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## The White House Counsel's Office

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*The Office of White House Counsel sits at the intersection of law, politics, and policy. Its distinctive challenge is to advise the president to take actions that are both legally sound and politically astute. Often called "the president's lawyer," the counsel's office serves, more accurately, as the "presidency's lawyer," with tasks that extend well beyond the exclusively legal. Drawing on interviews with previous occupants of the office, the authors examine the unit's numerous activities, its place in the larger White House and executive branch, and the experiences of those who have served as counsel.*

The White House counsel's office is at the hub of virtually all presidential activity. Its mandate is to be watchful for and attentive to legal issues that may arise in policy and political contexts involving the president. To fulfill this responsibility, it monitors and coordinates the presidency's interactions with other players in and out of government. Often called "the president's lawyer," the counsel's office serves, more accurately, as the "presidency's lawyer," with tasks that extend well beyond exclusively legal ones. These have developed over time depending on the needs of different presidents, the relationship between a president and a counsel, and contemporary political conditions.

Today, the office carries out many routine tasks, such as vetting all presidential appointments and advising on the application of ethics regulations to White House staff and

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*AUTHORS' NOTE: We are grateful for the comments and suggestions of Martha Joynt Kumar and for the time and effort of the former presidential staffers who shared their experiences and insights in the White House Interview Project.*

executive branch officials, but it also operates as a “command center” when crises or scandals erupt. Thus, the more sharply polarized political atmosphere of recent years has led to greater responsibility, as well as heightened political pressure and visibility, for the traditionally low-profile counsel’s office. The high-stakes quality of its work has led to a common sentiment among counsels and their staff that there is “zero tolerance” for error.

### Law, Politics, and Policy

A helpful way to understand the counsel’s office is to see it as sitting at the intersection of law, politics, and policy. Consequently, it confronts the difficult and delicate task of trying to reconcile all three without sacrificing too much of any one. The distinctive challenge confronting the counsel’s office is to advise the president to take actions that are both legally sound and politically astute. For example, A. B. Culvahouse recalled his experience on arriving at the White House as counsel and having to implement President Reagan’s earlier decision to turn over his personal diaries to investigators during the Iran-contra scandal.

Ronald Reagan’s decision to turn over his diary—that sits at the core of the presidency. . . . You’re setting up precedents and ceding a little power. But politically, President Reagan wanted to get it behind him. (As quoted in Bendavid 1994, 13)

Nonetheless, Culvahouse (1999b, 28) added, the counsel is

the last and in some cases the only protector of the president’s constitutional privileges. Almost everyone else is willing to give those away in part inch by inch and bit by bit to win the issue of the day, to achieve compromise on today’s thorny issue.

Indeed, Lloyd Cutler, counsel to both Presidents Carter and Clinton, made a similar point, observing that the most challenging part of the counsel’s job is to be the one to tell the president no. Cutler (1999, 3-4) noted that in return for being

on the cutting edge of problems, the counsel needs to be someone who has his own established reputation . . . someone who is willing to stand up to the president, to say “No, Mr. President, you shouldn’t do that for these reasons.”

Consequently, the most essential task a counsel can perform for a president is to act as an early warning system for potential legal trouble spots before they erupt. For this role, a counsel must keep his or her “antennae” constantly attuned. Being at the right meetings at the right time and knowing which people have information or the technical expertise in specific policy or legal areas are key. Lloyd Cutler (1999, 4) noted,

the White House counsel will learn by going to the staff meetings, et cetera, that something is about to be done that has buried within it a legal issue which the people who are advocating it either haven’t recognized or push under the rug.

Disaster can also strike when counsels do not make good use of the Office of Legal Counsel (OLC) in the Department of Justice for guidance on prevailing legal interpretations and opinions on the scope of presidential authority. The counsel must sift through the legal opinions and offer the president his or her best recommendation. Cutler (1999, 4) described how this process works:

[OLC staffers] are where the President has to go or the President's counsel has to go to get an opinion on whether something may properly be done or not. For example, if you wish to invoke an executive privilege not to produce documents or something, the routine now is you go to the Office of Legal Counsel and you get their opinion that there is a valid basis for asserting executive privilege in this case. . . . You're able to say [to the judge who is going to examine these documents] the Office of Legal Counsel says we have a valid basis historically for asserting executive privilege here.

The counsel's office is the channel through which most paper and people must pass on the way to the president and, equally, through which all outputs from the Oval Office must be monitored and evaluated. The unit exists in a fishbowl, is subject to searing public criticism when it makes the slightest misstep, and yet prompts intense loyalty among those who have been privileged to serve in it.

## Functions of the White House Counsel's Office

Although the White House counsel's office has assumed different tasks in different administrations, the broader contours of its responsibilities began to take shape under Counsel Fred Fielding in the Nixon administration and have been remarkably consistent since the Ford years.<sup>1</sup>

### Advising on the Exercise of Presidential Powers and Defending the President's Constitutional Prerogatives

The counsel's responsibilities associated with presidential powers are highly volatile. They involve such activities as routinely reviewing (and occasionally drafting) executive orders, reviewing pardon and commutation recommendations, approving covert action proposals, interpreting treaties and executive agreements, examining presidential statements for consistency and compliance with legal standards (and in anticipation of legal challenges), and participating in editing the State of the Union address. Tasks that have consistently related to the defense of a president's constitutional prerogatives are fewer in number. These

1. John Dean established the White House counsel's office under Richard Nixon. Dean was the first counsel whose duties primarily focused on lawyering, and he was the first to seek out new legal responsibilities and draw them into a separate office in the White House. Although presidents from FDR through Nixon had aides with the titles of "special counsel" or "counsel," such staffers typically had more wide-ranging policy responsibilities. The Eisenhower White House to some extent was an exception: Gerald Morgan, as special counsel, and Edward McCabe, an associate special counsel, worked on tasks quite similar to some of those in the contemporary counsel's office. See, for example, Rabkin (1995), Strine (1995), and Walcott and Hult (1995).



have generally focused on issues related to executive privilege, war powers, and presidential disability or succession.

The present Washington political environment is notable for partisanship, polarization, and confrontation. Presidential actions are subject to extraordinary scrutiny, and a twenty-four-hour news cycle accelerates the pace of decision making, making any distinction between the “routine” and the more “crisis-laden” exercise of a president’s constitutional powers essentially artificial. At any time, political events may transform an otherwise routine exercise of presidential powers into an extraordinary undertaking. As Clinton counsel Bernard Nussbaum (1999, 6) concluded, “Small (and not so small) policy and political problems grow into legal problems. It was my job to make sure that these political and policy brushfires didn’t become conflagrations.”

A White House counsel must be well informed about political developments throughout the White House and the executive branch. Such knowledge is crucial if a counsel is to manage the conflicts that can result when Congress, a court, or an independent counsel exercising prosecutorial functions demands information from a sitting president who refuses to accede. Despite the primacy of high-stakes politics in these stand-offs, some political accommodation, rather than a purely “legal” answer, is typically the outcome. As many counsels have discovered, the best legal judgments about appropriate presidential response often have been overridden by political considerations.

I think this President operated on the premise pretty much and I certainly did that whatever the legal consequences or legal parameters were of executive privilege, if Congress really wanted something, politically it almost was impossible to deny it. The more you stood on privilege, the more you pointed to precedents, the more you showed these are the things that the President didn’t turn over, the more they could make political hay out of it. (Mikva 2000, 5)

In relative terms, the counsel’s role in regard to war powers has been less controversial. As chair of the War Powers Committee, the counsel is responsible for notifications to Congress. In keeping with presidential views that the War Powers Resolution is unconstitutional, however, counsels have provided Congress with a minimum of information “in the interest of comity.” In the words of A. B. Culvahouse (1999b, 5), “There is a real kabuki dance that was done. You sent a notice up to the Hill while protesting all the time that you’re not providing notice.” Like a kabuki dance, the war powers dialogue is often quite ceremonial, lacks a clear beginning or ending, and reveals much about the competition for political power. Typically, precedent is followed very closely, with past letters serving as models for correspondence.

Presidential disability and succession also require the counsel’s attention. Culvahouse (2000) has commented on this recurring issue of temporary presidential medical incapacity:

This is an area where the lack of an institutional memory is atrocious. The White House should not have to re-invent a process each time the POTUS [President of the United States] has surgery. We did the same thing when President Reagan had surgery (I think for skin cancer) in ’87/’88.

Further complicating the counsel's work as protector of presidential powers and constitutional prerogatives is the lack of clarity associated with the counsel's responsibilities as an advocate. The White House counsel provides legal advice to the office of the presidency, not to the individual president. As such, the counsel protects the powers of the office within the constitutional order of separated powers. Determining whether the office or the individual is under attack, however, may be difficult.

In fact, when I was first introduced to this job by Fred Fielding he said to me, "You are counsel to the office of the presidency. You are not counsel to the President." . . . However, in practice, it's not a very useful guide, because you really don't know—when issues like Whitewater come up—whether you're representing the President or the presidency. . . . But as soon as it becomes clear—and there's no bright line here—that this isn't just noise by political opponents, but in fact relates to the President's personal conduct, then the President should have his own lawyer. (Wallison 2000, 25)

Identifying and drawing these distinctions often has generated controversy. For instance, Clinton counsel Bernard Nussbaum was widely viewed as failing to differentiate between advocacy on behalf of the office and on behalf of an individual president. For his part, Nussbaum wrote in his resignation letter that he left "as a result of controversy generated by those who do not understand, nor wish to understand, the role and obligations of a lawyer, even one acting as White House counsel." (As quoted in Marcus and Devroy 1994, A1)

### **Overseeing Presidential Nominations and Appointments to the Executive and Judicial Branches**

White House counsel advising about presidential nominees and appointees to the executive branch typically has focused on nominations to the top Justice Department positions and to the general counsel positions in the departments and agencies. Nussbaum (1999, 5) bluntly stated that his office "appointed the Attorney General, head of the FBI, Justice Department officials (Dellinger—I sent him over to OLC from the White House counsel's office)."

White House counsels also stress their need to appoint a counsel to the National Security Council (NSC) staff. Lloyd Cutler argued for appointing the NSC counsels to the White House counsel's office rather than to the NSC staff; C. Boyden Gray (1999, 23) emphasized the importance of a low-key NSC observer:

We worked out a deal that I could name [National Security Assistant Brent Scowcroft's] deputy legal advisor to the NSC, Steve Rademaker. . . . But that can be tricky. It was tricky and a huge problem in Iran-Contra. . . . Scowcroft agreed that I should never be in a situation like that. That's why he allowed me to have Rademaker in there.

The extent to which the counsel's office has been involved in the judicial appointment process has differed across administrations (Goldman and Slotnick 1997, 1999; Goldman et al. 2001). In several recent administrations, the White House counsel oversaw the process

from start to finish: the counsel chaired the judicial selection committee, supervised the vetting and clearance process, and prepared the nominee for confirmation. In every administration, the judicial nomination process required the careful coordination of several White House offices, consultation with the Justice Department, and extended negotiations with U.S. senators.

The selection process varies for district, circuit, and Supreme Court nominations. Senators tend to be more involved in nominations to the U.S. district courts than they are in nominations to the courts of appeal or, especially, to the U.S. Supreme Court. Partisanship, though, plays an important role in determining the amount of influence that each player will have in the process.

Unlike the Supreme Court, with courts of appeal and district courts you had to deal with the local Republican, in our case senators, if there were senators. If there weren't senators, the governors, congressmen and congresswomen. District courts, I seldom got involved. The Justice Department had a lot of protracted negotiations . . . about whether this was an appropriate person and so forth or was this a person who shared the President's judicial philosophy. Courts of appeal I would more often get involved. There would be disputes between the senators and the Justice Department. There would be disputes between maybe two Republican senators from the same state, between the governor and the more senior congressman or congresswoman. (Culvahouse 1999b, 20-21)

Yet, over time, the selection process has shifted from being centered in the Justice Department to being firmly ensconced in the White House, albeit with the status of the Attorney General always a factor. Carter counsel Robert Lipshutz encountered considerable resistance from the Department of Justice when he sought to participate in judicial selection.

[White House involvement in judicial appointments] was a struggle within the Justice Department because, number one, the White House was stepping into what many, particularly career people, and even Griffin [Bell, the Attorney General] too, felt should be strictly their prerogative and that is helping the President pick the judges. (Lipshutz 1999, 11)

White House involvement in lower court nominations increased during the Reagan years and had become routine by the time Bill Clinton took office.

The judicial selection process is centered in the White House Office. A lot of other White House counsel's offices did not have the breadth and authority we had (maybe because of Foster and his access to the First Lady). We had special responsibility for Court of Appeals and Supreme Court appointments. (Nussbaum 1999, 5)

From the Reagan years onward, the judicial selection committee chaired by the counsel typically included members of the White House counsel's office and the Department of Justice. In the Clinton administration, it also included representatives from the first lady's office and the office of legislative affairs. The selection committee's assessments were both legal and political, weighing the potential nominee's legal philosophy and the likelihood of Senate confirmation.

Well, it's all done in conjunction with the Department of Justice and it's pretty obvious to any lawyer who the candidates are. It's not rocket science. The question is always, "Can you get the person you really . . . ?" What's the matrix of confirmability with whom you really want to go with? You can't do your ideal person, usually, because there's a confirmation problem or there's a background problem or there's a money problem or there's something. So it never lines up perfectly. (Gray 1999, 9)

Members of the Clinton counsel's office were invited to the personal interviews with prospective lower federal court nominees, which were conducted by senior officials in the Department of Justice's Office of Policy Development. Counsel staff also contacted senators about possible nominees, working with senior members and staffers of the Senate Judiciary Committee.

In addition, the counsel's participation in the nomination and appointment process has consistently involved the office in supervising the vetting and clearance process (FBI, IRS, 278 forms and financial disclosure forms) for all presidential nominees to the executive and judicial branches. The time and resources consumed by these reviews are extraordinary (see, e.g., Light and Thomas 2001; Sullivan 2001).

Well, the FBI thing takes roughly three months although you can speed it up. You can do an expedite and do it in a week if someone has been through it before. I think we did Cheney over a long weekend. But if you're starting from scratch with somebody, normally it's three to four months depending on how old they are. . . . It can take people three months just to fill out the forms so you really have to hammer people . . . . (Gray 1999, 21-22)

When the background checks were complete—or even while they were progressing—decisions had to be made about whether to proceed with the nomination or appointment. In each administration, White House counsels noted that different standards were applied to appointments than to nominations and also to nominations for more and for less visible positions.

You'd have some people that you might never send up to the Hill for confirmation, but because they were strong allies of the President, supporters and/or were people that had a lot to offer, you might appoint them to the President's Foreign Intelligence Advisory Board rather than nominate them to be undersecretary of defense because the President has unilateral appointment authority. Maybe they go to a Schedule C position in OMB [Office of Management and Budget] or DAS [Deputy Assistant Secretary], Treasury or whatever. You were pretty darn pure about cabinet people, deputy secretar[ies]. We were awfully pure about State, Defense, Treasury, Justice . . . . (Culvahouse 1999b, 32)

Then, when the nominations were sent to the Senate, negotiations had to be conducted about the legislators' access to the reports.

How much of the FBI files do they get to see[?] We conduct the search; we do the FBI for our benefit not for their benefit. . . . That was subject to enormous negotiation. . . . Huge fights over that. . . . You have to negotiate them one by one . . . . (Gray 1999, 16)

Beyond vetting the nominees, the counsel's office sometimes prepared them for the confirmation hearings.

We [the Reagan administration] did a lot of murder boards, not just for judicial nominees but for a lot of people. I probably did fifty murder boards in my twenty-two months. . . . You get a bunch of lawyers and legislative types pretending to be senators and acting like horse's rear ends. . . . What you want to do is anticipate questions, to make it more difficult for him or her than it is going to be in fact, and hit all of the areas that he or she is going to be questioned about. Supreme Court nominees are very difficult because the hearings go on forever and ever. . . . There should be an understanding that a good enough answer is good enough. We're not striving for perfection here—we're striving for B-plus—and that you don't critique during the first two hours. You only critique on breaks thereafter. . . . This person already is the President's nominee. (Culvahouse 1999b, 18-19)

### **Advising on Presidential Actions Relating to the Legislative Process**

Congressional relations are a daily fact of life for the White House staff and, therefore, for the counsel's office. In recent administrations, this has involved counsel aides in reviewing legislative proposals; reviewing bills presented for signature or veto and drafting signing statements and veto messages; reviewing State and Defense Department authorizations and appropriations proposals; drafting budget rescissions and deferrals; participating in the negotiations associated with Senate treaty hearings; and joining legislative negotiations concerning policy, document requests, treaties, and nominations.

The extent to which the counsel's office has participated in policy negotiations has varied within and across administrations. Among the counsels who were deeply engaged in policy making was C. Boyden Gray, who recalled,

The question is whether you take the lead or just participate in negotiations. I basically had to lead all the negotiations with the civil rights groups and the Congress on the Civil Rights Bill. I was sitting at the center of the table. I did not lead but I was a participant in all the negotiations down in [George] Mitchell's conference room in the Senate—endless, endless meetings on the Clean Air Act. They would go until two, three, four in the morning sometimes. I wasn't leading those, but I was there. (1999, 4; see also Cutler 1999, 15)

At a minimum, counsels have routinely been consulted about legislative matters. The resultant advising typically has involved as much politicking as it has lawyering. For example, the Reagan and Bush administrations seized on signing statements, which are drafted by the counsel's office, as opportunities for statutory interpretation by the executive. These presidents used signing statements to urge courts to give the same legal weight to the "executive intent" of legislation as they traditionally have given to its legislative intent. Accordingly, the counsel's office became deeply involved in the associated political and policy debates.

### **Educating White House Staffers about Ethics Rules and Records Management and Monitoring for Adherence**

Perhaps the most prominent of the newer demands confronting the counsel's office is the intensified scrutiny of a range of ethical matters. The increased stress on ethics has generated the need for a central coordinator who is alert to potential problems and able to take preemptive (or corrective) action. This emphasis involves counsel staffers in a range of activities, including distinguishing between White House expenses and campaign expenses; reviewing presidential travel; approving requests for appointments with the president and monitoring the requests for propriety, seemliness, legality, and executive privilege issues; responding to document requests and subpoenas directed to the president and to other White House and executive branch officials by congressional committees and independent counsels; and serving as the ethics officers for White House staff and executive branch political appointees. Past counsels underscore that this work is essential to a president's early success because it allows an administration to put its own people in place, establish responsible procedures, and advance its policy initiatives.

Ethics laws, to quote C. Boyden Gray (1999, 1), "are quite complicated and obscure and overworked and ought to be deregulated." The White House counsel's office is needed to explain these laws to both political appointees and members of the White House staff. This role is particularly important at the outset of an individual's service in the White House or executive branch, throughout the campaign season, and during investigations.

Federal ethics statutes and regulations typically are more stringent than those enacted in the states. Likewise, the standards for the legislative and executive branches are different, creating the need for former congresspersons and staffers to be carefully briefed.

At the beginning of my tenure, we circulated [an ethics] memo that had all the details. Everyone who was going to be appointed by the President would get this memo, everyone on the White House staff got this memo. It was a memo from me and it laid out in detail what all the rules were. But then I also would meet with groups of people who were about to enter on to their jobs, in some cases they already had entered on to the jobs, maybe thirty at a time . . . (Wallison 2000, 27)

These orientation sessions would be reprised when an individual left the White House. For example, the counsel staff would review the Presidential Records Act and "remind everyone that these are presidential documents; you're not walking out of the White House with them; these are things that become part of the permanent record" (Brady 1999, 7).

The need to educate and monitor staffers is particularly acute during the campaign seasons, both congressional and presidential. The counsel's office staff provide general briefings and memoranda about campaign activities. Changes in the associated statutes may create an even greater need for this information.

We had two very active ethicists in the Office. One of them was Beth Nolan and the other was Cheryl Mills. . . . So the driving force was that the Hatch Act had just been amended and it has caused some changes. It now allowed people to get more involved than they had been previously. (Mikva 2000, 17)

As is suggested by the counsel's role in responding to document requests and subpoenas directed to members of the White House staff and other executive branch officials, many counsels also have had to oversee investigations. Whether conducted by independent counsels or congressional committees, these proceedings have consumed much of the counsel's resources.

My first job [in the Clinton administration], which occupied the bulk of my time really, was to look in to the so-called White House–Treasury relationship having to do with the RFC [request for comment] in reference to the Justice Department of the whole Whitewater matter. . . . Then I had to look into the Espy case; I had to look into the Cisneros case, et cetera. . . . A lot of [developing ethics rules for the White House staff] was done in collaboration with the so-called Office of Legal Ethics, which is an independent quasi-executive branch agency, and which has the responsibility under the various ethics statutes to write regulations, give opinions as to what you can and cannot do. (Cutler 1999, 20)

Bernard Nussbaum (1999, 4) described Washington as practicing a “culture of investigation.” That environment is not likely to change in the near future. Although the expiration of the independent counsel statute almost certainly will alter the investigatory process, investigations will doubtless continue, with profound implications for the counsel's office.

### **Handling White House Contacts with the Department of Justice and the Rest of the Executive Branch**

Depending on the course of politics and policy in an administration, the White House counsel routinely interacts with most executive branch departments and agencies. Because of the nature of its responsibilities, the Department of Justice is especially important.

*Department of Justice.* Three factors have influenced the extent and nature of a White House counsel's contact with the Department of Justice: the scope of the president's judicial agenda, including judicial nominations; the strength of the president's relationship with the attorney general; and the relative activism of the White House counsel and the attorney general as policy makers. A larger judicial agenda creates the need for more contacts with the Justice Department. Similarly, a strong presidential relationship with an activist attorney general may establish a line of communication that often excludes the White House counsel.

Former counsels strongly recommend that the counsel's office function as a gatekeeper for *all* contacts between the White House and the Department of Justice.

All requests for OLC opinions had to go through me, all communications with the department had to go through my office. . . . there were certain exceptions but no one could call over to the Deputy Attorney General and the solicitor general directly; they had to go through me. My typical point of contact was the Deputy Attorney General for everything except OLC opinions, then I would call the head of OLC. (Culvahouse 1999b, 16)

This oversight is designed to ensure that communications between the White House and the Justice Department are properly conducted. Any effort to influence the legal judgments of the department would generate significant difficulties for an administration. Reagan counsel



Culvahouse recalled, for instance, that departmental statements of administrative policy were routinely reviewed *unless* Justice was issuing them.

*Attorney general.* The attorney general and the White House counsel appear, at first glance, to have similar advisory roles and jurisdictions. Notwithstanding differences in accountability (e.g., the attorney general is subject to Senate confirmation) and location, the distinctive contributions of the White House counsel and the attorney general more often have been negotiated through practice than by invoking abstract principles. Conflict has occurred frequently, and presidential libraries contain numerous memoranda of understanding between attorneys general and White House counsels.

White House counsels and attorneys general have rarely been equals within an administration. Presidents have tended to name either an attorney general or a White House counsel with whom they were well acquainted. The selections have, more often than not, been connected to the judicial agenda of the president: a larger judicial agenda generally has coincided with the nomination of a presidential colleague to the attorney general's office.

The appointment of a close presidential colleague as White House counsel may allow the counsel's office to enter into more substantive policy discussions. Although C. Boyden Gray (1999, 2) hedged his comments with a series of qualifiers, he acknowledged his influence on several key legislative negotiations:

[President George H. W. Bush] kept drawing me into the Civil Rights Bill in 1990-1991. I didn't really want to do that because it was very difficult politically, but he kept yanking me back into it. . . . But I would say that civil rights was legal policy, not necessarily part of the counsel's office historically any more than the ADA [Americans with Disabilities Act] was. I did very little on the ADA act. . . . I had a lot to do in the prior administration about teeing it up for then-Vice President Bush to make it a campaign promise during the '88 campaign. But I spent very little time on it once we got in the White House. . . . I was involved very little, maybe ten or twenty hours worth. It was very little. The hours I spent were very important, it turned out, but I was not involved in the day-to-day negotiation of the language or the lobbying. . . . I had to have permission to work on the Clean Air Act. I wanted to work on it because I had an interest in it but it was something that [Chief of Staff John] Sununu was wary about and the President was a little nervous about because of the time it would take from other responsibilities.

*Office of Legal Counsel.* The resources of the OLC—including its institutional memory—render it an invaluable source of legal expertise for the White House counsel. Quite simply, the counsel's office cannot provide all the information and the advising that an administration needs.

OLC is the single most important legal office in the government. More important really in terms of scholarship and memory and research—White House counsel's office doesn't really have the staff to do all [that] and they shouldn't. It should be done in OLC. . . . the White House doesn't go to court without the department. . . . OLC was a huge problem for us in the sense that they were putting on a brake. We were free to ignore their advice but you knew so you did so at your peril because if you got into trouble you wouldn't have them there backing you up, you wouldn't have the institution backing you up. . . . When in doubt, ask them and they'll tell you where the land mines are. (Gray 1999, 18-19, 21)



Several other counsels echoed Gray's (1999) description of the OLC as a formidable ally and a significant check on the White House counsel's office. Precisely because of the similarities in their responsibilities, however, the relationship between the two can be highly competitive. Both are recognized as legal experts immersed in politics and policy. The fact that these offices' jurisdictions are blurred and unclear only exacerbates the tensions.

The real conflict between offices, inherent conflict, is between the White House counsel's office and the Office of Legal Counsel at the Justice Department because the White House counsel's office is growing and growing and is acquiring more and more capabilities to do that kind of research and analysis that the Office of Legal Counsel does and it does it for the President. The White House always wins over the agencies, always, because they're closer to the President. So they have first dibs, if you will, on any issue that comes up to the presidential level. If there's a constitutional question about the President's power, if they want, they can make that decision on their own without consulting the OLC. Whenever you get a situation like that where some group has first opportunity and doesn't even have to inform the other group over time that first group is going to grow larger and larger and more competent and eventually freeze out completely the Office of Legal Counsel. (Wallison 2000, 21-22)

Similarly, Gray (1999) stressed that the ambitions of the White House counsel's office can endanger an administration. He advised reestablishing the OLC as an influential legal commentator, concluding that the advantages gained from the OLC's insights far outweigh any disadvantages resulting from its sometimes critical stance.

Still, this competitive relationship does reflect differences between the units. The White House counsel is appointed by the president and does not require Senate confirmation. The members of the Justice Department include presidential appointees who are subject to Senate confirmation, nominees who need not be confirmed, and careerists. Thus, department officials have numerous and crosscutting loyalties. Furthermore, although the president's claim to executive privilege for communications with the White House counsel has been delimited in recent years, the Reagan administration may well have sacrificed the possibility of presidents successfully making such claims about the OLC.

It had to do with a request by the Senate Judiciary Committee for all of William Rehnquist's files when he was head of the Office of Legal Counsel at the Justice Department. . . . I thought that was simply harassment and I thought they were trying to create the kind of issue they could use to stop the nomination. I and the person who was then head of the Office of Legal Counsel in the Justice Department both felt this was a good executive privilege claim because the Office of Legal Counsel is the lawyer for the entire government, and in effect for the President, and everyone discloses everything to them to get rulings about legal issues. The whole underpinning of the attorney/client privilege, which is part of the executive privilege, is to get people to disclose all relevant information so you can give them the right advice. I thought, if there was ever a case, this was it. So I sent a memo to the President saying I thought he ought to claim executive privilege in this case, but Meese did not like at all that idea. We debated it in front of the President and the President decided he wouldn't claim it. . . . In the future, if someone wants the files of the Office of Legal Counsel, they are more likely to get them because this precedent exists. (Wallison 2000, 20)

Clearly, then, requesting a legal interpretation from the OLC is a strategic undertaking. If the counsel does not involve the OLC—or, having received the OLC's interpretation, sets it aside—the White House is isolated and will lack support for its actions. This is risky and even dangerous. Boyden Gray (1999), for example, unequivocally concluded that the White House should never go to court without Justice's support. At the same time, the OLC is staffed by experts who cannot claim executive privilege and, in any event, have allegiances that extend beyond the White House.

*Other departments and agencies.* The White House counsel's contacts throughout the rest of the executive branch are extensive. At the very least, the counsel's office communicates with the general counsels of departments and agencies and processes the paperwork associated with every presidential nominee or appointee. Indeed, with the notable exception of the Justice Department, the White House counsel typically communicates with the executive branch departments and agencies through the general counsels.

We used to have more or less monthly meetings of all the general counsels. . . . It's a little more difficult to meet with the general counsels of the so-called independent agencies, as you know, but we do meet even with them on some matters. . . . A lot of it has to do with the ground rules for executive privilege and turning documents over to Congress which we don't think should be turned over to Congress but which the department under the thumb of Congress always wants to turn over without ever consulting the President whose privilege it is not to provide them. (Cutler 1999, 7)

Boyden Gray (1999) added that exceptions to this rule occurred only when the secretary or the agency chief executive had matters to discuss with the White House counsel. Occasionally, Gray said, he would speak with the deputy secretary.<sup>2</sup> Again, the Justice Department was the standard exception. The White House counsel and the attorney general typically communicated with each other daily.

## Principal Relationships in the White House

Within the White House Office, the counsel's principal relationship—and greatest source of influence—has been with either the president or the chief of staff. To whom the counsel reports has frequently been a product of individual counsels' past professional relationships, and this authority relationship has been clearly established at the time of appointment. This clarity is essential if the president wishes to avoid destructive competition between two units that are crucial to the success of the administration and its policy agenda.

### The President

In electing to have the White House counsel report directly to the president, presidents often have appointed individuals who were their long-standing friends or professional

2. Nonetheless, communications with independent regulatory agencies were handled with special care and circumspection.

colleagues.<sup>3</sup> Even with the advantage of a prior relationship with the president, counsels have faced various challenges to their position and their influence. The White House staff is likely to include a number of longtime presidential colleagues, all of whom may compete for access to the Oval Office

Of course, even if the counsel is able to sustain a close relationship with the president, there is no guarantee that the president will seek or follow advice. President Gerald Ford's decision to pardon former president Richard Nixon, arguably the most significant legal decision of his administration, was made without any consultation. Counsel Philip Buchen provided only post hoc support and legal reasoning.

Two administrations have recruited counsels to raise the profile and significantly re-establish the counsel's office within the Washington community. President Jimmy Carter appointed Lloyd Cutler to meet these needs; President Bill Clinton named Cutler, former congressman and U.S. court of appeals judge Abner Mikva, and then former U.S. attorney and D.C. Corporation counsel Charles Ruff. Cutler (1999, 10-11), in particular, has stressed that he entered office with a promise of direct communication with the president.

When I was asked by the President [Carter] to take this job, it was a mid-life crisis of his administration, the so-called "malaise" period. I said, "What kind of a role do you want me to play?" I knew him, but I didn't know him that well. He said, "I want you to play sort of a Clark Clifford role." I got that in writing and, of course, Clifford was so venerable and such a great storyteller, everybody thought that Harry Truman never made a move without consulting Clark Clifford. And every time I got left out of a meeting I would go to Jordan or I would go to the President and I would say, "I think that Harry Truman would have wanted Clark Clifford in this meeting." I was older than all the rest of them so nobody could gainsay me . . . .

*The White House counsel and presidential privileges.* The issue of confidentiality in the president's communications with the White House counsel has been a matter of intense concern. Of the various legal privileges that a president or a counsel *might* claim—executive privilege, government attorney–client privilege, work product protection, deliberative process protection, and common interest doctrine—most salient are executive privilege and government attorney–client privilege.<sup>4</sup>

Because the White House counsel's office is in the unique position of providing both political and legal advice to the president, navigating the shoals of presidential privileges is an especially tricky venture. Judicial acceptance of a privilege claim is determined by many

3. Most recently, President George W. Bush named longtime Texas associate Alberto R. Gonzales his White House counsel.

4. The courts view these two as clearly distinct. Executive privilege is the constitutionally based protection of confidentiality of a president's communications with any government officer when the chief executive seeks advice on the exercise of official governmental duties. Its purpose is to promote candid and frank discussions between a president and his advisors. Government attorney–client privilege is a variant of the common-law attorney–client privilege, but with the following crucial distinctions:

1. the client is the Office of the President of the United States; and
2. the advice being rendered by a government attorney to the president is "for the purpose of securing primarily either (i) an opinion on law; or (ii) legal services; or (iii) assistance in some legal proceeding" (*In re Sealed Case*, 737 F. 2d at 98 to 99 [quoting *U.S. v. United Shoe Machinery Corp.*, 89 F. Supp. 357, 358 to 59 (D. Mass. 1950)] in *In re Bruce Lindsey* [Grand Jury Testimony], 158 F. 3d 1263 [D.C. Cir. 1998]).

factors, such as whether the conversation is political or legal; whether the person is communicating with the president in a legal or political capacity; whether the request for presidential communications comes from the courts, Congress, or an independent counsel; whether the information is needed in a civil or criminal proceeding; whether the asserted public interest in confidentiality outweighs another institution's need for the information; and whether the requested information is available from an alternative source. Varying combinations of these factors will produce different judicial outcomes, making for complex and unpredictable results.

The Clinton administration was embroiled in numerous legal controversies in which it vigorously asserted a whole host of privilege claims, and it found little comfort in the resulting federal court decisions. Legal scholars and commentators reacted critically to the administration's decision to litigate. In contrast, most other White Houses found ways to assert such claims but ultimately chose to resolve the conflicts through compromise. In essence, the Clinton administration forced the issue into the judicial process, and the courts ruled against it, narrowing considerably any maneuverability for future claims.

### Chief of Staff

The Reagan administration chose an alternative authority relationship in which the White House counsel reported to the chief of staff. Reagan's White House counsels had previously been professional colleagues of the chiefs of staff. Even so, a change in the chief of staff did not necessarily result in the appointment of a new counsel. The Reagan counsels left office for a variety of personal and institutional reasons: Fred Fielding, because he "was ready to go out into the real world"; and Peter Wallison, because of pressures generated by Iran-contra (Wallison 2000, 1). A. B. Culvahouse, the third and final Reagan counsel, served two chiefs of staff: Howard Baker and Kenneth Duberstein.

Although reporting to the president through the chief of staff might appear to be a disadvantage, Culvahouse (1999b, 21) disagreed.

[Howard Baker] is my mentor and my friend. He was my ace in the hole in the White House. I think to the extent I was an effective White House counsel is because he gave me a lot of support as did the President. But people did not try to go around me or over me very frequently and never very successfully.

Still, the Reagan counsels presided over an office that was widely seen as being focused more on law than on policy.

In the Reagan White House, the counsel's office was viewed as sort of an additional final check. Unlike . . . some other White House counsel's offices, we didn't really have a policy agenda. We felt like we were to be honest brokers as well as lawyers. (Culvahouse 1999b, 2)

It may be that having the counsel report to the chief of staff, rather than directly to the president, contributed to changing the orientation of the office.

### White House Staff

The White House counsel's office is in contact with virtually every unit in the White House. The consequent dialogues and negotiations add immeasurably to the office's workload. Tight deadlines compound the difficulties.

[For] everything else [apart from Iran-contra] there were lots of cooks, lots of principals and lots of lawyers, and sometimes just trying to reach a decision or trying to force a decision in a timely way tended to be a lot of what I did. . . . The timing was forced by your own judgment or sometimes you'd have deadlines. Sometimes you'd have the ranking Republican on the committee calling up and saying if you don't tell us what you think the committee is going to go forward tomorrow regardless. (Culvahouse 1999b, 28)

The following list provides examples of the units with which the counsel's office routinely has established strong relationships.

- Communications, regarding presidential speeches, travel, and campaign expenses. This relationship may be especially close during the campaign seasons, when travel expenses and contacts are subject to strict legal standards.
- Legislative Affairs, regarding legislation, nominations, and confirmations. Some White House counsels have participated directly in legislative negotiations, even communicating directly with senators about judicial appointments.
- Personnel Office, regarding appointments and clearances. This responsibility also causes the White House counsel's office to consult regularly with the FBI and (at least through the Clinton years) the ABA.
- Office of Political Affairs, regarding travel and campaign expenses.
- Press Office, regarding presidential press conferences. In some administrations, the counsel's office also has prepared presidential statements about federal court rulings that affect the presidency or the executive branch.
- OMB, regarding budget proposals, rescissions, and deferrals.
- NSC staff, regarding foreign policy.

### Organization and Operations

Since the 1970s, the size of the White House counsel's office has expanded from two to three attorneys to more than forty at times during the Clinton administration. Some former counsels attribute this growth to the increasingly hostile Washington environment faced by recent presidents and the mounting scrutiny of their appointees. Lloyd Cutler (1999, 7) recalled, for example,

In Carter's day, when I came in, including myself, there were six lawyers. Twenty-five years later, under Clinton, there are probably forty lawyers, fifty lawyers. Part of that is dealing with the attacks on the President and these enormous vetting responsibilities that descend on the White House counsel.

Similarly, John Tuck, an aide to Chief of Staff Howard Baker in the Reagan White House, recalled “a whole huge shadow counsel’s office” that developed following the Iran-contra revelations (as quoted in Baker 1999, 15).

### Internal Division of Labor

The counsel’s office has been structured internally in numerous ways. Typically, however, the White House counsel, as a senior presidential adviser, participates in myriad activities and issues, many of which are unpredictable and unplanned. Indeed, the counsel’s time often is consumed almost completely in handling crises or unexpected demands. Thus, Reagan counsel Peter Wallison (2000, 34) remembered,

At least politics and crises are the two things that you have to be sure [to handle]—one of the reasons you want to get a staff that is capable and has the lines of authority and lines of responsibility clear is that at some point you are going to be completely consumed with something and that means your office has to function without you. So you need a really good and capable deputy, which I had [in] Jay Stephens, and you need very good lawyers, and then they have to know what their areas of responsibility are so that they don’t have to keep coming to you.

Counsels beginning with John Dean have all included at least one deputy counsel on their staffs (see the appendix). A deputy counsel routinely serves as the primary overseer of workflow within the office as well as a substitute for the counsel. The deputy also may perform other tasks at the direction of the counsel.

James Castello was the deputy who really was my person and managed the staff and was at the second meeting I couldn’t be at if I was at the first one. [He] probably had the most to do with the legislative agenda. He met regularly with the legislative office and made sure that there weren’t any surprises on the Hill that the President didn’t know about or what was going up as our core legislation didn’t have any pitfalls in it. (Mikva 2000, 21)

Such deputies typically are charged with assuring that the counsel sees only the highest-priority items. On personnel issues, for instance, Reagan counsel Culvahouse (1999b, 4) stated,

I clearly was the principal advisor to the President . . . within the White House on the vetting process which included not only the people to be nominated by the President but also people who would be appointed by the President even if they did not require Senate confirmation as well as anyone who would get a White House staff badge. . . . I never saw their files or anything, unless there was a problem. So the default rule was if there was a problem certified as such by my deputy then it would be put on my desk. So I saw 10 per cent of the files roughly.

In the Clinton White House, longtime presidential confidant Bruce Lindsey served for much of the administration as a “deputy counsel for special projects.” According to Abner Mikva (2000, 17), besides a host of other activities,

there was always a special project he was involved in either for the President or because the President would indicate to me or [Chief of Staff] Leon [Panetta] that he wanted somebody that could really use his clout effectively. For instance, Bruce was the point man on the baseball strike. . . . I don't think I said Bruce, go do the baseball strike. It was known that we needed somebody who could go in there and say the President really thinks this ought to be done or that ought to be done, and nobody could do that like Bruce.

In addition, the counsel's immediate staff (often an administrative assistant and an executive secretary) usually is responsible for ensuring that external deadlines are met and internal work is parceled out appropriately. Culvahouse (1999b, 8), for example, reported having

three non-attorney people who worked for me: an executive assistant, an administrative assistant and an executive secretary. The first two spent most of their time assigning out projects and making sure the work was done and the deadlines were observed.

In recent White Houses, aides with the title of "special counsel" have on occasion appeared in the counsel's office. Typically, these are staffers assigned to handle short-term or "crisis" situations that may involve congressional or other investigations, such as Iran-contra or Whitewater. Most observers attribute the swelling of the counsel's office over the course of an administration to such crises and to the heightened external scrutiny of administrations.

Moreover, given the range of diverse responsibilities that have come to be lodged in the White House counsel's office, some substantive division of labor usually appears. For instance, a deputy counsel and one or more other members of the office participated in judicial selection in the Carter, Reagan, George H. W. Bush, and Clinton administrations, which also appears to be the case in the George W. Bush White House.

Similarly, after the initial flurry of vetting for nominations and appointments at the beginning of an administration, typically one assistant or associate counsel and a security assistant (and staff) in the office handle FBI and financial disclosure reports (see, e.g., Wallison 2000, 12 ff). This lawyer also is responsible for taking the confidential reports to the chairs and ranking minority members of the appropriate Senate committees, with potentially problematic allegations flagged. In the second term of the Clinton administration, a "senior counsel" was among those handling these responsibilities.

Other tasks that commonly have been assigned to particular lawyers in the counsel's office have included interpreting ethics legislation and additional ethics rules issued by an administration. As noted earlier, counsels provide this advice for staffers in the White House Office and Executive Office of the President and, on occasion, for cabinet officials and other presidential appointees. Still other attorneys in the counsel's office focus on issues of international trade and transportation, defense and national security policy (to support the counsel's role as chair of the War Powers Committee), and government regulation. Presidential travel also has been assigned to a counsel's office attorney. In the Reagan White House, for example,



Alan Raul . . . was in charge of presidential travel. That was a big and difficult issue because of what had to be paid for by private funds, by political funds or by government funds. So they were constantly, the people in the political office and in the travel office, they were constantly calling Alan for advice on that subject. (Wallison 2000, 31)

### Rhythms of Quadrennial Governance

Over the course of a presidential term, the activities, demands, and emphases of the counsel's office typically follow common patterns. The first year is both demanding and somewhat distinctive. After that, the work of the counsel's office—like much of the rest of the administration—to a significant extent reflects the presidency's efforts to respond to external deadlines. Other tasks arise more routinely throughout an administration.

*First year.* A major task that begins well before Inauguration Day and continues throughout most of the first year is vetting for nominations and appointments. C. Boyden Gray (1999, 1) remembered, "For the first year that's all you do, is read FBI reports and ABA reports. It's not much fun. Financial disclosure reports. It's not much fun."

During this early period as well, the counsel's office seeks to ensure that all White House staffers and political appointees are informed of the ethics statutes, executive orders, and other administration rules under which they must work. Gray (1999, 13) described his approach to handling the task: "My rule of thumb was: 'If it's fun, stop! If it feels good, stop! If you're having fun, you're doing something wrong!'"

At the outset, too, the counsel's office needs to give White House staffers instructions on how to keep their files. Phillip Brady (1999, 9) recalled that in the George H. W. Bush administration, the counsel and deputy counsel "tried to be very careful to ensure all new employees were given a counsel's office memo that would articulate what presidential documents are and what needed to be preserved and that sort of thing."

The initial weeks and months of a new administration also bring numerous other demands. Chief among them: the president's budget must be submitted by early February; the economic report is due at about the same time. The legislative agenda, congressional messages, and bills must be drafted and sent to Congress. The counsel's office is involved in all of these activities.

*Annual cycles.* Especially important annual cycles are the preparation of the president's budget and the drafting of the State of the Union address and the Economic Report of the President. Although the counsel's office is not the central player, it does perform the pivotal role of ensuring that the officials involved act in accordance with prevailing legal and ethical guidelines.

*Electoral cycles.* As the midterm congressional elections or a presidential reelection campaign approaches, the counsel's office faces other tasks. The office may well be besieged with requests for advice from White House aides and political appointees throughout the executive branch about the sorts of partisan and electoral activities in which they and their aides



are legally permitted to engage. In most administrations, the counsel and staff try to anticipate such requests and related problems by sending out written guidelines and holding information sessions.

Then, as elections approach,

the President becomes more involved in direct politics which raises questions about . . . how much of his time would be devoted to it, who pays for it, all those things. That becomes much more important every two years. Whether the President is running for election or not, usually he's out doing things, raising funds or otherwise supporting candidates which require you to make these kinds of allocations in the best possible way to avoid charges of various kinds. (Wallison 2000, 32-33)

Recalling the allegations of illegal fundraising preceding the 1996 presidential election, Abner Mikva (2000, 18) regretted that

none of us saw fit to raise a warning flag for the president. . . . I had seen what goes on in state politics. I'd been a state legislator for ten years. I know governors in Illinois pick up the phone when they're sitting in the governor's office and lean on people to give money to their campaign and the party. It's just a fact of life and I suspect it goes on in most states. . . . I think this government came in to the White House not very sensitive to the fact that the White House and the federal government is a different place. So I should have warned the President.

The presidential electoral cycle also can influence submission of judicial nominations to the Senate. Former Deputy Counsel Phillip Brady (1999, 4) noted that "as you get closer and closer to presidential elections the Senate becomes less and less receptive to confirming nominees for lifetime appointments depending on what happens in the next presidential election."

*Final year.* The last year of a presidency also can be "dangerous" (Culvahouse 1999a, 5). As the final days of the Clinton presidency highlighted, this is a time when requests for pardons, commutations, executive orders, and other presidential actions may be likely to reach fever pitch. It also is a time when presidents may be especially responsive to those who have supported and worked with them for numerous years.

*More regular tasks.* Many of the other tasks handled by the counsel's office are performed throughout an administration. Reagan counsel Culvahouse (1999b, 8-9) recalled, for example, this included the judicial selection committee, which met

every two weeks and more frequently if—basically the idea was to get people's nominations up as soon as possible so if the FBI was able to process background checks and all the materials were in we sometimes would meet every week.

Executive orders also need to be drafted throughout an administration.

In contrast, Culvahouse (1999b, 9) continued,

Congress tends to work in fits and starts. . . . The legislative agenda can be heavy or it can be light. There were also Statements of Administration policy that we would review. . . . Sometimes we would say, "This should not come out of the White House; the Justice Department or the State Department should issue this." Sometimes we would be involved in deciding who ought to comment on the bill, and who ought to testify. If it was going to be a Statement of Administration policy, which is in effect attributed to the President, we would look at those carefully. Those would be in effect a letter that would say here's what the Administration thinks about S-332, the omnibus such and such act.

In addition, throughout an administration, new individuals must be nominated for and appointed to positions throughout the executive branch. After the first year, "The nomination process was fairly continuous. . . . So every week there would be nominations to be processed, people to be vetted, ethics agreements to be looked at" (Wallison 2000, 9). Informing new hires about ethics regulations also had to continue.

*Crises/scandals/unexpected events.* Counsels, of course, find themselves (and their staffs) handling unexpected situations and, on occasion, crises, at least as seen from the administration's perspective. As chair of the War Powers Committee, the counsel has responsibilities whenever U.S. troops are (or may become) involved in hostilities.

A scandal of one sort or another seems likely to occur at some point during an administration. In the words of Peter Wallison (2000, 33),

you can always count on . . . some kind of big scandal. . . . And when I went in to that office I assumed there was going to be a blizzard. What I didn't realize was that there would be a hundred-year snow in the form of Iran-Contra . . . .

Lloyd Cutler, who served as counsel for both Presidents Carter and Clinton, observed that the job has become more driven by scandal and congressional efforts to probe more deeply into administrations:

We were doing executive privilege in the Carter days; we were doing it in the Clinton days. We had demands from congressional committees for White House documents and agency documents; drafts of legal opinions, for example, were so much more pervasive. Mostly, it's the difference that when I worked for Carter while we did have the Billy Carter problem and a few others, Hamilton Jordan's alleged drug violations—which turned out to be entirely untrue, while we had a couple of those, most of what I did was substantive. . . . In Clinton's time I had the same understanding that I could be in on all these things but I had to put in so much of my own daily effort, and my staff did, on the investigations of the President, Whitewater, et cetera, that I had no time. . . . working for Carter—which was a year and a half—not more than 20 per cent [of the counsel's work] was what I call playing defense. Under Clinton it was closer to 80 per cent. (1999, 8)

### **Turnover: Counsel and Deputy Counsel**

Given the demands on the counsel as well as the often unforgiving nature of Washington, it is scarcely surprising that relatively few counsels stay in the position for more than two

years. Only Philip Buchen (Ford) and C. Boyden Gray (George H. W. Bush) stayed throughout an administration. Fred Fielding worked even longer as counsel to Ronald Reagan, serving from January 1981 until February 1986 (see the appendix).

In recent presidencies, counsels have departed for a variety of reasons. Some—such as John Dean—became directly involved in administration scandals. Others—J. Fred Buzhardt, Peter Wallison—departed after the president or chief of staff who brought them to the White House was forced out. Still other counsels joined the White House staff explicitly on a temporary basis to help handle political or policy crises. In Democratic administrations, such figures have tended to be well-respected “old Washington hands” themselves (like Lloyd Cutler, Abner Mikva, and Charles Ruff). In the Reagan administration, by contrast, the new counsel, A. B. Culvahouse, was a trusted associate of the incoming chief of staff, Howard Baker, who himself fit the same profile.

When counsels have left the White House, in virtually all cases, their deputies have departed within several months. The only exception was Clinton aide Bruce Lindsey, who was lodged in the counsel’s office from 1993 through 2000, working under multiple counsels (and always with a second deputy counsel).

In addition, turnover has been somewhat higher among deputies than among counsels. Typically, deputy counsels leave to pursue other opportunities both in and outside the administration. From 1971 through 2000, no deputy counsel succeeded a counsel, although at least one (Cheryl Mills) turned down the job when it was offered to her. Clinton’s sixth counsel, Beth Nolan, served as an associate counsel in the first term. Deputy counsels Cheryl Mills and William P. Marshall served as associate counsels (Mills under Nussbaum, Cutler, Mikva, and Quinn; Marshall under Ruff) before being named deputies.

## Conclusion

In sum, the counsel’s office can be characterized as a monitor, coordinator, negotiator, recommender, and translator. It monitors ethics matters, coordinates the president’s message and agenda with other executive branch units, negotiates on the president’s behalf with Congress and others, recommends actions to the president, and translates or interprets the law in its broadest context throughout the executive branch. It oversees all of the political and policy actions the president takes to ensure compliance with legal and constitutional requirements. No paper goes in or out of the president’s office without the counsel’s review.

The challenges for this office are daunting. The paper flow is relentless; the pressures, both time and political, are crushing; the scope of its tasks extends to every facet of the president’s political and constitutional responsibilities; and the potential for disaster is as close as the next crisis. The counsel’s office performs both routine and extraordinary tasks and participates in domestic as well as foreign policy making. Because its charge covers such a wide swath and there is no time for on-the-job training, an incoming counsel must conquer the sharp learning curve immediately, expect the unpredictability of events, and get used to making crucial decisions with incomplete information.

As a consequence of the increasing polarization and politicization of U.S. government, there has been a greater recognition of the highly influential role the counsel’s office

can play. These heightened stakes have intensified the strains under which counsels operate. Counsels must understand the “fishbowl” nature of the office, and they must be especially vigilant about reining in presidents in the last year of their administrations. Counsels must recognize as well that maintaining good relations with the OLC is critical as an institutional check on their own instincts, despite the tensions that can arise between these two legal units.

Finally, the counsel’s office sits on the edge of a precipice: it is the last line of defense for the institution of the presidency. Its ultimate role as protector of presidential privileges and prerogatives means that its advice will have profound implications for the power of the presidency.

### Appendix Counsels and Deputy Counsels, 1969-2001

<i>Administration</i>	<i>Counsel</i>	<i>Date</i>	<i>Deputy</i>	<i>Date</i>
Clinton	Beth Nolan	8/99 to 1/01	Bruce R. Lindsey	1/93 to 1/01
			William P. Marshall	12/99 to 1/01
	Charles F. C. Ruff	2/97 to 8/99	Cheryl Mills	/96 to 8/99
	John (Jack) Quinn	11/95 to 2/97	Kathleen Wallman	/96 to –
	Abner Mikva	9/94 to 11/95	James Castello	3/95 to –
	Lloyd N. Cutler	3/94 to 9/94		
Bush	Bernard W. Nussbaum	1/93 to 3/94	Joel I. Klein	7/93 to 3/95
			Vincent W. Foster	1/93 to 7/93
	C. Boyden Gray	1/89 to 1/93	John P. Schmitz	1/89 to 1/93
	Reagan	A. B. Culvahouse	1987 to 1/89	Phillip D. Brady
Reagan			Jay B. Stephens	/86 to /87
	Peter Wallison	4/86 to –		
	Fred F. Fielding	1/81 to 2/86	Richard A. Hauser	1/81 to –
			Herbert E. Ellingwood	1/81 to –
Carter	Lloyd Cutler	10/79 to 1/81	Michael Cardozo	10/79 to 1/81
			Joseph Onek	9/79 to 1/81
Ford	Robert J. Lipshutz	1/77 to 8/79	Margaret A. McKenna	1/77 to 12/79
	Philip W. Buchen	8/74 to 1/77	Edward C. Schmults	10/75 to 1/77
			Roderick Hills	4/75 to 10/75
Nixon			Philip Areeda	10/74 to 2/75
	J. Fred Buzhardt	1/74 to 8/74		
	Leonard Garment	5/73 to 1/74	Fred Fielding	5/73 to 1/74 (on counsel staff since 10/70)
	John Dean	7/70 to 4/73		
	John Ehrlichman	1/69 to 11/69		

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# Lyndon Johnson, Community Action, and Management of the Administrative State

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*The Community Action Program (CAP) was one of the highest-profile but least successful of President Johnson's Great Society programs. Pluralist and neo-Marxist theories hold that the origins of CAP and the problems that the program encountered were rooted in the politics of interest group and racial conflict, respectively. Drawing on archival evidence, this article turns attention to the important, yet forgotten, administrative dimension of CAP. The decentralized features of CAP were developed as a strategy to manage the federal bureaucracy and avoid conflict with Congress. Ultimately, CAP floundered as the decentralized control of the program freed it from the political control of the White House. The article concludes with a discussion of the problems presidents face in managing the federal bureaucracy and how the development of CAP reflects Johnson's management style in enacting domestic policy goals.*

“The people I want to help,” President Johnson told White House aide Joseph Califano, “are the ones who’ve never held real jobs and aren’t equipped to handle them. They have no motivation to reach for something better because the sum total of their life is losing” (Califano 1991, 75). To the end of helping America’s chronically poor, the president initiated the War on Poverty in 1964. At the center of this effort was a new initiative, the Community Action Program (CAP), lodged within a new agency, the Office of Economic Opportunity (OEO), both created under the Economic Opportunity Act signed into law in August 1964. In poor locales across the nation, federal dollars established Community Action Agencies (CAAs) as clearinghouses to administer and coordinate social service, education, job training, and legal service programs. CAP had two central goals. The first was to deliver federal aid to the poor and give them the skills to upgrade their economic status and enter into the working and middle classes. A second, less discussed goal was to revitalize the federal bureaucracy’s capacity to deliver social services and contend with the complex prob-

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lem of poverty through an institutional reorganization that emphasized decentralization and local control.

CAP scored successes. The educational and leadership venue that CAP provided helped develop a generation of minority-group civic and political leaders. Many of the programs that CAP administered, like the Head Start program for poor prekindergartners, endure. But all did not go as well as the Johnson administration had originally intended. CAAs sparked controversy when some of their poor clientele attempted to disrupt the placidity of local politics through political action. Many CAAs were also accused of administrative mismanagement. In Washington, the oversight agency, OEO, was never able to coordinate well with other federal departments to target resources effectively. By 1966, the administration's support for the initiative cooled. Congress tightened control over OEO and CAAs and cut appropriations for the initiative. CAP failed to fulfill its early billing as one of Johnson's crowning achievements.

The focus of this article is on the important yet forgotten administrative dimension of community action. The Johnson administration adopted community action as an administrative strategy to reorder the delivery of social service programs while avoiding direct conflict with the federal bureaucracy and Congress. Neo-Marxist and pluralist analysts have paid insufficient attention to the contours of the U.S. constitutional system and institutional structure to account for the early development of CAP. An institutionalist perspective that focuses on the presidency's attempts to meet objectives in a system of diffuse authority and significant rivalry will be offered here as an alternative analysis. The article will conclude with a discussion of the presidency's role in managing the administrative state as well as Johnson's leadership strategy in shepherding CAP to passage.

### Explanations for the Origin and Early Development of CAP

Why did CAP assume the form and structure that it did, and why did the initiative not deliver the political and policy successes that the Johnson administration hoped for? Most analysts turn to a mix of social, economic, and political forces for explanation. Adopting a neo-Marxist perspective, Francis Fox Piven (1974) focused on the injection of race into prevailing electoral alignments. She argued that CAAs were patronage organizations formed by the Johnson administration to mobilize urban African-American voters and offset the loss of white Southerners who opposed Johnson's civil rights initiatives. The unique administrative structuring of CAP allowed Johnson to bypass white ethnic political machines that suppressed the black vote in urban wards. The elimination of poverty was a secondary goal to the political imperative of adding and solidifying blacks as part of the Democratic coalition.<sup>1</sup>

More mainstream work focuses on the alignment of interest groups when explaining the development of CAP. Daniel Patrick Moynihan (1970) and John Donovan (1980) argued that the poor are not well organized and are the weakest voice in the chorus of American pluralism. Powerful groups and organizations had no stake in making the poverty program

1. In another work, Francis Fox Piven and Richard Cloward (1993, 249) argued that "the Great Society programs were promulgated by federal leaders in order to deal with political problems created by a new and unstable electoral constituency, namely, blacks . . . by shaping and directing their future."



work. Moynihan extends this argument, noting that community action was a politically untested theory that emerged from academic research. The Washington establishment initially ignored its implications. Rushed through the legislative process by an administration eager to score quick successes, and enjoying no protection from politically powerful groups, it was crushed under the pressure of practical politics. Community action was the social science exception that proved the pluralist rule.

