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National Academy of Public Administration

The Executive Presidency: Federal Management for the 1990s

A Report By An Academy Panel for the 1988-89 Presidential Transition

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September 1988

The Executive Presidency: Federal Management for the 1990s

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began with President Kennedy. While Johnson added some structural elements, he basically continued the practice of the Kennedy years. Nixon combined the informality of the Kennedy/Johnson period with some of the more elaborate structures and processes which had marked the Eisenhower years. In addition, Nixon wished to run foreign policy from the White House. He increased the size of the NSC staff and tended to move decision making and even diplomacy into the White House.

Presidents Ford and Carter kept the basic Nixon structure and process but established their own balances among the secretaries of state and defense, the CIA director and the national security advisor. President Reagan initially downgraded the role of the national security advisor, without at the same time designating the secretary of state or anyone else as coordinator of national security. This left considerable ambiguity in the national security process, a condition not relieved by the fact that President Reagan had six national security advisors during his eight years in office.

There is no ideal for the relationship among the principal national security advisors to the president. Presidents ordinarily establish this relationship, when they do it consciously, based on their own operational predilections, the personalities involved, and their perception of the flaws in the operations of the predecessors.

In establishing this relationship, it is understandable why recent presidents have depended increasingly on their national security advisors. Located closer to the president in the White House and often more sensitive to his political needs and time frame, the national security advisor can react more quickly and quietly to the chief executive's preferences. Moreover, the adviser can operate without the cumbersome interagency task forces, bureaucratic consultation, and red tape associated with the State or Defense Departments. Presidents have believed that their national security advisor can be creative and bold, while they perceived the bureaucracies of the executive departments as slow and bland.

There are disadvantages, however, to presidents depending on the national security advisor and NSC staff at the expense of the executive departments. The personal advice of the national security advisor, while not freighted with bureaucratic loads, is also less sensitive to the institutional apparatus necessary to build support and to implement policy decisions. Heavy reliance on informal processes may lead to inadequate communication and execution. The departments provide greater institutional memory, continuity, professional experience, in-depth planning capability, and an

orderly policy process. In negotiations with others, they also have the advantage of being once removed from the president so that mistakes are not likely to be as harmful, and changes of position can be made with less embarrassment to the president.

Serious problems in the NSC system have developed most frequently from two sources. The most recent problem, the Iran-Contra affair, clearly demonstrates the liabilities of involving the NSC staff in operations. While there may be rare occasions providing some overriding reason for doing so, as a general rule it is a practice to be avoided. NSC personnel are staff officers, selected primarily for their ability to perform staff roles. The principal task of the executive departments and agencies is the execution of policy.

The other principal cause for difficulty in the NSC process is confusion over the role of public spokesperson. This results when the national security advisor participates extensively in the public explication of national security policy, such as occurred in the Nixon and Carter administrations. That was a recipe for rivalry and confusion at home and abroad over policy direction.

Any ambiguity about who speaks for the president will confuse our allies and adversaries and encourage them to play off one American official against another. Thus the national security advisor must take care to be an honest broker in presenting the views of others to the president. The secretary of state would have to accept that the national security advisor and NSC staff will play an important role in advising the president and formulating policy. The secretary should let the president take credit for successes and be willing to take the blame for failures.

It would be advantageous for the president, early in the transition, to set out the charter of the national security advisor *vis a vis* the secretaries of state and defense and establish a defined national security policy process. The plan does not have to be as detailed as those that were set out in 1973 and 1977, but it must clearly differentiate between the staff functions of the national security advisor and line responsibilities of the department secretaries. Moreover, because the national security advisor is a presidential staff position, the appointment should not be made subject to Senate confirmation.

Finally, in the interest of ensuring continuity, consideration might also be given to creating an NSC secretariat which would not turn over with each new administration. As with a more general White House secretariat, career professionals who serve in this office would be concerned primarily with process, not policy development or advocacy. They would provide linkage to the departments.

Chapter 3

Making Political Appointments

The authority to make appointments to the highest offices in the executive branch is a mixed blessing for any new president. On the one hand, there is the splendid opportunity to staff the government with the country's most creative managerial talent, to reward those who have worked hard to win the election, and to build an administrative team of loyal and responsive leaders. On the other hand, there is the immense practical burden of fully realizing this opportunity. The time allotted to the transition is short, knowledge of the posts to be filled is always inadequate, "the country's best talent" is always harder to identify and more elusive to recruit than any new president anticipates, the number of people with candidates to sponsor them are many, and the loyal campaign workers may not have the skills or experience to match the positions available.

Thus, for all the energy poured into administration-building during the creation of a new presidency, results rarely equal the effort. Filling the available top slots may take most of the first year in office. Some strong people slip away from the president's recruiters; some weak ones slip by them. In the agencies and departments, management teams are often formed from odd parts, following no clear plan, fitting together in awkward ways, producing what Professor Hugh Heclo has termed "a government of strangers."

The appointment power thus abets and bedevils the leadership efforts of contemporary presidents. Its effective exercise grows more difficult as it grows more critical. The Panel has addressed the question: how can the president identify, recruit, and continue to attract responsible, qualified appointees committed to the goals of his administration and the ethics of public service? It is a central question for any new president, for failure to maximize the advantages afforded by the appointment power will substantially undermine the accomplishment of policy objectives and the achievement of effective leadership.

The Appointment Power

The U.S. system relies more heavily on noncareer appointments than that of any other democratic country. A change of administration in the United States opens up thousands of offices, at least several hundred of which have substantial administrative, regulatory, and policy making responsibilities.

