence gathering, and covert action. In this sense, homeland security purposely moves in the highly problematic direction of conflating civilian law with the laws of war.\textsuperscript{62} There is legitimate debate as to how intrusive the UPA, the DHS, and the general war on terrorism have been on everyday life in the United States. The war on terrorism is so open ended, it is hard to envision how and when it will end. One is not even sure who or what institution can declare victory, to say nothing of when such a declaration can be made.

As a result, the administrative and institutional capacity to severely change a fairly open society into a closed society – a process of garrisoning the home front, if you will, is a process that is not only possible, but may now be under way.\textsuperscript{63} Furthermore, policy history in

\textsuperscript{61} Perhaps there have been impressive policy successes, but the public will never know—at least for the foreseeable future. Which is one of the problems that inheres in any public policy that is fundamentally a secret policy. It produces the “Catch-22” paradox discussed above. In fact almost all of the U.S.A Patriot Act has been renewed and the President is working to make most of the statutes permanent and not a piece of legislation that is open to renewal via sunset language. See “Revising the Patriot Act,” \textit{New York Times} (April 10, 2005). The final revised version was renewed March 9, 2006.


\textsuperscript{63} See for example the collapse of the so-called “Detroit Sleeper Cell” case and its consequences for those swept up in the prosecution, “After Convictions, the Undoing of a U.S. Terror Prosecution,” \textit{New York Times} (October 7, 2004), p. 1. The problematic issues related to file keeping and a “theory of the file,” i.e., the idea that electronic files would functions in more or less Kafkaque fashion. One could be on a “watch-list” and perhaps have an extensive file and never know it, therefore one might never be removed from the file if were incorrect. How can one be removed from something they know nothing about and, more important, even if one wanted to find their status, they cannot because it is classified. See for
the United States is clear regarding how wartime bureaucracies developed under indeterminate conditions of emergency (as in the early Cold War): they grow larger and more intrusive, policy implementation rubs up against federalism, creating unanticipated consequences that often intrude on the private sphere.

The federal government moved swiftly to develop a response to the attacks of 9/11. Under conditions of crisis, very vague and discretionary legislation was passed by the Congress. This, in turn, shifted power to the executive branch.\textsuperscript{64} Congress also relieved itself of its war-power responsibility, creating the indeterminate status of a domestic shadow war on terrorism at home just as it did for the war on terrorism abroad. Clearly, there is a security threat and in all probability there will be more attacks, possibly with nuclear, biological, and chemical weapons intended to kill as many civilians as possible and to destroy the economic underpinning of not only the United States, but much of the global economy. In short the ability to achieve true catastrophic terror has arrived.\textsuperscript{65} It must be dealt with, but how does a

\textsuperscript{64} Congress should be responsible for delimiting the war on terrorism and for managing its domestic consequences. Postwar Congresses, from the 80th to the 108th, have abandoned strict statutory rule-of-law standards in public policy in general and, in particular, in times of extended crisis such as the Cold War and the current war on terrorism. As Theodore Lowi has shown in his study of U.S. policy planning, vague law-making serves a number of key purposes. First, indeterminate lawmaking offers political cover for legislators. Everyone can take credit for successes while disavowing anything that might go wrong with the implementation of policy. When it comes to the potential threat of super-terrorism and the use of WMD, no political leader wants to be accused of having been “slow” to pass civil-defense and emergency preparedness legislation. Second, as noted above, diffusely written legislation allows for extremely broad discretion. Third, the writing of legislation that is not grounded in statutory rule-of-law standards permits interest groups to carve out new niches for their programs. For a classic analysis of discretionary power and its potential consequences for liberal democratic processes and American political development, see Theodore J. Lowi, \textit{The End of Liberalism: The Second Republic of the United States}, 2nd ed. (New York: W.W. Norton, 1979).

\textsuperscript{65} Catastrophic terror can be differentiated from 9/11 by the same standards of measurement that were used by war planners during the Cold War. The attacks of 9/11 were horrible, but they would pale against a successful nuclear weapon detonated in a major city. Additionally, “catastrophic” could be defined as the methodical destruction of the macro-economy of the United States. As a tactic, strategically targeting port cities and agricultural centers of the country would do substantially more harm to the United States than the 9/11 attacks did. A coordinated attack aimed only at carefully targeted economic sites would shatter the complex interdependence between the national economy and global economy without killing a lot of civilians -- perhaps the ultimate form of asymmetric war. See John C. Baker, Beth E. Lachman, et al,
liberal-democratic state engage in homeland security? There are no easy answers. If, however, the bureaucratic response to the 9/11 attacks represents a conceptual vision by policy planning elites of what homeland security is, then the future may be difficult. The policies currently in place are at best ad hoc and at worst recycled; they may work at times, but they are still mostly early Cold War policies. Congress has taken little responsibility in the development of carefully thought out new policies and has ceded this role to the executive branch. Only time will tell what the consequences of this are. However, American political history from the Mexican War on suggests that the executive branch will centralize power when given the chance – presidents rarely willingly cede power after it has been gifted to them by Congress, as was done in the Fall of 2001.