While class, group, and racial categories are important in understanding the obstacles facing most distributive programs, they are not successful in explaining the origins and early development of community action. Community action was not an electoral strategy. Administration officials believed that OEO/CAP was a political liability and that the initiative would cost Johnson votes in the 1964 elections.<sup>2</sup> Nor was it a stealth proposal plotted by academics and intellectuals unschooled in Washington politics, as Moynihan's (1970) analysis suggested. Community action was closely vetted by high-ranking administration officials and embraced as a politically savvy strategy that resolved many of the dilemmas of governance.

This article shifts the level of analysis away from broad structural theories of classes and groups toward midlevel analysis that focuses attention on the exercise of formal and informal presidential power in an environment of opportunity and constraint.<sup>3</sup> Ambitious presidents must marshal the resources at their command to make policy, yet they continually encounter obstacles (Neustadt 1990, xi). Little analytical attention has been paid to how the many important, distinctive characteristics of the American political system—separation of powers, the autonomy of the federal bureaucracy, and American federalism—became obstacles to the enactment and implementation of Johnson's poverty program.

First, presidents struggle to bring the bureaucracy under control to carry out political objectives. "The President knows or should know that he does not completely control the bureaucracy even though the president is hierarchically superior to the bureaucracy," writes Kenneth J. Meier (2000, 143). Bureaucrats often make decisions in accord with their own

2. Mark Gefland (1981, 147) could find no evidence to support the thesis of Piven and Cloward (1993) that the War on Poverty and the Community Action Program (CAP) represented Johnson's attempt to mobilize his African-American supporters. Robert Lampman, a staff member for the Council of Economic Advisors, said in an oral history interview that White House political operatives considered the entire poverty initiative a political liability (Gillette 1996, 7).

3. Neo-Marxist and pluralist analysis treat the president as a dependent variable acted on by larger structural forces. Phrased differently, pluralist and neo-Marxist accounts of CAP are "over-determined": the discrete choices that individuals make do not really matter, since they are acting out a particular logic that transcends individual agency. For example, despite protests from Johnson administration officials that there was no electoral strategy in mind when they were planning the War on Poverty, neo-Marxist analysis suggests that they were unknowing agents of larger forces that they could not see; devoted to the trees, they missed the much larger forest. I am suggesting a more balanced theoretical framework that recognizes both structure and agency at work in the policy process. The approach advocated in this article is consistent with the policy-making approach that, according to Steven A. Shull (1999, 4), accounts for "the necessary interactions among institutions, processes, and policies . . . between presidents and actors inside and outside of government." Writing as a member of this school, Norman C. Thomas (1999, xvi) noted that

public policy can serve as an overarching framework for the study of the presidency. [The] important determinants of presidential performance . . . [include] the political, economic, social and international contexts within which the president must function; his intragovernmental relations with Congress, the judiciary, the bureaucracy and the federal system; and political relations with parties, interest groups, and the public.



interests rather than the president's needs. Busy presidents rarely have the time to monitor policy implementation (Meier 2000, 153-54). Second, in a system of separated powers, the president cannot act alone. Congress plays an active part in the policy-making process (Jones 1994). Finally, in a federal system, the behavior of state and local officials must be taken into account. Not only is their political support important to secure policy innovation, implementation of national policies depends on the cooperation of subfederal governments (Wright 1988; Anton 1989).

CAP originated as a strategy intended to bypass the standing federal bureaucracy and, thus, avoid the snare of turf wars among federal departments and the chronic problem of interagency coordination. The community action approach also avoided the strains of branch rivalry, since the administration offered Congress assurances that the new program would limit the president's power. The administration retooled the bureaucracy and, for a time, pacified Congress. But OEO, in search of an independent basis of support among congressional liberals, upset the fragile balance by making "maximum feasible participation" of the poor a central goal of the agency. Blindsided by OEO's move to find support among liberals, the Johnson administration ran afoul of another set of actors involved in policy implementation in the federal system: the nation's mayors. The political success of CAP depended heavily on their support, but a rift developed between Johnson and many big-city mayors over program implementation. Buffeted by criticism from his usual allies, the big-city mayors, under attack from fiscal and social conservatives, and unhappy with the supposed radical liberalism of the new institutions he created, Johnson abandoned community action and OEO as the major instrument of Great Society reform.

### **The Origins of Community Action and OEO**

Once assuming office, Johnson was eager to prove that he was a New Deal liberal. The day following the assassination of President John F. Kennedy, Walter Heller, chairman of the Council of Economic Advisors (CEA), told Johnson about research and planning that was under way to launch programs to combat poverty. Heller told Johnson that Kennedy had given approval to move ahead with the antipoverty initiative. "The poverty program Heller described," Johnson reported, "was my kind of undertaking." He told Heller, "Go ahead. Give it the highest priority. Push ahead full tilt." In a December 1963 press conference, the new president announced that a poverty-fighting program would be an important item on the 1964 legislative agenda (Johnson 1971, 71).

In John Kingdon's (1995) famous formulation of the policy process, experts often devise solutions before elected leaders settle on problems that are to be addressed politically. Community action was a programmatic approach that was formulated on the theoretical level before Johnson became president. Most generically, the community action concept is the idea that innovation, administration, and coordination of programs—power, really—should reside with the people in the communities whose lives are touched by the programs. Factions within or affiliated with the administration had different views on the purposes that community action should serve.

The idea was first expounded by the radical sociologists and welfare reformers on President Kennedy's Juvenile Delinquency Committee, who argued that community action should be used to politically mobilize the poor so that they would be prepared to confront local political establishments and assume administration of local service bureaucracies (Blumenthal 1969, 137-40). More important than the academics, however, were the federal bureaucrats and White House aides who latched onto the community action concept as an administrative strategy to make interagency coordination an easier task and to keep the costs of the program contained. It was Johnson's own White House and agency staff, not the outside academics, who moved the community action concept onto the president's agenda.

William Cannon, assistant chief of the Bureau of Budget's (BoB's) Office of Legislative Reference, brought the idea of community action to the attention of officials at BoB and CEA. A widely circulated memo proposed the creation of a demonstration program of ten "State and Local Development Corporations" that would "involve local communities in the design of systematic, local planning for its own self-help. Out of this experience," Cannon (1963) wrote, "recommendations for a longer-term program for an attack on poverty" could be developed. Cannon argued that such an approach would target federal resources in a concentrated geographical area, reorganize and revitalize existing federal-state-local relationships, and still allow for the expansion of effective existing programs. William Capron, a staff member at CEA, soon convinced CEA chair Walter Heller on the merits of the approach. Cannon's concept (soon renamed CAP) drew support from BoB assistant director Charles Schultze and director Kermit Gordon.

These early supporters of community action were united in the fear that the poverty initiative would fail if program authority were granted to the Department of Health, Education and Welfare or the Department of Labor. A new institutional structure, they agreed, was needed to implement policy. BoB and CEA—agencies housed within the Executive Office of the President (EOP)—were disdainful of the efficacy of the federal bureaucracy. This was evident in a December 1963 meeting, when BoB officials complained to their superior, Kermit Gordon, that Health, Education and Welfare secretary Anthony Celebrezze was reluctant to experiment with new approaches to the poverty problem and that White House requests for research and information from his department were not being met (March 1963).

Departments clamored for control of the poverty program in late 1963, but officials at BoB and CEA were convinced, according to Cannon, that the " 'old line approach' relying on individual departments to run programs without overall coordination, would only aggravate the 'fragmentation' of the federal effort" (Blumenthal 1969, 147). Furthermore, they feared that without a new coordinating agency, poverty appropriations would, in Cannon's words, "just get gobbled up in the usual bureaucratic crap." Community action also offered "flexibility," Cannon claimed. "It was supposed to fit local political, economic and social circumstances" (Gillette 1996, 80). In short, officials within EOP advanced community action as an administrative strategy to better manage the federal bureaucracy.

In the initial plans for the following fiscal year, White House aides allocated \$500 million in new funds for the community action initiative. An additional \$500 million in education and job training funds from Health, Education and Welfare and Labor and other agencies were to be coordinated through CAP. The White House dropped the experimental,

tentative provisions of CAP because staffers wanted solid results that would be useful evidence of success in the 1964 presidential campaign.

In February 1964, Johnson appointed Sargent Shriver to head the President's Task Force in the War Against Poverty (Morris 1964, 1). By centralizing control of the planning process in the hands of a charismatic leader, Johnson hoped to put an end to the squabbling among federal departments. The mission of the task force was to draft legislation for the president's poverty program and steer it through to passage in Congress. Representatives of the federal departments, however, were active members of Shriver's task force, and they continued their argument that implementation of the poverty program should be carried out by the old-line departments. Yet, the views of the EOP agencies—BoB and CEA—were reaffirmed by Shriver. Community action emerged as the centerpiece of the work of the task force. CAAs, under the oversight of OEO, which Shriver would head, would coordinate federal poverty programs on the local level. OEO would be placed in EOP, close to the presidency. In addition, Shriver added education and job training to the programs that the OEO/CAAs would administer directly.

### Why Community Action?

Why did Shriver, and ultimately Johnson, accept community action? Piven (1974) claimed that it was an instrument to override local political machines that repressed black turnout in national elections. None of the participants in the War on Poverty accept that argument. William Cannon claimed that "Community Action and the War on Poverty were not black-designed, minority-designed programs" (Gillette 1996, 81). Fredrick Hayes, deputy director of CAP, argued that "OEO, throughout its history, assumed that the CAAs would and should be organized under the aegis of local government" (Gillette 1996, 87). While CAAs were intended to override anti-urban state governments and southern mayors who might exclude blacks from the program, the poverty warriors did not anticipate battles between city halls and CAAs. As Shriver noted, "The whole idea of the antipoverty program was that it would have the support of the northern white Democrats" (Lemann 1991, 152). Donovan (1980) and Moynihan (1970) claimed that the poverty task force did not consider the political ramifications of CAAs. "In early 1964," Donovan wrote, "only a few knew what Community Action would mean." The program "simply was not discussed by top officials" (p. 40). But community action was discussed among White House aides, department secretaries, and top officials at BoB and CEA from the fall of 1963 until its legislative enactment. As early as December 1963, Barbara Kellerman (1984, 92) noted, Johnson "was thinking of the political realities he would have to face down the road" in passing the poverty program.

Shriver and Johnson accepted community action because it bore the imprimatur of the experts closest to the president at BoB and CEA. These officials kept the concept alive throughout the winter and spring of 1963-64. BoB and CEA support for community action was anchored in the logic of Cannon's memo from December 1963. Community action, Cannon argued, would produce a bureaucracy responsive to the demands of its clients and allow for the integration of social services in a single location. Most important of all, it would

allow the administration to bypass the power of entrenched and unresponsive federal departments and agencies. Officials at BoB and CEA settled on the community action concept as the most acceptable solution to the poverty problem largely because of its administrative and management advantages rather than its policy merits.

BoB and CEA sold the community action perspective to Shriver and the White House on more political terms, however, arguing that it allowed the administration's frontline political leaders to overcome or evade institutional constraints. They made the case to Shriver that community action made the job of selling the poverty program to Congress easier. As William Cannon (1982) noted, the very effective political appeal that would sell the program in Congress was its localism. BoB assistant director Charles Schultze wrote Shriver's chief aide, Adam Yarmolinsky, that CAP would avoid trouble with Congress. Although Shriver would retain real power over the program, Congress could be convinced that control would be decentralized (Schultze 1964). In addition, officials at CEA and BoB stressed the point that the community action approach was inexpensive compared to a New Deal-style jobs program. Cost containment was an important and abiding concern of Johnson's. "There was a deep and abiding interest, as I recall, [on] the president's part in what were some of the costs of this program, in greater detail," noted William Kelly, assistant director for management at OEO (Gillette 1996, 62). The White House was not prepared to commit resources to a dramatic, expensive program that Shriver may have originally envisioned.

For Johnson, community action allowed the administration to sidestep conflict among his departments for control. Creating OEO/CAAs meant that he did not have to choose among his departments to spearhead the antipoverty initiative and involve the White House in a bureaucratic turf war. The notes of White House aide Fred Bohlen (n.d.) on President Johnson's thinking express this concern: "HEW [Health, Education and Welfare]/LABOR buzz saw—[Johnson] wanted programs which were theirs to stay theirs. Because of this, President bought Heller-Gordon suggestion."

Schultze's argument that CAP would be an easier sell in Congress than a traditional employment or education program housed in one of the old-line departments was prescient. Distributive programs are always difficult to pass in Congress because of opposition from Republicans and Southern Democrats. An even more difficult obstacle is the institutional separation of powers principle that makes Congress resistant to legislative initiatives emanating from the executive branch. The War on Poverty was formulated by the Johnson administration with little input from Congress. But Congress guards its prerogative to make legislation jealously. As William Selover (1969, 159) noted, "the fact that the legislation was drafted by the administration, handed over to a waiting Congress and expected to be passed without major changes was bound to arouse hostility among sensitive members of Congress." Just as community action was used to resolve many of the administrative dilemmas Johnson faced, it was useful in deflecting congressional charges that the War on Poverty effort was a usurpation of institutional prerogative. It reassured Congress that Shriver (widely expected to be appointed the president's special assistant for poverty and director of OEO once the measure passed) would not be granted excessive power. As Stanford Kravitz (1969, 61) noted,

The Community Action concept was politically ideal in many ways for a national War on Poverty. It met what could be anticipated as objections to a new national welfare program by placing responsibility at the local-community level; it forced no community to participate.

Even with the administration's attempt to tailor a politically acceptable plan, fear of executive dominance was an important issue as Congress weighed the president's proposal. Representative Robert Griffin (R-MI) remarked in floor debate on the Economic Opportunity Act that the legislation "provides no meaningful guidelines, no standards." He continued,

If there is one bedrock principle upon which our political and economic system depends, and to which we have always pointed with pride, it is the fundamental principle that ours is a government of laws—not men. A bill like this, which is so patently an outright transfer of legislative authority to the executive branch—a bill which actually creates a government of men, not of laws—should and must be stricken down. Surely no expedient or temporary political advantage can justify the enactment of this bill. (U.S. Congress 1964, 18322)

Continuing the Republican critique, Robert Michaels (R-IL) said,

The administration states that the community action program will let local people devise their own plans to fight poverty on the local level. Then, when the plans are approved by the Office of Economic Opportunity, the government will finance ninety percent of the costs. But who ever heard of a Federal office approving and financing programs it did not administer? (U.S. Congress 1964, 18303)

The president invested much of the prestige of his office into the campaign to pass the Economic Opportunity Act. In the spring of 1964, Johnson went on two well-publicized "poverty tours" to drum up support for the measure, and he assigned White House aides to closely monitor relationships with key interest groups. Johnson personally controlled the administration's strategy in Congress. A key part of the president's strategy was to frame CAP as a program that would check the executive branch's exercise of power. As Shriver himself assured Congress in hearings held by the House Education and Labor Committee, the Economic Opportunity Act "gives new opportunities to those who want to help themselves or their community. But the choice is theirs. It is not imposed by the authoritarian discipline of the Federal government" (U.S. House 1964, 22). The shift to local authority permitted the administration to sidestep questions about program content, since local communities would decide what was best. Shriver and Johnson decided to keep the statutory language of the Economic Opportunity Act vague. As Shriver aide Norbert Sclei noted, the administration "thought that a more precise formulation of what we were trying to achieve would unnecessarily make enemies up on the Hill" (Gillette 1996, 77).

Democratic congressional leaders, anticipating criticism from conservatives and Republicans that Johnson was trying to build a presidential political machine, continued the argument that community action provisions calling for local control and participation ensured that power was decentralized and that program content would be nonpartisan. Power was vested with "the people" in the communities. Representative James Roosevelt (D-CA), an influential member of the oversight committee for Education and Labor, remarked from the floor,

we have tried not to make this thing a Federal program, but to make it a community, state, and Federal program. The community action approach permits an effective and practical use of all Federal, state and local resources in combating poverty in a community. (U.S. Congress 1964, 18262)

Echoing Roosevelt, House member Roman Pucinski (D-IL) noted that the community action concept was “formulated in the belief that local communities know and understand their problems the best . . . and are most capable of solving them” (U.S. Congress 1964, 18299).

After a difficult fight, the Economic Opportunity Act passed in the summer of 1964. The act created OEO to administer the War on Poverty. The major provisions of the legislation included Title I, which allocated roughly \$400 million for job training, and Title II, which allocated \$350 million for CAP. Under Title II, local CAAs, under the oversight of OEO, could start any number of social service, education, or training programs depending on community need (Donovan 1980, 37).

With the passage of the Economic Opportunity Act, wrote one observer, “one would have to go back to FDR’s one hundred days in 1933, that classic time of dominance over Congress, to find a clear precedent” (Donovan 1980, 55). An important reason for Johnson’s success was the strength of the community action concept as a political and administrative strategy to tame the federal bureaucracy and pacify Congress. But the terms of victory would lead to problems later. The vague legislation, the lack of clarity from the White House about the means and ends of CAP, and the delegation of authority to local communities meant that Johnson’s White House would not enjoy strong control over the centerpiece initiative of the War on Poverty.

In short, Johnson and his advisors were neither Piven’s (1974) shrewd calculators trading the votes of white Southerners for urban blacks nor the blissfully unaware incompetents described by Donovan (1980) and Moynihan (1970). The truth lies between these two poles. The Johnson administration consciously adopted community action as a painless way to overcome the difficulties of presidential management. Coordination at the local level avoided confrontation with and among cabinet-level departments. Since community action did not appear to expand White House power, it was also an effective organizational arrangement to reassure Congress that legislative-executive powers were still in proper balance. With its vague provisions for local control, community action was a strategy of political avoidance. Looking past the point of legislative enactment, difficult political battles with Congress and administrative battles with departments and agencies loomed.

### **American Federalism and Bureaucratic Autonomy**

Presidents have a difficult time managing their bureaucracies. Political scientist Richard Rose (1989, 163) went so far as to say that the “gulf in Washington is not between the executive and the legislative branch but within the executive branch, separating agency officials . . . from . . . the President’s priorities.” This was particularly true in the case of CAP.



Community action's major advocates in the planning stages were budget officials from BoB and CEA who emphasized procedural and budgetary questions. They focused on the potentially low price tag and the bureaucratic flexibility that the community action approach offered. They were not trained nor were they inclined to focus on substantive policy questions such as the types of services offered or staffing at the local level. The flexibility of the program, argued the budget and administrative experts in EOP, permitted local communities to find the policies that worked best.

The reality, however, was that Washington would have to set some criteria for local governments and nonprofits in applying for federal money to start CAAs. With White House operatives and EOP staff turning their attention to other pressing legislative initiatives of the Great Society, the new agency exercised a measure of autonomy from the goals of its political masters. In devising implementation standards, OEO director Shriver turned to many of the social scientists, local organizers, and union officials who had advanced community action as an approach to end the alienation of the poor through political mobilization to run CAP operations. In the fall of 1964, Shriver appointed Jack Conway as head of CAP. Conway was responsible for oversight and operations of all CAAs that would be established across the country. He was also responsible for reviewing grant proposals from governments and nonprofit corporations formed by cities to administer CAAs. Although Conway had ties to establishment Washington, he was a labor organizer who interpreted an obscure provision of the Economic Opportunity Act calling for the "maximum feasible participation" of the poor as an opportunity to "activate the people in the neighborhoods and communities" (Conway 1982).

With few marching orders from the White House and vague statutory intent, Conway crafted CAP to include as much input from the poor as possible. Shriver and Conway implemented a plan for community action that was shaped by their respective experiences at the Peace Corp and the United Auto Workers. They were not afraid to shake up local political institutions to attract national attention to the plight of the poor or to force local elite to take the poor seriously as a political force. Remarking on Shriver's opinion of CAP's implementation of the maximum feasible participation requirement, Eric Tolmach, chief of evaluation at CAP, remarked that

one sensed a kind of perverseness in him . . . [the radical nature of the program] separated him from the average bureaucrat in town, and it gained him some credibility on the one hand with large groups of people who were for doing this kind of thing, and with the poor. (Gillette 1996, 205)

By the winter of 1965, CAP was in full swing. Within a year, there were more than one thousand CAAs at work in the localities.

The unintended consequence stemming from the community action approach in its incarnation as an institution that mobilized the poor was that it created sharp tensions between the administration and big-city mayors. Under the system of American federalism, states exist as legally distinct sovereign entities, and local governments are often operationally and politically autonomous. Yet, the implementation of national goals requires the cooperation of all levels of government. In 1962, Senator Edwin Muskie (D-MA) said that



the cooperation and conflict between Washington, the states, and the localities was a “hidden dimension of government” that performs “as almost a fourth branch of government in meeting the needs of our people” (Wright 1988, 12). Activist presidents need the cooperation of state and local governments to provide the staffing, financing, and legal standing to carry out innovative domestic policy. Johnson initiated a program of “creative federalism” to encourage cooperation among governments to implement his domestic agenda. On a more political level, Democrats in Washington depended on the support that big-city mayors provided for the liberal agenda. In the New Deal, for example, the political support and lobbying efforts of big-city mayors was critically important in the passage of housing and public works legislation. Roosevelt and the Washington-based lobbying and advocacy group the United States Conference of Mayors (USCM) were closely allied in implementing New Deal programs (Flanagan 1999). For Johnson, big-city mayors in the Democratic Party represented key blocs of voters on whose support he depended. Mayors were a group he courted conscientiously, both individually and through the USCM.

As early as January 1964, the USCM took an active interest in the administration’s poverty initiative. The USCM sent a memorandum to the president arguing that poverty was a problem that was particularly urban in nature and calling on Johnson to create an advisory committee of mayors to help in the planning of the program. The USCM also urged an appropriations increase for housing, urban renewal, and public works projects. Big-city mayors were firmly committed to a “bricks and mortar” approach that had been rejected by the experts who advised Johnson. Although Shriver’s task force consulted with a wide variety of experts in formulating the poverty program, big-city mayors were not included in policy deliberations. Anxious for the problems of the cities to receive national attention, the executive committee of the USCM nevertheless pledged support to the president at a January 1964 meeting about urban affairs at the White House (USCM 1964).

In the spring and summer of 1964, the impact of the Economic Opportunity Act on the cities was uncertain, but the mayors trusted Johnson, confident that a Democratic president would deliver for the cities. Representing the USCM, Mayor Raymond Tucker of St. Louis told the House Education and Labor Committee during hearings on the Economic Opportunity Act that

the nation’s cities have borne the greater lead in the fight against poverty at this time. We have done well to hold our own in this struggle. We welcome the Federal government to the battle and pledge our continued effort so that the war can be won. (Wagner supports 1964, 21)

Even Republican mayors supported the president’s poverty initiative.

But doubts were raised. Congressman Peter Frelinghuysen (R-NJ) pressed Mayor Jerome Cavanaugh of Detroit, noting that OEO did not have the power to force other federal agencies to coordinate policy with local CAAs. Frelinghuysen also contended that OEO/CAP could operate its local CAAs independently, bypassing the control of local government. Cavanaugh replied,

there are certain things I would like to see placed in the bill, clarifying, for example, the role of local government. Obviously, the intent . . . is to require the coordination of existing agencies,

both public and private, on a local basis, to participate in the benefits of this legislation. We have done just that within our own city when I pointed out that the president of the Chamber of Commerce, the heads of our major universities, the heads of our labor unions, [and] the highest clergymen are participating in developing our community action program. (U.S. House 1964, 785)

As Cavanaugh's testimony suggested, mayors thought that local participation meant the participation of the urban establishment, not the poor. However, despite some uncertainties about the specifics of the bill, the position of the USCM and its members was perhaps best expressed by Mayor Richard Daley of Chicago when he was pressed about what the poverty program would do for his city: "You have to have faith in the Federal government. I know the men and women who put this together will be fair in their administration as they have been in the past" (U.S. House 1964, 766).

By early 1965, however, a few months after the establishment of the first CAAs, mayors began to grouse about the new political organizations in their cities. OEO/CAP in Washington had created structures that bypassed their authority. As political scientist Donald Haider (1971) observed, "Militants captured anti-poverty agencies; the OEO refused to designate Midwest public agencies as local poverty units; confrontation flared in Newark, Syracuse, San Francisco, Oakland and dozens of other cities between anti-poverty organizations and city hall." In a considerable number of cities, CAAs quietly delivered services. What was more important, however, was the reaction to the perceived, or symbolic, impact of local CAAs. Controversial cases got a disproportionate share of attention. Cities with extensive media coverage, such as San Francisco and Chicago, were often the sites of conflict. Perhaps most important, in the minds of many mayors, any disruption of the status quo could be a source of political trouble in the future. Mayors wanted to forestall that possibility, and they were angry that the administration would invent a program that would undermine the authority of local officials. Mayors Richard Daley of Chicago, Jack Shelley of San Francisco, Samuel Yorty of Los Angeles, and William Walsh of Syracuse joined in outspoken protest at the USCM convention, sponsoring a plank in the USCM's yearly policy message calling for local control of CAP (Franklin 1965, 39).

President Johnson moved immediately to heal the rift between the administration and the USCM. Johnson assumed that local governments would run local CAAs; he was blindsided by the controversy that erupted. Adam Yarmolinsky, Shriver's senior aide, reported that the president assumed that "community action would be handled entirely by local government agencies or agencies of the Federal government" (Gillette 1996, 74). Hoping to pacify the mayors, Johnson named Vice President Hubert Humphrey special liaison to the USCM. The vice president assured the mayors that he would act as a "built-in special agent" for their interests. Throwing his considerable energies into the project, Humphrey barnstormed the country. He attended five national conferences on poverty in the winter and spring of 1965, reporting to the president that he had been "coalescing support of local officials for your programs." Humphrey held a number of public forums with members of Congress and local officials and appeared at all of the intergovernmental conferences. He also worked with individual mayors, offering explanations of administration policy and maintaining contact with city halls (Humphrey, 1965a).

By late 1965, Humphrey's work as ad hoc ambassador to the mayors led him to the conclusion that OEO/CAP was a political liability for the administration and was not working well administratively. In a long memo to Johnson, Humphrey (1965b) reported that "there is much concern about the operation of the poverty program among the Mayors, even among the Administration's strongest supporters." Humphrey continued, "what disturbs the Mayors is their belief that OEO is building and funding in the community action committees opposition elements to the city administration. Mayor Daley had expressed his concern in strong words." What made the matter worse, Humphrey argued, was that the administration was expending political capital with little payoff. The coordination of federal poverty programs under Shriver "on the whole has not functioned effectively." The feeling among the mayors, Humphrey reported, was that "OEO spreads itself too thin by providing funds for too many projects of questionable worth and too much money is given out for planning, research and administration." However, Humphrey added, "the Mayors strongly support Head Start, Jobs Corps, Neighborhood Youth Corps . . . and [other] programs of training, education and recreation."

Others in the White House and EOP were souring on OEO/CAP as 1965 drew to a close. BoB director Charles Schultze (1965) wrote to the president that the original idea of community action as conceived by BoB and CEA in late 1963 had been reinterpreted by Shriver and others at OEO. CAP has emphasized, Schultze wrote, "getting minority-group representatives of the poor on planning boards, and organizing the poor to speak up with a louder voice. We ought not," he concluded, "be in the job of organizing the poor politically." Schultze called for moving the poor out of political and planning positions in local CAAs, candidly admitting that such a change "helps our image with the mayors [and] hurts our image with civil rights organizations." Aides within the White House, sensitive to the president's political concerns, proposed more radical changes to OEO/CAAs. Harry McPherson (1965) told the President to "save what is worth saving, and renounce the rest." Johnson's important advisor for domestic policy, Joseph Califano, proposed in 1965 that OEO programs be delegated to other agencies, and that responsibility for the War on Poverty pass from OEO to a new department that the administration was urging Congress to create: Housing and Urban Development (HUD). Califano's plan called for appointing Shriver as secretary of HUD and the highly regarded administrator of the Housing, Home and Finance Agency, Robert Weaver, as Shriver's undersecretary. Weaver, the administration's highest ranking black, was well liked among civil rights organizations. Califano argued that this reorganization would give the president "a tremendous plus from the liberals, as well as the conservatives, and the mayors and city organizations who would like to get this program in more formal channels."

### **Shriver Stakes Out Bureaucratic Autonomy**

Facing intense grouching from big-city mayors and criticism from the White House, Shriver and ranking OEO officials sought to bolster their agency against attack with a two-pronged strategy. First, Shriver sought to shore up his position with the president. In the

summer of 1966, Shriver assured Johnson that OEO and CAAs were working closely with local officials. Shriver tightened control of CAAs, prohibiting partisan activity and requiring that all projects be screened through local political institutions (Haider 1971). Shriver baraged Johnson with articles from local newspapers that covered CAAs favorably, and he defended his agency in six meetings and three telephone conversations with the president from November 1966 to August 1967 (Califano 1967).

An agency—even a new one—can find supporters even when the president who created it would have preferred to abandon it. The second prong of Shriver’s plan was for OEO/CAAs to develop an organizational philosophy that provided a rationale that distanced it from the orbit of the White House and cultivated alliances in Congress. As early as the summer of 1964, OEO began voicing an approach that would broaden the appeal of the agency to groups outside of the White House and allow the agency to offer a unique program to members of Congress that its competitors—old-line departments—could not offer. Empowering the poor through the process of democratic participation and coordinating government activity using a bottom-up, consumer-driven model became the central goal and chief selling point of the community action approach. Shriver aide Edgar Cahn (1967) elucidated the principles of the approach, striking a note of independence from the budget and policy planners at BoB and CEA. “Coordination,” Cahn wrote, “is therefore approached from the perspective of the consumer of Federal programs—the poor, and communities trying to help the poor—rather than from preconceived notion that there is some ideally logical way in which to structure the Federal government.” He continued,

If coordination turns inward—and is limited to ordering and reordering within the Federal government—then it will be wholly a matter of bureaucratic infighting for power. If coordinating turns outward—toward the needs of constituents—and particularly, toward the needs of consumers of Federal programs, then reorganization of the Federal government will take place in response to those needs and not simply in response to a power struggle.

Cahn focused on political realities, too, noting that this new conception of coordination “will not be solely dependent on White House support. For each new change urged by OEO, another source of support—the poor and local government—will have to be identified.”

Shriver used the novel selling point of OEO—its emphasis on representation—to build support for his agency at a time when its interagency coordinating role was largely judged to be failing. In a sharp rebuke to his critics at BoB, Shriver (1964) wrote White House aide Bill Moyers that OEO achieved coordination through representation and advocacy of the poor in the Washington bureaucracy and that BoB’s notion of coordination was ineffective. A memo from Shriver to his staff that was circulated among members of Congress illustrated the argument OEO was pressing and the delicate balance the new agency was trying to strike among mayors, Congress, and the White House. Shriver tried to appease local officials. Describing OEO policy, Shriver noted, “we have no intention of letting one group, even the poor themselves . . . run the programs. The very concept of community action means that the whole community is involved.” But Shriver asserted OEO’s unique community action mandate as a reason why the OEO should not be disbanded and its programs transferred to older departments and agencies:

The Office of Economic Opportunity funds, delegates, administers or coordinates a vast array of programs. Every one of those programs can be perverted into a form of the dole—paternalistic, unilateral and degrading. The poverty program must stake its existence on that same ideal upon which our nation gambled from the outset: Democracy. Community action is the democratic antidote to the dole. (U.S. House 1967)

Despite the work of Shriver to pacify the administration and build support for the agency among members of Congress and interest groups, by early 1966 the White House was clearly unhappy with both the political and policy performance of OEO and the community action approach. Johnson sought a new program to end poverty and bring about urban revitalization. A new task force on urbanism was assembled, headed by political scientist Robert Wood. The Wood task force concluded that OEO/CAAs failed because they did not work well with local governments and were not properly designed to coordinate policy effectively (Harr 1975, 33). The task force argued for the creation of a new program, Demonstration Cities (later changed to Model Cities) that would coordinate federal resources, concentrate funds in a few key demonstration neighborhoods, and mobilize the local elite—public and private—to assist federal efforts (Bainfield 1973, 133). Following the lead of Wood and his task force, the White House shifted its political support away from OEO/CAP and devoted energy to the passage of the Model Cities program.

### **Endgame: Congress Takes Control**

Community action became the centerpiece of the early War on Poverty effort, in part, because it allowed the Johnson administration to avoid conflict with Congress over control of the program. Executive dominance of OEO/CAP came to an end as members of Congress sought to establish their traditional roles as overseers and policy makers. This assertion of power by Congress quickened among conservative members as local officials and civic leaders registered complaints about turmoil and mismanagement at CAAs. Conservative attack produced liberal countermobilization. Interest in management of CAAs among liberal members of Congress increased as attacks against the programs intensified and White House interest cooled. Members of Congress who had yielded to Johnson's power and persuasion in 1964 when the Economic Opportunity Act passed were not willing to abandon OEO/CAP as the focal point of federal policy in the big cities—either as allies or critics—in response to White House signals in 1966.

Partisan and ideological factions were staking out claims in OEO/CAP. The first assertion of Congress' oversight prerogative came from the Democratic Left. In the spring of 1965, Adam Clayton Powell of New York, the powerful, iconoclastic chair of the House Education and Labor Committee, asserted congressional power over the federal bureaucracy by holding investigations into CAA practices in many cities. Powell charged that Chicago mayor Richard Daley and New York mayor Robert Wagner were restricting participation of the poor on CAA governing boards and that CAAs were serving as political patronage pools for many mayors. Powell's investigations were disorganized and his charges of widespread fraud were unfounded. The Democratic members of the Labor Committee derided their chairman's charges and stoutly defended CAP practices. Powell's attack in 1965 against CAP



and the Johnson administration, while harmless in a political atmosphere defined by Johnson's landslide election against Goldwater, was a precursor for later troubles (Hunter 1965a, 1965b).

In 1966, Republicans made Johnson's OEO a political target. House minority leader Gerald Ford and Senate minority leader Everett Dirksen introduced legislation to form a bipartisan committee to investigate practices at OEO, CAP, and CAAs. Dirksen remarked at a press conference that OEO "was marked by political favoritism and corruption" (Poverty program 1966). Of course, Democratic majorities in both houses refused Republican requests for hearings. The GOP conducted its own party caucus investigation, which reported widespread acts of corruption and incompetence among OEO, CAP, and CAA administrators. The findings of the GOP's investigations were entered into the *Congressional Record*. The GOP also periodically issued a Republican Poverty Memo that reported management problems at Shriver's agency (Selover 1969, 169-71).

Members of the most important coalition of all-moderate congressional Democrats—were unhappy with Shriver's administration of OEO and his failure to bring about interagency coordination among CAAs and the federal bureaucracy. Paradoxically, Congress wanted adroit administration partnered with decentralization. The Senate Appropriations Committee, for example, in late 1965 conducted oversight hearings into OEO practices in Mississippi. After finding several cases of administrative irregularities, the committee report concluded, "the mere fact that good has been accomplished by the antipoverty program does not excuse the unwarranted use of funds" (Wallace 1965). During committee hearings, Senator John Pastore (D-RI) told Shriver that he regretted voting to confirm him as OEO director (Wallace 1965). Powell's House Education and Labor Committee conducted a second investigation in the fall of 1966. Powell charged that the administration had failed to coordinate federal poverty efforts competently and that Shriver failed to provide "vigorous generalship" of the OEO. Powell called for Shriver's resignation (Hunter 1966).

The attacks against the administration and OEO/CAP for administrative malfeasance and the unchecked exercise of administrative power were at times venomous. On the House floor, Representative Charles Goodell (R-NY) remarked,

Many of us believe this establishment downtown known as the Office of Economic Opportunity is a monument to administrative asininity. It is beyond any doubt the worst administered office that we have seen in modern times in Washington. Now, I say that flatly, and I think most of you off the record and privately would concede that you would have a lot of difficulty in naming another agency of this government that is administered in a more muddled and confused way. (U.S. Congress 1966, 31411)

In 1966, congressional battles over the direction of OEO/CAA had the net impact of eroding the Johnson administration's control of the program. Important legislation that limited the administration's discretionary power included a measure that required that poor residents compose one-third of all CAA governing boards. Liberals, hoping to check the power of big-city white ethnic machines, passed the amendment; and conservatives and Republicans, seeking to embarrass the administration and further erode Johnson's relationship with big-city mayors, also supported the measure. Programs that OEO had started in 1964 without the approval or consultation of Congress were reined in. Congress stripped much of

Shriver's power away by earmarking OEO/CAP funds for specific purposes. Congress directed 40 percent of all OEO funds to Head Start, CAP's uncontroversial educational program for preschoolers. Additionally, salary caps for CAA workers were instituted, and limits were set on the number of trainees that could enter the Jobs Corp (Sundquist 1969, 42).

While many conservatives were intent on eliminating OEO/CAP, a majority of the members developed an appreciation for many of the politically innocuous poverty programs that CAP delivered in their congressional districts. With assurances from the Democratic leadership that Congress had asserted control of the federal bureaucracy and that the administration's power had been checked, many members viewed OEO/CAP as the most recent addition to the "man-power training complex" (Donovan 1980). The conservative challenge to OEO/CAP was overcome when moderate Democrats agreed to an amendment that granted power to mayors and governors to take control of mismanaged or politically disruptive CAAs. The measure was largely symbolic, since the Johnson administration had already transferred, either directly or indirectly, much power to local officials. But the amendment stymied a viable conservative challenge. In short, by tightening control over CAP-administered programs and ensuring that Shriver's agency was deprived of the planning capacity and programmatic flexibility originally envisioned by officials at BoB and CEA, Congress exercised the constitutional prerogative that it had initially delegated in 1964 to the Johnson administration. OEO/CAP was now just another collection of job training programs, with a partial concern—although not "dangerously" so—for the participation of the poor.

In November 1966, President Johnson signed legislation that created Model Cities, a program intended to bring federal coordination and planning expertise to 120 cities to carry out the goal of rebuilding beleaguered neighborhoods. It marked the administration's formal shift away from CAP as its central, innovative effort to aid the cities and the urban poor. The members of the task force that developed Model Cities consciously developed their proposals to target CAP clients—the urban poor—and to avoid the organizational pitfalls that befell Shriver at OEO. The decentralization and flexibility of CAP—the characteristics that were touted at BoB and CEA for both administrative and political reasons—were judged to be debilitating as they deprived the Johnson administration of programmatic control of content and standards (Harr 1975, 44-49). Johnson administration political aides and public administration experts viewed the community action experiment as a failure. The reasons for this failure were rooted in the obstacles the presidency confronts facing the system of American federalism, separation of powers, and the impact of bureaucratic autonomy.

As March and Olsen (1989, 63) noted, under conditions of organizational complexity "change comes to mean many things to different people." As originally conceived by political organizers and activists, community action was a psychological and grassroots-politics plan to empower the urban poor. Bureaucrats at BoB and CEA transformed the proposal into an administrative strategy to wake up the federal bureaucracy and deliver social services. In turn, President Johnson allowed the community action approach to proceed because of its political advantages—decentralization avoided a fight with Congress over the balance of power between the two branches. Once again in the hands of social scientists and organizers at OEO, community action came full circle as the poor were pulled into management and policy-making positions at CAAs. The protests of yet another set of state actors against com-



munity action—a slice of the “fourth branch” of government, the nation’s mayors—cooled the Johnson administration’s enthusiasm for the community action approach. But Congress moved in to protect the program, since members approved of the social service programs that CAAs delivered to their districts. A “path-breaking” social science and government reorganization plan and a central initiative of the administration had been tamed into a more traditional patronage/social service program, controlled by congressional committees and largely falling outside the orbit of presidential politics. What is seen, then, is that a model that turns on the electoral calculus of the president, as stated by Piven (1974), or the power of social science theory, as suggested by Moynihan (1970), misses much of the complexity of the policy process. The competition between the president, Congress, the bureaucracy, and big-city mayors transformed CAP.

### Johnson’s Administrative Strategy

Work to make the bureaucracy responsive to the president’s agenda is referred to as an “administrative strategy.” “Presidents discovered,” noted political scientist Peri Arnold (2000, 217), “they could draw upon the administrative state to achieve new capacities for shaping policy and new influence over policy implementation.” Richard Waterman (1989, 22) similarly argued that

presidents need the bureaucracy if they are to see their most coveted programs adopted and properly implemented. Only by having the bureaucracy as an ally can presidents hope to accomplish their policy goals. As public expectations of what presidents should be able to do have increased (e.g., presidents should be able to balance the budget and eradicate poverty), they have relied even more on the bureaucracy. Presidents are at a clear policy disadvantage without some form of control over the bureaucracy.

The observations of Arnold and Waterman are especially salient for a liberal activist president like Lyndon Johnson who was intent on molding society and the economy through government intervention. The capacity of the federal bureaucracy had to be expanded so that it could meet Johnson’s ambitious goal of ameliorating poverty; it also had to be politically tamed to serve as a faithful servant of the president’s agenda.

Waterman (1989) identified the “tools” of the administrative presidency—the actions presidents take to control the bureaucracy. Presidents can appoint or fire political appointees, control expenditures, and conduct oversight and review. Two additional tools of the administrative presidency that Waterman identified were used by Johnson: bureaucratic reorganization, with the placement of OEO in EOP; and the delegation of program authority, with the establishment of CAAs on the municipal level (pp. 40-43; see also Arnold 1998, 434).

Placing OEO under the politically potent umbrella of EOP sent a message to the federal bureaucracy that the poverty program was an important White House priority. In addition, the administration hoped that the coordination of federal agencies to be carried out by OEO director Shriver would improve the policy impact of the poverty program. Delegating power to local CAAs was intended to improve coordination functions too. Thus, Johnson’s

use of administrative power served what Lester Salamon identified as the typical goals of reorganization initiated by the presidency: efficiency, policy effectiveness, and political tactical advantage (Waterman 1989, 44).

The presidency's use of administrative tools—particularly proposals to reorganize the bureaucracy—often meet with stiff resistance from Congress (Fisher 1981). Congress, Louis Fisher (2000, 317) noted, “maintain[s] a strong interest and involvement in the executive process.” Adding to the presidency's difficulties, the bureaucracy often evades the control of the chief executive by cultivating relationships with interest groups and congressional committees and by exercising discretionary power that the White House is too busy to notice (Seligman and Covington 1989, 110).

The question then becomes a matter of how the administrative tools of the presidency should best be deployed. In his study of the administrative strategies of the Nixon and Reagan administrations, Richard Nathan (1983) argued that presidents must take command of the bureaucracy to achieve their policy goals. The administrative tools of the president should be used aggressively, since the success of the president's political agenda can often hinge on the degree of control he has over the administrative process. Strong presidents should confront Congress and the bureaucracy to ensure that policy implementation reflects the president's political agenda. Richard Waterman (1989) has been critical of the confrontational strategy that Nathan recommended. Presidents risk the ire of Congress and noncompliance from the bureaucracy. Drawing on Richard Neustadt's (1990) concept of bargaining, Waterman argued that presidents should compromise and negotiate with the bureaucracy regarding controversies arising over administration. “Presidents,” Waterman wrote, “must be willing to deal with key elements of the bureaucracy in much the same way as they deal with key members of Congress: presidents must bargain and compromise in order to increase their influence over the bureaucracy” (p. 170). According to Waterman, Nathan's call for the aggressive use of the president's command authority should be a tactical approach subsumed within a broader strategic vision that emphasizes bargaining and compromise.

Johnson's use of the tools of the administrative presidency does not fit neatly into Nathan's (1983) or Waterman's (1989) categories. Rather than bargain with or confront Congress or the old-line federal departments over the content and approach of the poverty program, the Johnson White House practiced a strategy of avoidance. The ambiguousness of the community action approach, with its promise that real power would reside in local communities, avoided a showdown with Congress. The coordinating function of OEO was defined vaguely too, so that the new agency would avoid protracted turf wars with established federal departments that had oversight over programs that aided cities and the poor. While an immediate confrontation was avoided, no understanding between the presidency and other institutions with an interest in the poverty program was negotiated. It was only a matter of time before Congress became alerted to the importance of CAP and sought to play a role in its governance. The White House's failure to play a strong role in the administrative process at OEO (a function of the avoidance strategy) also hurt efforts to keep Shriver and his deputies from putting the political interests of OEO (its survival) ahead of the president's.

In conclusion, a strategy of avoidance in the president's management of the administrative state is distinct from the confrontational and bargaining strategies described in the lit-

erature. However, avoidance and confrontation strategies are linked, since, following Waterman (1989), it is suggested in this case study that the lack of bargaining by the president with other actors and institutions with a stake in the process will ultimately become an obstacle for the president's agenda.

### Johnson's Leadership Style

Political scientists have long recognized the limitations on presidential power. As Charles O. Jones (1994, 2) noted, "The plain fact is that the United States does not have a presidential system. It has a separated system." Following from this observation are two general sets of recommendations for presidential action. First, under the mandate model, presidents should strike quickly after election with policy initiatives when the prestige of the office is at its height. The "honeymoon period" after an election is the president's window to move boldly and aggressively forward. Presidents must, according to Paul Light (1999, 33), "move it or lose it." He continued, "capital does not keep. Thus, the best way to cash in on presidential capital is to present a program as quickly as possible. Presidents must be concerned about moving the domestic agenda immediately following inauguration." Starting with the same presumption of presidential weakness, but approaching the matter from a slightly different perspective, the consensus model focuses on the long-term prospects for the administration's goals, arguing that the president should seek to bargain and compromise with Congress. Arguing from this camp, George Edwards (2000) wrote that the president's goals are better served if he acts more as a facilitator than director of the policy agenda.

Johnson knew well the limits on presidential power. Election mandates were illusory. The success of the presidency depended on a workable relationship with Congress and meeting the needs of members so that a consensus in support of the president's goals could be reached. "There is but one way for a President to deal with the Congress," Johnson remarked, "and that is continuously, incessantly and without interruption" (Dallek 1996, 64). As Senate majority leader during the Eisenhower years, Johnson knew that a confrontational strategy with Congress was not a sustainable posture. It was Johnson's judgment that FDR's fatal mistake was to push his liberal agenda too far after the 1936 landslide election without building a consensus behind his proposals. Johnson proposed, in contrast, to "wage a war without enemies," replacing the confrontation of the 1930s with a "managerial liberalism" that would expand opportunity without challenging entrenched interests (Skowronek 1993, 340; Andrews 1998a).

Johnson's contrary impulse, however, was not to be satisfied with modest or even ambitious achievements; he wished, rather, to use his great tactical skill to complete the unfinished New Deal agenda—"to pick up where FDR's New Deal left off"—and become the greatest liberal activist president of the modern era (Dallek 1996, 60). To that end, he grew impatient with the slow pace of congressional and bureaucratic politics. Extragovernmental task forces were used throughout the Johnson years (including the task force on poverty) to quickly import new ideas into government, override the bureaucracy, and move policy-making power inside EOP (Ott and Hughes-Cromwick 1988). Coupled with great goals was a sense of urgency. While valuing consensus, Johnson also knew that a president must "use it

or lose it.” “You’ve got to give it all you can, that first year,” Johnson said of Congress. “You’ve got just one year when they treat you right, before they start worrying about themselves” (McPherson 1972).

A strategy of avoidance is a way out for a president who was experienced enough to know that direct confrontation with Congress was a posture to be adopted sparingly and ambitious enough not to want to compromise and negotiate with Congress either, especially over key policy items that he envisioned as part of his historical legacy. Avoiding direct confrontation with Congress and the bureaucracy minimized the potential for failure; avoiding bargaining minimized compromise of the administration’s goals.

Johnson has been criticized for operating within the aggressive mandate model to the exclusion of a more compromising posture toward Congress and the federal bureaucracy. Historian John Andrews (1998b) noted that Johnson “understated problems to get programs passed, but when the public and Congress later discovered that those problems were much broader and more complex than they had been led to believe, they rebelled against further funding.” This characterization is only partly accurate. Johnson’s strategy was to get legislation “on the books,” to institutionalize the liberal policies that he hoped would complete the New Deal. Later on, flaws could be ironed out as part of the bargaining and consensus strategy with Congress. As historian Robert Dallek (1996, 80) wrote, Johnson “understood from past experience that, once a major government program had been put in place, it would be easier for supporters to modify its workings than for opponents to dismantle it.”

Johnson’s leadership failure may have been the lack of recognition that an on-the-books strategy needed to be tightly linked to the type of policy under consideration. The major entitlement programs founded in the Great Society era, Medicare and Medicaid, as well as amendments to the Social Security Act that expanded coverage, are as strong as ever. Johnson got Medicare and Medicaid on the books, leaving flaws in the programs—the lack of cost controls—as details left to his successors. Entitlement programs are simple and straightforward to administrate and do not create patronage pools for interest groups, as well as politicians in Congress and state and local government, to fight over. The on-the-books strategy proved to be less successful with service delivery programs that required mobilization of the government bureaucracy and the distribution of resources that disrupted congressional and urban political organizations. Flaws in the bureaucratically intensive OEO/CAP led to immediate political and policy problems for which there was no easy remedy. While an on-the-books strategy may have been effective with entitlement programs that established direct linkages between the federal government and individual citizens, it proved to be less successful with OEO/CAP as the program involved many intermediaries seeking control.

## Conclusion

The history of administrative reform initiated by presidents, according to Carter administration official Bert Lance, is one of “problems identified, but not solved, of promises made, but not kept . . . the source of frustration and disillusionment” (March and Olsen 1989). Johnson’s plan for delivering aid to the urban poor through the coordinating tool of

community action was checked by powerful congressional, intergovernmental, and bureaucratic forces within the state. But if administrative reform proposals do not radically reorder governmental structures as originally conceived, they often have the unintended consequence of changing policy. OEO/CAP did not flourish using criteria defined by CEA and OEO officials in the Johnson administration, who sought to create a new administrative model to deliver social services. However, throughout the 1970s and 1980s, CAAs pulled minority leaders into neighborhood civic and political life. In Brooklyn, New York, to cite one example, much of the borough's legislative leadership on all levels of government began their careers at local CAAs. In short, the process of administrative reform and institutional innovation is difficult, yet it is a central aspect of presidential behavior because of its promise, if successful, of reordering politics and policy and defining a president's legacy. And even reforms that are unsuccessful on terms defined by their original advocates can significantly alter policy and leave enduring legacies.

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# The Office of Communications

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*The Office of Communications is front and center in the White House effort to publicize the president and his policies. The importance of presidential communications can be seen in the manner in which the topic drives the agenda of daily staff meetings, the size of the commitment to it of White House and administration resources and people, and the way the function has insinuated itself into the operations of almost every White House office. While most White House offices are defined by the functions that come with the unit, the communications director's position is defined by his or her relationships with officials working inside and outside of the White House, including the president, the chief of staff, the press secretary, and officials in departments and agencies. There are three basic models for communications directors as they manage their operations: advocate with the press, strategist and planner, and events coordinator. At its minimum, the job entails events management, but its larger role is defining the message and strategic plan of a presidency.*

The Office of Communications is one of several institutions crucial to the start-up of the White House because of the central place of effective communications in a successful presidency.<sup>1</sup> The four presidents elected to a second term in the post-World War II period each had an effective communications operation in addition to being a personally successful communicator. What an effective communications organization brought them was the opportunity to publicly display the issues on which they wanted to focus as well as to develop strategies designed to achieve their personal, policy, and electoral goals. The components of effective communications for Presidents Eisenhower, Nixon, Reagan, and Clinton included personal attributes and a communications operation that incorporated daily press operations and an organization or, in the case of Eisenhower, an individual, Press Secretary James Hagerty, capable of planning ahead for presidential and for administration-wide publicity. From Eisenhower's administration to the present, successful communications has evolved into a system in which the organization plays a key role in strategic planning, its mission the coordination of people, programs, and institutions. The Office of Communications

1. For a thorough treatment of the establishment and operation of the Office of Communications, see John Maltese, *Spin Control: The White House Office of Communications and the Management of Presidential News*. 2d ed., rev. (Chapel Hill: University of North Carolina Press, 1994).

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is front and center in White House communications campaigns waged on behalf of a president and his programs. The coordination and production roles of the director of the office and those who serve in it are central to successful White House publicity.

While the Office of Communications is vital to the communications of an effective presidency no matter who serves as chief executive, the position of communications director has proved to be a volatile one. Since its creation in 1969, twenty-two people have headed it. That is less than a year and a half per director. There have been approximately the same number of press secretaries, but that position has existed since 1929, forty years more than the Office of Communications. The casualty rate of communications directors reflects the difficult environment he or she operates in as well as the multiple and sometimes conflicting demands placed on the person.<sup>2</sup> George Stephanopoulos, who held that post for the first four months of the Clinton administration, observed that his being relieved of the communications position was not a surprise. "By definition, if the President isn't doing well, it's a communications problem. That's always going to be a natural place to make a change."<sup>3</sup> The communications director is held responsible for how a president is doing yet has little in the way of resources to affect the outcomes that form the basis for judging presidential performance. For that reason, his or her position is the White House hot seat.

### **The Environment within which the Office of Communications Functions**

The important place of presidential communications can be seen in the manner in which the topic drives the agenda of daily staff meetings, the size of the commitment to it of White House and administration resources and people, and the way the function has insinuated itself into the operations of almost every White House office.

#### **Successful Communications Is Linked to the Policy and Operational Aspects of a Presidency**

Presidential communications relates directly to what a president does in office and how effectively the White House can use its organizational resources to publicize goals and achievements. "A successful communications strategy is only one aspect of a successful presidency," observed Mike McCurry, press secretary to President Clinton.

You have to have a good solid sense of priority and where you're going and mission, and everything is supportive of that. That involves good leadership from the Chief of Staff, good policy planning, good legislative relations on the Hill. It's all part of a seamless whole. That's what makes for a good presidency.<sup>4</sup>

2. See Martha Joynt Kumar and Terry Sullivan, "The White House Communications Director: Presidential Fire-Walker" (paper presented at the Midwest Political Science Association, April 1996, Chicago).

3. George Stephanopoulos, interview by Martha Joynt Kumar, Washington, DC, September 9, 1995.

4. White House Interview Program, interview with Michael McCurry, Martha Joynt Kumar, Washington, DC, March 27, 1999.

Communications strategies and the staff developing them aim at building a perception among people that the policies of a president and his administration have altered their lives in a positive manner. Ann Lewis, communications director under President Clinton, discussed the effectiveness of the Clinton communications operation in creating among the public a sense of their policies' making a difference to how they live.

I think we've been particularly effective in getting across a commitment to making a difference in people's day-to-day lives. People believe that; they know that, that we care about them. . . . I think we've been less effective in getting across the scope of this administration's achievements which are, I believe, transforming in nature. It's not just from a deficit to a surplus, the highest home ownership in history and the lowest unemployment in history, but the number of ways we're making sure that every kid can get the first two years of community college; that education is going to be more available; that health care is more available. . . . You always want to talk about what your agenda is, how are you moving forward.<sup>5</sup>

Communications operations intersect with policy decisions at two levels, according to Don Baer, who served as the director of Strategic Planning and Communications during the Clinton administration.

One was what you might call the large, macro-policy decision making, idea generation and decision making. . . . What position do you take vis-à-vis Medicare in the fall of 1995? How do you package—and this is policy and communications—your approach on Medicare, Medicaid, education and the environment going into that battle? Those are sort of the big, big decisions. Then there were sort of more specific things. Some of those have been derided a lot over time as kind of micro-policies. I never frankly saw them that way. I saw every one of them as essential tools and ideas that were designed to help the American people help themselves in any number of areas whether it was education or fighting crime or raising their children, sending their kids to college.<sup>6</sup>

### **A Position Defined by Its Relationships**

The communications director is an official whose position is defined by relationships with officials inside and political people outside the White House. The director's work is defined by those he or she serves.

#### *The Presidency*

The most important relationships for the communications director are those with the president and chief of staff. Michael Deaver, who served as deputy chief of staff in the Reagan White House, said his work was defined by his relationships with the president and first lady.

And I really sort of gained whatever control or power I had simply by my relationship. But I overlapped with a lot of James Baker. Baker basically gave me free rein. I spent most of my time on schedule and travel and the military office and all of the East Wing, which included the First

5. White House Interview Program, interview no. 1 with Ann Lewis, Martha Joynt Kumar, Washington, DC, June 17, 1999.

6. White House Interview Program, interview with Donald Baer, Martha Joynt Kumar, Washington, DC, July 22, 1999.

Lady and the military. Then [I] had sort of an ad hoc seat on anything dealing with communications. When Gergen left, I took over officially the communications role.<sup>7</sup>

For David Demarest, who served as communications director for President George H. W. Bush, communications had a smaller scope than was true of the role played by Michael Deaver in the Reagan administration. Demarest described the role President Bush wanted him to assume as his communications director:

I think the President saw me more as the guy that ran his speeches and his events. I don't think he saw that in terms of a communications message. I think that he saw the press as the vehicle for the communications message through Marlin and through his own interactions with the press.<sup>8</sup>

For Demarest, the job was more an administrative one than one in which he developed communications strategies for the president. When President Bush decided he wanted Press Secretary Marlin Fitzwater to do communications as well as press relations, Fitzwater did so for a short period of time in spite of his own misgivings about combining the two jobs. Fitzwater commented on the advice he gave to a Clinton aide when the new staff came into the White House. He spoke about their plan to cut off access to reporters to the Upper Press Office (the area where the press secretary and his close aides are located) and their desire to combine the press and communications posts:

I tried to explain in some detail why I thought that was a terrible idea, not only cutting them off but why they couldn't combine the two jobs. I had just gone through that. I had been forced to take the communications job over my objections and finally just got out of it six, eight months later because it was a total failure.<sup>9</sup>

Fitzwater discovered what Jody Powell, who served as press secretary to President Carter, had found before him: the daily operation consumes so much of one's time and energy that there is none left to perform the responsibilities of the communications director.