Early government leaders fixed on this approach because they did not believe the American people had the capacity to elect more than a few top leaders and because there was at the time only very limited U.S. experience with a career civil service. Moreover, they saw the non-career approach as consistent with a republican form of government. The framers believed it a source of responsiveness: electoral mandates would be translated into control of administrative offices, keeping the government in close touch with the popular will. They believed it a likely source of creative energy: new infusions of citizen leaders would bring to the national government a constant flow of innovative ideas. And, perhaps ironically, they believed it would, in Hamilton's phrase, "produce a good administration": the dual tests of presidential nomination and Senate confirmation would promote a judicious choice of people to fill important government offices.

The framers' vision of the national government bears little resemblance to its current shape and size. The proportion of political appointees in the total federal workforce has declined substantially with the growth of the civil service system, but their absolute number, particularly for senior-level positions, has increased substantially in the last 30 years. Starting from 100 percent, the proportion of political appointees in the federal government declined to 90 percent by 1883, the year the Pendleton Act was passed, to 22 percent by 1920 and finally, (after briefly rising to 28 percent during the administration's of President Franklin Roosevelt), it has

dropped to less than two tenths of one percent today. While the percentage of political appointees in the federal workforce has been declining, the number of such appointments has continued to rise. Today there are approximately 3,500, including about 600 senior positions in the departments and agencies that presidents must fill with people they neither know nor know of.

This growth in the number of senior-level appointive positions is the root of nearly all the difficulties modern presidents face in maximizing the appointment power's service to the goals of their administrations. Exercise of the appointment power is no longer a hands on activity for the president. The appointment process must be managed, and the effectiveness with which it is managed will have a direct impact on the quality and penetration of presidential leadership in a government that employs more than 5 million people and spends more than a trillion dollars a year.

The administration of the appointment process has become more sophisticated and elaborate over the past quarter century. Its current operation raises a number of issues that affect its contributions to presidential leadership and thus deserve attention.

Transition Planning

The appointment process has two distinct phases, each with its own peculiarities and demands. One phase occurs during the transition period when a new administration is put in place; the other occurs later when various members of the initial group of appointees must be replaced. Most of the attention here will focus on the first phase, the transition.

RECOMMENDATION 1. The presidential candidates should begin to staff the new administration no later than the month in which they are nominated. Adequate resources should be allocated for that purpose.

An earlier article stemming from the Academy's previous projects on the presidency described the recent pattern of transition appointments:

The personnel choices a president makes during the transition period are perhaps as important collectively as any other set of decisions he will make during his time in office. Yet these choices are often made with inadequate preparation and often in a state of near ignorance of the kinds of jobs being filled and the real abilities of the people selected to fill them. So many matters of consequence press upon a president elect during the transition that he never has adequate time to give to the direct examination of candidates and their qualifications, or even to the establishment of a set of procedures to permit his staff to carry out that function effectively in his stead. The typical result is a helter skelter process with personnel choices made by a variety of individuals, each interpreting the president's priorities in his own way, each coping with a different set of political realities.

Those same fundamental concerns—the large number of appointments to make, inadequate knowledge of candidates

and of the positions themselves, a shortage of time for thorough search and consideration, and the need to create a presidential personnel operation at precisely the moment of peak load—will confront the president elected in 1988, just as they have confronted, and plagued, all presidents in the past half century.

They need not overwhelm, however. The points of stress are well known. Careful planning should afford opportunities for the new president to anticipate the normal transition problems of personnel selection and to prepare to cope with them. It is critically important that personnel identification begin before the election. The transition period lasts about 75 days, not nearly time enough to create appropriate staffing procedures nor to fill more than a few dozen senior positions.

The Carter administration began its personnel planning four months before the 1976 election, although the value of this planning was later diminished by administrative confusion after the election. The Reagan administration was better organized and began to develop its own staffing plans in July 1980. This made for a smoother than usual transition, but was still not adequate to get the Reagan team in place early in 1981.

Several steps can be taken to overcome the normal problems of personnel selection during the transition period. One of those is for the major party candidates to get an earlier and more comprehensive start on transition planning. The disincentives to that are practical and political. Practically, it is hard for a campaign to divert the financial resources necessary to staff a transition planning enterprise. The Federal Election Commission has refused to support the use of federal campaign funds for this purpose. As a consequence, transition efforts must, under current interpretations of law, be funded from private sources (also a matter of some legal uncertainty) or be staffed entirely by volunteers.

Politically, the risks are of visibility. No transition planning group wants its work to surface during the campaign. Leaks of the names or even of the types of candidates under consideration for key administration jobs can easily become campaign issues. They can also dim the enthusiasm of supporters who are disappointed in not finding their own names on the lists that are circulating in the press and on the cocktail party circuit. Confidentiality is a crucial element in transition personnel planning.

RECOMMENDATION 2. The outgoing administration should be asked to prepare position lists, job descriptions, a record of past personnel practices, and other useful information. These should be provided to the presidential candidates well in advance of election day.

The planning process should be provided the permanent institutional support it now lacks. Past administrations routinely reinvented the personnel wheel. They inherited from their predecessors virtually nothing in the way of job descriptions, ongoing personnel systems, or candidate data banks,

and none of the permanent agencies of the government had any responsibility to assist in filling non-career, appointive positions. In this context, the floundering that sometimes characterized transition personnel planning was no surprise.

The current White House personnel office maintains a computerized data base on presidentially appointed positions, which includes position descriptions and other pertinent data. This information should be made available to the candidates, either directly or through OMB, to assist their personnel planning. Information that ought to be maintained and provided to the presidential candidates and transition teams includes: job descriptions, lists of previous incumbents, computer hardware and software for setting up a personnel management system, and extensive briefing materials on the appointment and confirmation processes. Attention should be given to managerial requirements and subject-matter or technical expertise.

