

INSTITUTIONAL REFORM • BORDER SECURITY • FEDERAL LAW ENFORCEMENT

THE WAR ON THE UNITED STATES CUSTOMS SERVICE

How Post-9/11 Reorganization Dismantled One of America's Oldest
Federal Law-Enforcement Institutions

THE CENTRAL POLICY QUESTION

Did the post-9/11 federal reorganization correct the principal institutional failures that contributed to the attacks, or did it simultaneously dismantle highly effective organizations whose core missions were not responsible for those failures?

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Washington, D.C. • September 2026

EXECUTIVE OVERVIEW

The Issue in One Page

The terrorist attacks of September 11, 2001 demanded a fundamental reassessment of how the United States protected its homeland. Americans were justifiably angry. Nearly 3,000 people had been murdered on American soil, and the country demanded accountability, reform, and assurance that institutional barriers would not again prevent critical intelligence from reaching those capable of acting upon it.

The subsequent investigations identified serious failures across the national-security apparatus, particularly in intelligence collection, analysis, coordination, watchlisting, and information sharing. The 9/11 Commission documented significant shortcomings involving the FBI and the intelligence community, while emphasizing a broader systemic problem: diffuse responsibility, inadequate joint action, barriers to information sharing, and an inability to integrate intelligence held throughout government.

The Homeland Security Act of 2002 created the Department of Homeland Security. Beginning March 1, 2003, approximately 180,000 personnel from 22 organizations were brought into the new department. The United States Customs Service was not transferred intact. Its inspection, investigative, trade, and enforcement capabilities were divided among new organizations.

This article argues for a rigorous retrospective examination of that decision. The issue is not the patriotism or competence of today’s DHS personnel. The issue is organizational architecture: whether the 2003 structure preserved the institutional knowledge, specialized authorities, professional culture, mission coherence, and accountability developed by the Customs Service across more than two centuries.

FIGURE 1. THE 2003 ORGANIZATIONAL FRACTURE

U.S. CUSTOMS SERVICE — DEPARTMENT OF THE TREASURY 1789–2003		
INSPECTION / TRADE	↓ DIVIDED ↓	CRIMINAL INVESTIGATIONS
U.S. Customs and Border Protection (CBP) Customs inspectors, import specialists, canine and related border personnel integrated with immigration, Border Patrol and agricultural functions.	2003 A single institutional identity and chain of command was replaced by a distributed architecture.	ICE / Homeland Security Investigations (HSI) Legacy Customs criminal investigators combined with immigration investigators and other personnel.

1. The Creation of DHS

The Homeland Security Act of 2002 created the Department of Homeland Security, and the new department formally began operations on March 1, 2003. Approximately 180,000 personnel from 22 organizations were initially brought together under DHS, including the United States Customs Service and the Immigration and Naturalization Service.

The reorganization did not simply transfer the United States Customs Service intact from Treasury to Homeland Security. It divided it. Customs inspectors, canine enforcement officers, import specialists, and related personnel were combined with immigration inspectors, Border Patrol personnel, and agricultural inspectors in the new U.S. Customs and Border Protection. Customs criminal investigators were placed into a different organization with immigration investigators and other personnel, ultimately producing Homeland Security Investigations within Immigration and Customs Enforcement.

That decision should now be subjected to rigorous historical and organizational analysis.

2. An Institutional-Capability Question

The central question is not whether the men and women of DHS, CBP, ICE, or HSI are patriotic, dedicated professionals. They unquestionably include thousands of highly capable public servants. Nor should the debate be reduced to personalities.

The proper question is whether the organizational architecture imposed in 2003 was superior to the specialized federal institutions it replaced. From the perspective of a career Treasury Department Customs criminal investigator and supervisor, I believe there is a strong case that it was not.

The United States Customs Service possessed something extraordinarily difficult for government to manufacture: institutional knowledge accumulated across generations. Its personnel understood customs law, international commerce, smuggling organizations, ports, airports, maritime cargo, bonded merchandise, financial investigations, commercial fraud, contraband interdiction, and the broad authorities associated with enforcement at America's borders.

When government dismantles an institution, it does not merely rearrange boxes on an organizational chart. It risks dispersing its culture, separating mentors from protégés, fragmenting specialized expertise, changing promotion incentives and operational priorities, and eventually losing institutional memory that took decades, sometimes centuries, to accumulate.

