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Policy Insight

Preparing for January 2009 How the Next President Can Lead the Executive Branch



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Numerous Democratic and Republican presidential campaigns are already under way. When the new president takes office in January 2009, one of his or her first challenges will be to exercise control and leadership of the Executive Branch. The president cannot lead the country effectively without a responsive Executive Branch because it is the departments and agencies that help design and implement his or her key domestic and foreign policies.

The president's limited formal authority over the departments and agencies makes leading them difficult. In addition, a new president is likely to find significant gaps and overlaps in agency responsibilities, making it a challenge to hold a single agency accountable on a particular issue. In order to work around these constraints, presidents have developed, over time, a portfolio of strategies to help them lead the departments and agencies.

This Policy Insight surveys some of the key strategies used by presidents to lead the departments and agencies and notes that the strategy of centralizing power among the White House staff became the preferred presidential alternative during the 20th century. Although somewhat effective, we argue that the rising power of the White House staff may insulate the president from the valuable knowledge and experience in the departments and agencies. This, combined with the unchecked proliferation of departments and agencies, makes it difficult for the president to develop meaningful, trusting relationships with each cabinet member.

A comprehensive reorganization plan, such as the one recommended in 2003 by the National Commission on the Public Service (also known as the Volcker Commission), is intended to redress some of the gaps in the president's current portfolio of strategies for leading the departments and agencies. This type of reorganization will be controversial and difficult to implement and should be initiated early in a president's first term in order to have any realistic chance of congressional cooperation. If a future president pursues comprehensive reorganization, we argue that a careful inquiry into the lessons drawn from the performance of our current "mega-agencies"—the Departments of Defense, Health and Human Services, and Homeland Security—is required.

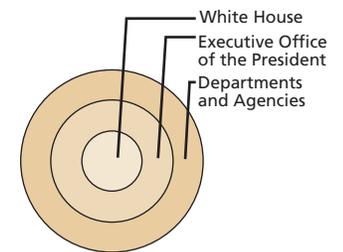
The Presidential Advantage

Despite many barriers to effectively leading the departments and agencies, the president retains distinct advantages. First, the president is the only elected official with a national

constituency; and second, he or she is the unitary Executive Branch leader. Compared with Congress, the Constitution grants the president weak formal powers in lawmaking. While it seems as if Congress holds all the power, congressional action entails participation by up to 535 representatives with divergent interests. Thus, the Congress's collective bargaining problem provides the president with a leadership opportunity.

Presidents often take advantage of what economists call "residual decision rights." In areas of shared or ambiguous authority—for example, with respect to the agencies whose accountability is divided between the president and the Congress—the president initiates policy change, leaving it up to the courts or Congress to react. If the president wants to review a previous agency policy, restructure an agency, reverse a cabinet department's decision, change agency leadership, or otherwise impose his or her views on the federal government, the president proceeds. If the Congress or courts do not react, the president wins. And the president will often win because the congressional majorities needed to challenge the president are hard to assemble. As Professor Charles O. Jones observed: "Election does not guarantee power in the American political system. Rather it legitimizes the effort of a president to lead."

The Executive Branch from the President's Perspective



Presidential Strategies

Capitalizing on these advantages, presidents have developed a variety of strategies to lead the departments and agencies. Rather than rely on legislation, which can be unpredictable and time-consuming, many presidents have devised "administrative" methods to influence the departments and agencies. The resulting "portfolio" of strategies evolved piecemeal, in response to the exploding size and scope of the federal government in the 19th and 20th centuries and to the institutionalization of the Executive Branch in the last century.

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Deploying Key Advisors: The First Lady and the Vice President

Many presidents have delegated the leadership of their highest-priority issues to their closest and most trusted White House advisors. These advisors have included the First Lady and the vice president, among others.

Centralizing policy in the White House may limit the president's exposure to a variety of viewpoints and expertise.

■ **The First Lady (or Gentleman).** The president's spouse is given no formal leadership role in the constitution, but First Ladies throughout history have been close advisors to the president. They retain unquestioned authority, cannot be fired, and have staffs to assist them. Many First Ladies have used the bully pulpit to advocate for issues near and dear to them, as Eleanor Roosevelt did with civil and human rights. More recently, Hillary Clinton opened new possibilities for the role when she accepted the president's appointment to lead a major national policy initiative on health care.

■ **The Vice President.** For much of our nation's history, the vice president was selected to balance the ticket but rarely played a powerful role in day-to-day policymaking or oversight of the Executive Branch. That has changed in recent years. Vice presidents report directly to the president on the major policy areas delegated to them. Using an executive order, President Reagan gave Vice President George H.W. Bush broad authority to direct the regulatory activities of cabinet departments and agencies. Vice President Al Gore ran a major reform effort on "reinventing government" for President Bill Clinton.