In the next administration, if it is impractical for the White House to continue this role, other candidates for maintaining information on presidentially appointed Senate confirmed positions are the Office of Personnel Management or OMB. The Panel believes OMB is more appropriate because of its current participation in the appointments process, its programmatic expertise, its awareness of agency management needs, and its location in the Executive Office of the President.*

RECOMMENDATION 3. Additional staffing should be provided temporarily to those federal offices that play a large role in clearing and processing appointments during a presidential transition so as to reduce delays that often hamper the process.

The last two administrations took almost a year to get all their appointees in place. Some of this may be the positive effect of presidents exercising greater care in the evaluation and selection of appointees, but much of it appears to be the result of an accumulation of inefficiencies at each stage of the appointment process: internal conflicts over who should be appointed, rigid political clearances, compliance with financial disclosure regulations, FBI investigations, and confirmation reviews by Senate committees (See Chart 3.1).

All agencies participating in the appointment process must have the time needed to perform their responsibilities adequately, but it is also important that they be staffed at a level appropriate to their duties and that they perform only those functions that are essential to ensure the integrity and qualifications of the president's nominees. To this end, the Panel recommends additional, temporary staffing in the White House personnel office and the office of legal counsel, the Office of Government Ethics, the FBI, and other relevant executive units to facilitate processing new appointees and reduce the time it takes to put the new president's team in place. Careful attention should also be given to the various

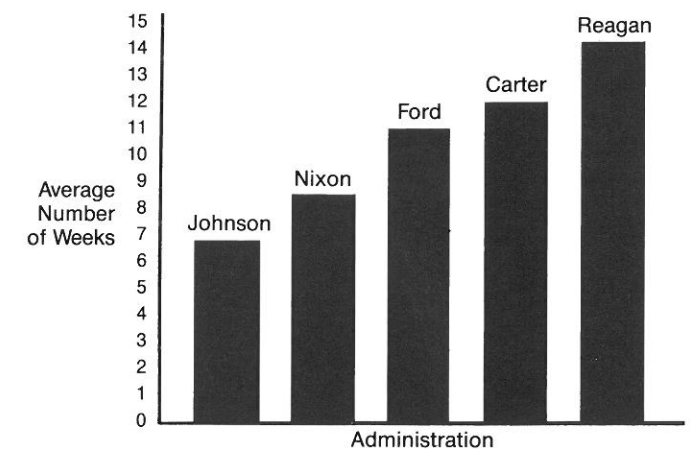
*Dissent by Chester A. Newland:

OMB should not be thrust into the political arena of managing information on presidential appointees. OMB must be strengthened in both reality and image as a trusted presidential instrument of budgetary and managerial policy, and involvement in presidential appointment processes would detract from the essential basis of trust for this key institution.

requirements to make certain that they are absolutely necessary (see recommendations 6 and 7 in this chapter).

Chart 3.1

Average Length of Time from Decision on Final Candidate to Confirmation, 1964–1984



Finally, presidential candidates can aid themselves abundantly by understanding the difficulties they will face in building an administration should they win the election. Lack of candidate interest has traditionally been a fundamental weakness of transition planning. Getting an early start on personnel planning, giving responsibility for that task to people who are familiar with the executive branch of government, and providing consistent support for their efforts before and after the election will greatly increase the effectiveness of these operations.

General Appointment Issues

Identifying, Recruiting, and Retaining Talented and Responsible People.

The critical personnel task for any administration is to recruit good people. It is axiomatic that the people recruited to govern are the most important determinant of what government accomplishes.

The personnel office. Since presidents cannot on their own find and recruit all the talented appointees needed, the first requirement is to construct a personnel operation that effectively and efficiently serves the president's purposes. The principal considerations in doing so are how large it should be; where it should be located in the presidential staff structure; the kind of person who should lead it; where he or she should fit into the White House hierarchy; and how direct his or her access to the president should be.

Recent administrations have varied widely in their approaches. In some, the personnel operation was accorded

high importance and visibility; in others, it remained on the periphery of White House operations. Some directors of presidential personnel were high ranking aides with frequent access to the president; others rarely saw the president, reporting to him through several levels of staff hierarchy. Only the size of the personnel staff has developed any pattern of consistency in recent administrations, expanding to 100 people or more during the transition, then settling in to a normal complement of 25 to 40.

RECOMMENDATION 4. *The president's chief personnel assistant should be an influential member of the White House staff with regular and direct access to the president.*

The advantages of elevating the personnel operation in the White House hierarchy are primarily political. There is no evidence to suggest that the location of the personnel office materially affects the kinds of candidates it identifies and recruits. But a personnel director with a ranking position on the White House staff and frequent access to the president will be better fortified to fend off or integrate the political pressures that are part of personnel selection, especially those pressures emanating from other members of the staff. When it is well known in Washington that appointment decisions filter through the director of presidential personnel, end runs are discouraged and the politics of personnel selection are often easier to navigate because they follow more consistent channels. President Johnson often protected his own personnel prerogatives from political pressure by using his chief personnel aide, John Macy, as a shield. Macy, a career civil servant before his appointment as chairman of the Civil Service Commission, was quoted as having said:

... a number of times it was reported back to me that somebody would come in and complain about a particular appointment that the President had made and he was quoted as having said, "well, don't blame me. It's that God damn Macy. He insists on having merit." And that tended to terminate the conversation as far as the complainant was concerned.