3. 1789: A Founding-Era Institution

The date on the historic Customs seal is not decorative. Federal customs administration dates to the First Congress. Customs duties became the principal source of revenue for the young Republic and remained central to financing the federal government for more than a century. CBP itself traces the legacy of the United States Customs Service to legislation enacted in 1789.

Over more than two centuries, Customs evolved from principally a revenue-collection organization into a sophisticated border-enforcement and investigative agency. Its authorities were formidable. With formidable authority came formidable responsibility.

4. The Customs Search Authority

One of the defining features of Customs enforcement was the border-search doctrine. The Fourth Amendment generally imposes substantial constitutional requirements on government searches. The international border has long been treated differently.

Persons, baggage, merchandise, and conveyances entering or leaving the United States are subject to inspection under statutory authority and longstanding judicial precedent. At the actual border and its functional equivalent, routine border searches generally do not require a warrant or individualized suspicion. More intrusive searches, extended-border searches, electronic-device searches, and searches occurring farther from the border can involve additional constitutional, statutory, or policy requirements.

The extraordinary authority was never supposed to mean, "We are Customs. We can search anything we want." Professional Customs officers and agents were trained to understand precisely where the authority began, where it ended, what nexus to the border was required, and how to articulate the legal basis for the search afterward. The objective was a lawful search whose fruits could survive judicial scrutiny.

5. Customs Custody, Bonded Merchandise, and the Extended Border

Cargo entering through a seaport, airport, or land border could remain subject to Customs control. Bonded merchandise and conveyances moving under Customs seals occupied a specialized legal and regulatory environment understood intimately by experienced Customs personnel.

Investigators also developed cases in which surveillance maintained the connection between merchandise or persons crossing the international border and subsequent enforcement activity away from the physical port of entry. This became part of the sophisticated doctrine surrounding the extended border search. The doctrine is

fact-specific and should not be reduced to a claim of unlimited authority. Its importance here is institutional: legacy Customs personnel operated with legal authorities and investigative methodologies unlike those of most conventional police agencies.

6. What Was Lost?

The question that should have been asked in 2002 was not simply, “How do we create a Department of Homeland Security?” It should also have been, “Which existing institutions possess capabilities so important that reorganizing them could damage national security rather than improve it?”

The 9/11 Commission’s findings concentrated heavily on intelligence integration, information sharing, and counterterrorism coordination. It documented profound deficiencies in pre-9/11 counterterrorism and intelligence capabilities and serious barriers between domestic and foreign intelligence organizations. The Commission urged movement from a culture dominated by “need to know” toward one emphasizing “need to share.”

Those findings warrant a difficult retrospective question: Was dismantling the institutional structure of the United States Customs Service necessary to solve those problems? That is not a partisan question. It is a question of statecraft, organizational design, and governmental effectiveness.

FIGURE 2. INSTITUTIONAL CAPITAL AT RISK DURING REORGANIZATION

LEGAL AUTHORITIES	TRADE EXPERTISE	INVESTIGATIVE CULTURE	MENTORSHIP & NETWORKS	MISSION IDENTITY
Border-search doctrine, customs law, evidentiary articulation	Cargo, bonded goods, commercial fraud, revenue protection	Smuggling, financial cases, contraband, international networks	Experienced personnel, liaison relationships, tacit knowledge	Clear priorities, accountability, professional ethos

7. Twenty-Three Years Later

DHS today reports a workforce of more than 260,000 employees, performing missions ranging from border and aviation security to cybersecurity, emergency management, and infrastructure protection. Size alone proves neither success nor failure.

The proper measures are outcomes: mission effectiveness, accountability, command structure, operational competence, institutional expertise, fiscal efficiency, and protection of the American people. After more than two decades, Congress and the Executive Branch should be willing to conduct a genuinely independent examination of whether the post-9/11 architecture remains the best possible structure for federal border and customs law enforcement.

Nothing in government should become permanent merely because changing it would be difficult.

8. Restoring the Legacy Mission — and Modernizing It

I believe the time has come for such a review. That does not necessarily mean recreating the federal government of February 28, 2003. The threats confronting America in 2026 are profoundly different from those of 2001. Cybercrime, transnational criminal organizations, fentanyl trafficking, hostile-state intelligence operations, sophisticated trade fraud, illicit finance, terrorism, unmanned systems, and globalized supply chains require modern capabilities.