In part, the differences between the place of communications in the Reagan and George H. W. Bush presidencies can be traced back to the relative interest of the two presidents in publicizing their administrations. In the modern presidency, from President Nixon forward, those presidents who regarded communications as an important aspect of their presidency created an organizational structure to match. Those who believed they were not particularly good at communicating their ideas eschewed such operations. Rather than use communications operations to fill in what may have been an important gap for them, they did the opposite and avoided creating or using them to advantage. The most sophisticated communications operations in recent years were those of the Reagan and Clinton administrations. Both presidents were comfortable with the notion of using key White House

7. White House Interview Program, interview with Michael Deaver, Martha Joynt Kumar, Washington, DC, September 9, 1999.

8. White House Interview Program, interview with David Demarest, Martha Joynt Kumar, Washington, DC, December 7, 1999.

9. White House Interview Program, interview with Marlin Fitzwater, Martha Joynt Kumar, Deale, MD, October 21, 1999.

resources on their communications efforts. Both presidents committed a great deal of time to thinking through their communications; both filled key positions at the senior level with people whose interests were compatible with their own. Those presidents who were not comfortable with committing such resources were chief executives who did not believe in the worth of such efforts. President Carter did not have such an operation, except for a relatively short period, and President George H. W. Bush did not commit time to it. He preferred thinking about presidential publicity in terms of press operations and directed his attention to the work of the Press Office. On the other hand, Presidents Nixon, Reagan, and Clinton devoted significant personal and staff time as well as organizational resources to communicating their presidencies.

### *The Chief of Staff*

The chief of staff is a key White House figure in the area of communications. Effective communications comes through coordination of people and offices with the integration of policy and political information. That process must be directed out of the office of the chief of staff. Either the chief does such coordination himself, as Leon Panetta and James Baker did for Presidents Clinton and Reagan, respectively, or it is done by deputies. When Erskine Bowles was chief of staff under Clinton, for example, his deputy, John Podesta, took charge of communications and, following the senior staff meeting, held a meeting each morning devoted to publicity issues.

The chief of staff can come into the communications process as an on-camera or background presence. When James Baker was chief of staff, he spent a great deal of time explaining administration policy to reporters on a background basis. In an interview for this project, Baker read through his notes containing the advice given to him by his predecessors when he met with them before he came into the Reagan White House. Press briefings figured high on the list.

Talk to the press a lot; stay in touch with the press. Always do it on background. Just remember, you weren't elected to anything, and people don't want to read your name in the paper. But it's important for you to keep the press informed about what it is you're trying to do, and continually spend time with them.<sup>10</sup>

Today the chief of staff is expected to be a regular presence on the Sunday television talk programs and sometimes on the morning shows as well. Beginning with Leon Panetta, who was very used to appearing on such programs because of his experience as chairman of the House Budget Committee, the chief of staff became a television presence explaining administration policies. Erskine Bowles eschewed such appearances when he was chief of staff, but John Podesta observed the Panetta model. In the early days of the administration of President George W. Bush, Chief of Staff Andrew Card has followed the Panetta and Podesta examples.

Some chief of staffs have refused altogether to get involved in communications or, alternately, have had others do it for them. David Demarest, who held the communications

10. White House Interview Program, interview with James A. Baker III, Martha Joynt Kumar and Terry Sullivan, Houston, TX, July 7, 1999.

post under President George H. W. Bush, described the difficulties the Bush senior staff had dealing with outside groups and institutions. Their problem was Chief of Staff John Sununu, who did not want anyone other than himself to do legislative strategy or communications coordination. In this instance, the chief of staff represented a block to coordination, not a facilitator of it.

Fred [McClure] was about to set up a legislative strategy group, not a crazy idea, so that he would be able to pull all the elements together so that when President [George H. W.] Bush wanted to move forward on some initiative we had a legislative strategy. Sununu said no, I'm legislative strategy. When I wanted to set up a communications strategy group, no, I'm communications. And so we all kind of maneuvered around that.<sup>11</sup>

### *The Press Secretary*

The responsibilities of the communications director are considered in light of those exercised by the press secretary. In two instances, the press secretary took over the communications function and exercised both responsibilities. In the Carter White House, for example, the only time there was a communications director was when Gerald Rafshoon was on the staff, around the time leading up to the 1976 election. Press Secretary Jody Powell was expected to take the lead in the whole of the publicity area. Marlin Fitzwater took over the communications job for a period of a few months in the George H. W. Bush administration, but it was against his wishes and did not last long. Thus, of the eleven people who have served as press secretary, two have exercised the communications function. On the other hand, there is one instance when the press secretary reported to communications. That configuration was the case when President Clinton's first press secretary, Dee Dee Myers, reported to Communications Director George Stephanopoulos. Most often, though, the relationship between the two officials is one of close contact over issues of mutual interest and responsibility, not one with an organizational connection in which one official reports to the other. The functions of the two offices are separate from one another and, when they mix, the audiences for both can be confused about what is persuasion and what is information. Of the eleven press secretaries, eight had an organizationally distinct relationship with the communications directors serving at the same time.

### *Other White House Relationships*

The communications director regularly works with other White House offices and agencies and departments as they set up events with an impact on the partners to the events. In an instance of White House–agency coordination, Don Baer worked with Intergovernmental Affairs on setting up an event associated with a presidential appearance at the National Governors Association.

Intergovernmental Affairs knows that the National Governors Association is meeting. That would be kind of their thing to coordinate but they'd want to get it on the President's schedule. What then does the President want to do when he's at the NGA? What does he want to say to the NGA? It's a big, high profile event opportunity. So you'd have to have a lot of work and negotia-

11. Demarest, interview.

tion with them over what the governors were willing to hear from him versus what we wanted to do and say there, all those kinds of things. It was complicated.<sup>12</sup>

### **Presidential Communications Resources: People and Venues**

In putting together events, messages, and the like, the staff work from a rich pool of resources and venues. Whom they choose as a speaker and what the person or persons will say depend on the goal the president and his staff have for the event. Choices of surrogates and venues are listed in the following subsections.

#### *The President*

The most important resource a White House has is the president himself. Because there are so many demands on his time, he is used in situations in which others cannot be effectively used. The presidential podium travels with the president, but the most important speeches are generally delivered in Washington, either at the White House or on Capitol Hill. The most significant addresses are the regularly scheduled ones, including the Inaugural Address and the State of the Union. In addition, the president and his staff can use Oval Office addresses to speak to the nation on a current issue or event. Scheduled speeches throughout the year give a certain rhythm to the year, with the following events predictable from one year to the next: the annual Economic Message; the opening of the United Nations in the fall; and constituent association conventions, especially those held in Washington. The president can regularly present his messages to the public through White House events showcasing the president's ideas. Every week the president has a regularly scheduled opportunity to address the public through his Saturday radio addresses.

For his White House speeches and appearances, the president can choose from among the following venues. For individual meetings with members of Congress and heads of state, the president and his staff often select the Oval Office because it symbolizes the authority and institutional position of the president. For large gatherings in an official setting, the East Room is the place of choice. Whether it is for a formal press conference with the White House press corps or an assembled group of supporters or potential advocates of presidential policy, the East Room is a choice place for the president to meet with them. Carrying the imprimatur of the Executive Mansion are the Rose Garden and the Roosevelt Room. The Rose Garden is used for quickly assembled events featuring the White House as a backdrop, as it takes a relatively short period of time to bring in the press corps and for the president to come out of his office and walk the twenty or so feet to the steps where events are generally held. It has a strong impact, yet it can take less than ten minutes of the president's time. The Roosevelt Room, located less than ten feet from the Oval Office, was used for daily events during the Clinton administration in which only a few players were needed on an official stage. Room 450—an auditorium holding around 250 people located in the Eisenhower Executive Office Building—is an indoor location sometimes used by presidents to meet with the press corps and with supporters, especially when the East Room is not available.

The president can use sessions with reporters to showcase particular ideas, people, or themes. Often, before a trip abroad, a president meets with correspondents representing

12. Baer, interview.



media from the countries he is to visit. He regularly meets with individual television correspondents for sessions targeted to a particular point. Less used but equally important are presidential news conferences. There, too, choices abound. The president can elect to meet alone with reporters, as did most modern presidents until President George H. W. Bush started a tradition of holding news conferences with foreign leaders. President Clinton used joint sessions for his news conferences, and President George W. Bush is doing the same. If a president needs to spontaneously meet with reporters, he can go into the Briefing Room, where news organizations can quickly assemble for live coverage.

### *The Press Secretary*

While the president is used sparingly, there are surrogates aplenty who represent him and his administration. The person most often representing the president is the press secretary, who meets twice daily with reporters covering the president and his White House. If the president and his staff want to quickly get something into the news bloodstream early in the morning, the press secretary can give out the information in his morning meeting with reporters. Known as the “gaggle,” the session is perfect for providing news organizations with the president’s thinking on overnight events and on the featured item of the day. The televised afternoon briefing is a formal venue used to lay out official White House responses to events and provide the reasoning of the president and his staff on policy issues. While the press secretary meets with reporters in large, open settings, he also meets with individual correspondents and small groups as well. The press secretary and his or her deputies can individually provide exclusive stories to particular correspondents representing news organizations the White House wants to use to communicate the president’s version of events and issues. When the press secretary and others provide reporters with information, they can choose from among several levels of attribution depending on how close they want to be to the story. They can speak on the record and be quoted by name or talk on background and have reporters conceal their identity as “a White House official” or “senior administration official.”

### *Senior Staff*

The chief of staff regularly speaks with selected reporters on a background basis as well as sometimes in on-the-record sessions. Regular staples for the chief of staff are appearances on the network and cable television Sunday talk programs and morning shows. In the Clinton administration, the chief of staff also made public appearances before groups in which he explained the thinking of the president and administration officials on a variety of issues. At the direction of the chief of staff and those handling communications decisions, senior staff on the National Security Council, the National Economic Council, and the Domestic Policy Council provide information to reporters. Senior economic, national security, and domestic policy staff appear regularly on television news programs throughout the day according to the message the White House wants to send. If they believe they need to get the administration’s position into the news on an issue, they can send out a policy specialist to talk to a television reporter or bring in one or more wire correspondents.

*Policy Makers*

Department and agency heads sometimes provide reporters with information at White House appearances with the president and in the Briefing Room. When a policy is announced or a bill signed, one or more departmental secretaries will likely be part of the event. The vice president is used in some of the same settings as the president, including scheduled speeches and remarks in the above locations. When the president is on vacation or abroad, reporters remaining in Washington often turn their attention to the vice president. Appearing less often, the first lady is sometimes involved in some of the presidential appearances, expressing a policy viewpoint of her own.

*Outside Resources*

There are a variety of outside groups and individuals involved in White House communications. First, elected officials including congresspersons, governors, and mayors often serve as witnesses supporting the intentions of the president and his administration. Second, interest groups often figure into events at the White House in which they can be used to emphasize an issue, as when they provide a “victim” to take part in an event. Third, pollsters regularly provide information to a small circle in the White House for use in designing political and communications strategies. Fourth, political consultants are used to shore up the president’s image from a point outside the White House, as James Carville did during many rough points in the Clinton term.

The many people and venues available to a president for publicity purposes, combined with the almost insatiable appetite of the news media for presidential information, offer rich publicity opportunities for a president and his staff.

**Communications Discussions Initiate the White House Work Day**

Communications is central to the modern presidency, and its position is reflected in what White House senior staff do every day. That is true for Republicans and Democrats alike. In the Reagan and George H. W. Bush administrations, the day began with communications as an important item on the agenda. In his days in the Reagan and Bush White Houses, for example, Press Secretary Marlin Fitzwater wrote a memo for senior staff that served as an indicator to them of the press issues for the day.

My role at the staff meeting would be always the same: “Marlin, what do we have to deal with today?” Everybody’s got my memo around the table. “These are the issues. If any of you want to add anything to any of these or give me any advice come do it as soon as possible because I’m going to have to come up with answers.”

In the period from President Nixon forward, communications was featured as an important factor in how the day began.

For Democrats as well, press coverage of their administrations and the question of how they should respond to news stories drive a day. The early morning meeting convened by Chief of Staff Leon Panetta was fairly consistent in its subject matter with similar sessions

held in Republican White Houses. Chief of Staff Leon Panetta described his early morning meeting with core White House staff dubbed the “Managers Meeting.” Its members included the national security adviser, the national economic council director, the press secretary, the vice president’s chief of staff, the first lady’s chief of staff, the Office of Management and Budget (OMB) director, and the communications director. “The first thing was to ask [Mike] McCurry and George Stephanopoulos what’s playing in the news that day, what’s happening that day, what do they think are the big issues,” he said.<sup>13</sup> As the staff discussed issues, they made decisions on what would be done during the day and who would be involved. Communications decisions were among them. Panetta continued,

But you’re making decisions as you go through it as to what are the areas where there are potential crises that you want to deal with and potential strategies that have to be laid out. We talked about economic policy after that and then usually had—by the way, even before that, usually at the top I went through the President’s schedule for that day as to what we were looking at for the President’s schedule. . . . For example, something happens. What’s the best place to stage that for the President, the Rose Garden? Is it the press room? Is it to wait until the press goes in on an event and expect the question to be asked there? Those kinds of decisions don’t have to go to the President of the United States. They’re staging issues that you can make decisions on.<sup>14</sup>

### A Calendar to Work With

There are rhythms to a year, a month, a week, and an administration. Knowing what events take place on the policy side in Washington, a president can plan out some of the opportunities he has during the year to focus on his issues in a manner of his choosing. The presidential calendar, he and his staff soon find out, is composed of fixed events, most especially those associated with the congressional schedule. Two of the most important fixed events are the congressional schedule and the budget deadlines. Those are important for the pace of policy initiatives as well as for the consideration of appointments. The State of the Union message is held at the end of January; the first part of the congressional session goes from early January to the Easter recess. In the spring, commencement addresses offer an opportunity to set themes for defense and other issues a president chooses, such as technology and foreign policy. Clinton used them for all of these areas. Foreign policy comes to the forefront with the G-7 economic conference and with the Asian Pacific Economic Council (APEC) conference on Asian economic issues and, in September, with the opening of the session of the United Nations. In the fall, Congress again comes to the forefront with negotiations over the budget and bargaining on policies in the committee and floor stages of consideration.

#### *Congressional Session*

The congressional session make a great deal of difference to the manner in which the White House functions and the shape of its agenda. Communications Director Ann Lewis commented on the link between the White House agenda and the congressional calendar.

13. White House Interview Program, interview with Leon Panetta, Martha Joynt Kumar, Monterey Bay, CA, May 4, 2000.

14. Panetta, interview.

When Congress is in and you're close to the legislative session, you're working on budget and legislation and that's going to drive your day. Earlier in the year you have more freedom to sort of initiate and set the agenda. You try to get out most of the issues you want to make the case for early if you can.

Lewis believes the congressional calendar more than any other is the cycle influencing White House actions.

I think we are sort of like the moon and the tides in that way. At the beginning of the year we spend our time laying out our agenda and you know that by the fall we will be in the season where there will be action on it. In between we try, whenever possible, to call attention to the agenda and to get interest in it and action on it.<sup>15</sup>

### *State of the Union*

Each year, the calendar presents the administration with an opportunity to present its policy priorities and to do so in a setting that commands substantial public attention. The communications director is most often the official coordinating the publicity side of these fixed events. The State of the Union message is the most important regularly scheduled speech in the year. It brings together policy, politics, and publicity to focus on the president's policy agenda and how it is going to get through.

The Clinton administration added to the importance of the speech by casting it as a series of events that began once the Congress left town in November or December and the president's congressional opponents fanned out to their home towns across the country. Left with approximately six weeks without congressional opposition, the Clinton team showcased the ideas placed in their State of the Union message in the weeks leading up to it. They left a couple of items to be announced in the speech itself, but for the other policy proposals, there were stories focusing on the particulars of what the president would offer in the address and surrogates in the administration who elaborated on the need for his initiatives.

### **Television Is Central to Communications Operations**

Other than the Press Office, there is no place in the White House where television is so central to what an office does. In an era when people demonstrate little interest in national politics, the first order of business is to get their attention. Ann Lewis discussed where television comes in.

What you've got to do every day proactively is figure out how do you talk to people about what you're doing and why. So every day our responsibility is to give them information of what policies we're working on and why they should care. If we don't do it, it won't happen. Left to itself, the political system talks to itself. So my goal is every day, how do I reach that audience. What do we know about them? They're busy. They've got a lot going on in their lives. They've got two jobs, two kids, two cars; they're worried about Johnny in school. . . . We are never going to be as important to them as they are to us. We've got to reach them wherever they are and whatever else they're doing. My second point is how do they get their news: most of them get it from televi-

15. White House Interview Program, interview no. 2 with Ann Lewis, Martha Joynt Kumar, Washington, DC, July 9, 1999.

sion and they get it while they're doing something else. . . . So we're going to get, if we're lucky, a minute on the evening news. Everything about that minute ought to emphasize and re-emphasize the same message. That's why what the sign says, what the audience says, what the setting says, all of that is part of what they grasp as well as the words. So it's about talking to people on television about what we care about.<sup>16</sup>

The White House does not leave to chance the images people receive about what the president is doing and the interpretation of these events. In the Clinton White House, the Communications Office developed signs to accompany each of the events it staged. By using a sign in the event to highlight the theme, the White House is less dependent on the television network correspondents for stating the message in their remarks accompanying the video.

We give you the opening paragraph, we give you the closing story and we even give you the headline. That signage is our headline. But it's all because we're talking to an audience where we're in heavy competition for their attention and we need to use every possible means to break through. . . . Newspapers are where insiders and people who really care about issues read about them in depth. Insiders includes members of Congress and policymakers, so they're very important. And they're also where a lot of television stories come from. So I'm not knocking newspaper stories but they reach a smaller audience, especially the stories that are covered on A-17. While that's important and I want it to be accurate and I want it to be full, it's second choice for how we reach the voters we want, the people we're trying to reach.<sup>17</sup>

The public learns what is happening in the political system through television news, but getting to people means grabbing their attention while they are paying only limited attention to their television. That is a daily challenge the White House faces. The communications director is tasked with figuring out how to break through to the public with the president's messages.

### **The Work of the Communications Director**

The Office of Communications is fairly unique among White House offices in the degree to which office organization depends on who the adviser is. There is substantial variation in what communications advisers emphasize as their basic role. The Clinton White House provided an example of the various ways in which communications can be organized. There were seven people who exercised the communications function, although only five of them held the title of communications director. Among those holding the post, there were at least three ways of managing the job: as an advocate with the press, as a strategist and planner, and as an events coordinator. While directors may perform all of those roles, they tend to emphasize one. Among the Clinton communications directors were George Stephanopoulos and Mark Gearan, who were primarily advocates with the press; Don Baer, who was a strategist and planner; and Ann Lewis and Loretta Ucelli, who emphasized the events planner aspect of the job.

16. Lewis, interview no. 1.

17. Lewis, interview no. 1.

### Three Models of Communications Directors: Advocate with the Press, Strategist and Planner, and Events Coordinator

The group representing the advocates with news organizations, composed of George Stephanopoulos and Mark Gearan, spent a great deal of time working with the press, including appearing on television and speaking with reporters for print organizations. Don Baer explained the work done in the early years and how the emphasis of the job changed.

Everybody, whether they were called Communications Director or Press Secretary, basically thought their job was to be Press Secretary and not to really be a Communications Director in any sense of laying down strategy, helping the various output arms of the public face of the White House to know what their role would be in the context of the larger strategy for public communications. I think there was some dissatisfaction about that fact; that in fact what most people spent their time doing was the care and feeding of the press rather than thinking about the strategic communications objectives of the White House and how best to push those out.<sup>18</sup>

When Don Baer came in during the early phase of the 1996 reelection campaign, he took the communications job, which held the title of director of strategy and planning. The strategy he worked on had as its goal President Clinton's winning reelection in 1996. All strategies focused either directly or indirectly on a presidential win. Don Baer described how the position when he held it was something entirely different from what had preceded it.

There was a specific decision made to end the traditional Communications Director role or at least the way it had been practiced in the first two years of the [Bill] Clinton presidency and to try to reorient it more as a strategic adviser's role rather than a communications role per se.<sup>19</sup>

Once the election was over and Baer left the White House, Ann Lewis took the post. She used it to focus on staging events to showcase the president's policies; so did her successor, Loretta Ucelli. Both Lewis and Ucelli held the title of communications director. Neither was regarded as a spokesperson for the White House in the same sense that Stephanopoulos and Gearan were. Lewis did appear as a defender of the president during the early stages of the Monica Lewinsky scandal, but Press Secretary Mike McCurry was the central spokesperson. Loretta Ucelli did not appear publicly on behalf of the administration.

Then I was succeeded by Ann Lewis and Ann was succeeded by Loretta Ucelli and Loretta reverted to the title of director of communications which is what the office is now known as. So when I left it stopped being the Director of Strategic Planning and Communications. And it's important, I think, to note that every one of those people has treated the job somewhat differently in terms of where they fit within the overall operation and function of the White House and things that they emphasized.<sup>20</sup>

The duties performed by the communications director in the Clinton White House depended on who else was working on communications, including David Gergen, who had

18. Baer, interview.

19. Ibid.

20. Ibid.

served in several administrations as a communications specialist; on the proximity of the reelection campaign; and on the people who held the post as well as the desire of the president. These same roles can be found in earlier administrations. The press advocate role was exercised by Herb Klein and Ken Clawson in the Nixon administration, Gerald Warren in the Ford administration, and Patrick Buchanan in the Reagan administration. The strategist role was performed by communications directors in office during presidential reelection campaigns, including David Gergen in the Ford and Reagan administrations, Gerald Rafshoon in the Carter administration, and Thomas Griscom in the Reagan administration. The role of events planner is found with Margita White in the Ford administration, Mari Maseng in the Reagan administration, and David Demarest in the George H. W. Bush administration.

### **The Responsibilities of the Communications Director**

While the job of the communications director has varied as much as his or her title, there are basic responsibilities performed by the director and those who work in the office no matter whether the incumbent works as a press advocate, a strategist and planner, or an events manager. The minimum the job entails is event management, but its larger role is defining the message and matching strategic plan of a presidency.

#### *Strategic Communications: Message Development, Coordination, and Amplification*

Message is central to the communications operation in terms of developing messages for the president and others to deliver. In addition, the tasks of coordination and amplification come in. The quality, strength, and direction of the message depend on the ability of the president and his team to focus on their agenda and not let the entreaties of others overshadow their own interests. "Strategic communications is a balancing act," Don Baer said. "There are different pressing constituencies who want this, that or the other." The press secretary might want a press conference

because he's got the press corps beating down his door. Your people, different interest groups or different folks who want your President to come and speak to them about their things or their issues. What you have to keep in mind is what you are trying to get done for the sake of the President and for the presidency and for your objectives and not for all of their objectives. It's a balancing act at all times. That's what strategic communications is about is sort of balancing all that, the use of the available tools and resources to be able to keep getting that message out in a coherent way that's your way, not their way.<sup>21</sup>

The work the communications director does integrates the political information and people they have outside of the building with the plans that are made by those working within the White House. Don Baer described where the communications director fits into the process of presenting a presidency.

There was a small group of people, some inside the White House and some outside the White House, who were about getting the various operations within the White House whose purpose it

21. Ibid.



was to produce that public thing known as the Clinton presidency to all be feeding toward a sense of a common objective in terms of the political philosophy and ideals that we were putting forward . . . and how those policies met the needs of what our larger message purposes were; in terms of what speeches the President gave and where he gave them; what he said when he gave them and to what settings and to what audiences he gave them; in terms of what those events looked like and how they were presented to the public; what message we were trying to convey by the very settings or the backdrops or the kind of people who were involved to the Press Office and the way they would talk to and deal with the press or the kind of press we were dealing with; which reporters or which journalists we were giving access to in determining what we would be doing.<sup>22</sup>

Dealing with the policy people in the White House and in the departments is an important piece of the job of a communications director. The communications director as well as other staff will sift through proposals that best represent the president's goals and select ones appropriate to his message. Don Baer spoke about the process:

there was a lot of involvement between the Office of Strategic Planning and Communications and the major policy units in terms of which policies we were going to put forward, when we were going to put them forward, in what sequence we were going to put them forward; how they were going to be presented, all of that; and whether frankly on any given day or night or morning they were actually ready, those policy points of view were ready, for presentation to the country.

Sifting through policy ideas means focusing on those central to the President's message and leaving behind the ones with only a tangential relationship to presidential goals.

If there are a hundred things that you can do, if your universe of possibilities are a hundred things that you might do and in the Clinton presidency and an activist presidency that's probably true—there are probably a hundred things percolating out there in the departments that they want done—but fifty of those things, maybe half of them, would represent you to the public as being something other than what you say you want to be.<sup>23</sup>

*Message development.* Message development begins with the most important resource a White House has: the president's time. A part of every scheduled event for a president is the message that attaches to it. Don Baer described the process of insinuating a message into events.

What happened was folks came to be trained to look to the communications operation for decisions, at least first-line decisions, recommendations that would go up then to the Chief of Staff and eventually the President for what the schedule would be, what the message aspects of each of the scheduled events would be; how those scheduled events once they then got scheduled would be implemented or executed. What else? To some extent although not as much as I would have liked what the sort of press strategy would be both in terms of a day-to-day strategy but a long-term strategy, those kinds of things.<sup>24</sup>

22. Ibid.

23. Ibid.

24. Ibid.

The State of the Union is an example of the development of a message that resonates throughout the year. Ideally, it has all of the major elements of the president's policy agenda for a year. Ann Lewis said,

I think it's true that two or three years ago we realized that there is so much in the State of the Union that rather than save everything for the State of the Union we could roll out some of the individual events leading up to it. And we've done that ever since. And it's really important because you may have twenty-five or thirty good ideas in the State of the Union. There's no way that they're all going to get attention otherwise. So this has worked out really well.<sup>25</sup>

They just roll it out bit by bit. Often it takes the major portion of the year to work through the items mentioned in the address.

Don Baer spoke of message development as encompassing the larger message about the impact, importance, and purpose of the presidency:

To me, the job very much was about helping to form and develop both the larger message for what the impact and the importance and the purpose of the presidency was at any given moment, that's a larger message. Then the specific messages and strategic messages for public consumption purposes that came out of what that message and themes and purposes of the White House were and to make sure that every office or every entity that had some role in conveying what that message and image was publicly, communicating that image and message and strategy publicly, that each one of them understood what their role was in doing that and in many cases working very directly and operationally with them to ensure that those messages, themes and strategies were in fact being conveyed.<sup>26</sup>

*Message coordination.* There is coordination that needs to be done within the White House, as with, for example, Intergovernmental Affairs. The communications director coordinates every office that has some role in conveying the message and working with units to make sure that was done. He or she coordinates people, events, and information. Then he or she coordinates with departments on which policies to put forward, when to do so and in what sequence, and how they are going to be presented. Don Baer described the constellation of offices he dealt with inside and outside of the White House:

Speechwriting. Scheduling. Advance. I dealt a lot with the National Security Council and within the National Security Council particular offices like . . . the office that really ran the operational side of the NSC. . . . But that would be about which trips are we going to take; what do we want to schedule when we're there.<sup>27</sup>

Ann Lewis discussed the coordination involved in event planning under her watch. Those in the room included all of the White House shops.

It's the policy shop that comes up with the ideas; they come to tell you what you need to do, Scheduling and Advance, for literally what the timing will be of the day. Intergovernmental

25. Lewis, interview no. 2.

26. Baer, interview.

27. Ibid.

because they're going to talk to their constituents; political so people know what you're doing and Cabinet Affairs because there's always a cabinet officer. So you're literally going to have— And legislative. You are literally going to have every shop sitting in that room if you do it right so that everybody walks out of that meeting knowing what you want to achieve, what their responsibility is to make it work, and what they're going to say to their folks.<sup>28</sup>

No matter who serves as communications director, coordinating the message with department secretaries can be a problem. Don Baer spoke of the difficulties presented by Labor Secretary Robert Reich when he conceived and delivered his messages without consulting the White House at any stage in his message development process. "The President was in Hawaii for the fiftieth anniversary of V-J Day," Baer related about a particular event.

Reich, without really clearing anything with anybody I knew of in the White House, gave a speech and his whole perspective on the news that weekend as he rolled himself out was one of pessimism basically, that we're not doing enough for the poor; people are anxious and scared and nervous; middle-class squeeze. The old message which many of us thought was not the right message for the labor secretary of an incumbent President to be delivering three months before the beginning of the year when you're going to be running for reelection.

Rather than describe the progress made during their years in office, Reich emphasized the campaign message of 1991 and 1992 that

we're not preparing ourselves for the new economy and the people who are working the hardest, the middle class, are the ones who are not getting ahead in this new economy. Well, first off, it did not comport with statistical reality and the direction of the country.

Reining in Robert Reich never got any easier for the communications director or other members of the White House staff who wanted to see him follow White House direction.

*Message amplification.* Ann Lewis discussed another aspect of coordination, which is amplification:

The role is really take whatever the President is doing today and get it to the largest number of people. Again, maybe that's through intergovernmental, through state and local elected officials; maybe it's back to a cabinet agency like HHS [Health and Human Services]. But it's every other way of communicating the message other than the press. The press has its own operation.<sup>29</sup>

Some of the coordinating work is accomplished through Cabinet Affairs. Ann Lewis said,

I think they do a lot of it. But it's usually done either through Cabinet Affairs or in conjunction with Cabinet Affairs, put packages together, and sometimes for intergovernmental. But a lot of work is done to be sure. Thanks to our web site, for example, we get talking points up every day. We call it "The White House at Work," which is something we started. So if you're going out as a surrogate, you can just pull down what the President has done for the last week or two weeks and it's there.<sup>30</sup>

28. Lewis, interview no. 1.

29. Ibid.

30. Ibid.

During the time she served as communications director, Lewis added a person to the office to work on amplification.

The second person I added was an amplification staffer whose role is to get the message back out once it's been done. How do we let everyone know it's happened: get talking points out; maybe the local government might get more information on this so they in turn can spread it; taking the information, taking the President's remarks and communicating them back out.

#### *Create and Administer Units Carrying Out Communications Functions*

One of the clues to the varied nature of the post of communications director is the lack of certainty about what units are within his or her domain. Don Baer discussed for whom he was responsible when he held the position of Assistant to the President for Strategic Planning and Communications.

What's interesting is that the people who were in my direct management line or indirect management line would not be an accurate reflection of what I had to be responsible for because a lot of those didn't report to me but I would have to be responsible for what came out of their shops. Directly or indirectly, definitely on any kind of a flow chart would have been thirty or forty people. Indirectly, if you throw in Scheduling and Advance—certainly the advance world in terms of what you saw on television and all that kind of stuff—another fifty or sixty people that I had to deal with.<sup>31</sup>

Ann Lewis indicated under her watch, there were approximately twenty-five in the office.

I think it has twenty-five. That included speech writing (domestic), research, events—which is a small sub-office—and after that sort of individuals. . . . I will tell you, that is pretty much the structure as I found it and probably the only thing I did that changed while I was here was I built up our capacity on events because I thought that was the single most important way we proactively got our message out, events at which the President, in his own voice, was going to be delivering a message.<sup>32</sup>

In the following lists, the latest organizational configuration of the office is shown, including information on how many people worked in the office and what their job titles were. For most offices, the date used was the fall of 2000; but several, such as the Office of Media Affairs, have not existed as separate units for some while. For the Office of Media Affairs, the date used is the spring of 1995, when it was a strong unit within the Press Office.

#### **Office of Media Affairs, Spring 1995<sup>33</sup>**

- Director of media affairs
- Regional projects coordinator and specialty press director
  - Specialty press assistant
- Two regional coordinators

31. Baer, interview.

32. Lewis, interview no. 1.

33. The office organization descriptions are based on *National Journal's The Capital Source*. It has been published twice a year since fall 1987. Prior to that date, *National Journal* published a White House phone directory.

- Television services coordinator
- Radio services coordinator
  - Deputy radio services coordinator
- Two news analysis coordinators

Media Affairs is an office that demonstrates the manner in which a division can be bounced around among White House units.<sup>34</sup> At the same time, it gives an example of the method by which publicity units are tied together, with a common element being the staff's interest in reaching an audience outside of Washington through a planned and organized effort to send information favorable to the president to those reporting across the country.

In looking through the location of the office in recent White Houses under the various chiefs of staff, press secretaries, directors of the Office of Communications and the Office of Public Liaison, one can see that the unit is most associated with a general communications or publicity effort. Only in the Carter years and in the latter part of the Clinton administration has the unit been seen as a division of the regular press operation. At no time during the Reagan or George H. W. Bush years was the unit found within the Press Office. That is because it is by nature a planning operation, and recent Republican administrations have viewed that as an element of the communications operation, which has often been associated with the chief of staff's operation. With the capacity of the unit to disseminate information outside of Washington and to coordinate information within the federal government, it is particularly useful as a resource of persuasion. With the interest of the Clinton White House in bringing persuasion into the Press Office, the placement of that unit there is telling. In the Carter White House, the opposite was true: it was housed in the Press Office because the administration had no persuasion operation.

### Speechwriting and Research, Fall 2000

- Assistant to the president and director of speechwriting
  - Deputy director of speechwriting
  - Special assistant to the director of speechwriting
- Special assistant to the president and senior speechwriter
- Four presidential speechwriters
- Two senior speechwriters
- Director of research
- Three associate directors of research

The communications director has a role in what the president says, where he gives a speech, and who the audience is. All of that makes up the speech process. It is not just the words but the picture as well. It is also deciding which press people to talk to about the speech. The communications director controls the content of the speech and the selling of it as well. If he has control of speeches, his recommendations go to the chief of staff on the scheduling of speeches, the message aspects, and then how they would be implemented or executed. Communications chiefs have sought control over speechwriting as control over

34. For a discussion of the Office of Media Affairs, see Martha Joynt Kumar, "The Office of the Press Secretary," *Presidential Studies Quarterly* 31:296-322.

the message is critical to effective communications. Authority over speechwriting does not come with the job; it comes by assignment.

Speechwriting is both an offensive and a defensive enterprise. If an administration is not careful, the speech process can end up dictating policy rather than describing it. Often speeches dictate policy. “I used to think before I went to the White House, for example, that you made policy decisions and then you wrote a speech to describe the policy,” observed a former chief of staff.<sup>35</sup>

Oftentimes it doesn't work that way. Oftentimes, the fact of scheduling the speech drives policy because you don't get to the point where decisions get made until the President's going to be on the tube at nine o'clock tomorrow night to talk specifically about his tax policy. You guys still haven't resolved this question of what we're going to do on capital gains or whatever it might be. It's the fact of having scheduled a time, a locale where he's going to talk about a certain issue that forces the policymakers in the administration, including the President himself, to make decisions. So speeches drive policy oftentimes rather than the other way around.

Don Baer spoke about the same thing in the first year of the Clinton administration. They would have an event scheduled, then call the group before which the president was appearing and ask what it wanted to hear.

### **Scheduling and Advance, Fall 2000**

#### **Scheduling**

- Assistant to the president and director of presidential scheduling
  - Senior deputy director of presidential scheduling
  - Deputy director of presidential scheduling
  - Associate director of presidential scheduling
  - Special assistant to the director
    - Three deputy directors of presidential scheduling
    - Presidential scheduling coordinators
- Director of presidential scheduling correspondence
- Presidential diarist
- Director of scheduling and advance for the first lady
  - Two schedulers
- Staff assistant

#### **Advance**

- Assistant to the president and director of advance
  - Deputy director of advance
- Two trip directors
- Eight associate directors of presidential advance
- Assistant director of advance

The communications director must have some control over the scheduling process to be effective in his or her job. He or she must also have some control over the process of

35. Background interview.



advancing presidential trips to make certain he will appear in the right place to emphasize the message he and his staff want to communicate. Michael Deaver indicated he had control over scheduling President Reagan, which was critical to his notion of presidential communications. It was first and foremost a way of protecting the president.

By the time that you took care of getting that schedule going and keeping him on schedule and protecting him, as I saw my responsibility, for whatever people were going to do or say, I had a full time job with that.<sup>36</sup>

Ann Lewis discussed the scheduling meetings that were held once or twice a week in the Clinton White House. Those sessions involved a “significant number of people. The Director of Communications, now Loretta Ucelli; Scheduling; head of Scheduling—who walks us through what’s available and what’s doable—and then representatives from all the policy shops.”<sup>37</sup> Political Affairs was involved as well. Planning is short and medium range, not long range. Lewis indicated that as interested as people are in long-range planning, it is difficult to bring it about. In the Reagan White House, however, the Blair House Group provided the capacity to plan several months out. The administration did so during the first term, then returned to such planning later in the second term when Thomas Griscom served as communications director.

#### **Office of Public Liaison, Fall 2000**

- Assistant to the president and director of public liaison
  - Three special assistants to the director
  - Deputy director of public liaison
  - Assistant to the deputy director
- Eight associate directors of public liaison
- Chief of staff
- Events coordinator
- Director of women’s initiatives and outreach

The Office of Public Liaison was created in 1974 in President Ford’s first month in office. Its genesis can be found in the Nixon White House, where people in the Office of Communications performed the function of contacting groups to provide them with information about administration achievements. The office is responsible for contacting groups with information the president and his staff want them to have, but it is also a main contact for groups wanting to get in touch with government officials. The office is divided, with associates responsible for portfolios of groups important to the president’s electoral and governing coalitions.

While the first director was a man, William Baroody, and another, David Demarest, served for a short period at the end of the George H. W. Bush Administration, all of the other directors have been women. There were two directors in the Carter White House, five in the Reagan White House, two in the Bush White House including Demarest, and five in the

36. Deaver, interview.

37. Lewis, interview no. 1.

Clinton years. Of the fourteen directors serving from 1977 to the end of the Clinton administration, a man served for only a part of one year in the twenty-year period.

When President George H. W. Bush was in office, the Office of Public Liaison was lodged under the Office of Communications for some portion of the time. As the communications director, David Demarest was responsible for several units, including Public Liaison, Speechwriting, Media Relations, and Public Affairs. Public Liaison was responsible for regular dealings with interest group representatives in an effort to build coalitions and respond to their needs. The Office of Public Liaison at the end of the Reagan administration contained several of the communications functions, including Speechwriting and Research, Public Affairs, and Media and Broadcast Relations. While the Reagan and Bush administrations combined Public Liaison and Communications, the same was not true in the Carter and Clinton administrations.

### **Public Affairs, Spring 1991**

- Assistant to the president for public affairs
- Director, public affairs
- Two associate directors, public affairs
- Staff assistant

Public Affairs is a unit found in the Office of Communications that was tasked in the Reagan Administration with the responsibility to coordinate those speaking for the administration to reporters and appearing on television or radio. In the George H. W. Bush administration, the office created and maintained a television studio in the Old Executive Office Building down the hall from the auditorium where presidents and their surrogates often appeared for press events including press conferences. The studio is used to tape presidential greetings to various groups he cannot meet in person, often ones meeting in conventions in cities other than Washington. The studio is occasionally used as well by the first lady to do similar tapings. Even senior staff have used the studio to do interviews with the anchors of local television stations.

The unit also provides surrogates with information on what topics to speak about and which ones to avoid. For Communications Director David Demarest, the office served as an “interagency coordinating group.”<sup>38</sup> The unit was responsible for making certain television appearances were coordinated and that those appearing in the media had information about the administration’s achievements and recent good news. If, for example, there were some new good economic numbers, the office would let people know prior to their media appearances.

### ***Political Coordination and Planning***

Gradually, as the political resources of a White House have come to include regular polling and consultants who take the president’s political temperature, the communications director has become a link of the chief of staff to the outside political world. Don Baer took that position during the Clinton reelection campaign. To some extent, the duties of the com-

38. Demarest, interview.

munications director depend on the time in the administration when the person is in the post. Beginning in the midpoint of the first term of a president, an important aspect of the job is to run the White House angle of the reelection campaign. If the communications director serves during the latter part of the second term, his or her job involves yet another campaign: the legacy campaign.

#### *Presidential Reelection Campaign*

The influence of the communications director is at its height in the White House during the early period before the campaign begins as at that point there is no campaign manager, the message is important, and he or she is the person who coordinates the message, people, events, and institutions. The communications director has an important role in the campaign as demonstrated by just about every one in office during an election. David Gergen worked as a link to the campaign of President Ford in 1976, as did Don Baer for President Clinton in 1996 and Michael Deaver for President Reagan in 1984.

In addition to staging White House events for the president during the campaign, the communications person works on coordinating the message with the campaign and with its pollsters and consultants. In the Clinton reelection campaign, Don Baer had the role of coordinating the campaign with the governing operation. His duties included smoothing over problems in the White House that swept in from the campaign, such as the aggressive role in White House activities played by President Clinton's political consultant, Dick Morris. A good example of the volatile nature of the communications director's position is the way that Don Baer was caught between Dick Morris and Leon Panetta. Baer viewed Morris as someone who effectively "mined" the agencies for political and policy ideas for the campaign in 1995 and 1996, but Panetta was disturbed by Morris's actions as they involved end runs around the chief of staff.

#### *The Legacy Campaign*

Beginning with President Eisenhower's press secretary, James Hagerty, who carried out the functions of a communications director without having the title, the person in a White House responsible for communications also takes on the responsibility of designing and implementing the legacy campaign. The point of the campaign is to showcase what the president has done during his term on the policy front and wrap it tight at the end with high public approval ratings for the president and his handling of his job. In the Reagan second term, Communications Director Thomas Griscom and his successor Mari Maseng worked on pulling together information on the accomplishments of the president and his administration. They prepared briefing materials and held events emphasizing their policy work. Thomas Griscom described how he organized the legacy effort.

I started by asking people, "Those of you who were there in the first days of the Reagan Administration, I want to see the documents you put together because you defined what this presidency was all about." So I started that way and working back.<sup>39</sup>

39. White House Interview Program, interview with Thomas Griscom, Martha Joynt Kumar, Washington, DC, July 17, 1999.

In the last year, the Reagan communications team gradually released information on the president's efforts on the domestic and foreign policy fronts. While there was some effort in President Clinton's final year to think about the president's legacy, such efforts were put aside as the president wanted to remain active until his final days.

#### *Planning and Staging Events*

Strategic planning lay at the heart of the communications operation of President Reagan. Michael Deaver discussed how staff were able to get ahead of events by setting out times in which they did long-range planning. Most White Houses find this difficult to do, but the experience of the Reagan administration was that it paid off handsomely. Deaver explained,

You have to because you're judged every day on what kind of job you're doing. When I set up the Blair House Group, it was probably the smartest thing I did which basically met every Friday. It was [Richard] Darman [director, Office of Management and Budget] and [Craig] Fuller [chief of staff for Vice President Bush] and the scheduling guy, Fred Ryan and [Ken] Duberstein, I think. We met uninterrupted for about three hours every Friday afternoon at the Blair House. We would take the three-month schedule and we would plan every day for three months. Then we'd take it for the next two weeks and we'd plan every hour. Then I'd take it back and give it to [James] Baker to be sure he was okay with it. Then I'd give it to Reagan and be sure he was okay with it.

The Reagan group had a strategic plan that had as its goal shaping the manner in which the news was delivered through newspapers and on television.

So we had a strategic plan. It wasn't getting up every morning and reading the *Washington Post* and saying, "Oh my God, this is our day." It was many times going to bed knowing what the *Washington Post* and, hopefully, having written the *Washington Post* headline by what we had done. So from a communications standpoint we had a strategic approach. We had control and we had that structure of what we called the Blair House Group that gave it a continuing review by all the people that really made a difference.<sup>40</sup>

Putting on planned events involves coordination of featured players and the staging of the occasion. It is the Communications Office that stitches together events combining the resources and people of the White House with Cabinet secretaries, members of Congress, and groups involved in issues featured at the occasions staged at the White House. At the same time, the communications director is a manager because he or she stages events. Ann Lewis created a small unit that dealt with events management. Following the decision to schedule an event, decisions must be made as to where it will be held and whether the president will take part.

My working principle was the most valuable resource we have is the President's time and we'll never have enough of it. So if we're going to use—I should say amplification as the second thing I added for the same reason. If we've got an hour and a half of the President's time, we better make the most of it. So every thing from where it's held to what's the signage to what's the picture to what's the language, the goal is to decide all of that to strengthen the message.<sup>41</sup>

40. Deaver, interview.

41. Lewis, interview no. 1.

Policy is the focus of events, but how it is presented depends on the stage in the policy process and whether the Congress is in session. Ann Lewis commented,

The meeting would last about an hour and the number of events to be discussed may depend on how many days we have to fill. We can look at a month and have five message opportunities; we can look at a month and have three. It depends on what else is there. The President is going to be in Europe for eight days, and three days are already filled in; you don't have much time left. Or you can have a lot. . . . The second thing that makes it difficult is how much competition there is, how many of the policy shops have announcements that they are trying to put on the schedule. . . . Actually you're a little more likely to do policy announcements when they're out of session because there's a little more space but you react to policy when they're in session.<sup>42</sup>

### *Working the Press*

An important aspect of staging events is to work the press. Coverage is what they want. In addition to bringing in television, the White House uses the wire services as the tie to the local community. Ann Lewis said,

Sometimes the afternoon before you might give the wires—for example, if we're going out with the story on community policing and here's what it's going to mean state by state, you can give that to the wires and they will run in each of their regions a story about what it means for this community.<sup>43</sup>

Newspapers are not as hard to deal with as cameras in the view of Ann Lewis.

I don't have to sit and plot how to do an event in order to get the attention of a newspaper. You can sit down and give a newspaper a story, work with them on the story, have the President give a speech. The reason I pay attention to events and the kind of setting I talked about is pictures for cameras. It's a different strategy in reaching newspapers. [Press Secretary] Joe Lockhart's briefing the day of an event in which he says the President's going to speak and sort of walks people through what it's going to be about will reach the newspapers. The combination of the President's speech and a Lockhart or [Gene] Sperling [National Economic Council director] or somebody coming in and briefing on the issues, that reaches the newspapers.<sup>44</sup>

One of the major difficulties in presenting an administration is working with the criteria the press use to decide what is newsworthy. Lewis noted the press's interest in the future, what is going to be proposed rather than what has actually happened.

I think it is simply easier to—people are more likely to know what you're going to do. It's easier to break through on a story about a new policy, a new goal, a new agenda. It is impossible to get press attention for something that's already been done, virtually. Aside from the stock market figures. And, if you can't communicate it, people aren't going to know about it.<sup>45</sup>

42. Ibid.

43. Ibid.

44. Ibid.

45. Ibid.

*Measuring Success*

One of the duties of the communications director is to measure the success of operations. That is most often done through a combination of anecdotes and press clippings. Polling counts here as well. Anne Lewis spoke about measuring success:

It's a little bit more anecdotal than I'd like but you try to test—there's a lot of public poll data available and how well people think you're doing and what they know about what you're doing, that's useful. But the other is you can get clippings; is it being used? Is it appearing? Do people know what you're doing?<sup>46</sup>

In addition to anecdotal information, polling is a way of measuring success for an administration. When asked what polls tell the White House, Ann Lewis observed, "Like most institutions, polls can tell you, if you read them right, what people know about what you're doing, what they may not know and you want to work harder to get the message out."<sup>47</sup> Knowing what the public's assessment is of what they are doing worked in their favor as the Clinton White House staff designed strategy to move policy with a communications plan to accompany it.

## Summary

The Office of Communications is an important White House unit for a president, and its director is vital to him as well, because communications is closely linked with a successful presidency. Formed in 1969, the Office of Communications has served for thirty-two years as a nuts-and-bolts operation delivering information beyond the White House environs; but it also stages events in Washington and serves as a location where communications strategies are developed and executed. The communications operation provides a president with the opportunity and the resources to coordinate the publicity for his administration and to shape his statements and explanations in a manner that will achieve his personal, policy, and electoral goals. While there are those who would characterize such operations as presidential fluff, the reality is that all the presidents who were reelected in the post-World War II period had state-of-the-art communications operations. Presidents Eisenhower, Nixon, Reagan, and Clinton had people and organizations who helped their presidents coordinate information in the executive branch, develop targeted messages aimed at identified publics, and then amplify these messages in a manner capable of cutting through the fog that so often shrouds the public's view of Washington politics and their president. For these reasons, the Office of Communications is a valued operation for the president and his White House staff.

46. Ibid.

47. Ibid.



# The Little State Department: McGeorge Bundy and the National Security Council Staff, 1961-65

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*This article examines the alteration of the role, prerogatives, and power of the special assistant to the president for national security affairs, a position more commonly known as the national security adviser. Presidents Truman and Eisenhower conceived of and shaped the National Security Council (NSC) and its staff to be administrative in their responsibilities and character. Under President Kennedy, McGeorge Bundy utterly changed this, concentrating power and decision-making authority in the hands of the special assistant and his NSC staff at the White House. From 1961, the special assistant and NSC staff ceased to be administrators and became policy formulators actively engaged in the policy-making process. This transformation occurred largely at the expense of the State Department and had profound consequences for American foreign policy, particularly toward the conflict in Vietnam.*

In 1961, President John F. Kennedy and his special assistant for national security affairs, McGeorge Bundy, began a fundamental transformation of the National Security Council (NSC) system and the role of the special assistant. A decade later, amid the turmoil of the Nixon-Kissinger White House operation, former secretary of state Dean Acheson (1971, 603) reflected on the change:

The new organization, with staffs of size and competence, has now survived a decade of political life and constant criticism. At its head Messrs. McGeorge Bundy, Walt Rostow and Henry Kissinger, all men of outstanding ability, have served successively to the announced satisfaction of their presidential chiefs. What emotions they stirred in the breasts of their colleagues at the State Department we must wait on future to learn. Meanwhile, we can imagine that there has been strain.<sup>1</sup>

1. Acheson admitted elsewhere that he would have resigned from an administration with a special assistant as powerful as Bundy (Chace 1998, 441).

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Under Presidents Truman and Eisenhower, the position had been largely administrative, and special assistants rarely, if ever, participated in shaping the foreign policy of the administration. Under Kennedy, who wanted to act as his own secretary of state and concentrate foreign policy formulation in the White House, McGeorge Bundy fundamentally transformed the post by augmenting to a tremendous extent its power and prerogatives.<sup>2</sup> Although this crucial development has not gone unnoticed by scholars of the period, the change, and its impact on American foreign policy, have yet to be explored in any great detail.<sup>3</sup> Whereas Kennedy's predecessors saw their special assistants as facilitators of national security policy, Kennedy wanted a contributor; whereas Truman and Eisenhower wanted their assistants to be subordinate to the Cabinet, Kennedy wanted his to be equal. Indeed, with his own staff of experts who became policy makers in their own right, and with inclusion in the administration's highest decision-making councils, Bundy performed more like a Cabinet official than a presidential aide, in effect becoming the first "national security adviser" and the progenitor of a straight and narrow line that would come to include Walt W. Rostow, Henry Kissinger, Zbigniew Brzezinski, and Robert C. "Bud" McFarlane.

The changes that had occurred at the advent of the Kennedy presidency were accentuated during the next, that of Lyndon B. Johnson. LBJ relied on Bundy to formulate and coordinate foreign policy to an even greater extent than Kennedy had. This was due in large part to the informality and personalization of decision making under Johnson. Paradoxically, as Bundy's authority increased, the scope of his staff's power decreased. Fewer people actually conducted American foreign policy after November 1963, and those who did were concentrated at the highest levels. By 1965, when major foreign policy decisions were made—especially on the perennial crisis in Vietnam—there were very few internal obstacles that blocked the path Bundy advised the President to take.

### **The Evolution of the NSC System, 1947-60**

The special assistant for national security affairs had its origins under President Harry S. Truman. In July 1947, at the dawn of the cold war and at the behest of the Truman administration, Congress passed the National Security Act. The act established the NSC as a Cabinet-level advisory body for the president; the position of executive secretary was created to serve as its administrative head; and Cabinet members constituted the membership of the NSC. The broad scope of the provisions of the act also included the founding of the Central Intelligence Agency (CIA), the Office of the Secretary of Defense, and the Joint Chiefs of Staff

2. Remarkably, there are very few studies of McGeorge Bundy. This is in marked contrast to the extensive coverage to which other Kennedy and Johnson administration-era officials—such as Robert S. McNamara (secretary of defense), Dean Rusk (secretary of state), George Ball (undersecretary of state), or Maxwell D. Taylor (chairman of the Joint Chiefs; ambassador to Saigon)—have been subjected. On Bundy, see Gardner (1993) and Bird (1998).

3. For examples of works that mention, but do not deeply explore, Bundy's transformation of his position and its prerogatives, see Bird (1998, 185-86), Bose (1998, 14), Crabb and Mulcahy (1986, 212-15), Henderson (1988, 127-31), Hess (1988, 78, 81), Kaiser (2000, 38), Lord (1988, 71), McMahon (1994, 275), Pfiffner (1998, 52-55), Schulzinger (1990, 7), and Warsaw (1999, 138). The best accounts, although still not completely thorough, are Destler (1972, 19-20, 96-104) and Prados (1991, 92-109).

(JCS).<sup>4</sup> The purpose of the legislation was “to provide for the establishment of integrated policies and procedures for the departments, agencies, and functions of the Government relating to the national security,”<sup>5</sup> and, as a top-level body that integrated various federal departments and agencies, it was the NSC’s duty, when convened, to advise the president on matters of national security. At first, Truman found the NSC too large and unwieldy and did not regularly attend its meetings. However, after the outbreak of the Korean War in June 1950, the president changed his mind. To make it more effective, he limited the NSC’s membership and regulated the occasions on which it met.<sup>6</sup> There were two executive secretaries during the Truman presidency: Rear Admiral Sidney W. Souers served until his retirement in January 1950; and his successor, James S. Lay, served until Truman left office in January 1953.

The original role of the executive secretary was modest and essentially administrative. As was Truman’s intention, the executive secretary and his staff operated very much as administrative presidential aides, ensuring the smooth function of the agenda and staff of the NSC and offering policy advice sparingly and infrequently (Truman 1956, 60; Acheson 1969, 733-34). Clark Clifford, Truman’s special counsel and close personal assistant, recalled that “President Truman wanted a small NSC staff under his direct control, with its role restricted in coordination” (1991, 164). At the inception of the NSC, administration infighting between the first secretary of defense, James V. Forrestal, who wanted the NSC staff to be directly under Pentagon authority, and the White House further resulted in firm presidential control of the NSC staff (Clifford 1991, 163; Millis 1951, 316). Truman intended the executive secretary and NSC staff to be nonpartisan, with functions and duties more within the realm of policy mechanics rather than planning and formulation. Evidently, Truman’s NSC deputies agreed: “The main burden of initiating . . . policies in the national security field must fall on the Department of State,” Souers explained.<sup>7</sup> Clifford noted that “Souers and Lay were cautious men, and restricted themselves to coordinating formal policy papers” (p. 163). And unlike Cabinet secretaries, the executive secretary did not have a relationship with the news media. “The Executive Secretary,” Souers stated tersely, “does not make news announcements to the press” (Bock 1987, 16). But the limited responsibilities of the executive secretary prevented him from acting as a liaison between departments and officials, particularly at the highest echelon. When Truman needed to facilitate cooperation between the Departments of State and Defense—or, more accurately, between Secretary of State Dean Acheson and Secretary of Defense Louis Johnson—he did not turn to the executive secretary; instead, he recalled Marshall Plan coordinator W. Averell Harriman from Paris to serve as a presidential special assistant for international affairs. Harriman was given authority for both policy formulation and execution. Essentially, Truman split the position of the NSC assis-

4. The National Security Act is found in *United States Statutes at Large* 61 (1947): pt. 1, 495-510. The section regarding the National Security Council (NSC) is found on pages 496-97. Useful studies of the creation of the NSC and its operations under Truman and Eisenhower are Bock (1987, 9-42), Destler (1986), Hess (1988, 52-54, 67-70, 180-81), Nelson (1983, 1985, 1995), Prados (1991, 27-91), and Zegart (1999, 54-85).

5. *United States Statutes at Large* 61 (1947): 1, 496.

6. Memo, Harry S. Truman to Dean Acheson, July 19, 1950, *Foreign Relations of the United States* (hereafter *FRUS*) 1 (1950): 348-49.

7. Sidney W. Souers, testimony to the Subcommittee on National Policy Machinery, May 10, 1960, in Jackson (1965, 101).

tant into two separate capacities rather than enhance the existing authority of the executive secretary.

President Eisenhower expanded but did not strengthen significantly the duties of the NSC and its head. The principal changes to the NSC were structural: the executive secretary remained but was superseded by the newly created special assistant for national security affairs; the Planning Board was created to have a long-range policy-planning function within the NSC staff;<sup>8</sup> and the Operations Coordinating Board (OCB), its members drawn from various executive departments and agencies, was established to “provide for the coordinated execution of approved national security policies.”<sup>9</sup> Policy papers generated by the Planning Board were used to stimulate debate when the NSC was convened by the president, and it was the duty of the special assistant, as the director of the Planning Board, to present these papers to the NSC. The NSC would arrive at a consensus on policy—although Eisenhower always held the decisive opinion—and the OCB would then ensure and expedite the adoption of the decision at which the NSC had arrived. Eisenhower, who had spent most of his life as a professional soldier, preferred a regimented decision structure of this kind (Cutler 1966, 300-301). He convened the NSC more often than Truman, attended it more regularly, and placed greater faith in its capacity to deliberate matters and provide advice.

Three men held the post of special assistant for national security affairs under Eisenhower: Robert Cutler, Dillon Anderson, and Gordon Gray.<sup>10</sup> The special assistant’s job was to keep the stream of policy papers flowing from the Planning Board to the president and the NSC. According to Anderson (1956, 45), the special assistant “states why the policy is up for revision; or, if it is a new proposal, why it has come before” the NSC. The Special Assistant was also obliged to “make clear what is to be decided, what the alternatives are, [and] any divergences of views.” He was not to formulate or recommend a policy of his own, although on occasion Cutler did skew the options he presented to the NSC to give more weight to policy recommendations he himself favored (Bowie and Immerman 1998, 162-63). Cutler thought it helpful to think of the NSC as “at the top of Policy Hill.” The president and the Cabinet secretaries—the statutory members of the NSC who made the actual policy decisions—were at the top. On one side, leading to the top, was the Planning Board, which synthesized for the NSC policy options on long-term planning; on the other side, leading down from the top, was the OCB, which sought to guarantee that policy decided upon by the NSC was implemented successfully. The task of the special assistant was to facilitate smooth progress up and down policy hill (Cutler 1956, 448-49). The NSC staff served under the special assistant, and it was their task to assist in the progress of policy decisions. NSC staff members did not engage in policy making, essentially serving as clerks to the special assistant; those who served on the Planning Board simplified and condensed existing policy options for the NSC rather than generate those of their own. The duties of the NSC staff remained deliberate and methodical and avoided decision making. As Cutler wrote of the NSC in 1956,

8. Memo, Robert Cutler to Dwight D. Eisenhower, March 16, 1953, *FRUS 2* (1952-54): 245. See also Robert Cutler, “Report of Recommendations Relative to the National Security Council,” March 16, 1953, *FRUS 2* (1952-54): 246-57.