Traditionally, personnel directors have been the people principally assigned to ensure the high quality of appointees and to resist pressures to appoint people with strong political connections but minimal qualifications. The closer the director is to the center of the process—to the president—the greater the likelihood that substantive quality will remain an important criterion in the selection calculus. The current personnel director is located in the west wing of the White House and has access to the president.

When the personnel operation languished on the periphery of White House operations, the explanation was usually found in the personal preferences of a strong chief of staff. Strong chiefs have typically positioned the personnel office as staff support to themselves, so that they could serve as the important filter for personnel decisions. This tended to open up more political channels into the personnel selection process because a strong chief of staff was inevitably a magnet for political pressures of all kinds.

Recruiting impediments. All personnel staffs, regardless of structure, encounter difficulties in identifying and

recruiting qualified appointees. After several decades of accumulated experience, identifying candidates for presidential appointments is now somewhat more systematic, but the challenge of making a good match between the person and the job remains formidable. The potential universe of candidates is so large and the qualifications for most government jobs so imprecise that there is no simple way to identify a pool of the "best" candidates. It is often difficult to reach agreement even on the right criteria, let alone the names of the best candidates.

Presidential recruiting therefore remains a complex mixture of outreach and reaction. Some candidates come to the fore from standard executive recruitment procedures; others are recommended by political patrons; still others promote themselves. Every appointment produces its own little drama; no two are exactly the same. Computerized data banks, talent files, and contact networks come and go; none of them ever becomes very central to the essentially human choices that ultimately produce a short list and then a final candidate selection. Information retrieval and management systems have been developed to support this process, but none of them can substitute for the judgments, intuitions, and political calculations that drive them.

Improving the recruitment of presidential appointees is less a matter of building better systems than of reducing the impact of the powerful disincentives that often prevent talented people from accepting the offer of a presidential appointment. One distressing trend is a growing unwillingness to serve in the national government among people in those professions and places from which leading presidential appointees have traditionally been drawn. Presidential recruiters report that they must often go through several candidates before they can find one who will accept an appointment. Frequently, as a result, the president's nominee is the fourth or fifth preference among those identified as qualified for the position. In the view of many experienced Washington hands, this has led to a substantial drop off in talent at the highest levels of government. National service is no longer the magnet that it once was for the country's best qualified leaders.

Some of the change surely is societal. The day is pretty well past when appointees could uproot their families and move them to Washington on short notice to take on a position in a presidential administration. Today, there are more two-career families, and children are in many organized school and extracurricular activities. Moreover, as housing and moving prices have escalated, short term buying and selling of homes have become major economic decisions for a family. There is little that government can do to overcome these impediments to presidential recruiting.

There are other impediments that may be subject to corrective measures, however. These have to do with the government itself, with a decline in morale and a loss of prestige in the public service (see Chapter 4), and with comparatively low salaries, excessive financial disclosure requirements, and post-employment restrictions on appointees.

RECOMMENDATION 5. *Building on the recommendations of the 1988 Quadrennial Commission, the next president should support the adjustment of compensation for appointed officials to levels that adequately support the recruiting and retention needs of the federal government.*

No recent analysis of government executives has found government salaries high enough to ensure the recruitment and retention of qualified leaders. Instead the chorus of analysts, from quadrennial pay commissions to detailed scholarly studies, has been loud and unified in noting that current salary scales are a profound disincentive to those who might otherwise be stimulated by the challenge of government service.

The simple fact is that the quality of government executives will continue to suffer until the public and policy makers recognize that government must compete in the marketplace for executive talent, and that it currently does so at great disadvantage. Thrilling as the prospect of a cabinet or sub-cabinet appointment may be, it is a long way from a private sector salary, stock options, partnership entitlements, and a generous expense account. Compensation need not be equal to that of the private sector, but it should be adequate to prevent great sacrifice in taking government positions.

Other disincentives are now well known. Many potential appointees shrink from the prying and snooping they see as concomitants of government service. The vision of FBI background checks, intensive scrutiny during Senate confirmation, and constant buffeting by what many perceive as the "jackals" of the Washington press corps hold little appeal to people who have lived their lives out of the glare of publicity. This is an overreaction, of course. Many appointees later learn that FBI investigations rarely find anything harmful, that most Senate confirmation procedures are short and routine, and media inattention is far more common than bright lights. But the image carried in the minds of most potential appointees is one formed from the few horror stories that do penetrate the public consciousness each year. The confirmation hearings of Robert Bork or the media's digging into the background of Douglas Ginsburg bear little resemblance to the normal treatment of presidential appointments. Yet they will do more to shape perceptions of the nomination process than do the hundreds of routine appointments that constitute the norm.

Terrel H. Bell, a cabinet secretary in the Reagan administration and a presidential appointee in others, recently noted the difficulty in recruiting able people in the face of these perceived and potential humiliations:

Many outstanding citizens would be willing to respond to a call from the president or from a cabinet officer to serve their country, but they are understandably unwilling to run the gamut of this procedure. The nation loses many of its best qualified potential public servants because of this lengthy and excruciating process of public exposure.

RECOMMENDATION 6. *The president should appoint a bipartisan commission to review the current re-*

quirements for public financial disclosure and post-employment restrictions to determine whether excessive burdens are being placed on those who are candidates for appointive office.

The post-Watergate era has been a period of intense concern with the ethics of public officials. Some of this is an entirely appropriate reaction to contemptuous abuses of the public trust by highly visible Washington officials. However, this concern has also created an iron cage of ethics regulation that encumbers the process of staffing the executive branch but has not seemed to improve the integrity of government.