**Conclusions**

In this paper, we have argued that the policies that have been adopted by the DHS in response to 9/11 can be explained by a modified punctuated equilibrium model. While 9/11 can be understood as constituting an external shock that provided the impetus for a domestic institutional restructuring of U.S. internal security policy, the form that this institutional restructuring has taken cannot be understood without examining its historical predecessor from the Cold War period. Many of the policy responses that have emerged in the past several years have been based explicitly on off-the-shelf models from the early Cold War period, resulting in a degree of historical continuity in the evolution of internal security institutions that is best characterized as a form of policy layering.

The question for policy makers and analysts concerns the extent to which these responses are rational responses to an international security environment that in some ways actually resembles the early Cold War period or that, alternatively, they are dysfunctional in that they are being driven by historical and institutional legacies and prior policies as opposed to the current international security environment, is an issue that deserves further investigation and analysis. In both periods, policy makers have been concerned with a transnational ideological movement that is also interpreted as posing an internal security threat. During the early Cold War period this was the perceived threat that was posed by international communism. In the period since 9/11 the focus has increasingly been on transnational Islamist networks that are apparently prepared to use violence and terror to achieve their political goals.

The question for political scientists interested in issues of continuity and change in institutional development is how to reconcile the apparent disjuncture that has occurred in the U.S. national security apparatus since 9/11 in the form of the organizational restructuring that has led to the emergence of the DHS with elements of continuity that can be found between current homeland security policies and earlier Cold War policies of civil defense. While we have proposed a modified punctuated equilibrium model in this paper as a means of making sense of this mix of institutional novelty and historical continuity, much work in this area still needs to be done.

In order to make sense of the relative weight of international-systemic factors and domestic institutional legacies that characterize the U.S. response to 9/11, political scientists will have to work together across the disciplinary subfields of international relations, comparative politics, and American political development to build up a research agenda that explains the evolution and development of homeland defense policies and internal security institutions. Studying the evolution of internal security institutions in comparative-historical
perspective is an area of intellectual inquiry that has not been fully taken up by any of the sub-disciplines in political science. It is an area of inquiry, however, that is ripe for investigation – necessitated, unfortunately, by the rapid succession of policy developments in this area that have marked the period since September 11, 2001.
Despite the relatively short history of its development, the Eurasian Economic Union (EAEU) is becoming more confident about itself as a successful integration project. At the same time, there is a growing interest in the EAEU by the political elite and scientific community in Russia and abroad. Within the framework of this article, the authors undertake a comparative legal analysis of the foundations of the political and legal structures of the EU and the EAEU, identify their key features, and identify the essence of supranational constitutionalization. One task is to determine how EU experience can be useful for the EAEU. All and any external EU agreements must comply with them. The role of domestic political crisis and discontinuous policy change is emphasized in a new study of postwar Japanese politics. See Calder, Kent E., Crisis and Compensation: Policy and Stability in Changing Postwar Japan (Princeton, N.J.: Princeton University Press, 1988). 13. Lasswell, H. D., “Attention Structure and Social Structure,” in Lyman, Bryson, ed., The Communication of Ideas (New York: Harper, 1948), p. 262. To the extent that a rational choice perspective can explain the outcomes, the salience of this point would diminish. Krasner, Stephen D., “State Power and the Structure of International Trade,” World Politics 28 (04 1976), pp. 317–43. Public Opinion, Domestic Structure, and Foreign Policy in Liberal Democracies. World Politics, Vol. 43, Issue. 4, p. 479. View Comparative Politics Research Papers on Academia.edu for free. We advocate two analytical shifts from conventional approaches in the analysis of the Arab Spring: first, reconsider the temporalities of democratization processes; second, focus on struggles over specific institutional arenas rather than over the regime as a whole. The former recommendation draws attention both to the strategies used by key actors in the political, economic, and civil society spheres, and to the historical legacies that built the influence and resources of these actors over time. In historical institutional analysis, critical junctures are rare moments in the development of an institution or a policy. The foreign policy of the United States is its interactions with foreign nations and how it sets standards of interaction for its organizations, corporations and system citizens of the United States. The officially stated goals of the foreign policy of the United States of America, including all the Bureaus and Offices in the United States Department of State, as mentioned in the Foreign Policy Agenda of the Department of State, are “to build and sustain a more democratic, secure, and prosperous world White House Office; United States. Office of National Drug Control Policy. 2016-05. Northern Border Counternarcotics Strategy 2020. We are writing to transmit the Banking and Finance Sector-Specific Plan (SSP), which was prepared and approved in 2010. As Assistant Secretary of Defense for Homeland Defense and Americas’ Security Affairs, I am pleased to publish our second edition of the DIB Sector-Specific Plan (SSP). The SSP outlines a common vision, goals, and approach in applying risk management activities to the sector. This plan is a product of extensive collaboration across DoD, its interagency partners, and representatives of the private sector, both national and international owners and operators that range from small proprietors to Fortune 500 corporations.