9. William H. Jackson, et al., “Report to the President by the President’s Committee on International Information Activities,” June 30, 1953, *FRUS 2* (1952-54): 1855.

10. Cutler and Anderson both wrote of their time as special assistant and of their perspective of the National Security Council. See Cutler (1956, 1966, 293-332, 347-65), and Anderson (1956).

“There is a tendency toward formality and stylization” (p. 447). Cutler also agreed with Souers’s concept of relations with the media: “No speeches, no public appearances, no talking with reporters” (p. 296). And when Eisenhower felt the need for greater coordination among federal departments and agencies and a tighter rein on daily foreign policy issues, he did as Truman did with Averell Harriman and appointed a presidential assistant for international affairs. Eisenhower’s assistant, General Andrew Goodpaster, even had a small staff of his own and was more directly engaged in influencing day-to-day decisions on foreign affairs than the special assistant (Eisenhower 1965, 319).

Toward the end of his second term, Eisenhower’s “formal and stylized” approach to foreign policy earned him many critics who charged that the President was lethargic and inattentive. One of the foremost of these critics was Senator Henry M. “Scoop” Jackson, a Democrat from Washington. Jackson’s criticisms were notable because he attacked not only the president’s conduct of foreign affairs but also the careful system of policy coordination Eisenhower and his subordinates had constructed since 1953, particularly the NSC structure. Senator Jackson opened his campaign to reform the NSC system in an influential speech delivered at the National War College on April 16, 1959. Portraying the Eisenhower NSC hierarchy as overly bureaucratic, Jackson identified its “fatal flaw: a lack of internal consistency,” due to the requirement of Planning Board papers to reach a consensus prior to coming before the full NSC. For this reason, along with the overlapping layers of NSC and departmental bureaucracy, Jackson warned that “our present NSC system actually stultifies true creative effort in the executive branch.”<sup>11</sup> Two months later, Jackson elaborated on this theme, specifically questioning the function and utility of the Planning Board.<sup>12</sup> However, these were only the opening shots fired in Jackson’s battle against the Eisenhower NSC. In response to his exposition, in July the Senate approved the creation of the Subcommittee on National Policy Machinery of the Senate Committee on Government Operations to investigate the Eisenhower administration’s national security apparatus. Naturally, Senator Jackson served as its chairman, but alongside Democrats Hubert H. Humphrey and Edmund S. Muskie, the membership of prominent Republicans—Senators Jacob K. Javits and Karl E. Mundt—afforded the committee bipartisan credibility. The Jackson committee was also supported by several prominent figures outside of government service. Hans J. Morgenthau, an international relations scholar who would come to oppose bitterly American policy in Vietnam, derided the Eisenhower NSC system and said hyperbolically of the committee’s efforts: “Upon its success or failure may well depend the fate of the country.”<sup>13</sup> Government professor William Y. Elliott of Harvard—a mentor to both McGeorge Bundy and Henry Kissinger—testified before a House committee on the drawbacks of the NSC system and the merits of its overhaul.<sup>14</sup> The names of those who were willing to testify before the Jackson committee were also impressive, among them former Secretary of Defense Robert A. Lovett,

11. Henry M. Jackson, speech before the National War College, “How Shall We Forge a Strategy for Survival?” *Congressional Record* (hereafter *CR*), 86th Congress, April 16, 1959. Vol. 105, pt. 5, 6214-17.

12. Jackson, speech before the Military Government Association, “Forging a National Security,” June 13, 1959, in Fosdick (1990, 68-69).

13. Hans J. Morgenthau, letter to the editor, “Making Federal Policy,” *New York Times* (hereafter *NYT*), April 27, 1959.

14. William Y. Elliott, Rep. 15, “Task Force Studies on American Strategy and Strength,” *CR*, 86th Congress, June 20, 1960. Vol. 106, pt. 10, 13480-81.

Sidney Souers, Nelson Rockefeller, and even Eisenhower administration officials Robert Cutler and Secretary of State Christian A. Herter. Yet, despite all of the outside expert advice and participation, the Subcommittee on National Policy Machinery remained very much Henry Jackson's project.

So that the next president could make use of the committee's findings, its initial conclusions were completed and released in a series of interim reports before the inauguration in January 1961, although other conclusions followed later that year (Fosdick 1990, 63, 71). It was strongly recommended that the OCB, with its "inherent limitations" as an interdepartmental committee, be abolished. The Planning Board was spared a similar verdict, but the committee recommended that it be reconstituted as more of a policy generating, rather than simplifying, body.<sup>15</sup> The committee decided not to recommend the creation of a "super-cabinet" official or "super-staff" in charge of foreign affairs, or to give such duties to the vice president,<sup>16</sup> although Jackson (1960, 452) publicly advocated the creation "at the top career level a joint career service, members of which would not be tied to a particular development but would be available for special assignments in accordance with changing needs and circumstances." The committee instead endorsed the authority of the secretary of state as the primary agent, below the president, of administering policy and the State Department as the primary agency of formulating it.<sup>17</sup> Well after Kennedy's inauguration, the Jackson committee submitted its final interim report, which called for the director of the Bureau of the Budget to be included more in the deliberation and formulation of foreign policy. The director, it was assumed, would best advise on the fiscal practicality of certain projects and policies and thereby prevent waste.<sup>18</sup> Strangely, the report remained silent on what eventually did occur in the Kennedy administration—the conflation of the duties of the Planning Board and the OCB into the loosely regulated duties of the special assistant and his NSC staff—although at one time Jackson advocated such a move "as a result of statutory regulation,"<sup>19</sup> which presumably meant senatorial confirmation and oversight. Nonetheless, the efforts of Jackson and his committee were available to the new president and his incoming administration.

Publicly, Kennedy accepted the Jackson committee's conclusion that the NSC system needed to be reformed, but he remained ambiguous as to how strictly he would follow any outside recommendations. On December 31, 1960, while announcing Bundy's appointment as special assistant at a press conference, Kennedy told reporters that he and Bundy

15. "The National Security Council," staff rep. of the Subcommittee on National Policy Machinery, December 12, 1960, in Jackson (1965, 40-41). See also Henry M. Jackson, speech before the National War College, "Policy-making at the Presidential Level," May 8, 1961, in Fosdick (1990, 76-79). The subcommittee's full report is *Organizing for National Security: Inquiry of the Subcommittee on National Policy Machinery of the Committee on Government Operations, United States Senate*, 3 vols. (Washington, DC: Government Printing Office, 1961).

16. "Super-Cabinet Officers and Super-Staffs," staff rep. of the Subcommittee on National Policy Machinery, November 16, 1960, in Jackson (1965, 19-29).

17. "The Secretary of State and the American System," staff rep. of the Subcommittee on National Policy Machinery, January 28, 1961, in Jackson (1965, 43-54). See also Henry M. Jackson, chairman's concluding statement, "Organizing for National Security," November 15, 1961, in Fosdick (1990, 86-87).

18. "The Bureau of the Budget and the Budgetary Process," staff rep. of the Subcommittee on National Policy Machinery, October 16, 1961, in Jackson (1965, 55-64).

19. Notes, "A Dinner Discussion Meeting for the Honorable Henry M. Jackson," November 16, 1959, vol. 33, July 1959 to June 1960 (I-Q), Records of Meetings, box 228, Council on Foreign Relations Archives, Mudd Library, Princeton University, Princeton, NJ (hereafter RM, CFR).



intended to use the NSC “and its machinery more flexibly than in the past, in line with recommendations made by the [Jackson] Subcommittee.”<sup>20</sup> In an official press release the following day, Kennedy signaled his desire for change:

I intend to consolidate under Mr. Bundy’s direction the present National Security Council secretariat, the staff and functions of the Operations Coordinating Board, and the continuing functions of a number of special projects staffs within the White House. I have asked Mr. Bundy to review with care existing staff organization and arrangements, and to simplify them whenever possible toward the end that we may have a single, small, but strongly organized staff unit to assist me in obtaining advice from, and coordinating operations of, the government agencies concerned with national security affairs.

Mr. Bundy will serve as my personal assistant on these matters and as director of whatever staff we find is needed for the purpose.

Again, appreciation of congressional advice was profuse but vague:

I have been much impressed with the constructive criticism contained in the recent staff report by Senator Jackson’s Subcommittee on National Policy Machinery. The Subcommittee’s study provides a useful starting point for the work that Mr. Bundy will undertake in helping me to strengthen and to simplify the operations of the National Security Council.<sup>21</sup>

Kennedy did not reveal specifics because he and Bundy had already decided that the NSC system would be altered significantly, but not necessarily according to the guidelines set forth by the Jackson committee. Indeed, Dean Bundy of Harvard and his new NSC deputy, Professor Walt W. Rostow of the Massachusetts Institute of Technology, had been together in Cambridge planning an overhaul of the NSC structure before the inauguration.<sup>22</sup> Undoubtedly, Kennedy used the impetus for change provided by the Jackson committee,<sup>23</sup> but he did not intend to adopt its conclusions rigidly. Kennedy and Bundy planned to go much further than even Jackson would have.

## The Transformation of the NSC System

McGeorge Bundy was an easy fit in the New Frontier. A lifelong Republican who counted Henry L. Stimson as his mentor, Bundy was an exemplar of the cold war bipartisan-

20. W. H. Lawrence, “Kennedy Appoints Bundy Despite Furcolo’s Protest,” *NYT*, January 1, 1961. The headline refers to the public protest of Bundy’s appointment by Massachusetts governor Foster Furcolo. The protest was related to outstanding political and personal differences between Bundy and Furcolo during the 1950s and had no relevance to, or impact on, Kennedy’s selection of Bundy as special assistant or Bundy’s decision to accept. See “Furcolo Assails Choice of Bundy,” *NYT*, December 31, 1960.

21. Press release, John F. Kennedy, January 1, 1961, in Jackson (1965, 302-03).

22. Walt W. Rostow, Interview 1, April 11, 1964, p. 41, Oral History, John F. Kennedy Library, Boston, MA (hereafter cited as OH/JFKL). Interestingly, the interview was conducted by presidential transition consultant Richard E. Neustadt.

23. Bromley K. Smith, Interview 1, July 16, 1970, p. 3, OH/JFKL; Smith (1988, 5-9). A member of the National Security Council (NSC) staff since 1953, Smith served as NSC executive secretary from 1961 to 1969. See also Johnson (1969, 717). Like Smith, Johnson had been a member of both the Eisenhower and Kennedy NSC staffs.

ship on which presidents, understandably, placed enormous political value.<sup>24</sup> Perhaps most important was his obvious affinity with the policies and positions advocated by the president-elect. Throughout the 1950s, Bundy had made clear his preference for flexible response over the New Look and modernization theory and nation building over neglect of the Third World; but he had also managed to maintain a firm anti-Communist outlook and a belief in the importance of applying military force.<sup>25</sup> In short, Bundy was intellectually and temperamentally the ideal Kennedy man: tough, pragmatic but with liberal instincts, and extremely intelligent.

Acquaintances if not close friends since childhood, Kennedy and Bundy knew and highly respected one another.<sup>26</sup> “You can’t beat brains,” Kennedy once said of his special assistant, while Bundy broke ranks with the Republican Party and endorsed Kennedy for the 1960 presidential election.<sup>27</sup> Moreover, many of Bundy’s closest colleagues at Harvard—namely, historian Arthur M. Schlesinger Jr. and economist John Kenneth Galbraith—were also very close to Kennedy, and they promoted the Harvard dean for such prominent positions in the executive as undersecretary of state.<sup>28</sup> Walter Lippmann, who knew both men very well, even suggested to Kennedy that Bundy would make a good secretary of state (Steel 1980, 523-24). Kennedy greatly admired Bundy’s intellect and wanted him for an important post but felt that the Harvard dean might be too young for secretary or undersecretary of state (O’Donnell and Powers 1972, 266). Crucially, relations between Dean Rusk, whom Kennedy had appointed secretary of state in December, and Bundy “had not been especially friendly,” which effectively eliminated from consideration a State Department position for Bundy.<sup>29</sup> Besides, the president-elect had in mind great changes for the post of special assistant for national security affairs and thought Bundy the right man for the job.

Much of the framework for changing the NSC structure stemmed from the advice of presidential consultant Richard E. Neustadt, a political scientist who taught at Columbia University. Kennedy, like Bundy, had read Neustadt’s influential 1960 book, *Presidential Power: The Politics of Leadership*, which argued in succinct fashion that in terms of effectiveness, the carefully constructed presidencies of Truman and Eisenhower had failed where the apparent disjointedness of Franklin Roosevelt’s had succeeded. In American politics, it was essential to have strong presidential leadership and, in *Presidential Power*, Neustadt put forward the proposition that a president could lead convincingly only if others were convinced

24. Bundy cowrote Stimson’s memoirs for his research project as a member of Harvard’s prestigious Society of Fellows (see Stimson and Bundy 1948). Bundy had served as a foreign policy adviser to Republican Thomas Dewey’s ill-fated 1948 campaign. Arthur H. Vandenberg to McGeorge Bundy, October 21, 1948, Allen W. Dulles Papers, box 10, folder 2, Mudd Library, Princeton University, Princeton, NJ; Bundy to Henry L. Stimson, October 25, 1948, Henry L. Stimson Papers, reel 120, frame 829, Manuscripts and Archives, Sterling Memorial Library, New Haven, CT (hereafter cited as SML); Grose (1994, 289); Hoopes (1973, 72); Bird (1998, 103-04).

25. For example, see letter to the editor, Duncan S. Ballantine, McGeorge Bundy, et al., “Strategies of Defense,” *NYT*, August 30, 1950; Bundy (1940, 1949, 1951, v-xiii, 1952).

26. As children, both Kennedy and Bundy attended the Dexter Lower School in Boston (Bird 1998, 36, 150).

27. Kennedy, quoted in “JFK’s McGeorge Bundy—Cool Head for Any Crisis,” *Newsweek*, March 4, 1963, p. 24; MacKaye (1962, 84).

28. Bundy to Sargent Shriver, November 16, 1960, Arthur M. Schlesinger Jr., Papers, Writings File, box 8, JFKL. Of the endorsement, Bundy modestly rejoined, “I have never recommended myself for any particular job, and I am not going to start now.” Instead, he suggested either Charles Bohlen, Walt Rostow, or Robert Tufts for the position, which eventually went to Chester Bowles.

29. William P. Bundy, Vietnam Memoir, unpublished manuscript, William P. Bundy Papers, chap. 3, p. 5, SML (hereafter Vietnam Memoir, chapter:page).

of his leadership. Where FDR was able to lead by example or persuade others simply with rhetoric, Truman and Eisenhower had to resort to leading by force, decree, and the heavy-handedness of coercion. Neustadt used the examples of Truman's firing General Douglas MacArthur in 1951 and seizing America's steel mills in 1952, and Eisenhower's sending in federal troops to Arkansas in 1957, as evidence of the ineffective leadership of FDR's successors. Because they lacked the power of persuasion, Truman and Eisenhower relied on more brutal forms of impelling others to carry out presidential will. Neustadt had worked as an analyst for the Jackson subcommittee before joining Kennedy's transitional team after the election, so his views were undoubtedly influential as well as germane. Neustadt advised Kennedy to conflate the roles and responsibilities of six Eisenhower NSC staff members into the role of the special assistant. He also recommended that the OCB be dissolved and, unlike Senator Jackson, strongly hinted that the Planning Board be reconstituted as an interdepartmental committee to be convened temporarily by the special assistant only in crisis situations.<sup>30</sup>

With this impetus, the first step Bundy took was to abolish not only the OCB but the Planning Board as well. Under the directive from the special assistant, Robert H. Johnson, a member of the NSC staff since 1958 and the executive assistant of the OCB in 1960, seemingly committed professional suicide when he recommended the following:

1. Abolish the Planning Board, Planning Board Assistants, the Operations Coordinating Board and the OCB Assistants. 2. Assign, by Presidential order, all functions of the Planning Board and Operations Coordinating Board to the Special Assistant to the President (Mr. Bundy).<sup>31</sup>

As Bundy later explained, eliminating the OCB was "not in any sense a downgrading of the tasks of coordination and follow-up. . . . it is rather a move to eliminate an instrument that does not match the style of operation and coordination of the current administration." For the special assistant, "the decisive difficulty in the OCB was that without unanimity it had no authority."<sup>32</sup> Bundy was also advised by another NSC consultant to replace the OCB with an "Executive Secretariat" within the NSC made up of people who would have "liaison responsibilities with all interagency groups concerned with national security matters." The Secretariat members would "be the eyes and ears of the [NSC] staff" and would attempt to "persuade and cajole" State and Defense officials "to take a broad national approach to problems rather than a parochial, departmental view."<sup>33</sup> Bundy agreed with this approach but did

30. Memo, Richard E. Neustadt, "The National Security Council: First Steps," December 8, 1960, Pre-Presidential Papers, Neustadt Memoranda on Staffing the President-Elect, box 1072, JFKL. Neustadt recommended either Paul Nitze or Robert Tufts for special assistant for national security affairs.

31. Paper, Robert H. Johnson, "Possible Actions to Simplify Policy Planning and Operations Coordination in the National Security Area," n.d., National Security File, Departments and Agencies Series, National Security Council File, box 283, folder 1, JFKL (hereafter NSF/D&A/NSCF, JFKL). Johnson remained on the NSC staff until 1962.

32. McGeorge Bundy to Henry M. Jackson, September 4, 1961, NSF, McGeorge Bundy Correspondence, Chronological File, box 398A, JFKL (hereafter NSF/McGB/Chron. File, JFKL). On February 18, 1961, Kennedy officially abolished the Operations Coordinating Board when he issued Executive Order 10920. The next day, he released a statement explaining the order and his reasons for it. *FRUS* 8 (1961-63): 16, n. 2; *Public Papers of the Presidents of the United States: John F. Kennedy, 1961* (Washington, DC: Government Printing Office, 1962), 104-5.

33. Memo, Richard Hirsch to Bundy, "Some Notes on Effecting the Presidential Will," April 28, 1961, NSF/D&A/NSCF, box 283, folder 2, JFKL.

not erect an Executive Secretariat; rather, its proposed duties would be invested in the regular members of the NSC staff under the auspices of the special assistant. True to the Robert Johnson paper, the duties of the OCB were now invested in one individual—McGeorge Bundy. In place of the cumbersome OCB, Bundy initiated the National Security Action Memorandum (NSAM) series.<sup>34</sup> An NSAM was a document, drawn up and circulated by Bundy, that informed each recipient of the new direction and decisions on policy. This solved, at one stroke, the “inherent limitations” of interdepartmental committees and their concomitant lack of authority. Each NSAM would explicitly delineate approved national security policy; swift adoption was assumed because officials would otherwise violate presidential authority as expressed and exercised through Bundy. As he put it artfully to Director of Central Intelligence Allen W. Dulles, “I have the strong impression, from my brief experience, that departments and agencies will always be acting just as fast as they can to respond to the President’s directives.”<sup>35</sup>

The launch of the NSAM series, however, was not the primary source of the special assistant’s new power. The NSAM reflected Bundy’s authority as an administrator, rather than a maker, of foreign policy. The chief source of the special assistant’s increased authority, what distinguished Bundy from Harriman, Cutler, and Goodpaster, was the way the Planning Board was eliminated and replaced. A week after the inauguration, it was suggested to Bundy by a member of the NSC staff that the members used previously to write Planning Board papers could now be split into geographic specialties and work to create and shape new policy<sup>36</sup>—in other words, a mirror image of the State Department, only much smaller. Not only did this endow the special assistant with power due to presidential proximity; it also endowed him with institutional authority and bureaucratic leverage. As Neustadt argued in his memo to Kennedy, this would elevate the prestige and authority of the special assistant: “He would be something more than just another ‘palace guardsman’ whose status depended wholly on the intimacy of his relationship with you.”<sup>37</sup> The NSC staff would now have an area expert who traveled abroad to deliberate with allies, visit crisis zones, and write policy memoranda. Bundy approved the concept, and the Planning Board died when he declined to convene it after the new administration commenced its duties (Smith 1988, 25).

Bundy justified the creation of a new level of policy-making bureaucrats by telling Kennedy that, although the Departments of State and Defense did a good job formulating and advising on policy, “the matter is of literally life-and-death importance, and it also has plenty of political dynamite in it, so that the more advice you get, the better off you will be.”<sup>38</sup> In a modern presidency, Bundy later argued, there were tasks that

34. Letter, Bundy to Allen W. Dulles, March 10, 1961, NSF/McGB/Chron. File, box 398, JFKL; Bundy to Dean Rusk, February 3, 1961, *FRUS* 8 (1961-63): 23-24.

35. Bundy to Dulles, March 10, 1961, NSF/McGB/Chron. File, box 398, JFKL.

36. Memo, George Weber to Bundy, “The Output of the NSC in the Eight Years of the Eisenhower Administration,” January 27, 1961, NSF/D&A/NSCF, box 283, folder 1, JFKL.

37. Neustadt, “The National Security Council,” Pre-Presidential Papers, box 1072, JFKL.

38. Memo, Bundy to Kennedy, “Policies Previously Approved in NSC which Need Review,” January 30, 1961, NSF/D&A/NSCF, box 283, folder 1, JFKL.

only the White House staff can do. We're just going to know better than the guys in the [State] Department . . . what's on the President's mind, what kind of stuff he will like and what he doesn't like. That is what we do for a living, and they do a lot of other things for a living.<sup>39</sup>

In characteristically clear prose, Bundy explained the change to a watchful Senator Jackson:

We have deliberately rubbed out the distinction between planning and operation which governed the administrative structure of the NSC staff in the last Administration. . . . [I]t seems to us best that the NSC staff, which is essentially a Presidential instrument, should be composed of men who can serve equally well in the process of planning and in that of operational follow-up.<sup>40</sup>

Crucially, the new, smaller NSC system would receive the same amount of funding as the old system had under Eisenhower.<sup>41</sup> Rostow, who also had a large role in the planning of the new NSC, commented that while Kennedy liked the plan, he “noted that we were somewhat odd bureaucrats: here we were, handed a substantial empire—slots, budgets, and all—and our first recommendation was to liquidate a good part of it” (1972, 167). Of course, Rostow was not being entirely candid. Rather than a liquidation, the move was a concentration of power in the hands of far fewer individuals—Bundy and his staff.

Bundy's duties as special assistant for national security affairs had two primary components. First, as under Eisenhower, the special assistant continued to be the coordinator of other people's policy. But unlike Eisenhower special assistants Cutler, Anderson, and Gray, Bundy was not limited to coordinating policy for a specific function—for example, the presentation of policy options to an NSC meeting. Bundy functioned as a conduit to the president.<sup>42</sup> As Rostow (1972, 168) has recorded, Kennedy

wanted to make sure that he had available all the possible options before making a decision. He was determined not to be imprisoned by the options the bureaucracies might generate and lay before him. It was the duty of the special assistant for national security affairs to ensure that independent statement of the options.

Bundy's job was to serve as the president's foreign policy filter; the only limitations imposed on this function were from his own discretion. Moreover, the increase in the authority reflected an increase in stature and prominence, and Bundy readily abandoned the prohibition on relations with the press adhered to by Souers and Cutler.<sup>43</sup> Second, Bundy was in

39. McGeorge Bundy, Interview CCC, p. 16, Dean Rusk Oral History Collection, Richard B. Russell Memorial Library, University of Georgia, Athens, GA (hereafter OH/UGA).

40. Bundy to Jackson, September 4, 1961, NSF/McGB/Chron. File, box 398A, JFKL.

41. R. Johnson, “Possible Actions,” NSF/D&A/NSCF, box 283, folder 1, JFKL.

42. The duties of this role often entailed acting as the president's gatekeeper. The State Department would sometimes clear with Bundy meetings between its high-level officials and the president. For example, see memo, L. D. Battle (State Department) to Bundy, “Request for Appointment with the President for Frederick E. Nolting, Jr., American Ambassador to Viet-Nam,” December 29, 1961, NSF, Country File, Vietnam, Box 195A, JFKL. The duties of this role also entailed clearing highly sensitive cables from the State Department to American diplomatic posts abroad. Drafts of cables would go from Benjamin Read, the State Department's executive secretary, to Bundy for approval. This was known as “the Read-Bundy channel.” Benjamin Read, Interview 3, January 13, 1970, p. 36, OH/JFKL.

43. For example, Bundy appeared in the pages of the *New York Times* thirty-nine times between January 1961 and February 1966; combined, his five predecessors appeared forty-one times between 1947 and 1960 (Zegart 1999, 241).



charge of the NSC staff. Free from the requirements and restraints of Planning Board and OCB duties, those who remained on the NSC staff now focused on matters of policy, both short- and long-term. Few members from the Eisenhower staff were kept by Bundy, which was a departure from the “nonpartisan” staff envisioned by Truman (1956, 60). As in the State Department, members of the NSC staff divided their work into geographic and thematic sections so that only one or two staff members devoted their energies, for example, to the Middle East, or Southeast Asia, or economics. At the top of the hierarchy in 1961 were Bundy and Rostow, who oversaw the policy-making efforts of the entire staff and contributed when they felt it necessary.

Although Bundy was “clearly in charge of the shop,”<sup>44</sup> another real source of the NSC staff’s influence was the fact that all of its senior members reported directly to the president. This was a privilege not enjoyed in the Kennedy administration by midlevel officials from the Departments of State or Defense, unless they had explicit presidential favor. NSC staff members who had direct access to Kennedy were Rostow; Carl Kaysen, who was Bundy’s expert on matters of European policy and nuclear strategy and successor to Rostow as deputy special assistant in December 1961; Robert W. Komer, who handled policy for the Middle East, Africa, South Asia, Indonesia, and occasionally Indochina; and Michael V. Forrestal, who from January 1962 dealt with East Asian policy, especially Southeast Asia.<sup>45</sup> Kaysen recalled “that there wasn’t a strict line organization” in the NSC staff.

People dealt with each other as they thought the business at hand required. . . . It was relatively easy to talk to the President. It was perfectly easy to give him pieces of paper which he . . . would look at if he were interested and . . . throw away if he weren’t.<sup>46</sup>

Unlike State or Defense Department officials, who usually operated within a sharply defined hierarchy, the only people to whom NSC staff members were responsible were the president and the special assistant, in that order.

Bundy and the NSC staff quickly became a separate center for the formulation and conduct of American foreign policy, and Bundy’s colleagues from the Kennedy administration noticed the transformation. Press Secretary Pierre Salinger used the phrase “the Little State Department” to describe the NSC unit (1966, 68). George Ball, undersecretary of state from December 1961, stated that the special assistant and his NSC staff “amounted to a foreign office in microcosm” (1982, 172). White House aides Ted Sorensen and Arthur Schlesinger, and State Department official Roger Hilsman, concurred with this description in their accounts of the Kennedy period (Sorensen 1965, 284; 1969, 82-83; Schlesinger 1965, 376-77; Hilsman 1967, 56, 561). And due to the fact that the structure and functions of the NSC staff evolved by custom and executive order rather than by statute—and the fact that the original National Security Act did not provide for the advice and consent of the Senate in choosing the executive secretary—the NSC staff retained more flexibility and autonomy than State Department officials. As Komer remarked, the result was “a fascinating exercise in

44. Rostow, Interview 1, p. 43, OH/JFKL.

45. Rostow, Interview 1, p. 43, OH/JFKL; Carl Kaysen Interview, March 12, 1999, Cambridge, MA; Michael V. Forrestal, Interview 1, April 8, 1964, p. 18, OH/JFKL.

46. Carl Kaysen Interview, July 11, 1966, p. 5, OH/JFKL.

a presidential staff technique, which insofar as I know, has been unique in the history of the presidency” (Endicott 1984, 188).

In addition, the reticence of Secretary of State Rusk made it easier for Bundy and his staff to flex their newly developed bureaucratic muscle. Prior to taking office, Rusk had expressed his view that the secretary of state was an agent of the president, that only the president should establish policy, and that the secretary’s job was to act on the president’s will. “The Secretary of State,” Rusk believed, “must make certain that actions and decisions conform to what the President wants,” while the president should ensure that he “does not delegate excessively to the Secretary of State.”<sup>47</sup> This was the main reason why Kennedy, who wanted to be in charge of his own foreign policy, picked Rusk as his secretary of state.<sup>48</sup> Moreover, Rusk had earlier given support to the creation of a secretary of foreign affairs, what Jackson had described disdainfully as a “super-cabinet” official, which was essentially what Bundy had become as special assistant in 1961.<sup>49</sup> Bureaucratically, Rusk could not mobilize the State Department’s members and resources like Bundy could with the NSC staff; the former was simply too large and too cumbersome, the latter too small and tightly knit. Rostow wrote in a May 1961 recommendation to Kennedy, “The action I suggest is a systematic review of the situation in the Department of State, which would increase its capacity to lead and to drive forward ahead of events rather than behind events.”<sup>50</sup> As Rostow’s comments imply, the State Department was widely perceived to be slow and ineffectual. It was an assessment with which President Kennedy evidently agreed. “Damn it, Bundy and I get more done in one day,” JFK remarked later that year, “than they do in six months in the State Department” (Giglio 1991, 33).

Finally, more often than not, Rusk kept his own counsel and rarely attempted to express, much less impose, his own views on the president or the State Department. Nicholas deB. Katzenbach, assistant attorney general under Kennedy and later an undersecretary to Rusk in the Johnson administration, recalled that Rusk “did not like to take positions. That made it awfully difficult for him to advise the President, [because] he had to know what the President thought before he advised him.”<sup>51</sup> Bundy himself agreed, writing of Rusk in early 1965,

47. Daniel Steiner, notes from Dean Rusk’s Elihu Root Lecture, “Problems of Leadership in the Conduct of American Foreign Policy: The Secretary of State,” February 1, 1960, XXXIV, July 1959 to June 1960 (R-Z), RM, Box 228, CFR. Although a member of the Council on Foreign Relations, Bundy did not attend the lecture. See also Rusk (1960, 355).

48. Because President Kennedy intended very much to act effectively as his own secretary of state, he needed to fill the actual post with a rather weak figure. Rusk, who had been recommended to Kennedy as the perfect lieutenant by both Dean Acheson and Robert A. Lovett, seemed to be the perfect candidate. Moreover, from Rusk’s first Elihu Root Lecture (of three) at the Council on Foreign Relations came the article in the journal *Foreign Affairs* (Rusk 1960), in which he called for strong presidential leadership in the conduct of foreign policy. The article was published at the height of the 1960 presidential election campaign. See Cohen (1980, 94-99), Reeves (1993, 25-26), Schoenbaum (1988, 15-24, 257-59), and Rusk (1960, 353-69).

49. Notes, “A Dinner Discussion Meeting for the Honorable Henry M. Jackson,” RM, box 228, CFR; Summary of Elihu Root Lecture, undated, XXXIV, July 1959 to June 1960 (R-Z), RM, box 228, CFR.

50. Memo, Rostow to Kennedy, May 6, 1961, NSF, Regional Security Series, Southeast Asia (General), box 231, JFKL.

51. Nicholas deB. Katzenbach Interview, February 6, 1999, London. For more detailed descriptions of Rusk’s reticence, see Cohen (1980, 101-3), Schoenbaum (1988, 14-15), and Halberstam (1972, 32-37, 62-63).



He is not a manager. He has never been a good judge of men. His instincts are cautious and negative, and he has only a limited ability to draw the best out of those who work with him. His very discretion seems like secretiveness in his dealings with subordinates; it is a constant complaint in the bureaus that even quite high officials cannot find out what the Secretary himself thinks and wants . . . .

Moreover, the Secretary has little sense of effective operation. He does not move matters toward decision with promptness. He does not stimulate aggressive staff work. He does not coordinate conflicting forces within his own department.<sup>52</sup>

Two decades later, Bundy admitted, “I did have the feeling that Dean Rusk is a very careful fellow; he doesn’t let his guard down.” Bundy felt that Rusk was adept at summarizing the views of others, “but if you want to be sure what he thinks, that’s going to be a little harder, and that’s not going to be the first card he plays.”<sup>53</sup> Ironically, it often appeared that Rusk performed more like an Eisenhower-era special assistant for national security affairs and Bundy more like the secretary of state.

### Fallout from the Bay of Pigs

The increasing concentration of power within the NSC staff was given a boost from an unlikely source: the botched Bay of Pigs invasion. On April 17, 1961, a secretly American sponsored and trained force of Cuban exiles launched what was supposed to be a liberation of Cuba from the Communist regime of Fidel Castro. The Bay of Pigs invasion itself, poorly conceived from the start, was an unmitigated disaster for the United States and an enormous propaganda victory for both Castro and the Soviets. The immediate result was the solidification of Communist rule in Cuba, but it also had significant repercussions for the formulation and coordination of national security policy in Washington. Although publicly Kennedy accepted responsibility for the disaster, privately he placed much of the culpability for failure on the CIA—which organized and helped operate the invasion—and the JCS—none of whom, the president felt, provided accurate and sincere advice when asked. Bundy, who had set aside initial skepticism about the plan and supported the invasion, likewise blamed the CIA and JCS for the failure.<sup>54</sup> Kennedy responded by removing the CIA and JCS and its leaders from the center of the decision-making process. “Never thereafter,” Assistant Secretary of Defense William P. Bundy wrote, “would civilian leaders and advisors accept military and professional judgments without exploring them so fully as to make them, in effect, their own.”<sup>55</sup> If the authority of these departments, including the already emasculated State Department, was curtailed, another must have benefited, and the recipient of the others’ lost prerogatives was the NSC staff.

52. Memo, Bundy to Lyndon B. Johnson, “The Organization of the Department of State,” January 21, 1965, NSF, Memos to the President, McGeorge Bundy Memos, vol. 8, box 2, Lyndon B. Johnson Library, Austin, Texas (hereafter NSF/Memos/McGB, LBJL).

53. Bundy Interview, p. 3, OH/UGA.

54. Memo, Bundy to Kennedy, “Meeting on Cuba, 4:00 PM, March 15, 1961,” March 15, 1961, FRUS, 1961-63, vol. 10, p. 158; Bird (1998, 195-97).

55. W. Bundy, Vietnam Memoir, 3:26, SML.

Kennedy's first decision was to move physically the special assistant and his subordinates closer to the president, and so the NSC staff moved its headquarters across the street from the Old Executive Office Building to the West Wing basement of the White House (O'Donnell and Powers 1972, 277-78; Schlesinger 1965, 269, 382; Smith 1988, 36). The Situation Room was established beside the NSC offices and run by members of the NSC staff "to serve as a funnel for all classified information coming from all national security agencies" (Smith 1988, 37). After the Bay of Pigs, during which the president had no effective means of overseeing the planning and operations of the CIA, all information essential to the conduct of foreign policy would pass through Bundy and the NSC staff via the Situation Room, and, conversely, most vital communications originating from Washington to American officials abroad would need to be cleared by Bundy and his staff. Included were State Department cables to American embassies and some, but not all, military communications traffic from the Pentagon (Smith 1988, 37-38). Other changes signaled the growing institutional strength of the NSC staff. In response to a specific request,<sup>56</sup> Bundy obtained for senior NSC staff members the privilege of dining at the White House mess, which signified their access to, and direct affiliation with, the president.<sup>57</sup> Finally, in a move that weakened the role of the JCS, Kennedy appointed General Maxwell D. Taylor, former Army chief of staff, as a presidential military adviser. The military policy of the Kennedy administration would henceforth be coordinated by Secretary of Defense Robert S. McNamara, who already had a strained and uncomfortable relationship with the JCS, and Taylor. The appointment of Taylor benefited Bundy and the NSC staff by shifting the balance of power in the military bureaucracy from the Pentagon to the White House, where the special assistant and his subordinates would have more input into, and influence over, the administration's military policy.

The personnel and procedural changes enacted after the Bay of Pigs and the apparent amorphousness of the duties of the special assistant and the NSC staff reflected a certain disorganization within the Kennedy presidency. Referring to Kennedy, Bundy (1978, 79) put it in these terms: "Untidiness in management was in some measure intrinsic to the President's way of work." Or, as William Bundy wrote of the Kennedy administration, "the excessive generalization of the Eisenhower era gave way to excessive individuality of policy."<sup>58</sup> By May 1961, other officials within the Kennedy administration began offering criticisms of the lack of coherence in the organization of the NSC system.<sup>59</sup> In his memoirs, Robert Cutler (1965, 301) told a story from 1961 of bumping into "a principal assistant of President Kennedy in the [National Security] Council area, a younger acquaintance from Boston whose intellectual abilities I respected"—only Bundy fits this description—and discovering that while the "principal assistant" and his colleagues had rapidly dismantled the Eisenhower-era NSC system, they had not yet developed an alternative and were operating without an organizational plan. Bundy himself partly concurred with many of these criticisms and felt that perhaps

56. Memo, unsigned to Kennedy, "Current Organization of the White House and NSC for Dealing with International Matters," June 22, 1961, *FRUS* 8 (1961-63): 108.

57. Memo, Bundy to Tazewell Shepard Jr., July 11, 1961, NSF/McGB/Chron. File, box 398A, JFKL.

58. W. Bundy, Vietnam Memoir, 3:3, SML.

59. Draft memo, Fowler to C. Douglas Dillon, "Comments and Suggestions on National Security Council Organization and Procedure," May 5, 1961, NSF/D&A/NSCF, box 283, folder 6, JFKL; memo, Edward P. Lilly to Bundy, May 11, 1961, NSF/D&A/NSCF, box 283, folder 6, JFKL.

Kennedy would benefit from a more structured system, at least as far as the duties of the special assistant and the NSC staff were concerned. He suggested daily intelligence and national security briefings for the president, to be conducted in the Situation Room by either Bundy or a member of his staff, and tighter control by the NSC staff over Kennedy's schedule.<sup>60</sup> It was believed by many, especially in the wake of the debacle of the failed Cuban invasion, that the Kennedy NSC system operated solely on a basis of improvisation and poorly executed crisis management and that this was adversely affecting the conduct of the administration's foreign policy.

However, such criticisms did not take into account the extent to which Bundy and the NSC staff had, in fact, developed a structured apparatus for the operation of national security policy. Nor was the ability of Bundy and his staff to thrive in the absence of a strictly regimented chain of bureaucratic command taken into account. After all, this was, according to Neustadt (1960, esp. 156-61), the very system of contrived chaos that had enabled Franklin Roosevelt to be so effective a president. In introducing Taylor to the Kennedy White House, Kaysen emphasized

the informal and somewhat fluid nature of the [NSC] assignments. [Kaysen] indicated that the formal side of the NSC machinery was handled mainly by Bromley Smith, but that it was the purpose of the operation to get as much done on the informal level as possible.<sup>61</sup>

Reflecting on the success of the NSC staff as the "center of initiative and energy in the planning process," an internal memo for the president stated that staff members have "assumed defined assignments for specific areas of the world. These assignments . . . do not distinguish between 'planning' and 'operation,' and resistance to this distinction is fundamental to our whole concept of work." The means by which the NSC staff operated by this method were control over cable and dispatch traffic through the Situation Room and organizing the NSC staff as a little State Department, with each member responsible for both the planning and operation of U.S. foreign policy in a certain region of the world.<sup>62</sup> Bundy extended this line of reasoning in a rebuttal to criticism from Eisenhower of the Kennedy NSC system in 1962. "We have always had," Bundy wrote, "rather more organization than General Eisenhower probably recognizes" (Smith 1988, 49). As specific examples to support his point, Bundy listed the NSC staff structure, the NSAM series, and the eradication of overlapping layers of ineffectual bureaucracy. The problem was not with the NSC system. Rather, as Bromley Smith recalled, "The State Department has not proved to be as effective an agency of executive management as we had hoped" (Smith 1988, 50).

Kennedy's special assistant and NSC staff did not suffer from a lack of organization or coherence. Indeed, quite the opposite was true and this was their strength. And the disorganization and administrative informality that did exist in the Kennedy administration was a tremendous boon to the NSC staff, for in their small numbers and cohesiveness they could

60. Memo, Bundy to Kennedy, "White House Organization," May 16, 1961, NSF/McGB/Chron. File, box 398, JFKL.

61. Memo for the record, Kaysen, "Conversation with General Taylor, July 3, 1961, 1:30 P.M.," July 3, 1961, NSF, Meetings and Memoranda, Staff Memos (Carl Kaysen), box 320, JFKL.

62. Unsigned to Kennedy, "Current Organization," *FRUS* 8 (1961-63): 106-7.

easily outmaneuver the larger, more unwieldy bureaucracies of the traditional departments. The direct access to the president enjoyed by Rostow, Kaysen, Komer, and Forrestal, not to mention their close relationships with Bundy, or Bundy's with Kennedy, are good examples of this, particularly when contrasted with the relationship between most State Department officials and the president. The ability of the special assistant and the NSC staff to outmaneuver the State Department during the Kennedy administration would play a major role in determining the course of America's policy toward Vietnam.

### The Transition to Lyndon Johnson, 1963-64

The assassination of Kennedy on November 22, 1963, ensured a change in presidents, but it did not necessarily require a change in Bundy's role. Indeed, Lyndon Johnson would come initially to rely on Bundy much more than Kennedy did. "My own work load," Bundy reported to Johnson shortly after the 1964 election, "has increased in your administration."<sup>63</sup> Although LBJ's reputation—then and since—for inexperience in matters of foreign affairs has been somewhat exaggerated,<sup>64</sup> the new president was much more comfortable and adept with domestic policy and, unlike his predecessor, did not intend to serve as his own Secretary of State. Johnson came quickly to value Bundy's foreign affairs acumen and administrative abilities. Legend has it that when Bundy left Washington for a Caribbean holiday shortly after Kennedy's death, the apparatus for the coordination of White House foreign policy came unglued.<sup>65</sup> Aside from Washington lore, it was clear to Johnson that Bundy was an integral component, administratively and substantively, of the Kennedy administration and that he should continue to serve as special assistant for national security affairs under LBJ. Johnson was so intent on retaining Bundy's services that he invited Katherine Bundy, the special assistant's mother, to the White House. LBJ extolled Bundy's talents and indispensability, hoping that Mrs. Bundy would convince her son to stay (Bird 1998, 268).

Johnson need not have gone to such lengths, for Bundy had never intended to leave. He thanked the president for the "warm expression of confidence" and considered "it a duty as well as an honor to serve you as you have asked." In a display of loyalty that showed that there was no question who was in charge, Bundy tendered an undated letter of resignation, "to take effect at [Johnson's] pleasure and convenience."<sup>66</sup> Unlike many of Kennedy's personal aides, such as Ted Sorensen and Arthur Schlesinger Jr., Bundy felt that he owed allegiance to the presidency as an institution rather than to any one individual. Of Bundy's sense of institutional loyalty, one politician said, "I know he did worlds for Kennedy. I know he does worlds for Johnson. But he would have done the same for Joe Stalin too" (Kraft

63. Memo, Bundy to Johnson, December 11, 1964, NSF, Files of McGeorge Bundy, Chronological File, box 5, LBJL (hereafter NSF/Files-McGB/Chron).

64. For contemporary examples, see Evans and Novak (1966, 391-93), Wicker (1968, 195-98), and Halberstam (1972, 305, 401). For later, more scholarly examples, see Henggeler (1991, 105-6), Hunt (1996, 75-78), and Kaiser (2000, 284-88). For a contrary view, see either Hammond (1992, 13-14) or Brands (1995, 24-29).

65. Frankel (1965, 96); "The Use of Power with a Passion for Peace," *Time*, June 25, 1965, p. 21.

66. Letter, Bundy to Johnson, November 23, 1963, NSF/Files-McGB/Chron. File, box 1, LBJL. For the mutually respectful relationship between Bundy and Johnson in the wake of the assassination, see Valenti (1975, 69, 80-81). Jack Valenti was one of LBJ's closest aides from 1963 to 1965.

1965, 112). Although he was not a personal aide, and thus did not rely on his relationship to Kennedy for authority, this does not in itself explain Bundy's sense of higher responsibility; rather, in the fashion taught to him by Stimson, Bundy believed deeply in the institutional obligations and sense of duty that underpinned the purpose of public service. McGeorge Bundy was not engaged in politics.

Bundy turned to a familiar forum, the journal *Foreign Affairs*, to express the continuity of loyalty from one president to the next. Hamilton Fish Armstrong, the journal's editor, suggested that Bundy use his article to write "that the Kennedy style lives on, that we are as sensible, as helpful, as imaginative as ever about the things that concern us all" (Gardner 1995, 93). Bundy, however, thought in terms more tangible than mere "style." The article's "immediate object," he wrote Rusk and McNamara, "is to pay a tribute to President Kennedy, but it has a parallel purpose of aiming to suggest to foreign readers that our temper and purpose remain essentially as they have been." The chief purpose of the piece, Bundy stressed, "should be useful to the President we have, as well as a tribute to the one we have lost."<sup>67</sup> Bundy confided to Johnson, "I have had to be a little careful about sounding like a direct White House propagandist for the new Administration, but I have done what I could."<sup>68</sup> In the staid tradition of *Foreign Affairs*, to which both Henry Stimson and Bundy had often contributed, the special assistant wrote of the continued obligation of duty to the new president:

The Administration in Washington, led now by President Johnson, will face new problems and make new decisions, and as time passes the new imprint of a strong mind and heart will be felt increasingly—in the Presidency, in the Government, and in the world. President Kennedy would have been the last to suppose that the purely personal characteristics of any President, however loved and mourned, could or should continue to determine the work of the Presidency after his death. President Johnson will conduct the office in his own way. Yet the short space of three months is enough to show plainly that the pursuit of peace remains his central concern, while the effective transfer from any one Administration to the next has reflected the fact that loyalty to President Kennedy and loyalty to President Johnson are not merely naturally compatible, but logically necessary as part of a larger loyalty to their common purpose. (Bundy 1964, 364)

Because Johnson could safely trust Bundy's advice on foreign policy—after all, the special assistant had eschewed any lingering personal devotion to Kennedy—Bundy's public demonstration of loyalty helped to ensure the continuation of his services and the advancement of his prominence within the administration.

Along with Bundy, the NSC staff remained with its members, duties, and functions largely intact. The day following the assassination, Bundy described the NSC operation to Johnson as nothing less than the coordination of the president's foreign policy. "The most valuable asset of my office," Bundy wrote, "is a staff of half a dozen first-rate men . . . who have learned to combine mastery of specific area problems with a sense of what it is about them that matters to the President."<sup>69</sup> This was a system the special assistant valued highly.

67. Memo, Bundy to Rusk and Robert S. McNamara, February 18, 1964, NSF, Declassified and Sanitized Documents from Unprocessed Files (DSDUF), box 1, LBJL.

68. Memo, Bundy to Johnson, March 2, 1964, NSF/Memos/McGB, vol. 2, box 1, LBJL.

69. Memo, Bundy to Johnson, "The White House Staff," November 23, 1963, NSF/Files-McGB/Chron. File, box 1, LBJL.

“Man for man,” Bundy wrote to Johnson in an evaluation of the NSC staff, “I would not trade this staff for any other in Washington.”<sup>70</sup> However, although the Johnson NSC operation continued to function essentially on the same premise, there was one enormously significant alteration: LBJ vested more trust and authority at the top of the decision-making structure and less responsibility in the levels below. This enhanced Bundy’s influence with the president while simultaneously diminishing that of the NSC staff. This shift would have tremendous implications for America’s Vietnam policy, as it neatly coincided with two other changes in the NSC system: the replacement of departing staff members who advocated intervention with those who were more circumspect and Bundy’s own increased level of interest and direct involvement in devising Vietnam policy.

NSC veteran Robert Johnson (1969, 719) attributed the change to a difference in personality and style between Kennedy and Johnson: “President Johnson’s approach to national security policymaking was more personal and informal than President Kennedy’s.” Since Kennedy had already considerably informalized the NSC system, the difference between the Eisenhower and Johnson administrations, and the roles of their respective special assistants, was very great indeed. Johnson preferred to deliberate and decide policy in front of, and with the participation of, as few people as possible, which ensured that the full NSC would meet less frequently. There was not much resistance, as Johnson’s principal foreign policy advisers also felt uncomfortable discussing policy in front of such large gatherings.<sup>71</sup> And, as one journalist reported, LBJ believed that full NSC meetings increased the chances of leaked information to the media:

Irritated over a steady stream of news leaks from NSC meetings, the President asked an aide, “Do we have to have all these people?” He began scratching names off the list, [and] finally winnowed it down to Bundy, McNamara and Rusk. He still meets with the NSC, but when he really wants to speak his mind—or hear others speak theirs—he summons the Big Three.<sup>72</sup>

What came to replace the convening of the full NSC was the “Tuesday Lunch,” an informal but regular meeting among Johnson, Bundy, Rusk, and McNamara. Others, such as the director of Central Intelligence or the chairman of the JCS, were included when the president felt it necessary, but during the Bundy era the Tuesday Lunch usually meant a meeting of the “Big Three.” Added to the special assistant’s duties was the task of preparing the agenda for each meeting.<sup>73</sup> The Tuesday Lunches began in February 1964, but their utility and permanency were not established among LBJ and the Big Three until the Tonkin Gulf crisis the following August.<sup>74</sup> Every Tuesday, Bundy, Rusk, and McNamara would meet with Johnson over lunch and determine the direction of America’s foreign policy. It has been described as “a kind of regular NSC meeting,” with the difference being that only four members participated (Rostow 1972, 358).

70. Memo, Bundy to Johnson, “Organization of the National Security Staff,” August 2, 1965, NSF/Memos/McGB, vol. 13, box 4, LBJL.

71. Dean Rusk, Interview 1, July 28, 1969, pp. 23-24, OH/LBJL.

72. “The Big Three,” *Time*, April 30, 1965, p. 18.

73. Rusk, Interview 1, p. 22, OH/LBJL; Rostow (1972, 359).

74. Memo, Bundy to Jack Valenti, July 27, 1964, NSF/Files-McGB/Chron. File, box 3, LBJL; Humphrey (1984, 81-82); Smith (1988, 63).



In terms of influence with the president, Bundy's rise paralleled the NSC staff's decline, although it remained important in its potential to inform and shape the opinions of not only the special assistant but members of other departments as well. With the exception of during the crisis surrounding the Tonkin Gulf incidents, Johnson did not have much contact with Bundy's staff until after the 1964 presidential election.<sup>75</sup> Even after LBJ's victory, NSC staff members—other than the deputy special assistant—found that they did not have direct access to Johnson as they had had with Kennedy.<sup>76</sup> This was due in part to the fact that some NSC staff members in the Kennedy presidency, such as Rostow and Forrestal, had been personally selected by the president, which was not the case under Johnson. But the best explanation lies in the decision-making methods Johnson used, for example, relying almost exclusively on his top officials.

### Roles and Relationships at the Top

Bundy had thus created a powerful new institution within the foreign-policy-making process. Remarkably, despite the many obvious opportunities to abuse his power, Bundy managed his responsibilities with little friction between his office and the Departments of State and Defense. He preferred to work with, instead of against, Rusk and McNamara. Against the backdrop of severe infighting in the Nixon administration between Henry Kissinger and Secretary of State William Rogers, Rusk wrote to another former secretary of state, Dean Acheson, that he had “never felt that [Bundy] was causing problems for the intimate triangle made up of the President, the Secretary of State and the Secretary of Defense.”<sup>77</sup> McNamara's personal and professional opinion of Bundy was similarly high: “He had an extraordinary intellect and a deep understanding of [his] role as National Security Adviser.”<sup>78</sup> Ball admired Bundy's ability to play “a strong hand in formulating our foreign policy with only a minimum of friction with the State Department” (1982, 172-73). Unlike the internecine bureaucratic warfare that was characteristic of the Nixon and Carter administrations, Bundy for the most part respected the prerogatives of his colleagues and recognized the limits of his own power.

However, while Bundy may have “executed his mission with extraordinary sensitivity to the prerogatives of the Secretaries of State and Defense” (Rostow 1972, 169), his ability to do so stemmed more from a convergence of interests with his colleagues. McNamara and Bundy almost always agreed on policy matters, so there was no need for the special assistant to outmaneuver the Secretary of Defense. Rusk also agreed with Bundy most of the time; even when he did not, any differences became moot due to Rusk's reticence and reluctance to raise such matters. Others in the State Department did not lack a sense of grievance. Chester Bowles, the undersecretary until November 1961 and an opponent of military escalation

75. Michael V. Forrestal, Interview 1, November 3, 1969, pp. 17, 21-22, OH/LBJL.

76. Francis M. Bator Interview, April 8, 1999, Cambridge, MA; Bromley K. Smith, Interview 1, July 29, 1969, p. 33, OH/LBJL. From 1964, Bator was the expert on international economics and trade on the National Security Council staff.

77. Rusk to Acheson, March 3, 1971, Dean Acheson Papers, series I, box 27, folder 341, SML. See also Rusk (1990, 518-519).

78. Interview with Robert S. McNamara, March 17, 1999, Washington, DC. See also McNamara (1995, 95).



in Vietnam, recalled that “inevitably the White House staff under McGeorge Bundy assumed more and more responsibility for questions which should have been handled by the State Department” (1971, 360-61). By the fall of 1961, Bowles felt that he had been “poked around” and his role as undersecretary had been marginalized by the special assistant.<sup>79</sup> Bundy later admitted as much to LBJ: “You’ll see that we tried pointedly to sidetrack Bowles,” who was by then ambassador to India and who was still critical of American intervention in Southeast Asia.<sup>80</sup> Moreover, Bundy would often go around Rusk, Bowles, and Ball and deal directly with midechelon State Department officials on policy matters.<sup>81</sup> As Bundy himself later admitted of the relationship between the NSC staff and the State Department, “there was institutional difficulty.”<sup>82</sup> Congressional leaders also came to view the new NSC operation with skepticism. The position of special assistant for national security affairs was not subject to the advice and consent of the Senate, and so opponents of the Vietnam War, such as Chairman of the Foreign Relations Committee J. William Fulbright, could not call Bundy, a major architect of American policy, to testify before Congress. They were similarly unable to meet informally with Bundy, as they often could with Rusk or McNamara.<sup>83</sup> Frank Valeo, assistant to Senate Majority Leader Mike Mansfield, recalled that the administration arrogantly thought that Bundy was a foreign affairs specialist, particularly on Vietnam, while “Congress is supposed to know about other things” (Olson 1995, 141).

### The Consequences of Change

Despite Bundy’s best efforts not to upset the “intimate triangle” between the president and the secretaries of State and Defense, the addition of another Cabinet-level official to the administration fundamentally altered its dynamic of formulating and conducting foreign policy. The voice of the special assistant—enhanced by the collective voice of his staff—simply added yet another dimension to the process. Bundy or a member of his staff quite often steered foreign policy in a manner that would have been unthinkable to Truman and Eisenhower or, for that matter, to Acheson and John Foster Dulles. Although Bundy played a significant part in the Kennedy administration’s fiasco at the Bay of Pigs and in its triumph in the Cuban Missile Crisis, it cannot be said that he actually determined policy.<sup>84</sup> His influence is more distinguishable, for example, in the death of the Multilateral Force (MLF) from 1964 to 1965, but even then Bundy merely provided a tidy conclusion to a story that had already been written.<sup>85</sup> Bundy was the most notable, and noticeable, administration official to become involved in the intervention in the Dominican Republic in April 1965; but,

79. Chester Bowles OH, vol. 5, June 7, 1963, p. 842, Columbia Oral History Project, Butler Library, Columbia University, New York.

80. Memo, Bundy to Johnson, March 11, 1964, NSF/Memos/McGB, vol. 2, box 1, LBJL.

81. Roger Hilsman, Interview 1, August 14, 1970, p. 8, OH/JFKL.

82. Bundy Interview, p. 4, OH/UGA.

83. Carl M. Marcy, Interview 6, October 26, 1983, pp. 195-96, U.S. Senate Historical Office, Oral History Program, Manuscripts Division, Library of Congress, Washington, DC.

84. For Bundy’s role in both events, see Bird (1998, 193-201, 226-49).

85. See memo, Bundy to Johnson, “MLF—An Alternative View,” December 6, 1964, *FRUS* 13 (1964-68): 134-37.

rather than drive American policy, he steered it in the direction outlined explicitly by President Johnson (Lowenthal 1972, 158-59; Bird 1998, 319-20; Felten 1999, 103-18). Where Bundy and the NSC staff did play an enormously important role in formulating and largely determining policy, however, was in Vietnam.