The unanswered question is: how much is enough? How can the country regulate the ethical behavior of its public officials without establishing such draconian constraints that even honest people will refuse to enter or remain in the public service? The answer is not clear, but it is clear that the answer has not yet been found. Violations of the public trust continue to occur, perhaps at a pace more frequent than the historical norm. At the same time, however, the chorus of complaints about the restrictions of ethics regulations grows louder.

A new and especially powerful disincentive was added by the enactment of the Ethics in Government Act of 1978. That legislation produced an additional and often painful set of hurdles for presidential appointees in the form of detailed, public disclosure of their personal finances and restrictions on post-employment. Disclosure had been required for some time; the novelty in the 1978 act was that it required full public disclosure, thereby laying bare the personal finances of appointees for all to see.

What is troubling here is the lack of evidence that the detail required by the disclosure forms or the full public nature of disclosure itself has done much to improve the ethical quality or ethical commitment of senior appointees. Disclosure in some form is an appropriate way to prevent or discourage blatant conflicts of interest. But the objectives of good government require that a balance be struck between the public's right to know and the government employee's right to privacy.

The 1978 ethics act substantially reduced the right to privacy. An important consequence of that is that talented people are now reluctant to accept presidential appointments, not because they are crooks, but simply because they do not wish to have others peering deeply into their private lives. Similarly, post-employment restrictions have acted as an impediment to the recruitment of top-level executive officials but have not effectively reduced the penchant for "revolving door politics" nor precluded ethical abuses following government service.

RECOMMENDATION 7. *The FBI should be asked to assure that its investigations of presidential appointees are streamlined and adapted to the nature of the positions being filled.*

Re-examining the benefits and appropriateness of FBI clearances can also minimize the fears that potential appointees suffer. The National Academy's presidential appointees

high importance and visibility; in others, it remained on the periphery of White House operations. Some directors of presidential personnel were high ranking aides with frequent access to the president; others rarely saw the president, reporting to him through several levels of staff hierarchy. Only the size of the personnel staff has developed any pattern of consistency in recent administrations, expanding to 100 people or more during the transition, then settling in to a normal complement of 25 to 40.

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No recent analysis of government executives has found government salaries high enough to ensure the recruitment and retention of qualified leaders. Instead the chorus of analysts, from quadrennial pay commissions to detailed scholarly studies, has been loud and unified in noting that current salary scales are a profound disincentive to those who might otherwise be stimulated by the challenge of government service.

The simple fact is that the quality of government executives will continue to suffer until the public and policy makers recognize that government must compete in the marketplace for executive talent, and that it currently does so at great disadvantage. Thrilling as the prospect of a cabinet or sub-cabinet appointment may be, it is a long way from a private sector salary, stock options, partnership entitlements, and a generous expense account. Compensation need not be equal to that of the private sector, but it should be adequate to prevent great sacrifice in taking government positions.

Other disincentives are now well known. Many potential appointees shrink from the prying and snooping they see as concomitants of government service. The vision of FBI background checks, intensive scrutiny during Senate confirmation, and constant buffeting by what many perceive as the "jackals" of the Washington press corps hold little appeal to people who have lived their lives out of the glare of publicity. This is an overreaction, of course. Many appointees later learn that FBI investigations rarely find anything harmful, that most Senate confirmation procedures are short and routine, and media inattention is far more common than bright lights. But the image carried in the minds of most potential appointees is one formed from the few horror stories that do penetrate the public consciousness each year. The confirmation hearings of Robert Bork or the media's digging into the background of Douglas Ginsburg bear little resemblance to the normal treatment of presidential appointments. Yet they will do more to shape perceptions of the nomination process than do the hundreds of routine appointments that constitute the norm.

Terrel H. Bell, a cabinet secretary in the Reagan administration and a presidential appointee in others, recently noted the difficulty in recruiting able people in the face of these perceived and potential humiliations:

Many outstanding citizens would be willing to respond to a call from the president or from a cabinet officer to serve their country, but they are understandably unwilling to run the gamut of this procedure. The nation loses many of its best qualified potential public servants because of this lengthy and excruciating process of public exposure.

RECOMMENDATION 6. *The president should appoint a bipartisan commission to review the current re-*

quirements for public financial disclosure and post-employment restrictions to determine whether excessive burdens are being placed on those who are candidates for appointive office.

The post-Watergate era has been a period of intense concern with the ethics of public officials. Some of this is an entirely appropriate reaction to contemptuous abuses of the public trust by highly visible Washington officials. However, this concern has also created an iron cage of ethics regulation that encumbers the process of staffing the executive branch but has not seemed to improve the integrity of government.

The unanswered question is: how much is enough? How can the country regulate the ethical behavior of its public officials without establishing such draconian constraints that even honest people will refuse to enter or remain in the public service? The answer is not clear, but it is clear that the answer has not yet been found. Violations of the public trust continue to occur, perhaps at a pace more frequent than the historical norm. At the same time, however, the chorus of complaints about the restrictions of ethics regulations grows louder.

A new and especially powerful disincentive was added by the enactment of the Ethics in Government Act of 1978. That legislation produced an additional and often painful set of hurdles for presidential appointees in the form of detailed, public disclosure of their personal finances and restrictions on post-employment. Disclosure had been required for some time; the novelty in the 1978 act was that it required full public disclosure, thereby laying bare the personal finances of appointees for all to see.

What is troubling here is the lack of evidence that the detail required by the disclosure forms or the full public nature of disclosure itself has done much to improve the ethical quality or ethical commitment of senior appointees. Disclosure in some form is an appropriate way to prevent or discourage blatant conflicts of interest. But the objectives of good government require that a balance be struck between the public's right to know and the government employee's right to privacy.