The Executive Office of the President

As the largest office in the Executive Office of the President, the Office of Management and Budget (OMB) works closely with the White House to help the president prepare the budget and oversee regulatory policy. To accomplish this work, OMB staff interact with agencies and congressional committees on a regular basis. As a result, OMB's established networks and knowledge make it an invaluable asset to the president. Because of these strengths, when OMB works well, its

director becomes more valuable to the president than most cabinet officers. In the 1980s, President Ronald Reagan empowered OMB to play a highly important role in regulatory review. The president required OMB to use cost-benefit analysis to evaluate regulations across the departments and agencies. Using these criteria, regulations whose benefits failed to exceed their costs were blocked or eliminated. In this way, OMB played the "bad cop" role: It cut programs while helping to deflect blame from the president.

The powerful National Security Council (NSC) is the president's primary forum for considering national security and foreign policy. In addition to the president, its members include the vice president, the secretary of state, the secretary of defense, and the national security advisor. President Eisenhower chaired weekly NSC meetings overseeing the inter-agency review of major foreign policy and national security issues. The NSC was such a high priority for Eisenhower that it constituted the largest item on his weekly agenda and he attended 329 of the 366 NSC meetings held during his presidency. The NSC continues to play a key role in coordinating U.S. diplomatic and military commitments.

The Executive Office of the President houses many other vital offices including the Council on Environmental Quality, the Office of Science and Technology Policy, the Council of Economic Advisers, and the United States Trade Representative. These groups counsel presidents on a wide variety of important policy issues and often help coordinate the policies of quarreling agencies.

Direct Influence of the Departments and Agencies

Presidents have always had the power to make cabinet appointments. President Washington appointed his most trusted policy advisors, Alexander Hamilton and Thomas Jefferson, to cabinet posts. President Andrew Jackson tried a different tack, treating cabinet posts as political outreach to important groups while eliciting his policy advice from less official sources. President Ronald Reagan sought to achieve even more responsiveness from the bureaucracy by controlling both cabinet and subcabinet appointments, while keeping a primary eye on the loyalty of these appointments to him.

A new president needs to pay close attention to the potential trade-off between a prospective appointee's loyalty, qualifications, and experience. While President Lincoln famously assembled a highly qualified "team of rivals" to advise him, he had to manage the paro-

chial interests of each individual. On the other hand, President Reagan had the opposite problem. By making loyalty a high priority in his cabinet appointments, he may have sacrificed expertise and leadership ability at some agencies.

civil service serving under them, usually outweighs that of the enterprising but less experienced White House staff. Thus, a president needs to carefully consider the trade-offs involved in heavy reliance on the White House staff for analysis and policy advice.

Creating New Agencies

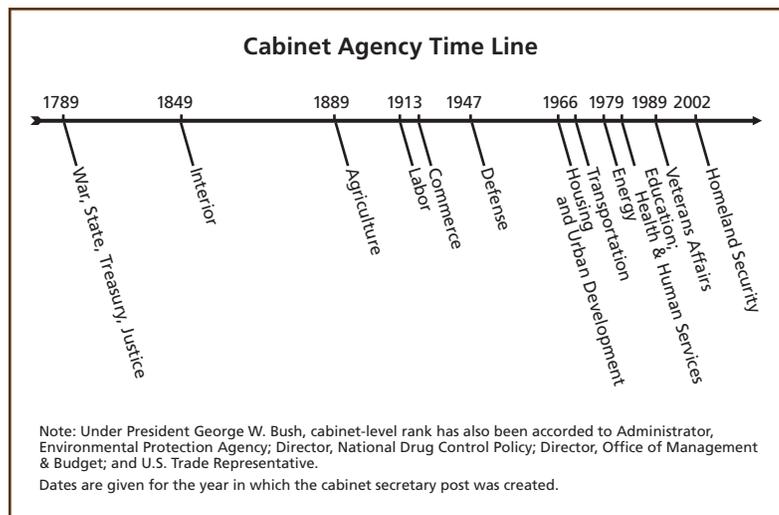
Presidents have created more than half of the administrative agencies in the United States, often through unilateral action. In 1941, President Franklin D. Roosevelt created the Fair Employment Practices Commission, a predecessor of similar, presidentially created agencies designed to protect civil rights. In the 1970s, President Jimmy Carter invested political capital in persuading the Congress to create the new Departments of Education and Energy.

By placing new agencies close by, within the Executive Office of the President or in the cabinet, presidents can ensure proper attention to their top-priority issues. Further, in creating new agencies, presidents rarely limit their own appointment power and typically do not require the term limits or “party-balancing” stipulations that leaders of legislatively created agencies often have. Thus, presidentially created agencies are more responsive to the president than agencies created through legislative initiative.