It is clear that Bundy and certain members of his NSC staff favored, as necessary, American military intervention to prevent a collapse of non-Communist South Vietnam, and that they assiduously promoted this line of policy from their newly won position of influence.<sup>86</sup> In 1961, Rostow was perhaps the most ardent and alarmist of the proponents of intervention, and he consistently advocated such a case throughout the administration. His efforts in helping to draft the Taylor Report in November is only the most obvious example.<sup>87</sup> Indeed, the missions to South Vietnam of then-Vice President Lyndon Johnson in May, and Taylor in October, themselves originated from Rostow's prodigious efforts to escalate the Kennedy administration's public commitment to Saigon.<sup>88</sup> After Rostow's departure at the end of 1961—he left to head the State Department's Policy Planning Council—Forrestal continued to forward the case for holding on in Vietnam, although he did so with a great deal more realism and, at times, skepticism.<sup>89</sup> Forrestal followed Rostow to the State Department in July 1964 and, with the situation in Vietnam deteriorating considerably, Bundy himself carried the torch for escalated military intervention. His now-infamous “fork-in-the-road” memo of January 1965—written on behalf of McNamara, as well—put the dilemma in stark, bleak terms and proposed “to use our military power in the Far East and to force a change in Communist policy” as the solution. In response, Johnson sent a mission to Saigon, led by Bundy, for a reassessment. The subsequent attack on a U.S. military base at Pleiku seemed to confirm Bundy's already-drawn conclusions, and retaliation, soon to evolve into the sustained ROLLING THUNDER campaign, followed swiftly.<sup>90</sup> Finally, during the intensive policy debates of July 1965 on whether to send American troops to South Vietnam, Bundy, in his role as the president's filter, tilted the plausible options away from disengagement, such as those proposed by George Ball.<sup>91</sup> At each of these crucial turning points, Bundy, supported by his staff, used his bureaucratically advantageous position in the

86. The point is made briefly in Burke and Greenstein (1989, 15, 184-85) and Herring (1994, 6-8).

87. On the role played by Rostow in the drafting of the Taylor Report, see Maxwell D. Taylor to Kennedy, November 3, 1961, *FRUS* 1 (1961-63): 477-79; memo for the record, November 6, 1961, *FRUS* 1 (1961-63): 532-34; and memo, Rostow to Kennedy, November 11, 1961, *FRUS* 1 (1961-63): 573-75. See also Kaiser (2000, 69-70, 85-86, 92-94, 105-7, 113-16). Moreover, Bundy himself recommended that Kennedy send one division of American troops to South Vietnam “for *military* purposes.” Memo, Bundy to Kennedy, November 15, 1961, NSF, McGeorge Bundy Correspondence, Chronological File, box 399, JFKL. Emphasis in original.

88. On the Johnson mission, see memo, Rostow to Kennedy, March 29, 1961, NSF, Country File, Vietnam, box 193, JFKL (hereafter NSF/CF/VN); memo, Rostow to Kennedy, April 12, 1961, NSF/CF/VN, box 193, JFKL; and memo, Rostow to Kennedy, “Durbrow on Alsop on Diem on Viet-Nam,” April 15, 1961, *FRUS* 1 (1961-63): 72. On the origins of the Taylor mission, see memo, Rostow to Kennedy, July 29, 1961, *FRUS* 1 (1961-63): 256-57; memo, Rostow to Kennedy, August 4, 1961, NSF/CF/VN, box 194, JFKL; and Taylor (1972, 222-23).

89. On Forrestal, see, for example, memo, Forrestal to Kennedy, “Vietnam,” August 27, 1963, *FRUS* 3 (1961-63): 658-59.

90. The fork-in-the-road is found in memo, Bundy to Johnson, “Basic Policy in Vietnam,” January 27, 1965, *FRUS* 2 (1964-68): 95-97. The post-Pleiku report is found in memo, Bundy to Johnson, February 7, 1965, *FRUS* 2 (1964-68): 174-81.

91. Memo, Bundy to Johnson, July 1, 1965 NSF, Files of McGeorge Bundy, Chronological File, box 10-11, LBJL. Many scholars now feel that the July 1965 internal policy debates were not conducted with sincerity and that LBJ and his inner circle had already decided on sending large numbers of American forces. For example, see Logevall (1999, 333-74).

Kennedy and Johnson administrations to strive to intensify, politically and militarily, the U.S. commitment to a non-Communist South Vietnam. Bundy and the NSC staff were not, of course, the sole determinants of American policy in Vietnam, but they were major factors.

Kennedy and Bundy enacted changes to the NSC system that were unprecedented. By transforming the role of the special assistant to the president for national security affairs from a passive administrator to an active policy maker, Kennedy and Bundy added another Cabinet-level official to the decision-making process and altered its previous balance. Presidents before Kennedy would often introduce outside advisers to the administration, but with the possible exception of Harry Hopkins under Franklin Roosevelt, none before Bundy had possessed such bureaucratic power in addition to presidential favor. Although Bundy did not personally assume as large a role under Kennedy as he would under Johnson, the special assistant now had his own staff, a team of policy experts who functioned effectively as a “little State Department.” With their smaller numbers and greater access to the president, Bundy and the NSC staff—who favored increased intervention in Vietnam—could, and often did, outmaneuver State Department officials—most of whom favored some form of disengagement—on policy issues and effectively influence the direction of decision making.

This trend was intensified during the Johnson presidency, and decisions were reached on an even more informal basis. The NSC staff retreated from the zenith of authority it had enjoyed under Kennedy and became more Bundy’s own staff than the NSC staff. LBJ conducted his administration’s foreign policy among as few officials as possible, which offset the effects of the NSC staff’s diminished role by giving Bundy himself an even greater hand in determining policy. By the beginning of 1965, the “Big Three” were the key decision makers on Southeast Asia—of McNamara, Bundy, and Rusk, one administration official complained that “they are running the war in Vietnam”<sup>92</sup>—but Bundy was clearly more dynamic and instrumental in establishing policy than the seemingly diffident Rusk. As a result, the course in Vietnam Bundy favored was, almost invariably, the one Kennedy and Johnson followed.

92. Quoted in “The Big Three,” *Time*, April 30, 1965, pp. 17-18.

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# Congressional Support of the President: A Comparison of Foreign, Defense, and Domestic Policy Decision Making during and after the Cold War

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*Recent research on congressional-executive relations has concluded that partisan and ideological forces explaining decision making in domestic policy have also become dominant in the realm of foreign policy. Accordingly, scholars have inferred the effective demise of the two-presidencies. In this analysis, the authors compare models explaining bipartisan congressional support of the president on domestic issues with that of foreign and defense. Although factors relating to the congressional context tended to be influential in both policy areas, they found important differences in the effects of factors relating to the international context. They also found that congressional bipartisan support was significantly less likely on matters related to the purse strings and on issues such as trade. The contrasting effects of the explanatory factors across policy areas suggest the importance of both the two-presidencies and resurgent Congress perspectives in explaining congressional-executive interactions.*

With the end of the cold war, it seems unlikely that a broad domestic consensus will arise concerning the role of the United States in the newly emerging international order. Charles Kegley (1993), for instance, believed that the end of the cold war has changed “all the answers and all the questions” (p. 141), and cold war icon Paul Nitze (1999) saw a new international system that offers “less direct traditional security threats to the United States” (p. 3).

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Coupled with this less dangerous international environment, there appears to be no clear agreement among policy makers and foreign policy elites regarding U.S. foreign policy priorities. As a consequence, congressional leaders and the rank and file have in recent years increasingly asserted their ideological and partisan preferences. Recently, in fact, the House Republicans embarrassed the Clinton administration by denying the president majority support for the air war against Yugoslavia.<sup>1</sup> And in the Senate, the Republicans single-handedly defeated the comprehensive nuclear test ban treaty. Senator Joseph Lieberman (D-CT) of the Armed Services Committee suggested that the vote sent a crystal-clear message to the White House, equating it with a “*two-by-four to the side of the head*” (*Congressional Quarterly Weekly Report*, December 4, 1999, 2916).

Clearly today—regardless of partisan affiliation—there are few on Capitol Hill that view national security and foreign affairs as solely falling under the jurisdiction of the executive. With the increasing overlap of foreign and domestic policy, high politics issues no longer command the attention they used to (Lindsay 1993). Indeed, the electoral incentives facing members of Congress in the area of foreign policy have shifted considerably over time (Lindsay 1994). Issues of trade, international finance, and immigration now dominate many important subcommittee and full committee hearings. House members may increasingly challenge international programs with an eye on parochial interests rather than on a broader strategic vision. Congressional assertiveness has even led President Clinton to publicly lament the end of the cold war. “Gosh, I miss the Cold War,” he exclaimed in 1993 (quoted in Jentleson 1997).

We address two interrelated issues regarding congressional-executive relations. One question we seek to answer is, to what extent can internal factors (e.g., institutional context) as opposed to the external or systemic political context explain over time variation in congressional bipartisan support of the president in the international arena? Second, by focusing on internal and external factors, we seek to draw a distinction between the relevance of the two-presidencies and the resurgent Congress perspectives for explaining congressional bipartisanship in international affairs. Both of these theoretical views offer different explanations for congressional support of the president. The former suggests that the president dominates foreign policy and can garner congressional support due to strategic concerns of the cold war environment, information advantages, and greater institutional powers and personal investment. In contrast, the latter view of the resurgent Congress focuses on the importance of congress-centered features like the role of committees and political parties and how these features affect interbranch relations (Bond and Fleisher 1990; Meernik 1993; Rohde 1994; Smith 1994). Binder (1999) also demonstrated that intrabranched characteristics like the degree of preference overlap between political parties may be as important for understanding policy making as features of interbranch relations. Certainly, the resurgent Congress perspective suggests that the congressional reforms and the conditions that led to them represent a significant change in the way that Congress and the president conduct the business of foreign policy making.

1. Richard Gephardt (D-MO) lambasted the GOP leadership’s role in defeating the bombing resolution, referring to the defeated vote as “the low moment in American foreign policy” and indicating to him that “the extreme right wing of the Republican Party remains in control of that party” (*Congressional Quarterly Weekly Report*, May 1, 1999, 1038).

Most analyses investigating congressional-executive relations combine foreign and defense policy issues and treat them as one in the same (Fleisher et al. 2000; Meernik 1993; McCormick and Wittkopf 1990). This is empirically problematic because explanatory factors, such as changes in institutional arrangements, can dramatically alter congressional-executive interactions in different ways depending on the specific policy areas (Rohde 1994; LeLoup and Shull 1999). We believe that comparing foreign and defense policy with domestic can provide insight into how congressional-executive relations may have been fundamentally altered in different ways by changes to congressional institutions and the end of the cold war (see McCormick and Wittkopf 1990 for an opposing view). Without explicitly accounting for these effects across issues, we may misinterpret the causal sources of congressional support of the president.

In assessing theories of congressional-executive interaction, we also believe that it is essential to differentiate between the more general notion of presidential success and the specific condition of bipartisan congressional support. Because bipartisanship represents a subset of presidential success, there likely exist some common factors in understanding both. However, we draw on the two-presidencies and resurgent Congress models to shed light on theoretically important differences.

According to the two-presidencies model, the executive's influence over foreign policy is rooted in strategic necessity created by a fluid and dangerous international environment as well as institutional and informational advantages. Moreover, the president's hypothesized advantages are not party specific but reflect institutional deference and cooperation from the entire Congress. This condition resulting in bipartisan support, then, implies the presence of some shared long-term goals sufficient to outweigh any immediate political incentives for partisan conflict within and/or between Congress and the president. In contrast, presidential success more generally captures the president's ability to attract minimum winning coalitions in Congress. Conditions of presidential success are primarily the result of support from the president's co-partisans but may also result from the support of the opposition party. In our view, the resurgent Congress perspective offers greater explanatory leverage with respect to these latter conditions of presidential success. Unlike congressional bipartisanship, the president's ability to attract a winning coalition from his own party is more likely a function of shared electoral and/or short-term political preferences rather than prescriptive norms of institutional deference. These contrasting conditions in presidential support are conceptually important to distinguish between because bipartisan support, and not necessarily conditions of presidential success more generally, is the most relevant for explanations offered by the two-presidencies thesis.

### **Preference Disparities, Institutional Change, and Presidential Influence**

With the end of the cold war, scholars are provided an environment to reexamine relations between the president and Congress. Certainly, evidence suggests that a much more conflictual and partisan atmosphere exists now in Washington. McCormick, Wittkopf, and

Danna (1997), for example, showed that partisanship exerted a powerful influence on congressional roll-call votes during the Bush administration and the first term of the Clinton administration. Wittkopf and McCormick (1998) also found after the cold war less overall support in Congress for a president's position than during the previous decade. This recent study appears to once again confirm that party loyalty and ideology are the two strongest determinants of an individual congressman's foreign policy support score (see Lindsay 1994).

More important, perhaps, when it comes to relations between the president and Congress is the preference disparity that now exists between the two main political parties. For example, Binder's (1999) model of gridlock showed the significance of preference alignments between the congressional parties and between the chambers in affecting the passage of public policies. One would infer from her findings that preference alignments within Congress seriously shape the character of congressional-executive relations. In addition, Rosner (1995) envisioned increased congressional assertiveness as ideological and partisan cleavages persist in defining debate on Capitol Hill. Such assertiveness was further impelled, after the congressional reforms, by party leaders who were granted the institutional tools to effectively frustrate an executive's policy agenda (Smith 1994; Sinclair 1993; Rohde 1994).<sup>2</sup>

According to Thurber (1996), "the give-and-take between national and local representation, deliberation and efficiency, openness and accountability, specific interests and the 'public good' ensures a certain amount of confrontation between Congress and the president." (p. 13). However, congressional assertiveness in foreign affairs was particularly affected by the changing preference alignments between the congressional political parties and the institutional reforms (Warburg 1989). The reforms largely uprooted traditional norms of member deference to committees, which had previously sustained consensus on presidential priorities in foreign policy. In essence, these reforms meant that congressional institutions would be less likely to shield presidential priorities from member opposition. Rather, the policy preferences of the president would increasingly compete with a broader array of member interests that used partisan institutions to challenge the president (Sinclair 2000). On this point, Seligman and Covington (1996) wrote, "the proliferation of bargaining partners in Congress and the limited ability of congressional leaders to persuade the rank-and-file to accept guidance mean that coalition building in Congress becomes increasingly time-consuming and costly" (p. 71).

### Issues and the Two-Presidencies Thesis

Models explaining the occurrence of institutional conflict over international affairs have often neglected potentially important differences across issues. For example, McCormick and Wittkopf (1990) confined themselves to only foreign policy votes, while Meernik (1993) aggregated the votes from both foreign and defense issue areas. Hinckley (1994) argued, however, that "*foreign policy is [not] a single category, consistent in itself. There are*

2. At times, President Clinton has even had difficulty among Democratic leaders. For example, Senator Sam Nunn, when he was chairman of the Armed Services Committee, clashed publicly with the president over his policy regarding gays in the military (see Ornstein 1994).

*many kinds of foreign policy*. . . . It follows that Congress might be more assertive—and more changeable in its influence—in some of these areas than in others” (pp. 6-8).

A concern for issues predictably leads to a discussion of the two-presidencies thesis. Aaron Wildavsky (1966) proposed that presidential success in Congress is more likely to occur on foreign and defense policies rather than on more divisive domestic issues. Wildavsky’s hypothesis appeared to account well for the immediate post–World War II presidency. The Soviet threat led to the expansion of the national security bureaucracy, which strengthened the president’s hand in the making of U.S. foreign policy. With data drawn from the 1950s and 1960s, Wildavsky showed that presidents were more successful in Congress when it came to foreign and defense policies as compared to domestic policy (also see LeLoup and Shull 1979). Indeed, Wildavsky observed, “presidents prevail about 70 percent of the time in defense and foreign policy, compared with 40 percent in the domestic sphere” (p. 8).<sup>3</sup>

Despite the initial findings, scholars have challenged Wildavsky’s (1966) research and conclusions. Bond and Fleisher (1990), for instance, found only limited evidence for a significant issue-area difference in presidential success. Only Republican presidents, according to Bond and Fleisher (p. 171), demonstrated an improvement on foreign and defense-related issues, and only when it comes to conflictual votes. Cohen (1991) similarly found little empirical support for Wildavsky’s hypothesis. Interestingly, Cohen showed from 1961 to 1970 that presidential success on foreign versus domestic policy was minus 14 points, indicating greater success on domestic policy proposals. However, Cohen did find that the greatest difference between foreign versus domestic policy success occurred during the years 1948 to 1964, exactly the time frame studied by Wildavsky. It seems, then, that the emerging bipolar conflict led briefly to enhanced presidential dominance over foreign and defense policy.

Neither Bond and Fleisher’s (1990) nor Cohen’s (1991) evidence will end the debate over Wildavsky’s (1966) conjecture.<sup>4</sup> Even more recently, Fleisher et al. (2000, 23) suggested “abandoning” the two-presidencies model and instead focusing on the various conditions in which one institution may possess greater powers to influence policy than another. We do not necessarily disagree with their argument. However, before dismantling the two-presidencies thesis completely, we think it is important to further investigate how various features of the international and legislative political context shape the character of congressional-executive interactions across issue areas. Indeed, one important problem in assessing Wildavsky’s thesis is that policies like economic and trade issues have become more pervasive on the foreign policy agenda (Crabb and Holt 1989; Warburg 1989). Controlling for issue areas may have implications for the two-presidencies thesis inasmuch as economic and trade issues seem more likely to affect a member’s home constituency as compared to issues of peace and national security.

3. Wildavsky (1966) also found differences in presidential success across defense and foreign policy issues. While 73.3 percent of defense policy proposals passed from 1948 to 1964, only 58.5 percent of foreign policy proposals successfully passed. The success rates of both issue areas, however, were markedly higher than the domestic policy success rate, which stood at 40.2 percent.

4. Interestingly, Shull and LeLoup (1991, 49) maintain that Wildavsky was essentially correct, albeit with some minor modifications. According to Shull and LeLoup, there is greater conflict when it comes to foreign aid, trade, and general defense and national security policies. However, high-level diplomacy and specific military and national security decisions are still dominated by the president.

## Expectations

Our discussion thus far leads to several important expectations related to the differential effects of both systemic and Congress-centered factors in explaining bipartisan support of the president. Wildavsky's (1966) two-presidencies model not only predicted high levels of congressional support on foreign and defense policy but also suggested that significant differences will exist in congressional support between foreign and defense as compared to domestic policy. We have argued that congressional bipartisanship more accurately captures the nature of executive influence over foreign policy attributed by the two-presidencies model. Consistent with this argument, we expect in general that the international environment will have significant effects on the likelihood of congressional bipartisan support of the president in the area of foreign and defense policy, while no such effects should be found on domestic policy.

We use two theoretically important variables to control for the effects of the international environment. The first is simply a qualitative indicator of the cold war consensus. During periods of heightened international tensions—like that observed during the height of the cold war—Congress should be more likely to defer to the president in the realm of foreign affairs. We hypothesize the following:

*Hypothesis 1:* The likelihood of bipartisan support of the president's position should be higher on foreign and defense policy during the height of the cold war (1953-73) as compared to the period after the cold war.

In addition, we include a variable measuring the annual change in military expenditures designed to capture changes in threat perception (Morgan and Palmer 1997).<sup>5</sup> An increase or decrease in this allocation serves as a useful indicator for an executive's perception of the threat level emanating from the international system. Increases in the defense budget are associated with heightened levels of perceived threat. So, we hypothesize the following:

*Hypothesis 2:* The likelihood of congressional bipartisan support of the president should be positively related with levels of international threat.

A temporal interaction is also included with defense expenditures to control for possible changes coinciding with the congressional reforms.

The type of vote, as well as the specific types of issues in debate, represents potentially important features of the institutional context that may affect bipartisan support. All else being equal, final passage votes are much less likely to elicit conflict relative to amendment votes. Amendments tend to be associated with conflict because they represent substantive challenges to committee proposals (Smith 1989; Rohde 1994). This leads to our next hypothesis:

5. The defense expenditure data derive from True, Jones, and Baumgartner (1998). The actual expenditure data are in current U.S. dollars. The percent change from one year to the next is used in the logit analysis.

*Hypothesis 3:* The likelihood of bipartisan congressional support should be lower on amendment votes as compared to other votes.

In addition, the distinction between authorization and appropriations legislation defines another important feature of the congressional environment. Not only are authorization committees more closely aligned with executive-branch departments often resulting in similar policy preferences, but control of the purse strings is fundamental to Congress, and as a result there is less reason to accede to an executive's agenda. Furthermore, appropriations bills command considerable attention on the chamber floor, often resulting in partisan conflict over programming priorities (Bacchus 1997; Aldrich and Rohde 1997-98). Therefore,

*Hypothesis 4:* The likelihood of bipartisan congressional support should be lower on appropriations legislation relative to other types of policies.

Earlier, we suggested that the growth of economic and trade issues has dramatically changed the makeup of the foreign policy agenda that Wildavsky (1966) hypothesized about. The foreign policy agenda is no longer dominated by high politics issues that are relatively less affected by domestic concerns (McCormick and Wittkopf 1992). Instead, the growing distribution of economic and trade issues constituting the foreign policy agenda tends to activate a wide range of domestic political interests across congressional districts (Oleszek 1992).<sup>6</sup> Thus, we expect to find greater evidence of congressional assertiveness in the areas of trade and foreign aid relative to other policies.<sup>7</sup>

*Hypothesis 5:* The likelihood of congressional bipartisan support should be lower on trade and foreign aid as compared to other types of policies.

Features of the interinstitutional context are also important for explaining bipartisan congressional support. Bond and Fleisher (1990, 172) surmised that the observed advantage of Republican presidents derived from circumstances related to divided government. Under these conditions, they argued that the majority opposition party was perceived as sharing the governing responsibility with the president and therefore would have a greater obligation to cooperate in passing the president's foreign and defense policy agenda. Other scholars have added that the impact of divided government on congressional support of the president is rooted in electoral forces that produce agreement (or lack thereof) in policy preferences between the president and members of the political parties in Congress (Rohde 1994). In the analysis, we assess whether divided government or the specific party of the president and majority party in Congress have an independent affect on congressional bipartisan support.

Finally, we consider the possible effects of presidential approval on congressional bipartisanship. Some scholarship has viewed public approval as an important resource from which the executive can draw to achieve congressional support of legislative programs. The

6. The China Trade Bill (HR 4444) is an illustrative example of the hosts of domestic-related interests that can be involved in trade-related policies (see *Congressional Quarterly Weekly Report*, May 5, 2000, 1244-54).

7. McCormick and Wittkopf (1992) found greater bipartisan support in the House on defense programs, while foreign aid policies tend to generate relatively less bipartisanship as compared to other types of foreign and defense-related issues. Meernik (1993) also separated out international economic policy and found greater than average conflict in the House but no difference in the Senate.



empirical record on presidential approval and congressional support is somewhat mixed. For example, Ostrom and Simon (1985, 349) found a strong positive relationship between the president's approval rating and legislative success. Other studies, however, uncovered weak relationships at best (Rivers and Rose 1985; Bond, Fleisher, and Northrup 1988; Edwards 1989). The logic of approval suggests that the likelihood of political costs is greater to members of Congress when they vote against a popular president as compared to an unpopular one. This further suggests that congressional constituencies respond to presidential preferences and are willing to hold members of Congress accountable for voting against popular presidents. Consistent with these arguments is the following:

*Hypothesis 6:* The likelihood of congressional bipartisan support of the president should be positively related with levels of presidential approval.

## Data and Empirical Analysis

Our analysis extends previous research by discerning how factors affecting bipartisan congressional support of the president vary systematically across foreign, defense, and domestic issues. We have argued that both the internal and external political environment may affect congressional-executive relations differently depending on the issues in debate. Therefore, not only do we compare a model of bipartisanship on foreign and defense policy with domestic policy, but we also analyze each issue area separately to assess the differential effects of both the institutional context and the international environment.<sup>8</sup>

The data include all roll-call votes in which a president took a position from the 83rd Congress (1953-54) through the 105th (1997-98) Congress. This enables us to control for roll-call specific factors that have an important influence on congressional decision making. Aggregate-voting analyses (e.g., foreign policy support scores) can demonstrate broad changes in partisanship over time, but they often limit inferences that can be made regarding the specific factors explaining congressional responses to presidential behavior (Edwards 1989). Like Meernik (1993), our dependent variable indicates for each roll call in which the president takes a position whether a majority of both parties supports the president.<sup>9</sup> Bipartisan support of the president takes on the value one and zero otherwise. There are a total of 3,698 roll calls over this time period: 2,552 on domestic issues, 483 on defense, and 663 votes on foreign policy. The three issue areas were coded in the following manner. The foreign policy category includes votes on issues such as human rights, apartheid, economic sanctions,

8. Ragsdale (1996) also disaggregated roll-call votes into different policy areas. The categories she used include foreign aid policy, international economic policy, and defense policy.

9. We recognize that there are other possible ways to operationalize the dependent variable measuring bipartisanship. For example, success could capture a winning coalition primarily from the president's co-partisans only or from that of the opposition party only. Our decision to analyze bipartisan congressional support of the president's position is based on both theoretical and empirical grounds. On a theoretical level, bipartisanship provides the greatest leverage with respect to explaining presidential influence as it relates to the two-presidencies model and in testing between systemic and institutional factors. On an empirical level, using bipartisanship as the dependent variable allows us to make direct comparisons with previous research. In addition, though, bipartisan coalition support is characterized by relatively greater over-time variation as compared to other coalitions of presidential success. Thus, bipartisanship provides a richer measure to assess factors explaining congressional-executive interactions.

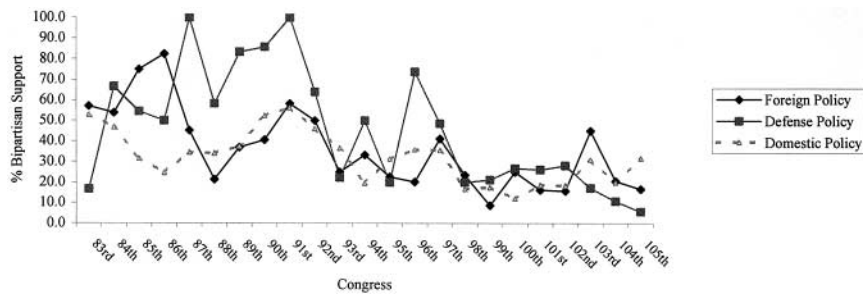


FIGURE 1. Bipartisan Presidential Support in the House of Representatives on Foreign, Defense, and Domestic Policy Roll Calls, 83rd to 105th Congresses

trade, the state department authorization, United Nations funding, arms control, and nuclear nonproliferation.<sup>10</sup> Defense policy includes roll-call votes on issues such as military pay, weapons systems, base closures, troop levels, covert activities, and commitments abroad. Finally, the domestic categorization includes issues such as energy and environment, governmental operations, civil rights, tax and budget issues, as well as welfare and human services.

### Changes in Bipartisan Congressional Support: Foreign, Defense, and Domestic Policy

Consistent with Meernik's (1993) earlier results, we find a substantial decay in bipartisan congressional support of the president after the Vietnam War. For example, Meernik found bipartisan agreement with the president's position on nearly 62 percent of foreign and defense policy roll-call votes between 1947 and 1972 inclusive (p. 571). After 1972, Meernik reported that the proportion of votes achieving this level of support dropped to only 39 percent. We find bipartisan agreement with the president's position on 56 percent of the foreign and defense policy roll calls from 1953 to 1972 and only 24 percent after. In addition, our findings indicate that the decline in congressional bipartisanship continued into the post-cold war era. For example, between the post-Vietnam era (1973-89) and the post-cold war era (1990-98), bipartisan congressional support dropped from about 26 percent on foreign and defense policy votes to less than 20 percent after 1989. This overall decline in bipartisan support parallels the findings by Fleisher et al. (2000) regarding decreases in presidential success on foreign and defense policy.

The over-time variation in congressional bipartisanship becomes even more apparent when roll calls are analyzed separately for defense, foreign, and domestic issues. Figure 1 shows the proportion of bipartisan support of the president in the House by issue area for the entire time series (1953-98). For defense issues, bipartisan support averaged more than 68 percent before 1973 and dropped to about 27 percent on average after 1972. In the area of

10. Foreign aid issues represent a subset of the foreign policy category. Foreign aid includes both appropriation and authorization legislation for foreign economic aid, military aid, the food for peace program, and the peace corp.

foreign policy, however, greater conflict tended to characterize congressional-executive relations during this earlier period. Prior to 1973, bipartisan support occurred on average on about 49 percent of roll calls and dropped to almost 22 percent of the votes after 1972.<sup>11</sup> Domestic policy, as one can see from Figure 1, has tended to be characterized by less over-time variation and greater conflict on average than either foreign or defense policy. In fact, presidential administrations rarely received bipartisan support on even 40 percent of domestic policy roll-call votes.

The aggregate findings on bipartisanship appear to challenge McCormick and Wittkopf's (1990) assertion that scholars previously overstated the extent that Vietnam and the cold war consensus contributed to congressional support of the president's position on foreign and defense policy. They argued that the effects of the war in Vietnam on the breakdown of bipartisan support cannot be distinguished from "other" concurrent political developments (e.g., institutional reforms) (pp. 1097-98). To test their assertions more systematically, we regressed the effects of time on each individual series. The regressions show significant inverse effects of the time trend for all three issue areas, but the largest effects were on defense and foreign policy rather than domestic issues. So, although there was a significant decline in bipartisanship for all three issue areas, the decay was heaviest in foreign and defense policy. This result indicates that the effects of the cold war on congressional bipartisanship were greater on foreign and defense policy, while the impact on domestic policy was less pronounced. So, the over-time patterns reveal an important caveat. To explain changes in congressional-executive relations, the effects of the cold war as well as other factors (e.g. congress centered) on bipartisanship need to be assessed across different issues.

### **Explaining Changes in Congressional-Executive Relations: Evidence from Logistic Models**

The logit models are designed to test the expectations regarding how factors relating to the international environment and institutional context explain bipartisan support of the president's position. The comparisons that our analysis makes across the three issue areas can help to uncover whether these causal variables differ in their effects across foreign, defense, and domestic policies. The appendix provides a complete description of each independent variable used in the logistic analysis. The dependent variable here is the same as in the previous part of the analysis, a dummy for bipartisan support of a president's position.

The first two columns in Tables 1 and 2 show the results of four different models explaining bipartisan support of the president's position from 1953 to 1998. Similar to Meernik (1993), the first model in Table 1 combines foreign and defense issues. The three remaining models estimate the effects of the explanatory variables on domestic, foreign, and defense policies separately. The third and fourth columns in each table present the relative

11. Average bipartisanship before 1973 is affected by the unusually large consensus during the Eisenhower administration. No other president after has received a similar level of support on foreign policy issues. Interestingly, while Eisenhower received bipartisan support on more than 75 percent of foreign policy roll calls (nearly twice as many as any other post-World War II president), both Kennedy and Johnson received considerably more support on defense-related votes.

**TABLE 1**  
**Bipartisan Presidential Support Models and Marginal Effects for Foreign and Defense and Domestic Policy Areas, House of Representatives, 1953 to 1998**

<i>Independent Variable</i>	<i>Foreign and Defense Policy Model<sup>a</sup></i>	<i>Domestic Policy Model<sup>b</sup></i>	<i>Marginal Effects Foreign and Defense Policy Model</i>	<i>Marginal Effects Domestic Policy Model</i>
Constant	.860* (.524)	.329 (.346)	–	–
Cold war consensus (1953-73)	1.51*** (.282)	.114 (.206)	.332	.021
Change in defense expenditures	3.68** (1.61)	.879 (1.24)	.124	.029
Expenditures × Cold War	-5.58*** (2.02)	-1.45 (1.46)	-.133	-.038
Vietnam (1964-73)	-.049 (.038)	.055** (.025)	-.09	.122
Appropriations	-.738*** (.211)	-.320** (.158)	-.135	-.056
Trade	-.794*** (.250)	–	-.138	–
Foreign aid	-.715*** (.192)	–	-.129	–
Amendments	-.218 (.158)	-1.11*** (.163)	-.044	-.175
Republican president	.151 (.163)	.027 (.120)	.03	.005
Republican majority in House	-.708** (.327)	.452** (.200)	-.125	.091
President opposition to roll-call vote	-1.32*** (.143)	-2.26*** (.128)	-.274	-.395
Public approval of president	-.010 (.007)	-.012** (.005)	-.051	-.054
Post-cold war (1990-98)	.425 (.284)	-.359 (.229)	.091	-.064

Note: Robust standard errors in parentheses. *N*s are as follows: foreign policy, 663; defense policy, 483; domestic policy, 2,550. The dependent variable is whether or not there was bipartisan support of the president's position in the House. Columns two and three represent the change in probability,  $Y_i$  after fluctuating each independent variable one standard deviation below the mean to one standard deviation above the mean while holding all other independent variables at their mean values.

a. LL = -613.95;  $\chi^2 = 181.66$  ( $p < .0000$ ); pseudo  $R^2 = .151$ .

b. LL = -1250.02;  $\chi^2 = 402.88$  ( $p < .0000$ ); pseudo  $R^2 = .213$ .

\* $p < .10$ . \*\* $p < .05$ . \*\*\* $p < .01$ .

strength of the independent variables on the likelihood of bipartisan support of the president's position for the respective models.<sup>12</sup> Table 1 reveals the significance of congressional context as measured by issue area and vote type. One can see that votes on appropriations,

12. The marginal effects for continuous variables were calculated based on a one standard deviation change in the independent variable while holding the other variables at their mean values. Dichotomous variables were assessed by fluctuating the independent variable of interest from zero to one, holding all other variables at their means.

**TABLE 2**  
**Bipartisan Presidential Support Models and Marginal Effects for Foreign and Defense Policy Areas, House of Representatives, 1953 to 1998**

<i>Independent Variable</i>	<i>Foreign Policy Model<sup>a</sup></i>	<i>Defense Policy Model<sup>b</sup></i>	<i>Marginal Effects Foreign Policy Model</i>	<i>Marginal Effects Defense Policy Model</i>
Constant	.641 (.708)	1.53* (.895)	–	–
Cold War consensus (1953-73)	1.63*** (.387)	1.48*** (.451)	.321	.344
Change in defense expenditures	4.11* (2.56)	3.63* (2.07)	.118	.137
Expenditures × Cold War	-5.12* (2.89)	-6.80** (3.00)	-.115	-.155
Vietnam (1964-73)	-.119** (.058)	-.005 (.055)	-.153	-.011
Appropriations	-.527 (.339)	-.938*** (.306)	-.085	-.181
Trade	-.654** (.286)	–	-.10	–
Foreign aid	-.457** (.238)	–	-.075	–
Amendments	-.655*** (.250)	.085 (.243)	-.109	.019
Republican president	.416* (.228)	-.726*** (.267)	.073	-.165
Republican majority in House	-.026 (.409)	-1.97*** (.651)	-.005	-.301
President opposition to roll-call vote	-1.90*** (.216)	-.825*** (.240)	-.331	-.187
Public approval of president	-.024*** (.009)	.012 (.011)	-.111	.059
Post-Cold War (1990-98)	1.01*** (.393)	-.282 (.416)	.203	-.061

Note: Robust standard errors in parentheses. *N*s are as follows: foreign policy, 663; defense policy, 483; domestic policy, 2,550. The dependent variable is whether or not there was bipartisan support of the president's position in the House. Columns two and three represent the change in probability, *Y*, after fluctuating each independent variable one standard deviation below the mean to one standard deviation above the mean while holding all other independent variables at their mean values.

a. LL = -319.49;  $\chi^2 = 116.12$  ( $p < .0000$ ); pseudo  $R^2 = .210$ .

b. LL = -266.20;  $\chi^2 = 73.18$  ( $p < .0000$ ); pseudo  $R^2 = .158$ .

\* $p < .10$ . \*\* $p < .05$ . \*\*\* $p < .01$ .

foreign aid, trade, and amendments tend to be significantly less likely to generate bipartisan support of the president's position. Certainly, this follows our theoretical expectations relating to the importance of the congressional context (hypotheses 3, 4, and 5). For the foreign and defense policy model, Table 1 column 3 shows that votes on appropriations, trade, and foreign aid each decrease the probability of bipartisan support by about the same amount. Congressional bipartisan support of the president is significantly less likely on matters

related to the purse string and on issues like trade that can activate domestic interests across congressional districts. These findings fit nicely with McCormick and Wittkopf's (1992, 32) argument that congressional support of the president tends to be less on "low politics" foreign policy issues.

In addition, the presidential opposition variable shows that when a president takes a position against a particular vote, the likelihood of bipartisan support drops significantly. These findings fit very nicely with Meernik's (1993, 582-83) results. Not only do we see that the legislative context plays an important role in congressional decision making, but presidential influence is not sufficient to shape bipartisan majorities against policy proposals.<sup>13</sup> Other findings relating to the interinstitutional context are also worth noting. Meernik found bipartisanship in the House to be less likely under unified Democratic government. Meernik argued that Democratic presidents are less likely to assemble a majority of Republicans when the Republican Party was in the minority. Looking at the combined model of foreign and defense policy in Table 1, the results demonstrate that the party of the president does not matter in securing a bipartisan majority. Although not shown, we also analyzed the effects of divided government on bipartisan support for each issue area.<sup>14</sup> Similar to the Republican president measure, divided government had no statistically significant effects on models of bipartisanship in Table 1.

Fleisher and Bond (1988), however, argued that under divided government, a majority opposition party might be politically impelled to support the president more on foreign and defense issues to maintain the nation's security. In addition, they found that Democratic House majorities provide greater support to Republican presidents than Democratic ones. Interestingly, the models in Table 1 show that Republican majorities in the House provide significantly greater bipartisan support on domestic issues but less bipartisan support on foreign and defense as compared to Democratic majorities.

The most interesting contrasts in Table 1 are the differences in the effects of the systemic variables on the combined foreign and defense model compared to the domestic model. These results allow us to assess hypotheses 1 and 2. For example, the effects of the cold war consensus (1953-73) is highly significant for the combined foreign and defense model but not for the domestic policy model. Column 3 in Table 1 shows that the effects of the cold war consensus on the probability of bipartisan support was .33 for the foreign and defense policy model—the largest effect relative to any of the other explanatory variables. These differences are also true for the effects of defense expenditures. Changes in defense expenditures have a significant effect on congressional bipartisan support in international affairs, while no such effects exist for domestic policy.

13. Indeed, relatively few of the presidential opposition votes on foreign and defense policy were on final passage votes. Rather, the majority of presidential opposition votes were on amendments. However, when a president does oppose final passage of a bill or resolution, rarely will a bipartisan majority in the House accede to the president's position. Bills are rarely defeated at the floor stage because members of Congress tend to have considerable investment in their passage. It is true that presidents are more likely to oppose amending attempts, but amendments are usually associated with challenges to the underlying bill and thus are an indication of at least some minimal partisan or ideological disagreement on the issue. Consequently, presidents are less likely to receive bipartisan support on amendments and particularly on amendments they oppose.

14. With the exception of the Clinton administration for the 104th and 105th Congresses, the Republican president and divided government variables are the same.



Admittedly, the impact of the defense expenditures variable is confined to the post-1973 era, as the interactive term indicates.<sup>15</sup> We find that systemic conditions affect congressional decision making only after the cold war consensus dissipated and reforms in the House allowed greater rank-and-file participation. During the 1953-72 period, congressional institutions more readily deferred to presidential preferences as a result of the complex and often dangerous international environment. Also important was a committee system that stacked the deck, so to speak, in favor of a president's policy prescriptions.

Consistent with our theoretical expectations, we observe differences in the effects of the systemic environment between foreign and domestic policy decision making. Once again, these findings challenge the assertions made by McCormick and Wittkopf (1990) in the same way that our aggregate statistics do. Not only do we find the overall effects of the cold war consensus on bipartisanship to be very large in these models, but the magnitude of the effects differs dramatically between the foreign and defense policy model and the domestic policy model. This further supports our argument that the role of systemic factors may differ in important ways across issue areas in explaining congressional bipartisanship. If, as McCormick and Wittkopf argued, the effects of the cold war and the Vietnam experience cannot be distinguished from other internal political factors, then we would not expect to find the significant divergence in effects between foreign and defense and domestic policies that are present in our models.

Turning to Table 2, we observe fewer differences in terms of the effects of the independent variables on bipartisan support for foreign versus defense policy relative to the differences observed in Table 1 between the domestic and combined foreign and defense models. Most of the interesting differences that emerge when disaggregating foreign and defense policies result from the interinstitutional context. For example, Table 2 shows that when Republicans have a majority in the House, there are offsetting effects dependent on the issue. On foreign policy, the party majority in the House makes no difference in terms of explaining congressional support of the president. On defense issues, though, bipartisan support of the president's position is significantly less likely under a Republican House.

In addition, the findings in Table 2 show that Republican presidents have greater success in building bipartisan support on foreign policy but significantly less on defense issues.

15. Initially, the results indicated that our measure of systemic threat had little affect on House bipartisanship, despite our theoretical expectations to the contrary. However, we wondered whether a temporal element might once again be playing a role. We therefore ran our analysis on only 1953 to 1973 observations (which reduced our *N* to 341 foreign and defense votes). The defense expenditures variable remained statistically insignificant. We then ran the analysis on the 805 post-cold war consensus observations. Here, the variable was positive and highly significant, as originally expected. This result is not simply the result of the *N* because the same relationship appeared when we ran the analyses separately on foreign policy votes and on defense policy votes. The variable is positive and significant on both issue areas in the 1974-98 period but not in the earlier period. While we readily admit that we did not theoretically expect this relationship a priori, the empirical finding is quite interesting. We include the interactive term because the relationship between defense expenditures and bipartisanship does appear to be conditioned on the time period. In assessing the marginal impact of the defense expenditures variable, one has to fluctuate both the expenditures and the interactive terms simultaneously while holding the other variables constant. What happens is that the individual effect of the defense expenditures variable and the individual effect of the interactive term cancel each other out in the cold war consensus period, given that the marginal impact of each variable is about the same but in opposite directions. In the post-cold war consensus era, however, the interactive term drops out, and the positive effect of the defense expenditures variable is all that remains. What we find, then, is that in the 1953-73 period, the probability of a bipartisan vote decreases from .541 to .529 as the defense expenditures and interactive variables are fluctuated by  $\pm 1$  standard deviation. In the latter era, however, the same fluctuation of the variables changes the probability of a bipartisan vote from .165 to .267.

In fact, the results demonstrate that on foreign policy, a Republican president increases the probability of bipartisan support from .19 to .26. The interesting point to make here is that once foreign aid and trade issues are controlled for, most other votes in the foreign policy category tend to be related to “high politics” issues in which Republican presidents do seem to have an advantage in mustering bipartisan support.<sup>16</sup> In contrast, Democratic presidents tend to receive greater bipartisan support on defense-related issues. The change in the likelihood of bipartisan support is nearly .17 when a Democrat is in the White House. Recall that for domestic policy, there was no evidence of a partisan effect. These results seem to provide an important insight into Fleisher and Bond’s (1988) argument and can be interpreted as supportive of the two-presidencies hypothesis. That is, the two-presidencies argument may hold for Republican presidents on foreign policy (e.g., high politics issues) but also for Democratic presidents on defense policies.

In assessing hypothesis 6, we find another interesting difference between foreign and defense policy in terms of the effects of the president’s approval rating on bipartisan support. When it comes to presidential approval, studies by Edwards (1989), Meernik (1993), and Bond and Fleisher (1990) have shown that public opinion ratings contribute only modestly to congressional support of the president’s position. Our evidence in Table 2 supports this conclusion, although the relationship is somewhat stronger in the results uncovered here as compared with previous research. A one standard deviation change in public approval decreases the probability of bipartisan support on foreign policy from .29 to .18 and in the area of domestic policy from .28 to .22.

While we recognize that this inverse relationship contrasts with common expectations, Shull and Shaw (1999) observed a similar relationship between approval and legislative support. Rivers and Rose (1985, 193-94) offered one possible explanation. They found that legislative success leads presidents to make subsequently larger legislative demands, which in turn tends to lower approval ratings. It may be that presidents respond to approval ratings with actions that contribute to those ratings changing. The statistical models we have specified simply do not capture the potential for this type of reciprocal interaction. The inverse relationship we find speaks to the potentially significant differences between modeling legislative success more generally and bipartisanship. According to the two-presidencies model, bipartisan support of the president in foreign policy results from an institutional deference shaped largely by the international environment and is relatively less affected by other political considerations. Certainly, our findings hint at the possibility of an interesting paradox. Presidential approval, viewed as a political resource, can increase legislative success in some situations but may actually work against congressional bipartisanship in the realm of foreign policy. Needless to say, we need additional research to explain more precisely this puzzle that emerges with regard to the relationship between congressional bipartisanship and presidential approval.

Like Meernik’s (1993) findings, we find no significant change in bipartisan support of the president’s position during the Vietnam War when foreign and defense policies are modeled together. However, when foreign policy is analyzed separately (in Table 2), the model suggests that during the Vietnam era, bipartisan support was significantly less likely to occur.

16. McCormick and Wittkopf (1992, 43) also found a difference in congressional support across issues depending on the party of the president.

Our findings demonstrate that the effect is not only significant but also much larger on foreign policy than on defense-related issues (see columns 3 and 4). In contrast, the effects of the Vietnam experience on the domestic policy model indicate a significant increase in bipartisanship during this same period. Once again, variation in the effects of Vietnam between foreign and domestic issues appears to contradict claims suggesting that systemic causal factors cannot be distinguished from other political factors.

In terms of the most recent changes during the post-cold war era on congressional bipartisan support of the president, the models from Table 1 indicated opposite coefficients, but there were no statistically significant differences. For the foreign policy model in Table 2, we observe a significant increase in the probability of bipartisan support during the post-cold war period. In fact, the likelihood of support increases by more than 100 percent (from .19 to .40) in the post-cold war period. On defense-related issues, however, there seems to be no analogous effect. This may have been a result of defense-related cuts during this time that tended to generate increases in partisan conflict. So, when foreign and defense policy is modeled separately, there are differences that parallel the aggregate changes observed from Figure 1. Although the overall levels of congressional bipartisan support of the president are lower than previous periods for both foreign and defense policy, the decay in congressional bipartisanship during the post-cold war era has been slightly greater in the area of defense issues.

## Conclusion

McCormick and Wittkopf (1990) found that the evidence relating to a bipartisan perspective of congressional-executive relations in foreign policy had been overemphasized. Instead, they argued that foreign policy was influenced by the same partisan and ideological forces that influenced domestic policy. Wittkopf and McCormick (1998) also argued that the end of the cold war has failed to substantially change a president's prerogative powers in congressional-executive relations. According to them, although the agenda of issues might change, the process of deciding outcomes would not (p. 456).<sup>17</sup> Our evidence, however, points to important over-time differences that coincide with changes in the international political environment in explaining congressional-executive relations. Like Meernik (1993), our analysis shows that congressional support of the president was dramatically lower after 1973 in foreign and defense policy. We also find that the effect of the cold war consensus on bipartisanship is very large relative to the other factors in the logistic models. Indeed, the influence of systemic threat varies by both temporal period and issue, indicating that not only does the international environment influence congressional decision making, but also the impact appears to be policy specific. We would not expect to find significant differences in congressional-executive relations like that found between the foreign and domestic policy models if the effects of changes in the international environment were not distinguishable from internal political factors, as McCormick and Wittkopf argued.

17. The one exception was on defense budgeting issues (Wittkopf and McCormick 1998, 457). But, they expected any differences in this area to dissipate with the era of budget surpluses.

The logit models additionally demonstrate that many of the same variables affect bipartisan support of the president, but the direction and degree of influence varies depending on the types of policies in debate. For example, the effects of the president's party can influence bipartisan coalition building in Congress. Here, the logit analysis provides evidence suggesting an interesting twist to the two-presidencies phenomenon. Republican presidents have had a distinct advantage in gaining congressional support in the area of foreign policy but significantly less so compared to Democratic presidents in the realm of defense policy.

Moreover, the analysis parallels previous work in that presidential popularity has only modest effects on congressional support (Meernik 1993; Bond and Fleisher 1990; Edwards 1989). But once again, the results emphasize that persistent differences across issues exist. Public approval makes little or no difference to bipartisan support of the president in defense policy, while on foreign policy higher levels of approval are associated with less congressional bipartisanship. This further suggests that the effectiveness of a president's political capital as measured by approval ratings may vary from issue to issue and depend on how presidential influence is defined (e.g., legislative success or bipartisanship). Variation in approval may have very different implications for congressional bipartisanship as opposed to a president's ability to construct winning partisan coalitions. This result, in our opinion, merits future investigation.

Finally, consistent with the findings of Fleisher et al. (2000), it is evident that post-cold war congressional decision making on issues relating to the president's foreign policy agenda have become increasingly characterized by less congressional consensus and greater partisanship. Yet, the aggregate results and the logistic models explaining bipartisanship indicate significant differences between foreign, defense, and domestic policy that are important for considering theories of congressional-executive relations. Although there has been a significant decline in bipartisanship overall, there were persistent differences in the effects of systemic factors on congressional-executive interactions in the realm of foreign affairs that were not apparent for domestic issues. Even in an era of greater partisanship and congressional assertiveness, the differential effects of international political conditions across issues provide support for the two-presidencies framework. Scholars need to further consider how features of the institutional context and international environment can differentially affect congressional-executive relations across issue areas.

## Appendix

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### Systemic context variables

*Cold war consensus.* This variable takes the value 1 for the years 1953 to 1973 and 0 otherwise.

*Vietnam.* This is a dummy variable taking on the value 1 for 1964 to 1973 and 0 otherwise.

*Post-cold war.* This variable takes on the value 1 for the years 1990 to 1998 and 0 otherwise.

*Percentage change in yearly defense expenditures.* This variable measures the percentage change in defense expenditure from one year to the next. The expenditure data are in current U.S. Dollars.

### Congress-centered variables

*Appropriations.* This is a dummy variable taking on the value 1 for roll-call votes relating to appropriations legislation and 0 otherwise.

*Foreign aid.* This is a dummy variable capturing appropriating and authorizing roll-call votes on foreign economic aid, military aid, food for peace program, and the peace corp.

*Trade.* This is a dummy indicator for trade issues such as legislation relating to unfair trade practices, export controls, compensation of U.S. businesses, tariff negotiations, import quotas, and the export-import bank.

*Amendments.* This is a dummy variable taking on the value 1 for first- and second-degree amendment votes and 0 otherwise.

#### Institutional context variables

*Republican president.* This is a dummy variable taking on the value 1 for Republican administrations and 0 otherwise.

*Republican majority in House.* This is a dummy variable capturing Republican control of the House of Representatives.

*Presidential opposition.* This is a dummy variable taking on the value 1 when the president takes a position against a particular roll call and 0 otherwise.

*Divided government.* This is a dummy indicator taking on the value 1 when the president and the majority party in both Houses share the same party and 0 otherwise.

#### Presidential resource variable

*Public approval of president.* This variable represents the percentage of presidential approval as measured by the Gallop Poll the month prior to the relevant roll-call vote.

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# Losing Control: The Intraparty Consequences of Divided Government

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*Divided government scholarship focuses either on evaluating divided government's correlation to legislative gridlock or on its tendency toward interparty squabbling. I argue that one overlooked aspect of divided government is its impact on intraparty dynamics: Divided government offers the controlling congressional party incentives to raise controversial issues to damage the coherence of the president's party. Revealing the tensions within the president's party serves to embarrass the president, increase the electoral chances of the majority party in Congress, and ultimately shift public policy. This phenomenon can be understood through Riker's theory of heresthetic. The contemporary debates between President Clinton and the Republican-controlled Congress over abortion and gay rights provide ample evidence that this theory of divided government is compelling and warrants further consideration.*

The divided government literature has focused primarily on two hypotheses: that divided government changes the productivity of government and that it creates increased hostility between the parties.<sup>1</sup> Mayhew's work (1991), which compares the quantity of legislation produced during times of unified versus divided party control, is the cornerstone of the first approach. Although Mayhew found little basis for concern about divided party governance, other scholars, advocating alterations to Mayhew's methods, have at times come to contradictory conclusions (Kelley 1993; Edwards, Barrett, and Peake 1997; Thorson 1998; Binder 1999). This squabbling aside, one fact remains: one dominant method in divided government scholarship measures the *quantity* of legislation produced by alternative party arrangements. This emphasis on legislative productivity naturally leads scholars to quantitative tools in divided government studies, to the exclusion of more historical accounts.

Recently, a few scholars have departed from the dominant quantitative methods in divided government studies by investigating the tenor, rather than the productivity, of dif-

1. Actually, a third literature in this area is the polemical work committed to defending or condemning divided government. For instance, see Sundquist (1988), Cutler (1988), and Pfiffner (1991). More recently, Jones (1994) has argued that divided government is a legitimate form of government.

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ferent party control arrangements. These students of divided government have abandoned the quantitative search for productivity implications in favor of hypotheses that emphasize the tendency toward interparty battles during divided party control. Ginsberg and Shefter noted (1999), for instance, that the divided party model tends toward interinstitutional acrimony and, subsequently, an inability of either party to govern.

The case studies below further the work of Ginsberg and Shefter (1999) by specifying the process by which divided government leads to acrimony and by looking for the acrimony in a different location. My central argument is that divided party government creates an incentive for the party in control of Congress to exploit issues that are contentious within the president's party. The party controlling Congress finds in divided government an opportunity to use policy as a wedge, exposing the divisions within the president's party and solidifying its commitment to its own constituencies through symbolic politics. Benefits of this strategy can be both electoral and policy oriented. My argument furthers Ginsberg and Shefter's theory of conflict by specifying the tension in divided government they observe. It also challenges Ginsberg and Shefter by arguing that the tension revealed in divided government often occurs *within* the president's party, not *between* the parties, as they argue.

### The Theory of Unified Party Rule, Revisited

It is a widely held tenet that the political parties smooth out the tensions inherent in our three-branch, federalist system of government (Sundquist 1988). Although at first repudiated by the founders and the earliest American presidents, political parties have been viewed in this century as an essential glue in a fundamentally centripetal system. In theory, the party system can provide common philosophical and policy goals, as well as electoral incentives, across natural institutional divides.

In practice, the American parties have always had serious internal divisions (Burns 1963). In a two-party system, perfect internal ideological coherence may be nothing more than political fancy. The parties are simply too vast and diverse to inspire consistent internal harmony. Still, unified party control provides an electoral incentive for party leadership to downplay, or even actively avoid, those issues on which the party is divided to preserve the appearance of cohesion. In the interest of electoral success and a meaningful party label, party members find powerful incentives to downplay intraparty conflict. Conversely, it is this article's contention that divided government's ability to incite rancor lies in part in its ability to create opportunity for intraparty conflict to emerge. In a divided government system, the dominant congressional party has the authority to force public consideration of those issues most sensitive to the president's party. By placing divisive matters on the agenda, the party controlling Congress forces the president's party to debate issues its congressional members would actively avoid. What is more, divided government may provide disgruntled members of the president's party in Congress an opportunity to voice their disagreements, as the majority party puts sensitive matters, formerly taboo, on the agenda. No longer beholden to their own party's leaders for committee assignments and other job perquisites, disgruntled members of the president's party may be liberated by the agenda change to retreat from party unity. The hostility and squabbling that the public, politicians, and

pundits routinely ascribe to divided government is well founded, but the source and location of this vitriol is misunderstood: intraparty division, not interparty division or legislative gridlock, is the untold story behind divided government.

### Heresthetics and Divided Party Control

Riker's (1983, 1986) now-classic theory of heresthetic sheds light on the dynamics of divided government. Although Riker himself did not directly apply the theory to the instance of divided government, divided government has become commonplace since Riker's development of the concept, and it has a very contemporary application.

Heresthetic, Riker (1986) argued, is the effort to gain political advantage by "structuring the world so you can win" (p. ix). Riker explained that when a coalition cannot win a policy battle, that group must use its powers to manipulate the issue at play. Heresthetic is more than mere persuasion; it goes beyond the art of convincing political foes to grudgingly join ranks—it is the reformulation of an issue so that the foes, given their own political and philosophical dispositions, embrace the newly defined issue genuinely.

Reframing an issue allows a previously disfavored issue to gain new majority support. Of course, in the divided government context, majority support may not be enough to enact policy change; wielding his veto pen, the president can effectively halt many majority-supported bills. Herein lies the application of the heresthetic art to divided government: the heresthetic technique is an even more precious skill in the divided government context. The task for the party in control of Congress is to splinter, through "creative adjustments" (Riker 1983, 2), the political agenda of the president's party in such a way that the president and his party lose control of the issue. Thus, he will either sign the newly formulated policy or, alternatively, he faces such widespread support of his party that he is forced to accept a veto-proof supermajority.

In reconfiguring an important policy issue to their advantage, the congressional majority denies the president, and his congressional minority, agenda control. In doing so, the congressional majority is able to reveal the internal differences within the president's party, which may in turn cause internal division sufficient to damage the president's party label in future elections, possibly costing his party a further loss of seats in Congress or the White House itself. Of course, a truly successful heresthetic also turns the tide on a policy debate and may lead to policy change that the president's party had previously prevented.

In choosing the heresthetic implements during divided party government, certain rules will prevail. First, the congressional majority must identify an issue on which there is greater internal division within the president's party than their own: the strategy backfires if it reveals the congressional majority's own incoherence or lack of direction. The congressional majority will also be likely to seek out an issue that is easily understood in the court of public opinion; issues with easily identifiable aspects of morality and powerful imagery make the bluntest weapons in the heresthetic arsenal because they can be disseminated efficiently in the media and translated easily into public opinion polls. Finally, the issue must have public salience as well as accessibility. If the issue is of no consequence, the public is unlikely to be moved by the heresthetic effort.

## Social Regulatory Policy: The Ultimate Heresthetic Weapon

Some issue types more easily lend themselves to heresthetic use than others. In the modern context, the most obvious gut-level issues are social regulatory policies. Social regulatory policy (or more simply, social policy) can be characterized as policy regulating, through explicit coercion, very personal forms of behavior.<sup>2</sup> This form of public policy, Tatalovich and Daynes (1998) proposed, will routinely be associated with the most uncompromising and bitter politics because of its essential qualities.

Social policy is certain to create divisions within and between the parties: these gut-level issues (gun control,<sup>3</sup> prayer in school, affirmative action, gay rights, etc.) are so core to personal beliefs that party unity is difficult, if not impossible, to achieve, especially in a two-party system where constituencies are diverse. During times of unified government, however, the party in power has a tremendous incentive to avoid social regulatory policy to disguise the depth of intraparty division that is certain to exist there. Under divided control, social regulatory policy becomes the ultimate weapon, particularly because of its fundamentally divisive qualities. Social policy debates have the unique ability to bring into question the players' own morality. While debates over trade or monetary policies invite politicians to criticize one another's judgment, social policy debates more regularly devolve into opportunities to question the opposition's moral judgment, character, and integrity in more vivid ways through the politics of symbolism and imagery.<sup>4</sup> To be sure, any salient and accessible issue is of potential heresthetic use. Social regulatory policy may not be the only tool available to divide and embarrass the president's party, but it may be the bluntest.