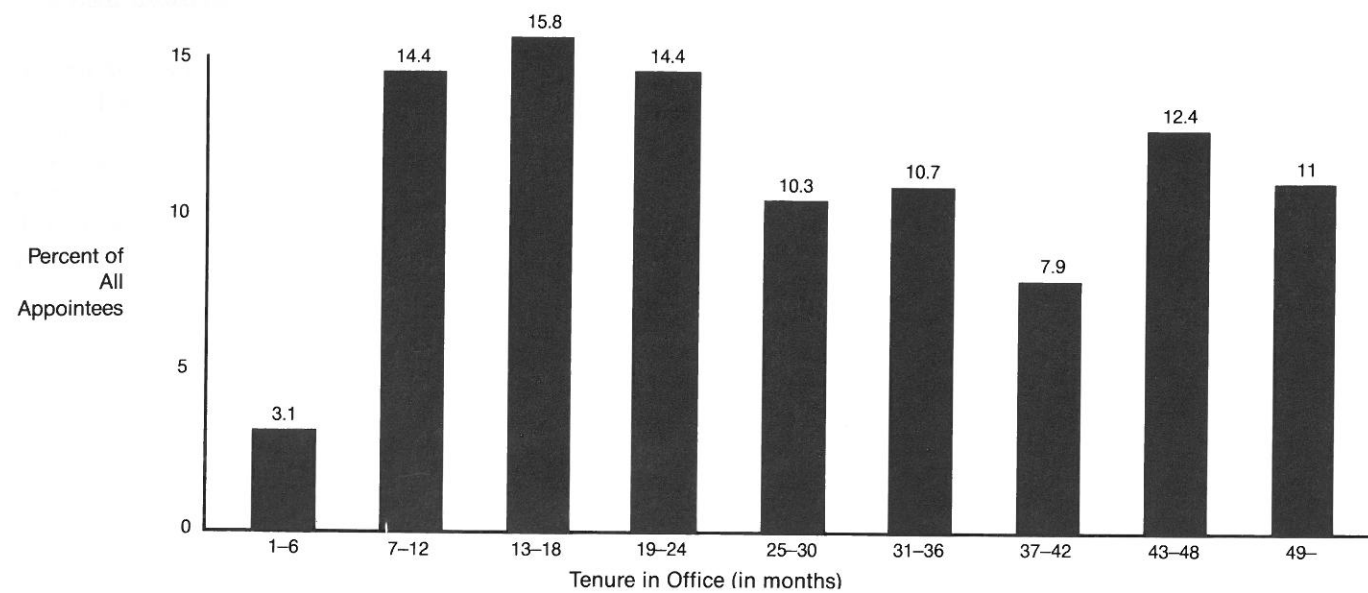
The 1978 ethics act substantially reduced the right to privacy. An important consequence of that is that talented people are now reluctant to accept presidential appointments, not because they are crooks, but simply because they do not wish to have others peering deeply into their private lives. Similarly, post-employment restrictions have acted as an impediment to the recruitment of top-level executive officials but have not effectively reduced the penchant for "revolving door politics" nor precluded ethical abuses following government service.

RECOMMENDATION 7. *The FBI should be asked to assure that its investigations of presidential appointees are streamlined and adapted to the nature of the positions being filled.*

Re-examining the benefits and appropriateness of FBI clearances can also minimize the fears that potential appointees suffer. The National Academy's presidential appointees

Chart 3.2

Tenure in Office of Presidential Appointees in Study, 1964–1984.



project found that FBI investigations were often much more elaborate and time consuming than seemed necessary for many government positions, especially those that have little direct bearing on national security. No valid reason was found for submitting an assistant secretary of agriculture to the same scrutiny as a deputy secretary of defense.

RECOMMENDATION 8. *To lengthen the tenure of presidential appointees, the next president should encourage team building and forging bonds between appointees and the president, foster support networks to help the families of appointees feel part of the administration team, and provide greater upward mobility for appointees by filling vacant positions through promotions rather than appointments from the outside.*

Retaining the services of successful appointees already in government is as important a task as recruiting effective appointees in the first place. Retention is critical for two obvious reasons. First, keeping good appointees helps to sustain continuity and build experience in government. Second, extending tenure in office reduces the pressure on the presidential personnel operation to recruit talented replacements. The longer appointees serve, the fewer vacancies there are to fill.

But retention is no simple matter, and one of the troubling long terms trends in the federal government is the short tenure of senior presidential appointees. Average tenure in office has been generally declining for two decades, although there is some evidence that average tenure has lengthened toward the end of the current administration due perhaps to its 8-year duration and the president's popularity with his own appointees. Data gathered for the Academy's presidential appointees project showed the average presidential ap-

pointee stays in place for only 26 months.¹ One-third of all appointees served 18 months or less (see Chart 3.2). In contrast, those in the non-career senior executive service (SES) stayed 1.7 years in their positions while career SES employees remained 3.3 years. Although in-job tenure is short, in-government tenure is longer. As of September 1987, non-career SES members had—on average—9.1 years of government service.

Relatively low government salaries in comparison to those in the private sector are one important reason for the shortening tenure of senior, political appointees. So too are inadequate expense allowances. Appointees who are willing to accept financial sacrifice to enter government service are not willing to endure that sacrifice for very long. For many of them, substantial earning opportunities await in the private sector and the financial lure gets stronger over time. They leave before they have accomplished all they might, simply because they do not believe they can afford to stay any longer. Appointees who leave the government after a short period of service often cite the costs of educating their children, maintaining homes in two places, and losing career opportunities.