The objective therefore should not be nostalgia. It should be institutional restoration combined with modernization. Congress and the Executive Branch should examine whether America’s principal customs investigative, border-enforcement, and immigration-enforcement functions are optimally organized, and whether some legacy institutions should be reconstituted with clearly defined missions, authorities, and chains of command.

9. Leadership Matters

Major institutional reform requires leaders who understand the organizations they are being asked to command. President Donald Trump selected Pete Hegseth to serve as Secretary of Defense, and the Senate confirmed him in January 2025. Whatever one's political assessment of that appointment, it illustrates a broader organizational principle: Presidents select senior officials whom they believe understand the mission, culture, and people of the institutions they are expected to lead.

The same principle should apply to federal law enforcement. A serious reconsideration of the 2003 structure should include experienced career professionals from the legacy organizations themselves, including former Customs agents, inspectors, intelligence personnel, import specialists, auditors, attorneys, and senior managers. Institutional reform should not be designed exclusively in Washington conference rooms. The people who actually performed the mission should have a seat at the table.

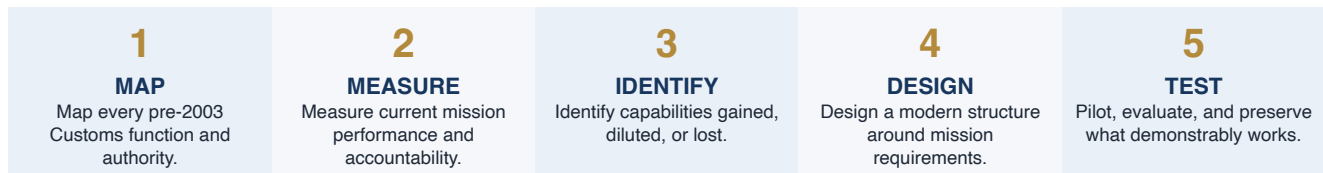
10. The Larger Lesson

The creation of DHS was undertaken during an extraordinary national emergency. Decisions were made under enormous pressure and with an understandable determination to prevent another catastrophic attack. That historical context deserves respect.

But respect for the intentions of policymakers does not require permanent acceptance of every organizational decision they made. Government has an obligation to examine its own performance. If a restructuring worked, retain it. If it failed, repair it. And if indispensable institutional capabilities were damaged, have the courage to restore them.

The United States Customs Service served this Republic from its earliest days. Its history reaches back to the First Congress and the administration of George Washington. Its officers and agents developed legal authorities, investigative disciplines, and institutional expertise across more than two centuries. That history deserves more than nostalgia. It deserves study. And, perhaps, restoration.

FIGURE 3. A DISCIPLINED REVIEW BEFORE REORGANIZATION



CLOSING PRINCIPLE

1789

“Extraordinary governmental authority carries an equally extraordinary obligation to exercise that authority lawfully, professionally, and with restraint.”

For those privileged to have served in the United States Customs Service, 1789 represented more than the date appearing on the seal. It represented a lineage, authority restrained by law, institutional memory, and generations of federal officers entrusted with guarding the gateways of the Republic.

EDITORIAL / SOURCE NOTE

For publication, congressional circulation, or academic submission, factual assertions concerning 9/11 findings, DHS staffing, the 2003 transfer of functions, border-search doctrine, and current organizational structure should be supported by formal citations to the 9/11 Commission Report, the Homeland Security Act of 2002, CBP/ICE historical materials, GAO reports, applicable statutes, and controlling case law. The evaluative conclusions in this article are presented as the author's practitioner assessment.

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PROPOSED BOOK CONCEPT

THE WAR ON THE U.S. CUSTOMS SERVICE

How America Dismantled One of Its Oldest Federal Law-Enforcement
Institutions,
and Why It May Be Time to Bring It Back

BOOK THESIS

America responded to an intelligence-integration failure partly by reorganizing and fragmenting a 214-year-old border and investigative institution. The unanswered question is whether that particular remedy addressed the disease identified after 9/11, or created a second institutional problem while attempting to solve the first.

This framing supports a book-length historical and policy inquiry, a doctoral-level institutional analysis, or a congressional reform proposal. It preserves the force of the argument while distinguishing documented findings from practitioner judgment and avoiding claims broader than the historical record can support.