Of course, social regulatory policies are routinely debated during unified government as well. Both gay rights and abortion policy emerged very early in President Clinton's first administration, for instance. The hypothesis of this piece, however, is that unified governments will engage social issues but will tend to engage only the dimensions of a given issue on which there is *consensus* within the governing party. There is little incentive to do otherwise; during unified government, raising social policy debates risks obfuscating the party's stance, which can discredit the party and, ultimately, result in harsh electoral consequences. Alternatively, an opposition Congress has greater reason to pursue the areas of a social policy that reveal the *conflicts* within the president's party.

This theory explains the volatility associated with divided government; previous efforts assume that interparty squabbling accounts for the nastiness and lack of policy coherence that are perceived during periods of divided government.<sup>5</sup> I argue that divided govern-

2. Tatalovich and Daynes's "social regulatory policy" is an addition to the four policy categories Theodore J. Lowi (1964, 1972) identified thirty years ago.

3. For a book-length treatment of the politics of gun control, see Spitzer (1995).

4. Paul J. Quirk and Bruce Nesmith (1998) argued that policy gridlock during divided government is most evident on ideologically charged issues, or where public opinion is mixed, but they do not overtly use the Lowi policy framework to classify policy types.

5. Whether divided government actually yields more acrimony or whether it creates a perception of greater acrimony is unproven. While it would be an interesting endeavor to try to measure the level of division or hostility during different party regimes, that is not the task at hand. It is enough to argue that the public associates divided government with stalemate and uncompromising debate.

ment scholars have overlooked the possibility that divided government leads to rancor within—not exclusively between—the two political parties. Divided government provides a unique opportunity for the president and his party to founder, losing control over their policy message, their party label, public policy, and possibly party power.

Both case studies offered here are prime examples of the use of heresthetic in a social regulatory debate. Gay rights and abortion have all the qualities necessary for the heresthetic art: they are divisive, easily understood, and prone to dramatic rhetoric and imagery. In addition, the Republican party of Newt Gingrich was well unified in its opposition both to gay rights and abortion. Clinton's Democrats, on the other hand, were vulnerable to division in both instances. What would become quickly apparent in the middle 1990s was that the pro-choice and pro-gay rights Democrats were of many minds. The job for the Republicans, then, lay in identifying the soft underbelly of the Democrats' positions. As the cases reveal below, the Republicans were successful in their efforts.

### **Case Study: President Clinton and Abortion Politics**

President Clinton's experience with the abortion issue clearly reveals the intraparty dynamics of divided government and the deft use of heresthetic. In Clinton's first, unified government, the issue of abortion quickly emerged, in large part because of Clinton's leadership on the issue. Abortion is the quintessential social regulatory policy: it routinely inspires a politics of division, high drama, powerful imagery, and dogmatic rhetoric. Still, the aspects of abortion policy that were raised initially emphasized areas of Democratic unity during the 103rd Congress, when Democrats controlled both ends of Pennsylvania Avenue. The focus of the debate over abortion changed fundamentally in 1995, however, when the new conservative Republican majority shifted the abortion debate from an emphasis on a woman's right to choose to the fetus' right to life. More specifically, the Republicans shifted the abortion debate from the questions of clinic access and freedom of speech to late-term abortion and teen abortion, two subjects on which there is far greater dissent within the Democratic ranks and within public opinion more broadly. The emphasis on these latter facets of abortion policy allowed the Republicans to frame the abortion policy questions as challenges to the very morality and reasonableness of the Democrats' pro-choice position. The debates were also used as a wedge between the president and his party and forced him to publicly embrace a position with little support outside the liberal wing of his party. What is more, Clinton was particularly vulnerable to attacks of immorality on the abortion question because he lacks public trust in his character. Despite solid institutional strengths, Clinton's personal strengths on questions of social policy are few; the abortion debate became a way to weaken the president's moral authority further still. As a result, what had previously been an environment of consensus building around abortion policy in the 103rd Congress quickly transformed into a conflict-filled environment. Democratic divisions emerged very prominently, and the debate grew shrill and more public than before as Democrats sought to find direction within their ranks. Democrats ultimately lost control of the abortion debate; they may yet lose control of abortion policy. As an example of divided government heresthetic,

the abortion example can be viewed as a partial success for Republicans: while the Partial-Birth Abortion Ban bill has not been signed into law, the abortion issue has been altered dramatically.

### **The Politics of Unanimity: Abortion Debates, January 1993 to January 1995**

On only his second day in office, the twentieth anniversary of *Roe v. Wade*, President Clinton issued a series of executive orders that liberalized federal abortion law.<sup>6</sup> Although it may have been risky for President Clinton to embrace liberal abortion policies so early in his first administration, he chose his areas of activism carefully. After boldly signing these executive orders, Clinton's behavior in abortion politics can be viewed as cautious. While many facets of abortion arose during his first term, Clinton only actively pursued two bills, both of which coincided with public opinion and the center of gravity within his party in Congress. In the two following examples, a mere 10 percent of Democrats voted against their president's position. Democratic division existed on abortion policy, but it was never fully revealed.

The Freedom of Access to Abortion Clinics (FACE) bill protects patients visiting a health clinic from aggressive abortion protesters and established penalties for activists who block access to clinics. HR 796 received Clinton's active support; both Secretary of Health and Human Services Donna Shalala and Attorney General Janet Reno were sent to testify on behalf of the legislation. The bill was offered after Dr. David Gunn was murdered near his Pensacola women's clinic in March.<sup>7</sup> Later in 1993, the bill passed the Senate 69 to 30, with near Democratic unanimity. Only four of the fifty-five Democratic senators defected from the president's position. In the House, unity among Democrats was also evident in the final vote for passage in the spring of 1994; only thirty-six Democrats bucked the party position in favor of passage. Clinton signed the legislation into law in May of 1994 (PL 94). This party unity was possible in part because FACE allowed Democrats to portray their pro-choice vision as congruent with public safety and was portrayed as a moderate bill concerned with protecting a legal right in the face of a hostile, dangerous social movement.

On another abortion-related bill, Democrats unified again to illustrate the sensible, moderate nature of the party's pro-choice position. Congress passed the Family Planning Amendment (FPA—HR 670), lifting the Bush administration's "gag rule,"<sup>8</sup> which prevented

6. The first of these orders overturned the gag rule, which forbade recipients of Title X funds from discussing abortion with their patients. Clinton issued four additional executive orders: one repealed a ban on funding for research on tissue obtained from aborted fetuses; the next lifted the ban on abortions in overseas military facilities, even when the patient paid for the abortion out of pocket; a third instructed the Department of Health and Human Services to study the abortion pill RU 486 and to consider allowing it into the country; and the last rescinded a ban on aid to international organizations that performed or supported abortions (the so-called Mexico City policy). Most of these executive orders were eventually codified through federal legislation, made easier by the fact that Clinton enjoyed a unified Democratic government during the 103rd Congress.

7. Another catalyst for the bill was the Supreme Court's ruling, *Bray v. Alexandria Women's Health Clinic* (113 S.Ct. [1993]). In *Bray*, the Court ruled that a Reconstruction-era racketeering law did not protect clinic patients from harassment.

8. The so-called gag rule was implemented by executive order and was upheld by the Supreme Court in *Rust v. Sullivan* (111 S.Ct. 1759 [1991]).



recipients of federal funds from discussing abortion as an option with their patients.<sup>9</sup> The House voted 273 to 149 to pass the bill in March 1993. Here, too, Democrats were of one mind: only 28 of the 249 Democrats dissented; despite this overwhelming support, the bill was never introduced in the Senate.<sup>10</sup> Emphasis on lifting the gag rule resonated beyond a traditional pro-choice constituency, appealing also to a community concerned with the wider issues of doctor-patient confidentiality and freedom of speech. Both FACE and the FPA allowed Clinton to extend the pro-choice argument beyond the narrow question of abortion, appealing to a wider audience and mainstreaming the Democratic position. For many, these bills were in fact not about abortion at all but about defending reasonable rights to health care against unreasonable detractors.

The choice to pursue these two aspects of abortion policy in 1993 is instructive; not only did both issues convey Democratic consensus, the substance of these policies resonated publicly. Both FACE and removal of the gag rule garnered public support, mainly because they are connected to other popular notions like freedom of speech and personal security. For instance, a Gallup poll from 1994 showed that 59 percent of those asked opposed the gag rule (Moore, Saad, and McAneny 1994). Clinton had an easy time with these policies in Congress because he was assertive only on issues where Democratic consensus could be found.

Although FACE and the gag rule were the most prominent abortion policies to emerge in Clinton's unified government, President Clinton's concern for Democratic consensus on abortion is also evident in the examples of policies he chose not to pursue or those he initially tested and later abandoned. What is not pursued also reflects strategic choice to stay away from areas of internal dissent or those areas where the party position is out of step with public opinion.

Clinton initially explored the issue of abortion funding when he requested federal funding of abortion in his 1993 budget, a position he might have been expected to support given the Democratic platform's explicit endorsement of abortion funding. This was the first time a president had requested federal funds for abortion since the Hyde Amendment stripped those funds in 1976. Clinton made his view on abortion funding known also by explicitly maintaining that his health care overhaul would cover reproductive services of all kinds. But the Clinton proposal was soon abandoned, as the new president realized the limits of support for his position even among congressional Democrats. Even the lack of effort Clinton put into supporting the federal funding proposal revealed his desire to stay within the bounds of party consensus: during the congressional debates on the Hyde Amendment, the administration was silent. Although Shalala testified for the president on behalf of the Clinic Access bill, she remained silent on the funding issue, a position that historically has little public support.

In 1994, neither Clinton nor congressional Democrats made any attempt to roll back the Hyde Amendment. At that time, most members of Congress assumed that Medicaid

9. Technically, Congress was codifying Clinton's earlier removal of the gag rule through his executive order.

10. The bill never left committee in the Senate primarily because the committee was unable to determine whether removing the gag rule would allow minors access to abortion without their parents' involvement.

would be subsumed under a new health bill, making the Hyde Amendment irrelevant. In the strategy of leaving abortion funding to the health care debate, Clinton assuaged both wings of his party: pro-funding forces could be convinced that the issue would be taken up later; at the same time, Democratic opponents of abortion funding could view the possibility of funding as remote.

Another major abortion policy battle that Clinton chose not to pursue was the Freedom of Choice Act (FCA). Democrats in Congress first entertained the FCA when the *Webster* decision in 1989 appeared to threaten the future of *Roe v. Wade* (410 U.S. 113 [1973]). In substance, the FCA would have created national pro-choice legislation, codifying *Roe* in law. Responding to Clinton's obvious commitment to legal abortion, House leadership put the bill on the agenda early in 1993. The Judiciary Subcommittee on Civil and Constitutional Rights approved the measure by voice vote in March. The entire House Judiciary Committee passed the measure two months later, by a slim margin of twenty to fifteen. In committee, three Democrats voted against their party's position.<sup>11</sup> After this, neither congressional proponents nor the president pushed the legislation further.

Overall, Clinton's false starts with abortion funding and the federal pro-choice statute ended as the consensus theory of unified government would predict: when confronted with the possibility of doing battle with his own party on grave matters of social regulatory policy, the president backed down. Driven by motives to retain control of the Congress and White House, the coherence of the party label, and a desire to control the framing of the explosive abortion issue, Democrats engaged only aspects of abortion policy that allowed them to demonstrate party unanimity. The decisions to retire the gag rule and implement FACE maintained the perception of the Democrats' abortion position as a mainstream position concerned primarily with free speech and physical safety through nonviolent clinic access. In contrast, the two main issues that Democrats abandoned, overturning the Hyde Amendment and affirming the *Roe* decision through federal statute, would have gone to the heart of abortion politics: both of those policies initiated a discussion of who can have abortions and under what conditions—a discussion the Democrats were unwilling to have publicly.

During the 103rd Congress, this social policy stayed within the bounds of consensus. Debates in Congress did not devolve into bitter attacks because there was no opportunity provided for that form of rhetoric. Nor was there any incentive: Democrats at both ends of Pennsylvania Avenue, enjoying their first unified government since the Carter administration, had electoral incentives to pursue social policy through consensus only. Unified government thus provided the public, in the case of abortion politics, a sense of political decorum and consistency of purpose that is not popularly associated with divided government.<sup>12</sup>

11. Representatives Romano Mazzoli (KY), George Sangmeister (IL), and Harley Staggers (WV).

12. There are many accounts of tension internal to the Democratic Party during Bill Clinton's first administration. In other policy arenas, such as health care reform or gays in the military (see below), the party was mired in indecision and public debate. Thus, the argument of this article should not be taken as a generalized statement regarding the entire 103rd Congress. My argument, that parties have incentives to seek internal harmony over divisive policy questions during unified government that do not exist during divided government, does not guarantee that harmony always will be found.

### Republicans Shift the Debate: 1995-2000

The 103rd Congress represents the calm before the storm in terms of abortion politics. The 1994 election yielded a divided government with a very different policy-making arena. Although the abortion issue was already on the congressional agenda when the Republicans took control of Congress in 1995, divided government created an opportunity for dissatisfied Republicans to change the nature and tenor of abortion politics by redirecting the focus of the debate. The change of party control would also allow pro-life Democrats to form majority alliances with Republicans on bills that were not previously allowed a forum. No longer beholden to members of their own party for committee assignments and other occupational privileges, antiabortion Democrats were liberated by divided government to resist the party line. The opportunity for heresthetic emerged.

In the 1994 election, conservative Republicans won control over both the House and the Senate on the promises articulated in their *Contract with America*. It is well known that most of the *Contract's* agenda items were focused on economic issues and government reform to rally broad-based appeal. However, the Republican revolution of 1994 ushered in a new breed of Republicans who were devoted to conservative social regulatory policy as well. Faced with a Democratic president known for his loyalty to pro-choice voters, the results of the 1994 congressional elections guaranteed that abortion would continue to be a focus of the 104th Congress. In 1995, abortion debates shifted from consensus to conflict, as the new Republican majority was well aware of the limits of Democratic unity and the external level of public support for certain restrictions.<sup>13</sup> Republicans could pursue abortion debates that would portray the Democrats as divided internally, radical, and aimless, putting the pro-choice position, and the Democrats associated with it, on the defensive.

Divided government provided the new Republican majority with the ability to choose which facets of abortion would be elevated to the national agenda and would give them the opportunity to change the very terms of the abortion debate. By moving the debate from issues of access and free speech to issues of late-term abortion and minors, the new Republican majority was able to alienate the president from social conservatives in his party and force him to reveal what would amount to an unpopular position. Damaged by Whitewater and later by the Lewinsky scandal and his subsequent impeachment, Clinton had little moral authority to leverage in this inherently moral question.

### The Partial-Birth Abortion Ban Act of 1996 and 1997

Late-term abortions<sup>14</sup> first gained a national platform in 1989, when Operation Rescue sent hundreds to a Sultland, Maryland, clinic where the procedure was reportedly performed. Just four years later, in 1993, late-term abortion received more widespread coverage

13. The American public has consistently favored the partial-birth ban. This support is evident most clearly in the fact that some states that have passed similar bans of their own but is apparent in national polling data as well. In 1997, *Gallup Poll Monthly* reported 59 percent of those questioned favored passage of the bill (Gallup short subjects 1997).

14. The Partial-Birth Abortion Ban Act is commonly associated with late-term abortions. Technically, the Partial-Birth Abortion Act outlaws a particular form of abortion that is predominantly used in the third trimester. The wording of the legislation would ban the procedure even during earlier phases of pregnancy, however.

when a late-term abortion provider, Dr. George Tiller, was shot and wounded in Wichita, Kansas. Yet, despite the fact that late-term abortion was catapulted into the national limelight, the Democratic Congress did not respond, indicating the Democratic party's unwillingness to demonstrate the extent of its own internal discord over abortion rights despite mounting external pressure to address the explosive issue.

The debate finally surfaced in June of 1995, four short months after the new Republican members of Congress were installed. By this time, Clinton's institutional strengths were diminished; he had lost both houses of Congress. Still, Clinton enjoyed a large minority in both houses and continued to receive solid job approval ratings. Despite reasonable institutional power, Clinton's personal strengths by this time had eroded as a result of the Whitewater investigation; by the time of his impeachment, his personal strengths had virtually evaporated, as witnessed in the consistent polling showing Clinton with strong job approval ratings side by side with very low public trust scores.

There are many signs that President Clinton was beginning to lose control over the framing of abortion; the center of gravity regarding the issue appeared to be shifting, while Clinton's own personal missteps did nothing to retain Democratic control of the debate. For example, the debate over Clinton's appointment of Dr. Henry W. Foster Jr. to be surgeon general centered on the nominee's abortion position. Although Clinton publicly defended his nominee, saying that radical pro-life forces were trying to scuttle his selection, Clinton's actions failed when the public learned that Foster had performed a previously undisclosed number of abortions during his career. This would not be the last time that a misrepresentation of statistics would hurt Clinton's control of the abortion issue. In the end, when Foster's nomination was withdrawn, Clinton's control over the abortion debate showed signs of wear.

A month after Foster lost his nomination, the House Judiciary Committee agreed along party lines (20-12) to send the partial-birth abortion restriction to the House floor. The bill would make a particular abortion technique illegal except when needed to save the mother's life and would subject doctors who use the procedure to criminal penalties. The bill took four months to reach the House floor, but the measure passed handily on November 1, by a veto-proof margin of 288 to 139. Most important for our purposes, the vote ruptured Democratic unity as 73 Democrats joined the Republican majority in delivering this legislation to Clinton. In contrast to the Democratic unity seen on the FACE and gag rule votes, this rate of defection was significant. Still, Clinton lobbed a retaliatory strike: the following day, Clinton publicly announced that he would veto the legislation in an attempt to preempt the Senate's consideration of the bill. The basis for Clinton's objection to the measure would later haunt him. Clinton based his veto mainly on the argument that the procedure was highly unusual and was employed only to save the mother's life or health or to end a horribly deformed pregnancy.<sup>15</sup>

15. Clinton's second objection, asserted less vehemently and less publicly, stemmed from the obvious constitutional problems with the legislation. It is widely believed that the bill Congress passed would not have withstood Constitutional scrutiny, for two reasons. Both *Roe* and later the more conservative *Casey* (1992) decisions hold firm to the notion that the states may not regulate abortion access to such an extent that the regulation jeopardizes a woman's health. In this case, a series of abortion providers indicated that they choose the "intact dilation and extraction" method precisely because it is the least dangerous late-term procedure and presents the least risk to the woman's future fertility. Second, the bill passed by Congress is inconsistent with the law on a second count: *Roe* and

The legislation, even if signed, likely would have been instantly enjoined and possibly overturned by the Court, having no policy affect at the national level. The federal debate over late-term abortions serves primarily as a wedge issue, “one that, on being pushed sharp end first into a hair-line crack and pounded home with a rhetorical sledgehammer, shatters the unity of the other side” (Mayer 1995, 5). Abortion opponents in and out of Congress saw this procedure as a way to replace the abstract discussion of women’s rights with a public and grisly description of the details of one highly unpopular procedure. Raising the issue of late-term abortions in this way forced Clinton, and his advocates in Congress, to defend publicly the abortion procedure.

The politics surrounding floor debate of the bill are quintessential social regulation. Abortion opponents used graphic illustrations of fetal development to make their case that partial-birth abortions are inhumane. The rhetoric in favor of the ban was equally startling; in one stance, Representative Henry Hyde (R-IL), House Judiciary Committee chairman, likened the late-term procedure both to the Holocaust and to slavery, arguing that “Partial-birth abortion concerns the very nature of man. . . . Our beloved America is becoming the killing fields” (Senate sustains veto 1998, 3-7).

One month later, on December 7, the Senate ultimately voted, in spite of Clinton’s veto promise, to approve the partial-birth abortion ban. In the end, nine Democrats (20 percent) joined forty-five Republicans in the vote for final passage. The House accepted the Senate’s revisions of the bill and voted during the start of the presidential primary season for final passage on March 27, 1996.

Clinton issued his veto statement two weeks later. In an attempt to shift the public’s perception of the abortion technique and regain control of the larger abortion debate, Clinton surrounded himself with the families of five women who had undergone the procedure. The president issued an impassioned rejection of the bill (1996, 643) and tried to make the threatened procedure appear reasonable by highlighting again both the rarity of the procedure and the importance of the technique for women in extreme circumstances:

I have just met with five courageous women and their families. . . . They had to make a potentially life-saving, certainly health-saving, but still tragic decision to have the kind of abortion procedure that would be banned by H.R. 1833. They represent a small but extremely vulnerable group of women and families in this country, just a few hundred a year. Believe it or not, they represent different religious faiths, different political parties, different views on the question of abortion. They have just one thing in common: They all desperately wanted their children. They didn’t want abortions. They made agonizing decisions only when it became clear that their babies would not survive, their own lives, their health, and in some cases, their capacity to have children in the future were in danger.

As the presidential election drew near, the House quickly and comfortably overrode Clinton’s veto by a 285 to 137 vote. But on September 26, just six weeks before the election,

subsequent cases provide for enhanced regulation of abortion only beyond the point of fetal viability. Viability is generally agreed to occur sometime between the twenty-fourth and twenty-eighth week of pregnancy, although advanced technology is pushing back the point of viability earlier in pregnancy. Despite this clear legal doctrine, the partial-birth abortion ban would prevent the procedure from taking place at any point in the pregnancy, clearly violating the trimester system established by *Roe*. The Supreme Court overturned a similar law from Nebraska on June 28, 2000. See *Stenberg v. Carhart* (No. 99-830), 2000.

the Senate failed to override (57-41), not even coming close to the two-thirds majority required. But significantly, four high-profile senators, three of whom were Democrats, rescinded their support of the president's position just prior to the election and voted to overturn his veto.<sup>16</sup>

Support for Clinton's position eroded further in the new year. In addition to serious Democratic defection in the House, a high-profile revelation dealt a critical blow to Clinton's pivotal claim: that the abortion method is rarely used. At the start of the new year, Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, confessed that he had deliberately understated the number of partial-birth abortions performed (Stout 1997). This revelation was damaging to Clinton and his congressional allies, who had opposed the measure on the grounds that the procedure is used sparingly. The Fitzsimmons confession emboldened congressional leadership to revisit the bill.

A week later, the House passed the 1996 version of HR 1122. The 1997 vote indicated a further erosion of congressional support for Clinton's position, in part because of the Fitzsimmons admission and despite the fact that some antiabortion members of Congress were unseated in 1996. Four members of Congress, including one Democrat, switched their votes from March of 1996 in the face of intense public scrutiny.<sup>17</sup> The House considered a series of Democratic amendments designed to soften the legislation, but all failed despite varying levels of support from Democrats. In these various amendments, we see the party attempting and failing to regain an upper hand in the abortion debate, while Republicans remained firm and unified in their support of the original bill. In the Senate, three additional Democrats abandoned the president's position in the vote for final passage in 1997, including most significantly Minority Leader Tom Daschle.<sup>18</sup>

When the bill was cleared for the president, Clinton vetoed it again, although without the previous fanfare. Clinton's decision to veto the measure quietly, in contrast to his earlier high-profile veto, reveals his loss of control regarding abortion politics. In vetoing the legislation, Clinton won the immediate policy battle, but he had lost the war to control the framing of abortion politics and his party's pro-choice image. Supporters inside and outside of Congress quickly predicted another attempt to override the veto to coincide with the fall midterm elections. Ralph Reed, former executive director of the Christian Coalition, projected, "If we don't get it next year, we believe we can probably get it enacted after the next election" because this issue is a "winning, gold-plated issue, going into the 1998 elections" (Lewis 1997, A1).

True to the pundits' predictions, the House voted yet again to override the president's veto on July 23, 1998, this time by a 296 to 132 margin. This impressive vote to override the president's position came just as the impeachment process was beginning to unfold. Not surprisingly, Democratic defection from the president's position was substantial: this time, 77 Democrats, including, most notably, Minority Leader Richard A. Gephardt, voted with

16. Senators Arlen Specter (R-PA), Sam Nunn (D-GA), Patrick Leahy (D-VT), and Daniel Patrick Moynihan (D-NY).

17. Representatives Christopher Shays (R-CT), Rodney Frelinghuysen (R-NJ), Sue W. Kelly (R-NY), and Peter J. Vickslosky (D-IN).

18. All three of the Senate Democrats who abandoned the president's position in 1997 were facing reelection bids: Ernest F. Hollings of South Carolina in 2000, Robert C. Byrd of West Virginia in 1998, and Minority Leader Tom Daschle of South Dakota in 1998.



219 Republicans to produce ten votes more than necessary to override presidential veto. Still, an attempt in the Senate to override the veto narrowly failed on September 18. The vote fell just three shy of overturning the president's veto. While some in Congress vowed to return to the issue, the late-term abortion issue was ultimately eclipsed in the next session by the president's impeachment hearings and trial.

### **Abortion and Minors**

Although Republicans in Congress emphasized the partial-birth issue as a way to redirect the abortion debate for some time, another facet of the abortion question has more recently gained momentum in Congress. Like the late-term issue, the question of minors and abortion also threatens to reveal Democratic disharmony and to cast the president's position as extreme and out of sync with public opinion. In 1998, the House passed legislation (HR 3682) that would make it illegal for an adult to escort a minor across state lines to evade her own state's restrictive abortion statute. The legislation passed the House handily (276-150) with the assistance of fully one-third of the House Democrats (67). Republican support of the bill, in contrast, was nearly unanimous: a mere 14 Republicans (of the 223 who voted) broke ranks and joined Democrats to oppose the measure. Because this measure has not reached the Senate or, consequently, the president, the outcome of the debate is unknown. What is clear at this juncture, however, is that a united Republican Congress has identified another facet of abortion politics that dissolves Democratic unity and reveals another aspect of the Democratic position that is out of step with public opinion.<sup>19</sup>

The issues of partial-birth abortion and minors would never have been permitted a forum under a unified Democratic government. Given the amount of Democratic disagreement on these measures, the party had no incentive to raise these aspects of abortion. At the end of the Clinton administration, there was no policy change at the national level on either issue, but debate of these bills amounted to a major shift in the framing of the pro-choice position. The Democratic position, which is now affiliated not just with clinic access and patient-doctor confidentiality but with a late-term procedure portrayed as grisly and the apparent manipulation of juveniles, now appears, in our public discourse, extreme and unreliable. The president's ability to maintain control of the issue eroded with his loss of the Congress. In part because of his political errors in the debate and also as a result of the public's low level of trust in him, the Democratic position simply lost credibility. And while the Democrats did not lose seats in Congress as a result of these debates,<sup>20</sup> Republicans continue to describe the Democratic abortion stance as extreme. What electoral affect this shift will have in the 107th Congress remains to be seen.

The heresthetic effort in the abortion case is largely a success story. The Republicans, led by Newt Gingrich, were able to cast public doubt on the pro-choice position by associating it with unpopular policies like late-term abortion and minors' abortions. And although

19. The public consistently and overwhelmingly favors laws that would include parents in the abortion decision of minors. A Gallup report from 1996 illustrates this point: 71 percent of those asked reported that they favored parental consent laws for minors (Moore, Newport, and Saad, 1996).

20. In fact, the Republican majority narrowed in 1996 and again in 1998, partially due to the public's dissatisfaction with Republicans' handling of the president's impeachment.

the Republicans constructed a veto-proof majority in the House with the assistance of many Democrats, they failed to do so in the Senate. Still, with a Republican in the White House in 2001, the conclusion of this heresthetic effort cannot be written. Having successfully rerouted the abortion debate away from women's rights in favor of fetal rights, the Republicans may yet have their policy victory.

### **Case Study: President Clinton and Gay Rights**

Throughout his 1992 presidential campaign, then-Governor Clinton promised to end the ban on gays in the military. In his first news conference after winning the White House, Clinton unflinchingly reaffirmed his commitment to full integration of gays into the military: "I'm not going to change my position on it" (Congressional Quarterly 1994, 454). Surprisingly, the issue never gained momentum or raised public opposition during the campaign itself. Only after his inauguration, when President Clinton reiterated his intention to fulfill his campaign promise in January 1993, did he face opposition. And unlike the abortion issue, Clinton's proposals met with swift and stiff opposition from within his own party.

Senator Sam Nunn (D-GA), chairman of the Senate Armed Services Committee, denounced Clinton's plan to integrate the military on January 25. This public and vehement opposition from within Clinton's own party forced the new president to consider the center of gravity within his own party on the issue of gay rights. What he discovered was grave dissent over the idea of integrating gays into the military. To retain control over gay rights issues, Clinton retreated quickly and carefully reformulated his position on gay rights in a way that enabled him to present a united Democratic Party vision of gay rights in America. Despite the fact that Clinton's quick steps to regain control over the gay rights agenda in Congress allowed him to re-create party unity and pass modest legislation, Clinton's early missteps with the gay rights issue would later provide a Republican legislative majority with the heresthetic tools to remake the congressional gay rights agenda and to create public policy consistent with their vision of the issue. Clinton's early attempts allowed the Republicans to construct their own vision of gay rights policy, using heresthetic once again to divide the president's party and associate the Democratic Party label with a radical agenda out of step with traditional American values.

#### **The Politics of Finding Consensus: Gays in the Military**

President Clinton stumbled in his control of the gay rights issue but quickly worked to regain his footing following Senator Nunn's public chastisement. His early dedication to fulfilling his promise of removing the ban against gays in the military was seen at the time by some as a principled move to improve the status of homosexuals in America. Others, however, viewed his efforts as a naïve view of military life made possible because of his lack of military experience or as an affront to the traditional family. It is significant to note, however, how quickly Clinton realized that he was jeopardizing party unity over the issue and how his commitment to repairing the appearance of party unity overshadowed his desire to remove the ban. Likewise, Democrats in Congress who disagreed with Clinton's attempt to remove

the ban rallied behind their president as he struggled to reconstruct a consensual Democratic interpretation of gay rights. Using procedural maneuvers, even Senator Nunn worked to shield party members from public scrutiny of their discord.

Just four days after Senator Nunn publicly exposed the Democratic dissent over Clinton's plan, the president declared a six-month delay in issuing his new policy. His announcement allowed him to convene with congressional Democrats to construct a centrist position on the issue that would not further erode Democratic solidarity. In fact, the six-month review period created an opportunity for Senate Democrats to demonstrate their allegiance to their new president: by voice vote, the Senate passed a nonbinding resolution calling for a Pentagon review of the gay ban, requiring recently confirmed Defense Secretary Les Aspin to report back to the Senate with the findings. The decision by Democratic leadership to use a voice vote rather than to record the votes muted Democratic dissent.

The truce with congressional Democrats also allowed the Democratic Party an opportunity to convey consensus when Republicans made an effort at gaining the upper hand. Senator Bob Dole (R-KS) attempted to scuttle the Democrats' Family and Medical Leave Act (FMLA) by attaching an amendment that would have codified the military ban on gays in the military. This effort backfired: not only did the Democrats secure passage of the FMLA later in the year, the Dole amendment allowed the Democrats an opportunity to exhibit consensus. On February 4, 1993, the Senate voted 62 to 37 to table the Dole amendment. Only two Democrats supported the Dole position (Alabama Senators Richard C. Shelby and Howell Heflin). During the debate, Majority Leader George Mitchell (D-ME) defended the president's position vehemently while Senator Nunn quietly managed the opposition to the Dole amendment.

Following the February 4 vote, the parties agreed to a moratorium on public debate regarding gays in the military to coincide with Clinton's six-month review of the policy. The six-month moratorium on debate moved the gay rights issue out of public view, allowing the president's party the luxury of working out its differences in committee hearing rooms.

Clinton used the six-month truce effectively to reconfigure the Democratic position. On May 27, in an interview with CBS, the president foreshadowed his compromise with his observation that the "country does not appear to be endorsing a gay lifestyle" (New law discourages gay marriage 1997, 5-29). This comment, and others like it, would constitute the new Democratic position: from that point forward, Clinton and other high-profile Democrats characterized their concern with gay rights narrowly as a *workplace* issue, not an issue of sexual freedom. In constructing gay rights as solely an issue of workplace equality, Clinton was able to dodge the more divisive question of whether the country should embrace homosexuality as a legitimate human inclination. In fact, in constructing gay rights as a matter of workplace equality, he adeptly employed the language of civil rights: avoiding the questions of sexual expression, Clinton emphasized the importance of equal treatment at work. He made the analogy to African Americans, who had won workplace equality in the military during the Truman administration. In this framing of gay rights, Clinton was able to construct a unified Democratic majority that could accept modest change in the military's policy. Clinton in effect chose to couch gay rights as a matter of tolerance for a subset of *workers*, as opposed to the much more sweeping, and controversial, notion of gay rights as acceptance of gay people per se.

The Clinton administration issued its policy announcement, as promised, on July 19. Recrafted to reflect a policy change that could muster Democratic consensus, the policy of “don’t ask—don’t tell” maintains a prohibition of homosexual conduct but forbids recruiters from asking enlistees about their sexuality. In addition, the new policy raised the standard for conducting investigations into sexual behavior. The Congress debated the policy change throughout the fall. The Senate approved of the change September 14, 92 to 7, with all but 5 Senate Democrats supporting the Democratic proposal. On September 28, the House voted to add the gay ban to the defense bill, 301 to 134. House Democrats were more divided: nearly half voted against their president’s position. Still, the legislation was signed into law as a result of the consensual impulses of unified government. Not willing to jeopardize the solidarity of the first unified Democratic government since the Carter administration, the party chose internal compromise over significant policy change.

### **The Republicans Take Control: The Defense of Marriage Act (DOMA)**

Democrats managed to retain control of the gay rights issue during the 103rd Congress despite President Clinton’s early missteps. Both Congress and the White House identified party coherence on the subject as more important than full integration and acceptance of gays in the military. In the end, after much private wrangling, the party emerged with a policy that reflected the interests of a majority of its members. Still, what the “don’t ask—don’t tell” policy revealed to the Republican congressional minority would ultimately result in the Democrats losing control over gay rights issues in 1995 and 1996.

Republicans in the 104th Congress quickly characterized gay rights as a matter not of workplace protections and civil rights but as a threat to moral truths and the very definition of the family. Viewed this way, the gay rights agenda took on a very different tenor as Clinton approached his reelection campaign.

Congressional Republicans identified the instability in the Democratic camp over the gay rights issue. The early battle between Clinton and Nunn, however brief, had revealed a truth: the party was divided over how to handle the emerging question of gay rights. The social conservatives of the Gingrich ranks were, in contrast, decidedly unified, and they quickly chose to exploit the weakness in the Democratic camp. By identifying homosexuality as a threat to Christian values and the definition of family, the new Republican majority employed the heresthetic tools and denied the Democrats their workplace “framing” of the issue.

This redirection of the gay rights frame manifested itself quickly in legislation. No longer able to control the place, timing, and substance of the gay rights agenda, Democrats were confronted with a Republican-defined policy agenda. Republicans, led during the 1996 primary season by Senate Majority Leader Bob Dole (R-KS), constructed a federal limitation on same-sex marriage, DOMA. Constructed in response to Hawaii’s consideration of gay-marriage legislation, DOMA virtually sailed through Congress.

The fact that the legislation moved so swiftly is a result of several factors. First, it appeared that the public largely supported the measure, so the consequences of fighting

against it could be severe. Second, the legislation was posited as a protection of moral certitudes: voting against the measure would be tantamount to embracing gay marriage, defined as an “alternative lifestyle” by DOMA supporters. DOMA, according to one of its most vocal supporters, Senator Tom Coburn (R-OK), was an effort to decry homosexuality itself as grounded in “lust” and “perversion” (New law discourages gay marriage 1997, 5-29). Once the Republicans recast the gay rights issue as an issue of sexuality and the family, Democrats had a much more difficult time supporting it. Finally, given that the size of the gay lobby is relatively small compared to its opposition, it is not surprising that President Clinton signed the legislation. While he could risk his political capital on the late-term abortion issue, due to the size and power of the pro-choice lobby, he chose to succumb to the heresthetic effort and swear off gay marriage while still trying to prevent workplace discrimination.

The law allows one state to deny a gay marriage sanctioned in another; in addition, the law defines marriage, for the purposes of federal benefits such as social security, as composed of solely one man and one woman. Anticipating wide Democratic support of the bill, Clinton’s press secretary announced in May of 1996 that Clinton would sign the legislation. On July 12, the House approved the gay-marriage ban, 342 to 67. Republicans were nearly unanimous in their support; Democrats supported the measure by a margin of nearly 2 to 1. In the Senate, the measure passed in September, 85 to 14. This time, Republicans were unanimous, and Democrats supported the bill by more than 2 to 1. Significantly, President Clinton signed the legislation at 12:50 on the morning of Saturday, September 21, without comment or public witness.

While DOMA was adopted swiftly, Democrats in Congress did make an effort to retain public knowledge of their civil rights angle on gay rights by employing a heresthetic of their own. Senator Edward Kennedy (D-MA) fought bitterly to attach an amendment banning workplace discrimination of homosexuals onto DOMA. Although he failed in his attempt, Kennedy instead secured a direct vote on the workplace discrimination ban directly after the DOMA vote for final passage, allowing Senate Democrats to demonstrate their continued commitment to workplace equality. Senate bill 2056, which would have added sexual orientation to the workplace protections of the Civil Rights Act, failed by the narrowest of margins: forty-nine to fifty. Republicans opposed the measure eight to forty-five, while Democrats revealed their consensus for workplace equality in their forty-one to five support for the bill.

Under the Republican framing of gay rights, a vote against DOMA would be tantamount to support for homosexuality per se—a much bolder position than the civil rights, workplace protection position the Democrats had constructed earlier. In the Republican frame, acceptance of a pro-gay rights position is equivalent to acceptance of an alternative lifestyle instead of equal treatment under the law. As defined by the Republican majority, accepting gay rights threatens traditional religious values and the nuclear family. In this employment of the heresthetic model, Republicans were thoroughly successful: not only did they exploit the fragility and tension of the Democratic definition of gay rights sufficiently to capture control over the issue, but President Clinton signed their legislation into law. Made possible in part because President Clinton and Senator Nunn earlier revealed the Democrats’ divisions, this heresthetic effort was quickly and decisively effective.

## Conclusion

As the examples of Clinton's struggles with the abortion and gay rights issues illustrate, divided government creates an opportunity for the dominant party in Congress to raise divisive issues, in these particular cases social regulatory issues, as a means to divide and discredit the president's party. The Republican Congress raised the more controversial facets of these policies in a way that exposed the internal divisions within Clinton's party, forcing him to publicly justify his stance and jeopardize his relationship to congressional Democrats and voters alike. Ultimately, Clinton lost control over the agenda on both of these policy matters. The issues had, of course, been raised during Clinton's first, unified government, but when party control changed in 1995, the facets of the abortion and gay rights issues that were emphasized shifted from issues where Democratic consensus could be found to areas of internal Democratic conflict such as late-term abortion, minors' access to abortion, and gay marriage. Exposing the divisions within the Democratic ranks jeopardized their credibility on these issues, as their positions were framed as radical and incoherent. In the instance of gay rights, the heresthetic effort was so powerful that policy change was effected.

Is this just a 1990s phenomenon? Further study of this theory is needed. Of course, we might expect that in the modern age, any president would have struggled with morality politics in some fashion—undoubtedly even directly with the questions of abortion and gay rights. Given the momentum and power of the activists involved in these debates, we might be tempted to view these examples of contentious politics as inevitable, regardless of the party control configuration.

One promising place for further research of the intraparty dynamics of divided government is the Eisenhower administration. There, we can observe the reverse party control arrangement, as well as a different era of American life. Like Clinton, Eisenhower enjoyed unified government during his first two years. Yet, during that time, Eisenhower and his party did not pursue ambitious change in civil rights, the dominant social question of that time. Still, the changes Eisenhower did embark on were consistently areas where federal authority was clear; in staying unquestionably within areas of federal authority, Eisenhower could satisfy the progressives in his party without alienating more conservative elements for whom protection of states rights was a concern (Burk 1984; Pach 1991; Medhurst 1993).

Yet, when Democrats regained control of Congress in 1955, the civil rights issue did not grow inflammatory strictly along party lines. The Eisenhower civil rights example may confirm the argument that internal party coherence is a necessary condition for the congressional majority to use a social issue to divide the president's party. In the civil rights case, either party was sufficiently unified around a particular interpretation of civil rights to foist it on the other. Democrats, with their deep roots in the Southern states and more recent presence in the northern industrial cities, were internally conflicted as well. What is more, the African American constituency was in flux during this time as well; in 1956, Eisenhower won more black votes than any Republican since the New Deal. Change did come in 1957, in the first civil rights bill since Reconstruction. But early evidence suggests that the divisions over the bill were driven more by geography than party.



Perhaps what the Eisenhower example will illustrate is that the modern parties are far more coherent around questions of social policy than they were a generation ago. The heresthetic appeal of “divide and conquer” can only work in the presence of internal party coherence. On the other hand, a more thorough consideration of this model may reveal that social policy questions are simply more salient a heresthetic tool during some eras than others. While a more systematic accounting of this counterexample is required, space unfortunately does not permit it here.

The arguments presented here modestly point us in a new direction for divided government studies. Hopefully, the illustrations here will inspire further case study treatments of divided government questions, lending comparative and historical insights along the way. In addition, this article has underscored the continued importance of the heresthetic model: These “dynamic manipulations,” as Riker called them, occur today in a context that was just emerging when he crafted his theory. Heresthetic is a virtual necessity in the divided government context; the congressional majority cannot hope of changing policy framing and content without winning the support of either a veto-proof majority in Congress or the president himself. Finally, the implicit implication of these findings is that divided government may be correlated to the nationalization of social policy. If, after more elaborate consideration, we find that the heresthetic artists during divided government favor the use of social policy debates because of their unique properties, we may have further reasons to concern ourselves with this form of party control.

Divided government has an impact on the tenor of our national debates. This article confirms the work of Ginsberg and Shefter (1999), illustrating the dynamics and incentive structures that connect divided party control with political rancor. But most important, this article adds to the litany of concerns regarding divided government: not only can divided government increase hostility between the parties, as others have argued, but it can heighten the hostility within the parties as well. In this age of public distrust of political parties, increased intraparty hostility threatens our sense of politesse and national purpose.

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## The Two Presidencies, 1984-98: A Replication and Extension

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*Aaron Wildavsky first proposed that presidents in the United States receive more support from Congress in foreign policy and thus can expect to wield more influence and discretion in this policy arena. Since that time, scholars have scrutinized Wildavsky's contention. A recent work by Fleisher et al., using a new measure of presidential support, argues convincingly that broad generalizations about the phenomenon of increased presidential support in foreign policy must be drawn tentatively. This article addresses the two-presidencies thesis in three ways. First, the authors replicate a portion of Edwards's research to illustrate the reliability of our results. Second, the authors extend the data collection on more traditional measures used to test this thesis. Third, to address the issue of intermestic policy, the authors employ a new measure of presidential support that more carefully defines foreign and domestic policy actions. The analyses confirm the findings of Fleisher et al. and Edwards that the two-presidencies phenomenon is largely idiographic.*

Since World War II, Presidents have had much greater success in controlling the nation's defense and foreign policies than in dominating its domestic policies.

—Aaron Wildavsky (1966)

Wildavsky (1966) contended that in the United States there is something akin to “two presidencies,” one for foreign policy and another for domestic policy. Since that time, people have assumed that the president ought to, and consequently does, receive more support from Congress in foreign policy. Wildavsky's original argument is based on empirical evidence that he culled from congressional roll call votes. Using *Congressional Quarterly Almanac* presidential box scores, he found that Congress supports presidential proposals concerning foreign policy and national security more than presidential proposals concerning domestic policy. Early follow-up research tended to confirm Wildavsky's contention (LeLoup and Shull 1979; Sigelman 1979).

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Over the years, however, scholars opposed the rule established by Wildavsky (1966) (Edwards 1986; Fleisher et al. 2000; McCormick, Wittkopf, and Danna 1997; Peppers 1975; Rose and Thompson 1991).<sup>1</sup> Still others found evidence of the phenomenon given only certain limited circumstances or considerations (Fleisher and Bond 1988; Lewis 1997; Renka and Jones 1991). The objective of this research is to bring the two-presidencies debate current by extending a comprehensive study carried out by Edwards in 1986. We use the two congressional roll call indicators of presidential support that Edwards found to be most relevant and a third measure of support that omits intermestic policy issues. In our context, intermestic issues are not easily classified as either foreign or domestic policy.

We pick up where Edwards left off in 1986 and report levels of support for the president in the two policy domains using “nonunanimous” and “key vote” indicators through 1998. To test the reliability of our coding scheme, we replicate a portion of Edward’s study representing the years 1981-83. In addition, we report the levels of congressional support for the president (in both foreign and domestic policy) from 1988 to 1998 using a third measure of support, which we term “nonintermestic” votes. We examine general patterns of support among all members of Congress and, specifically, congressional support among members of the president’s opposing party. In each case, we employ all three indicators of support to increase the veracity of our findings.<sup>2</sup>

### Indicators of Support

We rely on congressional roll call data to test the two-presidencies thesis. Although somewhat controversial (see Krehbiel 2000; Lindsay and Steger 1993), the use of roll call analysis is a well-established method that is both intuitive and generally reliable. The research reported here, like that of Edwards (1986), uses multiple roll call indicators of congressional support for the president.<sup>3</sup> First, we include a nonunanimous indicator that only considers congressional roll call votes in which the winning side obtains less than 80 percent of the total vote. To illustrate, if a Senate vote breaks eighty-one to nineteen, the vote is excluded from consideration. Second, we test the thesis using key votes. The *Congressional Quarterly Almanac* (1994-98) defines key votes as congressional roll call votes that represent “matter(s) of major controversy; a matter of presidential political power” or “a matter of potentially great impact on the nation and lives of Americans” (p. C3). The rationale for using key votes is an attempt to define matters of substance and to remove trivial or purely procedural roll call votes from consideration. Third, we use a measure that we term “nonintermestic” votes. The *Almanac*, beginning in 1988, classifies roll call votes on which the president has taken a position into four categories: (1) trade and economic matters, (2) Senate votes on presidential nominations, (3) defense and foreign policy, and (4) domestic policy. Our nonintermestic vote indicator only considers those roll call votes that are categorized as either “defense and foreign policy” or “domestic policy.”<sup>4</sup> If the two-presidencies

1. For evidence of increased power and influence of Congress in foreign policy vis-à-vis the president, see Peake (2000).

2. We refer to “support” as the percentage of total roll call votes in support of the president’s stated position.

3. For other research that uses multiple indicators, see Fleisher and Bond (1988).

4. We further modify this indicator by dropping from consideration any roll call votes that are unanimous.

**TABLE 1**  
**Presidential Domestic and Foreign Support in Congress:**  
**A Replication of 1981 to 1983 (support in percentages)<sup>a</sup>**

<i>Members of Congress</i>	<i>Support Measure</i>	<i>House</i>				<i>Senate</i>			
		<i>Domestic</i>		<i>Foreign</i>		<i>Domestic</i>		<i>Foreign</i>	
All	Nonunanimous	43	(47)	54	(56)	58	(59)	56	(58)
Democrats	Nonunanimous	26	(29)	39	(41)	37	(34)	37	(38)
Republicans	Nonunanimous	65	(71)	73	(75)	76	(80)	72	(75)
Northern Democrats	Nonunanimous	22	(23)	29	(29)	34	(28)	32	(34)
Southern Democrats	Nonunanimous	37	(41)	64	(65)	48	(47)	49	(46)

Note: Our percentages appear in parentheses next to those obtained by Edwards (1986).

a. Pearson correlation between the two measures of .989.

thesis is a reality, then one expects that votes involving defense and foreign policy are the ones most likely to exhibit greater bipartisan support for the president. Essentially, this is the core of the two-presidencies thesis.

For the purposes of our research, all nonunanimous votes and all key votes in which the *Almanac* reports the president's position are coded as either foreign policy or domestic policy (see the appendix for coding rules).<sup>5</sup> We employ a consistent routine for establishing the values for all three of our indicators of presidential support. Specifically, we take the total number of votes cast in support of the president's stated position (in each of the two policy arenas and in both Houses), add them together, and divide by the total votes cast.

To perform a reliability check, we replicate the last three years of Edwards's (1986) study using the nonunanimous indicator that we, ourselves, coded. We report the results of the reliability check in Table 1. In short, our indicator is almost perfectly correlated with Edwards's indicator ( $r = .989$ ). Thus, the results give us confidence in the validity of our coding scheme.

## Hypotheses

As early as 1975, Peppers questioned the validity of the two-presidencies argument. Edwards, in 1986, further called into question the thesis that had seemingly become conventional wisdom. In addition, recent research, which modifies the traditional measures of support, finds conflicting evidence regarding the two presidencies (Fleisher et al. 2000).

We test several hypotheses using both traditional measures of support and a new measure of presidential support. First, using nonunanimous and key vote indicators from recent years (1983-98), we test the following hypothesis.

*Hypothesis 1:* When considering all members of Congress, there is more support for the president in defense and foreign policy than in domestic policy.

5. This practice is consistent with Edwards (1986).

Second, we test the argument using a newer measure of support. Conley (1997) argued that there are subtle differences to consider when attempting to distinguish the relative level of presidential success in Congress in different policy arenas (see also Manning 1977 and Oldfield and Wildavsky 1989). He argued that intermestic issues, such as international trade, migration, and financial assistance, may mask the appearance of the two presidencies. In accordance with Conley (1997), we omit intermestic issues from the analysis. To do so, we turned to *Congressional Quarterly Almanac*. In 1988, the *Almanac* began to report a new measure that allows one to determine foreign policy support for the president, barring all roll call votes involving trade, economics, and confirmations. As a result, we address Conley's (1997) concerns by testing the following hypothesis.

*Hypothesis 2:* After omitting intermestic issues, there is more foreign policy support for the president relative to domestic policy support.

Finally, we test whether opposition party members support the president more in foreign policy than domestic policy. Edwards (1986) found that "all the additional support for a president's defense and foreign policies comes from the opposition party" (p. 247). This finding is particularly relevant from a theoretical standpoint. The original two-presidencies argument suggests that more bipartisan support exists in the foreign policy arena (Wildavsky 1966). Therefore, to affirm the two-presidencies thesis, opposition party members must support the president more in foreign policy than in domestic policy. If they do not, the two-presidencies argument is further compromised. We test the following hypothesis related to opposition support.

*Hypothesis 3:* Members of Congress from the party opposite of the president are more likely to support the president on matters related to defense and foreign policy than on matters related to domestic policy.

To test this, we report average levels of support coming from opposition party members in the two policy areas over the fifteen-year period of the study. To determine if particular years influence the aggregate analysis (period effects), we compare and contrast annual support levels for the two policy arenas.

## Findings and Discussion

Table 2 presents data on the relative levels of support that presidents receive from all members of Congress in the two policy arenas from 1984-98. The key vote indicator suggests that we should reject Hypothesis 1. When examining key votes, we find that in both the Senate and the House of Representatives, presidents receive more support in domestic policy than in foreign policy. When considering the other two indicators, however, we find some evidence of increased support in foreign policy. The nonunanimous indicator shows the president receiving one percentage point more support in the Senate and two percentage points more support in the House of Representatives in foreign policy. Using the



**TABLE 2**  
**Presidential Support in Congress in Foreign and Domestic Policy Using Multiple Indicators, 1984-98**

<i>Indicator</i>	<i>Support Foreign</i>		<i>Support Domestic</i>		<i>Difference<sup>b</sup></i>
	<i>%</i>	<i>n<sup>a</sup></i>	<i>%</i>	<i>n</i>	
Senate					
Nonunanimous	53	302	52	464	1
Key votes	52	49	53	99	-1
Nonintermestic (1988-98)	54	171 <sup>c</sup>	50	265	4
House of Representatives					
Nonunanimous	50	378	48	683	2
Key votes	50	52	52	105	-2
Nonintermestic (1988-98)	50	229	46	414	4

a. *n* = the number of roll call votes on which the indicator is based.

b. The percentage difference in support in foreign policy versus domestic policy.

c. Unanimous roll call votes are not considered in the calculation of the nonintermestic votes indicator.

nonintermestic vote indicator, the president receives four percentage points more support in foreign policy in both the Senate and the House of Representatives.

Examination of the third indicator tends to affirm Hypothesis 2. Support for the president in foreign policy increases when removing intermestic roll call votes from consideration. However, a closer look at the data attributes the difference to a decrease in domestic policy support, which is not consistent with the original two-presidencies thesis. The original argument states that there is a higher level of absolute support in defense and foreign policy (Wildavsky 1966; Fleisher et al. 2000). We see no such evidence.

During the fifteen years of this study, support for the president in foreign policy in the House of Representatives was the same regardless of the indicator employed (50 percent support). In the Senate, the nonintermestic vote indicator shows the president received one percentage point more support in foreign policy than he received using the nonunanimous indicator and two percentage points more support when examining the key votes indicator. Overall, regardless of the indicator, the absolute levels of support in foreign policy do not fluctuate a great deal. Even the gap in support between foreign and domestic policy is small (4 percent at the top end and a negative differential using key votes).

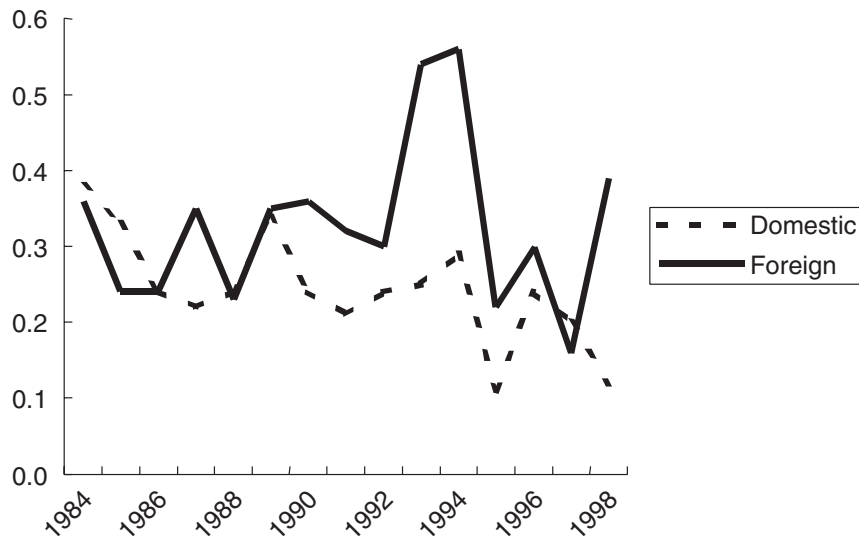
Table 3 presents the results for our test of Hypothesis 3, which seeks to determine whether the president received additional support in foreign policy vis-à-vis domestic policy from members of the opposition party. The average levels of support for the president in the two policy arenas between 1984 and 1998 generally confirm this hypothesis. Measures of presidential support among opposition party members, using the nonunanimous and nonintermestic vote indicators, are between seven and thirteen percent higher in foreign policy than in domestic policy. Increased support for the president from opposition party members disappears, however, when we consider only key votes. Finally, combining the average values for the three indicators, we find that opposition party members support the president in foreign policy seven percentage points more often in the Senate and five percentage points more often in the House of Representatives.

**TABLE 3**  
**Presidential Support in Congress from Opposition Party Members in Foreign and Domestic Policy Using Multiple Indicators, 1984-1998**

<i>Indicator</i>	<i>Support Foreign</i>		<i>Support Domestic</i>		<i>Difference</i> <sup>b</sup>
	<i>%</i>	<i>n</i> <sup>a</sup>	<i>%</i>	<i>n</i>	
Senate					
Nonunanimous	30	302	23	464	7
Key votes	29	49	28	99	1
Nonintermestic (1988-98)	34	171	21	265	13
House of Representatives					
Nonunanimous	31	378	23	683	8
Key votes	27	52	32	105	-5
Nonintermestic (1988-98)	32	229	21	414	11

a. *n* = the number of roll call votes on which the indicator is based.

b. The percentage difference in support for the president from opposition party members in foreign policy versus domestic policy.



**FIGURE 1.** Congressional Opposition Support for the President in the House of Representatives (1984-98): Nonunanimous Indicator.

The average five to seven percentage point increase in support in foreign policy for opposition party members appears to be substantial. The results confirm Edwards's (1986) contention that any evidence for the two-presidencies thesis comes from the voting behavior of opposition party members. However, when we plot the annual levels of support using the nonunanimous and nonintermestic indicators (see Figures 1-4), we find evidence to suggest that the average increased support in foreign policy from opposition party members is affected by specific years.

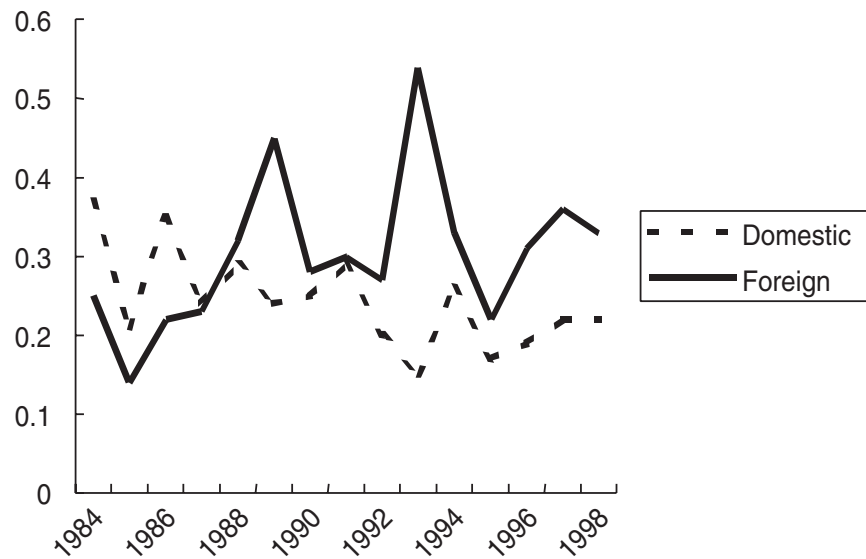


FIGURE 2. Congressional Opposition Support for the President in the Senate (1984-98): Nonunanimous Indicator.