The growing stress of the political executive's work environment also seems to contribute to shorter tenure in office. In 1985, the Academy asked hundreds of present and former presidential appointees to describe their feelings about the character of their jobs in government. Most spoke of the substantial satisfactions of serving one's country and of feeling a part of important historic events. But many also described the extraordinary burdens these jobs placed upon them and their families: very long hours, constant political pressures, complex issues and decisions, and unrelenting

¹ This figure is for the period 1964–1984 and does not include regulatory commissioners, whose tenure is slightly longer. When regulatory commissioners are included, the average tenure of appointees is 30 months.

stress. Many identified burn out as their principal reason for leaving the government when they did.

One surprising outcome was the frequency with which former officials complained of feelings of distance and disaffection from the president for whom they worked. For many of them, the great disappointment of their government service was that they had no deep sense of being part of a team, of being connected in any tangible way to the president who appointed them. Many never saw the president and never visited the White House. Even as purported insiders, they felt themselves on the outside. Their departure from government service might have been delayed, they reported, if they had felt more deeply connected to the collective effort of the administration they served. In the absence of that sense of connection, there was little to hold them in their jobs when stresses grew and other opportunities loomed. Similarly, their families also felt alienated, having sacrificed much to move to Washington and then been asked to make additional sacrifices while here. To help prevent this feeling of estrangement and promote a team approach, the Reagan administration held annual meetings with their appointees. The Panel believes that this practice should be continued and expanded.

Dividing Authority Between the White House and Cabinet

In any administration, the design of the appointment process is a constant struggle between centripetal and centrifugal forces. There are strong inward pressures, on the one hand, to maximize White House control of the process. The White House wants to ensure that appointees see the president as their patron, align themselves politically and ideologically with the president's policy objectives, and are consistently loyal to the president when careerists in the agencies and the departments resist presidential leadership. The operative management theory is that the best way to control an organization is to control the selection of people who will run it.

There are also strong outward pressures from agency and department heads who expect and demand the right to select their own subordinates. A different management theory applies here. It is that agency heads cannot be held accountable for their performance if they do not have the freedom to choose their own teams. It is a freedom for which most agency heads will willingly do battle.

RECOMMENDATION 9. *The president should establish authority for personnel selection at the outset of the administration which balances the president's prerogatives with cabinet officers' needs for flexibility in forming their own teams. This policy should be clearly conveyed to department and agency heads and to members of the White House staff.*

The consequence of these conflicting pressures is that skirmish lines form in every administration between White House staffs determined to maximize their influence (in the

name of the president) on personnel selection, and cabinet secretaries and agency heads pursuing control over their own organizations. The outcomes vary within and across administrations. In the Reagan administration, for example, the White House has been able to maintain substantial control over the appointment process. The Carter personnel operation was less aggressive in efforts to do this and, therefore, less successful. Yet, within each administration there have been agency heads who fought effectively to make their own personnel selections and others who accepted, sometimes willingly, sometimes reluctantly, people imposed on them by the White House.

There are important trade-offs for a new president seeking to centralize the appointment process or to grant broad latitude to agency heads. The advantages of centralized personnel selection are likely to include greater consistency in the qualifications and political values and sensitivities of appointees. This approach is also likely to yield a higher degree of appointee loyalty to the president and to policy objectives.

The advantages of decentralized control are in the support it gives to delegated authority and patterns of accountability within the executive branch. Agency heads with the freedom to select their own subordinates are better equipped to do their jobs as they define them. The critical question is whether this enhances or diminishes presidential effectiveness. This suggests that appointments should be the result of a cooperative process with initial discretion being given to the agency heads and the White House retaining a veto to insure responsiveness to the president's political objectives.

RECOMMENDATION 10. *The White House should take the lead in organizing orientation programs for all new appointees. These programs should give special attention to standards of conduct, the federal budget process, personnel procedures, White House organization and operations, the character of bureaucratic and legislative politics in Washington, and expectations for interacting with Congress, the media, and the career staff.*

Once appointees are selected and they successfully navigate the clearance and confirmation process, they must be prepared for their new jobs. Many have never before served in the federal government; some have never served in government at any level. Competent and creative though they may be, they have much to learn about government procedures and traditions, their agencies, public policy within their jurisdictions, and their political environment. They need to get oriented to the character and responsibilities of their new positions.

The federal government has rarely done a very good job of providing effective, systematic orientation programs for new appointees. Some administrations have taken initiatives in this area, most recently the Reagan administration. But these have rarely been sustained or very successful. Too often, the consequence has been that new appointees have been left to

find for themselves and their start up time has been unnecessarily elongated.

One problem has been lack of agreement about who ought to have responsibility for planning and implementing orientation programs for new appointees. Presidential personnel staffs have never seen this as a high priority; some felt their job was to recruit, not to orient, appointees. Statutory agencies like OPM and OMB have not tended to see presidential appointees as a central part of their jurisdictions, although the Federal Executive Institute, as part of OPM, has attempted to serve this need. And senior members of the White House staff, even while recognizing the need for orientation programs, have rarely solved the jurisdictional puzzle. Most of the time, therefore, orientation falls between the cracks. Typically it has been done sporadically and ineffectively, if at all. The National Academy's presidential appointees project found that more than 80 percent of the senior appointees serving between 1964 and 1984 had received no formal orientation to their new positions.

The next president needs to understand the value and importance of a systematic orientation program and clearly assign responsibility for it. Orientation is not a single event conducted by a single institution. The White House should run or sponsor some of it, and the departments and agencies should do likewise.

There is much to be gained, both in accelerating the process of getting new appointees up to speed and in building a sense of team spirit that has often been absent among the senior officials of recent administrations.