Energizing the White House Staff

Over time, the overall balance of power between cabinet officers and White House staff has shifted decisively in favor of the White House. Key policymaking is usually initiated and developed inside the White House, with cabinet officers treated as collaborators (at best), reviewers, advocates, or even figureheads.

In terms of responsiveness, this trend produces mixed results for the president. On the one hand, White House staff keep policy focused on the president’s priorities. Cabinet officers may be inclined to pursue the more parochial interests of their agencies, such as pleasing valued interest groups or responding to congressional patrons. On the other hand, centralizing policy in the White House may limit the president’s exposure to a variety of viewpoints and expertise. The knowledge, life experience, and wisdom of cabinet officers, coupled with the expertise of the



Reducing the number of cabinet secretaries could improve the chances that each cabinet secretary will develop a close relationship with the president and serve as his or her entrusted counselor.

Comprehensive Reorganization

George Washington had four cabinet agencies in 1789; today we have 15. Under the George W. Bush administration, an additional four agency chiefs were elevated to de facto cabinet status.

The unplanned and unstructured proliferation of cabinet departments and agencies, plus the numerous “independent” commissions, has left the president with an Executive Branch that serves the desires of interest groups, bureaucrats, and congressional subcommittees as much as it serves the needs of the president. The unmanageable size of the cabinet long ago converted cabinet meetings into photo ops, ensuring that the president was unlikely to develop sustained, meaningful, and trusted relationships with each cabinet officer. If the structure of the Executive Branch were reconsidered, overlapping and conflicting units could be consolidated while less appropriate functions are privatized or delegated to state and local leaders.

The Volcker Commission proposed a comprehensive reorganization plan to consolidate dozens of executive departments, agencies, and commissions into a manageable number of mission-driven departments. Under this scheme, a few “mega-departments” might comprehensively cover the fields of economic policy, social policy, and natural resources policy. A Senate-confirmed leader with the stature and life accomplishment of a typical



secretary of state or secretary of defense would lead each mega-department while the layers of assistant secretaries and deputy assistant secretaries would be streamlined.

The Volcker Commission's recommended reorganization is intended to address some of the gaps in the president's current portfolio of strategies for leading the executive departments and agencies. Reducing the number of cabinet secretaries could improve the chances that each cabinet secretary will develop a close relationship with the president and serve as his or her entrusted counselor. The Volcker idea may be attractive to a future president who seeks to share the burden of leading our country with a small but capable group of leaders who rival the White House staff in both Oval Office access and policy impact.

Missing from the case for comprehensive reorganization is a systematic study that compares the performance of the larger cabinet departments with that of the much smaller ones, including an inquiry into why some large cabinet departments (e.g., Defense) seem to work better than others (possibly Health and Human Services). A case study of the recent experience with the new Department of Homeland Security may also contribute to a better understanding of how large-scale reorganization can achieve desired results without unintended side effects.

Could such a massive reorganization of the federal government happen? Since the Constitution is virtually silent on the structure of the Executive Branch, the president can do whatever he or she wants to do—assuming Congress cooperates. The idea is certainly not new. The Ash Council under President Nixon made a similar suggestion but Watergate destroyed the Nixon presidency before it could be implemented.

The conventional wisdom is that comprehensive reorganization has not happened because Congress would not tolerate it. We suggest a different possibility. It has never been attempted at the only time when it has a realistic chance to succeed: namely, at the start of a new presidency, before cabinet officers are selected and become entrenched, before the president becomes overly comfortable with his or her relationships with White

House staff, and before Congress settles into more decentralized bargaining with the new administration.

Congress stands to both gain and lose from such an arrangement. On the one hand, a small number of "supersecretaries" could balance the power of the White House staff, who now operate without congressional access and oversight. If the "supersecretaries" have the confidence of the president and oath-sworn responsibility to the Congress, then they should add transparency to policymaking by the White House. At the same time, Congress too will be required to reorganize its committee and oversight structure to align itself with a reorganized Executive Branch.

In conclusion, reorganization should be considered one of the tools in the president's portfolio of strategies to better achieve more responsiveness from the Executive Branch. While achieving responsiveness is a primary goal of reorganization, any comprehensive plan must also consider agency effectiveness, efficiency, and overall performance. A comprehensive reorganization will require the president's support and his or her patience, for such recommendations will be resisted and can be expected to take years to implement. Before launching into large-scale reorganization, the president should insist on a careful inquiry into the successes and failures of our larger cabinet agencies: the Departments of Defense, Health and Human Services, and Homeland Security.

Further Reading

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