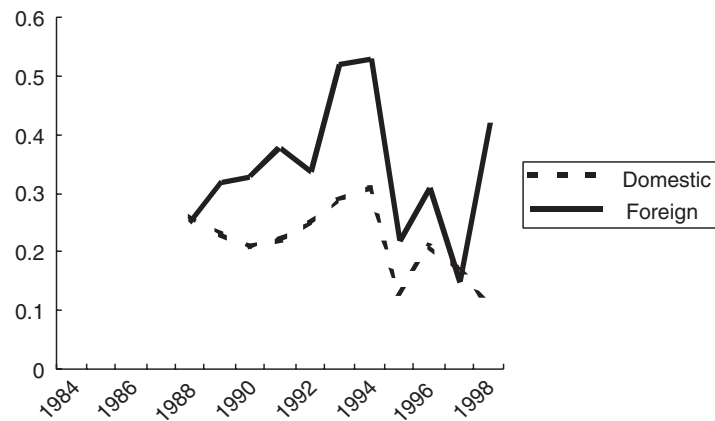


FIGURE 3. Congressional Opposition Support for the President in the House of Representatives (1988-98): Nonintermestic Indicator.

The first two years of the Clinton administration in particular, denoted by spikes in all four graphs, seem to be unique with respect to opposition support for the president in defense and foreign policy. Existing research supports the finding that Republican members of Congress supported Clinton initiatives on free trade early in his administration (Uslander 1998).<sup>6</sup> Moreover, in both indicators, we observe an increase in senatorial support for President Bush around the time of the Gulf War. In all, the high levels of support for the president

6. Note that the spike in Republican support for President Clinton is present using the nonintermestic vote indicator. Recall this measure pulls from consideration many roll call votes involving trade matters.

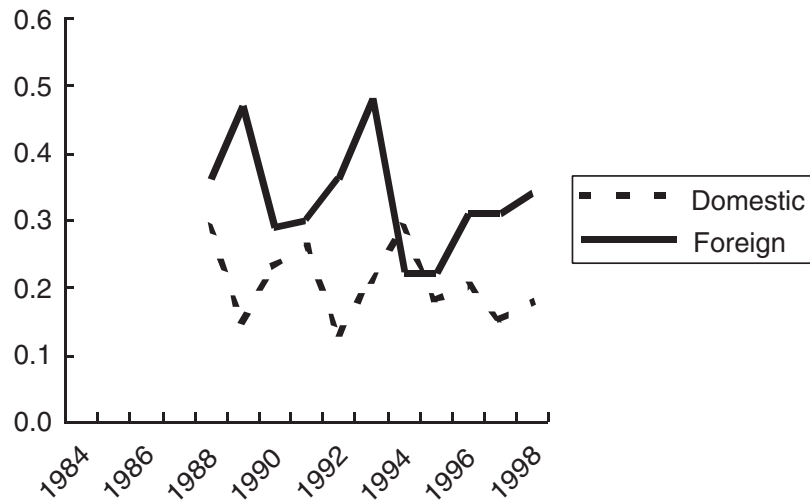


FIGURE 4. Congressional Opposition Support for the President in the Senate (1988-98): Nonintermestic Indicator.

from opposition members in specific years weakens the argument that there is something akin to a consistent two-presidencies phenomenon for opposition party members.

## Conclusion

The two-presidencies debate continues to be important today because of the public policy implications that it entails. More discretion for the president in the realm of foreign policy (or domestic policy for that matter) means more centralized decision making and conceivably less democratic control. However, it appears that the general phenomenon of the two presidencies as outlined by Wildavsky (1966) poses no threat to any benefits derived from interbranch competition. The results of this study reinforce the conclusions of Edwards (1986) and Fleisher et al. (2000) that presidents do not systematically receive more support in the foreign policy realm. This is the case even when many intermestic roll call votes are removed from consideration. Furthermore, it appears there is no consistent increase in congressional support for the president in foreign policy derived from opposition party members.

## Appendix Coding Rules

The primary data concern for this project involves the coding of nonunanimous and key vote indicators. We, as coders, had to determine whether a particular roll call vote represents domestic policy or foreign policy. In the vast majority of cases, the answer to this question was obvious. For instance, a vote concerning the invasion of Iraq was coded as a foreign policy issue, and roll call votes on the Brady Bill were coded as domestic issues.

When the roll call vote concerns a trade policy with import considerations, such as quotas and/or restrictions on imports, the roll call vote is coded as foreign. The rationale for this decision is that import policy directly affects foreign nationals and foreign relations. When trade policy involves exports, the roll call vote is coded domestic. Roll call votes involving exports invariably intend to promote production levels of domestic corporations.

When a roll call vote involves the confirmation of a cabinet officer in either the Department of Defense or the Department of State, the roll call vote is considered foreign. Other confirmation votes considered foreign include those for ambassadorships, director of the Central Intelligence Agency, and leaders of Executive Office of the Presidency agencies involved in national security. Confirmation votes for federal judgeships and all other cabinet positions (not listed above) are coded as domestic.

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*The Contemporary Presidency:*  
**The Pressures of White House Work Life:  
“Naked in a Glass House”**

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*The White House is a place where the work load is heavy, the hours are long, the pressures are great, and the benefits are manifold. As hard as people say the work is, few would trade the time they spent working in the White House; nor is there a shortage of people wanting to work there. The pressures of White House work life relate to the volume and variety of the assignments, the heavy commitment of hours and days, the generous amount of criticism directed toward the president and individual White House staff members, and the narrow margin of error allowed to those working for the president. Although less numerous than the pressures, the benefits are an important component of White House work life. They revolve around the importance of the decisions made in a White House, the interesting people and situations one confronts when working in a White House, the increased likelihood of having an interesting and lucrative career after leaving the White House, and having a part in history as it is made.*

“When they come to the White House there’s no forty-hour week and they shouldn’t expect it,” said President Gerald Ford.<sup>1</sup> “It has to be almost a twenty-four-hour-a-day job for both the President and the staff.” The White House is a place where the workload is heavy, the hours are long, the pressures are great, and the benefits are manifold. As hard as people say the work is, few would trade the time they spent working in the White House; nor is there a shortage of people wanting to work there. Donald Rumsfeld, chief of staff under President Ford, expressed the view of many that service involved dual aspects. He related his experience:

1. White House Interview Program, interview with President Gerald R. Ford, Martha Joynt Kumar, Palm Springs, CA, October 10, 2000.

*Martha Joynt Kumar is professor of political science at Towson University. She is currently on leave while she serves as the director of the White House 2001 Project, which includes the White House Interview Program. She is also coauthor of Portraying the President.*



In the White House you are very much at the center of things. There is an amazing flow of information. It is stimulating, because there's so much pressure. In my case, it was working with just a truly wonderful human being; a fine, decent, honorable, good person.<sup>2</sup>

At the same time, though, the work in a White House is staff work. You are not the principal player; the president is. That is a situation difficult for some staff members to get used to. Rumsfeld continued,

The disadvantage for me was that I had run large organizations and then I found myself back as an assistant. And I knew, as anyone in that job ought to know, that no one really cares what you think. What they really want to know when they ask you a question is what the President thinks. Therefore you constantly have to answer, respond and behave in a way that reflects what you believe to be the President's thinking and the President's best interest.

Responding as the president would mean staff members have to behave in a way that puts him in the foreground and themselves in a relief position. Rumsfeld observed,

That causes a change in how you handle yourself. You're not as natural. You're not as responsive. You're not as open, because you're trying to do it in a way that serves him and his presidency. That is a very different kind of a job than running something yourself. So it has those pluses and those minuses.

## The Allure of the White House

The pressures of White House work life relate to the volume and variety of the assignments, the heavy commitment of hours and days, the generous amount of criticism directed toward the president and individual White House staff members, and the narrow margin of error allowed to those working for the president. Although less numerous than the pressures, the benefits are an important component of White House work life. They revolve around the importance of the decisions made in a White House, the interesting people and situations one confronts when working in a White House, the increased likelihood of having an interesting and lucrative career after leaving the White House, and having a part in history as it is made.

### “Interesting People, Interesting Situations”

Working in a White House has clear rewards, most especially because it is interesting and important work. Abner Mikva, counsel to President Clinton, said,

It's exciting. You're at the point of some very important decisions. Whether you're making them or not, you're involved in the decisional process. You're dealing with interesting people, interesting situations. There just was not a single boring moment that I had.<sup>3</sup>

2. White House Interview Program, interview with Donald Rumsfeld, Martha Joynt Kumar, Chicago, April 25, 1999.

3. White House Interview Program, interview with Abner Mikva, Martha Joynt Kumar and Terry Sullivan, Chicago, April 26, 2000.

For those who live life close to the edge, the White House holds a strong appeal. Alonzo McDonald, who headed the McKinsey Company before he came to the White House to establish a management system for the Carter administration, found the pressure to his liking.

The benefits are: one of the most extreme lifetime challenges that one can ever have. For those of us who have always walked along the edge, whether in business or whatever, it's: How close can you walk to the edge without falling off? It's not everybody's cup of tea. . . . This was sort of the ultimate of being fully exposed. You were naked in a glass house every minute.

Satisfaction comes with the work and with one's place in history as well. James Fetig, who served as the liaison to the Press Office for the National Security Council in the Clinton White House, commented,

The benefit as a citizen is to understand the glory of this republic and how it works, to have a chance to serve the American people and serve the Constitution and the highest office of the land first-hand, personally; to be there, to be part of history; to stand in places where history has been made. It's a very uplifting and motivating thing to do. When you walk through the gate of the White House every morning, you have no question of why you're at work. Getting motivated to go to work at the White House was never an issue, never a problem whatsoever. It was a delight to do no matter how frustrating it could be day by day, hour by hour.

### Close to the President

The importance the White House experience takes on in the lives of those who worked there can be seen in the positive views of the experience held by two men who, for very different reasons, had some bad memories associated with their White House tenure and the years afterward. Yet in retrospect, neither H. R. Haldeman nor Michael Deaver would have turned down the opportunity. Michael Deaver, deputy chief of staff in the Reagan White House, spoke about the conversation he had with former Nixon White House chief of staff H. R. Haldeman following Ronald Reagan's election as president. As Deaver related it, Haldeman encouraged him to go to Washington with Reagan by pointing out,

"You've got to go back. There have only been forty men [presidents] and each one of those men had a guy like you and so there's only forty people like that."<sup>4</sup> I said, "You mean to tell me after going to federal prison and public humiliation that you would go do this again?" He said, "In a heartbeat."

When Deaver went to see Haldeman several years later, Haldeman took him into his office behind his house.

We walked in to this place and that's all it was. It was every cartoon that had been drawn about him. Every photograph of him with everybody in the world. We sat down and he said, "We have wonderful memories, don't we?" I said, "Yes."

4. White House Interview Program, interview with Michael Deaver, Martha Joynt Kumar, Washington, DC, September 9, 1999.

Deaver, too, has memories of his White House days in his office. “If you look in this office, I do have that picture over there of the five presidents. That’s the only thing I’ve got because I love that picture, the way the light shines.”<sup>5</sup>

## Career Enhancement

Many former White House staff find work-related benefits follow them once they leave the White House. Michael Deaver explained the package of benefits, including the impact on his post-White House work experience:

I got a lot of stuff out of it. I got exactly what Bob Haldeman said. There were only forty people that were close to a president like I was. Some of them didn’t even have a guy like me. So that was an incredible opportunity. I learned a lot about how the whole system works and so it’s given me a different caliber in the business I was in; calibrated me up to a different level. And I love my life and I love what I do.<sup>6</sup>

Once people learn how the system works during their White House years, they have many opportunities to stay in Washington and work on issues related to the government operations they became familiar with during their tenure there.

Wherever they go, those who served in a White House take with them the experience of working in an environment in which they were constantly under multiple and intense pressures related to their assignments. Pete Roussel, deputy press secretary in the Reagan administration, explained the benefits:

I remember during the economic summit here [Houston] one day we were walking to a meeting and somebody in the car—they had all the major CEO’s gathered for a meeting—said “Pete, you’ve got to go in to this meeting and brief the CEO’s about this economic summit. Aren’t you nervous?” I said, “Are you kidding? This is fun. This is a day at the beach compared to what I’ve been through.” It disciplined me mentally and I guess emotionally too in ways that no other experience, none, in life, I don’t think, could possibly do. So it was a great value to me in that way and I commend it to anybody else that does it for that reason.<sup>7</sup>

For many, the benefits of White House work life translate into a lucrative career once leaving office. Those who come into a White House from the campaign as twenty-somethings living on meager earnings in the year or two preceding the election leave several years later with experience and contacts they use for the remainder of their careers as lawyers, consultants, or businesspeople. For Clinton administration staff persons such as Rahm Emanuel, George Stephanopoulos, Dee Dee Myers, and Doug Sosnik, the White House years were followed by lucrative careers. Even those who work elsewhere in government find the White House experience an enriching one.

5. Ibid.

6. Ibid.

7. White House Interview Program, interview with Peter Roussel, Martha Joynt Kumar and Terry Sullivan, Houston, TX, November 3, 1999.

## Never a Slow Day

The rush of activity in a White House is both a draw and its limitation as a work place. “My advice to anybody in any future White House is there is never a slow day, even if there’s a slow day,” observed Pete Roussel.<sup>8</sup> “It just doesn’t happen there.” As evidence, Roussel described a presidential golfing trip to Augusta, Georgia, which Press Secretary Larry Speakes “suggested would be quiet from a news standpoint.” First, a gunman burst through the gate of the golf club and took as hostages two aides to the President and held them in the pro shop. Roussel briefed reporters throughout the day and evening on that situation.

Finally it got to be midnight; I said what a day. I go to my room and the phone is ringing. I pick it up and it’s Deborah Potter who was then a CBS reporter. . . . She said, “Pete, we’ve just had a report that 250 Marines have just been killed in Lebanon. Do you know anything about that?” When you get a call from a good reporter like that you usually perk up. I said, “Deborah, I don’t know anything about that. Let me get back to you.” I put the phone back down and it started ringing again. I didn’t even have a chance to dial. I picked it up and it was Bud McFarlane, then the NSC [National Security Council] director. He said, “Pete, you need to come down to my room. We’ve just had an incident in Lebanon involving some Marines.” I said, “Bud, CBS just called me about it. They’re already on to it.” It just shows you, again, for your purposes how the life in that operation changes moment to moment.<sup>9</sup>

Those rare days that begin slowly seldom end that way. For most who serve in senior- and middle-level posts, the White House is a great place to be, but only for a limited amount of time.

## Working in a White House: The Pressures

People who work in a White House at the senior level rarely serve out a full four-year term with the president working in the same job. They either leave or shift from one position to another, as happened in the Clinton administration with Robert Rubin, George Stephanopoulos, Bruce Lindsey, Gene Sperling, Leon Panetta, Bruce Reed, Rahm Emanuel, and Sylvia Matthews. In fact, Matthews, Sperling, Lindsey, and Reed were still in the Clinton White House as the administration closed, although no one was in the same position he or she had held in January 1993. Most who work in a White House expect to work two years or so and then leave for another post outside of the building. Although the benefits of working there are many, the pressures are indeed great, and the toll service in a White House takes is heavy in terms of one’s time, energy, and family and personal life.

## Constantly on the Job

White House working hours are long no matter the administration or office in which one works. Alexander Haig described the heavy commitment of time he made when he

8. Ibid.

9. Ibid.

worked in the White House as chief of staff for Presidents Nixon and Ford. “I usually was in by seven and I never went home before midnight seven days a week. I did that for two years,” he said.<sup>10</sup> In addition to his two years observing that schedule when he served as chief of staff, Haig followed the same schedule earlier for his four years serving as the deputy to National Security Adviser Henry Kissinger in the Nixon administration. In fact, Haig commented, it was worse working for Kissinger

because Henry used to have his ideas at night. He would call me at one, two o’clock in the morning, three o’clock in the morning and I had just gotten home. He didn’t sleep but four hours a night. I didn’t sleep but three hours a night. And I did that for seven years. That’s the kind of job it is and that’s why you have to change. People do get burnout.

While few have worked the hours Alexander Haig observed, a normal White House day involves little time for oneself or one’s family. Marlin Fitzwater, press secretary to Presidents Reagan and George H. W. Bush, discussed the demands of a day and observed that you really have only about two hours to yourself when you work at the White House. He broke down a day in the following manner:

You usually leave about 7:30 or 8:00. This is the worst part. You get home at 9:00—it takes an hour to get home—have a drink and you realize that you have to be in bed by 11:00 in order to have enough sleep to deal with the next day. So basically your entire private life is boiled down to between 9:00 and 11:00. That’s tough to take. That’s the part that people can’t understand. People ask, what’s it like to work in the White House? How many hours do you work? But the idea that there’s really only two hours a day where you can deal with yourself or your family, that’s the tough part.<sup>11</sup>

The constant pressure to be at the White House means people have little time to spend with their families. Ron Nessen, press secretary to President Ford, discussed the lack of time he had with his child:

I left home at 6:30, as I said, and I, usually because I had this thing about returning phone calls, got home at 9:30 or 10:00 or later if there was something going on. My son was eighteen months old then. I never saw him. Sometimes I’d wake him up at 11:00 to play with him because that was the only time I’d see him.<sup>12</sup>

Phillip Brady, staff secretary in the George H. W. Bush administration, talked about the illusion for young children that their father is not around.

One night I put my oldest son to bed. It was on a Sunday night. I put him to bed and he said without any sense of sarcasm, “See you next week, Dad.” I was home all that next week; it was

10. White House Interview Program, interview with Alexander Haig, Martha Joynt Kumar, Washington, DC, December 22, 1999.

11. White House Interview Program, interview with Marlin Fitzwater, Martha Joynt Kumar, Deale, MD, October 21, 1999.

12. White House Interview Program, interview with Ron Nessen, Martha Joynt Kumar, Washington, DC, August 3, 1999.

just that I'd leave before he got up and I got home after he went to bed. So the only time I could possibly see him was on the weekend when we weren't traveling.<sup>13</sup>

Even when senior White House staff members are at home, their life is not their own. The White House pervades their life outside of the building as well as inside of it. Alonzo McDonald, who worked as a senior adviser to President Carter, related his experience:

The first day that I was assigned to the White House, there was a knock on the door at home and there were two guys with telephones. My wife said, "Who are you?" and they said, "We're from the White House. Where does he sleep?" They put one next to my bed. They said, "Does he have a place where he sits down to read after dinner in the evening?" She said, "Yes, right there. We need one there." The fact of the matter is that you're on duty twenty-four hours a day, seven days a week. You don't take time off or anything else.<sup>14</sup>

Others at the senior level have felt the same continuing presence of their work no matter where they happen to be.

### Physical Stress

White House work has a physical dimension to it. James Fetig, who was the press officer for the National Security Council working with the Press Office, discussed the physical difficulties inherent in working in a White House.

The most difficult thing that anybody ought to know when they come in is going to be physical. It's the lack of sleep. The phone rings most nights and you almost never have a night of uninterrupted sleep. You start averaging four to five hours of sleep and the rest of the time you're at work.<sup>15</sup>

Margita White, who headed the Office of Communications, provides us with an example of the physical toll of White House work. She left the White House for a seat on the Federal Communications Commission (FCC). She related how she arrived at the decision to take the FCC post.

It was April, I think. I had been traveling all over the country on Air Force One or the press plane—a six-state trip where I had arranged several regional briefings and other events for the president. I got home at three-thirty or four in the morning, went to bed, got up at six, knocked [over] a full pot of coffee on my lap, and ended up in the [hospital] emergency room with second-degree burns all the way down my leg. As they peeled off the skin in the emergency room, Dick Wiley, who was then Chairman of the FCC [Federal Communications Commission], tried to reach me to let me know that he had just been to the White House Personnel Office to urge I be appointed to an impending FCC vacancy he had just learned about that morning.

13. White House Interview Program, interview with Phillip Brady, Martha Joynt Kumar, McLean, VA, August 17, 1999.

14. White House Interview Program, interview with Alonzo McDonald, Martha Joynt Kumar, Washington, DC, February 2, 2000.

15. White House Interview Program, interview with James Fetig, Martha Joynt Kumar, Rockville, MD, February 5, 1999.



When I got his surprising message as I came to, I thought this was something I wanted to do. Timing was everything. I'd drafted the proposal for the expanded Communications Office role in the campaign, but at that moment I knew I didn't have the strength to follow through.<sup>16</sup>

## Recognizing Burnout

There is no optimum amount of time to spend working at the White House, but burnout is a real factor. The difficulty with burnout is that people rarely recognize it in themselves. Accompanying the burnout factor is what Chase Untermeyer, personnel director for President George H. W. Bush, dubbed the "White House Narcotic." A person who is on the staff

should want to leave otherwise they run a couple of risks. One of which is White House burnout. The other is sort of the opposite, which you can call the White House narcotic, the sense that this is all too wonderful, I can't possibly leave it; I can't possibly leave being in a situation in which if you walk into the White House Mess you see famous people or various cabinet secretaries; or out on the lawn: "There are all these flags today. I wonder who's coming?" Or walking through the lobby of the West Wing: "What movie star will I see?" All of that is wonderful to the degree of telling stories at the Thanksgiving dinner table but from the point of view of really doing anything with your life I think it's of limited value.<sup>17</sup>

People on their own rarely recognize they are reaching the point of burnout, but when they do, the president should honor their request to leave. Most often in a White House, others have to recognize it for them. One person who worked in a senior-level White House position said,

If it's your job to oversee fifteen people, if you're the Chief of Staff or the deputy Chief of Staff, you can figure out pretty quickly—there's so much happening so quick. There's so much performance going on," said one person who worked in a senior-level White House position. It doesn't take you long to evaluate it. It doesn't mean somebody makes one mistake and they're gone but you can pick it up pretty quickly. Attitude is a big thing; energy level, enthusiasm. And you have to differentiate between success and failure. The success/failure issue as opposed to the effectiveness/energy/enthusiasm issue. There are going to be successes and failures.<sup>18</sup>

Those at the top have to be aware of the need to recognize burnout in others as well as in themselves.

## Getting It Right

Did you get it right? Is the president satisfied with what you did, if indeed your work rises to his level of attention? Don Baer, director of Communications and Strategic Planning in the Clinton White House, described the pressure associated with getting it right. There is

16. White House Interview Program, interview with Margita White, Martha Joynt Kumar, Washington, DC, October 26, 1999.

17. White House Interview Program, interview with Chase Untermeyer, Martha Joynt Kumar, Houston, TX, July 6, 1999.

18. Background interview.

a lot of pressure and stress on you about in the meantime how did the thing that you planned a week ago play today when the President went out and did it. How did it play in the press? Did all the pieces of it fit together and go the way you had planned? How did he feel about it because you don't always have the time [to go over it] in specifics and even if you do he's not going to remember most of them to tell him exactly what he's doing and why he's doing it and what his place in all this is; here's what he's going to say. What did he want to say? Did it come out the way he thought it would?

Those are all concerns associated with the job you are doing for the president.

Ann Lewis, who took over the communications post following Don Baer, indicated that in addition to the physical strain of working the number of hours one does in a White House, there is an emotional strain that comes with the impact of your work. "The second is the emotional strain when everything you may say and do is enormously important, is watched so closely, and has potentially the impact that a White House statement does."<sup>19</sup>

Jody Powell, press secretary to President Carter, discussed the pressure of getting things right:

There's a tremendous amount of pressure to get things right, to not make a problem worse or create a new problem because you either got it wrong in terms of understanding it or you said it wrong. I didn't find that particularly onerous but it is probably the biggest source of pressure, that you need to be careful. You have to be careful but you can't be so careful that you're not communicating either. So you're balancing those two things.<sup>20</sup>

For a press secretary, the issue of getting it right and being timely in providing information is a particularly important issue.

In addition to accuracy and timeliness, a press secretary has to avoid the trap of the off-handed comment. Speaking on the record in public for sometimes an hour a day, the press secretary is especially vulnerable to misstep. The press secretary's words are scrutinized throughout the world for hidden meanings, not just factual accuracy. Thus, when he or she gives in to the *bon mot*, it can sometimes have repercussions in other countries. Marlin Fitzwater, press secretary to Presidents Reagan and George H. W. Bush, spoke of an error he made that followed him even after he left the office.

That's where I came up with this idea of saying [Mikhail] Gorbachev throws out arms control proposals like a drugstore cowboy. And my deputy said, "Don't do it, Marlin. It's not right; it's not accurate. It's too cute; it's too colloquial. Don't try it." I'd say all right and every day for five days they'd talk me out of it until the sixth day I used it. . . . It was a terrible mistake. They were absolutely right.<sup>21</sup>

19. White House Interview Program, interview with Ann Lewis, Martha Joynt Kumar, Washington, DC, July 7, 1999.

20. White House Interview Program, interview with Jody Powell, Martha Joynt Kumar, Washington, DC, August 2, 2000.

21. Fitzwater, interview.

## Hostile Political Climate

An added stress in the Clinton White House, which was a factor of somewhat lesser importance in the Reagan and George H. W. Bush White Houses, was that associated with a plethora of lawsuits and their attendant subpoenas requiring people to appear on the Hill and before grand juries. Ann Lewis indicated you need to add in these pressures when considering the stresses of White House work life: “You add to that being in, as we are, a hostile political climate in which the danger of lawsuits, special investigators, having your notes or papers sort of called in on any particular issue is ever present.” Jodie Torkelson, director of the Office of Management and Administration in the Clinton White House said,

I think the biggest impact is that it takes time away from positive things. You’re in a defensive mode much of the day. The things that it does, which I actually think are not bad, are that you remember to think all decisions through very carefully. You have a much more structured decision-making process than I think you would if you didn’t always think someone was looking over your shoulder or tomorrow you’ll get a subpoena on that or you’ll see it in the *Washington Post* or whatever.

At the same time the process of making decisions was improved, it was accompanied by a reluctance to take risks.

I think it slowed things down tremendously and made it more difficult and I think people were a lot more cautious sometimes than they needed to be just because it was easier to do nothing because nothing could be criticized than it would be to take a risk and do something even if it wasn’t that much of a risk.<sup>22</sup>

## Scrutiny

With litigation now so important a factor in White House work life, there has been something of a common understanding among staff that one limits the amount of notes one takes. Jodie Torkelson, who served as director of the White House Office of Management and Administration, said,

There are a lot of times when somebody would literally take out a pen and start writing something and someone would say, “What are you writing?” And people going, “Oh. You’re right.” It wasn’t—yes, I think everybody just knew that writing in this administration turned out to be deadly to people and nobody wanted to get subpoenaed. I had staff that got subpoenas because they took a phone message . . . and they had to go and testify all because they wrote the guy’s name down because he called about his health benefits. That’s all it was. So it wasn’t like it was irrational behavior; it was so silly the kinds of people that were getting dragged in to things for the dumbest of reasons that no one felt secure writing anything down. You just didn’t. If you didn’t want to have a legal bill, you didn’t take a note.<sup>23</sup>

22. Lewis, interview.

23. White House Interview Program, interview with Jodie Torkelson, Martha Joynt Kumar, Washington, DC, October 19, 1999.

Scrutiny of those working in a White House can be so severe that even when you are saying nothing, you are indicating an answer. Ron Nessen discussed the kind of scrutiny the words of a press secretary receive from the reporters listening in the briefing.

One time a reporter asked me about rumors that Bill Simon was going to resign as Secretary of the Treasury or he was going to be fired as Secretary of Treasury. And there was some discussion in the White House of whether he was going to stay or go. I knew about the discussion. The reporter said what about the rumors that Simon's going to be fired or something. I was trying to think how am I going to answer this; I don't want to lie about it. There is some talk but nothing's decided. So I just took a second to think about what I was going to say and the reporter starts scribbling down wildly because of this long pause, this long pause when I was thinking of what I was going to say. He interpreted that to mean something. There's a lot of scrutiny. You have to be careful what you don't say or how quickly you say it.<sup>24</sup>

### No Margin of Error

Ray Jenkins, who served as a senior advisor to President Carter handling some press matters, spoke of pressures in addition to the time one spends at the White House. He said,

It is a high-stress job but it is high stress not because of the long hours but because there is absolutely no margin for error whatsoever. Now you're going to make errors and then you spend the rest of your time correcting but you just have to remember that once a problem reaches the White House basically it has no solution. If it had a solution it would have been solved at some level lower down. It's so often a roll of the dice. Sometimes you roll seven and sometimes you roll eleven. The stress is not so much from the long hours—because the hours literally are twenty-four hours a day. It doesn't matter if you're at the White House or whether you're at home or in San Francisco or where. The stress arises from the burden of the job rather than the length of the hours.<sup>25</sup>

Marlin Fitzwater provided an example of an instance when a minor error by an entry-level staff member in the White House quickly turned into a presidential level decision on whether to fire her. A young woman mixed up the contents of two envelopes with presidential talking points ending up in an envelope marked for Sam Donaldson.

The talking points, unfortunately, were written by some legislative affairs person and it said, "Greetings. Hello, members of Congress. Glad to have you here today. (Hold up your hand or shake hands or something)." This is really written by some guy who has never met the President probably, some kid who is trying to be thorough so he puts in all the instructions which happens often when you're writing briefing papers. Anyway, Sam got it, ran a story on the evening news about Ronald Reagan is so dumb he doesn't even know enough to say hello and shake hands.

While an innocent mistake, it caused reverberations that were felt right up to the Oval Office. "Yet it was a mistake of such magnitude and ramifications, it was on national televi-

24. Nessen, interview.

25. White House Interview Program, interview with Ray Jenkins, Martha Joynt Kumar, Washington, DC, July 8, 1999.

sion; the basis for a story and the President of the United States thought she should be fired.” While the discussion between the president, Chief of Staff Howard Baker, and Fitzwater resulted in the woman’s keeping her job, it is surprising to consider such an action rises to the presidential level and does so quickly. For Fitzwater,

it was always a great example of the risk you face and the small margin for error. That’s a lot of tension. If you think of a twenty-year-old kid taking a first or second job and having to live every day with the idea that if they happen to give somebody the wrong piece of paper their career is over.<sup>26</sup>

The pressures may be great for those working in the White House, but they are outweighed for a substantial amount of time by the benefits of being there. It is exciting for people to do the important tasks associated with almost every level of White House work. Those who have served there generally find their time to be a high point in their lives no matter what work they do afterwards or how much money they earn. At the same time, in their post-White House years, they well remember the pressure of the long days and slim margin for error. When they leave, most White House staffers are more than ready to get on with their lives with experiences, contacts, and knowledge that will serve them well for the remainder of their careers.

26. Fitzwater, interview.

# *The Law: The “Protective Return” Pocket Veto: Presidential Aggrandizement of Constitutional Power*

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*This article discusses the all-but-unknown practice of recent presidents to exercise a so-called “protective return” veto, whereby presidents simultaneously exercise both a return veto and a pocket veto for individual bills. Defended by recent administrations as a defense of the existing pocket veto power, this article argues that it is in fact an attempt to create a practical absolute veto, a power rejected by the Constitution’s founders. Veto history and evolution are examined to explain and analyze this effort to redefine the president’s constitutional veto authority.*

In recent decades, students of the presidency have debated with no little fervor the extent to which the institution has become more imperial, especially and most importantly in the realm of constitutional authority. Many have argued that presidents have accumulated power beyond constitutional bounds in such areas as war powers (Adler 1988; Fisher 1995), secrecy (Johnson 1989), executive privilege (Berger 1974; Rozell 1994), budgeting and impoundment (Fisher 1975), and the use of signing statements (Garber and Wimmer 1987). While disputes over presidential use or abuse of constitutionally claimed powers are well known in areas such as war powers, other such executive aggrandizements are little known.

For example, in a recent issue of this journal, Cooper (2001) described the relatively unknown yet burgeoning practice of recent presidents’ using memoranda in tandem with executive orders to mask actual policy initiatives. Cooper discussed several instances in which the first George H. W. Bush and Clinton administrations issued executive orders stating one goal or objective, then issued executive memoranda to initiate a very different, more controversial, and often covert, action. Cooper’s important article is fascinating in the way it reveals the complexity of White House subterfuge that “is deliberately attempting to hide its intentions” (p. 138). The constitutional and policy consequences of this constitutional

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aggrandizement are considerable, a fact that takes on greater importance when compared with the extent to which this effort has proceeded nearly unimpeded and unnoticed.

The purpose of this article is to shed light on another area in which presidential aggrandizement of a constitutionally based power has steadily progressed below scholarly and political radar screens: so-called “protective return” pocket vetoes. This article will first discuss the basis for the pocket veto and its relationship with the regular veto. It then discusses pertinent case law, recent presidential experiments with the pocket veto, and the constitutional problems with that experimentation pertaining to protective return vetoes, a term and process so little known that this may be the first time the term has appeared in a published article.<sup>1</sup> The analysis concludes with an assessment of the merits and consequences of this idea.

### The Regular and Pocket Veto Powers

The Constitution provides the president with two kinds of vetoes in Article I, section 7. The regular or return (sometimes also called qualified) veto is exercised when the president takes two steps: withholds executive signature and returns the bill “with his Objections to that House in which it shall have originated.” The bill is then subject to override by Congress. The pocket veto, by contrast, not only observes different and more circumscribed procedures but has a different and more emphatic effect, because it is absolute—that is, the exercise of a pocket veto kills the legislation in question because there is no bill return and therefore no possibility of override. Congress’ only alternatives to dealing with a pocket veto are to either stay in session for at least ten days after the passage of a bill that may be subject to pocket veto, so that the bill can be returned to Congress, or start from scratch and repass the bill when Congress reconvenes. As the Constitution says,

If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

The first part of this sentence states that if the president takes no action on bills presented by Congress, they become law automatically after ten days. The necessity of this provision is evident, as presidents could halt bills by simply withholding their signature. This circumstance is then modified by the phrase, “unless the Congress by their Adjournment prevent its Return,” in which case any bill not signed by the president is vetoed by pocket veto, even though it is not returned to Congress.

The very existence of the pocket veto would seem to contradict the sentiments of most of the Constitution’s framers concerning the executive veto, because the pocket veto is, in its effect, an absolute veto, a power squarely opposed by most at the Constitutional Convention of 1787. Among others, James Madison, Roger Sherman, Pierce Butler, and Benjamin Franklin spoke against an absolute veto for the president, fearing that it would gather too much power into the hands of the executive. The country’s experience with the absolute veto

1. The author conducted a Lexis-Nexis search for the phrase “protective return” as applied to presidential vetoes and could find no such reference in either law journal articles or those of the popular press.

was immediate and painful, as it had been used for decades by British monarchs and colonial governors to thwart colonial legislation and to leverage political concessions as a condition for approval of colonial legislation (Spitzer 1988, 8-10). To be sure, the absolute veto had several articulate champions, including Alexander Hamilton, James Wilson, George Read, and Gouverneur Morris. Yet, in votes at the Constitutional Convention on June 4 and August 4, the proposal was emphatically rejected: 0 to 10 and 1 to 9 (votes were cast by state delegations) (Benton 1986, vol. 1, 792-818). Thus, the verdict of the convention was decisively against an absolute veto. How, then, is its presence in the Constitution in the form of the pocket veto explained?

There was no debate during the convention on what later came to be called the pocket veto,<sup>2</sup> yet the motive for its inclusion is clear. Quite simply, the pocket veto power was inserted to guard against the possibility that Congress could pass a bill but then quickly adjourn as a way of avoiding a veto before the president had a chance to return the bill, as the regular veto can only be executed if Congress receives the returned bill along with the president's objections to it. Such quick adjournment practices had indeed occurred in some state legislatures before the 1780s. Joseph Story ([1833] 1987) noted that the pocket veto was necessary precisely because it prevented Congress from circumventing a regular veto. After quoting from the constitutional provision describing the regular veto process, Story observed that

if this clause stood alone, congress might, in like manner, defeat the due exercise of his qualified negative by a termination of the session, which would render it impossible for the president to return the bill. It is therefore added, "unless the congress, by their adjournment, prevent its return, in which case it shall not be a law." (P. 324)

Thus, the pocket veto was inserted to prevent the prospect of a bill's automatically becoming law despite the president's objections but without the president's signature after ten days (remembering that unsigned bills automatically become law after ten days when Congress is in session).

One additional insight concerning the pocket veto case can be culled from the constitutional debates. In Document VIII of the Committee of Detail (a committee of five convened to hammer out constitutional language at the Constitutional Convention), the first language of what became the pocket veto clause called for no pocket veto at all; rather, it called for legislation that could not be vetoed and returned to the house of origin in circumstances in which "their adjournment, prevent its Return" to instead "be returned on the first Day of the next Meeting of the Legislature" (Farrand 1966, II, 162). This procedure was the one provided for in the New York Constitution of 1777, from which this, and other elements of the federal Constitution, were likely borrowed (Kennedy 1977, 360). In the committee's subsequent Document IX, and in the version presented to the convention on August 6, the postadjournment return language was dropped, giving the president the pocket veto (Far-

2. The term "pocket veto" apparently was first applied during Andrew Jackson's administration by critics including Daniel Webster (Vose 1964, 398), although the use of the term "to pocket" as a synonym for blocking or suppressing traces back to Britain. The *Oxford English Dictionary* notes that in Shakespeare's play *The Tempest*, Antonio says in Act II, scene 1, "If but one of his pockets could speak, would it not say he lies?" to which Sebastian replies, "Ay, or very falsely pocket up his report."

rand 1966, II, 167, 181). The initial wording underscores the founders' devotion to the principle of bill return. Kennedy (1977) argued that the earlier language was dropped to avoid long delay and uncertainty over the fate of vetoed bills. Illumination of this issue can be gleaned from debate at the convention over language requiring Congress to meet at least once a year (Article I, section 4). It detailed the expectation that Congress would meet for sessions lasting only a few months out of the year, owing to such factors as travel problems related to weather, the need for members to conduct "private business" during the summer, and the desirability of holding congressional elections at the same time as elections for state offices (Farrand 1966, II, 199-200). Because the founders knew that many months would elapse between sessions and were keenly aware of obvious travel and communication problems, they would know also that bills not signed by the president at the end of a session would simply languish absent a pocket veto.

Four critically important conclusions about the relationship between the regular veto and the pocket flow from this analysis. First, the president was given the pocket veto to defend against any congressional effort to duck, and therefore thwart, the regular veto. Unlike the regular veto, the use of which is not circumscribed by the Constitution, pocket veto use is carefully circumscribed by the fact that it may only be used when congressional adjournment prevents a bill's return. Second, the Constitution establishes a clear preference for regular veto over pocket veto use. That is, given any choice, ambiguity, or overlap between possible regular and pocket veto exercise, the Constitution is biased in favor of the exercise of the former rather than the latter. For not only did the clear majority of founders disdain an absolute veto, they also placed great emphasis on the value to be derived from granting Congress an additional opportunity to once more consider legislation before it is either enacted into law or killed. Contrary to contemporary impression, the veto was viewed in the eighteenth century as more than a simple negative or block. In referring to the veto as the "revisionary" power, the founders referenced the veto's more positive and constructive quality, especially as a way to provide a final check against legislation that might be hastily or incompletely conceived, or that would benefit from a final round of revision, through the process of a veto override (Spitzer 1988, 19-20). Third, the founders were concerned about the uncertainty that might arise from legislation passed by both houses at the end of a session that was followed by a lengthy break and about which presidents had reservations. This concern about uncertainty was sufficiently great to overcome the founders' objections to an absolute veto power for the president. It is also reflected in a little-known fact about the early operation of Congress. Owing to the lapse of many months between sessions of early Congresses, the institution ended all business at the end of each session as if each were an entirely new Congress. In other words, unfinished legislative matters were considered dead at the end of each session within a two-year Congress. The House ended this practice in 1818 and the Senate in 1848 (Kennedy 1977, 362, 379; Rogers 1920, 21). Fourth, the pocket veto wording that defines the power as available when adjournment prevents bill return also means that there are adjournments when bill return *is* possible; that is, not all adjournments invite or allow a pocket veto.

## Evolving Interpretation and Use

Pocket vetoes have been exercised by presidents in three circumstances: at the end of a two-year Congress, during intersession adjournments, and during intrasession adjournments. The mere fact of this precedent would seem to buttress the idea that modern presidents are free to use the pocket veto during any adjournment lasting more than ten days or even during briefer adjournments when the tenth day fell during the break. Yet, intersession pocket vetoes made sense in the country's early years because, as just mentioned, Congress operated as though the end of a session were the practical equivalent of the end of a Congress. And intrasession pocket vetoes were the product of historical accident. The first intrasession pocket veto occurred in 1867 when Congress completed work on a joint resolution, H.R.J. Res. 6, pertaining to Civil War troop benefits, just before a spring recess. The senator who chaired the committee on enrolled bills placed the bill on his desk, but then absentmindedly left it there for eight days. When the bill was found, it was hurriedly presented to President Andrew Johnson, who refused to sign it—not because he wanted to veto the bill, but because of the belief that he could only sign it when Congress was in session (Kennedy 1977, 357).<sup>3</sup> Thus was the first intrasession pocket veto exercised (all previous twenty-six pocket vetoes used by eight different presidents were exercised after sine die<sup>4</sup> adjournments at the conclusion of the first, second, or third sessions of Congresses). As has so often occurred with the presidency, a precedent-setting action became the basis for repeating and routinizing the action.

Even setting aside these historical circumstances, practice alone does not define constitutional right or power, a fact that the Supreme Court has noted on many occasions (Whitney 1986, 1167). For example, another little-known feature of the presidential-congressional relationship is that, for the first 140 years of the country's history, presidents traveled in person to the Capitol on the last day of a congressional session to sign those bills that were not to be vetoed, based on the belief that presidents could not approve legislation after Congress had adjourned (Zinn 1951, 19). The Supreme Court swept this notion aside for congressional recesses in *La Abra Silver Mining Co. v. U.S.* (175 U.S. 423 [1899]) and for sine die adjournments in *Edwards v. U.S.* (286 U.S. 482 [1932]).

Evolving congressional practices and court rulings have helped resolve other ambiguities concerning the pocket veto. In *The Pocket Veto Case* (279 U.S. 644 [1929]), the Supreme Court ruled on a challenge to a pocket veto by President Calvin Coolidge that occurred between sessions at the start of a six-month congressional break in 1926. In its ruling, the

3. In his pocket veto message, President Johnson noted the Senate's presentment delay, having come "two days after adjournment." Johnson continued,

It is not believed that the approval of any bill after the adjournment, is authorized by the Constitution of the United States . . . [and] would be contrary to the established practice of the Government from its inauguration to the present time. This bill will therefore be filed in the office of the Secretary of State without my approval. (Richardson 1913, V, 3734)

4. A sine die adjournment is one that means, literally, "without a day," meaning a final adjournment. Contemporary congresses adjourn sine die only at the end of a two-year Congress. A non-sine die adjournment is to a fixed date, which cannot be used to end a concluding Congress.

court upheld the intersession veto. Yet this decision, plus subsequent rulings and evolving practices, ultimately undercut the legitimacy and necessity of both intersession and intrasession pocket vetoes, paving the way for a growing consensus that pocket vetoes should only be used after sine die adjournments at the end of a two-year Congress (Dumbrell and Lees 1980).<sup>5</sup> The Court first noted that the specific matter before it was whether the congressional adjournment in question had prevented the president from returning the bill. In addressing the pertinence of adjournment, the court noted that

the determinative question . . . is not whether it is a final adjournment of Congress or an interim adjournment . . . but whether it is one that “prevents” the President from returning the bill to the House in which it originated within the time allowed.

The Court rejected the argument of those challenging the veto that a bill could be returned to a duly designated agent when Congress was not in session, since Congress had never actually done this, and because the Court feared that bills might hang in limbo for many months.

In a 1938 case, *Wright v. U.S.* (302 U.S. 583), the Court considered a challenge to a regular veto of a bill returned to the secretary of the Senate during a three-day Senate recess. In upholding the veto, the Court said that it did not consider the three-day period an adjournment; but it also contradicted its previous conclusion in the *Pocket Veto* case by saying that Congress could indeed designate agents on its behalf, rejecting what it now considered “artificial formality” by saying that “the Constitution does not define what shall constitute a return of a bill or deny the use of appropriate agencies in effecting the return.” The court also dismissed the potential delay problem mentioned in the *Pocket Veto* case as “illusory.” Even though the Wright case pertained to three-day recess of one house, and did not actually overturn the *Pocket Veto* case, it rejected the impediments to bill return cited in the earlier case.

In 1974, the U.S. Court of Appeals upheld a lower court ruling that struck down a 1970 pocket veto by President Richard Nixon that occurred during a six-day Christmas recess (*Kennedy v. Sampson*, 511 F.2d 430 [D.C. Cir. 1974]); that is, the tenth day lapsed during the six-day break. The court noted that bill return could have been effected, consistent with *Wright*, and the court also cast doubt on pocket vetoes applied during any intrasession or intersession adjournment as long as appropriate arrangements were made for bill receipt, suggesting that a pocket veto was now only necessary after Congress adjourned sine die at the end of a two-year Congress. The court also noted that congressional practices had changed dramatically since the 1920s, in that Congress was now in session nearly year-round. In addition, there was no longer any meaningful difference between intrasession and intersession breaks. The Nixon administration declined to appeal the ruling to the Supreme Court. During the 1970s, Presidents Gerald Ford and Jimmy Carter abided by the principle of avoiding pocket vetoes during intrasession and intersession adjournments, and Congress formalized procedures for receiving presidential messages during adjournments, just as presidents have

5. Even in 1929, prevailing state practices, buttressed by several state court rulings, upheld the use of gubernatorial pocket vetoes only for final, sine die adjournments of state legislatures. Bill return to agents or representatives of state legislatures during other recesses and adjournments was also widely accepted in the states and validated in state court rulings (Constitutional law 1930, 165).

long delegated agents to receive enrolled bills on their behalf, a practice considered acceptable even when the president is out of the country.<sup>6</sup>

### Widening the Contracted Pocket

President Ronald Reagan backtracked on this arrangement when he pocket vetoed an obscure bill that provided relief for a Florida company in December 1981, between the first and second sessions of the Ninety-seventh Congress. The affected company took the matter to court, but nothing came of the action. A significant challenge emerged from Reagan's pocket veto of HR 4042, a bill designed to prod human rights advances in El Salvador, between the first and second sessions of the Ninety-eighth Congress in 1983. Members of Congress took the president to court, but the Supreme Court refused to hear the case on its merits, vacating it as moot in 1987 (*Burke v. Barnes*, 479 U.S. 361). Although Reagan exercised no other intersession (nor any intrasession) pocket vetoes, he did continue to argue for the constitutionality of intersession pocket vetoes.

The George H. W. Bush administration significantly escalated the pocket veto debate by arguing for intrasession as well as intersession pocket vetoes. Beginning with a little-noticed action, President Bush claimed to apply a pocket veto to a bill during a thirty-one day intrasession adjournment of Congress in August 1989. The bill in question, H.J.Res. 390, dealt with a minor, technical matter concerning the waiving of certain printing requirements for enrolled bills. This pocket veto attempt (flagged by Bush's issuance of a "Memorandum of Disapproval," the message accompanying pocket vetoes, rather than issuing a "Veto Message," which accompanies regular or return vetoes) seemed trivial and insignificant and in fact was considered to have been enacted into law and not vetoed because of Bush's failure to return the bill to Congress. The action was paradoxical because the pocket veto was entirely unnecessary, as both houses of Congress had designated legal agents to receive vetoed bills during such breaks, and had successfully received such vetoes on numerous previous occasions. Thus, Bush could have easily used a return veto. Furthermore, the bill was completely uncontroversial, and congressional leaders evinced no desire to challenge the president on the substance of the decision. Why, then, apply a pocket veto?

Similar questions arose with three other pocket veto attempts by Bush. In December 1991, Bush claimed to issue a pocket veto through a Memorandum of Disapproval of a bill, S.1176, to establish the Morris K. Udall Scholarship and Environmental Policy Act. In an explanatory letter, Bush claimed that he favored the bill but considered some technical elements of the bill to be unconstitutional.

6. The argument for embracing the constitutionality of congressional use of agents to receive veto messages and other documents from the president is buttressed by the fact that a similar and parallel courtesy has long been extended to the president. In a 1964 case, *Eber Bros. Wine and Liquor Corp. v. U.S.* (337 F.2d 624 [Ct. Cl.], cert. denied, 380 U.S. 950 [1965]), a bill was presented to the president on August 31, 1959, after President Dwight D. Eisenhower had left for a trip to Europe. He returned on September 7 and vetoed the bill on the 14th. Even though more than ten days had passed, the court upheld the veto and further ruled that the president could ask to have bills presented to him personally abroad, that presentment could be delayed until the president's return, or that Congress could present bills at the White House as though the president were there. The logic of parallel flexibility applied to congressional receipt of vetoed legislation supports the argument for sine die-only pocket vetoes.



Despite Bush’s claim to having pocket vetoed both H.J.Res. 390 and S. 1176 (neither of which he returned to Congress), Congress considered both to have been enacted into law without the president’s signature because (1) Bush had withheld his signature from both bills, (2) the bills could have been returned to Congress via legally designated agents, and (3) legislation automatically becomes law after ten days if the president does not sign. In neither instance did Bush mount a legal challenge to Congress’ assertion that these bills in fact became law (neither is today considered pocket vetoed, and both are omitted from Bush’s veto totals as tabulated by the authoritative source on vetoes, the U.S. Senate Library [1992]).

In November 1989, Bush vetoed a Chinese immigration bill, HR 2712, which he similarly treated as a pocket veto, in that he issued a Memorandum of Disapproval saying that a congressional adjournment prevented the bill’s return. Yet in this instance, Bush in fact returned the bill to Congress, which in turn treated the veto as a regular veto (override votes were held in both houses; the veto was overridden in the House but sustained in the Senate). Bush made the same claim for an appropriations bill for the District of Columbia, HR 2699, vetoed in August 1991 (Congress took no override votes). Even though Bush called these two actions pocket vetoes by saying that bill return was impossible based on the meaning of the Article I, section 7 veto paragraph, he nevertheless did the impossible and returned the two bills to Congress.

The explanation for these actions was revealed in part in testimony given by Bush’s assistant attorney general, William P. Barr, during hearings held by a subcommittee of the House Rules Committee in July 1989. Barr testified to speak against HR 849, a bill to define the president’s pocket veto powers. If enacted, the bill would have limited pocket vetoes to final, sine die adjournments at the end of a congress. Speaking for the administration, Barr asserted that “the Constitution implies that any adjournment by the Congress—that is, any adjournment of either house for longer than three days—gives occasion for a pocket veto” (U.S. House 1989, 61).<sup>7</sup> So, for example, a congressional weekend or holiday of four days would open the door to a pocket veto if a bill were presented to the president ten days before the break. Barr also challenged Congress’s right to define the term “adjournment” by legislative means. The rationale for the three-day rule arises from Article I, section 5, which says that neither house of Congress shall adjourn for more than three days without the consent of the other house. Since Congress consists of two houses, it may be considered as adjourned if one house is not in session. To the Bush White House, the fact that Congress delegates agents to receive veto messages was an irrelevancy (McGinniss 1990).

### Enter the Protective Return

The George H. W. Bush administration’s treatment of the four bills discussed above is matched by other administration claims concerning unilateral assertions of presidential powers that would seem to have little or no constitutional justification (Spitzer 1991, 1997).

7. Shortly after the *Burke* case in 1987, Senator Kennedy was informed by the Reagan Justice Department that it would henceforth argue that any adjournment longer than three days would justify a pocket veto. This in turn prodded the House to draft legislation to make clear that a pocket veto would only be justifiable at the end of a Congress (Derrick 1993).

But our interest here is with two of these four “vetoes”: the 1989 Chinese immigration bill and the 1991 District of Columbia appropriations bill. In both of these cases, Bush returned the vetoed bill to Congress but also claimed simultaneously to have used a pocket veto against them. This is the action that has come to be known as a protective return.<sup>8</sup> These actions, it turned out, were presaged by little-noticed actions during the Ford administration.

Prior to the time that Ford had agreed to use his pocket veto only at the end of a two-year Congress, he did on five occasions shortly after the start of his presidency engage in the same game as Bush—returning bills to Congress while at the same time claiming that he had also pocket vetoed them. Ford took these actions during a congressional adjournment from October 4 to November 18, 1974. As with Bush, Congress treated the bills as return vetoes. Senator Edward Kennedy (D-MA) folded a challenge to this procedure into his litigation against a Nixon pocket veto, yielding the case of *Kennedy v. Jones* (412 F.Supp. 353 [D.D.C. 1976]), in which the appeals court ruled that pocket vetoes could only be used after sine die adjournments unless Congress failed to designate an agent to receive veto messages (the administration decided against an appeal). It was this result that prompted Ford to accept a sine die—only pocket veto arrangement (Fisher 2001, 6). While the Bush administration did not cite Ford’s actions as precedent, one might speculate that Ford’s actions provided some impetus for those of Bush. Unlike Ford’s suspect vetoes, none of those of the Bush administration resulted in litigation.

There the matter remained until 2000, when President Bill Clinton resurrected the same dual veto procedure. In three instances, Clinton claimed to simultaneously exercise both a regular veto and a return veto against H.R. 4810, the Marriage Tax Relief Reconciliation Act of 2000 on August 5; H.R. 8, the Death Tax Elimination Act of 2000 on August 31; and H.R. 4392, the Intelligence Authorization Act for fiscal year 2001 on November 4. In all three instances, his veto message concluded with the same wording:

Since the adjournment of the Congress has prevented my return of \_\_\_\_\_ within the meaning of Article I, section 7, clause 2 of the Constitution [the clause describing the regular and pocket veto], my withholding of approval from the bill precludes its becoming law. The Pocket Veto Case, 279 U.S. 655 (1929). In addition to withholding my signature and thereby invoking my constitutional power to *pocket veto* bills during an adjournment of the Congress, to avoid litigation, I am also sending \_\_\_\_\_ to the House of Representatives with my objections, to leave no doubt that I have vetoed the measure.

8. In a June 4, 2001, interview with a lawyer at the Office of Legal Counsel (OLC) of the Department of Justice employed there since 1989, it was found that the phrase “protective return” is the term used within the executive branch to describe these double vetoes. The term probably dates back to the George H. W. Bush administration. These vetoes are dubbed “protective” because, according to the lawyer, the double veto erases any doubt that a veto has in fact occurred, so that a litigant affected by the legislation in question could not claim that the bill had somehow successfully become law, thus avoiding litigation. It was also considered “protective” because the action was viewed as a way of protecting the president’s pocket veto power, based on the idea that any more expansive use of the power provides useful precedent in defense of the three-day rule. Yet, the OLC lawyer conceded that the protective return might provoke litigation as well. Most important, the protective return reflects an executive branch view that Congress’ use of agents to receive veto or other messages may not be legitimate. When the OLC lawyer was probed to explain these reasons, he referred the author to testimony given by Justice Department spokesman John O. McGinniss before the House Judiciary Committee in 1990 (U.S. House 1990, 23-33).

While not identical, this wording parallels that used in Ford’s five double-veto messages from 1974 and that of Bush in 1989 and 1991.

In response to Clinton’s actions, Speaker of the House Dennis Hastert (R-IL) and Minority Leader Richard Gephardt (D-MO) sent correspondence to the White House objecting to the procedure, noting prior congressional objections to Bush’s comparable actions and making clear that they would treat these dual vetoes as return vetoes (*Congressional Record* 2000, H11853). No legal challenges ensued.

### Conclusion: The Flaws and Dangers of Protective Return Vetoes

One may be tempted to dismiss all this as inconsequential constitutional trivia. After all, if these dual vetoes by Bush and Clinton failed to spawn court challenges or disrupt the usual lawmaking process, why be concerned? The answer is that there are two sets of concerns: first, the procedure is flagrantly, even outrageously, extraconstitutional; and second, it may ultimately have profound institutional and policy implications.

Bearing in mind the earlier discussion about the bases of the regular and pocket vetoes as well as the extant case law, several conclusions arise from this presidential gamesmanship over pocket veto use:

1. Presidential claims of simultaneous pocket veto and regular veto use—the so-called protective veto—are utterly incompatible with each other, because
  - a. the regular veto and the pocket are, by constitutional definition and design, mutually exclusive and different acts;
  - b. the Constitution treats the regular veto as the preferred means for vetoing a bill, meaning that if any doubt or ambiguity exists concerning whether to use the regular or pocket veto, constitutional design favors the former over the latter;
  - c. the fact that Ford, Bush, and Clinton all succeeded in returning the ten vetoed bills in question to Congress while claiming that they were also pocket vetoing the bills obliterates their pocket veto claims. Congress’ successful receipt of return veto messages in these cases vindicates its assertion that no pocket veto actually occurred, thereby undercutting any justification for a pocket veto. In each case, the presidents’ own deeds superseded their contradictory words.
2. The executive branch argument on which these suspect vetoes rest—that a pocket veto may be properly exercised during any adjournment of longer than three days—disfigures the pertinent constitutional clause. As noted in the *Pocket Veto, Wright*, and other cases, the exercise of the pocket veto rests not solely with the definition of adjournment but also with whether the adjournment in question prevents bill return. In *Wright*, the Court said that the “Constitution does not define what shall constitute a return of a bill or deny the use of appropriate agencies in effecting the return.” The failure of these presidents to cite any source other than the *Pocket Veto* case underscores the fact that they are placing their entire emphasis

on a dubious and self-serving definition of adjournment while ignoring the equally important matter of whether bill return is possible.