Halting the Increase in The Number of Senior Positions Staffed by Presidential Appointees

The next president should address another, longer-term issue: the growth in the number of *senior-level* administrative positions that are filled, at least initially, by political appointees. The arguments for an appointment process that relies on the services of private citizens were described at the beginning of this chapter. In important ways, these arguments are as valid today as they were when the government was smaller. It is not clear, however, that the values of an in-and-outer system increase in proportion to its expansion. In fact, quite the opposite may be true: the greater the number of positions filled by political appointment, the less certain are the benefits derived from such a system.

RECOMMENDATION 11. *The president should direct the White House personnel office and the Office of Personnel Management to conduct a government-wide assessment to identify, review, and possibly reconvert many of those positions in which career executives have been replaced by political appointees.*

The growth in the number of positions filled by political appointment has followed no plan or conscious policy choice. It is a matter of happenstance resulting from the general expansion of government into new areas of social

and economic activity and the piecemeal conversion of career positions into political ones. The effect, however, has been a gradual increase in the number of senior presidential appointments compared to positions once staffed by career executives.

This has at least two harmful effects. First, the greater the number of presidential appointees, the greater the strains on the appointment system. With fewer positions to fill, each appointment could be managed more carefully, reviewed more thoroughly, with fewer bottlenecks and delays. The administration could pay more attention to team building and morale, thus reducing turnover and lengthening tenure. Much of that is simply not possible when the number of political appointments reaches into the thousands.

Second, the career service has become increasingly distanced from important government decisions. This has had the effect of isolating the accumulated experience and expertise of the government's senior career officials from the centers of government decision making. This is a strange and ironic development at a time when the complexity of public policy makes experience and expertise more valuable than ever.

Standards of Conduct

RECOMMENDATION 12. *The president must set clear and high ethical standards for all public officials and respond swiftly and surely to any ethical lapses of his subordinates.*

The Panel is recommending a bipartisan review of the 1978 Ethics in Government Act and the rules it inspired to correct their flaws and excesses. Some of that has already occurred, inspired by the thoughtful introspection of the Office of Government Ethics. The report of the National Academy's presidential appointees project recommended several technical changes in the ethics laws to change reporting requirements and the tax treatment of capital gains liability acquired by public officials in the process of complying with ethics laws. A study last year by the Public/Private Careers Project of the Kennedy School of Government at Harvard repeated those recommendations. The Administrative Conference of the United States recently adopted a position supporting changes in the tax treatment of such capital gains.

The reality may be, however, that changing the ethics laws is not going to have any more effect than did the original passage of those laws on the integrity of governmental officials. Perceptions and, in many ways, the reality of ethical behavior relate more closely to the tone of a presidential administration than to its technical compliance with the law. The Panel believes that the effective route to rebuilding public trust in government is not to pass more laws or further tighten the regulatory fabric, but for the president, the Cabinet, and other senior officials to set a tone for their administration, making it unmistakably clear, that violations of the public trust—even those that do not technically violate the law—will not be tolerated.

Chapter 4

Invigorating The Public Service

A "quiet crisis" now exists in the federal service. It has been discussed in earlier Academy reports, in speeches by Paul Volcker and others, in a 1987 Twentieth Century Fund report, and most recently in a Hudson Institute report, *Civil Service 2000*. The latter report said: "Unless steps are taken now to address the problem, the average qualifications and competence of many segments of the Federal workforce will deteriorate, perhaps so much as to impair the ability of some agencies to function."

The next president must respond to this crisis. Not since the presidency of John F. Kennedy and his call to "Let our civil service be a proud and lively career," has much positive presidential attention been given to civil service issues. President Carter's advocacy of the Civil Service Reform Act of 1978, for example, concentrated on negative aspects of the civil service system (such as the difficulties of firing an unsatisfactory employee) while President Reagan saw government in general and the Washington bureaucracy in particular as part of the problem, not part of the solution.

A president's ability to command media attention provides an important opportunity to call attention to public service issues, set high expectations and standards, and frame the debate in positive and constructive terms. A newly elected president can establish a positive framework for long-term cooperation by using the transition period to announce a firm intent to join with the permanent bureaucracy in efforts to achieve excellence in government programs and the delivery of services.

Addressing The Importance of Public Service

RECOMMENDATION 1. *As early as possible, the president should deliver a major address on the public service. It should affirm the importance of the ca-*

reer service in achieving effective government, discuss how the president intends to use civil servants in pursuit of administration objectives, and challenge all government workers to do their very best at all times. Special emphasis should be given to the unique ethical responsibilities of the public service.

The resources of the career public service, both civil and military, offer an opportunity and a serious responsibility to a newly elected president. To utilize those resources fully, the president needs promptly to assert leadership in addressing career service problems, using words and symbolic actions to set a tone for the administration. In setting this tone, he must give attention to the special moral and ethical responsibilities of those in the public service.

The need for strong and clear ethical guidelines cannot be overemphasized. Recognizing that both political and career public servants have a larger responsibility to the public interest and to the nation elevates the public service and strengthens the links that civil servants perceive between themselves and those they serve. Moreover, the public should know that their government cares about excellence, quality, and the broader social good.

Because performing a public service is a strong motivational factor for many members of the career service, especially those in top management ranks, presidential affirmation of the importance of a career in government can help to reverse a serious deterioration in the morale of the federal workforce. Surveys conducted by the Office of Personnel Management document that "satisfaction with public service" and "adequate recognition for public service" have decreased greatly from 1979 to 1983. Later studies by the General Accounting Office (GAO) confirm this. A 1987 GAO study found nearly three fourths of career managers would not recommend government service to their children.

The data in Table 4.1 reaffirm such sentiments. The majority of the respondents to the most recent Federal