3. The eighteenth- and nineteenth-century concerns about delay and uncertainty were real concerns when Congress met for only a few months out of the year and when travel and communications were slow, unreliable, or even impossible. Given a contemporary society that incorporates routinely fast and reliable travel and communication, the uncertainty problem no longer exists, as the Court noted in *Wright*. As for the matter of delay, the use of congressional agents to receive veto and other presidential messages obviates the problem precisely because the executive is able to more efficiently complete its constitutional responsibility to review and return veto-objectionable bills.<sup>9</sup> For its part, Congress is under no obligation to act, much less act quickly, on vetoed bills. If it fails to act, then the president prevails. Furthermore, there is no constitutional objection to override attempts that are played out even many months after a veto.
4. Protective return vetoes open up a Pandora's box of potential problems that simply need not exist. The bogus executive claim in veto messages that the dual veto procedure is being employed to "leave no doubt" that the bill in question has been vetoed is doublespeak because protective return creates, not resolves, doubt. Furthermore, consider these scenarios:
  - a. a president exercises the protective return. Congress does not attempt or does not succeed in an override attempt; either way, the bill is dead, but the legal ambiguity of how it was killed remains;
  - b. a president exercises a protective return, but Congress succeeds in its override votes. Potential litigants who are harmed either by the bill's enactment (successful override) or by its defeat (through pocket veto) file suit. Furthermore, what if the president orders that the bill not be published as a law? Aside from making more work for lawyers and judges, these complications all introduce a degree of uncertainty to the lawmaking process that is not only unnecessary but harmful to the functioning of the lawmaking process.

The arguments in favor of sine die-only pocket vetoes are not only constitutional (as several courts have noted), but sensible. Yet, one need not embrace them to view with great skepticism, and even alarm, the means by which Presidents George H. W. Bush and Bill Clinton have sought to legitimize an expansive definition of the pocket veto through protective return. Despite presidential rhetoric, protective return has not been used by presidents to exercise a veto that could not otherwise be exercised, as these presidents' own actions demonstrate. The term itself is a misnomer, as it erroneously suggests preserving something

9. The *Wright* Court noted with approval that Congress often sent bills to the president by messenger and that presidents routinely received and returned bills through agents even when the president was away, even though the Constitution says that "he, the President, shall return it . . ." The court then said,

It is against all reason and every recognized rule of construction, when the avoidance of unnecessary delay is so clearly manifest . . . that a construction should be superimposed which would make for delay regardless of every desire and of every effort of the President and of the Congress in the situation indicated.

that already exists. So why, to address the question looming over this discussion, have presidents done this? Only one answer presents itself: to legitimize for the presidency an expansive pocket veto that is, for all intents and purposes, a practical absolute veto. Admittedly, the actual operation of these protective returns to date would seem to belie such a threat since Congress has treated them as return vetoes and responded with override attempts. Yet, the continued assumption of the expansive definition of the pocket veto that has accompanied these dual vetoes accumulates precedent and legitimacy. If these protective returns continue unchallenged, the prospect of presidential exercise of the expansive pocket veto without bothering with simultaneous return grows. To use a simple analogy, the return veto may serve as the booster rocket by which the pocket veto capsule may be launched into the realm of constitutional legitimacy, after which time the return veto booster may be jettisoned.

Even though the modern Congress works throughout the calendar year, the congressional calendar is littered with adjournments lasting longer than three days, meaning that the longer-than-three-day definition of adjournment would afford presidents with pocket veto opportunities throughout the calendar year. The net result would be a nearly unlimited absolute veto for the president. Even setting aside the founders' strenuous objections to an absolute veto, the effects of such a power for presidential-congressional relations would be significant. Given the now-accepted realization that the veto power shapes much more of the legislative process than was once thought (Spitzer 1988; Watson 1993; Cameron 2000), the prospect of a more available and versatile pocket veto would materially enhance presidential influence over the legislative process.

An analysis of bills subject to conference committees (selected because such bills tend to be important, controversial, and high profile) during the Ninety-sevent (1981-82) and Ninety-eighth (1983-84) Congresses found that 74 percent of the eighty-two bills in the Ninety-seventh and 54 percent of the eighty-three bills in the Ninety-eighth would have been subject to a pocket veto under the three-day rule (U.S. House 1989, 111). Admittedly, Congress could avoid at least some potential pocket vetoes through careful timing of its presentment of enrolled bills. But, the legislative process does not lend itself well to such incremental manipulations, and as Kennedy (1977, 280) noted, "since Congress is virtually always in adjournment at midnight, the *reductio ad absurdum* is that virtually every piece of congressional legislation could be vulnerable to a pocket veto."

Finally, I conclude with a prediction: that the newly installed administration of George W. Bush will, if the opportunity arises, continue, and if possible expand, the protective veto practice. If the practice remains unchallenged, yet another precedent-based presidential power will eventually have been created.

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# *The Polls: Change and Stability* in Public Assessments of Personal Traits, Bill Clinton, 1993-99

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*This article looks at changes in public perceptions of President Clinton's personal characteristics across his eight years in office. Utilizing a battery of questions that the Gallup Poll repeatedly asked of the public, we find that on issues of character, the public's views of Clinton became increasingly negative. In contrast, on issues of competence, public regard for Clinton rose. These findings are put into a theoretical context of the relationship between the president and the mass public rather than a narrow focus on Clinton's term in office.*

Bill Clinton's tenure as president was, on one hand, propitious and lucky, with the nation generally at peace and prosperous. But his tenure was also marked by scandal. Few presidents have been put under such close public scrutiny for their personal behavior in office. Clinton's scandal-plagued presidency allows us to address the questions of whether, how, and why public evaluations of the personal attributes of presidents may change or resist change. We know much about changes in public evaluations of presidential job performance. The public seems to alter its view of job performance in reasonable ways, with the peaks and valleys of public approval covarying with economic tides as the most well-known and documented relationship. But we do not know much about whether the public will alter its perception of the president as a person across the incumbent's time in office.

There are good reasons to suggest that the public's perceptions of the president's personal traits should not change very much across the course of an administration. First, inasmuch as these personal presidential traits are rooted in personality, we should not expect much alteration in public perceptions. By the time a president has come to office, his personality structure should be relatively fixed and stable, in other words, matured (although not necessarily mature). Psychologists inform us that most personality development is realized by late adolescence or early adulthood. Hence, we should not expect presidents to undergo major personality transformations while in office. Moreover, the electoral process should weed out those candidates who exhibit major personality disorders, as well as those with very

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pliable and/or unformed personalities. Much of the psychological school of presidential research (e.g., Barber 1972; George 1998; Renshon 1996) is grounded in this conception: that by the time the president has taken office, his personality and associated traits are, for all practical purposes, in place and discernable. In fact, Barber's (1972) bold claim of being able to "predict" presidential behavior before the incumbent even assumes office is predicated on such reasoning.

This personality stability argument does not, however, say anything about public perceptions and assessments of presidents. Given the climate of intense media scrutiny during the primary and general election campaigns, it is possible that the public is presented with enough information about the incoming president to make reasonable judgments about his personal nature and attributes. Clearly, media handlers, campaign managers, and election strategists deem to present their candidate's best face and image before the public. Yet, events occur in campaigns that not only call for strategic responses but elicit the candidate's personal reactions. How does the candidate respond to attacks from the opposition? Is he or she calm and cool or hotheaded and easily irritated? Does he or she seem to enjoy political competition, or is he or she seemingly motivated more by duty or ambition or some other base attitude or emotion? The rough and tumble of the electoral season, the rise of unexpected events, media frenzies, and the like, probably provide ample opportunity for the public to learn something about what kind of person is running for office.

Moreover, the quantity of information presented during the campaign probably also means that public attitudes and perceptions toward the candidates are relatively firmly set. Early in the campaign, before the public possesses much information about the candidates, attitudes toward the candidates may be soft and malleable. But once the information necessary to make judgments about the candidates is at hand, it may be hard to shake or change the public's assessments of the person elected. And all the techniques of Madison Avenue and the advertising industry may be incapable of fundamentally altering how the public feels about its leading political leader. One must ask, for instance, if putting a sweater on Jimmy Carter really altered public perceptions of him or if sending George H. W. Bush to a supermarket really made people feel that he was just an ordinary, average fellow and in touch with the public's pulse.

Still, events occur that may reveal to the public characteristics about the president that were hidden because the opportunity to exhibit such traits and behaviors were not present. For instance, no matter the fierceness of an election campaign, it cannot be compared to war. From the campaign, the public may not be able to predict how the candidate would behave during a war or an international crisis. Moreover, the campaign pits the two candidates against each other in a contest in which only one will emerge the victor. Surely the constitutional structure also creates a competitive atmosphere between the president and Congress, but, even in the face of divided government, policy makers across the institutions can forge and have forged compromises that produce policies that both can take credit for and benefit from. In other words, the campaign process is not a perfect dress rehearsal for governing. Governing will place the president in situations that do not occur during election campaigns. Thus, the public may have little guide or information about presidential behavior and performance when these situations unique to governing arise. As a result, public perceptions and assessments of the president may change.

**TABLE 1**  
**Characteristics about Bill Clinton That the Public Has Been Asked to Assess, 1993-99**

<i>Characteristic</i>	<i>Number of Poll Administrations</i>
Can get things done	27
Honest and trustworthy	25
Shares your values	21
Cares about the needs of people like you	16
Has a clear plan for solving this country's problems	8
Puts the country's interests above his own political interests	3
Tough enough for the job	19
Keeps his promises	10
Effective manager	8
Can bring about the changes this country needs	6
Does a good job of representing America to the world	4
Shows good judgment	4

Source: Gallup Poll, various dates from 1993 through 1999.

One last point needs to be made before inspecting public assessments of Bill Clinton across his term in office. All of what the public witnesses in terms of candidate behavior may be merely an image that the candidate and his publicity managers decided could or should be put forward, that is, nothing more than an act. The public gets to see what the candidate wants them to see and nothing more. Never is the inner person revealed. This said, the prospect exists that the candidate, once elected, may alter his public image: a transformation that the transition from being a candidate to a president may allow. Whether the president can effectively alter his image in the sense of changing public orientations, as one set of scholars have vehemently suggested is the case (Waterman, Wright, and St. Clair 1999), is a topic in need of serious research.

### Public Perceptions of Bill Clinton, 1993-99

Beginning in early 1993, soon after Bill Clinton assumed office, and continuing irregularly but frequently, the Gallup Poll asked Americans whether they thought that the president could be described as possessing a number of characteristics or traits. Table 1 lists the twelve characteristics that have been rated repeatedly across Clinton's tenure by the Gallup organization.

We can roughly categorize this set of characteristics into two dominate themes, noting, however, that many are somewhat vague and ambiguous. The first theme can be called *competence* and the second *character*. Competence can be further subdivided into *ability* and *representation*. The ability subset of competence might include items such as "can get things done," "has a clear plan for solving this country's problems," "tough enough for the job," "effective manager," "can bring about the changes this country needs," and "shows good judgment." However, the lack of reference about what the president might show good judgment suggests that the "shows good judgment" assessment might also belong in the character category. "Cares about the needs of people like you" and "does a good job of representing

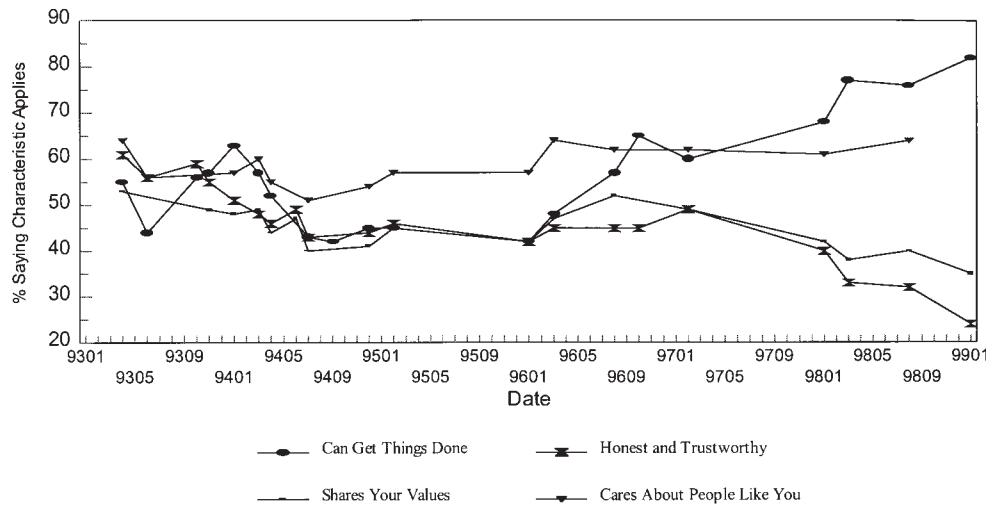


FIGURE 1. Public Views of Personal Characteristics of Bill Clinton.

America to the world” may fit best in the representation category of competence. Last, “honest and trustworthy,” “shares your values,” “puts the country’s interests above his own political interests,” and “keeps his promises” may be considered aspects of character, although “shares your values” may also have a representational aspect.

Figure 1 displays the time paths of four of these characteristics: “can get things done,” “honest and trustworthy,” “shares your values,” and “cares about the needs of people like you.” These items tend to be asked the most frequently, come from both the character and competence categories, and show some interesting time paths. The plot is based on monthly averages of these items (on several occasions, the Gallup organization asked the public about some subset of these traits more than once a month).

Inspection of the plot reveals that from early 1993 until about the onset of 1995, these traits in the public’s mind tended to hang together relatively closely and seemed to move in tandem. Their high and low scores were relatively tightly bounded in the 40 to 60 percent range. In this early period of the first two years of the administration, in the aggregate, these traits seem nearly indistinguishable to the public. Each can effectively substitute for any other.

However, in 1995, we see that one trait, “cares about the needs of people like you,” begins to pull away from the other, rising toward the 60 percent mark, whereas the others seem to hover in the 40 to 50 percent region. During 1995 and until mid-1996, the public seemed to think that the president cared about them. His empathy and/or representational qualities became apparent to the mass public, although another potential representational trait, “shares your values,” does not show the upswing that “cares” does during this time period.

As we enter the reelection season and Clinton's second term in office, the competency measure, "can get things done," takes off, shooting up from the 40 percent mark in early 1996 to 80 percent by the end of the series in early 1999. By late 1997, Clinton is viewed as more competent by this measure than empathetic by the "cares" measure, and the latter never seems to budge much from 60 percent.

The rise in the "care" and "get things done" items stands in stark contrast to the time paths of the other two items, which show a decided depression or slide beginning in late 1996 or early 1997. The decline in the "shares your values" and "honest and trustworthy" items are steep, from 50 percent in early 1997 to about 30 percent by 1999. By 1999, the gap between these character items and competence is wide (45 to 55 percent, depending on the item, with Clinton's "honesty" assessment suffering the worse decline).

Quite simply, across 1997 and 1998, the public came to regard Clinton as highly competent but sorely lacking in character. These data cannot pinpoint the timing or event that triggered the extreme separation of evaluations of Clinton's competence and character, because between early 1997 and early 1998, no Gallup poll asked the public to rate Clinton on these items. Yet, it is probably safe to say that the Monica Lewinsky scandal and the impeachment process had much to do with what we see in Figure 1, at least in terms of the depressed assessments of Clinton's character. Furthermore, the realization of economic health and the rising confidence of the American public in the state of the economy probably have much to do with why the public's assessment of Clinton's competence rose so strongly in 1998 and 1999, even in the face of the Lewinsky scandal and impeachment.

### **Who Changed Their Perceptions of Bill Clinton's Personal Traits?**

The above presents a highly aggregated portrait of trends in public attitudes toward Bill Clinton. A remarkable transformation occurred in how the average person came to view Clinton's personal traits. However, were these changes in perceptions general across the whole population or specific to segments? Answers to this question will help us understand the nature of public perceptions of presidents—how much such perceptions are rooted in reality versus how much political leanings may filter or structure such perceptions.

Table 2 presents comparisons of public perceptions for four of these items—two character based, two competence based—for two time points, broken down by social and political subgroups. Table 3 presents percentage changes for these items from their first to their last administration to the public.

The first thing to note across these two tables is that major movements in opinion are evident for almost all demographic groups. In other words, there was widespread change in attitudes toward Clinton. But closer inspection of the tables also reveals that some population groups changed more than others.

The "honest and trustworthy" trait displays perhaps the most change of any characteristic, with 37 percent fewer people marking the president positive on this trait in January 1999 compared to April 1993. Several groups, while still demonstrating robust change, moved less than the nation as a whole. For instance, blacks slid "only" 26 percent and liberals

**TABLE 2**  
**Public Evaluations of President Clinton's Personal Attributes, 1993-99 (agreement in percentages)**

Group	<i>Honest and Trustworthy</i>		<i>Shares Your Values</i>		<i>Can Get Things Done</i>		<i>Effective Manager</i>	
	4/93	1/99	1/93	1/99	4/93	1/99	1/96	1/99
Total	61	24	53	35	55	82	42	76
Male	53	21	49	37	49	83	35	78
Female	68	27	57	34	60	81	49	74
White	57	18	50	29	51	80	36	73
Black	87	61	73	74	81	99	86	95
Hispanic	—	37	—	53	62	85	68	80
Less than high school	69	35	53	53	61	85	46	78
High school graduate	61	22	54	37	55	81	45	73
Some college	58	22	51	32	55	85	45	81
College graduate	60	18	52	24	53	76	39	71
Postgraduate	62	25	54	29	50	80	27	70
East	64	23	61	35	54	79	41	76
Midwest	65	21	53	32	56	84	42	77
South	59	26	52	39	56	82	44	74
West	57	24	47	33	52	85	41	78
Republican	32	7	26	13	33	66	22	53
Democrat	87	41	81	53	83	96	66	92
Independent	62	21	51	35	49	82	39	76
Less than \$15,000	79	34	58	45	64	84	53	77
\$15,000 to \$19,999	63	21	51	47	58	83	41	74
\$20,000 to \$29,999	61	23	55	37	60	83	48	83
\$30,000 to \$49,999	51	29	50	41	49	86	41	79
\$50,000 to \$74,999	67	15	61	26	52	80	32	70
More than \$75,000	50	16	48	21	42	76	28	69
Liberal	81	40	76	53	67	91	66	87
Moderate	67	22	60	32	58	85	45	78
Conservative	45	17	36	29	46	74	29	66
18 to 29 years old	60	21	52	34	57	87	45	79
30 to 39 years old	54	22	53	41	55	84	37	78
40 to 49 years old	68	28	57	34	58	82	44	77
50 to 59 years old	59	19	52	27	50	84	35	73
60 to 69 years old	61	24	53	35	48	78	47	68
70 years and older	74	29	52	41	58	75	47	72

Source: Gallup Polls, dates specified above.

“only” 19 percent. Thus, some elements of the president's core support constituency were relatively resistant in changing its opinions compared to the average citizen. However, not all core supporters were so resistant, as Democrats eroded more than any other partisan group and much more than the national totals (46 percent).

Moreover, Republicans were also somewhat resistant to changing their attitude toward Clinton on this item, dropping only 25 percent, but this is probably a function of the depressed total to begin with. Only about one-third of Republicans gave the president positive marks on honesty and trustworthiness in April 1993. By 1999, only 7 percent remained



**TABLE 3**  
**Changes in Public Evaluations of President Clinton's Personal Attributes, 1993-99 (in percentages)**

<i>Group</i>	<i>Honest and Trustworthy</i> (4/93 to 1/99)	<i>Shares Your Values</i> (1/93 to 1/99)	<i>Can Get Things Done</i> (4/93 to 1/99)	<i>Effective Manager</i> (1/96 to 1/99)
Total	-37	-18	28	34
Male	-32	-12	34	43
Female	-41	-23	19	25
White	-39	-21	29	37
Black	-26	1	18	9
Hispanic	-	-	23	12
Less than high school	-34	0	24	32
High school graduate	-39	-17	26	28
Some college	-36	-19	30	26
College graduate	-42	-28	23	32
Postgraduate	-37	-25	30	43
East	-41	-26	25	25
Midwest	-44	-21	32	25
South	-33	-13	26	30
West	-33	-14	33	37
Republican	-25	-7	33	32
Democrat	-46	-28	13	26
Independent	-41	-16	33	37
Less than \$15,000	-45	-13	20	24
\$15,000 to \$19,999	-42	-4	25	33
\$20,000 to \$29,999	-38	18	23	35
\$30,000 to \$49,999	-22	-9	37	38
\$50,000 to \$74,999	-52	-35	28	38
More than \$75,000	-34	-27	34	41
Liberal	-19	-23	24	23
Moderate	-45	-28	27	33
Conservative	-28	-7	28	37
18 to 29 years old	-39	-18	30	24
30 to 39 years old	-32	-8	29	41
40 to 49 years old	-40	-23	24	33
50 to 59 years old	-40	-25	34	38
60 to 69 years old	-37	-18	30	21
70 years and older	-44	-9	27	25

Source: Gallup Polls, dates specified above.

Note: Calculated by subtracting the value for the second date from the value for the first date. See Table 1 for the values at the two time points.

in that category, a stunning degree of uniformly negative opinion toward the president. Such a figure perhaps underscores why the Republicans in Congress progressed with the impeachment despite national polls that indicated strong support for Clinton and little support to convict.

The other character category, "shares your values," tells a similar story overall, although several details differ. First, the drop-off here was about one-half the drop-off for "honest and trustworthy" (18 to 37 percent). The ambiguity of what is meant by *values* (Is it

personal or social or family or political values?) probably accounts for the smaller decline here.

Repeating previous findings, blacks display less erosion than the public on average; here, in fact, they reveal no drop-off at all. Again, we see great attrition in Democratic assessments, but unlike for “honest and trustworthy,” liberals are also more prone to change their opinions against the president. Also repeating previous findings, Republicans manifest little decline, again owing to their initially low scores. The same can be said of conservatives in this case.

An education-based relationship is also notable. The less educated, the less likely a person is to change his or her opinion in a negative direction. Thus, people without a high school degree are stable in opinion from January 1993 to January 1999. High school graduates and those with some college witness average national tendencies to mark Clinton more poorly. But college graduates and above witness levels of decline greater than the national average. It is difficult to discern the causal dynamic at work here. It could be that the less well educated are somewhat immune to new information about the president compared to the other educated groups, and thus we see little change in their opinions. But the information environment was highly charged, and it seems unlikely that less well-educated people were so strongly immunized from this information-rich environment. Moreover, we should expect the more well educated to hold stronger attitudes and assessments of the president than the less well educated, which should seemingly immunize them somewhat from new information. Thus, we should expect the middle categories to display the greatest degree of change. But that is not what we find here. Instead, the linear relationship suggests that perhaps this relationship between education and assessment of Bill Clinton is rooted more in social status and the relationship between social status and support for Clinton, where the lower elements of society are more strongly supportive than the higher strata. At least here we have two competing hypotheses for future research to untangle.

In contrast to the declines for the character traits, competency traits reveal stunning increases in positive assessments. For the most part, the patterns for “can get things done” and “effective manager” are quite similar. Blacks are less likely than whites to show improvement here, but this is due to their initially strong support of Clinton: 80 percent or better for both items early on. We also pick up strong gender differences. Males are quite likely to credit Clinton here, while female assessments move much less than the national average. This is not a function, as it was with blacks, of strong initial ratings, although males started out with lower positive scores than women. Why women are comparatively resistant to changing opinions here compared to men is an intriguing question, perhaps speaking to the gender gap noticed in other aspects of political opinion.

As to partisan groupings, Democrats are less likely to increase their positive ratings of Clinton’s competence. Like blacks, this is a function of initially high marks. Curiously, Republicans are willing to credit Clinton here, moving at about the national average. Partisanship does not seem to create a barrier to altering opinions about competence in government. The partisanship story is repeated among ideological groups, with liberals least likely to move and conservatives and moderates moving at about national rates. Again, initially high scores by liberals limit how much they can move.

## Conclusion

Overall, we find strong movement across almost all populations groupings in both directions (down for character but up for competence). Initial antagonists or skeptics of the president are not insulated from altering their attitudes, and they tend to move with the nation at about the same rate. Only when opinion started out very low do we see comparatively little erosion (there was little room for movement). The same story can be said of supporters, but in the reverse direction. When support started out high, comparatively little gain could be realized. For the most part, then, movement in opinion about Clinton's character and competence was national in scope, affected only slightly or marginally by the social or political group to which one belonged. It is quite likely that the magnitude of the changes recorded across the Clinton years accounts for the national basis of change. Although not performed here, an interesting question is whether population groups begin their movements at different times or whether they moved in tandem as these data suggest.

These data also indicate that the public's opinion about a president in office can undergo striking transformations. While the data at hand cannot settle the issue, it appears that reality more than image was the source of these transformations. In fact, had presidential image makers been truly able to ply their craft on the public, we likely would not have seen such a deterioration of support for Clinton's character traits. While presidents may be pursuing the politics of image (Waterman, Wright, and St. Clair 1999), the politics of reality seems the stronger impulse here (Page and Shapiro 1992).

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## BOOK REVIEWS

*Politicians Don't Pander: Political Manipulation and the Loss of Democratic Responsiveness.* By Lawrence R. Jacobs and Robert Y. Shapiro. Chicago: University of Chicago Press, 2000. 425 pp.

As the title clearly asserts, this book draws a line in the sand, arguing persuasively that conventional wisdom—claiming that politicians are deferential to polls and to voter demands—is wrong. Winner of the 2001 Goldsmith and Neustadt book awards, *Politicians Don't Pander* attempts to find clarity in the muddled relationship that exists among politicians, the public, and the media. Unlike previous scholars, Lawrence R. Jacobs and Robert Y. Shapiro “do not treat policymaking, media coverage, and public opinion as parts that can be studied one at a time; rather, [they] study their dynamic configurations and processes of interdependence. Democratic governance and the process of public communications are inseparably linked” (p. xvi).

The authors use the cases of the 1993-94 health care reform campaign and the 1994-95 tumultuousness of Newt Gingrich's first reign as House Speaker to make three points. (In an odd recognition of the wide swath the authors cut, they invite “readers uninterested” in the scholarship to skip ahead to the “in-depth policy debates” of the 1990s.) First, the electoral connection (the need to attract and win a majority of voters) does not trump the desire to enact preferred, but not popular, policy goals. Second, to moderate the costs of ignoring the median voter, politicians design “crafted talk.” Crafted talk is the art of employing public opinion polls and focus groups to choose words and phrases that resonate with the public, even when the policy does not. Third, these actions have altered media behavior and decreased citizen support for and belief in government. Ultimately, Jacobs and Shapiro contend, “the influence of public opinion on government policy is less than it has been in the past and certainly less than commonly assumed by political pundits and some scholars” (p. xvi).

The first and second points are both intuitive and supported by a wealth of interviews and documents obtained from some of the players. Using Jacobs and Shapiro's argument, one can actually understand the “tin ear” demonstrated by the Republican leadership during President Clinton's second term. Clearly, the leadership did not believe that legislators must be in line with the median voter on all issues at all times. Moreover, both Clinton and the Republican leadership demonstrated a willingness to ignore and attempt to manipulate the public during 1998 and 1999. Jacobs and Shapiro's perspective nicely incorporates and marries the seemingly parallel scholarly universes of electoral demands with the findings of disjunction between policy and public opinion since the 1970s. Essentially, the authors create a continuum of responsiveness. In this conception, politicians do not pander all the time, nor can they ignore the public all the time. Instead they bob and weave between desires to do both.

*Politicians Don't Pander* is an ambitious linkage of institutional behavior, strategic individual behavior, and mass behavior wrapped around the case of the Clinton health care plan.

The reasons conventionally offered for the failure of the Clinton plan range from failed leadership to the lack of a mandate to losing the ad war (e.g., Woodward 1994; Hecló 1995; West, Heith, and Goodwin 1996). Jacobs and Shapiro dismiss these arguments in favor of one emphasizing the White House's naivete in trusting its ability to move public opinion. Thus, the authors' third point is that the messenger matters and public opinion is not a prize that can be easily won. Contrary to prevailing opinion, policy deliberation and not media behavior drove the volume and content of press coverage of the doomed health care plan. Moreover, the political conflict and the media attention do not encourage public unity, especially on such a complex issue. Nonetheless, these points, regarding press coverage in particular, would carry more weight if the analysis were not derived primarily from newspapers and the Associated Press when most Americans get their news from television.

Jacobs and Shapiro conclude by considering the thorny nature of democracy and responsiveness. Not surprisingly, they find no easy policy prescription to stem the tide of increasing manipulation and isolation. The authors do argue, however, that perhaps the press could perform better in its role as link between the government and the governed. As ideals go, this is a nice one. Yet the previous chapters detailing the decline of the media's objectivity call this option into doubt. Still, these are minor quibbles about a work that delves effectively and coherently into the thicket created by politicians, reporters, and citizens over public policy.

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*Eyewitness to Power: The Essence of Leadership*. By David Gergen. New York: Simon and Schuster, 2000. 383 pp.

David Gergen has served in the administrations of four presidents: Republicans Richard Nixon, Gerald Ford, and Ronald Reagan and Democrat Bill Clinton. The purpose of his book is distilled in its subtitle: to discover "the essence of leadership." The credentials Gergen offers to fulfill this purpose are in the title: he has been an "eyewitness to power."

Although Gergen nowhere invokes the age-old debate about which affects history more, great leaders or impersonal forces, he leaves no doubt about where he comes down. "Just after World War I, there were twenty-nine democracies in the world," Gergen notes, "by the middle of World War II, only twelve . . . What went wrong? Bad leadership was a large

part of the answer.” And good leadership was the remedy: “Had Roosevelt and Churchill not rallied the Western democracies, civilization might have perished” (p. 11-12).

Successful American presidents, Gergen argues, are not born but made through “[t]raining and understanding of the past.” Drawing from his close observation of the presidents whom he served, along with insights borrowed from political scientists such as Stephen Skowronek, Everett Carl Ladd, and George Edwards, Gergen formulates “seven lessons of leadership.”

First, “leadership starts from within,” with personal integrity and “a combination of core competence and emotional intelligence.” In Gergen’s view, Ford and Reagan had these qualities but Nixon and Clinton did not.

Gergen credits only Reagan with the second and third requisites of good leadership: “a central, compelling purpose . . . rooted in the nation’s core values” and “a capacity to persuade” the American people through effective use of television. He notes in passing, though, that Nixon’s Checkers speech as a vice presidential candidate in 1952 “was the first time in history that a major political figure had so masterfully used the new medium of television to swing the country” (p. 40).

The fourth item on Gergen’s list of lessons for leaders is “an ability to work within the system,” that is, “to form successful working relationships, whether by cooperation, charm, or persuasion” (p. 349) with Congress, the press, interest groups, foreign leaders, and “domestic elites.” Again, Reagan scores high, while “Nixon, Carter, and Clinton all seemed to thumb their noses at [these] institutions” (p. 349).

Gergen argues that in most organizations, such as corporations, labor unions, and universities, “the power of a leader grows over time. The presidency is just the opposite: power tends to evaporate quickly” (p. 350). Hence, his fifth lesson for presidents: get off to “a sure, quick start.” Another A+ for Reagan, but more low marks for the remaining presidents whom Gergen served.

Gergen’s final two lessons have to do with the president’s use of lieutenants. To be effective while in office, a president needs “strong, prudent advisers.” Reagan “started with the best White House operation,” while Ford “wound up with the best cabinet.” And to leave an enduring legacy, “inspiring others to carry on the mission” is crucial. Once again, Reagan stands alone in Gergen’s spotlight.

Apart from offering these lessons about presidential leadership from his vantage point as a White House insider, Gergen paints finely wrought portraits of Nixon, Ford, Reagan, and Clinton. Although Reagan comes out on top—his hard line toward the Soviet Union and his politically successful redefinition of government as more problem than solution make him “the best leader in the White House since Franklin Roosevelt”—Gergen nonetheless hammers him for depending too much on his staff. Conversely, Clinton comes off worst, not just for his deficiencies of character but also for the weaknesses that often are the dark side of “a luminous intelligence” like Clinton’s: narcissism, ethical laxity, and a reluctance to delegate. Yet, Gergen also appreciates Clinton’s virtues as a leader: “resilience, persuasiveness, courage, a capacity to learn from mistakes, and a deep caring about the public good” (p. 273).



Ford, in Gergen's view, was a sort of anti-Clinton. Ford was deliberate, emotionally secure, liked and respected by his political peers, and devoid of ego. Although Ford lacked Clinton's creativity, intelligence, and power to move a crowd, he passed "the most basic test of presidential fitness: . . .the country and the presidency were in better shape than he had found them" (p. 148) when he took office.

Gergen's keenest insights are into Nixon, whom he regards as "the most fascinating man I have met in thirty years of public life . . .the stuff of Shakespeare" (p. 20). The roster of strengths and weaknesses that Gergen offers in his chapters on Nixon includes all the familiar elements—psychological insecurity, mastery of world affairs, and so on—and Gergen certainly does not regard Nixon as a model for future presidents. Yet, Gergen is especially good at finding generally overlooked virtues in Nixon, such as the eye for talent that led him to recruit into his administration five individuals who later became secretary of state and five who later were named secretary of defense.

To evaluate *Eyewitness to Power* as a work of political science would be unfair to Gergen: he never set out to write such a work. But for political scientists to ignore the book on that basis would be unfair to themselves. Gergen has given us a literate, perceptive, and reflective insider's account of four recent presidents, and the experience of reading what he has to say about them is an altogether pleasant one.

—Michael Nelson  
*Rhodes College*

*The Political Philosophy of James Madison.* By Garrett Ward Sheldon. Baltimore: Johns Hopkins University Press, 2001. 123 pp.

Garrett Ward Sheldon argues that James Madison's political beliefs were heavily influenced by his religious beliefs. Sheldon goes so far as to say that Madison's political beliefs cannot be understood at all apart from his theology. To make this argument, Sheldon describes Madison's Calvinist upbringing and education and shows how this background provided the basis for his political ideas throughout his life, from the Revolutionary period through the nullification debates after his presidency.

Madison was raised in a religious household and educated by Calvinist teachers, first at boarding school and then at Princeton College, "the citadel of Presbyterianism in the New World" (p. xv). This experience "provided him a vision of human nature and political society as volatile and imperfect, always in need of balancing and moderation" (p. xi). According to Sheldon, Madison's view of human beings as "greedy and fearful" (p. 40) was an important calculation in his political philosophy and can explain the changes in Madison's philosophy over time.

Sheldon describes three ideologies that existed in the Revolutionary and early republican periods. Lockean liberalism championed the protection of minority rights and called for a government of centralized federalism. Proponents of classic republican-

ism prized individual liberty and believed that a decentralized government with strong states' rights was necessary to protect individuals from a tyrannical national government. Finally, Protestant Christianity viewed political relations as important but subordinate to one's relation to God. It also assumed that human beings were a fallen and sinful lot. Therefore, government had to balance and control people.

Sheldon claims that Madison's belief in human beings as sinners led him to switch emphases between Lockean liberalism and classic republicanism. During the Revolutionary and founding period, he favored Lockean liberalism because he experienced firsthand the inadequacies of the Articles of Confederation and believed a stronger federal government necessary. During the Federalist presidencies of Washington and Adams, he supported classic republicanism because he thought the national government had become too powerful. After his presidency, Madison shifted back to centralized Federalism when the nullification debates threatened the union and he thought that only the national government could keep the country together. Sheldon's point is that Madison's skepticism about society's ability to govern itself caused him to shift philosophies according to the particular imbalance that existed at the time. As the balance changed, so did Madison's beliefs.

Sheldon provides ample evidence of the personal importance of Madison's religious beliefs. As he demonstrates, Madison's writings are full of references to Calvinist views, particularly the belief that human nature is sinful. For instance, he dissects Madison's well-known Federalist #10 to show that his ideas about political faction were based on the Calvinist idea that people are selfish and greedy (pp. 60-63).

Although Sheldon's argument makes sense, it is somewhat one sided. After reading the book, one's perception of Madison is that of an extremely pious and virtuous individual whose beliefs were dictated by a single-minded devotion to the American republic. From one perspective, that is what Madison was. Yet all in all, the picture of Madison that Sheldon draws is very different from the view of human nature that is central to Madison's Calvinist theology: that people are a sinful lot. In other words, Madison does not seem quite human enough. This is not to refute the importance of religion for his political philosophy but to suggest that Madison had more complicated motivations. Sheldon would likely agree. He focuses on the religious aspects of Madison's political philosophy and public life, however, without acknowledging other factors, such as partisanship and friendship.

For instance, Madison's relationship with Thomas Jefferson was extremely significant for his political beliefs and actions. While Madison possessed an impressive intellect—for good reason he is known as the Father of the Constitution—Jefferson also influenced his political ideas. Particularly after Jefferson took national office as the secretary of state, followed by the vice presidency and presidency, the views of Madison's closest friend held great weight. Religious beliefs no doubt factored into Madison's shift away from centralized Federalism during this period, but one has to acknowledge the power of Jefferson's friendship and partisan considerations that encouraged Madison to follow Jefferson's antinational government tendencies. There is evidence that Jefferson's influence with Madison was such that Madison acted according to beliefs that he ordinarily would have disagreed with (Rutland 1990).

Sheldon does not try to claim that religion was Madison's single influence, but the author's argument about religion as the basis for Madison's ideological shifts would be more persuasive if he addressed religion within the scope of Madison's other motivations. As an account of the link between Madison's religion and his political beliefs, the book is illuminating and persuasive.

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—Karen S. Hoffman  
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*Presidential Mandates: How Elections Shape the National Agenda*. By Patricia Heidotting Conley. Chicago: University of Chicago Press, 2001. 220 pp.

In a democracy, elections serve at least two fundamental purposes. The first is to select and retain desirable leaders, while the second is to allow the public to express its preferences over public policy. Modern electoral studies have tended to focus on the former much to the exclusion of the later. This emphasis has been justified both on empirical and theoretical grounds. First, few voters seem sufficiently informed, competent, or motivated to use their ballots to make public policy pronouncements. Second, deductive theorizing on the properties of collective preferences has stressed their incoherent nature.

In *Presidential Mandates: How Elections Shape the National Agenda*, Patricia Heidotting Conley argues that these views have undermined few concepts as thoroughly as the idea of the presidential mandate. Since presidents are presumed to be elected by ideologically incoherent coalitions motivated by candidate traits and retrospective performance evaluations, claims for a presidential mandate are at best inconsequential, self-serving bravura. At worst, they are manipulative exercises in political rhetoric.

To correct this academic conventional wisdom, Professor Conley puts forward the case that in fact presidential elections do serve as signals of the popular will and the process of interpreting electoral outcomes has a profound impact on policy change. Her argument is methodologically diverse, based on a formal game-theoretic model of the decision to use mandate claims to seek a policy change, a statistical analysis of those claims since 1828, and theoretically motivated case studies of each presidential election since 1948.

The model is a simple and straightforward one of presidential agenda setting, where the "mandate" is conceptualized as the probability that voters will side with the president's policy views in the next election. When this probability is high, legislators will accommodate presidential proposals, and when it is low, they will resist. To keep things simple, a number of

restrictive assumptions are imposed. In particular, presidents and legislators are assumed to have identical beliefs about the mandate probability. Furthermore, the legislature is assumed to have no ability to amend, counter propose, or even legislate in the absence of a presidential proposal. Nevertheless, the model does provide a set of clear, empirically testable predictions. Not surprisingly, the president will seek a major policy change when the mandate probability is high and will not when it is low. The key insight of the model, however, is its predictions when the mandate is ambiguous. In this case, behavior is contingent on the level of policy agreement between the branches. When legislative preferences are close to those of the president, a “bargained” mandate may be declared. However, when the branches are ideologically separated, the president will not declare a mandate.

My biggest concern about the model is that it does not lend itself to reconfiguration to capture differences in strategic context. Many of the mandate claims analyzed in the book are not about new legislation but rather about administrative action or the use of presidential power to maintain the status quo. Eisenhower’s strongest mandate was based on his promise to travel to Korea to end that military conflict. Since legislation was not required, the role that legislative support played in his calculation was very different than that posited in the model. Jackson provides another case in point. His mandate was not to pass legislation but to prevent a nationalistic legislature from embarking on further internal improvements and rechartering the national bank. These situations require very different models of executive-legislative relations.

The statistical work compares the explanatory power of the theory against competing explanations of mandate claims, including realignment theory, Stephen Skowronek’s regime typology, and a model based solely on legislative control of the president’s party. For these tests, Conley constructs a variable indicating which presidents declared electoral mandates. In impressive archival research, she scours State of the Union addresses, speeches, memoirs, letters, and newspapers for such declarations. In the forty-three elections from 1828 to 1996, the winner in twenty-four elections claimed a mandate.

To test Conley’s theory, the empirical model includes the percentage electoral vote (a predictor of the mandate probability) and an interaction between presidents who received less than 50 percent of the popular vote and the percentage of the president’s partisans in Congress. This interaction term is designed to capture the “bargained” mandate hypothesis. Both variables are hypothesized to be positively related to the dependent variable. The interaction term differentiates her model from realignment theory, while the electoral vote variable distinguishes it from the legislative control model. Skowronek’s typology is based on indicators of the strength of the regime and the president’s position in it.

The results are strong given the paucity of data. Both the mandate variable and the interaction have positive coefficients, although the interaction fails to reach standard levels of statistical significance. Conley’s model also appears to fit the data better than the alternatives, but the appropriate test for non-nested models appears not to have been carried out.

Finally, a set of well-executed case studies flesh out the analysis. Each of the elections since 1948 is classified as resulting in a mandate, a bargained mandate, or no mandate. The record of each election is reviewed to illustrate how electoral circumstances generated these outcomes. My only quibble here is that the analyses focus primarily on the elections and do

not provide much detail on how the mandate claims (or lack thereof) influenced legislative action.

Such minor shortcomings aside, *Presidential Mandates* is an important book, not only because of the substantive importance of its findings but also as an example of how the toolkit of modern social scientists can be employed to increase our understanding of the American presidency.

–Nolan McCarty  
Princeton University

*The Perfect Tie: The True Story of the 2000 Presidential Election.* By James W. Ceaser and Andrew E. Busch. Lanham, MD: Rowman & Littlefield, 2001. 283 pp.

In an era of partisan parity, a variety of factors combine to determine electoral outcomes. The distribution of partisan identification among voters, retrospective evaluations, prospective forecasts, the personalities and backgrounds of the candidates, and events during the campaign are just some of the forces that can swing elections. In *The Perfect Tie*, James W. Ceaser and Andrew E. Busch undertake the ambitious task of explaining how these variables influenced the 2000 presidential election and why the final outcome was so close.

What the authors produce is one of the most interesting accounts of the 2000 presidential election. The prologue, which begins in media res and includes an entertaining narrative of election night, sets the stage for the entire contest. After this introduction, Ceaser and Busch cover a period of time stretching from the preprimary, or “invisible primary,” period to *Bush v. Gore* and the postelection discussions of reform.

As with all wide-ranging projects, it is easy to find fault with certain aspects. Ceaser and Busch spend much of chapter two detailing the results of the invisible primary but then dismiss it as the determining factor in the Republican nomination process. They credit George W. Bush’s victory to his development during the course of the campaign into a stronger candidate and to John McCain’s decision to attack certain elements of the Republican primary electorate. Especially important was whether McCain’s “outbursts” against the Christian Coalition were spontaneous or were planned as a method of splitting the often-conflicting parts of the conservative base.

While their conclusions are plausible, it is reasonable to disagree with the authors. As Adkins and Dowdle (2001) showed, both the Democratic and Republican races in 2000 could be accurately forecasted at the end of the invisible primary. The argument could be made that Bush’s lead in fundraising forced the McCain campaign to make certain choices that had a decisive impact on the nomination battle. The decision McCain made was to spend money on early races and mostly ignore those states with March contests. In the states where McCain spent money during the preprimary season, he did well. In the states outside of New England where he did not spend money, the campaign performed poorly. Bush and McCain were in their own “perfect tie” for the contests held in February. Both ended up with

47 percent of the Republican primary vote, but Bush went on to win 57 percent of the vote in the primaries held on March 7. So, although nomination campaigns do matter, they may produce predictable effects similar in some ways to James Campbell's (2000) explanation of general election campaign effects.

A more minor flaw was the brief description of the U.S. Supreme Court's ruling on *Bush v. Gore*. Although publication deadlines make the limited coverage understandable, the brevity does leave a gap near the end of an otherwise well-narrated book. Many of the complexities of the case, including the differences between the separate dissents, are not discussed. The authors do make amends, though, with an interesting chapter on electoral reform and a nice summary of the month between election night and December 12. The concluding chapter on reform meshes well with the book's emphasis on the importance of partisan parity as a driving force in today's political landscape. While creating representative processes and counting votes correctly are always important normative concerns, these issues are also likely to have concrete empirical consequences in close elections.

*The Perfect Tie* strikes a good balance between academic rigor and accessible prose. Although it contains little in the way of path-breaking new research, the work would be a welcome addition to any class focusing on elections. Overall, it serves as a stimulating book for nonexperts and a light but interesting read for election scholars. The most important point that the authors emphasize is the distinctive environment that exists because of equally balanced partisan competition. If they are correct about this era being one of electoral parity, *The Perfect Tie* may not only be a good description of the 2000 contest. It also may serve as an excellent guide to understanding national politics in the United States for the foreseeable future.

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—Andrew J. Dowdle  
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*From the Center to the Edge: The Politics and Policies of the Clinton Presidency*. By William C. Berman. Lanham, MD: Rowman & Littlefield, 2001. 141 pp.

*From the Center to the Edge* is a brief and readable political history of the Clinton presidency. William Berman argues that Bill Clinton was an "incrementalist at heart" who "protected government at a time when the momentum was with the Republican leaders determined to roll back government and weaken, if not destroy, the welfare state" (p. 124). Moreover, Clinton was lucky due to the state of the economy; namely, high unemployment



got him elected and a good economy got him re-elected. The Clinton years also would be remembered for an agonizing impeachment process that added to the “long-term loss of presidential prestige that began with Lyndon Johnson’s presidency” (p. 123).

The Clinton years are characterized by a man who “staked his political career on avoiding a liberal tag” by creating a “politically amorphous ‘third way’ approach to public policy issues, which, along with a cautious centrism, defined his ideological makeup” (p. 101). Clinton was caught between liberal Democrats and conservative Republicans, and he expended political resources defending the center from the Left and the Right. Clinton’s early political success in Arkansas—not to stray from the conservative mainstream and to establish a centrist agenda—carried through to his presidency. In fact, Clinton was one of the founders of the centrist Democratic Leadership Council established in the mid-1980s.

Clinton’s 1992 presidential campaign benefited from the candidate’s rhetorical style, economic downturn, his identification with average voters, and Ross Perot’s candidacy that emphasized George H. W. Bush’s weaknesses. However, although Clinton won an electoral majority, he only won a popular plurality of the vote, and “his coattails were nonexistent.” Early in his term in office, he was faced with numerous problems, including the issue of homosexuals serving in the military, in which he promised to end discrimination in the armed forces but faced an outburst from the military and members of Congress; controversial political appointments including Zoe Baird and Lani Guinier; the tragic events surrounding the Waco clash between the federal government and the Branch Davidians; the appointment of his wife, Hillary Rodham Clinton, to head a task force to recommend reform of the health care industry that ended in failure for Clinton; and the emerging Whitewater scandal. Although Clinton had some successes during his first two years—the Brady Bill, NAFTA—his administration would be confronted with the Republican’s Contract with America and that party’s capture of both houses of Congress resulting from the 1994 mid-term elections.

Berman contends that the elimination of a scheduled drop in Medicare premiums by the Republican-controlled Congress, the shutdown of the government on two occasions, and Clinton’s effort to build bridges with organized labor helped him make a “comeback.” As Clinton entered his re-election campaign, he gained support from voters who were increasingly angry with Republicans over policy issues and gave Clinton the credit for the strong economy. Clinton defeated Robert Dole in 1996 but won only 49 percent of the popular vote.

After re-election, Clinton had to establish “an agenda to justify his second term.” A balanced budget agreement with Republicans was his top priority, and he achieved this goal in August 1997. Clinton’s success was tempered by a May 1997 Supreme Court decision allowing Paula Jones to pursue her sexual harassment case against Clinton and the Monicagate scandal reported in the media in January 1998 that led independent counsel Kenneth Starr, who was investigating Clinton, to report to the House of Representatives that there were grounds for impeachment of the president. The House impeached Clinton on two charges, perjury and obstruction of justice, but the Senate refused to convict him.

The final two years of Clinton’s presidency were characterized by a budget surplus at home, the Serbian-Kosovo crisis abroad, and the establishment of an environmentally friendly public lands legacy that rivaled that of Theodore Roosevelt. During the final days of

his presidency, Clinton watched his legacy unravel as Al Gore lost his bid for the presidency in a controversial showdown with George W. Bush. A U.S. election turned not on the votes of the American electorate but rather on a decision by the Supreme Court.

Despite the impeachment, Berman maintains that Clinton was a “peacemaker” who presided over a “full-employment economy” and asks us “Could or would any of his successors leave such an enviable record as part of their legacy?”

William Berman’s account of the Clinton years is packed with information about many issues, both domestic and foreign. Yet after reading this short but balanced work, the reader will surely wonder why footnotes or references are not included at the end of the narrative. The author chooses instead to provide the reader with a helpful bibliographic essay that provides the basis for further investigation of the various topics discussed in the book.

—Glen Sussman  
*Old Dominion University*

*The American Presidents: Heroic Leadership from Kennedy to Clinton.* By Jon Roper. Edinburgh, UK: Edinburgh University Press, 2000. 246 pp.

Jon Roper of the Department of American Studies, University of Wales, Swansea, has written an interesting but ultimately unsatisfying book. The work’s thesis is that the image of the U.S. presidency, heroic style and rhetoric, and military involvement in Vietnam John F. Kennedy left to his successors profoundly shaped their prospects for success in office. Roper argues that Kennedy linked the American myths of the frontier and exceptionalism to the cold war in a way that elevated U.S. democracy to the position of world savior. This linkage was emphasized by Kennedy’s youth, optimism, and call for American self-sacrifice in the name of world political transformation. These heroic qualities led Kennedy to deepen U.S. involvement in Vietnam. Taken together, the heroic dimensions of Kennedy’s presidency, especially as developed by his idolizers after his assassination, created a standard of presidential action that succeeding presidents have struggled to meet, particularly given the anti-government and antiexecutive sentiments stimulated by the war in Vietnam.

Unfortunately, Roper’s argument is only asserted, not demonstrated, and several chapters fail to link back to his thesis in meaningful ways. Rather than carefully analyzing how Lyndon Johnson tried to live up to Kennedy’s popularity, for example, or considering the reasons Johnson chose to escalate U.S. commitments in Vietnam, Roper concentrates on how Kennedy’s myth makers—including, among others, his brother Robert—worked to explain the war as a manifestation of Johnson’s psychoses. Thus, the chapter is really about the ways Kennedy’s supporters struggled to save his reputation rather than Johnson’s struggles with his predecessor’s legacy.

Similar problems undercut other chapters. When discussing Richard Nixon, for instance, Roper properly emphasizes the influence the Vietnam War had on the Nixon presidency, but the author argues that since Vietnam caused Watergate, it was Kennedy’s legacy of the war that shaped Nixon’s downfall. Although the operations that culminated in Water-

gate began with investigations into the lives of antiwar protestors, they were in no way a direct legacy of the Kennedy administration. Roper's concluding point, that the frequent psychological explanations offered for Nixon's fall (along with Johnson's) served to cover up and perpetuate the inherent tension between Kennedy's New Frontier rhetoric and the realities of American capacity to influence world politics, is excellent. Yet, it is also incomplete: Nixon made choices in a context that Kennedy at most partially established. Failure to recognize the contributions of Nixon's decisions is to overstate Kennedy's influence.

It is in the analyses of Gerald Ford and Jimmy Carter (one chapter), Ronald Reagan, George H. W. Bush, and Bill Clinton, however, that the argument of *The American Presidents* breaks down most clearly. Contending that later presidents also were constrained by Kennedy's leadership and vision, Roper emphasizes that Ford and Carter had to engage in acts aimed at healing the wounds caused by the war. Meanwhile, Reagan and Bush were limited by the "Vietnam Syndrome"—the notion that as a consequence of U.S. defeat in Vietnam, presidents faced profound difficulties if they wished to use military forces abroad. These ideas are certainly plausible, but it seems too much to claim, as Roper does, that Carter's presidency failed because he could not heal the wounds of Vietnam or that the Reagan administration succeeded because he created a new image of Americans that citizens could honor and respect. In 1980, after all, the shift in white Southern Democrat voting patterns after the 1960s, the oil price shocks of 1979, the Soviet invasion of Afghanistan in 1979, and Carter's Rose Garden election strategy, among other factors, shaped the election. Finally, Clinton is linked to Kennedy through his attempt to avoid military service in Vietnam, drawing renewed attention to a conflict that destroyed the consensus on which Kennedy had redefined American politics; this in turn problematized Clinton's rule. Yet, the fact that Clinton was impeached for acts that Kennedy apparently also committed indicates that a new, different politics is practiced in the United States today.

Contending that Kennedy's legacy shaped the performance of his successors reduces almost forty years of politics to historical inevitability. Political events are too multidimensional to be understood monocausally. Ultimately, *The American Presidents* makes too many claims on too little evidence to be persuasive as an analytic work. Too much is left out, and too much of the argument is grounded on the works of social commentators like Norman Mailer as if they are compelling authorities on American politics. Roper's provocative thesis deserves fuller treatment than it receives here.

—Lane Crothers  
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*Hoover, Conservation, and Consumerism: Engineering the Good Life.* By Kendrick A. Clements. Lawrence: University Press of Kansas, 2000. 332 pp.

Herbert Hoover played a major role in forwarding a view about our natural resources that many hold today. This book not only discusses Hoover but also provides insight into the role of free-market versus progovernment advocates in administering natural resources,

providing evidence that philosophical battles about the environment are rooted in struggles that began with the progressive movement and later solidified.

Clements discusses hardships that led to Hoover's belief that through hard work, individuals could better themselves. Hoover's early life and success as an engineer led him to see little value in a welfare state, an engrained value that he adhered to throughout his life. His upbringing and engineer's education seemed to lead to competing roles. As an internationally known engineer he opened large tracts of lands to exploitation. Yet, he also understood conservation; although he did not give it the political consideration that others did. In addition, he saw that natural resources might have more than monetary value.

Hoover favored less federal government and local implementation of programs. He also believed that poverty could be overcome, resulting in a demand for extensive leisure that would draw on the natural environment. Clements provides background about Hoover the technocrat and member of the "new national class" that would unite government power through scientific knowledge to achieve these goals. Hoover's consumer economy would generate desires for recreation, shifting away from the idea of leisure as idleness or the domain of the wealthy. This more constructive leisure would improve individuals; it was not a highly commercialized leisure. Thus, he supported a dual role for natural resources: one through extraction and a second through personal experiences.

Another of Hoover's strong convictions was volunteerism and adoption of efficiencies in all phases of society, a mind-set more of an engineer than a politician. As secretary of commerce, Hoover's desire to engineer outcomes was evident. He saw that the quality of fisheries and forests was linked to pollution of watersheds that did not protect the resource base. Ultimately, however, heightened protection lost out to economic interests and cost-benefit criteria. As chair of the Colorado River Commission, he favored shared federal-state authority but found that only the federal government could provide the resources. Finally, it was President Hoover who signed the Colorado River Compact, which set a precedent leading to a strong federal role in water development for half a century.

In 1928, Hoover quickly became a leading presidential candidate, viewed as a blend of a great engineer and a great humanitarian. His work in providing federal relief to flooded areas in 1927 portrayed a humanitarian. It also demonstrated that Hoover could manipulate the media, highlighting only the successes of the flood relief. As president, Hoover recognized that urban areas were in great need of infrastructure and recreational opportunities. He worked to improve conditions for women and children and to provide education and health opportunities for Native Americans. He established the Office of Education and the National Institutes of Health. Hoover also favored shifting federally owned land backed to the states, but the weak fiscal condition of the states countered this idea and the Taylor Grazing Act resulted. Despite good intentions, he was unable to enact his deepest beliefs about governmental roles.

Clements succeeds in using the information about Hoover up to the time he became president to help us understand why many of his presidential programs failed. The depression was expected, but the magnitude of its impact was unanticipated. The economic tailspin challenged Hoover's ideas of a consumer-driven economy. By this point in the story, Hoover's response is expected, calling for a balanced budget, for volunteerism in reducing spending habits, and for proper use of credit by business. Hoover followed an increasingly

conservative fiscal course, underestimating the depression's consequences, a dogmatic position that became a roadblock.

In another period Hoover may have had a different legacy, but the assets that made him one of the nation's most respected men in the 1920s proved his downfall during the Great Depression. In later years he would remain embittered but active. He took a strong position in favor of a hydroelectric project above Lee's Ferry on the Colorado River, eventually leading to construction of Glen Canyon Dam, upstream from his namesake project. By then he had lost focus on conservation. In many ways, though, he helped force the maturation of the environmental movement and hastened the development of environmental politics as we know it today.

—Dennis Soden  
*University of Texas at El Paso*

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## ANNOUNCEMENTS

### DISSERTATION PRIZE

The Center for Presidential Studies, Policy & Governance in the George Bush School of Government and Public Service announces the sixth annual national competition for the best dissertation on the American presidency. The competition is open to scholars in any field, and dissertations may focus on any aspect of the presidency.

Nominations may be made by chairs of dissertation committees or other faculty members. The winners will receive a \$1,000 award and expenses to present their work at Texas A&M University. The prize also carries with it the opportunity for publication in the Presidency and Leadership Studies Series of Texas A&M University Press. Nominations for the prize should include three copies of the dissertation and a cover letter and should be sent to

Kenneth J. Meier, Director  
The Center for Presidential Studies, Policy & Governance  
George Bush School of Government and Public Service  
Texas A&M University  
4349 TAMU  
College Station, TX 77843-4349.

Dissertations accepted for degree completion in 2001 are eligible. The deadline for nominations is February 15, 2002.



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